

Dermot Nally Papers

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Possible approach British Government might take
in reply to queries

General

1. A series of questions has been put to us on behalf of Sinn Fein, touching on points where it is asserted there are doubts or uncertainty about the position of the British Government on the Joint Declaration.
2. We have made clear from the outset that we are not prepared to engage in any negotiations, explicit or otherwise, on the terms of the Declaration as agreed between the two Governments. Neither will we enter into questions about future arrangements in Ireland which can properly be decided only through negotiations involving democratically mandated parties dedicated exclusively to peaceful political means. Both Governments are anxious to see such negotiations take place on the most comprehensive possible basis, as set out in the Declaration.
3. We consider it in the general interest, however, to ensure that our position on the Joint Declaration is clearly understood by all. We are therefore content to address those points where there could be any remaining possibility of genuine doubt about our position. We confirm our position, for avoidance of doubt, on the questions raised as follows:

Q. 1 The long term political objectives of the two Governments are of crucial importance if we are to move out of the conflict situation caused by the present failed political structures. The Taoiseach has clearly stated the long-term objectives of the Irish Government in the search for a lasting settlement. It is essential that the British Government displays the same honesty and frankness in outlining its long-term attitude towards the Irish people. What are the British Government's long-term interests and objectives in relation to Ireland?

A. The Joint Declaration states explicitly that the "primary interest of the British Government is to see peace, stability and reconciliation established by agreement among all the people who inhabit the island, and they will work together with the Irish Government to achieve such an agreement, which will embrace the totality of relationships". The Declaration also makes clear that the long-term interests of the British Government are not determined by any "selfish strategic or economic interest in Northern Ireland" on their part. They are rather to support and legislate for whatever agreement is reached through a process of dialogue and cooperation based on full respect for the rights and identities of both traditions in Ireland and by agreement between the two parts respectively. The long-term interests of the British Government are therefore to support and give effect to the democratic wishes of the Irish people, North and South, and to encourage, facilitate and enable agreement between them on the basis of consent, freely and concurrently given.

Paragraph four of the Declaration sets out authoritatively the position of the British Government in this respect and in terms which speak for themselves:

"The Prime Minister, on behalf of the British Government, reaffirms that they will uphold the democratic wish of a greater number of the people of Northern Ireland on the issue of whether they prefer to

support the Union or a sovereign united Ireland. On this basis, he reiterates, on behalf of the British Government, that they have no selfish or strategic or economic interest in Northern Ireland. Their primary interest is to see peace, stability and reconciliation established by agreement among all the people who inhabit the island, and they will work together with the Irish Government to achieve such an agreement, which will embrace the totality of relationships. The role of the British Government will be to encourage, facilitate and enable the achievement of such agreement over a period through a process of dialogue and cooperation based on full respect for the rights and identities of both traditions in Ireland. They accept that such agreement may, as of right, take the form of agreed structures for the island as a whole, including a united Ireland achieved by peaceful means on the following basis. 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, freely and concurrently given, North and South, to bring about a united Ireland, if that is their wish. They reaffirm as a guiding obligation that they will, for their part, introduce the necessary legislation to give effect to this, or equally to any measure of agreement on future relationships in Ireland which the people living in Ireland may themselves freely so determine without external impediment. They believe that the people of Britain would wish, in friendship to all sides, to enable the people of Ireland to reach agreement on how they may live together in harmony and in partnership, with respect for their diverse traditions, and with full recognition of the special links and the unique relationship which exist between the peoples of Britain and Ireland".

Q. 2 Given that the document put to you in June 1993 was welcomed by the IRA leadership which commented, on October 3 1993, that it "could form the basis for peace", could you clarify the differences, if any, between this document and the Downing Street Declaration?

A. The Joint Declaration is the product of detailed negotiations, which took account, as is normal, of various inputs and representations made by and to the Governments. It reflects also the wider concerns and responsibilities to which both Governments must have regard, and which

transcend the particular concerns of any single viewpoint.

