



Prime Minister 41A

The difficulties are becoming more apparent. We are getting closer to the point when the Irish realize that at best the summit will produce agreement to do further work.

Ref. A084/2773

PRIME MINISTER

Anglo-Irish Relations: Northern Ireland 2. Agree to further

Yes no

meeting with colleagues before the

Mr Goodall and I had a further round of talks with Mr Nally and Mr Lillis in London on 15 and 16 October. As indicated in my minute of 10 October, Mr Goodall and I were accompanied by Mr Bourn and Mr Brennan of the Northern Ireland Office and by Mr Alan Goodison, the British Ambassador in Dublin. Mr Nally and Mr Lillis were accompanied by Mr Andrew Ward and Mr Declan Quigley (of the Ministry of Justice and the Attorney General's Department respectively) by Mr Sean Donlon and by Mr Noel Dorr, the Irish Ambassador in London.

near
Amrany/
Nally
round?
CDP
19/x.

2. At the outset Mr Nally expressed the Irish Government's strong sense of outrage at the Brighton bombing, and their profound sympathy with those who had been injured and the relatives of those who had died as a result. The Irish Government had noted with admiration the British Government's resolute stand, and not least the decision that the current talks should go ahead.

3. By way of general introduction, Mr Nally referred once again to the exploratory nature of the discussions. We agreed that the exchanges were continuing on a basis of no commitment by either side. Mr Nally stressed the need for a "package" which would be adequate to reverse alienation of the minority community in the North, transparent, in the sense that it did not contain hidden agendas which might frighten any of the



communities in Northern Ireland, and durable, so that it could be seen as something which would stand for this generation. Mr Nally also stressed the need to avoid over-selling the possibility or raising dangerously high expectations.

4. We then discussed in detail the various matters covered by the speaking notes listed in paragraph 4 of my minute of 10 October, save for the draft joint declaration (note number 10). The British Government side spoke closely to the speaking notes, and I do not therefore need to repeat what we said in this minute, the main purpose of which is to record the reactions from the Irish side.

5. On the amendment of the Irish Constitution, Mr Nally reiterated the three-fold purpose of the proposed change as described in paragraph 8 of my minute of 24 September. He said that he had nothing to add to that at this stage, but he stressed the magnitude of the step which the Irish Government would be undertaking, if it went ahead with a referendum to change the Irish Constitution as proposed. The rest of the package would need to provide an adequate political counter-weight to this large step.

6. I stressed that the British Government would in its turn be taking a very large step in admitting the Irish Government to even a consultative role in relation to the government of Northern Ireland. We doubted whether an amendment to their Constitution, even if it could be achieved, would itself be likely to secure Unionist acquiescence in the other steps proposed unless accompanied by some progress towards devolved government of a kind which would be broadly acceptable to the Unionists.



7. The Irish side asked for our views on the possibility of some kind of statement of principles or objectives, which might emerge as a declaration from the forthcoming Anglo-Irish Summit. I said that I thought that it was premature to discuss that until we had a clearer view of where we were getting to on the various elements in the proposed "package". I could see no possibility of saying anything about the package itself immediately after the Summit: even if Ministers were minded to go ahead with the package, there would be too much work still to be completed. We should in fact be making an interim report to Ministers for the Summit. If on the basis of that interim report they decided that further work should be done with a view to putting together a complete package, there might be a case for some very general statement from the Summit, which could reiterate that there could be no change in the constitutional status of Northern Ireland without the consent of the majority of its people, could condemn violence, and might speak of the need to respect the identities of the two communities in Northern Ireland. I emphasised that I was not drafting, and that it would in our judgment be premature to take the discussion of this matter any further at this meeting.

8. We did not hand over to the Irish side copies of any of our speaking notes.

9. In our detailed discussions we discussed the arrangements for "institutionalised consultation", and I spoke as in our speaking note. The Irish reaction showed that they were thinking of a more formal arrangement, since they spoke of having Ministerial Commission for Northern Ireland, comprising the Secretary of State for Northern Ireland and a member of the Irish Government who (it was clear) would in effect be a Minister for Northern Ireland Affairs. At first they appeared to be thinking in terms of conferring executive powers or functions upon their proposed Ministerial Commission. We made



it clear that anything of that kind would constitute "joint authority" and would be unacceptable. We said that we should prefer not to think in terms of a Ministerial Commission since, even if that was formally a consultative body, it would give an impression of equality in responsibility if not of joint authority. The Irish side appeared to accept that the arrangements would be purely consultative; but they continued to have difficulty with the word "consultation" as part of the public description of what was proposed, because of their fear that something described as consultation would be regarded in the Republic as inadequate. This led them to talk in terms of a provision whereby both Governments would accept a formal obligation to seek agreement on all issues arising for discussion between the Secretary of State for Northern Ireland and the Irish Minister concerned and a formal acceptance that this process must be made to work successfully in order to ensure the maintenance of stability in Northern Ireland. We said that we were not committed to the word "consultation", though that would in fact be the nature of the process since the Secretary of State would retain executive responsibility for all the matters under discussion and would not be sharing formal responsibility with the Irish Minister. We stressed that nevertheless the arrangements proposed would give the Irish Government a very considerable voice in the affairs which were discussed in this way.

