



# An Chartlann Náisiúnta National Archives

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7 May 1998

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To: HQ

From: Belfast

For: Secretary Gallagher

From: Joint Secretary

**Subj: Discussion with John Steele (2)**

1. We discussed yesterday with John Steele and Christine Collins the present position in relation to the Prisons Bill, preparations for the review of criminal justice and the British Government's intentions in relation to the ending of emergency legislation.

We also touched on the normalisation/demilitarisation agenda and raised under this heading the Crossmaglen problem as well as the concerns of South Armagh residents.

In addition, we exchanged views on the intentions and capacity of paramilitary groups opposed to the Agreement.

### **Prisons Bill**

2. Steele told us that the Prisons Bill, designed to implement the British Government's commitments under this heading of the Agreement, is almost ready and will be tabled in Parliament very soon. Though considerable opposition is expected (particularly in the Lords), the hope is that the Bill will clear all stages by the end of June.
3. A detailed briefing on its contents will be given to us shortly in the Secretariat by Alan Shannon, Head of the NI Prison Service (until next October), and his colleague Geoff Huggins.

4. Steele indicated that, to balance what the Unionists and many on the Conservative back-benches will portray as an excessively liberal approach to releases, the Bill will contain stringent provisions for the revoking of licences if a prisoner who has been released infringes certain criteria. (No details were provided yesterday but we will be paying particular attention to this aspect at the promised briefing).
5. The Bill will set out the arrangements envisaged for the Sentence Review Body. As regards the latter's membership, Steele confirmed obliquely a number of hints from other sources that the choice of Brian Curran, the South African lawyer, as Chairman is running into difficulties. Making clear that the Secretary of State strongly favours Curran (who has already indicated his availability), Steele went on to qualify this in a way which signalled - as we know from other sources - that the Prime Minister is unhappy with the choice. The Secretary of State, he said, would be happy to see Curran either as Chairman or, failing that, as Deputy Chairman or even as a "leading member" of the body. (Comment: It may be assumed that the Unionists lodged objections with the Prime Minister about Curran, whose name was being freely mentioned by the Secretary of State in the final stages of the negotiations and who is known as a senior ANC activist with close links to Sinn Féin).
6. Steele also anticipated that, because of the controversial nature of the changes envisaged, it could prove very difficult to persuade people from a Unionist background in Northern Ireland to serve on the body.
7. We indicated an intention to submit names in relation to the membership (which, according to Steele, will comprise eight or nine people and will include two psychiatrists).
8. He referred to a view taken by Joe Pilling (with which we were already familiar from the latter's recent visit here) that the composition of the body is not of enormous importance, as the Bill will set out the detailed criteria for sentence review and it will be the responsibility of the body simply to put these into practice. Pilling is not keen on setting up an elaborate structure with high-profile individuals, as in the case of the Policing Commission, because he believes that the work can essentially be done by "a couple of civil servants" and in fairly short order.
9. Steele, on the other hand, recognised the political and confidence-building value of

having a review body which reflects independent and specialist interests - even if the decisions to be made will involve very little discretion. He agrees with Pilling to the extent that neither sees the body as requiring quite the degree of effort being devoted at present to the membership of the Policing Commission. The most telling proof that the body is working well, he suggested, will be the numbers of prisoners being released within the first few months of its existence.

### **Review of criminal justice**

10. This review is to be headed by Jim Daniell, who heads the criminal justice section of the NIO. We are arranging for a briefing from Daniell in the near future. The review is, of course, a matter on which there is to be wide consultation, including with the Irish Government, under the Agreement.
11. Daniell and his colleagues will also have people from the NI Court Service and other agencies involved in the review. Steele did not know how the "independent element" stipulated in the Agreement is being approached but presumed that this will involve a number of academics, criminologists etc. He saw merit in a removal of the distinction between ordinary members of the review and assessors.
12. We argued for the inclusion of Probation Board experts and community representatives, recalling in the latter respect the emphasis in the Agreement on "community involvement" in the criminal justice system. (We were reacting also to comments from Collins, who had suggested that much of the ground to be covered in the review had already been dealt with in previous reviews). We also emphasised the importance of close coordination between this review and the work of the Policing Commission.
13. Steele agreed with the latter point but remained non-committal on the membership of the review. We indicated an intention to put forward names in relation to the "independent element" of the review.

