

NATIONAL ARCHIVES**IRELAND**

Reference Code: 2001/43/1386

Title: Action in regard to reforms by Northern Ireland Government since 1968

Creation Date(s): 13 February, 1970

Level of description: Item

Extent and medium: 11 pages

Creator(s): Department of Foreign Affairs

Access Conditions: Open

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Telefón)
Telephone) 52971

Seol aon fhreagra chun:—
(Address any reply to:—)

AN RÚNAÍ
(The Secretary)

faoin uimhir seo:—
(quoting:—)

305/14/400

305/14/424

13 Feabhra 1970

To All Officers.

I am to enclose herewith for information, a document summarising action taken to date by the Six County Government in regard to reform and a note on the Northern Ireland Public Order (Amendment) Act, 1970.

Seán & Ruan

th.c. Rúnaí

AN ROINN GNÓTAÍ EACTRAÇA

Department of External Affairs,

baile áta cliat, 2.

Dublin, 2.



Action in regard to reforms by Northern Ireland Government since 1968

On 22nd November, 1968, the N.I. Government announced a programme of reform as follows:

(1) Allocation of Houses

The Government undertook to ensure that all housing authorities placed need in the forefront in the allocation of houses, and that future housing allocations would be carried out on the basis of a readily-understood and published scheme.

(2) Investigation of Citizens' Grievances

The Government agreed to consider the need for effective machinery to investigate grievances in an objective way, and in the area of Central Government activity, to introduce legislation to appoint a Parliamentary Commissioner for Administration.

Action taken so far

(1)

(i) On 12 June, 1969, the Minister for Development issued a letter to all Housing Authorities stating that it was considered desirable to introduce a single points system throughout Northern Ireland. A model scheme, prepared by the Ministry, was recommended for use by authorities. The scheme was adopted by the Northern Ireland Housing Trust, the three Development Commissions and the majority of local authorities. A number of authorities put forward modified schemes, consistent with the principles set out by the Ministry. At the end of 1969 a small number of councils had still not adopted a points scheme.

(ii) It is open to any housing applicant who considers that a housing authority's allocation has been administered in a biased way, to make a complaint to the Commissioner for Complaints against Local Authorities and Public Bodies.

(iii) In a communique issued on 10th October, 1969, after the second visit to N.I. by Home Secretary, James Callaghan, it was announced that a Central Housing Authority was to be created to tackle the problem of housing.

(2)

(i) Parliamentary Commissioner Act (N.I.) 1969, given Royal Assent on 27th June, 1969, and came into force on 1st July, 1969. The Commissioner's function is to investigate cases of alleged maladministration by N.I. Government Departments. Sir Edmund Compton was appointed Commissioner.

(ii) Royal Assent was given to the Commissioner for Complaints Act on 25th November, 1969. Mr. John Benn, former Permanent Secretary of N.I. Ministry of Education, was appointed Commissioner on 27th November. The Commissioner is empowered to investigate a complaint by any person alleging that he has suffered injustice as a result of maladministration by certain local or public bodies: these include all local authorities,

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(3) Implementation of the Derry Area Plan

The Government announced that it would take all possible steps to ensure that prompt and effective action would be taken to implement a Plan, designed to transform the economic and social life of the City, and to assist this objective by the appointment of a strong, well-qualified and objective Development Commission.

(4) Local Government Reform and the Franchise

The Government indicated its firm intention to complete a comprehensive reform and modernisation of the local government structure within a period of three years - that is, by the end of 1971 - to review the franchise in the context of the organisation, financing and structure of the new local government bodies, and to abolish the company vote in local government.

new town commissions, and such bodies as the N.I. Electricity Board, Hospital Management Committees, the General Health Services Board, the Hospitals Authority and the Housing Trust.

(3) The Derry Development Commission took over the functions of Derry County Borough and Derry Rural District on 2nd April 1969.

(4)

(i) The reform of local government has been the subject of two White Papers, the latest of which was published in July, 1969. However, after the decision in October 1969 to establish a Central Housing Authority, it was decided to set up a body which would review the whole question of local government reorganisation. The terms of reference of the Review Body are to review the existing published plans for reshaping local government (which propose, among other things, the organisation of 17 areas in place of the existing 68 councils) and to examine further proposals made to it as well as the consequences of the decision on housing. It may also advise on the number of administrative areas, but not draw their boundaries or attempt to define the areas themselves.

The review body commenced work on 9th January, and it is expected that its report will be ready in about four months time.

