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Counsellors A-I, Section,
Messrs Teahon, Donlon,
Murray & Dalton,
Ambassadors London &
Washington, Joint Secretary

Intensive Multilateral Consultations: Trilateral Meeting with SDLP, 4 March 1996

Summary

The SDLP, while making clear their continuing unhappiness with the decision to introduce an elective process, advocated a closed party list system of election, to be followed by a direct and immediate transition into negotiations. They rejected the notion of any form of elected body consequent upon elections, and claimed that in the light of experience any such body, no matter how minimal its powers, would seek, on the basis of its alleged democratic legitimacy, to expand its role and to control negotiations. They said explicitly that they would not take part in constituency-based elections to a body, but also made clear that their objection to a body was independent of the electoral system chosen. They expressed the suspicion that the British had already decided in favour of a body; the Secretary of State denied this charge, but continued to speak in terms which implied that he had. The SDLP seemed to see little positive value in, or need for, a forum set up to take submissions.

John Hume made the case for a referendum as "the ultimate in democracy" and as providing overwhelming mandates against violence and for talks. He declined to prepare a paper on the topic.

It was agreed that there would be a further meeting with the SDLP after a first round of meetings with the other parties. Both the Tánaiste and the Secretary of State urged the SDLP to hold as many bilateral meetings as possible - the party had said it would not meet the Unionists other than in Castle Buildings.

Detail

1. The Tánaiste, the Secretary of State and Michael Ancram (accompanied by British and Irish officials) met an SDLP delegation consisting of John Hume, Séamus Mallon, Eddie McGrady, Joe Hendron, Brid Rodgers, Seán Farren, Denis Haughey and Mark Durkan. The meeting began at 2.30 pm and lasted until approximately 4.00 pm.
2. The Secretary of State identified the key issues to be addressed in legislation for an elective process leading to all-party negotiations on 10 June as being:
 - the electoral system

- the purpose of the elections
- the transition into negotiations
- the scheme of negotiations
- the role of the minor parties.

He suggested that the intensive multilateral consultations had to focus on these matters.

3. Mr Hume began by emphasising the SDLP's concern at Sinn Féin's exclusion from Castle Buildings. They had thought all parties could come to the consultations. This would dominate media coverage of the opening day. The Secretary of State interjected that it was clear that Ministers would not meet Sinn Féin. Mr Hume replied that while he understood this, he had thought that the purpose of the consultations was to gather all parties under the one roof. The image transmitted had already been publicly damaging.
4. Mr Hume then rehearsed the SDLP's objections to an elective process, emphasising that parties would seek mandates to insist on pre-conditions. It would have been better to have fixed a date for negotiations, to which all parties would eventually have come. That said, the SDLP was now prepared to accept an elective process in which the electorate would be asked which party they wished to represent them in negotiations. "Based on the percentage of the vote" parties would send delegations to such negotiations, which should be organised "exactly the same as 1991/2".
5. If on the other hand there were a ninety-member assembly, it would, irrespective of the rules laid down for it, pass motions seeking to control the negotiations on the basis of democratic legitimacy. He stated that the SDLP had unanimously decided that it would not take part in elections to an assembly based on eighteen five-seat constituencies.
6. Mr Hume explained the party's proposal for dual referendums inviting the electorates North and South to vote in favour of peace and of all-party talks. This would give the people the chance to send a clear message and provide parties with a real mandate, making it impossible for parties either to use or endorse violence, or to refuse to go to the table. There was a very solid body of opinion in the unionist community in favour of dialogue.

7. The Tánaiste emphasised the importance both Governments attached to inclusive negotiations. The position of both on Ministerial meetings with Sinn Féin was clear. Channels of communication were open. There had been no advance notice from Sinn Féin of its intention to arrive that morning. Both Governments wanted Sinn Féin in talks, but the IRA had to restore its ceasefire. He went on to say that it was important that the intensive consultations should seek to reach a consensus on the various issues to be resolved.
8. The Secretary of State indicated his appreciation of the SDLP's effort to accommodate itself to a form of elective process. The British Government saw elections as the way to have the Unionists sit down with Sinn Féin. On the form of election, it sought an agreed package which would go through Parliament quickly. Saying that he would put similar questions to the Unionists, he asked the SDLP how they would assuage Unionist fears regarding their preferred approach, and how they in turn might be reassured by the Unionists.
9. Mr Hume said that the Unionists wanted a 90 seat assembly in which they would have 60+ seats. Holding elections on a constituency basis would encourage intra-party competition to take the hardest line. The small loyalist parties - which the SDLP wished to be present, despite their history in regard to the nationalist community - would not gain representation in a constituency-based election, whereas they could succeed under the SDLP's system. He repeated that the SDLP had unanimously decided that it would not go down the 18 X 5 road.
10. Mr McGrady said that Reg Empey's presentation of the UUP **Democratic Imperative** paper had made clear that what was sought was a committee-led forum destined to reach no conclusions other than those desired by the majority. It would take two years before it even began to reach agreement.
11. The Secretary of State assured the SDLP that he understood nationalist anxieties regarding the re-institution of the Stormont parliament. He was determined that this would not happen. Elections would not be to a body with any powers. A body's functions would be circumscribed by legislation. It would have a short life. This was the firm position of the British Government, which had no preferences of its own for any particular mode of election.
12. Mr Mallon then said that the Prime Minister had on 24 January spoken in the

