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Third Meeting of the Anglo-Irish Intergovernmental Photo CS on
Conference, 10 January, 1986

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The meeting began at 11.15 in Lancaster House. Present on the Irish side were the Irish Joint Chairman, Mr. Peter Barry, T.D., the Minister for Justice, Mr. Michael Noonan, T.D., Messrs. Donlón, Ward, O'Tuathail, Dorr, O'Donovan, Smyth, Lillis, O'Ceallaigh and Ryan. Present on the British side were the Joint Chairman, Mr. Tom King, M.P., Mr. Nicholas Scott, M.P., Messrs. Andrew, Bloomfield, Stephens, Brennan, Gilliland, Daniell, Clark, Elliot, Hewitt and Miss Steele. The Group was joined by the Garda Commissioner, Mr. Laurence Wren, and the RUC Chief Constable, Sir Jack Hermon, for lunch at 1 O'clock. The meeting resumed at 2 O'clock and lasted until almost 4.

Mr. Barry: Shall we go straight into the meeting?. I would like to add to the Agenda discussion of the Parliamentary tier and of the current situation about the by-elections.

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Mr. King: I would like to welcome you here. The journey here has been a bit difficult for everybody. I would like to say a few words about the background against which the meeting is taking place here in London. We can be in no doubt about the depth of feeling in the majority community against the Agreement. It is a lot stronger and more widely felt than we had expected. We must proceed constructively with the implementation of the Agreement. The success of the Agreement will depend on our success in getting greater support for it from the majority community in Northern Ireland. As you know I expressed reservations about having this meeting. We need to have papers beforehand and we need to consider them. The papers we have have been coming through very late. I got the last one ten minutes ago. Another was delivered at 8.30 on

Wednesday night. I think we must ensure that future meetings are properly prepared. I can only give you holding replies today. You won't get an adequate response to your papers and in these circumstances people may become aggrieved. I am trying to say this in a helpful spirit and as a preamble to our meeting.

Mr. Barry: With regard to the holding of meetings, I think it is important to send a message to the community in Northern Ireland that the Conference will work normally and regularly. Its purpose is to produce reconciliation in Ireland. It is important that we not allow ourselves to be pushed off that goal and that the majority community should not get the impression that they can push the British Government off by, for example, postponing meetings. The two Governments have laid down that these meetings should be held regularly. As regards the majority community, I said recently that the Irish Government had failed to get across the benefits of the Conference to Unionists. I hope this has been helpful. We understand the difficulty in responding in full to the papers we have put forward at this time. Your initial response might not be as considered as you would wish it to be, but I think I should stress that it is important to have regular meetings.

Mr. King: That is a very fair response. We understand the importance you attach to the SDLP and to the by-elections. We understand why you are keen to have meetings and that is why we agreed to meetings on 30 December and now. But I would like to have our meetings more organised in the future. That is all I wanted to say.

There are a few points I would like to raise which are not on the agenda. Firstly, I would like to know what progress you have made on acceding to the Convention on the Suppression of Terrorism. Secondly, I would like to know if you are in a position to give us nominations for the Police Authority. We would like to see work in these two areas. We think it

important to encourage the SDLP, in so far as they can in their understanding of the Agreement, to give whatever expression of support they can to the RUC. After all the RUC are the bulwark of the Conference at this time.

Mr. Barry: Could we come back to your new points towards the end of our meeting. I would like to discuss the first item on the Agenda which is the Police Complaints procedure in Northern Ireland. What I want to see in this area is transparency. I would like complaints handled in an open way so that they can be seen to be dealt with without undermining the authority of the Chief Constable. We get more complaints in this area than in any other area from nationalists in Northern Ireland. People frequently find it very oppressive to have to make a complaint in a police barracks. We would like to work towards an independent complaints body. We understand the sensitivity of this but it is very important to build up the confidence of the minority in the administration of justice. It is a source of very great dissatisfaction to nationalists that the very people against whom they make the complaint themselves conduct the investigation into that complaint. I would also like to see some rapid progress on the Code of Conduct. We understood from the Chief Constable at the December meeting of the Conference that the Code is almost ready. He said at that time that it would be ready early in the new year. We would like the Code put in place as soon as possible.

Mr. Scott: It will be some months before we can finalise the Code with the Police Authority. There is a body, on which members of the Police Authority are represented, which is looking at this issue and as part of this exercise they are examining the situation in other police forces. Our aim is to have it in place as early as possible. It is not clear whether your note on police complaints is your final word or whether you wish to put forward other ideas. We published our paper last April and we asked for your comments by July last year. We have held the whole thing back since then. Virtually all

the points which you have put have been made by others. I would like to go over them in detail. If you have any further points we would need to have them in days rather than in weeks. We want to get ahead with a draft Order to lay before Parliament. We are going to make some changes (in the proposals we made last April) to enhance and underscore the role of the Police Complaints Commission but to go for a totally independent body is not possible at this stage. Complaints could be supervised by the Commission and an outside police force could be invited in as appropriate. The Secretary of State has also certain powers in regard to complaints. Our aims are very much the same as yours. But we are acting under a great time constraint.

