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1. ~~Julie~~ 31/4
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INT 51/96

FROM: KEITH JAGELMAN (AM)
IAN MAYE (PM)
7 November 1996

cc PS/Secretary of State (B&L) - B
PS/Sir John Wheeler (B&L) - B
PS/Michael Ancram (B&L) - B
PS/Malcolm Moss (DHSS, DOE & L) - B
PS/Baroness Denton (DED, DANI&L) - B
PS/PUS (B&L) - B
PS/Sir David Fell - B
Mr Thomas - B
Mr Steele - B
Mr Bell - B
Mr Leach - B
Mr Watkins - B
Mr Stephens - B
Mr Wood (B&L) - B
Mr Beeton - B
Mr Priestly - B
Mr Hill (B&L) - B
Mr Lavery - B
Mr Maccabe - B
Mr Perry - B
~~Ms Bharucha~~ - B
Ms Mapstone - B
Mr Whysall (B&L) - B
Ms Collins, Cab Off (via IPL) - B
Mr Dickinson, TAU - B
Mr Lamont, RID FCO - B
HMA Dublin - B
Mr Westmacott (via RID) - B
Mr Campbell-Bannerman - B
Mrs McNally (B&L) - B

NOTE FOR THE RECORD

TALKS: 6 NOVEMBER 1996

Morning Session

1. Plenary commenced at 10.35 am following a short adjournment pending the arrival of the British and Irish Ministers who had been unavoidably detained at an earlier meeting. Questioning of the two Governments, adjourned from last evening, was resumed by Mr Weir, UUP, who commenced by securing agreement from the Secretary of State that in the event of a renewed IRA ceasefire a declaration of

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permanence by that organisation would do much to establish its credibility, particularly among Unionists. Mr Weir then asked why the British Government did not demand that any future ceasefire should be declared to be permanent? The Secretary of State responded by saying he had made the position of the British Government clear during questioning the previous day, when he had indicated that any future ceasefire should be intended to be permanent.

2. Switching his attention to Mrs Owen, Mr Weir sought clarification as to the terms of a ceasefire sufficient in the Irish Government's view to allow Sinn Fein access to the Talks process. Mrs Owen said that it would be important that any such ceasefire would be unequivocal, but that ultimately it was for the Republican Movement to convince the Secretary of State so that an invitation to talks could issue. It was not therefore her place to prescribe the words that would be required. Mr Weir then spent some time probing Mr Owen as to the meaning of "unequivocal", during which Mrs Owen said that her Government would have to be satisfied with the terms of the ceasefire - the language used would therefore be important. Responding to a further question from Mr Weir, Mrs Owen confirmed that her definition of unequivocal did not include any "physical action".

3. Turning to the concept of a sub-committee of plenary to consider decommissioning, Mr Weir sought and obtained from Mrs Owen confirmation that although the idea was that the sub-committee would look at the draft Bills, the progress of legislation in both jurisdictions would not be dependent upon the sub-committee's deliberations. Responding further to Mr Weir's questioning, Mrs Owen confirmed that the time gap between the enactment of legislation and agreement on regulations on decommissioning would be progressed as quickly as practicable, but would ultimately depend upon the talks participants who would finalise the details of the regulations. This led to some discussion on the concept of parallel decommissioning and the nature of any linkage between political

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progress and decommissioning. Mr Weir was concerned about what, if any, action the Irish might consider appropriate if the issue of decommissioning got bogged down in sub-committee. Mrs Owen emphasised that there could be no question of exchanging arms for political progress, and referred Mr Weir to paragraph 35 of the Mitchell Report. She indicated that the concept of mutual parallel decommissioning had to be approached in a realistic manner where both issues would move forward at the same time. The problem of decommissioning getting "bogged down" in the sub-committee would not therefore arise.

4. Mr Weir expressed the view that the Mitchell Report was now out-dated, given that its main conclusions were arrived at prior to the break-down of the ceasefire in February 1996. Mrs Owen rejected this argument, stressing that the underlying principles of the Mitchell Report remained valid, even though recent terrorist atrocities would have had a damaging effect on trust. Directing the same questions to the British Government side, the Secretary of State indicated that he could not offer a timetable for the implementation of a decommissioning scheme, but went on to stress that the concept of a sub-committee on decommissioning represented a means to an end. It could carry out meaningful preparatory work prior to the establishment of a Commission, and, given its composition, would allow the parties to control the character of that work. On the question of what the British Government might do if the sub-committee became grid-locked, the Secretary of State indicated that this would depend upon the circumstances, but that he did not envisage the will of Parliament being blocked in such a manner.

