



An Chartlann Náisiúnta National Archives

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SECRET

Anglo-Irish Intergovernmental Conference, Belfast

8 December 1986

The Anglo-Irish Intergovernmental Conference met in Stormont Castle, Belfast on 8 December 1986. In attendance on the Irish side were the Irish Joint Chairman, Mr. Peter Barry TD, the Minister for Justice, Mr. Alan Dukes TD, Mr. Sean Donlon, Mr. Andrew Ward, Mr. Eamonn O Tuathail, Mr. R. O'Brien, Mr. D. O'Donovan, Mr. Michael Lillis, Mr. Daithi O'Ceallaigh and Mr. Noel Ryan. On the British side were the British Joint Chairman, Mr. Tom King MP, Mr. Nicholas Scott MP, Sir Robert Andrew, Mr. Ken Bloomfield, Mr. A.J. Stephens, Mr. A. Brennan, Mr. D. Gilliland, Mr. D. Watkins, Mr. T. George, Mr. Mark Elliott, Mr. Steve Hewitt and Miss Valerie Steele.

The meeting began in a session confined to the four Ministers at 10.10 a.m. The Ministerial session lasted until 11.15 a.m. The discussion of agenda items 1 to 6 lasted until approximately 13.45 hrs. Discussion about the contents of the Joint Statement (copy attached) went on until approximately 14.00 hrs. This was followed by lunch after which Ministers departed at 14.45. What follows does not purport to be a verbatim account of the Conference but it is put in the form of direct speech.

Mr. King: Can I welcome you and your colleagues here this morning. Are we happy to proceed with the agenda that we have in front of us? If I start on the Draft Public Order Order would that be helpful?

Item 1 - Draft Public Order (Northern Ireland) Order

Mr. King: We published the Draft Public Order Order a week ago. We have asked for any comments by 16 January. I think you are familiar with the background to all this. Obviously we would be very interested in any points that you would like to make about the Public Order Order. I am very grateful that you have not overdone your public welcome for the Order. Besides the anticipated negative comment we have had some sensitive and informed comment about it, for example in the Belfast Telegraph. You have seen the knee-jerk reaction (from unionist politicians). Others understand the good sense behind the Order in aligning our law with the rest of the UK and, on the other hand, the need for legislation which is different to the legislation which exists in the rest of the United Kingdom. There are problems here in Northern Ireland such as traditional marches and matters relating to flags and emblems which require such differences. It covers all customary marches; but the problem in Northern Ireland is that you have a march one year and it is called "traditional" the next. On flags and emblems we see a strong case for what we are trying to do. I have made it clear that we hope to carry this legislation forward in the spring and we hope that it can be applied in time for the marching season.

Mr. Barry: I have welcomed your proposals. We didn't go overboard in our welcome. We may have a few points which we would like to make to you about the Public Order Order. I am encouraged by what you are proposing in regard to parades and processions. You will remember that when we discussed this issue at the Conference in July we talked about the proposal of the Chief Constable to establish an independent tribunal to

consider problems relating to parades. We would like to leave that idea on the table. We could perhaps come back to it later when we see how these present proposals work. I also welcome your decision to include the flags and emblems area in your legislation. I take it that what is involved there is just a simple repeal of the legislation?

Mr. King: It's very simple, but it still requires legislation.

Mr. Barry: I take it you will be going ahead with this proposal more or less as you have drafted it.

Mr. King: We have made it clear that our position is as in the Public Order Order. I have said why we needed it. We haven't a closed mind to the ideas that might be put to us but we have made clear what our own inclinations are and they are as contained in this proposed Order.

Mr. Barry: What about the timing of it?

Mr. Scott: The comments from the public have to be made by 16 January next. We hope to have the legislation on the Statute Book by Easter. The difficulty with legislation for Northern Ireland by Order in Council is that Orders in Council are unamendable. They go through after about one and a half hours debate. We therefore have to allow a chance for public comments. Once the Order itself is published the House of Commons can only say yes or no to it. They cannot alter it.

Mr. King: I would be grateful if, when you are talking in public about this matter, you would stick to the form of words I have used in public, that is, that it will be law in the spring. We are awaiting comments from the public. We have given them an opportunity to consider what our views are. We then propose to carry them through "in the Spring". If you stuck to that line it would be helpful and particularly if you didn't mention that we hoped to have this thing through in time for the next marching season.

Mr. Barry: Right.

Mr. King: On the tribunal we have considered the idea of the Chief Constable. I have to say that we see some difficulties with it and we don't propose to proceed with it at this time. There could be a problem in that others (i.e. the tribunal) would become involved in what is essentially an operational policing decision. There could be problems of modifying what they had decided if you could not get hold of the Tribunal members, and, accordingly it could prove impractical in practice for the police.

Mr. Barry: Given the origin of this idea I think it is something that we need to leave on the table. It provides for greater acceptability for decisions.

Mr. King: The Chief Constable is aware of our views. It is an idea that we have considered. We are not ruling it out but we don't think that it's on at present.

Mr. Barry: Right.

