

C O N F I D E N T I A L

FROM: CLIVE BARBOUR
19 December 1991

CB/16648/91/HC

UNDER/ 623/12
SEC
19DEC1991
CENT SEC

cc	PS/Paymaster-General (B&L)	B
	PS/Minister of State (B&L)	B
	PS/PUS (B&L)	B
	PS/Mr Fell	B
	Mr Ledlie	B
	Mr Thomas	B
	Mr Loughran, DED	B
	Mr Alston	B
	Mr A P Wilson	B
	Mr Bell	B
	Mr Hamilton	B
	Mr Wood (B&L)	B
	Mr Dodds	B
	Mr Cooke	B
	Mr Leach	B
	Mr D J R Hill	B
	Mr D A Hill	B
	Mr Petch	B
	Mr Rickard	B
	Ms Lodge	B
	Dr Rosborough	B
	Mr Archer, RID	B
	HMA, Dublin	B
	Miss Neville-Jones, Cab Office	
	Mr Griggs, Cab Office	
	Mr Gowan, Cab Office	
	Mr Jonathan Powell, Washington	
	Chief Constable, RUCHQ	

PS/SECRETARY OF STATE (L&B) - B

LATE AMENDMENT TO THE INTERNAL PLENARY RECORD OF THE
INTERGOVERNMENTAL CONFERENCE HELD IN DUBLIN ON 20 NOVEMBER 1991 -
IC(91)7

A few late amendments have been suggested to the Internal Plenary
Record of the IGC held in Dublin on 20 November 1991 which was
issued on 13 December 1991.

2. The attached document replaces that one and should, therefore,
be regarded as the final version.

[Signed]

CLIVE BARBOUR

C O N F I D E N T I A L

INTERNAL PLENARY RECORD OF THE INTERGOVERNMENTAL CONFERENCE

HELD IN DUBLIN ON 20 NOVEMBER 1991

Present:

British Side

Ministers

Secretary of State
Paymaster General

Officials

PUS
Mr Fell
Ambassador Blatherwick
Chief Constable*
Mr Thomas
Mr Ledlie
Mr Alston
Mr Bell
Mr Cooke
Mr Maye
Mr Barbour

In Attendance

Mr Archer
Mr Pawson
Mr Kyle
Chief Supt Lewis*

* Part of the Plenary Session only

The Plenary Session began at 1240 and followed the Ministerial tete-a-tete which had taken place between 1030 and 1125 and a Restricted Security Session which had taken place between 1130 and 1235.

2. The Co-chairmen agreed to consider the Confidence Issues first, to accommodate the Chief Constable's travel plans.

Irish Side

Ministers

Minister Collins
Minister Burke

Officials

Mr Dorr
Mr Brosnan
Mr O hUiginn
Garda Commissioner
Mr Crowley
Mr Dalton
Mr Nason
Mr Donoghue

In Attendance

Ms Delaney

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ACCOMPANIMENT

3. Mr Collins said that a debate had been continuing over a period of several months about the decision which the Secretary of State had taken in relation to the investigation of reports of unaccompanied patrols and the implications which this had had for him. He reminded the Secretary of State that he had regretted that particular decision, and was disappointed that the Secretary of State was unable to agree to a reversal of it, more particularly because of the extremely small number of cases which he had brought to his attention. He had hoped for some understanding of the serious political difficulties which he would face in the Dail, arising from the decision.

4. Mr Collins said that he had been left with no choice but to indicate the change in practice on the British side when a Dail PQ had been raised by Austin Currie TD for Oral Reply recently. He felt that he could not mislead anyone with a reply which fudged the issue, and which would, in any case, only have caused more trouble at a later stage. Nonetheless, he had tried to do so in terms which, far from accentuating the differences, had sought to minimise them. He said that he had not found it possible to take up the suggestion that the Secretary of State's letter to him might be drawn upon for the purpose of briefing members of the Dail on this subject as, far from conveying the intended reassurance, certain elements in the letter would have opened up fresh controversy which he felt both he and the Secretary of State could have done without. In particular, he was thinking of the terms in which the Secretary of State had described the accompaniment objective which, in his view, marked a clear retreat from the language of the Hillsborough Communique. He felt that the Secretary of State would have noticed Mr Currie's immediate and vigorous reaction when he saw from his reply that the Secretary of State was introducing a difficulty of "practical, logistical or resource constraints" which had not been mentioned in the Hillsborough Communique.

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5. Mr Collins continued by saying that he had indicated in his two most recent replies to Parliamentary Questions that he would continue to raise with the Secretary of State reports of unaccompanied patrols. He hoped that the Secretary of State might, in due course, feel disposed to reconsider the position he had taken on the investigation of such reports and to return to the previous arrangements. He added that he wanted to make it clear that he could not accept the explicit departure from the Hillsborough Communique which the Secretary of State's letter implied. He was trying to persuade the Secretary of State of the value which the investigation of such reports had as a means of testing implementation of the accompaniment policy on the ground. Furthermore, he would have thought that occasional spot-checks of the degree to which accompaniment was being implemented in individual areas would be helpful for both Governments and would not be perceived as a gratuitous burden, in any way, on the RUC. He felt that this was an approach to the matter which could be usefully pursued by both sides with a view to overcoming the particular difficulty between them. Mr Collins said that he would be grateful for any views which the Secretary of State might have.

