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Reference Code: 2021/94/39

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Strand Two - Opening Sessions at Lancaster House
Wednesday, 8 July, 1992

Summary

This was the third day of the meeting. It began at 9.25 a.m., broke for morning tea from 10.50 to 11.20 and concluded at 12.20 p.m. since Irish Ministers had to return to Dublin for the President's address to the Houses of the Oireachtas.

The first 35 minutes of the meeting were taken up with a discussion of leaks to the news media. Thereafter, other delegations present put questions to the Irish Government delegation which were answered by Irish Ministers. In principle these questions were to relate simply to points of clarification on the opening presentation of the Irish Government but in practice they ranged much more widely. Questioning had not finished when the meeting concluded. It will, accordingly, be resumed at the next session which is to take place in Belfast (Stormont, Parliament Buildings) on Wednesday, 15 July and continue probably until Friday, 17 July.

The following is a reconstruction from notes in the form of direct speech. It is not, however, a verbatim record.

Alderdice (Alliance)

[Complained about leaks to the press.]

Paisley

Downtown Radio yesterday was speaking about the talks and quoting a Dublin source. There were also stories in the Belfast Telegraph which goes to bed at noon. This means they must have a direct line to this Conference. The Irish Times has remarks of Ken Maginnis which are attributed to David Trimble.

Hume

We are particularly sore. Frank Millar (in the Irish Times) has got all the leaks. I was told at the weekend by the press about a letter from the Secretary of State to the Unionists and I was told that a Unionist delegate gave it to the press.

Molyneaux

I had a call yesterday evening about 7.50 p.m. from a Dublin journalist - Conaty.

Minister for Foreign Affairs

This is a very serious problem for us. Will today's 'cross-examination' get into the papers tomorrow? Does this need an investigation - say by yourself Mr. Chairman?

Chairman

I can understand the concern expressed. I can imagine an inquiry but I share the doubt if it would lead to useful results. I understand the anxiety of the Irish Government in regard to today's proceedings.

Ken Maginnis

Journalists speculate accurately at times. In today's statement to the press we could say that 'delegates are concerned at the malicious journalistic practice' of leaks.

MFA

I take Mr. Maginnis' point but I don't think we should shoot the messenger. However, if the Irish Government view or its defence of its position appears in the papers we would have to take a serious view of that. Is it the case that Secretary of State and Mr. Molyneux alone had a letter? (?)

Paisley

The Secretary of State gave me a copy of the letter.

Hume

Now it's coming out. It appears that all party leaders got a copy of the letter except the SDLP.

MFA

And us. Can I ask what letter?

Mayhew

I have been given a note to say that 165 copies were made of the Unionist submission yesterday.

Alderdice

That is an extraordinary number.

Peter Robinson

The Chairman should say later where the 165 copies went to.

Hume

All the leaking is going in one direction.

MFA

Chairman, you will have to give a strong direction on this point.

Mallon

Groups here and the Governments are not going to put their thoughts on paper if this continues. We may have to have another look at the agenda. I believe in any case that we have far too much paper. We are almost at the stage where no real dialogue or communication can take place because of the

amount of paper. Look at this (showing a large folder) that is yesterday's papers only. Certainly, we are not going to say anything if it is going to get into the papers.

Robinson

There was only one leak-free time in our talks. That was in the work of the Subcommittee in Strand One.

Chairman

Mr. Andrews spoke of my taking 'a strong stand' but he was unable to say exactly in what strength it would consist. In my view there is no point in attacking the media - it would provoke righteous indignation. The political parties here who are very familiar with the situation can guess who may be leaking. I coming from outside can't. Certainly, if anybody guilty of leaking is detected there should be public exposure. Beyond that I am at a loss on how to proceed.

Alderdice

Heads of delegation could be associated with the Chairman's statement.

Robinson

To whom were copies of statements circulated?

Hume

There are four stories (in the Irish Times) today. All the stories have been loaded against the SDLP - look for example at page 3 of the Irish Times. I have never given a single interview but I reserve the right to defend my party.

