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Outline of Proposals for Inter-Community Government
in Northern Ireland

C O N T E N T S

PREAMBLE

SECTION 1 - General Introductory Section

SECTION 2 - The Assembly

SECTION 3 - The Executive

SECTION 4 - Enactment and Promulgation of Laws

SECTION 5 - Relations with Republic of Ireland

SECTION 6 - Referenda

NOTES

*Therese Foster
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PREAMBLE

The Preamble should state the objectives which the Constitution Acts is designed to achieve. These should include:-

- a. The restoration of peace in Northern Ireland
- b. The establishment and maintenance of harmony and understanding between the communities in Northern Ireland.
- c. Respect for the human rights of every person in Northern Ireland
- d. The furtherance of the prosperity of the people of Northern Ireland
- e. The establishment and maintenance of good relations between the people of Northern Ireland and the people of the Republic of Ireland.

(I). General Introductory Section

The Constitution provided for in this Act is to operate for a period of ten years. There will be convened a Constitutional Convention prior to expiration of this ten year period which will review the operation of the Constitution and make recommendations, if though fit, for the amendment or for the provisions of a new Constitution.

(See Notes)

(2) The Assembly

- (a) There shall be a legislative Assembly for Northern Ireland with power to make laws for Northern Ireland. Its competence to make laws will initially be the same as that possessed by the Assembly under the Act of 1973. After the establishment of the Council of Ministers (hereinafter referred to) consultations will take place between the Secretary of State and the Council of Ministers with a view to extending the legislative competence of the Assembly.
- (b) The Assembly will be composed of members elected on the system of proportional representation used for the election to the present Convention, and from the same constituencies. An independent Boundary Commission will be established to review from time to time according to law, the boundaries of the Constituencies.
- (c) A Register of Political Parties will be maintained by the Clerk of the Assembly. Political parties will be permitted to register provided their constitution proclaims support for the institutions established by the Constitution Act and rejection of the use of force as a means for achieving political ends, and provided the Party fulfills qualifications established by law relating to its organisation as a political party and its ability to function throughout Northern Ireland. Only candidates of registered political parties will be permitted to have the name of the party to which they belong inscribed on the ballot paper at a General Election. Only registered political parties will have the rights relating to appointments, as members of the Council of Ministers

(See Notes)

(d) A General Election for the Assembly will be held once every four years, or sooner as determined by the Secretary of State.

(3) The Executive

- (a) The Executive power in Northern Ireland will be exercised through Ministers appointed in the manner prescribed hereunder who will be heads of Departments established in the manner prescribed hereunder.
- (b) The Secretary of State will, by Order, prescribe from time to time the Departments of Government in Northern Ireland and their functions. He shall do so in such a manner as to assist in the achievement of the purposes of the Constitution, as set out in the Preamble of the Constitution Act.
- (c) The Secretary of State will appoint members of the Assembly to act as Ministers, on the following principles;
 - (i) Each registered political party shall be entitled to a proportion of the number of Ministers established
 - (ii) If a registered political party does not receive per cent of the first preference votes cast in the General Election and at least seats in the Assembly it will not be entitled to nominate persons for appointment, as hereinafter prescribed.
 - (iii) Each registered political party (other than a political party referred to at (ii) hereof) will be entitled to a proportion of the total number of Ministers equal as near as is possible to the proportion which the number of their seats in the Assembly bears to the total number of Assembly seats held by members of registered political parties (other than political parties referred to at (ii) above).

(See Notes)

- (iv) Each registered political party will nominate for appointment by the Secretary of State such number of persons to be appointed by him as that political party is entitled to by virtue of (iii) above.
- (v) The Secretary of State will appoint members nominated in accordance with (iv) to act in the Ministries best calculated to assist in the achievement of the purposes set out in the Preamble to the Constitution Act.
- (d) The Ministers will form a Council of Ministers. The Council of Ministers will recommend laws and other measures for adoption by the Assembly and will meet together for the dispatch of the business of the government of Northern Ireland.
- (e) There shall be a President of the Council of Ministers. He shall be appointed by the Secretary of State from amongst the members of the Assembly. He will preside at meetings of the Council of Ministers and will take precedence over other Ministers. In calculating entitlement under sub-paragraph (c) (iii) hereof account will be taken of the fact that a member of a political party has been appointed President of the Council of Ministers.
- (f) There shall be established a General Affairs Committee of the Council of Ministers. It shall comprise such Ministers as may be determined from time to time by the Secretary of State. It shall meet to prepare the business of the Council of Ministers and to make recommendations to the Council of Ministers. It may

(See Notes)

require the attendance at its meetings of Ministers who are not members of the Committee but whose Departmental Affairs the Committee wishes to discuss or on which it wishes to make recommendations to the Council of Ministers.

- (g) Decisions of the Council of Ministers and the General Affairs Committee will be taken by a majority vote. A dissenting Minister will be entitled to inform the Assembly of his dissent and reasons for it but will not be entitled to vote against the decision of the Council of Ministers.

(4) Enactment and Promulgation of Laws:

(a) Every law adopted by the Assembly shall be transmitted to the Secretary of State for submission to Her Majesty in council, subject to the following provisions thereof.

