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Reference Code: 2004/21/628

Title: Memorandum, by Noel Whelan of the Department of the Public Service, of a meeting held on 18 December 1973 between Irish government officials and officials of the Secretary of State for Northern Ireland, discussing administrative aspects of transferring functions to a Council of Ireland.

Creation Date(s): 21 December, 1973

Level of description: Item

Extent and medium: 6 pages

Creator(s): Department of the Taoiseach

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ConfidentialMEMORANDUMAdministrative Aspects of Transferring Functions to a Council
of IrelandMeeting on 18th December 1973, between officials of the
Government of the Republic of Ireland and officials of the
Secretary of State for Northern Ireland.1 Attendance:Northern Ireland Officials:

Sir David Holden, Permanent Secretary,
Ministry of Finance and Head of the
Northern Ireland Civil Service.
(Head of Delegation)

Mr J A Young, Permanent Secretary,
Ministry of Agriculture,

Mr W E Bell, Permanent Secretary,
Ministry of Commerce,

Mr R H Kidd, Second Secretary,
Ministry of Finance,

Mr K P Bloomfield, Deputy Secretary,
Northern Ireland Office,

Mr K R Shimeld, Second Secretary,
Civil Service Management Division,
Ministry of Finance,

Mr J Lewin, Northern Ireland Office,

Mr J Smart, Ministry of Finance,

Mr R Workman, United Kingdom Treasury.

Republic of Ireland Officials:

Dr. Noel Whelan, Deputy Secretary,
Department of the Public Service,
(Head of Delegation)

Mr M Murphy, Assistant Secretary,
Department of Finance,

Mr T Ó Cofaigh, Deputy Assistant Secretary,
Department of Finance,

Mr C Whelan, Assistant Secretary,
Department of Foreign Affairs,

Mr P Gaffey, Principal,
Department of the Public Service,

Mr John Swift, Counsellor,
Department of Foreign Affairs,

2 Nature of Meeting: The meeting was a fact finding one relating to the administrative aspects of transferring functions, in the context of the "Agreed Communiqué" (Sunningdale), to a Council of Ireland. No commitment was entered into. The discussions were aimed at enabling the officials from the Republic to:-

- appreciate what the Northern officials specifically understood by the term "Executive Functions"; since this is a prerequisite to understanding the administrative complexities of transferring such functions to a Council of Ireland;
- understand the administrative complexities in Northern Ireland which are attached to the broad functions listed in the "Agreed Communiqué".

3 Understanding of the Term "Executive Functions" in relation to the proposed Council of Ireland:

The Northern officials saw "Executive Functions" in terms of 'executive action' and 'executive decision-making'

'Executive action' was construed as that which gave the proposed Council power to formulate policy, to take financial decisions which would be binding on both sides, and to take appropriate action to implement the policy and financial decisions. The Northern officials felt the functions of the Council could not extend this far.

'Executive decision-making' was construed as that which gave the proposed Council power to formulate and agree certain policy in a general way and on a higher and more all-embracing level than the existing machinery for consultation between Northern Ireland and the Republic. The Northern officials felt that this was the correct interpretation of "Executive Functions" in the context of the Sunningdale "Agreed Communiqué". They saw the proposed Council:-

- having its "agreed policies" implemented through the existing administrative institutions both in Northern Ireland and the Republic,
- having a small Secretariat (i.e. 10 to 20 persons) to service its activities.

Phrases such as the following were made by the Northern officials during the discussion on the precise meaning of 'Executive Functions':-

....."The Council of Ireland should influence decisions rather than 'lay down the law' on what should happen".

.... "We should not seek to institutionalise matters which would normally be settled by consultation below the level of Ministers".

Note: Notwithstanding the foregoing, during the discussions some references were made by the Northern officials to the possible feasibility of the Council of Ireland being a financing or spending body for certain clearly defined purposes and being a body which could co-ordinate or harmonise both executive action and implementation of programmes to the point of unifying them in the interests of efficiency and effectiveness.

