Dermot Nally Papers

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NORTHERN IRELAND

Notes on Developments, 1985 to 1993

Anglo-Irish Agreement 1985

The Anglo-Irish Agreement, 1985, was the subject of meetings between Taoiseach Garret FitzGerald and Prime Minister Margaret Thatcher in Dublin, London, Chequers, Fontainebleau, Brussels, Milan, and other places, with innumerable other preparatory meetings between Foreign Minister Peter Barry and his opposite number on the British side, and about 40 meetings at official level. There were also meetings with President Reagan. I attended all the meetings at Presidential and Prime Ministerial level and chained the Irish side at official meetings. In these notes I cannot hope to describe the ebb and flow of the negotiation or enter into the drafting nuances which occupied so much time and attention. I will instead concentrate on what I think were the main points.

The negotiation of the Agreement began with the visit to Dublin on 2 March, 1984, of Cabinet Secretary Robert (now Lord) Armstrong whom I had known since Sunningdale in 1973, and David (now Sir David) Goodall, then Deputy Secretary in the Cabinet Office to meet Sean Donlon and me in the Cabinet Room, Dublin. Armstrong who had phoned on to emphasise the confidentiality of the meeting said they would like to talk about options under three headings;

- security
- constitutional questions, and
- measures affecting the Government of Northern Ireland. human rights, identity etc.

From that set of building blocks we were to construct a formula - or an edifice - which would bring peace in Northern Ireland!

The security aspect was twofold. As Dr. FitzGerald stressed to the Prime Minister at one point when she seemed to be wavering "Prime Minister, you are putting at risk 800 years of British real politick. You have always held that Ireland should not be used as a base to

attack England. But that is happening now. And the Libyans and God knows who else are becoming involved. There must be action to give a focus to politics in Northern Ireland."

The second aspect was of more immediate concern. As soon as the March meeting was over, I raced upstairs to the Taoiseach's office on the first floor to tell him of the British proposal for a border zone where the police forces of the two countries could move without formality. The proposal was quickly put to rest when I phoned Armstrong to knock it on the head on the urgent direction of the Taoiseach. As also was the suggestion - though this did not appear with quite the same despatch - for army to army contact. Police to police co-operation was, on all reports we were receiving, good. There were technicalities on extradition, and as far as the criminal law was concerned, Irish legislation against terrorism was at least as draconian as any in Europe, including the U.K. After all, we in the South were conscious that the IRA did not recognise the Irish State and had its disruption as an objective (State (Lynch) v. Cooney, 1982). We were not going to be lax on security. The initial discussions did not end dialogue on these and other security issues which came up again and again over the next year.

Could the Court system in Ireland as a whole be improved by the addition of Southern judges to the Northern Courts - where three judges Courts might be required for certain offences - while Northern judges would sit reciprocally on Southern Courts? The question was discussed but again came to nothing, largely, because of strong legal opposition on the British side.

As the dialogue progressed, two major questions crystallised. What changes in the governance of Northern Ireland would be sufficient to enable the Irish Government to win a referendum on articles 2 and 3 of the Constitution with their Court enipided imperative that the Irish State was continually to seek Irish unity. On all experience of referends in Fedan, the Government would need the support of the main opposition parties to win. And for that reason the profile of any composition parties to win. And for that reason the profile of any composition parties to win.

superficial change in governmental arrangements simply would not win support: and certainly would not end the violence. But too high a profile would enrage the Unionists. Balance was essential. "We are walking on eggshells, Garret" said Mrs. Thatcher.

This was the core of the issue between having a body or executive outputs of members of the discussion or council or conference - the official negotiating teams went through 24 different titles! for what eventually became the Anglo-fish interpovemental Conference - with executive authority or go body with a purely consultative function. That simply would not do. We could not do. We could not do. We could for no first members of the conference of the conferen

Discussions started on high profile options - including the three options recommended by the New Tednal Forum, a unifold Ireland, Federation Confederation or Joint Authority. These were formally perfected on the Confederation or Joint Authority. These were formally put to the British at an Official meeting in the Summike 1949 and pits as formally rejected. The point was made strongly that the uncertainty on the status of Northern Hendlard was contributing to the instability there. The options were finally put to rest in Chequers in November 1946, between the Taoleschead and Prime Ministers the famous "out, out, out" meeting. Mrs. Thatcher was in great form then. I can still remember vividly between the Taoleschead and Prime Minister to David Goodall - ell mrs. do you people from the Foreign Office need a vise, to enter the United Kingdom?"

