



An Chartlann Náisiúnta National Archives

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Conference of the British-Irish Association, Balliol College,
Oxford, 10-12 January, 1986.

Attendance

1. I attended this Conference, with Mr. McCarthy. Foreign Affairs officials from Dublin present were Mr. Eamonn O Tuathail, Assistant Secretary, Liam Canniffe and Gerry Corr, together with Ambassador Dorr and Messrs. Ryan, Smyth and Harmon from the London Embassy. The Tanaiste was present on Saturday evening and spoke after dinner. His speech was well delivered and well received. Other members of the Dail present were Nora Owen and Maurice Manning (F.G.), Rory O Hanlon (F.F.) and Prionsias de Rossa (Workers' Party). Dr. Martin Mansergh of F.F. was also present. There was strong representation on the British side with 4 of the 5 N.I.O. Ministers together with King's P.P.S., Brian Mawhinney, Armstrong and Mallaby from the Cabinet Office, Goodall and Clark from the F.C.O., Andrews, Bloomfield, Chesterton, McConnell, Frances Elliott, Spence, Bell and Gillsland from the N.I.O., Eliot of the Conference Secretariat, Ehrmem and Houston, respectively Special Advisors to King and Howe and Goodison and Stimson from the Dublin Embassy. Maurice Hayes, Permanent Secretary of the D.H.S.S., Northern Ireland was also there. There were also a number of M.Ps. from the Conservative and Labour Parties, including Tony Baldry, Bill Benyon, Sir John Biggs-Davison, Robert Jackson, Peter Lloyd, Nicholas Byell, Michael Mates, Peter Archer, Stuart Bell, Clare Short, Alf Dubs and Kevin McNamara. Not surprisingly, in view of the by-election campaigns in train, representation of Northern Ireland politicians was limited to John Hume and Alex Atwood of the S.D.L.P. and John Cushnahan and Gordon Mawhinney (Chief Whip) of the Alliance Party. A full attendance list is attached. I heard that one or two non-official people from Ireland had suggested that there was some dissatisfaction, officially, on the British side, about the lighter representation on our side but in extensive contacts, Mr. McCarthy and I received no hint of this and I discount it. I understand that a conscious decision not to attend was taken by the Irish side of the Secretariat.

Proceedings

2. Also attached is a provisional form of the programme. There were a number of changes from this: a separate report from Mr. McCarthy will set out the actual layout of the formal proceedings. These tended to be even more uneven than in previous years - one appeared to be very much a filler. The main value of these Conferences is in the opportunity for contacts informally with British Ministers and officials and with people from Northern Ireland or well-informed about it, including some journalists. However, there were some interesting points made, including from the floor, in some of the formal sessions.

Position in Alliance Party

3. The item of information of most significance picked up was one conveyed to Deputy Manning by Mr. Gordon Mawhinney of the Alliance Party, specifically for transmission to the Irish Government. This has already been mentioned to the Taoiseach and to the Secretary to the Government. It was to the effect that John Cushnahan had firmly decided to resign as Leader of the Alliance Party on 24 January, following the by-elections. This was because of differences that had arisen within the Party and a major miscalculation by Cushnahan, not in relation to the Party's attitude to the Anglo-Irish Agreement but on the question of whether the Party should stand in the elections. On the Agreement, Mawhinney, who had initially taken a line of opposition, paid tribute to the way in which Cushnahan had pulled the Party together behind the present, agreed line. On the elections, the Executive, led by Cushnahan, had decided the Party should stand. However, in each constituency, the local Party executive had decided against participation. The "provincial" Executive had overridden this in relation to the 5 constituencies in which the Party was standing but because of the opposition in the constituencies to the decision, he had prompted, Cushnahan was firmly set on resignation as Leader.

4. When this information was given to me by Deputy Manning on the Saturday evening, I asked whether he thought that he had been given it with a view to the Government trying to dissuade Cushnahan from resignation. He said that he thought not, that it was essentially for information, as it appeared that Cushnahan would not change his mind. When I spoke to Mawhinney at lunchtime on the Sunday, he confirmed that this was correct. It had only by dint of 4 hours' persuasion on his part that Cushnahan had not resigned the previous Tuesday. However, he would be continuing to try and dissuade him, as he was the only person who could hold the Party together. They were facing a very difficult situation: indeed, on the day the Agreement was signed, Cushnahan had said to Secretary of State King that it meant the end of the Alliance Party. Mawhinney told Mr. McCarthy separately that he was thinking of getting out of politics. He indicated that the information given to us had also been conveyed to the N.I.O. but that otherwise only 2-3 senior people in Alliance knew about it. I assured him that I would treat it with due confidentiality.

Early deadline for decisions on future of Assembly

5. In a conversation with Senator Mary Robinson at lunchtime on the Sunday, on which I came in when he was already into the subject, Mr. Michael Mates, M.P., stated that, in view of timetables for processing the matter, the decision about the future of the Assembly would have to be taken about the beginning of February. I did not catch the beginning of his explanation for this but it appeared to be that unless the Secretary of State made an Order for the holding of the elections due in October next, the Assembly would fall. The Government would not wish to be committed to holding elections unless they had reasonable assurance that the parties would stand for election and take their places in it, as they would not wish to appear very foolish. Referring to the current attitudes of the Northern Ireland parties, he appeared to imply that the decision might have to be, in effect, to wind up the

Assembly. Both Senator Robinson and I expressed doubts about the wisdom of any early decision to do this. On top of other factors causing unionist upset and disaffection, it would appear highly provocative to take such a step in the near future. Even accepting that no Government likes to be made to appear foolish, the issue of any boycott of Assembly elections was scarcely one, we suggested, that would impinge too much on the credibility or political fortunes of the Government in Britain itself. Mr. Mates did not appear unduly impressed with these points. As the Conference was breaking up at this point, there was no opportunity to confirm the position with British officials.

