

From: THE PRIVATE SECRETARY

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NORTHERN IRELAND OFFICE

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LONDON SW1P 3AJ

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10 Downing Street
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You may like to see
this over the weekend. It is

for discussion on 15 May 1981

Wednesday:

Prime Minister

Dear Michael,

RB
[Signature]

PRISON PROTESTS IN NORTHERN IRELAND

A meeting has been arranged for 6 pm this coming Wednesday 20 May to discuss the handling of the prison protests in Northern Ireland.

..... I attach a paper for that purpose.

Copies of this letter and its enclosure go to John Halliday, Home Office, Roderick Lyne and Adam Wood, (FCO), Brian Norbury, MOD, Jim Nursaw, Law Officers Department and David Wright, Cabinet Office.

[Signature]

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THE PRISON PROTESTS IN NORTHERN IRELAND

Memorandum by the Secretary of State for Northern Ireland

1. We have reached a critical point on our handling of the prison protests in Northern Ireland and I seek my colleagues' views on the way forward.

The Point of the Protests

2. The Northern Ireland prison population is unique. Out of 1850 convicted male prisoners, about 1,000 were convicted when still young of terrorist offences for which they are serving long sentences. Of these prisoners the Republicans in particular display a remarkable sense of common identity and purpose. They retain within the prison a good deal of control over many of their number through an effective military-style command structure. 450 of them are engaged in some form of protest in pursuit of a regime which (a) would be different from that applicable to "ordinary" prisoners, and more appropriate to prisoners of war; and (b) would confer upon them control over their own lives in prison (cf the 330 men still enjoying "special category" status in the Maze). Such a regime would also (c), by implication, offer the prospect of amnesty - for which there are precedents in Northern Ireland - when the "war" was over. It is this, not just more humanitarian prison conditions, that "political status" is all about.

Attitudes -(i) PIRA and Catholic

3. The protests in the prison affect the situation in the outside community. Thus:

- (a) the Provisionals feel they cannot abandon the armed struggle (terrorism) until their men have achieved an acceptable regime;

(b) many members of the Catholic community tend, emotionally, to identify with the "boys behind the wire". The longer the conflict in the prison lasts, the greater the danger of alienation; and

(c) prisoners - ~~the~~ majority Catholic - are under the control of, largely, Protestant prison officers - which reinforces the feeling at (b) and is a source of instability.

(ii) Protestants.

4. For the Protestant community, HMG's handling of the prisons is seen as a measure of its resolve against the IRA. Concessions to Republican pressure would be interpreted as weakness and would have consequences for the security situation.

(iii) Protesters.

5. The main body of the protesters have lowered the level of their protest (from "dirty" to "no clothes/no work"). Only they can decide their degree of conformity; the authorities can only respond with corresponding punishment (loss of remission and/or other privileges). It is too soon to tell whether the protesters are as they claimed seeking only to focus attention on the hunger strike or are also seeking to establish themselves in the most comfortable available regime. There is evidence to support the latter. Protesters and hunger strikers (and their families) are at present under firm PIRA control.

Government's Objectives

6. The Government's aim is to defeat terrorism and return Northern Ireland to normality. For the prisons problem this must mean:

- (i) refusing "political status": (unthinkable - to do so would give a great fillip to PIRA);

- (ii) getting terrorists under lock and key, and keeping them there;
- (iii) minimising Catholic community identification with the hunger strikers (so always adopt policies that show care and concern for the Catholics and for the well-being of the prisoners);
- (iv) exploring any way short of conceding their demands which would get the hunger strikers and protesters to give up, or, failing that, put the pressure of opinion against them, not HMG.

A longer term problem - "Special Category"

7. Present problems apart, the Northern Ireland prison issue will come to a head again in a year from now. With the opening of the new prison at Maghaberry in late 1982, there will, for the first time, be sufficient cellular accommodation to house the Special Category prisoners in the Maze. By then some review of the prison regime will be needed.

The Dangers of Confrontation

8. We know that PIRA and the protesters are at the moment determined to settle for nothing less than "political status" which they themselves have elaborated into five demands: marginal concessions will not resolve the issue. They believe they will win, because of the pressures that will build up on the Government, and are ready for a sustained campaign.

9. There are two problems here for the Government if the hunger strikers hold out:

- (a) It would be wrong to assume that, with each successive death, community reaction will continue to diminish. While the Security Forces (SF) are confident that they can contain the street disturbances, every incident carries the risk of a breakdown (local, and perhaps under great provocation) of SF restraint or/a simple accident (such as the death of an innocent local resident). This could radically affect public opinion on both sides of the community divide - and overseas.
- (b) However sound and defensible the refusal to concede "political status", the Government risks a continuing adverse world - and perhaps British - reaction as hunger strikers continue to die. Something, the world will say, must be wrong if prisoners in one of HM Prisons keep committing suicide, and it is on HMG that pressure will come to "put it right".

