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NORTHERN IRELAND: A FRAMEWORK FOR DEVOLUTION

— A RESPONSE FROM THE DEVOLUTION GROUP —

— UNIONIST DEVOLUTION GROUP —

APRIL 1982



## NORTHERN IRELAND: A FRAMEWORK FOR DEVOLUTION

### A RESPONSE FROM THE DEVOLUTION GROUP

All Ulster Unionists who have been striving constructively to seek an end to the undemocratic system of direct rule, the return of meaningful devolved government and some remedy for the terrible economic state of the province are completely in agreement that the package presented in the Secretary of State's White Paper is unacceptable as it stands because it appears to do what too many previous initiatives have done - it would effectively give the S.D.L.P. a veto on the evolution of a devolved administration in Northern Ireland. The whole package is a disappointment to those who thought that James Prior was a politician sufficiently strong willed to overcome the ill-starred advice tendered by the Foreign Office plants in the Northern Ireland Office. Once again the initial promise of a Secretary of State prepared to recognise the realities of Ulster politics has been whittled away and the result is an initiative which may well be still born.

There can be no doubt that Ulster people desire strongly and earnestly the return of powers over their own destiny, powers which citizens of every other part of the Kingdom have, but they do not seek that at any price. Unionists have made it unequivocally clear that they will not share power in government with republicans. Unionists have always been prepared to share power with Catholics - that has never been an obstacle; but they draw the line at republicans in government. If Secretary of State makes executive devolution dependent upon the guarantee to the S.D.L.P. of seats in government his initiative cannot advance.

A balanced reading of the White Paper indicates that this is his intention. If elections to the Assembly are held it will be the responsibility of Unionists to fight those elections and obtain the maximum level of representation possible. Then our representatives should set about re-negotiating the package to make sure that devolution takes place on terms acceptable to the people of Northern Ireland. We should already be sitting down within our party to clarify our ideas on how to turn the Assembly to our advantage.

#### Election of the Assembly

The White Paper indicates that the form of the Assembly will largely follow that of the 1973 Assembly. The N.I. Boundary Commission has done the necessary work to enable the elections for the Assembly to be fought on the boundaries for the 17 new Westminster constituencies.

Unfortunately the Government has now stated that the elections will be fought on the basis of the old 12 constituencies. As Ulster parties and the Ulster people have been in the process of adjusting to the new seats, this is an unnecessary step backwards which will only cause confusion. The 17 constituencies, while not ideal, are a better arrangement and there is no good



reason why elections should not be based on these.

#### Functions of the Assembly

The White Paper indicates that there will be a three-fold function for the Assembly: scrutinising, consultation and deliberation. If an Assembly is to work it is imperative that it will have decisive power from the outset. Otherwise the people of the calibre to provide leadership for Ulster will not show any interest in the Assembly.

No one wants to waste their time and energy in a talking shop which only has the power to criticise or suggest. The White Paper indicates that the Assembly will have the opportunity to discuss proposals for draft orders in Council made under the direct rule provisions. This ought to be strengthened so that the Assembly is empowered to draw up draft orders to be approved by Parliament under the direct rule legislative machinery. And the converse of this ought also to be true: no proposals for draft orders ought to be submitted by the Secretary of State for approval by Parliament until the Assembly itself has approved such legislation. This would, for instance, give the elected representatives of the people of Northern Ireland an opportunity to express their views on the proposal to legalise homosexual acts between consenting male adults. If the Secretary of State is not prepared to trust the Assembly with some legislative power at the outset, what hope is there for the devolution of executive authority?

#### Committees of the Assembly

When the Secretary of State was announcing his proposals he indicated that they would allow for the establishment of powerful Assembly committees along the lines of the Convention Report and similar to congressional committees in the United States.

But in fact what is actually proposed in the White Paper is a mere shadow of the Convention Report. For such committees to operate effectively they must have the power to compel the attendance of ministers and civil servants, and they must have the right of access to departmental papers. This is what was proposed in the Convention Report to give the committees real teeth and real participation to opposition parties in the functions of government. Instead, under Mr. Prior's proposals, the Assembly committees will have no power to summon ministers or officials, and no access to departmental papers as of right. Instead the committees will be subject to the whim of the Northern Ireland Office ministers. While it may be possible to use these committees to embarrass the Northern Ireland Office from time to time, it is a travesty to call this real scrutiny of the executive.

