ISC 20 SEP 1996

CONFIDENTIAL

From: John McKervill
Political Affairs Division
19 September 1996

INT/31

cc PS/Secretary of State (B&L) - B
PS/Sir John Wheeler (B&L) - B
PS/Michael Ancram (B&L) - B
PS/Malcolm Moss (DHSS, DOE & L) - B
PS/Baroness Denton (DED, DANI & L) - B
PS/PUS (B&L) - B
PS/Sir David Fell - B
Mr Thomas - B
Mr Bell - B
Mr Legge - B
Mr Leach (B&L) - B
Mr Steele - B
Mr Watkins - B
Mr Wood (B&L) - B
Mr Beeton - B
Mr Priestly - B
Mr Hill (B&L) - B
Mr Lavery - B
Mr Maccabe
Mr Perry - B
Mr Stephens - B
Mr May - B
Ms Bharucha - B
Ms Mapstone - B
Mr Whysall (B&L) - B
Ms Collins, Cab Off (via IPL) - B
Mr Dickinson, TAU - B
Mr Lamont, RID FCO - B
HMA Dublin - B
Mr Westmacott (via RID) - B
Mr Campbell-Bannerman - B
Mrs McNally (B&L) - B

NOTE FOR THE RECORD

TALKS: WEDNESDAY 18 SEPTEMBER 1996

Summary

A full day. The debate on the complaint from the Alliance Party was quickly dealt with in plenary which was then adjourned paving the way for further bilaterals. Trimble told the Secretary of State that the exercise of going through with both the British and Irish Governments their draft bills on decommissioning had been a useful

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first step. But in order to move into substantive three-stranded negotiations, general principles on decommissioning needed to be worked out and machinery put in place, or ready to be put in place, including possible identification of the Commission. UUP and SDLP reported near agreement on an agenda for the three-stranded talks using generic headings, although little more could be done until the remainder of the opening plenary had been sorted out. SDLP expressed strong concerns about the potential for stone walling. They would not hang around indefinitely while the UUP pursued endless discussion on decommissioning. The Secretary of State offered, and the DUP and the UKUP accepted, an early technical discussion with British officials on the decommissioning Bill. The DUP and UKUP sought to scupper the process by claiming, and telling the UUP, that HMG had backtracked on the need for any decommissioning. A tri-lateral between the UUP and the two Governments took place at which the UUP tabled questions on decommissioning. The potential for some convergence of views appeared. The Irish sought to be constructive although put down a marker that considerable progress at a further tri-lateral scheduled for the following Monday afternoon had to be made. Most of the exchanges were between the UUP and Irish. A useful educational process for the latter.

Detail

2. Following the customary morning briefing meeting the Secretary of State held a meeting with Senator Mitchell, who had returned from America, and the other Chairmen to review the day's business, principally the plenary meeting dealing with the Alliance Party's complaints. Mitchell proposed to handle the plenary in the same manner in which the earlier DUP complaint had been dealt with. He was grateful for the note on the sub judice point which had emerged relating to the complaint against Reverend William McCrea. He preferred however to let the Government state the principal that the legal advice in this matter was confidential. He did not want to get into a position where he was being asked about advice on

which he could not personally comment. (In the event, the sub judice point did not arise in plenary as the DUP confirmed there that while they were not prepared to comment on the Alliance representations, it was open for others so to comment). The Irish joined the meeting at 0950 when it was agreed that the Chairman should aim to hold a further session of the plenary the following Monday at which the determination of the two Governments of the Alliance Party's complaints could be delivered.

3. The Plenary convened at 10.05 with the purpose of discussing the Alliance Party's submission and the respective rebuttals. At the beginning the Alliance leader said he was happy that the subject matter against the PUP and UDP had already been dealt with and need not be entered into in that session. Robinson, for the DUP, noted that the UDP rebuttal of the Alliance complaint was principally a criticism of the DUP. He said their criticisms could be answered at that session or the DUP could circulate in writing a response to their document. It was agreed that the DUP could circulate in writing their response. The DUP further agreed that although they would not be commenting on the complaint against Reverend McCrea, it was open to others to do so and agreed that the sub judice concern did not come into play.

