

FILE
da



5

10 DOWNING STREET

From the Private Secretary

SIR ROBERT ARMSTRONG
CABINET OFFICE

Anglo-Irish Relations: Northern Ireland

The Prime Minister has seen your minute of 14 May about your recent discussion with Mr. Dermot Nally.

Mrs. Thatcher has made no comment on the substance of what Mr. Nally has to say. She will wish to discuss this with the Foreign and Commonwealth Secretary and the Secretary of State for Northern Ireland in due course. She agrees that you should now copy your minute to them and then submit a further note analysing the options available as a basis for the Ministerial discussion.

A. J. COLES

15 May 1984

CMO

Copy No 1

Ref. A084/1422

PRIME MINISTER

Prime Minister.

The Irish ideas are wildly impracticable - but agree to
the action proposed in the last paragraph?

A.S.C. 14/5

Anglo-Irish Relations: Northern Ireland

Yes Mr

Mr Dermot Nally, Secretary of the Irish Government, came to see me on 11 May on instructions from the Taoiseach to convey the Irish response to the approach which I made to him on the approach which I made to him on the Cabinet's instructions on 1 March. Mr Nally was accompanied by Mr Lillis of the Irish Department of Foreign Affairs and by the Irish Ambassador, Mr Noel Dorr. I was accompanied by Mr Goodall.

2. It was ironical, in view of leaks from Dublin later in the day to the effect that Irish ideas for a 'joint authority' in Northern Ireland were shortly to be discussed between top civil servants, that Mr Nally began by stressing the Taoiseach's pressing anxiety to maintain the absolute confidentiality of our discussions. Although the Irish would wish to be known to be in touch with us about the Forum Report, the Taoiseach's position in relation both to Irish public opinion generally and to opinion within his own Government (which was deeply divided on these issues) would be seriously prejudiced if it became known that he had put to us the specific ideas which we should be discussing. I said that we recognised and shared the Taoiseach's concern. We had done all we could to maintain confidentiality so far, and knowledge of our approach to the Irish and its contents had been confined to the smallest possible circle. In the light of Mr Nally's remarks, we would consider whether matters could be handled here on an even more restricted basis. Mr Nally said that there were already stories in the Irish press about contacts at top Civil Service level. He and I agreed that in answer to any such enquiries we would describe our contacts as routine official meetings in the context of the Anglo-Irish Intergovernmental Council.

3. Mr Nally said that the Taoiseach would be coming under strong pressure to say what the Irish Government were doing to follow up the Forum Report and to urge the British Government

CMO

to act upon its recommendations. The Taoiseach would not want to reply in terms which might embarrass the British Government or damage the prospects for a continuing dialogue between us. After some discussion it was agreed that the Irish would try to confine themselves to saying that there was a continuing dialogue with the British Government through diplomatic channels and that, as part of that dialogue, they had brought the Forum Report to the British Government's attention. For our part we said that we expected the Government to take the line that we were studying the Report and the reactions to it carefully; that it contained positive elements which we hoped would lead to a constructive public debate; and that meanwhile we continued to maintain diplomatic contact with the Irish Government on matters of mutual concern, including the Forum Report.

4. Mr Nally said that the Taoiseach hoped that it might be possible fairly soon for the two Governments to issue a joint statement of principles on "realities". This would provide a basis for continuing the dialogue and cover for continuing confidential contacts. It might appropriately be issued after the next bilateral meeting between the Taoiseach and yourself, in the margins of the Paris European Summit, and could draw on some of the thoughts set out in paragraph 5.2 of the Forum Report (copy attached). I said that agreement might be difficult to reach on any detailed statement of principles. But depending on how the dialogue between us developed, I thought you might be prepared to consider the possibility of a short and fairly general statement to be issued after the next bilateral meeting between the two Heads of Government; and I said that we look at paragraph 5.2 of the Forum Report to see whether there were ideas in it which might be incorporated in such a statement.

5. Turning to my approach of 1 March, Mr Nally said that what he was about to say had been approved by Irish Ministers as an indication of their thinking, but was to be put forward without any commitment and on a strictly exploratory basis. The Taoiseach would want to keep in very close touch with the progress of our discussions. I said that this was similar to the basis on which my approach of 1 March had been made; that we would be content

CMO

CMO

to continue for the moment on the same basis; and that I would want to report fully at every stage to you and to the two Secretaries of State.

6. Mr Nally said that the Irish Government envisaged, as the first element in any agreement which might be reached between the two Governments on Northern Ireland, a solemn undertaking by the Government of the Republic, in terms used at Sunningdale, that the Republic accepted that there could be no change in the status of Northern Ireland without the consent of the majority of its inhabitants. This undertaking, and the agreement incorporating it, would be registered at the United Nations as a binding international treaty. The offer to register such a declaration with the United Nations had been made at Sunningdale but had never been followed up because of the subsequent collapse of the Sunningdale arrangements. In response to questions Mr Nally conceded that an agreement in these terms was likely to be challenged in the Irish Supreme Court (as had happened after Sunningdale) as being incompatible with Articles 2 and 3 of the Constitution; but he said that the Irish Attorney-General's considered advice was that such a challenge could be successfully defeated. Mr Nally recognised that as long as Articles 2 and 3 of the Constitution remained in force, the reassurance which such a declaration might convey to the Unionists would be less than complete. But he argued that the incorporation of the declaration into a binding international agreement would give it a juridical status well beyond the simply de facto acceptance of Northern Ireland's position as part of the United Kingdom which had been the position of successive Irish Governments hitherto.

