

NATIONAL ARCHIVES

IRELAND



Reference Code:	2015/89/52
Creation Date(s):	7 October 1985
Extent and medium:	21 pages
Creator(s):	Department of the Taoiseach
Access Conditions:	Open
Copyright:	National Archives, Ireland. May only be reproduced with the written permission of the Director of the National Archives.

2

Meeting at the Foreign Office London between the Tanaiste, Mr Spring,
The Minister for Foreign Affairs, Mr Barry, The Foreign Secretary,
Sir Geoffrey Howe and the Northern Ireland Secretary, Mr King
Monday, 7th October, 1985

The meeting began about 10 a.m. and finished about 11.40. Those present on the Irish side in addition to the Tanaiste and the Minister for Foreign Affairs were Dermot Nally, Sean Donlon, Michael Lillis and the undersigned. Those present on the British side in addition to the Foreign Secretary and the Northern Ireland Secretary were Sir Robert Armstrong, Robert Andrew and David Goodall.

Officials were present along with Ministers for most of the meeting. At the close the four Ministers spent about 15 minutes in private discussion together without officials present. The atmosphere throughout the talks was friendly and informal.

(The following is not a verbatim record but a reconstruction in the form of direct speech from fairly detailed notes some days after the event).

Howe Thank you for coming to another gathering. How best to start? You have a copy of the Prime Minister's message to the Taoiseach?

As a preliminary note let me say that there should be no doubt at all about the Prime Minister's determination to secure an agreement if we possibly can. It is needed by all of us. We are engaged in a long-term process. It is of crucial importance and it has got to be right.

We are also conscious that there is a timing problem. This is pulling both ways. There is an obvious interest on the one hand in concluding as soon as possible because of all the speculation in the news media. On the other hand there were reasons until now which led us to feel that it would still take time.

Now there are still points on which we have to reach agreement and even if we do there will be timing problems because of the need for Parliamentary debate. You need a smaller interval (between signing and debate in the Dail). We on the other hand must fit it in between two sessions (of Parliament).

(Note: The point was that Parliament will be prorogued on Thursday, 31st October and the State Opening of Parliament takes place on Wednesday, 6th November). There is also the 40th Anniversary of the UN and difficulties about the Prime Minister's Diary. The invitation to Mrs Thatcher from President Reagan (for 24th October) occupies a slot which might have been available for the Agreement. She will have been at the Commonwealth Conference up to 22nd October).

Tanaiste We have a major concern in regard to the timing. A great deal has now been written about these negotiations and the unionists have built up a head of steam. The pressure on the SDLP is also increasing. I believe we should have it sooner rather than later.

Howe That is the answer we have come to too. The answer depends however on whether we can agree on the remaining points and on the time-table.

There are two points I would like to discuss: (i) our anxiety about the European Convention on the Suppression of Terrorism; and anxiety in regard to the precise arrangements concerning the Secretariat.

Have I said enough as a preliminary?

King I am very concerned. I would remind you of what we said in Dublin - that success is going to depend on good faith on both sides. We should start with a working understanding of how it is going to operate. Our officials could do more work in order to get it right and work out some of the details in order to avoid the whole thing being frustrated at the start. It is a question of getting long-term benefit and I think we should actually sit down and see how it is going to work. This is very important if you and (are to to make it work?).

MFA It is not yet decided on our side that it should be me (i.e. that he should be the Permanent Irish Ministerial Representative)

Could I turn to the letter from the Prime Minister to the Taoiseach. This says (reading) "Of course I understand the difficulties created for you by the issue that is being made by the Irish National Caucus in the United States on the subject of our proposed Treaty with the United States on extradition". I have to say that this has nothing at all to do with the Irish National Caucus. Our concern is a domestic political one. If we have to go into the Dail and say we want to sign an Agreement involving extradition when the public in Ireland know that we have said often that we have no confidence in the Northern Ireland judiciary - then that is a political problem for us.

Howe I must say I had thought that behind that, the current political debate in the United States had heightened the issue for you.

Tanaiste No, there is no (direct) connection.

Goodall We had had that impression (i.e. that there was a connection).

Armstrong It makes it even more sensitive.

Howe Then we had wrongly diagnosed the situation.

Tanaiste It is a question of the debate there would have to be in the Dail on so sensitive an issue and without any changes in the Courts in Northern Ireland.

Goodall What has made it more difficult for you since you first envisaged acceding to the Convention (about six months ago)?

MFA We had assumed that something would be done on the Courts (in Northern Ireland) which we would be able to say in the Dail. The lack of faith in the Courts is increasing. In several recent cases our Supreme Court has taken on itself to implement extradition. The judgement

/...

in the McGlinchey Appeal is expected shortly and if the appeal is dismissed then this will make the position of our Supreme Court (in extraditing him to Northern Ireland) seem very hollow. There is also the case of a man called Shannon who is charged with the murder of Sir Norman Stronge. He has been 18 months in Northern Ireland (since extradition) without trial.

