

# *Féile Dúthalla 2011 Talks Series*

## **“THOUGHTS” ON THE TREATY**



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## **THE “TREATY” AND THE PARTY STRUCTURE**

Jack Lane said there are a few good reasons for discussing the ‘Treaty’ and the resulting war at the present time. It will soon be the 90<sup>th</sup> anniversary and the two events gave rise to the main party structures since then and which were consolidated at the last election. He would give a narrative of the salient facts that led to both events. That was the only way to explain them.

Firstly, the words are misleading. There was no Treaty signed. There were ‘Articles of Agreement *for* a Treaty’. A Treaty is between two independent states freely entered into. A condition of the ‘Articles of Agreement’ was that the signatories of one side were not allowed to consult their government before signing. In any case the British Empire could not sign a Treaty with a Dominion. That was a constitutional impossibility. The Union was not repealed. So there was no Treaty.

The war over it was not a civil war as both sides were Republican. It was, as it is described in Gaelic, a war of brothers. It was a war over the ‘Treaty’ and nothing else.

The Truce is a good starting point. That was a victory as it acknowledged that the British administration had become impossible and had been replaced by a Republican government. This was the crucial fact, not just the military successes. It was also an unconditional truce despite Lloyd George’s efforts to lay down conditions.

The unity of the people was the crucial factor and that was expressed in four elections during the war. Britain suspends elections during wars. And P.R. was suddenly introduced to stymie support for Sinn Fein and it only confirmed support for it and the war. There was the 1918 election, then the Municipal and Council elections of 1920. The 1921 General Election is often overlooked but in many ways it is just as important as the 1918 Election and we need to look at it a bit more closely because it had great significance afterwards.

This was the Election to set up the Government of Southern Ireland under the 1920 Government of Ireland Act. There was not a single vote cast for that Government of Southern Ireland in that election as there was already a

government in the country! Every elective seat went uncontested to Sinn Fein except for the 4 appointed by Trinity College Dublin. Sinn Fein won 124 out of the 128 seats. It was the most overwhelming election result ever in any democracy and it was never queried or challenged by anyone then or [since](#). It should have an entry in the Guinness Book of Records! Naturally there was then no question of this Government of Southern Ireland coming into existence. It was a dead letter as not a single person voted for it.

This is what gave rise to the Truce. The British knew precisely what to do. Retrieve and reverse the situation as much as possible. Ireland had gone outside the Empire and it must be brought back in by hook or by crook. And people with a clear and straightforward aim like that are in a very strong position.

One major change that had occurred was the development of the struggle from a conspiracy as 1916 was, led by the IRB, to a popular people's war led by the IRA. They had become very different animals despite an overlap of memberships and leaders.

At the end of the first negotiations between de Valera and Lloyd George, after a lot of flattery and cajoling, Lloyd George offered Dominion status and de Valera rejected it out of hand and would not even take the paper it was written on. Then the following exchange occurred:

Lloyd George: *"Do you realise that this means war? Do you realise that the responsibility for it will rest on your shoulders alone?"*

de Valera: *"No, Mr. Lloyd George, if you insist on attacking us it is you, not I, who will be responsible, because you will be the aggressor."*

Lloyd George: *"I could put a soldier in Ireland for every man, woman and child in it."*

de Valera: *"Very well. But you would have to keep them there."*

De Valera went to leave but Lloyd wanted him to continue. This exchange summed up the essential issues that remained right to the end.

Lloyd George claimed that negotiating with de Valera "was like sitting on a merry-go-round and trying to catch up with the one in front." He also famously said that negotiating with de Valera was 'like trying to pick up mercury with a fork' **to which de Valera replied, 'why doesn't he use a spoon?'**

There was a deadlock and that had to be broken to move forward. De Valera did so with External Association which occurred to him as he “...was tying his bootlaces, sitting on the side of his bed in Glenvar, when the word ‘external’ flashed into his mind. It would clarify all that he had been trying to say...The whole idea was that Ireland would be *associated* with the Commonwealth but not a *member* of the Commonwealth.”

