

4/42

CONFERENCE ON THE GOVERNMENT OF NORTHERN IRELAND

Thirty-third and thirty-fourth Sessions: Monday morning and Afternoon, 24 March 1980.

Present:

OFFICIAL DELEGATION

Secretary of State
Mr Stowe
Mr Bell
Mr Marshall
Mr Wyatt
Mr Chesterton

ALLIANCE

Mr Napier
Mr Cushnahan
Mr Cook
Mr Boyd
Mr Cousins
Mr Kinahan
Mr Loretto

SDLP

Mr Mallon
Mr Currie
Mr McGrady
Mr Canavan
Mr O'Donoghue
Mr Feely*
Dr Hendron**
Mr Logue**

UDUP

Dr Paisley
Mr Allister
Mr Robinson
Mr McClure
Mr Calvert
Mr Proctor

SECRETARIAT

Mr Moriarty
Mr Coulson
Miss Ireland**

NOTE-TAKERS

Mr Beggs)
Rev W Beattie) UDUP
Mr Maguire)
Mr Close*) Alliance

* am only
** pm only

Thirty-fourth session: Monday morning

Item 13 - Acceptability of Proposals

1. The Secretary of State invited Mr Napier to open the discussion. Mr Napier said that the Alliance party took as their starting point paragraph 5.2 of the Working Paper, which stated that any proposals had to be broadly acceptable to both sides of the community as well as the Government. Clearly no proposals would be acceptable to the minority which did not involve real participation in the government of the Province, just as no proposals would be acceptable to the majority which appeared to threaten or undermine the constitutional position of the Province as part of the UK. In his view the question of testing acceptability remained hypothetical until a set of proposals had been formulated. However, if proposals could be agreed by the parties to the Conference and the Government he would see some advantage in a

CONFIDENTIAL

referendum as a suitable mechanism for determining the breadth of the proposals' acceptability in the Province. Clearly a simple and narrow margin of assent from the electorate would not be sufficient support if any administration which was formed on the basis of the proposals was to survive.

2. In reply to questions by the Secretary of State and Dr Paisley, Mr Napier said that he drew a distinction between the passive concept of 'accepting' proposals and the more active concept of 'supporting' them; a referendum tested the latter, but in the NI context it was most important to know how far proposals were accepted by the electorate, and how broadly in each community. As to the timing of a referendum, Mr Napier felt that it could not reasonably be held until the proposals had been firmed up; ie when they were embodied in a Bill, or even later - (cf the Scottish and Welsh referenda, which were based on final Acts and were a "trigger" to bring the Acts into force). In response to further questions by Dr Paisley, Mr Napier said that in his view Direct Rule was not a suitable long term option for governing NI. In this, as in the timing of a referendum, he agreed with Dr Paisley.

3. Mr Mallon questioned a casual remark by Mr Napier to the effect that those abstaining from a referendum generally did so out of apathy and could not be taken as disagreeing with the proposition; in his view abstention had long been a form of 'protest' in NI. He also wondered why Mr Napier took the view that a 51% margin was insufficient to indicate broad support for a proposition when this was the proposition required to secure the constitutional future of the Province at the Border Polls. Mr Napier replied that a deliberate campaign to secure abstention would invalidate his assumption. But in the absence of such a campaign it was

CONFIDENTIAL

reasonable to suppose that those who strongly opposed a proposition would vote accordingly as would those who supported it; those who had no preference or were too apathetic to vote could hardly be assumed to be opposed to the proposition. As to the Border Poll, Mr Napier asserted that there was a wide difference between choosing a new constitution and deciding whether or not to maintain the status quo.

4. Mr Robinson asked whether Mr Napier had considered a multiple choice of questions (on lines of product testing) or a qualified majority (such as the 40% of the electorate which had been required in the referenda on devolved administration in Scotland and Wales). Mr Napier replied that product testing started with relatively simple questions and then proceeded to pursue a series of optional questions to determine the views of the subject; this was not practicable in a referendum. He did not see how an arbitrary threshold of 'yes' votes could be used to determine breadth of acceptability or depth of support.
5. After a short break at 11.30 am, Mr Mallon spoke briefly on this item. He said that the SDLP did not believe that it was possible to decide how to test the acceptability of proposals for a developed government until those proposals had been clarified. The testing of acceptability was a technically complex and multi-faceted problem. It would be necessary to seek broad agreement to a complete package of measures which would not only establish new institutions but would also establish the environment in which these institutions could flourish. This 'environment' could only be established by agreement between all the interested parties which, in the SDLP's view, were HMG, both sides of the community in NI and the government of the Republic. In response to probing by the Secretary of State about the SDLP's view of the Republic's interest in the institutions of NI, Mr Mallon said that