She regretted the damage she had done by the stridency of her "out, out, out" statement and said to the Taoiseach at the European Council in Dublin shortly afterwards, "I am doing the best I can, Garret. I have been going about smiling all day here!" Her commitment did not stop there. I think that the balance of the Agreement finally

*Council, Conference, Authority, Board, Lodge, Convention, Congregation, Convocation, Organisation, Chamber, Bureau, Centre, Meeting, Commission, Committee, Aency, Body, Svolicate, Group, Synod, Panel, Structure, Session, Congress, Tribunal, Symposium.

reached - in favour of Ireland - owes a great deal to her wish to make good the Chequers damage to the Taoiseach.

What energed in the Agreement - a Conference chaired jointly by the hinster for Foreign Affairs from the South and the Secretary of State for Northern Ireland to "put forward views and proposals on matters relating to Northern Ireland" on which "determined offorts" were to be made." to reache on differences: was the final solution to this side of the problem. The extraordinarily wide range of the Conferences' familiary is solving.

The diminished option - after all it was not Federation/Confederation opinal authority: was not judged at the time to be sufficient to carry a referrendum on articles 2 and 3 of the Constitution against the virtual certainsty of strong opposition. But there had to be some balance to provide against both Court and political challenge. The Agreement used the exact words of the community from the meeting in May, 1980, between the Taoiseach Charles Haughey and Prime Minister Margaert Tankerts—that any change in the status of Northerin Iroland "would only come about with the content of particle would have been unconstitutional, but "would" a recognition of the gractical reality that unity would only come about by consent. That phrasing is pivotal. About it hung the whole structure of the Agreement.

The second major issue was how to win the support of the unionists. The Irish side argued quite strongly for their involvement, some way, in the talks. But this did not happen at the time on the grounds that their negativity was too absolute and too uncompromising. Nothing would happen if they took part. Anyay, Mrs. Thatcher needed no prompting on the subject of British sovereignty and the integrity of the Inited Kinedy.

Perhaps the Agreement could tempt unionist participation in a shared administration in Northern Ireland by the clear recognition in an international Treaty registered with the United Nations - as distinct

from the Constitution ratified in the South only - of the need for consent of a majority in Northern Ireland to Irish unity.

The provision that if unionists did take part in a power sharing executive, exercising particular functions, then these functions would cease to be the concern of the Anglo-trish Intergovernmental Conference was intended as a further inducement. A power sharing Executive in Northern Ireland could, displace the Conference, which Acts Compiletely.

The Agreement also provided for the establishment of an Anglo-Irish Parliamentary body so that not only would relations between Dublin and London on an intergovernmental level, be closer but the <u>Parliaments</u> of both countries would become more closely involved in considering Northern issues. Unionists could participate, if they wished, in the same way as prepresentatives of the two countries.

On North/South co-operation, emphasis was more on practical work than on a high profile Council of Technal which had helped to destroy Sunningdale. The International Fund for Ireland was established under article 10, with most generous financial support from the United States, Canada, New Zealand and the European Community. The Fund had by 1989 already committed over £ug50 million to projects in Northern Ireland and the horder counties in the South. Its commitments have forealled well over £ug50 million to projects of the Counties of the South. Its commitments have forealled well over £ug50 million to projects.

Consequences of Agreement of 1985

The Agreement of 1985 was repealed by the Belfast Agreement, which incorporated many of its main features. But it is not in the specifies that the main importance of the Agreement lies. It is on the effect the Agreement had on the warring factions in the North.

For the unionists, there was the obvious fact that incommended the British Government was willing to deal on matters of fundamental importance to the government of Northern Ireland directly with the Irish Government. It was willing to set up institutions and to admit the South into a formal role in part of the

United Kingdom. That was a role never conceded before in any part of the United Kingdom in all its long history.

