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Mr. E. Gallagher,

I do not know how seriously consideration is being given at the moment to a request for a meeting of the Security Council to consider Border incursions by British troops. It may be no harm for me to offer a few observations which you may wish to take into account.

2. I assume that our objective would be to secure a resolution calling on the British Government to desist from such incursions for the future. I should think that the British would take the line that incursions have regrettably occurred (due in part to the difficulty of identifying the Border) but that they have been unintentional. The British might work for a watering down of our text to simply calling on the British Government to continue to make every effort to avoid incursions into the 26 Counties. We could not prove that the incursions were intentional (whatever we might think about some of them) and the Council, particularly these western members (Belgium, Italy and the US), would be likely to want to avoid charging the British in effect with bad faith and would, therefore, opt for the British formula. My guess is that Britain would be successful, as the matter would come before the Council under Chapter VII of the Charter (threat to peace, breach of peace or acts of aggression) she would have a veto on our text but might not find it necessary to use it.

3. A more serious problem might be that the British would seek to widen the debate so as to include a paragraph in the resolution calling on our Government to take all necessary steps to prevent attacks on the Six Counties being launched from the Twenty-six Counties and support in the Twenty-six Counties for subversive activities in the Six Counties. Britain would, no doubt, mention cross-border firing, statements from Dublin by the IRA leadership etc. I feel that if the British were to adopt this course they would stand a good chance of succeeding.

4. I notice, incidentally, that on more than one occasion it has been said here that it may be necessary to "seize" the United Nations of the issue. Presumably, it is intended merely to advert to the possibility of bringing the matter to the attention of the Secretary General or the Security Council, without necessarily involving the latter formally. I do not think that the word "seize" appears anywhere in the Charter. However, Rule 11 of the Provisional Rules of Procedure of the Council requires the Secretary General to "communicate each week to the representatives on the Security Council a summary statement of matters of which the Security Council is seized and of the stage reached in their consideration". The word, therefore, has a technical meaning. The Council was never seized of our North of Ireland question in August, 1969 since it did not adopt the provisional agenda.

5. It is possible, of course, to envisage seeking a meeting of the Security Council simply to enable a statement to be made. It might, however, seem somewhat odd if we were to allege over forty infringements of our Border and not ask the Council to request the British to stop. That might lead people to draw the conclusion that we could not muster sufficient support in the Council for even a moderate request.

6. For the record, I raise the question whether it is desirable to have a determination by the Security Council which would in fact amount to a formal recognition by that body of the partition of our country. We have, of course, as the Minister said, learned to live with the reality of British control in the Six Counties.

7. The Permanent Representative in New York, to whom I am sending a copy of this minute, may or may not agree with my views.

10th November, 1971.

cc. Secretary,
Permanent Representative, New York.