

SUMMARY RECORD OF A PLENARY SESSION  
HELD AT PARLIAMENT BUILDINGS ON THE MORNING OF 19 MAY 1992

Those present:

<u>Government Team</u>	<u>Alliance Party</u>	<u>UUP</u>
Secretary of State	Dr Alderdice	Mr Molyneaux
Mr Hanley	Mr Close	Mr Empey
PUS	Mr Morrow	Rev Smyth
Mr Fell		
Mr Thomas	Mrs Bell	Mr Allen
Mr Bell	Mr McBride	Mrs Bradford
Mr Maccabe	Mr Dickson	Mr Donaldson
Mr D J R Hill	Mr Ford	
<u>Talks Secretariat</u>	<u>SDLP</u>	<u>UDUP</u>
Mr May	Mr Hume	Mr Robinson
	Mr McGrady	Mr Campbell
<u>Also Present</u>	Mr Haughey	Mr Vitty
Mr Ferguson	Mr Feeley	Mr Dodds
Mr Smyth	Mr Maginness	Mr Wilson
Mr Beeton	Mr Gallagher	Mr Gibson (part)
	Mr Hendron	

The meeting began at 10.40 and concluded at 11.52am.

2. The Government Team explained that the Secretary of State had to fulfil a public engagement at 12.30, and were the plenary meeting still to be in session at this point, Mr Hanley would take the chair. The parties were content with this. The Government Team also expressed gratitude to the parties that the confidentiality agreement had been well maintained in recent days. The Government Team invited the Alliance Party delegation introduce its proposals on structures.

3. The Alliance Party delegation said their paper stemmed from an exercise conducted in 1988 in which the Party had looked, from first principles, at the policy they wished to have. The review had taken into account the demise of the consultative Assembly in 1986, the emergence of the supporters of terrorism in councils and the signing of the Anglo-Irish Agreement. It sought institutions which would be reasonable, acceptable and workable. The proposals that the Alliance Party were now putting forward were mainly based on those

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1988 proposals, but the Alliance Party had ensured they did not conflict with the Common Themes and Common Principles papers which had been agreed earlier in the talks process. The Alliance Party delegation outlined three principles which any structures had to recognise. Firstly, that all democratic structures must be vulnerable to the people. If the people of Northern Ireland did not wish to see workable institutions established, then nothing the four parties might agree to could change that. However, the Alliance Party believed that the majority in the community did wish to see a constructive way ahead, and in that light had put forward structures they believed would help that process. It was, however, a fact that all democracies had to take account of that the people could prevent any structures from working, or institute changes to the system of Government. Secondly, proposals must be based on democracy rather than domination. History was littered with examples where individuals or groups had dominated society. Thirdly, structures must accommodate diversity rather than division, allowing each to learn from others. There had been references on the previous day to systems of government in the United States and Europe. The Alliance Party said that the introduction of independence in the US had not been to accommodate diversity, but to remove the Crown's domination. The separation of powers was not there to accommodate minority rights but to avoid domination by the President. It was not until after the Civil War had brought an end to slavery that minority rights came to the fore. The removal of overall power from small groups was emphasised by the composition of the US Senate where all states had the same representation, whilst the House of Representatives was composed of representatives proportional to population. The same situation was true also of the European Community, which had been established in the face of fears about there being domination of Europe by Germany once again. All states had the same representation in the Council of Ministers, whereas the European Parliament was elected on a proportional population basis.

4. Following from that, the Alliance Party stressed the importance of structures which ensured no domination by any one group. They believed pluralism was important if the overall aim of avoiding permanent division was to be achieved. To that end, proposals which involved cantonisation such as the US model were not satisfactory

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because of the possibility of secession (as had happened in the US Civil War context) or repartition as might occur in Northern Ireland.

5. The Alliance Party delegation believed their system was not one which could be imposed, although that was not to say that no system could be imposed. Their proposals did not stray beyond Strand 1, although they accepted that the three strands were interlinked.

6. Their institutional proposals envisaged a legislature which would also have the non-legislative roles of scrutiny and calling to account. The executive role would be held separately, with posts allocated on a proportional basis. The central issue was who would exercise executive responsibility, and what restrictions would be placed on those so doing. The Alliance Party proposed the executive be drawn from the Assembly membership, and be required to sustain an acceptance level of 70% of the elected representatives, rather than other models which proposed a 50% acceptance rate. That type of level of acceptance would command widespread agreement and transcend the community divide. It would allow individuals not in the executive to offer constructive criticism. Those outside the 70% would still be eligible for committee positions including chairmanships. The executive would be established following discussions after the election, or in the case of an electoral pact, possibly prior to it. It would be for those negotiations to set a programme of government and agree on the social and economic issues. This procedure was commonplace in many European States, and had occurred in the Republic of Ireland following the most recent general election.