6. Examination of the relevant legislation does not bring out clearly why a decision would have to be taken so soon but gives some clues. It is necessary for the Secretary of State to make an Order, contained in a Statutory Instrument, to fix the date for the election. There may be requirements that such Instruments be examined in advance by Parliament, by a Standing Commons Committee as to the merits and by a Joint Committee on Statutory Instruments on the technical aspects. But more likely is the need for legislation in regard to the numbers of members to be returned in each of the new 17 constituencies. These postdate the 1982 Act which has a Schedule setting out the number of members of the Assembly to be returned for each of the 12 old constituencies: it was in these constituencies that the 1982 Assembly election was contested. In view of the summer recess of Parliament, any necessary legislation might have to be enacted before the break, for an election in October and given the programmes of the Government and of Parliament drafting might have to start very soon. I asked Senator Robinson whether Mr. Mates had given any technical explanation, at an earlier stage in the conversation, of why a decision had to be taken in February. She said that he had not really explained this but she thought that he had referred to the long lead-time involved in making the arrangements for the elections. This appears to bear out the speculation above on which further examination of the legislation and practice is in hands.

7. One might ask, in view of the emphasis at the Conference for gestures of generosity from the S.D.L.P. in regard to support for the R.U.C. and on devolution, whether Mr. Mates was "put up to" trying to get us to put pressure on the S.D.L.P. now or very soon in regard to devolution. On the other hand, he is probably not all that close to British Ministers on this issue in recent times. At any rate, in the light of the factors outlined above, it appears desirable to check out what he said on the timetable aspect.

Main lines of discussions

8. More detailed reports are given below but the following were the main points that struck me in the public discussions:

- (1) there was a lot of concentration - in Kings' speech, in Alliance contributions and in those from journalists (including some who warrant attention), clergymen and academics - on the depth of the unionist reaction; there was consensus that this was instinctive, strong, widespread and bitter (regretful reference was made to the resignation of A.T.Q. Stewart from the Association and its Executive, although there appeared to be widespread disbelief at the tenor of his recent Spectator article); discussion of what the unionists would do after the by-elections and whether they "would fight" revealed widely different views and was inconclusive - private contacts tended to support such a verdict;
- (2) there was, as one would expect in such a forum, very widespread support for the Agreement and a strong feeling that it should be implemented but considerable emphasis on the desirability of making it clear to the unionists that there pluses in them from it; there was a certain volume of opinion, including in King's speech and from the Alliance Party, that the S.D.L.P. would have to show generosity and make gestures in relation to devolution and support for the R.U.C.. Hume was quite unhappy about this pressure, as was Atwood; Hume put on a rather hard face in this regard and while referring to and repeating his previous statements of readiness to discuss devolution with the unionists, rehearsed his argument about the need for the unionists, this time, finally to learn that they could not have their way and for them to lose: this led to some suggestions that they must be seen to lose

but lose with honour; Hume told me that he had been concerned that the wobbly views expressed might impinge on the British Ministers and officials, in respect of implementation of the Agreement itself - hence his rather tough tone;

- (3) the firmness of the statements by Nicholas Scott about implementation of the Agreement and the satisfactory nature of his statements on its rationale were very notable; in contrast, while in his speech King was firm on implementation, other comments by him in the speech and privately left me less than 100% confident in him as the person presiding over implementation on the British side; one felt that it would be most desirable that Scott be kept on there;
- (4) the statements by Deputy O'Hanlon on the Agreement were the most positive I had heard from the main Opposition Party; he took a position similar to that of the Labour Party on E.E.C. accession and membership; he said that Fianna Fail had opposed the Agreement, for constitutional reasons concerned with Article 1 but that, as good democrats, they accepted the Agreement, following the Dail vote in its favour; they certainly did not want it to fail; he also showed a positive attitude in regard to a parliamentary tier while counselling prudence on timing (see note on this below).

Detailed report of discussions and contacts

9. In discussion on Friday afternoon with Maurice Hayes, D.H.S.S., Northern Ireland, Rev. John Dunlop, Presbyterian Minister and John Cushnahan, there appeared to be an initial feeling on their part that there was a failure on our part to understand the extent and depth of unionist reaction, together with suggestions that we were pushing forward insensitively with implementation of the Agreement, with particular reference to statements by Minister Barry. I left them in no doubt that we did realise how strong the unionist reaction was but suggested to them that insofar as the fears and apprehensions were groundless, it was necessary to challenge them robustly and that, while understanding and comfort should certainly be given to unionists wherever possible, it was up to people like themselves to support the case that there was no threat to the unionist position. Mr. Hayes referred to references which he interpreted as derogatory, to the civil service in the North by Minister Barry. Apart from the fact that he took personal exception to the comments, there were two constituencies that we should try to keep as sweet as we can - the Northern Ireland civil service and

the police. I said that I was familiar with all statements by the Minister in recent months and was sure that he had made no derogatory comments about the N.I. civil service. When, in response to his question, I told Mr. Cushnahan the agenda for the meeting of the Conference that day, he commented "you're really putting the boot in". I responded that what was happening was no more than the implementation of the programme of work flagged in the Hillsborough Communique and that none of it involved, in concrete terms, any skin off unionist noses. I also referred to the inclusion of security co-operation in the agenda of both normal meetings of the Conference. On the attitude of the Government and of the S.D.L.P. I made the point that many nationalists in the North - at whose alienation the Agreement was largely aimed - were adopting a "wait and see" attitude in regard to implementation which must be pressed ahead. I felt that Rev. Dunlop and Mr. Reg. Weir Q.C., who had joined us, went away more satisfied that we did have our finger on the pulse of the situation in the North.