10. As to the matters which would come within the ambit of these arrangements, it was agreed that external defence, foreign affairs and finance would be reserved to the British Government, and there would be no right of consultation for the Irish Government in respect of them. The Irish side also accepted that there would be no right of consultation between the British Government and the Irish Government on matters which were devolved to a Northern Ireland Assembly and Executive, though they said that, if an Executive were formed, it would be to the



political benefit of both North and South to have a mechanism whereby the Executive and the Irish Government could consult on matters of mutual interest. We indicated that, on the assumption that the devolution was such as to command a wide measure of acceptance in Northern Ireland, there should be no need for consultation with the Irish Government: the interests of the minority should be secured within the devolution arrangements.

11. That left those matters for which the Secretary of State had executive responsibility. It was agreed that in respect of these there would be an obligation on the British Government to consult the Irish Government and a right to the Irish Government to be consulted. The Irish side suggested that a a minimum the matters on which there should be formal obligations and rights of consultation would comprise:

- a. Nomination of a Northern Ireland Executive.
- b. Nominations to the new institutions that might be set up as a result of the current discussions.
- c. Certain issues of identity, such as flags and emblems, language, sport, place names, and aspects of school curriculum.
- d. Broadcasting.
- e. Posts and Communications.
- f. Security.

12. The Irish side did not seem to dissent from our ideas, as set out in the speaking note, about the way in which consultation might be organised.



13. As to a Joint Security Commission, we described our ideas as set out in the speaking note number 3.

14. In the Irish reaction four things quickly became clear:

1. We envisaged a programme of work for the Joint Security Commission which would be mainly in the area of security co-operation between the authorities north and south of the border. They were thinking of a Commission which would be established as part of the general consultative arrangements and would be concerned with security matters in Northern Ireland only.

2. They envisaged the commission having a consultative role in the establishment of security policy guidelines, including operational guidelines, for the security forces and the prison services in Northern Ireland, in the appointment of the principal officers in the police force and prison service in Northern Ireland, in the recruitment and training of police and prison officers, in relation to complaints against the security forces, and in the appointment of a board of visitors for the prisons in Northern Ireland.

3. We saw the Irish representative on the commission as being the Irish Minister for Justice; they saw him as being the Irish member of their proposed Ministerial Commission (ie their "Minister for Northern Ireland Affairs").

4. They were not against the establishment of a body to improve security co-operation in many of the fields to which we had referred, but they saw this as being separate from the Joint Security Commission; and it was clear that they would be extremely apprehensive about anything which suggested giving such a body operational responsibility.



15. We undertook to look further at the idea that there should be two joint bodies in the security field, and at the list of matters which they were suggesting for a Joint Security Commission. We stressed that in our ideas there was no question of giving a Joint Security Commission operational responsibilities: in the field of joint operations or joint units, such a Commission would be concerned simply with advising on possibilities of and arrangements for joint operations by the RUC and the Garda, but operational responsibility would remain with the two Chief Officers of police.

16. On practical policing measures, the Irish side gave a cautious welcome to our proposals for further steps to increase the recruitment of Catholics into the Royal Ulster Constabulary, but they reacted adversely to the idea of setting up regional crime squads which would be deployed in both jurisdictions. They did not wish to exclude this possibility, as something which could be studied by a Joint Security Commission, but they thought that any specific reference to this in the initial package would be very counterproductive in the Republic of Ireland, since it would carry the implication that the RUC might operate south of the border.