4. Lord Alderdice was then invited to speak. He believed that not much time was needed given that the submission already made by the Alliance Party was based on matters of clear public record. He clarified that he had been happy, following representations from Reverend McCrea's solicitors, to strike out reference to the appearance of paramilitary banners at the rally in Portadown. The substantive issues to be dealt with were conduct at Drumcree and Portadown. His concerns, he said, were in respect of adherence to the Mitchell principles. While the first principle was the key one, the more relevant principle was principle (d) ie to "renounce for themselves and oppose efforts by others, to use force or threaten to use force to influence the outcome of negotiations". It was clear, he said, that force had been threatened and used to

influence the course or outcome of all party negotiations during the Drumcree episode. Using selective quotes from the Orange Order and representatives of the UUP and DUP to back up his case he claimed that the brief rebuttals indicated that the two parties either had no credible argument against the allegations, or it was a case of total arrogance and a feeling that the allegations could be dismissed by a contemptuous wave of the hand. If it was the latter, things did not augur well for future co-operation in the talks. If the former, he stressed that the parties should make a recommitment to the Mitchell principles: he was not wanting the removal of any party from the talks.

5. On the events at Portadown, Lord Alderdice said that McCrea had taken an active part in the rally at which the impression had given that McCrea associated himself with Billy Wright, a man widely believed by everyone including the UUP leader to be associated with violence. He believed McCrea's actions constituted a breach of the principles. As the DUP had not condemned McCrea's actions he believed that the breach applied to the DUP as a whole, given McCrea's standing in that party. He called on both Governments to agree that there had been a breach of the principles and to invite both the UUP and DUP to demonstrably reaffirm their commitment to the principles.

6. The DUP's response was one sentence, namely that no evidence had been submitted and therefore there was no requirement to answer. Weir, for the UUP, also claimed that there was no case to answer, nor was there a need for his party to re-commit themselves to the Mitchell principles.

7. At this stage the Chairman invited questions. In a short masterful display, Robinson effectively dismissed Lord Alderdice with three simple questions. Had he read the full speech by Mr McCrea at Portadown?, to which Alderdice responded "no". Robinson then asked if had sought a copy. Alderdice responded that he would have been interested in reading it if Mr McCrea had come along to

the day's session. Asked if he might not have more appropriately sought a copy before making his complaint, Alderdice said once again, "no".

8. Following this questioning, the Chairman, recalling that the rule governing the proceedings required the Governments to act in the light of the views of participants, invited representations from others, but no-one took him up on his offer. Declaring the discussion of the subject completed, he adjourned the meeting at 1045 "subject to the call of the Chair".

9. After the plenary session, the Secretary of State, with officials, had an initial discussion on how the Government might respond to the complaint made by the Alliance Party. The Secretary of State reached the initial conclusion that the Alliance Party had not established that it had been the intention of the Unionist leaders to pursue their political objectives other than through peaceful means and that consequently their had been no breach of the Mitchell principles. (Mr Lavery is working on a form of words which might be put to the Irish in further discussion).

10. During the morning, Messrs Leach and Hill had held various discussion with Irish officials focussing on the draft joint proposal by the two Governments on the handling of decommissioning. In the course of those discussions it became clear that the Irish, at least at official level, would not be pressing for the tri-lateral meeting that afternoon with the UUP to be a make or break meeting, but rather possibly one of a series of meetings, to sort out to everyone's benefit how to handle the decommissioning issue. They agreed that both sides were not yet ready to table at the afternoon meeting any joint proposal. Some issues still remained to be agreed between the two Governments.

11. At 12.40 David Trimble had a brief meeting with the Secretary of State who was supported by Sir David Fell. The Secretary of State opened the meeting by suggesting that it would be better if

the tri-lateral that afternoon was the first of a few meetings rather than possibly the first and last. He was anxious to bridge the gap between the UUP and the Irish. Trimble in response said that he was thinking in terms of tabling a number of questions to the Irish, possibly leaving the supply of answers until the following week.

12. The Secretary of State suggested that the more that Trimble could say that he wanted to get into political dialogue the better. He said that he had not yet floated with the Irish the idea of an inchoate commission. He recognised the pressures Trimble was under from elements within his own party as well as from the DUP and UKUP and asked what he felt he needed in order to move into the three stranded negotiations. Trimble acknowledged that there were always going to be loose ends and that decommissioning would not be a live issue until/unless Sinn Fein entered the process. But, at an early stage, they would need to have general principles worked out and machinery put in place, or ready to be put in place, including possibly the identification of members of the Commission. He assumed, but the Secretary of State corrected him, that the Government already had a draft scheme worked out.

