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Mr. Cribbin

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April 18.

ROINN AN TAOISIGH

Uimhir.....

TO : 1. Assistant Secretary to the Government
2. Secretary to the Government

FROM : Pat Nolan

PROPOSED FORUM FOR PEACE AND RECONCILIATION

Please see the very informative analysis and proposals put forward by Mr. Cribbin in the attached paper. Drawing on Mr. Cribbin's proposals and taking account of the two broad principles for negotiations set out in the Taoiseach's speech to Ogra Fianna Fail of 16th April, 1994 (copy attached) it is possible to draw up draft operating terms of reference for the Forum along the following lines:

1. The Forum should consider and make proposals as to how the principles of equality and parity of esteem between the two communities in Northern Ireland should be translated into reality;
2. The Forum should consider and make proposals for North-South structures and executive institutions which would facilitate working together on all areas of common interest while reflecting both the practical needs arising from European integration and recognition of the sense of identity of a substantial section of the Northern population;
3. The Forum should consider and make proposals on any elements in the democratic life and organisation of the Irish state which the Unionist parties in Northern Ireland can represent (to the Irish Government in the course of the Forum's proceedings) as a real and substantial threat to the Unionist way of life and ethos, or which can be represented by them as not being fully consistent with a modern democratic and pluralist society.

In terms of a mandate for the Forum these suggestions would set quite a concrete agenda. The aim is that the Forum in its deliberations should strike some kind of balance between the interests involved and that its conclusions might in turn serve as a broadly agreed agenda for progress.

ROINN AN TAOISIGH

Uimhir.....

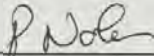
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There are, of course, many logistical, administrative and political issues raised by the Forum (see the attached papers already circulated by Mr. O'Uiginn and Mr. Kirwan), but it might be easier to tease these out once we establish the terms of reference.

The current position on the Forum is that in successive replies to PQs in the ^{Dail the taoiseach has indicated that the Forum} forum will only be set up consequent on a permanent cessation of violence - in other words that it will not be set up without Sinn Féin.

In addition, the Taoiseach has invited the opposition leaders to meet him and put their views about the forum.

Notwithstanding this it would be important to reach agreement on the broad terms of reference. In the event of any breakthrough with Sinn Féin it would be important to sustain the momentum and have at least an outline of the Forum in readiness.



18 April, 1994.

TO: Pat Nolan and Brian McCarthy
FROM: Gerry Cribbin

RE: Proposed Forum for Peace and Reconciliation

As requested some time ago, I have been giving some thought to some of the issues entailed in the establishment of the proposed Forum for Peace and Reconciliation. This submission focuses exclusively on the factors to be considered when formulating the Terms of Reference. In so doing, my starting perspective is that a simple repetition of the Forum's objective as set out in paragraph 11 of the Declaration would not be sufficiently tuned to realise the maximum potential from the Forum's proceedings as an input to an eventual political settlement. In formulating the Terms of Reference, the following factors, in my view, will need to be taken into account.

(1) Non-Response by Sinn Féin to the Declaration

I should state at the outset that, in the event of the Forum not fulfilling its objective in relation to Sinn Féin, it would be more useful to concentrate our efforts on a resumption of the three-strand talks rather than proceeding with the Forum without Sinn Féin participation. I therefore strongly support Seán O'hÚiginn's implied view in this regard as set out in his memo of 25 January. Furthermore, the prospect of participation by Sinn Féin in the proposed Forum would still constitute a powerful inducement to the Republican movement in terms of eventually delivering upon a cessation of violence. In advance of such a cessation, it would in my view be unwise to remove this large carrot which we could continue to dangle in front of Sinn Féin eyes.

It seems clear at this stage that the Forum's objective, if to be realised in terms of Sinn Féin, will be on a basis other than on that party's acceptance of the Declaration. In this respect, the realities now confronting us would appear to be:

- (a) Sinn Féin will neither accept nor reject the Declaration;
- (b) The present British Government will not provide Sinn Féin with the clarifications being sought through direct and open discussions;
- (c) They (the British) will not set a united Ireland as a long-term policy objective, and
- (d) They will not wear the mantle of persuading Unionists towards the merits of a united Ireland.

