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FROM: Paul Murphy, MP
TO: Participating political parties
DATE: 16 January 1998

STRAND 1 MEETING ON 19 JANUARY, 11 AM

The plenary agreed that we should meet at 11 am on 19 January to consider the Propositions on Heads of Agreement tabled on behalf of the British and Irish Governments on 12 January; and that the Chair should make proposals regarding the detailed arrangements for the meeting.

2. I suggest we meet in the small conference room on the fifth floor, with up to two delegates and two supporters per party.

3. I propose that we should have a general debate of those aspects of the Propositions which are relevant to Strand 1, with a view to identifying a programme of work for the next few weeks which ensures that we cover all the key issues of concern to participants. I will have some proposals to make but it would be helpful if parties could also identify the issues they think we should aim to cover and the papers which might be required to facilitate those discussions.

4. In response to the UUP request made at Tuesday's plenary, I attach a factual background paper on the proposed arrangements for devolution to Scotland and Wales, which I trust will be of value to parties in preparing for Monday's meeting.

5. Also attached, for your consideration, are the draft minutes of the Strand One meeting on 10 November 1997.

6. I look forward to seeing you on Monday.

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THE UNITED KINGDOM GOVERNMENT'S PROPOSALS FOR
DECENTRALISED GOVERNMENT IN GREAT BRITAINIntroduction

Since May 1997 the UK Government has initiated a wide-ranging programme of decentralisation within Great Britain. The main proposals are:

- the establishment of a Parliament and Executive in Scotland
- the establishment of a National Assembly for Wales
- the creation of an elected Mayor and Assembly for London
- a programme of decentralisation to the English Regions.

2. This programme starts from the premise that the demand for more decentralised government varies considerably across Britain, and that the new arrangements should reflect these differing local aspirations. This has two consequences:

a 'variable geometry' approach: rather than impose a uniform pattern across the country, there are differences from one area to another in the degree of autonomy to be exercised, in the institutions proposed, and in the timetable for decentralisation.

popular approval of the new arrangements: in each area where they are introduced, the new arrangements are to be submitted to a referendum.

The different models

3. The decentralisation programme is still developing, but the following short survey highlights the similarities and variations between different proposals.

4. In Scotland, where the demand for devolved powers is of particularly long standing, and where a Constitutional Convention created before the General Election a clear consensus on the shape of the new arrangements, the Government proposes the most far-reaching degree of devolution. A Parliament on the Westminster model would have powers to pass primary legislation, and would elect a First Minister who would head a collective Executive of departmental ministers. The Parliament and Executive would have responsibility for most aspects of domestic, economic and social policy. The United Kingdom Parliament would retain control of foreign affairs, defence and national security, macro-economic and fiscal matters, employment and social security.

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5. In Wales a different model is proposed: an Assembly combining features from both the parliamentary executive and the local government models. The Assembly would inherit the present executive powers of the Secretary of State for Wales, giving it a slightly narrower - but still extensive - span of responsibilities than the Scotland Parliament; in particular, the UK Government would retain responsibility for police and the legal system. The power to make primary legislation for Wales would remain with the UK Parliament, but the Assembly would make subordinate legislation. It will not have Ministers but will operate through committees, whose leading members will constitute an Executive Committee that will give strategic direction to the Assembly's work.

6. In London, the Government is proposing to create a Greater London Authority consisting of a directly elected Mayor and directly elected Assembly. The purpose of the Authority would be to provide a voice for London and overall strategic direction for policies in the areas of police, planning, transport, economic regeneration, environmental protection and other London-wide issues.

In the regions of England, the Government to promote economic development is in the first instance legislating to create Regional Development Agencies similar to Scottish Enterprise and the new economic development agency to be created in Wales. The Government proposes to encourage local authorities in each area to set up regional chambers to co-ordinate transport, planning, economic development, bids for European funding and land use planning. These would be composed mainly of local authority representatives but other regional stakeholders would also be members. The Regional Development Agencies and the regional offices of central government departments would be required to consult these chambers and to co-operate with them, and there would be a procedure by which central Government would formally recognise each voluntary chamber for this purpose. As a second stage, the Government has said that it will legislate to allow the people of England, region by region, to decide in referendums whether they want a directly elected regional Assembly.

Timing

8. Legislation to create the Scottish Parliament, the Welsh Assembly and the Regional Development Agencies is currently before Parliament. The Scottish and Welsh elections would be held in 1999; the National Assembly for Wales would start its work immediately afterwards, while the Scottish Parliament and Executive would operate on a shadow basis before assuming their full responsibilities in the following year.