6. Mr Brooke said that he understood what Mr Collins was saying but that the basic principle of Accompaniment was being pursued by the RUC. There would always be some circumstances in which Accompaniment could not take place and there were practical realities which needed to be understood. He fully accepted the importance of the issue and pointed out that although it appeared in the Hillsborough Communique, it did not appear in the Agreement itself. It was also important to realise that the security situation in Northern Ireland had considerably changed since 1985. In the course of that year, 25 civilians had been killed but 40 civilians had been killed since 1 August this year alone. It was clear that the RUC had to live with present-day realities which were not envisaged in 1985 when terrorist violence appeared to be diminishing. The British Government's commitment, was as strong as when it appeared in the Communique, but the level of terrorism now was of an entirely different order. Nevertheless, he had pride in the level of accompaniment being achieved.

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7. The Secretary of State mentioned that he had been concerned at one point that both Governments had run the risk of returning to megaphone diplomacy but he noted that the need for him to refer in the House of Commons to his letter to Mr Collins had not arisen, because he had not been questioned in Parliament. He wished to underline that this subject was better discussed within the confines of the Conference and the Secretariat than in either Parliament.

8. Mr Collins said that he had, nonetheless, to make clear that he could not accept the Secretary of State's explicit departure from the commitment in the 1985 Communique. He had said that he must be totally honest with the Dail and would be forced to say that there had been a retreat on the part of the British Government. It was serious and regrettable that both sides were getting into an area of fundamental disagreement.

CALL-UP OF PART-TIME UDR MEMBERS

9. Mr Collins said that he was grateful for the advance briefing which was provided through the Secretariat on this subject and that he recognised fully the scale of the threat posed by paramilitary organisations and the enormous burden which fell on the security forces. He wanted briefly to sound a note of caution about the use of part-time members of the UDR in that context. The part-time members were unquestionably the section of the UDR who had been responsible for the greatest trouble and controversy in the past and who continued to arouse the strongest emotions in the nationalist community. The Irish Government would wish to see the part-time element phased out altogether, and welcomed the announcement of the proposed merger last July, partly on the basis of the opportunity it offered to accelerate that process.

10. Mr Collins said that the Irish Government had, therefore, a difficulty in principle with any decision which suggested that the role of the part-time membership of the UDR was to be enhanced rather than diminished. He noted that nationalists had been viewing the move with suspicion and indeed some trepidation. He would be

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most anxious therefore to be assured that the part-time members who had been called up would not be deployed in West Belfast, and trusted that they would also be kept out of the sensitive nationalist areas in North Belfast and on the periphery of West Belfast. He also welcomed the undertaking given that patrols involving the part-time members would be accompanied by the RUC.

11. Mr Brooke said that he was grateful for Mr Collins' understanding during the tete-a-tete that morning, and for the implicit understanding over the weekend when there was a potential crisis of confidence with troops appearing on the street. He noted that the last time troops had been deployed in this way was after the death of Judge Gibson, when they had been called up to full-time duties for 6 weeks. He could give Mr Collins an absolute assurance that this present deployment would be no longer than that period, but there were no plans to phase out the part-time element of the force.

LETHAL FORCE

12. Mr Collins said that he had drawn to the Secretary of State's attention the serious damage to public confidence in the Security Forces caused by incidents in which individuals had been killed in questionable circumstances. He said that he could not emphasize to him enough the political importance of action being taken which might help to reduce the frequency of such incidents. He felt that every time an individual died at the hands of a policeman or soldier in circumstances where an arrest might have been possible, the most serious questions were asked about the standard by which the Security Forces operated and their attitude towards the rule of law. Each successive killing which followed the pattern of the earlier ones increased public scepticism and gave a bonus to paramilitary propaganda. Mr Collins felt that something had to be done to address this issue. He believed it was crucially important that measures were taken which would demonstrate the sensitivity of the problem, both at political level and within the Security Forces, and which would prevent paramilitary exploitation of the situation.

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He believed that there would continue to be a strong case for legislative changes, but he also remained open to changes in operational practice which might have the desired effect of reassurance.

13. Mr Collins said that he attached much importance to the work which was under way in this area at official level and he would wish to see it intensified so that he and the Secretary of State might be in a position shortly to consider specific recommendations. He wondered if they should ask their officials to meet in the near future in order to carry out a detailed examination of the options for progress in this area. While he knew that there were difficulties which could arise in regard to possible changes, he felt that both sides must find ways of ensuring the concrete and visible steps would be taken which could help improve public confidence and which would reduce the scope for controversy in this particular area. Mr Collins then referred to the specific case of Gerald Maginn and said that on the face of it, it appeared as if, once again, lethal force was being meted out to a joy-rider, subsequently found to be unarmed. He felt that doubts would inevitably be expressed about the degree of threat which Maginn and his companions posed to the Security Forces and would be grateful for an indication of the current status of the investigation into the matter, which he understood the ICPC were supervising.

