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Note for the Minister

Facts of the case

1. On 4th June, 1984 three members of the RUC (Sergeant Montgomery and Constables Brannigan and Robinson) were acquitted by Lord Justice Gibson of the murder of Eugene Toman outside Lurgan on 11 November 1982. Toman had been travelling in a car with Gervaise McKerr and Sean Burns. The three were, according to RUC statements during the course of the court case, known to the RUC as members of the Provisional IRA. They were acknowledged as such by the PIRA when they received para-military funerals.

2. During the trial, it emerged that the three policemen opened fire on the car as it went past them, firing an estimated 109 bullets. The accused denied shooting at the car after it had stopped though spent shells were later found beside it. The three men shot were unarmed.

3. The killing of Toman, McKerr and Burns was followed in December 1982 by the shooting dead of Seamus Grew and Roddy Carroll in Armagh and gave rise to a belief that the security force in Northern Ireland were operating a "shoot to kill" policy. This belief has been sustained by the series of killings by members of the security forces which have taken place in the past eighteen months.

4. The trial of the three RUC men and of Constable Robinson, who was acquitted of the murder of Grew and Carroll, established that a Special Mobile Support Unit was operating within the RUC. This unit had been trained to (in the words of Lord McDermott) "use maximum fire-power in dealing with terrorism". Despite this, Secretary of State Prior has denied publicly, as well as privately to the Minister, that a "shoot-to-kill" policy is in operation.

Representations to the British

5. On 6th June, 1984, the Minister spoke to Secretary of State Prior and raised a number of points (details at Appendix A).

- the acquittal of the three RUC members had strengthened feeling here, and among Northern nationalists, that the legal system is heavily biased against Catholics.

- security cooperation and extradition had thereby been hampered
- Lord Justice Gibson's statement, commending the bravery of the accused, had determined the guilt of Toman, McKerr and Burns without any trial

The Minister, in consequence, suggested it was necessary for the British Government to distance itself from Judge Gibson's remarks.

6. The concern of the Government was subsequently raised again with the British at official level on 7th June, 1984 with specific reference to the comments of the RUC Deputy Chief Constable during the trial. He said on 4th June that men of the Special Mobile Support Unit underwent 9-10 weeks' training during which they were given extra weapons training based on the premise that "if you decide to fire, you shoot to take out your assailant." McAtamney confirmed that this meant "permanently out of action". It was pointed out to the British that it was necessary for them to repudiate what was in effect a statement under oath that a shoot-to-kill policy was in operation.

7. On 9th June, 1984, the Minister issued a public statement to Fine Gael election workers in Cork (copy attached at Appendix B) on the comments of Lord Justice Gibson and on the question of a shoot-to-kill policy.

British response

8. The British response was relayed through an official of their Embassy, Mr. David Tatham, who said there had been a certain amount of agitation in London about the Minister's remarks. He said London had no wish to raise the temperature. London believed that public statements such as the Minister's created problems rather than solved them. London could not comment on the statements of the judge. These were internal matters on which the Government in Dublin had no locus standi. Finally, London had no wish to repeat publicly what they had conveyed privately, but it was necessary to put their views on record in case of questions.

The British response, though conveyed privately, indicates that they would be prepared - in the event of further criticism being levelled by the Government at Judge Gibson's remarks - to question publicly the Government's right to comment on what they see as an internal matter. For that reason the Minister should as far as possible confine himself to the terms of the public statement issued on 9th June, 1984.

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Anglo-Irish Section
18 June 1984