

The MacBride Principles

**Thesis submitted in accordance with the requirements of the University of
Liverpool for the degree of Doctor of Philosophy by Joseph Kevin McNamara**

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List of Illustrations

Figure 1: HandBill circulated in the thousands by Pro-MacBride Campaigners to Irish-American Clubs and Organizations and distributed by hand outside Churches.

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List of Abbreviations.

AEEU	Amalgamated Engineering and Electrical Union
AFL-CIO	American Federation of Labor- Congress of Industrial Organizations
AOH	Ancient Order of Hibernians
AP	Archer Papers
ATGWU(P)	Amalgamated Transport and General Workers Union (Papers.)
BIS	British Information Services, New York
CAJ	Campaign for the Administration of Justice
Calpers	Californian Public Employees Retirement System
CDU	Campaign for Democracy in Ulster
CLP	Constituency Labour Party
DED (P)	Department of Economic Development (Papers)
DFA (MP)	Department of Foreign Affairs (MacBride Papers)
DP	Doherty Papers
DUP	Democratic Unionist Party
FCO (P)	Foreign and Commonwealth Office (Papers)
FEA	Fair Employment Agency
GMBU	General Municipal and Boilermakers Union.
ICCR	Interfaith Centre on Corporate Responsibility
ICTU (P)	Irish Congress of Trade Unions (Papers)
IDB	Industrial Development Board
IFI	International Fund for Ireland
INC (P)	Irish National Caucus (Papers)
IRA	Irish Republican Army
IRRC	Investor Responsibility Research Center
ITGWU (P)	Irish Transport and General Workers Union (Papers)
JRP	John Robb Papers
KMNP	McNamara Papers
LCI (P)	Labour Committee on Ireland (Papers)
McMP	McManus Papers
NICICTU (P)	Northern Ireland Committee Irish Congress of Trade Unions (Papers)
NIO (P)	Northern Ireland Office (Papers)

Noraid	Irish Northern Aid Committee
NSC	National Security Council
NYCERS	New York City Employees Retirement Systems
OFMDFM	Office of First Minister Deputy First Minister
OUP	Official Unionist Party
PRIM Board (Massachusetts)	Pensions Reserves Investment Management Board
PUP	Progressive Unionist Party
SACHR	Standing Advisory Commission on Human Rights
SDLP (P)	Social Democratic and Labour Party (Papers)
SDP	State Department Papers
SEC (P)	Security and Exchange Commission (Papers)
UDA	Ulster Defence Association
UFF	Ulster Freedom Fighters

Introduction

For too long the United States has been involved, in my view, in a conspiracy of silence as to what goes on in terms of human rights violations in the north of Ireland and other issues. By having this hearing we break that silence.

Representative Robert Menendez¹

I have always been impressed by the importance of the Irish-American vote and political influence in the United States.

Seán MacBride²

Irish Americans had, since the great emigration following the Famine, sought to influence successive US administrations and Congress to intervene in the internal affairs of the United Kingdom and support those in Ireland seeking to obtain Home Rule and eventually independence for Ireland. In this, they were singularly unsuccessful.³ The only times the views of the US Administration coincided with those of Irish Americans was when Home Rule was the official policy of the United Kingdom government, during the Liberal government at the end of the 19th century and, more particularly, Asquith's pre- World War I administration when the Irish Party held the balance of power in the House of Commons.⁴ The US policy of non interference in the internal affairs of another friendly power held firm. Although the gradual shift in the balance of power in favour of the USA accelerated during and after the Second World War, there was no change in the US position. The UK had, or thought it had, a 'special relationship' with the USA.⁵ It was its closest ally in NATO, spoke the same language and upheld the same ideals of liberal democracy. Apart from the US's failure to support the UK and France in the Suez Affair of 1956, and the UK's

¹ Hearing before the House Committee on International Relations, Washington, 15th March, 1995.

² S MacBride, *That Day's Struggle: a memoir 1904-1951*, edited C Lawler, (Dublin, 2005), 210.

³ See brief account in C O'Clery *The greening of the White House: the inside story of how America tried to bring peace to Ireland*, (Dublin, 1996) 2.

⁴ MacBride, *That Day's Struggle*, 210. MacBride also claims that at the Versailles negotiations President Wilson under the influence of the British government refuse to support the future of Ireland, appearing on the agenda and that was one of the reasons why the U.S. Senate failed to ratify the treaty and the United States to join the League of Nations

⁵ For a brief history of the special relationship see O'Clery *The greening of the White House*, 120-5 and P Arthur's, *Special relationships : Britain, Ireland and the Northern Ireland problem*, (Belfast, 2000) 120-1, for a list (not exhaustive) of issues where United Kingdom interests were bypassed, ignored or not even considered, when they conflicted with United States interests.

refusal to commit troops to Vietnam, it would be difficult to find any lasting major differences in foreign and defence policy between the two states since 1945.

This continued throughout Nixon's presidency, and four days after Bloody Sunday (30th January 1972) a statement issued on his behalf said

It would be both inappropriate and counterproductive for the United States to attempt to intervene in any way in the area [Northern Ireland]. The United States would play a role only at the request of both British and Irish governments, although he [Nixon] doubted that Americans had any useful role in the matter.⁶

However, over the course of the presidencies of Carter, Reagan, Bush and Clinton, there was to be a gradual, but fundamental change, in the US position. The end of the Cold War reduced United States' reliance upon Britain as a major ally. The Irish-American lobby became more powerful on Capitol Hill with the election of Tip O'Neill as Speaker of the House of Representatives (1977-1987), and Edward Kennedy's increasing seniority and influence in the Senate. Both men were Boston Irish and friends of John Hume, the leader of the SDLP. Arthur divides Irish-Americans into 'tree-tops', the moderate Hume-orientated constitutionalist establishment Irish-Americans, and the 'grass-rooters', who, while represented in Congress, were more associated with the Irish Republican blue-collar tradition.⁷ Following the outbreak of the Troubles in the north, the Irish government and its embassy in Washington sought to enhance its ties with the administration, which was difficult because of the close relationship between the Department of State and the Foreign Office, Congress and the White House. The US position on Ireland was also influenced by the policies and personality of John Hume.

The close relationship that existed between the White House and 10 Downing Street was matched by the intimacy of the relationship between the State Department and the Foreign Office, and between the Pentagon and the Ministry of

⁶ Quoted in J E Thompsons, *American policy and Northern Ireland: a saga of peacebuilding*, (Westport, Connecticut, 2001) 36.

⁷ See Arthur, *Special Relationships*, 137-138. The terms 'tree-toppers' and 'grass-rooters' will be used throughout to identify Arthur's division and to distinguish these political activists from the bulk of Irish American who did not identify with either group.

Defence.⁸ Not only was the political leadership generally as one, but the officials in each department were implementing almost identical foreign and defence policies after Vietnam. This almost incestuous relationship between the State Department and the Foreign Office was only broken by President Clinton taking the day-to-day running of Irish Policy from the State Department and putting it under the National Security Council (NSC).⁹ Apart from the US invasion of Grenada in 1983, a Commonwealth country with the Queen as Head of State, differences between the two states were of nuance rather than principle. The Cold War suppressed anything that might subvert or weaken the alliance.

If the Executive was impervious to the pleas of Irish Americans, then the next port of call was Congress, where sympathetic members of either House could seek to ensure that Ireland was on the agenda, either before a committee or a subcommittee of each House or read into the record. Giving way to pressure from Irish-American members of Congress and others, led by Congressmen Hugh Carey, House Speaker, Carl Albert, allowed the European subcommittee of the House Foreign Affairs committee to have a three-day hearing on 'Bloody Sunday'; a decision contrary to advice from the White House and the State Department.¹⁰ The hearing on 'Bloody Sunday' was the last of any consequence until 1995.¹¹ However, Northern Ireland matters were continuously raised in both Houses and their committees. Indeed, the use that dissenting members, particularly in the House of Representatives, were making of the procedures of the House to raise Northern Ireland issues, caused both the British ambassador, Sir Peter Ramsbottom, and the Irish ambassador, John Malloy, to make request to speaker Albert not to hold any official hearings on

⁸ Patrick Doherty described the relationship as the 'east coast elite' in the State Department 'aspiring to be British'. Patrick Doherty, Office of the New York Comptroller, Interview, 25th July 1995.

⁹ For a detailed examination of this development, see T J Lynch, *Turf Wars: The Clinton Administration and Northern Ireland*, (Aldershot, 2004) 50. 'Subsequently, the institution Clinton used to transform the American role was not a State Department but the National Security Council staff. It was the NSC officials who gave the orders that the State Department diplomats were to follow'. The book is an analysis of the breakdown at the official level of the usual procedures of the US government in relation to the British Alliance and the role of the NSC. It essentially made career diplomats subject to political appointees in the development of Clinton's Irish policy and they were more conscious of the domestic implication for Clinton of the Irish American lobby than the permanent officials, wedded to the British alliance. Also discussed at Doherty Interview, 25th July 1995.

¹⁰ Thompson, *American Policy and Northern Ireland*, 36.

¹¹ Long-standing INC supporter, Representative Ben Gilman became the Republican chairman of the House Foreign Relations Committee and thus broke the veto of the Friends of Ireland over House business with a hearing before the committee on the US Economic Role in the Peace Process in Northern Ireland, US Government Press, 15th March 1995.

Northern Ireland.¹² The US ambassador to the Court of St. James urged the State Department to continue its insistence that any public hearings on the Irish issue would aid and abet those intent on the overthrow of a legitimate government in Northern Ireland¹³.

Although they were a useful means of gaining publicity particularly amongst Irish Americans, attempts to legislate fell on stony ground. Bills never reached either House from committees, as the floor managers, supported by the White House and the State Department, blocked every effort. The position of more moderate Irish-Americans in the Congress was strengthened by the knowledge that when the Democrats controlled both Houses, and until the Republicans replaced them, the stature and respect felt for John Hume, the leader of the SDLP, meant that nothing could appear on the floor of either House without his *nihil obstat*. This was without any influence or pressure that the British government might bring. Thus, with the White House, the State Department and the Congress all neatly parcelled and tied, those Irish Americans who wanted a more proactive policy to embarrass the British government and influence its policy in Northern Ireland, had to look outside the Washington Beltway and find an issue that would resonate with Irish Americans, that did not involve violence and where they could claim to have a legitimate interest. The subject chosen was religious discrimination in employment practices in American Corporations in Northern Ireland. Using the example of the Sullivan Principles which sought to influence the policies of US corporations' subsidiaries in South Africa to defeat apartheid, Irish Americans sought to affect the employment policies of subsidiaries of United States Corporations in Northern Ireland which were maintaining or acquiescing in religious discrimination.¹⁴ They, too, could seek to use the pension funds of the Irish Americans and others which held shares in the U.S. parent companies to influence employment policies in Northern Ireland. The trustees of the pension funds for city and state pension funds were often elected officials and thus subject to electoral pressure. The aim was to urge the elected officials, using their considerable financial clout, to persuade US corporations with subsidiaries in Northern Ireland to introduce fair, non-discriminatory employment policies.

¹² Thompson, *American Policy and Northern Ireland*, 57.

¹³ Ibid, 58.

¹⁴ See Appendix A, 319.

Theoretically, under sections 5 and 8 of the Government of Ireland Act 1920 discrimination was illegal in Northern Ireland. Section 5 prohibited legislation which discriminated on the grounds of religious belief and Section 8 forbade the discriminatory use of 'any prerogative or other executive power' of the Crown. These provisions applied only to Northern Ireland legislation and the executive and not to other public authorities, including local government nor to private industry. Gallagher railed that 'Despite this legal prohibition Britain has permitted the wholesale penalisation of one religious group in the matter of employment, appointment and promotion. Power rested with the British government to prevent this discrimination. It has never been used.'¹⁵ Gallagher gave no explanation of why the minority had not sought the protection of the courts to enforce the Act's provisions.

An explanation given in *Human Rights and Responsibilities in Britain and Ireland: a Christian Perspective*, argues 'There might have been problems with regard to lack of knowledge that lack of financial resources for litigation, which would certainly be prolonged. But there were those, including those who held strongly nationalist viewpoints, who were learned in the law and might have been expected to challenge controversial actions'.¹⁶ It cites Boyle, Hadden and Hillyard as suggesting that 'the failure reflected a lack of confidence in the legal system, yet as the authors point out the actual the performance of the judges in "civil rights" cases should have dispelled the fear of judicial bias'¹⁷. They also suggested a lack of fire in the bellies of some members of the legal profession and that as lawyers trained in the Common Law approach they were slow to appreciate the potential which constitutional guarantees represented.¹⁸

In a graphic sentence the Opsahl Report¹⁹ states 'Poverty sweeps through working-class Catholic communities in swathes; it is concentrated in working-class Protestant communities in pockets...' ²⁰ The same was true of unemployment, where the ratio of unemployed Catholic to Protestants of 2.5:1, is the most frequently quoted statistic. Discrimination in employment in Northern Ireland was a constant theme of Catholics and nationalists both before and after

¹⁵ F Gallagher, *The indivisible island: the history of the partition of Ireland*, (London, 1997), 217.

¹⁶ S Bailey, *Human Rights and Responsibilities in Britain and Ireland: a Christian Perspective*, (Basingstoke, 1988) 102.

¹⁷ Boyle, K, Hadden, T, Hillyard, P, *Law and state: the case of Northern Ireland*, (London, 1975), 11-13.

¹⁸ Bailey, *Human Rights and Responsibilities in Britain and Ireland*, 102.

¹⁹ A Pollak, *A Citizen's Enquiry? The Opsahl Commission*, 79.

²⁰ *Ibid.*, 287.

the partition of Ireland. Despite the continuing and prominent sense of injustice throughout the Catholic population before 1968, religious discrimination in the private sector was not particularly well documented, even in those companies wholly owned by the government of Northern Ireland. Thirty six years later Dr Garrett FitzGerald, the former Taoiseach, whilst praising the academic community for its post-1975 efforts in his foreword to *Fair Employment in Northern Ireland; A Generation On*,²¹ chastised it for its failure to examine the problem of religious discrimination in Northern Ireland before that date.

Given the scale of the problem of discrimination in Northern Ireland had been a matter of public knowledge and passionate political debate during the first half of the century of its existence as a separate political entity, and led in the second half of the 1960s to a virtual revolt of the nationalist minority, culminating in the violence of 1969, it is difficult to understand the failure of the Northern Ireland academic community to recognise the need for, and undertake, necessary research into the issue prior to 1975.²²

FitzGerald's observations have all the benefits of hindsight. Whilst they are outside the scope of this thesis, many reasons could be advanced to answer his criticism, and not least the question – why was it not exercising the attention of the able and ambitious young politicians of the Republic which claimed sovereignty over the Six Counties? FitzGerald also failed to acknowledge Barritt and Carter's work,²³ which was fundamental to the analytical approach adopted by Northern Ireland academics following the publication of Aunger's seminal article on Religious discrimination.²⁴

The civil service and local government were more readily assessed. The Cameron commission concluded that

complaints are now well documented in fact, of discrimination in making local government appointments at all levels, but especially in senior posts to

²¹ 'There is a heartening contrast between that past academic neglect and even denial of the existence of a fundamental problem, and the scale and quality of research undertaken in more recent times, upon which this book has been able to draw with great success', B Osborne and I Shuttleworth (eds), *Fair employment in Northern Ireland: a generation on*, (Belfast, 2004) viii.

²² Ibid, viii.

²³ D P Barritt and C P Carter, *The Northern Ireland Problem: A Study of Group Relations*, (Oxford, 1972).

²⁴ E A Aunger, 'Religion and Occupational Class in Northern Ireland', *Economic and Social Studies*, 7:1,1975, 1-18.

the prejudice of non-Unionists and especially Catholic members of the community, in some Unionist controlled authorities.²⁵

Cameron suggested that the remedying of grievances in the Public Sector would result in improvements in the Private Sector, as they followed the example set.

The force of example is powerful: if an end is made to discrimination in all aspects of the public service and it is found that neither efficiency suffers nor friction in working engendered, then there is reason at least to hope that the success of that example will have a beneficial effect in the private sector of employment.²⁶

The Stormont Government's commentary published to accompany the Cameron Commission's Report, contained no reference to employment in the private sector.²⁷ Cameron had noted 'much of the grievance and complaint... was found... to be concentrated upon two major issues – housing and employment. "Jobs" and "Houses" are things that matter and touch the life of the ordinary man'.²⁸

Catholics in Northern Ireland argued that they did not have to produce statistics to prove discrimination but had merely to recall the infamous speech of Sir Basil Brooke, then Minister for Agriculture made on 12th July 1935: 'he had not a Roman Catholic about his own place...he would appeal to Loyalists, therefore, wherever possible to employ good Protestant lads and lassies'.²⁹ In 1964 Unionist Senator Barnhill declared, 'Charity begins at home, if we are going to employ people we should give preference to Unionists'.³⁰

Although not referred to by Cameron, discrimination in all its forms was

²⁵ *Disturbances in Northern Ireland [Cameron Commission Report]* CMD, 532, 91.

²⁶ *Ibid.*, 56-8. The question arises why Cameron should suggest that the employment of Catholics might affect 'efficiency' or 'engender friction in working' his hopes that improvement in the public sector, if it took place, might improve the situation in the private sector for Catholics without any statutory backing was to prove to be unrealistically optimistic.

²⁷ *A commentary by the Government of Northern Ireland to accompany the Cameron Report*, CMD, 534

²⁸ *Ibid.*, 56.

²⁹ see for example M Elliott, *Catholics of Ulster: a history*, (London, 2000) 391-2.

³⁰ Quoted by V McCormack and J O'Hara in *Enduring inequality: religious discrimination in employment in Northern Ireland*, (London, 1990) 19, from M Farrell, *Northern Ireland: the Orange state*, 2nd Edition, (London, 1980). Barnhill was murdered by the official IRA, see also D McKittrick, S Kelters, B Feni, C Thornton, *Lost lives: the stories of the men, women, and children who died as a result of the Northern Ireland troubles*, (Edinburgh, 1999).

frequently raised in the Northern Ireland House of Commons by non-Unionist members. In a series of Human Rights Bills, starting in 1964, Ms S M Murnaghan, a Liberal member for Queen's University, sought to outlaw discrimination on grounds of religion, race and gender. She was influenced by the first race relations legislation introduced into the United Kingdom Parliament.³¹ Her 1966 Bill was introduced 'to make unjust discriminatory practices amenable to the law and to create machinery whereby complaints may be fully and impartially investigated'.³² Introducing what was her second Bill she said "It is utterly incredible that in a predominantly Christian community a man's religion should be weighed against him in the balance of his daily life".³³ R.W. McConnell, the Minister of State for Industrial Development, took a mere seven minutes to reply to the debate. Having sheltered behind the non-discrimination provisions of the Government of Ireland Act, and quoting the refusal of the United Kingdom Government to include religious discrimination in its race-relations legislation, and avoiding reference to the non-governmental parts of the public sector and the private sector, he declared

it is not a subject we should deal with by legislation... it is unfortunate that Hon members should fill people's minds with the idea that if a disappointed applicant happens to have a particular religious belief, that is discrimination. That is stirring people up in a way that is anti-social and a way that should never be used for purely political purposes.³⁴

Similarly, proposals for reform from the Northern Ireland Committee of the Irish Congress of Trade Unions (NICICTU) received a frosty reception from the Stormont government. In its 1966 publication, *A Citizen's Rights in Northern Ireland*, it said:

It is considered that the Prime Minister and Government in Northern Ireland should take the earliest opportunity of condemning discriminatory practices in employment, both in the private and public sectors, and should

³¹ Paul Rose MP, Chairman for the Campaign for Democracy in Ulster, (CDU), had sought to amend the bill to cover religious discrimination and to extend its provisions to Northern Ireland. He failed.

³² *Northern Ireland Hansard*, 8th February 1966, col. 685.

³³ *Ibid.*

³⁴ *Ibid.*, col. 740 The Bill was lost – Ayes 9, Nos 26.

follow this up by the enactment of legislation to deal with the problem and in particular to deal with discrimination in employment on the part of local authorities and other public bodies.³⁵

In the absence of the Northern Ireland Prime Minister, Terence O'Neill, who had refused to meet the delegation as he had just 'recently trounced them in the General Election', the meeting was with the Deputy Prime Minister, Brian Faulkner and Minister of Home Affairs, William Craig on the 6th December 1966. The NICICTU record of the meeting reads

When asked whether the Government would not be prepared to give at the least, a lead to private employers, Mr Faulker [sic] replied very emphatically that the Government would not feel justified in interfering with the policies of private employers.³⁶

The following year, intervening in the debate in yet another of Ms Murnaghan's Human Rights Bills, the Attorney General E.W. Jones said,

Whether one likes the idea or not and whether one personally thinks it is a good thing or not, who can truly regard as even possibly guilty of an offence – because this is a Bill and we are dealing with offences under it – a person, be he coloured or white, who would prefer to have working for him in private employment persons of his own colour, or a person, be he Roman Catholic or Protestant, who would prefer to have working for him in private employment a person of his own religion?³⁷

Shortly before the outset of the Civil Rights Movement NICICTU had published its' *Citizens Rights in Northern Ireland*.³⁸ Brook's comment, the Attorney General's coded reaffirmation of it, and Faulkner's refusal to take any action to interfere with the employment practices of private employers illustrate the manner in which discrimination was accepted as a fact of life for Catholics.

³⁵ Quoted in *Equality of Opportunity in Northern Ireland; A Statement of Trade Union Policy*, (Dublin, 1987) 1.

³⁶ *Ibid.*, 2, see also A Boyd, *Brian Faulkner and the Crisis of Ulster Unionism*, (Tralee, 1972) 53-55.

³⁷ *Northern Ireland Hansard*, 7th February 1967, col. 950

³⁸ The recommendations in *Citizen's Rights*, quoted in *Equality of Opportunity in Northern Ireland*, 1. In which it had advocated the government Northern Ireland should condemn discrimination and ensure legislation to deal with the problem. It was ignored.

It goes some way toward explaining the comment in the Opsahl Report which said

Surprisingly, despite its seminal influence on the psyche of Catholics and nationalists in Northern Ireland, particularly at the birth of the civil rights movement in the late 1960s, there were few submissions on the subject of discrimination.³⁹

Brooke's attitude seemed to be borne out as official policy at Shorts Brothers and Harland and Wolff, two public companies owned by the government, and each having well over 90% Protestant in their employees, who were 'utterly dependent on massive contributions from the exchequer. These two concerns, accounting for around 10% of all manufacturing employment, received about one third of public resources going to industrial support'.⁴⁰

Accurate statistical documentation in the private sector was far more difficult to collate. The phenomena were much easier to describe and analyse.⁴¹ Writing in 1962, Barritt and Carter had identified four different types of discriminatory employment practices and gave unnamed examples of each

- (a) Firms which only employed members of one community.
- (b) Protestant owned firm, which employed Catholics only in lower paid jobs, and not in any administrative or supervisory capacity;
- (c) Firms employing both Protestants and Catholics, but segregating them by departments;
- (d) Firms, which mix members of the two communities within the same department.⁴²

Amongst the firms where there was complete discrimination, several employed only Catholics, but the overall picture was one of anti-Catholic discrimination.⁴³ The literature on discrimination in the private sector in the period until after the

³⁹ Quoted in, *A History of Ulster*, (Belfast, 1992) 785-6. See also D Graham, 'Fearing Equality of opportunity: Discrimination in Northern Ireland' (unpublished PhD thesis, Bristol University, 2001) for a detailed examination of the history of the two firms, Harland and Wolff, 178-85, Shorts Brothers. 190-212.

⁴⁰ Bardon, *History of Ulster*, 786-7.

⁴¹ See Barritt and Carter, *The Northern Ireland Problem*, 100-8.

⁴² *Ibid.*, 100.

⁴³ *Ibid.*, 100.

1971 census is limited. Barritt and Carter's 'was a very mild critique of the Northern state by later standards, but one which had an impact at the time because it mentioned discrimination at all and because it did not come from a nationalist source.'⁴⁴

Barritt and Carter's first edition in 1962 appeared at a time of relative optimism for moderate reform in Northern Ireland. This was a view mirrored a few years later in 1966 by the General Assembly of the Presbyterian Church in Ireland's report *Religious Discrimination in Ireland*.⁴⁵ It was circulated to local presbyteries in both parts of Ireland for comments and amendments. It was revised and published in 1967 at the outset of the civil rights movement. Its references to the 'Troubles' refer to events leading up to and immediately following the creation of the Northern state. It again was descriptive and analytical not statistical. It looked for a Christian response to religious discrimination and examined the underlying reasons the discrimination to see where, if ever, it could be justified. It sought solutions to overcome it 'to understand it is not, however, to justify or condone it'.⁴⁶ The report recommended Barritt and Carter's work to those who wished to get a clear picture of the situation in Northern Ireland saying 'it is a very fair-minded attempt by two Quakers to describe carefully the political and religious tensions in Northern Ireland and to suggest means by which they maybe eased'.⁴⁷ It concluded 'Nevertheless, the overall picture, while not endorsing the exaggerated accounts of what takes place, reveals a state of affairs in Northern Ireland which all Christians and men of goodwill must deplore'.⁴⁸ Thus, Barritt and Carter's work was endorsed by the General Assembly of the Presbyterian Church in Ireland and by a former leader of the Peoples' Democracy grouping at Queen's University, Belfast.

From the Catholic hierarchy, there was not the same analytical criticism that was to be found in Barritt and Carter. It appeared to depend upon others for detailed information, otherwise it was anecdotal. Asked about this, Cardinal Cahal Daly explained, 'We were more concerned with emigration and rural

⁴⁴ Letter from Michael Farrell (former leader of People's Democracy) to Kevin McNamara, 28th December 2005.

⁴⁵ *Report to the General Assembly of the Presbyterian Church in Ireland*, (Belfast, 1967) 120-30, G B G McConnell, Convenor.

⁴⁶ *Ibid.*, p.122.

⁴⁷ *Ibid.*, p.126.

⁴⁸ *Ibid.*, p.126.

depopulation'.⁴⁹ Nevertheless, 'discrimination against Catholics in the allocation of jobs, both in the public sector and the private sector were a major problem and were major concern in the Irish bishops, particularly those in the North'.⁵⁰ In a statement at the height of the Civil Rights movement, after listing the grievances the hierarchy said 'we record these facts now, because it is necessary to identify the root causes of whatever threat to public order exists in the community at the present time'.⁵¹ Explaining why the emphasis was on discrimination in the public sector, McElroy writes;

Why make allegations of private discrimination if no positive response would be forthcoming? It must be remembered that the existence of a body such as the Fair Employment Agency would have been unthinkable in the 1960s. So, in effect, by placing the emphasis on local government activities, the bishops had chosen to attack the most vulnerable and, arguably, the most important aspect of Unionist policy in Northern Ireland.⁵²

In the private sector, the Catholic hierarchy, like their community accepted that discrimination was a fact of life. Brooke's comments had never been disowned by his partners in Government. Lord Craigavon, the Prime Minister, when challenged stated 'there's not one of my colleagues that does not entirely agree with him'.⁵³ However, whether there was a lack of statistical evidence or not, there was sufficient anecdotal evidence coupled with the work of Barritt and Carter and that of the McCluskeys' Campaign for Social Justice to justify the conclusion that there was widespread anti-Catholic discrimination in private sector employment in Northern Ireland.⁵⁴ Even Gallagher's powerful denunciation of religious discrimination in employment could only produce two examples in the private sector. The first concerned the building of a new factory in County Fermanagh where all of the six key posts went to Protestants and only 76 of the 242 of the ordinary jobs were filled by Catholics. The second referred

⁴⁹ KMNP, Daly's written statement, meeting with the Rt Hon [sic] Kevin McNamara MP re the MacBride Principles, 6th February 2002.

⁵⁰ Ibid.

⁵¹ 'The Northern Bishops' Statement', *Irish Catholic*, 23rd January 1969, quoted in G McElroy, *Catholic Church and the Northern Ireland Crisis 1968-86*, (Dublin, 1991) 22-4.

⁵² Ibid, 17

⁵³ Elliott, *Catholics of Ulster*, 392.

⁵⁴ The Campaign for Social Justice, founded in 1964, was a mainly provincial, Catholic and middle-class organisation. It sought to gather information about religious discrimination and disseminate it. It was a forerunner of the Northern Ireland Civil Rights Association.

to a meeting in Derry to select candidates for the Corporation, when Mr. H. McLaughlin said that for the past forty-eight years since the foundation of his firm there had been only one Roman Catholic employed and that was a case of mistaken identity.⁵⁵ Similarly Buckland's *The Factory of Grievances* has three separate chapters on discrimination in the justice system, in representation and in education but not a paragraph on discrimination in private sector employment. Even as late as the 7th May 1969, James Callaghan, then Home Secretary, said to his colleagues 'there was need for an objective analysis of the situation in NI.'⁵⁶ In a general discussion it was said the British government lacked the information on which to judge the complaints of political and economic discrimination.⁵⁷

When direct rule was introduced in 1971, the new and first Secretary of State for Northern Ireland, William Whitelaw, started to prepare the foundations for a new constitutional settlement in Northern Ireland. These were published in March 1973.⁵⁸ The White Paper promised 'effective machinery to deal with job discrimination,' Paragraph 100 noted that 'In the private sector, there have been allegations of job discrimination on religious or political grounds'⁵⁹. The Secretary of State stated that he had invited representatives from both sides of industry, nominated by their appropriate bodies to join with representatives of the government and under the chairmanship of the Minister of State at the Northern Ireland Office to consider and report upon the problem.⁶⁰ The interim conclusions of the working party were sent to the Secretary of State, by letter on the 15th of February 1973, for inclusion in the White Paper and to demonstrate the direction of government thinking. The final report was published in on 23rd May 1973.⁶¹

Its first conclusion was that 'the term "religious discrimination" should be taken to include discrimination on political grounds', thus supporting the earlier

⁵⁵ Gallagher, *Indivisible Ireland*, 216, Quoting *The Derry People*, 26th September 1946

⁵⁶ P Buckland, *The Factory of Grievances: devolved government in Northern Ireland, 1921-39*, (London, 1979); KMNP McKitterick-MacBride file note, 'Extracts from Cabinet Conclusions January 1969-August 1969', (undated). Quotation used dated 7th May 1969.

⁵⁷ Ibid.

⁵⁸ *Northern Ireland Constitutional Proposals*, CMD 5259.

⁵⁹ Ibid.

⁶⁰ *Report and Recommendations of the Working Party on Discrimination in the Private Sector of Employment, Ministry of Health and Social Service*, (HMSO Belfast, 1973), hereafter *van Straubenzee Report*, (v), 1.

⁶¹ Ibid., 1, McCormack and O'Hara criticise the fact that the White Paper talks of 'allegations' of discrimination and 'where it may exist' and make the point that the phraseology used seemed to imply 'that the government still regarded discrimination as hypothetical rather than real', *Enduring Inequality*, 23.

view taken by the Presbyterians.⁶² Discrimination was to be made unlawful but not a criminal offence and any sanction would be of a civil nature. Affirmative action for programmes designed to create full equality of opportunity should be implemented on a voluntary basis or as required by a new statutory body, the Fair Employment Agency (FEA). The agency would administer a voluntary register of Declarations of Intent by employers and others to observe principles of full equality of employment opportunity. The government would write to employers, trade unions and others, inviting them to sign the Declaration. The FEA had responsibility for countering religious discrimination in employment with, *inter alia*, specific functions of investigation, conciliation and enforcement. These were wide-ranging powers in both Northern Ireland and the United Kingdom contexts, but the report had shied away from recommending quotas or enforcing anti-discrimination measures by the withdrawal of government contracts or loans, both of which measures were to be the sources of future controversy.⁶³ The legislation based upon the report was left to be implemented by the Labour government with the passage of the Fair Employment Act, 1976. This followed the electoral defeat of the Conservative government in February 1974 and the Ulster Workers' Strike in May of that year which saw the downfall of the power-sharing executive of the devolved government established under the Sunningdale Agreement.

Earlier in separate legislation, the Northern Ireland Constitution Act 1973, had repealed the 1920 anti-discrimination guarantees. It provided that any discriminatory legislation passed by the Northern Assembly was void. Unlike the 1920 legislation, it prohibited discrimination by any public body and, anticipating the Fair Employment Act, it applied to both religious and political discrimination. The same Act established the Standing Advisory Commission on Human Rights (SACHR), with the task of advising the Secretary of State on the adequacy and effectiveness of the law in force relating to discrimination, and informing him on the extent of discrimination by public bodies. It had no power to investigate individual complaints.

From the outset, the FEA was under resourced and was hampered by the hostility of Unionist politicians, officials in the DED and direct interference by

⁶² *van Straubenzee Report*, 1, and *Report to the General Assembly of the Presbyterian Church in Ireland*, (Belfast, 1967), 122, 'It would appear that what passes for Religious discrimination in Northern Ireland is in fact partly political in origin'.

⁶³ *van Straubenzee Report*, 10-12 and 30-31.

ministers.⁶⁴ Criticisms of the FEA were frequent.

We have shown the FEA did not seek to vigorously prosecute the law but instead adopted a secretive attitude to investigations that put the interests of the employer first. Access to data on inequality as a result was restricted or prevented thereby ensuring that any public debate on equality became *ad hoc* subject to some revelation or incident. This we have shown has been at the very least an abrogation of responsibility motivated by a desire to appease on the whole a unionist *status quo* this would not have changed without the intervention of Irish American pressure in the form of the MacBride Principles and this campaign directly led to the creation of a new Act and legitimised the equality of opportunity in a religious sense entering a broader public area.⁶⁵

It was often accused of not being up to the task for which it was established. This criticism was too sweeping. The FEA was circumscribed by the legislation creating it, never receiving the resources it was promised and by the political hostility and indifference to it by the Northern Ireland establishment. With its powers less than those originally envisaged in the van Straubenzee Report, it was seen by some as a cosmetic, indeed cynical, exercise by the Labour government, and a sop to the nationalists following the downfall of the power-sharing executive. Other weaknesses observed, despite legal restraint and paucity of resources, included inadequacies in the Agency's own procedures, the fact that few of the complaints came from the private sector and its inability to deal with indirect discrimination. Despite the perceived weaknesses of the FEA, it had in a series of sector reports produced pictures of patterns of discrimination in private employment, refining Aunger's pioneering work based on his examination of the 1971 census.⁶⁶ These statistics enabled a picture of the degree of discrimination against Catholics in parts of the private sector employment to be drawn but there were still no statistics to ascertain patterns of religious discrimination within individuals firms.

This background of unfairness in the private sector, the weaknesses of the

⁶⁴ Graham, 'Fearing Equality' 243, discussing the role of D Concanon, Minister of State for Industry, intervening in the Ford enquiry by the FEA.

⁶⁵ *Ibid.*, 316. Graham, a former employee of the FEA resigned his position because of severe policy differences with the FEA chairman Robert Cooper.

⁶⁶ Aunger, 'Religion and Occupational Class in Northern Ireland' and FEA, *Report on Employment Patterns in the Belfast Area with particular reference to Engineering*, (Belfast, 1983).

fair employment legislation and the reluctance of employers to change their recruiting patterns, led Irish Americans to embark upon the MacBride Campaign. Learning from the experiences of the Sullivan Principles campaign, it sought to correct perceived wrongs in employment practices of the Northern Ireland subsidiaries of United States corporations in which they held shares. Using the federal structure of the United States, it campaigned outside the Washington Beltway in the cities and states of the Union. It urged them to use the financial muscle of their pension funds to force changes in discriminatory employment practices Northern Ireland. The pension funds held shares with voting rights and with those rights came the ability of the funds' trustees to table pro-MacBride resolutions at corporations' AGMs. This power could be exercised in any state or city of the union, notwithstanding the opposition of the UK and US governments, and without any reference to the political establishment on the Hill. It was a positive weapon for the 'grass-rooters' against the 'tree-toppers'. Eventually the MacBride Campaign would be one of the major unifying elements in the politicisation of Irish America.

Chapter One: The Origin of the MacBride Principles

I just said to myself 'if its good enough for South Africa, its good enough for Northern Ireland'

State Senator Joseph B. Walsh,
Boston Globe 23rd March 1983¹

It's as clear, however, that there is *prima facie* evidence for a case to be made that American firms are part of the systematic, geographical and personal pattern of discrimination in Northern Ireland.

Report on INC Visit to Northern
Ireland²

Father Sean McManus, the President of the Irish National Caucus (INC), stated that the MacBride Principles 'were "conceived" in August 1979; "Born" in June 1983; and "christened" in November 1984'.³ It was not quite so simple. These were three significant dates, but there was a long history of endeavour by many others. Holland wrote of the origins of the INC that

Though the Caucus beginnings are much in dispute, even amongst its own members, it seems to become active in 1974, with the aim of lobbying on behalf of Irish unity. Amongst those involved in its formation were Flannery, the founding father of the Irish Northern Aid Committee; Jack Keane, the President of the Ancient Order of Hibernians (AOH); and Teddy Gleason, the powerful trade union leader.⁴

Holland states that they were dominated by 'a Northern Ireland-born priest, the Reverend Sean McManus'.⁵ Wilson gave a detailed account of the INC's formation.

¹ State Senator Joseph B. Walsh of Massachusetts, as his reason for introducing his Bill to prevent state pension funds investing in companies supplying military equipment to the United Kingdom for use in Northern Ireland, *Boston Globe* 23rd March 1983, Divestiture Bill aimed at Ulster by Eileen McNamara.

² S McManus, *The MacBride Principles, Genesis and History and Story to Date*, (Washington, 1993) 97-98.

³ McManus, *The MacBride Principles*, 1.

⁴ J Holland, *The American connection: U.S. guns, money, and influence in Northern Ireland*, (New York, 1987) 117.

⁵ *Ibid.*

The most concerted effort of militant Irish-American organisations to revive their effectiveness was the formation of a new congressional lobbying group ... Noraid leaders in particular realised the damage that the adverse publicity and the government investigations had caused to the Republican network.... They hoped the formation of a new pressure group would improve its public image, get better press coverage, and deflect Justice Department pressure.⁶

The formation of a new group had been the subject of discussions since late 1973. The AOH had been particularly keen and had contacted other Irish organisations to gauge their measure of support. Keane organised the meeting in New York, on the 20th September 1974. Those Irish-American organisations which were present endorsed the suggestion that an organization called the Irish National Caucus, active since February 1974, should function as an umbrella group to represent their interests. The initial ethos of the INC was strongly Republican and supportive of the IRA's campaign in Northern Ireland.⁷McManus became the National Coordinator of the INC and Dr. Fred Burns O'Brien became the Director of Information. They were both fiercely pro-Republican.⁸ A series of failed political initiatives and policy differences led to an estrangement between McManus and Noraid.⁹ At issue was the role to be played by the INC. Noraid saw its primary role as supporting the armed struggle in Northern Ireland. Anything else was a digression unless it could be used to cause embarrassment to the British government. Any money raised was to be used to further the war effort in Northern Ireland, both helping the widows and orphans of the IRA volunteers, and for the purchase of arms. McManus, however, whilst espousing extreme republicanism, considered that the war was frightening away too many Irish Americans, who did not wish to be associated with violence and its manifestations in the catalogue of shootings, maimings, killings and explosions of Northern Ireland. He felt that the spotlight was continuously shining upon IRA violence when it should have been beamed upon the British government's repressive policies and its denial of human rights to the Catholic minority in the North.

⁶ A Wilson, *Irish America and the Ulster Conflict: 1968-1995*, (Belfast, 1995) 99.

⁷ *Ibid.*, p. 100

⁸ For a full account of the origins and workings of the INC and the early career of McManus, including his 'speech from the dock', see Wilson, *Irish America* 99-105.

⁹ Holland, *The American connection*, 140-143.

This policy difference was reflected in a more practical controversy, the raising of funds. Noraid wished for all monies raised to be sent from the United States and used in Northern Ireland. McManus wanted to raise money for the INC's propaganda, educational and political lobbying programmes. Noraid felt that there was just one well from which money could be drawn. McManus felt there were other sources of funds to be tapped from those Irish Americans who were not prepared to support or to be identified with IRA violence but were concerned about the plight of the minority in the North. Matters came to head when McManus raised money at a dinner independently of Noraid. In October 1979, the *Irish People* accused the Caucus of causing a split amongst Republican organizations in United States and personally attacked McManus.¹⁰

In September 1977, the INC with the AOH was instrumental in persuading sympathetic congressmen to establish the Ad Hoc Congressional Committee for Irish Affairs. Despite its title, it was never an official committee of the House of Congress, although many members would have liked it so to become. It has more in common with a British parliamentary all-party committee. It had no official powers to subpoena the witnesses or to send for papers, but it met on the Hill, had a prestigious title and, more importantly, the names of over a hundred members of Congress appeared on its letterhead. Whilst many of the names only appeared to satisfy the requests of their Irish constituents, they gave the appearance of an influential platform, mainly in the House of Representatives, who were active on Irish issues. The Ad Hoc Congressional Committee was proving so successful that the SDLP supporters, the 'tree-toppers', encouraged by the Irish Embassy, established the Friends of Ireland at a lunch at the Irish Embassy attended by President Reagan on St Patrick's Day 1981. The Embassy was alarmed by the activities and influence of the Ad Hoc Committee on the Hill and its closeness to the INC.¹¹ The Friends of Ireland were formed to prevent Northern Ireland becoming 'an irritant' in Anglo-Irish-American relations.¹²

The INC was now a more comfortable organisation with which Congressmen could be associated. Its emphasis on human and civil rights, fair

¹⁰ Quoted in Wilson, *Irish America*, 157.

¹¹ J Harsh, 'Irish Republic accuses groups of supporting IRA', *Christian Science Monitor*, 21st March 1978. 'Singled out for particular attack were two American groups, Irish Northern Aid (NORAI) and the Irish National Caucus. The government is also critical of Ad Hoc Congressional Committee for Irish Affairs'.

¹² Doherty interview, 25th July 2000, quoting Werner Brandt, a member of Speaker Foley's staff and his organiser for the Friends of Ireland, in late 1984.

employment practices, and discrimination struck a chord with American experience and idealism. The new badge of the INC, the dove of peace superimposed upon a shamrock, was indicative of its no longer supporting the paramilitary violence of extreme republicanism. It had not, however, adopted the constitutional nationalism of the SDLP. It gave no quarter in its dealings with the British government and its representatives and the policies which they defended. It had a love-hate relationship with the Irish Embassy, who it suspected as being too close to the British. As if to demonstrate its shift in policy and its closeness to the democratic process the INC opened its national lobbying headquarters on Capitol Hill on 10th December 1978, when McManus proclaimed 'It was the first and only office ever established on Capital Hill to lobby for Irish justice and peace. That in itself was an historic achievement'.¹³ In 1978, he was joined by Belfast born Rita Kelly-Mullan serving as Executive Director of the INC.

In August 1979, an INC delegation visited Northern Ireland. Congressman Benjamin A. Gilman commissioned Rita Mullan to bring back a full report situation in the North.

As you know, I am gravely concerned about the discriminatory employment practices in Northern Ireland, particularly as it pertains to the Catholic population. I am most interested in the conduct of American firms in this regard, and would like to know if the employment practices exercised by American corporations reflect America's basic respect for, and protection of, equal employment opportunities for all.

I understand that you are travelling to Ireland, during the month of August, and that you may have the opportunity to visit several American firms in Northern Ireland. I am unable to travel to Ireland at that time, and I am requesting that while you are there, you speak to some American corporation heads to request assistance in alleviating any individual or geographic discrimination, which may exist.¹⁴

The INC delegation prepared a short six paragraph report for Gilman, recounting their experiences and the conclusions they had reached. Given the amount of misleading propaganda that was to be promulgated about the purpose

¹³ McManus, *The MacBride Principles*, 1.

¹⁴ McMP Letter from Gilman to Rita Mullan, 20th July 1979, also quoted in McManus *The MacBride Principles*, 93.

of the MacBride Principles by its opponents in the future, it is worth noting the conclusion of the report. Stating their wish that the sub-committee on International and Economic Policy and Trade of the Foreign Affairs Committee of the House, of which Gilman was a member, should hold a hearing on discrimination by US firms in Northern Ireland, it continued

We request this investigation, by your subcommittee to encourage, not discourage US investments in Northern Ireland, but we want U.S. laws and human rights provisions complied with in foreign investment. There should not be investment for the sake of investment without full equality of opportunity.¹⁵

Ever mindful of the need not to attack American citizens, the shareholders of the corporations who were also their constituents, the finger was pointed at the local management and the Northern Ireland Department of Commerce.

US personnel is [sic] innocent, it is personnel from Northern Ireland that are the problem and it is they who guide the hiring, which is discriminatory. The location of the firms is the domain of the British government's Department of Commerce at Stormont Castle, Belfast.¹⁶

McManus reported upon his visit to the Executive Committee of the Ad Hoc Congressional committee. He said following Gilman's request they had contacted every American firm in the North and would shortly have a detailed report of their conclusions. 'It is clear, however, that there is *prima facie* evidence for a case to be made that American firms are part of the systematic geographical and personal pattern of discrimination in Northern Ireland.'¹⁷ From the visit of the delegation and its subsequent reports, McManus claimed the Principles were 'conceived' in August 1979.

It was Father Brian J. Brady, the head of Religious Education at St. Joseph's College of Education, Belfast, who gave the first detailed analysis of discrimination by American employers. In a paper presented as evidence to the Ad Hoc Committee entitled, *Anti-Catholic Discrimination in Manufacturing*

¹⁵ Ibid., 94.

¹⁶ Ibid., 9.

¹⁷ Ibid., 97-8.

Industry in Northern Ireland -- the American Dimension? he examined the part played by American corporations in the North. He demonstrated that 21 of the 34 American companies were in the seven sections of manufacturing industry most notorious for anti-Catholic discrimination. Brady drew his information from his own research, publications of the FEA and the *1978 Directory of the Northern Ireland Industrial Development Organisation*. He gave two main reasons for anti-Catholic discrimination: the geographic location of factories and the hiring practices of the management. Of the 34 American companies operating in Northern Ireland, he had identified 23 plants located in Orange-Unionist areas. Of the 11 American companies in Catholic areas, he said:

‘Personnel managers, even of foreign-based companies, are often local orange unionists. These managers frequently discriminate blatantly against Catholics in the hiring of employees. The same obstacle is frequently encountered by Catholics seeking employment in factories located in Catholic areas.’¹⁸

These figures were not folk history, extravagant claims or unsubstantiated rumours but hard facts of American involvement in anti-Catholic employment discrimination in Northern Ireland. He said that the result of discrimination in hiring practices resulted in either the employment of only a few token Catholics or where a number of Catholics were employed they were largely, or exclusively in the less well-paid positions.¹⁹

This was the first time American firms had been put under the microscope and it was food and drink to the Ad Hoc Committee. The INC had real ammunition with which to conduct its campaign. Using Brady’s work as its inspiration and the Sullivan Code as its template, the Ad Hoc Committee prepared House Bill 3465, known as the Ottinger Bill, after Representative Dick Ottinger its main sponsor, which was introduced in 1983. It proposed to impose tax penalties on those US companies operating in Northern Ireland failing to implement fair employment practices and to extend the principles of the Sullivan Code to cover those companies. McManus wrote that the Ottinger Bill ‘contained

¹⁸ D P Brady, Evidence given before the Ad Hoc Congressional Committee on Irish Affairs of the United States Congress, 22nd July 1981.

¹⁹ Ibid.

in essence the principles we would later call the MacBride Principles. That is why we say, the MacBride Principles were born in 1983'.²⁰

Published in 1977, the Sullivan Code was named after the Reverend Leon Sullivan, a black pastor from Philadelphia, who joined the Board of Directors of General Motors in 1971. At that time, General Motors employed the largest number of blacks in apartheid South Africa. From 1971 Sullivan used his position to question the morality of General Motors' investment in South Africa against the background of the evils of the apartheid regime. He wanted General Motors to reconsider its position and to consider the possibility of pulling out of South Africa. General Motors was faced with difficult choices, to accept the *status quo* in South Africa, to disinvest from a lucrative market or to seek change by challenging the apartheid system. It chose the latter cause of action and its lawyers drew up the voluntary Sullivan Principles.²¹ Sullivan was not alone in his concerns. The first shareholder resolution from a church investor, the Episcopal Church, was filed in 1971 with General Motors. It had requested the company to cease operations in South Africa.²²

Originally comprising of six principles, a seventh was added in 1984, the Sullivan Principles²³ invited American companies to subscribe to a voluntary code, which specifically and directly challenged the apartheid system and its industrial infrastructure by ignoring both the law and the custom and practice of the apartheid system on the factory floor and in its offices.²⁴ It asked American companies to break the domestic law of their host country. Outside of those provisions attacking specifically racial segregation, four of the principles, numbers 2-5, dealt with employment practices, equal pay for equal work, initiating specific training programmes for, and increasing the number of, blacks and non-whites in management, supervisory, clerical and technical jobs. This was in line with the policies that Brady had been calling upon American employers to introduce in Northern Ireland. The difference was that under South African law, it was completely illegal.²⁵ Nevertheless, Sullivan was determined to campaign not only

²⁰ McManus, *The MacBride Principles*, 9.

²¹ Appendix A, 319.

²² Quoted in B Glendon, *Corporate Responsibility Case Studies and Employment Strategies*, (Mystic, Connecticut, 1985) 40.

²³ See Appendix A, 319.

²⁴ See B J F Clark, 'US Labor Practices in South Africa: Will a Mandatory Fair Employment Code succeed where the Sullivan Principles have failed?', *Fordham International Law Journal*, 7:357, (1984) 358-387, for a legal analysis of the Sullivan Principles and the then South African law.

²⁵ *Ibid.*, 378.

for General Motors to improve its employment practices, but all American corporations with investments in South Africa. The implementation of the Sullivan Code was eventually to lead to disinvestment by United States companies in South Africa.²⁶

For reasons already given, the Ottinger Bill languished in committee never to appear on the floor of the House but its significance cannot be undervalued. Its existence and the other activities of the INC were a continuing irritant to the British Embassy and the Washington establishment and a powerful and constant reminder that events in Northern Ireland, and the policies adopted to deal with them, would be under constant scrutiny by the elected representatives. Ottinger's Bill was an encouraging and forceful reminder to Irish Americans that it was possible to work constitutionally and peacefully for social and economic justice in Northern Ireland. It became a useful hook upon which to hang many other forays into the Irish affairs.

There was already a precedent for such legislation in the Massachusetts state legislature, both in terms of legislation and also in using institutional investments to exert economic leverage. The legislation called for public pension funds to be withdrawn from

... any bank or financial institution that directly or through a subsidiary has outstanding loans to any individual or corporation engaged in the manufacture, distribution or sale of firearms, munitions, including rubber or plastic bullets, tear gas, armoured vehicles or military aircraft for use or deployment in any activity in Northern Ireland.²⁷

The bill passed the state Senate of the eve St. Patrick's Day, 16th March, and the House of Representatives on the 21st March. The bill was passed, despite the fact that nobody seemed to know whether Massachusetts had any such investments. After the votes the Assistant State Treasurer, Patrick D. Sullivan said, 'to be candid, nobody has given us a listing of the companies they are talking about.

²⁶ 'Starting with the workplace, I tightened the screws step-by-step and raised the bar step by step. Eventually I got to the point where I said that companies must practice civil disobedience against the laws and I threatened South Africa and said that in two years Mandela must be freed, apartheid must end, and blacks must vote or else I'll bring every American company I can out of South Africa,' Sullivan recalled. After two years with little change, Sullivan mobilized the companies and more than a hundred left South Africa and apartheid began to fall apart'. From the Sullivan Principles' web-site <http://www.revleonsullivan.org/principled/principles.htm>, last accessed 12.02.07.

²⁷ E McNamara, 'Divestiture Bill aimed at Ulster' *Boston Globe*, 22nd March 1983.

Presumably a list would be furnished to us before the bill gets too far'.²⁸ The lack of such knowledge did not deter the sponsor of the bill, Senator Joseph B. Walsh, who had 'no idea at all', how many companies would be affected, nevertheless maintaining 'You have to assume there's a lot'. The senator said he had filed his bill, 'To send a message. I just said to myself "if it's good enough for South Africa, it's good enough for Northern Ireland."' ²⁹

Following the publication of his bill, as a guest of the INC, Ottinger visited Belfast to explain its scope and purpose.³⁰ Despite McManus's declaration, that 'Our trip is strictly limited to the Ottinger legislation,' his visit was overshadowed in the press by the comments McManus made about the proposed contract between Shorts and the US Air Force worth £20 million. James Molyneaux, the leader of the OUP called them 'dangerous comments', Robert McCullough of the CBI, 'Wild allegations, which grab the headlines do nothing to help the unemployed, and indeed may add to their numbers' and Jack Nicholl of the Sheet Metalworkers Union condemned the visit to Ulster by McManus as a 'pointless exercise'.³¹ When the MacBride Campaign was expanding across the United States, the Ottinger Bill was used as the model upon which many of the local legislative initiatives were based. It was cited by the AFL-CIO delegation, which visited both the North and South of Ireland as a suitable legislative instrument for tackling employment discrimination.³²

With a hint of what was to follow in future contract compliance campaigns, which was to so frighten the British government, in April 1984, the Lykes Bros. Steamship Co. of New Orleans was targeted by McManus, because of a letter of intent it had with Harland and Wolff's Belfast shipyard for the construction of two container ships worth as approximately \$72 million. 'Of all the bigoted companies in Northern Ireland,' McManus insisted, 'it's the worst'.³³ Based on the example of the Sullivan Principles, McManus asked Lykes to insist on six conditions before completing the contract. These included the hiring of more Catholic workers and apprentices, security for the new workers, the removal of pro-Protestant and anti-

²⁸ Ibid.

²⁹ Ibid.

³⁰ Report of Ottinger's visit, P Johnson, 'US firms accused of Ulster bias', *The Guardian*, 18th August 1983.

³¹ 'US Priest attacked over Ulster jobs', *The Guardian*, 17th August 1983.

³² T Donohue, J Sweeney and J Hatfield, *Report of the AFL-CIO delegation to Northern Ireland and the Republic of Ireland July 1st-5th July 1983*, (New York, 1983)

³³ G Hager 'Irish Catholics pressurize Lykes over Contract' *The Times-Picayune/The States Item*, 17th April 1984.

Catholic slogans and signs in the shipyard and the establishment of a training school in Catholic West Belfast. Unlike the future MacBride principles, the conditions McManus wanted specifically mentioned Catholics. Although his campaign was unsuccessful, McManus considered the campaign was successful because of the publicity the issue generated.³⁴ These conditions, were to reappear as Shorts Bros., the Belfast aircraft manufacture with an over 90% Protestant workforce sought defence contracts with the US Defence Department.

McManus was not the first person to seek to adopt the principles of the Sullivan Principles to religious discrimination in employment in Northern Ireland. On the 9th August 1978, Sister Regina Murphy, S.C., of the Interfaith Centre on Corporate Responsibility (ICCR), had received from Lawrence J. O'Brien, Special Counsel, writing on behalf of Harrison J. Goldin, the Comptroller of the City of New York, a reply to her letter requesting data on the Comptroller's proxy voting record. As trustee of the city's pension funds, the Comptroller controlled the votes of the shares held by the funds. Sister Regina wished to ascertain that the votes had been used in an ethical manner. She need not have worried as Goldin, conscious of the strength of the Black-American vote in New York, supported the Sullivan Code but at the time of the reply had yet to reveal his full hand.³⁵ The interdenominational ICCR emerged in 1971, as a result of members of mainly Christian faiths questioning the morality of the Vietnam War. 'Progressive clergy questioned whether the churches were profiting off the war, which most ICCR members opposed in 1971 when ICCR are begun.'³⁶ Sister Regina represented her community, the Sisters of Charity, on the ICCR and was a member of her community's Corporate Responsibility Committee.

In March 1980, the ICCR's membership comprised of 'representatives of 14 Protestant denominations and 150 Catholic communities, many of whom have affiliates in Northern Ireland'.³⁷ Sister Regina, together with Patricia A. Young, of the United Presbyterian Church, USA, sent out a circular on 3rd March, 1980 to those corporations having Northern Irish subsidiaries, drawing their attention to the situation in Northern Ireland, where 'over 2,000 people have been killed and 20,000 seriously injured'. They pointed out the particular concern of the ICCR

³⁴ Ibid.

³⁵ DP, letter O'Brian (Goldin's legislative council) to Sr Regina, 9th August 1978.

³⁶ <http://www.iccr.org/about/faq.php>, (accessed 13.02.07).

³⁷ DP circular letter, Sr Regina and Young to US corporations investing in Northern Ireland, 3rd March 1980.

because of the sectarian nature of the incidents and, as investors in corporations doing business in Northern Ireland, their concern about the role of US corporations in that area. They drew attention to Gilman's initiative in writing to US corporations in Northern Ireland and asked to be sent similar information. They included their own questions about whether security checks were made with the police on any prospective new employees and for details of any expansion plans that they may have had.³⁸ This initiative started off well but was not vigorously pursued.

As some of you may remember, ICCR, in 1980, sent letters to the American companies operating in Northern Ireland, asking about their employment practices. Pat Young, from the Presbyterian Church and I, for the Sisters of Charity, signed the letter. Some of the 31 corporations operating in Northern Ireland at the time responded to our letter of inquiry; some did not. Due to the pressures of the time, other commitments, etc., there was not extensive follow-up to the letters.³⁹

Doherty explains this lack of success in being taken seriously by the corporations by the fact that she was only speaking on behalf of very small share holders, religious orders, Catholic and Protestant, who might have had no more than 200 or 300 shares.⁴⁰ When writing to Roger Smith, Chairperson of General Motors, Sister Regina spoke of her community as being beneficial holders of 500 shares of common stock.⁴¹

When she had embarked on her campaign, Doherty said that Sister Regina had told him that she had spoken to McManus in Washington and had hoped to win his support. She did not receive the support which she felt she should have been given. He said that the outset of the new campaign she was still quite hostile to McManus but as it progressed, her opinion of him softened. Doherty had spoken to McManus about the matter and Doherty was still not exactly sure why she had not received the help that she could have reasonably expected. 'I think it was just that things fell through the cracks because he had some other stuff that

³⁸ Ibid.

³⁹ DP letter, Sr Regina to ICCR members, recalling the 1980 initiative, 7th November 1984.

⁴⁰ Doherty Interview, 6th July 1999.

⁴¹ DP letter Sr Regina to Roger Smith (Chairman of General Motors), 10th December 1984.

might have been more urgent at the time.’⁴² When the matter was put to McManus, he said, ‘that’s the first time I’m hearing that’.⁴³

It was not just the nun and the priest who saw similarities between the discrimination practiced in employment in South Africa and in Northern Ireland, similar in principle if not a degree. It was a comparison, which was made from the start of the Civil Rights Movement, which had adopted the anthem, ‘We shall Overcome’, from the Civil Rights Movement in the United States.⁴⁴ Writing in the *Brooklyn Spectator* on September 1983, Dennis McMahan, an Irish-American activist, stated that the city was using its pension funds to support the Sullivan Principles in South Africa and posed the question why was it not doing something similar for Northern Ireland? The article was clipped by Jim Cassidy of the Comptroller’s staff, who was tasked to look out for new ideas, and found its way, in the form of a note, to Steven Newman, the assistant Comptroller.⁴⁵ Newman persuaded the New York City Comptroller, Harrison J. Goldin, to examine the argument. Niall O’Dowd, the founder and editor of *Irish America*, wrote

The Irish issue was an obvious one for Goldin to consider. Quite apart from his civil rights concerns, it afforded an entrée into a major ethnic block. Though the Irish may never again elect one of their own mayor of New York City, they now represent a crucial swing vote, much courted by both Italian and Jewish candidates in mayoral and congressional races.⁴⁶

The policy decision to investigate the possibilities of an Irish Sullivan Code percolated down the official chain with a note suggesting that the possibilities of

⁴² Doherty Interview, 6th July 1999.

⁴³ McManus Interview, 18th November 1981.

⁴⁴ Frequently said to the author during the Civil Rights Movement and specifically on the streets of Derry on 11th and 13th August 1969. But this was not necessarily a comparison made only by Catholics. ‘From any objective point of view it cannot be said that the grievances of the Catholics are always very real. They have less to complain about than the US Negroes and their lot is a very pleasant one as compared to that of the Nationalists in, say, the Ukraine’ the unionist, T Wilson, *Ulster Under Home Rule*, (London, 1955), quoted in Gallagher, *The Indivisible Island*, 206.

⁴⁵ Martin Galvin, who by this time had broken with Sinn Féin over its acceptance of the Good Friday Agreement credits the clipping to John Cudehy. M Glavin, ‘Equality Agenda: British Rhetoric and Reality’, *The Blanket*, 13th November 2006. O’Dowd’s and Doherty’s accounts are the most contemporaneous, and Galvin, though quickly involved in the MacBride Campaign, was not as intimately connected as O’Dowd and Doherty. N O’Dowd, ‘Behind the MacBride Principles’, *Irish America* Premier Issue, 1985 and Doherty Interview, 7th July 1999.

⁴⁶ *Irish America*, premier issue, 1985.

similar action for Northern Ireland should be examined.⁴⁷ The final destination of the article with its accompanying instructions was the desk of Patrick Doherty.⁴⁸

Doherty had been freshly appointed to the Comptroller's office having recently obtained his master's degree from Columbia University's School for International Affairs. His parents were Irish immigrants. His grandfathers had fought in the Irish War of Impendence alongside Charles Haughey's father in the IRA's Derry Brigade. Goldin was an ambitious politician and a prospective candidate for the mayor's office. Doherty's immediate superior was Newman with whom he had worked on Gary Hart's presidential campaign. It was an interesting project to give to a fresh appointee and it made his reputation. His instructions were to gather background information and build a case for the preparation of a code for Northern Ireland similar to the Sullivan Principles.

The idea was that these were going to be the 'Goldin Principles' these were going to be put out by the Comptroller of the City. Therefore he would have the sponsorship of them, and would get all the credit for it, political and otherwise. It would be a big feather in his cap.⁴⁹

The ultimate aim of the project was not to be revealed. Doherty was to explain his work as merely to gather information for a report for Comptroller, given his responsibility for investing the city's pension funds.

Doherty set about his task with gusto under the general supervision of Newman. He called it a feasibility study. Important sources of information and advice involved him in long discussions with organisations involved in ethical investment. He named four main sources involved in the correspondence and discussions leading to the promulgation of the MacBride Principles. They were the Irish-American Labour Coalition and Joe Jameson, the ICCR and Sister Regina in her own right because of her experience, the INC and Father Des Wilson

⁴⁷ Ibid, the journal published a handwritten note, dated 16th July from Steve Newman of the Comptrollers Office to Peter [Gilbert] of the Comptrollers research and Liason Office, 'have a staff member do some research on Norther Ireland. Lets generate a Sullivan type proposal for NORther Ireland'.

⁴⁸ This is drawn from O'Dowd's account in *Irish America*, premier issue, 1985, and the Doherty interview. See also M Beirne, 'Justice and the National Question', (unpublished MSc thesis, Quenn's University Belfast, 1993), 21-22, and R J Cormack and R D Osborn, *Discrimination and Public Policy in Northern Ireland*, (Oxford, 1991), 15.

⁴⁹ Doherty Interview, 6th July 1999.

of Belfast, who was greatly influenced by Oliver Kearney.⁵⁰ Nevertheless, it was the British Information Service's office in New York which provided the gold mine of information upon which Doherty was to base his report and it was particularly helpful in rapidly obtaining documents from the United Kingdom not easily available in New York. Its officials were providing whips for their own backs. When eventually the British government refused to accept the MacBride Principles, Doherty delighted in demonstrating that 'They were attacking those Principles that were in fact lifted in their entirety from their own government's recommendations. They were attacking their own government's recommendations!'.⁵¹

Because of its strong report in 1983 supporting the Ottinger Bill, he was certain of the important support of the AFL-CIO. Doherty drafted the MacBride Principles.

Well I put them together but in fairness, I was basing them on other things ... I started with the Sullivan Principles, which were six. Basically, I took those Sullivan Principles that were applicable to the North and then they became say five of the MacBride Principles with maybe some slight changes. The idea was to make them as closely akin to the Sullivan Principles as was possible, so the analogy can be drawn more easily ... but there were problems that were peculiar to the North that were put into the MacBride Principles.

Some of these were lifted literally from government materials, the DED's Code of Practice ... These were recommendations, that the government had made to employers in some obscure booklet that they had presented to them. They had never been acted upon. They had never been enforced. The government hadn't pursued them and, in fact, elements of the government weren't even aware of them.⁵²

During the summer of 1984, Goldin began to cool towards the exercise. The city pension funds had endorsed the Sullivan Principles and he had applied

⁵⁰ Kearney founded the Fair Employment Trust in 1985, the MacBride Principles campaigning arm in Northern Ireland.

⁵¹ Doherty Interview, 6th July 1999.

⁵² Ibid and Doherty telephone interview, 7th December 2006.

them to New York's investments in South Africa and ordered divestment from those companies that would not adhere to the Sullivan code within a year. Goldin had a lot of problems with the financial community in New York. South Africa might be distinctive because of the apartheid system, but the unloading of large quantities of shares on the stock exchange would still be quite unsettling. If a similar set of principles were to apply to companies investing in Northern Ireland, would it not establish a precedent for every country with a human rights' problem and a national constituency in the United States? Word came back to Doherty that they could not be the 'Goldin Principles'.

Doherty was very disappointed, and angry. He had been given an assignment, finished it and then when he took it back to his superiors; he was told it was too hot to handle. He suggested passing the work on to some other interested party but his request was refused. He considered resigning, but was persuaded against it. The financial community's anger over the Comptroller's implementation of the Sullivan principles started to diminish and Goldin became more amenable to Doherty's project. Doherty was told that he could run with it but he had to find another sponsor. At its inception, Goldin's name was not to be associated with it. Moreover, he had to get other groups to promote it initially. Then the City would rush in to support it, having been given a fig leaf to wear before Wall Street, by demonstrating widespread community support for the initiative. Doherty, who for the first time had been confronted with *realpolitik*, embarked on the new strategy.⁵³

His first task was to find a new sponsor for the principles. He put the problem to his immediate superior, Steven Newman, and pointed out that he had seen from the INC's letterhead that it had a relationship with Seán MacBride, who, if agreeable, would make an excellent sponsor. At that time, Doherty had no knowledge of MacBride's tempestuous Irish past. He had only briefly come across his name as an international civil servant, when studying at Columbia, and from the INC's letterhead. For him, the proposal of MacBride was a shot in the dark. It was agreed that he should visit Washington and discuss the matter with McManus . It would now be necessary to reveal the full extent of the project to him and Rita Mullan, the INC's Executive Director. It was highly unlikely that given the amount of correspondence and telephone calls between Doherty,

⁵³ This account of the origin the Principles in New York is taken from the Doherty interview.

McManus and other interested parties, that the project could have come as any great surprise to them. Doherty had only a junior post in the New York City administration and had not previously travelled on behalf of the conurbation.

In the two days of meetings, probably in late July 1984, Doherty explained to McManus Goldin's strategy for the launching of a Sullivan type campaign for Northern Ireland and showed him the set of principles that he had prepared.⁵⁴ He raised the question of MacBride becoming the sponsor of the new code. McManus related to Doherty the role played by MacBride in Irish history since the 1916 Rising and his pioneering efforts in the field of human rights. Agreement was reached with McManus about the contents of the Principles and, at his request, Doherty drafted a letter for McManus to send to MacBride explaining the strategy and appending the draft Principles. Doherty was not confident that given MacBride's distinction and age, he would be prepared to sponsor the principles. McManus was more confident. 'Now he could have changed them. He could have written whatever he wanted to, but he didn't. He came back and he said, "this is fine by me. OK, let's go with it"'.⁵⁵

McManus, conscious of the position and reputation of himself own and the INC, gave a different but not necessarily a conflicting account of the naming of the MacBride Principles that down played the part played by Comptroller Goldin and his New York office.⁵⁶ McManus advanced seven principal reasons in rebutting those who 'have tried to rewrite history and have attempted to give the impression that the MacBride Principles originated in Comptroller Goldin's office. That is manifestly untrue'.⁵⁷ Only two of the arguments he made contradict Doherty's account. He does not dispute that Doherty provided a list of propositions, which was the substance of the MacBride Principles. Indeed McManus argued, 'the Principles, the actual drafting of the Principles to my mind was never very an important issue because there's so many predecessors.'⁵⁸ This was a surprising statement to make as it was the actual interpretation of the Principles, as much as their existence, which was to be so controversial. Similarly, it was what appeared to be a lack of precision in the text of the Principles, which necessitated within eighteen months the fresh publication of the

⁵⁴ Doherty Interview, 6th July 1999.

⁵⁵ Ibid.

⁵⁶ McManus, *The MacBride Principles*, 51.

⁵⁷ Ibid.

⁵⁸ McManus Interview, 18th November 1989.

Principles, amplified with a commentary explaining exactly what they meant. Further, in the transition from the Sullivan Principles through the Ottinger Bill, there is a change in substance and intent.

Five of the reasons advanced by McManus to establish his and the INC's claim to ownership are either irrelevant or not in dispute. Claiming that the INC was campaigning on the issue of US dollars subsidizing anti-Catholic discrimination in Northern Ireland before the Comptroller was involved and that it had brought Goldin on his first visit to Northern Ireland are both true and irrelevant to the argument. That the INC had written to MacBride proposing that he should sponsor the Principles and that he had replied directly to it, is not disputed and corroborates Doherty's account.

Pointing out that Goldin's office was not fully aware of whom MacBride was, and contradicting Doherty's account, McManus claimed that the INC unilaterally decided that the Principles would be named after Seán MacBride. Yet such a decision could only be taken when there was a list of propositions awaiting a name and that only arose when Doherty arrived in Washington with the details of his feasibility study. He had already agreed in advance with Newman, the proposal that MacBride should be approached to see if he was willing to give his name to the principles. Fifteen years after the publication of the MacBride principles, McManus will still asserting, 'There was never any question as to who the principles should be named after. Never. Simply never. Never. No name ever came up because we immediately said that the Principles would be named after Seán MacBride, that was the end of the decision.'⁵⁹ McManus was very proud that MacBride in 1979 had agreed to act as the liaison for the INC in Ireland. Amongst MacBride's support group in the Irish Republic was Michael Mullen, the powerful General Secretary the Irish Transport and General Workers Union (ITGWU).

Again citing the lack of knowledge on the part of Goldin's office, McManus claims that it was the INC that selected the three other sponsors of the Principles, Father Brian Brady, Dr. John Robb and Inez McCormack. Additionally, this point does not assess the substance of the authorship of the Principles, and Doherty gives a fuller account of the decision-making:

⁵⁹ Ibid.

Simultaneously assuming that we weren't going to get MacBride, it was also outreached to several other people, who potentially could have been the main sponsor. That's how we have four sponsors ultimately. Whereas Sullivan had only one sponsor, we had four. I spoke to Father Des Wilson in New York, and he said "Well, I'm too controversial, but there's a fellow I know, John Robb, who is a Protestant. He is a member of the Irish Senate, and he would be a very good person so I'll write to him"... Then also we had Inez McCormack, who was suggested by Rita Mullan – who was an associate of Father McManus working with him at the time – as a good person, a Protestant, a trade union representative. So Inez was approached. Ironically Inez had thought that she had agreed to become an endorser and one of a very long list. She was not realizing that she was agreeing to become one of a very few, if not the only one. So in any event, she was quite pleased thereafter, but it did cause us some difficulty.⁶⁰

Of the two surviving signatories of the MacBride Principles, John Robb would appear to support Doherty's account. Father Des Wilson wrote to Robb inviting him to become the signatory and saying his name had been suggested by Goldin's office.⁶¹ Robb recalled receiving a telephone call from Wilson, inviting him to sign the Principles.⁶² In the Robb papers, all his correspondence dealing with the MacBride Principles is with the Comptroller Harrison Goldin or Patrick Doherty. What probably happened was that in the general discussion about prospective signatories for the signatures, it was agreed that the INC would approach MacBride and McCormack through McManus and Mullan respectively, and that Doherty would approach Robb. Doherty said that the proposal for Father Brian Brady to be a signatory was his suggestion, because he knew of his earlier work. It would be reasonable to assume that given McManus's previous connections with Father Brady that he readily acquiesced and he might have approached him directly. However, it is not impossible that given Father Brady's and Father Des Wilson's Belfast connections, that fact a confirmatory approach were made by Father Wilson, as well as McManus. Such correspondence as exists in the Doherty papers is from the Comptroller to Brady.⁶³

⁶⁰ Doherty Interview, 6th July 1999.

⁶¹ RP Letter from Wilson to Robb, 10th October 1984.

⁶² Robb Interview, 20th September 2004.

⁶³ DP Letter from Doherty to Brady, 16th November 1984.

