

## ACKNOWLEDGEMENTS

The period of study for the Ph.D was marred by the untimely and tragic deaths of my M.Phil supervisor, Esmonde Robertson and Ph.D. supervisor, Dr. Roger Bullen, of the Department of International History at the London School of Economics. I am eternally grateful for their personal kindness, encouragement and selfless assistance. To the memory of both scholars I humbly dedicate the thesis.

My gratitude to Jenny for her saintly patience in allowing me the indulgence to research and write the thesis, to James for his grammatical corrections, to Alex for collating the proofs and to Siobhan for allowing me the use of the word processor..

I am especially grateful to Dr. Michael Dockrill, Department of War Studies, Kings College, London, who kindly agreed to take over the supervision of the final stages of the thesis.

I am grateful to S.B. Crooks, R.Krishna, R.James, R. Wall and all the staff of the External Studies division of London University for their helpful assistance over the years.

My thanks to former Minister of Health in the coalition government, 1948-51, Dr. Noel Browne whose criticisms of my initial acceptance that there was a "general policy" of the Irish government to repeal the External Relations Act, prompted a more thorough investigation of the subject. For that enlightenment, kindness and hospitality, I thank Noel and his wife Phyllis.

To the late Sean Mac Bride, for his courtesy and hospitality. His recollections proved invaluable; his charismatic personality is an indelible memory.

To Professor Patrick Lynch for his courtesy and unending patience in answering questions about John Costello's trip to Canada.

To Professor Ronan Fanning , Department of Modern History, U.C.D. for his generous assistance over several years. His article, 'The Response of the London and Belfast Governments to the Declaration of the Republic of Ireland, 1948-49' proved a reliable guide to the maze of triangular negotiations that occurred in the period October 1948- March 1949.

To former editor of the 'Sunday Independent' Hector Legge for his recollections and for lending me John Costello's memorandum recounting details of his decision to announce the government's intention to repeal the External Relations Act.

To Una O'Higgins O' Malley for explaining how an "activist " viewed the Fine Gael decision to break the Commonwealth link.

To Greagor O' Duill Archivist at the Department of Foreign Affairs Dublin for pointing out several interesting files in the Department of External Affairs and especially for reading and correcting and commenting on the thesis.

To Dacre Cole and Fred MacEvoy, Department of External Affairs, Ottawa, Historical division, for their kind hospitality and valuable help on aspects of John Costello's visit to Canada.

To Bruce Arnold for giving permission to quote from his revealing interview with former Secretary of the Department for External Affairs, Frederick Boland.

To Leonard and Gwendoline Bland for their unfailing hospitality on my frequent trips to London.

To Lionel Stinnerman for informative discussions on comparative aspects of the Partition of Palestine and Ireland.

To Dr. John O'Brien, Modern History Department, U.C.D. for his advice and assistance .

To Jack Mc Quillan and his wife Angela for his recollections and hospitality.

To Michael Hayes , Dublin City Sheriff for the many informal chats which brought the subject alive.

To Anthony Doran for his support and incisive comments on the Ireland Act, 1949.

Grateful acknowledgement to David West for reading and correcting the thesis and for his valuable criticisms, comments and suggestions. A friend indeed!

My thanks to Jackie Gallagher, Editor of the Public Sector Times for his assiduousness in correcting a draft of the thesis.

My thanks to Mrs Haroldine Helm, Independence, Missouri, for providing home from home accommodation.

My grateful thanks for the kind assistance and advice of Dr. Breandan Mac Giolla Choille, Franciscan Library Archives, Killiney, Co. Dublin.

To Phil Connolly, Gabriel Gaynor Eamon Mullally, Ann Neary, and Paddy Sarsfield in NASPO for their herculean and dedicated assistance over the years.

To Jeffrey Flannery , Manuscript Division of the Library of Congress, Washington D.C.

To Amy Schmidt and staff at the National Research Centre Maryland .

To staff at the Royal Commission on Historical Manuscripts, for assistance on locating the private papers of Norman Brook.

To staff at National Archives Washington.

To staff at the Public Record Office, Kew for their amazing efficiency.

To Neil and staff at Harry Truman Library, Independence, Missouri.

To Leslie and staff at Churchill Archives, Cambridge.

To staff at Canadian National Library and Archives, Ottawa

To Staff at the New York Central Research Library.

To Staff at Roosevelt Library, Hyde park, New York State.

To Staff at Department of Foreign affairs, Dublin.

To Staff at the Department of External Affairs, Ottawa.

Bodleian Library, Oxford.

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THE FORMULATION AND CONSEQUENCES OF THE REPUBLIC OF IRELAND  
ACT, 1948-49

Ph.D THESIS

JAMES IAN MC CABE .

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THE FORMULATION AND CONSEQUENCES OF THE REPUBLIC OF IRELAND  
ACT, 1948-49.

JAMES IAN MC CABE

ABSTRACT

The thesis unravels the strands of the political and diplomatic pressures which led to Eire's departure from the British Commonwealth.

As a background, the thesis reviews Anglo-Irish constitutional developments, from 1932 until 1948, with special reference to the introduction of the Executive Authority (External Relations) Act, 1936. That statute sufficed as Eire's last tenuous constitutional link with the Commonwealth.

The contentious issue of why the Taoiseach, John Costello made the announcement of his government's intention to repeal the External Relations Act, without a cabinet decision is examined. The answer is found by differentiating between the Statute and the prescribed permissory procedures embodied therein.

Following chapters show how discussions among Commonwealth representatives, at Chequers and Paris, arrived at an agreement, whereby the Republic of Ireland, in an intermediary position between that of a foreign state and Commonwealth member, retained Most Favoured Nation Status for its trade and citizens.

Two following chapters on NATO and on Partition ignore the above semantic analysis of Anglo-Irish relations and deal with the practical problems.

The thesis argues that the UK 'Ireland Act', 1949, introduced ostensibly to recognise Eire's new status vis-a-vis the Commonwealth, incorporated a guarantee to the Unionists that Partition would not end without their consent (as opposed to with): That this "guarantee" was not divorced from the strategic interests of the British Chiefs of Staffs, who wanted to maintain the reliable bases in Northern Ireland.

The Irish government's response to the British government's, Ireland Act, 1949 was rhetorical rather than practical. Protests turned to internecine political recriminations, and faded when it became obvious that continued criticism of Britain would encourage the unleashing of unconstitutional and uncontrollable elements .

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CHRONOLOGY OF EVENTS. February 1948 - May 1949.

- 18 February. Fine Gael headed Coalition replaces Fianna Fail.
- 25 February. Communist 'coup d'etat' in Czechoslovakia.
- 17 March. Brussels Treaty signed .
- 17 March. President Truman declares support for Brussels Pact .
- 16 April. Organisation for European Economic Co-operation established .
- 11 June. Senate adopts "Vandenberg Resolution" 64 votes to 2.
- 16-22 June. Anglo -Irish Trade Negotiations.
- 23 June. Soviets blockade surface traffic into Berlin.
- 28 June. Eire first to sign U.S. bilateral agreement under the Economic Co-operation Act(Marshall plan).
- 21 July. Sean MacBride declares that Eire is not a member of the Commonwealth.
- 23 July. Taoiseach John Costello predicts possibility of progress on Partition
- 28 July. John Costello states that Eire has ceased to be a formal member of the Commonwealth.
- 30 July. Prime Minister Attlee arrives in Dublin to holiday and sign Anglo-Irish Trade Treaty.
- 6 August. Tanaiste and leader of the Labour Party William Norton favours abolishing the External Relations Act.
- 6 August. Eamon de Valera promises " no opposition from us."
- 10 August. Cabinet appoint 'Charge d'affaires' to Lisbon according to the procedures of the External Relations Act.
- 14 August. Sean MacBride discusses Partition over a picnic lunch with Attlee in Mayo.
- 17 August. Sir Basil Brooke, announces the re-introduction of the B-Specials.

- 19 August. Cabinet discuss (a) attendance at Commonwealth Prime Ministers Meeting (b) Changing title of High Commissioners to Ambassadors (c) approve Costello's speech to the Canadian Bar Association.
- 24 August. John Costello leaves Cobh 'en route' for Canada.
- August. Sir Norman Brook records a Commonwealth consensus that if Eire repeals the External Relations Act she "could no longer be regarded as a member of the Commonwealth."
- 4 September .Governor General, Lord Alexander, insults John Costello with "Roaring Meg" .
- 5 September. Sunday Independent headline : "EXTERNAL RELATIONS ACT TO GO".
- 7 September. John Costello states that it is his government's intention to "ditch" the External Relations Act.
- 8 September. Irish newspapers headline the "announcement".
- 9 September. Sean MacBride and William Norton hastily draw up draft Bill to repeal the External Relations Act.
- 9 September. Washington Security Talks; First phase of British, Canadian and American conversations conclude.
- 10 September. British Cabinet withdraw invitation to Eire to attend Commonwealth Prime Minister's Meeting.
- 1 October. Costello arrives home and confirms intention to repeal the External Relations Act.
- 5 October. British cabinet decide to issue a warning that repeal of the External Relations Act could mean loss of Most Favoured Nation Status.
- 7 October. Lord Rugby conveys British Cabinet's warning to Costello; "caucus" Cabinet meet in John Costello's home and refuse his offer of resignation.
- 11 October. Irish Cabinet approve the "action" of John Costello in North America.
- 13 October. Canadians willing to participate in collective defence arrangements for North Atlantic area.

11-21 October. Commonwealth Prime Ministers' Meeting in London.

17 October. Irish-Commonwealth meeting in Chequers.

16-17 November . Irish Commonwealth meeting at Paris.

17 November. Republic of Ireland Bill, 1948 introduced in Dail.

10 December. Negotiations on drafting of NATO treaty begins

21 December. Republic of Ireland Act, 1948, signed by President.

7 February 1949. U.S. "approach" Eire about joining NATO.

8 February 1949. Irish government refuse to join NATO.

4 April 1949. North Atlantic treaty signed in Washington.

8 April. Sir Gilbert Laithwaite succeeds Lord Rugby as U.K. Representative to Eire.

18 April 1949. Easter Monday, "Republic of Ireland Act, 1949", inaugurated.

3 May 1949. UK "Ireland Bill, 1949", introduced in House of Commons. Contains a "guarantee" on Partition.

5 May 1949. Council for Europe established in Strasburg.

10 May 1949. Protest in Dail against UK "Ireland Bill, 1949".

13 May 1949. O'Connell Street protest against UK "Ireland Bill, 1949".

23 May 1949. Soviet blockade of Berlin lifted after 321 days.

30 May 1949. V. Krishna Menon appointed India's Ambassador to Ireland.

2 June 1949. UK "Ireland Bill, 1949" receives Royal assent.

PREFACE

This thesis deals principally with Anglo-Irish relations from the election of the coalition government in Eire in February 1948 through to their response to the introduction of the Ireland Act in May 1949. That short period also encompasses the Republic of Ireland Act, 1949, and the formation of NATO. While the chapters are confined to specific themes in chronological order, the overall intention is to highlight the fact that Anglo-Irish relations, at that time, operated within a broader diplomatic and defence framework.

Some of the influential factors, important in their own right, have been omitted from the individual chapters, or have not been given due emphasis: for example, the influence of the formation of NATO on the British government's decision to include the "guarantee" clause in the UK Ireland Act, 1949, is only referred to briefly. The sacrifice of "outside" information has been based on a subjective evaluation of its comparative importance to the central thesis. Where domestic and global influences have been omitted, it has been with an awareness that they might interfere with the flow and comprehensibility of the themes of the chapters. In acknowledgement of this deficiency, a separate chapter on the arguments for and against Partition, as presented by the British and Irish governments of the time, has been included. Similarly, and more relevant to the global view, is the inclusion of a separate chapter on the impact of the formation of Western European Union and NATO upon Eire.

The chapter on NATO highlights the important fact, that while Eire was leaving the Commonwealth, Britain was busily involved in sensitive defence negotiations with America, Europe and the Commonwealth and that Britain's responses to Eire were affected by those ongoing negotiations. Similarly, India's declaration of a Republic paralleled Eire's. These influences, separate or combined, may have been only minor, but they do tend to show the interplay of global and domestic pressures which had an impact on the decision makers in the British government. For example, Eire announced her intention to repeal her remaining link with the Commonwealth and "refused" to join NATO during the period of the Berlin crisis, July 1948, to May, 1949.

Overall, when considering post-war Anglo-Irish relations it should be borne in mind that Britain had a weak economy, was uncertain of her position in Europe, was losing her role as a world power and had developed a dependence on America that looked like conflicting with her already uncertain leadership of the Commonwealth.

## INTRODUCTION



The Anglo-Irish Treaty of 1921(1\*) accepted the partitioning of Ireland into two states as provided for under the Government of Ireland Act, 1920, and amended by the Irish Free State (Consequential Provisions) Act, 1922. According to the terms of the "Treaty", the Irish Free State(2\*) was a dominion member of the British Commonwealth.(1)(3\*) Upon obtaining power in 1932, Eamon de Valera chipped away at this relationship until the Irish Free State claimed to enjoy through the Executive Authority (External Relations) Act, 1936(4\*), an "association" with the Commonwealth.(2)

(1) Pakenham, F. (Lord Longford): Peace by Ordeal Pub. Sidgwick & Jackson Lon. 1972 p. 288

(1\*) See- Articles of Agreement for a Treaty Between Great Britain and Ireland, December 6, 1921; in Pakenham, F.: Peace by Ordeal. pp. 288-292

(2) D.D. Vol. 107 Col. 92. 24.6.1947.

(2\*) Irish Free State was the title of the twenty six counties from 1922 until the enactment of the 1937 Constitution, when Article four designated the official name of the state as Eire or in the English language "Ireland". In this thesis, "Eire" is used to describe the 26 counties from December, 1937 to April 18, 1949; thereafter the term "Republic of Ireland", may be used specifically to differentiate it from the "North Eastern six counties of Ireland".

(3\*) Interestingly, the term British Commonwealth as opposed to Empire was used in the 1921 Treaty. Reputedly this was the first time it had been used in a treaty by Britain. The first recorded use of the term appears in a Cabinet Paper prepared by the Colonial Office in March 1921. Reference Cab.32. E-6 quoted in Mansergh, N.: The Commonwealth Experience. The Durham Report to the Anglo-Irish Treaty. pub. Macmillan. 1982. p.30.

(4\*) The machinery of the External Relations Act provided for the King to appoint Eire's "diplomatic and Consular Representatives and the conclusion of International agreements". In practice "appointing" also included receiving letters of credence. See Appendix 1. Executive Authority (External Relations) Act, 1936. Number 58 of 1936.

On September 7, 1948, the Taoiseach, John A. Costello, held a press conference in the Railway Carriage Room(1\*) of the Parliament Buildings in Ottawa. In reply to a reporter's question, (2\*) John Costello stated that it was his government's "intention" to "ditch" the External Relations Act.(3) The Ottawa evening newspaper, 'The Journal', quoted John Costello as saying that "there was nothing to prevent Ireland continuing in 'even closer association' with the British Commonwealth, although not necessarily as a 'member' of it."(4) The place, timing, and above all the substance of this revelation surprised most of his Cabinet colleagues (5) and the British government.(6)

The reason for what became known popularly as the "announcement" and its repercussions, forms the core subject of this thesis. The title - "The Formulation and Consequences of the Republic of Ireland Act, 1948-49" - encapsulates the scope of the thesis. "Formulation" deals with the principal political pressures which contributed toward the repeal of the Executive Authority(External Relations)Act, 1936. "Consequences" examines the results and repercussions of the Republic of Ireland Act, 1949.

(3) Gazette Montreal 8.9.1948

(4) The Journal, Ottawa, 7.9.1948 five o'clock edition

(5) Browne, N. Against the Tide, Gill and Mac Millan, Dublin 1987. p.129

(6) House of Commons Debates. Hansard. Attlee introducing the second reading of the 'Ireland Act, 1949', Vol. 464. Col. 1854. 11.5.1948

(1\*)I am grateful to the Canadian based journalist, Charles Smith for assistance in identifying the room where the press conference was held.

(2\*)The wording of the question was not printed in the Ottawa Gazette but was as a direct result of the Sunday Independent question. See Michael Mc Inerney Interviews John A. Costello, Irish Times 8.9.1967.

The process which led to the repeal of the External Relations Act is confusing. Perhaps the most important contributory factor was the volatile domestic political situation that existed in Eire. By the summer of 1948, domestic political internecine tensions had begun to overflow into Anglo-Irish relations, and the political competition between the coalition government and the Fianna Fail opposition, converged on the sensitive issue of Eire's "membership" of the Commonwealth. As we shall see the "announcement" of the intention to repeal the External Relations Act was presented by John Costello as a 'fait accompli' to members of the Irish government. Further, the subsequent confusion that arose in the Irish government will be explained by the fact that its members were apparently in favour of amending the procedures and formalities attached to the External Relations Act, as opposed to repealing the Act itself.(7)

CONTINUED/

(7)NASPO S 14333A and S.3597 contains Cabinet memoranda on the Irish government's attitude to Commonwealth formalities such as usage of titles of High Commissioners. Includes extracts from cabinet meeting CAB 2/10. G.C. 5/32. 19.8.1948.

That difference is a fine one, but the explanation of the distinction between the External Relations Act itself, and the machinery, procedures and formalities attached to it may explain the resultant confusion among members of that coalition government and their civil servants as to whether there was an "intention", (8) "consensus ", (9) "approval", (10) and even a "decision" (11) by the Irish government to repeal the External Relations Act. This explanation also coincides with Fine Gael's traditionally evolutionary, as opposed to revolutionary, (12) attempts to alter Anglo-Irish constitutional relations.

The British government responded to Eire's departure from the British Commonwealth by introducing the "Ireland Act, 1949." That Act contained amending legislation which was necessary to recognise Eire's new status, but it also contained the so-called "guarantee" clause which granted the Parliament of Northern Ireland, in effect the Unionist majority, a veto against the political unity of Ireland. That response crushed the hope that the Irish government may have harboured that they might gain some favourable development on Partition in return for ending their policy of neutrality.

(8) Personal interview with Sean MacBride 6.1.1987

(9) Frederick Boland, Former Secretary of the Department of External Affairs in an interview with Bruce Arnold . Quoted with Mr. Arnold's kind permission

(10) Telephone interview with Brendan Corish, former Parliamentary Secretary to the Minister for Local Government and to the Minister for Defence. 20.12.1988.

(11) John Costello in personal memorandum kindly loaned by Hector Legge, former editor of the 'Sunday Independent'. Also Michael Mc Inerney interview with John Costello, Irish Times 8.9.1967

(12) Harkness, D.: The Restless Dominion, p.238.

Following the introduction, Chapter one gives general overall review of post-war Anglo-Irish relations. The thesis then continues with an examination of Anglo-Irish constitutional relations from 1932 until 1938. This includes the background to the Irish Free State government's reaction to the Abdication of King Edward VIII. That event brought forward the External Relations Act. Although in theory a permissive statute implemented by the Irish government, the Act was apparently treated as sacrosanct by the British government, who considered it to represent Eire's last tenuous constitutional link with the Commonwealth.

The reactions of Irish political leaders to the introduction of the External Relations Act in 1936 will be referred to and contrasted with their reaction twelve years later. This will show the consistency of Fianna Fail and the Labour party and may explain why Fine Gael changed its pro-Commonwealth ethos in order to survive as a political force.

The following chapter deals with the formation of the pro-Commonwealth Fine Gael headed coalition which replaced the apparently entrenched Fianna Fail government. The ousting of Fianna Fail was achieved by the determination of all the other political parties and independents to combine to topple Fianna Fail and arguably this motive became the coalition's principal 'raison d'être'.

The "execution" of the External Relations Act took the form of John Costello's "announcement" in Ottawa. Although the "announcement" was initially ignored by the British government, it resulted in the Irish government following through on the publicly stated "intention" to repeal the External Relations Act and, as a consequence, to leave the Commonwealth. The thesis will examine the immediate reaction of the Minister for External Affairs, Sean MacBride, to the announcement and the Irish Cabinet's retroactive decision to approve the contents of that "announcement".

The circumstances surrounding John Costello's controversial "announcement" are examined including an examination of the momentum leading to the "announcement". A detailed examination of John Costello's part in the repeal of the External Relations Act reveals the importance of the idiosyncratic factor in the decision making process in Anglo-Irish Relations. Costello's relationship with his host in Canada, the Governor General, Lord Alexander, will be reconstructed so that a full understanding of the individual, national and international political circumstances surrounding the "announcement" may be taken into account .

Two following chapters will cover the generally friendly reaction of other Commonwealth members as exemplified by Eire-British-Commonwealth discussions at Chequers and Paris in October and November 1948. Importantly, the Chequers meeting did serve as the preliminary negotiations between Eire and the Commonwealth and allowed good relations to be established, especially between Sean MacBride and the Prime Minister of New Zealand, Peter Fraser and deputy Prime Minister of Australia and Minister of External Affairs, Dr. Herbert Evatt.

An international dimension will be introduced in relation to the position of Eire vis-a-vis setting an example to India and Ceylon by "withdrawing" from the Commonwealth. Such a decision by India would have had implications for Australia and New Zealand vis-a-vis defence(1\*) in South East Asia. In turn, the reaction of the British government in relation to the new evolving Commonwealth will be examined; in particular, Britain's dilemma and fear that as she grew closer to America, her leadership of the Commonwealth would weaken. Without being aware of it, Eire's decision to leave the Commonwealth in 1948 came at a crucial psychological time when Britain needed her confidence to maintain her leadership of the Commonwealth.

(1\*)See "Strategic Importance of the Indian Continent to Commonwealth Defence " in Mansergh N. (Ch.Ed.): The Transfer of Power, 1942-47. Vol X11 P.319. See also note by Field Marshal Auchinleck "Should India be unfriendly or liable to be influenced by a power, such as Russia, China or Japan, hostile to the British Commonwealth, our strategic position in the Indian Ocean would become intolerable and our communications with New Zealand and Australia most insecure.Ref:L/WS/1/1092/ Date 11.5.1946. p.801

Despite the possible damage to the unity of the Commonwealth, the 1948 October Chequers and November Paris Anglo-Irish-Commonwealth meetings agreed to a working arrangement whereby Eire, despite being a Republic, could once again dilute the "Commonwealth relationship" by retaining Most Favoured Nation benefits, as an intermediary between Commonwealth member and foreign state.

Although the issue of defence was not raised at Chequers, or later at Paris, it was always an underlying consideration with the British Chiefs of Staff who, it can be assumed, were at the least consulted, if not acting as advisers on Anglo-Irish relations. Accordingly, a separate chapter is devoted to an examination of the repeal of the External Relations Act in 1948-1949, within the context of Western defence and the Cold War, more especially with respect to the formation of NATO. While the western powers were prepared to accept Eire's excuse about Partition for "breaking ranks", they were not prepared to tolerate any attempt by Eire to divide the Atlantic alliance. Partition was, as is explained in the following chapter, Eire's principal reason for "refusing" to join NATO. This "refusal" compounded the reaction of the British government to Eire's leaving the Commonwealth. The chapter argues that while it appears that the government of Northern Ireland was responsible for the "guarantee" on partition, a contributory factor was the input of the British Chiefs of Staff ( supported passively by the US State Department) who wanted to maintain their reliable bases in Northern Ireland.



Since a thesis on the Republic of Ireland Act, 1949, without a chapter on the festivities inaugurating the Republic would be inadequate, the thesis will refer briefly to the celebrations on that Easter Monday in 1949. More practically, the chapter on the inauguration of the Republic will concentrate on the diplomatic impact and accomplishments that the change in the international status of the state necessitated and eventually achieved .

Following the chapter on the inauguration of the Republic the thesis offers as background material the Irish and British government's period arguments for and against Partition. The British government responded to the inauguration of the Republic of Ireland Act, 1949, with the Ireland Act, 1949. That Act contained the "guarantee" to the Parliament of Northern Ireland that Partition would not end without their consent. That was in turn followed by an Irish response which was mainly rhetorical in effect and was deliberately played down and effectively ignored by the U.K. Representative to the Republic of Ireland, Sir Gilbert Laithwaite. By August 1949 the Irish government capitulated, knowing that if they persisted in their officially inspired anti-partition campaign, they would unleash extremists who would use violence as part of an unofficial anti-partition campaign.

Overall, this thesis will locate Anglo-Irish relations within the broader pattern of American-British-Commonwealth system of relations. Within the framework of Anglo-Irish relations there is the overlapping triangle of Eire, British and Northern Irish relations. From within that relationship, Eire and Northern Ireland compete to influence the British government, America and the Commonwealth members. It will be shown that Anglo-American relations were strong and united and that America's minor relationship with Eire could be sacrificed by the State Department if it appeared to upset or threaten the "special relationship" with Britain.

CHAPTER 1

POST-WAR ANGLO-IRISH RELATIONS, 1945-1947

In 1948 Anglo-Irish and American-Irish relations had not recovered fully from Eire's policy of "benevolent" neutrality during World War 11. Partition still remained as the principal source of conflict in Anglo-Irish relations.

On a functional level the post-war British Labour government maintained friendly relations with Eire. On September 18, 1945, the Cabinet(1) approved a proposal from the Secretary of State for Dominion Affairs, (1\*) Lord Addison, that "our general policy towards Eire should be quickly and unobtrusively to restore friendly relations by losing no opportunity of promoting intercourse and co-operation in practical matters."(2) In October 1946 mutual Anglo-Irish interest meant that Lord Addison hoped that "the Ministry of Agriculture would be ready to give any advice or assistance in their power to representatives of the Eire Government who might visit this country."(3)

(1\*)In July, 1947, the Dominions Office merged with the Indian Office and was renamed the Commonwealth Relations Office

(1)PRO PREM 8/ 1222 Pt.1. contains extract of CM(46)92 29.10.1946 with reference to CM(45)33 minute 5. 18.9.1945

(2)PRO PREM 8/ 1222 Pt.1 contains extract of CP(45)152

(3)PRO PREM 8/ 1222Pt.1. contains extract of CM(46)92 29.10.1946. Minute 4

On a personal level it is possible that some British ministers who had spent part of the war in the claustrophobic underground cabinet offices(1\*) where a map of neutral Eire was prominent may have harboured some resentment. It would only be human that such resentment surfaced during such critical times as the Dunkirk evacuation or upon hearing of de Valera's visit to the German minister in Dublin, Eduard Hempel, to offer his condolence on the death of Hitler.(4) That gesture upset the Allies and was interpreted as symbolising a pro-axis stance.

The U.K. Representative to Eire, Sir John Maffey, (2\*) commented in a post-war report to the Commonwealth Relations Office: "And there is always the comfortable reflection that they suffered less in the war than any other European people, a reward specially reserved for saints, and not vouchsafed to sinners"(5); according to Maffey, there was "lively resentment on the British side" to acknowledging, at least, publicly, the assistance from Eire.(6)

(4) Fisk, R.: In Time of War. p.535.

(5) FO 371 54722 .(W8739/1350/G) Note by Sir John Maffey, United Kingdom Representative to Eire. 3.8.1946

(6) Ibid

(1\*) Now a museum open to public at Grt. Charles St. London S.W.1.

(2\*) Sir John Maffey, (created Lord Rugby in 1947) wanted to be recalled from Dublin in 1945 and according to a letter from Secretary for Commonwealth Relations Philip Noel-Baker, to Attlee was persuaded to remain on "only by bribing him with a peerage." (7)

(7) Attlee papers , Bodleian Library, Oxford. MSC. 73. (p.1-17)

In fact, as early as February 1945 the extent of Eire's co-operation with Britain during the war was highlighted in a report to the British War Cabinet by former Dominions Secretary, Viscount Cranbourne. (8) However, in order to maintain her post-war policy of neutrality, the Irish government did not publicise the extent of her co-operation with the Allies. The British government acknowledged that 40,000 men from Eire were known to have joined the British forces, but a report admitted that the figures were not "water tight".(9) A reluctance to admit assistance from Eire is understandable especially when contrasted with the provision by Northern Ireland of air and naval bases. (That help was remembered in Britain as having saved Atlantic convoys from the worst of German submarine attacks).

On a social level, friendly neighbourly relations resumed. This was shown by the amount of British tourists (including government ministers) to Eire who came in search of scarce post-war luxuries not available in Britain where rationing still remained.

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(8) PRO Cab 66/62 Memorandum by Viscount Cranbourne, Dominion Secretary, 1940-42, dated February 1945 quoted in Fanning, R. Independent Ireland. pp.124-125

(9)PRO DO 35 1228 WX101/1/69 "Note On Principal Eire Propaganda Claims With Answers Thereto." p.3.

On a diplomatic level Eire extended her post-war diplomatic relations by appointing her first ambassador to the Vatican and establishing diplomatic contacts with Sweden and Australia.(10) Eire, who as late as July 1945 voted £8,764 towards the expenses of the dying League of Nations, hoped to build on her contribution to the League of Nations and increase her international prestige by joining the United Nations.(11) When in March 1946, British Foreign Secretary, Ernest Bevin, expressed the fear that, if Britain sponsored Eire's application for membership as twenty-six counties then, "the Soviet government would have an opening to say that membership could only be considered on the basis of the whole of Ireland"(12), Lord Addison replied that "Mr. de Valera was unlikely to put forward his application on the basis of the whole 32 counties."(13) In April 1946, Lord Addison advised the Cabinet that the attitude towards Eire's application for membership of the UN should be that, "The United Kingdom representative on the Security Council should adopt a favourable attitude towards Eire's claim to membership, although without going out of his way to champion her, if Eire's case came up in the course of any review of potential candidates by the Security Council."(14)

(10)PRO FO 371. 54722. Maffey to Dominions Office Telegram No.13. 4.2.1946

(11)D.D. Vol. 97. Col 2784. 19.7.1945.

(12)PRO PREM 8/258 .Minutes of discussion 21.3.1946 See also PM/46/53. Report to Attlee from Ernest Bevin. 'Question of Admission of Eire to United Nations'.

(13)Ibid

(14)PRO PREM 8/1465 extract from CP((46)164 .17.4.1946

In July 1946, despite Bevin's earlier reservations, the Cabinet authorised Lord Addison to inform the Irish government that "if they applied for membership of the United Nations, His Majesty's Government would support their application." (15) However, in August 1946, the United Kingdom Delegation to the United Nations telegraphed the Foreign Office informing them that "Question of use of word 'Ireland' was raised during discussion (by the) Committee on the admission of new members and United Kingdom representative who used word 'Eire' throughout, took appropriate occasion of stating that use of word 'Ireland' in discussion or report would be regarded by His Majesty's Government in the United Kingdom as denoting territory formerly known as Irish Free State and not including that part of island of Ireland forming part of United Kingdom of Great Britain and Northern Ireland." (16)

The semantics about the use of the title, "Ireland" proved to be academic when in September 1946 Eire suffered a diplomatic rebuff and had her application for membership of the UN rejected by the Security Council veto of the Soviet Union. The official reason given by the USSR was that the Soviet Union did not maintain diplomatic relations with Ireland. (17) The following year the Russian delegate, Mr. Krasilnikov, opposing Eire's application, stated in the membership committee that Russia "cannot overlook the fact that Eire did not help to lay the foundations of the organisation she is now trying to join." (18)

(15) PRO PREM 8/258. extract from CM(46)65 5.7.1946

(16) FO 371. 59732. UN 1539 Telegram No 824. Des.3.26 p.m. Rec.8.45 p.m.

(17) Year Book of the U.N., 1946 Dept. of Public information U.N. Lake Success N.Y. 1947

(18) Keesings Contemporary Archives, September, 6-13, 1947



In the economic sphere Eire was in a strong position having saved most of her sterling earnings. Eire held £400 million in sterling assets. A report from Sir John Maffey, to Prime Minister Attlee noted that £100-£150 million of that amount was accumulated since 1940.(19) Given the resentment towards Eire's policy of neutrality, this could be interpreted as implying an accusation of profiteering. The Irish government, in a twenty- page report on the economy for 1948, submitted to the Organisation for European and Economic Co-operation, claimed that her economy, despite being dislocated, particularly with regard to heavy industry, was in a strong position to join in post-war recovery.(20)That Eire fared comparatively poorly in the Marshall aid plan may have been due the reliability of her anti-Communist stance. The US National Advisory Council advised President Harry Truman that, with regard to Marshall Aid, aid to Eire "should be in the form of a loan only."(21)

(19)PRO FO 371 54722 .(W8739/1350/G) Note by Maffey, 3.8.1946

(20) PRO FO 371. 62599. Committee of European Economic Co-operation. 6.8.1947

(21)National Research Centre, Suiteland, Maryland (NRC) RG.84 Box No.18. File No. 350. House document No. 737 dated, 4.8.1948.

By 1948, there was a possibility that the threat of Soviet expansionism might give Eire the impetus to change her policy of neutrality, particularly because the new ideological enemy was Communism. Logically it looked as though Eire under a new government, might decide to attempt to benefit from a joint western ideological approach and enter a new era of co-operation towards solving Western European problems. But Partition remained the stumbling block and the reason why Eire was unable to accept a role in Western European defence or openly acknowledge "membership" of the Commonwealth. Allowing for Partition, Britain's defence policy in 1947 was still to "strengthen the links with the Dominions, including Eire."(22)

For practical purposes Eire remained a member of the Commonwealth after the introduction of the External Relations Act. This is evidenced by her contributions to Commonwealth Committees, acceptance of Most Favoured Nation Status and by Eamon de Valera's own reasons for introducing the External Relations Act: "It does enable an association to be maintained which I think, is valuable both materially and from the point of view of the ending of partition."(23)

(22) Davis, J.: Changing Directions .British Military Planning for Post War Strategic Defence, 1942-47. Sherwood Press, 1988. (Quoting COS(47)102 (O).and DO(47)44. ) pp.370-386.

(23) D.D. Vol.107. Col.95. 24.6.1947

Professor Nicholas Mansergh outlined Eire's post 1937 relationship with the Commonwealth states as follows: "Irish government had, however, repudiated allegiance and the Irish view, as expressed by de Valera <sup>ON</sup> many occasions, was that Eire could not, for that reason, be a member, but she was, after 1937, a state outside the Commonwealth, associated externally with it, not owing allegiance to the Crown, and a republic in fact even though not specifically so described in the constitution." (24)

Some Irish nationalists apparently saw Eire's membership of the British Commonwealth as deferring to the authority of the Crown that supported the separation of the country. There is an impression that the maxim, "England's difficulty is Ireland's opportunity" was extended to include being contrary with regard to membership of the Commonwealth. Indeed, according to the Canadian High Commissioner in London, it had been suggested in 1945 by one astute advisor that members of the Commonwealth should challenge Eire, saying "that as far as they were concerned she could leave if she wished." Such a tactic, it was thought, would have the two fold effect of reaffirming their wish to remain within the "orbit" but not a member of the Commonwealth and also show that the Commonwealth was not held together by British coercion. (25)

(24) Mansergh, N. The Commonwealth Experience. pub. Weidenfeld and Nicolson. 1969. p. 322

(25) Canadian Department of External Affairs: (CDEA) Main file 50021-40 report A. 305 dated 27.7.1945

In August 1948, the Secretary of State for the Commonwealth Relations Office, Philip Noel-Baker, in a cabinet paper reported that Anglo-Irish relations were "friendlier than ever", (26) Yet by May 1949, John Costello was threatening publicly to "hit the British Government in their prestige and in their pride and in their pocket". (27) This thesis will examine the reasons for this reverse in Anglo-Irish relations during that nine month period.

(26) PRO Cab 129/29. P.97. CP(48)205 Dated 17.8.1948

(27) D.D. Vol. 115. Col 807. 10.5.1949

Ch: 11

ANGLO-IRISH CONSTITUTIONAL DEVELOPMENTS, 1932-38

Prior to 1927, Fianna Fail deputies were abstentionist, refusing to take their seats in Dail Eireann because they would have to swear an oath of allegiance to the British monarch. Eventually, in 1927, alarmed by the assassination of the Vice President of the Executive Council, Kevin O'Higgins, Eamon de Valera agreed to take the "empty oath" and led the majority of his party into constitutional politics. By 1932, Fianna Fail won 72 seats compared to 56 for Cumann-na-nGaedheal (the main forerunner of Fine Gael).(1)

The coming to power of Fianna Fail heralded the beginning of a contentious period in Anglo-Irish constitutional relations. The "co-operative" policies of the pro-treaty Cumann-na-nGaedheal government were reversed by de Valera. Perhaps the problems were exacerbated because Fianna Fail's advent to power coincided with the beginning of the tenure of the Secretary of State for Dominion Affairs, J.H. Thomas (1932-1935).(2) An interesting point about this period is the benevolent change brought about in Anglo-Irish relations with the replacement of J.H. Thomas, by Malcolm Mac Donald. This change in personalities highlights the importance of the role of the idiosyncratic factor in Anglo-Irish diplomatic relations.

(1)O'Leary, C.: Irish Elections 1918-1977, Gill and Macmillan, 1979. p.102

(2)See Mac Mahon, D.: Republicanism and Imperialism, for J.H. Thomas's role in Anglo-Irish relations 1932-35. See also Mac Mahon, D.: Malcolm Mac Donald and Anglo-Irish Relations 1935-38 unpublished M.A. Thesis 1975 in U.C.D. Library

From 1932 to 1936 Eamon de Valera challenged the terms of the 1921 Treaty and effected constitutional changes in relation to abolishing the oath of allegiance to the Crown required of Dail Deputies and Senators, ending the right of appeal from the Irish Free State Supreme Court to the Privy Council and reducing the constitutional role of the Governor General. While constitutional change through co-operation with Britain was part of Cumann-na-Gaedheal's policy, the proposed changes of de Valera were opposed more forcefully by the British government, probably because they were public challenges from the anti-treaty party, Fianna Fail. This constitutional conflict was fought on the issue of economic independence and resulted in the "economic war", which on a practical level lasted from 1932 to 1936, ending officially in April 1938 with the Anglo-Irish Agreements on Trade, Finance and Defence.(3) It is worth noting that Eamon de Valera, although reputedly referred to in Britain as a "half-Irish Kerensky",(4) still adhered to the established rules of diplomacy, even during the lowest ebb of post-treaty Anglo-Irish relations, i.e., during the period of 1932-1936.

(3) The Anglo-Irish Agreement, 1938. Agreements between the Government of the United Kingdom and the Government of Eire, 25 April 1938. CMND. 5728 .Text of Agreements in Mansergh, N. (Ed.): Documents and Speeches on British Commonwealth Affairs 1931-52. Vol 1. p.367

(4) D.Ryan. Unique Dictator. Pub. A.Baker. p.242

Shortly after taking Office in 1932, de Valera, acting in his dual capacity as President of the Executive Council and Minister for External Affairs, wrote to J.H. Thomas outlining the intention of the Executive Council (government) of the Irish Free State to remove the required oath of allegiance. Thomas's blunt response was that the removal of the oath of allegiance would be "nothing less than a repudiation of the settlement of 1921 as a whole." (5) Despite this threat, de Valera went ahead and enacted the Constitution (Removal of Oath) Act, which abolished the oath of allegiance in May, 1933. His next public target was the removal of the Right of Appeal from the Irish Supreme Court to His Majesty in Council (the Privy Council).

Previous to de Valera's rise to power, in June 1926 the British government had decided that if the Irish Free State Vice-President and Minister for Justice, Kevin O'Higgins, passed a Bill, the effect of which would be to abolish the right of appeal to the Privy Council, then the Governor General should be instructed to "reserve the Royal Assent". (6) Four years later, at the Imperial Conference, the "Pro-Commonwealth" party, Cumann-na-nGhaedheal informed the U.K. representatives of their/

(5) PRO DO 35 3990.X2639/22 Note on Constitutional Position of Eire in the British Commonwealth. Legal Status of the 1921 Treaty. See Text of notes exchanged between the Irish Free State government and the British government relating to the Oath of Allegiance and the Land Purchase Annuities. pub. Dublin Stationary Office, 1932. reprinted in Mitchell.A. & O Snodaigh P. (Eds.) Irish Political Documents. pp.194-201. See also Mc Mahon, D.: Republicanism and Imperialism. Anglo-Irish Relations in the 30's. pp.28-55.

(6) PRO DO 117. 3 .Contains an advance copy of the draft of the Cabinet minutes for 29.1.1926.



their intention to abolish the right of appeal. The British government's response was that they were prepared to consider some way out of the Privy Council difficulty "provided the Protestant minority were content and did not oppose".(7) That amicable response may have been intended to thwart the ascent of de Valera's anti-treaty party. Interestingly in 1948 John Costello told the Prime Minister of Canada, William Lyon Mackenzie King, that he blamed the British Government's refusal to allow modifications to the treaty, as contributing to his party's defeat in the general election of 1932, and the accession to power of Eamon de Valera. According to John Costello: "Once in power de Valera proceeded to accomplish by independent action almost all the things which Cosgrave had tried to do by friendly negotiation."(8)

(7)PRO D.O. 25.3990. P.22. Note on Legal Status of the 1921 Treaty.

(8)Canadian Department of External Relations(CDEA)Main File Reference 50021-40. 199/5. Notes of conversation between the Prime Minister of Canada and the Prime Minister of Ireland, at Kingsmere, Thursday, September 9th, 1948.Also present were the Irish High Commissioner in Canada John Hearne, Canadian Minister of External Affairs Lester Pearson and the Canadian High Commissioner in London, Norman Robertson.

In August 1933, the Executive Council of the Irish Free State published a Bill proposing to abolish the right of appeal to the Privy Council. The response of the Dominion's Office was more forceful than before and they declared their opposition to the action, regarding it as against the spirit of the agreement of 1921.(9) The different responses to Fianna Fail and to Cumann-na-nGaedheal over this same issue, illustrates the British government's reaction to the "Pro-Treaty" party.

In July 1933, a judicial decision in the Irish Supreme Court case allowed an appeal to the Privy Council. The Bill, abolishing this right of appeal was then passed in November 1933 with an amendment making it applicable to pending proceedings.(10) Two years later a Privy Council decision refused the above Petition for special leave to appeal and thus recognised the legality under the Statute of Westminster of the Irish Free State's action.(11)

(9) PRO DO 35 3990. Note on Legal Status of the Treaty.

(10) Irish Free State Constitution Amendment No.22 1933 abolished the right of appeal from the Supreme Court to the Privy Council

(11) Judgement of the Judicial Committee of the Privy Council. Moore and Others versus the Attorney-General for the Irish Free State, 1935, reproduced in Mansergh, N. (Ed.): Documents and Speeches in British Commonwealth Affairs, 1931-52 Vol 1. 2nd ed. pub. Oxford University Press, 1953. pp.305-14

The Judicial Committee of the Privy Council concluded that, "the effect of the Statute of Westminster was to remove the fetter which lay upon the Irish Free State legislature by reason of the Colonial Laws Validity Act." (12) Their Lordships stated that "the simplest way of stating the situation is to say that the Statute of Westminster gave the Irish Free State a power under which they could abrogate the treaty and that is a matter of law, they have availed themselves of that power." (13) In spite of this judicial opinion, the British government noted that the Lord Chancellor in his judgement stated that while the Irish Free State had the legal right to "disregard their obligations under the treaty" he expressed no opinion upon the morality of such a course. (14) According to Nicholas Mansergh, "it was J.H. Thomas who at this point had had the ground cut from under his feet." (15)

In June 1936, the Executive Council of the Irish Free State informed the British government of their intention to introduce legislation to replace the 1922 constitution. (16) The new constitution was to be submitted to the electorate for approval at a referendum to prove that power was derived from the people. The most controversial aspects of the proposed constitution were the intention to abolish the office of Governor-General and the claim for jurisdiction over the whole/

(12) Mansergh, N. (Ed.): Documents and Speeches on British Commonwealth Affairs, 1931-52. Vol 1., p.313

(13) Ibid

(14) PRO D.O.35.3990. Note on the Legal Status of the Treaty. P.22.

(15) Mansergh, N.: The Commonwealth Experience From British to Multiracial Commonwealth. Vol 2, pub. Macmillan. p.36

(16) PRO D.O.35.3990. See Chapter "The New Constitution" in Mc Mahon, D.: Republicanism and Imperialism. pp.214-218

whole of the thirty-two counties of Ireland. The Dominion Office's immediate response was to protest that the contents should have been "the subject of prior consultation" but accepted that the new Constitution did not effect a "fundamental alteration in the position of the Irish Free State." (17)

Six months later, on December 10 1936, a Commonwealth constitutional crisis arose when Edward VIII abdicated. A signed copy of the instrument of abdication (\*1) and a message communicating the King's decision were dispatched that same day by the King's private secretary to Eamon de Valera.(18)

In common only with those other member states of the Commonwealth which had signed the Statute of Westminster,(19)the Executive Council of the Irish Free State needed to implement legislation recognising the abdication and the accession of George VI. (Members of the Commonwealth such as Australia who had not signed the Statute of Westminster were still covered by the Act passed by the Imperial Parliament entitled "His Majesty's Declaration of Abdication Act,1936".)(20)

(17)PRO DO 35 3990.p.20. Note on the Legal Status of the Treaty.

(18)D.D. Vol. 64. Col. 1231. 12.12.1936.

(19)Mansergh, N.: The Commonwealth Experience. pub. Weidenfeld and Nicolson, 1969. p.241

(20)NASPO S.9430 This file contains material dealing with Constitution (Amendment no.27)Act,1936, and contains a copy of the wording of King Edward VIII's resignation.

(\*1)The document of abdication stated:

"I,Edward the Eighth, of Great Britain,Ireland, and the British Dominions beyond the seas, King Emperor of India, do hereby declare My irrevocable determination to renounce the throne for Myself and for My descendants, and my desire that effect should be given to this Instrument of Abdication immediately.(21)

(21) D.D. Vol. 64. Col 1509. 12.12.1936

Accordingly, a morning meeting of the Executive Council on December 10 decided to recognise the Abdication by deleting "from the constitution all mention of the King and of the representative of the Crown." (22) That night, a meeting of the Executive Council decided to appoint the King's Successor only in the limited area of "certain functions in external matters" (23) and approved the text the Constitution ( Amendment No 27) Bill, 1936 and the Executive Authority (External Relations) Bill. (24) The removal and reinstatement of the King's Successor, could be seen as ironic, even though de Valera made this appointment applicable only to external functions of the state.

These changes were not particularly revolutionary and were already contained in the draft of Eamon de Valera's proposed new constitution. Interestingly, the relevant article of the draft of the constitution, entitled, "Organic Law on Foreign Relations," (dated August, 31, 1936 ) contains a reference to "Poblacht na h-Eireann", (Irish Republic). (25) Subsequently, the description of the State as a "Republic" did not appear in the 1937 constitution. This may have been primarily because de Valera feared that such a contentious move might have resulted in the constitution being rejected by the electorate.

(22)NASPO S.9429A extract from Cabinet meeting G.C. 7/377.10.12.1936 This File contains material dealing with the Executive Authority( External Relations) Act, 1936

(23)NASPO S.9429A extract from Cabinet meeting G.C. 7/378. 10.12.1936.

(24)Ibid

(25)Private Papers of Eamon de Valera, Dun Mhuire, Franciscan Library archives. Reference 1029/5 .See also Irish Times 2.7.1987 which contains a special feature on the Irish Constitution.

Eire's Attorney General, James Geoghegan, (1\*) advised the Executive Council in December 1936 that the External Relations Act was essential because it would show that a law of the Irish Free State was necessary to authorise the performance of any Royal functions in relation to the Irish Free State.(26) Additionally, the Attorney General pointed out, that the new constitutional position of the Monarch in relation to the Irish Free State was nowhere else defined and that difficulties could arise if legislation were not enacted. He cited the scenario that the Supreme Court might hold that King Edward VIII was still on the throne as far as the Irish Free State was concerned, or that there was no successor to him under the law of the Irish Free State to perform His functions. He argued that perhaps potentially most damaging to the sovereignty of the state was the possibility that the British Act alone might be deemed effective enough to set up a new King for the Irish Free State.(27) Less pedantically, the former Secretary of State for Dominion Affairs, Malcolm Mac Donald, related the anecdote that Eamon de Valera was prompted to introduce legislation in order to avoid the possibility of having the former Mrs Simpson, as Queen of Ireland.(28) Such perceptive humour no doubt contributed to his diplomatic success in Anglo-Irish relations.

(1\*)NASPO S.9461A James Geoghegan,K.C. was appointed Attorney General 2.11.1936 and formally resigned the same month. Patrick Lynch K.C. did not succeed him until 22.12.1936.

(26) NASPO S 9429A Note by the Attorney General on the legal considerations making the External Relations Act requisite.

(27)Ibid

(28)Mac Donald, Malcolm: Titan and Others.pub. Collins,1972. p.69

The procedure in relation to the passing of the two Acts was as follows: on Thursday December 10, 1936, the Ceann Comhairle (Speaker or Chairman of Dail Eireann), Proinnsias O'Fathaigh (Francis Fahy), at the request of Eamon de Valera, as authorised by the Cabinet, summoned the Dail members back from the Christmas recess to attend the Dail at three o'clock the following afternoon. The purpose for reconvening was to consider proposals for the amendment of the constitution and "other legislation". (29) More specifically it was to implement the Cabinet's decision of that day (30) that legislation should be introduced to give effect to the abdication as far as the internal affairs of the Irish Free State were concerned and to approve of the exercise by the King's successor of certain functions in external matters as and when so advised by the Executive Council.

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(29) D.D. Vol. 64. Col. 1230. 10.12.36

(30) NASPO S. 9429A extract of meetings a.m. G.C. 7/377 & p.m. G.C.7/378. 10.12.1936

On Friday December 11, the Dail authorised de Valera, who as usual was acting as his own Minister of External Affairs, to introduce the necessary Bills to recognise the abdication by amending the constitution and then introducing the Executive Authority (External Relations) Bill, 1936 .(31) The Amendment (No 27) Bill,1936, removed all references to the Crown and the Governor General from the internal affairs of the state.(32) In fact, the office of Governor General, which was held by a small country grocer (or in the diplomatic parlance of the times "merchant"), appointed by de Valera to hold the office and exercise only nominal functions, was not officially abolished until June 1937.(33)

(31)D.D. Vol. 64. Col 1235 . 11. 12. 1936.

(32)Constitution (Amendment No.27) Act 1936. (A) Act of the Oireachtas of Saorstát Éireann to amend the Constitution in relation to the Executive authority and power and the performance of certain Executive functions. Quoted in Mansergh,N.: Documents and Speeches on British Commonwealth Affairs 1931-52, Vol 1. p.321.

(33) NASPO S 9457 Executive Powers(Consequential Provision) Bill, 1937. See also,Mac Mahon, D.: Republicanism and Imperialism,p.200



When moving the second reading of the Constitution (Amendment No 27) Bill, de Valera explained the purpose of the two Bills and their relationship : "I would not ask the members of our party nor would I myself take the responsibility for the introduction of a measure such as the second one here [Repeal of the External Relations Act] unless it was made clear, side by side with it, what the true situation was". He went on to explain that, "what is happening then is that from the King are being taken away any functions internal, either direct or indirect, in the administration of the government and in the internal executive of the country, and we are retaining the King for those purposes for which he was used hitherto. He is being retained for these purposes because he is recognised as the symbol of this particular co-operation with the states of the Commonwealth." (34)

By the use of the guillotine procedure, the Amendment (No 27) Bill 1936, was passed by 79 votes to 54 in the committee stage, being supported by the five parliamentary members of the Labour Party and opposed by Fine Gael and the independent members (35) and similarly passed without amendment in the final stage (36)

(34) D.D. Vol. 64. Col.1280. 11.12.1936

(35) D.D. Vol. 64. Col.1379-82. 11.12.1936

(36) D.D. Vol. 64. Col.1382. 11.12.1936

The combined articles of the constitution affected by the Constitution (Amendment No. 27) Act, 1936, which removed the already nominal position of the Fianna Fail appointed Governor General, from the internal affairs of the State, were as follows: Article 4; members of tribunals would now be appointed by the Executive Council (government) instead of the Governor General. Article 12; whereby the Senate was abolished and the Legislature was then to consist of one House ( the Dail).(37) The King was omitted from Article 24 which meant that the Oireachtas was to be summoned and dissolved by the Chairman of Dail Eireann on the direction of the Executive Council instead of as previously by the representative of the Crown in the name of the King.(38) Article 51 was affected so that the Executive Authority was to be exercised by the Executive Council, whereas before, the executive authority of the state was vested in the King. However, Article 51 of the 1922 constitution still provided for the delegation of this power in external relations, as did Article 29 of the 1937 constitution.(39)

Article 53, which allowed for the President of the Executive Council and the members thereof to be appointed by the representative of the Crown was amended so that the President of the Executive Council was to be elected by the Dail.The President would in turn appoint members of the Executive Council including the Minister of External Affairs.(40)

(37) NASPO S 9430

(38) Ibid

(39) Ibid

(40) Ibid

Article 60, which dealt with the appointment, salary and establishment of the representative of the Crown was deleted. Article 68 was amended so that judges would henceforth be appointed by the Executive Council instead of by the Representative of the Crown.

Finally, Article 41 was amended so that Bills were in future to be signed by the Chairman of Dail Eireann instead of the representative of the Crown.(42) It is of historical interest that on December 11, 1936 the Private Secretary to the Minister of Finance, Mr. M. O' Muimhneachin, informed the Secretary of the Department of External Affairs that the King's assent had been given to the Constitution (Amendment No. 27) Act, 1936.(43) This was in fact the last Act of the Irish Free State which needed the King's assent. The Governor General had effectively abolished his own office. All regal trappings were effectively removed by the Constitution (Amendment No.27) Act, 1936, from the internal constitutional machinery of the Irish Free State.(41)(1\*)

(41) Ibid

(1\*) The crude process by which the 1922 constitution was "amended" took the form of simply ruling out the relevant articles and parts thereof. This is graphically illustrated in the private papers of Eamon de Valera in his private papers in the Archives of the Franciscan Library, Dun Mhuire, Killiney, Co. Dublin.

The following morning de Valera acting in his capacity as Minister for External Affairs, moved the second reading of the Executive Authority (External Relations) Bill, 1936.(44) This Bill appointed Edward's successor, King George VI, to have authority to act on behalf of the Irish Free State on the advice of the Executive Council only on matters relating to the external relations of the state. Although the act only related to the appointment of diplomats, in practice this included the Crown overseeing the reception of and recall of diplomatic and consular representatives. The Act also provided for the Crown, again on the advice and authority of the Executive Council, to ratify the Irish Free State's international treaties. Hence the self-explanatory name of the Act.

A reading of the Act, especially section 3.1 (1\*) gives the impression that it was aimed as a gesture of solidarity with the members of the Commonwealth. It recognised the Crown as the symbol and head of the Commonwealth .

(42)Ibid

(43)Ibid

(44)D.D. Vol. 64. Col. 1385. 12.12.1936.

(1\*) Section 3, subsection (1) stated that 'so long as Saorstát Eireann is associated with the following nations, that is to say, Australia, Canada, Great Britain, New Zealand, and South Africa, and so long as the King recognised by those nations (on the advice of the several governments thereof) for the purposes of the appointment of Diplomatic and Consular Representatives and the conclusion of International agreements, the King so recognised may, and is hereby authorised to, as and when advised, act on behalf of Saorstát Eireann for the like purposes by the Executive Council so to do. See appendix 1.

In practice, it could be used as a face-saving device whereby different interpretations could apply in both the Irish Free State and Britain. This "Irish solution to an Irish problem" suited de Valera, since he subsequently claimed, that he believed that the retention of this tenuous link with the Crown, "might go towards meeting the sentiment of the people of the six counties."(45)

It is worth noting that the future Taoiseach, Fine Gael deputy, John A. Costello, speaking on the Second Stage of the Constitution (Amendment No. 27) Bill, but with relevance to the following Executive Authority (External Relations) Bill 1936, declared that the Bill would create "a political monstrosity, the like of which is unknown to political legal theory".(46) He argued that the Crown alone "stood as the symbol of our freedom, our free association. That is now taken away by these Bills."(47) Costello continued to state what was interpreted as his consistent attitude towards the constitutional position of the twenty six county state, 'vis-a-vis' the Commonwealth: "I can understand a decent declaration of a republic but I cannot understand the indecency which is being perpetrated on this country by this Bill." He pleaded that something "definite"(48) should be implemented, fearing that the legislation was not effective in law, and therefore could result in consequent problems for the Executive Council in enforcing its legislation.

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| (45)D.D. Vol. 107. Col. 91  | 24.6.1947  |
| (46)D.D. Vol. 64. Col. 1293 | 11.12.1936 |
| (47)D.D. Vol. 64. Col. 1297 | 11.12.1936 |
| (48)D.D. Vol. 64. Col. 1303 | 11.12.1936 |

Costello gave as an example the possibility of future difficulties in legally collecting taxes. He claimed that "a whole vista of litigation and subsequent legislation spreads itself out before anybody who thinks, and who must become appalled at the possibilities which are inherent in this Bill." (49) It is possible that John Costello, in line with his party, voted against the removal of the Crown from the internal affairs of the Constitution and accepted the External Relations Act as better than nothing.

The External Relations Act was passed in the Committee stage by 69 to 25 including Fine Gael, (50) and in its final stage the Labour party with five parliamentary members, led by William Norton, was the only political party to oppose the passing of the External Relations Act. It was passed on December 12, 1936, one day after Edward VIII's abdication. (51)

Despite legalistic prognostications, Eamon de Valera, exercising the new power bestowed by Article 41 of the constitution, as amended by the Constitution (Amendment No 27) Act, 1936, wrote to the Chairman of the Dail directing him to sign the Executive Authority (External Relations) Act 1936. (52) The Act was the first one to be signed by the Chairman of the Dail. (53)

- (49) D.D. Vol. 64. Col. 1303-4                      11.12.1936
- (50) D.D. Vol. 64. Col. 1498-1500                12.12.1936
- (51) D.D. Vol. 64. Col. 1511-1512               12.12.1936
- (52) NASPO S 14387C Official report dated 15.12.1936
- (53) NASPO S. 9429A

Following the passing of the External Relations Act, 'The Irish Times' considered that de Valera had achieved the aims of his Document Number two, (54) "plus the advantages secured by his opponents." (55) De Valera's policy then was for a settlement which would reconcile England's fears with the claims of the Irish people to maintain their sovereign independence. Document Number two agreed, "That, for purposes of common concern, Ireland shall be associated with the States of the British Commonwealth." ("Purposes of common concern" included "Defence, Peace and War, and Political Treaties,") and, "That, for purposes of the Association, Ireland shall recognise His Britannic Majesty as head of the Association." (56)

In 1948, the leader of the Labour Party, William Norton, described the combined process of the enactment of the Constitution (Amendment No.27) Act, and the External Relations Act, as the King being "put out at the front door and the back window was left open to bring him in again." (57)

(54) De Valera's alternative to the Treaty; a draft of 'document Number two' presented to Dail Eireann on December 15, 1921. reproduced in, Irish Political Documents 1916-1949

(Eds.) Mitchell, A. and O Snodaigh. P.: pp.123-24

(55) Irish Times 14.12.1936

(56) as 54

(57) D.D. Vol. 113. Col. 958. 2.12. 1948

For the next twelve years nobody challenged or even insisted on a definition of the External Relations Act. During one debate in 1945, de Valera answered a question on the the status of Eire by quoting definitions of a Republic from Encyclopaedia Britannica, Encyclopaedia Americana, Shorter Oxford English Dictionary, Websters International Dictionary, the New Standard Dictionary of the English Language and Chamber's Dictionary. (58) Even de Valera's interesting if nonchalant version of the background to the introduction of the Act as related to his party followers at the Fianna Fail Ard Fheis in November 1945 was, as usual, tactfully ignored by the Dominions Office: he said "We did not ask the British to accept it as constituting membership of the state of the British Commonwealth. I was asked another question at the same time as I was asked if we were a Republic. I was asked were we or are we not a member of the British Commonwealth of Nations. I said that what was fully implemented in the constitution has been known since the 1936 constitution came into effect some eight years ago. On the day on which it came into effect, without asking from us, the British government and other states of the British Commonwealth agreed that our new constitution and our new position had not changed us. In other words, they regarded us as a member." (59) De Valera stated that he replied to the British government by explaining the impossibility of any government in Saorstát Eireann to express an unqualified desire to remain a/

(58) D.D. Vol. 97. Col. 2570-72 . 17.7. 1945

(59) See D.D. Vol. 97. Col. 2573. 17.7.1945



a member of the British Commonwealth of Nations whilst Ireland remained partitioned. He once again declared: "We are an independent Republic associated for foreign policy with the states of the British Commonwealth." De Valera further underlined the expendability of the External Relations Act by declaring at an Ard Fheis in 1945: " The day that either party finds it inconvenient, we can simply get rid of it without repealing the External Relations Act at all by arranging for other methods of accrediting our representatives abroad." (60)

It is possible that in the summer of 1948 the Taoiseach, John Costello, had a similar hope that the External Relations Act might be allowed quietly to become defunct.(61) Eamon de Valera's understanding of the External Relations Act described both the actual limited operative functioning of the Act and the fact that it could even be ignored while remaining on the statute books. Such a solution might have sufficed as an acceptable tenuous link by which membership of the Commonwealth could have been retained.

(60)Ard Fheis(Party Conference) speech reported in Irish Press November 7, 1945

(61)NASPO S 14387A see John Costello's 24 page speech to the Canadian Bar Association delivered on 1.9.1948

CH. 111

EXTERNAL RELATIONS ACT AND IRISH DOMESTIC POLITICS

(A) 1947, FINE GAEL CRITICISE THE EXTERNAL RELATIONS ACT

Fine Gael deputies were, perhaps surprisingly, more likely to highlight the embarrassing issue of Eire's anomalous membership of the Commonwealth when Fianna Fail were in power, rather than 'vice versa'. For example, during the debate on the External Affairs Estimates in 1947, Patrick McGilligan, a prominent Fine Gael deputy and a professor of constitutional law, asked rhetorically, "if we have a head of the state in this country-". (1) De Valera interjected, "We have." Mr. McGilligan retorted "I say no." De Valera then claimed; "The President is the head of the State." (2) McGilligan disagreed, pointing out that the head of a state normally had an internal and external role, whilst "the President of this country does not have any relations internationally vis-a-vis other countries." (3) Deputy Domimick Cafferky disagreed jocularly reminding the Dail that "The President attends football matches." (4)

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- (1) D.D. Vol. 106. Col. 2323. 20.6.1947
- (2) Ibid
- (3) Ibid
- (4) Ibid

During this debate, McGilligan quoted a story from the 'Sunday Independent' critical of the pretence that Eire had republican institutions at home while accrediting envoys abroad with letters signed by the King of England.(5) McGilligan offered the analogy that a body "carrying both an internal growth and a foreign body would be sent off for an operation at once to remove one, if not both of them."(6) He also claimed that that the High Commissioners in Canada and Australia were not "diplomats" since the King cannot appoint a minister to himself, hence the title of Representative or High Commissioner.(7) His point was that the status of Ambassador was superior to Minister or High Commissioner since an Ambassador has direct access to the head of the country to which he is accredited and he represents personally the person who accredits him.

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(5) D.D. Vol. 106. Col. 2321. 20.6.1947

(6) D.D. Vol. 106. Col. 2324. 20.6.1947

(7) D.D. Vol. 106. Col. 2303. 20.6.1947

Patrick McGilligan further pointed out that His Majesty the King would receive the diplomatic courtesy of a note of thanks for appointing the Irish envoy to the Vatican. The letters of Credence of the Irish Ambassador to the Vatican were written in Irish and signed by King George VI, who incidentally dropped that part of his title describing him as the "Defender of the Faith". McGilligan claimed that the pride of Catholic Ireland was being damaged because Mr. Joseph Walshe (former Secretary of the Department of External Affairs) would be "the representative of the King at the Vatican." (8) McGilligan continued in this vein, referring to the embarrassment that would be caused in explaining to the Argentinian Republic why the Irish Representative from the Republic of Eire to the Republic of Argentina will carry letters of credence signed by the King of England. (9)

The content of the above contribution is noteworthy, because it came from a leading and experienced constitutional legal expert and encapsulated the criticisms which were prominent after the intention to repeal the External Relations Act was eventually announced by John Costello in Ottawa. Indeed, the above features would have provided a plausible explanation for the need to repeal the External Relations Act.

(8) D.D. Vol. 106. Col. 2303. 20.6.1947  
(9) D.D. Vol. 106. Col. 2304. 20.6.1947

During that 1947 Dail debate, when dealing with provocative questions from prominent Fine Gael Deputy, Daniel Morrissey, and the "pro-British" independent Deputy James Dillon, about the status of Eire, vis-a-vis the Commonwealth, de Valera gave a mercurial answer which highlighted the general unspoken agreement that the nebulous relationship should not be defined: "Our position in relation to the Commonwealth is accepted and understood by the people who are immediately concerned with Britain, and it is understood by everybody who wants to understand it-the only people who do not want to understand it are the people who want to create political confusion." (10) The vagueness of this anomalous relationship, at that time, appeared to suit both the British and Irish governments since they could offer their own interpretations to their respective questioners. Up to 1947 de Valera was prepared at least publicly to accept the link which the External Relations Act entailed, because it provided a possible bridge for the unification of the country and not least because of the "material advantage in maintaining an association" which the Commonwealth bestowed. (11) In 1947 de Valera was complaining privately to Lord Rugby that the External Relations Act had involved him in "constant criticism and humiliation" and had not acted as the intended bridge which would help to solve Anglo-Irish difficulties. In particular, it had not brought Northern Ireland "into association with Eire." (12)

(10) D.D. Vol. 107. Col. 87. 20.6.1947

(11) D.D. Vol. 107. Col. 92. 20.6.1947

(12) PR0 DO 35 3955. Rugby, Report to C.R.O. dated 27.10.1947 p.1

In March and November 1947, de Valera used the threat of repealing the External Relations Act as a lever to obtain some movement on Partition. According to Sean T. O' Kelly, in March 1947 de Valera desisted when "begged" by the British government not to repeal the Act, (13) but by November 1947 de Valera apparently was resolute in his decision to repeal the External Relations Act. Following the Anglo-Irish trade talks in October 1947, de Valera instructed the Secretary of the Department of External Affairs, Frederick Boland, to prepare the necessary legislation. In turn, Frederick Boland instructed Michael Rynne of the Legal section, whom he found had in fact already begun the preparatory work. (14) This resulted in the Attorney General, Cearbhall O'Dalaigh, preparing a short Bill to repeal the External Relations Act. Interestingly, the draft of de Valera's November 1947 Bill, did not refer to the status of the state as a Republic. (15)

(13) National Library of Ireland, Manuscript room, private papers of Sean T. O'Kelly. MS.22848

(14) Bruce Arnold interview with Frederick Boland. *DATE OF INTERVIEW UNKNOWN TIME 23.10.1990.*

(15) Private Papers of Cearbhall O'Dalaigh, Department of Archives, U.C.D. Reference P51/2A

By January 1948, Lord Rugby in a note to the Commonwealth Relations Office about the forthcoming elections in Eire, suspected that de Valera might use the repeal of the External Relations Act as a demonstration to the left that though he had not solved partition, he had at least cut the last link with the United Kingdom.(16) Indeed, by January 1948, de Valera had already prepared the draft of such a Bill. This draft referred to the state as a Republic.(17) Perhaps coincidentally, the draft of this Bill was similar to the one adopted by the Coalition. Although de Valera warned Rugby about his intentions,(18) he did not publicise them during the election of 1948, possibly because he may have feared as with the 1937 Constitution, that seeking a mandate for a Republic might be rejected or at least cost him support.

As early as November 1947, Rugby had warned the Commonwealth Relations Office that if de Valera were to meet Prime Minister Attlee, then he should be "warned of a change which may be more temporary and may find expression in the near future." Rugby believed that Britain's economic difficulty provided de Valera with the opportunity "to act in the political field without fear of economic damage."(17) This statement shows that such a tit for tat response, i.e., bilateral economic sanctions by Britain against Eire through the withdrawal of Most Favoured Nation Status was even in 1947, a possibility.

- (16) PRO Cab 134/118 Telegram dated 7.2.1948
- (17) Private Papers of Cearbhall O' Dalaigh, Department of Archives U.C.D. Reference P51/2A
- (18) Private Papers Sean T. O'Kelly Ms.No.22848.
- (19) PRO DO 35 3955. Telegram No.71. Rugby to C.R.O. 1.11.1947.



(B) FEBRUARY 1948, GENERAL ELECTION CALLED

In 1948 the principal difference between the two main political parties in Ireland, Fianna Fail and Fine Gael was the stances they took following the signing of the Anglo-Irish Treaty in December 1921. Eamon De Valera refused to accept the Dail vote which accepted the provisions of the treaty primarily because it required all Dail Deputies to swear an oath of allegiance to the Crown. He refused to accept the result of the Dail Treaty debate and went on to support the anti-treatites in the civil war (1921-23), against the "pro-treatites". That latter group then became in April 1923, the Cumann-na-nGaedheal party, which was the forerunner of Fine Gael, and was headed by the President of the Executive Council, William T. Cosgrave.

In 1945, Eire's Presidential elections brought forward a new post-war voter with secular class sympathies and values similar to the British Labour Party. (1) This "modernist" vote presented an opportunity for a newly established party, Clann-na-Poblachta. The main impetus for the formation of Clann-na-Poblachta can be attributed largely to the death by hunger and thirst strike of an I.R.A. internee, Sean Mc Caughey, in May 1946. Constitutional republicans led by Sean MacBride in July 1946 formed Clann-na-Poblachta (People of the Republic) in order to have a "platform, a programme and a party". (2) The party caused a break in the conventional mould of the treaty-based pattern of voting .

(1) See Garvin, T.: The Evolution of Irish Nationalist Politics.

(2) Bowyer Bell, J.: The Secret Army .p.253

The ethos of the I.R.A. continued to dominate the party: several former I.R.A. members or active sympathisers became parliamentary members of Clann-na-Poblachta.(3) Its rank and file members and supporters was composed of the radical wing of Fianna Fail, IRA veterans of the 1930s, urban liberal reformers and anti-clericals. The party had two distinct elements: one adopted the post-war British Labour policies on welfare and health, while the other was Republican and directed its energy towards the problem of Partition. Reporting in November 1947, Lord Rugby predicted that the leader of Clann-na-Poblachta, former Chief of Staff of the Irish Republican Army(1\*), Sean MacBride, would eventually head an Irish Government.(4) Fianna Fail feared that Clann-na-Poblachta might capture its Republican mantle. This threat increased when on October 29, 1947, Clann-na-Poblachta won two (Dublin and Tipperary) of three by-elections.(5) In spite of the new 1937 constitution, Sean MacBride believed that de Valera was too conservative in his relations with Britain, particularly concerning Partition. During the Second World War, de Valera rejected innovative ideas and an offer from Sean MacBride of his services.(6) That rejection in addition to de Valera's conservatism may have spurred MacBride to form his own alternative party in 1946.

(3) PRO DO.35 3995 Telegram No.71. Rugby to C.R.O. 1.11.1947

(4) Personal Interview with former Clann-na-Poblachta deputy, Jack Mc Quillan 24.1.1989.

(5) O'Leary, C. Irish Elections, 1918-1977. p.38

(6) NASPO S 13450. quoted in Fisk, R.: In Time of War. p.533

(1\*) The I.R.A. had been declared an illegal organisation in 1936. MacBride resigned from the I.R.A. in 1937 because he considered that de Valera had provided the constitutional means to end Partition with the new constitution.(7)

(7) Personal Interview with Sean MacBride. 6.1.1987.

Despite Clann-na-Poblachta's gains, Lord Rugby at the time described Fianna Fail as "the party of stability in Irish politics." (8) He saw the threat from Clann -na- Poblachta as no more than indicating "a strong gesture of disgust with the de Valera Government for the usual economic grievances of failing to satisfy popular demand to keep prices down." He predicted that a general election was imminent. Rugby thought that, despite the mounting criticism of de Valera's Government, that votes which normally went to Fine Gael would instead go to Fianna Fail because the electorate would not waste their vote on an organisation which the results of three recent by-elections had shown "to be moribund". (9)

Fianna Fail was being accused of administering the policies advocated by Fine Gael while not admitting it. Republicans criticised the failure to achieve nationalist aims. Indeed, Fianna Fail's conservatism was reputedly rewarded by contributions from wealthy landowners and industrialists, the traditional supporters of Fine Gael. When this rumour spread it caused the party extensive embarrassment and loss of support amongst the urban population in Dublin, who changed allegiance mainly to Clann-na-Poblachta. (10) There is an impression that Clann-na-Poblachta highlighted their platform of social issues but that these were subsidiary and designed to broaden the Republican appeal of the Party.

