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*all Martin Power Dr
all Whyte - to CIA
on District Council file
2/5/89*

*Law
30/4*

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FROM: R B SPENCE
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DATE: 25 APRIL 1989

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Sir Kenneth Bloomfield	B
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Mr Wood	B
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② Mr Wilson 27/4
③ Miss Owens
25.4.89*

POLITICAL DEVELOPMENT GROUP

I attach, for discussion at the meeting on 2 May at 10.00 am via the video-conferencing link, a paper on local government issues.

RBS

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CENTRAL SECRETARIAT
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POLITICAL DEVELOPMENT GROUP : SOME LOCAL GOVERNMENT ISSUES

Introduction

1. At the last PDG meeting I was invited to produce for the meeting on 2 May a paper which would provide the agenda for discussion on a number of local government issues. The range of issues which could be discussed is quite wide and, although I have tried to touch on most of them, I suggest that PDG concentrate on how we ensure greater fairness in Council nominations to public bodies (paras 15 to 24) and on the long-term future of local government (paras 25-37).

Short-term Issues

2. This section deals with issues which will arise over the next few months.

(a) Run-up to May Elections

3. Ministers and Departments should be sensitive to the impact which decisions or announcements on Government business might have on the forthcoming local government elections. Given the opportunity, all the parties will seek to profit at the Government's expense. Moreover the Government should not be seen to be favouring one party (and indirectly

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encouraging votes for it) at the expense of another. Not only would this be unconstitutional but it could be counter-productive if the perceived victim should turn it to party advantage.

4. The timing and content of Ministerial announcements will, therefore, have to be examined with care. The delay in completing the review of the Anglo-Irish Agreement removes one major issue which could have been exploited during the election campaign.
5. Sinn Fein will probably seek to maximise the advantages of the removal of the media ban during the election campaign. However, DUP's policy of refusing to take part in radio or tv election programmes with Sinn Fein may restrict their access to the media.

(b) Forecasting the outcome

6. Although over 1000 candidates will contest the 566 seats, there is evidence that all the parties experienced difficulties in persuading people to stand for election, particularly in those areas where parties are weakest - eg SDLP in West Belfast, UUP in Omagh, DUP in Lisburn and Alliance everywhere. Unionists faced special problems in Craigavon following the disqualification of members. In

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regard to the SDLP it comes as no surprise that the Party is not well organised nor in many instances has it put in the hard constituency work needed to build a solid following. However this is not true in the areas dominated by the three MPs. Despite the decisions of Messrs Mallon and McGrady not to stand for re-election the SDLP still expect to do well in Down, Newry and Mourne, and Armagh District Council areas.

7. It is felt that overall the Sinn Fein vote will not weaken; the challenge from Republican Sinn Fein will not materialise since RSF candidates declined to sign the declaration of non-violence. Sinn Fein may lose some ground in Fermanagh whilst gaining in Belfast. If Sinn Fein hold on to their present representation in Belfast, this could be considered by them to be a good result and would be at the expense of the SDLP - once again a reflection of the SDLP's poor organisation and lack of constituency work in West Belfast. In terms of control of Councils, Limavady could pass out of unionist control.
8. How the electorate will react to door-step canvassing will be particularly interesting. The Westminster election resulted in many unionist candidates learning of the electorate's distaste for their tactics in opposing the Agreement. The pattern of transfers could again be

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interesting, showing the amount of mutual support between voters for unionist candidates and between SDLP and Sinn Fein.

(c) Continuation of Unionist protest action

9. It is not clear whether, after the elections, there will be any relaxation in unionist protest action against the Anglo-Irish Agreement. If there is not a relaxation, problems could arise where unionist-controlled councils decline to nominate members to public bodies or nominate councillors who will boycott proceedings.
10. To date, the business of public bodies has not been seriously disrupted by boycott. However, Ministers could come under renewed pressure to fill places left vacant by unionists.

(d) Sinn Fein

11. The unionist stance on the presence of Sinn Fein members on councils will continue to be a major factor after the elections. Sinn Fein members' signing of the declaration will make no immediate difference. There could be attempts to provoke action under the new legislation - "take me to court, if you dare" - with Sinn Fein exploiting to the maximum the court proceedings and any resulting by-election.

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12. Ministers could come under heavy pressure to change their position on refusing to meet council deputations which included Sinn Fein members who had signed the declaration.

(e) Consultation Paper

13. The responses to the proposals have, in the main, been predictable. Unionists have opposed them as a further attack on the powers of elected representatives. The SDLP and Alliance have welcomed the proposals on the conduct of council business designed to curb abuses. All parties oppose the introduction of competition in the provision of council services and the proposals for the administration of the environmental health and building control services. A late submission from Mr Kevin McNamara, in making predictable comments about the specific proposals, criticises the Government for failing to address the underlying issue of the purpose and role of local authorities in Northern Ireland (copy attached as Annex I).
14. There is, nevertheless, an expectation that Government will proceed broadly along the lines of the consultation paper. DOE are currently taking stock; they envisage a rethink on the proposals for environmental health and building control; final decisions are scheduled for the autumn. In reaching

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these decisions it will be necessary to consider how far the changes - particularly in relation to the conduct of business - would help to stabilise local government and to improve the political process at local level.

