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E.R.

Mr Bell
Mr Bloomfield
Mr Dugdale
Mr Erskine
Mr Palmer

TRANSFERRED AND RESERVED MATTERS

Attached is a draft response to Mr Cowling's
minute of 2 June about what powers might be
devolved to NI.

I would be grateful for any comments by close of
play on Tuesday.

RBS

R B SPENCE
6 June 1980

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Mr Cowling

TRANSFERRED AND RESERVED MATTERS

1. The draft paper forwarded with your minute of 2 June arrived as we were finalising a minute to PUS on the wider issue of legislative devolution (Mr Bell's minute of 5 June).
2. I would suggest that the arguments about not transferring parity matters might be presented more briefly and along the lines set out below.
3. Clearly, if one was starting from scratch, the range of matters to be devolved to NI might be altered in a number of respects. That range might be related much more closely to current and prospective conditions and national and international financial realities and might concentrate on those fields where a NI legislature could deal differently and effectively with the special problems in NI.
4. Amongst the matters which might in theory be excluded from transfer are social security matters, aspects of agricultural policy and execution, company law and legislation to implement EEC obligations in otherwise transferred matters. However, there are objections on both political and administrative grounds to major departures from the matters transferred in 1973.
5. First, the Government has already placed clearly on offer "the transfer of as wide a range of powers as can be agreed including, if acceptable arrangements can be made, all the powers transferred under the 1973 Constitution Act". The parties at the Constitutional Conference accepted that offer and it would be extremely difficult for the Government to withdraw it.

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6. Moreover, any suggestion that the Government was considering a major reduction in the matters to be transferred to NI would be seized upon both by those who favour and those who oppose integration.
7. Then there are the major administrative problems which any change in the matters to be transferred would create since these matters have been handled by NI Departments for over half a century. It is doubtful if other Ministers and UK Departments would have much enthusiasm for extending their responsibilities to NI. The prospect of transferring thousands of NI civil servants to the UK civil service would probably have to be faced.
8. While agency arrangements might be devised in some instances, it is probably not possible to operate a major service, like social security, with the legislative powers resting at Westminster and with the DOHSS for NI acting as an agent in implementing the law.
9. There are other considerations which have to be borne in mind in relation to social security matters. The transfer of these matters does permit a degree of local flexibility which can be very useful - for example, in dealing with public debt matters. It encourages a close working relationship with other NI Departments on wider social issues - like poverty - and enables a comprehensive view to be taken within DOHSS about individual cases where the choice can be between "help in cash" and "help in kind".
10. Moreover, it should not be assumed that a NI Executive will always wish to pursue strict parity in social security matters. It might at some future date wish to move more closely towards the pattern of benefits in the Republic. Or it might wish for public expenditure reasons to reduce spending on social security in order to safeguard other vital programmes. In other words, the NI Executive should retain a choice on whether it wants parity.

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