

Mr Gandy
66484 9-2-90

cc Mr Minors
Mr Wolstenholfe - You may wish
to see Dr McC's comments!

DE. ANT!
ECC.

F -
..... 1620.

cc Mr Taggart
Miss Brown
Ms Mullis

FROM: R B SPENCE
US CENT SEC
DATE: 6 FEBRUARY 1990

531/89

7/2/90

cc. Mr Burns
Mr Fell
Mr Semple

a Under Secs

SIR KENNETH BLOOMFIELD

REDUCING COMMUNITY DIFFERENTIALS

On 19 February, John Walker and I went to see
Dr Christopher McCrudden about the review of employment equality.

Our motives in seeing him were mixed. We wanted genuinely to
seek his help in clearing our own minds on what we should be
doing. But we also recognised that he could prove to be an
important and influential critic of our work and we wanted,
therefore, to try to establish our credibility with him, partly
because of his earlier comments about NI civil servants.

You will, therefore, be interested in the attached letter which
we have now received from him.

MD

R B SPENCE
CENTRAL SECRETARIAT
EXT SH 269 SC 248

JH/2880

Mr Roland
To note and file
under a title relating
to the evaluation / review
of the legislation.

W. Brown 14/2/90

Mr Potter
As above please.

Lincoln College
Oxford
OX1 3DR

Spence, Esq.,
Central Community Relations Unit,
Central Secretariat,
Stormont Castle,
Belfast,
Northern Ireland

UNDER
SEC 51/2
- FEB 1990
CENT SEC

2 February 1990

Dear Mr. Spence,

It was interesting meeting you and John Walker on the 19th February to discuss the work of the Central Community Relations Unit. You asked me to put down on paper some thoughts on what the approach of the CCSU might be in its attempt to assess the impact of Government policy on equality of opportunity between the two communities in Northern Ireland.

The starting point, in my opinion, is an acceptance by Government that the striking inequalities between the Catholic and Protestant communities in Northern Ireland is unacceptable, and that the aim of Government policy is to reduce that inequality as a matter of urgency. Attempting to assess the furtherance of "fair participation" rather than the reduction in inequality is, given the (intentionally) uncertain meaning of that term to muddy the water, and produce no clear bench-mark of success or failure.

The second element in any policy should be a decision as to how far and how fast the inequalities between the two communities should be reduced. Government should now establish the goal which they would wish to see achieved in certain areas in, say, five years. This would mean obtaining from Ministers a commitment that the aim of policy should be, for example, to reduce the male unemployment rate from x to y over a set period of time.

This would not be a prediction that the policies pursued would result in this being achieved. Rather, the Government would be setting itself a reasonable target which, on public policy grounds, it would want to achieve.

The third element in any policy should be an acceptance that all major Government policies (whether currently in operation, or proposed) should now be assessed in terms of the extent to which each policy advances or retards these aims. In other words, all existing major policies should be reviewed, and all future policies should be scrutinised, so as to determine the "equality impact" of those policies. This would apply across Departments, and across programmes, and include educational provision,

No proofing - and beyond!

environmental policies, health care programmes, etc. Policies which had a negative equality impact should be very closely scrutinised.

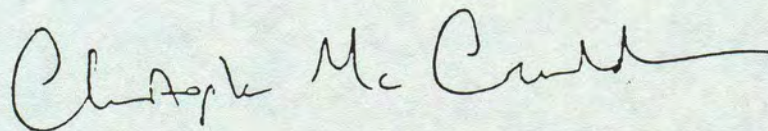
The fourth element in any policy should be the development of a range of specific Government policies which would seek to further the goal of reducing the inequalities. Obviously the enforcement of the Fair Employment Act is one necessary element in such a policy package, but there are a considerable number of additional programmes which might be developed, including those relating to employment schemes, location of industry issues, etc.

I recognise that Government would be devising and implementing policy to achieve these goals in a state of some uncertainty as to which policies are actually likely to reduce substantially the present inequality. A fifth element in any policy must be, therefore, a mechanism for scrutinising the success of these policies. If they do not achieve significant progress towards this goal, within the timescale allowed, then Government should commit itself to reassess them and, in the light of experience, devise and implement other policies which would be more likely to achieve substantial progress, including policies which are considered to be inappropriate at present.

Lastly, it is, I think, vital that there should be an adequate representation of the previously under-represented group among those devising, scrutinising and revising these policies. The lack of representation of Catholics among the senior policy making levels of the Northern Ireland Civil Service is neither a good omen for the success of other policies, nor helpful in the policy formation process mentioned above.

