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INTERNAL RECORD OF A BILATERAL MEETING BETWEEN THE GOVERNMENT TEAM
AND A JOINT UNIONIST DELEGATION HELD AT PARLIAMENT BUILDINGS ON
3 JUNE 1991

Government Team

Secretary of State
Minister of State
PS/Mr Fell
Mr Pilling
Mr Thomas
Mr McNeill

Joint Unionist Delegation

Mr Maginnis
Mr Robinson
Mr Cunningham
Mr Dodds
Mr Empey
Mr Wilson

Talks Secretariat

Mr D J R Hill
Mr Pope

Also present

Mr Pawson

1. The Government Team held a bilateral meeting with the Joint Unionist Delegation at Parliament Buildings, Stormont between 1437 hours and 1540 hours on 3 June 1991.

2. The Secretary of State opened discussion by reporting on his meeting with Irish Ministers in Dublin on 31 May. He noted that the meeting had lasted for almost 4 hours and that, during it, he had sought to bring Mr Collins and Mr Burke up to date on developments in Belfast not just in recent days but over the past weeks as well. There had been exchanges on the search for an independent Chairman and discussion of the next steps necessary to secure the appointment. The Secretary of State noted that the letter from Dr Paisley, setting out the names of 9 candidates whom the Unionists thought would be suitable for the post had been received before lunch - the Government Team had sent a message back to the Unionists confirming receipt. There had also been discussion at the meeting with Irish Ministers on the procedural guidelines for Strand Two. The Secretary of State continued by saying that he wished to use this meeting to cover some outstanding points on the procedural guidelines and, particularly, to discuss suggested Irish amendments. He felt that the most efficient way of doing this was to distribute copies of the suggested amendments to the Unionist Delegation.

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3. In response to a query from the Unionist Delegation, the Secretary of State confirmed that the base document from which he was working was that dated 28 May and timed as having been produced at 1715 hours. The Unionist Delegation said that they had not received this document and, during a pause while the copies were obtained, Mr Cunningham asked what was the status of the document and who had agreed it. The Secretary of State said that the document had first been produced earlier on 28 May and the Alliance Party and the SDLP had expressed themselves content with the original version. The Unionists had, however, offered amendments which had been incorporated into that document to form the 28 May (1715) version. The Alliance Party and the SDLP had suggested that the Government Team should discuss the Unionist amendments with the Irish Government and reach agreement before they were invited to consider the guidelines a second time. On this basis, the 28 May (1715) document had been given to the Irish who, in turn, had proposed amendments to that text which had been discussed with them on 31 May. It was the outcome of that discussion which would be put to the Unionists - the Secretary of State noted that these amendments were not significant in number.

4. The Secretary of State continued by saying that, during the meeting on 31 May, he had explained to the Irish Government the nature of the process which had taken place over the previous weeks, as part of which there had had to be much toing and froing both of individuals and of documents in order to ensure that all parties were aware of developments as quickly as possible after they had occurred. Directing his comments to Mr Maginnis (who had earlier publicly claimed that the Unionists had already agreed the procedural guidelines), the Secretary of State said that this process was aimed at ensuring that all parties were in agreement on each document put forward - the fact that the Unionist Delegation had offered amendments to any particular document did not afford that document the status of an agreed document. Mr Cunningham then asked whether, if the procedural guidelines document incorporating the amendments suggested by the Irish on 31 May were to be agreed by the Joint Unionist Delegation that afternoon, the Secretary of State would feel it necessary to go back to the Alliance Party and to the SDLP. The Secretary of State said that this would be the case. As

an aside, the Secretary of State then said (as a human comment) he was unconvinced, on the basis of his experience so far, that the bilateral process was the most rapid way of making progress. Mr Robinson said the Unionist Delegation was of the same opinion!

