



An Chartlann Náisiúnta National Archives

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Initial brief for informal meeting with Secretary of State
and for the Anglo-Irish Conference

Extradition and Court Reform

1. It seems fairly clear that the British will not now move on reforming the Diplock Court system, and certainly not before 1st December. I received clear signals to this effect in the past few days from Ambassador Fenn and Ian Burns (No. 2 at the N.I.O.). Whatever slight possibility existed of moving before the Cambridge Conference was, according to Fenn, ended by Dr. FitzGerald's intervention there and the subsequent hyping of the linkage issue. Both Fenn and Burns argued that the British could not be seen to be held up to ransom on court reform.
2. The above would exclude not just the possibility of three-judge courts but also any possible variation of mixed courts (e.g. a mixed court exclusively for extradited persons).
3. That said, the British position may not be completely static. At a meeting with Ian Burns in London on Tuesday, he emphasised that London did not want a "slanging match" with us. Officials appreciated that, as things stood, it would be asking us to do the "politically impossible" to let the Act go through. He then went on to say that he wondered, in a context where there had only been partial progress in two of the three linkage areas (security cooperation and the administration of justice), if some form of analogous partial progress in the implementation of the Act might not also be a possibility. I failed, even on a one to one basis, to tease out what precisely he had in mind. However, from one or two remarks by one of his senior

aides, I believe that they perhaps see a reservation by us as opening a possible way forward. I have to say, however, that they appeared quite hesitant about raising the above possibility, which perhaps suggests it has not yet been put to the politicians in any substantive way.

4. It also seems to me that there is something more to this thinking than the straight desire to prevent a strain in the relationship between London and Dublin. Burns, for example, seemed very concerned in case the deferral of the Act would convey an unfortunate signal to the Courts here which could make difficult the further development of their position on political offences. On the other hand - and while he did not say this it seemed to me to be implicit in his remarks - the operation of the Act, even with a reservation, would probably be seen by the courts as, at least, a neutral move and as not conveying any negative message.
5. It will be interesting to see if the Secretary of State raises the above. Many of the Council of Europe countries have already made reservations and this could make it easier for London to accept a similar move on our part. For us, it would of course involve an amendment to the Act.
6. Initially, at the meetings, King is of course likely to take a high ground and to refer to (a) all the pressure, including the personal security pressure, which London has carried for the past two years and (b) to the improvements in the administration of justice in Northern Ireland since November 1985 (these improvements have already been set out by them in a non-paper which Sir Robert Armstrong gave to Mr. Nally on October 5th).

Security

7. At the Conference itself, the Tanaiste will wish to repeat our dissatisfaction at not having been given a copy of the RUC Code of Conduct. It is quite extraordinary that the copy we have should have come from a journalist.

8. The Tanaiste will also wish to express dissatisfaction at the level of RUC accompaniment of the UDR. We are getting strong messages from our contacts in the North that the situation has if anything disimproved in recent months. This is one of the most important issues for nationalists and one of the most acute causes of tension in the North. It would be a considerable achievement if we could make significant and early progress on this. Recently in the Secretariat, we asked that the British begin to provide us with regular statistics on this question - the last statistics we received were in October 1986. If we do not receive statistics, then it is impossible to assess accurately what is happening on the ground. The delays in putting accompaniment in place are particularly unacceptable in the context of the joint statement issued on 11 December 1985 after the first meeting of the Conference. This stated:

"The Conference considered the steps which were being taken progressively in applying the principle that the Armed Forces (including the UDR) operate only in support of the civil power with the particular objective of ensuring as rapidly as possible that, save in the most exceptional circumstances, there is a police presence in all operations which involve direct contact with the community. The Chief Constable of the RUC stated that this objective was in accordance with existing RUC policy."

Electoral Matters

9. The Tanaiste will wish to express regret about the issue of the discussion paper, which proposes that Local Government candidates should declare non-support for proscribed organisations. The proposal is almost certainly unenforceable, it gives the Provos a propaganda issue at a time when they have been losing ground to the SDLP and, in the context of Northern Ireland politics, it makes absolutely no sense. We, quite frankly, have a much better feel for an issue of this kind than the British and it is important that they listen more carefully to, and consult more actively with, us on such matters.

Employment Equality

10. The discussion and the communique could take note of the recent "Guide to Effective Practice" and, in particular, enable the Tanaiste to emphasise the need for early and effective fair employment legislation.

Cross-Border Co-operation

11. The Conference will agree to commission a study of the major economic and social problems of the North-West and to identify ways to tackle these problems. The study will also consider how this might be achieved through cross-border co-operation.

Political Matters

12. It is surprising that the British have not briefed us to date on the "talks about talks" with Unionist leaders. The Tanaiste might wish to raise this at the tete-a-tete at the Conference and we would expect the Secretary of State to give at least an outline of the developments to date at the talks.

International Fund for Ireland

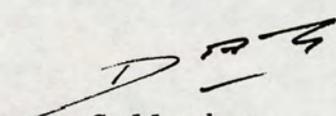
13. The Tanaiste might wish to say a few words about the International Fund with a view to ensuring that there is an effective political input from the British side into the review paper which will be drawn up at the November meeting of the Advisory Committee (jointly chaired by myself and the Permanent Secretary at the Northern Ireland Ministry for Finance). This review paper will then be submitted to the December meeting of the Board which we have suggested should be a reflective one and should have a long, hard and - hopefully - imaginative and creative look at the Fund and the direction it might go in over the remaining two years of the present Board's mandate.

Security Cooperation

14. This is a matter primarily for the Department of Justice. The British have proposed that both Police Chiefs be at the Conference.

Next meeting of the Conference

15. It is very important that, whatever happens on 1 December, both sides should adopt a "business as usual" approach. It would be very helpful in this regard if a further meeting of the Conference could be held in early to mid-December and we might press actively for this.


Dermot Gallagher,
15 October, 1987.

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