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9.6.92
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SECRET

Round-table Talks, Strand One,
Structures Subcommittee Meetings, Wednesday 27 May 1992
Parliament Buildings, Stormont

Mr Donoghue

1. Mr Corr and I were briefed this evening on the above by Denis Haughey, Mark Durkan and Sean Farren of the SDLP, who were representing the party in the Subcommittee. The Subcommittee was chaired by Jeremy Hanley, with other parties represented by Peter Robinson/Dinny Vitty (DUP), Reg Empey/Jeffrey Donaldson (UUP) and Seamus Close/Addie Morrow/Steve McBride (Alliance). Under the terms of reference for the Subcommittee agreed at yesterday's meeting of the Business Committee, no minutes were taken and delegations did not take notes. Accordingly the debriefing by the SDLP this evening was based on the "oral and collective recollections" of Haughey/Durkan/Farren of the day's proceedings. In the nature of things, the account we received was necessarily more of the nature of an overview/ main highlights therefore and this note reflects that fact.

2. It was another difficult day for the SDLP, with the "coordinates" very much on a 4:1 basis throughout. Moreover, the focus was almost exclusively on the SDLP position on each issue. As you know, at the beginning of the meeting this morning, each party tabled a paper setting out where it saw the obstacles to progress (copies of which we faxed to you this morning on receipt from the SDLP). The Subcommittee began its deliberations on these papers at 11.00.

3. Immediately the focus was on the SDLP proposal for nominated Commissioners. Peter Robinson said that one of their principal objections to the proposal was that the SDLP had, in their view, "never before" proposed a direct role for the Irish Government in the internal affairs of Northern Ireland, and that their proposal in that regard went beyond the Anglo Irish Agreement. Denis Haughey pointed out that their analysis document tabled last year clearly flagged their intentions in this regard (para 26) - "the abiding reality, recognised by the Anglo Irish Agreement, is the right of the Irish Government to involvement in the affairs of Northern Ireland". Robinson responded that he had meant that the SDLP had not raised the issue prior to the beginning of these Talks. Haughey then referred him to the Sunningdale Agreement (to which the DUP refer in their paper), pointing to the potential executive role envisaged for the Council (ie including the Irish Government) in relation to Northern Ireland. Robinson disputed that an executive role was envisaged for the Council. McBride (Alliance) made a helpful intervention at this point, quoting from a copy of Boyle and Hadden which he had to hand which referred to the Council having "harmonising and executive responsibilities".

4. Despite the foregoing, Robinson returned throughout the day to the issue of the "surprise/shock" engendered within his party by the SDLP proposals. He said that in that sense they felt "betrayed" by John Hume - that he in effect had "talked them into this process" and its 3-Strands format on the basis that internal relationships in Northern Ireland would be dealt with first; having agreed to this basis, the Unionists had discovered that the SDLP had fundamentally moved the goalposts. Robinson referred to a series of radio interviews he had done with Hume in 1988 (RTE and Radio Ulster) which he (Robinson) claimed effectively marked the genesis of the current process and in the course of which Hume, he claimed, had agreed to the "sequential" approach. Durkan intervened

to point out that during those interviews Robinson himself had spoken about a "parallel process" and that this was seen as significant at the time. Robinson, clearly taken aback, responded "yes, yes, I'm getting to that"; in the event however he did not return to that particular argument.

5. Robinson made two other revealing interventions in regard to the basis on which the DUP/Unionists had entered the Talks. Firstly, during an exchange on the basis for moving to Strand 2, Donaldson referred to the need for "substantial progress" in Strand 1. The SDLP immediately pointed out that such a yardstick was excluded from the terms of the 26 March statement. Clarifying, David Fell (NIO) remarked "the words never crossed the Secretary of State's (Brooke) lips". Robinson intervened: "Be careful. Some of us have documents we might produce". This prompted Hanley (with Fell whispering in his ear) to hurriedly remark "we hope that it does not come to that". Denis Haughey immediately sought clarification, remarking "we're here on the basis of the 26 March document. If some people are here on a different basis we would like to hear about it". No satisfactory response was forthcoming. [Note: the SDLP are briefing John Hume on the matter tomorrow and, based on his advice, may raise the issue again on Friday. Haughey /Durkan/Farren are convinced that there is something to Robinson's remark, which was very deliberately delivered. Their hunch is that the "documents" represent a letter(s) from Brooke to the Unionists clarifying the circumstances in which he would exercise his role in relation to moving to Strand 2, or perhaps a note received from Downing St after the 14 May 1991 meeting between Prime Minister Major and the two Unionist leaders. Durkan told us that they raised the issue on the corridor this evening with Hill of the NIO. He claimed that the only document was that of the 26th of March, adding that any apparent confusion on Hanley's part on the matter was due to the fact that he had not been involved in the issue at the time and was "uncertain as to what Robinson meant".]