5. The Minister of State also took the opportunity to discuss the workplan for Strand One. Dr Mawhinney said that the one outstanding task which he had had to complete was to broker some minor amendments with the SDLP. This had now been done, and the workplan was now ready for final agreement. Mr Robinson said that the Unionists were still concerned about what he termed as the 'open ended' nature of paragraph 6 of the workplan and the Secretary of State commented that he would give the same assurances to Mr Cunningham and to Mr Robinson as he had previously given to Mr Molyneaux and Dr Paisley. Mr Robinson then confirmed that he was content with the workplan for Strand One and Mr Cunningham, after a short pause while he studied the document again, confirmed that he, too was happy with it.

6. Discussion then turned to the suggested amendments to the procedural guidelines for the conduct of Strand Two. On paragraph 2 the Secretary of State said that he was concerned that the procedure set out there could create the impression that the Chairman was closer to one or some delegations than to others and that he was acting on behalf of one delegation. The Secretary of State said that while he understood the purpose of the phrase as a safeguard, there was justice in logic in an observation that it could create a greater mischief than the one it was supposed to guard against. The importance of the Chairman being seen to be impartial, as well as actually being impartial, was too important to be put at risk and the Government Team were therefore proposing the deletion from paragraph 2 of the words "with the agreement of one or more delegation". The Secretary of State continued by saying that the Government Team continued to see a requirement for the Chairman to consult and hoped that his earlier agreement to the removal of the words "proposals and propositions" from this paragraph and the retention of the reference to consultation would allow the Unionist Delegation to agree to the omission of those words. In response, Mr Robinson said that he had heard what the Secretary of State had

to say, and thought that he understood the purpose behind the proposals. That said, he would need to satisfy himself about the Government's suggestion and would discuss it and come back with a view. Mr Cunningham said that he, too, would look closely at the suggestion and come back with a view.

7. Turning to paragraph 10, the Secretary of State said that following his discussion with the Irish Government, a new form of words was being proposed which aimed to make it clear that, although plenary meetings would not be the 'normal' mode of doing business during Strand Two they would take place regularly. The new paragraph 10 thus read:-

"In addition to the regular plenary meetings the Chairman may, with the agreement of Delegations, propose more limited meetings at which all Delegations would be represented. He/she may also at any time ask some or any of the participating Delegations to meet with him/her; and he/she will accede to any reasonable request for a meeting with him/her from any Delegation".

The Secretary of State said that the concept of venues for Strand Two set out in paragraph 10 had been previously agreed but that he now proposed to remove references to location of plenary meetings as being unnecessary in what were, after all, procedural guidelines. Such references would also be going back unnecessarily over old ground. The Secretary of State said that there was already total agreement on the question of location and the removal of those references in paragraph 10 could not, therefore, be interpreted as calling into question the agreement that had been reached on venue. So far as the question of meetings was concerned, the Secretary of State said that he hoped that the wording had absorbed the points made by the Unionist Delegation in previous meetings on alternatives to plenary sessions.

8. In response, Mr Robinson asked whether the word 'regular' was, indeed, the best one to use in seeking to portray the agreement that had been reached since it raised the possibility that plenary meetings would be conducted at set times and at set intervals which was not at all what the Unionist Delegation was seeking.

