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Private Inter-Party Talks in Belfast

1. This report is based on conversations with the SDLP negotiators Messrs. Hume, Currie and Devlin whom I saw in Belfast on 21/22 August, in Dublin on 25 August and with whom I have subsequently spoken on the telephone.
2. Both the UUUC and the SDLP have privately concluded that there is no possibility of bridging the gap between their respective positions on the power-sharing issue. This conclusion was arrived at on 20 August following relatively brief discussions on that day and the previous day. Both sides did agree that they should proceed with exchanges of documentation and indeed the Convention Chairman also intervened to make suggestions and put forward his own documents as possible basis for further discussion. It would be unrealistic, however, to assess the discussions now taking place other than in the context that those most directly involved do not expect them to succeed.
3. At the SDLP/UUUC talks on 26 August, the UUUC gave the SDLP a paper, a copy of which is attached as appendix I. (This should be regarded as particularly confidential since both sides agreed not even to take one another's documents away from the meeting.) At a meeting to be held to-day in Belfast, the SDLP will hand over their comments on the UUUC paper. (This is attached as appendix 2. It was drafted mainly by Mr. Donal Barrington, S.C. in consultation with the SDLP negotiators.) They will also put on the table their own detailed proposals, as outlined to the Government at the meeting on 14 August. The document containing the proposals is essentially that provided by the Attorney General ("Outline for Proposals for Inter-

Community Government in NI") with the addition of a separate section proposing the incorporation of the European Convention of Human Rights into the domestic law of Northern Ireland.

Seán Donlon

27 August 1975

Appendix 1

UUUC POLICY POSITION

1. The UUUC emphatically rejects any system of Executive government that is in essence an imposed or compulsory coalition of political parties or elected representatives. Furthermore the UUUC would oppose any such system of government no matter how it is arrived at.
2. The UUUC believes that it is fundamental to democratic government
 - (a) that it is elected to carry out policies submitted to the electorate and to fulfill commitments of an ideological nature and of a general political intent;
 - (b) the electorate must always be in a position to both endorse and reject;
 - (c) government must always be united on policy and general intent and the executive be collectively responsible for all decisions;
 - (d) the Prime Minister or head of government must always be in a position to hire or fire subject only to his ability to maintain a majority in Parliament;
 - (e) the government is ultimately answerable to the people but in its legislative proposals and day to day administration it is vital that the government be effectively answerable to Parliament;
 - (f) accountability in any meaningful and responsible sense depends on powerful parliamentary opposition;
 - (g) it is desirable that all sections of the people identify with the institutions of the State but not at the price of giving any section a guaranteed position in government; and
 - (h) the parliamentary system should seek in every practical way to safeguard minority interests and that such interests should be meaningfully represented and call into account any action that might be deemed unfair or unjust to them.
3. The UUUC believe that the British Parliamentary system provides not only for effective government but for effective and powerful opposition. It is capable of further development to strengthen the position of opposition generally and more particularly, minority parties. The United Kingdom Parliament has developed the role and position of the Leader of the Opposition and has lately sought to aid the effectiveness of all political parties in Parliament. UUUC proposals for powerful scrutiny and investigatory Parliamentary Committees would significantly strengthen Parliament in its relationship with government, particularly increasing the power of the Opposition. The watchdog powers of such Committees would in addition be an important safeguard for minority interests.
4. It is envisaged that there would be a Committee covering each important department of government. It is proposed that each committee would have equal representation from Government and Opposition supporters. The value of the Committee depends to a large extent on their effectiveness. The demands on Members of Parliament would be very heavy. It is considered necessary that the Chairman should give virtually his full time to the job and would have to be provided with an office and suitable staff. The Chairman's remuneration would need to be on a Ministerial scale, whilst members of Committee would receive additional remuneration by way of attendance fees.

5. The powers of the Committee to scrutiny would be extensive either through sending for persons or papers. The Committee would be able to conduct enquiries and public hearings on appropriate matters. Legislation would have its first reading in the Committee when the principle of the Bill could be challenged. A public hearing procedure could be adopted. The second reading would be on the floor of the House with a Committee Stage bringing it back to the Committee. The Committee would have access to appropriate expertise and research.
6. The Chairmanship of the Committees is a critical factor. The UUUC believe that the role of the Opposition entitles opposition parties to a favoured position in the selection of Chairmen. The UUUC believes that in certain sensitive areas Opposition parties have a special claim to the Chairmanship. The position of the Chairman vis-a-vis the government and the exchange of information might be helped by a Privy Council status.
7. Law and Order will be a function of critical importance particularly in times of Emergency. Special Powers to deal with an emergency would be dependent on the Declaration of a State of Emergency. A special Committee would exist for such a situation, both in respect of the declaration and acts of government following the declaration.
The Chairmanship of such a Committee would be for an Opposition member.

8. Coalition Government:

The UUUC believes that a multi-party government can come into existence in three ways:

- (i) By agreement between Parties before an election and obtains approval from the electorate.
- (ii) Where the largest Party in Parliament has not an overall majority and needs to obtain it by agreement with another Party. At best this can only be a short term government.
- (iii) Where an emergency or crisis situation exists and parties by agreement come together in the national interest for the duration of the crisis.

Comments of the SDLP on the UUUC Policy Document dated
26th August 1975

1. The SDLP does not see the relevance of Points 1, 2 and 3 in the UUUC document to the matters on which this Convention is asked to report to Parliament. As the SDLP understands it, the task of this Convention is to work out, within certain parameters laid down by Parliament, what provision for the government of Northern Ireland is likely to command the most widespread acceptance throughout the community here.