13. Discussion then turned to the role of the sub-committee on decommissioning - a discussion which revealed a lack of clarity and understanding on the part of Trimble as to its potential role. The Secretary of State suggested that the Committee could get to work straight away on looking at the options of a scheme which could likely make provision for all the various methods of decommissioning which existed. Trimble acknowledged that further thought needed to be given to this which, he suggested, might come out in response to the questions which he was planning to table at the tri-lateral.

14. On his discussions with the SDLP, Trimble reported that they were close to agreement on a set of generic headings for the agenda for the negotiations. He believed further work on the agenda was not possible, however, until the decommissioning point had been resolved. That said, if principles and machinery for decommissioning had been worked up, a reasonable timetable put in

place, and agreement reached on the procedures to be followed if and when Sinn Fein came into the process, then he would be reasonably satisfied. But, he envisaged there would need to be a plenary session at which the DUP and UKUP would push for more ie in the form of a token gesture of decommissioning from Loyalists without mutuality. He asserted that both parties would push very strongly for that.

15. Finally, the Secretary of State said that he would be meeting the DUP later in the day and asked if Trimble would have any objections to the British showing the DUP, if they asked for it, the draft Bill on decommissioning. Trimble confirmed that he had no objection and indeed told the Secretary of State that he had already told Paisley that the UUP had had meetings with British officials and Ministers about the Bill.

16. Immediately after lunch the Secretary of State had a brief meeting with Joe English and John White of the UDP to discuss loyalist prisoners issues. (Recorded separately). After this the SDLP, led by Seamus Mallon, came to a meeting at which they asked for an update on the Secretary of State's perceptions of issues under discussion. In reply, the Secretary of State noted that the UUP and SDLP had been reaching convergence on the agenda for the negotiations. As far as he was concerned, any agreement between the two parties on the agenda, he would not oppose. Responding to a question from Seamus Mallon, the Secretary of State confirmed that the UUP had asked and had been given the opportunity to be taken through the draft legislation of both Governments on decommissioning. He said Trimble was under attack from the DUP and UKUP and from some elements within his own party and was concerned therefore that were Sinn Fein to enter the process, provisions for decommissioning were in place as far as possible. The UUP needed to be sure that both Governments were genuine that something would be ready and waiting. While he did not know what was in their minds, his personal judgement was that the UUP wanted to see the process work and that they were for real. This judgement was not based on evidence beyond reasonable doubt, but on the balance of probability.

17. In response, the SDLP said they were becoming increasingly concerned about the talks. They suspected that the UUP were trying to build up a bar to proceeding further. Each time, the UUP seemed to be raising the ante and they were concerned that the UUP were using the discussions on decommissioning to create a log jam. Mallon reminded the Secretary of State that there were no brilliant points to be won by the SDLP from its constituency for sitting at Castle Buildings while such discussions carried on. They would not hang about indefinitely. Again, the Secretary of State asserted his belief that the UUP were, on balance, wanting the process to work. What the UUP were looking for was a contingent scheme to be debated and agreed upon, perhaps with the contingent appointment of a Commission Chairman so that the sub-Committee could receive expert advice from him, therefore not setting any debate on decommissioning in the abstract. Part of their concern was that any potential to work up a scheme on decommissioning should not await the passage of legislation. Mallon replied that while the committee could proffer opinions, it was unrealistic to put practical elements in place before any legislation had passed through Parliament.

18. The meeting concluded with the Secretary of State saying that he wanted to explore all this further with the UUP and said that a tri-lateral meeting between the two Governments and the UUP would be held later that day. Mallon wished the Secretary of State luck but reminded him that something was required to kickstart the talks. He hoped the UUP took seriously that the SDLP would not sit around until the winter without progress. The SDLP too had very big problems outside.

19. A meeting with the DUP and UKUP immediately followed, at which the Secretary of State was supported by Michael Ancram who had just arrived from London. Dr Paisley began the meeting by saying that he had heard the Government had been busy working on legislation and that the UUP had been shown a draft Bill. So that both his party and the UKUP were not in the dark, he had sought this meeting. Teasing, the Secretary of State said he thought Dr

Paisley's view had been that decommissioning was a matter for the Governments. Paisley responded in the affirmative, but said that he was entitled to know which road the Government was going down.