Chairman

Perhaps delegations would later give me some indication of the form of the statement you wish me to make.

MFA

I would like to express my distress at what is happening. The leaks began before we came to this process. We reserve the right to address any publicity that puts us in a bad light - with your permission Mr. Chairman.

Chairman

I think we could be embarking on a dangerous downhill slope. There is, of course, no objection to forthright statements of their own policies by any delegation. But that should not include statements in regard to the proceedings in this room.

Molyneaux

Perhaps we should remind the Newspaper editors who print these stories that they are handling stolen goods?

Mayhew

I endorse what the Chairman has said. - An Inquiry would take more time. I have not yet seen page three of the Irish Times but page two of the same paper contains some amiable remarks about me by an SDLP source. I propose we take serious notice of what has happened and then get on with our business.

Paisley

Last night my door opened and a man threw in some 50 or 60 copies of minutes and documents from the meeting.

Chairman

It behoves me to do more when the talks resume in Belfast.

Maginnis

Perhaps it could be discussed at the next meeting of the Business Committee.

Chairman

Are we agreed about a public statement - not at this meeting but later? It is particularly difficult on the two delegations which are making their responses if there is a leak.

Hume

Don't let us waste time blaming the staff. Five out of the six documents leaked were given to the same journalist (i.e. Frank Millar).

Questions to Irish Government DelegationKen Maginnis (UUP)

The Irish Government statement has many elements that Unionists find reflective. The tenor of the paper, however, gives an impression that one can rewrite history. We need to start from 1992. Can I ask Mr. Wilson (the Tanaiste) does he believe that the democratic process is going to be the means and the yard stick to judge the ability to provide good Government?

Tanaiste (Mr. Wilson)

Began to reply but the Minister for Foreign Affairs, Mr. Andrews intervened to point out that the Chairman had not yet got agreement to the minutes of yesterday's meeting. The Chairman (Sir Ninian Stephen) said that he had overlooked this. He then asked if there were any objections to the minutes and, since there was no objection, declared that the minutes were now agreed.

Tanaiste

As I was saying before I was rudely interrupted by my Minister for Foreign Affairs! - what we are about is peace and reconciliation and finding structures to affirm this. It is clear that the democratic process is the only way. Basic to my statement here has been the idea that there are two traditions in Northern Ireland. The democratic process would have to recognise both equally and accommodate both.

Minister for Foreign Affairs

Of course it must be done in the democratic process. The Taoiseach when he came to office in February immediately made a strong denunciation of the IRA. We are here about democracy and we reject anyone who seeks to subvert it.

Maginnis

I am grateful for that response. My party are at one on that issue. In Northern Ireland some institutions don't take cognisance of the right of elected leaders to play a full part. I am confident, however, that we will be able to reach an accommodation in Northern Ireland, better relations between Northern Ireland and the Irish Republic and a significant role for the two regions in the overall European context.

Minister for Justice (Mr. Flynn)

There is no aggression of any type on our side. The Irish State is a model for democratic stability over sixty years. It was built on an unassailable democratic foundation. The State has honoured all its obligations and we have striven to treat all the children of the Nation equally.

Maginnis

Things here in our discussion should be treated on a practical level and not as matters of abstraction. I will discuss Mr. Flynn's points later. As regards paragraph 18 of the opening statement of the Irish Government delegation, can I ask - what is the status of Northern Ireland in your view?

Tanaiste

We indicated that we want a way to accommodate differences. The present exercise is for the first time collectively to take stock with Unionists and Nationalists sitting down together to see if there are ways to make an advance.

Maginnis

But the Anglo-Irish Agreement talks about 'no change in the present status of Northern Ireland'. What does your Government consider the status of Northern Ireland to be?

Tanaiste

Quoted a Latin proverb and then explained it as meaning that 'clear words need no interpretation'. There can be no change

without agreement. We are bound by the Agreement which has been registered with the UN.

MFA

Article One of the Anglo-Irish Agreement is quite clear. (He went on to quote the Article - (a), (b) and (c).)

