



SECRET & PERSONAL

26A

Chancellor of the Duchy of Lancaster

Prime Minister
To note - though
you have decided
that we do need a
review mechanism.

PRIME MINISTER

ANGLO-IRISH RELATIONS: NORTHERN IRELAND

I have seen Sir Robert Armstrong's minute to you of 3 June and also the Foreign and Commonwealth Secretary's minute of 5 June. I am content with the revised text attached to Sir Robert's minute. I particularly support the arguments put forward by him against proposing a provision for unilateral suspension or termination of, or withdrawal from, the Committee's activities. I agree with the Foreign and Commonwealth Secretary (para 2 of his minute) that the key point is reciprocity over withdrawal with the Republic, but it is also worth noting that to press for such a provision would play into Fianna Fail's hands and almost certainly kill off this particular initiative.

I am sending copies of this minute to the other members of OD(I) and to Sir Robert Armstrong.

GOWRIE
6 June 1985

SECRET & PERSONAL



10 DOWNING STREET

Prime Minister

You wanted to
talk to the Northern
Ireland Secretary about
a review mechanism.

I have
arranged this for
after Cabinet (if time
is time).

mt C.D.P.
5/6



The conclusion is that there is no real scope for a review mechanism. If things don't work out, we just denounce the agreement.

Ref. A085/1482

PRIME MINISTER

Anglo-Irish Relations: Northern Ireland

Following the meeting of OD(I) on 23 May, the draft of the British proposal in the exploratory talks with Irish officials has been further amended. The latest version is attached. Most of the changes agreed by OD(I) were specific alterations of wording. But on two points officials were instructed to devise wording.

2. The first of these was the need for a review mechanism in any Anglo-Irish agreement which would enable the United Kingdom unilaterally to suspend the work of the Standing Intergovernmental Committee, if possible without affecting the article in the agreement about the status of Northern Ireland.
3. Paragraph 4 of the new draft provides that either Government may propose changes in the provisions of the agreement which concern the Committee. Under this provision we could, for example, call for less (or more) frequent meetings or a less wide (or wider) range of subjects. Since the language proposed would allow additional subjects to be suggested, we have deleted the final sentence of paragraph 3 of the previous text which explicitly provided for the addition of more subjects in the future.
4. The suggested language would provide for such proposals to be discussed outside the Committee (though still, it is suggested, within the framework of the Anglo-Irish Intergovernmental Council). If under this arrangement we were to propose curtailment or suspension of the Committee's activities,



we could say that we wanted to discuss the proposal with the Irish Government and that in the meantime the Committee could not continue to operate as if the proposal had not been made. The Irish could argue that the Committee should continue to function unchanged unless or until they had accepted the proposals or agreed with us to a compromise. International practice would tend to support the Irish view. There would clearly be a risk that, if we made a proposal which was tantamount to suspension or termination of the Committee, the Irish Government would react by denouncing the whole agreement - including the article on the status of Northern Ireland.

5. The attached draft does not provide for unilateral suspension or termination of or withdrawal from the Committee's activities. There would of course be no technical difficulty about drafting such a provision; but there seem to officials to be strong reasons against proposing any such provision to the Irish:

- (1) The inclusion of such a provision would make it unduly easy for a Fianna Fail government in Dublin to withdraw from the Committee.
- (2) The Irish Government would be very unlikely to accept a proposal which enabled us in effect to withdraw from the part of the agreement which they want while leaving them locked in to the part which we want (notably paragraph 2): they would insist on any provision for unilateral suspension or termination applying to the whole agreement.
- (3) Irish suspicions of the genuineness of the British Government's commitment to this process were keenly aroused by our revisions to the old paragraph 2 (now paragraph 5) of the British proposal. The amendments which you and the two Secretaries of State agreed restored the position; but I have no doubt that those suspicions would be reawakened if



we were now to propose that there should be provision for unilateral suspension or termination of the Committee's activities.

6. The truth is, surely, that in the sort of circumstances in which we wanted unilaterally to suspend the Committee's activities, the fact that there was no provision for doing so in the agreement would be the least of our troubles: the Committee would just cease to work for a period because the basis of mutual trust on which it rested would have been at any rate temporarily undermined. It would probably not be too difficult to find ways of suspending the Committee's activities without technically breaching the agreement, if it seemed politically important to do so.

7. The attached draft does not provide for termination of the activities of the Committee. I am advised that under international law we should not be able to terminate only that part of the agreement that concerns the Committee and leave in force the rest - including the article on the status of Northern Ireland. As regards termination of the agreement as a whole, the position is that, if no specific provision on termination is included in an agreement, a state may denounce the agreement on notice if this right is to be implied by the nature of the agreement. I am advised that there are reasonable grounds for thinking that this particular agreement would fall within this rule. - Such as what?

