

650

# SAORSTÁT EIREANN

FREE STATE GOVERNMENT AND THE BRITISH GOVERNMENT RELATING TO THE OATH AND LAND PURCHASE

## TEXT OF NOTES EXCHANGED

BETWEEN

THE IRISH FREE STATE GOVERNMENT

AND

THE BRITISH GOVERNMENT

RELATING TO

THE OATH AND LAND PURCHASE ANNUITIES



29 MAY 1935

PRESENTED TO BOTH HOUSES OF THE OIREACHTAS BY THE MINISTER FOR EXTERNAL AFFAIRS, April, 1932.

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OF NOTES EXCHANGED

THE IRISH FREE STATE  
GOVERNMENT

THE BRITISH GOVERNMENT

THE OATH AND PURCHASE  
ANNUITY

Houses of the Oireachtas

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**TEXT OF NOTES EXCHANGED BETWEEN THE IRISH  
FREE STATE GOVERNMENT AND THE BRITISH  
GOVERNMENT RELATING TO THE OATH AND  
LAND PURCHASE ANNUITIES.**

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**I.**

**The High Commissioner's Verbal Note of his Statement to the  
British Secretary of State for Dominion Affairs on 22nd  
March, 1932.**

Office of the High Commissioner  
for the Irish Free State,  
33-37 Regent Street,  
London, S.W.1.  
22nd March, 1932.

DEAR MR. THOMAS,

I write this note immediately after our conversation this afternoon to confirm the oral statement I then made in reply to your enquiry as to the intentions of the Irish Free State Government.

I said that I was in a position to answer your enquiry so far as the question of the Oath was concerned. The position of my Government on that question I stated, was that the Oath is not mandatory in the Treaty. We have an absolute right to modify our Constitution as the people desire. The Constitution is the people's Constitution, and anything affecting it appertains to our internal sovereignty and is purely a domestic matter. But besides these legal and constitutional considerations there is another and paramount consideration more than sufficient in itself to make the Government's decision final and irrevocable. The people have declared their will without ambiguity. The abolition of the Oath was the principal and the dominating issue before the electors. It has been the cause of all the strife and dissension in the Irish Free State since the signing of the Treaty. The people, and not merely those who supported the policy of the present Government, regard it as an intolerable burden, a relic of mediævalism, a test imposed from outside under threat of immediate and terrible war. The new Government have no desire whatever to be on unfriendly relations with Great Britain. Quite the contrary. But the British Government must realise that real peace in Ireland is impossible so long as the full and free representation of the people in their Parliament is rendered impossible by a test of this character. The Minister and his Government have the most sincere desire that relations between these two countries should be allowed to develop on normal lines. And normal relations between our two

islands should naturally be close and friendly. But there can be no normal relations between us so long as one side insists on imposing on the other a conscience test which has no parallel in treaty relationships between States. And even if the British Government hold the view that the Oath is mandatory in the Treaty, they must recognise that such a test and imposition on the conscience of the people is completely out of place in a political agreement between two countries.

In view of the fact that my Government regard the question of the Oath as being a purely domestic matter I said that I had not therefore been instructed by the Minister for External Affairs to make any communication, but that in my capacity as High Commissioner I had been informed by the Minister of his proposals, and was, therefore, in a position to answer your enquiry.

As I did not this afternoon deliver any document to you, it was, I think you will agree, not correct to say that you had received a document from me. What I gave was the information contained in this letter, which, for purpose of accuracy, I read from a typed note which I had for my own guidance.

Yours faithfully,

J. W. DULANTY,  
High Commissioner.

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## II.

### **Despatch from the British Secretary of State for Dominion Affairs to the Minister for External Affairs.**

Downing Street,  
23rd March, 1932.

(No. 69.)

SIR,

I have the honour to inform you that His Majesty's Government in the United Kingdom have had under consideration the information which the High Commissioner for the Irish Free State yesterday communicated to me as to the intentions of the Irish Free State Government in regard to the Oath prescribed under Article 17 of the Irish Free State Constitution.

2. In brief, the High Commissioner stated that the views of the Irish Free State Government are that the Oath is not mandatory in the Treaty of 1921 and that the Irish Free State has an absolute right to modify its Constitution in this respect.

