

Material regarding proposals of the UUP, DUP and Alliance parties on devolved government in Northern Ireland

Introduction

-- we have already spelled out our overall views on the question of devolution in earlier interventions. We wish now to comment on the detail of some of the proposals which have been put forward by the UUP, the DUP and the Alliance parties.

-- our purpose is not simply to outline problems and difficulties we see in certain of the proposals. In addition, we would like to obtain clarification of points which are obscure. We also want to flag, at this early stage of our deliberations, ideas which we believe have potential and which hold out the basis for the development of a wider political consensus for tackling our shared problems.

Alliance Party

General [possibly, this material could be better associated with overall remarks on approaches to devolution in Northern Ireland since 1920.]

-- we are basing our preliminary comments on the Alliance document "Governing with Consent" published in October 1988. This document reflects the outcome of discussion by a small Alliance study group to "review the party's policy in a broad area covering the arrangements by which Northern Ireland should be governed."

-- in our view, there is much of interest in the Alliance document. However, it does seem to us that the approach of the Alliance Party to the devolution issue shows, by and large, a somewhat outdated approach which appears often unpromisingly cut and dried. For Alliance, it appears the problem

essentially concerns how to bring about full participation of the minority in a Northern Ireland devolved Government with adequate safeguards for the rights of minorities.

-- thus, the Alliance approach is that the preference of the majority community to maintain the "union", however defined, means that no other constitutional option is in practice feasible. The task of the political process becomes, in this context, largely technical - how to put in place a system of government winning cross community support. Alliance state (3.15) that "[c]omposing an Executive within a devolved system has been the most intractable of all political problems in Northern Ireland in the last 20 years." Alliance seem to believe that if you put in place a cross community supported Executive, and it survived, then over time a "normal" political situation would emerge.

reducing the problem to the question of places in an administrative

-- we disagree. For us, the Alliance approach reverses the necessary order of priorities. We believe that the most intractable problem has probably been the inability of the political process to address openly and squarely the underlying realities of the problem. We have said elsewhere we need to reach a shared diagnosis of the problem which could form the launching pad for agreed remedies. Otherwise, establishing new devolved structures is essentially a stab in the dark, an effort founded on evasion of the crucial dimensions of the problem which must be faced.

-- in their document, Alliance outline their thinking on the possible constitutional options for Northern Ireland. We do not wish to go into detail regarding the options surveyed. However, we note in para. 2.7 that Alliance states that "[w]hat is at issue is the reconciliation of apparently conflicting constitutional aspirations..." - that is,

identities. Later, in para. 2.16, Alliance comments that Joint Sovereignty over Northern Ireland "inevitably involves complex arrangements and there are many who hold the view that sovereignty is not divisible." ||

-- it would appear that among the "many who hold the view that sovereignty is not divisible" must be prominent members of the Alliance Party! In this context, it is noticeable that there is no mention of the European Community in any paragraph of the document "Governing with Consensus." Reference to the EC would presumably have required some consideration of the divisibility of sovereignty - in a certain sense of the very ambiguity of sovereignty in an inter-dependent world. In a sense, the Alliance analysis seems very much a static one, perhaps based on no longer too relevant studies of divided societies.

*Sovereignty
has been
divided*

-- consideration of these issues might have led the party to an examination of the nature of identities in Ireland and Britain. In a way, there is implicit recognition of the need for such an examination. Chapter 4 of the Alliance document is entitled "the Anglo Irish Context." It begins with the following interesting sentences: "The territory covered in this Chapter used to be called the "Irish Dimension"". Today we talk about the "Anglo Irish Context". The change has not been merely one of terminology. The Anglo Irish Agreement has created a new framework and a new institution, the Anglo Irish Inter-Governmental Conference." || 7?

-- in a way, these sentences seem to us to sum up the approach of the Alliance Party. An important and interesting point is made - the Alliance belief that discussion of the "Irish Dimension" has been subsumed under the heading "the Anglo Irish Context." However, Alliance then immediately focuses

attention on the external manifestation of this change in terminology - the Inter-Governmental Conference. It seems to us this displays the Alliance tendency to focus on the external, visible machinery of government issues. The party shies away from examination of what the "change in terminology" substantively represents in terms of perceptions by the British and Irish Governments, by Irish nationalists and so on.

-- we believe that the present talks allow us a unique opportunity to address these implications squarely and honestly. We do not believe that a cut and dried approach can capture the changing variables in the calculus of politics on these islands. We would therefore welcome further elaboration of Alliance views, particularly on the identity issues, in coming weeks.