7. The Alliance Party delegation acknowledged that there were other ways of establishing an executive, including direct election or the staggering of executive and legislative elections. Their proposals precluded those who supported violence for political ends from executive power, as they were anti-democratic. Following the initial 70% acceptance of an executive, the Alliance Party recognised the need to keep that body accountable to the legislature as a whole. Motions of acceptability would therefore be possible, but based only on the support of a reasonable percentage of the

Assembly (which was for discussion) and not permitted to take place more than once a Parliamentary session or once a year. That would allow the possibility of change, without permitting blocking tactics to be used in the Assembly. If the executive could not reach 70% acceptance or later failed the acceptability test, those in Office would continue on a caretaker basis whilst further negotiations took place. Ultimately if the situation could not be resolved there would need to be an election, giving the people the opportunity to show how they would like their representatives to behave and if that produced no change a reversion to direct rule and the working of the Anglo-Irish Agreement which, following the end of devolved institutions, would once again have a remit in those areas which had been devolved. This would encourage all parties to avoid the collapse of the system.

8. The Alliance Party also proposed a political right of appeal. If 30% felt their rights had been ignored by a piece of legislation, or by other actions of the executive, they might appeal to a higher authority in Westminster. The exact form of this would need further discussion. The Alliance Party recognised the importance of respecting the rights of all minorities and sought a Bill of Rights as an important part of this. They recognised that other protections were also possible. They had, for example, considered a second chamber drawn either from the Assembly or chosen in a different way, but had not found a useful application for such a body. They were prepared to consider possibilities stemming from that, or from referendum proposals which had obvious strengths, but institutionalised a system in which change could only occur by referendum. There was also the issue of whether a simple majority would suffice. The Alliance Party delegation said their proposals sought to produce a system of Government operated on a partnership basis, which had passed the test of acceptability. All systems needed the people to allow them to work.

9. The SDLP delegation said they would be questioning the Alliance on two broad fronts, firstly the details and secondly the validity of the proposals in terms of broad issues. They began by asking detailed questions on the executive body. The SDLP asked whether the executive would see its authority change were the UK Government

or Secretary of State to change. The Alliance Party said this was not the case. Appointment by the Secretary of State was the legal basis for the transfer of power, in the same way that the Queen appointed the Prime Minister. The Secretary of State would be bound by legal guidelines on how appointments should be made. The executive would be decided by negotiation among the parties following the election, and comprise those parties agreeing to work together. The parties would allocate portfolios following that negotiation.

10. The SDLP delegation asked whether there would be a chief executive and if so who that would be appointed by. The Alliance Party delegation said it was not necessarily the case there would be a chief executive, although it was likely. They suggested such a person would be drawn from the largest party in the executive, and did not rule out deputy chief executive posts or joint chief executives. That would be for the parties to decide. They were prepared to consider further options as offered by the parties. The SDLP asked whether the Secretary of State would have the power to dismiss individual members or the entire executive and on what basis. The Alliance Party responded that this power would only exist for impropriety or legal reasons, not on grounds of political disagreement. They suggested that the leader of a party, with an individual behaving in a damaging fashion, might seek to remove him in any case. Alternatively it might be that the executive would need to be renegotiated among the parties. The SDLP asked about the legislative function of the executive, and how this would fit with the Assembly also having such a law-making power. The Alliance Party explained the executive would not have legislative powers. The Assembly was the legislature and had the power to initiate legislation. The executive authority had no power to initiate legislation, although it could put forward proposals either jointly or as private members. Assembly committees would combine the roles of Westminster select and standing committees.

11. The SDLP delegation asked whether the institutions would have an independent power to raise finance. The Alliance Party said their proposals envisaged independent budgetary control, although

the major financial arrangements, through the Block, would continue with broadly the same arrangements as currently. There were two areas in which change might be considered. The first was EC funding and the issue of additionality. The Northern Ireland Assembly might enter negotiations separately with the EC on structural fund issues. Secondly, and the Alliance Party put this forward tentatively, any Northern Ireland administration might have the power to vary the rates of taxation, to provide flexibility in addition to the block grant. The regional rate in Northern Ireland was already different from the rest of the UK and this provided a precedent. Other systems were also possible. The Alliance Party would like to see an Assembly have maximum autonomy consistent with the block framework. They also recognised that some central government policies may not be compatible with Northern Ireland's needs, and wished to see the largest degree of autonomy on social and economic policies also. This had been possible under the Stormont administration.

