

RECORD OF A MEETING OF THE STRUCTURES SUB-COMMITTEE
HELD AT PARLIAMENT BUILDINGS ON 12 MAY 1992

Those present:

Government Team

Mr Hanley
Mr Fell
Mr Bell
Mr Hill

Alliance Party

Mr Close
Mr Morrow
Mr McBride

UUP

Mr Cunningham
Mr Empey
Mr Allen

Talks Secretariat

Mr Brooker

In Attendance

Mr A Smyth

UDUP

Mr Robinson
Mr Vitty
Mr Campbell

SDLP

Mr Haughey
Mr Farren
Mr Durkan

The meeting began at 2.04pm and adjourned for tea at 3.20pm.

2. The Government Team invited the SDLP team to introduce their paper, copies of which had been circulated the previous day.

3. The SDLP team said that they had entered the talks, concerned to listen to the other parties' points of view, willing to explain their own position and perceptions, and hoping to gain a better understanding of the perceptions of others. Through that process they hoped to tease out the basic requirements for new arrangements. In constructing their proposals, they saw it as important to aim for structures that would reflect the realities of life as it is now. People were being killed. They saw it as important to provide for the different identities and to create institutions that would be stable and not dependent on any particular electoral outcome. In the past, Parliaments and Assemblies had been vulnerable to internal disputes and shifting support. In order to provide for greater stability, their proposals recommended a separation of the executive from the legislature. In constructing their model they had looked to European models which had successfully withstood major political changes. Their proposals centred around an Executive Commission. This was designed, as far as possible, to promote decision-taking by consensus. Under their

proposals no one interest could arbitrarily override another. The Team explained the two alternative models for a Commission as set out in their paper. Their preference was for the second model which would involve passing day-to-day responsibility for the Northern Ireland Departments to six Ministers of State. This would leave the Commission to devise overall policy, including fiscal issues, to act as an appeal mechanism on community rights and, within defined parameters, to take on security responsibilities. The Commission would also have a distinct and important role to play with regard to economic development. This had been one of the success stories of recent years so far as inter-party co-operation was concerned. This was a good area for cultivating trust and a sense of common purpose.

4. Continuing, the SDLP team said that their proposals offered stability and independence. An Executive Commission would not be vulnerable to upheaval like previous Assemblies. It would be free-standing but the involvement of the two Governments would ensure stability and an ongoing commitment on their part to the support and success of the institutions. The Commissioner appointed by the EC would provide a direct link to Europe and a unique lever for obtaining resources and support for Northern Ireland. The involvement of the EC and two Governments would expand the international context and indirectly involve not only EC but other member states of EC. The Commission embodied the partnership between the two parts of the community in Northern Ireland and had the advantage that it would not collapse if one grouping resigned or withdrew. The proposals also envisaged a Parliamentary Assembly based loosely on the European model. The final paragraphs of their paper referred to North/South and East/West relationships which were substantially matters for other strands. Summing up, the Team said that their proposals represented an outline model. Detailed aspects had intentionally been left open for discussion and negotiation. An advantage of variant (b) was that the six Ministers of State, who could probably best be drawn from the Assembly, would form a useful link between the Assembly and the Commission.

5. The UUP team said that they had read the SDLP paper with interest. It had occurred to them that three of the four papers had many points in common and would lend themselves to consideration in parallel, whereas one paper was of a different order. The UUP regarded an Executive Commission as essentially undemocratic and unrepresentative as it was only partly elected and based on an EC model which was not an effective backdrop. The SDLP paper challenged paragraph 2 of the Common Themes paper concerning Northern Ireland's status within the UK and ignored the Unionist identity. In short, it went beyond the remit of the talks.

6. In response, the SDLP team rejected claims that the proposals were undemocratic. Three of the Commissioners would be directly elected within Northern Ireland; one would be nominated by the British Government which represented all the people of the UK, one by the Irish Government which represented a body politic to which a great many people felt they quite properly belonged, and one by the EC which had a legitimate interest in both States. The proposals were not only democratic but reflected all the relevant relationships within the Northern Ireland community.