### **Emergency legislation**

14. Collins indicated that it may be some time before the Home Office publishes its consultation document on a possible UK-wide consolidation of emergency powers (whether a White Paper, a Green Paper or, as Steele suggested, a White Paper “with green edges”). The intervention of the Belfast Agreement, and its implications for peace and the ending of a terrorist threat in Northern Ireland, means that the Home Office will have to review whatever it had been planning to recommend. The emergence of devolved institutions in Scotland and Wales is another factor which they have to take into account.
15. We emphasised that a fundamental reassessment should now be launched and we reminded the British side of their commitment under the Agreement to the removal of emergency powers in Northern Ireland. Steele accepted that progress in this regard could not be held up pending publication of the consultation document.

#### **Normalisation/demilitarisation**

16. We made a number of general points about the need for the British Government to demonstrate rapidly that the “normalisation” of security is underway in Northern Ireland as part of the Agreement.
17. We also raised the particular concerns of the South Armagh residents, mentioning their meetings with the Taoiseach and our Minister, and sought an explanation for a recent incident involving misconduct by soldiers at a camogie match (on which Steele shared our concerns but is awaiting a report from the security forces).
18. Steele indicated that a draft of the “published overall strategy” mentioned in the Agreement is nearing completion. A briefing is to be provided on this.
19. Recalling the Secretary of State’s undertaking in the Agreement to consult with us on “progress” in relation to this agenda, we suggested a structured dialogue involving regular meetings in the Secretariat at which we would be briefed in detail on British intentions. Steele agreed in general terms to this.

### Crossmaglen

20. We reviewed the recent GAA developments and the related pressure brought to bear by our Government for a resolution of the long-standing grievance relating to the security forces' use of land belonging to the GAA club in Crossmaglen.
21. Steele gave a trenchant account of the matter from the British perspective. He saw no possibility of the RUC and Army being in a position to dispense with the land in question while the current very uncertain security situation in South Armagh continues. The Army's posture continues to be "highly defensive" in the entire border area. He maintained that, although RUC numbers at the base are low, the Chief Constable is no less concerned about the proposal than the GOC, as Crossmaglen is a RUC base and the safety of people working there falls ultimately under his responsibility.
22. Collins said that the only alternative would be to transfer to an entirely new "green field" site and build a base from scratch. In the current circumstances of approaching peace, she suggested, it would be on balance preferable to stay where they were.
23. We suggested that a statement flagging an intention to move out of the base in due course, subject to developments on the ground, would be helpful. Steele reacted negatively.
24. On the Rule 21 point, incidentally, he was highly sceptical about suggestions that a change is pending and claimed (with a degree of emphasis which we found intriguing) that the NI members were about to walk out from the recent Congress over this issue.
25. We will be having both the Chief Constable and the GOC to dinner shortly and will raise the Crossmaglen issue informally with them.

### Paramilitary groups

26. Steele warmly congratulated the Garda Siochana over the success of last Friday's Ashford operation.
27. He indicated that he sees no operational distinction between the Continuity Army Council and the dissidents associated with the 32 Counties Sovereignty Committee. (Note: You may have noted an article by Brendan Anderson in today's Irish News which suggests that the CAC and supporters of the 32 Counties Committee are being urged by "disgruntled IRA volunteers" to form a single grouping). If the dissidents have access to IRA materiel, it may be assumed that some of this is reaching the CAC as well - and the CAC have now improved their bomb-making capacity. Together, they constitute a significant threat North and South of the border. If e.g. the recent bomb in Lisburn had gone off, it would have caused appalling devastation. The mortar attack on Grosvenor Road RUC station was also very worrying.
28. As regards the LVF, Steele said that the difficulty lies in knowing who its members are. They include a significant element of "yobbos", ie, people who get fired up at a DUP rally, go off for a few pints and then decide to go out and "kill a Catholic".
29. He thought that recent media reports suggesting that the LVF and INLA are contemplating ceasefires might have some foundation. The LVF, who have no serious ideological motivation, realise that, without a ceasefire, none of their prisoners will be released. As for the INLA, the IRSP have been demanding parity of treatment with Sinn Féin for a long time and are also highly aware that they can go nowhere without a ceasefire.