Announcing the setting up of the review body Mr. Faulkner said:

"If, when the report of the review body is received and considered, it is apparent that the pattern of local councils is such as to justify the drawing of new boundary lines by an impartial body of high standing, then in that event it is the intention of the Government to refer the matter to the Parliamentary Boundary Committee for the Stormont constituencies and to request them

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(5) Special Powers

The Government announced that after discussions it had agreed with the United Kingdom Government that-

(i) as soon as the Northern Ireland Government considered this could be done without undue hazard, such of the Special Powers as are in conflict with international obligations would, as in the past, be withdrawn from current use; but

(ii) in the event of the Northern Ireland Government considering it essential to reactivate such powers, the United Kingdom Government would enter the necessary derogation.

Extracts from a communique issued by the Government of Northern Ireland on 29th August, 1969, following the visit of Home Secretary, James Callaghan.

(4) "-----
The Home Secretary also noted the N.I. Government's decision to introduce legislation to set up a Community Relations Board to promote good relations between all sections of the community. Half the members of the Board would be Protestant and half Roman Catholic".

to carry through the operation along the same procedures and methods as they employ in defining constituencies." That Commission is presided over by a judge of the Supreme Court of Northern Ireland.

(ii) The Electoral Law Act received Royal Assent on 25th November 1969. This Act abolished the company vote in local government elections, provides for universal adult franchise and provides for votes at 18 in all elections. It also postponed until 1971, the local government elections due to have been held in 1970.

(5) No action has been taken in regard to the Special Powers. The Government have stated that because of the disorders that have taken place over the last year, it has been unable to withdraw any of the provisions of the Special Powers legislation.

In the Queen's speech, read at the opening of the second session of the N.I. Parliament on 10th February, 1970, it was stated, inter alia,

"the Special Powers Acts and the regulations made thereunder are being reviewed in the light of the existing commitment to take appropriate action when the state of the country permits".

Dr. Robert Simpson was appointed Minister for Community Relations on 25th September, 1969. The Community Relations Act, which provided for the establishment of a Ministry of Community Relations received Royal Assent on 25 November, 1969. Mr. Maurice Hayes was appointed chairman of the Community Relations Commission on 2nd December, 1969. The Commission consists of 8 members and is equally composed of Protestants and Catholics. The Parliamentary Commissioner and the Commissioner for Complaints are additional members, appointed on an ex-officio basis.

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(8) It has been agreed that effective action in the following fields is fundamental to the creation of confidence:

(i) Equality of opportunity for all in public employment, without regard to religious or political considerations.

The Commission has no legal powers to enforce its will, and largely acts as an advisory body to others operating the new anti-discrimination machinery (i.e. principally, the Parliamentary Commissioner and the Commissioner for Complaints).

(...) The Cameron Report recommended in par. 231 that senior or principal appointments in local government should be made by some central authority, or that one unified public service should discharge the executive functions of both central and local government. In the Commentary issued by the N.I. Government with the report, it was stated that this would entail a radical change of policy and would mean a serious alteration in the power of local Councils.

The matter was referred to one of the joint Working Parties of U.K. and N.I. Government officials, and this body recommended that a Statutory Local Government Staff Commission be set up with strong advisory powers, to assist local authorities in selecting candidates for senior and other designated appointments.

The Working Party also recommended that study be given to establishing a Public Service Commission concerned with certain aspects of staffing throughout the public service.

In a communique issued on 10th October, 1969, after the second visit to Northern Ireland by the British Home Secretary, it was announced, inter alia, that

(1) an anti-discrimination clause was to be incorporated into all Government contracts;

(2) a series of detailed recommendations designed to reinforce safeguards against discrimination in public employment had been approved;

(3) where the Government is not the direct employer, each employing body will be required to make a declaration that it aims to have equality of employment opportunity without regard to political or religious considerations, and have an approved code of employment procedure.

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(ii) Protection against incitement of hatred against any citizen on the grounds of religious belief.

(iii) Guaranteed fairness in the allocation of public authority housing, with need, assessed by objective criteria, as the only relevant yardstick.

(iv) Effective means, not only for the investigation of grievances against public bodies, but for their ultimate redress if conciliation and other procedures are ineffective.

(v) Proper representation of minorities, to be assured at the elected levels of government by completely fair electoral laws, practices and boundaries, and at nominated or appointed levels by a recognition that such minorities have a right to an effective voice in affairs.

It is not clear as yet how effective these decisions have been in reducing discrimination in public employment.

It was also stated that the N.I. Government had accepted the Working Party's recommendation that a Local Government Commission be established. So far, no action appears to have been taken in regard to this decision.

No action has been taken so far.

Vide (1) above.

Vide (2) above.