The Government's Present Position

10. The Government refuses "political status" and has widespread support. It refuses the five demands because taken together they give expression to "political status". It is committed to a humanitarian prison regime and to improving it. But there are two principles it cannot concede:

- (i) There can be no differentiation of treatment for a particular group of prisoners, because that would recognise that crime can have a political justification, a proposition which is morally repugnant.
- (ii) The prison regime must be under the control of the authorities, not the prisoners.

11. Within those limits changes (necessarily to all prisoners) have already been made and others are possible - eg freedom for male prisoners to wear their own clothes all day as women prisoners do already. Others are ruled out - eg freedom to decide what, if any, work to do and when to take association - because they would offend the need to keep control. Given present Provisional attitudes no possible changes would be acceptable to HMG on these criteria and have any hope of ending the strike.

The European Commission of Human Rights (ECHR)

12. As my colleagues will be aware from the press, hopes have been expressed in a number of quarters that the ECHR might be re-involved in the Maze problem. I have gone into the possibilities with some care, and, as a result of a suggestion by the Commission, a way to do this has been found. When, last June, the Commission issued a Partial Decision on what is known as "the Maze case" (four protesters in the prison having lodged complaints that HMG was in breach of the Convention), two issues were left unsettled. On one of these (relating to the alleged lack of "an effective remedy before a national authority") progress has been held up by legal arguments about admissibility. Without conceding anything of legal significance to HMG on this, a formula has been devised to skirt round that hurdle, so that the Commission can now begin substantive work on the complaint. I have indicated to the Commission that HMG is content with the course proposed.

13. I would not wish too much hope to be placed on this move - the legal constraints within which the Commission will have to work are narrow, and it is not yet clear how close to the real problems in the Maze they will be able to get. But their Partial Decision

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of last year did include some obiter dicta going beyond their strict remit under the Convention, and it may be that this may happen again. I do not expect this latest move to persuade the hunger strikers to give up, but it could prove helpful to us in the propaganda battle.

The coming weeks

14. We face a testing time. Within the next week two more hunger strikers are likely to die - which means two more funerals to provide publicity for the Provisionals. Further SF or civilian deaths must remain a continuing possibility. On 20 May the District Council elections in Northern Ireland will take place, after which tension will mount again as the time approaches, in early July, for the fifth hunger striker to reach a critical point. By then we are into the period leading up to the parliamentary debate on the renewal of both the Emergency Powers and the Constitution Acts, which must take place in late June. On that occasion I shall be expected to say something about the Government's attitude to further political development in the Province, as well as making clear our position on the prisons problem and the developing security situation.

15. Throughout all this period the SF will be under great pressure, and the risks referred to in paragraph 8(a) above will remain and perhaps intensify. Soldiers and policemen can do 12-hour duties for a short period without difficulty; but as the period lengthens into weeks the strains become greater and the risks higher.

16. Our posture during this time must, I suggest, be broadly as follows:

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- (i) on the prisons we stand rock-firm on "political status", while remaining committed to a humanitarian and progressive regime and a willingness to facilitate the ECHR in its work in every possible way;
- (ii) on security we remain committed to combatting terrorism through the rule of law, with the police in the lead, fully supported by the Army. We are likely to have to give further thought to the numbers and deployment of troops as the situation develops;
- (iii) on political development, we should make it clear that we still wish to find an acceptable way of moving towards the transfer of responsibility to locally elected representatives for a wide range of powers; and after the District Council elections I would propose to invite all the local parties to come and talk to me about how we might best proceed.

Publicity

17. Through and alongside every aspect of our problems we must give a high place to the waging of the propaganda battle. We cannot afford for one moment to relax our efforts, at home and overseas, to get public opinion on to our side. If we are accused of inflexibility in the prisons, we must show how flexible we have in fact been and how we are standing firm only on issues/^{on} which no responsible government faced with a terrorist threat - any terrorist threat - could give way. We must ensure that the remarkable restraint of the SF in face of constant provocation is given its due. We must see to it that our position on political development, on the constitutional guarantee, on the Dublin talks, is more widely understood.

18. To this end I propose to set up an informal group of officials from the Departments most closely concerned which can meet frequently and regularly in London (in parallel to a local operational group already meeting daily in Belfast) to monitor development and prospective events and deal with the propaganda campaign.

Conclusion

19. I should be glad to know that my colleagues agree with the approach and general posture set out in this paper.