(f) Public Bodies

15. The Review of the Anglo-Irish Agreement will acknowledge the importance of public bodies being "so constituted as to enjoy the widest possible respect and acceptance throughout the community" and express the Government readiness "to consider what means may be available to remedy imbalances arising from the use by others of their existing nominating powers without due regard to fairness or balance".

16. The right of district councils to representation on a number of public bodies is an important part of the 1973 reorganisation of local government. There are 15 pieces of legislation involving 23 different public bodies; in addition, the Arts Council - which is a limited company - contains one member nominated to represent district councils. The significant bodies include the Area Health and Personal Social Services Board whose 121 members include 35 councillors and the Education and Library Boards whose 172 members include 69 councillors. Annex II summarises the legislation.

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17. Under the existing arrangements, many unionist-controlled councils do not give other parties a reasonable share of places on council committees. Belfast is usually quoted as the most notorious case, for example, it has filled its 14 places on the Belfast Education and Library Board with unionists; 12 of whom are currently boycotting the Board. Another important example is the Northern Ireland Housing Council - composed of the mayor/chairman of each council - which has consistently appointed unionists to fill its 3 places on the Board of the Housing Executive.
18. Turning to Council Committees, 4 of the 26 Councils do not operate a committee system; 15 do operate arrangements which permit equitable party representation on committees; 7 Councils, including Belfast, do not. The delegation by some Councils of wide-ranging powers to committees dominated by unionists is a source of considerable grievance to nationalists and others.
19. One approach to this problem would be to legislate to require proportionality - ie the allocation of places in proportion to each party's numbers on a council - in appointments to council committees or where a council appointed more than one member to a public body. This

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would, however, guarantee Sinn Fein places on a number of public bodies, sometimes at the expense of the SDLP. (Table I shows what might happen if proportionality had been applied to the composition of the present Education and Library Boards). Such an outcome would enrage unionists and is hardly likely to comfort the SDLP.

20. Another approach would be to remove altogether the power of councils to nominate members to a number of public bodies. The NHS Review has resulted in proposals to remove local government members from Health Boards; to date the response in NI has been muted. It is worth debating further whether District Councils should have the right, for example, to nominate 8 members to the Fire Authority, 6 to the Ulster Museum and 6 to the Ulster Folk and Transport Museum. However, the elimination of council representation on public bodies would undermine a central part of the Macrory reorganisation.

21. A further approach would be to modify the present legislation to enable Ministers to select the district councillors who are appointed to public bodies. Ministers would have to be given complete freedom to select and not be constrained by selecting from persons nominated by councils, since unionist-controlled councils might continue to

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nominate only unionists. One device would be to provide for the Minister to make his selection "after consultation with the district council". This approach would undoubtedly provoke an outcry from unionists about reducing local democratic choice. But the SDLP and Alliance might be content and it is not impossible that unionists would be prepared to work new arrangements along these lines. A sweetener might be considered by actually increasing the number of district councillors on one or two bodies, for example, the Housing Council could be given 4 or 5 places, instead of 3, on the Housing Executive if the Minister was able to select those to be appointed.

22. A complicating factor is the legislation which requires appointments to be made "by the Association of Local Authorities for Northern Ireland (ALANI), or after consultation with ALANI, or by "such organisation as appears substantially to represent district councils". ALANI has always been run by unionists and does not even enjoy the support of all unionist councils; at present only 15 of the 26 councils are members. Thus, this aspect of the existing legislation also needs to be reviewed.

23. This analysis suggests, therefore, the need for legislation to modify the arrangements whereby district councillors are

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appointed to public bodies. A lot more thought must, however, be given to framing new arrangements and any legislation will be controversial and take time. Further thought also has to be given to whether proportionality should be introduced in appointments to council committees.

24. In the meantime, Ministers will want to consider whether to say anything in May to the newly elected district councillors about sharing responsibilities more equitably. A Ministerial exhortation is unlikely to produce a positive response and this is an argument for saying nothing. However, the commitment in the Review communique cannot be ignored and this suggests that Ministers must give a lead in some form.

Longer-term issues

25. This section discusses the longer-term future of local government.
26. It can be argued that there are fundamental weaknesses in the present local government system which will have to be addressed at some stage. The Macrory reorganisation removed the regional services and the most politically sensitive services from direct local government control, but the democratic regional tier of the Macrory structure has not

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been created. At district council level, it is difficult to be optimistic about the future; the quality of members and of senior officers continues to decline; the disruption of business arising from the presence of Sinn Fein and the protest against the Anglo-Irish Agreement is likely to continue after the May elections.

27. The Macrory reorganisation envisaged Councils having 3 main roles:-

27.1 executive - but their role is in practice very modest, there are now few capital schemes; Government is pressing Councils to test whether their maintenance work could be handled more efficiently in the private sector; only a few Councils have grasped the chance to evolve a local economic development role;

harder
Councils.