17. The Irish side indicated considerable disappointment that we had not been able to suggest further measures of a more visible and immediate kind for restoring the confidence of the minority community in the policing of the areas in which they lived. They suggested that, if we were not prepared to countenance their ideas of two parallel police forces - and we confirmed that we were not - then we should consider whether there could be some restructuring of the Royal Ulster Constabulary which would in effect provide for Catholic areas to be policed by identifiably Catholic policemen. We said that we would consider whether, if and as Catholic recruitment

increased, we could work towards a policy of posting predominately Catholic RUC policemen in Catholic areas. They suggested that we should consider going further than that, and establishing a number of local police forces with local recruitment, so that people would be responsible for policing in their own areas. They cited the example of Belgium as a small country which had a considerable number of very local police forces. We indicated that in our view any such arrangement would not make for efficient policing; and that any proposal which implied the breakup of the RUC would be unacceptable to the Unionists. There was also some discussion of the idea of setting up a separate force specially for counter-terrorist policing; but we were sceptical about the possibility of that, in a province where the great bulk of crime was either terrorist in nature or closely related to terrorism. They then asked whether we might contemplate a strictly temporary restructuring of the RUC which we could make clear was intended as a short-term measure to win back minority confidence in the police and that at the end of a defined period - perhaps five years - the police would revert to being a fully integrated force. We agreed to reflect on this.

18. We set out our thinking on mixed law courts and an all-Ireland law commission as in the speaking notes, stressing the preliminary nature of our ideas and the fact that they had been prepared without consultation with the judiciary. The discussion of these subjects suggested that there should be no insuperable political problems, though we stressed that it would be difficult to find enough suitable QCs at the Northern Irish Bar to provide the additional Northern Ireland judges which the proposal for mixed law courts would entail. There was agreement upon the general direction of our ideas on these matters, and agreement also that proposals on these lines would be an important part of any package.

19. On devolved government, we spoke as in the first six paragraphs of speaking note number 6. We stressed that in our view an amendment to their Constitution, even if it could be achieved, would not of itself be likely to secure Unionist acquiescence in the other steps proposed unless accompanied by some progress on devolution which would be acceptable to the Unionists. The Irish side too saw progress on devolution as an indispensable element in or accompaniment to the package. They argued that, if the Unionists were told that devolved matters would be outside the arrangements for consultation with the Irish Government, there would be a strong incentive to the Unionists to support proposals for as much devolution as possible.

20. We suggested that there was no prospect that the Unionists would accept devolution to a "power sharing" executive: they thought that they had defeated power sharing in 1974, and they would not acquiesce in its return now. The Irish side, on the other hand, thought that devolution to a government with majority rule, even with safeguards for the minority, would be unacceptable to the nationalist community. They accepted that the Unionists would be very unlikely to agree to a power sharing executive. They urged us very strongly to consider whether this dilemma could be resolved by making the Secretary of State the Chief Executive in a new Northern Ireland Executive. The model they had in mind appeared to be that powers should be devolved to a Northern Ireland Executive which would consist of "Ministers" responsible for the Departments covering the devolved powers drawn from the Assembly parties representing both communities, with the Secretary of State (or possibly another British Minister) as Chief Executive. Thus the Secretary of State would have two distinct constitutional personalities, as the British Minister responsible for the executive functions discharged by the Secretary of State in such matters as security, and as "Prime Minister" of the Executive responsible for the devolved powers. In his capacity as Chief



Executive he would need to be required to consult the Irish Government. He would not be an elected member of the Northern Ireland Assembly and there would presumably have to be some arrangement whereby he could sit and speak in that Assembly. His position as Chief Executive would be a visible guarantee to the Unionists of the enduring constitutional link with the rest of the United Kingdom, and would enable them to argue that the new arrangements were not "power sharing" as they had defeated it in 1974 but an extension of direct rule. It might be possible, the Irish side argued, to set up such an arrangement as explicitly provisional, until such time as the Assembly was ready to nominate a Chief Executive from its own ranks.

21. We explored this idea in discussion with the Irish side at some length, without commitment. We expressed doubt as to whether it was practicable for the Secretary of State to discharge dual functions in the way suggested; and we suggested that there would be something very "colonial" in a situation whereby the Secretary of State presided over the Northern Ireland Executive and sat in the Northern Ireland Assembly without being an elected member. The Irish side acknowledged all these objections, but came back to the point that, if this was the only way of getting devolution going, it would be better than no devolution at all. We undertook to consider the idea further, and report it to Ministers.

22. We outlined our tentative thinking about a possible Anglo-Irish Parliamentary body as in speaking note number 7. The Irish side indicated that they were content with these ideas, and there was no detailed discussion.

23. As to a Northern Ireland Bill of Rights, the Irish side drew attention to the fact that all the parties in Northern Ireland had expressed support for the enactment of a Bill of



Rights for Northern Ireland. They believed that such an enactment would be necessary, both symbolically and in political terms, to secure the support of the nationalist community for the rest of the package. They suggested that the most practical way to go about this would be to incorporate the European Convention of Human Rights into Northern Ireland law. We indicated that there were various difficulties and problems, on the lines set out in speaking note number 11; but indicated that we were keeping this possibility under close review. We should have to consider whether it made sense to enact a Bill of Rights in Northern Ireland and not in the rest of the United Kingdom, and we asked whether the Irish Government would propose to take parallel action in the south of Ireland, if such legislation was introduced in Northern Ireland. The Irish gave no clear answer to this question, indicating that it raised similar difficulties for them as it did in the United Kingdom. They pointed out that the Irish Constitution provided protection of certain human rights.

