

* Mr Daniels Copy destroyed 17.9.96 & #

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SILMAIL 36647

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From: PS/Michael Ancram
18 April 1994

- cc PS/Sofs (B&L) - B
- PS/Michael Ancram (B&L) - B
- PS/PUS (B&L) - B
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- Mr Watkins - B
- Mr Williams - B
- Mr Bell - B
- Mr Daniell - B
- Mr Brooker - B
- Mr Maccabe - B
- Mr Smith - B
- Mrs Brown - B
- Mr Kyle - B
- Mr Archer, RID - B
- HMA Dublin - B

Mr Thomas - B

PAPER FROM THE IRISH SIDE

Michael Ancram has seen your submission of 15 April to the Secretary of State. His initial comments on the paper are recorded below:

2. "I take it that this is an opening gambit by the Irish, and that despite Mr Reynold's pre-conditions announced in his speech on Sunday 17 April they will be prepared to yield eventually towards a more malleable and "acceptable" position. I reiterate that I believe we should not be looking for an agreed text but for broader agreed parameters which will leave room for negotiation when the issue is joined with the constitutional parties in due course.

3. Even so, I believe that we should be very clear ab initio what is completely unacceptable to us and therefore not worth including as flexibly negotiable. It may be that we should meet to do so, but given time restraints the following is a first and somewhat hurried shy:-

Page 1 para 2: It is not for the two Governments both to draw up a new and comprehensive agreement. They can on

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Page 3 para 7:

This is just liveable with as long as in other parts of the framework the Republic of Ireland's non involvement in or over Strand I institutions is made clear.

Para 8:

This is completely unacceptable. The Irish Government has no direct concern on Strand I as part of the exercise of a wider mandate other than consent to the package as a whole. As drafted, it would appear that the positions of the two Governments on Strand I are the same, and that we should both stand back. The UK Government, while seeking the consensus of the parties, has to be involved as the Government of Northern Ireland. The Irish must keep right out.

Para 9:

The idea of a multi faceted Council of Ministers smacks of an over-arching institution which the Unionists would never approach. Individual Councils for different subjects might just wash. In any case which Ministers? Those from the current NIO or from an Assembly?

Page 4 para 10:

Replace "will" with "could". These must be matters for negotiation, and the extent of these might depend on each being a discreet Council rather than all part of an over-arching one. Incidentally, reference to Sunningdale won't help to sell it to Unionists! I note that individual Departments may have views of their own suitability for inclusion.

Page 5 para 13:

As currently drafted it sounds as if the Council can of its own initiative expand, develop and extend its functions. Despite the need for consensus (the means of ascertainment of which is not defined) this would be unacceptable, particularly as the Council in its over-arching

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state as described would almost certainly have a nationalist majority owing to power-sharing in Northern Ireland. It would be a recipe for a slippery slope which no Unionist could accept - and neither, I believe, could we in terms of our guarantees.

Page 6 paras 18,
19 and 20:

While an improvement on the O'Reilly leaked paper, these paragraphs still smack of direct Republic of Ireland involvement in Strand I institutions and their working. I accept that new arrangements must have safeguards and remedies, as well as possible entrenchment, but bringing the Republic of Ireland into Strand I is a non starter. The role of the IGC should be limited to relevant non-devolved areas, and Strands II and III.

Page 8 para 26:

As currently phrased this would specifically have to have the consent of a majority of the people of Northern Ireland, as it would overtly seek to set new constitutional provisions. As such it would need to be drafted in a way which would be acceptable to the majority or it becomes nothing more than a useless piece of provocation.

Para 26(iii):

What does "equal operational weight" mean in practice, and does not the end of this paragraph suggest that the UK Government could not govern Northern Ireland well - or better than the south could - for fear of creating the "disincentive"? The UK Government could not sign up to this.

Para 26(iv):

What is meant by "allegiances"? Is this to include oaths etc and recognitions of jurisdiction? This could all become very troublesome! Again we have the "equally satisfactory" phrase. See my comments at para 3(iv).

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Page 9 para 27(i): Surely a similar Bill of Rights would be required in the Republic at the same time if disparities were to be avoided. Would the Republic of Ireland accept all the rights which would probably be enshrined in a Northern Ireland Bill of Rights? In any event, where would such a Bill leave the rest of the UK?

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Para 27(ii),
28 and 29

What is this Charter of Covenant in terms which the Joint Declaration is not? Who are the elected representatives of all the people of Ireland - do they include Sinn Fein councillors in the north? At what moment and after what elections are they defined? I suspect that there is a "green" purpose which may be hidden in para 29 where it appears that the conditions for deciding the British Government's reaction to self-determination would be decided with us having no say in the format and possibly, as phrased, the Unionists being outnumbered in this regard as well. I would approach this Covenant with the greatest caution!

Page 10 para 31: This seems to exclude the parties from the consent process and while I do not dispute the need for democratic ratification, it must come at the end. The whole paper diminishes the role of the parties and this is contrary to our own approach. This trend should be resisted."

Signed

KEITH JAGELMAN
PS/Michael Ancram

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