Mr Cunningham agreed. The use of the word implied regular times and regular dates and the operation of some form of schedule. The Secretary of State said that this was not so and that the Unionist Delegation were reading too much into the word than existed. Use of the word 'regular' fulfilled the need for a word which suggested a process and which offered a skeleton structure on which to hang the business of Strand Two. The word did not imply that the majority of meetings would be held in plenary session but the substance of Strand Two would be such that agreement could only be reached in plenary session. At the end of the day, it would be for the Chairman to decide how best to move the strand forward and he would be in a position to determine when the process might move from plenary to sub-plenary or other mode. Dr Mawhinney agreed - while it was entirely possible to read an implication of chronology into the word this was being over-sensitive and there was no need to adopt that approach. Mr Robinson then asked whether this view was shared by the Irish Government and the Secretary of State said that the Irish Government believed that there needed to be some structure within Strand Two for agreement on the way forward - this structure would be provided by regular plenary sessions and indeed, the use of the word 'regular' aimed to meet the Unionist need for a variety of types of meetings. Other words had been considered but none met the circumstance, and the Unionists could be assured that the use of the word did not imply any intention to move towards a predetermined schedule of plenary meetings. Mr Wilson asked whether the word 'plenary', without any further qualification, was not in itself a sufficiently strong indicator for the Chairman as to how Strand Two business ought to be conducted. The Secretary of State said that he thought not. He was fully aware of the Unionist desire for ready access to non-plenary meetings but a string of plenary sessions would be needed in order to give structure to the Strand. The use of the word 'regular' indicated this and also the need for balance between the varieties of meetings. Dr Mawhinney said that there was a need for a backbone of plenary sessions during Strand Two and Mr Robinson responded by saying that, while the Unionist Delegation were well aware that there would be plenaries other than those to be held in London and Dublin at the start and finish of the strand, they would wish to avoid being tied down to plenary sessions as the main structure of Strand Two. The Unionist Delegation would consider the Government Team's suggestion and come back with a view.

9. Mr Cunningham then raised the question of the locations for the plenary sessions of Strand Two, noting the Irish Government's suggestion that reference to these be removed from paragraph 10 - he asked whether it might not be appropriate to retain reference somewhere in the procedural guidelines document. The Secretary of State said that the guidelines, when agreed, would be given to a candidate for the post of independent Chairman and that candidate might then wish to come back with modifications before accepting the role. It was thought appropriate that the document should, therefore, contain only details of proposed procedural guidelines since a potential Chairman would also be given base documents, of which his statement to the House of Commons of 26 March was a central constituent, together with other documents such as the Government document of 14 May and the Unionist response of 21 May. These documents clearly spelled out the pattern so far as venues were concerned. Mr Robinson demurred - he noted that the Secretary of State and Mr Hume had departed from the pattern of conducting Strand One meetings at Parliament Buildings by holding a meeting at Aldergrove Airport in the past few days. He asked what there was to prevent an independent Chairman doing the same if reference to London, Dublin and Parliament Buildings were removed from the procedural guidelines document. Mr Cunningham agreed - if the Chairman were to have a document at all, surely that document should aim to summarise all the agreed positions on Strand Two for his information. The Secretary of State said that an aspect of the procedural guidelines document was that it should be one which reflected the views of all the parties to Strand Two. His point was that it ought not to be necessary to spell out in the guidelines details which were set out, equally clearly, elsewhere. The Minister of State stressed that the document was intended to cover procedural guidelines only - while it might seem, on the surface, logical to put in reference to venues there was an equally strong case for leaving such reference out, bearing in mind that omission did not generate uncertainty nor did it overturn any agreement which had been reached thus far.

10. Mr Dodds then raised the question of the reference in the last sentence of the new paragraph 10 to the exchanges which might take place between the Chairman and delegations in respect of meetings,

asking for some clarification of the perceived differences between the use of the term 'some or any delegations' in the first part of the sentence and that of 'any delegation' at the end of the sentence. The Secretary of State said that this wording aimed to reflect the Unionist point made during the course of the previous week that bilateral meetings could not be termed as such if only one delegation was present. Given this there was a need for a structure for a meeting between the Chairman and only one delegation. Mr Cunningham noted this, but said that the phrasing used might have the effect of disallowing the possibility of two or three delegations from coming together. The Secretary of State said that there was a difficulty with any other form of wording since to use an alternative form might lead to a situation in which one delegation could impose on the Chairman to call a multi-lateral meeting despite other delegations not wishing to be involved - the question of whether or not a multi-lateral meeting was desirable or necessary ought to be a matter for him or for her. Mr Maginnis disagreed strongly, claiming that the term 'reasonable request' in the new paragraph 10 ruled this possibility out since any sort of approach could be turned down by the Chairman on the basis that it was an unreasonable request. While it might be 'reasonable' for the Unionists to ask for a meeting involving, for example, the Irish Government it would only be 'reasonable' for the Chairman to accede to that request if he or she were aware that the Irish Government were willing to participate. Mr Cunningham then said that, having listened to the argument for the proposed change, the Unionist Delegation would consider the revised paragraph 10 and come back with a view.