Item 2 - Article 7(c), relations between the security forces and the community

Mr. Barry: There are two things here in particular that I would like to raise - the Code of Conduct and the question of accompaniment. Last December the Chief Constable said that the Code of Conduct would be ready early in the New Year. Time has dragged on since then and we are still without the Code. I think this is a matter of great importance. My understanding is that it is now with the Police Authority, and that it must go back to the Chief Constable.

Mr. King: No, not yet. It is at present with the Chief Constable. It has finished its time in the sense that the

Police Federation and the bodies representing the different ranks in the police have had an opportunity to give their views on it. My understanding is that it will go very shortly to the Police Authority. I am anxious to see this through quickly. I fully understand your interest in it. However I would be concerned to make clear that consideration of this issue started way back in May 1985 before the Agreement.

Mr. Barry: The Chief Constable said that he would introduce this as soon as possible in 1986. This is something which is of importance and if it were to be made public it is something which would help the relationship between the RUC and the minority community.

Mr. King: I agree with you.

Mr. Barry: When can we expect it to go to the Police Authority?

Mr. King: It is a matter for the Chief Constable. I think you understand the sensitivity in this area. He is not under instructions from this Office on this matter. The importance which we attach to it is getting through to him and our views have been made clear to him. I would like to have seen it out earlier. But the length of deliberation within the Police Force here is less than the time spent in bringing to fruition the Code for the Metropolitan Police. It's a frightfully laborious procedure so that people can comment. The period of outside consultation is over and I hope that the Chief Constable can see his way quickly (to submitting it to the Police Authority and having it promulgated). I would be very pleased to see it happen and I can fully understand your interest.

Mr. Barry: Can we now turn to the rate of accompaniment of UDR patrols by the RUC. Frankly I have to say that I am very disappointed. I would have thought it likely that there would have been a much higher level of accompaniment at this stage

once the marching season was out of the way. It's very important for the relations between the security forces and the minority and particularly for relations between the RUC and the minority. We had hoped that there would be one hundred percent accompaniment by now. But the level of complaints which we get from the community indicate that this is not so. I have noted what the UDR Commander said recently about accompaniment of his men by the RUC being a good thing.

Mr. King: Absolutely.

Mr. Barry: I understand your problems, particularly during the marching season, but in sensitive areas I have to ask you to get the thing going quickly.

Mr. King: The figures are staggering. Over a recent period of thirteen weeks there were over twenty thousand patrols. That is the heart of it. (It wasn't clear whether he was talking only of UDR patrols or of all army patrols). Accompaniment is certainly what the Chief Constable wants. He feels very strongly about it. The problem is volume, particularly where we have other problems such as unionist violence or protests. That puts particularly strong pressure on the RUC. We don't want the army involved in handling such protests. We have made precautions for your visit today and as a result the rate of accompaniment today is less than it might have been otherwise. The RUC chaps who would otherwise have accompanied the patrols are deployed here. There is also the problem of guarding Maryfield. Let me say that there is no argument between us about the policy. The question is how far we can go in practice. There are massive bills for RUC overtime given the numbers of hours which RUC men are working. The reality is that the people we want to accompany the UDR, that is the RUC, are not sitting at home but are out working at present. The manpower is being stretched.

Mr. Barry: I notice the accompaniment rate in Belfast is seventy five percent.

Mr. Stephens: That was during that particular period. It was a snap shot in time.

Mr. Scott: That was during the Summer period.

Mr. King: Ending on 2 October.

Mr. Barry: The latest figure that I have is for the period ending in August.

Mr. King: The figures that I have given above relate to the thirteen weeks ending 2 October, that is the marching season. (He is here referring to the twenty thousand patrols during the marching season.)

Mr. Barry: I think that we are still getting a very high level of complaints from the population in Belfast. Is that right Michael?

Mr. Lillis: In certain instances that is so. We are told accompaniment is 75% for sensitive areas in Belfast but earlier it was said that it was 100% for Belfast or that there was no involvement of the UDR. If you look at the figures with which we have been supplied for August and for March, you will see that it is very difficult to compare them. In addition, people have been observing the UDR operating unaccompanied in sensitive areas.

Mr. Stephens: 75% of the UDR patrols (which makes up 15% of the total) are accompanied.

Mr. King And that means that 4% of the total of military patrols in Belfast are not accompanied.

Mr. Barry How do you come to that?

Mr. King The UDR are doing 15% of all patrols. If 75% of UDR patrols are accompanied then there is only 4% of the total

number of patrols which are not accompanied.

(Comment: This seems to imply that all British Army patrols are accompanied which is, of course, not the case.)

Mr. Donlon: The maths are impressive!

Mr. Barry The figures would seem to indicate that there are certain areas in Belfast where UDR patrols are accompanied. Where are these areas?

Mr. King The figures relate to sensitive areas. Let me be clear; sensitive means nationalist or mixed.

Mr. Barry We understood that there were no UDR patrols in sensitive areas.

Mr. King When patrolling in areas which are less mixed they can creep into areas which are more mixed.

Mr. Stephens: It is so much a question of definitions. If you take Bawnmore the small nationalist area right in the middle of Unionist Newtownabbey, it is impossible to have a separate patrol for that area. Therefore it is possible that a UDR patrol unaccompanied could go into that area which would not happen in many areas in Belfast such as Ballymurphy.

