

Rec'd 6/2

Rec'd 6/2

Minister has seen  
L.

**CONFIDENTIAL**

DRAFT

1. A meeting between representatives of the Northern Ireland Executive and the Government of the Republic of Ireland was held in Government House, Hillsborough, on 1 February 1974.

2. There were present:

Representing the Northern Ireland Executive

Mr Faulkner (Chief Minister)

Mr Fitt (Deputy Chief Minister)

Mr Napier (Legal Member)

Mr Bradford (Minister of Environment)

Mr Devlin (Minister of Health and Social Services)

Mr Hume (Minister of Commerce)

Mr Kirk (Minister of Finance)

Mr Morrell (Minister of Agriculture)

Representing the Government of the Republic

Mr Cosgrave (Taoiseach)

Mr Corish (Tanaiste)

Mr Ryan (Minister for Finance)

Mr Cooney (Minister for Justice)

Dr FitzGerald (Minister for Foreign Affairs)

Dr O'Brien (Minister for Posts and Telegraphs)

Mr Tully (Minister for Local Government)

Mr Costello (Attorney-General)

and in attendance:

Sir David Holden (Department of Finance)

Mr Kidd (Department of Finance)

Mr Bell (Department of Commerce)

Mr Young (Department of Agriculture)

Mr Dugdale (Department of Health and Social Services)

Mr Malcolm (Department of the Environment)

Mr Bloomfield (Office of the Executive)

Mr Sythes (Office of the Executive)

Mr Roberts (Office of the Executive)

Mr Smartt (Office of the Executive)

Dr Whelan (Department for Public Service)

Mr Murphy (Department of Finance)

Mr Whelan (Department of Foreign Affairs)

Mr Donlon (Department of Foreign Affairs)

Mr Quigley (Office of the Attorney-General)

Mr Nally (Department of the Taoiseach)

Mr MacConghail (Department of the Taoiseach)

Mr McCarthy (Department of the Taoiseach)

3. Mr Faulkner welcomed Mr Cosgrave and his party and Mr Cosgrave replied. The agenda for the meeting was agreed.

POSITION OF NORTHERN IRELAND

4. Mr Faulkner said that if ratification of the Sunningdale Agreement was to be more than a formal gesture it would have to have the consent of the Protestant community in Northern Ireland. It was clear from hostile Unionist reactions to Sunningdale that while there was a growing acceptance of power-sharing there was not yet acceptance of a Council of Ireland. Reports of the Republic Government's defence in the Boland case had created a feeling that its "recognition" of Northern Ireland at Sunningdale was ambiguous and even worthless. There could be no question of ratifying the Sunningdale Agreement until that ambiguity had been removed and there was no longer the risk of the Republic's position being declared invalid by the courts. Moreover, acceptance of Northern Ireland's right to self-determination as part of the United Kingdom was a prerequisite for its participation with respect in any all-Ireland institutions. He recognised that the Government of the Republic too had its political difficulties.

5. Mr Cosgrave thought that his Government's position had been clearly set out at Sunningdale and at Baldonnel. Until 7 February he would not know if an appeal was to be made in the Boland case but he would then be able to make a speech re-stating their position without appearing to seek to influence the court. Mr Costello explained that in entering the Government's defence in the Boland case it had been necessary to deny a number of ambiguous assertions. But the defence had not denied that Sunningdale meant that Northern Ireland could not be re-integrated into the national territory of the Republic without the consent of the majority of the people of Northern Ireland. The judgment given had referred to the de facto status of Northern Ireland as part of the United Kingdom. It had seemed likely that Mr Boland would lose this case, and it was unlikely now that the challenge would be repeated unless for political reasons. He was confident that it would be possible to make it clear that Northern Ireland would retain its present status unless a majority of the people in Northern Ireland wished otherwise.

# CONFIDENTIAL

Mr Bradford made the point that with the Republic's written constitution there was always a risk of a challenge, for example to legislation to set up a Council of Ireland.

6. Mr Faulkner agreed that an unequivocal statement in a speech by Mr Cosgrave would be helpful. It should refer to Northern Ireland's position in the United Kingdom and not merely in vague terms to its "present status". It was agreed that a working party should consider a form of words and that after this meeting the terms of a statement to be made by the Taoiseach, incorporating these, should be agreed in correspondence.