3. In the opinion of His Majesty's Government in the United Kingdom it is manifest that the Oath is an integral part of the Treaty made ten years ago between the two countries and hitherto honourably observed on both sides. They wish to make their standpoint on this question clear to His Majesty's Government in the Irish Free State beyond a possibility of doubt.

4. His Majesty's Government in the United Kingdom further understand from a statement made by you yesterday in Dublin, though they have received no official communication on the point, that the Irish Free State Government propose to retain the land annuities accruing under the Irish Lands Acts, 1891-1909. These annuities are payments which the tenants of purchased estates make in order to repay the sums lent to them to buy their land. In the view of His Majesty's Government in the United Kingdom the Irish Free State Government are bound by the most formal and explicit undertaking to continue to pay the land annuities to the National Debt Commissioners, and the failure to do so would be a manifest violation of an engagement which is binding in law and in honour on the Irish Free State, whatever administration may be in power, in exactly the same way as the Treaty itself is binding on both countries.

I have the honour to be,

Sir,

Your most obedient  
humble servant,

J. H. THOMAS.

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### III.

#### **Despatch from the Minister for External Affairs to the British Secretary of State for Dominion Affairs.**

Department of External Affairs,

Irish Free State,

5th April, 1932.

(No. 59.)

SIR,

The Government of the Irish Free State has had under consideration the views of the British Government communicated to me in your despatch No. 69 of 23rd March.

2. Whether the Oath was or was not "an integral part of the Treaty made ten years ago" is not now the issue. The real issue is that the Oath is an intolerable burden to the people of this State and that they have declared in the most formal manner that they desire its instant removal.

3. The suggestion in your despatch that the Government of the Irish Free State contemplates acting dishonourably cannot in justice be let pass. The pages of the history of the relations between Great Britain and Ireland are indeed stained by many breaches of faith, but I must remind you the guilty party has not been Ireland.

4. In justice also I must point out that the observance of the agreement of 1921 has involved no parity of sacrifice as between Great Britain and Ireland. This agreement gave effect to what was the will of the British Government. It was on the other hand directly opposed to the will of the Irish people and was submitted to by them only under the threat of immediate and terrible war. Since it was signed it has cost Britain nothing. In fact Britain's prestige throughout the world has been considerably enhanced by the belief, carefully fostered, that Ireland had at last been set free and the national aspirations of her people fully satisfied. For Ireland, however, this agreement has meant the consummation of the outrage of Partition, and the alienation of the most sacred part of our national territory with all the cultural and material loss that this unnatural separation entails.

British maintenance parties are still in occupation in some of our principal ports, even in the area of the Free State. Our coastal defence is still retained in British hands. Britain claims the right in times of war or strained relations with a foreign power to make demands upon Ireland which if granted will make our right to neutrality a mockery.

This agreement divided the people of Ireland into two hostile camps, those who deemed it a duty to resist, facing the consequences, and those who deemed it prudent in the national interest temporarily to submit, the latter being placed in the no less cruel position of having apparently to hold Ireland for England with "an economy of English lives," to quote from the late Lord Birkenhead's famous exposition of the policy in the House of Lords.

To England this agreement gave peace and added prestige. In Ireland it raised brother's hand against brother, gave us ten years of blood and tears and besmirched the name of Ireland wherever a foul propaganda has been able to misrepresent us.

During these ten years, moreover, there has been extracted from us, though in part only as a consequence of the agreement, a financial tribute which, relatively to population, puts a greater

burden on the people of the Irish Free State than the burden of the war reparation payments on the people of Germany, and, relatively to taxable capacity, a burden ten times as heavy as the burden on the people of Britain of their debt payments to the United States of America.

5. But, as I have already indicated, we are dealing at the moment with the much narrower issue, whether an oath is or is not to be imposed on members elected to sit in the Parliament of the Free State. The Government of the Irish Free State must maintain that this is a matter of purely domestic concern. The elimination of the Oath, and the removal of the Articles of the Constitution necessary for that purpose, is a measure required for the peace, order, and good government of the State. The competence of the legislature of the Irish Free State to pass such a measure is not open to question and has been expressly recognised by the British legislature itself. It is the intention of my Government, therefore, to introduce immediately on the re-assembly of Parliament a Bill for the removal of Article 17 of the Constitution, and for such consequential changes as may be required to make the removal effective.

