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FROM: JULIE MAPSTONE
IPL
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cc: as attached

NOTE FOR THE RECORD

TALKS: 20 OCTOBER 1997

Summary

A surprisingly desultory discussion at the third Strand Two meeting, which met to consider papers on the constitutional issue item of the agenda. The only moment of drama occurred when the UUP walked out of the meeting, refusing to accept the position of the Irish Government, as stated at the meeting by David Andrews, on Articles 2 and 3. A later bilateral between the Irish Government and the UUP cleared up what was declared to be a misunderstanding, and there was a UUP presence at the briefly resumed Strand Two meeting in the afternoon.

Detail

In an early pre-brief **Mr Murphy** revealed that the Prime Minister wanted an announcement this week on measures for victims. Sir Kenneth Bloomfield had been approached to ascertain his willingness to act as Commissioner, and there had been a positive response. Mr Beeton was preparing a submission with terms of reference. These may well be contentious; an article in the Sunday Times (Irish version), quoting Reg Empey, stressed that the need was for recognition of the security forces, in particular the RUC.

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Mr Murphy said he might do Question Time on Thursday in place of the Secretary of State, and, if so, would want a briefing session on Thursday afternoon.

The Strand Two plenary was due at 11.30. Some discussion took place of the questions which might be raised. For HMG these included whether the Constitution issue was on the agenda, the 50% + 1 question, and HM attitudes to Articles 2 and 3.

The Irish and the Chairmen

The meeting was joined by the Irish, and the Chairmen. Mr Holkeri reported that Senator Mitchell was absent this week. His wife had given birth to a boy; both were doing well.

On the Strand Two plenary, it was agreed to follow the normal pattern on brief introductions to the papers parties had tabled, and then a general debate. Parties may seek an adjournment to read papers.

There was some discussion of whether the meetings on the 27th October should be adjourned in the light of the Halloween bank holiday in the Republic.

Strand Two plenary

In an early discussion of the minutes, the UUP delegation asked whether the shorter version of the minutes which applied in Strand One could not also apply in Strand Two. The Chairman undertook to discuss with notetakers the most appropriate form of the minutes.

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Congratulations were passed from all parties, through the Chair, to Senator Mitchell and his wife. Parties then proceeded to introduce their papers. **Mr Murphy** said the matter under discussion - the constitutional issues under Strand Two - was of fundamental importance. There was no impediment to a change in the constitutional status of Northern Ireland if a majority wanted it. New arrangements must respect and protect both communities. A balance of accommodation was required to reflect both sides of the community.

Mr Andrews for the Irish Government stated that the constitutional issue went to the core of the sensitivities of Northern Ireland. An overall settlement would need a balanced accommodation. He commented on the constructive exchanges last week and looked forward to making real progress.

For Alliance **Mr McBride** agreed this was a central issue but a very difficult one. As a result it was likely to be the last to be fully wrapped up in the negotiations. What was simple however was the acknowledgement of the right of people in this part of the UK to determine their own future. Even republicans should have no difficulty with this; no true republican should advocate a position where the people of Northern Ireland have a solution forced on them. Consent was the central issue; it should be a cornerstone of both constitutions, replacing Articles 2 and 3.

The **Labour** contribution emphasised the need to establish a pluralist society.

Mr Smyth of the PUP said that if the Irish Government accepted consent they should not continue to claim jurisdiction over Northern

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Ireland. There were in any case a large number of Catholics in Northern Ireland who wished to remain within the UK.

Martin McGuinness said that Northern Ireland had had the right since partition to govern themselves, supported by the British Government. The reason everyone was sitting here was due to the mess that had been made of it. The Act of Union was coercive legislation which resulted in the inclusion of Northern Ireland in the UK against the wishes of nationalists. Partition had deepened divisions in Ireland and embittered relations between Ireland and Britain. There was a chance of a new era now for the history of Ireland, and people expected progress. Sinn Fein as a republican party, wanted new and lasting arrangements between these two islands.

Sinn Fein represented a section of the Irish nation which has suffered repression over many decades. The previous arrangement has failed and the root of the failure was the constitutional connection with England (sic). Britain's sovereignty is the core of the conflict in Northern Ireland and the negotiations must address the constitution and the issue of sovereignty. Their preferred option was a unitary sovereign state. It was folly for the UK Government to incorporate this issue into its policy on devolution in Scotland and Wales.

