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Dear Prime Minister,

I enclose a
copy of the Response which
my party have made to
your government's proposals
for devolved government
in N. Ireland.

Sincerely,
Jon Jones



Ulster Democratic Unionist Party

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THE RESPONSE OF THE ULSTER DEMOCRATIC UNIONIST PARTY
TO HER MAJESTY'S GOVERNMENT'S PROPOSALS FOR FURTHER DISCUSSION
ON THE GOVERNMENT OF NORTHERN IRELAND

Presented to the Secretary of State
for Northern Ireland
August 1980

THE RESPONSE OF THE ULSTER DEMOCRATIC UNIONIST PARTY
HER MAJESTY'S GOVERNMENT'S PROPOSALS FOR FURTHER DISCUSSION
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INTRODUCTION

This Paper does not purport to be an exhaustive critique of the Government's Proposals; rather it deals only with some of the more salient points as they emerge in the Government's Document.

The Ulster Democratic Unionist Party, being committed to attaining a meaningful and acceptable form of devolution for Northern Ireland within the United Kingdom, welcomes the fact of the publication of CMND 7950 "The Government of Northern Ireland Proposals for Further Discussion" as another step along the road to devolution. In this regard we note approvingly the declaration in paragraph 1 of H.M.G.'s hope "to put forward specific proposals for legislation in the next session of Parliament". We trust that this hope will be translated into positive action and that no time be lost in restoring to Northern Ireland workable and reasonable institutions which can enable locally elected representatives to discharge most of the functions of government presently administered in a colonial fashion from London. In this context we welcome H.M.G.'s continuing recognition of the inadequacies and inappropriate nature of Direct Rule as enunciated in paragraph 14. However, we would dispute the claim that Direct Rule has "achieved general acceptance in the Province". Rather it has been tolerated with increasing impatience over these past 8 years, but it has never been, nor will it ever be, accepted as a suitable method of government for Northern Ireland as part of the United Kingdom.

THE WAY TO PEACE

We detect in certain portions of the Document, particularly in paragraphs 9, 21 and 41, evidence of a belief by H.M.G. that political developments can assist in restoring peace in Northern Ireland. Since it is the wanton terrorism of the Provisional I.R.A.

that denies peace to Northern Ireland, the logic of that belief is that the Provisional I.R.A.'s campaign of terror can be assuaged, if not defeated, by the application of some political formula.

As we warned at the Stormont Conference this is dangerous nonsense because no political action, short of the unthinkable - a surrender to the I.R.A.'s demand for a 32 County Republic - will cause the I.R.A. to go away. Essentially only a military defeat of terrorism will bring peace to Northern Ireland. Therefore those republican politicians in Northern Ireland who speak in terms of securing peace by political means and who insist that only adoption of their particular political policy will bring peace, are in reality seeking to hide behind the awful spectre of terrorism and are using the I.R.A. as a political battering-ram to try and persuade H.M.G. into acceptance of their point of view. Let H.M.G. ever remember that terrorism must be eradicated and not accommodated; and that political advantage must be won by argument and not blackmail.

The U.D.U.P. feels constrained to remind H.M.G. that if and when a devolved structure is established in Northern Ireland, of whatever nature, the I.R.A. will unleash a most horrific campaign of terror against it, and against the people of Northern Ireland, and that H.M.G. will need to prepare long and hard to frustrate and defeat their evil plans.

SECURITY AND THE NEW INSTITUTIONS

The U.D.U.P. welcomes the recognition in paragraph 11 that a new Northern Ireland administration "should not conduct its business either isolated or excluded from the concern for security which is pervasive" and therefore that "arrangements will thus be needed to give those (locally elected) representatives a voice in security matters". Since we view this issue as being of tremendous importance we are eager to explore further with H.M.G. how best the new Northern Ireland Government can be given a real influence in security matters, because without this its credibility will be so severely undermined as to make its task nigh impossible. We must say that the suggested Advisory

Council mentioned in paragraph 29 would be wholly inadequate for this purpose.

While the U.D.U.P. can face the reality that with the current involvement of the Army in Northern Ireland full Law and Order powers will not be conferred to local institutions in the immediate future, we feel it is imperative that the door should be kept most firmly open so that full Law and Order powers can be transferred at an appropriate time in the future. We therefore urge that in any Act establishing a Northern Ireland Assembly and Government, control over Law and Order should be specially categorised as a "Reserved Matter" so that unlike "Excepted Matters" it could in future become a "Transferred Matter".

In addition the matter could perhaps be submitted to annual parliamentary review so that the issue is kept alive in a manner somewhat akin to the way in which the Emergency Provisions Act and Direct Rule have needed annual renewal. In this way H.M.G. could demonstrate its good intentions on this vital matter and so make devolution without immediate security powers a more acceptable proposition.

However, pending a full transfer of law and order powers, the U.D.U.P. can see no reason why certain aspects of the criminal law could not be transferred immediately. We have in mind those areas which have no direct bearing on the security situation and which surely would be quite proper matters for local control. In this regard we note with hope that paragraph 11 speaks only of it not being realistic at present to confer on a Northern Ireland Administration "full responsibility for the criminal law and the Police and Prison Services". Partial responsibility therefore would seem to be possible and compatible with the Document. We therefore invite H.M.G. to advise us what areas of the criminal law and other related matters it would be prepared to devolve immediately.

Another important step which we feel could be taken to give the new Northern Ireland Assembly credibility, would be the ability to appoint members to the Northern Ireland Police Authority and to receive and debate the Chief Constable's Annual Report.

