



# An Chartlann Náisiúnta National Archives

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SECRET

Draft Report of discussions at Anglo-Irish Intergovernmental  
Conference, Belfast, 2 February 1988

A special meeting of the Anglo-Irish Intergovernmental Conference took place in Stormont Castle, Belfast on 2 February 1988. In attendance on the Irish side were the Acting Joint Chairman, Mr. Gerard Collins T.D. (Minister for Justice), Mr. Raymond Burke, T.D. (Minister for Energy and Communications), Mr. Noel Dorr, Mr. Des Matthews, Mr. Dermot Gallagher, Mr. Joe Brosnan, Mr. Declan O'Donovan, Mr. Sean O hUiginn, Mr. Noel Ryan and Mr. Pdraic Collins. On the British side were the British Joint Chairman, Mr. Tom King M.P., Secretary of State Mr. John Stanley M.P., Minister of State, Sir Robert Andrew, Sir Kenneth Bloomfield, Mr. Tony Stephens, Mr. Ian Burns, Ambassador Fenn, Mr. Mark Elliott, Mr. Robin Masefield and Ms. Valerie Steele.

The meeting began at 11.00 a.m. with a session confined to the four Ministers. The Ministerial session lasted until 11.30 a.m. The Ministers were then joined by officials and the plenary session began at just after 11.30 a.m. The plenary session lasted until 1.30 p.m. when Ministers and officials broke for lunch. The Ministers lunched separately and had discussions on, inter alia, the Communique on the basis of a draft supplied by the Joint Secretaries. The following account of the meeting is taken from detailed notes but does not purport to be a verbatim account of the Conference. It is put in the form of direct speech.

Mr. King: Could I welcome you to this special meeting and could I say to you that you asked for this special meeting and I readily agreed even if the timing presents some problems. However, in the spirit of the relationship that has developed between us and that we are keen to see growing, I was anxious to respond. I thought perhaps the best way of proceeding would be if you would like to set out your concerns and I will try to respond.

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Mr. Collins: Thank you very much. The meeting is taking place at short notice. We asked for it because of very serious concern about the situation, shared by all shades of political opinion and the entire community, following the Attorney General's statement. There are two concepts basic to the Agreement. These are (1) to help bring peace and stability to Northern Ireland by ending the alienation of the nationalist minority. A central aspect of that is to ensure that the system of justice and the police are such that all sections of the community can have confidence in them as fair and impartial. (2) Full cooperation between the two Governments in dealing with terrorism which threatens all of us. This can only take place on the basis of confidence between the two police forces.

We believe that both of these concepts have now received a very serious setback. There is a very strong public reaction to what has happened. I will go on to deal briefly with the background. The background is that allegations of a shoot-to-kill policy on the part of the RUC first arose following the deaths of six unarmed people in three separate incidents in Co. Armagh during November and December 1982:

- (i) the first on 11 November 1982 in which three members of the Provisional IRA were shot dead. Over 100 bullets were fired. Three members of the RUC were charged with murder in connection with this incident.
- (ii) The second incident took place on 24 November 1982 when a 17 year old youth was shot dead in a hayshed near Lurgan. No prosecutions were brought against the policemen involved.
- (iii) The third incident took place on 12 December 1982 when two members of the INLA were shot dead in Armagh. The men were unarmed.

Constable John Robinson was charged with the killing of one of the men, Seamus Grew. Robinson was acquitted, a decision widely criticised at the time. There was evidence at the trial that Grew had been shot from a distance of less than three feet. There was also the allegation, during the trial, that four senior officers had been involved in a cover-up.

Following these events, there was an investigation by the Deputy Chief Constable of the RUC. This investigation was not satisfactory to the DPP. Then we had the Stalker appointment and his removal when Mr. Sampson was appointed to conduct the investigation. Subsequently, Stalker was cleared of allegations made against him and was reinstated in the police force but was not reinstated to the RUC enquiry.

All these events created widespread unease and disquiet. In addition, there was a covert operation in our jurisdiction on 12 December 1982, conducted by the Northern Ireland security forces. Despite repeated requests - and Dr. Garret FitzGerald was promised action on this - we have not yet obtained a report after a lapse of 5 years.

If I might summarise: it is impossible to exaggerate the seriousness of the shoot-to-kill policy. Then, there is the cover-up relating to this policy which involved senior RUC men. There was also the conduct of the two court trials including the disturbing comments made by the judges. There is the fact that the RUC Special Branch had operated outside Northern Ireland and in our jurisdiction. In addition, there is the fact that a report by a senior RUC officer failed to satisfy the DPP. Given the various long delays, we could be excused for thinking that there was a deliberate delaying policy on the part of different people.

