



# An Chartlann Náisiúnta National Archives

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SECRET

Armstrong/Nally Meeting at Cabinet Office London,  
Tuesday 22 April 1986

The meeting began with an informal lunch at 1 pm in Sir Robert Armstrong's office. Discussion proper began about 2.30 pm and continued until 4.45 pm.

Those present were Irish side: Messrs Nally, Ward, Donlon, O Tuathail and Dorr; British side: Armstrong, Andrew, Goodall, Mallaby and Brennan.

The following, as usual, is not a verbatim record but a reconstruction from detailed notes. (As I had an Irish community engagement in mid-morning I was unable to get to the Cabinet Office until about 2 pm as lunch was finishing. There did not appear however to have been any serious discussion over lunch. The following is an account of the discussion from 2.30 pm onwards.

Armstrong Perhaps we could ask Robert (Andrew) and Tony (Brennan) to update us in relation to the situation in Northern Ireland?

Andrew Since our last meeting (10 March) the situation has been deteriorating and there is an increase in violence. There was the day of action in early March; and on Easter Monday on the advice of the Chief Constable the Secretary of State banned a march. Since then violence has not died down. To give you some flavour of the situation I can read to you from today's situation report (he continued reading out extracts from a text) from 10 pm to 2 am there were sporadic acts of violence. The RUC were attacked with stones in Dungannon, Kilkeel(?) etc.

As you can see this is all fairly small stuff. The number of fatal casualties has been small - indeed there was only the one case of the chap who died as a result of being hit by a plastic bullet.

Since the 3 March there have been about 250 attacks on police off duty; and some 45 police families have moved. There have also been about 50 attacks on Roman Catholics premises. These have however not received as much publicity. There was an attack on a Roman Catholic Church in Lisburn and also on a Free Presbyterian Church.

It is difficult to say how far this is due to hooligans and how far it is orchestrated. There is a good deal of evidence that the paramilitaries are getting themselves organised. This together with an increase in violence and the moves towards a civil disobedience campaign are worrying. There is to be a special meeting of the Assembly tomorrow. We expect some form of resolution in regard to withholding rates or taxes etc.

All of this points to the urgent need to get some form of political dialogue going. We must bear in mind particularly the Apprentice Boys March on 5 May. Most of our efforts therefore have been concentrated on getting some kind of political dialogue going as an alternative. We are conscious of the strains on the police. Political activity so far centres mainly on the correspondence between the Prime Minister and Molyneux and Paisley. The last stage of this was a letter from the Prime Minister on 6 April which I told you about Noel (Dorr). It was kept deliberately short. It did not rehearse our views in regard to the Agreement. It was meant as an invitation to talks. We are awaiting a response to this at

present. We are hoping for a formal reply within the next few days. We hope this reply will be sufficiently forthcoming to open the door to some kind of talks. It could be talks about talks - possibly with officials.

That is where we have got to. There is a threatening security situation but on the other hand just a glimmer of hope. A hope that we could get the Unionists to engage in dialogue before the situation deteriorates further.

Armstrong Yes. Behind that the situation is that the diagnosis previously (on the British side) had been "heads down until the Autumn". Now the diagnosis is that perhaps they could be pushed into that (ie pushed into a political dialogue). The down side risks (of waiting?) are great and if possible it could be worth trying to get discussions before the marching season.

Nally Could I make some general comments?

First, our purpose here is to exchange views. We are not trying to do the work of the Conference. Therefore we should keep the discussion fairly general (Armstrong agreed).

Second, you said that there could be some indication that the paramilitaries are behind the violence. If that is so how much influence do the paramilitaries have on the politicians? By that I mean (a) if you do succeed in getting dialogue under way will you be able to influence the paramilitaries?; (b) to what extent have the political leaders lost authority?

Andrew It is difficult to answer that. The paramilitaries leaders seem at least to be firm in their public statements. They say that they want all political areas explored first and that for that reason they may be willing to hold their hand (from violence).

Brennan The paramilitaries are wary of the politicians since they were lead up hill and then down again in the 1970s. But this does not mean they will not act on their own eventually. Just as we do not know who is responsible I doubt if the Unionists themselves know who is responsible for the various incidents. It could be in many cases a local trigger that sets off sporadic violence.

Andrew The political leaders and especially Molyneux are very worried.

Nally We have two concerns (a) if you get into dialogue you may find that you are not bringing a large enough group with you. Look for instance at how Paisley Molyneux were repudiated almost immediately after their meeting with the Prime Minister. (b) If there is to be a dialogue then it is extremely important that there be some idea what is going to emerge at the end at the stage when it starts in public. It would be very dangerous if the dialogue were seen to collapse just around the 12 July.

Is there any move on your side to analyse the possibilities? How far have you kept in touch with Ken Bloomfield? Is he a representative voice?

Andrew He has certainly been involved in all the discussions we have had. We know he was in Dublin. We cannot yet judge how far the Unionists may be able to go.