4 Discussion on Administrative Aspects of transferring the Broad Functions classified in the "Agreed Communiqué":

The administrative and organisational arrangements (both in the Republic and in Northern Ireland) relating to the various functions listed in the "Agreed Communiqué" were discussed in detail. The detailed analysis of this discussion will be contained in the report on functions for the Council of Ireland which is being prepared for the Minister for the Public Service. The Northern Officials, in some cases, were unable to provide final details on the administrative situation because of the organisational and administrative changes which will occur following the establishment of the Northern Ireland Executive on 1 January 1974. The Northern officials tended to use the various administrative complexities, particularly the administrative links which existed between Northern Ireland and the United Kingdom and the dispersed administrative responsibility in Northern Ireland for certain functions, as an excuse for indicating that only minimal functions could be devolved to a Council of Ireland. It was apparent, however, that the Northern officials could not or would not sustain this stand in the face of a political will to devolve substantial functions to a Council of Ireland.

5 Significant Observations: The officials from the Republic have agreed that the following are significant observations resulting from the meeting:-

- (i) the Northern officials see the proposed Council of Ireland as having minimal powers and a very small Secretariat (i.e. 10 to 20 persons). This attitude is based, largely, on the facts that the existing administrations (both in the Republic and Northern Ireland) could implement whatever policies are agreed upon in general terms and, in any case, that the administrative complexities in Northern Ireland's case (see para. 4, above) would rule out a substantial devolution of functions to the Council. It is important to note that their stand, as expressed at the meeting, could and would be adjusted to provide substantial powers to a Council of Ireland if there was political agreement to such.
- (ii) The Northern officials see various broad financial considerations as being important constraints on the activities of a Council of Ireland. Five financial considerations were mentioned. These were:-
- (a) Northern Ireland's administration must link in with the U.K. Treasury's system of "Public Expenditure Survey" (P.E.S.C.) and "Programme Analysis Review" (P.A.R.). This limits local freedom of action and will not enable the Northern Ireland delegates on the Council of Ireland to agree to expenditure at Council level. For instance, broad expenditure cuts agreed by the United Kingdom for fiscal and other reasons would need to be implemented by the administration in Northern Ireland. This would limit, in practical terms, freedom of action at Council level.
(Note: This is obviously no more than normal 'finance control' which the delegates on Council from the Republic would also need to honour).
- (b) If the Council of Ireland generates expenditure on various projects the funds for this must be found from Northern Ireland's existing budget. Since this budget is already fully committed it will be difficult to find the extra funds.

- (c) The U.K. does not intend to devolve full taxing powers to Northern Ireland. Thus Northern Ireland's control over revenue as a basis for expenditure will be very weak.
- (d) The socio-economic policies (and resulting expenditure) pursued in Northern Ireland must be seen in the context of the 'other regions of the United Kingdom'. Thus Northern Ireland delegates on the Council of Ireland will not be free agents insofar as socio-economic policy and resulting expenditure is concerned.
- (e) The United Kingdom reserves the right to sanction expenditure in certain areas as follows;..... industry; employment, social services. This will curtail freedom of action by the Northern Ireland administration.
- (iii) The Northern Ireland officials need more time (say of the order of weeks rather than months) to examine what the administrative complexities of devolving functions to a Council of Ireland are likely to be. This is a fair requirement since they still do not know what the final shape of the administrative machine ought to be in order to service the Northern Ireland Executive or will be as a result of political direction.
- (iv) The Northern officials regard the organisational/ administrative and financial links with the United Kingdom as being very advantageous in terms of efficiency and effectiveness for implementing government programmes. They desire to maintain these and, as a result, freedom of action at Council level would be limited.
- (v) The Northern officials see the EEC as being a major administrative barrier to freedom of action at Council of Ireland level. They argue that the Northern Ireland policy towards the EEC will be that which is pursued by the U.K. Since EEC policies affect a major portion of state activity

there will be a need for continuous consultation between the Northern Ireland administration and that of the U.K. before agreement on many matters can be reached at Council of Ireland level.

5 General: The meeting ended on an affable note and the Northern Ireland officials indicated that further meetings might be useful. It was agreed that no commitment to such meetings could be made without specific agreement to such at political level.

Noel Whelan
Department of the Public Service

21 December 1973