

RECORD OF A PLENARY SESSION HELD AT PARLIAMENT BUILDINGS
ON THE MORNING OF 5 MAY 1992

<u>Government Team</u>	<u>Alliance Party</u>	<u>UUP</u>
Secretary of State	Dr Alderdice	Mr Molyneaux
Mr Hanley	Mr Close	Mr Cunningham
PUS	Mr Morrow	Rev Smyth
Mr Fell		
Mr Thomas	Mrs Bell	Mr Empey
Mr Bell	Mr Dickson	Mrs Bradford
Mr Maccabe	Mr McBride	Mr Allen
Mr Hill	Mr Ford	Mr Donaldson
<u>Talks Secretariat</u>	<u>SDLP</u>	<u>UDUP</u>
Mr Brooker	Mr Hume	Dr Paisley
Mr Hallett	Mr McGrady	Mr Robinson
	Mr Haughey	Mr Vitty
<u>Also Present</u>	Ms Rogers	Miss Paisley
	Mr Gallagher	Mr Gibson
Mr Smith	Mr Farren	

The meeting began at 10.35 am and concluded at 11.37 pm.

2. The DUP delegation raised a point of order concerning a visit by SDLP members to Dublin the previous day and said that they hoped no breach of the confidentiality of the Talks process had been involved. The Government Team said that all the delegations were aware of the agreement on confidentiality. The SDLP delegation said that their visit to Dublin was one of a regular series of contacts to discuss matters of common concern. No question arose of a breach of confidentiality.

3. The Government Team then summarised the work of the Business Committee at its two meetings since the Plenary Session on 29 April. Revised drafts of the separate papers on Realities and Common Themes had been circulated to delegations. It was agreed that these papers should be on the table for today's Plenary Session together with the Government paper "Options for New Political Institutions", of which it was envisaged that the first 16 paragraphs should be discussed today.

4. The Government Team suggested that the meeting take note of the Realities and Common Themes papers without further substantive discussion. This was agreed, though the DUP delegation indicated that they would be submitting a written response to the Realities paper.

5. The Government Team then invited comments on the paper "Options for New Political Institutions". This was intended to be a check-list of the main issues to be addressed in Strand I of the Talks and was designed to ease the transition to the substantive discussions of specific proposals. It was proposed to take comments on paragraphs 6-16 today, with the remainder of the paper being addressed on Thursday 7 May. (At the suggestion of the Government Team, it was agreed that the Plenary Session on 7 May would begin at 10.15).

6. The Alliance delegation gave their comments in the form of the Statement attached at Annex A.

7. The SDLP delegation said that they agreed that any system should be workable, stable and durable, widely acceptable and provide for fair participation for all sides of the community. They had a different definition of what was meant by widely acceptable. It was also important that any system should be capable of evolution by agreement. The SDLP delegation noted that there was no reference in the Government paper to the totality of relationships or to the EC dimension. The SDLP delegation agreed with the Alliance delegation's comments on the reference in paragraph 12 to "fair participation". The wording of the last part of the sentence here was unfortunate.

8. The SDLP delegation expressed doubt about the reference in paragraph 15 to any system being "neutral as to communal identity". This was very negative and inappropriate to the Northern Ireland context. Any system should be innovative. Past systems had failed. There was a need for a completely new system which did not involve "victory" for either side. The aim of such a system would be to build community confidence at all levels. With regard to the

the current situation gave rise to uncertainty. The UUP delegation hoped that in due course the Government would clarify the relative costs and benefits of devolution for different parts of the United Kingdom. In response to a request from the Government Team, the UUP delegation confirmed that their concern was that any arrangements agreed for Northern Ireland should not be incompatible with what was decided elsewhere.

12. The DUP delegation set out their comments in the statement attached at Annex B.

13. The SDLP delegation described the DUP statement as extremely constructive and said that they agreed with nearly all of it.

14. In view of the progress made during the session it was agreed that the Business Committee should meet forthwith and that there should be a leaders' meeting before the plenary session resumed.

TALKS SECRETARIAT

ALLIANCE PARTY PAPER ON
PRINCIPLES OF A NEW FRAMEWORK OF GOVERNMENT

In our presentations of the Alliance Analysis of the Problem and The Requirements of a Solution we set out the fundamental principles which inform our approach. This present paper, which should be read with the two earlier papers, will examine section one of the HMG Paper, 'Options for New Political Institutions - underlying principles' (CPL1/NH/13025) in the light of our previous contributions, and of the paper on Common Themes which we have just accepted.

