

FROM: D A L COOKE
SIL
13 November 1991



PS/MR Fell To note

I am concerned that the drift of this briefing indicates (or implies) that all the developments are as a result of the Agreement. They may have happened since 1985, but not all because of Irish interest & pressure. I will speak to Mr. Ede, but it is a more general point for wider applications.

PS/SECRETARY OF STATE (L&B) - B

cc: PS/Pay Gen (L&B)
PS/MofS (L&B)
PS/Ministers (L&B)
PS/PUS (L&B)
PS/Mr Fell
Mr Ledlie
Mr Thomas
Mr Alston
Mr A P Wilson
Mr Hamilton 14/xi
Mr Wood (L&B)
Mr Percival
Mr Bell
Mr Dodds
Mr D J R Hill
Mr D A Hill
Mr Leach
Mr McNeill
Mr Archer, FCO, RID
HMA Dublin

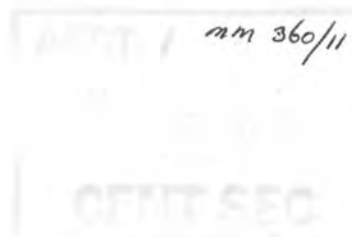
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SIXTH ANNIVERSARY OF THE ANGLO-IRISH AGREEMENT/SECRETARY OF STATE'S INTERVIEW ON THE 'TODAY' PROGRAMME

The Secretary of State has agreed to do an interview on the Today programme to coincide with the sixth anniversary of the Anglo-Irish Agreement on Friday 15 November. I understand that this is to be a one-to-one interview with John Humphries and will be wide ranging, looking at the past six years of the Agreement and its future.

2. The anniversary is expected to be marked by protests organised by the Orange Order on Friday and Saturday 15-16 November to demonstrate their continued opposition to the Agreement. The protest on 15 November will be on the theme of 'rekindling the light of democracy in Northern Ireland'.

AW/SIL/16331



MEMORANDUM

To send return M

MA

15/xi

3. Briefing on the Agreement is attached. I hope this can double as material for use by Press Office on the day.

(SIGNED)

D A L COOKE
SIL DIVISION
13 NOVEMBER 1990
EXT OAB 6587

AW/SIL/16331

TODAY PROGRAMME

ANGLO-IRISH AGREEMENT: BULL POINTS

1. Important not to overlook the central significance of the Agreement in demonstrating the acceptance by both the British and the Irish Governments of the principle of consent as the determinant of the status of Northern Ireland. Any change in the present status of Northern Ireland would come about only with the consent of a majority of the people of Northern Ireland. At the present the majority wish is for no change. If in the future a majority formally consented to establishing a United Ireland, the two Governments would support the necessary legislation. Article 1 spells out each of these propositions.
2. This constitutes a coherent and defensible set of principles supported by both Governments. This in turn has greatly helped with promoting Northern Ireland abroad, in such countries as eg the USA, Canada and our EC partners. It has undoubtedly helped inward investment. And the International Fund for Ireland, established as a result of the Agreement, has invested over £137 million in over 2,000 projects.
3. The UK remains fully committed to the Agreement. This was amply demonstrated when we went ahead with the Conference on 16 July. This was a date which had been fixed, and which all the Talks participants were well aware of, before the round table talks in Parliament Buildings started. The Prime Minister and I were in no doubt that we were bound to honour it.
4. The Agreement does not derogate in any way from UK sovereignty. It does not give the Irish Government joint authority in relation to Northern Ireland. But it has provided valuable machinery for discussing regularly a wide range of topics. The Secretariat provides a 24 hour a day channel of communication, which has been of enormous use. The Anglo-Irish

relationship is uniquely sensitive and uniquely close: the Agreement has helped us to manage it much more smoothly and efficiently.