#### Rolling Devolution

As an idea in itself the concept of rolling devolution has a great deal to commend itself, particularly by allowing all sections of the Northern Ireland community to build up mutual confidence. But in the Secretary of State's plan



there are too many constraints upon it to make it acceptable to unionists. For some reason best known to himself the Secretary of State has produced a test for the establishment of an Northern Ireland executive which will be even more difficult than the Northern Ireland Constitution Act 1973. Under that Act enforced power sharing was not a form of words found anywhere on the face of the statute; instead the Secretary of State was directed to establish an executive which would have "widespread support in the community". That formula in itself gave the S.D.L.P. a veto on constitutional development and hence we had enforced power sharing. This time around the Secretary of State is saying we must establish that the system for executive government passes two tests: (1) not less than 70 per cent of the members of the Assembly must approve the arrangement; and

(2) that figure must show the arrangement is "acceptable to both sides of the community in Northern Ireland".

So, even if unionists had Catholics in government from the Alliance and other non republican Parties, and we have always made our willingness to do so very clear, that seems to be inadequate. The terms of the White Paper make it clear that when "both sides of the community" are referred to the Secretary of State means the unionist and republican sections of the community. Any pre-conditions of such a nature would once again give the S.D.L.P. a veto, and unionists know that this veto would only be used in one way. How does the Secretary of State expect to make progress by giving John Humes's S.D.L.P. a veto when that veto has consistently been used to block any progress that does not cater for his united Ireland ambitions. It must surely be folly to give to people who proclaim that Northern Ireland is a failed political entity the means to prevent political advance and so fulfil their own prophecy. It is only when this guarantee to republicans is withdrawn that progress will become possible. For the withdrawal of that guarantee will require them either to enter into real negotiations with others or to withdraw to their mental ghettos. It is only when the political representatives of the nationalist community are required to choose between pursuing their republican aspirations and seeking the good of the people of Northern Ireland that progress will occur. Whatever bill accompanies the White Paper must be amended to ensure that this veto or guarantee is removed.

#### Appointment to the Executive

It is clear from the White Paper that even though the Assembly is supposed to be left with the right to determine how the executive is to be composed, actual appointments to the executive are to be made by the Secretary of State. If this was like the formality of appointments to the Cabinet being by the Queen, no strong objections could be made to it for the Secretary of State would be fulfilling the role of the former Governor of Northern Ireland. But when the White Paper talks about vacancies on the Executive being filled by



the Secretary of State it becomes clear that very real powers are envisaged in this respect for the Secretary of State, and the Chief Executive will have little say in the composition of his own executive. In short, the powers given to the Secretary of State in this respect are those necessary for maintaining a system of enforced power sharing.

It is also clear from the White Paper that the Executive, if formed, would be continually vulnerable, and might be replaced or the Assembly dissolved if there was a drop in support below the level of 70 per cent, the level to be achieved at the outset. No executive could possibly work under a sword of Damocles like that. But more importantly, it gives the S.D.L.P. the power to withdraw from government and bring the whole structure down. In the early 1960's Cyprus was given a constitution which guaranteed positions to the Turkish Cypriots and the Greek Cypriots, and ultimately the Turkish Cypriots exercised their veto and the constitution came tumbling down. Jim Prior has written just such a potentially disaster-ridden scenario into his White Paper.

#### Financial Arrangments

The White Paper makes clear that the powers exercised by the Department of Finance will not be devolved until the devolution process is complete - those powers will not be the subject of any partial devolution. Again this is a substantial mistake, and one which surprises everyone who heard the Northern Ireland Office ministers and officials emphasise the desirability for devolution so that Ulstermen could start to do something about the Northern Ireland economy. Industrial development is the one area where the province's politicians have made common cause to relieve the pressures of unemployment. Yet they will not be able to tackle those problems without power over finance.