5. Mr Weir then moved on to consider why the draft legislation did not cover GB. Responding, the Secretary of State indicated three reasons for this (i) the need to enact legislation quickly; (ii) the complexity of extending the Bill to GB; and (iii) the fact that the vast majority of terrorist armaments were located on the island of Ireland. Not surprisingly, Mr Weir rejected these reasons, asking whether the reality was not rather than the Bill

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would run into political difficulties if an extension to GB was attempted. The Secretary of State stated firmly that political opposition was not a relevant factor.

6. The baton was then passed to Mr Ken Maginnis who prefaced his questions by criticising what he perceived to be a lack of urgency and reality on the part of both Governments. Questioning the nature of the "working assumption" arrived at by the Government following the August 94 ceasefire, Mr Maginnis asked whether this had been a political expediency or a genuine judgement that the ceasefire was permanent. The Secretary of State responded by indicating that in the sense of the word as used by Cranmer it had been judged expedient to proceed on that basis. The working assumption was deemed to be the best practical step to take given that a declaration of permanence had not been forthcoming. The assumption had allowed the IRA the opportunity to validate its statement. Mr Maginnis rejected this explanation, indicating that both Governments must have known through their respective intelligence services that the ceasefire had never been intended to be permanent. Since neither the Secretary of State nor Mrs Owen would be drawn on this, Mr Maginnis answered his own question by asserting that such knowledge had been available to the Governments and should have been heeded. Mr Maginnis then accused the Secretary of State of having said during yesterday's plenary that he (the Secretary of State) had believed the August 1994 ceasefire to be permanent. The Secretary of State quickly corrected this false allegation, pointing out that such a belief would have been wholly incompatible with the need for a working assumption.

7. Mr Maginnis repeated his accusation that both Governments lacked urgency and criticised their apparent preparedness to compromise with the men of violence. He asked what sort of signal the non-extension of the Decommissioning Bill to GB would send to the people of Northern Ireland? Rejecting the accusations of a lack of urgency, the Secretary of State explained that the question of arms in GB was a matter for the Home Secretary. The quantity of

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terrorist arms in Northern Ireland was of a vastly different scale to that in GB. There was therefore no question of Northern Ireland receiving any form of second-class status in this regard.

8. In the only intervention of the morning by Mr McCartney, he pressed the Secretary of State on the distinction made between the quantity of arms held in GB and in Northern Ireland. The recent arms find in London tended to contradict the Secretary of State's view. Responding, the Secretary of State reiterated that the British Government took the issue of terrorist arms held in GB seriously, but the scale of the problem there was very much smaller than in Northern Ireland. It was intended to adopt measures to deal with arms in GB, but this would be done via a different vehicle.

9. Mr Maginnis then went on to repeat Mr Reid's earlier point about the continuing validity of the Mitchell Report in the light of recent terrorist atrocities. Mrs Owen defended the Report along what were now well rehearsed lines. In response, Mr Maginnis observed that the Irish Government's approach sounded very much like "guns for political progress", and sought reaction to his assertion that anything short of the achievement of a 32 county Marxist state would not represent political progress so far as Sinn Fein were concerned. Mrs Owen, supported by an intervention by the Secretary of State, stressed that the political objectives of any single party could and would not be allowed to determine the speed and nature of the negotiating process. Rather, an accommodation between all of the talks participants would remain the objective. The talks process was not about any one party getting all that it wanted, and so far as subsequent changes to any negotiated settlement were concerned these would have to be pursued by exclusively democratic and peaceful means. The Secretary of State added that each party would have its own ideas on whether Sinn Fein would accept a democratically arrived at resolution, but it was clear that if they were admitted to talks on proper terms and subsequently did not accept the outcome their undemocratic principles would be exposed for all to see.

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10. Mr Maginnis was unconvinced, and returned to the familiar territory of seeking to determine from the Governments what might constitute an unequivocal ceasefire. In his view, what was needed was a ceasefire that was "complete, permanent and universal". Could both Governments confirm that this was also their requirement? The Secretary of State said that the intent behind any future ceasefire must be that it is for all time, and universal. How that intent might be measured would depend upon the circumstances of any ceasefire. Mrs Owen added that the manner of any announcement of a ceasefire would be looked at closely to determine whether it could be deemed unequivocal. She went on to remind Mr Maginnis that following admittance to the talks process, Sinn Fein would be subject to challenge if it were alleged that they had subsequently breached any of the Mitchell principles.