These parameters are set out in Paragraphs 44 - 49 of the White Paper of July 1974. The over-riding parameter, according to the Secretary of State, is power-sharing in government. In his statement in the British Parliament proposing the Constitutional Convention for Northern Ireland he stated:

"There is an over-riding need that both communities in Northern must participate in government by a sharing of power".

(Hansard 4th July 1974, cols. 611).

This sentiment commands the support of the leaders of all political parties at Westminster. Indeed, the Secretary of State said, referring to the White Paper, -:

"What we have sought to put down are the parameters of the situation which those who are elected should consider when submitting a scheme to this House". (Hansard 4th July 1975, col. 616)

The Secretary of State went further when, referring to paragraph 45 of the White Paper, he said:

"We have firmly set out the parameters there. To be fair to the Leader of the Opposition these parameters arose from the

legislation and the White Papers of his administration. We do not depart from them; they are important and must be taken into account - especially by people who aspire to be citizens of the United Kingdom".

These we take to be the terms of reference for this Convention.

2. Apart from the foregoing it appears to us that the UUUC policy document misses three significant aspects of the British tradition and Parliamentary system. These are -

- (a) the Swing of the Pendulum, which means that the Opposition of to-day can expect to be the Government of to-morrow.
- (b) a tradition of empiricism which ensures that the system is constantly adapted to meet the changing needs of society.
- (c) a tradition of compromise which means that the political parties attempt constantly to find political accommodations.

3. The Swing of the Pendulum never applied in Northern Ireland which meant that one party was permanently in power and the other permanently excluded. This is specifically recognized in Paragraph 45, sub-paragraph (a) of the White Paper which reads as follows:

"History has caused divisions within the Northern Ireland community. Events of the past few years have amply demonstrated that no part of that community can, let alone should, be coerced into accepting the other's view. Events have also shown that a consensus can be obtained on the basis of

serving the interests of the whole community. There must be some form of power-sharing and partnership because no political system will survive or be supported, unless there is widespread acceptance of it within the community. There must be participation by the whole community".

The SDLP accepts the principles set out in the passage quoted. The task is to apply the traditional empiricism and capacity for compromise of British politics to the unique problem presented by Northern Ireland.

4. In so far as the traditional Westminster model of Her Majesty's Government and Her Majesty's Opposition is to be applied to Northern Ireland it must be modified to suit the peculiar needs of the people of Northern Ireland and to bridge the traditional political and sectarian divide. The Westminster model applied to the Northern Ireland situation tended to institutionalise the divisions in Northern Ireland society.

The principle of power-sharing applied to the present situation in Northern Ireland requires that all parties with significant representation in the Northern Ireland Parliament will share in government. This means that the Opposition to government will not manifest itself in the way in which it has manifested itself in the past. This does not mean, however, that parliamentary control of the administration will be less effective than in the past. If the leaders of all political parties are in the power-sharing executive the individual back-benchers of all parties will necessarily become more independent and, in time, more critical of the administration. Moreover, that criticism will tend to be directed to the merits or demerits of particular administrative decisions and to be related to the facts that gave rise to that decision, rather than to the political complexion of the party in power or in opposition. In this way parliamentary control of the

administration may become more effective and respected. There may be a problem about how to keep back-benchers informed about the intricacies of administrative decisions in order to ensure that their criticism is constructive and effective. In this context the committee system suggested by the UUUC at points no. 4, 5, 6 and 7 may have an important role to play.

5. The absence of a formal opposition of the traditional type is not a valid objection to power-sharing. Where all parties are intended to share in power it is a necessary consequence. To oppose power-sharing therefore because it may alter or even eliminate the traditional role of the parliamentary opposition is to reject the concept of power-sharing itself.

The formation of a power-sharing executive, however, need not necessarily involve the elimination of the opposition. One party may prefer not to join the executive. Alternatively, with the passage of time, a political party may arise which considers the administration too progressive or too conservative. Such a party might come, in time, to fill the rôle traditionally allotted to the opposition under the British system. But such a party would arise from the social and economic problems of N.I. and it would have the prospect, in time of forming a Government. It would therefore be entirely different from the kind of permanent opposition which has existed in N.I. in the past and which has merely reflected the views of a political and religious minority permanently excluded from power. If such a development were to take place the conditions which have created the present problem would no longer exist. The SDLP regards power-sharing as essential for the purpose of bridging the political and sectarian divide in N.I. society. If, however, this division were healed and a healthy community established, the conditions which now make power-sharing essential would no longer exist. This is one of the reasons why the positive proposals being put forward by the SDLP

are for a limited period only.

6. As previously indicated, the SDLP considers the points made at paragraphs 4, 5, 6 and 7 of the UUUC policy document positive and constructive. It thinks that they warrant further investigation. We would like to make clear however, that the committee system described in the UUUC document is an aspect of parliamentary control of the administration but has nothing to do with the sharing of power in the executive itself.

7. The SDLP is interested in the comments made in the UUUC policy document at point number 8 under the heading "Coalition Government" and would be grateful if this aspect of the document could be expanded. In particular, the SDLP is interested in the reference to an "emergency or crisis situation", and would welcome more information as to UUUC thinking on this point. The SDLP is very conscious of the emergency and crisis which exists in N.I. at the present time and is open to all suggestions as to how this might be surmounted in the interests of all the people of N.I.

8. The SDLP is putting forward its own positive proposals in a separate document.

Belfast

27 August 1975