

# NATIONAL ARCHIVES

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*Ms. J. Hennessy*

May 1982

Mr. Frank Murray  
Department of the Taoiseach  
Government Buildings  
Upper Merrion Street  
Dublin 2

Dear Frank

Further to our conversation today I enclose a copy of a note from our Legal Division who are of the opinion that under current legislation Seamus Mallon would be disqualified from participating in the Northern Ireland Assembly Elections by virtue of his membership of the Seanad.

Section 3 of the Northern Ireland Assembly Act 1983 would appear to provide that the Secretary of State for Northern Ireland would have power to make an order "for the circumstances in which such a disqualification may be disregarded". We are investigating the implication of this.

Yours sincerely

Margaret Hennessy

Section 1 (i) (e) of the Northern Ireland Assembly disqualification Act 1975 provides that a person is disqualified for membership of the Northern Ireland Assembly who for the time being "is a member of the legislature of any country or territory outside the Commonwealth". (This provision was to be found in earlier legislation, applying to the House of Commons also).

<sup>2</sup>The Northern Ireland Assembly Act 1973 as amended by the 1975 Act provides that the Secretary of State shall have power by order to make provision for the consequences of a disqualification imposed by the 1973 or 1975 Act, the circumstances in which such a disqualification may be disregarded, and the conferring of jurisdiction to decide whether a disqualification has been imposed by either Act. Such an Order may also apply, with modification or exceptions any of the provisions of Sections 6 and 7 of the <sup>3</sup>House of Commons Disqualification Act 1975, which relate to the effects of disqualification (the election shall be void), provision for relief (the House may disregard a disqualification if the grounds for it have since been removed) and the jurisdiction of the Privy Council to make a declaration on whether a person is disqualified.

Any such Order shall be contained in a statutory instrument subject to annulment by resolution of either House of Parliament.

Section 1 (i) (e) of the Northern Ireland Assembly disqualification Act 1975 disqualifies for membership of the Assembly a person who is a member of the legislature of any country or territory outside the Commonwealth. This Section was not amended up to 1979. On the assumption that there was no subsequent amendment, I am of the opinion that under UK law Mr. Mallon is disqualified from membership of the Northern Ireland Assembly while he remains a member of the Seanad.

There appears to be no barrier in Irish law to his being a member of the Assembly while being a member of the Seanad.

Jane Liddy  
25 May 1982

1. Annex I
2. Annex II
3. Annex III