

34

Ref. A085/1682

MR POWELL

Yes no

Mr. Herd's
reply?

Prime Minister

Agree to

proposed

CDP 19/6.

Anglo-Irish Relations: Northern Ireland

The Police Authority for Northern Ireland consists of a Chairman, a Vice-Chairman and no fewer than 14 and no more than 20 members. The appointments of the present members of the Authority are about to expire and the Secretary of State for Northern Ireland has a statutory duty to make new appointments by 29 June. Under the statute appointments are for three years.

2. The Secretary of State is proposing to reappoint the present Chairman, Sir Myles Humphries for a further term of three years. This will, however, be on the understanding that Sir Myles will retire after 18 months. He has served for nine years and does not want to serve another full term.

3. The Secretary of State has approached 14 people (10 Protestants and 4 Roman Catholics) to fill the statutory minimum 14 places for members. He is proposing to appoint a further three members (one Protestant and two Roman Catholics), but no approaches have yet been made. The SDLP were offered but refused to nominate members.

4. The Taoiseach summoned the British Ambassador in Dublin yesterday and, in the presence of the Foreign Minister, Mr Barry, and the Tanaiste, said that these proposals to make appointments for a further three years could create extremely serious difficulty in relation to the provision in the proposed draft agreement which would enable the Irish Government to put forward views on the composition of the Police Authority for Northern Ireland. The Taoiseach said that to proceed with such



an arrangement would be a major and tragic mistake in the terms of the prospects of our common efforts to bring peace to Northern Ireland. I attach copies of the reporting telegrams from the British Ambassador in Dublin.

5. The Taoiseach suggested that the Government should override the provisions which require appointments to be made by 29 June by means of an Order in Council, and then make some interim arrangements so that, if an agreement was concluded, the Irish Government could be given an opportunity to express views about the new appointments.

6. The Northern Ireland Office say that, even if we wanted to override the statutory provisions, we could not now do so before 29 June. In any case, they believe that to do so, virtually at the request of the Irish Government, would greatly incense the unionists and make the problem of persuading them to accept any agreement even more difficult than it is likely to be.

7. The Secretary of State for Northern Ireland is therefore being invited to consider a reply to the Taoiseach's representations on the following lines:

(1) In the time available it is not now possible to override the statutory requirements to make new appointments by 29 June. To do so would in any case excite grave suspicions among the unionists, and would adversely affect our ability to persuade them to accept a new Irish agreement on the lines which we have been discussing.

(2) It is true that the statute requires the Secretary of State to make the appointments by 29 June and to make them for a term of three years.

(3) He proposes to reappoint the present Chairman, Sir Myles Humpheries, for a full term of three years. But



Sir Miles Humpheries has already served for nine years and does not in any case want to serve another full term; the understanding is that he will retire after 18 months. This will give an early opportunity for the Irish Government to express views about a successor, if an Anglo-Irish agreement is concluded.

(4) 14 people have already been approached and have agreed to serve. This is the statutory minimum number for the membership of the Authority. 10 of the 14 are Protestants and 4 are Roman Catholics.

(5) The Secretary of State has decided not to make a further three appointments (one Protestant and two Roman Catholics), and to leave the other three places vacant for the time being, until it is clear whether an agreement is going to be concluded or not. In view of the Taoiseach's representations he is prepared not to proceed with the further three appointments; that would leave six vacancies on the Authority to be filled up about which the Irish Government could be consulted if and when an agreement was concluded.

(6) The SDLP were offered and refused invitations to nominate members of the Authority.

(7) If and when an agreement was concluded in the terms of the existing draft, the Irish Government will have the opportunity to express views not only about names but about the composition and terms of reference of the Authority.

(8) We hope that this will reassure the Taoiseach and his colleagues that this will provide the Irish Government with an early opportunity to express views both about the new appointment of the chairmanship and about the appointments of six out of a maximum of 20 members of the Authority.



8. The text of a note in this sense will of course be agreed with the Secretary of State for Foreign and Commonwealth Affairs before the Ambassador is authorised to speak accordingly in Dublin.

A handwritten signature in blue ink, appearing to be 'R. Armstrong', is located above the typed name.

Approved by
ROBERT ARMSTRONG
and signed in his absence.

