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ROINN AN TAOISIGH

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Northern Ireland: SDLP Proposals for Strand I (Institutions)

Taoiseach,

Following the meeting last Monday, the SDLP have now submitted the attached Paper for views.

It suggests a new form of government for Northern Ireland, based on the European Community model and consisting of -

- (1) an Assembly of 85 members elected from 17 five-member constituencies by proportional representation, using the single transferable vote. This Assembly could give opinions on draft legislation, table questions and exercise certain defined budgetary powers;
- (2) a Commission of six members, three elected by STV from a three seat Northern Ireland constituency, one member each nominated by the British and Irish Governments; and one member from the EC Commission. The Commission is seen as a normal Cabinet, with each Commissioner heading one of the six Northern Ireland Departments. This would be the principal Executive Authority; and
- (3) a Council of Ministers of Ireland, consisting of Ministers of the Irish Government and Ministers of the Northern Ireland Executive with responsibility for security/legal issues, human, civil and communal rights, EC matters, all-Ireland economic development, social and cultural matters etc.

It would be desirable to have time to consider all the implications of these proposals but, at the pace of the current talks, we just have not got this.

The proposals raise questions like -

- (1) who would pass legislation?
- (2) how would elected Commissioners mix with appointed Commissioners?
- (3) where would financing and taxation powers lie? The British subsidy to Northern Ireland already costs well over £2bn.(sterling) a year; our extra security costs alone are estimated at about £200m. a year;

*E. H. Keenan
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14.5.92

ROINN AN TAOISIGH


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- (4) why go with the single transferable vote system? There are better systems even of proportional representation, which would suit the Northern Ireland situation (and our own)?
- (5) how would "Ministers" from the Assembly to head Departments mix with the Commission which has executive powers? (1?)
- (6) who appoints Judges? Who is the Judiciary responsible to?
- (7) who looks after external relations and defence?

However, I do not think it would be fruitful to go into this sort of analysis now. I agree with Mr. O hUiginn that we could signal to the SDLP that, with some reservations, we could go along with the general principle of their proposals and we would have no objection to their tabling the Paper.

On all past experience, it is more than likely that the parts of the proposal dealing with the involvement of this State in Northern Ireland will run into strong opposition from the Unionists - who may, in the end, just not accept any proposals of any sort, for this involvement. But without something on these lines - like a Council of Ireland, an Anglo-Irish Intergovernmental Conference, a Commission as in the SDLP proposals or something - the violence will not, as a matter of practical reality, stop and there will be no solution.


Dermot Nally,
8th May, 1992.

PSM

PSS

Mr. Nally

1. Messrs. Sean Farren and Denis Haughey will be submitting this redraft to SDLP party leaders, with a view to it being tabled as their paper on "Institutions" on Monday next.
2. Assuming the leaders approve it they will wish to be sure that it is acceptable to the Irish Government.
3. In broad outline it proposes an EC type structure with a separation of roles between an Assembly (on the European Parliament model), an Executive Commission of six persons (three elected, one each appointed by the British and Irish Governments and the EC) and an over-arching Council of Ireland type structure.
4. It is most unlikely the proposal will commend itself to the Unionists, who will have vehement views on an Irish presence in the Commission, or the British, who will see it as undermining or ignoring their sovereign role in Northern Ireland. Its main purpose is therefore likely to be tactical, i.e. to meet the requirement to table an "Institutions" paper but to signal the SDLP insistence that new arrangements must transcend the narrow confines of Northern Ireland.
5. The commitment it implies for the Government to nominate a member of the Commission and to operate some form of a Council of Ireland is probably more theoretical than real. There is some danger that it will cause deadlock or worse in Strand ^{One} ~~Two~~, but the SDLP are the best judge of tactics in this Strand (concerning which we have no direct role, or even, in theory, any direct information) and their invocation of the EC model is in presentational terms a defensible one.

6. Accordingly, I would suggest that we signal to them that we have no objection to them tabling their paper.



Seán O hUiginn

7 May, 1992

CONFIDENTIAL

SDLP Proposals for New Institutions

1. The British paper on "Common Principles" presented to participants on 5 May stated that any new political institutions should be such that both communities in Northern Ireland "should be able to identify with them". This is indeed a fundamental criterion. The SDLP paper "Agreeing the nature of the problem", tabled the same day, sets out in detail our views on this issue, since agreement on the nature and scope of the problem is the logical and indispensable starting point in the search for an agreed solution. In that paper we stated that "given the essential characteristics of Nationalist and Unionist identities, the new political structures which we are seeking to build must ensure parity of esteem for both. We welcome the common recognition that the conflict of identities here has its context in the wider relationships between the two islands. We believe that the European Community offers both an example and context in which we can fully respect diversity of identity while working together on our common problems and interests".

