



13

Ref. A084/847

PRIME MINISTER

Bilateral Meeting with Dr FitzGerald on 19-20 March 1984
Anglo-Irish Relations: Northern Ireland

--- You have agreed to a request from Dr FitzGerald for a short bilateral meeting with him in the margins of next week's European Council meeting in Brussels. The main purpose of Dr Fitzgerald's request is to enable him to talk to you about the approach which I made to the Secretary of the Irish Government on the Cabinet's instructions on 1 March. I submit a brief for your use in talking to Dr FitzGerald which has been agreed with the small group of senior officials who have been involved in preparing the approach to the Irish Government.

2. I do not think that there is any other briefing on bilateral matters required for your meeting with Dr FitzGerald, apart from the brief on the McGovern case requested in Mr Coles's letter to Mr Lyon of 12 March, which you will be receiving direct from the Northern Ireland Office.

3. I am sending copies of this minute and its attachments to the Foreign and Commonwealth Secretary, the Secretary of State for Northern Ireland, Sir Antony Acland and Mr Robert Andrew.

Rea

ROBERT ARMSTRONG

15 March 1984

BILATERAL MEETING WITH DR FITZGERALD ON 19/20 MARCH 1984

Anglo-Irish Relations: Northern Ireland

LINE TO TAKE

1. Recognise threat of Sinn Fein, alienation of minority in Northern Ireland, constructive attitude of Dr Fitzgerald. Ready to take risks if real progress possible. Hence Sir Robert Armstrong's recent suggestions. Now await considered Irish response. Hope this can be as clear and specific as the ideas we have put on the table.
2. Recognise political difficulties within the Republic. Major political difficulties in the United Kingdom too. Constitutional position of the North as part of the United Kingdom must be seen to be secured. Only on this basis would a new situation be created with opportunity for flexibility on our part. Republic's ability to waive its territorial claim and formally acknowledge the union for the foreseeable future is therefore the cornerstone of our suggestions. But these would in return involve the Republic in the North for the first time.
3. Agree on danger of leaks and need for absolute discretion on both sides.
4. Forum's report awaited with interest. Important it should not foreclose any options, or concentrate on solutions known to be unacceptable to the United Kingdom. Nor must it make it harder for London and Dublin to pursue the ideas we have been discussing. Joint sovereignty not a starter. "Joint authority" has been canvassed as an alternative, but what would be the difference in practice?

BACKGROUND

5. The package of proposals approved by Ministers as a basis for exploring the Irish position (summary at Annex) was put to Mr Nally by Sir Robert Armstrong on 1 March and

SECRET AND PERSONAL

the Taoiseach's initial response was conveyed by Mr Lillis to Mr Goodall on 5 March. The Irish have undertaken to give us a more considered response soon but have said they do not expect the Taoiseach to be able to do this at his meeting with you in Brussels. (He has spent the intervening period in the United States.)

6. The initial Irish reaction to our approach has been a mixture of gratification that we have taken their concerns seriously, surprise at our readiness to put specific (although still only tentative) ideas on the table, and dismay at being confronted with the need to move from rhetoric to reality and produce specific proposals of their own. The Taoiseach, and his very small group of advisers on these issues, have been heavily preoccupied with bringing the Forum for a New Ireland to a successful conclusion (i.e. a consensus report) and were unprepared to deal with the British initiative. The Irish clearly understand that the ball is now in their court and Dr Fitzgerald may be somewhat on the defensive as a result. Although the Irish have welcomed the fact that we have made positive proposals, they have serious difficulty with the idea of joint security arrangements unless set in a wider political context; and in particular with the idea of a border strip which would incorporate territory on the Republic's side of the border; and they are predictably finding it extremely difficult and uncomfortable to decide how, if at all, they might be able to cash their original tentative offer to waive their territorial claim and acknowledge the union.

7. It would be inappropriate for us either to modify or elaborate our proposals until we have the considered Irish response. You can therefore be content to let Dr Fitzgerald explain his thinking. But two points which need to be impressed on him at this stage are that all the ideas we have floated are based on the assumption that the Irish

side would be willing and able to deliver a formal commitment to accept the union; and to discourage any wishful thinking on the Taoiseach's part that "joint sovereignty", either under that or any other name, might have attractions for the British Government.