In a pragmatic response to these emerging realities, the Taoiseach has made clear that participation by Sinn Féin in the proposed Forum is not necessarily conditional upon acceptance of the Declaration but it does demand an IRA declaration on a permanent cessation of violence. (A Sinn Féin renunciation of IRA violence is a highly unlikely eventuality). The key concern here should be that Sinn Féin's non-response to the Declaration must not be allowed to distort the overwhelming political and popular acceptance that its set of principles do provide an honourable first step towards an equitable peace settlement. Therefore, the Forum's Terms of Reference should reflect the agreed position of the two Governments that a resumed three-strand talks process will be anchored in the principles of the Declaration.

(2) The North-South relationship

The Taoiseach's statements on the Government of Ireland Act 1920 reflect the historical truth that the failure to satisfactorily institutionalise the North-South relationship constitutes a primary impediment to a resolution of the Northern Ireland conflict.

Agreement on the future form of this relationship is in many respects the key to a durable political settlement. Yet, those parties on this island, which could be loosely described as nationalist-oriented, have not drawn anything resembling a clearly defined picture in terms of what precisely is desirable with regard to all-island institutions.

In reply to Dáil Questions on 26 January, the Taoiseach said that the proposed Forum could provide a useful input to full negotiations on such issues as the nature and role of North-South institutions. Without prejudice to the Liaison Group's current deliberations in this area, a number of benefits may accrue from a complementary process within the context of the Forum:

- (a) It would stimulate a thorough examination of the issues involved, ranging perhaps from constitutional implications through to ministerial responsibilities and down to the operational structures of Departments;
- (b) As a consequence of (a), progress would be encouraged towards the achievement of a balance between the ideal and the practical;
- (c) It may assist the Liaison Group deliberations, though these need not be made known to the Forum. In this regard, it may encourage the British Government towards an approach on the North-South relationship which would be less OUP-oriented.
- (d) It would help focus political thinking and perhaps public opinion on the centrality of the North-South relationship in terms of an eventual settlement;
- (e) It would encourage the Forum's discussions towards matters of practical consequence rather than of a spatial nature (e.g. identity issues);
- (f) It would help steer discussions and debate away from Strand One and Strand Three issues which essentially are a matter for negotiations in a full process of dialogue.

For these reasons, I believe that the Terms of Reference accorded to the Forum should include an explicit reference to the examination of the North-South relationship.

(3) Matters relating to Identity and Allegiance

Consideration, in my view, needs to be given to the question of if the Forum should include in its remit an examination of the issues relating to identity and allegiance. Although acknowledging that these issues will inevitably arise in the course of the Forum's proceedings, I believe for a number of reasons that we should endeavour as far as is practicable to steer clear of such territory.

Firstly, it is unlikely that an agreed consensus in terms of Nationalist identity would emerge. Is it realistic to expect such a consensus from a spectrum spanning such diverse political outlooks as Sinn Féin, Democratic Left and the Progressive Democrats? The bottom-line reality in this very nebulous area is that matters of identity and allegiance are subjective concepts which are unique to the individual.

While these exhibit shared characteristics amongst large numbers of people in each of the Nationalist and Unionist traditions, there is no doubt that for many people it is not merely a question of either pure orange or gaelic green. In Northern Ireland, there are many varying shades of both in between. If one examines the negotiations which took place in the course of the three-strand talks, there would appear to be little doubt, from my perspective, that the precious time available would have been far better utilized on more practical issues rather than on spatial areas relating to what constitutes a particular identity or allegiance.

Secondly, there is the question of duplication. The New Ireland Forum, the Anglo-Irish Agreement negotiations, the Three-Strand Talks Process and most recently the Opsahl Commission, all dealt comprehensively with the issues of identity and allegiance. Why, once again, should the same furrow be ploughed?

Thirdly, there is the question of relevancy. The realities, as set out in paragraphs 5.1.1 to 5.1.3 and 5.1.6 to 5.1.10 of the New Ireland Forum Report, are centrally linked to the issues of identity and allegiance and are still valid. The elements to be addressed in

devising a framework for a new agreed Ireland, as set out in Section 5.2 (particularly paragraphs 5.2.4 and 5.2.5), remain the essential challenge. However, the Anglo-Irish Agreement and the 26 March, 1991 Statement constitute significant advances. The latter in essence states that a durable political settlement will require the achievement by agreement of an appropriate balance across the many elements within and between the three relationships. The balanced set of principles enshrined in the Declaration are in effect based on this premise and these are centrally linked to identity and allegiance issues. Therefore, rather than referring to such issues per se, the Forum's Terms of Reference should reflect (though not explicitly state) the agreed position of the two Governments that a resumed process of dialogue, anchored in the principles of the Joint Declaration, would be set within the framework of the 26 March, 1991 statement.

