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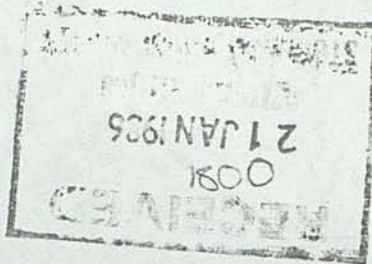
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DESK BY 18-15 hours.

PS/Secretary of State (L) - NO 1



With Annex only

cc: PS/SofS(B) - M - NO 2
PS/Mr Scott (L&B) - M - 344
PS/PUS (L&B) - M - 546
PS/Mr Bloomfield - M - 7
Mr Brennan - NO 2
Mr A W Stephens - M - NO 9
Mr Chesterton - NO 10
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Mr McConnell - M - NO 15
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MEETING WITH THE PRIME MINISTER - 22 JANUARY 1986



Minute from the Foreign and Commonwealth Secretary

... Sir Geoffrey Howe has minuted the Prime Minister, in preparation for tomorrow's meeting, commenting on the Secretary of State's own minute to her of 10 January. (A copy of the Foreign Secretary's minute is attached.)

2. Predictably, Sir Geoffrey agrees that our policy must be to stand firm on the Agreement and to make it work (Paragraph 1), and he also endorses the Secretary of State's view that we must press the Irish and the SDLP hard to find ways of demonstrating that the Agreement is ultimately in their best interests also. Perhaps equally predictably, he takes a slightly less sombre view of the present situation in the Province (paragraph 4) which he claims is not without "some positive features": he might, if he is aware of them, cite some of the more encouraging findings of the recent Belfast Telegraph poll, which demonstrates overwhelming opposition (88.2%) to violent action as a means of protest; today's letter from the Northern Consensus Group, signed by a large number of business and professional people, urging

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that the Agreement be given a chance; and signs of less positive hostility from the Presbyterian Church. On the other hand, neither Sir Geoffrey nor his advisers are close to affairs in Northern Ireland, nor does he have responsibility for the Province's administration. There is much in the papers summarising current political developments which have been circulated to those attending the meeting (and to others) which must still give real grounds for concern, while the recent poll suggests that almost half the population (including nearly 60% of Protestants) think the Agreement will lead to an increase in the level of violence.

3. Similarly, Sir Geoffrey may be a little optimistic about the extent to which the first three meetings of the IC have succeeded in educating the Irish about our concerns and narrowing the gulf between our perceptions of the underlying realities in Northern Ireland (paragraph 3). In particular, there seems a long way still to go before the Irish accept our (and the Chief Constable's) perceptions about the nature of the security threat, and are prepared to support wholeheartedly the kind of joint, coordinated approach to cross-border operations that we continue to regard as essential.

4. In general, however, Sir Geoffrey's minute supports the Secretary of State's analysis and reinforces his conclusions. It does not, therefore, call for any substantial addition to the briefing supplied by PUS in his minute of 15 January.

Specific Points Raised

5. Sir Geoffrey does, however, raise three points of detail touched on by the Secretary of State: first, he argues (paragraph 7) that aspects of the Diplock procedures, particularly in the so-called Supergrass cases, as a legitimate cause for public concern, and that we need to consider whether modifications

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are possible. He has a valid point. The Diplock courts can still be justified in the present circumstances of the Province, and the "supergrass" procedure is subject to the same constraints in Northern Ireland as in England and Wales or, for that matter, the Republic; but taken in conjunction, they make it difficult for anyone to feel entirely happy about the way the criminal justice system operates - and is seen to operate - in Northern Ireland. But although the Secretary of State can remind colleagues that his officials are examining what improvements might be possible, and that this will also be explored further under the auspices of the IC, he will nevertheless want to warn the Prime Minister (and Sir Geoffrey) against believing that changes are likely to be immediate or entirely cost free. He could, for example, point out that:

- (a) there is already an independent judiciary (and prosecution service) in Northern Ireland in whose quality and impartiality both the Prime Minister and he have publicly expressed the utmost confidence. It is essential that any modifications do not call the competence and fairness of the judiciary into question;
- (b) scope for action on the part of the NIO is limited: while the NIO is guardian of NI criminal law, court procedure and prosecution practice are matters for the Lord Chancellor and the Law Officers; and
- (c) modifications are likely to make it more difficult rather than less to secure convictions against suspected terrorists. The balance of advantage in making changes must, accordingly, be very carefully weighed.

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(Sir Geoffrey also argues it would be helpful if an early announcement could be made of our intention to implement the acceptable recommendations contained in the Baker Report on the operations of the EPA. We have told Parliament in broad terms what we propose (one minor change - to Schedule 4 - has already been enacted) and only other, non-Northern Ireland, pressures on the Parliamentary timetable have prevented all these amendments from being enacted this session. We are committed to legislation within this Parliament. Our intention is for the Second Reading of the Amendment Bill to coincide with the renewal of the EPA in late autumn this year.)

6. Second Sir Geoffrey expresses some scepticism about persuading the Irish to amend Articles 2 and 3 of their Constitution, on the grounds that this is not within their gift - but can only be done by referendum (paragraph 8). This is fair comment: our interests would be positively harmed by pressing the Irish to hold a referendum which the Government then lost. However, we know there is some sympathy in the present Irish Government for amending the Constitution, and - as Sir Geoffrey concedes - there is no reason not to keep up pressure on Dr FitzGerald by suggesting he could help prepare public opinion in the Republic for a move in that direction, even though we must accept that he may be reluctant to do so with an election campaign coming on.

7. Third, Sir Geoffrey agrees that we need to offer Parliamentary means for making it easier for the Unionist voice to be heard (paragraph 9) and recommends that recent suggestions put forward by the Lord President in his minute to the Prime Minister of 22 November (on which see Annex) should be looked at to see what would be the most effective way of doing this. The Secretary of State will not wish to demur in principle, but he will want to explain that it is very unlikely that the Unionists would be attracted by such proposals. The only one of any interest to the UUP (greater use of UK Bill for Northern Ireland) would

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narrow the range of subjects available to a new legislative and executive devolved government in Northern Ireland. Thus it runs counter to our policy on devolution which the Anglo-Irish Agreement reaffirms. Mr Molyneux recognises this but has said publicly that it would be wrong to expect unionists to give anything in return for such a development.

8. Ministers cannot take this forward until they see whether the unionists return and stay in the House of Commons. It seems more likely that their eventual toleration of the Agreement will be won through the results which we hope it will show in Northern Ireland, for example in cross-border security cooperation, rather than through devising new arrangements for them at Westminster.

9. The Secretary of State (and the Foreign Office) knows - though he does not need to volunteer - that officials are currently exploring the modalities of a possible Anglo-Irish Parliamentary Body, before making recommendations to Ministers, including the Prime Minister - which might involve special arrangements to ensure substantial Northern Ireland representation. If Ministers are content, the arrangements would then be discussed through the usual channels.

P N Bell.

P N BELL

21 January 1986

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