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Meeting of Taoiseach and Tanaiste with Jim Molyneaux, MP and Ken Maginnis, MP on Sunday, 5th February, 1995.

The meeting, in Mr. Maginnis' home, lasted about 2 1/2 hours.

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At the outset, Mr. Molyneaux outlined how he had been consulted about the Downing Street Declaration, so that its language and concepts would be understood in Northern Ireland. A similar offer of discussion was made on the Framework by Mayhew, but when Mr. Molyneaux turned up for the meeting in early December, he was told that a document as such did not exist - just bits of paper with lots of square brackets - and he could not be shown it. At a later stage (January ?), he was offered sight of the document, but declined because it was "too late".

Both he, and Mr. Maginnis, spoke of the damage done by the "Times" leak and of how people had taken positions against the language used in those pieces of the Framework. They wondered if a different, simpler or less elaborate, document could be produced.

The Tanaiste and I pointed out that the merits for Unionists of the document, in its current form, were that it

(1) contained language, to which Fianna Fáil were committed, on changing Articles 2 and 3

(2) in effect, reaffirmed Northern Ireland's position in the UK.

Mr. Molyneaux countered that he did not have much concern about Articles 2 and 3. They were just antique landmarks, which reassured some people, but which had no practical effect. He said that his party had not been making an issue of them for some time.

He said that he thought that Northern Ireland's position in the U.K. was already guaranteed in previous documents to which the Irish Government had agreed.

Mr. Molyneaux made two suggestions for defusing problems associated with the launch of the Framework document. These were

- (1) that John Major might brief together the four leaders of "constitutional parties" in Northern Ireland on the day before the launch, giving them copies of the document, or
- (2) that the leaders might be shown the document somewhat earlier, but not given copies to take away.

He felt that Dr. Paisley would leak anything he was given.

He spoke, in another context, of how he had been able to work well with John Hume. There was none of the anti-Hume animosity that most of the Unionists display in private conversation.

As the conversation developed, we gradually focussed in on the aspect of the document that causes Unionists greatest worry - the source of power of the cross border institutions and the method of their establishment. Mr. Molyneaux also expressed concern at the "default mechanism".

On the latter point, he felt that the Secretary of State, by his control over funds, could prevent the Assembly from behaving unreasonably, without any formal

inter-Governmental default mechanism. We did not comment specifically on this.

On the former point - the North/South bodies - he suggested that the following formula might be used

"Following a scheme (for cross-border bodies) being agreed within the Northern Ireland Assembly, the two sovereign Governments will legislate to bring them into operation".

He expressed worry about the Assembly being placed in a "cage" of pre-agreed cross border bodies. This, he implied, would be anti-democratic.

He said that if, in all party talks, certain cross border bodies had been agreed to, the parties in the subsequent Assembly would be in honour bound to agree to those bodies. He felt that members of the Assembly, which could be dissolved if they failed to fulfil their commitments on this matter, would also be under severe pressure to fulfil solemn undertakings given by their parties in the previous 'talks' phase.

We replied that this scenario did not cover the issue of when the dual referenda would take place. People in the Republic would not vote to change Articles 2 and 3 on the basis of "undertakings", however firm or sincere, of how Unionists might subsequently behave in an Assembly. Northern Nationalists would also insist on something more solid than that.

After Jim Moylneaux left, Ken Maginnis suggested that a provisional assembly might be elected first - to set up the pre-agreed cross border bodies. It would have a short life span, and its life would only be prolonged if it fulfilled the previously agreed inter-party undertakings to sanction or confirm the agreed cross-border bodies.

The atmosphere at the meeting was very friendly and forthcoming throughout.

Comment

The Unionists feel the role of the Assembly is vital in the process of setting up cross border bodies. As this is a Strand One matter, the Irish Government has had no function in it. It seems to me to be important that we seek some input at this stage.

It is clear that the two Governments must agree a timetable of events, or a critical path, to follow forwards from the publication of the framework, or backwards from the full implementation of the full agreement. The lack of such a timetable or critical path makes it difficult to answer quite simple questions.

The key problem seems to be that a change in Articles 2 and 3 will not be agreed unless everything is tied down, with no going back. Conversely, Unionists believe that a "cage", agreed first between Governments over their heads, is a denial of their democratic rights.

The solution may be to have two referenda, at different times.

The first referendum, in both North and South, would endorse the package agreed. It would not be a constitutional referendum. It would be opinionative.

After the first referendum, all the enabling legislation would then be passed by the Dáil, Westminster and the Assembly. The cross border institutions would be legally established, with only a ministerial order necessary to bring them into effect.

At this stage a second referendum in the Republic would take place. This one would change Articles 2 and 3. If that was passed, the cross border institutions, would then be brought into effect by ministerial order.

John Bruton