## LAW AND ORDER: THE LAW COMMISSION

7. Mr Faulkner hoped that the Commission would produce a recommendation for effective action and would not merely set out alternative courses for political choice. These were matters of life and death for people in Northern Ireland. Since the alternatives presented great difficulties we would not regard improved extradition arrangements as ruled out. While he appreciated the Republic's problems in this respect it was important to find an effective way of dealing with fugitives. Not to do so would be contrary to the spirit of Sunningdale, and it was only in the context of evident progress in this field that there was any hope of "selling" Sunningdale to the Unionist community.

8. Mr Cosgrave said that the Commission would meet for 2½ days in Dublin in the following week and might report in two or three weeks' time at the earliest, but he did not expect its Report before Sunningdale II. While the Sunningdale agreement had spoken of the extreme urgency of the Commission's work it had not indicated any time limit in the way that it had envisaged the formal stage of the conference taking place "early in the New Year". Dr FitzGerald said that if the Republic's proposals had been accepted at Sunningdale there would have been no need to appoint the Commission. If in the course of its work it was found that one of the alternatives to extradition was practicable its implementation could be considered without waiting for a final report. Other possibilities discussed were that the Commission might be asked to produce an interim report or to produce its Report in time for Sunningdale II to take place on a fixed date.

CONFIDENTIAL

# CONFIDENTIAL

9. Mr Faulkner said it would be irresponsible to promise to ratify the Sunningdale agreement without regard to the political implications: ratification without consent would be a meaningless or even dangerous act. Effective progress in the field of law and order and in particular on those matters being considered by the Commission was necessary first. Dr O'Brien said that the Republic's Government would be in political jeopardy if it made a statement of the kind of "recognition" which the Executive wished for before a definite date had been fixed for Sunningdale II.

## LAW AND ORDER: CROSS-BORDER TERRORISM

10. Mr Faulkner spoke of discontent with what the Republic was doing in this field: the release in particular of one of the six men recently apprehended at Lifford who was a well-known bomb-maker - he gave Mr Cosgrave details of the five released; the two or three hundred Northern Ireland men on the run in the Republic; 2/members of the security forces murdered within 10 miles of the Border since January 1973; the increasing number of incidents apparently carried out by terrorists from across the Border; rockets launched and mines exploded from across the Border. There was a need for effective practical co-operation in this field: a free flow of intelligence including photographs and fingerprints; the co-ordination of resources; and joint operations. His colleagues in the Executive were unanimous that its continued existence depended on successful action against all terrorists and were pressing the Secretary of State equally. For his part the Secretary of State had specifically refuted various claims of gaps in security on the Northern Ireland side of the Border. Mr Fitt said that in a time of near despair caused by increasing reciprocated killings, it destroyed confidence if the Republic's forces arrested men one day and released them the next.

11. Mr Cosgrave rejected any suggestions of inactivity or lack of concern. Arrests in border areas over the last 9 months showed that 70% of those involved had come from Northern Ireland: the percentage of convictions obtained was substantial. A new Army post had been opened in Lifford; special detective units had been sent to Donegal and

# CONFIDENTIAL

Monaghan; 500 more Gardai were being recruited; a leading IRA man, McKenna, had been arrested. Mr Cooney specified a number of occasions on which he said claims by the (British) Army of shootings or explosions had been denied by the Republic's forces which had been providing cross-Border cover for Army working parties. (Full details will be supplied to the NIO.) On the ground there was good co-operation and exchange of information on both police and security matters between the Gardai and the RUC, as far as was possible; but because in the Republic the Army could act only to assist the Gardai, while in Northern Ireland the Army had police powers, more active co-operation though needed was difficult. In particular, co-ordinated operations were needed in the south Armagh and Strabane areas. Dr FitzGerald said that the behaviour of the British Army could create political problems and make it difficult for the Republic to co-operate fully.

12. Mr Hume spoke of the difficulty of securing convictions for the 900 murders committed in Northern Ireland during the civil disturbances: only one conviction so far had been obtained for any of the 220 sectarian murders. There was, however, some recent evidence that the RUC was being given more information. Other aspects of the Sunningdale Agreement were involved in the total context of law, order and security - including the full restoration of policing. His party felt that the United Kingdom Government was not fulfilling its obligations in respect of internment. Mr Bradford referred to the hard facts of 21 murders of members of the security forces within 10 miles of the border. Mr Devlin agreed that Crossmaglen was a special problem but the information coming out about the Lifford/Strabane area could not be reconciled with the real situation. Mr Faulkner said that information was now flowing in, and that the public now needs to see real evidence of co-operation between the two armies and the two police forces.

