



The Northern Ireland Constitutional Convention

Text of a letter from the Secretary of State for
Northern Ireland to the Chairman of the Convention

*Presented to Parliament by
the Secretary of State for Northern Ireland
by Command of Her Majesty
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1. Parliament at Westminster set up the Constitutional Convention under the terms of the Northern Ireland Act 1974. Its task was to consider "what provision for the government of Northern Ireland is likely to command the most widespread acceptance throughout the community there". The Convention was not empowered to make decisions but was asked to put forward its conclusions to the Government. Decisions are a matter for Parliament at Westminster.

2. The Convention first met on 8 May 1975. On 7 November 1975 you transmitted to me the Report of the Northern Ireland Convention; the Convention was dissolved at the end of that day, and the Report was duly laid before Parliament on 20 November. Following this I met groups from all the political parties in the Convention. These talks were solely for purposes of seeking explanation and elucidation since it was to Parliament at Westminster that the Government had the responsibility and the duty to put forward its proposals for the next steps in Northern Ireland. This it did on 12 January 1976.

3. The purpose of this letter is first to outline the views of the Government on some of the major issues arising from the Report of the Convention and second to indicate the matters on which further consideration is desirable.

4. The Report follows the draft put forward by the United Ulster Unionist Coalition. The Government welcomes the fact that the Convention decided that the draft reports of all other parties in the Convention should be included in an Appendix to the Report.

5. From the debates in the Convention, the contents of the Report, and from my discussions with the political parties in Northern Ireland, it is clear that all the parties, in varying degrees, see Northern Ireland as different from the rest of the United Kingdom in a number of respects and, in particular, some of the views expressed are outside the mainstream of thinking on devolution as it has developed over recent years in the rest of the United Kingdom. The Government is, however, aware that the Convention could not have available to it during its discussions the White Paper (Cmnd. 6348) on "Our Changing Democracy".

6. The Government accepts that from its foundation and for reasons of history, geography and tradition there are a number of differences between Northern Ireland and the rest of the United Kingdom. Nevertheless, as part of the United Kingdom, Northern Ireland like the rest of the United Kingdom must remain subject to the authority of The Queen in Parliament at Westminster. Indeed, as the White Paper of July 1974 stated:

"any pattern of government must be acceptable to the people of the United Kingdom as a whole and to Parliament at Westminster. Citizenship confers not only rights and privileges but also obligations".

7. Northern Ireland has been unique in the United Kingdom in having had a distinct system of government for 50 years. There is a further and crucial way in which Northern Ireland is different. The community in Northern Ireland is divided in ways which cannot be ignored. Experience in recent years has made it plain that no system of government within Northern Ireland will be stable or effective unless both parts of the community acquiesce in that system, and are willing to work to support it. It is clear that such support is not at present forthcoming for the system proposed in the Report.

8. The Government shares with the Convention the strong desire that direct rule may be brought to an end and that a new system of government may be established within Northern Ireland. The Government, however, takes the view that the proposals for a system of government within Northern Ireland contained in the Report do not command sufficiently widespread acceptance throughout the community there for a system based solely upon them to provide stable and effective government.

9. There are a number of points arising from the Report of the Convention on which the Government has now reached conclusions.

The System of Government

10. Provided the necessary agreement can be reached, the Government accepts in principle the Convention's recommendation that power should be returned to a government within Northern Ireland. This would involve the creation in Northern Ireland of a separate unicameral legislature and a government with power to legislate for, and administer, a wide range of matters within Northern Ireland. The Government also accepts that the transferred subjects could include all those transferred in 1974, under the Northern Ireland Constitution Act 1973. Responsibility for law and order is discussed separately below.

Collective Responsibility

11. The Government agrees with the view expressed in the Report on the importance of collective responsibility and accepts the need for an oath in the terms recommended in the Report to be taken by all members of the Northern Ireland legislature and the Northern Ireland Government.

Committee System

12. The Government has noted the importance attached in the Report of the Convention to a committee system and that there were widely differing views within the Convention on the way the system would work in practice and on its effectiveness—whether the committees would have any real power or, at the other extreme, whether they would have so much power as seriously to hamper government. The Government also recognises that a committee system represents a constructive attempt to involve opposition parties more closely in government. The Government considers that a committee system might be of value as part of a wider and acceptable constitutional framework which provides adequately for partnership and participation on a basis which commands the most widespread acceptance. It is a matter which merits further examination. The Government would not, however, wish to see the responsibility of a Public Accounts Committee dispersed among a number of functional or departmental committees.

