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ANGLO-IRISH AGREEMENT: ARTICLE 11 REVIEW

① PS/Dr Hanbury (B+L)
PS/Sir K. Bloomfield

Statement by the Tánaiste in Dáil Eireann

Mr Burns
Mr Stephens
Mr Cheesteron - L
Mr Miles
Mr A. Wilson
Mr Bell - L
Mr J. McDonnell
Mr ~~Kelly~~

16 November 1988

delivered at 10.30 am.

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Yesterday was the third anniversary of the signature of the Anglo-Irish Agreement.

② Mr Spence 16/11

③ Mr ~~Wilson~~ to see a return

At the outset of this discussion it is useful for a moment to remind ourselves of another anniversary that occurred a short time ago. October 5th was the twentieth anniversary of the first civil rights march in Derry. The images of that scene on October 5th 1968 remain vivid in all our minds: people in Ireland and abroad were deeply shocked by the gravity of the wrongs to which the marchers drew attention, and struck by the reasonableness of their demands for the exercise of basic democratic rights.

It is salutary to recall the twenty-year span of the "troubles". A great deal has changed over those years, but a resolution of many of the fundamental problems has so far eluded us. The recollection of those years, far from inducing any sense of resignation, can only imbue us with a renewed sense of urgency. Today's thirty-year olds in Northern Ireland have lived their adolescence and young adulthood in the shadows of the "troubles"; it would be intolerable if their entire adult lives were similarly blighted. One can only imagine the depression with which people in such circumstances greet theories of "containment" or suggestions of an "acceptable level of violence".

The Anglo Irish Agreement was part of a process, initiated in 1980, designed to counter any such theory of containment. The FORUM Report of May 1984 was absolutely right in stating that "in political, moral and human terms, there is no acceptable level of violence". The Report stressed the overriding urgency of action and underlined the need "not merely to arrest the cancer but to create the conditions for a new Ireland and a new society

acceptable to all its people". Developments in the intervening years have confirmed the accuracy of the analysis contained in the Forum Report.

In approaching the review, it is important to be clear about what the exercise involves and what it does not. It is worth restating Article 11 of the Anglo-Irish Agreement. That Article provides that "at the end of three years from signature of this Agreement, or earlier if requested by either Government, the working of the Conference shall be reviewed by the two Governments to see whether any changes in the scope and nature of its activities are desirable".

This is quite precise language; the review clearly is not intended in any way to call into question the existence of the Agreement. The scope of the exercise is nevertheless quite extensive. Articles 2 to 10 of the Agreement all make reference to the Conference and its work and thus come within the scope of the review. Since the Conference is the operating mechanism the engine so to speak - of the entire Agreement, we have a responsibility to assess the overall working of the Agreement, as well as of the individual Articles I have mentioned.

As is clear from the Joint Statements of the last three meetings of the Intergovernmental Conference, the two Governments have been considering their approach to the review for some time. The Joint Statement of 2 November sets out the approach agreed upon. In summary, the Joint Statement commits both governments to a thorough and serious review, with the main emphasis on a positive programme of work for the future; each government states its willingness to take careful account of views expressed to it; working parties of senior officials will be established; and both sides envisage that the Review will be completed in early 1989.

Essentially, we see the review period as involving two separate but interwoven exercises. The first of these is the detailed assessment by the two Governments of developments to date and the

mapping out of an agenda for future action. The second - which will take place in parallel with the first - is the hearing of views from interested parties as to their assessment of the past operation of the Agreement and their suggestions for the future. The precise interaction between these two exercises will obviously be a matter kept under review by both Governments. I might add that we look forward in due course to hearing the views of political parties here and, in this regard, we will be making contact with party leaders in the near future.

It is difficult to predict whether all interested parties in the North will in fact convey their views. It is our hope that procedural issues will not stand in the way of the widest possible dialogue. At this time of serious reflection on important issues, both communities in Northern Ireland will surely want their leadership to ensure that their viewpoints are represented and their voices heard.