5. The work of the Conference benefits both Protestants and Catholics. The Agreement is a two way street. We have looked at not just such topics as fair employment and safeguarding rights but also at powers for the security forces and cross border security, social and economic co-operations. Fundamentally the Agreement is an instrument for reconciliation.

6. I would not accept that the Agreement has hindered political progress. For instance, it provided a regular forum for that strand of my talks about talks which concerned the role of the Irish Government. Preparatory talks went on in parallel with the political parties. The Agreement also puts political pressure on the terrorists, against whom we are all united.

UK and ROI Governments have discussed issues of mutual concern and worked together towards mutual aims

Growing understanding of respective positions and of constraints acting on each side

Agreement an established forum for developing and monitoring security co-operation. Closer relations between RUC and Garda Síochána at all levels. Security co-operation monitored by Ministers at each Anglo-Irish Conference. Conference provides a framework for considering further improvements.

Intensified co-operation in economic and social matters. For example recent Intergovernmental Conferences have covered health, rural development and education co-operation.

A. GENERAL

1985 aims

- Acceptance by both Governments that the status of NI would be determined by the principle of consent
- Promotion of peace and stability in NI
- Reconciliation of the two traditions in NI
- Creation of a new climate of friendship between UK and ROI
- Improved co-operation in combating terrorism

Developments : bull points

- UK and ROI Governments have discussed issues of mutual concern and worked together towards mutual aims
- Growing understanding of respective positions and of constraints acting on each side
- Agreement an established forum for developing and monitoring security co-operation. Closer relations between RUC and Garda Siochana at all levels. Security co-operation monitored by Ministers at each Anglo-Irish Conference. Conference provides a framework for considering further improvements.
- Intensified co-operation in economic and social matters. For example recent Intergovernmental Conferences have covered health, rural development and education co-operation.

Q&A

Q Agreement is undemocratic?

Agreement means increase in Irish authority?

We take full account of the strength of the fears expressed by many in the Unionist community that they are being excluded from the running of Northern Ireland's affairs. But those fears are completely unfounded. The Agreement does not detract in any way from the sovereignty of the UK Government (see Article 2(b)). We have always encouraged elected representatives to put their views through the normal channels. Will continue to do so, and to take full heed of what they have to say.

Q If any new political arrangements must have widespread support, why did this not apply to the Agreement?

Outcome of Review of Workings of 1985 (1989)?

Strictly speaking, widespread acceptability has been a test for new political institutions in NI, not for an inter-state Treaty. But it has been the Government's hope that the real benefits of the Agreement to both Protestants and Catholics would become apparent to all concerned and that it would in the time gain widespread support. In the absence of that support, both Governments have made it clear that we should be prepared to consider a new and more broadly based agreement if - but only if - such an agreement could be reached by direct discussion in three stranded political talks involving the main constitutional parties in Northern Ireland.

Q Surely many of the positive developments since 1985 would have taken place without the Agreement?

True that developments cannot be attributed solely to the Agreement. However, many have been discussed through the

medium of the Conference and have benefited from closer co-operation between the two Governments.

Q Agreement means increase in Irish authority?

There is no derogation from sovereignty in the Agreement. Decisions affecting Northern Ireland remain the responsibility of the UK Government.

Q Is the Agreement a threat to NI's status?

No. Article 1 of the Agreement explicitly affirms that any change in the status of NI would only come about with the consent of a majority of the people of NI, and recognises that the present wish of the majority is for no change.

Q Outcome of Review of Workings of IGC (1989)?

Concluded no fundamental changes necessary. However, highlighted potential advantages of greater cross-border, economic and social co-operation, with the involvement of Departmental Ministers where appropriate. Agreed more details of the deliberations of the conference should be made public. This has been reflected in Conference Communiqués and Press Conferences since 1989.

Q Does the Agreement provide any assistance to the political process?

The Agreement increases the breadth of Anglo-Irish relations, and provides a framework for addressing problems and

B. POLITICAL MATTERS

1985 aims

- To show acceptance by both Governments that the status of NI would be determined by the principle of consent.
- To declare UK policy of devolving responsibility for certain matters in NI on a basis which would secure widespread acceptance.

