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|| September 1975

Mr. D. Costello, S.C.
Attorney General

I enclose a copy of the latest draft prepared by Mr. D. Barrington, S.C., for the SDLP. Also enclosed - though it is of little more than academic interest at this stage - a copy of a brief report of my weekend contact with the SDLP.

Seán Donlon
Assistant Secretary

Outline of proposal for a voluntary coalition government
to restore peace and to carry through a programme of
economic and social reconstruction and development in
Northern Ireland

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Preamble

The Preamble should state the objectives which the Constitution Act is designed to achieve. These should include:-

- (a) the restoration of peace in Northern Ireland;
- (b) the establishment and maintenance of harmony and understanding between all sections of the community in Northern Ireland;
- (c) the carrying through of a programme of economic and social reconstruction in Northern Ireland;
- (d) respect for the human rights of every person in Northern Ireland;
- (e) the furtherance of the prosperity of the people of Northern Ireland;
- (f) the establishment and maintenance of good relations between the people of Northern Ireland and the people of the Republic of Ireland.

1. General Introductory Section

The Constitution provided for in this Act is a temporary one only designed to take Northern Ireland out of its present crisis, to restore peace, to carry through a programme of economic and social reconstruction and to lay the basis for future peace and harmony in Northern Ireland. It is contemplated that this Constitution should remain in force for a period of 12 years only and that prior to the expiration of this period there will be convened a Constitutional Convention to review the operation of this Constitution and to make recommendations, if it is thought fit, for the future government of Northern Ireland.

2. The President and the Council

(a) The Secretary of State shall appoint from among Her Majesty's subjects in Northern Ireland a person who by virtue of his standing in the community is, in the opinion of the Secretary of State, likely to command the widest possible respect in all sections of the community in Northern Ireland to hold the office of President of the Council and to carry out the duties conferred upon him by this Constitution and by law.

(b) There shall be an Advisory Council to advise the President in relation to the functions conferred upon him by law.

(c) The members of the Advisory Council shall be appointed by the President of the Council and shall be drawn from persons prominent in the religious, cultural, industrial, agricultural, business or commercial life of Northern Ireland or in the sphere of labour relations or social services.

3. The Assembly

(a) There shall be a Legislative Assembly for Northern Ireland with power to make laws for Northern Ireland. Its competence to make laws will, initially, be the same as that possessed by the former parliament for Northern Ireland under the Government of Ireland Act 1920 but its legislative powers may be increased or extended in the manner hereinafter provided for.

(b) The Assembly will be composed of members elected on the system of proportional representation used for the election of the present Convention and from the same constituencies. An independent Boundary Commission will be established to review from time to time, according to law, the boundaries of the constituencies.

(c) A register of political parties will be maintained by the Clerk of the Assembly. Political parties will be permitted to register provided their constitution proclaims support for the institutions established by the Constitution Act and rejection of the use of force as a means for achieving political ends and, provided the party fulfils qualifications established by law relating to its organisation as a political party and its ability to function throughout Northern Ireland.

(d) A general election for the Assembly will be held once every five years, or more often, as may be determined by the President of the Council.

(e) It shall be competent for the Assembly by a resolution supported by at least ____ of the total membership of the Assembly to petition Her Majesty's Government to extend the legislative powers of the Assembly. In the event of any such resolution, as aforesaid, having been passed it shall be competent, for Her Majesty, by Order in Council, to extend the legislative powers of the Assembly in the manner set out in the said resolution and petition.

The Executive

- A. The Executive power in Northern Ireland shall, for the purposes of this Act, be exercised through the Government of Northern Ireland.
- B. (i) The Government of Northern Ireland shall be responsible to the Assembly.
- (ii) The Government shall meet and act as a collective authority and shall be collectively responsible for the Departments of State administered by members of the Government.
- C. (i) The Head of Government shall be called the Prime Minister.
- (ii) The Prime Minister shall keep the President of the Council generally informed of all matters of domestic policy in Northern Ireland.
- D. The President of the Council shall appoint as Prime Minister the member of the Assembly who, in the opinion of the President of the Council, is most likely to command the widest support in the Assembly.
- E. The Prime Minister shall appoint the members of the Government from among the members of the Assembly.
- F. It shall be competent for a Prime Minister, or prospective Prime Minister, prior to the formation of a Government to enter into a written agreement with prospective Ministers or with leaders of political parties who are prepared to support his prospective government as to how the Executive power of the government could best be exercised for an agreed period of years in order to achieve some or all of the objectives set out in the Preamble to this Act and any such agreement, when made, shall be given to and kept by the President of the Council.
- G. (i) The Prime Minister may resign from office at any time by placing his resignation in the hands of the President of the Council.
- (ii) Any other member of the Government may resign from office by placing his resignation in the hands of the Prime Minister for submission to the President of the Council.