7. We pressed Mr Nally to say whether the Irish Government had rejected the idea, on which the suggestions I had put forward on 1 March had been posited, that Articles 2 and 3 of the Irish Constitution should be repealed. Mr Nally said that Irish Ministers had taken no decision on this point; and Mr Lillis confirmed that the possibility was still not excluded. At the same time he and Mr Nally stressed the evident domestic difficulties of such a course for the present Taoiseach.

CMO

Cmo

8. Mr Nally then took us through Chapters 6, 7 and 8 of the Forum Report dealing respectively with a Unitary State, a Federal or Confederal State and Joint Authority; and asked us in each case for the British Government's reaction to the solution suggested. On Chapters 6 and 7 (a Unitary State and a Federal/Confederal State) we made it clear that neither approach would be acceptable to the British Government. We pointed out that there was no realistic prospect of obtaining Unionist consent to either of these approaches and that the advocacy of them in the Forum Report, by increasing unionist apprehensions, was calculated to undermine rather than promote stability in Northern Ireland. On Joint Authority, we made it clear that arrangements amounting to joint sovereignty were equally unacceptable to us. Although there had been elements in my approach of 1 March which allowed for areas of joint authority in Northern Ireland, these were posited on acceptance by the Republic of continued British sovereignty over the Province. This condition was notably absent from the notion of Joint Authority as presented in the Forum Report.

9. This finally brought Mr Nally to outline the terms of the tentative Irish response to our ideas. Although they appreciated the efforts which we had made to take account of Irish nationalist concerns and our recognition of the need to reverse the alienation of the minority community, they considered that, from an Irish perspective, our approach was too narrowly focussed on security. If implemented as it stood, it would put the Irish Government into the politically impossible position of being accused of using Irish security forces and Irish judges to prop up the British Imperial presence in Northern Ireland. Irish security forces on the ground in Northern Ireland would be seen as British stooges. This would fuel instability throughout Ireland instead of helping to restore stability in the North. If support for Sinn Fein were to be halted and the alienation of the minority reversed, some form of joint political structure in Northern Ireland was essential. Without it, no joint security arrangements would work. The Irish therefore wanted us to consider the possibility of an inter-Governmental agreement which might contain the following elements -

Cmo

Cmo

- i. The Irish undertaking on no change in Northern Ireland's status without the majority's consent, described in paragraph 6 above.
- ii. Each Government would solemnly undertake to guarantee specifically both to the Unionists and the Nationalists of Northern Ireland the right to the political, cultural and social expressions of their identities, and the protection of these identities, regardless of any change in the constitutional position of Northern Ireland that might eventually come about with the consent of the majority of the people of the Province. (Mr Nally explained that it would be for consideration whether or not to spell this latter point out or leave it implicit.)
- iii. Sovereignty over Northern Ireland would remain with the United Kingdom, as would certain "excepted" powers including defence, foreign policy and finance. But on all other matters, public authority in the Province would be vested in a Joint Authority comprising a Minister appointed by each Government for the purpose.
- iv. There would be a Legislative Assembly and an Executive. The latter would be appointed by the Joint Authority on an approximately proportionate basis, and the Assembly would have certain (unspecified) powers in relation to it.
- v. Certain powers would be reserved to the Joint Authority: eg flags and emblems, languages, place names, posts and telecommunications and (most important) security. The full range of powers in other areas would be devolved to the Assembly and the Executive, who would operate them under a series of checks and balances (eg weighted majorities). If the checks and balances failed to work, the relevant powers could be assumed and exercised by the Joint Authority.

Cmo

Cmo

vi. Arrangements would need to be worked out for resolving disagreements within the Joint Authority about the exercise of its powers.

vii. The British Government could choose to exercise its "excepted" powers through the Joint Authority and would in any case do so in consultation with it if so requested by the Irish Government.

viii. There would be joint command arrangements for the military and police forces in Northern Ireland. (The initial Irish preference was for command to alternate; but I argued strongly that alternating command would be impracticable and a recipe for ineffectiveness, and Mr Nally agreed under questioning that it might be sufficient for the police to be answerable to some form of joint police authority. The question of joint military command arrangements was not pursued once we had made it clear that we saw no prospect of the British army in Northern Ireland operating under Irish command. Mr Nally and Mr Lillis left us with the impression that the Irish side had no clear ideas as yet as to how they envisaged the Irish army operating in the North under the Joint Authority scheme.)

ix. An all-Ireland law commission would be established charged with the harmonisation of the criminal law through the island and leading to the establishment of an all-Ireland court.

x. The people of Northern Ireland would be formally entitled to British and Irish citizenship.

xi. It would be made clear that, although the eventual possibility of Irish unity by consent was not excluded, the foregoing arrangements, including British sovereignty over Northern Ireland, were intended by both parties to be durable and not as a stepping stone towards a united Ireland.