14. Lord Belstead said that, as Mr Collins doubtlessly knew, the issues surrounding the use of lethal force in Northern Ireland were currently being examined. Officials had met recently to exchange views following a study by the Irish side of observations which his officials had made on an earlier Irish paper. His understanding was that they would be meeting again in the near future to see whether it was possible to establish a joint view on the options for possible action, and he thought that both sides were at one on wishing to receive such a report. As far as the Maginn case was concerned, it would be supervised by the ICPC which was the right course of action. The involvement of the ICPC provided the 'independent' element in the investigation which was often called

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for by the Press and others. The members of the Commission who had been appointed to take personal responsibility for the supervision of a particular investigation would keep in close touch with the investigating officer throughout the whole course of the inquiry. Lord Belstead then asked if the Chief Constable might elaborate on the circumstances of the incident insofar as he could, given that the case was still under investigation.

15. The Chief Constable said that because the case was still at an early investigative stage, the exact facts still had to be uncovered. It was always the case that hearts would drop in incidents such as this when the facts appeared to change and when a driver turned out to be a joy-rider. He had, however, to put it against a background of increased Army strength and 12-hour shifts being introduced to cope with increased levels of violence, of people being shot and car-bombed and fire-bombed to death. The Chief Constable said that he understood that at 0415 on the day concerned two cars were seen acting suspiciously at the back of some shops, which was a classic scenario for terrorists. The cars had sped off towards West Belfast and in the chase one of them was lost, leaving the police to concentrate on the other. This car was found stopped and on approach one police car parked behind it and another to the side. He said that as the police officers had got out of their car, with guns drawn because they were in hostile territory, the suspect car had reversed and hit the police car behind, totally immobilising it. The Chief Constable commented, that what then immediately occurred was of course still under investigation. He understood however that the suspect car had sped off and when subsequently found some time later a young person was found dead in the vehicle. It was important to remember that anyone approaching the car when it had originally stopped had to themselves be in fear of being shot. He understood, however, that the situation had ended up with one young person being found dead in the car, but that it should be understood that anyone approaching the car had to fear being shot. There was, of course, deep concern but this also had to be seen against the background of a possible threat to officers' lives. The investigation, under ICPC supervision, was under way and a report would be put to the DPP in due course.

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HOLDING CENTRES

16. Mr Collins reminded the Secretary of State that they had last discussed this subject at the September Conference. In the meantime, he had had further allegations of ill-treatment and the issue had received fresh attention by way of articles in the Guardian newspaper, to which the Chief Constable had replied. In addition, he went on to say that there had also been recent hearings in Geneva by the UN Committee against Torture in Geneva, which had examined this subject in some detail on the basis of a report submitted by the British Government and which also had before it submissions from Amnesty International and the Committee for the Administration of Justice. Mr Collins realised that the allegations which were being made were serious, and that it was increasingly difficult to accept that they had been merely fabricated in order to serve a propaganda purpose. He noticed that one point to emerge from the Geneva proceedings was that some 30 cases of alleged ill-treatment at Castlereagh over the past 2 years had been settled with compensation being paid. While he accepted that no admissions of liability were made, questions would nonetheless be asked about the basis for such settlements. Moreover, it was clear that the concern about ill-treatment in police custody was widespread and that the issue was likely to continue to receive attention in both jurisdictions and also at international level. He believed, and had said previously, that a powerful safeguard which would protect the interests of both the police and the detainee was the video-taping of interviews. He hoped that the British Government might reconsider that particular decision. There was no doubt that if video-taping was introduced, the RUC would be much better placed than at present to rebut allegations of ill-treatment.

17. Mr Collins said that he welcomed the decision to appoint an Independent Commissioner to monitor proceedings at the Holding Centres. The Irish Government had furnished some views on the powers which he felt should go with this post and the profile of the person who might be appointed. He again reiterated that video-taping of interviews would greatly enhance the scope for the

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performance of the Commissioner's duties and public confidence in the effectiveness of that measure. Mr Collins also believed that the Commissioner must be in a position to ensure that correct procedures were being followed in all interviews with detainees in Holding Centres, and again he felt that it was difficult to see how this could be satisfactorily achieved in the absence of video-taping. [Mr Collins] He also suggested that, in view of the public unease caused by the allegations of ill-treatment in custody, there should be no delay in bringing forward the promised Statutory Code of Practice under the new Emergency Provisions Act, which would cover the detention of suspects and their treatment while in custody. In conclusion, Mr Collins said that he would be glad to know where matters stood at present in relation to the investigation into the Damien Austin case which he had discussed with the Secretary of State in September, and to the investigations into the other cases of alleged ill-treatment which the Secretary of State had mentioned on that occasion.