Most important of all some procedure must be devised to directly involve the Northern Ireland Government in the day-to-day control of security matters. So long as security remains the dominant concern of the people of Northern Ireland then so long will a government in Northern Ireland which has no effective say on security remain largely inept, despised and ineffective. Thus we repeat our suggestion that the Leader of the Northern Ireland Government should be involved along with the Secretary of State, the Chief Constable and the G.O.C. in the regular discussions which take place on security matters. If Law and Order is ever to be transferred to the Northern Ireland Institutions, then it is crucially important to have close liaison maintained between those who presently control security and the Northern Ireland Government; we feel this suggestion is the best way of doing this. To facilitate this exercise and in particular to ensure confidentiality the Chief Executive should be made a member of the Privy Council. Indeed, given the relationship of co-operation and confidence that will need generally to develop in a devolved system between the Secretary of State and the Chief Executive, membership of the Privy Council for the Chief Executive would appear essential so that the necessary exchanges can freely take place in confidence.

Furthermore as the 'Ulsterisation' of the security drive continues with more and more dependence on the R.U.C. and the U.D.R., it is surely politically sensible to develop a parallel involvement of the Northern Ireland Administration in security matters.

FINANCIAL MATTERS

In noting the various figures quoted in paragraph 12 we would make the following comments. The fact that public expenditure in Northern Ireland is 35% above that in G.B. is a reflection, not of unmerited privilege but of our special problems and needs in the fields of unemployment and social deprivation etc, which cannot be matched by other areas of the U.K. Therefore it is only but proper that public expenditure should be correspondingly higher in Northern Ireland, though there are other areas of the United Kingdom where per capita public expenditure is somewhat similar and those areas equally place "a considerable and rising cost on the tax payer". Just as that fact does not jeopardise the position of those other areas as parts of the United Kingdom so, too, we are sure H.M.G. was not suggesting that Northern Ireland's position should be questioned or valued in the context of cost. If self sufficiency were the determining factor in membership of the U.K. then it would be a much smaller country, consisting mainly of London and the South East. Furthermore, we would invite H.M.G. to confirm that the 56% quoted in paragraph 12, as representing the proportion of expenditure financed from local sources in Northern Ireland, takes no account of the many hidden contributions made to the U.K. Exchequer from Northern Ireland, for example, taxation of G.B. based companies with profit making branches in Northern Ireland.

In so far as the funding of expenditure by a Northern Ireland Administration is concerned, we re-affirm our belief that a grant-in-aid method should be used covering all transferred services such as was outlined in CGNI/27. We refer H.M.G. to our proposals made on this matter at the Conference as we feel they are consistent with the requirements of paragraph 13.

We must express some concern over the terminology used in paragraph 13 when it says "but a new Administration in Northern Ireland will have to be involved in deciding how best the public funds available to Northern Ireland shall be spent". The use of the phrase "involved

"deciding" suggests that the new Northern Ireland Administration will not in fact be empowered to make a definite decision on this matter, but will only be involved with others, perhaps the Secretary of State, in reaching a decision. If this were so it would be wholly unacceptable, as a Northern Ireland Government, subject only to the approval of the Northern Ireland Assembly, must be free to discharge the primary function of government in pursuing its own policies which would involve decisions on how much would be spent on the various aspects of government. Clearly the concept of parity will be an effective discipline in this exercise but nonetheless the Northern Ireland Government must be as free as possible within that restriction. Of course the Secretary of State will be involved in helping agree the annual grant needed each year and in securing as much as possible for Northern Ireland in Cabinet negotiations, but the expenditure of the money for transferred matters must at all times be the task solely of the elected Northern Ireland Government and Assembly.

THE S.D.L.P. VETO

In considering paragraphs 15 and 16 of the Document the Ulster Democratic Unionist Party notes H.M.G.'s contention, again repeated in paragraph 41, that "new institutions of Government which the minority community cannot accept as its institutions will not bring stability and so will not be worth having". A very fine sentiment no doubt, but one which ignores the fundamental difficulty in Northern Ireland, namely, that no institutions of government in Northern Ireland which keep us wholly within the United Kingdom, in accordance with the wishes of our people, would ever be accepted by the minority community, as represented by the SDLP, because that community as represented does not in the first place accept even the existence of Northern Ireland as a separate political and constitutional entity in Ireland and as an integral part of the U.K. Without first acceptance of the State there can be no acceptance of its institutions, and to date there continues to be no indication of any meaningful or unequivocal recognition of the State of Northern Ireland.

this day the SDLP leadership harp back to the establishment of Northern Ireland and maintain that it was an artificial creation which they do not accept, never mind support. Therefore it is 'pie in the sky' for H.M.G. to speak of a minority community, as represented by the SDLP, accepting the institutions of Northern Ireland when they cannot even accept the existence of Northern Ireland. Likewise the reference in paragraph 19 to "the shared interest of both communities in developing a stable, peaceful and prosperous country" is equally wishful thinking, exceeded only by the Government's fond hope expressed in paragraph 49 that to give the minority as of right places in government would cause them to accept the institutions of Northern Ireland.