COUNCIL OF IRELAND

13. Mr Faulkner said the Executive believed that the Council of Ireland could gain acceptance and could work for the common good, but that the public was still uneasy.

# CONFIDENTIAL

Too much haste or too grandiose a scheme could damage or destroy power-sharing itself. The Executive had considered the allocation of executive functions to the Council: either for executive decisions (which the Council of Ministers would take but which would be carried out by existing institutions), or for executive action (where the Council of Ministers would both determine policies and have direct responsibility for their implementation. They had produced a list of departmental activities which might become executive functions of the Council. These should first be examined by officials who could report back, having examined them in more detail, how far they could in fact appropriately become executive functions of the Council and how such functions should be carried out. In preparing the list they had had two points in mind. First, that they should not simply be creating another bureaucracy, and, second, that the majority in Northern Ireland would not wish to see in this Council an all-Ireland government in embryo. The Executive would be especially cautious about devolving responsibility for executive action to the Council.

\* 14. The proposals of the Northern Ireland Executive were tabled and were then discussed together with a list of proposed functions for the Council tabled by the Government of the Republic. Mr Faulkner emphasised that substantial additions to the Northern Ireland list could not be contemplated by the Executive.

15. The main points of the discussion follow.

Regional planning: The Republic had in mind planning for the whole of Ireland with a central research facility, but Mr Tully agreed that initially joint regional planning would be confined to border areas.

Electricity generation and distribution: Mr Hume said that initially the Council's functions in these fields would be of decision and not of action, but in time there could be a single generating and distribution authority. There was also a need for joint studies on fuel and energy policies, including the possibilities of nuclear generation and power links with Scotland.

Tourism: Mr Hume envisaged the Council especially taking policy decisions which would be

CONFIDENTIAL

# CONFIDENTIAL

implemented through the two existing authorities. In time these could be amalgamated to form a single authority. There was a need to study the relationship between the provision of facilities and the promotion of tourism. Northern Ireland would also have to consider the close and useful links between the NITA and the BTA.

Lough Foyle: The Executive envisaged an authority controlling harbour, fisheries and pollution services, operating rather like the existing Foyle Fisheries Commission but on a very much larger scale.

Aspects of trade promotion: Mr Hume said that here too Northern Ireland would have to consider carefully its existing links with British promotion machinery, but he could see a role for the Council.

Industrial training: Mr Cosgrave asked if this could be included. Mr Hume thought, though it was not his department, that it was more appropriate for harmonisation.

Cross-border drainage: Mr Morrell envisaged the Council identifying areas for drainage and leaving the work to be carried out by the two departments of agriculture. It could also ensure that drainage work on both sides of the border was planned on the same basis.

Aspects of plant and animal health: Mr Morrell said that the Council's activities would seem most likely to be harmonising but that there could be a need for it to take a policy decision on occasions. Because of the very different ways agricultural research is organised north and south, he did not see any immediate prospect of a joint research institute nor did he think that studies could be set in hand now to reach any conclusion in time for the establishment of the Council.

Horseracing and bloodstock: Mr Morrell thought that while a study of a possible executive function for the Council in these fields would be well worth while, initially it seemed likely that problems of finance and taxation would limit its involvement to harmonisation.

# CONFIDENTIAL

Agricultural marketing: Was suggested by Mr Ryan. Mr Morrell said that while studies might be put in hand it would be foolish, because of such factors as the EEC <sup>transition</sup> transaction period, the operations of the marketing boards and Westminster supports, to expect any useful conclusion within the period up to the Council's establishment.

Forestry: Was also suggested by Mr Ryan. Mr Morrell said that the approaches to forestry differed across the border though they were coming closer; that the high cost of land was holding back the progress they had expected; and that forestry was now in Northern Ireland very much tied in with unemployment relief. There could be a greater coming together in the future but it was not a field for an immediate Council role.

Conservation: Mr Bradford saw the Council having a joint policy-and decision-making role in the fields covered in Northern Ireland under the Amenity Lands Act by the Countryside Committee and the Nature Reserves Committee.

Cross-border railways: Here, too, was a field, initially, for joint policies and decisions.

Cross-border roads and bridges: These would be considered in the context of the effects of any port developments.

Water schemes and river pollution: Were also suggested by Mr Tully. Mr Bradford thought that schemes would be more appropriate for harmonisation and co-operation. Because of the obvious problems of cross-border rivers it was agreed to add "pollution policy" to the Executive's list.