8. The second point on which officials were required to devise language concerned the exclusion from the Standing Intergovernmental Committee's remit of matters transferred to any devolved administration in Northern Ireland. We have deleted the last part of paragraph 8 (paragraph 7 in the previous draft), which was considered insufficiently clear, and replaced it by an addition in the second sentence of paragraph 5, which states



clearly that the matters on which the Irish Government could put forward views and proposals in the Committee would exclude any which were the responsibility of a devolved administration.

9. The Irish Government are evidently worried about the state of the negotiations and have been asking us when we shall be ready to give them an amended version of our proposal. I suggest that, if members of OD(I) are willing to clear the attached text out of committee, officials should give it to the Irish as soon as possible, with a view to further discussions with them when those can be arranged.

10. I am sending copies of this minute to the other members of OD(I).

RA

CONQUEROR

ROBERT ARMSTRONG

3 June 1985

Draft of 3 June 1985

ANGLO-IRISH RELATIONS: NORTHERN IRELAND

British Proposal

I. Preamble

1. The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland -

wishing further to develop the unique relationship between their peoples and the close co-operation between their countries as friendly neighbours and as partners in the European Community;

recognising the major interest in both their countries, and above all of the people of Northern Ireland, in achieving lasting peace and stability in Northern Ireland;

recognising the need for continued efforts to diminish the divisions in Northern Ireland and

to reconcile the two major traditions that exist in the two parts of Ireland;

reaffirming their total rejection of any attempt to promote political objectives by violence or the threat of violence and their determination to work together to combat those who adopt or support such methods;

recognising that a condition of genuine reconciliation and dialogue between the two communities in Northern Ireland is mutual recognition and acceptance of the rights of each community;

recognising and respecting the identities of the two communities in Northern Ireland, and the right of each to pursue its aspirations by peaceful and constitutional means;

reaffirming their commitment to a society in Northern Ireland in which all may live in peace, free from discrimination and

intolerance and with the opportunity for both communities to participate fully in the structure and processes of government;

agree as follows:

II. Status of Northern Ireland

2. The two Governments:

1. agree that any change in the status of Northern Ireland could come about only with the consent of a majority of the people of Northern Ireland;

2. recognise that the present wish of the majority is for no change in the status of Northern Ireland;

3. declare that, if in the future a majority of the people in Northern Ireland clearly wished for and formally consented to the establishment of a united Ireland, they would support the introduction in the respective Parliaments of legislation to give effect to that wish.

III. The Standing Intergovernmental Committee

3. There would be established within the framework of the Anglo-Irish Intergovernmental Council a new Committee, to be known as the Standing Intergovernmental Committee, to deal on a regular basis and in relation to Northern Ireland with -

- a. political matters;
- b. security and related matters;
- c. legal matters, including the administration of justice;
- d. cross-border co-operation;

as set out in this agreement.

4. The Committee would determine its own arrangements and procedures within the provisions of this section of the agreement. It would be open to either Government to make proposals to the

other, within the framework of the Anglo-Irish Intergovernmental Council, for changes, either temporary or permanent, in those provisions.

5. Unlike the existing AIIC machinery this Committee would be primarily concerned with North/South rather than East/West relationships and would meet on a regular rather than ad hoc basis. The British Government would accept that the Irish Government would put forward views and proposals on matters relating to Northern Ireland within the body's remit in so far as those matters were not the responsibility of a devolved administration in Northern Ireland. Attention would thus be given to these matters at the highest level. In the interest of promoting peace and stability, determined efforts would be made through the Committee to resolve any differences. The focus of the Committee's work would be mainly in Northern Ireland; but some of the matters under consideration would involve co-operative action in both parts of the island of Ireland and possibly also in Great Britain. Some of the proposals considered in respect of Northern Ireland might also be found to have application by the Irish Government. There would be no derogation of

sovereignty on the part of either the United Kingdom Government or the Irish Government, so that each would retain responsibility for the administration of government within its own jurisdiction.

6. The Committee would meet at Ministerial or official level, as required. There would be regular and frequent Ministerial meetings; and special meetings could be convened when necessary at the request of either side. Officials might meet in Sub-Committees. Membership would be small and flexible. When the Committee met at Ministerial level the Secretary of State for Northern Ireland and an Irish Minister designated as the Permanent Irish Ministerial Representative would be joint Chairmen. Other British and Irish Ministers could attend meetings as appropriate: thus when legal matters were under consideration the Attorneys General might attend. Ministers would be accompanied by their officials and professional advisers: for example, when questions of security policy or security co-operation were being addressed they could be accompanied by the Chief Constable of the Royal Ulster Constabulary and the Commissioner of the Garda Siochana. The

appropriate Secretariat would be provided by the two Governments.

7. In relation to matters coming within its remit, the Committee would constitute a framework within which the Government of the United Kingdom and the Government of the Republic of Ireland could work together:

i. for the accommodation of the rights and identities of the two traditions which exist in Northern Ireland; and

ii. for peace, stability and prosperity throughout Ireland by promoting reconciliation, respect for human rights, co-operation against terrorism and the development of economic, social and cultural co-operation.