19 June 1985

Spore

DD 190900Z CABINET OFFICE (FOR S R ARMSTRONG)

GRS 320
S E C R E T
DESKBY 181800Z
FM DUBLIN 181700Z JUN 85
TO IMMEDIATE FCO
TELEGRAM NUMBER 379 OF 18 JUNE 1985
INFO IMMEDIATE NIO (BELFAST) (PERSONAL FOR STEPHENS ONLY)

FOLLOWING PERSONAL FOR CLARK RID

MY TELNO 378: ANGLO-IRISH TALKS

SUMMARY

1. THE IRISH GOVERNMENT HAS WITH GREAT SOLEMNITY ASKED US TO CONSIDER HOW WE COULD FULFIL THE UNDERTAKINGS WE PROPOSE TO ASSUME IN THE DRAFT AGREEMENT WITH THEM ABOUT THE NORTHERN IRELAND POLICE AUTHORITY IF WE RECONSTITUTE IT LATER THIS MONTH WITHOUT CONSULTING THEM.

DETAIL

2. THE TAOISEACH SUMMONED ME ON 18 JUNE. MR BARRY AND LILLIS WERE PRESENT. DR FITZGERALD SAID THAT THE TANAISTE HAD WISHED TO BE PRESENT AND I SHOULD REGARD HIM AS BEING PRESENT, SO THAT I WAS BEING ADDRESSED WITH THE FULL AUTHORITY OF THE TROIKA OF MINISTERS PRIMARILY RESPONSIBLE FOR ANGLO-IRISH RELATIONS. MR SPRING'S GENERAL CONCERN WAS SHARPENED BY THE FACT THAT HE HAD SPOKEN ON THESE TOPICS TO THE SECRETARIES OF STATE FOR FOREIGN AFFAIRS AND NORTHERN IRELAND ON 22 MARCH.

3. DR FITZGERALD SPOKE AT LENGTH ABOUT THE POLICE AUTHORITY IN ACCORDANCE WITH A SPEAKING NOTE, THE TEXT OF WHICH IS GIVEN IN MIFT. THE IRISH HAD LET THIS QUESTION SLIP BECAUSE THEY HAD BEEN HOPING THAT WE SHOULD SIGN AN AGREEMENT BEFORE THE END OF THIS MONTH. NOW THAT IT WAS EVIDENT THAT THIS WAS NOT POSSIBLE THE MATTER WAS VERY URGENT. HE ASSUMED THAT HMG SHARED THEIR CONCERN THAT THE POLICE SHOULD ACQUIRE THE SUPPORT OF THE MINORITY IN NORTHERN IRELAND. TO THAT END, THE SUPPORT OF THE IRISH GOVERNMENT AND THE SDLP WAS ESSENTIAL. IT WOULD BE A TRAGIC MISTAKE TO APPOINT AN AUTHORITY FOR THREE YEARS WHICH COULD NOT GAIN THEIR SUPPORT.

4. HE SUGGESTED THAT THE NORTHERN IRELAND CONSTITUTION ACT, 1973, ARTICLE 38 (1(B)) PROVIDED AN OPPORTUNITY FOR HMG TO OVERRIDE THE PROVISIONS OF THE POLICE ACT OF 1970 BY MEANS OF AN ORDER IN COUNCIL. IT WAS NOT FOR THE IRISH GOVERNMENT TO SAY WHAT WE MIGHT DO, BUT WE MIGHT DECIDE TO PROLONG THE AUTHORITY BRIEFLY OR TO INVEST THE POWERS OF THE AUTHORITY IN THE SECRETARY OF STATE, PROVIDING AN ASSURANCE TO THE IRISH GOVERNMENT THAT ON THE SIGNATURE OF AN AGREEMENT WE WOULD ANNOUNCE THE INTENTION TO RECONSTITUTE THE AUTHORITY. IT WAS DIFFICULT TO SEE WHAT THE TWO SIDES HAD BEEN NEGOTIATING ABOUT IF NO SUCH ASSURANCE COULD BE FORTHCOMING. HE STRESSED THAT THE IRISH GOVERNMENT WERE ANXIOUS TO BE HELPFUL.

