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E.R.

Mr Bloomfield ^L ①
for information.

Mr Semken

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Miss Elliott
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Mr Smith
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"CONSULTATIVE ASSEMBLY" PROVISIONS

I now enclose a re-draft of the provisions for this part of our legislation.

In several paragraphs I promise further information on the financial aspects; we have now taken a decision on this. Despite what is said in the enclosed draft instructions, it is our intention that all costs arising as a result of these provisions should be met out of monies voted by Parliament.

I.M. Burns

I M BURNS
12 June 1974.

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"CONSULTATIVE ASSEMBLY" PROVISIONS

1. This part of the Bill is intended to provide for the holding of an elected Constitutional conference in Northern Ireland. Although no provision is contained in the Northern Ireland Assembly Act 1973 or the Northern Ireland Constitution Act 1973 to permit this, it is desired that the conference should, in all relevant respects, be as similar as possible to the Northern Ireland Assembly; and that the conference should so far as possible be established by reference to existing provisions in the two 1973 Acts.
2. Temporary amendments to the 1973 Acts may be required, but it is important that these should be temporary in nature, and that after these provisions have expired, the two 1973 Acts will stand as they do now.

Terms of Reference

3. The conference, which is to be called a Consultative Assembly, should have terms of reference requiring it "to consider proposals for the government of Northern Ireland which will command the consent of the people of Northern Ireland, and to make recommendations [including recommendations on the testing of opinion in Northern Ireland on its report]".
4. In its deliberations, and recommendations, the Assembly shall be required to take fully into account the provisions of Section 1 of the Northern Ireland Constitution Act 1973 (that it they must proceed on the basis that Northern Ireland cannot cease to be part of the United Kingdom without the consent of a majority of its people voting in a poll held for the purpose; but the Assembly is not required to assume that a poll for this purpose cannot be held before 1983, as Schedule 1 to the Act provides.)
5. It is possible that there will be other factors which the government will wish the Assembly to take into account, but it is not yet certain that Ministers will wish these to be expressed on the face of the legislation.

Membership of the Assembly

6. The provisions relating to membership etc. of the Assembly should be as similar as possible to those relating to the Northern Ireland Assembly.
7. To this end the existing Northern Ireland Assembly should be dissolved (as already requested in the first part of the instructions) and should be dissolved in such a way as if it had been dissolved by means of an order under Section 27(5) of the Northern Ireland Constitution Act 1973. In particular, the way should be left open to make a further order under Section 27(7) appointing a day for a fresh general election to the Northern Ireland Assembly.

8. Pending the making of any such order, there is to be no general election to the Northern Ireland Assembly; although there would be presentational advantage in regarding the elections to the Consultative Assembly (see below) as being elections to the Northern Ireland Assembly, there appear to be sufficient differences between the Consultative Assembly and the Northern Ireland Assembly (in particular the length of term served by each Assembly, and the distinct functions ascribed to each Assembly) to preclude this.

9. The Bill should therefore make fresh provision for elections to the Consultative Assembly. So far as possible, however, they should be based on provisions in the Assembly Act and Constitution Act, and in particular it is desired that the elections should be held on the basis of PR (STV), and should be designed to elect 78 members representing 12 constituencies.

10. With certain small exceptions, the whole of Sections 1 and 2 of the Assembly Act can be applied to the new Consultative Assembly. An amendment is clearly required in Section 1(1) to substitute a reference to the Consultative Assembly for the existing reference to the Northern Ireland Assembly; and Section 1(6) is not required at all. In Section 2(2) the reference to the Parliament of Northern Ireland needs to be deleted in favour of a reference to the Northern Ireland Assembly.

11. Although much of Section 2 has been incorporated in the Constitution Act (see Section 29), it is preferred to rely now on the wording of the Assembly Act rather than the Constitution Act since the latter applies these provisions to bye elections also. It is not desired to have bye elections for the Consultative Assembly.

12. Section 3 of the Assembly Act can also be applied to the Consultative Assembly, as can Section 30 of the Constitution Act (which also makes an amendment to Section 3 of the Assembly Act).

13. In addition to the allowances provided for in Section 1(5) of the Assembly Act, a member of the Consultative Assembly should be entitled to travelling expenses incurred by him in travelling to and from the Assembly.

14. The cost both of the election, and of salaries and expenses for members of the Assembly, are to be met from Northern Ireland funds, further particulars on how this is to be achieved will be supplied shortly.

Proceedings of the Assembly

15. The Assembly is to serve for a fixed term of [six months] from the date of its first meeting, or until such earlier date as a final report of its work and recommendations is presented to [Parliament] [Her Majesty].

