

1PI N10 LONDON

**CONFIDENTIAL**  
From: THE PRIVATE SECRETARY

Ge: 80 0/1



NORTHERN IRELAND OFFICE  
WHITEHALL  
LONDON SW1A 2AZ

John Holmes Esq  
Private Secretary to the  
Prime Minister  
10 Downing Street  
LONDON  
SW1A 2AA

2 September 1996

Dear John

**NORTHERN IRELAND: FUTURE POLICY OPTIONS**

In your letter of 29 July you asked for a paper developing further the package of preferred future policy options in the event of Talks failing. This is attached.

2. The paper focuses on the particular ideas you identified from the menu we produced before the summer break, though we have also mentioned an additional idea of a possible Green Paper. Accordingly the paper focuses, as did the earlier menu, on political issues. In practice if the Talks come to an end we should want to look at the complete spectrum of our policies. For example, a good deal might depend on the security situation.

3. There are some points worth making about this package:

- The analysis is in somewhat negative terms. This does not reflect any reluctance to consider different approaches, but rather the reality of what is likely to be achievable in such a situation.
- Indeed, our overall assessment is that there is no easily or readily available alternative to the Talks policy, which is of course one reason why it has been pursued with such tenacity for so long.

*If certainly is!*





- In practice much might turn on when the Talks stall, and the perceived reasons. Obviously the later it occurs the less room there will be for new policy initiatives in advance of the Election. Equally obviously, the circumstances of the breakdown, including the degree of mutual recrimination, will crucially condition what alternative approaches are feasible.
- Even now, if Talks came to an end at once, the Government might want to put its main emphasis on providing the reassurance of steady government, with some balanced confidence building measures, rather than moving too quickly into a wholly different policy approach to the achievement of a political accommodation.
- But, as the note shows, there are more imaginative approaches, though none is easy or free of risk.

4. Against that background, our own judgement is that our main efforts should continue to go into sustaining the Talks process. Our objective should be to bring them to fruition or, short of that, to maintain at least such purposive forward movement as to ensure the continued engagement of all the participants. We do not accordingly propose further work on this package at this stage, though if the Prime Minister wanted us to develop it, or any particular feature of it, we are of course happy to do so.

Signed

W K LINDSAY



CONFIDENTIAL

2 September 1996

NORTHERN IRELAND: FUTURE POLICY OPTIONS

In the event of the collapse of the current talks process it was suggested that, from the options set out in the paper of 25 July, three in particular might form a reasonably attractive package. They are:

1. Measures to tackle the democratic deficit:  
more powers to local government and greater involvement in direct rule for local politicians.
2. Measures to increase parity of esteem:  
further effort to reassure nationalists, in particular a Bill of Rights, some further police reform, and independent adjudication of march proposals.
3. Measures on constitutional reform:

a balanced attempt to move forward on constitutional reform.

These suggestions are examined in more detail below.

1. Measures to tackle the democratic deficit

A. More powers to local government

- (i) Since the reform of local government following the Macrory Review, housing, health and personal social services, education, planning, roads, water, sewage, fire services and electricity have been administered for the whole of Northern Ireland, either by statutory

CONFIDENTIAL



CONFIDENTIAL

bodies or by Central Government. The number of local authorities was reduced to 26 District Councils, operating in a single tier local government system. On 1 April 1973, the NI Housing Executive, 5 Education Boards, 4 Health and Personal Social Services Boards, a regional rating service and the 26 District Councils came into full operation. The responsibilities of District Councils consisted originally of community facilities and environmental health, and now also cover promotion of economic development and community relations. Their main functions are executive (running refuse services, providing recreational facilities etc); representative (nominating members to serve on Area Boards, Fire Authority etc); and consultative (council views are sought on centrally run services such as water, roads, planning).

- (ii) The structure is generally accepted as having produced fairness in the delivery of services. There is a democratic deficit however, and persistent criticism is made of the number of quangos and their unelected nature.
- (iii) At the minimalist end of the scale, district councils might deal with issues such as aspects of economic development, roads maintenance, drugs and community safety (suggestions frequently put to us), leaving larger functions such as roads construction, planning and education until such time as councils have evolved systems capable of dealing fairly and competently with their new level of responsibilities.
- (iv) The political benefits of any return of power to local government would be one way only; approved by unionists, who control the majority of district councils, but viewed unfavourably by nationalists. The past history of abuse of power in some areas,

CONFIDENTIAL



CONFIDENTIAL

particularly in housing, make this an emotive issue for nationalists.