6. Robinson's other interesting intervention in relation to the DUP basis for entering the Talks was to the effect that the delegation is committed to obtaining the endorsement of the party's Executive Council before moving to Strand 2. [Note: the SDLP see this as further evidence of the difficulties in which the DUP now find themselves; it seems likely that Robinson and co had "sold" entering the process to the party on the basis that they could "deliver" an internal arrangement in Strand One. They recognise that this is no longer feasible, hence their difficulty about moving to Strand 2.]

7. The other parties also made strong play of the fact that, as they saw it, the SDLP appeared to be ruling out any form of majority rule. (The SDLP said that Hanley inquired acidly at one point of this debate whether "the SDLP envisaged any role for democracy in their proposals"). Haughey pointed out that "majority rule is not democracy, merely one possible expression of it. Sometime it satisfies the needs of democracy and sometimes it does'nt. In our divided society in Northern Ireland, it is clear that pure majority rule cannot work." He pointed out that the SDLP's proposals were "driven by consensus"; that did not rule out however that the formal decision making machinery within an overall consensus process might include provision for majority voting."

8. In the course of the morning session Morrow (Alliance) made a bitter attack on John Hume, claiming that he had "insulted" Alliance throughout the Talks by effectively characterising them as "irrelevant" (Hume had remarked last week, for instance - in response to Alliance claims that there was a third identity in Northern Ireland - that "everybody knew" that the division was between the two major traditions and that "there is no point in pretending that the answer to the problem lies in some middle way between them".)

9. Most of the afternoon and evening sessions were given over to the issue of how to move to Strand 2. As with the other issues, the pressure was directed almost exclusively at the SDLP. * Robinson suggested that one way forward would be to "work up some model in Strand 1 that could be accompanied by a statement from the SDLP that they had requirements in relation to Strand 1 which would ultimately have to be satisfied; if these requirements were not satisfied in Strands 2 and 3, then the SDLP could insist on a return to Strand 1 for further discussion. Durkan replied that they would have to take this proposal back to their delegation for consideration; he pointed out however that this still involved effectively "parking" their proposals and John Hume had already made clear that such a situation was not acceptable. Durkan however stressed that he was speaking without a mandate and would bring the matter back to their delegation for consideration.

10. Throughout the debate, the SDLP repeatedly emphasised that the 26 March document, which underlay the entire process, was very clear about how the move to Strand 2 would take place; it was also clear that that move should now take place without further ado. If others felt that a particular basis was required, the SDLP said that they favoured the "two models" approach advocated last week by the Secretary of State. Another option was to put a package together comprising the agreed Common Themes, the agreed Common Principles and perhaps an agreed statement of the findings of the Subcommittee of two weeks ago (on the structures). They stressed that they were open to other suggestions, consistent with the principles of fairness and equity. They also pointed to the frequent references from the Unionist side about proposals they had in Strand 2 which would address the SDLP's needs - in the SDLP view this was another compelling argument to move now to Strand 2 to enable these proposals to be heard and considered.

* I should add in this regard that the British side continued to persist with the "Park and Ride" proposal, with the SDLP retaining their rejection of such a course despite family lines.