20. The Secretary of State explained that the Government believed that there should be no illegally held arms. He had long believed on the need for a means to be found to allow for the handover of weapons. Both Governments had drafted legislation to that effect. The UUP had requested that they be shown the legislation and their request had been granted. He confirmed that there was no reason why, if the DUP and UKUP wished to see the draft British Bill, they could not and offered an early meeting with officials on a confidential basis. Dr Paisley thanked the Secretary of State saying that the DUP would take up the offer although he would not be negotiating with the Irish Government. The Secretary of State said that while Cabinet approval for the legislation had not yet been granted, he did not anticipate any problem to prevent a quick introduction of the draft legislation into Parliament.

21. At this point, the meeting became somewhat sour with McCartney turning back to the requirements necessary for Sinn Fein to enter the talks process. An unequivocal restoration of the ceasefire for his party was inadequate. Unless the ceasefire was "permanent" it was not worth any more or any less than the last one. He then proceeded to argue that the British Government had shifted ground from Washington three and accused the Government of being "spineless". The Secretary of State argued that HMG's position was well known. Sinn Fein's entry into the talks required an unequivocal restoration of the ceasefire, the immediate signing up to the Mitchell principles and then the addressing of them. That in effect was the compromise approach offered in the Mitchell report. He suggested there was no point in either party affecting surprise at what had been for some time the British Government's position. The meeting ended rather inconclusively with Michael Ancram urging the DUP to re-read the Mitchell report. The compromise to which the Government was working towards was the

approach where some decommissioning could take place in parallel with substantive negotiations. That was the compromise, not merely "consideration" of the approach. It was agreed that an early meeting would be set up between officials and the DUP to go through the draft Bill, Michael Ancram once again stressing the confidential nature of such a briefing.

22. At 1535 the Irish joined the British Government in preparation for the tri-lateral meeting with the UUP. The Secretary of State reported his belief that the UUP's commitment to the talks process was for real. They had been pleased with both Governments' legislation; they agreed with the amnesty point and had no quarrel with the evidential provisions. They were however anxious not to be seen to be negotiating with nothing in place on decommissioning. He believed the area to focus on was to see whether something could be put in place in parallel with the passage of legislation which could start to give substance to both Governments' intentions. He suggested the sub-Committee could be putting its mind to schemes to be put in place once the legislation eventually was enacted. The UUP had argued that this was impossible without expert advice and, he felt, this could possible be resolved by making available an expert eg the designate chairman of the Commission who might be able to have a role in the deliberations of the Committee. One obvious candidate might be General deChastelain although the Tanaiste registered concerns given the General's existing commitment to chair Strand 2 negotiations. The Secretary of State suggested that deChastelain might not necessarily chair the sub-Committee but be involved in it. Mrs Owen agreed that expert advice might be made available to the sub-Committee, although she believed the Commission was always going to be established after the sub-Committee had been set up and the legislation passed.

23. Turning to the handling of the tri-lateral, the Secretary of State said that he had made clear to Trimble that today's meeting should be exploratory. The Tanaiste agreed that the meeting could be constructive although they needed some reciprocation from the

UUP. Trimble should not underestimate the length the Irish Government already had gone by showing him their draft legislation. The SDLP were very restive; some evidence of commitment was urgently needed. Michael Ancram asserted that it was essential that the door should be left open after that day's trilateral.

24. After both Governments took their places in the Committee room at 1600, word came through to the British side that the UUP had taken cold feet about the trilateral following a meeting they had had with the DUP who had claimed that the British Government were caving in on the need for decommissioning. There concerns were only assuaged after a 10 minute discussion with the Secretary of State and Michael Ancram at which the Secretary of State described the meeting he had held earlier in the day with the DUP and UKUP. Michael Ancram opined that the DUP and UKUP were seeking to scupper the whole process, while the Secretary of State said that if the DUP had claimed to the UUP that any deal had been done with Sinn Fein to allow easy entry into the process, then that was a straight lie. Trimble suggested this was a symptom of the DUP and UKUP both toughening up their position for substantive decommissioning from the loyalists in the absence of Sinn Fein.

25. The tri-lateral meeting eventually began at 1625. The Secretary of State opened the meeting by inviting a view from the UUP of the extent to which the discussions on the respective draft decommissioning Bills had been helpful. The Tanaiste agreed this was a good way of making progress. From day one, he said the Irish Government had endorsed the Mitchell report. His intention was to get the legislation through the Oireachtas as quickly as possible. Because of the importance he attached to the talks process, he hoped that the private showing of the Irish legislation to the UUP was a sign of the Irish Governments good intent and bona fides.