(8) PRO DO 35 3955. p.3. Telegram No. 71. 1.11.1947. Rugby to CRO

(9) Ibid

(10) Garvin, T.: The Evolution of Irish Nationalist Politics.  
p.175

At the end of 1947, the position for the Fianna Fail government was that they were faced with a teachers' strike over the issue of grading according to efficiency. They "mishandled" the strike which had the support of the Catholic Hierarchy and alienated teachers, many of whom formed an important part of Fianna Fail's local political organisation.(1\*)

In addition to the teacher's strike, the State experienced the largest adverse monthly trade balance on record. On a more personal level, rumours abounded that de Valera's Ministers ( in particular Sean Lemass) had benefited from using their influence in the sale of a distillery on favourable terms. Fianna Fail could have weathered these political troubles since there was one and a half years left to run of their five- year term. On the plus side, de Valera had at the end of November 1947 completed a successful Anglo-Irish trade agreement. Anglo-Irish relations, in particular economic relations, were excellent and de Valera even suggested a "dovetailing of the two economies" during the trade negotiations.(11) De Valera was worried by the advance of Clanna-Poblachta and apparently believed that an early election would at least have the advantage of preventing the new party from consolidating its gains.(12) Accordingly, on December 21, 1947, he announced that a general election was to be held in the first week of February, 1948.

(1\*) I am grateful to Dr.Greagor O' Duill for this point.

(11) PRO DO 130/ 88 p.1.

(12) O'Leary,C. Irish Elections 1918-1977. p.38

The emergence of the "red scare" serves to illustrate the lack of serious ideological debate in Irish politics and also speaks for the climate of the times with regard to the later formation of WEU and NATO.

At the beginning of the 1948 general election Sean MacEntee claimed that, among others, Sean Dunne (Irish Labour Party), George Pollock (Irish Labour Party), Robbie, J. Connolly (Irish Labour Party), and Con Lehane (a member of Clann-Na-Poblachta) were loyal to the Communist cause.(13) In particular, MacEntee attempted to taint the Clann-na-Poblachta members with association with the Communist Party. According to Sean MacBride, the spectre of Communism was also raised against Clann-Na-Poblachta by the clergy.(14)

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(13) National Research Centre, Suiteland, Maryland (NRC) Record Group (RG) 84 Box 364 report No. 800. Reference file Ireland, Irish Political Parties .

(14) Personal Interview with Sean MacBride, 6.1. 1987.

During the 1948 general election, de Valera, who had once been a victim of similar taunts, (15) was now warning that "the road to a slave state and serfdom is broad and easy." There were some protests at these tactics. The President of Cork University, Dr. Alfred O'Rahilly, who had during the 1932 elections defended de Valera against similar slanders, (16) now wrote an article in the 'Catholic Standard' denouncing de Valera's innuendoes that the opposition was tainted with Communists. (17)

Even the Labour Party took the opportunity to condemn "the pernicious doctrine of Communism, the relentless enemy of the Labour movement." (18) William Norton, together with Sean MacBride, counteracted these scares by incorporating frequent protestations of loyalty to the Catholic church together with denunciations of Communism in their election speeches.

(15) See Fanning, R.: Independent Ireland, quotes one advertisement in the 1932 election which asked "How will you vote tomorrow? The gunmen are voting for Fianna Fail. The Communists are voting for Fianna Fail. P.105 Source; Banta, M.: The Red Scare in the Irish Free State 1929-37 (Unpublished M.A. thesis) UCD Library 1982. & Kelly, P.: Convincing the Voters: The Electoral Appeal of Cumann na nGheadheal, 1923-32. Unpublished M.A. thesis, UCD Library. 1981

(16) Fanning, R.: Independent Ireland, p.107 quotes Banta, M.: The Red Scare in the Irish Free State, unpublished M.A. Thesis UCD 1982. pp.34-35.

(17) Catholic Standard, 16.1.1948

(18) Irish Times, 23.1.1948

On the eve of the 1948 general election, the "red scare" was again raised . Three days before polling day, the " Standard", published the answers of an open question to Sean Dunne, Peadar Cowan, James Larkin, Robbie Connolly and George Pollock about their Communist sympathies.(19) This was a deliberate smear tactic, based on the allegations made by Sean MacEntee.

The questionnaire, similar in format to later used by the infamous U.S. Senator Joe Mc Carthy's committee, were:

1 . Were you at any time prior to its dispersal a member of the Communist Party of Ireland ?

2. Did you at any time hold office in the Communist Party of Ireland ? (The honest answer to either of these questions is a simple "yes" or "no".)

3. If the answer to either of these questions (1 or 2) is in the affirmative will you here and now issue a statement repudiating Communism? (20)

An additional question as to current membership was put to Connolly and Pollock. Though regarded as "known members" of the Communist Party Connolly and Pollock were in fact former members of the party. Both Connolly and Pollock had resigned from small local groups, in Pollock's case almost twenty years earlier. Cowan and Dunne denied any association.(21) In spite of the Communist smear, "left-wingers" Connolly, Cowan, Dunne, Larkin and Lehane were duly elected.

(19)Catholic Standard. 30.1.1948.

(20) Ibid

(21) Ibid



In contrast the 'Irish Times' in a magnanimous editorial defended MacBride against taunts from MacEntee, declaring "what Sean MacBride did or said in 1931 is just as irrelevant to actual issues as the physical or spiritual whereabouts of any given politician on the morning of Easter Monday 1916." (22)

The manifestos of the two main parties contained catchall policies promising improvements in agriculture, industry, education, housing, health, increases in the standards of living, lower taxes, and increased welfare benefits. Fine Gael, aiming a blow at Fianna Fail, promised to reduce emigration. More provocatively, Fine Gael hinted at the alleged Fianna Fail ministerial financial scandals by promising "fair play all round." (23)

Clann-na-Poblachta besides calling for "Freedom and independence for all Ireland as a democratic Republic" (24) also wanted to break Eire's currency link with sterling. They claimed it would increase Eire's independence from British economic policies.

(22) Irish Times 31.1.48

(23) Fine Gael Manifesto 1948 General Election as published in Irish newspapers in January/February 1948.

(24) O Snodaigh, P. and Mitchell, A., (Eds) : Irish Political Documents 1916-1949. pub.Irish Academic Press , Dublin 1985 p.247

However, the reality of Eire's economic relationship with Britain was exemplified in 1949 when the coalition were considering using the sterling assets to finance a development programme. The Treasury recommended that sanctions be imposed on Eire if she tried to draw too much on its sterling reserves in the form of imports from Britain reasoning, "Financially Eire is not really an independent country. Her holdings in London do not differ in kind e.g. from Scotland's holdings. They are the accounts of corporations and individual Irishmen with banks which keep their reserves in London." (25)

Given the above example of the practicalities of Anglo-Irish relations, Sean MacBride, perhaps naively, believed in 1948 that repealing the External Relations Act "would create no difficulty." (26) It should be noted that an 'Irish Times' editorial commented that Sean MacBride "hints darkly at the repeal of the External Relations Act; but he and his associates have been careful to keep the constitutional problem well in the background, concentrating their attention on domestic problems." (27) Indeed, Clann-na-Poblachta, in line with other parties, avoided contentious issues and concentrated on gaining electoral support.

The U.S. Minister to Ireland, George Garrett, believed if Clann-na-Poblachta were elected it would attempt to escape from the financial dependence upon Britain by orientating the economy in the direction of America " by attracting American capital to develop local resources". (28)

(25) PRO T. 236/2839 report "Eire Sterling Balances." 5.12.1949

(26) Quoted in Irish Times. 27.1.48

(27) Ibid

(28) NA 841 D 00 /3-848

In Ireland, the parties could not offer any real variation in their material political philosophies. John Horgan, a prominent Cork solicitor and contributor to the journal 'Round Table', wrote that there was essentially no difference between the programmes of the parties, all being in favour of developing agriculture, industry and welfare. Horgan believed that it was the personal animosity of the leaders of the two main parties, caused mainly by the civil war, that kept the two main parties from forming a coalition.(29)

Horgan's view of the lack of ideological difference between the parties was later echoed by John Costello in January 1950, when, while speaking to a gathering of diplomats at the 'Circolo di Roma' about the nature of the difference between the parties in his coalition and Fianna Fail; "there were really no essential differences between the two. Those differences which existed were based on personalities, on memories of a comparatively recent past, and on doubts whether agriculture or industry would form the most appropriate basis for the Irish economy of the future."(30)

The Labour Party too had broad policies, additionally advocating nationalisation of transport and the flour industry. Labour's offshoot, the National Labour Party's policies were similar to those of the main parties but overall the Labour Party was divided without a coherent policy.

(29)NRC RG 84 Box 364 File reference ;Ireland 800 Preview of an article intended for submission to the 'Round Table' journal.

(30)PRO FO 371 89823.Report from the British Legation to the Holy See, to Foreign Office official, P.M. Johnson.24.1.1950

The farmers, dissatisfied with the representation of the two larger parties, formed their own party, the Clann-na-Talmhan Party.

Overall, all the party's policies were similar particularly in that they were careful not to alienate any possible support. Noteworthy, as an exception to proposing populist national aims, was Fine Gael's refusal to support the teaching of subjects through the medium of Irish.

Lord Rugby considered that "the platform which won most applause was the one which put out the most violent anti-British ranting" and that Fianna Fail were the most adept at playing the anti-British card.(31) Despite such expectations, John Horgan, in the draft of an article on the results of the election, wrote that the election was unique in that no party appealed to "entangled sentiments" and that the issue of Partition was kept in the background. In the field of Anglo-Irish relations, Horgan commented that the main parties programme, "as regards our external relations, was identical." Horgan noted that on "foreign policy" the leader of Fine Gael, Richard Mulcahy, accepted Eire's constitutional position with Britain, and quoted him as stating that there would be "no going back." (32)

(31)PRO copy in Commonwealth Liaison file FO. 371. 70175 report on "General Election in Eire."

(32)NRC RG 84 Box 364 file reference 800

(1\*)Submitted to U.S. Minister to Ireland, George Garrett

Although de Valera had prepared in January 1948 the draft of a Bill(1\*) to repeal the External Relations Act,(33) Fianna Fail did not try to win or, perhaps as important, alienate votes by promising to repeal the Act. During the elections, Fianna Fail maintained a silence on the issue of the Commonwealth connection and this was taken to mean support for the status quo.

Costello's election address stated that "Fine Gael, if it is elected to power, will not propose any alteration in the present constitution in relation to external affairs." (34) This was in line with leader of the Fine Gael party, Richard Mulcahy, who on succeeding W.T. Cosgrave as leader in 1944 declared that Fine Gael "stood unequivocally for membership of the British Commonwealth." (35)

Despite Fine Gael's public adherence to retaining the External Relations Act and Fianna Fail's reticence on the matter, Rugby reported that "It is quite plain that the annulment of the External Relations Act will not be long delayed. No party has left the door open for any other course. All we can do is to give consideration to our line of action. Personally I should not be sorry to see this strange device removed. The Irish have handled it in such a way as to discredit it. Furthermore, it is now clear that it will not provide the bridge to closer association, as was once hoped." (36)

(33) Cearbhall O'Dalaigh Papers, P51/2A U.C.D. Archives Department.

(34) NRC, RG 84 Box 364 file 800 U.S. legation report on Eire Elections

(35) Ibid

(36) PRO CAB 134/118. Rugby Letter to Machtig 27.1.1948. pp.55-56

(1\*) See Appendix 11.

The following day Rugby added a postscript: "It is indicative of the way in which the Fine Gael party mismanage their affairs that General Mulcahy the Fine Gael leader should now come out with the firm pronouncement contained in the enclosed cutting in favour of not altering the present constitution in relation to external affairs, while one of his leading henchmen has taken the contrary line." (37) Interestingly, the "henchman" Rugby referred to (Dr. Tom O'Higgins) was only the day before described by Rugby as one of the outstanding figures of the Fine Gael Party. (38)

Approaching the elections Fianna Fail had lost some of its momentum; Fine Gael, according to commentators, was moribund and Labour was divided. Clann-na-Talmhan was really a pressure group for small farmers mainly from the province of Connacht. Clann-na-Poblachta, as the new catchall party, picked up dissatisfied voters and was the only party to gain from the apathy.

The 'Irish Times' counted 404 candidates represented in the political arena as follows (39) : Fianna Fail, 118; Clann-na-Poblachta, 92 (final figure 93); Fine Gael, 82; Labour, 43; Clann-na-Talmhan, 17; Farmers, 14; National Labour, 14; Independents, 24. (40)

(37) PRO CAB 134/118 Rugby Letter to Machtig. 28.1.1948. P.56

(38) PRO CAB 134/118 Rugby Letter to Machtig. 27.1.1948. P.55-56

(39) Irish Times, 19.1.1948

(40) O'Leary, C.: Irish Elections 1918-1977. Cornelius O'Leary reckoned there were 405 candidates, see p.39

Immediately before the election, Rugby reported that "something more responsible than a by-election spirit would possess the country when brought up against the prospect of a plunge into the unknown in such difficult times." He believed that Fianna Fail would be returned to power because, "the opposition is in splinters. No rival Party is equipped with the prestige, programme or personalities necessary for forming a Government."(41) It was accepted that none of the opposition parties alone could hope to oust Fianna Fail. Still, the parties did not agree to combine to present a united front before the election in the hope of achieving an overall majority.

(41)PRO F.O. 371. 70175 PRO copy in Commonwealth Liaison file report on "General Election in Eire."

(C)

ELECTION RESULTS AND THE FORMATION OF THE COALITION



The general election was held on February 4, 1948, the turn-out being similar to the 1943 election with 73.5% of the electorate casting their votes. That was nearly a five per cent increase on the previous election in 1944.(1)

The general result was that Fianna Fail, with 743,235 first preferences votes failed to obtain an overall majority. Clann-na-Poblachta polled approximately 175,000 first preferences. The 147 seats were distributed as follows: Fianna Fail, 67; Fine Gael, 30; Labour, 14; Clann -na -Poblachta, 10; Clann- na- Talmhan, 7 ; National Labour, 5; Independents and others 14. (2)

Although Clann-na-Poblachta won only 10 seats, it was recognised that this belied the support of the 13.2% of the overall vote it received. Indeed it has been calculated that they received 9 seats less than their proportional due. This showed their electoral inexperience and lack of strategy. For example, Fianna Fail with 41.9% of the votes secured sixty-seven seats, while Fine Gael, which reduced its share of the votes, receiving less than twenty per cent, actually gained one seat more than in the previous election.(3)

As in the by-elections in October 1947, Fianna Fail secured the most first preferences overall, but the proportional representation system of transfers allowed the opposition to advance when second and third preference votes were allocated.(4)

(1) O'Leary.C.: Irish Elections 1918-1977. p.103

(2) Ibid

(3) Ibid

(4) NA 841D.00/11-347 Report on the outcome of the elections from the U.S. Legation in Dublin to the State Department

The results of the election seemed at first to verify de Valera's warning that the choice was between stable government or political anarchy. Before and to a lesser extent after the election there was an element of panic and desperation among some of the pro-Commonwealth Fine Gael supporters. They publicly declared their view that a change of government was essential in order for democracy to survive.(5) This idea was prompted by the fact that de Valera would have maintained power easily under the single non-transferable "first past the post" voting system. Prior to the elections, de Valera refused to commit himself to agreeing not to attempt to amend the voting system.

Following the results, all the political parties except Fianna Fail held a series of meetings. By February 17, the eve of the commencement of the new Dail session, the parties had formulated the basis of a coalition party. De Valera was recorded as being opposed to coalition. However, the National Labour Party which had split from the official Labour Party was the political arm of the Congress of Irish Unions which had been founded by Fianna Fail Minister, Sean Lemass. Consequently the National Labour party, in particular its leader, Jim Everett, was under great pressure to support Fianna Fail.(6)

(5) see Letters to the ed. Irish Times .10.9.1967

(6)Garvin,T. The Evolution of Irish Nationalist Politics. P.175

Given the diversity of the parties, it was remarkable that a coalition was achieved. For example, Sean MacBride refused to serve under the leader of Fine Gael, Richard Mulcahy. According to Sean MacBride, Mulcahy himself agreed that this was a correct move.(7) Mulcahy had been Chief of Staff during the Civil War when Liam Mellows, who shared a prison cell with Sean MacBride (on the recommendation of the Army Command and in accordance with a decision of the Irish cabinet), was one of four men selected to be shot summarily as a reprisal for the shootings of elected Dail members. Mulcahy might equally have criticised Sean MacBride for being a member of the irregular force, a section of whom shot the President of the Irish Free State, Michael Collins, in 1922 and later a member of the IRA, a section of whom in 1927 assassinated the Irish Free State Vice-President, Kevin O' Higgins.(8) That agreement was achieved showed a political maturity that acknowledged that the events of the Civil War were, for practical purposes, ended.

(7)Irish Times. Sean MacBride Interview with James Downey  
1.1.1979

(8)de Vere White, Terence. Kevin O'Higgins.

John Costello, an eminent and successful lawyer, emerged as Prime Minister. Initially, his main qualifying point was that he was not involved in the civil war. According to Sean MacBride, there were "sighs of relief from leaders of the other parties when Clann-na-Poblachta did not make the repeal of the External Relations Act or the release of political prisoners the conditions of their participation in the first inter-party government." (9) Instead, according to Sean MacBride, he put forward Clann-na-Poblachta policies and the leader of the Labour Party, William Norton put forward his party's policy on transport and these policies became the coalition's main programme, and that was the "the sum total of the discussion on policy." (10) Thus, the "inter party" Government was formed. MacBride claimed the credit for coining the phrase "inter-party government". (11) This phrase was adopted to try and highlight the independence of the parties and to placate those members of the Clann-na-Poblachta party who were against entering a coalition government.

(9) Irish Times. Sean MacBride Interview with James Downey  
1.1.1979

(10) Ibid

(11) Ibid

John Whyte records in his book 'Church and State in Modern Ireland', that "as Dr Browne recalls it, Clann-na-Poblachta agreed to join the Government only to show that it could administer, and intended soon to leave. He recalls Mr. MacBride telling him at the time to build hospitals, and saying that when they were 'that high' (pointing about three feet off the ground) they would get out. But, he adds, when the hospitals were 'that high', Mr Mac Bride did not wish to get out." (12) Dr Noel Browne's interpretation of that quote was that, once the Clann had proven their abilities, they should return to the polls for a mandate to govern. (13)

The coalition was composed of a diverse group of interests and personalities. (14) Even among the small parties there was competition over policies, for example, Clann-na-Talmhan and Clann-na-Poblachta both claimed afforestation as their policy. (15) Perhaps the most outstanding point about the formation of the coalition is that the parties, which were themselves coalitions of divergent interests, joined together rather than allow Fianna Fail form a minority Government. A couple of days after the formation of the government, as their first gesture of reconciliation, the government agreed with Sean MacBride's proposal that political prisoners should be released. (16)

(12) Whyte, J.: Church and State in Ireland. p. 210

(13) Personal Interview Dr. Noel Browne. 28.12.1988

(14) O'Leary, C.: Irish Elections 1918-1977. p.38-40

(15) Personal interview with former Clann-na-Poblachta Parliamentary deputy, Jack Mc Quillan .24 .1.1989

(16) Irish Times .1.1. 1979

At the beginning of the new Dail on February 18, 1948, John Costello was nominated for the post of Taoiseach by the leader of Fine Gael, Richard Mulcahy.(17) Mulcahy's address emphasised the new spirit of harmony.(18) William Norton seconded Costello's nomination.(19) Costello's nomination was also supported by Sean MacBride. In his address MacBride agreed that his party could not claim a mandate for the repeal of the External Relations Act "and such other measures as are inconsistent with our status as an independent republic. These, therefore, have to remain in abeyance for the time being."(20) It should not be overlooked that Sean MacBride made no secret of his ultimate aim and added that "We as a party do not abandon, waive, mitigate or abate in any respect any portion of our policy."(21) However, MacBride agreed that while awaiting a mandate from the people his party would co-operate with the other parties in implementing policies.(22) Immediately prior to the election, Rugby expected that if the procedures associated with accrediting representatives were not reformed, "We must be prepared to be confronted with a 'fait accompli'"(23) whereas, upon hearing MacBride's statement he expressed his relief that the External Relations Act would not be repealed. (24)

(17) D.D.Vol. 110. Col. 20 18.2.48

(18) D.D.Vol. 110. Col. 20-22 18.2.48

(19) D.D.Vol. 110. Col. 22 18.2.48

(20) D.D.Vol. 110. Col. 25 18.2.48

(21) Ibid

(22) D.D.Vol. 110 . Col. 25-26 18.2.48.

(23) PRO Cab 134/118 Rugby to Eric Machtig report 9.2.1948

(24) PRO Cab 134/118 Rugby to Eric Machtig report 18.2.1948

John Costello's nomination was also supported by Clann-na-Talmhan leader, Joseph Blowick, who declared that his vote against Fianna Fail was a vote of censure by the farmers. James Everett, the leader of National Labour, spoke in favour of the inter-party government while James Dillon, former deputy leader of Fine Gael, voted for Costello "because I believe he is a man eminently suitable for the highest compliment that can be paid in this country: he is a decent man and he comes of decent people." (25)

That evening Costello nominated his cabinet and assigned the Ministries.(1\*) In fact, the Cabinet spoils had already been decided by the party leaders prior to Costello's nomination.(26)

That process undermined his control of the Cabinet which was composed as follows; William Norton, leader of the Labour Party, became deputy Prime Minister(Tanaiste), and Minister for Social Welfare; General Richard Mulcahy, (leader of Fine Gael) became Minister for Education; Sean MacBride, Minister for External Affairs; Joseph Blowick (leader of Clann-na-Talmhan), Minister for Lands; James Everett (leader of the National Labour Party), Minister for Department for Posts and Telegraphs; James Dillon (Independent deputy and former leader of Fine Gael), Minister for Agriculture; Patrick McGilligan (Fine Gael), Minister for Finance; General Sean Mac Eoin (Fine Gael), Minister for Justice; Dr. Thomas F.O'Higgins (Fine Gael) Minister for Defence; Daniel Morrissey (Fine Gael), Minister for Industry and Commerce; Timothy Murphy (Labour), Minister for Local Government and Dr. Noel Browne (Clann-na-Poblachta), became Minister for Health.(27)

(25) D.D.Vol. 110 . Col. 27. 18.2.48.

(26) Fanning, R.: Independent Ireland, p. 185

(1\*) See appendix V11 for biographical details

The Senate was used to divide the lesser political spoils. According to George Garrett, the Irish Senate held a "rather unimportant position".(28) This was attributed by Garrett to the fact that it was not selected by democratic franchise and hence comparatively little interest was taken of the chamber. He considered the appointments to the Senate significant, only because the Prime Minister's appointees reflected the state of political bargaining within the Coalition government. Of the eleven such appointments Fine Gael had four, Clann-na-Poblachta and Labour had two each, National Labour had one, Clann-na-Talmhan one, and Independents one.(29)

CONTINUED/

(27) D.D. Vol. 110. Col 49. 18.2.1948

(28)NRC RG 84 Box 364 File 800 air gram A-102 . 16.4. 1948

(29)Ibid



In line with its nationalist philosophy, Clann-na-Poblachta raised the question of the right for elected officials in Northern Ireland to be allowed to take their seats in the Dail. Fianna Fail was open to this idea while in opposition; however, while in power they cited the principle of representation without taxation and that Northern members might side with political parties. This would have disrupted the bipartisan policy towards the North. Additionally, there were, constitutional difficulties. In 1949, the Attorney General, Cecil Lavery, advised that the admittance of Northern members to the Oireachtas would require an "amendment of the constitution".(30) Lip service was paid to the Clann-na-Poblachta demand to include in the Oireachtas members from the six counties, by appointing Denis Ireland, a Protestant and anti-partitionist, to the Senate. (31)

The Second Secretary at the U.S. Embassy in London, W. S. Anderson, Jr., reported to the State Department that while the British press in general considered the Coalition to be unstable, they did however, report favourably on John Costello as a source of stability.(32) Professor Michael Hayes, former Ceann Comhairle, believed that this reaction as due to the fact that coalition was a departure from conventional British politics.(33)

(30)Quoted in Bowman, J.: De Valera and the Ulster Question. P.284. 10.3.49 in Cabinet memorandum by Cecil Lavery in Mc Gilligan paper's p35b/146.

(31) NRC RG 84 Box 364 File 800 air gram A-102 April. 16 1948

(32)NA 841D.00/3-348.

(33)Private Papers of Patrick McGilligan contains a copy of a letter from Professor Michael Hayes to Reginald Jebb. 29.7.1948.UCD Department of Archives. Reference P53/370.

The British press highlighted Costello's personal qualities, describing him as "safe, sane, a man of integrity, moderate, sincere, hard working", but also mentioned was "his lack of flair". Anderson reported that the fact that Costello was not a veteran of 1916, the war of independence, or the civil war was, as far as the British government was concerned, a welcome break with tradition. Overall, the British press reported that Costello broke the potential for autocratic rule by de Valera and noted the new Taoiseach's comments of continuing the economic co-operation with Britain which they considered augured well for Anglo-Irish relations.(34)

(34)NA 841D.00/3-348.

(D)

SURVEY OF COALITION'S PERFORMANCE

The coalition was not expected to survive more than a few months. Their policies and possible disagreements seemed irreconcilable. Clann-na-Poblachta and Labour demanded an increase in pensions. That policy appeared to be at variance with the Fine Gael policy of not increasing taxation. How these apparently irreconcilable aims could be managed, i.e. increased welfare spending with reduced taxation, was indicative of the balancing act and compromise needed to maintain the "unity in diversity" of this coalition government.(1) Despite the potential for friction the inter-party government settled in and issued the features of their policy. All the parties claimed that this coalition policy incorporated their own policies. Again, it was a "catchall", promising improvements in industry, agriculture, housing, health, (specifying the eradication of tuberculosis) education, and the increase in welfare payments.(2)

CONTINUED/

- (1) Irish Times, 20.2.1948  
(2) NRC RG 84 Box 364 File 800.

On the evening of February 24 the Taoiseach, John Costello, in a radio broadcast to the nation outlined his Government's main challenges as being of a socio-economic nature rather than political or constitutional, and gave a broad outline of his government's policy. While promising to continue to support the policy of rejuvenating the economy it should be noted that he also claimed, "as a priority" the reunification of the island.(3) This represented a departure from the traditional mode of Fine Gael's policy of quiet diplomacy. In retrospect it was ominous. That republican pronouncement was aimed at disproving the Fianna Fail taunt of being pro-British. Still, this was in line with keeping to a palatable path rather than entering into contentious areas especially on the constitutional link with Britain .

The coalition settled into its honeymoon period and set about governing the state. One of its immediate tasks was to solve the teacher's dispute. It did so by increasing wages and abolishing the grading system. The package included a promise to establish a council of education to deal with educational problems, particularly in popularising the Irish language.

(3) Irish Times 25.2.1948

After just one month in power the new Minister for Finance, Patrick McGilligan, formulated a plan on how the Coalition Government could reconcile the wish of the Labour Party and Clann-na-Poblachta to increase social spending with the Fine Gael promise to reduce taxation. His solution was to reduce the proposed budget expenditure by Fianna Fail of £76ml., most publicly, by cancelling the extension of air services between Ireland and the U.S. and by issuing a bond for £12ml., repayable in 1965 and 1970, at 3% (4) Additionally McGilligan cut the military budget, in particular, funds to the Air Corps and Naval Service. These already had only a skeleton force; the army containing 9,000 men out of the target of 12,500. (5)

Vinton Chapin, Consular at the U.S. legation in Dublin, reported that the new government after only one month in power showed its political astuteness by promising a popular budget by reducing the recent taxation on tobacco, beer and cinema seats. The only mention of increased taxation was the promise that there would be increased taxation on "unreasonable profits".(6) In accordance with the coalition's policy of inter-party co-operation, Patrick McGilligan was prepared to investigate the advantages of breaking the link with sterling but admitted his fear of undermining confidence in the Irish currency.

(4)NRC File; Ireland. Report on Coalition. 8.4. 1948: RG 84 Box 364 File 800.

(5)Ibid

(6)Ibid

Chapin's report also noted that the new government was anxious to co-operate with the European nations and "feels keenly aware of the danger to Irish security inherent in the Russian march across Europe." (7) In fact, Sean MacBride was preparing to use every available international forum to highlight Partition. MacBride had indicated his government's intention of co-operating with the 16 nations assembled in Paris. He was to argue that the Irish government would not look with enthusiasm on any economic recovery programme which does not envisage Ireland as an economic entity. Possibly to the confusion of the other representatives, MacBride used this International audience of the O.E.E.C. to air the Irish Government's grievance on Partition.(8)

De Valera's anti-partition speeches, which began in Liverpool in March 1948, gained momentum and status. His itinerary was being described as an anti-partition world tour and eventually covered America, India, and Australia. The attendant publicity put Clann-na-Poblachta and the coalition government under pressure to prove their republicanism. In March 1948 Anglo-Irish relations had improved to the extent that even George Garrett believed that the British government were prepared to co-operate with the coalition in order to counteract the publicity generated by de Valera's anti-partition world tour.(9) This may have been a reference to the release of IRA prisoners in Britain and later arranging a "successful" Anglo-Irish trade agreement in June 1948.

(7)Ibid

(8)see Keatinge, P.: A Place Among the Nations, pub. IPA, Dublin, p.113

(9)NA 841D.00/3-2448

As early as April 1948, Vinton Chapin reported that the coalition would hold together because such parties as the Labour Party benefited from being in Government. The chance that the Labour party might put its social programmes into practice made it more attractive to voters. This applied equally to all the parties who recognised that without coalition they could not hope to have their policies implemented. Referring to the smaller parties, Chapin considered "that a coalition such as now obtains is as close as they will get to power for a considerable period." (10) This report, while noting that Fianna Fail were still the largest party in the Dail, considered that despite the efforts of the deputy leader, Sean Lemass, and the former Minister for Defence, Frank Aiken, the party was impaired in its performance because the older members of the party held a tight control. There were rumours that the Fianna Fail heir in waiting to the leadership, Sean Lemass, in the absence of de Valera who was on his anti-partition world tour, went on his own speaking tour of the constituencies, in order to gain control of the party machine. The report surmised that the coalition had provided no opportunity for the opposition to launch a large-scale attack. (11)

(10) NRC RG 84 Box 364 File 800 report dated 8.4.48

(11) Ibid



In July 1948 there was a rumour that if the coalition survived then there might emerge an alignment of parties according to the European tradition, of liberals, conservatives and radicals, rather than on "the past system of personal feuds".(12) Interestingly, a report from the U.S. Legation in Dublin in July 1948 contains the speculation that "lawyers" Sean MacBride, James Dillon, John Costello, and Patrick McGilligan might form a party to the left of Fine Gael and right of Labour and Clann-na-Poblachta .(13) These rumours may have come from Fianna Fail who wanted to split the coalition. This legal cabal or inner cabinet was concerned with Anglo-Irish relations and apparently held some evening meetings, probably to discuss the Commonwealth link 'vis a vis' Partition. It may have been these meeting which gave Fianna Fail the ammunition to hint at a political amalgamation, in order to upset and split the coalition. Similarly, the rumours that Sean Lemass was attempting to oust de Valera when he returned from America may have been stirred up by members of the coalition.

CONTINUED/

(12)NA 841.00/9-1648. report dated 16.8.48

(13) NRC RG 84 Box 384 file 800. Report, 15.7 1948

Several months after the election, George Garrett wrote a brief review of the position of the main coalition parties. According to the report, Fine Gael who were "considered by many observers to be dying on its feet prior to the February elections" had made a "resurgent comeback". This was attributed to the personality of John Costello ,primarily because his popularity was not based on the "bonhomie" but rather that because he gave "the impression of integrity, intelligence, and self disinterest in the discharge of his responsibilities". The report mentioned how John Costello's image had increased in stature and the report associated him with the "vigorous young wing which is diluting the conservatism of many of the older men." (14)

CONTINUED/

(14) NA 841D.00/9-1548 Report dated September 15, 1948, Despatch No. 285.

Interestingly, Garrett considered that the Clann-na-Poblachta party had weakened, attributing this firstly to the "resignation" of Captain Peadar Cowan over his refusal to accept the terms of Marshall Aid under the European Recovery Programme and secondly, because there was internal party criticism that their leader Sean MacBride was too preoccupied in his role as Minister for External Affairs, and not devoting enough time to party matters. The report suggested that "consequently according to this reasoning, MacBride is attempting to make himself into such an important figure that he would automatically be included in any coalition regardless of the relative importance of his party at the polls." The Clann-na-Poblachta party, was, according to the U.S. legation report, "insolvent" and was being subsidised by MacBride. The report predicted that the base of Clann-na-Poblachta rested on "die-hard republican elements which become impatient of moderation in dealing with political matters." It was thought that MacBride in time might revive the party's fortunes by gaining support based on the success of the party in having its policies implemented.(15) Since this report was apparently compiled on the eve of John Costello's "announcement" it highlights the political urgency for Clann-na-Poblachta and by extension the coalition to produce some result on "Partition".

(15)Ibid

Incongruously, Garrett's report dated September 15, casually drew attention to Costello's "announcement" and quoted an assurance from Sean MacBride that the repeal of the External Relations Act "does not represent a major change in policy but merely admits of present realities." (16)

In a separate report dated September 16, 1948, Vinton Chapin, Consular at the U.S. legation in Dublin commented on the performance of Government Ministers and their Departments. (17)

The report commented favourably on the success of the Minister of Health in his battle against TB noting his "new vigour" and sense of urgency." Chapin reported that the Fianna Fail government "had received much criticism for the lackadaisical attitude displayed by former Minister James Ryan" towards the problem of TB. (18)

Chapin noted that while the Department of Defence had decreased the size of the forces, Ministers had indicated both to himself and the legation's air attache, (1\*) "Ireland will actively support the western powers against a Communist attack providing some prior arrangement can be made regarding the six-Counties." (19)

Chapin's report noted that the Labour Party and in particular their leader, Minister for Social Welfare and Tanaiste, William Norton was given credit for increasing the amount and availability of widow's pensions. This was part of the manifesto of the Labour Party and Clann- na- Poblachta. (20)

(16) Ibid

(17) NA 841.00/9-1648. report dated 16.8. 48.

(18) Ibid

(19) Ibid

(20) Ibid

(1\*) The air attache may have been a euphemism for a CIA agent because the Air Attache's reports concentrate on suspected Communist activity in Ireland.

According to Chapin's report, the Department of Agriculture had become one of the most important departments under the leadership of the "flamboyant" independent deputy and Minister, James Dillon. He attributed this importance to the Anglo-Irish trade negotiations of June 1948, and the new possibilities of obtaining ECA funds to expand the Irish livestock industry.(21) The report noted the demotion of the role of the Department of Industry and Commerce . (22)

More surprisingly Chapin noted that the Department of Finance similarly "has not been particularly prominent" though he mentioned that McGilligan had from the beginning set forth a "program of retrenchment in Government expenditure." (23)

The report praised the work of the Department of Local Government which had an active policy in producing low cost housing successfully under the Minister, Tim Murphy.(24)

Chapin noted that the Department of External Affairs had been "exceedingly active". He credited the activity to the personality of Sean MacBride and the separation of that office from that of the Office of the Taoiseach.(25) This was a reference to the fact that de Valera often held the two offices.

(21) Ibid  
(22) Ibid  
(23) Ibid  
(24) Ibid  
(25) Ibid

The Department of External Affairs had been involved in the trade agreements with Britain, Belgium and Holland and also an important bilateral loan agreement with the United States under the European Recovery Plan.(26) Sean MacBride enhanced the power of the Department of External Affairs by ensuring that the negotiations were held within its sphere of influence .(27)

John Horgan commented in an article submitted to the US Legation in Dublin that power in Ireland lay in the hands of "a few silent but efficient senior civil servants exercising the real power without responsibility for policy."(28) This is a valid point, but one suspects there was surprise among the "mandarins" when confronted with some of the strong Ministerial personalities that formed the inter-party government, especially Sean MacBride. Indeed, one Canadian diplomat commented that after taking advice from his Secretary of the Department in the early stages, Sean MacBride then ran the Department on "his own bat".(29)

(26)NASPO S14574 :Economic Co-operation Agreement between Ireland and the United States of America. signed June 28.1948. Published by Stationary Office. P. 8942.

(27) See Fanning,R.: Chapter ten,' The department of Finance and the first inter-Party government,' in:The Department of Finance. Pub. IPA . p.406

(28) NRC RG 84 Box 364 File 800

(29)Canadian Department of External Relations.(CDEA)Main File 50021-40

Chapin's report further confirms the surprise of Costello's "announcement". The session of the Dail due to begin on November 17, 1948, was not then expected to last more than two to three weeks. Because of the previous long session of the Dail, Chapin thought it unlikely that any proposed Bills had left the planning stage.(30)

He commented with regard to press speculation that the External Relations Act would be repealed, that Sean Mac Bride "has confided that no Bill has actually been drawn up."(31) Similarly three weeks before the "announcement" the Secretary of State for Commonwealth Relations, Philip Noel-Baker, presumably based on information from Lord Rugby, reported to the Cabinet there would be no developments before the Dail resumed in November.(32)

Chapin's report, dated September 16,1948, was correct in predicting that the coalition would remain by deliberately continuing its policy of only proposing legislation which was "palatable" to all the parties of the coalition. (33) This report about the Costello "announcement" and its "palatability" perhaps places the "announcement" in perspective, at least from a non-Commonwealth view. Interestingly, neither Garrett nor Chapin's reports (dated respectively seven and eight days after Costello's announcement) commented on the possible British reaction or the consequences of the intended repeal of the External Relations Act.

(30)NA 841.00/9-1648. report dated 16.9.48

(31) Ibid

(32)Cab 129/29 CP(48)205 Report to cabinet dated 17.8. 1948

(33)NA 841.00/9-1648. report dated 16.9. 48

(E)

THE ANGLO-IRISH TRADE AGREEMENT AND THE APPOINTMENT OF THE  
MINISTER FROM THE ARGENTINE



On the eve of the June 1948 Anglo-Irish trade talks, Lord Rugby acknowledged "the heckling" which the coalition government were receiving over the External Relations Act. Sean MacBride spoke to Rugby of "the irritation caused by the use of the term High Commissioner for Irish diplomats abroad and for the Commonwealth diplomats in Ireland"(1) and in reply Rugby reminded him that "the forms of Commonwealth relations were likely to be reshaped" and that it "would perhaps be as well to wait on events". It was unlikely that Rugby considered that "reshaping" would accommodate two-tier Commonwealth membership, or as MacBride referred to it, "association" with the Commonwealth. Rugby thought that the nebulous term "association"... "looked too thin to be a satisfactory formula".(2) This was a reference to the academic debate and to the Committee on Commonwealth Relations who were examining the practical problems of redefining the Commonwealth relationship "in such a way as to meet the difficulties of peoples who might be reluctant to accept it in its present form." (3) During the course of his meeting with Rugby, MacBride explained his government's difficulty and apprehension exasperated by Eamon de Valera who was expected to return the following week from what was being portrayed in Ireland as a highly successful "anti-partition" world tour. (2)

(1) PRO DO 35 3958 . Record of a conversation between Sean MacBride and Lord Rugby 16.6.1948.

(2) Ibid

(3) Cab 134/118 CR(48) 2. Third Report by Official Committee on Commonwealth Relations . 21.5.1948. p.23.

De Valera's world tour covered America, (4) Australia, (5) New Zealand, (6) India (7) and Pakistan, (8) and was intended ostensibly to highlight Partition abroad and cause Britain international embarrassment. Rugby reporting to Machtig about the American tour commented, "There is the smell of a Fianna Fail party stunt about this American trip. Mr. de Valera is battling for his Club, not for All Ireland." (9)

Following the successful Anglo-Irish trade negotiations in London, the 'Irish Times' headlined the triumphant return of the Irish trade delegates (10) and gave second position to de Valera's opening speech at his party's Ard Fheis (Party conference) about the injustice of Partition. (11) In contrast the Fianna Fail paper, the 'Irish Press' headlined the opening of the Fianna Fail Ard Fheis. (12) Rugby reported to the Commonwealth Relations Office about this disparity specifically referring to the "lack of reportage" by the 'Irish Press' about the Anglo-Irish Trade Agreement. (13)

(4) PRO DO 35 3928. Mr De Valera's Visit to the United States. Report by Lord Inverchapel to Mr. Bevin. 16.4.1948. F.O. EF/ A 1611/120/45

(5) PRO DO 35 3828. letter from the Office of the High Commissioner in Australia to Machtig CRO Des. 11.6.1948. Rec 19.6.1948

(6) PRO DO 35 3931. report from High Commissioner in New Zealand to CRO 1.6.1948

(7) PRO DO 35 3930. Report from U.K. High Commissioner in India 17.6.1948. Telegram No. 1927. See also Irish Press; De Valera in Delhi 26.6.1948

(8) PRO DO 35 3939. Telegram from CRO to High Commissioner in Pakistan No. 93. 2.6.1948

(9) PRO DO 35 3928. Letter dated 30.3.1948 Rec. 3.4.1948

(10) Irish Times 23.6.1948

(11) Ibid

(12) Irish Press 23.6.1948

(13) PRO DO 35 4000. Report dated 24.6.1948.

MacBride, possibly prompted by the publicity de Valera's world tour had attracted, began the process of undermining and dismantling the External Relations Act. During the course of the appointment of the Argentinian Minister to Ireland in July, 1948, the procedures of the External Relations Act were ignored deliberately by MacBride in his capacity as Minister of External Affairs.(14) At that time, the Argentinian Government was in dispute with the British government over the sovereignty of the Falkland Islands. President Peron agreed to MacBride's request to re-address his letter of credence appointing Senor Don Jose Bessone as Minister to Ireland, to the President of Ireland instead of to King George VI, thereby by-passing the procedure of the External Relations Act.(15)

MacBride noted that the 'Irish Press' was the only paper to report on the elaborate and meticulously planned welcoming ceremony whereby Senor Bessone presented his credentials addressed to the President of Ireland to John Costello, at Iveagh House, (the headquarters of the Department of External Affairs), and later lunched with the President at Aras an Uachtarain.(16)

(14) NASPO S 14210 B

(15) I am indebted to Senor Juan Pana Counsellor at the Argentine Embassy, Dublin for confirming that the Department of External Affairs asked for the letter of Credence to be re-addressed to the President of Ireland, Sean T. O' Kelly. L.D. 30.1.1987

(16) Personal interview with Sean MacBride 6.1.1987. The importance Sean MacBride attached to the Irish Press report of 2.8.1948, is illustrated by the fact that he had the report retyped. Typewritten copy of the report of the Irish Press 2.8.1948 kindly supplied by Sean MacBride

The 'Irish Press' report appears to be based on a Department of External Affairs press hand-out of Senor Bessone's speech and John Costello's reply. No mention was made about the breach of protocol. There is no record of a response from Rugby to the deliberate by-passing of the diplomatic procedures established under the aegis of the External Relations Act. Incredibly, MacBride believed that Rugby was not aware that the procedures of the External Relations Act had been by-passed in relation to the appointment of Senor Bessone.(17) In fact, the British Foreign Office was aware of Bessone's appointment. In April 1948, the British Ambassador in Copenhagen reported to the British Foreign Secretary, Ernest Bevin, that the Argentine Legation had announced that Senor Bessone, the Argentine Minister had been appointed Minister in Dublin. The letter reported that towards the end of 1947, the Argentine Legation in Denmark, was involved in organising the illegal movement of Germans from the British zone of Germany via Denmark to the Argentine. However, the report added that "although it was not proved that Senor Bessone was personally involved the Danish police have said confidentially that they have no doubt that he was fully aware of what was going on."(18)

(17) Ibid

(18) FO 371. 70175. Commonwealth Liaison File. Letter from the British Embassy in Copenhagen to Ernest Bevin 16.4.1948 No. 140 C84/3/43

There was a double-edged insult to the affair. On July 30, 1948, Prime Minister, Clement Attlee, suffering from stomach trouble and a skin rash, arrived in Dublin to begin a recuperative holiday.(19) The following day Attlee visited Iveagh House where he signed the Anglo-Irish Trade Agreement,(20) which contained a secret "gentleman's agreement".(21)That afternoon Attlee visited President Sean T.O'Kelly at Aras An Uachtarain. In both visits Attlee was following in the footsteps of the Minister from the Argentine, who on the morning of July 31, presented his letter of credence to John Costello at Iveagh House, who in turn delivered it that afternoon to the President.(22)

The Commonwealth Relations Office decided deliberately to ignore the method of appointing Senor Bessone. This was the established procedure regarding any adverse public reference by the Irish government to the External Relations Act. For example, a report from the British Ambassador in Spain, Viscount Hood, pointed out that the Spanish Foreign Office had announced in their 1945 official bulletin that a new Minister had been appointed to the President of the Free State of Ireland. The new minister's letter of credence was subsequently addressed to the King and Viscount Hood was advised to "let sleeping dogs lie".(23)

(19) Harris, K.: Attlee, p.423

(20)NASPO S14042: Trade Agreement between the Government of Ireland and the Government of the U.K. dated 31.7.1948 .Came into operation 12.8.1948. pub. Stationary Office P.No. 8983

(21)PRO PREM 8.824 also referred to in DO 35 3955.The secret agreement was an "accompaniment"to the agreement in the form of an exchange of letters regarding obligations under the General Agreement on Tariffs and Trade. Referred to a meeting of Commonwealth members in Geneva on 10 .10.1947. GATT was designed to liberalise international trade by restricting preferential bilateral agreements amongst member states.

(22)Irish press 2.8.1948

(23)PRO FO 371. 70175. Commonwealth Liaison File. Memo. 7.1.1948

As with the Spanish case the Commonwealth Relations Office apparently decided in the Bessone case to take "no action with regard to the established procedure" .(24)

Significantly, the Irish Cabinet were presented with a 'fait-accompli' by Sean MacBride regarding the procedural change in appointing Senor Bessone. They were only presented with the memorandum regarding his appointment five days before the official presentation.(25) Two weeks later, as if to emphasise the return to the established procedure of the External Relations Act, the Irish cabinet formally recorded that authority was granted to the Minister of External Relations for the appointment of a Charge d'Affaires to Lisbon "subject to section 1(1) of the External Relations Act".(26) There may have been some quiet agreement among the Cabinet to rectify Sean MacBride's "try-on".

Interestingly, when the Irish legation in Lisbon was established in neutral Portugal in 1941 with Mr Colm O'Donovan appointed as a 'Charge d'Affaires', the External Relations Act was ignored and the British government was not informed. The Foreign Office considered sending a "word of remonstrations" to John Dulanty for not informing the King of the proposal to establish a legation at Lisbon. (27)

- (24) Ibid
- (25) NASPO Cab 2/10. 27.7.1948 G.C. 5/27
- (26) NASPO Cab 2/10 . 10.8.1948 G.C. 5/30
- (27) PRO FO 371. 26883 . C12328/367/ 7.11.1941

Similarly, an appointment of the rank of Charge d'Affaires, to Germany in 1942 was not deemed to need accreditation within the procedural framework of the External Relations Act. The reasons in this case were accepted by the Foreign Office because they were practical rather than constitutional.(28)

(28) PRO FO 371. 23904. Report on Dominion Neutrality in the Event of War. 27.8.1939. W12505/G. p.268.

CH:1V EXTERNAL RELATIONS ACT AND PARTITION

(A)

FURTHER CRITICISMS OF THE EXTERNAL RELATIONS ACT,  
JULY 1948 - AUGUST 1948



During the July debate on the annual vote of estimates for the Department of External Affairs, £115,860 was allocated to cover the salaries and expenses of the Office of the Department, including officials in Dublin and diplomatic and consular representatives abroad. (1) According to Sean Mac Bride, that amount was less than that allocated to maintain the staff in British Embassy in Cairo or indeed in Bagdad, Ankara or Teheran. (2) During that two-day debate, Captain Peadar Cowan, who had recently "resigned" from Clann-na-Poblachta, elicited from MacBride the answer that "we are certainly not a member of the British Commonwealth of Nations." (3) This answer was heeded by Lord Rugby and also the Secretary of State for Commonwealth Relations, Philip J. Noel-Baker who asked for a copy of the text of Sean MacBride's speech, (4) presumably to understand the context in which the above answer was given.

That same day, Frederick Boland, had a meeting with the Principal Secretary of the United Kingdom's representative in Dublin, Neil Pritchard. Boland told Pritchard, that, although MacBride's answer was "unpremeditated".... "the Government will however have to stand by it." (5)

(1) D.D.Vol. 112. Col. 900 .20.7.1948

(2) D.D.Vol. 112 .Col. 912 .20.7.1948

(3) D.D.Vol. 112 .Col. 988 .21.7.1948

(4) PRO D.O. 35 3934. Neil Pritchard to Norman Archer. 22.7.1948

(5) Ibid

Peadar Cowan persisted in this embarrassing line of questioning regarding the status of Eire's membership of the Commonwealth. On July 28, he asked John Costello "when and under what circumstances Ireland ceased to be a member of the British Commonwealth of Nations." Costello replied: "The constitutional position is that Ireland is a sovereign, independent democratic state associated with the members of the British Commonwealth." He continued and stated explicitly, "the process by which Ireland ceased formally to be a member of that Commonwealth has been one of gradual development".(6) In reply to a similar supplementary question Costello echoed de Valera by answering "it has ceased to be formally a member but is associated with the other members in accordance with articles 5 and 29 of the constitution."(7) Up to that time Costello was content to retain "membership" of the Commonwealth, as did de Valera, by being vague about the definitions of "formal" and "associate" membership of the Commonwealth, even though such categories of membership of the Commonwealth were not acknowledged.

(6)D.D. Vol. 112. Col. 1555. 28.7.1948

(7)D.D. Vol. 112. Col. 1555-56. 28.7.1948

On August 5, 1948, the day preceding the debate which ratified the Anglo-Irish Trade Agreement ( because of its associations the term "treaty" is no longer used to describe Anglo-Irish agreements), Cowan elicited from John Costello a statement on what was in practice the actual relationship; "the factual relationship, upon which our association is based, depends on the reciprocal exchange of concrete benefits in such matters as trade and citizenship-rights, the principal of consultation and co-operation in matters of concern and on the many ties of blood and friendship that exist between us and these other great nations whose populations(1\*) include so many of our own people."(8)

The above statement contains the substance of the arguments advanced by Sean MacBride and supported by the other Commonwealth representatives during the discussions in October at Chequers and in November in Paris about Eire's departure from the British Commonwealth.(9)

(8) D.D.Vol. 112. Col. 2106. 5.8.1948

(9) See O'Brien,J.: Ireland's Departure from the British Commonwealth. Round Table,1988 pp.179-194

(1\*)Up to 1914 between one quarter and one third of the population of Australia were of Irish descent. Evening Herald (Dublin) report on a lecture in University College Dublin. 22.4.1987

During the debate on the Anglo-Irish Trade Agreement on August 6, 1948, Costello attempted to make the Dail aware of the consequences of "leaving" the Commonwealth. He referred to the trade preferences such as mutual free entry for certain produce between Eire and Britain under the Most Favoured Nation clause of the General Agreement on Tariffs and Trade, reminding the Dail that, "The right of preferential treatment in the matter of trade with Great Britain and the other nations of the Commonwealth is one which we enjoy, so long as we are associated with the League of Nations known as the British Commonwealth of Nations", adding that "it is a valuable right from the point of view of our people." (10)

Despite this plea to stop and think before stepping over the abyss, the Tanaiste and Labour Party leader, William Norton, stated that same day during the adjournment debate, "I think it would do our national self-respect good both at home and abroad if we were to proceed without delay to abolish the External Relations Act." (11) Referring to the the possible repeal of the Act, de Valera replied with the taunt "go ahead", following with "you will get no opposition from us." (12)

(10)D.D.Vol. 112. Col. 2382. 6.8.1948

(11)D.D.Vol. 112. Col. 2440-41. 6.8.1948

(12)D.D.Vol. 112. Col. 2441. 6.8.1948

These combined statements by the hierarchy of the coalition government went further than anything that de Valera or members of his party had ever implied in public about the possibility of repealing the External Relations Act.

That exchange between de Valera and Norton is referred to in Costello's explanatory memorandum (13) and reiterated in an interview in the 'Irish Times' in 1967. (14) In his memorandum John Costello refers to de Valera's promptings: "these matters so raised on the adjournment appeared to me to make it a matter of urgency for the government to make up its mind as to its attitude on the External Relations Act 1936." ... "An express decision was taken by the Government that the External Relations Act should be repealed and the necessary legislation introduced immediately the Dail re-assembled." (15)

(13) John Costello's memorandum, p.2 Para 5

(14) Irish Times, 8.9.1967. John Costello Interviewed by political correspondent, Michael Mc Inerney

(15) John Costello's memorandum of his trip to Canada and the events surrounding the "announcement" p.3. Para 6

When the Dail adjourned, John Costello may have accepted the relentless forces demanding the repeal of the External Relations Act. Such action need not have entailed declaring a Republic, let alone leaving the Commonwealth. Possibly Costello, and MacBride hoped that diplomatic negotiations could retain the status quo, provided there was a will for such a nebulous relationship to continue. The probing questions of Peadar Cowan and their connotations were discussed during informal evening meetings following the adjournment debate on August 6 1948.(16) Arguably, it is probable that the options of either repealing, or more likely allowing the machinery, procedures and formalities attached to the External Relations Act to become defunct. It would seem logical that it was at these meetings that a decision or consensus was arrived at that the External Relations Act should be repealed or even that such a formal decision to repeal the Act was unnecessary and did not need enunciation because of its obviousness. However, as late as August 1948, there is no evidence that plans to repeal the Act had been formulated. The neat conclusion that an informal decision was made by the inner cabinet at the evening meetings to repeal the Act is contradicted by the fact that the cabinet appointed a Charge d'Affaires to Lisbon (arguably because of the rank, without need) under section 3 of the External Relations Act.(17)

(16) Personal interview with the former Private Secretary to John Costello, Professor Patrick Lynch 20.12. 1988

(17) NASPO Cab 2/10. G.C. 5/30. 10.8.1948

In August 1948, pressure from Eamon de Valera's anti-partition campaign and the Republicans in Clann-na-Poblachta made it politically imperative that some adjustment be seen to be made to Partition, or, as a substitute, to the External Relations Act. There was a fear that Independent Deputy, Captain Peadar Cowan might introduce a private member's Bill. Indeed the fastidious independent Minister of Agriculture, James Dillon believed that because of the ~~double~~ double ~~ness~~ of the External Relations Act Eire was living a lie and there was a possibility that he too might have introduced a private member's Bill to repeal the Act. (18) John Costello had spoken of such a worrying dilemma, as for example to the Prime Minister of Canada, William Mac Kenzie King (19) and repeated in his interview with the 'Irish Times' in September, 1967. (20)

It would have been unwise to signify an intention to repeal the External Relations Act at a time when the Anglo-Irish Trade Agreement was safely ratified by the Oireachtas, (21) and accepted by the British government. (22) The adjournment of the Dail for the summer recess on August 6, 1948, should have allowed John Costello a respite from the challenges to clarify the issue of Eire's membership of the Commonwealth, and the opportunity to bargain retaining the External Relations Act for some favourable movement by the British government on Partition

(18) Personal interview with Sean MacBride 6.1.1948. At the October 1948, meeting which approved the repeal of the External relations Act, Dillon joked to MacBride to the effect, that it saved him the trouble of introducing a private members Bill.

(19) Pickersgill and Forster: Mackenzie King Record. Vol. 1V. p.387

(20) Irish Times 8.9.1967

(21) D.D. Vol 112. Col. 2403. 6.8.1948

(22) A debate to approve the Trade Agreement was according to Herbert Morrison, unnecessary because an order paper put before the House would suffice. See- H.C. Vol. 452. Col. 2374-6. 1.7.1948

Peadar Cowan's questions about Eire's membership of the Commonwealth may have been prompted by a wish to embarrass Sean MacBride.(23) Speaking in the Senate in a private capacity in favour of a United Europe, MacBride exclaimed, "I was very grateful indeed for the solicitude shown by members of the House as to whether this would embarrass me. I wish some of the T.D.s who put down questions would exercise 1 per cent. of that solicitude at times."(24) It is probable that this publicity forced the coalition inner "legal" cabinet of MacBride, Costello, McGilligan and possibly Dillon in the summer of 1948 to acknowledge that they would have to "modify" the External Relations Act or alternatively get some action on Partition that would prove their Republicanism. For example, in Dail Eireann, on July 23, 1948, John Costello confidently predicted "this Cabinet will, by its policy and its actions, give some hope of bringing back to this country the six north-eastern counties of Ulster." He added : "I make that assertion with all the confidence I have within me. To say anymore would be to damage the advances that already have been made."(25) The only source for a basis for this optimistic speech, other than the fact that a tense international situation was developing, is a reference by Frederick Boland to the fact that Costello was informed by Attlee that "Generals" would have discussions with him in Canada.(26) No such discussions materialised.

(23) Personal interview with Jack Mc Quillan 24.1. 1989

(24) Seanad Eireann Debates Vol.35 Col. 805. 5.8.1948. Motion in favour of a United Europe

(25) D.D. Vol. 112. Col. 1520. 23.7.1948

(26) Bruce Arnold interview with Frederick Boland. Permission to quote from this private tape gratefully acknowledged



(B)

"MAYO" TALKS ON PARTITION, AUGUST, 1948

George Garrett, reporting to the State Department on Costello's Dail statement of July 23, was apparently beguiled to the extent that he believed "certain progress may have been made in recent discussions with the British particularly since Mr Costello is inclined to be a prudent conservative lawyer not given to irresponsible statements."(1) Garrett was "pro-Irish"; towards the end of March 1948, he reported that "the time would seem to be propitious to suggest to Westminster to carry forward an enlightened policy such as has been manifested in India, Burma, Ceylon and other parts of the Empire. It would also appear in England's interest to take a look at its own front door with a view to collecting such goodwill as remains before the ultimate and presumably one-day inevitable solution of partition is resolved despite England's resistance to it."(2) John Hickerson, Director of European Affairs at the U.S. State Department, replied to Garrett, reminding him of Northern Ireland's "dependable assistance" during the war, authoritatively asserting "I am sure you will agree that this is a powerful argument for this government's favoring the continued control of Northern Ireland by the United Kingdom."(3) Garrett may well have been over optimistic in hoping for movement on Partition as no doubt were the Irish government.

(1)NA 841 D. 00/7 -2948

(2)NA 841 D. 00/4 -1548 .( 22.3.1948, airgram)

(3)NA 841 D. 00 /3 -2448 See United States Policy on the Irish Partition question. Research Project No. 73. July 1948. prepared by the Division of Historical Policy research Department of State. NRC RG 59. NND 812036

The U.S. Consul in Belfast, William Smale, reported that the Prime Minister of Northern Ireland, Basil Brooke, in response to Costello's Dail statement, issued a rebuke to Costello on July 30, 1948 (the day Attlee arrived in Dublin). It ended with a line obviously directed at Attlee: "Ulster is not for sale." (4) It is possible that John Costello was hoping that a statement on Partition might be made by Attlee during his impending visit to Eire.

On August 14, 1948, Sean MacBride joined Attlee in the west of Ireland for a quiet picnic. George Garrett assumed the purpose was "to sell Attlee on his point of view." Garret reported that the 'Observer' on Sunday, August 15, had speculated that Attlee's visit to the west of Ireland was to discuss the ending of partition necessitated by the British need for the strategic ports. Garrett attributed the speculation to Costello's assurances that Ireland would assume "necessary obligations". (5) In fact, on August 3, 1948, Lord Rugby wrote to former U.S. Minister in Ireland, David Gray, informing him that that Attlee, had stayed with him in Dublin, and "is quite sound on the Partition question". (6)

(4) NA 841 E 00 3-2248

(5) NA 841 D. 00/7 -2948

(6) Personal handwritten letter from Lord Rugby to David Gray, dated 3.8.1948. David Gray papers Box 4. Roosevelt Library, N.Y.S. See- Bowman, J. De Valera and the Ulster Question 1917-73. Note 4 p.267

On August 14, in what can be described as the " Mayo talks", Attlee told Sean MacBride that there would be no movement on Partition. Dr. Noel Browne remembers a meeting held in August 1948 in a holiday house in Mayo, where he was staying. At that meeting Philip Noel- Baker (possibly days after the Attlee visit) "vehemently" told the Clann-na-Poblachta deputy that there could be no end to Partition.(7)

According to a report from the U.S. consul in Belfast, the government of Northern Ireland was "privately fearful that the British may be forced to abandon their case in the light of world considerations."(8) The presence at that time of senior British government figures such as Lord Pakenham, Lord Jowitt, and Philip Noel-Baker in Ireland, ostensibly on holiday, fuelled the fears of the Northern Ireland government.

CONTINUED/

(7) Personal interview Phyllis and Dr. Noel Browne 28.12.1988.

(8)NA 841 E 00/ 3-2248.

By the summer of 1948, it looked as though the Irish government was adjusting its stance and moving to an acceptance of the 'real-politik' understanding that there would be no movement on Partition unless they made the first move by surrendering their stance on neutrality. Costello's statement delivered upon landing in New York at the end of August, lends evidence to this conclusion. There he declared that it was a safe assumption that Eire would be willing to enter into agreement with the United States and Britain for "strategic purposes to maintain peace". However, it was noted, that he added, that "we will not consider such an agreement as long as there is partition of Ireland." (9) This statement followed the pattern established by Sean MacBride when he stated in the Dail on July 20, 1948, that "our sympathies therefore, lie clearly with Western Europe." (10)

Any intention by the Attlee Government to dilute Partition was forestalled by the government of Northern Ireland, when on August 18, the Prime Minister of Northern Ireland, Sir Basil Brooke announced a new recruitment campaign for the semi-political paramilitary part-time constabulary popularly known as the B-Specials. The American Consul in Belfast reported on August, 30 1948: "Our source comments that the move may be indicative that the Orange faction in Northern Ireland is preparing to resist by force, if necessary, any attempt to end the border." (11) This source may have read in the 'Irish Independent' of August 19, an article which referred to a speech/

(9) Quoted in CDEA 50021-40

(10) D.D. Vol. 112. Col 994. 20.7.1948

(11) NA 841 E 00/8-3048

speech by Lieut. Col. C. Cage, a Unionist M.P., who reportedly said that "the Socialist Government at Westminster would be perfectly ready to sell the North down the river", adding "those who threaten our position must reckon that they will have to use force if they wish to take our constitutional position from us, and thrust us away from the Crown." (12)

On August 24, 1948, the US Consul in Belfast, reported the significant fact that the representatives of the Irish government and the the opposition spoke from a shared platform with unanimity against Partition. (13)

The Irish government, disappointed that there was no movement on Partition, now arguably saw the repeal of, or an amendment to the External Relations Act as a remaining option, if not a beckoning one, which would allow the fragile coalition Government to strengthen its overall position 'vis-a-vis' the Republican crusade from de Valera.

Interviewed in 1987, Sean MacBride suggested that the summer of 1948 was an opportune time to repeal the External relations At. He based this principally (1\*) on the fact that the Anglo-Irish trade agreement was operative and the British Nationality Act was approved by the British Parliament, both of which contained benefits for Eire independent of membership of the Commonwealth. (14) Accordingly, the issue of "membership" of the Commonwealth could at last be clarified, apparently free from the threat of any major socio-economic reprisals from Britain.

(12) Irish Independent 19.8.1948

(13) NA 841 E 0079-1548

(14) Interview with Sean MacBride, 6.1.1987

(1\*) In June 1948, Ireland had been the first to obtain a bi-lateral loan under the European Reconstruction program.

At the end of July 1948, The External Relations Act had become a "political football", for example, a prominent opposition Fianna Fail deputy, Dr. James Ryan, addressing a party meeting, stated that in relation to repealing the Act, "if the government takes action now, they will have our full support against any die-hard opposition, either here or abroad. They will have a united Dail -the support that we did not get when we moved to remove the Oath or when we proposed to retain the Land Annuities."(15)

Such were the political and diplomatic circumstances in Ireland at the end of July 1948. The dilemma for the coalition government was that if they acquiesced to the logical demand to repeal the External Relations Act, it would jeopardise any hoped-for movement or negotiations with the British government on Partition.

(15) Irish Press 31.7.1948

(C)

IRISH CABINET DISCUSS THE EXTERNAL RELATIONS ACT, AUGUST, 1948



In his interview with the 'Irish Times' in 1967, John Costello, speaking about the repeal of the External Relations Act, admitted that he "was not absolutely certain whether the decision was entered in the Cabinet minutes," but remembers that, "all the Government members were present except Dr. Noel Browne." (1) Allowing for the absence of Browne there is no record of a full cabinet attendance at any cabinet meeting in August 1948. However, this may refer to a meeting in late July 1948, which approved the appointment of the Minister to the Argentine and thus accepted the by-passing of the procedures of the External Relations Act in that particular instance. (2)

A few weeks later, on August 19, the outcome of a Cabinet meeting concerning the External Relations Act added to the Government's confusion over their attitude to the Act. Although laborious, it is worth dissecting the memoranda and minutes of that meeting of 19 August 1948, (3) because they provide the clue about the Irish Cabinet's attitude to the External Relations Act. The first pertinent question about that meeting is: was there an assumption by the Cabinet of an intention to repeal the Act or simply confusion between the Act and the related machinery, procedures and formalities attached it? For example, it was this Cabinet meeting on August 19, 1948, which considered three inter-related issues relating to the repeal of the Act. Firstly, the meeting vetted Costello's speech to the Canadian Bar Association. (4)

(1) Irish Times 8.9.1967. John Costello interviewed by Michael Mc Inerney

(2) NASPO Cab 2/10 G.C. 5/27 26.7.1948

(3) NASPO NASPO Cab 2/10. G.C. 5/32. 19.8.1948 S 14333A file contains Memoranda on Commonwealth Prime Ministers Meeting.

(4) NASPO S.14387A contains copy "Ireland in International Affairs" Speech to the Canadian Bar Association. 1.9.1948

Secondly, the meeting approved the sending of an 'aide memoire' to the British government about changing the title of envoys from Eire to Commonwealth countries, from that of High Commissioner to Ambassador.(5) Thirdly, the meeting decided that "Eire should not be represented as a member of the Commonwealth at the proposed meeting" of Commonwealth Prime Ministers,(6) while a decision to attend, "otherwise than as a member of the Commonwealth" was postponed.(7) It could be argued that there was an implicit understanding by the Irish cabinet of the realisation of the need to repeal the Act. Support for that line of argument comes from Sean MacBride's first memorandum which contains the statement, "we are not members of the Commonwealth."(8) This statement was apparently accepted unequivocally. Similarly MacBride's second memorandum contained the nearest official statement regarding Eire's diplomatic and constitutional relationship with the Commonwealth; "that in the Irish Government's view the title High Commissioner is obsolete and anomalous. It suggests executive rather than representative functions. It harks back to the era of colonialism and suggests undesirable and misleading implications as to the nature of the relation between Ireland and the States of the Commonwealth."(9) Those points, taken together, i.e., acceptance of the Minister of External Affairs' memoranda, the Cabinet decisions/

(5)NASPO Cab 2/10 G.C. 5/32. 19.8.1948

(6)Ibid

(7)Ibid

(8)NASPO Cab 2/10 G.C. 5/32. 19.8.1948. Memorandum in S.14333A

(9)Ibid

decisions of August 19, dealing with the Constitutional relationship of Eire and the Commonwealth, and the consideration of Costello's speech pertaining to the historical and constitutional development of Eire vis-a-vis Britain, could imply, that there was an acceptance by the cabinet members that Eire was not a "member" of the Commonwealth. Looking at both the memoranda(10) and minutes (11) of that 90 minute cabinet meeting of August 19, 1948, and setting them against the background of the earlier Dail statements by Costello, MacBride and Norton who stated that Eire was not a member of the Commonwealth, it would seem a fair deduction that this Cabinet meeting validated those statements and the perception, that Eire was indeed not a "member" of the Commonwealth. But, still there was no decision to repeal the External Relations Act.

However, it should be remembered that, in an interview with the magazine 'Picture Post', in November 1948, Sean MacBride stated that he at least never discussed the repeal of the External Relations Act at any Cabinet meeting.(12) In response to being reminded of that statement, Sean MacBride made the point that the decision to repeal the External Relations Act, as with such other national policies as Neutrality, was assumed, and the issue of a decision did not need discussion in the Cabinet.(13)

(10) NASPO Cab 2/10 G.C. 5/32. 19.8.1948. Memorandum in S.14333A

(11) NASPO Cab 2/10 G.C. 5/32. 19.8.1948

(12)NASPO S. 14387C

(13)Personal interview with Sean MacBride. 6.1.1987

Such a casual attitude to Eire's relationship with Britain and the Commonwealth seems unlikely. Indeed, it is surprising that there are no records by an interdepartmental committee which might have considered the consequences for Eire for leaving the Commonwealth. To repeat;- there is no record of a formal decision to repeal the External Relations Act in any of the Cabinet minutes prior to John Costello's "announcement" in Ottawa on September 7, 1948.

(D)

BRITISH GOVERNMENT DISCUSS THE POSSIBLE REPEAL OF THE EXTERNAL  
RELATIONS ACT

Immediately prior to John Costello's "announcement", Anglo-Irish diplomatic relations were amicable. In a report dated August 17, 1948, the Secretary of State for Commonwealth Relations, Mr. Philip Noel-Baker, circulated a memorandum to the Cabinet entitled "Eire and the British Commonwealth." (1) This memorandum would have been based mainly on reports and information received from Lord Rugby. It dealt with the statements made by the three Irish Ministers in the Dail and their relevance to continued membership of the Commonwealth. Philip Noel-Baker brought his British cabinet colleagues attention to the three main points that the Irish Government spokesmen had made: " (1) That Eire is no longer a member of the Commonwealth "... (2) is however associated (in a manner which is left undefined)" and "(3) appear to be contemplating the repeal of the Eire Executive Authority (External Relations) Act 1936." (2)

CONTINUED/

(1) PRO Cab 129/29 p.97. CP(48)205

(2) Ibid

Philip Noel-Baker's Cabinet Paper showed no signs of urgency but simply asked the Cabinet to consider "in due course" whether the consequences of repealing the Act should be brought to the attention of the Irish government. Referring to John Costello's statement that Eire is no longer a member of the Commonwealth, the memorandum asked whether the invitation to Eire to attend the forthcoming meeting of Commonwealth Prime Ministers should be renewed. The memorandum ended with the recommendation that the contents should only be considered and that a decision should be deferred. This was presumably because Rugby was to discuss the issue further with MacBride. Philip Noel-Baker's confidence in advising postponing any decisions was because he expected that no announcement would be made until the Dail resumed in November and as reported in his memorandum, because Anglo-Irish relations were "friendlier than ever".(3) It is possible he hoped that the expected "announcement" in November might be deflected by forewarning Irish Ministers of the consequences. He may have intended having a warning supported by a statement from the forthcoming October meeting of Commonwealth Prime Ministers. It was highly unlikely that there would be any "announcement" until after Rugby met with Mac Bride to discuss Eire's attendance at the Commonwealth Prime Ministers Meeting.(4)

(3) Ibid

(4) NASPO S. 14333A. Commonwealth Prime Ministers Meeting.

Similarly on August 19, the Irish Cabinet postponed a decision on whether Eire should be represented at the Commonwealth Prime Minister's Conference other "than as a member of the Commonwealth" until after the Rugby - MacBride meeting of September 7. (5) Rugby's meeting with MacBride was first arranged for September 4 1948, and subsequently postponed until September 7, i.e. the day that John Costello made the "announcement". (6)

(5) NASPO CAB 2/10 G.C. 5/32. See also File S 14333A  
(6) NASPO S. 14387A



CHAPTER:V

JOHN COSTELLO AND THE ANNOUNCEMENT

(A)

THE TAOISEACH, JOHN COSTELLO, LEAVES 'EN ROUTE' FOR CANADA

The answer to the question as to whether the Irish cabinet or even John Costello had premeditated the "announcement" especially for his Canadian trip, is: unlikely. Indeed, the spontaneity is particularly emphasised in a subsequent explanatory letter to his Tanaiste, William Norton, when in a reference to the situation of the "announcement", he referred to "Ottawa of all places".(1) However, that John Costello had prepared a reasoned case to defend the contention that the Most Favoured Nation trade advantages between Britain and Eire might no longer apply (as discussed with the Canadian Prime Minister, William Lyon Mackenzie King),(2) and that during the course of the parliamentary news conference, he stated that the term High Commissioner would be changed to Ambassador through the repeal of the External Relations Act (and effectively reiterated the overall outcome of the Cabinet meeting of August 19, 1948). This suggests that some of the possible obvious repercussions of the repeal of the External Relations Act, had at least by September 1948, been examined by John Costello.