18. Lord Belstead, in response, said that the Government was committed to ensuring that the whole system of law enforcement operated in such a way that justice was done. This was not just a form of words, it was an absolute commitment. No good was done at all if allegations of this kind were made, which only caused concern. He felt, however, that it ought to be said that of the cases supervised by the ICPC, 80% of complainants failed to co-operate with the investigating officer, and that this was one reason why a large number of cases were not proved. In addition, the British Government was committed to and required to make a statutory Code of Practice governing the detention, treatment, questioning and identification by police officers of persons detained under the Prevention of Terrorism Act and the Government was also considering the appointment of an independent Commissioner to monitor proceedings at Holding Centres. Lord Belstead assured Mr Collins that the Irish Government could comment on the proposals and on the statutory Code of Practice. He also hoped that Mr Collins would understand that the British Government was not considering video recording at that moment in time.

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19. Lord Belstead asked the Chief Constable if he would wish to make any comments on the Damien Austin case which, he reminded Mr Collins, was being supervised by the ICPC. The Chief Constable said that he had himself looked at the Holding Centres and that he was satisfied that the Bennett Report was being fully implemented. It was important that there was continuous cover even when someone went to the lavatory. PIRA were extremely concerned about the useful intelligence which was being obtained from Holding Centres which had, on occasions, saved lives. This information was now more important than ever. In addition, he said that medical advisers did not support the claims of abuse that were being made and that it was always inevitable that there would be some people who would inflict injuries on themselves which sometimes meant that actions in the Courts had to be conceded. The Chief Constable said that he had had detailed discussions with his senior Commanders and that he could not let go unchallenged that there were systematic beatings. He said, in confidence, that the best types of interviews were those in which a rapport was struck up and that it was important to understand that most people complained because they were directed to by their masters. It was also noticeable that many complainants did not assist in the investigation of their complaints and that many were not proceeded with after the conclusion of civil proceedings, including cases where legal aid had been granted. He did not, himself, believe the criticisms against the Holding Centres and there was no doubt that there was an on-going tirade against the interviews carried out there and that they would continue. He pointed out that the Courts had not rejected the evidence of statements which had been made, despite later allegations of misconduct, and that this was very significant. These allegations had not been supported by medical evidence. Nonetheless, it was not unrealistic to believe that an officer could sometimes leave a bruise on, say, a person's arm while he was being escorted.

20. Mr Collins said he would like to raise one point, namely, that in 1988/89 the Rapporteur's report from the UN Committee had reported allegations of misconduct in Castlereagh. He understood that a had been awarded £5,000 for mistreatment 2 years ago

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and that there were 30 cases where compensation had been paid to complainants. He said that he would welcome the Chief Constable's comments. The Chief Constable said that there was a difference between compensation and a justified complaint. Sometimes a decision was made to settle out of Court because of the disclosure of evidence rules, where information about certain people which had been disclosed in an interview might become public. Furthermore, some people would inflict injuries upon themselves in the cells and unless it could be proved this was the case then, an action would not always be contested by police. Mr Collins said that it was in everyone's interest that the Security Forces were protected against all spurious allegations.

21. The Chief Constable referred to Lord Colville's review of the Emergency Provisions Act and to the question of video cameras in Holding Centres. He said that there was no foolproof system and that even if there was video recording in the cells, then complaints would be made of abuse in the corridor or in the yard or in the police vehicle. Despite the fact that PIRA were training their people to say nothing, police officers were getting very good information from the interviews and lives were being saved. With video recording, however, if someone was directed to complain and a civil action was undertaken, the video recording would have to be produced in Court and could then be seen by the PIRA masters. If the interviewee was seen talking in a relaxed manner, he himself could be shot shortly thereafter.

22. Mr Collins said that he could well see the difficulties which had to be contended with, but hoped that the independent Commissioner would protect RUC officers from spurious complaints.

23. Mr Brooke said that because the arguments in favour of video taping appeared obvious to the man in the street, the debate between the Chief Constable and himself and the various security Ministers was one where the Chief Constable had to convince Ministers not to undertake a course of action which would otherwise appear obvious to mankind at large. He noted that politicians did not voluntarily

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fail to select a course of action which mankind thought entirely sensible.

CARLINGFORD LOUGH

24. Mr Collins said that if he could be assured that the British were abiding by the guidelines which had been handed over in 1972, problems on the Lough would be less problematic.

25. Mr Brooke said that officials were preparing a paper to hand over to the Irish and that it would be better to consider this subject at a future Conference. At this point the Chief Constable and Chief Superintendent Lewis left.