2. We agree furthermore that arrangements should be "stable and durable", "workable", "self-sustaining" and would strongly endorse the DUP position "that the agreed structure must not be seen as a victory or defeat to any party. It must not be the "1992 model" of a past failed system. It must be sufficiently innovative to ensure that it is not written-off before properly considered". Arrangements lacking these criteria are likely to end in political failure, to the detriment of the credibility of the political process as a whole. The real question is not however whether new arrangements should have these and other desirable key attributes, but rather how they can be attained.

3. Our goal must be to design new institutions which will be both democratic and at the same time appropriate for the particular circumstances of Northern Ireland, with its fundamental lack of political consensus, conflicting identities and aspirations and predictable political cleavage lines, derived on all sides in Northern Ireland from the establishment of the state itself. Our models should therefore be sought in areas which have sought to overcome problems of conflict and division. The most conspicuously successful and original attempt in recent history to overcome such problems has been the European Community. Its operations are moreover relevant and familiar, since both the British and Irish States are linked by common membership and a joint commitment with the other member States to an even closer union within its ambit. Northern Ireland's own experience in the European Community has been both positive and beneficial - something indeed due in no small measure to the quality of representation provided over the years by Northern Ireland's own MEPs.

4. The SDLP therefore believe that the community institutions offer an accessible and persuasive model of how new arrangements for Northern Ireland might be shaped, allowing of course for necessary adaptations for local circumstances.

5. The salient features of the European Community executive and legislative structures are

- (i) an elected assembly
- (ii) an executive commission
- (iii) a council.

As in the European model we feel that these arrangements should form one interlocking system in relation to Northern Ireland.

Proposals

The Assembly

6. We propose the establishment of a Parliamentary Assembly for Northern Ireland (the Northern Ireland Parliamentary Assembly). We feel the European Parliament offers a very useful model for such a body. We would suggest a factual paper setting out the structures, powers and functions of the European Parliament, might be prepared and tabled in order to permit the parties to consider this proposal in full. In general terms we would envisage that the Parliamentary Assembly might
- furnish an opinion, after scrutiny in Committee, of all draft legislation relevant to its mandate;
 - table questions, written or oral, to the Commission, with which it would have formal consultation procedures;
 - exercise defined powers in relation to the budget.
7. The size and method of election of the Assembly warrants further discussion among the parties. While the Assembly should be large enough to be fully representative, the SDLP would favour a membership of 85. The method of election should be the single transferable vote form of proportional representation. Membership of the Assembly would be on the basis of the existing 17 N.I. constituencies, with five Members elected for each constituency.

The Commission

8. We propose the establishment of an executive commission (the Northern Ireland Executive Commission). The SDLP accept that the procedures for appointing the European Commission cannot find an exact echo in the appointment

of the proposed Northern Ireland executive body. We would moreover argue that the Commission should reflect both the democratic preferences of the electorate in Northern Ireland and the key external relationships which it is necessary to cater for, since they are no less fundamental to agreeing internal relationships in Northern Ireland than they are to external aspects. For this reason, we propose arrangements as follows:

Membership

9. We propose a six Member Commission:
 - three Members directly elected by STV from a three seat NI constituency;
 - one Member to be nominated by the British Government;
 - one Member by the Irish Government;
 - one Member by the Commission of the European Community.

10. Chairmanship/Presidency of the Commission would be held by the elected Commissioner receiving the highest number of first preference votes.

Principal Function and Powers

11. The Commission might:
 - (a) function as a normal Cabinet, with each Commissioner heading one of the six traditional Departments of Government in NI, while exercising certain responsibilities collectively (e.g. security/legal issues, human, civil and communal rights, fiscal and budgetary matters, European and external relations etc.); or

- (b) exercise the same range of functions exclusively according to the principles of collective responsibility.
12. If (b) were the preferred option, it would be necessary to appoint Department Heads (again, say, 6) to oversee the day-to-day running of each Department. We suggest that these - to be called Directors General - be appointed by the directly elected Commissioners (two each) and be drawn from the Assembly.
 13. Again in relation to (b), we would suggest that the Commission would be greatly strengthened and more deeply rooted in the community if the three directly elected Commissioners were to take a direct role in economic development. Joint promotional, investment seeking and developmental activities could create a very strong bond of common purpose and endeavour, while simultaneously improving the image of Northern Ireland in the world at large. The three directly elected Commissioners could exercise a major part of their functions in this regard through the agency of a number of economic development boards, constituted on a regional basis.
 14. While we recognise the need to explore further the proposals contained in the above outline, we believe that because of their implications for the wider relationships to be considered in Strands 2 and 3, much of the detail in regard to these issues must await consideration in those Strands.
- The Council
15. In this regard - and in keeping with the European model - we will be proposing in Strand 2 a Council of Ministers of Ireland which would have responsibility for the

overall development of relationships between both parts of the island. We would envisage the membership of this Council consisting of Ministers of the Irish Government and Members of the Northern Ireland Executive Commission.