Then there was the extraordinary statement by your Attorney General last week. This statement, which admits evidence of obstruction of justice, amounts to a declaration that in Northern Ireland, at any rate, the rule of law takes second or possibly third place to non-defined public interest and matters of national security. That's the scene as it is and how my Government sees the implications of failure to prosecute. It casts a dark shadow over the RUC and has the gravest of implications for cross-border cooperation with the Gardai, apart altogether from its impact on relations between the RUC and nationalists in Northern Ireland. It is mainly about Garda/RUC cooperation I want to talk about now, but there is something very important I want to say before I come to that.

I am very conscious of the difficulties and dangers which the RUC face. I know that 250 members have been killed or murdered in the years since the troubles started. The most recent victim was Constable Colin Gilmore. I

know the viciousness and cowardliness that is the hallmark of all of these killings. We are all neighbours on this small island and I feel for the death of any one of these RUC members as I would for the death of any member of our own force. It is possible for all of us to understand the loss of these RUC members to their force and to their family and friends and the feelings of bitterness and maybe even vengeance that their deaths could give rise to. However, feelings of this nature must be kept very firmly in check. No matter what the provocation there must never be any question of members of the security forces being deflected from their duty to uphold the law. They must never descend to the level and methods of the terrorists. If such happens it must be made clear that it will not be tolerated and covered up.

Having said that, I would now like to return to the question of security cooperation. For security cooperation to exist there must be a very high degree of confidence and trust between the police forces. That must be there. To be quite frank and honest about it, this is only in recent years that this confidence has come into being. We acknowledged that there have been changes in attitudes and policies by the RUC and these were in large measure responsible for arriving at this changed level of confidence. We accept that these changes demanded no little courage and determination on the part of the RUC. It is a fact that the development and improvement of cross-border security goes hand in hand with the build up of trust and confidence. That's very important. We should know that and say that.

Confidence by its nature is not something that can be ordered into existence or created over-night - especially when it has to replace generations of mistrust. It is something that can be built up only slowly over time. What I have said relates not just to confidence between the police in the two forces, but also, of course, to relationships between the RUC and the nationalist community. But the problem I now want to deal with is the problem of the relationship between the two forces.

The fact is that confidence between the two forces is a delicate plant and it was coming along nicely. It has now received a devastating setback. There is no use pretending that this is not so by saying that there is no need for it to be so. It is so. That fact has got to be faced. I

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want you to see the effects on the Garda of what has happened. You must see that cooperation with the RUC and confidence in them are bound to suffer when that force is known to have within it, and to be shielding, officers who, at the very least, are strongly suspected of serious crime. You must see that the Gardai themselves are liable to lose some of the almost total community support which they now have if they are seen to be closely associated with a force whose reputation has been damaged. You must see that many people will now have reservations about giving security-related information to the Gardai if they believe that it will be relayed to the RUC. There is also the question of the attitude of individual Gardai. They will now have reservations about making information available to the RUC if they are not fully confident about the use that may be made of it. It is not possible for the Commissioner or anyone else, including myself, to oblige the Gardai to have confidence in the RUC or to give wholehearted co-operation. These things come only from men's inner convictions and motivation.

The British Government has done very serious damage to confidence and cooperation and I believe there is a very great responsibility on it to put that matter right. I have a number of proposals which I would like you to bring to the Government as soon as possible. Time is of the greatest importance. I ask for very early consideration such as, for example, a resumption of this meeting before the end of the week. I would now ask my colleague, Mr. Burke, to begin on these proposals.

Mr. Burke: Thank you, Gerry. We are operating against a particular background here. The first request we have to make is for publication of the Stalker/Sampson Report. We must have publication of the full report. The investigation has now been going on for four years and there is no reasonable excuse for failure to have full public action at this stage. Failure to publish contributes to the political problem by creating greater unease. I think we all accept that this affair has seriously undermined confidence among the minority in the administration of justice in Northern Ireland. It is therefore essential that urgent action be taken to correct this. It would be much better if the affair could be brought out into the open through publication of the report. Public opinion does not understand the logic of not publishing. In addition, the publication of Stalker's book later this week and the series

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of articles in the Daily Express is already making much of the material in the Stalker/Sampson report public. Our Government considers that immediate publication would be better than a "drip-drip" situation.

Our second requirement is the prosecution of all those against whom there is evidence of wrong-doing. The Attorney General's statement to Parliament makes it clear that evidence of the commission of offences does exist. His further statement that proceedings are not to be instituted for reasons of public interest or national security is not acceptable. He indicated that the steps he took to acquaint himself with the relevant circumstances involved consultation with others and he gave a clear indication that prosecution would have ensued were it not for the advice he obtained in these consultations. We must ask - who are those who were consulted and what was the nature of their advice? Why were we not consulted on these issues of public interest and security? These developments have a grave impact on matters catered for in the Anglo-Irish Agreement and accordingly we have a right to be consulted. As the Attorney General indicated, the decision not to prosecute was taken on the basis of non-judicial considerations - in effect on the basis of views put forward by political people. It is surely open to these people to change their views. It is the view of our Government that the situation needs to be re-examined.

