

HOME OFFICE
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31st October, 1968

I enclose 3 copies of the Home Office briefs for the Prime Minister's meeting on Monday with Captain O'Neill. They have been seen by the Home Secretary. On top is an index,

The first document is a "position paper", prepared by officials, which covers most of the items on the agenda. The Home Secretary does not regard the paper as necessarily indicating future Government attitudes in this field. He knows that when the Prime Minister has read the briefs, he may want a talk with him before the meeting.

(Sgd.) B. C. CUBBON

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Briefs for Prime Minister's meeting with Captain O'Neill 4th November 1968

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Supplementary note to paragraph 9 of item 1
of the brief already supplied

In case the Northern Ireland Ministers raise the matter of the closures of the Joint Anti-Submarine School at Londonderry and the R.A.F. Establishment at Ballykelly, attention should be called to further closures in the Londonderry area of the R.N. Armament Depot at Kilnappy and the Oil Fuel Depot at Lisahally. These are under examination by the Ministry of Defence, but it seems likely that as there is no longer an operational requirement, the eventual decision must be to close these establishments resulting in a saving of £83,000 a year.

The total size of the problem in employment terms is about seventy jobs and of the present employees about twenty are over sixty. The human problem may be less to this extent, but the economic problem must be measured in employment opportunities lost and in loss of spending power.

Northern IrelandNote by Home Office Officials: October 1968

The purpose of this note is to set out an appraisal in summary form of the main features underlying the current disturbances in Northern Ireland and to examine the various lines of approach open to the United Kingdom Government. The note does not set out to deal with events at the disturbances themselves. Extracts from a speech on 15th October 1968 by Captain O'Neill in Stormont are attached (Annex I).

The Londonderry Protests

2. The Londonderry demonstration was organised by the recently formed Civil Rights Association, which claims to be activated only by concern for the civil liberties of the minority and to represent all shades of minority opinion. The demonstration was concerned to draw attention to (i) the local government electoral franchise; (ii) discrimination in the allocation of houses; and (iii) gerrymandering. Into the argument has also been introduced (iv) the economic policy of the Northern Ireland Government towards the north-western part of the province and (v) the existence of the special powers legislation.

The Local Government Franchise

3. There are three main levels of political representation in Northern Ireland -

- (a) Electoral laws governing the return of Members to the United Kingdom Parliament are in line with those in the rest of the United Kingdom; the only substantial difference is that there is a three month residence qualification in Northern Ireland. Boundaries of constituencies are fixed by a United Kingdom Boundary Commission.

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(b) Up to now electoral laws for the return of Members to the Northern Ireland Parliament have provided for plural voting (a "business" vote) and university representation. The Northern Ireland Government have, however, introduced legislation for the abolition of plural voting, the abolition of university seats and the appointment of a permanent Boundary Commission. The Bill is presently before the Senate. An interim Boundary Commission - in fact the Members of the present United Kingdom Boundary Commission - has redistributed the four university seats by the creation of new territorial constituencies in those areas of Counties Antrim and Down which have experienced rapid population growth. The results have been accepted on all sides as fair and impartial. When this Bill becomes law the only significant difference between the Stormont and Westminster franchises will be that for election to Stormont (and to a local authority) an elector must either have been born in Northern Ireland or have resided in the United Kingdom for the past seven years. (The seven years residence qualification was designed as a safeguard against Stormont being swamped by electors from the South moving North for the Purpose.)

(c) The Local Government vote

4. The main accusations of electoral unfairness are at local government level and the criticism of the local government franchise arises on two heads - (1) the existence of the plural 'company' vote and (ii) the property qualification, which excludes members of the adult population who are not householders. Numerically the 'company' vote is not significant; what is significant is the comparison between the adult sons and daughters of householders and lodgers who have no vote and the businessman who can control six or even more votes. Common to both the Northern Ireland and the Great Britain law is at present the non-resident property qualification, but it is intended to abolish this in

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Great Britain in the Representation of the People Bill, now in preparation. The limitation of votes to ratepayers in Northern Ireland local government electoral law reflects a survival of the situation which disappeared in Great Britain at the end of the war. This is recognised on all sides, and the Northern Ireland Government have announced that they have these points under examination, but that they intend first to complete the present programme of reform of the structure of local government, which suffers from a multiplicity of very small local authorities (the current seventy-odd authorities are likely to be reduced to a dozen or eighteen). A White Paper containing a statement of aims was published in December 1967; discussions with interested bodies are now at an advanced stage but there are not detailed proposals and the Government have stated they are unable yet to suggest a timetable for implementation. This, without some acceleration of the timetable, would put any change in the law governing local electoral matters some years away, for the Northern Ireland Government regard a review of the local government structure as necessary before there could be any change in the local government franchise.

Discrimination in Housing

5. The accusation is that Unionist local authorities allocate an unduly small proportion of houses to Roman Catholic families and manipulate their allocations to ensure Unionist majorities at local elections. There is no doubt that some of the existing local authorities (of both political persuasions) practise discrimination in the allocation of public housing. Captain O'Neill has said that he is aware that such things go on as a survival from the past. The general Unionist answer to these allegations is that accusations of this kind are bound to arise in scarcity conditions and can only be ended by

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a greater overall provision of houses. The rate of house building has, in fact, been rising steadily over the past couple of years so as to reach a target of 12,000 houses a year by 1970 as laid down in the Wilson Economic Plan. A large element in the public house-building programme is the work of the Northern Ireland Housing Trust - a statutory body which supplements the work of local authorities and which is generally acknowledged by all shades of opinion in Northern Ireland to be completely non-political and non-sectarian in its approach.

Gerrymandering

6. Gerrymandering is the other aspect of this situation: control over a local authority gives control over the allocation of local authority housing, and housing control is a means of perpetuating a majority within a ward system of representation. In Northern Ireland ward boundaries, as a historical fact, tend to follow and preserve politico-religious divisions, and local representation may not reflect the balance of political opinion in the local population as a whole. It is to be hoped that the reform of local government structure on which the Northern Ireland Government have embarked will bring with it a more accurate reflection of political opinion in local authority affairs, and a more impartial and statesmanlike wielding of political power at the local level.