(1) Irish Times. 1.1.1978

(2) Pickersgill and Forster. Mackenzie King Record. Vol IV. p.388

Several of John Costello's ministers gathered at Cobh to wish him 'bon voyage'. Inclement weather prevented the tender carrying John Costello's party from leaving Cobh harbour to board the ship, 'The Mauretania' and the ship's departure was delayed by one day so that it was August 24, 1948 when John Costello finally left Cobh 'en route' for Canada.(3)

It is possible that John Costello hoped that the procedures of the External Relations Act might be quietly by-passed or ignored. This would have allowed Eire to achieve a 'de facto' Republican status whilst, as mentioned in his speech to the Canadian Bar Association, maintaining "an association with the group of states comprising, on the one hand, the country which is at once our next door neighbour and our most important market and, on the other, those great new countries overseas in which people of our own race constitute a large part of the population."(4)

"Associate" membership of the Commonwealth combined with Republican status (as was eventually accorded to India) would have been exemplified by such symbolic gestures as a toast to the President of Ireland being offered at official Anglo-Irish and Irish-Commonwealth gatherings. Such a separate toast would have recognised the sovereign independence of Eire outside of the Commonwealth.

(3) See Lynch, P. (Joint Ed.): Essays in Memory of Alexis Fitzgerald, 1987 pub. Irish Law Society

(4) NASPO S 14387A

A first tentative exploration of the decision - making process in relation to Costello's announcement of his government's decision of the intention to repeal the External Relations Act results in a need to understand the personalities involved. This may serve as a general illustration of the importance of the idiosyncratic factor on Anglo-Irish relations.

Even before John Costello began his trip to Canada, a problem of protocol arose. Apparently John Costello decided against staying in the Governor General's (Lord Alexander of Tunis) residence, possibly, according to the Private Secretary to the Taoiseach, Patrick Lynch, because he assumed that his proposed speech to the Canadian Bar Association might upset the Governor General.(5) In turn the Governor General let it be known that when John Costello would be in Ottawa, he would soon afterwards be away in the West of Canada. (6)

Of interest is the point that the invitation to honour John Costello with an honorary degree by Mc Gill University was originally made to him for the attainments he had achieved in his profession rather than as the Prime Minister. It is possible that as Prime Minister he expected more than that of a mere "commoner".

(5) Interview with Patrick Lynch, 20.12.1988  
(6) CDEA 50021-40

According to the file from the Taoiseach's office, the visit was an "official" visit.(7) Indeed, shortly before he left for Canada, the Prime Minister of Canada, William Mackenzie King, extended him an official invitation.(8) Because of petty political bickering over the expense of the trip, the status of the trip was never clarified satisfactorily.(1\*) However, if official, it would have been the established protocol for Prime Ministers of Commonwealth countries to be invited and to accept an invitation to stay in the Governor General's residence. Instead, John Costello stayed in the home of Eire's High Commissioner in Canada, John Hearne. That was a symbolic gesture, almost implying that Eire did not wish to stay in either the Governor General's residence or the Commonwealth.

(7) NASPO. S14331

(8) SEE JOHN COSTELLO'S MEMORANDUM. P.1.

(1\*)The trip undertaken in a personal capacity, was formally sanctioned by his Department on June 2, 1948, and required a departmental supplementary estimate. That file shows that the amount of expenses £305-10-0 was not included in an answer given by the Minister for Finance, Patrick McGilligan, to the Dail on February 22, 1950. The assiduous Assistant Secretary of the Department of the Taoiseach, Brendan Foley received an assurance from the Department of Finance that the "misunderstanding" although "too late to make the corrections for the purposes of the daily volumes of Dail Debates but that the correction would be made in respect of the large bound volumes." (9)

(9) NASPO. S 14331

In order to understand the basis of the possible antagonism that existed between Costello and his host in Ottawa, it is worth mentioning some of the salient characteristics of the Governor General of Canada, Viscount Alexander of Tunis (created in 1946). According to Lord Rugby, Attlee while on holiday in Ireland (10) had told Costello that he would find Viscount Alexander (whom he had met in London in April) "sympathetic on the partition issue and a charming host." In the same report, Lord Rugby cautioned that Viscount Alexander was known to be "reserved".(11) It is worth noting that in April 1948, Lord Alexander was made a freeman of the city of Londonderry,(12) that he was reputed only to employ ex-servicemen who had fought in the war and (13) offered to resign from the British army in 1914 rather than move against his fellow Ulster Unionists. (14) The Irish High Commissioner in Canada, John Hearne, in a report in 1946, referred to the fact that, "It is exactly two hundred and eighty years since his ancestor got that 'grant' of land at Ballyclose, near Newtown, Limavaddy, in the County of Derry."(15)

(10) See Harris, K.: Attlee. Weidenfeld and Nicolson. 1982. p.423

(11) DO 35 3969. Rugby to Machtig .C.R.O. 21.12.1948.

(12) The Times 20.4.1948

(13) Pickersgill and Forster: Mackenzie King Record, Vol 111, pp.145-6

(14) Cronin, S. Washington's Irish Policy 1916-1986. Anvil books, 1987. p.206 quotes from :Alex, N. Nicolson, London 1973, pp. 41-2.

(15) Irish Department of Foreign Affairs (IDFA) 313/3A From John Hearne to Secretary of the Department of External Affairs ,Dublin 1.5.1946

John Hearne made a further mention of the Governor General's Irish association by mentioning that his wife, Viscountess Alexander was a Bingham, which is part of the family of the Earls Lucan of Castlebar. John Hearne considered that these associations were responsible for the tendency of "the press and radio of recent months to glorify Northern Ireland at the expense of the remainder of the country."

On September 1, 1948, John Costello delivered his speech to the Canadian Bar Association in Montreal. It lasted a tedious one and a half hours and some members of the audience, of over one thousand, walked out.(16) This speech concentrated on the historical and constitutional development of Eire. It had been vetted and approved in advance by his cabinet colleagues.(17) The speech referred to the External Relations Act's provisions as having "inaccuracies and infirmities". However, much as Costello had balanced his earlier remarks on the day the Dail went into Summer recess,(18) he had arguably neutralised his comments about "the inaccuracies and infirmities" of the External Relations Act, by asking : "Is it fruitful, with the mentality of the person who would peep and botanise upon his mother's grave, to inquire too legalistically into the nature of that association?"(19) That latter phrase had been carefully rechecked in/

(16) Interview with Patrick Lynch 20.12.1988

(17) Interview with Sean MacBride. 6.1.1987

(18) D.D.Vol. 112. Col. 2382. 5.8.1948. "The right of preferential treatment in the matter of trade with Great Britain and other nations of the Commonwealth is one which we enjoy, so long as we are associated with that league of nations known as the British Commonwealth of Nations. It is a valuable right from the point of view of our people."

(19) NASPO S 14387A contains a copy of the speech

in the National Library of Ireland by Patrick Lynch who, in addition to being private secretary, acted as occasional speechwriter for John Costello.(20) That phrase is important in that it can be interpreted as a counterbalancing statement to the effect that the External Relations Act would not be repealed. Reporting on that speech, which outlined developments in Anglo-Irish constitutional relations, the Irish newspapers highlighted the part of Costello's speech which referred to the "inaccuracies and infirmities" of the External Relations Act but ignored the counterbalancing adage to the effect of not enquiring too legalistically into the nature of the "association" with the Commonwealth.

John Costello, in an interview with the 'Irish Times', in September 1967, recollected how on September 2, 1948, at an afternoon tea party in the grounds of Mc Gill University, Montreal, he and his wife were "quite naturally " expecting to be introduced to Viscount Alexander and his wife. (21) However, as later related to the President of Ireland Sean T. O'Kelly, and reported by Lord Rugby to the Commonwealth Relations Office, (22) Costello was to complain that Viscount Alexander "cold shouldered us in the most obvious way..... my wife and I could not fail to notice how the Alexanders ignored us". (23) Mr. and Mrs. Costello, who were described by Lord Rugby in his report as "uneasy socialites", were sensitive to what they interpreted as a slight.

(20) Personal Interview with Patrick Lynch, 20.12.1988

(21) Irish Times. 8.9.1967 Interview with political correspondent Michael Mc Inerney

(22) PRO DO 35 3969 Rugby to Machtig. 21.12.1948

(23) Ibid



Two days later John Costello attended a formal dinner in his honour hosted by Governor General, Lord Alexander. Costello took the precaution of confirming with John Hearne, that the toast to "the President of Ireland" would be proposed in response to the Royal Toast. The response was not made. (24) According to John Costello's recollections, this was the second time the expected response was not made. Earlier at the annual dinner of the Bar Association on September 1, the official program stated that there would be two toasts; first to the King and then to the heads of the other sovereign states such as the U.S.A. and France. Ireland was not mentioned in the latter toast. John Costello informed the Canadian Minister for Justice, Louis. St. Laurent that the King's toast did not cover Ireland and he "felt bound" to make that point clear.(25) Such incidents further confirmed Costello's "views we held as to the confusion and difficulty created in our international relations by the External Relations Act of 1936."(26) It was rumoured that a silver replica of the "walls of Derry" was placed on Costello's dining table.(27) Costello confirmed the incident of an ornament being placed on his table to President Sean T.O'Kelly.(28) That episode is the one which appears to have offended Costello most. Nineteen years later, Costello, described the ornament as the "guns used against our people".(29) The "guns" referred to was the cannon "Roaring Meg", used in the seige of Derry against the army of King James in 1689.

(24) Ibid

(25) Irish Times, 8.9.1967

(26) Ibid

(27) Ibid

(28) PRO DO 35 3969 Rugby to Machtig 21.12.1948

(29) Irish Times, 8.9.1967

For fear of repetition it is worth pointing that this this recollection supports Lord Rugby's account of Costello's talk with Sean T.O'Kelly in October 1948. During their talk, Costello told the President: "Having had John Hearne confirm that a separate toast would take place - When the dinner took place the only toast given was that of the 'the King' and this upset me." Costello mentioned the matter of the toast to Mr Mackenzie King and he replied that the Royal toast "surely covered" Eire. According to Rugby's report this signified to Costello that "there seemed to me to be no proper appreciation of our status. I was getting sore about things. I did not like the very pointed way in which a model trophy of one of the Derry guns was put on the table in front of me at the Government House dinner. The attitude of the Alexanders towards us both was indeed most marked. I made the decision to cut through all this and I made the statement which brought on the repeal of the External Relations Act." (30) In an interview nineteen years later with the 'Irish Times', John Costello protested emphatically that what he interpreted as ill-befitting behaviour from his host had no influence on his decision to make his announcement. (31)

(30) PRO DO 35 3969 Rugby to Machtig L.D. 21.12.1948

(31) Irish Times, 8.9.1967

By coincidence, during the course of that dinner, the 'Sunday Independent' was preparing to print the front page headline with the legendary rhetorical headline " EXTERNAL RELATIONS ACT TO GO".(32) The headline covered the story prepared that Saturday afternoon in the study of his home by the editor of the 'Sunday Independent', Hector Legge.(33) That headline left no room for a question mark and served to further steamroll John Costello into making "the announcement". According to John Costello, (34) and confirmed by Patrick Lynch (35), Sean MacBride telegraphed him with the advice to make no comment if asked to verify the speculation. (36) Thirty nine years later Sean MacBride did not recollect dispatching such advice by telegram, but did recollect that during Costello's visit to Canada the telephone was his normal channel of regular communication to the office of the High Commissioner in Canada. (37) Costello recalled that after hearing of the 'Sunday Independent' headline, he was then faced with three " choices (1): to say no comment. (2); to deny the truth of the report (3); to admit its accuracy (4); to say the matter would be dealt with on the re-assembly of the Dail."(38) On Tuesday September 7, ( three days after the infamous dinner) the 'Gazette Montreal' reported that John Costello stated at a news conference in the Parliamentary Buildings in Ottawa that the External Relations Act was going to be "ditched".(39)

- (32) Sunday Independent 5.9.1948.
- (33) Personal interview with Hector Legge 31.1.1989
- (34) Irish Times 8.9.1967
- (35) Personal Interview with Patrick Lynch 20.12.1988
- (36) Irish Times 8.9.1967
- (37) Personal interview with Sean MacBride 6.1.1987
- (38) John Costello's Memorandum p.7. para 21
- (39) Gazette Montreal 8.9.1948

That Costello should deem his Minister for External Affairs' advice only worthy of partial consideration, even upon recollection, could be interpreted as a significant comment on the authority of Costello as Prime Minister or as a tribute to Sean MacBride's adherence to the principle of collective responsibility. In fact, Sean MacBride's acquiescence suited his own stance, since repealing the External Relations Act was his party's policy.

The Irish newspapers made Costello's answer front page news. They based their reports principally on a Reuters correspondent who in turn appears to have been familiar with the contents of the 'Sunday Independent' story.

Following the "announcement" on September 7, 1948, the Prime Minister William Lyon Mackenzie King, hosted a dinner that evening for John Costello (40). The menu provided for a toast to the King and to the President of Ireland.(41) Mackenzie King was very embarrassed by the inclusion of this toast and Costello agreed to Mackenzie King's suggestion that the word Eire should replace the word Ireland.(42) Mackenzie King later wrote " I can only pray that these particular menus, though they will be kept by those who were present at the dinner, (1\*) do not become the subject of controversy in Parliament."(43)

(40)Pickersgill & Forster.: Mackenzie King Record, Vol 1V.p.386

(41)CDEA 500021-41 .A copy of the Menu is in this file.

(42)Pickersgill & Forster.: Mackenzie King Record, Vol 1V.p.386

(43)Ibid

(1\*) Copy of Menu in Appendix V111

Mackenzie King, writing about his reaction to the "announcement" stated that he "had not anticipated anything of the kind would be announced in Ottawa and certainly not on the day of the Government giving the Prime Minister a dinner." (44) At that dinner, Costello by way of explanation if not apology, to Mac Kenzie King referring to the Press's reaction, "regretted they always make heavy headlines." (45) According to the academic and journalist, Sean Cronin, John Costello " did not understand the press of North America, which wants clear statements on important questions." (46) He cites the example of John Costello denying having made a statement that Eire would come to the assistance of Canada in the event of an attack specifically from a communist country. (47)

Two days after that dinner party, Mackenzie King invited John Costello to speak his full mind about the position of Ireland and its relationship to the other countries of the Commonwealth. (48)

CONTINUED/

- (44) Pickersgill & Forster: Mackenzie King Record .Vol IV. p. 385  
(45) Pickersgill & Forster: Mackenzie King Record, Vol 1V.p.386  
(46) Cronin, S. Washington's Irish Policy 1916-1986. p.209  
(47) Ibid  
(48) CDEA 50021-40 / sub reference 199/5. Notes of conversation between the Prime Minister of Canada and the Prime Minister of Ireland, at Kingsmere, Thursday, September 9th, 1948. Also present were John Hearne, Canadian Minister of External Affairs, Lester Pearson and the Canadian High Commissioner in London, Norman Robertson.

During the course of a three hour meeting, Costello explained "why he and his colleagues had come to the conclusion that they must repeal the External Relations Act, 1936." While referring to taking the gunman out of Irish politics, the first three pages of this four page memorandum imply that John Costello was stealing a march on the opposition party Fianna Fail. Of interest is the final paragraph where he makes a somewhat grandiose plea that shows that he did overestimate the strategic value of Ireland and also the influence of Irish Nationalist folklore upon the American-Irish and their interest and concern about Ireland. He is quoted in the final chapter as saying, "It was true that hostile outside pressures, first from the Nazis, now from the Communists, were forcing the United Kingdom and the United States to work together in many political fields, but this co-operation was, he thought, seriously limited by the mistrust of England which so many Americans inherited from their Irish forebears. If Anglo-Irish relations were finally cleared up, Ireland could not only make her own contribution to a North Atlantic Defence Pact and Western Union through her resources, geographical position and population, but could make a much greater indirect (contribution) through people of Irish extraction, who, as citizens of other countries all over the world, but of course principally the United States, would then feel free to put their hearts and minds into unreserved support of the closest military and political co-operation between the United States and the countries of the Commonwealth."(49)

(49)Ibid

According to Mackenzie King (but not mentioned in the Canadian memorandum, (50) or Costello's own account of this meeting in his personal memorandum (51), Costello when speaking about the coalition parties stated that he "believed by a certain amount of talk, he would be able to get them welded into one party." (52) Costello appears to have persuaded Mackenzie King that repealing the External Relations Act need not entail ceasing the existing "association" with the Commonwealth. The following day in Cabinet Mackenzie King in turn managed to similarly persuade his heir in waiting, Louis St Laurent, who was against the idea of "members" severing allegiance to the Crown. (53) Mackenzie King now believed he had a mission, (54) "to save the commonwealth in spite of the Tories who will put all their emphasis on the Crown and symbols and be prepared to let the nations that will not give allegiance to the Crown cease to be members of the Commonwealth. My own feeling is that reality is more important than the appearance." (55) This was a reference to the conservative element who were more rigid in wanting to define the criteria for membership.

The following chapter will examine the reaction of the Irish newspapers to John Costello's announcement.

(50) Ibid

(51) John Costello's memorandum on his visit and events in Ottawa.

(52) Pickersgill & Forster.; Mackenzie King Records, Vol 1V, p. 387

(53) Ibid

(54) Pickersgill & Forster.; Mackenzie King Records, Vol 1V, p. 386

(55) Ibid

(B)

PRESS REACTION IN IRELAND TO JOHN COSTELLO'S 'ANNOUNCEMENT'



Sean MacBride, when asked in 1987 why the Ottawa announcement, like the speech to the Bar Association (excepting the 'Sunday Independent'), could not or was not tactfully treated or ignored, answered because the newspapers created such a furore.(1) It would appear that the normally staid Irish national dailies, still influenced by largely self-imposed war-time censorship restrictions, added yet another 'fait-accompli' to the forces intent on making the public repeal of the whole of the External Relations Act inevitable.

The day following what became known as the "announcement" the three Irish national morning dailies, the 'Irish Independent',(2) 'Irish Press'(3) and 'The Irish Times'(4) repeated the story, about John Costello reiterating his statement made earlier to the Canadian Bar Association, that the External Relations Act had "infirmities and inaccuracies". In unison, the papers continued to quote Costello as saying that, "the only thing to do was to scrap it." This phrase "scrap it" , was again attributed by the newspapers to his speech to the Canadian Bar Association. No such term nor inference appears in Costello's twenty-six A4 sized pages approved by the Cabinet on August 19,1948 and now in the Cabinet papers in the National Archives, State Paper Office, Dublin. (5)

(1) Personal Interview with Sean MacBride 6.1.1987

(2) Irish Independent. 8.9.1948

(3) Irish Press. 8.9.1948

(4) Irish Times. 8.9.1948

(5) NASPO S 14387A

The Irish newspapers reported tactfully the appointment of the Argentine Minister to Eire, the three Ministerial statements about Eire's relationship with the Commonwealth, and what was in effect a guarantee to Canada of a bilateral defence pact in the event of Canada being attacked by a Communist country.(6) There is a suspicion that Sean MacBride gave Costello's speech to the Canadian Bar Association his imprimatur because he mistakenly believed that it heralded the official "announcement" of the repeal of the External Relations Act,(7) and then prompted the Irish newspapers with an advance release of the speech through the Department of External Affairs.

Because there was no correspondent from an Irish newspaper,(8) the newspapers in Ireland relied for their reports about the announcement on the United Press and Reuters correspondents.(1\*)

The agency's reports from Canada on the "announcement", particularly Reuters, depended on the 'Sunday Independent' claim that the External Relations Act was to be "scrapped" as part of the speech made earlier to the Canadian Bar Association on September 1. The Irish newspapers, by emphasising that the Act was to be "scrapped" instead of the "intention"(9) to repeal the Act, effectively made it impossible for the Irish government to backtrack and survive. If it were once John Costello's intention to allow only the procedures of the External Relations Act to become defunct, that course was no longer politically possible.

(6) Irish Times, 11.9. 1948

(7) Personal Interview with Sean MacBride 6.1.1987

(8) Cronin, S.: Washington's Irish Policy 1916-1986, p.208

(9) Gazette Montreal 8.9.1948

(1\*) These records were destroyed in a fire at Reuter's head office

If the whole of Costello's speech to the Canadian Bar Association, which contained a balancing phrase to the effect that the External Relations Act should not be put under the microscope, had been reported (i.e. that in fact it might be interpreted that Costello was asking that the procedures of the Act be allowed to quietly become defunct rather than force the Irish government to publicly repeal the Act), then arguably the speech might not have been given such coverage by the Irish newspapers. According to the editor of the 'Irish Times' Conor Brady, it was Costello's visit to Canada, that was responsible for his paper initiating a policy whereby one of their own correspondents always cover visits of the Taoiseach abroad.(10) Notably the 'London Times' did not carry any mention of the so-called "announcement", only referring to the Unionist reaction to it a couple of days later.(11)

(10) Telephone interview with Conor Brady, 21.6.1987\_

(11)The Times 9.9.1948

(C)

THE "ANNOUNCEMENT" AND THE COMMONWEALTH PRIME MINISTERS MEETING

The immediate responses of the Irish cabinet and of the British government to John Costello's "announcement" show that neither were prepared for the suddenness of the announcement. First, the British government's immediate response to the "announcement" will be examined in the context of their informal invitation at the beginning of September 1948, to Eire, to attend the Commonwealth Prime Ministers Meeting.

It will be necessary to recapitulate on the circumstances surrounding the British government's invitation to the Irish government, to attend the October 1948, meeting of the Commonwealth Prime Ministers meeting: The Irish cabinet on August 19, 1948 (1) read a memorandum(2) from Sean MacBride which included the sentence, "In view of the fact that we are not members of the Commonwealth, should our representation at this meeting be contemplated, it would be necessary to make it clear, by an agreed exchange of correspondence in advance that we were attending, not as members of the Commonwealth, but because of our desire to co-operate in matters of mutual interest." Sean MacBride concluded that memorandum by recommending that Ireland should not be represented at the meeting of the Commonwealth representatives.(3) In fact, the Irish cabinet deferred a decision on attending the meeting "otherwise than as a member of the Commonwealth" pending Sean MacBride having further discussions on the agenda of the meeting with Lord Rugby.(4)

(1)NASPO Cab 2/10 G.C. 5/32 19.8.1948

(2)NASPO S14333A contains Memorandum on Commonwealth Prime Ministers Meeting

(3)Ibid

(4)NASPO Cab 2/10 G.C. 5/32 19.8.1948

Sean MacBride, in accordance with the Cabinet decision of August 19, 1948, (5) met with Lord Rugby on the morning of September 7, 1948. Because of the time factor (a press communique was to be released by the British government on September 11), Lord Rugby was anxious to obtain a decision from the Irish government as to whether Ireland would be represented and by whom. (6) MacBride was to discuss the possible attendance of Irish observers at the forthcoming Commonwealth Prime Minister's Meeting and to ask Rugby for further information about the agenda of the meeting. Perhaps confusingly to Rugby, MacBride explained that the "reference made in London had not been interpreted as a definite invitation by the Taoiseach." (7) Rugby showed MacBride the conference agenda which was primarily concerned with defence, especially the envisaged threat from the Soviet Union and also the Program for European Recovery. As bait to attract Eire's attendance, Rugby, knowing that MacBride would at least have liked the Partition issue to be included in the agenda, asked if there were any items which he wished added, reminding him of the "opportunity to have less formal gatherings and informal discussions between individuals". (8)

(5) NASPO CAB 2./10 G.C. 5/32 19.8.1948

(6) PRO PREM 8/1464 Rugby to Machtig. L.D. 7.9.1948

(7) NASPO S14333A Memorandum on Commonwealth Prime Ministers Meeting.

(8) PRO PREM 8/1464 Rugby to Machtig. L.D. 7.9.1948.

From the British government's point of view the inclusion of the issue of the "Partition of Ireland" on an agenda which was concerned with aspects of Commonwealth relations on the world stage, such as post-war economic recovery and the Soviet threat, might have appeared parochial. However, to the Irish government it would have appeared that the proposed agenda illustrated the lack of priority which the British government were then prepared to give to the problem of Partition, even among the "Commonwealth family".

Apparently, MacBride and Rugby were interrupted during their luncheon meeting on September 7, by Frederick Boland, who brought them the first news of Costello's "announcement".(9) According to Rugby, at a morning meeting on September 7, Sean MacBride "stated specifically that the Eire government intended to do away with the External Relations Act. He said that no definite time had been finalised for this step."(10) In this letter Rugby predicted that the External Relations Act would be abolished "when the Dail resumed in November."(11)

(9) Browne, N.: Against The Tide. p.132

(10) PRO PREM 8/1464 Rugby to Machtig. L.D. 7.9.1948

(11) Ibid

Despite this possible upset to the meeting and to Anglo-Irish relations, the MacBride-Rugby meeting on September 7, ended with MacBride promising that he would raise the question of Eire's attendance at the Commonwealth meeting immediately at Cabinet and let Rugby have a decision as soon as possible. In fact MacBride later wrote to Rugby promising to let him have the names of those who would be attending the Commonwealth Prime Minister's meeting, (presumably in an observer capacity).(12)

Lord Rugby, in his report on his meeting with Sean MacBride on September 7, did not mention anything about the 'Sunday Independent' headline. (Interestingly, he did comment that he "would not be sorry to see the Act go).(13) Sean MacBride subsequently claimed to believe that no mention was made about the 'Sunday Independent' headline because Lord Rugby was restricted in his choice of newspapers.(14) It is more probable that Rugby chose to believe that attacks on the External Relations Act were for home consumption and, that any acknowledgement might precipitate the actual event.

(12)NASPO S. 14333A

(13)PRO PREM 8/1464 Rugby to Machtig. L.D. 7.9.1948

(14)Personal Interview with Sean MacBride 6 .1. 1987



Given the British government's annoyance with Costello's "announcement", Mac Bride was optimistic in recommending that, "subject to Ireland's position in relation to the British Commonwealth of Nations being made clear, a representative of Ireland should attend for the purpose of taking part in the discussion of certain items." (15)

On September 9, the Irish cabinet, in line with MacBride's own recommendation, "decided" that MacBride should have further discussions about the question of Ireland being represented at the Prime Minister's Commonwealth Conference. (16) However, while the MacBride-Rugby meeting on September 7 ended on an open note, the "invitation" to attend the Commonwealth Prime Ministers Meeting was soon afterwards withdrawn by the British government who considered a report from Philip Noel-Baker at a cabinet meeting on September 10, 1948. (17)

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(15) NASPO S 14333A Memorandum in file

(16) NASPO Cab 2/10 G.C. 5/35 9.9.1948

(17) PRO Cab 128/13. CM(48)50 pp. 80-85

On the evening of September 10, Lord Rugby telegraphed the Commonwealth Relations Office with the information that on the morning of the Irish Cabinet meeting of September 9, he had met MacBride, to discuss the Irish cabinet's likely reply, to the invitation to attend the Commonwealth Prime Minister's Meeting.(18) Apparently the Australian Deputy Prime Minister and Minister for External Affairs, Dr. Herbert Evatt (who was in Dublin to receive an honorary degree from Eamon de Valera in his capacity as Chancellor of the National University of Ireland) attended the meeting and urged the "desirability of Eire taking part in the conference discussions."(19) MacBride showed Rugby the draft of a letter addressed to him, "indicating an intention to be represented at the conference." Lord Rugby did refer to the reservation of "certain announcements" meaning the publication of letters dealing with the proposed discussion of Partition. Rugby explained to MacBride that his government, "rather than have any such letter on the record, whether to be published or not, might decide not to extend an invitation." As though dealing in riddles Rugby reported, "I made it plain to Mr. MacBride that whatever he or I might have said, no invitation had been issued and no acceptance had been tendered till the procedure had been agreed upon."(20)

(18) PRO PREM 8/1464 Telegram No. 90. 10.9.1948

(19) Ibid

(20) Ibid

That Lord Rugby interpreted MacBride's proposed reply as "indicating an intention to be represented at the conference" without defining the status of attendance, i.e., as observers or associate or full members, shows that he too was possibly over-optimistic regarding the state of Anglo-Irish Relations within the Commonwealth setting. The important point about the continuance of these discussions is that neither MacBride nor Rugby, the principal actors on the stage of Anglo-Irish relations, considered that Costello's "announcement" would have any bearing on Eire's attendance at the Commonwealth Prime Minister's Meeting. Neither appears to have thought that the repeal of the Act need affect Eire's existing "association" with the Commonwealth. That too is likely to have been John Costello's interpretation.

The Irish cabinet's expression that attendance was dependent on Eire's status vis-a-vis the Commonwealth "being made clear" was interpreted by Philip Noel-Baker and the British cabinet as meaning that Eire would only agree to be represented at the meeting, "not as a member of the British Commonwealth but as a country associated with the Commonwealth." (21) His Cabinet paper stated that "the whole drift of his remarks at the conference showed that what he has in mind is association with the Commonwealth instead of formal membership of the Commonwealth." (22) That distinction is important, because it shows that the British government were aware that the Irish government still considered that they were "associated" with the Commonwealth.

(21) PRO Cab 128/13 CM(48) 50 10.9.1948 p.85 (p.12)  
(22) PRO Cab 129/29 CP(48) 220 9.9.1948 p.201

Philip Noel-Baker explained to the Cabinet that the Irish government would expect to discuss the question of Partition in an exchange of letters between the two governments which "might subsequently be published." (23) To the British cabinet meeting on September 10, now aware of John Costello's "announcement", it may have appeared that the Irish government were adding insult to injury. The Cabinet asked whether "it would be right to renew the invitation to Eire to attend the meeting of Commonwealth Prime Ministers." Philip Noel-Baker answered the question, pointing out that to accept Eire's attendance categorically as a non-member of the British Commonwealth would "inevitably raise difficulties with India and Pakistan." (24) He further pointed out the "obvious danger" in allowing a discussion on Partition reasoning that it would establish a precedent which would allow discussion of the question of partition at a full meeting of the Commonwealth Prime Ministers. There was the fear that discussion on partition would establish a precedent for the discussion of internecine disputes between members of the Commonwealth. The Cabinet noted that the South African Prime Minister, Dr. Malon, had made as a pre-condition of his country being represented, the demand that apartheid would not be discussed with India and Pakistan. (25)

(23) PRO Cab 128/13 CM(48)50 10.9.1948. pp.80-85

(24) Ibid

(25) Ibid

This meeting of the Cabinet agreed that Sean MacBride should be told "orally" by Lord Rugby that, "in view of the attitude of the Eire government, the United Kingdom government considered that it would be embarrassing for Eire's Ministers to be invited to attend the meeting of Commonwealth Prime Ministers." (26) This "invitation" appears to have been as ambiguous as Ireland's position vis-a-vis the Commonwealth. Nevertheless, on September 14, the London 'Times' quoting an official communique, reported that Eire was "not invited to Commonwealth Prime Minister's Conference." (27) The 'Irish Times' reported similarly on the same same day. (28)

Immediately following the British cabinet's meeting on September 10, a telegram of their decision was sent from the Commonwealth Relations Office to the Prime Ministers of Canada, Australia, New Zealand, South Africa, India, Pakistan, and Ceylon. The telegram contained a reminder about the possible economic effects of Eire's departure from the Commonwealth. (29) The telegrams to the Prime Ministers of Canada, Australia and New Zealand additionally mentioned that discussions between the members of the Commonwealth would be necessary later and that the longer term aspects of the "Eire Pronouncements were being urgently examined." (30) That was a reference to the interdepartmental committee headed by Sir Norman Brook to report on the consequences of Eire's decision to repeal the External/

(26) PRO Cab 128/13 CM(48)50 10.9.1948 p.85.(p.12)

(27) The Times, 14.9.1948

(28) Irish Times, 14.9.1948

(29) PRO DO 3979 p.3 x.2639/15

(30) Ibid

(31) PRO DO 35 3960 (X2638/28) "The Practical Consequences of the Termination of Eire's Membership of the Commonwealth."

External Relations Act.(31) Norman Brook was already considering the question under the auspices of the Committee on Preparations for the Commonwealth Prime Ministers, over which he presided.(32) Already, in August 1948, at the behest of the Committee on Commonwealth Relations, Sir Norman Brook had visited individually the Prime Ministers of Canada, Australia, and New Zealand primarily for informal discussions on the constitutional future of India.(33) At these meetings, Sir Norman Brook referred to the recent statements made by John Costello and Sean MacBride in the Dail in late July 1948, and discussed the possibility of further constitutional changes in Eire. The Canadian representative (according to Norman Brook's report) had already reported to his own government that the Irish government was likely to repeal the External Relations Act; according to Sir Norman Brook, Mackenzie King had effectively rejected this report because he believed that a formal repeal of the External Relations Act was unlikely, because it could disrupt the Irish coalition government and it would be a set back to fulfilling the hope of ending Partition.(34)

(32) PRO Cab 134/118. CR(48)5 . 14.9.1948 Committee on Commonwealth Relations . Commonwealth Relationship: Consultation With Canada, Australia and New Zealand

(33) Ibid

(34) Ibid

The Prime Minister of Australia, Ben Chifley, and New Zealand's Prime Minister, Peter Fraser, took the same view. Sir Norman Brook had in late August taken the precaution of recording a general feeling that "All were agreed, however, that if Eire should repeal her External Relations Act she would thereby sever her last constitutional link with the Commonwealth and could no longer be regarded as a member of the Commonwealth." (35) Norman Brook intended drafting that "feeling" into a "statement of general principles to be approved by the forthcoming October meeting of Commonwealth Prime Ministers." (36) This is supported by Mackenzie King, who in his diary refers to the fact that he was aware that the question of the possible repeal of the External Relations Act "was coming up at the meeting of Prime Ministers." (37) Extracts from the proposed draft statement of general principles for discussion at October Meeting of Commonwealth Prime Ministers read :

"1. Commonwealth policy should be directed towards maintaining the existing membership of the Commonwealth, even though some Commonwealth countries (i.e. Eire, India, Pakistan, and possibly South Africa) may be unable to accept the precise form of constitutional relationship which is preferred by the other members. (38)

(35) PRO Cab. 134/118. CR(48)5. 14.9.1948.p.31.(para 4. p.2)

(36) Ibid

(37) Pickersgill & Forster.: Mackenzie King Record.Vol 1V. p.385

(38) PRO Cab 134/118. CR(48)5. 14.9.1948. Appendix, Commonwealth Relationship.Draft Statement of General Principles for Discussion at October Meeting of Commonwealth Prime Ministers. Subsequently published in October 1948.No. 35966 Prem 8/1464.

7. This recognition of the Crown for external purposes only must be regarded as the minimum constitutional link; and it must be accepted that a country which cannot profess even this limited allegiance to the Crown cannot be treated as a member of the Commonwealth.

Thus, if the Government of Eire fulfil their declared intention to repeal the Eire Executive Authority (External relations) Act, 1936, they must be regarded as having severed the last constitutional link connecting Eire with the Commonwealth, and Eire must be treated as having ceased to be a member of the Commonwealth.

11.... Countries which cannot accept any form of constitutional link must be regarded as foreign states; and it would be inexpedient to attempt to define what is meant by their "association" with the British Commonwealth. Some definable aspects of that new "association" may emerge as time goes on; but it will be preferable to wait and recognise subsequently links which have developed in practice rather than seek to devise in advance a formula of "association" with which such States would be required to comply."



Interestingly, this proposal was most accommodating as far as India was concerned: Paragraph 9, stated; " If a Commonwealth country should adopt a "republican " form of constitution, providing for a President as the Head of the State, this need not be regarded as inconsistent with continuing membership of the Commonwealth so long as it is accepted that the President will act as the King's representative, at least for purposes of external relations." adding a recommendation that the Commonwealth would "commonly be described as 'the Commonwealth of Nations', instead of 'the British Commonwealth of Nations.'" (39)

Given Sir Norman Brook's prior discussion with the Commonwealth Prime Ministers it was possible that paragraph 7 of the above statement was intended originally to have the effect of warning Eire that if she repealed the External Relations Act, she would be classified as a foreign country in the Commonwealth context and as a result would lose the trade and citizenship benefits received under the Most Favoured Nation Status. Losing Most Favoured Nation Status would mean that citizens of Eire resident in Britain would be given the status of aliens.

(39) PRO PREM 8/1464 . Document No. 35966. COMMONWEALTH RELATIONSHIP. Statement of General Principles. October 1948 Para 12. Section (D).

To Irish republicans a declaration from the Commonwealth Prime Ministers Meeting threatening Eire with the loss of Most Favoured Nation Status would have been like showing a "red rag to a bull". Arguably, John Costello's premature announcement prevented the divisive consequence for Eire of such a pronouncement by a perhaps unwitting Commonwealth Prime Minister's meeting. That adroit move alone would be argument enough to justify John Costello in making his premature announcement. But it is perplexing that John Costello never gave that as a reason in subsequent and even irreconcilable explanations for the suddenness of his "announcement".(40) John Costello was aware that, since no concession was forthcoming for not repealing the External Relations Act, then some threat might be issued by the British government if given notice of the Irish government's intention to repeal the External Relations Act.(41) In fact a week after John Costello had made his 'fait accompli' announcement Norman Brook reported that Mac Kenzie King suggested that even if Eire repealed the External Relations Act "she might still claim that she continued to be 'associated' with the nations of the British Commonwealth", and pointed out that "certain countries which had been formerly members of the Commonwealth were still in a special 'association' with the Commonwealth."(42) Norman Brook admitted that this suggestion won acceptance in Australia and New Zealand.(43)

(40) See John Costello's Personal Memorandum, Account to Mac Kenzie King(44) and President Sean T.O'Kelly's account.(45)

(41) Telephone Interview with Patrick Lynch. 26.3.1990

(42) PRO PREM 8/1464 CPM(48)5 . 14.9.1948

(43) Ibid

(44) CDEA 50021-40. 199/5. Memorandum 9.9.1948

(45) Private Papers of Sean T.O'Kelly, N.L.I. MS.22848

Despite the Commonwealth reaction Norman Brook still wrote to Attlee suggesting "it has now become more important to be sure that there is no doubt, in law, that, if this Act is repealed, Eire will become a Foreign State." (46)

Sir Norman Brook exemplified the British post-war Pro-Commonwealth syndrome. Having "lost an Empire" he feared that a two tier membership would develop among Commonwealth members. Briefly, Brook may have feared that an active neutral such as Eire would lead the way towards associate members having their own policies on defence and foreign affairs, perhaps leading to the unthinkable - members taking opposite sides in a World War. Eire's example if followed would have prevented the hopes that Britain clung to (as expressed by the Committee on Commonwealth Relations in July, 1948) of forming a Union of Western Europe "powerful enough to stand independent of both the Soviet and American blocs" provided she could secure "the support of countries outside Europe which are in a special association with its members; and this makes it the more necessary for us at the present time to explore every means of securing that the Commonwealth shall remain as large and as powerful as possible." (47)

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(46) PRO PREM 8/1464 G.R. p.8. (p.1)

(47) PRO Cab 134/118 CR(48)4. 21.7.1948. p.29

Herbert Evatt wrote to Attlee on October 12, 1948, " The position of Eire, moreover, is already different from that of the rest of us. I do not think therefore, that we should hesitate to explore the possibilities of any newer modes, forms or symbols of association which may be suggested, even if they were to depart in some respects from what may be called the orthodoxy of the Balfour report." (48) This rebuff to Norman Brook's own personal fears about diluting the nature and quality of the Commonwealth relationship can probably be attributed to John Costello's timely intervention with Mackenzie King on September 9. (49) Norman Brook attributed the change in the Commonwealth attitude from the "consensus" he had obtained in August, (that Eire if she repealed the External Relations Act, would be considered a foreign state), to the fact that he was then "discussing a hypothetical situation". (50)

Given the possibility of such a threat, however innocently intended, from the Commonwealth Prime Ministers Meeting, Professor Nicholas Mansergh is justified in his perceptive remark that "Mr. Costello may have feared that if informed of Irish intentions in advance the United Kingdom government would commit itself to a course of action from which, later, it might find it difficult to depart, even if so desired." (51)

(48) PRO PREM 8/1464. Paper Headed Commonwealth of Australia.  
L.D. 12.10.1948

(49) CDEA 50021-40 subsection 199

(50) PRO PREM 8/1464 CPM (48) 5. dated 14. 9. 1948

(51) Mansergh, N. Survey of British Commonwealth Affairs, p.284.  
footnote 3.

(D)

IRISH CABINETS' REACTION TO JOHN COSTELLO'S "ANNOUNCEMENT"

On Wednesday, September 8, 1948, Sean MacBride and William Norton requested authority (as was the established procedure) from the Taoiseach's department to prepare the draft of a Bill entitled "Transfer of Certain Powers and Functions to the President", overwritten by hand to read "Powers and Functions of the President (External Relations) Bill, 1948." (1) This procedure was necessary in order to implement the necessary legislation to repeal the External Relations Act. The request was challenged by the Assistant Secretary of the Department of the Taoiseach, Brendan Foley. Such a response is normal whenever Cabinet procedures are infringed. On Thursday, September 9, Brendan Foley, formally returned the application form to the Department of External Affairs with a handwritten note asking if the Department of Finance had been consulted. Additionally, he pointed out that the application did not comply with cabinet procedure in the following two respects: "that the concurrence of no other Ministers had been sought and secondly that the decision requested is not in order because it should have been a request to the Government to have a Bill drafted on the lines of the general scheme." (2)

(1) NASPO Cab 2/10 GC 5/35 9.9.1948  
(2) NASPO S 14387A

In response to this riposte, Sean MacBride replied the following day, certifying that the matter was urgent and must be considered by the cabinet that same day because "government approval is required urgently in order to allow time for the drafting of the contemplated Bill." He further pointed out that the Department could not have taken steps to allow the usual period of notice being given for the reason that "recent developments had made it imperative that a decision should be arrived at immediately." (3) The use of the word "developments", in conjunction with the haste, implies a degree of unpreparedness. Certainly, this brief exchange of minutes above all else in the records illustrates the lack of planning for the implementation of the supposed "decision" to repeal the External Relations Act.

(3) Ibid

On that same day (September 9), Sean MacBride received approval from the Cabinet to his proposal to have the "Repeal Bill" entitled "Powers and Functions of the President (External Relations) Bill, 1948" drafted.(4) Accordingly, the Department of External Affairs "instructed" the Taoiseach's department that the present application should be "regarded as a request for authority to have a Bill drafted", adding that the opportunity "would arise to consult the Taoiseach about the question of the introduction of the proposal."(5) This departmental jockeying for control of the Bill is evidenced in the reply letter from the Department of the Taoiseach dated September 10, 1948. The reply addressed to the Department of External Affairs requested, "when the draft Bill is available you will arrange to consult this department and the Department of Finance in accordance with the cabinet procedure on instructions relating to legislation prior to submitting the draft to the government. In accordance with the established practice, this department will, on receipt of the draft, ascertain the views of the Secretary to the President in the matter."(6) It is possible that the Department of the Taoiseach and perhaps the Secretary of that Department, Maurice Moynihan, had become too accustomed to making major inputs into foreign affairs under the former Taoiseach, Eamon de Valera who also normally acted as Minister of External Affairs.(1\*)

(4) NASPO Cab 2/10 GC 5/35 9.9.1948

(5) NASPO S 14387A

(6) Ibid

(\*)I am grateful to Dr. Greagor O'Duill, Archivist at the Department of Foreign Affairs, Dublin, for this point.



The debacle immediately following the announcement continued to a lesser degree through the several changes of the title of the proposed Bill. The initial title "Transfer of Certain Powers to the President" was altered by hand to "Powers and functions of the President (External Relations) Bill, 1948" and approved by the Cabinet on September 9. (7) The title was again changed to "Executive Power of the State (External Relations) Bill, 1948", approved in Cabinet on November 9, (8) to finally on November 12, "The Republic of Ireland Bill, 1948." (9) Furthermore, on the latter two occasions the contents of the proposed Bill were subject to amendment in Cabinet. Professor Ronan Fanning, in his book "Independent Ireland", referring to the mix up over the drafting of a Bill on the day following "the announcement", interprets this as confirming "the impression of confusion and uncertainty within the government about what repeal meant." (10)

- (7) NASPO Cab 2/10 GC 5/35 9.9.1948
- (8) NASPO Cab 2/10 GC 5/46 9.11.1948
- (9) NASPO Cab 2/10 GC 5/47 12.11.1948
- (10) Fanning, R.: Independent Ireland, p.174

(E)

JOHN COSTELLO RETURNS TO IRELAND

At 7a.m., on Friday, October 1, 1948, John Costello's ship, 'Britannic' (1\*), entered Cobh Harbour, outside the city of Cork. The Minister for External Affairs, Sean MacBride, and the Minister for Defence, Dr. Tom O'Higgins, were among those who ferried out specially to meet him on board. The 'Cork Examiner' reported that MacBride, Costello and O'Higgins engaged in an "earnest conversation" over breakfast. (1) Arguably, the significance of this traditional Prime Ministerial welcome meant that John Costello had the approval for his "announcement" from his powerful inner cabinet. Such a supportive gesture was in line with Sean MacBride's policy of showing a united front in international relations.

On October 5, 1948, Sir Norman Brook, in his capacity as chairman of the Committee on Preparations for the Meeting of Commonwealth Prime Ministers, reported to Cabinet Ministers that John Costello, upon arriving in Cork, stated publicly that the King was never the symbol of co-operation between the nations of the British Commonwealth, but that the Statute of Westminster was the symbol of free association. Sir Norman Brook advised that it "seems unlikely that the Eire government have examined the problems that would follow" and "the despatch of a warning might least have the effect of discouraging Eire ministers from making any further public statements, or from taking the irreversible step of publishing a Bill until they had an opportunity to consider some of the practical consequences which would follow by the repeal of that Act." (2)

(1) Cork Examiner, 2.10. 1948

(2) PREM 8/1464 CPM(48)11 5.10.1948

(1\*) Newspaper shipping reports refer to "Britannia" Patrick Lynch has kindly drawn my attention to the correct name "Britannic".

On October 4, Rugby advised the Permanent Head of the Commonwealth Relations Office, Eric Machtig, that the Costello government aimed to secure the "support of Dominions to acceptance of Eire as an associate under a formula and for purposes not yet disclosed." (3) It was not that Rugby had at that time misread the aims of the Irish government regarding their eventual decision to reject any type of membership. More simply, by October 4, 1948, the Irish government had not decided that the corollary of the repeal of the External Relations Act should entail that the description of the state should be a Republic, or even if so, that Eire should formally depart from the Commonwealth. This conclusion is partially based on the fact that no coherent policy vis-a-vis Eire's relation to the Commonwealth had been properly examined by the Irish cabinet, as exemplified by John Costello's remarks on his return to Cobh on Friday, October 1, 1948, about "associate membership" of the Commonwealth. (4)

(3) PRO DO 35 3960 L.D. 4.10. 1948. Rugby to Machtig.

(4) Irish Independent. 2.10.1948

CHAPTER: V1

EIRE'S CONSTITUTIONAL POSITION WITH THE COMMONWEALTH

This chapter will examine why "associate membership" or, in Eire's case, "non-foreignness" was opposed initially by Britain and eventually agreed upon by the representatives of Eire, Britain, Australia, Canada, and New Zealand.

On October 5, Attlee was advised by Norman Brook to seek "a firm legal opinion" in respect of the Most Favoured Nation clause and Eire's repeal of the External Relations Act.(1) Accordingly Attlee sent Lord Chancellor Jowitt a personal minute requesting his legal opinion.(2) Four days later, Jowitt in a brief opinion advised Attlee that the repeal unaccompanied by a declaration "putting some other complexion" on it would by itself be "a categorical renunciation by Eire of further membership of the Commonwealth." Jowitt thought that the Hague Court, for the purposes of the Most Favoured Nation Treaties, would regard Eire as a sovereign independent foreign state.(3)

In 1948 there was no formal criterion for membership of the Commonwealth. A report from a Committee on Commonwealth Relations in May 1948, which was examining the practical problems involved in creating a new "Commonwealth of British and Associated Nations" considered that the existing Commonwealth relationship had five essential features: the position of the Crown, common citizenship, economic co-operation, consultation on foreign policy, and collaboration in defence."(4) Eire fulfilled the first three and least important of the above criteria.

- (1)PRO PREM 8/1464 CPM(48)11
- (2)PRO PREM 8/1464 Memo 138/48 . 5.10.1948
- (3)PRO. PREM 8/1464 Memo dated 9.10.1948
- (4)PRO Cab /134/118 CR(48)2. 21.5. 1948 Third Report by Official Committee. 21.5.1948. p.23

Significantly, Jowitt believed that citizenship was "safe" because the 1948 British Nationality Act provided that "Eire is not included in the expression 'foreign country' as used in that Act and the repeal would not affect that position." Jowitt had conferred with the Solicitor-General and the legal department of the Foreign Office, Home Office, and the Commonwealth Relations Office. They concurred with his opinion that "after repeal Eire will possess in international law all the attributes of a sovereign independent foreign state."(5) Overall, Jowitt's opinion was then that Eire's relationship to the United Kingdom would be regarded as that of a "foreign country" not included within the Commonwealth, but that this would only affect Most Favoured Nation Status in relation to trade.(6)

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(5) PRO PREM 8/ 1464 Memo dated 9.10.1948

(6) Ibid

Arguably, loss of Most Favoured Nation Status for Eire would apply to trade only because the British Nationality Act, 1948(7) recognised four different categories of persons in Britain: citizens of the United Kingdom, British subjects or Commonwealth citizens, Irish citizens and finally aliens. This Act meant that Irish citizens resident in Britain could, as a distinct category, retain their Irish nationality and would continue to receive the same rights and privileges as British subjects and citizens of Commonwealth countries. The practical reasoning was that it prevented the introduction of passports between Northern Ireland and Eire. Additionally, citizens of Eire, who were loyalists were safeguarded by being allowed to remain British subjects simply by claiming that status under such broad grounds as a close association with the United Kingdom.

Because Eire's exports to Commonwealth countries (other than the United Kingdom) were so small, (three-and a-half million pounds of which alcoholic products comprised two-and-three-quarter millions), (8) the withdrawal of Most Favoured Nation Status from Eire would have had little short-term effect, especially since withdrawal could be counterbalanced by an increase in tariffs against exports to Eire from Commonwealth countries, including Britain which benefited from preferences. Even though the amount of exports was relatively small, because of the strong political influence of Irish industrialists, the repercussions of losing this trade would have had serious political consequences for the Irish coalition government.

(7) British Nationality Act, 1948. (11 & 12 Geo. 6. Ch. 56) in , Mansergh, N. (Ed.): Documents and Speeches on British Commonwealth Affairs, 1931-1952, Vol 11, pp.950-51(949-968)

(8) PRO DO 35 3961. Report on Trade Preferences and ERA.20.10.1948



Even at this early stage it was recognised that there was room to accommodate Eire. For example Lord Jowitt in a later opinion included the proviso, "the position might well be different if there existed corresponding legislation in Ireland declaring that subjects of the United Kingdom were not to be treated as aliens in Ireland." (9) Jowitt, presumably to overcome Most Favoured Nation difficulties, suggested that in order that Eire might be accepted as a non-foreign state, " could the Irish say something like this: the Irish government have no wish to weaken the association which has developed between Australia, Canada, Great Britain, New Zealand, the Union of South Africa, and the newer members of the Commonwealth, India, Pakistan, and Ceylon. On the contrary they believe that by removing the unreal situation brought about by the External Relations Act they will extend and improve the co-operation with those nations which has been developed. In particular they hope that citizens of Eire will not be treated as foreigners by the members of the Commonwealth and they on their part are not to treat as foreigners the citizens of other member states." (10)

(9) PRO DO 35 3962 / 115492

(10) Ibid

A declaration of that nature would have entailed amending the Irish government's Nationality Act, 1935, which confined Eire citizenship to Eire only. Jowitt's solution was one that Sean MacBride appeared to favour during the Chequers meeting in mid-October. However, he appears to have changed his mind when he realised that amending the legislation would require a divisive referendum.

From the British government's point of view, the continuation of the status quo vis-a-vis Eire and the Commonwealth in relation to trade and citizenship privileges was complicated by several factors. Prime amongst these was the fear that Argentina might challenge any new agreement by raising the argument that if Eire, as a foreign state, received Most Favoured Nation Status from Britain, then under international treaties, Britain was obliged to accord foreign states including Argentina, the same treatment. (1\*)

(1\*) Article 4 of the Argentine treaty of Amity, Commerce and Navigation, 1825 states: "No higher or other duties shall be imposed on the importation into the territories of His Britannic Majesty of any articles of the growth, produce or manufacture of the United Provinces of Rio de la Plata and no higher or other duties shall be imposed on the importation into the said United Provinces of any article of the growth, produce or manufacture of His Britannic Majesty's dominions, than are or shall be payable on the like articles, being the growth, produce or manufacture of any other foreign country ..." (11)

(11) DO 35 3991

On October 5, 1948, Sir Norman Brook submitted a report concerning the practical consequences that would follow if Eire repealed the External Relations Act. The report concluded that once Eire had formally severed her connection with the Commonwealth, serious consequences would follow if any attempt were made to treat Eire otherwise than as a foreign country or to treat her citizens otherwise than as aliens.(12) On a practical level the report included the counter-argument that historically and geographically it would be absurd to regard Eire as a foreign country.(13) Brook's report concluded by reiterating that there would be "serious consequences" if Eire as a foreign state were allowed to retain benefits under the Most Favoured Nation clause in international treaties. In contrast to Jowitt's later recommendations, Norman Brook specified that Irish citizens would then have to be treated as aliens, but admitted that there would be administrative difficulties involved.

At this stage, Norman Brook had taken on the powerful position of departmental co-ordinator and specialist adviser to the British government on Eire's proposed repeal of the External Relations Act. He played a dominant role in directing the British government's immediate response and their ensuing stance in the negotiations dealing with the intention of the Irish government to repeal the External Relations Act.

(12) PRO Prem 8/ 1464 CPM(48)11 5.11.1948

(13) Ibid

CH: V11

BRITISH GOVERNMENT DESPATCH WARNING AND "INVITE" THE IRISH  
GOVERNMENT TO DISCUSSIONS

On October 5 1948, Norman Brook suggested that the "first move should be oral discussions between Ministers".(1) Brook considered that, that would be more helpful in assisting the Irish government (in what he described as) "to find a way out of the difficulties in which they have placed themselves." (2) The following day, Attlee despatched a telegram to Lord Rugby for his own information.(3) Significantly it advised him to see Sean MacBride as opposed to John Costello and to explain to him the repercussions regarding most Favoured Nation Status for Eire.(4) This note set the tone and topic for the discussions by emphasising the envisaged difficulties over trade and nationality: Rugby was asked to convey that "In both of these matters the United Kingdom have international treaty obligations under which they are bound to give Most Favoured Nation treatment to a number of foreign countries." Included was an invitation to the Irish government to discuss the questions that would arise before taking "a step which may bring these results." (5)

(1) PRO PREM 8/1464. CPM(48)11 5.11.1948

(2) Ibid

(3) PRO DO 35 3960. 6.10.1948. Telegram No.263 X. Des. 4.53.p.m.  
2638/28

(4) Ibid

(5) Ibid

Rugby did not see Sean MacBride on the evening of October 6, mistakenly believing that he would be in Paris until October 10. (6) The idea that Rugby should first see MacBride may have been an attempt by the British government to encourage MacBride to challenge Costello's position as leader of the Coalition. In November 1947, following his party's electoral success, Rugby had reported that "Mr Sean MacBride looks like being the head of an Irish Government at some future date." (7) Again in 1948 Rugby reported that, "Mr. Sean MacBride is the man of the future in Irish politics." (8)

It is most unlikely that Sean MacBride would have availed of the opportunity to challenge Costello's leadership especially since John Costello could depend on the collective support of his cabinet including such pro-Commonwealth Ministers as Richard Mulcahy, Minister of Education and Leader of Fine Gael. (1\*)

(6) PRO DO 35 3960 Tel.X2364/5 7.10.1948

(7) PRO DO 35 3955 Telegram No. 71. 1.11.1947.

(8) PRO FO 371 70175. Commonwealth Liaison File. CRO. X.2647  
Rugby's Report on interview with Sean MacBride 23.2.1948

(1\*) During the Second reading of the Republic of Ireland Bill, 1948, the Leader of Fine Gael, Richard Mulcahy stated, "I do not think any member of the Fine Gael organisation or any leader of the Fine Gael organisation need explain in any way why he supports the Bill that is before this House today." (9)\* He went on to state "The Treaty of 1921 was accepted with the Crown in the belief that the Crown would operate to wipe out the blot of Partition. The Crown has failed and the Crown has gone." (10)\*

(9)\* D.D. Vol.113. Col.668. 26.11.1948

(10)\* D.D. Vol.113. Col.672. 26.11.1948

On October 7, Rugby reported to the Commonwealth Relations Office, "As Mr. MacBride is not expected back from Paris till 10th. I communicated substance of your paragraph 4 to Mr Costello at one fifteen today."(11) Rugby had expected Costello to argue the case that Eire, like Burma, which had withdrawn from the Commonwealth in 1947, should retain Most Favoured Nation Status. Rugby had been briefed to point out that the reason for continuing Most Favoured Nation Status on nationality and trade to Burma was because, "few Burmese citizens come here, and Burma's staple products have few foreign competitors in our market". Following his visit to John Costello, Lord Rugby reported that Costello assured him that the repeal of the External Relations Act " would be a constructive move in the field of friendly relationship". With professional and objective understanding, Rugby reported sympathetically on Costello's explanation about the domestic need for repeal: "Think what my position would have been if a private member had brought in a motion for its repeal. I dreaded that."(12) There is an impression that John Costello, was "distressed" by this first formal reaction of the British government to his "announcement".(13) According to John Costello's Private Secretary, Patrick Lynch, after Rugby left the Taoiseach, Costello called in Patrick McGilligan and later, Sean MacBride for a discussion.(14)

(11) PRO DO 35 3960 . Rugby addressed note to Norman Archer . CRO, X2364/5/ . 7.10.1948

(12) Ibid

(13) Browne, N.: Against the Tide, p.129

(14) Personal Interview with Professor Patrick Lynch. 20.12. 1988

Later that day, John Costello held a meeting(1\*) of colleagues in his home in Ballsbridge, Dublin. That meeting is remembered by former Minister of Health, Dr. Noel Browne(15) and verified by Costello's Parliamentary Secretary, Liam Cosgrave.(16) There is no record nor firm recollection of all the attendants. However, that meeting can be fairly described as a "caucus" meeting(1\*) of the cabinet. As recollected by Dr. Noel Browne, John Costello was "distressed" and offered his resignation.(17) It is likely that the offer of resignation was an honourable effort by John Costello to offer himself as a scapegoat for his "unconstitutional action" which brought the "threats" from Britain. On the other hand, it may have been intended to consolidate the collective support of his cabinet and party for future negotiations with Britain and the Commonwealth; members of the Irish cabinet could not at that point have accepted Costello's resignation without jeopardising their own positions.

(15) Browne, N.: Against the Tide, p. 129

(16) Letter to author from Liam Cosgrave 18.1.1989

(17) Browne, N.: Against the Tide, p.129

(1\*) In 1984, Former editor of the 'Sunday Independent', Hector Legge, (author of the infamous 'Sunday Independent' headline "External Relations Act To Go"), in response to Dr. Noel Browne confirming his recollections of the meeting, (18) disputed that the meeting took place. Four members of the coalition government; James Dillon, Daniel Morrissey, Sean MacBride and Patrick McGilligan, told Hector Legge in 1976, that they "had never heard of such a meeting." (19) According to the 'Irish Independent' of October 8 1948, on October 7 1948, there were local council elections in Dublin. James Dillon was attending a function at an Agricultural College in Cavan, while Daniel Morrissey was attending two formal functions on the evening of October 7, 1948 and Sean MacBride who like Patrick McGilligan had already been consulted that morning by Costello, had a full diary which included a luncheon with the Belgian Prime Minister, Paul Henri Spaak and dinner with the Austrian Foreign Minister, Dr. Gruebar(20)

(18) Sunday Independent 15.1.1984

(19) Sunday Independent 5.2.1984

(20) Irish Independent 8.10.1948



On Monday October 11, the Irish cabinet formally approved "the action" taken by John Costello during his visit to Canada and the U.S.A.(21) Interestingly, the draft of the minutes to this meeting ask if "the decisions are to be dated for Thursday, October 7,"(22)(1\*) i.e., the same day that John Costello received the oral rebuke from the British government. The date of that warning further substantiates Noel Browne's recollection that there was a "caucus" meeting of the Cabinet shortly after Costello came back from North America.(23) In addition to the retroactive approval for the announcement the Cabinet meeting on October 11, 1948 approved of Sean MacBride's 'aide memoire' which accepted the first tentative invitation to have discussions with representatives of the British government.(24)

(21)NASPO Cab 2/10 G.C. 5/38 11.10.48

(22)NASPO S 14331

(23)Browne,N.: Against the Tide. p.129

(24) NASPO Cab 2/10 G.C. 5/38 11.10.48

(1\*) In his autobiography Dr. Browne recollected that the meeting was held on a Sunday afternoon,(25) but attributes that to the fact that he was at home during working hours when he received the telephone call to attend the meeting.(26)

(25)Browne,N.: Against the Tide. p.130

(26)Personal Interview with Noel Browne 28.12.1988

On October 8, Norman Brook reported to Attlee that he had met the Australian Minister of External Affairs, Dr. Herbert Evatt, in Paris.(27) Dr. Evatt was an independent personality and a "champion of small states", who hoped that Australia(1\*) would become a leader of the smaller powers in world affairs.(28) Norman Brook explained to Evatt the views of the United Kingdom government on the general question of the constitutional relationship between Commonwealth countries "and the extent to which India or any other country" which could not accept the full doctrine of common allegiance to the Crown might be allowed to deviate from the normal form of constitutional relationship and still be regarded as remaining within the Commonwealth. Brook reported that Dr Evatt "feels strongly that strenuous efforts should be made to find a basis on which Eire can be kept within the Commonwealth."(29)

(27) PRO FO 371. 70175. Letter signed by Norman Brook. dated 8.10.1948.

(28) Harry Truman Library. (HTL) Pres. Sec. Files. Biographical sketch; Box 256. SR 48.

(29) PRO FO 371. 70175. Letter signed by Norman Brook. dated 8.10.1948.

(1\*) In 1948-49 the Chifley /Evatt Labour Party government of Australia was critical of American "imperialism" and in return the Australian government suffered a smear campaign orchestrated by the U.S. Embassy in Canberra. ( John Pilger article in [English] Independent ; "Australia that might have been." 26.1.1988.)

Norman Brook reported Evatt's suggestion that there should be immediate discussions with Costello in which Attlee (and other United Kingdom Ministers) would be "supported" by Mr. Mackenzie King, Mr. Fraser and himself. Brook reported that this was because Evatt "agrees that it would be better that these discussions should not be handled between the United Kingdom and Eire alone; for, amongst other reasons, it is against the United Kingdom that Eire's bitterness is mainly directed."(30)

Following Cabinet approval on October 11, (31) Sean MacBride, on the afternoon of October 12, handed Lord Rugby the Irish government's formal note of reply to Attlee's message.(32) This 'aide memoire' accepted Attlee's suggestion for discussions and asked that representatives of the Commonwealth governments be present because the repeal affected the relations of Ireland with the countries of the Commonwealth.(33) This 'aide-memoire' again repeated that the Irish government did not wish to disrupt Anglo-Irish relations and were "anxious to continue the exchange of trade preferences and citizenship rights and feels that there should be no insuperable difficulties in doing this" and ended by stating: "In order to avoid any risk of misunderstanding, that its decision to repeal the External Relations Act is not open to revision or modification."(34)

30)Ibid

31)NASPO Cab 2/10 G.C. 5/38 11.10.48

32)NASPO S.14387A

33)NASPO S.14387A

34)Ibid

Clement Attlee, in a personal note to Norman Brook, dated October 13, 1948, suggested "that a possible line of approach to the Eire government might be to ask them whether some of their Ministers would like to come over to discuss with some of the Dominion Prime Ministers the practical difficulties which they apprehend will flow from the proposed repeal of the External Relations Act and to consider what steps could be taken to overcome them. This line of approach would have the advantage of accepting the fact that Eire has decided on this step, but recognises that Eire does not want to cut herself off and brings the question down to practical rather than theoretical considerations." (35) The conciliatory content of that letter indicates that Attlee was adopting a tolerant approach. More importantly, Attlee's letter highlights the nature of his own personal approach, which was similar to Lord Jowitt's and very much in the same vein as Herbert Evatt's as evidenced in a letter to Attlee dated October 12. (36) Attlee's approach would have been more welcome in Eire than the first response which took the form of an admonishing verbal warning from Rugby. In reply to Attlee's letter, Norman Brook agreed, "It will be agreed that we shall not threaten them or seek directly to dissuade them from proceeding with their declared intent to repeal the External Relations Act." (37)

- (35) PRO PREM 8/1464. Attlee to Norman Brook. L.D. 13.10.1948  
(36) PRO PREM 8/1464. Evatt to Attlee. L.D. 12.10.1948  
(37) PRO PREM 8/1464. Norman Brook to Attlee. L.D. 13.10.1948

As a result of discussions on the afternoon of October 13, between British and Commonwealth Ministers, (38) a telegram was despatched from the Commonwealth Relations Office to Lord Rugby asking him to give a "top secret and personal message from Mr. Attlee to Mr. Costello." (39) It was an invitation to John Costello and "any cabinet colleagues he wished to bring along" to come to Chequers for discussions with ministers representing Canada, Australia and New Zealand. (40)

Attlee agreed with Sean MacBride's suggestion about Commonwealth interests and had already consulted with the Canadian Minister for Justice and Attorney General and Prime Minister designate Mr. Louis St. Laurent, Dr. Herbert Evatt, and the New Zealand Prime Minister, Peter Fraser, who were in London for the Prime Minister's Commonwealth Meeting. They were to be consulted on the basis that these countries, like the U.K., contained the largest "Irish" populations and were "most anxious" to discuss the position that coming weekend, as this was the only time they would be available together for such a meeting. (41)

(38) PRO DO 35 3979. Memorandum "Departure of Eire from British Commonwealth." p.4. Para. 10.

(39) PRO PREM 8/1464. Telegram dated 14.10.1948

(40) NASPO S14387A . 14.10.1948

(41) Ibid

John Costello was among the Irish government's most experienced negotiators on Anglo-Irish affairs. Despite his experience, Costello replied to Attlee in a brief personal message, conveyed to Lord Rugby that same day, "I regret that I myself will not be able to take advantage of your invitation." (42) Costello's refusal may have been a tactic to ensure that the "plenipotentiaries" would have to refer back to the Irish cabinet.

That affront to what was a quasi-Commonwealth Prime Minister's meeting may have suited the British government since this appeared to verify Rugby's earlier report, as relayed by Norman Brook to Attlee: "My information is that Mr. Costello is very emotional on this question and cannot easily be made to look at the facts." (43) In a candid telegram to the Commonwealth Relations Office dated October 15, 1948, Rugby stated that "Mr Costello has conducted this business in a slapdash and amateur fashion. He and his fellow ministers seem to be very conscious of this, and their apologetic tone is not surprising in view of the fact that Downing Street has been consistently helpful and friendly to them." (44)

(42) NASPO 14387A

(43) PRO DO 35 3962. CRO to Attlee. 13.10.1948 quoted in: O' Brien, : Ireland's Departure from the British Commonwealth. Round Table. 1988.306 p.182

(44) PRO DO 35 3962. Rugby to CRO 15.10.1948. Telegram No. 107. DES.12.40p.m. Rec. 12.50 p.m.

The South African delegate to the Commonwealth Prime Minister's Meeting, Eric Luow, later wrote to Sean MacBride explaining that the reason he did not respond to the invitation to participate in the Chequers talks was that he wanted to avoid being a party to any Commonwealth pressure to persuade Eire to abandon its intention to repeal the External Relations Act: "I did not wish to be a party to any such manoeuvre - if actually contemplated." (45) Apparently, Eric Luow was very interested in the outcome of Eire's decision to repeal the Act. Luow explained to a representative of the Commonwealth Relations Office that if South Africa did the same thing, "it would not mean breaking any political links with Britain on the contrary they would then be prepared to make military alliances in areas of common concern and in other ways to co-operate with us more fully and cordially than they do now." (46) Despite this interest, Luow is recorded as deciding not to attend or send a High Commissioner, even as an observer, because there were very few Irish in the Union and "they had all virtually become "British" although they retained Irish names." (47) Attlee asked that the Prime Minister of India, Pandit Nehru, be informed that the reason why the Prime Ministers of Australia and New Zealand were asked was because of the Irish population within their states. (48)

(44) Ibid Telegram No. 107. 15.10.1948

(45) NASPO S 14387

(46) PRO DO 35 3962. Record of conversation with Mr. Louw. 15.10.1948. p.12

(47) Ibid

(48) PRO DO 35 3962. Letter dated 15.10.1948 from Mr. MacLennan to K. Younger. p.13.

Despite the apparent urgency of the hurried formal invitations and replies, strict protocol was still observed by the Commonwealth Relations Office as to the attendance and status of the representatives invited to attend. A further meeting of the Irish cabinet on October 15, 1948, agreed that Sean MacBride and the Minister for Finance, Patrick McGilligan, should attend the meeting.(49) McGilligan, a Professor of constitutional law, played an important role in forwarding Ireland's role within the constitutional development of the Commonwealth. The attendance of MacBride was a recognition of the role the Minister for External Affairs should play in Anglo-Irish relations. The copy of the reply telegram to Attlee in the Taoiseach's file has written on it: Canada, Australia, New Zealand, U.K., India, Pakistan, South Africa, and Rhodesia."(50)(1\*) Possibly Sean MacBride expected all the members of the Commonwealth to attend the meeting.

(49) NASPO Cab 2/10.G.C.5/39. 15.10.1948

(50) NASPO S 14387A

(1\*)It was not customary to consult the Prime Minister of Southern Rhodesia about Commonwealth Affairs and the Governor General Godfrey Higgins, in relation to the External Relations Act, "has already accepted as inevitable".(51)

(51)PRO PREM 8/1464



Attlee decided that the meeting should be confined to Ministers because the object of the meeting was to have an informal discussion. Technical discussions were expected to follow on the outcome. (52) John Dulanty, according to Eric Machtig, hoped that he might join the Chequers discussions, and asked if it would be appropriate for Frederick Boland to participate in the discussions. Dulanty also asked if the Irish Attorney General, Cecil Lavery, could also be present especially since the Lord Chancellor was joining in the discussions. This raised the question whether the Dominion Ministers should bring their officials. For example, Louis St. Laurent, (2\*) had asked that the Canadian High Commissioner in London, Norman Robertson who was acting as his secretary, should be allowed to attend. Herbert Evatt wanted Professor Bailey to join him and Peter Fraser wanted Mr. Mc Intosh to accompany him while Philip Noel-Baker wanted Eric Machtig to attend. (53)

CONTINUED/

(52) PRO DO 35 3962 L.D. 15.10.1948.

(53) PRO DO 35 3962 CRO to Mr. Helsby P.7A/7B

Eventually, Louis St Laurent agreed to dispense with the presence of Norman Robertson for the occasion. A hand-written postscript on the file relating to these arrangements reads: "I have just heard that Robertson is not coming, and the Prime Minister would like Dulanty to be stopped." Accordingly John Dulanty, did not attend. The postscript ended by stating that the Irish Attorney General, "Cecil Lavery is not a Cabinet Minister and therefore he should be discouraged too." (54) Attendance appears to have been amicably agreed showing that functional diplomacy was proceeding smoothly between the professional diplomats. That agreement was so easily forthcoming augured well, given the nature of the topic and sensitivity of the personnel involved.

On the morning of Friday October 15, 1948, Sir Eric Machtig, received telephone calls from both Lord Rugby and Eire's High Commissioner in London, John Dulanty, informing him that MacBride and McGilligan would be coming to London. (55) On Friday afternoon, October 15, Attlee replied that he would be "glad" to see MacBride and McGilligan on Sunday October 17. (56)

(54) PRO DO 35 3962 L.D. 15.10.1948 CRO to F.E. Cumming-Bruce p.11

(55) PRO DO 35 3962 Letter to Mr Helsby from CRO. 15.10.1948 p.7A/7B

(56) PRO DO 35 3962 Letter to Mr Helsby from CRO. 15.10.1948 p.8

Lord Rugby was asked by the Commonwealth Relations Office to inform Mr. Costello that "we are definitely opposed to any preliminary publicity about Sunday's proposed meeting, and do not agree to the suggested announcement tomorrow." (57) This is noteworthy in view of the decision of that Department to hold a press conference during the course of the Chequers meeting and before the agreement on the release of a press communique.

Before dealing with the Chequers meeting, the following chapter will attempt to clarify one of the major practical consequences that threatened to affect Eire after leaving the Commonwealth, namely, losing Most Favoured Nation Status as existed between members of the Commonwealth, particularly in relation to citizenship privileges that existed for Irish citizens resident in Britain and to a lesser degree trade with Britain and other Commonwealth members.

