

24-MAR. '98 (WED) 16:23 ATTORNEY GENERAL

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P. 002

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PRIME MINISTER

PROPOSED POLICE COMMISSION FOR NORTHERN IRELAND**SUMMARY**

This is a response to the letter from the Secretary of State for Northern Ireland concerning the proposal to set up a Royal Commission into Policing in Northern Ireland. The deadline was noon yesterday.

Having consulted with the Director of Public Prosecutions for Northern Ireland I support the proposal but consider that the terms of reference for the Commission should prevent it from considering any aspect of the prosecution system.

I fully support the proposal to set up a Royal Commission in Policing in Northern Ireland. The issue of policing must be central to any settlement that has a prospect of lasting and I agree with Mo that the political nature of the subject would best be addressed by a Royal Commission. I have, however, taken the views of the Director of Public Prosecutions for Northern Ireland, Alasdair Fraser, on this matter and share his concern that such a Commission, unless its terms of reference are carefully drawn up, could trespass into areas concerning the prosecution process in a way which I would consider inappropriate.

The Office of the Director of Public Prosecutions has managed to preserve its standing and reputation as an independent prosecuting authority without becoming entangled in sectarian disputes. The importance of that independence, and of the public perception of independence, should not be underestimated. It has meant that the vital role of fair prosecutions through

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P. 003

CONFIDENTIAL



very troubled times has not only been carried out in actuality but has also, largely, been free from general criticism by the people of Northern Ireland. I would be most concerned if this aspect of the criminal justice system were, by a side wind, to become the subject of this Commission's work.

There are, in my view, strong grounds for preventing any change to the prosecution system in a piecemeal way. Such a Commission could only consider one very small part of the system, a system that if it is not to be damaged by any change, should be looked at as a whole. I accept that the RUC currently prosecute many cases in the Magistrates' Courts and that a Commission could justifiably consider that part of their area of competence. But this is only a small part of the RUC's role and is not, in my view, something that will best be served by examination by a Commission into policing generally. I am not suggesting that there should be no review of the prosecuting system as a whole: a review may be necessary or desirable as part of that stable process of devolution which we hope for. But I think there are other, more appropriate methods of carrying it out – perhaps by Government in a review parallel with, but separate from, the Commission's work, as suggested by Mo in her letter. Such a review, outside the glare of the Commission's work would, I believe, be a more appropriate and effective way of proceeding.

I entirely endorse Mo's point that this proposal must proceed with care as sensitive issues are involved and I take comfort in her view that these proposals are tentative and are sufficiently flexible to be refined later as required. I hope that, in the light of the concerns I have expressed, some consideration can be given to tightening the terms of reference for the proposed Commission and would be happy to give whatever assistance I may in achieving that end.

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P. 004

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I copy this letter to IN colleagues, the Lord Chancellor, Secretary of State for Northern Ireland, Scottish Secretary and to the Cabinet Secretary.

J.M.

24 March 1998