Of course it would be unrealistic to hope to reach a conclusion within weeks on a problem which has defeated us for years. The first step would be to get them involved in dialogue. After all as Churchill said "jaw jaw is better than war war". But clearly we must guard against allowing talks to drag on indefinitely.

Nally Another point is that if there were to be some kind of pause in relation to the Conference - and here I should say that the message which Noel (Dorr) conveyed recently related to discussions on devolution within Northern Ireland - we don't want it to turn into any kind of perpetual suspension of the Conference. We could not accept that.

Andrew I know - we talked a bit with Michael Lillis in regard to exploiting "pauses".

If there were a "pause" - and we have to bear in mind that the Prime Minister's views are very forthright in regard to not showing any weakness - then we would have to beware in that case of the Unionists exploiting it.

Nally We are not unsympathetic to what you are at but we have to watch our constituents. It is already two months since the last meeting. After the next meeting (of the Conferent) a window may open. After any "pause" it would be very important that the next meeting should be fixed and unalterable.

But to get back to what might be talked of - there is this charter document?

Andrew Harry West's affair?

Nally A group did a lot of work. Paisley referred to it in talking with John Hume. But it turned out that neither of them knew what it was about (or what their followers were doing). So there was an initial explosion. But I am not sure if the considered reaction to it (on both sides?) would be the same.

There is the other side of things - there is a certain impatience on the nationalist side. So far they have been relatively quiet because of the reaction of the Loyalists. But they are beginning to say "what is there concrete in the Agreement for us?" We can of course point to some things but the question would still be put what is there concrete in the Agreement? Sean (Donlon) do you want to say something on this?

Donlon I have nothing much to add. There are some encouraging features perhaps in the situation. The number of approaches we are getting is very high. I cannot recall any other period when we had so many approaches (from Unionists contacts?). Of course they are not all clear or reliable but they do indicate a certain thinking and a little more movement than we might have expected.

The DUP Convention at the weekend appears to have gone off without violence. There is the charter which Dermot (Nally) referred to.

Then there is the point that the attacks on Roman Catholics have so far been fairly limited in geography. The pattern which developed in Portadown and Lisburn has not spread so far. There is some consolation in this. The approach of the RUC has also been a factor. They have been

under fire there but it is not spreading too quickly. The RUC seemed to have held up reasonably well since Portadown (Easter Monday?). There was some criticism of their handling of the situation in the early part of the night - say from 1 am to 4 am. But subsequently they handled it well and stood up well. And this has been noted.

So much for the Unionist side of things. But on the nationalist side we have no reason to believe that the SDLP are less ready than they were four months ago to have talks with anyone without preconditions. Their Executive met on Saturday last. I think they may have agreed to offer talks to the Unionists. They are talking not about what Hume calls "Mickey Mouse" talks like those on the "charter" - not the B or even the C team - but real talks with the Unionist leaders. He may have conveyed this to Molyneaux and Paisley?

We are however beginning to find that people are beginning to ask "where are the results?" However, this kind of question is not yet being asked sufficiently frequently or with sufficient passion to cause a major problem. Inevitably of course the nationalists draw some comfort from the Unionist discomfiture. And serious nationalists, both North and South and in the United States, are still convinced that the Agreement offers the best chance of achieving something.

Could I suggest by the way that you look carefully at the speech of the Leader of the Opposition Mr Haughey at his party's Conference last weekend and at the speech of his son. It is not for us to comment on domestic political matters but I would simply draw your attention to it and suggest you read it carefully.

In the United States around St Patrick's Day during the Taoiseach's visit it was clear that the leaders of the Irish community still had faith in the Agreement. The way in which the Taoiseach was received in the Irish community is a dramatic development; and while we cannot expect dramatic results - and hence our response to you recently when you pressed us to show more overt support on the Extradition Treaty in the Senate - you shouldn't ignore this important shift in Irish nationalist opinion in the United States. This could pay long term dividends for you and for us.

Therefore, there appears to be at least some reason for optimism both on the Unionist and the nationalist side. I am not sure how you should handle signs of movement by the Unionists. We should obviously keep in the closest contact however so that we will send out the right signals as agreed between us at the right time. I would think therefore that there is reason for somewhat greater optimism than might appear in the public situation. I think the picture painted by Brian Walden on "Weekend World" in the programme about the "long hot summer" a week or two ago was most unjustified.

There was general agreement on this.

Dorr Did you also see the item on the Channel 4 evening news last night when they showed three shadowy hooded figures who are supposed to be RUC men and had actors voices reading words attributed to them in which they said that the RUC would not put up with things much longer. I thought it was a very strange presentation and created a sense a menace since it showed hooded figures and instead of even reading out the words attributed to the three men used actors to dramatise them.

Andrew and Brennan agreed and Andrew remarked that Hermon had issued a very good and strong statement which had been carried immediately afterwards on the news bulletin.

Donlon There are of course always reasons to worry but some of the public comment may actually seem to invite a deterioration of the situation. I would feel one should not overlook the positive side. That is the benefit of informal contacts like this between us where we can exchange views.