EXTRADITION

26. Mr Brooke said that he accepted that the decisions of the Irish Courts were totally independent of the Executive and that he had noted the complicated nature of the recent judgements given in the cases of Magee, McKee and Sloan. He was pleased about the extradition of Magee and assumed that every effort would be made to locate him. In the case of McKee and Sloan, the case was somewhat more complicated. The British Government had been concerned about Irish extradition law and now felt that this concern had been vindicated by the decision of the Irish Courts. He noted that Mr Collins had said last year that then was not the time to amend the law and that he would not wish to see any changes until the decisions of the Supreme Court had tested the legislation. He, therefore, welcomed the prompt announcement by Mr Burke that the law would be reviewed. The means by which it would be changed was a matter for the Irish Government, but his own view was that the change to legislation was necessary. If he could help politically he would, to the extent that UK circumstances permitted. The recent upsurge in violence in Northern Ireland, by paramilitaries on both sides of the community, only served to remind everyone of the need to ensure that every possible measure was in place. It had sharpened the issue for the British to ensure that those who

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committed such heinous crimes were brought to justice. Mr Brooke said that he had warm appreciation for the manner in which the responsible Irish authorities had handled the cases. His argument was only the legislation itself.

27. Mr Burke said that he warmly thanked the Secretary of State for what he had said, and assured him that there would be no hiding place for anyone who had been convicted. He said that he had issued his recent statement about amending the legislation with the full approval of the Irish Government and that any necessary amendments would be brought forward as quickly as possible. There were some positive aspects to the Supreme Court's judgements. They had not, for instance, upheld any argument that provisions of Irish extradition legislation were unconstitutional. Magee would be extradited for murder and attempted murder and Sloan would have been extradited but, in the light of undertakings given had no time left to serve. He had been disappointed about the Supreme Court's interpretation of Irish law on possession of firearms offences; he had hoped that it would not have seen them as political offences. Arguments for the widest possible interpretation had been put forward in Court, and while he still believed that those arguments were good, the Supreme Court had not agreed. Amending legislation would, therefore, be considered in the Dail and Seanad. Mr Burke said that he felt that as a result of this case the question of a requirement to show prima facie evidence in extradition cases would be opened up again. He pointed out that existing Irish legislation had been based on the European Convention on the Suppression of Terrorism and Ireland was one of 8 countries which had ratified it without reservation. He would have to be careful to ensure that any changes to the legislation remained within the Constitution. Furthermore, he felt that the question of speciality would arise. He hoped that in the light of the experience in the Ellis case that speciality would be enshrined in British law.

28. Mr Collins said that he was concerned about the recent PQ reply by the Attorney-General which indicated that the British had no plans to make statutory provision.

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29. Mr Brooke said that there was no statutory speciality rule that applied to extradition arrangements between the United Kingdom and the Republic but that there was an agreement between the two Governments which the British had no plans to change and under which the consent of the requested State was required before charges, other than those for which the offender's return was ordered, could be substituted or added, save in the limited circumstances where the substituted offence was one for which the jury could enter an alternative verdict, notwithstanding that the indictment contained only the charge for which his return was ordered. Mr Brooke said that the Government had no intention of changing this agreement; that that was understood by both sides, and that if and when a legislative vehicle arose, the British side's commitment that the matter would be considered again would be honoured. Mr Collins said that the matter would have to be pursued vigorously and that he had discussed this before on a number of occasions. Mr Brooke said that the Attorney-General could not have followed more carefully the understood agreement. Mr Burke said that all sorts of issues might arise as a result of it.

30. Mr Brooke enquired about the timeframe for possible legislative changes. Mr Burke said that they would be carried out as quickly as possible but that there were only 4 weeks to the end of the Christmas session in the Dail which Mr Collins said was already overcrowded. Mr Burke said that he did not have to point out that as well as the political decision, there would be time needed for the drafting of the legislation but that he wished to make it clear that the Republic was not in the business of allowing any safe havens and that the legislation would certainly be introduced within a year. Mr Brosnan said that the only guarantee to stop problems similar to those seen in the Ellis case from arising again was for the British Government to introduce legislation for speciality. Mr Brooke repeated that he would look at the implications of legislation. The UK would continue to look at the possibility of making more use of the Criminal Law (Jurisdiction) Act to bring offenders to justice before the Irish Courts and although it was recognised that the Act could not apply in the cases of wanted

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convicted persons, each case would have to be looked at on its merits. For instance, evidence which was not admissible in the Irish Courts might be elsewhere. Mr Collins said that he was very concerned about people using the Courts to gain high profile publicity.

POLITICAL DEVELOPMENT

31. Mr Brooke said that when he and Mr Collins had met on 17 October they had thought that he would have by now seen the Unionist leaders, but Dr Paisley's recent attack of laryngitis had meant that the meeting planned for 7 November had had to be cancelled. He was, however, due to meet the Unionist leaders the following day and would therefore have a clearer idea about what was in their minds. He knew that they had hoped to meet with John Hume and he would report back after his meeting. He said that there had been a number of proxies, one of which was the Minister of State's dinner with leading politicians from all 4 main constitutional political parties which had provided some evidence of their respective positions. It had taken place one night against the background of bomb scare disruption in Belfast. As a result the only SDLP representative had been Eddie McGrady MP.