5. I SAID THAT THOUGH DONLON HAD TOLD ME OF HIS CONCERN I HAD

5. I SAID THAT THOUGH DONLON HAD TOLD ME OF HIS CONCERN I HAD NOT HAD TIME TO CONSULT MINISTERS. I UNDERSTOOD THE CHAIRMAN OF THE POLICE AUTHORITY MIGHT WELL RESIGN BEFORE THE THREE YEARS WERE UP AND THAT TWO OR THREE PLACES WOULD BE LEFT VACANT. DR FITZGERALD SAID THAT THIS SUGGESTED THAT THE IRISH WERE NOT BEING TAKEN SERIOUSLY. CONSULTATION ON TWO OR THREE PLACES WOULD BE DERISORY. I SAID THE SDLP HAD REFUSED INVITATIONS TO NOMINATE MEMBERS. HE SAID THEY COULD NOT BE EXPECTED TO DO SO IN THE ABSENCE OF AN AGREEMENT.

6. SEE MY TWO FOLLOWING TELEGRAMS.

7. FCO PLEASE COPY IMMEDIATE AND PERSONAL TO BRENNAN, NIO LONDON.

GOODISON

NNNN

SENT AT 182340Z

RECD AT 182340Z JWT

SENT AT 182330Z JM

FOCAB 011/18

DD CABINET OFF 190900Z (SIR R ARMSTRONG)

GRS 420
S E C R E T
FM DUBLIN 181615Z JUN 85
TO IMMEDIATE FCO
TELEGRAM NUMBER 380 OF 18 JUNE 1985
INFO IMMEDIATE NIO (BELFAST) (PERSONAL FOR STEPHENS ONLY)

MIPT: ANGLO-IRISH TALKS

1. FOLLOWING IS TEXT OF THE TAOISEACH'S SPEAKING NOTE:

PLEASE CONVEY THE FOLLOWING TO THE PRIME MINISTER AND BRITISH MINISTERS:

1. AS THE DATE FOR AN ANGLO-IRISH SUMMIT HAS SLIPPED WE ARE CONFRONTED WITH THE DEADLINE FOR THE APPOINTMENT OF A POLICE AUTHORITY FOR NORTHERN IRELAND OF 29 JUNE.

2. THE ESTABLISHMENT OF A POLICE AUTHORITY APPROVED AND POSITIVELY SUPPORTED BY THE IRISH GOVERNMENT AND THE SDLP COULD CONTRIBUTE SIGNIFICANTLY TO THE TRANSFORMATION OF THE FUNDAMENTAL RELATIONSHIP BETWEEN THE POLICE AND THE NATIONALIST COMMUNITY, TO WHICH BOTH THE TAOISEACH AND THE PRIME MINISTER HAVE GIVEN PRIORITY. WE BELIEVE THAT THIS MIGHT BE ACHIEVED WITHIN THE CONTEXT OF THE ARRANGEMENTS PROPOSED BY THE BRITISH GOVERNMENT - BRITISH PROPOSAL OF 21 JANUARY 1985, PARA. 12; REVISED BRITISH PROPOSAL OF 29 APRIL 1985, PARA. 10 AND REVISED BRITISH PROPOSAL OF 11 JUNE 1985, PARA. 12.

3. OUR OFFICIALS WERE TOLD AT THE TALKS IN LONDON ON 14 JUNE THAT THE BRITISH GOVERNMENT PROPOSE TO NOMINATE 19 OR 20 OUT OF A POSSIBLE MAXIMUM OF 22 MEMBERS TO A NEW POLICE AUTHORITY IN ADVANCE OF THE INTRODUCTION OF THESE NEW ANGLO-IRISH ARRANGEMENTS ON 29 JUNE NEXT: 18 OF THESE PERSONS WOULD BE APPOINTED FOR A FULL THREE-YEAR TERM.

4. TO DO THIS WOULD PRECLUDE THE IRISH GOVERNMENT AND THE SDLP FROM SUPPORTING AND APPROVING THE NEW AUTHORITY ON THE GROUNDS OF ITS CREDIBILITY AND ACCEPTABILITY IN NATIONALIST EYES. IT WOULD ALSO BE SERIOUSLY MISUNDERSTOOD BY MANY NATIONALISTS NORTH AND SOUTH IN IRELAND WHO WOULD REGARD IT AS A DECISION BY THE BRITISH AUTHORITIES TO ALLOW A COINCIDENCE OF TIMING TO EXCLUDE THE IRISH GOVERNMENT FROM HAVING A SAY IN THIS MATTER.