9. It is proposed that the London Mayor and Assembly should be elected in 1999 or early 2000 and should start their work soon afterwards.

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10. The Regional Development Agencies would become operative in April 1999. It is hoped that voluntary regional chambers will be in operation in all English regions on the same timescale.

The main features of devolution to Scotland and Wales

11. The remainder of this paper describes the main features of the proposals for Scotland and Wales, which are the most fully developed. A more detailed account is given in the White Papers 'Scotland's Parliament' (cmd 3658) and 'A Voice for Wales' (cmd 3718) published in July 1997.

Electoral arrangements

12. Both the Scottish Parliament and the Welsh Assembly would be elected for fixed terms of 4 years. The Scottish Parliament would have 73 constituency members elected on the 'first past the post' system, and 56 'additional members' elected on a regional basis by the additional member system of proportional representation. The Welsh Assembly would use the same electoral system, with 40 constituency members and 20 additional members. In both cases the constituency members would be elected using the same constituencies as those used for elections to the Westminster Parliament (though there would be special arrangements for Orkney and Shetland - see below). The additional members would be selected from party lists drawn up for each of the current European Parliament constituencies. Registration of political parties will be necessary for this purpose and the Government proposes to introduce legislation to facilitate this.

Powers

13. Because the UK Government undertook to transfer the Welsh Secretary's existing powers to the National Assembly for Wales, the legislation will list those powers and reserve all other functions to the UK Parliament. In Scotland, by contrast, the legislation lists only the powers reserved to Westminster, and all other functions are devolved. It is thought that this will help to minimise future disputes about vires. It may also reduce the need for future Westminster legislation to determine responsibility for new matters which cannot be foreseen now. Annex A maps the boundaries of devolved and reserved powers in Scotland and Wales.

Executive arrangements

14. The Scottish Parliament would elect a First Minister who would appoint an Executive of departmental Ministers, assisted by junior Ministers.

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The Executive would operate broadly on the Cabinet Government model, would be accountable to the Scottish Parliament and could be dismissed by it. If the Parliament fails to elect a First Minister within a stipulated time, fresh elections would be held. The UK Government would play no part in these arrangements.

15. The National Assembly for Wales would carry out much of its work through subject committees, each of which would be appointed by the Assembly, which would also designate for each Committee a Chairperson to preside over its meetings. Each Committee would elect a Committee Leader who would provide the principal political leadership for the Committee's work. The leaders of the subject Committees would jointly constitute an Executive Committee. The Assembly would elect an Assembly Leader, who would chair the Executive Committee. Again, the UK Government would have no role in these appointments.

Supervisory and advisory committees of the devolved legislatures:

16. It would be up to the Scottish Parliament to devise its own committee system, although the White Paper 'Scotland's Parliament' suggests that committees might be used, amongst other purposes, to initiate legislation, to scrutinise and amend proposals of the Scottish Executive and to carry out investigations. The National Assembly for Wales, in addition to its subject committees with executive functions which are provided for in the enabling legislation, would have to appoint regional committees with advisory functions. Both devolved bodies would have powers to ensure that their committees could obtain information and summon witnesses.

Staffing

17. The existing staff of the Scottish Office and the Welsh Office would become the staff of the Scottish Executive and the National Assembly for Wales respectively. They would remain members of the UK civil service, which would be a responsibility of the UK Government.

Finance

18. The Scottish Parliament and National Assembly for Wales would be funded by a block grant from the UK Parliament, much as the Scottish Office and Welsh Office are at the moment. In addition, the Scottish Parliament would have the power to increase or decrease the basic rate of income tax set by the UK Parliament by up to 3 per cent, its budget being augmented or reduced accordingly. The Parliament and the Assembly would be free to decide their own spending priorities within their blocks.

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The relationship with the UK Parliament and Government

19. It is not planned to alter the status of Scottish or Welsh MPs in the UK Parliament as a result of devolution, but the special statutory requirement for a minimum number of Scottish seats will be repealed and the number of Scottish MPs will be reviewed by the Boundary Commission.

20. The UK Parliament would remain sovereign in all matters, but would choose to exercise that sovereignty by devolving certain responsibilities to the Scottish Parliament and the National Assembly for Wales. It is not proposed to appoint a 'Governor-General' figure in either Scotland or Wales, and the enabling legislation contains no general power to override decisions of the Scottish Parliament, Scottish Executive or National Assembly for Wales. (There are limited powers of override only to ensure, for instance, that the UK Government could secure compliance with the UK's international obligations).