- (v) An idea recurrently canvassed to mitigate divisive effects is to link any expansion of the role of district councils to measures designed to secure a higher level of power sharing. Some district councils, mostly those where the SDLP has control, already practise power sharing (or rather "responsibility sharing") to some degree, consisting of rotating mayorships and chairmanships of committees. But the kind of power sharing we are talking about here would need to be much more rigorous and enforceable. It is not immediately clear how expanded responsibilities could be linked to power sharing arrangements, and any such link would presumably require the consent of the district councils. It would therefore be likely that some district councils would accept increased powers on these terms whilst others wouldn't, leading to administrative confusion, in which HMG or the existing bodies would be left with responsibilities for a patchwork arrangement.

B. Greater involvement in direct rule

- (i) Greater involvement of local politicians in direct rule has been considered in terms of the NI parties being routinely consulted on policy issues, particularly social and economic matters. It might require Ministers and NI Permanent Secretaries to agree to have regular meetings with NI MPs, to discuss current and forthcoming policy issues. These arrangements have been used before on an ad hoc basis. Briefings on topics in the economic and social fields have occurred before, such as those given during the Talks in 1992. It is likely that, without executive responsibilities, parties' views will not

CONFIDENTIAL



CONFIDENTIAL

accord with those of the Government, making for friction. But the element of discussion will have been valuably provided. (The position on Sinn Fein's involvement would need to be decided. This is, however, a more easily soluble element.)

- (ii) Other suggestions, such as an advisory panel for Ministers, involve a more permanent structure. There are a number of ways this could be achieved, eg by election or by nomination, but in essence its role is informal and advisory. It would inevitably mean Ministers having to devote additional time to consultation, and it is not clear how welcome it will be to local politicians - it doesn't give them actual power and may be seen as window dressing. It has been canvassed before but has never been put into operation. Unionists have been intermittently interested but there has been no consistent pressure for it from any quarter.

2. Parity of esteem

A. Generally

- (i) It is easier to identify where further change might occur in the area of activities which comes under the broad heading of parity of esteem. Progress might be made in areas such as the flying of flags; means to tackle continuing Catholic disadvantage in fields such as unemployment; the taking of oaths; aspects of our policy towards the Irish language including arrangements for transmission of the new Irish language channel in the Republic, and reception of RTE TV broadcasts. The Irish Government could no doubt provide more ideas. But almost everything in this area is likely to be provocative to Unionist sensibilities, either individually or cumulatively.

CONFIDENTIAL



CONFIDENTIAL

- (ii) HMG has however already made an active commitment in this area. In paragraphs 20 of "A New Framework" the Government "pledge" to rule with rigorous impartiality, "with emphasis on full respect for, and equality of civil, political, social and cultural rights and freedom from discrimination for all citizens, on parity of esteem, and on just and equal treatment for the identity, ethos and aspirations of both communities". This affirmation and commitment is unconnected to the achievement of an overall settlement.

B. A Bill of Rights

- (i) All parties in Northern Ireland are likely to support a Bill of Rights, though in some cases that support depends on it extending to the UK. A Bill of Rights for the UK as a whole would mean a departure from current Government policy. Such a Bill for Northern Ireland alone may, depending upon its terms, be difficult to ring-fence in its legal effect, but would in any event have implications for the current policy on a Bill of Rights for the UK as a whole. Commitments were given in Frameworks, however, that as part of an overall deal a settlement would ensure "the systematic and effective protection of common specified civil, political, social and cultural rights", and that each Government would introduce appropriate legislation or other measures to secure the protection of these rights.

*I don't believe this is a novel.*

- (ii) It would clearly be possible to fulfil the Frameworks commitment in advance of an overall settlement, whether in conjunction with an Irish Government as the Frameworks envisage, or by HMG alone. The exercise would not be straightforward and the general support of the parties in Northern Ireland might not be sustained as the details are settled. Such a process

CONFIDENTIAL



could however be a useful focus for political activity, particularly in the absence of a sustainable Talks process.