5. THE TANAISTE AND THE MINISTER FOR FOREIGN AFFAIRS TOLD SIR GEOFFREY HOWE AND DOUGLAS HURD IN DUBLIN ON 22 MARCH THAT WE WOULD REGARD IT AS A SERIOUS MISTAKE WERE THE BRITISH TO PROCEED WITH APPOINTMENTS TO A NEW POLICE AUTHORITY OR IMPLEMENT NEW POLICE COMPLAINTS PROCEDURES OUTSIDE THE CONTEXT OF AN ANGLO-IRISH AGREEMENT.

6. WE HAD BEEN AWARE OF THE DEADLINE OF 29 JUNE BUT WE HAD BEEN PROCEEDING ON THE ASSUMPTION THAT AN ANGLO-IRISH SUMMIT WOULD TAKE PLACE BEFORE THEN WHICH WOULD HAVE ACTIVATED THE ROLE OF THE IRISH GOVERNMENT VIS-A-VIS THE NOMINATION OF A POLICE AUTHORITY. WE HAD STRONGLY ASSUMED THAT THE BRITISH GOVERNMENT SHARED OUR CONCERN THAT IT WAS NECESSARY TO ACT TO ENSURE THAT THE POLICE IN NORTHERN IRELAND ACQUIRED THE SUPPORT OF THE MINORITY COMMUNITY AND THEREFORE THAT, IF THE SUMMIT WERE DELAYED, ACCOUNT WOULD BE TAKEN OF THE DESIRABILITY OF IRISH GOVERNMENT AND SDLP SUPPORT FOR A NEW AUTHORITY IN THE HANDLING OF THIS ISSUE BY THE BRITISH AUTHORITIES.

7. IF A NEW POLICE AUTHORITY WERE NOW TO BE APPOINTED FOR THREE YEARS AND IF IT WERE THE INTENTION THAT THIS NEW AUTHORITY WOULD CONTINUE IN OFFICE FOR MOST OF THAT PERIOD, IT WOULD OBVIOUSLY BE IMPOSSIBLE TO IMPLEMENT THE TERMS OF THE DRAFT AGREEMENT WHICH WE HAVE BEEN DISCUSSING TOGETHER. IT IS CRUCIAL, THEREFORE, FOR US TO KNOW HOW IN THESE CIRCUMSTANCES YOUR AUTHORITIES PROPOSE TO GIVE EFFECT TO THE TERMS OF THE DRAFT AGREEMENT WHICH RELATE TO THE NOMINATION OF THE POLICE AUTHORITY.

8. PLEASE INFORM YOUR MINISTERS THAT WE HAVE AN EXTREMELY SERIOUS DIFFICULTY WITH WHAT OUR OFFICIALS HAVE BEEN TOLD AND THAT WE SINCERELY BELIEVE THAT TO PROCEED WITH SUCH AN ARRANGEMENT WOULD BE A MAJOR AND TRAGIC MISTAKE IN TERMS OF THE PROSPECTS FOR OUR COMMON EFFORTS TO BRING PEACE TO THAT COMMUNITY. WE WOULD ASK THAT AN OPPORTUNITY BE CREATED TO ENABLE THE ARRANGEMENTS WE ARE TOGETHER CONSIDERING TO WORK IN THIS THE MOST CRUCIAL OF ALL AREAS.

FCO PLEASE COPY IMMEDIATE AND PERSONAL TO BRENNAN, NIO LONDON.

