



# An Chartlann Náisiúnta National Archives

<b>Reference Code:</b>	2017/10/15
<b>Creation Dates:</b>	February 1987
<b>Extent and medium:</b>	17 pages
<b>Creator(s):</b>	Department of the Taoiseach
<b>Accession Conditions:</b>	Open
<b>Copyright:</b>	National Archives, Ireland. May only be reproduced with the written permission of the Director of the National Archives.

## FLAGS & EMBLEMS

The Flags and Emblems (Display) Act (Northern Ireland) 1954 was passed by the Northern Ireland Parliament despite the strenuous opposition of nationalist M.P.s. It was clearly discriminatory and was intended to be so by the Northern Ireland Government which introduced it. While restricting the use of other Emblems it did not mention the Irish flag, but it was passed with that flag specifically in mind, as the Minister responsible admitted at the time. In practice it has been used to prevent the display of the tricolour, on the grounds that such display might lead to a breach of the peace. Actual prosecutions under the Act have not occurred since 1969, and tricolours were generally removed under Public Order legislation rather than the Flags and Emblems Act. The effect of the Act has been to enable those who are prepared to break the law to appropriate the tricolour as their own symbol, contrary to the wishes of the vast majority of nationalists in both parts of Ireland.

After the signing of the Agreement, we proposed that the Flags and Emblems Act should be repealed forthwith, in a paper handed over in January 1986. At the 10 January Conference meeting the British side indicated that their thinking was largely in accord with our paper, that the Act was redundant, and that they would study the problem. It was raised at subsequent Conferences.

The delay in publishing the Order had been largely due to the unexpected delays in the passage of the Public Order Act in Westminster, but has owed something to British nervousness about the whole proposal. While Sinn Fein has been denying that the repeal is in any way relevant and has been flying Tricolours in nationalist areas, Unionists used the delay to impress on the British their opposition to the proposal and to invent threats to loyalist feelings such as a supposed ban on the display of the Union Jack with which to rally opposition to any reform.



The Draft Public Order (NI) Order 1987 was laid in Westminster on 19 February 1987 and it should become law by mid March 1987. Among other things it repeals the Flags and Emblems (Display) Act 1954. The RUC will retain powers to control or forbid the display of any flag or emblem, including both the tricolour and the Union Jack, under general Public Order legislation, including the new Public Order Order. The RUC are empowered to impose conditions on marches and it is an offence to display anything with intent to cause a breach of the peace or by which a breach of the peace is likely to be occasioned, or to indulge in behaviour in public likely to lead to a breach of the peace. These are the powers which the RUC have in practice used when removing tricolours in the past.

#### Reaction

Reaction to the proposal has been predictable. Unionists have expressed outrage, and said they will refuse to accept the flying of the tricolour. Both the Minister and the SDLP (Seamus Mallon) have issued statements welcoming the reform. However, in due course the facts of the new situation must prevail over imagined horrors.

0214C

7

8

9

10



## The Irish Language in Northern Ireland

### Background Note

1. The Anglo-Irish Agreement provides (in Article 5) that the Intergovernmental Conference "shall concern itself with measures to recognise and accommodate the rights and identities of the two traditions in Northern Ireland". Among the measures set out for consideration in this area are "measures to foster the cultural heritage of both traditions". In that context, the Irish Government submitted a paper to the British on 6 January 1986, through the Secretariat, on the Irish Language in Northern Ireland. This proposed quick action in four areas: the use of Irish in street names; the use of Irish in official business; questions on the extent of the knowledge of Irish to be included in the 1991 census and support for Irish language cultural activities.
2. The issue has been discussed at the meetings of the Intergovernmental Conference on 10 January 1986, 17 June and 6 October 1986. British papers on the issue were received in June and October 1986 and there have been regular exchanges at official level. Progress was made in the initial stages, but the British have grown increasingly nervous since the leaking of the Northern Ireland Office papers on this issue to the Belfast Newsletter on 25 September 1986. The object of the leak was, clearly, to arouse Unionist opposition to the proposals put forward.
3. The British have taken the position in relation to the Irish language that, while they are willing to accord recognition to the Irish language in a number of areas, they are not willing to contemplate an overall policy of bilingualism. The position on the series of proposals involved in the discussion on Irish language issues is set out in the paragraphs under.