CONFIDENTIAL

the SDLP's precise views would be put forward when the form of the proposals became clear; however, it was clear that he envisaged that no package of proposals could be expected to succeed in NI without the active support of the Republic's Government. The Irish context of a constitution settlement was, he said, something positive, a necessary buttress of any agreed administration in NI. In his view the acid test of the people's choice would be demonstrated when they voted for the new administration in NI, not at any preliminary 'tests' or referenda. Mr Napier returned to this point by asking what effect if any would the disapproval of the Republic's Government have upon a new administration in NI which had the broad approval of both sides of the NI community and HMG. Mr Mallon hedged this question by saying that there could be no long term solution without the support of the two Sovereign governments. Dr Paisley retorted that any solution which had the seal of approval of the Republic's Government - which claimed sovereignty in the North - would be totally unacceptable to the majority in the North.

6. The Secretary of State then asked the SDLP how they envisaged the acceptability of proposals could be tested? Mr Mallon said that the mode of test would depend upon the nature of the proposals in some circumstances, if the choice was easily defined and could be answered by a 'Yes' or 'No', a referendum might be acceptable. But if the question were more complex, a referendum might not be so suitable a mechanism for teasing out the views of the electorate. In Mr Grady's view the quadripartite nature of the problem meant that agreement should be reached with the Republic before proposals could be put to Cabinet, Parliament or the people of NI. Dr Paisley on the other hand could see no advantage in this. In his view the Republic's Government had a clear duty to assist and support a friendly neighbouring state against armed subversion,

~~CONFIDENTIAL~~

and the internal arrangements for governing that state should have no bearing upon that support. In his view it was HMG's duty to put forward proposals; the electorate would then decide whether or not these proposals should be adopted; it would then fall to the politicians of Northern Ireland - whether or not they agreed with all the proposals - to operate them.

7. On this note the Secretary of State adjourned the Conference for lunch.

Thirty-Fourth Session: Monday afternoon

Item 13 Acceptability of Proposals (continued)

8. The Secretary of State re-convened the Conference at 2.35 pm and invited Mr Allister to put forward the UDUP's proposals on this agenda item.
9. Mr Alister said that HMG should be now have learnt the lesson of 1974 in that any agreement reached at the Conference would be useless without agreement of the people of Northern Ireland. The UDUP considered that a referendum should be held before any system was implemented and further considered that, as with Scotland and Wales, the Act of Parliament itself should be put to the people in a referendum rather than any less final proposal. However, the UDUP were adamant that the test of acceptability in Scotland and Wales, ie. 40% of the electorate, should not be applied in Northern Ireland. While they agreed that more than a simple majority was needed, they felt that abstention should not be allowed to count as a vote against. The opinions of the people of Northern Ireland should be measured only in terms of the votes cast. The UDUP estimated that, were consitiutional proposals to be put in a referendum, the probable turnout would be approximately 70% of the electorate. The UDUP considered that a realistic figure to aim for would be the consent of

~~CONFIDENTIAL~~

60% of those voting (ie. about 40% of the total electorate). Given that the UUP were anti-devolution, and that the UUUC never gained more than 58% of the vote, the figure of 60% would require cross-sectarian support. Mr Allister pointed out the dangers in setting too high a figure.

10. The Secretary of State asked whether, given that the majority community represented approximately 65% of the electorate and the minority 35%, it was feasible that a figure of 60% would be attainable without any cross-sectarian support. Mr Napier said that, in pure mathematical terms, in order to be guaranteed any degree of cross-sectarian support the figure would have to be more than 65%. He emphasised that he was talking theoretically, but pointed to the general election results in May 1979 when the combined vote of the Unionist candidates was 59% of all votes cast. Therefore if all Unionists were united behind a set of proposals, they would need only 1% of minority support. Mr Allister pointed out that the SDLP has not contested two constituencies in that election (for the present purpose counting Mr Currie as an SDLP candidate). However, Mr Napier countered that the only two seats not contested by the SDLP would probably only have bought them an extra 5,000 votes making a difference of only 1%. Mr Allister in response to these questions reiterated that the Unionist family would not be united behind devolution proposals and further than any figure above 60% would be unattainable. Mr Napier asked the UDUP to accept that, whatever the proposals, a figure of 60% would not necessarily prove cross-sectarian acceptability. Mr Allister countered that the minority figure of 35% had never been converted into a vote - the SDLP's average vote was around 20%.

11. Mr Napier said that the manner in which acceptance was evaluated would depend very much on the political climate at the time.

If, for example, the Alliance Party and UUP were opposed to the proposals, and the DUP and SDLP were in favour, and the referendum resulted in a 62% vote in favour of the proposals, then it would be possible to assume those proposals had cross-sectarian support. Mr Cushnahan said that inter-party agreement was more relevant than a referendum.