The SDLP has made it abundantly clear that it desires a "process of integration" within Ireland and this of necessity involves Northern Ireland ceasing to be part of the U.K. As they made clear in their opening submission to the Conference, the SDLP's only interest in a government for Northern Ireland is as "one of the initial steps" in this process of integration in Ireland, designed to lead to an "agreed Ireland". It is clear therefore that there will be no acceptance of the institutions of government of Northern Ireland by the political leadership of the minority community, such as envisaged by H.M.G., as H.M.G.'s proposals are wholly within a United Kingdom context, whereas the SDLP are interested only in accepting institutions which put Northern Ireland on the road to an all Ireland. Recognition of this reality by the Unionist people of Northern Ireland is the fundamental reason why they will never consent to sharing executive power with the SDLP. They know that to do so would be to share power with those who desire to take Northern Ireland out of the U.K. and hence inevitably any government office held by the SDLP would be abused in the forwarding of that objective. Nonetheless, the Unionist people recognise that "fair and workable" institutions have to be created which afford to all, including those who refuse to accept them, all the protections and safeguards which could reasonably be required.

But H.M.G. is being naive in the extreme if it thinks it can create institutions for Northern Ireland within the United Kingdom which will be accepted by the current political leadership of the minority community. Indeed by setting such a yard-stick to measure the suitability of new institutions, the Government is effectively delivering an unconditional veto to the minority community on any progress towards devolved government for Northern Ireland within the U.K., and this is a veto which will be exercised most eagerly.

H.M.G. should not be ignorant of the fact that the SDLP have a vested interest in the failure of every conceivable suggestion for a devolved government for Ulster within the United Kingdom, including H.M.G.'s current proposals. So that, as has already happened, the SDLP can then say "We told you so, now face up to the fact that only joint Dublin/London action can solve the problem". By offering them such an open ended veto (the real unconditional guarantee) as is contained in paragraph 15 H.M.G. is falling into that trap and is ensuring that nothing it offers within the United Kingdom will or need be accepted by the SDLP.

THE UNION

The U.D.U.P. welcomes the re-affirmation of the constitutional position of Northern Ireland as part of the U.K. and the continuing intention of H.M.G. to respect our most fundamental of rights, the right to self determination. In this regard we congratulate H.M.G. for standing firm in the face of pressure from Dublin and elsewhere to deny the people of Northern Ireland this right to self determination. In particular we welcome the clear and sensible declaration of paragraph 19 that "the continued position of Northern Ireland within the U.K. is not something which the Government would use as a bargaining counter in order to secure agreement to a particular form of political institution". However, we must say that the stance of near neutrality adopted by H.M.G. on the Union must be a source of great hope and encouragement to the I.R.A., which could so easily have been denied

em by a declaration in favour of the Union as such by H.M.G. and not just a declaration of intention to respect the wishes of Northern Ireland, whatever they may be. As the I.R.A. struggles to break the Union it must encourage it to know that the British Government has of itself no desire to maintain the Union.

In paragraph 20 we are interested to note that H.M.G. seems to accept that to date the minority community have not accepted and respected the fact that Northern Ireland "cannot be separated from the rest of the U.K. without the consent of its people" and that only when it does so should the majority in response "ensure a positive role for the minority community in the arrangements for the government of Northern Ireland". Certainly the SDLP as representatives of the Minority have shown no real signs of accepting and respecting the right of Northern Ireland to exist as part of the U.K., else they could not have advised the Conference in their opening submission that their policy was for Dublin and London jointly to embark upon a process of integration within Ireland irrespective of the views of the Unionists of Northern Ireland. We remind H.M.G. that in their submission the SDLP, after presenting their scheme to produce an All Ireland, said this: "In making these proposals, the SDLP is aware that some parties in the North will initially refuse to participate in this process of creating a solution as they blindly refute the constructive and conciliatory Irish Dimension which it obviously contains. However, short-sighted intransigence must not be allowed to postpone further the political, economic and social stability which the people of Ireland, North and South, so desperately want and deserve. No longer can the veto of one small section of the Irish people be allowed to condemn the vast majority on the island, who wish to live in peace and agreement, to further decades of suffering and strife. The process must start and the dialogue continue without them while leaving the door open for their eventual participation." Where is the acceptance and respect that H.M.G. requires in paragraph 20 from the SDLP of the inalienable right of the people of Northern Ireland to refuse to be separated from the rest of the U.K.? Given the

consistent history of hostility by the political leadership of the minority, as epitomised by the current SDLP stance, to the state of Northern Ireland during its 60 years of existence and to the right of the majority of people in Northern Ireland to insist on remaining part of the U.K. is it any wonder that Unionists adamantly decline to share power in government with them?

Indeed since paragraph 20 puts minority acceptance of the right of the people of Northern Ireland to refuse to be separated from the rest of the U.K. as a pre-requisite to "a positive role for the minority community in arrangements for the government of Northern Ireland", we are inclined to regard paragraph 20, in the context of the SDLP stance, as a vindication of our stand against executive power sharing and as a realisation by H.M.G. that there should be no positive role in government for those, like the SDLP, who refuse to accept that the majority in Northern Ireland have an absolute right to insist on full and continuing membership of the U.K.

RELATIONS WITH THE REPUBLIC OF IRELAND

In response to the exhortation of paragraph 20 that "it is in the interests of both communities to recognise and develop the links that exist between Northern Ireland and the Republic of Ireland", and in response to paragraph 21, the U.D.U.P. would make it clear that while the people of Northern Ireland emphatically reject any institutionalised association or other constitutional relationship with the Republic of Ireland, they have no desire to live in hostility with their neighbours in the Republic of Ireland. But it must be for the people of Northern Ireland alone to decide what should be their relationship to the Republic. Therefore any developments in this direction can only follow the establishment of new institutions in Northern Ireland, when the elected Assembly would decide such matters. Most certainly the issue of the relationship between Northern Ireland and the Republic must play no part in the establishment of new political institutions in Northern Ireland.