Mr. Barry: If we have anything to add we will get it to you quickly. I do, however, attach importance to the independence of the Commission. Is your objection to it a moral one or is it on the grounds of feasibility?

Mr. Scott: The problem is feasibility. Experience in other countries shows that where outsiders have been asked to investigate police complaints on their own, such systems have failed. Where the police do it themselves with some form of independent supervision has been found to be much more effective in other parts of the world.

Andrew: I was in the Home Office when this question was gone into in great detail and enquiries made of other countries. The only country with a wholly independent complaints body was the Netherlands. However, all the members of that body were retired policemen.

Mr. Noonan: We published our own police complaints bill last summer in which we proposed that in normal circumstances the police would investigate any complaints that are made, but we

did ensure that in certain cases, for example, fraud or where the matter was thought to be of great public interest, the investigation can be directed by a person who is other than a policeman.

Mr. Scott: We can ask for a mainland officer when deemed necessary which does provide for an element of independence.

Mr. King: As in a recent well-known case (presumably the case here is the Stalker investigation).

Andrew: A further source available to us is the Inspectorate of Constabulary which is based on the mainland and which can in certain difficult cases instigate an investigation. One example is the Downes case.

Mr. Noonan: There is a whole range of different bodies in the U.S. which may conduct investigations into the police.

Mr. Scott: The difficulty is that our time-table was yesterday. We hope to lay our Draft Order within the next two to three weeks.

Lillis: Is it possible to say to what degree your thinking in this area has changed since April last when you published your paper?

Mr. King: We sent you a copy in April and we asked for your comments by July. We'll try to keep you informed.

Mr. Barry: Could we ask the Secretariat to examine your document and ours and to compare them. I would like this done immediately.

Mr. King: We will try and keep you posted. We have to get on with it. In all fairness we waited until now for your comments.

Mr. Barry: Could we get the machinery going to isolate where the differences may be between us?

Andrew: We could arrange through the Secretariat for conversations with the Police departments to see where we have got to. Perhaps Mr. Ryan or Mr. Ward might participate in such conversations. All sorts of bodies have made suggestions to us in this area.

Mr. Barry: Is the Draft Order confidential? Has it been completed?

Mr. Scott: We wanted to get your views first. Now that we have those views officials will be putting proposals to us quickly. The Draft Order would be drawn up then.

Mr. King: I agree with what Robert Andrew said a few moments ago. Can we now turn to the next item on the Agenda?

Administration of Justice

Brennan: Would it be helpful to read this document now? (copy attached).

King: I think it would be better if you talked to it.

Brennan: It was a great pleasure to work with Noel Ryan on this. I am sorry because of the holidays that it took some time to do this paper. As you will see from paragraph 2 of our paper we have identified three specific areas in addressing ourselves to article 8(a) of the Agreement. We are agreed that machinery should be established which would involve experts. The issues involved fall into two types and we have, accordingly, proposed the establishment of two groups. The first would be concerned with the Administration of Justice. It would be necessary on the U.K. side to have representation from the NIO, the Northern Ireland Court Service, the Law

Officers Department and the Home Office Legal Advisors. We are agreed that work relating to the criminal law, including extradition, should be kept separate from that relating to the judicial system and consequently we are proposing a second group. In this area the first stage would be to try to identify what bits of the criminal law need to be tackled first. There is also the question of when the two Attorneys General should meet and whether they should have with them the Minister for Justice and the Secretary of State. This meeting would be to give a blessing (to our work) in greater detail than we have taken so far. I believe the terms of reference should be fairly explicit for such a ministerial meeting and there is a lot of work which needs to be done before such a meeting takes place.

Ryan: I have nothing much to add to what Tony Brennan has said except to focus on his latter point. We feel that an early meeting of Attorneys General and Ministers could be held and that Tony Brennan and I should now be asked to work out the arrangements for such a meeting so that it can be held quickly. The Irish view is that we should do the necessary work now to prepare the meeting so that we can have it at an early date.

Mr. Barry: How do you see the meeting of Attorneys General? Is it a meeting which takes a broad look at the issues in question or would Ministers do the work themselves?

Mr. King: I feel that proper papers need to be prepared for Ministers. At this stage I think a Ministerial meeting would be a waste of time. No progress would be made. To have a meeting just to talk about how to proceed is not to my mind the best thing.

Mr. Noonan: At this stage, which Noel Ryan and Tony Brennan have now reached, a political over-view is needed to decide where we should go and to give instructions to officials.

Mr. King: If we do decide to have a Ministerial meeting there will have to be official meetings beforehand to prepare for it.

Mr. Andrew: I wonder is there much between you? The only question really is whether the preparation for the Ministerial meeting should be done by Ryan and Brennan or whether it should be a wider group which should prepare the meeting. On our side we would prefer a wider team at this stage.

Mr. Brennan: My interest is to speed things up by including the right people around the table to thrash out the problems. Otherwise I should have to do it by correspondence and it would take a much longer time. I think it would be a good idea to get them all together now.

