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**Reference Code:** 2021/102/40

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SECRET

Roundtable-talks, Strand One  
Subcommittee Meeting, Wednesday, 13 May, 1992  
Parliament Buildings, Stormont

Mr Donoghue

1. Denis Haughey, Sean Farren and Mark Durkan of the SDLP briefed me on the above last night. This note sets out the main points to emerge.
2. The delegations attending the meeting were the same as on the previous day (see my report of 13 May). Haughey, Durkan and Farren took turns as the two SDLP representatives at the table. The day was taken up with consideration of the proposals of the UUP and the DUP. There was also a discussion at the beginning of the day on the leaking of the SDLP paper to the "Irish Times". The evening session of the meeting was devoted to consideration of a paper to be submitted by the Subcommittee to Plenary tomorrow, Friday. The SDLP delegation were pleased with how the day went from their point of view. After the difficult experience of the previous day when their own proposals were being considered, they went on the offensive from the outset, put a lot of pressure on both Unionist delegations and believe that they were successful in exposing many of the flaws in the two sets of proposals.

Leaking to "Irish Times"

3. At the beginning of the meeting, Denis Haughey made a strong protest about the leaking of the SDLP paper to Frank Millar of the "Irish Times" (and other journalists). He said that it represented a serious breach of faith and a serious breach of the terms of the agreement of 26 March 1991. He said that it was impossible to negotiate in a situation where everything was being passed to the media and where party positions

were the subject of commentary in the press. While his delegation might be saying no more about the matter at this particular meeting, he reserved the right to his party leadership to return to the issue on Friday and assess the damage caused by the matter. Other delegations made similar interventions. Hanley said that he noted the points made and added his own word of concern. Peter Robinson (DUP) referred to a conversation he had with Jim Dougal of the BBC in which Dougal referred to an earlier version of the SDLP paper [Note: Durkan told me that Dougal had contacted him on this aspect last Friday; Durkan was concerned at "the implications of this for our own arrangements regarding confidentiality", but he had been relieved to learn from a number of things that Dougal said that he clearly had a somewhat garbled version of the earlier paper.]

4. During the discussion on the matter both Hanley and Robinson sought to imply that the leak might "have come inadvertently from the SDLP itself", with Hanley saying that he had not had an opportunity to establish whether what was in the "Irish Times" was the version tabled by the SDLP (the implication being that if it were different, what was leaked was an earlier version and therefore could not have come from the other delegations, who would not have access to this). During a subsequent break, Hanley checked the "Times" article and when the session resumed he confirmed that what was in it was the version as tabled by the SDLP. Robinson said that as a result of the affair, the DUP might be seeking on Friday a change in the structure of the Talks, with fewer delegates present in the conference room and with more restricted distribution of documents.

#### UUP Proposals

5. Contrary to expected, the substantive part of the meeting resumed with consideration of the UUP proposals (it was thought that the DUP would be taken first). Durkan said that in their comments, the SDLP drew heavily on the

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paper prepared by you and Mr Barrington (which they repeated was most helpful and for which they expressed their thanks), referring to the most disappointing nature of the proposals and to the fact that they were not new. They emphasised the inadequacy of the proposals in terms of accommodation of the Nationalist identity and their essential unworkability. Denis Haughey, again drawing on your paper, pointed out that the UUP document made no attempt to match the requirements set down in the Common Principles paper. Eapey responded for the UUP. He said that their proposal was a "skeletal" one, that they "knew that the SDLP would raise this point" (sic!), that they had other papers prepared but that "they did not feel it right" to table them at this "early stage" - "you do not go into negotiations by revealing your full hand at the outset"! Eapey argued that the process was about "building slowly, guaging the reaction of other delegations" and only gradually putting forward detailed proposals. "None of us", he continued, "have experience of a legislative role and we have to learn to creep before we walk".

6. Durkan took him up on the absence of an executive in their document, suggesting that it was extraordinary that proposals for the governing of Northern Ireland expressly ruled out actually governing! Eapey argued that what was in question was proposals for the governance of Northern Ireland! (The distinction was clear to nobody other than himself.) Durkan sought to press the point without getting any further.
7. Eapey sought to argue that the modesty of their current proposals "did not allow much scope" for issues such as identity - "if the issue is laying tarmac in Tyrone where is the scope in that for a Dublin involvement?!" Eapey went on that "if we are talking about a significant step forward, the whole package must be seen" (his point, apparently, being that the picture could not be judged just in terms of Strand 1). Taking up his reference to a

modest, "low level" form of devolution, Durkan asked Emev if this could be implemented under Article 4 of the Anglo Irish Agreement. Emev responded that "that would not be workable". Durkan replied "then you are saying it's that the context is more important than the content".