Formal negotiators were arranged for October 11<sup>th</sup>. There were led by Griffith as Foreign Minister and it was agreed that the President, de Valera remain at home to be in a fallback position. The example of Woodrow Wilson at Versailles was a warning of not allowing for such a position when negotiating with people like Lloyd George. Brugha argued for a neutral venue which was very sensible.

The cabinet position was based on the concept of External Association and in fact this is what all the subsequent negotiations were about. There was an ambiguity about it but this provided for flexibility and the substance depended on the determination of each side to put the final meaning in it.

It is also important to note that there were very clear instructions given to the negotiators who were called plenipotentiaries:

*“Dublin, 7 October 1921*

*(1) The Plenipotentiaries have full powers as defined in their credentials.*

*(2) It is understood however that before decisions are finally reached on the main questions that a despatch notifying the intention of making these decisions will be sent to the Members of the Cabinet in Dublin and that a reply will be awaited by the Plenipotentiaries before the final decision is made.*

*(3) It is also understood that the complete text of the draft treaty about to be signed will be similarly submitted to Dublin and reply awaited.*

*(4) In case of a break the text of final proposals from our side will be similarly submitted.*

*(5) It is understood that the Cabinet in Dublin will be kept regularly informed of the progress of the negotiations.* (In-  
structions to plenipotentiaries from the Cabinet)

Their credentials were ignored by Lloyd George. In other words they were not treated as representatives of a government. This was overlooked by

the delegates but it was a crucial issue when it again came to the source of authority later on.

No record of the negotiations was taken as agreed with Griffith and Lloyd George. Lloyd George also treated the delegates as two

Groups - Griffith and Collins acted as one group and the rest as another and they even stayed in different hotels.

After the initial meeting they never met again as a group until the final session. It was blatant divide and rule. Lloyd George divided matters further by dealing with Collins and Griffith separately whenever he felt it served his purpose.

The next important point was the Cabinet meeting of 3<sup>rd</sup> December 1921. It lasted over 7 hours and all issues and permutations were discussed. Griffith argued initially for accepting Dominion status and to put it to the Dail. But he accepted that this would only increase divisions and dropped it. Collins seems to have played little part in the discussions.

The minutes record the following conclusions:

*(b) The President took his stand upon the last Irish proposals which meant external connection with the Crown. He suggested the following amendment to the Oath of Allegiance:- 'I ..... do solemnly swear true faith and allegiance to the constitution of the Irish Free state, to the Treaty of Association and to recognise the King of Great Britain as Head of the Associated States.'*<sup>2</sup>

*(c) Delegates to carry out their original instructions with same powers.*

*(d) Delegation to return and say the Cabinet won't accept Oath of Allegiance if not amended and to face the consequences, assuming that England will declare war.*

*(e) Decided unanimously that present Oath of Allegiance could not be subscribed to.*

*(f) Mr. Griffith to inform Mr. Lloyd George that the document could not be signed, to state that it is now a matter for the Dail, and to try and put the blame on Ulster....*

*(h) It was decided that the President would not join the Delegation in London at this stage of the Negotiations.*

The cabinet did not see the end of the negotiations as imminent and de Valera would go if necessary to finalise matters. But it did not seem necessary now as all points were agreed. The strategy was to keep pushing Lloyd George and force him to make a break if there was to be one.

De Valera's plan seems to be that they should maintain Cabinet unity at all costs and be able to get to a position where they could dare Lloyd George to declare full scale formal war (hitherto it was not formally a war) against a united Irish Government on what would seem to be a very small point of difference to the general public - a quibble - about the role of the king. To complicate the issue further in their favour it was agreed that the Irish government would make a contribution to the Monarch's civil list. All eventualities seemed to be covered and de Valera and Mulcahy began a tour of IRA units to ensure they were ready for a resumption of war, if necessary.

It should be realized that Lloyd George's position had weaknesses that could be exploited. The US was watching and in conflict with Britain about the future of the Royal navy and US naval power in the world – specifically who controlled the seas. Many predicted a war between them. There was also serious conflict with France over German reparations. Public opinion in the UK was going against the war in Ireland and declaring war over a delay in the sending of a letter to Craig would hardly be convincing. There were many problems elsewhere arising from the aftermath of the war. A few months later he was downfaced by Ataturk after an attempt to impose a similar 'Treaty' on him, the Treaty of Sévres, under threat of war. Lloyd George was isolated at home and abroad and his government fell.

