SECRET

5

PRIME MINISTER

NORTHERN IRELAND

You read the papers for this meeting over the weekend. The main purpose is to give Tom King a wider forum to air his views and ideas.

The particular questions are

(i) can we separate the DUP and the UUP after the by-elections?

(ii) what concrete proposals can we make to the Unionists (while maintaining the Agreement) to show that we are not indifferent to the by-election results? Better and more structured arrangements for consultations? Changes in Parliamentary arrangements?

(iii) on what issues should we be leaning harder on the Republic? More security cooperation? Reconsideration of amendments to the Irish Constitution? Stronger pressure on the SDLP?

(iv) what points do we want to press the SDLP on? Statement of support for the Security Forces? Specific commitments on rejoining the Assembly after new elections?

CDP.

CDP

21 January 1986

SLHAIN

SECRET

SECRET

4

PRIME MINISTER

POLICY ON NORTHERN IRELAND

You are having a meeting next Wednesday to look at what we should be doing after the Northern Ireland by-elections. You might find it helpful to have a first look at the papers this weekend.

CDP

CHARLES POWELL

17 January 1986

SECRET

Covering SECRET

B.07275

CDP 17/1

MR POWELL

c Sir Robert Armstrong

Northern Ireland

You mentioned to me that any Cabinet Office minute to the Prime Minister, as an input for the meeting of Ministers on 22 January, should reach you by close of play on 17 January. Since the meeting will be attended by 8 Ministers, I thought that the Prime Minister might find it convenient to have the Cabinet Office input in the form of a brief for the meeting. This is attached.

C L G Mallaby

17 January 1986

SECRET

B.07276

PRIME MINISTER

c Sir Robert Armstrong

Policy on Northern Ireland

The purpose of the meeting of Ministers on 22 January will be to consider policy after the by-elections in Northern Ireland on 23 January. The papers for the meeting are: minutes by the Secretary of State for Northern Ireland dated 10 January and the Foreign and Commonwealth Secretary dated 15 January, which cover the situation in the Province and the policy issues; and the Northern Ireland Office paper on the situation enclosed with Mr Ward's letter of 14 January to Mr Powell. In addition, you will wish to see Sir Robert Armstrong's minute of 16 January about the British-Irish Association Conference on 10-12 January.

2. Those attending the meeting will be the Lord President, the Foreign and Commonwealth Secretary, the Home Secretary, the Lord Privy Seal, the Defence Secretary, the Secretary of State for Northern Ireland, the Chief Whip and Sir Robert Armstrong.

HANDLING

3. You may wish to start the meeting with a short discussion of the situation in Northern Ireland. The Secretary of State for Northern Ireland should be asked about prospects for the by-elections on the following day. You could then move quickly to a discussion of overall policy. The minutes from the two Secretaries of State agree that the major task now is to work to diminish the strong unionist opposition to the Anglo-Irish Agreement, by means of a three-part policy:

(a) we should stand firm in implementing the Agreement;

(b) we should seek to influence moderate unionist opinion towards acquiescence in the Agreement, notably by constant reiteration in public and to influential unionists in private of the reasons why they have nothing to fear from the Agreement and by producing results from enhanced co-operation with the Irish Republic against terrorism;

(c) we should press the SDLP to make moves towards devolution and to adopt a more positive public attitude towards the Royal Ulster Constabulary.

Do other colleagues agree with this policy? On a point of style, it may help with (a) above if the Government maintain a buoyant as well as a determined line in public, refusing to be infected by an atmosphere of gloom and doom propagated by unionist opponents of the Agreement.

5. You might then structure the discussion to cover the important aspects of policy.

Security Co-operation

6. Not surprisingly, the Irish Government have been arguing in the Intergovernmental Conference (IGC) that their efforts against terrorism are already sufficient. The Commissioner of the Garda said in the last meeting of the IGC on 10 January that everything which could be done in co-operation with the Royal Ulster Constabulary to defeat terrorism was being done. The level of co-operation is considerable but, as Sir John Hermon argued on that occasion, there is much more that could be done. You could ask the Secretary of State for Northern Ireland whether we are pressing the Irish for specific results, such as arrests of terrorists or discovery of arms caches, which could be announced as having been made possible by enchanced co-operation through the IGC. The

announcement of several successes, even small ones, could begin to influence moderate unionist opinion to acquiesce in the Agreement, especially in the early period after the by-elections when unionist political leaders will probably be giving a less clear lead to Protestant opinion. If the Irish resist pressure for greater security co-operation, or claim that they do not have the resources to do more, we could point out that their interest in the success of the Anglo-Irish Agreement is very great, and that, if they want it to succeed, they should pull out every possible stop in order to deliver results against terrorism and thus help to overcome the major hurdle of unionist opposition to the Agreement. A message from you to the Taoiseach could be needed before long.

7. If the Irish argue that the purpose of the IGC is to reassure the minority rather than the majority, we can agree but should point out that the achievement through the IGC of improvements from the point of view of the minority may well increase unionist opposition to the Agreement and thus will strengthen the need for major efforts to secure unionist acquiescence in the Agreement.

Devolution

8. The Secretary of State for Northern Ireland suggested at Cabinet on 16 January that there might be a vacuum in the policies of the unionist leaders after the by-elections and also that the co-operation between the two unionist parties might break up. Although the prospects for devolution do not look good, it offers unionists a way of reducing the powers of the IGC. Unionists have boxed themselves into a negative position, and devolution could provide an alternative to violence or to the absurd idea of UDI as a way out of the box. You might ask the Secretary of State for Northern Ireland whether the SDLP could be

persuaded soon after the by-elections to make an unconditional statement of readiness to talk to the unionists about devolution. The Irish Government could probably be persuaded to join in pressure to this end on the SDLP. How does the Secretary of State for Northern Ireland see the Foreign and Commonwealth Secretary's idea of another exercise of exploratory talks, like that conducted by Mr Chris Patten in early 1985?

The Royal Ulster Constabulary

9. A statement of support by the SDLP for the Royal Ulster Constabulary, and encouragement of Roman Catholics to join the force, would be useful in themselves and would help to reassure unionists. Does the Secretary of State for Northern Ireland think that the SDLP can be persuaded to move on this after the by-elections?

Lesser Matters

10. Three lesser matters merit discussion if there is time:

(a) An arrangement to consult unionists about the major part of the work of the IGC would not nullify the purpose of the IGC in enabling the minority in Northern Ireland to express their views. Does the Secretary of State for Northern Ireland have suggestions for new procedures? What would be the right time to make an offer to the unionists?

(b) On Parliamentary arrangements, the Lord Privy Seal's minute of 22 November 1985 drew attention to a dilemma: new arrangements concerning Northern Ireland in Parliament, if they reduced the differences between Northern Irish and general United Kingdom business, would tend to further the integration of the Province into the United Kingdom and thus to go against our objective of devolution; yet

new procedures which tended to emphasise differences between Northern Ireland and the rest of the United Kingdom would not be welcome to Unionist MPs. This aspect may best be left for further discussion when the results of the by-elections and the behaviour of the returned Unionist MPs are known. The Lord Privy Seal will have views.

(c) On the Irish Constitution, the Secretary of State for Northern Ireland suggested in paragraph 6 of his minute that we should push the Irish Government to amend Articles 2 and 3. The Foreign and Commonwealth Secretary, in paragraph 8 of his minute, doubts whether the Taoiseach could secure popular support for this in a referendum. The right policy is probably to maintain the pressure on the Taoiseach, so as to increase the chances that a change may become possible in due course. Our major efforts to influence the Irish Government should be concentrated on the subject of co-operation against terrorism, where there is a greater chance of securing results.

C L G Mallaby

17 January 1986

[Continuation from column 1308]

Northern Ireland

Mr. Speaker: Perhaps the Secretary of State for Northern Ireland would confirm that the two orders are being taken together.

10.10 pm

The Secretary of State for Northern Ireland (Mr. Tom King): I understand that it would be for the convenience of the House if the two orders were debated separately—*[Interruption.]* I hear an echo saying that that might make for better expedition. I am not sure that I endorse that sentiment.

In that light, I beg to move,

That the draft Northern Ireland (Emergency Provisions) Act 1978 (Continuance) (No. 3) Order 1985, which was laid before this House on 14th November, be approved.

This is the first debate on the Act in which I have had the privilege of speaking as Secretary of State for Northern Ireland, and specifically on security issues. I should like to begin by restating clearly the Government's firm commitment to the eradication of terrorism and our determination to pursue that aim wherever it is appropriate. The news that the House will have heard today will be confirmation of our determination to pursue that aim as effectively as possible.

We are determined to do all that we can to create again in Northern Ireland the conditions for a peaceful, stable and prosperous Province in which all the people can pursue their political, economic and social goals free from fear.

The essence of our policy is to pursue suspected terrorists in respect of actual offences that they are believed to have committed, and to bring them to justice before the courts. As in the rest of the United Kingdom, the police naturally take the lead in the implementation of that policy, with the Armed Forces providing appropriate support on request, where that remains necessary. That approach has achieved a substantial reduction in violence since the mid-1970s and continues to offer the best hope for the future. But terrorism and the threat of violence continue to cast a shadow over the political and economic life of the Province, so our efforts to stamp it out must continue with unremitting vigour.