11. Seamus Close asked the SDLP whether a Tripartite structure, involving the two Governments and the Executive, which could "include" non-transferred matters, would satisfy their needs. The SDLP replied that they were prepared to look at all proposals, but would of course need to see the details.
12. During this debate the Unionist side - and Hanley - made frequent reference to the fact that the SDLP had accepted in the Agreement that if devolution took place under the terms of Article 4 a considerably more reduced role was envisaged for the Irish Government than that proposed by the SDLP in their paper. Picking up this point, Durkan asked what the situation would be in a devolved arrangement in regard to nominations to public bodies which fell outside the ambit of transferred matters (he mentioned, by way of example, SACHR) - would the Irish Government still be able to nominate candidates for such bodies? Eney made a distinction between such bodies and Cabinet level appointments. Durkan: "so it is the role and nature of the Commission that is at issue rather than the question of nomination?" (by the Irish Government). Donaldson, seeing what Durkan was driving at, quickly responded "we object to both". When Durkan pursued the issue of whether the Irish Government was envisaged as having any role in relation to functions which the Secretary of State would continue to exercise, he was eventually cut off by Hanley who said "that is a matter for Strand 3". [I should add that during this exchange, Robinson raised the question of reciprocal nominations - would the North have the possibility of nominating appointees to Southern bodies? The SDLP, who were pleasantly surprised by the question, responded "why not!"]
13. At the tea-time break at 6.30, the British side tabled the attached paper, as an attempt to steer a way forward. The most interesting aspect of the paper is the suggestion on the last page that the Talks move to

Strand 3 to agree arrangements between the two Governments in regard to a proposal in the paper that, as a means of breaking the impasse in Strand 1, the Irish Government to have a "continuing role (equivalent to the role it has under the Anglo Irish Agreement) in respect of those matters in Northern Ireland for which HMG would retain responsibility". After this, Strand 1 would be reconvened and subsequently move to Strand 2 (provided the resulting package provided a "sufficient basis for agreement to launch Strand 2") [Note: this latter point smacks strongly of "substantial progress".]

14. As you know, I obtained a preliminary view on the paper from A/Sec O hUiginn at 6.45 which I was able to convey to Sean Farren. In the meantime, Durkan had made contact with John Hume; the latter's attitude was to adopt a cautious approach and "let the Unionists react first". When the debate on the paper began in the Subcommittee at 7 pm, Robinson made clear immediately that they did not regard the proposal as particularly helpful - "the SDLP know that they are going to get something like that anyway" (he refused to be tied however on whether their proposals in relation to this issue involved a role for the Irish Government, confining himself to a reiteration - without elaboration - of the fact that their proposals would address the issue in a way "that was satisfactory to the SDLP"). The UUP and Alliance were non-committal in their reaction and wished for time to refer it back to their delegations. For the SDLP, Haughey said that they too would have to report the proposal back to their delegation, but made clear that they were certainly prepared to give it consideration. [Haughey told me that he tried to make the point about the proposal being in contravention of the terms of the 26 March document, but because of the shortness of the debate did not receive an opportunity to do so.]
15. In the wrap-up of the days proceedings, the SDLP repeated their desire to find a way forward. They pointed to the

two suggestions which they had made themselves but which had been rebuffed; they were prepared to consider the proposal of the British side and that of Peter Robinson, and indeed any other which might be put to them. The Subcommittee adjourned at about 8 pm, with agreement that members would report back to their delegations on the meeting and on the British paper and reconvene on Friday.

SDLP Assessment

16. As mentioned, it was another difficult day for the SDLP. The delegation were particularly annoyed that Hanley actively supported and indeed frequently orchestrated the pressure on the SDLP. He made no effort to put any pressure on the Unionists to move. I should add that when Durkan broached him privately on the matter later, Hanley's response was "of course I am (putting pressure on you). You're in the hot seat and you put yourself there". There were a number of tetchy exchanges between Denis Haughey and himself and overall Hanley's performance left a sour taste in SDLP mouths. Haughey commented to us tonight "if ever we needed confirmation of why we need the support of and a role for the Irish Government we got it today!"

17. While they fully took the need for caution on the British proposal - and they shared the disappointment that the British had produced it without consultation with Dublin first - the idea seemed to grow on them as the evening wore on! They feel that it can only be to the good that the Irish Government now join the process. They feel the scope of the proposal could be quite expansive. Moreover, the role for the Government would be consistent with the Agreement and would involve that role being executed "on the same level as the British Government" (Durkan made the point that in that sense it was stronger than their own proposal, where the Irish Government would be involved at the level of the devolved administration, a possible weakness in the proposal in his view.)

- 18. They also believe that the proposal poses serious tactical problems for the Unionists. It is a difficult one for them to veto in the sense that that they (the Unionists) have no role in Strand 3. On the other hand, agreeing to it would mean accepting a role for the Irish Government, something they have resolutely refused to concede to date.