8. The SDLP told me that the Alliance made a number of interventions strongly supportive of the SDLP critique of the UUP proposals. Close, for instance, argued that there was no way that these proposals could be acceptable to the Nationalist community and thereby failed a fundamental requirement. Emev responded that they were "open to other ideas" (the SDLP said that he repeatedly sought refuge in the line that these were "skeletal" proposals and that more detailed proposals would be tabled as the process went along). Morrow (Alliance) said that the UUP paper "did not address any of the fundamental issues".
  
9. Durkan took up the reference in the document to "Executive Committees" - how did the UUP define this term? In the course of cross-questioning, Emev described the Committee as a "legislative and administrative" body. Durkan asked if they would operate on the principle of collective responsibility. Emev initially replied in the negative but was unable to say how precisely they would operate. Durkan pressed the point - "when a Chairman of a Committee went, for instance, to make his bid in regard to funding for projects, whose views would he represent?" Emev replied "the Committee's". Durkan: "but how is the Committee position arrived at? If collective responsibility did not apply, does that mean that if the Chairman was accompanied by other members of the Committee (on such a "bidding" mission) they could all argue different priorities for funding?". Emev was apparently "all at sea" at this point and was unable to explain what would happen in such a case. Durkan said that the approach being mooted was a "clear recipe for instability".

10. Durkan then took up the point that there was very little reference in the UUP paper to the role of the Assembly itself, all of the emphasis being on the Committees. What was the role of the Assembly itself? Emepey said that it would be responsible for overall legislation. "But are the Committees not responsible for legislation in their own areas, so where is the role for the Assembly as a whole?", Durkan asked. Emepey, again getting somewhat bogged, initially suggested that there would be a "Legislative Committee" which would have some kind of co-ordinating role; he subsequently acknowledged that there was no reference to such a Committee in their paper and that he was confusing it with the situation in regard to legislation for Wales!
  
11. The SDLP pressed Emepey again on the identity issue, pointing out that he "had come out all hurt" the previous day about the perceived absence of account of the Unionist identity in the SDLP paper, yet they had excluded all reference to the Nationalist identity in theirs. Moreover, they regarded it as "offensive", they said, that his response was that the UUP had "anticipated" these questions from the SDLP and had "proposals" to deal with them - proposals however that they were not prepared to reveal. Emepey said that some of the "fundamental issues remain to be resolved in Strand 2" (sic!) (the implication being that "all would be revealed" then). Farren took him up on this remark, arguing that surely this represented a strong case for moving quickly to Strand 2. In support, Durkan added that "people's confidence in and commitment to serious negotiations in Strand 1 is clearly contingent on developments in Strand 2 and the only logical conclusion can be that the sooner we move to Strand 2 the better". Emepey refused to be drawn further on the matter.
  
12. The SDLP raised the nature of the role of the Committee Chairman - to whom was he accountable?, was he merely a "messenger boy"? etc. No clear answer emerged from



Empey. The final point they raised with him - again drawing on your paper - was the relationship between the proposals now tabled and the "Way Forward" document of 1984 - could he point out the differences between the two? Again Empey was in obvious discomfort and after some toing and froing (including apparently a number of beseeching looks - in vain! - in the direction of his colleagues!) was unable to identify any difference. Durkan: "you cant because we cant - there aren't any!" Haughey added that this went to prove that, having been asked to be innovative, the UUP had come up with a document "that we have all seen before".

13. The SDLP told me last night that Empey was a very reluctant "batsman" throughout the exchanges and had the clear air of somebody sent to defend a position that he personally was clearly uncomfortable with.

#### The DUP Proposals

14. The cross-examination of the UUP took up the morning and about 45 minutes of the afternoon session. At about 3.15pm the meeting began consideration of the DUP proposals, with Robinson leading on their behalf.
15. Farren led off for the SDLP with a general opening comment, drawing, inter alia, on your paper and on some speaking points which I had drafted overnight. He referred to the expectations which had been raised by the positive tone and language of Paisley's statement on requirement of 5 May. Against that background, the SDLP were extremely disappointed with the paper on institutions which had been tabled by the DUP. There was no reference (of any substance) to the Nationalist identity or indeed to any of the wider relationships beyond that with Britain. It was as if Northern Ireland was a place apart, suspended in time and space. It was extraordinary that after all the SDLP had been saying to them throughout the many weeks of the process, both last year and since the resumption of the Talks, the DUP could

believe that their proposals would be acceptable to the Nationalist community. The SDLP could only conclude that they had not been listening to a word they had been saying. It was true - and he commended them for this - that the DUP had made some attempt to relate their proposals to the agreed Common Principles, but this had been an essentially cosmetic exercise. The proposals simply did not measure up. Referring back to Reg Empey's comment in the morning about "fundamental issues having to await Strand 2", Farren wondered whether the DUP in drafting their Strand 1 paper had the same consideration in mind!