When the Act was last debated in this House in June, my predecessor reported that terrorist violence during the first six months of 1985 was running at a similar level to that for the same period in 1984. He also stated that the RUC had borne the brunt of the violence. I am sorry to tell the House that this unhappy situation has continued. Although at 54 the total number of deaths during 1985 was 10 fewer than the previous year's total, the number of policemen and police women included in the figure has not been exceeded in any year since the present campaign of terrorism began. Twenty-three members of the RUC and RUC Reserve were murdered during 1985, and the first casualties, as the House will know, at the turn of the new year were also policemen. Many left behind young wives or husbands, and young families. I am sure that all Members of the House will join me in paying tribute to the dedication and courage displayed day in and day out by the members of the RUC and RUC Reserve, by the regular and UDR soldiers who so faithfully and unstintingly support them and one of whom was, sadly, so brutally murdered last night. I would not exclude the courage and dedication of the men and women of the Northern Ireland Prison Service.

The small reduction in the number of deaths was paralleled by a more significant reduction in the number of terrorist incidents. That was down by more than 18 per cent. But welcome as that reduction is, it can give us no cause for complacency. There can never be an acceptable level of terrorism and violence; and the security forces, with the Government's fullest support, will spare no effort to lift the curse of terrorism and intimidation from all sections of the community.

At this moment it would also be appropriate to pay tribute to the work of the courts in Northern Ireland. The Northern Ireland judiciary deserves our warmest and fullest support. Over the years, in the face of intimidation and against the background of a peculiarly nasty and murderous terrorist campaign that has imposed unprecedented strains on the community it has dispensed justice firmly, fairly and impartially. It has successfully maintained the integrity of the judicial system in Northern Ireland.

Mr. D. N. Campbell-Savours (Workington): While the Secretary of State is paying tribute to the courts in Northern Ireland will he also pay tribute to the courts in Eire? There is a case in southern Ireland where it is assumed that Associated British Foods made a contribution of £1·5 million to the IRA. Is he aware of that case? In the event that it can be proven that that contribution was made does he intend to bring a case on the mainland against Associated British Foods and Fine Fare its subsidiary?

Mr. Deputy Speaker (Mr. Ernest Armstrong): Order. Before the Secretary of State rises, I must remind him that our discussion must not range too widely.

Mr. King: I cannot comment on cases that are before courts in other jurisdictions. I pay tribute to any court seeking to dispense justice fairly and impartially in the face of terrorism and intimidation.

The hon. Member for Workington may know General Order No. 7 in the IRA manual which means that those in the Republic face a different problem from those who are exposed to a peculiar threat in the Province where they are, themselves, a target of terrorism.

Sir John Biggs-Davison (Epping Forest): Since the hon. Member for Workington (Mr. Campbell-Savours) raised the position of the courts in the Irish Republic—we would all wish to pay tribute to the judiciary there—would my right hon. Friend the Secretary of State remind the House that the Special Criminal Court sits without a jury? That is worth mentioning in view of the criticisms made of trial without jury in certain cases in Northern Ireland.

Mr. King: I recognise the validity of my hon. Friend's comment. It is true that there is a court that sits without a jury, which shows all too clearly both the problems that terrorism imposes not only north of the border but south, and the need to be able to respond to it in the most positive way.

The Government are anxious to take every possible step that can help to combat the evil of terrorism and it is against that background that I mentioned the Anglo-Irish

[Mr. King]

agreement, one of the prime considerations of which is to improve co-operation between ourselves and the Republic in the fight against terrorism. We are looking for increased co-ordination of security activities on both sides of the border. The Chief Constable of the RUC and the Commissioner of the Garda Siochana have attended two of the first three meetings of the Intergovernmental Conference. As a first step a programme is being set in hand to improve co-operation and communication between the two forces. The conference is also looking at ways of simplifying the procedures for extradition between the two countries, and for mounting extra-territorial prosecutions.

One of the other benefits that we expect from the conference is that it will help us to try to remove any misunderstandings and misconceptions that may in the past have hindered the development of a better understanding of the importance of support for the security forces and a better cross-community support for their activities. Following the signing of the Anglo-Irish agreement and the establishment of the Intergovernmental Conference, we look to the SDLP to give an early lead in encouraging full-hearted support from the minority community for the security forces. The RUC, as the front line defence for the whole community deserves the support of the SDLP. It has certainly earned it, not only through the sacrifices to which I referred earlier and the tragic casualties that it has sustained, but through the professional, even-handed way in which it has carried out its duties.

Ms. Clare Short (Birmingham, Ladywood): I have heard the right hon. Gentleman make this remark both in a recent conference in Oxford and tonight. Is he implying that in the past the SDLP has not given support to the RUC? If so, he should spell it out, and if not he should say so.

Mr. King: In the Province, the feeling is that the SDLP has qualified its support for the RUC. In the present situation, it is important to recognise that the RUC is entitled to wholehearted support. The RUC has shown clearly, not least in recent weeks, its determination to uphold the law and resist intimidation from whatever quarter it comes. That should be recognised by all the communities in the Province. I hope that this will be understood because I recognise that extremists exist in both communities who are trying to undermine security in the Province and obstruct the agreement.

The enemies of peace and reconciliation have realised that the security benefits that the agreement can bring will pose a direct threat to them, so they may seek to undermine and wreck it at the start. The campaign of violence from the IRA ever since the signing of the agreement is the clearest sign of that. I make it clear to the IRA that that campaign will not succeed and that the Government will not be deterred. The Government will pursue greater and more effective security policies with increasing vigour. I make it clear that the agreement makes no change in the responsibilities of Her Majesty's Government and the Chief Constable for security in Northern Ireland. The Chief Constable's independence is quite clear—in the discharge of his operational responsibilities he is and will remain answerable only to the law. By the same token, all executive decisions about security issues in Northern Ireland will continue to be taken by the United Kingdom Government.

Mr. Tony Benn (Chesterfield): In the light of the Anglo-Irish agreement will the Secretary of State tell the House whether the order was discussed with Irish Ministers? Were they consulted and do they support the agreement? In the light of what the Minister has just said we would expect the Government to state that any matters discussed by the House are discussed previously with Irish Ministers. If that is the case, what were their views on the continuation of the order?

Mr. King: The right hon. Member for Chesterfield (Mr. Benn) may not have been able to attend the debate when my predecessor, the right hon. Member for Whitney (Mr. Hurd) made clear what our proposals would be for the initial stages in response to the Baker report. Those proposals were made in June. Tonight we are implementing those proposals that my predecessor put forward following the Baker report which investigated and considered the applications of the Northern Ireland (Emergency Provisions) Act 1978. I will give a simple answer to the right hon. Gentleman, or he may make the amazing accusation that I am not answering his question. We had already reached decisions on the matter and we subsequently informed the Irish Government of what our actions would be.

In discharging my duties I shall of course consider the views expressed in this House by all parties, by Northern Irish Members of Parliament and by the Northern Ireland Assembly. I shall be willing also to listen to the views that may be expressed by the Irish Government through the Intergovernmental Conference. I relinquish none of my clear, distinct and sole responsibility for decisions in this matter on behalf of the United Kingdom Government. I will take my decisions in the interests of all the people of Northern Ireland and of the United Kingdom as a whole, in the knowledge that I remain fully accountable to this House.

Mr. Benn: Will the right hon. Member give way?

Mr. King: I may be able to help the right hon. Gentleman. That is not always possible, but it may be on this occasion. The Northern Ireland (Emergency Provisions) Act 1978 is and must be seen as temporary, exceptional legislation. It is consistent with the European Convention on Human Rights and the United Nation's International Covenant on Civil and Political Rights, but it provides for departures, in certain circumstances from the normal procedures of British justice. My fervent hope is that it will soon become unnecessary. I wish that it were possible to allow the Act to lapse, but I am afraid that it is not, if we are to carry out successfully the security policies that I emphasised at the start of my speech. In his review of the operation of the Act, published in 1984, the late Sir George Baker endorsed this view, recording as his first substantial conclusion that there was only limited scope for amending the Act.

While the Act remains on the statute book I believe that it should continue to come under close parliamentary scrutiny, such as is provided for by this debate. As my right hon. Friend the Member for Witney (Mr. Hurd) told the House last June, the Government intend, when amending the Act, to recommend that it have a maximum

life of five years, providing the occasion for major and detailed parliamentary scrutiny within a reasonable period. In considering the amendment of the Act, the Government's concern is to ensure that it provides only for the minimum necessary departures from normal law and procedure.

My right hon. Friend the Minister for Witney, during the last renewal debate to which I referred, set out the Government's proposals for amending the Act. I intend to introduce legislation on those lines as soon as the parliamentary timetable permits, and certainly within the lifetime of this Parliament.

Mr. Benn *rose*——

Mr. King: It is important that I should conclude this part of my remarks.

In the meantime, we have laid an order under section 30 of the Act which will widen the discretion of the Attorney-General to certify in respect of particular cases that offences should not be treated as scheduled offences. The implication of that, as hon. Members will be aware, is that they will be eligible and available for jury trial. That is, generally, along the lines proposed by Sir George Baker, and when we come to the amendments that I shall move when we debate the later order that by agreement we have decided to debate as a separate instrument, we shall discuss those matters.