If the Parliamentary Commissioner or the Commissioner for Complaints finds that a person has suffered some injustice in consequence of maladministration, a court may on an application to it by that person award damages to that person to compensate for the injustice. An injunction may also be sought in the High Court to restrain a local or public body from any continuing course of maladministration.

(i) Prime Minister Wilson in an interview on BBC television after his meeting with Major Chichester-Clark on 19 August, 1969, stated that "we shall want to give consideration at some future time to the whole question of electoral machinery in Northern Ireland".

(ii) The Electoral Law Act provides for universal adult franchise (i.e. one man - one vote).

(iii) No action taken so far in regard to electoral boundaries other than establishment of the Review Body on local government reorganisation.

(iv) In the case of three public bodies set up in the course of the last year, provision has been made for the inclusion of members of the minority. These bodies are:

- (1) Derry Development Commission
- (2) Community Relations Board
- (3) Review Body on the Reorganisation of Local Government.

Recommendations of the Hunt Committee on the Police in Northern Ireland

The Hunt Committee made a total of 47 recommendations concerning the future role of the N.I. police force, and how it was to be organised. The most important of these were:

- (1) that the RUC should be relieved of all duties of a military nature
- (2) that a Police Authority, which would reflect proportions of different groups in the community should be established
- (3) that the RUC should be disarmed
- (4) the colour of the uniform should be changed to blue
- (5) that sergeants and constables should wear numbers on their uniforms
- (6) provision should be made for the interchanges of personnel between the RUC and other British police forces
- (7) a system of independent public prosecutors should relieve the police of responsibility for prosecution
- (8) the "B" Specials should be replaced by two new forces - a locally recruited part-time force under the command of the G.O.C. Northern Ireland, and a volunteer reserve police force.

Most of the changes recommended in the Hunt Report have been accepted by the N.I. Government, and are incorporated in a new Police Bill, at present going through Stormont.

The RUC has already been disarmed and wear numbers up to Sergeant rank.

The N.I. Government has not accepted the recommendation that the colour of the RUC uniform should be changed to blue.

The Ulster Special Constabulary is being replaced by the Ulster Defence Regiment and an RUC Reserve. Responsibility for the UDR, which will have a total strength of 6,000 (Hunt recommended 4,000) rests with Westminster, and the regiment will be run on Territorial Army lines. Members of the force may be called out for emergency service in Northern Ireland only by an authorised officer of the regular forces.

The RUC Reserve will have a strength of 1,500, and will be unarmed. Recruitment for both forces commenced on 1st January, 1970, and they are to become operational on 1st April, 1970.

Recruiting for the UDR is slow. Latest figures show that about 22% of applicants are Catholic and about half of all applicants are B Specials.

Major Chichester-Clark announced in his reply to the Queen's speech at the opening of the second session of the Parliament that the strength of the RUC was to be increased from its present establishment of 3,500 to a ceiling of nearly 5,000.

The Crowther Commission on the Constitution of the United Kingdom

The terms of reference of the Crowther Commission on the Constitution of the United Kingdom are:

"To examine the present functions of the central legislature and government in relation to the several countries, nations and regions of the United Kingdom.

To consider, having regard to developments in local government organisation and in the administrative and other relationships between the various parts of the United Kingdom, and to the interests of the prosperity

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and good government of our people under the Crown, whether any changes are desirable in those functions or otherwise in present constitutional and economic relationships.

To consider, also, whether any changes are desirable in the constitutional and economic relationships between the United Kingdom and the Channel Islands and the Isle of Man".

Six County Public Order Legislation

The Public Order Act (N.I.) 1951 contains the basic legislation governing the holding of processions and public meetings in the Six Counties. In 1969, the Public Order (Amendment) Bill (N.I.) was introduced at Stormont with the intention of amending and expanding the 1951 Act to take account of the increase and varying nature of processions and meetings since the original Act came into force. The Bill received its Third Reading in the House of Commons on 3rd July, 1969 and passed. It was not, however, taken by the Senate until after the Christmas recess because of the priority given in the autumn to reform legislation. Royal Assent was accorded the Bill on 5th February, 1970.

The principal aim of the Act is to safeguard against obstruction or intimidation the right of peaceful protest. It was claimed by Government spokesmen that the extension by 24 hours of the period of notice given to the police of an intended demonstration (Clause 1) was to the advantage of the genuinely peaceful demonstration, since such a procession takes longer to arrange than a counter-demonstration.

Clause 2 gives statutory guidance to the police in the giving of directions to the organisers of processions, and the intention is, it was stated, that the first planned procession should have precedence over any counter-demonstration. Thus, subsection (2) empowers the Minister to ban a counter-demonstration, while allowing the original procession to proceed.