21. The Secretaries of State for Scotland and Wales would have a significant role to play in the transition to the new institutions; thereafter their responsibilities would change to liaison between the new bodies and the UK Government and Parliament. The Welsh Secretary, in particular, would have the responsibility of representing the Welsh interest in primary legislation considered at Westminster; to facilitate a close relationship, he would have the right to participate in the debates of the Assembly.

22. There would be a need for close relations between Whitehall departments and their opposite numbers in Scotland and Wales; in many areas, written concordats between them would help to establish the ground-rules for co-operation. It is assumed that there will be value in periodic meetings between UK Ministers and their Scottish and Welsh counterparts.

Disputes over powers

23. Disagreements might arise over whether the UK Government, the Scottish Parliament or Executive or the National Assembly for Wales were acting within their powers. Many difficulties can be avoided through the vetting by lawyers of draft legislation to identify any problems and by discussion between the respective administrations. Where significant disputes cannot be resolved, they will be referred, through a fast-track procedure, to the Judicial Committee of the Privy Council.

Relations with the European Union

24. The UK Government would retain responsibility for these as the UK is the member state, but the Scottish Executive and National Assembly for Wales would be involved as closely as possible in UK policy making, including involvement in determining the UK's negotiating stance. Ministers

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of the Scottish Executive and their Welsh counterparts would be able to participate in relevant meetings of the Council of Ministers and in appropriate cases could speak for the UK at the discretion of the UK lead Minister. The Scottish Parliament and National Assembly for Wales would scrutinise EU legislative proposals and would be responsible for implementing EU legislation in their fields of responsibility. Both could maintain representative offices in Brussels.

Protection of minority and individual rights

25. It will be illegal for the Scottish Parliament and Executive and the National Assembly for Wales to act in contravention of the European Convention of Human Rights, now being incorporated into UK law.

26. The Government's proposals on Freedom of Information would apply to Wales and also to Scotland as regards matters reserved to the UK Government (the Scottish Parliament would be able to adopt different arrangements in respect of devolved matters, if it wished). The present Ombudsman regime would apply to Wales; Scotland would again be free to adopt its own arrangements. Legislation on race relations and equal opportunities would be a matter for Westminster.

27. The introduction of proportional representation for elections to the Scottish Parliament and the National Assembly for Wales is seen as a protection of the rights of smaller parties and interests. In both schemes there is an element of protection of territorial interests: in Scotland, the Orkney Islands and the Shetland Islands, despite their small populations, would each be entitled to elect one constituency member; while the National Assembly for Wales would be obliged to appoint an advisory Regional Committee for North Wales.

28. The National Assembly for Wales would be obliged to ensure that the membership of subject committees reflects the strengths of parties represented in the Assembly. The chairpersons of subject committees would be drawn from all parties, the number from each party reflecting overall party strengths. Committee Leaders, however, could all be appointed from the majority party. The Assembly's deputy presiding officer and the chairperson of its Audit Committee would have to be drawn from minority parties.

Local government

29. There are no proposals to remodel the system of local government in Scotland and Wales (or in London) as a result of decentralisation, since all three areas currently have a single tier of local government. However, control of local government structure and finance will pass to the Scottish Parliament and, to a lesser degree, to the National Assembly for Wales. (In the English regions, the Government's assumption is that the introduction of

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an assembly in a region would have to be accompanied by a predominantly unitary system of local government.)

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ANNEX A

SCOTLAND

Main functions to be reserved to the UK Parliament and Government

- The Constitution
- Foreign affairs
- Defence, national security and the protection of borders
- Macroeconomic, fiscal and monetary affairs
- Common commercial markets
- Employment legislation
- Social security
- The civil service
- Transport safety

Main functions to be the responsibility of the Scottish Parliament and Executive

- Home affairs
- The legal system
- The police
- Health
- Education and training
- Local government
- Social services
- Housing
- Economic development
- Transport
- Tourism
- The environment
- Agriculture, forestry, fishing and food
- Sport, heritage and the arts
- Any other matters not specifically reserved to the UK Parliament and Government.

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WALES

Main functions to be the responsibility of the national assembly for Wales

Health

Education and training

Local government

Social services

Housing

Economic development

Agriculture, forestry, fisheries and food

Transport

Tourism

The environment

Sports, heritage and the arts

The Welsh Language