For McManus the clinching argument to demolish any serious New York claim for any credit for the origin of the MacBride Principles was that Comptroller Goldin was not present at the 'baptism'. Nevertheless, the implications of the statement that Goldin was late upon the scene are unfair. McManus was aware of the difficulties that Goldin had faced because of his stand on the Sullivan Principles and of the considerable amount of work that Goldin's office had put in preparing the ground for the publication of the MacBride Principles. McManus also used in aid of his argument, a letter sent to Ken Bertsch of the Investor Responsibility Research Center, (IRRC) by Caitriona Lawlor, MacBride's former personal assistant. Bertsch was preparing for publication an updated version of *The MacBride Principles and US Companies in Northern Ireland*. She wrote

It amused me, therefore, to see the reference contained in p. 60 of the current edition, 'Doherty and McManus dispute exactly who should take credit for the idea of a fair employment code for recruiting Seán MacBride as Sponsor'. My understanding always was that the fair employment initiative for Northern Ireland lay squarely with Father Sean McManus, Rita Mullan, and the Irish National Caucus in Washington, and it was to great advantage when the Comptroller of New York City Harrison Goldin, and his office took up the cudgels. Indeed, Father McManus and Rita Mullan were adamant even in the initial stages of the preparation, that MacBride should be involved and lend his name to the Principles, based loosely on the Sullivan Principles for South Africa.

This is a very slight correction, but I feel in the interest of historical accuracy, due credit for initiating the code and recruiting Seán MacBride should be given to Father McManus, Rita Mullan, and the Irish National Caucus, and I hope you will feel able to do so ...⁶⁴

It is an interesting letter, and from Lawlor's point of view, it is probably accurate. Nevertheless, it does not give the full picture.

It is understandable that McManus should seek credit for his part in the launch of the MacBride Principles. What is not understandable is why he should seek to exclude the important role played by Comptroller Goldin's office in the run-up to the launch, particularly as he takes great pains to credit him for his

⁶⁴ McManus, *The MacBride Principles* 29.

support once he came on board in February 1985. Part of the answer must lie in the nature of the INC and of Irish-American politics generally. McManus was the driving force behind the INC and jealous of its independence, claiming:

The Irish National Caucus is non-violent and non-sectarian. It has no foreign principal, and does not support, morally or financially, any group or party in any part of Ireland. It does not send money to Ireland. All its funds are raised and spent in the United States getting America take a stand for human rights in Ireland.⁶⁵

It was important for cash-flow reasons that the INC should be seen by Irish-Americans as being in the forefront of the MacBride campaign, particularly when his bitter rivals Noraid had jumped so quickly on the MacBride bandwagon and were vigorously exploiting it. With the arrival of Comptroller Goldin and his successors, a formidable force, independent of Washington, had appeared on the Irish American scene. The British government would have to pay far more attention to him, than it had to the irritating but financially impotent INC. The centre of gravity for the campaign would move from Washington to New York and the financial sector, where the Comptrollers by their investment decisions, were 'movers and shakers' in the marketplace. New York was the major a centre of Irish Republican radicalism and a stronghold of Noraid and by the nature of New York politics, not just the Irish issues, there would be frequent contact of other interested parties with the Comptroller's office.

Although it was aimed at an Irish American audience, all the signatories of the Principles lived in Ireland. The names were carefully balanced between the Catholics, Seán MacBride and Father Brian Brady, and the Protestants, Inez McCormack and Senator John Robb. Seán MacBride was obviously an attractive and a distinguished name to have as a figurehead for campaign appealing to the Irish-Americans. He had had distinguished political and diplomatic careers and a close association with international human rights organisations, some of which had helped to found. Together with his Nobel Peace Prize and his historically romantic associations with the old IRA and the Irish War of Independence he was an obvious person to be approached to give his name to the Principles even if he had not already had his earlier association the INC. MacBride was conscious of

⁶⁵ Ibid., front piece.

the importance of the Irish-American vote, 'I have always been impressed by the importance of the Irish-American vote and political influence in the United States'.⁶⁶

Quite apart from his efforts to bring the evidence of religious discrimination in American owned factories in Northern Ireland to the Congress, Father Brady had campaigned on human rights issues for many years and his name would resonate amongst human rights activist both in Ireland and in the United States. In academic circles, he was highly respected as a historian and educationalist.

Inez McCormack consciously joined the campaign knowing that it would 'make her or wreck her'.⁶⁷ She was a feminist trade union leader in the male dominated trade union movement. As a student, she had been involved in Civil Rights Movement. Her bubbling enthusiasm, careful attention to detail, powerful oratory and identification with the least of her union members, made her a formidable advocate of the Principles. She had signed, because she felt the possibilities for internal reform in Northern Ireland and the United Kingdom under the Conservative administration in terms of fair employment were exhausted, and that the only way it could be achieved peacefully would be by outside pressure.⁶⁸ She was the most active of the signatories, campaigning for the principles in the United States, the United Kingdom and Ireland.

A distinguished surgeon, John Robb had been appointed to the Irish Senate, by Charles Haughey. He was an Irish Republican of the Wolfe Tone *genre*, the leader of a small but dedicated group of similarly minded, mainly middle-class Protestants. Intellectually tough, he nevertheless admitted on being asked by Father Des Wilson to become a signatory of the Principles:

I must confess that it was very scary times and did concern me because I knew that this, [putting his name to the Principles] would be inflated in the newspapers and things. So it is the one thing, I would say I have been most pleased about having done it looking back. Because at the time ... I did feel that was unlikely that Fair Employment would be brought up on

⁶⁶ MacBride, *That Day's Struggle*, 210. MacBride also claims that at the Versailles negotiations President Wilson under the influence of the British government refused to support the future of Ireland, appearing on the agenda and that was one of the reasons why the U.S. Senate failed to ratify the treaty and the United States to join the League of Nations.

⁶⁷ Note of a conversation with McCormack, 30th September 1998.

⁶⁸ *Ibid.*

the political agenda, unless the something quite dramatic was done... So I mean, that was the reason. I personally had no problem and certainly never have had looking back.⁶⁹

MacBride was the only one of the signatories who was consulted about the content of the principles and he saw various drafts. The others were presented with a *fait accompli* and asked to sign the Principles once they had been agreed by MacBride and the Americans. The four signatories never met as a group. McCormack met MacBride on a few occasions after the Principles were launched.⁷⁰ Robb met him by chance, three years later, whilst flying between Derry and Dublin.⁷¹

The MacBride Principles to which the sponsors appended their signatures were supposed to have been heavily influenced by the Sullivan Principles. This is only partially true. They both dealt with the problem of discrimination in employment, in South Africa on a racial basis and in Northern Ireland on a religious basis. Sullivan had six principles and MacBride nine. There, for the most part, the similarity ends. The ultimate aim of the Sullivan principles was to challenge the existing law, and implementing them eventually would lead to breaking the criminal law of South Africa and with it the imposition of sanctions, fines, confiscations and imprisonment, if the government sought to enforce it. They attacked the social, legal and economic infrastructure of the apartheid state. They spoke specifically in terms of advancing blacks and non whites by giving direct and specific preferential treatment to those groups.

The whole case for the MacBride Principles was that it was merely seeking to have the existing law of Northern Ireland covering fair employment and the Codes of Practice developed from them, followed through and enforced. Unlike McManus's proposed amendments to the Lykes contract, there was no specific mention of Catholics or Protestants, only of 'under-represented religious groups'. Barritt and Carter had shown that there could be discrimination practiced by both Catholic and Protestant employers and Doherty had carefully drafted the principles, with that in mind. The terms of MacBride Principles were deliberately non-sectarian, in keeping with the philosophy of its immediate sponsors and supporters.

⁶⁹ Robb interview, 20th September 2004.

⁷⁰ McCormack conversation, 8th November 2006.

⁷¹ Robb interview, 20th September 2004.

The comparison made between the MacBride Principles with the Sullivan Principles was both a weakness and strength of the MacBride Campaign. It was a weakness, because the Sullivan Principles eventually lead to disinvestment, which the signatories of the MacBride Principles were against. In the *Washington Post*, Sullivan frustrated by the slowness of US companies to incorporate his Principles had already declared, 'If by May 31 there is no change, I will call for all American companies to leave South Africa and for a total embargo on that country'⁷² It started to happen across the United States, as cities and states having signed the Sullivan Principles, started divesting themselves of the stock they held in companies with subsidiaries in South Africa, thus justifying the fears of the anti-MacBride lobby that the same might happen in Northern Ireland. From early in the Campaign some states, for example Florida and New Hampshire, had MacBride legislation, which allowed for discretionary disinvestment from companies and therefore did not abide by the MacBride Principles. Sponsors of MacBride legislation in Maine and Missouri, hoped to secure legislation similar to that in Connecticut, which mandated divestment. Doherty was at pains to point out that when giving evidence before state legislatures proposing disinvestment clauses in their MacBride legislation, he had argued against such provisions.⁷³

Equally when a comparison was made between Northern Ireland and South Africa, it was argued that the difference in the social organisation between the two states was not one of principle, but of degree. There was a legislative, institutional and social infrastructure supporting the apartheid system in South Africa. Despite the fair employment and other legislation, which made discrimination illegal in Northern Ireland, the political and economic infrastructure and social institutions created discriminatory boundaries that amounted to a form of social apartheid between Catholics and Protestants. The danger for MacBride campaigners with using the South African example, that despite the discrimination in employment in both the public and private sectors in Northern Ireland and all the other serious manifestations of a divided community with discrimination against the Catholic minority, it seemed superficial and paled into insignificance in comparison the horrors of the apartheid system and the

⁷² Associated Press, 'Withdrawal from South Africa urged', *Washington Post*, 18th May 1987.

⁷³ Doherty telephone interview, 19th May 2006. McManus also records at the Maryland hearings, 'there was a peculiar attempt' by an AOH member to lobby for a disinvestment bill. The INC and the AOH President opposed the move and introduced 'amendments were made bringing the bill into conformity with the national MacBride campaign. A disinvestment bill would have played right into the hands of the British government.' McManus, *The MacBride Principles*, 43.

miseries of the daily existence of the non-whites in South Africa. The use of the South African comparator so exaggerated the situation in Northern Ireland, that it frequently lost the ear of the most sympathetic of listeners.

Despite the claims by supporters of the MacBride Principles that they were based on the Sullivan Principles, it would be more accurate to use Catriona Lowler's phrase 'loosely based'.⁷⁴ It was obviously an advantage for the MacBride campaigners to draw an analogy with the Sullivan Principles because it gave legitimacy in terms of American experience. On the other hand, it weakened the MacBride Campaign's position because the Sullivan Principles were illegal under South African law and the ultimate aim of that campaign, if the principles were not accepted, was disinvestment and the withdrawal of United States corporations from South Africa. It was the threat of disinvestment that was seized upon by John Hume and the British government as the principal reason for attacking the Principles. The MacBride campaigners always claimed that the principles were within the law of Northern Ireland, and, far from encouraging disinvestment, they wanted more investment in Northern Ireland. Yet maintaining the parallel between the Sullivan and MacBride Principles gave ammunition to their opponents that the real aim was disinvestment, and the undermining of the Northern Ireland state. The comparison in the situations between Northern Ireland and South Africa was particularly irritating to the British government and the anti-MacBride campaigners.

On the 4th of November 1984, the MacBride Principles were published in Washington. It had been a long period of gestation between conception and birth. But now, they were finally christened. It was in McManus's words 'an historic initiative'.⁷⁵ On the 22nd December 1984, after handing in a letter for the British Prime Minister Margaret Thatcher, who was visiting President Reagan at Camp David, McManus along with the President of the AOH, Joseph A Roche and Leo M Cooney, of the Massachusetts INC, were arrested for illegally demonstrating outside the British Embassy in Washington. They were protesting *inter alia*, about 'specifically anti-Catholic discrimination'.⁷⁶ The Embassy, to the regret of McManus, did not press charges.

⁷⁴ McManus, *The MacBride Principles*, 29.

⁷⁵ *Ibid.*, 29. The birth had already been announced prematurely in Belfast, 'US plan to end religious bias here', *Sunday News*, 4th November 1984.

⁷⁶ 'Three Irish American leaders arrested at British Embassy in DC', *Irish Echo*, 5th January 1985.

The campaign to see the MacBride Principles adopted was to have repercussions far beyond the original, deceptively simple, claims outlined in the nine Principles to be implemented by US companies with subsidiaries in Northern Ireland. They were to commandeer more time than any of the governments, US, Irish, and particularly British, would have anticipated when they were first published. They were to have lasting effects on the domestic policies of all these countries. Furthermore, the MacBride Principles, like the Sullivan Principles, had effects outside their immediate area of concern. The MacBride Principles were used as the basis of the Ambedkar Principles dealing with caste in south Asia, specifically the Dalits.⁷⁷

⁷⁷ *Hansard*, 22nd November 2005, col.373, WH, Jeremy Corbyn MP, and Select Committee on Trade and Industry, 13th January 2006, Trade and Investment Opportunities with India, Minutes of Evidence, paragraph 1, Written evidence.

Chapter Two

MacBride and aspects of the campaign after the publication of the Principles

I think I would have argued for the British government just to ignore the MacBride Campaign. By fighting it state by state they actually made it into a bigger issue and more of a way of opening up the debate on Ireland, which, to be honest, I'm not sure they really needed to do, but they did and they chose to fight

Jonathan Powell.¹

... people in this country who support MacBride divide into two groups: The well-intentioned but ill informed and the well informed and ill intentioned and you know, what we need to do is make sure that well-intentioned people are also well informed and then I think they would think twice about supporting MacBride

Sherard Cowper-Coles²

We just flew beneath the radar.

Joe Jamison³

This chapter examines the growth and spread of the MacBride Campaign within the United States. Whilst the reaction of the British and Irish Governments, the British Labour Party, the SDLP and Sinn Féin will be examined in subsequent chapters: here their reactions are only recorded as they affected the MacBride Campaign in the United States.

After publication of the MacBride Principles, there was a flurry of campaigning activity. Councillor Sal Albanese was quick off the mark to announce the introduction of his wide-ranging Bill for New York City Council to implement the MacBride Principles on 3rd January but he was well behind Sister Regina, who had been strongly involved with Doherty in the drafting process. Three days after the Washington launch of the Principles, on 7th November, she

¹ Jonathan Powell Interview, former First Secretary, British Embassy, Washington, 20th July 2005.

² ICCR, *A Discussion of Fair Employment in Northern Ireland: an edited transcript*, PRIM Board (Boston, Massachusetts, 1990) 25.

³ Dr Joe Jamison Interview, Director of the Irish-American Labor Coalition, 11th March 1999.

circulated all the members of the Interfaith Center on Corporate Responsibility (ICCR) with a three-part plan of action. It entailed writing to companies asking them for information on their equal opportunity policies and requesting them to 'sign on' to the MacBride Principles, filing shareholder resolutions (a draft resolution asking for the closure of equal employment information was enclosed) and, finally, asking them to write to any companies in which they held stock encouraging them to adopt the Principles. All the actions were to be coordinated by the ICCR staff.⁴ She singled out as particular violators of fair employment practices, American Brands, American Home Products, Fruehauf and the Hughes Tool Company.⁵ In a press release on 4th February, she announced that three religious congregation of women and two provinces of religious orders of men had introduced shareholder resolutions for companies in which they held stock: General Motors, TRW and Fruehauf. She maintained that 'the resolutions seek to take steps that would insure ethical practices in the employment policies of those companies with regard to their operations in Northern Ireland.'⁶ Furthermore, she announced that General Motors had already agreed to meet representatives of the religious orders.⁷

The major high profile publicity attracting statements were made and meetings taken by Comptroller Goldin, while Doherty, in the background, established the organisational structures. Doherty ensured that Goldin was able to consolidate his political position by arranging the meetings that he attended and ensured that Goldin spoke at all major Irish functions in the city. On 1st March 1985, Goldin proclaimed Charles J. Haughey, the former Taoiseach of the Irish Republic, an Honorary Citizen of the City of New York because he had 'steadfastly supported the human rights of the oppressed people of Northern Ireland'.⁸ Haughey was a very powerful ally in the MacBride Campaign. However, Goldin's attendance at Noraid functions was the subject of much continuing criticism both in New York and in Great Britain, where it was used to

⁴ DP circular letter Sr Regina Murphy to all members of the ICCR, 7th November 1984.

⁵ Ibid.

⁶ DP press release Sr Regina Murphy, 'Statement on the rationale for shareholder resolutions by religious communities in regard to employment policies of American companies doing business in the area of Northern Ireland', 4th February 1985.

⁷ Ibid.

⁸ This was held at the New York Athletic Club and included on the guest list were Cardinal Ó Fiaich, Paul O'Dwyer and 35 leading New York Irish business, professions and community leaders. DP, Guest List Prepared for Goldin, 1st March 1985.

associate him with Sinn Féin and terrorism⁹ However, in New York City the political advantage of having his photograph appearing alongside those of Danny Morrison and Martin McGuinness in Noraid's *Irish People*, edited by Martin Galvin, far outweighed any criticism he might receive from the British government and could only add to his stature in the eyes of many Irish Americans.¹⁰ Goldin's association with Noraid was also of major concern to John Robb.¹¹ When it was announced, he immediately wrote to Goldin demanding to know the significance of Noraid's endorsement of MacBride Principles and demanding that Noraid's name should not appear on any letterheads as a sponsor of the Principles. Robb was under great pressure from officials at the NIO to withdraw his name from the Principles.¹²

On 4th February 1985, Goldin announced his proposal that the five employee pension systems of New York City should 'adopt a comprehensive program to decrease discrimination in Northern Ireland'.¹³ The centerpiece of his plan was to be support for the MacBride Principles. The press release accompanied the publication of Goldin's controversial *Report on Northern Ireland*. On 11th April, Goldin issued another press release stating, 'I am delighted that the trustees of the New York City Employees Retirement System (NYCERS) have unanimously approved my program to combat systematic economic discrimination against Catholics in Northern Ireland'.¹⁴

In anticipation of approval of NYCERS, Goldin, in his capacity as investment officer of the New York City pension systems, had written a series of letters to the major corporations with subsidiaries in Northern Ireland in which NYCERS had shares. He was following the course of action suggested by Sister Regina to her colleagues in the ICCR. The important advantage that Goldin had over the ICCR was financial clout.¹⁵ Failure to reach an accommodation between the parties resulted in a shareholders' resolution being tabled by Goldin as a trustee of the pension fund. Then an almost immediate appeal to the Security and

⁹ Editorial, *New York Post*, 16th February 1987, 'Controller [sic] Goldin's doubtful company Noraid... is indisputably linked with the so-called Provisional IRA, which actively carries out the bombings and assassinations'.

¹⁰ 'NY Comptroller meets with SF', *Irish People*, 22nd June 1986. They illustrated the same article but he did not appear in the same photograph.

¹¹ JRP, Correspondence with Goldin and Doherty, 18th January 1985, *et seq.*

¹² See Chapter Three, 'MacBride and the British Government'.

¹³ DP press release 'News, Office of Comptroller', 4th February 1985.

¹⁴ DP press release 'News, Office of Comptroller', 11th April 1985.

¹⁵ DP letter Goldin to the chairman of Ford, 1st March 1985. This stated that NYCERS owned 1,070,701 shares valued at \$50,289,833,218.

Exchange Commission (SEC) was made by the company concerned on the grounds that it was being asked to break the laws of a foreign jurisdiction, contrary to the Securities Exchange Act, 1934. The SEC judged each case on its merits, often after protracted and highly legalistic correspondence.¹⁶ Thus, the Fruehauf Corporation was told that it could omit the shareholders' resolution on MacBride while TWR was informed that it could not omit it.¹⁷ It was the decision of the SEC to permit American Brands to omit a MacBride shareholder resolution, in contrast, the conflicting decision of the SEC in the TWR case persuaded Goldin to bring his successful test case against American Brands.

With some companies, the negotiations were protracted and often ill spirited. One of the most prominent and controversial factory sites was the Ford plant in West Belfast. It was the most notorious and most researched subsidiary of any American corporation in Northern Ireland, and had a long history of employment discrimination against Catholics. Goldin's press release read:

Ford Motor Company has agreed to a comprehensive review of its employment practices at the Ford facility in Northern Ireland, Comptroller Harrison J Goldin announced today. In return, Mr Goldin and Sister Regina Murphy have agreed to withdraw a pending shareholder resolution requiring Ford to perform such a study. Mr Goldin and Sister Murphy had filed the resolution on behalf of the New York City Teachers' Retirement System and Sisters of Charity of New York.¹⁸

It was from this report that the 'Ford Principles' emerged, although the factory remained for many years a place of employment controversy.¹⁹

Goldin had a very active year. On the 13th December 1985, at the INC Annual Dinner Dance, he announced that he had initiated seven proxy battles to compel major American companies with subsidiaries in Northern Ireland to sign the MacBride Principles. He made an attack on the Ford Motor Company, which had just been found guilty of discriminatory practices and fined, and other United

¹⁶ DP, unclassified, see particularly files relating to Ford, Fruehauf and TWR.

¹⁷ DP. Those decisions, TWR on 28th January 1986, and Fruehauf, 5th March 1986, were made by Cecelia D Blye, special counsel to the SEC.

¹⁸ DP, press release, 'News, Office of the Comptroller', 15th March 1985. Goldin's first letter to Ford was sent on the 1st March 1985.

¹⁹ DP W P Kelly (Ford manager), 'Allegations against Ford – Published in the Irish Lobby, January 1990', 6th March 1990. This was a typewritten refutation of an *Irish Lobby* article alleging discrimination at Ford.

States companies with bad employment records. On 15th November 1985, in a statement welcoming the signing of the Anglo-Irish Agreement, President Reagan had specifically mentioned the contribution made by American corporations to the economic life of Northern Ireland, stating 'I am proud that Northern Ireland enterprises in which American money is involved are among the most progressive in promoting equal opportunity for all'.²⁰ Goldin was encouraged by the President's intervention as he had been by that of Dick Spring's earlier in the year. It meant that the Campaign was succeeding and could not be corralled on Capitol Hill. It was too great an opportunity to miss, for a New York City Democrat to attack a Republican President on a matter of fundamental principle. He was scornful of the President's statement, calling it 'Blarney' for trying to defend the indefensible in the conduct of American companies in Northern Ireland:

It is why President Reagan went out of his way last month to praise American corporations as being in the forefront battle for equal opportunity. Blarney! Right?

But the President's, personal intervention against us, has one significant and, for us, positive implication: our work, our initiatives are making people in high places take note. And they will continue to hear from us!²¹

Surprisingly, the British government's initial reply was almost uncritically to accept the whole of the Principles that he had drafted and, additionally, and even more flatteringly gave chapter and verse for each of the Principles from British legislation and codes of practice.²² Doherty's scholarship had been vindicated. When Doherty received the British government's first reaction to the Principles, the Mayne paper, he was non-plussed.²³ 'They were killing us with kindness' he said and he did not know immediately how to respond to it.²⁴ It looked as though any future campaign, based on the MacBride Principles had been

²⁰ DP Presidential statement on the signing of the Anglo-Irish agreement, 15th November 1985. Reagan had earlier made a similar observation, 'Statement by the President, St. Patrick's Day, 1983'.

²¹ DP, Goldin's speech notes for INC Dinner Dance, Astoria Manor, New York, 13th December 1985.

²² NIOP, Appendix F, 328.

²³ DP letter H Beattie (press officer at the BIS) to Doherty, 31st January 1985. 'I attach a clause by clause assessment along with the relevant extracts from the Fair Employment Act and the Van Straubenzee Report'.

²⁴ Doherty interview, 6th July 1999.

nipped in the bud. The warm words of Beattie at the British Information Services (BIS), however, soon turned decidedly chilly.²⁵ The continuing critical examination of the Principles by the Department of Economic Development (DED) resulted in a briefer and more hostile commentary, which declared some of the Principles illegal under Northern Ireland fair employment law, because it involved either the imposition of religiously defined quotas or reverse discrimination; others were deemed either impractical or too politically sensitive to be implemented. Therefore, the British government was opposed to the MacBride Principles.

It decided to embark upon a frustrating, time-consuming, politically damaging and unsuccessful campaign against the Principles, which lasted until the end of the century. Jonathan Powell, who joined the Washington Embassy as Third Secretary in July 1991, when the campaign against the Principles 'was already a sort of rolling machine' observed:²⁶

I think I would have argued for the British government just to ignore the MacBride Campaign. By fighting it state by state they actually made it into a bigger issue and more of a way of opening up the debate on Ireland, which, to be honest, I'm not sure they really needed to do, but they did and they choose to fight.²⁷

Doherty was not aware of the concerns being expressed by the DED as it examined in detail the possible scope of the Albanese Bill and its implications, not only for introduction of anti-discrimination practices within the workplace but for future contracts for the supply of goods and services obtained by British with American companies. Until recently Doherty thought that the change in policy resulted from the direct intervention of the Prime Minister, Mrs. Thatcher.²⁸ He understood that she was due to make a visit to President Reagan in January 1985. Doherty surmised that on seeing prior to her departure the recent press cuttings of events of British interest in the United States, she saw and was outraged by the first report to appear in Britain of the publication of the MacBride Principles in the

²⁵ DP, letter Beattie (BIS) to Doherty, 24th January 1986, 'It has come to my notice that you are circulating copies of a document sent to you by this office, claiming that it is "a legal analysis of the MacBride Principles", it is nothing of the kind. It was prepared as a general discussion paper'.

²⁶ Powell interview, 20th July 2005.

²⁷ Ibid.

²⁸ Doherty interview, 6th July 1999.

Sunday Times.²⁹ It was a good story, and not out of keeping with Mrs. Thatcher's character, to refuse to brook any outside interference in the internal affairs of the United Kingdom, but Doherty was wrong. There is no documentary evidence of any direct intervention by Mrs. Thatcher or from any Downing Street official at this time.³⁰ The impetus against the MacBride Campaign was coming from Northern Ireland and, in particular, the DED. Further, Mrs. Thatcher had already visited President Reagan at Camp David in December 1984, between the publication of the MacBride Principles and the *Sunday Times* article.³¹

The AFL-CIO meeting at Bal Harbour, Florida rapidly expressed its support for the Principles:

While no such set of guidelines will correct or of the economic and political problems in these troubled areas, they can, if broadly observed, ameliorate some of the current conditions.

We, therefore, support the development and application of these 'MacBride Principles' and call upon all US corporations operating in Northern Ireland to adopt and adhere to them. We further urge all major institutional investors and pension and welfare fund trustees to ensure that corporations in which they invest adhere to these Principles.³²

Given the previous history of support for the Ottinger Bill, its declaration of support was welcome and important. Its newspaper, the *AFL-CIO News* and every union newspaper and periodical gave running commentaries on the progress of the campaign locally and nationally. The AFL-CIO's and its affiliates' network of offices across the Union and their many locals were focal points for bringing pressure upon state and city politicians.³³ This was not a movement of great public meetings, but a quiet revolution by 'fax and telephone' made for the then American political system.³⁴ There was no great ideological divide between the

²⁹ *Sunday Times*, 6th January 1985, quoted in McManus, *The MacBride Principles*, 20. 'The [MacBride] campaign being run by the Irish National Caucus ... is particularly well timed'.

³⁰ KMNP, letter NIO Freedom of Information Teams to author, 27th March 2006.

³¹ 'Three Irish American leaders arrested at British Embassy in DC', *Irish Echo*, 5th January 1985.

³² DP Statement by the Executive Committee of the AFL-CIO at Bal Harbour, Florida, 19th February 1985.

³³ DP, for example, AFL-CIO North East Council, 18th July 1985 and the Mid Atlantic and New England Councils, 4th September 1985, and urged members to campaign for pro-MacBride legislation on the model of the AFL-CIO inspired Massachusetts MacBride legislation.

³⁴ Doherty interview, 6th July 1999.

two main parties and the Democrats appeared to be its greatest supporters outside Washington and the Republicans on the Hill.

Across the United States the campaign had cross party support and McManus was determined to keep it so for the benefit of the INC and the Campaign.³⁵ Local politicians were well aware of the power of highly organized, well-funded and vocal single-issue pressure groups, particularly when supported by organised labour, the churches and ethnic groups. Relatively little pressure needed to be brought to bear on local representatives, only a few letters or a resolution at local union, before the issue became of major political importance.

Because of the activities of Joe Jamison in his New York office, from where he was in constant contact with Doherty, the Irish-American Labor Coalition was one of the spearheads in the Campaign. From the outset it was particularly active in the North Eastern and New England states. Its members had great admiration for the courage and work of Inez McCormack and invited her as the principal witness before the Massachusetts' State hearings on proposals to put the MacBride Principles into state law.³⁶ The Irish-American Labor Coalition was the initiator and main sponsor of the Massachusetts legislation. Governor Michael Dukakis signed the legislation on 21st November 1986, just over year from the date when the MacBride Principles were first published.³⁷ James Eccles, earning his fee from the IDB, had written asking him not to sign the legislation.³⁸ Dukakis, as the Democratic Party's presidential candidate in the 1988 election, included the MacBride Principles as part of his election platform.

Not every thing went smoothly for the MacBride Campaign and not all of Irish-America was supportive of it.³⁹ For example, many of those who were close to John Hume and admired his tenacity and conceptual thinking about the future of Northern Ireland accepted his criticisms of the MacBride Principles as leading to disinvestment, but even they were beginning to fear the pressures of the MacBride campaigners upon their Irish-American constituents. One of the Four

³⁵ INC News release, "Clinton Controversy has achieved purpose" McManus', 2nd May 1995.

'Lets make both parties vie for Irish-American support, we must not let Republicans ignore us, not Democrats take us for granted'.

³⁶ KMNP, letter Jamison to McNamara, 28th November 1999.

³⁷ *Irish Times*, 22nd November 1985.

³⁸ *Ibid.*

³⁹ The American Presbyterian Church, an original champion of the MacBride Principles, following heavy lobbying by the Presbyterian Church of Ireland of an invited delegation to Northern Ireland, withdrew its' support in September 1987. However, the US church did not condemn the Principles. For further discussion see D Keogh and M H Haltzel, *Northern Ireland: The Politics of Reconciliation*, (Cambridge, 1993), 154-5.

Horsemen, Senator Moynihan, notoriously anti-MacBride, the man and the campaign,⁴⁰ privately asked the Irish ambassador to urge the Irish government to press the British government for an early introduction of the promised new and improved fair employment legislation.⁴¹ Representative Brian Donnelly, another member of the Friends of Ireland, introduced a Bill into the House to give American companies investing in Northern Ireland an additional tax incentive over and above the existing Foreign Tax Credit if they met a minimum goal of 40% of the workforce coming from the minority community.⁴² Donnelly had privately informed McNamara that his proposed legislation was being specifically introduced to relieve him and other Friends of Ireland colleagues of some of the pressure coming from the MacBride campaigners.⁴³

While most of the leading newspapers in the United States supported the Hume approach towards the MacBride Principles, this was of little matter to Doherty. Obviously, he would have wished them to be supportive of the MacBride Principles and the Comptroller's initiative, but he took the view that it was far better that the Campaign be criticised than it be ignored. He was delighted when early in the Campaign, the *Economist* published a straight factual piece 'Wedded to MacBride'.⁴⁴ Like the Comptroller, he knew that the campaign had hit a raw nerve and was seen as a real threat to the status quo in Northern Ireland if it was attacked by President Reagan and Dick Spring

The Irish American community press was, with one exception, fully supportive of the MacBride campaign. Only the *Boston Irish News*, a monthly journal of opinion, forcibly criticised the Campaign. However, the *Boston Irish News* did not receive much support from the local Irish community because it eschewed the sentimentalist approach to Irish issues and accepted Unionist voices as legitimate. It ceased publication in June 1990.⁴⁵ Other vocal opponents of the

⁴⁰ McManus, *The MacBride Principles* 67-8.

⁴¹ DFAMP telex, Burke, (Political Officer, Washington) to Anderson, (Anglo-Irish Desk, Dublin), 7th January 1988.

⁴² DFAMP, type script of RTE interview with Donnelly, 24th September 1995.

⁴³ Conversation with McNamara in Washington, 24th November 1985.

⁴⁴ Doherty interview, 25th July 2000. 'Wedded to MacBride', *Economist*, 13th April 1985, for a more critical account of the progress of the MacBride Principles see 'The Colour Green', *Economist*, 3rd May 1986.

⁴⁵ 'The *BIN* ... opposes ethnic favoritism and triumphalism; abhors the glorification of the IRA; believes that Unionist voices are legitimate, deserving of an American hearing; thinks that Nationalist ideology needs an overhaul as indeed does Unionism; finds the size and influence of Irish-America greatly exaggerated not to mention that many of its "major" issues are irrelevant; considers the current immigration debates shrouded in wishful thinking, clouded by emotive misleading language and rife with inflated figures and regards the MacBride Principles with

MacBride Principles such as Professor John McCarthy, a regular contributor to the *Boston Irish News*, and businessman Barry Carroll of Chicago, received little sympathy for their views and often abuse when they mentioned the name John Hume.⁴⁶

The majority of the religious orders, male and female, supported the MacBride Principles. They were often more radical than the diocesan clergy and supported many different shareholder resolutions on social and environmental issues.⁴⁷ They drew upon the first draft of the US bishops' pastoral letter on *Social Teaching and the Economy* to explain their actions within a Christian and Catholic social doctrine context

To be concerned about alleged discrimination in employment practices in another part of the world is, to the minds of these religious groups, an obligation in conscience for all and especially for shareholders who profit from a company's actions, even for those who live at a distance from the operations.⁴⁸

Sister Regina quoted Martin Luther King's say 'Justice denied anywhere is justice denied everywhere' and from St. Paul, 'If one part is hurt, all parts are hurt with it'.⁴⁹ Father Joyce, representing the male religious orders, explained that the religious communities were engaged in one small non-violent effort of trying to redress the wrongs that lay at the source of conflict and unjust social structures.⁵⁰

The US Catholic Bishops' Conference through its Justice and Peace Commission chose not to take a position on the MacBride Principles, although some associated with its administration were hostile both to the Principles and to Father McManus. In December 1977, McManus was appointed by Bishop Drury of Corpus Christi and chairman of the INC Board to a special Ministry of Justice

suspicion'. This was Mooney's final editorial quoting the paper's Statement of Purpose. D J Mooney, 'It's Time To Move On, A Farewell After 15 Years', *Boston Irish News*, June 1990.

⁴⁶ McCarthy, a man with a sense of humour, published a collection of his newspaper articles. J P McCarthy, *Dissent from America*, (London, 1993).

⁴⁷ See IRRC, *News for Investors*, July-August 1989, 155 *et seq*- where shareholder resolutions on a variety of social responsible subjects are listed.

⁴⁸ DP press release by Sr Regina, Statement on the rationale for shareholder resolutions by religious communities in regard to employment policies of American companies doing business in the area of Northern Ireland', 4th February 1985.

⁴⁹ Ibid., The Bible passage is 1 Corinthians 12: 26

⁵⁰ DP, press release Sr Regina Murphy, 'Statement on the rationale for shareholder resolutions by religious communities in regard to employment policies of American companies doing business in the area of Northern Ireland', 4th February 1985.

and Peace for Ireland. This appointment enabled Father McManus to function for the first time since arriving in the United States with full canonical facilities.⁵¹ The lay officials of the Catholic Bishops Conference were influenced by Josiah Beeman of the United Presbyterian Church, who had been instrumental in persuading the Presbyterian Church in America to withdraw its support from the MacBride campaign.

McManus kept an incomplete list in his papers of a number of Catholic Bishops who supported the Principles, and the most important of whom were Bishop Drury of Corpus Christi, his patron and Cardinal O'Connor of New York, who directed his archdiocesan trustees to vote its stock in favour of pro-MacBride resolutions.⁵² Cardinal Bernard Law of Boston, a friend of John Hume, did not support the Principles and warned of the dangers of interfering in the internal affairs of Northern Ireland.⁵³ Father McManus was viewed with suspicion, if not hostility, by members of the hierarchy, but not by his religious order, the Redemptorists, with whom he remained in good standing. It permitted him to continue his work with the INC, where his invective and forthright manner in his enthusiastic advocacy of his cause, of which he would accept no criticism, often earned him enemies. However, many, even among his opponents, testified to his charm, charisma and leadership qualities, which inspired many who came into contact with him⁵⁴.

Doherty and the Comptroller's office had imagined that after the launching of the Principles, they would recede into the background and the direction of the main campaign would become the responsibility of the many Irish organisations collectively or of one dominant one.⁵⁵ It was not to be, because of antipathy between the INC and Noraid; Doherty had tried to heal the rift between McManus and Galvin without success.⁵⁶ The organisational burden, outside of Washington fell upon the Comptroller's office in New York. It was the logical place from which the other campaigns across the Union could be assisted. The campaigning experience, legal expertise and financial clout were in New York as was the BIS, with whom it was advantageous to be in contact. Further, the New York City

⁵¹ Thompson, *American Policy and Northern Ireland*, 82.

⁵² McMP, undated hand written list.

⁵³ 'The Colour Green' *Economist*, 3rd May 1986 and see Law's speech to a Charitable Irish Society Dinner, Boston Park Plaza, 17th March 1986.

⁵⁴ Private conversation with Foreign Office officials, 6th December 1999.

⁵⁵ Doherty interview, 25th July 2000.

⁵⁶ *Ibid.* Doherty recalls persuading McManus and Galvin at a function to shake hands and he then said to the joke 'go to your corners and come out fighting.' He wished he had not!

Comptrollers, Goldin and his successors, Holtzman, Hevesi and Thompson had a vested interest in keeping a continuing high profile for the MacBride campaign. Their political reputations were tied to its success, as each year they had to report on their stewardship of the city's pension funds and the progress that had been made.

Although many activists in United States coupled the Sullivan and MacBride Principles together, not distinguishing in principle between them and used the legislation of one to piggyback on the other, it could have an unintended consequence. Thus in the New York State legislature in 1985, the first Dearie-Flynn Bill failed because of its piggybacking with a Bill to implement the Sullivan Principles, which the Republican leader in the state Senate was determined to kill.⁵⁷

The British government was particularly sensitive to the South African comparison and was not happy with British newspaper headlines suggesting 'Irish-Americans try apartheid approach'.⁵⁸ In the Commonwealth of Nations, where it was in a minority of one, the Thatcher government was fighting a stubborn rearguard action against imposition of economic sanctions against the apartheid South African government. Eventually it agreed only and with great reluctance, to the prohibition of the sale and import of gold Krugerrand coins. The decision of the Congress in October 1986 to override President Reagan's veto and introduce strong anti-apartheid legislation alarmed the British government not only because of its implied criticism of the United Kingdom's South African policy but because it also threatened to create a precedent, however distant, for similar legislation on Northern Ireland.

The Bush administration lifted the federally imposed economic sanctions against South Africa in July 1991, stating that it believed that all its conditions for lifting them had been met. A number of cities, including New York, decided to maintain its policy of contract compliance with companies doing business in and with South Africa. Herman Cohen, the Assistant Secretary of State for African Affairs said the Justice Department, would look into the legal implications of states and local governments carrying out their own foreign-policy with regard to

⁵⁷ The Texas MacBriders used a similar piggyback tactic to get a MacBride initiative passed, R O'Hanlon, 'Texas passes Northern Ireland Employment Bill', *Irish Echo*, 6th July 1993.

⁵⁸ M White, 'Irish Americans try apartheid approach', *The Guardian*, 11th July 1985.

South Africa'.⁵⁹ The *Irish Echo* commenced its leader with: 'If President Bush makes good on his implied threat to take cities and states to court to force them to drop anti-apartheid sanctions against South Africa, the MacBride campaign may be among the casualties'. It concluded:

But by pursuing far more problematic issues like whether South Africa has complied with anti-apartheid conditions and whether foreign relations are the exclusive domain of Washington, the administration could eliminate MacBride contract compliance legislation without a fight. Without contract compliance, MacBride has no teeth.⁶⁰

The threat by the administration to take to court the South Africa protesters never materialized but the British officials always wishfully hoped that it might happen.

Whenever the unwelcome comparison was made between the situations in South Africa and in Northern Ireland, the British policy was one of instant rebuttal. On an earlier occasion, when the city debate on the MacBride Principles was at its height, the commentary page of the *Philadelphia Inquirer*, 2nd July 1990, contained an article headed 'N. Ireland, S. Africa linked by oppression,' by Michael J Cummings.⁶¹ The following week it published a critical letter, prominently boxed and headlined 'Ulster, S. Africa: No comparison', from David Snoxell of the BIS in New York. Snoxell pointed out that unlike South Africa, Northern Ireland was a democracy with functioning political parties and that discrimination was illegal. Snoxell did not hesitate to observe that Mr. Cummings that he been described in the United States press as a prominent in the member of Noraid, 'which is an organization registered the Department of Justice as the agent of the IRA in the United States'.⁶² This British sensitivity to the South African comparison never disappeared.

The MacBride Campaign accelerated, spreading from coast-to-coast across the United States with different city and states moving different resolutions on the MacBride Principles. With local support groups being formed and black propaganda emanating from the British Embassy and the BIS, Doherty knew that he needed an objective monitoring of the campaign. He needed to know how the

⁵⁹ Editorial, 'Apartheid and MacBride', *Irish Echo*, 17th-23rd July 1991.

⁶⁰ Ibid.

⁶¹ M J Cummings, 'N Ireland, S. Africa linked by oppression', *Philadelphia Enquirer*, 2nd July 1990.

⁶² D Snoxell, 'Ulster, South Africa: No comparison', *Philadelphia Inquirer*, 9th July 1990.

pro-MacBride legislation was being implemented. Neither Goldin's office nor those of the other cities and states which had either passed pro-MacBride legislation or resolutions, had the capacity to monitor their implementation. Because of the great amounts of money involved and the fiduciary responsibility of the Comptrollers, city and state treasures and other officials as trustees of pension funds for their beneficiaries, the monitoring undertaken had to be thorough and capable of standing up to the most rigorous financial and academic examination. Above all, not only had it to be independent and transparent, but it had to be seen to be independent and transparent.

Led by New York City, a consortium of ten cities and states with MacBride legislation on their statute books, approached the distinguished Boston accounting firm of Arthur D. Little Inc. to undertake the task of monitoring. Little was already doing a similar task, monitoring the implementation of the Sullivan principles in South Africa by US corporations. Little's chief executive refused the request to do similar work on Northern Ireland. His firm had already had its fingers burnt and lost both clients and money by its work in South Africa. He did not wish it to become even more unpopular with its rich clients.⁶³

The consortium then decided to approach the Investor Responsibility Research Center (IRRC). Founded at Harvard during the Vietnam War in 1972, its work was financed by individual subscriptions from, amongst others, banks and investment trusts, religious organizations, corporations and Ivy League universities, as well as public bodies. It was governed by a 21 member board of directors representing the subscribing institutions. It supplied a number of services, including a Social Issues Service, a Corporate Governance Service and a South Africa Review Service. Its first major publications on the MacBride Principles, *US Companies and Fair Employment Practices in Northern Ireland*, 1988, and *The MacBride Principles and US Companies in Northern Ireland*, 1989, were prepared by its Social Issues Service.⁶⁴ Eventually because of the increasing volume of work and the great number of subscribers, a separate Northern Ireland Service was established. In 2005 the IRRC entered into an agreement to be purchased by the Institutional Shareholders Service, which maintained the Northern Ireland Service.

⁶³ Doherty telephone interview, 19th May 2006.

⁶⁴ IRRC, *US Companies and Fair Employment Practices in Northern Ireland*, (Washington DC, 1988), and *idem*, *The MacBride Principles and US Companies in Northern Ireland*, (Washington DC, 1989)

The IRRC jealously guarded its independence, and when articles appeared in the *Irish News*, which suggested that it supported the Campaign or misquoted its researchers, it considered that its integrity was being questioned.

September 13, the *Irish News* incorrectly stated that IRRC was sponsoring a meeting on 'how to strengthen the MacBride principles campaign' In fact the Center is not a part of the MacBride campaign and neither supports nor opposes the principles. The IRRC is an independent research group that reports on business of social issues for major institutional investors.⁶⁵

Annoying at the time, in retrospect Little's refusal to accept its business was probably to the advantage of the consortium. The research done for it would not be subsidiary, as it might well have become at Little's, to the research being done on the apartheid system. Because it was jealous to maintain its independence, the IRRC would not allow the consortium to buy into it or become part of its administration. The individual members of the consortium had independently to purchase IRRC's services. This not only had the advantage of saving the members of the consortium a lot of money up front. It weakened those opponents of the Campaign, who might have argued that Little might have been encouraged to produce the type of report that the pro-MacBride Campaign wished to receive.⁶⁶

The IRRC's direct questioning and objective analysis often could be hard to stomach. For example, its findings nearly two years after the passing of the Fair Employment (Northern Ireland) Act, 1989, and five years of vigorous pro-MacBride campaigning where

IRRC has found in its interviews with US-owned businesses that many officials had little concrete sense of what the MacBride principles [sic] called for. This was true even in some companies that have said they are implementing the MacBride principles. In some cases, this appeared to be because the officials had not read the principles or made any real attempt to apply them to their equal opportunity programs⁶⁷

⁶⁵ KMNP, copy of letter Bertsch to the editor of the *Irish News*, 22nd September 1989.

⁶⁶ Doherty telephone interview, 19th May 2006.

⁶⁷ H E Booth and K A Bertsch, *The MacBride Principles and US Companies in Northern Ireland*, (Washington DC, 1991), 105.

Previously, in what was a salutary reminder to legislators, it recorded that passing a law, a code of practice and an industrial agreement do not of themselves necessarily improve the situation on the factory floor. It had asked the question, 'What really is the atmosphere on the shop floor?'⁶⁸ In the search to achieve a neutral workplace and a positive work environment, it observed: 'It still is difficult to know whether employers and unions companies have a sensitivity to the requirements entailed in a commitment to a neutral workplace and the more subtle attitudes that may play a role'.⁶⁹ Discussing improved grievance procedures, it concluded 'Even in the best of circumstances, it is difficult to make grievances, particularly on an issue as sensitive as religious discrimination, in Northern Ireland'.⁷⁰

Because of the anti-discrimination principles involved, the passing of the Anti-apartheid Act and the overriding of the President's veto, encouraged and strengthened the pro-MacBride campaigners in the cities and states when introducing their legislation. It was not until a decade later that the MacBride Principles were included in federal legislation

Doherty explained the system adopted by Goldin when approaching companies and asking them to implement the MacBride Principles. It comprised of two formal stages. The NYCERS placed a resolution for a shareholders meeting on the proxy statement requesting the company to implement the MacBride Principles or, alternatively, to establish a review committee to look into and report on their Northern Ireland operations. At the meeting, the case was made before the board of directors. In reality, much more will have happened even before the resolution was discussed. Goldin, as the principal trustee of NYCERS, would have already written to the chief executive of the company outlining his intentions and hoping for favourable response. The tabling of the resolution meant that it would be seen by the company chairman, who would have to respond directly to share holders, raising the issue at the meeting. Doherty explained the dilemma facing the CEO of a multinational company.

A Northern Ireland investment is something that is not always in the forefront of the CEO's concern and we have found, for example, that some

⁶⁸ K A Bertsch and M Voorhes, *Religion and Fair Employment in Northern Ireland: Case Studies of Six American Companies*, (Washington DC, 1990), 10.

⁶⁹ *Ibid.*, 10.

⁷⁰ *Ibid.*, 10.

American companies had picked up Northern Ireland facilities as part of purchases of British pre-existing corporations. And so, in some cases, they basically inherited problems that already existed. In some other cases, when American companies were opening facilities, it became a question of when in Rome, do as the Romans do and it was fairly easy to (even in some cases inadvertently), fall into a system in which sectarianism was at the very least tolerated⁷¹

He suggested that the CEO would turn to one of his staff of ask, 'What is this on my proxy ballot for?' and then turn to somebody and say, 'Go fix this.'⁷² This was another and more positive variation of the 'hassle factor'.

Unlike like the British, Doherty saw the 'hassle factor' working in his favour. He was not concerned about corporations holding large press conferences announcing to the world that they were accepting the MacBride Principles. He was more concerned with the implementation of the Principles. The resolution would be withdrawn, if NYCERS received 'a letter that certifies that they would take all possible lawful efforts to implement the fair employment standards embodied in the MacBride Principles and, they will cooperate fully with the monitoring efforts of the Investor Responsibility Research Center'.⁷³ The companies were offered the easy way out. The phrase 'all possible lawful efforts' was included to cover the sensibilities of those companies, who were afraid that the MacBride Principles might be illegal in Northern Ireland. Doherty was accused of giving way to pressure in accepting the phrase. His reply was that had always regarded and argued that the MacBride Principles were legal in Northern Ireland. His argument had been upheld in the federal courts and it had never been challenged in a Northern Ireland court. Therefore, the phrase was merely underlining what he had always preached. Unlike the Sullivan Principles, the MacBride Principles wanted to uphold and enforce the existing law. In the confusion and excitement of the MacBride campaign across United States, little distinction was made in the propaganda heralding a new success between what was contained in a particular piece of legislation and what it did not contain. It was just important to maintain the momentum of the campaign and to keep the snowball rolling.

⁷¹ IRRC, *A Discussion of Fair Employment in Northern Ireland*, 3.

⁷² *Ibid.*, 3.

⁷³ *Ibid.*, 2-3.

The IRRC examined the nature of the legislation passed and placed each piece into one of five main categories, monitoring, report, shareholder actions, investment guidelines/discretionary divestment and mandated divestment. As the campaign progressed, a further category was added, that of contract compliance, whereby no contracts would be awarded to firms that did not implement the MacBride Principles.

Over the following years, the IRRC's reports and research became increasingly detailed, sophisticated and authoritative. Its reports sought to put the MacBride Campaign in its historical and political context. They examined unemployment in Northern Ireland against the background of the fair employment legislation and looked at the role and employment policies of United States companies and their subsidiaries in the Northern Ireland economy. They also analyzed and chronicled in detail the most significant political events affecting the MacBride campaign on both sides of the Atlantic. Its regular monthly newsletter *News for Investors* gave an up to date account of the social policy issues raised in shareholder campaigns', including the MacBride Campaign across the United States, indicating the progress, if any, that had been made. It also produced a quarterly *Northern Ireland Supplement*, which published special reports on Northern Ireland and gave updated profiles of US companies with more than 25 employees in Northern Ireland. *News for Investors* was necessary reading for both sides of the MacBride Campaign. The information prepared by the IRRC supplied the MacBride Campaign with its intellectual backbone and the wide publicity the IRRC generated for its own work gave the Campaign an additional legitimacy from a prestigious source.

The IRRC's senior analyst, Ken Bertsch, analysed the 1989 *Fair Employment (Northern Ireland) Bill*, just as it started its passage in the Lords. He argued, 'It would appear that the claimed legal conflicts between MacBride and the law are narrowed and perhaps even eliminated by the amendments made to the current Fair Employment Bill'.⁷⁴ He then examined the legal objections to Principles 1, 4, 7 and 8 and concluded

The narrowing of possible conflict between MacBride and fair employment law could have serious implications. Skeptics of the

⁷⁴ Ken Bertsch, 'Fair Employment Law marches on' in IRRC, *News for Investors*, July- August 1989, 148.

principles might find the MacBride code more acceptable, but a stated motivation for the campaign--the persistence of discrimination and an ineffectual legal framework of affirmative action-- may no longer be so urgent, assuming the new law is vigorously pursued.⁷⁵

This analysis was not as vigorously pursued as it could have been by British officials. Granted that it contained a number of qualifications and the Bill was to be weakened in the Lords, it would, nevertheless, have provided strong grounds for arguing that the IRRC, the independent monitor, nominated by the pro-MacBride campaigners, had concluded that the new Act had made the MacBride Principles 'irrelevant'. However, for fear of losing face, the British government could never have claimed that they had been 'subsumed' by the new legislation. There is little evidence that even a passing reference was made by British officials to Bertsch's analysis. Cowper-Coles at the Boston seminar, at which Bertsch was present, continued to challenge the legality of the four principles and Bertsch in his presentation did not challenge Cowper-Coles view.⁷⁶ In retrospect, it appears to have been another neglected opportunity by the British to add to their diminishing propaganda arsenal.

After the passing of the 1989 Act, contract compliance provisions were seen by the British officials as perhaps the most dangerous development in the MacBride Campaign. It was a similar provision to Counsellor Sal Albanese's original Bill in New York City that had so alarmed officials at the DED shortly after the original publication of the MacBride Principles. At the request of subscribers, the IRRC later published an analysis of all non-US publicly quoted companies with subsidiaries in Northern Ireland. It was one of the original fears of the DED officials that attempts might be made to extend the concept of the MacBride Principles by shareholder resolution to British firms with subsidiaries in Northern Ireland.

In 1995, Ken Livingstone MP, at the request of Doherty, and using the proxy votes of the NYCERS, raised the matter of religious discrimination at the Ballylumford power station, the centre of the Ulster Workers Strike, at the AGM of British Gas Plc. power station had passed into the control of British Gas following the privatization of the Northern Ireland Electricity Service.

⁷⁵ *Ibid.*, 151.

⁷⁶ IRRC, *A Discussion of Fair Employment in Northern Ireland*, 11.

Livingston's action received little publicity in Britain. He received an appropriate letter of thanks for his efforts from Doherty.⁷⁷ Further attempts were made to raise the issue at British Gas, but without success.⁷⁸ The shareholders' resolution exercise was not repeated with any other British companies with Northern Ireland subsidiaries.

From the earliest days of the Civil Rights Movement northern nationalists, while using South African comparison was a useful propaganda and debating weapon in the Catholic ghettos of Derry and Belfast, as well as with some of the Catholic middle-class, since they identified with the blacks in the United States and the discrimination and degradation that they suffered under the segregation laws of the Dixieland states. In the United States, some of the strongest allies of the MacBride campaigners came from amongst the black population and their elected representatives, which was particularly noticeable in New York, Washington, DC, and Chicago. As McManus pointed out, having suffered discrimination themselves, they could easily identify with the northern nationalists having heard the same excuses trotted out to excuse discrimination in the Deep South of America as were being advanced for Northern Ireland.⁷⁹ In July 1994, Donald M. Payne, Chairman of the Congressional Black Caucus wrote to express his solidarity with McManus and his Campaigns for the MacBride Principles,

In doing so, I place myself firmly in a long tradition of African- American concern for freedom, justice and peace in Ireland. For example, at the very first political gathering of African-Americans in the US the Convention of Colored Citizens (Buffalo, New York, 1843) a resolution passed condemning English oppression.⁸⁰

It was not just the rejection of the Principles by the British government, which fuelled the MacBride campaign. It was the manner of the rejection. It was

⁷⁷ DP, letter Doherty to Livingstone, 17th July 1995.

⁷⁸ LCIP, 6th February 1996, Circular letter from Martin Collins on behalf of the Britain and Ireland Human Rights Committee seeking to gain the necessary 100 individual shareholders to support the resolution 'the Shareholders of the British Gas PLC request the board of Directors of the Company to monitor and report on the compliance of the Company to the Principles enumerated by Dr Seán MacBride regarding equality in employment in Northern Ireland'.

⁷⁹ McManus, *The MacBride Principles*, 57.

⁸⁰ Letter published in the *Sunday Business Post*, 2nd July 1995.

both patronising and contradictory.⁸¹ Officials at the BIS and the consulate in New York, disparaged the New York Irish Americans, as tainted with republicanism and probably associated with Noraid. They claimed that there may have been alleged discrimination in the past, but that it no longer existed.⁸² The existing fair employment legislation was more than adequate to deal with any residual pockets of religious discrimination that there might be and, in any case, covered all the main principles outlined in the MacBride Principles, but they sidestepped the questions, 'how then could the Principles be illegal?' and 'why could they not just be accepted?' The British government was seeking to strengthen the existing legislation and so really there was no need for concern, but of course, if the interested expressed in Northern Ireland led to an increase in investment by US companies in Northern Ireland, it would be most welcome. These conflicting and often mutually contradictory explanations strained the credulity of Doherty and his companions as flying in the face of the existing evidence and their experience. They knew that they were being patronized. Doherty recalled being informed by a British official that 'Irish Catholics in the North lacked the Protestant work ethic'.⁸³ At best, they were perceived to be either well-intentioned do-gooders but misinformed, blundering into things they did not really understand, or, at worst, deliberate mischief makers and friends of the IRA, who were seeking to subvert the constitutional position of Northern Ireland. This attitude was summed up by the comments of Sherard Cowper-Coles of the Washington Embassy

and you know, basically people in this country who support MacBride divide into two groups: The well-intentioned but ill informed and the well informed and ill intentioned and you know, what we need to do is make sure that well-intentioned people are also well informed and then I think they would think twice about supporting MacBride.⁸⁴

⁸¹ See Doherty interview, 6th July 1999 and Jamison interview, 11th March 1999, also the tenor of Cowper-Coles remarks in IRRC, *A Discussion of Fair Employment in Northern Ireland*, 5-16.

⁸² DFAMP file note Liam Cuniffe, 23rd August 1988, where the former Alliance Party leader John Cushnahan stated that he had refused to accept this claim as part of the briefing for witnesses appearing before State and City Committees considering pro-MacBride legislation.

⁸³ Doherty telephone interview, 7th December 2006, recounting a lunch with A Huckle Vice-Consul at the BIS, New York.

⁸⁴ IRRC, *A Discussion of Fair Employment in Northern Ireland*, 25.

The state and city hearings, where the MacBride Principles' campaign was publicly fought, established their own theatrical ritual. There was a cast of regular stars giving evidence, supported by a local cast of elected individuals and representatives of Irish and other interested pressure groups. Officials and diplomats representing the British government rarely and ministers never, gave verbal evidence at the hearings and so avoided the risk of cross-examination, but it was quite remarkable the number of occasions when ministerial visits occurred immediately before such a hearing. Ministers visited factories, addressed the local chambers of commerce and held receptions, where they hoped to influence business men and legislators, by impressing privately upon them, the damage that could be done to Northern Ireland's industry, if the legislation was passed. The BIS made full written submissions to the hearings, which will readily available in the committee rooms together with copies of selected quotation from Garret FitzGerald, Dick Spring and John Hume.

The people who faced the flack were the witnesses chosen by the DED to give formal evidence against the Principles. Frequently amongst them was the ubiquitous James Eccles, formerly the Supreme Knight of the Knights of St. Columbanus. Joe Jamison, who frequently appeared as a witness for the pro-MacBride Campaign, described a typical DED delegation thus

There was always a Catholic priest, a trade unionist, a business man. They brought over this multi-class, multi-dimensional road show that was a terrible failure and always produced the opposite. It stimulated publicity out there in the hinterland. This city, New York, is the sophisticated part of America, you may not believe that but it is. The ability, in the rest of America, the opportunity to rubbish the British government... well, there is a certain political excitement in that and they consistently did. The British road show was much unsophisticated. I expect British imperialism to be more sophisticated than that.⁸⁵

Amongst the regular Northern Ireland witnesses was Sean Neeson MLA, the leader of the Alliance Party. Between 1989 and 1994, he visited the United States on over twenty occasions on MacBride business. He was chosen by the DED, to replace another former leader of the Alliance Party, John Cushnahan,

⁸⁵ Jamison interview, 11th March 1999.

who quit politics in Northern Ireland in order to pursue a political career in the Republic. Neeson was employed both as a lobbyist against the MacBride Principles and as a business consultant, encouraging American firms to invest in Northern Ireland. Presumably, the 'business consultant' title was to enable the IDB to pay his salary as in the Eccles' case. Neeson justified his appointment as a consultant on the experience he had gained when he was the Vice-Chairman of the Northern Ireland Assembly's Committee on Economic Development, 1982-1986.⁸⁶

Another and more controversial regular witness against the MacBride Principles was Paddy Devlin, a founder and now an ex-member of the SDLP and active trade unionist. McManus claimed that Devlin originally supported the Principles from their inception.⁸⁷ Devlin vehemently denied this was the case and stated that from the time of publication he had opposed the Principles. In particular he had criticized the controversial Principle 2, which he said;

was diabolical... with the responsibility for bringing the worker out of his home to work and then bringing him back home and the onus being on the employers-- we knew that would close down factories over the place and stop investment, so I was opposed to it and all the Northern unions, apart from Inez...⁸⁸

Devlin's account of his recruitment to the MacBride Campaign shows that he was accepted, despite vigorous opposition from within the DED.

Devlin had been writing for a number of newspapers, north and south of the border as well as having regular appearances on BBC Radio Ulster, where he had voiced his opposition to the MacBride Campaign. He was approached by Sam Bartlett, United States Consul General in Belfast and John McConnell of the NIO and asked whether he would be prepared to go to the United States and campaign against the Principles. Devlin agreed. McConnell and Bartlett put the proposal to the DED, where the officials would not consider it.

⁸⁶ Sean Neeson Vice-Chairman of the Northern Ireland Assembly's Committee on Economic Development, 1982-1986 and former of the Alliance Party, 1998-2001, interview, 25th March 2002.

⁸⁷ McManus, *The MacBride Principles*, 16.

⁸⁸ Devlin interview, 7th February 1995.

The fellow McAllister hated me and another guy, they were in charge of the Department, they didn't want me to go and they refused to let me go. Bartlett then went to the Secretary of State and the Secretary of State then told him to send me....It was quite a big row.⁸⁹

Devlin stood out like a sore thumb amongst his fellow witnesses. He resented being paraded as a Catholic. 'I haven't been a Catholic for forty years.'⁹⁰ He was speaking against the Principles as a trade Unionist and a Socialist. It was not the best ticket to influence local legislators in the United States.

The road show was always counterproductive. I remember being in Pennsylvania where Paddy Devlin said in his very thick, strong accent, 'I am a lifelong trade unionist. I am lifelong Belfast man. I am a lifelong socialist and I oppose the MacBride Principles with all my strength'. And all these conservative Yahoo Pennsylvanian legislators, who were there said, 'He's a socialist and he's against MacBride, so we must be in favor'. The ironies of American politics⁹¹

Devlin made such an adverse impression on the Rhode Island legislators that he was credited as being a major contributor to the success of the MacBride legislation in that state.⁹²

Devlin does not mention his anti-MacBride campaigning in his autobiography, *Straight Left*.⁹³ He may not have regarded it as the happiest of times in his career. He did not make a good witness. At the Rhode Island hearing, two reasons were given why the MacBride campaign was successful before the state committee, the ambivalence of the Irish government's position and Paddy Devlin's evidence as a witness. The many qualities that he had as a street politician in

⁸⁹ Ibid.

⁹⁰ Ibid.

⁹¹ Jamison Interview, 11th March 1999. There is an alternative view of the MacBride road show. 'The predictable gathering of several score observers was there, all amply decorated with green ties, ribbons, kerchiefs and saucer-sized lapel pins, indicating their organizational affiliation. Ireland would have benefited much more if they had instead been saying the Rosary for the nation on that Ash Wednesday'. McCarthy describing the scene at the New Jersey hearing, J P McCarthy 'The MacBride Road Show', *Boston Irish News*, April 1987.

⁹² DFAMP, telex 4th June 1987. Washington Embassy to Dublin reported that Mayor Kirby of Providence stated that the MacBride Bill received such strong support because '(A) the witnesses produced by the British side (Paddy Devlin in particular) made a very poor impression, and (B) the position of the Irish government on the issue (Principles unobjectionable etc.) meant that legislators felt free to support the bill...'

⁹³ P Devlin, *Straight Left, An Autobiography*, (Belfast, 1993).

Belfast were of little value in the hostile atmosphere of an American state hearing, where the majority of the audience, if not the committee, did not wish to hear his message. On the American scene, his many trenchantly written newspaper articles attacking the Principles, so freely distributed about the United States by the BIS, made him a hate figure before he entered a single committee room. His article, in the *Boston Irish News*, 'The MacBride Principles, The Kiss of Death', was widely circulated,⁹⁴ and was in evidence submitted to the New Jersey hearing.⁹⁵

One of the tactics adopted by the MacBride campaigners in state legislatures was to introduce two separate Bills, one in each house of the Legislature. One Bill sought disinvestment and the other merely called for monitoring of the activities of corporations, in which pension funds had been invested. Having tested the political water in their area, the legislators would then decide, on the better course of action to follow. Thus, it was in the Rhode Island Legislature and in New Jersey.⁹⁶ The Assembly's Bill in New Jersey required divestiture, under certain circumstances, of all investments of State public pension and annuity funds in corporations doing business in Northern Ireland. The Senate's Bill merely charged the Director of the Division of Investment to investigate the extent to which corporations in which state pension funds were invested adhered to the MacBride Principles.⁹⁷ The Bills were eventually merged with the Senate's proposal receiving the most support.

The public hearing was held before the Assembly State Government Committee, 4th March 1987, in the State House Annex, Trenton, New Jersey. The hearing was unusual, because no person from the British government's road show appeared as a witness. On the other hand, most of the principal stars of the US pro-MacBride Campaign appeared as witnesses. The roll call included, Joseph Roche, President of the Irish-American Unity Conference and the former National President of the AOH, Joe Jamison of the Irish-American Labor Coalition, Martin Galvin, National Public Relations Director of NORAID and editor of the *Irish*

⁹⁴ P Devlin, 'The MacBride Principles, The Kiss of Death' *Boston Irish News*, June 1986.

⁹⁵ Public Hearing before the Assembly State Government Committee, New Jersey, 4th March 1987. Submitted as part of the written evidence of Harold R Alexander, 98X.

⁹⁶ DFAMP 22nd(?) May 1987. 'as you know the latest episode is the emergence of two bills in the Rhode Island legislature. A cursory glance at these will illustrate that the tactic being employed is to present two bills, one extreme and plainly sanction-seeking and others a softer version intended to present legislators with a choice, so to speak, of the lesser of two evils.' Telex from Ambassador Washington to Assistant Secretary Ó Tuathail.

⁹⁷ Text of the Assembly Bill P1 and of the Senate Bill, 3, transcript of the Hearing before the Assembly State Government Committee, Trenton, New Jersey, 4th March 1987. Written evidence Harold R Alexander, Frontispiece.

People, Patrick Doherty, reading the submission of the New York City Comptroller and Sister Regina Murphy of the ICCR and the Sisters of Charity of New York. They all gave oral evidence and some submitted written papers. The evidence followed predictable lines and widened into a general history of Britain's relations with Ireland, reaching back to the penal laws. The penultimate witness, Frank D'Arcy boasted, 'I am a member of that terrible, terrible organization that is known as the IRA since 1938 and I am proud of it. What they're doing is the right thing'.⁹⁸ Of the fifteen witnesses supporting the call for legislation, fourteen came from the United States and only one, Oliver Kearney, the Executive Secretary of the Fair Employment Trust of Belfast, from Northern Ireland.

There were six witnesses opposing the legislation. Robert St-Cyr, the Coordinator of the Emergency Committee for Jobs in Ulster was a prolific local correspondent to newspapers attacking the MacBride Principles and appearing at hearings to confront MacBride Campaign. Professor John P McCarthy of Fordham University was a friend of John Hume and argued his position. He wrote regularly in Irish-American publications, and was one of the few active SDLP supporters in the New York area. In his almost ten pages of oral evidence, during which he mentioned John Hume's name and gave a spirited defence of his position, there was hissing and other words of abuse from the public gallery.⁹⁹ Such demonstration of dislike for Hume often came from pro-MacBride supporters specially bussed in for the hearings. Hearings at which McManus was present were often confrontational and often his evidence was based on attacks on those representing the point of view of DED. Neeson commented that, 'Some of the hearings were quite hairy'.¹⁰⁰

The remaining four independent anti MacBride witnesses were from a firm of international investment consultants, a multinational investment bank and the New Jersey Business and Industry Association, together with a representative of the New Jersey Education Association, responsible for investment policy for teachers' pensions. John Conlin, the investment banker, from his experience having met over a thousand professionals from the United States' pension fund industry, during the previous four years justified his position by explaining the basic principles of trustee investment,

⁹⁸ *Ibid.*, 57.

⁹⁹ *Ibid.*, 83-92.

¹⁰⁰ Neeson interview, 25th March 2002.

I have never met a professional in the pension fund industry who has supported social investment. The explanation is very simple: the principal we have touched of sole beneficiary. The very touchtone, the very cornerstone of trust in the management of pension funds is that the funds be used by the trustees of the total benefits of the participants.¹⁰¹

He then explained the practical difficulties, the hassle factor, that he felt to be a major obstacle to investment in Northern Ireland

I have met the considerable number of chief investment offices and treasurers of the Fortune 1000. Without exception, they have said that the MacBride Principles and the political problems that accrue and the litigation problems that flow from them, would ensure that they would recommend against investing in Northern Ireland ---without exception that would ensure. This is a very sobering statement to make. No one in this room knows how many jobs were [*sic*] lost as a result of this action.¹⁰²

It was uncomfortable evidence for the pro-MacBride supporters to hear, causing rowdy interruptions from the public gallery. As the official transcriber put it, 'Several people in the audience speak at once here; impossible to transcribe' and further,' Again, many indiscernible responses from people in the audience'.¹⁰³ Robert Hoffman, the assistant state treasurer, expressed the reluctance of all non-elected officials in interfering with the generally accepted conservative pension investment policies:

First and foremost ... the decision process for choosing appropriate investment vehicles for our pension funds should and must, only take economic variables, such as risk and return, into consideration. Imposing non-financial standards upon the process violates all acceptable standards of portfolio management and is in direct conflict with the State's Prudent

¹⁰¹ Transcript of the Hearing before the Assembly State Government Committee, Trenton, New Jersey, 4th March 1987, 117.

¹⁰² Ibid., 117-118.

¹⁰³ Ibid., 120.

Man Law, which requires that all investments be made for the sole benefit of the beneficiaries.

I want to point out that non-financial standards, include the voting of proxies to further certain in social causes, which I think is part of the Bill, to encourage our Division and other like bodies, to use their clout to further proxies.¹⁰⁴

Hoffman's evidence was quickly interrupted with an interjection from Assemblyman Martin: 'You can't be serious about taking that to its logical conclusion. If slavery were permitted in Mexico and was making a good return, the State would agree for a profit? There have to be some reasonable limits to this'.¹⁰⁵ Dr James P. Reilly on behalf of the New Jersey Education Association was concerned that the pension funds would fall in value to the detriment of the pension holders and at the politicising of investment decisions.

Today it happens to be Northern Ireland. Certainly, as was mentioned earlier, there are problems in Belgium, Japan, India, the Soviet Union, in Central America and a whole host of places across this planet. But, if we take the pension system's assets in every instance and try to remedy the wrongs that are occurring out there, it is going to create a short fall down the road. It is going to create a problem that will either have to be borne by our retirees or by this State Legislature.

So, we would ask you be very, very careful about moving in what we see as a slippery slope towards social investment.¹⁰⁶

Reilly's concerns were shared by William Flynn, the Legislative Chairman of the New Jersey State Firemen's Mutual Benevolent Association rehearsed the losses suffered by the firemen's pension for fund as a result of the decision to disinvest from corporations with business activities in South Africa

The fiscal effects of the implementation of P.L. 1985, c308, [the legislation implementing the Sullivan Principles], for the period of August 27, 1985 to

¹⁰⁴ Ibid., 94.

¹⁰⁵ Ibid., 94.

¹⁰⁶ Ibid., 123.

December 31, 1985, which reflects only the disposition of direct pension fund holdings was to increase the unfunded liabilities of the pension funds, by an aggregate of \$45,080,624.00'¹⁰⁷

Flynn's submission also stated that the overall projection costs in the future as a result of this disinvestment from South African-based corporations would be higher than had originally been thought. 'We ask that you to not attach more liabilities to our system'.¹⁰⁸ The BIS had submitted a five page handout that presented the British Government's position without any specific reference to the New Jersey legislation.¹⁰⁹

The State Department, in response to a request from the committee chairman for a statement on the position of the United States' administration, replied supporting the British government's position and stating that it was also concerned about the legality in the UK of several of the MacBride Principles. No mention was made of the American Brands' Case. Concern was also expressed at the foreign-policy aspects of the proposed legislation. It concluded:

In view of the reservations by American businessmen and Irish political leaders about the effects of the MacBride Principles, we do not support the MacBride Principles as an effective method to encourage reform. We support, instead efforts which call upon the UK Government to move rapidly to strengthen its fair employing practices.¹¹⁰

Even Sam Bartlett, the former US Consul General in Belfast, felt moved to write and give his opinion of the MacBride Principles to the Assemblymen. The Principles were 'hastily and poorly drafted at the outset, they were supported by occasionally inaccurate research'. Nevertheless he declared, 'I'm pro-solution to Northern Ireland's problems and *increasing* unemployment, --the inevitable result of the MacBride Principles--is no way to go about it'.¹¹¹

The newspaper cuttings supplied to the assemblymen did not reflect the debate taking place before them in the committee room but the accepted wisdom

¹⁰⁷ Ibid., 104X.

¹⁰⁸ Ibid., 104X .

¹⁰⁹ Ibid., 120-125.

¹¹⁰ Ibid., 115-120, copy of letter to the chairman of the committee from Jayne H. Plank, Director of Intergovernmental Affairs, State Department, 4th March 1987.