The declaration of a full formal war against Ireland in December 1922, not done hitherto, over the wording of an oath to the King was very risky and would be a momentous decision. Also, Lloyd George was not a Churchill when it came to Ireland; he was not an English aristocrat. In his heart he could appreciate the Irish case. He was a total opportunist, as any successful politician has to be, and whatever would succeed from day to day was his guiding star.

The Under Secretary at Dublin castle, Andy Cope, shadowed the delegates back and forth and no doubt was able to report on cabinet debates and divisions. The British cabinet discussed the Irish cabinet divisions and discussion two days later on 5 December.

The delegation on return to London presented the Cabinet position and its agreed oath to Lloyd George on 5th December and it was all rejected outright by them. Collins did not attend and this has never been satisfactorily explained and was irresponsible. His absence made clear the divisions to the British and that there was a real split in the Irish Delegation and with Dublin. Lloyd George then exploited this fully, took full advantage and dealt separately with Collins and convinced him that the Boundary Commission would never work. This had a big impact on him.

Griffith led the next discussion but was outmaneuvered and embarrassed by Lloyd George over Ulster and he suddenly agreed to sign on his own. Lloyd George insisted everyone should within three hours or there would be renewed war and with no consultation with Dublin as they were plenipotentiaries.

On the way back to the hotel Collins unexpectedly agreed to sign. This caused consternation. Then both Griffith and Collins browbeat the others to do so by threatening them with being responsible for a return to war if they did not. They did not even make a phone call to Dublin. This was extraordinary in view of the last cabinet meeting and its decisions less than 3 days earlier.

This explains the shock in Dublin when it became known that Dominion status and an oath of allegiance to the king was agreed without any final consultation. This *fait accompli* combined with massive and immediate propaganda that a 'Treaty of peace' had been signed ensured a maximization of all differences in the Cabinet and put it on the back foot as the initiative was with the British.

De Valera resisted calls to have the delegates arrested on their return. The possibility of a united, final, cabinet position being put to Lloyd George led by de Valera was thereby made impossible and we will never know what the result of that would have been. That's the crucial fact.

In the Dail debate on the Treaty all accepted that a renewal of the war was possible and this was now a very potent argument when the leadership was obviously divided. The prospect of a renewal of war with a divided cabinet frightened many. Liam Mellows put it well when he said that what the pro 'Treatyites' were relying on was the fear of the people not the will of the people. This, plus plausible 'stepping stone' arguments carried the Treaty by a mall margin. But it was not a free debate as it was discussed under a threat of war. Also the 'Treaty' was a step back not forward.

The real problem with taking any steps began immediately after the Dail debate. Because the first thing that became clear was that the Dail could not ratify it. The debate was beside the point because those who won the debate did not and could not go on to implement the 'Treaty.' This is actually of more significance than the actual debate.

The Treatyites then had to meet at British insistence as the 'Government of Southern Ireland' and set themselves up as a Provisional Government under the 1920 Government of Ireland Act and thereby accept English law on

the matter. Remember this Act? This was humiliating. It met without the anti-Treatyites, could not legally have the elected TDs from Northern Ireland present but it did have the 4 unelected members from TCD in attendance. It only met this once on 14 January 1922 and the only business it ever did was to ratify the 'Treaty.'

Collins then went to Dublin Castle and was duly 'installed' by the Lord Lieutenant!.

So you had the situation that a government based on an election that had not got a single vote in Ireland to support it originally had now to be accepted as the new Government to implement the Treaty! So the situation was that one government, the Dail, where every single seat was won in opposition to the Government of Ireland Act 1920 was now faced with accepting that voteless Government as the law of the land.

A government that everyone voted for was now replaced by a government that everyone had voted against! This was the fatal moral/legal flaw in the Treatyite case. It was demeaning to have to act in this way and it showed clearly the determination of the British to reverse what had been achieved.