Brennan Could I offer some comments?

First in regard to the charter. There are various stories about who knew what but I would not lightly dismiss it as entirely a private enterprise. At least they did talk. It is a pity that it has been put dismissively on the back burner by the party leaders. If and when they get proper talks going that could be put along side other ideas such as the Kilbrandon Report, The Way Forward, the DUP document etc etc. All of these could go into the melting pot.

Secondly, as regards the nationalists - I would have hoped that the very strong Unionist reaction should convince the nationalists that there is something in it for them. There should be mileage too for the nationalists in the strong and robust attitude of the authorities in Northern Ireland - and I include the RUC in this - in regard to attacks, sectarianism etc.

Are there things beyond this to convince the nationalists that the Agreement is valuable to them? I would say on this that it is not just a question of the merit of something but the timing also would be crucial.

Nally It would be important to have a time table. Some of these things are not just internal in Northern Ireland - there is for example also the question of our legislation to give effect to the Convention on Terrorism and so on. We will find ourselves in a difficult position by September/October if the legislation is being introduced and there has been no overt change in Northern Ireland. Of course the point about having the RUC accompany UDR patrols seems from the statistics which you have given us to be going well. However the party which can hold the balance of power in the Dail - the Progressive Democrats - is talking about pressing for a prima facie provision in the legislation. They may force the Government into a position which they do not want to be in. All of which brings out the point that if we had even a tentative time table for implementation - preferably of course things which do not raise Unionist hackles.

(There was laughter at this point - presumably at the idea that there could be anything at present which would not in some way raise hackles.)

Nally Well one thing could be the introduction of three-man courts. I believe Paisley himself backed this idea at one stage. Andy (Ward) - do you want to say something on this?

Ward The line we have taken in our sub-committee discussions is that while all these things are being considered at higher level the problem is that both sides need to see some evidence of movement. This has been met and expressed on our side by our decision to sign the Convention on Terrorism and our commitment to bring in legislation in regard to it.

On the other side of the coin we need something in the short term (for the nationalist side?). Minds on our side are now concentrating on the idea of a three-judge court. We are not sure of course in regard to the pressures which our Government will be under on the question of introducing a prima facie rule. Much of what has been said on this point is based on a certain measure of misinformation and on the belief that this is the norm in other countries in Europe. It is not. I don't know indeed what the reaction of the Progressive Democrat leader who is a lawyer himself will be when he comes to realise that he is misinformed on that point.

As far as I know there is no anxiety at Government level to introduce new complications on extradition but there is a fear that they may be forced into it as the price of getting legislation through. Their objective however will be to keep it to the minimum - I mean such things as the prima facie rule and the rule of specialty.

On our side however we see a need for some visible movement in that same area - the administration of justice. I believe we are not likely to get mixed courts (in the near future) but we think there would not be major Loyalist objection (to the idea of three-judge courts as such) and we hope we can get movement quickly.

Brennan We are to have a session (of the sub-committee) tomorrow. We have put something like 20 questions to the Irish side. I do not disagree with Andy (Ward's) aim. If we could help in getting something which would look significant to the nationalists and to the Dail this could help to ease your problem with legislation. If it existed we would like to find it but we cannot. For any plus with the nationalists there is a minus with the Unionists. Whatever Paisley said in the past - if there is any change which comes out of the Conference it will seem like doing Dublin's bidding. Therefore if there is anything done it must be something that can be defended in itself. This is the way it seems to our Ministers and I am not talking about my Secretary of State. I am talking in fact about the Lord Chancellor and of course in the House of Commons the Attorney General. They are not convinced - bearing the Diplock Courts in mind - of the idea of a three-judge court. They do not feel that a three-judge court would be defensible on its merits. That to date would be the view of the Lord Chancellor. Perhaps there could be other minor things (that could be done but we cannot seem to find them).

Goodall Could I put a question to Andy (Ward)? On the basis of reading the proceedings of the sub-committee I was struck by the point that there is an appeal from the one-judge court of trial to a three-judge Court of Appeal which is not limited to points of law but which can re-try the whole case. There is an unblockable right of appeal. I am not trying to make a debating point on this. However, I want to ask - are you saying that it is not intrinsically satisfactory just to have this (rather than the three-judge at first instance); or are you saying that what is needed is really a presentational change? (ie is change necessary on the merits or for presentational reasons only?).

Ward We did get some 16 questions from you last Friday. We are working on the replies. But could I say that I would like if you were able to have the person who prepared the questions seconded to us to help to work on the answers!

The extent to which the Appeal Court can be effective in re-trying the case is not as wide as it appears. The Appeal Court judges who have not themselves heard the witnesses will always be slow to reverse a decision of the lower court. I know of course that they have the right to call for witnesses if they wish. But there is a conviction on our side that the three-judge court is inherently superior. This is a deeply held conviction which is shared by at least some members of the judiciary on our side.