10. In conversation with myself, Professor Kevin Boyle and others at the British reception on Friday evening, Secretary of State King appeared to me to be taking too much and too premature satisfaction from some ^{chunks} ~~things~~ he detected in the uniformity of the unionist line. I did not encourage this and suggested that it was too early to expect any significant divergence here: one felt that if he seriously felt this he might be disappointed if it then failed to take on substance. A reference in his speech to his surprise on learning recently of the Provisional I.R.A. Army Order against attacks on the security forces here appeared to me to carry a possible connotation that he might consider that the motivation of our security forces to combat subversives might, on that account, be a good deal less.

11. It is hoped to append the text of the Secretary of State's after-dinner speech on the Friday evening to this report. In it

- (1) he gave a positive assessment of the Agreement, stressing that after 10 years in which the parties in the North had failed to reach agreement, it had not been an acceptable option to do nothing;

- (2) he referred to the contrast between the welcome accorded to the Agreement everywhere else and its reception in the North; he said that unionist opposition was deep, widely felt and genuine and that it was wise to recognise this;
- (3) he said that the opposition arose from misunderstanding, compounded by poor political leadership and misrepresentation and from the whole approach of the Agreement, where the role for Dublin was deeply offensive to unionists;
- (4) he described the Agreement as having three components:
 - acceptance of the right of a majority to determine the constitutional status of Northern Ireland (he may have said "the majority's right")
 - cross-border co-operation against terrorism
 - the role and work of the Intergovernmental Conference;
- (5) he summarised the business of the 3 meetings of the Conference to date;
- (6) he said both Governments were going to continue to work together to counter terrorism but said that it was interesting to note differences of perception about the threat, as seen from the South and from the North, adding the comment quoted earlier about the IRA General Order;
- (7) he said that the British Government would carry through their undertaking to implement the Agreement in good faith but in no sense exclusively - the views of the majority must be heard;
- (8) given the amount of opposition, the Agreement was being sustained by the determination of the Government and the professionalism of the RUC - he hoped that the SDLP will find it possible to recognise the way in which the RUC is upholding the Agreement;
- (9) he recalled the attempt he made when he became Secretary of State to open talks with all parties and declared that the unionists simply cannot go on saying "no" - they should think again about how to play a more direct role in the government of Northern Ireland; the opportunity was there to be grasped in the Northern Ireland Act, 1982 and in the Agreement itself; if they come up with ways to give representatives of the minority a fair role, they will find the British ready for discussions;
- (10) he expressed the hope that the SDLP would also be ready to open up.

12. The first session on Saturday morning had a panel of 4 journalists, Mary Holland, David McKittrick, Ed Curran (Belfast Telegraph) and Steve Erlanger (Boston Globe) giving views and taking questions on the situation, post-Hillsborough. Curran expressed the view that the situation was very bad and potentially as serious as in 1910 (sic.). Holland referred to the strong suspicion among unionists that the S.D.L.P., whatever they say, do not want devolution now that they had the Agreement. On the other hand, nationalists saw very little delivery to them yet. Many were giving it a chance but, as yet, saw no great change in their daily lives. Padraic O'Malley, on the basis of recent travels in the North, warned that there was no direct correlation between the alienation of unionists and nationalists. One also had to distinguish between support for the Agreement, support for Sinn Fein and support for the IRA - again there was no real correlation. I understood him to mean that support for the Agreement and for Sinn Fein or even the IRA could overlap among ordinary nationalists and that one should not assume the Agreement would reduce support for violence with consequent benefits on unionist attitudes. It was quite conceivable, on the contrary, that the reforms nationalists wanted in the security area would not lead to any diminution of violence: if this was borne out, the effect would surely be to exacerbate unionist attitudes (in private discussion he repeated this analysis and stressed the overriding importance, in his ^{view} use, of effective action by the Government and security forces in the South to curb IRA violence). Holland agreed that support for Sinn Fein was not the same as support for the IRA. There is a lot of satisfaction with the Agreement among nationalists who would not support the IRA anyway but who were alienated. She saw a danger that the isolation of the hard-core ghetto supporters of the IRA would be accentuated, that they would all the more see themselves as excluded communities, separated from their fellow nationalists and left out of the increasing measure of economic prosperity. It was in these areas that the IRA got their hardline support. This outlook carried great dangers and it was very hard to see the level of violence going down. However, the IRA were very worried about the prospect of reforms and their

potential effects on their base of support.

13. Erlanger made the point that if one harped on security all the time, one risked obscuring the essential political point of the Agreement - the amelioration of the situation of alienated nationalists. He posed the question as to why everybody was so surprised by the strength of the unionist reaction. Curran expressed doubts about how far alienation had been proceeding or about the potential drift to Sinn Fein and suggested that they had simply captured and brought out - but not significantly extended - a vote that had always been there.

14. The question was raised as to whether the unionists would fight, if it became clear, after the by-elections, that the British Government was set on upholding the Agreement. Padraic O'Malley said he had no doubt that they will fight. Their collective mentality leads them, having gone to the brink, to go over it, although they may think they have to go over it only a little in order to compel others to back off. Professor Bernard Crick took issue with the dogmatic nature of this prediction and with use of such a concept as "collective mentality". None of us knew what the answer to the question was. The unionists themselves did not know. One should refrain from feeding ideas of apocalyptic scenarios, the unionists meant one to feed them. One had simply to wait and see. One should not adjust one's policy now, by reference to such predictions.

