

C O N F I D E N T I A L

cc Sir Kenneth

Bloayfuld
5/12

FROM: R C MASEFIELD

30 JANUARY 1989

RM/4746/89/JEC

* comments by c.o.p.
Wed 1 Feb.

cc Mr Miles - B
* Mr Spence - B
Mr R Wilson, Cent Sec - B
Mr Blackwell - B
Mr Hallett - B
Principal Secretariat
Mr Fisher - B

UNDER/ SEC 334/11
31 JAN 1989
CENT S-C

Mr Kirk - B

ARTICLE 11 REVIEW: SUBMISSION AND DRAFT TEXT ON ARTICLE 5

I attach 3 draft notes following up our discussion on Article 5 in the Secretariat on 25 January:

- (a) A draft submission to the Secretary of State,
- (b) A summary of the Irish paper on Article 5,
- (c) A draft section for the Review document.

2. I should be grateful if Mr Hallett could fill out the paragraph in the draft submission recording any comments from outside parties on this Article.

3. As I have mentioned to several copy recipients, I think the handling of the Bill of Rights is likely to prove tricky, particularly since, as there have been no Conference discussions for the last 18 months, we have no current indication of the thinking of Ministers. It is also noteworthy however that the Irish are using this Article to try to get more direct contact for their officials both in the decision-making process and with bodies such as SACHR.

4. The draft submission is therefore longer than that of previous Articles. In respect however of the discussion on the Bill of Rights, you may feel that it is still too skimpy; indeed there might

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be merit in reminding the Secretary of State of the various earlier works on a Bill, a Joint Declaration, and other ways of recognising individual rights.

5. I am also conscious that I do not know as much as I would like about the community relations/discrimination reviews. I should be grateful if Central Secretariat would set those parts of the drafts right.

6. I should be happy to co-ordinate comments and circulate the revised draft if that would be helpful. It would be nice to have comments by close on Wednesday, 1 February, to enable us to put the papers forward to the Secretary of State before the weekend.

(Signed)

R MASEFIELD

30 January 1989

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DRAFT SUBMISSION FOR SIGNATURE BY MR MILES

cc PS/Minister of State (B&L) - B
PS/Dr Mawhinney (B&L) - B
PS/PUS (B&L) - B
PS/Sir K Bloomfield - B
Mr Burns - B
Mr Stephens - B
Mr Spence - B
Mr Thomas - B
Mr Masefield - B
Mr Blackwell - B
Mr Kirk - B

PS/Secretary of State (B&L) - B

ARTICLE 11 REVIEW: EXCHANGES WITH THE IRISH ON ARTICLE 5

We have now held in the Secretariat a meeting with the Irish on Article 5, at which they tabled a paper containing specific proposals for the operation of the Article in future. (A summary of that paper is at Annex A).

2. The Irish see this Article as particularly intended to improve recognition of the nationalist community. In their view, the measures taken by the Government in the last 3 years have been both grudging and insufficient. They place particular emphasis on the protection of human rights (a subject dormant in the Conference since 1986/87), socio-economic discrimination, and the role of the Irish language. They are looking for a more direct involvement in the policy-making process.

3. Few of the submissions from outside parties on the Review have commented on Article 5. The main contribution has been

4. Discussions - indeed disagreements - over the role of the Irish language are fairly familiar Conference ground. There is probably scope for some movement in our programme of recognition of cultural

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diversity, and no doubt debate over its role in education will
tumble on. We can thus agree that the subject should in effect stay
on the agenda.

5. Similarly our community relations efforts include recognition of
the need to monitor progress in tackling social and economic
discrimination, (although I am clear that we should not entertain
the proposal for direct Irish representation on internal
committees). Article 6 properly provides for the role of SACHR to
be discussed by the Conference, (though via officials rather than
directly with Commission members).

6. It is future consideration of the form of measures to protect
human rights which is likely to prove most difficult. The Secretary
of State will recall early Conference discussions, after which the
Fianna Fail government never returned to the charge. The Irish are
now however seeking to raise the profile of this issue. They see
recent security measures as further infringing individuals rights,
and there is a danger that they could create another chimaera out of
a Bill of Rights similar to 3 judge courts. We need to head them
off, firmly but tactfully.

7. I attach, at Annex B, a draft section of the Review document.
The draft tries to steer a middle course in relation to human
rights, accepting that they are a fit subject for discussion, while
recording our lack of enthusiasm for a Bill.