24. We did not discuss the legislative basis for an agreed package, but the Irish side made it clear that they envisaged an Anglo-Irish agreement which would incorporate a statement of objectives and would provide for the establishment and implementation of the various elements in the package. The agreement would be duly ratified by the two sovereign Parliaments and registered at the United Nations. It would come into operation only if and when Articles 2 and 3 of the Irish Constitution were amended following a referendum.

25. As to the next steps, we thought it would be useful to see whether we could prepare a single working paper (or set of papers) which would identify the matters on which we had reached a reasonable measure of conditional agreement and those on which our positions were still far apart. This could be a focus for discussion at a further Armstrong-Nally meeting early in



November, and be prepared primarily for that purpose. But in the light of discussion at that meeting it might form a basis from which each of us could report separately to our Ministers for the purpose of discussion at the bilateral Summit.

26. I think that the Irish side were half hoping that it might be possible to complete the process and reach agreement on a package at the bilateral Summit. I said that I saw no possibility of this, and made it clear that in our view the process could not and must not be rushed. There would still be some substantial matters disagreed or unresolved for discussion at the Summit. It would not be possible for Ministers at the Summit both to decide how far these matters might in principle be resolved and to reach detailed agreement. It was inevitable that there would need to be a further process of detailed work after the Summit, if at the Summit Ministers thought that the work already done provided a basis for a politically acceptable joint initiative. There would also be many difficult questions, which could be considered only by Ministers, as to how to carry matters forward if and when a politically acceptable package could be agreed in principle between Governments. Our discussions had reached the point where we were unlikely to make any further progress without input at a political level. It might well be that at the Summit Ministers would decide to authorise further work, and give directions for that work, still without any commitment to going ahead with a result. It could indeed well be that one or more further Ministerial meetings would be required after the Summit before the process could be concluded. We did not exclude the possibility of some sort of joint declaration from the next bilateral Summit, if Ministers had decided that work should proceed. I said that it would be premature to discuss the draft of such a declaration at this stage, but it might be possible to do so at the next Armstrong-Nally meeting early in November.



27. The Irish side did not really seek to contest this analysis; but they reiterated the importance of having something definite and specific agreed and out in time to stem the tide of alienation before the local government elections in Northern Ireland due in May 1985.

28. It will be seen from this account of our meeting that, as we get into the detail of the various elements in a possible package, we uncover more areas where either the Irish perception is different from ours or they are pressing for changes bigger than we can accept. A considerable part of our effort at this meeting was devoted to bringing the Irish side back to a greater sense of reality on that. At the same time, we established a considerable measure of conditional agreement on the possible contents of a package, and indeed on much of the detail within each element, although we made it clear that all the detail should be regarded as tentative since the tightness of the circle within which the exercise was being conducted had precluded scrutiny by or consultation with some of those principally concerned. I was left with the strong impression that the Irish Government still set great store by this process, and by the prospects of agreement on a package, that we are still some way from having negotiated them to their bottom line, and that we shall not get them there without your making clear to them at the bilateral Summit both the limits to which we can go on the points which are still not agreed and the continuing commitment of you and your colleagues to the process of discussion and the hope of an agreed and acceptable outcome.

29. There remain some major areas of disagreement and these will move into even sharper focus after the Armstrong-Nally meeting early in November. It seems likely that the bilateral Summit will have to consider whether these differences can be resolved or narrowed to the point where a politically acceptable package can be produced, or whether the search for such a



package is a vain quest and should be abandoned. The question will be whether to go ahead with the quest in the belief that a satisfactory outcome is possible and worthwhile; and, if the answer to that question is "yes", what the procedure and timetable should be from then on. If the decision is to go ahead with further work, albeit without commitment, the Taoiseach can be expected to press for some kind of joint declaration. You and your colleagues will want to consider whether the draft already submitted (speaking note number 10) provides a basis for such a declaration or how it needs to be revised in order that it should do so.

30. I am sending copies of this minute to the Foreign and Commonwealth Secretary, the Secretary of State for Northern Ireland, Sir Antony Acland, Mr Robert Andrew, Sir Philip Woodfield and Mr David Goodall.

RA

ROBERT ARMSTRONG

18 October 1984