¹¹¹ Ibid., 130.

of the conservative political and financial establishments. Thus the *New York Times*, called them 'Misguided Mischief for Ulster Investors', 'Fiddling with pension funds,' and 'Trouble to the Troubles' said *the Record* whilst, echoing John Hume, *The New York Daily News* urged 'Fight Discrimination in Ireland' and the *Home News* summed up the dilemma, 'N.J. divided on Northern Ireland investment ties'.¹¹²

The pro-MacBride campaigners were said to be meddlers with little interest in the real problems of Northern Ireland, only interested in consolidating their political positions by playing to the Irish ethnic vote. They were accused of having little knowledge of the situation in the north of Ireland and of being afraid of the political influence of Noraid and the AOH. Any politician, particularly in the single issue politics of the United States where party lines are blurred, seeks to secure votes, where he/she can, but the New Jersey legislators' approach was not superficial. They had done their homework. They were conscious of the financial implications of any decision that they might take and of their fiduciary responsibilities to the beneficiaries of the state pension funds who were their constituents. Moreover, the British critics failed to realise the degree to which anti-discrimination legislation and affirmative action programmes had become an accepted part of the everyday working experience of United States citizens. On 8th July 1987, Governor Thomas H. Kean, signed the MacBride Bill into law for New Jersey. The experience of New Jersey was repeated in the committee rooms of state legislatures and city councils, across the United States until the end of the century.

Five years later, the Chicago City Council's Committee on Finance held a public hearing to take evidence on a proposal for a new city ordinance extending the application of the MacBride Principles.¹¹³ The Ordinance required companies doing business with the city and which maintained a company and had employees in Northern Ireland to abide by the MacBride Principles. The chairman of the committee was Alderman Edward M Burke and the ordinance's proponent was Alderman Patrick O'Connor. The political situation had changed from when the debate was held at Trenton. In the United Kingdom parliament the Fair Employment (Northern Ireland) Act 1989 had been passed. It was meant to make the MacBride Principles irrelevant, if not redundant. However, in Chicago and the

¹¹² *Ibid.*, 124-129.

¹¹³ *Minutes of Chicago City Council Finance Committee*, 24th March 1992, 59-184.

State of Illinois the MacBride Campaign was well-established. Alderman O'Connor's proposal was to extend them to cover contract compliance by firms doing business with the city council. It was just what DED officials had feared, when Councillor Sal Albanese's first MacBride Bill had been introduced into New York City Council.

Chicago was one of the US cities where Afro-Americans made a direct comparison between their struggle for human rights and of the situation facing Catholics in Northern Ireland. Alderman Robert Shaw, after saying he had no problem with the ordinance, declared 'I'd like to see the same kind of Ordinance introduced and passed in the Council with Martin Luther King's Principles. King's Principles are that everyone in this country and around the world be judged on the contents of their character rather than the color of their skin or their religion'.¹¹⁴

Only one of the witnesses for the new ordinance, Mary Armstrong, the National President of the Irish-American Unity Conference, was a national figure. All the others lived in or close to Chicago. Not one of them addressed the contents of the Ordinance and again the historical analysis only went back to the penal laws. It was as though Henry II and Cromwell had never been born. A brief mention was made of the first set of monitoring returns produced as a result of the 1989 Act, but they were used to illustrate the failure of the anti-discrimination legislation in Northern Ireland, rather than as an example that the new legislation was working. Sean Neeson the principal witness against the ordinance, plaintively observed,

The fact of the matter is this: that the thrust of a lot of the evidence that was given here this morning and I'm sure the chairman would agree with me, had very little to do with fair employment in Northern Ireland. A lot of it was a question of Irish unity, which is a totally different issue altogether and which is not part of what we are discussing at the present time.¹¹⁵

The most impressive of the anti-MacBride witnesses was a Chicago industrialist with factories in the Irish Republic, Mr. Barry Carroll, a director of the Irish-America Fund. The situation he outlined was similar to that which was outlined

¹¹⁴ Ibid., 68.

¹¹⁵ Ibid., 123.

by foreign office officials as they explained the problem of the 'hassle factor' and of the further burdens that replaced or in with investors, if the MacBride Principles were agreed.¹¹⁶

Presently, one of our Chicago area companies, which is a supplier to the pharmaceutical industry, is considering starting a branch plant. The two most likely venues are Puerto Rico or somewhere in Ireland, both of which are home to many branch plants of American pharmaceutical companies.

Puerto Rico offers manufacturing cost advantages. Ireland offers an entrée into the European Community and good quality, English-speaking workforce.

I might also add that on a regular basis I get solicitations from various other nations or provinces, which have a high caliber English speaking workforce. Most recently is one from Wales that I have in my hand and I have received them from both England and Scotland in the last year.¹¹⁷

Carroll did not indicate how he intended to solve his particular problem. Like Neeson and other witnesses, he admitted that the MacBride Principles campaign had been helpful in pushing through the 1989 legislation, but now they were not thought necessary.

Before and after the Chicago hearing, the British Consul General in Chicago, F R Mingay had written to the office of the Mayor Richard M Daley, suggesting amendments to water down the proposed new ordinance and delaying the public hearing. The attempt to delay the hearing was criticized by one of the witnesses, Michael Morley, who said he had been told by a city alderman that the British government had asked the Council to delay the decision on the ordinance in order to give it more time to prepare its case.¹¹⁸ All the usual arguments were repeated against the ordinance and in a letter on 2nd June, Mingay asked for an undertaking that before the ordinance was signed that the city administration would reply to five specific concerns that the British government had about it.¹¹⁹

¹¹⁶ Private conversation with Foreign Office officials, 6th December 1999.

¹¹⁷ *Minutes of Chicago City Council Finance Committee*, 24th March 1992, 166-167.

¹¹⁸ *Ibid.*, 90.

¹¹⁹ DP, letter Mingay to Daley, 2nd June 1992.

That part of the letter requesting the specific response did not receive a reply but on 19th June, Mingay received a letter from Daley saying that the finance committee had decided to defer consideration of the measure and he anticipated no further action on it.¹²⁰

Mingay had succeeded were the imported witnesses had failed. Carroll's evidence had been very strong but what probably carried the day, was a comment in one of Mingay's earlier letters to Daley, where he wrote:

The message this would send if it [the ordinance] was passed is that companies who bring their business to Chicago risk interference by the City in their business over seas. For large companies this may be deterrent but they can afford the legal advice and representation to handle it. For smaller companies the contingent liability and cost of dealing with it will be too much. The proposed bid penalty would destroy the enthusiastic promotion, which I - and other consular colleagues here - have thunder taken of Chicago as the underrated location for incoming business.¹²¹

The implied threat or joint action by the foreign consuls in Chicago to deter fresh investment coming, to the city, was sufficient to persuade Mayor Daley that the proposed ordinance, should the shelved. It was a rare, but temporary, victory for the British government.

While the Chicago City Council was preparing its new ordinance, the Assistant Investment Officer of the State of Connecticut, Pamela J Bartol, acting on behalf of the State Treasurer, was conducting a survey required by the Connecticut legislation into the implementation of the MacBride Principles by non-US companies in which the State had shares. She had circulated to them a short, simple questionnaire of six questions, the most important which was the sixth, 'Has your company adopted and implemented the MacBride Principles?' The recipient had to tick a box indicating 'yes' or 'no'.¹²² This was a survey of foreign companies and illustrates how the Campaign, by contract compliance was seeking to extend its influence over non American corporations.

¹²⁰ DP, letter Daley to Mingay, 19th June 1992.

¹²¹ DP, letter Mingay to Daley, 20th March 1992.

¹²² DP, letter and questionnaire Bartol to non-US companies in which the state held shares, 10th December 1991.

She received over a period of seven months eleven replies, eight from United Kingdom firms and one each from Japan, the Republic of Ireland and Canada. Of the three which refused to answer the question, Marks and Spencer stated that it had no knowledge of the MacBride Principles.¹²³ The Thomson Corporation said that as it was incorporated in Canada and the United Kingdom it was not subject to Connecticut compliance legislation¹²⁴ and the third, Compass Group, did not wish to participate in the completion of the questionnaire and thanked Bartol for her interest in the company.¹²⁵ The Prudential Corporation was the only firm to tick the 'yes' box, but then wrote in beside the answer, 'to extent permitted under UK law'.¹²⁶

The seven companies which gave no reply to the sixth question, nevertheless gave a commentary on their reasons for refusing to tick the box.¹²⁷ They were all at pains to say the supporters in improvement in the employment legislation. Some, such as, Boots sought to explain its policies in the light of the MacBride Principles, even though they may have been irritated by the questionnaire.¹²⁸ Even if the British government was continuing to fight tooth and nail against the MacBride Principles, British industry was taking a more pragmatic approach and was not going to risk the loss of important investment from the United States. Ms Bartol on behalf of the Connecticut State Treasurer had to undertake the survey, because, apart from the Prudential Corporation, none of the firms had signed the MacBride Principles and therefore IRRC could not officially carry out an independent third party examination of their activities

Ms Bartol's task of preparing a report was similar to that being carried out directly or by using the services of the IRRC, by public officials ultimately responsible for the investment of state and city pension funds. Sometimes it was made directly to the state legislatures or city councils and sometimes to the pension fund beneficiaries. These annual statements made by the trustees on how they carried out their fiduciary obligations and later how contract compliance conditions were enforced, ensured that the issue of religious discrimination in

¹²³ DP, letter J O'Neill (company secretary of Marks and Spencer) to Bartol, 3rd January 1992.

¹²⁴ DP, letter A M Lewis (treasure of Thompson Corporation) to Bartol, 30th January 1992.

¹²⁵ DP, letter R Morely to Bartol, 22nd July 1992.

¹²⁶ DP, letter G Sanders (Executive Assistant to the Prudential Group Chief Executive) to Bartol, 24th January 1992.

¹²⁷ DP, The companies concerned were Boots Plc., Kyocura Corporation, Bass, BT, Coates Viyella Plc., AIB Group and British Gas Plc.

¹²⁸ DP, letter I A Hawkin (Secretary of Boots) to Bartol, 6th January 1992.

employment in Northern Ireland was a continuing public policy issue and was rarely out of the headlines in some part of the United States.

Even in California, where successive governors had vetoed pro-MacBride legislation, the State Legislature had bypassed the governor's veto by requesting the Office of the Auditor General, 'to determine the extent to which US firms with business operations in Northern Ireland are adhering to standards of fair employment'.¹²⁹ The Legislature was specifically interested in those firms where state retirement funds were invested. The Auditor General's report graphically demonstrated why California until 1999, when it finally fell, was such an important and symbolic battlefield for each side of the MacBride Campaign. In 1990, the three California State pension funds held a total of \$2,432,235,641 in twenty five US companies with subsidiaries in Northern Ireland. California had financial clout. Twenty-four firms had responded to the State Auditor's detailed five page questionnaire. A decision by the Californian state pension fund to sell its investments could seriously affect the financial health of the companies concerned and cause major reverberations on Wall Street.

The part played by the United States government is another enigma of the MacBride Campaign. The moment that Noraid, with its IRA connections, endorsed the Principles, whatever other considerations might be taken into account, the administration, like the British government, was going to condemn the message because of the messenger. Assistant Secretary of State, Rosanne Ridgeway, gave evidence before the Senate Foreign Relations Committee, 10th April, 1986, where approximately a fifth of her prepared text was addressed to expressing the administration's condemnation of the MacBride Campaign.¹³⁰ The Security and Exchange Commission had originally tried to placate the large corporations by counselling against the placing of pro-MacBride Principles resolutions at shareholder meetings until the advice of its own legal counsel stated such resolutions could be voted upon at those meetings. Even after the American Brands Case, the State Department continued to argue that the Principles were illegal under the law of Northern Ireland and in its advice to local legislators, and

¹²⁹ *Auditor General's Report*, (Sacramento, California, 1991)

¹³⁰ SDP Testimony of Assistant Secretary Ridgeway on US Government Assistance for the Anglo-Irish Agreement in Northern Ireland before the Senate Foreign Relations committee, 10th April 1986.

briefings no reference was made to Judge Carter's decision. It might never have been made.¹³¹

American ambassadors to the United Kingdom joined Secretaries of State in their condemnation of the MacBride Principles, particularly when they were visiting Belfast.¹³² One even went so far as to question publicly their constitutionality under United States law.¹³³ Ambassador Price's claim of unconstitutionality arose because the regulation of foreign trade was the prerogative of the President and Congress and was controlled by a series of foreign trade acts. He and the State Department argued that by implementing the MacBride Principles, the states and cities were pursuing their own foreign and trade policies and thus usurping the role of the President and Congress. Therefore, the states and cities were acting unconstitutionally. This argument was never tested in the federal courts.

The relationship between the federal government and the states fell within the ambit of the Department of Justice. There was rivalry between the two departments and the impatient officials in the State Department could be forgiven for believing that the Justice Department was unnecessarily dragging its feet. A priority message from the Secretary of State in Washington to the US Embassy in Dublin, November 1987, summarised the arguments of the State Department and illustrated its frustrations. It read:

Court to challenge to the MacBride Principles – a memo has gone forward to Judge Sofaer for final approval before going to the Secretary of State, asking for

1) NSC [National Security Council] support for a public statement, by the White House or Justice, on the unconstitutionality of state/local disinvestment legislation based on foreign policy issues, such as the MacBride Principles; and

2) Final authorization to move ahead on a federal court challenge to non-South African (i.e. MacBride and arms control) disinvestment legislation.

¹³¹ DP, for example see letter Jayne H. Plank (Department of Intergovernmental Affairs, State Department) to Fred A. Trello (Chairman Finance Committee, Pennsylvania House of Representatives), 20th August 1987.

¹³² SDP, citing Ambassador Price's speech to the Northern Ireland Chamber of Commerce, Belfast 30th May 1986. 'The MacBride Principles are wrong because they can do incalculable harm'.

¹³³ M Sawey, 'Price hits out at MacBride principles', *Irish News*, 11th September 1987.

Neither the judge nor AG Meese are enthusiastic supporters of this course. Meese, in particular, sees it as a political liability. Also, there is an important faction at Justice that does not wish to see state/local prerogatives challenged and has waged a campaign against this option for over two years.

It would be useful for EUR to remind the judge that we support a challenge to the MacBride Principles on foreign policy grounds.¹³⁴

The State Department was getting increasingly frustrated at the delay in action being taken against MacBride legislation by the Justice Department 'since it so clearly violates constitutional rule of preemption and regulation of trade'.¹³⁵ It was clearly disappointed about the lack of any initiative by any private corporation to take a private lawsuit against any state disinvestment legislation, which meant that the US administration would have to initiate its own action. A meeting was suggested between the Secretary of State, Schultz and the Attorney General, Meese, to try to break the logjam. The State Department's papers do not indicate whether such a meeting took place.¹³⁶

It was an unfair criticism that arose out of frustration. The issue went far beyond the MacBride Principles and raised the contentious issue of individual state's rights within a federal constitution. The conservative Republican administration of President Reagan was philosophically against any interference by the federal government in the internal affairs of individual states in the exercise of their powers. Nevertheless, if the argument had been as clear-cut as the State Department officials suggested, the federal government might have reluctantly tested the constitutionality of the MacBride Campaign, both to appease its British ally as well as its rich corporate backers. That the federal government chose not to do so suggests that the Justice Department lawyers were not certain of victory in the Supreme Court, which would overturn the Carter judgment. Thus, they could not fault the MacBride campaigners for encouraging the British government to enforce its own fair employment legislation, but only argued that

¹³⁴ SDP, Secretary of State Shultz to embassy Dublin, November 1987.

¹³⁵ Ibid, October 1987.

¹³⁶ Information was requested under the US Freedom of Information Act.

the British government said that the MacBride Principles were illegal in Northern Ireland.

The Reagan Administration had been forced to accept strong anti-apartheid legislation in 1986. It was a welcome precedent for the MacBride campaigners. If the administration lost a constitutional case on the legitimacy of the MacBride Principles and the right of individual states to support them, it would be a great boost to the MacBride Campaign, increasing still further its confidence and encouraging it to increase its pressure on Congress with the aim of recruiting sufficient support in each House to overcome a presidential veto. The political risks of a Supreme Court challenge with little long term benefit, weighed against the loss of face if the case was unsuccessful. Moreover, whatever the outcome of any litigation, the guaranteed hostility of the overwhelming majority of Irish Americans, probably persuaded the administration that the cake was not worth the candle and the issue was dropped. It was perceived as a political loser by the White House.¹³⁷ Yet if a successful case had been brought by the administration, the states and cities would have been stopped in their tracks. While the MacBride campaigners would have had sufficient ingenuity and determination to continue the campaign, they would have been without the financial clout of the states and cities and Father McManus would have been left to continue his efforts with all the difficulties he had previously encountered.

The State Department maintained its position, despite the failure of the White House or the Justice Department to support its policy of challenging the MacBride Principles as being unconstitutional. Earlier it had determined that 'Even should the UK shift its MacBride tactics, State would have to continue to oppose the Principles, in part, on Constitutional grounds'.¹³⁸ This remained the State Department's policy even after the change of administration, when President Clinton was elected promising to implement the MacBride Principles. The closeness of the relationship of the British Conservative administration with whom it had been working for many years meant that Irish policy makers in the State Department were often at odds with the White House, as was demonstrated when President Clinton granted a visa to Gerry Adams to visit the United States

¹³⁷ SDP, telex Schultz to Dublin, October 1987.

¹³⁸ Ibid.

against the express wishes of the British government and State Department advice.¹³⁹

The passage of the 1988 legislation had already been discounted by MacBride campaigners right across the United States before it had even received the Royal Assent, despite the fact that the monitoring provisions of the new legislation, requiring companies to analyse the religious composition of their workforces had made the future examination of US companies' recruiting policies so much easier. Doherty and his colleagues had followed closely the progress of the legislation and the difficult negotiations with the government as the Labour Party and the SDLP sought to improve the Bill. The failure of the British government to alter its rigid adherence to the 'merit principle' and to give a broad definition of 'affirmative action' had made them question the government's *bona fides*. The distrust was further compounded when on 11th October 1990, the Fair Employment Tribunal ruled, in a case alleging religious discrimination against an employee of Queen's University that it was unlawful to publicly reveal an individual's religion even in cases coming before it.

This decision immediately brought a halt to all proceedings before the tribunal. McCrudden, then acting as McNamara's advisor on the fair employment legislation, had anticipated the difficulty. The government had refused to accept a Labour amendment to rectify the problem, moved at the committee stage of the Bill by Mo Mowlam MP.¹⁴⁰ The responsible minister, Peter Viggers, had written at length to Mowlam telling her that her fears were unfounded but that the government did intend that there should be no disclosure.¹⁴¹ The day of the Tribunal's decision, McNamara wrote to the Secretary of State, Peter Brooke, offering Opposition support for fast amending legislation. On 14th November, the DED published a consultative paper on the problem requesting replies by 14th December. The 1989 Act was amended by Order in Council later in 1991. One of the principal provisions of the new act has been inoperable for two years over an issue which could so easily have been avoided. It was all grist to the mill for the MacBride campaigners. The British government just could not win: it had either acted in bad faith or it was shockingly inefficient. McCormack and O'Hara

¹³⁹ See Lynch, *Turf Wars*, 125.

¹⁴⁰ *Hansard*, 9th March 1989, cols. 415-6, Standing Committee B, Fair Employment (Northern Ireland) Bill. Mowlam was then the Junior Opposition spokesperson on Northern Ireland. She was later to replace McNamara as Shadow Secretary to Northern Ireland in 1995, and on Labour's election victory in 1997 became Secretary of State for Northern Ireland.

¹⁴¹ MCNP, letter Viggers to Mowlam, 6th May 1989.

spoke for many disappointed Human Rights activists and MacBride campaigners, when they wrote

The process which led to the 1976 act and that which preceded the 1989 act show striking similarities between the governments' attitudes then and now. In both cases the Government of the day express firm commitments to change. On both occasions, official committees appointed by government recommended appropriate mechanisms. On both occasions the substance of their advice was ignored.¹⁴²

Outside Washington, the campaign moved inexorably forward across the states of the Union. The new Comptroller of New York City, Elizabeth Holtzman, who had succeeded Goldin, nailed her colours to the mast and declared:

It is important to send a message to the companies involved and to the British government that New York City will not subsidize anti-Catholic discrimination and, to send a message to people in Northern Ireland that their cause is not forgotten'.¹⁴³ She reported that in conjunction with the state retirement systems of Minnesota, Connecticut and New York, together with Catholic and Protestant religious organisations affiliated to the ICCR, her office has initiated shareholder resolutions for the 1990 annual meetings of 26 American firms which had refused to adopt the MacBride Principles.¹⁴⁴

She was able to claim increasing success for the Campaign. On behalf of the City's pension systems, she had negotiated and reached agreements with Pitney Bowes, Honeywell, Federal Express and NYNEX, who all agreed to take all possible lawful measures to implement the fair employment standards embodied in the MacBride Principles and to cooperate with the independent monitoring programme of the IRRC. In return, she agreed to withdraw the shareholder resolutions which she had filed. An agreement was also agreed with Lockheed under which Lockheed's Northern Ireland contractors, Short's and GEC

¹⁴² McCormack and O'Hara, *Enduring Inequality*, 77.

¹⁴³ DP, Elizabeth Holtzman, Testimony before the NYC Council Committee on Contracts, 3, 13th March 1990.

¹⁴⁴ *Ibid*, 2.

Plc, agreed to abide by Lockheed's equal employment policies and to cooperate with the IRRC monitoring efforts.¹⁴⁵ However, the report notes that 'in contrast with the relatively sophisticated efforts, made at Short's and the existence of the 'Ford Principles', some human rights activists and Ford employees contended that, 'these principles have not been fully adopted as day-to-day operational guidelines for Ford's Belfast operations'.¹⁴⁶

The campaign was now developing from the tabling of shareholders' resolutions to seeking to enforce full contract compliance, selective tendering, namely that all companies supplying goods and services to the cities and states should embrace the MacBride Principles. The thinking behind the policy was described by Mayor Dinkins as 'Our City can use its economic muscle to champion fair play and religious toleration'.¹⁴⁷ A survey prepared for the DFA in June 1992 revealed that over thirty cities and thirteen states across the Union had enacted MacBride to legislation in one form or another.¹⁴⁸ The same report indicated that in four states Bills had failed to pass.

The British campaign against the Principles continued, 'just sort of chuntered on really'.¹⁴⁹ However, it was not without its internal critics. In a report of a meeting with John Cushnahan, a former leader of the Alliance Party, who had just spent six months travelling across the United States opposing the MacBride Principles on behalf of the DED, Liam Canniffe of the DFA wrote that Cushnahan had criticised the DED's uncoordinated efforts against the Principles. He was amazed to find when he went to America that their campaign there was not supported by the NIO or the IDB.

Apparently, both the NIO and the IDB believe that the anti-MacBride campaign being waged by the DED in the USA, i.e. 'experts' from Northern Ireland giving evidence to state legislatures Committees, is not helpful. Cushnahan said that NIO supports the more discreet one on one contact with American legislators, businessmen and others who could influence legislation.¹⁵⁰

¹⁴⁵ DP, *The Effect of the MacBride Principles on Employment Discrimination against Catholics in Northern Ireland: A Report by Comptroller Elizabeth Holtzman*, 1, (New York, 1990).

¹⁴⁶ *Ibid.*, 2.

¹⁴⁷ DP, Mayor David N. Dinkin's testimony before the Government Operations Committee, 25th March 1995.

¹⁴⁸ DFAMP, undated file note.

¹⁴⁹ Powell interview, 20th July 2005.

¹⁵⁰ DFAMP, file note Liam Cuniffe, 23rd August 1988, reporting on meeting with Cushnahan.

It had its own well-established routine. In some states it won and in some states it lost but the overall political debate on the future of Northern Ireland, it was losing.¹⁵¹ The DED continued to prepare briefings for witnesses and suggested leading questions to be put to proponents and opponents of the Principles at state hearings. There is little evidence of their being used for the purpose as the procedures at the hearings did not lend themselves for a platonic discourse. Some of them appeared in the statements of the anti-MacBride Principles witnesses. In 1991, the Republican governor of California, Peter Wilson, again vetoed a pro-MacBride Bill, despite the overwhelming vote in its favour in both houses of the legislature. No attempt was made to override his veto. John Rowan, the Irish Consul General, writing to the DFA to explain this decision, illustrated both the weakness of the MacBride Campaign in California and the coalition building nature of United States politics in order to achieve a positive result:

In California, the leading sponsor of the Bill is Assemblyman John Burton, a radical Democrat from San Francisco. Burton and a small number of the Irish-American legislators gained the support of their colleagues simply by agreeing to back other measures sponsored by these colleagues. Thus the votes were passed on the favour and trade off system and not through any strong conviction on the part of the Assembly. Those whose votes were successfully canvassed by Burton would not feel themselves obliged to support an override as part of the deal, especially Wilson's fellow Republicans. All in all, I would say that the prospects of an override notion being successful are very dim and, indeed, I would doubt if Burton would introduce such a motion.¹⁵²

Another important victory or least an encouraging draw for the British was in Cleveland, Ohio, the headquarters of British Petroleum in United States. The company was a very strong corporate donor to the city. A very strong pro

¹⁵¹ *Hansard*, 12th January 1989, columns 728-729, Written answers. In reply to a question from McNamara, Mrs Linda Chalker, Minister of State at the Foreign Office said: 'Since 1985 legislation has been passed in ten states... and defeated in six. Of the five states which enacted MacBride Bills in 1988 four passed Bills which were significantly amended in their passage through state legislatures...'

¹⁵² DFAMP report Rowan (Consul General, San Francisco) to Barrington (Anglo-Irish division, DFA), 'MacBride Principles and Governor Wilson's veto', 5th November 1991.

MacBride ordinance had been passed by the city council, in December, 1991, despite the strong opposition of British Petroleum. British Petroleum decided to withdraw its support of community and other projects in the city and compromise was reached the following March:

Subsequently, under pressure from BP, a major corporate presence in Cleveland, the Mayor, Michael White, negotiated with the supporters of the Principles a compromise amendment, which required such companies to confirm that 'they are taking lawful and good faith steps to engage in the fair employment practices which are relevant to the standards embodied in the MacBride principles'.¹⁵³

A year later, Sir Robin Renwick, the British ambassador, visited Cleveland and in the press report, there was no mention of the city's pro MacBride ordinance. President Clinton had been elected and Renwick's moderate remarks reflected the change in the political landscape in the United States. 'If anybody feels there are deficiencies in our Fair Employment legislation, we're ready to consider those and, if necessary, to make changes'.¹⁵⁴ Renwick alleged that he had recently met with a major US company with a subsidiary in Northern Ireland which was considering withdrawing from the North because of the 'hassle factor' but when pressed on the issue he said it is not the only reason and that the company was only 'a marginally profitable operation'.¹⁵⁵ It had a further success when the Bush administration started to put the squeeze on the SEC to be more critical of shareholder resolutions. The SEC Commissioner, Richard Roberts, had stated

While I am inclined to believe that social or political public policy issues, no matter how attractive the cause, should not be proper subjects for shareholder proposals, the more relevant point is that the Commission's staff should not be in the business of deciding, which social or political policy issues ought to be included in, or omitted from, a particular

¹⁵³ DFAMP report of Rory Montgomery (Vice Consul in Chicago) to DFA, 'Visit to Cleveland 26th -28th June 1992', 6th July 1992.

¹⁵⁴ J C Sullivan, 'British Ambassador Outlines MacBride Principles Objections' *Irish Echo*, 13th September 1993.

¹⁵⁵ *Ibid.*

registrant's proxy materials. Judgments on those issues are, in my view better left to Congress.¹⁵⁶

Despite the agreement made between ICTU and the AFL-CIO proponents on both sides of the Campaign in the trade union movement continued to fight their corners. At a hearing in New York before the city Council's Government Operations Committee discussing contract compliance, Joe Jamison in giving evidence read from a report of on an AFL-CIO visit in July 1990 said:

While the new Fair Employment Act falls short of the aspirations of Irish trade unionists, we believe our continued support for US corporate compliance with the MacBride code can help to ensure that the law is properly enforced. There is a basis for believing that, by continuing the pressure internationally, the somewhat stronger new law on the books can make progress towards alleviating the pattern of entrenched sectarian discrimination that still exists in the North.¹⁵⁷

At the same hearing, James Eccles reinforced on his impeccable Catholic credentials by announcing that the Pope had made him a Knight of St. Gregory the Great!¹⁵⁸ John Freeman, meanwhile, had continued to encourage trade unionists to go to the United States to give evidence before state hearings. A former member of NICICTU's executive, Pat McCartan, billed as a 'Lecturer, & Trade Unionist. A Catholic, Residing in Northern Ireland', visited Missouri in 1992 to testify against the Principles.¹⁵⁹ After the hearing, no vote was taken and the Bill died in committee at the end of the session.¹⁶⁰ Freeman's opposition to the MacBride principles was cited by Governor Wilson even before John Hume's when he wrote to the Californian Assembly vetoing the 1991 Bill. Freeman's actions and those of his colleagues, in vigorously pursuing their opposition to the MacBride Principles drew an agonised complaint from an ITGWU official,

¹⁵⁶ DP, quoted in a letter to William E. Morley, the SEC's chief counsel, from Sue Ellen Dodel, deputy counsel to the Comptroller, arguing that an application from the Unisys application to the SEC for permission to omit an NYCERS's shareholder resolution from its AGM should not be permitted, 12th January 1993.

¹⁵⁷ DP, testimony of Joes Jamison to the New York City Councils Government Operation Committee, 25th March 1991, quoting from the AFL-CIO Report on its 1990 visit to Ireland.

¹⁵⁸ DP, testimony of James Eccles to the New York City Councils Government Operation Committee, 25th March 1991.

¹⁵⁹ DFAMP, P McCartan testament to the State of Missouri, 18th February 1992.

¹⁶⁰ DFAMP file note undated probably the start September 1993.

Robert Dickie, who told his annual delegate conference of the machinations of the NIO:

They have sent politicians and failed politicians and, to their shame trade union officials on anti-MacBride lecture tours in the USA.

When and by what executive decision did the ICTU in Northern Ireland decide to participate in the anti-MacBride campaign? And what statutory authority did the IDB have for engaging and paying union officials to lecture against the MacBride Principles in the USA?¹⁶¹

The pro-MacBride Trade Unionists for Irish Unity and Independence, as Dickie's outburst illustrates, was becoming increasingly angered by John Freeman's efforts, which they felt breaking the agreement reached with the AFL-CIO, which they had honoured by holding their tongues in the interest of not splitting the movement. Mainly based in the Republic, its title was unlikely to impress, many of their fellow trade unionists in the North.

In Washington, McManus had continued to pursue the INC policy of maintaining a presence in the Congress and to prevent the Irish issue from being sidelined. The MacBride Principles gave him what he did not have before, a coherent set of proposals. These could be uniformly applied for inclusion in any Bills coming before the Congress with an Irish content, or a possible Irish content, or as a basis for new Bills. For example, in 1991, two pro-MacBride Bills were introduced, one in the House of Representatives, and one in the Senate, where they made no progress. The only measure that passed into legislation was Congressman Joseph Kennedy's, amendment to the Defence Authorization Act 1988. This made the granting of the contract to Shorts conditional upon the company increasing its Catholic recruitment year on year. The amendment had the support of Speaker Tip O'Neill and Senator Ted Kennedy, an illustration of the power of the Friends of Ireland to control which Irish business arrived on the floor of the Congress and, more importantly, what was passed.

Despite McManus's work in Washington, he was very active appearing as a witness before MacBride hearings across the country and earning the grudging

¹⁶¹ ATGWUP, Newspaper cutting of an article by Fabian Boyle, undated, probably the summer of 1988 and no newspaper title. Nevertheless this is worth quoting, because of the sentiments expressed.

respect of British officials, who regarded him as 'a formidable opponent'.¹⁶² They said that 'on occasions he could be impressive, persuasive and with first-hand knowledge of the situation in Northern Ireland and an ability with words which could influence hearings. He was good marshalling his witnesses.'¹⁶³ They were aware of the rivalry between McManus and Martin Galvin of Noraid and noted the effect they had on each other as they sort to establish which of them had the better Republican credentials:

However on occasions when he appeared more extreme in his attitudes and in his language, he could be highly counterproductive, particularly if at hearings, he was accompanied by Martin Galvin. In that case, he would be associated with Noraid extremism and help for the paramilitaries. His appearance, therefore, on occasions, could be a 'double edged sword'. He also appeared to have a different agenda from merely seeking to advocate the MacBride Principles - he was doubting the legitimacy of the Northern Ireland state itself, almost following the Provo line that it was irreformable and that the MacBride Principles demonstrated that.¹⁶⁴

McManus had another string to his bow in trying to popularise the MacBride Principles and end discrimination in employment in Northern Ireland. It was the traditional Irish weapon of the boycott. In these campaigns, he was acting on his own without the support of the AFL-CIO and Comptrollers.¹⁶⁵ The US trade unions would not support such a policy, as it threatened the livelihood of their members and did not necessarily generate positive publicity amongst them for the Principles. The unions preferred to speak privately to the management of the firms concerned and to support shareholder resolutions.¹⁶⁶ The pension funds' trustees could not support a boycott of any corporation in which their funds were invested, because they had a fiduciary duty to manage their funds efficiently and not to do anything which might result in a fall in the value of the stock.¹⁶⁷ The three most publicized boycotts orchestrated by the INC against US Corporations were against the Ford Motor Company, Timex watches and Coca-Cola.

¹⁶² Private conversation with British FCO officials, who had served in the BIS and in Washington, 6th December 1999.

¹⁶³ Ibid.

¹⁶⁴ Ibid.

¹⁶⁵ Jamison Interview, 11th March 1999.

¹⁶⁶ Ibid.

¹⁶⁷ Doherty interview, 25th July 2000.

No evidence was produced of any significant economic damage suffered by any firm against which the INC organised a boycott. Boycotts of 'big ticket' purchases, a once every few years' purchase, for example a car, are particularly difficult to sustain and to be effective. McManus stated 'it is estimated that Boycott [sic] has convinced hundreds of thousands of Irish Americans not to buy Ford Automobiles'.¹⁶⁸ McManus did not give any evidence to substantiate his claim. For McManus to have been correct in his assertion, we might reasonably expect the balance sheet of Ford Motor Company to have reflected a significant reduction in demand, a marked fall in its market share, and representations to have been made by the trade union membership at Ford plants in the US. Given Jamison's caution about the possible adverse value of a boycott, its value was the degree of public attention it attracted to its cause, the intensity of the media interest shown, the air and screen time given and the newspaper headlines and coverage. By this criterion, McManus and the INC boycotts were a great success. They caused maximum embarrassment to the companies singled out for boycotting and kept in the headlines the issue of religious discrimination in employment in Northern Ireland.¹⁶⁹

The INC could claim several successes. At one time the INC had three principal boycotts running against Ford from October 1986, Timex from May 1991, and Coca-Cola from March 1992. The longest running and most bitter boycott, against Ford, was brought to an end when William Kelly, Ford's director of International government affairs agreed with Alan Hevesi, the New York City Comptroller and Sister Regina Murphy of the IRRC, that Ford 'agreed to take all lawful measures to implement the fair employment standards embodied in the MacBride Principles'.¹⁷⁰ This was the culmination of a long and bitter dispute. Ford had been singled out by Father Brady as a centre of anti-Catholic employment discrimination in its factory.¹⁷¹ Ford had tried, unsuccessfully, to avoid signing the MacBride Principles by introducing its own set of employment principles. In doing so, they had made the interesting observation that in the

¹⁶⁸ INC statement, 'Irvine versus Ford: Momentum for Ford Boycott', 12th December 1995, <http://www.irishnationalcaucus.org/pages/Articles1995/Irvine%20Versus%20Ford.htm>, (accessed 14.02.07).

¹⁶⁹ J Randall, 'US spectre looms over Ulster jobs', *Sunday Telegraph*, 25th February 1987.

¹⁷⁰ INC statement, 'Ford Boycott Called Off', 13th March 1998, <http://www.irishnationalcaucus.org/pages/Articles1998/Florida%20Bill%20Anti-Catholic.htm>, (accessed 8.12.2006).

¹⁷¹ DP, evidence given by B J Brady before the Ad Hoc Congressional committee on Irish Affairs, 22nd July 1981, 20.

drafting of the Sullivan Principles the employers' legal staff had played a major part. Doubtless, it was seeking to imply that if the employers had been involved in the drafting of the MacBride Principles, many of the ensuing problems may not have arisen. Given that employer's past conduct, this is a highly debatable proposition. Ford's own statement of principles arose from pressure from the Comptroller's office. Goldin had proposed to put down a shareholders' resolution on behalf of the NYCERS at Ford's next AGM urging it to implement the MacBride Principles. In return for Goldin withdrawing the resolution, Ford's agreed, after discussions with Goldin as to its scope, to hold its own investigation into employment practices at its Belfast factory. Arising from the investigation's report, a set of fair employment principles were published and Fords agreed to implement them.¹⁷² This was one of many inquiries made into Ford's employment practices made by, amongst others, the FEA, Father Brian Brady and others. It was noticeable that through over a decade controversy at the Ford's Belfast plant. Its United Kingdom headquarters kept an increasing distance.

In 1990, the *Irish Post* reported that the Ford Motor Company had tried to get Seán MacBride to rewrite the MacBride Principles on fair employment in Northern Ireland. It quoted a letter from Kelly to Frank Hammil, a Washington lawyer, stating that without publicity the company was said to have approached several Irish American organisations with a view 'to clarify certain points and to make them acceptable to employers'. Kelly said the approach had been rejected.¹⁷³

Ford had entered into an agreement with Comptroller Goldin to introduce its own code, but had failed to implement it satisfactorily.¹⁷⁴ McManus had justified continuing the boycott against Ford by citing cases which had gone before the fair employment tribunal such as, the Ervine Case, like the Mary Daly Case earlier, which eh claimed dramatically revealed Ford's constant bad faith and discriminatory record.¹⁷⁵ McManus congratulated Comptroller Hevesi and Sister Regina Murphy on their success. It had taken over a decade of constant campaigning and bad publicity for Ford to finally succumb to the MacBride

¹⁷² IRRC, *Special Report on the Ford Motor Company's Study of Operations in Northern Ireland*, (Washington DC, 1987).

¹⁷³ 'Ford tried for re-write of MacBride Principles', *Irish Post*, 8th September 1990.

¹⁷⁴ Ibid.

¹⁷⁵ INC statement, 'Ford Boycott Called Off', 13 March 1998, <http://www.irishnationalcaucus.org/pages/Articles1998/Florida%20Bill%20Anti-Catholic.htm>, (accessed 8.12.2006).

Campaign. Its capitulation was as symbolically and significantly important as the final acceptance of the MacBride Principles by Governor Davis of California in 1999. McManus said “The agreement of Ford indicates how successful the INC boycott has been, which surprised Ford executives”.¹⁷⁶ It is questionable whether the boycott, as such, hurt Ford’s finances, as McManus sought to imply. It is certain that the bad publicity generated by the INC and others, accusing Ford of anti-Catholic bias, damaged the companies global reputation. It was wiser for Ford to eat humble pie and sign the MacBride Principles. Doherty states that in the mid 1980s Ford situated in West Belfast, employed two-thirds Protestants. Now known as Visteon, ‘the most reasonably available government monitoring figures show Catholics comprise 50.6 per cent of Visteon workforce in 2005’.¹⁷⁷

McManus claimed success in two other major boycotts. On the privatization of Harland and Wolff in May 1991, it was purchased by Fred Olsen, a Norwegian ship-owner who also owned Timex watches. Because of Harland and Wolff’s anti-Catholic record McManus urged a boycott of Timex watches.¹⁷⁸ Again, it is difficult to make any estimate of the economic effects of such a boycott, although the nature and quality of the purchase of a comparatively low-value item such as a Timex watch, is very different from a purchase of a ‘big ticket’ such as a Ford car. The boycott was called off on 8th December 1995 after McManus toured the ship-yard at the invitation of George Rose, Chairman of the yard’s shop stewards, whom he had met at President Clinton’s Washington Economic Conference. McManus said of Harland and Wolff ‘I now believe they are committed to building a workforce free from discrimination’, but he realized the problems Harland and Wolff were facing, ‘Harland and Wolff cannot build an integrated workforce without more jobs’.¹⁷⁹

In March 1992, a similar high profile campaign had been launched against Coca-Cola, which McManus claimed was the largest advertiser at Windsor Park, the ground of Linfield Football Club, whose rabid sectarianism and singing of anti-Catholic songs by its supporters was legendary. Linfield had not fielded a Catholic player since 1950. By 1995 it was fielding nearly half the team with

¹⁷⁶ Ibid.

¹⁷⁷ *The MacBride Principles and Equality Agenda in Northern Ireland, A Status Report*, (New York, 2006), 15.

¹⁷⁸ INC statement, ‘Harland and Wolff Boycott Called Off’, 16 November 1995, <http://www.irishnationalcaucus.org/pages/Articles1995/Harland%20and%20Wolff.htm>, (accessed 8.12.2006).

¹⁷⁹ Ibid.

Catholic players. Because of that progress, and at the request of the PUP and the UDP, two loyalist parties that had helped to broker the loyalist ceasefire, McManus had called off the boycott.¹⁸⁰

In 2002 the power of States legislation over US companies supplying goods and services was demonstrated in the Kentucky Fried Chicken (KFC) Case. Sean O'Driscoll, in the *Belfast Telegraph*, reported that KFC had granted a local franchise to premises in the loyalist stronghold of the Shankill Road.¹⁸¹ The premises had a UFF mural, showing a hooded gunman above the caption 'Welcome to the UFF Heartland, Shankill Road, Quis Separabit?' Quite apart from the argument that employers should supply a neutral working environment, the mural had been in existence for over two years before it became an issue. Doherty, and Heidi Walsh, of the IRRC, had noted that the Department of Social Development had listed the premises as an important example of their Shankill Urban Renewal scheme. They raised questions about whether the Department was just turning a blind eye to the mural to avoid confrontation in the centre of militant loyalism, or whether it demonstrated a systemic reluctance to be proactive in enforcing fair employment guidelines. However, whatever the failure of the Northern Ireland system, the fact 'New York City and State officials indicated they would pull \$65 million in pension fund stock out of KFC' and California, the largest state pension fund in the US, had expressed similar concerns provoked an instant response from YUM, the KFC parent company.¹⁸² Amy Sherwood, for the company, called on its franchisee to remove the mural 'Our position is quite clear, we do not like any unacceptable symbols at any KFC franchise'.¹⁸³ What made the KFC case significant and unusual was that it was painted on the side of a well-known business chain. O'Driscoll quoted Dr Jonathan McCormack, an expert on political murals in Northern Ireland, 'there are currently very few murals painted on the side of businesses, and they are mostly local shops rather than international chains'.¹⁸⁴ 'The Comptrollers Office brought strong and swift pressure to bear. By contacting executives at the Companies head office and reminding them that

¹⁸⁰ Ibid.

¹⁸¹ S O'Driscoll, 'KFC forced by Caucus and others to take down anti-Catholic Mural', *Belfast Telegraph*, 19th September 2005, reproduced <http://www.irishnationalcaucus.org/pages/Articles2002/Kentucky%20Fried%20Chicken%20Forced%20By%20Caucus%20and%20Others%20to%20Take%20Down%20Anti-Catholic%20Mural.htm>, (accessed 08.12.06)

¹⁸² Ibid.

¹⁸³ Ibid.

¹⁸⁴ Ibid.

the Pension fund owned one million KFC shares, totalling \$30 million, the Comptroller was able to effect the immediate removal of the offending mural. In fact the wall was painted over within twenty four hours'.¹⁸⁵

In 1992, the INC published a brief for Members of Congress, *The failure of the British fair Employment Law ...and the Need for the MacBride Principles*, which attacked the 1989 Act.¹⁸⁶ It attacked the legislative good faith of the British government because of its insistence in keeping Section 30 of the 1989 Act. This was despite Labour Party warnings of Section 30's potential to wreck the working of the Act.¹⁸⁷ Labour's assertion was upheld in *Pryce vs. University of Ulster*.¹⁸⁸ The INC report had drawn heavily on, amongst others, the Equality Working Group pamphlet, *The Directory of Discrimination*, (Northern Ireland, 1991).¹⁸⁹ In the period following the publication of the Fair Employment Act and the enshrining of the Principles into federal law, as 'principles of economic justice' six new states adopted the MacBride Principles in one form or another.¹⁹⁰ Virginia adopted a non-binding resolution supporting the MacBride Principles.¹⁹¹

McManus was successful in generating publicity for the Principles on the Hill, but singularly unsuccessful in making any legislative gains. Following the signing of the Anglo-Irish Agreement, to which he was very hostile on constitutional grounds, and because he did not trust the British government's motives, his first major effort was to have the MacBride Principles incorporated into the Anglo-Irish Agreement Support Bill, the legislation establishing the International Fund for Ireland (IFI). This was a fund established to benefit Northern Ireland and the Republic's six border counties from the economic

¹⁸⁵ *The MacBride Principles and Equality Agenda in Northern Ireland, A Status Report*, (New York, 2006), 15.

¹⁸⁶ The INC brief was aimed at the broad Irish American audience and therefore adopted a more tabloid approach than the detail the Equality Working Group, *Directory of Discrimination*, (Belfast 1991).

¹⁸⁷ *Hansard*, 9th March 1989, col.415-6, Standing Committee B, Fair Employment (Northern Ireland) Bill.

¹⁸⁸ *Pryce vs. University of Ulster*, 1990. Northern Ireland Employment Tribunal decision which found that clause 9, section 13 of the Fair Employment (Northern Ireland) Act 1989, which forbade employers disclosing the religion of their employees. DFA Transcript of BBC business unit, J Maurice, Labour Correspondent, 'Today's decision brings to a standstill more than one hundred alleged complaints of religious discrimination that had been brought under the new Fair Employment legislation which was introduced in January this year. The president of the Fair Employment tribunal said "There was a substantial risk of criminal liability to the employer if the information was disclosed"'.¹⁸⁹

¹⁸⁹ Equality Working Group, Belfast, 1st March 1991.

¹⁹⁰ Washington DC, Kentucky, Missouri, Minnesota, Nebraska and Texas. *MacBride Principles and the Equality Agenda*, (New York, 2006), IRRC list appearing as Appendix D, 325, *State Laws, Resolutions and Legislation in Northern Ireland*.

¹⁹¹ *Ibid.*

ravages of paramilitary activity. His action failed because none of the three governments concerned, the United States, the United Kingdom and the Republic of Ireland would accept any preconditions limiting the new funds freedom of action. It had the vigorous support of the Friends of Ireland, particularly Tip O'Neill, the retiring Speaker of the House, who, together with his successor, Tom Foley, defeated various procedural manoeuvres in the passage of the Bill, neither attempts to link it to extradition legislation nor unwanted amendments were included in the Bill. McManus and his congressional supporters lost the argument, because the Bill's proponents argued that the fund, established to achieve reconciliation between communities, was not going to invest in enterprises maintaining employment discrimination. The Irish government considered that its representatives on the IFI guaranteed that there would be no support for schemes with doubtful employment policies.

The greatest boost for the federal campaign for the MacBride Principles appeared to come with the election of President Clinton in 1992. When he approached the New York State Democratic primary, he had just been surprisingly beaten in the Connecticut primary by his opponent, Jerry Brown, the former governor of California. While he probably had enough votes to secure the Democrat nomination, it was not an absolute certainty if he lost to Brown in the New York State primary. At separate meetings late at night held in the Fitzpatrick Hotel, New York the two candidates answered questions on Northern Ireland policy. The audience was about a hundred people, mainly Irish-Americans with no Irish diplomats present, probably because of the presence of Martin Galvin.

On the morning of the meeting, Clinton had phoned Ray Flynn, the Mayor of Boston who had initiated the pro MacBride legislation in that city, asking for an indication of and the nature of the questions that might arise at the meeting. He was well briefed. He undertook to endorse the MacBride Principles. His replies to all the questions were well received. Although Brown did not disagree with him in the substance of his answers, Clinton's knowledge of the issues, and the confidence of his manner, ensured he received in the primary the enthusiastic support of the New York Irish.¹⁹²

Jonathan Powell, gives the credit IRRC list appearing as Appendix D, *State Laws, Resolutions and Legislation in Northern Ireland* for Clinton's

¹⁹² For a detailed account of the meeting, see O'Clery, *The Greening of the White House*, 7-9.

performance to Nancy Soderberg, who had joined his campaign team from Senator Kennedy's staff and was responsible for advising Clinton on Irish matters.¹⁹³ Doherty, however, is of the opinion that at the Fitzpatrick Hotel meeting, Clinton went far beyond Soderberg's cautious brief.¹⁹⁴ Certainly, Flynn's advice on the MacBride Principles would probably have been far more enthusiastic and robust than Soderberg's, who through her former employment with Senator Kennedy and her meetings with John Hume would have taken a far more sceptical approach. Clinton wrote that, the 'most important and enduring encounter I had with an ethnic group was with the Irish'.¹⁹⁵ A proud father quoted his daughter 'As Chelsea noted in her Stanford senior thesis on the Irish peace process, I first got involved in the Irish issue, because of the politics of New York, but it became one of the great passions of my presidency.'¹⁹⁶ Shortly before the presidential election, Soderberg, on Clinton's instructions, drafted a letter on his Irish policy, which he sent to Bruce Morrison, a former Connecticut representative and co-chairman with Ray Flynn of Irish-Americans for Clinton and Gore. In the letter Clinton said, *inter alia*: 'We believe that the British government must do more to oppose the job discrimination that has created unemployment rates two and a half times higher for Catholic workers than Protestant workers ... The MacBride Principles set forth appropriate guidelines...'¹⁹⁷

After Clinton's election, Americans for Clinton and Gore were invited to brief Clinton's transition team in Little Rock, on the 13th January 1993. It was a disappointingly low level meeting, so Morrison and Flynn prepared a set of recommendations for the President from the Irish community in the United States. Entitled *Irish Americans for Clinton/Gore' Five Recommendations on Irish Issues*, it was published on the 5th February 1993.¹⁹⁸ The fifth recommendation was concerned with the MacBride Principles and economic investment. It pointed out that current British law did not permit 'the full-blooded affirmative action, which has been successful in promoting broader economic participation amongst women

¹⁹³ Powell Interview, 20th July 2005.

¹⁹⁴ Doherty interview, 19th May 2006.

¹⁹⁵ B Clinton, *My Life*, (London, 2004), 401, where he gives his account of the Fitzpatrick Hotel meeting. Also see Lynch, *Turf Wars*, 51, for analysis of Clinton's motives and the electoral advantage to be gained.

¹⁹⁶ B Clinton, *My Life*, 401.

¹⁹⁷ Letter, Clinton to Morrison and Flynn, 23rd October 1993, quoted in O'Clery, *The Greening of the White House*, 23.

¹⁹⁸ Morrison and Flynn, *Irish Americans for Clinton/Gore: Five Recommendations on Irish Issues*, (Washington, 1993).

and minorities in the US, which is necessary if employment inequalities are to be adequately addressed'¹⁹⁹ It recommended that the administration, as a matter of policy, should support the statutory changes in the 1989 fair employment legislation advocated by the British Labour Party.

The *Recommendations* declared that domestically in relation to the MacBride Principles, two main reforms should be undertaken. The first was that the State Department should cease the lobbying it had carried out incessantly since 1985 against city, state and federal enactments of the MacBride Principles. The recent change in policy by the SEC that shareholders could no longer put resolutions dealing with the equal employment opportunity matters on corporate annual general meeting ballots should be abolished. SEC officials had indicated that shareholder activism specifically relating to Northern Ireland was the target of this new policy. They said that the Clinton administration's SEC appointees must act to restore fundamental shareholder rights in this area.²⁰⁰ The attitude of the State Department did not change and it was not until Clinton's second administration that the MacBride Principles, now called 'principles of economic justice', were incorporated into federal legislation

In his book, *American Policy and Northern Ireland*, Thompson records that a White House staffer had informed Clinton that Father McManus had discovered that an MI5 agent used his embassy job to direct a campaign specifically against the MacBride Principles.²⁰¹ 'He spoke publicly, attended hearings on MacBride, lobbied public officials and accompanied anti MacBride witnesses from Northern Ireland, whom the British government brought to the US to lobby against the MacBride Principles'.²⁰² This was scarcely the conduct of an MI5 agent. The British government had made no secret of the fact that it had placed officials at the BIS specifically to counter the MacBride campaign and that it was one of the responsibilities of the First Secretary at the Washington embassy. Spooks always make a good story but it tells a lot about McManus's great talent for publicity and the gullibility of the press that he could get this story to run seven years after the event!

¹⁹⁹ Ibid., 10.

²⁰⁰ Ibid., 511.

²⁰¹ Brendan Anderson, 'MacBride Principles' targeted by MI5 spy', *Irish News*, 22nd May 1999 cited in Thompson, *American Policy and Northern Ireland*, 168.

²⁰² Ibid.

McManus refused to give up on IFI. When the Democrats lost control of the Congress during the first Clinton administration, their control of legislation appearing on the floor of either House disappeared. They could no longer bury controversial Northern Ireland issues, including pro-MacBride legislation in committees. The influence of the Friends of Ireland remained with the Clinton administration, but grassroots Irish-America as result of the MacBride campaign was largely supportive of the INC, whose protagonists in the Congress, particularly in the House of Representatives, were mainly Republicans. Their leader was Congressman Benjamin A. Gilman, for whom McManus had prepared his first report on employment discrimination in Northern Ireland, over a decade earlier. Gilman, now the Republican chairman of the House Foreign Affairs Committee, was the author of abortive legislation to prevent US. companies with subsidiaries in Northern Ireland from exporting goods to the US. without certification that they had been produced in factories, observing the MacBride Principles. Sean Cronin, the *Irish Times*' veteran Washington correspondent anticipated the changed atmosphere on the Hill and considered, whether ten years after their birth, a 'Bill backing the MacBride Principles now has a chance of becoming law'.²⁰³ Before introducing his Bill, Gilman had said that he had had a 'highly positive consultation' with the former Senator George Mitchell, who was President Clinton's special adviser for economic initiatives in Ireland. Gilman said he welcomed Mitchell's agreement on 'the need to raise the concepts of the MacBride fair employment principles in his visits to the region'.²⁰⁴ Mitchell had not committed the administration to support Gilman's Bill.

On 15th March, 1995, after nearly two decades, the first full House committee hearing devoted entirely to a Northern Ireland issue was held by the now Republican-controlled Committee on International Relations. It was entitled *US Economic Role in The Peace Process in Northern Ireland*, but in reality it was about the MacBride Principles.²⁰⁵ It was a major breakthrough for McManus and the INC and illustrated the decline of British influence on the Hill following the end of the Cold War and the cooling of the relationship between the Clinton and Major administrations.

²⁰³ S Cronin, 'Bill backing MacBride Principles now has a chance of becoming law', *Irish Times*, 3rd January 1995.

²⁰⁴ S Cronin, 'Bill binds US firms in Northern Ireland to MacBride Principles', *Irish Times*, 19th January 1995.

²⁰⁵ The full report of the proceedings can be found in the *Congressional Record, Committee on International Relations, House of Representatives*, 15th March 1995.

At the hearing, the Assistant Secretary of State for European and Canadian Affairs, Richard Holbrooke, whilst accepting and supporting the MacBride Principles gave, though in a more gentle and diplomatic tone, the traditional State Department message of not interfering with the British position and to be 'sensitive to the need not to hobble American business with complicated requirements, which businesses from other countries are not bound by'.²⁰⁶ It could have been Rosanne Ridgeway testifying. Similarly Holbrook's opposite number for legislative affairs, Wendy R. Sherman, testified 'I don't think there are any among us who disagree about the goals and objectives of the MacBride Principles. I think the issue is whether they are mandatory'.²⁰⁷ Sherman used the argument that mandatory linkage of the MacBride Principles to the IFI funding would be controversial and could disrupt the forthcoming White House Investment Conference that Clinton had organized for May, which was 'aimed at increasing economic activity and economic activity tools the disadvantaged and discriminated in Ireland'.²⁰⁸ However, as the *Andersonstown News* had earlier reported, McManus had his own agenda for the Conference, which stated as its first objective 'The White House Conference must be based upon and reflect the spirit of the MacBride Principles -- as must all trade and investment -- thereby insuring that US dollars will not subsidise anti-Catholic discrimination in Northern Ireland.'²⁰⁹ McManus and John Hume were publicly to disagree over the role of the Principles at the White House Conference.²¹⁰

Despite the opposition from the administration and the British and Irish governments, Gilman and his colleagues decided that the IFI legislation, contained within the Foreign Aid Bill would incorporate the 'principles of economic justice', the new name for the MacBride Principles. The *Unionist Newsletter* in Belfast declared that its 'clear aim is to put Protestants and unionists here at a disadvantage'.²¹¹ It quoted Representative Dan Burton, a Republican from Indiana, 'For the life of me I can't understand why we are sending 29.6 million

²⁰⁶ Ibid.,95, Q5 answer to question submitted in advance by Richard Holbrooke.

²⁰⁷ Ibid. Witness statement of Wendy R. Sherman, Assistant Secretary of State for Legislative Affairs. Quoted in McMP file note 'Clinton Administration on the linking of the MacBride Principles' (undated).

²⁰⁸ Ibid.

²⁰⁹ 'Clinton Conference must focus on equality – Irish community leaders', *Andersonstown News*, 14th January 1995.

²¹⁰ C O'Clery, 'Hume appeals to MacBride Lobby to call off North jobs campaign', *Irish Times*, 25th May 1995.

²¹¹ 'Irish Americans muddy the water', *Newsletter*, 17th May 1995.

dollars (in 1996) to Northern Ireland. This is a British problem'.²¹² McManus would have none of these arguments.

This is a great victory for the people of Northern Ireland, Protestant and Catholic alike, because it is a victory for equality for all. Protestants were wrongly misled into believing that the MacBride Principles were somehow not in their own interest -- nothing could be further from the truth. They are for all the people of Northern Ireland.²¹³

He claimed that linking the MacBride Principles to the legislation had 'saved the fund'.²¹⁴ 'The International Fund was dead in the water. The Republicans had made it clear to us that it was one of their targets in their bid to cut back foreign aid. By linking it to the MacBride Principles we made it more palatable for them. The fact that the fund is now linked to conditions makes it easier for them to accept'.²¹⁵

The US government was not too concerned about the manoeuvres of McManus and Gilman. It had to oppose them to be consistent with their opposition to Senator Jesse Helms, the chairman of Senate's Foreign Relations Committee, who was threatening to make the decommissioning of arms by the Provisional IRA a condition precedent to the granting of further aid. Helms then proposed that no foreign aid money should go to Ireland. This caused the Irish ambassador in Washington, Dermot Gallagher, to write to Helms earnestly requesting him 'That this matter be reconsidered and that committee agree to maintain this important instrument, which has allowed the US to play such a key role in promoting peace on the island of Ireland'.²¹⁶

The White House Conference, which was counted by all its participants as an economic and political success, came and went in May, without suffering any of the dire consequences that were foretold if the linkage between the MacBride Principles of the IFI funding was maintained. Gilman stood his ground. On 28th February 1996, Ms Sherman wrote to the members of the Conference of both the Senate and the House discussing the foreign aid Bill, HR 1561, stating that:

²¹² Ibid.

²¹³ R O'Hanlon, 'US aid package will stir up more debate', *Irish News*, 17th May 1995.

²¹⁴ V Kearney, 'MacBride link saved fund', *Belfast Telegraph*, 17th May 1995.

²¹⁵ Ibid.

²¹⁶ Gallagher's letter quoted in R O'Hanlon, 'US aid package will stir up more debate', *Irish News*, 17th May 1995.

Requiring compliance with 'the principles of economic justice', as defined in this provision would place an undue burden on small businesses and community organizations, many of which are located in minority areas and employ a very small staff. We propose that all reference to the 'principles of economic justice' be deleted.²¹⁷

McManus wrote to the President questioning Ms. Sherman's letter and received a reply from Tony Lake, Assistant to the President for National Security Affairs. Lake attempted to sugar the pill, and assuring McManus that 'the Administration supports the goals of fair employment which the MacBride Principles embody' and then he confirmed the position as explained by Ms Sherman.²¹⁸

The Republicans had imposed swingeing cuts on Clinton's Foreign Aid Bill, including restraints on family planning policies. Clinton was not prepared to accept them as they attacked the whole concept of foreign aid, quite apart from helping agencies that supported abortion policies in developing countries. It is hard not to conclude that as a pragmatist, Clinton would probably have accepted the Bill if it had only contained the MacBride linkage to the IFI but he could not announce such a decision publicly without weakening his whole negotiating position on the remaining parts of the Bill. To have accepted the Republican demands in the middle of his re-election year on such an issue of principle would have been seen as a major weakness.

On 12th April 1996, President Clinton vetoed the Bill HR1561. For some within the MacBride Campaign, like the conservative Catholic AOH, it was a double blow with both the loss of the IFI linkage with MacBride and the limitation on family planning policies abroad. McManus was not going to have the cup dashed from his lips without a very loud and very public protest. A week after President Clinton's veto, the senior officers of eleven major Irish-American societies instigated by McManus, who had circulated earlier for discussion, and published a letter, attacking his decision. It was a letter written in sorrow and in anger. It commenced 'because of our great gratitude for your crucial support of

²¹⁷ McMP a five-page note headed 'Clinton Administration on the Linking of the MacBride Principles to the International Fund for Ireland', undated, but probably some time in the last six months of 1997. DFAMP, The reasons given by Sherman were those given in a draft letter by Christopher Todd, Joint Director General of the IFI to Ellen Leddy, US Agency for International Development August 1996.

²¹⁸ Ibid., 3 and Lynch, *Turf Wars*.

the Irish peace-process we've been reluctant to say anything up to now. But you cannot expect to be silent as you continue to oppose one of our very top legislative issues'.²¹⁹ They twisted the knife by noting the change in policy of the Republican leadership and his presidential opponent, Senator Dole 'It is ironic that Senator Dole, the entire Republican leadership and the Republican National Committee are all supporting Congressional legislation on the MacBride Principle and you are opposing it'.²²⁰ It urged him to reinstate his previous policy of support for the MacBride Principles and thus avoid being in conflict with a united Irish-American community on an issues of fundamental importance. The peace-process in Ireland cannot be separated from non discrimination. We are totally committed to both'.²²¹

McManus and some of his colleagues, including Paul Doris, the chairman of Noraid, Edward J. Wallace the National President of the AOH and Mike Maroney, the Secretary of Clan na Gael, represented the more extreme republican elements of Irish American society. Doherty, Jamison and Flynn, all intimately involved in the MacBride Campaign, were very angry at this unilateral initiative taken by McManus. They had tried to stop its being circulated and made their anger known to McManus.²²² They were all Democrats, active on Clinton supporters and were conscious of the damage the McManus letter could do to Clinton's campaign. His Irish initiatives had been a foreign-policy success and had been appreciated, not only by Irish-Americans, but it had gone down well with the generality of the electorate across United States. US citizens are pleased when the efforts of their President abroad to help achieve a peaceful solution of a difficult and dangerous problem, without the loss of American lives, succeeds and has the added advantage of being well-received by the people in the country concerned.

Now, Clinton was being attacked by one of the best-known, at least in the Irish-American community, propagandists for the Irish cause. Flynn and Morrison and their colleagues had carefully cultivated the Irish-American vote. They had made it significant on the national level, safe for Clinton. In response, Clinton had already moved the goal posts in the Irish debate, delivering on all his undertakings with the exception of putting the MacBride Principles into federal

²¹⁹ McMP, letter Irish American leaders to Clinton, 19th April 1996.

²²⁰ Ibid

²²¹ Ibid., 3-4.

²²² Doherty interview , 25th July 2000, also 19th May 2006.

legislation. He had actively and openly intervened in Northern Ireland's internal affairs; supported Albert Reynolds, the Irish Taoiseach; leant, when necessary, upon John Major, the British Prime Minister; listened carefully to the advice from Senator Kennedy and John Hume; and, on occasions disregarded that of the State Department.²²³

The administration was caught unawares by the size of the storm of what they hoped would prove to be storm in an Irish-American teacup. The main reason for Clinton's veto was the cuts made in the foreign aid budget. He believed that 'This legislation contains many unacceptable provisions that would undercut US leadership abroad and damage our ability to assure the future security and prosperity of the American people'.²²⁴ In the president's message was no mention of vetoing the 'principles of economic justice' provisions. The administration thought that that was well understood but the lack of enthusiasm for pro-MacBride legislation demonstrated over the past year, meant that there was bound to be an uproar from disappointed pro-MacBride campaigners. However, it was generally understood that if 'the principles of economic justice' had been all that the Republicans had included in the Bill, although they did not like them, the administration would have accepted them, and Clinton would not have used or his veto.

There was no one better to orchestrate such uproar than McManus and it was probably the most significant political error that he had made. The Republican Party was quick to capitalize on Clinton's embarrassment. Rita Mullan, former executive director, of the INC, who had broken with McManus, had telephoned the Irish consulate in New York and spoke to Donal Hamil to say that she had seen papers, which indicated the Republican Party's strategy to undermine the Clinton administration's various foreign policy successes. In the case of Northern Ireland 'the strategy was to get the Administration on the MacBride Principles (i.e. anti-fair employment') and to include a pro-MacBride plank in the platform language of the national Republican Party convention in San Diego.'²²⁵ Hamil's comments on Mullan's information shows the seriousness with which the McManus intervention was being regarded

²²³ Lynch, *Turf Wars*, 121.

²²⁴ DFAMP, Presidential veto Message to the House of Representatives, 12th May 1996.

²²⁵ DFAMP, 10th May 1986, Donal Hamil to Seán Ó hUiginn assistant secretary at the DFA.

The widespread and most vehement rejection of Father Sean McManus's recent criticism of President Clinton in relation to MacBride may well have given pause to any strategy such as outlined by Ms. Mullan insofar as Northern Ireland concerned.

However, if what Rita Mullan says is correct and there is a danger of a partisan approach to the Northern Ireland issue being developed in the U.S. for local party political considerations, there may be a need to have the matter addressed squarely and from the perspective of the historic and very sensitive nature of what is happening in there.²²⁶

The administration soon realised that it had touched a raw nerve in Irish America. It had not appreciated the importance of the single issue MacBride campaign. The administration hoped that the considerable effort that had gone into its Irish policy would be appreciated and what was to the State Department a relatively minor, though important and symbolic issue, the MacBride Principles, would be submerged in the general tide of goodwill and appreciation of Clinton's overall Irish policy. If the administration's officials had been elected rather than appointed, they might have better appreciated that the fulfilling of pledges made as part of an election platform is what politicians are expected to do. Fulfilling election pledges gains the politician only a limited amount of credit, except, and then not always, from those directly affected. However, the failure to carry out a platform commitment pertaining to a single pressure group, particularly as in the MacBride case, when the legislative opportunity was present, would be interpreted by the most charitable as a grave disappointment, and by the most dedicated single minded campaigners, as a gross betrayal.

The strength of McManus's attack, as preparations were being made for the Democratic National Convention to be held in Chicago later in the year and to the grave concerns expressed by the Doherty and others forced the administration to consider making a gesture to placate the pro-MacBride Democrats. Bruce Morrison and Senator Dodd suggested to the White House that Clinton should find an occasion in the future to address the fair employment issue but Senator

²²⁶ Ibid.

Kennedy's office was of the opinion that that would merely reinforce McManus's unwarranted sense of importance.²²⁷

The President did not wish to have any signs of discontent at the National Convention. The White House staff preferred to let the dust settle over McManus's letter because of a mixed reception that it had received in the Irish community where the majority of Irish-American leaders were embarrassed by his action and publicly criticised it. On the other hand, McManus in the past had skilfully read the mood of grassroots Irish-America. This time he had misread it; apart from the signatories to his letter and extreme Republican groups, there seemed little enthusiasm for his initiative. For many Irish-Americans, the MacBride Principles were, in Anne Anderson's words 'a stick with which to beat the British' and not a rock upon which to wreck Clinton's Irish policy.²²⁸

Despite McManus apparently having shot himself in the foot, the White House decided that the wiser course of action was to remove any possibility of the MacBride Principles appearing on the agenda at the Chicago convention. A Presidential Directive was issued in a letter to Brian Attwood, Director of the International Development Agency, and James Lyons, the United States Representative on the board of the IFI. The Directive rehearsed the history of the 'principles of economic justice' clauses which had been put into the Foreign Affairs Authorization Bill which he had vetoed. He then explained that the reason why he had vetoed the Bill had had nothing to do with the 'principles of economic justice' clauses.

I vetoed HR 1561, for reasons entirely unrelated to the language in Section 1615. I am committed to equal opportunity and fair employment as a necessary foundation for a just, peaceful and prosperous future for all the people of both jurisdictions in Ireland. I therefore ask you, in discharging of your duties under the Anglo-Irish Agreement Support Act of 1986, to ensure that the intent of Section 1615 of HR1561 is carried out to the greatest extent possible.²²⁹

²²⁷ DFAMP letter P. Hennessy Irish Consul at Chicago to Seán Ó hUiginn, 2nd May 1996.

²²⁸ R England, 'Anti-discrimination campaign takes aim at least biased', *Insight*, 4th May 1987, 27-28.

²²⁹ McMP, a five-page note headed 'Clinton Administration on the Linking of the MacBride Principles to the International Fund for Ireland'. Letter quoted in J Carrol, 'Clinton supports spirit of MacBride principles', *Irish Times*, 14th August 1996.

McManus was magnanimous in his reaction to the President's Directive, 'Caucus welcomes President Back to MacBride Fold.'²³⁰ Nevertheless, he was shocked at the vehemence of the criticism he received from many in the Irish-American community for his original letter attacking Clinton's veto. Some of the original signatories would not have signed if they had known it was to be an open letter.²³¹ However, there is no reason to believe that any of the signatories had not realised that it was to be anything other than an open letter. If that was the case, they were confessing to their naivety and it is probable that what they had not anticipated was the hostile and critical publicity the letter received and the personal criticism to which they became subject. McManus blustered, the 'Clinton controversy has achieved purpose and that he had achieved what he had sent out to do and that he was well pleased.'²³² Nevertheless, he realised that he had lost a lot of ground among his normal supporters so that he made a half apology:

Finally to those out there who feel angry with me, I say I did what I had to do for the right reasons and for the right motives. You all angry now but in time you will see that my strategy was right... Now let us all get on with the work on getting the President to sign the MacBride Principles into law, saving the Irish Deportees etc., etc. Let's really make Ireland a top issue in the upcoming elections. And let's make both Parties vie for Irish-American support. We must not let Republicans ignore us nor the Democrats take us for granted and we must not allow partisan politics get in the way.²³³

The truth of the matter is that the president did not wish to go to Chicago, a pro-MacBride city, in Illinois, a pro-MacBride state, without attempting to achieve a reconciliation with the MacBride Campaign.²³⁴ 'Against the backdrop of the Democratic National Convention in Chicago, President Clinton has moved to

²³⁰ McMP, press release, 'Welcome back Mr President', 28th August 1996 and D Grogan, 'Clinton Stance on NI aid praised', *Irish Times*, 16th August 1996.

²³¹ Doherty interview, 19th May 2006.

²³² DFAMP, INC press release, "'Clinton controversy has achieved purpose" Fr McManus', 2nd May 1996.

²³³ Ibid.

²³⁴ The ability of the INC to mobilize previously dormant Irish Americans had been demonstrated by a postcard campaign when the Administration appeared to be dragging its feet on granting Gerry Adams a visa, 'Dear President Clinton, I really am disappointed you have not kept your Irish promises'. McManus claimed 91,000 postcards had been distributed for posting to the President by Irish Americans, see Lynch, *Turf War*, 91.

mend damaged fences with Irish-American backers of the MacBride Principles'.²³⁵

Welcome though the Presidential Directive was, there was still no firm commitment from the administration that the MacBride Principles would be included in any of its future federal legislative proposals. Gilman, whose Bill Clinton had vetoed, flew a kite by saying. 'I fully expect that President Clinton will no longer oppose Congressional efforts to codify the Principles in law, as he did earlier this year'.²³⁶ It appeared that the administration was reverting to its earlier position. This was confirmed by Barbara Larkin, the Assistant Secretary of State for Legislative Affairs, when McManus asked her at a meeting of the committee considering the Foreign Policy Reform Act, (HR 1486). Later the same day, McManus telephoned Steve Kashkett, in charge of the Irish Desk at the State Department. He told McManus that the President's Directive to Lyons did not represent any softening of the President's opposition to legislation linking the MacBride Principles to the IFI. McManus told him that he had heard that the President was no longer opposed to linking MacBride to the IFI. Kashkett expressed surprise and disbelief at the information, but said that he would check it out and contact McManus later. The following day, 2nd May, Kashkett confirmed the bad news to McManus of the President's continued opposition to congressional legislation linking the MacBride Principles to the IFI for the same reasons as the previous year. 'Those reasons still stand and that is also the position of President Clinton'.²³⁷

Wilson advances another argument for the reluctance of Clinton to see the Principles in legislation, namely, that he was busily wooing the Ulster Unionists in order to achieve a settlement in Northern Ireland.²³⁸ The Irish Presbyterians were impressed by Clinton's even-handed approach to the economic problems in Northern Ireland.²³⁹ In 1996, the Republicans had not been strong enough to override the President's veto but following the presidential elections, they were

²³⁵ R O'Hanlon, 'Clinton bids quell storm over MacBride', *Irish News*, 28th August 1996, *Irish Echo*, 28th August 1996 to 3rd September 1996.

