

28 September 1979

CABINET

DEFENCE AND OVERSEA POLICY COMMITTEE

PROSPECTS FOR POLITICAL PROGRESS IN NORTHERN IRELAND

Memorandum by the Secretary of State for Northern Ireland

The Problem

1. In the Manifesto we stated that "in the absence of devolved government we would seek to establish one or more regional councils with a wide range of powers over local services". The Queen's Speech said that we would "seek an acceptable way of restoring to the people of Northern Ireland more control over their own affairs".

2. My initial studies and consultations have shown that there is no technical or procedural difficulty in devising schemes for this purpose. We have prepared a range of 'model' systems (briefly described in Annex A). Each would transfer substantial powers back to an elected representative body, with built-in safeguards and/or opportunities for participation by the minority community. HMG would, I believe, regard each as sensible and reasonable; one of them might ultimately form the basis of an acceptable new arrangement. However my consultations have convinced me that there is no chance that any of these 'models' could be accepted in present circumstances by the representatives of both communities in Northern Ireland. This paper sets out my proposals for dealing with the present impasse.

The entrenched positions of the political parties

3. The present attitudes of the parties are summarised in Annex B. In brief, Unionists demand local, regional and/or devolved government by straight majority (to Catholics this means a permanent sectarian majority) and reject the idea that the minority could have any share "as of right" in the exercise of power. The SDLP want arrangements which will ensure that they have an effective part in the decision-taking process (to the Unionists this is a denial of their rights as the majority). It is on this crucial question of who takes the decisions that the two sides are in complete deadlock; and the deadlock is as complete in relation to decision-taking in local government (if it is substantial powers that are being exercised) as it is in relation to decision-taking in a system of regional or fully devolved government. Although the existing 26 District Councils have only minor powers, the SDLP have been given justifiable cause for concern by the discriminatory action of some Unionist-dominated councils.

4. If we try to override these attitudes by carrying at Westminster legislation for one of our preferred schemes, we would run into a dead-end. The Unionists would use their power to render

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unworkable any system that included special arrangements for participation in decision-taking by the minority - as they did in May 1974. If, to meet the Unionists, the scheme was based on majority rule and did not offer the minority acceptable safeguards to protect them against discrimination, the SDLP would reject it out of hand. They would lose all political credibility if they failed to prevent the return of straight majority rule. A likely minimum consequence would be some form of civil disobedience such as a rent and rates strike. There would also be increased support for extreme Republicanism and a deterioration in the security situation. A scheme of this kind would be vigorously attacked in the Irish Republic and the United States, to the direct benefit of PIRA.

A "progressive" approach

5. We cannot allow these entrenched positions to block all progress. Quite apart from political pressures against it (including international pressures), direct rule has too many disadvantages to make it a viable long-term policy. It deprives local politicians of any responsibility and allows them to blame HMG for every grievance or inadequacy. It encourages extremism. It is harmful to moderate opinion in both communities: the lack of a locally elected body with a responsible role means that there is no incentive for potentially able or moderate politicians to come forward from either side. Its continued existence means that the SDLP can show the minority community nothing for its persistence in a peaceful "constitutional" approach. The longer direct rule continues, the harder it will be to create a political climate in which it can be ended.

6. There is an important security incentive to progress. No feasible political move could come near to satisfying the PIRA; but if we can introduce more local democracy to Northern Ireland in a way which both communities can recognise as fair and just, then we would hope further to erode the tacit support which the PIRA still gets from some parts of the minority community.

7. I have concluded therefore that our immediate objective should be first to offer some responsibility to an elected representative body for Northern Ireland which stops short of such a transfer of powers as would precipitate a boycott; and second - and this is most important - to make it clear that we intend that this new body should be developed to the point at which more substantial executive and/or legislative powers could be transferred under arrangements acceptable to the people of the Province as a whole.

8. What I have in mind is the creation of a new elected province-wide assembly (or regional council). This would fill the existing gap between the 26 District Councils (with very minor powers) and Parliament at Westminster. It would have no executive powers. Executive responsibility for the whole range of "transferred" matters (eg education, transport, health) which are administered by the Northern Ireland Departments would remain with those Departments subject to my direction and control. But the exercise of that responsibility would be open to scrutiny by a representative body in Northern Ireland (rather than, as now, only at Westminster). Such scrutiny would be a prime responsibility of specialist "functional" committees in which the minority parties could have a share of chairmanships. Inter alia they would take evidence from senior Departmental officials and the chairmen of appointed Boards. In this way they would be able to question and to influence important policy decisions. Reports from these committees

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containing recommendations for action could, if accepted after debate in the assembly/council, be submitted as advice to me. General debates in the assembly/council would become the most important channel for the expression of popular opinion in the Province.