Mr. King What do we need here? It is my guess that 10% of the areas are defined as sensitive. The others are not sensitive. I would like to see where complaints are coming from and to deal in the Secretariat with individual cases. There are funny bits in London SW1. It is much better if we can get a proper feedback. Our policy is clear. On that we are not in dispute. If you are getting complaints about a particular area let's look at it and let's sort it out.

Mr. Barry This is a visible sign of the Agreement working and the problem is that we are continuing to get complaints about

the non-accompaniment of UDR patrols in sensitive areas.

Mr. King: I'm concerned that we haven't distilled the 4%. That's a figure that you will find helpful.

Mr. Lillis: We were asked by you not to use figures about this. If the Minister could say in the Dail that there is a 96% accompaniment rate that would prove very helpful. Is your side prepared to give us something like that?

Mr. Barry: But the figures should not be funny figures.

Mr. Lillis: I agree. But I am asking if the British can give us figures which we can use in public.

Mr. King: This all points out the difficulties which we have. The figures we have don't really tally. I have a nasty suspicion that there is someone on our side who does not have A level maths. Let's have an intensive period of reporting on where the problems lie.

Mr. Barry: But to take up Michael's point. If I could stand up in the Dail and say X figures and point to it being an improvement that would be very helpful. Given the background which existed in July, where the RUC were overstretched, the figures for July are impressive. The figures should be a bit better now. That may well be the case and perhaps we should look at them. We can also look at the complaints.

Mr. King: I think you could say in public that there is no doubt about the commitment of the British Government in this area. The protests in the community have distracted resources from the RUC away from the fight against terrorism. Recent overtime has been horrific. Would you be agreeable for the next Conference to have a report judging from the complaints which come to you of what this looks like and of where the problems lie?

Mr. Scott: Could you say you have been encouraged?

Mr. Barry: I have said that.

Mr. O Tuathail: We had a discussion in the Secretariat and questions were put about the figures. Would it be possible for us to reach agreement on the basis on which this data is presented?

Mr. King: I mostly think these figures are too difficult. People will always be going behind them. I would prefer a pragmatic approach on the basis of the complaints made to you. It's better to deal with this on a negative basis, that is to identify the problems in reference to the areas from which complaints are received rather than concentrating on the statistics. I'm not walking away but there's always going to be problems. What do you think Tony?

Mr. Stephens: We would wish for our own reasons to keep good figures on these matters - to keep the figures working.

Mr. King: We will work on the figures.

Mr. Andrew: Let's do both. Let's work on the figures while the Irish side can try to identify the problems in reference to the areas from which they are receiving complaints.

Mr. King: I think that is helpful. It's been a running sore for too long.

Mr. Barry: If you look at Article 7(c) of the Agreement you will see the basis on which we should be working. What we are talking about there are relations between the security forces and the Community with the object, in particular, of making the security forces more readily accepted by the nationalist community. We have submitted a paper to you on Article 7(c)

recently. It is in your interest to build up the confidence of the minority in the RUC. That goal is well worth achieving.

Mr. King: We very much appreciate the remarks which you made about nationalists joining the RUC and about your repetition of those remarks (in the Dail).

Mr. Andrew: We only wish that we had got the same response from the SDLP.

Mr. Barry: Well I think, in a way, that you did. If you look at what Austin Currie said about the RUC and the SDLP. The problem for them is really a question of timing.

Mr. King: It's very unfortunate that they made those remarks. They have provided an opportunity for Alliance to express their concern. Both they, and many others, are very concerned at the position of the SDLP. What have the statements of the SDLP done for the position of Catholics in the RUC now? They have put them in a very difficult position. I know that it's our problem but anything that you can do to help (bring around the SDLP) would be very welcome.

Mr. Barry: But I think we will get a response. At all events, the time is ripe for the police to come forward with ideas which would help to improve their relations with the minority.

Mr. King: What about public bodies? Had you been able to come forward with any names for the Police Authority?

Mr. Barry: The two are related. I have my view about the police and I have expressed it. At the same time the RUC should try hard to build up the confidence of the minority in the police. The paper that we gave to you, which I accept you will not have had time to study, is well worth studying. What are the figures for the numbers of Catholics in the RUC now?

Mr. Stephens: 1,300?

Mr. King: 13%?

Mr. Andrew: Less than 13%. No, under 10%.

Mr. Barry: Has there been any particular pattern over the last twelve months?

Mr. Stephens: It's difficult to say. Intake to the RUC fluctuates. There are periods when more than 15% of the recruits are Catholic. It's done on a quarterly basis.

Mr. King: Can we have a look?

Mr. Stephens: There are very small numbers being taken into the RUC.

Mr. Scott: It is well worth drawing you attention again to the fact that if a Roman Catholic applies to join the police and is turned down by the selection board, a senior member of the force, who is himself a Roman Catholic, examines each file to ensure that there is no religious discrimination.

Mr. Lillis: Isn't the problem that you are only recruiting about 100 policemen a year?

Mr. Scott: We are only recruiting to fill gaps caused by wastage. The RUC is at full stretch at present.

Mr. King: The intimidation of Catholic RUC men continues. I am certain that senior police officers would wish to see a higher percentage of recruitment from the minority.

Mr. Barry: There are a number of elements which if done would help to build up the confidence of the minority in the RUC.