4. Streetnames

4.1 The Northern Ireland Public Health and Local Government (Miscellaneous Provisions) Act 1949 states that street names may only be "put up or painted" in the English language. In our first paper on Irish, submitted in January, we proposed that this section of the Act be repealed and replaced with a positive provision entitling residents to erect a bilingual nameplate on their street if they so desired. In their response, handed over in June, the British reacted favourably to this proposal: "We agree that it would be right to allow local residents to decide whether or not they want bilingual streetnames. Work is in hand on a practical scheme to implement this".

4.2 In the discussion on the matter in the Secretariat, the British side indicated that the delays in bringing forward reforms on this matter centred on the question of how to assess local choice and how to circumvent the anticipated refusal of loyalist councils to cooperate. The Irish side then proposed that the simple matter of repealing the 1949 provision be proceeded with immediately, while the more complex matter of positive entitlement to erect bilingual street signs be left for further work and discussion. On the latter question, the British say they have discovered new difficulties in assessing local opinion and financing the erection of the signs. We continue to press the matter through the Secretariat.

5. Place and Personal Names

5.1 In accordance with normal practice in the UK, public authorities in Northern Ireland will only recognise, for legal purposes, one official name for each place or person in Northern Ireland, and they make no allowance for our system whereby each person or place may have an Irish and English form of their name, each legally valid. The result of this has been to cause difficulty to

8  
9  
10



nationalists who wish to adopt the Irish form of their name. This is legally quite possible in the UK, but in the Northern Ireland context it has been difficult to have such usage accepted by public authorities. Placenames are a more difficult problem, as there is no legal method to change an established placename and public authorities will therefore only recognise the 'accepted' anglicised forms.

- 5.2 We have asked that the Northern Ireland Office draw up an official list of Irish forms of NI placenames, and authorise public authorities to recognise the use of these forms, and of Irish language personal names, in official business. The British responded with cautious agreement to our proposals. They agreed that such an authoritative list should be prepared, and accepted that public authorities should recognise both. They undertook to examine the implications such an acceptance would have on the work of government departments and public bodies. They also agreed to consider creating a mechanism for changing placenames.

At the various discussions, British officials indicated that they had no problems in principle but some in practice with the question of authorising public recognition of Irish language place and personal names. We continue to pursue the issue and have given the British a paper on our experience here. We took the position that there are no practical problems with the use of Irish in the legal system.

- 5.3 Our concerns are to press the British on:

- (i) The production of the list of Irish placenames.
- (ii) The comparatively simple matter of directing Government Departments to recognise Irish language place and personal names.



(iii) The more difficult problem of ensuring that loyalist councils and bodies recognise persons' rights to use such names in official business.

6. Irish Language-related Cultural Activities

6.1 We proposed that an appropriate body be established to provide support for Irish language publications and cultural activities, which are not catered for within existing categories of Arts Council support. The British response was that a separate body to promote Irish language cultural activities would be unnecessarily divisive, but that they would invite the Arts Council to consider whether it would like additional funds for the support of the Irish language. In response to this, we suggested that a separate division of the Arts Council could be established to fulfil this role. The British side agreed to consider this idea and to raise it with the Arts Council, along with an earlier proposal for extra funding and personnel.

Anglo-Irish Section,  
February 1987.



## FAIR EMPLOYMENT IN NORTHERN IRELAND

### 1. The Problem

- (a) Between 1971-1985 the overall unemployment rate of Catholics was twice that of Protestants. In 1984-85, Catholic males experienced levels of unemployment almost 2.5 times that of Protestant males. The unemployment differential is not specific to particular locations but is widespread throughout Northern Ireland.
- (b) Fair Employment Agency investigations into the service sector (banking, insurance, building societies) indicate gross disparities in the employment of the two communities. (In banking, for example, the workforce is 71% Protestant and 29% Catholic).
- (c) Investigations by the Fair Employment Agency have revealed large imbalances in employment in the engineering sector, the second largest employer in Northern Ireland. (Shorts and Harland and Wolff have less than 10% Catholics in their workforce). Despite continuous monitoring by the Fair Employment Agency and the implementation of affirmative action programmes drawn up by the Agency, there has been little progress in improving the employment record of Catholics in these firms.
- (d) In the public sector the Northern Ireland Civil Service is implementing an affirmative action programme designed to correct imbalances discovered by an FEA investigation in 1984. Recent reports indicate that the employment position of Catholics in the Service is improving (Catholic recruitment increased by 6% at every level between 1980-85).
- (e) The Northern Ireland Electricity Service employs approximately 5% Catholics. There is only one Catholic at Director level. Despite an investigation by the Agency and an affirmative action programme, there has been no improvement in the employment position of Catholics.