Mr Mallon said that it was clear partition had not resolved the problem. The Government of Ireland Act was an unjust violation of the right of the nationalist people of Northern Ireland to a say in their future. The 1949 Ireland Act recognised the validity of only 1 of the 2 traditions in Northern Ireland. The historical perspective ignored the fundamental right of nationalists, and until the 1970s, no serious attempt was made to address this issue.

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It was important to address the wrongs of the past. The SDLP want an accommodation which represents not the victory of one tradition but recognition of the validity of both. The constitution of the Republic of Ireland, including Articles 2 and 3, was the only assertion there was of the right of the nationalist people of Northern Ireland to determine their future, which had now been recognised by HMG in Frameworks.

For The UDP, **Mr White** indicated that his party would be pursuing the Irish Government on Articles 2 and 3, in the hope of bringing about change. They were an impediment to fostering good relationships with the South.

Mr Taylor for the UUP said that much that had been heard during the morning about the history of the island of Ireland had consisted of "green-coloured interpretations", which were not to be taken seriously. Any position could be defended depending on the starting date chosen. The island had originally been inhabited by Scots, and called Scotia. In his view, the Irish had been a source of constant trouble since they invaded it.

The British Isles were divided into two sovereign states, as was recognised in international law, and there should be no constitutional issues between the two states. The law and practice of each state should conform.

He wanted to make clear that the Framework documents were not a basis for the approach of the UUP. He did, however, welcome the statement by the Government that the principle of consent would apply to the future constitutional position.

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He looked forward to an era of better co-operation within the island. The present Irish Constitution had been seen as an obstacle. Change there would unlock the other issues that would have to be discussed in the Talks.

Mrs McWilliams, for the NIWC (who appeared to be reading out the NIWC paper, still to be circulated) spoke generally about North-South and East-West relations, and dwelt chiefly on economic and social issues. Priority should be given to developments that brought benefits to the people of the island of Ireland, and brought about co-operation at that level. There was scope for many structural synergies. On questions such as citizenship, identity and allegiance, Mrs McWilliams spoke of creating a web of relationships to accommodate diverse aspirations. People must be able to be British, Irish or both, obtain passports of either sort, vote in elections on both sides of the border, etc. In place of the territorial claim, there should be rights of active Irish citizenship. These might include voting rights for those in the North who opted for Irish citizenship. Similar underpinnings of rights should be made available to those claiming British identity.

Mutual understanding or contact was an important part of reducing mistrust. To address this a consultative council of regions of the two islands might be considered. All new arrangements should be based on principles of respect for human rights, equity and inclusion.

This completed the formal presentation from the parties.

Mr Casey for Labour wished to disagree with the attitude of the UUP; all participants were supposed to be acting in good faith.

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Lord Alderdice wished to address some issues which had been raised. He referred to Sinn Fein's mention of the United Irishmen, but took issue with their interpretation, saying that the original ideals of the United Irishmen had been subverted along the way. By the end of the nineteenth century nationalism had become associated with Catholicism which had resulted in the alienation of many of those who would otherwise have supported the movement.

The NIWC suggestion of giving nationalist people in the North the chance to express their identity by voting in the Republic, took away the rights of people in the South: for example, northerners could choose to vote for a high taxing government knowing they would not have to be subject to it. On an intervention **Ms McWilliams** pointed out that she had meant voting in a Presidential election. **Lord Alderdice** said it was not realistic to allow nationalist northerners the right to vote in one type of election in the Republic but not another.

Mr Farren said the SDLP submission was intended to emphasise the need to learn from the past, not to revisit it. All the historic constitutional legislation had been inadequate in respect of the rights of the nationalist sections of the community. Historically the institutional arrangements had not provided peace and stability.

Martin McGuinness said that the criteria for agreement at the talks was the consent of both nationalists and unionists. There had never been nationalist consent to the present arrangements.

Mr Taylor emphasised that the UUP was prepared to address anyone's concerns. They wished to enhance co-operation between the Republic and Northern Ireland. He raised a number of specific questions directed at particular participants. He asked the NIWC why they

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thought a good relationship existed between the two tourist boards, north and south, without the need for executive powers. **Ms McWilliams** replied that some joint co-operation needed executive powers but not all. **Mr Taylor** agreed that there could be co-operation without executive powers.

