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From: Peter Smyth
Political Affairs Division
5 November 1996

1. Jackie 71-
2. Jeff
3. PA. 11/11

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&L) - B
Mr Steele - B
Mr Bell - B
Mr Leach - 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 - B
Mr Perry - B
Mr Stephens - 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: MONDAY 4 NOVEMBER 1996

Summary

By ending with a thoughtful and focussed question and answer session, the resumed plenary acquired a positive gloss in its final two-hour session which had been completely absent during the early part of its proceedings. Then, a four-hour session had failed to produce agreement even on such basic matters as how the discussion of decommissioning was to be taken forward; and frustration with what were seen as Unionist delaying tactics was apparent on other sides of the table. The discussion also had the effect of surfacing Irish worries that HMG was resiling from a position of unswerving support for the centrality of the Mitchell principles.

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DetailPreliminary Meeting

2. At the 10.30 morning meeting with officials, Michael Ancram and the Secretary of State indicated that Senator Mitchell was looking for guidance on how the debate on decommissioning in that day's plenary might best be structured. It was agreed that it was possible to envisage a two-stage debate, where initially the participants could ask questions and seek clarification of the other parties, followed by a more general debate on broad principles of decommissioning, drawing together any areas of agreement which might emerge in the course of the initial stage. Recognising that there was some anxiety among Irish Ministers about facing up to cross-examination from McCartney, it was agreed that the best protection lay in allowing each party to decide the manner in which it wished to respond to questions. Putting a time limit on debate, or insisting on written questions in advance would probably prove counter-productive. There was also a danger that the Loyalist parties, who wished to preserve their freedom for manoeuvre, would not relish being put under pressure by McCartney.

3. A brief discussion also took place of the best means of getting the Unionists to sign on to the idea of an independent commission to handle decommissioning. While this appeared to meet Unionist objections about decommissioning getting bogged down in a sub-committee of the plenary, where the issue would be subject to an Irish and SDLP veto on progress, it was recognised that they might need more clarity on the details of the scheme, and particularly a firm date for the commencement of decommissioning, before they could agree to it. It was also noted that the idea of the independent commission had implications for the Decommissioning Bill, which had not been drafted with this body in mind. It was agreed to have a bilateral with the UUP on Tuesday morning, with a view to taking initial soundings with them on the proposal.

Alliance Party

4. At noon an Alliance Party delegation (Messrs Close, McBride, Neeson, and one other) met the Secretary of State and Michael Ancram. The delegation suggested that, with regards to progressing decommissioning, a commission which was demonstrably independent of the Talks process was their preferred option. If such a body could be created and names suggested for it, it might provide the Unionists with the reassurance they needed to abandon the committee concept.

5. Discussion then focussed on the conditions under which Sinn Fein might enter the Talks process. The Secretary of State explained that, if it appeared that a re-statement of HMG's position might be helpful (provided that it amounted only to different wording, rather than a change in position) then it would be irresponsible of the Government not to explore the possibility. The Irish - and particularly the Tanaiste - seemed fixated with the idea of getting Sinn Fein into the political process without paying too much attention to testing their true commitment to peace. The Secretary of State referred briefly to Irish proposals to bring Sinn Fein into talks at an early stage, by giving them second-class status for an initial period. The Secretary of State admitted to being unclear about whether the Entry to Negotiations Act taken in conjunction with paragraph 8 of Groundrules, would actually permit this. In any case, he suspected that Unionists and possibly even Alliance would walk out of Talks under those circumstances. Mr McBride expressed the delegation's appreciation of the limited scope the Government had for manoeuvre in these matters.

Independent Chairmen and Irish Delegation

6. At a 12.30 meeting, Senator Mitchell explained that he had been debating two possible ways of organising the debate for the next three days. He wondered whether it would be possible to ask for written questions on the submissions which had already been made and have a general exchange based around the answers to those questions;

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or whether to give approximately two hours debating time to each party and have them use it as they saw fit. Michael Ancram suggested that the main difficulty to be addressed was how to prevent McCartney from putting other parties in the dock - particularly the Loyalists. He suggested that it might be possible to structure the debate so that the first part of it concerned clarification of issues, with a proviso that it was up to the party to whom questions were addressed to decide how and in what way answers might best be provided. This could be following by a general debate on the proposals which had already been tabled including the Mitchell Report itself.