8. Dr Fitzgerald will no doubt want to update you on the state of play in the Forum, which is not now expected to publish its report before early April after the forthcoming Fianna Fail Party Conference. The shape of the report and its conclusions are still the subject of intense negotiation between the political parties. Dr Fitzgerald and Mr John Hume are doing their best to ensure that it will be in a form which they hope will enable the British Government to make a constructive response; but the signs are that Mr Haughey is playing hard to get and that the Republican wing of the SDLP (led by Mr Seamus Mallon) are siding with him in an attempt to give the report a traditionally nationalist slant. Dr Fitzgerald is hoping to be able to send you an advance copy of the report when it has been agreed but this is unlikely to be more than one or two days ahead of publication.

(i) A solemn declaration of commitment by the Irish Government to respect the union, and to give expression to such a commitment either by seeking amendment of the territorial clauses in the Irish Constitution or by taking steps to ensure that the declaration would not be found unconstitutional by the Irish Supreme Court; the implementation of the other elements in the package to be dependent on the fulfilment of this commitment.

(ii) A commitment by the British Government to work towards the introduction of joint policing arrangements in areas on both sides of the Irish border, possibly extending to other areas of major terrorist activity in the North; and for this purpose the establishment of a joint Anglo-Irish Security Commission tasked (a) to reach early agreement on the modalities (including unified arrangements for the administration of criminal justice in the area) and perhaps (b) to examine the possibilities for moving eventually towards the establishment of a joint police force operating throughout the same areas.

(iii) A commitment by the British Government to examine the possibilities for the progressive harmonisation of criminal law throughout Ireland and arrangements for associating Judges from each jurisdiction with criminal trials conducted in the other (i.e. steps towards an all-Ireland law enforcement area); and, for this purpose, the establishment of a joint Anglo-Irish Law Commission (for which the post-Sunningdale Joint Commission would provide a precedent) tasked to investigate these matters.

(iv) The introduction by the British Government of measures to meet certain nationalist concerns in the North (e.g. repeal of the Flags & Emblems (Display) Act, Irish citizens to be allowed (subject to a residence qualification) to vote in local elections in Northern Ireland).

SECRET AND PERSONAL

Annex cont'd

(v) Enhanced responsibilities for local government in Northern Ireland, which could include a regional council based on the Assembly, with a committee system; and a new local authority structure with some councils having nationalist majorities.

SECRET AND PERSONAL

1862 And
Meetings with
The Tacticians
Part 7

From: THE PRIVATE SECRETARY



NORTHERN IRELAND OFFICE
WHITEHALL
LONDON SW1A 2AZ

John Coles Esq
10 Downing Street
London SW1

16 March 1984

Dear John

McGOVERN CASE

Thank you for your letter of 12 March in which you asked for briefing on the McGovern case in preparation for the Prime Minister's meeting with the Taoiseach in Brussels next week.

For the reasons that will be clear from the attached material we think the chances of the Taoiseach raising this are a good deal less than in the past. You may however wish to draw the attached background note and line to take to the Prime Minister's attention.

I am sending copies of this letter and enclosures to Peter Ricketts (FCO) and Richard Hatfield (Cabinet Office.)

Yours ever

Derek Hill

D A HILL

KL

E.R.

McGOVERN CASE

Line To Take

I know that Mr Prior and Mr Noonan discussed the case on 10 January. Mr Prior said the UK authorities had taken the matter as far as they could on the material supplied. Mr Noonan agreed that the matter was essentially for the police and not for government.

2. I very much welcome direct communication between Mr Prior and Mr Noonan and hope it will continue. This will provide an opportunity for Mr Prior and Mr Noonan to discuss any difficulties in their respective areas of responsibility.

3. NIO officials have had recent discussion with officials in the Department of Justice. For our part we are very anxious that these exchanges should continue. I am sure these meetings would be a good place in which to tackle at an early stage any misunderstandings which might arise from time to time.

McGOVERN CASEBackground

James McGovern was arrested by the RUC on 27 September 1982 when he was due to give evidence at Dowra District Court, County Leitrim, in the trial of Garda Thomas Nangle for assault. Garda Nangle was the brother-in-law of the then Minister for Justice, Sean Doherty, and his acquittal by the court on the non-appearance of McGovern gave rise to suspicions of collusion between the RUC and the Garda.

2. On Dr FitzGerald's return to power in late 1982 the Garda Commissioner and his deputy, Mr Ainsworth, resigned. The new Commissioner, Mr Wren, initiated inquiries with the RUC who followed up all the original leads without result. On May 1983 the Garda Commissioner supplied further information which purported to implicate an Assistant Chief Constable of the RUC. The Chief Constable treated this as a formal complaint, which necessitated the initiation of a formal investigation, and asked the Garda Commissioner to supply formal statements to provide the basis for any inquiry.

