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From: THE PRIVATE SECRETARY

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25 November 1985

Dean Cronin

PRIME MINISTER'S MEETING WITH ASSEMBLY DEPUTATION

Mr Kilfedder, as Speaker of the Assembly, is bringing a deputation of Assembly Members to see the Prime Minister at 3.15 pm today. The deputation will comprise Mr Kilfedder, Mr Peter Robinson MP (Deputy Leader, DUP), Mr Jim Allister (DUP Whip in the Assembly), Mr Jack Allen (UUP Whip in the Assembly) and Mr Frank Millar (UUP General Secretary). I attach a brief.

One additional point. In view of the invitation in the Assembly Resolution to the Prime Minister to address the Assembly, you should know that the Private Secretary to the Speaker of the Assembly wrote on 20 November to inform the Secretary of State's Office that, "in the circumstances which presently surround public affairs" no future invitations will be issued to the Secretary of State or Ministers to address the Assembly. In referring to the invitation to her the Prime Minister may wish to avoid any impression that the Assembly can pick and choose between Ministers to whom it issues invitations.

*Yours sincerely
Neil Wood*

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- cc:-PS/Secretary of State(L&B
- PS/Mr Scott(L&B)
- PS/PUS(L&B)
- PS/Mr Bloomfield *2/18*
- Mr Brennan
- Mr A Stephens
- Mr Merifield
- Mr Bell
- Miss Elliott
- Mr M Elliott
- Mr Ehrman

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BRIEF FOR MEETING WITH ASSEMBLY DEPUTATION

Purpose of meeting

1. The purpose of the meeting is to:
 - i. demonstrate HMG's determination to go through with the Anglo-Irish Agreement;
 - ii. give evidence of the Government's continuing concern to take account of Unionist views;
 - iii. rebut charges that the Agreement is inconsistent with past Government statements.

Government determination

2. The meeting will follow closely after the mass rally in Belfast on Saturday at which Unionists demonstrated their opposition to the Agreement. The deputation is likely to claim that public opinion in Northern Ireland is solidly against the Agreement.

3. Ministers will wish to make clear that the Government's responsibility is to the United Kingdom as a whole. The Agreement has been widely welcomed and is likely to be overwhelmingly endorsed by Parliament. There can be no question in these circumstances of it not being proceeded with. The Unionists must come to terms with that. They should also consider the benefits for them of a nationalist community with a commitment to, and a real stake in, Northern Ireland.

Unionist views

4. The aim of the Agreement is to persuade the nationalist community to have confidence in the institutions of government in Northern Ireland. For too long they have perceived their minority status to mean that their interests take second place to those of the majority. Although Ministers have always sought to ensure that decisions of government are taken fairly and

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in the interests of the community as a whole, the nationalist perception has been that unionists dominate the channels through which views reach Ministers. The Intergovernmental Conference is being established to redress the balance, not to tilt it in favour of the nationalists.

5. The Government will continue to take full account of unionist views. They flow to Government through a variety of channels:

- i. parliamentary: of the 17 Westminster MPs 15 are Unionists;
- ii. Assembly: the Unionists have a large majority in the Assembly - and would have even if the SDLP did take their seats (a background note on the role of the Assembly is attached);
- iii. District Councils: Unionists control 18 of the 26 District Councils;
- iv. non-governmental bodies: the membership of these bodies reflects the make-up of the community as a whole.

6. As a result there is no danger of Unionist views going by default. Nevertheless, the Government remains ready to consider ways of enhancing these arrangements if that would be sensible. The Government also recognises Unionist concern about the Intergovernmental Conference doing its business in secrecy. As the Prime Minister said in her letter to John Cushnahan, the Government is giving these questions serious consideration and hopes to be able to make some practical suggestions soon. The deputation's views would be welcome.

7. Ministers will, however, wish to bear in mind:

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- i. that any new formal arrangements for consultation with the Unionists should not be such as to negate the special value of the Anglo-Irish Agreement for the Irish and the nationalists;
- ii. that in the negotiations leading to the Agreement, the Irish were concerned to avoid publication of the detail of matters discussed in the Intergovernmental Conference, because that might lead to public perceptions of "success" or "failure" for specific Irish representations.