Also of course, and super-imposed on that, is the presentational point. People are locked in at present to believing that the situation is bad. The questions which you raised in regard to practical problems (ie in the list of questions submitted on Friday last) are real but there is this conviction on our side about the merit. That is to say our people who have experience of this are saying that the system works very well - it is not just muddling along.

Brennan But if the three-judge court idea works in the Irish system it is in a homogeneous context. But postulating a three-judge court designed to give the nationalists in Northern Ireland a voice and a greater say raises problems. There is the problem which we have raised with you before about the danger that in a three-judge court the dissent of one judge could become public (notwithstanding the rule about a unanimous verdict). I understand that the Irish side insist that there would have to be a single judgement - a monolithic decision (Note: While I have not got a full note here I understood Brennan to be referring to exchanges within the sub-committee which in his view showed clearly that the Irish side believed that a three-judge court would be undesirable unless it worked on the basis of a single verdict which did not reveal any disagreement among the judges).

There are technical problems then in regard to the Court of Appeal (Note: I think this was a reference to the point that the Court of Appeal in reconsidering the verdict of the lower court might need to know about any dissenting verdict?). There is also the danger of opening up speculation about possible dissent among the judges. All of this raises the question "is the game worth the candle?" These things of course will have to be matters for Ministerial decision here.

Nally We were talking about something like that. This will not necessarily be the end but it seems to be a change to look for. As we said to you our Government has to face the question of legislation in the second half of the year and they will need to sell it. The argument will be raised against them - "there were supposed to be serious changes in the administration of justice in Northern Ireland - what has there been that justifies you in introducing this legislation?"

Dorr Could I make two points? (a) If you have already a three-judge Court of Appeal I do not quite see how you can have an objection in principle to the idea of three judges in the Trial Court.

Goodall Ah but there is a majority verdict in the Appeal Court (Note: Goodall took this as an adequate answer because of Brennan's earlier point that the Irish side would want a three-judge court only on the basis that there should be a unanimous verdict.

There was the other point I wanted to make. I think, without having followed in any way closely the discussions in the sub-committee, that it is not the case that we are asking for a three-judge court simply as a way of ensuring that one of the judges would be from the minority. There are really two components in what we are saying. One is that a three-judge court is desirable in itself. It would be seen to be a fairer system if you must abolish jury trial than having a person convicted by a single judge who may be a stubborn old so and so. It would <sup>be</sup> seen to be fairer simply because there would be three people rather than one involved in the judgement. For this reason I think it was put forward also as a proposal in the document of the Alliance parties (SDP and Liberals) last year. The second component in our approach is that we also think it would be desirable to have more minority representation on the bench. But we think the idea of a three-judge court is worthwhile on the merits in any case.

Nally The Leader of the Progressive Democrats, Des O'Malley, who was Minister for Justice in the early 1970s has said I think that he would not have accepted the abolition of juries without a three-judge court (in our jurisdiction).

Ward It could be said of course - and this is a two-edged thing - that if you had a three-judge Court of Trial the Court of Appeal would be less likely to set aside their verdict.

Goodall You have in a sense latched on to this idea of a three-judge court - what are the other possibilities that you see?

Nally Paisley is on record in favour of this and there is also the Alliance document which Noel (Dorr) referred to. Therefore, this is not something which we have just drawn out of the air.

Another type of possibility of course is the idea of dividing responsibility for allocation of cases etc between a President of the High Court and a President of the Supreme Court. The idea that one man has the entire allocation of cases in the court system may not be the best. Indeed in the atmosphere of Northern Ireland almost anything that exists must, for that reason, be questioned! That is the kind of thing which if taken together with an increase in the numbers of Catholics in the judiciary might be enough (to help us get our legislation through in the autumn?).

Armstrong But something has been done on this last point?

Andrew Well, not quite yet - Nicholson is still dealing with the Black case.

Nally I do not want in any way to turn this into a litany of complaints. We are not unreasonable in regard to what is happening in relation to having UDR patrols accompanied by the RUC.

Donlon The debate on extradition for us is going to be a rough debate. Look at what the former Minister for Foreign Affairs, Gerry Collins, said at the Fianna Fail Ard Fheis at the weekend.

Dorr There is also some growing criticism among the public of such cases as those of Annie Maguire and the Birmingham six which, while not directly relevant, will be brought into the debate about extradition and fair trial and will be made a cause for criticism.

Ward Yes. There is more overt criticism growing on our side. What is beginning to be said is that what our Government is doing in relation to extradition is taking people by the scruff of the neck and pushing them over into your jurisdiction where they do not have a real chance of a fair trial.

(There were some further brief references to the effect of cases such as that of Annie Maguire and the Birmingham six in building up an atmosphere of criticism in the South in relation to extradition which could make it more difficult to get the legislation through in the autumn.)

Nally It is argued also that in other European countries no one extradites their own citizens.

Ward Yes. That point is made.

Brennan Of course that is usually linked to the power to try for extra-territorial offences (?). It would be monstrous otherwise to refuse to extradite one's own citizens if one could not try them.

