

TEXT FOR PRINTER

THE FUTURE DEVELOPMENT OF
THE PARLIAMENT AND GOVERNMENT OF
NORTHERN IRELAND

A CONSULTATIVE DOCUMENT

PRODUCTION

1. It is now half a century since the legislature and executive created by the Government of Ireland Act 1920 came into being. In that time many institutions in Northern Ireland have developed. New Departments of the executive Government have been created. The system of elections to the Northern Ireland House of Commons, originally based on a form of proportional representation, has been changed to the simple majority vote. Nevertheless, in their broad outline, the arrangements for the conduct of parliamentary government in Northern Ireland remain fundamentally what they were fifty years ago.
2. In their essence, these arrangements represented the establishment in Northern Ireland, a part of the United Kingdom, of the well-tried parliamentary and other institutions (including Cabinet Government) which had evolved over centuries of experience in Great Britain.
3. Although there are aspects of the system which could, if desired, be altered by action within the competence of the Northern Ireland Parliament, any major revision would be a matter for legislation by the Westminster Parliament. Nevertheless it would, in the view of the Government of Northern Ireland, be of real benefit for those who have direct experience of the system to participate at this time in a critical review, so that any changes which seem likely to be of benefit to the community as a whole may be recommended to Her Majesty's Government in the United Kingdom.
4. The principal factors pointing to the need for such a review are the following:
 - (i) The major re-organisation of local services which is already in hand will transfer responsibility for many vitally important matters from local government bodies to Ministers responsible to the Stormont Parliament. The Macrory Report pointed out that so radical a transfer could not be carried out without profound implications for the future operation of the central Government and Parliament in Northern Ireland.
 - (ii) Without entering in any way into the underlying reasons for such a development, it is a fact that Northern Ireland has not, in the course of fifty years, been able to develop that high degree of stability and general acceptance which characterises the British democratic system.
 - (iii) The Government has already acted in many areas of government and administration to create, if possible, the conditions for a more united and harmonious society in Northern Ireland. If realistic and acceptable revisions of the arrangements for central Government and Parliament can also contribute to this desirable, indeed essential, end, they should be conscientiously sought by all those interests who wish to contribute to a sound and stable society.

The key words here are "realistic and acceptable". In the Debate on the Address on 22 June 1971 the Prime Minister, in the context of proposing a new system of Functional Committees, used these words:-

"The object would be to give Parliament a genuine opportunity to contribute to the making of policy at the formative stage. Certain types of policy decision would still have to be taken or announced without prior discussion or consultation but wherever possible the Government would seek the course of indicating the broad lines of its thinking in a Consultative Document, and thus allow Parliament and the general public to take part in informed debate before reaching any firm final decision."

Persuaded, as it is, of the merit of proceeding on this basis of consultation, the Government is all the more convinced of the need for it when what is at issue is the working of Parliament itself and those democratic institutions based upon it. The present Consultative Document is, therefore, issued as an assistance to constructive and well-informed debate.

FUNCTIONAL COMMITTEES OF PARLIAMENT

6. In this field, the Government has made firm proposals in the Prime Minister's statement of 22 June 1971. If they commend themselves to Parliament it would be the intention to implement them with the minimum of delay. The scheme would have the following main features:-

- (i) The establishment of three new Functional Committees of the House of Commons, covering respectively Social Services, Environmental Services and Industrial Services.
- (ii) The functions of these Committees to be
 - a. consideration of major proposals of policy;
 - b. review of the performance of executive functions by the Government and its agencies; and
 - c. where the House deems it appropriate, consideration of certain legislation at the Committee stage.
- (iii) Committees to have not more than nine members each, broadly representative of Party strength.
- (iv) Of the four major Committees (new Functional Committees and existing Public Accounts Committee) Opposition Members to chair at least two.

- (v) Chairmen of Committees to receive a salary and members a fee.

In the event of an extension of the present membership of the House of Commons, the Government would by no means rule out a further development of this system.

METHOD OF ELECTION TO THE HOUSE OF COMMONS

7. As already mentioned, the initial system for the election of Members to the Northern Ireland Parliament was a system of proportional representation, and it was on this basis that the General Elections of 1921 and 1925 were held. In 1929, however, legislation was introduced to change to the system of simple majority voting which has prevailed ever since, and is indeed the basis for election to the Westminster Parliament.