Internal air services: Dr FitzGerald proposed a joint company to run an internal air service. Mr Bradford said that he would look at the proposal but he had certain reservations in view of the involvement of the United Kingdom Government in civil aviation.

Human rights machinery: Mr Bloomfield explained that this covered the extension throughout Ireland of the kind of protection offered by the Parliamentary Commissioner for Administration and the Commissioner for Complaints.

CONFIDENTIAL

Law reform: Mr Costello suggested that officials might consider whether the Council should have the responsibility of setting up an all-Ireland Law Commission to consider and to recommend that laws should be harmonised. Mr Napier said that at this stage, in view of the involvement of the United Kingdom Government in matters of law, he could not see an executive role for the Council. He would however consider the suggestion and liaise with Mr Costello.

Advisory services in the field of public health: Mr Devlin said that he envisaged the Council promoting and carrying out studies and being particularly interested in the control of communicable diseases, and in the co-ordinated provision of facilities whose services could be used across the border and the co-ordination of such services. Though there were difficulties, there could be studies of such possibilities as a joint National Health Council, a joint Medical Research Council and joint registration councils for the professions concerned.

Sea fisheries: While Mr Morrell felt unable to agree to include this, because of Northern Ireland's close links with the United Kingdom on some important aspects, he was quite willing to add the "conservation of marine resources" to his list.

16. The meeting agreed on a list of activities for further study, and report within 21 days, by officials. It also agreed on the terms of reference to be given to the officials (Appendix A).

17. The meeting then divided into two groups - the one to consider the terms of a communique to be issued on behalf of the meeting and the other (consisting of Dr FitzGerald, Mr Costello, Mr Bradford, Mr Napier and Mr Hume) to consider a possible form of statement to be made by Mr Cosgrave as soon as practicable on the position of Northern Ireland (Appendix B - the communique, and Appendix C - the possible form of the statement). Mr Cosgrave said that if in fact an appeal were to be lodged, he would hope to arrange for the Supreme Court to dispose of it within 2 to 3 weeks.

COUNCIL OF IRELAND

ACTIVITIES TO BE STUDIED BY OFFICIALS

Joint working parties of officials will be set up to consider the following questions and to report to the Northern Ireland Executive and the Irish Government within 21 days.

1. What aspects of the following activities, in conformity with paragraph 8 of the Sunningdale communique, should become executive functions of a Council of Ireland as defined in that communique and how should such functions be discharged?
2. From what date should a transfer of executive responsibilities to the Council be contemplated in each case?
3. Activities to be studied:

Culture and the arts

Electricity generation and distribution

Tourism

Carlingford Lough

Lough Foyle

Specific joint industrial projects (eg steel mill)

Study of future energy needs and resources

Geological survey

Aspects of trade promotion

Drainage in Border areas

Aspects of plant and animal health

Horse-racing and bloodstock

Physical strategy/regional planning, particularly in cross-Border areas

Conservation (Nature Reserves and Wildlife)

Conservation of Marine resources

Inland Waterways

Cross-Border Railways

Newry-Dundalk Motorway

Cross-Border roads and bridges

Preservation and restoration of historic buildings

Pollution policy

Human rights machinery

Sport (including youth organisations)

Aspects of health and social welfare (including advisory and consultative services)

COMMUNIQUE

Members of the Irish Government and of the Northern Ireland Executive met at Hillsborough today to review the progress being made towards formal ratification of the Sunningdale Agreement.

In the course of the meeting there was a thorough discussion of all the principal aspects of that Agreement - the declarations on the status of Northern Ireland; the progress of studies on the functions of a Council of Ireland, the progress of the work of the Commission on Law Enforcement; human rights; and law and order.

It was agreed that satisfactory progress was being made and that further meetings should be held at Ministerial and official level as soon as possible to carry forward those studies which must be completed before the final stage of the conference.

COMMUNIQUE

Members of the Irish Government and of the Northern Ireland Executive met at Hillsborough today to review the progress being made towards formal ratification of the Sunningdale Agreement.

In the course of the meeting there was a thorough discussion of all the principal aspects of that Agreement - the declarations on the status of Northern Ireland; the progress of studies on the functions of a Council of Ireland, the progress of the work of the Commission on Law Enforcement; human rights; and law and order.

It was agreed that satisfactory progress was being made and that further meetings should be held at Ministerial and official level as soon as possible to carry forward those studies which must be completed before the final stage of the conference.