

DRAFT MINUTE FROM THE SECRETARY OF STATE TO THE PRIME MINISTER

ANGLO-IRISH NEGOTIATIONS

I have now had an opportunity to study in detail the latest text of the proposed Anglo-Irish Agreement and related documents. I have had my first meetings with Mr Hume, Mr Molyneaux and Mr Cushnahan. (The DUP have refused to see me). And I have been to Dublin and had talks with Mr Barry and the Taoiseach. It may be helpful if I set down at this stage some personal impressions of how the draft Agreement looks to me, as the Minister who will be responsible on our side for implementing it.

2. I understand and accept the reasons why we embarked on these negotiations; but I am bound to say that I find the draft Agreement which has emerged a distinctly one-sided affair. We are proposing to give the Irish Government a role in the North which, although only consultative, could eventually have profound consequences. But in return it seems to me that we get very little. The Irish keep their constitutional claim to the North and the proposed declaration of status goes no further than what has been said at Sunningdale and on other occasions. Because of the hostile unionist reaction which will inevitably be given to any Anglo-Irish accord which leaves the territorial claim intact, it seems to me that, in the short term at least, the Agreement is more likely to create political instability rather than stability in Northern Ireland, and to hinder rather than assist progress towards devolution. The only tangible benefit lies in the promise of improved cross-border security co-operation. This is certainly much needed; but the Agreement itself is vague on this point and it remains to be seen whether the Irish will be able to deliver the sustained increase in resources which would be required to make it a reality.

3. On the main points of substance still at issue, I am sure that we should stand firm in refusing any commitment to the establish-

ment of mixed courts. I took a robust line on this with both the Taoiseach and Mr Barry. The issue seems to be very much a personal hobby horse of the Taoiseach's. I was interested to note that Mr Hume did not mention it until prompted and clearly regarded mixed courts as less important in nationalist eyes than changes in the security forces. He also doubted whether the appointment of more Catholic judges in the North would make much impact, since they would be seen by nationalists as "Uncle Toms".

4. In this connection I am disturbed to learn that unless we move further on the courts the Irish are threatening not to proceed with ratification of the European Convention on the Suppression of Terrorism, which was one of their proposed rapid implementation measures. This is a serious development: Irish ratification of the Convention, with its implications for the extradition of terrorists from the Republic, would have been an important selling point to the unionists. I am looking again to see whether there is anything else we might do in the judicial field, but I doubt whether there is anything acceptable to us which would satisfy the Irish.

5. I am also sure that, for both operational and political reasons, we should go no further with immediate changes in the UDR than the modest measures which we and the Ministry of Defence have been able to work out.

6. As far as the text of the Agreement is concerned, it seems to me to contain some ambiguity. We have repeatedly said that the Irish Government can have no executive role in Northern Ireland. In deference to their susceptibilities we have avoided the word "consultative" in the text, although I think we are bound to use it in reply to direct questions in Parliament after the signature of the Agreement. We cannot afford to fudge this crucial issue. In several cases the text empowers the Irish to put forward views and proposals; but elsewhere the language seems to convey a more executive flavour. Thus the Committee, of which an Irish Minister is to be joint Chairman

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with myself, is to "review" the structure, powers and composition of the Police Authority (Article 7(e)). Other parts of the Agreement are not really consultative at all; for example the Committee is to "set in hand a programme of work" in security co-operation (Article 9(a)); and it is to "co-operate" to promote economic and social development (Article 10(a)). I fear that any ambiguity about whether the Agreement is purely consultative, or something more, will add to the very serious difficulties of the two Governments in presenting it to their respective supporters without contradicting each other. There are a number of points, especially on the constitutional status of Northern Ireland, on which I fear that Mr Powell, among others, will ask questions which will expose the fragility of an Agreement in which we cannot even refer to Northern Ireland as part of the United Kingdom. For this reason I hope very much that we shall stick to the word "Committee" to describe the Ministerial body, rather than "Commission" which the Irish are now pressing for and which to my mind carries overtones of executive authority.

7. I recognise that the wording of the draft Agreement has emerged from many months of negotiation; and, although I emphasised to the Irish Ministers that it was still ad referendum to the Cabinet, it will be difficult to make changes at this late stage. Nevertheless, I think we are entitled to take a final look at the text to see if there is language which will be unnecessarily offensive. There is one phrase, in particular, which I believe we must get deleted. Article 7(b) refers to consideration by the Intergovernmental Committee of forthcoming events and quotes as an example "parades and processions". I understand that the wording was drafted before this Summer's marching season when the RUC confronted loyalist marchers in Portadown and elsewhere, at some cost to the unquestioning support which the police traditionally enjoy from unionists. In spite of categorical denials by my predecessor and the Chief Constable, it was widely believed that in excluding the marchers from Catholic areas the police were acting under orders from Dublin. To refer directly to parades and processions in the Agreement will be taken as confirmation that Dublin called the tune over Portadown and will

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do so in the future. This would have a serious effect on the already strained relations between the RUC and the majority community. This is a highly emotive issue in Northern Ireland and the words will act as a red rag to the unionists. They do not seem to me essential and I would strongly urge that they be omitted.