Cmo

cmo

10. We left Mr Nally in no doubt that these ideas went far beyond anything which British Ministers had so far considered, and that our initial personal reaction to them was that they were likely to prove unacceptable to Parliament as well as to Unionist opinion. Unionist hostility apart, joint decision making and joint command and control arrangements on the scale suggested would be a recipe for confusion and much more likely to undermine confidence and disrupt the administration of the Province than promote political or social stability there.

11. The weakness (from a British point of view) of this proposal was highlighted by our discussion of the arrangements for resolving disagreements within the suggested Joint Authority. The Irish side at first suggested that the 'chair' might alternate between the British and Irish Ministers, with the 'chairman' having a casting role. They did not have a very good answer to us when we drew their attention to the dangers and disadvantages of such an arrangement. The alternative suggested was a third party with a casting role; but it was not clear who that third party could be, and no convincing ideas were produced. We then suggested that the British Minister would in practice have to have the casting role: anything else would be incompatible with British sovereignty. The Irish side clearly thought that that could put the Irish representative on the Joint Authority into the difficult position of being saddled with responsibility for decisions with which he did not agree: of having (in effect) no more than the right to be consulted, and of coming to be seen as a kind of "prisoner" of the British.

12. We further pointed out that sovereignty could not be separated from the exercise of its attributes; and that if sovereignty was to be meaningful, responsibility for security, as well as for foreign affairs, defence and finance must rest with the Sovereign State. Speaking very personally (and with Mr Lillis dissenting) Mr Nally then speculated that it might be possible to treat security as one of the powers "excepted" to the British Government on the understanding that it too might be exercised in consultation with the Irish side and could in due

cmo

Cmo

course be devolved to the Joint Authority if the British Government judged that to be appropriate as the situation developed. Mr Nally also appeared ready to entertain the possibility of incorporating our ideas for a joint security commission charged with implementing a gradualist approach towards joint policing into the package in place of the Irish ideas for joint military and police commands.

13. Mr Nally and Mr Lillis emphasised that the ideas they were floating were tentative and open to amendment. They stressed that they fell far short of what Nationalist opinion in the Republic was looking for and that there were grave political and security risks for the Irish Government in allowing itself to become involved with the British authorities on any basis in the maintenance of law and order in a Northern Ireland which remained under British sovereignty. Any such arrangements would only be thinkable on the basis of an agreement which contained a substantial political dimension and had the effect of establishing a regime with which the Nationalist minority in the Province could identify. They recognised that the British Government would have comparably acute problems with Unionist opinion. They hoped, however, that the confidential dialogue on which we had embarked would be directed towards finding an agreed and durable basis for peace and stability in Northern Ireland rather than to negotiating a series of trade-offs between British and Irish positions. I said that we should of course report to you all that had been said, and that you would no doubt wish to give it very careful consideration; and I said that I would hope to be in a position to let them know fairly soon whether you thought that our exchanges constituted a basis on which further dialogue could usefully take place.

Preliminary Assessment

14. Mr Nally's presentation appeared to reflect what is for the moment the highest common factor of agreement between the small group of Irish Ministers whom the Taoiseach has so far taken into his confidence. For what it may be worth, Mr Goodall and I formed

Cmo

Cmo

the impression from the ensuing discussion that there is more flexibility in the Taoiseach's position than was reflected in Mr Nally's instructions on this occasion, although he is bound to be severely constrained by the views of the "greener" members of his Government as well as those of Fianna Fail. We would not exclude the possibility of getting the Irish to build on the more limited and gradualist approach which I outlined in Dublin on 1 March, provided that it could be widened to include some degree of joint political authority. But that is a crucial proviso. Although we strongly argued the merits of the British approach, it was clear to us that against the background of Irish politics north and south there is no realistic prospect of engaging the Irish in support of the institutions of law and order in Northern Ireland without offering them some political voice in the management of its affairs. Although this might fall well short of what Mr Nally was instructed to propose and have the effect of confirming the United Kingdom in much of the substance as well as the appearance of sovereignty over Northern Ireland, it would, I think, have to constitute a real and visible share in the exercise of administrative and political authority there.

15. If this judgment is right, the central issue for consideration now is whether to revert to the search for a strictly "internal" settlement in Northern Ireland, which would mean disengaging from our current contacts with the Irish and making it clear that both the Forum Report and Dr FitzGerald's own thinking are leading them up a cul de sac; or whether to explore further the possibility of associating the Irish with political decision-making in Northern Ireland in some limited way, as the price for their co-operation in law enforcement there and a means of promoting the re-integration of the constitutional nationalists in the political life of the Province.

16. You will no doubt wish to discuss this with the Foreign and Commonwealth Secretary and the Secretary of State for Northern Ireland before forming a firm judgment on all this. I would

Cmo

Cmo

propose, if you agree, to send copies of this minute to them,
and to submit a further note or notes analysing the options
available to us as a basis for that discussion. An analysis of
the Forum Report is being prepared and will be submitted separately.

RA

ROBERT ARMSTRONG

14 May 1984

Cmo