9. The assembly/council, although having no legislative powers as such would nevertheless have an important role in the legislative process. So long as Westminster continues to be responsible for all aspects of executive government in Northern Ireland, we must retain ultimate responsibility also for all Northern Ireland legislation. On "transferred" matters, primary legislation for Northern Ireland is enacted at Westminster by Orders in Council. The new body could relieve Westminster of much of this burden by itself considering and reporting on this primary legislation in draft form before Parliament is asked to approve it. It could also be asked to report on Northern Ireland subordinate legislation (which, for the most part, receives no scrutiny at all in an elected body) subject to an override power to be retained by the Westminster Parliament. The assembly/council would, in addition, be free to put forward legislative proposals of its own for consideration by the Secretary of State.

10. The announcement of an intention to establish a new elected representative body would provide a much needed stimulus for constructive and open political debate and negotiation in the Province. We would make clear that the proposed Assembly could exercise more substantial powers from the outset, if agreement could be reached on how these powers could be exercised on an acceptable basis. There would therefore be an incentive for compromise. My colleagues and I would be ready to enter into discussion with the parties for this purpose. I would propose to make public the illustrative "models" of possible forms of government (to which I referred in paragraph 2 above) - as an indication of the potential for development if the will were there. Constructive discussion of this kind could also proceed after the assembly/council was elected. In effect, we would be saying to the people and parties in Northern Ireland (and to international opinion): "we intend to set up an elected assembly/council; from the start it will have a worthwhile role; it will provide an opportunity for the politicians to learn to work together in relatively uncontentious areas; it can have more substantial powers if the people in Northern Ireland can agree together on how they should be exercised."

11. I do not propose that the new assembly/council should, at the outset, be formally given the role of a Constitutional Convention to recommend how executive powers should be exercised. Although Ian Paisley is demanding such a role soon for a new elected Convention, it is one which would confront the parties immediately with the issues most likely to divide them. There should first be a period of time in which the politicians can settle down and work together. The assembly/council will no doubt debate constitutional issues; and it would have a strong incentive to reach agreement on how such debate could be carried to an acceptable conclusion since it would itself be the body from which an executive would be formed. We might provide in the initial legislation that its advice about the way in which executive and/or legislative powers might be exercised could be formally considered by HMG only if it was endorsed by a prescribed majority of its members.

12. This progressive course has obvious risks. The assembly/council could become a focal point for opposition to our policies -

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appealing to its popular "mandate". In practice, we could not control the subject matter of debates and 'security' could become a contentious issue. Even "consultative" debates on Westminster legislation could result in an attempted "veto". But unless we provide some stimulus for political change, there is no prospect that the parties will move from their entrenched positions and we shall be stuck with direct rule.

Presentation and Tactics

13. If colleagues and Cabinet agree with this approach I propose that our first public move should be the publication next month of a White Paper. Inter alia this would:

- a. emphasise our determination to find ways of giving to the people of Northern Ireland the maximum possible control over, and responsibility for, their own affairs and their own future;
- b. analyse the political situation and describe the incompatible nature of the parties' demands (thus explaining why no system of government involving the exercise of substantial powers can be established now);
- c. announce our intention to establish a new elected representative body with the responsibilities I have outlined, while making it clear that we are very ready to see these responsibilities extended (and to play our part in bringing this about) if political leaders are prepared to respond constructively and flexibly;
- d. describe some possible systems of devolved government (see paragraph 2 above), to indicate the potential for development and to demonstrate our own flexible approach;
- e. explain that, after a period of consultation in Northern Ireland and at Westminster, the Government would put its substantive proposals to the Westminster Parliament as early as possible in 1980, so that legislation could be prepared in time for Parliament to have given it at least its Second Reading before the local government elections in Northern Ireland in May 1981.

14. We should need to embark on a determined campaign in the Province:

- a. to make sure that our proposals are properly understood;
- b. to show in particular that an assembly/council with limited responsibilities is only a first step. When Airey Neave first suggested the idea of an advisory forum in 1976 he described it as something which would "do what the Government and we want to do which is to pave the way eventually for devolved government";
- c. to demonstrate that we are committed to carrying our proposals to a successful conclusion, and
- d. to show that if political progress is impeded, it is

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the result of a lack of consensus among the Northern Ireland parties and not of any lack of will on the part of HMG.