8. The existing system has substantial advantages. These include its extreme simplicity (so that virtually all the voters understand the system); the direct relationship which it facilitates, in reasonably small single-Member seats, between a Member and his constituents; and its conformity to general British practice.

9. On the other hand, it is a system which makes inevitable some degree of distortion of the wishes of the electorate. In any individual constituency where there are more than two candidates, the single Member may be returned on a minority of the votes cast. The danger of distortion arising from "split votes" tends to reduce the number of candidates, often to no more than two, and this in itself may have encouraged political polarisation on the issues which divide the community, to the exclusion of other issues on which there might be a measure of agreement. Moreover, there can be large "wasted" majorities, that is, in a constituency where an overwhelming number of votes is cast for one candidate. Even with more constituencies, and no matter how carefully the boundaries are drawn, distortion cannot be eliminated.

10. The list of theoretically possible alternatives to the present voting system is a very large one, but in practice the main alternatives are the following:-

- (i) The Single Transferable Vote with multi-member constituencies. This is the system used in Northern Ireland up to 1929, and currently in use in the Irish Republic, Malta and Tasmania and for the Australian Senate. Under it, the elector numbers, in order of preference, as many of the candidates as he wishes. A "quota" is then worked out, which represents the number of votes a candidate must have in order to secure election (this would be one more than one-sixth of the votes in a 5-member constituency). All candidates with a "quota" of first preference votes are declared elected. Of those who do not obtain a quota on the first count, the choice of successful candidates is determined by the allocation of firstly second preferences of "surplus" votes given to successful candidates, and secondly the

second preferences of those whose first choice received the smallest number of votes. (Eventually a candidate may be elected without reaching the quota.) The net effect is to ensure that the candidates who are finally elected represent accurately the preferences of the whole electorate and in the proportion in which those preferences are held.

- (ii) The Party List system, under which parties contest multi-member seats with groups of candidates. The electors vote for parties rather than individuals, and seats are distributed amongst the parties in proportion to the number of votes each party receives. In its pure form this allows the elector no personal choice amongst candidates: he votes in effect only for a party, and the party decides the order in which its candidates are selected. Most list systems are modified in order to allow electors to express individual preferences amongst each party's candidates, or even, in a few cases, amongst candidates of more than one party, but it is normally the case that the elector's preference is given to a particular party alone: he has no alternative choice. Representation in Parliament, therefore, depends more on the constituency parties than on the wishes of the electors or the merits of individual candidates, but this system can operate effectively where there is an existing and settled structure of parties at national level.
- (iii) Other possible systems - the second ballot, the alternative vote, the exhaustive vote, the limited vote - are not, properly speaking, systems of proportional representation, but rather methods of modifying the worst defects of the simple majority system. The practical effect of these modifications is often to encourage electoral pacts or bargains amongst groups of parties.
- (iv) For the sake of completion, mention should also be made of systems of primary elections, in which voters have a say as to who will be candidates. As operated in, for instance, the United States, these can either be open primaries open to all eligible voters, or closed primaries, open only to registered members of a particular political party.

11. The Government would not advise Parliament or the country to give serious consideration to systems of primary election, which are wholly alien to the British political tradition, the Party List system which unduly inhibits the elector's freedom of choice, or to systems such as alternative voting which would disrupt a well-tried and well-understood method for comparatively little purpose.

12. The Single Transferable Vote (STV) in multi-member constituencies merits more serious consideration. Its adoption could encourage the development of "multi-issue"

rather than "single issue" politics. To the extent that candidates in areas of mixed opinion would need to seek the support of the second or subsequent choices of electors, they would have to have regard to the opinions of the more moderate of their political opponents. Whether this would result in undesirable compromises or desirable moderation would be a matter for the candidates and the electors to decide. A constituency party with genuine differences of emphasis within its own ranks would not find it necessary, as at present, to "plump" for a single candidate who was not wholly acceptable even to local party supporters.

13. On the other hand STV would mean the creation of larger multi-member constituencies with a less direct relationship between Members and constituents, the adoption of a system more complex for both voters and electoral staffs, and a departure from parity with Great Britain in an important aspect of citizens' rights. There would be different systems of election for the return of Northern Ireland Members to Stormont and Westminster.

