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NORTHERN IRELAND CONSTITUTIONAL PROPOSALSA CRITIQUE BY THE SOCIAL DEMOCRATIC AND LABOUR PARTY

1. The S.D.L.P. is certain that constitutional stability is essential for the lasting peace that we all desire. The constitutional basis for the proposals for a governmental system of institutions for Northern Ireland will be a statutory declaration in an Act of the British Parliament stating that Northern Ireland will not cease to be part of the United Kingdom without the consent of the people of Northern Ireland. This is not a secure basis for the constitutional stability of any community since an Act of Parliament can be changed at any time. The present Act which contains the pledge made in 1949 is now about to be changed and departure from the United Kingdom now requires the consent of the people, not the Parliament, of Northern Ireland. The position is all the more insecure when related to the present views of the main parties in Britain today as to the constitutional future of Ireland as a whole. Moreover, the Secretary of State under these proposals will be Northern Ireland's Overlord. The position of Secretary of State should not be confused with the views of the present occupant of the office for Secretaries of State can change and so can parties when in office, and so can their ideas and views.
2. The new Assembly will have 80 members and will be elected by the proportional representation system with the single transferable vote. This is largely in keeping with our own recommendations as to the size of any assembly and its method of election. For the first year of its existence it will be largely a consultative assembly and will not assume any powers until its representatives have agreed among themselves and with the Secretary of State as to what its procedures should be. Its committee system will allow for participation by all parties in the development and making of policy as well as in the review of departmental functions. This should allow for greater participation at all levels in policy making. However, there is still need for great clarification as to how the Assembly will take its decisions. If majority rule is to be the criterion, then of course such a method would be clearly unacceptable as it would result in the old ascendancy mentality and would end in deadlock. The powers of the Assembly will be extremely limited, much more limited than the old Stormont. Powers which will be permanently reserved to the United Kingdom Parliament have been increased to include the elections and the franchise as well as most of the powers of the old Ministry of Home Affairs. Westminster will now have complete power over the judiciary in Northern Ireland at all levels. It will also reserve for the time being other powers of the old Ministry of Home Affairs particularly in the field of law and order, prisons and the police. Such powers could not be returned in our view to any Assembly if any trace of the old ascendancy mentality existed or without the agreement of all substantial parties in the Assembly. It is clear that there are still many matters



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relating to the Assembly and its powers which will require clarification and we do not under-estimate the difficulties in achieving the necessary agreement to make such an Assembly workable.

### 3. Power Sharing.

The concept of power sharing is one of the key proposals put forward in the White Paper and the power is to be shared at Executive level. How this is to be done is again not clear and will again be a matter for discussion and agreement between the parties and the Secretary of State. However, we have always taken the view that power sharing is not just a matter for those at the top but must clearly seem to permeate all levels of society in Northern Ireland to be fully effective. In addition, as a Party which is completely dedicated to the removal of sectarianism as a force in politics in this part of Ireland, we would be anxious to avoid any suggestion of power sharing that would institutionalise sectarianism in Northern Ireland. We do agree with the aims of the British Government in this section when they state that it is their wish to find a governmental system which will have a broad measure of consent from the entire community. Such consent is essential if we are to have any basis for progress.

### 4. The Irish Dimension.

We do not wish to conceal our disappointment at the fact that this dimension has not been defined in a meaningful way. We remain convinced that the future for this island particularly in the context of the E.E.C. lies in developing ultimate integration by agreement between North and South and we believe that an all-Ireland institution with clearly defined powers and with that aim in view should be the clearly expressed view of the British Government in this White Paper. We note that they express themselves in favour of the setting up of a Council of Ireland but what has been offered in this White Paper has been an all-Ireland Conference, representative of North and South as well as Britain to evolve an agreement in this direction. We are prepared to participate in such discussions in spite of our strong reservations and deep disappointment. We feel, however, that many factors will in the future underline the logic of our position. Membership of the E.E.C. further strengthens the argument for the development of such an institution and the North's position in this context is much closer to the South than to Britain. This is emphasised by the imbalance in E.E.C. representation between North and South. We in the North have only one member in the European Parliament, the South has ten, in addition to its member of the Council of Ministers and its Commissioner and equality of influence with other member countries. This is further underlined by the fact that the Irish attitude to regional policy in the E.E.C. is much closer to Northern needs than is the British.



