

1968/38

CONCLUSIONS OF A MEETING OF THE CABINET HELD AT STORMONT CASTLE
ON WEDNESDAY, 20TH NOVEMBER, 1968, AT 10.30 A.M.

PRESENT:- The Prime Minister
The Minister of Commerce
The Minister of Finance
The Minister of Home Affairs
The Minister of Health and Social Services
The Minister of Education
The Minister of Agriculture
The Minister of Development
The Minister in the Senate

ALSO PRESENT:- The Attorney-General
The Chief Whip

The Secretary to the Cabinet
The Deputy Secretary to the Cabinet
The Private Secretary to the Prime Minister

The Inspector General, R.U.C.)
The Deputy Inspector General) for item 1
County Inspector Corbett)

1. THE MAINTENANCE OF LAW AND ORDER IN LONDONDERRY

At the request of the Cabinet, the senior police officers present outlined the current situation in Londonderry as they saw it. This was that it was logistically impossible to secure rigid enforcement of the ban on demonstrations within the Walls; that any statement of intention to secure such enforcement would not be helpful to them; that further really firm police action could lead to the most serious and prolonged disorder in Londonderry and elsewhere; and that it would be prudent to give early consideration to lifting the ban, particularly as moderates still appeared to be in control of the Londonderry Action Committee.

The Inspector General made the general point that his considered view, derived from long experience, was that bans should be used only in wholly exceptional conditions since they tended to create an atmosphere of defiance. The police had ample powers under the Common Law and the Public Order Act to deal with potentially riotous situations as they developed. It was much better that they should be allowed to exercise discretion and flexibility in coping with such situations.

/In response

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In response to a question from the Prime Minister, the police view was given that unless the heat could be taken out of events by political means, the law and order situation could get completely out of control.

The Minister of Home Affairs expressed great concern that, if the ban were to be removed at this stage, elements hostile to the Civil Rights demonstrators might take the law into their own hands. It was the general view of Ministers, however, that the police advice that they simply could not enforce the ban could not be ignored. At the suggestion of the Minister of Commerce it was agreed that the Deputy Inspector General and County Inspector Corbett, who were about to go to Londonderry, should explore with the moderate Civil Rights leaders the prospect of securing a period of peace in Londonderry, during which there would be no further demonstrations. On the basis of their report, the Cabinet could consider the situation again, with a view to removing the ban after a period of peace had been demonstrated.

2. THE POLITICAL SITUATION

Ministers had before them copies of a letter from Mr. Wilson to the Prime Minister. The Prime Minister asked his colleagues to bear in mind the following facts:- that they had just heard from the police that unless the situation could be cooled down law and order could not be guaranteed; that the franchise issue was the central theme of the Civil Rights movement; and that Mr. Wilson was now making it clear that if they refused to accept universal adult suffrage, it would be imposed by Westminster legislation. Knowing this, could they in conscience ask the police to cope with the results of failing to face up to a change which Westminster could impose in any case.

In subsequent discussion the Ministers of Commerce, Home Affairs, Education and Agriculture expressed the view that they could not be expected to act on the franchise issue under duress. They had no electoral mandate for such a fundamental change, and if they agreed on a "package" of other reforms, it would be unrealistic of Mr. Wilson to insist upon franchise reform against their will. The Minister of Home Affairs characterised Section 75 of the 1920 Act as a mere reserve power, which it would be quite unconstitutional to exercise against the democratically-determined will of a majority in Northern Ireland. The Minister of Health and Social Services said that, while he had considerable sympathy for the principle of a change in the franchise, the element of duress was most unacceptable to him.

The Prime Minister agreed that the "package" they had been considering represented a major step forward. But if the current agitation was not brought under control, a situation would arise in which Mr. Wilson could

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say law and order in Northern Ireland was not being maintained. Ministers should consider most carefully Mr. Wilson's ominous words about reconsidering the conventions which had hitherto operated.

The Attorney-General said that his view of Section 75, together with that of his predecessors and of leading constitutional authorities, was quite at variance with that expressed by the Minister of Home Affairs. Conventional practice should not be confused with legal power. Clearly, Section 75 meant what it said, which was that Westminster retained its powers to legislate in all matters, including those "transferred". Moreover, just as the 1920 Act had been amended in minor respects, so it could be amended - by unilateral action of the United Kingdom Parliament - in major respects, such as transferring legislative powers (e.g., in respect of the franchise) from the "transferred" to the "reserved" category. Indeed the forthcoming Commission on the Constitution would almost inevitably involve consideration of such questions. As for the issue of principle now before the Cabinet, he believed that universal adult suffrage was right in principle, and that a continued refusal to grant it would alienate moderate opinion throughout the country. They could not remain part of the United Kingdom - as they wished to do - and refuse to adopt fundamental principles of this kind. Such an attitude would not commend itself to the Conservative Party, any more than to the Labour Government.

The Minister of Finance reminded his colleagues that guarantees of Northern Ireland's constitutional position did not involve guarantees of the financial support received to maintain parity and even super-parity expenditure, while the Minister in the Senate expressed the view that a change to universal adult suffrage could not be put off indefinitely in the face of pressures, not only from Westminster and the Roman Catholic community, but also from the Press, the Churches, influential business interests and much moderate opinion. When the universal suffrage applied to Stormont elections, it was difficult to argue that it should not also apply to local government elections.

The Chief Whip said that everyone resented having to act under duress. But the Attorney-General had reminded them that they were not constitutionally independent, and the Minister of Finance that they were not financially independent. If they announced a "package" of proposals but did not deal with the franchise, the current agitation would continue and the pressures, internal and external, would not be relieved. In the long run, Roman Catholic votes must be secured if the constitutional position was to be maintained. Main local government elections would not be held again until 1970; could they not press on with local government re-structuring, and aim at a move to universal franchise in new areas at those elections?

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The Ministers of Agriculture and Development suggested that a "package" of other reforms should be agreed, and that at a further visit to Downing Street Mr. Wilson should be clearly told that a move to universal adult suffrage was not politically feasible at present. This would at the very worst have the merit of demonstrating to the Party some willingness to avoid complete surrender on all issues. The Chief Whip also agreed that such a visit might be desirable, and that Mr. Wilson should be told that an electoral mandate would be needed for such a fundamental change. It should be appreciated, however, that Mr. Wilson might be unwilling to move from the position revealed in his letter. The Prime Minister said that this suggested timing was certainly worthy of further consideration. He would fear, however, that they might have a major fight to "sell" to their Party a "package" without the franchise, only to find that this omission made it unacceptable either to the Civil Rights campaign or Mr. Wilson, and that they were still faced with disorder at home and constitutional and financial sanctions from London.

Consideration was adjourned at this point.

James O'Neill

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