

William Chapman Esq  
Private Secretary  
10 Downing Street

January 1994

**TAOISEACH'S LETTER OF 30 DECEMBER**

Sir Patrick has personally drafted the attached draft response for the Prime Minister to send to Mr Reynolds' letter of 30 December. He considers the imputations against the Northern Ireland judiciary, and the Lord Chief Justice in particular, outrageous in general and completely unsustainable in this instance in particular. He suspects they derive from Irish inability to comprehend a criminal justice system which is wholly independent of the executive. He thinks the Prime Minister might care to see the attached copy of a confidential letter to Sir Patrick from the Lord Chief Justice.

He considers, however, that the Prime Minister should not go into detail in his reply or strike a hostile tone. This is partly to avoid conveying an impression of too close an association with the judgement. But it is also because, when our priority must be to maintain a common front with the Irish, there is no advantage in a reply which, however justified in its substance, risks making that objective harder to attain.

It is for the same reason, both in respect of Caraher but also in regard to the presentation of the Declaration, that the draft tries to demonstrate, wherever possible - and with the glosses that we would want to insert - that we have taken the Taoiseach's points. In particular, that the Declaration is and must be sold as 'balanced', offering much to Nationalists and not just to Unionists;

SECRET AND PERSONAL

and that we agree that it would be wrong to try to threaten or bribe the Provisionals. [It also gently cautions against the setting of timetables and deadlines.]

The letter also touches on two matters not raised by the Taoiseach. First, it re-emphasises the importance we attach to the Talks process. There are a number of excellent reasons for doing so, apart from reminding the Irish of something they are prone to overlook. In particular, it increases the pressure on Sinn Féin: it makes it clear that although both Governments have declared that there is a route open to the Provisionals, they are nevertheless ready and determined to press on - and that Sinn Féin has no veto on political progress. Second, it means that Sinn Féin are denied the satisfaction of monopolising the political stage. (It also means, that should the peace process come to nothing, in the short run, the two governments are not seen to have no remaining shots in their locker.) I also attach a copy of a letter my Secretary of State sent [yesterday] to the Tanaiste making these points and setting out his views for handling the Talks process. I hope to let you have shortly a fuller note on how my Secretary of State sees the way ahead.

Second, the letter contains a reference to the Irish Cabinet's pending decision on broadcasting restrictions [and, en passant, to security co-operation]. Given speculation in the Irish media that some Irish Ministers at least think the provision should be abandoned now, it is worth using this letter to register our interest in non-committal terms. Such a reference would be consistent with the approach to our own broadcasting restrictions set out by the National Heritage Secretary in his letter of 24 December to the Lord Privy Seal. This concluded, in present circumstances, against either withdrawing the Notice now in force or, equally, against tightening those restrictions in some way.

A copy of this letter goes to John Sawers and Melanie Leech [and to PS/Peter Brooke].

JONATHAN STEPHENS

- 4 -

SECRET AND PERSONAL

SMJ/AUSL/30363

SECRET AND PERSONAL

DR/2T REPLY FROM THE PRIME MINISTER

Mr Albert Reynolds TD  
Taoiseach  
Government Buildings  
DUBLIN 2

January 1994

Thank you for your letter of 30 December, and for your kind wishes for 1994. I warmly reciprocate these. Thank you, too, for your generous words regarding my adoption of the Joint Declaration. In my turn, I warmly acknowledge the significance and statesmanship of your explicit recognition, in particular, of various fears and perceptions.

With you, I have found the public response to the Declaration certainly as good as we could have reasonably expected - in some cases far better - encouraging, and although the actions of the Provisional IRA since the ending of their Christmas cease-fire have been inexcusably murderous, and enormously costly in their consequences, the restraint of our own reaction has reflected an understanding of the delicate psychology involved in the exercise to which both our Governments are committed.

The Joint Declaration, whether in terms of its general principles, the offer to Sinn Féin or its support for the Talks process is most definitely not a document with only a limited shelf life. And we must guard against imposition of arbitrary deadlines. Nevertheless you will readily understand that the limit of what it is possible for us to tolerate, if Sinn Féin does not make a positive response

SECRET AND PERSONAL

be/2re too long, is now being approached. Only by a combination of luck and professionalism have the security forces, and also civilians, been spared further deaths. We cannot count on this situation continuing. But you can be sure that, so long as we can, we will continue to be measured in our response to further attempts to kill people in Northern Ireland, or to destroy their businesses and jobs. We shall also do our best to present the Declaration, as you rightly urge, as a fair and balanced document - which safeguards the vital interests of both main parts of the community in Northern Ireland - and a victory for nothing but common sense, democracy and peace. We shall also emphasise that it postulates no specific outcome in the general agreement which our two Governments are seeking.