²³⁶ DFAMP, press release from the House International Relations Committee, Benjamin A. Gilman, Chairman 29th August 1996.

²³⁷ McMP, undated file note S McManus, 'The Clinton Administration on MacBride Principles being linked to the International Fund for Ireland, Mark II'.

²³⁸ A J Wilson, "'Doing the business": Aspects of the Clinton Administrations' Economic Support for the Northern Ireland Peace Process 1994-2000', *Journal of Conflict Studies*, 23:1 (2003), 164-68.

²³⁹ Dunlop interview, 11th November 1999.

fighting a much weaker president. Scandals in Clinton's private life and the threat of impeachment were a cloud that hung over the first few years of his second administration. It was unlikely that he would pick a fight with the Congress over the MacBride Principles. If the 'principles of economic justice' were to appear in future legislation, all other things being equal, he would not veto the Bill. The MacBride Principle were no longer necessary to keep Irish issues alive in the United States. The focus of attention had moved from state legislatures and Capitol Hill to the White House. In consultation with heads of government in London and Dublin they wrestled with the problems of reaching a settlement. At Westminster, even as John Major struggled to retain his precarious majority, there was no possibility of any significant change in policy. The Labour Party, if it was to form the next government, had enthusiastically supported the inter-party talks in Northern Ireland. It was a policy that the party had advocated during its years of opposition.

Nevertheless, McManus on the Hill and Doherty in New York maintained their pressure and the officials at the British Embassy went wearily around the arguments, including a new one, a classic example of cutting off one's nose to spite one's face. The state of Washington was considering introducing pro-MacBride legislation and the British consul in Seattle wrote to the state legislators urging them not to adopt it. He added an additional, fresh argument, which had been hinted at the Pennsylvania hearings, but was now committed to paper:

There is another aspect; the investment from Britain in the United States. British companies interested in further investment in Washington, may consider taking their business elsewhere, if they are likely to risk encountering difficulties in relation to their operations in Northern Ireland. Similar legislation has been voted down and vetoed in other states, because of its adverse effects on trade and investment.²⁴⁰

McNamara called this veiled threat 'Bluff and counter bluff'.²⁴¹ Seattle was the centre of the United States aircraft industry and was a major purchaser of British aero engines and major sub contracting work went to British firms. They were unlikely to be deterred from entering the Seattle market, when so many of their

²⁴⁰ DFAMP and DP, letter from Michael Upton, (HM Consul, Seattle) to Washington State Senator Heavey, 24th January 1997.

²⁴¹ E Vulliamy, 'Sleepless in Seattle over Ireland', *Observer*, 9th March 1997.

US competitors had already signed the MacBride Principles. Dermot Brangan of the Irish consulate in New York, commented

You may also be interested that, recently at lunch with my NIO equivalent in the British Information Service, Peter Reid, used exactly the same threatening language to describe what would happen if States were to sign up to famine curriculum legislation. I would guess that Reid is the author of the Seattle letter, the language of which reflects his combative style.²⁴²

When challenged by McNamara, now a backbencher, about the Seattle Consul's letter, the Foreign Secretary, Malcolm Rifkind, repeated the arguments that the MacBride Principles were unnecessary and potential deterrent to trade and investment in Northern Ireland. He was not aware that the MacBride legislation had affected the operation of British companies in the United States.²⁴³

The indefatigable Congressman Gilman had returned to the fray and introduced his 'principles of economic justice' into H.R 1486 and in return for his efforts, he received a three page letter from Sir John Kerr the British ambassador, which concluded: 'we greatly appreciate the US contribution and would welcome its continuation. But we are convinced that inclusion of the 'Principles of Economic Justice' into HR 1486 would be helpful neither to our two objectives, which I think the House shares, nor to the fund'.²⁴⁴ This letter was interesting, because it was a constructive defence of the 1989 Fair Employment Act, rather than an attack upon the motives of the MacBride campaigners and the devastation that they would cause to Northern Irish industry.

MacBride activists were surprised by the Ambassador's argument that the FEA is working well because, they say, if this is the case, then surely NI companies projects have nothing to fear from compliance to the Principle. They suspect that the real issue of concern to the British is not discouragement of investment or bureaucratic paperwork but rather outside interference in the internal affairs of Northern Ireland.²⁴⁵

²⁴² Ibid.

²⁴³ *Hansard*, 10th March 1997, 12, WA.

²⁴⁴ DFAMP letter from Sir John Kerr to Congressman B Gilman, 13th May 1997.

²⁴⁵ DFAMP, comments of Dermot Brangan, the Irish Consulate in New York on Kerr's letter, 20th May 1997.

Gilman's amendments to the Bill had an easy passage.²⁴⁶ The battle had been fought and effectively won in 1996. It had cross-party support but it was fitting that, given his long history in introducing anti-religious discrimination legislation into the House of Representatives, that Gilman should see his amendments go onto the statute book. Gilman's first amendment stipulates that the United States contributions to the IFI had to be used to increase employment opportunities in communities with rates of unemployment higher than the local or urban average of unemployment in Northern Ireland or used to benefit individuals residing in such communities.

The second amendment provided that the US contribution to the IFI 'should be provided to individuals or to entities in Northern Ireland, which employ practices consistent the principles of economic justice [the MacBride Principles]'.²⁴⁷ The INC web site notes that in the 1996 House Senate Conference McManus, Gilman and Senator Hank Brown, had worked together to produce a provision that 'nothing included here shall require quotas or reverse discrimination or mandate their use'.²⁴⁸ McManus observed that the provision made the legislation acceptable to the Senate leaders of the House-Senate Conference in 1996.' Yet, it is nothing more than what the Caucus always said since we launched the MacBride Principles in November 1984'.²⁴⁹

The success of the Gilman Bill was not used by the MacBride campaigners as a cause for complacency. The battle had still to be taken to the other states and corporate America made more aware of the campaign. In March 1999, Governor Davis of California signed the MacBride Principles into law. Hevisi, the New York City Comptroller, wrote to Davis, a former Californian Comptroller:

despite some marginal gains recently released figures indicate the persistence of significant disparities between Catholic and Protestant unemployment appointment in Northern Ireland, which current

²⁴⁶ The amendments are contained in 1998 Public Law 105-277.

²⁴⁷ INC, 'The MacBride Principles',

<http://www.irishnationalcaucus.org/pages/MacBride/The%20MacBride%20Principles,%20As%20Passed%20by%20the%20House%20and%20Senate.htm>, (accessed, 14.02.07)

²⁴⁸ Ibid.

²⁴⁹ Ibid.

government measures have been unable to eradicate. Catholics are still more than twice as likely to be unemployed as Protestants.²⁵⁰

He declared the 'peace dividend' was not to be equally divided between the two communities and that 'more forceful action is urgently required'.²⁵¹

He was wise to caution against complacency. Two months after the passage of the California legislation, Martin Salter MP reported on a meeting that he had with State Senator Byron Rushing of Massachusetts, a MacBride campaigner from the early 1980s. Salter was told that following the passage of the 1989 Act, Rushing would be quite relaxed to see the Massachusetts' law repealed, once the Northern Ireland Assembly was up and running.²⁵² Havesi had submitted a paper to the new British government concerning considered reforms of the fair employment legislation following the Good Friday Agreement. He drew attention to the US experience in the field and recommended that the same principles should be established in the proposed new legislation, and more emphasis placed on corporate acceptance of the Principles.²⁵³ Of the 88 firms in which New York City pension funds held stock and accepted the MacBride Principles, 25% had signed since the election of the current Comptroller, William C. Thompson.²⁵⁴

After President Bush succeeded President Clinton in 2000, Ireland did not figure high on the agenda. The MacBride Principles remained part of the Republican platform and the new Bush administration did not seek to change the direction of Clinton's Irish policy.²⁵⁵ The lack of a strong commitment from the new administration called for greater effort and vigilance on the part of the MacBride campaigners, if they wanted to prevent a loss of support. For example, when the Illinois legislation expired in the September 1988 it was not renewed.²⁵⁶ Florida State Senator Debby P Sanderson announced on 14th January 2002 that

²⁵⁰ DFAMP, letter Havesi to Davis, 22nd September 1999, quoted by R O'Hanlon, 'The MacBride Principles: vital force or spent force' *Irish Echo*, 3-9 November 1999.

²⁵¹ Ibid.

²⁵² House of Commons, Northern Ireland Affairs Committee, *Minutes of Evidence*, 19th May 1990, Q569.

²⁵³ DP. *Submission to the British Government on Fair Employment in Northern Ireland*, made by Alan G. Havesi, Comptroller of the City of New York, 1998.

²⁵⁴ *The MacBride Principles and Equality Agenda*, (New York, 2006), 8.

²⁵⁵ For an account of Bush's attitude towards Clinton's Irish policy see J Dunhill, 'The new American Connection: President George W. Bush and Northern Ireland', in M Cox, A Guelke and F Stephens, (eds), *A Farewell to Arms?: Beyond the Good Friday Agreement*, 2nd ed., (Manchester, 2006), 358-359.

²⁵⁶ IRRC list quoted in the MacBride Principles and Equality, November 2006, appendix four.

she was to sponsor legislation to repeal the Florida MacBride law. It was blasted out of the legislative water by the ferocity of the INC response. The bill was withdrawn on 22nd January. Even magnanimous in victory, McManus congratulated the Senator that 'she had the courage to admit her mistake and withdraw the offensive bill ... she deserves the respect and thanks of all Irish-Americans'.²⁵⁷ A perceived greater threat, which, fortunately for the MacBride campaign never materialized, was the election for a successor to the recalled Governor Gray Davis of California, a Democrat, who had signed the MacBride Principles into law. The Republican candidate was Arnold Schwarzenegger, whose wife, Maria Shriver, was a member of the extended Kennedy clan. McManus pointed out that Senator Edward Kennedy was totally opposed to the MacBride Principles. Of more significance was the fact that Schwarzenegger's campaign manager was the former Republican governor, Peter Wilson, who had vetoed the MacBride legislation in 1991. McManus had threatened to 'to kick Arnold Schwarzenegger's butt' if he interfered in the California MacBride legislation.²⁵⁸ There is scant evidence of any intention on the part of California republicans to reverse the legislation, but McManus's pre-emptive strike was sufficient warning of a bruising political battle if the question of repeal of the legislation was raised.

Despite the continuing activities of the INC and its supporters, the incorporation of the MacBride Principles into the federal IFI legislation was the major victory for the 'grass-rooters' over the 'tree-toppers'. It was only possible because the 'grass-rooters' were able to rally the middle ground of Irish America to the cause. This middle ground were quite happy to just be Irish-Americans, but had become concerned with the political stalemate in Northern Ireland, the savagery of the situation and the fate of the hunger-strikers and were anxious for their voice to be heard at national level. The MacBride Campaign gave them a peaceful, inexpensive outlet by which they could demonstrate this frustration. The INC was quick to mobilize their potential and the decision-making on fair employment policies was snatched from the 'tree-toppers' by the 'grass rooters' by the support of the non-ideological Irish Americans.

²⁵⁷ <http://www.irishnationalcaucus.org/pages/articles2003>, (accessed 12.07.06).

²⁵⁸ S O'Driscoll 'Message to Arnold – Don't Touch MacBride', *Irish Echo*, 27th August 2003.

Chapter Three

MacBride and the British government

[The] real reason for the Governments' need to reject the MacBride Principles was their provenance. They came with the support of the Irish National Caucus and Noraid, (among others), both having links with the provisional IRA. In the light of ... the imperative of preventing non-partisan legislation (and content), it is clear that no matter what the MacBride Principles had contained the Government could not be seen to do be doing business with the authors and promoters.

John Edwards¹

'I do not think there is any discrimination against Roman Catholics in Northern Ireland. The record of successive British governments has been completely honourable in Northern Ireland, and one of which we can be justly proud', claimed the Secretary of State, James Prior, on 24th May 1984.² He was replying to a question asked of him by a Catholic Conservative member, David Atkinson, concerning allegations of continuing discrimination against Roman Catholics in the report of the *New Ireland Forum* recently published by the Irish government.³ It was an amazing statement from someone in a state of complete denial. As Secretary of State, he had received reports from the FEA on discrimination in the engineering and electricity supply industries as well as the civil service⁴. Commenting on the Northern Irish situation, he wrote that each worker at Harland and Wolff was being subsidized to the tune of £7,500 a year by the taxpayer. It was essential he said not only for the jobs it provided 'but also because of its symbolic importance'.⁵ In another amazing passage he wrote:

¹ John Edwards, *Affirmative Action in a Sectarian Society*, 9-10, see also Minister of State Robert Atkins, 'it is the campaign and the people associated with it rather than the substance which is causing the problem', *Hansard*, 2nd December 1993, col. 1150.

² *Hansard*, 13th June 1985, col. 1004-5.

³ Both the opening statements made at the opening of the Forum 30th May 1983, and the Forum's final report of the 2nd of May 1984 do not contain any specific references to discrimination in the private sector of employment, although they do mention discrimination generally. *New Ireland Forum*, (Stationary Office Dublin, 1983-4).

⁴ For example, 'FEA Report on Employment Patterns in the Belfast Area, with particular reference to Engineering', (Belfast, 1983), 10. This was published on the 8th September, a year before his parliamentary reply, and it stated 'there are unquestionably, because of traditional barriers of employment, barriers in the way of Catholics being employed in the Engineering industry'.

⁵ J Prior, *The Balance of Power*, (London, 1986), 210.

Like Harland and Wolff, Short Bros are right at the heart of industrial and emotional Belfast. Shorts succeeded in winning orders from the US Air Force and the Americans examined their hiring policy in detail and made it clear that more Catholics must be employed before any further orders could be made.

I was told by one garage proprietor that on the night Shorts announced that they had won order from the US Air Force for the Sherpa and Harland and Wolff, announced another big ship order, people were calling at his garage and ordering new cars, in the spirit of optimism and hope for the future. This is an interesting sidelight on Northern Ireland: the spirit of optimism is never far from the surface. Given any chance at all, the people wish to break out from the terrible barriers and restrictions which terrorist activity has placed upon them.⁶

It did not appear to have occurred to him that over 90% of the employees benefiting from the government's efforts and subsidies in East Belfast were Protestant and, despite the essentially token efforts to obtain a few more jobs for Catholics at Shorts, the spirit of optimism generated East Belfast, was matched only by a sense of increased alienation of the inhabitants of West Belfast, who were not 'given any chance at all'.

Prior was not alone in his apparent ignorance or indifference. His successor Douglas Hurd originally thought discrimination in employment as something marginal. Yet Hurd was the Secretary of State when a series of decisions were made that were to fuel the MacBride Campaign, resulting in a whole raft of fair employment initiatives and legislation, the politicisation of middle Irish America, and, arguably, the election of President Clinton. Prior and Hurd were aware of both McManus's activities on the Hill, seeking to promote federal legislation dealing with employment discrimination, and with the real concerns of the AFL-CIO. They considered the first could be contained as any legislative proposals would forever languish in committee making no progress. The AFL-CIO was to be treated with respect but it presented no real threat whilst the US administration remained hostile to McManus, and Noraid.

⁶ Ibid., 211.

Writing in *Fortnight* shortly before the government published its legislative proposals, David Richmond stated that the government had ‘two options to stymie pressure from the United States’.⁷ The first option, allegedly favoured by the Minister of Industry Dr Rhodes Boyson, was to welcome the Principles outright. This would undermine the two claims that the UK government was not sufficiently committed to equality of opportunity and that foreign pressure was essential for change the approach. This approach had the immediate advantage of stifling the campaign at birth and suggested an atmosphere of transparency and the readiness to listen sympathetically to all sensible proposals to improve the current situation. The second option was to introduce a programme of measures to promote equality of opportunity, whilst denouncing the MacBride Principles. The downside of this course of action was that it gave the impression of responding to outside pressure, strengthened the MacBride Campaign and its allies and encouraged them to increase their pressure to make even further demands.⁸ Taking the second option, the government could never win. After, what appeared to Doherty to be a brief flirtation with the first option, the Secretary of State adopted the second option, having been strongly advised to do so by the same Northern Ireland senior civil servants who had been responsible for the continuing failure to implement fully the existing legislation. In a series of meetings in the first half of 1985, the British government’s position was established by a small group of mainly Northern Ireland civil servants, the lead being taken by David Fell of the Department of Economic Development (DED) who chaired the most important meetings and J. M. Lyon of the Northern Ireland Office (NIO). The discussions involved Belfast, London, New York and Washington.

At the outset, there was a little uncertainty as to the best tactics to use to tackle this new phenomenon, particularly when the initial comparison of the Principles with existing legislation and codes of practice was quite favourable. An initial examination of the MacBride Principles by Mayne of the DED, held that Principles 1 and 7 were consistent, Principles 4, 5, 6 and 9, were wholly consistent and Principle 8 was broadly consistent with existing Northern Ireland legislation. Principle 2 was addressed in Chapter 7 of the DED’s Manpower

⁷ D Richmond, ‘Discrimination: the politics’, *Fortnight*, December 1989.

⁸ *Ibid.*

Guide and Principle 3 within Part VII of the Guide.⁹ That benevolent attitude was not to last. Already alarm bells were ringing as the contents of the Albanese Bill, then before the New York City Council, were examined. As Mayne pointed out to Lyon: 'It is also important to note that the Bill refers to '.... any corporation, which does business in Northern Ireland' which casts the net much wider than US companies investing here -- for example, subcontracts with, say, Shorts, or purchases of goods from NI would be at risk'.¹⁰

This last point indicated a major concern of the British government. It was not just the future of American corporations in Northern Ireland that was at stake, but also Northern Irish and British companies with subsidiaries there or that were selling their goods to the United States. It was a similar fear that had persuaded Concannon to pressurise the FEA not to single out Fords in Belfast for an individual investigation, but for it to be subsumed into a general investigation into engineering companies in the Belfast area.¹¹ This was because Fords was such a large employer and investor in the United Kingdom, particularly in such employment black spots as Merseyside and South Wales. Mayne's analysis, even at this early stage, of the Albanese Bill became the basis of the British government's approach to the MacBride Principles, whether they appeared in company, city or state resolutions or proposed city, state or federal legislation:

My comment is that we should not be thinking of what minimum changes to the Bill would be acceptable to us, nor contemplating espousing such changes. Our stance should be that we already have adequate legislative provision in this field and that if the MacBride Principles are properly refined to avoid discrimination they are fully covered by our provision and hence there is no need for this Bill at all. Indeed, not only would such a Bill serve no useful purpose but any attempt to pressurise employers to observe a second or differently expressed set of Principles can only lead to confusion among employers here generally, a weakening (or denigration) of the FEA's standing and authority in the minds of the public and the danger of other groups establishing a different sets the 'Principles' for which they would seek recognition. It is in the interests of everyone who

⁹ NIOP Appendix of Draft from Mayne to Lyon Disinvestment Bill, 2nd January 1985.

¹⁰ NIOP Lyon to Mayne, 17th January 1985.

¹¹ D Concannon was Minister for Industry in the Northern Ireland Department (1974-79), who confirmed that this was the situation in conversation with the author, and for a more detailed examination of government interference in the work of the FEA see D Graham, 'Fearing Equality of opportunity', 243.

genuinely seeks to ensure fair employment to give maximum support to, by putting their whole weight behind, the efforts of the FEA.¹²

This was not good advice. It smacked of the 'not an inch' mentality of extreme unionism, and meant that any changes made to the *status quo* in the future, however laudable, would be read as signs of weakness and an encouragement for greater pressure to be exerted to obtain even greater concessions. Although the British responded quickly to them, the publication of the Principles had caught them off guard. They did not know precisely who had drafted the Principles but noted that they were sponsored by some 'reputable' individuals (i.e. Senator Robb and Inez McCormack). There was no evidence of Noraid's active involvement but they 'would be grateful if you would watch for any such evidence'.¹³ An article in *An Phoblacht*, 7th February 1985 by Martin Galvin, editor of the *Irish People* and a prominent member of Noraid, supplied the ammunition for which the NIO was looking:

Irish Northern Aid is happy to stand with Comptroller Goldin in his initiative, because we regard it as another positive step, not only towards ending British sectarianism but also towards the dismantling of British colonial rule under which sectarian discrimination is inherent.¹⁴

The officials then considered how best to rally influential opinion against the Principles. Bob Cooper of the FEA should be approached by the DED to write to Mayor Koch and other elected New York officials urging them not to support the Principles. Inez McCormack and Senator Robb, the two Protestant signatories of the Principles would similarly be 'approached by DED to arrange them to withdraw their sponsorship of the Principles'. John Hume's assistance was to be sought by the NIO and possibly Paddy Devlin's, if John Hume was not forthcoming. Jim Eccles, former Supreme Knight of the Knights St. Columbanus, was to be encouraged by the IDB to use his links with the Catholic Church to dissuade from supporting the Principles the Sisters of St. Joseph and other US

¹² NIOP Mayne to Lyon, 23rd January 1985.

¹³ NIOP Telegram to BIS on Disinvestment Bill, 25th January 1985. This is the first hostile analysis of the MacBride Principles.

¹⁴ M Galvin, 'Campaign against sectarianism', *An Phoblacht*, 7th February 1985.

Catholic Irish opinion. Gradually a battle strategy was evolving but it had yet to be put to the Secretary of State, Douglas Hurd.¹⁵

Hurd's reply was cautious. He wished to know the specific points of difficulty in implementing the MacBride Principles, and he wondered 'if we might not outmanoeuvre the INC by producing our own redraft of the Principles, broadly similar to them, but avoiding the specific points of difficulty. We might then encourage the companies to adopt our revised version'.¹⁶ Hurd's suggestion fell upon stony ground. Lyon's draft minute read:

The approach the Secretary of State has suggested has some attraction, we have not, however, taken this path. Rather, we have suggested that if companies want something replace the MacBride Principles, they might adopt a resolution confirming that they had signed the Fair Employment Agency's Declaration of Principles and Intent and were committed to it.¹⁷

The NIO argued that if the Principles were widely adopted they could set up an alternative to the FEA and complaints against US companies might be directed not to the FEA but to corporation headquarters of the USA, which might have the effect of deterring US companies from investing in Northern Ireland. The NIO would have no control over the Principles that were actually adopted by the companies and they might establish a convention that if US companies did not meet their requirements they should withdraw investments from Northern Ireland. Nevertheless, a Secretary of State's suggestion cannot just be lightly cast aside, so the draft minute records 'However, it is an option we could use if it seemed likely that the Principles would be widely adopted'.¹⁸ Lyon's draft reply to Hurd was not considered sufficiently robust by many of his colleagues and the final advice was more brusque '... we cannot recommend this approach'.¹⁹

The arguments against it were on both policy and tactical grounds. It was argued that the government's policy was not based on a set of Principles but on legislation and the work of the FEA and that these had been effective in countering discrimination. The FEA had the sanction of law and the MacBride Principles proposed the sanction of disinvestment, which was its most damaging

¹⁵ NIOP Brief for Hurd, 28th January 1985.

¹⁶ NIOP P/S Secretary of State to Lyon, 21st January 1985.

¹⁷ NIOP draft reply from Lyon to the Secretary of State, 1st February 1985.

¹⁸ Ibid.

¹⁹ NIOP memorandum Lyon to Secretary of State, 1st February 1985.

aspect. Any attempt to endorse the MacBride Principles, however modified, would be quickly interpreted as an endorsement of disinvestment as a sanction. The other main objection was on the grounds of tactics. Assuming the INC's thunder was stolen by a set of modified Principles, it was likely that the INC would regard such a development as a justification for their campaign and, far from protecting American companies, would render them more exposed to the pressure from the INC. It proposed that as the alternative to the signing of the MacBride Principles, US companies should be encouraged to sign the FEA's Declaration of Intent.²⁰

Having considered the arguments, Hurd accepted Lyon's recommendation in paragraph 9 of his minute, that 'we continue to brief US companies and US opinion to oppose the INC campaign; that we to do so on the basis of the intensive efforts, which we have made to ensure equality of opportunity in recruitment and employment; and that we encourage those involved in the States to endorse the work of the FEA not the present or revised formulations MacBride Principles'.²¹ Although it rejected Hurd's suggestion, the DED did produce a sanitised version of the Principles.²² Principles 1 and 7 were amended to ensure that there would be no preferential treatment for any group. Principle 2 was amended to provide adequate protection was for all the workforce at the workplace and Principle 3, the removal of religious or political emblems from the workplace, was to be with the agreement of the management and unions, which meant that they would never disappear. All the commentaries from the civil service and others on the MacBride Principles seemed to find Principle 3 the most difficult, dangerous and politically sensitive to implement. Eventually it was in part dealt with by separate legislation, from the other issues associated with fair employment practices.²³

It was not going to be an easy position to defend. Earlier, Doherty, on behalf of the Comptroller, had requested from the BIS in New York, a response from the British government to the MacBride Principles. On 5th January, and unbeknown to the NIO, he was given a copy of Mayne's original favourable

²⁰ Ibid.

²¹ NIOP P/S Secretary of State to Lyon, 11th February 1985.

²² See Appendix C, 323.

²³ See the Public Order (NI), 1987, repealing the Flags and Emblems (Display) NI Act, 1954; various FEA cases e.g. case 465-85, 1987. *The Guide to Effective Practice, Religious Opportunity in Employment*, (HMSO Belfast, 1987) and the *Code of Practice on Fair Employment*, (HMSO Belfast, 1989).

analysis.²⁴ He then distributed it amongst those companies before whose AGMs the Comptroller was considering tabling pro-MacBride resolutions. It was distributed widely amongst the Irish-American press, and even a year later, despite the BIS disavowal of its status, the *National Hibernian Digest* considered it worth printing in full.²⁵ Doherty described it as the British government's legal analysis of the Principles. The BIS wrote to Doherty asking him to cease circulating Mayne's original analysis, denying that it was a legal analysis and stating that it had no greater status than that of an in-house 'discussion paper'.²⁶ The damage had been done. Commenting upon a meeting with the Director for Governmental Relations at General Motors, John McAllister of the IDB said:

Unfortunately, the note which Comptroller Goldin has been given, comparing the MacBride Principles with the FEA legislation falls somewhat short of firm and resolute opposition and clearly confused General Motors when handed to them as being broadly in support of the Principles. I was unaware that a note on these lines was being handed out by representatives of HMG in New York and I suggest it should not be used further until we have cleared our lines.²⁷

The repudiation of Mayne's paper was, at best, an embarrassing backtrack by the British government, but the MacBride campaigners saw it as a cynical exercise aimed at discrediting the MacBride Principles. For years, the original Mayne paper continued to be circulated at meetings and hearings on the MacBride Principles throughout the United States, particularly when it was upheld in the American Brands Case. In every city and state, British officials had to explain to suspicious Irish-American audiences why the position had been changed.

The confusion on the ground in the United States, illustrated by McAllister's report, caused Fell to minute Lyon suggesting a meeting of all interested parties, which he would chair. It would establish a strong and clear line, which was to be pursued constantly by all officials, including the BIS, when

²⁴ Doherty interview, 6th July 1999.

²⁵ 'Fair Employment in NI. Comparison of MacBride Principles with FE Legislation in NI', *National Hibernian Digest*, March/ April 1986.

²⁶ DP Beattie to Doherty, 24th January 1986. Doherty's activities had irritated the BIS staff; 'he also has the nasty habit of misrepresenting the views of the HMG and the Irish government in his reports and suggesting that compliance with the MacBride Principles would not conflict with NI legislation', NIOP 20th March 1986, Huck to Scheinwald

²⁷ NIOP, McAllister to Lyon, 12th February 1985.

dealing with the issues. He was further concerned in terms of the presentation of the British case and asked whether they should consider if 'too much reliance was being put on the current Fair Employment legislation and the role of the FEA'.²⁸ This comment hinted at the prospect of future change and the immediate question was whether it would be seen as generous enough, because of the perceived continuing injustices, or as a niggardly and reluctant response, reacting to pressure from the MacBride Campaign. Lyon's reply accepted Fell's proposals and 'the wider and, as you say, longer-term consideration whether those policies are adequate or to be revised'.²⁹ At this stage, Lyon was still talking of the 'presentation of our employment policies in the United States in response to challenge from the Irish National Caucus'.³⁰ The significance of the Goldin/Doherty intervention had still not been taken fully on board.

After careful preparation, Fell and Mayne of the DED had a meeting to persuade the Chairman of the FEA, Bob Cooper, to come on side. Cooper accepted the later analysis of the Principles that the NIO had sent to him, and said that it was clear that they envisaged the use of quotas. He reserved his position on whether to send a letter to Mayor Koch. Cooper volunteered that he had been assured by Terry Carlin, the Secretary of NICICTU, who had seen the appropriate letter, that Inez McCormack had withdrawn her name from the list of signatories of the Principles and that Senator Robb was 'blowing hot and cold' on the whole matter.³¹ A week later their position was still uncertain and it was urged that the facts should be established as soon as possible so that, assuming that they agreed to withdraw their signatures, it could be used in background briefings.³²

It is obvious that if two such prominent public figures were to change their minds and withdraw their signatures, it would be a great coup for the government; what is not obvious, is why officials expected such a thing to happen. Given the two personalities involved, it smacked more of wishful thinking than reality. Neither McCormack nor Robb would have made such a public gesture as the signing of the MacBride Principles without carefully considering all the consequences of appending their signatures to such a controversial document, the hostile publicity, the questioning of their motives and

²⁸ NIOP Fell to Lyon, 14th February 1985.

²⁹ NIOP Lyon to Fell, 14th February 1985.

³⁰ Ibid.

³¹ NIOP Mayne notes on meeting with Bob Cooper, 5th February 1988.

³² NIOP Lyon to Fell, 14th February 1985.

the subsequent pressures to think again. Merely to consider withdrawing their signatures so soon at the first sign of official hostility to the Principles would have made them laughing stock.

While the British were preparing their response to the MacBride Principles published by Father McManus, they were assailed on a different front by Goldin's presentation of his *Report on Northern Ireland Investment* written by Pat Doherty.³³ It was the fruits of his research for which most of the information had been so generously supplied by the BIS and the New York consular staff. Ostensibly, it was a report to the members of the NYCERS giving the background for Goldin's decisions to table pro-MacBride resolutions for the agendas of corporation shareholders' meetings. In reality, it was meant for a far wider audience. It had 30 pages of text and 12 of appendices. It sought to examine the reasons, the extent, and the responsibility for religious discrimination in Northern Ireland and, in that context, the part played by US firms in which NYCERS held shares.

Echoing Mayne's original analysis of the MacBride Principles, the initial British response was 'at first reading, the report seems well researched and broadly factually accurate. It will need careful analysis'.³⁴ In an early draft of the 'careful analysis' of Goldin's report prepared by Mayne, claimed that, 'it's superficiality, lack of balance and plain dishonesty show it for what it is -- a document laced with half-truths, which has been welcomed by Noraid as contributing to its campaign against the constitutional position of Northern Ireland'.³⁵ It had touched a raw nerve. The considered response was much more measured merely referring to the report as being 'selective, unbalanced and simplistic'. The public nitpicking response comprised of 11 pages of text with the MacBride Principles added as an appendix.

The seriousness with which the British government took the report was demonstrated by the defensive tone of the unpublished 40 pages, comprising of 5 annexes, including 'the Goldin Report-Problem Areas', 'For Defensive Use Only' and 'Fair Employment Arrangements in Northern Ireland'.³⁶ Additionally, there

³³ Comptrollers Office New York 'Interim report on Northern Ireland investment', 4th February 1985.

³⁴ NIOP Lyon to Fell, 14th February 1985.

³⁵ NIOP Annex to the Goldin Report, 'MacBride Principles/Disinvestment', (undated) Annex I. Although the document is undated references in the text to events in May would suggest it was compiled sometime between mid-May and early June 1985.

³⁶ *Ibid.*, Annex II A and Annex III.

were instructions not to release details of ongoing work within the DED.³⁷ The direction for the line to take was 'in responding strong rebuttal needed on points, which can be confidently be challenged. Seeking to divert attention from 'latter to former'.³⁸ The weaknesses in the government's case and its sensitivity to criticism are to be found in Paragraph 7 of the analysis brief, which read:

Given that some official sources are used there are in parts of the Report which, though clearly biased in presentation, cannot be reported as totally unfounded or inaccurate. Likewise, there are allegations of discrimination, which are so general, for example, that Protestant personnel managers 'often discriminate blatantly against Catholics' or that Gallagher's Ltd 'is notorious for its discriminatory hiring practices' that they cannot be dismissed out of hand.³⁹

Frank Kennedy, HM Consul General in New York, responded to Goldin's report by repeating the case against the Principles and the government's opposition to religious discrimination. He then indicated what he considered to be important omissions from the report. Kennedy was leading with his chin. Subjects, which, he stated were omitted were present. Kennedy had expressed disappointment at Goldin's failure to 'acknowledge the measures taken by British government to protect human rights in Northern Ireland'.⁴⁰ He received a sharp riposte

My report is simply on employment discrimination and not the other aspects of your government's human rights policy... thus.... we also omitted any reference to the human rights considerations involved in your government's use of plastic bullets and its resort to detention without trial, as well as the Prevention of Terrorism Act, the juryless Diplock Court system, the 'Supergrass' informer trials, or the strip searches of women in the Armagh prison.⁴¹

³⁷ Ibid., Annex III.

³⁸ Ibid., Annex II A.

³⁹ Ibid., Annex II B.

⁴⁰ DP letter Kennedy to Goldin, 27th February 1985.

⁴¹ DP letter Goldin to Kennedy 12th April 1985.

Goldin was a product of New York politics. On qualifying as a lawyer, he had worked for the US Justice Department and had been sent by the then Attorney General, Robert Kennedy, as part of the department's task force to the Deep South. A Jew, who had spent his time enforcing desegregation legislation in the anti-Semitic South, he was not going to be lectured on human rights by the British Consul General in New York. Kennedy replied asking for a meeting which took place on 29th May. There was no meeting of minds. Doherty, who was present, described the meeting as 'acrimonious at times'.⁴² Kennedy attempted to compare the Fair Employment Act to the civil rights legislation of the States in the 1960s. Goldin repeated his claim that it was 'a toothless tiger'.⁴³ Kennedy pursued the issue of quotas but Goldin denied that the MacBride Principles admitted to 'such a tortured and strained interpretation'.⁴⁴

Goldin's future visit to Ireland was discussed. He wished to meet the Secretary of State and Kennedy suggested the minister for industry, Dr. Rhodes Boyson would be more appropriate. Goldin said he would be pleased to meet Rhodes Boyson but he also wanted to meet the Secretary of State. Given the delicacy and difficulties of the situation, he could not be refused. The meeting was held on 17th June 1985. The *Belfast Telegraph* announced, 'Hurd meeting highlights US concern over job bias'.⁴⁵ Goldin did not arrive for his meeting in a happy frame of mind. When, as a trustee for major shareholders he had sought to visit two companies in Northern Ireland, the first, Hughes Tools, had claimed that there was nobody available to see him and, the second, Gallagher's, had refused point blank to meet him because he was accompanied by Rita Mullen of the INC. Hurd said he did not think the companies had anything to hide. It was essentially a dialogue of the deaf, the repetition of well rehearsed, but by now stale arguments, with no attempt to reach a consensus, or even an understanding of the other's position. There is neither mention nor hint in the minutes of the meeting of the promise of any future government initiatives or legislation to tackle the problem.⁴⁶ The MacBride Campaign was spreading beyond the confines of New York City and State, so it was not surprising that Hurd should not indicate any

⁴² DFAMP file note, 31st May 1985, Doherty's account of the meeting between Kennedy and Goldin of the 29th May 1985.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ 'Hurd meeting highlights US concern over job bias', *Belfast Telegraph*, 17th June 1985.

⁴⁶ NIOP note of meeting between Hurd and Goldin, 18th June 1985.

fresh initiative to the powerful man, whom it would have been undiplomatic not to have seen, yet was at the centre of the spreading agitation.

Goldin had published his report and the MacBride resolutions for the shareholders' meetings had been drafted when the stocktaking meeting convened by Fell to discuss the publication of the MacBride Principles and the subsequent New York City legislation took place on the 22nd February. As he indicated in his correspondence with Lyon, the agenda looked at the short, medium- and long-term activities associated with the New York City Disinvestment Bill. For the DED, McAllister reported that he had briefed Sam Bartlett, the US Consul General in Belfast with whom the DED had been in constant touch, and was to remain so, since the publication of the Principles. Bartlett was privy to all the decisions being taken to combat them. He reported that Bartlett was of the opinion that the lobbying against Goldin should take a simple line and not attempt to counter every statement he made. He thought that the campaign would run for some time with an emphasis around 17th March, St. Patrick's Day, and that the British government should be more proactive. The BIS disagreed with the more proactive approach. McAllister reported that he had been in discussions with Eccles who informed him that Cardinal O'Fiaich had indicated his opposition to positive discrimination but he did not wish to take a prominent position on the issue. A senior member of the Irish hierarchy had written to the New York hierarchy indicating that opposition.

On behalf of the NIO, Reeve said that John Hume had written to Mayor Koch expressing his view of the potential damage to the fair employment legislation if the MacBride Campaign continued and that Hume had indicated his opposition to positive discrimination. Hewitt of the NIO expected to meet Robb that evening to discuss his position. Lyon stated that 'a massive undercover campaign was at present being mounted in the US' but the INC would be very persistent and would 'not just go away'.⁴⁷ Fell reported that Cooper had written to Koch that McCormack had withdrawn her support from the Principles but it was not clear whether she had done this publicly. Fell felt that there were three fronts to the campaign: New York City Council, US companies and the Administration. Following the wide-ranging discussion, it was agreed that the immediate line to take in countering the MacBride Campaign that:

⁴⁷ NIOP summary of minutes of meeting between officials at the NIO and DED, 22nd February 1985.

- (i) The Principles are illegal, unnecessary and counterproductive.
- (ii). There is no need to tinker with the MacBride Principles to make them more acceptable.
- (iii) If US companies were to invest more in Northern Ireland the religious composition in the labour forces could eventually change.
- (iv) Attempts should be made to involve all responsible political opinion in Ireland in support of the Fair Employment legislation.
- (v) If US companies are pressed on the action they can take, they should be advised to follow assiduously, the DED Guide to Manpower Policy and Practice, and other aspects of the Fair Employment legislation.
- (vi) BIS should be briefed in order to discredit the INC connection with MacBride and Goldin.⁴⁸

The medium-term discussion covered the Goldin Report and the best manner of presenting to a questioning and often hostile Irish-American audience the current Northern Ireland fair employment arrangements. Despite having earlier called the report 'selective, unbalanced and simplistic', it was agreed that there was a need for an overview of the document for use by the BIS in New York. This might take the form of some discrediting of the Goldin document by the pointing out that it was a mere piece of propaganda.⁴⁹ There was a need for a further detailed commentary for internal use and possibly for briefing the press on specific points. There were difficulties in describing the present fair employment regime in Northern Ireland. If examples of positive affirmative action programmes were given, then they could rebound on the picture of Northern Ireland that the officials were seeking to portray, because it suggested that discrimination still existed.

The officials were left with only the fig leaf of the Declaration of Principles and Intent and the DED was to establish the number of employees covered by companies which had signed the Declaration. A short supplement to the Declaration was to be published, which was also to distil the essence of the DED *Guide to Manpower Policy and Practice*, and included would be a reminder that the need for affirmative action was implicit in the Guide and did not

⁴⁸ Ibid.

⁴⁹ Ibid.

necessarily need to follow an investigation by the FEA.⁵⁰ There was discussion of anti-discrimination measures in the US and the powers of the Equal Employment Opportunity Commission (EEOC) established under the Federal Civil Rights Act 1964. In the absence of a voluntary agreement regarding corrective action, the EEOC could seek recourse through the courts. There the original emphasis was on equality of opportunity, but judicial decisions had shifted the balance away from simple equality of opportunity into positive corrective action, which involved or came close to, the application of quotas. Preferential recruitment then became the practice but more recent developments in the US Supreme Court, appeared to have restored the principle of equality of opportunity. It was agreed that a paper, should be prepared outlining in more detail the US scene.

For the longer-term, there was a discussion on, the problem of the religious imbalance in employment/unemployment, during which various papers were referred to but no conclusions were reached. Fell referred to the proposed DED review of the FEA's procedures in order to improve their efficiency. He indicated to the intention of Standing Advisory Commission on Human Rights (SACHR) to examine the operation of human rights legislation in Northern Ireland and expected it to report within 18 months to two years time. Bartlett, the US Consul, was to be given copy of the conclusions and asked to comment.⁵¹

Wilson of the DED following discussions with his colleagues was responsible for the final and more elegantly written report which contained as an appendix what became the official response to the MacBride Principles. Wilson summarised the British position:

.... the Principles themselves are inconsistent (Principle 1 appears to conflict with Principles 5 and 6 as listed...) and by the fact that Principles 1, 7 and 8 of the Principles clearly contemplate positive discrimination in recruitment. Such preferential treatment on the grounds of religious belief, political opinion or sex is unlawful in Northern Ireland.

As for the other Principles, Principle 2 would impose unreasonable and unenforceable responsibilities on management; Principle 3 addresses issues better handled by persuasion and sensible agreement between management and workforce and Principles 4-6, insofar as they envisaged

⁵⁰ FEA, *Guide to Manpower and Practice*, revised ed., (HMSO Belfast, 1986)

⁵¹ NIOP Wilson draft note on Disinvestment Bill, 25th February 1985.

non-discriminatory treatment, are already covered by existing Northern Ireland legislation, as is Principal 9.⁵²

Although the SDLP in the earlier notes was quoted as being opposed to the Principles, this does not appear in Wilson's final paper, neither do the names McCormack or Robb. John Hume is credited with having written to Archbishop O'Connor of New York and a number of US senators, as well as Mayor Koch expressing his concern. Of the prominent Northern Ireland Roman Catholics who rejected reverse discrimination as ill-conceived and counter-productive, only one is mentioned, Jim Eccles, and he was on the government's payroll.

Ministers do not appear to have played more than a small part in the development of the anti-MacBride policy. It was civil service driven, by members of the Northern Ireland DED, which as the sponsoring department had been responsible for the undermining of the independence of the FEA, starving it of funds ever since its inception. In its defence, the DED, along with the IDB, could claim that their role was to encourage and coach direct investment into Northern Ireland and to protect existing investment and that the activities of some of the supporters of the MacBride Campaign, particularly, but not exclusively, Noraid, were more concerned with undermining the economic stability and constitutional position of Northern Ireland than the economic well-being of its population. The same excuse does not apply to the Northern Ireland Office, a British government department. It was just as blinkered and did not demonstrate any real sympathy either for the frustrations of the Catholic working-class in Belfast and Derry nor any feeling for the mood of Irish-America. It demonstrated very little understanding for those who adopted the approach of such civic leaders as Mayor Flynn of Boston, who saw the MacBride Principles as helping to secure economic stability and thus undermining the paramilitaries.⁵³ Everything was black or white, the 'goodies' were John Hume and the Friends of Ireland, and the 'baddies' were the MacBride campaigners and their associated allies. There was no middle ground, and many officials appeared to be in denial of the very existence of the problem.⁵⁴

⁵² Ibid.

⁵³ R L Flynn, 'Towards Economic Justice in Ulster', *Boston Globe*, 23rd July 1985.

⁵⁴ DFAMP file note Liam Cuniffe, 23rd August 1988, where the former Alliance Party leader John Cushman stated that he had refused to accept this claim as part of the briefing for witnesses appearing before State and City Committees considering pro-MacBride legislation.

Of the ministers, apart from Hurd's suggestion for alternative set of Principles quickly quashed by officials, only Rhodes Boyson appears to have questioned the received wisdom from the civil service.⁵⁵ He wanted to adopt 'a more flexible approach' and continued to argue his case inside the department until Tom King became the Secretary of State.⁵⁶ Obviously ministers have to depend upon civil servants for advice and Hurd, in particular, as a Cabinet minister had many other issues with which to wrestle including the problems of the continuing violence in Northern Ireland and relations with the Irish Republic. Against that background he depended upon the advice of the civil service to deal with what appeared to be a minor political Irish-American irritant which would quickly disappear. It apparently had little support from traditional Irish nationalism as embodied in John Hume and the 'tree-topper' Friends of Ireland, thus he felt secure in the knowledge that everything had been neatly parcelled up in the Congress and with the White House. It was to prove to be a major misjudgement as the battlefield over the MacBride Principles spread across United States. Furthermore, the Continuous Household Survey revealed the full extent of continuing Catholic unemployment and the failure of previous legislative initiatives.⁵⁷ Despite the belief of Doherty and others, there is no documentary evidence of any interference or direction from Downing Street in the advice given or the decisions taken, with regard to the MacBride Campaign.⁵⁸

No sooner had the strategy been agreed, when, with a new Secretary of State, Tom King, who had been appointed in September, it all began to unravel. The MacBride Principles had struck a chord with Irish America and they could not be confined to the INC in Washington, and the Comptroller and Doherty in New York. New York State and the New England states began to follow the example of New York City and introduced resolutions and proposals for legislation supporting MacBride Principles. This spread of support was to be expected in the traditionally Irish-American centres of the East Coast. What the British did not anticipate was that they would be challenged on the first word of their mantra against the Principles 'illegal, unnecessary and counterproductive'. The claim of the alleged illegality of the Principles according to the law of

⁵⁵ D Richmond, 'Discrimination: the politics', *Fortnight*, December 1989 and see KMCNP, letter Freedom of Information Team to author, 27th March 2006.

⁵⁶ *Ibid.*

⁵⁷ Office of National Statistics, *Continuous Household Survey for Northern Ireland*, (Belfast, 1983).

⁵⁸ KMNP, letter Freedom of Information team to author, 27th March 2006.

Northern Ireland was to be contested not in the high court in Belfast but in the first instance in South Manhattan federal courts.

Goldin, in his capacity as a trustee of various New York pension funds, supported by some of the religious orders, had already started the campaign to pressurise US corporations with Northern Irish subsidiaries by tabling shareholder resolutions for their AGMs urging them to adopt the MacBride Principles.⁵⁹ In the resolution, shareholders requested the Board of Directors to 'implement and/or increase activity of each of the nine MacBride Principles' and give a progress report on the measures taken by September 1986.⁶⁰ American Brands, which had a major subsidiary Gallagher's with factories in Belfast and Ballymena, was overwhelmingly Protestant, and had refused to table the resolution put forward by Goldin. After protracted legal argument three-way between the companies where Goldin had tabled resolutions, the Security and Exchange Commission (SEC) and Goldin, the SEC had issued notices advising companies that they were not required to include MacBride shareholder resolutions on their AGM agendas.⁶¹ In the case of the American Brands, its reason was that if the MacBride Principles were implemented, it would require American Brands to violate the law of a foreign jurisdiction to which it was subject, contrary to the Securities Exchange Act, 1934. This decision was greeted with great relief by British officials, but Goldin challenged it and applied the federal court for a judicial review of the SEC's decision claiming that it was wrong in law.

British officials were confident that Goldin would not succeed. The SEC's decision had been greatly influenced by a strong and closely argued opinion from Alexander Irvine QC, submitted by American Brands.⁶² Cameron, the chairman of Gallagher's (UK) had been in discussions with the Secretary of State over the issue and the company had been in close contact with the BIS in New York, and with the DED and FEA in Belfast. It had discussed with them the legality of the Principles. They knew of the strong legal advice that Bob Cooper of the FEA had obtained from John Lavery QC, that the Principles required the introduction of quotas, which were illegal.⁶³ American Brands were anxious to have a formal statement from the British government stating its position and, believing it more

⁵⁹ NIOP Church Proxy Resolutions, January 1988 published by the ICCR

⁶⁰ DP model resolution prepared by Sr Regina for the ICCR, 7th November 1984.

⁶¹ DP letter from Goldin to Councillor Blye (SEC), 11th February 1986.

⁶² NIOP Counsel's opinion, February 1986.

⁶³ NIOP summary of Paper by Wilson, 24th March 1986.

persuasive, an affidavit signed by a minister, preferably the Secretary of State. The advice of the Foreign and Commonwealth Office's legal department was sought. The request for a ministerial affidavit was rejected on the grounds of precedent and, whilst highly unlikely, it was just possible that a minister might be subject to cross examination in the court. There he might be questioned on the apparent discrepancy between the firm position of the FEA and the less robust legal opinion, which was beginning to emerge from the DED and FCO. This suggested that there was a distinction to be made between the adoption of the Principles, which had no legal effect, and their application. It was the form of specific action that the application of the Principles took, which would have to be examined to see if it was illegal. The advice now being given to ministers on the legality of the MacBride Principles, was becoming more cautious, 'Ultimately, however, the legality or otherwise in any action which a US company may take consequence on acceptance of the MacBride Principles can only be probably determined first by the FEA and thereafter by a Northern Ireland court'.⁶⁴ Having covered their backs, the officials were confident that Goldin's application would fail. Wilson of the NIO swore an affidavit as did Bob Cooper of the FEA.⁶⁵

Goldin obtained his injunction. 'US court backs code on jobs for Ulster Catholics', said the *Guardian*, just the headline the Secretary of State, Tom King, did not wish to see.⁶⁶ Judge Carter said that NYCERS had made 'a strong showing of the likelihood of success on the merits -- that upon a full trial it could prove that all nine of the MacBride Principles could be legally implemented by management in its Northern Ireland factory'.⁶⁷ American Brands had to circulate the NYCERS's shareholders' proposal requiring them to implement the MacBride Principles. Judge Carter said that the MacBride Principles seemed fairly 'innocuous' and that

... the principle of equality of opportunity did little to redress the imbalance in the work force. The law in Northern Ireland seemed to give little incentive to any company to alter the composition of their workforce,

⁶⁴ NIOP memorandum Wilson to P/S Boyson, 28th April 1986.

⁶⁵ NIOP Wilson's affidavit, 2nd May 1986.

⁶⁶ P Wintour, 'US court backs code on jobs for Ulster Catholics', *The Guardian*, 16th May 1986.

⁶⁷ Quoted in teleletter Huckle to Sheinwald, 19th May 1986.

whereas the application of the MacBride Principles would at least make company executives look realistically at their labour practices.⁶⁸

The British opined that the judgment was 'perverse', 'an unhelpful precedent' and 'an unwelcome development.' American Brands declared it revealed 'more about the judges' preconceived views than of the merits of the case.'⁶⁹ The question arose when the American Brands would appeal against the judgment, which the British would encourage. Despite McCrudden was a distinguished academic lawyer, and Archer a former Solicitor-General, it stuck in the British gullet that the judge had given such weight to their affidavits and rejected, indeed ignored, those the British had prepared for the American Brands.

Another note contains the surprising patronising, or naïve, suggestion that:

We would suggest that the Secretary of State might speak to Mr. Archer informally about his affidavit. While we could not expect Mr. Archer to withdraw the affidavit, or indeed to abandon his view of the legality of the Principles, we might suggest to him that he is, albeit with the best of motives, serving the purposes of people whose ends are inimical to future investment. We would provide the Secretary of State with full briefing.⁷⁰

A similar proposal made for McCrudden but stressing that of course 'as an independent member of SACHR he was entitled to give his views to whatever body he likes'. A note on the minute, in what appears to be Fell's handwriting, with regard to McCrudden observed, 'We have considered the possibility of taking similar action at official level in relation to Dr. McCrudden' but it was considered 'that such an approach would in his case be counterproductive'.⁷¹ Given Archer's well known reluctance to be drawn into private conversations about policy with the government or receive information not in the public domain lest it compromised his position to act independently, it is difficult to see why Fell thought that the Secretary of State would have more success with Archer than his

⁶⁸ Ibid.

⁶⁹ NIOP Wilson to P/S Boyson, 15th May 1986. Quite what Carter's 'preconceived views' were, was not explained by Wilson, though it possibly referred to Carter's careers as a civil rights' lawyer or that he was black.

⁷⁰ NIOP, Hill to the Secretary of State, 15th May 1986.

⁷¹ Ibid.

officials would have had with McCrudden. Although they did not wear their hearts on their sleeves, both Archer and McCrudden were dedicated to the advancement of human rights, with the abolition of religious discrimination in employment falling into that category. Although the MacBride Principles appealed to their political and human rights sympathies, they did not allow them to cloud the professional legal judgments

Wilson of the DED was particularly savage about Archer's affidavit and his comments are illuminating in what they reveal of the attitude of officials of the Northern Ireland civil service to criticism of a policy mainly manufactured and driven by them and to the role of the Official Opposition, quite apart from their assessment of Archer's personal and professional integrity.

Mr. Archer's legal opinion on the MacBride Principles is directly, and indirectly, unhelpful. Directly, in the sense that it has assisted Mr. Goldin in the American Brands ruling and, indirectly, in the sense that it gives the Principles a veneer of political acceptability in the UK context. Mr. Sheinwald considers that Mr. Archer's opinion is extremely damaging. I also believe that Mr. Archer's involvement is ill judged and unhelpful but I am not at all sure that we can do much to retrieve the position given that Mr. Archer has already committed himself on the legal issue in his capacity as a QC. Without a retraction, which I consider unlikely, our only hope would be that Mr. Archer would accept that the Principles are unnecessary and counterproductive. I think this is also unlikely.

I believe that Mr. Archer was unwise in offering a legal opinion on a matter which has a clear political dimension in Northern Ireland but Ministers would want to consider carefully what, if anything would be achieved from an approach to Mr. Archer. A formal approach runs the risk of the MacBride issue becoming a domestic political issue (which we have so far sought to avoid). I am not clear, however, whether there are particular conventions regarding contact between front-bench spokesman, which might allow a more informal approach. I presume also that you are not yet sufficiently advanced on the EESG [Employment Equality Study Group] front to wish to elevate the whole issue politically, including the motivation for the MacBride Principles. As you know we have been very circumspect on this particular aspect, but there may be advantage in a more

forthright attack on the political motivation of those promoting the Principles.⁷²

The first reaction of American Brands, supported by the British, who offered every help, was to appeal against the decision in the hope of overturning or suspending the judgment until after American Brands AGM in June. That suggestion was dropped because American Brands legal advice was that with a hasty appeal to a higher court in the USA success was unpredictable and not worth the risk. The note implies that the British government, although offering to help American Brands, was reluctant to be formally joined with it in the appeal because as Wilson was at pains to point out:

The prospect of HMG formally joining American Brands in the in an appeal was not the issue: the concern was that without some input from HMG to the effect that the issue had implications for Northern Ireland beyond American Brands there was no prospect of the appeal being given sufficient priority to allow a ruling before the meeting on the 23rd May.⁷³

Consideration was now being given by American Brands to abandoning the US federal courts and seeking a declaratory judgement from the Northern Ireland High Court on whether or not the MacBride Principles conflicted with the law in Northern Ireland. Wilson saw this as 'an effective way of turning the tables on Goldin' but cautioned that:

an adverse ruling would be extremely damaging though presumably we could still argue that the Principles were unnecessary and counterproductive but these arguments, and particularly the latter, are unlikely to carry much weight if the court ruled that the Principles did not necessarily contravene Northern Ireland law.⁷⁴

Eventually British officials decided not to pursue the idea of a judicial review in Northern Ireland, having received legal advice that the Belfast court was unlikely to consider the matter as an abstract issue, particularly where the purpose was to

⁷² NIOP, Wilson to Mayne, 20th May 1986.

⁷³ Ibid.

⁷⁴ Ibid.

assist litigation in a foreign jurisdiction. There had been talk of a diplomatic objection because the Manhattan Federal Court appeared to be exercising extra-territorial jurisdiction but this was never pursued. Advice was received from the FCO that 'courts do this frequently when making findings on or applying foreign law. The Court was not ignoring NI law; it was trying to apply it.'⁷⁵

When the MacBride Principles' resolution was actually put at the American Brands' shareholders' meeting, John McAllister, the chief executive of the IDB, reported gleefully to David Fell, the Secretary of the DED, that 'of those who voted, 93% voted against adoption of the MacBride Principles, and 7% in favour'.⁷⁶ He claimed that the result was of considerable encouragement to the IDB but failed to realise that despite the low vote it was even more encouraging to Goldin. He had anticipated the defeat. Although he would have preferred to have secured a victory, he was more concerned with the resolution appearing on the agenda of the meeting and the issue being raised. He and the NYCERS were fighting a war of attrition. The resolution would reappear at the next shareholders' meeting unless American Brands offered to make an accommodation that was acceptable to him.

The British government had to rethink its strategy. Officials sought what crumbs of comfort they could from the case. Surprisingly, they decided they should seek 'to capitalise fully on Mr. Goldin's acceptance of the need to keep within Northern Ireland law and the very clear inference in the Court decision that any action contemplated under the MacBride Principles, should not breach that law'.⁷⁷ As the whole of Goldin's and Doherty's case was that the Principles were based on existing fair employment legislation and codes of practice, their sheer officious brass necked effrontery in making it appear that this was an admission wrestled from a reluctant Goldin was mind boggling. The officials resolved to reverse the order of the arguments against the Principles; they were now unnecessary and counterproductive, while the illegality argument, not completely discarded, was replaced with the statement that legal opinion was divided on the issue of the Principles. The strongest practical argument against the imposition of the MacBride Principles, and one that was a likely to appeal to businessmen, was

⁷⁵ NIOP, Opinion from Darwin, Second Legal Advisor FCO.

⁷⁶ NIOP, McAllister to Fell, 10th June 1986.

⁷⁷ NIOP Draft Submission by Mayne for Ministers, late May 1986.

contained in the phrase 'they entailed a further layer of bureaucracy', otherwise known as the 'hassle factor'.⁷⁸

It is difficult not to sympathise with the problems faced by DED and IDB officials concerned with encouraging inward investment into Northern Ireland. They were in competition with colleagues from the Welsh and Scottish development agencies, the English black spots, the Republic of Ireland and other European countries, all of whom were fighting hard to obtain diminishing United States investment. When enticing prospective investors to their regions, they had the additional burden of introducing them to a divided society, lacking political stability, and where many of the traditional industries were in decline or heavily subsidised. It was a society subject to increasingly sophisticated terrorist activities, organized by rival groups of paramilitaries with little regard for the economic consequences of their actions. To those officials, whatever their opinion of the MacBride Principles, it seemed nonsensical that they should have to invite prospective investors to jump through an additional hoop of accepting and implementing the MacBride Principles.⁷⁹ Doherty and his colleagues, and most of Irish America, could not understand either the reasonableness or the relevance of this argument. The US experience of anti-discriminatory legislation, in comparison with what was required by the MacBride Principles, already laid far tougher regulatory burdens on US domestic employers, which they now took in their stride, as 'just another box to tick off'.⁸⁰ Further if, as was being hinted, the British government intended to introduce additional anti-discrimination legislation in Northern Ireland, this was inevitably bound to increase the regulatory burden upon employers. Doherty argued that there was only 'a hassle factor' because they invented one.⁸¹

Fell's submission to ministers was accepted as policy.⁸² The campaign against the MacBride Principles would continue, but no thought appeared to have been given to the political consequences of that action within the United States. As requested, an additional member of staff was appointed to the BIS in New York to cover the additional work arising from the MacBride issues. Within the Washington embassy they usually became the responsibility of the First

⁷⁸ Private conversation with FCO Officials, 6th December 1999.

⁷⁹ Ibid.

⁸⁰ Doherty telephone conversation 17th May 2006.

⁸¹ Ibid.

⁸² NIOP Fell's submission to Minister's based on Mayne.

Secretary.⁸³ Fell also referred to the work proceeding within his department, which was to lead to a revised edition of the Guide to Manpower Practices and the publication of a consultative Green Paper.⁸⁴ This eventually led to a White Paper, resulting in the 1988 Fair Employment Bill.⁸⁵ The wisdom of waging a more vigorous campaign across the United States against MacBride Principles, until more information of the legislative proposals being prepared within the DED were made public, was not questioned.

Fell considered it necessary to maintain the anti-MacBride line in order to retain the government's credibility with American corporations and the United States administration. He did not consider what degree of lobbying was necessary to maintain that credibility. Nor did he consider the contradiction, as it appeared to Irish Americans, of claiming that the MacBride Principles were unnecessary, counterproductive and possibly illegal, while at the same time promising future action to strengthen the existing legislation.⁸⁶ Each apparent concession by the British government was only to increase the appetite for more of the MacBride campaigners. By increasingly seeking to tar the MacBride Campaign with the Noraid brush, the British were simultaneously losing the sympathies of middle Irish America, which could not understand the niceties of the political argument. Simultaneously, it enhanced the appeal of Noraid, the registered lobbyist for Sinn Féin.⁸⁷ This undermined the position of the constitutional nationalists, the SDLP, by citing in support of the British Government's vigorous anti-MacBride campaign, the hostility of John Hume, the leader of the SDLP, to the MacBride campaign.

As part of their review of the effectiveness of their campaign, officials had started to re-examine the effectiveness of their lobbying procedures.⁸⁸ In particular, the role of Jim Eccles had already been questioned as to whether the IDB, which funded him, was getting value for money despite the frequent use they made of him as 'a leading Catholic layman'. Whilst he was useful to parade

⁸³ Private conversation with FCO Officials, 6th December 1999.

⁸⁴ DED, *Religious Equality of Opportunity in Employment: Guide to Effective Practice*, (Belfast, 1987).

⁸⁵ *Fair Employment in Northern Ireland*, 25th May 1988, CMD, 380, (HMSO London, 1988).

⁸⁶ NIOP Fell's submission to Ministers based on Mayne, 6th June 1986.

⁸⁷ DFAMP, letter Consul General in Boston to Washington Embassy, 9th September 1987, reporting on the Rhode Island vote 'there is no doubt that Frank McCabe of Noraid was a central figure' in securing the passage of the legislation. 'Some of the names ... are also known to us as Noraid activists'. 'RI MacBride victory', *Irish People* 6th June 1987, a Noraid spokesperson claimed credit for the passage of the legislation.

⁸⁸ NIOP meeting officials at NIO and DED, 24th March 1986.

in United States,⁸⁹ he had little, if any, credibility as a leader amongst the Catholic community in Northern Ireland.⁹⁰ He was expensive: he was employed for maximum of 60 days a year of the rates of £220 per day plus expenses and was in receipt of an annual retainer. During the discussion, it was claimed that Eccles spoke on Northern Ireland with 'an authentic Catholic voice and is accepted in areas where government representatives are not'.⁹¹ Eccles continued appearing as a witness for the rest of the decade. The names of other prospective lobbyists were considered together with future arrangements for organising and paying for the service.

The system that eventually developed was that local US lobbyists were employed to represent British government interests in places where hearings on the MacBride Principles were taking place. Witnesses were flown out from Belfast on an *ad hoc* basis, to appear before the city and state committees considering resolutions or legislation on the MacBride Principles and one, John Cushnahan, a former leader of the Alliance Party, for a short time assumed Eccles' mantle, and then Sean Neeson.⁹² The embassy, the local consulates or the local lobbyists made all the necessary housekeeping arrangements and shepherded the witnesses. No government minister and only rarely an embassy official personally appeared as a witness, the nearest officialdom approached to providing evidence was through members of the FEA.⁹³ Few of the witnesses when giving evidence made any great impression.⁹⁴ The regularity with which some of them appeared in different states brought from Irish Americans comparisons with 'Castle Catholics' - this time Stormont not Dublin Castle - and Catholic 'Uncle Toms'.⁹⁵ The Secretaries of State and their ministers regularly crossed the Atlantic to lobby politicians at federal, state and city level, leading businessmen and their organizations and, of necessity when in New York, Goldin. Apart from the Friends of Ireland, they met few of the leaders of grassroots Irish America, many of whom they felt were tainted by association with Noraid. Ministers did

⁸⁹ NIOP letter from Beattie to Sheinwald, 27th January 1986.

⁹⁰ Rt. Rev. Cardinal Cahal Daly interview, 6th February 2002.

⁹¹ NIOP, meeting, 24th March 1986.

⁹² Neeson interview, 25th March 2002.

⁹³ For example, Bob Cooper at California, March 1985.

⁹⁴ Jamison interview, 11th March 1999.

⁹⁵ See J Smith 'The Roots of an Irish Activist', *Irish Echo*, 13-19th May 1992, quoting Jean Maguire whose great-grandparents came from Cork and whose grandmother Julia Lenihan married William Dennis Mitchel, born a slave in 1862. 'When [blacks] hear about the police and security forces arresting, harassing, and killing Catholic youths, we say, "Oh yeah, we can relate to that"'.

not appear as witnesses before committees considering MacBride legislation. This failure to be prepared to engage with organisations of Irish-American 'grass-roots' left the field open for the MacBride Campaign and Noraid to exploit.

With the additional staff in New York, the British began what appeared to them a successful holding operation until reinforcements, in the shape of fresh legislative proposals, could be formulated, and, it was hoped, push back, if not defeat, the MacBride Campaign. They successfully lobbied newspaper editors, many of whom were hostile to the MacBride initiative. 'Unfair to Ulster' headed the lead editorial in the *New York Times*, 5th July 1986, which then rehearsed the successes and failures of the Campaign, noting the MacBride legislation have been defeated in Connecticut, and another the Bill had 'died' in New York State because it was coupled with pro-Sullivan Principles legislation. It described such legislation as 'a lofty, but misguided proposition'.⁹⁶ Massachusetts became the first state to adopt the Principles when, in November, Governor Michael Dukakis signed them into law.⁹⁷ Inez McCormack had appeared before the Massachusetts legislative committee to advocate the Principles, arguing that employment discrimination could not be redressed by the FEA alone because of the nature of Northern Ireland society and that equity should be forced from abroad.⁹⁸ When State and City hearings failed to result in a positive outcome, MacBride supporters regarded the defeats as only temporary setbacks. They could return to the issue again and again and raise it in city and state from the Atlantic to the Pacific Coast: even in Honolulu there was a MacBride Campaign committee. It was a long war. It was only after repeated defeats that finally in 1999, California was captured for the MacBride Principles and that was years after they had been enshrined in Federal legislation in 1997.

On 21st February 1985, as part of the longer-term strategy agreed at Fell's meeting earlier in the month, Hurd announced in a written answer that the Chairman of SACHR had informed him that they intended as a priority to undertake a major study to examine the adequacy and effectiveness of existing laws and institutions in securing freedom from discrimination and furthering

⁹⁶ Editorial, 'Unfair to Ulster', *New York Times*, 5th July 1986. The following year Massachusetts was followed by Connecticut, New Jersey and Rhode Island, and a number of cities in passing MacBride legislation.

⁹⁷ DFAMP News release from the Office of Governor Dukakis, 'Massachusetts to monitor firms investing in Northern Ireland', 21st November 1985. 'Governor Michael S Dukakis today signed legislation designed to bring to end job discrimination against the Roman Catholic minority in Northern Ireland.

⁹⁸ Ibid.

equality of opportunity in Northern Ireland.⁹⁹ He did not list it as one of his departmental achievements in a placed written reply to Peter Brunivel, MP, on 29th April.¹⁰⁰ In June, in reply to a question from David Heathcote-Amory, MP, he indicated the changes that were taking place:

We keep a careful watch on the effectiveness of these measures. I have already welcomed the review, to the undertaken by the Standing Advisory Commission on Human Rights. I am examining information about the relative social and economic positions of the major denominational groups in Northern Ireland. I shall shortly publish data about that and make a statement about the Government's proposals for further consideration of this matter.¹⁰¹

Still the hard line on MacBride was maintained. In reply to Heathcote-Amery's supplementary question asking him if he agreed that outside interference from the MacBride Principles was not helpful for employment or equal opportunity in Northern Ireland, Hurd replied;

My honourable friend is quite right. Discrimination in employment in Northern Ireland is illegal. Therefore, the best way to secure fresh jobs for the nationalist minority is to secure fresh jobs for Northern Ireland¹⁰²

At the start of October, following the earlier publication of the *Consultative Paper on Equality of Opportunity in Employment, the Draft Guide to Manpower Policy and Practice* was published asking for submissions by the 31st January, the 1987. In September, Hurd had been replaced as Secretary of State by Tom King. Although he served in Northern Ireland less than a year, Hurd had helped to lay the foundations of the Anglo-Irish Agreement, which was signed in November, 1985. Although it was never formally discussed in the negotiations, it was to give the Irish government its opportunity to raise the issue of employment discrimination in Northern Ireland at the Inter-governmental

⁹⁹ *Hansard*, 23rd April 1986, Written Answers.

¹⁰⁰ *Ibid.*

¹⁰¹ *Hansard*, 13th June 1986, col. 1004-5.

¹⁰² *Ibid.*

Conference established by the Agreement.¹⁰³ He was not long enough in the department to put his more liberal imprint on it, and it could be argued that he followed too readily its anti-MacBride line. Nevertheless on his watch, work was set in train establishing the major SACHR inquiry into employment discrimination, and the DED started the work that was to lead the publication of the new, and strengthened, proposals for legislation on fair employment. King inherited solid foundations for future reform, unfortunately he continued to wage the futile and time consuming battle against the MacBride Principles. It was a battle which he could never win and which gave local US politicians a rare opportunity to dabble in foreign affairs, ignore the White House, and tweak the Lion's tail.

Despite their protests, that the Principles did not imply quotas or reverse discrimination, Goldin and Doherty were conscious that this was the most damaging criticism that could be made of the Principles. Goldin had indicated during his first visit to Ireland, both in Belfast and Dublin, that he was prepared to examine these criticisms and, if he felt it necessary, to amplify them.¹⁰⁴ In 1986, the amplified version of the MacBride Principles was published. The amplification consisted of a one or two sentence commentary on each of the Principles, indicating how they should be interpreted. They appeared to meet the specific objections of the Northern Ireland Office, countering its arguments on reverse discrimination and quotas. Archer had spoken about the need to amplify them to MacBride and Bob Cooper of the FEA with Goldin, and Doherty.¹⁰⁵ Doherty drafted the amplification and passed them to MacBride for his agreement.¹⁰⁶ The essence of the amplification was that the Principles did not require unlawful preferential treatment but that did not go far enough for Cooper, who wanted it stated explicitly that there should be 'no preference on grounds of religion or politics'¹⁰⁷

¹⁰³ Conversation between Lord Armstrong (former Cabinet Secretary and chief negotiator during the Hillsborough negotiations) and the author, 22nd March 2006. Conversation Sir David Goodall, (representing the FCO in the British negotiation team) and author 22nd March 2006, 'but we always knew it would be'.

¹⁰⁴ DFAMP 'Attorney-General's meeting with H Goldin NY City Comptroller 18th June 1985' note prepared Colim Ó Floinn, 19th June 1985.

¹⁰⁵ Archer interview, February 2005 and Doherty Interview, 6th July 1999.

¹⁰⁶ Doherty interview, 6th July 1999.

¹⁰⁷ Ibid.

Intensive discussions took place over the year at official level at the Maryfield Secretariat on the contents of the future legislation.¹⁰⁸ Rumours were rife as to its contents and of new statutory codes. Reporting to Steven Newman, the Assistant Comptroller, Doherty wrote:

I have learned that these proposals will include a new British government-sponsored fair employment code designed to rival the MacBride Principles. These 'Principles' would presumably be offered to companies to sign on the volunteer basis.

British diplomats here report that the new code will contain the substance of the 'MacBride Principles'. Other sources in Ireland report that the code will be a much watered down version of MacBride. The US State Department and the major US corporations in Northern Ireland, have been participating in the formulation of these new Principles, since, as a practical matter, virtually all US corporations would be expected to endorse them almost immediately.

The British government hopes that at an optimum their new code will extinguish the campaign for the MacBride Principles in the United States. At the very least, they feel it will relieve some of the mounting pressure on the US corporations, divide MacBride proponents by splitting away more moderate elements from the campaign, and buy more time for the Government on this issue. ('Give our new code a chance to work')¹⁰⁹

The suggested new code of Principles which seemed, at first sight, a revised version of the Hurd proposal, never surfaced, though proposals for a revamped Declaration of Intent did appear. The fact that Doherty should draw attention to such a rumour shows that, despite his constant display of optimism and confidence, he was aware of the dangers to the MacBride Campaign of a well resourced and targeted counter-offensive by the British government. He also noted that Rhodes Boyson had announced on 1st July, a 26% increase in the

¹⁰⁸ Apart from security issues officials on both sides declared that it was the subject which occupied most time in the joint secretariat. Private conversation with Secretariat officials, 1990.