These include the Code of Conduct, dare I mention Stalker, accompaniment etc. Obviously the higher the percentage the better.

Mr. King: Anything else on the relations between the security forces and the minority? You mentioned police complaints.

Mr. Scott: We are grateful for the ideas you put forward on presentation.

Mr. Barry: We are not fully satisfied with that. We are unhappy with your proposals on an independent element and on the absence of Section 13 tribunals.

Mr. O Tuathail: What time scale have you in mind?

Mr. Scott: We are laying the Order very shortly and probably before Christmas. We will be presenting it in the most positive way.

Mr. Barry: Is there any sign of the Stalker report being completed? It's been hanging round for a long time.

Mr. King: The first part of Mr. Sampson's report which deals with the Tighe killing was presented to the DPP and to the Chief Constable on the 22 October. The Attorney General is taking a close interest in this.

Mr. Stephens: (interjecting) The Chief Constable has since made his recommendations on this first part of Sampson's report. It is now at the stage of interviewing witnesses.

Mr. King: (continuing) It's a question of deciding what charges will be made and against whom. I haven't seen the report.

Mr. Barry: This whole issue colours the political atmosphere in the South.

Mr. King: Obviously, I haven't sought to intervene with the DPP or with the Attorney General. There are likely to be major charges as a result of Sampson's report. I am satisfied that in the interest of justice and including the interest of those who may be charged it is right that this should go ahead as fast as possible. Your point is well understood. The Attorney General is taking a keen interest in it. The second part of Sampson's report deals with other incidents.

Mr. Barry: Are there three parts in the report?

Mr. King: (with interjections from Mr. Scott) The second part deals with the aftermath (of the other five killings). The third part deals with those matters which are of public interest - the structures of the RUC, as well as with its management and control. People will ask if the Special Branch is accountable and if they are being properly supervised.

Mr. Barry: Do those other two parts take the same route as the first part?

Mr. King: The answer is yes as regards the second part of Sampson's report. That includes the sort of "background country" - who told whom to say what, possible conspiracies, etc. There is the question of the Robinson statement in court. That goes to the DPP. I don't know exactly when. Those first two parts are the Stalker report as completed by Sampson with Sampson bringing together and making the recommendations. Then there is the public interest bit. That is a wider piece.

Mr. Barry: Does that go to you?

Mr. King: Yes. I shall require a report from the Chief Constable. We have to be careful with this. There are also relations with the Police Authority. I have given an

undertaking in the House of Commons that I would make a statement to them on the public interest aspects. I have to make it to them (at least in theory) before I mention it to anyone else.

Mr. Barry Will the third part of the report be made public?

Mr. King That's for consideration. It's impossible for me to answer that until I know what's in it. We shall be anxious to make as much of it public as possible otherwise there will be stories that we are covering up.

Mr. Barry: When will the third part be ready?

Mr. King: I think probably early in the New Year.

Mr. Andrew: Probably at the same time or shortly after the second part. The first and second parts could involve prosecutions and Sampson has given priority to these parts. The legal process thereafter will be a fairly slow business. The DPP has to consider the Reports. It probably will not be possible for the Secretary of State to make his statement (in the House of Commons) until the DPP has decided on prosecutions. There would then be a legal aspect to whatever the Secretary of State might say. It will take a long time before this issue is out of the way.

Mr. Barry: We hope that it would be possible for the Secretary of State to make his public interest statement as soon as the DPP has decided on whether he will or will not make charges.

Mr. Andrew: I would hope so, yes, after the DPP has decided.

Mr. King: I am under great pressure in the House of Commons. I am anxious to make a statement as soon as possible. It's a very damaging situation for us. It's also very bad for the RUC whose reputation is being dragged through the mud for

incidents which occurred four years ago. It is also damaging internationally.

Mr. Barry: Let me come back to our internal political problems where it is also very damaging. It's against this background that we signed the Convention last March. We are now in the Dail on this issue. We have made a huge effort on extradition. This is against a background of Stalker, of the Guildford four, the Birmingham six and the Annie Maguire cases. It is very different now to one year ago with all of these areas much more in the open and these incursions are not helping either. These things are happening at the very time when our legislation is going through Parliament. These issues are muddying the waters. We would like to see decisions made as quickly as possible and the sooner they are out in the open the better. If we get this legislation through the Dail then we have the period between now and 1 June. I can't over-estimate the importance of these issues on public opinion in Ireland. On top of that, as you know, there are more than 200 MP's with an interest in those specific cases in Britain.

Mr. King: I understand entirely and I listen to you with great respect. However I am not entirely a free agent. We have gone through quite a terrible time including the suspension of Stalker and all that followed that. There is nothing more I want than to move forward as quickly as possible and as publicly as possible. We have a real interest in this. This whole affair is nothing but bad news. If pretty significant charges arise out of the Sampson Report we are going to face a long period of trials. There will be all sort of brilliant defence chaps dragging all sorts of issues around, not to mention the rights of appeal. We face a pretty unhappy prospect. We are constrained by what is possible against that background. The other three cases you mention in Britain, about which there have been Early Day Motions, the situation there is very different. There the complaints relate to a

miscarriage of justice in jury trials held in Britain. Douglas Hurd is looking at this and he will have to decide what action is appropriate. Only in the last week (in reference to the TV programme) new evidence and new witnesses have emerged which may colour Douglas's view. I don't want you to talk about this in public but it is possible that these issues will find an earlier resolution than Stalker.

