

Ref. A085/2767

PRIME MINISTER

Cabinet: Northern Ireland Affairs

Flag A _ The Cabinet discussed this subject on 25 July. Since signature of the Anglo-Irish Agreement is now planned for mid-November, the purpose of this week's discussion in Cabinet is to reach a decision on whether to go ahead. The meeting will have before it a memorandum by the Foreign and Commonwealth Secretary and the Secretary of State for Northern Ireland (C(85) 25), to which the draft Agreement and the draft Summit Communiqué are annexed. For security reasons, this does not mention the likely date and place of signature of the Agreement, and I suggest that you should if possible avoid these matters in the discussion.

Flag B _

HANDLING

2. I suggest that it would greatly aid the discussion if you were to introduce the subject briefly yourself. You could say that the negotiations have produced a package which in certain respects - notably the fact that the Irish Government is no longer prepared to envisage an amendment to Articles 2 and 3 of the Irish Constitution - falls short of what we originally wanted but which still offers definite advantages, notably the formal reassurance by the Irish Government as well as the British Government to the unionists in Article 1 of the Agreement that the status of Northern Ireland would only change if a majority there so wished, and also the prospect of improved co-operation with the Irish Republic against terrorism; and that efforts have been made through drafting amendments to minimise the potential disadvantages, notably the creation of any impression that the new Intergovernmental Conference could share in decisions in

Northern Ireland. You may wish to add that the proposed package offers the political advantage that the Government would be seen to be making a serious attempt to achieve progress on one of the most agonising problems that have faced this country.

3. You could then invite the Secretary of State for Northern Ireland and the Foreign and Commonwealth Secretary to speak, I suggest in that order.

4. You could then structure the discussion to cover the main issues in turn -

a. Mixed Courts. You could say that we have been extremely explicit to the Irish at every level (including your own and the Taoiseach's) about our unwillingness and inability to commit ourselves to the establishment now or in the future of mixed courts, and that the mention of the subject in Article 8 of the draft Agreement, which would involve us only in discussion without commitment in the Intergovernmental Conference, has been watered down since the Cabinet last discussed the draft Agreement and is the least that the Irish will wear. The Lord Chancellor will wish to speak.

b. European Convention on the Suppression of Terrorism. When we finally convinced the Irish that we would not undertake any commitment on mixed courts, they said that they could not maintain their decision to accede to the European Convention on the Suppression of Terrorism. In further discussion, we brought them back to a willingness to announce, when the Agreement was concluded, their intention to accede to the Convention (paragraph 7 of the draft Communiqué). The preparation and passing of the legislation needed to pave the way for accession would take 12 to 18 months. The implication is that they would then decide on accession to the Convention, taking account of

progress meanwhile regarding relations between the security forces and the nationalist community and regarding the latter's confidence in the administration of justice. Officials have been instructed to make it clear to the Irish Government that, while it would be acceptable for the Irish Government to say that their intention to accede was "in the context of" or "having regard to" the Anglo-Irish Agreement, it would not be acceptable for them to say that a decision to accede would be in any way conditional upon progress or performance on matters contained in the Agreement (or any part of it on the introduction of mixed courts). You should invite the Solicitor General who has been invited to attend the discussion in the absence of the Attorney General, to speak.

c. The Role of the Intergovernmental Conference and the Secretariat. The Agreement now makes absolutely clear, notably at the end of Article 2(b), that the Intergovernmental Conference would not take decisions. The Irish wish for a Secretariat with a certain power to act off its own bat has been rejected. It is agreed that the Conference would as a rule meet in Belfast, and that the Secretariat would be located there; but the location for the first meeting of the conference and the timetable for the establishment of the Secretariat in Belfast will be for further discussion with the Irish Government, having regard to considerations of security (there is some danger that the Irish side of a Secretariat could become a focus for the attention of loyalist paramilitary groups).

d. The Security Forces. The Irish were earlier pressing us for significant changes, especially regarding the Ulster Defence Regiment. We have resisted, and the very limited steps which we are taking - the initial training of recruits to the part-time cadre of the UDR to be increased from 8 to 14 days; the regular army and RUC to play a

greater part in training the UDR; new recruits to the UDR not normally to make arrests - have been approved by the Secretary of State for Defence as intrinsically worthwhile. They would be implemented unilaterally and would not be part of the Agreement.

e. The debate in Parliament. When the Cabinet discussed this subject in July, it was decided that there should be a debate in Parliament before the Agreement entered into force. Article 13 now provides for the Agreement to enter into force after the two Governments have exchanged notifications of their acceptance of it. The draft Summit Communiqué states the two Governments would not exchange such notifications until the two Parliaments had approved the Agreement. You may wish to ask the Lord Privy Seal and the Chief Whip to speak.

f. Publicity. You may wish to inform colleagues that your own personal commitment to the Agreement would be made publicly clear from the moment of signature, through your joint press conference with the Taoiseach, your initial statement in Parliament and your opening of the debate in Parliament.

g. Likely reactions in Northern Ireland. The intelligence assessments are reasonably reassuring. See in particular JIC(85) (IA) 57 of 28 October. You should ask the Secretary of State for Northern Ireland to comment.

h. Likely international reactions. You should ask the Foreign and Commonwealth Secretary to comment. A particular point of interest is that an Anglo-Irish Agreement concluded in the coming weeks could significantly increase the chances that the United States Congress will



approve the supplementary extradition treaty between the United Kingdom and the United States. The Home Secretary should be asked to comment.

