



An Chartlann Náisiúnta National Archives

Reference Code:	2018/68/51
Creation Dates:	7 November 1988
Extent and medium:	6 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.

SECRET

ALOS

Mr. H. Clancy
10-11-88 10/11

Discussions on Anglo-Irish matters between
the Tánaiste and Sir Geoffrey Howe,
Iveagh House, 7th November, 1988.

1. In opening the discussion, the Tánaiste referred to the very great importance of the Article 11 review process. Work would be conducted at two levels, with officials drawing up programmes of work for the future and, at the same time, both Governments seeking and hopefully receiving the views of all constitutional political parties on the island. He very much hoped that the process would yield positive results and would lay down the parameters for the future. He envisaged the process taking about three months.
2. The Tánaiste said that he appreciated and understood the emphasis which the British side placed on security cooperation. In this regard, the Conference meeting on last Wednesday had gone extremely well and, in fact, there was no issue between the two sides at the meeting. Both were making an exceptional pre-emptive effort to pick up the vast amount of weapons which had been brought in on the pre-Eksund shipments. The Tánaiste estimated that only some 20% of these weapons had been recovered.
3. The Tánaiste went on to say that, while this high degree of security cooperation was to be greatly welcomed, we placed an equal emphasis on the establishment of a climate of confidence in the administration of justice. It was important to maintain a sense of balance in our approach and to be able to bring as much of our public as possible with us. Otherwise, we would be giving free rein to the Provos, who would succeed in making capital out of the situation. In this regard, the Tánaiste emphasised the continuing relevance of court reform in Northern Ireland, in particular in the light of the recent changes in the law on the right of silence. He then made the point that our

proposals for three-judge courts were particularly relevant at present. Three-judge courts had worked very well in the South and had widespread public support. They were a half-way house between the Diplock system and jury trial. Each of the latter two methods had been shown to be inadequate in dealing with terrorist offences, whether arising from, for instance, the whim of one judge, or from prejudice, emotion or the influence of the attitude of the popular media on a particular case.

4. The Tánaiste said that there was a second issue of very great importance to us at the moment and that was the question of the greater utilisation of the Criminal Law Jurisdiction Act while, of course, maintaining extradition in place. The two methods should go in tandem. This issue was particularly relevant at the moment as the Government would be asking the Dáil to renew the existing extradition legislation in December. The Criminal Law Jurisdiction Act had worked extremely well in the past, with twelve out of the thirteen cases brought before the courts having been prosecuted successfully. It had most recently been used - and successfully - in the North against some UDA people accused of planting firebombs in Dublin.

5. In response, the Secretary of State first referred to the Review, and said that it was very important that both Governments reaffirmed that the Review was of the working of the Agreement and not of the Agreement itself. Both Governments remained fully committed to the Agreement. There was, of course, room to improve its working. He saw the review process as being a forward-looking exercise, focussing on the work of the Conference.

6. The Secretary of State also made the point that the Review might afford an opportunity for prompting or promoting political progress in Northern Ireland through extending the

involvement of politicians in the work of Government. At the same time, Tom King had told him that the prospects of such progress seemed at present to be limited, given that the Unionists were adopting a "detached" approach. It was for this reason that King had decided to talk in terms of steps towards devolution rather than of devolution itself. The Secretary of State added that he very much hoped that Dublin remained committed to supporting London in this objective, which he also saw as potentially helpful to our aim of creating more confidence in the overall system in Northern Ireland.

7. As regards security, Howe said that the British were constantly reviewing the law to see how it might be made more effective. Parallel with this, they of course had to consider how to increase respect for the law. This was the background against which the recent changes had been introduced. But these changes represented only one side of the coin to be addressed. It was also important to uphold confidence in the law. It would, therefore, be unprincipled and foolish to reject Dublin's proposals on three-judge courts. He could not, of course, give us any kind of commitment on this; he understood, however, that Tom King had said to the Tánaiste that they would be looked at in the spirit he had just outlined.
8. The Secretary of State added that some additional security measures would be introduced in the Prevention of Terrorism Act and in the Northern Ireland Elections Bill. King would bring the Tánaiste into his confidence on these as soon as possible.
9. On extradition, Howe said he welcomed the fact that our legislation would be renewed in December. This legislation had not, of course, been tested to date in a terrorist case. They would have some thoughts which they would wish us to

consider when we were reviewing our legislation, and they would be submitting these to us in due course.