- (f) All twenty six District Councils in Northern Ireland are under investigation by the Fair Employment Agency. Only nine of the Councils have signed the Declaration of Principle and Intent affirming their intention to practice equality of opportunity in employment.

## 2. The Fair Employment (N.I.) Act, 1976

The Fair Employment (N.I.) Act 1976 provides the legislative and administrative framework for combatting discrimination. The following are the principal features of the Act:

- (i) discrimination on the grounds of religion or political opinion is unlawful.
- (ii) the Act establishes a Fair Employment Agency with a general responsibility for countering religious discrimination in employment. The Agency can investigate complaints of discrimination and initiate investigations of its own volition. Where the Agency concludes that equality of opportunity has not been provided, it can negotiate a voluntary settlement. Where this cannot be achieved, the Agency can apply to the County Court for enforcement orders embodying remedies including programmes of affirmative action.
- (iii) the Agency maintains a Register of Equal Opportunities Employers, i.e. employers who have signed the Declaration of Principle and Intent. (The Declaration affirms the employer's intention to provide equality of opportunity). The Agency has the power to remove an employer from the Register in cases where an investigation reveals that equality of opportunity does not exist (in fact no employer has ever been removed from the Register). In December 1981 the British Government announced that tenders would not normally be accepted from firms who were not on the Register.



- (iv) the Act also provides that the Government should publish a Guide to Manpower Policy and Practice which would assist employers in implementing employment practices designed to promote equality of opportunity in employment.

### 3. Proposals for Reform

On 16 September 1986 the British Government published a Consultative Paper on Equality of Opportunity in Employment in Northern Ireland. The Paper reviews the progress achieved under the Fair Employment Act and proposes the following reforms to the Act:

- (i) placing a statutory duty on the public sector to practice equality of opportunity.
- (ii) changing the Declaration of Principle and Intent to one of Practice (which inter alia would commit employers to monitoring the religious composition of the workforce).
- (iii) refusing the award of Government contracts and rejecting applications for Government grants from firms which do not sign the new Declaration.
- (iv) revising and updating the Guide to Manpower Policy and Practice.
- (v) either merging the Fair Employment Agency with the Equal Opportunities Commission (which deals with sex discrimination) to form an Equal Employment Opportunities Commission or creating a new Fair Employment Commission which would have a Directorate responsible for investigative educational and development work and a Commission to exercise the quasi-judicial role.

The closing date for submissions on the Paper is 31 March 1987.



In October 1986 the British Government published a new draft Guide to Manpower Policy and Practice.

#### 4. Anglo-Irish Intergovernmental Conference

Fair Employment issues were discussed at the Conference meeting on 6 October 1986 in Dublin. The then Minister welcomed the publication of the Consultative Paper and indicated that we would submit views and proposals on the Paper before the closing date of 31 March 1987.

The Irish side have submitted the following papers on fair employment in the Anglo-Irish Secretariat:

- (i) Fair Employment in Northern Ireland - Preliminary Views (transmitted through the Secretariat on 3 September 1986). This Paper outlines views and proposals on the interim measures which might be implemented to improve the situation.
- (ii) a preliminary response to the Consultative Paper (16 January 1987).
- (iii) views and proposals on the draft revised Guide to Manpower Policy and Practice (31 January 1987).
- (iv) views and proposals on the Consultative Paper on Equality of Opportunity in Employment. The Irish paper calls for the introduction of statutory monitoring, the inclusion of numerical targets and timetables in affirmative action programmes and an interim package of reforms.

#### 5. Future Progress

- (i) Fair Employment issues will be an agenda item at the next meeting of the Intergovernmental Conference. The Minister will draw attention to the Irish proposals and indicate that we intend to follow this matter closely in the year ahead.