Maqinnis

Eoin Fitzsimmons, the Senior Counsel in the Supreme Court, spoke plain English. He said that the status of Northern Ireland is not defined by law. I willingly acknowledge, however, what Mr. Wilson has said - that the status of Northern Ireland is that which exists in International Law.

Tanaiste

I said that the Anglo-Irish Agreement was lodged with the United Nations. We here are on a different level from advocates in Court.

Maqinnis

We are all bound by law.

John Hume (interjecting) Politicians make the law.

Maqinnis (continuing)

The Status of Northern Ireland is as enshrined in International Law. What difficulties that creates for you I won't go into here.

MFA

As regards Mr. Eoin Fitzsimmons, a prospective Attorney General I may say, and Mr. Justice O'Flaherty of the Supreme Court and others - I would say the law is about diversity and differences of opinion. We can address your suggestion by way of a paper. Nationalists of all opinion sat in the New Ireland Forum. An invitation was issued to others to attend but it was not accepted by your party except for Mr. McGimpsey. Could I refer you to Article 4.14 of the Forum report. I can let you have a copy if you wish. That Article says that 'it is clear that a New Ireland will require a new Constitution ...'. Also paragraph 5.2.3 says that 'agreement means that political arrangements for a new and sovereign Ireland would have to be freely negotiated and agreed to by the people of the North and by the people of the South'.

Sean Neeson (Alliance)

My party seriously considered participation in the Forum Report but the Taoiseach, Mr. Haughey, made a statement which meant that we could not do so.

Hume

Mr. Haughey was not Taoiseach at the time.

Peter Robinson (UDUP)

Could I ask Mr. Chairman that speakers speak closer to the microphone?

Paisley

I do not need a microphone! Let me take Mr. Wilson through the document. In the early pages he speaks of a 'focus of hope'. When I read on I am caught between the idea that the focus of hope is the political agenda or those of us who are present in this room. Which is it?

Tanaiste

A room where you have two Governments and strong representatives of the main parties in Northern Ireland - that must be a focus of hope. We are all here as representatives.

MFA

Of course we are a focus of hope. We acknowledge the agenda we have to address. There are two identities which exist in this island. It's about progress. Everything else has failed.

Paisley

I read in the scriptures that you 'should not put your trust in Princes'.

MFA

We take a different view in the Republic!

Paisley (facetiously)

You have Princes of the Church! In paragraph 2 of your opening statement you say that 'terrorism and evil have rooted in the spaces left by our political failure', can I ask you what Nationalist failures have led to terrorism?

Tanaiste

The obverse is hope but the reverse of the coin is despair. The history of Northern Ireland as a State with its own Parliament has been such that a single tradition was catered for. That was a mistake. It was not the Irish Government that sought or accomplished the end of Stormont. There is enough agreement now to cater for both traditions.

Paisley

But you speak of 'our political failures'. Can I ask again what were the failures on the Nationalist side?

Tanaiste

The fact that the problem was not addressed. As Minister for Defence I can tell you that we spent £2.5 billion on security which could be put to much better use for economic purposes.

Paisley

But what failure was there on your side?

Tanaiste

I am coming to Canossa. We have a responsibility.

MFA

It was a collective failure. We are all responsible for the failure of dialogue. I blame myself and our Government. Neither side made sufficient effort to bridge the gap. That is what this process is about.

Paisley

Do you condemn the failure to send representatives to the Council of Ireland which was to be set up in 1920 (??)?

MFA

We are strangled by our history. This is 1992, not 1920. Of course, we are at your disposal to discuss 1937 and so on.

Tanaiste

Can I draw your attention to the fact that Section 2 of the Government of Ireland Act 1920 envisaged a Parliament for the whole of Ireland. It would be fruitful to have a look at the 1920 Act and the thinking behind it. Sir Ian McPherson spoke at the time of the division of Ireland as 'distasteful'. In 1925 my much maligned leader (i.e. Eamon DeValera) advocated a Referendum and got hundreds of thousands of signatures but was denied a Referendum. As to 1937 (i.e. the Irish Constitution) I would point out that the statute of Westminster of 1931 intervened between 1925 and 1937. That made clear that no law passed by a Dominion would be invalid merely on the grounds that it was repugnant to English law (the Tanaiste here quoted sections from the Statute of Westminster). However, I believe that raking over history is of no advantage if we are looking to a new future. We must look for structures and hopefully a joint Constitution by agreement.