Mr. Barry: We have different types of structures. I believe that a political meeting now would be a time saving exercise because they could identify the problems and direct officials to get on with it.

Mr. King: No, No. I think it is important that there be no misunderstanding that this Conference is a place where matters are decided in secret behind closed doors. I am keen to get across the idea of good workmanlike actions and to expose people to the discussions. I am keen to take people with us, particularly the people of Northern Ireland. There are sensible people. (He seemed to be referring here to what he sees as a need to include people at this time from, for example, the Northern Ireland Courts Service). This is a point I made at the beginning. My philosophy is that Ministers' work should take place on prepared ground. The idea of a political steer ordered down from above isn't realistic. I am in a different position from that of Michael Noonan. My approach has to be different. I came to these matters recently. I have to bring boies in Northern Ireland with me - the Court Service, the DPP, the Judges. If they are involved at the start it would be easier for me to bring people with me.

Mr. Barry: We must remember what this Intergovernmental Conference is all about. It is in a sense imposed. We are moving into a position where there are serious difficulties in Northern Ireland. We mustn't allow these difficulties to prejudice the results of our work. I believe we should start with meetings of the Attorneys General.

Mr. King: They can't have a meeting without briefing. I have to say I see this as slap happy. I don't disagree with you about the results of the Agreement. I absolutely agree with you. But papers have to be prepared.

O'Tuathail: Let's have a meeting of the Attorneys General.

Mr. King: Are we going to make this conference work or are we in for headline catching for the next three weeks. There is a real risk, that if we raise expectations too much, we might lose in the long term. But we want this Conference to be seen as a responsible body. I sense every time I say this a stiffening of backbones and a feeling (on your side) that you believe that when we say this we are trying to delay matters. The matters in this paper (Ryan-Brennan) are quite important but I only got this paper five minutes before we sat down here and as you know we started fifteen minutes late. You held the Presidency of the EEC and as such you know the importance of working on the basis of papers which have been prepared.

Mr. Barry: (Papers are) the very thing that will sink Europe.

Mr. King: I suggest that there be an early meeting of officials for the purpose of organising a Ministerial Meeting.

Ryan: There is really not an awful lot left for officials here. What we are talking about are terms of reference for working groups. It is overstating it to suggest that there is a need for a large working group.

Mr. King: What's missing is a failure to understand our structures. Tony Brennan can't write the terms of reference. He's not the Head of the Justice system in Northern Ireland. This is not the way that I discharge my Ministerial responsibilities.

Brennan: I had kept people informed as we went along. It is important to continue that process. However, it is not a matter that Noel and I can just agree. There are interests that I have to consult and whose agreement I must obtain. I have to continue that anyway. An additional problem is that I shall be away next week (in the United States)

Mr. King: We shall have to carry on.

Lillis: There has been a lot done. At this table between the two sides there are nine people who have been talking about this question during the last twelve months of negotiations. On our side we have everybody necessary here, with the exception of the Attorney General's Office, who would in fact carry out the work. The issues have been gone into already in enormous detail. One presumes that the responsible authorities were consulted during the course of these negotiations. There is already a background.

Mr. King: But what about Belfast? There are a number of people there who were not involved before but whom we need to involve now.

Mr. Barry: Surely this is a matter for the British Government.

Andrew: The Director of the Court Service, who is a key man, was not involved in the negotiations. He is the expert on timing in the Courts in Northern Ireland. We would want his assistance in determining how things work now and we would need his guidance on the affect of any changes we might propose.

Mr. King: I would have thought there is a lot to be said for officials getting together first. Let your officials talk e.g. to the Director of the Court Service and see what the problems are. Sometimes officials make more progress than Ministers. If you don't want a meeting with officials (prior to a Ministerial Meeting) we shall still have to consult and bring in some people on our side who have not so far been brought in.

Ryan: Our main concern is that here we are talking about the terms of reference. When discussing substantive issues it will be a different matter. Then we will need to consult widely. But we now know what needs to be done. I think we should draft documents with terms of reference which should be put to Ministers. For my own part I am not sure what the Director of the Court Service in Northern Ireland does.

Mr. King: I think we should leave this. I really don't understand the difficulties.

Mr. Barry: The argument is really about building up confidence in the administration of justice in Northern Ireland. We need to identify where changes can be made. We believe that politicians can identify those areas better than can officials and that politicians should then give instructions to officials. It is a politicians job to do this. A political thrust must be given to their work.

Mr. King: We are likely to get it done faster if the initial work is done by officials. Even if you don't agree with me we will still have to have meetings of officials on our side before we can have a meeting of Ministers.

Mr. Barry: We are talking about working inside this Conference. This is a political Conference. The point I am making is that we (the politicians) must decide the direction. That cannot be done by bureaucrats or by legal officers.

Mr. King: I don't disagree with that. I can't say much more. I only got this piece of paper ten minutes ago.

Mr. Barry: We set up the Ryan-Brennan group on the 11th December.

Mr. King: I can't give a decision on a piece of paper which arrived five minutes after this meeting was due to start.

