

**Dermot Nally  
Papers**

**UCDA P254/21**

Secret

SOME BRIEFING POINTS ON THE DRAFT DECLARATION

General

1. The basic format of a joint Declaration, which has many advantages, should be retained, as the agreement achieved to date is based on it. Consideration, however, could be given, if desired, and depending on the ultimate content agreed, to making it into a more formal Solemn Declaration, that could be registered at the UN as an Agreement.
2. It is fully anticipated on all sides that the British will want to suggest changes. There is obviously scope, aside from the issue of consent, to strengthen the document vis a vis the Unionist/Protestant tradition. It would also be an opportunity to make any minor drafting improvements, which could be presented as emerging from the official discussions. However, the changes should as far as possible take the form of amendments or additions to the existing text, rather than completely altering it. The British should appreciate that it has taken a long time, with a lot of to-ings and fro-ings, and many difficult points to be overcome, to have reached this stage.
3. Serious consideration of it may take some time. However, some degree of urgency should be shown. It has been made clear that the earliest any response could come would be 3-4 weeks from the date of the London meeting, and that the whole thing would be unlikely to be wrapped up before September/October. A reasonable period of time can be represented as necessary (particularly in view of how long the other side of the process took), but it will be necessary to avoid charges of deliberate procrastination. The message from the PM's talks with the

Taoiseach about the disastrous effects of a period of violence like Warrington has been conveyed to the priests.

### The Text

4. For us, the whole declaration is equally important, and the text must be judged as a whole. We should be aware, however, that particular emphasis is placed on paragraph 4, and that this is seen as the kernel of the argument on the other side, and no doubt by the British as well. It would follow that, while there might be flexibility about changes to other paragraphs, amendments to para. 4 should be very carefully considered and limited to what is absolutely essential. While all essential points must be clearly stated, it is not necessary to keep repeating them, if they are already satisfactorily included. In other words, concessions made by one side should not be rammed down their throat by constant repetition. (This applies particularly to the principle of consent, set out with great clarity, at least from the Irish Government's point of view, in para. 5, which is sensitive ideologically. The text does include an explicit reference to consent of the people of NI, and effectively incorporates the language of the Anglo-Irish Agreement.)
  
5. The key concept is recognition of the right to national self-determination. This is married with acceptance of the principle of consent (and therefore the end of violence). While the pragmatic British political tradition under the influence of Burke is extremely reluctant to recognize 'rights' (suspect legacies of the American and French revolutions, and an over-idealistic President Wilson!), nonetheless Ireland's right to self-determination is implicit in the 1921 Treaty, and as far as the North is concerned in the recognition of their right to rejoin the rest of Ireland or to remain with the UK by majority agreement (implicit or explicit from 1920-1 to 1985). We are not trying to shift the British onto a different underlying position, but simply to situate their longstanding position on the atmospheric end of the spectrum most conducive to peace in terms of language.

The spectrum ranges from extremely negative to extremely positive (1949 being one pole, the 1920 Act being the other, with 1985 pointing more towards the positive end).

6. Mr Chris McGimpsey in a letter to the newspaper on the subject accepted that the concept of 'joint self-determination' which he claimed was being developed by the Taoiseach could be helpful. It is essential that the British be persuaded to work creatively with the concept of self-determination. Without it, the declaration will be empty of content. While the right is absolute and unequivocal in appearance (it should be seen as an ideological point), in reality it is accepted on all sides in this Declaration that it can only be exercised with the agreement of a majority of the people of Northern Ireland. What more can the British reasonably expect to be conceded? They can hardly expect on the other hand for peace simply to be handed to them on a plate. It could also be pointed out that the UN operates with a more absolutist concept of self-determination than, for example, the CSCE, which is fully consistent with the Anglo-Irish Agreement.
7. The difference between SF and the British Government can be boiled down to the degree of positive attitude that can reasonably be expected from the latter. The question is indeed more one of attitude, than of the underlying formal position, which on an ideological plane SF are still inclined to contest. SF cannot accept a position that nothing need happen, that all progress can be blocked, so long as the Unionists are not willing. They can perhaps accept that in practical terms consent is necessary at the end of the process, but not all the way along the line (the two Governments also acted on this principle in the Anglo-Irish Agreement). The British can reasonably be asked to promote an agreed Ireland over the shorter term (i.e. a settlement for now, that can be agreed between all the parties in the North and the Government in the South and that can be put to referendums North and South), while accepting over the long-term the validity of some form of united Ireland, subject to agreement and consent. Martin

McGuinness in his Bodestown speech (copy attached) accepted the principle of interim arrangements to allay the understandable concerns of the other tradition.

#### Broad Political Considerations

8. The Mayhew talks are presently at an impasse. Arguably, some shock to the system (such as an outbreak of peace!) is needed to galvanise parties into further negotiations, even if they do not occur immediately. At this stage, there is very little left to lose. Peace would provide a very different atmosphere. The danger is that the formal position of the two Governments will look increasingly threadbare. The British Government, whatever we may think, have made it clear that they are not prepared in the context of the process to impose a settlement. In the context of the draft Declaration, we could turn this position to advantage. In response to the argument about not willing to be 'persuaders', we could say that we are not necessarily asking them to impose a settlement, constitutional or otherwise, but actively to promote and facilitate agreement, on whatever basis, between the Irish parties and between North and South.
  
9. John Major told the Taoiseach that to have got this far, while maintaining absolute confidentiality, was a very important development. His officials may need to be reminded of the positive tone of part of his remarks.
  
10. The cessation of violence, without prejudice to their existing rights, would be of immense benefit to Unionists as well as Nationalists. The loyalist paramilitaries have said they will cease, as soon as the PIRA do. We are assured that, provided the security forces did their duty, there would be no direct retaliation for loyalist attacks subsequent to peace. An eventual united Ireland by agreement, even if the preferred outcome, is not predetermined by this Declaration. Self-determination means just that - that the people North and South have a democratic right to choose their future. The choice may take more than one form

over time. The period of a generation, which is the target (but only a target) for a definitive settlement, creates a considerable breathing-space. Some kind of target of this indefinite kind, which will be no sort of a guarantee, will be regarded on the other side as a very important part of the total package, which they will be very reluctant to abandon. The period of a generation will encompass considerable demographic, economic and social change.

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