Rebuttal of charges of inconsistency

8. In the Assembly resolution passed on 16 November, it is alleged that the Agreement is in conflict with certain earlier commitments given by the Government.

9. First, it quotes the 1969 Downing Street Declaration (issued after a meeting between Mr. Wilson and the then Prime Minister of Northern Ireland, Major Chichester-Clark) which stated that:

"responsibility for affairs in Northern Ireland is entirely a matter of domestic jurisdiction. The United Kingdom Government will take full responsibility for asserting this principle in all international relationships."

The Anglo-Irish Agreement fully respects that principle, and indeed gives explicit expression to it. Article 2(b) provides that:

"There is no derogation from the sovereignty of either the United Kingdom Government or the Irish Government, and each retains responsibility for the decisions and administration of government within its own jurisdiction."

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10. The Assembly resolution then refers to an answer given in the House to Kevin McNamara on 22 May 1980, when the Prime Minister said:

"Any change in the constitutional status of Northern Ireland is a matter for the people of Northern Ireland, this Government and this House."

Far from the Agreement being a "flagrant breach" of that undertaking, it reinforces it. Article 1(a) binds the Irish as well as the UK Government to acceptance of the principle of consent in respect of any change in the status of Northern Ireland; and Article 2(b), referred to above, makes clear that the UK Government, accountable to Parliament, retains responsibility for all decisions of government in the UK.

11. Finally, the resolution refers to last year's Chequers Communique which stated that the Prime Minister and the Taoiseach agreed that:

"the identities of both the majority and the minority communities in Northern Ireland should be recognised and respected, and reflected in the structures and processes of Northern Ireland in ways acceptable to both communities."

This passage of the communique was referring to possible new arrangements for devolved government in Northern Ireland. Recent past history has proved that if a system of devolved government is to endure, it must be acceptable to both communities (a system unacceptable to the minority fell in 1972; a system unacceptable to the majority fell in 1974). Relations with another sovereign state are another matter. They must be acceptable to the nation as a whole. It is the verdict of Parliament, representing the UK as a whole, that matters.

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Future of the Assembly

12. The deputation may enquire about the Government's intentions with regard to the future of the Assembly. Its present four year term expires next October. No decision has yet been taken about holding new elections for a further term. The Government is still committed to seeking to restore devolved government on a basis acceptable to both communities. Article 4(b) of the Agreement formalises that commitment and declares Irish support for it. The future of the Assembly will depend on the willingness of its members to work constructively in it - both in its deliberative and scrutinising work and in seeking to assist progress towards the restoration of devolved government.

13. In that respect it is hoped that the Anglo-Irish Agreement will encourage the SDLP to take a more positive approach to internal political development. John Hume has already suggested that that will be the case. But the attitude of the Unionists will also be crucial. Political progress depends on both sides finding a way of working together.

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THE NORTHERN IRELAND ASSEMBLY: BACKGROUND NOTE

Purpose of the Assembly

1. Under the Northern Ireland Act 1982 the Assembly's principal task is to reach agreement on how devolved functions could be exercised by the Assembly and an administration answerable to it. It was given a scrutinising, consultative and deliberative role on subjects for which it would be responsible in the event of devolution in order to involve members from the beginning in the conduct of current public business.

Classification of governmental responsibilities

2. The future devolution of powers is still based on the system of government set out in the NI Constitution Act 1973, which provided for the appointment of an Executive answerable to an elected Assembly with legislative powers, and the NI Act 1974. The 1973 scheme categorised the functions of government as follows:

- a) "Excepted" matters, for which responsibility would remain permanently with Westminster - matters of national importance such as the Crown, foreign affairs, defence, and special powers for dealing with terrorism and subversion;
- b) "Reserved" matters, for which initially responsibility would remain with Westminster but which could be transferred to local control at a future date - eg the criminal law, prisons, and the establishment of the RUC;
- c) "Transferred" matters, immediately available for devolution, which comprise all other matters not covered under categories (a) and (b) above - in practice, they are the subjects administered by the NI Departments of Agriculture, Economic Development, Environment, Education, Finance & Personnel, Health & Social Services.