Developments : bull points

- The IGC a forum for helpful and constructive exchanges on the prospects for political development in Northern Ireland.
- Has given both Governments the opportunity to consult on what each considers the essential requirements for progress and to seek to reconcile any differences of interpretation or perspective.

Q & A

Q Has the Agreement not been a hindrance to political progress?

It is not the Agreement, per se, which has hindered progress, but rather the different political perspectives that have yet to be reconciled. In the meantime, it is important to keep the dialogue going between all parties.

Q Does the Agreement provide any assistance to the political process?

The Agreement improves the conduct of Anglo-Irish relations, through the scope it provides for addressing problems and

differences which arise between the two Governments, by means of constructive private discussions rather than megaphone diplomacy. It does not, however, derogate in any way from UK sovereignty.

Q - Agreement proves the way for a united Ireland?

No. It commits the two Governments to the view that any change in the status of Northern Ireland would only come about with the consent of a majority of the people of Northern Ireland; and that the present wish of a majority is for no change.

Q Dr Fitzgerald's memoirs?

Government has studied with interest Dr Fitzgerald's account of the negotiation of the Agreement. He was one of the key participants: a dispassionate historian writing 50 years hence would not perhaps agree with every detail. The essential point is that the Agreement, without putting in question the status of NI as part of the UK, has improved Anglo-Irish co-operation in many areas.

Q Has the McGimpsey judgment not been extremely damaging to the Agreement?

The Government has indicated on a number of occasions that the McGimpsey judgment has had no effect, either in legal or in constitutional terms, on the continuing validity of the assurances given in Article 1 of the Agreement. A change in the status of Northern Ireland would only come about with the consent of the majority. Articles 2 and 3 of the Irish Constitution do not and will not affect the way Northern Ireland is governed.

Q Agreement has simply given Dublin a veto on political progress?

It is widely acknowledged that any lasting political accommodation will have to address the three relationships. One consequence is that the Irish Government's views are an important element in that process. Same applies to all the other participants.

Q. Future of the Agreement?

The two signatories to the Agreement, the British and Irish Governments, have made clear that they would be prepared to consider a new or more broadly based agreement if such an agreement could be arrived at through direct discussion and negotiation involving the main constitutional parties in Northern Ireland.

Q Replacement of Agreement impossible while security powers rest with the British Government?

The precise nature of powers which might be devolved, and the form which any new agreement might take, would be matters for discussion between the parties involved. Would not wish to pre-empt such discussion.

Q New agreement impossible unless Republic amends or withdraws Articles 2 and 3?

The Republic's Constitution is essentially a matter for the Irish. I do not personally find Articles 2 and 3 helpful. Encouraged by the fact that the Irish Government made clear that this was a matter which they would be willing to discuss during the three-stranded talks with the main constitutional parties in Northern Ireland which were held earlier this year.

C. SECURITY CO-OPERATION

1985 aims

- To enhance cross-border co-operation on security matters.
- To facilitate improvement of relations between the security forces and the minority community by providing a channel for airing and debating legitimate grievances about security force operations.

Developments: bull points

- Conference provides forum for developing and monitoring security co-operation.
- Progress made in a number of areas, including joint threat assessment, liaison structures, technical co-operation and operational relationships.
- Constantly developing terrorist threat requires continuous review and refinement of co-operation between the police forces North and South and their colleagues in the armed forces.
- Cross border co-operation is vital to the safety of citizens not only of Northern Ireland, but also of the Republic. It is vital for both unionists and nationalists. Continual efforts to improve its effectiveness are called for in the face of the terrorist threat.
- Much closer working relationship between RUC and Garda Siochana at all levels. Many more joint operations and greater intelligence sharing.