While it is clear that there are areas where co-operation between Northern Ireland and the Republic could be mutually beneficial, it must be recognised that the constitutional claims made to Northern Ireland in the Constitution of the Republic, and the unreasonable attitude of various Dublin Governments to the vexed issue of extradition and security generally, will undoubtedly inhibit the extent to which co-operation can develop. So long as the Republic continues to operate as an 'Open House' for the Provisional IRA then so long will normal co-operation be rendered impossible. Proper economic co-operation in the nature of practical schemes of mutual benefit, such as one would expect between members of the EEC, could develop but would require a normalisation of relationships and in particular de jure recognition by the Republic of Ireland of the status of Northern Ireland and an abandonment of its claim to de jure sovereignty over Northern Ireland.

The Ulster Democratic Unionist Party is adamant that the new Northern Ireland Assembly and Government must be responsible for dealing with the Government of the Republic of Ireland on all transferred matters and we would not agree to Dublin/London negotiations to the exclusion of Belfast on such issues. We therefore feel it is imperative for the Northern Ireland Assembly to have legislative power to deal directly and effectively with the Dublin Government on such matters.

In respect of other external relationships the U.D.U.P. believes it would be the responsibility of H.M.G. in consultation with the Government of Northern Ireland to ensure that the interests of Northern Ireland are adequately represented in international affairs. In particular with the growing importance of the EEC and other international organisations it may be necessary to have direct representation in Brussels and New York, similar to that obtained in the Home Office after 1940 when an Assistant Secretary from the Northern Ireland Cabinet Office was seconded for service. And when a United Kingdom Minister is negotiating in Brussels on matters in which Northern Ireland has an interest, his Northern Ireland counterpart should attend with him.

OUTER FRAMEWORK OF GOVERNMENT

1. The Ulster Democratic Unionist Party wholeheartedly endorses the recommendation in paragraph 25 for one Province-wide elected Assembly of approximately 80 members.
2. Paragraph 26 recommends STV as the method of Election on the basis of "the special political considerations that apply in Northern Ireland". Unfortunately the Document does not explain what these considerations are and therefore we invite H.M.G. to explain this paragraph more fully. If this was a polite way of saying that under STV the minority community might have more representatives elected to the Northern Ireland Assembly than under a "first-past-the-post" system we would simply remind H.M.G. that the percentage of anti-unionist members elected to the former Northern Ireland Parliament by the "first-past-the-post" method at any election during its history was approximately the same as the percentage elected by STV to the Northern Ireland Assembly in 1973 and to the Northern Ireland Convention in 1975. We again, as we did at the Conference, must object to the use of STV as it produces unwieldy, impersonal constituencies with up to 8 representatives, and as it is a system which does not even achieve the representation for tiny parties which PR is designed to secure. We again recommend to H.M.G. a modified list system, which would combine the advantages of the "first-past-the-post" system with a Party List System that provides a high degree of proportionality. In making this recommendation we remind H.M.G. that when STV was introduced to Northern Ireland in 1973 the then Secretary of State, Mr Whitelaw, told the House of Commons that "there is no reason for not changing it if at a suitable time it is thought right that such a change should be made" (Official Report. 16/4/73 Vol. 855 col.164). We suggest that this juncture of a new beginning in devolution for Northern Ireland is a suitable time for change and that the modified list system would be a better choice. However, if STV is persisted with, then we insist that a drastic review of the representation from the 12 constituencies takes place,

because since its introduction in 1973 massive population changes mean that if the same number of representatives were elected from the 12 constituencies as in 1973 then some would be grossly over-represented while others would be grossly under-represented.

3. Paragraph's 27 indication that essentially the powers transferred in 1973 should be transferred again is in our opinion the bare minimum acceptable and we would be eager to ensure that the changes to take account of subsequent developments, which are referred to in paragraph 27, would not involve a reduction in the powers to be transferred. We again remind H.M.G. that law and order etc should be categorised as a "Reserved Matter" so that at the earliest opportunity it can be transferred. Indeed we wish to see the list of matters to be wholly excepted from devolution to be as small as possible and we suggest that only those matters which were excepted in both 1920 and 1973, with all other matters being either reserved or transferred.
4. We can understand and accept the matters covered in paragraph 28.
5. We require substantial clarification on the appointment, operation and function of the Advisory Council suggested in paragraph 29. We are opposed to the creation of a body which in the public mind would be thought to have powers in the areas that it debated, but which in reality would be powerless and a mere talking shop. We have no interest in setting up a body of local representatives who would take the brick-bats for the Secretary of State's decisions but which would have no power to change the policy. Public responsibility without power for Northern Ireland politicians over such crucial issues as law and order might suit Westminster very well, but it is of no interest to the U.D.U.P. We can also see dangers of this body being exalted to a position where it might be seen to overshadow the Northern Ireland Executive and, as that would be intolerable, we are not in the least impressed by the proposition. A better proposition in our view would be for the Assembly itself to form a Subject

Committee to discuss and advise on all non-transferred matters. To properly exercise these functions the committee would need to be able to consult directly, if necessary in camera, with the Secretary of State. This Committee as a microcosm of the whole Assembly largely could serve the same purpose as the Advisory Council but still maintain the "sovereignty" of the Assembly and the standing of the Executive.

6. The Ulster Democratic Unionist Party unreservedly endorses the suggestion of legislative powers for the Northern Ireland Assembly contained in paragraph 31.

Likewise we endorse the recommendation in paragraph 31.