Mr. Barry: (laughing) within the next 24 hours would be helpful.

Mr. King: If it were thought that this came from Dublin - that we took this decision as a result of this Conference!

Mr. Barry: Alternatively you might face a new Government in Ireland!

Mr. Donlon: There is another issue about the timing of Stalker. You have to report to us on the cross border aspects of one case. We have a commitment from you of a response to the issues raised by the Taoiseach.

Mr. Barry: In May/June 1984, following the trial of Grew and Carroll, the Taoiseach called in the British Ambassador following the allegations of cross border incursions. The Ambassador promised us a report on those incidents.

Mr. Andrew: By definition I think it has to await the receipt of part three of the Sampson Report.

Mr. Barry: We are still awaiting it.

Mr. King: We are sensitive to that point but we must await part three (he seemed to be indicating that it might be possible to give us something after the completion of part two of the Sampson Report).

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Mr. Hewitt: Yes.

Mr. King: I take that very seriously.

Mr. Andrew: It may reflect a higher activity on the border.

Mr. King: I hope that we can sort out this. I apologise for any incursions. I think the point about having the Conference and the Secretariat is that we can sit down and talk about these issues. Let's not leave them to fester. The solution of these problems can be turned into a plus for the Agreement.

Mr. Barry: Declan tells me that there is a problem with the Scots Guards from Bessbrook and the Welsh Grenadiers.

Mr. O'Donovan: A particular problem in the South Armagh area is caused by the Scots Guards and the Welsh Grenadiers. (there then followed some discussion about these two Regiments and when they arrived in the area).

Mr. King: (jokingly) I'm glad to see that you have the best quality in Bessbrook. Alright, will you now give me your crack Irish army team and I'll set them in Somerset and see if they get lost!

Mr. Barry: There have been no incursions from our side of the border.

Mr. Andrew: We turn a blind eye to irrelevant incursions.

Mr. King: (turning to a new issue) we seem to have had a very good meeting on how to deal with explosive devices on the border and we are expecting another quadripartite meeting in January. This has been very helpful indeed and I hope we will continue to collaborate closely on this.

Mr. Dukes: Our discussions have brought out some of the technical points involved.

Mr. King: Yes, these discussions have been very helpful. Something which is not so good is the question of research on HME. We seem to have done well on the technical and on the agricultural side. There are problems on the economic side. We put in an appraisal in June. But there has been no response. I think I may know some of the reasons on the industrial side. We must speed this up. Some very good work has been done. It's now held up because of the economic appraisal.

Mr. Dukes: What industrial problem have you in mind?

Mr. King: It's very confidential. It concerns business information. I don't think we can discuss it here.

Mr. Andrew: I think there may be a conflict of stories on both sides. I have been talking to Mr. Ward. We need urgently a meeting of experts to see if the technical problems are solved so that we can then get on with an economic study. The question is can the new material be manufactured on a commercial scale?

Mr. Dukes: The problem is whether it is possible to make a product on a commercial scale suitable for agricultural use. We are involved in talks with the French on this.

Mr. King: Norsk Hydro have done it.

Mr. Ward: The IIRS in Dublin are involved. They put certain proposals to us and we put the issues to British scientists last November. On 3 December the Head of the British Agency, Lee, wrote to say that he agreed with the proposals subject to some minor changes. This response has now cleared the way for an approach to a French company to carry out the necessary experiments. They are working on seven separate mixtures and the object is to determine whether commercial manufacture is feasible.

We agree that since the reply of 3 December the ball is in our court and it is for us now to respond.

Mr. King: We should pursue that as far as we can. We think that the matter has some urgency. The project did look encouraging. Anything else on cross border?

Mr. Barry: Just to talk about the loyalist threat to Dublin. Would you tell us if you have anything new?

Mr. Dukes: The RUC have been very helpful on this.

Mr. Stevens: Everything we have got on that has already been passed to you (presumably through the police channel). We will certainly tell you anything we have got.

Item 4 - Article 8 - Legal Matters, Administration of Justice

Mr. Barry: May I turn now to legal matters and specifically to the administration of justice.

Mr. King: The second reading on the Emergency Provisions Act is likely next Thursday and we expect that we shall carry it through. I shall introduce the debate and Nick will wind up. I shall have to deal not only with what is in the Bill but also with some of the things which are not in the Bill, including Three Judge Courts. I will try to take the same line as I have in the past. You will recall that I gave a press briefing recently. I will say that it was not a recent decision to have this Bill. Baker made his recommendations in 1984. The proposals being made now are a response to the Baker recommendations. I will say that it takes time for us to examine such recommendations and bring forward legislation. These amendments to the EPA are not being made directly in response to measures which have been raised during the Conference.

On Three Judge Courts I shall say that we understand the concern which has been expressed by your side. Diplock specifically provided for three judges on appeal. The problem has been that there has been a considerable delay between the original judgement in the diplock courts with one judge and the appeal before three judges. I would hope to say that we are trying to deal with this problem of delay. I shall have to say that there are some who argue against Three Judge Courts. I shall try not to close the door. I have a problem. If there is an amendment put down on Three Judge Courts I'll have to say something about it. I am also likely to face questioning by John Hume, Seamus Mallon or Peter Archer. Nick will have to wind up.