- Increase in arms finds by the Garda. Up until 30 September 1991 Garda recovered approximately 125 weapons, over 21,000 rounds of ammunition and over 1,600 kgs of explosives.
- New, publicly available Code of Conduct for the RUC.
- RUC have made great efforts to increase levels of recruitment from the minority community.
- Greater powers for RUC to control provocative parades and marches.
- Considerable improvements in procedures for handling complaints against the police and army, including setting up of an independent commission for police complaints. We have also undertaken to establish independent assessors for army complaints and for holding centres.
- Emergency Provisions Act most of which came into force on 27 August, took account of views expressed by the Irish Government within the Agreement on matters with which it deals.

Q & A

Q Irish support for terrorism?

Both Governments remain committed to ensuring that terrorism is defeated. The Irish have publicly condemned terrorism on many occasions.

Q In spite of claims that the Agreement has enhanced security co-operation, is it not the case that terrorist levels are as high as ever?

The level of terrorism continues to be a matter of grave concern to both Governments. But the format of the Conference provides firm framework for continuing Inter-Ministerial discussions on all North/South security issues. More needs to be done and will be. Both Governments are committed to security improvements whenever possible.

Q Police presence at all army operations?

We remain fully committed to the practical implementation of the objective set out in the Hillsborough Communique of 1985 and the Review of the Working of the Agreement of 1989 in relation to accompaniment of army (including UDR) patrols by the police. [If pressed: While the threat from terrorism in Northern Ireland remains so high, there will always be occasions where the nature and timing of an operation preclude an RUC presence. Manpower and operational constraints mean that RUC officers will not always be available. Nevertheless, there has since 1985 been an absolute and a proportional increase in the number of accompanied patrols. Not the practice to give figures.]

D. LEGAL MATTERS

1985 aims

- To consider areas of criminal law which might with benefit be harmonised.
- To build public confidence in the administration of justice

Developments : bull points

- Ratification of the European Convention on the Suppression of Terrorism by the Irish Government.
- Agreement used to pursue concerns about policy aspects of extradition and extra-territorial jurisdiction.
- Stronger law on preventing incitement to hatred.

Q & A

- Q Does the ROI law on extradition present a major obstacle to the capture and trial of ROI suspects?

The British Government is on record as having expressed concern about the possible consequences of any continuing uncertainty about the scope of the political offence exception in Irish extradition law. It would be inappropriate to comment further in view of cases currently before the Irish Supreme Court.

- Q Has the Irish Government made any attempts to improve extradition arrangements?

- In 1987, in an effort to facilitate easier extradition, the Irish Government ratified the European Convention in the Supression of Terrorism.

Q Ellis case?

- The Ellis case demonstrated two key things: the British Government's determination to adhere to its understanding with the Irish Government on speciality (you cannot be tried on charges other than those for which you were returned); and the falsity of any claim that Irish people cannot expect a fair trial in Great Britain.

E. ECONOMIC, SOCIAL AND CULTURAL CO-OPERATION

1985 aims

- To ensure that the identities of both communities are respected.
- To protect human rights and prevent discrimination.
- To promote economic and social development.

Developments : bull points

- Establishment of International Fund for Ireland with funding from USA, Canada, New Zealand and EEC. Fund has invested over £137m in over 2000 projects.
- Initiatives to rejuvenate urban areas in Belfast and Londonderry.
- Elected Authorities (NI) Act 1989 has ensured that 'I' voters have been able to vote in district council elections.
- Flags and Emblems Act (NI) 1954 has been repealed.
- Fair Employment (NI) Act 1989 provides further measures to eliminate religious discrimination and encourage equal opportunities in employment.
- Greater contact between UK and ROI Departments at all levels.
- Transport, tourism, health, rural development, education co-operation, energy and environmental matters discussed at IGC: all fields where co-operation is already present, but where there is potential for expansion.

- Irish have made recommendations on composition of a range of public bodies.
- Measures taken in relation to Irish language.