



An Chartlann Náisiúnta National Archives

Reference Code:	2016/52/19
Creation Dates:	5 October 1986
Extent and medium:	7 pages
Creator(s):	Department of the Taoiseach
Accession Conditions:	Open
Copyright:	National Archives, Ireland. May only be reproduced with the written permission of the Director of the National Archives.



IRISH EMBASSY, LONDON.

Taoiseach
 Minister
 Minister for
 Justice
 Attorney General

Secretary
 Mr. Nally
 Mr. Ward
 Mr. Russell
 A-I Section
 A-I Secretariat

SECRET

(sent by safe hand 5/10/86)

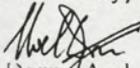
Sunday
 5 October 1986

REPLY FROM THE PRIME MINISTER TO THE TAOISEACH'S MESSAGE.

Dear Eamonn,

I am enclosing herewith a note of a telephone discussion with Robert Armstrong late on Friday evening 3 October about Mrs. Thatcher's message to the Taoiseach which was at that time being sent to the British Embassy in Dublin for delivery. I have noted what he said at somewhat greater length than normal in case you might find significance in anything he said. I am also enclosing a copy of the text as I received it - I sent the text of the message itself to you yesterday (Saturday) by coded telex in case of any delay in delivery by the British Embassy.

Yours sincerely,


 Noel Dorr (Ambassador)

Eamon O Tuathail,
 Assistant Secretary,
 Dept. of Foreign Affairs.

PS Richard Ryan has just given me the attached note offering views on the present situation following the British reply to the Taoiseach. I enclose a copy which you will find of interest.
 ND. 5/9/86

Secret

TELEPHONE CALL FROM SIR ROBERT ARMSTRONG - FRIDAY EVENING 3
OCTOBER 1986.

1. I had telephone call from Sir Robert Armstrong this (Friday) evening about 7.30 pm just before he left his office to catch a train to go down the country for the weekend. He told me that a message from the Prime Minister in reply to the Taoiseach's message of 1 October was now on its way to Dublin where it would be brought in on arrival by the British Embassy there. He said he would arrange to have a copy of the letter delivered to me.

2. He went on, speaking in a guarded way on the phone, to give me some idea of the content. He said the British position was that they really could not do what we wanted (ie introduce three judge courts). But there were a lot of other things that can be and are being done. I understood that the message would contain a list of such measures. He said that "some are more significant than they might look at first sight". They included such things as increasing the number of scheduled offences which may be referred to a jury; reducing the delays; and reducing - possibly in practice to nil - the number of cases involving multiple defendants.

3. I asked if the message was phrased in definitive terms ie if the decision was definitive. Armstrong said one could not wholly predict the future but he thought the terms of the message do not invite a further stage (of discussion). He went on "I don't know how she feels deep inside but it is a lot to expect her to stand up to what she got from the House of Lords". I understood this to be a reference to the Lord Chancellor, Lord Hailsham but since Lord Whitelaw is also a member of the Sub-Committee, I asked if he meant (Lords) plural or singular ? He said "very much singular - but what a one !" He went on "it was a case of all the guns and the battleship blazing". (ie Hailsham had been very strong in opposition).

4. Armstrong went on in a ruminative manner, saying that it was "frightfully difficult for her to agree whatever she thinks inside. I do not know what she really feels inside." But the pressure on her (clearly from Hailsham speaking with the weight he carries as head of the Judiciary) had been terrific.

5. I asked if there were some thought of a meeting ? (I was referring to the final par. of the Taoiseach's message, and his hope that the issue would not be decided negatively until he had a chance at least to put the case to her in person. At this stage I had not yet seen the text of the Prime Minister's reply).

~~It now in~~

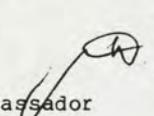
Armstrong replied that she would be going off for a week ^{now in} any case (Tory conference starts on 7 October) but he left me with an impression - no more than that - that the possibility of a meeting was not wholly to be discounted. He said "it is all to play for" but did not elaborate further. He also commented that Tom King would be in Dublin on Monday and then said, again ruminatively, "if it were useful I could go across next week". (Note: I would not draw any particularly optimistic conclusions from these comments. I took it that Armstrong knew he had unpalatable information for us and was casting around for any other ideas).