¹⁰⁹ DP Doherty / P Gilbert to Newman, 'New British Government moves to counter the MacBride Principles', 1st August 1986.

budget of the FEA to £306,4000 per annum and that five additional staff members were to be hired, bringing the total to 21. This announcement was aimed at weakening the major criticism of the FEA that it was an under resourced 'toothless tiger'. Doherty was quick to point out that the Fair Employment Trust, a non-governmental body formed by Oliver Kearney in the autumn of 1985 to promote the MacBride Principles in Northern Ireland, had stated that the original proposals for establishing the FEA in 1974 envisaged a budget of £700,000 and a staff of 40.¹¹⁰

Over the summer, the government received a most unwelcome impetus to make sure its proposals were acceptable not to only to Irish-American opinion but also to investors throughout the United States and beyond. Prudential-Bache, a leading and influential Wall Street stock brokerage firm, published a research paper by Suzanne G. Harvey entitled, *Northern Ireland Divestiture Update*.¹¹¹ Harvey, who headed her report, 'Northern Ireland joins South Africa as possible portfolio problem', wrote

If you've finely cleansed your portfolio of all firms that do business in South Africa and think you can now relax, think again. There is a new and quite serious effort afoot in the form of the MacBride Principles, which, if their authors have their way, could affect your investments in 23 major U. S. firms that currently do business in Northern Ireland. Like the Sullivan Principles of South Africa, the MacBride Principles are intended as a set of equal opportunity guidelines for US companies to follow.¹¹²

The implied advice, 'cleanse your portfolio,' was the worst possible advice the British government wanted American investors to be given. It had from the inception of the MacBride Campaign, sought to distance itself from any comparison between Northern Ireland and South Africa and, in particular, any comparisons between the religious discrimination in Northern Ireland, and the horrors of apartheid in South Africa. Prudential-Bache advised finance institutions with large investment portfolios, such as pension schemes and unit trust. Its spokesman emphasized 'that the report was aimed at US investors or institutions owning shares in parent US firms. It was not intended as a warning to

¹¹⁰ Ibid.

¹¹¹ *Prudential-Bache Reports*, 'Northern Ireland Divestiture Update', (Washington, 1986).

¹¹² Ibid

actual firms located in Northern Ireland'.¹¹³ This was too nice a distinction to be of any comfort to British officials, whose own worst fears of the effects of the MacBride Campaign appeared to be being realised. They were fortunate that the report appeared late in July so that it received little publicity and that Goldin used the report to shoot himself in the foot.¹¹⁴

Goldin circulated with approval the Prudential-Bache report to all US firms investing in Northern Ireland and other interested parties. Fortunately for the British government, he delayed the circulation until after it had published its long awaited consultative paper outlining its proposed reforms in the fair employment legislation. Goldin wrote of the Prudential-Bache report:

It informs American investors, that investments in Northern Ireland could become as politically sensitive as those in South Africa. This document provides clear evidence that the business community is taking our campaign for the MacBride Principles very seriously. It will undoubtedly add to the mounting pressure on American companies and the British government to take meaningful reform measures to guarantee equality of opportunity.¹¹⁵

Martin Rouine, the Irish Deputy Consul General in New York, suggested that, considering those financial institutions to whom Goldin had circulated the report in New York, it 'gives confirmation to the previous held view that the supporters of the MacBride Principles campaign are not concerned that their actions may have adverse effects on the economy of the North'.¹¹⁶

Goldin's action, and the implied threat of disinvestment, which was already happening in South Africa, was largely ignored by the British press. Apart from the copies of the Prudential – Bache report that appeared in their files neither the British nor the Irish government seem to have followed the matter up with Goldin. No relevant papers were to be found in Doherty's archive. Kevin Magee in *Fortnight* later in the year used the report as the basis of an article on how US subsidiaries in Northern Ireland viewed the report and the MacBride

¹¹³ K Magee, 'Views vary on MacBride', *Fortnight*, November/December 1986.

¹¹⁴ P Vallery, 'Pru-Bache warning on Ulster', *The Times*, 6th August 1986. Vallery was one of the few journalists to comment.

¹¹⁵ DFAMP, Goldin to Peter Hooper, CEO North America Bank of Ireland, 22nd November 1986.

¹¹⁶ *Ibid.*

Campaign.¹¹⁷ Apart from these passing references it was rarely mentioned as it was overtaken by events.

In September, the government published its *Consultative Paper on Equality of Opportunity in Employment*. As well as a normal press release, the BIS distributed widely in the United States, both the paper itself and notes on the policy background.¹¹⁸ It covered not only religious discrimination in employment, but also discrimination against women and the disabled. It noted the continuing wide differential between Protestants and Catholics in employment and the need to take effective action if it was not to widen. Quotas were rejected in favour of the 'merit principle'. The FEA's open-ended Declaration of Principal and Intent, so readily signed by Shorts, and Harland and Wolff, was to be replaced by a Declaration of Practice, which would be awarded for limited period. This was the origin of the rumour that Doherty had heard of a new set of Principles to replace those of MacBride. However, this approach was more prescriptive and detailed than the nine declaratory MacBride Principles. It was hoped that this new procedure would make for more effective monitoring of a firm's employment practices. To encourage firms to obtain the new Declaration of Practice and obtain an equal opportunity certificate, government contracts and grants would only be awarded to firms which accepted the new procedures. Financial assistance and guidance would be given to firms to meet the requirements of the Declaration of Practice and a statutory duty was to be placed on the public sector to practice equality of opportunity in employment.

The government's proposals were a great advance on the existing situation but they were still only proposals. They received a cautious welcome from the Irish government which said that they held out a promise of progress towards elimination of discrimination in employment. Much would depend on the resulting legislation which, it was anticipated, would be published in the autumn of following year, after the expected general election in the United Kingdom.

Throughout this whole period, Christopher McCrudden was probably the most influential person, outside of the two governments, in influencing policy. He was a distinguished, well-connected academic, an influential member, if not the driving force behind SACHR, with the ear of its Chairman, James O'Hara. He was a friend of Archer and Inez McCormack. He also advised McNamara on

¹¹⁷ K Magee, 'Views vary on MacBride' *Fortnight*, November/December 1986.

¹¹⁸ *Guide to Manpower and Practice*, revised ed., (HMSO Belfast, 1986).

fair employment issues when he replaced Archer as the Opposition's spokesman on Northern Ireland. He was a thorn in the side of the DED, suspicious of its civil servants and their motives and angry at their continuing failure to implement vigorously the existing legislation. His critique of the government's proposals was eagerly awaited, for it would set the tone for the Labour Opposition, the MacBride campaigners on both sides of the Atlantic and influence the Irish of government. He wrote

The government concludes the consultative paper by stressing that it is 'committed to early and effective progress'. (para.8.6) The paper does indeed stress the depth of the problem. What it does not do is to propose effective action in the short-term, nor a coherent and effective package of measures which would be likely to bring about significant changes in the longer-term. The Government's avowed commitment has not so far been borne out by its actions. In particular, if the Government is not prepared to use the current legislation to the full, how confident can one be that the proposed future legislation is likely to be applied anymore rigorously?¹¹⁹

Meanwhile, the propaganda war on each side continued unabated. In the House of Representatives and the Senate pro-MacBride Bills were introduced, which were portrayed by Father McManus with characteristic understatement as being 'of historic significance and profound import'.¹²⁰ He promised that the INC would be conducting a major lobbying effort to get the Bills passed.¹²¹ Assemblyman Bill Hayden introduced a MacBride Bill into the California Legislature on 27th February. John Hume in an interview in the *Boston Sunday Globe* said of the MacBride campaigners they 'just don't know the damage they are doing.' He challenged them, 'I'd say to them in America, if you're so powerful, please get companies to invest in areas of high unemployment in Northern Ireland. That's the only way to crack the discrimination and unemployment'.¹²² Later, he wrote in a letter to the Speaker of the California Assembly urging it to reject Hayden's Bill 'Could I therefore suggest that the best

¹¹⁹ C McCrudden, 'Equal Opportunities in Northern Ireland', *Equal Opportunities Review*, 10(1986) 17-21.

¹²⁰ INCP, Press Release, 15th January 1987.

¹²¹ Ibid.

¹²² S Erlanger, 'Ulster leader assails American supporters of MacBride' *Boston Sunday Globe*, 8th March 1987.

course of action that your assembly could take at the present time, would be withhold any action until you see the nature of the new legislative proposals? In that way, you will avoid any possible disinvestment damage, and will strengthen the pressure for “meaningful” Fair Employment legislation’.¹²³ The British government seized on these comments and others and included them in letters sent to opinion formers and in a barrage of press releases it sent across the United States in an attempt to embarrass the MacBride Campaign.¹²⁴ Meanwhile Goldin in an article in *Irish-America* claimed ‘That Catholics are routinely discriminated against in employment in Northern Ireland is indisputable.’ He also managed to relegate the FEA from a ‘toothless’ to a ‘paper’ tiger.¹²⁵

Throughout this period, two parallel lines of inquiry were being pursued; two sets of proposals for legislation, from the DED and SACHR, creating tension between respectively the minimalist and the maximist approach. On 24th March, SACHR published its *Interim Report on Employment*.¹²⁶ It made six recommendations for the new legislation, including, *inter alia*: a prohibition on indirect discrimination; a legal duty upon employers to provide equality of opportunity, which would include a duty to monitor the religious affiliation of existing employees and job applicants; and to make the receipt of public contracts and grants conditional upon employers making practical efforts to provide equality of opportunity. The contract compliance provision was similar in intent to the Declaration of Practice proposal of the government’s consultative paper. The manner in which the government dealt with the allocation of government and other public contracts and grants was ultimately going to be one of the critical points in finally persuading the Labour Opposition whether or not to support its legislation. The existence of SACHR’s separate set of proposals provided a checklist against which to examine the government’s proposed measures.

In May, Sinn Féin entered into the fray with the publication by its British Desk of an information pack containing over 20 documents, comprising of reports, speeches and letters on the MacBride Principles. They disclosed that ‘Sinn Féin would like to see British trade unionists devote more attention to the

¹²³ DFAMP letter Hume to the Speaker of the California Assembly, 17th April 1987.

¹²⁴ DP and DFAMP numerous editions of ‘What’s wrong with the MacBride Principles’ improving in presentation as the years went by but with increasingly less propaganda effect.

¹²⁵ H J Goldin, ‘Stopping discrimination by USA companies’, *Irish America*, April 1987.

¹²⁶ SACHR, Religious and Political Discrimination and Equality of Opportunity in Northern Ireland. Interim Report on Fair Employment, 1987.

, (1987).

situation here in Ireland. We believe the MacBride Principles give people an opportunity to discuss the nature of the 6 county statelet.¹²⁷ To maintain the balance, in August, the government received support from an unlikely quarter and in unlikely terms, when the Workers' Party, the political wing of the Official IRA, delivered a blistering attack on the MacBride Principles and its supporters. The Workers' Party was Marxist, and many of its members had close relations with leading communist and Marxist trade union officials, often reflecting their views. Its news release was entitled, 'Enshrining Sectarianism' and it claimed that it was the inescapable conclusion drawn by the Workers Party of an examination of these 'Principles' and the forces, which were supporting them.

Sinn Féin stands alone among Northern Ireland political parties in endorsing this campaign, and it is their apologists and cohorts in the United States who promote it so vigorously there. Their commitment to employment opportunity in Northern Ireland enables them to support the bombing of existing workplaces with the loss of thousands of jobs, the sectarian intimidation of workers by crude death threats and the savage murder of workers 'both at the workplace and while travelling to and from work', to use the MacBride Principles' own terminology. Their support for these 'Principles' can only be seen as the opening of another front in a vicious terrorist campaign in which workers, their lives and their livelihood, are put in the firing line.¹²⁸

In September following its consultations, the government published its much heralded *Religious Equality of Opportunity in Employment: Guide to Effective Practice*.¹²⁹ The Prime Minister, Margaret Thatcher, a lady much admired in Republican circles in the United States, and a close friend of President Reagan, wrote the introduction. She committed the government to taking whatever future steps might be necessary for the elimination of discrimination and the promotion of real equality of opportunity. The new guide was directed at employers to help them to examine and improve their employment practices in order to avoid unintentional and indirect discrimination. The government also

¹²⁷ DFAMP, Letter signed by Aine Connolly, British Desk, 4th May 1987.

¹²⁸ LCIP, Workers' Party News Release, 'Enshrining Sectarianism – The MacBride Campaign', 14th August 1987.

¹²⁹ DED, *Religious Equality of Opportunity in Employment: Guide to Effective Practice*, (Belfast, 1987).

gave an undertaking that before introducing its own legislation it would consider the report on fair employment being prepared by SACHR. The Irish government gave it a cautious welcome.¹³⁰

The ground had been carefully prepared with the press before the guide's publication. The Secretary of State was to make a highly publicised trip to the United States to sell the new guide to an increasingly sceptical audience. 'King to visit the US in jobs campaign,' said the *Irish Times* and the *Irish Press* recorded 'Axe jobs veto King asks US'¹³¹ The *Belfast Telegraph* helpfully headlined, 'MacBride Principles cost Ulster 7,000 jobs -- Devlin.'¹³² Paddy Devlin, a former SDLP member and minister in the power-sharing executive and former trade union official, based his claim on some dubious statistics. The figure was based on the total of 10 US companies, which had closed down operations in Northern Ireland over the previous five years. He claimed that the MacBride Principles influenced US companies to cut back in Northern Ireland instead of other parts of the world when economic difficulties arose. For 40% of the time claimed by Devlin, the MacBride Principles had not been in existence.

The guide and King received almost universal applause in the British press. 'King's formula for an affluent Ulster', and 'A jobs code for Ulster to keep America sweet', said the *Daily Telegraph*.¹³³ The *Guardian* reported: 'Campaign begins to end Ulster jobs bias'.¹³⁴ The *Times* reported 'Battle for jobs equality in Ulster'.¹³⁵ Following a visit by King to Dublin to discuss the new proposals with Brian Lenihan, the Irish Foreign Minister, who gave the guide a qualified welcome, the *Daily Mail* reported that, 'the full force of the government's economic muscle, would be used to try to end jobs bias against Roman Catholics in Northern Ireland' under a headline 'Government gets tough on jobs inequality, biased Ulster bosses face grant ban'.¹³⁶ The new guide was published as a response to the MacBride Principles. Armed with it and precise instructions from the *Independent*, 'What King should tell the US,'¹³⁷ The Secretary of State, Tom

¹³⁰ DFAMP statement by An Tánaiste, 15th August 1987.

¹³¹ 'King to visit US in jobs campaign', *Irish Times*, 31st August 1987 and 'Axe jobs veto, King asks the US', *Irish Press*, 31st August 1987.

¹³² 'MacBride Principles cost Ulster 7,000 jobs -- Devlin' *Belfast Telegraph*, 31st August 1987.

¹³³ A Guardia, 'King's formula for an affluent Ulster', and idem 'A jobs code for Ulster to keep America sweet', *Daily Telegraph*, 14th September 1987.

¹³⁴ 'Campaign begins to end Ulster jobs bias', *The Guardian*, 14th September 1987.

¹³⁵ R Ford, 'Battle for jobs equality in Ulster', *The Times*, 17th September 1987.

¹³⁶ 'Government gets tough on jobs inequality, biased Ulster bosses face grant ban' *Daily Mail*, 16th September 1987.

¹³⁷ Editorial, 'What King should tell the US', *Independent*, 17th September 1987.

King, embarked upon a fresh mission to the United States for his 'Crucial struggle over MacBride'.¹³⁸ This was designed to sell his proposals and undermine the MacBride campaign, which had 'The wrong Principles' thundered the *Times*.¹³⁹

Unfortunately for King the US media and journalists based there, did not share the same optimism which characterised the British media. The *Irish Times*' Washington correspondent, Sean Cronin, wrote that King's visit was 'more likely to boost to the campaign that has made extraordinary advances in the past two and a half years rather than halt it'.¹⁴⁰ The reason that Cronin gave was that the pro MacBride legislators were

... apt to suspect that the British Secretary of State for Northern Ireland is more concerned with Unionist acceptance on the Anglo Irish Agreement than with justice and human rights when voicing his opposition to the MacBride Principles. They are, after all, politicians and the vast majority of them of Irish, Catholic descent¹⁴¹

Cronin's article provoked an angry letter from Peter Viggers, the Parliamentary Undersecretary at the DED. Cronin's suggestion that the MacBride Campaign had been the driving force for fair employment provoked the reply, 'let me state quite clearly that it is the British government, which is setting the agenda for progress in securing equality of opportunity in the Province and not the MacBride proponents.'¹⁴²

Reflecting moderate Irish nationalist opinion, the *Irish News*, whilst welcoming the guide said:

It is one which could collapse quickly without the early support of effective legislation. The lack of the legal teeth will be one of the criticisms Secretary of State Tom King will meet when he travels to the USA this weekend in a bid to attract investment from North America and to counter the successful campaign on behalf of the MacBride Principles. A promise of legislation

¹³⁸ J Hunter, 'Crucial struggle over McBride [sic]' *The Times*, 15th September 1987.

¹³⁹ Editorial, 'The wrong principles', *The Times*, 4th September 1987.

¹⁴⁰ S Cronin, 'Kings US visit will aid Principles', *Irish Times*, 4th September 1987.

¹⁴¹ Ibid.

¹⁴² Letter to the editor from Peter Viggers MP, *Irish Times*, 14th September 1987, Cronin's reply, *Irish Times*, 30th September 1987, politely suggested Viggers 'may have missed the point'.

sometime in the next two years will not be enough to quash doubts about the measures chances of success.¹⁴³

The *The Times* had an equally cautious headline, 'Jobs: can King win over America?'.¹⁴⁴ The *Sunday World* doubted King's and the government's commitment to fair employment as only giving way to outside pressure:

by introducing anti-discrimination legislation just before he left for the US and only after his arm had been twisted up his back by those advocating the MacBride Principles, Tom King and indeed the British government showed they knew discussion on employment existed here but were quite willing to put up with it until they got a kick up the backside.¹⁴⁵

The *Economist* expressed the same sentiment, but more politely, 'Pressure Pays'.¹⁴⁶ The *Irish People*, not surprisingly, took a more aggressive attitude, referring to 'Tom King, he who serves as Margaret Thatcher's Colonial Secretary for North East Ireland'.¹⁴⁷

The *Christian Science Monitor* was of the opinion that the British still had a job to do convincing the Catholic, and the Irish American communities that they were serious about ending job discrimination. The recent guide was useful, but did not solve the problem.

Railing against MacBride may provoke the sort of confrontation in which many Irish-American politicians may end up feeling forced by constituents sceptical of the British record in Ireland to support MacBride laws after all.¹⁴⁸

On the Hill, King faced some the difficulties in persuading congressmen of his good faith when it was alleged that the proposed timetable for the legislation was not to see the Bill introduced into Parliament until 1989 at the earliest.¹⁴⁹ He faced close questioning from both members of the Senate Foreign Relations Committee, the House Foreign Affairs Committee and the Friends of

¹⁴³ Editorial, 'In need of support', *Irish News*, 16th September 1987.

¹⁴⁴ J Cooney, *The Times*, 19th September 1987.

¹⁴⁵ 'Jobs: Can King win over America?' *Sunday World*, 20th September 1987.

¹⁴⁶ 'Pressure Pays', *Economist*, 19th September 1987.

¹⁴⁷ 'King's American Tour', *Irish People*, 5th September 1987.

¹⁴⁸ Editorial, 'Deflecting "MacBride"', *Christian Science Monitor*, 24th September 1987.

¹⁴⁹ S Cronin, 'Jobs equality a two-way process – King', *Irish Times*, 23rd September 1987.

Ireland. King explained the reason for his difficulties in United States in an interview for Radio Ulster:

Well, it is difficult in this sense that it's an easy vote in state legislatures. Nobody should under-estimate the extent of the Irish vote that exists in America There are 40 million people who claim Irish descent, and against that background its, as it were, a free vote for many legislators, a vote to which they don't actually have to face up to the consequences themselves¹⁵⁰

And of course Irish-Americans did not 'actually have a close understanding of the situation in Northern Ireland'.¹⁵¹ In an interview at the consulate with the *Boston Irish Echo* he tried to raise the spectre of the 'red' scare. 'There are some people in the MacBride campaign, who have wider political motivations. Some are Marxists, who wouldn't mind smashing NI'.¹⁵² The questioner, the paper's editor Bill O'Donnell cut him short. Even towards the end of the Cold War, he did not considered it a hare worth chasing. It was also unfair of King, given his unlikely anti-MacBride bed fellows, the Belfast based communist and Marxist trade union officials, and the Workers' Party. David McKittrick of *The Independent*, who had accompanied King on his visit to the US, made an assessment of the reasons for and the effects of King's visit.

No one is in serious doubt that the recent flurry of government activity on the fair employment front is due entirely to the American pressure. From this, the Irish Americans draw the lesson that their pressure will have to be maintained. Unless the Government takes action to pass and enforce strong new laws, the MacBride bandwagon is set to keep rolling.¹⁵³

King had the consolation of one positive headline, 'White House gives pledge to King on MacBride Principles'. Not surprisingly, Christopher Thomas reported in *The Times* that King 'had been given a categorical assurance by the Reagan administration that it will continue stiff opposition to the so-called

¹⁵⁰ DFAMP, Radio Ulster interview transcript, 20th September 1987.

¹⁵¹ Ibid.

¹⁵² B O'Donnell, 'On the road with Tom King', *Boston Irish Echo*, 20th September 1987.

¹⁵³ D McKittrick, 'Battle for the minds of Irish America', *The Independent*, 2nd October 1987.

MacBride Principles, which call on American companies in Northern Ireland to employ more Roman Catholics'.¹⁵⁴

There was another slight consolation for King. Suzanne Harvey's latest report, *Northern Ireland, Divestiture Update* for Prudential-Bache, revealed all the signs of successful heavy lobbying by the BIS. Investors' attention was drawn to the fact that in South Africa, discrimination was mandated by law, whereas in Northern Ireland, it was not. Moreover, the South African government supported the Sullivan Principles as the alternative to divestment, whereas the British government opposed the MacBride Principles. Investors were given no explanation of the apparent contradiction of why the South African government supported the violation of their own strong apartheid laws in order to prevent divestment. Harvey pointed out that the legislative momentum behind the MacBride Principles illustrated an important investment trend in United States, the application of non-traditional selection criteria to portfolio management. She also pointed out that the trend affected not only public funds, but was moving strongly into private portfolio decision-making, ethical investment. This report was a marked retreat from the original implied suggestion to 'cleanse your portfolio' and was 'not intended to imply support for any state or federal legislative efforts to place restrictions on investment choices. There is, however, strong momentum in the United States for such legislation, and Prudential-Bache believes our clients should be kept abreast of these developments'.¹⁵⁵ There is no evidence of Goldin using the second Prudential-Bache report, and whilst it made a distinction between the situations in Northern Ireland and South Africa, it was of little assistance to the British government.

On 29th October 1987, SACHR published its long awaited report, *Political and Religious and Political Discrimination and Equality of Opportunity in Northern Ireland*.¹⁵⁶ It had had a difficult gestation. Liam Canniffe, an Irish member of the joint secretariat, reported on a conversation he had with Alasdair McLaughlin, a member of SACHR and the Director of the Northern Ireland Confederation of British Industry. There had been considerable differences of opinions within the Commission. Two members felt that the British proposals

¹⁵⁴ C Thomas, 'White House gives pledge to King on MacBride Principles', *The Times*, 24th September 1987.

¹⁵⁵ DFAMP 'Northern Ireland Divestiture Update' *Prudential-Bache Reports*, 29th September 1987.

¹⁵⁶ SACHR, *Religious and Political Discrimination and Equality of Opportunity in Northern Ireland. Report on Fair Employment*, CMD 237, (1987).

went too far, while a majority felt that they did not go far enough. He believed that the Chairman, Seamus O'Hara, was greatly influenced by McCrudden into taking a very strong nationalist line, and was trying to push through a hard-hitting report. Nine members wanted no mention of religion in the report, while two did. Finally, two members were against the report and there was the possibility of a minority report, which McLaughlin thought would weaken the Commission. Surprisingly coming from a Director of the CBI, Canniffe reported that 'McLaughlin said that should ameliorative action entail the introduction of quotas-which he personally felt would be going too far- he would none the less, go along with this.'¹⁵⁷

The MacBride Principles cast a long shadow over SACHR's proceedings. They caused a split in the Commission which resulted in the production of a majority and a minority report. Of the twenty-seven out of the forty-seven evidential submissions received by SACHR, which it had permission to publish, five specifically supported the MacBride Principles. Only one, the Engineering Employers Federation, objected, and of those who might have been expected to object to them neither the CBI nor the Northern Ireland Chamber of Commerce objected to the MacBride Principles.¹⁵⁸ McLaughlin had said that O'Hara would not allow discussion of the Principles in the context of the report because he did not want to come out against the Principles.¹⁵⁹ Nevertheless, SACHR could neither ignore nor refuse to mention the Principles in its report.

The five paragraphs dealing with the MacBride Principles are sympathetic to them, recognising that they had played a role in putting equality of opportunity between the two main sections of the community in Northern Ireland on the political agenda. 'The Principles embody the type of affirmative action, which is widely seen as necessary, if unacceptable levels of any inequality of opportunity are to be reduced.'¹⁶⁰ It then rehearsed some of the problems associated with the Principles, for example, that the name had associations 'which have led some to

¹⁵⁷ DFAMP, Report of Meeting between Cuniffe and a McLaughlin (Director of the NICBI), 2nd September 1987.

¹⁵⁸ SACHR, *Religious and Political Discrimination and Equality of Opportunity in Northern Ireland. Report on Fair Employment, CMD 237, (1987)* v.3 evidence, (unpublished), 39. 'The Association [Engineering Employers Federation] stands by its trenchant opposition to any proposal that the MacBride Principles be enshrined in a legal framework'.

¹⁵⁹ DFAMP Report of Meeting between Cuniffe and A McLaughlin, 2nd September 1987.

¹⁶⁰ SACHR *Religious and Political Discrimination and Equality of Opportunity in Northern Ireland. Report on Fair Employment, CMD 237, (1987)*, 110.

resent and reject the Principles without consideration of their contents'.¹⁶¹ It then made a general declaration that, 'No one set of general Principles of this type can set out the range of detailed legislative action, which the Government should encourage employers and others to take in order to achieve equality of opportunity'.¹⁶² No MacBride campaigner would have disagreed with that statement or with the report's conclusion that 'consideration of the legislative and executive action which the Commission considers necessary, should not be diverted into debate about the pros and cons of the MacBride Principles'.¹⁶³

This generally supportive view of the Principles was not accepted by the three members of the Commission who signed the minority report. Rejecting monitoring, some of the recruitment proposals and the concept of a 'tie-break',¹⁶⁴ now or at anytime in the future, they were scathing in their judgment of the MacBride Principles and its continuing campaign.

We consider it important to place on record our view, shared by many experienced lawyers, that the so-called "MacBride Principles" are, in at least some of their provisions, contrary to the law as it presently stands ... They appear to be designed to advance the interests of one section of the community at the expense of the other. In practice, not merely have they done nothing to advance the interest of fair employment practice, but they have done considerable damage to the Northern Ireland economy and undermined attempts to expand it when expansion is desperately needed in the interests of all sections of the community.... We cannot share the view of the majority that the Principles have played a constructive part in to putting equality opportunity on the political agenda.... We therefore consider them to be unsound and unacceptable, however well-intentioned they may appear.¹⁶⁵

The minority report was an accurate reflection of the attitude of majority unionist opinion towards the MacBride Principles. It is difficult to gauge the effect that it had outside the unionist community, although it obviously confirmed many

¹⁶¹ Ibid.

¹⁶² Ibid.

¹⁶³ Ibid.

¹⁶⁴ 'Tie-Break' was a procedure whereby if a decision was to be made between two similarly qualified candidates from different communities for a job, the post should be awarded to the candidate from the under-represented community.

¹⁶⁵ Ibid., 105.

existing prejudices. It may also have strengthened the hand of those officials in the DED, who were hostile to the majority report, as the finishing touches were put to the government's white paper.

The Commission's majority report was the most comprehensive examination of religious discrimination in employment in Northern Ireland ever undertaken. The Policy Studies Institute (PSI), an independent, London-based, internationally renowned, non-profit making body with great experience in the area was commissioned to undertake the fieldwork. While some of the policy and legislative recommendations of the Commission excited controversy, the detailed accuracy and scholarship of the research was never questioned. The PSI examined all eleven factors that were said to contribute to the employment differential between Catholics and Protestants. The Commission commented on the fruits of the PSI's research: 'The importance of these results is that they show that while all the listed factors, and particularly socio-economic status, are significantly related to unemployment, a man's religion is consistently shown to be a major determinant of his chance of being unemployed'.¹⁶⁶ The Commission set out in great detail a legislative and administrative programme to achieve a substantial reduction in the employment differential. It suggested that as an aim of government policy it should establish a goal, which they would wish to see achieved in five years, of a substantial reduction in the differential rate of unemployment between Catholics and Protestants. The Commission then threw down the gauntlet to the government by advocating that it should aim to close the gap between Catholics and Protestant unemployment from two and a half times to one and a half times within five years. Commission justified its case by arguing:

This is not a prediction that the recommendations made in this Report will result in this being achieved. Rather the Commission recommends this as a reasonable target which, on public policy grounds, the Government should set itself to achieve. The Commission knows of no evidence which demonstrates that this is an impossible goal to achieve.¹⁶⁷

¹⁶⁶ Ibid., 35.

¹⁶⁷ Ibid., 42.

The acceptance of the target became for many Catholics the test of the government's *bona fides*, and of the seriousness of its intent in tackling religious discrimination in the forthcoming White Paper. The SACHR Report presented a checklist of measures to compare with the provisions that might appear in the future legislation.

The last two paragraphs of the government's white paper rejected out of hand the Commission's proposal for a target. Having set out a number of employment criteria and indicators, the government claimed that they would be a more reliable indication of the success of the policy than any reduction in the unemployment differential between male Catholics and Protestants. The reasons given were a resurrection of the arguments used to explain the differential, which had been so comprehensively debunked by the IPS:

To set a target in terms of levels of unemployment would be to ignore the importance of many variable and unpredictable factors, which determine the overall level of unemployment in the community. In addition, it would leave out of the reckoning the fact that the unemployment differential between Catholics and Protestant will be at least as strongly influenced by social, geographical and economic factors as by fair employment policies. The latter have a vital role to play in ensuring fair and equal access for all the employment opportunities which exist at any given time; but the former - coupled with the overall level of economic activity - will have a major bearing on the way in which employment and unemployment is actually distributed in the community.¹⁶⁸

This casual dismissal not only of the proposed target but of the basic research, 'more research studies may need to be undertaken'.¹⁶⁹ This questioned the basic conclusion drawn from the research of the IPS, that 'a man's religion is consistently shown to be a major determinant of his chance of being unemployed'.¹⁷⁰ By implication, the Commission needed to learn to live in the real world, with the government emphasising that there 'must be realism as well

¹⁶⁸ *Fair Employment in Northern Ireland 1988*. CMD 380, 47.

¹⁶⁹ *Ibid.*

¹⁷⁰ SACHR, *Religious and Political Discrimination and Equality of Opportunity in Northern Ireland. Report on Fair Employment*, CMD 237, (1987), 35.

as determination in the application and development of fair employment policies'.¹⁷¹

It was by now apparent that any hopes of the MacBride Principles being 'subsumed' or made 'irrelevant' in the legislation were not going to be fulfilled. The demolition in the white paper of the proposal for a target to reduce the unemployment differential had soured the atmosphere even before the Bill was published. The publication of the government's Bill was now viewed, not only by MacBride campaigners, but also the SDLP and other nationalist groups, more with apprehension than anticipation. Pressure groups seeking to influence proposed legislation, always seek to have their proposals accepted by the government before the publication of the Bill and for them to appear, if possible, on the face of the Bill. It is always more difficult for the Opposition or pressure groups to have amendments accepted after a Bill has been published. Governments do not wish to accept amendments to their own legislation after it has been published because it was regarded as a sign of weakness. For the Labour Opposition and the SDLP to obtain any extensive changes in the Bill was going to be an uphill task

When the Fair Employment (Northern Ireland) Bill was published, it was met with a chorus of dismay and disapproval. The Irish government's statement of support of the Bill was not over enthusiastic. Noting that in the course of consultations over many months, determined efforts had been made to resolve such differences in approach as arose, it said, 'the provisions published today are not in all respects as strong as the government would have wished'. It did admit that 'If effectively implemented, we believe that they could represent a significant improvement over existing legislation'.¹⁷² To the SDLP, the Bill was 'inadequate' and the FEA was 'disappointed', while the ICTU expressed 'grave concern'. The Belfast Committee on the Administration of Justice, said:

It is crucial that new legislation send a clear single that discrimination is an unacceptable violation of the right of citizens to equal treatment and not simply an unfortunate accident, which we should quietly brush under

¹⁷¹ *Fair Employment in Northern Ireland 1988*, CMD 380, 47.

¹⁷² DFAMP press release 'Publication of Fair employment (Northern Ireland) Bill, 15th December 1988, government statement', 15th December 1988.

society's carpet. We feel the Bill in its present form falls short of this aspiration.¹⁷³

In an article in the *Irish Times* headlined 'Flawed Bill cannot end NI jobs bias',¹⁷⁴ published on the morning of the second reading of the Bill, McNamara said:

Its many deficiencies are such that, unless there is substantial and significant improvement during its progress through Parliament, its enactment could not improve the current law sufficiently to lead to a fairer distribution of jobs in Northern Ireland and the abandonment of the MacBride Campaign in the United States.¹⁷⁵

McNamara compared the Bill unfavourably with SACHR's recommendations and illustrated a number of major deficiencies in the Bill including its failure to encourage affirmative action programmes, clarify the position concerning goals and timetables. Moreover, the provisions concerning employers being awarded government grants and contracts and failing to comply with their legal obligations were weakened. An analysis, prepared for McNamara, of the degree of acceptance in the Bill of SACHR's 123 recommendations, showed that 40.7% were not accepted, 21.9% were accepted in part, 30.1% were accepted and the position of the remaining 7.3% was unclear.¹⁷⁶ Of the 13 recommendations made of by ICTU, in response to various documents concerning fair employment, none had been implemented.¹⁷⁷ The Opposition decided not only to put down a reasoned amendment to the Bill but to vote against it at its second reading on a three line whip. This angered the government. It made its task of selling the new Bill without all party support almost impossible to the hostile and suspicious Irish-American audience.

During the debate on the secondly reading, apart from a spirited defence by Peter Archer of the reputation of his friend Seán MacBride and of the Principles named after him, only a handful of members mentioned the Principles or the American influence on the legislation, yet they seemed to have a brooding

¹⁷³ CAJ, *Briefing Paper on the fair employment (Northern Ireland) Bill*, (Belfast 1989), 1.

¹⁷⁴ K McNamara, 'Flawed Bill cannot end NI jobs bias', *Irish Times*, 31st January 1989.

¹⁷⁵ Ibid.

¹⁷⁶ KMNP C McCrudden, Fair Employment Bill Briefing no.1, 6th January 1985, Appendix A, 319, comparison between the FE Bill and the proposals of the Standing Advisory Commission'.

¹⁷⁷ Ibid., Appendix B, 320, 'A comparison between the FE Bill and the proposal of the Irish Congress of Trades Unions'.

presence throughout the debate. The government, which was in a difficult position with many of its right-wing, Unionist supporting backbenchers, handled the situation well by attacking the Opposition's amendment and McNamara's *Irish Times* article, calling it 'mischievous and damaging to Northern Ireland'.¹⁷⁸ McNamara's speech was described as 'grudging and petulant'.¹⁷⁹ The method of enforcing the Bill's provisions by imposing responsibilities upon private industry, particularly the many small industries of Northern Ireland, was contrary to the Thatcherite philosophy of reducing burdens on business, cutting red tape and refusing to extend race, gender and equality legislation on mainland Britain.

Labour's amendment to the Bill was defeated by 268 to 194 votes. The SDLP, too, had tabled a second amendment but, as was then the custom, only the official Opposition's, was put the vote. On the substantive motion, the Bill received a second reading by 272 to 192 votes. The SDLP abstained on the second vote because they had been engaged in negotiations with the DED over the actual contents of the Bill. Some Liberals voted for the Labour amendment, and then for the Bill but one, David Alton, voted with the government on both occasions. The OUP abstained on the amendment and then voted against the Bill. The DUP voted against the amendments and against the Bill. James Kilfedder, an independent unionist, abstained.

Both in the committee stage and on the report stage of the Bill, the government either accepted the Opposition's amendments or introduced amendments of their own, which, from the Opposition's point of view, strengthened and improved the Bill. The government also undertook to introduce further amendments to strengthen the Bill when it arrived at the House of Lords. McNamara took the opportunity on the third reading to discuss the role of the Opposition in matters relating to Northern Ireland and his handling of the Bill.

One of the assumptions that have permeated thinking on Northern Ireland is that the normal cut and thrust between Government and Opposition, should not apply, summed up in the term bipartisanship.

Underlying that assumption is the belief that it is the Opposition's duty loyally and uncritically to support the Government in their Northern Ireland

¹⁷⁸ *Hansard*, 31st January 1989, col. 203, Secretary of State, Tom King.

¹⁷⁹ *Ibid.*, 31st January 1989, col. 229-30, Peter Viggers.

policies. That view confuses two things. No one should neglect to recognise the difficulties and personal sacrifices involved on the part of those right hon. and hon. members who serve and who have served in Northern Ireland. Ministers are entitled to sympathy and understanding on that score. But to proceed from that view to the argument that the best interests of Northern Ireland are served by an uncritical approach on the part of the Opposition is a serious error of logic. Even if the Government and Opposition did not have substantial differences about Northern Ireland's long-term future, an uncritical approach would still be inappropriate.

Our experience of progress with the Bill confirms my long-held belief that a constructive and critical perspective on the part of the Opposition is the best policy.¹⁸⁰

Based on the progress made, and with promises for future significant improvements in the Bill, McNamara said that if the Bill was challenged in its third reading Labour members, 'should with confidence go with the Government into the Lobby tonight.'¹⁸¹ The Bill was carried on third reading with just four Unionist votes against.

McNamara's confidence and that of his colleagues was shattered when the Bill reached the Lords. The Northern Ireland CBI and other employers' organisations had been furiously lobbying for changes in the Bill to reduce the 'burdens' upon employers and to reduce the powers of the proposed new Fair Employment Commission. Lord Mottisone declared an interest and spoke to the CBI brief.¹⁸² Apart from agreeing to the Lord Chancellor being responsible for the appointment of the Chairman the new Fair Employment Tribunal instead of the DED, there was no concession to the Opposition. Speaking for Labour, on the Bill's third reading in the Lords, Lord Prys-Davies laconically observed, 'In many other respects, the Bill has been weakened by amendments introduced by the Government. One does not normally expect a government to weaken their own Bills'.¹⁸³ He identified four vital parts of the Bill, which he said left the Lords ill-defined and unclear, namely the provisions governing indirect discrimination and

¹⁸⁰ *Hansard*, 25th May 1989, col. 1210.

¹⁸¹ *Ibid*, 25th May 1989, col. 1213.

¹⁸² *Lords Hansard*, 28th June 1989, col. 811.

¹⁸³ *Ibid*, 20th July 1989, col. 1015.

its definition, provisions relating to affirmative action to protect training schemes; the protection of redundancy schemes, which departed from the traditional employment practice of 'last in, first out', and the resolution of the conflict between the Sex Discrimination Order and the Fair Employment Act, which appeared to him to be in conflict with European Community legislation.

When the Lords' amendments returned to the Commons, the debates were relatively short and ill-tempered as each side rehearsed their well-worn arguments. The Opposition felt it had been betrayed by the government, which had failed to deliver on its undertakings, and that its support on the third reading in the Commons had been obtained by false pretences. Peter Viggers, the junior minister, who had taken the Bill through the Commons, had lost his ministerial post, and the Lords' amendments were taken in the Commons by the Secretary of State, Tom King. His replacement as the new Secretary of State, Peter Brooke, attended the debate. King said that he had 'not taken part in the detailed examination of the Bill I am glad that I have not had to listen to the explanations by the hon. member for Kingston upon Hull, North about the differences between religion-exclusive and religion-specific. It sounds like a distinction without a difference'.¹⁸⁴ McNamara replied that he was 'sorry that the Minister cannot grasp the distinction between religion-exclusive and religion-specific. He said that had not paid great attention to the detail of the Bill. Perhaps if he had done so, we would have had a better Bill.'¹⁸⁵ It was a very different Act from the Bill that had first been debated in the House of Commons, with important additions that strengthened its contents, but not enough to satisfy the Labour Opposition or the MacBride Campaigners.¹⁸⁶

Across the Atlantic, Doherty and his companions were following closely the exchanges in the Commons and noting the detailed changes appearing in the Bill as it made its progress through its various stages in Parliament. They regarded the various government statements and papers introduced before the publication of the Bill as victories and justification for their campaign. Despite the Bill demonstrating that the government had already started withdrawing from

¹⁸⁴ *Hansard*, 26th July 1989, col. 115.

¹⁸⁵ *Ibid.*, 26th July 1989, col. 116. Religion-exclusive actions were permitted under the Fair Employment and Treatment Order, 1998, following the Belfast Agreement.

¹⁸⁶ KMNP An analysis from the changes from the original Bill to the Act shows that the Act had two additional clauses with the number of sections increased from 55 to 60. The number of added new sub-sections was 15, the number rewritten, 34, whole sections added new were 8, two were rewritten and sections altered in part numbered 30. Analysis by Dr T Lynn, political assistant to McNamara.

some of the positions it had outlined its white paper, they nevertheless urged McCrudden, and through him McNamara, to intensify their opposition and press for even greater improvements. British MPs, who were handling the Bill from day-to-day and with their knowledge of the atmosphere in the committee and in the House, knew the suggestions were incapable of being achieved.

Representative Joseph Kennedy II and Mayor Raymond Flynn of Boston had jointly written to all members of the Commons 'to share our concerns regarding the vital issue of fair employment in Northern Ireland that you will be considering this week in the House of Commons.'¹⁸⁷ It then listed criticisms of the Bill as it had emerged from the committee stage, which reflected some of the continuing defects in the Bill, which had been highlighted by the Opposition. It illustrated the close attention informed Irish Americans were taking in the details of the Bill. Unfortunately, the letter was dated 22nd May and arrived too late to influence the Commons proceedings, which were completed on 25th May. Once the Bill had emerged from the Lords, and given the attitude of the Labour Opposition, any hope that the government might have had of undermining the MacBride Principles and make them irrelevant in the United States, was lost. The war of attrition, state by state, and city by city, would continue.

On the 24th May, Mayor Flynn had written a similar letter to the Prime Minister, Margaret Thatcher, and her personal private secretary, Charles Powell, had replied on her behalf on the 23rd June.¹⁸⁸ In his reply, Powell said 'as you may know, the Fair Employment Bill was supported by both the Opposition and the Social Democratic and Labour Party when it completed its passage in the House of Commons on 25th May'.¹⁸⁹ He went on to affirm that that support had reflected the government's flexibility in responding positively to constructive points put forward by the Opposition during the consideration of the Bill. Powell in his reply was being disingenuous. It was true that at the Commons' third reading, Labour had voted for the Bill because of undertakings given by the government to introduce further changes when the Bill went to the Lords. Powell would have known when he wrote his letter to Flynn, which was five days before

¹⁸⁷ KMNP letter Kennedy and Flynn to McNamara, 22nd May 1989, enclosing a circular letter sent to all MPs. The letter received wide coverage in Irish America, see R O'Hanlon 'Flynn and Kennedy lobby British over FE bill', *Irish Echo*, 27th May 1989. Given the lateness of the letter in arriving in Westminster its main target was may have been as much the Irish American audience as the British legislators.

¹⁸⁸ KMNP, letter Flynn to Thatcher, 24th May 1989.

¹⁸⁹ KMNP letter Powell (Thatcher's Private Secretary) to Flynn, 23rd June 1989. Flynn sent a copy of Powell's letter to McNamara.

the Bill's second reading in the Lords that the government was not going to honour its undertakings and make other changes in the Bill, which had never been discussed with the Opposition.

McNamara was angry at Powell calling in aid the Labour Party as supporting what it considered to be a defective Bill. When he received his copy of Powell's letter, the Lords had already completed their examination of the Bill. McNamara in a press release called Powell, the 'unofficial deputy prime minister' and protested to Mrs. Thatcher that one of her senior officials had been involved in efforts to misrepresent the position of the Labour Party: 'I must say that I do find it extraordinary that a civil servant, such as Mr. Powell should find himself compromised, in such a fashion by an involvement in a party political matter'.¹⁹⁰ In his letter to the Prime Minister, McNamara told her that she should set the record straight by writing to Mayor Flynn, apologising for having misled him as to the Opposition's position on the issue. Pointing out the government's failure to honour its promises to the Opposition, and that it had weakened the Bill, he wrote '... the conditions have not been met. As a result, the Government can no longer count on the support of HM Opposition'.¹⁹¹ He further wrote 'I would also like you to give an undertaking that you will not claim to represent the position of HM Opposition to people within the UK or abroad without first checking with the relevant Opposition spokesperson'.¹⁹² Going to the fundamentals of British policy, he attacked her as undermining the fundamental basis of the government's reasons for opposing the MacBride Campaign, 'I am not sure that you realise that attempts to misinform US opinion are not conducive to attracting inward investment into Northern Ireland, something which the Opposition particularly, wishes to encourage'.¹⁹³ He did not expect to receive a reply from the Prime Minister, nor did he. Copies of his letter and press release were sent to Flynn and Doherty, who distributed them widely across the United States.¹⁹⁴

Andrew Henderson, recently transferred from the British consulate in New York to the embassy in Washington, to operate on a full-time basis to counteract the MacBride Campaign, had confided to Martin Burke of the Irish

¹⁹⁰ KMNP letter McNamara to Thatcher, 24th July 1989. McNamara press release, 'McNamara attacks role of unofficial deputy prime minister', 24th July 1989.

¹⁹¹ Ibid.

¹⁹² Ibid.

¹⁹³ Ibid.

¹⁹⁴ See also E McCabe, 'Boston Mayor "misled by PM" on biased Bill', *Irish News*, 26th July 1989 and 'Britain reneges on promises', *Irish People*, 5th August 1989.

embassy, before the publication of the Bill, that the British embassy's objective was essentially to contain the MacBride Campaign rather than to defeat it. The only hope of relief lay in the early passage through Parliament of the proposed legislation, which would have a significant impact on interested public opinion in the United States. Until that time, the policy was to stall efforts to have MacBride Bills passed and where that was an unrealistic objective to dilute the substance of the Bills concerned.¹⁹⁵ The legislation did not meet Henderson's aspiration and the MacBride Campaign continued to the end of the century.

In the Commons after the passage of the Act, a desultory campaign against the Principles was waged by unionist and government backbenchers. The government warily repeated its well-established position. The charges levelled against the Principles involved the damaging of the employment prospects of young well educated Catholics in areas of high employment in ever finding employment;¹⁹⁶ the deterrent effect of the Principles on inward investment;¹⁹⁷ and that they did not advocate investment.¹⁹⁸ A similar criticism could be made of the FEA Act. Attacks were made on President Clinton for his support of the MacBride Principles and a reminder of MacBride's previous role in the IRA.¹⁹⁹ A request was made for the government to make the strongest representations to the Clinton administration to 'remove the out dated MacBride Principles'.²⁰⁰ However, the minister let the cat out of the bag and indicated the weakness of the government's position by his admission that 'it is the campaign and the people associated with it, rather than the substance [of the Principles] which is causing the problem'.²⁰¹

The election of President Clinton rather than its preferred candidate, President Bush, caused difficulties for the government in maintaining its high profile hostile stance to the MacBride campaign. The change in attitude was

¹⁹⁵ DFAMP telex Burke to Anderson, 31st October 1988, report of lunch with Cowper-Coles and Henderson.

¹⁹⁶ *Hansard*, 13th January 1991, cols.125-6, Roy Beggs, OUP.

¹⁹⁷ *Ibid.* 20th June 1991, col.516, Secretary of State Peter Brooke in answer to a question by David Trimble leader of the OUP, *Hansard*, 29th October 1992, col.1127.

¹⁹⁸ John Taylor MP demanded that no government assistance should be given to American firms that operated the MacBride Principles, *Hansard*, 9th August 1995, col.925, Taylor was the deputy leader of the OUP.

¹⁹⁹ *Hansard*, cols. 345-6, 4th November 1992, speech by Ian Paisley leader of the DUP.

²⁰⁰ *Ibid.*, 2nd December 1993, cols 1149-50, supplementary question by Conservative Anne Winterton.

²⁰¹ *Ibid.*, 2nd December 1993, col.1150, Northern Ireland Industry Minister Robert Atkins in reply to supplementary question by Joe Hendron of the SDLP.

demonstrated in Atkins reply to Hendron.²⁰² Even greater skill was to be needed when the Democrats lost control of Congress to the Republicans. Now a champion of the MacBride Principles, Representative Ben Gilman, became chairman of the House Foreign Affairs Committee and the IFI came under a duel threat from those Republicans seeking to cut the foreign aid budget and those wishing to ensure the acceptance of the MacBride Principles as a condition of supporting the IFI. This was shown in the British Ambassador's letter to Gilman.²⁰³ In a written answer to Tony Worthington, Michael Ancram, the Minister of State, carefully side-stepped an attempt to make him comment of Gilman's initiatives.²⁰⁴ The following year, in reply to a question how the IFI would comply with Congressional insistence that it conform to the MacBride Principles, again the Minister Sir John Wheeler, avoided a direct reply by stating that IFI disbursements were a matter for the independent board, but when operating in Northern Ireland it would obey United Kingdom law.²⁰⁵

Essentially, the British campaign against the MacBride Principles both before and after passage of the 1989 Act was flawed. It started as a denial and then as a minimizing of the problem which enabled what should have been a serious but remediable and not intractable problem to become obsessive. 'The major responsibility for these blunders must lie at the door of the Department of Economic Development in Belfast,' wrote McCrudden.²⁰⁶ Richard Needham, the longest serving British minister in Northern Ireland and one of its most energetic and imaginative, did not have a high opinion of some of the officials of the department and its agencies for which he was responsible, 'The IDB, who had for years worked out of British consulate offices, behaved as if Northern Irish politicians were incapable of serving any purpose other than opposing the MacBride Principles and giving a general impression of being willing lackeys of British imperialism'.²⁰⁷ He spoke of the IDB's 'flawed perspective'.²⁰⁸ Nevertheless, despite their major concerns of security, relations with the Irish Republic and exploring ways of trying to achieve a political settlement in Northern Ireland, successive secretaries of state, cannot escape their responsibility

²⁰² Ibid., 2nd December 1993, col.1150.

²⁰³ This was shown in the far less aggressive tone of the British Ambassador's letter to Gilman. DP letter Sir John Kerr (British Ambassador) to Gilman, 13th May 1987.

²⁰⁴ *Hansard*, 9th June 1995, col.354, Written Answer.

²⁰⁵ *Hansard*, 25th May 1995, col.925.

²⁰⁶ C McCrudden, 'The law that will not ensure fair play', *Irish Times*, 29th July 1987.

²⁰⁷ R Needham, *Battling for Peace*, (Belfast, 1998), 278.

²⁰⁸ Ibid.

for failing to realize the significance of MacBride campaign, particular when Comptroller Goldin became involved. The British response throughout lacked generosity of spirit, and wide imagination, which led to a complete misreading of the Irish-American scene, resulting in some unforeseen consequences to the detriment of its overall Irish policy.

Chapter Four

MacBride and the Irish Government

If John Hume was against them, so were we

Garrett FitzGerald¹

I want to avail of this opportunity to state that I fully endorse the MacBride Principles. I welcome the efforts and initiative of concerned Americans who wish to see something done about chronic discriminatory patterns in employment in Northern Ireland.

Charles J Haughey²

The publication of the MacBride Principles immediately created problems for the Irish Government. In its terms, the spirit of the Principles presented no problem to the Irish government. It might have drafted them in a different manner, but the actual purpose of the Principles, to put an end to the exercise of religious discrimination in employment practices by US owned firms operating in Northern Ireland, no Irish Government could be expected to repudiate, even if it did not actively endorse and support their implementation. This dilemma caused the British to be suspicious of the Irish government's motives.

It is no use relying on our Irish colleagues to act as our stalking-horse. They have, indeed, been active, and enjoy much more ready access than we. But their attitude to the MacBride Principles is somewhat equivocal and this has led to some misunderstanding, if not misrepresentation of the Irish government's policy on the issue. Certainly they take the view that it is better not to attack the MacBride principles as such, but rather to try to shift legislators away from disinvestment towards an encouragement of MacBride as a general concept. They have, for example, been trying to get legislatures to emulate the Massachusetts Bill and even to get some positive features in the New York Bill.³

¹ Garrett FitzGerald, in conversation with the author, 13th November 1996.

² Charles J Haughey, Dáil Éirenn Reports, 4th July 1986 col. 2445.

³ NIOP letter Huckle to Scheinwald, 20th March 1986.

The Irish policy did not rest well with the United Kingdom's robust attacks on the MacBride Principles, which made no concessions and took no prisoners. For Irish diplomats in United States, the publication of the Principles could not have come at a worse time. The Irish Government was actively seeking to encourage greater involvement by the United States government in the affairs of Northern Ireland. At the same time, ever since Margaret Thatcher's outright rejection of the Irish Peace Forum's proposals for an Irish settlement, Irish officials had been engaged with their British counterparts in picking up the pieces and preparing the groundwork for what was to lead to the negotiation of the Anglo-Irish Agreement.⁴

The Irish Government had no wish to antagonise the British by it being thought that, particularly covertly, they were encouraging support for the MacBride Campaign, but to denounce it would be immediately portrayed by their political opponents as a betrayal of the besieged Northern Irish Catholic nationalists. Father McManus was *persona non grata* to both the British and Irish embassies and the speed with which Noraid had jumped on the MacBride bandwagon had immediately raised the hostility and suspicion of the Irish diplomats working in Washington.⁵ Even before the British government had publicly reached a final position on the MacBride Principles, Dick Spring, the Tánaiste, (Deputy Prime Minister), speaking in Derry on the 25th January at the SDLP annual conference had roundly condemned the Principles:

We have in recent times seen the emergence of a campaign principally in the United States, to force American money to be withdrawn from any firms operating here (in Northern Ireland) in which discrimination against the minority population is alleged to exist ... But I have to say this: the type of campaign presently being undertaken in America is a two edged sword: there are those who have vested interest in seeing that total destruction of society in Northern Ireland and their campaign may be designed at depriving the people of Northern Ireland of much-needed investment rather than any concern about discrimination.⁶

⁴ Private Conversation with Irish and British officials.

⁵ Noraid had supported the Principles within a week of their publication.

⁶ DFAMP speech by Spring to SDLP conference at Derry, 25th January 1985. This is the first ministerial condemnation.

This comment greatly encouraged the anti-MacBride campaigners in New York. They believed that to have received such a relatively quick response from such a senior minister in the government of the Republic demonstrated that the campaign was striking home.⁷ From McManus, Spring's speech drew a typical retort. Spring, he said, was 'England's latest gombeen man' and that 'James Connolly would be spinning in his grave this Easter, if he knew that the leader of the Irish Labour Party was being used by the British to counteract moves to stop discrimination against Irish Catholics.'⁸

Spring's immediate reaction was ultimately to be the policy of the Fine Gael-Labour Coalition Government. Garret FitzGerald, the Taoiseach, appeared to react more mildly to its 'double-edged' theme in a speech he made in Boston, the Irish-American capital of the United States. Boston was a hot-bed of MacBride activists, led by its mayor, Raymond L. Flynn, who was not present when the speech was made. From the distributed text of the speech he made at the Kennedy Library in Boston on 3rd May 1985 he apparently had intended to say:

There is, however, a campaign underway, which aims at discouraging American investment in Northern Ireland... Those who push you in this campaign should know that they are inflicting injustice on both communities... One can only wonder whether some of those who press for disinvestment do so as part of a calculated strategy, which has as its goal the further weakening of the already strained Northern Ireland economy so that terrorism may have great opportunities to flourish.⁹

FitzGerald is reported as saying that 'new evidence' had caused him to drop the passage from his speech. However, there was no indication as to what the fresh evidence was nor does any appear in this transcript of the meeting.¹⁰

The Irish Consul General in New York specifically informed the Comptroller of the decision to omit the passage.¹¹ This did not prevent McManus from declaring it to be, 'The big lie. Vintage FitzGerald smear tactics. England

⁷ Doherty Interview, 6th July 1999.

⁸ N O'Dowd, 'Caucus Priest attacks Spring as "Gombeen"', *Irish Press*, 8th April 1985

⁹ DFAMP Press Release 'The path to peace', 3rd May 1985, but probably released a few hours before the speech was delivered.

¹⁰ M Farrell, 'Why the Taoiseach changed his mind on US investment in North', *Sunday Tribune*, 1st May 1985.

¹¹ M Farrell, 'Why the Taoiseach changed his mind on US investment in North', *Sunday Tribune*, 1st May 1985.

has no better friend than FitzGerald'.¹² It might be argued that these comments were 'vintage' McManus, to attribute to a political opponent words that he had not used, particularly when the lack of their use could be portrayed as a victory for McManus's own campaign. McManus was not the only person who fell for the same temptation. The omitted passage was to be quoted with approval in British government representatives' correspondence,¹³ official publications by the BIS in New York¹⁴ and by Senator Daniel Moynihan, amongst others, to justify their opposition to the MacBride campaign.¹⁵ The use of the omitted passage by the British authorities was resented by Irish Americans, who saw it as yet another example of underhand dealing by 'Perfidious Albion'. An editorial in the *Boston Irish Echo*, headed 'Credibility gap widens', proclaimed

The British propaganda machinery continues to intentionally mislead Irish Americans and other targets of their disinformation. We leave it to our readers to come to their own conclusion in characterizing the conduct of the British government in this matter.¹⁶

The criticism of the *Boston Irish Echo* would have been even more crushing, if it had not earlier committed the major journalistic sin of failing to 'check against delivery' and printed the whole of FitzGerald's prepared text.¹⁷

A few days later on 9th May 1985, at a meeting with members of the Irish-American community at the New York Consulate, FitzGerald's attitude to the MacBride Principles was more positive. Replying to a question from Jack Thornton of the *Irish Echo*, FitzGerald said:

The thinking behind the principles is something that I would have no difficulty in supporting. The placing of legitimate pressure on firms which discriminate in employment to end that discrimination is obviously desirable. There is a proposal -- there is, in fact, a decision -- by the New York City Comptroller dealing with this very point which may, I think,

¹² McManus, *The MacBride Principles*, 65.

¹³ DFAMP letter from N E Sheinwald (First Secretary British Embassy) to Mrs T Berstandig, (House Foreign Affairs Committee), 27th July 1986.

¹⁴ Ibid.

¹⁵ McManus, *The MacBride Principles*, 65.

¹⁶ Editorial, 'Credibility gap widens', *Boston Irish Echo*, 29th March 1986.

¹⁷ 'Garrett FitzGerald's "Path to Peace"', *Boston Irish Echo*, 11th May 1985.

have beneficial effects in regard to it.¹⁸

Because of the high level of unemployment in Northern Ireland, he did not favour disinvestment even from those firms which were engaged in religious discriminatory practices because:

I could think of nothing more dangerous for the Catholic population than to take action that would throw out of work Protestant workers in the different parts of Belfast, for example, to unleash their fury on the very unprotected Catholic people in many of these areas. So that we wouldn't be in favour of disinvestment but we are very much in favour and have ourselves taken up with the British Government on many occasions the question of ensuring the end of discrimination.¹⁹

This statement produced a particularly scathing editorial in *Fortnight*, an independent review for Northern Ireland and the voice of the liberal middle-classes in Belfast:

What FitzGerald appears to mean by this is that he doesn't want to upset Protestant workers whose jobs might be at risk if anti-discrimination guidelines and equal employment pledges, while properly adhered to by American companies in N. Ireland. He appears less concerned about the offense caused to the thousands of relatively far more dispossessed working-class people in the Catholic community, whose job prospects of the diminished for 60 years and more by the discriminatory hiring practices of employers who are overwhelmingly Protestant and Unionists (whatever their shrill claims about not being interested in the religious or political affiliation of job applicants)²⁰.

Even more pointedly in the same leader, published within a few weeks of the signing of the Anglo-Irish agreement, it said:

If the Irish government really wanted to sell the Anglo-Irish process to the most 'alienated' section of Northern Ireland society, the poor and

¹⁸ DFAMP transcript of meeting FitzGerald with Irish community leaders at the New York Consulate, 9th May 1985.

¹⁹ Ibid

²⁰ Editorial, 'A Word for the Dispossessed', *Fortnight*, 18th November to 1st December, 1985.

unemployed Catholics, who are Sinn Fein's natural constituency, it could do worse than start by making a version of the MacBride principles, committing the British to increasing the representation of Catholics at every level of Northern Ireland workforce, a condition of any Anglo-Irish agreement... The British government has the clout to enforce the mild programmes of affirmative action greater employment equality outlined by Seán MacBride and his colleagues²¹

Surprisingly, *Fortnight* did not explore the opportunities open to the Irish government to pursue with the British government the issue of discrimination through the new machinery of the Intergovernmental Conference and the permanent Maryfield Secretariat in Belfast, established under the Anglo-Irish Agreement, which provided the obvious forum in which to raise the matter.²²

Assessing the South African analogy, FitzGerald was very critical of the British Government and its failure to tackle effectively religious discrimination in employment:

It has to be said that in Northern Ireland, unlike South Africa, there are indeed some laws against discrimination and the legal structure is there opposing discrimination but we don't feel that those laws have been adequately enforced; they haven't ended discrimination....Laws alone don't change things. There are laws but we don't think that there are enough resources put into enforcing them and more needs to be done. Some pressure along the lines of the MacBride Principles, to ensure that Americans live up to the standard they should be living up to, will certainly help. I have no criticism of that at all.²³

There was nothing to alarm, and everything to welcome for the MacBride campaigners in FitzGerald's statement. They did not support disinvestment and did support a more vigorous enforcement of the existing law and codes of practice in Northern Ireland. The unionist press in Belfast had also been following FitzGerald's progress in New York. In response to a request from the *Sunday News*, FitzGerald's office had issued a three-point statement the kernel to the

²¹ Ibid.

²² Anglo-Irish Agreement, Article 5.

²³ DFAMP transcript of meeting FitzGerald with Irish community leaders at the New York Consulate, 9th May 1985.

government information services of what he had said in New York.²⁴ That did not prevent the paper from mentioning the omitted passage and quoting from his later statement that pressure put on US firms which discriminate against Catholics, could be 'beneficial'.²⁵

FitzGerald's careful balancing act was threatened when, shortly after his return from United States, he received a report of a meeting in Belfast between Dáithí Ó Ceallaigh of the DFA, Bob Cooper of the FEA and Terry Carlin of NICICTU.²⁶ It concerned the continuing pattern of discrimination at Shorts Brothers, the aircraft manufacturers. In 1983, Shorts had agreed with the FEA to comply with fair employment practices, both for job recruitment and the admission of apprenticeships. On the basis of this agreement the Irish government had lobbied the US government and Terry Carlin, the AFL-CIO in support of the British government's and Shorts' attempt to secure for the Belfast factory an important American defence contract. The contract was awarded. A fresh report to be published the end of the week by the FEA showed that after a reasonably promising start the old patterns of discrimination in employment recruitment had returned. Cooper was reported as saying that the only conclusion which could be reached was that the recruitment had been on a discriminatory basis. He did not think that Shorts would be able to come up with a satisfactory reason as to why the discrimination had taken place. He believed that it was no coincidence that it happened in the period after the granting of the contract and that it represented the Shorts' lower middle-management who carried out the interviews and who were Protestant almost to a man cocking a snook, as it were, at the FEA. FitzGerald in supporting Shorts had been the subject of much vilification by McManus as he had on a previous occasion when Aer Lingus had bought some short haul aircraft from Shorts.²⁷ It appeared that McManus's criticisms were justified, and the FitzGerald's interventions ignored.

Ó Ceallaigh's report, coupled with the imminence of the publication of the FEA's report on Shorts and the coincidence of Goldin's arrival in Ireland, caused Michael Lillis, the head of the Anglo-Irish desk at Iveagh House, the same day, to request the British ambassador to call and see him at the department. In the event,

²⁴ DFAMP, Briefing Note in reply to the *Sunday News* from Roinn An Taoiseach for the government information services, 31st May 1985.

²⁵ 'US cash campaign is denied', *Sunday News*, 2nd June 1985.

²⁶ DFAMP Ó Ceallaigh's report of meeting between Rob Cooper and Terry Carlin, 9th June 1985.

²⁷ McManus, *The MacBride Principles*, 14.

Lillis saw Stimpson, the ambassador's deputy. Lillis had to be very circumspect about what he said about Shorts, because the FEA report had not yet been published and he could not reveal that he had knowledge of its contents but he was helped by the appearance in the *Irish Times* that day of an article criticizing Shorts.²⁸ Lillis informed Stimpson that the emerging controversy over Shorts' discriminatory recruiting practices could be used by Goldin for controversial and perhaps possibly damaging purposes in the United States. He reminded him of the assistance FitzGerald had given Shorts to obtain the US contract, of the specific efforts made by the Taoiseach on his recent visit to the United States to discourage the application of the MacBride Principles and the possibility of US disinvestment. He said the new evidence from Shorts would be damaging to the Taoiseach, Foreign Minister Barry and the friends of the Irish government on Capitol Hill. He said that if the controversy developed further the Irish would have to raise it formally with the British government.²⁹ Stimpson was appreciative of Lillis informing him of the problem and said: 'It's really up to us now, isn't it?' Lillis agreed.³⁰ When the FEA report was published, Shorts promised to change its ways. The Irish government received no credit.

What is interesting about Lillis's account is the interpretation he put upon FitzGerald's speech in United States, when he spoke of the Taoiseach's 'specific efforts ...to discourage the application of the MacBride principles'.³¹ Opinion against the Principles was starting to harden in the Irish Republic influenced by the diplomatic staff in Washington who were concerned about the effect of the campaign on Anglo-Irish relations, the activities of Noraid, and their relations with the White House. John Hume, the leader of the SDLP, who bitterly opposed to the Principles, was a personal friend of the ambassador, Seán Donlon with whom he had been a fellow student at Maynooth College.

The whole of 1985 was a period of great activity for the Irish Consulate in New York. Quite apart from Goldin's campaign with the major corporations, and McManus' continuing efforts in Washington, New York and the New England states were hives of MacBride activity. Once it had committed itself against the MacBride Principles, the British government started to brief local politicians at city and state level against them. It employed professional lobbyists and brought

²⁸ DFAMP, M J Lillis's file note reporting on meeting with Stimpson, 11th June 1985

²⁹ Ibid.

³⁰ Ibid.

³¹ DFAMP Lillis file note, 11th June 1985.

witnesses from Northern Ireland, mainly, but not always, Catholic, to speak against them before the state and city committees discussing the adoption of the Principles. The problem for the Irish was whether they should adopt a similarly overt policy by briefing councillors and legislators. The policy the Irish adopted was to regard the MacBride Principles' Campaign as essentially a British problem. There would be no formal briefing of the Irish government's attitude to any particular proposed piece of legislation or council resolution. If approached, Irish officials would merely point to Irish ministers' statements, and recite the mantra, 'MacBride good: disinvestment bad'.

This did not mean that Irish diplomats were either ignoring or washing their hands, of the campaign. Whilst nothing was put down in writing to the state and city legislators about the merits of any particular course of action, the officials could not ignore the intense activity going on about them and the wheels of diplomacy continued to turn. Discussions were held with, and suggestions made to, elected officials and others as to what might be helpful in the preamble to a Bill or the drafting of a letter. A continuous record was made of the progress of the MacBride Campaign throughout the whole of the Union and regular reports were sent to and demanded by Iveagh House. This information was important, not only for its political implications and an indication of the strength of Noraid, but also an indication of the vibrancy of the Irish-American grassroots engaged in a nationwide campaign that went far beyond the usual centres of Irish American radicalism, New York and Boston, Chicago and San Francisco, to every state in the Union, places neglected and long forgotten by embassy officials.³²

After the signing of the Hillsborough Agreement the previous November, FitzGerald maintained his position on his further visit to the United States in March 1986, when, surprisingly, he paid little attention to his great diplomatic success. McNamara, the Labour spokesman described its significance by comparing it to the United States government agreeing with the Mexicans for the erection of a hacienda on the White House lawn and of the Mexican representatives living there having the right to raise with the president of the United States any issue concerning the welfare, political and social rights of any Mexicans living in the United States. At a meeting of Irish-American community leaders, replying to a question from Professor John McCarthy of Fordham

³² DFAMP R Montgomery's (Vice-Consul, Chicago) report following a visit to Cleveland 26th-28th June, 6th July 1992.

University, FitzGerald said, 'The thrust of the MacBride Principles is in the right direction and the thrust of our actions is in the same direction'.³³ He conceded that there were some practical problems in the implementation of some of the Principles. He said with regard to the Dearie-Flynn Bill being considered by the New York State legislature, which sought to implement the MacBride Principles, 'when it comes to what you should adopt in your legislature, I haven't the expert knowledge [to render an opinion]'.³⁴ In reference to the language contained in the US Aid Bill then before the Congress, which would have required that such funds be disbursed so as to promote equality of opportunity, he said that he thought that the provision was 'helpful'.³⁵ At this stage the Irish government continued to support the Principles in spirit but opposed any form of disinvestment from US corporations with subsidiaries in Northern Ireland.

It became obvious to the MacBride campaigners that they were going to find it difficult to obtain a stronger statement in support from the FitzGerald government and slowly in official circles they started to lose ground to their opponents. Despite the respectability given to the campaign by the Comptroller's office, the financial clout it carried, the personality of Father McManus, the support of Noraid and other radical Irish-American Republican organisations, and the continuing hostility of John Hume, there was no change in the mantra, 'the Irish government supports the spirit of the MacBride principles but not the campaign'. Speaking of John Hume, McManus said 'It is without doubt he blunted the cutting edge of the MacBride campaign'.³⁶ Hume's attitude was to be the deciding factor in the FitzGerald government's political assessment of the campaign. When pressed at a later date, why he eventually took such a hard line position, FitzGerald replied 'If John Hume was against them, so were we'.³⁷

The agreed mantra did not satisfy the British government, which was engaged in a vigorous anti-MacBride Principles' campaign, but it was the furthest that the Irish government could go publicly, without starting to alienate middle Irish America, which was generally unaware of the day-to-day events in Northern Ireland and to whom the solid and apparently uncritical support of the United States administration of the British government's hard line was neither

³³ DFAMP transcript of meeting FitzGerald with Irish community leaders at the New York Consulate, 9th May 1985.

³⁴ Ibid.

³⁵ Ibid.

³⁶ McManus, *The MacBride Principles*, 60.

³⁷ Garrett FitzGerald conversation, 13th November 1996.

appreciated nor understood. To them, the MacBride Principles appeared no more than watered-down versions of affirmative action programmes common in the United States to which they were already familiar and which many supported.

FitzGerald had laid down the basis of the policy to be followed when the Irish government's position was challenged by Irish-Americans and the press on either side of the Atlantic. He accepted the spirit of the principles, i.e. the determination to rid Northern Ireland of religious discrimination in employment practices, but he did not support disinvestment. He would not intervene in the decisions being made by legislators at any level in United States on whether the MacBride Principles should be introduced into domestic legislation because it was a matter solely within the competence of legislators in the United States.

The uncertain position of the Irish government was soon to be put to the test. The occasion was the introduction of the Dearie-Flynn Bill into the New York Legislature in June 1985. The Bill sought to incorporate the MacBride Principles into the investment policy decisions of the state's pension funds. It was a 'carrot and stick Bill'.³⁸ Dearie claimed: 'our last objective is divestment, our first goal fair hiring practices. Our best incentive is increased investment; our reluctantly strongest stick is divestment.'³⁹ The BIS, based in New York, canvassed energetically in Albany, the state capital, against the Bill, tackling legislators individually and providing them with briefs outlining the British government's position. The Bill contained everything the Irish government feared. Flavin, the Irish Consul General, was asked for the Irish government's opinion on the Bill. In conversations in Albany, he repeated his government's position: 'Does not support the campaign,' which rapidly became interpreted as 'opposes the campaign', because the concept of a neutral position was not acceptable to either side of the argument. Flavin did nothing to contradict that interpretation. The Dearie-Flynn Bill was not passed, because it became bogged down in the state Senate when it became identified with the proposed Sullivan Principles legislation, which the Republican leader of the state Senate opposed⁴⁰

³⁸ DFAMP press release Assemblyman John C. Dearie 'Norther Ireland investment-divestment bills aim at \$422 million state funds invested in 11 US firms. Calls fair hiring goal in "investment carrot, divestment stick legislation"', (undated). The New York State Senate Bill is dated the 8th May 1985.

³⁹ Ibid.