32. He felt that there had been some genuine concerns about the format of the political talks, but at the level of detail rather than of substance, also a feeling that the delegations were too large and of the need to insulate delegates from the media. He said that most significantly the Unionist Parties still had very great political difficulties with many of the procedural aspects of the previous talks format. It was, however, reassuring that the Unionist politicians continued to accept the validity of the triple relationship analysis (this had clearly come through at the Minister of State's dinner) and of the need to address all three main relationships as part of the same process if a generally acceptable accommodation was to emerge. He felt that it was better to return to this subject after he had seen the Unionist leaders but that it was important to stress that he could not disguise the mistrust

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which the Irish Government had of them and which they had of the Irish Government. He would, however, keep in touch with Mr Collins about developments and the way forward. It was clear that there was community pressure to get the politicians talking again. He wished to make it clear that he was absolutely convinced of the three stranded approach being the best way forward but noted that there were increasing misgivings about talks taking place before the next General Election. The next Conference might deal with Political Development if that was thought necessary. Mr Brooke said that he had an instinctive sense that part of what was coming through about the proposed talks taking place at Westminster was a desire to explore the chances of making a deal without exposure to the media which could lead to a more formal coming together around the table, but he would first have to hear what the propositions were. He would not, of course, commit either Government until he had a chance to report back to Mr Collins and he would do so as quickly as possible. He noted that by the time the Prime Minister and Taoiseach met progress might have been made and that there might be a necessity to come back after that meeting. He hoped and trusted that the flexibility which had been talked about in the past by the Irish Government would be made available and repeated his view that the three-stranded approach was absolutely necessary.

33. Mr Collins said it was very helpful to have the views of the Secretary of State and that he had been following developments very closely. He thought that everyone had been acutely conscious that the clock was ticking and that as the weeks went by it had become increasingly difficult to sustain a belief that the parties could in fact be brought back to the table in the very near future. He had to admit that he had been extremely disappointed by the tenor of Mr Molyneaux' address to his Party conference on 26 October and his media interviews around that time. Mr Collins said that none of them had any illusions about Mr Molyneaux' enthusiasm for the process and his dismissal of the 'high wire act' was not new. He had not been anticipating such a categorical rejection of the existing basis for talks and, even allowing for the rhetoric that surrounded Party conferences, he had to say that he found it all extremely discouraging.

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34. Mr Collins said that his Government had of course been conscious as well of the differences within Unionism on the integration/devolution question and that the divide had now more openly emerged with Peter Robinson challenging Jim Molyneaux' analysis in a very public way. The absence of any coherent Unionist position made a return to the negotiating table even more problematic and apart from the substantive differences, he supposed that they would inevitably see an element of pre-election posturing in the weeks and months that lay ahead. Mr Collins felt that the Molyneaux agenda (which he understood to come down to a Select Committee in Westminster and some local government reform) was an extremely narrow one which clearly evoked no enthusiasm whatsoever among any of the other parties, and because his proposals for talks at Westminster were perceived as being linked to that agenda, he sensed an equal lack of enthusiasm for that as the procedural approach. Mr Collins said that frankly he thought that people were increasingly depressed and discouraged by the narrowness of the UUP approach.

35. Mr Collins said that the one relatively positive development over the last month or so, as the Secretary of State had mentioned, seemed to have been the Minister of State's dinner on October 29. While he did accept that second tier people had a fairly useful and positive discussion and that there was some evidence of constructive thinking, one had to wait to see whether it was reflected at leadership level. Mr Collins said he was glad that the Secretary of State was meeting the two Unionist leaders but that the apparent reluctance of Mr Molyneaux and Dr Paisley to meet with the Secretary of State reflected both Mr Molyneaux' general lack of enthusiasm about the three-stranded approach and the current tensions between the UUP and the DUP. The problem which this had created was that the momentum for talks was visibly dissipating as time went by with a growing sense that an opportunity for progress was perhaps slipping away from them.

36. Mr Collins said that he had to ask the question where they went next. He said that as he saw it, they were faced with a very

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serious dilemma and that there was a growing sense of urgency about the resumption of the talks and a widespread concern about what was perceived as a political vacuum. At the same time they were faced with the Unionist repudiation of the previous basis for talks which was being articulated with increasing clarity as the weeks went by and that up until now the Unionists had appeared unwilling to engage in the Talks. He agreed that they would have to wait and see what happened.

37. Mr Collins wondered what they could do about this dilemma? In his view there were two choices, the first option was to continue with what they had been doing: stressing publicly the desirability of re-starting Talks and doing their best to nudge the process along. He felt that the advantages of this approach were that they minimised the risk of embarrassing or alienating any of the Parties, but that the fundamental disadvantage was the timescale involved. If they were travelling at the pace of the slowest ship in the convoy, then there was a real prospect that they would find the process indefinitely stalled, at a time when the urgency of re-starting was keenly felt by the public at large in both islands. The second option was to acknowledge between themselves that they were unlikely to be able to attract the Unionists back to the table on an agreed basis in the foreseeable future and to begin the work on the development of a successor policy. In practical terms, he felt that this would mean the setting up of a mechanism for the two Governments to begin intensive and urgent consideration of how to develop a comprehensive set of policies and institutions to bring them closer to a final settlement of the issues. He thought that this might be a matter which would be likely to be discussed between the Taoiseach and the Prime Minister when they met shortly and it would be important to flag it as an option at this stage. Mr Collins said that the Irish Government were extremely concerned about the present situation where the sense of urgency about a resumption of Talks was increasing at the very time that the prospects for such a resumption were receding. He accepted that either of the options which he had sketched out involved risks of different types but that they needed, nevertheless, to recognise