- (ii) After 31 March 1987, the British will begin to consider the submissions received on the Consultative Paper. Final decisions on the reform of the legislation will not however be made until after September 1987 when the Standing Advisory Commission on Human Rights (SACHR) will publish its report on "the law and machinery for preventing discrimination and promoting equality of opportunity in Northern Ireland".

The MacBride Principles were drafted in 1984 by Sean MacBride, Liam McCloskey, Dr. John Robb and Fr. Brian Brady. They have been adopted by the States of Massachusetts and the New York. In both cases the legislation requires that state investment, mainly pension funds, should only be invested in companies operating in Northern Ireland which undertake to be guided by the Principles. In addition, they have been adopted by the New York City Council and the City of Hartford in Connecticut. The city of Chicago has also passed a non-binding resolution supporting the Principles. In addition, legislative proposals on the MacBride Principles have been tabled in Florida, New Jersey, Rhode Island, Arizona, California and Connecticut States, as well as in the City Councils of Detroit and Philadelphia. New measures are about to be introduced in New Hampshire and Ohio. It is likely that several of these States and City Councils will pass legislation in the coming legislative year requiring State or city funds to be invested only in companies which adhere to the MacBride Principles.

The Republican congressman from New York, Mr. Hamilton Fish, introduced a Bill into Congress in 1985 to ban all U.S. imports from Northern Ireland which have not been manufactured or assembled in companies complying with the MacBride Principles. It also required all U.S. companies doing business with Northern Ireland to adhere to the Principles. The Bill called the "Northern Ireland Fair Employment Act" lapsed with the ending of the Congressional session. It was reintroduced in the present session of Congress. A similar bill has been introduced into the Senate by Senator D'Amato of New York.

2100P



## MacBride Principles

### Present Situation

The McBride Principles named after Sean McBride are a set of 9 principles which are designed to eliminate discrimination against Catholics in Employment in Northern Ireland (a copy of the principles is attached). They were drafted in 1984 by Sean McBride, Inez McCormack, Dr. John Robb and Fr. Brian Brady. They have been adopted by the States of Massachusetts and the New York. In both cases the legislation requires that state investment, mainly pension funds, should only be invested in companies operating in Northern Ireland which undertake to be guided by the Principles. In addition, they have been adopted by the New York City Council and the city of Hartford in Connecticut. The city of Chicago has also passed a non-binding resolution supporting the Principles. In addition, legislative proposals on the MacBride Principles have been tabled in Florida, New Jersey, Rhode Island, Illinois, California and Connecticut States, as well as in the City Councils of Detroit and Philadelphia. New measures are about to be introduced in New Hampshire and Ohio. It is likely that several of these States and City Councils will pass legislation in the coming legislative year requiring State or city funds to be invested only in companies which adhere to the MacBride Principles.

The Republican congressman from New York, Mr. Hamilton Fish, introduced a Bill into Congress in 1986 to ban all U.S. imports from Northern Ireland which have not been manufactured or assembled in companies complying with the MacBride Principles. It also required all U.S. companies doing business with Northern Ireland to adhere to the Principles. The Bill called the "Northern Ireland Fair Employment Act" lapsed with the ending of the Congressional session. It was reintroduced into the present session of Congress. A similar bill has been introduced into the Senate by Senator D'Amato of New York.



In addition, several religious groups both Catholic and Protestant in the United States have joined in sponsoring shareholder resolutions seeking the major American companies operating in Northern Ireland to adopt the MacBride Principles. These groups include seven Catholic religious orders, the Archdiocese of New York, the United Methodist Convention, the Presbyterian Church Board of Pensions and the American Council of Churches. In the United States the MacBride Principles have become linked to the Sullivan Code which lays down the conditions under which US firms operate in South Africa.

#### Effect of legislative proposals

It is quite clear that these activities, in particular the effects in New York State, could have a major impact on American companies investing in Northern Ireland. The 25 US companies employ approximately 11% of those employed in manufacturing in Northern Ireland. One of the US companies, American Brands, owners of the Gallagher Tobacco company refused to place a resolution before its shareholders on the MacBride Principles stating that compliance with the Principles would place it in contravention of Northern Ireland's domestic law. A court case was heard in New York to decide if the MacBride Principles were in accordance with the Law in Northern Ireland. According to the judgement issued on 12 May 1986 by the New York Federal District Court, the Principles are not unlawful and could be legally implemented by Gallaghers in its Northern Ireland factory. The Court decision which basically upholds the legality of the Principles, is certain to have wide implications, making it extremely difficult for the two dozen US Companies to resist accepting the MacBride Principles on the basis that this violates Northern Ireland law (the traditional corporate defense against MacBride). No appeal has been lodged against the judgement of the Court.