I shall need at an early stage to explain my ideas to the Opposition Spokesman in order to maintain the essential bi-partisanship on Northern Ireland policy. And I must also bring Dublin along to ensure that Irish Ministers do not say the wrong things.

Conclusion

15. I now invite my colleagues:

- a. to take note of my analysis of the present political impasse in Northern Ireland;
- b. to agree that we should embark upon a progressive approach to the implementation of our declared policy;
- c. to agree that I should bring forward to the Committee a White Paper proposing the establishment of an elected assembly/council on the lines set out above.

2. A self-activating system

(a) An assembly/council would be elected and would appoint members of an Executive, but the Executive would be in abeyance (with direct rule continuing) unless and until its membership was supported by a weighted majority (see 1(b) above) of assembly/council members. If, at the end of a period of six months, the appointment of an Executive had not been agreed, the assembly/council would be dissolved unless its life was extended by Parliament.

3. A bi-cameral system

(a) An Executive would be formed by the leader of the largest party or group in an elected assembly/council, and the Northern Ireland Departments would operate subject to the control of the Executive members. Specialist functional committees with 50% opposition participation (including share of chairmanships) would scrutinise Northern Ireland Office

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4. Majority rule with safeguards

(a) As 3(a) above. The specialist committees would hold hearings on all primary legislation before 'Second Reading', and would also take the Committee stage.

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POSSIBLE SYSTEMS OF REGIONAL GOVERNMENT FOR NORTHERN IRELAND

1. An executive committee system

(a) Executive Committees (10) would be drawn from the membership of an elected assembly or regional council so as to reflect the composition of the main body and chairmanships would be allocated to parties in proportion to their respective strengths there. The Northern Ireland Departments (Education; Environment; Health etc) would operate subject to the direction and control of the relevant committee chairmen. Committee chairmen would be required to follow general policy guidelines laid down by majority vote in the committees.

(b) The assembly/council could be responsible for all "transferred" matters including legislation - subject to override by Westminster. Legislation would be introduced by committee chairmen but only with the approval of a majority in his committee sufficiently large to ensure that there was some minority support for it. 'Weighted' majorities would also be required in the assembly/council for legislation.

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(b) A Senate or second chamber would be formed with equal representation from Executive and Opposition nominees. A chairman would be nominated by the Secretary of State who would normally not vote. The Senate would be required to approve all legislation. In the event of a tied vote, the legislation would be referred to Westminster.

4. Majority rule with safeguards

(a) As 3(a) above. The specialist committees would hold hearings on all primary legislation before 'Second Reading', and would also take the Committee stage.

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(b) The Secretary of State could require that any Bill should be endorsed by a weighted majority of assembly/council members (see 1(b) above). Specialist committees could report to the Secretary of State (as well as to the assembly/council) on actions of the Executive, as well as on legislative proposals. The Secretary of State would be able to issue directions to the Executive. There could be a Bill of Rights for Northern Ireland, and judicial arrangements for its enforcement.

2. The Ulster Unionist Party (UUP) is the largest party in Northern Ireland. It has received 30% of the total vote in the General Election, 30% of the total vote in the European Election, and 30% of the total vote in the first preference votes. The UUP's public stance is a commitment to democratic devolved government. While believing that local government needs reform, the UUP does not see this as a substitute for devolution. Paisley has stated publicly his opposition to power-sharing - "no Republicans can be in the Government except that the ballot box puts him there". Paisley now sees himself as the undisputed leader of Protestant Ulster, and has no reason to seek to modify his views on majority rule government. He has, however, recognized the need for some "safeguards" - he has been prepared to discuss the concept of appeal to a second chamber or to Westminster. He has confided that he would like to be Prime Minister of Ulster and that ambition may offer us some leverage on him.

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3. The Ulster Unionist Party (UUP) suffered a humiliation in the European elections where their two candidates could jointly only gather 23% of the first preference votes. This compared with their 36.5% of the total vote in the May General Election. The Party is split between the Powellite wing, who seek local government reform as a means of achieving administrative and legislative integration, and the more traditional Unionists who want full devolved government based on straightforward majority rule. Since his recent election as leader, Jim Molyneux, in his public utterances, has appeared to favour a Powellite line - emphasising the need for changes in local government rather than for devolution which remains official party policy. Privately, however, he has made it quite clear to me that he remains a devolutionist and that Enoch Powell, in his espousal of full integration with Great Britain, is almost alone in the Party. He has firmly rejected a participating role for representatives of the minority community in any new governmental arrangements. The UUP is clearly looking over its shoulder at the DUP and is unwilling to show any sign of compromise while Paisley's hardline star is so obviously in the ascendant.

