

STRAND 2
RESPONSE BY

THE ULSTER UNIONIST PARTY

TO

THE OPENING STATEMENT

PRESENTED BY

THE GOVERNMENT OF THE IRISH REPUBLIC

The Rt Hon James Molyneaux MP
Councillor Ken Maginnis MP
Councillor Jim Nicholson MEP
Dr Christopher McGimpsey July 1992

A Response to the Government of the Irish Republic

The Irish Republic's delegation to the Strand 2 Agenda-Setting Meeting of 19 June suggested that its Government would be seeking to find a way,

"to lift the heavy burden of history which weighs on all of us in these islands".

We have failed to find, in its Opening Statement, any tangible proof of this approach. Its paper has failed to address the very *raison d'etre* of Strand 2...basically, what practical and

workable basis can there be for a relationship between Northern Ireland and the Irish Republic?

The Ulster Unionist Party felt that it was incumbent upon it, in its Opening Statement, to present the outline of a number of arguments which will be germane to the creation of any new relationship. We indicated clearly, for there is no justification for time-wasting tactics, the direction in which we are mandated to travel. We even tried to provide within our paper, some answers to anticipated questions.

But the weakness of the Irish Republic's paper is its lack of real content. It assumes, as it progresses, an air of increasing unreality insofar as it appears to be addressed exclusively to what it describes as the "pro-union parties" (para 12). Why, if we are about reconciliation and accommodation, does it ignore the possibility of any duty or responsibility falling on the SDLP? Are we to assume that the Irish Government's paper is also a statement on behalf of the SDLP?

ARTICLES 2 & 3

It is significant that, despite being directed at Unionists, there is no reference whatsoever to Articles 2 and 3 of the Irish Republic's Constitution in the document. We are not a little disappointed by the failure to address this issue.

We are puzzled, too, by the response to questions on the matter. John Wilson believes that a referendum proposing change would fail and goes on to suggest that such a failure,

"..would help to leave the field clear for the men of violence".

How can this assertion be reconciled with the further statement by John Wilson that,

"Men of violence don't accept our constitution".

The logic must surely be that these aggressive and irredentist Articles cannot suddenly become relevant to the IRA after a referendum, if they are not already so beforehand. The point is best illustrated by the banner headline in the edition of An Phoblacht current when John Wilson was making his argument. It reads,

"HANDS OFF 2 & 3".

STATUS OF NORTHERN IRELAND

In relation to the "status of Northern Ireland" we have, within the Opening Statement had no indication from the Irish Republic as to the basis on which we might begin our negotiations.

In response to a question from the UDUP. we were told by John Wilson that he considers "status" to be,

"As defined in Article 1 of the Anglo-Irish Agreement...an agreement lodged with the United Nations".

That fails to answer the question although David Andrews does imply that, insofar as the Anglo-Irish Agreement is lodged with the UN, it is subject to accepted international interpretation. He further cites Article 29.2 of the Irish Constitution in support of the Republic's bona fides:-

"Ireland affirms its adherence to the principle of pacific settlement of international disputes by international arbitration or judicial determination".

But neither Mr Wilson nor Mr Andrews proved able or willing to acknowledge the so-called "border" between Northern Ireland and the Irish Republic to be an international frontier. John Wilson seemed anxious to avoid any obligation in terms of the Helsinki Accord by placing emphasis on the fact that it had, in relation to frontiers, adopted the word "inviolable" rather than "immutable".

There is an urgent need for clarification since the Helsinki Accord also provides for the "peaceful settlement of disputes". We need to know the extent to which the Irish Republic feels obliged to go in order to accommodate the democratically expressed views of those who are most closely affected by the dispute over its illegitimate territorial claim.

THE DEMOCRATIC PROCESS

We acknowledge that, in response to our questions on the issue. John Wilson has avowed that,

"the democratic process is the only acceptable way",

and that this process means the right of the Northern Ireland electorate to play a full part in finding a remedy to those problems which concern us.

We believe that this could provide the basis for a recognition of the shortcomings of the 1985 Anglo-Irish Agreement, and while we can understand the difficulties that this may present for both governments we are hopeful that it heralds a new era of reality.

THE STATE v. THE COURTS

We cannot accept the glib response by David Andrews that,

"The Law is (merely) about diversity and difference of opinion.....what is said in court is for the court".

We believe that, according to Article 34 of the Irish Constitution the government is unable to argue away the binding nature of the judgment of the Supreme Court in *McGimpsey v Ireland* (1990).

Article 34.4.6 states,

"The decision of the Supreme Court shall in all cases be final and conclusive".