5. Charter of Rights.

We in our party have consistently campaigned for a Bill of Rights for Northern Ireland and we welcome the decision contained in the White Paper to have a charter of rights. We will be seeking some points of clarification. The basis of this charter has been summarised in Paragraph 91 as:-

- (a) the right to freedom within the law including freedom to advance any political or constitutional cause by non-violent means;
  - (b) the right to protection under the law, so that freedom is not taken away or diminished by violence, oppression or intimidation by others; and
  - (c) the right to equality of benefit and opportunity, so that society will deal in an equitable and even-handed way as between one citizen and another, without bias or prejudice.
- (a) Does this mean that the legal obstacles to organisations like Sinn Féin and the Republican Clubs have been removed and that they will be allowed free expression of their political views and freedom to participate in Northern Ireland elections?
- (b) Will there not be major conflict with the expression contained in this clause and the sort of legislation that is envisaged in the Diplock Report and any new emergency powers which would take away freedom from the individual through legislative oppression?
- (c) The right to equality of benefit and opportunity contains a declaration in an area that has caused most of the trouble in relation to discrimination in the past in Northern Ireland, in employment both in the public and private sector. In this area the provisions are to include new legislation which will prevent any discriminatory law or action by either the new Executive or Assembly and this is to be welcomed. Also to be welcomed will be new legislation establishing machinery for handling complaints against police and the new proposals put forward by the working party of Trade Unionists and employers on discrimination in the field of private employment. We strongly support the establishment of a fair employment agency to investigate discrimination in private employment as well as individual complaints and we support the creation of a Standing Advisory Committee on Human Rights. Discrimination in the public sector is to continue to be under the scrutiny of the Parliamentary Commissioner of Administration and the Commissioner of Complaints. We would point out a glaring weakness in the powers of both these offices in that they are restricted to the examination of individual complaints and cannot investigate patterns of discrimination. It is extremely difficult to prove discrimination on an individual case, e.g., the appointment of a hospital worker or a school bus driver but there is surely something wrong when the large majority of such public employees in a particular area come from one section of a community



which is a minority in that area. Both the Ombudsman and the Commissioner for Complaints must have their powers extended to allow them to investigate such patterns of employment which reveal discrimination in the public sector. We can see the difficulties in removing discrimination from private employment but would congratulate the working party on the summary of proposals revealed in the White Paper and we look forward to the production of their entire document and would point out that legislation against discrimination in the public sector might well take a similar direction. We welcome with satisfaction the first steps towards the abolition of a declaration of allegiance to the British connection in most areas of public service and representation.

The pattern of employment in the Northern Ireland Civil Service is an area which requires immediate and urgent investigation. We recognise the need, in justice, to protect the rights of employment of existing members of the Civil Service but we cannot fail to point out the serious religious imbalance that has existed in this service, particularly in its most senior positions, throughout its existence. There is a grave need to examine ways in which this imbalance can be corrected.

#### 6. Legislation against Violence and Subversion.

We are convinced that the best method of dealing with political violence is to achieve a political settlement which has the consent of the entire community. In this way no repressive legislation of any description will be required. Irish history is littered with Coercion Acts which have been counter-productive. Accordingly, we are completely opposed to the continuation of Detention without trial, and we would point out that even though the Special Powers Act may be abolished and new Acts, which perform similar functions, replace them, that the continuation of imprisonment without trial is to many people in Northern Ireland the perpetuation of the internment initiated by the Faulkner regime and is abhorrent to us. We want the removal of imprisonment without trial and we will seek its removal. We would also approach this problem from another point of view. The problems of Northern Ireland have been with us for generations and have not been created by the present generation. If we are to seek a settlement and at the same time leave our prisons full of young people from both sections of this community, who, whether we disagree or not with what they may or may not have done, then we are saddling them with the responsibility for a deep and desperate problem of which they are as much the victims as anyone else. Any compassionate view of the situation, apart from a principled view, would demand the release of all such people, from all sections of the community, who owe their imprisonment to the current upheaval in Northern Ireland.

#### 7. Symbols.

The Governor of Northern Ireland is to be relieved of his position and the function of Governor is to be abolished. We have no objections to that particular decision but we wonder whether the symbols of the crown will retain the importance



in Northern Ireland that they have had in the past. We would point out that because of our long historical and bitter background, such symbols are extremely divisive particularly when viewed against the denial of the symbols to which another section of the community give their loyalty. Symbols are important, particularly when they are denied, and the continuation of the Flags and Emblems Act denies the symbolism of one section of the community. We will seek the removal of this legislation.

8. Police.

One glaring omission in the White Paper is the total failure to face up to the need for a fully acceptable police service in Northern Ireland. We are greatly concerned that the need for a newly constituted Police Service has not been recognised in spite of our repeated representations to Mr. Whitelaw. We have pointed out to him that his proposals for the North have little hope of success unless they are underpinned by an effective, impartial, non-political police service fully supported by the public.