Mr. Barry: I think we are each chasing our tails when we are asking for meetings of officials the purpose of which is to achieve more meetings. When do you think this meeting of officials can take place?

Brennan: We could have a meeting of officials early in the week after next.

Mr. Barry: It is important to have a meeting of the Attorney General before the by-election. Can the Attorney's General meet at the end of the week after next?

Andrew: That's the same problem. Could we perhaps announce before the by-election that a meeting would take place. That would make the point even if the meeting itself did not take place until early February. You see we have not involved our own Attorney General so far.

Mr. Barry: Could we have the following: an official meeting early in the week after next with the Attorney's General meeting in early February. We could announce in the communique that such a meeting would take place early in February.

Mr. King: Yes we could give a date, lets fix the dates over lunch. Right.

Flags and Emblems

Mr. Bary: We have sent you a paper. We realise you will want to look at it. We attach importance to this matter. It has symbolic significance. The Act has the effect of making the flying of the Tricolour provocative whereas the flying of the Union Jack is never deemed to be provocative.

Mr. Scott: Your paper is largely in accord with our thinking. However paragraph 4 of your paper would not accord with my experience. The Tricolour flies on at least one Leisure Centre in Northern Ireland despite the efforts of George Seawright.

Mr. Barry: Our concern is that the IRA are taking over the flag.

Mr. Scott: The RUC don't take the Tricolour from coffins any more nor do they prevent it been flown in GAA grounds. If a coffin draped in a Tricolour is going through a loyalist area the police ask that it be placed in the hearse in that particular area. It is different of course with berets and pistols.

Mr. Barry: If the Act is not repealed the tendency for the IRA to take over the flag will only be increased.

Mr. Scott: The Act is redundant. We will look at this after the by-election and will bring it up at the next Conference.

Irish Language:

Mr. Barry: I would like to congratulate you on the progress you have made in this area. The help which you have provided for the Bun Scoil in Belfast has been particularly helpful. The other policies in this area are helping to take the issue out of the hands of the Provisionals.

Mr. Scott: We have made some progress in this area. In the prisons we are making more books available in Irish. Some prison officers and some members of the RUC have volunteered to learn the language. We are trying. Obviously we cannot have a situation where prisoners pass messages in Irish but we are endeavouring to get people to learn it so that more use can be made of the language. (Jokingly perhaps the Ministers will be the next to learn it).

Mr. Barry: Quotation from T.S. Eliot.

Mr. Scott: There is a difference however between a situation in which there is no discrimination against the Irish language and in which the language is treated with proper respect on the one hand and a situation in which it is dealt with in the same way as English which after all is the working language in Northern Ireland.

Mr. Barry: What about place names?

Mr. Scott: We are considering this issue we are trying to find out how we can test opinion in local communities.

Mr. Barry: If you think about it some unionists might even want to have the Irish form of the place names preserved. Unless the Irish form is known the anglicised versions really mean nothing. The contribution of Unionists and Protestants to the preservation of the Irish language in proportion to their numbers in the overall population is far greater than that made by Irish nationalists. Many of the early leaders of the Gaelic League were Protestant Unionists.

Mr. Scott: We give very generous grants to the GAA despite the ban. Those grants have amounted to over three-quarters of a million pounds over the last five years.

Mr. Barry: That is a very good investment. Its fruit may be seen in the support on the 23 January for Seamus Mallon.

Mr. Noonan: Any aspect of national culture which can be used exclusively by the Provisional IRA is dangerous. We should try to prevent them taking over aspects of the national culture by giving it to all nationalists.

Mr. King: I don't want to tamper with the census but there might be a question in the Scottish census on Gaelic.

Bloomfield: There are means other than the census of ascertaining the numbers of Irish speakers. A question in the census might be contentious. Perhaps and we should look at some of these other ways.

Mr. Scott: Our estimate is that there are about twenty thousand people in the primary sector studying Irish.

Mr. Barry: Is it being availed of by both traditions?

Mr. Scott: Not exclusively but largely by one tradition.

O Tuathail: In the past both Methodist College and Campbell College (in Belfast) had Irish language classes.

Donlon: Our experience over the years has been that those members of the unionist community who joined the Foreign Service tend to have more Irish than Northern nationalists joining the Service.

Mr. Barry: These two papers on the Irish language and on Flags and Emblems should they now be processed by the Secretariat?

Mr. King: We will come back to these issues in our future meeting. We are considering the points you made and we will feed our response back through the Secretariat.

Current Topics

Mr. Barry: I would like to start this by saying that RTE in Belfast were told last night this meeting was to be held in London and that its purpose was to discuss the hunger strikes.

Mr. King: That was wrong in every respect. However I note that the PA tape this morning from Dublin gave some information as well. I have just had a message from Belfast that the Lord Chief Justice has established the following details in an open court. He has given the date of 24 January as the date when the Defence should make clear the grounds for appeal in the Kirkpatrick case from which he will then know the requirements for transcripts. He has asked the prosecution to have their requirements for transcripts in by the 7 February. He has said that the appeal should be heard by June.

Mr. Barry: I am glad that that has happened.