King As regards the McGlinchey Appeal I had heard it suggested that it is very possible that it could succeed. There is a question about the warrant on which he was extradited (?) and there could be a very real problem (if the Appeal is upheld).

Tanaiste There would be even more of a problem for us.

King The Appeal is still going through a process (i.e. the verdict has not yet been given). I have heard voices saying that it may succeed. If he does there are those who believe that under the law the plea that he should not be extradited back to the South for what would be claimed as political offences would be upheld by the Court (in Northern Ireland). This would be very embarrassing - I am telling you this on an entirely private basis - and we would wish to take it to the highest Court.

I have powers under the 1975 Act (to intervene?) but Ministers in the past have already undertaken that this will not be done in the case of a country which is not a fellow signatory of the Convention and I would not want to go against that undertaking.

MFA There was general public acceptance at the time of the fact that the Supreme Court found it necessary to go that step further (in order in extradition). But what has happened since has diluted that confidence. If McGlinchey is released through lack of sufficient evidence, and given the delay in the Shannon case, there could be a reaction.

King You know what the problem was. The witnesses in the McGlinchey case were persuaded not to appear.

Andrew The case would have been stronger if they had.

MFA I mention this to give the background. If we sign the Convention and introduce legislation we would have to be able to convince the Dail that the situation in the Courts in Northern Ireland is now different.

Howe There are curious features about all this. The reasons adduced in the McGlinchey case - the lack of evidence and the delay - could show that the Courts are very fair. But that does not meet your underlying problem.

Lillis There is also the Quinn case.

Donlon The trouble is that there have been landmark Supreme Court decisions in three cases and not one of them has worked out well.

/...

Andrew But if McGlinchey is released does that not show the fairness of the Courts?

Tanaiste Could we focus on the actual court system and the great lack of proportion in the representation of the minority?

King The Lord Chief Justice (Lowry) has written to the Lord Chancellor explaining the need for another Judge on the High Court. There is no secret about the candidate proposed. If you look at the most likely candidates they tend to be in a majority Catholics. Therefore there will be progressive change over time. But it is not something that can be done by edict.

MFA For about 15 years now a majority of the Senior Counsel have been Catholic - I think the figure is about two to one. Yet of the Judges the ratio is one Catholic out of about four or five.

Howe There is one point which was not in the Prime Minister's letter. What Ton (King) said in regard to the next vacancy is an indication of the prospects. We are trying to indicate a disposition to you in regard to how it is likely to work. One cannot go beyond that.

MFA The system we have in the South is that we have a President of the High Court who distributes work to High Court Judges. In Northern Ireland this is done by the Lord Chief Justice.

There has been discussion at various times of the possibility of making a two-fold system. It may be worth considering. I mean that you could have a situation where the President of the High Court would be a Catholic if the Lord Chief Justice was a Protestant. The effect would be seen in the selection of Judges for cases. It would certainly lead to a change of emphasis. There would be a separation of functions (in regard to the allotment of cases in the Courts) that are intertwined at present.

That is one possibility if (?) Joint Courts were not going to happen. It would be a matter of trying to build in something that gave a new layer.

Howe I am not familiar with (the Court system in Northern Ireland). It might be difficult to reproduce your system exactly. Here in England the Lord Chief Justice and the Master of the Rolls determine the allocation of Judges.

Andrew The system in Northern Ireland is a very small one. It would be artificial if there were too many layers.

Howe Peter (Barry) and I discussed the issue (i.e. mixed Courts) in New York. At Milan the Taoiseach said that the Irish Government was in a position to accede to the Convention. This was identified as a proposal for action. He pressed the Prime Minister on the mixed courts. The Prime Minister reacted consistently. She said we will certainly study

it but I do not want to give the impression that we will conclude in favour of it. So we have no intention of ruling it out but we are canvassing the possibilities. We looked at the problems in Dublin in Spring. A Court of three Judges would lead to speculation that there had been majority verdicts in which the Judge from the other jurisdiction was out-voted. It could make things more difficult.

I always felt we could possibly move to your insight (i.e. give effect to your idea?) through the Appellate System. A body with a cross-border role could be in a position to give joint advice on questions of law rather than, as the British system grew accidentally (?).

I understand the need to ensure public confidence in the administration of justice but it would be difficult to bring in your proposal. So really it is not a matter of unwillingness but of practical difficulties.

King One Catholic High Court Judge said he would resign (if mixed Courts were introduced). I understand he used the word "hybrid nonsense".

(Andrew agreed)

King (continuing) But if we can meet the point with the grain we should. I will be quite frank with you. I see myself as having to defend the Agreement on the question of sovereignty against the Unionists and this (i.e. the mixed Courts) would add a significant factor to the question of sovereignty. One can defend the extraordinary Committee (i.e. the new body). It is something that has no parallel but the mixed Courts adds a dimension to the sovereignty question which makes it harder to argue that sovereignty has not been breached.

Tanaiste We found that three-man Courts in the South led to greater acceptability by the public in non-jury cases than if you had one-man non-jury Courts.

