

2020/17/30

S21311D

Northern Ireland
Emergency Provisions
Act 1978

11/6/90 - 5/12/90

S21311D

START of file

24

Labour promises NI Bill of Rights

By Ella Shanahan

THE British Labour Party in government will introduce a Bill of Rights for Northern Ireland, repeal the Prevention of Terrorism Act, amend and eventually repeal the Emergency Provisions Act, make efforts to restore trial by jury, end strip searching in prisons and the use of plastic bullets, the party's chief Northern Ireland spokesman, Mr Kevin McNamara, said on Saturday.

Mr McNamara said a Labour government would set itself the priority of putting an end to deprivation and injustice. "All these measures will be necessary to create a society where the sectarian tensions will become less acute and the grievances which underpin them less murderous in their effects. That will help to provide the basis for the understanding which is required if the division of the Irish people, which is what partition really is, is to be overcome," he said at a seminar organised by the Irish Labour Party Support Group in London.

He warned against expecting the Single European Market of 1992 to become the panacea to end all the problems within Northern Ireland and between the two parts of the country. "There are a number of countervailing factors which ensure that we cannot sit back and wait to be delivered to the promised land by Jacques Delors. I believe that such obstacles can be overcome, but only if we first recognise and take them into account. With the best will in the world, presuming it exists, there are obvious difficulties in furthering North-South co-operation."

Mr McNamara said there was a clash of views between optimistic politicians and employers on the one hand and economists on the other about the extent to which co-operation could be pushed and the potential benefits that could be derived from it. "Without clear political direction and support from both sides of the Border, any enthusiasm for cross-Border co-operation will be quickly dissipated," he said.

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M. McFadden
1147 cc PS4
H. McElroy: PLS
H. McElroy: to the Review
Council AI (discreet briefing
of P. Hadden)
19412
RST

CONFIDENTIAL

SECURE FAX NO. 194

P.A. 521311

Date: 10th July, 1990.

To: HQ
For: Asst. Sec Gallagher

From: Belfast
From: Joint Secretary

Colville Review of EPA

1. The British side have given us Lord Colville's Review of the Northern Ireland (Emergency Provisions) Acts 1978 and 1987 which deals with the question of what changes should be made when the Acts are replaced in 1992 and whether it would be appropriate to consolidate in new legislation applying only to Northern Ireland any provisions of the PTA 1989. (Lord Colville has already submitted a brief report last February which recommended no changes in the Renewal Order for 1990.)

2. We are sending you a copy of the Review this evening. I understand that no decision has been made on the date of publication (likely in the near future).

3. It has been emphasised to us in the usual way that our discretion is requested concerning the contents of the Review and its availability to us pending the laying before Parliament.

4. As might be expected Lord Colville takes a generally conservative view of the suggestions made to him for change in the Acts. He does, however, reflect a fair amount of what we said to him here although no views are attributed to us. (As on previous occasions, he does not give a list of contributors.) We will send you a full appraisal but the following are points which immediately strike me:

194/3

- New legislation should have a life of 5 years with annual renewals as at present. (In contrast, Colville recommended a couple of years ago that the PTA should be made permanent which has now been done in the 1989 Act).

- Colville proposes that the provisions on Internment should not be re-enacted (as did his predecessor, Sir George Baker).

- Colville recommends video-recording for interviews with terrorist suspects. In this respect he notes that allegations of ill-treatment in custody continue to be made and suggests that video recording would allow allegations to be controverted. He says that audio-recording of interviews presents greater difficulties because of the possibility of disclosure of sensitive information but says that consideration should be given to trials in tape-recording summaries of interviews as in England and Wales.

- Colville says there is a widespread feeling that very few complaints against police and army are satisfactorily resolved especially in terms of the receipt of an apology. He is critical, for example, of the security forces for delays at border checkpoints including Gortmullan. He says that consideration should be given to extending the lay visitors scheme to the detention holding centres and to appointing an ombudsman-like figure to appraise the effectiveness of complaints on a continuing basis.

- The new legislation should contain an enabling power for a statutory Code(s) of Practice. (We have been critical of the proposal for a non-statutory Guide).

- Colville makes no recommendation on three-judge Courts "since there are political aspects which are well outside my terms of reference....it is just a matter for decision

- 3 -

one way or the other." He says there are no procedural problems which would militate seriously against multi-judge courts and that if they are introduced, provision should be made for single verdicts as in the Special Criminal Court. The Lord Chief Justice and other judges are credited with a number of objections which rely on the arguments

- (1) that that there are insufficient judges and QCs,
- (2) if County Court judges were to sit with High Court judges (following the South), recruitment would be difficult because of the salary level (Stg£55,000 pa!),
- (3) it would be far from simple to ensure one Catholic on the panel of judges for each day and
- (4) once the system had changed there would be pressure for retrials.

- Colville gives favourable but not conclusive consideration to the case for "certifying in" offences to the Diplock Court and he provides a draft change to the legislation in Appendix 8.
- Colville proposes a case for compensation for traders and owners of private property where loss of earning or blight has occurred as a result of security measures.

201/2

SECURE FAX NO. 201

CONFIDENTIAL

IMMEDIATE

TO: HQ
FOR: A/SEC GALLAGHER
10 JULY 1990

FROM: BELFAST
FROM: JOINT SECRETARY

Colville Review of EPA

Further to my secure fax 194 the British side told me this evening that they expected the Review to be laid before Parliament tomorrow. This will be announced by means of a reply to an arranged PQ.

There will be no parliamentary debate. In light of the instruction of parliamentary business managers to bring legislation forward in order to clear the decks for an election in 1991, if Mrs. Thatcher desires, a bill will be introduced in the Autumn. We have been told that heads of the bill are not yet drafted.

We have reminded the other side of our longstanding request for a meeting on the issues involved.

Mr B. H. Campbell
 Mr. King
 10 87
 22/110

Radio Ulster's "Good Morning Ulster" programme carried an extract from an interview given in London this morning by the Secretary of State, as follows:

Mr. King has just been speaking on Breakfasttime television, Frank Boff, the man doing the interview with Mr. King, asked him if was right to assume that London in fact has not delivered on a promise to make changes in the Diplock courts. He asked him is that right.

Mr. King: No I think that what we discussed yesterday, we had a very good conference yesterday, you took a clip from the very end of my press conference and I was asked a very direct question - "if at the end of the day the Extradition Treaty didn't go through what would the implications of that be" and obviously we do attach importance to it and people shouldn't misunderstand that but I must say we had a very good Conference. I must say very much warmer in the Conference that the quite appalling and tragic weather which we saw outside against which the Conference was being conducted.

Interviewer: Do I take it then that you are not going to change the one Judge Diplock Court?

Mr. King: We have already made a number of changes. We have made clear that we are certainly ready to look at other improvements. What we really want to see is more jury trial because the Diplock system is because terrorist intimidate juries it has been made very difficult to have the normal jury trial that we would like to see... that what we want to see more. That would be the best move and I made it clear yesterday that is what we really want to move for.

Interviewer: But I wonder if you have gone far enough in that direction because if you dont to the satisfaction of the Republic then in fact they will not ratify the Extradition Treaty which you said is a very important.

Mr. King: I understand people who have their own particular angles and points they want to press but I think people who look fairly at the overall progress of the Agreement would be impressed by how much has been achieved. Certainly the messages that I get from nationalists is that it has been for them a shot in the arm and I think unionists are now recognising what was a shot in the arm for nationalists hasn't been a stab in the back for unionists and that is important.

Interviewer: Can I ask you if it has been a complication that the administration is changed in the South. Dr. FitzGerald has gone and the civil servants who worked enthusiastically with him on the Agreement. We now have Mr. Haughey Do you think he has enough appetite for the Agreement.

Mr. King: I think that I have found that I am able to work very well indeed with both Governments and I have a very good relationship with the present Deputy Prime Minister and Foreign Minister, Mr. Lenihan. As I said we had a very good meeting yesterday. We talked about a number of important issues that can help cooperation between Northern Ireland and the Republic and which I hope to see go forward steadily and purposely

*cc [unclear] [unclear]
[unclear] [unclear] [unclear]
[unclear] [unclear] [unclear]*

FAX COVER SHEET

IMMEDIATE

Fax No: _____

Date: 8/11

Time: 11:00 am

To: ANGLO-IRISH DIVISION

For: R. Murphy

From: (BELFAST) Nagen

Total number of pages, including this cover sheet: 64

Brief description of material: EPA Bill +

Summary of provisions + press release.

Any special instructions: Sol statement is not

yet finalised. Will forward asap

Transmitting operator: _____

This material is being sent from Fax phone No. _____

This number should be used for return Faxing.

If there are any problems on receipt please phone transmitting operator at _____

[Signature]
8-11-90

[Signature]
8/11



NORTHERN IRELAND Information Service

8 November 1990

PUBLICATION OF NORTHERN IRELAND (EMERGENCY PROVISIONS) BILL

The Secretary of State, the Rt Hon Peter Brooke MP, today published the Northern Ireland (Emergency Provisions) Bill, which was introduced into Parliament yesterday. Commenting on the Bill, the Secretary of State said:

"Terrorism in Northern Ireland will be dealt with by the resolute application of the rule of law. It is the Government's duty to ensure that the law is effective for that purpose. For the moment and for the foreseeable future that law must contain provisions which recognise the exceptional threat which terrorism continues to pose. That is the purpose of emergency legislation. Recent tragic events in Northern Ireland and the continuing high level of terrorist threat, provide a sombre backcloth to this Bill and further evidence of its necessity.

"This Bill would re-enact virtually all the provisions of the existing emergency law, but it also contains some important provisions, including some new powers for the police and armed forces, as well as some new offences. The Bill would also re-enact important safeguards for those accused or suspected of terrorist crime. The Government believes that, taken as a whole, the Bill represents an appropriate response to the current terrorist threat.