The shock reverberated on both sides in the North with more than 100,000 Loyalist protesters on the stress and a high leved of IRA and Loyalist violence - but still the Agreement and its workings held. And the Prime Minister stood firmly by the accord she had signed though she did say that the Taoiseach had all the glory: she was being accused of treachery. The Conference continued to meet, and in the communiques issued after every meeting sheet may be a communique in the communiques in the communiques is the state of the

In 1987, Messrs. Molyneaux and Paisley jointly submitted a document to the Prime Minister urging as an alternative to the Anglo-Irish Agreement, arrangements for a direct proportionality as between the two communities in running the North with proportionality also in responsibilities. In other words - back to Stormont. I think it is fair to say that the proposals got nowhere.

Republicans disliked the Agreement just as much. The emphasis in the South had gone from ending partition - though that was still an aspiration - to ending the alienation of nationalists in the North from its administration. All the parties in the Dail supported the Agreement - after March, 1987. The level of co-operation between the sovereign State in the South and the British Government was obvious. The emphasis had changed from jurisdictional claims to practical intergovernmental co-operation. On the 20 years of violence had achieved was this closer co-operation - and a gloss on articles 2 and 3 which could not be to their likely.

In November, 1986, Sinn Fein decided at their Ard-Fheis, by a large majority, to abandon their policy of abstentionism from Parliamentary activity. Earlier in the same year, they published their "Scenario For Peace" whose fate was the same as that of the Paisley/Molyneaux

document. In 1990, the more moderate "Towards a Lasting Peace" appeared.

All this time the two Governments through their Foreign and other Ministers meeting in the Anglo-Iriha Conference were working together on issues facing Northern Ireland and on North/South issues. Southern Ministers and civil servants were gaining experience on matters of day to day administrations, formig acquaintances and friendships and seeing the real problem of government in the North. The two Governments and even more significantly the peoples of the two countries were moving closer the most important fail-outs from the Agreement. In May, 1999, the constitution of the Conference was published, constitution of the Conference of the Conference and the Conference and the Conference towerher.

In 1990 the Northern Ireland Office published "Developments Since the Signing of the Anglo-Irish Agreement" which listed a long series of changes and improvements in Northern Ireland on the rights and identities of the two traditions, human rights and the prevention of discrimination. The document dealt with security policy, legal matters including the administration of justice and the operation of the International Pure.

Three Stranded Talks

On 26 March, 1991, the Northern Secretary, Sir Peter Brooke, after a year or so of preparatory consultations, announced in the Commons his proposals for a "new beginning for relationships within Korthern Ireland, relationships within the island of Frealand networks with the relation of Frealand networks the Strandburn of the Strandburn of Strandburn

The Policy Deficit

In short, on the surface, there was plenty of activity but little progress. Violence was as devastating as ever - new coming from bothsides in an increasingly bloody conflict. Between 1985 and 1992, Loughall, Enniskillen, Gibraltar, Teebane Cross, the Shankhill Fishshop bombing, Downing Street itself where an IRA mortar exploded on 2 February, 1991, the Royal Marine School of Music in Kent, the Baltic Exchange bombing of 10 April, 1992, the Ormeau Road Bookmaker shop atrocity and many more horrific killings, murders and mainings occurred. And there was, as far as the eve could see, no real solution. Devolution or the formation of an executive or administration in Northern Ireland, in which the communities could work together for the common good as the 1985 Agreement sought had not happened. In addition, Mrs. Thatcher, who had expected great things on the security front, did not see them. Her autobiography makes her disappointment quite plain. There was no sign of a settlement: and the weary struggle was continuing with violence coming now with increasing intensity from both sides.

Downing Street Declaration: Genesis

As another level things were happening. From April to September, 1988, we understood that talks had been taking place, in secreet, between John Hume and Gerry Adams. These came to nothing, but the contastes continued in private and overtually in 1991 a preliminary draft document was produced by John Hume which in its refuned form was handed over to the Taoiseach Albert Reynolds in April, 1993. The document was worked over in the Taoiseach's Office and given, in a much revised form, by the Taoiseach to the Prime Minister John Major in June, 1993. John Major any in this anothogopoly had made to the prime Minister John Major in time under document was given to him from Sian Febril/RA.

I had retired in January, 1993, and so was not personally privy to these documents though we had known what was going on. Dr. Martin Mansergh deads with the subject in his illuminating address to the International Committee of the RIA on 22 May, 1995; and the work and papers exchanged are described in The Fight for Peace by

Eamonn Maillie and David McKittrick - who, incidentally, seem to have had a nearly miraculous access to sources.