Discrimination over Appointments

7. The accusation that local authorities and other public bodies show favouritism in making appointments was not a dominant factor in the disturbances, but deserves mention. In the case of paid appointments these allegations are again mainly at the local government level. In recruitment to its public service the Northern Ireland Government, through its Civil Service Commission, adopts standards similar to those which apply in Great Britain. There is some criticism of the

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religious breakdown of statutory boards, advisory committees, etc., but the religious make-up of the population as a whole is not necessarily reflected in its prominence in any particular sphere (e.g. Roman Catholics are considerably more prominent in both branches of the law than in senior executive positions in commerce and industry, and this is reflected by their comparative strength in legal offices and appointments of various kinds, e.g. Resident Magistrates, Crown Prosecutors, Legal Aid Committees).

Constitutional Guarantees against Discrimination

8. Section 5 of the 1920 Act prohibits the making by the Northern Ireland Parliament of laws that are discriminatory on account of religion, and section 8(6) similarly limits the executive power of the Northern Ireland Government. The validity of allegedly discriminatory legislation or executive action may, therefore, be tested in the courts. Those making complaints are not impressed by references to these safeguards since they argue that their grievances are not covered by those provisions. The Campaign for Social Justice in Northern Ireland, for example, claims to have been advised by counsel that the discrimination practised by local authorities is not capable of review by the courts under the terms of the Government of Ireland Act 1920. On the other hand the last Attorney-General for Northern Ireland, now Mr. Justice Jones advised in 1964: "A local authority is a statutory body and it exercises its powers under the authority of a Statute, or rather a number of Statutes. If..... the Statute may not be discriminatory then, in my opinion, a discriminatory exercise of the powers conferred by Statute may not be effected and if such discrimination in the exercise of statutory powers were to be effected, such exercise would be bad and could, in my opinion, be challenged successfully", and "..... I am of the opinion that the statutory provisions presently available are competent to deal with

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discrimination by local authorities which may be properly and adequately established". It is understood that the Campaign have sought to institute legal proceedings but were not granted legal aid by the Legal Aid Committee. It is for the courts to interpret the 1920 Act. The legal aid scheme, which commenced in November 1965 is administered by the Northern Ireland Law Society.

Unemployment in North West Ulster

9. The introduction to the present argument of the very high unemployment in the North West of Ulster appears misconceived; unemployment is extremely severe throughout the area, but no evidence has been adduced to suggest a deliberate policy by the Northern Ireland Government of holding back the area as a whole or particular towns within it. Male unemployment in Londonderry is 17.5% and in Strabane 24.6% but there are Unionist controlled towns, such as Ennsikillen with 22.1%, which are just as hard hit. Remoteness and difficult communications have made the task of attracting new industry exceptionally difficult, and although the same broad system of incentives applies throughout Ulster they are administered more generously for firms willing to go to the North West; there has recently been some measurable success in creation of new employment in the Londonderry area, but this continues to be offset by the decline of older industries, not to mention planned defence closures at Londonderry and Ballykelly which could effectively halve the gains so far made.

Special Powers Act

10. The Special Powers legislation in Northern Ireland represents a potential restriction on the liberty of the individual which has no peacetime counterpart in Great Britain. It is disliked because it provides for action to be taken against individuals and organisations by the executive without appeal to the Courts (although the executive

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remains accountable to the Northern Ireland Parliament). These powers were originally taken to meet a state of unrest, following partition, verging at times on civil war with the additional threat of armed intervention from over the border by the I.R.A. These campaigns of violence have been renewed at intervals, the last outbreak ending in 1962. (There have been indications since 1962 that a recrudescence, not only in Ulster, was to be feared - the Government of the Republic of Ireland have recently insisted on affording constant protection to our Ambassador in Dublin for fear of an I.R.A. assassination attempt.) In these circumstances, while the Northern Ireland Government have felt able to reduce the number of regulations in force under the legislation, they have not felt able to do without the legislation itself. The principal use made recently of the powers has been to proscribe subversive organisations, which include the extreme Protestant Ulster Volunteer Force, as well as the I.R.A., Sinn Fein and the Republican Clubs (which the Northern Ireland Government stated were substantially the Sinn Fein organisations under another label).

11. The existence of this legislation does not put the United Kingdom in breach of the European Convention on Human Rights. Derogations under the convention are permissible in certain circumstances, and the legislation is the subject of a notice of derogation.

The Constitutional Position

12. The Government of Ireland Act, 1920 which set up the Parliament of Northern Ireland, gave that Parliament responsibility for all matters not specifically reserved to the United Kingdom Parliament. The main subjects thus excluded from the sphere of the Parliament and Government of Northern Ireland are matters relating to the Crown, the making of peace and war, the armed services, foreign and Commonwealth relations, elections to the United Kingdom Parliament, dignities and

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titles, treason, aliens, naturalisation, trade with places outside Northern Ireland, merchant shipping, wireless telegraphy, serial navigation, coinage, trademarks, copyright, patents, the Supreme Court of Judicature of Northern Ireland, the Postal Services, Customs and Excise, income tax and any tax on profits.

13. Section 75 of the Act preserves "the supreme authority of the Parliament of the United Kingdom over all persons, matters and things in Northern Ireland". The United Kingdom Parliament has legislated, as a matter of practical convenience, in the transferred field, but there has never been an occasion in which legislation on transferred matters has been applied to Northern Ireland against the wishes of the Northern Ireland Government. Section 75 of the 1920 Act certainly provides authority for this to be done, but it would obviously do great harm to relations between the two Governments. The main purpose of section 75 was to preserve the power of the United Kingdom Parliament to terminate or change the constitution of Northern Ireland; successive Governments have taken the view that, so long as Northern Ireland retains its present constitution, it would be wrong for the United Kingdom Government and Parliament to interfere in matters for which responsibility has been delegated to the Northern Ireland Government and Parliament. It would indeed not be consistent with the existence of a Northern Ireland Parliament that the United Kingdom Parliament should exercise concurrent legislative powers in the transferred field against the will of Northern Ireland.