that there was a sense of drift on the political front that was dangerous and undesirable. He was increasingly getting from journalists that there came a point where the expectation of Talks before an Election would be seen as lacking credibility. He felt that they had to look at how that was handled and how a sense of political drift could be avoided. He wondered if they should not then try to develop a successor policy in which the two Governments together would try to chart a way forward?

38. Mr Brooke said that he was not concerned about the reduction in momentum per se; he felt that the whole community was maintaining the momentum and that it was up to the politicians to get around the table again. He said that there was a genuine problem caused by timetables and deadlines and that it had been necessary to rescue John Hume in July because so much time had gone by in June that he had not been prepared to show his cards in the remaining week of the Talks. Mr Brooke said that he wanted to use the pre-Election time available to agree on how best Talks could be resumed. To some extent the result of the Election was immaterial. He said that since 15 November 1985, there had been a period of 5 years where the Unionists had marched themselves into a cul-de-sac and had been stuck at the end. The Unionists had elevated a tactic into a principle but the activities of the past 18 months had managed to get them out of the cul-de-sac at last. He would report back on the outcome of his discussions but noted that John Hume might wish to brief the Irish in any event.

39. Mr Collins welcomed what the Secretary of State had said and in return promised that he would try to do everything that he could to get matters back on the road but wondered if credibility might suffer as a result. Mr Brooke reiterated that it was important to understand that they would not get something worth having unless everybody's thumb print was on the document and that that included both the SDLP and the Unionists.

LOCAL GOVERNMENT

40. Mr Collins noted that both sides had had an exchange of papers on this subject and wondered if this could be discussed at a future Conference? Officials could be tasked to consider the question and report back. He felt that the overall pattern of behaviour amongst Unionist dominated Councils continued to be a winner takes all approach with regard to the legitimate interests of the Nationalist community. He said that he would readily agree to the Secretary of State's suggestion that the general operation of District Councils should be a matter of regular and on-going consideration by the Conference.

41. Turning to the Local Government (Miscellaneous Provisions) (Northern Ireland) Order, Mr Collins said that there were clearly a number of provisions in the current draft Order which would go some distance towards achieving qualitative improvement in the operation of District Councils, for instance, those relating to the introduction of prescribed Standing Orders, a draft Code of Conduct for Councillors and an enhanced role for the Local Government Staff Commission in monitoring Fair Employment practices in the councils. He said that he understood that there had been some slippage in the legislative timetable for the draft Order and that it would not now be laid before Parliament until after the Christmas recess. He recognised that that gap would give their officials an opportunity to have a full discussion on the detailed contents of the draft Order and that this might also be an item on the agenda for the next Conference meeting.

42. Finally, on the Local Government Boundary Review, Mr Collins said that he understood that the Local Government Boundary Commissioner was continuing his work and that a number of oral hearings on his Provisional Recommendations would be held in December. He noted that the hearing concerning Moyle District Council would be taking place in Ballycastle on 2 December and he gathered that, in response to the provisional recommendations, the SDLP had submitted a detailed paper refuting the case made for the

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abolition of Moyle. Mr Collins said that he was conscious of course of the complete independence and integrity of the Commissioner; however, he would, no doubt, give all submissions careful consideration before arriving at his final recommendations.

43. Mr Brooke noted that papers had been handed over and that this subject could be discussed again at a future Conference.

IRISH LANGUAGE

44. Mr Collins said that this was an issue which was seen by Nationalists as a test of the commitment under the Agreement to accommodate the rights and identities of the two traditions. He noted that both Governments had pledged in the Review to support efforts to enhance awareness and appreciation of this particular strand of the cultural heritage. Mr Collins noted that it was about a year since they had last discussed the topic, and that he would welcome an update on anything that was being done to give effect to those commitments. He went on to say that they had received a number of protests about the treatment of the Irish language in the Report on Modern Languages in the Northern Ireland Curriculum which had been recently published. He said that he understood that the text of the section on the Irish language, written in Irish and agreed for inclusion by the Working Group as a whole, was removed without any consultation with them and that a translation had been substituted. He accepted fully, of course, that any text in Irish in a report should be accompanied by English translation so that the report as a whole - including the Irish section - should be fully accessible to all those without a knowledge of Irish, and that there was no dispute about that. Mr Collins, speaking in Irish, said that it was less easy to understand why the original Irish text had actually to be removed, against the wishes of the group. It seemed to him a gratuitous snub to dedicated people who had co-operated with the British Government and who were now inclined to see the decision as betraying the old doctrinaire hostility to the language. Returning to English, Mr Collins said that others would see it as a rather illiberal approach in marked contrast to the

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practice elsewhere in the British system, for example, in Wales. He felt the decision was all the more regrettable given the other positive steps which had been undertaken by the Government in other contexts to promote the Irish language. He said that he understood that a review of Irish language matters was under way at official level and he considered that it would be helpful if officials on both sides could get together to enable them to have an input into the Review.