I was recalled to the negotiation by the Taoiseach Albert Reynolds in June, 1993, and from then until 15 December, 1993, was part of the three man team which negotiated the Downing Street Declaration with Cabinet Seceraty 87 Robin Buller, Northern Ireland Permanent Secretay, Sir John Chilcot, Questin Thomas of the Northern Ireland Office, and Deblin Ambassader David Buller buller. I was accompanied at the face to face negotiations in London and Dublin by Sano O'N Uijenn, Head of the Angal-Irish Section in the Department of Foreign Affairs, with Dr. Mansergh guiding us from his Dublin Officing.

On 7 November, 1990, the Secretary of State for Northern Ireland, Sir Peter Brooke, had said in a speech in Coleraine that Britain had no

"selfish strategic or economic interest in Northern Ireland"; and that Britain would support the wishes of the majority there for the statu quo or Irish unity. This had been stated British policy since as far back as Sunningdale, but the doctrine had never been said before so memorably or so succinctly.

The words gave the Humer/Adams talks considerable impetus. Remember that in 1989/90, Eastern Europe was in ferment, with the destruction of the Berlin Wall, the break-up of the USSR, revolution in Crechoslovakids, Poland, Romania, Humgary etc. In the first six months of 1990, Iteland held, for the fourth time, the Presidency of the European Community, which was seen as a zone of stability in a rapidly changing continent. Terrorism - with drugs and immigration international meeting at the time, Ierland, not just Northern Heland, was described by a delegate as "The country with the longest history of terrorism in Europe".



Against this background, with an obvious need for progress, for the sake both of Ireland and the U.K., the opinion that Brooke's words could be built on was raised by the Taoiseach, Charles Haughey, at

his first meeting in December, 1991, with the new Prime Minister John Major. The Taoiseach also raised the question of an Irish Convention with wider representation than the Brooke three-stranded talks

Taoiseach, Charles Haughey, resigned from office early in February. 1992. The Brooke comment and viewpoint was taken up again and with the vigour of a Taoiseach newly come to power by Albert Reynolds at his first meeting as Prime Minister on 27 February, 1992, in Downing Street with John Major. This meeting was, in fact, the genesis of the Downing Street Declaration. Taoiseach Reynolds met John Major again at the Rio Summit on the Environment on 11 June. 1992, and again more substantively, in London on 25 September, 1992 - where the pressing concerns of both men were with the break-up of the European Monetary System. The Taoiseach was also enmeshed in the domestic abortion debate. Nevertheless, both men looked to developments based on the need for new political institutions in Northern Ireland, permanent North/South institutions building on the 1985 Agreement, with "rights of consultation" (as the British liked to put it) for Dublin, and an unambiguous consensus on constitutional issues.

Downing Street Declaration - Negotiation

The negotiating teams which had been set up by the two Prime Ministers on the Declaration met frequently between July and December, 1993. There were also numerous and intense contacts between the Toisedsen and Prime Minister Major. While the relationships between the interlocutors at the official talks were excellent, both having the aim of progress by consensus, the detailed policy and procedural differences were wide and quite divisive at times. Things were not made any easiers by the Prime Minister's narrow majority in the Commons, where he could be dependent on the Unionist vote for the survival of his Government.

The problems were coming, as usual, from all sides. There was, first, the insistence from Sinn Fein that a limit be put on the time for Irish unity. The Irish side resisted this on the principle that you could not

talk about consent and at the same time say that if the consent was not forthcoming within a certain time, no matter how far in the future, there would be unity anyway. That would be a logical absurdity.

Another Sim Fein requirement was that the British should become "pressuders" for rish unity. Again the argument prevailed that if a majority in Northern Ireland wanted to pursue a certain course in relation to Irish unity that was up to them. British in Air on selfish strategic or economic interes in Northern Ireland": and that was it. The Irish people themselves, and this obviously included Slim Fein, could act as their own "persuaders": and violence was not a productive argument. Persuasion must be exercised through the development of an attractive society in the South, both culturally and economically. Democracy must be allowed to work.