(57) Ibid

CH: V111

THE PROBLEM OF COMMONWEALTH NATIONALITY AND CITIZENSHIP

Sir Norman Brook updated his first report dated October 5, 1948, on the consequences of the termination of Eire's membership of the Commonwealth, (1) only completing it on the eve of the Chequers discussions. (2) This report, entitled "The practical consequences of the repeal of the External Relations Act" (3) was issued to the British negotiators. Brook's report now incorporated extensive discussions that he and Philip Noel-Baker had had with official representatives of Canada, Australia, and New Zealand about the new position of Eire. (4) Norman Brook's report was sceptical of Lord Chancellor Jowitt's recommendations. He argued that if common citizenship sufficed as the link between members of the Commonwealth, then it might replace allegiance to the Crown. Norman Brook's report was insistent that non-Commonwealth citizens should be treated as aliens. His report saw the main problem as being "the maintenance of our alien's control." (5)

Norman Brook feared that common citizenship might become the essential link, and resisted any compromise including the conciliatory approach offered by Evatt. Brook noted that the Australian delegates disagreed with him on his line of argument. Despite Evatt's objections, Brook claimed the support of the Commonwealth representatives, saying that "most of us" thought it would be unsatisfactory to aim at putting Eire in a/

(1) PRO PREM 8/1464 CPM (48)11

(2) PRO PREM 8/1464 CPM (48)20 (updated). There is no reference on the final report and it may have incorporated parts of CPM(48)20 (Practical Consequences of Repeal of External Relations Act) and later report CPM(48)40 (Practical Consequences Which Might Follow the Repeal of External Relations Act)

(3) Ibid

(4) Ibid

(5) Ibid

a Constitutional position halfway between that of a member of the Commonwealth and a foreign country. He believed that the creation of a special position of "associated state" would involve Britain in great difficulties over the Most Favoured Nation clauses. He pointed out that if the precedent were established, then some other Commonwealth countries would probably copy Eire's action and this would lead to the "two tier Commonwealth which all agree would involve the Commonwealth in great difficulties." (6)

Arguably there already existed a two-tier system, particularly with regard to matters of defence consultation, where the new members (and Eire) were excluded from sensitive defence information. Authoritative articles (1\*) about the apparent evolution of the Commonwealth towards "associate" membership, were brought to the attention of the Irish Cabinet by Sean Mac Bride. Appended to the articles was the statement, "The Minister has evidence that these excerpts reflect accurately a current trend of thought in British circles." (7) However, there was some strong opinion against formalising that loose arrangement, for example the 'Manchester Guardian' also highlighted the danger of letting the link "become so loose and vague as to be meaningless in practice." (10)

(6) Ibid

(7) NASPO S 14042

(1\*) Perhaps the most authoritative was Nicholas Mansergh's article (8) which cited Professor Berriedale Keith, "If no place can be found in a British Commonwealth for republics, then the enduring character of the Commonwealth may well be doubted." (9)

(8) Mansergh, N.: "Eire's Relationship With The British Commonwealth." International Affairs, pub. R.I.I.A. January 1948. p.17.

(9) Keith, B.: The Dominions as Sovereign States. London Macmillan. 1938 p.1X .

(10) Manchester Guardian quoted in Irish Times 12.10. 1948

To avoid diluting the Commonwealth link, Norman Brook advised "that a very firm line should be taken with Eire, and that it be made clear to Sean MacBride that the repeal of the Act would sever Eire's connection with the Commonwealth, and that trade preferences, special citizenship arrangements, and so on would disappear by virtue of this withdrawal." (11) By this, he meant, altering sections 2 and 3 of the British Nationality Act, 1948, so as to subject Eire citizens to aliens control in Britain.

Immediately before the chequers meeting, Norman Brook had already tempered his tough approach with the proviso, that it should be suggested "at the appropriate moment", that if Eire repeals the Act she should replace it by some other link which would enable us to maintain (as against third parties) that she was not "foreign" in her relations with the Commonwealth countries." (12) This was in effect the Jowitt-MacBride-Evatt solution which was to eventually win acceptance through the Chequers and Paris Commonwealth summits.

(11) PRO PREM 8/1464 CPM(48)20(updated)  
(12) Ibid

Norman Brook reported that "all were agreed" that the likely target for a challenge was the Most Favoured Nation clause as it applied to Anglo-Irish trade.(13) Interestingly, he reported that "after hearing the arguments" he believed that the danger of undermining the preference position on trade was in fact not "as sound as the Board of Trade thought."(14) Brook suggested that the Board of Trade's case might be "whittled down substantially" in discussions with the Eire Ministers and suggested a defensive position, advising that the British government, rather than prove that Most Favoured Nation Status was threatened, should instead ask Eire Ministers "how they would defend the challenge" to the continuance of their status as a Most Favoured Nation.(15) Unnecessarily, though not surprisingly, the Chequers discussions opened on a confrontational note.

(13)DO 35 3960 Board of Trade memorandum: "Possible Treaty Consequences of Secession by Eire." Report dated 30.9.1948

(14) PRO PREM 8/1464. CPM(48)20(updated)

(15)Ibid



CHAPTER 1X.  
CHEQUERS

(A)  
CHEQUERS MEETING.

Once the time and venue were agreed, British, Irish and Commonwealth Ministers (1\*) made their way to Chequers. Sean MacBride suffering from a mild cold, left Paris on Sunday morning aboard a British European Airways scheduled flight and arrived at Northolt at 10.22 a.m. (The previous day, MacBride had signed the multilateral agreement for Intra-European payments and compensations under the auspices of the O.E.E.C.) He was met at Northolt by Patrick McGilligan and John Dulanty. The trio had a quiet and private discussion. Admiral Bromley, was in charge of protocol and he advised the delegation to delay their arrival at Chequers from the planned 12.30p.m., so as to arrive shortly before lunch. This meant that there was no time for informal discussions before the representatives sat down to lunch.(1)

At the Chequers meeting the British government was represented by Prime Minister Attlee, Lord Chancellor Jowitt, and the Secretary of State at the Commonwealth Relations Office, Philip Noel-Baker. Australia was represented by the Deputy Prime Minister and Minister for External Affairs, Dr. Herbert Evatt. Canada was represented by Louis St. Laurent, (Prime Minister designate).(2\*) New Zealand was represented by Peter Fraser. Also in attendance were Attlee's Principal Private Secretary, Lawrence Norman Helsby and Sir Norman Brook.(2)

(1) PRO DO 35 3962. dated 16.10.1948

(2) PRO Cab 129/30 pp.147-149.(pp.1-5) "Account of the Meeting With Eire Ministers at Chequers from which references are drawn unless otherwise stated.

(1\*) Prime Ministers Meeting London October, 11-21, 1948

(2\*) Louis St. Laurent, appointed Prime Minister 15, 11. 1948

An account of the Chequers meeting was afterwards recorded from memory, by Sir Norman Brook who was assisted by Lawrence Norman Helsby.(3) The meeting was described in the report as friendly and informal in character. Except for Louis St. Laurent and Peter Fraser, all the principal participants were already known to each other. Sean MacBride and Patrick McGilligan had met Attlee, Dr. Evatt and Lord Jowitt in Dublin during the summer. Peter Fraser was later to make a friendly comment to Sean MacBride to the effect that he used to listen to MacBride's mother, Maud Gonne making speeches for the suffragette movement in Glasgow.(4)

After lunch the discussions began formally. According to the official records, Mr. Attlee opened the discussion by explaining that he and the Commonwealth Ministers had some "informal talk together about the 'declared intention' of the Eire government to repeal the External Relations Act." Attlee explained that the representatives of those four Commonwealth countries "whose populations included a substantial number of people of Irish descent, thought it would be advantageous if they could together discuss the practical consequences which would follow upon the repeal of the External Relations Act." Attlee then said he was glad to welcome MacBride and McGilligan for this purpose.(5) He did not refer to John Costello's absence.

(3) PRO Cab 129/30 pp.147-149 , (pp. 1-5) From which all references relating to the meeting are drawn unless otherwise stated. After reading the account of the meeting, Attlee sent Norman Brook a note commenting, "This is a remarkable achievement to make so full and accurate an account without written notes. I am very appreciative." ( Note dated 5.11.1948 in PREM 8/1464)

(4) Irish Times. 1.1.1979

(5) PRO Cab 129/30. pp. 147-49, (pp.1-5)

To reassure the Irish Ministers, Attlee explained that the purpose of the meeting was not to put pressure on the Irish government to remain within the Commonwealth, but to examine how the repeal of the External Relations Act would affect the United Kingdom and other Commonwealth countries. Continuing, Attlee stated in a factual manner that he "was advised that, once the External Relations Act was repealed, Eire would become a foreign State in relation to the United Kingdom", and that, because of international commitments regarding relations with foreign states, it might be "impossible to refrain from treating Eire as a foreign country and her citizens as aliens." Attlee qualified this point by explaining that, if such action had to be taken, it "would not be out of hostility towards Eire", but because it might be "forced upon" Commonwealth members because of treaty obligations which they had undertaken in Most Favoured Nation clauses in commercial treaties.

Attlee then explained that Argentina would have a direct interest in challenging trade preferences between Eire and the U.K. and that if that challenge were made the U.K. government would either have to suspend the greater part of the U.K. tariff or to withdraw preferential treatment for Eire. Attlee based this statement on information given to Norman Brook by the Board of Trade. Attlee omitted to mention that Norman Brook in his final report had considered the view of the Board of Trade about the danger of undermining the preference position was "not as sound as the Board of Trade thought." (6) However, Attlee by then/

(6) PRO PREM 8/1464. CPM (48)20 (updated)

then appears to have been following the tough approach suggested by Norman Brook. Attlee further stated that the advice received was to the effect that "the U.K. would also be taking a serious risk if she continued to exempt Eire citizens from aliens restrictions, after Eire had become a foreign state."

Attlee finished his introductory speech by urging that the "practical difficulties" should be discussed in a friendly manner. Despite the fact that the records show a reasonable and mild introduction by Attlee, given his over-dramatisation of the danger to the Most favoured Nation Status, it is not too surprising that Sean MacBride almost thirty years later recollected Attlee's opening speech as "aggressive". (7)

Sean MacBride had prepared his case in reply to Attlee's points. Firstly, he explained that the proposed repeal of the External Relations Act, was not a hostile action, but was intended, as "a necessary preliminary to the restoration of friendly relations between Eire and the U.K." MacBride explained that the "connection with the Crown" was seen as being perpetuated by the External Relations Act, and that such "irritants" implied "subordination to the U.K.". According to MacBride it was this problem which prevented the growth of friendly relations between the two peoples and he claimed that the removal of the Act would assist in removing an obstacle to friendly relations. MacBride made the point that his government were most anxious to promote friendly relations with all members of the Commonwealth. /

(7) Irish Times 1.1.1979. Sean Mac Bride interviewed by James Downey.

Commonwealth. In order to prove his case that the repeal of the Act need not change the status quo and that therefore there was no need to remove Most Favoured Nation Status, MacBride argued that according to the opinion of his government, that was already the position, "probably since the enactment of her new constitution in 1937." Continuing, MacBride argued that a special kind of association could be established between Eire and the other countries of the Commonwealth based on the reciprocal exchange of trade preferences and citizenship rights. MacBride appears to have been prepared to accept the amicable arrangement which was evolving even at that early stage. He believed that "with goodwill between the governments, and by the exercise of ingenuity, this special association could surely be expressed in such a way as to enable Commonwealth governments to resist successfully any claim by third parties based on Most Favoured Nation clauses."

Peter Fraser, in support of the the Irish case, introduced a point about the embarrassment to those countries with large Irish populations of treating "Eire" as a foreign country. Fraser based his concern on the fact that he represented a large Irish population in New Zealand. Fraser was the first to hint at defence matters by bringing into the discussion "the disruption Eire would cause at this stage in the world's history." Peter Fraser expressed the view that it was the "duty" of Commonwealth Prime Ministers then meeting in London to "use all their ingenuity to find means of keeping Eire in close and friendly association with the Commonwealth group."

Dr. Evatt, as expected, expressed similar views to Peter Fraser, adding that he would not regret the repeal of the External Relations Act, "because it was an unsatisfactory Act expressed in terms which could afford little gratification to the other Governments of the Commonwealth." Evatt further expressed his hope that "no effort would be spared in finding some other and more satisfactory means of keeping Eire within the Commonwealth." Louis St. Laurent then expanded on Peter Fraser's point by explaining the personal embarrassment facing him as he assumed leadership in Canada. He explained the domestic political situation that existed in Canada, in particular, the potentially divisive strong pluralist feeling towards the Commonwealth. He gave as an example the fact that French-Canadians did not share the respect and affection toward the Commonwealth as did Canadians of British descent and that those of British descent were "very jealous of the Commonwealth connection." Referring to the possibility of Eire leaving the Commonwealth, he thought that he "would be strongly pressed to say what he had done on Canada's behalf to prevent this development." Louis St. Laurent reinforced Dr Evatt and Peter Fraser's point by concluding his remarks with the plea that some means be found of enabling Eire to continue in friendly association with Commonwealth countries.

There then followed a general discussion on the points made by the Commonwealth Ministers. During this discussion Lord Jowitt reiterated Attlee's opening remarks about the possible challenge under the Most Favoured Nation clause. Jowitt's view now deliberately emphasised the possible challenge. The tone was certainly different from that of his earlier private legal opinion he offered to Attlee, (8) and now at this meeting buttressed his revised opinion with the statement that "the responsible department of the U.K. government believed that there was a grave risk, indeed almost a certainty, of such a challenge being made and a strong probability that it would succeed." The "responsible Department" was probably a reference to the Board of Trade report which Norman Brook in his final report had downgraded. (9)

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(8) PRO PREM 8 1464 contains Jowitt's reply 9.10.1948 to Attlee's memo M.138/48 dated 5.10.1948.

(9) PRO PREM 8/1464. CPM (48) 20 (updated)



Sean MacBride countered this possibility by drawing on the remarks of the Commonwealth Ministers themselves and explaining that even after the External Relations Act had been repealed, "it would be possible to maintain that this was a special kind of association between Eire and the Commonwealth countries which differentiated their relationship from that of foreign states." MacBride believed that any challenge by a third party could be successfully resisted simply by basing the argument on the factual relationship between the two countries, for example the reciprocal exchange of trade preferences and citizenship rights. Lord Jowitt and "other Commonwealth Ministers", in an apparently agreeable manner, explained that, in order to support the claims of "non-foreignership", it might not be enough to point merely to the "de facto treatment and concessions granted to British subjects as a matter of contract or at the discretion of the Eire government." He suggested, that in order to establish a constitutional link, it would be necessary that British subjects should have as of right a status in Eire different from that of the nationals of foreign countries. Lord Jowitt asked if it would be possible for the Irish government to enact a new citizenship law providing that Eire citizens should be regarded as "Commonwealth citizens" within the scheme of the 1948 British Nationality Act. As an alternative Jowitt suggested, "if that were not politically practicable, would it be possible for Eire to pass a citizenship law giving to Commonwealth citizens in Eire the same rights and privileges as were accorded to Eire citizens in the U.K. by sections 2 and 3 of the British Nationality Act, 1948 ?"

Patrick McGilligan agreed that, "it was conceivable under existing legislation that some arrangement might be made which would have the effect of according some special privileges to British subjects in Eire as of right."

However, Sean MacBride repeated his opposition to re-establishing a link as a substitute for the External Relations Act. But, he did add, "if, therefore, there was any question of Eire's re-entering the Commonwealth on some new basis not involving a link through the Crown, this could be only after an interval of, say, three to six months and, even then, would have to be almost incidental to a revision of the Eire citizenship law undertaken not for this special purpose only but on its merits."

Evatt was pressing for re-entry of Eire into the Commonwealth. Undoubtedly, he was not aware of Mac Bride's antagonism to this idea. Five days before in a personal letter to Attlee, Evatt had asked whether, even after the External Relations Act had been repealed, the Eire government might "continue to invite the King to accredit their diplomatic representatives in foreign countries." (10)

(10) PRO PREM 8/1464 . L.D. 12.10.1948

Mr. Attlee then summarised the intended Eire-Commonwealth relationship by which Eire "would be neither a member of the Commonwealth nor a foreign state, but would remain in some intermediate position between the two." Mr. Attlee explained that he would be asked to define the relationship as soon as the repeal of the External Relations Act was passed. He would have to answer that: "he was advised that, in law, Eire would then be in the position of a foreign State in relation to the other Commonwealth countries; and, if he said so, questions would at once be raised about alien's restrictions, trade preferences, and all the other matters which involved the Most Favoured Nation position."

According to the records, Sean MacBride suggested that "as Eire did not wish to treat Commonwealth countries on the same basis as foreign states, the Most Favoured Nation trade and citizenship difficulties might be avoided by a public declaration that Eire and the governments of Commonwealth countries did not regard one another as 'foreign States' through an exchange of notes drafted with a view to publication." This indeed was the suggestion that Jowitt had offered eight days before, (11) and indeed was eventually to provide the solution which was converted into an acceptable Commonwealth formula at the following Paris negotiations.

(11) PREM 8/1464. L.D. 9.10.1948

According to the Helsby and Brook's unofficial records, at the close of the discussions, Sean MacBride made a disjointed and almost apologetic reference to Partition, explaining that he "could not leave without referring to the question of Partition." He explained that he "had not come to Chequers to raise that issue and did not wish to invite discussion of it", saying he realised that "Mr. Attlee would not think it appropriate to have that matter discussed on the present occasion, U.K. governments had never found any occasion appropriate for discussing Partition". Continuing, MacBride said he thought "it would be wrong for him to leave without saying that it was the earnest desire of his government to end Partition in Ireland and it was their view that some occasion would have to be found in the not too distant future, on which it would be thought appropriate to discuss it". Contradicting Norman Brook's record of the meeting, Sean MacBride remembers opening his first discourse with the grievance on Partition.(12)

It is worth noting that the possible impact of the Irish ethnic vote in Britain was not considered to be of importance to the British Labour government. This was probably because no serious attempt was ever made by the Irish government to harness this sympathy. In contrast, the Labour governments in Australia, and New Zealand, possibly because of a more cohesive ethnic Irish vote, were reluctant to implement any Commonwealth measures depriving their Irish born residents of citizenship privileges.

(12) Personal with Interview Sean MacBride. 6.1.1987.

Mr. Maude, from the South African High Commission in London, told an official from the U.S. Embassy in London that Evatt and Fraser were not primarily interested in Eire's status. He believed that they were more concerned with the effect the outcome of the talks might have on India. His reasoning was that if Eire were told that there was no provision for a Republic to have associate membership of the Commonwealth, then this could set a precedent for India. According to Maude, Evatt and Fraser were anxious, for strategic reasons, to work out some arrangement to retain India within the Commonwealth "camp", even as a republic.(1\*) Similarly according to Norman Robertson one of the reasons for Fraser's conciliatory attitude was, because, according to the Canadian High Commissioner in London, Norman Robertson : "Mr. Peter Fraser took exception to any course which might cast any reflection on the present Royal Family."(13)

Commenting on the defence aspects of the October 1948 Commonwealth Prime Ministers Meeting, Maude reported that although no formal commitments were being undertaken, "Russia was the reason for the reversal of disintegration of the Commonwealth."(14)

(13) Canadian D.E.A. (CDEA) 50021-40 Telegram dated October 21, 1948

(14) NRC Suiteland, Maryland ref.RG 84. Box 18. file 350 Intelligence Memo No. 139

(1\*) Mansergh, N. (Chief Ed.): The Transfer of Power 1942-47, Vol.X11. Enclosure No.219. "British Defence Requirements in India. Strategic Importance of the Indian Continent to Commonwealth Defence." p.319

Immediately following the Chequers discussions, Attlee asked Norman Brook's Interdepartmental Committee on Commonwealth Relations to consider "quickly"(15) whether the grant of preference and citizenship privileges to Eire could be effectively defended against claims from other foreign states. In summary Attlee effectively wanted to know if the original opinion offered by Lord Jowitt would be sufficient to deter an attack on the Most Favoured Nation Status. Attlee was aware that the Irish government would have to comply and he asked Norman Brook to consider if those terms would be sufficient as a defence for continuing Most Favoured Nation Status:

"If the Eire government adopted simultaneously with their repeal of the External Relations Act (or possibly after an interval of six months), nationality arrangements equivalent to section 1 of the British Nationality Act 1948, and were to state that this meant return to the Commonwealth. Alternatively, if the Eire Government were prepared simultaneously with the repeal of the External Relations Act (or possibly after an interval of six months) (1) to amend their laws so as to provide that British subjects were not aliens in Eire, and (2) to avoid the loss to Eire citizens of Eire citizenship on their acquiring citizenship of another Commonwealth country to say that this meant return to the Commonwealth."(16)

(15) PRO PREM 8/1464. p.9.

(16) Ibid

Norman Brook submitted a report dated October 18, 1948, advising, "if Eire accepted the common status of Commonwealth citizens and accepted the position of a member of the Commonwealth, then there would be an arguable case against claims under the Most Favoured Nation clauses concerned." (17) The report noted that Sean MacBride suggested that some of the difficulties foreseen might be avoided by a public declaration that Eire and the governments of the Commonwealth countries did not regard one another as foreign states. (18)

This report concluded that the Chequers meeting arrived at an understanding on two principal points. That Eire ministers would consider the practical difficulties put before them, the possibility that Eire might, after an interval, re-enter the Commonwealth on some basis (e.g. common citizenship) not involving any connection with the Crown, and the suggestion that there might be some public declaration that Eire and the countries of the Commonwealth did not regard one another as foreign States. It was this last point which proved acceptable to all concerned as being sufficient to maintain the status quo by treating Eire as a non-foreign state despite her declared 'de jure' position of not being a member of the Commonwealth. (19)

(17) PRO PREM 8/1464. report 18.10.1948.

(18) Ibid

(19) Ibid

Eleven days after the Chequers meeting, Attlee presented a memorandum on the talks(20) to his Cabinet.(21) Attlee was concerned about retaining India within the Commonwealth and worried that a defection by Eire would weaken Britain's leadership of the Commonwealth States in the U.N.(22) He hoped to "devise a constitutional status for India which might also be acceptable to Eire as the basis for her continued membership of the Commonwealth".(23) Attlee's memorandum contained an uncharacteristically inaccurate assessment of the reason the Eire government would not delay introducing repeal legislation. He believed that, "behind the immediate issue lay their government's determination to end partition, and there was little doubt that they recognised that they would be in a better position to put pressure on the UK government once Eire had become a foreign and neutral state."(24)

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- (20) PRO Cab 129/30. CP(48) 244
- (21) PRO Cab 128/13. CM(48) 67 28.10.1948
- (22) PRO Cab 129/30. CP(48) 244
- (23) Ibid
- (24) Ibid



The British Cabinet feared that Russia would encourage Eire to raise the issue of Partition in the General Assembly of the United Nations. During the height of the Berlin crisis in October 1948, the Cabinet made a decision of historical importance. They noted that while they always maintained that "partition was an issue for settlement by the Irish themselves", they now stated "that for defence reasons it was not possible any longer to maintain that position". (25)

Following the Chequers meeting, the Irish government sent the British government and the governments of those Commonwealth states which attended Chequers, an 'aide memoire' which asked that the status quo continue : "It is the view of the Irish government that a relationship with the countries of the Commonwealth firmly based on these factors, traditions, customs and common interest, rather than on forms implying dependence or limitation of sovereignty, offers the best assurance of those relations of understanding and fruitful collaboration which the Irish government, for its part, is anxious to bring about."(26) This request from the Irish government, which by implication valued the Commonwealth link, may have appeased the British government.

(25)PRO Cab 128/13. CM (48) 67. 28.10.1948

(26)NASPO S 14387A

The Chequers meeting had ended with an agreement that a press communique would be issued. This communique was issued from 10 Downing Street, and only stated that there was a general exchange of views on matters of common interest arising out of the declared intention of the Eire government to repeal the External Relations Act. (27) The following chapter will show that the breach of protocol surrounding this relatively simple procedure illustrates the suppressed ill feeling some British government ministers and officials had towards the Irish government over its lack of advance consultation about the "intention" to repeal the External Relations Act.

(27) Irish Times 18.10 .1948.

(B)

POLITICAL AND PRESS REACTION TO CHEQUERS

At 6.30 p.m., on the day of the Chequers meeting, detailed points of guidance on the outcome of the meeting were telegraphed by the Commonwealth Relations Office to all Commonwealth representatives abroad. The diplomats were advised not to encourage the local press to speculate on the position "more than is necessary", and that the material should only be used "if need arises". The guidance included an elaborate explanation of the function of the External Relations Act and the benefits Eire obtained from membership of the Commonwealth in relation to trade and the treatment of her citizens. There was reference to "a danger that she might lose international acceptance of her Commonwealth status" and there would be "grave consequences especially with regard to trade preferences and nationals". (1) This briefing emphasised that although Britain, the Commonwealth and Eire might wish to retain the status quo, they were at the mercy of other foreign states and additionally any arrangements would have to be acceptable in international law.(2)

According to a report from the Canadian High Commissioner in Dublin, the Irish Cabinet met for six hours to hear a report about the Chequers meeting from Ministers Sean MacBride and Patrick McGilligan.(3)

(1)PRO DO 35 3962. Telegram . Y.No 79 CRO to Representative in Eire, U.K. High Commissioners in Canada, New Zealand, South Africa, Ceylon and the Acting High Commissioners in Australia, India, Pakistan and Ceylon.

(2) Ibid

(3)CDEA 50021-40

Despite the agreement of the Chequers meeting on the issue of a brief press communique, the London 'Times' still carried a full account of the Chequers meeting the following day. Although the Irish cabinet did not issue a statement, the London 'Times' carried a report stating that a Government spokesman hinted that it was one of the most important gatherings of Ministers for some time. The London 'Times' further reported: "Contrary to a suggestion in the British Press that Mr. Costello's Government decided to repeal the Act without considering its possible effect, it is pointed out in Dublin that the Cabinet had given much thought to the decision and its meaning." (4)

Indeed, most of the British press made the Chequers meeting front page news the day after the meeting. In unison, the press asked, "if any country can enjoy the benefits of Commonwealth membership without allegiance to the Crown". The Press Association's parliamentary lobby correspondent, asserted that because of the proposed repeal of the External Relations Act, the two million Irish people who were in Britain would become foreigners. The 'Irish Press' reported that the London papers all carried comment similar in tone to that of the Press Association. (5)

(4) The Times. 18.10.1948

(5) Irish Press. 18.10.1948

The reports of the Chequers meeting were authoritative and highlighted the main legal problem discussed at the meeting - how to continue the advantages of Commonwealth trading terms, and the special facilities for Irish citizens in the U.K. "once the only recognised link with the Commonwealth, loyalty to the Crown, had been broken". The London 'Times' raised the spectre about the authority of the Irish government to take such an action, referring to "the general consensus amongst diplomats that there had been doubts whether the consequences of such an act have been fully realised in Eire." (6) One interpretation could be that the Commonwealth Relations Office briefing was designed to send warning signals to India via the press. At worst, it was an attempt to orchestrate the British press to arouse opposition to the repeal among Irish citizens resident in Eire and Britain.

(6) The Times, 18.10.1948

The 'Irish Times' of October 19, 1948, was more circumspect, carrying the headline, "Act's Repeal Should Not Affect Trade And Citizen's Rights." The article stated authoritatively that the Government did not consider that the repeal of the External Relations Act could be a serious obstacle to the continued exchange of citizenship and preferential rights with Britain and the Commonwealth, "provided that the British and Commonwealth Government's desire to maintain them." (7) Given that the challenge to Eire's Most Favoured Nation status was expected to come from Argentina, it is perhaps significant that the 'Irish Times' also carried a picture of Sean MacBride and the Argentine Minister in Dublin, Senor Bessone, chatting amicably at a reception. (8)

(7) Irish Times. 19.10.1948

(8) Ibid

Continuing its ~~BENEFICIAL~~ approach, the 'Irish Times', on October 20, 1948, carried a report refuting the British newspaper's comments that threats and warnings were made to the Eire representatives at Chequers by British ministers. The 'Irish Times', referring to "an authority close to the Government", had pointed out that the government was concerned about the "inaccuracies about certain speculations as to what occurred during the conference at Chequers" and dismissed such reports, pointing out that so far from there being "warnings" and "threats" to this country, the proceedings were completely friendly. According to the 'Irish Times' the reports submitted by the two Irish ministers stressed the friendliness and good feeling at Chequers.(9) Undoubtedly, it was Irish representatives who were trying to use the Irish newspapers to put up a good diplomatic front on the Chequers meeting and the circumstances surrounding the repeal of the External Relations Act. This action was to benefit Eire in the eyes of the other Commonwealth members, who resented the wholesale release of information on the Chequers meeting to the press.

(9) Irish Times. 20.10.1948



An official of the U.S. Embassy in London, Sratton Anderson, reported to the State Department that the Commonwealth Relations Office, organised a press conference, without the knowledge of the non-British Commonwealth representatives and that the conference was held by the Commonwealth Relations Office during the course of the Chequers meeting.(10) According to this report, the Irish government was annoyed and decided to issue an 'aide memoire' (in fact the Irish 'aide memoire' of October 20, did not mention the leakage to the press).(11) Norman Archer, the Assistant Under-Secretary for Commonwealth Relations, visited the U.S. Embassy in London to explain the press's reaction to the meeting. He Apologetically explained that the press had "badly overplayed" the Chequers meeting and he urged the embassy officer to "play the matter down" when reporting to his department. Archer denied that the press reaction was contrived and dismissed the suggestion that the meeting was held on a Sunday for maximum coverage for a "hungry Monday press" . Archer explained that there was no need for Commonwealth mediation, because Anglo-Irish relations "have never been better" and that the U.K. Government was perfectly able to suggest discussions to the Eire Government. Archer also dismissed the suggestion that the meeting was timed to influence Nehru's thinking during the Commonwealth meeting by remarking jovially, "the British are not as Machiavellian as all that."(12)

(10) NA 841 D. 00/11-248.

(11) NASPO S 14387A

(12) NA 841 D. 00/11-248.

Anderson reported that the British concern was that the repeal of the External Relations Act by Eire would set a bad example to India and that there might be a review of the Most Favoured Nation clause by all "foreign countries". He concluded with the cynical suggestion that the U.S. should be non-committal on the question of British-Eire trade preferences so as to "reserve the right to question the position at some future time." (13) Anderson's advice was an example of the uncertainty the British Government feared in relation to the calculated response of its major trading partners.

On October 19, Lord Rugby told Sean MacBride that he thought the press release "seemed to carry an unfriendly nuance". His reaction may have been prompted by having heard that Fraser and Evatt had refuted it; indeed, Evatt had called on John Dulanty to disassociate himself from it. (15) Rugby tried to excuse the press briefing by explaining that it was the fault of the presentation of the press rather than the content of the briefing. The impression is that Sean MacBride was not too disturbed about this "tactic". Indeed, it helped towards nullifying the Irish government's own breach of protocol. MacBride continued to discuss the issues raised at Chequers and although he admitted there were "snags", he thought none of these presented "a difficulty which lawyers could not get round." (16) Overall, this case of an attempt at "news-management" by the Commonwealth Relations Office, under the probable guidance of Under-Secretary of State, Patrick Gordon Walker, backfired.

(13) NA 841 D. 00/11-248

(14) Ibid

(15) PRO DO 35 3961. Rugby to Machtig. T.No.113. 19.10. 1948

(16) Ibid

An intelligence memorandum from the Office of Intelligence Research at the US Department of State mentioned the rumour that the Attlee Government had encouraged the press outcry as a warning to other Dominions, particularly India and the Union of South Africa, rather than to change the Irish decision. Apparently Irish officials believed that the leak to the press was contrived by Philip Noel-Baker and that "Tory die-hards in the Commonwealth Relations Office leaked misinterpretations to the press to arouse opposition." This report also mentioned that the Conservative Party was attempting to exploit this "most recent example of what they view as Labour's spineless Empire policy". The report noted that the press allegations were counterproductive because they "solidified Irish support of repeal demands".(17) Furthermore the report predicted that "if the Irish are not permitted to repeal the Act except at the price of withdrawal from the Commonwealth, they will withdraw, and the Commonwealth will have begun at least a partial dissolution". More pragmatically, the report calculated that since Ireland supplied exports to Britain mainly in the form of agricultural produce below world market prices, any trade sanctions would be counterproductive. On the political front there was an acknowledgement that any infringement on the citizenship rights of Irish citizens resident in Britain would be damaging to the electoral prospects of the Labour Government because as an ethnic group there was a tendency to vote Labour.

(17) NRC RG 84 Box 18. Intelligence File 350 Memorandum No 139, dated, 2.6. 1949

The report concluded that there was no constitutional reason why Eire could not repeal the External Relations Act and continue as an associate member of the Commonwealth and recommended that Britain should actively propose this solution since otherwise, if Eire left the Commonwealth, then other Dominions, unable to accept the criterion of allegiance to the Crown as the formula for membership, might also leave the Commonwealth.(18)

The Irish government was not privy to such a confident analysis, otherwise they might have realised that they had a much stronger hand and perhaps would have acted more confidently and arguably, more responsibly in their negotiations with Britain and the Commonwealth.

(18) Ibid

(C)

IRISH GOVERNMENT'S REACTION TO CHEQUERS

On October 20, 1948, John Dulanty, handed Philip Noel-Baker an 'aide memoire', (1) a copy of which was supplied to the Commonwealth Ministers who had taken part in the Chequers meeting. The 'aide memoire' began by welcoming "the frank and friendly nature of the discussions at Chequers." It then set out Eire's case for not being regarded as a foreign country, arguing that:

"this relationship can and should be maintained on the basis that the rights and privileges involved, in so far as they are not covered by international agreements, are dependent upon long established custom and tradition and will not therefore, involve the creation of new rights and privileges entitling other nations to raise objections under the Most-Favoured-Nation clause in any existing international agreement." Continuing, the 'aide memoire' stated:

"It is the view of the Irish Government that a relationship with the countries of the Commonwealth, firmly based on these factors of tradition, custom and common interest, rather than on forms implying dependence or limitation of sovereignty, offers the best assurance of those relations of mutual understanding and fruitful collaboration which the Irish Government, for its part, is anxious to bring about." (2)

(1) NASPO 14387A . 20.10.1948

(2) Ibid

The Irish government was disturbed by the possible consequences of the British government's reaction to the prospective repeal of the External Relations Act. Even by the end of October there are no cabinet documents to show that the Irish government had formulated a definite policy position with regard to whether repeal should mean leaving the Commonwealth or even remaining an associate member of the Commonwealth or even a Republic. The uncertainty and vacillation of the Irish government is illustrated by John Costello who, on October 25, 1948, arranged a question-and-answer press interview on the issue of the repeal of the External Relations Act. According to a report in the 'Irish Press', when the press representatives who, as instructed had already tabled their questions in advance, arrived at the Taoiseach's Office, they were told by Costello, that he "was going to answer no questions, but would make a general statement". John Costello then attempted to re-assure the journalists by explaining that while there were to be no questions: " I want you to understand that I am not afraid of any one of the questions. I have the answer to every single one of them." (3)

(3) Irish Press. 26.10. 48

It is probable that the journalists wanted to ask questions about the Cabinet meeting that made the decision to repeal the External Relations Act; such questions would have touched on the fact that there was no Cabinet decision or consultations prior to the consequences of repealing the Act. Costello claimed that his Government had considered all the consequences that might flow from the repeal of the Act, and were prepared for any such consequences. (4)

Lord Rugby commented that the Irish government was now advancing the arguments for maintaining the rights and privileges of Commonwealth membership. The arguments were that the change to be effected by the Republic of Ireland Act was a change in the constitutional sphere and that in making that change, the Irish government had declared their intention of basing their future relationship with Britain on the factual continuance of the traditionally close social, economic and trade arrangements between the two countries. The Irish government argued that this relationship was 'sui generis' and without precedent. They cited as examples the freedom of movement of citizens between the two countries, the employment of each other's nationals in public services, banking and currency, availability of social services, mutual registration of medical and dental practitioners, recognition of certificates of proficiency, apprehension of offenders, special inter post office arrangements, libraries and agency services and that administrative arrangements take the place of treaties.

(4) Irish Times. 26.10 1948



The Irish government were now arguing that an assessment of the "foreignness" of the two countries to one another which had regard only to the constitutional aspects, to the exclusion of the other aspects of the relationship between them, would be theoretical and unreal.(5) Additionally, they argued that the exchange of rights between Ireland and members of the Commonwealth had been made in Ireland on a reciprocal basis and not by any reference to common allegiance.

Within a week of the ending of the Chequers meeting the situation was at least clarified to the extent that the British government knew that there was no direct hostile intent on the part of the Irish government towards Britain. The Chequers meeting may have assuaged the British government of their worry that Eire intended leaving the Commonwealth so as to be in a better position as a foreign state to bring the issue of Partition onto the world forum before the U.N.

Following the Chequers meeting, the position of Anglo-Irish relations vis-a-vis the Commonwealth remained as before, so that Eire continued to enjoy reciprocal Most Favoured Nation treatment accorded between members of the Commonwealth. In practical terms, Anglo-Irish trade was free from the normal restrictions on trade such as tariffs on most goods which applied to their dealings with other foreign states. Additionally, under the 1948 Nationality Act citizens of Eire were accorded the same rights in the British mainland as citizens of the U.K.. For example, they were entitled to the franchise, could enter the professions, the forces and the civil service.

(5) PRO DO 35 3991. Report: "Further Arguments put forward by Eire."

According to a memorandum prepared by the Commonwealth Relations Office, the attitude of the Irish government could be summarised as follows: the Irish Government "earnestly desire to continue close relations with the Commonwealth" and that relations with Britain and the Commonwealth "will be strengthened if based on factors of tradition, custom, and common interest rather than on 'out worn' constitutional forms". On the issues of trade and citizenship rights, the Irish government wanted to maintain the existing preferences, arguing that as no new rights were being granted, foreign(1\*) nations could not raise objections under the Most Favoured Nation clauses. Finally, the memorandum acknowledged that the Irish government had made known their determination to repeal the External Relations Act regardless of the reaction of the British Commonwealth.(6)

(6) PRO DO 35 3991

(1\*)The term "Foreign" country was defined in an agreement between the U.K. and Poland in regard to trade and commerce in 1935. Article 2 of the agreement stated: "It is understood that in this agreement the term "foreign country" in relation to the U.K., or in relation to any territory referred to in article 9, means a country not being a territory under the sovereignty of His Majesty the King of Great Britain, Ireland and the British Dominions beyond the seas, Emperor of India, or under His Majesty's sovereignty, protection or mandate; and the term: foreign imports "means imports from foreign countries so defined." (7)\*

(7)\*PRO DO 35 3991 "Definition of Foreign Country."

(D)

POST-CHEQUERS-PRE-PARIS DISCUSSIONS

On October 26, 1948, Attlee, informed the House of Commons that there had been no developments on Anglo-Irish relations since the Chequers talks ended nine days previously; he stated, "we explored the matter and there it rests at present." (1)

Attlee was faced with a parallel constitutional difficulty within the Commonwealth. He circulated a memorandum(2) to the Cabinet meeting on October 28,(3) in which he informed them that the new constitution of India was to provide for the establishment of India as a "sovereign independent Republic". The memorandum stated, that India would not be willing to accept the King's jurisdiction "even for the purpose of her external relations". Attlee explained that during the Commonwealth Prime Minister's meeting held earlier that month, he and some other Ministers had been discussing with Pandit Nehru, the possibility of devising some satisfactory constitutional link, preferably through the Crown so that India could remain within the Commonwealth on a basis that would be acceptable to public opinion in India. More optimistically, Attlee pointed out that Indian ministers were "anxious" that India should remain within the Commonwealth, and were looking for a constitutional basis which will be acceptable to their constitutional assembly. This memorandum contains a reference to the hope that Eire too might, after an interval, re-enter the Commonwealth on "some new basis not involving any relation to the Crown".(4)

CONTINUED/

- (1)H.C. Vol 457. Col 31. 26.10. 1948
- (2)PRO Cab 129/30. CP (48) 244. pp. 195-99
- (3)PRO Cab 128/13. CM (48) 67. pp. 113-14 28.10.1948
- (4)PRO Cab 129/30. CP (48) 244. pp. 195-99

It was still possible, even perhaps as late as mid- November 1948 that whatever solution was applied to Ireland or indeed India, could also serve as an example if not a precedent to other members of the Commonwealth, especially Ceylon.

The Cabinet meeting on October 28(1\*) also reviewed the practical consequences that were likely to follow Eire's repeal of the External Relations Act.(5) This meeting asked Philip Noel-Baker, to prepare and submit a memorandum which would "set out the terms of a written communication which might be sent to the Eire Government" as a reply to their 'aide memoire' received the week before. It was proposed to base the reply on the practical consequences which would follow the repeal of the External Relations Act and also the measures which might be taken to mitigate the consequences of repeal in relation to the UK and other Commonwealth countries. The Cabinet also asked Lord Chancellor Jowitt in consultation with the Attorney-General and the Solicitor General to investigate whether there might be a successful challenge on the Most Favoured Nation preferences on trade and nationality.(6)

(5) PRO Cab 128/ 13. CM(48)67. pp.113-14 (pp.58-60) 28.10.1948

(6) Ibid

(1\*) It is worth noting that on October 27, an understanding had been reached in Paris between the "foreign Ministers" of Britain, France and America that they would concert all their actions in regard to any new developments in the Berlin situation. Referred to in Cab 128/13. CM (48) 73. p.137(p.94)

On November 5, 1948, Philip Noel-Baker submitted the proposed draft reply to the Irish government's 'aide memoire' of October 20 to the Lord Chancellor for his opinion. Aware that the reply might be publicised, the content was brief, dealing only with the main issues of the difficulties that might be encountered on the Most Favoured Nation clause in relation to trade and nationality.(7)

Any hope that Eire might re-enter the Commonwealth were quashed when on November 9, 1948, the Irish Cabinet amended Sean Mac Bride's Bill to repeal the External Relations Act with a new section as follows: "The description of the State shall be the Republic of Ireland."(8) Interestingly the title of the Bill was still "EXECUTIVE POWER OF THE STATE (INTERNATIONAL RELATIONS) BILL, 1948." The Irish cabinet meeting of November 9, granted authority for the introduction of the Bill to Dail Eireann on November 17.(9)

By November 10, 1948, Philip Noel-Baker had prepared a preliminary paper for the British cabinet about the possible measures to mitigate the practical disadvantages of Eire becoming a foreign country.(10)

(7) PRO DO 35 3964

(8) NASPO Cab 2/10 1948 G.C. 5/46

(9) Ibid

(10) PRO CAB 129/30. CP(48)263. (pp.214-216)

His conclusions were, firstly, that on the issue of nationality it would be possible to avoid infringing any treaty obligations by making it possible for Eire citizens to be naturalised on easy terms. Additionally, Eire citizens could be given the option of retaining their British subject status on the lines of Section 2 of the British Nationality Act. Philip Noel Baker's memorandum recognised that there would be difficulty with the naturalisation process because the Irish government would first have to amend her 1935 Nationality Act to allow for dual citizenship.(1\*)

Philip Noel-Baker's memorandum was less accommodating on trade, stating : "The UK and Eire will have to discontinue the grant of trade preferences to each other." The memorandum acknowledged that this would have entailed "re-negotiating" the June 1948 Anglo-Irish Trade Agreement, which was proving advantageous to Britain because of the agreed fixed price for cattle. Since the trade treaty was signed, there had been an increase in world prices for cattle. Not surprisingly therefore, Philip Noel-Baker advised, "We should not press for this re-negotiation, but Eire might do so."(11)

(11)PRO CAB 129/30. CP(48) 263

(1\*)Section 3 of the Irish 1935 Nationality Act did not allow Irish citizens to have dual nationality, accordingly if they became citizens of another country, their Irish citizenship was forfeited. See - Mansergh N.(Ed.)Documents and Speeches on British Commonwealth Affairs 1931-1952 Vol. 1. contains Irish Nationality and Citizenship Act (No 13 of 1935). p.314

On November 11, 1948, Neil Pritchard, informed Sir Eric Machtig, with the news that the 'Irish Independent' carried a report that Irish constitutional lawyers have examined the position very fully and are satisfied that nothing can arise out of the repeal of the External Relations Act as it affects the "factual association".(12) That same day, Neil Pritchard wrote to Norman Archer advising him that the Eire ministers "pooh-poohed the reality" of the arguments advanced at Chequers claiming that as lawyers they "knew very well that there were ways round legal difficulties". Pritchard's letter quoting Frederick Boland claimed that the real difficulties raised at the Chequers discussion "has not penetrated into the minds of the Eire Ministers, and reinforces what I said about the really great importance of letting the Eire Ministers have something pretty plain in black and white."(13) Indeed, Patrick McGilligan, writing about the Chequers and Paris negotiations some twenty years later, confirms Neil Pritchard's deductions with his reference to the Most Favoured Nation clause arguments as, the "old bogey". (14)

(12) PRO DO 35 3964. p.14.

(13) PRO DO 35 3964. L.D. 11.11.1948.

(14) Sunday Independent, 26.6.1968, article in McGilligan Papers U.C.D. Archives Department.



The British cabinet met at 10 a.m. on Friday, November 12, (15) and considered six memorandums relating to the effects of Eire's proposed departure from the Commonwealth. These papers included the conclusions of Attlee, Philip Noel-Baker, Lord Jowitt, Sir Hartley Shawcross, James Chuter-Ede and W.E. Furlonge of the Foreign Office. Item two on the agenda concerned the constitutional developments in India and Eire.(16) The main point for discussion was that while Eire was determined to repeal the External Relations Act she also wanted to continue the existing relationship on nationality and trade with the Commonwealth.

At this meeting, Jowitt and Sir Hartley Shawcross gave their legal advice to the effect that there was no device by which Britain could hope to satisfy an international court that a country, which was not a member of the Commonwealth, was not a foreign state. Accordingly, they advised that the U.K. could not give Eire or her citizens any special privileges which were not given to other foreign countries under the Most Favoured Nation Status. This advice was based on the premise that because the Irish government were independent signatories to the General Agreement on Tariffs and Trade and the Havana charter, their arguments about close ties to Britain would not be of any use as a defence or excuse.

(15) PRO CAB 128/13. CM(48)71. 12.11.1948. (pp.129-131) (pp.82-85)  
(16) PRO CAB 129/30. CP(48)253, (Eire and the British Commonwealth, Note by Philip Noel-Baker). CP (48)254, (India's Relations with the Commonwealth, Note by Attlee). CP(48)258, (Eire's Relations with the Commonwealth, Note by Attlee). CP(48)262, (Draft of reply to Irish 'aide memoire' of October 20, by Philip Noel-Baker,). CP(48)263, (Note on Mitigating Practical Disadvantages of the Repeal of the External Relations Act, by Philip Noel-Baker) and finally CP(48)264 which contained the legal opinion of Lord Jowitt on the draft reply.

Jowitt and Shawcross cited the case of India and explained that from the legal point of view they considered that Eire's case was weaker than India's. This was because, in order to prove the argument that common citizenship provided a sufficient constitutional link on which to base a case against any challenge to the Most Favoured Nation Status of Eire, it would be necessary to prove that its citizens had a right to enter any part of the territory and most importantly have a "share in its government". Additionally, it was pointed out that, while India was prepared to declare that she remained a member of the Commonwealth, Eire was not. The legal conclusion consequently was pessimistic with regard to allowing Eire to continue trading with the Commonwealth under the Most Favoured Nation clause. Overall the conclusion was that "the United Kingdom Government would have no alternative but to treat her as a foreign state and her citizens as aliens." (17)

This Cabinet meeting of November 12 stressed the disadvantages that would arise if Eire were treated as a foreign state. The example cited was the administrative difficulties the Home Office would be confronted with if all Eire citizens had to be treated as aliens in the U.K. It was further pointed out that if Eire became a member of the U.N. and raised the Partition issue there, "the UK Government would find it highly embarrassing to be forced to give positive support for the continuance of Partition as they would probably find themselves compelled to do for strategic reasons alone, apart from any consideration for the feelings of the people of Northern Ireland." (18)

(17) PRO CAB 128/13 CM (48)71. 12.11.1948. (pp.129-131) (pp.82-85)

(18) Ibid

The British Cabinet decided to prepare a reply to the Irish Government's 'aide memoire' of October 20. The objective of the reply was to put on record the "difficulties to which this repeal would give rise".(19) The Cabinet believed that it was important to point out to the Irish people that the proposed measures would not be due to the discretion of the UK Government or were retaliatory but "were the inevitable consequences of the action taken by their own Government which would inevitably flow as a consequence from international law." In order to highlight this point, the Cabinet agreed that a communication should be forwarded to the Irish Government pointing out the consequences of the repeal. Significantly, the Cabinet agreed that the 'aide memoire' together with the Irish Government's 'aide memoire' should be "publicised at the earliest possible date".(20)

It is possible that the British cabinet hoped that the reasonableness of their case would indeed be publicised before the Irish government introduced the repeal legislation in the Dail, on November 18. A member of the Cabinet did point out that the publication of the Irish Government's 'aide memoire' and the British note would not deter the introduction of the Bill.(21) It is likely that the publication was intended to do more than upstage the Irish government who may have had a similar intent.(22) Indeed, the British Cabinet may have hoped to intercede with the Irish people directly hoping that/

(19) Ibid

(20) Ibid

(21) Ibid

(22) NASPO S.14387A see 'aide memoire' 20.10.1948

that by publicising their 'aide memoire', it might act as a warning and persuade the Irish government not to repeal the Act. (23)

The Cabinet agreed that a note, already prepared, though with minor revisions, should be sent to the Irish Government, as a reply to their 'aide memoire' of October 20. The note pointed out that Eire would suffer exclusion from the benefits of Commonwealth membership with particular reference to trade and nationality. Extracts from the note read as follows:

"The repeal by the Eire Government of the Eire Executive Authority (External Relations) Act, 1936, would have the result that Eire would become, for the purpose of 'Most-Favoured-Nations' treaties, a foreign country.

The United Kingdom would therefore either have to withdraw trade preference which she now accords to Eire; or, if she made no change in her treatment of Eire, the consequences would be that, except for a few protective and revenue duties, the United Kingdom Government could have virtually no tariff, because every important country would have to be granted the almost universal free entry now enjoyed by Eire.

The United Kingdom government would therefore have no alternative but to bring Eire citizens under the ordinary aliens control applicable to foreign nationals." The note concluded with an invitation to the Irish government to discuss the legal implications. (24)

(23) PRO Cab 128/13 CM(48)72. 13.11.1948

(24) PRO DO 35 3964. X2638/39 contains proof of 'aide memoire'

Almost as an afterthought, the British cabinet meeting of November 12 decided to ask Sir Hartley Shawcross who was due to fly to Paris that afternoon, to show the proposed draft of the 'aide memoire' to Peter Fraser and the Canadian Minister for Justice and Attorney General, Louis St. Laurent and Herbert Evatt. Expecting that the draft would be approved, the Cabinet had already decided in advance that "subject to their comments the communication should be despatched to the Eire Government that evening", as soon as it and the Irish government's aide memoire had been communicated to the press.(25) Given the rift that followed, that polite assumptive nuance "subject to their comments" was indeed an understatement and showed the gulf developing between Commonwealth members and personalities, not just on Anglo-Irish relations, but more probably over the issue of criteria for membership of the Commonwealth particularly relating to defence.

(25) PRO CAB 128/13 CM(48)71. 12.11.1948 p.131 (p.85)

CH:X  
COMMONWEALTH DISCUSSIONS IN PARIS

(A)

COMMONWEALTH REPRESENTATIVES CONSULTED IN PARIS

On the evening of November 12, 1948, Sir Hartley Shawcross, began conversations with Herbert Evatt and the Canadian Secretary of State for External Affairs, Lester B. Pearson, in Paris. He had hoped to meet Peter Fraser later on that evening. He telegraphed Attlee from Paris at 10p.m. ( French time) to report that Evatt was "most difficult", being annoyed over the unauthorised press conference following the Chequers meeting. Additionally, Evatt felt thwarted because he was under the impression that Lord Jowitt was going to consult with him to find a solution following the Chequers talks and instead the form of the British reply was being presented to him as a 'fait accompli'.(1)

Evatt now held the same opinion as the Irish ministers and was astonished that the British government would contemplate rescinding the special provisions for Irish citizens resident in Britain as were contained in the British Nationality Act, 1948. He considered that there would be no difficulties over the Most Favoured Nation clause and "airily dismissed" the possibility of a challenge from foreign states. To substantiate his deductions Evatt cited the precedent of Burma, which left the Commonwealth and now, even though a Republic, still retained Most Favoured Nation status among Commonwealth members.

(1) PRO DO 35 3964 Telegrams 390 from UKDEL Paris. 12.11.1948

Evatt asked that any insinuation contained in the proposed 'aide memoire' that the Commonwealth representatives were in agreement with it should be deleted. He believed that even if the views were correct, that it was the wrong time to express them. Based on his conversation with Evatt, Shawcross reported that Pearson's attitude was, "as one would expect, more reasonable." However, Pearson also wanted reference to the Chequers meeting and "Countries of the Commonwealth" removed from the proposed 'aide memoire' because of the implication that the representatives of the Commonwealth agreed with the proposed note. (2)

Shawcross, after speaking to Evatt and Pearson, recommended to Attlee that there should be further consultations with Commonwealth representatives on the legal aspects and suggested: "possibly not to send the note". After speaking to Evatt and Pearson, Shawcross expected that Fraser's view would have been swayed by Evatt and "will not be very different". At five minutes past midnight on November 13, (French time), Shawcross sent a telegram from the U.N. General Assembly office in Paris to Attlee reporting on his "long talk" with Fraser. The telegram (received at 11.59 p.m. GMT, November 12) was headed, "This telegram is of particular secrecy and should be retained by the authorised recipient and not passed on." Surprisingly, this telegram described the atmosphere of the talks with Fraser as cordial and he "showed no sympathy whatever with Evatt's negative and unhelpful approach to the problem." (3)

CONTINUED/

(2) Ibid

(3) PRO DO 35 3964. Telegram 391 from UKDEL Paris.



His report continued to mention that Fraser did raise some objection to sending the note but overall felt this episode served to illustrate the lack of consultation and sharing of confidential matters by the British government with Commonwealth governments on other issues. Despite Fraser's comparatively co-operative stance, Shawcross again advised that Prime Minister "not to proceed with a unilateral demarche to the Eire government." Instead he advised Attlee to resume consultations with the "four oldest Governments of the Commonwealth," arguing that if a note were sent in spite of the views of Commonwealth representatives, "we shall risk impairing our relations with three Commonwealth countries that really count for the sake of making a demarche to Eire which no one really believes will produce any practical result." (4)

The following day, Shawcross's report was discussed at the Cabinet meeting. (5) The minutes, in an understatement, noted that Evatt and Fraser expressed "concern" at the proposal to send a note to the Irish Government based on those terms which emphasised the consequences of repealing the External Relations Act. (6) Immediately prior to this meeting, the British government believed that the Bill to repeal the Act would be introduced in Dail Eireann on November 18 and commence upon enactment. However, on November 13, they were relieved to hear that the Bill did not contain a date for the commencement of the repeal legislation. (7)

CONTINUED/

(4) Ibid

(5) PRO CAB 128/13. CM(48)72. 13.11.1948 pp.133-34.

(6) Ibid

(7) PRO CAB 128/13. CM(48)72. 13.11.1948 pp.133-34. (p.89)

Consequently, the Cabinet meeting of November 13 appears less bellicose in its approach than the day before and agreed that there was no longer the urgency to publish the intended 'aide memoire' since negotiations to ease the impact or the consequences could now take place before the commencement of the Act. A conciliatory attitude emerged amongst some members of the British cabinet. This section accepted that the Commonwealth were interested because of their Irish populations and were concerned that Ireland should not secede from the Commonwealth in circumstances which left her with a sense of grievance against the UK, and possibly the other members of the Commonwealth.

Following the rebuff from the backbone of the Commonwealth, the Cabinet re-appraised the proposal to send the note. Again the hard-liners probably led by Norman Brook and composing of Foreign Secretary, Ernest Bevin, Lord President, Herbert Morrison, and possibly James Chuter-Ede, (acting on the advice of his permanent Secretary of the Home Office, Frank Newsam) repeated the earlier warning that it was important that the Irish Government should be sent a warning. These Cabinet ministers still interpreted Evatt's and Fraser's response against the sending of the note as selfish, accusing them of "looking at this problem from the point of view of their own countries, none of which had interests in world trade comparable with those of the United Kingdom." (8) These/

(8) PRO CAB 128/13. CM (48)72. 13.11.1948 pp.133-34. (p.88)

These ministers argued that the publication by Britain of the Irish 'aide memoire' and their reply which emphasised the Most Favoured Nation difficulties in relation to trade and nationality, would cause panic about the possible uprooting and displacement of Irish citizens and that that would make the Irish Government think twice about their course of action. The publication of the 'aide memoires' was, according to these Cabinet ministers, intended "to bring home to the people of Eire the practical consequences of the repeal and, if Eire Ministers felt less confident of public support, they might at least be prepared to adopt a more reasonable attitude in determining the date from which the new act would take effect." (9) This attitude may well have been voiced previously to John Costello by Rugby when he delivered the 'aide memoire' on October 7. (If so, that would arguably account for Costello's offer of resignation that afternoon to some members of his Cabinet and also for his refusal to attend the Chequers meeting.) The hard-line group in the Cabinet argued that if the note were not sent in reply, then the British government "might subsequently be criticised for having failed to warn Eire ministers in detail of what these consequences were likely to be." (10)

(9) Ibid

(10) PRO CAB 128/13. CM(48)72. 13.11.1948 pp133-34. (p.89)

While the British government were strongly influenced by the Commonwealth Minister's adverse reaction to their proposed 'aide memoire', the softening of reaction may have been encouraged by the Irish government postponing the commencement date. The British cabinet now agreed that "an interim reply" should instead be sent to the Irish government which would point out that careful consideration had been given to their 'aide memoire' but they were still unable to see any way of overcoming the difficulties and suggested that if it was impossible for the Irish government to postpone the introduction of the Bill, then the date for commencement should "provide a sufficient interval to enable the full implications to be further discussed." (11) This meant that the original reproachful reply was withdrawn and instead a new softer note was immediately despatched to Rugby to be handed to "Mr Costello or, in his absence, Mr. MacBride." (12) This revised 'aide memoire' explained that the British government "were still unable to find any way of overcoming the difficulties" and simply asked for the postponement of the commencement of the Act. (13)

(11) Ibid

(12) PRO DO 35 3964. CRO to Rugby. Telegram No. 285. Des. 1.10p.m. 13.11.1948. X.2638/39.

(13) Ibid

The British cabinet meeting of November 13 agreed that Lord Chancellor Jowitt and Philip Noel-Baker should go to Paris immediately to see Peter Fraser, Herbert Evatt and Lester Pearson, all of whom were attending a meeting of the General Assembly of the United Nations In Paris.(14) Jowitt and Noel-Baker's mission was to try to obtain a Commonwealth consensus on the legal issues involved and to ask for their agreement that the Irish representatives should be invited to join in further discussions. The Cabinet also instructed Lord Jowitt and Philip Noel-Baker to request the Commonwealth representatives to use their good offices to ask the Irish Government to see "the advantages of allowing a reasonable interval to elapse before the the proposed legislation was brought into operation." Most importantly the Cabinet suggested that attention be drawn to the possible effects on India and other Commonwealth countries "of the policy adopted in relation to Eire." Accordingly it was agreed that the Commonwealth representatives should hold preliminary discussions about India's future relationship with the Commonwealth.(15)

Following the Cabinet decision of November 13, Jowitt and Philip Noel-Baker met with Evatt, Fraser and Pearson at the British Embassy in Paris on Sunday November 14 at 11 a.m.(16)

(14)Fanning, R.: The Response of the London and Belfast Governments.p.102

(15)PRO CAB 128/13. CM (48)72. 13.11.1948. pp133-34. (p.89)

(16)PRO Cab 129/31. CP(48) 272. (pp.6-13) Report:"Eire's Future Relations with the Commonwealth." 17.11.1948

Appendix to report, Annex A meeting on 14.11.1948 p.6

Appendix to report, Annex B meeting at 11.am. on 15.11.1948

Appendix to report, Annex C meeting at 5.pm. on 15.11.1948

A full list of the attendance at the meeting was as follows: the Prime Minister of New Zealand, Peter Fraser and his Secretary of State for External Affairs, A.D. Mc Intosh, Dr. Herbert Evatt and the Australian High Commissioner in London, J.A. Beasley. The Canadian Secretary of State for External Affairs, Lester B. Pearson and the High Commissioner for Canada in London, Norman Robertson accompanied by Mr G. Riddell. The U.K. was represented by Lord Chancellor Jowitt, Sir Norman Brook, Philip Noel-Baker and officials Sir Eric Machtig, Sir Gilbert Laithwaite, Mr. F.E. Cumming-Bruce and Mr. B.R. Curson. The Home Office was represented by Sir Frank Newsam and Mr. L.S. Brass. Representing the Board of Trade was Mr. S.L. Holmes and the Parliamentary Counsel Office was represented by S. Rowlatt. The name of Dr. A Carson was later pencilled in as having attended the meeting. (17)

The purpose of the discussion was to find a method of continuing the existing Commonwealth status quo in relation to trade and nationality with Eire after the repeal of the External Relations Act. At this preliminary meeting, Lord Jowitt highlighted the fact that the External Relations Act involved the political issue of the future of the Commonwealth, particularly in relation to India. He then explained the legal difficulties which might be challenged by an international court, especially the terms of the Most Favoured Nation clauses of commercial treaties between the various Commonwealth countries and foreign countries.

(17) PRO Cab 129/31. CP(48) 272. (pp.6-13)  
Appendix to report, Annex A meeting on 14.11.1948 p.6

Evatt countered Jowitt's pessimistic prognostications with his view that it would be possible to continue to retain the status quo 'vis-a-vis' Eire when she repealed the External Relations Act by advancing the possibility of creating a special link similar to the one as then existed between the U.S. and the Philippines and Cuba. Evatt, as though versed by Sean MacBride, put forward the theory that his government's action was largely impelled by domestic considerations, in particular "to take the gunmen out of Irish politics".(18) This excuse was never discussed by the British government and can be assumed to have been dismissed by them. That meeting on the morning of November 14 agreed to send an invitation to John Costello or Sean MacBride, inviting them to continue the Chequers discussions at the earliest possible date and if possible before the introduction of the Bill repealing the External Relations Act. They left the venue open, mentioning Paris, London, or Dublin. An important point about the invitation was that it emanated from the Commonwealth as a whole instead of from the British government alone.

(18) Ibid

Shortly before midday on November 14, Sir Eric Machtig, having conferred with the Commonwealth representatives in Paris, telephoned Lord Rugby with the text of an agreed message from Paris.(19) This message stated that Lord Jowitt and Philip Noel-Baker had discussed the proposed repeal of the External Relations Act with Fraser, Evatt and Pearson that it "was the unanimous view of all those present that it would be most desirable if, in continuation of the talks at Chequers on October 17, further discussions either in Paris , London, or Dublin could be held with Eire Ministers at the earliest possible date and if possible, before the introduction of the Bill for the repeal of the External Relations Act."(20)

Sean MacBride remembered that immediately prior to the Paris talks, Dr Evatt phoned him to advise him to reject any efforts by the British government to continue the Chequers talks without Evatt's conciliatory attendance.(21) This may have been a gesture of solidarity by Evatt to lessen MacBride's sense of being outside the inner Commonwealth discussions.

CONTINUED/

(19) PRO Cab 129/31. CP(48) 272. Appendix to Annex A (p.9.)

(20) Ibid

(21) Irish Times 1.1.1979 also Personal Interview Sean MacBride, 6.1. 1987.



In the early afternoon of Sunday, November 14, Lord Rugby telephoned the Commonwealth Relations Office, informing them that the initial reaction of Sean MacBride was to agree that he and Minister of Finance, Patrick McGilligan would fly to Paris the following day, (22) A specially convened meeting of the Irish Cabinet met at five o'clock on Sunday evening, November 14, to discuss the invitation. The Cabinet confirmed and sanctioned MacBride's earlier decision and now decided that MacBride, McGilligan and the Attorney General, Cecil Lavery, should go to Paris the following day, to meet with Commonwealth representatives. (23)

At 7p.m. that evening, Rugby telephoned the Commonwealth Relations Office to pass on the text of the Irish government's acceptance which was to be published in the Irish papers the next morning. Rugby mentioned that the Irish ministers were prepared, if necessary, to wait in Paris before the talks commenced. This was because the only available direct flight to Paris from Ireland was early on Monday morning. This message in turn was communicated to Paris. (24)

(22) PRO DO 35 3964. Note by duty officer addressed to MacLennan. 14.11.1948 p.22

(23) NASPO CAB 2/10. G.C. 5/48 . 14.11.1948

(24) PRO DO 35 3964. Note by duty officer addressed to MacLennan. 14.11.1948 p.22

(B)

IRISH-COMMONWEALTH NEGOTIATIONS IN PARIS NOVEMBER 15-16, 1948

Three sets of meetings were held in Paris between the Irish Ministers and the Commonwealth representatives. The purpose of the talks was to devise a means whereby it would be possible for Eire and the Commonwealth countries to continue to grant Most Favoured Nation privileges to each other without breaching existing Commonwealth agreements with foreign states.

Talks started with an informal discussion after dinner on Monday, November 15, and continued with full and formal meetings in the morning and afternoon of November 16. (1) The meetings on November 16 were held in the offices of Dr Evatt at the Palais de Chaillot. Included in the attendance at both sessions were the representatives of the U.K., Lord Chancellor Jowitt, Philip Noel-Baker, Sir Norman Brook, Sir Gilbert Laithwaite, F.E. Cumming-Bruce and S.L. Holmes, ( Board of Trade). Ministers Sean MacBride and Patrick McGilligan and the Attorney General, Cecil Lavery represented Eire. (1\*) Australia was represented by Dr. Herbert Evatt and the High Commissioner in London J.A. Beasley, New Zealand by Peter Fraser and the Secretary for External Affairs A.D. Mc Intosh, Canada was represented by the Secretary of State for External Affairs Lester B. Pearson and the Canadian High Commissioner in London, Norman Robertson and Mr. G. Riddell (who was absent from the afternoon session.) (2)

(1) PRO Cab 129/31. CP(48) 272 (pp6-13) Report: "Eire's Future Relations with the Commonwealth." 17.11.1948 (pp.6-13) Annex B. All references from this file unless otherwise stated.

(2) PRO Cab 129/31. CP(48) 272. Appendix to report, Annex C

(1\*) A Canadian report prepared from notes by F.E. Cumming -Bruce and Mr. Riddell included Frederick Boland in the morning session of November 16. (3)

(3) CDEA 50021-40 199(S)/29

According to the minutes(1\*) of the meeting held on the morning of November 16, Peter Fraser began by criticising the arrangements made for supplying information to the press about the Chequers meeting. It was agreed that no press conferences should be held following these meetings. (4) Sean MacBride's recollections of this are more graphic; he remembers Peter Fraser making the gesture of throwing loose change on the table asking whether the newspapers should be bought at the beginning of the meeting in order to read the outcome.(5) This was a reference to the press conference being held without agreement and before the end of the Chequers meeting and also that the press conference had given the impression that other Commonwealth government's were attempting to coerce the Irish Government into abandoning their intention to repeal the External Relations Act. Another criticism levelled at the unauthorised press conference was that it had effectively given notice to interested countries about the possibility of raising objections to Eire's claim to continue having Most Favoured Nation status after the External Relations Act was repealed.

(4) PRO Cab 129/31. CP(48) 272. Appendix to report, Annex B

(5) Irish Times 1.1.1979

(1\*) Lester Pearson wrote to his Acting Under-Secretary of State and explained that Mr Beasley asked that no records should be taken of the meeting in Paris because records of previous Commonwealth discussions had fallen into the hands of members of the opposition of the Parliament in Australia and had been used in a manner which embarrassed the Government. "Since it was agreed by the meeting to concur in Mr. Beasley's request the attached account of what took place should not be regarded as the kind of record which Mr. Beasley did not wish to have made. This proviso gives an appropriate Irish character to the status of this record." (6)

(6) CDEA 50021-40 199 (S)/29. L.D. 23.11.1948

Fraser made a strong appeal to the Irish Ministers that Eire should continue within the Commonwealth. That was supported by all the representatives present. He based his appeal on historical, domestic and international ties, pointing out that Eire was "one of the parent countries of the Commonwealth, and that cessation would be greeted by Irish people throughout the world with dismay." He explained that because of the large Irish elements in their populations, there would be domestic political difficulties for the governments of Britain, Australia, Canada and New Zealand. Finally, he spoke of the "duty" of the Commonwealth countries "at this time" to stand together in resisting the threat of Communism and preserving world peace. He urged that there should be no apparent weakening of the Commonwealth group at this critical stage in international affairs, arguing that the termination of "Eire's special constitutional association with the Commonwealth would be seized on by our enemies and shake the confidence of our friends in the stability of the group."

(That day Peter Fraser, in a confidential and personal note, appealed to Costello to postpone the introduction of the repeal Bill so that there could be further discussions about allowing the continuation of Eire's close relationship with the Commonwealth.) (7)

(7) NASPO S. 14387

Sean MacBride and Patrick McGilligan replied by reaffirming the Irish government's commitment to repeal the External Relations Act and again stated that Eire was not prepared to become a member of the Commonwealth. The Irish minister's stance was that they too wished to continue to strengthen the close factual relationship between Eire and the countries of the Commonwealth but believed that this could be achieved through a reciprocal exchange of rights on trade and citizenship between free and independent peoples. The Irish Ministers believed that the Commonwealth countries could together find means of resisting any attempt by third parties to drive a wedge between them on the basis of the Most Favoured Nation rights.

Lord Chancellor Jowitt began by explaining that the British Government wanted to know if the Irish Government were prepared to assist in giving some explanation to any challenge under the Most Favoured Nation clause by proposing some form of constitutional link which could be used in argument to justify discrimination against such foreign countries as Denmark.

Sean MacBride, in a lengthy reply, began by castigating the External Relations Act, explaining that the reason for repealing the Act was because "it was a flimsy, dishonest and, indeed, a derisory instrument which could not be defended on its merits." Secondly, that the Irish Government believed that relations would benefit with the removal of the link with the Crown, and he suggested "an entirely fresh start .... on a footing of frank independence." He explained that it was the Irish government's wish to maintain the existing relationship on trade and nationality and he believed that since Eire was outside the Commonwealth since 1937, it had therefore acquired a "strong prescriptive right to continuation of the present treatment" .

MacBride doubted whether in fact any such claims would be made and cited the fact that the Havana Charter and the General Agreement on Trade and Tariffs adopted, in their classification of states, certain groupings referring to countries geographically, or alternatively used a principle of groupings not based exclusively on common sovereignty and also that the special position of Burma was already recognised in these instruments. Sean MacBride then asked that the existing trade and citizenship arrangements should be maintained to see if a claim arose.

Dr. Evatt started by supporting Eire, saying that he thought "the term Eire was a mistake because in the English language the term Ireland should be used." Evatt reasoned that since MacBride did not regard the U.K., Australia, Canada and New Zealand as foreign countries he proposed that they should make this clear in a statement in the Dail which might then be referred to as support of any case made against claims by foreign states. Evatt, now circulated the draft of such a declaration.

That draft read as follows: "From the point of view of Ireland, the factual relationship between it and the United Kingdom, Canada, Australia and New Zealand is clear. Ireland does not, and, when the External Relations Act, 1936, is repealed, will not, regard the United Kingdom, Canada, Australia or New Zealand as "foreign" countries or treat their peoples as "foreigners". On the contrary, the fact is that the citizens of Ireland, while resident in the United Kingdom, Canada, Australia, or New Zealand, are treated by law or practice not as "foreigners" or aliens but as entitled to the rights and privileges of nationals or citizens of those nations. Similarly, while in Ireland, the nationals or citizens of the United Kingdom, Canada, Australia or New Zealand are treated not as foreigners or aliens, but as entitled to the rights and privileges of citizens of Ireland. These facts not only negative the view that Ireland and the United Kingdom, Canada, Australia and New Zealand are to be regarded as "foreign" countries; but they also evidence the fact of a special association which it is the firm desire and intention of Ireland to maintain and strengthen."



Sean MacBride agreed with the content of the formula but explained that the Irish constitution limited voting in general elections to citizens of Eire. Lord Jowitt liked the idea of the draft statement but wanted something more substantial, suggesting "some legal facade in substitution for the External Relations Act to enable the U.K. Government to refrain from treating Eire citizens as aliens after repeal." He suggested that Eire should undertake to amend their nationality legislation so that British subjects should no longer be legally aliens in Eire.

Lester Pearson was optimistic believing friendly states and allies such as Denmark would refrain on the grounds of Western solidarity from making any challenge during the "present situation" and even that Argentina "would not in the light of her attitude to the G.A.T.T. take the initiative."

It emerged from the above talks that Australia, Canada, and New Zealand were confident that the status quo regarding trade and nationality could be maintained. Britain was concerned about the vulnerability of her trade from a challenge under international law and believed that the other Commonwealth Labour leaders were adopting a selfish posture and were more concerned with losing Irish ethnic votes.(8) The meeting agreed to continue the discussions later that afternoon at five o'clock.