15. Eamon Mallie (Downtown Radio, Belfast) said that he speaks a lot to unionists. They accept that they cannot fight Crown forces and are worried as to how they can stop the Agreement, given that Mrs. Thatcher was "not for turning". A senior DUP person had said that they were left with only two targets, Dublin and the SDLP, although that person appeared genuine committed to arguing against violence directed at such targets. Mallie thinks the Unionist parties will get more votes in the by-elections, indeed a massive vote. He had attended the South

Down unionist reselection meeting and it had had a much bigger attendance than the previous two(?) such conventions he had attended there. He thinks a big vote will act as a safety valve and will cool things, that the unionists will go back into Westminster and will not rush into violence. Nicholas Lyell (Tory MP) said that all this was very difficult for people like himself to understand. Who would the unionists fight and what for? The latter question was echoed by Professor John A. Murphy.

16. Ed Curran responded that the unionists were keeping the lid on different views as to further steps, until after 23 January. One could see the different strands of opinion within unionism coming forward again - support for integration, for devolved government as preferable. He recalled that in 1974, after an interval, the initiative had shifted from politicians, not to the paramilitaries but to the shop stewards in key industries. Six weeks ago, there seemed to be no question of a strike on this occasion but now, paradoxically, there was talk again of a strike, even in industries that were now even more dependent on British Government support than they were in 1974.

17. McKittrick contrasted the situation as regards Protestant paramilitaries now with that 10 years ago. He recalled when there were 8 or 9 well enough organised paramilitary organisations among Protestants. Now there were only the UDA and the UVF. They were very short of explosives to make bombs and this might drive them more in the direction of shooting people in the South: this, however, was much more difficult. He thought the unionist strategy would be to get more and more of the UDR to come over to them and then to obtain sufficient support among the RUC to make the latter suspect.

18. Colonel J. Alford (Institute of Strategic Studies) recalled his experience with the British Army, as a battallion commander in East Belfast in 1973. His experience then was that the Protestants there, when agitated or bent on mischief e.g. against

the Short Strand area, backed off when faced with organised military force. He believed this would happen again today. Glen Barr responded that it had not been British might which had made them back off; they simply did not wish to lose respectability. But once they stopped identifying with British forces and institutions, they would be ready to confront the British Army. Unionists are faced with a daunting predicament and dilemma: the politicians don't know where they are going. If violence were to ensue, there would only be two targets, Catholic representatives or, much more likely, South of the Border. He had never seen the mood worse among the Protestant community. At present, unionists believe that, faced with their 700,000 votes, Maggie will back off. Once it became clear to them that this would not happen, that the British Government would not back off, one would have a dangerous situation.

19. Minister Nicholas Scott said that the British Government had not expected the Agreement to be greeted with universal applause. At the moment, the unionist reaction was at the lower end of the range of ^{re}action which they had expected. The main purpose of the Agreement had been to relieve an imbalance and to give a voice to nationalists. One should not give any impression that both Governments will not go ahead with implementation. It would have been foolish to go ahead without being prepared for a wide range of events but, for the moment, they would not expect the very bad, violent reaction which had been mooted in the preceding discussion.

20. In the second public session on Saturday, the platform comprised Deputy Maurice Manning, John Cushnahan, John Hume and Tom Hadden (QUB). John Cushnahan said that the unionist gut reaction was of opposition to any Dublin involvement, without reference to details. In his view, the Agreement had made it almost impossible to bring about devolution. He was not satisfied with the response received from the Secretary of State about ways to provide for unionist input. He thinks that the fate of the Agreement will depend on the SDLP and on Dublin. The SDLP would have to give evidence of reciprocity while Dublin would have to show more sensitivity in the implementation of the Agreement.

So far, there had been three meetings of the Conference and Dublin appeared to be forcing the pace. On the other hand, unionists had only themselves to blame as they had not, and had still not, put any alternatives on the table.

21. John Hume, referring to the suggested need for reciprocity from the SDLP, said that what nationalists had obtained under the Agreement were rights, not concessions and should not necessarily require reciprocity. He had said on the day ~~of~~ the Agreement was signed and again when he spoke in the debate at Westminster that the SDLP were ready to enter discussions on how to bring about devolved government on a basis of widespread acceptance. They had also made clear what their position would be, in entering such talks, viz. executive power-sharing but this did not amount to laying down pre-conditions. He now repeated the SDLP's willingness to enter into discussions with unionists - but they are not listening at present. They would have to go through the process on which they had embarked. They are trying, as they did in 1912 and 1974, to defy the will of the British Parliament and their ^{Orange} ~~Orange~~ card must be trumped. In response to challenges from the floor as to whether the Party would go into the Assembly to undertake discussions, Hume indicated that they would not, remaining faithful to the mandate on which they fought the election in 1982. What they would do was to try and hammer out an agreement about devolution in discussions and take any such agreement to the electorate as part of their campaign platform for those elections, looking to the next Assembly. In discussion of this in private contacts, there was a widespread view that the unionists would be unlikely to make any such agreement before they go to their electorate for the Assembly election, especially with the Agreement already there as a sore point⁷.