We would hope at an early stage to present detailed proposals which would express these underlying principles in institutional form, and would relate to the later sections of the HMG Paper.

Paragraphs 1 through 7 are introductory in nature, and we have no comment to make on them.

ACCEPTABILITY

In para 7 a difference is suggested between criteria which are fundamental and others which may be merely desirable. In our view the fundamental requirement is that expressed in para 10.

Only if we are able to construct a system which is widely acceptable will we achieve a resolution of the difficulties which have brought us to this table. Any system which is not widely acceptable will not be democratically workable, stable or durable. We find the expression of para 10 satisfactory, since it indicates an appropriate and fair role for everyone in Northern Ireland, but we would prefer that in this and subsequent paras. there was a greater recognition that there are more than two identities in Northern Ireland and that as recognized in para 15, it should be our aim to ensure that new institutions do not entrench the main division in our community, but rather enable a fully pluralist society to develop and function.

WORKABILITY, STABILITY AND DURABILITY

We would accept, with the above comments that any new system should be workable. In truth if there is a willingness to work together and consensually, almost any system is workable, but we accept that we should try to find one which can be worked as straightforwardly as possible.

We find it difficult to see how a system could be devised, that was democratically designed and that could not be paralysed (para 8, line 5/6), but we have ourselves included in our own proposals a recognition of this problem and ways of ameliorating it.

In para 9 stability and durability are set forward as criteria, and we would accept these as desirable. These qualities must however be referred to the system and not to the actual government. As described in para 14 it is important that there is, in practice, a realistic prospect of some change and development in the profile of the government in order to maintain the essence of a democracy. The word stability can be used as a euphemism for stagnation. Indeed one problem with the system in operation in Northern Ireland prior to 1972 was that it provided for a government whose durability was so guaranteed that the stability and durability of the whole system was eventually undermined.

SELF-SUSTAINABILITY

The issue of self-sustainability is raised in para 9, and we would wish to be more clear what is meant here. In other places HMG suggests very definite limitations on the scope of autonomy of any regional administration. In such a case HMG could not but be involved very heavily with the continued governance of Northern Ireland. In our own proposals there is also involvement in the system of making appointments post-election, but this does not necessarily involve the Secretary of State in any of the inter-party discussions which would be likely. This is the kind of situation found at a higher level where the head of state may be involved more fully in certain post-election circumstances than in others, but is involved formally on every occasion, through the legal requirement for making appointments.

RELATIONSHIPS WITH OTHER INSTITUTIONS

Para 11 should more correctly indicate that appropriate relationships are required with UK institutions. It is not simply a matter of preservation since there will be a formalizing of some new relationships, and some previous arrangements will no longer be relevant.

We would also note that any new institutions will have to be capable of the relationships with the EC, noted in the HMG paper (para 3 line 13), and of course competent also of those issues which we will be discussing in Strand 2, in relations with the Republic of Ireland.

PARTICIPATION

Para 12 is very unclear. Fair participation is important, not just for a period, but always, and in so far as an individual through the courts can exert a quite enormous power on the operations of government, especially using a Bill of Rights, the second part of the para is also imprecise. There may also be a case in certain elements of government for disproportionate representations of sectional interests, for example in a balancing instrument. This is not a fundamental or desirable criterion.

Para 13, 14, and 15 have been referred to in earlier comments, and will be fleshed out in our proposals for institutions.

EFFECTIVENESS, EFFICIENCY AND DECISIVENESS

Finally in para 16 effectiveness, efficiency and decisiveness are set forward as criteria. These are attractive notions, but are always disputed in a democracy.

There are those who would maintain, and not without justification that just as the most efficient, effective and decisive committee is a committee of one. So also, a beneficent dictatorship is the most efficient, effective and decisive form of government. The same might even be said of talks about setting in place a form of government for Northern Ireland. Such criteria can therefore only be seen as being desirable but subsidiary.

In so far as the paragraph refers to clarity of powers in respect of finance, and separation from local government, and from the Secretary of State, we would certainly feel it worthwhile to do our best to ensure that new institutions were clear as to the extents and limits of their functions.

ON

UNDERLYING PRINCIPLES

GOVERNMENT PAPER

The DOP found the government paper "Options for new political institutions" a useful guide to the issues to be discussed in greater detail by participants.