Parliamentary Representation

13. The Government is aware of the strong views held by many on the question of Parliamentary representation at Westminster. It is also aware that in the past 50 years some members elected to the Westminster Parliament have not taken

their seats—another reflection of a divided community. The Government does not feel able to recommend re-examination of the question of the number of Northern Ireland constituencies returning members to the United Kingdom Parliament in advance of an agreement on a system of government commanding the most widespread acceptance.

Irish Dimension

14. The Government notes that the Convention recognises the existence of an Irish dimension though its nature is open to various interpretations. Such recognition does not call into question any issue about sovereignty over Northern Ireland or of the border with the Republic. The Government takes the view that arrangements for co-operation are desirable, but that they should evolve positively and naturally as and when the need for them arises and is generally recognised and accepted. Such arrangements do not require an institutional framework, such as a Council of Ireland.

Law and Order

15. The parties in the Convention agree in principle that a future Northern Ireland administration should have responsibility for law and order in the Province. The Government considers that an essential prerequisite for membership of a Northern Ireland Government is public support of the security forces. Subject to this, the Government accepts this broad aim in principle though there are a number of matters which it would be inappropriate to transfer. These include all judicial appointments and the administration of the courts. Transfer of responsibility for law and order would necessarily be gradual and the Government will consider how best to give a meaningful role to a Northern Ireland administration on security matters until such time as transfer is complete. The phrase "law and order" covers a wide range of subjects:

(i) *The Armed Forces*: These are under the control of a Minister accountable direct to Parliament and will remain so. So long as they are involved in internal security in Northern Ireland, the Secretary of State must remain responsible for security policy. It is the policy of the Government to bring about a situation in which there can be a progressive reduction in the present commitment of the Armed Forces, both in numbers and in the scale of activity, to a point where they have ceased to be involved in internal security. But this depends upon civil policing by the RUC playing an increasing role. Above all, it depends upon reduction in the scale of violence, for which the GOC and his forces and the Chief Constable and his police officers are constantly striving.

As I announced in Parliament on 12 January, I shall examine, with my Ministerial colleagues from other Departments, action and resources required for the next few years to maintain law and order in Northern Ireland. This will include how best to achieve the primacy of the police; the size and role of locally recruited forces; and the progressive reduction of the Armed Forces as soon as is safely practicable. I shall be inviting the parties in the Convention to make their views on these matters known to me in writing.

(ii) *Emergency Legislation:* So long as the Secretary of State remains responsible for security policy, responsibility for emergency legislation would remain with the United Kingdom Parliament.

(iii) *Police:* Once the Armed Forces in Northern Ireland have been reduced to peace-time level—which depends on the level of violence—the Government will be prepared to transfer responsibility for the police to a new Northern Ireland legislature and executive. Parliament would expect that the practices observed in Northern Ireland would continue to follow the standards and traditions which are common to the whole of the United Kingdom and, in particular, that the independence and responsibilities of the Chief Constable should in no way be diminished. The police are responsible to the law and it has always been my aim to ensure that this position is preserved and maintained at all times.

It is clear that close liaison between the Secretary of State and a Northern Ireland executive on internal security would be necessary. The Government sees a continuing role for an independent Police Authority with significant powers and is prepared to consider any suggestions that the parties in the Convention may wish to put forward to me in writing about its responsibilities and composition, which are at present based on the provisions of the Police Act (Northern Ireland) 1970.

(iv) *Prisons:* The Government would be prepared to transfer responsibility for administration of the prison service and for treatment of offenders generally not later than the transfer of responsibility for the police.

16. The Government has noted the views of the Convention on the financial arrangements which should be created for any new Northern Ireland administration. It would be the intention of the Government to give to such an administration as wide a discretion as would be consistent with maintaining the unity of the United Kingdom economy and with the Government's retaining the powers necessary to manage the economy as a whole. These powers must include the power to determine the total amount of public expenditure in the United Kingdom, the proportion of different categories of expenditure within that total and, after appropriate consultation, the share of public expenditure allocated to meeting the needs of Northern Ireland. The Government is conscious of the special economic and social problems of Northern Ireland and of the need for them to be taken into account when allocations of expenditure are determined; those decisions must be taken by the United Kingdom Cabinet in the light of the needs of all parts of the United Kingdom.