Mr. Collins: I would now like to turn to the Birmingham Six case. The Agreement embraces consideration of policy aspects of extradition and, as you will be aware, the Birmingham case has been a major factor in the whole extradition debate in the South. In addition, having regard to the consequences of the Birmingham decision for confidence in the administration of justice and for relations between the two countries, I believe that it is very important that we take up this issue here today. I could not possibly over-emphasise the sensitivity, the importance and significance of this issue for public opinion in Ireland. It is one of the most serious and emotional issues which I have personally come across in my period in public life. We would strongly urge, therefore, that the Home Secretary consider using the wide range of powers available to him in order to provide for the early release of the Six. They have already spent over thirteen years in jail and it would be reasonable and humane for the Home Secretary to use his powers as we suggest.

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I would also like to say something on extradition. Both the Stalker/Sampson affair and the Birmingham Six case have definite implications in relation to extradition because of the effects they have on confidence in the administration of justice and on the prospects of Irish people who are extradited getting a fair trial. You know the very deep-seated concerns which the whole extradition issue has given rise to in Ireland among the public and among all the political parties. You know the reasons why it was essential for us to introduce safeguards into the extradition process, at the same time as taking the very important step of giving effect to the European Convention on the Suppression of Terrorism. In framing these safeguards we went as far as it was possible for us to go in meeting certain concerns that were expressed on your side. Even so difficulties have now arisen because the British Attorney General is apparently unwilling to provide the kind of documentation that our Attorney General requires in order to discharge his functions under the new Act. This matter needs to be resolved quickly especially in view of the fall-out from the events of last week. We are therefore seeking an undertaking that our Attorney General will be supplied in every extradition case coming under our new legislation with such information about the evidence in the case as he thinks necessary to enable him to form the opinion that he is required to form under the new legislation. I want to make it absolutely clear that what our Attorney General is seeking is the minimum that is necessary to enable him to comply with our legislation. If he does not receive the necessary information, extradition will not be possible at all.

Mr. Burke: I want to deal with the fifth point which relates to the absence of prior consultation. Your failure to inform us of the contents of the Attorney General's statement in advance has raised most serious doubts in our mind about your commitment to work the procedures of the Agreement. You have to make a response on this point. We understand the difficulty for you in regard to prior consultation, but we believe that, even if the Attorney General could not see his way to consulting us directly, he should have sought our views on public interest aspects through you. The failure to consult or even inform us makes a nonsense of our right to put forward views and proposals on matters relating to

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Northern Ireland. It makes a nonsense of the text of the Agreement and the provisions for determined efforts to be made to resolve any difficulties.

Mr. Collins: I would like to make a last point. The very serious situation that we now have involves issues of confidence between the two police forces and the effects of these on security cooperation. We are satisfied that serious damage has been done. One meeting has been cancelled. We must have this matter cleared up to our satisfaction in order to allow further meetings to be held. We want these meetings to function satisfactorily in a conducive atmosphere of trust and confidence. That is the presentation we have been instructed to make on behalf of the Government.

Mr. King: Shall I respond if I may? I very much appreciate the way you have clearly and calmly presented these points to us. I very much appreciate also the strength of feeling that you have presented. This is in keeping with the relationship we have developed. What I would like to say is that I very much appreciate your tribute to the RUC of 1988. It is important to remember that the confidence and respect the force has earned has been through its action in seeking to police a province of divided loyalties. It has had to deal with loyalist protests and over 500 police had to move out of their homes. Also, recently, there was a major find of loyalist weapons. These are indications of the determined efforts of the force to carry forward the policy of policing the community evenhandedly. I think that the tribute is justified. I, for my part, most bitterly regret the events of 1982 and their subsequent treatment. They have cast a cloud over the modern RUC. I should say that there are lots of people who were in the force then who are not in that force now. A series of events occurred many years ago and some have been tackled. You referred very fairly to confidence as live concerns expressed under the Anglo-Irish Agreement. That is, of course, my responsibility. I would like to say that it is central to my responsibility. The fight against the evil of terrorism is also central to my responsibility. We are dealing here with very complex issues. It might be helpful if I sketched in some background for clarification. It would be useful to put them on the record because there have been so many misrepresentations in the media.