Paisley

I note what you say. I will come back to that debate later. I would simply say that Carson did not want division in Ireland either!

Minister for Justice (Mr. Flynn)

Quoted Gladstone as saying that he could not allow it to be said that a Protestant minority could decide the future of Ireland.

Paisley

He was looking for Nationalist votes! Can I refer to page 4 of your statement. What do you think 'an honourable solution' would be? .. (Joint Authority?) .. Do you think you should

have been in Strand One?

Tanaiste

We are not quarrelling with the structure laid down by the Secretary of State.

Paisley

The Secretary of State spoke of 'structures of Government within the United Kingdom'.

MFA

The reality is that we were not in Strand One. (He went on to spell out the nature of the three strands from the Statement of 26 March, 1991.) On the question of Joint Authority - these matters will have to be teased out. At least we are here together in Strand Two.

Mallon (interrupting)

The Statement of 26 March, 1991 and the 'gap' was agreed between the two Governments.

Paisley

If there had been no 'gap' as it is called and suspension of the Secretariat services, then we would not be here. The Unionists laid down preconditions which were met. I thought from what the Taoiseach said in the Dail that it was the attitude of the Irish Government that they should have been participants in Strand One.

MFA

We are not going to avoid anything here. The decision in regard to the three strand arrangements was taken by the two Sovereign Governments. In those circumstances we were precluded from taking part in Strand One. Accordingly the question of 'wanting to' does not arise.

Paisley

I am trying to find out what your position is.

At this point (10.50 a.m.) the Chairman, Sir Ninian Stephen, called a break for tea. The meeting resumed at 11.20 a.m.

Paisley

I will ask another six questions and then let others come in with questions. This does not mean that this is all I have to say - I will come back again later. On page six you speak of 'denying each others existence', do you deny our existence?

Tanaiste

No.

Paisley

Did I deny yours?

Tanaiste

No, but there are connotations of that phrase in Northern Ireland.

Paisley

Did the 1937 Constitution deny the Unionists existence?

Tanaiste

You are taking a narrow, tight interpretation of Articles 2 and 3. I would point out, however, that Article 3 limits the application of the laws of our Parliament.

MFA

The 1937 Constitution is an excellent document. Part could indeed be lifted for use in a Bill of Rights. I can let you have a copy if you wish.

Paisley

I have a copy. It's almost as important to me as the Bible!

MFA

It's not quite as good! I would also point out that in Article 29.2 Ireland 'affirms its adherence to the principle of the pacific settlement of international disputes by international arbitration or judicial determination'.

Paisley

But Articles 1, 2 and 3 are a territorial claim.

MFA

I take it that you do not object to the limitation contained in Article 3 but only to the rest of Articles 2 and 3. These Articles express a hope and an aspiration. Articles 2 and 3 are extraordinarily important to Irish Nationalists. I am not certain that at this juncture we should be going down the road of removing these Articles or turning them to an aspiration. This, however, is part of a deeper more sustainable argument. It is part of the legitimate democratic entitlement.

Paisley

I would like to think that the gloss you put on it (i.e. aspiration) is the legal standing of these Articles. But it is not. This is illustrated by the fact that there had to be two documents at the time of the Anglo-Irish Agreement (i.e. two versions of the Agreement). I like your gloss, however.

Nationalists are quite right to aspire to a United Ireland. I, for my part, would aspire to make you all free Presbyterians, if I could! But I know that that is not possible. If it is only an aspiration, then that is alright. But it is a legally established claim to a territorial right. It is an attempt to deny that Northern Ireland even exists. In the High Court (SIC) the case of McGimpsey v. Ireland made it clear that it is not only an aspiration but a Constitutional imperative. That is to say you should have it as a burden on you to bring it to pass.

Chairman

Dr. Paisley, I think that is not really a question (but a statement).