We do not dissent from the view repeatedly expressed by the Taoiseach and Mr. John Hume that the spirit and substance of the June draft are embodied in the Joint Declaration. Both Governments were however concerned to do so in a manner which eliminated any ambiguity on the principle of consent, respect for which is inseparable from the notion of agreement and absence of coercion. Other important and necessary improvements on the June text made by both Governments included more explicit and unequivocal assurances of respect for the democratic rights and dignity of both communities in Northern Ireland, and acknowledgement of the need to address the continuing uncertainties and misgivings which dominate so much of Northern unionist attitudes towards the rest of Ireland.

It must however be made clear beyond all doubt that the text to which the Governments have committed themselves, and therefore the only valid and operational text in this respect, is the Joint Declaration of 15 December 1993.

Q. 3 The British and Irish Governments have said that political structures cannot be predetermined, now, or in the future. How do you reconcile this with your adherence to the partition of Ireland and the maintenance of the union?

A. The partition of Ireland is a reality which has been inherited from the past. It is the settled position of the British Government, and it has been solemnly agreed by the British and Irish Governments in the Anglo-Irish Agreement, that any change in the status of Northern Ireland would only come about with the consent of a majority of the people of Northern Ireland. The overwhelming majority of the Irish people, including the

great majority of those who wish to end partition, agree that it would be wrong to seek to impose this outcome in the absence of the freely given consent of a majority of the people of Northern Ireland. For those who wish to end partition the challenge is not to overcome obstacles now being placed in their way by the British Government. It is to persuade a majority of the people of Northern Ireland to consent to such a measure. The Joint Declaration states that

"Both Governments accept that Irish unity would be achieved only by those who favour this outcome persuading those who do not, peacefully and without coercion or violence, and that, if in the future a majority of the people of Northern Ireland are so persuaded, both Governments will support and give legislative effect to their wish."

- Q. 4 The British Government says, in the Downing Street Declaration, "that they will uphold the democratic wishes of a greater number of the people of Northern Ireland". What is the British Government's precise definition of "a greater number of the people of Northern Ireland" and how would this be measured in practical terms?
- A. The wishes of a greater number of the people of Northern Ireland would be determined by a numerical majority of those validly voting in any electoral test fairly and explicitly organised to ascertain their wishes in this respect.
- Q. 5 The British Government has said that it has "no selfish strategic or economic interest in Northern Ireland". Would it not be more in accord with democratic principles for the British Government to base its Irish policy on the objective of ending the union?
- A. The Declaration states that the British Government will encourage agreement over a period based on "full respect"

for the rights and identities of both traditions in Ireland". Just as opposition to Irish unity would understandably be interpreted as disregard for or hostility towards nationalist aspirations, opposition to a continuation of the union would be seen as disregard for, or hostility towards unionist aspirations.

- Q. 6 The British Government has said that its primary interest is to see agreement reached between all the Irish people.
- (a) Given the continued intransigent attitude of the Unionist leaderships, how, in real terms, is such agreement to be reached, particularly if the unionist leadership refuses to engage in the search for agreement?
 - (b) What does the British Government consider to be a "reasonable time-scale" for agreement to be reached?
 - (c) What is the framework which the British Government intends to create for the achievement of agreement.
 - (d) Does the British Government accept that, given the weight of nationalist opinion throughout Ireland in opposition to partition, that substantial movement on constitutional issues by the British Government and the Unionist Parties will be required if democratic agreement is to be reached?
 - (e) How is agreement to be measured in practical terms and at what stage does the withholding or absence of agreement on the part of one section of the Irish people become a veto over change?

- A. Both Governments have repeatedly confirmed their commitment, in Article 9 of the Joint Declaration and elsewhere, to

"seek, along with the Northern Ireland constitutional parties through a process of political dialogue, to create institutions and structures which, while respecting the diversity of the people of Ireland, would enable them to work together in all areas of common interest."

The aim of both Governments is "a new political framework, founded on consent and encompassing arrangements within Northern Ireland, for the whole island and between these islands". The Governments will seek to use all their resources of political persuasion to motivate all democratic parties to enter into comprehensive negotiations and to persist in them until a satisfactory agreement is achieved. We believe there is a strong wish on all sides to see the problem resolved, and that any group which stood out against a fair and honourable accommodation would ultimately face political isolation.

We believe that a satisfactory outcome to negotiations will also involve a balanced constitutional accommodation, and that this will require substantial movement on constitutional issues on all sides.