Given that you are looking for something that you might be able to point to (by way of change) it might be well to wait and see what comes out of the Black appeal.

(Note: Brennan seemed to intend this as a broad hint that within the next few weeks some development in relation to the Black appeal case would be seen as quite significant in relation to the administration of justice in Northern Ireland and could be helpful to us).

O Tuathail The point is that we need some progress by the end of the summer (a) in relation to the Dail and the legislation; and (b) in relation to the nationalist community in Northern Ireland. We are interested in what you say about the Black appeal but if something emerges it would be difficult to show that it comes in some way from the Agreement.

Brennan (jokingly) I am sure we could rely on your skill and presentation!

O Tuathail Could I revert for a moment to our earlier discussion? As regards the West/Carragher document I would be a bit cautious. Of course it should go into the talks on devolution (ie as one of the ideas on the table) but it is much wider than that - it talks about ending the Agreement. Therefore, there is a need to be very cautious about it. Paisley said he wanted negotiations in regard to a "framework". He said it as a precondition that the Agreement should not operate during that period. He is mixing up two things - Mrs Thatcher's point about operating the Agreement sensitively and the situation which could obtain when devolution talks begin.

It seems to me that unionism is still making up its mind. The Agreement has made them think. One of the important cards we have in our hand is making up their minds is the Conference and its working.

Dorr Could I mention the question of the Assembly? If you are going to be saying something one way or the other about the Assembly in the next few weeks or in early May this will have an impact on the situation we are talking about.

Andrew We are conscious that it is not doing its job but at the same time we are reluctant to bring it to an end since it provides a kind of platform. But we may be forced to. They are having a special meeting on Wednesday (ie tomorrow). It is conceivable, depending on what they do at that meeting, that we might have to bring it to an end.

Dorr But I understand that you will have to make an announcement one way or another in May as to whether you intend the Assembly to continue when its life expires in Autumn - in October I think it is. This could be an important factor in the general context we are talking about - in the sense that whatever you say on that issue and whether or not you intend to continue the existence of the Assembly will have an impact on the Unionists.

Andrew It is not as tight as that. We are reluctant to bring it to a premature end.

Brennan It will end naturally in October.

Dorr Don't you need new legislation?

Andrew No. One option would be to bring forward the prorogation of the Assembly to July (with a view to holding elections in October?). We could also allow an interval after October and have new elections later.

Dorr So you don't need legislation?

Brennan No. We don't need it although we do in fact want an Order in Council for other reasons.

(Note: I am not sure that I have a full note on these exchanges. My overall understanding was that the British have not yet made up their minds what to do about the Assembly. They are reluctant to end its life but they feel they may be forced to do so at some point. There is no need for new primary legislation to continue the Assembly in being but there would have to be elections if it is to continue in being beyond October. On this last point they see two possibilities (a) prorogation in July with elections taking place in October; or (b) allowing the present Assembly to run out in October and then leaving an interval perhaps to the end of the year and providing for new elections early next year).

Nally In trying to get talks with the Unionist leaders are you thinking of a meeting first with officials?

Donlon There was a very strong interview this morning on Radio Ulster I think in which (Paisley?) almost named Ken Bloomfield (as an official with whom talks could begin?).

Andrew It could be a good idea.

Nally There is a willingness for some flexibility on our side but it must be absolutely clear that the working groups and the Secretariat continue - there is no question but that they continue to work.

O Tuathail There seems to be differences of view among the Unionists - in what Miller is saying for example about the Secretariat. They have to make up their mind what they are saying.

Andrew We ought not allow ourselves to get carried away even about the idea of a "pause". The Prime Minister is very clearly on the record - the Agreement will not be ended; it will not be suspended. But she is willing simply to "operate it sensitively".

Nally The Taoiseach is totally convinced of the necessity of maintaining the Agreement in being. He is totally convinced of the need to be firm and sensitive.

Mallaby One could read the statements of Paisley and Molyneaux on 16 April as not requiring suspension during the period of negotiation on a framework for discussions - that is during what might be called stage one.

Nally It sounds reasonably good - the idea of talks about talks lasting say three weeks or a month and then at the end of that period a further meeting of the Conference. It could help to get over the worst part of the year (??).

Do we need some kind of liaison procedure between us? I am afraid of what might happen if the two Governments got out of kilter.

Armstrong There are dangers either way. If we set up anything too formal it could be a problem also. But we can easily be in touch in Dublin or London.

O Tuathail And through Belfast.

Armstrong And through Belfast. We have enough means in place to keep in close touch.

Andrew Yes. We could certainly find ways of keeping in touch.

To clarify what you were saying Dermot (Nally) - there could be a meeting of the Conference at the end of May and then a gap through the marching season to the middle or end of July. During that period there would not be a meeting - at least not in Belfast.

Nally Yes. As a possibility. A lot depends on what happens between now and the end of May.

Andrew This could fit well with our thinking. We are thinking of the march planned for the 5 May. It would not be good to be having a meeting in Belfast just at that time. My Secretary of State will then be out of the country in mid-May. Then there could be a meeting.

