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IRELAND



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| Reference Code: | 2014/105/766 |
| Creation Date(s): | March 1984 |
| Extent and medium: | 5 pages |
| Creator(s): | Department of the Taoiseach |
| Access Conditions: | Open |
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The Ottinger Bill on Fair Employment in Northern Ireland

1. In April 1983, Congressman Richard Ottinger's office produced a draft bill "requiring United States persons who conduct business or control enterprises in Northern Ireland to comply with certain fair employment practices". This draft was essentially based on the Sullivan principles (an anti-apartheid code of conduct) which apply to U.S. firms operating in South Africa and on legislation sponsored by a Congressman Solartz in the same area. It had been prepared following receipt by Ottinger of a report on employment discrimination by Rev. Brian Brady of St. Joseph's College, Belfast and as a result of pressure from Irish-American constituents.

The equation of conditions in South Africa with conditions in Northern Ireland in Congressman Ottinger's Bill as tabled while clearly over-stated, fits neatly into the perspective presented by the Irish National Caucus (see separate note) and other radical Irish-American groups in the United States. Ottinger, although not listed as a member of the Caucus-linked Ad Hoc Congressional Committee (see separate note), is one of a group of New York Congressmen whose offices have tended to respond to INC pressure. Recent press reports indicate that he will not seek re-election next November. However, it is quite likely that another Congressman associated with the INC will be persuaded by that body to take up Ottinger's proposals.

2. Ottinger's Bill was introduced as House Resolution 3465 in the U.S. Congress on 29 June 1983 and was co-sponsored by Representatives Biaggi, Fish, Gilman and Rangel (the first three are all members of the Ad Hoc Congressional Committee).

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The bill broadly seeks to oblige U.S. controlled companies operating in Northern Ireland with more than twenty employees to observe certain principles of non-discrimination on religious grounds. However, in modeling it on the Sullivan principles for South Africa, Ottinger's office clearly did not appreciate the reality in Northern Ireland e.g. they call for "removing all religious designation signs" and "desegregating all eating, rest and work facilities" in each "employment facility". The bill would have the U.S. Secretary of State, advised by councils in Northern Ireland and the United States, implement its provisions which allow for fines of \$50,000 and five years imprisonment in cases of non-compliance. The Short Title in the Bill is the "Northern Ireland Fair Employment Practices Act" and a work by the Fr. Brian Brady is described in it as "the most comprehensive study of the discriminatory practices of United States businesses in Northern Ireland".

3. Ottinger's Bill while perhaps basically well-intentioned, if over-influenced by the extremist and simplistic attitude of the INC, would clearly have a negative impact in practice on those it is designed to help. It would, if implemented, act as a further bureaucratic disincentive to U.S. investment in Northern Ireland and this would hurt most of all the Catholic/nationalist minority who bear the heavier share of unemployment. A further factor which had to be considered by the Embassy, Washington, as Ottinger's office pressed ahead with the Bill was the intention to seek Congressional hearings on the draft legislation. We have in recent years privately discouraged any form of Congressional hearings on the Northern Ireland problem as they would undoubtedly afford a platform for PIRA supporters and associates. Hearings on the Ottinger Bill would involve the Embassy and those in Congress who are well-disposed to Government policy in a draining process of refuting the distorted perspectives which would be presented by the INC et al. They would, in short,

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divert the Embassy's scarce resources from our real interests of keeping U.S. Administration, politicians and public informed of the Government's concerns on Northern Ireland with a view to making the American dimension a positive element in the pursuit of our objectives.

It of course follows from the above that our reservations on the Ottinger proposal are substantially and qualitatively different from those of the British Government which is unreservedly opposed to it.

4 In a letter of 18 July 1983, the Chairman of the House of Representatives Committee on Foreign Affairs, Clement J. Zablocki, requested the views of the Department of State on Ottinger's proposed legislation. The Department's reply presented a favourable picture both of the practice of U.S. firms in Northern Ireland and of the Fair Employment Agency's operation and concluded that:

"As contemplated in the draft legislation, the Department of State would effectively become a regulatory agency. The Department of State has not heretofore been charged with enforcing equal employment opportunity requirements outside of its own organization. We believe that the responsibility for determinations that would result in the imposition of sanctions by the Department of State on US firms overseas for failure to meet specific employment quotas is, in our judgement, an inappropriate function for this foreign affairs agency. Such an endeavour in Northern Ireland also would be viewed as an unwarranted attempt to extend US law extraterritorily in the affairs of firms incorporated under the laws of the United Kingdom, a sovereign state and a close ally of the United States. Such an extension of US law to Northern Ireland in this instance would appear both offensive to British sovereignty and unjustified, in view of the present efforts by both US firms and the British Government to extend equal employment opportunities to all the citizens of Northern

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Ireland in a difficult and politically sensitive setting.....

We believe that the proposed legislation, by imposing further regulation and threat of sanction on US firms, combined with the prospect of potential conflict of jurisdiction between the US and British governments on their hiring practices, would be a considerable disincentive to US firms considering further investment in Northern Ireland. Such legislation, paradoxically, could result therefore in fewer employment opportunities for members of the Catholic community than might be the case if it were not passed".

5. The Embassy in Washington was in contact with Mr. Ottinger in August 1983 and set out the Governments views on his proposal. He visited Northern Ireland from 16-17 August 1983 and met union officials, the Industrial Development Board, the IEA and representatives of two U.S. Companies. While he was accompanied by Fr. Sean McManus, it is clear that, following his briefing by the Embassy and his talks in Northern Ireland, he was quite cautious about over-identifying himself with INC positions. For example, he told a press conference that he had not yet made up his mind on whether the U.S. Government should order Shorts Bros. aircraft

6. A report in the Irish Press of 4 November 1983 on this issue formed the basis of an editorial in the same paper the following day which claimed that "the Dublin Government is collaborating actively with the British in America in trying to block the Ottinger Bill" In a written reply to a Dail question of 9 November, the Minister said that "the Irish Government is not in cooperation with the British authorities on this issue".

7. Despite Irish National Caucus pressure on individual Congressional offices (and the Embassy's informal comment on the Bill has been in response to queries from these offices,

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often following such pressure) to enlist more co-sponsors for the Ottinger bill, it has made little progress of late. The Congressman may be distancing himself somewhat from their position, prior to his reported retirement in November.

Anglo-Irish Section

Department of Foreign Affairs

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