Mr. Benn: Will the Minister try to answer the questions that I asked? He referred to a statement that was made in June, which was before the Anglo-Irish agreement was reached, so that the agreement represented a change. He then said that the Irish Government had been notified. They do not now have to be notified because they know what the business is from studying last Thursday's statement. My question—if he will lift his eyes from his text for a moment—was specific. Were they consulted, was the matter put on the agenda of the last inter-governmental conference, did they give a view, and, if they did, what was that view? In view of the new statement that the right hon. Gentleman has made, will he say whether the Irish Government will be consulted about the legislation to amend the Act before he introduces it in this House?

Mr. King: The right hon. Gentleman is losing some of the effortless charm that I normally expect from him.

Mr. Benn: All that I ask the right hon. Gentleman to do is answer the question.

Mr. King: I made it clear that the Government's decisions were announced by my right hon. Friend the Member for Witney in June. They had not been previously discussed with the Government of the Irish Republic. These matters were on the record and, whether or not they were aware of them, we informed them that we would be tabling these orders, so they were aware of them. They were not the subject of negotiation and discussion because they had already been announced and had been tabled in this House, as I recall, before the signing of the agreement.

Mr. Benn *indicated dissent.*

Mr. King: The right hon. Member for Chesterfield (Mr. Benn) keeps shaking his head in dissent. I do not know why he still cannot understand the point that I have made.

I have one more question of his to answer, but if I fail to answer anything else, he can rise and tell me. He asked whether, if there were any further proposals in respect of the Act, they would be discussed. The answer is yes, in the same way as they would be discussed with anybody else who had views to advance. We are more than ready to listen to views. I am amazed that any Opposition Member should think it outrageous that we should discuss provisions of this kind as widely as possible. As the right hon. Member for Chesterfield has stopped shaking his head, I trust that he feels that I have answered all his questions.

Mr. Benn: As the right hon. Gentleman failed to answer my first question, I will ask it again. Was there specific consultation with the Irish Government after the Anglo-Irish agreement? Secondly, in view of his statement now that consulting the Irish Government is just part of listening to everybody, will he say whether the new legislation in draft that he has promised to present to the House will be put on the agenda of the conference between the Irish and British Ministers? *[Interruption.]* Will it be put on the agenda for discussion with the Irish Government before the right hon. Gentleman brings the legislation to the House of Commons? Will he now answer those questions?

Mr. King: The answer is yes. I always respect the natural courtesy of the right hon. Gentleman and I do not want to embarrass him, but if I have to answer the question for a third time and if that helps to clear up any misunderstanding, then I will do so. The answer to his first question about whether the amendment order was discussed is no, because it was already made clear that it was announced in the House in June. I do not know if the right hon. Gentleman was here for that debate. I am sure that if he was not, it was for a perfectly understandable reason. It was announced to the House in June and therefore what we proposed to do was on the record. The Irish Government were subsequently informed. The orders were laid.

Bearing in mind his close attention to parliamentary matters, I am sure that the right hon. Gentleman knows the orders were laid before the Anglo-Irish agreement was even signed. I am sure the Irish Government were informed courteously of what was happening. I have great respect for the Irish Government and I guess they already knew these matters were before the House of Commons.

The right hon. Gentleman also asked if further matters of this kind would be discussed and could they be considered in the Anglo-Irish conference. The answer to that is yes, and I have said that absolutely categorically. The right hon. Gentleman may be under the impression that matters that come before the Anglo-Irish conference may be discussed there and that nobody else is allowed any insight into what is taking place. I have made it quite clear that on matters of this importance others can contribute as well.

Mr. Ian Gow (Eastbourne): I have been listening with close attention to my right hon. Friend, as indeed have all hon. Members. Could he remind us, as it is not clear from the draft instrument now before the House, on what date it was laid before Parliament?

Mr. King: I believe it was early November, 11 November.

Mr. Stephen Ross (Isle of Wight): Will the right hon. Gentleman give way?

Mr. King: I have given way many times to hon. Members, and other hon. Members want to take part. The continuance order that is before the House reflects the view, my view, shared by Sir George Baker, that the Act contains provisions which are necessary in the fight against terrorism, to the eradication of which the Government remains totally committed. The powers must, regrettably for the reasons that I gave, be preserved for a further period. The House will see when we reach the amendment order that while we recognise and believe it is necessary to maintain the Act, we are determined to look carefully at it to see if we can find ways in which changes could be made, where possible, without putting at risk in any unacceptable way the lives and welfare of the people of Northern Ireland, and we are determined to wage as effectively as we can the battle fight against terrorism.

10.39 pm

Mr. Peter Archer (Warley, West): Twice a year the House debates an order in the terms of the order which is before us today. That has been happening for many years and those of us who took part in the earlier debates have developed a feeling of déjà vue. Time and again the Opposition have deployed their arguments and not only have the Government disagreed with us — we can understand that — but they have never engaged in the debate. They never offered any sign of comprehending what we were saying. Remembering how the Scots fought the battle of Bannockburn, I should like to try again, particularly as I shall be trying with a new Secretary of State; particularly because I sense that in some respects this debate is different; and particularly because the right hon. Gentleman has said this subject may be discussed at the Intergovernmental Conference. But I hope that the right hon. Gentleman will forgive me if I refrain from repeating at length all that I have said on previous occasions.

I appreciate that many demands are made upon the Secretary of State's time, but I wonder whether I may prevail upon him to read three contributions that I made to previous debates. It will enable me to spare the House a repetition of them. Let me at least give the references to him. On 5 July 1984 I traced the history of these debates from July 1980 when my hon. Friend the Member for Pontypridd (Mr. John) expressed from this Dispatch Box the Opposition's anxiety about this Act. On 20 December 1984, in the debate on the Baker report, I tried to set out in detail our concern about the Act and our reactions to the report. On 20 June 1985 I sought to indicate the issues to which the Government's approach to the Act had given rise.

Mine was not a lone voice. My hon. Friend the Member for Middlesbrough (Mr. Bell) has pursued the theme more than once. Some of my right hon. and hon. Friends were saying it long before I was. But if I may be permitted an argument by reference, it will enable me to be the briefer tonight.

There is one proposition that I must repeat because, however often I say it, there are those who persist in misunderstanding our argument and who seem determined to misapprehend the issue. The issue is not whether we are opposed to lawlessness and violence, whether we have any sympathy with the men of violence, or whether we care about the victims of violence. I am happy to compare my record in denouncing lawlessness and violence in any context with the record of those who persist in misrepresenting us. I am rather less selective in my condemnation than they are. But that is not the issue. The issue is not whether we appreciate the difficulties of those who are charged with enforcing law and order. They have a thankless charge and they are entitled to ask that we should have their difficulties in mind when we debate these matters. We on these Benches share the horror of the Secretary of State at the loss of the life of a police officer last night.

The police in particular have been called on over the last few weeks to deal with situations not of their own making and they have responded with a degree of restraint and objectivity which deserves to be recognised. The Royal Ulster Constabulary, the Army, the Ulster Defence Regiment are none of them perfect. To suggest that they never fall below the standard of perfection would be as silly as to say that they are all part of some dishonest conspiracy, but it is no reflection upon them to insist that they cannot be better than the system they are called upon to administer.

There are two issues before the House. The first is whether there has been an erosion of civil liberties which may endanger those very values and that very way of life that our security policy purports to defend. When the Northern Ireland (Emergency Provisions) Act 1973, the first edition of the present Act, was being debated as a Bill everybody recognised that whatever the necessity for it may have been it was a wholly exceptional measure— as, indeed, the right hon. Gentleman reminded us tonight. It introduced a range of provisions which were wholly exceptional in character. That appreciation was reflected in the title of the Bill. These were emergency powers. It was reflected in the provision for review by the House at six-monthly intervals. It was reflected in the speech of the then Secretary of State, Lord Whitelaw, who said:

> "It is the Government's intention that none of the provisions of the Bill, if it is passed, should continue in force a moment longer than it is needed."—[*Official Report*, 17 April, 1983; Vol. 855, c. 278.]

It was reflected in the speech of the then Attorney-General, Lord Rawlinson, who called it draconian.

That was more than 12 years ago. Since then it has become a standard, every-day part of prodecure, a part of every-day life in Northern Ireland. A whole generation of police officers and a whole generation of lawyers has matured with the emergency provisions Act as an accepted part of life. There are lawyers of 12 years' standing, quite senior practitioners, who have known nothing else in their professional lives.

Ms. Clare Short: Does my right hon. and learned Friend agree that there have been special powers ever since Ireland was partitioned and ever since that unhealthy state was created? There have been distortions of normal justice. There has not been a system of normal justice as we expect it in the rest of Britain. That is a sign and a representation of the political problems that underpin the partitioned state of Northern Ireland.

Mr. Archer: My hon. Friend is, of course, quite right. I seem to recollect that a South African Minister of Justice, commenting on the original emergency provisions Act, said that he would be prepared to forgo all the powers at his disposal for section 1 alone of that Act. There was a time, arising, I think, from Human Rights Year in 1968, when it looked as though there might be a hope of breaking away from all this. Yet, as my hon. Friend says, it remains a normal part of administration in Northern Ireland.

