



# An Chartlann Náisiúnta National Archives

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## 'Catherwood' Proposals - October 1985

1. The Catherwood proposals (outlined in Annex I) were cobbled together in a very short period (1 week according to the Belfast Telegraph) and were quickly covered under a mass of confusion as to what their purpose was and what they meant. Catherwood himself saw them as separate to and capable of coexisting with the Anglo-Irish talks, but many Unionists saw them as an alternative. The report of the Devolution Report Committee of 29/10/85 in which the proposals were published as an Appendix, said that the Devolution Committee considered that the Anglo-Irish exchanges should not touch on matters pertaining to the internal government of N.I.

2. The proposals had not been adopted by the Committee itself which merely stated that they had been "endorsed by the parties in the Committee as providing a working basis for fruitful negotiations". In the aftermath of their publication the DUP and Alliance particularly stressed that they had not agreed to the proposals themselves. John Hume is reported to have told Catherwood that he was not interested in discussing any new proposals until the Anglo-Irish exercise was completed and the other SDLP spokesman indicated their dissatisfaction with what was offered. Catherwood in his public comment after the publication of his proposals was unclear as to what role the SDLP would play - while he said that their support would be necessary to move away from the old power-sharing formula, the voting strengths required under his proposals could rule out the SDLP. The DUP made much of the point that the SDLP veto would end.

### 3. Framework in which Devolution Proposals may be made

Under the 1982 Northern Ireland Act, the Assembly may make proposals for the resumption by the Assembly and by persons responsible to it of some or all the functions which had been devolved to the power-sharing Executive in 1974.

● However, this may not be done unless:-

(a) the proposals have the support of at least 70 per cent of the members of the Assembly or

(b) the proposals have the support of a majority of those members, and the Secretary of State has notified the Assembly that he is satisfied that the substance of the proposals is likely to commend widespread acceptance throughout the community.

Instead of referring to the Act, the Catherwood proposals were discussed in terms of the White Paper which preceded it but this had no significance in terms of policies proposed. The relevant White Paper paragraphs are given in Annex II.

#### 4. Assessment

The Catherwood proposals do not provide a framework which would be in any way acceptable to the minority. They are too vague to provide a blue print for devolution and did not in any case, get the support of the 70% of Assembly members required under the N.I. Act.

5. The voting thresholds for setting up an Executive are too low to ensure the involvement of minority representatives - at the Assembly elections, Unionists plus Alliance got 59 out of the 78 seats or over  $\frac{3}{4}$  of the total. The progressive reduction of the threshold and its elimination after 2 administrations on the grounds that "by then the experience of people working together would enable the normal democratic processes to operate" is clearly not sustainable. The same difficulty about thresholds arises in relation to the constitutional changes and declaring discriminatory measures to be void. The report does not put a firm proposal about allocating posts to members of the Executive, but the 'convenience' of a system which reflects the respective strengths of the parties in the order in which they are

successively given the choice of posts would not be obvious to the minority. The mechanics of the voting system is set out in Annex III. ~~The same system is recommended for Chairman of Committees whose functions are not spelled out, but appear to be the same as that of the present scrutiny Committees.~~

6. The content of the negotiations on law and order are not defined. Para. 54 of the White Paper said that suitable arrangements for keeping the Assembly and Executive informed ~~for~~ their consulting with the Secretary of State on reserved matters including law and order would be made.

7. The terms of a Bill of Rights are not spelled out nor is it clear on what basis constitutional change could occur. In the second paragraph, Catherwood says that "the 70% <sup>voting threshold</sup> should apply only to constitutional changes" but in the fifth paragraph he says that the Bill of Rights "should be entrenched in a new constitution passed by the Westminster Parliament", and in the last paragraph that "all these arrangements should be firmly entrenched and that consideration should be given to satisfactory mechanisms for securing such an entrenchment".

S. Doyle  
8/4/80

## ANNEX 1

### Content of the Catherwood Devolution Proposals - 28 October 1985

- a) The whole of the range of legislative and executive responsibilities exercised by the N.I. Executive should be exercised by the Assembly and a devolved administration answerable to it
- b) Negotiations should start with the Secretary of State on Role of Assembly and Executive on Law and Order
- c) Vote to establish Executive
  - Initial Executive should require a vote of confidence of  $\frac{2}{3}$  of Assembly:
  - Second Executive should require a vote of confidence of 55% of Assembly:
  - Alternatively in these 2 terms, if it proved impossible to form an Executive reaching the required threshold of support, the Secretary of State could establish an administration by simple majority if he were satisfied it could command widespread acceptance:
  - Subsequent Executives - simple majority:
  - The Administration might "for convenience" use a party list system for allocating posts under which each party in order of size would successively choose executive posts for themselves.
- d) Committee System
  - The Executive should be "matched by" a Committee system where membership would be proportional to Assembly membership and chairman chosen by the party list system described under (c) above.

e) Bill of Rights/New Constitution

- A Bill of Rights "covering the substantial extension in the last 10 years of the civil guarantees to the citizen" should be entrenched in a new constitution to be adopted by Westminster.
- There should be a procedure for appealing to a legal court in election to matters under the Bill of Rights.
- The existing provision in the 1973 Constitution Act declaring void any measures which discriminate on religions or political grounds should remain in force, as should the general provisions of that Act prohibiting discrimination in the discharge of functions relating to N.I.
- 30% of the Assembly should be able to require the Secretary of State to exercise his powers to refer proposed Assembly Legislation which is discriminatory to the Judicial Committee of the Privy Council in order to have the measure declared void.
- Recognition of separate systems of education and the desire for expression of different cultures might be written into the constitution.
- Constitutional change to take place only if 70% agree/constitution to be entrenched in Westminster legislation/or arrangements for its entrenchment to be set up.