The Assembly's consultative functions

3. The Northern Ireland Act 1982 obliged the Assembly to set up committees to "shadow" the NI Departments. Through them the Assembly monitors and reports on transferred matters at its own initiative and at the request of the Secretary of State. In particular, proposals for draft Orders in Council (primary legislation for Northern Ireland) are referred to it before they

are laid before Parliament. The Assembly's views on these proposals are also laid before Parliament.

4. But the NI Act 1982 (section 3) allows the Assembly to discuss any matter affecting Northern Ireland which is not an "excepted" matter: although it must consider any matter (whether or not "excepted") which is referred to it by the Secretary of State. This provision was designed to discourage divisive and sectarian debate on, for example, security policy or incidents; in practice, it has not been observed. But the Secretary of State treats the Security & Home Affairs Committee, established by the Assembly of its own volition, ^{differently} from the Departmental committees. He has had informal discussions with them about security policy at Stormont Castle, and has not referred any issues to it. Similarly, although the Assembly has gone outside its remit and discussed Anglo-Irish developments, the Government has not given any formal recognition to these debates.

Devolution Report Committee

5. This was set up in June 1984 to consider proposals for devolution. It has produced two reports. The first suggested ways of enhancing the Assembly's consultative role and the second collected together the submissions of the DUP, UUP and Alliance members of the Committee, as well as other evidence received. The third report, published on 29 October, presented a plan drawn up by Sir Frederick Catherwood, MEP, as a basis for discussion between the Secretary of State and the committee. During the Assembly debate on that report, all three parties indicated that they were not committed to any of the plan's details and the DUP said that it would fall by the wayside in the event of an Anglo-Irish Agreement. The SDLP also rejected the proposals as a basis for making progress. If, however, there were real inter-party interest in the proposals, they might then form the starting point for some discussion.



NORTHERN IRELAND ASSEMBLY,
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FROM THE SPEAKER

The Rt Hon Margaret Thatcher FRS MP
10 Downing Street
LONDON SW1

16 November 1985

Dear Prime Minister

The following resolution was passed by the Northern Ireland Assembly at its sitting on Saturday 16 November 1985:-

"That this Assembly, recalling both the solemn pledge of Her Majesty's Government contained in the Downing Street Declaration of August 1969 that "the responsibility for the affairs of Northern Ireland is entirely a matter of domestic jurisdiction [and] the United Kingdom Government will take full responsibility for asserting this principle in all international relationships", and the Prime Minister's declaration in the House of Commons on the 22nd of May 1980 that "any change in the constitutional status of Northern Ireland is a matter for the people of Northern Ireland, this Government and this House", repudiates the Anglo-Irish Agreement of the 15th of November 1985 as a flagrant breach of the above-mentioned solemn undertakings; deprecates as an intolerable derogation of British sovereignty incompatible with the security of Northern Ireland's constitutional position, the involvement of the Ministers and civil servants of a foreign government in the structure and processes of internal administration and policy formation of this part of the United Kingdom; notes that, while Her Majesty's Government in the Chequers Communique of November 1984 committed itself to securing the acceptance of both communities in Northern Ireland to the structures and processes of the province, the unique arrangements now intended for Northern Ireland have been entered into without consultation with its people or their representatives, and demands that Her Majesty's Government seek forthwith the consent of the electorate of Northern Ireland to the measures now proposed; and accordingly instructs Mr Speaker to convey the contents of this resolution to Her Gracious Majesty Queen Elizabeth II, and to the Prime Minister of the United Kingdom, and furthermore, to invite the Prime Minister as a matter of urgency to address the Assembly on this vital subject."

Accordingly I invite you to address the Assembly.

Yours sincerely
Jim Kilfedder

JAMES KILFEDDER MP