7. The SDLP team also rejected suggestions that their proposals ignored the Unionist identity. The Unionist community would probably expect to have two of the three locally elected Commissioners and the proposals acknowledged that Northern Ireland would remain part of the United Kingdom. As for the suggestion that the proposals exceeded the talks' remit, the SDLP's view was that the agreed basis for the talks allowed everything to be on the table and entitled each party to put forward its view on how Northern Ireland should be governed. That is what they had done. The Government Team commented that the SDLP proposals seemed to fall within the terms of the March 26 statement but covered the broad span of relationships some of which would fall to be dealt with in detail in the other strands.

8. The UUP team disagreed that the SDLP's proposals came within the 26 March statement. The SDLP had asserted that Northern Ireland's status would be unchanged but that was clearly not the case. It was very unclear what that status would be under the

proposals; the UUP had no knowledge of this type of arrangement being tried elsewhere. It would achieve the objective of leveraging Northern Ireland out of the UK in any recognisable form. The UUP had thought that the issue of Northern Ireland's status had been settled but these proposals appeared to re-open it. The UUP had studied the paper hard to try to find a basis for moving forward but without success. The party had put a lot of effort into the talks process and had tried to understand other parties' points of view. They hoped to demonstrate in other strands that they had taken other parties' points on board but now the chance of progress had diminished. The proposals were undemocratic, far worse than the present arrangements for direct rule. The Commission was to a large extent unaccountable; the electorate had no control over the appointment of Commissioners from outside Northern Ireland. The European models on which the proposals had been based were, in themselves, unsatisfactory. The proposals were way beyond what was achievable.

9. The UUP team accepted that there had been instability in the previous systems. They were prepared to move on. It was, however, very difficult to expect people representing different political affiliations to exercise collective authority. The parties should not put themselves in the crucible; they should build up confidence between themselves and with the people and then take on a greater role. On identity, the UUP took the view that the key thing was to give everyone an opportunity to participate at every level. Hard talking lay ahead. There was nothing wrong with being innovative but the SDLP proposals went too far. The appointment of a Commissioner by the British Government did nothing to meet Unionists' concerns about their own identity.

10. In response to a question from the Government Team, the SDLP team said that the degree of power to be transferred to new institutions was a matter for negotiation. They tended to agree with the DUP and Alliance Party view that the maximum amount of power should be devolved from Westminster but their paper had deliberately left the question open for negotiation. If there were an extensive transfer of powers this might obviate the need for a Secretary of State. The SDLP team also pointed out that whereas

three of the parties' papers were on similar lines, and one was substantially different, there were other differences between the parties. For example, the UUP were in favour of a minimal transfer of power whilst the other three parties favoured the maximum degree possible.

11. The UDUP team said that they were saddened by the SDLP document. Like the UUP, they agreed that it was contrary to the 26 March statement in several respects. The 26 March statement reaffirmed Northern Ireland's status within the UK but that status was clearly affected by the SDLP's proposals. As such, it offended against both the 26 March statement and the paper on Realities (which they acknowledged was a Government paper, not agreed between the Parties).

12. The UDUP team argued that, more fundamentally, the SDLP paper offended against the general principle of the three-stranded approach. The SDLP had ducked the issue of relations within Northern Ireland, the purpose of the first strand. The SDLP must know that they would never achieve widespread acceptance. They were expecting Unionists to accept proposals which would mean that they would no longer be Unionists. The Anglo-Irish Agreement had provoked a reaction; the consequences of this could be worse.

13. The UDUP team said that the SDLP paper offended against many of the propositions in the agreed papers on Common Themes and Common Principles. They questioned the rhetoric that the proposals properly reflected European institutions. In the past, the SDLP had been deeply critical of European institutions. What the SDLP paper envisaged was something very different from the European model. In the EC context, each country surrendered a part of its authority on the same basis but the SDLP paper proposed that only Northern Ireland should give something up. The European model was not effective in the Northern Ireland context.

14. Going through the agreed list of Common Principles, the UDUP delegation said that SDLP paper did not meet the requirement that institutions should be based on democratic principles. The Commission was like a quango. It was difficult to conceive of

appointed representatives at the highest level but unthinkable to contemplate appointments from outside Northern Ireland. What if the Commissioner appointed by the Irish Government were to be given the portfolio for economic development, an area in which Northern Ireland was in competition with the Republic? The same was true for other areas such as tourism.