Nally Yes. But on the understanding of an early meeting now (ie there would be a meeting in the very near future before the time table spoken of by Andrew began to run). Already there has been no meeting since early March - that is nearly two months.

Goodall If for argument sake there were to be a meeting now and then a meeting at the end of May and then after that something in the middle or end of July - where would you fit in the talks about talks?

Donlon No. There is some misunderstanding. There would be no interval at this stage - that is at the stage of talks about talks. The question raised about the need for a gap would relate to the substantive negotiations - say in June/July.

Andrew I understand that there would be some problems in regard to having a very early meeting as you suggest. One is that the "talks about talks" could be a sensitive issue.

Nally But if you do it the other way then you are gone for a burton.

Andrew There are difficulties every way. But apart from that, there is the problem of the 5 May and the fact that a meeting would raise the temperature considerably especially if it were held in Belfast.

Donlon But then you have created a situation where it is almost taken at the norm that there should be a two month gap. There is a need for paperwork (between meetings?). But now you run the risk that the window will not be so seen. (ie If it appears that the norm for between meetings is about two months there will be no sense that a "window" is being created if an interval of about two months is allowed between two particular meetings).

Brennan Could I comment on the idea of a meeting at the end of May? If "talks about talks" start soon - they may not take very long. It could then emerge from this as a proposal for the Unionists that they would be prepared to enter talks but that they would appreciate deferral of the next meeting (ie in this situation it would not be possible to have a meeting at the end of May).

Dorr Could you not have whatever is to be said in regard to "priority" for devolution talks for a certain time emerge as a statement from a meeting of the Conference itself? In that way we would actually be holding a meeting of the Conference but the announcement emerging from it would be of a kind to encourage talks to get under way.

Mallaby I am not sure that "priority" is the right phrase. If we did go that way then we would need to make the "pause" finite and make that clear. A date (for the next meeting?) would have to be announced.

Nally No not the exact date for security reasons.

Mallaby Yes. All right - but "priority" is not the right phrase.

Nally There is a contradiction between the idea of "regular and frequent" meetings (as in the Agreement) and the idea of leaving an interval. If you defer meetings because of this event or that parade then it soon becomes apparent that it is not meeting because of these things.

Andrew All I am talking about is whether the next meeting could be say at the end of April or immediately after the march in Portadown on 5 May. Given the strains on the RUC caused by this kind of march I would be unhappy in regard to a meeting in Belfast.

Nally I was at the meeting (in Dublin?) where instructions were given to Michael Lillis to seek a meeting so I must stick to that.

Armstrong Would there be the same objection to a meeting elsewhere?

Andrew No. First the strain would not be as great on the RUC and second the temperature would be less likely to be increased.

Nally We could take this away but I must keep to our position.

Armstrong Unless you could find some other reason. . .

Nally Without authorisation and speaking personally could I ask - what about a meeting at Hillsborough?

Andrew It would be slightly more difficult for the Harland and Wolff lads to get there (to protest). (But for symbolic and other reasons it would still be difficult).

O Tuathail Did you say that the Secretary of State would be away in mid-May?

Andrew Yes. But there could be a gap after 5 May when a meeting could be held. I have to say that my Secretary of State is pretty resistant to the idea of a meeting before 5 May.

Nally What about a later meeting in June?

Andrew Speaking personally I think we could have an early meeting in the period immediately after 5 May and then a gap.

Nally But then there would be no gap to offer when the talks actually start.

Andrew I am hoping that it would be quick. I think all we can do is proceed with deliberate speed in regard to meetings but also taking account of the state of readiness of the work and some regard for the local factors (ie parades etc?). And then if something emerges from talks about talks we could think about a "pause".

Nally I think we would have to treat the suggestion of a fairly long pause after the meeting in May with great reserve.

Andrew Don't rule out the possibility of a meeting early in June and then a pause. I think we cannot at this stage foresee what would be the optimum time for that.

Nally I think you had better understand our position. It is not just that we do not want to rule out the idea of a meeting in June but rather to make a positive decision to rule it in. It could be a decision "in tetto" (ie a decision taken but not made public).

Donlon Have you any reason for optimism in regard to the talks about talks?

Andrew Not I'm afraid if Paisley's position is as publicly stated. But if he is as worried as he may be about the situation and worried also in regard to the leadership then maybe. We can only wait and see. He suffered a rebuff after the meeting with the Prime Minister on 25 February.

O Tuathail What would be on the agenda? (??)

Andrew The Prime Minister indicated the topics - devolution, the future of the Assembly, ways in which Unionists might make their voice heard, and changes in regard to the handling of Northern Ireland legislation.