② Copy

cc PPM/PCOC/PPPG  
of Mr. Zucker, Dr. Flannery,  
Councillor H I, Mr. Dalton  
Anbar W & L

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6 May 1998

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To: HQ  
For: Secretary Gallagher

From: Belfast  
From: Joint Secretary

**Subj: Discussion with John Steele**

1. John Steele, who is the senior security official at the NIO, came to lunch in the Secretariat today. He was accompanied by Christine Collins, who works on the policing side of his division. Colm O Floinn also joined us from the Department.
2. Our discussion focussed on
  - (i) the Parades Commission;
  - (ii) the Policing Commission;
  - (iii) the Prisons Bill;
  - (iv) the review of criminal justice

and a number of other matters relevant to implementation of the Agreement.
3. This report deals with the first two topics; a report on the remaining items follows.

**Parades Commission**

4. Steele and his colleagues have made reasonable progress in the search for replacements for the two Commission members who resigned recently (Barr and Cheevers).

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5. Two individuals have indicated a willingness to serve. Steele is happy with one of these (whom he identified to us, in confidence, as Dr John Spence, a Unionist businessman "with a small u" who has served on the IDB's Board). He has reservations about the second and seemed to prefer two others who are still making up their minds about the offer.
6. The NIO, Steele indicated, have been looking at low-key professional types in the Unionist community who have no connection with the Loyal Orders (and whose appointments, he suggested, would attract as little interest as those of Rose-Anne McCormick and Aidan Canavan). He admitted frankly that the appointment of Messrs Barr and Cheevers had been a mistake. They were good candidates in themselves, he claimed, but they underestimated the pressures which would bear in on them as Drumcree approached.
7. The Prime Minister is to meet the Commission at Castle Buildings this evening. Alistair Graham and his colleagues are in somewhat shaky mood since the Barr/Cheevers episode and the purpose of the meeting is to improve their morale privately as well as to demonstrate the Government's continuing commitment to the approach set out in the legislation.
8. Steele undertook to keep us briefed on developments in relation to the two new appointments. He mentioned that Ken Bloomfield is to act as independent assessor to ensure that the appointments conform to the Peach requirements. It is hoped that they can be made in time to permit the full Commission to reach a determination on the Dunloy parade scheduled for 17 May (which will have to be published five days in advance).
9. We put down a strong marker about the Drumcree parade. Noting the sensible view reached by the Commission in its preliminary consideration (a re-routing of the parade away from the Garvaghy Road), we hoped that this view would not be altered in the determination eventually issued on this matter. Were that view to change, the Commission would be perceived to have caved in to Unionist/Orange pressure and its credibility with nationalists would be fatally compromised.
10. Steele responded with a predictable reference to the independence of the Commission, the opposing views in the Unionist community, etc. He indicated, however, that the

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not very  
accommodating  
to Chief  
Constable

Secretary of State would privately like to see the Commission decide on a re-routing. He speculated, indeed, about a situation in which the Chief Constable might voice concerns about a decision of this kind to the Secretary of State, the latter might decide that the Commission's determination should be upheld and the Chief Constable might feel obliged to use his own prerogatives to allow the parade down the Garvaghy Road. We responded that, while it would be nice to imagine the Secretary of State exercising independent judgement in this area, last year's experience suggested that there was very little prospect of a challenge on her part to the views of the Chief Constable.