- (iii) The President of the Council shall accept the resignation of a member of the Government other than the Prime Minister, if so advised by the Prime Minister.
- H.
- (i) It shall be competent for any Minister during his period of office or for any ex-Minister as soon as may be after his resignation or dismissal from the Government to complain to the President of the Council that the affairs of the Government are being conducted in breach of the terms of a written agreement made at or before the formation of the Government or that the circumstances leading up and giving rise to his said resignation or dismissal amount to a breach on the part of the Prime Minister or of other member of the Government of the terms of any such agreement.
 - (ii) The President of the Council shall, immediately upon receiving any such complaint, proceed to investigate the complaint and, for that purpose, shall be entitled to send for any member of the Government, including the Prime Minister, and to call for such documentary or other evidence as he may consider necessary to investigate the said complaint.
- I.
- (i) If having investigated the said complaint, the President of the Council shall reach the conclusion that the said complaint is unfounded he shall so inform the complainant and the Prime Minister or other Ministers complained against, and shall, without prejudice to his right to use his good offices to resolve the dispute in question, not be obliged to take any further action in respect of the matter.
 - (ii) If, having investigated the said complaint, the President of the Council shall conclude that the said complaint is well-founded, and that the matters complained of amount to a breach or anticipated breach of the said agreement then, and in any such case, he shall use his good offices with the complainant, the Prime Minister and any other members of the Government involved in the dispute, to see how best the matter complained of can be resolved and the said agreement carried out in accordance with its terms. If, having used his good offices for the purpose aforesaid, the President of the Council of Ministers shall conclude that he is unable to have the breach of the said agreement rectified and the dispute resolved then and in any such case the President of the Council shall report the said matters to the Secretary of State and thereupon the provisions of this part of this Act shall cease to have effect, the Government shall be dissolved, and the Executive power in Northern Ireland shall, until further provision has been made by the Parliament of the United Kingdom, be exercised in Northern Ireland through the Secretary of State.

5. Human Rights

A. The European Convention on Human Rights shall be made part of the domestic law of Northern Ireland.

B. Part III of the Northern Ireland Constitution Act 1973 shall be continued in force.

6. Enactment and Promulgation of Laws

A. Every law adopted by the Assembly shall be transmitted to the President of the Council for submission to Her Majesty in Council subject to the following provisions hereof.

B. If after a law has been adopted by the Assembly a resolution is proposed for debate in the Assembly which expresses the opinion that the law will not promote the objectives set out in the Preamble either by reason of its provisions or its omission, and if such resolution receives at least _____ votes in the Assembly, the President of the Council will in lieu of submitting the law to Her Majesty in Council -

- (i) consult the Consultative Council
- (ii) make such amendments (if any) in the proposed law as after such consultation he considers necessary to promote the objectives set out in the Preamble
- (iii) thereafter submit the proposed law (with or without amendments) to Her Majesty in Council for promulgation in accordance with law.

7. Relations with Republic of Ireland

A. The Northern Ireland Government may:-

- (i) consult in any matter with any authority of the Republic of Ireland;
- (ii) enter into agreements or arrangements with any authority of the Republic of Ireland in respect of any matter on which the Assembly is, for the time being, competent to legislate.

B. It is hereby declared that provision may be made by the Assembly for giving effect to any agreement or arrangement made under sub-section A above, including provision for transferring to any authority designated by or constituted under the agreement or arrangement any function which would otherwise be exercisable by any authority in Northern Ireland or for transferring to an authority in Northern Ireland any functions which would otherwise be exercisable by any authority elsewhere.

C. It shall be competent for the Assembly by resolution which has the support of _____ members of the Assembly to petition Her Majesty to have transferred to any authority mentioned in subsection B above any function or functions relating to the affairs of Northern Ireland on which the Assembly is not for the time being competent to legislate and it shall be competent for Her Majesty's Government, on receipt of any such resolution and petition as aforesaid, by Order in Council, to transfer the said function or functions designated in the said resolution and petition to the said authority in accordance with the provisions of the said resolution or petition.

8. Referenda

A. The new institutions of government and the Constitution Act will be submitted to the people of Northern Ireland by means of a referendum. It will come into operation if approved by them.

B. The Government of the Republic of Ireland will be requested to submit to the people of Ireland in accordance with its Constitution and laws a proposal which will give the people of the Republic of Ireland an opportunity to express its support for and approval of the new institutions of government and the Constitution adopted by the Convention.