7. The Chairman said he was attracted to this, and wondered if the debate that today could be devoted to clarification, leaving Tuesday and Wednesday for the broader debate on the proposals which had been put forward. The Secretary of State and Mrs Owen agreed that it was important that the two Governments were not put in a position where they were expected to give instant answers. Such a tactic would undoubtedly be used by McCartney to open up chinks in the positions of the two Governments. It would also set an unfortunate precedent for treating the discussion of important issues. The Chairman said that he proposed to make an initial statement along the lines which has been suggested. This would avoid the Government actively seeking protection from the Chair after McCartney's interrogation was underway. The distinction between clarification and discussion of proposals might be difficult to maintain at all stages, and he doubted if it would be possible to exclude discussion of terms of entry for Sinn Fein. However, as a strategy for organising the debate it seemed better than any of the alternatives.

Plenary (i)

8. The plenary session reconvened at 1.00 pm. The Chairman outlined his proposal for taking forward the decommissioning debate. Mr Wilson formally moved that the Business Committee should

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meet immediately to discuss the appropriate structure for the debate. Dr Paisley pointed out that, in his view, it was absolutely essential for a means to be devised whereby the various proposals brought forward should be subjected to some form of determination. Recent developments outside the Talks - specifically the possibility of the new Hume/Adams agreement - confirmed his suspicions that both Governments were trying to bring Sinn Fein into the political process without sufficient regard for testing the credibility of an IRA ceasefire. In response to this Mr Hume clarified his personal position, using lines he already had deployed in public - his contacts with Adams were overt, had been continuing for some considerable time, but were not designed to produce any secret deal. For the record, Mr Mallon put forward his view that the Business Committee should not be convened until there was business in the three-stranded talks to be arranged.

9. Mr Wilson voiced the concerns of the UKUP at reports of recent political developments. He asked the Chairman for confirmation that there had been no contact between his office and Sinn Fein at the behest of the two Governments. The Chairman was happy to give this assurance, and a further assurance that the confidentiality provisions governing Talks business had not been breached. These guarantees he extended to his staff as well.

10. Mr Empey queried Mr Mallon's interpretation of the proper role of the Business Committee. He agreed with Mr Hume that recent news about a potential Hume/Adams agreement represented information which had been in the public domain for some time. He felt, however, that the forthcoming debate might well be extended to give consideration to the role of the Secretary of State in issuing invitations to Sinn Fein to join the political process; and he supported the Paisley point about the debate being structured in such a way that it reached some kind of determination on the various proposals being brought forward.

11. The Secretary of State formally endorsed the position as outlined by Mr Hume. The position of HMG vis a vis Sinn Fein entry into political dialogue was clearly on the record, and for the avoidance of misunderstanding, he could categorically reassure the delegates that there were no secret negotiations currently taking place with that Party. If, however, the prospects for a sustainable ceasefire would be enhanced by a re-statement of the Government's position, then it would be irresponsible not to explore that possibility: but it would be a re-statement of the existing position, not a change of policy.

12. Without providing any details, Dr Paisley expressed doubts as to this statement of the Government's position. He repeated his belief that there was no point in debating decommissioning if the two Governments were cutting a secret deal with Sinn Fein. There could be a need for a full debate on the conditions under which Sinn Fein would be brought into the political process, in order to remove Unionist suspicions. He saw no reason why the Business Committee should not be involved in structuring the decommissioning debate. (Mr Neeson and Mr Smyth both put down markers that they saw any such use of the Business Committee as being unhelpful). Michael Ancram wondered if it would give focus to the debate if the various parties were to produce papers setting out their own thoughts on what they saw as the essential principles of decommissioning. Mr McCartney, then just entering the debate, sounded an apocalyptic note - the UKUP would not stay in the Talks if Sinn Fein were brought in under ceasefire terms with which he did not agree. The Chairman then adjourned proceedings until 3.00 pm.