16. Among the major areas of responsibility which we envisage coming under the remit of such a Council would be security/legal issues, human, civil and communal rights, EC matters, All-Ireland economic development, social and cultural matters etc.

British Irish Relations

17. Similarly, in regard to wider British Irish relations, we will be proposing in Strand 3 appropriate means whereby these might be developed

Parliamentary Relationships

18. We should add that in regard to both North-South relationships and those between Ireland and Britain, we will be proposing a strong Parliamentary dimension to these links.
19. Full consideration of these matters must, of course await Strands 2 and 3, but we mention them here because of the important role envisaged in their development for the Northern Ireland Executive Commission and the Northern Ireland Parliamentary Assembly.

Meeting the Requirements

20. In a submission to the Talks last year entitled Requirements for New Structures, the SDLP indicated some of the essential characteristics which such new structures should contain in order to address effectively the particular needs of the situation. The requirements listed were as follows:

- (i) Parity of Esteem
- (ii) Equity of Treatment
- (iii) Capable of providing Peace and Stability
- (iv) Based on Democratic Process, founded on Consensus
- (v) Recognition of Totality of Relationships
- (vi) The European Community Dimension
- (vii) Innovative
- (vii) Confidence-building
- (viii) Durable and Capable of evolving

In addition, the paper Common principles listed on an indicative basis a number of principles which should underlie any new political institutions in Northern Ireland. We feel that these two sets of criteria, taken together, offer a good description of the attributes which we must seek to include in any new arrangements. The new institutions proposed above would we feel meet all the key requirements.

21. The democratic principle is built into the arrangement directly, both at the Assembly level and at the Commission level. The precise details of the democratic checks and balances - for example as between Assembly and Commission - are a matter for further discussion but, broadly speaking, the European precedents in this regard should be very serviceable. PR as the basis for elections would safeguard appropriate degrees of representation for all sections of society in Northern Ireland.
22. The proposal is specifically designed to ensure an appropriate and equitable role for both sides of the Community. It does not limit itself to eliminating discrimination and the negative effects of the

predictable political cleavage lines in Northern Ireland derived from the establishment of the State. It is of course vitally important to correct these things but our stated common aim of "achieving a new beginning in relationships" requires something more. The proposed structures will ensure, in a positive and proactive way, that parity of esteem, the legitimacy of both traditions, and equity of treatment are clearly seen to be the basic, founding principles of new arrangements, thereby ensuring for the first time structures with which both traditions in Northern Ireland are able to identify fully and actively.

23. They meet the criterion of being stable and durable and self-sustaining. They take full account of electoral change, but with in-built "stabilisers" in the appointed commissioners whose presence ensures that all the key relationships are managed within the system. The structures are automatically endowed with a direct relationship with EC institutions as with institutions in Great Britain and those developed under Strand Two. They provide an in-built incentive to consensus, which is so crucial in divided societies, both in the operation of the Commission and Assembly Committees.

24. Provisions for development is inherent in the system to cater for changing political realities and can be made more explicit if desired. The successful development of institutions in the European Community suggests that arrangements modelled on them will show the same capacity for growth and adaptation to the changing needs of the people served by them.

25. They provide all constitutional parties with a meaningful role at Assembly, Committee and legislative levels, subject of course to electoral support. They ensure this role for all parties without relying on, still less entrenching, inter-community divisions.

26. Parliamentary scrutiny is a conspicuous feature of the arrangement. In addition to the provisions inherent in the European model in this regard, the SDLP would be prepared to consider any further measures which might be agreed as desirable to meet local circumstances.

27. We particularly endorse the criterion, common to the SDLP, DUP and "Principles" papers, that the new structures should be innovative. The failure of previous political structures designed for Northern Ireland shows the need for new structures to provide against the prospect of any attempt to undermine them. The SDLP's proposals endeavour to meet this requirement by separating the executive body (i.e. the Commission) from the deliberative body (i.e. the Assembly). This separation of functions would be innovative as far as political traditions in these islands are concerned. However, such a separation is characteristic of many political cultures where it has been deemed necessary to avoid the concentration of deliberative/consultative/legislative powers within the same body from which the executive is drawn, thereby making the latter dependent on the former. France and the US are two pertinent examples where this separation has been adopted,, though in different ways. The history of political structures in Northern Ireland teaches that a similar separation would be more likely to succeed than structures which sought to emulate the past, irrespective of whatever new safeguards might be included.

28. We believe that the model sketched out above would, with the other arrangements which will be under consideration in the Second and Third strands, go a very considerable way towards achieving a system of administration which will help to break down and heal divisions and barriers between our peoples.