22. Gordon Mawhinney referred to the unionist perception that they were excluded and did not have a say whereas the SDLP, through its surrogate, the Irish Government, was at the table. The unionists did not see the British Government as speaking for the

This idea of the Irish Government being a surrogate for the SDLP or the channel of the views of that party alone came up a lot in private conversation over the week-end. I sought to rebut it as far as possible, taking the line that while we would certainly be trying to ameliorate the position of nationalists and would, in this connection, attach a lot of weight to SDLP views, we did not disregard other nationalists and would be very open to listen to views from unionists, from Alliance etc., a process that was facilitated by our wide range of contacts in Northern Ireland. However, it may be worth considering some more visible meetings at more regular, say quarterly, intervals with the Alliance Party, if they remain a force of any political significance. One idea that was raised with me was whether people such as Alliance could be given a broad idea of the agenda of the Conference for, say, the following three months, to offer them an opportunity of putting in views in time to be considered.⁷

23. Nicholas Scott said that there are many channels available to the unionists to put forward their views and these were open to them, if they wished to use them. As regards suggestions that they had been ignored in the period when the Anglo-Irish talks were in train, he recalled the round of talks held by Chris Patten about devolution, at a time when the British had been trying to pursue a two-track policy - devolution and the Agreement. Despite Patten's best efforts, the unionists came across with nothing. Hume added that there was nothing to stop unionists doing what the SDLP will soon be announcing - a structure for input into the Conference.

24. The question was raised as to how the unionists might be thrown a lifeline to help them out of the position they and got themselves into. Cushnahan said that it was necessary that the SDLP support the RUC and that they be prepared to talk, taking the proposals of Sir Fred Catherwood as a starting-point. The SDLP should not lay down preconditions for talks. Nicholas Scott pointed out that the Agreement itself has an

escape route for the unionists built in, although he was careful to make clear that the Conference would continue in being, with functions in areas not devolved.

25. Scott, further responding to the debate, said that unionists are not going to pull down the Agreement. However, it was going to be a long haul. He was sure that both governments were going to implement it fairly and in good faith. He repeated that the unionist opposition is not going to pull it down. October next was the deadline for Assembly elections. They would have to see how the position developed after the by-elections. He does not rule out the British Government taking a number of initiatives if the Parties can't get together themselves.

26. Tom Hadden said that he lived in North Down. He did not hear fighting talk there but there was some discussion of withdrawal from involvement in administration. There was a need for the working of the Conference to be reasonably open and for a known agenda, in advance, to facilitate input, through the Assembly or otherwise. He said that somebody needs to put forward moves towards devolution and that there was a need for a British Government initiative in this respect.

27. Deputy Rory O'Hanlon made the remarks quoted earlier in this report. In response to some further points, Scott, in regard to the idea of a Parliamentary tier referred to the Early Day Motion in the House of Commons put down by Michael Mates MP but said that it would be necessary to establish that there was a basis of support for the idea in both Parliaments. If this was there, he accepted that it would be important that both Governments get involved in working out the arrangements.

28. The first session in the afternoon was very much a mixed bag, including some matters not very central to current issues. There was a rather heterogeneous panel consisting of Mr. Justice Bingham, a Judge of the High Court of Justice, London, Colonel Alford (on strategic questions) and Professor Kevin Boyle and Tom Hadden. Justice Bingham had a brief paper on Sovereignty. This was prepared last September before the BIA meeting was postponed and nobody had read it in advance: as a result, discussion was rather scrappy and inclined to go off at tangents. A copy of the paper is attached. Also attached is a summary of evidence given by Messrs. Boyle and Hadden to the Grand Committee inquiry of the Assembly on the Agreement: this was also circulated too late for most people to have read it. Finally, Colonel Alford spoke about the question of whether Northern Ireland had any strategic value, in peacetime or in wartime, to Britain and/or to NATO.

29. In discussion on the Bingham paper, Professor Boyle noted that it did not refer to the pooling of sovereignty involved in the joint membership of the European Community on the part of Ireland and the UK. This highlighted how the old idea of exclusive sovereignty was becoming less relevant and how interdependence was increasingly the reality. Somebody brought up the fact that the names of the State in the British and Irish versions were different and suggested that this was symptomatic of the failure in Article 1 of the Agreement fully to resolve the status question. Boyle indicated that in the view of Hadden and himself, the Irish Government should have gone further in relation to Articles 2 and 3 of the Constitution. He referred to the proposal in their paper that both States should adopt identical wording in their internal constitutional legislation. The question arose, in regard to the varying nomenclature, as to which version was authoritative and Justice Bingham and Kevin Boyle expressed the view that as all substantive provisions were identical, this was a non-issue. Scott pointed out that the dual nomenclature procedure dated back to the 1940s.

30. Note was taken that the word "constitutional" was dropped before "status of Northern Ireland" in Article 1(a) and it was suggested that this gave away that the Article was deliberately ambiguous, referring to the status under the (conflicting) constitutional provisions of the two States and a question was raised as to whether this took from the value of the statement by the Irish Government in 1(a). In the discussion, Professor Boyle made the point that the "claim" in Articles 2 and 3 was aspirational in character, existing in the political order, and referred to the reality of practical recognition of the UK and of Northern Ireland as being within it, in our international and domestic practice. Nicholas Lyell M.P. pointed out that the note in the margin of Section 1 of the British Constitution Act, 1973 referred to "Status", without the adjective "constitutional": thus, the Agreement was not out of line with the Constitution Act. In tangential discussion, Professor Crick and Cornelius O'Leary (QUB) made the point that since 1973 (1949?), Northern Ireland was a conditional part of the UK.

31. Professor Clare Palley (Oxford) put forward the apparently rather contrary idea that a devolved government in the North represented a building-block for a unitary State in Ireland. On being challenged, she seemed to have more in mind that this was ultimately an inevitable outcome because of the shift in the population balance and that devolution on an agreed basis could help to start building the trust necessary for co-existence. Some speakers raised doubts about the population point. Clive Soley spoke broadly in support of Professor Palley and about it being preferable for unionists to do a deal while their bargaining position was strong.