"Of course, we would all prefer not to have emergency legislation on the statute book; but, like Lord Colville, who reviewed this legislation earlier this year, we remain convinced that the emergency

provisions remain necessary for the time being. The Government is determined that the public should be protected from terrorism and will continue to take whatever measures are necessary, within the framework of law, to eradicate terrorism from Northern Ireland, however long it takes.

"The Bill does not represent any change in our security policy, and to emphasise this point, and in order that the Bill may be seen in its proper context, I have today made separately available a Statement briefly describing the Government's security policy in Northern Ireland."

Purpose of the Bill

The Bill would re-enact with amendments and additions the Northern Ireland (Emergency Provisions) Acts 1978 and 1987, and Part VI of the Prevention of Terrorism (Temporary Provisions) Act 1989 in the light of the review by the Viscount Colville of Culross QC (Cm 1115). The current Acts, which have a fixed five-year life, expire in May 1992. The Bill would therefore bring together in one piece of legislation all the anti-terrorism provisions which apply uniquely to Northern Ireland.

Main Provisions

The Bill would provide the legal basis for the continuation of the so-called "Diplock" Courts, in which terrorist-type offences are tried by a single judge without a jury; provide that bail in such cases can only be granted by a High Court judge or judge of the Court of Appeal; contain special rules on the admissibility of confessions in terrorist-type cases and for reversing the onus of proof in relation to certain offences involving the possession of firearms and explosives; create the category of proscribed organisations for Northern Ireland; and provide the police and armed forces with additional powers of entry, search, seizure and to stop and question. It would also re-enact statutory rights for persons arrested to have a person informed of their arrest and whereabouts, and to have access to legal advice; and regulate the security guard industry in Northern Ireland. All these provisions would be temporary; they would have to be renewed by Parliament each year, otherwise they would lapse. There are no significant changes to these re-enacted provisions.

The annex to this notice describes the provisions of the Bill in greater detail.

Principal Changes

The principal changes to the legislation are:

- A new offence of "possession of items intended for terrorist purposes". This will allow action to be taken against those individuals caught in the act of planning, carrying out or clearing up after terrorist acts. It was recommended by Lord Colville.

- A new power for the police and armed forces to examine documents and other recorded data found in the course of a search so far as is reasonably required for ascertaining whether it contains information likely to be useful to terrorists in planning acts of terrorism.

- A new power to allow the Secretary of State to make statutory Codes of Practice on the exercise of the emergency powers by the police and armed forces. This was recommended by Lord Colville.

- A new power to allow the armed forces to seize equipment used to reopen closed border crossings, and a new offence of making bypasses around closed crossing points.

Executive Detention

The Government has not accepted Lord Colville's recommendation that the provisions in the existing legislation relating to executive detention (internment) should not be re-enacted. The Government is determined to keep available a comprehensive range of responses to terrorist violence in Northern Ireland. Although the circumstances in which detention would be reintroduced and the provisions brought into force are remote, the Government continues to believe that the outright repeal of the provisions would be mistaken.

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Note for Editors

Lord Colville's Report of his review of the Northern Ireland (Emergency Provisions) Acts 1978 and 1987 was published in July (HMSO. Cm 1115). In summary, his principal conclusions were that:

- the main emergency provisions remain necessary;
- it would not be safe to return to jury trial for terrorist-type ("scheduled") offences, due to the likelihood of intimidation of jurors;
- the existing provisions on bail for scheduled offences work well;
- a new offence should be created (he suggested "going equipped for acts of terrorism") which would relate to the possession of ordinary or household items in circumstances which indicated their use for terrorist purposes;
- an enabling power should be enacted to allow statutory Codes of Practice on the emergency powers (although the Guide to Emergency Powers may prove sufficient);
- the Government should look at ways of improving confidence in the police and Army complaints systems (perhaps including the appointment of an ombudsman-type figure);
- the provisions on executive detention (internment) should not be re-enacted; and
- interviews with terrorist suspects in police custody should be recorded on video.

EMERGENCY PROVISIONS BILL: SUMMARY OF PROVISIONS

Part I replaces, without significant amendment, Part I of the 1978 Act. It continues the category of scheduled ("terrorist type") offences, and makes provision for trials on indictment for scheduled offences to be conducted by the court without a jury (the so-called "Diplock" courts). It provides that bail in such cases can only be granted by the High Court or the Court of Appeal; and contains special rules on the admissibility of confessions by persons charged with scheduled offences, and for reversing the onus of proof in relation to offences of possession of firearms and explosives. Part I also provides for the granting of remission for persons convicted of scheduled offences and for the reactivation of the remitted portion of earlier sentences (currently found in Part VI PTA 1989).

Part II replaces, with amendments, Part II of the 1978 Act. It confers powers on the police and Armed Forces to enter premises without warrant, to search for munitions, radio transmitters and receivers, for persons unlawfully detained and for the purposes of arresting terrorists. It provides the police and Armed Forces with powers of arrest and seizure (in the Armed Forces' case, with the latter powers, explicitly for the first time); powers to stop and question, and to search persons in public places; and powers of entry and interference with rights of property and with roads. The Part creates a new offence of bypassing closed border crossing points; and a new power to allow the security forces to examine documents and other recorded data.

Part III replaces, with one significant addition, Part III of the 1978 Act. It continues the category of proscribed organisations for Northern Ireland, and offences relating to membership of and support for such organisations. It also creates offences relating to the unlawful collection of information likely to be useful to terrorists; training in making or use of firearms and explosives; and the wearing in public places of hoods, masks or other articles to conceal identity. The Part creates a new offence of possession of items intended for terrorist purposes.

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20-11-89 10:10

Part IV (together with Schedule 3) re-enacts the power of executive detention with no substantive amendment.

Part V replaces, with amendments, Part III of the EP Act 1987 and makes provision for the regulation of security guard companies in Northern Ireland.

Part VI replaces, without amendment, Part II of the EP Act 1987. It contains statutory rights for persons arrested and detained under the terrorism provisions to have a person informed of their arrest and whereabouts, and to have access to legal advice. It also makes new provision to widen the grounds on which the police may take fingerprints without consent from terrorist suspects, in line with the law in Great Britain.

Part VII replaces, without amendment, existing provisions in the EPA 1978 and PTA 1989. It provides for the Secretary of State to make regulations for promoting the preservation of the peace and the maintenance of order. It re-enacts the provision widening the grounds on which the Secretary of State may reject applications for licences for new explosives factories and magazines, currently found in Part VI PTA 1989. It provides for the payment of compensation by the Secretary of State in respect of property taken, occupied, destroyed or damaged by members of the security forces. This part also contains a new power to enable the Secretary of State to make Codes of Practice governing the exercise of the emergency powers by the police and Armed Forces.

Part VIII contains supplementary provisions. It provides that a prosecution for any offence under the Bill shall be instituted only by or with the consent of the DPP (NI); and that any power to make orders or regulations conferred by the Bill shall be exercisable by statutory instrument. The Part also deals with the interpretation, commencement, duration, expiry and revival of provisions of the Bill; with savings, amendments and repeals; and with the short title and extent of the Bill. The new Act will have a five year life, subject to annual renewal.

Schedule 1 lists the scheduled offences.

Schedule 2 lists the proscribed organisations. It duplicates, without amendment, the existing list in Schedule 2 EPA 1978.

Schedule 3 sets out procedures for the detention of terrorists and suspected terrorists, without substantive amendment.

Schedule 4 lists consequential amendments.

Schedule 5 lists consequential repeals and revocations.

/3385

Northern Ireland (Emergency Provisions) Bill

EXPLANATORY AND FINANCIAL MEMORANDUM

The purpose of the Bill is to re-enact with amendments and additions the Northern Ireland (Emergency Provisions) Acts 1978 ("the 1978 Act") and 1987 ("the 1987 Act"), and Part VI of the Prevention of Terrorism (Temporary Provisions) Act 1989 ("the 1989 Act") in the light of the review by the Viscount Colville of Culross QC (Cm 1115). The Bill will therefore bring together in one piece of legislation all the anti-terrorism provisions which apply uniquely to Northern Ireland. All these provisions will be temporary; they will be subject to annual renewal by affirmative order of each House each year, otherwise they will lapse. The Bill also contains provision for the whole Act to be repealed at the end of a period of five years from its passing.

Part 1 contains provisions relating to the scheduled offences.

Clause 1, which re-enacts Section 30 of the 1978 Act, gives effect to *Schedule 1* which lists the scheduled offences, and provides that the Secretary of State may by order add or remove offences from that *Schedule*.

Clause 2, which re-enacts Section 1 of the 1978 Act, makes provision for the conduct of preliminary inquiries into scheduled offences.

Clause 3, which re-enacts with minor amendment Section 2 of the 1978 Act, limits the power to grant bail to persons charged with scheduled offences to a judge of the High Court or Court of Appeal or the judge of the court of trial, and places the onus of proof in bail applications on the prosecution. A new provision makes it lawful for a serving member of Her Majesty's forces or of the Royal Ulster Constabulary or the Royal Ulster Constabulary Reserve to be held on bail in military or police custody.

Clause 4, which re-enacts Section 3 of the 1978 Act, makes provision for legal aid to applicants for bail charged with scheduled offences.

Clause 5, which re-enacts with minor amendment Section 3A of the 1978 Act, enables a magistrate to remand into custody for up to 28 days a person charged with a scheduled offence. The amendment clarifies the remand period for those charged with a mixture of scheduled and non-scheduled offences.

Clause 6, which re-enacts Section 4 of the 1978 Act, enables the Secretary of State to issue directions for the holding in custody of young persons charged with scheduled offences.