6 I asked informally how the Taoiseach's message had been received - did it have a counter-productive effect? He said "no, not at all" - it did not have a negative effect. He added that there had been a fairly thorough discussion of the whole issue.

7 I said that it was somewhat difficult for me to react to all that he had said - I had not yet seen the text of the message and I did not know how significant were the other areas of action listed in it or how they would be seen in Dublin. He said that of course he could not foresee this either but he did think there were a number of things in what the British side is prepared to do that "could be made something of if you wish to do so".

8 A short time later (about 8 pm) a copy of the message for my information was handed in at the Embassy. As I had some difficulty in making other contacts in Dublin immediately, I telephoned the Taoiseach (in Kilkenny) and gave him the kernel of the message in a guarded way. I did the same later for A/Sec O Tuathail when I reached him. A copy of the message was sent by coded telex to DFA on Saturday morning in case the British Embassy had not yet delivered the original.


ND
Ambassador, London
3 October 1986


Ambassador

5/15/86

The British Message of 3 October

1. The Message represents a singular triumph by the Unionist card which in the form of Lord Hailsham has been played superbly and has trumped Howe, Hurd and King and has overcome the influence of high officials who have guided events as best they could toward the conclusion we wanted but did not get.
2. We have reason to believe that Havers and possibly Whitelaw and Mayhew took their lineup from a correct reading of Hailsham's intentions and of the likely fall-out (in Havers' case, for him, and, in their cases perhaps, as they saw it, for the Government as a whole) if Hailsham were rebuffed, if three-man courts were decided on, and if Hailsham were to decide (with, behind him, Lowry and co.) not to take it lying down.
3. The British know that it was the Unionist card that led to this decision, not the considered views of a Lord Chancellor acting in good faith and from a position above partisan involvement; and that it is quite something that three senior Ministers, including the file Minister, were overwhelmed by this.
4. They know, too, that, situated against the background of the overall present scenario; situated against the Communique of 15 November, 1985 and our Government's declared intentions re the Convention over coming weeks (and the clear risks involved); against their clearly stated expectations re the Convention and the major implications for the Agreement if the Convention is not delivered pretty well whole; that our Government is now in a pretty near impossible situation.
5. Assume for a moment, too, that they expect Dublin to react not only strongly to the Message, but also to react initially at least in a warm way and that a Government which is personally threatened by the implications of the Message may be tempted to respond publicly in a strident way; that the "good behaviour" approach of the present Administration may now wear thin. If Dublin did so, who in the present context stands to come out better - the British side or the Irish side?
6. It is suggested
 - that major figures on the British side, including perhaps the Prime Minister, might have wanted to give us the three-man courts; that they failed to do so because Hailsham used his position unscrupulously and they would not face up to him; they know that this puts the Taoiseach and his Government in a pretty impossible position, but this is the reality they must now live with;

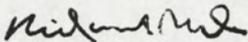
- that, therefore, they must now close ranks and be prepared as a Government (closing, if you like, round Hailsham and adopting a unanimous Cabinet stance vis-a-vis Dublin and the outside world generally - Hailsham will surely be smart enough not to blab and boast about his triumph) to go to whatever lengths necessary to justify their position and to make whatever egg may fly land on other faces even if that includes faces they like like the Taoiseach's;
- that, therefore, they are now prepared to react as strongly as necessary to our reaction, and to what happens in Dublin, in such a way as to be seen most clearly as the innocent party. Thus,
 - (i) their arguments against three-man courts (in its own terms) will be polished and refined and all those involved, including Howe, Hurd and King will go that road and support them as necessary in Dublin;
 - (ii) they will put us on the spot regarding the Convention, rejecting linkage with the three-man courts issue and forcing the question of our ratification to be seen in its own right - in other words, in such a way so that failure to ratify would fall fair and square on Dublin;
 - (iii) most particularly, perhaps, if the success or failure of the Agreement, or its very existence, came to be questioned because of their failure to deliver three-man courts, they will point to the polished arguments against the courts and to the small concessions proposed which they will highly polish too but, it could be argued perhaps by cynical observers, hardly needed the hoo-ha of the Agreement, its attendant fuss, the time involved, the alleged "cost in lives" etc., to get; they will argue that the Convention is something we offered and must deliver, and that if we cannot deliver, then HMG cannot be held responsible; they will argue that it is not good enough for the Irish to blow up every time they do not get everything they want; they will argue that it is not their responsibility to provide life-support systems for other Governments (i.e. they will push out, again, the old John Bull, honest broker trying hard in difficult circumstances, decent chaps sinking in Celtic marsh, scenario);
 - (iv) they will reiterate most strongly their commitment to the Agreement and their desire to pull through difficulties, etc; and, if and when the time comes they will extend all this to a new administration in Dublin so that if that administration rejects their positivism, then Dublin has scuttled the Agreement;
 - (v) most particularly, perhaps, they will do all they can to ensure that this version of their actions and their position is clearly seen abroad; some of our best and closest friends on the British side would no doubt be involved in this and we would find ourselves - correctly,