- 19. The SDLP are somewhat puzzled as to why the British tabled the proposal. [They think, incidentally, that the idea may have been Hill's of the NIO] Firstly, they had on a number of occasions today ruled interventions out of order because the matters in question were for Strand 3. Now they themselves were proposing such a route. Secondly, having been carefully protecting the Unionists all day, and having made clear that the object of the exercise was to produce an outcome that would enable the Unionists to travel to Strand 2. they came out this evening with a proposal that is clearly going to be very difficult for the Unionists to live with.

- 20. The overall sense of Haughey/Durkan/Farren this evening was that the outlook is perhaps slightly less gloomy in terms of finding a breakthrough than it was 24 hours previously, but that nonetheless the odds must remain against it.

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T O'Connor
27 May 1992

1. The purpose of establishing the sub-Committee was to try and deal with an impasse created by differences of view over the question of "majority rule" and the expression of the Irish identity in the institutions of Government.
2. The debate this morning produced a certain convergence of view on the question of majority decision-taking, and although more work will clearly have to be done in that area, that is no longer the obstacle that it seemed.
3. The remaining obstacle therefore is the one which we always expected to be the more significant, namely the expression of the Irish identity in the institutions of government in Northern Ireland. The means proposed by the SDLP has been rejected by all three other parties as being wholly unacceptable, both to the politicians and to their supporters.
4. The SDLP have nevertheless indicated that they are flexible and open to other suggestions, and there was interesting debate about Seamus Close's proposal for a tripartite structure, and the DUP assertion that their proposals in Strands II and III (taken with their proposals in Strand I), while not meeting exactly the SDLP's requirements, might nevertheless be just as, if not more than, acceptable to the SDLP.
5. However, these other suggestions cannot be revealed until we get into Strands II and III.
6. The Unionists will not go into Strand II until they have some idea of the internal structures within Northern Ireland. They will certainly not move to Strand II on the SDLP model. There is therefore no point in suggesting that the Secretary of State should formally propose a transition to Strand II when it is clear that three of the parties are unlikely to accompany him to Strand II while the SDLP model remains in play.

7. But the SDLP could not simply drop their proposal now, partly because it was leaked, and partly because, as the debate this afternoon has demonstrated, they do not have sufficient trust in the Unionists that they will be able to meet the SDLP requirements on Irish identity in Strands II and III.
8. The conclusion is, therefore, that if we are to fulfil the remit of the sub-Committee, we must:-

either arrange to construct a new model for the internal arrangements of government within Northern Ireland, which is not the property of any single party, but which would nevertheless help us to achieve sufficient consensus to enable us to move to Strand II.

OR

alternatively produce some procedural devices to enable us to move forward within the broad framework of the models tabled to date. Two such procedural devices have been outlined so far -

- (i) first, that the SDLP model would be "parked" and that discussions would commence in Strand II on the basis of one of the other parties' proposals (adapted as necessary), and without prejudice to the SDLP maintaining that their preferred solution is the one that they themselves tabled in Strand I, and to which, of course, they might be able to revert, against the understanding of all of the parties that they may come back to Strand I issues at any time during Strand II or III.
- (ii) that two models be carried forward to Strand II in parallel, one of which would be based on the SDLP model, and one of which would be based on one of the other parties' models, and without prejudice to a final decision being taken on which seemed the more appropriate, in the light of further developments in Strands II and III.

9. It is understood that both of these procedural devices are not acceptable to all of the parties, though that is a thesis to be further tested this evening. But it seems not impossible that there could be a variety of other procedural devices which could be constructed to deal with the circumstances outlined above. (A possible alternative is attached.)

10. In summary, we either need a new structural model, without the "thumb prints" of any single party on it, or we need some new procedural device to enable us to move forward meaningfully into Strand II, in a manner which addresses all of the parties' concerns in the analysis above. It is suggested that that be the agenda for the evening session.

Possible Alternative Procedural Device

Building on the possibility that the SDLP's concerns about the "identity" issue could be met by

- (a) arrangements to ensure fair participation for representatives of the nationalist community in new political institutions, in Northern Ireland; and
- (b) a continuing role for the Irish Government (equivalent to the role it has under the Anglo-Irish Agreement) in respect of those matters in Northern Ireland for which HMG would retain responsibility,

it might be possible to proceed by

- (i) launching Strand III to agree arrangements between the two Governments in regard to (b) (leaving other Strand III issues to be picked up later);
- (ii) reconvening Strand I to consider (a) in the light of (i); and
- (iii) then considering whether the resulting package would provide a sufficient basis for agreement to launch Strand II.