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The reason I said that the timing was not ideal is that, as I said in the House of Commons, the Attorney's statement is exclusively concerned with the DPP decision as to whether criminal charges should be brought in the Stalker enquiry. I made clear in my statement to the House of Commons that that was in no sense the end of the matter. There are a number of matters that need to be dealt with and could not be until criminal prosecutions were out of the way. There is the issue of procedures, responsibilities and control of the RUC. In relation to these I set up a special enquiry on the recommendation of Sampson and Stalker. I now have to get the comments of the Chief Constable on this. I saw the Chief Constable this morning in relation to this issue and it is my desire to report to the House of Commons as soon as possible. In addition, I accept that there is the question of the incursions and our commitment to provide a report in more detail than the 1984 statement of the Chief Constable.

There are a number of points I would like to deal with. I will follow the order of your statement if I may. The first thing to be said is that one thing that did emerge out of the findings in relation to shoot-to-kill is that there was no evidence of any criminal offence, apart from perversion of the course of justice, such as would be comprised in a shoot-to-kill policy e.g. incitement to murder. You may know that.

We need to be quite clear in an effort to settle issues in relation to the shooting incidents. The fact is that people have faced murder charges in relation to some of these. People were charged in relation to the incidents on 11 November 1982 and on 12 December 1982. In relation to the other incident - on 24 November 1982 - the AG's statement made it clear that there was no evidence to warrant further prosecutions in relation to the shootings and the wounding on 24 November 1982. This was a decision of the DPP taken against the background of all the facts in the Stalker/Sampson report. The Director had all this material available. He examined the original file. He concluded that the evidence did not warrant any prosecution on the 24 November incident. The Attorney General said he agreed. It is very important indeed that we be clear on this point. There is an impression around that the public interest and national interest were invoked in relation to prosecutions for the shootings. That is not true. The DPP said that the evidence did not

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warrant the prosecution. The public interest question and the national security question relate, not to the shooting, but to subsequent attempts to pervert the course of justice.

It is fair to draw attention to the background. It is important to point out whose decisions these were. We are dealing with the DPP for Northern Ireland, Sir Barry Shaw, whose decisions these were. He was responsible for the decisions to bring charges of murder against constables. It was he who took those decisions. It was he who was not satisfied in relation to the evidence and information in the RUC enquiries and it was he who was not satisfied and required an external investigation which resulted in the appointment of Mr. Stalker by the Chief Constable. This is hardly the stuff of cover-up. It was he who required further information after initial results weren't satisfactory to him. It was he who took the decisions (i) that there was not enough evidence to warrant prosecutions and (ii) that there was evidence relating to a conspiracy. This is very far from a cover-up. There is always the question of the public interest involved in relation to whether a charge will or will not be brought (turning to Robert Andrew: Robert, the Attorney General is required in every case to consider the public interest?). This is common ground in all the DPP's decisions. The Attorney General has to advise the House of Commons. He advised the House of Commons that there was evidence, but in the light of the public interest which he is statutorily required to consider, it was decided that no prosecutions should be brought. What we need to deal with here is the questions that arose. I would say again that, as I said, this is not the end of the matter. The position is that there are now serious procedures about to be launched by the Chief Constable on disciplinary considerations. I choose my words carefully.

The position is that in relation to Stalker/Sampson it is a police enquiry. The AG and I have answered questions. However, it is a police investigation and it is not the practice to publish these. I notice your phrase "bring it all out into the open". The fact is that there is a public interest and national security responsibility. It is simply not practicable to make it public. Any such decision would require a very exceptional change in policy. I would draw attention to the fact that the Attorney General, when asked to clarify this matter, said "national

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security in Northern Ireland has connotations that bear upon the safety of a very large number of individuals". I am not privy to the full range of considerations the Attorney General had to take into account. The AG took note of these considerations and subsequently informed the Director. The Director then made his decisions. You asked who was consulted. The Attorney does not reveal such details in relation to the determination of the public interest. That is the unchanging practice. It is not for me, I'm afraid. It is a matter for the AG.

You raised the issue of consultation and the implications for the Anglo-Irish Agreement of our not having consulted you. I attach the greatest importance to the issue of consultation. I am determined to pursue it. I would like to note in passing that the Prime Minister wrote to the Taoiseach recently in relation to certain things we were about to do (creation of new brigade on border) and John (indicating Minister Stanley) spoke to Gerry (Minister Collins). Officials have been consulting on Fair Employment issues. I made available a copy of my statement in the House and I hope that it was in your hands before I stood up in the House. There is no question but that I attach importance to the earliest possible consultation. I am conscious of the Anglo-Irish Agreement aspect. We are at the moment engaged in a range of consultation. We are, for example, engaged in very active discussion on Fair Employment. The difficulty we have here is in relation to prosecutions. It is not a matter for the executive or the Government. It is a legal matter - a matter where they must act in a quasi-judicial way. I, myself, am not part of the process. I am not able to influence the DPP.