11. Turning to paragraph 15, the Secretary of State noted that the paragraph had not been part of the original procedural guidelines document but had been drafted to meet a specific Unionist concern about the possibility of reviewing issues for discussion in Strand Three during Strand Two. There was, however, a hazard in including it as a specific element in the procedural guidelines since it could create a general feeling that every contingency should be spelt out in the procedural guidelines when these had been adequately covered in other documents. Allowance for the discussion of Strand Three issues during Strand Two had been made in what the Secretary of

State termed the various ground rules and had been specifically spelt out in his statement to the House of Commons on 26 March and in the documents of 14 and 21 May. Mr Empey said that it was felt on the Unionist side that removal of paragraph 15 would tend to dilute the understandings that had been arrived at. Their reason for originally seeking the inclusion of paragraph 15 and its retention on this occasion was simply that an initial input was always more valuable than one which was made half way through a process. If there were a possibility that Strand Three issues could not be discussed until Strand Three started, then both Governments would lose the value of an early input. Mr Robinson concurred suggesting that the wording of paragraph 15 specifically avoided the possibility of the parties' input to Strand Three taking place in that Strand only. He noted, wryly, that paragraph 15 had originally been drafted by the Government Team to reflect the Unionists' concern that the Chairman might rule out of order any discussion of Strand Three business during Strand Two. The Secretary of State repeated that his concern was that, if the procedural guidelines were to highlight the conduct of that particular meeting (ie the final meeting of Strand Two), questions might be raised as to why no structure had been set out for the remainder of the meetings in Strand Two. In response to an enquiry from Mr Robinson, the Secretary of State said that the Irish Government had indicated that they would have no difficulty about listening to discussion of Strand Three business as part of Strand Two. Mr Cunningham said that he thought that the deletion of paragraph 15 could open the floodgates, in the sense that the Chairman would not be constrained from taking decisions which suited him only and which overruled agreements reached between the parties. Mr Robinson, however, said that he was clear on the purpose and intent of the amendments suggested by the Government Team and would discuss it with party leaders.

12. On staffing in Strand Two, the Secretary of State said that he felt that it would be sensible to circulate a short and freestanding guidance note which could be agreed by all the participants in due course and which was meant to be self-explanatory. Following a short consideration of the note, Mr Robinson asked for clarification on paragraph 3 and specifically, whether the Chairman would bear in

mind that it might not be suitable for an Irish Civil Servant to take the note at a private meeting which did not involve the Irish Government. The Secretary of State said that the aim of the document was to offer the widest choice of alternatives to a Chairman and that, in drafting it, he had tried to respond in diplomatic language to points which had been made to him by the Unionist Delegation. Mr Cunningham noted that paragraph 2 allowed for nominations from the two Governments involved in Strand Two to the record-taking team and said that there would be disquiet amongst the Unionist Delegation if what he termed as "Maryfield types" were deployed. He realised the difficulties for the Secretary of State in allowing for such an exclusion in the document itself but sought an assurance that staff from the Anglo-Irish Secretariat would not be deployed on these duties. The Secretary of State said that this had been discussed with the Unionist leaders several months ago and they had agreed that if Anglo-Irish Secretariat staff were to turn up in direct support of their own Governments during Strand Two this would be entirely appropriate since, in many cases, Irish members of the Secretariat were drawn from the Foreign Service of the Republic of Ireland. However, the significance of the Unionists' concern about the deployment of members of the Anglo-Irish Secretariat as part of the Chairman's support team was taken. Mr Cunningham and Mr Robinson then indicated that they were both content with the staffing document as drafted.