CONCLUSIONS

5. I suggest that you should lead the Cabinet to decide that the proposed Agreement, while far from being a "final solution" to the problems of Northern Ireland, would be a modest but useful step forward in Northern Ireland, offering gains which on balance outweigh the risks. Moreover, a decision at this stage not to go ahead would offer no gains and as great or greater risks. You could invite the Cabinet to agree that, unless the situation in Northern Ireland should sharply deteriorate in the near future, you should be prepared to sign the Agreement at a meeting with the Taoiseach in the coming weeks.

6. Please could you ask colleagues to leave all copies of the memorandum on the Cabinet table for collection after the discussion.

MS

for

ROBERT ARMSTRONG

29 October 1985

FAIR PLAY FOR NORTHERN IRELAND

CC 31
Given to the
PM by Dr.
Risley
CPM.

The people who will be most affected by an Anglo-Irish deal on Northern Ireland will be those British subjects who inhabit the Province. Yet, astonishingly, the one group of people who are completely - and deliberately - excluded from information as to what is being devised by representatives of the British and Irish Governments is the majority unionist community in Ulster. Representatives of the minority community have been briefed regularly by the Dublin Government. Yet the Unionist people of Northern Ireland have been kept in the dark. Why?

The Prime Minister is on record in stating that 'confidentiality' is essential to the talks. She has not adequately explained why this is so. In such an atmosphere of secrecy Unionists can hardly be criticised for concluding that whatever has to be kept under such close wraps until after the deal has been struck (at a summit meeting between Mrs. Thatcher and Dr. Fitzgerald in November) must be profoundly damaging to Unionism.

In spite of the obstacles, Unionists have been able to discover the main component of the likely deal. If they are accused of dealing in rumour and speculation, this is only because it is the position that they have been driven into by the British Government.

ANGLO-IRISH JOINT MINISTERIAL COMMITTEE AND SECRETARIATE.

This is a mechanism to give the Republic of Ireland Government a say in all areas of British policy and administration in Northern Ireland. The

machinery itself could look rather like the EEC Council of Ministers wherein Ministers from each Member state meet to make joint decisions about Community policy. In addition, the Committee would be serviced by a secretariate made up of both British and Irish civil servants. Although designed eventually to be based in Belfast, the secretariate may initially be accommodated in either London or Dublin until (it is hoped) Unionist opposition has subsided. Such machinery would be attractive to Dublin as it could be sold in the Republic as not unlike the "joint authority" option contained in the report of the New Ireland Forum.

BRITISH SOVEREIGNTY OVER NORTHERN IRELAND.

Such joint machinery would constitute a clear infringement of British sovereignty over the Province. It is one thing for a country to discuss its problems with another and there is nothing objectionable in two governments setting up permanent machinery to keep the full spectrum of mutual difficulties under review. But it is quite different for the British Government to separate Northern Ireland from the rest of the United Kingdom and give the Republic of Ireland, which claims the territory of Northern Ireland in its constitution, a say on how the Province is run.

If Cornwall were to be claimed by France, no-one in the United Kingdom would have any difficulty in seeing a fundamental infringement of British sovereignty if France were to be granted a right to have a say on how that county was governed. Such a concession would be no less objectionable simply because a minority in Cornwall were to seek union with France, but it would be bitterly resented by British people if it was granted in face of terrorist outrages perpetrated by a Cornish equivalent of the IRA.

A FINAL SOLUTION

It is clear that even though the concession by the British Government of a joint ministerial committee treating Northern Ireland as separate and distinct from the rest of the United Kingdom would be regarded by Unionists as betrayal it would not be accepted as final or definitive by Irish nationalists.

The Irish Republic's Minister for Foreign Affairs has already been recorded as indicating that such an arrangement would simply be one step in the general direction of a United Ireland. The Republic's Government has been at pains to reassure its electorate that the objective of a United Ireland has not been abandoned. On the Irish nationalist side, the current negotiations are described as part of a process which nationalists will insist must continue after a deal is struck at the 1985 summit. Nationalists believe that once the principle of the Republic's intervention in Northern Ireland has been conceded by Britain, the task of hiving Northern Ireland off from the rest of the U.K. becomes all the easier. On the other hand, many British politicians fail to realise that in terms of the nationalist aspiration for a United Ireland there can be no such thing as a permanent compromise position short of unity.