King The Labour man (Stuart Bell) looked at the operation of the Courts in Northern Ireland. He commented on such things as the acoustics in the Courts and so on but he paid a tribute to the scrupulous fairness of the Judges. The supergrass cases and the dismissal of some charges shows that it is not a one-way matter and that it is not a question of political judgements.

In regard to the security forces I understand some of your concern but I would be sorry if the High Court Judges were not seen to carry the highest respect.

Tanaiste But look at some of the comments which have been made by Judges in the past 12 months.

King There was one only.

Andrew I think you would have to distinguish the obiter dicta from the judgements (i.e. there may have been some intemperate comments off the cuff but the judgements themselves were fair).

/...

MFA Look at the Robinson case for example and the way in which the Judge justified the shooting. We have had good reason to criticise the Courts in Northern Ireland and we would be attacked now for signing the Extradition Convention. We can defend it if there were Joint Courts. Furthermore the Unionist chant about the Republic being a haven for Republicans would be taken out of their hands. That could be a big thing for the Unionists.

Howe I understand. But the Agreement to accede to the Convention - though it was not in the Agreement itself - has been identified as important. This is partly because it was put forward with confidence by the Taoiseach. In a way it offsets the lack of action on the Constitution (in balancing the package from a Unionist viewpoint).

MFA It is still the position that we would like to sign.

Tanaiste Yes, but the Taoiseach's position is that where there is no change in the Courts it would make things very difficult in the Dail.

King But surely the opportunity to raise this whole matter in the Committee (i.e. the new body) is a much more important counter-weight than having the kind of Court where you would still have two "fierce" Unionist Judges? (i.e. even in the mixed Courts two of the Judges in Northern Ireland could well be Unionists).

Howe I think the attempt to establish a precise counter-weight between the Convention and the Courts issue may be misleading although both have the same colour. We can consider mixed Courts in both jurisdictions but it is the practical things that do seem to cause us difficulties. With a three-man Court you would have the same problems as in the industrial relations court. There is no statement in the legislation about a majority vote. I looked at it at the time but I decided that the old Court of quarter sessions could allow the same uncertainty. (Note: While I was not altogether clear on the point I understood Howe to be saying that he had considered the possibility of providing explicitly in legislation for majority verdicts in industrial relations matters when he dealt with the issue some years ago but had found arguments against it?).

MFA A single judgement is given in our Supreme Court in certain cases.

Tanaiste In our Special Criminal Court we have a three-judge Court but there is a single judgement given as the verdict of the Court.

Howe Well, we can't decide it now but the point is that there really are difficult questions and we cannot see our way through them at present. We are not saying that it cannot be done but we are asking you to accept that it could come eventually to "non-possumus" (i.e. while we are not saying now that it cannot be done we may eventually find that it cannot). Or we may be left looking at something at the Appellate level.

MFA We are not in a trading situation about this. We want to do it. (i.e. accede to the Convention). We need legislation. We can only do it with a change in the Courts in Northern Ireland. The Taoiseach and myself - we have all publicly found fault so far with the Courts in Northern Ireland and for this reason we have to see a change.

Goodall Could I ask in regard to the weight of Article 8 of the Agreement? If you are looking at the question of balance - the wording commits the Governments to doing something substantial without saying what it should be. Is that commitment totally without balancing value?

Nally But the Agreement makes the argument for opponents of adhesion to the Convention even stronger. The very point you mention points up the need for public confidence in the Court system which suggests that it is not there already.

Goodall But it goes on to say the Committee shall seek measures even though the Governments do not commit themselves in the text to what those measures would be. You cannot treat that as vacuous. In discussion of the question of balance I wonder where that comes in.

MFA Our Government is willing to sign the Convention but we have practical political problems.

Andrew Is there any question of how quickly you would have to go to the Dail? Would there be any time-gap which would allow time to see changes (in the Courts in Northern Ireland)?

MFA Probably six months or so to prepare the legislation, perhaps six or twelve months to get through - up to 18 months in all.

Tanaiste It would have to be able to withstand a challenge.

Lillis The difficulty is the possibility of questions from the Opposition in the Dail tied immediately to the Agreement. We would have to change the existing Extradition Act which was drafted in coordination with your Government and indeed drafted by the present Leader of the Opposition!

King (misunderstanding for a moment) Which? Our or yours?

MFA Ours!

King Oh, I thought for a moment you were talking about Neil Kinnock (laughter).

MFA This would carry the danger of losing the positive things in the Agreement. The debate would focus on the extradition issue and in it would be quoted against us all that the Taoiseach and I have said about the Courts in Northern Ireland.

King The whole point of the Committee (the new body) is precisely that for the first time it would be possible for you to have an active input into these things. I should have thought that that would be a much more effective stand for you - that is to stand on all of Article 8 than to get into details about the Courts (in the public argument in the South).