3. The Commissioner failed to come up with the information and eventually wrote to the Chief Constable at the beginning of October 1983 in a conciliatory tone, explaining that he had not wished to make a complaint against the RUC and simply sought information to enable the Garda to assess whether there had been any impropriety

in their force. In the absence of any requirement for a formal inquiry the Chief Constable was able to pursue his own investigations. The Irish were informed of the outcome on 2 November 1983 when the Chief Constable made it clear to the Commissioner that there were no grounds for any suspicion that the RUC had acted improperly.

4. The Taoiseach raised the affair with the Prime Minister at the Summit meeting on 7 November 1983, indicating that the Chief Constable's reply was unsatisfactory and attributing a lack of confidence between the two police forces at a senior level to the incident. In an effort to clarify the misunderstandings the Ambassador saw Mr Nally on 23 November. Although Mr Goodison emphasised the need for continued security co-operation and suggested that the matter would be best pursued between the two forces, rather than at senior government levels, the matter was not allowed to rest.

5. Against the background of increased terrorist activity and heightened media speculation about the significance of the incident in contributing to a major rift between the two police forces, Mr Prior met Mr Barry in Brussels on 29 November 1983. Both agreed on the necessity to allay doubts about the state of security co-operation and agreed to a meeting between the two Chief Police Officers to be followed, at a more propitious time, by a meeting between the Secretary of State and Mr Noonan. Mr Barry made it clear that the Dowra Affair could be regarded as closed.

6. The Taoiseach raised the issue again with the Prime Minister in the margins of the European Council meeting in Athens on 5 December 1983. The matter had assumed a domestic political

dimension in the Republic and was allied to a wish by the new Commissioner to distance himself from the regime of his predecessor. While the Prime Minister and the Taoiseach both agreed that every effort should be made to resolve the issue Commissioner Wren refused however to agree to a meeting with the Chief Constable. Mr Prior and Mr Noonan discussed it further on 10 January. Mr Prior expressed the hope that Mr Noonan would appreciate that the United Kingdom authorities had taken the matter as far as they could on the material with which they had been supplied, and that the Irish would not feel it necessary to raise this matter in general terms at senior levels of government. Mr Noonan said that this was essentially a matter for the police and not for the Government, and this appears to have been borne out in the subsequent security discussions between officials where the issue has not taken on any great significance.

7. We have no reason to believe that the Irish will wish to bring the matter up again at government level at this stage. Reports of an internal Garda inquiry held on 7 and 8 February, accompanied by speculation that disciplinary charges might be laid against a senior officer, indicate that the Irish may finally accept that the RUC is not in a position to supply firm evidence to assist them in putting their own house in order. Mr McGovern has taken legal proceedings against the Chief Constable and the Secretary of State. The Irish are aware that the papers relating to Mr McGovern's parallel complaint against the police are with the DPP and will, after his decision, go to the Police Complaints Board.

16 MAR 1984



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10 DOWNING STREET

From the Private Secretary

12 March 1984

As you may know, the Prime Minister has agreed to hold a meeting with the Taoiseach in the margins of the European Council in Brussels.

The usual briefing is doubtless being prepared. The purpose of this letter is simply to ask that the briefs should include an account of the latest position on the McGovern case. It would be helpful if the factual background could be fairly detailed. You will recall that Dr. FitzGerald raised the matter with some emphasis at his meeting with the Prime Minister in Athens on Monday 5 December (my letter of that day).

I am copying this letter to Peter Ricketts (Foreign and Commonwealth Office) and Richard Hatfield (Cabinet Office).

John Lyon Esq
Northern Ireland Office.

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for Brussels

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Ref. A084/807

MR COLES ✓

*A. & C. By**f.c.*Anglo-Irish Relations: Northern Ireland

Thank you for your minute of 6 March.

2. I have sent a message to Mr Nally saying that, while the Prime Minister looks forward to a meeting with the Taoiseach in the margins of the European Council in Brussels next week, the amount of time they will be able to spend on Anglo-Irish business will inevitably depend upon the time required for the main purpose of the meeting, which could be considerable. I have suggested that Mr Nally should be in touch when we are in Brussels.

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Approved by
ROBERT ARMSTRONG
and signed in his absence

12 March 1984

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