However, realistically, one has to acknowledge the publicly-stated position of the Unionist leadership that they will not contribute to the review process as such. We have noted their comments to the effect that they will not help to re-design a vehicle intended for their destruction. Let me say as clearly as I can: this is not a vehicle designed to destroy anyone. For anyone critical of a lack of consultation three years ago, an *invitation - a genuine and most sincere invitation - to have an* input at this stage is surely not to be lightly cast aside.

I want to emphasise again our understanding of the situation in which Unionists find themselves. I made reference earlier to the Forum Report. This was no one-sided treatment of the situation in Northern Ireland. We addressed ourselves also to the fears and insecurities of the Unionist community, and made clear our commitment to respecting and upholding their identity and ethos. More recently, the Taoiseach has repeatedly stressed that his door is open to the Unionist community. In order to facilitate any wish on the part of Unionists to make a contribution, our

flexibility as to how views are conveyed during the review period has been clearly signalled.

Having said this, however, there is an important balancing point to be made. With the present, rightful, emphasis on reassurance to Unionists, it is imperative that the importance of reassurance to nationalists should in no way be diluted or down-played. It is the role and responsibility of any Irish Government to present the nationalist viewpoint in a coherent and forceful way. The Agreement should and must enhance our effectiveness in fulfilling that role.

We have in particular to take account of the reality that, to some extent at least, the achievements of the Agreement have so far failed to fulfil the hopes and expectations of many members of the nationalist community. Important as it is that a friendly and neighbourly relationship between Dublin and London be developed and sustained, the real test of the Agreement is the difference it makes on the ground in Northern Ireland. That is why all supporters of the Agreement must be sobered by findings which show that only a minority of nationalists in Northern Ireland feel that the Agreement has made a difference to their daily lives.

It would, of course, be quite wrong to suggest that there have been no worthwhile developments from the nationalist viewpoint in the past three years. On the contrary it is important that we give full weight to the positive developments that have taken place: *improved policing of the marching season*, an end to supergrass trials, a new code of conduct for the RUC, the beginnings of an economic programme for West Belfast, the preparation of new and, we hope, effective fair employment legislation - all these deserve recognition as developments that are beneficial, or potentially beneficial, to the nationalist community.

Why then, despite the undoubted achievements of the past three years, is there such a degree of disappointment among nationalists in Northern Ireland? This is a question which I believe deserves the most serious consideration during the review period. The argument is sometimes made that the Agreement has fallen victim to unrealistic expectations generated at the time of its signature, that any society adapts slowly to psychological and structural change and that a great deal should not be expected in a three-year time span. According to this argument, supporters of the Agreement are simply showing an undue impatience for change.

That argument misses the point. The whole thrust of the Forum Report was, as I have said, to stress the urgency of action. Stormont may have lasted for over fifty years, but we do not have the luxury of another fifty years to redress the damage. As realistic politicians, we know that society is not transformed overnight; at the same time, we cannot accept that change should come piecemeal, at its own pace, as might be acceptable in a more normal society. The Agreement envisaged an energetic and sustained programme of action, spanning all the crucial problem areas within Northern Ireland and it is both legitimate and necessary for us to measure the achievements of the Agreement against that standard.

If many members of the nationalist community are disappointed, it is not because they seek too much but because they have seen too little by way of change. Constitutional nationalists have a particular stake in the success of the Agreement because for them, involved as they are in the daily battle for hearts and minds in their communities, the Agreement represents - or should represent - a bulwark against the forces of extremism and violence. But for constitutional nationalists, too, the Agreement has to continually earn its success; it must add substantive achievement to symbolic significance.

To develop a more detailed sense of the subject matter of the review, and to amplify some of the points I have made, I would propose to comment briefly on the individual Articles of the Agreement which fall within the scope of the Review. (These brief comments on individual Articles will be supplemented in the course of today's discussion by other Government speakers.)

Article 2 of the Agreement sets out the right of the Irish Government to "put forward views and proposals on matters relating to Northern Ireland within the fields of activity of the Conference" and states that "determined efforts shall be made through the Conference to resolve any differences". These are absolutely key commitments of the Agreement and it will be crucial for the review process to examine how they have operated in practice and how they might better operate in the future.