(8) PRO DO 35 3964

Patrick McGilligan, recollecting these talks twenty years later, considered the possibility of an Argentinian challenge to be a "rather woolly and fumbling argument" advanced by the British representatives. McGilligan thought that this "bogey" had been disposed of at Chequers, and seems almost surprised "when at Paris, the Argentinian spectre was again raised." McGilligan gives the impish impression of turning the challenge to the Most Favoured Nation Status into a joke, by referring to Commonwealth representatives enquiring about the "mystical inquisitive Argentinian" lodging objections to the continuance of Most Favoured Nation status to Eire after adshe had left the Commonwealth. (9)

During the luncheon period, Lester Pearson told McGilligan that he thought the issue of the Most Favoured Nation clauses and citizenship was a last despairing effort on the part of the British. He reassured McGilligan that he would hear no more about it. McGilligan recollected that the point was not, in fact, ever again raised.(10) Indeed, these arguments were not raised at the following session but this may possibly have been because they had been sorted out through Evatt's suggestion that Eire should give a commitment to recognise mutual Commonwealth citizenship.

(9) Sunday Independent. 2.6.1968 extract in Patrick McGilligan Papers U.C.D. Archives Department.

(10) Ibid

At this stage the Irish delegates were apparently willing to forego the Most Favoured Nation benefits in relation to trade. Eire's exports to Commonwealth countries other than the United Kingdom were so small that there would have been little affected by an increase in tariffs against the exports benefiting from preferences. Only 8% of annual exports from Eire to Britain, benefited from Most Favoured Nation status.(11) In fact Britain gained a larger benefit because the United Kingdom exports to Eire which were entitled to preferences exceeded the Irish. However, that advantage would have been offset if Britain's exports to Argentina and Arab countries were put at risk.(12)

Eire's prime concern in relation to the Most Favoured Nation status was to retain the existing arrangements for the treatment of Irish nationals in Britain. In fact, all of the Commonwealth countries wanted to retain the status quo with regard to Irish nationals. Their reasons varied from, in the UK's case, the sheer administrative difficulties, to Australia and New Zealand's dependence on the Labour-orientated Irish vote. The Foreign Office noted that the continuation of the existing relationship regarding the treatment of citizens "would cause less complications since treaties incorporating the term foreign country were mostly concerned with trade and commerce and not with the treatment of nationals." (13)

(11)PRO DO 35 3961 . Draft memorandum prepared by I. MacLennon submitted to F.A. Vallat. 1.11.1948.

(12)Ibid

(13)PRO FO 371 70175 .Report:The Practical Consequences of the Termination of Eire's Membership of the Commonwealth."

Given the practical factors involved, it is not surprising that at that meeting all of the participants apparently agreed that it would be unreal to begin to start recognising Eire citizens resident in the respective Commonwealth countries as foreigners and similarly citizens of Commonwealth countries resident in Ireland.

After lunch, talks resumed at five o' clock. The composition of this meeting in regard to Commonwealth representatives was as before except for the absence of Mr.G. Riddell. Lord Jowitt began by asking if Eire would be prepared to extend the content of the draft statement as an 'aide memoire' where it pertains to recognition of non-foreignness, not only to Australia, Canada, New Zealand and Britain but also to other Commonwealth countries. Sean MacBride stated that this was the intention and that he intended to address a similar note to the "new" dominions, after agreement had been reached as a result of the current talks. The discussion then turned on whether Eire would amend her Citizenship Act, 1935, so as to grant reciprocal rights to all the members of the Commonwealth. Sean MacBride stated that he was personally in favour, but he could not commit his government, explaining that any such arrangement would have to be carefully timed "as it would be most harmful if the amendments were thought to be part of a bargain made with the Commonwealth governments." Peter Fraser requested that the intention to reciprocate citizenship rights should be made on/

on the Second Reading of the Repeal Bill in the Dail. Jowitt again stated that other Commonwealth countries must be in a position to state that their citizens were not aliens under Irish law: "it was not enough to say that they were not being treated as aliens". Evatt also believed that a relationship based on the grant of reciprocal citizenship rights "would constitute in a group relationship of a special and definite character of significance for international law."

It was Dr Evatt who produced the simple and effective solution which provided the formula for the continuation of Most Favoured Nation status for Eire after the repeal of the External Relations Act. He suggested that the Commonwealth and Eire would agree not to regard each other's citizens as foreign after the repeal of the External Relations Act. This would be evidenced by "the fact of a special association". Dr Evatt then proposed the clinching suggestion namely, that a statement to the above effect could be made during the course of the Second Reading of the Bill being introduced to repeal the External Relations Act. Sean MacBride immediately replied that if a solution on those lines was acceptable to the representatives of the other Commonwealth countries, he personally would be quite willing to make such a statement in the Dail.

Lord Jowitt then attempted to clarify what was still an ill-defined commitment by specifying that it should include a reciprocal exchange of citizenship rights as opposed to concessions or rights made by favour. Jowitt asked for a direct statutory provision conferring positive rights of citizenship in terms comparable to those of section three of the British Nationality Act, 1948.(1\*) MacBride and McGilligan, while agreeing to this, explained that for political reasons it would be necessary to introduce such legislation(2\*) when "tidying up" their own Nationality Act and they would announce such an intention during the course of the "repeal Bill".

The following are the main points which were agreed provisionally, at the Paris meetings but which still required the approval of the respective Governments: Firstly "None would make any comments that would increase or highlight political or legal difficulties relating to the Most Favoured Nation status. All members of the Commonwealth and Eire would "collaborate" to resist any claims which may be made by foreign countries under the Most Favoured Nation status. An announcement would be made in the Dail during the course of the Bill to repeal the External Relations Act, to the effect that eventually reciprocal citizenship would be given to peoples of all Commonwealth countries, comparable with the rights conferred by section 3, of the British Nationality Act, 1948. (14)

(14)As 1.

(1\*)British Nationality Act, 1948. (11 & 12 Geo 6 CH.56.) In Mansergh, N. (Ed.): Documents and Speeches on British Commonwealth Affairs, 1931-52, Vol 11, pp..950-951.

(2\*)Eire, Citizens of United Kingdom and Colonies ( Irish Citizenship Rights Order 1949. S.1. No. 1. 1949.)See Mansergh, N. (Ed.): Documents and Speeches on British Commonwealth Affairs, 1931-52, Vol 11, p. 836.

The meeting agreed that there should be no press announcements other than the agreed press communique and that the discussions should be secret. It was agreed that the ministers involved in the discussions would seek the views of their various governments on the proposals made.

Lord Jowitt and Philip Noel-Baker submitted a memorandum(15) to the Cabinet meeting on November 18,(16) which dealt mainly with the Paris discussions. This memorandum conceded that during the discussion "it became evident that the representatives of Canada, Australia, and New Zealand were keenly anxious to find a solution on the lines of maintaining that Eire and the Commonwealth countries were not 'foreign' to one another." As reported by Philip Noel-Baker, "it was at this point that the other members of the Commonwealth were keen to uphold the non foreignness of Eire, arguing that this simply reflected the facts of the situation." Similarly, Lord Jowitt stated, "if we persisted in the view that Eire must be regarded as a foreign country once the ERA was repealed, we should find ourselves alone in maintaining that view." He continued, "It was plain that Canada, Australia and New Zealand like Eire, wished to follow the contrary view; and they all felt so strongly on this point that it seemed likely that they might press it to the point of public disagreement with the United Kingdom government."(17)

- (15) Cab 129/31 CP(48)272. (pp.6-8)  
(16) Cab 128/13 CM(48)74. 18.11.1948. p.141  
(17) Cab 129/31 CP(48)272. (p.7)

It is worth noting that on November 17, Jowitt and Noel-Baker held further discussions with Fraser, Evatt and Pearson on constitutional proposals put forward by the Prime Minister of India, Pandit Nehru. (18) Following Attlee's permission, Noel-Baker then passed on to the Secretary-General of the Indian Ministry of External Affairs and Commonwealth Relations, (Sir Girja Bagpai), who was then in Paris, the Commonwealth member's proposal that a diluted version of Eire's External Relations Act be accepted by the Indian Government as constituting membership of the Commonwealth. This version was to be that India's authority to appoint diplomatic representatives abroad should derive from the Crown who would be the President of the Indian Republic acting, in effect, as the Governor General. (19)

The gap between an Irish solution and an Indian solution may not have been in terms of days or words but more influenced by the republican purists in Ireland who would never accept the British Monarch as the symbol of co-operation between the Commonwealth countries and Commonwealth purists in Britain who would not tolerate the removal of the concept of the recognition of the Crown's position in the Commonwealth. The Labour party government were vulnerable on this point, already being criticised from all sides for their perceived policy on "the Empire".

Two days after the Paris talks, Unionist M.P. Professor Savory asked Philip Noel-Baker if he would "bear in mind the old English maxim - You cannot eat your cake and have it?" (20)

(18) PRO Cab 128/13 CM (48) 74. p.144 (pp105-106)

(19) Ibid

(20) H.C. Vol. 458. Col 545. 18.11.1948



CHAPTER: X1  
REPUBLIC OF IRELAND BILL, 1948-49

(A)

COMMONWEALTH "FORMULA" INCORPORATED INTO PASSAGE OF THE  
REPUBLIC OF IRELAND BILL, 1948

John Costello insisted that the evening newspapers should not publicise the Republic of Ireland Bill on the eve of its introduction in the Dail. The Secretary of his Department, Maurice Moynihan, suggested that a news release should be issued at six o'clock on the eve of the introduction "so that Radio Eireann would broadcast the news before the B.B.C."(1)

The Republic of Ireland Bill was published in the Dail on November 17, 1948. Leave was granted to introduce a Bill entitled an Act to repeal the Executive Authority (External Relations) Act, 1936, to declare that the description of the state shall be the Republic of Ireland, and to enable the President to exercise the executive power or any executive function of the State in connection with its external relations.(2)(1\*) It is interesting to note that even when the Irish cabinet finally approved the Repeal Bill on November 9, 1948, no mention of a Republic was contained in the title. Indeed, the Title of the Bill at that stage, was still: "Executive Power of the State (International Relations) Bill, 1948."(3)

(1) NASPO CAB 2/10 G.C. 5/46. 9.11.1948

(2) NASPO S 14387A

(3) D.D. Vol. 113. Col. 40. 17.11.1948 .

(1\*) see Appendix 3.

The question of whether a Republic was automatically the new status of the State was not arrived at until after the decision to repeal the External Relations Act had been formally granted by the Irish cabinet on October 11. The term Republic only applied to the status of the state, since a constitutional Republic would have involved a referendum. That might have resulted in the rejection of a republican status, especially if it were conditional upon renouncing membership of the Commonwealth. Arguably, the decision that the repeal of the External Relations Act entailed secession from association with Commonwealth appears to have been made not by the Irish government but by the action of the British Cabinet on September 10, 1948 when it withdrew the invitation to Eire to attend the following month's meeting of Commonwealth Prime Ministers.(4)

The Republic of Ireland Bill contained a suspension clause. This was believed to be a device to enhance the enactment of the Bill, by making the commencement, as recommended by Eamon de Valera, coincide with the anniversary of the the constitution of the first Dail in January 21, 1919 and the first declaration of the Irish Republic. The anniversary eventually chosen, that of the Easter rebellion, proved to be very provocative to the British government.(5) The suspension clause provided the necessary time for the Commonwealth members to agree to implement the formula arrived at in Paris whereby Eire and members of the Commonwealth would announce that they would not regard each/

(4) Cab 128/13 CM (48) 59. 10.9.1948

(5) PRO PREM 8/1464 . Telegrams No. 52 CRO to Rugby and Rugby's reply to CRO No. 30 . 8.3.1949

each other as "foreign", thus allowing Most Favoured Nation Status to continue. In Eire's case this entailed John Costello making a placatory statement during the passage of the Bill, to the effect that Eire did not consider member states of the Commonwealth to be foreign and 'vice-versa'.

The British cabinet meeting on November 18(6) considered a memorandum on "Eire's Future Relations With The Commonwealth"(7) and a summary of the morning (8) and afternoon (9) Paris talks prepared by Philip Noel-Baker and Lord Jowitt. This Cabinet meeting agreed that the Paris formula would suffice to prevent an initial attack on the Most Favoured Nation clause. Additionally the Cabinet agreed with the recommendation to send a message to the Irish Government in advance of the second reading of the Repeal Bill reminding them to incorporate an announcement about future legislation, as required to comply with the arrangement worked out at Paris. Jowitt and Noel-Baker advised the Cabinet to ask for an advance copy of the wording to be given in the Dail, so that they could answer any queries at Westminster.

CONTINUED/

- (6) Cab 128/13 CM (48) 74. p.141-144
- (7) Cab 129/30 CP (48) 272.
- (8) Cab 129/30 CP (48) 272. Annex B
- (9) Cab 129/30 CP (48) 272. Annex C

The Cabinet authorised Philip Noel-Baker to consult the other members of the Commonwealth after the Dail statement was made on the wording of the declaration to the effect, "that despite the repeal of that Act Commonwealth Governments would not regard Eire as a foreign country." (10)

Sir Ivone Kirkpatrick, a senior Foreign Office official, considered that Cabinet approval was reluctant, primarily because Eire would still retain many of the advantages of Commonwealth membership without any obligations. However, the Cabinet considered that if they were to treat Eire as a foreign state then, "the difficulties would be greater for the United Kingdom than for Eire".(11)

Two days after the publication of the Republic of Ireland Bill in the Dail, Rugby reported to Machtig about the talks he had had earlier that morning with the Secretary of the Department of External Affairs, Frederick Boland, and later with Sean MacBride. According to Rugby, Boland prepared the way by indicating that there would be difficulties about implementing the proposed formula agreed in Paris. Rugby dismissed this possibility, having already explained to MacBride that the proposed declaration "need not involve him in any special political difficulty, being merely part of a speech. But, if lifted from its context for use elsewhere, and established as a dictum, it could be most helpful to us and would pay Eire a dividend."(12)

(10) Cab 128/13 CM(48)74. p.141-144

(11) PRO FO 371. 70175 Reference W . 7203/ WCL 36 .24.11.1948

(12) PRO DO 35 3964. Telegram No.124.Rugby to Machtig 19.11.1948

Rugby had already explained to MacBride that from the British perspective such a declaration would be helpful with regard to the Indian situation "though the citizenship relation was different, the attitude of Eire in such matters set a certain standard." During this meeting, MacBride suggested to Rugby that because of the mutual interest in continuing Most Favoured Nation status and rebutting claims against the External Relations Act, perhaps they could agree "to give the same answer when questions on this subject are asked ". Sean MacBride remarked on the "greater importance the British representative attached to the expected attack on any agreement by Winston Churchill".(13) That "expected attack" may have been prevented by the Labour Party government agreeing to Churchill's wishes regarding protecting the government of Northern Ireland's link with the U.K.

At five o'clock in the evening of November 19, 1948, Eric Machtig replied to Lord Rugby and he assured him that "we are in full agreement with what you said to MacBride."(14) Rugby's telegram had confirmed the lack of mutual understanding or uncertainty about the outcome of the Paris talks. Machtig asked that Sean MacBride be given a written summary so that " there may be no misunderstanding about the proposals which the two governments are now considering." Machtig hoped to have a corroborative reply from the Irish government the following day.(15)

(13)Ibid

(14)PRO DO 35 3964. Telegram No.289. Machtig to Rugby 19.11.1948

(15)Ibid

It was proposed to approach the Dominions separately for their consent following an affirmative reply from the Irish Government. The British government hoped to receive the Dominion's consent to the formula before the statement was made by Costello during the second reading of the Republic of Ireland Bill in the Dail on November 24. The Dail statement was to be followed by a statement to be made in the House of Commons on November 25. By November 19 the draft of this statement apparently had still not been considered by the British Cabinet.

At 8.30 p.m. on November 19, telegrams outlining the outcome of the Paris discussions and the arrangement arrived at to maintain the status quo were despatched from the Commonwealth Relations Office to Lord Rugby and to the High Commissioners in Canada (acting), Australia, New Zealand (acting), South Africa, India, Pakistan and Ceylon.(16) The telegrams explained:

"(1) In speeches in the Dail on the Republic of Ireland Bill, the spokesman of the Eire Government will be careful to avoid saying anything which would increase the legal and political difficulties which Commonwealth Governments will have in explaining the position which will result from the legislation

(2) For their part Commonwealth Governments will refrain from public statements which will make it more difficult for them to maintain that, despite the repeal of the External Relations Act, Eire is not a foreign country.

CONTINUED/

(16)PRO DO 35 3964. Telegram No. 106. 19.11.1948.

(3) When the British Nationality Act, 1948, comes into operation on 1st January, 1949, the Eire Government will make an order under section 23(2) of their Citizenship Act providing that, in view of section 3 of the United Kingdom Act, citizens of the United Kingdom and colonies shall enjoy comparable rights and privileges in Eire. As and when other Commonwealth countries bring into effect legislation corresponding to section 3 of the British Nationality Act, 1948, the Eire Government will extend to them, by orders made under section 23(2) of their Citizenship Act, corresponding rights of citizenship.

(4) At a later stage, and possibly within the next six months or so, the Eire Government will undertake a comprehensive revision of their citizenship law; and they will then take the opportunity of making a direct statutory provision conferring citizenship rights comparable with those conferred by section 3 of the British Nationality Act, 1948, on the citizens of all such Commonwealth countries as have enacted legislation corresponding to that section.

(5) The intention to take the action summarised in sub-paragraphs (3) and (4) above will be announced in the course of the debate on the Bill for the repeal of the External Relations Act.



(6) The Eire Government will collaborate with the United Kingdom Government, and any other interested Commonwealth Governments, in resisting any claims which may be made by foreign countries, on Most-Favoured-Nation grounds, to share the special privileges which Eire and those countries will continue to accord to one another and to one another's citizens, whether in matters of trade or in the treatment of nationals." (17)

On the evening of November 20, Rugby informed the Commonwealth Relations Office that Sean MacBride, whom he had met the previous evening, had confirmed that the summary did "coincide with the recollections of the Irish Ministers". Sean MacBride further mentioned that it was his government's intention to implement the changes mentioned in paragraphs three and four, regardless of the repeal of the External Relations Act. Once again, MacBride reminded the British government that "nothing will be said by the Commonwealth governments which would tend to create controversy as to Ireland's position after the repeal of the act." He reminded the British Government that "there was a general agreement that Ireland would not in future be described as a member of the Commonwealth." (18)

(17) Ibid

(18) PRO DO 35 3964. Rugby to CRO Telegram No. 125.6.50p.m. 20.11.1948.

Twenty minutes later, the Commonwealth Relations Office received another telegram from Rugby to the effect that MacBride also told him that the franchise could not be extended to British citizens living in Eire without an amendment to the constitution, but that he believed that reciprocal treatment would be "comparable" in the broad sense. Rugby asked for guidance "if necessary by telephone" on any points he should raise at his meeting with MacBride the following morning, (November 21) when he intended "to discuss language" that was to be used in the Dail on November 24. (19)

In the early afternoon of November 21, Rugby received a telegram from the Commonwealth Relations Office confirming that the understanding relating to the word "comparable" was acceptable as a concession because of the Irish Government's inability to automatically extend 'per se', the franchise to British citizens. This telegram confirmed that the British government was still proceeding according to the understanding and arrangement arrived at in Paris. Rugby was to confirm that "understanding and arrangement" with the Irish government and inform them to expect to receive advance notice of the text of Attlee's statement to be given in the House of Commons on November 25. In advance of issuing that statement the British government asked to see the text of the proposed Eire statement which was due to be given by Costello as part of the second reading in the Dail on November 24. "The understanding is that the final texts of both statements may require adjustment by mutual agreement when they have been studied together." (20)

(19) PRO DO 35 3964. Telegram No. 126. 20.11.1948.

(20) PRO DO 35 3964. Telegram No. 292. 21.11.1948.

It was with reference to these particular discussions that Rugby telegraphed Machtig with the warning that in his talks with Boland and MacBride on November 22, "it was clear that they had been listening very carefully to our telephone conversations with the Commonwealth Relations Office. Please warn all those likely to be speaking on telephone." Copies of this telegram were forwarded to the Home Office, Board of Trade, Parliamentary Council, and the Foreign Office.(21) Rugby may have had more experience of eavesdropping than MacBride, who even in later years never suspected that his meetings or phone calls might have been "bugged".(22)

At 4.05 p.m. on November 21, telegrams were despatched to the High Commissioners in Canada, Australia, New Zealand, South Africa, India, Pakistan and Ceylon. The telegrams instructed the High Commissioners to approach their respective Governments, asking them to acquiesce to the "decision of the British Government" which was that the, "essence of the policy is that we do not propose to regard Eire as 'foreign'." The British government expected the Commonwealth governments to agree to copy Attlee's proposed speech in the House of Commons on November 26, and thereby similarly recognise Eire's non-foreignness to members of the Commonwealth.(23)

(21) PRO DO 35 3963. 22.11.1948

(22) Personal Interview with Sean MacBride 6.1.1987

(23) PRO DO 35 3964 Telegram No. 109. 21.11.1948

The British cabinet meeting on the morning of November 22 approved the draft statement of Attlee's speech concerning the British government's acceptance of Eire in an intermediate position between that of Commonwealth member and foreign state.(24) At that time they had not received, nor perhaps did they expect any amendments by Commonwealth members to the text.(25) Following a verbal report(26) by Attlee of his meeting with Basil Brooke(27) to the effect that the government of Northern Ireland had consented, the Cabinet minutes for November 22 1948, record that "the way was now clear". The Cabinet requested Philip Noel-Baker to prepare a detailed statement on the treaty provisions under which difficulties and challenges might still arise under the terms of the Most Favoured Nation clauses. At this stage acceptance of Eire as a non-foreign state was still only provisional. More importantly for long-term Anglo-Irish relations, the Cabinet instructed Norman Brook to convene a working party of officials to prepare a report for Ministers on "the consequential action which might be have to be taken by the United Kingdom Government" as a result of Eire no longer being considered a member of the Commonwealth.(28)

(24) PRO Cab 128/13. CM(48)75. 22.11.1948 pp.148-149

(25) Ibid

(26) Fanning, R.: The Response of the London and Belfast Governments to the Declaration of the Republic of Ireland, 1948-49. R.I.I.A. Winter 1981-82. p. 104

(27) Cabinet approved Attlee-Brooke meeting PRO Cab 128/13 CM(48)74. 18.11.1948. pp.141-144

(28) Cab 128/13 CM(48) 75. 22.11.1948 pp.148-149

The Canadian government's first reaction was to be critical of the Irish government for not postponing the introduction of the Bill.(29) Following an urgent approach by U.K. High Commissioner in Canada to Louis St Laurent, the following was the final Canadian response as given to the U.K. High Commissioner in Canada, who telegraphed the Commonwealth Relations Office at 12.18.a.m. on November 24, and received at 7.40. a.m. November 24; "the furthest that the Canadian Government could go would be to make a very brief statement on November 25 the effect of which would be to recognise the existence of a special association between Canada and Eire and to leave the implications of this to be examined and sorted out."(30)

Ceylon also refused to automatically acquiesce to the British government's request. On November 23, the government of Ceylon informed the U.K. High Commissioner that they could not reply in similar terms as the U.K. proposed statement, because they could not decide until they knew whether India was going to remain in the Commonwealth. Britain hoped to avoid a situation of forcing the issues with regard to Commonwealth allegiance. Indeed in this case it brought out regional rivalries. Ceylon broke ranks with the Commonwealth and asked that she should not be included amongst those agreeing to the proposed statement by Attlee. A further approach by the U.K. High Commissioner elicited from the Prime Minister of Ceylon, Mr. Senanayake, the excuse that there was not enough time to consider the legal and political implications and then to arrive at a cabinet decision.(31)

(29)PRO Cab 129/31.P.76.T.No. 1022 . see also p.79 Telegram No. 1024.Des.24.11.1948.12.01.a.m. Rec. 6.35a.m.

(30)PRO Cab 129/31. p.76. Telegram No.1022

(31)PRO Cab 129/31 .p.87. Telegram No. 609

Additionally, from the British perspective the position of Ceylon was further complicated by defence considerations. On November 24, the British Cabinet were considering a memorandum(32) concerning supporting Ceylon's candidature for the U.N.. The Cabinet was worried that Ceylon might follow the example of Eire. A telegram from the British Office of the General Assembly at the U.N. reminded the Cabinet that membership of the U.N. was seen as the hallmark of independence and that Burma immediately joined the U.N. after leaving the Commonwealth.(33) The writer advised "If anything of this sort happened, our defence interests may be jeopardised. We could not have the defence arrangements now proposed if Ceylon became like Eire."(34)

The U.K. High Commissioner in India replied on November 23, that Nehru wanted to avoid prejudging India's future relationship with the Commonwealth. Given the volatility of the Indian political situation, it was accommodating of Nehru to provisionally agree to say in the Indian Assembly on November 26, that he was in general agreement with the outcome reached mentioning the statements of Costello and Attlee "and would fall into line if she decides to retain Commonwealth membership." This telegram emphasised that Nehru had not had time to think out the precise terms of his statement. (35)

(32) PRO Cab 129/31 CP(48)281

(33) PRO Cab 129/31 p.91. T.521 UNGA Paris. 24.11.1948

(34) Ibid

(35) PRO Cab 129/31 . p.85 Telegram No. 4063

When Herbert Evatt was shown Attlee's proposed statement, he told Mr. Cumming-Bruce that the UK statement implied that it was through U.K. efforts that had led the discussions to a resolving conclusion whereas Evatt "felt that it was he who had carried the rest of the Commonwealth with him".(36) The Australian Prime Minister and his Government's response was predictably the most positive. It was a brief concise affirmation "that the Australian Government agrees with the general approach to this problem and the procedure by which it is proposed that this policy should be pursued."(37)

The New Zealand Government, replied on November 24 and as expected approved the statements to be made by the British Government. Surprisingly, they were sceptical that the formula for maintaining Most Favoured Nation clauses would succeed.(38) Apparently, Peter Fraser's view was at variance with the more conservative view of his Government. Indeed, the British cabinet on November 26, noted that "the Governments of Canada and New Zealand seemed to have received this policy with less enthusiasm than had been shown by their representatives in the discussions with Eire Ministers."(39)

(36) PRO DO 35 3965 CRO Report X2638/39. 23.11.1948.

(37) PRO Cab 129/31 p.81 Telegram Y. 772. Des. 10.25p.m. 23.11.1948. Rec. 11.25 a.m. 23.11.1948

(38) PRO Cab 129/31 p.82. Telegram No. 523. DES . 11.10. a.m. 24.11.1948. Rec.24.11.1948. 12.45. a.m.

(39) PRO Cab 128/13. CM(48)76. p. 153 (p.120)

The acting U.K. High Commissioner in South Africa telegraphed the Commonwealth Relations Office on the evening of November 23, to report that the South African Government agreed provisionally, subject to parliamentary approval, of the agreement. They were prepared to extend reciprocal rights on trade and citizenship to Eire, and insisted they were not "in any respect affording a precedent which can be invoked in the future in the case of any other nation outside the Commonwealth." (40) The Prime Minister of Pakistan and all of the Cabinet members were absent from Karachi (41) and consequently no reply was received from the Government of Pakistan. (42)

Overall, the impression is that the old Commonwealth member were more compliant than the new (mainly non-white) members, who perhaps because they had not attended the Chequers or Paris negotiations were not fully aware of the urgency involved or were just protective of their independence.

(40) PRO Cab 129/31. pp.83-84. Tel. 404. Des. 7.28p.m. 23.11.1948. Rec. 23.11.1948. 8.05 p.m.

(41) CAB 129/31. p .83. Telegram No. 1419 Des 22.11.1948. 18.30 Rec. 22.11.1948 15.02.

(42) PRO DO 35 3979. p.9. Report on "Departure of Eire from British Commonwealth of Nations."



(B)

REPUBLIC OF IRELAND BILL, 1948 SECOND READING

On November 24, 1948, Rugby sat at the front of the Dail gallery "listening intently"(1) to the second reading of the Republic of Ireland Bill.(2) Rugby reported that he detected uneasiness in the Department of External Affairs at Costello's "incautious oratory".(3) He believed that Costello had to be "straitwaist-coated", but had "made the agreed statement"(4) as follows: "the position of the Irish Government is, that while Ireland is not a member of the Commonwealth, it recognises and confirms the existence of a specially close relationship arising not only from ties of friendship and kinship but from traditional and long established economic, social and trade relations based on common interest with the nations that form the Commonwealth of Nations. This exchange of rights and privileges, which it is our firm desire and intention to maintain and strengthen, in our view constitutes a special relationship which negatives the view that other countries could raise valid objections on the ground that Ireland should be treated as a 'foreign' country by Britain and the Commonwealth countries, for the purpose of this exchange of rights and privileges."(5) Rugby reported that Costello announced that his government intended to introduce orders under Section 23(2) of the Nationality and Citizenship Act 1935, extending reciprocal citizenship rights (except the franchise in general elections which was restricted in the 1937 constitution to citizens of the thirty two counties of Ireland) to Commonwealth countries.(6)

(1) Irish Press. 25.11.1948

(2) D.D. Vol. 113. Col. 347-454. 24.11.1948

(3) PRO DO 35 3963. Telegrams. Rugby to Machtig, CRO. 132 and 134

(4) Ibid

(5) D.D. Vol. 113. Col. 383. 24.11.1948.

(6) DO 35 3963. Tel. 132. see D.D. Vol. 113. Col. 382. 24.11.1948

Rugby did not report some of Costello's sanctimonious remarks which he made during the debate such as : "Our missionary priests, nuns and brothers have gone to England and have brought the faith there, and are giving no inadequate contribution to the spiritual uplift which is so necessary in the atheistic atmosphere of the world today." (7)

During the debate, Eamon de Valera explained that he introduced the External Relations Act to serve as a bridge to end Partition but now welcomed the repeal of the Act, claiming, "I had come to the conclusion myself that the External Relations Act would have to be repealed because of the purely mischievous misrepresentation which surrounded it and because it was misunderstood accordingly." (8) De Valera suggested that the Bill be enacted on January 21, in commemoration of the proclamation of the Republic during the first Dail held in 1919. (9) If the coalition had so intended that date, then the source of the recommendation alone would have been sufficient to change their minds.

Speeches from representatives of all the other parties continued the theme that the repeal of the act would bring national unity in Eire and would isolate the problem of Partition which was the next problem to resolve on the national agenda.

(7) D.D. Vol. 113. Col. 353-354. 24.11.1948

(8) D.D. Vol. 113. Col. 407. 24.11.1948

(9) D.D. Vol. 113. Col. 413. 24.11.1948

Rugby reported that the twenty hour debate was occupied by forty "speechifiers" and except during the speeches of Costello and de Valera there was only one-third capacity at any one time. Rugby was cynical about the whole debate and felt that the members of the Dail were too. In support he quoted the 'Irish Times', which complained that, "there is something rather nauseating in the spectacle of so many otherwise decent men tumbling over one another in their haste to climb on the Republican bandwagon." (10) Rugby reported that at 9.50p.m. on November 24, there was only one member of the opposition present in the Dail. (11) At that time, a Fine Gael member (Maurice Dockrell, representing a large Unionist electorate in Dublin South Central) (12) and similarly, Independent member (William A. Sheldon) representing the constituency of Donegal East) (13) announced their intention to oppose the Bill on the basis that they thought that the Commonwealth was a good thing and reflected the wish of a substantial minority of Irish people. As reported by Rugby the motion was not taken to a division. (14)

(10) PRO DO 35 3963. Telegram No 134.

(11) Ibid

(12) D.D. Vol. 113. Col. 446. 24.11.1948

(13) D.D. Vol. 113. Col. 439. 24.11.1948

(14) PRO DO 35 3965 . Telegram No. 134 p.2

Rugby considered that Costello was ungracious towards the the assistance the British government had given in accommodating the new status of Eire and noted that he made a point of praising the Commonwealth leaders, in particular, Mackenzie King. Rugby attributed Costello's new stance to the fact that he was "not being altogether happy in his own soul". Rugby thought that Costello, as well as most of the Dail members, were aware that there was "a fundamental lack of honesty and sincerity in the way in which this serious constitutional step has been taken." Rugby reported that, in contrast, (a draft of) MacBride's speech was generous in attributing commendations towards Britain. (15)

The British cabinet met on November 25 to discuss the response of the Commonwealth Prime Minister's to Attlee's proposed statement. They revised the text in line with the suggestions received from the members of the Commonwealth and it was now ready for publication having been cleared by several Commonwealth members, and the leader of the Opposition Winston Churchill. The Cabinet agreed that Attlee's statement of reply with the amended terms should be made that afternoon by the Prime Minister in the House of Commons and by the Lord Chancellor in the House of Lords. (16)

(15) Ibid

(16) PRO CAB 128/13. CM (48) 76. p.153. (p.120)

On November 25 Attlee, speaking in the House of Commons, referred to Costello's Dail statement made the previous day, and in turn stated "The United Kingdom Government, for their part, also recognises the existence of these factual ties, and are at one with the Eire government in desiring that close and friendly relations should continue and be strengthened. Accordingly the United Kingdom Government will not regard the enactment of the legislation by Eire as placing Eire in the category of foreign countries or Eire citizens in the category of foreigners. The other governments of the Commonwealth will, we understand, take an early opportunity of stating, their policy in the matter." (17) In turn the other Commonwealth countries made their respective statements in accordance with the Paris formula. On November 26, a telegram was received in the Commonwealth Relations Office confirming that the Prime Minister of Australia had made a statement in the House of Representatives, "this morning", reaffirming loyalty to the Monarch and stated in the House of Representatives that morning, "the Australian Government is glad that the enactment of the new legislation will not place Eire in the category of a foreign country in relation to Australia or the citizens of Eire in the category of foreigners here." (18)

(17)H.C. Vol 458. Col. 1414. 25.11.1948

(18)PRO in DO 35 3965. Telegram No. 783. Rec. 9.45. a.m. 26.11.1948

Similarly, on November 26, the Prime Minister of India, Pandit Jawaharlal Nehru, stated in the constituent assembly, "I should like to associate the Government of India with statements made in Eire and United Kingdom Parliaments and to say we are perfectly prepared to continue on a reciprocal basis, the exchange of citizenship rights and privileges with Eire...."(19)

The South Africa Government first informed the U.K. High Commissioner of their acceptance of the Paris formula, and then made the requisite announcement(20) which stated that "the Union Government are prepared also for their part to recognise the Republic of Ireland as such when it came into being, and to make concessions in regard to rights of citizenship on a reciprocal basis, as may be mutually agreed, on the understanding that the existing position will be maintained in the meantime."(21)

The Canadian Government was less forthcoming; indeed, they were almost reactionary in that they resurrected the "old bogey" over the Most Favoured Nation clause. Prime Minister Louis St. Laurent replied "there is the concern here that if preferential tariffs are retained in the case of Eire other non-Commonwealth countries might demand similar treatment."(22)

(19)DO 35 3965. proof telegram.

(20)Irish Independent 26.11.1948

(21)Ibid

(22)Ibid

The most positive statement was made by Walter Nash, Acting Prime Minister of New Zealand and Minister of External Affairs who in an official press release from the Department of the High Commissioner in London confirmed that "Irish citizens here will enjoy the same status as previously".(23)

Following the acceptance of the statements Frederick Boland, told George Garrett that the success of the negotiations was due to the "understanding shown by responsible British Ministers as well as the friendly position taken by the Commonwealth countries." Boland gave most credit to MacBride's "tact and personality" but conceded that the timing of the introduction of this action might have been regarded as "inappropriate and injudicious". He did make the pertinent point, that the results proved that the question at issue had been one "of form and not of substance."(24)

The State Department also showed their approval of the formula arrived at in Paris by agreeing discreetly in November 1948 to a clause(25) in a U.S.-Irish Treaty that recognised the existence and agreed to "the continuance of Commonwealth preferences accorded and received by the Irish Republic."(26)

(23) PRO DO 35 3965. p.150

(24) NA 841 D. 00/11-3048)

(25) PRO FO 371. 84831. GC61/25 para. 7

(26) A Treaty of Friendship, Commerce and Navigation between the Republic of Ireland and the U.S. pub. by Stationery Office Dublin PR 9791. Treaty Series 1950 No.7 Signed June, 1950



On November 26, the Unionist M.P. Professor Savory raised the issue in the House of Commons about the liability of citizens of the Republic of Ireland to military service.(27) These questions were a reminder that further amending legislation and clarification of the arrangements agreed at in Paris were required, particularly the "territorial definitions" in existing statutes involving financial obligations affecting individuals, customs duties, or powers of courts."(28) Accordingly, a memorandum was despatched to Rugby asking him to suggest to Sean MacBride that there should be further discussions between the legal experts and officials of the two governments.(29) Anglo-Irish discussions followed in London on 6-7 January, 1949, under the chairmanship of the legal adviser to the Foreign Office, Sir Eric Beckett.(30) The first of these discussions centred on the possibility of a challenge to the continuance of most Favoured Nation Status and the meetings ended with each side agreeing to co-operate against any challenger.(31)

(27) PRO DO 35 3979. p.11. See H.C.Vol.467 Col.1590. 26.11.1948

(28) PRO DO 35 3991. X 2639/24. Details of memorandum communicated by Rugby to Sean MacBride on 13.12.1948.

(29) Ibid.

(30) PRO DO 35 3991. p.9.

(31) PRO DO 35 3979. p .16 results of meeting embodied in a memorandum entitled, "Most Favoured Nation Treaties and claims that may result from the Republic of Ireland Act." See- DO 35 3991

On January 7, there were less formal discussions between Frederick Boland, Sir Percival Liesching, Sir Norman Brook, Norman Archer and Neil Pritchard. These discussion centred on the appointment to the successor of Lord Rugby, whose resignation had been formally announced at the end of December 1948.(32) Intriguingly, it was Boland who suggested that "if the appointment could be made before the Act came into force, it would be possible to utilise the existing titles and not to raise any questions about letters of credence." (33)

The way now looked clear for the inauguration of the Republic of Ireland Act, 1948, and more importantly, that it would be accepted magnanimously by Britain and the Commonwealth.

(32) PRO DO 35 3970. contains extract from Irish Times. 31.12.1948

(33) PRO DO 35 3903. Extract of meeting on 7.1.1948

CHAPTER X11.  
REPUBLIC OF IRELAND ACT, 1949, INAUGURATED

The Republic of Ireland Act, 1948 (1\*) was passed by the Dail on December 15(1) and signed by the President, Sean T. O'Kelly, on December 21, 1948 at Aras an Uachtarain. The brief ceremony was attended by the Taoiseach, John A. Costello, and the Minister for External Affairs, Sean MacBride.(2)

The Act(2\*) was designed to remove all doubt about the status of the state and was intended to clarify Eire's status as a Republic and confirm that she had left the Commonwealth. Accordingly, the Act, containing less than a hundred words, formally described the status of the State as a Republic and repealed Eire's last constitutional link with the Commonwealth. The journal 'Irish Jurist' pointed out that neither of the above propositions "can be said to be self evident", since the Republic was still not mentioned in the Constitution and because there was no formal machinery for withdrawal from the Commonwealth.(3)

(1) D.D. Vol. 113. Col. 1659. 15.12.1948

(2) Irish Times. 22.12.1948

(3) Irish Jurist. Vol XIV, Part L. 1948.: The Republic of Ireland Act, 1948, Its effect on the Constitutional Position of the State.

(1\*) The first reference to '1949' occurs in STATUTORY INSTRUMENT NO.27 OF 1949, THE REPUBLIC OF IRELAND ACT, 1948, COMMENCEMENT ORDER, 1949, dated February 4, 1949 appointing April 18 1949, as the day for the enactment of the Act. The order was signed by John A. Costello; see Volume 1, Statutory instruments, 1949 pub. Stationery Office, Dublin.

(2\*) See appendix 111, Republic of Ireland Act, 1949

On a functional level the change in status needed to be acknowledged by other states. Once the Republic of Ireland Act, 1949, was enacted, treaties and the credentials of envoys to and from the State, were respectively addressed to and signed by the President of Ireland instead of the British Monarch.

Two days after the inauguration the new UK Representative to Eire, Sir Gilbert Laithwaite reported that President Sean T.O'Kelly, for the first time, signed the letters of credence of an Irish envoy, the Republic's new Minister to Spain, Mr. Leo Mac Cauley.(4) Diplomatic recognition of the new status of the state would have been achieved more publicly by a change in title of the Republic of Ireland's representatives in Commonwealth countries from High Commissioner to Ambassador. The Irish Department of External Affairs thought that the British Foreign Office would be first consulted by most Governments before they made a decision to upgrade their envoy's titles and the Irish government hoped therefore that the British government would make the path easy by establishing a precedent for the Commonwealth, by appointing their new representative to Ireland with the title of Ambassador.(5) In fact, as early as February 1949, the British government had asked their High Commissioners in Commonwealth countries to point out to the host governments that after the Republic of Ireland Act came into force the Irish government might wish to institute new letters of credence and ask for a change in the titles of diplomatic representatives.(6) They/

(4) PRO FO 371 74190.T. No.6. OPDOM No 5.P.4.Date 1.5.1949

(5) IDFA 305/83/7

(6) PRO DO 35 3979. p.18. para 39

They were asked to point out that upgrading of titles might prejudice internationally the policy of treating Eire as non-foreign and they asked that Commonwealth governments should "not agree to any such change of practice in the immediate future." (7) The Irish government's hopes of an immediate change of title were further dashed when, in March 1949, the British Government announced, without consulting the Irish government, that the Clongowes educated, Sir Gilbert Laithwaite would succeed Lord Rugby as the new British Representative in Eire. (1\*)

CONTINUED/

(7) Ibid

(1\*) Mr Kirkpatrick of the Foreign office suggested that Rugby's successor should be "a man of sympathetic personality, intellectual curiosity and a wide human tolerance; an extrovert (with sporting tastes, if possible) capable of understanding and influencing these unpredictable and inconsequent people. Pedantry, a meticulous adherence to instructions, insistence on logic, small-minded emphasis on the merits of the case; all these may be admirable qualities in many situations, but they are likely to be serious if not fatal disabilities in Dublin. (8)

(8) FO 371. 76369

In fact it was the Secretary to the Irish Government, Maurice Moynihan, who first noticed the announcement in the newspapers(9) of Laithwaite's proposed appointment. The appointment was subsequently approved by the Irish cabinet only three days before his official appointment as British Representative to Ireland on April 8, 1949.(10) That was only ten days before the inauguration of the Republic, when the rank of Ambassador to the Republic of Ireland would have applied.

Interestingly, Sir Gilbert Laithwaite's letter of credence was signed by Attlee instead of King George VI. This was because of a recent development whereby, all appointments under the aegis of the Commonwealth Relations Office were signed by the Prime Minister.(11) This change was probably brought about in order to accommodate India within the Commonwealth. Immediately after the enactment of the Republic of Ireland Act, the British government changed the title from "UK representative to Eire", to "UK representative to the Republic of Ireland."(12) The British representative's title was eventually upgraded to Ambassador, fifteen months after the inauguration of the Republic.(13)

(9)NASPO S 11417A

(10) Cab 2/10 G.C. 5/81 5.4.1949

(11) FO 371 74190. OPDOM No.5 P.3

(12)Ibid

(13) NASPO Cab 2/10 G.C. 5/195. 25.7.1950

Throughout Ireland there were celebrations to welcome the inauguration of the Republic of Ireland Act, 1949. In Dublin the birth of the new Republic was welcomed at one minute into the new morning of April 18, 1949, with a 21-gun salute. The shots were fired from Dublin's O'Connell Bridge, by soldiers from the Irish Army's, 19th Field Battery. In the afternoon, the national flag was hoisted symbolically over the General Post Office. This ceremony was followed by a military march pass, at which the President of the Republic of Ireland took the salute.(14) Despite the bands, parades and celebrations, George Garrett noticed a lack of gaiety in the atmosphere and "the little warmth in the cheering". His report quoted the concise explanation of one wit who asked, "Who did you expect to do the cheering? Not Costello supporters after the way he went back on them over the Commonwealth link. Not de Valera after his refusal to support the celebration and not the Clann; they won't start cheering until we get back the other six counties. I don't know who you thought was going to cheer."(15) Diplomatic observers in general reported that despite the parades and military by-passes, there was a lack of genuine warmth among the crowds attending the celebrations.

(14) Irish Times, 18.4. 1949.

(15) NA 841D.00/3-2449



For different reasons many people in Ireland felt they could not celebrate Eire's departure from the Commonwealth. Sean MacBride was in America on several speaking engagements(16) but denied that he absented himself deliberately from the celebrations.(17) Perhaps surprisingly, another absentee was Eamon de Valera, who together with his Republican Fianna Fail party boycotted the nationwide celebrations. In January 1948, Eamonn de Valera had drafted a repeal Bill very similar to the coalition government's which contained an assumptive reference to the Republic.(18) Fifteen months later Eamon de Valera now refused to take part in the 1949 Easter Monday "Independence Day" celebrations. John Costello had written to Eamon de Valera inviting him to speak at the celebrations, concluding, "The proposal is that you should speak immediately after me."(19)

(16) Irish Times. April, 15 & 16, 1949

(17) Personal interview with Sean MacBride. 6,1.1987

(18) Private Papers Cearbhall O' Dalaigh, P51/2A. U.C.D. Archives

(19) NASPO S 14440. L.D. 6.4.1949

De Valera's letter of reply began: "A Thaoisigh a chara, I have received your letter inviting me to participate in a series of broadcast addresses to be delivered on Easter Monday as part of the celebrations intended to mark the coming into operation of the Republic of Ireland Act...when the Constitution came into operation in 1937, we decided that celebrations such as those now proposed ought to be reserved until the national task which we have set ourselves is accomplished. We still believe that public demonstrations and rejoicings are out of place and are likely to be misunderstood so long as that task remains uncompleted and our country partitioned. I find myself therefore unable to accept your invitation, signed Eamon de Valera." (20)

The U.S. air attache in Ireland reported to the U.S. State Department that disturbances were expected on both sides of the border . But, despite the risk of trouble he reported that the Chief of Staff of the Irish Army, Major General Liam Archer, "is more preoccupied in arranging parades for the celebrations". Archer, according to Garrett, believed that members of the IRA were "crackpots who, if they did not have the issue of partition to agitate, would find some other cause to give them the excuse to satisfy their natural tendency to resist discipline and order." (21)

(20)NASPO S 14440

(21)NA. 841D.00/3-2449

Four days before the celebrations, all police leave in the six counties was cancelled. The banned tricolour flag was prominently displayed throughout the Northern Ireland border town of Newry. The U.S. Consul-General in Belfast, William Smalie, spent the period of the celebrations in the Nationalist town of Newry, because he expected it to be the centre of a "violent eruption".(22) As with the celebrations the expectation of violence was an anticlimax.

The Irish Government, on behalf of the President of Ireland, requested and received messages of goodwill from most of the leaders throughout the world. Reflecting Ireland's ideological stance in the cold war, no messages were requested, nor received from Communist states.(23) In March, 1949, Noel-Baker asked Rugby for his advice as to whether a goodwill message should be sent.(24) Rugby answered affirmatively, reasoning, "It will show that we are not attaching any great significance to that occasion. To hold back would suggest pique, and would give cause to the unrighteous to rejoice at our discomfiture."(25)

Lord Rugby had hoped that the inauguration of the Republic would be on January 21, 1949, which was the anniversary of the establishment of the first Republican Dail. However, much to the consternation of Attlee, the inauguration date eventually decided upon by the Irish Government was the thirty-third anniversary of the Easter uprising of 1916.(26)

(22)NA 841 E.00/4-2049

(23)Irish Times. 19.4.1949

(24)PRO DO 35 3976. L.D. 21.3.1949

(25)PRO DO 35 3976.

(26)PRO PREM 8 /1464. Rugby to Commonwealth Relations Office 8.3.1948 Telegram No. 52 & 30. 8.3.1949

Lord Rugby, as one of his last official duties, drafted the King's congratulatory message of goodwill. Rugby included a reference to Irish war service because he thought "such references were immensely popular throughout the country". Accordingly, the King's message included the reference : "I hold in most grateful memory the services and sacrifices of the Irish men and women who rendered gallant assistance to our cause in the recent war, and who therefore made a notable contribution to our victory".(27) Rugby's successor, Sir Gilbert Laithwaite, reported that the message from the King "made a striking impression. Such a gesture had clearly been entirely unexpected in this country and it was most warmly received and very deeply and widely appreciated."(28)

A fortnight before the Easter Monday celebrations, George Garrett had written to the special Counsel to the U.S. President, asking him to arrange to send a goodwill message and added : "I know that the Irish are in a dog-house of sorts over their attitude as recently disclosed by refusing to join the Atlantic Pact. At the same time the occasion of which I speak cannot be ignored and I wanted to be sure that you gave the matter your personal consideration."(29)

- (27) PRO DO 35 3976
- (28) PRO FO 371 74190. OPDOM No.4
- (29) NA 841D.00/5-2449

The goodwill message from the U.S. President, Harry Truman, became the reason for a diplomatic furore. MacBride told Garrett that while in London the British appeared to be "jubilant" that the U.S. had requested permission before sending a congratulatory telegram to the President of the Republic of Ireland. The implication taken by MacBride was that if the British had not sent a message, the U.S. might not have either. Garrett explained that the State Department after being asked orally by Ireland's Minister in the U.S., Sean Nunan, to forward a congratulatory message had merely approached the British to ascertain whether they too would be sending a message.(30) The State Department did forward the intended congratulations firstly for approval to their pro-British Commonwealth Desk and for onward clearance to the White House "and any other appropriate authorities", meaning the British Government. In fact, the message was cleared by the Commonwealth Desk at the State Department, primarily because President Truman had already established a precedent by forwarding a goodwill message to Burma on becoming a Republic in 1947.(31)

(30) Ibid

(31) NA 841D.00/4-949

Soon after the inauguration, the Prime Minister of India, Pandit Nehru, the Prime Minister of Ceylon, Mr. Senanayake, and the Prime Minister of Pakistan, Mr. Liaquat Ali Khan, visited Ireland separately. These visits were seen as a gesture of support signifying a desire to continue friendly relations between the remaining members of the Commonwealth.

Pandit Nehru was positively helpful to Ireland and in recognition of that was given the special honour of being received on the floor of Dail Eireann.(32) He was in 1916, reputedly impressed by the romanticism of the inevitable failure of the Easter uprising. Interestingly, Sean MacBride explained to Nehru, his fear that India, which became a Republic, and remained in the Commonwealth, was in a different position to Eire, because India was four thousand miles away and could not be "reconquered".(33) Pandit Nehru showed further support when in January 1949, he sent his High Commissioner in London, Krishna Menon, a telegram expressing sympathy for the Irish position advising Menon to tell John Dulanty, "to assure his Government that if there is any way in which we can be of help, we will be glad to consider any suggestion."(34) In fact, as early as February, 1949, Attlee intervened personally with Nehru to ask him to change the title of his proposed "Minister for India to Ireland". Nehru/

(32) D.D. Vol. 115. Col.163. 28.7.1949

(33) Personal interview with Sean MacBride. 6.1. 1987

(34) IDFA 305/14/36 secret report No. 11. 1.2.1949

Nehru replied that while he could not withdraw or modify the proposal he would agree to postpone the appointment until after the Republic of Ireland Act was inaugurated.(35) At the end of July 1949 the Indian Government, without consulting their fellow members of the Commonwealth, appointed their Indian High Commissioner to the United Kingdom, Krishna Menon, as Ambassador to Ireland. The Republic of India addressed their Ambassador's credentials to the President of the Republic of Ireland. Because of the importance of the precedent of accepting an Ambassador from a Commonwealth member, the Department of External Affairs in Dublin, issued a statement agreeing "to waive for the time being, their objections to a joint accreditation in this case."(36) The support that India provided may have been a show of strength to prove her independence as a Republic within the Commonwealth. Prior to the appointment of the Indian Ambassador, the only other representative in Dublin with the status of Ambassador was the Papal Nuncio.(37) According to William Smale, there was a rumour in Northern Ireland that would "spread through the Orange Halls at a great pace" to the effect that Pope Pius XII believed that Italy would go "Communistic" and it would be intolerable for the Vatican to be situated in Rome. "Eire was about the only place where the Vatican could be re-established comfortably and hence the desire to have it a Republic where there would be no question of allegiance to the Crown."(38)

(35) PRO DO 35 3979 .p.18. para 40

(36) IDFA 305/14/36

(37) CDEA 50021-40 file 1990/34/30 . Similarly, in 1946 Joseph Walshe, ( Ambassador to the Vatican) was the first diplomat to be appointed to such a rank from Eire. See Keogh,D.: Ireland and Europe 1919-48. p. 200

(38) NA 841D. 00/1-749 CS/B.

A year later the battle on the diplomatic front was still continuing. On the first anniversary of the inauguration of the Republic, the pro-Irish U.S. Minister in Ireland, George Garrett, was raised in status to Ambassador. This gave the Irish Government the opportunity to incorporate his re-accréditation ceremony into the Easter republican anniversary celebrations. This embarrassed the U.S. State Department, who informed the British Ambassador in Washington, Sir Oliver Franks, that Easter Monday was "the last day which they would wish to have had chosen." (39)

Eire's High Commissioner in Canada, John Hearne, decided not to invite his Irish -Canadian friends to a celebratory reception. He believed most of them would be embarrassed to celebrate what he described as, "Ireland's exit from the Commonwealth of Nations." Writing of that Easter Monday, on which Ireland was celebrating the inauguration of the Republic, John Hearne wrote: "No one called at 450 Daly Avenue on April 18 to offer congratulations and good wishes. There were four telephone calls, one from the High Commissioner for Australia. One passer-by stopped his car outside the house to photograph the flag." (40)

(39) PRO FO 371 84833. Telegram No 250 Des. 27.4.1950. Rec .F.O. 29.4.1950

(40) IDFA 305/83/2.



The appointment of a new "Ambassador" to Canada illustrates the difficulties the Commonwealth Relations Office, which continued to handle the "Irish desk", put in the way of the upgrading of Ireland's diplomats in Commonwealth member states such as Hong Kong(41) and in Australia. For example, in 1953 the Conservative government in Australia refused to appoint an Ambassador to Ireland on the basis that they could not ask the Queen "to sign a document which could and would be interpreted as referring to Ireland as a single entity, including Northern Ireland."(42) After the Second World War the Canadian Government was established as a loyal member of the Commonwealth . Despite this change in direction, the Canadian Government remained under continuous pressure from the Irish Government and the Irish High Commissioner in Canada, John Hearne, to "upgrade" his title to Ambassador.(43)

John Hearne was a distinguished senior counsel, who, as head of the legal section in the Department of External Affairs, was responsible for drafting the 1937 Irish constitution. The Canadians only considered seriously the request to upgrade the title, after learning in confidence that the Americans intended exchanging Ambassadors with Ireland , "at a neutral time when it would be evident that the step had not been taken under pressure from the Irish ." The Canadians then passed on that/

(41) PRO DO 35 3903 . Telegram dated 2.3.1951

(42) CDEA RG25 Volume 84-85 BOX 100 file 7545-B-40p-2.

(43) Documents of Canadian External Relations.Vol.12, 1946..D,Page.(Ed.): University of Saskat,Chewan. p.1489 Regarding appointment of Mr.Turgeon to Dublin

that information through the circuitous route of the British Embassy in Washington. When the British Government learned of that possibility, they suggested that, "they very much hope that the Canadian Government, for their part, will see their way to postponing a decision to accept an Ambassador from the Republic of Ireland for the time being." (44)

In late 1949, the Canadian Department of External Affairs, through their office in Dublin, sent a reminder to the Department of External Affairs, about their wish to replace John Hearne as High Commissioner. Despite John Hearne's difficult position, Frederick Boland responded bluntly, "the Irish Government would replace Mr Hearne just as soon as it was satisfied that the Canadian Government would accept an Irish Ambassador." (45)

Rejecting an earlier request from the the British Government, the Canadian Government decided to seek the King's approval for the acceptance of Mr. Murphy as Ambassador of the Republic of Ireland to Canada. This decision was partly motivated by the desire to remove John Hearne who had been in Canada according to the file in the Canadian Department of External Affairs "an abnormally long time and we would not wish to prevent his transfer." (46) This was no doubt a comment on their dissatisfaction with John Hearne's intrepid attempts to have Eire recognised as a sovereign state , independent of the formalities attached to membership of the Commonwealth.

(44)CDEA 50021-40

(45)CDEA 50021-40 Ref 10566-46/113/6

(46)CDEA 50021-40 file Ar 27/4/ AR/ 420/16

In fact, John Hearne was personally popular in Canada. For example, once he met Mackenzie King, who was taking a recuperative walk and later wrote to him wishing him a speedy recovery. He received a reply which read: "Next to the sunshine and the glow of your countenance, it did more to raise my spirits than much that has occurred for weeks past." (47) Overall though, John Hearne's government's policies with regard to defence and diplomacy and the Commonwealth were not popular in Canada.

Perhaps those who chose not to celebrate the inauguration of the Republic of Ireland might have agreed with Attlee's retort to Eire's High Commissioner in London, John Dulanty, that the historian, William Lecky's (1\*) adage, "the Act of Union was not a crime, it was worse - it was a blunder" described precisely the Republic of Ireland Act. (48) Or that the adage applied, at least, to what Anthony Eden described as the "peculiarly abrupt way" Eire's intention to leave the Commonwealth was announced. (49)

(47) IDFA 313/3A  
(48) IDFA 305/14/36  
(49) Ibid

(1\*) This adage has been attributed to several sources including the philosopher Edmund Burke.

In January 1949 the British Foreign Secretary, Ernest Bevin, (1\*) engaged in a heated exchange with John Dulanty, who said that it appeared to him that the Irish Government "felt free to throw a brick at the heads of the British Government any time they liked and feel bitter at even a mild reply for this." (50) The "mild reply" was the so-called "guarantee" on Partition contained in the UK Ireland Act, 1949.

Before dealing with the UK "Ireland Act, 1949", the following two chapters will examine two important inter-related issues in Anglo-Irish relations at this time. First the British and Irish government perspectives on Partition will be presented as objectively as is possible without comment. That chapter may contribute towards understanding Eire's "refusal" to join NATO or more so why the NATO powers, in particular Britain and America wanted to avoid becoming embroiled in the debate on partition especially under the auspices of the NATO charter.

(1\*) Coincidentally, Ernest Bevin, as a union official, first encountered John Costello when he was cross-examined by him in his capacity as Ireland's leading barrister. Bevin's side lost! (51)

(50) Ibid

(51) IDFA 313/3A L.D. 5.10.1949

CHAPTER X111  
CASE FOR AND AGAINST PARTITION

On May 12 1949, the Canadian acting High Commissioner in Dublin, David Johnson, lunching with Sean MacBride asked him where he might find the best objective presentation of the Irish case against Partition. Johnson's report gives the impression that this innocent request "from the mouths of babes" caused MacBride some unease. At that time there was no policy document nor even an official statement of the Irish case against Partition. MacBride could only recommend Johnson to read a paper he had delivered to the Royal Institute of International Affairs in February 1949. Johnson later asked Frederick Boland the same question. Such was the emphasis on the rhetorical approach to re-unification, that Boland, like MacBride in response to Johnson's query, "had no suggestion to offer." (1) It is surprising that there appears to have been neither interdepartmental consideration nor planning given to the broad social, economic and political consequences of the re-unification of Ireland.

(1) CDEA 50021-40

Johnson prepared his own synopsis of the Irish case for his Department of External Affairs . This was based mainly on the anti-partition speeches of John Costello, Sean MacBride, Eamon De Valera, and other Irish political leaders. He considered that "the Irish case is devastatingly simple". In his report Johnson quoted from MacBride's speech to the anti- partition meeting held in Dublin's O'Connell Street on May 13: " Our case is a simple one which cannot be challenged. The essence of democratic rule lies in the right of the people of a nation to determine their own affairs democratically, by their own free will, without outside interference." Johnson noted, "Mr Costello and Mr MacBride firmly reject the theory that there are two nations in Ireland." Johnson then outlined "what Irish leaders overlook"; noting that there was never a reference to the Boundary Commission and that the Dail approved the treaty. Johnson then cited, Irish neutrality during the second World War, the repeal of the External Relations Act and the refusal to join NATO as obstacles to unity. (2)

(2) Ibid

Possibly prompted by Johnson's inquiry, the Irish Department of External Affairs seconded staff from other civil service departments to produce a pamphlet entitled "Ireland's Right to Unity." (3) This anti-partition pamphlet was prepared under the auspices of the All-Party Anti-Partition Conference and produced by the Department of External Affairs. (4)

Similarly, the British Foreign Office had received enquiries from their embassies about how to counteract the Irish Government's arguments about partition. In June 1950 Laithwaite prepared a lengthy memorandum, designed to counteract the arguments in the "anti-partition" pamphlet. That memorandum was updated towards the end of the year with additional information and was circulated to United Kingdom representatives in foreign and Commonwealth countries. Laithwaite in a letter to the Commonwealth Relations Office made the point that his memorandum was much lengthier than he had anticipated, adding, "I think it is objective - at any rate I tried hard to keep it so." (5)

(3) Telephone Interview with Professor Labhras O'Nualain 18.6.1988 who was seconded to assist in preparing the pamphlet "Ireland's right to Unity", The case stated by the all-Party Anti-Partition Conference, Mansion House, Dublin, Ireland. Second edition. pub. Browne & Nolan Dublin. distributed by the Department of External Affairs, 1949, (from which the "anti-Partition" references are drawn).

(4) This pamphlet is in PRO PREM 8/1222 Pt.2

(5) PRO DO 35 3943. File from which all references are drawn on the pro-Partition arguments unless otherwise stated.



Laithwaite complained of the difficulty in establishing the facts, attributing this to the "extreme apparent reluctance of anyone who writes a book on the Irish question, from whichever side he is writing, to commit himself to precise dates or to avoid slurring over inconvenient facts." His memorandum began defeatistly: "The United Kingdom Government has rarely made official utterances on partition; it cannot, in fact, be said that there is a 'United Kingdom case' to oppose the Irish republican case." He argued that Partition was a last resort and recognised and admitted the disadvantages of Partition. Having acknowledged this point, Laithwaite proceeded to forward a defence to all of the anti-partition pamphlet's claims.

The Irish anti-partition pamphlet highlighted ten main points: Firstly that the accepted unit for self-determination by which policies are decided and a government elected is the nation. Accordingly, that the natural and historical unit in Ireland was the whole nation. The credentials of the Irish nation were cited as the geographic unit, national language, separate culture and laws, a homogeneous peoples, distinctive national tradition and religiosity. That the "people in all parts of the country are, and speak of themselves as Irish", and that in a democracy it is the people who decide how they are to be governed and partition was a denial of the right of self-determination and denied the legitimacy of the unit and the majority.

Laithwaite, commenting on these points, considered, "This is a very weak case, since in practice these supports can similarly be quoted, perhaps more forcefully, to support the loyalist case for a separate state, albeit within the Nation." Laithwaite claimed that seventy per cent majority in Northern Ireland were different enough, through historical, racial, religious and political differences to constitute a separate political and homogeneous entity comparable in terms to the rest of the geographical island and that Northern Ireland was "at least as homogeneous as geographical Ireland."

Secondly, the anti-partition pamphlet claimed that "no group, party, or political organisation in Ireland sought for or desired Partition, indeed that it had been imposed by the British government against the will of the country as a whole. The pamphlet stated that "the fact that Ireland was a national unit was never questioned until a British government for its own purposes decided to cut the country into two parts - five-sixths and one six." The pamphlet argued that the Liberal Home Rule Bill of 1911 was used by the Tories to kill two birds with one stone: defeat Home Rule and as a corollary defeat the Liberals in Parliament. In order to secure this objective, the Tories were accused of rousing the Unionists in North East Ulster to protest against the Home Rule Bill. According to the pamphlet, "the Liberals, rather than leave office, solved the crisis by abandoning their pledges to Ireland and their own self-government Bill and adopted the expedient of partition."

Answering this Laithwaite agreed that Lloyd George's solution, the Government of Ireland Act, 1920, was not satisfactory to Sinn Fein, " not chiefly because it partitioned the country but because it did not give sufficient autonomy to satisfy Sinn Fein." He argued that the Government of Ireland Act 1920, made provision for the eventual re-unification of Ireland, but that opinion in Southern Ireland no longer found anything short of complete independence acceptable. According to Laithwaite, "the treaty of 1921 envisaged a Free State covering the whole of Ireland, but allowed the Six Counties to opt out; their decision to do so had since been affirmed at a series of elections, but even when that decision was formally recognised by all three governments in 1925 the way was explicitly left open for co-operation between the two parts of Ireland."

The anti-partition pamphlet further argued that the British government imposed Partition against the wishes of the majority of the people of Ireland and that Partition was subsequently maintained by undemocratic means through the use of force and gerrymandering.

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In response to the claim that Partition had been imposed against the will of the country as a whole, Laithwaite, based his argument on the case that the majority view of the population of Northern Ireland, was, as "expressed in the most vigorous way in the period immediately before the Home Rule Bill of 1912, to remain a part of the United Kingdom", further arguing that the 1920 and 1921 Act only allowed for the six counties to opt out and put the onus upon the six counties to exercise that option.

In reply to the accusation that Partition has been maintained by undemocratic means, Laithwaite replied that "there is universal franchise in Northern Ireland and that there are regular elections. At every election since the Government of Northern Ireland was established as a separate entity in 1920 there has been an overwhelming majority of the electorate for the maintenance of partition." Laithwaite's conclusion in regard to the issue of gerrymandering was that "if there is any element of gerrymandering, it is of negligible importance in relation to the overall verdict and composition of the electorate."

Fourthly, the pamphlet argued that Partition was supposed to be a temporary expedient and would end "within a short specified period." In the same week of May 1916 that Lloyd George gave Mr. Redmond, the Nationalist leader, a pledge that there would be no permanent partition of Ireland, he reneged on that pledge by writing a letter to the Loyalists' leader, Sir Edward Carson assuring him, "We must make it clear that at the end of the provisional period, Ulster does not, whether she wills it or not, merge in the rest of Ireland."

Laithwaite pointed out that the letter written by Lloyd George was written by him a month after the Easter Uprising and not as Prime Minister, but in his capacity as Minister of Munitions . According to Laithwaite, there was no question of Mr. Lloyd George being able to commit succeeding governments or Parliaments. Laithwaite argued that the letter of 1916, must be read with the terms which accompanied it. "It had reference to the implementation of the Home Rule Act of 1914, already on the statute book, but suspended its operation until the end of the war, under which effective control, save in respect of a local autonomy, would continue to rest with the United Kingdom Parliament. The proposals for a term of exclusion which accompanied it provided for exclusion of the six counties for the continuance of the war and for twelve months thereafter, or for such time as might be necessary to enable parliament to make further provision". There was also mention of an Imperial Conference at the close of the war at which "the permanent settlement of Ireland should be considered." Laithwaite also included in his argument the point that "friendly reconciliation has been prevented by the aggressive tactics of the south and by southern threats (repeated so recently as 1950) to overcome and conquer the whole of Northern Ireland ." He argued that the United Kingdom government "far from wishing to perpetuate Partition, hoped it would be a temporary expedient. The United Kingdom Government has thus done everything to facilitate Irishmen coming together again." Offering evidence to support this contention, Laithwaite cited the Government of Ireland Act, 1920, which provided for a Council of Ireland that would begin/

begin by concerning itself with minor matters but could lead to "greater co-operation until it should lead to a Government of all Ireland."

The anti-partition pamphlet argued that the revision of the boundaries allowed for in the 1922 treaty, was not honoured by the Boundary Commission of 1925, and pointed out that the unpublished report was against altering the "defects of the boundary".

Laithwaite, while admitting that the boundary is "unsatisfactory administratively", attributed this to the fact that it was "based on existing parliamentary divisions and its details were not scientifically worked out." He pointed out that if the Boundary Commission had made its report, it would have recommended the transfer to Northern Ireland of "a substantial area of Donegal in which non-Catholic elements predominated." Laithwaite pointed out that "the boundary as it stands, and without any adjustment, whether administrative or political, was affirmed by the agreement of the governments of Northern Ireland, the Irish Free State and the United Kingdom, an agreement ratified by the United Kingdom and Free State legislation in 1925."

Sixthly, the anti-partition pamphlet argued that Northern Ireland is a police state, citing the Special Powers Act and the fact that the Tricolour flag was not allowed to be displayed there. Laithwaite referred to the religious tension and the threat from the South, "In such circumstances it is inevitable that the threatened government and population should take/

take special measures for its own protection." Laithwaite argued that the reason for the restrictions on the flying of the Tricolour flag were because " it is the flag of the Sinn Fein movement, which in the North is associated with crimes of violence, so that the flying of this flag, though now recognised as the flag of an independent State, tends to produce violent feeling and to endanger the peace."

The seventh point that the anti-partition pamphlet again referred to was the issue of gerrymandering and it offered six examples of the voting pattern in five counties :

(A) In the County of Fermanagh there were 30,196 Nationalists and 24,375 Tories, yet the Tories managed to secure two of the three Parliamentary seats. (B) In the Borough Council of Enniskillen there were 2,780 nationalists and 2,100 Tories yet out of 21 seats the Tories secured two-thirds while on the Fermanagh County Council the Tories have 19 seats as compared to the Nationalists 6. (C) In the county of Tyrone there were 70,595 Nationalists and 56,991 Unionists yet the Tory minority secured 23 seats on the County Council while the Nationalist "majority" had 12. (D) That in Derry City Corporation, Nationalists totalled 29,321, and obtained 8 seats, while the Tories with 18,492 obtained 20 seats. (E) While in Omagh Urban District Council, there were 3,573 Nationalists and 2,168 Tories and this resulted in a ratio of 12 seats to the minority and nine to the majority. (F) Finally in Strabane Rural Council there were equal proportions of electorate yet the pattern was 20 seats to Unionists and 8 to Nationalists.

The anti-partition pamphlet pointed out that the situation was exacerbated in 1946, when a Bill was introduced to further limit the local voting power of Nationalists by giving those with property several votes and depriving those with lower incomes of the single vote they held. Major Curran, a Unionist member of the Stormont parliament, is quoted as justifying this practice: "the best way to prevent the overthrow of the government by people who had no stake in the country and had not the welfare of the people of Ulster at heart, was to disenfranchise them."

The Nationalists argued that the six counties were separated primarily because they formed a unit that would give the Loyalists a manageable majority. They pointed out that this was achieved through manipulating electoral boundaries citing the example that even though there were 281,000 Nationalists and 268,000 Loyalists in four and a half counties only one and a half counties have a democratic case for excluding themselves from the Nation State of Ireland." The pamphlet argued that in 30 of the 32 counties, there is a nationalist majority, and only 40 of the 199 Parliamentary representatives elected in Ireland as a whole, favour Northern Ireland as a separate state. Abraham Lincoln was quoted in the pamphlet: "On what rightful principle may a state, being not more than one -fifth part of the nation in soil and population, break up the nation and then coerce a proportionally larger sub-division of itself in the most arbitrary way?"



In his memorandum, Laithwaite left the issue of gerrymandering until last. "Finally, one cannot escape some discussions of election statistics, however unprofitable it may be. One cannot prove that Northern Ireland constituencies are not (nor that they are) gerrymandered."

Against the nationalist argument that two nationalist members of the U.K. represent half a million nationalists and ten represent the Unionists, that as the Nationalists composed one third of the population they should have four of the twelve seats." Laithwaite claimed this apparent discrepancy "ignores the normal working of the electoral system." He cited the case in mainland Britain where the Liberal party obtained much fewer seats in relation to the strength of their numerical votes and argued that "the voting system does not claim to reflect the views of the electorate accurately."

Laithwaite believed the electoral figures for Northern Ireland were "suspect", specifically because there were not half a million Nationalists, but only 455,000. According to Laithwaite, "The argument that a third of the population was Nationalist, yet only a quarter of the votes cast were for Nationalist candidates was suspect because not all Catholics voted nationalist." Laithwaite argued that the assumption was that every Roman Catholic is a Nationalist. "Apart from the unreality of including non-adults, this assumption has no foundation."

Laithwaite supported this reasoning by pointing out that in Fermanagh in 1949, the Nationalist vote was 52.86 per cent although the percentage of Catholics in the population was 55.3 per cent. This gave Laithwaite room to comment that "There may well be a number of Catholics who have no desire to be reunited with Southern Ireland." Laithwaite explained away the issue of the business vote by claiming, "The effect of the business vote is not calculable."

Overall, Laithwaite dismissed the charge of gerrymandering by claiming that, "the broad general conclusion that appears to emerge is that, if in fact, in the delimiting of the Northern Ireland constituencies the object of the delimiting authority was to ensure a Unionist majority without regard for the true facts of the local situation, the element of gerrymandering that can with any plausibility be suggested to exist is so small as to be negligible locally and certainly be negligible in relation to the general political attitude of the Six Northern Counties."