8. We welcome the suggested Departmental Committees of the Assembly, outlined in paragraph 32, believing that such powerful committees will inevitably induce a better standard of government and altogether the most equitable of systems. Since it is the wide powers of these committees that would give them their teeth rather than their method of composition, we feel committees proportionally representative of the Assembly would be most appropriate irrespective of the method of selecting the Executive. But, as we indicated at the Conference, the U.D.U.P. is not unalterably opposed to committees composed 50% of Government supporters and 50% of Opposition, if it is felt that such committees would afford better protection to minorities. Though if such composition prevailed it must be remembered at all times that it is wholly artificial and hence nothing should be contemplated which would allow such artificial creations to permanently frustrate the expressed will of the democratically elected Assembly.

We are particularly interested to hear how H.M.G. would envisage the appointment of the Committees, their Chairman and Vice-Chairmen, especially how it would be determined which members of the Assembly were Government supporters and which were Opposition supporters for

the purposes of appointing these Committees. We would suggest that the vote of approval which would follow the establishment of the Executive in the Assembly should be used to divide the Assembly into two electoral colleges: one consisting of all members who voted in support of the Government and the other consisting of all other members, whether they had voted against the Government or abstained. Then within each college a PR Election should take place to fill the allotted 50% of the places on each committee. With the Chairmanships and Vice Chairmanships allocated perhaps on an annually alternating basis by a Selection Panel Committee. We also wish to hear the Government's view on the proper number of members for each Committee and on the voting powers of the Chairmen.

We note that paragraph 57 describes as 'inadequate' the role provided in scrutiny and watchdog committees for those not in government under Option 2, yet this is the only possible role envisaged by H.M.G. for a loyalist minority which refuses to join in a proportionate government under Option 1. All of which only underscores the fact that a power sharing system can have no effective or adequate role for a minority which on principle refuses to enter the government, whereas a more positive role can be created for those not in government under a majority rule type system.

9. We regret that following the detailed discussion on the question of powers of appeal at the Conference and other related matters, H.M.G. did not feel able to say something more definite in paragraph 33. Furthermore we take strong exception to the indication that the form of the various appeals against discrimination by the Assembly or the Executive would depend on "the shape of the arrangements adopted for the formation of the Executive". Are we to conclude then once more that a loyalist minority outside a Government formed under Option 1 would be afforded less safeguards and protections than a minority outside a Government formed under Option 2? Surely a loyalist minority is just as worthy of protection as a republican minority?

Having noted that paragraph 33 indicates that existing safeguards

and remedies against discrimination should be maintained (that is Part 111 of the 1973 Act) we fail to understand how in addition there may need to be some form of appeal to the Secretary of State or Westminster against allegedly discriminatory acts on the part of the Assembly or Executive, since already under the provision of the 1973 Act such matters can be appealed. By virtue of section 19 of the 1973 Act, discrimination by a Minister is outlawed with a remedy through the Courts. Then section 18 gives the Secretary of State power to refer any provision of the Assembly to the Judicial Committee of the Privy Council to see if it might be discriminatory. So there obviously is adequate existing machinery for appeals against allegedly discriminatory actions by either the Assembly or the Executive. Any additional appeals, such as suggested in paragraph 33, would be superfluous and indeed a slight on the existing judicial process. The U.D.U.P. feels most strongly that all appeals should be to a judicial body rather than a political body and so on that score, also, we would oppose the additional suggestion of paragraph 33.

We feel a much better way to strengthen the existing procedure is to take up the suggestion, originally made in paragraph 36 of the Working Paper, of allowing a fixed minority of members in the Assembly to activate the existing referral process and so force the Secretary of State to act on allegedly discriminatory provisions or actions. In so far as the size of the stated minority is concerned we repeat our contention, made at the Conference, that it must not be an insignificant number and therefore we would suggest 33% of the elected Assembly.

MAJORITY RULE

The D.U.P. is not in the least impressed by H.M.G.'s attack on the Westminster system of Majority Rule and as democrats we find it particularly offensive for H.M.G. in paragraph 44 effectively to say that because it dislikes the result which the ballot box throws up in Northern Ireland, in free and fair elections, that the system

has to be altered to circumvent that result. That is a most calculated slur and slight on the majority of people in Northern Ireland and on the fundamental tenet of democracy. But for this Government, of all governments, to declare such a conclusion on the basis of the reasoning of paragraph 43 is the height of hypocrisy. Because there we are told that because of the "special features of political life" in Northern Ireland, namely the existence of a permanent minority, straightforward majority rule must be suppressed. But did not this same Government promote and encourage the establishment of a majority rule constitution in Rhodesia where there is a permanent white minority with no prospect of ever being elected to government? We therefore invite H.M.G. to explain how if majority rule is suitable for Rhodesia with its permanent minority it is not suitable for Northern Ireland? In Rhodesia the protection of the minority is attained not by guaranteeing them places in government but by special procedures within the elected Assembly. In Northern Ireland a not dissimilar situation exists so why is a true majority rule executive not also permitted?

The U.D.U.P. also rejects the unexplained conclusion in paragraph 45 that the nature of the task of Government in Northern Ireland justifies departure from the Westminster Model of Majority Rule. Even if a devolved Assembly and Government does have a "strong managerial element" what justification is that for saying that the way an elected majority wish to manage those affairs should be tempered and frustrated by the enforced imposition of the policies of those who lost the election? In our view this is a wholly spurious argument that significantly was never raised during the discussion of similar devolution for Scotland.

H.M.G. having lambasted Westminster Majority Rule in Northern Ireland as a failure, the U.D.U.P. was amazed to find that one of the alternative suggestions which H.M.G. made for Northern Ireland was a system essentially the same as one that failed so miserably after less than five months. How incredible that in place of a

system which lasted for 52 years H.M.G. offers a system that
collapsed after just five months.