15. As for the second principle, the need for institutions to be widely acceptable, the paper would not provide an appropriate and equitable role for both sides of the community. There would be no role for the Alliance Party, for example. The proposals could be durable but so could any system of government which entailed only minimal accountability. The arrangements would be inherently unstable because the Northern Ireland electorate would have little role except to complain that appointees from outside Northern Ireland were in authority. The proposals were capable of development, but into what? The procedures were probably workable but so were other, extreme forms of government. The paper failed the test of avoiding entrenchment of a main community divide; polarisation was embodied in the Commission. It would also not provide all the constitutional political parties with an opportunity to achieve a role at each level of responsibility. Whether or not arrangements would function effectively, efficiently and decisively was open to debate. The proposals were undoubtedly innovative but so innovative as to be beyond credibility. The paper mentioned the relationship with the Irish Republic but not the UK. No doubt that could be remedied. Everyone in the room knew from their own experience that the proposals could never secure public endorsement. The proposals were consistent with the maximum possible delegation of authority but to the wrong people. They did not meet the test of public accountability; the Northern Ireland people would not be responsible for the election of the three Commissioners from outside Northern Ireland and had no power to remove them.

16. In response, the SDLP team rejected the suggestion that their proposals were contrary to the letter and spirit of the 26 March statement. They reiterated their view that each party was entitled to put forward its own view on how society should be governed and

that is what they had done. The SDLP had not ducked responsibilities to address the issues in Strand I; they believe that the three relationships were interlocking. The UUP team said that none of the parties disagreed with that view. In signing up to the three-stranded approach, the parties had agreed to a methodology to carry them through the various issues. This required a narrowing of the ground to start with but in the knowledge that the final package might be different from its component parts.

17. The UDUP team reiterated that, in their view, the SDLP had avoided addressing the issue of relationships within Northern Ireland. The Executive Commission is not representative of the community in Northern Ireland. The people of Great Britain, the Republic and European Community did not live in Northern Ireland; the two sides of the community did. In response, the SDLP team reiterated that their proposals were intended to address the internal relationships but by taking due account of the other relationships. The UDUP team commented that the SDLP seemed to believe that the Unionists and Nationalists were incapable of addressing their own relationship and needed to be chaperoned by Great Britain, the Republic and EC. The SDLP team replied that the GB, Irish Government and EC involvement was one way of stabilising the arrangements and accommodating all the relevant relationships.

18. The Alliance team said that their main concern was the test of workability. It was apparent that there was no willingness around the table to work the full range of the SDLP's proposals. The reality was that any proposals had to recognise the fears and prejudices etc of the different traditions but the Alliance were not convinced that this had been done in the SDLP paper. The proposals did not stand up to the agreed themes and principles "banked" in earlier papers. Differences of view over whether the SDLP's proposals were within the terms of the 26 March statement illustrated the difficulties which the parties were up against; people saw things from their own perspective and interpreted them how they thought others would see them. The proposals failed to take account of the attitude of the Unionist community. They were new and innovative and some elements could merit further consideration (for example, the separation of the executive and the

legislature but, taken overall, the proposals were not acceptable; they failed the test of being based on democratic principles. To whom would the three Commissioners appointed from outside Northern Ireland be accountable? In conclusion, the Alliance team re-stated their willingness to listen to the arguments around the table and to be open to persuasion.

19. The SDLP team said that the notion of having appointed people at the top level of Government in Northern Ireland was not foreign to Northern Ireland. There had been a Secretary of State for 20 years. The other parties should not regard the SDLP proposals as violating democratic principles or being unusual. In a similar fashion that the Secretary of State derived a mandate from Parliament so the Irish Government and EC also had a mandate as well.

20. Commenting on this, the Alliance team said that part of the purpose of the current talks was to get away from the present undemocratic system of Government for Northern Ireland. The SDLP proposals would arguably leave Northern Ireland in a worse position. The UDUP team also queried how the SDLP's proposals balanced with their earlier statement that an executive could not function without a direct mandate. In response, the SDLP team said that the appointment of six Ministers of State, under Option (b) of their proposals, would help to ensure that the institutions had a proper mandate. They also argued that there was a danger of the parties getting hung up on traditional views of democratic accountability. There was more than one view; for example, the EC was not directly accountable in the same way as the Westminster Parliament. The SDLP Team emphasised that the way their proposals would work would be for the six Commissioners to devise overall policy; to agree that policy with the Assembly and for the three Commissioners elected from within Northern Ireland to be answerable for that policy to the local electorate at election time.

21. At this point the meeting adjourned for tea.