Clause 7, which re-enacts Section 5 of the 1978 Act, deals with the duration and renewal of directions made under *Clause 6*.

Clause 8, which re-enacts Section 5A of the 1978 Act, enables the Secretary of State to make regulations setting time limits on preliminary proceedings in cases involving scheduled offences.

***Only the first page of
this [draft] Bill/Act
has been copied***

Confidential

*Mr. J. C. Conroy
7. 11. 90
6 III*

Discussion with Seamus Mallon

1. I talked to Mr. Mallon on 2 November at his office in Newry and afterwards over lunch. Most of the conversation was on security-related topics.

New Emergency Legislation

2. We discussed the Emergency Provisions Bill which is to be introduced this week at Westminster. Mallon expressed concern at the prospect of the security forces being given more far-reaching powers under the new legislation. They already have extensive powers and some of the provisions which are apparently envisaged would be extremely "open ended". An example is the possibility that the security forces would be given the power to examine and seize private documents. It is already common practice, Mallon said, for soldiers to look at papers in a car which they have stopped; it is another matter entirely to give them a specific power to examine papers which were, say, in a briefcase. He could see how he, as an M.P., would have documents in a briefcase in his car which he would not want the security forces to see. Soon he could find himself in the position of breaking the law if he refused to show a UDR man the contents of his briefcase. He could also foresee problems with the seizure of machinery used in reopening border roads, not least the likelihood that the IRA would booby trap equipment which they knew would be seized.

3. Mallon is ready and willing to fight for changes in the legislation at Westminster but he will need help. He said that we should be aware of what we were up against. When a Bill goes to committee, the government come in with a battery of legal advisers who oppose every proposed amendment. He has some legal contacts whom he will be calling on but he cannot match the government's firepower. The EPA is a highly complex piece of legislation which overlaps and interweaves with the PTA. Mallon would appreciate all the help we can give, including suggested amendments. He expects Kevin MacNamara and the Labour Party to

*1) agree. No
one else
has 2 the
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in point
5-10/11/90
D → 5/4*

be active in committee and to have their own legal people but his feeling is that Labour will from now on have one eye out for the possibility that they will be forming the next government, and that was a factor which we should bear in mind. (He commented that at Westminster the Thatcher government had "the smell of death" about it.) When it gets to the committee stage - and that could be in a matter of weeks - he would need to be in a position to propose specific amendments.

4. Mallon said that, based on his experience with previous draft legislation, he was not too hopeful of getting many changes made, and he recalled that when the Emergency Provisions Bill was being considered in 1986 the British had tacked on extra measures at the end without warning. At the same time it was very valuable for him to table amendments so as to put certain concerns on record and to draw public attention to them.

Security Situation Generally

5. Asked to evaluate the present situation, Mallon said that he thought relations between nationalists and the security forces were worse now than they had been before. There is an attitude of "sullen resignation". Complaints tend not to be followed up because people feel "what's the point?" Everywhere he goes he hears complaints about harassment, especially of young people. This harassment does not necessarily drive young people to join the Provos but it gives them grounds for thinking that there is justification for the Provos' existence. Complaints about the UDR's behaviour in the Coalisland area are very common at the moment - the UDR simply should not be there.

Case of Harassment

6. Mallon drew my attention to an incident involving the son of his own assistant, Mrs. Nuala Feehan. Jason Feehan and two friends were stopped by an Army patrol the previous day outside the Feehan home. Jason was questioned and then told to remove his shoes and socks and when he refused to do so he was told that he could be held until he did. It was only after neighbours intervened that he was let go. Mallon thought that the incident was typical of the kind of groundless harassment which young

people are subjected to. I undertook to pursue this complaint through the Secretariat.

Newry Bombing

6. The bombings of the checkpoints in Newry and Derry had sickened people but Mallon believes that the IRA's hardcore supporters will be able to justify them to themselves. Mallon is not a believer in PVCs; they do not trap the terrorists and they annoy local people. He had hoped that the Army would recognise this and remove the Newry checkpoint but after the bombing there will be no question of that for the foreseeable future.

Closure of Dublin Road

7. I sat in on a meeting which Mallon had with 2 representatives of the traders who have businesses on the Dublin Road between Newry and the border. The shops and petrol station along this stretch of road have seen their takings greatly reduced over the past year because of closures of the road following bombings, extraditions, hijacking of vehicles etc. Sometimes there have been good reasons for closure, such as after the Newry checkpoint bomb, but the traders feel that in many instances there is an element of harassment involved. They link this with the signs which stand at either end of the Control Zone saying "Don't blame the security forces, blame the terrorists". They pointed out that the road has been closed for 35 days so far this year. As an example of what they regard as unnecessary delay they cited a closure over last Christmas which lasted for 13 days. They also mentioned the burnt-out minivan which was allowed to stand on the road for 10 days in August even though traffic was allowed to pass within a few yards of it. A related complaint is that the phonelines in the area are often knocked out by army diggers in their clearance and building operations and again there is a feeling that they are left out of order for longer than is warranted.

8. Mallon invited the security Minister, John Cope, to visit the area some months ago and Cope promised to see if there was any possibility of a once-off compensation payment but nothing came

of that. The traders are less interested in compensation than in having the road promptly cleared.

Brooke Initiative

9. In Mallon's view, the talks are "definitely dead". Brooke has not been straight, he said. He started from a certain point and then he went back on that under pressure from the Unionists. The suggestion that has been mentioned that Brooke might set out his own position seemed to Mallon to be "pointless".



Ronan Murphy

5 November, 1990.

c.c. PSM, AG, Mr. Nally, PSS, Mr. Matthews,
Mr. Brennan, Counsellors A-I. Box

BÉAL FEIRSTE

BELFAST

21361

M. H. Callaghan
M. H. Callaghan
2. 11. 92
2/11

31st October, 1990

CONFIDENTIAL

Mr Dermot Gallagher,
 Assistant Secretary,
 Anglo-Irish Division,
 Department of Foreign Affairs

cc RSM
 Mr. O'Leary: PCC
 Mr. O'Leary: H. O'Leary
 Constance P.
 R. O.

Dear Assistant Secretary,

MEETING ON THE EPA BILL

Pursuant to the Ministerial discussion at the Conference last Thursday, we had a lengthy meeting with the British side at Stormont yesterday afternoon. A full note of the meeting is being faxed separately and I give below the major new provisions which are likely to cause controversy, but first a word about the operational follow-up.

OPERATIONAL POINTS

Parliament opens on Wednesday 7 November and the Bill is expected to be introduced in the first or third week of the new Session (Mr Brooke will be visiting Belgium and the Netherlands in the week beginning 12 November). The precise date is not known yet but notice should be given by the Parliamentary Managers in the next few days. We will be alerted when the notice is received. The British side (Mr Ledlie) emphasised the urgency of the position and that the Parliament timetable is out of their hands. In answer to our question, it emerged that the Bill has already been to Government.

I said we had made known views on the existing Acts in discussions with Lord Colville of which the British side were aware, in an Aide Memoire given to Lord Colville of which they had a copy and in a presentation made in the Secretariat last September. We were only now being made aware of the changes which the Government proposed to make in the introduction of the new Bill. We would be reporting urgently to the Minister on the information provided and he might decide to press immediately for changes in the Bill on certain matters. In any event, we would be presenting a paper setting out our views for the record and we would do this as soon as possible.

The British side stressed that the views we had expressed previously had been fully taken into account and brought to the attention of Ministers. Mr Ledlie said that the Bill as presented would not be immutable and that changes might be made

as it passed through the various Parliamentary stages, including changes proposed by the Government. I said we would point this out to the Minister. We would not regard the introduction of the Bill as marking the end of our right or ability to put views and proposals under the Agreement, but we might press for changes immediately and we regretted that we had not been briefed properly in adequate time.

We have asked here repeatedly for the text of the Bill or at least the texts of new provisions and we did so again today, pointing out that it is impossible to fully assess provisions without a text and that matters considered minor or not worth mentioning by the British side might present differently and controversially to the public. Mr Ledlie said he himself had only seen the Bill that morning (sic!) and would try to let us have it.

NEW SUBSTANTIVE POINTS IN THE BILL

Mr Ledlie stressed that the attached Aide Memoire describing the new Bill has been given to us in strict confidence. I noted that in 1986, at the time of the previous Bill, we had been given a paper in strict confidence in May and had maintained confidence scrupulously until the introduction of the Bill in the following December.

The British side described the Bill as 95% re-enactment of present provisions and schedules. The important changes to note are:

New Power of Seizure for the Armed Forces

The Armed Forces will be given an explicit power of seizure in the new Statute. The British side explained orally that this power would be given in the context of cross-border road closures and reclosures and would give the Army statutory authority to seize machinery and implements used in the reopening of cross-border roads, e.g., JCBs, tractors and other vehicles as well as such items as shovels and pickaxes. Under common law the Army may seize items which could be used in evidence to support a charge of illegal reopening, but the intention of the proposed provision is to permit the Army to prevent the use of equipment by taking it away and to deter people from attempting to reopen closed roads.

We expressed concern about the increased possibility of clashes on the Border between the British Army and locals and about difficulties that might arise from seizure of Southern property on the Northern side of the Border.

Power to Examine Documents and other Recorded Data

This power will be given under Section 15 of the Act which allows the security forces to stop and search for munitions and transmitters. At present, the security forces are not permitted to examine documents during a stop and search exercise unless, of course, the person is arrested. The new power will enable the

security forces not only to examine but to copy and retain documents and other recorded data found in a person's possession.

The British side pointed out that at present most convictions are obtained by confession evidence. Ministers were aware of the controversy which could be caused by the introduction of this new power but, on balance, considered that the opportunity to obtain hard documentary evidence was too significant to let slip.

