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S 385/88.

cc Mr Johnston

Mr Gowdy

MacBRIDE: SUBMISSION TO MINISTERS AND REPLY TO MR FALL'S LETTER OF 29 JULY

I enclose for your consideration drafts of a submission to Ministers on the way ahead on MacBride and a reply to Mr Fall's letter of 29 July to the Secretary of State. It has, I am afraid, taken longer than expected to complete the task but it was only this morning that we finally got straightened out on the IDB front and at the same time received news (good as it turns out) on the outcome of yesterday's meeting in London on the secure communications problem.

The submission, as you will see, is confined to the MacBride issue and takes no account of Sir Kenneth Bloomfield's minute of 8 August [Tab 1] to Peter Bell on the question of the UK's wider objectives in the United States and the Secretary of State's resulting request [Tab 2] for a discussion with officials. I may be wrong, but there seems to be no good reason to hold up action on MacBride pending resolution of the wider issue.

The draft letter, apart from minor amendments at this end, remains substantively as drafted by NIO(SIL). In addition it takes account of -

- (a) the Secretary of State's directions [Tab 3] in regard to the lobbying of State Inward Investment Offices in London and the point to be made about the differing approaches to the legislative process in the US and the UK; and
- (b) the minute dated 5 September from the IDB [Tab 4] which in addition to its suggested amendments to the NIO draft provides a useful statement of the IDB's position on MacBride.

NIO(SIL), I should add, would like to have sight of final drafts.

R. J. Minnis

R J MINNIS
6 September 1988

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cc PS/PUS (L&B)
PS/Sir K Bloomfield
Mr Burns
Mr Semple
Mr Hopkins
Mr Chesterton
Mr Gowdy
Mr Bell
Mr Bohill
Mr Minnis
Mr McConnell PAB

TO: 1. PS/Mr Viggers (B&L)
2. PS/Secretary of State (B&L)

FROM:

MacBRIDE: LETTER FROM MR BRIAN FALL, WASHINGTON EMBASSY

Purpose

1. In his letter of 29 July to the Secretary of State Mr Fall, Chargé d'Affaires ad interim at the Washington Embassy, concludes - on the basis of the Embassy's favourable assessment of HMG's efforts in countering the MacBride campaign and of the White Paper's promising impact in the United States - that the present MacBride strategy remains on the right lines and suggests that Ministers agree to make available the necessary funds, including provision for continued use of professional lobbyists (regarded as major contributors to success achieved), to enable the line to be maintained for a further year.
2. This submission provides a Northern Ireland perspective on the effectiveness of the strategy and its further development; comments on the resource aspects; makes recommendations; and provides in the Annex a draft reply to Mr Fall.

Present Strategy

3. The present strategy has three main objectives, viz:
 - firstly, to support the US companies affected by the MacBride campaign and so protect existing and future investment and jobs in Northern Ireland;

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- secondly, to prevent the political agenda for Northern Ireland being dictated from the United States and to maintain a defence against the anti-British manoeuvring of key players in the MacBride campaign such as the INC and NORAIID; and
 - thirdly, to maintain the credibility of HMG's commitment to fair employment in Northern Ireland.
4. In his letter of 7 December 1987 to Sir Antony Acland the Secretary of State expressed his belief that these objectives remained valid and provided a sound basis for continuing to oppose MacBride. On that basis the Secretary of State confirmed his agreement to provide resources, additional to those already devoted to MacBride, for the engagement of professional lobbyists in a limited number of States and, at the same time, indicated his thinking on the general approach to be adopted in the year ahead.
5. The following paragraphs provide an assessment of how we have fared in operating the strategy over the past year.

The Companies

6. The Secretary of State in his letter to the Ambassador stressed the importance of the companies whose employment procedures and practices in Northern Ireland provided a potentially potent means of demonstrating that the MacBride campaign was redundant. DED officials earlier this year completed a programme of visits to the companies, in both Northern Ireland and the United States, in the course of which there were full and frank discussions with the respective

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management teams. A main objective of the discussions was to demonstrate to the companies that HMG had its finger on the pulse, was keen to assist the companies in every way possible, was active in State legislatures and in Washington in maintaining strong opposition to MacBride, and was fully committed to a major strengthening of fair employment legislation in Northern Ireland.