Sir John Biggs-Davison: Does the right hon. and learned Gentleman entirely treat Sir George Baker's recommendations as nonsense? That is the gist of the speech that he is making at the moment. Sir George Baker, after the very distinguished inquiries that he made—I was one who appeared before him, and I dare say that the right hon. and learned Gentleman also appeared before him—came to a completely different conclusion. Does he utterly reject the Baker report?

Mr. Archer: It is true that I gave evidence to Sir George Baker, both in writing and orally. My complaint is that it is the Government who treat a substantial part of the Baker report as nonsense.

Mr. Gow *rose*——

Mr. Archer: If I may answer one question at a time, I will then happily give way to the hon. Gentleman.

One of the unfortunate aspects of Sir George's terms of reference was that he was required to accept that a measure of emergency legislation was necessary, so his terms of reference prescribed the conclusions which he was to reach.

Mr. Gow: I am grateful to the right hon. and learned Gentleman. He is a characteristically fair Member of the House. Is it not the case that the parent Act under which this draft statutory instrument is made was introduced into the House by the Labour Government of which his right hon. Friend the Member for Chesterfield (Mr. Benn) and he were members? We are talking now about approving a statutory instrument which is being made under an Act of 1978.

Mr. Archer: If the hon. Gentleman means the second edition of the 1978 Act, that is true. I am coming to that. I fully recognise what happened in the past and I am not even suggesting that we were necessarily wrong at that time. If he will allow me to make my speech, I shall try to answer his point.

A whole generation of lawyers have passed their professional lives in Northern Ireland with this as a normal part of their background, and knowing nothing else. Worse, a whole generation of lay people have grown to adulthood who, when they think of policing and of the law, think of the powers that we are discussing today. We, heaven forgive us—it is obvious from tonight's debate — have become inured to it. It no longer seems exceptional. We no longer use the word "draconian"; and, of course, because in the Northern Ireland context it has a ring of familiarity we are less shocked when its spawn appears in Great Britain. This week we have seen in the Roskill report one more proposal for paring away the right to trial by jury, and it does not smite us with the impact that such a proposal would have made 12 years ago. Quite well-informed people say to me, "Well, they don't have a jury system in Northern Ireland, do they?" They are wrong, it is a total misapprehension, yet it is all part of a perception which has spread over a very long period but especially over the past 12 years.

The second issue before the House is whether the measures which have been adopted to maintain law and order and preserve security are counter-productive, and whether they make the task of the police and of the courts harder. Probably the greatest single factor in securing observance of the law is a recognition among local communities that the law is fair and that it protects them from injustice. The greatest deterrent for a potential lawbreaker is the disapproval of his peer group because it believes that the law should be observed. But wherever a young person is stopped by a police officer in circumstances where he believes he is being victimised, wherever a family sees one of its members charged with an offence on what it sees as unconvincing evidence, and detained in custody awaiting trial for a long period the whole bedrock of public confidence and support on which the law rests is undermined.

These are the issues which we urge on the Government time and time again, with no indication that we are getting through; and they are the issues which I seek again to place before the House tonight.

I will not rehearse our anxieties at length today. In the past we have discussed the admissibility of confession evidence under section 8(2) in circumstances where that evidence would not be admitted in any other part of the United Kingdom. We have discussed the fact that section 12 still provides the Secretary of State with the power to detain without trial, although it has not been used since 1975. We have discussed the power to arrest without warrant under section 11 which was clearly intended simply as a prelude to detention under section 12, which is no longer used. I note that today three American girls were arrested whose activities are said to consist of making a film about joy riding. It would not be right for me to say more because I know no more about the facts, but perhaps the Minister could tell us more about that tonight.

It is understandable that when an arrest is made it is perceived as referring back to the power in section 11, and that people ask why that power is needed when there are other powers in other legislation, and when section 11 was never intended for that purpose. We have discussed the delays in bringing cases to trial, and the restricted right to bail under the Act. Sir George Baker made representations about all those matters because he was troubled about the position.

We make no secret of the fact that we were disappointed by the Baker report and hoped to see more radical recommendations, but on those matters Sir George Baker expressed himself to be unhappy. His review was announced by the then Secretary of State on 30 June 1982. It was not until 5 April 1983 that Sir George Baker's appointment to undertake it was made known. He reported in March 1984, and here we are in 1986 with no idea when we may expect the legislation to implement the representations.

My right hon. Friend the Member for Chesterfield (Mr. Benn) asked a perfectly relevant question: what consultations had taken place or were expected to take place under the procedures in the new intergovernmental agreement? The debate is to be followed by the introduction of an order to amend the Act. I accept that that was announced before the intergovernmental agreement, and could not have been discussed under those procedures. We welcome that amendment as a fish in a desert welcomes a solitary raindrop, but it does not begin to dispose of our anxieties about the Act. It is not even a significant move towards implementing the report. If I say a word about it now, it will enable me to invite the Secretary of State to think about what is probably the central issue relating to the Northern Ireland (Emergency Provisions) Act 1978—the system of trial without jury. It will have the additional advantage of enabling me to keep my speech on the next debate brief.

[Mr. Archer]

On previous occasions I have tried to remind the House of the arguments which persuaded Lord Diplock to make the original recommendation. He thought that juries would be subject to intimidation, but accepted that he had no evidence to support that proposition. No member of the Diplock commission except Lord Diplock even felt it necessary to visit Northern Ireland, and his meetings there appear to have been restricted to members of the security forces on the ground. The argument advanced by the commission which dominated the debates on the Bill in 1973 was that prejudiced juries were likely to acquit people who should be convicted.

Ms. Clare Short: They were Unionists.

Mr. Archer: My hon. Friend has anticipated me. At that time, before the Juries (Northern Ireland) Order 1974, the property qualification ensured that juries were predominantly Unionist. So the problem was about Unionist juries acquitting Protestant paramilitaries. Those debates belong to a different world from that of today. The whole argument was openly and avowedly a means of increasing the conviction rate.

Mr. Robert Maclennan (Caithness and Sutherland): I hope that the right hon. and learned Gentleman has not overlooked the fact that the conclusions of the Diplock commission were considered and upheld by the committee of Lord Gardiner, the former Labour Lord Chancellor, in 1975.

Mr. Archer: If the hon. Gentleman will forgive me, I was coming to the events following the 1973 Act. I can appreciate the hon. Gentleman's desire to blacken the record of the Labour party, but I am quite prepared to put our record against his personal record.

I come now to the question that I have been asked. In 1973 we on these Benches said that we were not persuaded by those arguments. But, when the provision was on the statute book, it seemed sensible to see how it worked. For some years it did not appear to give rise to any serious anxieties. Perhaps that was precisely because it did not seem to be achieving its stated purpose of increasing the conviction rate.

More recently, three factors have emerged which have compelled us to look at it again. First, there has been a significant fall in the acquittal rate in Diplock trials. In 1973 it was 57 per cent. By 1979 it had fallen to 35 per cent. In 1981 it was 33 per cent. That was happening at a time when the acquittal rate in jury trials in Northern Ireland had increased. That was bound to raise the question whether judges were becoming case-hardened. That is not a criticism of the judiciary. It is a danger which they fully recognise themselves, and they expressed it to Sir George Baker. It is the very reason why we in the United Kingdom have for hundreds of years recognised the value of jury trials.

Secondly, it has become apparent that a system which is avowedly designed to deal with offences associated with terrorism was being used in cases which clearly had no connection with terrorism. Listing the offences which are sometimes committed for political reasons and providing that anyone accused of any of those offences should be tried under this procedure clearly casts the net too wide. We are all familiar with the study carried out by Mr. Dermott Walsh for the Cobden Trust which concluded that 40 per cent. of those convicted under the Diplock procedure had no connection with terrorism.

Thirdly, over the last few years there has emerged the phenomenon known as the supergrass. Again I will not repeat today what I have said on other occasions about the problems of supergrass trials, but they have inevitably been associated with the Diplock procedure, because it is the Diplock procedure which is in issue, and they have rendered it more urgent that we should look at it again.

Various proposals have been made as to what the Government might do. The Standing Advisory Commission on Human Rights suggested making a significant reduction in the number of scheduled offences and enlarging the powers of the Attorney-General to certify out, which is what is being proposed tonight. Sir George Baker recommended that the Attorney-General should have a much wider discretion to certify out. There have been proposals to replace the single judge with a panel of three judges, possibly one of them chosen from the Republic. One suggestion, which I confess I find attractive but which was rejected by the Secretary of State's predecessor last June, is the suggestion made by Sir George Baker in paragraph 151 for what has been called "contingent jury trial". He said:

> "It would be possible to provide for the judge, if he is satisfied that there has been any attempt to intimidate, harass or otherwise interfere with the jury, amounting to an interference with the course of justice, to discharge the jury and continue the trial himself or direct that it is to be heard by another judge sitting alone."

That would at least enable us to begin every trial with a jury. He went on to point out that such a provision might itself discourage attempts at intimidation.

There really is a need for the Government to address themselves to all this discussion and all these proposals. We ought to be told their thinking in much greater detail than we have been told it up to now, and perhaps we ought to have a further debate on the subject devoted specifically to the non-jury trials.