We expressed three concerns; first, that the power to examine, copy and retain privileged documents such as those in possession of a priest, doctor or lawyer would undoubtedly provoke strong protest; it was also likely that journalists would react to the examination and retention of notes and audio and video tapes; second, that the new power would increase the ability of a policeman or soldier to harass an individual, say, at checkpoints or in the street; and, third, that the examination of private documents during house searches would exacerbate the resentment and ill-feeling that already existed. The British side argued in response that strict instructions would be issued against the possibility of abuse and that it was anomalous that there should be an offence (S.22) to collect information on judges, policemen and soldiers but no power to search and examine such information.

Possession of Items intended for Terrorist Purposes

This will also be a new power following the lines of the "going equipped for theft" provision in the British Theft Act. It will allow the possession of quite mundane items such as coffee grinders, fishing lines, push bells and adhesive tape which could be used in bomb-making, to be an offence punishable by a maximum of 10 years. The British side emphasised repeatedly that charges would only arise in circumstances where it was clear that an offence was intended. The aim would be to net the most blatant cases which, at present, can go scot free, e.g., a man found in possession of a walkie-talkie and a balaclava on a hill in South Armagh immediately after an explosion. Ministers recognised that Lord Colville had proposed using the existing powers under the Police and Criminal Evidence Order but this Order did not apply to the terrorist area (we recalled our proposal that it should) and they preferred to take the opportunity now offered by this Bill rather than see if the PACE Order could be effective somewhere down the line. We said we would not quarrel with blatant cases but we were concerned that the new power could be used in situations which were not at all blatant and could be quite innocent. As in the case of the power to examine documents, we also had worries about the potential for harassment by the police and military.

Provision to take finger-prints without consent

There is a technical difficulty in applying the law of England and Wales in this matter to Northern Ireland because the law contained in the Codes of Practice of the Police and Criminal Evidence Act does not apply to the operation of the PTA in Northern Ireland. At present, the police are empowered to fingerprint for identification only; they are not empowered to match fingerprints found at the scene of a crime. This will be

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remedied in the Bill, and on the face of it, and subject to seeing the text, should not cause controversy.

Enabling Power to make Codes of Practice

We have argued for several years that statutory Codes of Practice are needed for the exercise of emergency powers in Northern Ireland; this provision will enable the Secretary of State to make such Codes and it is, therefore, a favourable development from our point of view; the British side made it clear, however, that they would first wish to see how the recently published Non-Statutory Guide to the exercise of emergency powers is operated before proceeding with Statutory Codes.

Possible Anti-Racketeering Measures

The British side said that Mr Brooke was attracted to a measure which might be introduced as a Government amendment at the Committee stage and of which they wanted to give us notice now. On application by the police, a Court might give an expert person outside the police, e.g., an accountant, power to investigate matters such as those handled by the Serious Fraud Office. Two other possible but less likely measures would be, first, to improve the chances of convicting persons of non-scheduled tax and customs offences which are related to the financing of terrorism (one possibility would be to include such offences in the schedule) and, second, to introduce a law of forfeiture of assets of those connected with terrorist activities similar to that affecting persons convicted of drugs charges.

Other Matters

Three other changes were mentioned. The first is a technical change concerning the qualifications of persons appointed to act as advisors in cases of internment; the second enables the authorities to hold a remanded soldier in military custody; at present soldiers can only be held in military custody with their consent; and the third makes the failure to notify the authorities of personnel changes in a security company a triable rather than summary offence and empowers the police to search a security company's records. We were told there are no other changes in the Bill and no other "gleams in the eye" (my phrase) in the shape of possible Government amendments.

We said that the reactions which we had given to the new measures notified to us were preliminary and we would need to reflect further on them. We recalled our well-established position on other matters in the Bill such as three-judge courts, the question of certifying-in rather than out of the Diplock Court, the admissibility of confession evidence and the use of lethal force by the security forces. We also made reference to the question of video recording. The British side said this was not a Bill matter; it could be provided for administratively by the Secretary of State. After some agonising and a personal visit to Castlereagh, Mr Brooke had come to the view that it should not be introduced. We expressed disappointment with this decision and said we would return to it. The British side offered to give

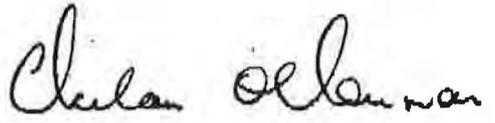
us detailed briefing on the difficulties which they had found with this proposal. We also asked about another Colville suggestion, the appointment of an Independent Ombudsman for Complaints against the security forces. We were told again that this was not a Bill matter and that it was not proposed to act on it. Lastly, the British side described the recent Sunday Times report of 21 October that a new offence of Criminal Association was under consideration for inclusion in the Bill as "absolute rubbish." The only thing that could be said for it was that ideas of this sort were kept under permanent review.

General Statement of Security Policy

A major element in our presentations here is the argument that the British Government's policy in Northern Ireland tends to be security-driven and that its political and security policies are compartmentalised. We also pointed out recently that the timing of the introduction of the new Emergency Provisions Bill could have implications for the political initiative; granted the recent pessimism expressed by journalists, the introduction of the Bill at this time, with new controversial measures, with the retention of all the present powers, no new controls and no move towards use of the ordinary law which has now been considerably strengthened in the Police and Criminal Evidence Order, may be seen as a falling back on the security policy that has failed in the past.

Mr Ledlie said that consideration is being given to a full statement setting the Bill in the context of overall British policy, emphasising its temporary nature (it will operate for five years as previously) and restating the basic principles under which the security forces exercise their powers.

Yours sincerely,



Declan O'Donovan,
Joint Secretary.

I N S T R I C T C O N F I D E N C E

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AIDE MEMOIREEmergency Provisions Bill: Main Provisions

Part I replaces, without significant amendment, Part I of the 1978 Act. It continues the category of scheduled ("terrorist type") offences, and makes provision for trials on indictment for scheduled offences to be conducted by the court without a jury (the so-called "Diplock" courts). It provides that bail in such cases can only be granted by the High Court or the Court of Appeal; and contains special rules on the admissibility of confessions by persons charged with scheduled offences, and for reversing the onus of proof in relation to offences of possession of firearms and explosives. Part I also provides for the granting of remission for persons convicted of scheduled offences and for the reactivation of the remitted portion of earlier sentences (currently found in Part VI PTA 1989).

Part II replaces, with one significant addition, Part II of the 1978 Act. It confers powers on the police and Armed Forces to enter premises without warrant, to search for munitions, radio transmitters and receivers, for persons unlawfully detained and for the purposes of arresting terrorists. It provides the police and Armed Forces with powers of arrest and seizure (in the Armed Forces' case, with the latter power, explicitly for the first time); powers to stop and question, and to search persons in public places; and powers of entry and interference with rights of property and with roads. The one significant addition is the new power to allow the security forces to examine documents and other recorded data.

Part III replaces, with one significant addition, Part III of the EP Act 1978. It continues the category of proscribed organisations for Northern Ireland, and offences relating to membership of and support for such organisations. It also creates offences relating to the unlawful collection of

I N S T R I C T C O N F I D E N C E

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information likely to be useful to terrorists; training in making or use of firearms and explosives; and the wearing in public places of hoods, masks or other articles to conceal identity. The Part also contains a new offence of possession of items intended for terrorist purposes.

Part IV (together with Schedule 3) re-enacts the power of executive detention with no substantive amendment.

Part V replaces, with amendments, Part III of the EP Act 1987 and makes provision for the regulation of security guard companies in Northern Ireland.

Part VI replaces, without amendment, Part II of the EP Act 1987. It contains statutory rights for persons arrested and detained under the terrorism provisions to have a person informed of their arrest and whereabouts, and to have access to legal advice. It also makes new provision to widen the grounds on which the police may take fingerprints without consent from terrorist suspects, in line with paragraph 16.7. of the Colville report.

Part VII replaces, without amendment, existing provisions in the EP Act 1978 and PTA 1989. It provides for the Secretary of State to make regulations additional to the provisions of the Bill for promoting the preservation of the peace and the maintenance of order. It also widens the grounds on which the Secretary of State may reject applications for licences for new explosives factories and magazines, provisions currently found in Part VI PTA 1989. It provides for the payment of compensation by the Secretary of State in respect of property taken, occupied, destroyed or damaged by members of the security forces. This Part also contains a new power to enable the Secretary of State to make Codes of Practice governing the exercise of the emergency powers by the police and Armed Forces.

Part VIII contains supplementary provisions. It provides that a prosecution for any offence under the Bill shall be instituted only by or with the consent of the DPP (NI); and

I N S T R I C T C O N F I D E N C E

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that any power to make orders or regulations conferred by the Bill shall be exercisable by statutory instrument. The Part also deals with the interpretation, commencement, duration, expiry and revival of provisions of the Bill; with savings, amendments and repeals; and with the short title and extent of the Bill. The new Act will have a five year life, subject to annual renewal.

Schedule 1 lists the scheduled offences.

Schedule 2 lists the proscribed organisations. It duplicates, without amendment, the existing list in Schedule 2 EPA 1978).

Schedule 3 sets out procedures for the detention of terrorists and suspected terrorists, without substantive amendment.

Schedule 4 lists consequential amendments.

Schedule 5 lists consequential repeals and revocations.



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OFFICE OF THE MINISTER FOR FOREIGN AFFAIRS

The Dublin
Emergency Provisions
12/11/90

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2 November, 1990.

The Rt. Hon. Peter Brooke, M. P.,
Secretary of State for Northern Ireland,
Stormont Castle,
Belfast BT4 3ST.

12/11/90
9/11

Dear Peter,

At the Conference meeting in London on 25 October you gave me a first indication of the measures which you are proposing to include in the forthcoming Emergency Provisions Bill. Since then there has been a meeting of officials at which more information was given to us, including a brief paper summarising the Bill's contents as they stand at present but not, to our disappointment, the text of the measures themselves.

