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Inaugural Public Lecture by Professor Tom Hadden

I attended the inaugural public lecture of Professor Tom Hadden of Queen's University Law Faculty by invitation of the University on the afternoon of 26 February. Hadden is a very liberal and open-minded Unionist with a strong interest in North/South relations. He has a string of publications on the Northern Ireland problem, most recently A Positive Proposal, co-authored with Kevin Boyle and published by Penguin before the Anglo-Irish Agreement. He continues to oppose the Agreement because, in his view, it is fundamentally unjust and dangerous: unjust because Unionists were ignored in its negotiation and because no reciprocal Northern involvement was conceded by the South; dangerous because this injustice is compounded by the ambiguity of the treatment of the constitutional position North and South in Article 1 and the vagueness of the "semi-formal" role given to Dublin in the Conference.

A note on the contents of the lecture has been prepared. The major point of interest for us is Hadden's argument for a Bill of Rights for Northern Ireland which would cover communal as well as individual rights, which might be guaranteed by both Governments, and which might be entrenched by means of a referendum. Hadden did not mention the fact that Article 5 of the Agreement provides for consideration of the advantages and disadvantages of a Bill of Rights for Northern Ireland, but he did suggest that it was a more appropriate subject for discussion in the Conference than other aspects of Northern Ireland's affairs. (In fact, Hadden would see a Bill of Rights together with internal constitutional reform in Northern

Ireland as a substitute for the Irish Government's broad involvement in Northern Ireland under the Agreement.)

Hadden's membership of SACHR

Hadden has now replaced Professor Des Greer as a member of the Standing Advisory Commission on Human Rights. Greer was a major influence on the Commission and a "go between" for the Northern Ireland Office. In the words of another member of the Queen's Law Faculty, he was an establishment figure who preferred an "on the one hand, on the other hand" approach to sensitive subjects. Hadden is likely to be more critical and straight forward. The relatively sharp tone of the statement released by the Chairman of SACHR (James O'Hara) on 19 February calling for three-judge courts, the introduction of codes of practice and a code of conduct for the RUC and criticising the limited nature of the amendments being made to the Emergency Provisions Act, already reflects Hadden's influence.

David Trimble

At a sherry reception which I attended briefly after the lecture, Hadden drew David Trimble into conversation with me and then left us alone for about five minutes. Trimble is a former William Craig supporter, now closely associated with the Ulster Clubs for whom he is acting as a clever but rather madcap constitutional theorist. (He has been advocating the view that Northern Ireland has a contractual relationship with the rest of the UK flowing from the Act of Union and that London unilaterally broke the contract when it signed the Anglo-Irish Agreement. He is the principal author of the latest Ulster Clubs proposal for an alternative Government, launched on 2 March.) I have met Trimble twice previously in Dublin and Oxford and he recalled the meetings. He was initially very reluctant to talk, although not personally hostile. He was about to walk away when a line of attack inspired by a reference in Hadden's lecture got the better of his reluctance. Hadden had argued that a Bill of Rights should

not cover individual rights only (as a Bill based on the European Convention on Human Rights would do) but should also cover the rights of minorities in certain specified areas such as education, culture, language, economic opportunity, citizenship, electoral rights, public order and emergency powers. Trimble asked why we in the South had not ratified the United Nations Civil and Political Rights Covenant and if our non-ratification had anything to do with Article 27 of the Convention which provides for minority rights? He suggested that in fact this was the "real, sinister" reason as he put it why we had not ratified. The Dublin Government had engaged in the deliberate destruction of the Unionist minority in the South in the 1920's and 1930's, driving them into poverty or out of the country. Southern politicians of the time had even denied that Unionists could exist in the South, demanding that they leave and describing the Unionists who remained as "ex-Unionists". I pointed to the number of Protestants who had participated at high level in public life in the South. Trimble argued that they were few and far between and none of them had been unionist. He contended that the Northern State had been willing to be more generous and that the lack of participation on the Nationalist side had been entirely due to their own refusal to accept the institutions of the State, unlike the minority in the South. There followed some conversation about the respective size and nature of the two minorities and about how relevant all this was, in any case, to the modern generation North or South. Trimble conceded that maybe we should dwell less on the past on both sides.

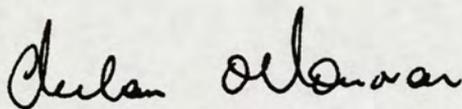
He ended the conversation, however, by returning to his point about the UN Covenant: Dublin had not ratified it because they still pursued a destructive policy towards the minority and still refused to recognise their identity or grant them the full range of civil rights. I said that the difficulties which lay in the way of ratification were of a much less dramatic kind such as the fact that we retained the death penalty for a very limited number of crimes and that we needed more explicit incitement to hatred legislation on our statute books. I said priority was being given to the work involved in ratification.

Privately, I feel that Trimble is on to a clever line of attack and I would not be surprised if he or one of the Unionist politicians whom he influences, says something publicly about this in the near future.

Colm Campbell

Hadden asked for help in a study which the Cobden research student at the University, Colm Campbell (a Dubliner) is now engaging in under Hadden's guidance. This concerns the question of extradition between North and South. Hadden asked both myself and David Chesterton of the NIO for assistance in providing information on the number of requests etc. We explained that because of the relative informality of the backing of warrants procedure there would be difficulty in providing statistics, but that we would see what could be done.

Campbell is completing a Ph.D thesis on a comparative study of emergency legislation North and South. He says he has been struck by how similar the special legislation of the 1920s was on both sides of the border and how much it followed earlier British legislation, with the exception that Stormont did not have an army and therefore had to involve the police to a greater extent than the South.



Declan O'Donovan,

3 March 1987.

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