27. The 1973 scheme, in setting out those matters for which the Executive and the Assembly had responsibility, made the following classifications:

- (a) "Excepted" matters, for which responsibility would remain permanently with Westminster. This category comprised various matters of national importance inappropriate for consideration other than by Parliament, eg the Crown, Foreign Affairs and Defence.
- (b) "Reserved" matters, for which initially responsibility would remain with Westminster, but which could be transferred to local control at some future date. These were principally various matters in the law and order field which were administered by the Secretary of State for Northern Ireland. Legislation was the responsibility primarily of Westminster, although the Assembly could exceptionally legislate if the United Kingdom Government agreed.
- (c) "Transferred" matters comprised all other matters not covered under categories (a) and (b) above. These were the full responsibility of the devolved government (and are still, under direct rule, administered by the Northern Ireland Departments of Agriculture, Commerce, Education, Environment, Finance and Personnel, Health and Social Services, and Manpower Services).

This structure of "excepted", "reserved" and "transferred" matters remains on the statute book as a sensible basis for any future devolution of powers.

30.

- \* (c) The Assembly will also be asked to recommend to the Secretary of State arrangements under which the whole or part of the range of legislative and executive responsibilities previously transferred under the Northern Ireland Constitution Act 1973 could be exercised by the Assembly and by a devolved administration answerable to it.

White Paper on Devolution April 1982

## THE PROCESS OF DEVOLVING POWERS

### Report on Devolution of Powers

38. The Assembly will be required to consider and report on how a Northern Ireland administration should be formed and under what arrangements executive powers should be exercised. The legislation will allow for devolution by Order in Council of executive and legislative powers in respect of the range of "transferred" matters as defined in the 1973 Act (see paragraph 27 above).

42. The Government is not committed to, and does not favour, any particular arrangements. It believes that the areas of responsibility suitable for devolution should be as in the Northern Ireland Constitution Act 1973. But it is for the Assembly to determine how, within the new arrangements, executive and legislative powers should be exercised. The crucial requirement is that the Assembly's proposals should be likely to command widespread acceptance throughout the community: in forming a judgement on this the Government would only consider a proposal to command sufficiently widespread acceptance if it appeared to be acceptable to both sides of the community. If it met this criterion the Government would ask Parliament to approve whatever arrangements were proposed and to transfer powers so that devolved government could be restored. It would be for the parties and the Assembly to decide how detailed the agreed arrangements should be. For example, they might wish to include arrangements whereby differences between the parties to the agreement when devolved government was under way could be resolved without jeopardising the broad support for the devolved administration.

43. The process leading up to transfer of powers would be as follows:

- (a) If not less than 70% of Assembly members agreed on a Report on the way in which powers should be discharged and an administration formed, that Report would be submitted to the Secretary of State who would be required to lay it before Parliament. The Government would arrange for the proposals to be debated and during the debate the Government would express a view on whether the Report appeared to be acceptable to both sides of the community in Northern Ireland. Depending on Parliamentary reaction to the Report, the Secretary of State could lay a draft Order in Council for Parliament's approval transferring executive and legislative powers.

#### Procedure in the Assembly

53. It would of course be for the Assembly to decide how its voting procedure should be conducted on proposed legislation or on other issues within its competence. It might decide that on some key issues of confidence it would be right to require a majority of, for example, 70%; but there would be no provision in the initial legislation requiring such a majority. It would be one of the matters that the Assembly could consider in formulating its Report.

White Paper - Pair Proposals April 1982

Cmd 8541

~~Quota determined after poll.~~

Each party's total is successively divided, by 1, then 2, 3, etc, to form different portions of it.

These are then ranked in order, up to the number of seats to be filled, which are then allocated appropriately.

Example: Calvados 5-seater, 1946.

	MRP	PRL	COM	SOC	RGR	<u>Elected</u>
Dividing by 1	74,931 ①	34,797 ③	29,856 ④	27,381 ⑤	14,099	1st 74,931
" " 2	37,465 ②	17,398	14,928	-	-	2nd 37,465
" " 3	24,977	-	-	-	-	3rd 34,794
						4th 29,856
						5th 27,381

\* 2 MRP seats, 1 each for PRL, Com and Soc

Votes per seat for each party are 37,465, 34,797, 29,856, 27,381, as near to each other as possible.

Source: How Democracies Vote,  
by Enid Lakeman (4th edition 1975)