8. If the Secretary of State is content, I would like to put this
draft to the Irish in advance of the Conference meeting.

JEC/4745

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SUMMARY OF THE PROPOSALS IN THE IRISH PAPER ON ARTICLE 5 IN THE
ARTICLE 11 REVIEW

The Irish side believe that Article 5 requires a positive approach from the British Government to give expression to the identity of the nationalist tradition in particular.

The Irish side believes there is a growing perception that the Government is insufficiently concerned with the protection of citizens rights.

The Irish side is concerned that more needs to be done, and more urgently, to end economic discrimination.

2. The Irish paper puts forward the following specific proposals:

- (a) A joint assessment by the Conference of the role of SACHR (involving discussions between Anglo-Irish officials and SACHR representatives);
- (b) Greater recognition of the Irish language, including the repeal on the prohibition of street signs in languages other than English, an institute for the promotion of Irish, additional assistance for Irish language schools;
- (c) Improved reception of RTE radio and television in NI, including radio na Gaeltachta;
- (d) A prohibition on the display of offensive flags and emblems in workplaces;
- (e) A committee chaired by a Minister, going wider than the NI Civil Service, to co-ordinate equal opportunity efforts;
- (f) An appraisal of the operation and future direction of the disadvantaged areas initiative;

- (g) Urgent discussions leading to the introduction of a Bill of Rights for Northern Ireland.

R MASEFIELD

30 January 1989

The Irish side will be pleased to provide information and the Government is accordingly concerned with the protection of citizens rights.

The Irish side is anxious that this work be done as soon as possible, to end the current situation.

2. The Irish party will accept the following specific proposals:

- (a) A joint assessment of the impact of the role of the courts (involving senior judges, senior legal officials and union representatives);

- (b) Greater enforcement of the law relating to the equal on the prohibition of work done by language other than English, as laid down by the Government of the Republic, including assistance for Irish language officials;

- (c) Improved services of the Garda Síochána in relation to the role of the Garda Síochána in other areas;

- (d) A prohibition on the use of violence in the workplace;

- (e) A committee dealing with the role of the Garda Síochána in the provision of services, as appropriate, in relation to the Garda Síochána;

- (f) An assessment of the impact of the current operation of the Department of the Environment.

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DRAFT PASSAGE FOR REVIEW DOCUMENT: ARTICLE 5

We have reviewed the operation of this Article, under which the Conference has considered a wide range of measures designed to recognise the rights and identities of the two traditions, to protect human rights and to prevent discrimination.

2. A good deal of progress has been achieved in the following areas:

- (i) measures designed to enhance the role of the Irish language (including revised procedures in Government Departments relating to the handling of correspondence in Irish, the publication of a dual language map and gazetteer, and further recognition for the status of the language in education),
- (ii) the introduction of legislation to widen the franchise for "I" voters,
- (iii) the repeal of the Flags and Emblems Act (NI) 1954,
- (iv) the introduction of fair employment legislation,
- (v) revisions to previous public order legislation, and
- (vi) the preparation of a programme to foster the cultural heritage of both traditions. Moreover, under Article 5(c), the Irish side has been consulted on the development of new policy in important areas such as education reforms and tackling areas of urban disadvantage.

3. The Irish side criticise the Government for not having pursued the issues in the Article with sufficient imagination. They stress the need to take a more comprehensive approach both to tackling discrimination and to safeguarding human rights. They advocate specific measures designed to improve recognition of the importance

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of the Irish language, including repeal of 1949 legislation preventing erection of street signs in languages other than English. They reiterate their support for a Bill of Rights, and they seek a more direct role for the Irish side in certain policy areas.

4. The British side agree on the importance of continuing to discuss with the Irish side major social and economic developments, though there are limits on the extent to which they can be involved in the decision-making process. The British side want to discuss more fully community relations issues, (including the possible application of certain measures in the South - Article 5(b)). Both sides see advantage in continuing discussion on the role of the Irish language and how it may be further developed although the British side note that it forms only part of the cultural heritage of the community.

5. The British side are not presently persuaded of the case for a Bill of Rights, though they are determined to continue to provide proper protection for human rights. Consideration of appropriate ways of doing this should be resumed.

6. It may be helpful to designate a working party to co-ordinate work on the various issues under this Article.

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