(Note: My overall understand from this discussion was that (i) King will resist the idea of a meeting of the Conference before 5 May because of the parade on that day; (ii) King will be away in mid-May; (iii) Andrew, speaking personally, envisages a meeting of the Conference shortly after 5 May and before King leaves in mid-May; (iv) Andrew envisages that talks about talks if they could be got under way need not extend over more than a couple of weeks. The period after that would be the most useful time to have a "pause" if there is to be one - but he finds it difficult to foresee the exact timing on this; (v) He was also concerned to stress that the Prime Minister is clearly on record about maintaining the Agreement and not suspending it so this should be borne in mind in any talk about a "pause"; (vi) Andrew would be prepared to envisage another meeting of the Conference in the first part of June followed by a "pause"; (vii) the Irish side thought that it would be necessary to have a positive decision to hold such a meeting).

Discussion moved on to the state of play in regard to the Fund.

Nally I think it is going very badly.

Donlon That is very clear.

Andrew We can agree on that (?).

Nally I know talks are going on in another forum about this but we had reached the position where a Commission Paper exists which envisaged an amount of 500m ecus part of which could be paid to the Fund. The only question was could it be "allocated" or "non-allocated" expenditure. If it goes into the "allocated" part of the budget then the Fountainbleau formula does not apply and you would not have lost what you think you have lost.

Donlon Our Minister, Peter Barry, spoke to Sir Geoffrey Howe about this on the occasion of the recent meeting of Foreign Ministers but Howe was preoccupied.

Mallaby This version of an EEC contribution to an international fund is not the same as the one which we had looked at and which we thought would not be workable. The idea that EEC money from the budget which is theoretically available for other purposes should be directed to the Fund would have no great attraction for us financially; and we felt it would have no chance of being adopted since the twelve Member States as well as the Commission will have to agree on a "new line" in the budget. But I understand the ideas which Sean (Donlon) was talking to me about just

before the meeting and which you Dermot (Nally) now seem to be suggesting do not amount to this. The idea you are now suggesting it that there might be money given direct by some Member States - in particular by FRG, Italy, Denmark, Netherlands and Belgium - into an EEC kitty for the Fund, ie not through the general budget of the EEC.

I had not heard of this before. It would have the attraction for us that there would not be an 80% UK contribution. It would also be going into the Fund and could be spent like the money from the US. We will obviously report this.

What you are saying Dermot (Nally) is not quite the same however - you are talking about "allocated" and "non-allocated". That might be called a Mark I version?

O Tuathail What do you think of that?

Mallaby The general idea of a Community contribution has no great attraction for us and we do not think it would be possible to negotiate it. Mark II differs from that but at least it would not require the Agreement of twelve Governments (but only five).

Donlon Obviously this would be a last resort (?).

O Tuathail (clarifying) There are two ideas - (a) a Community contribution to the Fund from "non-allocated" expenditure; and (b) national contributions which would not however go through the Community although they might be coordinated.

Nally Either way we need to get our act together very quickly or all the steam and the value will have gone out of it. It seems a great pity that when the Commission went to the trouble of circulating papers internally the only thing holding them back is the absence of an approach by the two Governments.

I have here a Commission Paper - a non-paper let us say. (Reading from paper). Option two (here he read out some passages from a Commission Paper referring to the Fund as a direct product of the Agreement and speaking of the idea as innovative and also listing some disadvantages).

Brennan We have not seen the document. Can anyone answer me - one problem we have seen about a Community contribution is what strings would be attached. Already we have strings attached by the US. Could we take it that it would be a matter of something simply paid over to the Fund? To spend as we wish? Or would it be tied?

Donlon We understand that it would be payment into the Fund and then spent under the terms of the Fund.

Brennan So there is no reason to think of rejigging the draft agreement we have prepared?

Donlon We think it is a runner. But we cannot guarantee it. But the indications from people in Brussels are that they would be prepared to run with us.

O Tuathail The 'non-paper' which we have speaks of "normal accountability"

Donlon Would you join with us in coming to the Commission to ask them to discuss Option Two with us knowing that they have done some thinking on these lines?

Goodall Where would the "allocated" expenditure come from?

Nally The Community budget - with the British contribution in it (?). My understanding in relation to your problem is that if you take say £100 contribution. The UK contributes £20 of that. And there is a refund due to you of two thirds of £80 under the Fontainebleau Agreement; So that should be £53.

Mallaby Under our own additionality rules the money has to come out of the Northern Ireland allocation which is already being spent, as we would say, in the best way. This would mean therefore that there could be distortions in expenditure. Some of these objections - but not all - would apply to the new idea. But we should think about it.

There is another idea which we favour - the more effective use of the three structural funds. Our own people think this would be the best way - that is the Community way of helping disadvantaged areas and it is not so controversial. They also think that this is an opportunity to make one of the first applications under the single European Act. Renwick gave Fogarty yesterday a paper setting out our idea on this and the text of a draft statement which Delors (President of the Commission) could make. In this the Community would be following up verbal support by concrete measures.

Dorr But under this approach it would take a year or maybe two years before any money would come in. I would have thought that that criterion should be enough to rule out such an approach - granted that our initial thinking was that the Fund would help to build political momentum for the Agreement through economic means. Admittedly you might say that there would be a promise now of future funds but even so if nothing comes for two years that would seem to me to rule out that kind of approach.