6. With regard to the Land Annuities: my Government will be obliged if you will state what is the "formal and explicit undertaking to continue to pay the Land Annuities to the National Debt Commissioners," to which you make reference in your despatch. The Government of the Irish Free State is not aware of any such undertaking, but the British Government can rest assured that any just and lawful claims of Great Britain, or of any creditor of the Irish Free State, will be scrupulously honoured by its Government.

7. In conclusion, may I express my regret that in the statement conveying to the House of Commons the information given you by our High Commissioner that part of his message was omitted which assured your Government of the desire of the Government of the Irish Free State that the relations between the peoples of our respective countries should be friendly. These friendly relations cannot be established on pretence, but they can be established on the solid foundation of mutual respect and common interest, and they would long ago have been thus established had the forces that tend to bring us together not been interfered with by the attempts of one country to dominate the other.

I have the honour to be,

Sir,

Faithfully yours,

EAMON DE VALERA.

*Minister for External Affairs.*

## IV.

**Despatch from the British Secretary of State for Dominion Affairs to the Minister for External Affairs.**

Downing Street,  
9th April, 1932.

(No. 87.)

SIR,

His Majesty's Government in the United Kingdom have received your despatch No. 59 of the 5th April, and have read its terms with deep regret.

2. The views expressed in your despatch go far beyond the issues originally raised, which were—the relationship to the Treaty Settlement of 1921 of the provisions of Article 17 of the Irish Free State Constitution dealing with the Parliamentary Oath of Allegiance, and the question of the Land Annuities. The terms of the despatch make it clear that these points are but a part of a far wider issue, and that what is actually raised is nothing less than a repudiation of the Settlement of 1921 as a whole.

3. His Majesty's Government in the United Kingdom could certainly not accept the sweeping statement in paragraph 3 of your despatch, but they feel that nothing is to be gained by reviving the unhappy memories of a bygone past. His Majesty's Government in the United Kingdom entered into the 1921 Settlement with the single desire that it should end the long period of bitterness between the two countries and it is their belief that the Settlement has brought a measure of peace and contentment which could not have been reached by any other means. Further, as the direct result of that Settlement, the Irish Free State has participated in and contributed to the notable constitutional developments of the last few years, whereby the position of the Dominions as equal Members with the United Kingdom of the British Commonwealth of Nations under the Crown, has been defined and made clear to the world.

4. It is true that the 1921 Settlement did not result in the establishment of a united Ireland, but the Treaty itself made the necessary provision for the union at that time of the two parts of Ireland if both had then been ready to accept it. As to the future, His Majesty's Government in the United Kingdom feel it sufficient to state that, in their opinion, there can be no conceivable hope for the establishment of a united Ireland except on the basis that its allegiance to the Crown and its membership of the British Commonwealth will continue unimpaired.



5. As regards the expressed determination of His Majesty's Government in the Irish Free State to introduce a Bill immediately for the removal of Article 17 of the Constitution, and for such consequential changes as may be required to make the removal effective, His Majesty's Government in the United Kingdom adhere absolutely to the view stated in my despatch No. 69 of 23rd March that the Oath is an integral part of the Treaty Settlement. His Majesty's Government in the United Kingdom have publicly indicated on many occasions in the most formal and emphatic manner, that they stand absolutely by the Treaty Settlement and to this position they most firmly adhere.

6. With regard to the Land Annuities, His Majesty's Government in the United Kingdom are at a loss to understand the statement that your Government are not aware of any such "formal and explicit undertaking" as was referred to in my despatch of the 23rd March.

In the first place, His Majesty's Government in the United Kingdom consider that, in order to avoid misunderstanding, it is desirable to place on record the origin and nature of the Irish Land Annuities. These are not payments from Government to Government. In principle the main transaction is not one between the two Governments at all, but between the Irish tenant-purchaser and the holder of the Land Stock which is, of course, held both in Great Britain and in the Irish Free State. The position is that the annuities are collected by the Irish Free State Government from the tenant-purchasers and are distributed through the National Debt Commissioners to the holders of the Stock. The Irish Land Annuities are therefore in effect payments on the instalment system by the Irish tenant for the land which he has bought, which pass through the hands both of the Irish Free State Finance Ministry and of the National Debt Commissioners, and are ultimately received by the holder of Irish Land Stock.