Andrew: (In response to a question from Mr. Noonan) there is no question of other appeals being taking out of sequence. (This means that McGrady and Quigley supergrass appeals will be heard before Kirkpatrick).

Mr. King: All of this is subject to the need for transcripts. If the defence want transcripts of the whole trial it would take longer. Bishop Daly and Father Murphy helped in (bringing an end to the hunger strike). There were other shadowy figures around in the hunger strike and particularly Brown.

Stevens: He was never a leader except in his own mind. Devine is the officer commanding in the Maze.

Mr. Barry: We are glad it is over because we were very concerned of the possible effect of that hunger strike on the by-election. Do you have anything else on the by-election?

Mr. Scott: The laws requiring people to identify themselves are having a good effect in reducing personation and it should be as effective in this Westminster election as it was in the local Government election last year.

Mr. Barry: You don't anticipate any problems?

Mr. Scott: The Irish News last year said that personation had been effectively finished. There may be a certain amount of intimidation.

Mr. Noonan: One trick which Sinn Fein can use is to send a person in with a blank paper. That person then puts the blank paper in the ballot box and takes out from the polling booth an unmarked ballot paper which is filled in by a Sinn Fein activist outside who then sends another voter in with the marked paper which he puts in the box and takes out another blank paper, and so on. This can be a very invidious form of intimidation.

Mr. Scott: There was no suggestion of anything like that at the District Council elections. The police now have powers to search people, cars, caravan, etc to see if anything substantial of this nature is being held illegally. If people are caught there are very high penalties.

Mr. Barry: Another form of abuse used to be to get your own presiding officer into place. If there is a low turn-out he could help to increase the turn-out! We have stamped out this practice in the South. But it is going on in Northern Ireland on the unionist side. Some returning officers are active members of the unionist parties.

Mr. Scott: The Chief Election Officer is aware of one such individual. (In response to Mr. Barry) there may be some who were party members before they became presiding officers but they cannot do anything about that.

Mr. King: As far as this election is concerned the unionists will be determined to ensure that they cannot be accused of any malpractice because if they were so accused that would lessen the effect of their vote.

Mr. Barry: I think that is right except in those areas where they may be in danger of losing seats.

Donlon: The contest in Newry/Armagh could be the dirtiest ever in Northern Ireland.

Mr. Barry: We have put a number of complaints to you through the Secretariat. It would be helpful if we could have a quick response.

O Tuathail: You will shortly have a debate in Parliament on the Emergency Provisions Act. What's the timetable?

Mr. Scott: We are taking two debates together.

Mr. King: There are three issues here. A Draft Order has been published which gives discretion to remove certain cases from the Diplock Courts. Secondly the EPA will be renewed. Thirdly there will be legislation within this Parliament on a more comprehensive response to the Baker Report. The debate will be held next Thursday and interestingly no unionists will be there.

Mr. Barry: Could the Baker Report be discussed in the course of this debate?

Mr. King: Yes.

Mr. Barry: Hume won't be there either as he is getting an honorary degree in the US.

O Tuathail: One idea we have is that your Attorney General might elaborate at some stage on the use of the uncorroborated evidence of accomplices (with the effect of curtailing its use).

Andrew: He did that some two years ago.

O Tuathail: Some further comment is necessary. We understood from the last meeting that your Attorney General has the power to say that he will not in future accept uncorroborated evidence that will not stand up in a court.

Mr. Barry: You referred the last day we met to the powers of the DPP. We are asking that prosecutions would not be on the sole basis of uncorroborated accomplice evidence. We understand that your Attorney General can direct the DPP in this matter.

Andrew: It is a matter for the courts.

Lillis: The DPP has in several instances decided not to prosecute (on the basis of the uncorroborated evidence presented to him by the police).

Stevens: The DPP has discretion in forming his preliminary judgement whether there is a reasonable chance of conviction on the basis of the evidence provided by the police.

Mr. Barry: If that parameter could be extended in the case of uncorroborated evidence.

Andrew: It would be very difficult. The DPP forms a general view on the probability of a conviction. It is not always possible for him to say before the trial that papers which have been put to him and which contain only uncorroborated accomplice evidence might not result in a trial in which corroboration emerges in court.

Stevens: We don't know the reasons the DPP has for taking a particular view. I think that it is to a very large extent a matter of feel.

Andrew: Its his broad assessment. If the evidence presented to him seems wholly dependent on a supergrass he might decide to leave the question to a judge rather than prejudge it himself.

O Tuathail: We are interested in some sort of a political statement about the use of the uncorroborated evidence of accomplices. (The implication here was in Thursday's debate).

Mr. King: Perhaps this is a matter for the Attorney General. My statement next Thursday has to be very qualified.

Andrew: We have to be careful of political statements. We do not wish to undermine the judges.

Interparliamentary Tier

Mr. Barry: What is your thinking about an Interparliamentary Tier?

Mr. King: Have you any proposals on this? We take the view that it is a matter for Parliament. There is an all-party motion in the House, drawn up by Michael Mates which suggests that a Select Committee be set up. He has talked to me about that. What do you think? Parliament has the power to initiate a Parliamentary Tier.