10. There followed a positive discussion on the value of the Criminal Law Jurisdiction Act, in which the Tánaiste again drew attention to the very successful use of the legislation in the past and the fact that cases under it could be completed quickly and without the complications that, in every country, arose in extradition cases. While not being specific, the Secretary of State seemed happy that general agreement existed that work was advancing satisfactorily at official level on the use of the CLJA in appropriate cases.

11. Sir Geoffrey then turned the discussion back to the possibility of political development. He mentioned that Tom King had been trying to draw people into the search for movement on devolution - what King cautiously called "movement to or towards devolution". Nothing would, of course, work unless it were widely acceptable. Howe had a feeling that the parties were willing to talk about devolution but "only up to the stage of doing something about it"; this must be highly frustrating for King. Again, he emphasised that anything Dublin could do to encourage movement in this area, especially as regards the SDLP, would be welcomed. He added that he saw movement in this area as an important part of the overall wider effort to establish confidence in Northern Ireland.

12. The Tánaiste responded that the difficulty with devolution lay to a significant degree in the different conceptions of, and indeed perceptions about, it. We felt devolution was not possible without considering the North/South dimension. The SDLP took the same view. The Unionists, on the other hand, did not want devolution because it involved

power-sharing. There were practical difficulties in devolution without a North/South or indeed an East/West dimension. The SDLP, for instance, saw us in many ways as guarantors of the Northern nationalist position. It would be very difficult to devise a framework to include all these dimensions. It was even a problem to generate interest in the idea. Tom King to date had not been successful in bringing Unionists into talks on it and the only party which seemed interested was Alliance, and they were fairly marginal.

13. The Secretary of State said that perhaps devolution was not the most helpful term. What they were trying to do was to devise methods which would diminish the divisions between the two communities. This might be done through getting people working together in institutions, and such institutions need not necessarily have all-embracing powers or responsibilities. He gave as an example of what he had in mind the work of the Cardiff Bay Development Authority.

14. The discussion then turned to the Parliamentary Body, which both Foreign Ministers agreed was moving sensibly forward. In this regard, the Tánaiste paid a warm tribute to the work of Peter Temple-Morris, the leader of the British group, and to his Irish counterpart, Jim Tunney. He said he hoped that the Unionists would become involved in the process and, indeed, it might be easier for them to be associated with the Parliamentary Body than with an executive system of Government, which tended to make them defensive. He added that seats had been reserved for Unionists in the proposed structures for the new body. The Secretary of State agreed generally with the views of the Tánaiste though he said he had not as yet discussed the Body with colleagues in London.

15. Sir Geoffrey, in a reference to the US Presidential election, said that he very much welcomed the joint approach which both Governments had been able to take in the States; it was important that they kept closely in touch about how to approach matters there in the light of a new President taking over. In this regard, he said that some things had been said during the campaign which had been unhelpful (presumably, a reference to some of the Dukakis advertising). He went on to refer to the Fair Employment legislation and the McBride Principles. The Tánaiste said that the McBride campaign would be overtaken when new effective legislation was put on the statute book in Westminster.
16. Finally, the Tánaiste emphasised the importance of the Home Secretary's referring the Guildford case to the Court of Appeal. The people involved had served a long period in jail and there was now new evidence forthcoming which suggested strongly that the verdict in the case was a very doubtful one. He added that it would greatly help the climate of relations between the two countries if the prison regime of the Birmingham Six could be looked at sympathetically with a view to appropriately positive humanitarian action being taken.

DAG

Dermot Gallagher,
7 November, 1988.

cc: PSM
Mr. Nally
PSS
Ambassador London
Mr. Mathews/Mr. Brosnan
Joint Secretary
(3) Counsellors A-I
Box