We have a shared interest in, and a commitment under the Agreement, to improving relations between the security forces and the community and strengthening public confidence in the administration of justice. My initial reaction is that the new measures to be included in the Bill will have the opposite effect and are likely to cause further alienation of nationalist opinion - something which will immediately be seized on and exploited by the paramilitaries and their supporters for propaganda purposes.

I believe that there will be widespread disappointment with the overall thrust of the Bill when it is realised that all the present powers in the EPA have been retained, while no new measures have been introduced to control the exercise of these powers by the security forces; neither has there been any move towards greater reliance on the ordinary law which has been much strengthened by the Police and Criminal Evidence Order (NI) 1989.

I cannot of course properly assess the implications of the Bill until I have seen the full text but, in the meantime, I would wish to make the following comments on the areas of greatest concern to us:

- the proposal to give the armed forces new powers of seizure is, I understand, designed to allow the army to seize and retain equipment used in the reclosure of border roads. The whole issue of closed cross-border roads is already a highly sensitive area and one which is being exploited with some success by Sinn Féin. I would be afraid that this new measure will exacerbate the situation.
- likewise, the proposal to give the security forces new powers to examine documents and other recorded data will, in

my view, be seen as provocative and intrusive. Private papers are often highly confidential; to give the security forces the power to rummage through such papers at checkpoints and elsewhere would inevitably upset and antagonise members of the general public. I can also foresee particular problems with privileged documents such as those carried by legal advisers and clergymen, and with journalists' notes and tapes.

there are also very clear dangers with the creation of a proposed new offence of possession of items intended for terrorist purposes, particularly given the wide scope of the offence.

As well as being concerned about the likely impact of these new measures, I am disappointed at the omissions from the Bill. We understand, for example, that there are no plans for video recording of interviews with suspected persons, no change in the practice of certifying cases out of Diplock courts, no commitment to make a statutory code of practice to govern the exercise of the emergency powers, and no changes in the procedures for dealing with complaints against members of the security forces.

The absence of safeguards of this kind, combined with the proposed new and increased powers for the security forces, will inevitably give rise to renewed concern about the balance between the need for adequate safeguards for the rights of the individual and the need for the security forces to be able to deal effectively with the terrorist threat.

We will be handing over a paper on the new Bill very shortly, which will set out our views at greater length. We would indeed have wished to have let you have our detailed thinking at a much earlier date but, in the absence of any draft text of your proposals, this would have been academic. At this stage however, and as I understand that you intend to introduce the Bill on 8 November, I felt that you should be aware of my very real concern about some of the new measures proposed and the effect which they are likely to have on public opinion. I hope that, even at this late stage, it will prove possible to reexamine the position and take our views into account.

Yours Sincerely,



Gerard Collins T. D.,
Minister for Foreign Affairs

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BÉAL FEIRSTE

ANGLO-IRISH SECRETARIAT

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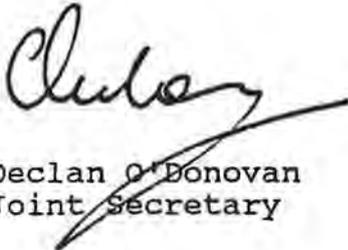
7 November 1990

Mr. Dermot Gallagher
Assistant Secretary
Anglo-Irish Division
Department of Foreign Affairs

Dear Dermot

I enclose the text of Mr. Brooke's letter to the Minister on the forthcoming Emergency Provisions Bill. A copy has already been faxed to you.

Yours sincerely



Declan O'Donovan
Joint Secretary

*cc PSW
Mr. Wallis; P.S.; Mr. Hume
Mr. McNeill; Mr. P.
Gardner HI
Box.*



Northern Ireland Office
Stormont Castle
Belfast BT4 3ST

Mr Gerard Collins TD
Minister for Foreign Affairs
Office of the Minister for Foreign Affairs
DUBLIN 2

6 November 1990

Dear Gerry,

Thank you for your letter of 2 November in which you were kind enough to give me your first reactions to the measures I am proposing to include in my forthcoming Emergency Provisions Bill.

While I do not seek in this letter to offer a detailed rationale for the contents of what is a major Bill, officials have, as you say, already gone over much of the ground; and I look forward to discussing the issues with you myself when the paper you have in preparation is to hand. I do, however, want you to know that throughout the necessarily short gestation of this Bill (which has had to be prepared within a far more exacting timescale than was the case, for instance, with the 1987 Act), we have been very much aware of your Government's views on many of the issues with which it is concerned, and that we have taken fully into account views which your officials put to Lord Colville when carrying out his Review, as well as those which were put to my own officials more directly.

That said, it may be helpful if I explain very briefly my approach to this Bill. It starts from my appreciation of the threat now posed to security in Northern Ireland by terrorist organisations from both sides of the community. I think that we can both agree that this threat is certainly no less than when the 1987 legislation was enacted. Against that background, I have concluded that we cannot safely dispense with any of our existing powers - although it



will remain the Government's intention to repeal, or allow to lapse, powers which the situation no longer requires. I have an overriding duty to ensure that the police, supported by the Armed Forces, have the legal resources they need to protect the community as a whole and to deal effectively with a terrorist threat. But I have sought to do this in a way which also is proportionate to the current threat and which also provides appropriate safeguards for those affected by the legislation. I judge that in the proposals which I shall shortly be bringing forward we have got the balance about right. You may be sure that if I believed that the net effect of my proposals would be to drive people into the arms of the paramilitaries - as opposed to helping bring them to justice - I would not be asking Parliament to approve them.

I should like to turn briefly to some of the specific issues which you raise in your letter.

I accept that the proposal to give the Armed Forces a new power, comparable to that already enjoyed by the police, to seize equipment used in the reclosure of border roads may occasionally be controversial in its application. But I have had very much in mind the alternative to closing this loophole: this would have been to leave the advantage with those seeking to flout the law and, in general, to make it easier for terrorists to exploit the border to kill and maim and put many people in fear in the North.

As to the other two new provisions which you mention, I thought very carefully indeed about the pros and cons before deciding that it would be right both to give the security forces new powers to examine documents or other records they may come across in the course of an already authorised search, and to create the new offence of possessing items intended for terrorist purposes. The intention is that both the new power and the new offence should be used with circumspection; and I do not believe that in practice they



will give any genuine grounds for concern. But a power to examine papers or records should make it more feasible for the security forces to secure much needed hard evidence necessary to secure convictions. And, as regards the new possession offence, terrorists are using and adapting a range of everyday articles for use as components in their improvised weapons and bombs. It happens not infrequently that known terrorists are caught in possession of these things in highly suspicious circumstances, but under the law as it now stands they can usually escape prosecution. We hope that this new offence will remedy that very unsatisfactory situation.

On safeguards, I would hope that, on reflection, you would welcome the proposed power to enact Codes of Practice. Although, for the reasons well set out by Lord Colville, I do not believe it would be appropriate to use the power before we have had some time to assess the effects of the recently published Guide to the Emergency Powers, I agree with him that it would be right to take the opportunity presented by this Bill to take the necessary power. In effect, we have opened a door through which we may, at some future time, wish to pass. On video recording, as my officials explained to yours, it is not necessary to legislate to create a power to introduce this. I considered most carefully Lord Colville's repeated recommendation that we should do so, but I have not yet been persuaded that this would be a sensible move. My overriding concern is not to jeopardise the usefulness of the interview process, which remains crucial to the police in their efforts to deal with terrorism effectively. My officials have offered to explain my concerns to yours in more detail. They will also be able to explain the considerations which led me to conclude against making any change in the present arrangements for 'certifying out' scheduled offences.

The Bill will be published on Thursday 8 November. The need to respect Parliamentary privilege means that I cannot send you a text of the Bill before then. However, I have made arrangements for it



to be available in the Secretariat on the morning of 8 November
(although it will be embargoed until 2.30pm on that day).

I look forward to receiving further views when you have had a chance
to study the actual text of the Bill.

Yours sincerely
Pat Brooke

PB

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original document***

~~Mr. McLaughlin~~
10.11.90
Mr. V. Moran
on 9/11

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NORTHERN IRELAND

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SECURE FAX

PSM
Mr. Nally
PSS
Mr. Matthews
Mr. Brogan
Mr. Gallagher
Councillors A-I

COVER SHEET

Fax Message Number : *466*
Date : *8 Nov 1990*
Time : *14:35*
Pages : *6* (including cover sheet)

Immediate/Urgent (Delete As Necessary)

To *Anglo-Irish* From *Belfair*

For *Ronan Murphy* From *Nessa Delaney*

Ref: Your/My _____

Subject *This afternoon's statement on security policy.*

COMMENTS

N.B. Embargoed until 5p.m. // *N.B.*
this afternoon.

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466/3

THE GOVERNMENT'S SECURITY POLICY IN NORTHERN IRELAND

Constitutional Position

1. Northern Ireland is part of the United Kingdom because that is the will of the majority of people who live there. It will not cease to be a part of the UK unless that situation changes. Majority desire for a change in status clearly does not exist at present. There is no reason to expect this to alter in the foreseeable future.

Aims and Objectives

2. The Government's aims are:

- a. to maintain the rule of law;
- b. to ensure that all the people of Northern Ireland are free to express their political opinions without inhibition, fear of discrimination or reprisal;
- c. to defend the democratically expressed wishes of the people of Northern Ireland against those who try to promote political objectives, including a change in the status of Northern Ireland, by violence or the threat of violence;
- d. to create in Northern Ireland the conditions for a just, peaceful and prosperous society in which local people can exercise greater control over their own affairs.