12. Dr Hendron said that the comparison drawn with Scotland and Wales was inappropriate, and further that their figure of 60% indicated that "widespread acceptability" meant very little to the UDUP. Mr Napier asked whether the UDUP accepted the distinction between support for proposals and acceptability of proposals. Dr Paisley said that in his view the referendum question should have three parts, asking whether the electorate supported, accepted, or rejected the proposals. The Secretary of State thanked the UDUP for their presentation.

Papers by the Secretariat

13. Mr Napier inquired about the progress of the Secretariat papers commissioned on the SDLP and UDUP proposals. Mr Moriarty explained that the UDUP paper was nearly ready and would be circulated with this week's summary. The SDLP paper was with the party for their comments. A third paper, on a Bill of Rights and related matters, would be prepared as soon as possible.

Item 14: Permanance of Arrangements

14. The Secretary of State explained that this agenda item arose from paragraph 6 of the Working Paper which indicated that the transfer of powers need not be completed in one operation, and to some extent from what had been said by the SDLP in their initial submission to the Conference. The Secretary of State invited the SDLP to put forward their views on this agenda item.

CONFIDENTIAL

15. Mr Mallon said that, while the Westminster system of Government, depending as it did on the swing of the electoral pendulum, was not suitable for Northern Ireland at present, it was possible that a more normal political environment could develop. Therefore the legislation for devolution should provide for a review - say after 10 years.
16. Dr Paisley said that the UDUP would want the arrangements to be permanent, although they would look forward to the day when reserved powers were transferred to the devolved administration.
17. Mr Napier said that the Alliance Party would prefer to see full devolution in one operation, but would be prepared to consider step by step devolution if this was the only alternative to direct rule.

Other Agenda Matters

18. As consideration of all agenda items had been concluded, the Secretary of State asked the delegates whether they had any points they wished to put forward on previous agenda items. The Conference readily agreed that it did not wish to go over the agenda again.

Administrative Notes

19. The Administrative Notes circulated to delegates during the day had asked for the Conference passes to be handed in on leaving the building. In reply to representations from Dr Paisley, the Secretary of State agreed that delegates could retain their passes if they so wished. At the request of Mr McGrady, the Secretary of State further agreed that the delegates' rooms would not need to be cleared until mid-day on Friday 28 March.

Handling of Publicity

20. The Secretary of State proposed that, as the Conference was

adjourned and not terminated, only a short Press statement was needed. The Conference agreed a text which recorded that it had completed consideration of all fourteen items on the agenda and had adjourned so that the Secretary of State could report to his Cabinet colleagues.

21. The Secretary of State also told the Conference that the guidance which he would now need to give as background Press briefing would be on the following lines:

- (i) the stated aim of the Conference was to establish the highest level of agreement among the parties on how powers of government might be transferred to locally-elected representatives;
- (ii) the Conference was not an end in itself, but the first stage in identifying what new arrangements would be acceptable to both Communities;
- (iii) the Conference had in no way been a failure. It had been of value to him and his colleagues in clarifying the views of participants on a number of relevant issues;
- (iv) he would now report to his colleagues; and the government would then, in the light of the Conference, put forward proposals for further wide discussion. While he could not as yet be precise about the next steps or their timing, his present view was that in due course - probably after a number of weeks - it would be right to reconvene the Conference.

22. Dr Paisley, picking up a point from the Secretary of State's outline, expressed anxiety that the Secretary of State had not

said in terms that the Conference would be convened. The Secretary of State explained it was his own view that the Conference should reconvene but that the decision was essentially one for Cabinet. Dr Paisley asked that, if Cabinet agreed to produce proposals for consultation, the Conference would be first to be consulted. He understood that the UPP's invitation to the Conference would be renewed for this purpose. Dr Paisley also pressed the Secretary of State on a date for the ending of the "parallel talks." Mr Robinson quoted from the Secretary of State's letter inviting the parties to the parallel talks, when he said that he would report on both the Conference and the talks to his Cabinet colleagues at the same time.

23. The Secretary of State said that the "parallel talks" were not a Conference but a series of meetings on related matters. They would continue while there was a need for them - he would always talk to those who wanted discussions of this kind. He shared the hope that the UUP would attend a reconvened Conference. He pointed out that it might well be that Parliament would wish to discuss the Government's proposals, and he could not therefore promise a precise order of events. Mr Napier supported Dr Paisley on this point and asked that the Conference be reconvened as soon as Cabinet produced its proposals.
24. The Secretary of State, adjourning the Conference, thanked the delegates for their attendance at the Conference, for the time that they had devoted to it and for their good-humoured approach even at times of disagreement. In return all three parties expressed their thanks to the Conference Chairman, the Secretariat and other officials, and all staff involved in the Conference.

The Conference adjourned at 4.35pm.

CONFIDENTIAL