7. Such is the nature of the Land Annuities. The formal and explicit undertakings referred to in my despatch of the 23rd March are as follows:

On the 12th February, 1923, a Financial Agreement was signed on behalf of the British Government and on behalf of the Government of the Irish Free State, which, *inter alia*, laid down the policy to be pursued in regard to completed and pending agreements for the purchase of land in the Irish Free State. The first two paragraphs of the Agreement read as follows:—

"1. The Free State Government undertake to pay at agreed intervals to the appropriate fund the full amount of the annuities accruing due from time to time, making themselves responsible for the actual collection from the tenant-purchaser.

"2. The security for such payments shall be primarily a Free State guarantee fund similar to that under existing

legislation, and, secondarily, the central fund of the Irish Free State."

This undertaking was confirmed in the "Heads of the Ultimate Financial Settlement between the British Government and the Government of the Irish Free State" which was signed on behalf of the British Government and on behalf of the Government of the Irish Free State, on the 19th March, 1926, and discussed in Dáil Eireann on the 8th December, 1926.

The first Head of this Settlement reads as follows:—

"The Government of the Irish Free State undertake to pay to the British Government at agreed intervals the full amount of the annuities accruing due from time to time under the Irish Land Acts, 1891-1909, without any deduction whatsoever whether on account of Income Tax or otherwise."

As stated in my despatch of 23rd March, His Majesty's Government in the United Kingdom regard undertakings of this character as binding in law and honour on the Irish Free State, whatever administration may be in power, in exactly the same way as the Treaty itself is binding on both countries.

8. I would state in conclusion that it is the sincere hope and desire of His Majesty's Government in the United Kingdom that friendly relations between the peoples of the United Kingdom and the Irish Free State should continue. But in their view those relations cannot but be impaired by any failure in the complete fulfilment of obligations deliberately undertaken.

I have the honour to be,

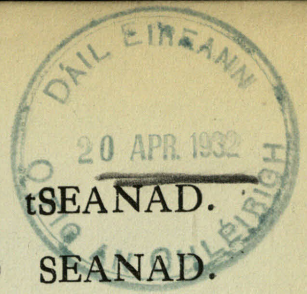
Sir,

Your most obedient

humble servant,

J. H. THOMAS.

PAIPEIRI ATA LE TIOLACA DON DAÍL AGUS DON tSEANAD.  
PAPERS TO BE PRESENTED TO THE DAÍL AND SEANAD.



1. An Roinn atá ag déanamh an tíolactha

Department making presentation ..

DEPARTMENT OF EXTERNAL AFFAIRS

650.

2. Teideal an Pháipéir atá le tíolaca ..

Title of Paper to be presented ..

Text of Notes exchanged between  
the Irish Free State Government  
and the British Government.....  
relating to the Oath and Land  
Purchase Annuities.

3. Más do réir Reachta atá an tíolaca á  
dhéanamh, luaidhtear Teideal agus  
Alt an Achta a údarúíonn an tíolaca..

If presented pursuant to Statute, state  
authority for presentation, giving Title  
and Section of Act .. ..

4. Más gá é bheith ar taisbéaint ar an  
mBord ar feadh tréimhse áirithe,  
luaidhtear:

If required to be on the Table for a  
specified period, state:

(1) An Tréimhse .. ..

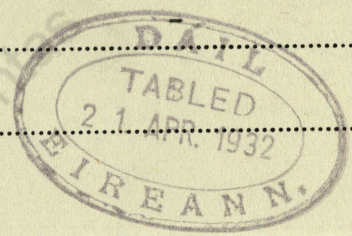
Period .. ..

(2) Ce'ca laetheanta den tsiosón í no  
laetheanta 'na mbeidh suidheanna  
ann .. ..

Whether days of session or sitting  
days .. ..

5. An gá tairisgint ag lorg aontuithe gach  
Tighe? .. ..

If motion of approval by each House  
necessary .. ..



The Clerk of the Dail,

Sighnithe  
Signed

Ceann na Roinne.  
Head of Department.  
20.4.32.