16. The SDLP then moved on to take up the specific issues within the paper. They began with an attack on the absence of an executive body in the proposals. Durkan had a long exchange with Robinson on the issue. Durkan pointed out the absurdity of the Assembly/Committees seeking to proceed without, at the very minimum, co-ordination. The DUP's proposals made it inevitable that some kind of executive structure would be necessary. Who decided "common policy"? Who decided financial priorities? Initially Robinson sought to resist the need for an executive structure, arguing that all these issues could be worked out on the floor of the Assembly. Durkan: "you mean that the complicated process of, say, negotiating each Department's budget, with bidding and counter-bidding, would all take place on the floor of the Assembly?! Surely that is a recipe for chaos"! [Durkan told me that there was a helpful intervention from David Fell of the NIO at this point, suggesting that the financial arrangements of each Department was not just a matter of a once-a-year exercise to fix the annual budget; it was an ongoing process requiring constant consultation - the clear implication being that seeking to conduct all of that on the floor of the Assembly was scarcely feasible.] Durkan argued that the combined task of legislative business and the overseeing of the detailed day-to-day running of the various Government



Departments would quickly overload the system and make it unworkable. This was a further fundamental flaw in the DUP proposal.

17. Under further cross-examination from Durkan about the apparent "hermetic" separation from one another of the various Assembly Committees as envisaged in the DUP paper, Robinson suggested that "there was nothing to stop individual Chairmen of Committees meeting each other"! Eventually he conceded that some form of "co-ordination" between the various Committees of the Assembly would be needed, perhaps through the vehicle of a Business Committee (note: this concept is not contained in their paper and it was clear that by now Robinson was beginning to negotiate "on the hoof"). As the afternoon wore on, this Business Committee began assuming ever increasing powers. It could, for instance, Robinson suggested, co-ordinate legislation. It could arbitrate on disputes on priorities in regard to legislation. It could decide on common policies across several Departments. Eventually it emerged that all the Committee Chairmen would be members of the Business Committee. Durkan said that it was clear that Robinson was avoiding admitting overtly the need for an executive body and yet in everything he said was implying the need for it. As any superficial analysis would show, the system was simply unworkable without such a body. Why not face it and admit it? In an interesting comment, Robinson replied "if that is how it develops you can then say you brought us to that point".
18. Pressing the argument, the SDLP said that from what Robinson was saying the Business Committee was increasingly taking on the nature and functions of a Cabinet ("the C word", as Durkan put it!). Would the Head of the Civil Service, for instance, not report to the Chairman of the Business Committee? Robinson "flayed" on that question. Vitty, his DUP colleague, suggested that the Head of the Civil Service would report

to the Secretary of State. Robinson added, however, that the Head of the Civil Service would have to have a "direct relationship" with the "Chief Executive".

Farren: "so there will be a Chief Executive!" Robinson did not respond directly to this remark.

19. The SDLP then brought the discussion back to the identities issue, reiterating their basic point about the absence of any acceptable recognition of an Irish identity in the DUP paper. Robinson asked the SDLP to say how this could be done. Why was the presence of the SDLP at the "highest level" in the DUP proposal not sufficient? The SDLP referred to the need for the expression of the external dimension of their identity, and explaining again why they had included an Irish Government-nominated Commissioner in their proposal. Robinson (making what the SDLP privately regard as a serious tactical error) responded derisively "one Commissioner out of six! What does that do for your identity?" Durkan: "That is very interesting. Yesterday you told us that the inclusion of a nominee of the Irish Government meant the end of the Union. Today you tell us it is insignificant. Which is it?" Robinson continued in a dismissive vein. Durkan, pressing, said: "You regard our Commissioner proposal as insignificant, we regard it as symbolically crucial. That is a central difference between us". [The SDLP said that Robinson's DUP colleagues were clearly disconcerted by his remark and it was notable that after the next coffee break he came back declaring that the SDLP proposal represented "joint sovereignty"! The SDLP presume however that the exchange will show in the record.]
20. Continuing on the identities theme, and in answer to a question about the nature of the Irish identity of the Nationalist community and how it might be expressed other than through the presence in a Northern Ireland administration of a nominee of the Irish Government, Denis Haughey made a lengthy intervention, along the

following lines: "The Nationalist community is part of a nation that extends throughout this island, a nation with whose members we share a common culture, a common way of life, a common identity. The commonality of that identity is embodied in the Irish state, to which many people in Northern Ireland feel they properly belong. Because the rest of the people of this nation are part of us just as we are part of them, the Irish state has a legitimate concern with what happens in Northern Ireland. It has that concern not least because it costs it - in lives and in financial terms. Events that happen in Northern Ireland have a huge impact on what happens in the South. That legitimate concern of the South in what happens in Northern Ireland was given modest expression in the Anglo Irish Agreement, in that it accepted the right of the Irish Government to play a role - if only a consultative one - in the shaping of the policies by which we are governed. In our proposals we have proposed a stronger input by the Irish state into the process by which we are governed. After the manner of the early European Community, and the requirement it had to heal old divisions and conflicts, we are proposing that this form of Government operate on a consensus basis.....The Unionists are asking us to put forward other models by which our identity might be expressed, but it is clear from all they have said that what they object to is in fact the principle of what we are saying".