We shall also emphasise that business continues as usual, particularly as far as the Talks process is concerned - indeed that one of the central objectives of our Declaration is to provide renewed impetus for that process. All four constitutional parties have said they are prepared to talk, on the basis of the statement of 26 March 1991, and Patrick Mayhew has written to each leader inviting his party's participation in further bilateral discussions with Michael Ancram as early as next week. Patrick has also written to Dick Spring emphasising the imperative of making progress on the work which the two Governments commissioned, on 10 September, on an illustrative outcome of the Talks process.

I believe that an intensification of the Talks process will demonstrate to the constitutional parties that we will not allow a political vacuum to develop while we await reaction of the Joint

**SECRET AND PERSONAL**

De/paration. It will also remind Sinn Féin that the political situation will not stand still while they decide their reaction. So I hope, therefore, you will continue to give the Talks process - and the work involving our two Governments which is crucial to carrying it forward - your personal support and encouragement.

I also very much agree, that neither Government should appear to threaten, bribe or try to humiliate Sinn Féin. We shall both soon, for example, face political decisions on the future of our respective broadcasting restrictions. It has always been helpful that we have stood together on this issue. [Likewise, as you have yourself suggested, we may regrettably have no choice but to intensify, in concert, the work we have in hand on security co-operation.]

Turning to the Caraher case, I am grateful for your acknowledgement that I do not control the Courts in this country any more than you do in yours; it is a cardinal principle in the British judicial system that there should be separation of powers and duties between the judiciary and the executive. This separation extends no less to issues such as the timing of judgements, and the willingness of the judiciary to take account of extrinsic contemporary events at the time of delivery of a judgement, than it does to the substance of the judgement itself. In no circumstances would the executive seek to influence the judiciary in the United Kingdom on any such matters.

SECRET AND PERSONAL

Bu/2 I am particularly concerned that you should feel it necessary, in the context of the Caraher case, to refer to 'verdicts which tend almost automatically to exonerate the security forces'. If this is a criticism of the law itself, that is one thing, and as you know, we have that matter under review; but if, as I fear, it is a criticism of the judiciary, I would take grave exception. The record of the judiciary of Northern Ireland for impartiality over the last 25 years has been accorded very great admiration and praise. No-one who has taken the care to read the 70 page judgement of Sir Brian Hutton in the Caraher case [which I am arranging to have dispatched to you], and who had noted its recital of the factual and forensic evidence, and its consideration and application of the relevant law, could conceivably reach the view that it represented an 'almost automatic' exoneration of the security forces.

I was particularly dismayed to see newspaper reports that 'Government circles in Dublin' had apparently viewed the judgement - before the transcript had even been seen - as 'not helping the peace process'. Whether or not that is a valid view, as I have made clear, it is not acceptable in the United Kingdom for the judiciary to be influenced by such external political considerations. Furthermore, the sensitive endeavour in which we are both engaged, following the publication of the Declaration, is not, and will not be, assisted by evidence of any public disagreements between our two Governments. So comment was all the more unfortunate.

SECRET AND PERSONAL

It is not appropriate for the Inter Governmental Conference to consider the merits of the Caraher case or any other judgement in the Courts. But I do think it important that at the next IGC, we take the opportunity of including an item on the agenda to review the importance of neither Government being seen publicly to criticise a judgement in a Court in the other's jurisdiction.'

FR/SECRETARY OF STATE (E & L) - D

NORTHERN IRELAND - ECONOMIC PROSPECTS

1. You asked for urgent briefing on Mr O'Donnell's letter of today's date about the Prime Minister's wish to push during an interview with the Daily Telegraph this evening the theme of a possibility of improved prospects for the Northern Ireland economy in the event of a permanent cessation of violence.
2. The briefing is attached in the form of a series of positive bullet points, together with some cautionary notes highlighting the possible economic downside of an outbreak of peace. We are extremely grateful to DED for providing the bulk of this material.
3. Also attached is a draft letter for you to send to Mr O'Donnell.

(Signed: MHR)

M Y B HADFIELD  
CENTRAL SECRETARIAT

- 9 -

SECRET AND PERSONAL

SMJ/AUSL/30363