Subsection (4) of Clause 2 makes it an offence to take part in an unlawful procession. It was claimed that a situation in which only the organisers or leaders of a procession can be penalised, favours processions which are unorganised, or ostensibly so.

Clause 3A provides specifically for the prevention of obstruction or harassment of processions and of ambush situations, and enables the police to take action before violence develops.

A secondary purpose of the Act is to protect the rights of people from demonstrations. The Government felt that all offences likely to arise from demonstrations should be dealt with in public order legislation. Thus, Clause 3B deals with the deliberate obstruction of public thoroughfares by sit-downs, etc. and Clause 3C deals with trespass and obstruction in public buildings.

The remainder of the Act, the Government states, merely brings Six Counties public order law into line with the law in Great Britain. Clause 6 prohibits the wearing of political uniforms and Clause 7 deals with quasi-military organisations. Clause 8 prohibits the carrying of offensive weapons in public.

The Bill was bitterly opposed by the Opposition in both houses of Parliament. In general they took the view firstly, that it was not necessary in view of the amount of public order legislation already on the statute books, and, secondly, that it was a repressive piece of legislation which would increase rather than reduce tension.

Principal Opposition Objections to the Public Order Act

(1) The 72 hrs. notice required of the organisation of public processions. No similar notice is required under the British Public Order Acts. The Government pointed out:

- (i) a longer period of notice is now necessary as a result of the Hunt Committee recommendation that the Police Authority be consulted before the Minister decides to ban a procession. This recommendation has been accepted by the Government;

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- (ii) While Public Order Acts in Britain do not require notice of processions, such notice is required under local bye-laws where disorder is likely to arise or where the public is likely to be inconvenienced;
- (iii) Criminal Justice Bill introduced in the Dáil requires notice to the gardaí not only of processions but also of public meetings - this Bill was not passed.

An Opposition amendment that Trade Unions be exempted from the requirement to give notice was accepted by the Government.

- (2) The power of the Minister of Home Affairs to
 - (a) make an order permitting a public procession but prohibiting, for such period not exceeding one month as may be specified in the order, the holding of any other public procession or any public meeting; or
 - (b) make an order prohibiting, for such period not exceeding twelve months as may be specified in the order, the holding in that place of all public processions or of any class of public procession so specified.

Opposition members said that these were very wide powers to be left in the hands of the Minister, and that past experience has demonstrated that certain previous Ministers of Home Affairs were capable of abusing such powers. It was pointed out that in Britain (with the exception of London) control of public processions is in the hands of the Chief of Police in particular areas and that, before he can make any decision, he must make application to and satisfy the local authority and it in turn must satisfy the Home Secretary.

The Government have now stated that they have accepted the recommendation of the Hunt Committee that the Police Authority be consulted before the Minister decides to ban a procession, and there is provision in the Police Bill at present before Stormont for the Police Authority to appoint a sub-committee for this purpose.

This decision by the Government would seem to remove to a considerable extent the main weight of the Opposition criticism in regard to this particular section of the Act.

(3) Clauses 3B and 3C were objected to because of the measures proposed against sit-downs and the occupation of public buildings.

The sit-down protest, it was stated, was an essential part of Civil Rights strategy and "has become more important in preventing troubles than all the hordes of policemen and the riot squad who were drafted into many areas". (A. Currie).

John Hume objected to the fact that no distinction was made "between the peaceful sit-down and the sit-down which is designed purely and simply to cause trouble". It was also pointed out that there was already provision under existing law about the obstruction of public passageways and the occupation of public buildings.

The Government argued that it was desirable to cover all forms of wrongful obstruction arising out of public demonstration in a single measure dealing with public order. It was also said that to omit a provision of this nature would have been to give the impression that demonstrators had in some way a priority in the streets over the general public.

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(4) Other Objections

Clause 4. Opposition objected to some of the increases in the maximum penalties under the existing law and to the maximum penalties for the newly defined offences. The Government argued that in each case the penalties are similar to those which may be already imposed for similar offences.

Clause 7. An Opposition amendment that the reference to the Ulster Special Constabulary be omitted from the Act, on the ground that the USC is shortly to be disbanded, was rejected by the Government. The reference to the USC will become spent when the USC is disbanded. The date of disbandment, fixed at present for April 1970, will depend on the success of recruitment for the Ulster Defence Regiment.

In general, the Opposition are wary of bringing matters covered by other laws within the scope of the Public Order (Amendment) Law as this may make it easier to prosecute successfully - and previous experience shows that the minority are the preferred target for prosecutions. This objection, as well as others, is fundamentally due to distrust of the authorities because of their past behaviour.