The Courts proposal - I will say frankly - makes my life more difficult because then I would have to take on the whole legislative establishment (in Northern Ireland?) and a few lawyers in the House of Commons also. I might have been more relaxed about it otherwise (??). I would have thought that the response in Dublin (from potential critics) would be better by standing on all of Article 8. This is a much broader basis than simply mixed Courts. There is the question of the Police Authority etc. For example, there is the fact that you are in a position (under the Agreement) to make recommendations for future appointments to the Police Authority. That is going to have a real effect throughout the RUC.

MFA Dick (i.e. the Tanaiste) mentioned three-man Courts?

Howe (appearing slightly puzzled) On the basis that that would enhance public confidence?

MFA Yes, if the mix was correct.

Andrew That was looked at in various studies such as the Baker Report. It has some of the same problems - for example the need for more Judges. It was not, of course, open to the sovereignty problem but the independent reviews all came out against it - they were not persuaded of the advantages.

MFA He (Baker) was looking at it from a purely legal viewpoint.

Howe Do you have three-judge Courts?

Donlon Yes, where we do not have a jury.

MFA The IRA have accepted them...

Tanaiste Yes, they have generally accepted that the trials are fair although they obviously do not like the sentences!

King It is true that there is only one judge in Diplock Courts but there is an automatic right of appeal to a three-man Court of Appeal. That is the safeguard.

Andrew The actual rate of acquittal is very high.

Howe There are some questions a reasonable man can discuss. I should have thought that the substance of Article 8 is really of substantial value. If it is clear that the British Government is saying there are real difficulties about mixed Courts and you on the other hand are

/...

saying you quite understand that there do seem to be these difficulties but lets have this as part of the agenda (for the new body). And then there is now the prospect of an additional (Catholic) Judge. We are trying to put in place the struts of confidence (sic).

MFA But if the Taoiseach says he will sign the Convention knowing in his own mind that he could not get it through he would consider that an act of bad faith.

Goodall Yes, but is there any room on timing? The Agreement does specify the need for substantial measures to increase public confidence in the administration of justice. Is there any possibility of an announcement of your intention to adhere to the Convention with some understanding that it does depend on some changes? I am not saying exactly how it should be put but there is a possibility of some parallelism. The Convention would not be mentioned in the Agreement but there would be a Statement of Intention. You cannot adhere to it anyway for six months or longer. The point I am making is that there is a time differential which could be useful.

MFA I think I see what you mean. It would be a statement of intent. It should be possible?

Howe I would sound a note of caution here.

King So would I!

Howe Any component of this which is too specifically tied to another is not necessarily good. In any case we here could not reach a conclusion on the issue. The Convention as we saw it was part of the "acquis" and it was offered on a free-standing basis. But there is room to explore.

However it was explored however, it would have to be a confidence building measure.

Andrew There was some solid reason for saying it (i.e. Irish accession to the Convention) would have been a confidence building measure.

King The question is what is in it (the Agreement) for the Unionists? It gives the nationalists (?) more stake in things and that is in the end their best bet but without Constitutional change it will seem to them that there is nothing there at all. This is terribly important - otherwise they will make things more difficult.

MFA Can I repeat - there is no connection whatever between this and what is happening in Washington (i.e. the Irish Natinal Caucus opposition to the Extradition Treaty). We want to sign the Convention but we must be able to say that there have been changes which allow us to do it.

Howe But if we go back to the Milan meeting (turning pages of his report and beginning to read bits from it). (Quoting) "They discussed the Convention - which the Irish Government were not in a position to agree. In discussing the mixed Courts the Prime Minister repeatedly laid great emphasis on the point that we could do no more than consider the possibility."

/...

It now appears in the broader context of Article 8 which fairly reflects a determination to increase confidence in the administration of justice.

Tanaiste (looking at the Irish record of the meeting which had been passed to him by Nally) As a matter of record I should say that the Taoiseach said as regards the Convention that he would look at it in the light of what is happening "Unless I know that there will be mixed Courts there is no way I can go ahead with the Convention".

Howe (appeared slightly nonplussed at this)

Lillis Perhaps it is necessary to explain that until a year ago the opinion of successive Attorney Generals in our State was that it would be unconstitutional for us to sign the Convention. The judgements of the Supreme Court in the McGlinchey case and others have now led to a development where we have legal advice that it is no longer unconstitutional. The Taoiseach wanted to do it (i.e. to sign the Convention); and the Courts do not operate without the assistance of the State in extradition matters (i.e. certain initiatives by the Executive are necessary in cases of extradition and we have shown a willingness to take them).

So there is a thrust to do it. The difficulty comes in going into the Dail and saying that nothing has changed (in the Northern Ireland judicial system).

Howe I understand how there has been a new gloss on that. It was impossible for you at one stage and then the possibility emerged. Indeed the Taoiseach has always said he wanted it.

I think we had better leave it. You are in no doubt of the importance we attach to it. Perhaps we should leave it to be looked at again (by officials?).