In relation to the Birmingham Six, can I say that you fairly introduced the matter in the locus of the Extradition issue. You know that it is separate from my responsibility and is a matter for the Home Secretary. I know that many people in the Dail have made representations and Brian Lenihan had discussions with Douglas Hurd. In relation to the setting up of a further hearing, the position now is that the judges decided unanimously. The background to the Home Secretary's statement to the House of Commons in relation to the prerogative of mercy is the unanimous decision by the judges. I understand there may now be a further appeal to the House of Lords. In that sense the issue is sub judice.

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On extradition, I share entirely your concerns about the current situation. It is a bit of a mess and is not working. I know there have been some misunderstandings about what was said by the Taoiseach to Ian Burns and Nicholas Fenn. I have seen a letter from John Murray to Paddy Mayhew. We will want to discuss that and see whether it is going to be possible to do something. You know that we feel that the result of the safeguards was that the procedure is more complicated than it used to be, and that this is the result of the putting into operation of the European Convention. I don't want to dwell on this. I can understand the strength of feeling. I have read some of the Dail debates. I take note of your comments. We will discuss it with the Attorney. I will be anxious to see some way forward to work the procedure effectively. The paramilitaries can exploit these differences and obstacles.

If I can turn now on to the broader issue and talk about the concern as to how we can work with you and give you as much response as we can. I recognise the interest you have. In a number of respects I am not able to respond as you wish. I would put it bluntly, if I may. We sometimes feel on this side of the table that this is not always understood in Ireland. We have a system of complete separation of judicial and executive powers. These impose limitations on me. It is not like a political, social or economic area. You are inviting me to interfere in an area from which I am very specifically excluded. I cannot interfere in the activities of prosecuting. On the other hand, the matter now moves into an area and into fields that are within my responsibilities. These are difficult and complicated issues. It is critical and important that you have an understanding on rules, responsibilities and procedures. It is also important that we have an understanding of the facts. I have to say in this connection that the Secretariat has done important work in avoiding misunderstandings and getting information quickly and sorting out what was previously the stuff of rumour.

I will try and sketch in where we go now and what the next step is. As I said, the Attorney's statement is not the end of the matter. There is the issue of disciplinary procedures. The statement I made in the House made clear that the DPP would be providing the evidence he had about perverting, or attempting or conspiring to pervert the course of

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justice. The issue now has to be considered by the management of the RUC. We will very shortly have further information on the whole field and on whether further investigation is required and what form charges and what form the disciplinary hearings might take. There is the issue of timing and preparation of these. I might explain the procedure. Disciplinary proceedings up to the rank of Chief Superintendent are a matter for the Chief Constable. Above that it is a matter for the Police Authority. It is possible to have an investigation by the force itself or an officer from an external force. If there are charges sustained there is a right of an appeal to an Appellate Authority. The Appellate Authority is the Secretary of State - it could be John Stanley - since I can designate him as the Appellate Authority. That is the procedure now in train. It cannot be interrupted by the Government or any other agency.

I would like to make it clear that the issues Mr. Stalker addressed were incorporated, that is, Stalker's draft was incorporated in Sampson's report which I am urgently considering in the light of the McLaughlen report which I received on Monday. I must consider Sampson's recommendations about organisation of the RUC. I will consider all these issues very urgently with a view to a very early statement to Parliament. I need to get the comments of the Chief Constable. I am anxious to ensure that you receive the earliest possible notification. But I have a problem over timing. There is a sensitivity among parliamentarians about the contents of such statements appearing elsewhere before being given to the House. I don't want to read any information I give you in the Irish Times that morning. Consistent with that I will give you as much information as I can.

In relation to the incursions I want to give you an early response. I read in today's Irish Times that I am making a statement next Thursday. This is news to me. I may have to wait two or three weeks. That is my timetable. However, on the incursion I may be able to do it rather quickly. I will consult in advance of my statement to Parliament. The problem is that we must deal with the difficulties against the background and the feelings that exist. I understand the amount of feeling. Because of the procedures there are difficulties about what can be said at this moment. It is not obstinacy or hostility on my part. We have

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these procedures and peoples careers and rights are involved. It would be unfortunate to give people a defence that these rights had been prejudiced through wrong orders or procedures. It would be unfortunate if we gave people, who should be punished, a defence which might allow them to escape the consequences of their actions.

I would just like to add this. At the heart of this matter is a man of integrity, the DPP Sir Barry Shaw. He sought to establish the facts and he was not satisfied twice. The Attorney General and the DPP are men of integrity who took the decision they did. I am not able to reveal all the considerations. I cannot. I know that this leaves the field to those who distort and who want to say things that are wrong. That has to be the way it is, no matter how unfair. We have a responsibility for national security on this side of the table. Having worked to build up confidence in the RUC, to have this awful old business now before us is something that I have thoughts about too deep for tears.