⁴⁰ It was 'piggy-backed' i.e. attached as an amendment to an already existing Bill, a stratagem frequently used in the US at State and Federal level to gain priority for a Bill and have it passed on the basis of mutual support between proposer's of different Bill's. In this case the Dearie-Flynn supporters miscalculated the hostility of the State Senate Republican leader, Warren Anderson, to

With the scene of the action moving from Washington, to New York and the New England states, the workload of both the Boston and New York consulates rapidly increased. Their priority was to maintain a policy line, clearly distinct from that of the British government and, as his obvious hostility to the Principles grew, from that of John Hume. Many Irish Americans assumed there was no distinction between the policies of the leader of Irish nationalism in the North of Ireland and those of the Irish government.⁴¹ Many pro-MacBride campaigners believed that Irish diplomats in the United States sympathised more with John Hume's more vigorous anti-MacBride stance than the more delicately nuanced stance of the Irish government. Part of this belief grew from the unstinting hostility of the diplomats to Provisional Sinn Féin and its supporters in United States, mainly Noraid, who campaigned vigorously in support of the MacBride Principles in order to further embarrass the British government. There was more than an element of hostility to the activities of the INC and its implied criticism that the Irish government was not doing enough in exposing discrimination in employment in Northern Ireland. However, a relationship of mutual respect was built and maintained with the Comptroller's office. Following a meeting which Doherty had with the vice-consul, the Consul General called upon the Comptroller to discuss his first report on employment discrimination in Northern Ireland and aspects of his campaign.⁴²

The Consul General indicated that the Irish government originally had reservations about the initiative, particularly after the press reports following it, and that these concerns were reflected in the comments made by Spring in his speech at the SDLP conference. He welcomed the fact that the Comptroller's newly published report reflected the realities of the situation in Northern Ireland

the Sullivan Principles. They did not make a similar mistake the following year. See also NIOP teleletter, 20th March 1986, Huckle at BIS to Scheinwald for an analysis, *inter alia* which included 'We are being stretched beyond our resources'.

⁴¹ DFAMP see letter Ambassador McKernan to P G Kirby (Mayor Newport, Rhode Island,) 21st May 1985. McKernan was concerned about a letter sent by Kirby to Rhode Island legislators, 18th May 1985. In this letter Kirby strongly urged the legislators before passing the bills 'to contact the Irish Ambassador in Washington, and such individuals as John Hume and other leaders of the SDLP before any consideration is given [too] resolutions that further effect the Irish economy or political situation'. See also note R Basset, (Anglo-Irish section), 'Rhode Island – MacBride Principles', 21st May 1987, 'Kirby said that he had spoken to John Hume and had assumed that John Hume's views were the same as the Irish government's'

⁴² DFAMP Person to O'Byrne report of meeting of the Deputy Consul General with Doherty, 13th February 1985.

and the difficulties of the situation there.⁴³ The Comptroller said he had consulted widely before announcing his initiative and that the campaign had already contacted the thirteen American companies with plants in Northern Ireland. He felt that their reaction was positive. He emphasized that his approach was different from that adopted by the Sullivan Principles as he was not interested in disinvestment, and he recognized a different approach was needed was for Northern Ireland. The Comptroller stated that the public reaction, judging from the correspondence that he had received was overwhelmingly positive. He took the opportunity to inform the Consul General that, not only was he the principal trustee for the \$250 billion invested in the New York City pension funds, but he was also chairman of the National Council of Institutional Investors, which had 22 members and funds in excess of \$100 Billion. However, the initiative was only on the part of New York City, although there was interest from others.⁴⁴

Both the financial clout and the apparent moderate approach of the Comptroller impressed the New York consulate. The original New York City proposal coming from Councilman Sal Albanese prohibiting the use of pension fund investments in cases of non-adherence to the Principles smacked of disinvestment, but Goldin's more moderate proposal to involve the use of pension funds investments as a lever to promote the observance of the Principles rather than making continued investment strictly conditional on their being observed. Comptroller Golden had serious reservations about the Albanese proposals. He considered that his initiative considerably reduced the possibilities of Albanese's resolution being adopted by the Council. The consulate also noted that the Comptroller's office was sensitive to the need for caution in order to ensure that the implementation of the Principles did not have an overall negative effect on the level of employment in Northern Ireland.⁴⁵

Nevertheless, the Irish were concerned at the increasing prominence of Noraid in the MacBride Campaign and Goldin's apparent closeness to it. In a meeting with Doherty which 'reflected a mixture of naivety about the situation in Northern Ireland and the realities of American politics', O'Byrne, the Deputy Consul General's file note records:

⁴³ DP, H J Goldin, *Report on Investment in Northern Ireland, 4th February 1985*, (New York, 1985).

⁴⁴ DFAMP, report on Consul General meeting with Goldin, 27th February 1985.

⁴⁵ Ibid.

On the matter of the Comptroller appearing at so many Noraid functions, he said they were cultivating Flannery and Galvin in order to defuse the reaction to the Comptroller's refusal to go with the INC's disinvestment campaign. The Comptroller had been under pressure to support it, but if thus far had not done so.⁴⁶

The note concluded by recommending that when Goldin visited Dublin, the government should reiterate its opposition to dealings with Sinn Féin and its supporters in the United States as well as the disinvestment issue. A further telegram to Dublin the following day from Flavin warned:

I think it is most important to stress that the minister in dealing with Goldin not leaving himself open to the accusation of trying to dictate to him. To put it mildly US politicians at all levels are extremely sensitive in this regard.

Our efforts to get to Mr. Goldin to distance himself from Noraid will continue to be uphill until such time as there is evidence to satisfy Mr. Goldin that the support of Noraid comes from a minority of the Irish-American community. In this regard the success of the Noraid candidate Peter King in the contest for the Grand Marshal this year was unhelpful to us.⁴⁷

The bottom line with regard to Mr. Goldin's posturing on Northern Ireland will continue to be what he considers will assure him of support from the Irish American community.⁴⁸

Doherty had spelt out the political realities as the Comptroller saw them:

He sees the radical Irish-American community as a single-issue group and that if he can satisfy that community, they will vote for him. Doherty said that the community was one of the pivotal groups in any election. The Irish American community was no longer large enough to ensure the

⁴⁶ DFAMP report of meeting O'Byrne and Doherty, 12th December 1985.

⁴⁷ Grand Marshal of the Annual New York St Patrick's Day Parade. This was a post of honour awarded by the Parade Committee to the person who had done most to advance Irish causes in the preceding year.

⁴⁸ DFAMP letter Flavin to DFA, 13th December 1985.

election of one of their own politicians. Their importance lay in that they were a marginal group who could decide an election. In that regard, Noraid had an importance greater than they seemed to realize in New York!⁴⁹

O'Byrne noted that in dealing with Comptroller's office 'we must continue to deal with them with caution'.⁵⁰

At an amicable meeting between Goldin and the Attorney General in Dublin on the 19th June, the word Noraid does not appear in the official note and its activities presumably were not raised. Goldin was informed that the Irish government had a slight reservation about the MacBride Principles, as the advice it was receiving from some of its contacts in Northern Ireland was that a full and a vigorous application of them might cause problems, as they could be interpreted as favouring a quota system or reverse discrimination. Goldin replied that this put a 'strained interpretation' on the MacBride Principles and that he was both against quotas and reverse discrimination. At a meeting in Belfast with Douglas Hurd, the Northern Ireland Secretary, Goldin had told him that he had already spoken to Seán MacBride about a revision of the Principles to take account of the 'strained interpretation'. He hoped that when the revised version appeared that the Irish government could wholeheartedly endorse the Principles.⁵¹ The Principles were designed to create a proper environment for US investment. He ended with his well rehearsed 'it is discrimination which is a problem; not the MacBride Principles'.⁵²

Throughout the year, the Irish government, whilst theoretically not directly involved in the MacBride campaign, kept a careful watch on its activities, the people involved and the progress being made. The embassy and consulates made regular reports to Iveagh House and its work was supplemented by the continuous reports it received from Irish Americans across the whole of the United States. Its opinions and advice were constantly being sought not only by Irish-American legislators, but also by those without a specific Irish connection who wished to respond to the pressures put upon them by their constituents reacting to an increasingly well organised pro-MacBride lobby. The FitzGerald line was

⁴⁹ DFAMP report of meeting O'Byrne and Doherty, 12th December 1985.

⁵⁰ Ibid.

⁵¹ Amplification of the Principles was published in 1986, see Appendix B, 320.

⁵² DFAMP Ó Floinn report of Attorney General's meeting with Goldin, 19th June 1985.

followed, but increasingly arguments similar to those the British government was using began to appear in the instructions coming from Dublin, which drew attention to the turmoil and division in Northern Ireland and the difficulty that they presented to attracting fresh investment from the United States. Quoting informed but unspecified contacts in the north, it claimed that some of the MacBride Principles might be unlawful as they implied quotas and reverse discrimination.⁵³ The Irish government only slowly began to question that presumption, some time after the decision in the American Brands' Case.⁵⁴

The embassy was able to chalk up one success by persuading the movers of the pro-MacBride legislation in Massachusetts to include in the preamble of their Bill words suggested to them by Patrick Curran, the Consul General in Boston, on the advice of Martin Burke, the Counsellor at the embassy. It read 'the Commonwealth of Massachusetts, cognizant of the unacceptably high unemployment levels pertaining in Northern Ireland and the attendant ills which arise from such a situation, would wish to place on record its support for investment in that area, provided that the following minimal equal opportunity criteria are met', the MacBride Principles were then enumerated.⁵⁵

The campaign outside Washington and the progress it was making was being carefully watched by those on Capitol Hill, who felt that their positions locally might be being undermined by the activities of the INC and the Ad Hoc Congressional Committee. Burke of the Irish embassy reported a conversation that he had had with a senior member of Senator Kennedy's office concerning the possibility of Kennedy introducing a Bill into the Senate incorporating the MacBride Principles. The purpose was to pre-empt Representative Biaggi in the House or Senator De Concini in the Senate, both of whom were associated with the INC, from introducing similar legislation. Burke cautioned against such a course of action. He said that the thinking of the Irish government was against imposing any further obstacles on investment in Northern Ireland and that the best method of dealing with discrimination was to increase employment on a non-discriminatory basis through greater investment. If there was a successful

⁵³ Ibid. 'The Attorney said that the advice from Northern Ireland was of a very high quality and we could not ignore it'.

⁵⁴ DFAMP file note P McIvor (Anglo-Irish section) 'Manhattan Court Case on the MacBride Principles', May 1986. It is a factual summary of the situation without challenging the UK government's arguments.

⁵⁵ DFAMP letter Curran to Burke, 16th April 1986 and Massachusetts Bill, 'An Act Providing for the Investigation by the [Treasurer] of the [Commonwealth] relative to certain corporate activity', November 1986.

outcome to the current Anglo-Irish talks, a better way to express views on non-discrimination might arise if Congress were to give financial assistance to underpin any agreement. He pointed out that Kennedy's proposal would put Senator Moynihan in a difficult position because of his vigorous opposition to the MacBride Principles, and that if Kennedy, as a prominent member of the Friends of Ireland, were to introduce a pro-MacBride Bill, then it would be perceived as, and certainly claimed to be, a victory for the Ad Hoc Congressional Committee and the INC. Burke's advocacy was successful. The idea of a Kennedy Bill was quietly dropped.⁵⁶

On 4th June 1986, Gerard Collins TD, the Fianna Fáil's foreign affairs spokesman, raised a question in the Dáil asking if the government opposed the passage of legislation in US state legislatures requiring adherence to the MacBride Principles by American companies investing in Northern Ireland. This question arose from activities of Flavin, the Irish Consul in New York, who wrote, contrary to advice not to do so, to New York State legislators outlining what he believed to be the Irish government's attitude to a further attempt to legislate the MacBride Principles into New York State legislation.⁵⁷ The second Dearie-Flynn Bill was less extreme than its predecessor, dropping the direct threat of disinvestment. The Comptroller of New York State, Edward V. Regan, was opposed to the Principles as they limited his professional independence.⁵⁸ He had been in correspondence with Flavin both on how best to approach the Bill and on the contents of a letter, which as the principal trustee of the state pension funds, Regan intended to send to the state legislators.⁵⁹

Flavin's letter to State Senator Ohrenstein spelt out the well-established Irish government's position and indicated the new and more positive line that the Irish government would be taking by raising the issue of employment

⁵⁶ DFAMP fax from Burke (Counsellor at Washington Embassy) to Davenport (DFA), 11th September 1985.

⁵⁷ He had earlier visited Senator Ohrenstein at Albany asking him to 'table' i.e. withdraw the Bill. Ohrenstein had refused. J Carrol, 'Dublin tried to block MacBride Principles', *Irish Times* 8th May 1986.

⁵⁸ Tom Pandick, Regan's director of investment affairs, at a meeting with BIS officials had stated that Regan had asked him to give some thought to the development of an alternative set of principle which would '(I) not contravene Northern Ireland legislation (II) sit competently with the terms of the Anglo-Irish Agreement and the text of the age package proposals: and (III) be presented as shareholder's resolutions at next year's company AGMs', NIOP telex J McIvor (BIS) to Huckle, 27th March 1986. There is no evidence from the Doherty papers and the DFAMP papers that the either were aware of Regan's initiative but it may be that Flavin in his talks with Regan, was informed of the proposal but did not record it.

⁵⁹ J Carrol, 'Dublin tried to block MacBride Principles', *Irish Times*, 8th May 1986.

discrimination in the new Intergovernmental Conference established by the Anglo-Irish Agreement. Without specifically saying so, the implication of the letter was that reform of employment practices in Northern Ireland was best left in the hands of the Irish government acting through the newly established Intergovernmental Conference.⁶⁰ Flavin's letter was denounced by Dearie as interference in the internal affairs of New York State by a foreign lobbyist.⁶¹ It was seen by the pro-MacBriders as a hostile act. Other Irish officials were concerned because Flavin's unauthorized action would be interpreted as the Irish government lining up with the British government against the MacBride Principles.⁶² Peter Barry, the Foreign Minister, in his reply to Collins said that the passage of such legislation was a matter for the State concerned and that the government had no difficulty in supporting the main aim of the MacBride Principles, namely the elimination of discrimination in employment in Northern Ireland. Collins in his supplementary question quoted FitzGerald's remarks reported in the *Irish Echo* and asked why Irish diplomats in the States were lobbying against the MacBride Principles by implying that they might lead to disinvestment. He asked Barry whether he stood over Flavin's letter, which sought to dissuade Senator Ohrenstein from supporting the MacBride Principles. Challenged by Collins, Barry read the whole of Flavin's letter. The exchange ended inconclusively with a rhetorical question from Collins: 'Does the Minister still hold the view that the contents of that letter could not lead to disinvestment in Northern Ireland?' To which Barry curtly replied 'One of the purposes of the letter was to avoid disinvestment in Northern Ireland, not to encourage it'.⁶³ The genie was now out of the bottle. Flavin's letter had succeeded in undoing all the good work of the New York consulate during the previous year and left much explaining and bridge mending to be done.

The following month, the Leader of the Opposition, Charles Haughey, speaking in the Dáil during the general debate on the estimates, returned again to the subject of the MacBride Principles and the attitude of the Irish diplomats based in United States.

⁶⁰ Ibid.

⁶¹ NIOP telex J McIvor to Huckle, 27th March 1986. 'Because he is not a registered lobbyist, the Irish Consul General, Mr Flavin, has apparently run into some flak with some of the legislators for undertaking such lobbying on the MacBride issue. We await further details about this'.

⁶² Ibid., and DFAMP file note, 8th May 1986.

⁶³ For the full exchange see *Dáil Éireann Debates*, 4th June 1986, cols. 933-34.

I want to avail of this opportunity to state that I fully endorse the MacBride Principles. I welcome the efforts and initiative of concerned Americans who wish to see something done about the chronic discriminatory patterns in employment in Northern Ireland. The regrettable position is that 14 years after the imposition of direct rule in Northern Ireland, the situation in most sectors of employment is as bad, if not worse, than it ever was. The purpose of the MacBride Principles is to ensure that if there is to be American investment, if there are to be American orders, the firms concerned will have to act fairly and in a non-discriminatory fashion in regard to employment.

I regret to say that I and many others have become increasingly aware of the politicisation of the Department of Foreign Affairs and the diplomatic service. This has been most unhappily evident in the US where public servants paid by the Irish taxpayer of being compelled to engage in political maneuverings which are certainly not in accordance with the normal standards applicable in the Irish public service.⁶⁴

Haughey's unqualified support of the MacBride Principles and his denunciation of the activities of the Irish diplomatic service in the United States caused shockwaves on both sides of the Atlantic. For the MacBride campaigners, it was milk and honey. It was a full-blooded statement of support, without any qualifying sub-clauses about the danger of disinvestment. His comments were given wide circulation in the Irish-American press, and in handbills distributed amongst Irish societies throughout the whole of the Union. He had given the green light to the campaign to continue and if, as was to prove to be the case, he again became Taoiseach, it could continue to expect his unqualified support. The diplomats in the United States had to pick up the pieces and start again. The accusation of being anti-MacBride, no matter what their protest to the contrary was not going to disappear quickly and it would continue to raise its head in the future.

The British government had hoped that all public differences of opinion between the UK and Ireland could be contained within the confines of the Anglo-Irish Conference and its bland, agreed, press statements. It now feared a fresh offensive was being opened on the diplomatic front. Its careful use of selected

⁶⁴ Ibid., 4th July 1986, col. 2445.

texts from FitzGerald, Spring, and Hume to attack the MacBride campaign would be nullified if a new Irish government came out in support of MacBride Principles. If Haughey was to be successful in the following year's election, the British government feared that their efforts to introduce meaningful employment reforms would be rendered even more difficult if it appeared it was succumbing to pressure from a newly elected Irish government.

Still smarting after their failure to defeat the Anglo-Irish agreement, the unionists viewed Haughey as a major threat to their dominance in Northern Ireland. FitzGerald they could just about live with, but Haughey was a different kettle of fish. He had been acquitted in the infamous Arms Trial, but to the unionists there was no smoke without fire. As Leader of the Opposition, he had attacked the Anglo-Irish Agreement because he believed that FitzGerald had sacrificed, or at least severely weakened, the Republic's constitutional claim to the six counties of the North of Ireland.⁶⁵

Haughey's intervention should not be seen merely as an opportunistic and mischievous intervention by an opposition leader seeking to embarrass the government. During his time as Leader of the Opposition, MacBride was a regular visitor to his office, on a monthly basis.⁶⁶ It would have been most unusual, if on these visits, MacBride had not discussed the Principles and progress of the campaign with Haughey. Furthermore, the historic rivalries amongst Irish-Americans were of concern to Haughey who thought that that they gravely weakened them and limited their influence in the United States to, at best, city and state level. He sought issues to unite the divided Irish-Americans. He considered that they would have far more political influence within the United States if Irish America spoke with one voice.⁶⁷ Further, he was on good terms with Goldin, of whose support for the McBride Principles he was well aware, and who had recommended he be declared an honorary citizen of New York.⁶⁸ He had forwarded to Goldin a copy of his Dáil speech.⁶⁹ Doubtless, he thought the constitutional, peaceful and non-violent MacBride Campaign could to be such a unifying issue.

⁶⁵ Ibid., 4th July 1986, col. 2444.

⁶⁶ Mansergh interview, 10th November 2005.

⁶⁷ Ibid, and see *Irish America* interview September 1987.

⁶⁸ DP letter from Haughey to Goldin, 26th March 1985, thanking him for 'the honour you bestowed upon me'.

⁶⁹ DP letter from Goldin to Haughey, 4th August 1986, thanking him for sending him a copy of his speech.

On the 23rd May 1986, a file note prepared by the DFA's Anglo-Irish Section had outlined the Irish government's current position on the Principles:

There have not been many Government statements on the MacBride Principles. Our policy has been one of having no difficulty with the underlying aims while at the same time, expressing concern that a further bureaucratic layer could discourage American investment. It is also our view that the question of discrimination should be tackled through the Conference under Article 5 of the Anglo Irish Agreement. There has never been any official statement opposing the Principles as such by the Irish Government but we have placed on record our concerns should the Principles discourage US investment.⁷⁰

The note observed that the MacBride Campaign would have a major impact in New York State on companies investing in Northern Ireland and that the effect of the American Brands' Case, which basically upheld the legality of Principles, was certain to have wide implications, making it extremely difficult for US companies to resist accepting the MacBride Principles on the basis that they violated Northern Ireland law, the traditional corporate defence.

Dublin's attitude became less sympathetic when the Comptroller circulated a report on the MacBride Principles prepared by a leading Wall Street stockbrokerage firm, Prudential-Bache, to major investors around the country. It said that investments in Northern Ireland could become as politically sensitive as those in South Africa.⁷¹

This document provides clear evidence that the business community is taking our campaign for the MacBride Principles very seriously. It will undoubtedly add to the pressure on American companies and the British government to take meaningful reform for measures to guarantee equality of opportunity.⁷²

⁷⁰ DFAMP, file note 'MacBride Principles', 23rd May 1986.

⁷¹ DFAMP 'Northern Ireland joins South Africa as possible investment problem', *Prudential-Bache Investment Report*, 22nd July 1986.

⁷² DFAMP letter from Goldin to Peter Hooper (CEO North American Bank of Ireland), 22nd October 1986.

The new Deputy Consul General, Martin Rouine, did not take such a sanguine view of the letter, which seemed to suggest that, despite the many protestations to the contrary, and that the Comptroller was colluding in threats of disinvestment.

The implied advice of Prudential-Bache to investors is to 'cleanse your portfolio' of firms doing business in Northern Ireland. The fact that this report is reproduced and circulated to banks and presumably other special commercial interests in New York gives confirmation to the previously held view that the supporters of the MacBride right Principles campaign are not concerned that their actions may have adverse effects on the economy of the North.⁷³

Doherty, not unexpectedly, put forward a contrary view. When asked by Kevin Magee of *Fortnight* if the existing investment in Northern Ireland would be jeopardised by the MacBride Campaign, he replied:

No. On the contrary, it should safeguard current investment. The politics of Northern Ireland is already there. What the set of nine MacBride Principles do is offer firms the chance to avoid any political undercurrents in the workplace. Therefore firms will be able to invest without the fear of being drawn into any kind of sectarian or political conflict in Northern Ireland.⁷⁴

Prudential-Basche was not alone in its view. A Reuters report for the *Wall Street Journal* headed 'Activists target Northern Ireland' stated 'with South African in the win column, political activists have set their sights on Northern Ireland'. It quoted Goldin 'Our reason for involvement in Northern Ireland are the same for those in our involvement in South Africa'⁷⁵.

The election of Charles Haughey early in 1987 was greeted as manna from heaven by Doherty and his colleagues. His statement on the MacBride Principles the previous July was again circulated on handbills (see below) throughout the United States, often paid for by the Ancient Order of Hibernians (AOH).⁷⁶

⁷³ DFAMP letter Rouine to Davenport, 19th November 1986.

⁷⁴ K Magee, 'Views vary on MacBride', *Fortnight*, November 1986.

⁷⁵ Reuters, 'Activists target Northern Ireland', *Wall Street Journal*, 16th January 1987.

⁷⁶ Doherty Interview, 6th July 1999.

suspicion at the time of the Flavin affair. His criticism of the Anglo-Irish Agreement and his support of the MacBride Principles when in opposition had not endeared him to them. It was sometime before Haughey publicly showed his hand. During his first visit to Washington as the new Taoiseach, he had had a briefing session with Ambassador McKernan, and his deputy Davenport. Haughey saw no reason to oppose the MacBride Principles and essentially repeated what he said in the Dáil. Davenport expressed the concerns about disinvestment and the discouragement of future investment. He suggested that the embassy could work behind the scenes to ensure that suitable language was inserted to make this aspect clear. Haughey did not respond directly to the proposal but he did not seem opposed to the idea, given his general approval of the MacBride Principles. However, he made the comment that where there is 'investment there should be fair employment'.⁷⁷

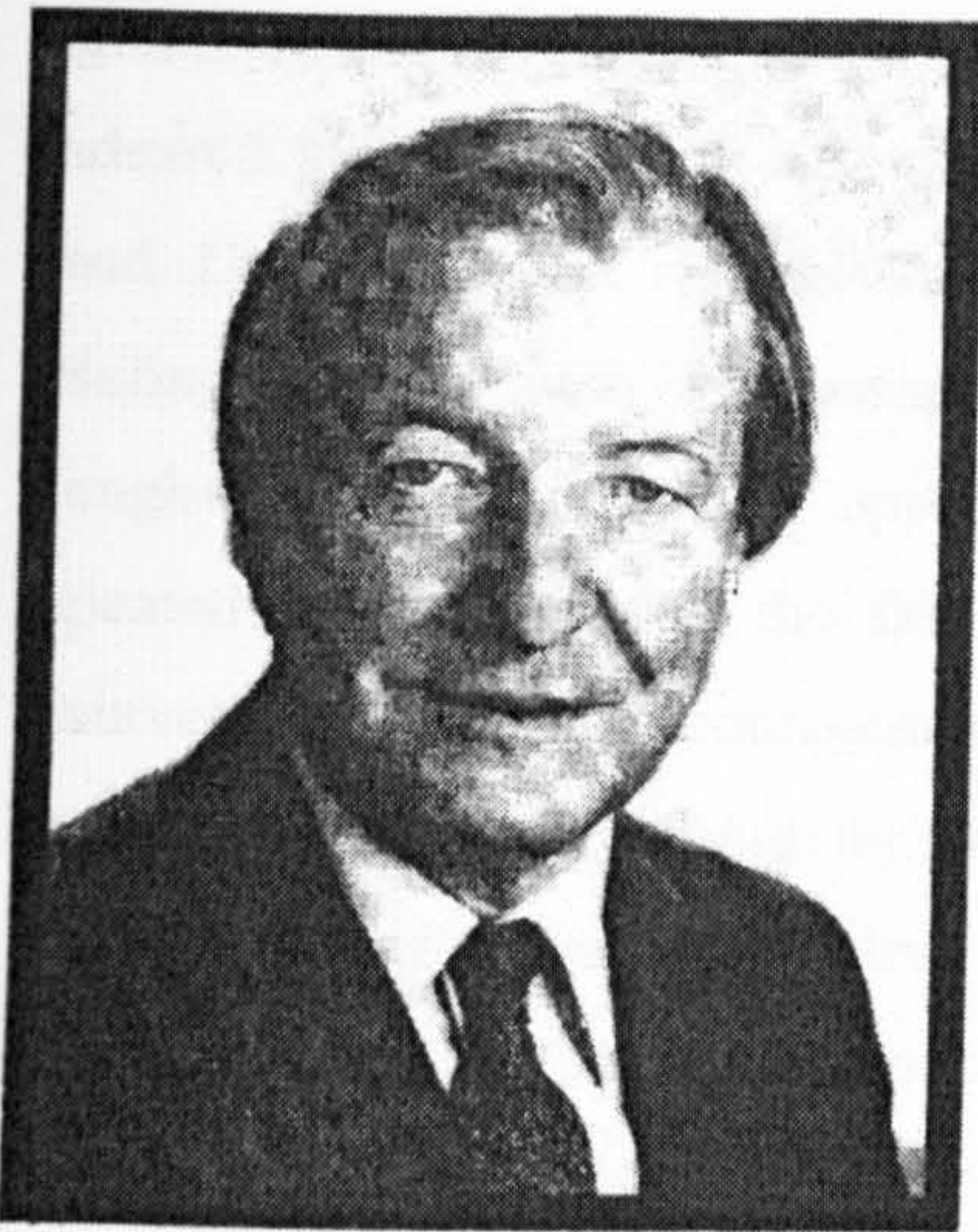
Haughey's position was not just going to cause distress for his country's foreign service but also for the leader of the Northern nationalists, John Hume and the United States' administration, as well as the British government. Martin Mansergh, his political assistant, reported that at a dinner attended by senior American diplomats and several Irish Ministers of State, the Americans had made clear the US administration's strong opposition to the MacBride Principles as a matter of general principle and cited John Hume to support their case.⁷⁸ On the Hill, the Ad Hoc Committee was also waiting to see if Haughey would change his position. Representative Gilman wanted to know whether the new government had publicly addressed the question. The embassy was desperate to have precise instructions on the matter but like the other interested parties, it would have to wait.

In preparation for the first meeting of the Inter-Governmental Conference, Brian Lenihan, the new Tánaiste and Minister for Foreign Affairs, had a two hour meeting with Tom King without officials being present to discuss the conference agenda. Lenihan had already expressed as an Irish priority the need for strong policies to tackle employment discrimination.⁷⁹ King wished to discuss the MacBride Principles and Lenihan said that the best way to overcome the effects

⁷⁷ DFAMP fax Davenport to DFA, 30th March 1987.

⁷⁸ DFAMP Office of An Taoiseach, Mansergh Note, dated 3rd April 1987

⁷⁹ DFAMP Lenihan's note of the meeting, 6th April 1987.



*The Prime Minister of the
REPUBLIC OF IRELAND*

The Hon. Charles J. Haughey

on the MacBride Principles

“I want to avail of this opportunity to state that I fully endorse the MacBride Principles. I welcome the efforts and initiative of concerned Americans who wish to see something done about the chronic discriminatory patterns in employment in Northern Ireland. The regrettable position is that fourteen years after the imposition of direct rule in Northern Ireland, the situation in most sectors of employment are as bad as they ever were. The purpose of the MacBride Principles is to ensure that if there is to be American investment, if there are to be American orders, the firms concerned will have to act fairly and in a non-discriminatory fashion in regard to employment”.

- address to the Irish Parliament, 7/4/86

Figure 2: HandBill circulated in the thousands by Pro-MacBride Campaigners to Irish-American Clubs and Organisations and distributed by hand outside Churches.

The delight of the MacBriders was only to be matched by the dread of the Irish diplomatic service. There was a great well of affection for FitzGerald amongst Irish diplomats, whilst Haughey had already shown his anger and

MacBride Principles might have on disinvestment was for the British to bring in strong, practical anti-discrimination measures quickly.⁸⁰

Before the conference met, the British government had produced a paper on the MacBride Principles, which the Irish considered presented 'an erroneous picture' of the situation. A critique prepared by Ray Bassett of the Anglo-Irish Section considered that the British had underplayed the full measure of support for the Principles in United States and that on occasions the British paper was positively misleading.⁸¹ Contrary to the British assertion, at that time no state legislation required disinvestment and no legislation compelled companies to accept the Principles, but rather to accept them as guidelines for employment practices. The British government had not appealed the judgment in the American Brands Case so that the possibility of the illegality of the Principles involved could not readily be accepted. The note concluded by saying that it was not in either country's interest to have a public difference on the issue and that the tactic of outright opposition to the Principles had proved counterproductive. Thus there was time for a policy change from their stance of outright opposition to one of attempting to ensure that the Principles did not lead to a climate conducive to disinvestment. It followed that the British should sponsor amendments softening specific legislative proposals, while accepting that the MacBride Principles were likely to be enacted in several states and possibly at federal level.⁸²

The tenor of this note, positive and with powerful criticism of the British position, is very different from that when FitzGerald was Taoiseach. Ó Ceallaigh, now permanently stationed at the Maryfield Secretariat, had advanced a similar range of arguments to Ronnie Spence, Under Secretary in the Central Secretariat, the deputy head of the Northern Ireland civil service. Spence informed Ó Ceallaigh that Gilliland, the former head of the NOI Press Office, was spending his last three months in service in the United States campaigning against the Principles. Nicholas Scott, the Minister of State, was doing the same and Brian Mawhinney, a junior minister, was shortly to depart to the United States for the same purpose. It was possible that after Easter, Tom King, the Secretary of State, would be doing the same. Speaking personally, Ó Ceallaigh said that he thought 'the British had lost the war'. Ó Ceallaigh argued the points made in Bassett's

⁸⁰ Ibid.

⁸¹ DFAMP Bassett's critique of the British government's initial document on the MacBride Principles, (undated). This was prepared for the Inter-Governmental Conference, 22nd April 1987.

⁸² DFAMP, Brief and speaking points for the Inter-Governmental Conference, 22nd April 1987.

paper suggesting that it would be best for the British to state that they agreed to the purpose of the Principles, and that they intended to legislate to that effect in the context of their new proposals, thus defusing the campaign in the United States. He concluded that: 'Spence took this on board, but left me with the impression that it will not be easy for them to change their view on the MacBride principles'.⁸³

Lenihan's conference briefing paper followed the Bassett/Ó Ceallaigh line and concluded that the Irish had no objection to the MacBride Principles, however, they would not support any measures likely to damage Northern Ireland's economy. In the long run, effective action to tackle discrimination was the only way to counter proposals in the US for action on disinvestment.⁸⁴ The bland joint statement issued after the conference stated, 'Both sides agreed on the need for progress in legislation and practice, and on the need for sustaining and increasing overseas investment and avoiding obstacles to it in the interests of greater prospects for job creation'.⁸⁵ The Irish internal memorandum on the conference noted the continuing British arguments against the Principles which 'might have a wider effect on trade'. For their part, the Irish said 'a frontal attack on the MacBride Principles would be sterile'. It would help if positive action could be demonstrated on the ground by implementing the proposals contained in the consultative paper of September 1986, and increased and improved training facilities.⁸⁶

Speaking to the press following the conference, King said that he understood and accepted the Irish position, subscribing to the main principles underlying the MacBride campaign. Though he considered the campaign to be very damaging, some of the British proposals went further than MacBride. He said that that was something that others should say in the United States.⁸⁷ The conference had been a success for the Irish. Whilst opinions differed over the MacBride Principles, the British, albeit reluctantly, had 'understood' the Irish point of view and the need for urgent and positive action on the ground and improved fair employment legislation. The Irish Foreign Service had dutifully argued Haughey's line and obtained in return a positive Irish government

⁸³ DFAMP, Ó Ceallaigh to Ó Tuathail, report on dinner with Spence (British Under-Secretary at Maryfield Secretariat), 26th March 1987.

⁸⁴ DFAMP, Brief and speaking points for the Inter-Governmental Conference, 22nd April 1987.

⁸⁵ DFAMP, Ó Ceallaigh report on King's Press Conference, 22nd April 1987.

⁸⁶ DFAMP, Brief and speaking points for the Inter-Governmental Conference, 22nd April 1987.

⁸⁷ DFAMP Ó Ceallaigh's Report on King's Press Conference, 22nd April 1987.

statement disowning disinvestment and encouraging investment, which was Davenport's original request to Haughey. On 7th May, answering a question in the Dáil from Michael Bell T.D requesting a statement on the government's attitude to the MacBride Principles, Lenihan replied: 'We find them unobjectionable'.⁸⁸ Haughey's speech in opposition and Lenihan's reply to Bell became the basic texts from which the diplomats had to work.

Britain's 'understanding' of the Irish position did not prevent further spats between the two countries. The British regarded the MacBride Principles as an irritant, illegal and a 'hassle' factor. The Irish regarded it as a helpful campaign by American friends in support of exemplary principles, which should be encompassed in future British legislation. Having said on numerous occasions that there was no need for further legislation the British had had to acknowledge the failures of the 1976 Act and promised to introduce legislation to render the MacBride Principles irrelevant and to be 'wider in scope' than the Principles. Following his return from an Intergovernmental Conference in London on 16th July 1987, Lenihan held a press conference in Dublin. Replying to a question on the MacBride Principles, he said

I have all along maintained that if you bring in fair employment proposals, incorporated in legislation with teeth in it, having sanctions and incentives towards fair employment, you can in effect subsume the MacBride Principles in such legislation.⁸⁹

Under the headline 'Shock tactics' and accusing Lenihan of dropping a 'political bombshell', the fiercely unionist *Newsletter* reported that 'The controversial MacBride Principles could be included in new antidiscrimination laws in Ulster next year, Eire Foreign Minister Brian Lenihan claimed last night'.⁹⁰ The Northern Ireland Office expressed concern because this was a form of words which they claimed the Irish had not used before they were not happy with the formulation. The British comment was not completely accurate. In an earlier interview in the *Irish Times* on the 11th May, Lenihan had used the word 'subsume' in a similar context.⁹¹

⁸⁸ DFAMP draft reply to an oral question for Michael Bell TD, 7th May 1987.

⁸⁹ DFAMP press conference, 16th July 1987.

⁹⁰ 'Shock tactics', *Newsletter*, 20th July 1987.

⁹¹ J Conney and J Carroll, Lenihan sees "little future" in devolution', *Irish Times*, 11th May 1987.

The British asked the Irish to publish a clarification of their position but the Irish considered that they had nothing to clarify, as their aim was to see effective equality of opportunity legislation and practice in place in Northern Ireland, and if that happened 'it would mean in our view that the philosophy and thrust of the MacBride Principles would in effect be subsumed into such legislation'.⁹² The British were unhappy and said that they would have to go on making it absolutely clear that the legislation did not subsume the MacBride Principles, and would have to continue to do this until the press queries ceased. It was for the Irish to put the record straight and if they were not to go back and say that the statement was 'inoperative'; the Irish would 'have to understand that it will be impossible for the British to treat this matter with kid gloves'. The British were not interested in bringing out differences between Lenihan and King, the co-chairmen of the conference, but as their policy had been so 'misinterpreted' they had no choice but to do so. The Irish refused to back down but conceded in off-the-record briefings that decisions on legislation and administration were of course matters for the British authorities.⁹³ This reply did not satisfy the British, and more specifically the Northern Ireland Office, which was very sensitive on such matters and a statement was subsequently issued; 'It is not for us to put an interpretation on what Mr. Lenihan is reported to have said... These proposals do not involve the incorporation of the MacBride Principles, which the government considers irrelevant and damaging to employment opportunities in Northern Ireland'.⁹⁴

The Irish did not seek pursue the matter because they considered that the 'misunderstanding' arose from distorted reporting in the *Belfast Newsletter*. This was indicative of the sensitivities within the Northern Ireland Office, which was seeking to introduce what were, from the unionist perspective, highly controversial and unwanted reforms. Lenihan's comments arising from a meeting of the dreaded Intergovernmental Conference, (a creature of the infamous Anglo Irish Agreement), confirmed the worst fears of all degrees of unionism that the Republic was in the driving seat. Lenihan maintained his position. At the height of the row, when asked on *Good Morning Ulster*, whether by interviewer Ann Cadwallader 'whether the British government's proposed legislation would

⁹² DFAMP internal fax, Belfast Secretariat to DFA (Anglo-Irish division), 17th July 1987.

⁹³ DFAMP second fax, Belfast Secretariat to DFA (Anglo-Irish division), 17th July 1987.

⁹⁴ DFAMP file note, 18th July 1987

supersede the MacBride Principles?’ an unrepentant Lenihan replied, ‘precisely. I would see the legislation as subsuming the MacBride Principles, in effect putting into legislation the sort of code of practice envisaged by the MacBride Principles’.⁹⁵ In November in the Dáil, the unabashed Lenihan declared each of the MacBride principles was ‘admirable’ saying:

I should like to see fair employment practices and principles along with legislation that would be able to monitor this situation properly and will have the necessary resources that will render the MacBride Principles, as such, as it were redundant in that they will subsume the admirable principles that are incorporated in the MacBride series of principles, if we bring given effective legislation, which is what we really want.⁹⁶

There is no record in the DFA’s MacBride files of any further British protest at the use the word.

Following the election of the Fianna Fáil government, the Irish Embassy and consulates in the United States were being inundated with inquiries as to whether there had been a change in policy, because of perceived gap between FitzGerald’s very cautious approach and Haughey’s forthright support of the Principles. Based on Haughey’s pro-MacBride speech of the previous year, Leonard Doyle, the New York correspondent of the London *Independent*, had already stirred the pot by speculating that the diplomatic service had been given fresh instructions to positively advocate MacBride Principles. The story was embarrassing and was immediately, and vigorously denied.⁹⁷ The embassy team was still smarting from Haughey’s accusation of the politicization of the diplomatic service. Seán MacBride, on his return from a visit to the United States, wrote to Haughey stating that ‘there is a general feeling among our leading supporters that our Diplomatic and Consular staff in the US are using their influence to oppose the adoption of the “MacBride Principles”’.⁹⁸ He based his allegation on a quotation in the *Irish Times* from a long article by Robert England

⁹⁵ DFAMP transcript of Lenihan interview on *Good Morning Ulster*, Radio Ulster, 17th July 1987.

⁹⁶ *Dáil Éireann Debates*, 4th November 1987, col. 2294. Lenihan replying to question by Barry.

⁹⁷ L Doyle, ‘Haughey supports US moves on Ulster’, *Independent*, 23rd March 1987. DFAMP fax Barrington to O’Brien, ‘MacBride Principles press report’, 27th March 1987. Barrington vigorously defended the circumstances of his briefing of Doyle ‘Where he got “communication to Dublin from diplomats here” I do not know’. He speculated that Doyle had done a provocative piece to see what might emerge.

⁹⁸ DFAMP letter MacBride to Haughey, 29th April 1987.

in *Insight*, a magazine published by the *Washington Times*. England quoted Anne Anderson, the embassy press officer, as saying that the Irish government was alarmed that the campaign had ‘in the cast of supporters, some who see [the principles] as a stick with which to beat the British’.⁹⁹ The DFA were acutely aware that ‘the Taoiseach “hit the roof” when any suggestion was made to him that Irish diplomats were undermining the MacBride campaign’.¹⁰⁰ The draft reply prepared by the DFA for Haughey was the object of many redrafts before it was sent to MacBride. A sense of the frustration and irritation, almost pent up emotion, felt by the staff in Washington can be seen from the following extract of a cable from the ambassador to the assistant Secretary of the DFA, Ó Tuathail:

It is also evident that an attempt is being made by proponents of the Principles, whose motives as you know in some cases go beyond redressing discrimination to secure means of chastising diplomatic and consular officers in this country and pulling them into line with the campaign. It is against this background of the question of the reply to emanate from the Taoiseach to Seán MacBride must be seen, since I have little doubt that the text will soon be in the hands of the Campaign coordinators here. In these circumstances to speak of “the Government's endorsement” is to run the risk of

1. Stating that the Government gives its stamp of unqualified approval to the Principles and by inference to the campaign to secure their reflection in law in this country at State and federal level;
2. From this it follows immediately that in so doing the Government will run a serious risk of confrontation with the British Government and to embroiling our service and theirs in a conflict:

You will be in a better position than I to judge the impact of such a development on Anglo-Irish relations and its desirability at this time:

Needless to say, if the Government wishes clearly and consciously without reservation to ‘endorse’ the MacBride Principles, and to have us to do so

⁹⁹ R England, ‘Anti-discrimination campaign takes aim at the least biased’, *Insight*, 4th May 1987, 27-28.

¹⁰⁰ DFAMP A Anderson’s note, 29th September 1987. She quoted a telephone conversation with Mansergh (Taoiseach’s political advisor), who the previous day had met Jamison.

publicly here, we shall do so. It would make life easier and simpler and might even gain us a certain popularity in some quarters (e.g. with opponents of the Anglo-Irish Agreement, Noraid the Caucus etc.) would only be too pleased to see us in direct conflict with the British. As you know we are quite prepared for and I personally have been involved in the past, in situations where conflict was unavoidable and sprang from a fundamental disagreement e.g. in 1972 regarding the viability of Stormont, post Bloody Sunday, etc.

Last year, as you will recall, we successfully avoided being embroiled in a row over Supplementary Extradition Treaty. Clearly, it is not a question of shrinking from disagreements with the British where such are unavoidable or merited by the substance. It is simply a question of being clear and anticipating the costs and consequences, which may be entailed.¹⁰¹

The final paragraph of Ó Tuathail's draft for Haughey read: 'I can assure you that it is not our policy that those official representatives of this country should get involved in opposing the Principles, nor do they ... I feel that the remarks of the officer in question were taken out of context'.¹⁰² When Joe Jamison, the Director of the Irish-American Labor Coalition, at a meeting with Mansergh made a similar statement that some elements of the diplomatic service 'had not reoriented to the change of Government' and claimed that the Consul General in San Francisco had circulated a letter from John Hume, condemning the Principles. Lenihan ordered his officials to examine the claim and then reported to the Taoiseach that the Consul General in San Francisco had circulated no such letter.¹⁰³

His continuing suspicion that the embassy staff in Washington were less than supportive of his policy continued to nag with Haughey. In a note of a telephone call she had received from Mansergh, Anne Anderson, recently returned to the Anglo-Irish Section in Dublin, recorded that they discussed the embassy's report of a major interview in which Haughey had given in the United States to *Irish America*.¹⁰⁴ Mansergh had suggested 'in a delicate way', that perhaps implicit in this report was a suggestion that the Washington Embassy had some

¹⁰¹ DFAMP cable Ambassador in Washington to Ó Tuathail, 27th May 1987.

¹⁰² Ibid.

¹⁰³ DFAMP, Note to An Taoiseach from Martin Mansergh, 4th June 1987

¹⁰⁴ DFAMP A Anderson's note, 29th September 1987. She quoted a telephone conversation with M Mansergh (Taoiseach's political advisor), who the previous day had met J Jamison. C O'Dowd, 'Irish American interview - Charles J Haughey', *Irish America*, September 1987.

hesitation about the MacBride Principles/campaign. He was concerned that diplomatic offices in the US should not provide any basis whatsoever for any claim that the Irish government was discouraging the MacBride Campaign. Anderson replied that it was important that the embassy reported on all reactions and it should be seen as doing just that. The embassy should not be identified with the views reported. It would not be in anybody's interest if the embassy started tailoring its reports to the audience and failed to report views of which Dublin should be aware. Mansergh said that perhaps his call had been redundant and then made his Taoiseach's 'hit the roof' comment.¹⁰⁵

The first six months of the new administration was a period of frustration for the staff in the United States. The memory of Flavin's letter and Haughey's reaction were too recent and the repeated denials of requests for formal written instructions to deal with the MacBride campaign only increased the stress. They were constantly referred back to Haughey's opposition speech in the Dáil and Lenihan's reply to Bell's question. From state to state, pro- and anti-MacBride legislators requested statements of the Irish Government's position. They were aware of the change of emphasis between FitzGerald's and Haughey's positions. In May 1987, the California Assembly Committee on International Trade and Intergovernmental Relations was considering MacBride legislation. Having been asked for the Irish government's position, the Consul General in San Francisco prepared a draft statement entitled 'The Anglo-Irish Agreement and Equality of Employment in Northern Ireland'.¹⁰⁶ It was very brief, comprising of nine paragraphs of which five covered Bell's question in the Dáil and the remainder were a short description of the working of the Anglo-Irish Agreement without any political comments or observations. The Californian committee's request fell upon deaf ears.

It was the DFA's wish that no written material was to be issued on the MacBride Principles without first having the text cleared at the political level in Dublin. Specifically interpretive statements were not to be made in writing of the Government's attitude to MacBride Principles. Any requests for material on the MacBride Principles were to be confined to government statements, including *communiqués* from the Intergovernmental Conference, parliamentary questions,

¹⁰⁵ DFAMP, Anne Anderson's note on telephone conversation with Mansergh.

¹⁰⁶ DFAP 'Consul General San Francisco, 'The Anglo-Irish Agreement and Equality of Employment in Northern Ireland' (undated).

ministerial speeches and ministerial interviews. No mission was to adopt a position on any proposed Bill before a state legislature without referring the matter to the Anglo-Irish Section and receiving specific instructions on the Bill in question. Dublin was to be kept informed by regular reports of the progress of any MacBride legislation or resolutions. It also wanted urgent reports of the developments in California 'including lobbying by the British and others'.¹⁰⁷ The instructions were clear and precise. Members of the diplomatic service, who accepted that they might not have precise legal knowledge, considered it seemed to imply a lack of faith in their professional ability and judgment.

Haughey was determined to keep control in Dublin. There would be no more Flavin moments and he would indicate any shifts in policy. On a visit to the United States, he gave a wide-ranging interview to *Irish America*, stating 'We find the MacBride Principles totally acceptable'¹⁰⁸. On the role of Irish diplomats allegedly working against the Principles, he said, 'I don't know what happened in the past but certainly the Irish diplomatic corps have no authority or brief to interfere in any way. This government finds nothing wrong with the MacBride Principles'.¹⁰⁹ Challenged that his support of the MacBride Principles put him in opposition to John Hume, expressing again his concern for the divisions amongst Irish-Americans he replied, 'Well, it's bad enough that the Irish people are arguing and fighting at home. We should try to present as united a front as possible abroad'.¹¹⁰ He did acknowledge that the SDLP had different roots from his own party and was concerned about the threat of disinvestment.¹¹¹ Nevertheless, his own position was clear and unequivocal, only qualified, if qualified it was, by his reference at the start of his remarks, 'Brian Lenihan our Foreign Minister, has given our views on that'.¹¹²

To Haughey, his replies were merely a continuation of an already settled policy. That was not how it was interpreted in United States. For those opposed to the MacBride Principles, it was seen as unequivocal support for the Principles

¹⁰⁷ DFAMP, March 1986 onwards, specifically telex O'Tuathail to the Washington Ambassador, 13th May 1987.

¹⁰⁸ C O'Dowd, 'Irish American interview – Charles J Haughey', *Irish America*, September 1987.

¹⁰⁹ Ibid.

¹¹⁰ Ibid.

¹¹¹ Hume, who had been similarly challenged, replied more diplomatically 'I am quite certain that Mr. Haughey would not support anything that would deprive areas of high unemployment of getting jobs', D Watson, 'Hume fends off row with South over job principles', *Belfast Telegraph* 5th September 1987.

¹¹² C O'Dowd, 'Irish American interview – Charles J Haughey', *Irish America*, September 1987.

and all their accompanying baggage and supporters, disinvestment and Noraid, embarrassing their friends on the Hill and putting the Irish Government on a collision course with the British and the US administrations. For the supporters of the campaign, it was seen as unequivocal support for the Principles, from which should flow unqualified support for the campaign, active intervention by Irish diplomats on behalf of the Principles and a denunciation of the threats of universal disinvestment as prophesied by their opponents as misleading scare tactics.

The Ambassador, Padraic McKernan, wrote a private and confidential letter to Noel Dorr, the Secretary of the DFA, in which he conveyed the concerns expressed by the Friends of Ireland and Tom Foley, the Majority Leader in the House of Representatives at what they perceived as the shift in policy contained in Haughey's interview.¹¹³ They were concerned that two Bills languishing in committee, Fish's in the House and D'Amato's in the Senate, as a result of Haughey's speech, might now emerge onto the floor of each house and both Bills would be very divisive.¹¹⁴ He then restated over five pages the history and political of problems surrounding the Principles and the urgent need for guidance. He concluded:

it would be useful to have the strands drawn together and the Government's position articulated in a comprehensive fashion. This would have the merit also of at once serving as guidance and instructions to those of us who have the task of carrying out policy here and making a play to those who question that policy or vigour and commitment discharging it. It would serve as well as guidance and support to those friends who have consistently sought to advance our policy aims in Congress or with the administration. Other advantages of course, I am suggesting, in the context of relations with London you will be best placed to judge yourself.

I realize that this may be a rather a tall order but I am concerned at the dangers that what currently is perceived as a lack of clarity or ambiguity in regard to the MacBride campaign holds for the maintenance and

¹¹³ DFAMP telex Burke to Anderson, 11th September 1987. The Washington Embassy had received callers from *inter alia*, Congressman Donnelly (personally), Senator Biden's office, the Speaker Foley's office, and Representative Gilman asking for guidance as Haughey's 'totally acceptable' comment seemed to indicate a shift in policy.

¹¹⁴ DFAMP note Burke to McKernan, 8th October 1987.

development of coherent and effective support for Government policy here.¹¹⁵

Dorr accepted the difficulties that the staff of the United States faced and asked Dermot Gallagher, the new Assistant Secretary of the DFA, to prepare a set of 'Internal Guidelines for Irish diplomatic personnel responding to questions on the MacBride Principles'. He spoke to Haughey about the difficulties being faced by the diplomatic service in the United States but Haughey would have none of it. Dorr's handwritten note to Gallagher attached to the draft guidelines explained their fate:

When I was with the Taoiseach on Wednesday I asked him if he would like us to draft guidelines for our US missions and show them to him for clearance. He thought not -- he said that the trouble about such instructions in writing is that they tend to get out. (This confirmed for me an earlier impression that he prefers not to get into formal instructions on this matter).¹¹⁶

But Dorr was very conscious, as head of the department, of his responsibilities to his colleagues in United States. His note continued:

Obviously, this does not free us from the duty of providing adequate guidance for our people in the field, if they need it. Perhaps we might discuss how to approach it? It may be that our US missions have already got enough guidance orally or otherwise? Or possibly an informal letter to Amb. McKernan might be OK and not encounter objections in the light of the Taoiseach's wishes?¹¹⁷

There the matter rested and the only other instructions given to the United States staff was not to appear as witnesses before state legislators and city councilors examining proposals to implement the MacBride Principles. Sometimes they were instructed to not even to attend such hearings less, because of the sometimes

¹¹⁵ DFAMP letter McKernan to N Dorr (Secretary of the DFA), 9th October 1987.

¹¹⁶ DFAMP letter Dorr to Gallagher 2nd October 1987.

¹¹⁷ Ibid. Another set of replies to questions saying nothing new was prepared by DFA, 28th October 1987. It was sent to Lenihan for approval before circulation

informal nature of the proceedings or just as interested bystanders, they might be drawn into discussing the merits of the proposals or the evidence given.¹¹⁸

Frustrating though his instructions were to the DFA, Haughey was probably correct in insisting that no formal instructions should be put in writing lest inadvertently, or even possibly deliberately, they were leaked. Flavin's unapproved letter, and Anne Anderson's off-the-cuff comments, taken out of context, were both indicative of the mischief that could be made from an unrehearsed aside. Haughey had other reasons to be cautious. His minority government could not afford to fall foul of the United States' administration, whose most important ally was the United Kingdom. President Reagan and Prime Minister Thatcher were personal friends as well as philosophical soul mates. Noraid was one of the main proponents of the MacBride Principles in the USA and a vociferous supporter of the IRA, which had been obtaining arms from Libya. General Gaddafi, the President of Libya, was notorious for his support of anti-American terrorist groups.

The US administration, on the principle of guilt by association, had no difficulty in condemning the Principles. As Haughey had indicated in his *Irish-America* interview, the plight of the army of illegal Irish immigrants in the United States was a major concern. They wanted their status to be legalised in order that they could obtain papers, benefit from social insurance and welfare services and not be exploited by unscrupulous employers. Irish-American legislators on the Hill were addressing the problem and he would not want to lose their goodwill or unnecessarily antagonise the administration.¹¹⁹

From the start of Haughey's new government, the United States administration had made its opposition to the MacBride principles very clear. Mansergh's note for the Taoiseach of the dinner with American diplomats on the 2nd April, records the US administration's strong opposition to such pressure 'as a

¹¹⁸ DFAMP telex Ó Tuathail to McKernan, 13th May 1987. 'It is the department's wish that no written material on the MacBride Principles be issued by any mission in North America without first having the text cleared at a political level in Dublin. Specifically interpretive statements are not to be made in writing on the government's attitude to the MacBride Principles. If there are requests for material on the MacBride Principles missions are to confine the material issues to public government statements on the matter. This material would include *communiqués* of the Inter-Governmental Conference, parliamentary questions, ministerial statements and ministerial interviews.

In regard to draft state legislation on the MacBride Principles, no mission is to adopt a position on any proposed bill without referring [sic] the matter to the Anglo-Irish section and receiving specific instruction on the bill in question'.

¹¹⁹ SDP report Dublin to State Department, January 1988.

matter of general principle'.¹²⁰ The Irish government as a matter of policy was seeking to be non-confrontational, but it could not ignore the provocative statements made in Belfast by the US ambassador to the United Kingdom, Charles Price. Speaking to the Belfast Chamber of Commerce and Industry, he declared the Principles 'totally unproductive' and said: 'we will do whatever we can to make those people trying to formulate MacBride legislation realize they serve no useful purpose'. He went on to say that the Principles demanded reverse discrimination and the imposition of quotas. He said that the US Justice and State Departments were examining the Principles to establish whether they were illegal under the United States Constitution.¹²¹ It was a strong statement that received massive press coverage and could not be ignored. Lenihan immediately telephoned the US ambassador, Mrs. Heckler to express informally the Irish government's concern not only with the statement itself, but its 'high visibility'.¹²² Later that day, at a meeting of the Irish cabinet, ministers had complained that Price had taken sides on an issue on which the Irish and British governments disagreed. Lenihan was 'mandated by the Government to make an appropriate expression of displeasure to the US ambassador in Dublin, Mrs. Margaret Heckler'.¹²³ The DFA said it was not 'a diplomatic protest'.¹²⁴

The American administration was becoming increasingly concerned about the shift in emphasis by the Haughey administration on the MacBride Principles. It noted that the remarks made by Lenihan after the July Intergovernmental Conference, and his earlier response to Bell 'contained enough nuance to allow us, and the UK, to cite them in a useful manner in our work against MacBride legislation'.¹²⁵ But Haughey's *Irish America* interview and comments Lenihan made on a visit to the States and reactions to Ambassador's Price's speech "served to undercut our efforts".¹²⁶ The State Department considered the Irish were

¹²⁰ DFAMP note Mansergh to Haughey regarding the dinner with American diplomats the previous evening, 3rd April 1987.

¹²¹ B Rodwell, 'Envoy condemns Ulster jobs code' *Guardian*, 11th September 1987; A Guardia, 'US Ambassador backs UK campaign' *Daily Telegraph*; H Shaw, 'US Ambassador backs King on MacBride lobby', *Irish Times*, 11th September 1987; and M Sawey, 'Price lashes out at MacBride', *Irish News*, 11th September 1987. This was not Price's first attack on the McBride Principles. Speaking in Belfast in May 1986, he had said 'The McBride Principles are wrong, because they can do incalculable harm', SDP May 1986.

¹²² DFAMP note by Bassett on Lenihan's telephone call to the Heckler (US Ambassador), 14th September 1987.

¹²³ S O'Rourke, 'cabinet protests at envoy's remarks', *Irish Times*, 12th September 1987.

¹²⁴ Ibid.

¹²⁵ SDP Secretary of State, Washington to Ambassador in Dublin, October 1987.

¹²⁶ Ibid.

making a tactical mistake by playing to the supporters of MacBride legislation, which could only serve to place an additional strain on the workings of the Anglo-Irish Agreement. The ambassador had to make the US position unambiguously clear to the Irish government at senior levels. The message said that in the past United States' efforts have been reactive and low key and it was hoped to keep them working in that manner but then came the stern rebuke:

However, the seeming shift by the government of Ireland makes this more difficult. We do not necessarily expect the Irish to accept publicly the substantive arguments that we have been putting forward, but we do expect them to be prudent in interjecting themselves into debates in the US over controversial state legislation that would affect a third country. Please seek appropriate opportunities to express these concerns.¹²⁷

There is no note in the State Department documents or in the DFA MacBride files of any Irish reply or reaction to this message. As the DFA had made clear in its directions to its staff in the United States that they were not to play any active part in any state legislation or comment upon it, the US government's apparent rebuke would not affect existing Irish policy. The instructions to Ambassador Heckler did indicate a big brother attitude on the part of the US administration and its failure to appreciate the full extent of the new role given to the Irish government by Article 5 of Anglo-Irish Agreement.

At a meeting on 19th October with the Deputy Head of the North European Division of the State Department and Anne Anderson, she was informed of the constitutional problems faced by the State Department arising from individual state initiatives, which the State Department was going to resist as foreign policy was a federal responsibility. The opposition was also based on the belief that the MacBride principles imposed an additional hurdle on potential US investors and would scare off investment. He admitted that US State Department looked at Irish government statements on the Principles and used the most 'quotable' from their point of view. On the question of discouraging investment, there appeared to be no concrete evidence that the MacBride Principles had scared off potential

¹²⁷ Ibid.

investment. Anderson insisted that the Irish government's position should not be misrepresented in advice given by the State Department to state legislatures.¹²⁸

On 22nd October, in a confidential and personal note to Gallagher, Anderson set out her thoughts on the current position of the MacBride Principles and the policy implications for the Irish government. Her analysis was similar in content but gentler and less emotive than that contained in McKernan's letter. Looking at the progress of the campaign, she made a humbling confession: 'Arguably the MacBride Principles have been more influential in achieving change in this area than the Anglo-Irish Agreement; we may appeal to hearts and minds, but it is those who control the purse strings that can wield the greatest influence'.¹²⁹ She then identified four main problems which the Irish government would face in identifying too closely with the campaign, namely the company with which the Irish government would be associating, the hostility of the British, the concern about disinvestment and the dilemma which would then be posed for the Friends of Ireland in Congress.

Having examined each of them in depth, Anderson reached the conclusion that it was not possible to retreat from the present degree of support as expressed in Haughey's *Irish-American* interview. Consequently, the Irish government and its diplomats would have to accept and live with some unsavoury company on the issue. However, more should be done discreetly to encourage the more positive elements of the campaign to become dominant by supporting those who were anxious to show they were not advocating disinvestment but positively encouraging investment in Northern Ireland. Such a development was important in the 'devilification' of the Principles. The Irish government would have to live with a degree of British dissatisfaction but it should not be aggravated by taking an active role in the campaign across the United States. The Friends of Ireland were vitally important for the furthering of the Irish government's goals in the United States. Therefore, the Irish government needed to be very sensitive to their needs.¹³⁰ This was a frank and honest analysis of the situation. Although it was never formally adopted, it was to underpin Irish policy for the rest of the century.

Kevin McNamara, the Labour Opposition's spokesman on Northern Ireland, visited Washington at the end of 1987 and reported to the British

¹²⁸ DFAMP file note Bassett of a meeting with US Diplomats, 19th October 1987.

¹²⁹ DFAMP private note Anderson to Gallagher, 22nd October 1987.

¹³⁰ DFAMP private notes from Anderson to Gallagher, 22nd October 1987.

ambassador, and later to the Irish, conversations he had had with some of the more moderate Irish-American congressmen and their staff, among them Representative Brian Donnelly of Massachusetts. They had reported the strength of the INC and Noraid orchestrated MacBride campaigns within their constituencies and the slowness of the British government's response was weakening their position. They would have to introduce into the Congress positive measures of their own to counter the threat to the home base. Donnelly was considering putting forward a Bill to give tax incentives to those US companies investing in Northern Ireland, which carried out equal opportunity policies and penalties for those that did not. Senator Moynihan had been quietly making similar representations to the Irish embassy to increase pressure on the British to act.¹³¹ The British ambassador and Cowper-Coles, the First Secretary responsible for Irish-American issues at the British embassy, had both discounted the possibility of such action.¹³² Unhappy with the attitude of British diplomats in Washington, McNamara on his return to the United Kingdom wrote to the Secretary of State, Tom King. He expressed his concern at the attitude of the US legislators and the reaction of the British embassy to what he had said.¹³³ Whilst acknowledging the thrust of McNamara's concerns, King had replied defending the delay in the legislation: 'the sort of legislation we are considering ... is a matter of some sensitivity and complexity and we want to get it right'.¹³⁴

However, despite their dismissive response to McNamara, following a lunch with Cowper-Coles in September 1988, Martin Burke reported to Dublin that in private Cowper-Coles had expressed a more realistic assessment of the situation in Congress. He felt that it would be very hard to stop the MacBride Campaign without decisive action on the part of the British government. He said that the advice they were sending to London stressed the need for an early White Paper and substantive legislation which had the blessing of the Irish government. Burke replied whatever the details of the legislation there had to be strong statutory penalties and without early action, pressure on the British government in Washington would increase, including from such moderate groups as the Friends of Ireland. Cowper-Coles repeated that whatever British proposals emerged on

¹³¹ DFAMP telex Burke to Anderson, 7th January, 1988 and telex Burke to Anderson, 13th April, 1988, containing Donnelly's report of British Ambassador seeking to influence his bill.

¹³² DFAMP telex Burke to Anderson, 'Kevin McNamara's visit', 17th December 1987.

¹³³ KMNP letter McNamara to King 12th December 1987.

¹³⁴ KMNP letter King to McNamara, 11th January 1988.

fair employment, it had to have the wholehearted support of the Irish government, if the British were to be placed in a position to deal with the MacBride issue in the United States.¹³⁵

By the beginning of 1988, it appeared that relations between the Irish government and its own diplomatic service were healed and that Ireland's relations with the United States, apart from the disagreements over the MacBride Campaign, were good. Throughout the United States, the MacBride Campaign continued as all parties waited for the publication of the proposed British legislation to see if it would subsume or 'supersede'(the Irish side) or 'render irrelevant'(the British side) the MacBride Principles. Both the signatories and the United States wanted the Anglo-Irish Agreement to succeed, although there was still the occasional spat between Britain and Ireland. A press release issued by the NIO during a visit to the USA by Peter Viggers, the Northern Ireland Industry Minister and the one tasked by the British government to take a new legislation through its committee stage in the Commons, said:

turning to fair employment, he drew attention to the view expressed recently in Sacramento, by Brian Lenihan, the Irish Foreign Minister, that the MacBride Principles 'have simply been made redundant by oncoming fair employment legislation at Westminster'.¹³⁶

Quite apart from getting the location wrong (Lenihan had been speaking in San Francisco not Sacramento), the Irish claimed that the partial and inaccurate quotation in the NIO press release was a serious distortion of the thrust of Lenihan's remarks:

It is absolutely unacceptable that on an issue as sensitive as this, where the Irish government's views are well-known to the British, that the Tánaiste's remarks should be misquoted, taken out of context and used by Mr. Viggers in support of his attack on the MacBride Principles. The Tánaiste personally has instructed that his extreme annoyance be

¹³⁵ DFAMP report of a lunch conversation between Burke and Cowper-Coles, 20th September 1988.

¹³⁶ NIO press release, 17th October 1988.

conveyed, through the Secretariat to the British joint chairman. We would be glad if this can be done as soon as possible.¹³⁷

Lenihan's remarks had been made at an informal question and answer session. Following lunch, it is claimed that he had said of the MacBride Principles that 'they have simply to be, if you like, made redundant by the oncoming nature of the Fair Employment legislation'.¹³⁸

McNamara had joined in the dispute wishing to know from the Irish ambassador in London, Andrew O'Rourke, whether Lenihan had been correctly quoted by Viggers. He also wrote to Viggers demanding to know what information had been given to Lenihan about the contents of the future legislation, which would enable him to make such a statement and insisting that the information be made public. In his reply to McNamara, Viggers said that the account which he gave was made in good faith taken from a written account made by a member of the British Consular staff at Lenihan's meeting.¹³⁹ The British account did not tally with the account Lenihan's accompanying officials made of his remarks. There is no reason to think that Viggers did not believe he was quoting Lenihan accurately but he did know the Irish position and he would have been aware of the previous spat over the word 'subsume'. It would have been wiser to have checked with the Irish that what he had been told Lenihan had said was accurate. It could well have been that the British staff member taking notes of Lenihan's speech, recorded what he hoped to hear rather than what he had heard. Having given his account of how the misunderstanding arose in his letter to McNamara, Viggers apologised for any misunderstanding that had arisen and said he considered the matter closed.¹⁴⁰

However, the Irish embassy's relations with the various factions of Irish Americans were far more difficult. An intemperate letter from Father McManus to Haughey raised the old chestnut that both before and after Haughey's election 'Irish government officials in United States have actively campaigned against the MacBride Principles'.¹⁴¹ Legislation involving MacBride Principles was before the City Council of Washington DC. The INC was going to monitor very

¹³⁷ DFAMP telex Gallagher (DFA) to Irish Joint Secretary (Secretariat Belfast), 24th October 1988.

¹³⁸ DFAMP Northern Ireland Press Service, 'Minister speaks out on fair employment', 17th October 1988.

¹³⁹ KMNP letter Viggers to McNamara, 5th December 1988.

¹⁴⁰ Ibid.

¹⁴¹ DFAMP letter McManus to Haughey, 11th February 1988.

carefully activities of the embassy officials during the hearings. With John Hume, and other members of the SDLP, Senator Moynihan and the scurrilous British press, McManus accused the embassy of vilification to smear the memory of MacBride, who had recently died.¹⁴² The letter was sent to the Anglo Irish Division for it to prepare a reply.

The ambassador, Padraic McKernan, who had been personally singled out for attack in McManus's letter, suggested the briefest of replies:

I have your letter of February 11, 1988, with regard to the MacBride Principles.

You will wish to know that since Irish government officials have not campaigned and are not campaigning against the MacBride Principles, there is no need to instruct them in this regard.¹⁴³

McKernan was very angry, saying of the letter that its tone was threatening and its substance, mendacious and misleading. His reply to Dublin continued:

Although one can readily dismiss Fr. McManus's lurid assertions, at the same time there is a serious and unscrupulous intent behind them ...

This is to try to intimidate Irish officials in United States by suggesting to the Taoiseach and his ministers that that they are not loyally carrying out government policy. By extension of course it is also an attempt to intimidate the government. You have observed the minatory note struck in the letter when Fr. McManus says that the Caucus 'Will be monitoring the activities of the embassy carefully, in regard to the legislation on MacBride before the DC City Council and that they regard this as a test case'.¹⁴⁴

McKernan claimed that this was not a new tactic, since there had been attempts by the AOH to dictate to Lenihan about what the contents should be of a speech he was to have made in New York. He singled out as the chief malcontents the INC, the political education committee faction of the AOH, the Irish-American Unity Conference and Noraid.

¹⁴² Ibid.

¹⁴³ DFAMP undated cable marked immediate.

¹⁴⁴ Ibid.

The day-to-day work of the embassy continued. The progress of monitoring the progress of the MacBride Campaign in the States, encouraging the Friends of Ireland to think positively in terms of encouraging inward investment into Northern Ireland, supporting the Donnelly initiative and maintaining the International Fund for Ireland were all on the table. It was all rather unreal, for the real event, which all the parties were awaiting, was a publication of the British government's legislative proposals. There had been a consultative paper, a White Paper and a code of practice all emanating from the NIO but as the papers were being produced, there seemed to be some signs of a continuing weakening in the British government's position as it became the subject to pressures from Unionists and employers' organizations and probably internally within the NIO and DED. The SACHR report had established the criteria by which the legislation would be judged. Rumours about what was or was not to be in the new Bill were legion.

There had been another meeting with Cowper-Coles and Andrew Henderson, who had recently been transferred to the British Embassy from the consulate in New York and was dealing full-time with the British campaign against the MacBride Principles.¹⁴⁵ They stated that the embassy's objective towards the MacBride Campaign was essentially one of containment, rather than defeat, and that the only hope for relief lay in the passage of the proposed fair employment legislation and of its having a significant impact on interest of public opinion in the United States. Henderson's assessment of the effect of the legislation in defeating the MacBride campaign in the United States was not as forceful as earlier statements made by the British authorities. He would have been aware of the discussions taking place in the Maryfield Secretariat and the degree to which the Irish were making their strong case for legislation with teeth. They were not always receiving the precise answers they wished. Henderson did not make the point that had been stressed at previous meetings, that if the legislation was to succeed in disarming the MacBride Campaign, it needed the wholehearted support of the Irish government. The Irish government's response to the Bill was a muted welcome, 'the Provisions today are not in all respects as strong as the government would have wished'.¹⁴⁶

¹⁴⁵ DFAMP telex Burke to Anderson, 31st October 1988, report of lunch with Cowper-Coles and Henderson.

¹⁴⁶ DFAMP government statement, 18th December 1988.

Once the Bill had been published and it had received an opposed Second Reading and gone into Committee, the Irish now had the official text upon which they could work. The Labour Opposition, unlike the Irish government and the SDLP, had not been involved in the discussions surrounding the preparation of the Bill other than making formal responses to the various government documents. Labour was prepared to table amendments to the legislation, which the Irish government and the SDLP may have felt had already been lost. The Labour amendments were drafted by Dr. Christopher McCrudden, who had prepared the Comptroller's case in the American Brands' litigation. He was well-known to the Irish government, which trusted his judgment and he had been responsible for much of the drafting of the SACHR Report. As the Labour amendments went down, they were carefully examined at the Maryfield Secretariat, which was also conscious of the increasing pressures being brought to bear upon the British embassy and consulates in United States by the well informed Doherty and his colleagues who were taking a microscopic interest in the Bill's committee proceedings.

Currently, as both the British and the Irish Maryfield archives are closed, even under the freedom of information legislation of both jurisdictions, it is impossible at present to know the complete dynamics of the institution, how the officials responded to which pressures, what weight was given by the British and Irish governments to the Labour amendments and the pressures coming from the United States and what was the bottom line for each government. The Irish government could only bring moral and political pressure. The final decision on what improvements to make and what amendments to accept in the Bill lay with the British government. What is known is that shortly before the Bill came out of committee, one of the British representatives at the Secretariat turned wearily to his Irish counterpart, and said 'that finishes the McNamara agenda'.¹⁴⁷

It was also apparent by that time that the British government was going to make no more significant concessions to the opposition parties in Parliament. Some important improvements had been made and they appeared on the face of the Bill. Some were promised to appear in secondary legislation, but they suffered from the weakness that, whatever the consultations held before they were introduced, they could only be accepted or rejected, not amended, by either

¹⁴⁷ Reported to McNamara by Patrick O'Connor, Counsellor to the Irish Embassy, April 1989.

House. Codes of practice, promised under the Bill were in a legal limbo. They were not amendable by the legislature and largely dependent upon the goodwill of the civil servants drafting them, about whom, from past experience, the nationalist community was deeply distrustful. It was against this background that the Irish government had to make its considered judgment of the new fair employment legislation.

The Irish were aware of the deep disappointment of the Labour opposition with the final contents of the new act and the withdrawal of Labour's support for the legislation. Labour considered that the government had reneged upon its promises to further strengthen the Bill when it was in the House of Lords and that it had subsequently weakened some of the earlier improvements it had introduced at the report stage in the Commons. Equally, the Irish were aware that the MacBride campaigners would not be satisfied with the act's contents if the British Labour Party was unhappy with it.