14. Section 75 preserves the supreme authority of the Parliament, not the Government of the United Kingdom; the United Kingdom Government is not enabled by statute to interfere in transferred matters without legislation passed by virtue of that section.

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15. Section 1(2) of the Ireland Act 1949, states that: "It is hereby declared that Northern Ireland remains part of His Majesty's dominions and of the United Kingdom and it is hereby affirmed that in no event will Northern Ireland or any part thereof cease to be part of His Majesty's dominions and of the United Kingdom without the consent of the Parliament of Northern Ireland".

16. Insistence on Northern Ireland's status as an integral part of the United Kingdom is the basic article of faith of the Unionist Party, and one could hardly exaggerate the importance of this issue in Northern Irish politics. The Irish Republic has never formally recognised the constitutional position of Northern Ireland, and indeed the constitution of the Republic asserts a claim to jurisdiction over the whole of Ireland.

General Political Situation in Northern Ireland

17. The state of Northern Ireland as an integral part of the United Kingdom has existed for forty-eight years. All that time Northern Ireland's existence as part of the United Kingdom has been threatened from without and within and for all but the last six of those years this threat has taken the form of armed intervention by the I.R.A. The sectarian bitterness that divides the community in Ulster stems from the past and is sustained by the fears that are presently felt by the majority of Ulstermen for the future of their country. The basic article of faith in the Unionist Party is the maintenance of Northern Ireland as a part of the United Kingdom and of the links with the Crown. The Protestant and Unionist majority believe that unification with the Republic would not only frustrate their political aims but would place them under Catholic domination, the causes for which they were prepared to take up arms in 1912. This is the context in which current criticism of the Northern Ireland

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administration must be set. The O'Neill administration has sought to liberalise the administration by seeking an improvement in community relations with a view gradually to reform in those parts of the constitution which fall short of United Kingdom standards of human rights. Captain O'Neill is personally identified with these policies and in pursuing them he has had great difficulty in carrying with him both his colleagues in the Cabinet and in the House of Commons. Twice he has faced and defeated a revolt to overthrow him by reactionary Unionists. More than once the Prime Minister has paid tributes to him and if he can be criticised it can only be in the speed of his advance: but to control this is not within his power; he can govern only in general accord with public opinion. What is certain is that any successor to Captain O'Neill will be reactionary and will not seek to follow his liberalising approaches whether towards the Republic or the Catholic and Nationalist minority.

18. As well as the attacks on Captain O'Neill personally, the difficulties of the Government of Northern Ireland have been increased by an extremist Protestant/Unionist reaction to his liberalising policies and the Northern Ireland Government have had to proscribe an extremist Protestant organisation known as the Ulster Volunteer Force. This was done under the Civil Authorities (Special Powers) Act, which had previously only been used against the I.R.A. These powers also had to be used to ban Republican clubs. The leading figure in extremist Unionist reaction is Mr. Ian Paisley, the self-styled Moderator of the "Free Presbyterian Church", who came into conflict with the authorities when demonstrating outside the General Assembly of the Presbyterian Church in Belfast on 6th June 1966, and as a result of refusing to enter into recognizances to keep the peace served a term of three months' imprisonment. It is true that there has been no resumption of I.R.A. terrorist activities but there is good reason to believe that they are only just beneath the surface.

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19. Successive United Kingdom Governments have taken the view that it would be improper for them to comment on allegations concerning matters domestic to Northern Ireland, or to seek to interfere in the administration of matters for which responsibility was placed in the hands of the Northern Ireland authorities by the Act of 1920. This attitude has been criticised by back-bench members of the Labour Party, who have sought the extension to Northern Ireland, against the wishes of the Northern Ireland Government, of certain United Kingdom legislation (Race Relations Act; Parliamentary Commissioner Act) and have repeatedly pressed for enquiry into the administration of Northern Ireland and the constitutional relationship between the two Governments. The Prime Minister has made it plain that he does not favour an enquiry into the working of the 1920 Act, but prefers to have informal talks with Captain O'Neill.

20. A large number of back-bench members of the House, who have constituted a "Campaign for democracy in Ulster", have expressed concern about the administration of Northern Ireland and although the more liberalising policies being developed by Captain O'Neill and his Government are generally welcomed, many Members are not satisfied with the speed of advance. Mr. Fitt, who is a Republican, led Mr. Rose, Mr. Orme and Mr. Miller on a visit to Northern Ireland earlier this year and subsequently they made a report alleging discrimination in the fields mentioned in paragraph 2 above. The Society of Labour Lawyers has set up a committee to look into the administration of the Province.

Features of the Current Political Situation

21. There are legitimate grievances in Northern Ireland and it is entirely legitimate that they should be ventilated by demonstration. The special features of the situation are the extent to which the civil rights demonstration at Londonderry was associated with the

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violent pursuit of purely nationalist aims, and, whatever the extent of that association may be, its effect in hardening the relatively moderate elements in the Unionist Party. It is significant from the Unionist standpoint that the (illegal) march against the police cordon was led by two prominent Nationalist members at Stormont and a Republican Socialist (Mr. McAteer, M.P., Mr. Austin Currie, M.P. and Mr. Fitt, M.P.); that two of their number (Mr. McAteer and Mr. Fitt) proceeded almost at once to Dublin; and that the Prime Minister of the Republic of Ireland in two public speeches has diagnosed the root cause of the troubles as being the partition of Ireland and has urged the absorption of Northern Ireland into the Republic as the only way in which all wrongs can be removed. (This gratuitous intervention in domestic affairs does real harm but is a reflection of the Republic's claim in its constitution to the whole of Ireland, a claim which, it was hoped, would not be allowed to intrude upon the more co-operative policies agreed upon between Captain O'Neill and Mr. Lemass and Mr. Lynch). In the recent speech to the Connolly Association Mr. Fitt is reported to have said "If constitutional methods do not bring social justice, if they do not bring democracy to Northern Ireland, then I am quite prepared to go outside constitutional methods". The Nationalist Party has ceased to be the official opposition but Mr. McAteer and his colleagues are understood not to be boycotting the proceedings of Stormont. Mr. McAteer is said bitterly to regret his journey to Dublin.