Tanaiste There are two things which bring the law into disrepute (in Northern Ireland) (a) the use of uncorroborated evidence to convict; and (b) the large number of offenders put on trial at once. These things should be taken into account in any consideration of changes.

Howe They could be raised in the Committee.

King It is a well established principle of British law that uncorroborated evidence can be taken but the Judge must direct the jury on the danger - and in this case (i.e. a non-jury Court) he must direct himself. Then there is of course the automatic right of appeal as a safeguard.

Andrew Some supergrass cases have been thrown out.

Lillis We are looking for ways in which you can be helpful to us.

King (referring back to Goodall's suggestion - see page 9) I would have to say however that some generalised formula on the lines of "some time we will get around to it" would not be enough.

Nally What about "willingness" or "desire" (to sign the Convention)?

King The point is it has to be enough to be a confidence building measure. We can apply that as a test (to any compromise that you may work out on this issue). Is it a confidence building measure? This is not a trick question.

Nally No, the whole thing we are engaged in is about the absence of trickery. The Taoiseach could say he would sign but then he would be in trouble in the Dail, that's the point.

King Are you confident that the Agreement can work? There must be a belief on the part of both Governments that it will actually work.

Armstrong (summarising what officials were to do as a result of the discussion) I have listened carefully to the discussion. We are to see whether we can bring the positions together.

Discussion then moved on to the Secretariat.

King (In starting the discussion showed some lack of knowledge of the difficulty about the name of the new body - Committee or Commission - and was checked by his officials).

King Whatever it is called that is the key to the whole Agreement. My concern is to see that it gets a right start. Before I took this job I knew about the Agreement of course when I was in the Cabinet but I did not know it in detail. It seems to me, looking at it now, that the animal which has grown most since is the last line about the Secretariat.

In our letter to the Taoiseach the Prime Minister said that the Secretariat role should be to service the Commission and not act as a sort of Complaints Commission.

We have been trying to work out, by way of illustration, something on how it would act on various kinds of issue - the UDR for example or new draft legislation say on health or complaints about border incidents or visiting US Congressmen(?) We have taken a series of things from the sublime to the gorbimey in an effort to see how it would actually deal with them. (He implied that a paper would be passed over later at official level). This is not offered in any way as a take it or leave it exercise but as a real attempt to think through how it will actually work so that we will not have disagreement on the day. This is intended entirely to be helpful. It will be given to you through officials.

As regards the location of the Secretariat and so on there are practical and logistics problems and it may have presentational aspects too. I will have to take personal responsibility for the safety of visiting members of the Secretariat. This kind of thing is accepted in international relations but it would have a particular connotation in Northern Ireland. The Secretariat will seem to be the thing to go for those who want to stop reconciliation.

These are the jumbled thoughts I have - they are the thoughts the Prime Minister had in her letter. We are not in any sense back-tracking. Please understand this. But we are actively facing up to the problem of how to give the minimum of exposure of our flank to opponents.

What we are doing must be based on goodwill and trust. We had better make sure that we start out with some chance of achieving that. That is why the Prime Minister wrote as she did.

I have to tell the Northern Ireland Departments how they are supposed to respond to requests for information and action etc from the Secretariat; and this will need to be thought out if we are going to make this thing work.

All this says that we do need to think about the mechanics and not over-play the Secretariat (at the start?). I believe the right place for the Committee is Belfast and I believe that the right place for the Secretariat is Belfast but there is a question of timing. The Secretariat is going to be a great focus of attention. A number of moderate Unionists have said that to me. They actually seem to be ready to accept what I think is (?) the real question of principle - how you justify the involvement of a foreign Government. There is a case for that and I think that in the Prime Minister's phrase "reluctant acquiescence" does exist. But the area where there will be attack is the question of location and of the Secretariat.

London is probably best for the initial meeting and then we could see a way in which the Secretariat might develop - not sitting day and night in Belfast at first - and then gradually working towards it as people see that they are not being pushed into a united Ireland.

Tanaiste We should certainly try to agree on the overall structure. The Committee/Commission is obviously the important body.

King agreed.

Tanaiste Obviously you have a problem in regard to the Secretariat if the first meeting is in London...

King I am talking about both (the Secretariat and the first meeting).

Tanaiste The danger is that if the first meeting is not in Belfast then there will be no meeting in Belfast. It would be a signal to certain people that the Governments are not able to do it.

King Of course anything can be done with enough troops and helicopters. But it gives an opportunity for the opposition to rally. This is what has bedevilled Northern Ireland. What we want to do is to deprive them of something to shoot at.

MFA But why would they not then do it at the second meeting?

King (appearing somewhat nonplussed) There will be rumours rife - that the UDR is to be disbanded and so on. We are going to have to live through difficult times. I will have Paisley quoting the Taoiseach to me. Mr Haughey may sound like me (i.e. in public comments playing down the significance of the Agreement?). There is going to be a lot of confusion and we will want to avoid unnecessary shouting and screaming (about the Secretariat). We need an opportunity until the dust settles.