21. Robinson wished to reply to this intervention, but Hanley ruled that as it was now 6.15 and consideration remained to be given to the question of a report to the Plenary, the debate be adjourned [it was not clear whether it will be resumed in the Subcommittee on Friday or whether the discussion will be subsumed into the Plenary debate.]

Report to Plenary

22. After a short break, the Subcommittee resumed at 7.15 to discuss the above. The British side produced the attached draft on which the Subcommittee worked for about

90 minutes. You will see from the nature of the draft (which contains Mark Durkan's manuscript annotations of the amendments agreed), the British side went, as predicted, for a document which would "accentuate the positive". The SDLP were unhappy about the overall format and sought to "claw back" as much as they could. The document, however, has no more than the status of a report from a subcommittee and each delegation, including the SDLP, has reserved its position for the Plenary. In that context, the SDLP feel that "they can live with" the version eventually agreed [this is being typed up today in Stormont and is being faxed to Mark Durkan, who undertook to fax me a copy on receipt.]

SDLP Assessment of the current state of play

23. Overall, Haughey/Farren/Durkan were reasonably satisfied with how yesterday went. They believe that they were able to expose the major and fundamental flaws in the Unionist proposals from the Nationalist perspective. Their strong sense at the end of the exercise, of course, was that the gap between the two sides remains enormous and that it is difficult to see how matters can now be taken forward meaningfully without substantial movement from one side or the other - or both.
  
24. The Unionists appear to share that sense and Denis Haughey told me of an interesting encounter he had at lunchtime with Peter Robinson in that regard. The latter called him aside in the dining room and asked him where he saw the process going from here. Haughey told him that if the parties could agree even a skeletal outline at this point, there would be some scope for moving on with meaningful negotiations. But that was not the case. Haughey argued that the Unionists' failure to understand that identity was not just a "matter of external dimensions, but also impacts hugely on internal realities" continued to be a major impediment to progress. He further suggested that a related key factor was the whole issue of what would happen in Strand

2 and the possibility that once one moved to that stage "some compensation back and forth between Strands was possible". Why not move now to Strand 2 therefore? Robinson "shook his head" and said that they would have difficulty moving to Strand 2 "when so little has been achieved in Strand 1". They left the matter at that.

25. Over dinner last night, Haughey/Farren/Durkan gave some preliminary and "off the top of the head" consideration as to whether the SDLP had any room to manoeuvre. Their sense was that the only possibility lay in some "juggling" with the Commission - perhaps separating the three appointed Commissioners from the three elected Members and "elevating" the former to an oversight, "Three Wise Men" status - perhaps a type of guarantor role, but still within the context of the internal structure. Durkan felt that one option for the SDLP would be to do a "selling job" on the implications of having the three appointed Commissioners interacting closely with the three directly elected Members. One of the complaints of the Unionists in regard to the Agreement was that "Dublin's influence was executed behind closed doors". Under the SDLP proposal, Durkan argued, the Irish Government presence in Northern Ireland would be "brought down out of the ether" and be much more subject to scrutiny and even accountability. The same could be said about the Commissioners appointed by the British Government and the EC Commission - two further institutions against which the Unionists have levelled complaints of "remoteness". (I stress that these were very much informal thoughts being "kicked around" by Haughey, Farren and Durkan at the end of a long and difficult day!)
  
26. All three noted again yesterday that the DUP continue to be the "favourite students" of Hanley and his colleagues. Durkan commented again on the close relationship between Hanley and Robinson. A continuing - and in their view predictable - difficulty for the SDLP is that the



"learning process" in regard to their (the SDLP's) ideas is as much one for many on the British side as it is for the Unionists and that the British are clearly more "comfortable" with the Unionist proposals.

27. As to what happens tomorrow, it is not at all clear at this stage. The party leaders are due to meet Mayhew at 10.30, with the Plenary following afterwards. The British side were not revealing yesterday how they intend to play it from there. The presumption must be that the Plenary will begin with consideration of the report of the Subcommittee and perhaps open the debate then to each of the party leaders in turn. Clearly it will be an interesting and important session.

*T.O.C.*

T O'Connor  
14 May 1992