What the Government have done in the order which is to be discussed in the next debate is to propose a minor extension in the number of offences where the Attorney-General is to have a discretion to certify out. Clearly it is a move in the right direction, although it could not by itself begin to persuade us to support the renewal of the law in its present form. But the order misses the mark.

We are indebted to the National Council for Civil Liberties for information which illuminates that figure of 40 per cent.—the proportion of Diplock cases which, as Mr. Dermott Walsh found, had no connection with terrorism. The majority of them were connected with robbery involving real or imitation firearms. The offences are robbery, aggravated burglary and the possession of firearms while committing other offences.

To be technical, the offences which should have been in the order and are missing are offences under sections 8 and 10 of the Theft Act and articles 17, 18, 19 and 23 of the firearms order. If the Government had included those in the order, we should have been happier that they were making substantial inroads on these problems. These are the offences where frequently there is no connection with terrorism and so no justification for the fears which led to the passing of the Act. The new order fails to deal with those offences and they remain excluded from the Attorney-General's power to certify out.

That does not mean that the Opposition have any sympathy with armed robbery. All the offences which I listed are serious, but for that very reason it is important to ensure that people are not convicted of them unless they are found, to the community's satisfaction, to be guilty. We do not combat lawlessness from political or other motives by risking convicting the wrong people. Unless there is good reason to deny jury trial to people accused of such offences, they should have the same right to jury trial as anyone else accused elsewhere in the United Kingdom.

The provision for a six-monthly review of the Act was included so that the House could address itself to such matters from time to time and to review each of the provisions against the background of what is known at that time. It is an obligation which we have tried to take seriously. As the Secretary of State said, it might now be subject to discussions in the Intergovernmental Conference. But it is no safeguard unless the Government listen to what is said. They must at least engage in the debate. We have seen no sign that the Government are listening, and that compels us to divide the House.

11.3 pm

Sir John Biggs-Davison (Epping Forest): When the right hon. and learned Member for Warley, West (Mr. Archer) I had an exchange about the Baker report, he said that Sir George was unhappy about the emergency powers in Northern Ireland. Everyone in the House is unhappy about the emergency powers and about anything which infringes human and civil rights. The greatest human right is the right to be alive.

Sir George was not circumscribed by his terms of reference when he came to his conclusions. He certainly was not circumscribed when he said in paragraph 32 of the report:

> "I have become increasingly more convinced that any provisions of the EPA which may save even one life or bring one guilty terrorist to conviction and sentence should be retained until the paramilitary forces forswear terrorism unless there is a powerful convincing reason for repeal or amendment."

Sir George did not find any such convincing reason for repeal or amendment.

I find the Opposition's attitude not that of an alternative Government who might become responsible for the Goverment of Northern Ireland, or a responsible party. Their position is indefensible, save by excuse of ignorance of the brutal and bloody realities of life in troubled Ireland. I say Ireland because, as I ventured to remark during the Secretary of State's speech, there exist in Ireland not only Diplock courts, but the special criminal court.

There is a difference. The difference is that the special criminal court in the South is a court of three judges but no jury. It is frequently pointed out that the Diplock courts have no jury and are presided over by a single judge. There is a difficulty here. If it is desirable—I believe it is—to add to the single judge assessors of some kind, whether they be judges, resident magistrates or others, the difficulty is that there are none willing to come forward from the Northern Ireland Bar to accept the wish of the Lord Chancellor that they become judges. I understand that the reason is the peculiar risks to which judges are subjected in Northern Ireland. My hon. Friend referred to the murder of judges and magistrates, notably Catholic judges and magistrates, in the Province.

Mr. William Cash (Stafford): Does my hon. Friend agree that it is highly satisfactory that a Catholic has recently accepted nomination to this court? Is that not correct?

Sir John Biggs-Davison: It is correct, and I do not believe that it arises in any way from the Anglo-Irish agreement. I am delighted that this courageous person has come forward to take up that dangerous task. It is still difficult to find barristers who are willing to serve. It is the risk of murder and intimidation of judges and magistrates and jurors that made the Diplock courts regrettably necessary. I repeat regrettably necessary—and I warmly welcome the second order that we are to consider.

I spoke of the realities of life in troubled Ireland. In *The Times* of 4 January the first leading article said:

> "the Hillsborough Agreement can only work if Dublin ministers at the intergovernmental conference can combine their role as representatives"—

I quarrel with this phrase, but I shall not go into that now—

> "of the north's minority Catholic population with support for properly conducted security operations."

What the House and many in Northern Ireland are looking for are tangible results from the new arrangement with the Republic in terms of improved cross-border security.

Ms. Clare Short: Will the hon. Gentleman give way?

Sir John Biggs-Davison: This is a short debate and I want to give other hon. members a chance to speak. We have come a long way since 1962 when Mr. Sean Lemass so crushed and harried the IRA that, in the words of one of the historians of the Irish Republican Army, he destroyed

> "the hopes of a generation".

The present Fine Gael Government in Dublin are weaker than that Fianna Fail Government. Even so, the present Taoiseach expressed the intention, as recorded in the communiqué — it is not in the agreement — after the Hillsborough meeting that the Government of the Irish Republic intended to adhere to the European convention on the suppression of terrorism.

I should like my hon. Friend the Minister to say whether any steps have been taken in that regard. We still need a change in the extradition law. Progress in that direction might be of comfort to the estranged majority and the frightened minority in Northern Ireland today.

11.9 pm

Mr. Tony Benn (Chesterfield): This is a regular process of renewal which the House has had many times. The difference is that this is the first time since the Anglo-Irish agreement. That is why I put some questions to the Secretary of State.

There was no specific consultation where every one would have expected it. The Irish Government, for example, have expressed views on the super-grass trials. The Irish Government apparently gave no view on this order which may be a subject of interest in Dublin. As for the future, there is no exclusive relationship in any way with the Irish Government. As the Secretary of State said, anyone can come in. The intergovernmental ministerial conference will, therefore, have no special role. Continuing the order—even with some amendments—is a continuation of the present policy.

I want to take these events to underline why the policy that the Government are following will fail. That policy was intended to do four wholly incompatible things. First,

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it was intended to de-fuse opposition in the Republic by involving its Ministers. Secondly, it was intended to isolate the Republicans in the North by making them look as though they alone stood out against the Anglo-Irish agreement. Thirdly, it was intended to reassure the Loyalists. Of course, they are not here, because they are busy campaigning against the policy anyway. *[Interruption.]* We do not know the outcome, but at least it is unlikely that they will return to the House without majorities, showing that opinion in Northern Ireland is not, despite their Loyalist protestations, as much in favour of United Kingdom parliamentary control as they claim. Fourthly, the Government's policy was intended to bring in the Common Market and the Americans with cash and endorsement — there were also defence overtones — by persuading them that it presented a real break.

With the agreement, the Government have tried to internationalise the status quo. The order proves this. No one could have doubled that after the Secretary of State, in his first speech after appointment, said that, as far as he was concerned, nothing would ever change. I suspect that there will be growing disillusionment with the agreement. The order will result in the first stage of that disillusionment among significant groups. Those who put their faith in the agreement will discover that what they have actually endorsed is an official Anglo-Irish licence for the continuation of partition and British repression in Northern Ireland, which will solve nothing.

The Anglo-Irish agreement made a fundamental change in the relationships between Britain and the North. The by-elections are occurring because some people have seen that, when one licenses a foreign Government to share responsibility with a part of the so-called United Kingdom, there is a fundamental change. There has been a fundamental change, but no solution to the problem.

The war will continue. The Diplock courts will continue. The super-grass trials will continue, despite the protests from Dublin. The strip searches and the plastic bullets will continue. This policy of the Secretary of State will fail, as all the others have failed. Reference has been made to the Labour Government. I could go back further, to when I was in the Cabinet in August 1969 and we sent the troops in. We were told that that would solve the problem. We were told that Sunningdale and direct rule would solve the problem. We were told that power sharing would solve the problem.

People will be suspicious of tonight's meticulous textual address by the Secretary of State because they have heard it all before. The Secretary of State may not like the change, but when it comes, the Government will be seen to have begun the process by recognising—although that does not entitle us to support the agreement which will fail like everything else—that the United Kingdom does not have an exclusive right to govern Northern Ireland.

In joining with my right hon. and learned Friend the Member for Warley, West (Mr. Archer) and voting against the other, I think that those in the Republic and in the North who study this debate can draw a certain conclusion about it and perhaps even some comfort from it.

11.13 pm

Mr. Ian Gow (Eastbourne): It is a tragedy that the Labour party intends to divide the House on this statutory instrument. I warmly approve of the speech of my right hon. Friend the Secretary of State and of the order.

This is a short debate, and I know that hon. Gentlemen want to participate——

Ms. Clare Short: What about me?

Mr. Gow: And hon. Ladies, too. I shall, therefore keep my remarks short.

My right hon. Friend the Secretary of State rightly said that it was the Government's policy to pursue the campaign against terrorism in Northern Ireland with unremitting vigour. My right hon. Friend also referred to the Anglo-Irish agreement of 15 November. It is of first importance, as my right hon. Friend acknowledges, that the promise of the increased co-operation between Her Majesty's Government and the Republic of Ireland should become a reality so that a more effective campaign may be waged by both Governments and the security forces of both Governments against terrorism throughout the island of Ireland.

