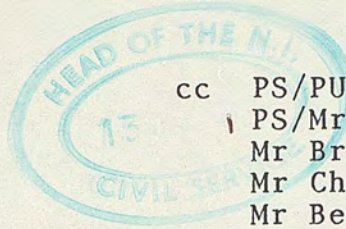


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CONFIDENTIAL

ME/12/87/JI

Mr Stephens



cc PS/PUS (L&B) 13/1  
PS/Mr Bloomfield  
Mr Brennan  
Mr Chesterton  
Mr Bell  
Mr Blackwell  
Mr G Hewitt  
Mr McConnell  
Mr S Hewitt

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AMBASSADOR'S CALL ON MINISTER FOR JUSTICE

I attach a copy of a note of conversation given to me by Mr Fenn during his visit to Belfast yesterday. I believe that he will have mentioned to you and to the PUS directly his concerns about Magistrate (paragraphs 9 and 10). Much of the substance of the remainder of the minute was discussed during the PUS' Steering Group Meeting yesterday; but it may be useful for recipients of this minute to see the Ambassador's own words on the subject.

*Mark Elliott*

M ELLIOTT

13 January 1987

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# FIRST CALL ON MINISTER FOR JUSTICE

1. I paid my first call on Mr Dukes on 8 January. We were alone

## EXTRADITION BILL

2. I congratulated the Minister of his handling of the Bill for the Ratification of the European Convention on the Suppression of Terrorism, referring to the Prime Minister's message to the Taoiseach. He said that it had been touch and go. He was grateful for the limited arrangements over the backing of warrants which the British Attorney General had approved. The Opposition had made the mistake of spending the whole of the committee stage discussing Clause One

3. I asked about the thinking behind the delay mechanism and its extension to one year. Mr Dukes said this was a necessary concession to get the Bill through the Dail. But, of course, it would enable the Irish Parliament to take account of the whole situation before the Bill entered into force.

4. He said that he would be going over all this ground again in the Senate which would take the Bill next week (I think he said 13 and 15 January) with the final vote in the week beginning 19 January. Senator Dooge did not expect that the Senate would cause problems. (Incidentally Mr Dukes quite clearly implied that the present Parliament would still be functioning and that he would still be Minister for Justice in the week beginning 19 January).

## BIRMINGHAM SIX

5. Mr Dukes remarked that it was "just bad luck" that public concern over the Birmingham Six, the Guildford Four and Annie Maguire had come to a head while the Bill was before the Dail. It had given extra ammunition to the Opposition. He hoped it was understood in London that it would be well received in Ireland if the Home Secretary were to refer the case of the Birmingham Six to the Court of Appeal; and that the sooner he did so the better received it would be. I rehearsed the arguments: not an issue between Britain and Ireland; the need to preserve the independence of the judiciary and to avoid the appearance of political interference. Mr Dukes said very quietly that he agreed with every word I said but nevertheless he very much hoped that the case would be referred.

## ANGLO-IRISH AGREEMENT

6. I asked for his impressions of progress in the first twelve months of the Anglo-Irish Agreement. He said "very slow". He had been "bitterly disappointed" at the decision over three judge court. If this decision had gone the other way the progress over 12 months would have been satisfactory to the Irish authorities. But he acknowledged the value of what had been achieved; the political importance of the Agreement itself; and the value to both administrations of working together in joint institutions. He had learned a lot and he knew that this was true also both of the Garda and of the RUC.



7. He volunteered the thought that there was a difficulty over presentation. Mr King would naturally hesitate to attribute his decision to the working of the Agreement because this would infuriate the Unionists; the Irish had an equal and opposite incentive to attribute as much as possible to the Agreement. I asked if this same point could not be more broadly stated: Unionist alienation seemed to the British a reason for caution so as to give them time to adjust to new realities: it seemed to the Irish a reason for making progress to avoid giving the impression that Unionist intransigence could destroy the Agreement. Mr Dukes agreed, adding that the intransigence of the Sinn Fein was equally important.

8. I noted the progress on cross-border security set out in the Taoiseach's note to the Prime Minister and remarked that the Exchange of Notes on cooperation over explosive devices at the border was not ready.

#### MAGISTRATE WATCHTOWERS

9. The Minister said that we had asked the Irish authorities to strengthen the Irish security presence on the border opposite the new Magistrate Watchtowers. He thought this a curious request and proposed to advise the Taoiseach against agreeing. He was willing to believe that public criticism of the towers was exaggerated by interested parties, but nevertheless they were symbolically offensive and locally unpopular. If the Irish Government were seen to be helping to protect them, there would be a political price tag. Moreover, they overlooked the territory of the Republic and no doubt knew more about what was going on on the Irish side of the border than he did. In these circumstances, he saw no reason to divert scarce resources to the protection of these alien instruments.

10. Since the NIO had not informed us of their request for protection for Magistrate I was unbriefed. I said that it was true that criticism had been much exaggerated. I knew from my own visit to the Border that they occupied only a small area of marginal land. Moreover they were highly effective in reducing security incidents, but at the same time were extremely exposed. I would have hoped that the Irish authorities would have seen a common interest with us in protecting them, and that this could be done in such a way as to avoid political damage. Mr Dukes was unpersuaded.

#### PROSPECTS FOR THE COALITION

11. I asked how they had got on in Cabinet over the Budget. Mr Dukes replied with a quotation from the Duke of Wellington "Hard pounding, gentlemen". I said I noted the military metaphor. He laughed and said he did not envy his colleague, the Minister for Finance. He expressed ritual confidence that they would get a Budget and present it to the Dail, but he was not to be drawn on whether this would be done by the Coalition or by Fine Gael alone; nor on whether the Dail would approve it. He did not sound very optimistic.

#### IMPLICATIONS OF A CHANGE OF GOVERNMENT

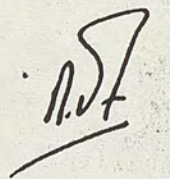
12. I asked whether a change of administration would in his opinion



have an impact on Anglo-Irish relations. He paused. It would depend on the size of Mr Haughey's majority. If it was very small he would not dare to undo what FitzGerald had achieved. But if it was comfortable this would mean by definition that a number of Fianna Fail TDs would have marginal seats and in these circumstances Mr Haughey might feel both able and obliged to make life more difficult for us.

13. Fianna Fail had criticised the Agreement on the ground that there was too much cross-border security and not enough politics. But when he had asked them what they would like it to cover which had been omitted they invariably suggested things which were already being done. He thought that Fianna Fail were "baffled" by the popularity of the Agreement.

14. Mr Dukes said that I should prepare London for some "pretty rough verbalisation", not all of which would be followed through in practice.



N M Fenn

9 January 1987

cc

T J B George Esq  
RID  
FCO

Mark Elliott Esq  
Belfast

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