We found no major disagreement with the skeleton of "Underlying Principles" nor with the list of issues to be raised in shaping the "Institutional Framework".

DURABLE AND WORKABLE

The DOP view that political institutions derived from the basic process must be durable and workable has already been given expression in the Common House paper tabled today.

The durability does not mean inflexibility. Every political institution must be sufficiently flexible to the extent that it should be capable of working with the political realities of the time. However we suggest that it should be incapable of change by any other means than the normal process through which it was produced.

The institutions must be more than durable and workable, it must also be "self-sustaining" and "self-financing" and "self-accountable".

SELF-SUSTAINING

The institution must not be relied on as a permanent electoral result. It must be able to survive independently and not be dependent on the support of any other institution.

4th May 1992

DUP PAPER

ON

UNDERLYING PRINCIPLES

GOVERNMENT PAPER

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We found no major disagreement with the skeleton of "Underlying Principles" nor with the list of issues to be faced in shaping the "Institutional framework".

DURABLE AND WORKABLE

The DUP view that political institutions formed from the talks process must be durable and workable has already been given expression in the Common Issues paper tabled today.

Yet durability does not mean inflexibility. Every political institution must be sufficiently flexible to the extent that it should be capable of moving with the political realities of the time. However we suggest that it should be incapable of change by any means other than the consensual process through which it was produced.

The institution must be more than durable and workable, it must produce structures that encourage and ensure proper "parliamentary accountability".

SELF-SUSTAINING

The institution must not be reliant on a particular electoral result. It must be able to provide automatically for any outcome and not be vulnerable to being overturned at an election.

We have already voiced the opinion that our task should not be to seek some temporary expedient. We are not in the business of building a half-way house. One can not cross a chasm with two steps. We must have the courage to complete the task in a single process.

ACCEPTABLE

It must take account of the community divisions. The institution must be acceptable to both sections of the Northern Ireland community. Both should be able to identify with it and feel their representatives have a meaningful role to perform within the structures.

The agreed structure must not be seen as a victory or defeat to any party. It must not be the "1992 model" of a past failed system. It must be sufficiently innovative to ensure that it is not written-off before properly considered. Ultimately the people will make their judgment so the Institutions must be capable of gaining public endorsement.

We feel that we should aim for maximum delegated authority and seek maximum consensus.

The most stable institution will be one reached through agreement by the representatives of both traditions in our divided community.

The system must not be, nor appear to be, rigged in favour of any sectional interest.

DEMOCRATIC STRUCTURE

The new structure must be democratically based, bring political stability to the province and make government accessible and accountable to the people.

WITHIN THE UNION

The institution must not imperil Northern Ireland's place within the United Kingdom and will be a body subordinate to the Westminster parliament.

second part of the Government paper on models, the SDLP delegation considered that it was far too soon to consider proposals of this sort. It was first necessary to establish clarity with regard to principles.

9. In response to a request for clarification from the Government Team, the SDLP delegation confirmed that the reference to "totality of relationships" derived from paragraph 9 of their 1991 position paper. The delegation tabled a paper designed to set out a clear definition of the problem as they saw it (circulated separately).

10. The UUP delegation said that in the context of discussing the institutional framework, they would wish to raise the question of ending the Order-in-Council procedure. They would return to this at the appropriate time. They were also concerned about the issue of Select Committees although they appreciated that these were within the gift of the House of Commons, rather than the present gathering. The UUP delegation suggested that the Government team might table a paper on issues such as those concerning the relationship with Westminster.

11. The UUP delegation stressed the need to ensure that any new structures devised for Northern Ireland were not incompatible with structures which might be established for other parts of the UK, such as Scotland and Wales. Any new institutions should be workable and durable and must therefore be based on democratic principles, reflecting the wishes of the electorate. The structure should not be open to the risk of paralysis, for example, if a particular party withdrew. Northern Ireland should be treated as a single administrative unit. The system established should not be dependent on any particular inter-party deals or individual personalities. No sectional interest should have power disproportionate to its electoral strength in broad terms. The UUP delegation agreed on the need to have appropriate relations with UK institutions, including other devolved structures which might be established. The UUP delegation hoped that good progress would be made today, enabling consideration of the second part of the paper on Thursday. It was important to make progress as rapidly as possible. The question of the constitutional guarantee would need to be considered carefully;