14. If STV were to be adopted, the designation of new multi-member constituencies would be required, unless, as an interim measure, seats were to be allocated to existing units of population such as the 12 Westminster constituencies or other established administrative entities. The question is also closely linked with a possible increase in the size of the House of Commons. It would, if desired, be possible to legislate in the Northern Ireland Parliament for adoption of a system of STV to come into effect at any General Election after the enactment of Westminster legislation increasing the size of the Northern Ireland House of Commons. It is an incidental advantage of STV, as of other systems of PR, that the way in which constituency boundaries are drawn is unlikely significantly to effect the results of elections.

THE SIZE OF THE HOUSE OF COMMONS

15. With the increasing work-load and the changes in nature of work arising from the assimilation of what are now local government functions, and with a recognition (already acknowledged in the Functional Committee proposals) of the importance of responsible participation in the work of Parliament by all parties, the Government invites consideration of the need for Parliament to adapt itself, so as to play its part fully in the future development of Northern Ireland.

16. From 1973 onwards, there will be centralisation at Stormont of much business which would previously have fallen to the local authorities for consideration and determination. As a consequence, the role of the Member of Parliament must assume greater importance. Overall, the reduction in the number of local authorities will substantially reduce the number of elected representatives throughout the country to whom the public can turn

ith individual problems. While coping with the burden which the additional business coming before Parliament will place upon him, a Member will, at the same time, have a wider responsibility towards his constituents in that he will be the only direct link between them and authority in many important fields (save insofar as a Senator, who is not at present returned to represent any specific constituency, can fulfil this need).

17. Moreover, the growing volume of business being handled centrally has already brought an increase in the number of Government office-holders, and any further increase in this direction would only aggravate an imbalance between Front and Back-Benches which is not beneficial to Parliament as a whole.

18. On these grounds, the Government suggests to Parliament and the public that there are strong arguments for recommending an increase in the membership of the House of Commons. The size of this would have to be a matter of judgment. It should be large enough to give the public access to a reasonable range of representatives in the light of the new centralisation, but not so large as in any way to demean or devalue the status of Member of Parliament. An increase of the order of 20-30 additional Members would, in the Government's view, meet these criteria, and in addition facilitate substantially the operation of the new Committee system.

19. To increase the size of the Commons without changing the voting system would, of course, inevitably involve quite a lengthy process of drawing new constituency boundaries.

THE SIZE, COMPOSITION AND ROLE OF THE SENATE

20. It would in theory be possible to move to a unicameral legislature, as has already occurred in New Zealand. The Government believe, however, that the Northern Ireland Senate performs a useful role and one, moreover, which could be improved by a measure of review and reform.

21. The Senate has been an additional platform for the airing of minority views. It can also be a forum for less politically-involved debate upon a wide range of subjects. Senators, because they do not represent constituencies in the way Members of the House of Commons do, are not involved to a great extent with constituency business or the individual problems and requests of constituents. They can therefore devote greater attention to such general matters as law reform. The Chamber also has an important function in the revision of legislation.

The passage of Bills through the Senate is a necessary part of the legislative process, and a potentially important phase opening the content of the Bill

to appraisal by legislators who are free from the extremes of constituency pressure. It is at this stage in the evolution of a Bill that detailed scrutiny is possible and amendments of substance as well as purely technical improvements can be made. Moreover, while fewer Questions are asked in the Senate, the matters raised are more deeply, and often more objectively, probed in that House.

23. Generally speaking, however, the volume of non-legislative work undertaken by the Senate is wholly disproportionate to the much greater work-load of the House of Commons, and the Government would wish to find means for making greater use of the Second Chamber while preserving the democratic primacy of the Commons as the directly-elected Chamber. (While there is everything to be said for giving the Senate an enhanced role, there can be no question of allowing a non-elected Chamber to negative or frustrate the results of the electoral process.) In particular, it will seek from Departments a proper anticipation of their legislative requirements, so as to allow as much time as possible for considered amendments in the Senate. There are aspects of the work of Parliament (eg supervision of subordinate legislation, Law Reform, Local Bill, Statute Law Revision, Consolidation) for which the Senate might assume a particular responsibility, through special Committees or otherwise. Other means should be sought to enhance the Senate's role as a forum for debate.

24. It is, however, as a base for the expression of minority views, the representation of interests not adequately represented through election to the House of Commons and in the objective discussion of matters not normally the subject of acute political controversy, that the Senate has a special potential importance. In such contexts there are strong arguments not only for increasing the size of the Senate but also for modifying its composition to an appropriate extent.