Tanaiste

I could mention to Dr. Paisley that one of his churches is in my Constituency.

Paisley

The next time I am preaching there you will get an invitation to attend! The point I want to make is that surely it is not just an aspiration only?

MFA

Those Articles in no sense constitute a claim. (He went on to quote Article 29.2 of the Constitution - see above.) We fulfil our obligations under the CSCE and the Paris Charter in regard to the pacific settlement of disputes about borders. These Articles are in no way an aggressive claim to territory.

Paisley

That is not factual. According to your Courts and in practice it is a claim. Mr. Hume said to the Prime Minister that the territorial quarrel between Britain and Ireland is over. I said is it so, so long as Articles 2 and 3 continue in existence? He said no. I welcome the fact that you said it is an aspiration. If so, you will have no difficulty in defining it as such.

MFA clarified his point about an aspiration.

Paisley

I will come back to that. It is at the heart of the matter.

Minister for Justice (Mr. Flynn)

Article 2b of the Anglo-Irish Agreement makes it clear that there is 'no derogation from the sovereignty of either Government'. The Supreme Court said that the only reasonable interpretation of Article 1 and Articles 2b of the Agreement taken together is that they constitute a recognition of the de

facto situation. Our Constitution is devoted to peace.

Paisley (interrupting)

I object to the Minister reading out a Civil Service document here rather than engaging in real dialogue. Can he accept that in a new Agreement the status of Northern Ireland would be stated clearly as part of the United Kingdom.

Minister for Justice

In the pre-Strand Three talks (i.e. on 30 June) Dr. Paisley said that this is a Constitutional imperative and he spoke of using any means to achieve an end ... (?) ...

Maginnis

Within the CSCE context, do you acknowledge the frontiers that exist today?

Tánaiste

Great care was taken with the wording of the Helsinki Final Act. Germany had problems about division and so had we. The word 'immutable' did not find favour. The word used instead about frontiers was 'inviolate'. This means that there should be no physical force used.

MFA

I think that the existence of the border is a tragedy. It causes a conflict of identity. But any change would have to be settled by pacific means.

Paisley

I welcome the fact that Mr. Flynn is willing to come back to discuss the issue of the status of Northern Ireland.

Minister for Justice

Dr. Paisley agrees that it is legitimate for Nationalists to articulate their identity.

Chairman

There will be plenty of time ahead. I think you should not ask the Irish Government for a precise answer now which they will be bound by...

McGimpsey

On pages 10, 11 and 12 of your statement you refer to the Forum Report. You say that the Forum Report is 'the departure point for our discussions'. In paragraph 12 you speak of now having a fuller insight. The Forum Report set out three options and it completely ignored Unionist concerns.

MFA

I would refer you to paragraph 5.10 of the Forum Report which reads 'the parties in the Forum also remain open to discuss

other views which may contribute to political development'.

Tanaiste

.... (made a reference to the 'business acumen' of Ulster people among whom he counted himself) ...

MFA

Quoted from the Irish Government's opening statement, paragraph 12, which said that the Forum Report acknowledged that the best people to identify the interest of the Unionist tradition were the Unionist people themselves and which went on to say that we now have 'an opportunity for a fuller perspective and the possibility of fresh insight when we come to consider these issues which was not available in the same measure to those involved in the Forum as they grappled with these same problems and made their recommendations.

Minister for Justice

The Forum Report did set out the Nationalist case e.g. respect for the two identities. It said that Nationalists are ready to talk about other solutions. The reason we are all here is that an accommodation could not be found under the preferred solutions at the time.

MFA

I have been looking at an interesting book by a distinguished Irish historian, John Bowman. It is called 'DeValera and the Ulster question'. I would be glad to make a copy available to you if you wish.

McGimpsey

I know John (Bowman's) book well. (He went on to refer to a statement by Mr. Haughey at the Forum.)

Minister for Justice

The Forum Report expressed the Nationalist identity. We were entitled to do that. We indicated the Nationalist preferences. It was clearly understood that it was not confined to those three solutions.