Mr. Barry: If a Parliamentary Tier were to be established it would be the Government which would move the necessary (in the Oireachtas). We would like to see the involvement of Northern Ireland politicians in a Parliamentary Tier.

Mr. Scott: This would have merit. The question is would they take it up.

Mr. King: People are playing around with this.

Dorr: There is considerable interest on the back ^{ch}bender. The setting up of a Select Committee would lead to peoples views being sought.

Mr. King: I now recall. The idea (against the establishment of a Select Committee) is to talk about it in a more relaxed form than a Select Committee but working on a similar basis. I will pursue it.

Andrew: There are obvious difficulties after the by-elections if the Dail and Westminster decided to establish a Parliamentary Tier and if the Unionists, following the by-elections, withdraw from Parliament.

Mr. King: Can we make a note and I will see where it has got to at this stage.

Dorr: There is also an amendment to the Early Day Motion put down by Ivor Stanbrook. Would the Early Day Motion lead to a debate in the House?

Mr. King: (Having laughed at the mention of Stanbrook) No. An Early Day Motion has no force. It is just an expression of opinion. If there were two hundred signatures on an Early Day Motion there might be a debate but they have no force. The question of whether there should or should not be a Select Committee is not a matter for an Early Day Motion.

Dorr: If both sides would like to see a Parliamentary Tier should we encourage the setting up of a Select Committee?

Mr. King: I don't think a Select Committee is the right way. It is too formal.

Mr. Barry: Could you put your thinking to us on paper.

Mr. King: Yes we are quite supportive.

Mr. Barry: We too, but we would like to see Northern Ireland politicians included.

Convention on the Suppression of Terrorism

Mr. King: What is the position on the Convention? Have you signed it?

Mr. Barry: The Attorney General feels there is a need for prior legislation. If there were a meeting of Attorney's General he might be able to say when things might happen.

Mr. King: There is a real need for this Convention. There are many people in the majority community in Northern Ireland who feel that you are prevaricating. They feel that you have given very little in terms of this Agreement and that you are gaining everything from it. I have to say that we attach enormous importance to this Convention. We don't want to be in a position where people could say that you are not moving quickly enough.

Mr. Noonan: You have to look at Article 8 of the Agreement in its entirety and at paragraph 7 of the Joint Communique of 15 November 85. We can do this when we have a meeting of Ministers

Mr. King: The Taoiseach said that it is his intention to accede to this Convention.

Mr. Barry: Paragraph 7 of the Joint Communique was very carefully drafted. Its against the changes mentioned there, against this background, that the Taoiseach said that it was his intention to accede as soon as possible to the Convention. We are not delaying.

Mr. King: You know that Unionists are arguing that there is nothing in this Agreement for them.

Mr. Barry: That of course is not true.

Mr. King: There are clearly advantages for the Nationalist community within Northern Ireland in this Agreement. There are tangible things which are important for the Unionists.

This Convention is one. I understand the views of the Attorney General. But I am asking you how far have you got in preparing the necessary legislation.

Mr. Barry: I don't know. Last October during the course of the negotiations we said it would take about 18 months.

Mr. King: Can we have an answer to my question through the Secretariat, which would give the timetable and other necessary details.

Mr. Barry: (Read out paragraph 7 of the Joint Communique of 15 November 85). I have to stress that it is against this background that the Taoiseach said that we would accede to the Convention. It is still our intention to accede to it.

Mr. King: Can you give us a programme of confidence building measures? We know that the minority community, against a general background of good will, is waiting to see how this Agreement works. On the other the majority community have no confidence in the Agreement. One Unionist view is outrage at the Agreement. The other is that the Agreement cannot work and cannot produce results benefitting them. I want this Agreement to work and I want to show Unionists that it can work. The Convention is one of the key factors. If you could give us an indication of the timetable it would be helpful.

Mr. Barry: You will have it by 9 O'Clock next Tuesday morning.

Mr. King: What is the position concerning nominations for the Police Authority?

Mr. Barry: We are working on it and have made some progress. We will be ready to give you some names shortly. I can respond positively to the suggested name on the Fair Employment Authority. As regards the communique perhaps Mr. Lillis and Mr. Elliott should do this over lunch.

The Conference then adjourned for lunch joined by the Garda Commissioner and the Chief Constable. The Conference resumed at 2.15.

Mr. Barry: The next item is a presentation by Mr. Wren. (A copy of the Garda Commissioners presentation is attached. He stuck very closely to this text. His words are not therefore repeated in this report but a copy of his text is annexed). At the end of the report Mr. King intervened.

Mr. King: Perhaps Sir John (Hermon) might like to respond. I should say that I find the presentation of the Garda Commissioner very comprehensive and helpful.

Hermon: In terms of its content the report of the Garda Commissioner, both as regards internal problems and cross-border problems, mirrors the problems faced by the RUC. It is a very fair assessment of the problem. Very positive and very forthright. I made available to the Conference my threat assessment and I would on a similar basis like to see yours. I could comment in some detail about it but I don't think this is the time or the place. It is a very positive approach and it can be looked at in detail elsewhere.