The paragraphs in the White Paper which deal with the policing arrangements indicate that he is oblivious of certain facts:-

- (1) that the police are unable to visit many areas in the North except under army escort;
- (2) that police morale is very low;
- (3) that they are substantially under-strength;
- (4) that the personnel turnover is higher than that of local private industry.

These facts compound the logic that the R.U.C. is not in a fit state to tackle petty crime never mind major crime.

The current role and function of the police is outdated. It only remotely relates to the needs of a contemporary police service. It should have been drastically reformed during the early sixties when trends for major crimes of a non-political character showed considerably increased figures for Northern Ireland against those of England, Scotland and Wales. That it is too late now for reform is self-evident. A complete new service must have a top priority rating to tackle the spiralling volume of serious crime that was neglected during the years of Unionist control; for they saw the police only for its political usefulness.

There must be a new police service to enable it to break adrift from any political involvement whatsoever, and be seen to do so to the extent that it will be free to deal in reality with ordinary crime.

Other crime could be separated if not eliminated entirely within the terms of a settlement arranged by the Secretary of State and could lead subsequently to the violence being switched off. However, we are left with the problem of the gangster in our midst who has exploited greedily the conditions created by the present strife. He must be confronted and defeated by a non-political impartial police service enjoying the support of local people. Bringing the military in to tackle this problem even if



only for escort duties, could lead to the escalation of violence because the army are unsuited to carrying out this duty with the minimum use of force and again by their presence they create too many political implications. These in turn invariably draw communal sympathy upon the law breaker. Hence, our efforts to promote peace are pushed back to a "square one" position.

We appeal to Mr. Whitelaw to continue his White Paper proposals to their logical conclusions by making a clean sweep of the present force and introducing a new police service immediately. There is no reason to delay while a survey is conducted into its failures and weaknesses. These are already well known and are recorded by a number of authoritative experts from Britain who have reported to the Home Secretary in recent times including no doubt the highly respected former Chief Constable, Sir Arthur Young.

#### 9. Economic Problems.

We are disappointed that the economic dimension has been devalued to the level of a minor issue in the White Paper and that the references on the economy have been carefully selected to give the impression that the difficulties are anything other than of a deep-rooted nature.

For example, one reference said that "a skilful and vigorously conducted programme of industrial development, relying heavily on internal investment, has achieved a marked diversification of the industrial base, a steady rise in productivity and real increases in living standards and that by those standards Northern Ireland has some substantial economic achievements to its credit".

These standards quite clearly are unacceptable to us in determining our views on the need for an economic dimension. We have constantly plied the Whitelaw administration over the last year with memoranda on the weaknesses inherent in the present approach to economic problems and on how the weaknesses could be eliminated by an overall plan based on native resources, skills, enterprises tied to modern techniques efficiently applied and underwritten by publicly owned capital.

We believe that the White Paper's description of our economic problems has been played down deliberately. These difficulties are worth repeating. By doing so, it can be seen that the proposals to deal with them are far too inadequate to solve them.

The emigration rate in the North, bad though it is in normal times, has dramatically increased since 1971. Chronically high unemployment figures are still rising and even they do not reflect the number of unemployed in minority areas. Substantial differences in scale exist in the fields of lower wages, longer hours, standards of living and overall prosperity in the regions as compared to others in Britain.

It must be recognised that Unionist policy over the years which has been followed slavishly by the present Whitelaw Administration, has signally failed to improve these figures.

There is no longer any hope of attracting outside industry by financial inducement to come to the North to commence activities while violence continues and the future is so uncertain.



No industrialist will invest capital while the opportunities for greater security and higher returns are more attractive elsewhere.

In any case, this type of industry has been in the past of doubtful merit. It is of the capital-intensive variety employing only the minimum number of workers and recording fancy financial statistics for their parent multinational corporations. This industry does little good apart from inflating national statistics giving a distorted picture of the economy and paying out an infinitesimal amount of their annual turnover in wages and salaries.

We are of the opinion that Mr. Whitelaw is overawed by the complexities involved in handling the entire issues under this heading. We realise apart from his inimical party interest and inhibitions that he may have doubts about his own powers to initiate new industry on a public ownership basis within the confines of our membership of the E.E.C. and of his reluctance to look for fiscal freedom to cater for our regional peculiarities. Nevertheless, the importance of solving this set of problems is so basic to the North's future that a public statement from Mr. Whitelaw is necessary immediately defining the powers that the Assembly would have in dealing with these economic problems.

22nd March, 1973.