22. The danger that extreme and violent nationalist elements in both camps will take advantage of the situation means that the Northern Ireland Government must, as their first duty, maintain public order and in the present state of public opinion this must involve police measures to keep opposing factions apart. There is

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an ever present risk of mob violence that might escalate into rioting throughout the Province. The hardening of moderate Unionist opinion is a wound that is less easily healed, and cannot but place Captain O'Neill in extreme difficulty.

Conclusion

23. In considering approaches to the immediate problem two factors must be borne in mind. History demonstrates the failure of English intervention in Irish affairs; acceptance of this led to the 19th century policy of home rule and so to the introduction of the 1920 constitution, however this was disliked by the Ulster Unionists. Second, any direct action by Westminster, taken otherwise than a result of a far ranging inquiry through a Commission on the Constitution, will imply a lack of confidence in the Northern Ireland Government. This would not only lead to the resignation of Captain O'Neill but probably to that of the Government and there is no alternative Government. In any case the weakening of the authority of the Government will encourage the extreme elements on either side to resort to violent methods, a situation which would be exploited by the I.R.A. and lead to demands from the Republic for the ending of partition. The situation is explosive: civil war is not impossible. These considerations seem to us to suggest that direct action, in the form, for example, of an inquiry set up by the Imperial Parliament or of legislation to improve constitutional guarantees, should be regarded as a line of last resort. We suggest that the best hope of immediate progress lies in persuading Captain O'Neill to an acceptable immediate course of action in the transferred field through action at Stormont. We could press for

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an acceleration of local government electoral reforms to bring the system close to that in Great Britain and for reforms in the system of housing allocation by local authorities. This course would have the advantages of (a) meeting the reasonable demands (in Northern Ireland and at Westminster) for "one man one vote"; (b) confidence in the Northern Ireland Government would not be impaired; and (c) an accelerated pace of reform would not face the Northern Ireland Government with a change from their announced policy.

24. Meetings with Captain O'Neill have in the past been regarded as confidential, but on this occasion it would naturally be advantageous from our point of view not only to press Captain O'Neill, but publicly to be seen to be doing so. This advantage has, however, to be weighed against the danger that public pressure (i) would make it more difficult for Captain O'Neill within his own political situation to do what we would like him to do; or (ii) might drive him to resignation.

25. Assuming that a Commission on the Constitution were set up, such large questions as the continuance of the fabric of the 1920 Act would fall to it to consider. But the existence of the Commission would not prejudice the kind of action suggested above.

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The Commission on the Constitution

"My Government will begin consultations on the appointment of a Commission on the constitution. The Commission would consider what changes may be needed in the central institutions of Government in relation to the several countries, nations and regions of the United Kingdom. It would also examine relationships with the Channel Islands and the Isle of Man." (Queen's Speech, 30th October.)

2. If, as is hoped, the Northern Ireland Government willingly accept the inclusion of Northern Ireland within the scope of the Commission, it will fall to the Commission to review the fundamentals of the constitutional and economic relationships between Northern Ireland and Great Britain and the United Kingdom as a whole. The Commission may be expected to consider the fabric of the 1920 Act and will take account of the entrenched provision in the Ireland Act 1949 whereby "It is hereby declared that Northern Ireland remains part of His Majesty's Dominions and of the United Kingdom and it is hereby affirmed that in no event will Northern Ireland or any part thereof cease to be part of His Majesty's Dominions and of the United Kingdom without the consent of the Parliament of Northern Ireland". The Commission may be expected to concentrate on relationships rather than methods of internal government.

3. The establishment of a Commission and the inclusion of Northern Ireland in its scope would not, however, relieve the United Kingdom Government or the Northern Ireland Government from a duty to deal with immediate problems - and action here may not be limited to the sphere of relationships: it will involve considering what changes may be desirable in the field of internal government i.e. in the transferred field: for example, over housing allocation and the local government franchise. It is to be hoped that it will be Captain O'Neill who will take action in the transferred field, but the transferred field will be within the purview of the joint meetings between United Kingdom Ministers and Northern Ireland Ministers.

4. It would be hard to lay down hard and fast distinctions between what can be done in the context of the inter-governmental meeting and what would fall to the Commission. Broadly speaking, legislation to modify the 1920 Act as a

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result of this meeting or meetings would not be ruled out; the question would be the extent to which such modifications went to the fabric of the constitutional relationships as constituted by that Act and otherwise.

5. Abolition of the representation of Northern Ireland in the United Kingdom Parliament (which is governed not by the 1920 Act, but by the Representation of the People Acts) would seem to go to the root of the constitutional relationships, particularly as it would call into question the right of the United Kingdom Parliament to impose taxation in Northern Ireland. Restriction of the powers of Northern Ireland members would not fall far behind abolition in this context (it would also pose difficult problems of defining or even identifying what topics dealt with at Westminster were of no concern to Northern Ireland). Reduction of numbers would involve the Boundary Commission.

Northern Ireland Members of Parliament at Westminster

In 1920 the number of Northern Ireland constituencies returning Members of Parliament to the Westminster House of Commons was fixed at 13 (in 1919 the number was 30). In 1949 the seat for Queen's University, Belfast, was abolished leaving the number of Northern Ireland constituencies at 12. The result is that the constituencies in Northern Ireland are rather larger than the average constituencies in the rest of the United Kingdom, but as the Northern Ireland Labour Party in their 1964 Election Manifesto said "The existence of the Stormont Parliament places Northern Ireland upon a different footing from other areas of the United Kingdom". The Speaker's Conference of 1944 recommended that there should be no change in the number of Northern Ireland constituencies. This recommendation was embodied in the House of Commons (Redistribution of Seats) Act, 1949.