- 11. Both sides agreed that particular efforts would be required to find an accommodation which would prevent Drumcree from degenerating into open conflict and undermining the Agreement. The Commission could not of itself produce a magic solution; pressure would have to be brought to bear on the key players by the Governments and others. Steele said that British Ministers would be working on Trimble, emphasising the responsibility of the "First Minister in waiting" to do everything possible to achieve a solution.
- 12. We noted the particular importance of the Orange Order being willing to engage directly with the residents. However, Steele saw no prospect of this happening. He wondered about the possibility of dialogue taking place by proxy via contact between Trimble and Hume, who would reflect the interests of the Orange Order and the residents respectively.
- 13. He hoped generally that Sinn Féin would be inclined not to stir trouble on the parades front this year and would be amenable to pressure from the two Governments. In the latter respect, he mentioned that, in contrast to last year when the IRA ceasefire had not yet been restored, the British Government have the advantage of open access to Sinn Féin this year in relation to Drumcree.
- 14. The Commission's determination on Drumcree (5 July) will have to be published by 30 June. Steele mentioned that, depending on what it contains, the security forces will have to move into place shortly beforehand to take contingency measures (such as a sealing-off of Portadown or a preemptive occupation of the Drumcree hill). Considerable tension and unrest can be expected in the run-up to the publication date, which of course will follow very closely on the Assembly elections. Collins suggested that the DUP would try to bring Drumcree into the forefront of the election

campaign and that the election of DUP/UKUP members in significant numbers could undermine Trimble's capacity or will to broker a resolution.

- NR // 15. In general terms, Steele remarked that Drumcree will probably rival the Belfast Agreement this year in terms of the complexity and sensitivity of the issues it presents and the consequences of failure.

### Policing Commission

16. The NIO are working on a list of names to put to the Secretary of State early next week for the six members of the Policing Commission other than Chris Patten. Steele was very grateful for the names we submitted last Friday.
17. We reiterated the importance our Government attaches to independence, an international dimension and a human rights record as criteria for the selection process. We also indicated that we would be proposing one or two further names, including someone with a background in the management of organisational change.
18. At a meeting which he had last Saturday with Chris Patten (Mr Folan's report of 4 May to Mr O Floinn refers), Steele outlined the British Government's ideas about the kind of people who might make up the Commission's remaining membership and discussed a series of names, including those furnished by us. Patten made the point that he was less concerned with a person's religious background than with whether or not they would bring the requisite calibre to the Commission. (On this criterion, with which he had no difficulty, Steele observed to us that Catholics could well outnumber Protestants on the Commission).
19. When a list has been drawn up with which Patten is happy, and which covers the categories considered by the NIO to be important, it will be passed to Gerry Burns (the NI Ombudsman) for independent vetting from the Peach perspective. It will then go to the Secretary of State and the Prime Minister. If they agree with it, the individuals will then be contacted. (We are told that none of them has as yet been contacted - and that there is some apprehension about the delays which may be

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experienced in securing the participation of international candidates). If difficulties arise with some of them, it may be necessary to "go back to the drawing board" in order to preserve the balance struck in the original choice.

20. We emphasised our Government's profound interest in the make-up of this Commission. While the lack of consultation on Chris Patten's name prior to its sudden emergence last week had been disconcerting, we recognised the merits of the choice (though there had been strong misgivings in certain quarters) and we were prepared, accordingly, to lend public support. However, we would expect full advance consultation on intentions in relation to the remaining membership, for which we had supplied a series of names.

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21. Steele assured us that we would be kept fully au fait. Stressing that the NIO had had no interest in leaking Patten's name (and blaming No. 10 for this), he suggested that there had been one positive outcome - Patten's association with the Commission would spur on certain people, he believed, to accept an invitation to serve on it.

22. The advice to the Secretary of State will be that she should defer the announcement of the membership until after the referendum. It is possible, however, that, to demonstrate active follow-up to the commitments made under the Agreement, she may decide to move earlier on this. She may also be forced to do so by another leak from the NIO. We made the point that, in a situation as fluid as this, it is all the more important that our Government should know precisely of her intentions and should not find itself bounced in any way. Steele took this point fully.

23. At the practical level, a budget of £2.5 million, which will include travel and research elements, has been earmarked for the Commission. Members will be paid daily allowances (an involvement of two days per week is expected). Chris Patten has agreed to give up a Channel 4 programme and other commitments over the next few months.

24. On the assumption that the first formal meeting of the Commission takes place in mid-June, advertisements will be placed in the media to invite submissions from a wide number of interested groups. These will probably be received by September and the autumn months will be devoted to meetings with the various groups, visits to RUC facilities, etc. One or two major pieces of research are also likely to be

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commissioned. The Commission will visit our own jurisdiction and will also travel overseas. Early next year, it will "retire" to absorb the material it has assembled and to begin the writing of its report in time for delivery for the summer.