Plenary (ii)

13. The plenary reconvened at 3.00 pm. Dr Paisley introduced proposals for a four-stage debate on decommissioning - an overall presentation of views and proposals for determining the principles upon which decommissioning could be effected; written submissions and comments on those proposals; discussion in plenary of the proposals, with explanations and clarification from the parties; and

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finally a determination by vote of the proposals of each party. Mr McCartney, although slightly wrong-footed non-plussed by the unavailability of his own Party's written submission, supported this suggested means of proceeding. He put down a marker that he intended to challenge the validity of paragraphs 34 and 35 of the Mitchell Report, which presented parallel decommissioning as a workable compromise. In his view, the advocates of prior decommissioning are democrats, whereas the supporters of violence have a fundamentally different point of departure. The idea that the compromise suggested by the Mitchell Report split the difference between the two sides was fundamentally flawed. The Chairman thereupon adjourned the session briefly in order to give the participants time to consider the paper brought forward by Dr Paisley.

Plenary (iii)

14. The session resumed at 3.40 pm. A debate then ensued in which the SDLP, with support from Alliance, contended that the joint DUP/UKUP paper represented a departure from the agenda agreed on 15 October by sufficient consensus. In their analysis, Unionist demands for a discussion on the principles of decommissioning were a stalling device designed to avoid making progress on the political front. The Chairman, supported by Michael Ancram, was of the view that little of the DUP/UKUP paper was contrary to the spirit of the agenda of 15 October, although the fourth proposal - a vote on the decommissioning proposals of each party - might be problematic.

15. Protracted discussion then took place about how the present debate was to be interpreted in the light of paragraph 2 of the agenda of 15 October. There was general agreement that agenda item 2(a) - discussion of proposals - presented no conflict; but items 2(b) - commitment by participants to work constructively to implement agreements on decommissioning, and 2(c) - consideration of, and agreement on mechanisms - provoked a theological debate on whether they committed participants to implementing agreements

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before their full implications had been assessed. This was summed up in a long exchange between Messrs Empey and Mallon, where the former insisted that all points of view had to be explored in an attempt to reach some kind of agreement on decommissioning, and the latter insisting that this represented an attempt by Unionists to depart from the principles of the Mitchell Report.

16. At 5.25 pm the Chairman called an adjournment until 6.15 pm. After four hours of discussion about how the debate might be taken forward, he felt it reasonable to assume from the exchanges which had taken place, that there was enough common ground to assume that a determination of the discussion would prove possible. If it proved impossible to reach a consensus view, then he assumed there would be no objection to using the agreed method of determining what level of consensus in fact existed.

Meeting with Irish delegation

17. Immediately following this, Minister Owen and Irish officials came to Michael Ancram's room to register their unease that HMG appeared to be moving away from the agreed position of complete and unequivocal support for the principles contained in the Mitchell Report. Reference was made to the fourth tiret in the suggested conclusions reached by the two Governments late last month - the agreement "to work constructively and in good faith to secure the implementation of all aspects of the report of the International Body". The Irish feeling was that some of the British comments made in the course of the preceding discussions appeared to indicate a willingness to depart from this formula, and to consider alternative proposals put forward by the Unionists. In particular, it was felt that the Unionists were trying to introduce a new decommissioning principle - the terms on which Sinn Fein would gain admission to the Talks. Any move away from the centrality of the Mitchell Report carried with it the danger that cracks would open between the two Governments. Departure from the position as agreed on 6 June could potentially be fatal.

18. Michael Ancram pointed out that, given the open agenda which had been agreed for the Talks, it was impossible to prevent the participants from raising alternative points of view. Any attempt to foreclose debate in the way suggested would be completely counter-productive. For what it was worth, he did not anticipate that any workable alternatives to the principles outlined in the Mitchell Report would be forthcoming, but he thought it would be highly dangerous to make any attempt to curtail the scope of debate. Mr Thomas suggested that the hope of both Governments remained that under agenda item 2(b) a commitment to the Mitchell Principles would emerge, but that result could not be guaranteed in advance. In that context, he had to point out that the Irish equivocation of what precisely was meant by "considering" decommissioning was unlikely to prove helpful in the attempt to get the Unionists to sign up to Mitchell.