13. Mr Robinson then asked the Secretary of State whether the other delegations had been given, by the Government Team, the list of potential candidates for the post of independent Chairman which had been sent to him by Dr Paisley on 31 May. The Secretary of State said that he had not passed the names to other delegations and had only, as asked in the letter, shared the information with the Irish Government. That said, there was nothing to preclude the Unionists showing their list to the other parties. Mr Robinson insisted that a request had been made in Dr Paisley's letter that the Secretary of State show the names to the other parties. PUS disagreed - the letter was worded in such a way as to ask that the Secretary of State should discuss the names with the Irish Government and let the other parties know the results of his deliberations. There was nothing in the letter to suggest that the Secretary of State should

have shown the names to the other parties. Mr Robinson said that the implication intended in the letter was that the names should be so shown and went on to say that he would be happy for the Secretary of State to do so. The Secretary of State said that he was not prepared to take this action - it was for the British and Irish Governments to put the names of possible candidates to the parties for discussion. The nine names put forward to HMG by the Unionists in Dr Paisley's letter would join other names for consideration, following which he would come back to the parties with a suggested candidate. The Secretary of State stressed that there was no reason why the Unionists should not show their list to other parties but confirmed that he was not prepared to do so himself, restating that the responsibility of both the British and Irish Governments was to agree names for reference back to the parties.

14. Mr Robinson said that the Unionists' aim in raising the issue and coming forward with a list of names was to be helpful to the process. He said that he had detected suggestions by the SDLP and the Irish Government that the Unionists were not serious about the process. The list of candidates had been decided upon and put forward partly as a testimony to the seriousness with which the Unionists were approaching the process. The Secretary of State said that he noted that point but, in terms of persuading the SDLP to drop their present objections and to move them to play a part in Strand One, it was sensible to deal with other major issues, leaving the issue of Chairmanship as the only one to be resolved. Mr Robinson then went on to say that he thought that it might be more productive if the Government Team were to provide parties with a list of potential candidates rather than to offer names one at a time. Mr Cunningham agreed saying that this would enable parties to put across "against" those who they deemed to be "unacceptable". The Secretary of State said that this would not resolve the problem that would arise if all parties continued to retain different preferences. He saw some risks in the approach suggested by Mr Cunningham since this could lead to a situation where a party's preference for one particular candidate on a list became so strong so as to persuade that party not to vote for anyone else nor to give any other candidate serious consideration.

15. Mr Empey then intervened, in a somewhat fractious tone, to complain that the Chairmanship issue was being put on a pedestal out of all proportion to its real importance. He felt that the Unionist Delegation were being treated as "tail end charlies" in that they had been given the name of a candidate and had been pilloried for rejecting him, whereas other parties had already rejected several other names without being put in the dock. This did not apply solely to the Chairmanship issue, but crossed into other areas. The Secretary of State responded robustly. The Unionist parties had said that they could not accept the principle of an independent Chairman but were prepared to sit under one to whom they could consent. In proceeding in the way in which he was, he was merely responding, as were other parties, to the Unionists' preferred way of playing the issue. Mr Robinson said that this had arisen largely because the Unionists had always entertained a wide belief, which had been shared by others outside the process, that Mr Brooke himself would be the Chairman of Strand Two. The Secretary of State said that while this might have been the case, the fact was that discussions now revolved around an independent Chairman and the Unionists had said between 14 and 21 May that they needed the name of the Chairman before they could consent to sit under him. The Secretary of State continued by saying, stressing that there was no particular edge to the point, that the procedure had been imposed by the Unionists themselves. Other parties as well as the Unionists were waiting upon a name. Mr Maginnis, in one of a number of interventions which seemed to serve only to cloud discussion, then said that the Unionists had been wise to insist upon receiving the name of the Chairman before consenting to sit under him. He again asked why HMG were not prepared to offer a list of candidates in order, say, that parties could put them in some order of preference. The Secretary of State patiently explained that this had already been gone over. The view had been taken, rightly, that it would be necessary to get the agreement first of the person who it was intended to approach in order to confirm their agreement to serve. It was not right and proper to be forced into a situation in which, say, seven people were approached and in which each of those had to be told that six others were being approached. An additional difficulty with this way of proceeding was that the Press would very quickly get to hear about it and about the names involved.