- (iii) Such an exercise would be worthwhile in demonstrating the Government's determination to respect different views and protect the individual. It could enhance confidence in the accountability of the democratic process among nationalists, and reinforce the acceptability of Government UK institutions in Northern Ireland.

#### C. Reform of the RUC

Further possible reform of the RUC could vary from radical structural reform to purely presentational matters, such as changing the name. Anything radical would be provocative and in any event could take substantial time to achieve. The Government brought forward proposals for reform in the White Paper published in May, and it would be possible to move to implement these whether talks fail or not.

#### D. Independent Adjudication of March Proposals

The question of independent adjudication of marches has been somewhat overtaken by the North Review body. It would be inappropriate to develop further ideas on this issue until the Report appears.

### 3. Measures on constitutional reform

- (i) A balanced package is needed. It might include:

*Flanagan might be needed to take this forward than his predecessor.*



CONFIDENTIAL

- amendment of Articles 2 and 3
- amendment of the Government of Ireland Act

The removal of the Republic's territorial claim over Northern Ireland would be a major step forward in reassuring unionists, and in reconciling them to other changes necessary to make Northern Ireland more acceptable to the nationalist community.

- (ii) The commitment given in Frameworks by both Governments to amend, in the case of the British Government, or to bring forward and support proposals for change, in the case of the Irish Government, the relevant parts of its constitutional legislation, occurs in the context of agreement being reached on new political arrangements for Northern Ireland. It is unlikely that the Irish Government would be happy to deal separately on this point.
- (iii) This element of the package as it stands is not very balanced. There is little left, after earlier amendments, to the Government of Ireland Act. The Irish Government would make their own assessment of what would form a balanced package and their price might well be the whole of Frameworks. Nevertheless, reform of the GOI Act would have symbolic significance, and if they could be persuaded to confine the trade-off to constitutional issues, some additional constitutional wording relating to the commitments in paragraphs 18-20 (eg. on consent, and even handed stewardship) may provide the make weight. The only way to test it is in discussion and negotiation with the Irish Government. Inevitably, this part of the package can be taken further only in conjunction with them.
- (iv) Another possibility would be to produce, perhaps in conjunction but certainly in consultation with the

CONFIDENTIAL



CONFIDENTIAL

Irish Government, a Green Paper. This could set out proposals for political reform as a basis for consultation with the parties. Such a paper could be based on a distillation of the Frameworks for the Future, though modified in the light of reactions to them. This would run with intermittent suggestions from the Taoiseach's office that they might be ready to contemplate a less ambitious, and therefore more unionist-friendly, scheme. Such an exercise could lead to a White Paper, to a Referendum or indeed to the establishment of the basis for a re-launch of the Talks. In practice it is unlikely that it could be completed before the Election.

Conclusions

4. In the event of the failure of the negotiations, the Government will wish to fill the vacuum with some positive political activity. Given the hopes invested in the talks process over a number of years, that will clearly not be easy, especially given the relatively short time period before the General Election. Against that background, any package, including that discussed above, may look somewhat arbitrary and improvised. In addition:

- it will clearly be a departure from the triple lock, although consultation with parties might mitigate that, and will be vulnerable to the charge of being imposed. The use of a referendum, together with earlier consultation with the parties, would mitigate this charge, however.
- no worthwhile package can be uncontroversial
- whatever is proposed will involve continued close working with the Irish Government. This is the minimum required to retain SDLP assent. ROI is likely to demand some measures that go beyond a

Why?

Up to a point.  
But it's on territory

CONFIDENTIAL



CONFIDENTIAL

purely internal settlement. Or at least significant and radical advance on key nationalist concerns, eg police reform.

- it will be difficult to assemble the package in the time available, particularly if parties are consulted and if there is, as suggested above, close working with the Irish Government (the Joint Declaration and Frameworks took years).

5. This package has a particular problem of timing. Most proposed changes, such as increased powers for local government, a Bill of Rights, police reform, and constitutional reform, would present difficulties and require legislative changes which would take a considerable amount of time.

6. The package as suggested therefore does not provide a quick and easy solution. Neither does it necessarily form a coherent whole. But, elements of it might usefully be explored separately.