and as we are - as the representatives of another Government, but now one whose relations are cooling with theirs, - placed if you like by event in a more formal juxtaposition vis-a-vis them (this last point is surely not just for you and me in London, but if true is true and equally so for all our senior Dublin officials who "interface" with the British just as deeply as we do).

7. If the foregoing scenario has validity, what are our priorities and what should we do? If we believe that the Anglo-Irish Agreement is in fact big enough in principle, and valuable enough, to deserve to be transposed as intact as possible into the future with, perhaps, a new Government on one or indeed on both sides, but without allowing the Irish side to begin to rise, as it were, on the scales of value flowing from the Agreement (while the British side dips through a greater share of value accruing on their side - which must mean, at present, less concessions to us and more accommodation to the Unionists) then it seems to me the "here and now" next move must be to box in the British, i.e.
 - firstly, Dublin tells London now in frank terms that non-delivery re three-man courts is not on in itself (we highly polish and use now our arguments in their own terms for three-man courts knowing, as we do, that senior figures in the Cabinet, including King, agreed with us) and, if necessary, we let the real scenario within the British Cabinet Sub-Committee, or part of it, get out - viz. that it was not a monolithic view. Thus, we retain and amplify our arguments for three-man courts in their own terms, because these arguments are very good and may be required later by the present or a future Irish administration;
 - secondly, Dublin recalls the context of the whole of the administration of justice question which the three-man courts point illustrates, and places action by Dublin on the Convention once again in its context as epitomised by the 18.11.85 Communique;
 - thirdly, Dublin reaffirms its intention to proceed with the Convention while at the same time declaring that, in its view, the major requirement of progress on three-man courts as a first significant step forward improving the administration of justice in Northern Ireland is on the agenda as far as Dublin is concerned and will feature inter alia but largely in the Conference.
8. The foregoing scenario, sketched out in haste, would at least have the effects of countering any British intentions to seize and use Irish chagrin; it keeps the central political issue in the Conference (as it has emerged or has been allowed to emerge) - three man courts - firmly in play; and it keeps the Conference alive and at the disposal of present or future players on both sides.
9. It has its "down side" inter alia in that it may require a measure of dirty play on our part (by, if necessary, getting Hailsham and his act identified, and by letting it be known that Howe, Hurd and King were for three-man courts); but, for one, my own personal if small qualms of decency are calmed by the certainty that the good fellows on the British

side will bat us out of the stadium in front of all spectators (and worse, if there is worse) if that is necessary to do what they were trained to do: to advance the interests of HMG above all other interests.

10. Finally, the foregoing is a response written down in some haste and, I hope, bearing in mind the present context, where our administration as it were looms over the Embassy in our "interface" with the British, in a profound and very good way, and is not therefore in need of the same kind of psychological trajectory adjustment that Embassies are there for, nevertheless this may be a fast-moving scenario now presented to us and I hope these thoughts, rough-hewn as they may be, may nevertheless offer something, and could perhaps assist in a meeting or whatever with (in?) Dublin to consider our reaction in more depth.


Richard Ryan
Counsellor

5 October 1986 /