British Government reaction

The British Government are strongly opposed to the adoption of the MacBride Principles and have lobbied strongly against them in the various States. This lobbying has been counter productive and has actually strengthened the prospect of the McBride Principles being adopted. The British Government have recently appointed a full time official in North America to counter the McBride Principles. The British are opposed to the Principles on two grounds;

(i) That they will scare off investment by placing an extra bureaucratic step on companies wishing to invest in Northern Ireland. It is difficult enough to attract Irish industry without this extra step;

(ii) It is possible that the Principles are contrary to the law.

In addition, the British obviously do not welcome the publicity which the discussion of the Principles evokes in the United States on discrimination in Northern Ireland. It is likely however that the British Government may be forced to review its position given its lack of success at curtailing legislation adopting the principles. The US State Department has to date supported the British position but is currently believed to be reviewing the situation.

SDLP views

There is no SDLP party policy on the McBride Principles. The initial views of the SDLP were concerned with the possible negative implications of the Principles on future US investment into Northern Ireland. However, this view has come under strain and support for the Principles is growing. Brian Feeney has expressed support for the Principles and has stated that he hopes that the SDLP would introduce the MacBride Principles in Westminster as a requirement for companies operating in



Northern Ireland. Resolutions on the McBride Principles were withdrawn from this year's Party Conference to avoid controversy as there would have been differences of opinion between sections of the Party.

#### ICTU attitude

The attitude of the Northern Ireland Committee of the ICTU to the McBride Principles is that they accept their "spirit" in broad measure. However, the NIC would not support the Principles if they require measures such as reverse discrimination or the establishment of quotas which would be contrary to Northern Ireland Law.

#### Irish Government views

There have not been many Irish Government statements on the McBride Principles. The established policy has been one of supporting their underlying aims while at the same time expressing concern that a further bureaucratic layer might discourage American investment. It was also stated that in the Government's view the question of discrimination could best be tackled through the Conference under Article 5 of the Anglo-Irish Agreement. There has never been any official statement endorsing or opposing the Principles as such by the Irish Government.

It has become apparent to our missions in North America that support for the McBride Principles is growing, even among moderate groups such as the Friends of Ireland and that any opposition to them from the Government would be unlikely to be successful. The Consul General in New York has put up for consideration that instead of opposing the McBride passage the British Government should acquiesce in the face of the moves in the US Congress and in State legislatures. This is a matter which will require early attention in the Intergovernmental Conference. Although only the Northern Irish courts can



pronounce on the compatibility of the Principles with the law of Northern Ireland, it seems unlikely that they are contrary to the Fair Employment Act or the Northern Ireland (Constitution) Act.

The text of McBride Principles is attached.

Anglo-Irish Section,  
February, 1987.



## MACBRIDE PRINCIPLES

1. The increasing of the representation of individuals from under-represented religious groups in the workforce including technical jobs;
2. The development of training programs that will prepare substantial numbers of minority employees for such jobs, including the expansion of existing programs and the creation of new programs to train, upgrade, and improve the skills of all categories of minority employees;
3. The establishment of procedures to assess, identify, and actively recruit minority employees with potential for further advancements;
4. The providing of adequate security for the protection of minority employees both at the workplace and while travelling to and from work;
5. The banning of provocative sectarian or political emblems from the workplace;
6. A pledge that all job openings will be publicly advertised; and special recruitment efforts will be made to attract applicants from under-represented religious groups;
7. A pledge that all layoff, recall, and termination procedures do not in practice, favor particular religious groups;
8. The abolition of job reservations, apprenticeship restrictions, and differential employment criteria, which discriminate on the basis of religion or ethnic origin; and
9. The appointment of a senior management staff member to oversee the company's affirmative action efforts and the setting up of timetables to carry out affirmative action principles.