OPTION 1: ENFORCED EXECUTIVE POWER-SHARING

We now come to the two options put forward in the Document in relation to the formation of the Executive. We note first of all that they are alternative approaches and therefore one is as effective as the other in meeting H.M.G.'s requirements on the involvement of the minority. We must express our displeasure at the fact that in presenting two options H.M.G. offered in one of them full-blooded Executive Power Sharing, but in the other did not offer the alternative course, namely uninhibited Majority Rule. This action has placed the Unionist people at a disadvantage in entering negotiations, since we alone have been asked to enter discussions on the basis of having already conceded important ground.

Now firstly in relation to option number one, let us make it clear that we have no interest in discussing this option nor have we any intention of doing so, apart from once more for the record stating the reasons for our implacable opposition to it. We view this option as no improvement whatever on the iniquitous system which prevailed after Sunningdale, and, since that type of government has already been rejected in total by the people of Northern Ireland, we are not going to waste time discussing it further. There are simply no circumstances in which the U.D.U.P. would ever agree to such ^{an} enforced power sharing government, nor are there any circumstances in which we would ever serve in such a government. Quite simply we will never sit in government with republicans, such as the SDLP, whose only interest is to destroy the constitutional link which we cherish for this Province.

Any attempt to establish such a government as outlined in option 1 would be vehemently resisted by us. We would contest any election on a platform of committed and unrelenting opposition to such a scheme and if we received majority support we would have demolished the system,

and if we received only minority support we would sit in opposition the power sharing government and seek at every turn to frustrate and defeat it. So let H.M.G. get the message clear and plain, we are not going down the road of option 1 even one inch.

All the reasons we gave against enforced Executive power sharing at the Conference still stand and apply with equal force to option one, therefore again for the record let us spell them out:-

- (1) There could be no collective responsibility between the members of the Government since they would not owe their position to an electoral mandate or to the choice of the Prime Minister, but to a constitutional guarantee quite distinct from the will of the electorate.
- (2) The Government would not be responsible to the Assembly or to the people if there was a constitutional guarantee that Group A would always be in Government. It would not be possible for the people to change such a government as neither they nor the Assembly would ever be able to vote Group A out of office. In other words, democratic government would cease to exist.
- (3) Every group in government would have an effective veto on every government decision.
- (4) There could be no effective Opposition as in its purest form power-sharing envisages all parties being involved in Government and without an effective Opposition Parliamentary Government becomes a laughing-stock and meaningless.
- (5) A constitution which ensured power-sharing would fail if at a future election a majority of the new Parliament refused to operate the guarantees. No constitutional device can overcome a resolute refusal by a majority of the people to operate it, outside a totalitarian framework. The experiences of 1974 should have taught all concerned that fundamental lesson.

A constitution guaranteeing power-sharing would provide no impetus or incentive for change with regard to political allegiances. It could freeze and fossilize existing party structures and in short institutionalise sectarianism in Government.

- (7) Whereas in countries like Belgium power-sharing has in a measure been acceptable and able to function, it could not operate on the same basis in Northern Ireland because one of the parties with whom power would have to be shared does not unequivocally support the constitutional status of Northern Ireland, and indeed is working to establish the sovereignty of a foreign state over this territory, nor do they give their support to the security forces. To share power in the Cabinet with such people would be a recipe for total disaster and could never be contemplated by the D.U.P., nor should it be advocated by any right-thinking Government.
- (8) Power-sharing makes a mockery of the principle of receiving a mandate. When the electorate endorses the policy of a party they have the right to expect that policy to be implemented. The complications and other considerations involved in a power-sharing administration cannot guarantee the implementation of such a mandate, but rather would produce the ludicrous situation of attempts to implement conflicting mandates.
- (9) Because a power-sharing government would be dependent on so many differing parties it would be a totally ineffective government, unable to move in any direction less it offended one group or another. Whereas H.M.G. has said it requires 'efficient' government.
- (10) It would mean that a majority in electoral terms would cease to have the rights of a majority and therefore such a proposal as enforced power-sharing would be contrary to H.M.G.'s professed

commitment to giving recognition to the rights of the majority. In power-sharing a majority is treated the same as if it were a minority - that is wrong. A Majority must be a Majority and treated as such.

(11) Power-sharing as of right is at total variance with the fundamental concept of 'free elections', as it renders the purpose and outcome of such meaningless. Those who want all parties in Government, irrespective of the election results, should come clean and advocate an end to what would then be the 'farce' of holding elections at all. What is the use of an election as a test of public opinion and as a means of allowing the people to decide who governs them and who does not if the outcome is to be ignored?

(12) Most significantly power-sharing proved not to be the remedy for our troubles in 1974, despite the promises of its advocates. So it is a failed system, to which there should be no return. We are searching for a system acceptable to the people of Northern Ireland, they have most emphatically rejected power-sharing. We must never forget 1974, nor the outcome of every election since then.

For these reasons this Party will never countenance support of, or involvement in, enforced Executive power-sharing.

Hence it is of mere academic interest to us as to which of the methods of formation suggested in paragraphs 47 and 48 could be followed to create this 'trojan horse'. However we must deal with the 'tongue-in-cheek' suggestion in paragraph 47 that a direct election of the Executive would preserve "the primacy of the ballot box" and also the comment in paragraph 48 that in either case of appointment "faith would be kept with the ballot box, since the composition of the Executive would reflect the views of the electorate". One of the most crucial functions of the ballot box through the years has been to

enable the electorate to vote against a particular person or party and to turn a party out of government, but under either suggested system of election this fundamental right would be denied the electorate. Therefore it is utterly improper, if not dishonest, to speak of ^{Keeping} faith with the ballot box, since the message from the ballot box that Party 'A' is not wanted in government is to be deliberately ignored and defied. So much for reflecting the views of the electorate! Likewise it is not the primacy of the ballot box that is upheld by option 1 but the primacy of the rigged provision of the Constitution Act which says that whether you like it or not you must have all parties in government.