Specific Alliance proposals

- formation of Executive: as far as we can see, Alliance proposes that the Secretary of State would appoint a small Executive drawn from and answerable to the Assembly. Apparently, the Secretary of State "would be required by law to act strictly in accordance with a set of criteria." It is not clear what exactly these criteria are: apparently, they are to ensure certainty and flexibility.

- it seems to us that essentially the Alliance idea is to allow the political parties to campaign in any assembly election without having to commit themselves in advance irrevocably for or against a power sharing arrangement. Instead, after the election, the Secretary of State would attempt to put together a cabinet based on cross community support as reflected in the numerical strength

of the parties.

- his cabinet would subsequently be subject to votes of acceptability by the full Assembly. The thinking appears to be that acceptability - rather than definitive support - would be the basis of legitimacy of the new devolved structure. Presumably, this proposal is designed to capture the support expressed in many opinion polls regarding the acceptability of power sharing as a "least bad" system.

- once again, it seems to us that the Alliance proposal is something of an evasion. The SDLP proposal for a referendum on any agreed outcome to these talks seems both more honest and, if accepted, more legitimising. We note that the 70% cross community figure would not include Sinn Fein unless that party renounced violence as a legitimate political tool. Alliance recognise that the presence of Sinn Fein members in a new Assembly would be a complicating factor. In fact, it forces Alliance to redefine, even manipulate, the benchmark for consensus laid down in the early '80s.

- further, we think that the Alliance proposal perhaps ignores the potential for collapse of the executive as occurred with the Sunningdale experiment. Is there not a very evident danger that, if political parties do not campaign openly on the basis of their willingness to participate in cross-community cabinets, they risk arousing subsequent allegations of betrayal and rejection from their supporters?

- in this regard, the executive would have no powers to defend itself since, under Alliance proposals, all

security matters would be reserved to Westminster. We would welcome, in particular, some more elaborate articulation of Alliance thinking on the policing issue, than what appears (rather: does not appear) in their document.

- powers for Assembly/Executive: Alliance relies on the traditional excepted/reserved/transferred distinction. In our view, as we have already spelled out, this type of distinction is based on a "handed down", semi-patronising attitude. It reflects the mentality behind earlier flawed and failed efforts to put in place devolved government in Northern Ireland. We will need to consider what powers would be appropriate in Northern Ireland against the backdrop of wider consideration of the issues for discussion in all three strands of discussion.

- Assembly committees: the Alliance document notes the move away from a system where the committees would be chaired by Executive members chosen on the basis of proportional party strength. This proposal was intended at the time to evade stated Unionist unwillingness to "share power with Republicans" i.e. ourselves. Is the new proposal even partly aimed at excluding Sinn Fein who otherwise might be entitled to a Cabinet position? If so, it illustrates that we will all continue to twist and trim unless we reach agreement on the means of broadening real consensus in Northern Ireland.

- Anglo Irish structures: your proposals here seem to us a curious mix. On the one hand, you advocate direct dealing between a new executive in the North and Dublin on all transferred matters - tourism, energy etc. Your suggestions seems very much in the "good neighbourly"

tradition ostensibly favoured by the Unionist parties.

- at the same time you advocate the establishment of a new "tri-partite institution connecting all three executive authorities." You envisage that such a body would supersede the Agreement. You also state that "it should give a right of consultation on those matters to both the administrations in Dublin and Belfast." Consultations would be on all excepted and reserved matters - including security. We would be interested in any further ideas you might now have regarding the functions of the proposed tri-partite body.

UUP and DUP proposals for devolved government structures and functions

-- we have already outlined our views on the overall approach of the Unionist parties to devolved government in Northern Ireland. We now want to comment on some of the specific proposals which have been put forward by the UUP and DUP whether individually or jointly. We are somewhat unsure as to the current status of documents which have been tabled by the Unionist parties. The most recent position paper was apparently handed over to the former Secretary of State in early 1988. It was subsequently leaked to the newspapers in early 1990. We also understand from newspaper reports that the Unionist parties at the same time handed over a lengthy background paper.

-- we want briefly to comment on the proposals contained in this document. We then propose to give our views on the detailed proposals in the UUP's "the Way Forward" and the DUP's "The Future Assured" - we note that the 1987 Task Force Report regarded them as still relevant.

"Leaked" document handed over to Northern Ireland Secretary of State in early 1988

[Draft material for possible intervention on Irish consulate proposal contained in document elsewhere.]

Proposed devolved structure - we are unclear what government structure is proposed in the joint Unionist document. The paper states: "the minority can rightly say that it is represented at the highest level." We are also told that "Each party will have a role commensurate with its support in the community." Yet, there is no reference to an executive structure in the proposal. It appears that an effort has been made to blur the differences between the two parties preferences for "administrative", "executive" and "legislative" devolution. [See below.]