11. Mr Robinson then commenced a series of questions to Mrs Owen designed, he announced, to test the position of the Irish Government on a range of issues. Responding to initial questioning, Mrs Owen confirmed that the Irish Government stood by its recently tabled position paper on decommissioning, stressing that its terms were consistent with the Mitchell Report. The Irish Government would however accept changes to their paper if and when they were needed, and cited the Irish draft legislation as a demonstration of flexibility of approach by the Irish Government to the issue of decommissioning. Mr Robinson observed that paragraph 34 of the Mitchell Report did not specify when decommissioning might happen. He asked Mrs Owen for an example of the type of political progress which might be required before some decommissioning might be expected to take place. Mrs Owen wisely refused to be drawn, emphasising her belief that the Mitchell Report represented a realistic basis upon which to proceed. Mr Robinson observed that adherence to the Mitchell Report meant that there was no certainty that any arms would ever be handed over. This in turn meant that those who still held arms could participate in the negotiating process and at the same time retain the capacity to further its cause through violent means. Mrs Owen responded by indicating that provided a ceasefire was in place any party which espoused the Mitchell principles were entitled to be at the negotiating table.

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12. Mr Robinson then challenged Mrs Owen to put herself in the position of a Unionist and consider how reliable the Irish Government's judgement of any renewed ceasefire would be, given their reaction to the previous one. Would she, as a Unionist, be prepared to sit down with Sinn Fein without any arms being handed over? Mr Robinson prompted Mrs Owen in her new role by indicating that his party would require tangible evidence that Sinn Fein meant what they said. Declining to rise to the challenge of the role-play scenario, Mrs Owen indicated that no greater restraint could be placed upon Sinn Fein than their participation in the democratic process. In reacting to any such ceasefire, the Irish Government would want to make progress both on political negotiations and on decommissioning, but would make their own judgement on the terms and circumstances surrounding any such ceasefire. Mrs Owen reminded Mr Robinson that many unionists had taken to the streets in the recent past demanding a meaningful talks process. Such a process now existed, and moderate unionists would, Mrs Owen asserted, be supportive of any process designed to reach accommodation by peaceful, democratic means.

Afternoon Session

13. The plenary session reconvened at 1.55 pm with Mr Robinson resuming his questioning of Mrs Owen on the criteria which the Irish Government would use to judge the permanence of a PIRA ceasefire, Sinn Fein's entry requirements, and her Government's attitude to parallel decommissioning.

14. Mr Robinson opened by asking Mrs Owen for her interpretation of the wording "during" use in paragraph 34 of the Mitchell report. Would she concede that it left open the possibility of arms being handed in at the beginning of the process? Mrs Owen said that the meaning of the word was clear from its context and, indeed, from the report as a whole. It reflected the reality of the situation. In practice decommissioning on day one of the process was unrealistic to expect, since reaching decisions on detailed decommissioning

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arrangements would form an early part of the process. If PIRA did not hand up weapons during the process, would the Irish deal with that reality, Mr Robinson asked. Mrs Owen said that they would.

15. Continuing, Mr Robinson posed several questions to Mrs Owen about entry conditions for Sinn Fein. Could not decommissioning be required as an entry condition? Would there be a requirement to commit to actual decommissioning? How would the Irish judge the adequacy of a ceasefire? How long might that take? Mrs Owen maintained the position that the Irish Government would look at the terms and language of any ceasefire, when a ceasefire was called, but refused to be drawn on the considerations which might lead her Government to conclude that a ceasefire was "unequivocal" or the time which such consideration might take. As for Sinn Fein, once invited to join talks by HMG, they would be required to sign up to the Mitchell principles. If they did not observe them, they could be taken to task by the other parties.

16. Mr Hendron intervened, asking Mr Robinson whether he accepted that many Nationalists would share Unionist scepticism of a ceasefire. Ultimately, a leap of faith was required of everyone. Accepting this, Mr Robinson suggested that in the absence of evidence that a ceasefire differed from that of August 1994, it would be a "leap of folly". After a further round of questions to Mrs Owen, to which he received the same general replies, Mr Robinson passed the baton to Mr McCartney.

17. Mr McCartney returned to the familiar theme of permanence. It had been set out publicly by the Irish as a criterion prior to the August 1994 ceasefire. Why would they not do so now? Accepting that permanence had been a criterion prior to the last ceasefire, Mrs Owen stuck to the position that the Irish Government would assess the adequacy of a ceasefire when one was announced, and not before. Mr McCartney continued to question Mrs Owen on this point, but could draw no different response. At Mrs Owen's request, the Secretary of State intervened, suggesting that there was no

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difference between what mattered in 1994 and today. What was important then and now was that a ceasefire should be permanent and unlimited geographically. Neither Government was interested in anything less. The question was how to discern whether a ceasefire was intended to be permanent. It was for PIRA and Sinn Fein to demonstrate, by word or deed, that that was their intention.