Responding to the appeal in paragraph 49 to consider whether a proportional system of government "would not be the best way to unite both sides of the community in support of new political institutions" we must repeat what we've already said namely that on the basis of the SDLP's proposals to the Conference, and on the basis of republican attitudes for 60 years, it is not possible to attain support from the current political representatives of that community for new political institutions which are wholly within the U.K. Thus in seeking that, H.M.G. is involved in a time wasting exercise, because to succeed Republicans have in reality to become Unionists. Therefore H.M.G. is deceiving itself in its belief, enunciated in paragraph 49, that places in government for the minority would cause it to accept and support the institutions of Northern Ireland as part of the U.K. But even if places in government did induce an acceptance by representatives of the minority community of the institutions of Northern Ireland, of what real value would that acceptance be since it certainly could not be described as genuine as it would be induced by the prospect of office? To be convincing and genuine the minority's acceptance of the institutions would need to be unconditional and proven over a considerable period of time. But just as places in the Government of Northern Ireland in 1973/4 was not enough for the political representatives of the minority, so today, unless tied in with an institutionalised Irish

Dimension, the SDLP are not interested. Therefore in recognition of this reality H.M.G. should bend all its efforts to create a realistic and workable system of government, consistent with basic democratic principles, with all the safeguards and protections which are practicable, and which can be seen by the world to be fair and reasonable.

In this regard we can see some hope in option 2.

OPTION 2: A FORM OF MAJORITY RULE.

There are aspects of option 2 which we reject, but as a basis for discussion we find option 2 generally acceptable insofar as it preserves the crucial notion of the party or parties with a majority in the Assembly forming the Executive.

Before entering into detailed discussion of option 2 let us note with approval the declaration by H.M.G. in paragraph 53 that "the Government believes that the holding of Executive seats is not the only way for minority representatives to participate in and influence the process of government in both the legislative and executive form". We welcome the acceptance of this contention, which we maintained at the Conference, and we reaffirm that our Party has no desire to exclude minority elected representatives from the process of influencing Government, nor do we wish to deny the minority any of the safeguards and protections which all minorities should rightly enjoy.

We endorse and welcome H.M.G.'s rejection of the notion of an Executive being subjected to a weighted majority vote of confidence in the Assembly. Such would be totally unacceptable to us as it would inevitably lead to the type of government which we have already rejected under option 1. A workable form of government is essential for Northern Ireland and a weighted majority condition would certainly make that possible. While option 2 is acceptable insofar as it preserves the fundamental concept of Majority Rule, it would not be in the least acceptable if matters were so arranged as to undermine the Executive and frustrate its performance of the functions of

government. The Executive as democratically based must be allowed to govern. In this regard we are particularly concerned about the contents of paragraph 56 when it says that minority parties should "share responsibility for the administration sufficiently to satisfy themselves that the interests of the minority community are adequately reflected in the decisions of government". That appears to be saying that a minority must have the position of a majority and must not only safeguard itself, which is a legitimate exercise, but be able to insist that its views are reflected in the legislation and administration of the Province. Such a proposition is totally and completely unacceptable to the U.D.U.P. The ballot box should decide who will be in government and then those selected must be free to govern by implementing their own mandated policies, rather than being forced to implement the policies of those rejected for government by the electorate. Of course the minorities and their interests have to be protected but they cannot be put in the position of saying that unless they are satisfied that their policies and views are reflected in the actions of the government they will not work the system. On this point we note with hope the response of the Minister of State, Mr Alison, in replying to the Parliamentary Debate on 9th July, when he indicated that H.M.G. was content with ensuring that the minority parties were able to satisfy themselves that the interests of the minority community are adequately protected or safeguarded rather than reflected in the decisions of the Government. That alteration would meet our point of objection, but as it is such a crucial matter we require the Secretary of State to clarify H.M.G.'s precise position on this point.

COUNCIL OF ASSEMBLY

We now come to deal with the proposed Council of the Assembly. While we do not accept the view in paragraph 57 that the powerful back-bench scrutiny committees are not adequate to afford the minority parties the influence and safeguards which they could reasonably require, we nonetheless are prepared to countenance a Council of the Assembly, provided its powers are not such as to render meaningful government impossible or to turn democratic government into a farce. The role

and powers of the Council of the Assembly are therefore crucial to its acceptability or otherwise.

Straightaway we must make the point that by virtue of its composition on a 50/50 basis between Government and Opposition this Council of the Assembly is an artificial, if not a gerrymandering creation, which does not relate to the strength of the parties in the elected Assembly. Therefore it would be intolerable to permit such a body to stand in the way of the democratically expressed will of the electorate so as to frustrate without restriction the actions and wishes of the appointed Government of the Assembly. The democratically composed Assembly must at all times be able to implement its policies and must not be held to ransom or vetoed by any undemocratic creation. This leads us to unreservedly oppose the suggestion in paragraph 58 of blanket blocking powers for the Council of the Assembly in regard to all legislation and the Public Expenditure Programme. We just could not contemplate a Bill or a Public Expenditure Programme, which had been approved by the people's elected representatives in the Assembly, being killed off by any Council in which the majority of the Assembly were deliberately under-represented and the minority of the Assembly deliberately over-represented. Such an exercise would demean democracy and do untold harm to the principle of democratic control through free elections. So blanket blocking powers for the Council of the Assembly are anathema to the Ulster Democratic Unionist Party and would make an already difficult package impossible to recommend to the Unionist people.

