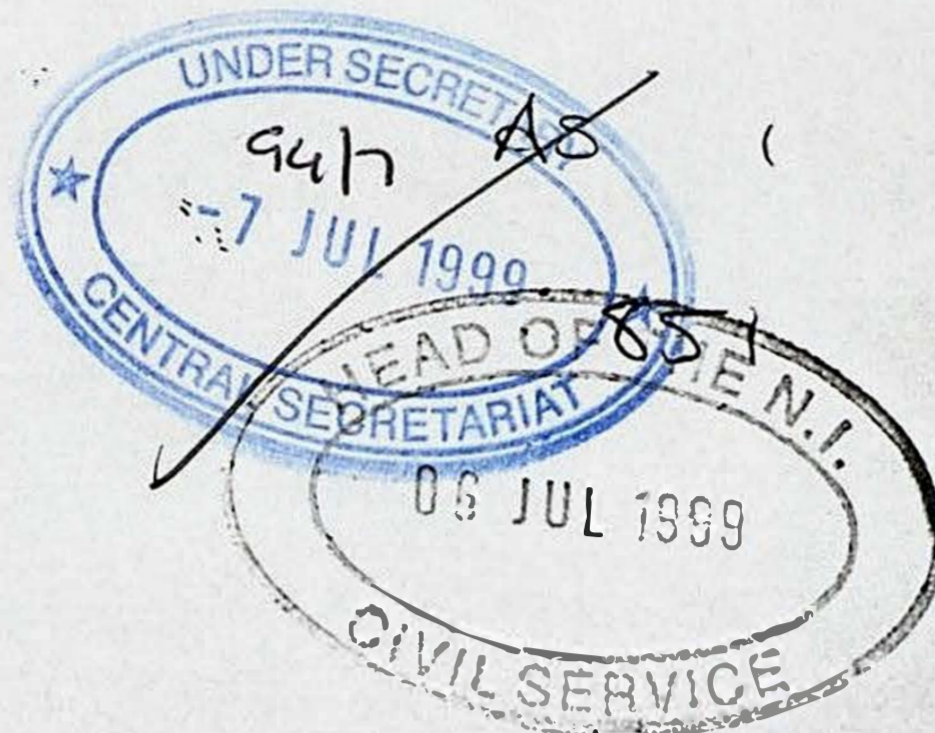


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FROM: PETER N BELL
BRITISH SECRETARY
5 JULY 1999



DESK IMMEDIATE

cc: See Distribution List

Mr Stephens

FAILSAFE BILL

M
6/7
cc Mr Ferguson

Summary

Irish relieved that no 'automatic exclusion clause', do not believe that the draft plan can be put to Trimble in its present form due to differences over issues of substance and presentation. With some reluctance the Irish are prepared to meet British officials tomorrow afternoon to discuss the way forward.

Detail

2. I have been over Annex A to Alan Whysall's submission of earlier today ('Outline of a Bill to provide a Failsafe Mechanism') twice, laterally after Dublin had been consulted. The general Irish reaction is one of relief that we are not proposing any clause that would *automatically* exclude Sinn Féin from the Executive if they satisfy the criteria for suspension set out in Whysall's paragraph 2 and they have no complaints with our criteria for suspension. This is by far their greatest concern, exacerbated by what I was told was Sinn Féin's current difficulty (allegedly) in selling the two Prime Ministers' 'Joint Statement' of 2 July to their own grassroots. Although the Sinn Féin leadership is (allegedly) sanguine about winning over its own sceptics, the 'up front' character of the 2 July document with its references to deadlines and timetables is 'unnerving'. Against that background, the Irish Side have four main points. (All references are to Whysall's Annex A):

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- Paragraph 5 - it is for the *two Governments*, not just the Secretary of State to take steps to establish a review;
- in the event of suspension, it is essential that the **BIIGC** survive, as. in its absence, there will be no formal intergovernmental machinery;
- in their (preliminary) view **implementation bodies** which had been given specific, operational responsibilities by the Dáil, should continue to discharge those responsibilities; and,
- the Irish will need to give further thought to the *constitutional* implications for them of the suspension of various *institutional* aspects of the Agreement in the North. (They note that, if it is a question of reverting to the status quo, then that must mean what we have now (ie Direct Rule plus the Anglo-Irish Agreement)).

3. I have, with some difficulty, secured a provisional time of 1500 hours in Belfast tomorrow afternoon for British and Irish officials to discuss the way ahead. Castle Buildings is the likely venue.

Comment

4. Irish thinking is relatively inchoate. But they are clear that, in their view, the Prime Minister should *not* discuss with Mr Trimble a text they have not blessed. I took note without giving guarantees. In the brief time available, I took Donoghue through some of the problems implicit in the Irish position, including the difficulty of having functioning implementation bodies answering, in the absence of a North-South Executive, not only to Dublin but also to Westminster. On Donoghue's own admission, the Irish Side have not thought through the problems. But they *are* very clear that the BIIGC must remain - minus, for the period of suspension, the 'involvement' of a North-South Executive. I have some sympathy for this point of view, not least because I start from a similar prejudice to your own

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that, in the event of a failure to achieve devolution or, in this case, to suspend it, the less we have to dismantle the better.

5. The same principle demonstrably applies when it comes to the 'constitutional provisions' of the Agreement which we or the Irish unpick at our peril. I left Donoghue with the thought that if the rats got at those then they might start to cast their eyes over things like Patten, the Human Right and Equality Commissions.

6. At the end of our necessarily brief conversation of a modified version of Occam's Razor 'provisions of the Belfast Agreement should not be suspended except through necessity'. This would, in my view, also extend to the BIC, from which all this archipelagic would be the beneficiary.

Signed: P N Bell

P N BELL
WH EXT 83910/11

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