

E.P.

TP69/2

PC/2/12

CONFIDENTIAL

P/A (ATI with previous posts)

cc. Mr Pearson ✓

Mr Bloomfield

### NICS NATIONALITY REGULATIONS

1. Your minute of 6 February to PS/Secretary of State referred to the possibility of a change in the NICS nationality regulations.
2. It may be worth recalling that this topic has figured specifically in various Anglo-Irish exchanges. Thus:
  - (a) The 1981 Joint Study on Citizenship Rights highlighted (para 27) the difference between the UK and NI practice.
  - (b) ROI officials referred to this discrepancy several times during the discussions which led up to the 1983 Joint Report, although by mutual agreement there was only a very low-key and rather cryptic reference in the Joint Report itself.
3. My own view is that we should not seek to make a change at the present time, even if this means that we will not have another opportunity to do so for a considerable time. I am influenced by the following arguments, none of which is conclusive in itself but all of which point in the same direction.
  - (a) The change would please the ROI government, but I doubt if it would have any positive impact on the nationalist community. The negative impact on the unionist community is obvious. In purely political terms we would lose more than we would gain. The "thin end of the wedge" argument would be used to discredit other "Irish identity" measures (the rest of which can be defended on the basis of equality of treatment as between inhabitants of NI, whereas this concession would be specifically extra-territorial).
  - (b) I do not think we should make a concession without some reciprocal

CONFIDENTIAL

gesture. This would have to involve an ROI concession on the Irish language requirement for UK citizens if it were to have any practical effect. I doubt if ROI would or could give an absolute exemption, and anything less than that (say two years grace in which to become proficient) would be of marginal value. [Such a concession on the language point could well have implications on other employment fronts, such as teaching, which might make it even more difficult for ROI]. It is also arguable that the ROI reciprocity should embrace the whole of the UK, not just NI.

- (c) I think it would be possible to overstate the parallel with GB. The whole question of citizenship is a confusing one given the extensive and uncontrolled movements of population within the British Isles. It would be interesting to know how long-standing is the Home Civil Service provision, ie does it pre-date Partition? With the extensive ROI population in GB it would be natural for an ROI-born person whose parents may have immigrated to GB when he was a young child to look to the Civil Service as a career, but I suspect that the number of such "immigrants" is proportionately much smaller in NI than in GB, whereas we are perhaps more open to the "mature immigrant" seeking a Civil Service place. Nor is there the same possibility of a theoretical "conflict of interest" situation arising East/West as there is North/South. In the one East/West area where such a conflict of interest might arise - the FCO - I note that it is a condition of acceptance that the candidate must have a close connection with the UK and undertake to become a UK citizen as soon as possible after appointment.
4. It also strikes me that we may need to be clearer about the practical effects of the present rules. I am no expert on the Nationality Act, but I wonder how clear-cut is the distinction between Irish and UK citizenship under that Act and how wide is the scope for Irish citizens to claim UK citizenship? When we say that entry to the NICS is limited to British subjects, is this an absolute barrier to (all or most?) ROI citizens, or is there a procedure for them to invoke UK citizenship (in all or some cases?) on the grounds of the British Isles connection. In other words, are we keeping them out, or setting up a hoop which they must go through in order to enter?

CONFIDENTIAL

5. My inclination would therefore be to let the hare sit, not because of the practical effects of a change (which would probably be insignificant) but because symbolically and politically it would create more losses than gains. If a compromise were sought then the FCO formula might be a possibility. [I confess to uncertainty as to how EC rules may impact upon that formula (as upon the issue generally) but it strikes me that Mr Brennan's "residency" compromise could be more vulnerable to EC criticism]. But whatever view Ministers may take - to change or not to change - it would seem appropriate to give ROI some advance indication of our intentions, and perhaps an opportunity to comment.



P CARVILL

11 February 1985

/JH

CONFIDENTIAL