A keynote of the Joint Declaration is that new arrangements "must be founded on consent". There is an obvious contradiction between the principle of consent and freedom from coercion, on the one hand, and the notion of a fixed deadline or timetable for the achievement of consent, on the other. To make the achieve of consent subject to a fixed deadline would amount to saying that after a specific period the requirement of consent would be discarded and replaced by some form of coercion. Both Governments will work for the achievement of consent but the process of healing may be advanced or delayed, depending on whether it is the process of reconciliation or, alternatively, of violence and conflict which is dominant dynamic in the community. The reality is that its pace will be determined by political developments on the ground, and not by any arbitrary timetable imposed from elsewhere.

Q. 7 Given the British Government's statement in the Downing Street Declaration that it is for the Irish people to exercise our right to self-determination, what is the basis for the British Government's qualification of this right in Paragraph 4 of the Downing Street Declaration?

A. In paragraph 5 of the Joint Declaration the Taoiseach

"accepts, on behalf of the Irish Government, that the democratic right of self-determination by the people of Ireland as a whole must be achieved and exercised with and subject to the agreement and consent of a majority of the people of Northern Ireland and must consistent with justice and equity, respect the democratic dignity and civil rights and religious liberties of both communities".

The qualification on the exercise of the right to self-determination by the principle that any change in the constitutional status of Northern Ireland would only come about with the consent of a majority of its people is not a unilateral qualification imposed by the British Government in paragraph 4 of the Declaration. This paragraph, and the Declaration as a whole, reflects rather the unquestioned reality, confirmed in the above statement on behalf of the Taoiseach in paragraph 5, that this principle is also upheld by the overwhelming majority of Irish people of both traditions. A right of self-determination includes also the right to determine the manner and conditions in which that right will be exercised, and the position of the British Government follows that of the great majority of the Irish people in this respect.

Q. 8 In the Downing Street Declaration the British Government gives a commitment to allow the Irish people to freely determine our future without external impediment or interference, to encourage, facilitate and enable agreement on this basis and to introduce the necessary legislation to give effect to this agreement. Does this mean that the Government of Ireland Act, Section 75 of which states "the supreme authority of the parliament of the United Kingdom shall remain unaffected and undiminished over all persons, and things in (Northern) Ireland and every part thereof", would be needed as part of an overall agreement?

A. See paragraph 4 of the Joint Declaration for the precise wording of the British Government commitment.

The Government of Ireland Act cannot be treated in isolation from the present wishes of a majority of the people of Northern Ireland as regards their constitutional status. The British Government will not take unilateral action so as to override those wishes or set them at naught.

The content of an overall agreement will depend on the outcome of negotiations. The British Government has confirmed they will give effect to any measure of agreement on future relationships which the people of Ireland may freely determine on the basis set out in paragraph 4 of the Joint Declaration.

Q. 9 How does the British Government reconcile its stated objective of maintaining the union with its declared lack of strategic or economic interest in Ireland?

Q. 10 Given the British Government's declared lack of "selfish strategic or economic interest in Northern Ireland", what is the British Government's political interest in "Northern Ireland"?

A. These points are covered under questions () and () above

Q. 11. Given the commitment by the two Governments that everything will be on the table for negotiation;

- (a) Will the union between Ireland and Britain be on the agenda for negotiation?
- (b) Will the Government of Ireland Act be on the agenda for negotiation?

A. In the comprehensive negotiations which the Governments wish to see in place, they envisage, as was agreed in the basis for the three-stranded Talks (March 26th 1991), that

"It will be open to each of the parties to raise any aspect of these relationships including constitutional issues, or any other matter which it considers relevant".

The British Government have reaffirmed in Article 4 of the Joint Declaration that they will

"introduce the necessary legislation to give effect to this (i.e. united Ireland) or equally to any measure of agreement which the people living in Ireland may themselves freely so determine, without external impediment".

No development or change agreed in this way between the Irish people, whether in relation to the Government of Ireland Act or any other aspect, has been ruled out by the British Government. On the contrary, we are committed in advance to endorsing and giving effect to whatever agreement is so reached.

Q. 12 Given the statement by the British Government in the Downing Street Declaration 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",

(a) Is the continued operation of the Government of Ireland Act subject to agreement on this basis?

(b) Is the continued existence of the union subject to agreement on this basis?