7. It was found in the discussions that many of the companies had had some direct experience of the legislation enacted in States, having had to respond to requests for information on their employment practices in Northern Ireland to a body (the Washington-based Investor Responsibility Research Center) acting on behalf of State Treasurers. None of them had welcomed this or indeed the task of dealing with shareholder resolutions which had increased in number but not (in most cases) in strength of support. Nonetheless, officials found that the mood of the companies was generally more sanguine than had been evident previously. All were very appreciative of HMG's interest in their corporate welfare and seemed fully satisfied with the opposition being mounted to MacBride. There remained amongst them too a disinclination to adhere to the Principles. It has also to be said however that there was a degree of cautiousness on the part of the companies to suggestions that they take a higher profile in the opposition to MacBride.
8. The tangible demonstration of HMG's supportiveness inherent in the programme of visits and otherwise has clearly made a worthwhile contribution to the pursuit of the objective of ensuring the retention of US jobs and investment in Northern Ireland. The position generally amongst American companies looks secure, the only possible exception being General

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Motors where MacBride appears to have been a factor - albeit not the main one and not publicly acknowledged - in the present proposal to dispose of the Company's majority shareholding in the Fisher Body Overseas Corporation to a Japanese interest.

9. Looking forward, it is abundantly clear that the companies will continue to occupy a key position in the counter-MacBride strategy - not least as their employment practices begin to emerge as prime candidates for assessment against the stringent requirement of the new legislation. In discussion all of them would tend to express confidence that their practices are generally sound and defensible and the evidence to date - albeit limited - would tend to support this. Hopefully, therefore, most if not all of the companies should be able to satisfy reasonable observers of their bona fides. It is however noteworthy that the MacBride lobby have regularly predicated their case for State legislative action on the illegal discriminatory practices of the US companies in Northern Ireland. (Harrison Goldin in a recent article accused some American companies of continuing to resist equality of opportunity in Northern Ireland!) I suggest therefore that it would now be opportune for the companies to begin taking the initiative in convincing state legislatures, treasurers and US interests generally that their practices are beyond serious reproach. This should substantially undermine the value of the MacBride campaign and allow the companies to get out from under the pressure.
10. Relationships with the companies are now, I think, sufficiently well established for us to be able at this stage to convince them of the need to adopt a higher profile in support of HMG's major initiatives. They would have to adopt a fairly robust approach and would need in the first

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instance to have guidance in a standardised form from my Department. In drawing up this guidance we will of course draw heavily on the Guide to Effective Practice and the new legislative proposals. The guidance would be made available to the companies in written form and would be intended to provide a basis for subsequent discussion with the Department.

11. I propose therefore that a proposition along these lines should be put to each of the companies in the course of a further round of discussions, locally and in the US, starting in the next few weeks.

The Political Initiative/Resources

12. Much has been achieved in the past year in pursuit of the strategy's second objective - control of the political agenda for Northern Ireland and the maintenance of the offensive against MacBride. Success in the latter respect probably constitutes the most effective means of wresting the political initiative from the MacBride lobby and of course the more heavily we engage them on fair employment the less time they have for pursuing other issues on the political agenda.
13. HMG's efforts, as Mr Fall's letter makes clear, have had quite substantial returns. Bills were defeated in 4 States (California, Maryland, New Hampshire and Vermont) and in the 3 States (Florida, Maine and Minnesota) where MacBride was successful the Bills were substantially weakened as a result of our efforts, with - significantly - divestment featured in none of them. This was no mean achievement and can, as Mr Fall has said, be

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attributed in large measure to the deployment of professional lobbyists who with "insider" knowledge and understanding and expertise in the legislation systems have substantially enhanced the efforts of our Northern Ireland witnesses.

14. The Secretary of State in his letter to the Ambassador last year was satisfied that it should be possible to limit the impact of the MacBride campaign while being economical with resources. This twin objective has clearly been achieved. Out of the agreed budget of £135,000 for professional lobbyists the expenditure to date has not exceeded £50,000 and even allowing for the stepping up of activity at State level anticipated by Mr Fall there should be sufficient funds to cover whatever additional lobbyist assistance may be needed. Expenditure on the expenses of Northern Ireland witnesses is also well within the agreed budget allocation (£295,000) and should be able to cope with increased demands. (A further £70,000 remains available, for other general purposes, including hospitality for visitors from the US - giving a total budget for MacBride of £500,000.)
15. The arrangements for the commissioning and management of lobbyists are being reviewed in consultation with the Embassy and we will be ensuring inter alia that the use of lobbyists is confined to clearly defined States where the stakes are highest in terms of potential "political fall-out" etc.
16. Accordingly, I further propose that Mr Fall should be advised that we are prepared to maintain the existing level of funding on MacBride for the remainder of this financial year and for the further period to July 1989 when the legislative session for most States ends.