I want to reinforce the question that was put to my right hon. Friend by my hon. Friend the Member for Epping Forest (Sir J. Biggs-Davison). Not, alas, in the treaty—I wish that it were in the treaty — but in the joint communiqué that was issued on 15 November the Prime Minister of the Republic gave notice of the intention of the Government of the Republic

"to accede"—

these are the exact words—

"as soon as possible to the European Convention on the Suppression of Terrorism."

Ms. Clare Short: Is this in order?

Mr. Gow: It certainly is in order. I point out to the hon. Lady that my right hon. Friend referred in his speech to the benefits which he believed would flow from the agreement on co-operation.

The question that I want to put to my right hon. Friend or to my hon. Friend the Parliamentary Under-Secretary of State, if he is to reply, is what, in the view of Her Majesty's Government, was meant by the words "as soon as possible" when in the joint communiqué, the Taoiseach gave that undertaking about the accession of the Republic to the European convention on the suppression of terrorism? It would be of the greatest importance if "as soon as possible" really meant in the very near future.

Mr. Deputy Speaker: May I say to hon. Members that the Front Bench would like to catch my eye at half past eleven.

11.16 pm

Mr. Martin Flannery (Sheffield, Hillsborough): Some of us have opposed the various pieces of legislation on the prevention of terrorism since their inception for the very reason that the Secretary of State, when he became Secretary of State, was fatuous enough to say that Northern Ireland would be there for ever. As my right hon. Friend the Member for Chesterfield (Mr. Benn) implied, if the border is there for ever this legislation will be in force for ever because it is the border that led to the legislation. We go through this melancholy six-monthly ritual. Some of us have never missed it throughout the years, unlike the Secretary of State who is new to it.

The Northern Ireland (Emergency Provisions) Act 1978 is virtually unamended. The Government have no intention of amending it. It is draconian and unjust on a grand scale, and it solves nothing. It actually deepens and intensifies the crisis in Northern Ireland. There was a time when some of us got no help from the Labour Government. In the bi-partisan years, they were as bad as the Tories and we had to struggle against them as well. Now officially the Labour Front Bench is with us, although the vote has not increased very much.

When Sir George Baker made his report, as my right hon. and learned Friend the Member for Warley, West (Mr. Archer) said, he could not make a proper report. He began with a conclusion; it came from the terms of reference, which began as follows:

"Accepting that temporary emergency powers are necessary to combat sustained terrorist violence".

What could he do with that? All he could do was produce a draconian report on a draconian Act. I have heard people praising that report. I was appalled at it because it did not do anything to help.

The Government did not follow the ritual he went through. Out of 72 or 74 recommendations they paid slight attention to two, I think. When there are three judges instead of one, that merely means that there are three case-hardened types dealing with a case instead of one. If there are only 10 judges in Northern Ireland they must be case hardened. How could they be anything else? They would be inhuman if they were not. That is the reality. There is no justice in Northern Ireland to do with anything concerned with what is called terrorism.

Let us be quite clear about this — it means long periods of detention without charge, admission of involuntary confessions in court and uncorroborated evidence from supergrasses. A year ago I led a delegation to Northern Ireland, which it split into two halves. Half went to Long Kesh and the other to visit the women in South Armagh. We spoke to all 34 women, some of whom had been there for two years without trial. Can the Secretary of State tell me whether they have now been there for three years without trial? Is that the sort of justice that we are meting out in Northern Ireland? I want to know. That is the sort of behaviour that intensifies the conflict and makes people fight against a draconian regime.

The Solicitor-General (Sir Patrick Mayhew): I shall write to the hon. Gentleman in answer to his question. Perhaps he will answer my question. What does he mean by his assertion that there is no justice in a Northern Ireland court hearing a terrorist case? How does he equate that assertion with the fact that over the years, and certainly today, the rate of acquittal in Diplock courts is within one or two per cent. of the rate of acquittal in jury trials?

Mr. Flannery: The reality is that all sorts of people are not getting a proper trial because of the position in Northern Ireland. Can the hon. and learned Gentleman tell me how a convicted murderer, who has committed crimes of terrorism and already been convicted of perjury, can go into court — as one did recently, I think that it was Kirkpatrick — and denounce 27 people, without corroborated evidence, who were then gaoled for life? That is perhaps what the hon. and learned Gentleman calls justice, but I believe that many people, especially young men, are stirred to join the IRA when they see the travesty of justice in Northern Ireland.

The Solicitor-General: Does not the hon. Gentleman recognise that there is no difference between the law of admissibility of uncorroborated evidence of an accomplice in Northern Ireland and that in the law in England and Wales? If he does recognise that, perhaps he will acknowledge it.

Mr. Flannery: I say with respect to the hon. and learned Gentleman that he can enmesh me in a web of lawyer-like talk if he wishes, but the reality is that there is a lack of justice in Northern Ireland, as there always has been as long as there has been occupation of any part of Ireland. He can quote whatever he wants from the law books, but that is the reality.

The Act hovers like a rain cloud over the people of the minority Catholic community in Northern Ireland. It constantly has them in turmoil. It solves none of the problems that it was intended to solve. I shall cite two aspects, which I have mentioned already but which are worth repeating. First, on the question of detention without charge, I hope that the Secretary of State will tell me what has happened to the women in South Armagh. Are they still being dragged out—*[Interruption.]* Yes, it is true. We went over the track that they take after they have been strip searched once a week. We discovered that not all the strip searches were being recorded in the book. The Secretary of State may smile about these serious issues, but they are the issues with which we must deal.

This appalling Act should be taken off the statute book. It does nothing to solve the problems. Ireland under British occupation, especially Northern Ireland, has never been ruled without military control over the people and a total lack of democracy. My right hon. and learned Friend the Member for Warley, West mentioned property qualification, and it is only one aspect. There are many people on the Tory benches who I have watched smiling and laughing as those points have been put to them. There is no hope for Northern Ireland from those people. The only hope for peace in Northern Ireland is for the election of a Labour Government and the abolition of the border. There is no hope unless that happens.

11.25 pm

Mr. Stephen Ross (Isle of Wight): I should like to put a question to the Opposition spokesman, the right hon. and learned Member for Warley, West (Mr. Archer). If he were the Secretary of State for Northern Ireland, would he be recommending to the House tonight that we should reintroduce jury trials for all terrorist charges? Could he put that to the House in all seriousness? In my worst moments, I wake up at about 3 o'clock in the morning and dream that I am the Secretary of State for Northern Ireland in an alliance Government. That will not happen, not because an alliance Government will not be in power next time, but because I shall not be there. I understand that the right hon. and learned Member for Warley, West is saying from the Opposition Front Bench that he would do away with the Diplock courts and have a jury trial for all cases.

The reason why I support the renewal of the legislation is that I realise that it is early days in the life of the Anglo Irish Intergovernmental Conference. It has been in

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operation for only about six weeks, and I am prepared to recommend further patience to my colleagues in connection with the renewal of the order.

I welcome the statement by the Secretary of State about tabling new legislation in the life of this Parliament. That should be taken on board. It is with great reluctance that we accept the impossibility at this time of providing a jury trial for terrorist offences. There is no foolproof method of safeguarding the anonimity of jurors and therefore avoiding intimidation. As I understand it, they have to give their names and addresses. If the right hon. and learned Member for Warley, West can say that he will put those people's lives at risk, I cannot agree with him.

Mr. Dennis Canavan (Falkirk, West): Is the hon. Gentleman telling us that the official position of the once great radical Liberal party is that in one part of the United Kingdom there should be a standard of so-called justice which is grossly inferior to the standards of justice that prevail elsewhere in the United Kingdom?

Mr. Ross: Of course I am not saying that. I remind the hon. Member of the judges who have lost their lives and been maimed trying to carry our justice in Northern Ireland. He may be prepared to put those lives at risk, but I am not.

Ms. Clare Short: Intern them.

Mr. Ross: No, I shall not intern them. Our joint report of July 1985 contained words to that effect and was accepted by both the Social Democratic party and the Liberal party at their assemblies this autumn.

I agree with much of what has been said by Opposition Members. We also think that it should be possible to deschedule cases where there is no apparent connection with serious terrorist offences. The accused should have the right to apply to the court to have his or her individual case descheduled, with the right to appeal to a higher court. The amendment seems to leave everything in the hands of the Attorney-General. I do not accept that.

I think that there should be jury trials unless a challenge is made. We would like to see a move to three judges. I should like to see Garret FitzGerald's suggestion followed up, so that we swap judges between the North and the South. I want to see the use of tape recorded interviews as evidence and a limit on the number of defendants in any one supergrass trial. That was a Baker recommendation. He recommended a maximum of 20, we recommend six.

Above all, new legislation should now be drafted, the provisions of which would be acceptable and applicable to both the North and the South. We regard that as an important step towards the harmonisation of British and Irish law and practice in the fight against terrorism.

I refer to the time spent on remand, which was referred to by the hon. Member for Sheffield, Hillsborough (Mr. Flannery). In 1983 the average time spent on remand was 322 days. That is outrageous, and we must move to the Scottish practice of 110 days as quickly as possible. Above all, a Bill of Rights is needed in the Province, but we must leave that issue to the more persuasive powers of Lord Scarman.

