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CONFIDENTIAL

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(9) x B13/2

PS/SECRETARY OF STATE (L&B)-M

cc PS/Mr Scott (L&B)-M  
PS/PUS (L&B)-M  
~~PS/Mr Bloomfield-M~~  
Mr Brennan  
Mr A W Stephens-M  
Mr Chesterton  
Mr Perneyhough-M  
Mr Gilliland-M  
Mr Merifield-M  
Mr Spence  
Mr Elliott PAB-M  
Mr Ehrman  
Dr Mahonney MP

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1046  
05 DEC 1985  
MUFAR ROOM  
STORMONT HOUSE ANNEX

HEAD OF  
-5000  
CIVIL SERVICE

ASSEMBLY DEVELOPMENTS

1. You requested for the Secretary of State's use at Cabinet this morning a speaking note which encapsulated the conclusions of his meeting yesterday evening on the proposed new Assembly Committee on "The Government of Northern Ireland" described in the note attached to Mr Spence's minute of 4 December. I attach a speaking note on which the Secretary of State may care to draw.

*Miss D F E Elliott*

MISS D F E ELLIOTT  
CPL

5 December 1985

CONFIDENTIAL

PROPOSED ASSEMBLY COMMITTEE ON "THE GOVERNMENT OF NORTHERN IRELAND"

Introduction

The Assembly will decide today, at Mr Paisley's inspiration, whether "to examine the implications of the Anglo-Irish Agreement for the government and future of Northern Ireland and the operation of the Northern Ireland Constitution Act 1973 and the Northern Ireland Act 1982".

2. The intention is that it would begin work on Tuesday, 10 December, invite evidence and the broadcasting of its proceedings. It would report soon, and before the by-elections. Meanwhile, Assembly scrutiny business would be suspended with the exception of the Finance & Personnel Committee's examination of the "role of the NI Civil Service in relation to the Anglo-Irish Intergovernmental Conference".

3. It is not clear whether the Alliance Party will go along with this; they may withdraw from the Assembly, leaving the floor to the UUP and DUP.

Legal position

4. The resolution setting up the Committee is cunningly worded; among the implications of the Agreement are the possibilities of a devolved government assuming responsibility for matters currently within its purview, and changing NI Departmental practice, both of which the Assembly is fully entitled to consider.

5. In practice, the Committee will inevitably go beyond these areas into the excepted field, in order to denounce the whole concept of the Agreement and to call for its destruction; they would thus be acting ultra vires. Legally, there is nothing which we can do to prevent this, short of prorogation or dissolution.

The Government's attitude

6. The purpose of this ploy is to provide a specific platform from which to attack the Agreement during the election campaign, and perhaps to provide a document on which the parties could seek a mandate. It will further sour the political atmosphere. If we allow the Committee to go ahead, we may be perceived to be acquiescing in unionist misuse of the Assembly, an approach which may encourage the parties to exert greater pressure on us to undo the Agreement.

7. None the less, I do not believe that we should take precipitate action to prorogue or dissolve the Assembly. The unionists' insistent rhetoric in the Committee may well weary public opinion and so backfire. We have emphasised the role of the Assembly as a channel for unionist views as a balance to the Intergovernmental Conference.

8. But if the Departmental Scrutiny Committees seem likely to be suspended for more than the briefest period, we shall withdraw the NI civil servants seconded to service them; they will have no work.

9. We shall keep a close and daily watch in the Committee's activities to see whether we need to change this posture.