The primacy of the Assembly must be maintained at all times. Under the 1920 Act a procedure existed for when the Senate twice rejected a Bill whereby a joint meeting of the two Houses could be convened and a vote taken on the issue; in this way the Senate as a non-elected House was denied a total blocking power. Similarly some way, though clearly a different way, must be found to ensure that the undemocratic Council of the Assembly cannot frustrate the work of the elected House. However we do not wish to see the Secretary of State involved in this process, as suggested in paragraph 58, as he would be subject to too many political pressures and which ever way he moved his standing and

position would suffer in the Province.

Given that the Council of the Assembly is already deliberately disproportionate in its composition to the strength of the parties in the elected Assembly it would be quite improper for the Northern Ireland Government to have to cross a double hurdle of needing 50% plus 1 approval for its legislation etc within such a body. That quite clearly would give the Opposition the double advantage of having an unmerited number of members in the Council and then even with that the ability by simply holding together to block and frustrate the Government. This simply is not the basis for fair and workable Government, rather it is a sure recipe for irresponsible Opposition muscle-flexing and wanton obstruction which would discredit the democratic process and bring government to a standstill. Clearly with the weighted composition of the Council the onus should be on the Opposition to muster up the 50% plus 1 if it wishes to block a Government measure - similar to the power to delay and refer back legislation which presumably would work on the basis of the Opposition having to get 50% plus 1. Why should it be easier for the Opposition to block a Government Bill than to refer it back for further consideration? Surely the opposite should be the case if H.M.G. desires to encourage consultation and consensus. We trust therefore that H.M.G. will seriously re-consider this matter because it appears clear to us that by demanding 50% plus 1 in the Council of the Assembly for the Government to get its legislation passed H.M.G. is creating a charter for irresponsibility which will cripple democratic government and defeat the intended purpose.

We note that it is suggested that all legislations as well as the Public Expenditure Programme should come before the Council for approval. We can see no purpose in every Bill having to come before the Council, since each Bill during its passage through the Assembly will have to pass through the relevant Departmental Committee, also composed on a 50/50 basis. We would therefore suggest that instead of every individual Bill coming before the Council only the Assembly's equivalent to the 'Queen's Speech' should be passed to the Council along

with the Public Expenditure Programme. Therefore the delaying powers and referral powers in relation to individual pieces of legislation would be exercised not by the Council of the Assembly but by the relevant Departmental Committee. This would leave the Council of the Assembly with general advisory powers, which unlike H.M.C. in paragraph 58 we do not underestimate, referral powers in relation to matters which are allegedly discriminatory and consideration of the annual Public Expenditure Programme and the annual 'Queen's Speech', with the powers in this regard tempered by an inability to permanently block progress in the face of Assembly opposition.

Such a system would we believe in the words of paragraph 59 "mark the effective involvement of the minority and secure it a powerful voice in the formulation of policy decisions about the government of the Province and in day-to-day administration".

Having considered and accepted the indication in paragraph 57 that the Chairman of the Council of the Assembly would have no additional voting powers, and realising that deadlock is not unlikely on occasions and that its consequences are undesirable, we would suggest that a better way, which could avoid some of the deadlock and somewhat defuse the situation, might be to have the Council of the Assembly chaired by the Speaker of the Assembly who on occasions of deadlock could use his vote in accordance with the established precedents of parliamentary procedure.

THE WAY AHEAD

Since it is abundantly clear that in any elected N.I. Assembly there is always going to be at least a substantial loyalist minority opposed on principle to a power-sharing government, which minority would never join such a government as envisaged in Option 1, and since Option 1 has no "adequate" role for such a minority, and as Option 1 can only succeed in the absence of dissent, is it not evident that the only possible way forward is to legislate for a system based

a refined Option 2? Then the people of Northern Ireland can decide from election to election whether they want to support those who wish to practice executive power-sharing or those who do not. If the power-sharers secure majority support then a power-sharing executive can be formed under Option 2, and those opposed to it can have an adequate and meaningful role by availing themselves of the lavish machinery of Opposition. And if at the next election the electorate give majority support to anti-power-sharers then the roles would be reversed but the structures would remain unaffected. But under Option 1 the structures could not survive such a change of opinion by the electorate. Not only has Option 1 the glaring and irreparable weakness of having no adequate role for an anti-power-sharing minority but it can only survive so long as it encounters suitable election results. Whereas in Northern Ireland we desperately need stability and therefore we need to create a system capable of surviving all election results. Only a system based on the essentials of majority rule can do this.

Furthermore, only the establishment of such a system can be sure to keep faith with the recognition by H.M.G. in its document that any structures to be "lasting and workable" must be acceptable firstly to the majority of the Northern Ireland people and then to the majority of the elected Assembly members.

The establishment of a workable and acceptable Option 2 type system by H.M.G. does not rule out executive power-sharing, rather it gives the electorate the choice of executive power-sharing or majority rule, with the ability to change its mind. Option 1 offers neither of these democratic facilities, but rather denies both.

Therefore H.M.G. should proceed to sponsor legislation for devolved institutions in Northern Ireland, based on the workable and acceptable aspects of Option 2. Then when the legislation is passed it should be submitted for approval to the Northern Ireland electorate in a referendum.