16. The Secretary of State reiterated that the reason for the detailed and lengthy debates that had taken place thus far in the process was that the Unionists had raised a number of amendments and points and these had to be discussed in order to obtain the agreement of all the other parties to the process. Mr Maginnis then claimed that the Secretary of State had conducted discussions and agreed matters with the Irish Government outside the process and the Secretary of State again pointed out that this procedure was necessary as part of the backward and forward process designed to achieve an agreed document. The Secretary of State said that he had no doubt that the Irish Government also found this a tiresome way of proceeding, as did he, but he was certain that the process was right. Mr Empey suggested there would be no need for "toing and froing" if all parties were present in Parliament Buildings and that the absence of one party created a physical problem. The Secretary of State said that neither the Alliance Party nor the SDLP felt it necessary to intervene in the present process and discussion was revolving around guidelines simply because the Unionists wished to know the rules by which the Chairman would conduct his business. The absence of the SDLP was not holding up the process. The fact that the Irish Government were not present was a function of the fact that they were not involved in the discussions in Strand One. Mr Robinson pointed out rather aggressively that the SDLP had no need to attend at Parliament Buildings since the Irish Government were doing their work for them.

17. Mr Robinson then queried the basis on which the Secretary of State would feel able to suggest that the process could move forward and the Secretary of State restated to him the wording on the subject contained in aide memoire of the 21 May bilateral with the Unionist Delegation, expressing the view that there would be advantage in getting all the outstanding issues - except the Chairman - settled and then entering into discussion about the way forward. Mr Robinson suggested that the debate over the Chairmanship suggested some Government back-pedalling, but the Secretary of State reacted strongly stressing that the Chairmanship issue had attracted significance because of the Unionist approach between 14 and 21 May. Mr Robinson then expressed the view that the Secretary of State had had no hesitation in placing an ultimatum

before the Unionists at that stage of the proceedings following which the Unionist parties had found further discussion necessary - but was now hesitant in doing the same with the SDLP. The Secretary of State, again patiently, said that the most important point was to reach agreement on the various issues and then consider the way forward.

18. So far as further business that day was concerned, Mr Cunningham noted that both party leaders were in Armagh for the funerals of the three UDR soldiers killed at Glenanne on 1 June. The Secretary of State said that, so far as his own programme was concerned, he was available until about 1900 but needed to leave at that stage in order to entertain representatives of a company which might be about to invest in Northern Ireland. It would be helpful if the Unionists could come back at, by the latest, 1800 to say whether they could do business that night or whether they would need to postpone further discussion until tomorrow. Mr Cunningham confirmed that the Unionist Delegation would do this but that, if they had an earlier definite indication, then they would let the Secretary of State know.

19. Mr Maginnis, in another ill-tempered and badly thought out intervention, then claimed that the Government Team had, during the process, issued statements to the media about issues under discussion on the lines that all parties had agreed except for the Unionists, suggesting that it was only the Unionists who were holding proceedings up. The Secretary of State said that this was not the case. No statement suggesting agreement was made until all parties had clearly agreed to a particular issue. Picking up a reference that Mr Maginnis had made in his intervention to the workplan, the Minister of State confirmed that the Government Team were still awaiting final Alliance Party agreement and, in response to a question from Mr Cunningham, confirmed that he would tell the Unionists when this had been received.

COMMENT

20. The meeting was, generally, workmanlike in nature but was spoiled towards the end by ill-considered and unhelpful interventions, mainly from Mr Maginnis who seemed to be developing his own particular conspiracy theory to explain the failure to move into Strand One plenary sessions.

STEPHEN POPE

June 1991