House of Commons of a role for a "weighted majority" deriving from elections. Although this did not appear in Hansard, the party had "celluloid evidence" that this was the case. What did the Prime Minister mean by this if the sole purpose of elections was to move directly into all-party negotiations? The Secretary of State professed not to understand the point made (he subsequently read from the relevant Hansard the possible purposes the Prime Minister had sketched out for an elective process, including initial testing by weighted majority vote of the outcome of negotiations). He said that the role of any body in assessing the outcome of negotiations was for discussion in these consultations. The Prime Minister had spoken in a hypothetical context. The Government had no predilection of its own.

13. Mr Hume asked what would happen if an elected body acted in a way which was out of order under agreed rules. The Secretary of State said that such an act would be judicially reviewable as *ultra vires*. Mr Hume responded that this was a legislative, not a political, answer. The Unionists would say that the will of the democratic majority was being overridden. "We know their mindset." The Secretary of State replied that no process had "no downside". Mr Hume said that the downside of the SDLP's proposed route was that the Unionists might not come to the table at first, though in the end they would. If the parties did not come, it would be the Governments' duty to reach agreement and put it to the people.
14. The Secretary of State said that his purpose was to elicit opinions. He was not arguing for any particular outcome to these consultations. Mr Mallon dissented. The Secretary of State was talking about a body. Was this envisaged? We had to be clear what was being discussed. Were elections to be a direct route into negotiations and nothing more? If not, this could be crucial to "our position even in relation to our own proposal." At the SDLP's meeting with the Prime Minister, which the Secretary of State had also attended, Mr Major was emphatic that there would not be an elected body. The Secretary of State replied that the Prime Minister made clear in the Communiqué that it was for the parties to discuss the mode of election. There could simply be a pool from which negotiators were chosen, or those elected could have a "residual role". Mr Mallon repeated that there was an apparent contradiction in the British position. He again asked for clarity on what was under consideration. Was the only purpose of an election to mandate those going into negotiations? The Secretary

of State stated that he could not pre-empt the outcome of the consultations, nor did he seek to do so. Mr Mallon said that was what he was trying to find out. Why did the Secretary of State speak of a body or forum? The use of these terms suggested that he was indeed thinking of something other than an election leading straight into negotiations. Mr McGrady added that the mere fact of speaking of a body implied that a particular electoral system was envisaged.

15. The Tánaiste noted that the SDLP had said they would not take part in a 90-member body elected on a constituency basis. This left open for debate the question of where an election from a single Northern Ireland constituency might lead. Mr Hume replied that elections, if they were to be held at all, had to lead straight into negotiations.
16. Mr Hume said again that the list system better protected the interests of small parties. Dr Hendron said that only Hugh Smyth of the PUP had any chance of election from a normal constituency. Mr Mallon said that five parties broadly agreed on the list system. Two or three were opposed. That offered a starting point for assessing broad acceptability.
17. The Secretary of State asked whether, if legislation leading straight into negotiations were "signed, sealed and delivered", the SDLP would have any objection to a separate or disconnected Forum to debate issues, on the lines of the "Dublin Forum". It could take evidence from community groups, the Churches, etc. Mr Hume said the SDLP had no difficulty in talking to anyone. They knew, however, how a body would be used: "democracy" was used against them all the time. Mr McGrady added that a body running alongside negotiations would seek to control those negotiations. The most extreme elements would lead the debates towards the lowest common denominator. John Taylor had even complained about the relative sizes of the Tánaiste's and Secretary of State's desks. [Mr Durkan to the Secretary of State: "So long as yours is imperial measure"]. Mr Hume asked the Secretary of State if he thought that legislating for something made it a fact. That was not how Northern Ireland worked.
18. Mr Mallon asked what the point was of a body with no role. When the Secretary of State remarked that "it's perfectly clear that a large group of people want this" and that this was the view of "parties representing a majority" Mr Mallon

observed that this was the unionist position. The Secretary of State pointed to the poor state of his relations with the UUP. He could not in all honesty dismiss the possibility of an elected body out of hand. He asked if the SDLP would object to a Forum having a very limited role. Mr Hume repeated that legislative circumscription was meaningless. Unionists only conditionally accepted the sovereignty of parliament, and had twice this century successfully rebelled against it. What they wanted was an effectively independent Northern Ireland paid for by the British taxpayer.

