

subject cc: master
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③ MR STARK

cc - Mr. Powell
Sir R Andrew
Mr. Goodall
Mr. Mallaby

CABINET OFFICE	
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6 OCT 1986	
FILING INSTRUCTIONS	
FILE No.

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OF 031850Z OCTOBER 86

PRIME MINISTER'S
PERSONAL MESSAGE
SERIAL No. T183/86

PLEASE TRANSMIT THE FOLLOWING PERSONAL MESSAGE FROM THE PRIME MINISTER TO THE Taoiseach AT THE EARLIEST POSSIBLE MOMENT.

MESSAGE BEGINS.

DEAR GARRETT,

THANK YOU FOR YOUR MESSAGE OF 1 OCTOBER. ROBERT ARMSTRONG HAS ALSO GIVEN ME A FULL REPORT OF YOUR TELEPHONE CONVERSATION WITH HIM.

I WAS VERY GLAD TO HEAR THAT YOU AND YOUR COLLEAGUES ARE INTENDING TO INTRODUCE AN EARLY BILL TO PERMIT IRISH RATIFICATION OF THE EUROPEAN CONVENTION ON THE SUPPRESSION OF TERRORISM WITHOUT RESERVATIONS. AS YOU KNOW, WE ATTACH THE GREATEST IMPORTANCE TO THIS. SUCH A BILL IS WIDELY EXPECTED IN NORTHERN IRELAND AND WILL BE AN ESSENTIAL ELEMENT IN OUR PUBLIC PRESENTATION OF THE TANGIBLE BENEFITS THAT THE ANGLO-IRISH AGREEMENT CAN BRING.

I KNOW THAT YOU IN TURN ATTACH GREAT IMPORTANCE TO ENSURING PUBLIC CONFIDENCE IN THE ADMINISTRATION OF JUSTICE IN NORTHERN IRELAND. I ALSO TAKE VERY SERIOUSLY THE OBLIGATIONS WHICH BOTH GOVERNMENTS ACCEPTED IN ARTICLE 8 OF THE AGREEMENT. I HAVE REFLECTED ON WHAT YOU SAID ABOUT THE IMPORTANCE OF A CHANGE IN THIS AREA TO MAXIMISE THE CHANCES OF YOUR BILL'S SUCCESSFUL PASSAGE. I AM WELL AWARE OF THE DIFFICULTIES THAT YOU FACE. MY COLLEAGUES AND I HAVE CONSIDERED IN DETAIL WHETHER THE INTRODUCTION OF THREE-JUDGE COURTS IS THE RIGHT CHANGE TO MAKE. I HAVE TO TELL YOU THAT WE HAVE COME TO THE CONCLUSION THAT IT WOULD NOT. THE DIFFICULTIES WE HAVE FOUND WITH THE PROPOSITION WILL BE FAMILIAR TO YOU BECAUSE THEY HAVE BEEN FULLY EXPOUNDED IN THE INTERGOVERNMENTAL CONFERENCE WORKING GROUP.

THERE ARE OTHER - THOUGH ADMITTEDLY LESSER - CHANGES THAT WE CAN MAKE, SOME OF WHICH ARE ALREADY IN HAND. WE HAVE ALREADY INCREASED THE RANGE OF SCHEDULED OFFENCES WHERE THE ATTORNEY GENERAL CAN DIRECT A JURY TRIAL. WE SHALL SOON BE:

- INTRODUCING A TEST OF REASONABLE GROUNDS OF SUSPICION FOR THE EXERCISE OF MOST POWERS, INCLUDING ARREST POWERS, UNDER THE EMERGENCY PROVISIONS ACT;

- STRENGTHENING THE CIVIL LIBERTIES OF DEFENDANTS BY SHIFTING THE ONUS IN BAIL CASES TOWARDS THE PROSECUTION;

- FURTHER PROTECTING THE ACCUSED BY CLARIFYING AND RESTATING THE JUDGE'S DISCRETION TO REJECT EVIDENCE OBTAINED FROM ADMISSIONS AND CONFESSIONS;

- ENSURING THAT CONTINUATION OF THE EMERGENCY PROVISIONS ACT BEYOND FIVE YEARS WOULD REQUIRE A NEW ACT OF PARLIAMENT; AND

- ENACTING NEW PROVISIONS TO PROTECT THE RIGHTS OF THOSE DETAINED UNDER EMERGENCY LEGISLATION AND HELD IN POLICE CUSTODY.

WE HAVE ALREADY TAKEN MAJOR STEPS TO REDUCE THE LENGTH OF TIME ELAPSING BETWEEN FIRST REMAND AND TRIAL, AND I HAVE ASKED FOR A FRESH LOOK TO BE TAKEN, TO SEE WHETHER THERE ARE CHANGES IN PROCEDURES IN CIVIL CASES WHICH MIGHT EASE THE PROBLEM BY RELEASING MORE JUDGE-TIME FOR CRIMINAL CASES.

THE ATTORNEY GENERAL HAS ALSO INFORMED ME THAT, IN CONSIDERING THE BRINGING OF PROCEEDINGS WHICH MAY INVOLVE MULTIPLE DEFENDANTS, HE AND THE DIRECTOR OF PUBLIC PROSECUTIONS WILL OF COURSE PAY THE GREATEST ATTENTION TO THE OBSERVATIONS OF THE LORD CHIEF JUSTICE IN THE RECENT CASE OF R V. DONNELLY AND OTHERS.

I KNOW THAT OUR DECISION ON THREE-JUDGE COURTS WILL BE A DISAPPOINTMENT TO YOU. I CAN ASSURE YOU THAT WE HAVE NOT REACHED THIS CONCLUSION LIGHTLY. I CAN ALSO ASSURE YOU THAT MY COLLEAGUES AND I REMAIN WHOLLY COMMITTED TO THE ANGLO-IRISH AGREEMENT, AND WE WILL CONTINUE IN OUR EFFORTS TO MAKE PROGRESS, WITH THE HELP OF THE IRISH GOVERNMENT, ON ALL THE ISSUES COVERED IN ARTICLE 8 OF THE AGREEMENT.

FINALLY, I APPRECIATE THE DIRECT PERSONAL INTEREST THAT YOU ARE TAKING IN THE IMPROVEMENT OF CROSS-BORDER SECURITY CO-OPERATION. THIS IS ANOTHER AREA WHERE IT IS VITAL THAT WE SHOULD SHOW PROGRESS IN TANGIBLE FORM. APART FROM BEING ESSENTIAL IN THE STRUGGLE AGAINST TERRORISM, PROGRESS IN THIS FIELD CAN HELP US TO COUNTER UNIONIST OPPOSITION TO THE ANGLO-IRISH AGREEMENT. I KNOW THAT PETER BARRY AND TOM KING HAVE SPOKEN IN THE PAST FEW DAYS ABOUT HOW TO TAKE MATTERS FORWARD. IT REQUIRES CAREFUL HANDLING AND I UNDERSTAND THAT IT WILL BE DISCUSSED FURTHER AT THE MEETING OF THE INTERGOVERNMENTAL CONFERENCE NEXT WEEK.

YOURS SINCERELY

MARGARET.

MESSAGE ENDS

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