

From: G R Archer
Republic of Ireland Dept

Date: 10 November 1993

cc: PS/Michael Ancram B
 PS/PUS B
 PS/Mr Fell B
 Mr Thomas B
 Mr Bell B
 Mr Watkins B
 Mr Williams B
 Mr Brooker B
 Mr Cooke B
 Mr Maccabe B
 Mr Quinn B
 Mr Beeton B
 Mr Kyle B
 Mr Hallett, RAD
 Mr Caine B

PS/Secretary of State

AMENDMENT OF ARTICLES 2 AND 3 OF THE IRISH CONSTITUTION

1. Ms Lodge has kindly copied to me her minute of 9 November and paper on Articles 2 and 3 of the Irish Constitution.

2. The paper usefully sets out many of the uncertain signals which we have received from the Irish side about what they might do about change to the Irish Constitution. I agree that progress towards an acceptable amendment of the Irish Constitution will not be straightforward. But I do not go fully along with paragraph 2. We do not know - despite the ideas trailed by various officials and Dr Mansergh - what at the end of the day, the Irish will settle for. I do not see any conclusive evidence to support Ms Lodge's statement that "it is increasingly clear" that the Irish will opt for an addition to the Constitution rather than a replacement. We do not know what they will do now although the idea of an addition rather than change has many adherents and the price for anything more will be high, possibly as in 1985 too high.

3. We may at some stage have to say to the Irish that what they are proposing is not enough. But I do not think we should push them into a corner now. They have probably not yet made their mind up how far they will go and will move further if the total package is falling into place and they can see balance elsewhere then if pressed on this point now.

4. More generally I do not think the paper makes enough of the extent to which the Irish Ministers have moved forward. It would have been unthinkable for Mr Haughey to say what Mr Spring said in his six principles. References to "Northern Ireland" once stuck in their throats. The idea of acceptance of unionist consent was not uttered in Fianna Fail circles. A reading of the proceedings at this last week's Fianna Fail Ard Fheis, will make it clear enough why Irish politicians still have problems about commitment to change Articles 2 and 3. Even to commit themselves to putting the Constitution on the table, and to legislative change in the context of a package leaves them open to attack.

5. I do not read the current Irish Ministers position as pessimistically as Ms Lodge. The third of Mr Spring's principles mentioned majority consent in Northern Ireland and in this context his fifth principle in saying that the Irish "must" express commitment to that consent in their fundamental law is the clearest commitment that has yet been given by the Irish. If acted upon it would tackle the problem of the McGimpsey judgement.

6. These comments do not address what the Irish would accept as constitutional balance. We are attempting to probe this in the Liaison Group. I do not know whether we shall succeed - the Taoiseach's other priorities were expressed to the media over the weekend. But I think we are right to tackle constitutional balance - without moving ahead of the Irish on concessions - as the best way of propelling the Irish and the whole process forward.

7. HMA Dublin agrees with these views.

(signed)

G R Archer

CONFIDENTIAL

SIGNED
 MISS JACKSON
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