While we would not wish this debate to be conducted in entirely legal terms, we would, nevertheless, point out that the legal framework as set out in the Constitution would not permit the Government to make light of or derogate from its provisions. In other words, there appears to be no alternative to changing the Irish Constitution. If we are to succeed, it would not have been unreasonable to expect a signal from the Irish Republic's Government indicating how and when they will be willing to promote a referendum to achieve such a change.

Such a step, while it may appear to be a quantum leap, could enable us to move forward on the basis of the Republic's claim (p10),

"It is not that the nationalist tradition is a narrow one. It embraces openly, even eagerly, wider entities....."

IDENTITY and ASPIRATION

It is not our intention to demolish the Irish Republic's point of view simply because we fail to agree with it but we are confused by some contradictions within its submission. For example (p 8).

"If we can acknowledge identities in Ireland....this meeting could be truly historic in its result"

and (p22)

"The endorsement which new arrangements will need cannot be achieved....where one tradition has the substance of its aspiration and the other merely a theoretical acknowledgment of legitimacy".

hardly seems to be consistent or realistic.

And how can we reconcile in terms of the "nationalist vision", the statement (p 13),

"Our history has established a close link in our minds between independence and self-respect"

and (p 10),

"I do not believe that its (Nationalist) aspirations are tribal or exclusive".

If Ulster Unionists have been somewhat offended by the Irish Republic's paper, that is because of the manner in which negative aspects of Unionist nature have been portrayed. There appears to be an underlying assumption that, if "the fear" of Nationalism was removed, Unionists would no longer feel so British. While the "fear" or "distrust" attitude may exist, it does not dominate the positive nature of our aspiration to retain our unity with the rest of the United Kingdom. Unionists have their identity too.

Another matter which needs to be clarified is why there is a need to align ethnic and cultural aspiration (identity) with a political structure in order to give it expression.

One reads (p 17),

"Partition.....unfortunately.....created a new minority".

Where is there a country which does not have one, two or even more minorities? In modern society there can never be an exact and complete correlation between people sharing the same identity and a political boundary, and, does what appears to be a common identity not vary considerably under closer examination. Is a Unionist "identity" at this table the same as that of any UDA gunman? Is a Nationalist "identity" across the room the same as that of an IRA killer?

Indeed, one might ask whether all Unionists here see themselves as Irish Unionists or Ulster Unionists or is it possible to be both. Does the basis for political solution not have to come, therefore, from an internal compromise? Would any realignment with external interests resolve the problem or would it simply redefine "minority" and perpetuate divisions?

The Irish Republic's paper actually recognises the same question and observes (p 12),

"The conflict, in its essence, is now about whether Unionists should finally settle for minority status in the island as a whole or whether Northern nationalists should do so within the confines of Northern Ireland".

One gets the impression from the document, that it has been too great a task, initially, for the Irish Republic's delegation to project itself, in practical terms, beyond an enclosed 26-county perception of the problem. But it is with us and we in the Ulster Unionist Party are anxious for real, meaningful dialogue.

This is not intended to be a definitive Ulster Unionist response, nor does it deal with Unionist attitudes to all the delegations. It has been important to us to examine most closely and to concentrate our attention on the Irish Republic's approach to the Talks Process.

Supplementary Points Arising from Further Discussion
24 July 1992

Ulster Unionists have been disappointed by the extent to which some of the Irish Republic's delegation, particularly Mr Pdraig Flynn, resorted to old and out-dated Nationalist rhetoric. We felt it betrayed a deep underlying intolerance and lack of any desire to understand or

accommodate things Unionist. There is much ground to be made up and bridges to be mended.

However, it would be wrong not to acknowledge that there were some helpful responses to Ulster Unionist questions. Welcome and reassuring were:-

Q... Do you acknowledge that what is generally referred to as "the Border" is an international frontier?

John Wilson - "We accept that there is an international border between our country and the United Kingdom. That is the reality of the situation".

Q... Can you accept the reality that Northern Ireland is an integral part of the United Kingdom?

David Andrews - "Yes. that is the de facto position".

Q... But has the Irish Republic little or no affection for the Ireland (Confirmation of Agreement) Act 1925?

Desmond O'Malley - "...The 1925 Act is the law whether we like it or not. That is the reality".

John Hume endorsed these responses:-

Q... In response to our questions the Irish Republic has accepted the reality that Northern Ireland is an integral part of the United Kingdom and that the border is, in fact, an international frontier between the Irish Republic and the United Kingdom. Desmond O'Malley also accepted that the 1925 Act still retained its legal relevance. Do you accept this?

A " Yes"

Ulster Unionists, while recognising that much still requires to be done, acknowledge that there is a basis on which they can move forward and on which they wish to build. We are grateful to Sir Ninian Steven for his careful guidance of our deliberations and to George Thompson, also.