8. As regards reactions in Northern Ireland to the Agreement as a whole, we can confidentially predict that the unionists will denounce it as a sell-out to Dublin and the first step down the slippery slope towards a United Ireland. They are already condemning the idea of the Dublin Government being given any voice in the affairs of the North, and when they read the actual wording of the Agreement they are likely to see their worst fears as being confirmed. They will see an imbalance in the fact that the Irish Government is to represent the nationalist minority while there will be no corresponding representation for the unionist majority, since the British Government must consider the interests of both communities even-handedly. And they will see the Agreement as infringing the undertaking that any arrangement for the internal government of Northern Ireland must command widespread acceptance, since their consent has not been sought. There will certainly be a great deal of rhetoric, with large-scale protests and demonstrations; these may give rise to considerable disorder; and there will probably be a withdrawal of co-operation, eg by unionist members of District Council and Area Boards. Provided that we do not cause the more moderate unionists to join forces with extreme loyalist elements - which I fear would happen if we sought to make radical changes in either the security forces or the judiciary at the behest of Dublin - I hope that the reaction will not go beyond this and will be containable. An up-to-date assessment is being prepared by the intelligence authorities. We have, as you know, made contingency plans for possible strike action, and the Ministry of Defence will be prepared for military reinforcements if necessary. One thing is quite clear: if we sign an Agreement we shall have to be prepared to see it through, whatever the local reactions. There can be no question of giving way to unionist intransigence.

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9. I appreciate that we are not likely to make the sort of political progress we want, and which will enable us to deprive Sinn Fein of support, unless we are prepared to incur some hostility from the unionists; but we ought to satisfy ourselves that this hostility will be matched by a real improvement in the attitude of the minority community to the institutions of government and to the security forces. Whether we shall achieve this is more difficult to predict. When I saw Mr Hume on 16 September he assured me that the SDLP would support the Agreement. In accordance with the instructions you gave my predecessor on 30 August, I pressed him for some tangible expression of this support and of the readiness of his party to participate in the political processes of Northern Ireland. He said that if the Agreement was signed he would indicate to the unionists that he was ready to engage in talks on devolution; and if these talks were successful he would recommend to his party that they should enter the Assembly at the next election (in October 1986). But he made it clear that devolution would have to be based on power-sharing, since the SDLP could not settle for less than was on offer in 1973. I do not think we can reasonably expect Mr Hume to go further than this at the present time; but even if a Sunningdale-type of power-sharing executive does not represent his eventual bottom line, I find it hard to see the unionists agreeing to anything acceptable to the SDLP after an Anglo-Irish Agreement, when they were not prepared to do so before.

10. Mr Molyneaux made it clear that the ideas which he and Dr Paisley put to you on 30 August were seen as an alternative to an Anglo-Irish Agreement. If there was no Agreement, the UUP would renew their offer to the SDLP of a role in a local government style of devolution; but giving Dublin even a consultative role in the North would alienate the unionists and thus increase the gap between the parties. If the Agreement were not too repugnant, Mr Molyneaux said that the UUP might eventually go back to the position described in "The Way Forward" in the Spring of 1984; but there is little likelihood of this being acceptable to the SDLP. So, the prospects for devolution on a basis acceptable to both communities look bleak, whether there is an Anglo-Irish Agreement or not.

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11. Given the desirability of trying to make some political progress, I recognise that even a somewhat one-sided Agreement may be better than no Agreement at all, with all that would entail in terms of failure for the SDLP and victory for Sinn Fein. In spite of my reservations about the draft text, I accept that the consequences of pulling out at this stage would probably be worse than those of going ahead. But I have a responsibility to see that, as far as possible, we limit the difficulties to which the Agreement is likely to give rise in Northern Ireland. All the advice which I have received from political leaders, the police and my own advisers in Northern Ireland confirms me in the view that to locate the Irish element of a permanent Secretariat in Belfast from the outset would be asking for trouble. It would be the tangible evidence of Dublin's involvement in the North and as such would be the focus of unionist anger. The building which housed it would be a target for attack and the staff would be at risk. I know that it has been envisaged in the negotiations that the Intergovernmental Committee would normally meet in Belfast and that the Secretariat would be located there; but I note that this is not actually stated in the text of the draft Agreement. (Indeed, I understand that a reference to the Secretariat being "in Belfast" was removed from an earlier draft at my predecessor's insistence.) In my conversations with Messrs Hume, Barry and FitzGerald they all agreed on the desirability of a low key approach to the implementation of the Agreement. If we provoke maximum unionist reaction at the outset we shall only prejudice the working of the new arrangements. I wonder, therefore, if we should not hold at least the first few meetings of the Intergovernmental Committee in London and locate the Secretariat there in the first instance. We need not rule out the possibility of transfer to Belfast at a later stage; and, indeed, I accept that that is the logical permanent home for the Committee and the Secretariat, although I do not see why the Committee should not occasionally meet in London, or even Dublin. A London location would make it easier to meet the Irish wish that the Secretariat should come into being immediately after signature of the

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Agreement. It would also have the advantage of curbing the continuing desire of Irish officials to give the Secretariat an executive and decision-making role between meetings, which causes me considerable apprehension.

12. We can expect the Irish to object strongly to this proposal, since they have set their hearts on the early achievement of a presence in the North. They may consider that if we are not prepared to accept an initial Irish presence in Belfast we are not serious about implementing the Agreement in the face of unionist opposition. They will argue from the experience of 1974 that, unless we locate the Committee and Secretariat in Belfast from the outset, the loyalists will ensure that we never do. But the two situations are not parallel. This time there will be no easy target, such as the Executive, for the loyalists to bring down. But by demonstrating in strength at Stormont they can physically impede the working of the new machinery and whip up feeling against it so that it will get off to a very bad start. It should be much easier to move the Committee and the Secretariat to Belfast after a few months when the unionists have had time to see that the Agreement is not the end of the world.

13. I attach considerable importance to this issue if the Agreement is to be successfully implemented; and it is the carrying through of the arrangements after the signature of the document which will determine success or failure. I hope that it will be possible to discuss it with you and the Foreign Secretary soon, so that officials may be given the necessary instructions, both on location and on the textual amendment I have suggested in paragraph 7.

14. I am copying this minute to the Foreign and Commonwealth Secretary and to Sir Robert Armstrong.

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