Mallaby replied that a statement by Delors could be very important.

Donlon Each of us should look at the other's proposals. What about the American position?

Andrew It is getting smaller by the hour!

Goodall and Armstrong agreed in saying that the situation in regard to an American contribution to the Fund was in something of a mess.

Donlon It is not a total mess.

Brennan It remains to be seen - there is also the danger that we may have developed a top heavy system to administer the Fund for something that may be tens of millions and not hundreds at this stage.

It was about 4.30 pm at this stage and Armstrong had to leave, slightly earlier than he expected, for a meeting with the Prime Minister. Discussions continued however for another ten minutes or so.

Andrew - Before we leave could I mention one thing? Michael Lillis and my Secretary of State had a working breakfast last week at Stormont. They discussed the hostility to the Agreement among other things and my Secretary of State mentioned the question of Articles 2 and 3 of the Irish Constitution.

Andrew went on to raise the possibility of deletion now of Articles 2 and 3 of the Constitution. He made it fairly plain that in raising this issue at our Meeting he was "going through the motions" presumably in accordance with an instruction from the Northern Ireland Secretary to try the issue on us.

Some discussion followed on the question of Articles 2 and 3 of the Constitution with particular reference to how it had featured in the negotiation of the Agreement.

Dorr made the point that there appeared to be a clear difference of perception between the two sides about the history of the negotiations insofar as the possibility of changing Articles 2 and 3 of the Irish Constitution was concerned. Each side now seems to believe that it was the other which "went off" the possibility at a crucial stage in the discussions. Be that as it may, it should be clear that whatever possibilities might have existed in a context of change it would be a wholly different matter to raise the issue now, well after the Agreement was signed and in place and wholly out of any context.

Donlon and Nally agreed with this view and Donlon said explicitly that on that issue the file at this stage must be considered closed.

In some further (and quite informal) discussion Nally recalled his recollection of Mrs Thatcher's clear indication at Chequers in November 1984 that it would be better not to try for a "more ambitious" approach (ie one involving Articles 2 and 3). Dorr referred Goodall to some informal explorations which had been made by the Irish side in early November 1984 about the idea of a kind of "joint guarantee" (ie the incorporation of exactly similar language on the "consent" issue in the Irish Constitution and in a British Act). Goodall said that so far as he was aware this had not been given serious consideration. It was noted that the idea has since been resurrected publicly by Boyle and Hadden.

Andrew at the close of this rather informal discussion appeared quite satisfied to have raised the issue and was well aware that we all saw it as a matter of simply going through the motions on his part.

Donlon went on to raise more or less directly with Andrew the question of the accommodation at Maryfield for the Secretariat and the possible use of Merton Hall a property nearby which has been bought by the Irish Government but which is not in use for security reasons. He explained that it was separated by a field from the Secretariat building at Maryfield.

Donlon I am worried on two counts (i) the property is vacant and is left unguarded; (ii) the facilities at Maryfield are clearly inadequate. They were perhaps adequate for the short term but they are very primitive indeed and the cramped accommodation there contributes to difficulties and tensions.

I have a feeling that if we could get some of the people out of Maryfield itself the problem of security would be diffused to some extent because they would be spread out. We may therefore be asking you to secure Merton Hall also.

There is a further point - that I will be regarded soon as delinquent by the Committee of Public Accounts in Dublin when they ask me to account for the expenditure of a quarter of a million pounds. I would therefore have to draw your attention to this in any case but I don't see why it shouldn't be used. It is ready for occupancy in any case. I would be grateful if you could look at this again?

Andrew We have looked at the question and consulted with my Secretary of State. Our view is clear. There is a field in between. The security around Maryfield consists of an outer and inner perimeter. The security advise to us is that we would have to make the whole lot secure (ie Maryfield and Merton). So the perimeter would have to go round both. We would therefore have to acquire the field in between.

There are two kinds of difficulties (i) political - if there is barbed wire put up around the whole lot this will attract further attention to it at a time when the Secretariat is the focus of attention in any case; (ii) this new approach would put greater strain on the RUC since they would have to guard a wider perimeter.

For these reasons we would like to talk with you about other possibilities. I accept that the Maryfield accommodation is temporary and that something needs to be done. If there is anything we can do by way of provision of more bathrooms, double glazing etc we could look at that.

Donlon Would you discuss other possibilities with us then (ie other accommodation elsewhere?). It simply cannot go on as it is.

Andrew We are ready to look at any option.

O Tuathail What about developing Merton Hall itself?

Andrew That would be open to the same objection. In any case it would not be very suitable.

Donlon It may nevertheless be the lesser of two evils.

The discussion concluded at this point with Andrew promising to look at other possibilities. The meeting as a whole broke up. It was 4.45 pm.

Nally subsequently explained to the Irish delegation that as we were breaking up Goodall had taken him aside and reiterated the degree to which Mrs Thatcher is personally committed to maintenance of the Agreement in place.

ND  
London     April 1986