I have details here with me about the deployment of the RUC along the border, for example, in Clogher there were two policemen in 1969 and now there are 30+. This mirrors exactly what is happening on the Southern side of the border. A key area of difference between the Garda and the RUC is that the latter are a target where the Garda are not. One area of my threat assessment which is somewhat different to yours concerns the command structure of the Provisional IRA. I understand your problems. You have no judicial powers and you have much less power to deal with these matters than we have. I do recognise the difference between the two forces. The Provisional IRA will never be destroyed except by very precise intelligence. I accept you have enhanced your intelligence gathering. But work needs to be done as to how we can eliminate through the law, the mafia type figures who control the cannon fodder. We have a lot of way to go together in

harmony to improve our systems, our methods and our compatibility. We can go forward together. We have both got good systems in dealing with the problem of car thefts in Dublin and in West Belfast but they are not good enough as the problem still continues and further improvements are necessary. This analogy serves well on the border as well.

Leaving aside the threat assessment and talking about weapons and explosives I am not opposed to anything that Larry said. This is a problem. (I was not able to take down all these details). In December alone we seized 19 weapons, over 1,000 rounds, 390 lbs of explosives and 12 mortar launchers. This shows the extent of the problem. While that continues we could never accept that our policing is satisfactory. Recently in Portadown we seized some very sinister transmitter and other electronic material. The arrest of Owen Carron and the link between him and the rifle you mentioned shows the link which exists between Sinn Fein Councillors and the IRA. PIRA are embarrassed by this arrest. In the new year we have seized 800lbs of explosives in Strabane. The information came from intelligence and from surveillance. The capacity of PIRA to mount counter intelligence is frighteningly efficient. Counter surveillance prevented us from arresting anybody in connection with this seizure of explosives. Similarly in Derry we recently seized a lot of arms. We knew precisely where to go to. Our success in these areas is due to dedicated surveillance and covert patrolling. That is what produced the results. (He offered here a paper on RUC/Garda Cooperation).

The presentations made at the meeting of 9 December were stupendously beneficial. We are beginning to understand how each (RUC and Garda) function. We find this helpful. We are beginning to allocate personnel for joint studies. We are, however, running into a little bit of an impasse because of differences in our structures. We would like to identify these differences. Inevitably we detect differences of balance, of approach, of priorities.

Wren: We haven't got reports from all the groups yet.

Hermon: Let us both keep up the work.

Wren: There are no insurmountable difficulties (Mr. Wren went on to question some of the points made above by Sir John Hermon).

Hermon: Might I suggest that under Article 9 (a) of the Agreement the RUC and the Garda draw up a list for presentation to the Conference. My priority is threat assessment. I can also give you a list of the points which I have made here.

There are three border incidents which have occurred since 11 December which have caused public concern on the border. On 11 December an attack on an RUC station in Tynan and the vehicle used had been stolen in the Republic 12 months previously. On the 19 December, in the attack in Castlederg the Hiace van used had been stolen in Donegal on 16/17 December. And in the mortar attack on 22 December at Lifford Bridge the Hiace had been stolen in Donegal the same day. These three attacks could have resulted in considerable numbers of deaths. 1985 nonetheless, was the most peaceful year since 1970 in terms of the number of deaths, explosives, firearm attacks, robberies, etc.

Mr. Barry: I am grateful for both of those presentations. We are fighting one of the most evil and intelligent organisations in the World. Cross-border cooperation is one of the needs of this Conference but we say that the other part (to security Co-operation) is to deal with the place in which these evil men thrive and that is why we stress the matters which we talked about before, lunch. The proposal you (Hermon) made that a programme of study be devised through the Conference for the Garda Commissioner and yourself to fulfill the work of the Conference is a good one. Why don't you put both papers together and let the Conference consider and draw up a joint programme of work.

Mr. King: We must accept the proposal of the Chief Constable. I understand entirely the point you (Mr. Barry) made. That programme of work is one in which the Conference is required to set in hand. They should go ahead.

Mr. Barry: Nick Scott and Michael (Noonan) could meet on this and the Secretariat could arrange. Before we leave this point there is one.....

Andrew: (Interrupting) What we want is a progress report for the next meeting of the Conference.

Hermon: We need an assessment of the RUC/Garda meetings to reconcile where we agree and point out any differences. We have a fundamental part in securing the success of the Agreement. The RUC has come through an intense period since 1969. We have increased our numbers hugely and have developed a role other than simple policing. It is a new force. My concern is that the Conference needs to understand how we perceive the problems. We would be happy to give the Conference/Secretariat a detailed presentation which would enable the Conference to speak about these matters against a background of knowledge about the philosophy and so on of the RUC.

Mr. Barry: This Conference is not only about Security and Security Co-operation. An essential element is to reconcile the two traditions on the island. That is extremely important. To take one matter we were given to understand that the RUC would accompany the UDR on patrol. What has happened?