Mr. Barry: We signed the European Convention against the background that special measures would be taken to increase the confidence of the minority in the administration of justice. Three Judge Courts was in our view the main thing which could be done to build up that confidence. If you close the door on that and if, at the same time, you say that the changes in the EPA go back to Baker and do not come out of the Conference then I'm going to be asked in the Dail why are we introducing changes in our extradition procedures.

Mr. King: No, I didn't mean the reference to Baker to be unhelpful. I'll try to get people to look at the decisions that we are taking and at the value of those decisions rather than criticise the place from whence the advice came. I am trying to foil those who say that everything come from the Agreement. On the Public Order Order I made clear that you had made strong representations to us on these issues. But as you know, for example on the Code of Conduct, work had already started long beforehand. It seems to me that we have to get away from the idea "is this an item that the Irish Government has asked for?", or "what was British policy before now?" We have to make clear that the climate of the Agreement reinforces a number of things, that it helps to enhance, to reinforce, to

develop, to refine these areas. On Baker I see the point you are making and, on reflection, I might leave it out - play it differently. I fully intend to keep open the idea of Three Judge Courts.

Mr. Barry: If you close the possibility of Three Judge Courts during the debate in the House of Commons, my Government's task in moving the legislation on the Convention will be impossible. Amendments can be put down at the Committee stage at 24 hours notice and the debate is due to take place tomorrow week. The House of Commons debate will be gone through with a fine comb over the weekend and amendments will be put down if the debate in the House of Commons gives occasion for them. Similarly, on Stalker, all of this is seen as part of the administration of justice in Northern Ireland and it all has an effect on the debate in the Dail.

Mr. King: I appreciate that and I will be very sensitive. I will try to avoid closing the door on Three Judge Courts. Anyway, an amendment on three judges is not likely before the New Year.

Mr. Barry: But what has been done on the administration of justice?

Mr. King: You know the difficulties we have about it (Three Judge Courts). We can't give you encouragement that we will bring it about but I will seek not to slam the door. The EPA won't go into committee at this stage. There'll only be two speeches on the Government side, myself and Nick. I think I might just concentrate on what's in the Bill. I'll try and stay away from the Three Judge Court issue or just have a brief reference to it. I can't guard against an intervention but I'll try and draft a piece of paper and be guided by it. I'm surprised that we've been under so little pressure on it after we put out our views.

Mr. Barry: Let's be clear about this. The problem just won't go away next week because after our debate in the Dail we have the date of 1 June. That is just as important as the Committee stage. So what is said after Christmas is just as important.

Mr. King: We'll take your points aboard. D-Day is Thursday for the second reading of the EPA. We have a problem with educating the public.

Mr. Barry: We will be putting pressure on you between now and June to ensure we can go forward with the Bill. We'd like some ideas on Article 7(c) from you. Perhaps you could look at the numbers of nationalists on the bench. They don't reflect the numbers of nationalists among senior counsel.

Mr. King: We have a real problem with the Police Authority because people decline to serve on it. We also have a problem UK wide because of the rewards for barristers. They get too much. This makes it difficult for us to get judges especially for the County Courts.

Mr. Barry: Is there no inducement for barristers to serve on the bench?

Mr. King: The rewards for barristers are quite extraordinary.

(At this stage Mr. King was handed a paper from one of his officials and he announced that they had now dropped the suggestion that one of the cars sought by the Army yesterday had turned up later at Murphy's farm on the border.)

Mr. Barry: The appointment of some nationalists to the bench is important. It builds up confidence. Unless there is a clear perception by June that there have been developments in the administration of justice we will have problems in the Dail.

Mr. Dukes: I would like to make another point here about presentation. You say that you are doing this - introducing changes to the EPA - and that it has nothing to do with the Anglo-Irish Agreement. That sets off a time bomb under us on the second stage. What we also have to bear in mind is that even if you say that the changes are due to the Agreement then we still have a problem because some people will say that we haven't achieved enough.

Mr. Scott: Could we not use some phrase such as "progress is being made against the background of the Agreement"?

Mr. King: We can say that progress is continuous. There have been changes in climate and in attitudes. So much of what matters is recognition and not the detail. I know that in the political world and in the press you have to be able to show some progress and a "scoresheet" attitude comes in. That's where we are.

Mr. Barry: We will be pressing you very hard for the next six months and we would like you to bring forward ideas.

Item 4(b) - Article 8 - Legal Matters, Extradition

Mr. King: We welcome the Bill and will liaise on the points we have discussed. Can we say something about the certification procedures which were discussed by the Taoiseach and Mrs. Thatcher last Saturday? Tony? (Brennan)

Mr. Brennan: There are two things that we can say following the meeting. The first is the mechanism which might be found for doing it. This might be done in the instrument ratifying the Convention. The second refers to the guarantees of certification which the Irish side are suggesting and which might end up in an Irish court and might in effect amount to a prima facie. I have talked to Saunders in the Attorney's

Office and the feeling is that it would be helpful if a piece of paper from the Irish side could be passed over before the Attorneys meet later this week (on the two points - the mechanism for doing it and the question of the justiciability of the certificate).