During a Debate in the House on 8th August, 1966, the question was raised of the responsibility of the Home Secretary for the conduct of elections to Westminster (in Northern Ireland). In case this point is raised again it should be noted that the Home Secretary has no responsibility for the conduct of elections, the machinery for which is laid down in the Statute. Alleged malpractices would be investigated in England and Wales by the Director of Public Prosecutions and in Northern Ireland by the Northern Ireland Attorney-General.

2. Whatever view may be held about the number and average size of the Northern Ireland constituencies returning Members to Westminster, discrepancies in the size of the existing 12 constituencies admittedly have developed. However, like the Boundary Commissions for England, for Wales and for Scotland the Boundary Commission for Northern Ireland gave notice to the Home Secretary on 16th February, 1965, of their intention to carry out a general review of the 12 constituencies. The Commission are required to submit their report on the general review by November, 1969. It is for them to determine their own programme of work.

3. The idea has been canvassed that Northern Ireland Members' voting rights should be restricted so that they should not be entitled to vote on matters affecting Great Britain alone. Similar proposals were considered and rejected

by the House during Home Rule debates in the late 19th Century and when (in the abortive act of 1914 and in the act of 1920) the number of Irish seats in the House was fixed the number was selected "not on any logical principle but as a sort of adjustment to meet circumstances that might arise in future, including a scheme of devolution". (Hansard 29th March, 1920, col. 940). It may, therefore, be argued that the voting power of Ulster has already been restricted to take account of the powers delegated by Parliament to the Northern Ireland Parliament.

4. Parliament is not a gathering of regional representatives. Bills are brought before the House which, for example, do not affect Scotland and the arguments in favour of curbing the voting rights of Northern Ireland members could be applied to Scottish members or, indeed to English and Welsh members on Scottish Bills. Nor is it easy to define those measures which have no effect on Northern Ireland. Even the nationalisation of the steel industry in Great Britain may vitally affect Northern Irish interests in, for example, the shipbuilding industry.

5. The touchstone may well prove to be taxation, founded as this is on public revenue and expenditure and economic planning. There is little that the House does which has not an effect on public expenditure; economic policies enforced through fiscal policy, apply throughout the United Kingdom. Most taxation is a subject reserved to the Westminster Government and the Northern Irish are taxed to the same extent and at the same rates as anyone else in the United Kingdom. It would not be reasonable to deny to Northern Ireland representation at Westminster on any matter which might, however remotely, affect taxation.

6. On 6th May 1965, Mr. Hamling asked the Prime Minister if he would take steps to amend the House of Commons (Redistribution of Seats) Act, 1949, with respect to the representation of Northern Ireland in the House of Commons. The Prime Minister replied, "No, Sir. The Government have no such plans." (Official Report col. 1560).

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Northern Ireland Financial Arrangements

Most taxes affecting Northern Ireland (including income tax and customs and excise duties) are reserved matters for the United Kingdom Parliament and come into the United Kingdom Exchequer in the first instance. Northern Ireland's gross share of these reserved taxes is determined by a Joint Exchequer Board set up under the Government of Ireland Act, which is made up of an independent Chairman appointed by the Crown (at present Lord Muirshiel who as Mr. John MacLay was Secretary of State for Scotland from 1957 to 1962), and representatives of H.M. Treasury and the Northern Ireland Ministry of Finance. From this gross share deductions are made for:-

- (a) The cost of "reserved services" operated in Northern Ireland by the United Kingdom Government (e.g., the collection of taxes by the Revenue Department);
- (b) a contribution to Imperial expenditure, i.e. defence, the National Debt, and overseas relations. (this is also determined by the Joint Exchequer Board).

The Northern Ireland residuary share of reserved taxes after these deductions is paid from the United Kingdom Exchequer to the Northern Ireland Exchequer.

This residuary share is the principal item on the revenue side of the Northern Ireland budget; the provision figure for 1967/68 was £171 million. While there are in addition smaller amounts from the proceeds of "transferred taxes" imposed by the Northern Ireland Parliament (which include death duties, motor vehicle duties, stamps and pool betting; and selective employment tax) these were expected to bring in only £33.5 million in 1967/68 and would therefore only account for about 14 per cent of Northern Ireland's total revenue.

On the expenditure side of the Northern Ireland budget is the cost of the "transferred services" run by the Northern Ireland Government, i.e. the bulk of all domestic Government activities. These are administered on the principle of parity of services with Great Britain. Any variation from parity and the level of expenditure in services where parity is not applicable are subject to agreement

between the Treasury and the Northern Ireland Ministry of Finance. In the particular case of financial assistance and inducement to industry of the kind applicable to Development Areas in Great Britain, the whole of Northern Ireland is covered by schemes which give a rather wider range of benefits than in Great Britain; this must be set against the background of unemployment at a level nearly twice as high as the worst of the Development Areas in Great Britain. Regional Employment Premium is payable in Northern Ireland at the same rate as in Great Britain. Power was taken in section 26(7) of the Finance Act 1967 to enable the Treasury to meet the cost of doing so, since the Northern Ireland Government lack the necessary funds for this purpose. If this had not been done the comparative disadvantage under which Northern Ireland would lie could have been crippling.

A provisional Imperial Contribution of £2 million was agreed for 1967/68, but as a special measure to provide extra funds for unemployment relief work in the winter the contribution was reduced to half a million pounds.

When taxation and Government expenditure are based on national standards there is no certainty that any individual region will produce enough revenue to meet its local expenditure. In fact Northern Ireland revenue threatened to be inadequate to support parity of services well before the war and arrangements were made to give assistance towards the cost of unemployment benefits which were exceptionally heavy because of higher unemployment, larger families, etc. These arrangements have now been extended to a wide range of social services and assistance is given either from the United Kingdom Exchequer or from the Great Britain National Insurance Fund. The arrangements provide for possible payments of reverse assistance from Northern Ireland to Great Britain and the overall figures contain reverse payments for some services.