And how long then would a cease-fire have to operate before Sim Foir could take part in the political process? Time limits were discussed but again there was agreement that these should not be included in the Declaration. (Unfortunately, as it turned out - because when the Declaration was signed, Britain allowed too long a time to clapace before beginning talks. The Canary Whart bombing with its deaths of yet more innocent men and £100 @millions damage was the result.)

Decomissioning of arms was raised as a subject for inclusion in the Declaration but was not pressed, on our ablee, since, on all experience in the South, with its civil war in the 1920s, it would not work. The handing over of arms by the IRA would be regarded as tantamount to surrender, which simply was not on. And, finally, there could be no guarantee ever that 100% of the arms were decommissioned. Even if they were, there was little to prevent them from being replenished. Reliance had to be put on the good faith of those who were negotiating the peace. If that good faith were not there, then the whole excercise was fullular anyway.

The negotiations were almost wrecked by the publication in an Irish newspaper of an internal Foreign Affairs document which set out a more or less extreme position - as being that of the Irish Government. The document had, in fact, no authority, being no more than the thoughts at that point of an official of the Department without political input or support.

The European Council in Brussels at the end of October, 1993, which as a retiree. I did not attend, did not help matters. The communique issued after the Council said "The Taoiseach and the Prime Minister agreed that any initiative can only be taken by the two Governments, and that there could be no question of their adopting or endorsing the report of the dialogue which was recently given to the Taoiseach and which had not been passed on to the British Government. They agreed that the two Governments must continue to work together on a framework for peace, stability and reconciliation." The British had formed the conclusion - to mix metaphors - that the "fingerprints" of Hume/Adams on any Agreement or Declaration would be the kiss of death to the project, so far as the unionists were concerned. John Major, a day or two after the Brussels summit, told the Commons that having been informed by the Taoiseach of the Hume/Adams dialogue, he had formed the conclusion that that was "not the right way to proceed". If the Declaration was to be tolerable to the Unionists, all traces of Hume/Adams must be removed. Our argument was that the original document had been modified and redrafted so much - as it had - that it was no longer Hume/Adams. It looked as if the negotiation which had begun that Summer was dead. After much agonised debate, the British had concluded that the language of the Declaration was "too green". It looked as if the whole process was going down the chute.

Sir Robin Butler phoned me later in November to say that all this did not mean that we were still "not in business". The present word was not the final word. He suggested another meeting of the official negotiating teams - where, as always, relations had been good.

Again, misfortune struck. The British side, late in November, 1993, produced a draft to replace that on which we had been working. The

new draft was an attempt to get away from what the British saw as the shadow of Hume/Adams.

In this, the draft misconceived the entire purpose of the negotiation which was to bring Sinn Fein/IRA into dialogue while at the same time not alienating the Unionists to the point of despair.

The draft expressed the right to self-determination in terms of entirely separate rights, North and South. The emphasis in the working draft on ending past divisions was gone. The new draft tried to pre-empt the nature of constitutional change in the South - and so on. The Taoiseach made it quite clear that we could not work on the new document. It had to be withdrawn if the negotiation was to continue.

This was at the end of November, 1993, with the two Prime Ministers due to meet in Dublin on 3rd December. In so far as we could, through different channels and side conferences, we had kept republican, nationalist and unionist sides informed of what was going on in the official negotiation. Nationalist inputs had been considerable; and unionist interests had a concrete input in the text of the Declaration particularly in what has become paragraph 5 with its references to free political thought; freedom of expression and religion, the right to pursue democratically national and political supirations and so on. The thought that all of this was to be thrown overheard for a new completely fresh and unbalanced text was just

And then, to add to the difficulties, in a document dated 2nd December, 1993, Martin McGuinness of Sinn Fein gave a detailed account of the contacts, through the "Back Channel", between the British Government and the LRA. This evidence of clandestine necotations again nearly sank the Declaration. We should have known of the contacts - in fact, did have an inkling. It had all hancened before with most unfortunate consciouences.....