One of the strengths of the Agreement is that it provides a framework within which difficult issues can be discussed; it acts, if you like, as a kind of shock absorber at times of crisis in Anglo-Irish relations. I am very much in favour of the substitution of conference-table discussions for megaphone diplomacy; in a friendly relationship between neighbours, one should obviously not need a megaphone to be heard. But that is the crucial point: that one's voice should be heard. There have undoubtedly been times over the lifetime of the Agreement when the consultation process envisaged in Article 2 failed to operate at all - as was the case with the announcement in Westminster last January of the decision not to prosecute in the Stalker/Sampson affair - or failed to operate within the spirit of the Article. A strengthened commitment to the consultation procedures envisaged in Article 2 would be, in my view, one of the most important and helpful outcomes of the review exercise.

Article 3 of the Agreement relates to *meetings* of the Conference and the functioning of the Secretariat. I might emphasise here that the Government are fully persuaded of the importance of

regular, well-prepared meetings of the Conference. I would point out that the Conference has met more frequently in 1988 than in any previous year: there have been nine meetings to date and a further meeting has been scheduled for early December. As is clear from the Joint Statements issued following each meeting of the Conference, discussions have been wide-ranging, substantive and forward-looking. Indeed, on taking office, the Government consciously sought to broaden the Conference agenda and to place a particular emphasis on economic and social issues which we felt had previously received inadequate attention. It is false and misleading to say that the Conference has been largely taken up this year with crisis management though, on occasion, responding to problems in this category can be an important part of our work.

The Secretariat performs a key role in servicing the Conference; the presence of Irish civil servants in Belfast 24 hours a day, seven days a week, three hundred and sixty-five days a year, is an important reassurance to the nationalist community. The work of the Secretariat will be examined in the course of the review, to see if there are ways in which it might be adapted and strengthened.

Article 4 of the Agreement refers, inter alia, to devolution. The appropriate role for the Irish Government in relation to devolution is a matter which frequently arises in discussions. The Taoiseach set out the Government's position on devolution clearly, and at considerable length, in reply to a parliamentary question on 9 March 1988. I would like to take this opportunity briefly to reiterate our position. Article 4 of the Agreement speaks of devolution "on a basis which would secure widespread acceptance throughout the community". Sub-paragraph (c) of that same Article goes on to say that "both Governments recognise that devolution can be achieved only with the co-operation of constitutional representatives within Northern Ireland of both traditions there". On the basis of the *stated position of the*

parties in Northern Ireland, I simply do not see that the prospects for this are very high at present.

Articles 5 and 6 of the Agreement are grouped under the heading "Political Matters". A cluster of extremely important issues is treated under this heading: issues of identity, protection of human rights and prevention of discrimination. Article 6 makes reference to the input of the Irish Government in relation to the role and composition of public bodies. During the review, we will be taking a searching look at the balance-sheet of achievements under these articles and the scope for future action.

Fair employment deserves specific mention as an area where there is potential for very significant progress. I am heartened by the close consultations which have taken place within the Conference on this issue. I look forward to the tabling very shortly at Westminster of new legislation which, we hope, will bring to an end practices of employment discrimination which can have no place in any decent society.

Articles 7 and 9 of the Agreement deal with security and related matters in their Northern Ireland and cross-border contexts respectively, as well as with the crucial and central issues of prison policy and confidence in the security forces in Northern Ireland. My colleague, the Minister for Justice, will comment in more detail on some of these issues when he speaks later in the discussion.

However, there is one fundamental point which cannot too often be emphasised. The commitment of the Irish Government and the Irish people to combatting terrorism is consistent, comprehensive and effective. Our high expenditure on border security is maintained at a time of financial stringency, when we have had to implement unparalleled cutbacks in a number of areas of the economy. As the Taoiseach said in this House last January "Our commitment in this area is freely given, in the common interest of society,

North and South, to ensure that the forces of terrorism - whether of domestic or international origin - do not prevail."