A. See replies at 1, 7 and 10 above.

Q. 13 Does the British Government accept that while the consent of a majority of the people of the six county state to constitutional change, as referred to in the Downing Street Declaration, may be desirable it is not a legal requirement in international law?

A. The Taoiseach set out in great detail in his address at Barberstown Castle on 20 January, 1994, the requirements in international law for the reunification of partitioned states. These requirements obtain, irrespective of the legal and political antecedents of such partitions, and of any conflicting views on them. The consent of a majority of the people of Northern Ireland to a change in their constitutional status is a legal requirement in international law from every perspective.

- Q. 14 Given the commitment in the Downing Street Declaration to work towards a balanced constitutional accommodation does the British Government accept that the present structures and arrangements do not represent a balanced constitutional accommodation?
- Q. 15 Given the commitment in the Downing Street Declaration to work towards a balanced constitutional accommodation, what constitutional options does the British Government see as being consistent with this objective?
- A. A balanced constitutional accommodation is one which both traditions in Ireland could accept as accommodating and reconciling to the fullest and fairest extent possible their opposing identities, allegiances and aspirations. The present constitutional structures and arrangements are clearly controversial from different perspectives for both sides. Therefore it would be desirable to replace them with new arrangements, arrived at through comprehensive negotiations, and which could attract general consent. The precise constitutional options which might secure this objective are best left to be explored in such negotiations, where different approaches to reconciling and acknowledging the rights of the two traditions in Ireland will be on the table for debate.
- Q. 16 The Taoiseach has said that Unionists possess a veto only in regard to whether to belong to a sovereign United Ireland or the UK, that they do not possess a veto over the policy of the two governments or over interim measures which may be adopted. Is this also the position of the British Government?
- A. The constitutional guarantee made by the British Government, and the joint commitment by both Governments in Article 1 of the Anglo-Irish Agreement, refer specifically to the constitutional question of change in the status of Northern Ireland. There are, and will continue to be, many issues where the British Government,

serving its wider mandate and the general interest, will be free, and indeed perhaps required, to adopt policies which may, in whole or in part be opposed by even significant sections of the population. Both Governments agree that no single sector of the population can have a veto over their policies.

As regards "interim measures" much will depend on the nature of such measures. Insofar as these are likely to require the cooperation of both communities in Northern Ireland, unionist and nationalist cooperation with them would be necessary.

- Q. 17 The Taoiseach has said that political parties need not accept every phrase or word in the Downing Street Declaration. In fact the DUP have rejected the Declaration in total and the UUP have said that it has run its course.
- (a) Does absolute rejection of the Declaration by a political party exclude that party from involvement in talks on the development of new political arrangements?
 - (b) Do parties which are opposed to aspects of the Downing Street Declaration have the right to dissent from it and yet be engaged in talks on the development of new political arrangements?

- A. The Declaration is an agreed position between the two Governments. It does not depend for its validity on the attitude of any other party, who are free to determine their own views on it, and to represent those views in future negotiations.

The crucial distinction in terms of participation in future negotiations is not between those who accept or reject the Downing Street Declaration, whether in part or in total. It is rather between those who abide

exclusively by the authority of the democratic mandate and those who reserve the right to invoke or support violent methods whenever an exclusive reliance on the democratic option does not suit their purposes.

The British Government believes that negotiations on the future of Northern Ireland should be open to all democratically mandated parties which establish a commitment to exclusively peaceful methods. To accept that violence can be admitted as a substitute for the values of democracy and consent could open a vicious circle where competing patterns of violence would seek to prevail. In any case, even-handed or meaningful negotiations are not possible between those who accept the constraints and discipline of a democratic mandate on a genuine and consistent basis, and those who reserve the right to invoke violence as an alternative to democracy whenever expedient.

Exploratory Dialogue

- Q. 18 Sinn Fein, as a matter of policy, advocates inclusive dialogue without preconditions. We do not accept the imposition of preconditions on our party or on any other party. However, in the interests of clarity we wish to explore the British Government position on these matters as outlined in the Downing Street Declaration.
- (a) The British Government has called upon Sinn Fein to renounce violence. What does this involve?
 - (b) Patrick Mayhew is reported as saying that a permanent cessation of violence "is the way in which full recognition can be accorded to the mandate which Sinn Fein candidates are accorded at the polls" (Irish Times, Thursday, 14/4/94). How does the British Government reconcile its refusal to recognise our democratic mandate with its stated commitment to democratic principles?
 - (c) The British Prime Minister has referred to a period of decontamination for Sinn Fein. What does this mean?