11.29 pm

Mr. Stuart Bell (Middlesbrough): We welcome the presence of the hon. Member for Isle of Wight (Mr. Ross), a Liberal Member. He asked my right hon. and learned Friend the Member for Warley, West (Mr. Archer) what a future Labour Government would do. He went on to make a series of recommendations on the legislation that we are debating. He even went so far as to say that entirely new legislation should be drafted. A future Labour Government would have no difficulty in pronouncing that they would move towards jury trials as quickly as they could in the context of the situation in Northern Ireland. We make no bones about that commitment.

The hon. Member for Epping Forest (Sir J. Biggs-Davison) fell into the same trap. He spent the first part of his speech criticising Labour policies, and the second part saying that there should be three judges in the Diplock courts, resident magistrates or assessors. Therefore, it is clear that there is an all-round agreement in the House that there is something wrong with this legislation, and that it should be looked at with care. That is what the Labour party is doing, and is therefore rendering the House of Commons and the people of Northern Ireland a service in opposing the legislation.

The hon. Member for Isle of Wight is joining the Tories in his acceptance of TINA—there is no alternative. He seems to be saying that in this, as in other legislation, nothing else can be done. Our party is the one being creative in this matter of Northern Ireland. We are looking seriously at the Diplock courts, and are constantly pushing and prodding the Government to move towards the Baker report. Tonight, two of the report's 72 recommendations are being implemented, and the Secretary of State has said, as did his predecessor in June, that there would be implementation of the Baker recommendations during the lifetime of this Parliament. That commitment was given as a result of the pressing and prodding of the Labour Opposition, and tonight's commitment was given as the result of the same pressure. The Labour party is the effective Opposition in the Chamber in the interests of the people of Northern Ireland and of justice.

We are grateful for the presence of the Solicitor-General. It must be a great relief to him to come to our debate after the other matters with which he has had to deal over the past few weeks.

Mr. Gow *rose*——

Mr. Bell: I have only three minutes to make my speech, so, with the utmost respect to the hon. Gentleman, I shall not give way.

We are grateful to the Solicitor-General because he has put into the context of the law the admissibility of evidence. We are saying that there is something wrong with a Diplock court with a single judge linked to a trial where one witness is able to give uncorroborated evidence. That is the great problem, as my right hon. and learned Friend the Member for Warley, West said.

The situation has changed since 1973 because of the uncorroborated evidence of a single witness before a single judge, who has not only to establish what the law is, but to establish what the facts are. He must then do the work of 12 good men—and women—true, in place of the jury. A judge in a Diplock court does the work of 13 people.

For all the reasons that I have given, we feel an obligation to divide the House. The Under-Secretary said last year that the legislation was:

"in the interests of security, and indeed justice".—[*Official Report*, 20 December 1984; Vol. 70, c. 651.]

That is the curious dichotomy of this legislation. It is supposed to be used for justice, but it is used for security. That is where the ambivalence, the erosion of civil rights, the uneasiness of the people of Northern Ireland come in, and where there is an addition to the sense of alienation. That is why this legislation is an obstacle to bringing the two communities together. We have no conscience about drawing the attention of the public of Northern Ireland and that of Great Britain to the curious inadequacies of the current legislation. The people of Northern Ireland put up with a system and administration of justice that we in Great Britain would not tolerate.

I was in a Diplock court during a supergrass trial when Mr. Kirkpatrick was the witness. I had the uncanny feeling that I was being cast back a century or so to the Chancery courts of old. There was a plethora of lawyers and security guards and dotted around the court were the accused, none of whom, as far as I could ascertain, could hear a word of what was being said. Although their future was at stake, they had to fall back to chattering among themselves while their relatives and families looked on haplessly behind bullet-proof glass, being unable to follow the proceedings.

It is not surprising that there are those of us who are aghast at the judgments that are reached and the verdicts that are entered in the Diplock courts. We have a sense of indignation that the current legislation remains on the statute book. I have no hesitation in commending my right hon. and hon. Friends to divide the House on the issue.

11.36 pm

The Parliamentary Under-Secretary of State for Northern Ireland (Mr. Nicholas Scott): In the few minutes that remain of the debate, I wish to deal with a number of issues that have been raised.

First, I take up the opening remarks of the right hon. and learned Member for Warley, West (Mr. Archer), who accused us of not being prepared to enter into an argument. I have about five minutes in which to reply and it will be difficult to address the arguments in depth, but I can assure him that successive Ministers—Secretaries of State and others bearing responsibility for Northern Ireland—have concerned themselves with the arguments and worried deeply about whether they had the balance right. They have had to move away from the practice of the law on this side of the water in the special circumstances of Northern Ireland, but only to the minimum degree that is necessary to ensure the life, the security and the safety of the general public within Northern Ireland. We have worried about it ourselves and have sought the best advice available to us to ensure that we have the balance right.

I shall refer to three matters that are raised by Sir George Baker in the opening part of his report. In paragraph 50, he stated:

> "I am driven to the sad but inescapable conclusion that despite the undoubted improvement and optimism which I noted during last summer . . . there is little room for manoeuvre"

in amending the legislation. He went on to make a point that I wish had been taken up by one or two of those who have contributed to the debate. At the end of paragraph 50, he said:

> "The remedy is squarely in the hands of those who say they are waging war. Let them forswear violence and respect the right to live."

If that were done, we would not need emergency provisions in Northern Ireland. Sir George concluded the opening part of his report in paragraph 51 by asking:

> "'Is it reasonably foreseeable that repeal or amendment may deprive yet another man, woman or child of the right to life or to live free from fear?'"

That was the question to which he rightly addressed himself, and that was why he rightly concluded that there was little room for manoeuvre in amending the legislation.

I understand that there is a down side to the existence of the powers that are set out in the Act, and that there is an extent to which they are bound to be counter-productive. When an innocent person is arrested and released without charge, or when a person is stopped in the street and searched, it is possible—on this side of the water and elsewhere—for resentment to build up and a wish on the part of those concerned to distance themselves from involvement in the processes of the administration of justice and policing. That is a factor that must be taken into account. However, that must be balanced against having the present powers of the police and the security forces and a law that enables the courts to operate free from the intimidation that would, but for the Diplock courts, be a manifest part of the administration of justice in Northern Ireland. There must be that balance to ensure that the lives of the people of Northern Ireland are given the protection that they deserve.

I do not accept lightly the need for the current powers to continue in existence. In many ways, it is with regret that I have again to argue that the House should renew them for a further period. However, I must tell the House that, as one who has considered the issue carefully, I am convinced that we need the powers. As I told the right hon. and learned Member for Warley, West when we debated these issues previously, if he were on the Government Front Bench he would learn very quickly that he, too, would need the powers.

My hon. Friend the Member for Eastbourne (Mr. Gow) asked about the intention of the Government of the Republic of Ireland to accede to the convention on the suppression of terrorism. They have reiterated on several occasions their intention to do so as soon as possible. It has become apparent that they will need primary legislation in the Oireachtas to carry their accession to the convention into existence, and they are still investigating the timescale for doing that. They have reiterated their intention to do so it soon as possible.

The message tonight is that the Government are convinced that the fight against terrorism can be won without draconian security policies and without departing from the rule of law. But it will be necessary to provide the security forces for another six months with the powers that are included in this instrument.

We shall later deal with an amendment to the legislation. My right hon. Friend has reiterated our determination to introduce new legislation in the lifetime of this Parliament following many of the recommendations of Sir George Baker, and the House will welcome an opportunity in due course to discuss those issues. We are convinced——

It being one and a half hours after the commencement of proceedings on the motion, MR. DEPUTY SPEAKER *put the Question, pursuant to Standing Order No. 3 (Exempted business).*

The House divided: Ayes 116, Noes 62.