He then went on to ask the Minister of State if he supported the Prime Minister's comment in his May 16 speech in which he had urged on the Irish Governments the need for change to Articles 2 and 3 in advance of a settlement. **Mr Murphy** said he did indeed support it; a change to Articles 2 and 3 of the Irish constitution was an essential part of any agreement, and it would be helpful if it were done in advance of such agreement.

Mr Taylor then asked the Irish Government when they might expect to see such constitutional change. **Mr Andrews** replied that the Irish Constitution was a valuable document which had stood the test of time. He said there would be no tinkering with the Constitution in advance of negotiations. When the Talks got into substantive negotiations, then, and only then, would the Irish Government look at changing the constitution.

Mr Taylor then went on to say that Articles 2 and 3 were the real obstacle to co-operation in Ireland, and it would be helpful if this obstacle were addressed in advance. It was unacceptable for the Irish Government to say it wouldn't be addressed in advance. It was clear that the Government of the Republic was only prepared to consider such change after other things were decided. That made it a pre-condition. It was necessary for the UUP to reflect on this point and they would be leaving the negotiations to do that.

The UUP delegation left.

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Mr McGuinness said that the UUP position was disappointing, and the PUP and UDP should detach themselves from the negotiating position of the UUP. Articles 2 and 3 were not the root cause of discrimination against his family.

Mr McBride asked Mr Andrews why he had said he would not consider Articles 2 and 3 until the talks were in substantive negotiations when the parties already were at that point, ie. in substantive negotiations.

Mr Smyth said Mr Andrews comments were disappointing. Replying to Mr McGuinness he said it was inevitable that the PUP and UDP inevitably took similar positions to the UUP on constitutional issues.

Liz O'Donnell for the Irish Government (Mr Andrews having left) endeavoured to make their position clearer. The Irish Government understood that the Unionist community found Articles 2 and 3 offensive. Before proposals to address the issue could be introduced however, a referendum would be needed and a referendum would only be meaningful in the context of an overall settlement.

Mr Murphy asked if the Irish Government was ready to discuss and consider the need for constitutional change alongside other substantive issues. **Ms O'Donnell** confirmed that was the case.

Mr White, in relation to Mr McGuinness' earlier comment, wished to place on record that the UDP was not attached to the UUP but had its own strategy and agenda.

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Mr Farren's initial disappointment in the UUP's submission was increased by their subsequent walk out, which he called childish. He asked the Chair to ascertain whether the UUP would now refrain from participation in the remainder of today's meeting. The **Chairman** said he would do this and the meeting adjourned at 1.30pm until 3.00pm.

The Irish

Immediately following the Plenary there was a meeting with the Irish Government. **Ms O'Donnell** felt the UUP had misunderstood their position. **Mr Thomas** suggested the Irish used the language of the Frameworks document on this point, and said that the more forward the Irish position, the harder it would be for the UUP to maintain their position. Despite some doubts from David Donoghue, **Dermot Gallagher** agreed to invite the UUP to a bilateral before the resumption of the plenary.

The Plenary reconvened at 3.05, with Jack Weir the sole representative from the UUP. **Mr Andrews** began by setting out again the Irish position on Articles 2 and 3. As the negotiations progressed, the Irish Government would discuss changes to Articles 2 and 3 as part of a balanced constitutional accommodation. This was a jointly held position with the British Government, as set out in Frameworks.

The Irish Government was deeply aware of the sincerely held views of Unionists, and listened very carefully to their views. Their concerns however were mirrored by the importance to the nationalist community of Articles 2 and 3. This was both a challenge and a responsibility for the Irish Government.

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The Chairman concluded discussion on agenda item 2. He raised two procedural issues: whether there should be one agenda item per week until all 5 subjects were covered, and whether the practice of submitting papers on each item should continue rather than having discussions without papers. The resulting discussion was inconclusive. The smaller parties were clearly finding the production of papers difficult, but Alliance and the SDLP wanted papers at least for the item on new institutions and arrangements.

The Chairman called for papers on item 3 to be submitted by 10.00am on Monday 27 October.

(Signed)

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