I hope these few scattered thoughts are of some help.

Yours sincerely,



Christopher McCrudden

Older Ireland
To file with copy minute
of 6/2 (Spence to Bloomfield)
W. Brown 14/2
R. Mc Potter, to ask for file
as above.

cc Mr Taggart
Miss Brown
Ms McAulster

MR GOWDY

REDUCING COMMUNITY DIFFERENTIALS

1. Thank you for copying to me Mr Spence's minute to Sir K Bloomfield of 6 February.
2. I was not surprised to note that yet another attempt has been made to bring Dr McCrudden "on side" on the employment equality issue. I understand the temptation, especially since he is probably set fair to become an influential Cabinet Adviser on employment equality issues generally in the event of a future Labour Government. And on the basis of the colourful aphorism attributed to Lyndon Johnson it is much better to have him inside the tent rather than outside it.
3. But, frankly, I doubt the wisdom of seeking Dr McCrudden's help in "clearing our own minds" on the legislative review. The following points about Dr McCrudden should not be forgotten:
 - (i) My first involvement with his work was over five years ago when NIO obtained a draft article in which he strongly endorsed the MacBride Principles. I argued that he should be allowed to publish the article because it would place him firmly and publicly in the MacBride camp - and discredit him with many influential people and interest groups. Instead NIO (for reasons I can well understand) attempted to influence Dr McCrudden. The result, as I predicted, was that Dr McCrudden excised all explicit endorsement of MacBride from that article; refined it; and made it a much more pointed



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criticism of Government. This apparent "objectivity" was even more useful to the MacBride proponents than open endorsement. It has continued to be so.

- (ii) While Dr McCrudden was a member of SACHR further attempts were made to massage his ego in a variety of ways. None of them were successful; at each encounter Dr McCrudden learned more from Government and turned that information against us.
- (iii) Dr McCrudden is an academic lawyer with a flair for self publicity. I admire his intellectual command of the employment equality issue (if not his judgement) and, on some points, agree with much of what he says. But the fact remains that the repeated amendments tabled by the Opposition (and drafted on the basis of McCrudden's advice) on the famous Clause 53 (religion specific training) issue were presented as perfect on each occasion only to be re-drafted and re-presented when our own lawyers and Parliamentary Counsel pointed out considerable flaws. In my view the damage inflicted on Dr McCrudden's ego during those bruising encounters not only exposed the narrow academic bias of his legal intellect but also led to the frustrated inspiration of Lord Prys-Davies's vitriolic attacks on DED officials in the Lords.
- (iv) During Commons Committee Stage - and against official advice - the then Minister (Mr Viggers) personally telephoned Dr McCrudden to discuss particular aspects of certain clauses that were



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being re-drafted in order to try to accommodate the Opposition. Though Dr McCrudden expressed himself content in principle we all know the result - at Commons Report Mr McNamara alleged "breach of faith" and this unjustifiable theme was continued by Lord Prys-Davies (who, incidentally, was also closely briefed and inspired by the local EOC).

4. If the objective is to establish "credibility" with Dr McCrudden there really is no problem - abject intellectual deference is all that is required. That is clear from the tone and substance of his letter to Mr Spence which simply rehearses a number of very familiar points. Typically Dr McCrudden interprets the lack of definition of fair participation as a deliberate intention to "muddy the waters" and produce no clear benchmark for success or future. It is true that the term was intentionally undefined - because of the practical difficulties implicit in defining fair participation (short of quotas or recruitment percentages) in specific undertakings. Again, typically, Dr McCrudden has chosen to ignore the practical dimension of the issue. He is not unaware of it; indeed he knows that the adoption of his ideas will lead in effect, though not in presentational terms, to "quotas" and hiring on the basis of religious belief in certain circumstances.
5. I am now rather distanced from the employment equality issue. But, from Mr Minnis's comments at the last HOD meeting, it seemed that our recent Act and the political credibility it carries, were beginning to make some impact on our US critics. I accept that the battle is by no means over, and that everything could come unstuck unless the FEC



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delivers on its extensive new powers and is fully supported by broader Government policies in doing so. However, I suspect that Dr McCrudden will only be convinced of our "credibility" when a future labour administration (if there is one) directs us to prepare legislation and policy in strict conformity with his instructions.

J. Wolstencroft
J E WOLSTENCROFT
8 February 1990

cc Secretary
Mr Minnis



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