Mr. Collins: Thank you very much indeed. No matter how hard I try to understand, no matter how deep the regret, there is nothing you have said that goes any distance to meet our concerns and to contribute to the restoration of confidence. There are a number of points I cannot accept.

I am not saying anything about Sir Barry Shaw. I know he made decisions on the basis of what was given to him. There was vital evidence not made available. I don't know what he based his decision on. He may have had no option. I cannot say.

On the issue of publication, you say it is not the practice in most democratic countries to publish these. I know. We've had enquiries in our own police in relation to very very serious charges. But in this case because the police investigated themselves, they have thrown the whole thing offside. I cannot accept that. I recognise that there has been some good consultation on certain things. But to tell me that because these were quasi-judicial considerations you could not consult us, I cannot accept in any shape or form. It is clear that the Attorney General consulted others. The DPP has not made his decision strictly within the terms of his office. Was the Chief Constable consulted? We

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are not being told. We want to cooperate with this force but every obstacle is being placed in our way. The fact is that the McAtamney report was totally lacking. The public interest has been placed above and beyond the process of law. I cannot accept that. I must ask you again to further consider what we have said. There is no way the Irish people will accept that when the Attorney General was speaking to Parliament he was not speaking on behalf of the British Government.

Mr. King: The issues are very complicated. The public interest is not the Government interest. He was not speaking on behalf of the Government.

Mr. Collins: He was appointed by the Government. What he was announcing were not legal decisions but the results of consultations he had engaged in. He was speaking on behalf of the people and the system generally. We can't get away from that.

Mr. King: Well, just listening.....Supposing that there had been prosecutions and that it had emerged that these had been taken following consultation between the Attorney General and the DPP on the one hand, and the Irish Government, on the other? (the implication here was that there would have been uproar if the Irish Government were seen to be influencing the law officers).

Mr. Collins: The interests of justice required that we be consulted.

Mr. Burke: The Attorney General's statement says there was evidence of the commission of offences of perverting or attempting or conspiring to pervert the course of justice. The Attorney General said he had consultations with others. Who are they? We are partners around the table under the Anglo-Irish Agreement and there is the issue of security cooperation. This is most sensitive. Your Government could not have been unaware of the deep concern on our part. You must have been aware that this was an issue which was crying out for consultation.

Mr. Collins: We find it very hard to understand how your Government - which is responsible for Northern Ireland - could not have been aware of the full range of issues considered by the Attorney General. Somebody

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must have been aware. The Anglo-Irish Agreement means that he should be sitting across the table from us. It is my responsibility to know what is going on in this matter.

Mr. King: But you know exactly what is going on....Do you decide on prosecutions?

Mr. Collins: I do not.

Mr. Burke: It is a question for the DPP and he is not in any way subject to the Attorney General. It is a totally separate and independent office.

Mr. Collins: It is never the practice of our A.G. to do so. This issue has the greatest bearing on security between our two nations. The decision shows no sensitivity to this.

Mr. King: That is not true. I accept your interest in the question of confidence in the administration of justice. I want to say that that has been my life's work for two years. It is not peculiar to you. The idea that we don't care is just not so. We need this like we need a hole in the head. These issues are a relic of 1982. Things were done which shouldn't have been done. However, this takes us into very difficult country. There was the most exhaustive investigation. There was the business of how the Deputy Chief Constable didn't satisfy the DPP and how the DPP went back on two or three occasions.

Mr. Collins: I accept that.

Mr. King: Then there was Stalker's interim report. Matters were still not clear. Mr. Sampson had Stalker's report and Stalker's team. All of this was available to the DPP.

Mr. Collins: A small point. You as Secretary of State were not here in 1982 but there a number of people still involved in the RUC who were also in the RUC in 1982.

Mr. King: I hear what you say. May I say this - two of them were suspended. When was it? 1986?

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Mr. Burke: This has been a very long procedure. You mentioned the rights of the people involved and their careers etc. You outlined the procedure and now there is a possibility of a further outside investigation. This could be a long drawn out operation.

Mr. King: If I may quote from my statement, "the next step now is for the findings of the report, including the evidence referred to in the statement", to be considered in the context of the question of disciplinary proceedings.

Mr. Collins: Do you allow supplementaries?.....

Mr. King: There were four pages of them. But they asked most of the wrong questions. I understand entirely. The problem is, it is not in my immediate responsibility. It is a matter for the Chief Constable and the Police Authority. I set it out in my statement that there are some issues which are not directly for me. However, I am determined that those which are my responsibility will be pursued speedily. I am confident that this will be possible. I should point out that if there is a further investigation it will not be starting from scratch. There is a lot of evidence now available. Whatever investigation might have to take place would start with a lot of basic material. My hope is that it can be taken forward quickly. Again I have to say that there are some humane considerations and the interests and rights of the people involved. There is the fact that the two Superintendents suspended are suffering a lot of strain. There is every reason to get on with it quickly.