MFA Postponing it will not make it easier. The quicker it is faced up to the better. The Agreement will have the support of your Parliament - that will be very important. It will also have support from the Americans and from Europe. We should ride the crest of that wave. But if you postpone it you will face exactly the same problem. It is better to face it in the euphoria of the moment.

King There will be no euphoria on the Unionist side. But it is a question of whether their "reluctant acquiescence" cannot be pushed into an opportunity (?).

King The delay in signing the Agreement makes my problem more difficult. The Unionists say "we are a majority but we are kept out of it". Businessmen etc who are normally non-political are now getting steamed up.

I want to keep the province reasonably calm. I do not want thousands baying outside Stormont, the introduction of emergency measures etc. That would be a wrong start. It is a question of how high you want to hype it at the start.

Dorr But we had understood the Prime Minister's letter as indicating that you did accept that there would be a Secretariat presence from the start? She talks about "asking you to keep the Irish component as small as possible and perhaps not leave it continuously in Belfast at any rate until the new arrangements have settled down".

Howe seemed to agree with this and thus differ a bit from what King had been saying. (Because of my intervention I did not take an exact note but I think that Howe said something like "I had a vision which was of the Secretariat with an Irish component from the outset which would be small").

Andrew There could be someone - a Duty or a Liaison Officer. (Andrew seemed to be yielding a bit).

Tanaiste We would need some senior Foreign Affairs presence. If there is not a continuous presence then issues would build up to be dealt with through Ministerial decision.

/...

King In the early stages the Ministers will have to take a lot of decisions.

Howe "Deal with" may go a bit far in the early stages.

King (reflecting on the phrase "deal with") If it were suggested that something should be raised they (the Secretariat) might either agree that it was not within the remit or competence of the Committee or that it should come forward to the Committee (for decision).

Armstrong We thought that at the outset we should meet as the Steering Committee of the Anglo-Irish Inter-Governmental Council and designate the Secretariat (Secretaries?) responsible for the first meeting of the Committee.

MFA Part of what we are trying to do is to end violence. To do that we must separate the minority from the IRA. In a sense we do this by giving them another "hitching post" - the Irish Government. If they do not see that a Secretariat is there (it will not work).

King You are not thinking of public access to the Secretariat?

MFA No, not at all - purely management functions.

King The other difficulty for you is to seem to supplant the SDLP.

MFA Yes - representations must come through elected representatives.

King We need to keep the Committee uppermost. The Committee itself has no Executive authority. I would not want the Secretariat to take on some kind of Executive authority. We must have an efficient Secretariat however. We would not want to obstruct agreement - we want it to work because I believe that there is real benefit in it.

Howe I was uncertain whether it was necessary to canvas the handling of issues which Tom (King) was anxious to raise (here). I thought it might seem like raising difficulties but having heard the discussion I think it was right.

MFA Yes, it is important to talk about these matters at this stage.

Howe There are two things emerging which seem to me to be important (i) acceptance of the need to have the Joint Secretariat in Belfast; and (ii) acceptance of the fact that they should not be in receipt of direct access (i.e. that the public should not make representations directly to the Secretariat).

Granted that we must get from here to there the question is what is the most effective way in which to minimise our Opposition. Your argument (i.e. the Irish view) is the sooner the better - PDQ (pretty damn quick); Tom (King's) is that there should be some way of phasing it. The Prime Minister's letter raises the question of whether there is a way of phasing it by starting with a small Irish component which would not be there continuously at the outset.

/...

I visualise it a bit like this room. The question is would they arrive the night before? Would they stay for one day or two days? Or would they stay overnight? I have a vision that in the building where they all meet regularly there would be a patch for the Secretariat. I am not sure whether there should be a room for the Irish side and a room for the British side?

(Note: Howe here seemed to be outlining detailed questions to be considered with a view to teasing out the issues in later discussion and thus bridging gaps between the two views).

Tom (King) has a difficulty in determining where they should meet.

Armstrong Possibly somewhere in Northern Ireland which is not in Belfast?

King Hillsboro and Stormont are the only two real possibilities (for the Committee/Commission). My feeling is that it should be Stormont. They would have to helicopter in.

We must have the Committee up front. The Secretariat has become a touch stone for Unionist hostility. We should start with the Committee and develop from there.

Of course there are all kinds of nuances. They cannot meet in the Stormont Parliament building for obvious reasons (i.e. this might outrage the Unionists more because of the symbolism). My Conference Room is the old Stormont Cabinet room which would also be highly symbolic.

So I think they would have to meet in Stormont Castle (??) - the old Speaker's House. It is on the Stormont Estate and it does not have any frightful historic associations. It would be within what I hope we would make a secure perimeter.

MFA The best chance of avoiding serious opposition is to do it shortly after the House of Commons has pronounced itself on the Agreement so that the will of the British Parliament has been clearly expressed. It would be hard to justify outright opposition in that case. I presume the motion would have Labour Party support?

King We think so.

MFA (continuing) So it would have had 98% support in the House of Commons.