- (d) What would be the purpose of the exploratory dialogue between Sinn Fein and the British Government?
- (e) How long would this exploratory dialogue last?
- (f) Within this process, when would negotiations about the future constitutional and political shape of Ireland take place?

A. Both Governments regard a total and permanent cessation of involvement in or support for paramilitary violence as a precondition for involvement in comprehensive political dialogue on the way ahead (see paras. 10 and 11 of Joint Declaration).

There is no refusal to recognise the democratic mandate of elected representatives of Sinn Fein. On the contrary, it is fully accepted, precisely as a mandate for democratic politics, and not for any endorsement of violence, which is the antithesis of democracy. A democratic mandate cannot be interpreted as legitimising a tactical use of the forms of democracy to overthrow democratic values in favour of violence and coercion or to subvert the democratic rights of others. It is for Sinn Fein to make clear on their side that they invoke their mandate unreservedly and exclusively in democratic terms and not in direct or indirect connection with a campaign of violence.

The Prime Minister has confirmed that if there is a permanent end to violence and Sinn Fein commits itself to the democratic process, the British Government will be ready to enter preliminary exploratory dialogue with it within three months.

The purpose of exploratory dialogue between Sinn Fein and the British Government would be to discuss the modalities

of Sinn Fein's full participation in comprehensive negotiations on the way ahead, and, possibly, to consider measures of demilitarisation and confidence-building measures which might be necessary or desirable arising from a total cessation of violence. The dialogue would last for as long as both sides found necessary and useful.

Negotiations about the future constitutional and political shape of Ireland are a matter which concerns the two Governments and all the democratically mandated parties in Northern Ireland and cannot be a matter for separate decision with Sinn Fein or indeed any one potential party to such negotiations. It is the wish of both Governments that comprehensive dialogue should get underway as early as possible.

- Q. 19 (a) Given the declared opposition of both Governments to coercion, how will the coercion of Northern nationalists into the six county state be addressed in real terms?
- (b) How will the denial of nationalist rights be redressed in real terms?
- (c) When will repressive legislation be ended?

- A. The Joint Declaration makes clear that the British Government seeks to promote agreement in Ireland through a process of "dialogue and cooperation based on full respect for the rights and identities of both traditions in Ireland". The goal of the British Government is to seek agreement for new arrangements in Ireland which will be "a new beginning" for both traditions, including for nationalists in Northern Ireland for as long as the wish of a majority there is for no change in its constitutional status. The shape of such new arrangements must be

determined by the agreement reached in such negotiations, and based on the principle of equal respect for the rights and identities of both communities. It is the aim of both Governments that all new arrangements should be based on consent. An end to violence would open the way for a comprehensive reassessment of existing provisions against terrorism, many of which would become irrelevant and obsolete in a climate of peace.

Q. 20 The Downing Street Declaration is described as "the starting point of a peace process designed to culminate in a political settlement". What are the subsequent steps which the British Government envisages as part of a process of dialogue, reconciliation and demilitarisation leading to peace and a political settlement?

A. The subsequent steps envisaged upon a cessation of violence (without which there can be no development of a peace process) are set out in paragraphs 10 and 11 of the Downing Street Declaration and related statements, viz Sinn Fein to participate in exploratory dialogue with the British Government within three months and, independently, the offer made by the Taoiseach to establish a Forum for Peace and Reconciliation to make recommendations on ways in which agreement between both traditions in Ireland can be promoted and established. The Taoiseach has stated this Forum would be open to democratically mandated political parties in Ireland, which abide exclusively by the democratic process and wish to share in dialogue about Ireland's political future and the welfare of all its people.

Both Governments are of the view that a cessation of violence would remove a major obstacle in the way of the comprehensive negotiations they wish to see in place and

would greatly increase the prospects of such negotiations reaching a successful conclusion of historic significance. A lasting peace can open the door to a gradual scaling back and phasing-out of the military operations relating to internal security.