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To see, please:

Patricia

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AN RÚNAÍOCHT ANGLA-ÉIREANNACH

ANGLO-IRISH SECRETARIAT

BÉALFEIRSTE

BELFAST

529

22 April 1992

CONFIDENTIAL

Mr Seán O hUiginn
Assistant Secretary
Anglo-Irish Division
Department of Foreign Affairs

Dear Assistant Secretary

Meeting with the Secretary of State (2)

I have already reported on the more important aspects of a meeting with the Secretary of State at Hillsborough yesterday afternoon. We met previously when he was Attorney General and the conversation was fairly wide-ranging and relaxed. The following are a few additional points of interest that arose.

Composition of the Conference

I raised the Minister's interest in reducing numbers in the Plenary of the Conference. The Secretary of State responded immediately that he completely agreed, that smaller numbers would be conducive to doing business and, to the surprise of the officials present, that he could say now that he would reduce the British attendance in Plenary to nine who I understand will be

The Co-Chairman,
Mr Mates, Minister of State,
Mr Chilcot, Permanent Undersecretary,
Mr Fell, Head of the NI civil service,
Mr Ledlie, Deputy Secretary (security)
Mr Thomas, ditto (political) or his deputy, Mr Bell,
Mr Aleton, British Joint Secretary,
Mr Blatherwick, British Ambassador, Dublin,
Secretariat notetaker.

The Secretary of State implied he had thought about omitting Ambassador Blatherwick but felt he should attend also. I gave him the expected composition of the delegation on our side.

A new law-and-order image?

Mayhew is obviously a bit concerned about the portrayal of himself and his new team as security-oriented and likely to place security policy ahead of the encouragement of political talks. He was at some pains to impress on me his interest, in fact determination to secure political progress and, without being in any way self-regarding, his sense of his own capacity to prod the parties along and get results. He did not mention any security matter in an hour and half's conversation except to say wryly that he had been branded with a "hang 'em high" image despite the fact that he had consistently voted against hanging in every vote in parliament.

Government of Ireland Act, 1920

He ^{said} was worried about the ongoing public debate about the Government of Ireland Act. He found it perfectly understandable that if the Unionists were "banging on about Articles 2 and 3" that we would want to remind them about the Nationalist position. He pointed out himself that the agreed statement of 26 March 1991 made provision for the participants to raise any aspect of the relationships including Constitutional issues. However, he hoped that that could be the platform from which we would depart rather than the Government of Ireland Act 1920. I said there had been quite intense propaganda by Unionists against Articles 2 and 3 in the past couple of years and, naturally, that had caused unease among Northern Nationalists and made them even more inclined to regard the Articles as the expression of the Nationalist constitutional position and the guarantee of the South's interest in their aspirations and their welfare. I explained our position on the Government of Ireland Act on the lines previously given to the other side here and reported.

I noted that Peter Robinson had been going on about Articles 2 and 3 on Radio Ulster last Sunday while condemning the Minister for "dragging the Government of Ireland Act into the situation" and asserting that it would a destruction of the talks process to expect Unionists "to negotiate the end of the Union".

Understandings for the political talks

I took the opportunity to say that it would be in everyone's interest to tone down this kind of political noise before and during the talks. We understood that certain things would be said for the benefit of the Unionist constituencies but it would be important to remind the Unionist leaders of the terms of the agreed statement of 26 March 1991 and of the understandings already reached in relation to it. Furthermore, they should perhaps be reminded (as Mr. Brooke had intended to remind them) in regard to their public claims about "suspension" of the Conference and the Secretariat, that

their assertions were capable of being controverted and quite likely would be controverted by their Northern Nationalist colleagues if they carried them too far.

Positive impact of the Taoiseach and the Minister

Elsewhere in the conversation, the Secretary of State referred to the positive impact which he felt the Taoiseach and the Minister had made on Unionist opinion contrasting this with the former Taoiseach and Minister and leaving, I thought, a slight implication that he hoped the Unionists would not be disappointed. I was happy to agree that there had, indeed, been a good reaction to the statements of the Taoiseach and the Minister and to their obvious concern to get the political talks going again.

I recalled, however, that some Unionists (notably Molyneux) had once suggested that as Mr Haughey was from the "green wing" of his party, had opposed the Anglo-Irish Agreement and had set up the Anglo-Irish Intergovernmental Council (1981) with its East-West dimension, he was the very man that Unionists could do business with. Messrs Molyneux and company were perfectly capable of suggesting for their own purposes that one personality would be better to deal with than another and encouraging the British Government and public opinion to expect concessions and to be disappointed if they were not forthcoming. Indeed, they were already doing so in relation to the Government of Ireland Act 1920 by claiming that the Taoiseach was being "even more hardline and belligerent than his arch-republican predecessor". The truth was that the Taoiseach was a practical, open-minded man, ready to do business and with cross-party support for his efforts; but he would not be deflected by Unionist attempts to obtain concessions before the parties had got around the table.