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HMG's Commitment to Fair Employment

17. Mr Fall gives an encouraging account of the reception the White Paper has had from people in the United States whose minds were not already made up, including moderate Irish-Americans who seem to be generally persuaded of HMG's seriousness of intent. It is entirely understandable that Mr Fall should be concerned to see this goodwill speedily built upon but clearly there is no prospect of the legislation being, as he hopes, on or approaching the Statute Book by 17 March 1989. There is on the other hand the possibility that by 17 March a significant milestone, with presentational value, will have been reached in the Bill's progress.
18. The introduction of the bill will in itself of course mark the fulfillment of HMG's pledge to bring forward legislation and will provide a most important opportunity to finally convince the US audience that the proposals, as enlarged and set out in the bill, deserve support. It is clear therefore that we must invest further in publicity over the months ahead. This should, I suggest, include the production of a new 'brochure', introduced by the Secretary of State and Mr Viggers and providing a full exposition of the legislations key elements. The momentum must be maintained over the period and full advantage should be taken of Ministerial and other visits to the United States.

Conclusion

19. It will, I think, be clear from this review that solid progress has been made in pursuit of the main strategic objectives of our programme of opposition to the MacBride campaign. Given all that remains at stake there

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cannot at this stage, I suggest, be any question of abandoning the fight. I am however equally clear that the circumstances prevailing a year from now are likely to put an very different perspective on the whole situation. We can reasonably expect that by then -

- (a) our legislation will be firmly in place and, hopefully, widely regarded as negating MacBride's basic 'raison d'etre; and
- (b) the results of our efforts with the companies will have provided further evidence of the MacBride campaign's lack of any real justification.

Recommendations

20. In summary, I am recommending that Ministers agree that -

- (i) the opposition to the MacBride campaign be maintained and resourced at its present level to the end of the present legislative session in the United States ie July 1989, and should include continued, judicious use of professional lobbyists;
- (ii) efforts be made in the course of a fresh programme of visits to persuade the US companies to take the initiative in establishing the acceptability of their employment procedures and practices; and
- (iii) full advantage be taken of the legislation's presentation and passage to demonstrate, through widespread and sustained publicity, the credibility of HMG's commitment to fair employment in Northern Ireland.

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21. It will be noted, finally, that the draft reply to Mr Fall (Annex) includes, as the Secretary of State has requested, an acknowledgement of Mr Fall's point about the lobbying of State Inward Investment Officers in London and a comment on the differences between the US and UK legislative systems.

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ANNEX

DRAFT LETTER FROM SECRETARY OF STATE TO:

B J P Fall Esq CMB
Charge d'Affaires a.i.
British Embassy
WASHINGTON DC

THE MACBRIDE CAMPAIGN

1. Many thanks for your letter of 29 July describing the current state of play in our efforts to counter the MacBride campaign and giving the Embassy's views on the future direction we might take. I found this a valuable and informative tour d'horizon, as indeed was Antony Acland's letter of last October.
2. I also appreciated your complimentary remarks about the efforts which my officials, particularly in the Department of Economic Development (DED), have put in on this subject over the past year. We in turn are greatly indebted to the energy, enthusiasm and inventiveness with which you and your staff in the Embassy and other US posts have sought to counter the efforts of the MacBride campaigners: the successes which you record in paragraph 2 of your letter testify to the effectiveness of these endeavours.
3. Despite these positive results, however, we are still far from neutralizing altogether the challenge of this campaign, and I note that your prediction is for no let-up in MacBride activity, and perhaps even a significant increase, in 1989. It is an unfortunate reality that the US legislative system, particularly at State level, is open to exploitation by a small

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number of activists and legislators who, drawing on the emotional sympathies of the Irish/American community, seem able to promote Bills almost on an annual basis even in States where they have previously been voted down. Our victories, therefore, may turn out to be only temporary, while our defeats seem in practice to be permanent.

4. Against this background of unremitting MacBride activity, I continue to believe that our approach to the campaign should be predicated on three main objectives. First, we must support the US companies affected by MacBride, in order to protect existing and future investment and jobs in Northern Ireland. Second, we must oppose the anti-British activities of key players in the campaign such as NORAIID and resist any attempt to set the political agenda for Northern Ireland from the US. Third, we must maintain and demonstrate the credibility of the Government's commitment to fair employment in Northern Ireland.
5. However, although these objectives remain valid, the means we should follow to achieve them are not, of course, immutable. For example, we must not lose sight of the possibility that in certain cases our high-profile opposition to bills might itself offer a propaganda opportunity to our opponents, who could use HMG's direct involvement as a means of magnifying their own importance. And where public expenditure is involved, I of course have to assess carefully the value for money which we receive from the resources devoted to the anti-MacBride effort against the many other competing claims for funds from the Northern Ireland block.
6. In this context, I note your view that the ability to deploy professional lobbyists has been one of the most effective weapons in the armoury in