Since the 1930's the United Kingdom Exchequer have assumed responsibility for the major schemes of agriculture subsidies applying to Northern Ireland in common with the rest of the United Kingdom. Although these subsidies are an undoubted benefit to Northern Ireland it would be misleading simply to add them to the payments

between the Exchequers, because they are the counterpart of support for other industries which take the form of protection from imports by means of tariffs (e.g. motor cars) or other restriction (e.g. coal). The Northern Ireland Government and Parliament are not enabled to impose measures which would have the effect of placing restrictions on trade from overseas. Finally, there is an element of benefit for the consumer in Great Britain who takes about half of all Northern Ireland's agricultural production.

High unemployment and large families in Northern Ireland affect the cost of a great number of Government services and depress the yield of taxation. In addition higher costs have been assumed in social capital development to make up the considerable leeway which existed at the end of the war. In view of the level of unemployment it has also been possible and desirable to exempt Northern Ireland from the restrictions on capital development which have been imposed nationally from time to time.

Section 2 of the Miscellaneous Provisions Act 1950 provided that advances may be made from the United Kingdom Exchequer to the Northern Ireland Exchequer for the purpose of Northern Ireland Government loans. The principal recipients of loans financed out of these advances are local authorities in Northern Ireland and the Electricity Board of Northern Ireland. Under section 44 of the Finance Act 1967, the limit of advances was increased from £70 million to £120 million. The current rate of lending by the Northern Ireland Government for housing and electricity is not disproportionate, population wise, to the corresponding rate of expenditure in Great Britain.

It will be seen that apart from the payments in respect of the social services, agriculture subsidies, and the Regional Employment Premium, that the major revenue which accrues to the Northern Ireland Government for public expenditure by that Government derives from the residuary share of reserved taxation. That share is determined by the Joint Exchequer Board and it would, if not impossible, be difficult and potentially politically most embarrassing to attempt to exert financial pressure on the Northern Ireland Government through the Joint Exchequer Board with its

independent Chairman. For the rest, the payments are made on a statutory basis and would require legislation if they were to be suspended. While therefore it would be entirely possible for the Government adversely to affect the financial climate within which the Northern Ireland Government has to operate, it could do so only at a certain cost in terms either of controversial legislation or of being open to the charge that it was using a statutory board under an independent chairman for a purely political purpose. There can be no question but that the United Kingdom Government has been extremely generous towards the needs of Northern Ireland since 1964, and this has been acknowledged by the Prime Minister of Northern Ireland. At the same time, the high level of unemployment and the social conditions in Northern Ireland remain such that to reduce in whatever way the level of assistance which the wealthier parts of the United Kingdom have been making available would be open to strong criticism on social grounds.

ANNEX

Payments to Northern Ireland1. To Northern Ireland Exchequer

£ thousand

	1964/5	1965/6	1966/7	1967/8 (estimate)
(a) Social Services (Northern Ireland Agreement) Act 1949 (to assimilate the burdens on the N.I. and U.K. Exchequers)	9,000	9,542	10,297	11,000
(b) Agriculture Act 1957 S.32 ("Remoteness" grants)	807	1,306	1,625	1,750
(c) Regional Employment Premium	-	-	-	4,200
TOTAL	9,807	10,848	11,922	16,950

2. To National Insurance Fund for Northern Ireland

£ thousand

	1964/5	1965/6	1966/7	1967/8 (estimate)
National Insurance Act 1946 c.63 (Payments by the National Insurance Joint Authority, from corresponding G.B. Fund, to co-ordinate the systems of insurance in each area so that to an extent they operate as a single system.)	10,957	12,974 (See note (b))	14,547	14,400

3. To Northern Ireland Farmers and to Marketing Boards

£ thousand

	1964/5	1965/6	1966/7 (estimate)	1967/8 (estimate)
Agriculture Act 1957 (etc.) (Deficiency payments, production grants, etc., paid direct from U.K. Exchequer)	26,895	25,218	22,857	28,084

4. Note. In addition Land Annuities (in respect of repayment of advance to farmers for the purchase of their holdings) existing when the Northern Ireland Parliament was set up, are collected by the Government of Northern Ireland and retained in the Northern Ireland Exchequer. Amounts are as follows (£ thousand).

<u>1964/5</u>	<u>1965/6</u>	<u>1966/7</u>	<u>1967/8</u> (estimate)
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285

238

192

112

5. The contribution by the Northern Ireland Exchequer to the United Kingdom Exchequer in respect of "Imperial expenditure" (S.23 of Government of Ireland Act 1920) in recent years is as follows (£ million).

1964/5	1965/6	1966/7 (provisional)	1967/8 (provisional)
3.5	3.5	3.5	0.5

6. A payment from the Northern Ireland Industrial Injuries Fund to the Great Britain Industrial Injuries Fund amounting to £1,090,000 was made in 1965/66.

THE NORTHERN IRELAND SPECIAL POWERS LEGISLATION

A Special Powers Act was first introduced by the Government of Northern Ireland in 1922 in order to combat a reign of terror by the Irish Republican Army (it was in 1922 that well over 200 people were killed and nearly 1,000 wounded over and above the substantial damage to property which was caused). This act, the Civil Authorities (Special Powers) Act (Northern Ireland) 1922, was enacted to continue in force for only one year initially, but it was extended at first annually and subsequently for longer periods until 1933 in which year a further act with the same title was enacted to provide that the principal act should continue in force until the Parliament of Northern Ireland otherwise determined. A further act of the same title was passed in 1943 amending the principal act and the three acts together are cited as the Civil Authorities (Special Powers) Act (Northern Ireland) 1922-1943.

Under this legislation the Minister of Home Affairs, as the Civil Authority for Northern Ireland, is empowered to take such steps as he may deem necessary for preserving peace and maintaining order, and to carry out this objective he is authorised to make regulations. The main regulations are contained in the Schedule to the 1922 Act, and all such regulations made subsequently have to be laid before both Houses of the Northern Ireland Parliament, and are subject to annulment.