3. So that these aims can be achieved, it is the first priority of the Government in Northern Ireland to eradicate terrorism, from whichever section of the community it comes. There is no acceptable level of violence and, for so long as violence continues, it will be met with a firm and resolute response.

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Strategy

4. To this end, the Government will:
 - a. ensure that the police, supported by the Armed Forces, have the resources they need to undertake their difficult and dangerous work on behalf of the whole community;
 - b. provide a legal framework within which the security forces can act to defeat terrorism;
 - c. co-operate closely on security with the Government of the Republic of Ireland;
 - d. seek to isolate the terrorists from the communities within which they operate.

5. The Government will implement this strategy with total commitment until terrorism has been defeated in Northern Ireland and the rest of the United Kingdom.

6. In parallel, the Government will implement effective measures in the political, social and economic fields, designed to promote equality of treatment, economic well-being and stable democratic institutions. These measures will help create a climate in Northern Ireland in which peaceful political development can take place, thereby complementing and reinforcing the Government's security strategy.

7. In accordance with this strategy, which is endorsed by the Chief Constable of the Royal Ulster Constabulary and the General Officer Commanding the Armed Forces in Northern Ireland:
 - a. the Government is determined that terrorism will be defeated through the evenhanded and energetic enforcement of the criminal law.

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- b. The police will continue to take primary responsibility for the prevention, investigation and securing evidence for the prosecution of crime, including terrorist crime. The Armed Forces will act in support of the police, but only where and when the security situation makes it necessary.
- c. Wherever and whenever possible, the police will operate without military support, in accordance with the goal of restoring normality, and with the ultimate aim that all military support to the police should be dispensed with when the security situation permits.
- d. Anti-terrorist legislation will be kept under review, to ensure that it is appropriate to the prevailing security threat. It will continue to strike a balance between providing the RUC and Armed Forces with the legal means they need in order to protect the community effectively, and at the same time providing appropriate safeguards for individuals. When the need for a particular provision no longer exists, it will be repealed or allowed to lapse, as a step towards greater reliance on the ordinary criminal law.
- e. The police and Armed Forces will continue to be governed by the legal principle of using only such force as is reasonable in the circumstances in preventing crime and arresting offenders.
- f. Members of the police and Armed Forces, like all other citizens, will continue to be subject to the law. If members of the security forces break the law they will themselves be liable to prosecution.
- g. The public have a right to expect the highest standards of behaviour from police officers and members of HM forces. Activity or actions falling short of those standards will never be condoned. The Government hopes

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that anyone who believes that they have a genuine cause for complaint about the conduct of a police officer or member of the Armed Forces will use the procedures which exist for the investigation of such complaints.

8. The Government recognises that, to be fully effective, the actions of the police and Armed Forces against terrorism in Northern Ireland require the support of all sides of the community. The actions of the security forces must, therefore, at all times be such as to create and maintain confidence in their integrity and professionalism, as well as in their operational effectiveness.

9. The Government calls on men and women of goodwill from both traditions in Northern Ireland to co-operate with the security forces as they carry out their duty to protect the community. Such co-operation may include accepting the inconvenience which may result from security force operations against terrorists and reporting crime, including terrorist crime, to the police.

10. The Government believes that confidence between the community and the police and Armed Forces can best be achieved if both traditions are properly represented in the locally recruited forces. Hence the Government believes that all those who recognise the importance of building and retaining that confidence have a duty to encourage members of both traditions to co-operate with and to join those forces.

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ANGLO-IRISH SECRETARIAT
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Mr. Hatters; Mr. St...
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9th November, 1990

Mr Dermot Gallagher,
Assistant Secretary,
Anglo Irish Division,
Department of Foreign Affairs.

Dear Assistant Secretary,

Meetings with Mr Austin Wilson, NIO

Mr Wilson is the Under-Secretary in charge of security matters reporting to Mr Ledlie. I had lunch with him on Wednesday and he came into the Secretariat early this afternoon to give a further briefing on the Northern Ireland (Emergency Provisions) Bill, which was introduced yesterday. The following are the main points which arose in conversation. Mr Hughes will be sending a more detailed note on today's discussion.

- Mr Wilson repeated the NIO brief on political talks, i.e., that Unionists have moved very significantly from old positions and are now prepared to address the three sets of relationships if only political talks can be started. I repeated our position.

is a private letter - this is a private communication

- He regretted that there was no condemnation of violence in the Minister's letter of 2 November on the Emergency Provisions Bill. I said that we regularly condemn violence but surely it should not be necessary to do so in every statement or communication. The Minister's letter was a private one addressing the question of the Emergency Provisions Bill and its potential impact on relations between the security forces and the community and on confidence in the administration of justice. (Comment: Mr Wilson's remark again shows the extreme sensitivity of the British side on this matter.)

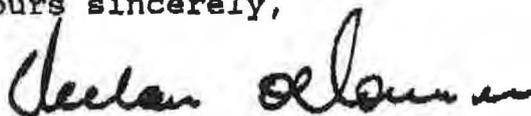
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- In regard to the Emergency Provisions Bill, Mr Wilson apologised for the failure to inform us of the new offence of by-passing border roads and having possession without lawful authority or reasonable excuse of any materials or equipment suitable for by-passing work. (I noted that the British had informed us only that a power would be given to the security forces to seize such materials or equipment.) Mr Wilson said that this was a completely inadvertent omission on their part and they regretted it. I pointed out that our request for the text of the Bill had been made to try to ensure against such confusion.

- He defended the British decision not to give us the text of the Bill or even the text of the new provisions in good time, saying that the drafting of the actual Bill is exclusively for the Parliamentary Draughtsman and that Mr Brooke is punctilious about Parliamentary privilege. I pointed out that the British had signed an Agreement which gave us a right to put forward views and proposals and required both Governments to make determined efforts to resolve differences. This obligation could scarcely be discharged if we were not given information necessary to form a view.

- We asked to be kept informed of the drafting of force orders to the police and army on the exercise of the new powers concerning cross border roads, examination of documents and other records and possession of items intended for terrorist purposes. In regard to the last mentioned offence, Mr Wilson said that the intention of a terrorist purpose would have to be proved in court beyond a reasonable doubt; he also considered that the "reasonable excuse" clause should ensure that an innocent person would not be prosecuted for having equipment within 200 yards of road closure works; and he felt that the phrase "so far as reasonably required" would be thoroughly examined by the courts if the question arose of whether a document or record had been examined lawfully by the security forces in the course of a search. We said we were examining the text carefully and would return to these matters in our paper.

Yours sincerely,



Declan O'Donovan,
Joint Secretary,

1. cc PSM, Mr. Kelly: PPS
2. Mr. R. de...
3. 21511 C.C. Mr. Gallagher
Mr. J. Brennan
Mr. J. Hayes
Secretary

Meeting with Mr. Tom Lynn, assistant to Mr. Kevin McNamara M.P.
at the Department of Foreign Affairs 13 November, 1990.

Mr. Lynn, a former lecturer at NIHE, Limerick, was met by Mr. Ronan Murphy, Mr. Brendan McMahon and the undersigned. The discussion was confined to the Emergency Provisions Bill which was introduced in the House of Commons on 8 November.

Mr. Murphy outlined the areas of greatest concern to us in the Bill along the lines of the Minister's press statement of 8 November. He drew attention to various rumours of when the 2nd reading of the Bill was likely to be taken and asked if Mr. McNamara had any definite indication of when this will take place.

Mr. Lynn said that it could be as early as next week but McNamara's preference was for the 1st week of December. (He later heard by phone from McNamara that the government is now pushing for next Monday, 19 Nov., but McNamara is resisting this.) Lynn expects the second reading to run for six sitting weeks - i.e. well into January. The 3rd reading would be taken shortly thereafter and then it would go to the House of Lords. He added that Lord Prys-Davies, a member of the interparliamentary group, would be their sole voice on the Bill in the Lords.

Declan
O'Donovan
told me
that 22nd
November
is the likelihood
date.

Labour's attitude to the Bill

The Shadow Cabinet has yet to decide the party's voting position on the Bill but he thought it likely that they will vote against it and impose a 2 line whip. They would wish to avoid upsetting elements who would be very opposed to the EPA and who could make a divisive issue of the matter within the party. The internment provisions, in particular, "struck a resonance" in the Labour party which would point it towards opposing the Bill. Some former Ministers, such as Merlyn Rees, would be a supporter of the EPA but the majority did not have any great interest. The "image makers" would prefer a "tough on terrorism" stance but they felt they were in a position to resist Tory jibes on this score ever since Brooke's "Cyprus" speech. (He expressed considerable interest in Brooke's speech of 9 November in London,

EPA file

and he remarked that it was "schizophrenic" of Brooke to make a law and order speech on 8 Nov. introducing the EPA followed a day later by a speech which some saw as quite conciliatory towards Sinn Fein.)

There followed a detailed discussion of the Bill in which we highlighted those aspects of concern to us and repeated our position on tape recording of interviews, three judge courts, length of detention etc. Mr Lynn noted our comments carefully and indicated that the issues we had raised could be covered in the amendments which they will be putting down as the Bill goes through.

He did not think that the government would be very receptive to our concerns and, if anything, were likely to introduce further measures at the later stages of the Bill. This Bill would be much different to the Fair Employment Bill because "they don't have to keep the Americans happy this time."

He was very disappointed that many of the useful recommendations made by Colville had been ignored, while the security forces got everything they had asked for. He feared that Colville may no longer be happy to carry out these reviews only to have his careful and thorough efforts disregarded. Lynn thought that Colville had become much more receptive to our point of view in recent times and it was a great pity that he was now likely to give up carrying out the reviews.

J Farrell

J Farrell

Anglo-Irish Section

14 November, 1990.

~~At Belfast~~
Confidential

Mr. Hill
2-11
3-11-90
24

Meeting with Mr. Charles Hill QC

Mr. Charles Hill QC is a senior nationalist barrister who has been a contact of the Department for many years. I met him at his home in Belfast on the evening of 15 November, 1990.