Mr. Collins: You outlined the procedures and the role of the Chief Constable and the Police Authority and the possibility of appealing to you. Are you satisfied that there is not a further court of appeal? What about the issue of natural justice?

Mr. Stephens: There is the possibility of judicial review.

Sir Robert Andrew: In terms of the Police Act the matter ends with the

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Secretary of State. But that is without prejudice to the issue of judicial review.

Mr. King: Practically everything can be taken to court.

Mr. Collins: Are we going to have national security and public interest included in that?

Mr. Stephens: The court could not review the facts but the procedures. They could not review the evidence as such. They could look at the issue of the justice of the procedures.

Mr. King: (to his officials) Have there been such cases?

Mr. Stephens: There have been one or two cases. It is not a major growth area.

Mr. King: Everything on our side of the table is for speedy resolution. We have this legacy which has poisoned relations. It has caused problems between the RUC and the Garda all because it grinds on and on.

Mr. Collins: We have put forward our proposal. We have quite a distance to go. There seems to be a serious gap between us.

Mr. King: Yes, I mean.....I don't know if I have done a good job in explaining our position. My room for manoeuvre is limited. There is the Constitutional position. I am not 'praying in aid' these bureaucratic considerations. There is a statutory issue and there are the Police Acts. Policemen have their rights.....

Mr. Burke: Our position is that we have put forward six points which we have asked you to put to your Government for consideration. We have our riding instructions to report back. We are anxious to get the considered response of the British Government later this week.

Mr. King: O.K. We can look at one point..... in relation to the Birmingham Six. Obviously I will bring it to the attention of Douglas Hurd.

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Mr. Collins: We must bear in mind, Tom, that we are not operating in a vacuum. Decisions by a number of different people have now brought about a situation which benefits only the paramilitaries. We have to respond to the disastrous impact of these decisions. Without offence, if you cannot supply the answers we must talk to the people who can.

Mr. King: We could give a more considered response. We would need to give consideration to it. I want you to understand that this is not Tom King taking offence. In some areas I have room for manoeuvre and in some other matters the situation is somewhat more complicated. I am boxed in on some issues. It would be wrong to say anything that would convey the impression that anything wildly different will emerge. On the question of the points raised it is very necessary indeed that we give you responses. There are certain areas where there is a right of appeal. My problem is how we can respond without giving rise to false expectations. We can see how we can respond in more detail but I am nervous of the implication that something new will emerge. Do you see what I mean? I don't want a situation to arise where you can say that the British Government double-crossed you.

Mr. Collins: The only people we are anxious to clout are the paramilitaries. There is no doubt that these events have greatly improved their position. There have been good successes in security cooperation. We want more. This is a very delicate flower which must be nurtured.

Mr. Burke: There is a very supportive climate at the moment and we are anxious to maintain it.

Mr. King: There is the cover picture of the Irish Times the other day (the Malin arms find). It is a very good tribute to the Gardai's success. I made clear the value of that in my statement.

Mr. Collins: I accept that.

Sir Robert Andrew: There is the matter of timing. It would be best if

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we take away the points being raised and study them. It would be a worse mistake to raise false hopes.

Mr. King: Perhaps the responses could be better expressed.

Sir Robert Andrew: In relation to another meeting.....it would be better I think if it were delayed a little longer. There might be something on the disciplinary side. We might be able to have a rather positive tone instead of a negative one. There might be something on the disciplinary side and on the managerial aspect of the Special Branch that could be more positive.

Mr. King: I think that is right. There are important issues involved. Concerns now are about the disciplinary action. The DPP has furnished the Chief Constable with the evidence. The public interest does not apply. Where the ball is now going to roll will be the focus of attention. On the matters concerning management and control of the Special Branch, I have to make that statement. On the incursion we could report back to you quickly. But we have to be careful on the timing. On the incursion, of course we will talk to you in advance. You have the right to be consulted on the Parliamentary statement. But I must consider the proprieties. I must watch my back. I don't want to see it in the Irish Times, or indeed the London Times, on the morning before I report to Parliament. I would have a problem with the backbenchers. They'd be jumping up and down. After the statement we could then have a positive session.

Mr. Collins: In relation to disciplinary action.....our Government will want to make it clear that we have instructions to say we want to see people prosecuted.

Mr. King: I note that. I don't comment.....

Mr. Stanley: But on prosecutions.....