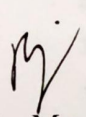
19. Mr Farren said that there was no reason why the negotiators themselves could not hear submissions. The Secretary of State agreed. He went on to ask how the two Governments could "get the best" out of the present process of consultations. Elections were a central issue on which agreement was sought. He saw no flexibility in the SDLP position.
20. Mr Hume said that it was a pity the UUP were not present. The SDLP would not meet them elsewhere. The Secretary of State, while sorry that the Unionists were not in Castle Buildings, remarked that the Communiqué did not require all consultations to be held in the one place.
21. The Secretary of State then asked if it would be helpful if papers were put forward for discussion setting out the options. Mr Hume was not sure of the purpose of such an exercise. He asked where the consultative paper mentioned in the letter of invitation was: the Secretary of State said that this reference was an error. Mr McGrady asked whether the Governments should not first meet other parties. Mr Mallon signalled reluctance to see a paper. He said the SDLP had given its definitive position. They were having difficulties with what the Secretary of State was saying even before it was put down on paper. The SDLP did not want to "dance around in a Forum" or to waste time on things others wanted to keep them in the process. He suggested that the Secretary of State was putting forward a Unionist agenda. The Secretary of State rejected this accusation, saying that after the events of the previous Monday it was hard to sustain such a case.
22. Quentin Thomas asked if there were an assumption that a constituency-based election led to a Forum and a list system avoided one. Mr Mallon said that he was opposed to a body or forum, however elected. Thomas asked which the

SDLP objected to more, a body or a constituency system. Mr Mallon replied that they were equally objectionable.

23. The Tánaiste remarked that the SDLP's objection to a forum had to be noted. The two Governments would need to try to reconcile the differences which existed. He suggested that the meeting move on to look at the referendum issue. Mr Hume advocated the referendum as "the ultimate elective process." It would have huge value in allowing the public to send a strong message opposing violence and urging the parties to talk. The Secretary of State asked about the IRA view. Mr Hume commented that they "would not strongly support" such a referendum. They did not want to upset their theology of the 1918 mandate by allowing the people of Ireland to speak. The SDLP understood their mindset better than anyone else, having grown up alongside them. The referendum would confirm the powerful shift away from traditional nationalism over the past 20 years.
24. Asked by the Secretary of State what other parties thought of the idea, Mr Hume said he felt Sinn Féin, while unable to oppose it publicly, were worried. The DUP had not directly opposed it. Mr Haughey explained that the UUP were non-committal - but had made clear that they wanted an elected body to control, shape and if possible internalise the process, as Mr Hume had warned. Mr Durkan said Alliance had said that people did not want to vote for peace, but for party politics. The Secretary of State wondered whether the idea could be deprived of its maximum force if Sinn Féin supported a call for all-party negotiations. In reply to Seán Ó hUiginn, Mr Hume made clear that in his view the two interlinked questions, on peace and talks, must be asked together.
25. Invited by the Secretary of State to consider the preparation of a paper on this topic, Mr Hume declined, saying that it was for the two Governments to make up their minds and go to the people. Mr Mallon added that the party had honestly set out its views. The Governments were welcome to discuss them with others, and to prepare papers if they wished. He added that if a paper on electoral systems had been prepared, "it could be left lying about." Mr Hume said that the problem with papers was that they could delay and distract. There was a danger that parties could use these talks to negotiate.
26. Michael Ancram asked how the ten days of consultations could best be

structured. Mr McGrady thought it best for the Governments to meet all parties in a first round of contacts and then to revert to the SDLP ("though we won't believe a word you say!"). Michael Ancram wondered how the information so gathered might best be used.

27. The Secretary of State concluded that the other parties would now be consulted, following which there should be a further meeting soon. He hoped there would be direct bilateral meetings between the parties. The Tánaiste concurred, saying that the Irish Government was available to all.


Rory Montgomery
5 March 1996

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Mr T. Tolan
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