GOODISON

NNN

SENT AT 182336Z JM

FOCAB 012/1

THE FOLLOWING THREE TELS HAVE BEEN SENT TO YOU AT THE REQUEST OF
THE RESIDENT CLERK

FOCAB 010/18

DD

190900Z (FOR SIR R ARMSTRONG)

GRS 360
S E C R E T
DESKBY 181815Z
FM DUBLIN 181725Z JUN 85
TO IMMEDIATE FCO
TELEGRAM NUMBER 381 OF 18 JUNE 1985
INFO IMMEDIATE NIO (BELFAST)

FOLLOWING PERSONAL FOR CLARK RID

MY TWO IPT'S: ANGLO-IRISH TALKS

1. DR FITZGERALD SAID THAT HE WAS ALSO VERY CONCERNED TO LEARN THAT THE SECRETARY OF STATE FOR NORTHERN IRELAND WAS PROPOSING TO BRIEF THE HEADS OF THE UNIONIST PARTIES ON OUR TALKS. PARTICULARLY IN VIEW OF TODAY'S ARTICLE IN THE IRISH TIMES (MY TELNO 377) THERE COULD BE NO DOUBT THAT THE UNIONISTS WERE GENERALLY AWARE OF WHAT WAS GOING ON. THAT WAS VERY DIFFERENT FROM BEING INFORMED OFFICIALLY BY HMG. HE FEARED THAT WE SHOULD BE PLAYING INTO THE HANDS OF THE UNIONISTS IF THEY WERE SO INFORMED BEFORE THE MARCHING SEASON. THE WHOLE PURPOSE OF NOT SIGNING AN AGREEMENT BEFORE 12 JULY WAS TO AVOID THE KIND OF EXPLOSION WHICH TALKING TO THEM MUST CAUSE.
2. HE SAID THAT THEY HAD KEPT HUME AND MALLON INFORMED. THAT WAS ESSENTIAL FOR THE IRISH GOVERNMENT BECAUSE THEY HAD TO KNOW THAT WHAT THEY DID WOULD HAVE THE SUPPORT OF THE SDLP. THEY HAD WORRIED A BIT ABOUT TELLING MALLON BUT HE HAD PROVED TO BE RELIABLE.
3. I SAID THAT I UNDERSTOOD HIS WORRIES BUT IF THE IRISH GOVERNMENT NEEDED THE SUPPORT OF THE SDLP WE BOTH NEEDED THE ACQUIESCENCE OF THE UNIONISTS. IF WE WERE TO HAVE ANY CHANCE OF GETTING THIS THEY HAD TO BE SOFTENED UP IN ADVANCE. MR MOLYNEUX OF COURSE WAS BOUND BY OATH. IT WAS TRUE THAT THE IRISH TIMES ARTICLE HAD PUBLISHED PRACTICALLY EVERYTHING. THAT MADE DELAY LESS SIGNIFICANT.

4. DR FITZGERALD TOOK UP THIS WORD TO SAY THAT HE WAS ALARMED THAT THE BRITISH SIDE WERE PROPOSING THAT OFFICIALS SHOULD NOT MEET AGAIN UNTIL JULY. I SAID WE HAD SUPPOSED IT WOULD BE USEFUL TO AWAIT THE RESULTS OF THE MEETING BETWEEN HIMSELF AND THE PRIME MINISTER. HE SAID THAT IF WE COULD PRODUCE THE MATERIAL WE HAD PROMISED ON ASSOCIATED MEASURES IN TIME HE WANTED ANOTHER MEETING OF OFFICIALS IN JUNE. HE SAID THAT HE WAS ANXIOUS TO CONCLUDE OUR NEGOTIATIONS EVEN THOUGH IT WOULD BE BETTER NOT TO SIGN FOR SOME TIME. HE WAS ANXIOUS THAT WE SHOULD KNOW QUICKLY WHERE WE WERE GOING SO THAT WE COULD BE READY TO SIGN AT THE EARLIEST APPROPRIATE OPPORTUNITY. LATE SEPTEMBER, WHICH HAD BEEN MENTIONED, WAS TOO LATE. HE WOULD REALLY LIKE TO SIGN AT THE END OF JULY, THOUGH HE WAS OF COURSE AWARE THAT THERE WERE ALSO MARCHES IN AUGUST. THERE WOULD BE GREAT MERIT IN SIGNING AT LEAST AT THE END OF AUGUST BEFORE PEOPLE EXPECTED IT. HE DID NOT KNOW WHAT WOULD HAPPEN IF WE DELAYED TOO LONG. I SAID I THOUGHT THAT SUCH QUESTIONS OF TIMING WOULD BE SOMETHING FOR HIM TO DISCUSS WITH THE PRIME MINISTER. I ADDED THAT I THOUGHT IT WOULD ALSO BE APPROPRIATE FOR THEM TO DISCUSS THE QUESTION OF JOINT COURTS SINCE I DID NOT SEE HOW OFFICIALS COULD RESOLVE IT. DR FITZGERALD SAID THAT SUCH MEETINGS AS THAT IN MILAN WERE ALWAYS PRESSED FOR TIME AND IT WAS NOT A GOOD FORUM IN WHICH TO TAKE DECISIONS EVEN ON SOMETHING LIKE THE COURTS.