Finally, there is the time factor to be considered. Regardless of whether or not a defined period is set for the Forum's proceedings, it is important that time should be used to maximum efficiency. Discussion and debate on identity and allegiance issues could become a consummate user of time and could act adversely against the pursuit of a focused agenda dealing with matters of tangible importance such as North-South institutions. Therefore, the Terms of Reference should seek to limit the scope for such spatial discussion and debate.

(4) Non-participation by the Unionist parties

With the exception of the Alliance Party, there is little ground for optimism to hope that the other Unionist parties will participate in the Forum. A submission or some limited participation by the OUP is however a possibility. In my view, two key considerations therefore arise; Firstly, the Terms of Reference should seek to limit the scope for the Alliance Party, or indeed any of the political parties in this jurisdiction, to liberally accord themselves the role as authoritative interpreters of all Unionist opinion. To this end, it would be beneficial if the Terms of Reference sought to curtail the scope for discussion and debate on the factors which differentiate the two main

identities and on the influences which stimulate their respective allegiances. In my view, a significant step towards this objective would be taken by setting, within the Terms of Reference, an examination of what is sought from North-South institutions. And complementing this, the Terms of Reference should contain a clear indication that only the Northern Ireland unionist parties can fairly claim to interpret that community's fears and concerns.

The second consideration relates to the encouragement of OUP and perhaps DUP participation in some form. The Terms of Reference should contain therefore elements which appeal explicitly to Unionist interests. If it is decided that one of the primary purposes of the Forum is to examine ways of institutionalising the North-South relationship, then I think it appropriate to include as an inducement to Unionist participation that portion in paragraph 6 of the Declaration which relates to Unionist fears and concerns.

Conclusion - Draft Terms of Reference for proposed Forum

On the basis of the arguments given in this paper, consideration should perhaps be given to the formulation of Terms of Reference which may broadly correlate with the following:

'The purpose of the Forum for Peace and Reconciliation is to make recommendations on ways in which agreement and trust between both traditions in Ireland can be promoted and established.

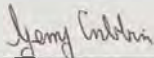
It is accepted that majority political and public support exists throughout the island of Ireland for the Joint Declaration agreed on 15 December, 1993. The Forum therefore shall seek, by agreement and through recommendations, to give material effect to the principles enshrined in the Declaration.

Participation in the Forum is open to all democratic parties in the island of Ireland which reject violence and which have members elected to either Houses of the Oireachtas, or the House of Commons, or the City or District Councils in Northern Ireland.

It is accepted that Sinn Féin's right to participation in the Forum is on the basis of the IRA declaration to permanently cease its campaign of violence and on the integrity of the party's electoral mandate. It is noted that Sinn Féin has not yet renounced the use of violence in pursuit of political aims. It is further noted that Sinn Féin has not yet given its formal and final response to the Joint Declaration.

It is agreed that a durable political settlement will require a new political framework founded on consent and encompassing arrangements within Northern Ireland, for the whole island of Ireland, and between the islands of Britain and Ireland.

It is further agreed that the failure to satisfactorily resolve the relationship relating to the whole island of Ireland constitutes a particular impediment to a resolution of the conflict. The Forum shall therefore place special emphasis in its deliberations on this relationship where it will be open to each of the parties to raise any aspect (including constitutional issues) which it considers relevant. In this regard, the Taoiseach will examine with his colleagues, as an input to a subsequent and wider process of political dialogue, any elements in the democratic life and organisation of the Irish State that the Unionist parties in Northern Ireland can represent to the Irish Government in the course of the Forum's proceedings as a real and substantial threat to the Unionist way of life and ethos, or that can be represented by them as not being fully consistent with a modern democratic and pluralist society, and undertakes to examine any possible ways of removing such obstacles.



6 April, 1994