The new Irish Foreign Minister, Gerard Collins, as Minister of Justice before Lenihan's resignation because of ill health, had been part of the Irish ministerial team attending the Inter-Governmental Conference. His considered opinion of the new legislation would be not only a judgment on the contents of the new act, but also of the workings of conference and the first major test of British and Irish co operation on a non security issue. When the parliamentary procedures were completed Collins' statement was a measured response. First he reviewed, part played by the Irish government and what had been achieved:

We have, over a prolonged period of intensive discussions, provided detailed views and proposals on the range of issues dealt with: compulsory monitoring, prohibition of indirect discrimination, withholding all public moneys from discriminatory employers, affirmative action measures, imposition of remedies, new institutional structures.¹⁴⁸

His considered opinion was that:

The terms of the new legislation will not have satisfied everyone in all respects; we ourselves would want to -- and we argued for -- the

¹⁴⁸ DFAMP Collins press statement, 27th July 1989; 'Collins and the SDLP welcome jobs Act', *Irish News*, 28th July 1989; and 'Broad welcome for North's new employment Act', *Irish Times*, 28th July 1989.

strengthening of some of its aspects, and the inclusion of some additional elements. Nevertheless, the legislation in our view, is a serious attempt to respond to the problem and to point the way forward, and we welcome it as such.¹⁴⁹

This was not 'the wholehearted support' of the Irish government that Cowper-Coles and the British government had been looking for to curb the MacBride campaign in the United States. Its measured tone reflected some of the anxieties expressed during the passage of the legislation concerning the practical implication of some of the measures in the act. Past experience and the disappointed expectations of the 1976 Act, prompted Collins to echo Lenihan's strongly held opinion that what mattered was not just a passing of legislation but how it was implemented.

The passage of the legislation, while the culmination of one stage, must be, more importantly, the start of an even more challenging phase of effective implementation. As the government have repeatedly said, the real test of this legislation will be the difference it makes on the ground in Northern Ireland. Through the intergovernmental conference, we will be actively monitoring the implementation of the new legislation.¹⁵⁰

The Irish government had asked Doherty that if the legislation was satisfactory whether the MacBride Campaign would cease. He had cautiously replied that it would probably remain in operation for a few years to monitor the implementation of the new legislation. Despite the improvements in the legislation, it was obvious to the Irish government that because of its failure to obtain all the changes it had wished to see and the continuing Labour Party opposition, important changes in the legislation would have to take place in the future. The British government's hope that the new legislation would render the MacBride Principles 'irrelevant' was doomed to failure. The MacBride campaign would continue unabated in the United States. Having demonstrated its vigorous role in seeking to improve the legislation, the Irish government was now well positioned to confront its critics in INC and elsewhere. It continued to monitor the

¹⁴⁹ Ibid.

¹⁵⁰ Ibid.

progress of the campaign and to follow strategy proposed in the unofficial memorandum prepared by Anne Anderson.¹⁵¹

Despite the well established position of the Irish government, the British government did not cease in its attempt to embroil the Irish in its anti-MacBride Campaign. At a meeting with the DFA's Assistant Secretary, Seán Ó hUiginn, on the 15th April, 1993, the British ambassador Blatherwick handed over a speaking note which, after rehearsing the usual anti-MacBride Campaign arguments, urged that the Irish government 'reverse their hitherto supportive attitude towards the Principles, which are damaging, negative and divisive'.¹⁵² The Irish government was then a coalition of Fianna Fáil and Irish Labour, and the Tánaiste and Minister for Foreign Affairs was Dick Spring, who in January 1985, had first attacked the motives of some of the Campaign's supporters and the threat of disinvestment. Ó hUiginn reiterated the Irish government's well-established position and suggested that the British decision to wage a high-profile campaign against the Principles had been demonstrably counterproductive in the particular political circumstances of the United States. The British government was fighting a battle which was essentially un-winnable. The very fact of the British government's known opposition to the Principles strengthened the campaign in favour of them and conveyed the impression that the British government was somehow lukewarm on fair employment practices. He said that:

In all the circumstances, Irish ministers were likely to conclude that they were better placed than the British government to judge the strategy which was most likely to be productive in terms of Irish-American or US opinion.¹⁵³

The Irish also suggested that if the British had evidence that the Principles deterred US investment they should produce it. Blatherwick undertook to see if the evidence could be produced. He said that the British had changed their tactics, and now only campaigned in areas where they had a chance of winning. Blatherwick left saying it was likely that the issue would be taken up at 'a high level'.

¹⁵¹ DFAMP private note from Anderson to Gallagher, 22nd October 1987.

¹⁵² DFAMP D Donohue report on the meeting between Ó hUiginn and Blatherwick, 15th April 1993.

¹⁵³ Ibid.

For the British, this had not been one of the most successful meetings. Blatherwick left with a flea in his ear. It is difficult to understand why he was given instructions to suggest to the Irish that they should bring a hornets' nest about their heads by reversing a long-established policy, well understood and respected by the majority of Irish-Americans. The new British Secretary of State, Sir Patrick Mayhew, had been in post for only a year and possibly frustrated by the progress of the Campaign in the United States and given Spring's past history, may well have thought that it was worth raising the issue again. If that was the case it was a matter which should have been raised quietly and indirectly in conversation between the two senior ministers, Spring and Mayhew, to discover if there was any meeting of minds on the issue before it was formally raised by an official visit of the ambassador to the Department of Foreign Affairs. Having had his hand nearly bitten off, Blatherwick had reasonable grounds for doubting Mayhew's judgment. The British did not raise the issue again.

In deciding whether to support the MacBride Campaign, in many ways the Irish government was damned if it did, and damned if it didn't. The Irish diplomatic service was faced with an issue which was tangential to its main policy objectives of persuading the US government that there was a contrary view to that advanced by the British government about the situation in Northern Ireland and that any US intervention in Northern Ireland should be even-handed and aimed at a peaceful and equitable outcome to the problem. Yet the Irish could not ignore the moral implications of the MacBride Campaign and its importance to Irish America. By adopting the Anne Anderson road-map it had a well established policy acceptable to most Irish Americans in place before the MacBride Principles were enshrined in federal legislation.

Chapter Five

MacBride and the British Labour Party

We take the view that the MacBride Principles simply state what is widely accepted as necessary to reduce inequalities and we have said so.

Right Hon. Peter Archer MP, QC, 27th March, 1987¹

It is also more appropriate that the government should set its own House in order and develop effective legislation than seek to defend inadequate policies in Federal Courts and State Legislatures throughout the United State”

Kevin McNamara MP 20th June, 1988²

The brightest jewel amongst the few MacBride supporters in the British Isles was the Shadow Secretary of State for Northern Ireland, Peter Archer.³ In his post, he had quietly repositioned the Labour Party following the adoption of its unity by consent policy. He had inherited an unfortunate legacy from the Mason period and Concannon’s unhappy visit to the dying Bobby Sands.⁴ Archer said of his relations with MacBride: ‘we were very good friends... we were together at the very beginning of Amnesty and we have remained friends ever since.’⁵ They were both distinguished human rights lawyers and members of the International Commission of Jurists. He had discussed with MacBride some of the more contentious Principles: ‘When there was an argument about whether he meant a quota system or simply removing the handicaps against Catholics, I said, “Well

¹ AP briefing for Neil Kinnock (leader of the Labour Party), 27th March 1987.

² KMNP and ATGWUP letter McNamara to Freeman, 20th June 1988.

³ Now Lord Archer of Sandwell.

⁴ Roy Mason, now Lord Mason of Barnsley, Secretary of State from 1976-1979, noted for his hard-line security policies. The best Secretary of State for Northern Ireland there ever was’, was a frequent comment of Unionist and loyalist politicians to the author.

Concannon as Shadow Secretary of State had to convey to Sands that the Shadow Cabinet supported the government's policy on the hunger strike.

⁵ Archer interview, 8th February 2005.

what do mean?”, and he said, “I don’t mean a quota system, I meant removing handicaps”.⁶

Despite the doubts of his colleagues in New York, who remembered the Mason years, Doherty was determined to cultivate the Labour Party. Together with Comptroller Goldin, he visited Archer in London and maintained a regular correspondence with his office.⁷ Writing in October 1985, he recalled an earlier conversation when they had discussed the British government’s allegations that the MacBride Principles on their face would require illegal ‘reverse discrimination’ against Protestants. Doherty brought to Archer’s attention the International Convention on the Elimination of all Forms Racial Discrimination, which the United Kingdom had signed and ratified in 1963. It stated ‘each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or *perpetuating* racial discrimination wherever it exists’.⁸ He pointed out that the United Kingdom had also supported the United Nations Declaration on the Elimination of all Forms of Racial Discrimination which advocated,

Special concrete measures shall be taken in appropriate circumstances in order to secure adequate development or protection of individuals belonging to certain racial groups with the objective of ensuring the full enjoyment by such individuals of human rights and fundamental freedoms. These measures shall in no circumstances have as a consequence the maintenance of unequal or separate rights for different racial groups.⁹

Doherty argued that these provisions, coupled with Article 1(4) of the International Convention, had been generally recognized as the endorsement of affirmative action. He asked Archer whether these international agreements could not be used to undermine the British government’s position on the MacBride Principles.¹⁰

⁶ Ibid.

⁷ Doherty interview, 6th July 1999.

⁸ AP letter Doherty to Archer, 8th October 1985. In this letter Doherty cites Article 2(1)c and Article 1(4) from the International Convention on the Elimination of all Forms of Racial Discrimination.

⁹ AP letter Doherty to Archer, 8th October 1985, citing the United Nations Declaration on the Elimination of all Forms of Racial Discrimination.

¹⁰ Ibid.

Archer replied:

Conventions ratified by the United Kingdom do not become part of UK domestic law, so that the articles to which you refer to would not invalidate the provisions of the Fair Employment (Northern Ireland) Act. Nonetheless, the questions you raise are entirely legitimate and we will ask the Northern Ireland Ministers which sections of the Fair Employment (Northern Ireland) Act they would regard as being inconsistent these provisions.¹¹

More important, and music to Doherty's ears, was the final paragraph of the letter:

Subsequently to my meeting with your delegation, I had an opportunity of discussing with Seán MacBride what he had intended in his Principles. He confirmed the construction Comptroller Goldin had given me. In my view the moderate proposals put forward by Comptroller Goldin would in no way contravene the Fair Employment (Northern Ireland) Act.¹²

Archer maintained his good relations with other Irish-American organisations in the United States, encouraging them to continue their active interest in Northern Irish affairs. They did not need much encouragement. Writing to Joe Jamison he said, 'I was very pleased to meet you and agree that the thinking on Northern Ireland in the Labour Party and the Irish-American Labor Coalition seems to be along the same lines'.¹³ Concerning the proposed SACHR review of religious and political discrimination, he wrote:

We will be making a submission to SACHR for the review and I hope to draw on material relating to the MacBride Principles. Unless you will be making your own submission, you might like to send me any material which you would like to have drawn to the attention of the review.¹⁴

Labour's position on the MacBride Principles was well-established as far as the Front Bench was concerned, although the Labour Party conference had not

¹¹ AP letter Archer to Doherty, 24th October 1985. There is no record in the Archer or Doherty papers of Doherty's points being put to ministers.

¹² Ibid.

¹³ A P letter Archer to Jamison, 18th March 1986, in reply to one of 24th February 1986.

¹⁴ Ibid.

taken a policy decision upon them. Archer had discussed the Principles with Neil Kinnock, the Party Leader, who had no objection to the stance he was taking. 'No, if he had expressed any objection I would have rethought it. No, I am virtually certain that he and I discussed it ... and of course he had Freeman breathing down his neck'.¹⁵ At a later date and at his request, Archer prepared a short, one-sided brief on the Principles for Kinnock. He pointed out that the trade union movement was divided, but that NICICTU gave the Principles qualified support. He said that the disagreement was over the questions of reverse discrimination and a quota system, 'We take the view that they cannot reasonably be construed as entailing either.' He said that the dispute arose largely because of the association of the Principles with Seán MacBride, concluding:

We take the view that the MacBride Principles simply state what is widely accepted as necessary to help redress inequalities. And we have said so. But because of the dispute, we do not mention the MacBride Principles by name unless we have to.¹⁶

When asked about the effect that the name MacBride might have had upon unionist trade unionists, Archer replied:

I suppose it ought to have occurred to me that that could put them off but I assumed, all the way through, that the people who were actually dealing with it were much closer to it than I was on that, so I don't think I ever tried to warn anybody about it.¹⁷

Archer's skill and expertise was soon called upon by the Comptroller's office in relation to the American Brands' case.¹⁸ On 3rd April 1986, Brian Hackland, his political assistant, received an early morning call from Doherty. Hackland's note reads:

¹⁵ Archer interview, 8th February 2005. Freeman (secretary of the Irish region of the ATGWU) had not been consulted when Kinnock agreed to the Anglo-Irish Agreement. His and Archer's differing attitudes to MacBride would not have improved the atmosphere.

¹⁶ AP for Kinnock, 27th March 1987.

¹⁷ Archer interview, 8th February 2005.

¹⁸ Ibid.

The Comptroller's Office is involved in litigation with a no. of US companies active in N.I. about implementation of the MacBride Principles. With support from the British Govt. the Cos. all arguing that the implementation of the McB. Principles would require violation of the Fair Employment Act.

The Cos. have submitted affidavits from Michael Lavery QC, (in N. I.), who has done work for the FEA in the past, and Alexander Irvine QC as well as a number of firms of solicitors including Mills, Selig & Bailie of Belfast.

The Comptroller's Office wants counter-opinions from yourself (if possible) & others which support their position that the Principles in their entirety can be implement[ed] and without violations of the FE Act. Included in the opinions, their legal [team] would like a listing of actions relating to the Principles which would be legal with "citations" (case law& statutes) supporting the opinion. Their position is that all the Principles can be implemented without breaking the law.

Patrick Doherty will post to us today (to arrive Sat.) copies of the opinions received so far. He will also enclose an amplification of the Principles issued by MacBride recently, following his conversation with you last year, which makes clear the intent which lies behind the Principles.¹⁹

There was a sense of urgency. The Comptroller's Office wanted the opinions by the 14th April. It would appear from Doherty's message and his own accounts of his conversations with MacBride that Archer had played a more influential role in the amplification of the Principles than had generally been recognised.

An hour later, Hackland received another call from the Comptroller's Office. This time it was from Jim Simon, who was designated to organise the handling of the American Brands' case within Goldin's office. Simon's request was more detailed.

He will be handling the case which rises from attempts to have proxy resolutions on the MacBride Principles passed at the AGMs of the

¹⁹ AP handwritten note Hackland to Archer, 3rd April 1986. The final paragraph said they would pay for his opinion!

companies concerned. He will be acting for the pension funds of City of N.Y. employees. They want opinions which will show that it is possible to take action on the each of the Principles w/out breaking the law. Such opinions should be affidavits which between them lay out the McB Principles, possible actions, & then justify the legality of each of these by reference to N.I. and English law & and case law.

He wants the affidavits to explain the relationship btw NI & Eng law, and between different levels of authority up to House of Lords. (& Commonwealth examples?) They want to file by the middle of next week.²⁰

Originally, the Comptroller's Office had wanted Archer, not McCrudden, to prepare the main brief and opinion on the legality of the MacBride Principles under Northern Ireland law but he had declined. He explained:

I was anxious not to do it because I thought it would be a mistake for me to act in a legal capacity in connection was something which I had supported politically... first because people would have said, 'Well you were prejudiced weren't you?' and secondly because they might've said, 'Well you shouldn't be using your legal weight to reinforce your political opinion'.... but they were anxious that I should to it and then in the end it was Chris McCrudden who actually did the work and I read it, obviously, and considered it carefully...and said, 'Yes, I agreed with it'.²¹

Archer dispatched his shorter opinion to New York. He followed the instructions he had been given. He rebutted Lavery and Irvine's case that Principles 1, 7 and 8 proposed conduct which amounted to unlawful discrimination under the Fair Employment Act, because they envisaged discrimination in favour of individuals from religious groups which were at present under-represented, and therefore against individuals from other groups. Archer gave examples of action under each of those Principles, which would not be illegal under the Act. He suggested that if Lavery and Irvine did not challenge Principle 4, which states that 'all job openings should be advertised publicly and special recruitment efforts made to attract applicants from under represented

²⁰ Ibid.

²¹ Archer Interview, 8th February 2005.

religious groups', it was difficult to understand how they could argue that action to implement Principles 1, 7 and 8, must necessarily be unlawful.²² He concluded: 'if a company were to decide to take action for the purpose of implementing the MacBride Principles in their totality, it would be possible effectively to do so without taking any action which was unlawful by the law of Northern Ireland.'²³ Lavery, in a further affidavit, attempted scornfully to dismiss Archer's Principle 4 argument:

A special recruitment effort in one religious group, which was not matched by similar activity for the other religious group, would render a firm conducting such a recruitment drive open to charge of failing to provide equality of opportunity. If the recruitment is of course done in both religious groups then it can hardly be described as special.²⁴

When the case came to be heard, Archer's and McCrudden's arguments carried the day.

Later that month, Archer gave a copy of his press release supporting the MacBride Principles to Oliver Kearney of the Fair Employment Trust, which was to be circulated throughout the United States. He immediately confronted the disinvestment argument: 'We share the views of those who argue that unless something is done to redress present inequalities, inward investment from North America and elsewhere will be discouraged.'²⁵ Doherty welcomed the statement as

a strong endorsement of our campaign, which will be especially useful to us in soliciting support from other institutional investors here in the US. It should also cause some discomfort to John Hume and the Dublin government, in that, on this issue, at least, Labour seems to be staking out a position somewhat 'greener' than their own.²⁶

²² AP legal opinion of Lavery, 'City of New York, Re: proposed implementation of the MacBride Principles', April 1986.

²³ Ibid.

²⁴ Ibid.

²⁵ AP press release 'Equal Opportunities and the McBride [sic] Principles', 30th March 1987. Archer's press release did not go unnoticed in Northern Ireland and was subject to criticism from Cushnahan, leader of the Alliance Party and anti-MacBride campaigner who wrote a letter of complaint to Neil Kinnock because of the INC's close association with the MacBride campaign. 'Archer in US jobs row', *Newsletter*, 2nd May 1986.

²⁶ LCIP letter Doherty to Collins, 8th August 1986.

Nevertheless, because Archer might have felt Freeman would mobilise his trade union allies against the Principles, when the Labour Party's National Executive Committee published its new policy statement on Northern Ireland, *New Rights, New Prosperity and New Hope for Northern Ireland*.²⁷ It did not mention of the MacBride Principles. It rejected the two main arguments against the MacBride Principles, 'Our programme will not, of course, entail a quota system or the replacement of one individual by another.'²⁸ Specific support for the MacBride Principles would have been faced with great hostility from some of the trade union delegates on the National Executive Committee. It was better to achieve the substance than fight about the name:

both direct and indirect discrimination remain major problems. We will take steps to increase the effectiveness of antidiscrimination programmes involved in Northern Ireland, including the promotion of positive action programmes ... And, through our new contract compliance strategy, contracts and grants awarded by government would include requirements to this end.²⁹

The caution of the policy statement was cast aside when Archer and his deputy, Stuart Bell, made their joint submission on behalf of the Labour Party Front Bench to SACHR's inquiry. They repeated their objection to reverse discrimination and quotas but the phrase 'affirmative action' replaced the more neutral 'positive action' of the policy document and belief in MacBride was reasserted: 'it is for this reason that we welcome the formulation of the MacBride Principles, which offer helpful guidance to employers without proposing reverse discrimination'.³⁰

Outside of Parliament, the main support for the MacBride Campaign came from the Labour Committee on Ireland (LCI). It was formed in 1978, towards the end of Callaghan's administration, when, with Mason as Secretary of State, Labour's hard-line policy in Northern Ireland was at the height of its unpopularity

²⁷ *New Rights, New Prosperity, and New Hope for Northern Ireland, A Policy Statement of the NEC of the Labour Party, April 1987.*

²⁸ *Ibid.*, 5.

²⁹ *Ibid.* Note the use of the word 'positive' instead of 'affirmative' for action programmes. This could not have been accidental. 'Affirmative' action, perhaps, creates the same unhappy vibes as 'reverse discrimination'.

³⁰ SACHR, *Religious and Political Discrimination and Equality of Opportunity in Northern Ireland. Report on Fair Employment*, CMD 237, 1987 v.III, evidence, (unpublished), 251.

among many Labour Party activists and the left generally. The LCI consisted of left-wing activists from a variety of socialist and Irish organisations, mainly based in the London metropolitan area. Although individual members of the Labour Party were members of it, despite its title it was not affiliated to the Labour Party. It boasted as its presidents two well-known left-wing Labour personalities, Ken Livingstone and Joan Maynard MP. The editor of its magazine, *Labour and Ireland*, was Martin Collins, a freelance journalist and skilful organizer and propagandist. The LCI quickly embraced the MacBride Principles.

Collins had been invited to visit New York as a guest of the United States Socialist Workers Party. On the recommendation of Father Des Wilson while in New York, he contacted Doherty and Jamison.. He came back, 'convinced we should be doing something around the MacBride Principles in England'.³¹ He determined to discuss the matter with Inez McCormack and some trade union researchers before preparing a briefing paper for circulation in the late autumn.

Collins and the LCI decided to sponsor a conference in London of trade unionists during the autumn of 1987 to discuss job discrimination in Northern Ireland. In an undated letter to Doherty he outlined his problems:

... in Britain, there are many teething problems. Not least of which is making sensible adaptation of your tactics into the British context. The problem is that in an ideal world the Labour Committee on Ireland would be a left wing current within a very broad movement of people fighting for the MacBride Principles .Some would fight in shareholder meetings, some through the courts, some through local council initiatives and some through the unions. As we have to confront all the existing prejudices, which come from British involvement -- it is necessary for us to launch a campaign, [in] which others will take their allotted places ... It does not rest easy with the purist conscience!³²

Despite his problems, Collins set about the task of organising the conference. Arrangements were made to hold fringe meetings at each of the major union conferences and at the regional Labour Party conferences in the spring and autumn. At the Trade Union Congress in September and the Labour Party conference in October, he would try to generate publicity for the conference to be

³¹ LCIP letter Collins to Doherty, 18th May 1986.

³² LCIP letter Collins to Doherty, undated.

called 'Ireland, the Cause of the Labour?' He invited Seán MacBride to be a patron of the conference, now to be held on November 28th, and to speak at it.³³ MacBride agreed, and wrote, 'if my health permits, I would be glad to attend and address the meeting, but bear in mind that I will be 83 next year'.³⁴

In his keenness, Collins crafted a model resolution supporting the MacBride Principles by name and circulated it to all constituency Labour parties (CLPs)³⁵. It was hoped that in the few CLPs where the activists were well organised and had sufficient members, they would succeed in having the model resolution passed and then forwarded by the CLP for discussion at the Labour Party conference. The appearance of Irish motions on the order paper varied according to the level of emotion raised by events in the Six Counties, the issue involved and whether the number of the activists at the special CLP meeting called to consider motions for the forthcoming annual conference could win a majority for a Northern Irish motion against other conflicting and equally important subjects.³⁶

In the decade from 1981-1990, seventy motions dealing with Northern Ireland were tabled of which ten mentioned fair employment. The success of Collins' work resulted in four motions being tabled for the 1987 conference, all of which mentioned the MacBride Principles. Two major resolutions, almost identical, from Manchester Blackley CLP and Derby North CLP, contained detailed demands for change, support for the MacBride Principles and instructed the National Executive Committee (NEC), to make a report upon the situation in the North and of any progress made in the field of fair employment at the next annual conference. Hackney North and Stoke Newington CLP's motion supported the Principles and made comparisons with the South African experience under the Sullivan Code. Taunton CLP's motion was in two parts, the first supported an United Ireland, but omitted the key phrase 'unity by consent'; the second gave full approval and backing for the MacBride Principles. Two of the

³³ LCIP letter Collins to MacBride, 19th November 1986.

³⁴ LCIP letter MacBride to Collins, 2nd December 1986.

³⁵ See Appendix H, 336.

³⁶ See Appendix H, 336, for an analysis of Conference Motions on Northern Ireland with reference to Fair Employment.

other motions submitted criticized the Anglo- Irish Agreement and the third sought to exclude Provisional Sinn Féin from any peace negotiations.³⁷

With seven constituency motions tabled on Northern Ireland, the critical mass on motions for a debate on Northern Ireland to be held on the floor of conference had been achieved. As was the practice at Labour Party conferences, the motions would be composited into one or two motions stating the essence of the original motions. This was a minefield for the CLPs, because, not only those who had submitted motions took part in the compositing meeting to draft the final motion or motions, but also representatives of the Conference Arrangements Committee were present. They were serviced by party officials whose role, as far as possible, was to ensure that debatable motions reached the floor of the conference, preferably in keeping with existing party policy or, if not, so contradictory that the NEC would recommend to the conference that either the motions be opposed or remitted for further consideration by the NEC. Remission meant that the NEC accepted those parts of the composite that it welcomed and rejected the remainder. The NEC member chosen to reply to the debate would explain the reasons for the NEC's recommendations to the conference.

Before the compositing stage was reached, alarm bells were being rung in New York. Far from being pleased at the success of Collins' campaigning zeal in having four pro-MacBride motions for debate at the Labour Party conference, Doherty could see the whole of his carefully planned strategy being undermined. He welcomed the fair employment resolutions but feared they would not be passed because of the reference to the MacBride Principles. At the Labour Party conference, the CLPs had only a few hundred votes each whilst the trade unions had hundreds of thousands of votes, a figure based on the number of members that an individual trade union decided to affiliate to the Labour Party from amongst its members paying the political levy. The CLPs submitting motions for the conference agenda, even if one of them was fortunate for it to be selected for debate, had no hope for success without substantial support from amongst the affiliated trade unions. None of the three major trade unions with substantial membership in Northern Ireland, the TGWU, the GMBU and the AEEU, would support a resolution mentioning the name MacBride, and so it faced defeat.

³⁷ Copies of conference reports, agendas and debates, Labour Museum of History, John Ryland's Library, Manchester. For an analysis of all resolutions, see Appendix H, 336, and for Collins's model resolutions see Appendix I, 337.

Such a defeat would be a major victory for the British government in its anti-MacBride campaign in the US. Doherty was alert to the dangers, and the political fallout that would follow such a defeat, although many of his supporters, not having thought the matter through, welcomed such headlines as, 'Labour chiefs face demands on MacBride Principles'.³⁸ As far as Doherty was concerned

we effectively had Labour Party endorsement... So why put it to the test, when the way Labour votes, we would probably lose the test? We had a statement from Peter Archer, endorsement on behalf of the Labour Party Front Bench by himself and Bell, [the] joint statement that was given to Oliver Kearney to take over to legislators in the United States and to disseminate it and to promote the MacBride Principles' legislation in the States. And it was on Commons letterhead, and it said, "Labour Party Front Bench endorsement of the MacBride Principles, we feel these all good enactments"... (I could have written it myself, you know.)... So on that basis; we had effectively Labour Party endorsement. Who's going to say we didn't have it?³⁹

Doherty was not afraid that the motions would be defeated:

Not afraid, I was certain. Because with John Freeman in the company and being against it, the weight of Labour voting, trade union voting, it would have ended up putting it down. It would have gone down, in which case we would have gone from a Labour Party endorsement, which was being used by us to great effect in the United States to counter SDLP and Irish government opposition. It is very helpful especially [against] SDLP opposition and suddenly it would be yanked from us. Also [it was] a big break through in terms of overseas endorsements, [as] big a breakthrough came when Haughey was elected in '87, which was a big plus.⁴⁰

Doherty was determined to avoid such a defeat by influencing the compositing procedure. He contacted Gerry Adams, the President of Sinn Féin, in Belfast and explained the dangers to him. Adams and Sinn Féin were using the

³⁸ 'Labour chiefs face demands on "MacBride principles"', *Belfast Telegraph*, 18th August 1987.

³⁹ Doherty Interview, 6th July 1999.

⁴⁰ *Ibid.*

MacBride Principles as a useful non-violent stick with which to beat the SDLP.⁴¹ Adams decided to ask Collins to come and visit him in Belfast. There he explained the problem to him. Collins, ruefully but for the greater good, was prepared to ask the four CLPs when compositing their motions to omit the phrase 'MacBride Principles'. It was interesting that Doherty went straight to Adams, rather than Collins who had done much of the leg work to ensure all that the motions had appeared on the order paper. Presumably, he felt that the pro-MacBride CLPs would take more notice of a request coming from the President of Sinn Féin via Collins than just from Collins. Reluctantly, the CLPs agreed. Having fought so hard to have their pro-MacBride motion appear on the conference agenda, they would have to return to the local constituency party and explain why they had agreed at the compositing meeting to see the word MacBride disappear from the motion.⁴²

The agreed motion from the compositing committee dealing with fair employment, Composite 16, resolved that the Labour Party, in consultation with the Trades Union Congress and trade unions in Ireland and Britain, initiate an independent inquiry into employment discrimination in the North of Ireland and to make recommendations for action, paying particularly attention to discrimination faced by women. The NEC was instructed to prepare a report for the following year's conference, giving detailed information on the extent and pattern of employment discrimination in the North and the progress made on carrying out the inquiry. The second part of the motion, which was doomed to be defeated if it was not remitted, contained the second part of Taunton's original motion urging the Labour Party 'to seek and avail means of encouraging the process of reconciliation and confirms its commitment to the unification of Ireland under such conditions as the Irish people can agree'.⁴³ The Taunton CLP was not prepared to remit.

Doherty's object had been secured. If Composite 16 was carried, which was unlikely, it contained a strong instruction to the NEC to work on its fair-employment policies. If it was defeated, which appeared more likely because of the inclusion of the second part of the Taunton motion, there was no mention of the MacBride Principles in the resolution. The NEC could then argue that it was

⁴¹ *Sinn Féin An End to Discrimination: Sinn Féin Proposals*, (Belfast, 1987). This was published in May 1987 and specifically endorsed the MacBride Principles.

⁴² Doherty interview, 6th July 1999, this was confirmed in several conversations in 2001 with Collins, who was then McNamara's political assistant.

⁴³ *Ibid.*

what it was asked to do - hold an inquiry, publish a report and report back within a year - coupled with the Taunton addition with which it disagreed, rather than any hostility towards the need for combating discrimination in employment, that caused it to make its recommendation to the conference, remit or vote against Composite 16. Taunton's part motion on the unification of the Ireland determined the defeat of Composite 16. The magic phrase, 'unity by consent', was absent. The result, nevertheless, in Labour Party terms of the vote on Composite 16 was quite close, 2,435,000 voted for, and 3, 337,000 voted against. If the Taunton CLP's delegates had not insisted on the composite containing both parts of their original motion and accepted only a fair employment motion, not containing the word 'MacBride', it may possibly have been carried. As it was, it had only needed a couple of the middle-sized unions to have abstained or changed their votes for the whole motion, including the Taunton addition, to have been carried. At the following year's conference, following his preparation of another model motion, Collins had the satisfaction of seeing a very strong and detailed composite specifically on fair employment but with no mention of MacBride, carried overwhelmingly by a show of hands. The vote reflected the increasing criticism of the Opposition towards the various government papers preparing the ground for the publication of its legislative proposals later that year.⁴⁴

Shortly before the summer recess in 1987, Archer lost his seat in the Shadow Cabinet elections. As no member of the newly elected Shadow Cabinet wished to be the shadow Northern Ireland Secretary, Kinnock invited Kevin McNamara, then the Deputy Defence Spokesman, to take the place. Kinnock and McNamara were close friends, having shared accommodation in London with Don Concannon until Kinnock moved his family to the capital. Elected to the Commons in January 1966, the Liverpool- Irish McNamara had immediately joined the parliamentary based Campaign for Democracy in Ulster and was, eventually, its last chairman. With Jock Stallard, the member for Holborn and Saint Pancras, he had divided the House over internment in 1971. He was close to John Hume, the leader of the SDLP and was determined to build upon the solid foundations laid by Peter Archer, whom he admired, in advancing Labour's policy of unity consent.

⁴⁴ Ibid and Appendix G,333, for the successful composite motion based upon Collin's second model resolution.

McNamara was a sponsored member of the TGWU and, since 1974, the secretary of its Parliamentary Group. He had been dismissed as Parliamentary Private Secretary to Peter Shore, then the Secretary of State for Economic Affairs, for voting against Barbara Castle's White Paper, *In Place of Strife*,⁴⁵ and, as Deputy Defence spokesman appointed by Michael Foot, he had supported the policy of unilateral nuclear disarmament. He had, he thought, the necessary left-wing credentials within the TGWU and the Labour Party to be acceptable to Freeman, and his left-leaning colleagues on NICICTU's executive. He had met Freeman on a number of occasions and hoped to use his union connections as an *entrée* to the Protestant working class and to develop with the NICICTU policies for the social and economic regeneration of Northern Ireland.

McNamara had just replaced Archer as Shadow Secretary of State in June 1987. He and Archer played no direct part in the compositing drama and did not know of the part Adams played in it.⁴⁶ McNamara had some knowledge of the efforts being made to prevent any motion containing the name MacBride appearing on the floor of conference, and knew the consequences of its being defeated in the conference. It would have completely undermined his position, been a serious blow to the MacBride Campaign in United States and an unnecessary gift but a welcome propaganda coup for the British government anti-MacBride campaign. McNamara's papers contain no reference to the controversy. That is not surprising, given the nature of a party conference, where the few quiet words in the ear and the verbal arm-twisting were rarely, if ever, committed to paper.⁴⁷ However, there is a draft of the speech, which he was hoping to make to the conference, in anticipation of Composite 16 not containing the Taunton motion on a united Ireland. When it did, it required a hasty revision as it had opened:

I speak this afternoon as a delegate for the Transport and General workers Union and as the Party's Northern Ireland Spokesperson in the House of Commons. It is significant that I can do so without having to be schizophrenic---my union and the Northern Ireland Front Bench are at one on this issue⁴⁸

⁴⁵ *In Place of Strife*, CMD, 3888, (HMSO London, 1969).

⁴⁶ Conversation with Archer immediately following his interview, 8th February 2005.

⁴⁷ Archer and McNamara Papers revealed no evidence of the controversy.

⁴⁸ KMNP draft 'Speech by Kevin McNamara on Composite 16, Northern Ireland, Labour Party Conference, 29th September 1987', September 1987.

Collins had the consolation of the LCI's successful November conference. Seán MacBride and Kevin McNamara attended and spoke to approximately two hundred delegates mainly from the trade unions in the London area. Freeman had attempted to sabotage the meeting and discourage delegates from attending. He was conscious of the very strong MacBride sympathies of many of the Region 1 members of the TGWU who lived in the London area. He wrote to Ron Todd, the General Secretary of the TGWU, warning him

I think it is important that the Transport Union considers very carefully its approach to the conference on the MacBride Principles in November. It would be disastrous if ill thought out policies in London, put the union in an impossible position in Ireland. Whatever the superficial plausibility of the Principles, they operate equally with a covert agenda.⁴⁹

Freeman quoted, with approval, a recent article by Paddy Devlin, 'It is time we identified the primary issue of the hidden agenda that is the disestablishment of Northern Ireland society!'⁵⁰ He analysed the problem:

The accepted nationalist view is that the patterns of discrimination are direct, conscious, and an inherent part of the socio-economic political structure. [Farrell' 76, '85,] On the contrary, the loyalist view is that the subordinate position of Catholics in the labour market is the result of lack of skills or initiative or both. There is no doubt that both sets of explanations hold a great deal of truth, and are not mutually exclusive⁵¹

After describing the spread of the two communities, nationalist and loyalist, west and east of the Bann respectively, he wrote '[t]his dual context of political history and socio/geographical structure has resulted in either direct or indirect discrimination against the minority population'.⁵² Freeman accepted the seriousness of the problem and the pressing need to rectify discriminatory practices but he questioned the integrity and the real intentions of the MacBride campaigners in the United States.

⁴⁹ ATGWUP letter Freeman to Todd, 24th June 1987.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Ibid

There is an added problem of the motives of the American sponsors of the MacBride Principles. We know that they are all strongly endorsed and promoted by NORAID, and it was the Irish National Caucus, which worded the actual formulation of the Principles in Washington DC in 1985 [sic]. It is the extreme nationalist political views of these organisations which causes us concern and makes us suspicious of the intent behind the sentiment which no-one could disagree with. Northern Ireland is not Westminster's South Africa⁵³

Apart from its subversive nature, he believed that the Principles would act as a disincentive to investment. He said that the reasoning behind the MacBride Principles was based upon two propositions: 'first that the existing arrangements for promoting equality have little effect and second that the MacBride Principles would achieve that effect'.⁵⁴ In a letter to Martin Jacques, the editor of *Marxism Today*, taking upon himself the mantle of the whole Trade Union movement, he advanced three further arguments against the Principles, that they could be interpreted in different, perhaps contradictory, ways, that they were an attempt to externally impose a solution rather than to allow one to develop within the politics of the Trade Union movement and that the net effect of the Principles would be to reduce the number of job opportunities rather than increase them he also wrongly claimed that the Cork conference of the ICTU had rejected the Principles.⁵⁵

It is difficult to understand Freeman's intense crusading hostility to the MacBride Principles. He was a man of great physical and mental toughness. As a senior shop steward at Shorts he had been in the forefront of the civil rights movement and suffered considerable intimidation in the workshop. He was called 'a Fenian Prod'. He wanted strong, all-encompassing legislation to cover all companies, not just American corporations, but that was not incompatible with supporting the MacBride Principles, whilst awaiting the legislation. Perhaps the answer lies in the nature of his union's membership. The ATGWU was probably the largest British-based union in the North of Ireland, with its membership mirroring the community divide. In the Republic, it had approaching 20,000

⁵³ Ibid.

⁵⁴ ATGWUP letter Freeman to Jacques (Editor *Marxism Today*), 7th August 1987, replying to article B Campbell 'Rough Justice', *Marxism Today* (9th July 1987) in which she attacked the role of the trade unions, and particularly the ATGWU, with regard to the MacBride Principles.

⁵⁵ Ibid.

members. Therefore, the Principles were bound to be a divisive force within his union.

The agreement reached at the ICTU Cork Conference gave him an opportunity to demonstrate that he had compromised his position for the greater good of the ICTU and had maintained the unity of the ATGWU.⁵⁶ He chose not to do so, but continued an aggressive anti-MacBride Principles campaign, especially in seeking to influence the city councils and state legislatures in United States to request them not to implement the Principles. Later his considerable energies were concentrated upon arguing for the strengthening of the government's proposals leading up to the 1989 Fair Employment (Northern Ireland) Act. He knew of Archer's great support for the MacBride Principles, yet there is no evidence from either the Archer or the ATGWU papers that either man confronted the other on the issue. They battled through surrogates in the Labour Party, the TUC and the ICTU.⁵⁷

At his first meeting with Freeman, after McNamara's appointment as Shadow Northern Ireland Secretary, the subject of the MacBride Principles was never raised and he followed Archer's policy, 'we do not mention the MacBride Principles by name, unless we have to'.⁵⁸ McNamara wanted no distractions. He had his eye on the future. He believed it was necessary to maintain maximum pressure on the government to ensure a stronger and more comprehensive piece of legislation, based on the SACHR *Report on Fair Employment (1987)* rather than minor cosmetic amendments to the 1976 Act. It was expected that the new legislation would be introduced in the House of Lords and he believed that the only way by a long and detailed scrutiny of its provisions at the committee stage in the Commons before it went to the Lords, could he achieve his aim.

Freeman would not let the MacBride Principles alone, worrying at them like a terrier with a bone. In replying to a request from Freeman, McNamara, in a

⁵⁶ At the ICTU Cork Conference, July 1987 a major split was averted between the MacBride supporting AFL-CIO and the ICTU whose members were divided, particularly those with a largely Protestant membership in the north. Specific endorsement of the Principles may well have resulted in a split in the Trade Union movement in the north, which both factions were anxious to avoid as it was one of the few all-Ireland working-class organisations. A Concordat was agreed whereby the AFL-CIO would continue its campaigning but, recognising the 'special difficulties' facing the ICTU, it would not criticise the ICTU whilst it pursued a vigorous policy for strong fair employment legislation. See KMNP, AFL-CIO Report on the issue, *Report of the Executive Council AFL-CIO (17th Convention)*, (Washington, 1987), 279.

⁵⁷ AP Archer press release 'Equal Opportunities and the McBride [sic] Principles', 30th March 1987. He knew this would be widely used in the US in the MacBride campaign and set a copy to Oliver Kearney of the Fair Employment Trust on 14th April 1987, specifically for that purpose.

⁵⁸ AP briefing for Neil Kinnock (leader of the Labour Party), 27th March 1987.

long letter, set out the Front Bench position on future fair employment legislation and the MacBride Principles, which reflected an attitude to the Principles similar to that of SACHR:

On the specific issue of the MacBride Principles, the Opposition Front Bench position was spelt out of most clearly in our response to the government Discussion Document in which we said, 'the MacBride Principles have played a role in putting equality of opportunity between the two main communities in Northern Ireland on the political agenda. The Principles embody the type of affirmative action, which I regard as necessary if unacceptable levels of inequality of opportunity are to be reduced. Indeed, they embody sentiments with which no person could disagree. Although they have not yet come before a court in the United Kingdom, the Principles have been upheld as legal by an American court.

However, no one set of general Principles of this type can set out the range of detailed legislative action, which Government, the public sector and those in receipt of public sector contracts and grants must take. Nor do they set up the full range of affirmative action, which wholly private sector employers should take in order to achieve equality of opportunity. Moreover, the MacBride Principles were formulated in terms of what employers should do under the existing Fair Employment Act, 1976. Since existing legislation should be radically overhauled, debate on the content of the new legislation should now move beyond the MacBride Principles.

Consideration of the legislative and executive action, which is necessary, should not be diverted into debate about the pros and cons of the MacBride Principles. The Labour Party has developed its own position, taking into account the proposals of the Northern Ireland Committee of the Irish Congress of Trade Unions and other trade unions in Northern Ireland. It is also more appropriate that Government should set its own house in order and develop effective legislation than seek to defend inadequate policies in Federal Courts and State Legislatures throughout the United States.⁵⁹

He continued:

⁵⁹ KMNP letter McNamara to Freeman, 20th June 1988.

It is in this context that international pressure designed to promote equality of opportunity in Northern Ireland occurs. We regard as legitimate, and indeed welcome, all constructive pressure, whether domestic or from overseas to secure an end to job discrimination in Northern Ireland... At the same time, however, the Labour Party rejects outright all calls for disinvestment or reverse discrimination.

We would not take it upon ourselves, with regard to international campaigns, to lecture our friends on what they should or should not do. What I can say, however, is that in our view few the crucial issue at present is the question of effective legislation along the lines of the SACHR recommendations, to have positive, detailed legislation enacted covering all forms of employment in Northern Ireland, public and private, rather than a voluntary code, which merely singles out one group of investors.⁶⁰

McNamara considered that his letter was a clear, specific and precise statement of his position. He had given no ground on the MacBride Principles yet he had been conciliatory in outlining his policy for the future and had associated himself with the policies of NICICTU with which Freeman had been closely identified. It was not to be. Hazel Morrissey, the research officer of the ATGWU, used selective quotations from the letter when appearing as an anti-MacBride witness before the Illinois State Legislature's committee considering the implementation of the MacBride Principles, to declare that the Labour Party did not accept and were hostile to the MacBride Principles.⁶¹ Doherty arranged for all the legislators to receive the full text of the letter.

In May, at the request of Donald Graham, a former employee of the FEA, McNamara tabled six questions to the Secretary of State for Northern Ireland, on the subject of the working of the Fair Employment Act and the government's conduct of its anti-MacBride campaign in United States. Graham had left the FEA because of policy differences with its Chairman, Robert (Bob) Cooper, whom he felt was not sufficiently independent of the government and was too closely identified with the government's propaganda drive against the MacBride Principles

⁶⁰ Ibid

⁶¹ KMNP letter Jamison to Morrissey, 16th October 1987, asking for a copy of Morrissey's speech in Chicago and wishing to understand the basis of ATGWU's objections to the MacBride Principles and Doherty Interview, 6th July 1999.

in United States. Cooper had appeared as a witness before several state legislatures. The question that was to cause the ensuing furore read:

to ask the Secretary of State for Northern Ireland, if he will list those whom Her Majesty's Government has directly or indirectly assisted, including representatives from the Fair Employment Agency, trade unions and other individuals or agencies, including Government departments, to give evidence to legislatures in the United States of America considering adopting or who have adopted the MacBride Principles; what has been the overall financial cost of the number of separate visits in each case; and if he will place in the Library copies of any transcripts or evidence submitted by the Fair Employment Agency or other officials in each case.⁶²

This appeared to be a fairly straightforward request. It was merely a question of collating material already in the public domain with the exception of the financial details. That was not how it was seen in Transport House, the Belfast headquarters of the ATGWU, from whence came a great cry of anguish.

Hackland, who was now working for McNamara, received an anxious telephone call from Andy Holmes, a retired former member of the ATGWU regional committee, and a close confidant of Freeman. His note read:

Andy says that the feeling in the union among the officials is that they are being fingered by us & picked on for possible retaliation by the Provos! This is a ref. to our WPQs earlier this year, when we asked how much the government had spent on the MacBride campaign in the USA. He believes (or the officials do) that there was a WPQ, which asked what organizations the NIO had given financial support to in the campaign vs. the Principles, that the answer was a list published in Hansard & that, by implication, the T&G was on the list.

He also said that the only people, who support MacBride in Northern Ireland, are the Provos that Noraid's leading the campaign in the USA, and T&G people cannot understand why the LP supports the Principles.⁶³

⁶² KMNP written Question 9 as it appeared on the House of Commons Order Paper, 20th May 1988.

⁶³ KMNP note Hackland to McNamara, undated, probably second week in May 1988. (Hackland added that he decided that it would not be a good time to confirm arrangements for a visit to Belfast!).

McNamara found the hysteria, even in the febrile atmosphere of Belfast, difficult to understand. Had the PIRA wanted such a list they could have easily compiled it from newspapers sold in Belfast or from their supporters in United States, who attended the committee meetings of the various state legislatures which were held in public. Graham, in a letter to McNamara, later that year apologised for any embarrassment he might have caused him and the consequent difficulties. He gave a list of news items, appearing with the names of witnesses who were going to the United States, together with their destinations. Amongst newspapers were *the Guardian*, *the Irish News*, *the Belfast Telegraph* and the news agency Associated Press /Reuters News (AP/RN). Among the witnesses named were Howard Burns, Bob Cooper, Paddy Devlin, Hazel Morrissey and John Cushnahan and their destinations included California, Illinois and Minnesota. Burns and Morrissey were full-time officials of the ATGWU.⁶⁴

On the 16th May, Freeman fired off two vitriolic letters to McNamara.⁶⁵ The first included a copy of the list of supporters of the MacBride Principles obtained at the Minnesota State hearing and it included amongst the supporters, the Labour Party. Freeman demanded a letter on Labour Party headed notepaper stating the party's position on the MacBride Principles and, by implication, he wanted a denunciation of them. The second letter, doubtless fuelled by the first, denounced the parliamentary question and the motives behind it. His second letter contained the real cause for concern:

I, and many of my Officers, are deeply concerned at the motivation behind such a question as the main supporters of the MacBride Principles have not been adverse, in the past, to using violence against people who oppose their policies.

It could be highly dangerous therefore, to identify individuals and your question, with the resulting publicity, could have serious and possibly tragic consequences for the people who have genuinely held opposite views to yourself and Sinn Féin, on the MacBride Principles.

⁶⁴ KMNP letter Graham to McNamara, 6th September 1988.

⁶⁵ KMNP letter Freeman to McNamara, 16th May 1988.

Concern has been expressed to me this morning by members of this Union for their families regarding the possible consequences of your question. Now we are at a loss here in the Regional Office to know the purpose or motivation of such a question and what you would intend to do with the answer.

I will raise in this matter with my Regional Committee but clearly your covert support for the MacBride Principles is contrary to the policies of the Irish Regional Committee and it would be essential if, in future, when speaking of the MacBride Principles that you make it clear that the Transport and General workers Union's attitude on the Principles is obviously contrary to your own views.⁶⁶

On the receipt of Freeman's letters of 16th May, McNamara withdrew the offending question. He did not accept the arguments put forward by Freeman and his officers, but as there was no great point of principle at stake, the information was available from other sources, and he needed the ATGWU's goodwill, he felt that he had was nothing to lose by his action. Nevertheless, he was very angry at the tone and content of Freeman's letters and was determined to concede no ground on the MacBride Principles. He discussed the best strategy for replying to Freeman with Geoff Bishop, the Director of Policy Development for the Labour Party. It was agreed that that McNamara would write to Freeman and say that he was unable write on Labour Party headed note paper because that was the prerogative of the NEC of the Labour Party and of those acting on its behalf but that he would ask the Director of Policy to write to Freeman setting out the Party's policy. McNamara and Bishop agreed the contents of the letter. Bishop's letter recounted the circumstances leading up to the defeat of Composite 16. It then recited, in terms, McNamara's response of the 20th January, to the government's Discussion Paper and, repeated the paragraphs concerning welcoming domestic and international pressure designed to secure an end to job discrimination in Northern Ireland. Bishop's letter concluded, 'I hope this has been of assistance to you'⁶⁷

Neither the McNamara nor the ATGWU papers contain a reply from Freeman to that letter. Similarly the letter which McNamara sent to Freeman

⁶⁶ Ibid.

⁶⁷ KMNP letter Bishop to Freeman, 14th August 1988.

explaining the circumstances by which the questions were originally tabled did not receive a reply McNamara had asked him to reassure all his officers that there was no intention to embarrass them in any way. He continued:

Having said that, I feel that I should make clear to you that, I object most strongly, to your coupling my name with that of Sinn Féin on the MacBride Principles or anything else. I am surprised, given our previous correspondence and numerous conversations on the issue that should have done so.⁶⁸

It was a storm in a teacup, and nasty, while it lasted. It could have had serious repercussions if it had developed. Both sides drew back. They needed to support each other if any real progress was to be made with the proposed fair employment legislation. When they next met, Freeman made a half apology, blaming his quick temper; the matter was never referred to again. Later when the Bill was going through committee, Freeman paid a handsome tribute to McNamara:

At the Committee stage of the Bill, some concessions were made of points raised by the Northern Ireland Committee. I think would be remiss of me if I didn't pay tribute to Kevin McNamara for tabling the numerous amendments and cogently arguing our case for the strengthening the legislation.

It has been the work in Committee, which has won concessions and scored some important points. These are significant gains and do improve on what was previously offered.⁶⁹

Graham later wrote to McNamara explaining the reasons why he had wanted the question asked:

My intention had been to filter out a comprehensive list and costs of sending out sundry persons, whose eagerness on this issue may have been compared with their stance on other issues of social justice e.g. unionist

⁶⁸ KMNP letter McNamara to Freeman, 20th May 1988.

⁶⁹ ATGWUP Freeman speech on Fair Employment legislation, NICICTU Annual Conference, April 1989.

businessman, the Devlins and academics and also for some evidence of the money actually spent by the NIO would have indicated the importance of their propaganda campaign and provided useful information to embarrass HMG *vis a vis* the questionable use of limited funds.

The T&G, would I assume have come out in the wash with any others but were hardly the reasons for the PQ.⁷⁰

Whatever Graham's intentions, it was unlikely that the government would have revealed the information he required. In October, McNamara put down a detailed series of questions on the costs of its anti-MacBride campaign in the United States. He received the traditional reply from a government department looking for an excuse not to reveal potentially embarrassing information, which did not fall within the national security exemption, namely that the reply would be 'disproportionately expensive'. The minister, Viggers, replied:

The explanation of government policy and achievements in the field fair employment involving Ireland is one of a range of closely related tasks, shared among the Northern Ireland Office, Northern Ireland Departments and the Foreign and Commonwealth Office including diplomatic posts overseas. It would be disproportionately expensive to seek to isolate the costs, and other details, of this one specific aspect of their activities.⁷¹

Whilst Freeman continued his support of the anti-MacBride campaign in the United States, he and McNamara joined forces to pressurise the government for further improvements in its proposed legislation.

McNamara continued his campaign to have the legislation introduced onto the floor of the House of Commons. Despite hoping for a major piece of legislation, he calculated that if the proposed Bill was introduced into the Lords, it would be regarded as a largely non-controversial measure - who could vote against a Bill having within its title the words, 'fair employment'? In the Lords it would have a traditionally unopposed Second Reading with only a few days spent on the Committee and Report stages of the Bill. The Lords by tradition rarely voted after seven o'clock. He felt that the Bill would not get the detailed line by

⁷⁰ KMNP, letter Graham to McNamara, 6th September 1988.

⁷¹ *Hansard HC* 1988, col 472, Written Answers.

line examination in the Lords that it would receive in the Commons. An unopposed Second Reading in the Lords would make the imposition of a three line whip in the Commons far more difficult for even a reasoned amendment to the Bill on the second reading, let alone a three line whip against the whole Bill. It was McNamara's strategy to adopt a hard-line attitude to the Bill so that, particularly in the United States, the government could not say that the Bill had all-party support. The government would have to respond to the detailed criticisms of the Bill's contents from both the Labour Party and the SDLP as well as from the Irish government, which saw the emergence of a strong Fair Employment Bill as one of the first fruits of the Anglo-Irish Agreement. Further, the slower progress of the Bill in the Commons and the ability to table far more amendments would enable Doherty and his colleagues to scrutinize with eagle eyes the progress of the Bill, and bring pressure to bear from the United States. The problem for McNamara was how to get the Bill onto the floor of the House for its initial second reading.

The business in the House is decided by the government working with the opposition parties through the 'usual channels'. It is for the government to decide in which House a Bill will receive its second reading. A major manifesto commitment or a highly popular measure will almost inevitably first appear on the floor of Commons. The Shadow Cabinet at its weekly meetings would discuss the business of the House and could approach the government, usually through the channel of the government Chief Whip's secretary, who at this time was Murdo MacLean, to ask for alterations to the business. As he was not an elected member of the Shadow Cabinet, McNamara was invited to attend the weekly Shadow Cabinet meetings only when Irish or associated business was being discussed.

Even when he bore no direct responsibility for Irish matters, MacLean had frequently asked McNamara his opinion on the progress of any Irish legislation coming before the House and the possibility of backbench opposition to it. On his first day as the Chief Whip's Secretary, the government had decided to alter its earlier announced business by limiting a late night debate on Irish matters. This change required the agreement of the House. MacLean warned the government that such a change in the business could be sabotaged by opposition back benchers sitting below the gangway. As the House had to agree to the change in business before the main business of the day commenced, there was a real possibility of a delay to the government's first piece of flagship legislation in the new parliament,

the Competition Bill. MacLean's advice was sound but it was ignored. McNamara aided by helpful interjections from his colleagues spoke at length against a change of business. The government had to move the Closure on the debate, which was opposed. There followed a vote on the main question. The government won both votes but lost over half a day's prime debating time on a major bill.⁷² After that episode, MacLean kept in contact with McNamara whenever Irish business was to be discussed.

The Queen's Speech at the start of the 1988 Session contained a proposal to introduce the Elected Authorities (Northern Ireland) Bill which aimed to ensure that all local authority candidates signed a declaration against violence, when standing for election. Labour opposed the Bill not because of what it intended to do but because it was the responsibility of individual members of the public in Northern Ireland to denounce candidates, who had broken such an undertaking thus making them possible targets for paramilitaries from both sides of the sectarian divide. Labour believed that it should be the responsibility of the RUC to present the evidence in court. The Bill made slow progress in committee. The government was anxious for it to complete all its stages in both Houses in time for the forthcoming local government elections in Northern Ireland. MacLean approached McNamara and asked him if the Bill could make more progress in the committee. McNamara asked in return for the fair employment legislation to be introduced first into the Commons. MacLean agreed, which meant that the highly popular Football Spectators Bill started its passage in the Lords. For McNamara, MacLean's request this was a stroke of luck for he knew that he could not have sustained his opposition to the Bill in the committee for more than one or two sittings. McNamara did not inform his colleagues of the change other than his own Front Bench team.

Presumably MacLean did not confide in the Northern Ireland Minister of State, Richard Needham, about the details of the deal which had been struck. Giving his account of the passage of the Elected Authorities (Northern Ireland) Bill, Needham wrote:

A funny thing happened when the Bill returned to the floor of the House. Kevin McNamara, who at second reading had said the measure 'is misconceived, unnecessary, does nothing to eradicate violence, is futile and

⁷² *Hansard*, 23rd July 1979, col. 62-98.

will strengthen the paramilitary case', fell silent. The Labour Party, for reasons of its own, shrank away and abstained, at third reading. I taunted McNamara:

"You're old Father Kevin", the young man said, "and your hair has grown very white. And yet you increasingly stand on your head, do you think at your age it is right?" 'In my youth,' Father Kevin replied to his son, 'I thought it each might injure the brain, but now that I am sure I have none, why I do it again and again' I relished my joke, but it was one o'clock in the morning and everybody one else wanted to go home.⁷³

Nobody relished the joke more than McNamara.

McNamara was also fortunate when the time came for the second reading of government's the long awaited new Fair Employment (Northern Ireland) Bill. A fortnight earlier, the Shadow Cabinet on the recommendation of Roy Hattersley, the Shadow Home Secretary, was asked to support a three line whip on a reasoned amendment to the Prevention of Terrorism Bill and, because there were parts of the Bill with which Labour agreed to abstain when the main question was put to the vote. McNamara, Gerald Kaufman, Frank Dobson and Jo Richardson asked that consideration be given to voting against the Bill, saying that some members of the Parliamentary Party, including some junior front-benchers, would be unhappy if there was not a vote against the Bill.⁷⁴ Kinnock and Hattersley brushed the objections aside saying party discipline must be followed. Labour backbenchers and some junior front benchers voted against second reading of the Bill. The front benchers were dismissed.⁷⁵ It was not a happy occasion. When the voting came to be considered for the fair employment legislation, McNamara had no trouble in securing a three line whip for a reasoned amendment. When he asked, 'What about the second reading?' He did not have to argue the case. Kinnock and Hattersley said simultaneously 'We vote against'. McNamara had achieved his two objectives.⁷⁶

⁷³ Needham, *Battling for Peace*, 91-2.

⁷⁴ Labour Party Office, House of Commons, Minutes of the Parliamentary Committee, 25th January 1989.

⁷⁵ *Hansard*, 6th December 1988, col. 274. 45 members of PLP voted against the second reading, including 3 future cabinet ministers and 8 future junior ministers. Max Madden and Clare Short were dismissed from the Front Bench

⁷⁶ Labour Party Office, House of Commons, Minutes of the Parliamentary Committee, 30th November 1988, and McNamara's recollections of the event.

During the passage of the 1989 Act in the Commons, Labour had maintained its position of critical support subject to major amendments being introduced in the Lords. The history of the passage of the Bill after it left the Commons resulted in the Labour Opposition refusing to endorse the new legislation. Following his election as leader of the Labour Party in 1995, Tony Blair dismissed his Northern Ireland the Front Bench team which he had inherited from John Smith. He replaced it with an entirely new team led by Mo Mowlam as Shadow Secretary of State. He at once started to neutralise any differences with the government on Northern Ireland policies, where opinion polls showed that the Major administration was perceived by the public as doing well following the IRA ceasefire in August 1994. This was viewed with concern by the MacBride campaigners who feared that there would be a change of policy regarding the Principles.

On the creation of the Labour government Mo Mowlam became the new Secretary of State. She had been a junior spokesman for the Opposition during the passage of the FEA and well-versed with the arguments about, and the weaknesses within, the Act. Following the Good Friday Agreement, the Fair Employment and Treatment (Northern Ireland) Order 1998 was introduced which remedied most of the defects contained in the 1989 Act and extended its provision to goods and services. Nevertheless, the new administration serviced by the traditional DED officials, were still on the surface hostile to the MacBride Principles. The stale arguments of the previous administration that what 'we had in the 1989 legislation was beyond the elements of MacBride and more comprehensive than the MacBride Principles' was advanced by the Minister of State, Adam Ingram. Ingram then qualified his statement by stating 'that there were aspects of the MacBride Principles that may have been difficult to implement' but he did not intimate which these Principles were.⁷⁷ He also suggested that 'they may have been in conflict with EU regulations'; however, there was no evidence of this.⁷⁸

⁷⁷ House of Commons, 1998-9, 'Northern Ireland Committee, the Operation of the Fair Employment (Northern Ireland) Act 1989, Ten Years On' Report and Minutes of Evidence, (HMSO London, 1999). Minutes of Evidence, 9th December 1988, Question 10. Ingram was replying to Ken Livingstone MP who appeared to consider that the MacBride Principles had served their useful purpose. 'Has your department considered a direct appeal now to those states, in the light of the progress being made, which is supported by many of us who actively campaigned for MacBride, now to repeal the measure'.

⁷⁸ *Ibid.*, further memorandum from the Secretary of State for Northern Ireland, 3. 'Our legal advice is that there is no clear instance in which the MacBride principles, as amplified, are in conflict with EU law'.

Similarly, the Secretary of State stuck to the DED line: 'I'm not a supporter of MacBride ... I think it could be counter-productive. I do not think it would help inward investment'.⁷⁹ Then she came the 'second principle which says companies to give protection to people on their way to and from work, is not a company commitment but a government civil commitment and I think it would inhibit inward investment, I have no doubt about that'.⁸⁰ Mowlam's further statements gave the impression, that having made a comment about the MacBride Principles as if replying to a catechism question to which she was paying lip-service, she appeared to qualify and soften her original position, 'I do not want to be seen as critical in any way of their commitment because it is strong and we welcome it and it has made an enormous difference'.⁸¹

However, the concerns of the ministers all appeared to be academic. When asked directly his assessment of the effect of the MacBride Principles on American investment, Bruce Robinson, Chief Executive of the Inward Investment Group at the Industrial Development Board, replied:

currently the MacBride Principles are not featuring in discussion we are having with American companies. These issues seem to have peaked three or four years ago particularly around the tabling of shareholder resolutions in a number of companies, the major publicly quoted stocks in America that were investing at that time, and that seems to have run its course. It is not featuring in discussions we are having with companies at present and, of course, when companies raise the issues we point to the legislative environment in Northern Ireland and point to all those issues as the response and, as I say at this point in time it seems to have dropped off the agenda.⁸²

Since the promulgation of the MacBride Principles, the Labour Party attitude to them had been consistent. Archer and McNamara had supported them in principle and when challenged within the United Kingdom did so, but sought to

⁷⁹ Ibid., 156.

⁸⁰ Ibid. 156.

⁸¹ Ibid. 157-158. The comment is confusing, as in context, it could equally apply to US companies investing in Northern Ireland.

⁸² Ibid., 16th June 1999, Question 43. Although Robinson notes the fall in shareholder resolutions, it does not follow that fewer companies were accepting the MacBride Principles. 'The NYCPF have obtained agreements with 88 companies to implement the MacBride Principles since 1989 with 22 of these companies joining since 2002'. New York City Council, Status Reports, *The MacBride Principles and fair employment practices in Northern Ireland*, (New York, 2006).

emphasise the importance of broad all-embracing fair employment legislation. They wanted it to encompass all private employment in Northern Ireland, not merely United State corporations. While not disowning the DED's anti-MacBride line, by recognising the commitment of the MacBride campaigners and introducing the Fair Employment and Treatment Order, Mo Mowlam could claim to have fulfilled over 90 percent of the MacBride campaigners aspirations. The major omission was the failure to confront the employers' organisations and make the demonstration of compliance with fair employment legislation a condition precedent for the awarding of government contracts.

Chapter Six

MacBride, the SDLP and Sinn Féin

... we had the amazing contradiction a few weeks ago of Gerry Adams calling for investment in jobs in West Belfast and a week later the IRA blowing up factories in the same area. What does that tell you about their attitude towards fair employment?

John Hume, 24th September 1987¹

The SDLP, despite the self-righteous rhetoric of its leadership, does not have a monopoly on this issue or any other related symptoms of the British connection.

Gerry Adams, 24th September 1987²

The MacBride Principles not only generated considerable hostility but, very flatteringly, imitation. Four different and rival sets of principles were produced with only three being published.³ The attitude of the SDLP's membership to the publication of the MacBride Principles was ambivalent. At its Derry conference, Dick Spring, the Tánaiste, had already condemned them. Amongst the rank and file of SDLP members, the situation was far more fluid. An eloquent and influential Belfast counsellor, Brian Feeney, had welcomed Goldin's American Brands initiative. He was a counsellor for North Belfast where Gallagher's, the American Brands' subsidiary, was situated. He noted that Goldin was not advocating disinvestment.⁴ The *Irish Times* reported that at a mid-year meeting of party members 'the discussion was dominated by employment policy with an apparent groundswell in favour of the MacBride principles'⁵ The paper reported that the SDLP leadership was not opposing the Principles *per se*, but it did not wish the party to publicly support them because of

¹ M Cowley, 'Hume attacks Sinn Féin cynicism on the MacBride Principles' *Irish Times*, 24th September 1987.

² DFAMP Republican Press Centre, 'Text of a Statement issued to our office from Gerry Adams', 24th September 1987.

³ The DED at the suggestion of Douglas Hurd (never published), the SDLP Charter, Sinn Féin Proposals and the Ford Motor Company. In addition, The New York State Comptroller, Regan, had suggested to Pandick, his Director of Investor Affairs, that he 'give some thought to development of an alternative set of principles' but idea does not seem to have been pursued.

⁴ T McLaughlin, 'US group fight North jobs bias', *Irish News*, 23rd April 1986.

⁵ J Cusack, 'MacBride may divide SDLP', *Irish Times*, 30th October 1986.

the attitude to them of the Irish, British and US governments. The governments believed that following the South African precedent, the adoption of the Principles would lead to disinvestment.

A motion for the annual conference supporting the MacBride Principles had been tabled by the West Belfast, Falls Road Branch of the party. West Belfast along with the Bogside and Shantallow in Derry, were unemployment black spots, which epitomised the high levels of unemployment in Catholic, nationalist, working-class areas, where Sinn Féin was receiving growing political support. Feelings were running high amongst many of the branches and the SDLP leadership could not afford to ignore it. Eamon Hanna, the SDLP's General Secretary, had briefed the DFA in Dublin that 'by the end of this year it is possible that the SDLP's policy might be in favour of the MacBride Principles being imposed on US firms operating in Northern Ireland'.⁶ Sean Farren, the party spokesman on employment, was reported as 'currently drawing up an alternative anti-discrimination charter in order to provide a positive focus for the party leadership's reservations about the MacBride version'.⁷

The SDLP's Charter was published in its policy document, *Equal and Just Opportunities for Employment* and presented by the executive committee to its 16th Annual Conference, which met in the Slieve Donard Hotel, Newcastle, County Down, from 21st-23rd November 1986.⁸ The *Irish Times* had prophesied 'some lively debate' when the MacBride Principles were discussed.⁹ The SDLP leadership was determined that the pro MacBride resolutions should not be put to the vote and that they should be defeated procedurally. The debate was on a motion to accept the executive committee's policy document. It was carried overwhelmingly. The chairman ruled that the policy document having been accepted, all other relevant motions fell. The MacBride Principles, as a separate agenda item, were never discussed at an SDLP conference.¹⁰

The SDLP Charter was embedded in the European Convention of Human Rights and drew attention to the Convention's preamble, thus placing it firmly in

⁶ DFAMP report by Cuniffe of a meeting with Eamon Hanna, SDLP General Secretary, 16th April 1986.

⁷ DFAMP report by Cuniffe of a conversation with Michael Boyd, chair of the policy committee of the SDLP and the Vice-Chair of the party, 21st October 1986.

⁸ See Appendix D, 325.

⁹ J Cusack, 'MacBride may divide SDLP', *Irish Times*, 30th October 1986.

¹⁰ For a full, but hostile account of the background to, and the conference debate, see the P Carr 'On the horns of a dilemma: John Hume, the SDLP and the MacBride Principles' *Labour and Ireland*, Nov-Dec 1987.

the mainstream of European human rights' law and jurisprudence, and in keeping with the SDLP's pro European stance.¹¹ The preamble to its Charter read:

Recognizing it to be a fundamental right of every person to enjoy equal and just opportunities and conditions of employment, together with the right to choose where to work, according to the principles set forth in the European Convention on Human Rights.¹²

There then followed six, as opposed to MacBride's nine, principles.¹³ These covered much of the same ground, except the SDLP's Charter was less declaratory, and more a strategy to promote fair employment. Unlike the MacBride Principles, it extended the area of discrimination to specifically include protection against political discrimination. Whilst Farren would probably have argued that the need for fresh legislation to implement its provisions was implicit within the Charter, future legislation was not explicitly mentioned. It took and expanded MacBride's Principle 3, concerning the banning of provocative religious or political emblems from the workplace, to include 'to prohibit in the workplace all political and sectarian meetings, assemblies, parades and demonstrations,'¹⁴ thus demonstrating a greater knowledge of the realities of the shop floor than, perhaps, Doherty was aware on the other side of Atlantic as he drafted the MacBride Principles. The Charter was addressed to the world at large, whereas the Principles were specifically designed for US employers in the expectation that they would accept and sign them. As published, the Charter, like the Principles, was a voluntary document.¹⁵

Hume spear-headed the SDLP attack on the MacBride Principles. His continuing threat to the MacBride campaign was recognised by McManus who observed that 'Hume was one of the first and potentially most deadly opponent of the MacBride Principles. It is without doubt he blunted the cutting edge of the MacBride campaign'.¹⁶ McManus shrewdly observed 'but he was weakened. His

¹¹ SDLP, *Equal and Just Opportunities for Employment*, (Belfast, 1986), 7.

¹² Ibid.

¹³ See Appendix F, 328, for a copy of the Charter.

¹⁴ Ibid., Principle 5.

¹⁵ KMNP undated detailed analysis of the various policies, 'Comparison of the Principles, Charter and Proposals'.

¹⁶ McManus, *The MacBride Principles*, 60.

credibility and judgement were put into question. It is probably one of the few times John Hume has been wrong footed in America'.¹⁷

Not all in the SDLP leadership were happy with Hume's hard line. In the tradition of Parnell he kept strict control over his small party, particularly in affairs affecting the relationships with governments. His party members recognised and admired his international stature, the doors that were open to him in Washington and his role as a leading member of the European Parliament. Criticism of him was muted, but it was there, particularly over his attitude to the MacBride Principles. Whilst Seamus Mallon, the SDLP deputy leader, was visiting Boston and other US cities, Hume had given an interview to the *Boston Globe* in which he was extremely critical of the MacBride Principles.¹⁸ A DFA report of a later meeting with Mallon, stated:

He believes that the SDLP will lose many valuable allies, if it persists in attacking the Principles and their proponents-at a time when they have been adopted by a number of State legislatures... There are only two grounds on which the Principles can be attacked: (I) the possibility (which is no more than 'a possibility') of disinvestment; (II) the danger that they might be exploited by certain groups for undesirable purposes. It should be possible for the SDLP to 'go along with' the Principles in broad terms, while at the same time, registering these two reservations about them.¹⁹

Eddie McGrady, MP, the SDLP Whip, believed that the party should take a relaxed attitude on the MacBride Principles, because the British had only moved on fair employment in response to the growing support for the Principles in the US. He felt that substantial US investment was not likely to materialise in any event and, for the moment, the Principles could act as a source of pressure on the British. Pragmatically he felt, 'that the battle is predominantly lost in the United States anyway, and that a healthy sense of balance should be adopted by the party'.²⁰

¹⁷ Ibid.

¹⁸ S Erlanger, 'Ulster assails American supporters of MacBride', *Boston Globe*, 8th March 1987.

¹⁹ DFAMP D Donahue report on the meeting with Seamus Mallon of 23rd March 1987, 25th March 1987.

²⁰ DFAMP Corr report on a meeting with Eddie McGrady, 3rd September 1987, 5th September 1987. McGrady had already praised the MacBride Principles in the US. Speaking in Chicago he said 'I have no doubt at all that one of the important lobbies bringing about fair employment legislation was a success of the MacBride Principles campaign in the United States...' He credited

To the despair of his friends, Hume could not, or did not wish, to 'adopt a healthy sense of balance'. People who admired him, such as Mayor Flynn of Boston and Tom Donahue of the AFL-CIO, tried to persuade him to change his mind. They failed and could not understand why he was not prepared to translate their experiences of anti-discrimination campaigning in the United States to the six counties of Northern Ireland. Joe Jamison of the Irish-American Labor Coalition saw him as the natural leader for such a campaign, which was in the mainstream of the social democratic tradition, a radical constitutional and non-violent campaign, based on the premise of human dignity and individual worth.²¹ He was the lost leader:

Because the carriers of the message were unacceptable...John Hume was a man who identified with both the American and Northern Ireland civil rights movements. Some of his friends, including Tom Donahue, were saying to him, 'John, this is motherhood and apple pie, what's your problem with this?'... but either it was presented to him by somebody who appeared to be bossy, American, imperialist, a financial officer of some kind or Father McManus, who is associated in the minds of some people with rural Irish Republicanism. I don't know in what guise MacBride came to him. But I think if it had come to him from trade unionists, or it had come to him from Ted Kennedy, he would've said 'Of course, I'll adopt this. It makes sense'. And maybe then he would have understood the rational basis.²²

Sadly for Jamison and others, Hume had been presented with a *fait accompli*. He continued publicly attacking the MacBride Principles and clashing with McManus, even at President Clinton's White House economic conference for Northern Ireland.²³

One of the political consequences of his principled stand was that he lost the support of middle-class Irish America. Hume was always more at home walking the corridors of power, negotiating for agreed positions, seeking an

the campaign as helping to speed up the passage of the legislation and the increase, the impact and authority of the penalties contained in the new act. P Callonn, 'SDLP man says MacBride Principles helped equality legislation in the North, *Irish Voice*, 17th March 1990.