8. It is the declared policy of the British Government that responsibility in respect of certain matters within the remit of the Secretary of State for Northern Ireland should be devolved within Northern Ireland on a basis which would

secure widespread acceptance throughout the community. The Irish Government support that policy.

9. Both Governments recognise that devolution can be achieved only with the co-operation of the constitutional representatives within Northern Ireland of both the traditions there. If full devolution had not taken place, the Committee would constitute a framework within which the Irish Government could put forward views and proposals on the modalities of devolution in Northern Ireland, in so far as they bore on the interests of the minority community.

Political Matters

10. The Committee would concern itself with measures to recognise and accommodate the rights and identities of the two traditions in Northern Ireland, to protect human rights and to prevent discrimination. Matters to be considered in this area in respect of Northern Ireland include measures to foster the cultural heritage of both traditions, changes in electoral arrangements, the use of flags and emblems, the avoidance of economic and social discrimination and the advantages and

disadvantages of some form of Bill of Rights in Northern Ireland.

11. The focus of discussion of these matters would be on Northern Ireland, but the possible application of any such measures by the Irish authorities in the South would not be excluded.

12. Should it prove impossible to achieve and sustain devolution on a basis which would secure widespread acceptance in Northern Ireland, the Committee would constitute a framework within which the Irish Government could put forward views on proposals for major legislation on Northern Ireland matters, and on major policy issues within the responsibility of the Secretary of State for Northern Ireland, significantly affecting the interests of the minority community.

13. The Committee would provide a framework within which the Irish Government could put forward views on appointments to be made by the Secretary of State for Northern Ireland to bodies including -

the Standing Advisory Commission on Human Rights;

the Fair Employment Agency;

the Equal Opportunities Commission;

the Police Authority for Northern Ireland;

the Police Complaints Board.

Security and Related Matters

14. The Committee would consider:

- a. security policy;
- b. relations between the security forces and the community;
- c. prisons policy.

15. The Committee would address the security situation at its regular meetings. This would provide an opportunity to address policy issues, serious incidents and forthcoming events (eg parades and processions).

16. The Committee would consider relations between the security forces and the community, with particular reference to the minority community in Northern Ireland. With a view to promoting greater confidence in the security system, a programme of action would be put in hand which might include: the establishment of local consultative machinery, training in community relations, crime prevention schemes involving the community, improvements in arrangements for handling complaints, and action to increase the proportion of members of the minority in the RUC. It would be accepted by both sides that these matters would be directed primarily towards Northern Ireland, with the object of making the security forces more readily accepted by the minority community there, but that some of them might be developed by the Irish authorities in ways which might also have an application in the South.

17. The Committee would also be able to consider policy issues in the prisons. Individual cases could be raised as appropriate, so that explanations could be given or inquiries instituted.

Legal Matters, Including the Administration of
Justice

18. The Committee would deal with issues of concern to both countries relating to the enforcement of the criminal law. In particular it would consider whether there are areas of the criminal law applying in the North and in the South respectively which might with benefit be harmonised. The two Governments agree on the desirability of ensuring that there is public confidence in the administration of justice. The Committee will seek means to this end, considering inter alia the possibility of establishing a system of joint courts for trying terrorist crimes. It would also be concerned with the oversight and review of arrangements between North and South for extradition and extra-territorial jurisdiction.

Cross-border Co-operation

Security Co-operation

19. With a view to enhancing co-operation between the security forces of the two Governments, the Committee would set in hand a programme of work to

be undertaken by the Chief Constable and the Commissioner and groups of officials in such areas as threat assessments, exchange of information, liaison structures, technical co-operation, training of personnel, and operational resources.

20. The Committee would have no operational responsibilities; responsibility for police operations would remain with the heads of the respective police forces, and the Chief Constable of the Royal Ulster Constabulary would maintain his existing links with the Secretary of State and the Commissioner of the Garda Siochana his accountability to the Minister for Justice.

Economic, Social and Cultural Co-operation

21. The two Governments would co-operate to promote the economic and social development of those areas of both parts of Ireland which have suffered most severely from the consequences of the instability of recent years, and consider the possibility of securing international support for this work.

22. Should it prove impossible to achieve and sustain devolution on a basis which would secure widespread acceptance in Northern Ireland, the Committee would constitute a framework for the promotion of co-operation between North and South in Ireland in relation to cross-border aspects of economic, social and cultural matters in relation to which the Secretary of State continued to exercise authority.

23. If responsibility were devolved in respect of certain matters under this heading currently within the remit of the Secretary of State, there would need to be machinery for practical co-operation between the responsible authorities North and South in respect of cross-border aspects of those issues.

IV. Inter-Parliamentary Relations

24. The two Governments agree that it would be for the Houses of Parliament in Westminster and the Oireachtas in Dublin to consider whether an Anglo-Irish Parliamentary body of the kind adumbrated in the Anglo-Irish Studies Report of November 1981 could be established.