Lord Lane and others

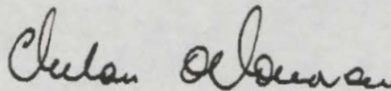
Sir Patrick described the recent retirement ceremony for Lord Chief Justice Lane as a "sad" affair. He had been destroyed by his obiter in the first Birmingham Six appeal, by his apparent disbelief in the possibility of police misbehaviour and by his over-the-top remarks likening Lord Chancellor McKay's proposals for reform of the legal system to Nazi Germany and claiming he had not been consulted. McKay had been able to silkily tell the Lords that he had his noble friend's permission to read out a letter in which Lane said the judiciary did not wish to be consulted. As Mayhew told it, this sounded like an English code of honour which required a gentleman caught in such circumstances to give up his sword for an opponent to run him through. Lane had spent his last years on the bench in deep depression. Mayhew sounded only marginally sympathetic.

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He was sympathetic to his predecessor as Attorney, Lord Havers, who died a few weeks ago from an illness which allowed him to serve only a very brief period as Lord Chancellor. He had wanted that office so much ("as I did not") that it was a courageous thing to have threatened in the Westland affair to send the police into Downing Street to find the source of a leaked letter. Mayhew added, however, that inhibitions may be lifted when too much drink is taken (a reference to Havers' cheerful imbibing at the Garrick club and elsewhere).

His comments about present senior judges in Northern Ireland are of some interest because they may indicate future moves. He thought Lord Chief Justice Hutton able enough to go to the Appeals Committee of the House of Lords, perhaps taking his predecessor Lord Lowry's seat in time. Carswell (a strong Unionist and likely successor to Hutton) and Campbell (Unionist) would grace any bench as would the Catholic Nicholson (called the "Agreement judge" after his appointment in 1986). Another Catholic, Higgins, was a fine judge. Among counsel, he picked out the Attorney's representative, Brian Kerr QC, a youngish Catholic who seems to have left his nationalist background firmly behind.

Yours sincerely



Declan O'Donovan
Joint Secretary

AN RÚNAÍOCHT ANGLA-ÉIREANNACH

ANGLO-IRISH SECRETARIAT

BÉAL FEIRSTE

BELFAST

21 April 1992

Mr. Seán O hUiginn
Assistant Secretary
Anglo-Irish Division
Department of Foreign Affairs

CONFIDENTIAL

*Secretary to the Government. Mr. Gavan.
I handed this in return to the Taoiseach.*

suggesting that he might want to discuss A and B, page 4, with the Minister for Foreign Affairs.

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*Mr. Gavan
24-4-92
Mr. Keenan*

*See
thanks
2714*

*huk
24-4-92*

Dear Assistant Secretary,

Meeting with the Secretary of State (1)

I was invited to meet the Secretary of State and Lady Mayhew at Millsborough this afternoon. The British Joint Secretary, Robert Alston, was also present together with the Private Secretary.

The conversation with Sir Patrick lasted about an hour and a half and covered some important points in relation to the political talks which I have already reported orally. I am writing separately about other aspects of the conversation.

Length of the gap

The Secretary of State raised recent exchanges between himself and the Minister and, separately, between officials on the length of the gap that would be arranged between Conferences to facilitate political talks. He asked me first to give my view of the present position. I took him through our concern from the outset that the Unionists would see a gain if the talks achieved no other purpose than the weakening of the status of the Agreement, that they might seek to spin out the talks for this purpose and that they might not intend or might not go through with the commitment to meet the Irish Government in Strand 2. In consequence, the Government would want to have very clear understandings at the outset and would wish to safeguard the status of the Conference against any tactical delays or other manoeuvres by the Unionists. I added that we felt it was in the interests of both Governments and of the talks process itself that our understandings should be clear and designed to ensure so far as possible that the participants got on with the serious job at hand and kept to the timetable especially in regard to the commencement of Strand 2. In this respect, I noted that the opening exchanges of Strand 1 were already under the belt of the parties from the last gap.

We thought it was in everyone's interest now that the gap should not be undetermined or too long and we had concerns, therefore, about the British proposal for an essentially open-ended arrangement from the outset or, as a second preference, for prior agreement on an extension that could involve a gap

as long as four and a half months. Hence, the counter proposal we had put forward for a gap to early July, much the same as last time, and an extension, if everyone wanted one, to end July.

While not being so indelicate as to draw comparisons unflattering to his predecessor, Mayhew remarked on the length of time the talks process had been going on without issue, that enough "sniffing" had been done (by Mr. Brooke) and said he intended to give the whole process "brisk encouragement". He expressed sympathy, therefore, with our views repeating his desire to give "brisk encouragement" and to get "the horses out of the yard" ("brisk" seems to be a favourite word and Mr. Brooke's equine metaphors seem set to continue). On the other hand, he recalled that the Unionists wanted a slightly longer gap and provision for an extension and that the SDLP had not expressed any difficulty of principle. He was deeply anxious to get the talks going and was already concerned by suggestions in the press that his focus would be on law and order issues and that he would "put a break" on the talks process. He wanted to dispel any such notion straight away and, therefore, very much hoped that the Conference could clear the way for a resumption of talks on Wednesday, 29 April. (I understand from Alston that he has already had initial encounters with Molyneaux last Wednesday, Hume and Alderdice last Friday, will meet Paisley tomorrow and may have a joint meeting with the Unionist leaders before the Conference.)