Hermon: Our aim is to remove khaki from the streets. We have been interfacing the RUC with the Army for a long time. We have a plan of development for the RUC until 1990. The effect of the Agreement has been that we must look carefully at our operational policy under that plan. One area where we could be compromised is by overburdening our system in terms of manpower. There are over 400 patrols per day. That would need at least 400 police or more (if they were to be accompanied). I will give you the detailed figures.

Mr. Barry: But in certain areas, particularly in nationalist areas, this is very important.

Hermon: Yes. Particularly in Fermanagh. There Provisional Sinn Fein are trying to cause major friction between the population and the UDR.

Mr. King: The Chief Constable's offer has been given off his own bat. His offer to outline the structure of the RUC can lie on the table.

Mr. Barry: I thought that was all we had on 11 December.

Hermon: I'm talking about Conference people and the Secretariat. The more compatible of the two systems (RUC and Garda) the better.

Andrew: (A meeting) might help progress on the examination of administration of justice as well.

Barry: Perhaps the February meeting should be a longer one than those we have had until now. I hope you will have detailed responses to our papers at that stage and perhaps we should set aside a longer time meeting for a good while before and after lunch.

Mr. Scott: There is a case for a more in depth presentation to members of the Secretariat. That would be very useful.

Mr. Barry: Lets leave the details to the Secretariat.

Mr. King: Start with the Secretariat.

Andrew: A very detailed presentation could be given (by the RUC) to the Secretariat and to any other officials who want to come. If helpful let other members of the Conference have a briefing too.

Mr. King: Right, but let the Secretariat pursue.

Mr. Scott: A point came up in the statistics given by the Garda Commissioner about the backing of warrants. It might be useful if the Secretariat could work through figures on the backing of warrants so that we could have agreed figures between the two of us for use in Parliament etc.

Mr. King: I am very grateful to the Garda Commissioner. I'm not quite clear about the different system of control of fertilizers, North and South.

Hermon: This is a difficult area. An explosive substance contained in fertilizers is taking most of the RUC lives being lost.

Mr. King: We haven't found a way of controlling it?

Hermon: No

Mr. Noonan: On both sides of the border the composition of commercial fertilizer has been changed.

Hermon: The Paramilitaries cannot explode a large quantity of fertilizer unless there is a small quantity of commercial explosives as well. We mark all our commercial explosive. You mark some but not all of yours.

Mr. King: I would like a progress report at the next meeting of the Conference. If the Secretariat want to go to the RUC well and good.

Mr. Barry: We think this work is very important but it is not the only work. Unless we get the minority behind us we will be talking in a similar vein in twenty years time.

Mr. King: That's what you talked about this morning.

The report of the Joint Secretariat was taken as read. During a very brief exchange Hermon said that they had had over 800 applications from within the RUC for people who were interested in learning Irish and that the revocation of the Flags and Emblems Act would cause problems for two or three months. Discussion then turned to the Communique. I did not take a detailed note on this but some of the interventions are as follow.

There was a good deal of discussion about the uniqueness of the Anglo-Irish Agreement which leave a position to the views of the Irish Government different from those of other interested parties. Donlon pointed out that we are the only people who can put forward views to the British on which we have an obligation to resolve differences between us. Mr. King in particular wanted to quote the views expressed by us and the views expressed by others. Mr. Barry repeated that we are trying to solve, in a political fashion, the situation which the Chief Constable said had existed since 1970. Our view is that if we are pushed off our position that the minority can make progress through the Conference we are in for considerable difficulties.

Andrew: I would like to include a sentence in the Communique which would read as follows:

"It was agreed that the Irish side would inform the British side of the current position on the preparation of legislation to enable them to accede to the European Convention on the Suppression of Terrorism".

Lillis: If we give a public indication of our intention in this area before the legislation is brought into the Dail we will set up an opposition within the country which could frustrate our purposes.

Noonan: I am responsible for the Act. It is my firm view that a sentence of that nature would set things back. The Taoiseach within a day or two would have a question in the Dail which would cause difficulties. I would find it very difficult to accept that wording in a Communique. This question of the Convention has to be seen against the background mentioned in Article 7 of the Joint Communique of 15 November, 1985.

Mr. King: Can we do it another way? Can we make a unilateral declaration.

Andrew: If we don't press you on this at this time could you give us information about the legislative time-table as soon as possible so that we can include a reference in the next joint Communique.

Mr. Barry: I want to avoid any prior public commitments about a timetable in this area.

Andrew: I want to put you on notice of what we would like to see in the next Communique.

Mr. Noonan: If this is highlighted in any Communique it will create vehement opposition and make it much more difficult to carry out what we want to do.

Mr. Scott: The point is made elsewhere in the joint statement about extradition. Let's leave it at that.

Mr. King: Let's leave it that way.

The attached Joint Statement was agreed. Our next meeting will be in February. The presumption is in Belfast.

Mr. Barry: How shall we handle the press?

Mr. King: I'm not going to see them. Let's do as we did before. No television interviews. Just concentrate on the Communique.

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Daithi O Ceallaigh

14 January 1986

Attached are

1. Ryan-Brennan Pages
2. Presentation made by the Garda Commissioner
3. Joint Statement