King It is very important when we meet that I should be seen to be meeting with the full authority of the British Parliament. The Prime Minister will have given categorical assurances in regard to "status" in the debate and shown clearly that it is not the "thin end of the wedge" (as regards a united Ireland?).

MFA We need to be clear of course that neither of us damages the other by what we say in our respective Parliaments.

/...

King We then set up the mechanism and make clear that we are in charge of the Secretariat and have to give instructions on how it is to operate. All the shouting has been against the Secretariat. What we want to do is to make it harder to find the moment in time that they come (i.e. to de-fuse opposition by fudging the exact moment when the Secretariat is in place).

If we can get this established - if we can get it (i.e. the whole arrangement) up and running without a backlash I firmly believe that the Orange Card will be on the way down.

Nally As you visualise it there would be the first meeting of the Committee and then the Secretariat appears?

Howe If you have a first meeting together with the supporting cast that would be the start.

King Including the Chief Constable and the Garda Commissioner we hope. That would be a very good presentational point (i.e. to the Unionists).

MFA (appearing dubious) That is the first we heard of that.

Armstrong It is agreed that they would consider their whole future programme of work.

King I thought it was agreed (i.e. the presence of the Chief Constable and the Commissioner). Of course if there is a frightful problem...

Armstrong I have to say it was not discussed as such at official level.

Dorr The draft Communique envisages that the first meeting of the Committee would consider its programme of work in all fields with specific concentration on certain named areas.

MFA Our thinking is that the Commission would meet as soon as possible after Parliamentary approval of the Agreement and it would establish the Secretariat which we would like to see in Belfast and it would have to have (among others) an expert (from the Irish side) to deal with security matters. That would be our preference.

King appeared somewhat doubtful about the phrase "deal with".

Donlon In our political theory as in yours we civil servants do not exist without Ministers.

Howe & King (together) That is a theory only!

Lillis What happens at the moment? Your Embassy in Dublin must be one of the busiest you have. It spends 95% of its time listening to us in the Department of Foreign Affairs raising issues in relation to Northern Ireland. Through that we have been able to eliminate a lot of focal points of tension. The difficulty in regard to (your intentions?) about the Secretariat is that the advantage of simply communicating would not be there - given that Ministers will not be meeting every day.

/...

Both Governments have an advantage from the fact that their officials talk and ensure that there is no focus of disagreement.

King I would not disagree with a word you say. It is a matter of tactics and strategy. The real problem about the Secretariat is that I do not know where your people can go if they are going to live. They will be a target. Perhaps they will be a target for the PIRA? Certainly there are enough nuts in the UVF who will see it as a virility test (to attack the Secretariat physically). I take that very seriously.

I have to handle problems also in relation to the Northern Ireland civil service. There will be no enthusiasm. The Secretariat will no doubt have a floor somewhere. People will be claiming that it is a more dangerous location to work in because of the Secretariat (Note: I understood him to mean that the Northern Ireland civil service could be difficult and might claim that the dangers to them were increased by the presence of the Secretariat somewhere in the building).

We are not arguing about principle. It is simply that we need to move carefully in introducing it. I mean that very seriously. If you change over to my position and try to understand it you will see that I will be accused from various directions. I honestly believe however that there is a chance to achieve "reluctant acquiescence" and I am keen to achieve that.

If that is put on the table could officials clear it up? (i.e. could officials on the two side in their next meeting work out the details on the basis of the discussion which had just taken place between Ministers).

Nally There is a need for a clear understanding about how the first meeting will be prepared and the Secretariat needs to be in existence for that.

Howe The Secretariat in our view would emerge de facto from the whole process because of the job to be done.

King Yes, whoever is working on something keeps working on it. They would make sure there is an agenda for the first meeting. Both would take responsibility for getting the meeting under way. It would proceed step by step.

Nally Do you envisage having rooms actually allocated for the use of the Secretariat?

Andrew Yes. If it starts in a small way it would nevertheless be sensible to earmark rooms for a larger Secretariat in due course.

Armstrong But there would be rooms for the first meeting about the Agenda?

Andrew Yes - they would need a place to write up the documents and records and so on.

Tanaiste I think we felt that there was a better understanding of the mechanics of the Secretariat. Now it seems that there are different interpretations. It is not as clear to either side as we would like it to be at this stage of the negotiations.

Howe Yes, I see what you mean. But the vision we have should make it possible. The problems have got to be resolved.

(Note: Discussion moved on at this stage to the question of timing. It was my understanding that on the basis of the previous discussion officials would try to work out a common approach to the problem of getting the Secretariat under way).

Tanaiste There are two things we want to discuss before we finish - (a) timing; and (b) devolution.

There has been a lot on our television over the past 10 days or so on this issue and we have been hearing that there is a prospect of a Green Paper from your side on devolution. This is news to us. Could you clarify?

King Clearly, in the context of "no go" on agreement on devolution (we have to consider)... Robert (Andrew) would you like to say something about this?