5. MR BARRY, IN HIS ONLY INTERVENTION, SAID THAT HE HOPED TO SPEAK TO MR HURD ON THE TELEPHONE WITHIN THE NEXT 48 OR 72 HOURS. I SUGGESTED THAT THEY MIGHT DISCUSS THE QUESTION OF TALKING TO THE UNIONISTS ON THAT OCCASION. I SAID THAT I THOUGHT THE MATTER OF THE POLICE AUTHORITY WAS MORE COMPLEX AND IT WOULD BE BETTER TO WAIT UNTIL I HAD INSTRUCTIONS TO REPLY. I WOULD ASK THAT THEY BE GIVEN ME WITH ALL POSSIBLE SPEED. LILLIS POINTED OUT THAT IT WAS ESSENTIAL THAT THEY SHOULD BE PROVIDED BEFORE THE MEETING IN MILAN.

6. FCO PLEASE COPY IMMEDIATE TO BRENNAN, NIO LONDON.

NNNN

GRS 180
SECRET,
DESKBY 181000Z
FM DUBLIN 180925Z JUN 85
TO IMMEDIATE FCO
TELEGRAM NUMBER 378 OF 18 JUNE 1985

SECRET

Sir R Armstrong - to see
RA

FOLLOWING PERSONAL FOR GOODALL

*I did warn them
with my ear team?
RA*

ANGLO-IRISH TALKS

1. DONLON TOLD ME AT A PARTY ON 17 JUNE THAT THE TAOISEACH WAS VERY DISTURBED ABOUT THE POSSIBILITY OF HMG APPOINTING A NEW POLICE AUTHORITY FOR NORTHERN IRELAND WITHOUT CONSULTING THE IRISH GOVERNMENT. THE OFFICIALS ATTENDING THE TALKS HAD THOUGHT THAT WHAT WE WERE SUGGESTING WAS NOT UNREASONABLE BUT DR FITZGERALD WAS VERY UPSET. DONLON SAID THAT HE BELIEVED THAT WE HAD A STATUTORY OBLIGATION. I ALSO POINTED OUT THAT WE COULD NOT BE EXPECTED TO ACT AS IF THE AGREEMENT WERE IN PLACE WHEN IT HAD NOT YET BEEN SIGNED. HE SAID THAT IF WE COULD PERSUADE THE SDLP TO ACCEPT RESPONSIBILITY FOR THE NOMINATION OF SOME MEMBERS OF THE AUTHORITY ON THE DAY OF SIGNATURE OF THE AGREEMENT WE SHOULD HAVE TIED THEM INTO COOPERATION WITH THE AGREEMENT AT ONCE. HE ASKED WHETHER IT WOULD BE POSSIBLE TO APPOINT THE PRESENT AUTHORITY FOR AN INDEFINITE PERIOD AND TO DISSOLVE AND REPLACE IT ON THE DAY OF SIGNATURE OF THE AGREEMENT. HE SAID THAT THE TAOISEACH WAS DISCUSSING WITH LILLIS WHETHER HE SHOULD SEND A PERSONAL MESSAGE TO THE PRIME MINISTER ON THIS TOPIC OR WHETHER MR BARRY SHOULD SEND A MESSAGE TO THE SECRETARY OF STATE.

2. I TRIED TO SEE LILLIS AFTERWARDS BUT HE WAS NOT AVAILABLE.

GOODISON

LIMITED.

HID 1210.

PS

MR GOODALL

COPIES TO:

PS 1505

MR BRENNAN

} NORTHERN IRELAND
OFFICE

PS/SIR R ARMSTRONG

MR MALLARY

} CABINET
OFFICE.

SECRET