(b) If after a law has been adopted by the Assembly a resolution is proposed for the debate in the Assembly which expresses the opinion that the law will not promote the objectives set out in the Preamble either by reason of its provisions or its ~~commissions~~, and if such resolution receives at least ^(—) votes in the Assembly, the Secretary of State will in lieu of submitting the law to Her Majesty in Council;

(i) consult the Consultative Council referred to at (c) below

(ii) make such amendments (if any) in the proposed law as after such consultation with the Council he considers necessary to promote the objectives set out in the Preamble

(iii) thereafter submit the proposed law (with or without amendments) to Her Majesty in Council for promulgation in accordance with law.

(See Notes)

(c) A Consultative Council (referred to at (b) hereof) will be established by the Secretary of State. It will comprise leaders of, and persons prominent in, the life of the communities of Northern Ireland.

It will advise the Secretary on any law referred to it under (b) hereof as to what amendments (if any) should be made in the law for the purpose of promoting the objectives set out in the Preamble.

5. Relations with Republic or Ireland

(a) The Council of Ministers will consult from time to time with the Government of the Republic of Ireland on matters of common interest for the well-being of the people of Northern Ireland and the Republic. To facilitate such consultations a Standing Committee comprising Ministers of the ~~two~~ Council of Ministers and the Government of the Republic will be established to prepare agendas for inter-governmental consultations. It may recommend the holding of meetings of Parliamentarians from the Assembly of Northern Ireland and the Oireachtas of the Republic of Ireland.

(b) An Economic and Social Council representative of votational interests in both parts of Ireland will be established to advise the Standing Committee.

(c) A Standing Agreement on security will be entered into between the Council of Ministers and the Government of the Republic of Ireland. This Standing Agreement will provide, inter alia:

(i) That it will come into operation when a State of Emergency has been declared either by the Assembly or by Dail Eireann.

(ii) That there will be regular consultations between the security forces of the two parts of Ireland and exchange of information about persons wanted for questioning in respect of

(See Notes)

crimes, or accused of crimes in either part of Ireland.

- (iii) That a Standing Committee will be established to review the operation of the Agreement; that there will be undertakings to carry out the recommendations of the Standing Committee, that the Standing Committee will be composed of the relevant Ministers and representatives of the security forces in both parts of Ireland.
- (iv) That if the proposals at present being considered by the U.K. Parliament and the Oireachtas for the trial of fugitive offenders should prove inadequate that new measures for the purpose will be introduced.

6. Referenda:

- (a) The new institutions of Government and the Constitution Act will be submitted to the people of Northern Ireland by means of a Referendum. It will come into operation if approved by them.
- (b) The Government of the Republic of Ireland will be requested to submit to the people of Ireland in accordance with its Constitution and laws a proposal which will give the people of the Republic of Ireland an opportunity to express its support for and approval of the new institutions of government and the Constitution adopted by the Convention.

(See Notes)

NOTES

(1) These proposals are submitted for the purposes of discussion. They have no official status. They can be amended as though appropriate before submission in the inter-party talks. They deal with only some of the provisions to be included in a new Constitution.

(2) SECTION I: The proposed Constitution get more support if it is seen to be a measure to deal with the present emergency and if prospects for its review are seen to be established.

(3) SECTION (2) (b).

The Register of Political parties would mean that the political wings of para-military organisations would not qualify for registration. Whilst they could put forward candidates, they would have no right to consideration for membership of a power-sharing executive.

(4) SECTION (3)

The power given to the Secretary of State is designed to avoid unfair practices by a loyalist majority.

The proposals contemplate that the persons to be appointed Ministers will be selected by the political parties. The distribution of portfolios will be a matter for the Secretary.

Official — The concept of Cabinet responsibility is not appropriate for the form of government proposed. A Minister can explain his dissent to the Assembly. If he wishes to vote against a proposal of the Council of Ministers he will have to resign. Neither is the concept of an opposition appropriate.

Sub-paragraph (f) is included to give expression to the concept of an inner cabinet. It can of course, be deleted if not required.

(5) SECTION (4)

To avoid unfair practice by a loyalist majority the provisions of sub-paragraph (b) and (c) have been included. These will give a residuary power to the Secretary. The Consultative Council would not only assist the Secretary but also gain support for the concepts contained in the Section from the general public.

(6) SECTION (5)

The proposed Standing Agreement would not give rise to constitutional difficulties unless its Standing Committee's recommendations had the force of law in the Republic, otherwise the obligation on the authorities in both parts of Ireland will be to carry out agreed recommendations in the security field.

If measures, other than the present extra-territorial proposals, for the prosecution of fugitive offenders are proposed a Constitutional amendment may be required, if amendment of the Extradition Act is suggested.

(7) SECTION 6

Two types of Referenda can be held in the Republic; one on a proposal to amend the Constitution; the other when a certain number of members of the Dail and Senate request the President to submit a Bill to the people and he decides to do so. In the present context a Constitutional Referendum would appear to be the most appropriate. It would be held on a Bill which would have passed both Houses of the Oireachtas and would provide for a new section in the Constitution offering support for and co-operation with the new institutions to be established in Northern Ireland in pursuance of the Conventions proposals. The exact formulation of the new section can await the Conventions proposals. The proposed amendments could be contingent on the establishment of the new institutions. If they are not established or cease to function the new section could automatically be spent.