The Treatyites also kept the Dail going for appearances sake even though it was not the source of their authority, it was a charade, and therefore you had the perfect split – two Irish Governments. It was beyond the wildest hopes of the British. This was a step all right, but a step backwards!

This could not go on. Then a new mercenary army was created to serve the new Government and the volunteer army of the IRA was left politically leaderless and confusion reigned among them.

De Valera tried to solve the issue constitutionally and that looked possible with the new Irish Constitution as promised in the 'Treaty'. de Valera and his supporters fully accepted the concept and worked with the Treatyites so closely on drawing up an agreed Constitution that they were also able to form an Electoral Pact for the next election to form the 3<sup>rd</sup> Dail on the basis of this Constitution. The Constitution was agreed and accepted by all and it dispensed with the Oath and the role of the Privy Council, all authority would come from the Dail and in any conflict with the Treaty, the Constitution would prevail.

All looked fine until the British read it and they rejected all the above aspects that conflicted with the Treaty and insisted that it be changed accordingly. Churchill said that not only was it Republican but it was "of a Bolshevik character." Griffith and Collins were summoned to London and ordered to

change it. Both agreed to the changes but Collins was so humiliated that he could not bear to sign it and there is no record of him actually doing so. But Griffith did and it was thereby formally accepted by the Free State. By the way, that Constitution also allowed for a full franchise – something that did not yet exist in the UK. This was the end of another stepping stone.

At this point Collins was treated with contempt and was described as a wild animal by Lloyd George as erratic and shallow. They had him on the run. He was also ordered to break the Pact which he did.

Breaking the Pact and rejection of the agreed Constitution ruined the credibility and moral authority of the new Dail and before it ever met the existing Provisional Government set up under British authority and supervised by Britain launched and won the ‘civil war.’

Churchill always insisted that the Free State, like any government, could not be taken seriously unless it was prepared to fight and kill its opponents, until it was blooded, and that could only be against Republicans –they had to be broken. This was what he wanted and this is what he achieved when he made Collins attack the Four Courts or else he would. The Four Courts was no problem in itself and Collins was working with them for weeks and exchanging weapons with them for the war on the North until the British declared it a threat to the Treaty.

As the issue could no longer be solved constitutionally the issue was eventually resolved by terror. Cosgrave spelt it out clearly: “...the people who have challenged the very existence of society have put themselves outside the Constitution..... there is only one way to meet it, and that is to crush it and show them that terror will be struck into them.” (Dail, 8 Dec. 1922).

This became the Free State template for future behavior for running government. They could not step beyond relying on the oppressive aspects of state power and became dependent on that aspect of state power. This became the mindset of the Free State party and its successors. They did not win the war on their own political ability and therefore did not acquire the political skills to cope with their success and without that they lost the moral argument. They were seen as wanting to prolong the conflict and to live off it and de Valera came to be seen as the one who wanted to end the conflict.

The Treatyites came to regard the ‘Treaty’ not as a stepping stone but as the final destination. The stepping stone became a ‘millstone’ for political advancement. This soon gave rise to a mutiny in their Army in 1924 which was put down by Mulcahy and the Army HQ Staff but they were then all dismissed for doing so! Sam Maguire was the most famous victim. The Treatyites be-

came more and more involved in Imperial Government appearing in Court dress at Buckingham Place. There was complete capitulation on the Boundary Commission and the land Annuities (which Northern Ireland no longer paid to Britain). These with other items meant 20% of their revenue was sent to London.

The Free State got more and more attached to the Treaty restrictions, Dominion status, the Oath of allegiance, the occupation of the ports. They developed a Stockholm syndrome towards Britain. They implemented drastic economic policies and relied on exports which proved disastrous when the Depression hit export markets. There was more and more capitulation to Britain and political opposition was treated as subversion at home.

De Valera devised a Republican political movement to counter this and implemented the stepping stone case. He developed a comprehensive alternative to the whole Free State set up and mindset and replaced it by an alternative polity. At one point the Free State resorted to fascist methods to oppose him betraying their authoritarian mindset.

De Valera saved the country from this type of government and politics and put open democratic politics centre stage

Jack Lane