MFA

Again quoted from pages 12 and 13 of the Irish opening statement about the opportunity now for fresh insight.

Seamus Mallon

We too were members of the Forum. I don't expect to negotiate with Chris McGimpsey as other than a Unionist. We are naturally going to be starting from the Nationalist position. I have two questions to the Irish Government delegation. The first is about Articles 2 and 3. The only way they can be removed is by a Referendum. I live along the border. I am aware of the feelings on the issue. Could I ask the Irish

Government side - if there was a question of removing Articles 2 and 3 by what I would call a 'negative Referendum' would it be carried? I mean if it were put forward not as part of an overall package?

Tanaiste

I feel that it would not. But I don't expect the situation to be reached where the question would be put naked, tout court as it were, without other structures.

Mallon

If you had a positive package to include it in, could you be more confident?

Tanaiste

It is difficult to answer without knowing the precise package. But I can say that it would be a total disaster and would leave the field to men of violence if it were put baldly.

MFA

We have not yet come to the stage of 'responses' (to the opening presentation). However, perhaps I can give you just a soupcon from our form~~al~~ response. (He read out a section from paragraphs 5 and 13 of the paper prepared for the response stage.)

Mallon

I would refer you to paragraph 8 of the Irish Government statement where you say 'each tradition in Ireland has indulged in the wishful dream that the other existed only in ways convenient for a particular myth'. That is a lovely sentence. I wish I had written it myself. Looking at the border I would want to ask you about the Interreg programme. Is there a partitionist mentality in the Republic?

Tanaiste

The Interreg programme requires participation from both sides of the border. I can supply you with details if you wish.

A recent survey showed that 75.1% of the people supported the aspiration to unity. But people are more concerned in practice in regard to their daily lives. Our responsibility is that we have failed to resolve the problem.

Minister for Justice

I hope that Mr. Mallon is not implying that we have failed to do what we can to develop cross-border cooperation. We have always had good cooperation in regard to the regional development funds.

MFA

I could let Mr. Mallon have a paper on this if you wish.

Mallon

The Unionists expect us to become little Unionists. We don't have much in terms of identity. Whatever you think of Articles 2 and 3 they are very important for the Nationalists in Northern Ireland, so when you are talking about the effect of Articles 2 and 3 on the Unionists, don't forget that point.

Macinnis

Mr. Andrews says that if the Referendum fails it will be a Godsend to men of violence. If this is true, does it not mean that the existence of Articles 2 and 3 helps them?

Tanaiste

We have never accepted violence as a solution.

Sean Neeson (Alliance)

You say in the statement that the Nationalist tradition is a source of Unionist fears. Is not this too narrow? There are other fears - socio-economic - closer Church/State relations etc. Governments in the Republic are embarrassed by social issues.

MFA

I do not take instructions from any Church ...

At this point it was 12.20 p.m. and the Chairman drew the questioning to a close for the moment. He circulated a short media release and asked if it could be agreed.

Alderdice (Alliance)

Do we make any reference to confidentiality?

Chairman

I am inclined not to do so but if there is a repetition of the leaks we will have to at a future stage.

Chairman

As regards the question of duplication of documents, I think we will be in a better position in Belfast to control documents and we will have better procedures. All we need is 50 copies of any document for all the people in this room.

Paisley

Someone yesterday ordered 120 copies of my statement.

Chairman

I propose that we meet in Belfast on Wednesday next, 15 July. I would propose a meeting of the Business Committee at 9 a.m. and the Plenary at 10 a.m. so that we can continue the questioning to the Irish Government delegation. Then if the party still regard it as useful, we could go on to

'responses'. On Wednesday morning I hope that we will have some information from the two Governments which will dictate our future timetable (i.e. on the question of possible deferral of the Conference). But I suppose we can at least look forward to Wednesday and Thursday and I suppose Friday of next week to complete the two procedures (i.e. clarification questions and responses).

MFA

I propose that we start the meeting at 11 a.m. to facilitate the Irish Government delegation.

This was agreed.

The Chair then suggested 10 a.m. for the Business Committee and this was also agreed.