Emergency Provisions Bill

Most of the conversation dealt with the Bill, which Hill is very concerned about. I told him about the aspects that we found most worrying. He gave me notes which he drew up with Tom Hadden for a meeting the two of them had with Brooke last month. They saw Brooke on behalf of SACHR - Hill has recently taken up his appointment on the board - and they are to go to Westminster to make further views known when the Bill reaches the Committee stage. They plan to submit a paper which would be made public; their present thinking is that the paper should emphasise the recommendations for safeguards which Lord Colville put into his review of the emergency legislation, virtually none of which appear in the Bill. Hill was surprised when I told him that the second reading was this week and said that he and Hadden would have to speed up preparation of their paper. Hill feels that the chances of getting amendments made to the Bill are "slender".

Among the aspects of the Bill which he commented on were:

Internment

He feels that Colville and Baker's repeated recommendations that the power to reintroduce internment in Northern Ireland be abolished should not be ignored. He does not think that there is any serious pressure at the moment to reintroduce it (despite calls from certain Unionists) but he feels, nevertheless, that its presence on the statute books could be a "temptation". Since he believes that any government would probably want to have some measures of this kind in reserve for a last resort situation - and he referred here to the fact that internment is on the statute books in the South - his idea is to leave the legislation intact but to make its introduction dependent on prior

parliamentary approval. This would mean that it could not be brought in overnight.

- Grounds of arrest under the PTA

Most of the PTA and EPA legislation has been consolidated in the Bill but grounds of arrest have been omitted because, in Hill's view, of the problems the British are experiencing as a result of the Brogan case which found that the maximum 7-day detention period under the PTA violates the European Convention on Human Rights. The British have entered a derogation from the Convention. Another case is being taken to Strasbourg which will challenge the basis for the derogation from the ECHR. Reg Weir is handling it; Hill was asked to but he is too busy. A question mark has also been placed over the repeated use of the same 7-day arrest power following the decision in the Lynch case.

- Videotaping of Interviews

Hill thinks that there is no good reason why this should not be introduced. The arguments raised against it - that the camera's presence would be a distraction, that features of police officers could be recognised - do not stand up. (Colville proposed that the security problem be solved by positioning the cameras overhead so that features would not be visible.) Although videotaping could be introduced by administrative measures, he feels it may be desirable to press for specific statutory authorisation.

- Diplock Courts

There has been no difficulty about filling recent vacancies in the county courts and therefore the argument that there would not be enough candidates for three-judge courts is less strong. But the Government is unlikely to budge. There might be more chance of getting a change on the issue of certifying cases into, instead of out of, the Diplock courts. There are still a lot of cases being handled by Diplock which do not belong there, such as non-terrorist grievous bodily harm cases.

- Right to Silence

Hill's personal view is that there is some justification for the

courts drawing inferences from an accused person's silence. Experienced paramilitaries have perfected the art of saying nothing during police questionings. In court they refuse to testify and instead spend the time chatting to friends in the gallery who may be known paramilitaries. Hill feels that this is an affront to the courts. He admits that most of his junior colleagues do not share his view, but see the restrictions on the right to silence as a serious interference with the accused's right to innocence until proven guilty. He is not conscious of the provisions being abused in terrorist cases and says that judges are being circumspect in taking it into account. He is more concerned at the impact on civil cases where an accused's refusal to reply, when formally called on by a judge, can have a profound effect on a jury. Counsel are tending to advise their clients to take the stand even when it may not be in their best interests.

- Shoot to Kill

Hill feels that there should be statutory guidelines in the EPA on the use of lethal force and provisions for dealing with the use of excessive force. An area of particular concern to him is the shooting of joyriders; these are young tearaways who behave very foolishly but the security forces know full well what they are dealing with when the cars approach and should not shoot to kill.

- Commissioner for Local Government Boundary Review

I am reporting separately on soundings I made with Hill and Turlough O'Donnell about possible candidates for this vacancy.

Ronan Murphy

Ronan Murphy

20.11.90.

cc ASOM Mr. Dally, PSB, Mr. Matthews,
Mr. Russell, Mr. Brogan, Counsellor: A 1.
Box.

by G.C. Loughy p.k.w.
29-11-90 29/11 A work in progress report
25/11

Confidential

Discussion with Turlough O' Donnell

A former Lord Justice of Appeal, Turlough O' Donnell retired from the bench last year and now principally works on civil cases; he remains an interesting source of information on Northern Ireland court matters. I met him at his home in Andersonstown on 16 November.

Emergency Provisions Bill

O' Donnell was not terribly surprised at the muted response from nationalists to the new powers in the Bill. To most people the legislation must seem rarified and remote; only when the laws are put into effect will people realise how extensive the new powers are. Then there will be calls for change and the British will agree to a Colville-style review and four or five years will pass before any changes are considered, let alone implemented.

He is not so concerned about the new offence of possession of items intended for terrorist purposes. The concept is found in ordinary law and he thinks that it is a reasonable provision, on the understanding that the authorities stick to their promise that it will be prudently exercised (but then, he commented "they promised us accompaniment"). The new offences connected with border crossings are mainly of concern to people in the border areas. But he regards the new power to examine documents as "a very significant development". Even apart from the question of privileged documents, he foresees great resentment being caused by the security forces having the power to look at people's private papers. He recalled similar powers existing during the war and the anger they provoked.

Video recording of Interviews

This should be introduced, according to O' Donnell. In recent years on the bench he found that RUC inspectors were less likely to allow beatings etc. for the purpose of obtaining confessions. But feelings could run high, for example after police officers were killed. In addition, it is only necessary for an inspector

to stop watching the television monitors for five minutes or so for a beating to take place - that had happened in a case which came before him. Video recording would be most valuable in this context and O'Donnell urged that we keep up the pressure for it. He suggested that we should ask if the views of the Northern judiciary have been canvassed. His opinion is that the majority of judges would like to see video recording introduced but the police "got to Brooke first". He referred to recent remarks by Judge Frank Russell to the effect that a great deal of time and expense could be saved if video recording were allowed; he believes that Russell (an Englishman) was reflecting the views of his colleagues on the bench.

Judges

O'Donnell gave his assessment of some of the personalities in the courts:

Lord Chief Justice Hutton

He is very much a product of the English Public School system and does not have the feel for Irish affairs that Lord Lowry had. All the same, he is fair by his own lights. He is much fairer than Carswell who is far from objective. Lowry will probably retire from the House of Lords in 2 years time and it may be that Hutton would be transferred there, though he is still in his 50's. In that case Carswell would very likely be a candidate for Lord Chief Justice - and that would be "a disaster".

Sir Ian Higgins

He is the brightest of the Catholic judges and is regarded as reasonably fair. He narrowly escaped being assassinated by the IRA a few years ago.

Mr. Justice Sheil

Appointed last year, he was "the Establishment's choice", preferred over Charles Hill. O'Donnell believes that he could turn out to be a good judge from the nationalists' point of view. (He mentioned in passing that he doubted if Hill would seek a place on the bench again; Hill feels that "he gave it his best shot" last time and security considerations would make it unattractive.)

Of the other Catholic judges he considers McCollum to be unsympathetic to nationalist interests and Nicholson to be "bright but eccentric". Nicholson's attitude has been soured by a case involving an IRA man called Mulgrew whom he let off after much thought and who immediately became involved again in terrorist activities.

The judge that O'Donnell holds in highest esteem is Lord Justice Kelly with whom he sat on the Appeal Court. Though of Unionist background, he is always fairminded.

O'Donnell will be recommending to the Lord Chief Justice that he try to get more Catholic women barristers to take silk with a view to putting them into county courts. There are a lot of able women barristers around at present and they should be encouraged.

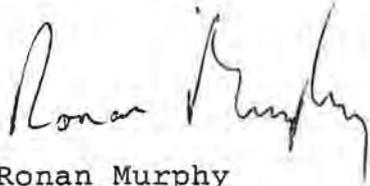
Three-Judge Courts

He has been reflecting on this issue and his conclusion is that "we will never get three-judge courts". Hailsham and Lowry had been the main opponents and the position would not change "unless Labour win the next General Election". In any event, he wonders if they would have worked in Northern Ireland. In a homogenous society like the South three-judge courts worked ("in fact, they work extremely well for you"), but he feels that there would have been tremendous pressure on Catholic judges if they had been introduced in the North.

Armagh Four

O'Donnell hears few complaints about the Diplock Courts these days, with the exception of the case of the four UDR men convicted of killing a Catholic in Armagh. O'Donnell heard the appeal and he has rarely come across so clear a case of guilt. The trial judge acted properly throughout and acquitted a fifth defendant. Yet there are calls from prominent persons, North and South, for the case to be reconsidered. Critics of the verdict have focussed solely on the evidence of one woman witness and she, despite great pressure to change her evidence, has not done so. There remained a doubt as to which of them actually

pulled the trigger, but in O'Donnell's mind there is no doubt that they all took part in the killing and it amazed him that any responsible person should agree to appear on a platform on behalf of the Four.



Ronan Murphy

22. 11. 90

cc PSM Mr Nally, PSM Mr Matthews, Mr. Brennan
Mr. Russell, Councillors A-L, Box.

5 December, 1990.

Mr. P.R. Collins,
6 St. James Way,
Bierton,
Aylesbury,
Buckinghamshire.

Dear Mr. Collins,

Thank you for your letter of the 15th November, 1990 addressed to the Taoiseach, Mr. Charles J. Haughey, T.D., regarding your request for information on the subject of the Diplock Courts of Northern Ireland.

Your letter is receiving attention and a further reply will issue to you shortly.