27.2 consultative - few Councils take this seriously, partly as a result of the unionist boycott action; for example, Belfast City Council makes no input to the Making Belfast Work process; it is for debate whether this consultative role could be given more substance by Ministers;

27.3 representational - but unionists are boycotting

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several public bodies; Government is going to remove councillors from Health Boards; there is pressure to remove or modify Councils' powers to nominate.

28. In terms of public esteem, councillors and Councils could be said to have sunk to a very low point. Few people outside the political scene take their proceedings seriously. The local government system can not be regarded as a successful bottom tier of a democratic system of government, providing a first step in the political ladder. (Of the present 16 NI MPs, 7 were district councillors). Increasingly, the role of councillors is being overtaken or by-passed by local community groups, enterprise agencies etc run by people who in the past might have run for election as councillors.
29. The absence of an elected regional body, the arrival of Sinn Fein councillors and unionist reaction to the Anglo-Irish Agreement has resulted in the district council chamber becoming much more political where local issues often have to take a poor second place to argument, demonstration and posturing over matters where Councils have no direct responsibility.
30. There is not much evidence of constructive thought and debate within the main political parties about the long-term

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future of local government. Within the unionist camp, there is at times some support for extra powers for the existing district councils, but not for councils controlled by nationalists (or in some cases, by the DUP); there is, particularly amongst integrationists, sympathy for the concept of a single regional local authority. When talking about extra powers for local government, unionists are not seriously seeking the return of major functions - like housing, roads or water; they would contemplate council responsibility for development control and seek a majority of councillors on some regional and area bodies. Within the UUP there tends to be a difference of view based on an east/west split with those in the west reluctant to see increased powers for Councils because of the nationalist-controlled Councils in that part of NI. The SDLP is not seeking additional powers for councils, though a few members in nationalist-controlled councils have some interest in this prospect.

31. The options for local government reform can be divided into two - modest changes in the present district council system or radical reforms. The modest changes could involve a few extra responsibilities - like development control and community relations - and a reduction in the number of councils. The latter might consist of a small number of

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amalgamations of the smaller councils to bring the total closer to 20; such a reduction might bring some minor gains in efficiency, but it could prove very contentious and would only be achievable by agreement where the political balances were not disturbed by the changes. Another modest change might be the creation of a new body, representing all constitutional parties in local government, which would facilitate contact and improve professionalism. Tinkering in these ways with the existing district council tier will not, however, overcome the more fundamental weaknesses in local government.

32. Radical reform could take a variety of forms - ranging from the creation of a small number of authorities handling area and local services and some of the present regional services to a single multi-purpose council in charge of the regional services. However, any consideration of this sort of approach runs straight into Government's continuing commitment to devolution. Launching into radical local government reform seems only feasible after Government concludes that devolution is not attainable in the foreseeable future. Moreover, the costs, disruption and likely loss of efficiency and effectiveness which will follow from a radical reorganisation are only justified if

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they would be significant political gains in terms of creating a more stable and acceptable system.

33. There is also the argument that a form of "rolling devolution" could be contemplated. For example, Government could provide for the election of a single authority to administer all or some of the regional services as a stepping stone to full devolution. There would be difficulties in determining which services would be handled in this way and in breaking up the policy and executive roles of existing bodies. But a more fundamental objection is that a regional administrative body would only work if the main political parties agreed on how to share the administrative responsibility. It could be argued that if they were able to "share power" to this extent, they were capable of moving directly to sharing power in a fully devolved system. Also, a proposal for a regional administrative body would be suspected by some and welcomed by others as a major step towards integration.

34. All these considerations suggest that neither modest reforms in the existing structure nor radical changes are sensible options at the present time. They also suggest that there is not much to be gained by launching a "Macrory Mark II Review". Even leaving to one side the Government's

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antipathy to creating major review bodies of this nature, there would be enormous problems in defining the terms of reference, identifying suitable members and exercising reasonable control over the direction and outcome of the exercise. A Macrory Mark II would only make sense if Government had a clear idea of what it wanted to achieve and was confident that the Review body would deliver a solution which Government could accept.

35. Some of these points become clearer if an attempt is made to draft suitable terms of reference for a Macrory Mark II eg -

"Against the background of the Government's commitment to the devolution of responsibility of certain matters within the powers of the Secretary of State for Northern Ireland to elected representatives on a basis which would secure widespread acceptance throughout the community,

to advise on the changes which might be made in the arrangements for the administration of local services which would ensure their delivery in an efficient and equitable manner under the control of locally elected representatives."

36. This would leave room for wide-ranging debate over what

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powers would be devolved to the regional tier, what happens pending devolution, what are local services, does administration include policy, how do you define equitable in a way which satisfies most people etc etc.

37. This analysis suggests, therefore, that Government, whilst recognising the fundamental weaknesses in the present local government arrangements in Northern Ireland, should not contemplate any significant changes as long as devolution remains as its objective.

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