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From: THE PRIVATE SECRETARY

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NORTHERN IRELAND OFFICE

WHITEHALL

LONDON SW1A 2AZ



Prime Minister  
CDP  
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Charles Powell Esq  
No 10 Downing Street

2 September 1985

Dear Mr Powell,

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MR HURD'S DISCUSSION WITH THE LORD CHIEF JUSTICE OF NORTHERN IRELAND

In his minute of 8 July commenting on the views of the Lord Chief Justice of Northern Ireland about joint courts, Mr Hurd said that he would continue to keep in touch with Lord Lowry on these issues.

Mr Hurd had a private dinner with Lord Lowry on 27 August. The Secretary of State reiterated the framework within which the talks with the Irish were taking place, but did not go into any detail on substance. He made it clear that he was well aware of the reasons for Lord Lowry's opposition to the concept of mixed courts and that he personally shared and appreciated many of Lord Lowry's misgivings. The Government were sticking firmly to the line that while these ideas might be considered further they could give no commitment as to the outcome.

It was clear, however, that the Irish would continue to press for something in this area. Mr Hurd invited Lord Lowry to consider whether there were any other more acceptable proposals which might help to encourage and develop co-operation between the two judiciaries. Lord Lowry suggested initially that he discussed this with the Chief Justice in the Irish Republic, but the Secretary of State made it clear that he should not do so. Lord Lowry agreed to keep all this to himself, and let the Secretary of State know if he had any ideas to suggest.

Lord Lowry took the opportunity to repeat his view that it was a mistake to harp too much on extradition from the Republic to the North, since, in his judgment, under Irish law, those committing terrorist offences in Northern Ireland should successfully be able to resist extradition by claiming that those offences were political. Moreover extradition was only possible once charges had been formulated and there could be no further questioning in respect of

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those offences once charges had been brought, on the offenders' return. There was then a real risk of acquittals because of insufficient evidence. In his view we should concentrate on the need to allow the RUC to interrogate suspects in the Republic, of course in the presence of the Garda.

This was a useful discussion which Mr Hurd hopes has been helpful in alleviating some of the Lord Chief Justice's continuing concern about the effect of the talks on the Northern Ireland judiciary. He will report further if the Lord Chief Justice comes back with any suggestions for developing judicial co-operation; and would, in any event, propose to have a further word with the Lord Chief Justice nearer the date of any agreement with the Irish.

I am copying this letter to the Private Secretaries to the Lord Chancellor and the Foreign Secretary and to Henry Steel and Richard Hatfield.

*Yours sincerely*

*Jonathan Duke-Evans*

J B DUKE-EVANS