32. Professor Kevin Boyle ran through the Boyle-Hadden paper for the Assembly Grand Committee. The only additional point he made was that the division between reserved and transferred powers need not be immutable and the possibility existed for the

parties in the North, in the context of negotiations and any agreement on devolution, to negotiate on the limits of devolved powers, for example to have security included (sic). At an earlier stage, Hadden had suggested that it would be a public-spirited act for somebody in the South to take a Court action to test the constitutionality of the Agreement by reference to Articles 2 and 3 of the Constitution!

I strongly urged Boyle to get his partner off this notion which I characterised as lunatic, with all the dangers of raising the same unhelpful hares as the Boland case in 1974.

33. One idea raised by Hadden in the Saturday discussion that was not outlandish was to have Assembly elections even in the absence of an agreement in advance between the parties on structures of government, with talks afterwards on a voluntary coalition for 5 years, with the set-up to operate after that period left open (unlike the Catherwood proposals which entail a "withering away" of the coalition/weighted majority arrangements⁴).

34. Colonel Alford made the most unequivocal statement I had ever heard that Northern Ireland ^d had no significant strategic value to Britain or NATO, in peacetime or wartime. He made this sound convincing by citing various bits of evidence. He said that when he worked in the Ministry of Defence, he had spent some time planning to transfer forces rapidly out of Northern Ireland, to Germany, in wartime rather than into the North. He referred to the decision to establish the airbase at Stornoway in the Outer Hebrides when it was needed arising from developments in the North Atlantic. This had been done in spite of considerable local opposition and at some political cost because it was where they needed to put it. In regard to electronics, there was a much more important installation (than Bishopscourt?) 15 miles away in Scotland - I did not catch the name. There were no naval bases now in the North. All in all, it had no significant strategic value. Only Deputy De Rossa

rose to query this assessment and referred, in the course of his remarks, to strings on any US aid mentioning the alleged link to sanctions on Libya. Bruce Arnold wondered, privately, why Alford had been put up to talk about the matter if it was a non-issue and who put him up to it. So far as I could judge from what I saw and was told about the organisation of this mixed bag session he was called upon at a late stage to fill up the panel.

35. As can be seen, discussion at this session was rather academic and not very germane to the real issues of the near future.

36. Apart from general concluding comments, the broad tendency of which was indicated at the beginning of this report, most discussion at the Sunday morning sessions was about the Parliamentary tier. On a different point, however, Alex Atwood (SDLP) took issue with the suggestions that the SDLP should not support the RUC fully. He repeated what Hume had said the previous day about their supporting the police in the impartial pursuit of those who commit crimes but asked how could they, at this stage, urge Catholics to join the police when the Stalker report was still awaiting examination and action. If published, that report might well indicate that high-ranking police officers were culpable. Joe Mulholland felt that most people present would consider it vital that the Governments - and they themselves, where they could - would make sure that the Agreement was upheld and worked but would want generosity to be shown and everything possible done to demonstrate and make a reality of the pluses for unionists.

Parliamentary tier

37. On the Parliamentary tier, Michael Mates explained the content and purpose of his Early Day Motion. It called for establishment of an Ad Hoc Select Committee to examine procedures for setting up such a tier, if it were decided to set one up. He emphasised that it was to look at procedures, rather than with the merits or with the question of whether such a body should be set up. He believed this to be the best way to proceed,

as avoiding unnecessary controversy. The idea was to consider the mechanics, having regard to the different rules and set-ups in the two Parliaments. He felt that the more talk there was, in the open, about these matters, the better. One possibility was a body with certain powers, somewhat analogous to the powers vested in the Commons Select Committees. Over the past 6 years these had developed considerably as a feature in the British constitutional scheme of things, with a very good and salutary effect. Ministers appear before them and reply to questions. On the tier, there were some tricky technical and constitutional problems to be teased out. It remained to be determined whether legislation would be required in Westminster to set up the body or whether it could be done by Order or Motion.

38. His proposal for the Ad Hoc Committee to examine these matters was to have a membership of 15 to allow representation from the smaller parties. It was not necessary, in his view, to have somebody from Northern Ireland on it as it was not to deal with any matter of policy about Northern Ireland but rather with technical parliamentary and constitutional questions of general UK import. He envisaged that this Ad Hoc Committee, once it got going, would take about 6-8 weeks to deal with its remit. He appeared to be anxious that it should start work soon.

39. Sir John Biggs-Davison, after an explanation of his opposition to the Anglo-Irish Agreement indicated that he supported Mr. Mates' motion. I also understood him to be favourable to a tier on an East-West basis. He mentioned that he had sent a paper on the matter to Jim Prior, when the latter was Secretary of State.

40. Professor Palley suggested that it would be folly to keep the unionists even off the Ad Hoc Select Committee and that it was also foolish to think that a distinction could be made between procedural and political questions. There was the question of membership e.g. to what categories would it be open. This was intensely political. Professor O'Leary thought that the 1982 Act contained an enabling provision allowing for Assembly

members to participate in such an interparliamentary body with people from the South. This was queried by Professor Boyle

To be checked

Mr. Kevin McNamara who had also signed Mr. Mates' motion felt that hard thinking was needed about the nature and work of a tier. Unless it had a powerful input from the Governments there was a danger that it would be a talking shop and a platform for unproductive attacks on the Governments. But would Governments wish to surrender any power to such a body: he was doubtful and unless the body was to be worthwhile it might be better not to have it at all. He also warned against a membership confined to people with axes to grind. Responding to these points, Mr. Mates said that under the rules of the House of Commons, any MP can attend any Select Committee if he wishes. He did not appear to be too impressed about the suggestions that procedural and political matters cannot be kept apart. Comment - but this point appears valid to me⁷. He felt that reports of the tier would only be useful if they were unanimous: this was the strength of the reports of Commons Select Committees. If the British and Irish sides split on national lines, the reports would not count.