Mr. Dukes: I'm not too pessimistic about the possibility of doing it. In the backing of warrants we accept an affirmation that information has been properly sworn. The only case where the courts looked behind them was the Glenholmes case. There they had not been properly sworn. There shouldn't be a particular difficulty with a certificate.

Mr. King: Speed is of the essence. That Irish paper needs to come very quickly. Perhaps it could be looked at over lunch and a phone call made. Otherwise I wish you success with it. It's extremely important to us.

Mr. Dukes: I'll speak to the Attorney General.

Mr. King: That's helpful, that's very important.

Item 5 - Social and Economic Matters

Mr. King: Under this heading of Social and Economic Matters we are, I think, going to discuss the Fund?

Mr. Barry: Yes, I think we should discuss the Fund.

Mr. King: There was some discussion at the Prime Ministerial meeting I gather.

Mr. Barry: Yes, particularly about the possible approach to the European Commission. What's your view?

Mr. King: I think it's true to say from the version I saw of the report of that meeting, that the Prime Minister still saw some difficulties with this and that the Taoiseach maintained his enthusiasm and continued to press for support from the European Commission.

Mr. Barry: And she also agreed to the point which was put to her by the Taoiseach, in which he asked her not to resist an approach to Delors, and the possibility of something similar to that which is done under the Lome Convention.

Mr. King: I'm going to talk to Howe. I've only seen a report of the meeting. I haven't spoken to the Prime Minister. I think there may be difficulty with the Treasury even over a Lome type solution.

Mr. Barry: It is very important to get financial support for the Fund from somewhere else other than the U.S.

Mr. King: I am seized of that. What stage is it at in Brussels?

Mr. Barry: We have spoken to various European countries who are keen to support the Fund but who want that support to come through Brussels for their own internal reasons.

Mr. King: Where are we at now?

Mr. Barry: Brussels are waiting for us to put a proposal to them.

Mr. Donlon: Subsequent to the Prime Ministerial meeting on Saturday our understanding is that if a proposal emerges from the Commission without a formal approach from the British side it would not be unwelcome in London.

Mr. King: My information does not contradict that view.

Mr. Bloomfield: The inference was that the ball is now in the Commission's court. But I have to say that the P.M. expressed some scepticism.

Mr. King: I am seized of this. If we can do it without huge disruption let's go ahead. I see the difficulty of U.S. domination. I will speak to Geoffrey.

Mr. Barry: I am seeing him next Monday in Brussels.

Mr. King: The Fund has made quite a good start. I think they have got a good team together.

Mr. Barry: I've said publicly that Governments have no say in this Fund at all. Let them get on with it.

Mr. King: I agree with that.

Mr. Barry: The first formal meeting of the board of the Fund will take place on the 12 December. Turning to other matters it is our intention to give you a paper on tourism shortly. We have had a recent meeting of Ministers of Health. That had a good result and showed that there is a lot of concern throughout Ireland. What about a meeting of Ministers of Agriculture?

Mr. King: I take a lot of interest in that area. It's quite a complex business. You are destroying the market for British cattle. Irish people are setting up companies in Britain and they are cleaning up. It's due to the Green Pound advantage. It's a very serious business for us. It's compounded by the smuggling. There has been a 70% increase in Irish cattle exports to G.B. Perhaps you will have no cattle left shortly.

Mr. Barry: (jokingly) There are clearly only two solutions to this problem. Either we have Irish unity or you join the EMS.

Mr. King: The only solution is for Ireland to return to the U.K.! In one way smuggling offers a safety valve to farmers in Northern Ireland. But the problem is having a much more catastrophic impact in Britain. Even Mrs. King can tell you that. She had to take five cattle back from market recently which she couldn't sell. There is very close co-operation between us on this. Our Northern Ireland Department of Agriculture values the contacts. There are very great interests involved. Most of the cattle slaughtered in Northern Ireland come from the South and many of the cattle slaughtered in the South come from Northern Ireland. In a way this is a solution to the problem in Northern Ireland.

Mr. Barry: Should they discuss this question within the context of the Fund?

Mr. King: We might look at it and see if things can't be improved to the benefit of Anglo-Irish relations. Your animal health standards are not as rigorous as ours. Let's return to this subject at some time in the future.

Mr. Barry: Let's concentrate more in future on things like health, agriculture, tourism etc. We could expand the next meeting to include Ministers in some of these areas.

Mr. King: Whether we work within the Conference or not, let's encourage such co-operation.

Mr. O Tuathail: But shouldn't it be within the framework of the Conference?

Mr. King: We've got beyond that. The Agreement ushers in co-operation. We are having good meetings in all sorts of

ways. We may find, from time to time, because of the sensitivities, that we can get further if we don't strive to put matters within the framework of the Conference.

Mr. Bloomfield: In a sense we can have the best of both worlds. We can note reports in the Conference without meetings being in that framework.

Mr. King: There have been very good relations between the Departments of Agriculture North and South. Quite honestly I don't want to get into the politics of things because a political role there could delay matters. Perhaps (while formally leaving such contacts outside the framework of the Conference) we can find ways of associating them with the Conference to the advantage of everybody.