Point eight of the anti-partition pamphlet was that Northern Ireland was occupied by British forces. Laithwaite dismissed this accusation by quoting from the argument advanced by the staunch Unionist M.P. at Westminster, Professor D.L. Savory: "It was as very rare to have there any but Ulster regiments which were composed of their own people, brothers, and soldiers. We welcome them as friends, and any idea of British occupation is entirely repugnant."

In reply to the Nationalist taunt that Stormont was subservient to Westminster, Laithwaite relied that to have given more power to Stormont would have been inconsistent with the British government's hope that an understanding might sooner or later develop between the North and the South.

Finally, the anti-partition pamphlet argued that while Britain claims to be neutral, the undertaking contained in the Government of Ireland Act, 1949, took away the decision from the people of Northern Ireland and left it to the Parliament of Northern Ireland. The Nationalists argued that the guarantee given to Northern Ireland in the Ireland Act of 1949 was unjustified and superfluous.

They claimed that such interference in the internal affairs of Ireland by Britain "sets an example destructive of the rule of law among the nations." The pamphlet challenged Britain with the taunt that her position on Northern Ireland cast doubt on Britain's claim to stand for democracy in Western Europe.

According to Laithwaite, the guarantee was "the direct result of the decision of Eire to separate itself from the Commonwealth and of the claim by which that intention was accompanied that Northern Ireland should be incorporated in the new Republic." Laithwaite argued that "with universal franchise and with no element of gerrymandering that can be regarded as of any importance, this is clearly the only democratic solution. A difference cannot be drawn between the people of a country and the Parliament." Laithwaite stated, "if and when agreement should be reached between Northern Ireland and Southern Ireland,/"

Ireland, His Majesty's Government have expressed their willingness to consider its results." Laithwaite stated that no pressure would be brought upon Northern Ireland because : "it would be impossible politically for any government in the United Kingdom to urge any part of the Commonwealth to secede from the Commonwealth against its will and to join a state which does not recognise the King, and which, though it has close economic and racial ties with the United Kingdom , save in name, is completely foreign."

Laithwaite suggested that Southern Ireland first endeavour to convert Northern Ireland to its view. He thought that " Southern Irish tactics have so far been calculated to achieve precisely the opposite results." This was a reference to "threats of forcible occupation of Northern Ireland, the establishment of a volunteer force in Southern Ireland designed to conquer Northern Ireland overnight and to occupy its principal points, with a distinctive uniform of their own, are the worst practical arguments that could be used to a proud and independent area with a long tradition of its own, religiously and politically separated from the Irish Republic."

Interestingly, in 1952 the Home Office, commenting on Laithwaite's report, agreed with the anti-partition pamphlet when it admitted that the memorandum "seems to be at variance with government policy.....It is true that the Ireland Act 1949 provided that Northern Ireland may not cease to be part of His Majesty's Dominions and of the United Kingdom without the consent of Northern Ireland, but this is not the same as saying that Northern Ireland is free to join the Republic at any time if she so desires if she and the Republic can come to terms. In the debates on the Bill, the Lord President was very careful not to go further than to say that if Irish men themselves came together and made their own agreement, H.M. Government would willingly consider the results."(6)

The following chapter examines the Irish government's "refusal" to accept the "invitation" to join NATO.

(6) PRO DO 35 3943

CHAPTER X1V

NATO

A) COMMONWEALTH DEFENCE, EIRE, WESTERN EUROPEAN UNION AND NATO

This chapter examines the position of Eire vis-a-vis the Commonwealth and the emerging Cold War, Western European Union and NATO. Overall, emphasis will be placed on the American overview of British defence strategy in Europe and Commonwealth defence relations. Within the sub-framework of British - Commonwealth and British-European defence relations, Eire's interlinked role will be examined.

An appreciation of Britain's post-war global strategic role and her decline as a superpower contributes towards understanding the background to Anglo-Irish diplomatic relations, particularly the introduction by the British government of the "guarantee clause" in the Ireland Bill, in May 1949.

Of immediate concern to post-war Britain was the problem of retaining her independent position alongside Europe. In particular Britain did not want to see a Europe dominated by a single hegemonic power, especially the Soviet Union. Britain still hoped that she might lead a united Europe with the collaboration of a united Commonwealth, (1) i.e. Britain would be the third world power.

(1) PRO PREM 8/734. C.P.M.(48)5 5.10.1948. In October 1948 Sir Norman Brook prepared a report entitled, "Committee on the Preparations for the meeting of the Commonwealth Prime Ministers Commonwealth Interest in Collaboration with Western Europe."

The Americans also considered that a Soviet dominated Europe would be a serious threat to their security. The State Department thought that in spite of Britain's efforts towards building her political, military and economic defences against Russia, the safe buffer between America and Russia was in danger of disappearing.(2) Not surprisingly, Britain and America's role in the formation of the Western European Union and NATO, shows an awareness by both powers of the "Soviet threat". In contrast the Irish government still concentrated first and foremost on the "domestic" issue of Partition.

In 1948 the defence of Britain, with regard to Eire, rested on two main concerns. Firstly, that the whole of the British Isles was a strategic unit and all parts should be in British control or, at a minimum, be controlled by a friendly and reliable power. Eire was by 1948 accepted in the latter category. Secondly, Britain's dependence on overseas food supplies made command of the sea lanes to the British Isles a necessity. Historically, British defence strategy tried to ensure that friendly powers controlled her western and southern flanks. In 1948, Britain viewed Eire's neutral position as tolerable so long as Northern Ireland could be counted as a loyal ally.

(2) NA 941 D. 00/12-2149



At the beginning of 1948, the Foreign Office's attitude to Eamon de Valera's Fianna Fail government was that as a long term objective it would be useful to "bring Eire within the fold in foreign affairs" but that in the short term she should be excluded from Commonwealth Councils on matters relating to defence, i.e. "Family Prayers". (3) This was based primarily on the strategic consideration of Eire's geographical position. Additionally the fact that Eire was still considered to be a member of the Commonwealth for external purposes made co-operation desirable if only, as an example to other Commonwealth members. That point should be borne in mind with regard to the adverse affect on Commonwealth unity of Eire leaving the Commonwealth. In February 1948 the Foreign Office considered that Eire's membership of the OEEC made her inclusion in any Western European defence union "desirable".(4)

(3) PRO FO 371 70175. Commonwealth Liaison File. W.988. J.P.Finch to Sir Noel Charles. L.D. 6.2.1948

(4) Ibid

Even in the post-war era Irish neutrality was still a sensitive subject. For example, several British diplomatic missions including the Vatican, Washington and Stockholm had suggested that there should be closer co-operation with their Irish colleagues by allowing them to be privy to confidential documents.(5) These documents were discussed at meetings of Commonwealth members, which included Irish diplomats, and it was argued that otherwise, "the meetings would be much vitiated".(6) Lord Rugby's response was that de Valera might not welcome such a move and view it as an infringement on Eire's neutrality. The formal answer from the Commonwealth Relations Office was to refuse closer co-operation, "and to repeat this refusal to other missions where there are Eire Ministers."(7) In practice, the British government were reluctant to make any overt gestures on defence co-operation. Their principal reason, was their fear that such a move would give de Valera the opportunity to raise the embarrassing issue of Partition.

(5)Ibid

(6)Ibid

(7)Ibid

British foreign policy from the end of the Second World War to the end of 1947 was based on the hope that Russia would be amenable to diplomatic solutions in Europe . That policy was abandoned after the breakdown of the Conference of Foreign Ministers held in Germany, in December 1947. For the previous two years, the parliamentary Labour party was divided on major foreign policy issues regarding the Soviet Union. According to one U.S. report, "such developments as the absorption of Czechoslovakia, the crushing of Socialism and democracy in Eastern Europe and Communist attempts to sabotage European recovery, through strikes in France and Italy, dissipated any lingering illusions about Russian motives." (8)

The Foreign Office prepared a nine -page report for Attlee entitled, "International Relations, with particular reference to the Soviet Union." Its opening sentence exemplifies the Cold War tone, " Experience shows that it is not possible to reach agreements on a basis of compromise with the Soviet Union and to be sure that those agreements will be kept." The third paragraph of this report began, " There is now no possible doubt the that the Soviets aim at the domination of Europe and of the world."(9)

(8) NA 741.00/12-2149

(9)PRO PREM 8/734. Extract from (Commonwealth) P.M.M.(48)9.  
19.10.1948

In 1948-9, the American perspective on global affairs was that, "for the foreseeable future", the USSR was the only power which could pose a threat to the security of the United States.(10) A CIA report in 1949 considered that "the Soviet regime, moreover, is essentially and implacably inimical towards the United States."(11) However, this CIA report was of the opinion that "as of March 1948, we estimated that the preponderance of available evidence and of considerations derived from the 'logic of the situation' supported the conclusion that the USSR would not resort to direct military action during 1948." This report concluded that, international tension would continue to increase further during 1949 and "in these circumstances, the danger of an unintended outbreak of hostilities through miscalculation on either side must be considered to have increased ."(12)

Even in the spring of 1948, the U.S. still thought that Bevin was vague about the form of Western European Union and that, "only the aim was clear to strengthen western Europe by closer association."(13) Indeed, the U.S. State Department believed that Britain was not prepared "psychologically for federation nor to jeopardise their relationship with the Commonwealth."(14)

(10) Harry Truman Library, (HTL) Presidents Secretary files (PSF).Ref; ORE 60-48

(11) HTL. PSF files. ORE 46-49, Published 3.5.1949

(12) Ibid

(13) NA 741.00/12-2149

(14) Ibid

Post-war Britain still assumed it was the protector of all of the Commonwealth and was willing to aid any member who was attacked. In return it expected close co-operation from the Commonwealth but was aware that the obligation was not necessarily reciprocal. One aspect of the co-operation was exemplified by the fact that Imperial strategy was discussed at meetings of Commonwealth defence chiefs at Camberley each year.

Prompted by the December 1947 deadlock of the meeting of Council of Foreign Ministers, Attlee decided to consult the Commonwealth on his defence plans.(15) On January 10 1948, Attlee sent the Prime Ministers of Canada, Australia, South Africa and New Zealand a personal message outlining Britain's response to Russia's expansionist policy.(16) Britain wanted to give a "moral lead to the friendly countries of Western Europe and take a more active line against Communism." Attlee thought that, "Indeed if we are to stem further encroachment of the Soviet tide we should organise the ethical and spiritual forces of Western Europe, backed by the power and resources of the Commonwealth and of the Americas, thus creating a solid foundation for the defence of western civilisation in the widest sense ."(17)

(15)PRO FO 371 68013B.includes report entitled ;"The Present Conception of Western European Unity." p.144.

(16) PRO PREM 8/987. Referred to in Telegram from the High Commissioner in Australia 22.1.1948 Telegram No. 39.Serial No. T.12/48. See also FO 371. 68013B for Attlee's proposals for the Commonwealth and Europe

(17) Ibid

This was a polite way of informing the Commonwealth members that Britain was joining a Western European Defence Pact and as the responses show, marked a break in the supposed unity of the Anglo-Commonwealth defence pact.

First to reply on January 22 1949, was the Prime Minister of Australia, Ben Chifley; he stated that Australia would need to be given "fullest prior consultation in advance before Britain could assume her support." (18) Chifley castigated the UK for citing moral and ethical forces while forming an alliance against the Soviet government which would "include such undemocratic governments as exist in Spain and Greece." He argued that such an alliance might provoke the Russian government to take measures which the alliance was intended to prevent. Referring to Palestine, Chifley quoted Herbert Evatt who said that in order to uphold the principles of the United Nations, "we consider that foreign policy based on strategy, and not permanent settlement of disputes, tends to become a policy of despair, bringing about just those situations it should be designed to avoid." (19) In a following telegram to Attlee's reply, Chifley repeated "I can understand your desire to discuss your proposed course with Cabinet before communicating with us: but I cannot emphasise too much or too often the seriousness of taking decisions clearly involving us, or in expectation of our support, without the fullest prior consultation." (20) Chifley added that/

(18) PRO PRO PREM 8/987. Referred to in Telegram from the High Commissioner in Australia 22.1.1948 Telegram No. 39. Serial No. T.12/48

(19) Ibid

(20) PRO PREM 8/987. From H.C. Australia to CRO.11.2.1948. Telegram No. 88. Serial no T.37/48

that his government "fully appreciate your great difficulties and the absolute need in your present economic and military position to obtain and maintain the sympathy and support of the United States of America, but that support should not be obtained on the basis that war with the Soviets is inevitable. That view appears, on private advice we have received, as being fostered by certain sections in the United States of America." (21)

In contrast, the South African government, replying on February 20, 1948, through their High Commissioner in London, reported to the Secretary of State at the Commonwealth Relations Office that: "The Union government are in general agreement with the approach of the United Kingdom government to the important question of a Western union and consider it very advisable to explore the whole subject more fully with France and the Benelux countries." (22)

Mackenzie King, while agreeing with Attlee's policy of a more active line against Communism, expressed concern that Attlee's use of the phrase, "backed by power and resources of the Commonwealth and the Americas might imply an addition to economic assistance : But if 'military power' was intended or implied, then this passage went further than he would feel able from Canadian standpoint to subscribe to." (23)

(21) Ibid

(22) PRO PREM 8/987. Series No.T.52/48. Letter from High Commissioner in South Africa to Secretary of State CRO

(23) PRO PREM 8/987. details of High Commissioner's conversation with Mac Kenzie King on 15.1.1949. Telegram No. 41. Des 7.35p.m. 15.1.1949. Rec. 2.30 a.m. 16.1.1949

Overall, this Commonwealth reaction, particularly from Australian Labour Party government dashed Britain's hopes of forming or activating the assumed Commonwealth consensus on defence. British Chiefs of Staff in March 1948, believed that the adverse response of the Commonwealth was because "defence collaboration between the UK and the Commonwealth countries was at present stultified by the lack of a common defence policy." (24) They recommended that because of "the present international situation, it was essential there should be discussions on the highest level between the Commonwealth countries on defence matters, and it seemed that the only satisfactory method of achieving that was by holding some form of Commonwealth conference in the very near future." (25) Accordingly, the British Chiefs of Staff arranged for the agenda of the 1948 Commonwealth Prime Ministers meeting to include discussions for a plan for the establishment of a system of Commonwealth Chiefs of Staff. While New Zealand supported the idea, Canada was the only Commonwealth member who was prepared to enter such a co-ordinated defence pact. Other Commonwealth members feared such a pact would limit their sovereignty. (26)

(24) PRO DEFE 4/11. COS(48)3. 9.3.1948

(25) Ibid

(26) PRO Cab 129/30. p. 98



Prompted by the February 1948 Communist coup that took place in Czechoslovakia, Attlee, in the House of Commons on March 1, 1948, announced that the five nations would begin talks on Western European Union in Brussels.(27) Four days later it was announced that a draft treaty on Western Union proposed by Britain and France would be placed before the five- power conference that day in Brussels.(28)

On March 9, 1948, the Commonwealth Relations Office asked the High Commissioners of Canada, Australia, New Zealand, South Africa, and Ceylon to supply the governments of the respective countries with details of the background to the situation in Europe currently being considered by the Cabinet. British foreign policy towards Europe was being re-examined because the : "expansion of Soviet influence, as manifested lately by events in Czechoslovakia, pressure on Finland and Greece and internally in Italy represents increasing threat to countries of Western Europe and the traditions of freedom democracy for which they stand. It has become necessary accordingly to re-examine our European policy..... Issue is that of parliamentary government and liberty or establishment of dictatorship". (29)

(27)H.C. Vol. 448. Col. 163-64 1.3.1948

(28)The Irish Times. 5.3.1948

(29)PRO FO 371 70175. Telegram Z. No.45. 9.3.1948

At that point of time, the Foreign office was considering "enlightening MacBride about recent developments which have disclosed an imminent threat to Atlantic security." Sean MacBride, was given a copy of the above message about the development of Soviet aims. However, the Foreign Office decided not to reveal to him "the countermeasures now under consideration till they have won acceptance from those chiefly concerned." (30) This was a reference to extending WEU into the North Atlantic Alliance. The decision to inform Sean MacBride of the threat was probably due to increased fears of further Soviet expansionism at that time. An 'aide memoire', from the Foreign Office to the State Department, dated March 11, 1948, claimed that Russia was "offering" Norway a pact (1\*) on the Soviet Finnish model. (31) While Bevin may have "depicted the threat in a most pessimistic way", (32) if successful, it would have allowed Russia submarines bases in Norway. The Following day, the U.S. Secretary of State notified British official, Lord Inverchapel that "we are prepared to proceed at once in the joint discussions on the establishment of an Atlantic security system." (33)

(30) PRO FO 371. 70175. Top Secret Report "Eire and the Paris Conference." 12.3.1948

(31) FRUS 111, 11.3.1948, p.346-7 quoted in Lundestad, G: America Scandinavia and the Cold war, 1945-49. Columbia University Press, 1980. p. 179

(32) Lundestad, G.: America Scandinavia and the Cold War, 1945-49. p. 179

(33) Lundestad, G.: America Scandinavia and the Cold War, 1945-49. 1980. p. 178

(1\*) I am indebted to Dr. Michael Dockrill, Department of War Studies, Kings College, London, for bringing my attention to this point.

According to a Foreign Office report dated March 12, 1948, the "Eire government had no illusions about Russian idealism". (34) The report believed that "Anglo-Irish politics influence Eire's approach to every problem." With regard to MacBride's arguments on Partition and Western European Union, the report recommended: "It would suffice to give him a sympathetic hearing, to say that any attempt of force or to expedite active measures against partition would produce resentment and political crisis, but the United Kingdom are in no way opposed to the North and South coming together when they can agree to do so and that co-operation on Western European affairs would seem to point in this direction." The report advised, "Mr. MacBride knows the truth, but it will make things easier for him to satisfy his left-wingers if he is shown the red light by the foreign ministers of the smaller countries such as the Benelux. Generally speaking, Eire can move more easily in these matters when away from the British umbrella." (35)

On March 14, Ernest Bevin, opening the 16-power European Aid conference, stated: "We must co-operate or perish individually." (36) Sean MacBride speaking at the conference on Ireland's economic situation added a rider on Partition, to the effect, that the co-operation on defence would be greatly facilitated if there were economic unity.

(34) PRO FO 371. 70175. Top Secret Report "Eire and the Paris Conference." 12.3.1948

(35) Ibid

(36) Irish Times, 15.3.48

On the eve of signing the Brussels Treaty, Philip Noel-Baker asked Sean MacBride for his view on a regional defence pact that would include Great Britain and Eire. MacBride's response was that Eire "would always be in the front line." (37) Philip Noel-Baker pointed out that events meant that that was the position for Britain and that she must be in a position to defend herself: "Thus only could we give (a chance) to this new democratic special effort (we were making) in Britain, a chance to survive, and this could only be if we were strong enough to avoid war." Noel-Baker recorded that MacBride did not comment on that proposition. (38)

That Sean MacBride was in Paris on the eve of the signing of the Brussels treaty was coincidental, in that there was also a meeting of the OEEC in Paris. The linking of the two meetings may have caused some confusion and given rise to a belief that joining the OEEC was dependent upon signing the Brussels Treaty. Foreign Office representative, Gladwyn Jebb, (later appointed Ambassador to the W.E.U.) claimed that while at a reception in the Canadian Embassy in Paris, in mid-November 1948, he "put Sean MacBride straight that he would not have to enter the Brussels pact before joining the Council of Europe." (1\*). (39) It is unlikely that the astute Sean MacBride, a founder member of the Council of Europe, needed to have the distinction clarified.

(37) PRO FO 371. 70175 Commonwealth Liaison File. WCL/W1986. "Record of Conversation between the Secretary of State and the Foreign Minister of Eire, held in Paris on 16.3.1948

(38) Ibid

(39) PRO FO 371 73111. Report 9435. dated 17.11.1948

(1\*) Interestingly by 1951 the US floated the idea of merging the economic functions of the OEEC, NATO and the Council of Europe. (40)

(40) PRO PREM 8/1434. F.O. to Washington. Tel.No 10164. 25.10.1949

According to a report from the U.S. Legation in Dublin to the Office of European Affairs at the Department of State, the Belgian Prime Minister and Statesman, Paul-Henri Spaak, had said that Sean MacBride had intimated to him that Ireland's adherence to any pact including the UK would be conditional on Northern Ireland being united to Eire. According to the report, when Spaak was asked about his own reaction, he "shrugged his shoulders and said this shows how carefully one must proceed in negotiations as delicate as these." (41)

On March 17 (St. Patrick's Day), 1948, the Treaty of Brussels was signed under the auspices of Article 51 of the UN Charter. The U.K., France, Belgium, Netherlands and Luxemburg pledged themselves to a fifty-year treaty guaranteeing joint military action in the event of any of the signatory powers being attacked in Europe. That in the event of aggression against any one, they pledged to give each other aid and assistance by all means in their power, military and otherwise. The treaty also provided for the closest economic, political and military co-operation between the five countries and the setting up of a permanent consultative council for quick action on mutual economic and defence problems.

The Commonwealth Relations Office apparently still hoped that Eire might make a contribution to further Western European Union. The British Treasury advised Eric Machtig on March 18 that if so, "it may be that we should approach the problem not in the restricted sense of one of Anglo-Eire immediate relationships, but rather within the frame-work of Western European Union." (42)

(41) NA D.840.20/11-2948

(42) PRO DO 130/88. Treasury Chambers to Eric Machtig. 18.3.1948

Following the signing of the Brussels Pact, President Truman proclaimed his support to the Brussels pact. Addressing Congress he declared that Russia was trying ruthlessly to destroy the independence of all Europe, and called for a resumption of the American conscription law, universal training and speedy passage of the Marshall plan as "urgent steps towards securing peace and preventing war." (43)

Influenced by the contents of Truman's speech, the U.S. Senate, in June 1948, passed the Vandenberg resolution with an overwhelming sixty-four votes to four against. (1\*) This meant that the Senate in effect authorised a commitment to a regional defence system but, with the proviso, that a declaration of war rested with Congress. (44)

(43) Irish Times. 18.3.48.

(44) John W. Young, Britain France and the Unity of Europe 1945-51, p.100

(1\*) The Vandenberg resolution advised the President that the Senate agreed that the US government should pursue "(a) The progressive development of regional and other collective arrangements for individual and collective self-defence in accordance with the purposes, principles and provisions of the UN Charter; (b) the association of the United States, by Constitutional process, with such regional and other collective arrangements as are based on continuous and effective self help and mutual aid, and as affect its national security."

(B)

EIRE AND THE FORMATION OF NATO.

On April 17 1948, a meeting of foreign ministers in Paris, agreed to establish a London-based permanent Commission of Ambassadors to oversee and monitor the Brussels treaty. A permanent military committee was also established in London and the five foreign ministers agreed to meet at least once every three months in each capital in turn.(1) Significantly in the middle of July 1948, the Canadian and American governments agreed to send military representatives to participate as "non-members" in the work of the committee. These meetings developed into the Washington Security Talks.(2) A working meeting of this body on July 26, 1948, considered the names of those countries which might be included in a combined North-Atlantic- Western European security arrangement and also those countries in Europe and the Middle East whose security interests would be directly affected if they were not included in this security arrangement.(3) The criteria for the selection of countries, included their geographical position, the security contribution the country could make, any liability on a cost -benefit basis, the effect that inclusion or exclusion would have on the country's security, the importance of the country to the Brussels pact countries, to Canada and to the US and finally the possible attitude of a country towards participation in this security arrangement. This meeting of July 26, 1948 emphasised "the desirability of having Norway, Denmark, Portugal ,Ireland and Iceland as full members of the NATO Pact."(4) The meeting decided that /

(1)NA 840.20/10-2748

(2) Ibid

(3)Ibid

(4)NA 840 20/7-948.p2. quoted in Lundestad, G.: America Scandinavia and the Cold war, 1945-49. p.101



that "Eire should be included and is in a position to make a valuable contribution to the security arrangement." (5)

It was possibly a similar belief in Eire's "strategic importance", bolstered by the prospect of, as described by Frederick Boland, "high level" discussions with Generals in Canada in July, 1948 (6), that gave John Costello the confidence to state optimistically, in the Dail, on July 23 1948, "for the first time since 1922, this Cabinet will, by its policy and its actions, give some hope of bringing back to this country the six north-eastern counties of Ulster." (7) Continuing he added "the interests of Great Britain, the interests of the United States of America, the interests of Western Europe and the interests and maintenance of Christian principles require and demand that there should be a united Ireland to face the menacing situation which will possibly develop in the next few years." (8) Rugby later interpreted the speech as part of the "curious burst of optimism" (9) of the Irish government on Partition in the Summer of 1948. He attributed the optimism to the improvement in Anglo-Irish relations and the fact that Attlee and Sir Stafford Cripps were due to sign the trade agreement in Dublin at the end of July and speculation about an "approach to Eire from the United States on subject of Western Union." (10)

(5) NA 840.20/7-2748

(6) Bruce Arnold interview with Frederick Boland. Copy kindly lent by Dr. Noel Browne. Grateful acknowledgement for permission to quote to Bruce Arnold.

(7) D.D. Vol. 112. Col. 1520. 23.7. 1948

(8) D.D. Vol. 112. Col. 1521. 23.7. 1948

(9) PRO FO 371. 79225. Rugby to CRO Telegram no 17. 10.2.1949.

(10) PRO DO 35 3934. 24.7.1948. Tel.No. 71.

By September 9, two days after John Costello's "announcement", the bargaining position of Eire had weakened to the extent that the Washington security talks only considered that "it might well be desirable" to have Ireland as a full member of the NATO Pact.(11) More forcefully, the British representative at the Washington Security talks excluded Eire only referring to the "desire of the UK, to include Norway and Portugal in the Pact."(12) Bringing hope to solving Partition by arbitration, was the decision of this meeting that the NATO Treaty should incorporate "an understanding to submit every controversy which may arise among the parties to methods of peaceful settlement."(13) It is possible to view this decision to exclude Eire by the British government, or more probably the British Joint Chiefs of Staff, as having been prompting John Costello's "announcement" on September 7, 1948. However, it is more probable, that the British government had already calculated that the strategic reliability of Northern Ireland was not worth bartering for an end to Eire's military neutrality and that Eire, if included in NATO would use the charter which encouraged the peaceful settlement of disputes between members to raise the issue of Partition within the forum of NATO. Further study on the drafting of Article four(1\*) of the charter dealing with respect for the "territorial integrity" might show that Britain was responsible for initiating that delimiting Article.

(11) FRUS 1948 Vol 3.p.241 quoted in Lundestad,G.: America Scandinavia and the Cold war, 1945-49. p.102 .

(12) NA 840. 20/4-2149 Lundestad,G.: America Scandinavia and the Cold war, 1945-49. p.102.

(13) NA 840.20. 11-1348. Section Peaceful Settlement of Disputes"10. Para 22.

(1\*) See Appendix V

A memorandum to the British cabinet in November 1948, pointed out that the Americans and Canadians wanted the participation of Norway and Denmark in the proposed pact and to a lesser extent the inclusion of Portugal, Iceland and Eire. In effect this meant that from America and Canada's point of view, Eire could participate, but was dispensable. However this Cabinet paper acknowledged that "if all or any of these countries prove willing to participate, it would be difficult to find good grounds for opposing their inclusion." (14) This may have meant that Eire, if she expressed a willingness to participate, would have a good bargaining position on ending Partition. Reading between the lines, it could be argued that Eire's acceptance of participation in NATO would have presented Britain with the major difficulty of justifying her continued support towards the Unionists' position on Partition in Northern Ireland. Briefly, in 1948, the strategic importance of Eire was based on a cost benefit analysis of the political implications for Britain of withdrawing support for Partition for defence gains.

A report on Ireland's strategic position in March 1949 prepared by the CIA and agreed by the intelligence organisation of the Department of State, the Army, the Navy and the Air Force noted the "inconvenience of Irish neutrality/

(14) PRO Cab 129/30 p.100. CP(48)249. 2.11.1948. Cabinet Paper entitled "North Atlantic Treaty and Western Union." Memorandum by the Secretary of State for Foreign Affairs.

neutrality during World War 11, and reckoned that the lack in heavy industry in Eire was compensated for by the "the importance of the availability of its territory, agricultural output" and noted its "potential manpower contribution". Overall the CIA report thought that Irish co-operation would be a positive "asset". Neutrality would probably again be tolerable under conditions of global warfare. However, because " hostile forces in Ireland would outflank the main defences of Great Britain, and because it could be used as a base for bombing North America, the denial of Ireland to an enemy is an unavoidable principle of United States security."(16)

The CIA report considered that in a war Irish neutrality would "probably be tolerable." With cold calculation, they stated that "it could become necessary to utilise Ireland for these purposes under conceivable circumstances of sustained aerial bombardment or hostile occupation of British ports". The CIA were rightly confident that "Ireland is already ideologically aligned with the West, is strongly Catholic and anti-Communist, and in spite of military weakness and the Partition issue, would probably not remain neutral in an East-West war." (17) This Strategic decision was based on the report contained in the National Security report of 1950.(18)

(15) Harry Truman Library, (HTL), President Secretary's file Box 256 CIA report. SR 48

(16) Ibid

(17) Ibid

(18) See NSC 83/1 A Report dated September 11,1950, to the National Security Council by the Secretary of Defence on "The Position of the United States With Respect To Irish Participation In NATO and MDAP." HTL. PSF Box 209 Truman Papers. see: Fanning,R.: " The United States and Irish Participation in NATO: The Debate of 1950." Irish Studies in International Affairs,Vol.1. Number 1.

Dr. Noel Browne, former Minister for Health considers that the Americans were aware that they could have "taken" Ireland if they had wanted. (19) Supporting that deduction is a report from Consular official W. Moreland attached to the US Legation in Dublin, dated March 24, 1948 which states, "a great many Irishmen in responsible positions have made a point of telling Consul Parker and me that the United States could count on the full support of Ireland in any steps the United States might feel called upon to take against the Soviets." He continued; "Specifically, high Irish airport officials as well as local political leaders have said in effect that if the United States wishes to use the airport for military purposes they (the United States) may feel free to do so. No objection will be successfully raised." (20) It is possible that the strategic importance of Shannon(1\*) to America and the possibility of Irish co-operation might explain why Shannon, despite a personal letter of protest from Winston Churchill to Roosevelt in January 1945, (21) was chosen as an international airport by the U.S. instead of a site in Northern Ireland .

The extent to which Eire's pro-western position was taken for granted is further evidenced in a CIA report dated February 1949, entitled "Effects of a US Foreign Military Aid Program." This report concluded that it "was beyond question that the Irish will

resist Soviet aggression and requires no encouragement." (22) The/ (19) Noel Browne Personal Interview 28.12.1988.

(20) HTL President Secretary's file , Box 256 SR 48 CIA report.

(21) NA FW 711. 41D27/1-2945 see also NA. 711.41D27/1-3045

(22) Washington Library of Congress, Microfilm. (ORE 41-49) published 24/2/1949 (HT Library) reference 1949 (81) 136B in declassified documents, catalogue Vol V11, No 4, 1981.

(1\*) Appendix V1 map of "Strategic Position of Ireland on North Atlantic Air Routes."

The report considered that "The Irish position would be rendered more secure by the pact and program with or without Irish participation. No US military aid is required for the maintenance of Irish internal security and political integrity. Denial of such aid to Ireland would be without appreciable effect. Denial of aid to the major signatories of the Atlantic Pact however would give Ireland reason for some concern."(23)

Following the American wish to "include" Eire in NATO, it was apparently decided that the United States should approach the Irish government with regard to its adherence to the pact and invite its views regarding the form and timing of an official approach. In reality the tentative enquiry made by the US State Department was based on Eire's expendability. It was proposed in the 1950, National Security Report, that the U.S. should avoid a discussion on a US-Ireland bilateral pact.(24) In advance of that policy being formalised the State Department emphasised that it was making the offer on behalf of all of the signatories to the proposed NATO pact.(25)

(23) Ibid

(24) HTL. PSF Box 209 Truman Papers . Draft Statement of policy proposed by the National Security Council, October 17, 1950, on "The Position of the United States Regarding Irish Membership in NATO and Military Assistance to Ireland Under a Bilateral Arrangement."

(25) NA.840. 20/2-949. See Memorandum of conversation by Director of the Office of European Affairs, John Hickerson, 9.2.1949. FRUS Vol. 1V. p.90

(C)

EIRE'S "REFUSAL" TO ACCEPT THE "INVITATION" TO JOIN NATO

On January 7, 1949, George Garrett, handed an 'aide memoire' to Sean MacBride. This asked for the Irish government's views, "informally with regard to the issue of an official invitation to the Irish government to participate in the proposed North Atlantic treaty." (1) The mode of approach from the State Department implied a reluctance to take responsibility for "the invitation", and indeed they emphasised that it was a joint approach from the Brussels signatories.

The 'aide memoire' explained that the Brussels signatories requested the assistance of the US in strengthening their capacity to resist aggression, and that these talks lead toward the development of "concrete proposals for the North Atlantic security treaty". Continuing, the 'aide memoire' explained that "in these talks it was recommended, and the recommendation is now being considered by the seven governments now participating, that Ireland, Iceland, Denmark, Norway, and Portugal be consulted as to their willingness to consider participating as original signatories of the treaty, and if prepared in principle to do this, to participate in definitive drafting of its terms. The United States accepted the responsibility for extending such invitations at the appropriate time and for keeping the governments named generally informed in the meantime."

(1) Texts concerning Ireland's position in relation to the North Atlantic Treaty which was presented to both Houses of the Oireachtas by the Minister for External Affairs, published by the Stationery Office, Dublin. (P.No. 9934) From which all references concerning the exchange of Irish-American 'aide memoires' are taken.



The Irish government's response was already ascertained. On February 2, 1949, George Garrett reported to the Secretary of State, that Sean MacBride had told him that in his reply to the proposed 'aide memoire' he intended to "keep the door open so as not to make the answer entirely negative".(2) It would seem that Sean MacBride made the mistake of expecting to be courted by America.

Behind the scenes, discussions among diplomats had been taking place in London, Dublin and Washington. Miss Willis, an official of the US Embassy called to the Foreign Office to show officials there, three "top secret" telegrams from the US legation in Dublin to the State Department. The first telegram outlined the above conversation between George Garrett and Sean MacBride and the second telegram between Garrett and the conservative Archbishop of Dublin, John Mc Quaid, that took place on January 22, and the third a conversation between the US Charge d'Affaires and the Minister for Agriculture, James Dillon.(3)

(2) NA 840. 20/2-249.

(3) PRO FO 371. 79224 Report signed by E.M. Rose. 28.1.1949

The conversations between Garrett and MacBride with regard to NATO clarified that Eire could not participate in the North Atlantic pact unless the Partition issue was solved in her favour. This was because Irish politicians believed that anti-partitionists would feel that Eire was giving something to Western Europe and America without getting anything in return and it would be considered foolish to have thrown away such a promising opportunity to bargain: If it did so then its position would become impossible since it would be accused by the anti-partitionists in Ulster of letting them down. There was also a fear that Irish participation in the Pact without a solution to the Partition issue would cause a revolution in Ulster and presumably physical attacks on the Irish government.

Miss Willis's report mentioned that Archbishop McQuaid had emphasised to Garrett that MacBride's opinions were entirely his own. He himself felt that war was inevitable, that Eire could not stay out of it and that it would be unwise to let matters drift.(4)

According to the report, "the Church's opinion on the issue would cut very little ice, as whenever in recent Irish history politics and the church have clashed, politics have always come out on top. Mr. MacBride had himself been excommunicated, as had Mr. de Valera on two occasions." "Politics" in this report probably referred strictly to the Civil War and Partition or else the report relied to heavily on a biased source.

CONTINUED/

(4) Ibid

Similarly, the Minister for Agriculture, James Dillon, (who had spoken against Irish neutrality during World War 11 and as a result, resigned from being deputy leader of Fine Gael) endorsed Sean MacBride's view that Eire could not come into the Atlantic pact without a solution to the Partition question. The U.S. Minister emphasised that the opinions he had been given were purely personal, and, in the case of MacBride, "emotional". He concluded that "these statements by Cabinet Ministers seem to indicate that the answer of Eire to the invitation to accede to the North Atlantic Pact will not be favourable." Written underneath this report in the Foreign Office file is the following unsigned comment : "I suppose so: but when I talked to Mr MacBride in Paris, he seemed to admit that there might be a difference between the Atlantic Pact and the Council of Europe from the partition point of view. However, anybody who can argue on the lines indicated is capable of anything." (5)

(5) Ibid

On February 7, 1949, the Foreign Office asked the State Department if there was any "further news" about the attitude of the Irish government. Replying that same day, the State Department forwarded a telegram marked "of particular secrecy and should be retained by the authorised recipient and not passed on." The State Department showed the Foreign Office a recent telegram from the United States Minister in Dublin quoting MacBride as saying that, "there were prospects of favourable developments in the matter of partition, but that until this problem was settled, Eire could not participate in any defence pact of which the United Kingdom was a member." According to the Foreign Office, the State Department was as puzzled as they were by the reference to favourable developments in the matter of Partition. The telegram concluded that MacBride's "attitude ruled out any idea of pursuing the matter of Irish participation further at the present time."(6)

The Irish Cabinet on February 8, 1949, accepted the invitation to join the Council of Europe and secondly, approved the reply of the Irish government to the "approach" to join NATO.(7) Accordingly the 'aide memoire' was handed to the U.S. Minister in Dublin, by the Minister for External Affairs on February 8, 1949.(8)

(6)PRO FO 371 79224. No. 752/Z1187

(7)NASPO . Cab 2/10. G.C. 8.2.1949. See S.14291 for details of Council of Europe

(8)Texts concerning Ireland's position in relation to the North Atlantic Treaty.pub. Stationery Office, Dublin. (P.No. 9934)

The 'aide memoire' used the opportunity to bring Partition to the forefront. Referring to the reasons for the formation of NATO, it stated: "The strength of the Irish nation's attachment to these ideals is shown in the fact that Ireland, or rather that portion of Ireland which is under the control of the Irish government, has remained, to a greater extent than any other European state, immune from the spread of Communism."

Paragraph five of the 'aide memoire' stated bluntly that "... no Irish government, whatever its political views, could participate with Britain in a military alliance while this situation continues, without running counter to the national sentiment of the Irish people. If it did, it would run the risk of having to face, in the event of a crisis, the likelihood of civil conflict within its own jurisdiction."

Referring to Partition, Paragraph 10 of the 'aide memoire' stated, "Now that the Republic of Ireland Act has removed the last constitutional limitation of Irish sovereignty, there is only one outstanding cause of friction and misunderstanding between Ireland and Britain the enforced partition of our country."

On February 9, 1949, Sean Nunan, the Irish Minister in Washington, presented a copy of the Irish government's reply to the State Department. Nunan stayed for a meeting which included the State Department's Director of European Affairs, John D. Hickerson, and officials, Mr. Satterwaite and Mr. Fales: Mr Nunan stated that he was "under instructions to state orally that he desired to impress upon us that this reply was not to be regarded as closing the door and that the Irish government desired United States mediation in the problem of partition." (9)

John D. Hickerson, director of the European Desk of the State Department, and one of the most influential architects of NATO, was aware that the intention of the Irish government's 'aide memoire' was to bring the issue of Partition to the forefront. He reported to the Secretary of State that he had explained that the Atlantic Pact was designed for security purposes and that it was not an appropriate means of settling problems of such long-standing duration as the question of Partition in Ireland. (10) According to Hickerson, "I stated that I believed that the attitude of the United States would remain unchanged and that we felt we could not intervene in a question between our two very good friends in as much as it was a question for them to settle between themselves." Nunan pointed out that the previous American attitude had to some extent been based upon the fact that Ireland was a member of the British Commonwealth and that this situation no longer pertained. Hickerson replied that "our views were not based entirely on the Ireland's position as a/

(9) NA .840. 20/2-949. See Memorandum of conversation. FRUS, 1949.  
Vol 1V. p.90

(10) Ibid

a member of the the Commonwealth and that we still felt that Partition was an issue to be settled by the two interested parties." Hickerson side-stepped a confrontation by pointing out to Nunan that the United States was speaking as only one of the original signatories and that the 'aide-memoire' would be brought to the attention of the other participants.(11)

Several weeks later, on March 31 1949, Nunan was informed by Hickerson that the 'aide memoire' had been brought to the attention of the other governments concerned. However, "the State Department informed Mr. Nunan that it was not considered that the situation outlined in the Irish government's 'aide memoire' was connected in any way with membership in the North Atlantic Pact."(12)

An information bulletin similar in scope to a question de Valera asked Churchill at the end of the Second World War about how he would react in similar circumstances if Germany occupied six strategic southern counties commanding the Dover Straits.(13) was issued by the Department of External Affairs. It explained "Why Ireland Cannot Join the Pact." It compared the island of Newfoundland with Ireland and asked "How could the military chiefs in either part of the divided island lay effective plans?" The analogy was then used of Ireland being the weak link and the chain could be strengthened "at a stroke, by the friendly assent of the British government to the unification of Ireland."(14) This bulletin shows that the Irish government overestimated the post-war strategic importance of the twenty-six counties.

(11) Ibid

(12)NA 841 D.00/4-949

(13)Carroll,J.T.: Ireland in the War Years 1939-1945. p.164

(14)PRO 371.74190 contains Bulletin No. 8.issued by IDEA.

Nunan followed up his request for the US to mediate on Partition by lobbying Senators, apparently informing them that high-ranking British officials would welcome mediation by the US. This tactic caused some diplomatic embarrassment in Anglo-American relations. Dean Acheson wrote to the American Ambassador in London, Lewis Douglas, " Although I appreciate that the Embassy has kept us informed of the official British position on partition, perhaps you could let me know whether there is any truth in the Senator's information." (15) The British government apparently controlled the Partition issue to the extent that they normally acted as the broker between America and Eire on the issue. Despite this control the State Department requested George Garrett, in response to the Irish government's attempts to get the U.S. to intervene on Partition, to "inquire of Bevin what the British position would be toward our mediation of the Partition problem and if he, as we suspect, reiterates the British view that they do not want us to mediate you tell MacBride when you see him that you have discussed the matter with Bevin, and the British government is opposed to our mediation, and that we have no intention of doing so." (16) There is no trace of a reply, but it can be assumed the reply was as envisaged by the State Department.

(15) NA 841 D.00/3-449 dated 4.3.1949

(16) NA 841 O.20/6-1049



In response to the Irish government's attempts to persuade the U.S. government to intervene on Partition, the Under-Secretary of State at the Commonwealth Relations Office, Patrick Gordon-Walker told the State Department that "It is hoped that not many Americans and others will be impressed by Costello's suggestion that if partition were removed, Eire would join the Atlantic pact. In the first place, if the UK government were to declare partition ended (which it has no intention whatever of doing), the result would be civil war in Northern Ireland. Ireland would be convulsed by (the) bitter and bloody conflict which would ensue. In the second place, there is considerable reason to believe Eire government would not make good on any such agreement." (17)

An official in the British embassy in Washington wrote to Gladwyn Jebb at the Foreign Office and referring to the exchange of US-Eire 'aide memoires', reported that " The Americans are remaining very calm on the question of Eire and so far there is no disposition whatever to give Eire any encouragement in thinking that they can use the North Atlantic pact as a means of bargaining over Ulster." (18)

(17)NRC RG 84 Box 18. File 350 on "Partition."

(18)PRO FO 371 .79226 F.R. Hoyer to G. Webb ,16.2.1948. REF:G  
21/-/49

Comments in the 'Observer' of February 13, 1949, serve as an example of how the Irish government were losing the propaganda battle; An article commented, "well informed circles in London regard the High Commissioner's rather naive statement on the Atlantic Pact with a certain amused scepticism". Adding, "the phrase, the last grievance of the Irish nation would be ended is particularly appreciated. Every time Britain has been asked to make a concession she has been told that " the last grievance would be removed."(19)

It is worth noting that on Tuesday, March 8, 1949, (20) the British cabinet discussed Attlee's final memorandum on the the Ireland Bill, (21) and also a Cabinet Paper by the Chuter -Ede and Philip Noel-Baker on whether to lodge a complaint to the Irish government about their anti-partition campaign. (22) On the latter point, the Cabinet accepted the advice that any protest made in Dublin would be likely to be widely publicised in the United States," while any agitation aroused in the United States by the protest might conceivably make difficulties in connection with the pact." (23)

(19) Observer, 13.2.1949 quoted in NA 840.20/2-1549

(20) Cab 128/15 CM(49)18. 8.3.1949. pp.66-67

(21) Cab 129/33 CP(49)47. 4.3.1949 Memorandum on Ireland Bill pp. 24-25

(22) Cab 129/33. Part 1. CP(49) 48. 26.2.1949. Memorandum on Anti-Partition Campaign in Eire. p.27. Appendix B1 contains Lord rugby's comments on Anti-Partition campaign of 4.2.1949

(23) Cab 128/15 CM(49)18. 8.3.1949. pp.66-67

In February 1949 the Irish government sent a copy of the reply to the invitation to join NATO to the Canadian government, with an appeal to them to take up the question of Partition with the United Kingdom government, and to make their good offices available with a view to bringing about a settlement.(24) This appeal to Canada shows a continuation of the Irish government's lack of awareness that Canadian foreign policy was entrenched in co-operating with NATO and the Commonwealth . On March 4, 1949, David Johnson reported to Lester Pearson that the Canadian High Commissioner in London, Norman Robertson, told Sean MacBride that the repeal of the External Relations Act combined with Eire's refusal to join Nato, now meant that " not only are the United Kingdom and Northern Ireland less disposed to discuss partition, but other North Atlantic countries, including Canada, have, for the first time, a strategic interest in maintaining partition."(25) In addition to these reasons it is probable that Britain did not want the issue of Partition raised at the newly formed United Nations because it was then a forum that institutionalised the idealistic concept of the equality of sovereign states.

(24) CDEA 50021-40 199(a) .. SUB 52 CHRON 52

(25) CDEA 50021-40 6939-40C/25/4.

Further proof that there was no support from Canada for the Irish government came on March 11 1949, when David Johnson delivered a reply to the Irish government's request to the Canadian government to intervene on the issue of Partition. Johnson spent one and a half hours explaining his government's position to MacBride. Johnson reported to Lester Pearson, that MacBride "fully understood Canada's view and gave no sign of any disappointment or annoyance with any part of your letter." Johnson continued to state that "As Minister for External Affairs, he would like to sign the treaty, but as a realist he said he must face the fact that government would fall if it announced its willingness to join the pact before any progress was made in ending partition." Continuing, he reported, "MacBride seems to think that the United Kingdom government may be favourably disposed towards discussing a solution of partition with Irish government, but would find it easier to do so if Canada took initiative in raising it." (26)

In Ireland, the reaction of the people to the refusal to join NATO was ambivalent, indeed not unlike the reaction to the "decision" to repeal the External Relations Act and later leave the Commonwealth. On March 21, 1949, George Garrett reported to Dean Acheson some of the comments that had appeared in the Irish press since the publication of the text of the North Atlantic Treaty. He mentioned that the pro-Commonwealth 'Irish Times' reiterated their contention that Ireland had made a "serious mistake and that the Irish government's position did/

(26) CDEA 50021-40 ,199(a) .. SUB 52 CHRON 52

did not reflect the true attitude of the people", while the 'Irish Press' made no comment, and the "government controlled" 'Irish Independent' carried a brief secondary editorial with perfunctory comment." (27)

On April 1, 1949, Garrett reported that those people in Eire who were in favour of joining the Atlantic Pact had stressed that Article 4 of the NATO Treaty might permit an attempt to settle the Partition question. (28) However, as reported by Garrett, this theory was contrary to MacBride's statement in the Dail on March 29, in which he declared that article 4(1\*) might in fact imply an acceptance that the "territorial integrity and political independence" of the six counties are the concern of Great Britain. (29) Garrett also reported: "Catholic hierarchy especially disturbed. Wide sentiment in favour negotiations with US will result in devising face saving formula which will permit Irish participation." But Garrett, referring to MacBride's Dail statement on March 29, admitted that it was "not encouraging in this regard". (30)

(27) NA 840.20/3-2149

(28) NA 841. D W0 /4-149

(29) D.D. Vol 114. Col.1743-44. 29.3.1949.

(30) NA 841. D W0 /4-149.

(1\*) See Appendix V ( articles 2 & 4 of NATO Treaty.)

Sean MacBride visited the Secretary of State, Dean Acheson at 2.30p.m. on April 11, 1949.(31) It is worth quoting the inaccurate biographical brief on MacBride that Acheson received from John Hickerson, the Director of the Commonwealth Desk at the State Department. Hickerson cited Eire's refusal to join NATO and the repeal of the External Relations Act as the "most notable actions of the Irish government". He then gave a biographical outline of MacBride, stating inaccurately, "He became Chief of Staff of the outlawed Irish Republican Army after the conclusion of the Irish civil war and continued these activities until World War 11, when he split with the more radical wing of the organisation. He is considered one of the ablest lawyers, orators and political leaders in Ireland."(32) Excepting the last remark, this "misinformation" may have further undermined Sean MacBride's already near impossible diplomatic mission. At that meeting, MacBride explained to Acheson that Ireland was strongly in favour of the Atlantic pact and would have liked to join in signing it, but that no Irish government could have lasted two months had it done so .

Even after rejecting the NATO approach, Sean MacBride still hoped he would be able to negotiate a bilateral defence pact with America, hoping that as a quid pro-quo, Partition would end.(33) That strategy would have prevented the possibility of the feared "civil crisis" that might have occurred in Eire had the government joined NATO while partition remained.(34)

(31) Foreign Relations of U.S.(FRUS).Vol 1V. p.292-3 meeting Dean Acheson and Sean MacBride. 11.4.1949. NA.840.20/4-1149

(32) NA 841D.00/4-949

(33) Personal interview .Sean MacBride. 6.1.1987

(34) D.D. Vol. 115. Col. 3-4. 27.4.1949

On May 17, 1949, there was a further meeting at the State Department between George Garrett, Herbert P. Fales, British Commonwealth, Department of State, Sean MacBride, and Frederick Boland. The fact that Irish affairs were still being dealt with by the Commonwealth desk illustrates that the U.S. was following the British line. Sean MacBride asked why the State Department had not considered his proposal to discuss Partition or even inquired into the matter of Partition to see what could be done about it. MacBride was told that the memorandum was not considered as having been addressed to the Department but had been accepted by the U.S. acting on behalf of the participating powers. Even though Fales had not been present at the discussions by the participating powers which sent the Irish note he felt confident enough to state that the proposal had been considered and that the participating powers had felt that Partition was not a subject for discussion within the terms of the Atlantic pact because it was a co-operative effort to promote peace.(35) That curt dismissal of Irish objections should have ended the Irish government's hopes that the US would intervene with the British government on the issue of Partition.

However, MacBride persisted; eight days later Hickerson received a memorandum stating that Ireland could assist in a war effort.(36) He cited the case of Eire producing food (for the allies) in war would save valuable Atlantic shipping tonnage. As usual, MacBride took the opportunity to raise the issue of Partition and made the accusation that ECA grant aid to Northern Ireland helped to fortify Partition.

(35) NRC RG 84. Box 18. File 350. on Ireland, "Partition."

(36) FRUS Vol. 111. pp.444-5. 25.5.1949

On May 25, 1949 the Irish government despatched another 'aide memoire' to the US government to protest at the "guarantee" clause in the UK "Ireland Bill". This clause stated that "in no event will Northern Ireland or any part thereof cease to be part of His Majesty's dominions and of the United Kingdom without the consent of the Parliament of Northern Ireland." The Irish government pointed out that the guarantee clause was a vindication of their refusal to sign the NATO pact. " It is now clear that , by adhering to the Treaty, Ireland would have been placed in the position of acknowledging Britain's territorial claims in Ireland, unless the other participating countries had been prepared to recognise that all questions relating to the territorial integrity and political independence of Ireland were solely matters for the Irish people." (37)

As noted by Laithwaite, the US replied without consulting the British government in advance to the effect that they did not study the British legislation and were unable to see any connection between it and the North Atlantic Treaty, or that it in any way alters the status of the area in question. (38) This disdainful reply emphasised the wish of the State Department to distance themselves from the issue of Partition.

(37)NA 840.20/5-2549

(38)PRO DO 35 3990



On June 22, 1949 Sean Nunan visited the State Department and explained that Sean MacBride had been requested in the Dail to publish a white paper containing the text of the communications on NATO and has promised to do so. Dean Acheson replied the same day and again distanced his government further from being seen as a possible ally of Ireland, by stating that, before agreeing to publication, they would first have to consult with several other NATO governments: Belgium, Canada, France, Luxemburg, the Netherlands, and the United Kingdom. (40)

Lord Rugby, recorded that as early as February 11, 1949, Frederick Boland, had told told him that the Irish Government "would not take the initiative themselves" on publishing the 'aide memoire'. (39) However, the Irish government fired its last futile bolt and published the correspondence concerning the exchange of correspondence over the NATO invitation to accede. While the aim of publication was primarily for domestic purposes, it may have had adverse repercussions for Eire in Europe. For example, a Department of State memorandum of a conversation with Mr. Wapler, Consul, at the French Embassy in Washington, records, "Mr Wapler explained that on general grounds of diplomatic procedure his government did not like the idea of publication of such material, but that their negative answer in this case had been motivated largely by the belief that the United States was itself averse to publication."(41)

(39)FO 371.79225. Z1425/G 74/48. Rugby to Archer .L.D. 11.2.1949

(40) NA D.840.20/6-1049

(41)NA D.840.20/9-1349 13.9. 1949

By September 1950, the official American position was that the United States would continue its policy of maintaining an attitude of readiness to welcome Ireland as a member of the NATO, but that it would leave the initiative to Ireland.(42) Further, it was decided to avoid discussion of bilateral arrangements for a military assistance program outside NATO.(43) For a change it was a Foreign Office report which spelt out bluntly the position of the Irish -American relationship: " The attitude of the State Department has so far been that Eire can take it or leave it, and that partition has nothing to do with the case."(44)

(42)NRC Maryland PSF 209 NSC by US Secretary for Defence

(43)NA.(Military Records Division). NSC. 83/1 Oct 17.1950. report also available HTL PSF Box 209 . Truman Papers. See Fanning, R.:The United States and Irish Participation in NATO: the Debate of 1950. p.41

(44)PRO FO 371. 72295

(D)

EPILOGUE TO NATO

At the beginning of 1949 it was apparently widely accepted that there could be no neutrality in a war of ideologies. Siding with NATO in a war against Russia that might mean ultimate annihilation for Eire would have been a logical choice of policy. Fortunately Eire's official position was never tested. Eamon de Valera admitting the difficulties of maintaining neutrality still supported the principle of refusing to join NATO while Partition remained.

There is an element of 'deja vu' about the Irish position vis-a-vis the Allies in the cold war. The following examples may serve as illustrations: The LORAN project was the acronym for a long range electronic navigation radar system. This was developed during the Second World War and allowed long range radio navigation using the North-East Atlantic chain of three stations located in Iceland, Faroes and Hebrides. All three stations were used widely by the US airforce, navy, long-range aircraft and naval vessels as well as Commercial aircraft and shipping. In addition, Belgium, Canada, France, Netherlands, Norway, Sweden and the UK used LORAN. (1\*) (1)

(1\*) Agreement on North Atlantic Ocean Weather Stations P.No. 9786  
Dublin Stationery Office  
(1) IDFA File 304 Telegram dated 8.12.1948

In December 1948, the Secretary of State, writing from the US London Embassy to the Department of External Affairs, pointed out that strategic considerations made the LORAN continuation essential from the U.S. standpoint but they expected opposition from the Soviet bloc, i.e., Finland, Poland, and the USSR at the International Telecommunications Conference. Only 15 countries including Eire (who did not intend to support the U.S.) were allowed to vote at the conference. The US considered that the loss of the Irish vote on which they had relied was "particularly disturbing". It was requested that the subject be discussed again at the highest diplomatic level and the Irish government urged to reconsider and send a representative to the conference. By December 8, 1948, in an apparent change of policy, the prerequisite assurance was given by Sean MacBride.(2)

On November 3, 1948, Vinton Chapin reported to the Secretary of State that a survey was to begin to study underwater gradients from six fathoms offshore opposite Gormanstown military air base in County Meath.(3) The area to be covered was between Dundalk and Dublin. Chapin attributed this initiative to the "British who will provide technicians with geological helicopter craft operated by U.S. colonel." He thought that the forest area north of Dublin would also be surveyed as would Wexford and Limerick. "One of three copies (of the) completed survey will remain in custody Irish government." Chapin reported that he was informed that the above arrangement was undertaken between Lt. General/

(3) NA 841D.20/11-348.

(4) Ibid

General O.L. Roberts, GOC British Forces Northern Ireland with the Irish Chief of Staff, Mc Kenna, (due to retire in January, 1949). At government level, the Minister of Defence Dr. Tom O' Higgins cleared the survey. According to the US Legation report, the Irish Government "arranged to control the trend of the expected debate by having a loyal member of the coalition plant a question. It was agreed by the British military that they would allow the Irish to present the largest measure possible with showing the British acting merely in an advisory capacity." (5) On December 1, 1948, replying to a Dail question from Peadar Cowan (not a loyal member of the government), Minister of Defence, Dr. Tom O'Higgins replied "At our request, a small party of British personnel arrived here recently with special technical equipment for the purpose of assisting us in completing a general photographic survey in coastal areas and also for the purpose of training a number of our officers and men in modern survey methods." (6)

(5) Ibid

(6) D.D. Vol. 113. Col. 747. 1.12.1948.

Ten days later, Tom O'Higgins was quoted by the U.S. Consul in Belfast as stating that military alliance between Eire and other countries are utterly impossible while Eire is partitioned and that dual commands would make an all-Ireland defence scheme well nigh impossible. (7)

In practice, the post-war Allies had, at the least, benevolent defence co-operation from the Irish government. For example according to a report from Lt. General O.L. Roberts to the Commonwealth Relations Office, in July 1949, Tom O'Higgins thanked him for "the assistance I had given the Irish Army during my time in command in Northern Ireland." (8) Perhaps of interest, if only to show the contrast of Irish domestic interests as against global defence concerns, it is worth quoting General Roberts, who reported that in his discussion with Dr. Tom O'Higgins on the issue of the possibility of a North-South compromise on Partition, "the only suggestion of compromise was that Eire might agree to dispense with compulsory teaching of Gaelic." (9)

Despite the tacit defence co-operation, once again, there were no tangible benefits for Ireland, particularly with regard to Partition.

(7) NA 841 E. 00/12-1348

(8) PRO DO.35 3940 From Lieut. Gen. O.L. Roberts 29.7.1949. to Lieut. Gen. Sir Gerald Templar, War Office

(9) Ibid

CHAPTER XV  
UK "IRELAND ACT, 1949"

(A)  
BRITISH RESPONSE TO THE REPUBLIC OF IRELAND BILL, 1948



This chapter examines the British government's response to the Republic of Ireland Bill, 1948 and particularly, the contribution to that response of the Prime Minister of Northern Ireland, Sir Basil Brooke.

Attlee mentioned his intention of meeting Sir Basil Brooke, to the Cabinet on 18 November, 1948.(1) Two days later, Sir Basil Brooke arrived at Chequers, to discuss the impact upon Northern Ireland of Eire leaving the Commonwealth.(2) That evening, Basil Brooke dined at Chequers and Attlee gave him a detailed briefing on the October and November discussions between the Commonwealth Ministers and the Irish Ministers, Sean MacBride and Patrick McGilligan.(3) Basil Brooke took advantage of the havoc in Anglo-Irish relations to ask the British government to consider several outstanding constitutional difficulties, vis-a-vis Northern Ireland, Eire, and mainland Britain.(4) These requests were intended to strengthen and enhance Northern Ireland's link with the United Kingdom.

(1) Cab 128/13 CM(48)74 p.144 (p.105)

(2) PRO Cab 128/13 CM(48)75 pp. 148-49(pp.111-112) Attlee gave an account about his meeting with Brooke to the Cabinet on 22.11.1948.

(3) Ibid

(4) Ibid

Attlee reported to the Cabinet on November 22 that he explained the formula arrived at in Paris to allow Eire to remain as a non-foreign state and Basil Brooke "had raised no objection and indeed had agreed that in the circumstances no other course was open to them." (5) This may have been a reference to the pressure from Commonwealth members who favoured accepting Eire as a non-foreign state.

Basil Brooke explained to Attlee that the Government of Northern Ireland's major fear focused on the Irish Government's policy of ending Partition. He presented the proposition that Nationalist Catholics from Eire might cross over the border to take up temporary residence in the six counties in order to "outvote" the Unionists at elections for the Westminster Parliament.(6) Technically, since there was no residency qualification needed other than the requirement of an address in the six counties for the Westminster elections, the use of an overnight address in Northern Ireland could qualify citizens of Eire to exercise the franchise in Northern Ireland at the elections for Westminster. Theoretically, an influx of organised Nationalist votes could have resulted in more Nationalists than Unionists being returned to Westminster. Such a result would have highlighted the Partition issue and would have caused immense embarrassment to the Unionists. However, since there was a seven year residency qualification for elections to the Northern Ireland Parliament, it was unlikely that this fear presented a serious constitutional threat to the continuation of Partition.

(5) PRO Cab 128/13 CM(48)75. p.148 (p.111) date 22.11.1948

(6) Ibid.

Basil Brooke asked Attlee to impose a residential time requirement for Irish citizens resident in the U.K. similar to the residency qualification that applied to Irish citizens who wanted to qualify for the franchise to vote in the Northern Ireland Parliament. Attlee's first reaction to this proposal was to explain the administrative difficulty in differentiating between Eire citizens and British subjects, at elections in Britain, and also of having different qualifications for voting in Britain and Northern Ireland for the Westminster Parliament. However, it was mentioned that even if the franchise qualification were not "pressed by Northern Ireland, it might be raised in relation to Great Britain by opposition parties in the Parliament at Westminster." (7) Attlee tried to re-assure Basil Brooke by telling him that he could state publicly that he had received an assurance on behalf of the United Kingdom Government "that the constitutional position of Northern Ireland would be safeguarded". (8) Attlee had in effect made this statement in the House of Commons on October 28, 1948. (9)

(7) Ibid

(8) H.C. Vol. 457. Col. 239. 28.10.1948

(9) PRO Cab 128/13 CM(48)75. p.148 (p.111) date 22.11.1948

Following Attlee's meeting with Basil Brooke the Cabinet decided on November 22, 1948 to request the Cabinet Secretary, Sir Norman Brook, to establish a committee to "consider what consequential action might have to be taken" by the United Kingdom Government as a result of Eire's leaving the Commonwealth.(10) Following Basil Brooke's "approval", (11) the British Cabinet minutes record, "The way was now clear, therefore, to proceed with the further action approved by the Cabinet on 18th November."(12)

Sir Norman Brook formed a committee to act initially as a "go-between" in discussions between the Committee and officials of the Government of Northern Ireland. (13) This Committee, calling itself "The Working Party on Eire", consulted representatives of other departments when they needed clarification on specialist areas. These departments formally included the Commonwealth Relations Office, Foreign Office, Scottish Office, Board of Trade, the Treasury, and the Home Office. (14) There is no mention of the War Office, Ministry of Defence or the Admiralty, all of whom would have had an interest in Anglo-Irish relations.

(10) PRO Cab 128/13 CM(48)75. pp.148-49 date 22.11.1948

(11) PRO Cab 128/13 CM(48)75. p149(p.112)

(12) As 10

(13) Cab 130/44.Gen 262. Meetings December 16, 1948- January 1, 1949

(14) Ibid

Three days after the Cabinet meeting, Attlee was asked at question time whether the Republic of Ireland Bill would have any effect on the constitutional position on Northern Ireland. He reiterated his statement made on October 28 in the House of Commons that "the view of His Majesty's Government in the United Kingdom has always been that no change should be made in the constitutional status of Northern Ireland without Northern Ireland's free agreement." (15)

The Northern Ireland Cabinet in December, 1948, decided to forward a formal list of points, "very much as proposed" by Basil Brooke to Attlee, (16) which they claimed might be affected by the introduction of the Republic of Ireland Act. The Northern Ireland Cabinet asked that Attlee's constitutional assurance be put into statutory form. This was a request that a guarantee be given to the constitutional position of Northern Ireland, 'vis-a-vis' its place as a part of the United Kingdom. The government of Northern Ireland had decided to ask that "any alteration in the law touching the status of Northern Ireland as a part of the United Kingdom or the relation of the Crown to the parliament of Northern Ireland shall require the assent of the parliament as well as of the Parliament of the United Kingdom." (17) These questions were referred to Norman Brook's Working Party on Eire. (18)

(15) H.C . Vol. 458. Col. 1419. 25.11.1948

(16) PRNOI Cab 4/771/9 ,Cabinet meeting of Dec. 8/9/1948 . Quoted in Fanning,R.: The Response of the London and Belfast Governments To The Declaration of the Republic of Ireland, 1948-49. INTERNATIONAL AFFAIRS. R.I.I.A. Winter 1981- 1982.p.105

(17)PRNOI Cab 4/769/11 Northern Ireland Cabinet Meeting Novemebr 25.11.19848 Quoted in Fanning,R.: The Response of the London and Belfast Governments To The Declaration of the Republic of Ireland, 1948-49.R.I.I.A. p.105. .

(18) PRO DO 35 3979. p.13. para 28.

Interestingly, by the end of 1948, no firm legislation had been prepared to meet the expected inauguration of the Irish Republic in mid-January, 1949. On December 29, 1948, R.E. Taylor of the British Cabinet Office wrote to the Private Secretary of Philip Noel-Baker, advising him that the Legislative Committee would be reviewing the legislative programme for the 1948/49 session on 18 January and asked him to advise by January 8, 1949, whether the "Republic of Ireland (Consequential Provisions) Bill" would be ready for consideration at that meeting. (19)

Sir Norman Brook's "Working Party on Eire" completed their report on January 1, 1949. (20) The report began by explaining that legislation by the Westminster Parliament was necessary because British Statutes normally referred to Eire within the category of His Majesty's Dominions as opposed to "foreign". Now, since Eire was not to be considered foreign nor a member of the Commonwealth, it was necessary to clarify her status by legislation. Accordingly, the Working Party submitted the draft of a Bill intended to clarify Eire's status after leaving the Commonwealth as a non-foreign State. This was to be achieved by providing that the term, "His Majesty's Dominions" would be construed as extending to Eire or to British ships or aircraft, if those references would have so extended had Eire remained part of His Majesty's Dominions." Arguably, this meant that if an airplane or ship belonging to Eire were attacked then it was to/

(19) PRO DO 35 3972 L.D. 29.12.1948. R.E. Taylor, Cabinet Office  
(20) PRO Cab 129/ 32 Pt. 1. Sir Norman Brooks Working Party submitted a report to the Cabinet. CP(49)4, entitled "Ireland: Report of Working Party." dated 1.1.1949. Minutes in Cab 130/44.Gen 262 Meetings December 16, 1948- January 1, 1949.

to be considered an attack upon a British vessel.(21) This might arguably be interpreted to mean that Eire was still a defence protectorate of Britain.

Norman Brook's Working Party recommended that Eire should not have any representation on Commonwealth committees. This meant that Eire would lose her representation on the Commonwealth Agricultural Committee, Sterling area Statistical Committee and the Commonwealth Liaison Committee for the European Recovery Program. All departments were to be advised that where they control such committees, they should be warned that "they should not allow representatives of Eire to attend meetings as observers or to receive any special facilities or information".(22) In effect, this meant that Eire would no longer benefit from the information and co-operation from the Commonwealth Committees. Probably as retribution for John Costello's surprise "announcement", the Working Party recommended that "the Eire government should not be consulted on the terms of the Bill but the general terms might be explained to them a few days before the introduction."(23)

- (21) Ibid
- (22) Ibid
- (23) Ibid

In December 1948, Foreign Secretary, Ernest Bevin, asked that the Commonwealth Relations Office should continue to be responsible for Anglo-Irish Relations. Bevin feared that the change in the constitutional status of Eire might have the effect of creating in Great Britain an Irish vote which would be embarrassing to him in his conduct of foreign policy and he was anxious that the Foreign Office should not undertake any responsibility for Irish business. In Cabinet Attlee agreed and pointed out that the transfer of Irish affairs to the Foreign Office would be inconsistent with the Government's policy that Eire should not be regarded as a foreign country.(24) Norman Brook's Working Party noted and accepted this decision.(25)

Continuing the report offered the suggestion that all the political parties should make a pledge reaffirming Prime Minister Attlee's assurances on the constitutional position of Northern Ireland. Although there is no evidence that Norman Brook's Working Party was guided by Basil Brooke, the impression is that the advice on all-party consensus originated as an afterthought from Sir Basil Brooke. Sir Norman Brook's committee recommended that if this did not satisfy the government of Northern Ireland, then the proposed Bill should include "a formal affirmation that Northern Ireland would in no event cease to be part of the United Kingdom except at the request and with the consent of the Parliament of Northern Ireland."(26)

(24) PRO Cab 128/13 CM (48)81 .p.176

(25) PRO Cab 130/44.Gen 262 Minutes of Meetings, December 16, 1948-January 1, 1949.

(26) PRO Cab 129/ 32 Pt. 1. Sir Norman Brook's Working Party submitted a report to the Cabinet (CP. (49) 4) entitled "Ireland: Report of Working Party." dated 1.1.1949 .



The Working Party gave several examples of the complications which could arise over Eire's departure from the Commonwealth, such as the fact that state pensions were paid only "within His Majesty's dominions". As the law stood, payments could not therefore be continued to persons resident in Eire after the Republic of Ireland Act was enacted. Another example was that services from British government departments were charged at a higher rate to foreign governments than to Commonwealth members. The Working Party had agreed with the provision under the existing 1948 British nationality legislation that citizens of Eire resident in Britain would also be treated as British subjects. The report suggested generously that, since trade preferences to Eire were to be continued, so "all contract Departments should presumably be instructed to maintain any preferential rates which have been granted in respect of supplies and services rendered to Eire." (27)

Ominously, the report recommended that the Bill should provide that "the six counties" be formally titled as "Ulster". However, the report did explain that that was a majority recommendation and that the "Representative of the Commonwealth Relations Office would prefer that the six counties should continue to be known as "Northern Ireland".(28) Possibly, the "representative of the Commonwealth Relations Office" who insisted that his dissenting view be registered may have been instrumental in persuading the committee to agree that the arguments against the change in title for the six counties should be put to Basil Brooke. The/

(27)Ibid

(28)Ibid

The advice of Frank Newsam was that "if, after weighing these objections, the Northern Ireland Government still press this proposal, I do not see how this request can be refused." (29)

If the term "Ulster" were accepted, then the committee recommended that this term should replace "Ireland" in the King's title. The Irish government had already made it known that such usage was inappropriate and would be against the interests of Northern Ireland government because the title "Ulster" would only ferment propaganda. Another possibly contentious issue was the report's recommendation that the National Services Act should continue to be applied to Citizens of Eire. (30) Presumably this referred to Eire citizens resident in mainland Britain .

On the question of the status of the Bank of Ireland the report advised against accepting the financial proposals put forward by the Government of Northern Ireland because they "were inconsistent with existing law and international agreements and would not bring any financial benefits to Northern Ireland." The report further recommended the rejection of other financial proposals because they were "directed against the Bank of Ireland." (31)

(29) PRO Cab 130/44/ GEN 262/8. Memorandum on Change of Title dated 21.12 1948

(30) PRO Cab 129/ 32 Pt. 1. Sir Norman Brook's Working Party on Eire

(31) Ibid

On January 6, United Kingdom Ministers met with Ministers from Northern Ireland for the first of three meetings to discuss Norman Brook's report.(32) The United Kingdom Government was represented by Attlee, Lord Jowitt, Philip Noel-Baker, Hartley Shawcross and Patrick Gordon Walker the Under Secretary of State at the Commonwealth Relations Office. Officials included Percival Liesching, (the new Permanent head of the Commonwealth Relations Office),(33) Frank Newsam, Secretary at the Home Office and E. Comptom representing the Treasury. The Government of Northern Ireland was represented by Basil Brooke, the Minister of Finance, J.M. Sinclair, Home Affairs J.E. Warnock and the Attorney General, Major L.E. Curran, Secretary to the Northern Irish Cabinet, Sir Robert Gransden, J.F. Calwell from the Ministry of Finance and William Scott and Sir John Rowlatt.(34) Lord Rugby reported in late December 1948, that the Stormont Government were under "continuous fire" from the Irish government and would seek to "use this opportunity to force Westminster into the open."(35) This was a reference to what became known as the constitutional "guarantee", which was eventually contained in the UK "Ireland Act, 1949."

