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PAB/868/RE

PS/Secretary of State (I&B)

① Sir Ewart  
② R. P. C.  
13/4



cc: PS/Lord Gowrie (I&B)  
PS/PUS (I&B)  
PS/Sir E Bell ✓  
Mr Brennan  
Mr Merifield  
Mr Angel  
Miss Davies  
Mr Abbott  
Mr Boys Smith

JIM ALLISTER DUP: LEGISLATIVE DEVOLUTION

1. In your minute of 12 April, you asked for an assessment of Mr Allister's proposals for legislative devolution.

Background

2. Mr Allister's remarks were made during a debate on devolution at the DUP's annual conference on 9 April. What he suggested was that, since there was no prospect of achieving full devolution this side of an election, Assembly members should examine instead the possibility of securing legislative powers, leaving executive responsibility for the time being with NIO Ministers. Mr Allister seems to have in mind a system not dissimilar from that which operates in the United States where the executive (the President) and the legislature (Congress) are separate. Under his scheme, which he emphasised should be seen as a first step towards full devolution, the Assembly would be given the power to legislate in the "transferred" field while the Secretary of State and his team of Ministers would retain all executive functions. This would, as Mr Allister pointed out, give the Assembly considerable influence over the activities of Government.

3. The proposal suffers from a number of significant drawbacks. There would be severe problems of divided responsibility and the scheme would be a recipe for tension between the Assembly and Westminster. It would be totally unacceptable to the minority community who would regard it simply as a means of giving the two unionist parties carte blanche in legislative matters; and to many unionists it would be a pale and unattractive imitation of Stormont. Parliament would be most unlikely to accept that devolution on these terms had the requisite cross-community support. But the overriding objection is that the proposals would require fresh, primary legislation because the 1982 Act only envisages the eventual resumption of both legislative and executive powers by the Assembly.

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4. Mr Allister's ideas are not new. In January of this year, he expounded them to my predecessor, David Blatherwick, stressing then that they were entirely personal and had not been discussed with the rest of the DUP. Mr Blatherwick pointed out to him the obvious practical difficulties and explained that fresh legislation would be needed. He added that he could not envisage circumstances in which such legislation would prove acceptable to the Government and Mr Allister apparently agreed, albeit reluctantly.

#### Comment

5. Since Mr Allister is aware of the impracticality of his proposals, it is not immediately obvious why he should have chosen to air them at the DUP conference. The issue of devolution is, of course, the subject of some controversy between the main parties at the moment and is due to be debated in the Assembly on 10 May. For their part, the DUP have made it clear that they do not believe devolution can be achieved before a general election and have accused the UUP of rushing their fences in order to wreck the Assembly. Mr Paisley and Mr Allister would prefer to take things much more slowly than Mr Molyneaux and are anxious to put the question of devolution on the back burner. Although Mr Allister is known to be personally attracted to the idea, his remarks were probably primarily designed to broaden the current devolution debate so as to make it more difficult for the UUP to force the pace. The proposal was not put to the vote, so does not represent official DUP policy. It does, however, signal the fact that the Party has its own ideas about devolution beyond Stage 1 of the Assembly and demonstrate publicly that this issue is not the exclusive pressure of the UUP. In addition, Mr Allister presumably calculates that the idea will not be entirely unattractive to some of the devolutionists within Mr Molyneaux's ranks and that, by airing it in public, he may be able to widen the cracks in the UUP's facade. Certainly, Mr Molyneaux's room for manoeuvre would be restricted by any sign of increasing opposition from his backbenches.

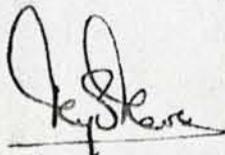
#### Conclusion

6. Legislative devolution is not the policy of the DUP and it is significant that Mr Paisley has made no public comment about the scheme. It is a proposal which suffers from considerable drawbacks and Mr Allister knows this to be the case. Almost certainly, it has been

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raised as a tactical weapon in the continuing battle between the DUP and the UUP over the future of the Assembly. There is no need for the Government to comment in detail at this stage. If the Secretary of State is asked for his views he need only say that, as with any proposal for devolution, the acid test will be whether or not it is likely to command widespread support. It will be clear to everyone that legislative devolution stands little chance of meeting this criterion.



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Political Affairs Division

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