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resisting MacBride Bills. I am sure this is right. But lobbyists are, of course, a reactive and local resource: invaluable in monitoring developments and intervening at State level, but offering no hope of turning off the MacBride tap altogether. While there is unlikely to be any "magic bullet" which would enable us to kill off the whole MacBride campaign, the passage of our new Fair Employment legislation must, as you recognise, be the single most important element in our present strategy. This new statute will be the culminating expression of the Government's determination to take whatever steps are required to secure equality of employment opportunity between Catholics and Protestants in Northern Ireland. It will in some respects place on US (and other) companies in Northern Ireland much more onerous and stringent monitoring and reporting requirements than are provided for in many of the MacBride statutes currently in force or proposed in US States. As you rightly remark, once the new legislation is enacted, the need for States to legislate will be even less clear than it is now.

7. One avenue which I wish to explore for the future concerns the role of the US companies. As I said in my letter of 7 December, I am convinced that the most potent means of demonstrating that MacBride is superfluous would be a demonstration that the employment position in (at least) US companies in Northern Ireland is above reproach. I continue to believe that these companies should do more to help themselves in this regard. When the new legislation is in place the companies will be obliged to report on their employment practices to the new Fair Employment Commission. There are good grounds for believing that the US companies employment practices are in practice generally sound and defensible. My officials will over the coming

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months be exploring the prospects of convincing the companies that it is in their own best interests to take a more leading role through direct disclosure, lobbyists, etc - in convincing State legislators, and State Treasurers where statutes are in force, that their employment practices in Northern Ireland are entirely defensible. (If they wish to say that these practices follow the spirit of the MacBride Principles, then so be it: so long as they fulfil their requirements under the law of Northern Ireland, how they deal with their obligations under US law is a matter for them.)

8. But whatever the outcome of our approach to the companies, there remains the question of our anti-MacBride activities over the next twelve months or so. I have of course already allocated funds for the payment of professional lobbyists and the mustering of witnesses from Northern Ireland up to the end of this financial year. I am also willing to continue this funding for the ensuing four months to July 1989, ie up to the end of the legislative session for most US States. We shall review the position from August 1989 onwards in the light of developments nearer the time. My officials will be in touch with you about the details of this additional funding. One area which I have asked my officials to explore with yours concerns the criteria to be used in identifying those key States on which we should focus our anti-MacBride activity. The three States to which we have hitherto attached the highest priority are California, Illinois and Pennsylvania; this list may well now need some revision.
9. Turning to your other points, I note the suggestion that a strong reference to the forthcoming Fair Employment legislation in the Gracious Speech would

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be a valuable way of building on the good reception given in the US to the White Paper. I shall bear this in mind. But because the legislative programme for the next session is extremely crowded there is I fear no chance of the Bill receiving Royal Assent as early as Saint Patrick's Day next year: the best we can hope for is to achieve Assent by the Summer recess. While Americans sometimes criticise our own legislative system as slow by comparison with theirs, the reality is that UK legislation is taken forward methodically and carefully because of the presumption that Government measures will be adopted and have a substantive effect on the administration of the country. Here bills promoted by HMG are intended as, and will almost certainly become, major measures designed to enhance national life; in the US, by contrast, proposals for legislation are all too often ill-conceived and hasty political gestures whose relevance to and effect in the real world is highly questionable. I am sure that you and your staff point out this difference (with appropriate tact!) to your American interlocutors. However, it may be that we could reach some significant milestone in the Bill's progress by 17 March which would have some presentational value in the US. Here, as elsewhere, we shall not lose sight of the US dimension.

10. I have noted your comments about the balance of resources devoted in the US to MacBride and to other aspects of promoting and defending the Province as an investment location. I have to say, however, that we for our part are satisfied that the needs of the MacBride programme are being adequately met.

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11. On the question of secure direct communications between the Embassy and DED, this has been actively pursued, and my officials will shortly be in touch with yours to explain the proposed new arrangements.
12. Your suggestion that we might seek to enlist support for our anti-MacBride efforts from those who are trying to encourage British investment in the US (for example, States with trade promotion offices in London) is a valuable one which I have asked my officials to pursue. Finally, I can confirm that some of my officials will be attending your annual Information Officers' Conference in Washington in early October and will be taking forward with you then a number of the points mention in this letter.
13. I am sending a copy of this letter to Geoffrey Howe.

TOM KING

RM73/DL1

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