

SECRET AND PERSONAL



10 DOWNING STREET

From the Private Secretary


SIR ROBERT ARMSTRONG

ANGLO-IRISH RELATIONS: NORTHERN IRELAND

The Prime Minister has considered your minute of 14 October about your latest round of discussions with Mr. Nally. She was grateful for your efforts to secure inclusion of "decisions and" in Article 2(b) and the omission of "permanent" in Article 3. She notes the continuing difference of opinion about the title of the new body.

We shall need a meeting following the Prime Minister's return from CHOGM and New York to consider proposed paragraphs 7 and 8 of the communique and also to discuss how the draft agreement should be presented to Cabinet. Mrs. Ryder will be in touch to set a date for this.

I am copying this minute to the Private Secretaries to the Foreign and Commonwealth Secretary and the Secretary of state for Northern Ireland.


CHARLES POWELL

15 October 1985

SECRET AND PERSONAL

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PRIME MINISTER

Anglo-Irish Relations: Northern Ireland

We had a further meeting with Mr Nally and his team in London on the evening of 13 October and on 14 October. This minute reports the outcome of our discussions.

Draft Agreement

2. On the proposed amendment to Article 2(a); we argued for "between the Republic of Ireland and Northern Ireland". This was not acceptable to the Irish side; and we agreed (ad referendum) to use the formulation adopted in Article 2(b), so that the amendment would now read: "concerned with relations between the two parts of the island of Ireland". This ensures that the reference to "Ireland" is purely geographical.
3. On the last sentence of Article 2(b) we persuaded the Irish side with some difficulty to accept the inclusion of the words "decisions and".
4. On the last sentence of Article 3, the Irish side sought to reinstate the word "permanent". The reason for this was that they wanted it to be clear on the face of the Agreement that the Secretariat would not exist just when the Committee was meeting but would have a continuing existence. I said that we had no authority to accept the inclusion of the word "permanent"; but I agreed to put to Ministers the suggestion that the sentence might read: "a Secretariat shall be established by the two Governments to service the Committee on a continuing basis in the discharge of its functions as set out in this Agreement".

5. We had a long and inconclusive discussion about the title of the new body. The Irish side maintained their objection to "Committee", and have promised to prepare a note setting out their objections in greater detail. I made it clear that "Commission" would not be acceptable to British Ministers. A number of other possibilities were floated including "Conference", "Panel" and "Group". The matter remains unresolved.

6. Some minor discrepancies between the United Kingdom text and the Irish text of the draft Agreement were resolved.

--- 7. I attach a copy of the revised draft Agreement in its present form. The only outstanding point is now the last sentence of Article 3.

Joint Press Release

8. A number of minor amendments were agreed, to bring the press release even more closely into line with the draft Agreement. The only outstanding difference is now the last sentence of paragraph 6, relating to the reference to the Secretariat: that is the same point of difference as on the draft Agreement.

--- 9. I attach a copy of the revised draft press release.

Joint Communiqué

10. Two changes were proposed to paragraph 7 of the draft communiqué:

- a. For the words "in the first instance" substitute "at its initial meetings".
- b. For "in the interests of all the people of Northern Ireland the two sides look for early progress in these matters" substitute "in the interests of all the people of

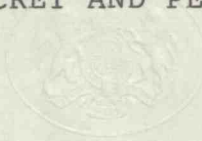


Northern Ireland the two sides are committed to work for early progress in these matters".

11. In this context the British side made it clear that, while we were prepared to look for measures to improve confidence in the administration of justice in Northern Ireland, our position on mixed courts remained unchanged from what had been said in your message of 4 October to the Taoiseach.

12. The Irish side confirmed that, as stated in what is now the last sentence of paragraph 7, it was the Irish Government's intention to accede to the European Convention on the Suppression of Terrorism, and they would be embarking upon the preparation of legislation for this purpose (though that preparation could take 6 to 12 months). They thought, however, that the Government might be obliged by the outcome of three recent cases (notably that of McGlinchy) to include in their legislation provisions requiring their courts in considering applications for extradition to call for prima facie evidence. Extradition can at present be granted (between Northern Ireland and the Republic of Ireland) on the basis of a procedure of backing warrants. The fact that McGlinchy won his appeal in Northern Ireland, after being extradited from the Republic, was (they acknowledged) a valuable demonstration of fairness in the administration of justice in Northern Ireland; but the fact that the appeal succeeded because the prosecution's evidence was inadequate or inadmissible could lead to demands in the Republic for making the hearing of prima facie evidence part of extradition proceedings between North and South (prima facie evidence is of course already a requirement for most extradition cases in the British courts, though we have been much criticised by some countries for retaining this requirement).

--- 13. I attach a copy of the revised draft communiqué.

Security

14. We left with the Irish side a "non-paper" summarising the changes which we had made or were in the process of making in relation to the UDR. This note had been agreed with the Ministry of Defence and the Northern Ireland Office.

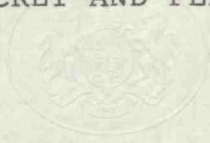
15. The Irish side left with us a "non-paper" about the increased activity of the Irish security forces in border areas.

--- I attach copies of both these notes.

16. We had a considerable further discussion with the Irish side about the role and functions of the proposed Secretariat. They did not seek to contest the suggestions put to them in the Northern Ireland Office's note of illustrative examples in the way in which the Committee and the Secretariat would work, though they stressed the need for flexibility of operation particularly in the early months.

Presentation

17. Considerable work has been done on the preparation of a comprehensive study of questions and answers for the use of British and Irish Ministers after the signature of an Agreement. The most difficult issue is likely to relate to the "present status of Northern Ireland". The Irish side are satisfied that Article 1 of the draft Agreement, as at present drafted, minimises the risk of constitutional challenge in Ireland. It is accepted that the present status of Northern Ireland is that it is part of the United Kingdom, and that that will not change unless and until a majority of the people of Northern Ireland consent to a change. They will want to try to protect the Taoiseach from the risk of constitutional challenge in respect of anything that may be said in questions and answers following the signature of an Agreement. This is to be the subject of further discussion.



18. I am sending copies of this minute to the Secretaries of State for Foreign and Commonwealth Affairs and Northern Ireland.

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ROBERT ARMSTRONG

14 October 1985

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