41. In the course of the discussion, Deputy O'Hanlon indicated that he was personally very much in favour of going ahead with a Parliamentary tier and felt that his party would participate. The only question was one of timing: he felt it would be preferable not to proceed to formalise the tier too quickly after the Dail disagreement on the Agreement. Perhaps, initially one could make more regular and systematic the work the existing Anglo-Irish parliamentary exchange, moving on subsequently to a formal parliamentary tier.

42. This line reflected a discussion Mr. McCarthy and I had had with him, joined after a while by Mr. David Chesterton of the NIO, the previous evening, about the same subject. We had sought to sound the Deputy on the subject, on the basis that it would *(in our own minds - not just to him)*

^{un} be desirable that the largest Party in the Dail should show a negative attitude on establishment of, or participation in a tier. He had given us the same line - but had been more open in regard to the reasons for not proceeding too fast, referring to the Fianna Fail opposition to the Agreement in the Dail vote. I reminded him of the proposal in the 1981 Joint Study on Possible New Institutional Structures that a start might be made along the lines he mentioned in his remarks next morning. When we were joined by Mr. Chesterton, Deputy O'Hanlon gave him the same line.

43. Chesterton rd indicating that, on their side, they were turning their minds towards the various questions requiring consideration in the context of the Parliamentary tier. They did not think it desirable that its work be too tightly linked to the agenda of the Conference. I agreed that this would probably be neither practical nor desirable, given that the Conference seemed likely to be meeting at monthly intervals, at least. The Nordic Council Parliamentary body might offer some useful guidelines and one could possibly consider reports going from the Conference to the Parliamentary body at, say, quarterly intervals. Chesterton said that they were not very keen on ideas that the tier should be able to send for persons and papers and I accepted that this would require careful consideration. I subsequently mentioned this aspect to Mr. Richard Ryan of the London Embassy and he cautioned that we should not exclude such a capacity as such powers could possibly be a useful lever for us. Chesterton indicated that they were laying the Joint Communiqués from meetings of the Conference before Parliament and were considering how to proceed in regard to reporting to Parliament. He referred to their system of oral reports by the Ministers concerned following meetings of the Council of the European Communities, with opportunities for MPs to put questions. We said that we had this procedure only in regard to meetings of the European Council. However, the procedure for statements by Deputies without a motion or a motion to take note were technical possibilities open to us if it were to be decided that reporting to the Dail was appropriate.

44. In conversation with Mates on the Sunday, I outlined the development of the Committee system in the Oireachtas. He saw two potential problems on their side (1) that after the by-elections, Hume might still be the only nationalist representative and (2) that the unionists, if they failed to take up or to continue sitting in their seats, might make themselves ineligible for membership (on some bases for the tier's composition).

45. Mates also made the point reported earlier about the early deadline for decisions on the Assembly's future. He also suggested that in the recent Shannon extradition case, a conviction could have been secured, had Gardai who had evidence - I think he said forensic evidence - arising from the fact that the killers had fled directly across the border - not refused to go North to give evidence. This had occurred because, apparently, under old legislative provisions the Gardai could not be ordered to do any form of duty outside the jurisdiction, in the same way as members of the Irish Army going abroad on UN peace-keeping duties all had to be volunteers. I said to him that whatever about they're being volunteers, the Defence Acts had been amended so that the Defence Forces could serve outside the country but only on UN peace-keeping missions. I said that I was unaware about the position in respect of the Gardai but would be surprised if Gardai would not give any evidence they had pertinent to such a case in a Northern Court. Mates had just previously, in my hearing, given the same story to Mr. Reg Weir QC - without naming the case - saying that he had just put in a 'phone call to a source to confirm the story. √We have since checked the position with the Department of Justice who say that the story is without foundation, that the Gardai had no evidence pertinent to the case and that it was on this account that they did not respond to a request, brought up on the second day of the trial although Shannon had been in custody in the North for 9 months. Justice understand that Gilliland has been putting this story around. It is for consideration whether Mates should be corrected on this point.7

46. In one of the public sessions, Clare Short MP, took a line very much along the lines of John Hume - that the agreement represented an overdue attempt to give nationalists their legitimate rights, that unionist opposition was not justified and that no political progress would be possible until the unionists were faced down. Alf Dubs MP took a similar line. He proposed to go over to Northern Ireland to support Seamus Mallon. He thought that Peter Archer, while lacking bite, was doing his best in his job, whereas he thought Stuart Bell, the Party's Deputy Spokesman on Northern Ireland, to be more of an ambitious careerist. He expected that if Labour were returned to power, Clive Soley would be Northern Ireland Secretary or at least the no. 2 man in the Department. Kevin McNamara MP mentioned to John Hume that he was trying to get the Commons (Select?) Committee on the Armed Forces to examine the UDR. To succeed it would be necessary to get some Conservatives to support the proposal but he was not unhopeful in this regard.

47. In private discussion on attitudes among the unionist paramilitaries, David McKittrick indicated that there was a division of views among the UDA about reaction to the Agreement with, surprisingly, a not insignificant body of opinion in favour of giving it a chance. Eamon Mallie emphasised the importance of Father Faul as a respected figure of influence on the nationalist side and when I said that we fully appreciated this, he said that he had had very few visits from Irish Government people since the Agreement was reached - suggesting that he may feel sore about the extent of recent contact with him.