Mr. King: You have come to the wrong shop. The point is I don't direct prosecutions and neither do you. (Jokingly) If you did I could give you a few names. Could you arrange to have them prosecuted?

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Mr. Burke: But the Attorney General said that he has consulted other people. Surely a key factor is confidence in the administration of justice and we should have been consulted on this. The people who were consulted were political people who could change their views.

Mr. Collins: It is not a question of vindictiveness. What we want to do is to restore confidence. That is a primary consideration.

Mr. King: But you see what you are saying? Under the British law it is the duty of the A.G. to acquaint himself with the matter of public interest. I quote from Sir Hartley Shaw-Cross: "It is the duty of the Attorney General to acquaint himself with all the relevant facts, including, for instance, the effect which the prosecution, successful or unsuccessful as the case may be, would have upon public morale and order, and with any other consideration affecting public policy. In order so to inform himself, he may, although I do not think he is obliged to, consult with any of his colleagues in the government, and indeed, as Lord Simon once said, he would in some cases be a fool if he did not. On the other hand, the assistance of his colleagues is confined to informing him of particular considerations which might affect his own decision, and does not consist, and must not consist, in telling him what that decision ought to be. The responsibility for the eventual decision rests with the Attorney General, and he is not to be put, and is not put, under pressure by his colleagues in the matter. Nor, of course, can the Attorney General shift his responsibility for making the decision on to the shoulders of his colleagues. If political considerations which in the broad sense that I have indicated affect government in the abstract arise, it is the Attorney General, applying his judicial mind, who has to be the sole judge of those considerations."

Mr. Collins: It shows the difficulties which have grown up. These are all problems on your side.

Mr. King: I am satisfied that the Attorney followed the procedure I have just quoted to the letter. He is a man of great integrity. These are very difficult issues. I would find it incredible from my personal

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knowledge of him that he did not follow the procedure to the letter. I would stress again the sentence about seeking the assistance of colleagues.

Mr. Collins: This is an exceptionally serious problem for us. We need a breather for a day or two to give you room for manoeuvre. We are in a very troubled situation. If we cannot resolve it, it could have serious consequences.

Mr. King: What I was about to say....in relation to prosecution.....are you inviting me to overrule the DPP of Northern Ireland?

Mr. Collins: No. I refer to what I said earlier. The Attorney General has engaged in consultation with people other than judicial officers in advising the DPP. What I am now saying is that he should again make himself aware of the full position. Could he again reassess the position in the light of the public interest in seeing that justice is done.

Mr. King: Could I just play devil's advocate? You are suggesting that the Attorney did not properly acquaint himself with all the issues involved. The reality is that he would have been aware of the importance of confidence in the administration of justice and the problem of police being above the law. I would find it incredible that the Attorney was unaware of the impact of all these issues on the nationalist minority. He is also the Attorney General for Northern Ireland.

Mr. Burke: There is no point in going back and forward on these issues. (Mr. Burke then referred to the document containing guidelines for the Crown Prosecution Service which talked about public interest not outweighing the duty to prosecute in more serious offences.) There were six deaths and a conspiracy to pervert the course of justice. Our right to put forward views and proposals is enshrined in the Anglo-Irish Agreement.

Mr. King: It is important to remember that the offence was perversion of the course of justice and not murder.

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Mr. Collins: I suggest you give very serious consideration to our proposals and meet us at a very early date.

Mr. King: Do you intend to say in public the six points you have raised?

Mr. Collins: No.

Mr. King: I can consider seriously the generality. Publication of Stalker/Sampson and prosecutions are impossible for me. Will there be a press communique. Are you meeting the press?

Mr. Collins: There will be no Press Conference. We have a Government meeting as soon as we go back.

Mr. Burke: The Communique should say we met at our meeting!

Mr. King: They (civil servants?) will be delighted to keep Ministers clear of the Communique.....

Mr. O hUiginn: Just for clarification.....Will the Communique register that the meeting will take place later this week?

Mr. King: I just don't see it.

Mr. Burke: There are very serious reasons why we want an early meeting.

Mr. Collins: We are facing a public stampede. There is the Stalker book coming out next week and there is a Late Late Show special on the Stalker book and the Birmingham Six.

Sir Robert Andrew: One understands. Our worry is still that if our responses were negative that would make the situation worse.

Mr. King: Negative is the wrong word to use. We wouldn't be able to advance it.....

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Sir Robert Andrew: If we can't accompany it with something useful it will not be positive.

Mr. Burke: But a timetable of two weeks is way down the agenda.

Mr. Collins: You will be able to come back to us on the incursion?

Mr. King: Yes. Right.

Sir Robert Andrew: We will reflect over lunch.

Mr. King: Let's break up. We will have lunch in different groups.

Mr. O hUiginn: We will supply a draft.

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