²¹ Thomas Donahue interview, former Secretary-Treasurer of the AFL-CIO, 26th June 2000, and Jamison interview, 11th March 1999.

²² Jamison interview, 11th March 1999

²³ C O'Clery, 'Hume appeals to MacBride Lobby to call off North jobs campaign', *Irish Times*, 25th May 1995.

acceptable consensus to support his political and economic positions as he sought to further his policies for achieving an agreed Ireland. He preferred the politics of Brussels and Washington to the confrontational atmosphere of Westminster and the rigidities of British party politics. Apart from the 'tree-toppers', beyond the confines of Washington, Boston and San Francisco, he was losing what little influence he had with the 'grass-rooters' and the unaligned when he went against the grain of Irish-American sentiment by opposing the MacBride Principles.

The propositions contained in the Principles were much less demanding of employers than the corpus of United States civil rights legislation. Irish-Americans just did not see Hume's problem. His appeal that the issues of religious discrimination and other problems of Northern Ireland should be solved in Northern Ireland fell upon deaf ears. US Corporations, by definition, had their headquarters and held their AGMs in the United States. It was there that Irish Americans could influence them, not on the streets of Belfast and Derry. They had the precedent of the anti-apartheid legislation signed into law by President Reagan. When the proposals for MacBride legislation were being heard in the committee rooms of the state capitals, Irish Americans found it confusing that the leader of the main Irish nationalist party was being frequently, almost incessantly, quoted, as a principal opponent of the MacBride Principles. Copies of his speeches freely distributed at the hearings by British government representatives.

Although Hume often wrote to state governors, and state and city legislators opposing the MacBride campaign on the ground that they would lead to disinvestment, no member of the SDLP appeared at state or city hearings to implement the MacBride Principles. It was a wise decision, for such appearances would have immediately led them into direct confrontation with pro-MacBride witnesses and identified them too closely with the British government's position. On at least one occasion, it was suggested that Sean Farren should appear at an Illinois State hearing. Having examined advantages and disadvantages, mainly disadvantages, of accepting the invitation, consulting John Hume and heeding the advice of the Irish Consul General in Chicago, who cautioned against acceptance, the invitation was declined. There would have been no gain to the SDLP and even greater confusion amongst Irish-Americans had Farren made an appearance.²⁴ A rumour was circulated that Hume himself was to appear as

²⁴ DFAMP Bassett note of a meeting with Hume in Sligo, 31st August 1987 and Bassett note of a meeting with Farren, 2nd September 1987.

witnessed at the Illinois hearings. Doherty approached the Irish Consul General in New York for confirmation that Hume was going to appear as a witness at the Illinois hearing. Hume angrily denied the charge and accused the INC of seeking to embarrass him. It was 'black propaganda' meant to sour the atmosphere before a planned meeting with Goldin.²⁵

On the debit side, the absence of any SDLP representation at the nationwide hearings on the MacBride Principles, which so often expanded to cover other controversial aspects of the British government's policy in Northern Ireland, particularly the security and constitutional issues, left the field wide open for the INC and local Irish-American politicians to increase their influence amongst the grassroots Irish-American communities. Noraid was able to appear unchallenged, as the champion of constitutional change, agitating only to achieve for the Catholic minority in Northern Ireland the same basic human and civil rights as were enjoyed by those being asked to put the MacBride Principles into legislation and by all United States' citizens.²⁶

Hume is a complex character, and many have sought explanations to explain his intransigence on the MacBride Principles. It has been suggested by pro-MacBride activists that a precondition from the British and Irish governments to their signing of the Anglo-Irish Agreement was that Hume should publicly oppose the MacBride Principles.²⁷ There is no evidence to support this proposition. The Anglo-Irish agreement was signed a year after the publication of the MacBride Principles, and Hume had condemned the MacBride Campaign long before there was any absolute certainty of the British and Irish negotiations coming to fruition. Hume was one of the principal architects of the Agreement, and it is nonsense to suggest that either government would have made such a precondition. Any pressure for a firmer line on the MacBride Campaign came from Hume and not from the Irish government, whose diplomats 'always sought to leave the door slightly ajar'.²⁸ Arguments that Doherty had heard explaining

²⁵ DFAMP telegram Consul in Chicago to DFA, 17th September 1987.

²⁶ DFAMP Curran (Consul General) to Burke, (Councillor Irish Embassy), 9th June 1987, talking of an article in the *Irish People*, 6th June 1987. Curran wrote 'as you can see Irish Northern Aid is claiming credit for progress in Rhode Island on the legislation and for the fact that three western Massachusetts cities, Westfield, Springfield and Worcester have endorsed the Principles. While others were involved in Rhode Island there is no doubt but Frank McCabe of Noraid was a central figure. Some of the names that have cropped up... are also known to us as Noraid activists...'

²⁷ Private conversation with pro-MacBride activists, Dublin, 9th November 1996.

²⁸ MacBride Principles, November 1984, Anglo Irish Agreement, November 1985. Conversation with Ray Bassett of the DFA, undated.

Hume's reaction, included that Hume was succumbing to pressure from small Catholic employers in his Foyle constituency, who did not want the hassle involved.²⁹ Also, that Hume had said that any jobs which came to his constituency would, by definition, be Catholic jobs. The first argument was angrily refuted by Hume.³⁰ The second was not put to him by the author, whose knowledge of Hume is such that he knows such a statement to be completely out of character and repugnant to the principles of parity of esteem and equality between the communities, which Hume has held over many years. He, for too long, had been a member of a 'under represented religious minority' to wish it upon any other person. Hume simply explained his position:

When a region of Europe with high unemployment, is campaigning as Northern Ireland was to attract inward investment particularly from America and mostly from America, as were other regions of Europe....well. Put yourself in the position of an American industrialist, he's looking at four or five regions where to go and one of them is telling him, if you go in here, you must sign this before you come. That's what puts them off. When you consider that was also taking place at the same time as there were troubles on our streets, that's was strengthening the message, 'if we go in there we'll go into a troubled area, so we'll go to another area'. In other words, I was saying what they should have been doing was campaigning for jobs to go into areas of high unemployment, where there was a highly unemployed workforce but a highly educated workforce.³¹

Hume resented the fact that the MacBride Principles were promulgated in America without any reference to him, the leader of the largest nationalist party in Northern Ireland, a party to which on a daily basis was dealing on the streets with the problem of discrimination.³² He recalls that he met MacBride on only one or two occasions. On one occasion when he met him, he asked MacBride, 'Why didn't you consult with us fellers on the street about the Principles before you published them?' 'That's none of your business' replied MacBride. 'I see' said John, 'so you do mean to undermine the economy. You don't really care for jobs'³³

²⁹ Hume interview, 4th April 2002.

³⁰ Ibid.

³¹ Conversation with John Hume, 5th April 2004.

³² Ibid.

³³ Ibid.

Hume harboured a great distrust of MacBride as a person. He felt that he epitomized all the worst aspects of nineteenth-century inward looking sectarian Catholic-Gaelic nationalism, which believed that there was no place for compromise on the island for anybody else. This was a direct contradiction of Hume's concept of a pluralistic Ireland. They had appeared arguing on different sides during the divorce referendum in the Irish Republic. Hume argued that if people wished to be Catholics, they did not need to have a law to tell them they could get divorced. If people were not Catholics, they should not have Catholic *mores* forced upon them. He welcomed the diversity existing and expanding in modern Ireland, Christian and otherwise. He did not wish to be or appear to be triumphalist, and welcomed diversity, honouring different traditions and seeking justice and peace for all. He had a passion for bringing employment to the unemployed of Derry that anything which in any way, however well-intentioned - 'who could object to the principles as principles?' - that would hinder the creation of jobs or create a hassle factor was something he could not, and would not, accept³⁴.

Hume was not afraid to take the fight to the enemy. In an interview he urged: 'I'd say to them in America, if you're so powerful, please get companies to invest in areas of high unemployment in Northern Ireland. That's the only way to crack both discrimination and unemployment'.³⁵ It caused an immediate and over-the-top, almost hysterical, press release from McManus, and the INC, 'Hume is England's most important weapon in America,' 'he is England's main propaganda expert in the US' and, 'In years gone by, the British government was a happy to rule the six counties of Northern Ireland, through Lord Carsons, and Lord Brookeboroughs-- now they are happy to rule through John Hume'³⁶ It is a fairly safe conclusion that Father McManus did not agree with John Hume's approach to the problem. Though by now, a long-standing rival to Noraid for the support the Irish-Americans, he nevertheless took the opportunity to echo its political line by accusing Hume of being 'the only leader of a major political party in Northern Ireland, who fully supports the Anglo Irish agreement'.³⁷

³⁴ Ibid.

³⁵ S Erlanger, 'Ulster leader assails American supporters of MacBride', *Boston Globe*, 8th March 1987.

³⁶ McMP INC press release 14th March 1987.

³⁷ Ibid.

Despite his 83 years, MacBride did not allow Hume's criticisms of his Principles to go unanswered. When in Boston to address the Eire Society, he was questioned about the Hume mantra, 'Fairness will prevail, but first get companies to invest'. MacBride replied, 'that's wishful thinking on his part. Ideological baggage. Without pressure there is no reason to believe Catholics would be hired'.³⁸ That was a reasonable argument, although unacceptable to Hume. Then came the insult as reported in the *Boston Globe*, 'Hume', he said, 'has become an apologist for British rule in Northern Ireland', and 'is in a position now of defending the existing system in Northern Ireland'.³⁹ MacBride was an early practitioner of the McManus school of political invective. Hume's long and detailed reply in the *Irish Times* was a strong reasoned justification of his, and the SDLP's, position on the MacBride Principles. He accused MacBride of not having read his statements or the SDLP's policy documents on fair employment. As the MacBride Principles had nine, so Hume's letter had nine numbered principal paragraphs, outlining the SDLP's policy and his reasoned criticism of the MacBride Principles. It concluded 'could I also point out that all of this controversy of misunderstanding could have been avoided if those who launched the MacBride Principles campaign had consulted with the elected representatives in the North. I do not know of any elected representative of any party, who was consulted'.⁴⁰

Hume reserved his most biting criticisms for what he regarded as the hypocrisy of Sinn Féin in adopting double standards by supporting the MacBride Principles. Sinn Féin was the political arm of the IRA and its leader Gerry Adams had gone to Scandinavia seeking political support for its anti-discrimination stance in Northern Ireland. In an *Irish News* article headlined 'Hume slates Adams over jobs drive', he recalled the murder of Du Pont's senior Northern Ireland executive Geoffrey Agate and the kidnapping and killing of Thomas Niedermayer, who occupied a similar post for the Grundig Company. He claimed that Niedermayer's death cost Newry 1,400 jobs in a new factory. As minister of commerce in the short-lived power-sharing executive, Hume had been negotiating for the new plant in Newry. He claimed that:

³⁸ A Blake, 'Ex-IRA leader fights for jobs', *The Boston Globe*, 25th April 1987.

³⁹ Ibid.

⁴⁰ Hume letter to editor, *Irish Times*, 11th May 1985.

The effect of the campaign, as estimated by the New Ireland Forum, cost 39,000 jobs in Northern Ireland between 1970 and 1980, and did £11 billion worth of damage to the economy of Ireland, North and South.

How many more of our young people would be working in Ireland today, North and South, if that damage had never been inflicted?⁴¹

Toward the end of the passage through parliament of the Fair Employment act in May 1989, Hume made his longest and most detailed criticism of the MacBride Principles.⁴² He stated his general approach to the problems of discrimination, particularly in employment.

Because it is a complex and multi-dimensional issue, it cannot be resolved by a single-track approach, whether it be working, or waiting, for a new political environment, upholding principles of fairness without regard for the need for more jobs or pursuing economic development without regard to the need to redress disadvantage and enforce fair practice⁴³

He attacked them on the practical effect, finding 'the Principles too vague to be of legislative value'.⁴⁴ Their 1986 amplification serving to show that they were

...consistent with existing fair employment law. As someone who can see the existing fair employment law is insufficient and inadequate, partly because it relies on a good faith approach focussing on a declaration of employers of general principles (albeit vaguer than the MacBride Principles) it would be dishonest of me to endorse the MacBride Principles as a basis for legislation here.⁴⁵

This was a shrewdly made argument, to turn MacBride's claim to legitimacy in line with existing Northern Ireland legislation and codes of practice on its head and to use the unsatisfactory nature of the existing legislation as an argument for rejecting the MacBride Principles.

⁴¹ Hume letter to editor, *Irish News*, 21st April 1987.

⁴² DP Hume speech, untitled and undated. The date stamp from the Comptroller's office is 2nd June 1989.

⁴³ *Ibid.* 1.

⁴⁴ *Ibid.* 1.

⁴⁵ *Ibid.* 2.

Conscious of the problem he was causing for his Irish American supporters over his fear of disinvestment he sought to placate them. 'I have been reassured, however, by the approach of several prominent supporters of the Campaign such as Mayor Flynn of Boston and AFL-CIO leaders which has been sensitive to the need for job-creating investment as part of an effective programme'.⁴⁶ But he returned to his main concern 'But the divestment dimension to some MacBride resolutions give us a residual doubt about the net efficacy of the Campaign so focussed on the MacBride Principles'.⁴⁷ He returned again and again to the threat of disinvestment. He poured his greater scorn on Sinn Féin Support for the Principles, particularly Principle Two, relating to the security of employees at the workplace and travelling to and from the workplace:

The IRA, which they support, have engaged in a kill-a-worker campaign when they have murdered people in their workplace, travelling to and from their workplaces or in their homes on the spurious grounds that their employment made them legitimate targets.⁴⁸

He concluded with a plea for increased investment from the British government and American corporations aimed at the employment black-spots in Northern Ireland.

It was a powerful speech, carefully argued and made compelling reading, but was too late. The die had already been cast and he already conceded:

American cities, legislatures, pension funds or shareholders' meetings are more than entitled to proscribe principles relating to civil, human or environmental rights in respect of any investment by an American firm with which they might be associated. I have never therefore argued with Americans' right to invoke the MacBride Principles for their companies.⁴⁹

He had given the MacBride Principle campaigners their argument of their right to intervene in the internal affairs of American companies in which they held shares. They ignored the next line of his speech "my argument had been with the threat of disinvestment when it has been ventilated by some", because Doherty and his

⁴⁶ Ibid, 1.

⁴⁷ Ibid, 1-2.

⁴⁸ Ibid, 3.

⁴⁹ Ibid., 2.

colleagues had always argued against disinvestment.⁵⁰ The MacBride campaigners claimed not to go outside US Corporation in their instructions as to their corporations' corporate responsibilities. Hume's main argument of the threat of disinvestment by United States firms does not appear to have any substance. There is no evidence of any United States corporation refusing to invest, withdrawing investment or withdrawing from Northern Ireland because of the MacBride Principles.

Adams was not going to be lectured by Hume and, through the Republican Press Centre, issued a statement accusing the SDLP of trying to damage the MacBride Principles by making them, and discrimination against Catholics, a political issue. He claimed the MacBride Principles were above party politics, as was discrimination, which was a matter of social justice.⁵¹

The SDLP, despite the self-righteous rhetoric of its leadership, does not have a monopoly on this issue or any other related symptoms of the British connection.

Mr. Hume and his associate have the propagandistic position that Sinn Féin have no right to speak out on their issue because Sinn Féin refuses to condemn the IRA.⁵²

The battle was joined between the two parties, who were struggling to capture the Catholic working-class vote. During the general election, Sinn Féin made the MacBride Principles one of the main planks of their campaign. Hume stated that it was one of the dividing issues between Sinn Féin and the SDLP.⁵³ He could claim victory as in the hotly contested West Belfast seat Gerry Adams had lost to Joe Hendron of the SDLP in April 1992.

⁵⁰ Doherty Interview, 6th July 1999.

⁵¹ KMNP circular letter from Gerry Adams MP accompanying the text of a statement issued by the Republican Press Centre, 'Text of a statement issued to our office from Gerry Adams', 24th September 1987. Adams sought to seek the moral high ground: 'I feel it would be absolutely wrong for the MacBride Principles to become the subject of a party political dog-fight between Sinn Féin and the SDLP, and because I feel it would also be wrong for the Principles to be too closely identified with Sinn Féin'.

⁵² DFAMP Republican Press Centre, 'Text of a statement issued to our office from Gerry Adams', 24th September 1987.

⁵³ DP Hume speech, untitled and undated, 2nd June 1989. 'It is perhaps worth noting that in the 1987 Westminster Elections Sinn Féin named their and the SDLP's respective positions on MacBride as a major theme of their campaign. The record shows that our vote went up in that election and theirs went down.'

In September, Hume returned to the fray, 'Hume attacks SF cynicism on MacBride Principles', wrote Martin Cowley in the *Irish Times*. Hume again recalled the IRA campaign against economic targets and the assassinations of foreign industrialists in their attempt to drive foreign investment from Northern Ireland in order to achieve its economic collapse.

That is still their policy. And we had the amazing contradiction a few weeks ago of Gerry Adams calling for investment in jobs in West Belfast and a week later the IRA blowing up factories in the same area. What does that tell you about their attitude towards fair employment?

It is utterly cynical, and they are the only party that supports this campaign in United States because they see, as I see, that it stops jobs coming in here and by stopping jobs coming in, they create a lot of discontent among young people and use that discontent as recruitment and fermenting unrest.⁵⁴

The publication of the MacBride Principles originally had a hostile and suspicious reception from Sinn Féin and the IRA because of its connection with Father McManus and the INC, the enemies of Noraid, its agent in United States. It was a similar reaction to that of the other opponents of the MacBride Principles, from the other end of the political spectrum as they looked at the messenger and not the message. A rumour was spread that the launch of the Principles heralded the formation of a new republican party in the North of Ireland, to be led by the brother of Father McManus, the ex-MP, Frank McManus.⁵⁵ Father McManus vehemently denied any such intention. He suggested that the rumour originated from and was spread at the behest of Ruariri Ó Brádaigh, President of Provisional Sinn Féin, and Dáithí Ó Connail, former Chief of Staff of the Provisional IRA, as a means of discrediting the Principles.⁵⁶ Hostility was expressed to the Campaign in the traditional Republicans taunt as being 'reformist in an unreformable state'.⁵⁷ Adams support for the MacBride campaign was indicative of a new policy direction.

⁵⁴ M Cowley, 'Hume attacks Sinn Féin cynicism on MacBride Principles', *Irish Times*, 24th September 1987.

⁵⁵ Doherty interview, 25th July 2000. Doherty said he first heard of it from Father Des Wilson.

⁵⁶ McManus interview, 18th November 1999.

⁵⁷ McManus interview, 18th November 1999 and Doherty interview, 25th July 2000.

Noraid's initial opposition to the Principles, based on its intense dislike for McManus and the INC, was quickly overcome by Martin Galvin, the editor of the *Irish People*. He immediately recognised their potential as a non-violent propaganda weapon with which to embarrass the British government in the United States. It had the added advantage of being a cause around which all shades of Irish-American opinion could unite. As a leading advocate for the Principles amongst the Irish-American organisations, Noraid could only benefit from such a development. It broadened its base by attracting support from the uncommitted middle ground, who had been afraid to be associated with Noraid because they were repelled by its support for PIRA's military campaign. Galvin wrote in the *An Phoblacht* announcing Noraid's support for the Principles.⁵⁸ Despite the misgivings of some members, who feared it would be a distraction from the armed struggle, Sinn Féin started to support the Principles.

Campaigning for strong fair employment legislation and supporting the MacBride Principles became an integral part of Sinn Féin campaigning as it positioned itself to become a mainstream political party.⁵⁹ Canvassing in Dublin for Sinn Féin, Adams accused the British government of consistently refusing to confront inequality and discrimination in employment in the six counties. He said that the huge subsidies, going into Shorts and Harland and Wolff, were effectively subsidising sectarianism, while at the same time factories in West Belfast and other nationalist areas went to the wall. Talking of the British government, he said 'If they were serious, they would accept the MacBride Principles, which do represent an effective first step towards equality of opportunity'. Nailing his colours to the mast, he declared 'Sinn Féin will continue to support the MacBride Principles of fair employment as the only realistic challenge to the institutionalised inequality of the six county states'.⁶⁰ Later, at Doherty's request, Adam's intervened decisively to prevent the possible defeat of the MacBride Principles at the Labour Party Conference.⁶¹

In May 1987, shortly before the general election Sinn Féin published a circulated widely a document entitled *An End to Discrimination Employment Sinn*

⁵⁸ M Galvin, 'Campaign Against Sectarianism', *An Phoblacht*, 7th February, 1985.

⁵⁹ KMNP letter Jamison to McNamara, 28th November 1999. 'In my first meetings with Sinn Féin leaders in the mid-1980s it was often said to us: "You can't imagine what it's like on the Falls Road to hear that some obscure state of municipality of the United States, has passed the MacBride Principles. Imagine that we on the Falls Road are the concern of people, in, say, Michigan for example! The boost to morale here is enormous"' [Jamison's emphasis]

⁶⁰ 'Britain will not tackle inequality', *Irish News*, 12th February 1987.

⁶¹ Doherty Interview, 6th July 1999.

Féin's Proposals, which went one better than the MacBride Principles, by having ten propositions to MacBride's nine.⁶² It was a well presented, readable pamphlet, which declared that 'the British government's treatment of the serious issues of discrimination is almost entirely political with the objective of getting them off the political agenda'.⁶³ Sinn Féin embraced the MacBride Principles: 'in keeping with such affirmative action proposed programmes, we advocate the adoption of the MacBride Principles not just by foreign investors but by all foreign employers in the Six Counties -- in both the public and private sectors -- as an interim measure'. It further proposed that the measures advocated by the MacBride principles should be codified in legislation.⁶⁴

At Doherty's request Adams has intervened to prevent the possible defeat of the MacBride Principles at the Labour Party conference.⁶⁵ Later that year, a more substantive document was produced, *Setting the Criteria, Tackling Discrimination, Sinn Féin's Analysis and Proposals*. It was a proposed Ard Chomhairle policy document for the Sinn Féin Ard-Fheis, 30th October-1st November 1987. It responded to the challenge of the MacBride Principles being 'reformist in an unreformable state' by declaring

This paper does not intend arguing the republican contention, that Britain cannot reform the Six-County state to the extent that support dwindles for the aspiration for the Irish reunification. Its purposes are:

1. To show that Britain - as the *de facto* government - is responsible for job discrimination against Catholics/nationalists and that it has shown no genuine interest in tacking the problem;
2. To set down alternative proposals, which deal more effectively with the problem at this time; and

⁶² Sinn Féin, *An End to Discrimination Sinn Féin's Proposals*, (Belfast, 1987).

⁶³ *Ibid.*, 4.

⁶⁴ *Ibid.*, Principle 6, 2.

⁶⁵ Doherty interview, 6th July 1999.

3. To set as the ultimate criterion of any proposals the actual effect of the implementation.⁶⁶

After that careful sidestepping of the reformist contradiction, which was necessary to justify the continued examination of the issue, the conclusion before the tabling of its proposals read:

Sinn Féin does not believe that the eradication of discrimination can be achieved within the confines of the Six-County State or under the auspices of the British government. Nevertheless, the responsibility of attempting to tackle this historic/structural problem lies with the British government as creators and apologists for the Six-County state. We repeat that the ultimate criterion of any proposals is the actual effect of their implementation -- they must lead to an end to sectarian discrimination in employment within tangible time scales.⁶⁷

The document sought to place Sinn Féin's proposals against the historical background of religious and political discrimination in the North of Ireland. It examined the British government's proposals and found them wanting. It had amplified and expanded the May document, *An End to Discrimination in Employment*, by promulgating a fresh code of 11 highly detailed proposals, demanding wide-ranging legislation. It was an impressive document, carefully researched and well drafted. Rather unusual for such a document, it contained on its first page, a specific attack on John Hume. 'Sinn Féin is highly critical of the SDLP leader John Hume's attempts to scuttle the MacBride campaign'.⁶⁸ As an additional side-swipe at Hume, there was a footnote quoting David McKittrick, the distinguished Northern Ireland correspondent of *The Independent*

The [British] government has powerful allies. John Hume of the Social Democratic and Labour Party, whose influence in Irish America is tremendous, strongly opposes MacBride. So, largely because of Mr Hume, do powerful Irish Americans in the Senate, centring on Teddy Kennedy.⁶⁹

⁶⁶ Sinn Féin, *Setting the Criteria, Tackling Discrimination, Sinn Féin's Analysis and Proposals*, (Belfast, 1987), 3.

⁶⁷ Ibid, 9.

⁶⁸ Ibid., 1.

⁶⁹ D McKittrick, 'Battle for the minds of Irish America', *The Independent*, 2nd October 1987.

What the reason was for including the footnote is difficult to define. Perhaps it was meant to give a recent supporting example of Hume's disgraceful conduct and to single him out as 'a powerful ally' of the British government and thus to damn him even further. All this was already known and accepted by the Sinn Féin faithful, but for the wider readership it just drew attention to the fact that the case for the MacBride Principles was not incontrovertible and that another internationally respected Irish nationalist leader did not accept the case Sinn Féin was seeking to advance. It struck a sympathetic chord with Sinn Féin's most important constituency, working-class Catholics, where unemployment, or the threat of it, was an overwhelming socio-economic grievance. Given the marginality of the West Belfast constituency between the SDLP and Sinn Féin, it was a significant weapon for Adams to wield.

Sinn Féin's first proposal started with the premise from which all the others followed:

The existence of discrimination in employment on the basis of religious belief or political opinion is irrefutable, as is the denial of equality of opportunity in employment, which flows from that discrimination. Clear and comprehensive legal powers are required to eradicate discrimination and to ensure that equality of opportunity is realised.⁷⁰

Unlike the May document's proposals, the MacBride Principles were not referred to specifically in the text. Compared with the MacBride Principles and the SDLP's Charter, both Sinn Féin documents provided for the 'tiebreaker' as one of the minimum contents of an affirmative action programme to be included in future legislation. 'The exercise of preferential treatment between equally qualified candidates in favour of the under represented group, where there is gross under representation'.⁷¹ Sinn Féin rejected the concept of voluntary codes of practice as having been ineffective in favour of strict legislation fully implemented and policed. Paying particular attention to the siting of industry, and 'all major economic decisions, must have an equality discipline'.⁷² This latter provision had to wait until legislation implementing the Good Friday Agreement.

⁷⁰ Sinn Féin, *Setting the Criteria*, 10.

⁷¹ Ibid., 13, Proposal 7(b). SACHR had rejected the concept of the 'tiebreaker' for the time being, but threatened to return to it if necessary', SACHR, *Religious and Political Discrimination*, CMD 237, 1987, 73.

⁷² Sinn Féin, *Setting the Criteria*, Proposal 10, 15.

In calling for a 'tangible timetable' for reducing the unemployment ratio between Catholics and Protestants, Sinn Féin was harking back to the SACHR challenge to the British government to set such a target.⁷³

Neither the SDLP's Charter nor Sinn Féin's Proposals captured the public's imagination as had the MacBride Principles to which they were both reacting. The SDLP Charter was hastily produced to head off a humiliating leadership defeat at the annual Conference. Procedurally on the Conference agenda, the debate on the Charter took place before the MacBride resolutions. As the Charter was accepted overwhelmingly, the resolutions fell and were not debated.⁷⁴ John Hume talked about the SDLP's policy documents and their proposals for anti-discrimination legislation and stated that they had been presented to both the British and Irish governments as proposals for inclusion in future legislation. There is no evidence of a vigorous campaign by the SDLP using its Charter as a banner, following the passing of the fair employment legislation.

Because of other issues, for example the Hume-Adams talks, it failed to follow up across Northern Ireland the advantage gained from the defeat of Gerry Adams in West Belfast. Tackled with intelligence, the SDLP could have highlighted some of the important changes achieved during the committee and report stages in the 1989 legislation. The SDLP could have both claimed credit for them and demonstrated the benefits achieved by constructive parliamentary opposition. John Hume continued to campaign against the MacBride Principles but increasingly he and his party concentrated on the prospect of inter party talks and the possibility of a political settlement. The election of President Clinton in 1992, who had been elected promising a strong interventionist Irish policy, including support for the MacBride Principles, meant that it was easier to concentrate on achieving a political settlement. Hume, whilst not compromising on his opposition to the MacBride Principles, could put them on the backburner, while preparing the ground for the Good Friday Agreement. Hume's decision to oppose the MacBride Principles was probably the greatest political error he made in nearly forty years of political leadership.

⁷³ SACHR, *Religious and Political Discrimination*, CMD 237, 1987, 73, 42.

⁷⁴ P Carr 'On the horns of a dilemma: John Hume, the SDLP and the MacBride Principles' *Labour and Ireland*, Nov-Dec 1987.

Sinn Féin made great political capital from the publication of its Proposals. Unlike the declaratory nature of the MacBride Principles and the SDLP Charter, they presented a practical checklist against which the details of future legislation could be evaluated. It had the advantage of being the last of the non-governmental documents to be published, and so it could accommodate and reflect the criticisms made of and the virtues contained in its rivals' publications. The inclusion in the May paper not only of an endorsement of the MacBride Principles, but encompassing them uncritically and extending them to include all foreign companies established in Northern Ireland, and for public and private employers, for an interim period until the passage of strong legislation was a master stroke. Building upon its increasing reputation for constituency case work, it again demonstrated to the Catholic working class that Sinn Féin was interested in their day-to-day problems as well as the national question, and that they had practical policies to deal with them.⁷⁵ In the United States, it helped to further isolate the SDLP in general and John Hume in particular, from middle-Irish America. Sinn Féin had trumped what should have been for the SDLP a winning hand.

⁷⁵ Adams continued his attacks on the new legislation, A Donnegan, 'Teeth lacking in fair jobs Act says Adams', *Irish News*, 1st August 1988.

Conclusion

Arguably, the MacBride Principles have been more influential in achieving change of this area of the Anglo-Irish Agreement; we may appeal to the hearts and minds but it is those who control the purse strings that can wield the greatest influence.

Anne Anderson¹

The focus of the campaign to end political and religious discrimination at the point of recruitment has been, in large part, effective...

Campaign on Administration of Justice²

Laws alone don't change things

Taoiseach Garrett FitzGerald³

The task the MacBride campaigners had set themselves was a formidable one: to confront the British and United States establishments; challenge policies; and achieve social, economic and, as a result, political change in Northern Ireland. It was a task that previous generations of Irish Americans had failed to achieve. To do it, they had to break the stranglehold of the 'special relationship' between the two states, to enable Britain's Northern Irish policy to be debated in the Congress. The campaign was independent of constitutional Irish nationalist leaders. Its organisation, funding and policy decisions were all made in the United States. It triumphed over the hostility of the leading Irish nationalist politician of the later twentieth century, John Hume. Its progress was orchestrated as much by United States domestic politics as events in Northern Ireland. The issue chosen, religious discrimination in the employment practices of US corporations in Northern Ireland was one that appealed directly to non-politicised Irish America and one with which they were at ease from their own experiences in the American

¹ DFAMP, private note from Anderson to Gallagher, 22nd October 1987.

² CAJ, *Equality in Northern Ireland: the rhetoric and reality*, (Belfast, 2006), Executive Summary, Para C.

³ DFAMP, 9th May 1995, Transcript of meeting with Irish community leaders in New York.

civil rights movement.⁴ Irish Americans used their electoral power to wield the **ultimate peaceful capitalist weapon, the power of the dollar, to achieve social and economic reform in Northern Ireland.** They used it to remedy a situation about **which British governments were either in denial or to which they turned a blind eye.** Whilst it is impossible to quantify the effect of a single-issue political **campaign, it undoubtedly had an influence on US domestic politics.** It helped to **secure the nomination of Clinton as Democratic presidential candidate, so important in breaking the establishments' censorship of United States – United Kingdom discussion of Irish affairs, and paved the way for more interventionist policy by the Clinton administration in the affairs of Northern Ireland.**

The Founding Fathers of the United States could never have envisaged, **when they drew up the United States Constitution, that they were providing the framework for the most successful and influential transatlantic Irish American political campaign in US history.** The federal nature of the Constitution gave its **member states and their cities the power to raise taxes and invest monies provided states observed the general principles of fiscal propriety and good housekeeping.** Because of the doctrine of state rights, that the federal government only possessed **those powers specifically granted to it in the Constitution and the remainder lay with the member states, the federal government had little opportunity to intervene unless its powers were specifically and directly challenged.** A similar power did **not exist for the units of local government in Great Britain and Ireland.** It was the **ability of the pro-MacBride Campaign supporters to utilise the federal nature of the United States Constitution to their advantage that made the campaign so successful and the British government's ability to combat it so difficult.**

The embassy in Washington, and the BIS in New York, could not put in **place a coherent strategy because they never knew in which state or city the next ambush was likely to take place.** It was a political flying column, and in Joe Jamison's words the MacBride Campaign **'just flew beneath the radar.'**⁵ No **sooner had one MacBride initiative been contained than another sprang up a thousand miles away.** The Irish Diaspora in the United States was popularly **thought to be based mainly around Boston, New York, Chicago and San**

⁴ Letter Jamison to McNamara, 3rd August 1999, enclosing a list of reasons for the success of the MacBride campaign. 'It recast the Northern nationalist case in terms of American democratic experience (civil rights, affirmative action, anti-apartheid solidarity)'.
⁵ Ibid. 'It flew beneath the radar in state legislatures where London and Dublin had few resources or contacts to stop it'.

Francisco, where the Irish government had its consulates. Its great spread surprised even the embassy and consulate staffs. The MacBride Campaign was to show that Irish Americans were present in every state of the Union, in every principal city and many small ones. There was a pro-MacBride campaign in Honolulu. It only required a few keen letter writers, Irish-American or not, to persuade state and city legislators to take an interest in the campaign.

By the end of the twentieth century, 17 states had passed MacBride legislation, comprising of a majority of United States population and involving a majority of public pension monies.⁶ Thirty-one municipalities had passed laws or legally binding resolutions and fifteen resolutions, proclamations or memorials expressing support. There were also 88 corporate agreements accepting the MacBride Principles.⁷ While it may be true that 'Laws don't change things' but they can over time affect the climate of what is publicly acceptable.⁸ The report for the California Public Employers Retirement System (Calpers) by the IRRC of firms in Northern Ireland in which Calpers held shares, showed that in US firms 47 percent of the 21,500 workers identified by religion were Catholic compared with only 36 percent of the 50,200 workers employed in non-US firms.⁹ The latest labour force survey revealed a 4.8 percent unemployment rate among Protestants while among Catholics it was 7.2 percent.¹⁰ A study for the Office of First Minister and Deputy First Minister, in November 2005, found a continuing 'employment differential' of Protestants having employment rates five percent above Catholics.¹¹ Nevertheless, using ILO unemployment figures for both Catholics and Protestants showed a downward trend over the past decade, with the Catholic rate falling faster, than for the Protestants. However, in the last year of the study, the unemployment rate for Catholics rose to 6.9 percent, while the Protestant rate continued to fall. It is thus a mixed picture.¹² The changing nature of the Northern Ireland labour market, the stability of the United Kingdom

⁶ Doherty telephone interview, 7th December 2006.

⁷ IRRC quoted in W C Thompson, *MacBride Principles and The Equality Agenda in Northern Ireland: A Status Report*, (New York, 2006), appendices C-D for a list of states and cities with MacBride legislation.

⁸ DFAMP, 9th May 1995, Transcript of meeting with Irish community leaders in New York.

⁹ Quoted in CAJ, *Equality in Northern Ireland*, 48-9. IRRC report 'Non-United States Companies: A Report to the Californian Public Employees Retirement System', (2006).

¹⁰ *Ibid.*, 61-2.

¹¹ 'Report on Labour Market dynamics Phase 1: A Descriptive Analysis of the Northern Ireland Labour Market', Eric Handy, Richard Marsh, Sara Quigley and Fabian Zuleeg, DTZ Piedad Consulting, November 2005. OFMDFM. Quoted in CAJ, *Equality in Northern Ireland*, 63.

¹² *Ibid.*, 63.

economy and the strength of the 'celtic tiger' economy in the Republic undoubtedly also helped in the improvement of the economic position of Catholics in Northern Ireland. However, it was the MacBride campaign that supplied the banner and championed the cause of economically deprived Catholics, imaginatively using the potential of the United States constitution it helped to make it all possible.¹³

Foreign policy and trade were constitutionally the prerogative of the federal government. State legislators rarely had the opportunity to influence events abroad, particularly in Ireland, or to engage in dialogue and confrontation with a foreign government. This was particularly true of local Democrat legislators and councillors, who were opposed to what they considered to be the inaction of the Republican federal government in influencing British policy in Ireland. It was ironic that outside the federal system, it was mainly, but not exclusively, local Democratic politicians and 'grass-rooters', who campaigned for the MacBride Principles, but on the Hill their most vigorous supporters and leaders in the Ad Hoc Congressional Committee were Republicans. The 'tree-toppers', the Kennedy's and their supporters were hostile. Because it did not wish to become embroiled with the states on a state's rights issue, and possibly because of its fear that the American Brands' Case might be upheld by the Supreme Court, the federal government refused to invoke the Foreign Trade Acts to prevent states and cities implementing the MacBride Principles. If an administration challenge had been successful in a federal court, it was the one definite step that could have killed the MacBride Campaign stone dead in its tracks. It was the action the MacBride campaigners most feared. No state or city could challenge the legitimacy of the decision of the Supreme Court.

The British government was unprepared, ill-equipped and ill-advised on how to deal with this phenomenon. By immediately perceiving the MacBride Principles as a threat and as a creature of the Provisional IRA because of their prompt endorsement by Noraid, the British government failed to think through the long-term political consequences of its opposition to the Campaign. Edwards observed that 'the real reason for the governments' need to reject the MacBride

¹³ For a more detailed examination of the progress made in reducing employment discrimination see House of Commons Session, 1998-9, *Operation of the Fair Employment (Northern Ireland) Act, Ten Years On, Reports and Minutes of Evidence*, (HMSO London, 1999); *Fourth Report of the Northern Ireland Select Committee on Fair Employment in Northern Ireland a Generation On*, (Belfast, 2004); CAJ, *Equality in Northern Ireland: Rhetoric and Reality*, (Belfast, 2006); Thompson, *MacBride Principles and The Equality Agenda in Northern Ireland*, (New York, 2006).

Principles was their provenance'.¹⁴ The initial failure of the British to appreciate the significance of the involvement of the Comptroller's office was a major error.¹⁵ It had the financial clout which the INC, Noraid, and other Irish American organisations lacked. The fact that decisions and policy proposals were mostly being made by members of the Northern Ireland civil service, with little experience of the complexities of the politics of the United States and with their own built-in prejudices, meant that not only was the MacBride Campaign lost, but that the British governments' Northern Irish policy was subject to a far more critical analysis in the United States than might otherwise have been the case.

As a result, the British government appeared to be continually on its back foot reacting to initiatives coming from the United States rather than being seen in the forefront of the campaign for equality of opportunity. Every initiative and piece of legislation emanating from the United Kingdom was seen as a reluctant response to the MacBride campaign and a spur for further efforts to obtain more concessions. When the Fair Employment Act was passed in 1989 its contents failed to live up to earlier promises. It was less comprehensive than the British government had originally indicated. The British government squandered its best opportunity to regain the initiative, which it had lost when the Principles were first published. Fighting the MacBride Principles became a policy of self-flagellation.

'Flying under the radar' was not the only advantage that the MacBride Campaign had. The hunger strikes, leading to the death of Bobby Sands and his companions, had incensed Irish-Americans.¹⁶ Most of the MacBride Campaign supporters were of Irish descent and were neither 'tree toppers' nor 'grass-roots', but were looking for a non-violent peg upon which to hang their concerns.¹⁷ At a time when there appeared to be lack of political movement, the MacBride Campaign gave them an opportunity to demonstrate their frustration and despair about the situation in Northern Ireland. It was this group that drifted towards the INC and away from the more moderate SDLP. Every state and city MacBride hearing became an examination of British policy in Northern Ireland.

The tight grip that the United States and successive British governments had on the levers of power and influence on Capitol Hill gradually slipped. This

¹⁴ Edwards, *Affirmative Action in a Sectarian State*, 10.

¹⁵ Letter Jamison to McNamara, 3rd August 1999. 'It [the campaign] had a base in the New York City Comptroller's office'.

¹⁶ Ibid. 'It coincided with the upsurge of sympathy for the nationalist side post-hunger strike'.

¹⁷ Ibid. 'It never strayed beyond constitutional nationalism in its deeper implications, though Fine Gael and John Hume were unable to see it that way'.

became increasingly evident as the dependence of the United States government on the United Kingdom, its principal unswerving ally of the Cold War, decreased. Increasingly, the men and women being appointed to key positions the United States administration were of a younger age group. They were products of the Vietnam War rather than the Second World War. The World War's legacy of memories of shared dangers and overcoming common foes diminished as the participants grew older and disappeared from the political scene. And the Cold War was won. They were just 'old, unhappy far-off things and battles long ago' which meant little to the post-Vietnam generation.¹⁸

The 'old, unhappy, far-off things and battles long ago' remained in the folk consciousness of the Irish-America. It was reinforced daily by the tales of the counter insurgency campaign of the British army on the streets of Belfast and Derry, internment without trial, Bloody Sunday, shoot-to-kill policies, the hunger strikers: their list was endless. The British government could do little to stop it. From the forced migration of the Tone and Emmett rebellions and particularly since the Great Famine, wave after wave of Irish immigrants had constructed the folk memory of Irish America, a story of Catholic peasants cruelly evicted by absentee Anglo-Irish Protestant landlords from their farms, and a British government only interested in political repression. The myth was constantly replenished by the militant exiles from the Fenian movement, the Easter Rising, the War of Independence, the Civil War and the continuing struggle in the North. It had its own calendar of saints and holy days, mostly commemorating glorious defeats. Its music and songs contained in equal measure melancholy and despair, joy, defiance and hope. It was a heady mixture. Thousands of miles away from Ireland Irish-Americans wanted to remedy the situation and identify with the suffering nationalists of the North. The non-violent MacBride campaign, gave them that opportunity.¹⁹

Irish-Americans had an additional experience, which led them to think that the experiences of the past need not be repeated and could be peacefully overcome. They had lived through the Civil Rights Movements of the 50s and 60s in the United States. They had, despite opposition to bussing in Boston and Chicago accepted the need for strong anti-discrimination race legislation. They

¹⁸ Wordsworth, 'The Solitary Reaper', lines 19, 20, *Wordsworth Poetical Works*, ed. T Hutchinson, *New edition revised by E de Selincourt*, (London, 1967), 230.

¹⁹ This description of the Irish American community is drawn, in part, from the Ó Ceallaigh interview, 20th July 2005.

were comfortable with it and perceived the MacBride Principles as imposing less stringent conditions on US corporations in Northern Ireland than the civil rights' legislation imposed upon them in the United States. The MacBride campaign gave the Irish Americans the opportunity to identify and support with the cause of religiously discriminated against Irish Catholics in a non-violent, strictly constitutional manner.

For the Irish-American community campaigning for the MacBride Principles from their publication to the Clinton nomination was a growth in community self-confidence and political cohesion. It was influencing elected officials, at state and city level, towards a progressive position on Ireland. Grassroots Irish-America had never reached as far as the federal level and the White House before and 'Clinton's promises were a breakthrough for us'.²⁰

While 'it took advantage of the growing 1980s investor responsibility movement among public pension funds', which 'coincided with the South African anti-apartheid struggle', the Campaign could not have succeeded without the financial leverage of New York City, that of all the states and cities, which supported, the MacBride Principles' Campaign.²¹ It was not just shareholder resolutions and legislation imposing the Principles upon United States corporations doing business in Northern Ireland that caused the greatest anxieties. Probably the most powerful element in the Campaign, which forced the pace and most alarmed the British government, was the development of the concept of contract compliance. Every corporation in the United States, including their subsidiaries, sub-contractors and suppliers which did business with a Boston or a New York had to comply with the MacBride Principles. This was the all-embracing nightmare originally feared by the DED on the publication of the Albanese Bill. There is little evidence, if any, of the 'hassle factor' affecting United States corporations. Once they had accepted IRRC monitoring, no corporations reported any difficulties. The readiness of Comptroller Goldin and his successors to confront the financial establishment of Wall Street and from their office in the City Hall to maintain and organise the MacBride Campaign outside of Washington over twenty years, demonstrated that they were not just making a

²⁰ KMNP letter from Jamison to McNamara, 28th November 1999.

²¹ KMNP letter from Jamison to McNamara, 3rd August, 1999. The lengthy period of time enabled the MacBride campaigners to perfect their techniques, 'It had plenty of time, ten years for trail and error'.

polite nod in the direction of a locally important ethnic pressure group, but that they had a real and enduring commitment to human rights.

John Hume was probably the greatest political casualty of the MacBride Campaign in the United States. To the despair of many of his American friends, who regarded him with his background in social democracy as a natural leader for, and supporter of, the MacBride Campaign, he stuck doggedly to his opinion that whilst he had nothing against the MacBride Principles as principles, nevertheless they would inevitably lead to disinvestment. The result was that he lost the support of many in middle America and even more in the Catholic working-class ghettos of Northern Ireland. He left the field wide open for Noraid and Sinn Fein, the SDLP's main challenger for the nationalist vote, to pose as the champions of the oppressed, nationalists of Northern Ireland. The SDLP had difficulty in establishing itself as an organisation in the United States, Hume's attitude to the MacBride campaign was a continuing major obstacle. In 1996 that hurdle was overcome when the Republican proponents of the MacBride Principles gained control of the Congress, particularly the House of Representatives. The MacBride Principles could and would be aired on the floor of Congress and recorded in the Congressional Record, not just as 'read ins'. The Republican control of the House, gave the MacBride Campaign its greatest symbolic victory when they were eventually passed into federal legislation in 1998.

The MacBride Principles had the great virtue of simplicity and were easily understood. Although they were amplified in early 1986, the MacBride Principles continued to be used in their original version both in the 'principles of economic justice' and British government propaganda. The British government's position was weakened because it could not claim that all the political parties in the United Kingdom supported it in its hostility to the MacBride Principles. The continuing opposition of the Labour Party to the British government's position, both before and after the 1989 Fair Employment Act, and its continuing demands for reform to remedy the defects in that legislation, meant that the British government could only claim that all the political parties in Northern Ireland, with the exception of Sinn Fein, opposed the Principles. The *de facto* support of Fine Gael coalitions against the Principles was lost when Haughey became Taoiseach and reaffirmed his original endorsement of the Principles. Succeeding Irish governments did not seek to reverse his position.

The political circumstances in Irish America and the lack of political movement in Northern Ireland left a vacuum to be filled in the United States which the personalities involved in organizing and publicising the MacBride Campaign were quick to fill. Doherty was a political strategist and organizer of outstanding calibre. Father McManus was a charismatic leader of drive and determination. Whether he is fully entitled to the accolade of 'Britain's nemesis in America, the driving force that would eventually erode Britain's influence within the United States government' is questionable.²² He certainly came very near to it. Equally influential because he controlled important purse strings was Mayor Flynn in Boston, who had argued at the start of the Campaign:

The surest way Americans of good will can undermine the men of violence on all sides in Northern Ireland is to support efforts aimed at establishing economic justice in that British-occupied part of the country.²³

He had succeeded in obtaining 'home rule' for Boston from Massachusetts in order for the city to pursue its pro-MacBride contract compliance campaign. Sister Regina Murphy and the ICCR, whose campaign for ethical investments, like the establishment of IIRC, reflected the growing awareness of the need for social responsibility in investment policies that were spreading across the United States. The tenacity of Representative Gilman, campaigning for over twenty years on Irish issues in the House, kept a foot in the door on Capitol Hill that the British and US governments would have preferred to have firmly shut.

It was the unique combination of people of ability and commitment, the federal structure of United States Constitution and the desire of Irish America to influence events in Northern Ireland that came together to produce probably the most successful Irish-American campaign to force the hand of the British government over events in Ireland. The MacBride campaign has left a definite and peaceful Irish-American imprint on the history of Ireland. Gerry Adams asked of Joe Jamison, 'Give us another MacBride'. It is to be hoped that Ireland does not need one. Jamison replied that it was unlikely to be able to duplicate the

²² Thompson, *American Policy*, 52.

²³ R L Flynn, 'Towards economic justice in Ulster', *Boston Globe*, 23rd July 1985. The phrase 'British occupied part of the country' was aimed at his Boston audience and while it stuck in the throats of British officials, it should not have been allowed to disguise the completely pacific and constructive message that Flynn was seeking to convey.

unique circumstances in which the campaign had arisen, that is 'Something self-sustaining, broadly democratic, a centre-left program of local activity that could go on anywhere in the USA, and frame the conflict as a struggle for justice'.²⁴ It is unlikely that in the foreseeable future a similar group of personalities or set of circumstances in the United States, Ireland and the United Kingdom are likely to arise.

Sadly, it was not the strength nor the justice of the Campaign, though they were very important, nor the determination of the personalities involved, that was the determining factor in its success. It was the power of the mighty dollar, on this occasion on the side of the righteous, wielded by Goldin, Flynn and others that forced the change. It was the threat of lost business that forced the British government to act. As Anne Anderson so perceptively and sadly wrote in her analysis, 'Arguably the MacBride Principles have been more influential in achieving change in this area of the Anglo-Irish Agreement; we may appeal to hearts and minds but it is those who control the purse strings that can wield the greatest influence'.²⁵ Inez McCormack the most active of the MacBride signatories said of the campaign 'more change has taken place in Northern Ireland because of external pressures than from 30 years of internal non-violent campaigning'.²⁶

²⁴ KMNP letter from Jamison and to McNamara, 28th September 1999.

²⁵ DFAMP private note from Anderson to Gallagher, 22nd October 1987.

²⁶ 'US Groups in Ulster Face Opposition to pro-Catholic Code', *Financial Times*, 2nd December 1992.

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Appendices

Appendix A

The Sullivan Principles

1. Non-segregation of the races in all eating, comfort, and work facilities.
2. Equal and fair employment practices for all employees.
3. Equal pay for all employees doing equal or comparable work for the same period of time.
4. Initiation of and development of training programs that will prepare, in substantial numbers, blacks and other nonwhites for supervisory, administrative, clerical, and technical jobs.
5. Increasing the number of blacks and other nonwhites in management and supervisory positions.
6. Improving the quality of life for blacks and other nonwhites outside the work environment in such areas as housing, transportation, school, recreation, and health facilities.
7. Working to eliminate laws and customs that impede social, economic, and political justice. *(Added in 1984.)*

Appendix B

THE MACBRIDE PRINCIPLES - 1984

[The 1986 Amplifications are shown in Italics]

1.

Increasing the representation of individuals from Under represented religious groups' in the workforce including managerial, supervisory, administrative, clerical and technical jobs.

A workforce that is severely unbalanced may indicate prima facie that full equality of opportunity is not being afforded all segments of the community in Northern Ireland. Each signatory to the MacBride Principles must make every reasonable lawful effort to increase the representation of underrepresented religious groups at all levels of its operations in Northern Ireland.

2.

Adequate security for the protection of minority employees both at the workplace and while travelling to and from work.

While total security can be guaranteed nowhere today in Northern Ireland, each signatory to the MacBride Principle_ must make reasonable good faith efforts to protect workers against intimidation and physical abuse at the workplace. Signatories must also make reasonable good faith efforts to ensure that applicants are not deterred from seeking employment because of fear for other personal safety at the workplace or while travelling to and from work.

3.

The banning of provocative religious or political emblems from the workplace.

Each signatory to the MacBride Principles must make reasonable good faith efforts to prevent the display of provocative sectarian emblems at their plants in Northern Ireland.

4.

All job openings should be advertised publicly and special recruitment efforts made to attract applicants from under represented religious groups.

Signatories to the MacBride Principles must exert special efforts to attract employment applications from the sectarian community that is substantially under represented in the workforce. This should not be construed to imply a diminution of opportunity for other applicants.

5.

Layoff, recall and termination procedures should not in practice favor a particular religious group.

Each signatory to the MacBride Principles must make reasonable good faith efforts to ensure that layoff, recall and termination procedures do not penalize a particular religious group disproportionately. Layoff and termination practices that involve seniority solely can result in discrimination against a particular religious group if the bulk of employees with greatest seniority are disproportionately from another religious group.

6.

Job reservations, apprenticeship restrictions and differential employment criteria that discriminate on the basis of religion should be abolished.

Signatories to the MacBride Principles must make reasonable good faith efforts to abolish all-differential employment criteria whose effect is discrimination on the basis of religion. For example, job reservations and apprenticeship regulations that favour relatives of current or former employees can, in practice, promote religious discrimination if the company's workforce has historically been disproportionately drawn from another religious group.

7.

The development of training programs that will prepare substantial numbers of current minority employees for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade, and improve the skills of minority employees.

This does not imply that such programs should not be open to all members of the workforce equally.

8.

The establishment of procedures to assess, identify, and actively recruit minority employees with potential for further advancement.

This section does not imply that such procedures should not apply to all employees equally.

9.

The appointment of a senior management staff member to oversee the company's affirmative action efforts and the setting up of timetables to carry our affirmative action principles.

In addition to the above, each signatory to the MacBride Principles is required to report annually to an independent monitoring agency on its progress in the implementation of these Principles.

Sean MacBride S.C.

Appendix C

THE McBRIDE PRINCIPLES

[Unpublished suggested Revision by the Northern Ireland Department of Economic Development]

1.

Increasing the representation of individuals from under-represented religious groups in the workforce including managerial, supervisory, administrative, clerical and technical jobs by ensuring that they enjoy equality_of opportunity, but without preferential treatment of any group.

2.

Adequate security for the protection all employees at the workplace.

3.

The removal of religious or political_emblems_from the workplace with the agreement of management and unions.

4.

All job openings should be publicly advertised and special recruitment efforts !;;l1OUld be made to attract applicants from under-represented religious groups provided that the arrangements do not imply a lack of opportunity for other applicants.

5.

Layoffs, recalls, and termination procedures should not, in practice, favour particular religious groupings.

6.

The abolition of job preservation apprenticeship restrictions and differential employment criteria, which discriminate on the basis of religion or ethnic origin.

7.

The development of training programme that will prepare substantial numbers of minority employees for skilled jobs, including the expansion of the existing programmes and the creations of new programmes to train, upgrade and improve the skills of minority employees provided that the arrangements do not lead to a lack of opportunity for other trainees.

8.

The establishment of procedures to assess, identify and actively recruit minority employees with potential for further advancement provided that these procedures do not lead to a lack of opportunity for other employees.

9.

Appointment of a senior management staff member to oversee the company's affirmative action efforts and the setting up of a time-table to carry out affirmative action.

Appendix D

SDLP's Charter for Equal and Just Opportunities

November 1986

1.

To implement just, equal and open recruitment practices aimed at attracting suitably qualified applicants from all sections of the community, irrespective of religious or political background

2.

To implement equal and just training and promoting opportunities for all employees irrespective of religious or political background.

3.

To these ends to take immediate measures to investigate and to redress any imbalance or distortion, and to remove and inadequacy which may have existed in these respects in the past.

4.

To ensure just, equal and secure conditions in the workplace such that all employees are free from any threat to their persons, their property, their belief and their traditions.

5.

To this end to take such measures as may be necessary to prevent the display of political and sectarian slogans, emblems and flags and to prohibit in the workplace all political and sectarian meetings, assemblies, parades and demonstrations

6.

To undertake a regular monitoring of recruitment and employment practices and of working conditions to ensure that a code of just and equal employment practices is abided by.

Appendix E

Sinn Féin May 1987

An end to Discrimination in Employment, Sinn Féin's Proposals

1.

The existence of discrimination in employment on the basis of religious belief or political opinion is irrefutable, as is the denial of quality of opportunity in employment which flows from that discrimination.

- Clear and comprehensive legal powers are required to eradicate discrimination and to ensure that equality of opportunity is realised.

2.

Such legal powers should enable the relevant statutory body to initiate investigations into both discrimination and the provisions of equality of opportunity and - where either or both are identified - to impose appropriate effective remedies. (Such remedies being subject to ongoing review vis-a.-vis their effectiveness.)

3.

Legal provision for processing complaints by individuals must be maintained. Such a procedure must allow for the option of anonymity, include effective remedies and, where an employer is deemed in breach of the relevant legislation, compensation which should be exemplary.

4.

Effective remedies must include appropriate affirmative action programmes. Affirmative action programmes should involve as a minimum:

- out-reach programmes which will effectively attract qualified candidates from the under-represented group by bringing job opportunities to their notice and provide the necessary training facilities for both the necessary training facilities for both recruitment and promotion (on the basis of exclusiveness to an under-represented group where it is found necessary).

- the use of statistics 1) to monitor the religious make-up of a workforce at all the points of the employee/employer relationship - recruiting, training, promotions, redundancies - as a means of identifying the existence of

discrimination or lack of provision of equality of opportunity and; ii) where one or both are identified, for purposes of establishing goals and timetables for the eradication or discriminatory practices, the provision of equality of opportunity, or both.

- The exercise of preferential treatment between equally qualified candidates in favour of the under-represented group where there is gross 'under-representation.

5.

In keeping with such affirmative action programmes, we advocate the adoption of the MacBride Principles not just by foreign investors but by all employers in the Six Counties - in both the public and private sectors - as an interim measure

6.

We further propose that the component parts of affirmative action programmes including those measures advocated by the MacBride Principles - should be codified in legislation.

7.

Self-regulation in the form of voluntary binding agreements has proved ineffective. Statutory obligations for the eradication of discrimination and the provision of equality of opportunity are essential. Such obligations must apply to employers in the public and private sectors.

8.

Failure to meet those obligations must be met with effective legal sanction in the form of fines, grant withdrawal or ineligibility to tender for public contracts. This should include not just public funding but grants from the International Fund established after the signing of the Hillsborough Treaty.

9.

Current provisions outlaw direct discrimination. Legal provision must be made for the outlawing of indirect discrimination and the institutional practices entailed therein which have the same consequence as direct discrimination.

10.

Steps must also be taken to redress the discriminatory effects of such matters as the location of industry. The British government must provide the necessary incentive and infrastructure to attract proposed new enterprises and actively encourage co-operative enterprises in the most disadvantaged areas.

Appendix F

Comparison of the MacBride Principles with Fair Employment Legislation in Northern Ireland (No.1)

[Mayne's original sympathetic appraisal]

1.

Increasing the Representation of Individuals from under-represented religious groups in the workforce including managerial, supervisory, administrative, clerical and technical jobs.

This is consistent with the purpose of the Fair Employment legislation and the Department of Economic Development's Guide to Manpower Policy and Practice subject however to the objective being attained through measures which afford equality of opportunity and not through the imposition of quotas or preferential treatment to the under-represented groups. To pursue a policy which seeks to increase the representation of those from under-represented groups by reserving a specific proportion of places for persons of a given religious belief would be discriminatory and hence unlawful within the terms of the 1976 Fair Employment (Northern Ireland) Act.

The sort of affirmative action favoured by FEA is designed to ensure equality of opportunity and includes, for example, requiring employers to make specific efforts to draw the attention of under-represented sectors of the community to vacancies which exist.

The relevant provisions of the 1976 Act so far as this particular McBride principle is concerned are sections 3 and 5 (equality of opportunity) and 16 and 17 (discriminatory treatment).

2.

Adequate Security for the Protection of Minority Employ both at the Workplace and while travelling to and from work.

The protection of workers is addressed in Chapter VII of the Department's Manpower Guide, Paragraph 1 states that

"Management and trade unions should recognize the right of all workers to work without intimidation or harassment. They should, in particular, assert their opposition to attempts by *any* group of employees to prevent, contrary to the spirit and objective of the *Act*, the employment or continued employment of another group, or to intimidate that group or individual fellow workers into resignation or retirement." In paragraph 3 management is encouraged, in cooperation with the civil authorities, to "secure the safety of employees from intimidation by persons of other religious beliefs or political opinion. This might include willingness to vary hours and working arrangements so as to provide additional security."

The provision of such security could be construed as flowing from the obligation on an employer to ensure equality of opportunity within the terms of Section 3 of the Fair Employment legislation or from Sections 16 and 17 which deal with discriminatory treatment. An employer is, for example, precluded from discrimination against an employee on the grounds of religious beliefs in respect of the terms of his employment which could be considered to embrace working conditions or by "subjecting him to any detriment."

Employers do aim to provide reasonable security for employees in their workplace (and the statistics show that workplace security is generally adequate). But it would be unreasonable to expect an employer to be responsible for the security of employees outside the workplace for example travelling to and from work. Employees as members of the community do, of course, have the protection afforded by the criminal law.

3.

The Banning of Provocative Religious or Political Emblems from the Workplace.

Again Part VII of DED's Manpower Guide is pertinent. Paragraph 4 states that "Management and trade unions should discourage the display of flags and emblems which are likely to give offence or cause apprehension amongst employees. Together they should seek to arrive at an acceptable code of practice so that no group need feel excluded or threatened by local customs or practices."

The paragraph however does not stipulate that such emblems should be banned.

As an example of this approach the FEA has sought, and obtained, the agreement of the NIES to the removal from certain areas of sectional/sectarian displays as implying a hostile environment for would-be job applicants and therefore detrimental to the concept of equal opportunity.

4.

All Job Openings Should be Publicly Advertised and Special Recruitment Efforts should be made to attract Applicants from under-represented Religious Groups.

This is wholly in line with the Fair Employment legislation provided the special recruitment effort in respect of underrepresented groups does not imply a lack of opportunity for other applicants or preferential treatment in appointments. The FEA frequently exhorts employers whose work force is unrepresentative to pay special regard to advertising vacancies in a manner which will ensure that the vacancies are brought to the attention of the under-represented sections of the community. Paragraphs 7 and 10 of Chapter V of the Guide to Manpower Policy and Practice are relevant as is paragraph 73 of the Straubensee Report.

In its Seventh Annual Report (p 16) the Fair Employment Agency commented as follows:

"Employers reputed to favour Protestants do not attract applications from Roman Catholics and vice versa. Such employers have a special responsibility to sell themselves to the whole community, as Equal Opportunity employers and this may mean a biased choice of advertising media to attract applications from the section of the community badly represented in the workforce. When it comes to selection however religious or political bias is unlawful and the successful candidates must be chosen on their merits without any regard to the balance of the workforce."

5

Layoffs, Recalls and Termination Procedures should not, in Practice, favour particular religious groupings.

Again this is wholly consistent with the provision of the Fair Employment legislation in respect of equality of opportunity and non-discrimination. A religious bias in layoffs, recalls or termination procedures would be contrary to Sections 16 and 17 of the 1976 Act.

6.

The Abolition of Job Preservation, Apprenticeship Restrictions and Differential Employment Criteria, which discriminate on the basis of Religious or Ethnic Origin.

This too is wholly in line with the Fair Employment legislation. Section 17 of the *Act* renders discrimination in recruitment procedures unlawful. Section 18 of the legislation covers discrimination in respect of contract workers, Section 19 deals with the exercise of statutory powers to select employees for others, Section 20 applies to the operation of an employment agency, Section 21 applies to vocational organisations, for example, trade unions, in respect of admission to membership, Section 22 outlaws discrimination in the provision of training services and Section 23 deals with the enforcement of qualifications relevant to employment.

7.

The Development of Training Programs that will prepare Substantial numbers of, minority employees for Skilled Jobs, including the expansion of the existing Programs and the Creations of New Programs to Train, Upgrade, and Improve the Skills of Minority Employees.

This too is consistent with the terms of the Fair Employment legislation provided that there is equality of opportunity in the admission procedures for such training programs. Preferential treatment on the basis of religion would be discriminatory and hence unlawful under the terms of the 1976 *Act*.

The Fifth Annual Report of the Fair Employment Agency (page 7) indicated that "in the engineering field, where Catholics in the Belfast area have been very poorly represented, it would seem the present training opportunities are producing numbers of skilled Catholic young people and, if this trend continues, employers will find that they have a larger pool from which to draw their skilled craftsmen."

There is some suggestion in research carried out by the FEA that Government training centres play a much larger role in terms of employment opportunities for Roman Catholics than for Protestants and that there is a preponderance of young Catholics in such centres.

8.

The Establishment of Procedures to Assess, Identify and Actively Recruit Minority Employees with potential for further Advancement.

Again this principle is broadly consistent with the existing Northern Ireland legislation provided there is equality of opportunity for other employees and that preferential treatment contrary to Sections 16 and 17 of the Fair Employment legislation is not a feature of the procedures.

9.

Appointment of a Senior Management Staff Member to Oversee
the Company's Affirmative Action Efforts and the Setting
Up of Time-table to carry out Affirmative Action.

This is wholly consistent with the sort of arrangements advocated by the FEA where an affirmative action program is justified within the terms of the Fair Employment legislation.

Appendix G

Comparison of the MacBride Principles with Fair Employment Legislation in Northern Ireland, (No.2)

[Mayne's revised and published opinion]

1.

Increasing the representation of individuals from under-represented religious groups in the workforce including managerial, supervisory, administrative, clerical and technical jobs.

COMMENT: This principle, as stated, seems to imply and require the introduction of discriminatory practices, whether by the imposition of quotas or preferential treatment for the under-represented groups.. Such discrimination would be unlawful in Northern Ireland and would negate the policy of equality of opportunity embodied in existing legislation.

2.

Adequate security for the protection of minority employees both at the workplace and while travelling to and from work.

COMMENT: This principle would impose unreasonable, and unenforceable, responsibilities on management. Security cannot be the sole responsibility of the employer, whether in Northern Ireland or elsewhere, particularly as it applies outside the work place. _____ -'

3.

The banning of provocative religious or political emblems from the workplace.

COMMENT: From experience in Northern Ireland, this is something better handled by persuasion and sensible agreement between management and workforce than by formal provisions-- Where good will is established, ensuring that emblems which would give cause for offence do not appear should not present difficulties. An ill-considered ban could provide a lever for use by those who wish to behave mischievously in this area.

4.

All job openings should be publicly advertised and special recruitment

efforts should be made to attract applicants from under-represented religious groups.- ,

COMMENT : The Fair Employment legislation in Northern Ireland, the Department of Economic Development's Guide to Manpower policy and Practice, and the special responsibilities placed on Equal Opportunity employers require job vacancies to be advertised so as to attract applications from all sections of the community in Northern Ireland. Again, the emphasis must be on equality of opportunity, not special treatment for any group and .special recruitment efforts. which contravene these considerations would be discriminatory and unlawful

5.

Layoffs, recalls, and termination procedures should not, in practice, favor particular religious groupings.

COMMENT: This principle seems, prima facie, inconsistent with principle 1. In any case, FEA Legislation already strongly addresses the question of bias in these areas, and this principle adds nothing to that Legislation. A further point is that these are accepted rules and conventions both in the OK and further a field for dealing with redundancy situations, which are entirely non-discriminatory in sectarian/ethnic terms.

6.

The abolition of job preservation apprenticeship restrictions and differential employment criteria, which discriminate on the basis of religion or ethnic origin.

COMMENT: Here again, this principle seems inconsistent with principle 1. Again, the proposals are fully covered by the FEA Legislation which outlaws discrimination on the basis of religious (or ethnic) origin.

7.

The development of training programme that will prepare substantial numbers of minority employees for skilled jobs, including the expansion of the existing programmes and the creations of new programmes of train, upgrade and improve the skills of minority employees.

COMMENT: The clear intent of this principle as stated is to discriminate in favour of one section of the community and therefore, by definition, against other sections. Such discrimination would be unlawful. To be consistent with the policy of equality of opportunity, training programmes must provide equality of opportunity in admission procedures.

8.

The establishment of procedures to assess, identify and actively recruit minority employees with potential for further advancement.

COMMENT: This principle again seems to imply positive discrimination. The existing legislation provides for equality of opportunity and outlaws preferential treatment, including positive discrimination.

9.

Appointment of a senior management staff member to oversee the company's affirmative action efforts and the setting up of a time-table to carry out affirmative action.

COMMENT: This principle merely seeks what is already required within both FEA Legislation and the Guide to Manpower policy and practice.

Appendix H

ANALYSIS OF RESOLUTION OF THE LABOUR PARTY CONFERENCE ON NORTHERN IRELAND FROM 1980 TO 1991

YEAR	RESOLUTIONS	FAIR EMPLOYMENT	McBRIDE	No. OF COMPOSITE RESOLUTIONS	
				FAIR EMPLOYMENT	McBRIDE
1980					
1981					
1982	5				
1983	13				
1984	16				
1985	7				
1986	7	3 ¹		1 ²	
1987	7	4	4 ³	1 ⁴	
1988	8	2 ⁵		1 ⁶	
1989	5				
1990	2	1 ⁷			
1991					

¹ Part of a number of resolutions seeking to show a lack of progress from the signing of the Hillsborough Agreement. "Fair employment agency reports no overall progress towards and end to discrimination in employment".

² Defeated as part of a larger composite, it was basically attacking the Hillsborough Agreement. For 402 000 Against 4 408 000.

³ Two major resolutions identical from Manchester Blakely CLP and Derby North containing detailed demands for change. Hackney North and Stoke Newington deal solely with McBride drawing attentions to the Sullivan Principles and comparison with South Africa. ~~London~~ CLP's resolution is two parts: (1) unification and (2) backing of McBride.

⁴ Composite 16 was narrowly lost For: 2 435 000 Against: 3 337 000, a majority of 902 000 against. The explanation of the loss is the insistence of presumably the Tarrington CLP in including in the composite resolution the principle of unification and those Unions with large membership in Northern Ireland could not vote for such a resolution. "Conference urges the Labour Party to seek and avail means of encouraging the process reconciliation and reaffirm commitments to reunification of Ireland under such conditions as Irish people can agree". This was despite the efforts of Doherty and Adams to have the name McBride deleted from the composite resolution.

⁵ Reflects the criticism by the Opposition to the Government's proposals for fair employment legislation and bills published later that year.

⁶ Carried overwhelmingly on a show of hands it contained reference to no other issue than fair employment and contained no mention of McBride.

⁷ Becomes part of a large all embracing motion from Sheffield Hillsborough mentioning the strengthening of the 1989 Act.

Appendix I

Resolutions for the Labour Party Conferences 1987 and 1988¹

(Martin Collin's model resolutions, circulated to all sympathetic constituency Labour Parties.)

1987

419

This Conference notes that the level of employment discrimination in Northern Ireland has remained virtually unchanged throughout the period of direct rule. The overall unemployment rate of Catholic males has remained 2½ times that of Protestant males and that of Catholic women 1½ times that of Protestant women. Catholic males are under-represented in skilled occupations and over-represented in semi-skilled and unskilled occupations, while Catholic women are over-represented in low status, low paid jobs.

This Conference declares its opposition to religious and sexual discrimination in the north of Ireland. It recognises that this discrimination has not been solved by direct rule and resolves that it will:-

- a) consult with trade unions in Ireland and trade unions in Britain, particularly those that organise in Ireland, in order to initiate proposals as to measures the trade union movement can take to tackle the problem of discrimination.
- b) put pressure on the TUC to initiate an independent inquiry into employment discrimination in the north of Ireland, which should make recommendations for action to end discrimination.
- c) actively promote the MacBride principles (a set of equal opportunity guidelines which aim to alleviate anti-Catholic discrimination) within the trades union and labour movement.
- d) prepare a report, to be presented to the 1988 Labour Party Conference, including:
 - 1) detailed information on the extent and pattern of employment discrimination in the north of Ireland with particular emphasis on the double burden endured by Catholic women

and

¹ LCI Files

- 2) progress made in carrying out points a, b and c

1988

Composite 46

Conference expresses its concern at the level of religious discrimination in employment in Northern Ireland. Government statistics acknowledge that, as a result the rate of male Catholic unemployment is two-and-a-half times that of male Protestants and the rate of female Catholic unemployment is one-and-a-half times greater than that of female Protestants.

Whilst the Government has, under pressure, agreed to bring forward legislative proposals on Fair Employment, we note that:

- a) Recommendations made by the Northern Ireland Standing Commission on Human Rights (SACHR) for the Government to adopt a performance indicator against which to measure achievement have not been incorporated.
- b) The government does not intend to incorporate guidelines to employers on affirmative action programmes designed to give under-represented groups better access to employment and training programmes within its primary legislation.
- c) In its proposed legislation, the Government has not yet accepted that the tribunals which will hear individual complaints of discrimination should be part of the industrial tribunal system.

Conference opposes all forms of employment discrimination whether on grounds of age, race, gender, sexuality, disability, or religion

Conference believes:

- 1) That a just approach towards providing equality of opportunity must be based on the twin objectives of increasing employment and reducing inequality of opportunity
- 2) The incorporation of clear goals and timetables is an indispensable component of adequate legislation