4. The Alliance Party seems to have lost ground recently, its share of the poll declining from 14% in the May 1977 local elections to about 7% at the European election. The Party is moderate, non-sectarian and has consistently supported successive Governments' attempts to establish a form of devolved government in which the people of Northern Ireland can work together. It opposes re-organisation of local government that does not make special arrangements for participation by the minority. Alliance would be prepared to look at schemes for devolution in stages and would clearly support any moves towards a system which would meet with non-sectarian acceptability.

5. The Social Democratic and Labour Party (SDLP) has consistently attracted the bulk of the Catholic vote. Although its share of the vote dipped just below 20% in the General Election, the 23% it

ATTITUDES OF THE MAIN POLITICAL PARTIES

1. Democratic Unionist Party (DUP) After the DUP had won three of the twelve Northern Irish seats at the General Election (though polling only just over 10% of the total vote), Paisley was given a massive personal vote in the European Election, receiving 30% of the first preference votes. The DUP's public stance is a commitment to democratic devolved government. While believing that local government needs reform, the DUP does not see this as a substitute for devolution. Paisley has stated publicly his opposition to power-sharing - "no Republican can be in the Government except that the ballot box puts him there". Paisley now sees himself as the undisputed leader of Protestant Ulster, and has no reason to seek to modify his views on majority rule government. He has, however, recognised the need for some "safeguards" - he has been prepared to discuss the concept of appeal to a second chamber or to Westminster. He has confided that he would like to be Prime Minister of Ulster and that ambition may offer us some leverage on him.
2. The Official Ulster Unionist Party (UUP) suffered a humiliation in the European elections where their two candidates could jointly only gather 22% of the first preference votes. This compared with their 36.6% of the total vote in the May General Election. The Party is split between the Powellite wing, who seek local government reform as a means of achieving administrative and legislative integration, and the more traditional Unionists who want full devolved government based on straightforward majority rule. Since his recent election as leader, Jim Molyneaux, in his public utterances, has appeared to favour a Powellite line - emphasising the need for changes in local government rather than for devolution which remains official party policy. Privately, however, he has made it quite clear to me that he remains a devolutionist and that Enoch Powell, in his espousal of full integration with Great Britain, is almost alone in the Party. He has firmly rejected a participating role for representatives of the minority community in any new governmental arrangements. The UUP is clearly looking over its shoulder at the DUP and is unwilling to show any sign of compromise while Paisley's hardline star is so obviously in the ascendant.
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4. The Social Democratic and Labour Party (SDLP) has consistently attracted the bulk of the Catholic vote. Although its share of the vote dipped just below 20% in the General Election, the 25% it

achieved in the European Election was its best ever electoral performance. For the SDLP Irish unity is the long-term aim. However the party recognises that the first step must be the creation of acceptable political structures within Northern Ireland. It has stated quite clearly that it will not agree to a return to straightforward majority rule. Its aims are partnership and participation in government within Northern Ireland, and an institutionalised Irish (North-South) dimension. It is opposed to any reform of local government which it sees as being integratory or as a "back-door" means of recreating Stormont. While the SDLP is wholly committed to some form of minority participation in any new form of government, it has recently given less prominence to its demand for an Irish dimension. It currently seems to be most concerned to see evidence that direct rule will not slip into integration. The SDLP would probably entertain proposals that did not seem to slam the door finally on their long-term aspirations and that did not create a Stormont-style majority rule system of government.

1. At a meeting with the Taoiseach on 5 September, following the murder of Earl Mountbatten and the tragedy at Warrenpoint on 27 August, the Prime Minister pressed Irish Ministers strongly for practical improvements in cross-border security co-operation. The communique issued after that meeting, after recording agreement that the existing co-operation "must now be substantially improved" went on to say that "a number of suggestions were made by both Governments which will now be actively followed up", and that there would be a meeting at Ministerial level "to review the progress which has been made in the development of these proposals". That meeting will take place on Friday, 5 October, when the Irish Foreign Minister, the Minister for Justice, Mr Collins, will come to London with me. The Chief Constable of the Royal Ulster Constabulary (RUC) and the Garda Commissioner will also be present.

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