45. Mr Brooke said that he would be happy to discuss this matter when the Review, which was fairly comprehensive, would be complete. He would welcome any input through the Secretariat.

46. Lord Belstead said that as far as the modern language Working Group Report was concerned, it was to be sent to Secondary Schools and as there was no Irish Medium School that would receive a copy, he had decided to put the text into English. He pointed out that a previous report on Irish Medium Primary Schools had been published in Irish because that was the medium of the school which would receive it. Lord Belstead said that while he would be the first to admit that he could be wrong, he did not think that he had made a mistake on this occasion. Mr Collins said that the whole Working Group had agreed on the inclusion of an Irish paragraph and that he felt that Lord Belstead's action had tactically been a mistake. Lord Belstead pointed out that it was necessary to remember that there was no bilingual policy in Northern Ireland and that hence these matters were not in the forefront of his mind. He reiterated that every school to which the report had been sent talked through the medium of English.

SOCIAL AND ECONOMIC ISSUES

47. Mr Brooke said that he and Mr Collins had agreed at the last Conference that the implications of 1992 for business and industry, and the development of North/South trade would be suitable new subjects for Conference discussion by the relevant Ministers. He understood that they were not quite ready for that discussion to

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take place at present, and so he would suggest that it should be taken at the next Conference. He suggested that since Mr Needham would be attending on the British side, progress on Energy and Tourism might also be reviewed. He also felt that it might be sensible to have the Prime Minister and the Taoiseach discuss the question of the Belfast-Dublin railway line at the Summit with a view to a possible public commitment to proceed with the upgrading. Mr Collins agreed to this course of action.

DATE OF NEXT CONFERENCE

48. It was provisionally agreed that the next meeting of the Conference should take place on 18 December in London.

JOINT STATEMENT

49. Following the Plenary Session, both sides discussed and agreed a joint statement which is attached at Annex A.

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JOINT STATEMENT
ANGLO-IRISH INTERGOVERNMENTAL CONFERENCE
DUBLIN, 20 NOVEMBER 1991

A meeting of the Intergovernmental Conference was held in Dublin on 20 November 1991. The British Government was represented by the Joint Chairman, The Right Honourable Peter Brooke MP, Secretary of State for Northern Ireland, accompanied by the Right Honourable Lord Belstead, Paymaster General and Deputy Secretary of State. The Irish Government was represented by the Joint Chairman, Mr Gerard Collins TD, Minister for Foreign Affairs, and by Mr Raphael Burke TD, Minister for Justice. The Chief Constable of the RUC and the Commissioner of the Garda Siochana were present for discussion on security matters.

2. The Conference addressed the question of political talks and agreed on the importance and urgency of continuing political dialogue. They renewed their commitment to the continued exploration of the possibility of convening early further talks on relationships within Northern Ireland, within the island of Ireland and between the peoples of these islands. Both sides expressed the profound hope that all those who have participated in the recent talks would agree to join in further political dialogue which could lead to a comprehensive political accommodation acceptable to all.

3. The Conference recognised the deep concern which is felt throughout Northern Ireland about the present security situation and, especially, the recent escalation of violence, and repeated its condemnation of all terrorist and sectarian murders and other paramilitary activities. The British side described measures designed to put a halt to sectarian attacks. The Conference called on everyone in Northern Ireland to work together to counter both sectarianism and terrorism. Both sides re-affirmed their commitment

to co-operate fully to this end, to combat terrorist violence from whatever source and to bring the perpetrators to justice. They considered various specific measures of security co-operation on which discussion will continue.

4. The Conference gave further consideration to a number of issues affecting public confidence in the security forces, including the implementation of the objective that, save in the most exceptional circumstances, there should be a police presence in all operations of the armed forces (including the UDR) which involve direct contact with the community. The Conference reviewed the question of the use of lethal force by the security forces and discussed certain specific incidents. The Conference also resumed consideration of allegations concerning the treatment of persons in police custody and enhanced measures which could be taken to ensure safe-guarding of individual human rights.

5. The Conference reviewed extradition arrangements in the light of the recent judgements of the Irish Supreme Court. The British side expressed concern about certain implications of the judgements. The Irish side indicated that the judgements were receiving careful and detailed study, including consideration of appropriate amendments to the existing legislation arising from the terms of the judgements and that the study would be completed as soon as possible. The British side welcomed this.

6. There was a general discussion of policy relating to the use of the Irish language in Northern Ireland and both sides also exchanged views on local government issues in Northern Ireland. It was agreed to resume consideration of these matters at a Conference in the near future.