

RECORD OF A PLENARY SESSION AT PARLIAMENT BUILDINGS
ON 26 JUNE

<u>Government Team</u>	<u>Alliance Party</u>	<u>UUP</u>
Secretary of State	Dr Alderdice	Mr McGimpsey
Minister of State	Mr Neeson	Mr K Maginnis
Mr Fell	Mr Close	Mr Trimble
Mr Pilling	Mr McBride	Mr Allen
Mr Thomas	Mr Dickson	Mr Empey
Mr McNeill	Mrs Bell	
	Mr McGarry	<u>UDUP</u>
<u>Talks Secretariat</u>	<u>SDLP</u>	<u>UDUP</u>
Mr D J R Hill	Mr Mallon	Mr Robinson
Mr Pope	Mr McGrady	Mr Campbell
Mr Hallett		Mr Dodds
		Miss Paisley
<u>Others present</u>	Mr Farren	Mr Gibson
Mr Pawson	Mr Haughey	
	Mr A Maginness	
	Mrs Rodgers	
	Mr Feely	

A plenary session of Strand One of the Talks took place at Parliament Buildings between 1835 and 1940 on 26 June. The Government Team suggested resumption of the discussion of Items 22 and 23.

2. The UDUP agreed with the UUP view that the most appropriate setting for a Bill of Rights would be in a UK-wide context but argued for a Bill of Rights and Responsibilities. Because of the importance they attached to this issue, they felt it should be pursued for its own sake and not be used as a bargaining counter in negotiations. They asked for clarification of the difference between the reference to "minority rights" in point 22 and "community rights" in point 23. The Government Team replied that there was no particular distinction. The terms had been taken from the party presentations and were not intended as definitive.

3. The Government Team asked the SDLP for clarification of their statement that any Bill of Rights should be entrenched, given the fact that legislation passed one Parliament could not bind another. Might not the objectives of a Bill of Rights be achieved by ordinary legislation?

4. The SDLP replied that this was possible but other countries with similar systems (such as Canada, Australia and the United States) to the UK had found it necessary to entrench a Bill of Rights. Examples were Canada, Australia and the United States. The Government Team said they understood the rationale but entrenching a Bill of Rights would entail fundamental changes in the legal and constitutional structure. The SDLP commented that the fact that the UK had signed the European Convention on Human Rights showed the acceptance of the need for protection of human rights going beyond the common law.

5. The UUP drew attention to the fact that the ECHR had an enforcement provision. This supranational law was already entrenched in UK law. It was beyond the reach of the UK legislature. The EC was also planning to embody the ECHR in EC law.

6. The SDLP commented that the ECHR might provide a useful model. What was needed was a Bill which would emerge from the current process to which all could give their assent. The details could be discussed later.

7. The Alliance Party said that they had long been interested in a Bill of Rights. The question of individual rights was more straightforward than that of group rights. It would be difficult to handle the obligations point raised by the UDUP. With regard to enforcement, the Alliance Party favoured simple mechanisms to ensure that any Bill was justiciable through the UK courts. The simplest way forward would be to embody the ECHR in domestic legislation rather than embarking on a new Bill. Minority rights was a difficult issue to embody in legislation. The Council of Europe was, however, looking at a draft convention on minority rights. The Alliance Party were prepared to consider any proposals but felt that if individual rights were catered for, this would take care of the issue of group rights.

8. The SDLP raised the question of the co-existence of a Bill of Rights with emergency legislation and requested a Government

paper setting out how this could be achieved. The Government Team undertook to produce such a paper.

9. The SDLP referred to existing legislation to protect rights such as the Public Order order. This had the power to protect basic community rights but was not used; an example was the failure to prevent marches through areas where they had no support.

10. The SDLP sought clarification from the UDUP about what they envisaged by duties and responsibilities. The UDUP replied that it was necessary to encourage people to think in terms of duties as well as benefits; there was, for example, a duty to respect the structures of the state and support the legal authorities.

11. The Government Team then proposed consideration of the procedures for endorsing any agreement which emerged from the Talks. The 26 March statement had referred to the need to secure the approval of the people.

12. The UDUP agreed that endorsement of the people for any agreement was necessary.

13. The SDLP said that their views on the method of endorsement were well known. They saw this as a crucial element in undermining support for the IRA. A key element in the IRA's attempt to justify their activities was the reference to the 1918 Election as the last expression of the will of the Irish people on an all-Ireland basis. The SDLP were hoping to devise an arrangement which would undermine that argument. For this reason, they favoured simultaneous referenda, North and South, on any agreement which emerged from the current process. They recognised the reservations of the Unionists about voting in the Republic on Northern Ireland arrangements, but any package which emerged would address the three relationships. They urged Unionists to try to find a way of accepting this proposal as it would have a major effect on undermining the IRA's self-justification.

14. The UUP said that they were aware of the SDLP arguments but were not convinced by them. In particular, they were doubtful whether a referendum in the Republic would have any significant effect on the level of IRA violence. They would need to consider any proposal for a referendum very carefully and would have detailed questions about the wording and timing of any referendum and about the primacy of the votes in the North and the South.

15. The Alliance Party pointed out that amendment of Articles 2 and 3 would necessitate a referendum in the Republic. The UUP accepted that, and argued that a referendum on Articles 2 and 3 would, in effect, be an endorsement of any agreement since the Irish Government would justify amendment of Articles 2 and 3 to its electorate as part of a package.

16. The SDLP said that there were ways of arranging the referenda to mitigate the concerns of Unionists, but it remained important to use the democratic process to undermine Sinn Fein support. The UUP suggested that IRA support could be undercut by any agreement which was endorsed by the four Northern Ireland constitutional parties. The SDLP argued, however, that the concept of an all-Ireland right of self-determination could not be undermined simply by validation in Northern Ireland alone.

17. The Government Team asked whether the Unionists accepted the interdependence of the validation process in the two parts of Ireland, since the outcome of a referendum in the Republic of Ireland on Articles 2 and 3 would inevitably impinge on Northern Ireland. The UUP replied that they recognised the interdependence but they were concerned that an agreement reached by the four Northern Ireland parties and the British Government might be undermined by a subsequent adverse vote in a referendum in the Republic. They would need to examine the issue carefully before adopting a definite position.

18. The UDUP pointed out that the three strands, in a legal sense, were directed to different constituencies which might

necessitate different arrangements for endorsement. Strand 1 concerned the people of Northern Ireland, whereas Strands 2 and 3 involved the Republic of Ireland as well. It would be difficult, however, to devise validation arrangements for the whole package in Northern Ireland, but only two-thirds of the package in the Republic. The UDUP asked the SDLP whether their proposal was simply for a validation process which asked people of the North and South whether they accepted the agreement which emerged or, whether the questions would entail acceptance or rejection of the enabling legislation. The SDLP replied that this was not the time to go into details but it should be possible to devise appropriate wording for a referendum which would undermine the IRA while protecting Unionist sensitivities.

19. The Government Team then summed up, drawing attention to the depth and importance of the discussions of the previous two days and to the extent of the common ground and mutual understanding which had been achieved. The checklist of "common issues and propositions", drawn up by the Government Team on the basis of the discussions in plenary session was then circulated. The Government Team acknowledged that it was a preliminary and not thoroughly considered set of points but expressed the hope that it would be helpful to the parties as they - and the Government Team - prepared papers, for circulation on Friday, setting out their views of political realities and the requirements which flowed from them, both at the level of general principle and in terms of the areas in which discussion should now begin to focus on specific proposals.

20. The Government Team then read out a proposed press release which was agreed without amendment.