Since the original act was passed the scale of the threat to civil order has varied. The IRA was active in the early thirties both in Northern Ireland and in the South, and the Eire Government passed legislation giving powers of arrest and internment similar to those enacted in Northern Ireland. This campaign continued up to and intensified during the 1935-45 war when IRA attacks took place throughout Ireland and in Great Britain. After the war there was a period of freedom from these activities and in 1949 the Northern Ireland Government revoked all but seven of the 43 Regulations which had by then been made. When the IRA renewed its campaign of violence in 1956 a considerable number of regulations were revived. The renewal of the threat has recently as 1966 has inhibited the Minister of Home Affairs from feeling able

There remain in force at the present time no less than 38 regulations deriving from the Schedule to the 1922 Act or from subsequent statutory instruments (list attached). The bulk of these are not particularly contentious but regulations 11 and 12 in particular which deal with detention and internment are highly controversial. These give the Civil Authority the power of detaining and/or internment any person suspected of acting or being about to act in a manner prejudicial to the security of the State. Persons detained under Regulation 11 are held in the first instance to enable the cases against them to be examined and they are then either discharged by direction of the Attorney General or brought before the Courts, or interned under Regulation 12. No-one has been either detained or interned under Regulations 11 and 12 since the last internee was released on 25th April 1961.

The main use which is made of the special powers at the present time is the proscription of illegal organisations and their publications. On 28th June 1966 an Order was made, following a murder incident in which Protestant extremists were involved, to declare the Ulster Volunteer Force an unlawful association.

On 7th March 1967 an Order was made declaring Republican Clubs an unlawful association and the Minister of Home Affairs stated that he made this Order following a detailed report and advice from the Royal Ulster Constabulary indicating that the Republican Clubs were substantially the unlawful Sinn Fein organisation under another label. [Sinn Fein and the I.R.A. have long been proscribed.]

It is chiefly the powers of detention and internment which account for the necessity for Her Majesty's Government to enter a derogation from its own obligations under the European Convention on Human Rights. This does not amount to a breach of the Convention since there is provision under Article 15 that in time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under the Convention. A notice of derogation was lodged in 1957 and this notice (copy attached) has remained effective since then.

LIST OF REGULATIONS IN FORCE AT 1st APRIL 1967REGS.

3A.	Control over Manufacture, Sale, etc., of Explosives.	5/34 & 167/57
3B.	Storage of Explosives.	23/57 & 167/57
3C.	Transport of Explosives.	45/57 & 167/57
4.	Police Power to Search Premises, Vehicles, etc.	90/54 & 71/57
5.	Police Power to Stop and Search Vehicles.	90/54 & 71/57
5A.	Inspector General's Power to Order Stopping of Trains.	71/57 & 167/57
5B.	Power to Control Movement by Rail.	82/66
6.	Police and H.M. Forces on duty: Power to Stop and Search Suspects.	90/54 & 73/57
7.	Duty of <u>ANY</u> Person to Stop and Answer Reasonable Questions.	90/54 & 71/57
8.	Banning of Subversive Newspapers, etc.	179/54
9.	Civil Authority's Power to Close Roads.	176/55
10.	Officer of R.U.C may Authorise Arrest and Detention of Persons for 48 Hours.	176/55
11.	Arrests and Detentions in Prison	191/56
12.	Internments.	191/56
13.	Visits and Communications to Internees.	191/56
14.	Other Powers of Civil Authority.	191/56
15.	Permits Issued under Regulations to be Produced.	191/56
16.	Hearing of Cases in Camera.	191/56
17.	Venue for Proceedings and Summoning of Witnesses.	191/56
18C.	Control of Money in Banks for Subversive Purposes.	14/23
19.	Curfew.	199/56
20.	Control over Persons from Outside U.K.	199/56 & 71/57
21.	Power of H.M. Forces on Duty and Police to Require Information, Articles, Books, etc.	199/56
22.	Ban on Collection of Information as to Police Forces.	199/56
23D.	Movement of All Prisoners.	41/22 & 48/23
24A.	Unlawful Associations.	35/22; 119/31; 88/33; 47/36; 199/56; 146/66 & 42/67
25.	Unlawful Interference with Telephonic and Telegraphic apparatus.	199/56
26.	Ciphers, Codes, etc.	199/56
27.	Injury to Railways.	199/56
28.	Documentary Evidence.	Schedule 1922 Act
29.	Dangerous Discharge of Firearms.	199/56
30.	Publication of Notices and Interference Therewith.	Schedule 1922 Act
31.	Possession or Control of Offensive Weapons.	199/56
32.	Immobilizing of Mechanically Propelled Road Vehicles.	199/56

REGS.

33.	Civil Authority's Control over Use of All Vehicles.	3/57
34.	Access to Lands and Buildings.	3/57
34A.	Civil Authority's Power to Take Possession of Lands and Buildings.	3/57
35.	Regulations not to Apply to H.M. Forces on Duty.	Schedule 1922 Act
36.	Civil Authority's Power to Order Disposal of Anything Seized.	90/54
37.	Civil Authority's Power over Ports, Ships, etc.	16/57
38.	Power to disperse Gatherings of Three or More Persons.	173/66

COPY

THE UNITED KINGDOM PERMANENT
REPRESENTATIVE TO THE
COUNCIL OF EUROPE,
STRASBOURG.

21

The United Kingdom Permanent Representative to the Council of Europe presents his compliments to the Secretary-General of the Council, and has the honour to convey the following information in order to ensure compliance with the obligations of Her Majesty's Government in the United Kingdom under Article 15(3) of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on the 4th of November, 1950.

A public emergency within the meaning of Article 15(1) of the Convention exists in a part of the United Kingdom, namely, Northern Ireland.

