

MEMO

ULSTER UNIONIST PARTY

For Chairmen

3 April 1998

COMMENTS ON DEMOCRATIC INSTITUTIONS IN NORTHERN IRELAND

GENERALLY

Subject to the comments below, and a general reservation in matters of detail, there is much we can accept in this paper.

It is a Committee system, with each Departmental Committee having a Chair and a Secretary. The idea of these two offices is borrowed from the Government of Wales Bill. The Chair is a "speaker" whose job is to regulate the meeting and ensure that all committee members have a fair opportunity to contribute. The Secretary will be the Head of the relevant Government Department, with responsibility for day to day running of the Department within the policy guidelines established by the Committee. We need to consider whether the Justice, EU and Business Committees require both posts and the Audit Committee would only need a Chair.

Because posts are distributed automatically by the d'Hondt formula, there could not be a cabinet bound by collective responsibility. So while Secretaries may meet to liase such meetings would have a different character to cabinet style executive meetings. Ensuring coherent policies across the whole range of the administration, and that individual Secretaries abide by agreed policies is the biggest practical challenge of the system. The Standing Orders/Code of practice will need to deal in detail with the position of Secretaries vis a vis their Committees and the Assembly as a whole. There are two competing considerations. First, that Secretaries should have a range of matters they can deal with themselves so that day to day administration can occur and quick decisions be taken. Secondly making sure that agreed policies and decisions are faithfully implemented, bearing in mind that the Secretary occupies his position by virtue of his party's electoral performance, independently of the Assembly as a whole. I am concerned that the section headed Code of Practice may have got the balance wrong. The procedures for decision taking also have a vital bearing on this.

We doubt if it is proper under a d'Hondt system to have a procedure for removal of persons from their posts by the Assembly. They are appointed by their party and should only be removable by their party.

- There should ~~also~~ be a bar on paramilitary related parties benefiting from the d'Hondt formula with regard to Chairs and Secretaryships if their commitment to peaceful means has not been ^{en}proved satisfactorily. ✓
- Because of the practical problems of this system, ~~I think we~~ should borrow the new clause recently added to the Wales Bill which gives that Assembly a choice between a Committee system ~~as above~~ and a cabinet style executive. ✓
~~In our case~~ the legislation should provide for a committee system but enable the Assembly, on a weighted majority, to change to the other system. ✓

LEGISLATION

- ~~We consider it unnecessary to devolve legislative power for all matters where administration is devolved. The need for legislative devolution should be considered on an area by area basis. This matter has not yet been properly discussed in these talks.~~ ✓
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SAFEGUARDS

The Ulster Unionist Party acknowledges the need for safeguards. It sees the principal safeguards in proportionality and a Bill of Rights. The former guarantees participation in all decisions and at all levels of the Assembly. The latter, by providing that the Assembly has no power to act contrary to the ECHR, which may be supplemented, gives all citizens an effective and immediate remedy against abuse of power. In addition there is the power of the sovereign government and parliament to supervise and intervene.

We also acknowledge the practical political requirement that key decisions have cross community support, especially at the outset of new institutions. We would hope to build a de facto coalition in the new body on such a basis. However we doubt the wisdom of writing into what will in practice be the constitution of Northern Ireland, a requirement for sufficient consensus or for weighted majorities. The former creates sectarian vetoes, and we see in Cyprus the consequence of the insertion of that device into the 1959 constitution. The latter tends to deadlock and unworkability.