THE TROJAN HORSE

A subsidiary objection to a joint ministerial committee and secretariate is the scope for mischief inherent in such machinery. For example, if the I.R.A. were to engineer controversial security incidents will the Irish side of the joint machinery accept the British approach?

Or, will the British side be under pressure to react in a particular way to placate the Irish side? How will those charged with the administration of Northern Ireland cope with institutionalised intrusion from people who are from another State and whose declared aim is for the annexation of Northern Ireland by the Republic? Will they feel constrained to make concessions at the expense of the loyal British subjects of the Province?

The Northern Irish judiciary has been the target of a sustained campaign by the present Irish Government. If the 1985 summit deal does not include changes in the Northern Irish judiciary will the Government of the Republic through its side of the joint committee continue its campaign against certain of the Northern Irish judges?

THE VALUE OF A DEAL TO BRITAIN.

Although a deal of the type outlined would be viewed by Unionists as striking at the foundation of their position in the United Kingdom, a deal with the Republic would be of limited value to Britain.

It may be designed to placate vociferous Irish nationalist opinion in the United States. But such opinion will not be content with anything short of a United Ireland.

The Prime Minister herself is on record as putting forward improved security co-operation with the Republic as a major attraction of a deal. This very attraction underlines the unscrupulousness of the Republic's Government. If it can improve security co-operation it should do so to save the lives and property of the people of Northern Ireland - whom it claims the right

to govern - without any quid pro quo from the United Kingdom. To hold back on security co-operation in order to pressurise the British Government into concessions on Northern Ireland is nothing short of disgraceful.

THE SOCIAL DEMOCRATIC AND LABOUR PARTY.

Another alleged objective of the planned Anglo-Irish deal is to induce Mr John Hume's S.D.L.P. to participate in the administration of Northern Ireland. His party not only continues to boycott the Northern Ireland Assembly (set up by the present British Government), it also refuses to support the security forces and the judicial system.

The question has to be posed now - for it will certainly arise after the deal is struck - In return for the British Government agreeing to a weakening of Northern Ireland's position within the United Kingdom, will the Government be certain that the S.D.L.P. will publicly lend its support to the Royal Ulster Constabulary, the British Army and the courts in dealing with terrorism?

THE RIGHT OF SELF-DETERMINATION

Like all free peoples, the citizens of Northern Ireland claim the right of self determination. In a sense this right is reflected in the Northern Ireland Constitution Act 1973. This Act purports to guarantee Northern Ireland's place within the U.K. and permits change only with the consent of the people of Northern Ireland voting in a poll. However, it is clearly implicit in a right to remain part of the U.K., that membership is to be enjoyed on a basis of equality with the other countries making up the Union.

There is no such constitutional animal as a second class member.

Unionists contend that if Northern Ireland is separated from the rest of the Kingdom, by giving a foreign state a quite exceptional influence over a part of Her Majesty's dominions then the right of self-determination has been clearly infringed unless this intrusion has the consent of the majority in Northern Ireland.

Such a right to give - or withhold - consent is all the more vital when it is remembered that Article 2 of the Constitution of the Republic of Ireland reads:

"The national territory consists of the whole island of Ireland, its islands and territorial seas".

The removal of this claim to the territory of Northern Ireland has not been stated by the British Government to be a condition precedent to the Republic having a formal say as to how Northern Ireland is to be governed. A country which refuses to withdraw what is tantamount to a claim to annex the Province is to be given a right of interference. How in the name of justice can the people of Northern Ireland be denied the right to have their say on the acceptability of such a deal?

Yet the Prime Minister seems to be determined that the British Parliament alone will decide. The Conservative Party will be required to support the Government. The British Labour Party is already on record as supporting any deal that suits "the Irish" - without knowing what is in the deal and apparently unconscious of the irony that its own definition of "the Irish" includes Unionists whom the deal very definitely will not suit.

There are only fifteen Unionists in a parliament of [^]Members.

The Government's attitude is in stark contrast to its position on devolved government for Northern Ireland. This, the Prime Minister has said, can only be restored "on a basis that is acceptable to both sides of the Community". Thus, when it comes to a deal with the Irish Republic which Unionists regard as a sell-out, their voice is to be swamped in a decision taken by the British Parliament as a whole. But when it comes to devolved government, Mr John Hume's S.D.L.P. with one member of parliament has a veto. Is the phrase "fair play" still part of the English language?

The people of Northern Ireland have not forgotten that when constitutional changes were proposed for Scotland and Wales in the nineteen seventies, the people of each country were consulted by referendum. In neither case did the changes involve the intrusion of another state. On this basis alone the claim of the people of Northern Ireland to be consulted - by referendum or election - on the acceptability of the Anglo-Irish proposals is surely unanswerable.

And if the deal is, as is argued, innocuous, what has the British Government to fear? If unionist politicians are wrong in alleging that the joint committee of ministers and its secretariate is of no constitutional significance, will it be beyond the resources of the Government to correct this misinterpretation? Or is the reason why no such test is proposed is because Unionist politicians are not wrong?