17. The financial powers that the Government would be willing to see exercised by a Northern Ireland administration are matters that the Government will itself determine in due course. It envisages, however, that many important financial decisions would fall within the Northern Ireland administration's discretion including, in particular, the determination of priorities among the various transferred services. Any system of government proposed by the Convention will have to be capable of resolving such problems which will span the complete range of functions of the Northern Ireland administration. There must, moreover, be arrangements for co-operation on economic and financial matters with the Government at Westminster.

Bill of Rights

18. The Government recognises that there is a consensus that there should be further legislation on human rights and will consider how best to make appropriate statutory provision in the light of the detailed study currently being undertaken by the Standing Advisory Commission on Human Rights.

Reconvening the Convention

19. It is against this background, and in accordance with the wishes of Parliament, that I have decided to reconvene the Convention so as to give it an opportunity, through discussion and further exchanges of view, to reach that wider area of agreement which is essential if there is to be an effective transfer of power, the ending of direct rule and a basis for stable government. The Government hopes that the Convention will not feel constrained by the limits of earlier—and not completed—discussions, and that it will be able to build on the principles on which there is already a wide measure of agreement. The prime requirement is for more widespread acceptance of any proposed system of government, providing for a form of partnership and participation. No political system in Northern Ireland will work, let alone survive, without it. The Government wishes further consideration to be given to this matter of a system of government commanding the most widespread acceptance throughout the community, and in both parts of it.

20. The Government shares the view expressed in the Report that the aim should be to achieve agreement on a permanent arrangement for a system of government. It will be for the Government to translate this into constitutional and legislative form and to turn it into reality through Parliament at Westminster. The greater the measure of support for any proposed system of government within Northern Ireland, the more likely it is that Parliament would be prepared to approve the necessary legislation.

21. Other, wider, considerations are relevant to the timescale of future political development. For example, there is force in the view that hasty action in the past may have exacerbated some of the problems of Northern Ireland. Six years of violence taken together with the divisions in the community are going to make the transition to a new system of government particularly difficult. Political development cannot be divorced from the security situation and a political agreement would make a major contribution towards dealing with the security problems in Northern Ireland.

22. Furthermore, Northern Ireland is facing serious social and economic problems—not least unemployment. An early political agreement would lead to the more productive employment of the energies of those who have local knowledge and interest, and would create a community united in its devotion to the task of finding a solution to these urgent problems.

23. The Government would therefore wish the Convention to consider the matter of whether progress could best be made on the basis of setting up a system of government which, though not temporary, is capable of evolving over a period of time into permanent and agreed constitutional arrangements.

24. Accordingly, by virtue of the powers conferred on me by paragraph 15(4) of Schedule 2 to the Northern Ireland Act 1974, I hereby reconvene the Convention as if it had not been dissolved, in order that it may consider and report on the following matters:—

(a) how best agreement can be reached on a system of government built on the principles on which there is already widespread agreement, and providing for a form of partnership and participation, and which will command the most widespread acceptance throughout the whole of the community in Northern Ireland and in both parts of that community; (see paragraphs 6, 7 and 19 of this letter)

(b) whether a committee system might be of value as part of a wider and acceptable constitutional framework; (paragraph 12)

(c) whether progress could best be made on the basis of setting up a system of government which, though not temporary, is capable of evolving over a period of time into permanent and agreed constitutional arrangements; (paragraph 23).

25. I should make it clear that the Government is asking the Convention to examine only the matters specified in this letter in the light of the Government's conclusions. The Government is, of course, willing to give all possible help to the Convention through you and your staff on any matter which will help forward the processes of reaching a wider agreement.

26. After consultation with the leaders of the parties represented in the Convention, you will no doubt advise me as to the time of day at which the reconvened Convention should first meet, and of any other procedural matters or other points which might require my assistance. When I have this advice I will make the necessary formal order under paragraph 15(4) of Schedule 2 to the Northern Ireland Act 1974 directing that the Convention shall meet on 3 February and specifying the time and place of the meeting. I hope that a period of four weeks will be sufficient for the Convention to make progress on the matters referred to it.

27. You will recall that because of the particular circumstances of Northern Ireland I have power under Section 2 of the Northern Ireland Act 1974 to order the holding of a poll or polls on any matters contained in or arising out of a Report of the Convention or otherwise concerned with the future government of Northern Ireland. If the Convention wishes to make any recommendations in this respect they will receive careful consideration.

28. The Government hopes that by constructive consideration within the Convention of the matters referred to in this letter the discussion can lead to an agreement which will enable the Government to introduce legislation in the Westminster Parliament which will provide Northern Ireland with its own system of government again.

14 January 1976