19. The meeting ended at 6.15 pm with the Irish apparently reassured that HMG was not going to resile from its commitment on the Mitchell Report, but still worried about the Unionists being given too much latitude. It remained a concern that the language of agenda paragraph 2(b) would allow the Unionists too much flexibility and allow them to avoid signing up to the recommendations of the Mitchell Report. Mr O'hUiginn suggested that the two Governments should make it clear their reluctance to consider any alternatives to Mitchell. Michael Ancram made no comment.

Plenary (iv)

20. When plenary reconvened at 6.15 pm, the Chairman suggested that an open discussion should take place forthwith with any final decision on a structure for the ending of the debate being deferred until the following day. He invited any party to direct questions to any of the other participants. An embarrassing period of silence resulted, before Mr Maginnis directed a series of questions to Mrs Owen. The substance of these was that the Irish Government was dragging its feet on decommissioning. The fact that Dublin was

passing only enabling legislation, and that the Minister could not give precise details of the timescale for appointing the proposed Commission, or give details of its membership and the work that it might undertake, was interpreted by Mr Maginnis as an abdication of responsibility. The failure of the Minister to accept that a Commission designate and Chairman designate should be set up in anticipation of developments in the Talks was taken as a further evidence of a fatal lack of commitment. Mrs Owen pointed out that the two Governments were obliged in implementing the Mitchell Report to consult with the other parties about the practical details. The implications of Mr Maginnis' line of questioning were that the UUP wished to dissociate itself from that process.

21. Mr McCartney then asked Michael Ancram if HMG endorsed the full implementation of the Mitchell Report. The Minister replied in the affirmative, and stated that he supported the line taken by Mrs Owen, to the effect that a substantial body of work remained to be done before the proposed Commission could actually be set up.

Mr McCartney reprimanded him for answering a simple question with an answer which was too elaborate and too long. The Minister suggested that, in the light of Mr McCartney's 4½ hour initial statement on decommissioning, an answer of just over a minute's duration did not seem excessive. Mr McCartney replied that there was no correlation between the statement of a party spokesman on decommissioning at the start of an important debate, and the answer by a Government Minister to a direct question. The Minister pointed out that both he and Mr McCartney were engaged in a discussion of decommissioning, not the proceedings of court of law. In the circumstances, he reserved the right to answer questions put to him in the manner he felt to be most appropriate. This was greeted with applause from other participants. Mr McCartney then formally announced to the Chair that he had no further questions, and left the Chamber.

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22. Mr Donaldson then directed a series of questions to Mrs Owen. Among the subjects raised were the possibility of decommissioning being addressed in the full plenary, rather than in a sub-committee; the Dublin Government view of the terms and conditions under which Sinn Fein should be allowed access to the political process; and the possibility of covert linkage between progress in the Talks and the passage of decommissioning legislation in the Dail. Mrs Owen replied to all of these with standard and agreed lines.

23. Mr Robinson then took up the cudgels with questions directed to the Secretary of State. This covered something of the same ground, focussing particularly on the means by which HMG would assess the reliability of any IRA ceasefire. He probed in particular the scope allowed to the Secretary of State under the Entry to Negotiations Act. He, too, referred to Unionist anxieties about the ability of the Nationalist bloc to stifle progress in a decommissioning sub-committee; and was anxious to establish precisely how the two Governments would choose to measure progress on parallel decommissioning - would it be within a specified time frame, or by reference to specified developments? Both the Secretary of State and Mrs Owen responded that, while incremental deliveries of arms could be a very positive factor in helping to create a climate of political confidence, it would be for the Commission itself to judge in the light of all the relevant circumstances at the time which developments would be particularly appropriate. Being prescriptive in advance would not be helpful.

24. At 10.00 pm the Chairman adjourned the plenary until 10.00 am on Tuesday morning.

(Signed)

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