(32) Cab 130/44 Gen 262 (M) 2nd meeting. 6.1.1949

(33) O'Brien, J.: Ireland's Departure From The British Commonwealth. Round Table, 306. p.190

(34) Cab 130/44 Gen 262 (M) 2nd Meeting)

(35) PRO FO 371. 76369. Copy Telegram to CRO. No. 142. 21.12.1948

The agenda for this meeting was: 1/ Constitutional Safeguards for Northern Ireland. 2/ Titles of the North and South. 3/(A) Boundary of Northern Ireland (B) The Irish Lights (C) Fishing Rights in Lough Foyle. 4/ Extra-Territorial Powers. 5/ Qualification for the Westminster Franchise. 6/ Qualification of Members of the Northern Ireland Parliament. 7/ Supreme Court. 8/ Financial Proposals. 9/ Defence of Northern Ireland. 10/ Draft Ireland Bill. 11/ Guidance for the Press.(36)

At this meeting Basil Brooke again requested a constitutional assurance guaranteeing Northern Ireland's position within the United Kingdom.(37) This request was along the lines suggested by the Cabinet of Northern Ireland.(38) Accordingly this meeting of British and Northern Ireland Government Ministers agreed that there should be constitutional safeguards for Northern Ireland.

It was agreed in principle :

"(1) That the Ireland Bill, if introduced into the Parliament at Westminster, should include a clause in the body of the Bill, affirming that in no event would Northern Ireland cease to be part of the United Kingdom except with the consent of the Parliament of Northern Ireland.

(2) That, additionally, a provision should be inserted making it clear that Northern Ireland would also remain territorially intact; and that the legal draftsmen of the United Kingdom Government and the Government of Northern Ireland should meet in order to concert an appropriate clause".(Writers emphasis)

(36) PRO Cab 130/44 .GEN 262. (M) 2. 6.1.1949.

(37) Ibid

(38) PRNOI Cab 4/771/9 Northern Ireland Cabinet Meeting 8-9. December, 1948. Quoted in Fanning, R.: The Response of the London and Belfast Governments. International Affairs p. 105.

The "appropriate clause" was not necessary; instead the words "or any part thereof" were later tagged on to clause 1. 1.(B) of the "Ireland Bill" (41) so covering the suggestion contained in (1) above. Those words covered the territory of Northern Ireland and arguably, in particular, the disputed waters of Lough Foyle. On the subject of the "Titles of the North and South" it was agreed that "(1) That statutory provision must be made in United Kingdom legislation for the use of the title "the Republic of Ireland" instead of "Eire", but that as far as possible, in less formal contexts, the phrase "the Irish Republic" should be used. Again Basil Brooke raised the tortuous question of the waters of Northern Ireland asking that an attempt should be made to to define the boundary between the "North and South in Lough Foyle and Carlingford lough." Not surprisingly, Attlee did not want this issue to be raised since it might lead to an International review of the boundary. Next, Attlee asked for a 'quid pro quo' reduction in the Seven year residency qualification for local and general elections to Stormont in return for allowing the introduction of a three month residency qualification to enfranchise Electors in Northern Ireland voting for the Westminster elections.

(39) Government of Ireland Act, 1949. Geo VI. no. 41

(40) PRO Cab 130/44 .GEN 262. (M) 2. 6.1.1949.

The issues concerning the "qualification of members of the Northern Ireland Parliament" and the transferring of power from the Lord Chancellor to the government of Northern Ireland to appoint Supreme Court Judges were postponed for consideration by Attlee for a memorandum he was preparing. Similarly, so was the financial proposals which related to the discontinuation of the Dublin based Bank of Ireland's right to print sterling currency.

At this meeting on January 6, Basil Brooke presented the proposition that in order to prevent the reorganisation of the Ulster Volunteers he required a public assurance from the British government that they would use troops to defend Northern Ireland against aggression, as readily as they would be used to defend any other part of the United Kingdom.(41) In order to put this "threat" from Eire in perspective it is worth noting that Irish army officers were then receiving training in Northern Ireland from the British army. Brooke suggested that such training "could more suitably take place elsewhere than in Northern Ireland Command".(42)

The meeting agreed that no "guidance" should be given to the press until after the Cabinet meeting of January 12.(43) The U.S. Minister to Ireland, George Garrett, reported to the State Department that the official press communique from this meeting mentioned that Attlee repeated the assurances he gave in the House of Commons in October and November that no change would be made in the constitutional relationship between Northern Ireland without Northern Ireland's free agreement.(44)

(41)Ibid

(42)Ibid

(43)Ibid

(44)NA 841D.00/1-849

On January 6 and 7, 1949, officials of the British and Irish Governments met to discuss the technical issues arising from the Paris discussions and the inauguration of the Republic of Ireland Act. (45) The principal purpose of the Anglo-Irish meeting of officials was to exchange information about the methods by which both governments would counteract the possible challenges by foreign governments to Eire's new status. On the Irish side, the Department of External Affairs was represented by, Frederick Boland (Secretary of the Department), Dr. Michael Rynne, (legal adviser) and Sheila Murphy (First Secretary). The Irish Attorney General was represented by Mr. Phillip O'Donoghue. The British side had four representatives from the Commonwealth Relations Office; Norman Archer, Mr. Dale, Neil Pritchard and Mr. O'Brien. Additionally there was Mr. Shackle from the Board of Trade, Mr. Brass and Mr. Vallat from the Home Office. Sir Eric Beckett represented the Foreign Office and chaired the meeting. This meeting agreed that if the new status of Eire was challenged, it should be argued that "the use of the constitutional formula was purely for descriptive purposes". (46)

(45) PRO DO 35 3991. report of meeting between United Kingdom and Eire officials on Thursday 6, January, 1949. See also DO 35 3903 and DO 35 3970.

(46) Ibid

The final Anglo-Irish meeting of officials was held in the early evening of January 7, 1949. Frederick Boland met with Sir Percival Liesching, Sir Norman Brook, Norman Archer and Neil Pritchard to discuss what was referred to as the "United Kingdom Bill".(47) Boland was under the impression that the Bill would contain two main clauses relating to Eire: firstly that Eire was not to be regarded as a foreign country and secondly that statutes applying to "His Majesty's Dominions would continue to apply to Eire." Officials of the Commonwealth Relations Office were aware that the "United Kingdom Bill" would be introduced soon after the inauguration of the Republic of Ireland Act but did not venture that information to Boland.(48)

George Garrett, reported to the State Department that there was speculation that there might be tripartite talks whilst both northern and southern delegations were in London.(49)

Responding to the rumours about the talks between the Northern Ireland ministers and British ministers, the Irish Cabinet on January 7, 1949 approved the despatch of an 'aide memoire' to the British government.(50) The 'aide memoire' stated that it "trusts that nothing will be done, by legislation or otherwise, which could, in any way, be construed as prolonging or strengthening the undemocratic anomaly whereby our country has been partitioned against the overwhelming majority of the Irish people."(51) According to the Commonwealth Relations Office, "A simple acknowledgement was returned to this communication."(52)

(47)PRO DO 130/104 Note of a meeting with Boland. 7.1.1949

(48)Ibid

(49)NA 841 D.00/1-649

(50)NASPO Cab 2/10. G.C. 5/59. 7.1.1949.

(51)IDFA 305/14/19.('aide memoire' also in Cab 2/10. p.202.

(52)PRO DO 35 3979. p.16. Para 34.



On January 10, 1949, John Dulanty called on Philip Noel-Baker to request clarification about press reports which stated that it was intended to restrict the movement of Eire citizens across the border, and that there would be restrictions on the exercise of the Westminster franchise in Northern Ireland.(53) Dulanty reported to the Department of External Affairs that he had been to see Philip Noel-Baker and the purpose of his visit was to discuss the 'aide memoire' of January 7.(54) According to Archer, Dulanty was informed that no measures had then been decided upon.(55) In fact, a week before Archer asked Rugby to ensure that the details of the proposed Bill be kept from the Irish Government until shortly before its publication.(56)

(53)PRO DO 35 3972. Norman Archer report on meeting to Lord Rugby 10.1.1949

(54) IDFA 305/14/36 Report no 2 dated 10.1.1949

(55)As 54

(56)Ibid

(B)  
BRITISH CABINET DISCUSS UK "IRELAND BILL"

Following the meeting with officials and Ministers from the government of Northern Ireland, Attlee prepared a memorandum dated January 10, 1949 (1) for the Cabinet meeting of January 12, 1949. (2) This memorandum incorporated modifications to the recommendations of Sir Norman Brook's Working Party. (3) These modifications were a direct result of conversations Attlee had with Ministers of the government of Northern Ireland on January 6, 1949. (4) The draft of the UK Ireland Bill, (originally entitled the Government of Ireland Bill) as prepared by Norman Brook's Working Party was attached to the Attlee memorandum.

Attlee's memorandum began by examining the Working Party's suggestion that the leaders of all the political parties should join in a consensus to "reaffirm my assurance that no change shall be made in the constitutional status of Northern Ireland without Northern Ireland's free agreement." Attlee now explained that a mere political consensus on this issue alone would not satisfy the government of Northern Ireland because they had pressed for "some form of statutory declaration and, further, have asked that this should be framed in terms which safeguard the territorial integrity of Northern Ireland."

- (1) PRO Cab 129/32 CP (49) 5. p.37-39 10.1.1949
- (2) PRO Cab 128/15 CM(49)1. p.3A 12.1.1949
- (3) PRO 129/ 32 Pt. 1. Sir Norman Brook's Working Party submitted a report to the Cabinet C.P.49) 4 entitled "Ireland: Report of Working Party." dated 1.1.1949
- (4) PRO Cab 129/32 . CP (49) 5

Attlee's memorandum pointed out that Eire's secession from the Commonwealth would necessitate legislation to accommodate Eire's new status as a foreign country. He recommended "that in this legislation Parliament should declare that Northern Ireland remains part of His Majesty's dominions and of the United Kingdom and should affirm that in no event will Northern Ireland or any part thereof cease to be part of His Majesty's dominions and of the United Kingdom without the consent of the Parliament of Northern Ireland." Attlee reported that he had already put that constitutional point to the government of Northern Ireland and they accepted that "Parliament cannot of course bind its successors; and a statutory provision on these lines could be repealed or modified by a subsequent Parliament." (5)

The third point on Attlee's memorandum concerned the "Defence of Northern Ireland." Attlee asked the Cabinet for their views on giving "a public assurance that, if need arose, British troops would be used to defend Northern Ireland against aggression, as they would be used to defend any other part of the United Kingdom."

(5) PRO Cab 129/32 CP(49)5. p.37

The fourth point of Attlee's memorandum referred to "Titles". The majority of the working party had recommended that the title "Ulster" should apply to the six counties and the change be incorporated into the King's title. The Commonwealth Relations Office recommended the title "Northern Ireland". Attlee reported that the government of Northern Ireland wanted the term "Eire" to continue to be applied to the twenty six counties because they feared that the use of the term "Ireland" might prejudice the issue of Partition. Attlee pointed out to the government of Northern Ireland that "it would be fruitless for us to try to secure international acceptance of the term 'Eire' as a title for the South" but promised to "make it clear in our legislation that the term 'Republic of Ireland' applied only to the territory which had been hitherto known as 'Eire' (i.e. the twenty six counties); and that we should be careful in all official usage to refer to the South as 'the Republic of Ireland' or 'the Irish Republic' - reserving 'Ireland' as a geographical description of the island as a whole. In colloquial usage it would no doubt be possible to mark the distinction by speaking of 'Southern Ireland' and 'Northern Ireland'." Attlee reported that the government of Northern Ireland agreed to accept this formula despite its geographical absurdities, apparently because Attlee promised to recommend substituting "Northern Ireland" for "Ireland" in the King's title.

The fifth point in Attlee's memorandum related to Lough Foyle which, interestingly, was placed under the heading of "Boundary of Northern Ireland." Attlee reported that it would be possible to solve the problem of poaching on Lough Foyle by establishing a public fishery under the control of a joint board operating on behalf of the two governments. Point seven of Attlee's memorandum allowed for "Extra territorial powers " by enlarging the powers of the Parliament and Government of Northern Ireland to operate in concert with the Eire Government for specified schemes extending "athwart the boundary," including the "conservation of fish".(6) It was under this authority that the Irish government and the government of Northern Ireland established the Foyle Fisheries commission in 1951 to allow the joint control of fisheries on Lough Foyle without impinging on each state's declared legal claims jurisdiction over Lough Foyle.

The sixth point related to the government of Northern Ireland's request that control over the Northern Ireland lighthouses should be transferred from the Irish government controlled Irish Lights Commission. Attlee's response was instead to suggest that " the most important practical objective was to secure that reliable people were employed in the Irish lighthouses". Accordingly Attlee recommended that the Commonwealth Relations Office , after consultation with the Admiralty and Ministry of Transport, should submit to the Eire Government proposals for securing adequate representation of United Kingdom interests on the Irish Lights Commission.

(6)PRO Cab 129/32 CP(49)5 p.37

The eight point of Attlee's memorandum related to the Westminster Franchise. This concerned the government of Northern Ireland's fear that Eire citizens could get their names on the electoral register by paying a short visit to Northern Ireland and thereby outvote Unionists at the elections for Westminster. Attlee was worried that any restrictions on the Westminster franchise might raise the issue of gerrymandering, especially if it related to differentiating between electoral qualifications within the U.K.. However, as a compromise, Attlee was agreeable to the imposition of a three month residency qualification in exchange for a reduction from a seven to a three year residency qualification for the franchise for Northern Ireland's local and Stormont elections.

Point nine of Attlee's memorandum refused to allow the government of Northern Ireland the powers to legislate with regard to the qualification and disqualification of members of their Senate and House of Commons. Attlee may have feared this might have been used to enforce(1\*) or extend the taking of an oath of allegiance to the Crown by candidates for municipal and imperial elections as was originally envisaged under clause seven of the Ireland Bill. Such an oath would have been anathema to Nationalists in Ireland and instead Attlee decided : "It seemed to me that the Parliament at Westminster, in its capacity as trustee for the interests of minorities in Northern Ireland, should keep in its own hands the general power over this subject". Perhaps in an attempt to save face, the Northern Ireland Ministers then told Attlee that they only wanted power/

(1\*)See H.C. Vol 464. Col 1952. 11.5.1949

power to legislate in relation to the disqualification of members who accepted places of profit under the Crown or are concerned with Government contracts. Attlee then recommended to his Cabinet that they be given this limited power because it would not "involve any derogation from our general responsibility for protecting the interests of minorities."

The tenth point of Attlee's memorandum related to the government of Northern Ireland's request to have power to legislate on all matters affecting the Supreme Court transferred to their Parliament. Attlee again refused this request admitting that he was aware that some of the argument put forward by the Northern Ireland ministers had convinced him that in relation to the appointment of Supreme court judges "they would allow political considerations to influence their appointments."

Overall, Attlee's memorandum dealt mainly with the political aspects of Anglo-Irish relations while the Chancellor of the Exchequer held separate discussions with the Northern Ireland Minister of Finance on matters relating to the right of the Dublin based Bank of Ireland to issue bank notes. The government of Northern Ireland wanted legislative power to curtail the bank's role. Attlee now decided that any necessary legislation could be catered for in a separate Finance Bill and, as recommended by Norman Brook's Working Party should not be included in the "Ireland Bill."



The Cabinet meeting on January 12 which considered Attlee's memorandum and Norman Brook's "Working party" report had to decide how far they might go to accommodate the requests of the Government of Northern Ireland. This Cabinet meeting of January 12 operated under the belief that the Irish government were going to introduce the Republic of Ireland Bill, 1948, on January 21, 1949. (7)

The Minister of Civil Aviation, Frank Pakenham, wrote to Attlee on the eve of the Cabinet meeting of January 12, thanking him for being allowed to attend. His letter stated that "any explicit guarantee of the territorial integrity of Northern Ireland would be, in my opinion, absolutely wrong." He ended his letter by pointing out, "The record of the Northern Irish Governments since Northern Ireland was established in 1920 has revealed an attitude to freedom of speech, fair delimitation of constituency boundaries and to democracy generally which is quite out of keeping with our Labour ideas, and for that matter those of other British parties except the Communists. Any efforts on their part to obtain greater powers to deal with their own electoral arrangements should be studied with greatest caution." (8) Pakenham would appear to have been the sole voice at that Cabinet meeting which advocated Ireland's case and his input appears to have already been too late.

(7) PRO CAB 129/33 . CP(49) 47. p.24. 4.3.1949

(8) PRO PREM 8/1464 contains Frank Pakenham's (Lord Longford) two page letter to Attlee, dated 11.1.1949

The Cabinet meeting of January 12 agreed that the proposed Ireland Bill should contain a provision which would declare that "Northern Ireland would remain a part of His Majesty's Dominions and affirm that, in no event, would Northern Ireland or any part thereof cease to be part of His Majesty's Dominions and of the United Kingdom without the consent of the Parliament of Northern Ireland." What is described as "the general feeling of the Cabinet", which one suspects, means that Frank Pakenham was in a minority of one, was in favour of this statutory declaration.(9) Indeed, Frank Pakenham dissented, pointing out that in one third of the Northern Ireland state, there was a majority against Partition. He argued that if the issue of Partition ever came before an international court, the result could be a decree that two counties should be transferred to Eire. He argued that the right solution lay in the political unity of Ireland and the strategic unity of Ireland and the United Kingdom.(10)

(9) PRO Cab 128/15 CM(49)1. p.3A

(10) Ibid

On the day before the Cabinet meeting of January 12, 1949, the Permanent Head of the Commonwealth Relations Office, Sir Percival Liesching, advised that a statement saying British troops would be used to defend Northern Ireland "might be regarded as necessary to satisfy Sir Basil Brooke".(11) However, he added that it "was not justifiable on account of any public statement made hitherto to Eire Ministers in relation to the use of force." Liesching believed that "our troops would be more likely to be required to support the civil power in Northern Ireland against internal disturbances fostered from the South rather than against 'aggression' from the South."(12) He acknowledged the argument that unless the Unionists were given the declaration they requested, the revival of Loyalist paramilitaries on the offensive against the Nationalist anti-partitionists could result in an outbreak of violence in Northern Ireland.(13)

The Cabinet meeting of January 12 justified granting the "guarantee" by reminding themselves that the last war had "amply proved that Northern Ireland's continued adhesion to the United Kingdom was essential for her defence". Attlee, while expressing the "undesirability of giving an assurance" that British troops would be used against any aggression against Northern Ireland, secured the Cabinet's acquiescence to offering such a guarantee if "pressed". (14)

(11) PRO DO 35 3972. Report dated 11.1.1949

(12) Ibid

(13) Ibid

(14) PRO Cab 128/15 CM(49)1. 12.1.1949. p.3A

The Cabinet noted that the majority of the Working Party on Eire recommended that Northern Ireland should be known as "Ulster" and that Eire should be known formally as the "Republic of Ireland" and "colloquially" as the "Irish Republic". Attlee, taking up the minority position, put forward by a member of the Commonwealth Relations Office argued against such usage because it would cause offence among Irishmen in other parts of the Commonwealth and more logically "because three of the counties of Ulster were in the twenty six counties." (15) Lord Rugby supported this reasoning having reported in December 1948, "Northern Ireland is not Ulster and the designation is false and therefore erroneous", warning that the title "Ulster" would "give Eire immense satisfaction and a new field for bitter propaganda". (16) Influenced by this reasoning, the British Cabinet agreed that the six-counties should be called Northern Ireland and the twenty six counties referred to in statutes as "the Republic of Ireland" but in official usage as the "Irish Republic". (17) Interestingly, in September 1946, de Valera agreed orally that Anglo-Irish agreements should be in two versions, the UK document using "Eire" and the Irish document using "Ireland". (18)

The Cabinet meeting did not mention the strategic implications of Lough Foyle, but instead agreed perfunctorily that it would be inadvisable to raise with the Government of Eire "any questions which might provoke legal arguments about the boundary between the North and the South." (19)

(15) Ibid

(16) PRO FO 371. 76369. Telegram No. 142. 21.12. 1949

(17) PRO Cab 128/15 CM(49)1. p.3A

(18) PRO FO.372/4857. T20715/101/165. Note on Treaty Formalities 22.10.1946. Machtig to Sir John Maffey

(19) PRO Cab 128/15 CM(49)1 pp.3-3A

The British cabinet, aware of its role as custodian of the Nationalist minority in Northern Ireland, had reservations about extending further powers to Northern Ireland in "matters which might more properly be dealt with by the United Kingdom".(20) That may have been a reference to the government of Northern Ireland's request to appoint judges of the Supreme Court. However, the Cabinet did agree to extend on a limited basis, extra-territorial powers designed to allow the Northern Ireland government to conclude a treaty with Eire on the Lough Foyle dispute. This was arranged under clause six of the draft of the Ireland Bill.(21)

Attlee agreed to Basil Brooke's request to have a residence qualification applied in Northern Ireland for the Westminster elections, being aware that in most states of the Commonwealth, voters had to be British subjects and that there was a residence qualification. As a 'quid pro quo' Attlee was asked by the Cabinet meeting to request the Government of Northern Ireland to reduce their franchise residence qualification for local elections from seven to five years. In return the British government would agree to the introduction of a three month residence qualification for the exercise in Northern Ireland of the Westminster franchise. This was designed to prevent the possibility of citizens of Eire crossing the border to establish nominal residency. The Cabinet decided to discuss with the Irish government the question of securing representation of "United Kingdom" interests on the Irish Lights Commission.(22)

(20) Ibid  
(21) Ibid  
(22) Ibid

The outcome of the Cabinet meeting of January 12, 1949, was that the draft of the Ireland Bill was to be subject to further consideration of two clauses and a recommendation that clause seven of the Bill, which related to the taking of an oath of allegiance to the Crown by candidates for municipal and imperial elections, be deleted. Clause five, which dealt with the name "Ulster" was to be reconsidered, as was clause six which dealt with the residency qualification asked for by the government of Northern Ireland.(23) Most importantly, the meeting approved "in principle" to introduce legislation to clarify the position of Eire as a non-foreign state, with particular reference to citizenship rights and obligations(24) and that in order to reassure Basil Brooke the reprinted draft of the Ireland Bill should first be forwarded in confidence to the Government of Northern Ireland.(25)

While the Working Party had recommended that Eire should be removed from membership of Commonwealth Committees to mark the change in status,(26) the Cabinet took note of the Chancellor of the Exchequer's wish to retain Irish membership of the Commonwealth Sterling Area Statistical Committee.(27) This was to be of importance the following day when the Working Party discussed the outcome of the Cabinet meeting of January 12.

(23) Ibid

(24) Ibid

(25) Ibid

(26).PRO. PRO 129/ 32 Pt. 1. (CP. (49) 4) entitled "Ireland: Report of Working Party." dated 1.1.1949 .

(27) PRO Cab 128/15 CM(49)1. pp.3-3A

At 9.45a.m. the following morning , January 13, 1949, a committee meeting was held in Sir Norman Brook's rooms to discuss the outcome of the Cabinet meeting. The composition of this committee was a nucleus of Norman Brook's Working Party. It was attended by W.S. Murrie from the Home Office and Norman Archer from the Commonwealth Relations Office and chaired by Sir Norman Brook. Sir Norman Brook informed the committee that Sir Basil Brooke's position now was that he was prepared to accept the omission of Clause seven which proposed an oath of allegiance and accept that the term "Ulster" was inappropriate. However, he still demanded the franchise qualification without a 'quid-pro-quo' reduction in the residency qualification for the elections to Stormont. The meeting agreed that Norman Brook should approach Attlee "with a view to including provision for a three months residence qualification for the Westminster franchise." (28) There is an impression from reading the minutes to this meeting that Sir Norman Brook was in contact with Sir Basil Brooke. In contrast to the treatment of the government of Northern Ireland, Norman Brook's meeting on January 13 repeated the advice contained in the Working Party report that the "Ireland Bill" should not be shown to the Irish government until "immediately before its publication in this country". (29)

(28) PRO DO 35 3972. Note of a meeting held in Sir Norman Brook's rooms on Saturday 13.1.1949.

(29) Ibid

As already referred to, Norman Brook's Working Party had recommended removing Eire from membership of Commonwealth Committees including the Sterling Area Statistical Committee. However, because of the mutual benefits, and presumably also in deference to the Chancellor of the Exchequer's anxiety to retain Eire as a member of the Commonwealth Statistical Committee, (as expressed at the meeting of the Cabinet on January 12, 1949,)(30) this committee meeting of January 13, now agreed that the Commonwealth Relations Office should consult with the Treasury about how Eire "could be brought back in the ambit of the Committee, with the status of an observer, and how she could continue, in practice, to render her regular reports." A similar plan was to be applied to the Committee for the European Reconstruction Programme.(31) The committee concluded that Sir Basil Brooke's request to again visit London should be availed of with an invitation from Attlee to discuss the two outstanding questions of the franchise and the new title to be applied to the Republic of Ireland. (32)

(30) PRO Cab 128/15 CM(49)1. 12.1.1949

(31) PRO DO 35 3972. Note of a meeting held in Sir Norman Brook's rooms on Saturday 13.1.1949

(32) Ibid



Following his meeting with Attlee on January 6, Basil Brooke then wrote to him on January 11, requesting the introduction of a residency qualification for the franchise for the Westminster elections held in Northern Ireland and also that the Ireland Bill should describe Eire as the "the Irish Republic" instead of "the Republic of Ireland".(33) Shortly after sending that letter, Basil Brooke requested another meeting with Attlee to press the proposal outlined in his letter to him of January 11. As recommended by Norman Brook, Attlee, together with Home Secretary, Chuter-Ede, met with Basil Brooke and the Secretary to the Northern Ireland Cabinet, Sir Robert Granden to discuss the two outstanding points, namely the question of the title "Ulster" and the franchise qualification.(34) On the eve of this meeting Norman Brook sided with Basil Brooke and advised Attlee, "You will be discussing with the Home Secretary tonight what your ultimate position on this should be. My own feeling, if I may express it, is that you would be well advised to go forward with this proposal, even though Sir Basil Brooke is not in the end able to offer any quid pro quo. For -(a) It was the general feeling of the Cabinet that there was a good case on merits for imposing a three months' residence qualification for the exercise in Northern Ireland of the Westminster franchise."(35)

(33) PRO PREM 8/1464 Extract from GR Norman Brooke to Attlee 17.1.1949

(34) PRO Cab 130/44 Gen 62 (M) 3rd Meeting 18/1/1949

(35) PREM 8/1464 G.R. 17.1.1949

At the meeting on January 18, 1949, Attlee first addressed the two points made by Basil Brooke in his letter addressed to him of January 11.(36) Basil Brooke was afraid that the British government by "conferring on the twenty-six counties the title 'Republic of Ireland', would appear to give countenance to Mr Costello's claim that his government were entitled to jurisdiction over the whole of the island." Brooke reminded Attlee that when in 1937 the Irish Free State adopted the title "Eire" with its English translation of "Ireland, "a sustained effort had been required in order to ensure standard usage of 'Eire' for all United Kingdom purposes; but this term was now in common use, not only by Government Departments, but also by the B.B.C. and the Press. All this work would now have to be done all over again." In reply Attlee told Brooke that in official usage, the title "Irish Republic" would be used but that he could not interfere with a title by which the Irish Government described itself.

Next, Brooke argued that if he was not conceded the franchise qualification or the title "Ulster" his colleagues might press him to put forward the demand that Northern Ireland should be given dominion status.(37) According to Basil Brooke this would have allowed the Northern Ireland Parliament full power to do all that it thought necessary for the protection of the North. It is likely that Basil Brooke was only using this possibility as a bargaining tactic since the six counties were economically dependent on a substantial subsidy from Westminster. (38)/

(36) PRO Cab 130/44 Gen 62 (M) 3rd Meeting 18/1/1949

(37) Ibid

(38) See O 'Nuallain, Labhras. Finances of Partition.

Westminster/ Interestingly, Home Secretary, James Chuter-Ede responded to this threat by raising defence considerations offering the compensatory bait that at present Northern Ireland "was for defence purposes , as much a part of the United Kingdom as Kent or Sussex " but like other dominions she would have "an independent right to decide whether or not they should assist the others in any war in which they might be engaged."(39) On the point of title Attlee agreed to reconsider whether the title "Irish Republic" could be used in the Ireland Bill.(40) Attlee now conceded the three month qualification for the Westminster franchise with the proviso that there was a corresponding reduction of the residency qualification for the Stormont and local elections from seven to five years. Basil Brooke argued that it would be politically impossible to put this proposal before his Parliament, particularly at a time when they felt more vulnerable because of Eire's change in status. Attlee accepted the reasonableness of this argument and with the concurrence of Chuter-Ede agreed to recommend to his colleagues that a three months residence qualification should be introduced, to qualify for the Westminster franchise in Northern Ireland.(41)

(39) Ibid

(40) Ibid

(41) Ibid

On the issue of qualifications for parliamentary candidates, Attlee refused to allow the Parliament of Northern Ireland power to legislate with regard to disqualification of members of the Senate and Parliament and Basil agreed not to press the proposal.(42) However Chuter-Ede did agree to transfer to the Northern Ireland government, the Lord Chancellor's jurisdiction over matters affecting the Supreme Court in Northern Ireland.(43) At this meeting Basil Brooke again asked Attlee to raise the the matter of Lough Foyle with the Government of Eire. Brooke wanted a treaty between the U.K. Government and the Irish Government which would provide for Lough Foyle and Carlingford Lough to be freely open "to all shipping in peace and war". Brooke also asked Attlee for a written assurance that the United Kingdom fully recognised that it was in their interests to preserve and protect free access for British shipping to Londonderry and Newry. Attlee told Brooke that he would consider this point.(44)

(42) Ibid

(43) Ibid

(44) Ibid

According to E.R Colwyn of the Home Office, Norman Brook later made it clear to Francis Graham-Harrison, an official at 10 Downing Street, that the proposal for a (navigation) treaty could not be pursued but promised "to consider whether he could give Sir Basil Brooke a written assurance (for his own information and not for publication) to the effect that the United Kingdom Government fully recognised that it was in their interests to preserve free access for British shipping to Londonderry and Newry and that, if need arose, they would do their utmost to secure this." (45)

The following miscellaneous points were covered at the meeting of January 18. The British government agreed that after the "Ireland Bill" had been passed they would negotiate with the "Eire authorities" to secure representation of UK officials on the Irish Lights Commission. A draft clause giving powers to the government of Northern Ireland to conclude "Extra -territorial" agreements was still under consideration. Finally, the British government refused to "volunteer any public assurance" regarding the defence of Northern Ireland but if the question arose were prepared to say that "if need arose, Northern Ireland would be defended against aggression just like any other part of the United Kingdom". (46)

(45) PRO PREM 8/1222 L.D. 21.2.1949 From E.R. Colwyn to Francis Graham-Harrison, Prime Ministers Office.

(46) Cab 130/44. 262 M 3rd. meeting. 18.1.1949

Basil Brooke maintained pressure on the British government. During his meeting with Attlee on January 18, Brooke had claimed that he must "say something to his people" not later than January 20.(47) Attlee with tongue in cheek, referring to the guarantee in the draft of the Ireland Bill, is quoted as advising Basil Brooke that "it would be a breach of Parliamentary privilege if Sir Basil Brooke disclosed before its publication anything which implied that he had knowledge of its contents. He must therefore confine himself on January 20 to general assurances that his conversations with United Kingdom Ministers had been satisfactory."(48)

It is interesting to see how the contentious issue of ownership of Lough Foyle and the broader issue of ownership of the waters of Northern Ireland surfaced in these discussions. Accordingly, before looking at the events surrounding Basil Brooke's final meeting with Attlee on January 27, to press his proposals on the question of title and the franchise, the remainder of the chapter will argue briefly the contentious point that the the problem of Lough Foyle was dealt with in the context of the constitutional guarantee.

(47) PRO Cab 130/44 262(M)3 quoted in Fanning, R.: The response of the London and Belfast Governments to the declaration of the Republic of Ireland, 1948-49. International Affairs R.I.I.A.

(48) PRO Cab 130/44 262(M)3

Before the Attlee- Brooke discussions on January 18, the Home Office had already consulted several other departments about issuing a private assurance that Lough Foyle would be protected against the Irish government's territorial and jurisdictional claim to ownership of the Lough. The Commonwealth Relations Office, the Admiralty and the Ministry of Transport had no objections. The Foreign Office, however, thought it unwise, albeit privately, to "imply that the United Kingdom government claimed that the whole of Lough Foyle was in the County of Londonderry and would, if necessary, violate Eire's neutrality in Carlingford Lough." (49) Home Office official, E.R. Colwyn concurred with this view and wrote: "we think that the proper course is not to give a specific assurance about access for shipping but to meet the request by reiterating the broad assurance that the United Kingdom Government will guarantee the territorial integrity and constitutional position of Northern Ireland." The Home Office suggested that Attlee could then answer Basil Brooke on this point when forwarding a copy of the "Ireland Bill" with a broad assurance that the United Kingdom Government "will guarantee the territorial integrity and constitutional position of Northern Ireland." (50)

(49) PRO FO 371 76369 Frank Newsam correspondence with Sir Eric Beckett 1.2.1949

(50) PRO PREM 8/1222 L.D. 21.2.1949 From E.R. Colwyn to Francis Graham-Harrison, Prime Ministers Office.

In order to avoid giving a specific assurance about access to Lough Foyle and the less important Carlingford Lough, the British Government, as agreed with the Ministers from Northern Ireland at the meeting on January 6, had already instructed the legal draughtsmen of the United Kingdom and Northern Ireland to "concert an appropriate clause": The "appropriate clause" was to be "a broad statement of principles with as little detail as possible".(51) The clause was drafted and emerged as part of the "guarantee" clause in the Ireland Act, containing the contentious phrase "or any part thereof". That phrase was interpreted by Sean MacBride as a gratuitous reference to the nationalist areas in the six counties.(52) The Irish Department of External Affairs did not appear to consider that part of the guarantee was a military, as opposed to a political or legal decision, or that the term additionally provided cover for the U.K. claim to jurisdiction over the waters of Lough Foyle and correspondingly the Chiefs of Staffs requirement for access to the deep water base in Lough Foyle.(53)

Sean MacBride, while trying to find out the reason for the "guarantee", received contradictory answers from Bevin and Philip Noel-Baker, who themselves did not know if the guarantee was a political or legal requirement. Philip Noel-Baker is quoted by Sean MacBride as stating "Ernie was quite wrong. It was not because of any legal considerations that we decided to include these provisions. Our decision was prompted purely by political considerations."(54)

(51)PRO Cab 130/44 262(M)2. 6.1.1949

(52)IDFA 305/14/36 L.D. 15.5.1949

(53)PRO DEFE .5.9. COS(48)214.

(54)IDFA 305/25 letter, Sean MacBride to John Dulanty 15.5.1949



(C)

EVENTS INFLUENCING THE FORMULATION OF THE IRELAND BILL, JANUARY-  
MARCH, 1949

Two days after the meeting with Sir Basil Brooke and his Ministers on January 18, (1) Philip Noel-Baker informed Attlee that the Irish Government could not grant the franchise to British citizens resident in Eire because it would have required an amendment to the constitution which would have entailed a divisive referendum. (2) Although the Paris discussions had apparently agreed on reciprocal Irish-Commonwealth nationality rights, Norman Brook pointed out that by continuing to allow Eire citizens the franchise, this would maintain the status quo, and thus contribute towards maintaining that Eire was non-foreign. Attlee added his comments to this minute: " Yes, but this puts the Eire Government out of court." (3)

On January 20, 1949, Sir Basil Brooke announced that there would be a general election in Northern Ireland on 10 February . This was designed to show the strength of the Unionist support to remain within the United Kingdom and in effect, it was "virtually a referendum on the border." (4)

Incredibly, as late as January 20, 1949, the British government had not received any word about a deferral of the expected date (i.e. on January 21, 1949) on which the Republic of Ireland Act, 1948, would be inaugurated. Attlee in a later memorandum used the phrase " at the last moment", (5) to describe this sudden change of date, giving the impression that the Irish government, in a whim, postponed the date for the inauguration of the Republic. Indeed it was not/

(1) Cab 130/44. Gen 62 (M) 3rd Meeting 18.1.1949

(2) PRO PREM 8/1464 serial No. 4/49 19.1.1949

(3) Ibid.

(4) Buckland, P. A History of Northern Ireland. p.88

(5) PRO CAB 129/33 CP(49)47. 4.3.1949

not until January 22, that Rugby was able to inform the Commonwealth Relations Office that the inauguration had been deferred "possibly" until April 18.(6) The British cabinet now decided to delay their "consequential" legislation until after the Easter recess so that according to Attlee "it should be abundantly clear that it is the Eire government themselves who, by their own action, have taken Eire out of the Commonwealth."

(7) The impact of this lack of consultation may have compounded the Cabinet's willingness to comply with Basil Brooke's requests to strengthen Northern Ireland's links with the United Kingdom. In view of the fact that the Irish government did not bother to inform the British government of even the date of the intended introduction of the Republic of Ireland Act, it is somewhat ironic that after the introduction of the UK "Ireland Bill", the Irish government information bureau later claimed that there was a clear understanding that the British and Irish Governments would consult each other prior to taking any steps which might affect Anglo-Irish relations.(8)

CONTINUED/

- (6)PRO DO 35 3979. p.17 para 37  
(7)PRO PREM 8/ 1464 extract from Cabinet Meeting on 21.1.1949  
(8)PRO DO 35 3973. see also Sunday Independent. 20.5.1949

Basil Brooke was worried by the postponement of the introduction of the "Ireland Bill". On January 27 he again met with Attlee, Chuter-Ede, Philip Noel-Baker, Percival Liesching and Norman Brook to discuss the UK "Ireland Bill".(9) During this meeting, Attlee explained that the reason for deferring the introduction of the Ireland Bill, until after the enactment of the Republic of Ireland Act, 1949, was so as not to "thrust out" Eire from the Commonwealth, but still could not offer a definite date for the publication of the Bill because, "It was not yet certain that the Republic of Ireland Act, would be brought into operation on 18 April." At this meeting, Attlee agreed do his "utmost to preserve the right of access to Londonderry and Newry". Additionally the minutes for this meeting record that on January 27, the Home Office, prepared a letter requesting Attlee to reassure Basil Brooke by giving him a constitutional assurance on maintaining Northern Ireland's position in the United Kingdom, statutory status.(10)

As a result of this meeting on February 7, Basil Brooke stated in a speech that the status of Northern Ireland was to be "maintained, retained and reserved as never before."(11) Three days later, the Irish High Commissioner in London, John Dulanty, called on Philip Noel-Baker, to ask the meaning of those words. Noel-Baker explained that the position of Northern Ireland was "maintained, retained and reserved" by the agreements of 1921 and 1925 and by the recent pronouncements of Prime Minister Attlee./

(9) PRO Cab 130/44 Gen 262 (17) 4 th. Meeting Minute 5. 27/1/1949.

(10) Ibid

(11) Irish Times. 8.2.1949

Attlee. Significantly Noel-Baker avoided giving any notice of the intended legislation regarding the "guarantee" by saying that a final draft of the Bill was not ready.(12)

At the end of February 1949, Lord Rugby agreed with the stance of reaffirming the status of Northern Ireland in what he described as " the Government of Ireland Bill", because he thought it would be a "definite step in the direction of making Irish nationalists realise that their view and technique... justified by past experience..... that it is only necessary to worry and harry the British long enough for them to throw up the job and clear out... no longer applies."(13)

The leaders of all the political parties in Eire assisted the anti-partition Nationalist candidates in the election in "the six north -eastern counties". According to the historian, Patrick Buckland, "never before had the minority been so well organised both in the number of candidates put forward."(14) Anti-partition candidates won 11 seats with 106,459 votes, while the Unionist s won 37 seats with 234,202 votes. The crude equation was that it took 9,678 votes to win an anti-partition seat and 6,330 votes to win a Unionist seat. The Irish government chose February 12,(15) the day the election results were known, to announce publicly that the Republic of Ireland Act, 1949, would come into operation on Easter Monday, April 18, 1949, the anniversary of the 1916 uprising.

(12) IDFA 305/14/36 LAD. 10.1.1949 report no.2

(11)PRO Cab 129/33 Appendix 1. "The anti-Partition Campaign in Eire." Note by Lord Rugby dated 4.2.1949. p.31

(13) Buckland,P.: A History of Northern Ireland. p.88

(14) Ibid

(15) The Annual Register. Ed. I.S. Macadam Pub Longmans, 1950

Basil Brooke, having obtained the assurance on the constitutional guarantee from Attlee, prepared to consolidate his gains further, and turn the tables on the Irish government's anti-partition campaign . Brooke wrote to Attlee on February 18, pointing out the possibility that the government of Eire would support the I.R.A. to stir up civil disturbances in Northern Ireland. Basil Brooke quoted aggressive " utterances" from John Costello to substantiate his claim that "the South are now getting weapons into their hands which they would 'use ruthlessly' so long as the 'evil' of Partition remains in Ireland." In this letter, Brooke asked Attlee to make a public declaration condemning Eire's "interference in the affairs of Northern Ireland", and to publicly re-assure the citizens "in this part of the United Kingdom that they have no grounds for apprehension." (16)

On March 16, 1949, Basil Brooke followed up his letter to Attlee and wrote to the Home Secretary, Chuter-Ede, expressing his belief that "the Irish government were not in control of the IRA." He reported that public drilling was continuing on the border and that it looked to him that there were going to be "Irish Government inspired forays into Northern Ireland." Brooke claimed that he feared that a "Sudeten" type situation would develop.(17) Chuter-Ede passed on this letter for the advice of the Minister of War, Emanuel Shinwell.(18)

(16)PRO PREM 8/ 1222 Pt.2. L.D. 18.2.1949

(17)PRO PREM 8/ 1222 Pt.2. L.D. 16.3.1949

(18)PRO PREM 8/ 1222 Pt.2. L.D. 29.3.1949

Attlee delayed for over a month before replying to Basil Brooke's letter of February 18. In his reply Attlee echoed Rugby and Norman Brook's Working Party and wrote: "I feel that the most effective action that we can take is to make a clear and firm statement on the subject of partition in the proceedings in this Bill".(19) In response to Basil Brooke's letter of March 16, to Chuter-Ede,(20) Emanuel Shinwell advised Chuter -Ede that the War Office had considered the matter and were keeping in close contact with the General Officer commanding Northern Ireland , and that, "plans are being made to send regular reinforcements to Northern Ireland should the occasion demand."(21)

The Irish government was aware of the rumours about the proposed Ireland Bill, and made some efforts to intervene with the British government. Sean MacBride visited London from February, 24-26 primarily to deliver a lecture to the Royal Institute of International Affairs at Chatham House . While in London he spoke to several British government ministers.

- (19)PRO PREM 8/1222 Pt. 2. L.D. 21.3.1949
- (20)PRO PREM 8/1222 Pt. 2. L.D. 16.3.1949
- (21)PRO PREM 8/1222 Pt. 2. L.D. 29.3.1949

According to George Garrett, Sean MacBride put the following idea to Bevin; that Partition could be examined within the framework of the Atlantic pact, with Canada taking the lead of pressurising Northern Ireland. The official records show that he was rebuffed by Bevin.(22) However, it is possible that MacBride received, or at least believed that he received, some reassurance from British ministers on the possibility of a re-examination of Partition. Before returning to Dublin, MacBride held a press conference where he put forward a federal solution for the problem of Northern Ireland and highlighted the fact that Eire would be prepared to play its part in international affairs if Partition were ended.(23) At this point in time, ( as referred to in the Chapter on NATO), the Irish government was trying to manoeuvre the U.S. into acting as a mediator on the partition issue.(24)

(22) PRO PREM 8/1464

(23) NA 841 D. 00(W)/3-449

(24) NA 841 D..00/3-449



(D)

BRITISH GOVERNMENT RESPOND IN DETAIL TO BASIL BROOKE'S PROPOSALS

Following his talks with Basil Brooke on January 27, 1949, (1) Attlee updated his memorandum of January 10 (2) and presented a memorandum dated March 4 (3) to the Cabinet meeting of March 8. (4) This memorandum updated the developments which had taken place since the Cabinet considered a provisional draft of the Ireland Bill on January 12. (5) The Bill as prepared contained clauses which formally recognised the title of "Republic of Ireland", although it was understood that in official usage the description "Irish Republic" was to be employed. Additionally, the revised Bill proposed imposing a three months residence qualification for the exercise of the Westminster franchise in Northern Ireland. (6)

Attlee's memorandum, despite the upset to the parliamentary timetable, suggested that the Ireland Bill should be delayed until after the enactment of the Republic of Ireland Act. Additionally, he recommended that because Canada and Pakistan were not prepared to introduce corresponding legislation that the Bill should not include any provision for a change in the King's Title regarding incorporating the new name for the six counties. (7)

- (1) PRO Cab 130/44 Gen 262 (M) 4th.meeting
- (2) PRO Cab 129/32 CP(49)5 10.1.1949
- (3) PRO Cab 129/33 CP(49)47 4.3.1949. pp.24-25
- (4) PRO Cab 128/15 CM(49)18 8.3.1949. pp.66-67 (pp.98-101)
- (5) PRO CAB 129/33 CP(49)47 4.3.1949 pp.24-25
- (6) Ibid
- (7) Ibid

At 9.55a.m. on March 8, 1949, the day the British cabinet considered for the last time Attlee's memorandum about the contents of the Ireland Bill, the Commonwealth Relations Office sent a telegram to Lord Rugby informing him that it had been suggested to Attlee that the date chosen for the inauguration of the Republic Act would "cause great resentment" in "this country".(8) They wondered if Costello could be persuaded to choose another date, suggesting the anniversary of the opening of Grattan's Parliament on March 17. Attlee personally asked Rugby to request the Irish government to transfer the date because he thought "they cannot properly appreciate the reaction which will follow in the United Kingdom and in Northern Ireland".(9) Attlee hoped "that they might be willing to make this last concession to you before you leave."(10) At 3.10p.m., the Commonwealth Relations Office received Rugby's reply: "I should make the approach suggested with great reluctance". This was because he expected that he would probably fail in any attempt to have the date altered, as the date had been "carefully selected by the present Government in order that the opposition cannot treat the Republic of Ireland Act as a party measure and are forced into the open to celebrate it. It is one political move to dish the opposition."(11)

(8) PRO PREM 8/1464 Telegram No.52

(9) Ibid

(10) Ibid

(11) PRO PREM 8/1464 Telegram No.30

Interestingly, in view of the British government use of the press following the Chequer talks in October, 1948, Philip Noel-Baker wrote to Attlee suggesting that "there might be advantage in stimulating our own press to emphasise in their comment that in choosing the 18th April the Eire government had been motivated by consideration of party politics" but he himself believed "it is impossible even so to regard the move as other than an anti-British gesture."(12)

The Cabinet meeting of March 8 decided against adopting the formal usage of the term "Ulster". However, the Cabinet did agree to substitute the term "Northern Ireland" for "Ireland" in the King's title.(13) As recommended by Attlee the draft of the Bill did not in fact contain this change due to the difficulty in gaining the consent of Canada and Pakistan who were having their own constitutional difficulties.(14)

(12)PRO PREM 8/1464.Norman Brook to Attlee. LAD. 10.3.1949 Serial No. 23/49

(13)PRO Cab 128/15 CM(49)18. 8.3.1949. pp.66-67 (pp.98-101)

(14)PRO DO 35 3979 .p17. para 38

In addition to discussing the Ireland Bill, the British cabinet on March 8, 1949, also discussed two memorandums on the Irish government's anti-partition campaign. The first by Philip Noel-Baker entitled "the anti-partition campaign which is being fostered by the Eire Government." (15) The second was a joint memorandum by Noel-Baker and Chuter -Ede discussing a suggestion that the British government should protest to the Irish government about their anti-Partition campaign and also make a public statement condemning Eire's interference in the affairs of Northern Ireland. (16)

Chuter-Ede questioned the effectiveness of forwarding such an 'aide memoire' to the Irish government suggesting instead that the assurance in the form of the "guarantee" to the North in support of the previous ministerial statements would be a sufficient palliative to the government of Northern Ireland. (17)

At this Cabinet meeting there was "a general agreement" among ministers that in debates on the Ireland Bill the Government should "take a clear and firm line in support of partition." (18) The Cabinet approved the Ireland Bill incorporating the "guarantee" clause, and suggested that it should be introduced after the inauguration of the Republic of Ireland Act. (19)

(15) PRO Cab 129/33 CP (49) 45

(16) PRO Cab 129/33 CP (49) 48

(17) PRO Cab 128/15 CM (49) 18. pp.66-67 (pp.98-101)

(18) Ibid

(19) Ibid

At the end of March 1949, Basil Brooke in spite the "guarantee" contained in the Ireland Bill and the other concessions achieved, wrote to Attlee stating that he was "most disappointed" that the title "Irish Republic" could not be officially used. He hoped "that on further reflection you may be able to see your way to meet our wishes". As a last resort, he asked that "a clear instruction would be issued to all departments to use the term Irish Republic." (20)

One of the most notable aspects about the British cabinet discussions which lead to the Ireland Act is the hastiness under which they took place. The government of Northern Ireland made full use of the Irish Government's lack of co-operation towards the British government. The attitude of the Irish government provoked the British government and allowed the Northern Ireland government to do its worst. For example, the Irish government apparently did not bother to inform the British Government of the postponement of the inauguration of the Republic of Ireland Act from January 21 to April 18. Noticeably, when the delay does take place, Basil Brooke reinforces his pressure on the British government fearing they might react favourably toward the Irish government for delaying in order to assist the British government to prepare the necessary consequential legislation.

The following chapter will examine the progress of the Ireland Bill through the House of Commons and the Irish government's response to the Bill.

(20) PRO PREM 8/1222 Pt.2. L.D. 30.3.1949

(E)

IRISH GOVERNMENT'S ATTITUDE TO THE "GUARANTEE"

On April 29, 1949, the Commonwealth Relations Office sent a telegram to Sir Gilbert Laithwaite, the United Kingdom representative to (as was then officially recognised) the Republic of Ireland.(1) It asked him to "communicate" on May 2, a summary of the officially entitled, "Ireland Bill" to the Government of the Republic of Ireland. The Ireland Bill was due to be introduced in the House of Commons on May 3, 1949. (2)

At 9.40a.m. on May 2, the Commonwealth Relations Office telegraphed summaries of the Bill to the governments of Canada, Australia, New Zealand, the Union of South Africa, India, Pakistan, and Ceylon. (3) According to Herbert Morrison the Dominions were not consulted in advance about the guarantee because " I am sure they would not expect to be consulted".(4)

At four-thirty on the afternoon of May 2, Gilbert Laithwaite presented a summary of the Ireland Bill to Frederick Boland.(5) An accompanying letter was addressed to the Acting Minister of External Affairs, Dr. Noel Browne. The letter advised the Minister that the Ireland Bill would be laid on the table of the House of Commons the following day, and "that the provisions of the Bill must be regarded as secret until it has been laid before the House, and my Government have therefore asked me to explain the information in the enclosed summary is communicated to you in the strictest confidence pending the publication of the Bill on the afternoon of the 3rd May." (6)

(1)PRO DO 35 3979. Telegram No. 73. 29.4.1949

(3)PRO DO 35 3979. p.21. para 48. X2638/62

(4)H.C. Debates Vol. 464. Col. 1957. 11.5.1949 .Quoted in, A.C. Hepburn, The Conflict of Nationality in Modern Ireland, p.171.

(5) NASPO S14528 Annex

(6) IDFA 305/14/36



After presenting the summary of the Bill, (1\*) Laithwaite returned to his office. At six o' clock that evening he telegraphed the Commonwealth Relations Office with a report of his visit; Frederick Boland, after being handed the summary of the Bill, perhaps with unintentional irony, told Laithwaite that "his Government were grateful for this advance information" but warned that there "would be considerable criticism" about the guarantee. (7) John Costello was attending a funeral in the country and did not receive a copy until half past one on the afternoon of May 3. (8)

The summary of the Ireland Bill recognised that from April 18, 1949, Eire ceased to be part of His Majesty's Dominions, declared that Northern Ireland remained part of His Majesty's Dominions and of the United Kingdom and would not cease to be part of them without the consent of the Parliament of Northern Ireland and recognised that in future Eire would be known as the "Republic of Ireland". The Bill provided that although the Republic of Ireland was not part of His Majesty's Dominions it was not to be a foreign country nor were its citizens to be aliens for the purposes of any law in force in the/

(7) PRO DO 35 3973 Telegram No. 73. 2.5.1949.

(8) NASPO S14528 Annex

(1\*) Extract in appendix 1V.

the United Kingdom or its colonial territories. Interestingly, the Bill also stated that the chief representative in the United Kingdom of the Republic of Ireland, "whatever the style of his office, would have the same privileges and exemptions as are accorded to High Commissioners". That was designed to maintain the diplomatic status quo, and as a corollary the Republic's "non-foreignness" but it could also be interpreted as an expression of disapproval of the Republic's policy of upgrading representative's titles, where appropriate, to Ambassador. Continuing, the summary explained that it would preserve the effect of the British Nationality Act, 1948.(1\*) The Bill also preserved the effect of any act in confirmation of past agreements between the United Kingdom and Eire. The Bill then provided that references in legislation passed up to the end of 1949 to His Majesty's Dominions would continue to be interpreted as including the Republic of Ireland and similarly, that the phrases "British Ships" or "British Aircraft" would be "interpreted as including ships or aircraft belonging to Eire notwithstanding that the Republic is no longer part of His Majesty's Dominions". Finally, the Bill introduced a residence qualification for electors in Northern Ireland for the Westminster Elections.(9)

(9) IDFA 305/14/16

(1\*)British Nationality Act, 1948 (11&12 Geo 6. CH 56. Mansergh, N. (Ed.): Documents and Speeches On British Commonwealth Affairs 1931-52, Vol II. pp. .949-968.In particular the retention of Sections 2,3 and 6 of the 1948 Nationality Act was emphasised so as to was to safeguard citizens of Eire born before January 1,1949 who remained British subjects and were entitled to apply for British citizenship.

The morning edition of the 'Irish Press' of May 3, 1949, reported on the rumour about the possibility of a clause relating to the six counties.(10) The 'Irish Independent' was better informed and headlined their story "British Bill to perpetuate Border."(11) The 'Irish Times' did not make any reference to the Bill or to the rumours.(12)

At 3 p.m. on May 3, 1949, Attlee introduced the "Ireland Bill, 1949" to the House of Commons. It was supported by Herbert Morrison, Mr. Chuter-Ede, Philip Noel-Baker, and Hartley Shawcross.(13) Introducing the Bill, Attlee stated that it was the intention of the Bill to "recognise and declare the constitutional position as to the part of Ireland heretofore known as Eire, and to make provision as to the name by which it may be known and the manner in which the law is to apply in relation to it; to declare and affirm the constitutional position and the territorial integrity of Northern Ireland and to amend, as respects the Parliament of the United Kingdom, the law relating to the qualifications of electors in constituencies in Northern Ireland; and for purposes connected with the matters aforesaid." (14)

(10) Irish Press. 3.5.1949

(11) Irish Independent. 3.5.1949

(12) Irish Times. 3.5.1949

(13) H. C. Vol.464. Col. 836. 3.5.1949

(14) Ibid

As was expected by the British government, the publication of the Bill raised an outcry throughout the twenty six counties.(15) The main issue that caused offence in Ireland was that this was the first time that the Parliament of Northern Ireland was given a veto over the political unification of the country. The Irish government considered that gerrymandering in Northern Ireland ensured that the composition of the Stormont Parliament did not reflect fairly the political views of the peoples of Northern Ireland.

Following the introduction of the Bill the three Irish national morning dailies carried leaders commenting on the Bill. The Pro-Commonwealth 'Irish Times' editorial blamed the Irish government for bringing the situation on themselves, while conceding that "in our wildest imaginings, however, we had not believed that Great Britain would be provoked into the playing of an active part in what ought to be a domestic issue between the two parts of our sundered nation".(16) The 'Irish Independent' complained that the "socialists are doing a bad day's work for the relationship between the Irish people and the British people."(17) The 'Irish Press' spoke in a similar vein, heading their leader "An affront." (18)

(15) PRO DO 35 3973

(16) Irish Times. 4.5.1949

(17) Irish Independent .4.5.1949

(18) Irish Press. 4.5.1949

In contrast to the Irish national dailies, the three quality British morning dailies, The 'Times', (19) 'Telegraph' (20) and 'Manchester Guardian' (21) gave the Bill favourable and prominent mention and referred to the "guarantee" approvingly.

This was not so much British jingoism versus Irish nationalism, but rather a genuine fundamental difference in perception of the consequences of the "guarantee". In Ireland, the guarantee was seen as putting a stop to the "march of the nation", while in Britain the view as expressed by the Principal Secretary at the U.K. Representative's Office in Dublin, Neil Pritchard, to Frederick Boland, was that it was "regarded as no more and no less than a clear and firm statement of what had always been the fundamental factor in the partition problem." Pritchard claimed that he "found difficulty" in understanding the Irish view, that the guarantee created a new situation "involving a fundamental and alarming change." (22)

CONTINUED/

- (19) The Times. 4.5.1949
- (20) The Telegraph. 4.5.1949
- (21) Manchester Guardian'. 4.5.1949
- (22) PRO DO 35 3973

Sean MacBride was in London from May 3-6, attending a meeting of Foreign Ministers to discuss the introduction of a constitution to establish the Council of Europe.(23) On May 4, 1949, Sean MacBride issued a statement condemning the Ireland Bill, stating that the "gratuitous guarantee of 'territorial integrity' of a portion of our country can only be taken as an attempt to reinforce the unjust partition of our country."(24)

Two days after the introduction of the Bill, Sean MacBride met Clement Attlee for three hours to discuss his government's objections to the Bill.(25) Frank Newsam (who reputedly was not sympathetic to the Republic of Ireland) briefed Attlee for the meeting advising him to quote from the edition of the 'Manchester Guardian' which referred to the very generous treatment citizens of Eire resident in mainland Britain were receiving, and that it would be in Irish interests not to make a fuss over liability to military service of Irish citizens now resident in the U.K. Frank Newsam further advised Attlee to point out to MacBride that the anti-partition campaign would antagonise the British people and add further to the difficulties in carrying out the policy announced with regard to/

(23) CDEA 50021 -40

(24) IDFA 305/25

(25) D.D. Vol. 115. Col. 802. 10.5.1949

to "non-foreignness", as agreed following the Paris talks and given recognition in the parliaments throughout the Commonwealth. Newsam also advised Attlee to remind MacBride that citizens of Eire received more privileges in the U.K. than did United Kingdom citizens in Eire. He cited the example whereby, despite the Irish government's apparent intention at Paris to reciprocate voting rights, citizens of the Republic of Ireland resident in Britain could vote in parliamentary elections, while the reverse did not apply.(26) Attlee was already aware of this.(27)

On May 5 Sean MacBride also attended a one hour meeting with Philip Noel-Baker and the British Foreign Minister, Ernest Bevin. According to the Commonwealth Relations Office report, MacBride informed the British ministers of the Irish government's angry opposition to the "guarantee" clause in the Bill. MacBride quoted de Valera who was saying that they were right back to 1916.(28) Bevin explained that many people, including members of the British government, were in broad sympathy with the ideal of a united Ireland . However, he qualified this point by reminding MacBride that "without the help of the North, Hitler would unquestionably have won the submarine war and the United Kingdom would have been defeated." Continuing, Bevin stated that "as a reward for this loyalty and until the majority in the North decided otherwise the British people would oblige us to give them guarantees that they would not be coerced."(29)

(26) PRO PREM 8. 1464

(27) PREM 8/1464. L.D. 19.1.1949. Serial No. 4/49

(28) PRO DO 35 3973 . CRO to U.K. Representative 9.5.1949 Telegram No. 79

(29) Ibid

Sean MacBride's report to the Department of External Affairs about the meeting concentrated on the gratuitousness of the "guarantee". He explained: "I pointed out that what should have been obvious to a layman, that Partition was already legally in existence on the British statute book and it was unprecedented to re-enact a law that was already valid." Bevin is reported by MacBride as stating "repeatedly and emphatically, I would never have agreed to the inclusion of the provisions about Partition were it not that we were told by our lawyers that they were absolutely essential." (30) This raises the question, regarding the extent to which the British government's policy on Partition, was a rubber-stamping of the policy of the Chiefs of Staff, together with interested Government departments and individual personalities, including that of the Cabinet Secretary.

Sean MacBride reported to the Department of External Affairs that outside Bevin's room in the Foreign Office, Philip Noel-Baker took a different stance, explaining that the guarantee was a political necessity. MacBride replied curtly that a new Act was not needed everytime an anti-partition speech was made. MacBride stated that "someone is not being truthful-or, to be more charitable, someone has been misinformed. Whichever it is, it is just too bad that decisions having such profound repercussions should be taken so casually." MacBride, commenting on these conversations, reported to the Secretary of the Department of External Affairs about "the lack of understanding or even of interest of Anglo-Irish relationships is the same now as always." (31)

(30) IDFA 305/ 14/36  
(31) IDFA 305/14/36



The reason for the "lack of understanding" was arguably due to the policy of clouding any input to the decision on the "guarantee" by the British Joint Chiefs of Staff. As referred to in the previous chapter the phrase "or any part thereof" was interpreted in Ireland, exclusively as a reference to the nationalist areas of Northern Ireland; it can additionally be interpreted as a broad reference to cover the disputed waters of Northern Ireland, which included the deep water berth of Lough Foyle which gives access to the strategic port of Londonderry. That base, according to a Chiefs of Staff report (retained by Ministry of Defence) (1\*) dated December 18, 1948, : "(1) is a naval base vital to the defence of the UK because of its importance to the Atlantic convoys in time of war...(2) the usefulness of the port as a base depends on our having continued unrestricted use of the navigable channel....(3) It was undesirable that there should be any division of the waters between Eire and the U.K. as a result of a decision by an international court which did not give the UK the navigable channel." (32) This view coincided with the expressed wish of the government of Northern Ireland that the UK government should "preserve the right of access to Londonderry and Newry" for British naval ships.(33)

(32) PRO DEFE 5.9. COS(48)214 . 18.12.1948 .(1\*)Retained by Ministry of Defence 22.5.1980, re- applied for 10.5.1990.

(33) PRO Cab 130/44 Gen 262(M) 4th Meeting 27.1.1949.

Sean MacBride was disappointed by the outcome of his meeting on May 5 with Bevin. MacBride is recorded as stating that, "the action of the British government in seeking to impose its will regarding the partitioning of our country is comparable with the action of Germany before the war and of Russia since the war, of seeking to impose their system of government in central Europe." (34)

On May 9, at a half-hour meeting between Attlee, Philip Noel-Baker and the Republic of Ireland's High Commissioner in London, John Dulanty, Noel-Baker told Dulanty that the Labour government had come under pressure and criticism due to the enactment of the Republic of Ireland Act. Additionally, Noel-Baker told Dulanty that the "Tories had rejoiced in the action of the Irish government because they said it provided a golden opportunity to make partition firm forever". (35) There was a rumour in Ireland that Attlee was pleased to use the guarantee as "a peace offering" to placate Winston Churchill, who was annoyed at India being "allowed" to become a Republic. (36)

(34) PRO DO 35 3974 Rugby to CRO. Telegram No. 63. 8.5.1949

(35) IDFA 305/14/36

(36) Ibid

In Ireland on May 5, 1949, Eamon de Valera wrote to John Costello suggesting that the anti-partition subcommittee be reconvened.(37) That committee was established at the beginning of 1949 to campaign against the February election in Northern Ireland. In time Costello's anti-partition campaign was to prove counter-productive in that it was de Valera who was enhanced by the campaign. De Valera's letter also asked Costello to make his intended response to the Ireland Bill before the Dail adjourned for the weekend.(38) Costello replied to de Valera that same day agreeing to de Valera's request to reconvene the anti-partition committee, and explained that he was deliberately delaying making a response until he had received a report from Sean MacBride.(39) According to George Garrett, Costello was saying privately, that he "wanted cool off before issuing (a) statement."(40)

On that same day the 'Irish Independent' reported that the Irish cabinet met for six hours to discuss their response to the Ireland Bill.(41) According to a report from the Canadian High Commission in Eire, the Cabinet met the following day for a five hour meeting which included a discussion on a report by Sean MacBride of his meeting with British Ministers.(42) There/

(37) NASPO S 14528 L.D. 5.5.1949.

(38) Ibid

(39) Ibid

(40) NA 841D. 00(W) /5-1149

(41) Irish Independent, 6.5.1949. NASPO. Cab 2/10 records show an evening cabinet meeting on Thursday/Friday 5-6 May, 1949 beginning at 8.30p.m. and ending at 12.30.a.m.

(42) CDEA 50021-40

There followed another long meeting of the Cabinet on May 7, when they agreed that Sean MacBride should despatch an 'aide memoire' to the British Government.(43) The Cabinet also approved a recommendation from Costello that he should move a motion condemning the guarantee clause when the Dail resumed on May 10. The decision to ask the all-party anti-partition committee to reconvene was made at that meeting.(44)

On May 7, 1949 Gilbert Laithwaite was presented with an 'aide memoire' from the Irish Government.(45) The 'aide memoire' concentrated on the "guarantee clause". The gist of the "emphatic and solemn protest " was in effect a reiteration of the reasons contained in the Irish government's response to the USA invitation to join NATO. The 'aide-memoire' ended with an appeal "that, even at this late hour, steps may be taken by the British government" to prevent "a situation fraught with further difficulties and dangers". (46)

(43) NASPO Cab 2/10 .G.C. 5/90 .7.5.1949 .

(44) Ibid

(45) PRO DO 35 3973 Laithwaite to CRO. Telegram No. 70. Received 8.5.1949.

(46) Ibid

Given the Irish government's attitude and relationship over the previous nine months towards Britain, Northern Ireland and NATO, it was perhaps naive of them to state in their 'aide memoire' that "the taking of such a step at a time when friendly co-operation between democratic nations is of such vital importance makes it even more difficult to understand the reasons which have prompted it." (47)

In Dublin, Sean MacBride met Lord Rugby to discuss the British government's response to the Irish government's 'aide memoire' of May 7. (48) Referring to his earlier talk with Bevin, he expressed some surprise on receiving the British response. Lord Rugby reported Sean MacBride as asking "was there any likelihood of a further communication from a still higher level? Was I aware of what had passed between him and the Prime Minister and other Ministers?" (49) Judging from MacBride's apparent disappointment it is possible that he had in his meeting with Bevin on May 5 (50) offered him what he considered was the trump card of bartering Irish "neutrality" for an end to Partition.

(47) NASPO 14528 Aide Memoire 7.5.1949

(48) PRO DO 35 3973. Rugby to CRO .Telegram No.74. 10.5.1949

(49) Ibid

(50) PRO DO 35 3973 . CRO to U.K. Representative 9.5.1949 Telegram No. 79

A couple of months before in March 1949, Sean MacBride had written an eight page letter opening in the familiar, "Dear Ernie," and offered "a constructive line of approach to our position in relation to the Atlantic Pact and Partition." (51) In reply Bevin suggested that he would see Sean MacBride when he (Bevin) returned from America. Sean MacBride was surprised when "instead, this unilateral bombshell was exploded, thus bedevilling the possibility of a constructive solution", and MacBride was then left "wondering whether there is any genuine desire to establish a good relationship and find a solution". (52) The British government aware, of American State Department support replied to the Irish 'aide memoire' on May 10, 1949 somewhat superciliously, if not triumphantly; "The United Kingdom Government are at a loss to understand how they can legitimately be accused by the Government of the Irish Republic of impairing in any way the co-operation between democratic nations by their proposal". This 'aide memoire' side-stepped the thrust of the Irish 'aide memoire' by explaining their legal rights and entitlement to legislate for a part of the United Kingdom. The 'aide memoire' ended by emphasising that they were "satisfied that no good would come were they to leave in doubt, the right of Northern Ireland to remain within the United Kingdom so long as the majority of its people desire this." (53) This exchange was the start of a series of split level discourses aimed at each other's respective domestic political interests.

(51)PRO DO 35 3974. L.D. 9.3.1949

(52)PRO DO 35 3974. CRO to UK Rep. in Dublin T. No.79. 10.5.1949

(53)PRO DO 35 3973. CRO to Laithwaite. Telegram no. 81. 10.5.1949. Contains copy of 'aide memoire' of 10.5.1949

Following de Valera's request to Costello to reconvene the anti-partition committee and the Irish cabinet's approval of the proposal on May 5, the Mansion House all party anti-partition committee met on May 9.(54) Representatives of the major parties attended including Costello, de Valera, Norton and MacBride. The 'Irish Independent' described the purpose of the meeting "to secure a united national front at home and amongst the Irish race abroad so that the insulting and cynical plan upon which Britain had decided be known to the world, and appropriate action taken." The meeting decided unanimously that there should be a public protest meeting in Dublin's main O'Connell Street at which all the leading figures from all the political parties would speak and also as a sign of unity. De Valera agreed to second Costello's motion condemning the UK 'Ireland Act,1949,' in the Dail.(55)

Introducing the motion in the Dail Costello quoted the Irish Parliamentarian, Henry Grattan: "Sir, I have entreated attendance on this day, that you might in the most public manner, deny the claim of the British Parliament to make law for Ireland and with one voice lift up your hand against it".(56) Costello resisted an amendment from Captain Peadar Cowan to include a mention of the 1916 uprising and a pledge to "make this declaration effective by every means at our command".(57)

(54) Irish Independent, 10.5.1949

(55) Ibid

(56) D.D. Vol. 115. Col. 785-786. 10.5.1949

(57) D.D. Vol. 115. Col. 817. 10.5.1949

During the course of his speech, John Costello threatened; "we can hit the British Government in their prestige and in their pride and in their pocket." (58) Laithwaite noted that that remark broke the silence by inducing applause amongst members of the Dail.(59) In reality, such sentiments, were known to be rhetorical rather than practical, for example, the Commonwealth Relations Office noted that the Minister of Agriculture, James Dillon, exempted existing trade agreements with Great Britain from Costello's remark. The Commonwealth Relations Office believed that "much that has happened in the Irish Republic during the last nine months arises not from practical difficulties or real convictions, but from essential weakness and opportunism of Mr Costello's coalition government."(60)

The next speaker was Eamon De Valera and he began by expressing his agreement with Costello's remarks and blamed the British government for attempting to confuse the responsibility for Partition by placing the onus for its ending onto the government of Northern Ireland. (61)

(58)D.D. Vol. 115. Col.807. 10.5.1949

(59)PRO DO 35 3973 Laithwaite to CRO . Telegram No. 75.  
10.5.1949

(60)PRO DO 35 3973

(61) D.D. Vol. 115. Col. 808-817. 10.5 1949



Laithwaite was critical of the Irish political leader's emphasis on the "guarantee". He believed that they "ignored valuable concessions on citizenship privileges and trade which the Ireland Bill will continue".(62) That Laithwaite's opinion on the Irish government's response was perhaps unfair, is evidenced by a report from the Canadian Acting High Commissioner in Dublin, David M. Johnson : "Sir Gilbert Laithwaite thought that members of the Dail and persons in the galleries were apathetic. One explanation would be apathy, another that the persons present were deeply moved."(63) Johnson added that when he met Costello and MacBride on May 12, Costello had told him that "the British government always make settlements with Ireland too late, and grants to force what it refuses to grant to political negotiation. Young Nationalists in the north know all this and will be difficult to restrain."(64)

For more violent remarks Laithwaite resorted to quoting minor politicians from the chambers of Dublin Corporation. For example, he quoted Mr. E. Cooney as stating that the Fenian tradition was vindicated and "that nothing could be got from England except by force." Similarly, Mr. J. Deasy was quoted as stating that "the sooner they made it known that they had sufficient military strength, they would invade the North, the better".(65) This adverse if mild reaction in Ireland does not appear to have been even considered by any responsible British minister.

(62)PRO DO 35 3973 Telegram no. 75

(63)CDEA 50021-40 report no 106

(64) Ibid

(65)PRO DO 35 3973

On May 11, 1949 Attlee introduced the second reading of the Ireland Bill, the enactment of which as to apply retroactively to April 18, 1949. The second reading took place on May 11. During this reading, Attlee expressed surprise at the protest from the Irish Government. He referred to the fact that his original statement in October 1948 "was received without protest." (66) Attlee argued that, "I had to conclude that the Government of Eire considered the cutting of the last tie which united Eire and the British Commonwealth as a more important objective of policy than ending partition." (67) While this statement ignored the emotions attached to the problem of Partition, it was nonetheless a logical deduction which unfortunately escaped many of the "Republican" politicians in the Republic of Ireland.

Attlee then turned Costello's phrase back on him, arguing that it was the Government of the Republic of Ireland, which had "tightened the ligature fastened around the body of Ireland", pointing out that the British government recently took a decision to retain the Republic of India within the Commonwealth. (68) The implication was that the same would have applied to Eire.