External Affairs Committee - we note the idea to establish an "external affairs" committee in any new Assembly. As far as we can see, the idea essentially for the committee is to promote and maintain "good neighbourly relations" between whatever government structure evolves in the North and government in the South. You already know our view that this type of idea fails to capture the uniqueness of the relationships we seek to address in these talks.

- the proposed "external affairs" committee would - we quote - "monitor and consider Northern Ireland's relation with the rest of the UK, the EC, etc." Perhaps the Unionist parties might spell out their thinking behind the subject matter mentioned here. We also note references - in this document and elsewhere - to correspondence which Mr. Molyneaux and Dr. Paisley

conducted with the then British Prime Minister in August/September 1985. As far as we know, this correspondence, apparently dealing with Anglo-Irish relations, has not been published. Perhaps the Unionist leaders might wish to outline the contents of this correspondence. Finally, the document under discussion refers to "specific proposals" for the protection of the minority community which the Unionist parties would intend to table in negotiations. We look forward to hearing these proposals in the current discussion.

UUP document "The Way Forward"

Introduction - as already mentioned, we are unclear as to the status of earlier position papers advanced by the Unionist parties. However, we note the reference in the Task Force Report - one of whose authors was the late Harold McCusker - to the "Way Forward." the Report classifies this document as a significant policy initiative which was not pursued with "sufficient vigour." In any event, even if now somewhat outdated, this document provides the most complete formulation available of the UUP ideas on "administrative devolution."

- we have already set out our views on the overall deficiencies we see in the general approach contained in this document. Today, we will concentrate on specific problems. We will take advantage of this opportunity to comment briefly also on the "Grand Council" idea which has been consistently put forward by the UUP since the late 1970s.

Administrative Devolution - the crucial paragraph regarding "administrative devolution" in "The Way

Forward" reads as follows: "in broad terms, the proposal is that the Northern Ireland Assembly would be an administrative body for the whole of Northern Ireland. It would not legislate nor would it exercise its powers through the medium of a cabinet government, but rather make its decisions within the areas of power granted to it by the enabling legislation and by such legislation as related to the services and functions being administered by it...Minority participation would be encouraged by the absence of a Cabinet government with its concomitant requirement of a dependable constant majority."

- it is by no means clear to us how this system would work. However, in oral evidence to the devolution committee of the "Prior" Assembly, the Rev. Martin Smyth elaborated on the approach contained in this document. As far as we can see, it appears the UUP envisage a system whereby a NIO Minister, advised by a small number of senior civil servants, would decide the overall policy direction in a given area (health, education or whatever.) The Minister would be responsible for all legislation which apparently could only be processed at Westminster (as the Assembly would not possess legislative powers.)

- the Assembly, apparently, would establish individual committees responsible for specific government departments. Membership of these committees would be on the basis of party strength. The committees would be responsible for the overall direction of the execution by departments of settled policy.

- perhaps the UUP representatives would comment on our understanding of their proposal. We would make the point

that the Devolution Committee of the "Prior" Assembly found difficulty in defining the boundaries that would exist between the legislative, executive and administrative functions of government. As we have noted, the 1988 joint Unionist document fudges this type of distinction. In a sense, the "Way Forward" simply tries to ignore it.

- we suspect, as we have stated, that this evasiveness masks an unwillingness to grapple with the issues of responsibility in government - how is it to be achieved, exercised and maintained in the Northern Ireland context? "The Way Forward" states that "the absence of any party with an overall majority in the foreseeable future would necessitate those compromises and bargains between participating parties which are the essence of real politics." For us, this type of statement again sums up the glaring reluctance of the Unionist parties to admit that the situation in Northern Ireland is abnormal and requires fundamental structural approaches to widen consensus. Instead, the Way Forward plays around with the semblance of democratic forms suitable for "normal" democratic societies.

Regional Councils - we have referred to the Grand Council idea which has been advanced by the UUP. Mr. Molyneaux, in particular, has advanced the merits of such a proposal. He has consistently pointed to the type of structure seen in Scotland when making this proposal. We have consulted Factsheet no. 28 entitled "Local Government in Scotland" which is published by the Scottish Office. We note that there are nine regional councils in Scotland. They range in geographical size from seven hundred to just under ten thousand square

miles. Population size varies from just over one hundred thousand to about two million three hundred thousand.

- the Factsheet states that the regional councils "are endowed with powers and resources to provide the large-scale services in their area such as transport, education, police and fire services, and strategic planning. The boundaries of the regions have been created to enable the administration of these services over wide areas which have natural links and where there is an interdependence between the main centres of population and their surrounding areas."