Owing to the recurrence in Northern Ireland of organised terrorism, certain emergency powers have been brought into operation at various dates between June 16, 1954, and January 11, 1957, in order to preserve the peace and prevent outbreaks of violence, loss of life and damage to property; for these purposes the Government of Northern Ireland, to the extent strictly required by the exigencies of the situation have exercised powers to detain persons, to search and seize, and to prohibit the publication and distribution of certain printed matter, which may involve derogations in certain respects from the obligations imposed by the Convention for the Protection of Human Rights and Fundamental Freedoms.

June 27, 1957

A 34.552

Local Electoral Law in Northern Ireland14 copies
(8)

This note sets out on a comparative basis the main aspects of the local electoral franchise in Great Britain both before and after the War, and Northern Ireland.

Before 1945, the local government franchise in Great Britain was restricted to persons occupying (whether as owner or tenant) land or premises, and to the wives of such persons. Other persons (for example, lodgers, or persons living in hostels) did not qualify for the local government vote. The Speaker's Conference of 1944 recommended that Parliamentary and local government franchise should be assimilated; and that the "business premises qualification" (i.e. the non-resident franchise) should be retained for occupiers but not for their spouses. The Representation of the People Act 1948 (now consolidated in the 1949 Act) abolished the non-resident vote altogether for Parliamentary elections, but retained it for local government elections.

The present local electoral franchise in Great Britain is therefore principally governed by the 1949 Act and to be qualified a person must in the first place -

- (a) be a British subject (or a citizen of the Republic of Ireland);
- (b) be of full age and subject to no legal incapacity.

If a person possesses these qualifications, he is then entitled to be registered to vote provided he is -

- (a) resident in the local electoral area concerned, or
- (b) the occupier (whether as owner or tenant) of land or premises valued at no less than £10 per year.

No person may vote more than once in any one electoral area.

The local electoral franchise in Northern Ireland is governed by the Electoral Law Act (Northern Ireland) 1962, a consolidating measure which enshrines the old concept of qualification by virtue of contribution to the rates through occupation of rateable property. To be registered as qualified a person must possess three primary qualifications, and one of a number of secondary qualifications.

5

The three primary qualifications are that a person must -

- (a) be a British subject,
- (b) be of full age and subject to no legal incapacity,
- (c) have been born in Northern Ireland, or else resident in the United Kingdom throughout the last seven years.

If a person possesses these qualifications, he is then entitled to be registered to vote provided he has at least one of the following qualifications:

- (a) he must reside in the local government electoral area as the occupier of a dwelling house or as the spouse of the occupier, and had been resident either there, or elsewhere in Northern Ireland for the last three months (a similar provision is contained in the United Kingdom Representation of the People Act as regards Northern Ireland residence for qualification to vote at elections to Westminster), or
- (b) he must occupy land or premises in the area (other than a dwelling house) valued at £10 or more, and have done so, either in the area or elsewhere in Northern Ireland, for the last three months, or
- (c) he must be a member, officer or employee of and nominated by, a company occupying land or premises in the area valued at £10 or more. A company may nominate one such person for each £10's worth of valuation up to a maximum of six persons. No person may vote more than once as the nominee of any single company in any one electoral area.

There are limitations on the opportunity to acquire plural votes: no person may have more than one vote in any one electoral area, save by virtue of having one or more company votes; and no person may have separate votes as the occupier of separate dwelling houses in more than one electoral area. In this last respect only the Northern Ireland local electoral franchise is more stringent against the acquisition of plural votes than in the corresponding law in Great Britain.

Conclusion

~~Ministers~~
Ministers have decided to introduce legislation in the forthcoming Session of Parliament to narrow still further the opportunity to acquire plural local

electoral votes in Great Britain, by the abolition of the non-resident vote for business occupiers. Although the proposition that one local government vote is enough for one man is now fairly generally accepted, even the law of Great Britain after the proposed reform will retain the possibility of plural votes for persons with more than one residence. The justification for this is that liability to pay rates in an area is justification enough for a local government vote in that area, notwithstanding that the elector already has another vote in the area in which he also resides. The Northern Ireland system rests on an earlier expression of the same principle, namely that liability to pay rates in an area is not only sufficient but also the only justification for a local government vote in that area. While this is no longer, to most people, a convincing argument, it is fair to recognise that it represents an earlier stage of the same pattern of evolution as has occurred in Great Britain, rather than a separate development towards the more restricted franchise. It is perhaps also fair to add that the test of any such franchise must surely be whether it is generally accepted by the community as being fair and of a leading to impartial and efficient conduct of local administration. By that test it is difficult to say that the Northern Ireland franchise continues to be justified.

E.R.

(9)

National Opinion Poll

A short time before the recent Londonderry disturbances N.O.P. polled a sample of 17-24 year olds in Northern Ireland.

The following is the N.O.P. summary of the answers about priorities for the Northern Ireland Government:-

"53% say that the top priority for the Northern Ireland Government should be to bring more industry to Ulster. 26% think that building more houses should come first, and this includes 35% of those who left school at 16 or under.

The same two items (bringing industry to Ulster and building more homes) also feature prominently among the list of second priorities. Less important are improving relations with Eire, introducing universal suffrage at local elections, and ending religious discrimination. The key figures are summarised in the Table below.

	<u>ORDER OF IMPORTANCE</u>			<u>Rank Order</u>
	<u>First</u> %	<u>Second</u> %	<u>Least</u> %	
Bring more industry to Northern Ireland	53	25	3	1
Build more houses	26	35	5	2
Ban discrimination in employment	6	14	10	3
Ban discrimination in housing	4	8	9	4
Improve relations with Eire	7	10	18	5
Introduce votes for everybody at local elections	4	5	45	6
Don't know	1	2	9	

NOTE: The rank order was calculated by allocating one point to a first priority, two to a second priority, six to the item regarded as least important, and four to items not mentioned by the respondent.

E.R.

The table makes it clear that better relations with Eire and votes for everybody in local elections are widely regarded as the least important items. They may be desirable goals (it has already been noted that 82% want better relations with the Republic), but there are other things which must come first."