#### Security

The Secretary of State must not forget the very real anger of the people of Ulster, expressed in November 1981, with the security policies pursued in the province. It is the fundamental issue on which they want to be able to influence, indeed control, policy. Yet the White Paper manages to contribute some 5 lines on the subject which say absolutely nothing - "suitable arrangements will be made" for consultation. There will be no Assembly committee on the matter as had been proposed at one juncture, and no indication that the Assembly could expect to take over those security powers within a defined short period.

#### The Irish Dimension

It has been made abundantly clear to the Secretary of State at every turn that unionists are not prepared to accept institutionalised Irish dimensions which, since 1920, have been seen as vehicles to Irish reunification. That part of the White Paper devoted to this issue might well have been written by John Hume for it bears all the hall-marks of his language in talking of the two separate identities. While unionists recognise the right of the



nationalist or republican section of the population to seek reunification by peaceful and democratic means, they see no reason at all to facilitate that process, particularly when John Hume claims that Northern Ireland is an artificially created state and consequently denies the right of the majority of the people of Northern Ireland to decide their future within the United Kingdom. John Hume would want any poll on the maintenance of the union to be conducted on an all-Ireland basis, and there is no reason for unionists to aid him in that by the creation of all-Ireland institutions. Cross-border co-operation on the many economic issues which are of common interest to the people of Northern Ireland and the Republic of Ireland can be satisfactorily dealt with between governments without special institutions. And if popularly elected representatives in any of the legislatures in the British Islands want to meet for a chat over a cup of coffee or a beer, they hardly need a "parliamentary tier" to do it. Institutions actually stand in the way of such informal co-operation because such institutions quite naturally create suspicion of the motives of those involved.

#### In Summary

The White Paper has been a complete and total disappointment for it contains very little of promise. That is very sad for Ulster for it is unlikely that there can be another devolution initiative during this present Parliament. To make the present package work there would have to be some fundamental changes made to it. It becomes the responsibility of the Ulster Unionist Party to show the Secretary of State how unacceptable their proposals are and how pointless it would be to proceed on these lines without substantial changes. The Party's Executive has not broken off talks with the Secretary of State; it suspended those talks until the details of the initiative were known. Those details are now clear, and the ball is back in our courts to tell the Secretary of State that there are parts of his package on which we will not compromise in any circumstances. He has made serious <sup>earnest</sup> efforts of judgment in putting together this package. He has discarded the protection of minority rights by weighted majorities on sensitive areas of legislation, or by a bill of rights, in favour of making the executive answerable to a continuous weighted majority for a vote of confidence. No such contrivance has ever been imposed before in any democratic state, and it requires no great foresight to say that it will not work in Northern Ireland. We should try to remove these objectionable features from the White Paper.

#### A Constructive Approach to the Future

The Unionist Devolution Group remains hopeful that devolution can be obtained, but we cannot avoid saying that the details of the White Paper are a



disappointment. We believe that the government proposals can only be successful if our constructive criticisms are acted upon.

When the elections are held, probably this autumn, we will do all we can to achieve the maximum Official Unionist representation. It is important that the world should see that the Ulster electorate is still firmly committed to devolution within the union. The mere existence of an Assembly does not oblige us to follow slavishly the path mapped out by the Secretary of State. Instead we can use it as a platform for putting over the unionist point of view. Further we can make the Assembly more than just a talking shop, we can use it as a means of laying before the Westminster Parliament our proposals for the government of Ulster: proposals which are reasonable, fair and would be for the benefit of the people of Northern Ireland. We consider that unionists should actively seek the support of other parties for our proposals and we should do our utmost to see that Prior's assembly is reformed and remodelled into the really democratic institution we want.

We have never thought that the government would ever hand us what we want on a plate, but what it must do is to give us a fair opportunity to show that what we want is the best arrangement for all.

Proper devolution is worth working for and we should take advantage of any opportunity that may be offered to translate our aims into reality. The task now before us is to seek the necessary changes to the government's ~~said~~ proposals and then to press on to the implementation of real devolution.