- thus, the Scottish approach indicates a very diversified type structure indeed. There are then many models for Regional Councils. It is of course hardly coincidental that Mr. Molyneaux favours a single, Strathclyde type large council to cover all of Northern Ireland - behind the seeming "modesty" of the UUP proposal is a calculation as to how to maximise Unionist power and influence.

UUP approach to security issues - we note that the Scottish Council have responsibility of policing functions. We also note that the UUP have been quiet regarding any local forms of control of policing. The party ostensibly boycotted the Prior Assembly on the basis that it could not deal with substantive security issues and was, consequently, a mere "talking shop." In the Task Force report, we note the following sentence: "There is general support too for the proposition that a Government in Northern Ireland without control of internal security would be unworthy of the name."

- yet, the UUP is silent on the specifics. As far as we can see, their only suggestion is that the proposed Westminster Select Committee on Northern Ireland would discuss security matters. There is no concrete proposal as to how a devolved structure would approach the policing issue. It almost seems that the UUP's argument is: a devolved structure in Northern Ireland must have control over security policy. There is no likelihood of such a devolved structure being given control over security policy. Therefore, it is pointless to discuss devolved structures.

- this seems to us to be the real, if implicit, meaning to the UUP silence on specific policing proposals. Essentially, the approach chosen is a means of evasion of crucial issues central to any meaningful devolution - very much an integrationist line in fact. If so, it is hardly surprising that there should be ambiguities in any joint document advanced by the Unionist parties. Of course, we obviously would welcome the UUP response to this viewpoint.

DUP document "Ulster The Future Assured."

Differences from Convention report - this document was also submitted to the devolution Committee of the Prior Assembly. It is a lengthy and wide ranging statement of policy. It rehearses many of the traditional DUP arguments against power sharing "as of right." It discourses at length on the vital function of the opposition in a democratic society. Much of this material represents the fascination with the empty forms of rather than the substance of democracy we have already noted. We have set out our views on such an approach in an earlier intervention.

- however, there is evidence in the DUP document of recognition and acceptance that the situation in Northern Ireland is not "normal." The document explores mechanisms for protecting the rights of the minority community. Thus, the DUP propose a "Council of the Assembly, made up of equal numbers from the majority and minority communities, which could block legislation. This delaying function could only be overruled by a - suggested - 60% vote of the full Assembly.

- clearly, this type of proposal is a development from the strict line and letter of the Convention Report. We have already referred to Mr. Robinson's remark in oral evidence: "We would like to go back to the system that prevailed in Northern Ireland prior to 1972, but we recognise, because of the political reality in Northern Ireland, that that proposition is unlikely to be acceptable." We would welcome interventions from the DUP outlining their present approach.

Approach to security issues - the DUP document discusses security. Paragraph 7 states: "Most important of all some procedure must be devised to directly involve the Northern Ireland Government in the day-to-day control of security matters. So long as security remains the dominant concern of the people of Northern Ireland then so long will a government in Northern Ireland which has no effective say on security remain largely inept, despised and ineffective. Thus we suggest that the Leader of the Northern Ireland government should be involved along with the Secretary of state, the Chief Constable and the G.O.C. in the regular discussions which take place on security matters."

- in oral evidence, then party spokesman, Jim Allister, made the point that, while the British army was in Northern Ireland, no devolved administration would have full powers over security. He argued however that it was necessary to "claw back" various security powers. He suggested that British Home affairs type functions might be devolved immediately. These are interesting ideas on security. We would appreciate further elaboration by the DUP leadership.

"The Catherwood Plan"

-- in the Task Force Report, the "Catherwood Plan" is apparently recommended to the Unionist leadership as a basis for future negotiations. It is also characterised as the occasion where "both Unionist parties abandoned pure majority rule as the price for devolution." Once again, the actual situation seems to us unclear. We know that the Unionist parties, acting with great speed in the context of the finalisation of the Anglo-Irish Agreement, expressed their agreement to the Catherwood Plan as "providing a working basis for fruitful negotiations."

-- subsequently, however, the two Unionist parties apparently withdrew their agreement. We would welcome clarification of the current status of this - admittedly, circumscribed - document in Unionist eyes. What is the current Alliance position - that party also endorsed the Catherwood Plan. Once again, we must make the point that Unionist approaches to devolution issues are by no means clear or indeed entirely consistent. We have to say that Alliance and Unionist thinking has been sketchy and undeveloped. In our view, we need to thrash out the fundamentals before we begin tampering and tinkering with various possible structures of government

institutions.