26. Responding, Trimble said that he found the exercise to be very useful believing the legislation to be a good first step. He recognised, however, that the real meat would be contained in the

regulations and the scheme. His concern was not so much related to the technicalities of legislating for a scheme. He hoped however, for this meeting to be clear as to the basic mode of operation of the Commission and what would happen if and when Sinn Fein entered the process. The UUP had worked up their thoughts a little more and had produced a set of questions, which he tabled. He did not expect answers immediately but hoped the two Governments could provide responses to them. (List of questions circulated by Mrs McNally today).

27. The Secretary of State believed that dealing with the questions might be a helpful exercise in that they gave an indication of the areas of interest to the UUP. Equally, it would be helpful if the two Governments could get a view from the UUP of what was required for the launch of the three-stranded negotiations. Trimble said that in the opening plenary, agreement on the agenda for the remainder of the talks and decommissioning remained the only two issues to be resolved. There had been a strong degree of convergence, he reported, with the SDLP on broad headings for an agenda. The real difficulty was how, in plenary, would decommissioning be addressed. He envisaged an "interesting" formal session. He wondered what then could be presented to the other parties on decommissioning.

28. The Tanaiste reminded the UUP that the Mitchell report laid great emphasis on agreement between the parties for a scheme on decommissioning: it was important to get ownership by all participants. Also required was the teasing out of the role of the sub-Committee. The Mitchell report saw that sub-Committee as having expert advice and he believed there may be an opportunity to make available such expertise to the sub-Committee. Trimble agreed that there was a need to look at the function of the sub-Committee, although he repeated his unease about the concept of a fourth strand to discuss decommissioning. The real meat would be endlessly postponed and were Sinn Fein to enter the process without machinery or procedures in place, then the UUP as a party would be wrecked.

29. Mrs Owen suggested that a sub-Committee could actually make much more progress than the UUP believed, although Trimble remained unconvinced believing that early preparations could be made for the establishment of a Commission with even the prospective appointment of individuals. Why could that not be carried out now rather than wait for the passage of legislation. Maginniss, accepting that there might be a constitutional problem in establishing a Commission in advance of the legislation, agreed nonetheless with Trimble that there was little to be gained from moving into a committee that talked in limbo. There needed to be a core commission from which a sub-Committee could draw expertise. The expert advice he believed had to be in context.

30. In a constructive intervention, Dalton said that the Irish Government took seriously the UUP's concerns that the Commission should not be delayed. In an attempt to bridge the gap he suggested that a body of experts could be made available immediately to assist the Committee in its deliberations. Trimble, seemingly wishing to engage, believed that if the Commission were to have a group of experts on it, and if those people could be identified now as forming eventually the actual Commission then the gap between the UUP and the Irish was not he believed too wide.

31. Unhelpfully, and much to the annoyance of his Party leader (and the Irish), Taylor, stern faced, asserted that the real problem was that the Irish had delayed bringing forward their legislation on decommissioning despite commitments earlier in the year and pronounced that there could be no movement on the three strand negotiations until the legislation of both Governments was in place. This prompted the Tanaiste to say that if the UUP's position was as reflected by its deputy leader then everyone could go home. Dalton helpfully tried to turn back the discussion saying that the Irish were genuinely trying to meet UUP's concerns by saying that expertise would be made available to advise the sub-Committee on best practice and on risks. That, in the Irish view, was the way to bridge the gap between the establishment of the Committee and the

passing of the legislation. He hoped the UUP would be able to reflect on that offer. Trimble acknowledged that there was possibly something in this and believed there should now be a time for reflection.

32. The Secretary of State wound up the meeting suggesting that it had been a valuable exchange. More work needed to be done and he suggested further reflection on everyone's part. He welcomed the questions which the UUP had tabled as being germane to the broader issues. Both Governments should consider the questions and at the same time the UUP should consider the views put forward by both Governments with the aim of meeting in similar format early the following week. The Tanaiste agreed to meet again but suggested that definite progress was required at the next meeting. Everyone should seek to work together, not against each other. It was agreed that a further trilateral meeting at Ministerial level should take place the following Monday afternoon with the possibility of an earlier meeting between Irish and British officials and representatives of the UUP some time late on the Friday afternoon. (Now set up for 1600).

(Signed)

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