Yours sincerely,

GEORGE SHAW

Private Secretary
to the Taoiseach.

- ! BRIAN MCCARTHY
- ! DO YOU THINK YOU COULD PREPARE A REPLY FOR ISSUE
- ! IN THIS CASE OR HAVE ONE PREPARED?
- ! GS3777/WP3

Woli Referred to J. Dillon DPA to be ready down
to this note:

DS 6/17/90

Mrs Tinto
For filing re
DS

6 St. James Way
Bierton
Aylesbury
Buckinghamshire
HP22 5ED
ENGLAND

15th November 1990.

Mr Charles Haughey TD
The Taoiseach
Government Buildings
Upper Merrion Street
Dublin 2
Eire

2/ Sir,

I am a third year law student at Newcastle-upon-Tyne Polytechnic and I am doing a dissertation on the subject of the Diplock Courts of Northern Ireland.

I would be grateful if you could answer the following questions:-

- a) What are your views on the Diplock Courts ?
- b) What solutions would you advocate to resolve the problems with this type of court ?

I look forward to your reply.

Yours faithfully,

P. R. Collins

P. R. Collins.

FEATURES**Lethal force—unreasonable use should be an offence**

ROBBIE HANNEY

The new Emergency Provisions Bill yet again ignores criticisms from, among others, the government's own Standing Advisory Commission on Human Rights. Two members of the commission, CHARLES HILL and TOM HADDEN, writing here in a personal capacity, issue a trenchant response. Right—MARTIN COLLINS reveals plans for a human rights assembly on the north. Meanwhile (inset), CHRIS HUDSON provides an update on the Peace Train campaign.

This is not how to beat the IRA ...

THE second reading debate on the Northern Ireland (Emergency Provisions) Bill was understandably overshadowed by the Tory leadership contest. But there remain some important issues for MPs in the committee and later stages if they are to fulfil their function of protecting the citizen against the abuse of executive power.

Last July, after a thorough official review of the Emergency Provisions Act, Lord Colville made firm recommendations for additional safeguards in the operation of emergency powers in Northern Ireland. In this bill the government has systematically ignored all these recommendations. It has also ignored the safeguards recommended by Lord Colville for some new offences and powers which he thought necessary for more effective control of terrorist activity. This selective treatment of Lord Colville's report needs to be given greater prominence.

Item one is the power to intern without trial. Lord Colville recommended that the power to introduce detention without prior parliamentary approval should be dropped. He agreed with the view that a highly controversial emergency power which successive secretaries of state have said they have no intention of using should not be "stored up for a rainy day", and that its abandonment would be of considerable assistance in the search for a political settlement.

He might have added that the provision for prior parliamentary approval would protect members of both communities against a sudden decision in the aftermath of some outrage which everyone would come to regret.

Item two is Lord Colville's recommendation of a new offence of "going equipped for terrorism", so that the security forces may intervene to prevent terrorist attacks before the arms or explosives have been assembled for use. The offence drafted by Lord Colville would have covered possession of "any article for use in connection with terrorism" only when the person was not at his or her abode, and the burden of proof on the purpose of possession would have been shifted only where the article was adapted for use in terrorism.

The government has ignored both these proposed safeguards. Its proposed clause 29 would make it an offence to have any article reasonably suspected of being intended for use in terrorism, either at home or in a public place, and in both cases the burden of proof would be on the suspect. One could hardly imagine an offence more broadly defined and more readily usable for the harassment of the civilian population in 'suspect areas'.

Item three is the proposed new power to examine any document in the course of any authorised search of any person or place, in so far as is reasonably necessary to establish that it does not contain information of use to terrorists. Lord Colville made no clear recommendation for such a power. And his discussion of the issue repeatedly referred to his concern about unnecessary incursions into the private affairs of ordinary people. But the power proposed in clause 22 is so widely drawn as to allow the security forces to seize and take away any documents found in any car or in any random body search. One of the badges of a 'police state' is just such an unfettered power to seize and take away documents without the need for any suspicion, reasonable or otherwise.

Item four is the video (but not sound) recording of interrogation of terrorist suspects. Lord Colville recommended this, both to prevent ill-treatment without interfering with interrogation and to protect the police against unfounded complaints. This safeguard has also been advocated in a considered judgement in a recent criminal trial in Northern Ireland. But there is no provision for it in the bill and the government has said it has decided against introducing it on a non-statutory basis.

Item five is safeguards on the use of lethal force by the security forces. Lord Colville has, more than once, concluded that the law is gravely deficient in providing only a choice of a murder charge or no charge where the unreasonable use of lethal force is alleged. There is nothing in the bill to deal with the problem, by way of provision for a manslaughter charge or for a new offence of the unreasonable use of lethal force or even for clearer statutory

guidelines on when lethal force can be used

The list could be extended to cover other matters, such as the definition of scheduled offences for non-jury trial, or a tighter rule on the admissibility of confessions, or the judicial review of extended detention, to enable the derogation from the European Convention on Human Rights (entered after the *Brogan* decision) to be withdrawn. On some of these Lord Colville cannot be called in aid. But safeguards on such matters have been firmly recommended by other impartial bodies, not least by the Standing Advisory Commission on Human Rights. All are absent from the bill.

The commission's recommendations for better safeguards in emergency legislation have been systematically ignored over the years. It seems that the advice on safeguards in Lord Colville's independent review has also been ignored by the government. It is to be hoped that, as the bill is taken through the Commons and Lords, more consideration will be given to the recommendations of those who are charged to advise Parliament on proper safeguards in emergency laws—and that the new legislation will contain only those powers that are required by the exigencies of the situation and are consistent with due regard to balancing necessary measures with necessary safeguards. ●

Forcing Britain to catch up with Europe

DECEMBER 10th—international human rights day—sees the launch in Britain of an initiative for an international human rights assembly on Northern Ireland, to be held next summer.

Proposed by a consortium of human rights and civil liberties groups—including Liberty/NCCL and the Committee on the Administration of Justice—the stimulus came from the recently formed Britain and Ireland Human Rights Project, which seeks to ensure that the new era for the European rights movement opened up by the dramatic changes in eastern Europe sees Northern Ireland on the agenda.

In June, the 35 member states of the Conference on Security and Co-operation in Europe (CSCE), meeting in Copenhagen to consider the human dimension of the 'Helsinki' process, came to a rapid agreement on a wide-ranging

statement on human rights in a changing Europe, and for the first time looked at setting up a permanent secretariat. In October the Czechoslovak premier, Václav Havel, convened a 'Citizens' Assembly' in Prague to develop a 'Helsinki from below'—where the peace movement and ecological activists from the west could link up with former eastern dissidents (*Fortnight* 285). And last month the CSCE summit in Paris stressed the inalienability of universal human rights as well as the particular rights of national minorities.

Everything is changing. To survive in a new environment, formerly Moscow-orientated organisations like the International Union of Students are enthusiastically endorsing the language of universal human rights. And at the same time organisations such as the International Helsinki Federation, mainly concerned with violations in the eastern bloc, are seeking a more rounded human-rights portfolio.

Measured by adverse decisions of the European Court of Human Rights, the UK has by far the worst record of any western European government. And with self-determination and national minorities now topical issues the point is not lost on human rights advocates concerned with Northern Ireland.

The Britain and Ireland Human Rights Project was set up in April to research and publicise human rights issues in the two countries, arising from the conflict in Northern Ireland. It has already carved itself a place in that debate—holding a formal launch in Copenhagen and leading a round-table discussion in Prague on 'outstanding national issues in Europe' (Kosovo, Transylvania and Ulster).

The project's principal argument is that a new European human rights agenda must involve responsibilities for states both east and west. Notwithstanding the complexities of the Northern Ireland conflict, it is an anachronism in the 'new Europe'. Only by concentrating international pressure on the British government to create a human rights environment in the north can there be a progressive demilitarisation of the conflict, creating the space for new political solutions.

Such an argument has allowed the project to attract diverse support in Britain, from the former solicitor general Peter Archer to the former 'Time To Go' campaigner Clare Short. Birmingham Six/Guildford Four lawyers have become involved, because they believe the international dimension is now vital. And the former Amnesty International general secretary Martin Ennals reports widespread interest in Europe on Northern Ireland, if only the right initiative can be found.

The international human rights assembly may fit that bill.

**Further information on the proposed assembly or on the project itself, can be obtained from the Britain and Ireland Human Rights Project, 76-82 Salisbury Road, Queen's Park, London, NW6 6NY*

... but this might be



Flashback to last year's defiant message from TDs and senators halted by a hoax at Portadown—they stayed on the train overnight

THE Peace Train Organisation is unique in Ireland, in bringing together people of various ideologies and aspirations by focusing on a single issue. It has made the rail link between Dublin and Belfast a symbol of opposition to the absurd and anti-intellectual campaign carried out by the main terrorist organisation, the IRA.

In many ways the Peace Train Organisation reflects events in eastern Europe—it has some similarities with, for instance, Civic Forum in Czechoslovakia. It has drawn together writers, artists, trade unionists and politicians, united by their common opposition to the totalitarianism of the IRA and other paramilitaries.

A convention in late October in Portadown, Co Armagh, marked the anniversary of the first Peace Train and the place where it was halted by a bomb hoax.

While the focus is still the rail link, the Peace Train Organisation hopes its manifestations will encourage the many others frustrated by the litany of terror in the north to campaign on other issues too.

One group coming forward is 'Families Against Intimidation and Terror'. FAIT has articulated very clearly the fears—about 'punishment' shootings and threats to 'informers'—of people who live in areas controlled by paramilitaries.

The feelings of the convention were summed up by a retired railway worker from Dublin, Charlie Lloyd, who once had terrorists hold a gun to his head. Of the IRA he said: "They are going nowhere."

END of file