The "new" draft and the detailed account of British/IRA liaisons since 1990 - and before that - certainly did not make for an amicable

summit in Dublin Castle on 3rd December. The meeting was among the stormiest of the many I have attended - not aided by the presence on each side, at some of the sessions, of numerous officials which. I think, exacerbated things by leading to some grandstanding on both sides. At one point, John Major, in the intensity of his frustration, snapped a pencil. Both Butler and I were called on for support but fortunately we both staved amicably silent. Fortunately, in the end, calm was restored and the two Prime Ministers agreed that work should continue on the original working draft. The official negotiating teams had one further meeting in London which left only minor drafting issues outstanding - but with nerves strung out on both sides. I was questioned at one point as to why I had suggested substituting a semi-colon for a full stop at a particular point in the draft - the drafting was continued by phone most of the time between London and Dublin right up to about 7 o'clock on the evening of the day before the meeting to sign the Declaration in Downing Street on 15 December, 1993. Only at that point, late in the evening of 14 December did the two Prime Ministers agree the draft to be signed in London the following day.

What was really central to the text were paragraphs 4 and 10. Paragraph 4 contains the statement that "The British Government agree that it is for the people of the island of Ireland alone, by agreement between the two parts respectively, to exercise their right of self-determination on the basis of consent, fully and concurrently given. North and South, to bring about a united Ireland, if that is their wish "

This statement is the core of the Declaration. It clarified Irish and British policy more than any other declaration before or since. It is incorporated verbatim in the Good Friday Agreement. The drafters of the 1993 Declaration sweated blood in getting its balance and its context right. Truly we were "walking on exestibles".

Paragraph 10 says the two Governments accept that "democratically mandated parties which establish a commitment to exclusively peaceful methods and which show that they abide by the democratic process" would be "free to participate fully in democratic politics and to join in dialogue in due course between the Governments and the political parties on the way abead." The omission from the Declaration of time limits or criteria for measuring how a political party could be judged to have abided by the political process had the unfortunate result, because of delay, that I have mentioned.

Finally, British reservations on the Convention of all interested parties which the Taoiseach had in mind were met. The Declaration mentions the Forum for Peace and Reconciliation established-later in place of the Convention.

The Downing Street Declaration was signed by the two Prime Ministers on 15 December, 1993, 8 years after the Anglo-Irish Agreement, 13 years after the Dublin Summit of December, 1980 and 20 years after Sunningdale. The long process was not yet complete but its essential elements were becoming clearer. The British Government had no selfish strategic or economic interest in Northern Ireland. The Irish Government while under a constitutionally mandated imperative to seek Irish unity would - not "could" - do so only on the basis of consent. That consent must be both North and South concurrently. And the two sovereign Governments would work together, if possible, with the people of Northern Ireland, but if that was not possible, then again and again, in co-operation, until a solution was found. The two Governments had come closer together than ever before in their approach to the problem. And the burden of the argument had now shifted even more decisively to the South to make its society culturally and economically attractive, to become opener and more tolerant and to think of persuasion rather than compulsion if we wanted unity.

Good Friday Agreement, 1998

In August, 1994 the Provisional IRA announced its ceasefire. The way was clear for a further step along the road to peace.

The Good Friday Agreement of April, 1998, was that step. The Agreement directly involving the conflicting sides built on what had

gone before, adapting the institutions, principles and structures of the previous attempts and modifying and adding to them, in the hope of achieving peace and stability in Northern Ireland.

Peace of a sort is there now and needs nurturing. But differences remain - on policing, on prisoners and on decommissioning. Reconciliation and a normal civil society in Northern Ireland are still some way off: but at least the vista is becoming clearer.

I cannot finish without a tribute to those on both sides with whom I had the privilege to work between 1995 and 1993. On the Firsh side, Dr. Mansergh needs no commendation from me. Sean Donlon, Noel Dorr, Michael Lillian of Sean O'NLijenin from Foreign Affairs, Wally Kirwan from my own Department, Andy Ward from Justice and Declan Quiejley from the Attomory General's Office each in his own way, contributed immensely. On the British side, I remember, with respect and affection, Robert (now Lord) Amstrange, Bir David Goodall, John Chiloct, Quernin Thomas and Ambassadors Blattherwick and Goodsloon.

In the negotiation, both of the 1985 and 1993 accords, both sides worked with the common objective of developing communal understanding in a troubled part of our island and between our two countries. And I think that spirit continues.

At the end of the negotiation of the 1985 Agreement, Lord Armstrong said, with emotion "This is the greatest project I have ever worked on. Now my work is finished. It is with a certain sachness that I recognise that it is for others to implement what we have agreed." My reply was to the effect that, on our side, the work was only beninning!

October, 2000