18. Following further similar questions from Mr McCartney, and when it was clear that the position of neither Government was likely to change, the Chairman intervened to suggest that further questioning along the lines pursued by Mr McCartney and Mr Robinson over the previous two days was unlikely to elicit responses any different from those already provided by the two Governments. It was for participants to draw their own conclusions from the answers given. There seemed little point in continuing with such repetitious questions.

19. Mr McCartney accepted the Chairman's suggestion, and moved on to ask Mrs Owen whether signing up to the Mitchell principles would provide sufficient evidence of Sinn Fein's intent to abide by the democratic process. Mrs Owen suggested that it would, and that the rules of procedure allowed other parties to challenge Sinn Fein's commitment to the principles, if it seemed in doubt. They would be present on exactly the same basis as other parties.

20. Mr Wilson then asked about the Secretary of State's understanding that PIRA could not, for "constitutional reasons", use the word "permanent" in a ceasefire declaration. He did not believe that was the case, and suggested that, if anything, PIRA's constitution forbade the handing over of weapons. HMG must realise that there was no intention to decommission either before, during or after the conclusion of the political process. From where, or whom, did the Government's understanding come? And did he accept that Unionists would accept nothing less than prior decommissioning as the price of Sinn Fein's entry to talks. The Secretary of State responded by saying that it had been represented to the Government

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that there was some constitutional constraint within PIRA on the use of the word permanent. The Government did not have a copy of their constitution, but if what it had been told was true, then it was up to PIRA to find other ways of satisfying the Government that a ceasefire was intended to be permanent and geographically unlimited. Unless they did so, the Government could not conclude that the statutory requirements had been met. As regards prior decommissioning, the Government's position was clear; it accepted paragraphs 34 and 35 of the Mitchell Report, and did not consider a call for total decommissioning as realistic.

21. Dr Paisley then intervened, demanding that the Government should stipulate what PIRA had to do, irrespective of PIRA'S constitution, and describing the Government's position as "disgraceful and outrageous". Sinn Fein/PIRA had excluded themselves from the talks: they were beyond the Pale. Only total decommissioning and the disbandment of PIRA would be sufficient to allow Sinn Fein to enter talks. The Secretary of State reiterated the Government's position, saying that the Government had set out very clearly what it regarded as the necessary conditions to permit Sinn Fein to enter negotiations.

22. Mr Empey turned again to entry conditions. Would not PIRA be required to show that they "abided" by the democratic process over a period of time before Sinn Fein could be admitted to negotiations? Acceptance of the Mitchell principles would not of itself provide evidence of commitment to them. The Secretary of State emphasised again that the Government would have to be satisfied that the statutory requirements had been met before Sinn Fein could be invited to join talks. Commitment to the Mitchell principles was an essential part of the process thereafter. Mr McCartney intervened, asking Mr Empey to clarify the UUP's position on entry conditions. Mr Empey said that the UUP's position had been set out clearly and fully in its submission of 15 October.

(Signed)

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23. The Secretary of State then asked the Alliance Party to expand on the proposal for dealing with decommissioning which it had put forward in its submission. Lord Alderdice explained that the appointment of an independent commission now, perhaps based on the International Body, to take forward work on the detailed modalities of decommissioning and, in the fullness of time, to oversee the decommissioning process, might overcome current difficulties and meet UUP concerns about parties blocking progress on decommissioning. In response to questions from Mr Farren and Mr Durkan, Lord Alderdice confirmed that the liaison arrangements between the Commission and talks would be important. The Commission would wish to report progress (or the lack thereof) to the talks participants. Equally, talks participants would wish to feed their views into the Commission. Whether a committee was required to carry out this function was for the parties to consider. However, he suggested that it would be best for the Commission to co-operate independently and not under the supervision of a committee, to ensure that work on the issue could not be stalled by any party.

24. The Chairman asked participants for their views on how to take the discussion forward. The Secretary of State suggested that after three days of discussion the time had come for a pause for reflection. The parties might wish to take time to consider their positions, engaging in bilaterals as necessary, following which they might submit their written conclusions to the Chairman's office, if they so wished. After a good deal of discussion, the Chairman proposed that the plenary session be adjourned until noon on Monday 18 November, that 11, 12 and 13 November be set aside for bilaterals, and that any papers prepared by the parties should be submitted to the Chairman's office by 10.00 am on Wednesday 13 November. He also encouraged the parties to keep their papers concise. This was agreed. The meeting concluded at 5.40 pm.

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