25. In no jurisdiction has it proved easy to devise wholly satisfactory arrangements for a Second Chamber not directly elected by the people. The Government considers that the present elected element of the Senate (ie elected by the Members of the House of Commons) is an important link with the popular will and should be maintained.

26. At present there is provision for two ex-officio Senators, the Lord Mayor of Belfast and the Mayor of Londonderry (for whose seat there is a vacancy while the local government of Londonderry is in Commission). After re-organisation of local government the Belfast and Londonderry areas will have local government authorities of the same status as other of the new District Councils. There could be considerable advantages in providing for representation of this new structure of local government in the Senate, as, for example, by allowing one Senator to be nominated by Belfast and one each by the groups of local authorities ultimately designated as Areas for the purposes of the new Area Boards, or by providing that (say) five Senators would be elected by members of District Councils on a basis of proportional representation.

27. Because of the provisions in Section 17 of the Government of Ireland Act 1920 (which have never yet been invoked) for a joint sitting of the Members of the two Houses in the event of an ultimate legislative disagreement between those Houses, there are strong arguments for maintaining the present ratio of membership, whereby the Senate has half as many Members as the House of Commons. If the Commons were to be extended to about 80 Members, this would mean a Senate of about 40. Allowing for some extension in the representation of local government interests, the balance could then be made up in one of three ways:- either by increasing the number of members to be elected by the Commons, or by introducing some further new element of membership or by a combination of both methods. One way in which the addition of a new element might be achieved would be to provide that a limited number should be nominated by the Governor in accordance with the usual constitutional practice. They would have to be representative of the weight of different interests in the community, and could be the means for introducing into Parliament useful Senators, especially those with wide experience outside the directly political sphere, whose knowledge and professional expertise could be an asset to Parliament as a whole. It would, of course, be important to ensure that any nominating power was not used to frustrate the results of the democratic process; but there would be some analogy with the power of a British Prime Minister to make recommendations for the award of Life Peerages.

THE EXECUTIVE GOVERNMENT

28. Under British constitutional practice (which is reflected in Northern Ireland) the supreme organ of the country's executive Government is a Cabinet, whose members stand together under the principle of collective responsibility and are in all normal circumstances based entirely, or almost entirely, upon that Party which has a majority in the House of Commons.

29. Two qualifications to this general statement must be made. In times of grave national emergency (such as a state of war, or a period of serious economic crisis) it has been possible to form and to keep together coalitions, based on more than one Party, and agreed on a national programme overriding ordinary political differences.

30. Secondly, a British Prime Minister has the option, which has from time to time been exercised, of bringing into his Cabinet an eminent figure who has not hitherto been engaged in active politics. Such a person can then be found a seat in the legislature through the Prime Minister's privilege of recommending to the Monarch the bestowal of a Peerage, carrying with it a seat in the House of Lords.

31. In Northern Ireland, on the other hand, there has at all times been a single-party as distinct from coalition Government, with the minor exception of the inclusion in the Cabinet on two occasions of Ministers who were not members of the majority Party. As for appointment from outside the field of current

parliamentarians, this is possible under the Government of Ireland Act (which is based on the accepted principle of the constitutional responsibility of Ministers to Parliament) only for a limited period of six months, a device which has been used only on a single occasion.

32. Government in Northern Ireland for fifty years has been one-party as well as single-party - that is to say that the same party has throughout provided a parliamentary majority and an executive based on that majority. While comparatively rare, such long periods of power for a particular party are by no means unique in the democratic world. One need look no further afield than the Irish Republic where, with the exception of two limited periods of inter-party government (1948-51 and 1954-57) Fianna Fail has been in office without interruption since 1932. Moreover it must be constantly borne in mind that this situation has arisen in Northern Ireland because the voters at successive free and fair elections have returned to power a party pledge as its fundamental principle to maintain the constitutional link between Northern Ireland and Great Britain. Thus the continuity in office has simply reflected the consistent democratic will of the people.

33. It may be argued by some that a permanent majority/minority situation creates problems for the smooth operation of the democratic process. In many ways the British democratic system, with its virtual assurance that those who control the executive will also control the legislature, represents a much greater concentration of power than (say) the American system, based as it is on a deliberate diffusion and separation of powers. Between General Elections the power of a British Government is, in some respects, as absolute as democratic power can be, but this exercise of power is accepted by a parliamentary minority who know that sooner or later their turn to exercise it will come. Where that expectation does not exist, there is clearly a risk of disenchantment with the democratic, parliamentary processes.