Mayhew's proposal: a three month gap and short extension

Mayhew suggested that the gap should consist of three months from end April to end July with specific provision for a Conference at that time but also an understanding that there could be a "short extension" if everybody wanted it and the two Governments so decided. He seemed to envisage an extension of about two weeks which Alston confirmed to me later but which might need to be tied down with all parties if we were otherwise in agreement.

I noted that the Minister was on record (Radio Ulster, 19 April) as envisaging a gap of 2 to 3 months and that 3 months might not in itself pose a problem although I thought any longer period would do so. I left open a possibility that a very short extension beyond three months might be considered provided everyone understood it would be very short and

available only if serious progress was being made.

only if serious progress was being made

End-of-gap Conference

I thought our Minister might require the date of the end-of-gap Conference to be announced, in other words it would have to be written out rather than written into the script if there was to be an extension at everyone's request. Mayhew made no

difficulty about a precise date although I think his officials would like a little margin for manoeuvre (they have already suggested language for the announcement of a Conference in the week beginning 27 July).

Transition from Strand 1 to Strand 2

Secondly and most importantly, I thought our Minister would need an explicit understanding about the timing of the transition from Strand 1 to Strand 2 and here I recalled that Mr. Brooke had given Mr. Collins a precise undertaking last time. A little of the Mayhew geniality disappeared at this point. He was concerned about being "boxed in" but he could say quite simply that the Unionists "would not be allowed to resile" from the agreement to move from Strand 1 to Strand 2 within weeks of the start of the gap. I pressed him further and he responded that the transition should occur after not less than five weeks and not more than ten weeks. I had to say in all honesty that that proposal would put the Minister in serious difficulty, pointing out that the phrase "within weeks" in the agreed statement of 26 March 1991 was set in the context of a period of 10 weeks and that even in the context of three months, it could hardly mean something more than half way, still less up to ten weeks. On reflection, Mayhew said he saw this point, that he would have no intention of going as far as ten weeks and that the transition would occur much closer to five.

Transition "in June"

Nonetheless, he did not abandon his framework and subsequently after a debriefing session with him, Alston came back to me to say that Mayhew would propose that the transition should take place in June which he said would mean between weeks five and nine of the gap. Alston invited us to take into account Mayhew's robust temperament in assessing the question of the transition to Strand 2 against our concern about possible Unionist tactics.

Request for response

Mayhew said he hoped we could respond to his latest suggestions in the next day or so so that he could talk further to the parties before Monday.

Comment

The Secretary of State's proposal does not differ essentially from the proposal already made by Mr. Brooke although he suggested he would not be prepared to go as far as Brooke or his officials in terms of the length of the gap. Rather he seemed to agree with us and in conformity with his own policy

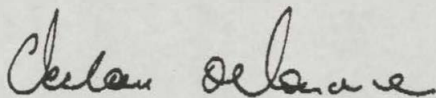
of "brisk encouragement" that the gap should not be too long or too vague and should be organised in a way that will encourage the parties to press on with both Strand 1 and Strand 2.

I think we could live with a three month gap and a provision for a short extension although it might be wise to tie down the length of extension we were envisaging (two weeks) and the circumstances in which it could be available (everyone wanting it in light of serious progress made).

A) I think our priority should be the ensuring of a transition from Strand 1 to 2 in reasonable time. That would be the great gain and could transform the entire process, perhaps making redundant the concerns on our side about the length of the gap and, on the Unionist side, about a meeting of the Conference. Mayhew's suggestion on the transition was frankly dismaying and I think that in the context of a gap of three months we would, in principle, want to begin Strand 2 by half way, ie. within seven weeks, bearing in mind that time will also need to be found for Strand 3 (this time should be properly built into the timetable and not left - as the Unionists will be tempted to suggest - as something the two Governments could occupy themselves with while they are celebrating the week of the Twelfth). You will also wish to look ahead to what the commitments of our Ministers will be in the likely period of Strand 2; it could begin in the closing period of the Maastricht Referendum Campaign.

B) I would suggest, therefore, that we agree a three month gap with the possibility of a short extension on the conditions indicated and with the proviso that Mayhew secures the understanding of all parties that we will move to Strand 2 come what may at a reasonably specific point in the gap. The Minister may also wish to consider the likely commitments of the Taoiseach and himself in regard to the Maastricht referendum and how that may affect the Government's calculations.

Yours Sincerely



Declan O'Donovan
Joint Secretary