48. A number of people expressed unhappiness about what they termed the leaking of the Nicholson appointment to the Irish Press. They attributed this to official Dublin sources. I did not concede that there was an official leak. Their view was that if Dublin appeared to interfere too closely in matters relating to the judiciary it would have adverse effects on the perception of the Courts by unionists, even or perhaps especially moderate unionists and Alliance voters. In the Nicholson case, the appropriate procedure was an announcement by the Lord Chancellor. More generally,

there was annoyance that the first place they heard of various matters was when they saw them in the Dublin papers. It may be worth our trying to ensure that the Belfast paper (?the Newsletter, in view of its continuing gross misrepresentation which was widely commented on in Oxford) are briefed simultaneously with Dublin papers on matters on which information is being released.

49. One of those to raise these points with me was Mr. Reg Weir QC, a member of the Bar, North and South - since Oxford he has been admitted to the Inner Bar in Dublin. He is of Protestant background but may be agnostic now, is emphatic that he is not a unionist and at one stage, rather reluctantly conceded, as it were to himself, that he has all but come to a nationalist position. He defended McGlinchey in the North and presented, successfully, in the Thane case, the only case where a British soldier was convicted for killing a Catholic (O'Reilly). He has a detestation of the UDR and has not got a great opinion of the RUC either. He characterises Hermon as having little intelligence. In his observation, there was a disgraceful attempt by the RUC to gang up to pre-empt the course of justice in cases with which he was familiar. On this, however, Professor Boyle pointed out that this is a world wide phenomenon. Weir is in a rugby club where a number of RUC members play and attend and, in his observation, their attitude is not impartial - although he regarded this as unsurprising when young men, overwhelmingly Protestant, are barracked together, often in adversary circumstances.

50. Weir appears knowledgable about the personalities and doings in the Courts and in the Bar in the North. According to him, the main fault in the Courts is not that there are insufficient Catholic judges, although he agreed there were, but that Lowry had appointed too many of his own close friends to the Bench. He saw Carswell as being groomed for succession. He was anxious to understand and test the reasons for our wish for changes in respect of aspects of the court system and judiciary in the North but appeared to broadly accept

the case when put to him, at least in terms of justice being seen to be done. He thought it unlikely that the Kirkpatrick appeal would be held before the summer, simply due to logistic factors, including the heavy pressure on the Bar, including from the other supergrass appeals outstanding.

51. He spontaneously indicated that he would be prepared to be included in our range of contacts in the North. I enquired of Professor Kevin Boyle as to his bona fides, reliability and knowledge. Boyle was prepared to endorse him on all counts. Weir would appear to be a potentially useful contact working in an area where we need information. He lives in Lisburn. I am giving his address and telephone number to Foreign Affairs. I had told him we might well take him up on his offer but that I could not say, with certainty, that we would.

52. Jo Thomas of the New York Times - who would, I thought, have a strong nationalist bias - was just back from two days in Co. Down, doing a piece on the UDR. She referred to needlessly provocative harassment of people travelling to and from GAA matches. She instanced people being asked to get out of their car to open the boot, then getting back in but as soon as they were in the driver's seat being asked to get out and open the boot again and so on, three or four times.

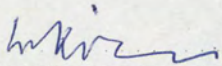
53. I met John McConnell, the newly promoted Assistant Secretary in the NIO. He is a big, genial, direct Ulsterman, built like a tank who gave the impression of being able and is certainly very knowledgeable about the political scene there. He is a type who likes a game of cards and good company!

54. Some of this was provided by Bill McNally, the American Executive Director of the Ireland Fund. He and Judy Hayes, Honorary Secretary spoke to me about what they saw as the confusion and lack of impact, in terms of actual fund-raising,

made by Deputy Paddy Harte's organisation in the US. McNally was highly sceptical about the possibility of raising any worthwhile amounts of money from small contributors. There may be some segment in between this and the Ireland Fund target group but, if so, Deputy Harte's group has not found it. McNally understood that their only receipts so far were the funds from the Government. Judy Hayes is on the Board of Deputy Harte's group: this arose from an approach to Tony O'Reilly by Deputy Harte to reassure him that the new group was concerned not to poach on Ireland Fund territory. Ms. Hayes was clearly unhappy about the trend of events in the group but seemed to see her role as holding a watching brief and did not appear to have any plan of action. At the end of the BIA Conference, Mr. Niall Crowley announced on behalf of the Ireland Fund that they had decided to step up their financial support for the BIA over the next three years.

55. John Hume was quite bullish about Seamus Mallon's prospects of winning the Newry-Armagh seat. They had got about 2,000 more postal votes on this occasion than on the previous occasion. /When I saw Mallon and his election agent, Frank Feely, earlier this week, they indicated that one could be confident that these were net additional votes rather than substituting for ballot-box votes. Mallon and Feely were also cautiously confident about the outcome: it would be very close but they thought they could win by 200-500 votes. They were conducting a very extensive canvass. In South Armagh they were getting a good reaction, including in Crossmaglen - where Feely said they normally get 70% of the nationalist vote anyway. The main challenge was seen as to overcome apathy and laziness in Newry, an area affected by high unemployment. This was seen largely as a question

of resources. In South Armagh, the SDLP's delivery of an extension of the disadvantaged areas was helping a lot, ^{with farmers} as was the argument that only Mallon could put the unionist out - this had obtained the promise of a vote from a man who had spent three years in Long Kesh.



Walter P. Kirwan,
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Department of the Taoiseach.

16th January, 1985.