(66) H.C. Vol. 464. Col. 1856. 11.5.1949

(67) H.C. Vol. 464. Col. 1858. 11.5.1949

(68) H.C. Col. 1858. Vol. 464. 11.5.1949

It is possible that before making the "announcement", John Costello may have envisaged a "republic of Ireland" associated with the Commonwealth. That would have been a compromise that would have diluted the connection with the Commonwealth, assuaged the republicans in Clann-na-Poblachta and retained the loyalty of the Unionists in Fine Gael.

During the second reading , Anthony Eden ,on behalf of the Conservative Party, expressed support for the assurance to Northern Ireland. However, he added the reservation that such a parliamentary pledge was not binding for a government, "or indeed this Parliament." Eden, having made that constitutional point, reminded the Commons that the Conservative Party's policy was that "If union between North and Southern Ireland is to come about, it must do so not by force or by threats of force but by agreement and by parliamentary and democratic means."(69)

(69)H.C. Vol. 464. Col. 1867. 11.5. 1949

(F)

IRISH GOVERNMENT'S RESPONSE TO THE PASSAGE OF THE UK "IRELAND  
ACT, 1949"

The Irish morning dailies, reporting on the second reading of the Ireland Bill, 1949, in the House of Commons, continued their criticism of the guarantee. However, the 'Irish Times', agreed with Attlee's comments and headlined their report " Irish decision made guarantee to the North inevitable." (1) Laithwaite referring to the Irish paper's criticisms, specified the 'Irish Press', which he called "de Valera's organ".(2) (That reference, despite its crudeness could be interpreted seriously given that, the same word 'organ' was chosen by de Valera to refer to the Crown in article 29.2 in the 1937 constitution.)

Feelings of anger were aroused throughout Ireland. This culminated in, according to a report in the 'Irish Times', the largest ever gathering of Irish people.(3) Crowds thronged O'Connell Street for a protest meeting on the evening of May 13. The meeting was addressed by leaders of all the political parties in the Republic of Ireland and the elected representatives of the nationalist population in Northern Ireland.

(1) Reported in the Irish Times 12.5. 1948

(2) PRO DO 35 3973. Laithwaite to CRO. Telegram no. 80. 13.5.1949

(3) Irish Times. 12.5.1949

John Costello was first to speak; standing on a platform by the monument dedicated to Nationalist figure, Charles Stewart Parnell, Costello made a memorable and emotional speech.(4) Laithwaite described the tone of Costello's speech as "deplorable" and compared it to one of Hitler's harangues .(5) A few days later Frederick Boland explained to Laithwaite that "allowance had to be made for the Taoiseach's personality and nisi prius manner" adding that once the Ireland Bill was enacted, then the Irish government's agitation would decline.(6) Laithwaite considered that the substance of de Valera's speech, was "quiet and deliberate in delivery" and "comparatively calm and reasoned." (7) Interestingly, he considered that "MacBride's speech did not differ from Costello's. (8) Next to speak was the Tanaiste, William Norton. He appealed to fellow Labour parliamentarians in Britain, stating that he found it "incomprehensible why a Labour Government in Britain in 1949 should seek to confirm the Tory imperialism and ascendancy which conceived and implemented by intrigue the partition of one of the oldest and most homogeneous nations in the world."(9) Laithwaite, in his report, accused Norton of "playing entirely to the rowdy elements."(10)

(4) RTE Library. reference file No. 57/68 Also RTE radio Documentary "The Republic of Ireland Act,1949. " broadcast 26.3.1989

(5) DO 35 3973. Laithwaite to CRO. Telegram No. 81. 14.5.1949

(6) Ibid

(7) Ibid

(8) Ibid

(9) Ibid

(10) Ibid

By way of reply to Norton, a month later, the Lord President and Leader of the House of Commons, Herbert Morrison, speaking at the annual Labour Party conference declared "I think it would be most unwise for us to seek to involve the British Labour Party in the internal politics of Ireland and with great respect we would like Ireland not to interfere with our internal politics." (11)

There is an impression that Laithwaite toned down his reports on the O'Connell Street demonstration so as to counteract the purpose of the demonstration, which was designed, to make the British government pay attention to the strength of feeling of Irish people over the issue of Partition. Laithwaite claimed that "the bulk of the crowd was mainly a sightseeing one who regarded the meeting as an additional amenity of the traditional Friday night out on a fine evening." He continued to argue that the size of the crowd was augmented by "the returning spectators from the 'Wolverhampton Wanderers' match and by public house patrons after closing-time". Laithwaite claimed that the O'Connell Street gathering was outflanked by a protest twelve days earlier over the imprisonment of Cardinal Mindszenty in Hungary. (12)

(11)PRO FO 371. 74190 . contains copy of Irish Information Bulletin No. 5. issued by Department of External Relations

(12)DO 35. 3973 Telegram No 81. 14.5.1949

The Canadian High Commissioner to Ireland, William Turgeon reported that " when the meeting broke up, the crowd went soberly home. A few of the more excitable spirits burnt a Union Jack in front of Trinity College, and then moved to the office of the United Kingdom Representative and made speeches demanding that Sir Gilbert should be sent home." (13) Interestingly, Laithwaite does not appear to have reported that particular commotion.

Laithwaite reported to Percival Liesching that he had spoken to Sean MacBride and Frederick Boland at the weekly tea party in Iveagh House, and complained to them about the "utterances" at the O'Connell Street meeting. According to the report, MacBride "ignored this remark" and complained that the surprise introduction of the Ireland Bill was a breach of the understanding at Paris where it was agreed that there would be advance information on matters affecting Anglo-Irish relations. Laithwaite replied that that the agreement applied only to "immediate action". (14) MacBride's criticism was then issued by the Government Information Bureau under the auspices of the Department of External Affairs. It claimed "a suggestion that there were no consultations between the British and Irish governments prior to the repeal of the External Relations Act and the introduction of the Republic of Ireland Act is not in accordance with the facts." This statement claimed that the British government reneged on "a clear understanding" reached at Chequers in October 1948 and in Paris in November to "consult/

(13) IDEA 50021-40  
(14) PRO DO 35 3973



consult concerning any steps which might be taken, consequential upon the coming into operation of the Republic of Ireland Act." (15) Philip Noel-Baker took the stance that since it was British government policy not to discuss the question of Partition with the "government of Dublin", so this principle "therefore made nonsense of MacBride's claim that we were pledged to consult Dublin about clause 1.1(B) of the Government of Ireland Bill." (16) He argued that the understanding achieved in Paris related only to the issuing of statements in the Dail and the Parliaments of Commonwealth which were designed to counteract any challenges to Eire's treatment as a non-foreign state. (17) The Irish government's response could be seen as hypocritical not just because of their own failure to consult the British government in advance about the "announcement" but also because in 1947 the previous Irish government made a formal complaint to the British government about an announcement made to the press, without prior consultation, about forthcoming Anglo-Irish trade discussions. (17)

(15) PRO DO 35 3973. Telegram no. 88. 23.5.1949. Laithwaite to CRO

(16) PRO DO 35 3973

(17) NASPO S 14134

On May 17, 1949, Frederick Boland wrote to Neil Pritchard, and invited him to call on him as soon as he returned from his visit to England. Pritchard's report of his conversation with Boland is worth quoting in length because it shows an awareness of the practicalities of Anglo-Irish relations. Boland wanted to know what the reaction was in England to what he described as "the new situation". Pritchard explained that Anglo-Irish relations were "not to the forefront among people generally" but that the speeches by Irish leaders in the previous week had been "read in London with disappointment and regret". (18) Boland was pessimistic about the future of Anglo-Irish relations; at best, he thought, there would be a "serious deterioration" in relations. The threat of violence, he thought, might come, not from such organisations as 'Aiseirghe', (a small right wing Nationalist group, which was putting up posters calling for an armed march on the North), but rather that the likelihood of violence might come from "those who kept quiet". Boland thought that at worst, "there would grow up a general feeling that constitutional methods had been discredited and attempts at direct action should be, if not actually aided and abetted, at any rate regarded with sympathy." (19) Pritchard maintained the position that the fault in the deterioration in relations was "on this side of the channel", and that in response to British leader's attempts to keep Anglo-Irish relations "even and friendly", the Irish leaders responded by, /

(18) PRO DO 35 3973

(19) Ibid

by, "instead of trying to moderate extremist opinion" they seemed instead "rather to be inciting it." (20) Perhaps surprisingly, in view of the Irish leaders' reaction, Pritchard told Boland that Philip Noel-Baker had been "completely astonished and shocked", that some members of the Irish cabinet should view the guarantee as an act of vindictiveness by the United Kingdom Government." (21) This report certainly highlights what Pritchard referred to as "this disparity of viewpoint". (22)

The Irish government's response had little perceptible effect on the proceeding of the Bill. At the end of the second reading, in spite of a three line whip, twelve members of the Labour Party voted against the Bill. (23) There was an attempt to highlight the proposition that the Parliament of Northern Ireland was unrepresentative, and that the only fair means of determining the public opinion on a political issue was by means of a plebiscite. The Lord President, Herbert Morrison on behalf of the British government, resisted the proposal stating, "It has not been the custom of our country to settle things by referendum or plebiscite." (24)

(20) Ibid

(21) H.C. Vol. 464. Col. 1953. 11.5.1949

(22) PRO DO 35 3973

(23) H.C. Vol. 464. Col. 1963-4. 11.5.1949

(24) H.C. Vol. 464. Col. 1955 11.5.1949

An amendment on May 16 deleting the clause containing this guarantee was defeated by 345 votes to 21.(25) An amendment proposed by Mr. Boyd-Carpenter, Mr. Pickthorn, Mr. Keeling, Lieutenant - Commander Gurney Braithwaite, Major Haughton, and Lieutenant-Colonel Sir Walter Smiles to substitute the title "Republic of Ireland" with the term "Irish Republic" was defeated by 227 to 79. (26) Altogether at the committee stage there were fifteen amendments to substitute the term Irish Republic for Republic of Ireland throughout the Bill.(27) Attlee had already referred in his memorandum to calling the Republic of Ireland by some other name than that by which it claims to be known,(28) and during the second reading of the Bill, explained that "One cannot, in international relations, habitually refer to a country by some other name than that by which it claims to be known." (29)

The Canadian High Commissioner in London, Norman Robertson reported that during the course of the voting in the committee stage on May 16, 66 Labour members, opposed the Government. Attlee wrote to each of the dissidents and called for the resignation of five Parliamentary Private Secretaries including Bob Mellish. According to his report on the passage of the Bill, Robertson reported stated that Attlee used the Irish issue to assert his authority on the Parliamentary Party on the eve of the Blackpool annual Labour Party conference.(30)

(25) DO 35 3973. Notes on Committee Stage. Amendments to Ireland Bill.

(26) Ibid

(27) Ibid

(28) PRO Cab 129/33 CP(49)48

(29) H.C. Vol. 464. Col 1862. 11.5.1949

(30) CDEA 50021-40

Following the dissident vote a meeting of the British cabinet discussed the fact " that a small number of supporters" abstained from voting in the division because of Clause 1. 1(b).(31) The Cabinet considered that this was because those members disagreed with the fairness of the electoral system in Northern Ireland. The Cabinet then discussed the possibility of "satisfying themselves that the Northern Ireland Parliament was so constituted as to reflect fairly the views of the electors". Following a discussion, the general view of the Cabinet was that the United Kingdom Government would "be ill-advised to appear to be interesting themselves in this matter, which fell wholly within the jurisdiction of the Northern Ireland Government."(32) Chuter-Ede, then raised the point that the government of the Republic of Ireland was threatening to relax their vigilance in curtailing the manoeuvres of the Irish Republican Army. He argued that this increased the risk of an attack on Northern Ireland. Once again, the table was turned on the Irish Government when the Lord President queried whether it might be "expedient to seek an opportunity" during the course of the Ireland Bill, of giving the assurance that Northern Ireland would be defended by British troops against any aggression. (33)

(31) PRO CAB 128/115 CM (49)34 p.131 (p.23)

(32) Ibid

(33) PRO CAB 128/115 CM (49)34 p.131 (p.23)

That worry of aggression may have been prompted by exaggerated rumours in Ireland fuelled by such minor incidents as reported by 'Irish Times' on May 18, 1949, which carried a front page photograph with the 'Aiseirghe' poster "ARM NOW TO TAKE THE NORTH." In fact that was the most unconstitutional public gesture of opposition to the Ireland Bill. George Garrett, reported that the Irish Gardai, acting on instructions, tore down the posters. He thought that the drilling on the border by the IRA may have been tolerated by the Government in order to allow extremists let off steam.(34) As with the 'Aiseirghe' posters, these threats at that time were mere rhetoric.

On May 21 Laithwaite reported to the Commonwealth Relations Office that the Irish government and leaders of the Nationalists in the North were showing a desire to moderate the activities of possible active extremists. He quoted Northern Nationalist representative, Eddie McAteer on May 17, in the Stormont Parliament: "I want you to understand and it is a message direct from Dublin that no man in the six counties must take any action that is not directed and inspired by our own government in Dublin."(35) Practical evidence of the official wish to dampen any unconstitutional action was made on May 20, when John Costello's Parliamentary Secretary, Liam Cosgrave (later to become Taoiseach) stated the official government reaction. The/

(34) NA. 741. 41 D/5-1849

(35) PRO DO 35 3973 Telegram No. 86. 21.5.1949

The statement declared, "However fierce our resentment against the Ireland Bill, as long as we have a Government duly elected by the people, no group or section has any right or authority to take action which has not the people's sanction behind it ...we must display a dignified restraint ....by our capacity for disciplined action we can show not only Britain , but the peoples of the democratic world, that right is on our side."(36)

Laithwaite was now confident enough to predict that the politicians would "tone down their speeches". Still he predicted that the anti-partition campaign which had been "deliberately fermented may have its effects on the less stable elements".(37)

There is no record of Irish politicians or the Department of External Affairs "lobbying" backbenchers on the Ireland Bill. The Westminster Parliament seemed immune to the Irish rhetoric. The report stage (38) and third reading (39) and passing of the Ireland Bill were held on May 17, 1949.(40) Chuter-Ede made the final speech which included the conciliatory words "if at any time the Republic of Ireland desires to re-enter the Commonwealth she will find that the door is open, that there will be a warm welcome, and that no questions about the past and recent events will be asked."(41)

(36) Ibid

(37) Ibid

(38) H.C. Vol. 465.Col. 345. 17.5.1949

(39) H.C. Vol. 465.Col. 348. 17.5.1949

(40) H.C. Vol. 465.Col. 392. 17.5.1949

(41) H.C. Vol. 464.Col. 392. 17.5.1949

Following the passing of the Ireland Bill Attlee on May 18 presented his ministers with a memorandum, (42) advising them (as suggested by Basil Brooke on January 27) (43) to ensure that their departments "clearly understand the basis of Government policy in respect of the new Irish Republic". They were to ensure that the "Irish Republic" should not appear to be retaining any of these benefits of Commonwealth membership. Foremost was the reminder that "She" was to be excluded from information and assistance given as a matter of course to other Commonwealth members and could not attend as a member of any Commonwealth committee, although it was added that scientific information normally available to a friendly country should not be withheld. The memorandum advised that the Ministry of Defence should be asked before releasing any defence research material. (44) Attlee further advised that in order to avoid giving offence to Northern Ireland, the term "Irish Republic" should be used whenever possible and the term "Ireland" should only be used as a geographic description of the island and "should never be used in official documents or correspondence in relation to the South. That the use of the term 'Eire' should be discontinued as a geographical description of the South, 'Southern Ireland' may be used as a alternative to 'the Irish Republic'."

CONTINUED/

(42) PRO CAB 129/35 CP(49)111. pp.5-6 18.5.1949

(43) PRO Cab 130. 44.Gen Mtg. 4. 262

(44) PRO CAB 129/35 CP(49)111. pp.5-6 18.5.1949



Similarly, he advised that "the adjective 'Irish' should not normally be used, except in relation to the island as whole, suggesting that instead 'Irish Republican' or of the Irish Republic should be used." Attlee ended his memorandum advising that the Commonwealth Relations Office (as opposed to the Foreign Office) would continue to handle Anglo-Irish relations.(45)

In the House of Lords the former Lord Chancellor, Viscount Simon, highlighted a technical defect in the British Nationality Act which, in conjunction with the Ireland Act, might have deprived British citizens born in Northern Ireland on December 6, 1922 of their citizenship. This was because Northern Ireland did not exercise its option to be excluded from the Irish Free State until December 7, 1922. Technically, all of Ireland was within the jurisdiction of the Irish Free State on December 6, 1922. That amendment was approved by the Cabinet on May 30, (46) and the Ireland Bill received the Royal assent on June 2. (1\*)

Following the enactment of the Ireland Act, Basil Brooke wrote a letter to Attlee congratulating him for his "admirable speech.... For dignity, clarity and firmness it seemed to me a model for parliamentary debates." (47)

(45) Ibid

(46) PRO Cab 128/15 CM(49)39. p.62

(47) PRO PREM 8/1464 .

(1\*) The Ireland Act, 1949 (12 & 13 Geo 6, Ch.41) Mansergh, N. (Ed.): Speeches and Documents on British Commonwealth Affairs. Vol 11. pp.821-825

(G)

IRISH OPPOSITION QUIETENS DOWN

Following the passing of the Ireland Bill, Laithwaite reported on May 19: "The Partition agitation has developed considerably in the last few days." (1) Complaining about the "tone" of Costello's speeches Laithwaite explained, "he had, I understand a considerable practice at the Bar, and particularly in jury cases. I am told that his technique in the speeches that he has made is completely reminiscent of his behaviour in court. His petulance, his refusal to see the arguments for the other side, his readiness to appeal to prejudice, his disposition to labour a weak point, his anxiety to play on the feelings of his audience, are all, it is said, part of his normal court manner." (2)

However, by the end of May 1949, Laithwaite reported that "this matter is becoming increasingly part of the internal political battle." (3) Indeed, the coalition were coming under increasing criticism about their handling of the repeal of the External Relations Act and of the lack of consultations and discussions before the "announcement". The political consensus in Ireland on the "guarantee" on Partition was dissolving. The debate was reduced to an argument as to whether the British government had been consulted in advance about the "decision" to repeal the External Relations Act. In effect, the opposition were making capital out of what appeared to be the incompetent handling of diplomatic relations by the government. The Fianna Fail opposition spokesman on Justice, /

(1) PRO Cab 129/35 Annex C. "Report from the United Kingdom Representative to the Republic of Ireland."

(2) Ibid

(3) PRO DO 35 3973 Telegram No. 90. 23.5.1949

Justice, / Gerald Boland, speaking at a Party convention, called for a change of Government. He blamed the Anglo-Irish diplomatic nadir on "short sighted incompetent leadership or to deliberate mischief making by the government". Sean Lemass was more circumspect; according to Laithwaite he had declared at a public meeting on May 21, that while his party's support did not extend to, "trust the government's leadership even against Partition," they would continue their policy of restraining their criticisms.(4)

On May 28 1949, the 'Irish Times' took up the issue about consultation asking the question "on what date did the Irish government decide to repeal the External Relations Act ?.If Mr. MacBride will answer this simple question, he will prevent all further dispute."(5) This publicity undermined the government in the debate over their claim that there had been advance consultation with the British government about their "decision" to repeal the external Relations Act.

Interestingly, George Garrett reported that President Sean T. O'Kelly told Mrs. Garrett that "he blamed Costello directly for the mess we are now in ." According to Garrett's report, Sean T.O'Kelly added "Costello's political ineptitude was clearly seen in every phase leading up to the enactment of the Ireland Bill."(6)

(4) Ibid

(5) Irish Times. 28.5.1949

(6) NA 841D.00/6-3049

By the end of May 1949 the Coalition's campaign against the Ireland Bill was beginning to lose its impetus, stymied by the policy, as advised by Laithwaite, of deliberate indifference from the British government.

At the beginning of June, David Johnson, reported that there was a "marked falling in public excitement over partition and the United Kingdom Bill." He too reported that the unity on the Partition controversy was "beginning to break up".(7) The focus was on the criticism of the coalition with claims from the Opposition that the Government had misled the people with their optimistic references on Partition. On July 13, 1949, Sean MacBride, speaking in the Dail expressed his disappointment that the US government would not intervene on Partition. MacBride who previously seemed to have unrealistic expectations of the US special relationship with Ireland, was now claiming that in relation to the State Department's refusal to intervene on Partition, he was, " fully aware that that has always been the attitude of the State Department."(8)

(7) DEA 50021-40

(8)D.D. Vol 117. Col. 854. 13.7.1949

In order to put the case internationally, MacBride had hoped to establish his idea, first put to de Valera in 1945, of setting up an international news agency.(9) In June 1949, MacBride moved the second reading to establish an agency whose function was to counteract propaganda about Ireland.(10) Perhaps because of entrenched hostile vested interests from journalists, there were a large number of amendments, and the final stages were postponed until after the summer recess.(11) In effect, this postponement showed a lack of urgency and heralded the Coalition's first step down in the public relations battle against Partition.

Similarly, Costello was winding down his anti-partition demands to only demanding as a "first instalment", the return of counties Tyrone and Fermanagh.(12)

By August 1949, George Garrett reported that there was no responsible politician prepared to countenance any activity to do with Partition which might lead towards violence. Garrett believed the Coalition was recovering from the impact of the Ireland Act and were now co-operating with Britain on economic matters particularly relating to joint planning in the Sterling crisis.(13) That same month, Garrett reported that the Commonwealth Relations Office confirmed his own impression that Anglo-Irish relations were "remarkably calm" during the previous two months. Garrett attributed this to the fact that the furore over the UK Ireland Act had "died down".(14)

(9) D.D. Vol 117. Col. 844. 13.7.1949

(10) D.D. Vol 117. Col. 748. 13.7.1949

(11) DO 35 3940. Laithwaite to CRO Telegram no. 29. Supplement to OPDOM No. 9.18.7.1949

(12) Ibid

(13) NA 841D. 00/5-2249

(14) NA 741D. 00/8-1049

In August 1949, Sean MacBride attempted to raise the issue of partition internationally during a meeting of the Council of Europe. (15) While Sean MacBride is recorded as having "bewildered delegates" about the inequities of Partition at the new Council of Europe, (16) it should be stated that one Canadian diplomatic report recorded that, "In the Council of Europe the Irish delegates after getting partition out of their system, settled down and did effective work both in the assembly itself and in the various committees set up." (17)

At the end of August 1949, the government of Northern Ireland, possibly under pressure from the British government, revoked forty-one regulations that applied under the Special Powers Act. While the outlawing of the ownership and display of the Tricolour and the power to ban meetings and processions continued, the orders revoked applied to the power of arbitrary arrest, internment without trial, imposition of curfews, banning of newspapers and the closing of roads. This was regarded by the US Consul in Belfast as an important concession, especially with regard to the Republic's relations with Britain. (18)

(15) 841 D. 00(W) /8-1949

(16) Keatinge, P., quotes one such report in : A Place Among the Nations. p.113

(17) CDEA 50021-40 /10463-AB40/68/68/

(18) NA 841 E. 044/8-2949

George Garrett reported to the State Department that in October 1949 Eamon de Valera, Sean MacBride, William Norton, and Frank Aiken met in secret in Dublin's Mansion House under the auspices of the anti-partition committee. They agreed not to intervene in the British general election because they judged that their attempts in interfering in the February elections in Northern Ireland were counterproductive. (19)

The Irish News Agency, when eventually established at the end of 1949, was not used to promote the Partition issue. (20) In effect, the October 1949 meeting of the anti-partition campaign dealt the death knell to any further intervention against partition by the Irish government. George Garret judged that "such action was necessary in order to prevent unleashing violent elements". (21)

(19)NA 841 D.00/10-3149

(20)NASPO S 14544 File on establishment of the Irish News Agency.

(21)NA 841 D.00/10-3149



CH: XV1  
CONCLUSION

It should first be stated that prior consultation was an acknowledged standard of Anglo-Irish diplomatic and inter-departmental behaviour. For example, a comparatively minor infringement of this established protocol in September, 1947, brought forth a memorandum from the Department of External Affairs, reminding the Taoiseach that "a recent important instance of failure on the part of the British authorities to consult us before making announcements on matters of very direct interest to this country" arose in the case of certain statements made by Mr. Strachey British Minister of food, in regard to trade negotiations between Britain and Ireland."(1) The statement related to John Strachey disclosing that there would be trade talks with Eire in advance of an official joint announcement.

Similarly, a memorandum approved by the last Cabinet meeting of the outgoing Fianna Fail government on February 17 1948, contained proposals to establish an interdepartmental Anglo-Irish Standing Joint Committee on economic relations. Paragraph (b) of the terms of reference underlined the point that "It would be of the highest importance that in all matters, whether brought to the attention of the Committee or not, there should be complete co-operation between our own Departments in their dealings with British Departments and that each of our Departments should keep the other Irish departments concerned fully and continuously informed of such dealings." (2) More than any other Department, the Department of External Affairs expected to be responsible for the "announcement" would be expected to be already engaged in the spirit of that proposal.

(1) NASPO S. 14134

(2) NASPO S. 14222 memo and Extract of Cabinet Minutes 17.2.1948

"What is truth?" asked an editorial in the 'Irish Times', in May 1949.(3) The question related to the various versions given out about the timing of the Irish cabinet's decision in relation to John Costello's "announcement" in Canada. The editorial highlighted the fact that Fine Gael had fought the election, tacitly, on retaining the Commonwealth link and the Government had no mandate to repeal the External Relations Act, reinforcing the point by citing the fact that Clann-na-Poblachta had failed to obtain a mandate to repeal the Act. The editorial challenged Sean MacBride to answer the question, "On what date did the Irish government decide to repeal the External Relations Act?"(4)

The reason that the Irish government evaded answering that question honestly and in layman's language "lied" about the fact that there was no Cabinet decision may have been because the more vitriolic of Fine Gael's political opponents had stooped to the level of accusing John Costello of being drunk and of having made the "announcement" because he was offended by the "Roaring Meg" incident, at a dinner hosted by the Governor General. Unfortunately, once that muck was thrown it entered into popular and even intellectual folklore. It is understandable why it was feared that an admission that there was no Cabinet decision for the "announcement" might have given sustenance to this unfounded rumour. However, this personal attack on John Costello is unworthy of further comment especially since the thesis disproves the unfounded allegation and it is now best left in the murky political fields of the time.

(3) Irish Times 21.5.1949

(4) Ibid

The fact that Clann-na-Poblachta, the only party that sought a mandate to repeal the External Relations Act "and such other measures as are inconsistent with our status as an independent Republic," was refused (5) shows that this policy did not have overwhelming support. This is probably because the electorate would not have approved leaving the Commonwealth because of the risk of "material" losses. Electoral consideration may have been one of the reasons de Valera did not follow through his intention to refer to the Irish Free State as "Poblacht na h-Eireann" (Irish Republic) in the original draft of the External Relations Act, (6) or indeed in the 1937 Constitution. (7) Again, in February 1948, one of the reasons de Valera may have decided not to seek a mandate to implement his own Bill to repeal the External Relations Act, (8) was that he was aware that if he had moved to repeal the Act before the general election, political tactical considerations would probably have lead to the proposal being opposed by Fine Gael. ( Interestingly while the draft of de Valera's Bill referred to the Republic, no mention was made leaving the Commonwealth).

(5) D.D. Vol. 110. Col. 25 . 18.2.1948

(6) Draft dated 31.8. 1936: Franciscan, Archives, Private Papers of Eamon de Valera, Dun Mhuire, Killiney Co. Dublin. Reference. 1029/5

(7) Bunreacht na hEireann (Constitution of Ireland) 1937. Government Publications Sale Office, G.P.O. Arcade, Dublin, 1

(8) Cearbhall O'Dalaigh Papers. Department of Archive, U.C.D. Ref. P51/2A

In an attempt to ensure that all of the multifarious events, circumstances, accidents and personalities connected with the "announcement", are covered, this conclusion will attempt to draw the most relevant strands together to form a cohesive understanding of the "announcement".

Allowing for instant decisions in foreign affairs, was John Costello justified, or was he acting 'ultra vires' in making the "announcement"? Given that Eire was a constitutional democracy with established cabinet procedures, the answer must be no: While there was Cabinet willingness, to remove the machinery procedures and formalities attached to the External Relations Act this did not amount to a cabinet decision to repeal the Act. Further there is no evidence to suggest that there was even Cabinet discussion, consensus or approval for repealing the External Relations Act and even less, to leave the Commonwealth. In fact, there is evidence to the contrary. The Cabinet decision of August 10, 1948, to appoint a 'Charge d'Affaires' to Lisbon under the machinery of the External Relations Act indicates, that only three weeks before John Costello made the "announcement", there was an implied decision by the Irish cabinet to continue using the procedures of the External Relations Act.(9)

(9) NASPO CAB 2/10 G.C. 5/30.10.8.1948

The last Cabinet meeting which Costello attended before leaving for Canada in August, 1948, (10) approved his speech to the Canadian Bar Association. This included a reference to the External Relations Act being two-thirds defunct. (11) This indicates that the coalition Government were advancing marginally the direction of de Valera's original intention, contained in the first draft of his October 1947 Bill to repeal the External Relations Act. (1\*) The draft of this Bill proposed that while continuing "to avail of the machinery of section 3(1) it would nevertheless be desirable to repeal the rest of the Act." (12) De Valera's "softly softly" approach would have increased the importance of the President in international affairs while retaining the King in an even more nominal, if not defunct position, to "act on behalf of Saorstát Eireann...as and when advised by the Executive Council so to do." (13)

This thesis has tried to reconcile the resulting confusion of members of the coalition government over the "decision" by attributing it mainly to a lack of attention by Cabinet members to the distinction between ignoring the machinery and formalities attached to the Act as opposed to the Act itself.

(10)NASPO CAB 2/10 G.C. 5/32. 18.8.1948

(11)Personal Interview Sean MacBride.6.1.1948

(12)Ceardhall O'Dálaigh Papers.UCD Department of Archives, P51/2A

(13)See-Appendix 1, Section 3(1) Executive Authority(External Relations Act,1936

(1\*)Section 1 (1) of the draft of "The Presidential (International Powers and Functions) Bill, 1947." the 1947 Draft Bill stated that the appointment of diplomatic and consular representatives "shall be appointed on the authority of the Executive Council."

Thirty and even forty years later, some officials and members of that Government, such as Sean MacBride, (14) Frederick Boland, (15) John Costello (16) and former Parliamentary Secretary to the Minister for Local Government and to the Minister for Defence, Brendan Corish (17) believe that there was a decision by the Cabinet to repeal the External Relations Act, prior to the "announcement". John Costello maintained consistently that there had been a cabinet decision to repeal the External Relations Act prior to the "announcement". (18) However, in 1976 the former Minister of Health in that Government, Dr. Noel Browne, (several years in advance of Cabinet papers being made public) publicised the fact that there was in fact no such decision by the Cabinet. (19) Further that a "caucus" meeting of the cabinet was held in John Costello's home at which he offered his resignation. That meeting (but with reservations as to the attendance) has been verified, by former parliamentary secretary to John Costello and later Taoiseach, Liam Cosgrave. (20) Given the British government's reaction to John Costello's announcement as conveyed to him on October 7, 1948, it would have been more surprising had he not offered his resignation.

(14) Personal interview with Sean MacBride 6.1.1987

(15) Bruce Arnold interview with Frederick Boland

(16) John Costello's personal memorandum of the events surrounding his visit to Canada. Kindly loaned by Hector Legge.

(17) Telephone interview with Brendan Corish 20.12.1988

(18) Irish Times, 8.9.1967

(19) Browne, N. Against the Tide. P.130.

(20) Letter to author, January, 1989, from Liam Cosgrave, former Parliamentary Secretary to John Costello, leader of Fine Gael, 1965-77 and Taoiseach, 1973-77.

There is an impression from reading the original draft of John Costello's speech to the Canadian Bar Association that he expected to be the chief luminary at their prestigious anniversary meeting. While the Association honoured John Costello with an honorary degree, he was only one of seventeen dignitaries to be so honoured, two of whom received higher awards.

The Governor General of Canada, Lord Alexander, caused offence to John Costello by placing the ornament "Roaring Meg" on John Costello's dinner table. The Canadian High Commissioner in Dublin, William Turgeon, considered that Costello believed that the cannon was intended to recall to him the traditional challenge of the famous slogan: "The Walls of Derry and no surrender".(18) To put it diplomatically Lord Alexander, as the representative of the Crown in Canada, with its diverse religious and ethnic composition should have been more discreet about displaying such an ornament in his official residence. The placing of the cannon on John Costello's dining table may have been intended to cause offence. However, it was most probably Lord Alexander's renegation on an agreement to toast the President of Ireland at that dinner that caused most offence. The Irish government was, as a deliberate policy, arranging for toasts to be given to the President of Ireland.(1\*) The refusal to grant a separate toast was in effect a refusal to acknowledge Eire as "separate" from the Commonwealth. John Costello did indeed, as later related to Sean T.O'Kelly, feel "sore about things" at that point.(19)

(18) CDEA 50021-40/199(a) Report dated 7.12.1948

(19) PRO DO 35 3969

(1\*)PRO DO 35 3969. See- Article "Toasting an External Relation."  
Ian Mc Cabe. Irish Times 4.9.1986



The incident of "Roaring Meg" may have influenced John Costello emotionally with regard to the timing of the decision, but it is unlikely to have formed any significant part in his decision to allow the speculative headline in the 'Sunday Independent' to in effect lead the way. To rebut the misconception that John Costello made the "announcement" at that Saturday dinner party, it should be remembered that the "announcement" was made the following Tuesday in response to the 'Sunday Independent' headline (20) and after some deliberation .

Of more practical relevance to John Costello's decision to make the "announcement" was the issue of the strategic importance of Eire to the Western power's Cold War defence plans. Any consideration of Partition at that time by Britain, Canada and America was made against the background of the Berlin crisis. When the threat of global warfare receded, credit went to the united Western superpower structure. Partition had become cemented within that "successful" superpower structure. Indeed the territorial integrity of the borders of members of NATO was formally drafted into article four(1\*) of the NATO agreement.

In August 1948, Partition once again was a minor domestic problem that was not allowed to interfere with strategic global plans. As early as August 1948, the principal embryonic NATO powers (America, Canada and Britain) agreed that Eire's membership among others, was no longer in the category of desirable, ironically perhaps because the western powers believed that in the event of/

(20) Sunday Independent headline, " EXTERNAL RELATIONS ACT TO GO". 5.9.1948.

(1\*) See appendix V

of "a Soviet attack Ireland would ally themselves with the western powers".(21) Although this decision was enunciated formally by the British Representative at the Washington Security Talks two days after John Costello's announcement,(22)it was not as a consequence of that "announcement"; on the contrary, the "announcement" may have been provoked by John Costello's awareness that that was already the defence position. By September 1948 there was an obvious desire to exclude Eire from NATO but the participants went through the motions of extending an "invitation" to Eire perhaps fearful that an acceptance would cause more trouble than the resultant benefits were worth. Costello while in Canada must have realised that Eire had no bargaining position on Partition with regard to the formation of NATO and that the expected movement on Partition would not materialise. Next best was an attack on the symbolic External Relations Act. The realisation that the Act would have to be at least amended may have prompted John Costello to give it the 'coup de grace'. The "announcement" meant that Costello regained his dignity and he could return home with some "gain" on Partition to appease the Republican members of his government and outdo the impact of Eamon de Valera's anti-partition campaign. Despite Costello's explanation to Mackenzie King , that Fine Gael did not want Fianna Fail once again to reap the reward for initiating a constitutional change in Anglo-Irish relations,(23) it would be a calumny to the reputation of John Costello to see his "announcement" primarily in terms of his party's advancement.

(21)Lundstead, Geir: America Scandinavia and the Cold War. P.327

(22)Ibid

(23)CDEA 50021-40. 199 Memorandum of Conversation 9.9.1948

On the debacle of the "announcement" the last point should be conceded to John Costello. In a letter of explanation to his Tanaiste, William Norton, written while in Canada, John Costello claimed that the announcement may have been "good tactics".(24) In late August, 1948, Sir Norman Brook held individual discussions with Mackenzie King, Ben Chifley and Peter Fraser and obtained their agreement that if Eire repealed the External Relations Act she "must be regarded as having severed the last constitutional link connecting Eire with the Commonwealth, and Eire must be treated as having ceased to be a member of the Commonwealth".(25) Norman Brook incorporating that consensus into a draft statement of general principles for discussion at the October meeting of Commonwealth Prime Ministers. The proposed statement if approved, would have had the effect of warning Eire publicly of the consequences of repealing the Act. Such a declaration by the Commonwealth Prime Minister's Meeting would have been raised to the status of a doctrine which would have, arguably, placed Eire under the sword of Damocles, reducing her to the status of a "dependent". There is no doubt(26) that John Costello was aware that the British government would have made some such attempt to warn him off announcing the repeal of the External Relations Act. Following the 'fait accompli' "announcement", Brook explained the change in attitude of the Commonwealth Prime Ministers as being due to the fact that the suggestion was at the time only a hypothetical question.(27)

(24) Irish Times. 3.1.1979.

(25) PRO PREM 8/1464 CPM(48)5

(26) Telephone interview with Professor Patrick Lynch. 26.3.1990

(27) as 25

Given Sir Norman Brook's plan, and the Republican pressures from within his own government and from Fianna Fail, John Costello's 'fait accompli' "announcement" may well have been 'good tactics' for the state and, as a by-product, for his party. But whether it was a logical choice of policy with regard to long term Anglo-Irish relations and more importantly for Irish citizens in Eire and throughout the member states of the Commonwealth will continue to be debated.

The treatment of India and Eire after they became Republics is indicative of the real, as opposed to the semantic relationship. In order to retain India and encourage Ceylon to remain within the Commonwealth, the unofficial criteria for "membership" of the Commonwealth was changed to that of recognition of the British Monarch's place in the Commonwealth as opposed to allegiance. (This was part of de Valera's Document no 2). (28) That sufficed to allow India to remain in the Commonwealth. A factor in that decision may have been India's strategic importance, especially to Australia (29) and the resultant example to Ceylon and Asiatic and African peoples. Perhaps of practical importance was that India showed a willingness to co-operate in evolving a new form of membership that prevented the dilution the unity of the Commonwealth into a two tier membership, divided by those who were or were not accepted into Commonwealth "family prayer" meetings on defence.

(28) Mitchell A. & O Snodaigh, P. (Eds.) Irish Political Documents 1916-1949

(29) Lord Altrincham: Foreign Affairs .Vol 27 No 4. July 1949. "India against the tide of Communism from the Far East."

Eire would not even give a limited attribution to the Crown because according to John Costello in 1948 quoting Professor Wheare "it was difficult for those who regarded the Crown as the badge of servitude to accept it as the badge of freedom".(30) More tellingly Costello criticised the expectation of loyalty to Crown "when fidelity to the Catholic faith, the faith of the vast majority of our Irish people, was throughout the years regarded as dis-affection and disloyalty to the British Crown".(31) It is probable that before arriving in Canada in August 1948, Costello hoped that the External Relations Act would be allowed to become defunct and Eire could become, like Burma, a Republic "associated" with the Commonwealth. That would have been a compromise that while diluting the connection with the Crown might have assuaged his coalition partners in Clann-na-Poblachta and retained the loyalty of Unionists in Fine Gael. Indeed, after making the announcement there is no evidence to suggest that Costello wanted to break the existing status quo 'vis-a-vis' Eire's relationship with Commonwealth members. That came later. Australia, New Zealand, and to a lesser extent Canada wanted Eire to remain in the Commonwealth apparently on her own terms while Prime Minister Attlee only wanted some minimal "dues" for membership. There is the impression that that surmountable gap was widened; for example, by such conservative forces as/

(30) D.D.Vol.113 Col. 358 24.11.1948

(31) D.D. Vol. 113 Col. 359-60 24.11.1948

as Norman Brook who advised the British government that, if the mere token of recognition of the Crown's position in the Commonwealth sufficed as the criteria for membership, then that would dilute the bond of Commonwealth membership.(32) Attlee over-simplified Costello's position when he stated, "Had he had the patience to wait he might have done as India did later. The result would have been more satisfactory than the rather illogical relationship between Britain and Eire which exists today."(33)

It is difficult to establish the feelings, as opposed to the official policy, of the post-war British Labour Party Government towards Ireland. A visit to the underground War Cabinet rooms in London allows one to empathise with the members of the Cabinet working there at that time towards neutral Eire. For example, a wall map prominently displayed in a control room was a constant reminder of Eire's neutrality. Ernest Bevin, when signing the Anglo-French Treaty in 1947, evokes the atmosphere in a speech he

(32) PRO Cab 134/118. CR(48)5. p.33. para 7

(33) Attlee.C.R. As it Happened. p.319 .see -Commonwealth Information pamphlet of address given by the Commonwealth Secretary General, Shridath S.Ramphal to the Irish Association's "Living Together", at Belfast City Hall. 9.6.1988.

made about the retreat from Dunkirk : "I remember the vivid night when Mr Churchill met all his Ministers, when the Chiefs of the Staff described to us the events in Belgium and Northern France, and when we were told that if we got 10 per cent of our troops back we should be fortunate. We knew it was no use arguing. The meeting broke up. Every Minister went back to his post to do his job."(34) Perhaps it is fair to state that members of the British government carried forward feelings of vexation over what has been referred to unfairly as "Ireland's uncompromising and sanctimonious neutrality,"(35) and as a result were grateful to Northern Ireland for her bases.

There is an impression that the Irish government failed to appreciate the vulnerability of Labour to criticism from the Conservative opposition about Britain's decline as a world power and the "disintegration" of the Empire; In a similar vein, the coalition failed to exploit the traditional sympathy on Partition that then existed in the British Labour Movement.(1\*)

(34) Speech quoted in NA 741. 5111/3-2147 CS/A

(35)Quoted in, Guelke, A. International legitimacy, self determination and Northern Ireland. Review of International Studies Vol 11 Number 11. January 1985

(1\*)In December 1980 , former Secretary of State for Commonwealth Relations, Philip Noel Baker forwarded fellow Nobel Peace Prize winner, Sean MacBride, a copy of a letter which he had forwarded to the Manchester Guardian for publication: "First, the Hunger-Strikers , with extraordinary courage and resolution are prepared to sacrifice their lives for a cause which they, and many others, believe to be just.

Second, the cause, the re-union of Ireland, must, in the long run, triumph. I lived through the events of the First World War and the following years, and my Father was a member of Parliament. I think very few of those who agreed to the arrangements for Ulster regarded those arrangements as more than a temporary expedient to end the conflict then going on. They would have scouted the idea that the arrangements could last for 60 years. (36)

(36) Copy of this letter, December, 1980 , in Private papers of Philip Noel-Baker, Churchill College Archives, Cambridge.

The role of the media in publicising the "announcement" is worthy of examination. When Costello was informed about the 'Sunday Independent' headline he refused to comment publicly on it. He delayed for two days before making his announcement that the External Relations Act would be repealed. However, once John Costello made the "announcement" in Ottawa, the newspapers in Ireland copper-fastened the effect of his announcement. Headlined nationally, it was impossible for the Irish Government to rescind the announcement or alternatively to "ditch" Costello as leader of the government. The part the newspapers played in publicising John Costello's announcement is very important. A question that still remains unanswered is whether the newspapers were briefed in advance to expect an "announcement" or some major policy statement on Partition. For example, Costello had made broad hints in the Dail in July 1948 about an expected movement on Partition. It should be noted that Sean MacBride was a former journalist and adept at using the media for public relations purposes.

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(37) Interview with Professor Patrick Lynch. 20.12.1988



Of the two main parties Fine Gael was seen by the British government as the party most suited to achieve evolutionary rather than revolutionary constitutional change.(38) That was the reason the British government could have understood more easily if Eamon de Valera (had he won the 1948 election) had carried out his threat to repeal the External Relations Act, and possibly even leave the Commonwealth. But they were neither expecting, nor prepared for such action from the leader of the Fine Gael party. Least of all did they expect a surprise public announcement of such an intention .Certainly the "announcement" was a public affront to Britain and the "choice" of a dominion,(1\*) as the place to make it, added to the probability of a retributive response from Britain. This disappointment may have been one of the reasons for the harshness of the British government's response. By contrast the Commonwealth Relations Office eventually accepted the repeal as regularising the previously anomalous situation.

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(38) See Harkness, D. Northern Ireland since 1920.

(1\*) I am grateful to Prof.Ronan Fanning for this point.

By April 1949 Neil Pritchard was asking the Commonwealth Relations Office for advice on Eire's participation on Commonwealth committees, in particular on the Sterling Area Statistical Committee and the Commonwealth Agricultural Bureau.(39) The official line was that the republic would have to resign from all Commonwealth Committees.(40) Attlee stated that with regard to the Republic's membership of Commonwealth committees "it was clear that Eire could not continue to receive any of these facilities once she had ceased to be a member of the Commonwealth; and there would be advantage in making this clear in a public statement."(41) The reality was that soon after Eire left the Commonwealth an informal committee meeting chaired by Sir Norman Brook agreed "that we should have to work out how Eire should be brought back into the ambit of the sterling area committee, possibly with status of an observer."(42) Report entitled "Eire's membership of Commonwealth organisations and attendance at Commonwealth Conferences."

A similar situation as existed before was evolving . In general, the position was that the Commonwealth Relations Office wanted to be able to state in public that the Republic of Ireland was no longer a "member" of any Commonwealth committee, while facilitating those departments that wanted the Republic to continue to be in close touch with their committees "as an 'observer' or some such title".(43) Similarly, officials from Irish government departments made it known that they were also "anxious not to cut adrift" and by October 1949, relations had/

(40)Ibid

(41)Ibid

(42)Ibid

(43)Ibid

had evolved so that there was no objection to the Republic of Ireland continuing an association with the Commonwealth Agricultural Bureau " provided that the term 'member' or even "associate member' is avoided." based on this "diluted "membership John Dulanty was bold enough to object paying the subscription of a " full member".(44)

The Foreign Office was not so generous in interpreting the spirit of the arrangement arrived at in Paris. A Foreign Office circular to its diplomats abroad advised, "the policy of treating the Irish Republic and Irish republican citizens as non-foreign applies only in this limited sphere, and there is nothing to suggest that representatives of the republic abroad should enjoy any special position vis-a-vis their colleagues representing the UK."(45) This note formally instructed Britain's diplomats to exclude Irish envoys from the established system of Commonwealth consultations.

With the benefit of hindsight Sean MacBride's diplomatic discussions with the State Department, especially in overestimating the strategic importance of Ireland to the United states, seem naively over- optimistic. Further examples are that in May, 1949, following discussions with Ernest Bevin, he was apparently disappointed that the "guarantee" clause in the Ireland Bill,1949, was not withdrawn,(46) and again in March 1949, when he suggested that the Canadians might pressurise the/

(44)Ibid

(45)PRO FO 371. 91156 See Commonwealth Gatherings:Irish Participation & circular No 064. 16.6.1949 which "embodies the ruling of the Prime Minister about our relations with the Irish Republic."

(46) IDEA 305/14/36

the government of Northern Ireland to end Partition. He assumed the Canadians would be sympathetic to a solution for Partition based on the model of Ontario-Quebec relationship in Canada.(47) This naivety is evident with regard to his failure to fully understand the sympathy of members of the Canadian government and such influential WASPish figures as John Hickerson, the director of European affairs at the State Department for the strategic contribution made by Northern Ireland. In relation to Canada, Sean MacBride and John Costello appear to have been caught in a 1926 time warp when the Governor General of Canada, Lord Byng refused Mackenzie King his request to dissolve Parliament.(48)(1\*) Despite a tolerant attitude from Canada for Eire's policy of neutrality during the war, Irish Ministers, MacBride and Costello do not appear to have appreciated that Canada had become a staunch member of the Commonwealth. Indeed in Canada, the Commonwealth had become a focus for English speaking Canadians and externally against being overpowered culturally by her neighbour.(49)

(47) NA 841D.00 /3-449

(48)Governor General to Dominions Secretary L.Amery and reply. June 30.1926./July 1.1926.Documents On Canadian External Relations.Vol 4. 126-1930pp.10-11. Mac Greagor Dawson, R.: The Government of Canada . 4th ed.revised by Ward,N., University of Toronto press. 1967 p.154.see also Cole, Dacre.P. Our Forgotten Anniversary. Foreign Policy Review.

(49)Canada's Secretary of External Affairs, Lester Pearson, in 1953 stated "Outwardly and inwardly Canada has come of age , but she has no desire to leave the Commonwealth." Mac Greagor Dawson R,: The Government of Canada 4th ed.revised by Ward,N., University of Toronto press. 1967 pp.55-56.

(1\*) I am indebted to Dacre Cole, Dept. of External Affairs,Ottawa, for bringing this point to my attention.

This may have been due to poor advice from his staff or possibly that he distrusted Eire's Minister in Washington, Sean Nunan, (50) as he did de Valera's 'eminence grise', the Secretary of the Government, Maurice Moynihan, whom he excluded from Cabinet meetings. (51) One Canadian diplomat reported in 1951, " MacBride runs the department off his own bat, with scant attention to his permanent officials at headquarters." (52)

A glimpse of the sharpness of the factors that may influence how decisions may be arrived at in the US Department of State is evidenced in an oral interview recorded with William John Kenny, Chief of the European Co-operation Assistance Mission in England, 1949-50, (the administrative arm of the Marshall Plan): "I can remember one time there was a chap, who I didn't particularly care for, who was our Ambassador to Ireland, and he sent an impassioned plea to Mr. Truman to get more money for Ireland. Well, Ireland didn't have a relatively high rate of priority on our program at that time as you can imagine, but Mr. Truman sent it over to me to answer. I wrote the Ambassador that the needs of Ireland had been seriously considered and I regretted that there were not available funds to increase the grant already made." (53)

(50) Sean Nunan acted as de Valera's secretary on his eighteen month fund raising trip to US in 1919-20 Bowman, J. De Valera and the Ulster Question 1917-1973. P.192. See also; Cronin, S. The Mc Garrity Papers, pp.73-93.

(51) Fanning, Ronan. Independent Ireland. p.167

(52) CDEA File 50021-40 REF 484-B/33/82 L.D. 22.2.1951

(53) HTL, Oral interview with William John Kenny by R.D. Mc Kinzie and T.A. Wilson. 29.11.1971

The grant of Marshall Aid was made in the form of a loan through the European Recovery Program to Eire. In June 1948, Eire became the first country to sign a bilateral agreement with the US under the provision of the Foreign Assistance Act, (54) under which 86 million dollars was made available to Ireland. (55)

Upon the formal ending of Marshall Aid in 1952 the Republic of Ireland refused to sign a mutual defence agreement and accordingly were informed by the US embassy that, "it has no alternative under this legislation but to suspend the assistance being received by the Irish Government under the Economic Co-operation Agreement." (56)

Despite this sanction it is worth noting that in April, 1953, in reply to a request from the US Embassy in Dublin, to place U.S. Air Force officers at Shannon Airport during a navigation test for a "system of defence", the Irish Cabinet agreed that, "in view of the importance to this country of maintaining trans-Atlantic air communications during a future emergency, the Minister feels that it would not be in our interest to refuse this American request, any more than it would be in our interest to decline to permit routing officers to operate here as they did, in fact, during the last emergency." (57)

(54) FRUS Vol 111 ,1948 p.459

(55) Carrigan, J.E. (Chief, special ECA Mission in Ireland, 'Marshall Aid In Ireland' . Christus Rex, 1949.P.118

(56) NASPO S 1523A

(57) NASPO S 10325. Extract Cabinet meeting 14.4.1953. G.C. 6.172

Arguably, the repeal of the External Relations Act was welcomed by the government of Northern Ireland as an "own goal". Additionally, when Fine Gael headed the coalition, the fears held by the political Unionist moderates in the North were reduced. Those fears returned with a renewed strength when the External Relations Act was repealed. As a result, any friendliness among the moderates who in turn might influence and contain extremists in the North was lost. George Garrett, believed that those same moderates wanted to ensure that their trust might not be misplaced again. Garrett thought that Partition was reinforced largely through the mishandling of Anglo-Irish relations by the Coalition government. (58)

The Ireland Act gave the government of Northern Ireland the opportunity to ensure that constitutional relations between the partitioned island were "tidied up". This operation included Basil Brooke's important requirement for a guarantee that Lough Foyle and Carlingford Lough would be available for access to British naval shipping in time of war. By giving a "guarantee" that Partition would not end, at least not without (as opposed to with) the consent of the Parliament of Northern Ireland, the British government assuaged the Unionists in Northern Ireland and doubly secured Northern Ireland as a loyal defence base. Forty years later, the part that the British Chiefs of Staff contributed to ensuring that their defence needs would be protected, especially in Lough Foyle, needs further clarification.

(58) NA 841D.00/3-449 March 4, 1949

The reaction of the Irish government to the UK Ireland Act, 1949, was rhetorical rather than practical. The emotions of the populace were deliberately raised by the politicians, as for example during the mass meeting in Dublin's O'Connell St. This was futile, other than as a jingoistic attempt to prove further the strength of their Republicanism. In retrospect this street demonstration could be interpreted as a wailing ritual that recognised the Irish government's powerlessness to unhinge Partition. Criticism was dampened when it was seen perhaps too late that their criticism of the British government was supporting that element in Ireland that would see the political protests as sanctioning violence means to end Partition.

There may have been more practical reasons for the Irish government's dropping their anti-partition campaign. Professor Nicholas Mansergh views the anti-partition campaign as being a barrier to Irish unity while worsening community relations in the North. (59)

(59) Boyce G. From War to Neutrality ,Anglo -Irish Relations 1921-50 ,British Journal of International Studies Vol 5 Number 1. April 1979, quotes Mansergh, N. Survey of British Commonwealth Affairs PP. 286-7



It is interesting that the Commonwealth Prime Ministers were so supportive of Eire when gathered together, yet raised no opposition either before or after to the guarantee clause in the "Ireland Act". This may have been because they were subject to individual diplomatic pressure, or that their Cabinets, removed from the affray, were less supportive. This seems to have been the case with New Zealand and especially Canada. In Australia there is an impression of mounting criticism from the conservative opposition toward the Australian Labour government's overall foreign policy towards the Commonwealth and America.

Lord Rugby feared that the Irish government, particularly if de Valera were in power, would use the Council of Europe as an international forum for the anti-partition campaign. Laithwaite in contrast questioned whether there was any "solid interest" in the Republic in the Council of Europe's work (60) or whether it was being used "as a sounding board for Partition". Laithwaite quoted Sean MacBride as stating at a Council meeting in August 1949 "that there were two major international questions in Western Europe - Germany and Partition".(61) In contrast, the chief of the E.C.A. mission in Dublin publicly acclaimed Sean MacBride for the "leading part" he played in the O.E.E.C. , while David Johnson noted that in recommending the statute of the Council of Europe MacBride expressed the hope that it would "evolve rapidly into a more closely knit body that will lead us to a federated States of Europe."(62)

(60)FO 371. 76372 report 1950.p.4.para 15,"International Affairs"

(61)Ibid

(62)CDEA 50021- 40 10463-AB-40/68/68

Such international forums were comparatively new and included wide "ex-colonial" membership and the British government were anxious to avoid the raising of the issue of Partition, especially at the U.N. where the principle of the equality of sovereign states was then being taken seriously. Indeed, respect for the future sovereignty of the Republic of Ireland may have been the paradoxical reason why Britain did not want to return her loyal bases in Northern Ireland. Without those bases, Britain may have feared the prospect of having to breach UN principles and invade Ireland to use bases to protect herself against an enemy.

George Garrett, in May 1949, reported that Irish leaders believed that the possibility of international criticism from Strasburg may have been the reason that the British government persuaded Stormont to repeal some 41 of the "anti-democratic" regulations under the Special Powers Act which operated in Northern Ireland. (63) The result of such pressure about the abuse of civil liberties, provided for in the Special Powers Act in Northern Ireland, had been made prominent by the British Council for Civil Liberties over twenty years earlier. (64) There is no evidence to suggest that the Irish government were aware that rescinding the anti-partition campaign would result in, or even more unlikely, produce a 'quid pro quo' agreement to amend the Special Powers Act. Certainly, the amendments to the Special Powers Act removed some nationalist grievances and was a step/

(63) NA 841D.00(W)/9-249

(64) Report of Commission appointed by National Council for Civil Liberties Pamphlet Pub..1936 In N.L.I. Reference IR 320 p.116

step towards improving community relations for the people of Northern Ireland. Perhaps, some of the nationalist s'grievances could have been removed with the legal assistance of the Irish government a couple of decades before.

Putting the "announcement" in perspective from the point of view of domestic politics it should be noted that the difficulties over the "Mother and Child" health scheme was the real reason why the coalition eventually fell.(65) The scheme was part of the 1947 Health Act amended and approved by the coalition government. This scheme provided health education, gynaecological treatment and pre-natal instruction to all mothers and children under the age of sixteen without having to undergo the means test. The medical profession and the Catholic Hierarchy combined in interpreting the absence of a means test as removing responsibility from parents. In reality the Irish Medical Association feared a drop in income for its members while the Hierarchy believed that the scheme might be interpreted to include provision for birth control and abortion. The government deferred to the Hierarchy and withdrew their support for the scheme. Dr. Noel Browne objected and was asked by his Party leader, Sean MacBride, to resign. To the chagrin of the "establishment" he released the Church/State correspondence on the issues. The correspondence showed the powerful position claimed by and allowed to the Catholic Hierarchy in the "Republic". Authority was claimed in all areas which might have a moral or social aspect.

(65) See, Whyte, J.: Church and State in Modern Ireland.

The coalition were forced to call a general election in June 1951. The technical reason was because Dr. Noel Browne and hitherto fellow party members, Noel Hartnet and Peadar Cowan declared their intention to vote with the opposition party Fianna Fail in order to defeat the government on a vote to approve the estimates for the Department of Agriculture. (66)

The June 1951 general election was fought on internal issues, predominantly that of personalities. Except for John Costello's attempts to justify leaving the Commonwealth, foreign affairs, including defence, were not seen as major electoral issues. The election resulted in Fianna Fail increasing its strength by just one vote. On June 13, 1951, Eamon de Valera was elected Taoiseach by 69 votes to Fine Gael's 40. Perhaps not too surprisingly, Fine Gael emerged united, strengthening its size with an increase of NINE Dail seats. Despite Fianna Fail's slim majority, the British government were advised by the Commonwealth Liaison Office of the Foreign Office to look forward to a more stable and robust government. (67)

Clann-na-Poblachta was devastated as a party, receiving only two seats. A total of seventeen independents were elected. Noel Browne as an independent supported Fianna Fail as did another former member of Clann-na-Poblachta, Peadar Cowan.

Even with this small majority, the Fianna Fail government functioned stably .

(66) Lysaght, D.R. The Republic of Ireland, Mercier Press 1970. p.145  
(67) PRO FO 371 91167. Commonwealth Liaison Dept. file B 61/24. Parliamentary Situation in Republic of Ireland." Telegram From Laithwaite No.71. 20.6.1951

Interestingly, the very same numerical result could have been attained by the threatened small change of allegiance of four votes within the coalition and it was that very result which, despite the continual dissension within the coalition, also united it. Indeed, Anglo-Irish diplomatic relations aside, tribute must be paid to John Costello's ability in keeping such diverse interests together.

As a final ironic twist, not totally unexpected given the debacle as a whole, it is interesting to consider that, according to the journal, 'Irish Jurist', the Republic of Ireland Act did not necessarily mean the state was a Republic. Indeed, it would need a constitutional amendment to make it so, since it was clearly defined as an independent sovereign state. Additionally, the Journal stated pedantically that the Republic of Ireland Act did not mean that the Republic "left the Commonwealth since there was no formal machinery to define membership." (68)

Vinton Chapin, thought the repeal of the External Relations Act was a "probable miscalculation and misinterpretation of public interest in general, and of the influence of the Dominions and in the United States of those of Irish blood in particular, opportunism on the international stage has misfired." (69)

(68) The Irish Jurist, 1948 Vol XIV. pp.54-59

(69) NA 841 D.00/3-449

Finally, in September 1950, the Canadian High Commissioner in Dublin, William Turgeon, in a personal and confidential letter to Lester Pearson, included the following passage:

"Mr. MacBride's message to you is to the following effect: he says that, in his opinion, the leading statesmen of the United States and of Britain are not measuring up to the tasks devolving upon them in the present world crisis. This he concludes, is due in the first place to a real lack of ability in those concerned, and moreover to the fact that they are restricted in their freedom of broad-visioned action by the immediate material ambitions of their respective countries and by the political interests of the administrations for which they speak and act. So, he thinks, mistakes are being made now which will affect mankind adversely for a long period." (70)

Sean MacBride's criticisms could equally be projected onto the Coalition government's handling of the aftermath of John Costello's "announcement".

(70) CDEA 50021-40 L.D. 14.9.1950 on paper headed ROYAL COMMISSION ON TRANSPORTATION.

## APPENDICES

APPENDIX 1

THE EXECUTIVE AUTHORITY (EXTERNAL RELATIONS) ACT, 1936.

ACT OF THE OIREACHTAS OF SAORSTAT EIREANN TO MAKE PROVISION FOR THE EXERCISE OF EXECUTIVE AUTHORITY IN RELATION TO CERTAIN MATTERS IN THE DOMAIN OF EXTERNAL RELATIONS (No. 58 OF 1936) 12.12.1936

Be it enacted by the Oireachtas of Saorstát Eireann as follows:-

1. (1) The diplomatic representatives of Saorstát Eireann in other countries shall be appointed on the authority of the Executive Council.

(11) The consular representatives of Saorstát Eireann in other countries shall be appointed by or on the authority of the Executive Council.

2. Every international agreement concluded on behalf of Saorstát Eireann shall be concluded by or on the authority of the Executive Council.

3. (1) It is hereby declared and enacted that, so long as Saorstát Eireann is associated with the following nations, that is to say, Australia, Canada, Great Britain, New Zealand, and South Africa, and so long as the King recognised by those nations as the symbol of their co-operation continues to act on behalf of each of those nations (on the advice of the several Governments thereof) for the purposes of the appointment of diplomatic and consular representatives and the conclusion of international agreements, the King so recognised may, and is hereby authorised to, act on behalf of Saorstát Eireann for the like purposes as and when advised by the Executive Council so to do.



APPENDIX 11 . (The draft of Eamon de Valera's repeal Bill)

The Presidential (International Powers and Functions) Act, 1948.

An Act to make provision in accordance with the Constitution for the exercise by the President of Ireland of powers and functions in the domain of international affairs and for other matters connected with the matter aforesaid.

Be it enacted by the Oireachtas as follows:-

1. The President shall represent the Republic in its external relations, receive and accredit ambassadors, accord recognition to foreign consuls, appoint the consular representatives of the Republic abroad, and conclude state treaties.

2. The Executive Authority (external Relations) Act, 1936 (No. 58 of 1936) is hereby repealed.

3. This Act may be cited as the Presidential (International Powers and Functions) Act, 1948.

Reference Cearbhall O' Dalaigh Private Papers UCD archives.

Reference P51/2A (6)

APPENDIX 111

TEXT OF REPUBLIC OF IRELAND ACT, 1948.

Be it enacted by the Oireachtas as follows;-

1. The Executive Authority (External Relations) Act, 1936 (No. 58 of 1936), is hereby repealed.
2. It is hereby declared that the description of the State shall be the Republic of Ireland.
3. The President , on the authority and on the advice of the Government may exercise the executive power or any executive function of the State in or in connection with its external relations.
4. This Act shall come into operation on such day as the Government may by order appoint.

APPENDIX 1V.

EXTRACTS FROM THE TEXT OF IRELAND ACT, 1949.

1.- (1) It is hereby recognised and declared that the part of Ireland heretofore known as Eire ceased, as from the eighteenth day of April, nineteen hundred and forty nine, to be part of His Majesty's dominions.

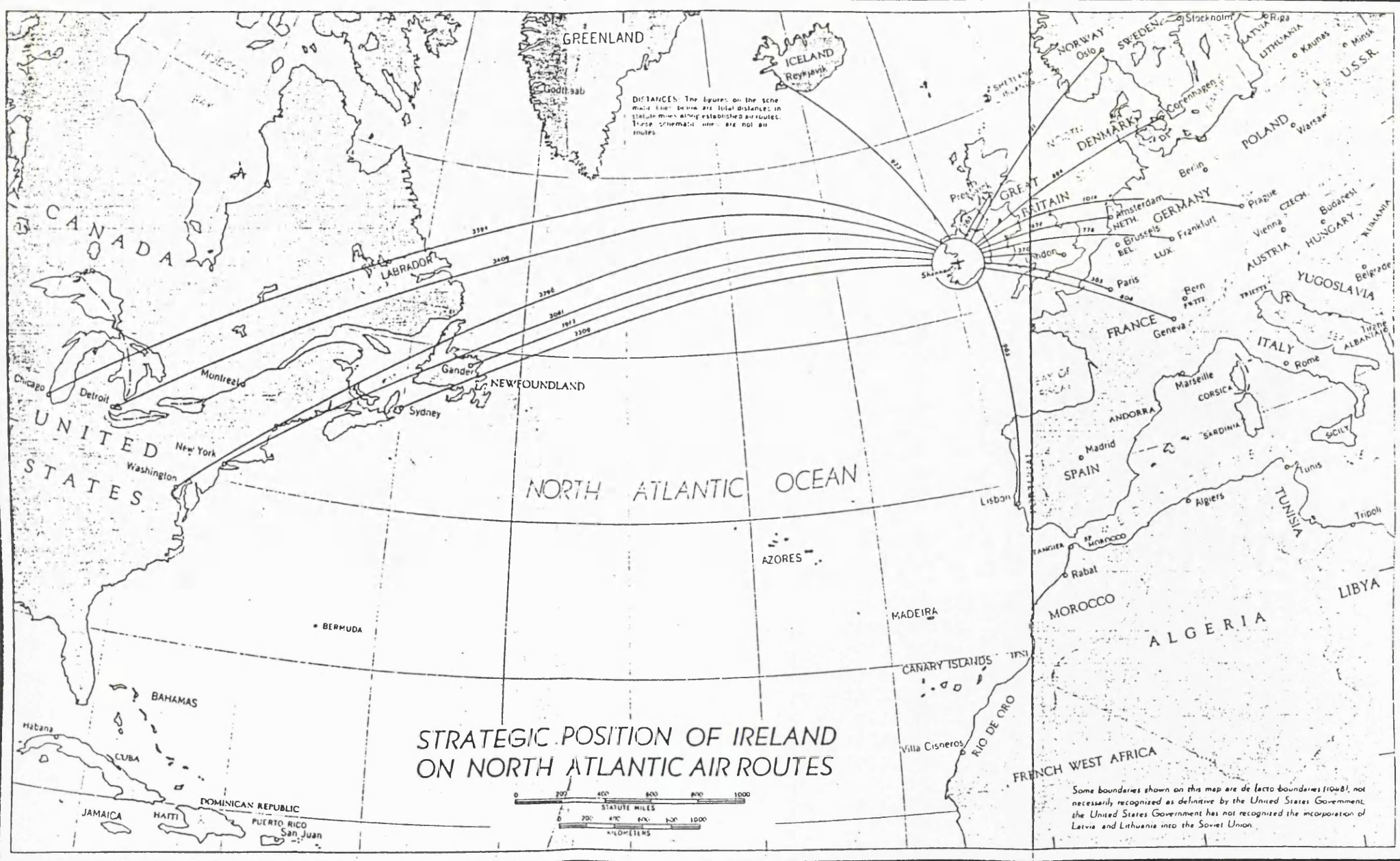
(2) It is hereby declared that Northern Ireland remains part of His Majesty's dominions and of the United Kingdom and it is hereby affirmed that in no event will Northern Ireland or any part thereof cease to be part of His Majesty's dominions and of the United Kingdom without the consent of the Parliament of Northern Ireland.

APPENDIX V  
Articles 2 and 4 of the NORTH ATLANTIC TREATY  
TREATY.) Reference .H.M.S.O. Cmd. 7657.

Article 2: The Parties will contribute toward the further development of peaceful and friendly international relations by strengthening their free institutions, by bringing about a better understanding of the principles upon which these institutions are founded , and by promoting conditions of stability and well-being. They will seek to eliminate conflict in their international economic policies and will encourage economic collaboration between any or all of them.

Article 4: The Parties will consult together whenever, in the opinion of any of them, the territorial integrity, political independence or security of any of the Parties is threatened.

Appendix V1 Strategic Position of Ireland on North Atlantic Air  
Routes . reference HTL Box 256. PSF File SR 48.



Some boundaries shown on this map are de facto boundaries (1948), not necessarily recognized as definitive by the United States Government; the United States Government has not recognized the incorporation of Latvia and Lithuania into the Soviet Union.

APPENDIX V11

The U.S. legation in Dublin forwarded personal profiles on prominent individuals in Ireland to the Division of Biographic Information of the State Department .(1) These included Government officials, political leaders, delegates to international conferences , business men, union leaders, judges, lawyers diplomatic and consul staff in Ireland and the Irish diplomatic and consular representatives being sent abroad. A separate division listed the members of the armed forces. The Division of Biographic Information of the State Department supplemented continuously the details on political views, influence, ability, character an personality education, views of America, of fellow Irishmen, names of close associates.

More specifically, details of " selected decision makers" were collected and forwarded to the division of biographic information so "that due weight may be given to the influence, ideas, and personalities of these persons when our foreign policy is being formed." This information was often a determining factor in forming foreign policy with regard to the countries concerned. In 1948 special interest was paid to the individuals attending conferences on ECA programmes. It was believed that such individuals could have "extraordinary influence on the course of events; and the department wants to have in the biographic files as much as possible about these persons."

(1)NRC RG 84. 10

In Ireland, the staff of the US legation was too small to assign an officer to full time reporting and all officers of the legation were asked to contributor information on persons whom they knew or might get to know if information were required.

The unit issued work sheets expecting a constant flow of information which was eventually collated. Information could also be forwarded in the form of "memoranda, fragmentary notes or even verbally".

From that source the following details of some members of the Irish Coalition Cabinet emerged .Some notable personalities were excluded such as Patrick McGilligan.

John Costello Prime Minister aged 57 a barrister since 1914.He was Attorney General in the Government 1925-32 Cumman- Na-Gael. He was not involved in what the US legation refers to as "the Anglo-Irish war" . This was one of the reasons why he was considered to be a suitable rather than the best candidate for the Premiership. Elected to the Dail in 1933. Considered to be reducing income by accepting Premiership.

William Norton aged 47, main occupation was as secretary of the Post Office Workers Union. A deputy from 1926-7 and since 1932. Was regarded as a conservative labour leader who adhered to the role of his peers in the British Labour movement.



Sean Mac Bride leader of Clann- na - Poblachta aged 43 qualified as a barrister in 1937 and became a senior counsel in 1944. Coincidentally in that year (1937) he decided that the new constitution of the 26 counties provided the stepping stones to achieve independence for the nation .He resigned his recently appointed position as chief of staff of the IRA, an organisation he had been a member of since his youth . He was seen by diplomats a gifted man expected to lead the state in the future . James Dillon , Independent; Minister for Agriculture. Age 46. Qualified as a barrister; deputy since 1932. Formerly a deputy leader of Fine Gael, but resigned over statement advocating neutrality at the Ard Fheis during World War 11 .

Noel C. Browne, Clann na Poblachta, Minister of health, aged 32 physician specialist on Tuberculosis

Daniel Morrissey, age 46, Minister for Industry and Commerce. An auctioneer . Deputy since 1923 as a member of the Labour Party from which he resigned in 1923.

James Everett, Leader of the National labour party, reputed to have remarked to a reporter that he had taken the post of Minister of Posts and Telegraphs because there was not much work involved. The Third secretary of the American legation reported that "he is an opportunist union politician and is not expected to carry much weight in the new Government."

General Richard J. Mulcahy, aged 64 , Minister of Education. Formerly Minister of Defence during the Civil War 1922-24. Leader of Fine Gael party.

General Sean Mac Eoin , Minister for Justice, aged 52, Fine Gael, a director of several companies . A hero of the fight against England and was active in the pro-treatite side during the civil war.

Dr. Thomas F. O'Higgins, Minister for Defence, Fine Gael. Dr. O'Higgins was brother of Kevin O'Higgins who was murdered in 1927. Chief medical officer of the Irish Army 1924-29

P. Blowick ,Minister of Lands and Fisheries. A farmer from the West of Ireland. Entered Dail in 1943 .

Appendix V111      Cover of dinner menu given by the Prime Minister of Canada in honour of John Costello at the Country Club , Ottawa on Tuesday September 7, containing the toast "The President of Ireland."



DINNER

GIVEN BY

THE PRIME MINISTER OF CANADA

IN HONOUR OF

THE HONOURABLE JOHN A. COSTELLO, S.C., T.D.  
PRIME MINISTER OF IRELAND

AT

THE COUNTRY CLUB, OTTAWA

TUESDAY, THE 7TH SEPTEMBER  
NINETEEN HUNDRED AND FORTY-EIGHT

TOASTS

—

THE KING

THE PRESIDENT OF IRELAND

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