12. The SDLP delegation, coming to the issue of acceptability, asked what would happen once an executive failed the acceptability test. They suggested that the arrangements put forward by the Alliance Party were unworkable. The Alliance Party said were there no coalition to be formed following an election, the same situation would apply as elsewhere when 50% support could not be attained. The current incumbents would continue until a new administration was formed, although there would be a time limit beyond which those arrangements would not be allowed to continue. A further election might be held if negotiations could not provide a solution. If there continued to be no appointment, there would be a need to return to direct rule and the working of the Anglo-Irish Agreement. The SDLP suggested the proposals put forward by the Alliance Party were similar to the power-sharing executive. They asked how the 1992 proposals differed. The Alliance Party said the power-sharing executive of 1974 had failed because a majority in Northern Ireland had not supported it. The need for 70% approval was intended to overcome a situation in which a substantial minority were not prepared to work the structures. The Alliance Party recognised that if the community did not accept structures proposed then any system would fail. The SDLP then asked about proposals for a referendum as

the means of ensuring acceptability. This would ensure the people approved rather than simply parties. The Alliance Party delegation suggested this mixed up the acceptability of the political structures themselves with that of an individual administration. The referendum tested support for structures, not acceptability of governments. They were not ruling out proposals for a referendum, although they believed there were a number of unsatisfactory side-effects stemming from the proposals, which they had outlined earlier.

13. The SDLP delegation said their analysis centred on the recognition of identities. The Alliance Party believed there were more than two such identities, but nonetheless the SDLP did not believe that their proposals gave expression to their identity as had been agreed in the Common Themes paper. The Alliance Party delegation had already acknowledged that the different strands were not sealed off from one another, and the SDLP asked how the relationship in Strand 1 would fit with European and Irish governmental institutions. The power-sharing executive had the Council of Ireland as the mechanism through which their identity was recognised. That had never been brought into being, but no equivalent found its way into the Alliance Party's proposals. The Alliance Party responded that they did not believe that the way to accommodate different identities was through political structures. They drew an analogy with the Czechoslovakian system in which the Sudeten Germans were given no explicit structural role. Such institutionalised expression would only set divisions in concrete rather than remove division, and was thus not appropriate for Northern Ireland. The Alliance Party delegation said their proposals, which would be forthcoming in further strands, were not secret. They had published proposals upon which their further contribution would be based, envisaging a place at the table in Intergovernmental Conferences for the Northern Ireland administration. This would prevent affairs affecting Northern Ireland from being dealt with almost entirely by people from outside. The Alliance Party delegation welcomed the acknowledgement by the SDLP that their identity had been sufficiently met in the '74 package; in that they had been allowed to exercise responsibility at the most senior levels as they would

in the Alliance Party proposals. Alliance proposals in the other strands would further recognise and accommodate the minority identity. The SDLP delegation said they believed it was important that Northern Ireland's structures should allow all traditions to support them. For this equality of esteem was needed. The Alliance Party said they were not opposed to the equality of esteem, unless it was limited to two traditions only. They believed every tradition should be held in high esteem.

14. The SDLP delegation said that experience of the Stormont Government and local government showed that Assemblies did not work. Parties behaved badly. The Alliance Party delegation said they understood the difficulties, and commented that the experiences of Belfast City Council had influenced their own proposals. However, democracy required local representation in order to avoid authoritarianism from taking over. The SDLP delegation said the Alliance Party's proposals were capable of being destabilised by one party withdrawing from the executive. The Alliance Party argued that all parties need not be involved to make up the 70% acceptability required. Following further questioning, they acknowledged that any major party withdrawing would make the system unworkable, but argued this would apply to all systems. The SDLP said that separation of powers was required. If an individual withdrew from the direct elected commission that they proposed, a by-election would be held. The Alliance Party had said the Assembly would run for a fixed term, but it was clear that if the coalition broke down, then an election would need to be called. This meant their proposals did not have fixed term features. The Alliance Party's proposals would not be stable. The Alliance Party delegation said they were seeking a structure acceptable to all, and if the parties could not agree on such a structure, no progress could be made. If all parties reached agreement on the structures, there was no reason for any party to pull out thereafter.

15. The SDLP delegation said that in a broader Assembly more extreme members of parties would make it impossible for the Assembly to function properly. This would make an Assembly subject to destabilisation. The other parties suggested their delegations were representative of the wider membership of the party. The



Alliance Party delegation said that if a sizeable minority wished to block the system, then that would be unstoppable. They understood why the parties might believe that small groups would allow greater co-operation, but believed such proposals offended against the spirit of democracy.

16. At this point the meeting broke for coffee, to resume at 12.05.

● Talks Secretariat