Mr. Barry: I don't agree. The Agreement is there. The Conference has been set up. These contacts should be through the Conference. It is there and it should be used.

Mr. Donlon: Article 2(iv) of the Agreement covers this point.

Mr. Barry: Could you read it out please.

Mr. Donlon: The Conference is concerned with relations between the two parts of Ireland including, inter alia, the promotion of cross border co-operation.

Mr. King: Yes, that's really the point made by Ken. Let's claim all the credit we can.

Mr. Brennan: "Within the framework of the Conference" comes from Article 4.

Mr. Donlon: And there is further reference in Article 10.

Mr. King: Our ambition is the maximum amount of co-operation.

Mr. Barry: We don't want to let people up here who are opposed to the Conference claim that they are reducing it by holding meetings outside of the Conference.

Mr. Lillis: We haven't had any difficulty when it came to the day. There was no difficulty in denoting the meeting between Ministers Desmond and Needham as taking part within the framework of the Conference. There were no demonstrations because it was so denoted. The fact is that practical matters were discussed including AIDS.

Mr. Barry: Oh! not that again. The European Council was taken up with that. Was there life before AIDS?!

Mr. Donlon: Perhaps the European Council could find a solution to AIDS called the Single European Act!

Mr. Barry: (turning to his officials) Is the tourism paper ready? We will give you a paper on tourism shortly. What about a meeting concerned with safeguarding the environment?

Mr. Scott: (in a reference to Sellafield) But excluding East/West matters.

Mr. Barry: I think some of the East/West problems provide the basis for an all Ireland approach.

Mr. King: I'm keen on the principle. We can find a way through the Secretariat. I'm very keen to have the Agreement seen in a wider context as being something which obviously makes good sense; that in place of hostility there is co-operation; that it involves us working together for mutual benefit.

Item 6 - Current Issues

Mr. Barry: Can I say a final word here. There has been a

certain amount of harassment of Catholics in recent times. I would also like to hear your views on this Ulster Resistance Movement.

Mr. King: We wait, listen and observe this Ulster Resistance. It is very difficult to give a definitive answer. We don't know if it's going to become something. The police have taken a strong line with regard to paramilitary dress. But it is very difficult to see where it's going at present.

Mr. Barry: Will the Public Order Order have an effect here?

Mr. Scott: If when marching, people use a uniform which suggests that they might break the law, the answer is yes.

Mr. King: We're watching it very carefully.

Mr. Barry: We're getting reports of increasing intimidation of Catholics.

Mr. Scott: On the weekend of the anniversary there was a widespread expectation that there would be very considerable intimidation and harassment of Catholics. The RUC were especially vigilant about this; they were deployed with great skill and the result was not bad.

Mr. Barry: When is the next likely flashpoint?

Mr. Scott: I think probably the anniversary of the day of action. (That is 3rd March.)

Mr. King: It's very difficult to know what is going to happen given the events marking the anniversary of the signature of the Agreement, the divided views within the Unionist community on resignation from the District Councils, the position of the Unionists in Westminster, the Ulster Clubs, Ulster Resistance, which may be taking over from the Ulster Clubs, the possibility

of a petition to the Queen (now unlikely) to coincide with the anniversary of the by-elections on 23rd January next, as well as the anniversary of the march on Maryfield last January. We just don't know how it's going to come out. Something could always be invented. Something could happen and the IRA, who would like a loyalist reaction, could engineer an event which would cause a massive loyalist backlash.

Mr. Barry: What do you think has happened to IRA activity since Sinn Fein took their decision to contest elections in the South at their last Ard Fheis?

Mr. King: I think the rate of their activity in Northern Ireland has increased. There are the mortar attacks.

Mr. Barry: I think the recent attacks in Newry were particularly awful.

Mr. King: I had a group from Newry up to see me the day before that attack. We are seeing some real signs of youngsters turning away from the paramilitaries. They have a real need for jobs. Unemployment provides a reservoir for paramilitary activity. We are getting some encouraging signs on the economy although some of the signs are bad. Is Verolme going to reopen?

Mr. Barry: In a much smaller way. I notice that unemployment is now bad on the Unionist side. The importance of the Fund may be that it may be able to assist both sides. Are there any signs of Unionists applying for assistance from the Fund?

Mr. Bloomfield: You won't get applications from Unionist controlled local authorities for support from the Fund.

Mr. Barry: If one Unionist could start up a business as a result of the Fund it might be a help.

Mr. Brennan: The test will be when we get the venture capital.

There followed a discussion for about 15-20 minutes of what might be in the Communique and of what might be said to the press later. During the course of this discussion Mr. King said that in relation to incursions he would like to say that they are anxious to respect the border, if unauthorised incursions by the British Army occur they regret those very much. The Army is anxious to avoid incursions. The issue of incursions was discussed at the Conference and the Secretariat provides a way to discuss issues immediately they arise. He, in the meantime, has asked for full details about the latest incursions. Irish Ministers agreed that he might say this, but they asked him not to say that the British difficulty arises from the exploitation by terrorists of the border and that that exploitation emphasises the need for cross-border security.

D. O'Ceallaigh

D. O'Ceallaigh
9 December 1986