16. Her Majesty should be empowered to make an Order in Council, after taking into account any views expressed by the Assembly, extending its term by up to [six months]. The Order should be

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subject to the affirmative resolution procedure.

17. It is not desired to apply Sections 24, 25 and 26 of the Constitution Act to the Consultative Assembly. Although some of the substance of these sections might be suitable for applying to the Consultative Assembly, there are provisions in each of them which are at variance with the type of Consultative Assembly it is desired to establish.

18. The Chairman of the Assembly is to be appointed by Her Majesty (not as in Section 24 of the Constitution Act, by the Assembly itself). Provisions should be made for him to be paid a salary to be fixed by order similar to Section 26(4) of the Constitution Act and met out of Northern Ireland funds; further details on this point will follow.

19. Staff of the Assembly are to be provided by the Secretary of State. He should be required in the Bill to provide (from Northern Ireland monies) such officers (including Secretariat, Secretarial Staff and, possibly, Constitutional Advisers), accommodation and services as he considers necessary for the Assembly. In practise it is likely that the building already used by the Northern Ireland Assembly will be used for the Consultative Assembly; and that a large part of the staff will be composed of members of the staff of the Northern Ireland Assembly; the Assembly building vests in the Northern Ireland department of Finance, which will, under the provisions of part 1 of this Bill, act subject to the directions of the Secretary of State. But the Clerk to the Assembly, and the other members of the Assembly staff, do not come under the direct control of the Secretary of State; it may therefore be necessary to include in the Bill some provision enabling the Secretary of State to make their services available to the Consultative Assembly. This might be most simply achieved by placing the facilities of the Northern Ireland Assembly at the disposal of the Consultative Assembly; but this involves an issue of principle which has not yet been resolved.

20. The Secretary of State is to be given a duty to establish by order (subject to no Parliamentary procedure) the rules of procedure applying to the Assembly's proceedings. It is specifically desired to avoid placing sole responsibility for its Standing Orders on the Assembly itself. Nevertheless, it is envisaged that the Secretary of State's Orders will only cover a few major matters, and will not regulate all questions of procedure in the Assembly. In particular, it is not at present intended that the Secretary of State should make any provision as to the voting procedures of the Assembly - nor is such provision required in the Bill.

21. The Assembly is not to have the same powers, privileges and immunities as those given to the Northern Ireland Assembly by Section 26(1) of the Constitution Act. It is, however, desired to secure two privileges for members of the Consultative Assembly;

- a) the freedom for delegates to say and write what they like while acting in their official capacity;
- b) freedom from any restriction upon their free movement to and from the meeting place of the Assembly, other than restrictions provided by law. (This latter privilege is intended to be similar

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to the freedom of movement demanded for members of the United Kingdom House of Commons, but is deliberately intended not to confer any exemption from any due process of law - other than the exemption covered in the first privilege.)

22. [It should be provided that complaints of infringement of this second privilege may be laid before the High Court of Northern Ireland, and adjudicated upon by that Court [which shall be given powers to punish offenders]].

23. None of the preceding paragraphs should limit the Assembly's right to control and discipline its own members.

24. It should be provided that a record shall be kept of the proceedings of the Assembly. The Secretary of State should be empowered, after taking account of any views expressed by the Assembly, to publish that record, or parts of that record. It is envisaged that some parts of the Assembly's discussions, or discussions of committee's of the Assembly, may be of a confidential nature, and should not therefore be published. There is no particular objection to the Assembly itself taking responsibility for the publication of the record of its proceedings, but since the Secretary of State is, in effect, responsible for servicing the Assembly, it seems right to place the publication of the record in his hands also.

After the Assembly's Report

25. Provision should be made to permit the holding of a referendum on questions arising from the Assembly, and the report of the Assembly. The Secretary of State should be given the power to make an Order (subject to the affirmative resolution procedure) directing the holding of a referendum, specifying the date, the question (s) to be asked, etc. It should be possible to hold more than one poll with different questions.

26. The power to hold this referendum should include the power to hold a poll of the type described in Schedule 1 to the Constitution Act, notwithstanding the fact that the referendum be held before 9 March 1983.

27. The Secretary of State should be empowered to take any steps (including the appointment of a Commission for the purpose) necessary to present impartially to the electorate of Northern Ireland any matters germane to the questions to be put to the electorate at a referendum, or any matters arising from the Assembly, or the report of the Assembly.

28. The Secretary of State should be enabled by Order to recall the Assembly after its report has been presented, and either before or after any referendum, and he may on behalf of HMG then put to the Assembly specific issues or questions. A report on the recalled Assembly shall be produced and laid as provided for above.

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