34. Because of this, it has been argued in some quarters that means must be found to give "the minority" in Northern Ireland a share in the effective exercise of power. The Government believes that this important issue should be openly and dispassionately considered by Parliament and public.

35. A Cabinet does not merely have to be formed; it has to be able to endure, to work collectively, to have credibility with Parliament and the public. In discussing this matter therefore it must be constantly borne in mind that what is at issue is the supreme decision-taking authority of the country and not just a paper formula for resolving a constitutional difficulty. Even within the

ordinary limits of single-party government, the obligations of collective responsibility impose on Cabinet members a considerable exercise of responsibility and restraint. There are, in practice, inevitably differences of emphasis and opinion on specific issues, but the Cabinet continues to operate collectively because its members are committed to its overall philosophy, programme and approach. This has also been true of such coalition governments as have operated in Great Britain. The common approach to an overwhelming national emergency has transcended ordinary party differences and enabled all the members to accept the principle of collective responsibility. That fundamental principle of Cabinet Government must in the view of the Government remain sacrosanct.

36. It is against this background that proposals for broadening the basis of the Northern Ireland Government must be measured. Recognising as they do the grave nature of the crisis currently facing the country the members of the present Government would be more than ready to discuss with others in an open-minded way any of the secondary issues which are the substance of day-by-day politics. On three points, however, they are unable to admit of any compromise whatever. These are:-

- (a) the maintenance of Northern Ireland as an integral part of the United Kingdom in accordance with the statutory guarantee of the Ireland Act, 1949;
- (b) the preservation in Northern Ireland of the processes of democratic Government as represented by a democratically-elected Parliament with an executive responsible to it; and
- (c) absolutely firm and unequivocal resistance to all and any organisations seeking to advance political or constitutional causes in Northern Ireland by violence or coercion.

37. It is clear that no person who would not also accept these overriding principles could join with Ministers of the present Government in the exercise of collective responsibility nor could any "broadly-based administration" so constituted survive for long the inevitable and intolerable strains upon it.

38. For this reason, the Government believes that suggestions for a form of "PR Government" where the parties in Parliament would be represented in the executive in proportion to their strength, are fundamentally unrealistic. It holds that any such formula would simply not be workable in Northern Ireland conditions given the deep divisions of opinion which exist on quite fundamental issues.

39. If institutional changes of this kind are to be ruled out, it remains the position that it is at any time a matter for a Prime Minister to decide who shall serve in his Administration, keeping always in mind the necessity for Parliament to sustain in office the Government as a whole. He may, if he thinks it advisable in the public interest, broaden the basis of Government by inviting persons outside his own Party or even (subject at present to a six months' time limit) outside Parliament to serve in his Cabinet. As a general principle, it would be very desirable to promote a situation in which members of both religious communities who accept unreservedly the principles set out in paragraph 36 above could take a part in the executive government of the country. In the long term the only truly democratic way to achieve this would be through the development of political parties in Northern Ireland firmly based in both communities but it must be recognised that this cannot be created artificially or come about overnight.

A WAY FORWARD

40. It is in fields such as these that progress towards real and effective participation in government and administration can be made. But before the Government can make decisions on participation, there must be participation in decisions. There could be little hope of revised structures working, if responsible parties are not willing even to use existing structures to discuss such revision. The Government is at the table for discussion; it now places on that table these positive ideas, suggestions and views, which it invites others to criticise if they wish, improve if they can, but above all to discuss. At the end of the day the only workable answers to Northern Ireland's current problems will be answers broadly acceptable to the widest range of Northern Ireland people, and to that extent involving compromise and mutual give-and-take. Abstention is not a policy; it is merely putting off the day when those Northern Ireland people who are determined to live together in peace will sit down to see what progress they can make towards a new and more acceptable basis of affairs.

41. If, on the basis of these or other ideas, a blue-print for action can be drawn, that action can begin to be taken. As long as terrorism continues, changes in political structures may seem to many to be irrelevant as it is only when the destroyers have been squeezed out by united public pressure that the work of building - politically, socially, economically - can really hope to succeed. But the Government believes that a new start must now be made, and in this Consultative Document makes a constructive contribution. What the Government seeks, and what the community so badly needs, is a basis for stability. It is not a simple task; but it will never be accomplished at all unless a start is made.