One might sometimes infer from remarks by commentators that security issues are exclusively on the British agenda for the Conference and equality issues are exclusively on our agenda. This represents a fundamental misunderstanding. The fight against terrorism is on our common agenda, just as equality of treatment for the minority community also forms part of the common agenda. There is a moral and political imperative which compels both Governments to address both sets of issues. Indeed, as has been demonstrated in similar situations around the world, issues of peace and justice are inextricably intertwined. Strenuous efforts must, of course, be made to counter terrorism. But as I said yesterday in the Irish News, we must not fall into the error of believing that a security programme aimed at the suppression of terrorism can be a substitute for a policy which addresses the root causes of the problems of Northern Ireland.

The most important element in the whole area of confidence is the daily experience of ordinary people of the security forces. Three years after the Agreement complaints of harassment continue. It is clear that this must be a priority area for the Conference. Our challenge is to put measures in place which, without prejudice to the right of people to bring their complaints to the courts or to the formal machinery established in law, will closely monitor the problems of people with the security forces with a view to taking immediate action to deal with them.

Article 3 deals with legal matters, including confidence in the administration of justice. From the outset, this has been an area to which we attach particular importance. Confidence in the administration of justice is one of the touchstones of a decent society; an absence of confidence provides the space in which subversion thrives.

Doubts are sometimes expressed as to whether any substantial section of the nationalist community genuinely lacks confidence in the administration of justice. In the face of the data, one may even wonder why this question is still being asked. For example, a survey published last year by the prestigious London-based Policy Studies Institute (PSI) found that 38% of Catholics lack confidence in the fairness of Northern Ireland courts in dealing with Catholics. Surely such a finding makes a compelling case for acceleration of work under Article 8 of the Agreement.

Change in the method of trial or other aspects of the political system is considered by all forward-thinking societies from time to time; and it is no reflection on judges or those who have charge of the system to propose change. There is now objectively a more compelling case than ever for the introduction of three judge courts in the North. We have found from experience that our own three judge Special Criminal Court has not alone worked very effectively but has, if anything, served to strengthen and sustain confidence in the administration of justice under a common law system.

Article 8 also refers to extradition, a subject which, as we are all aware, has aroused considerable controversy. The present position is quite clear. Extradition, with safeguards, is in place. In addition, we are also considering with the British Government the use of the Criminal Law Jurisdiction Act in appropriate cases.

Article 10 deals with cross-border cooperation on economic, social and cultural issues. It is under this Article that the International Fund was established. Article 10 makes clear that the focus of the Fund's work is to be on "those areas of both parts of Ireland which have suffered most severely from the consequences of the instability of recent years". I am pleased to note that in recent months the Fund, acting on the advice of both Governments, has given increased emphasis to its work in

disadvantaged areas, and indeed that a specific Disadvantaged Areas Initiative has been adopted.

I am convinced that the full potential of Article 10 has still to be realised. The approach of 1992 presents us with an unprecedented challenge to re-examine existing attitudes. As national borders within Europe are effectively eroded by the process of European cohesion, there is surely an unarguable case for increased harmonisation between the economies of the two parts of this island. We would hope to emerge from the review process with a detailed programme of action which will prepare us for the opportunities and challenges of 1992.

This brief survey of the individual Articles of the Agreement will have indicated our general approach to the review exercise. Our specific proposals will be made within the structures established by the Agreement. I would again stress that both sides are approaching this review in a positive manner, in a spirit of joint endeavour. The Agreement entitles - indeed almost obliges - us to be frank with one another but there will be no criticism for the sake of criticism. Our purpose is to revitalise the implementation of the Agreement; above all to rekindle that sense of urgency which informed the discussions between the two Governments in 1980/81 and, subsequently, the Forum discussions and the negotiations which led to signature of the Agreement.

It is my hope that the review exercise will engage the energies and creativity not alone of the two Governments, but of all who care about the fundamental issues affecting Northern Ireland, future relationships on this island and Anglo-Irish relations. It is particularly appropriate that this extensive discussion should take place in the Dáil at this early stage in the review period. I look forward to an open and constructive exchange of views.