Andrew There is no likelihood of an early Green Paper being published. We have been giving some further thought to possible models of devolution but we cannot see the way clear ahead. Any scheme must meet the criterion of "acceptability". That is an essential feature. We thought once that if an Agreement were reached (between the two Governments) the SDLP would come in but anything which attracts the SDLP in (to the political process?) will be likely to deter the Unionists. So the prospects for any rapid movement on devolution after the Agreement are unlikely.

MFA A Green Paper on devolution would by definition be something which the Committee would discuss. We had been afraid recently that you would publish something simultaneously with the Agreement. I take it now there is no need to worry on this point?

King No.

Andrew No. But there is still a real problem about what, if anything, can be done on devolution.

Tanaiste So there is not going to be a Green Paper after the Agreement?

King No.

MFA Could we talk a moment about the date (for a possible Summit)?

/...

Howe Robert Armstrong and Dermot Nally are working to decide the place on a need to know basis - I don't know myself(?).

King That is insoluble(?) as well?

Howe As to the date we are not well placed.

MFA Have you taken account of the SDLP Conference?

(The timing of the SDLP Conference on the weekend of 7th November was then explained to the British Ministers.

Howe We feel we could not have the House of Commons debate until 13/14 November. The Prime Minister's diary is very difficult at the end of October.

There is a difference in our political systems on this point. We feel that at least one week-end must ensue between signature and debate. And so we think that if there is to be debate in the House of Commons in week two we would need to sign it early in week one in order to justify allowing only one week-end between signature and debate. Normally, for a Bill two week-ends are allowed between publication and the second reading. We could shorten this in an emergency but we do not want to give it this flavour here. Our Parliamentary business runs out on 31 October (because Parliament will be prorogued on that date).

MFA Is that a fixed date?

Howe Yes, because of the Queen's speech (which takes place on 6 November).

The debate on the Queen's speech will go on to the 11th or 12th November. So the first feasible date for us would be the 13/14 November (for the Parliamentary Debate). That means the Agreement would have to be signed in the previous week.

King It will be difficult for the Prime Minister to get away from the Queen's Speech.

There was also a reference here to a major speech which the Prime Minister is to give on the 11th. Armstrong mentioned that it was the speech at the Lord Mayor's Banquet.

MFA There could be a real problem with the timing of the SDLP Conference. We have been bringing the SDLP along very well - even Seamus Mallen. He is not fully aboard but we are doing our best.

If someone gets a resolution passed at the Conference calling for the disbandment of the UDR for example it could be very difficult.

Howe We have our Party Conference this weekend.

(After some brief pleasantries)

MFA Would you consider the 26th October? Even though it does not meet all your needs?

King It would give the wrong flavour. There would be a possibility of a filibuster in the next week to save the State Opening of Parliament (i.e. to get the debate over before the date fixed for prorogation).

MFA But you have procedures for closure of the debate?

King (or Howe?) Yes, we had to introduce them to deal with Irish members! (A reference to the policy of obstruction of the Irish Parliamentary Party).

King I feel we will have trouble anyway. The Unionists would say that the whole thing is being got through in a rush. That they were not consulted and they would demand a referendum. We would be very lucky to get away with less than two weekends. It would possibly be a two-day debate.

Howe A lot of Conservatives would criticise us if we do not allow adequate time. We need to have room for manoeuvre.

(Responding to the MFA's question about Saturday, 26th October). The Prime Minister's mind will be preoccupied with her trips for the Commonwealth Conference and the issue of South Africa there. There is a limit to even her capacity (to deal with things in quick succession).

Donlon Could I just mention a secondary factor - not a priority? With the timing we are now thinking about there would be no possibility of a continuing resolution in Congress (i.e. in relation to the proposed Fund).

King All my wish would be to get it done as soon as possible. But the situation will have to determine it - the Reagan initiative cooked it (Note: So far as I recall from my notes King's point here was that he personally would like to have the Agreement signed as soon as possible but President Reagan's invitation to Mrs Thatcher for 24th October immediately after the Commonwealth Conference in the Bahamas ruled out any possibility of fitting it in in the last week of October).

King I wondered whether we could sign the Agreement and leave the period of the Queen's Speech as a period for the necessary consultation? (i.e. before the debate and vote in the House of Commons).

Nally We had always thought there would be a great advantage in having the full authority of Parliament behind it.

King The trouble is that Parliament won't give you that if they feel they are being bounced.

/...

Goodall Do you need a rough simultaneity between the debate in the Dail and the House of Commons?

MFA Yes - we thought there could be problems for one Parliament from what is said in the other.,

Howe Can we leave it at that?

It was 11.40 at this stage. The formal meeting broke up and the officials withdrew. At the request of the Irish Ministers the four Ministers had a private meeting lasting about 15 minutes while officials, waiting in the Waiting Room outside, began a preliminary discussion of the follow-up to the discussion which had just taken place. This would be taken up further at the regular Armstrong/Nally meeting which was to take place in Dublin beginning with Dinner that same evening.