Division No. 40] **[11.40 pm**

AYES

Alexander, Richard	Arnold, Tom
Amess, David	Ashby, David

Aspinwall, Jack
Baker, Nicholas *(Dorset N)*
Batiste, Spencer
Bellingham, Henry
Biggs-Davison, Sir John
Blackburn, John
Blaker, Rt Hon Sir Peter
Bonsor, Sir Nicholas
Boscawen, Hon Robert
Bottomley, Peter
Bottomley, Mrs Virginia
Bowden, Gerald *(Dulwich)*
Brinton, Tim
Brooke, Hon Peter
Brown, M. *(Brigg & Cl'thpes)*
Browne, John
Bruinvels, Peter
Buck, Sir Antony
Burt, Alistair
Butterfill, John
Carlisle, John *(Luton N)*
Carttiss, Michael
Cash, William
Chope, Christopher
Coombs, Simon
Cope, John
Couchman, James
Cranborne, Viscount
Crouch, David
Currie, Mrs Edwina
Dover, Den
Durant, Tony
Evennett, David
Fenner, Mrs Peggy
Forth, Eric
Fraser, Peter *(Angus East)*
Freeman, Roger
Gale, Roger
Galley, Roy
Garel-Jones, Tristan
Gow, Ian
Gregory, Conal
Griffiths, Peter *(Portsm'th N)*
Ground, Patrick
Gummer, Rt Hon John S
Hamilton, Hon A. *(Epsom)*
Hancock, Michael
Hanley, Jeremy
Haselhurst, Alan
Hayes, J.
Hayward, Robert
Heathcoat-Amory, David
Henderson, Barry
Hind, Kenneth
Hogg, Hon Douglas *(Gr'th'm)*
Howard, Michael
Howarth, Alan *(Stratf'd-on-A)*
Howarth, Gerald *(Cannock)*
Hunt, David *(Wirral, W)*
Hunter, Andrew
Jackson, Robert
Jessel, Toby
Jones, Robert *(Herts W)*
Kellett-Bowman, Mrs Elaine
Key, Robert
King, Roger *(B'ham N'field)*
King, Rt Hon Tom
Knight, Greg *(Derby N)*
Knowles, Michael
Lawler, Geoffrey
Lawrence, Ivan
Lennox-Boyd, Hon Mark
Lester, Jim
Lilley, Peter
Lloyd, Peter *(Fareham)*
Lord, Michael
Lyell, Nicholas
MacGregor, Rt Hon John
Maclean, David John
Maclennan, Robert
Major, John
Malins, Humfrey
Marlow, Antony
Mather, Carol
Maude, Hon Francis
Maxwell-Hyslop, Robin
Mayhew, Sir Patrick
Miller, Hal *(B'grove)*
Moate, Roger
Moynihan, Hon C.
Murphy, Christopher
Nelson, Anthony
Neubert, Michael
Newton, Tony
Nicholls, Patrick
Norris, Steven
Oppenheim, Phillip
Osborn, Sir John
Page, Sir John *(Harrow W)*
Page, Richard *(Herts SW)*
Patten, Christopher *(Bath)*
Portillo, Michael
Powell, William *(Corby)*
Powley, John
Raffan, Keith
Rhodes James, Robert
Rhys Williams, Sir Brandon
Ross, Stephen *(Isle of Wight)*
Scott, Nicholas
Thurnham, Peter
Waddington, David
Young, Sir George *(Acton)*

Tellers for the Ayes:
Mr. Donald Thompson and
Mr. Tim Sainsbury.

NOES

Archer, Rt Hon Peter
Atkinson, N. *(Tottenham)*
Barnett, Guy
Beckett, Mrs Margaret
Bell, Stuart
Benn, Rt Hon Tony
Bermingham, Gerald
Blair, Anthony
Boyes, Roland
Campbell-Savours, Dale
Canavan, Dennis
Clarke, Thomas
Clay, Robert
Clwyd, Mrs Ann
Cohen, Harry
Cook, Frank *(Stockton North)*
Crowther, Stan
Davies, Ronald *(Caerphilly)*
Davis, Terry *(B'ham, H'ge H'l)*
Deakins, Eric
Dixon, Donald
Dormand, Jack
Dubs, Alfred
Fatchett, Derek
Fields, T. *(L'pool Broad Gn)*
Fisher, Mark
Flannery, Martin
Godman, Dr Norman
Haynes, Frank
Hogg, N. *(C'nauld & Kilsyth)*
Holland, Stuart *(Vauxhall)*
Home Robertson, John
Lamond, James
Leighton, Ronald
Lewis, Terence *(Worsley)*
Lloyd, Tony *(Stretford)*
McDonald, Dr Oonagh
McNamara, Kevin
Madden, Max
Marek, Dr John
Maxton, John
Maynard, Miss Joan
Michie, William
Mikardo, Ian
Nellist, David
Parry, Robert
Pike, Peter
Powell, Raymond *(Ogmore)*
Randall, Stuart
Redmond, Martin
Richardson, Ms Jo
Roberts, Ernest *(Hackney N)*
Short, Ms Clare *(Ladywood)*
Silkin, Rt Hon J.
Skinner, Dennis
Smith, C.*(Isl'ton S & F'bury)*
Soley, Clive
Spearing, Nigel
Strang, Gavin
Wardell, Gareth *(Gower)*
Welsh, Michael
Winnick, David

Tellers for the Noes:
Mr. John McWilliam and
Mr. Allen McKay.

Question accordingly agreed to.

Resolved,

That the draft Northern Ireland (Emergency Provisions) Act 1978 (Continuance) (No. 3) Order 1985, which was laid before this House on 14th November, be approved.

Northern Ireland

11.52 pm

The Parliamentary Under-Secretary of State for Northern Ireland (Mr. Nicholas Scott): I beg to move,

That the draft Northern Ireland (Emergency Provisions) Act 1978 (Amendment) Order 1985, which was laid before this House on 14th November, be approved.

The order we are considering tonight gives us an opportunity to amend schedule 4 to the Act on roughly the lines proposed by Sir George Baker, as this can be achieved by order under section 30 of the Act and does not require a Bill to introduce the amendment. The amendment order will in effect widen the discretion of my right hon. and learned Friend the Attorney-General to certify in respect of particular cases that offences should not be treated as "scheduled" offences. This extends the range of offences which could potentially be tried before a jury and is intended to make it possible for more cases to be tried by jury in Northern Ireland. However, the Government share Sir George Baker's view that unfortunately the time has not yet arrived at which jury trial could be restored for all cases involving terrorist-type offences in Northern Ireland.

Nevertheless, I hope that the House will agree that this amending order marks a small step in the right direction and provides, I hope, an answer to those who question the sincerity of the Government's commitment to dismantle the apparatus of emergency legislation as soon as it is safe to do so. This is something to which we have long been committed and the order is a direct result of Sir George Baker's review, which was completed in 1984.

I am very conscious of the fact that the order may not go as far as many right hon. and hon. Members and the Government would like, but it goes as far as we can in the present circumstances. I hope, therefore, that everyone, both in this House and elsewhere, will recognise in this measure, limited though it must be, our readiness to match our actions to our understanding of the importance of building and maintaining public confidence in the administration of justice in Northern Ireland.

In essence, the order meets virtually the whole of Sir George's recommendations 12, 13 and 15, which were that kidnapping, false imprisonment, offences under the Firearms (Northern Ireland) Order 1981 and all scheduled offences which are triable summarily, or carry a maximum sentence of less than five years, should be capable of being certified out. The exceptions are those offences under the Firearms (Northern Ireland) Order 1981 and those scheduled offences which carry a low maximum penalty but are, in practice, only likely to be committed by persons associated with terrorists. In my view, it would be pointless to give the Attorney-General discretion to certify out such offences when he will almost certainly never be able to exercise that discretion.

The amending order does not extend the Attorney-General's discretion to cover robbery or aggravated burglary, as Sir George Baker had recommended, but it is worth emphasising to the House that this does not mean that all cases involving robbery or aggravated burglary will, in practice, be tried in a Diplock court, as under note 4 to schedule 4 such offences only come within the definition of scheduled offences "where it is charged that an explosive, firearm, imitation firearm or weapon of offence was used to commit the offence". In circumstances where such weapons are used, it is usually very difficult to tell whether the alleged offence was committed for domestic or terrorist purposes. If such offences were capable of being certified out, the Attorney-General's decision in particular cases might be perceived as an indication that one accused person had terrorist links while another did not. That could prejudice the outcome of certain trials and make my right hon. and learned Friend's decisions in such matters a matter of public debate. Where the decision cannot be clear-cut, I believe that it is better not to confer discretion and to leave the mode of trial to be determined on objective criteria by reference to the nature of the offence.

For completeness, I should record that the Government do not intend to accept Sir George Baker's recommendations 16 and 17. He had recommended that the power to certify out offences in particular cases be given to the Director of Public Prosecutions for Northern Ireland. However, my right hon. and learned Friend the Attorney-General believes that it would be right to reserve this important power to himself. He can then continue to be directly answerable to the House on the way in which he exercises that power.

Sir George Baker also recommended—and this is a particular point raised by the right hon. and learned Gentleman the Member for Warley, West (Mr. Archer) in the last debate—that if a case had been certified out and was being heard by jury, and seemed likely to result in a wrongful verdict as a result of intimidation, harassment or whatever, the trial judge should have the power to discharge the jury and continue the trial alone or to direct that it be heard by another judge sitting alone. The Government disagree with this recommendation, because any such decision would risk bringing the courts into disrepute. Critics would argue that judges exercised such powers only where they disagreed with the likely outcome of a jury trial, and that it was a device for setting the judge's views on matters of fact above those of a jury. We believe that, where a jury is believed to have been intimidated, the correct course would be to abandon the trial and to order a retrial. It would then be for the Attorney-General to use his discretion to judge whether the offence should be certified out or not.

I believe that this amending order represents a modest step in the right direction, and I commend it to the House.

11.58 pm

Mr. Peter Archer (Warley, West): The House will be grateful to the Minister for that explanation.

As to the matter which he has just mentioned, the proposal of Sir George Baker for conditional jury trial, this is obviously not the occasion on which we should enter into a debate on it, but I hope that we can properly infer from what the Minister has said that the Government at least intend to introduce the amendment in the form in which he has just described it, so that we will then have an opportunity to discuss it.

The measure which the Government propose today is a very modest one, but it is a move in the right direction and, as far as it goes, we welcome it. I have already indicated the reason why we believe that it misses the essential point. For the record, I will try to say it again in one paragraph.

The whole justification which is suggested for non-jury trial is that it is designed to deal with offences connected with terrorism. We know that at present some 40 per cent.

[Mr. Peter Archer]

of the people convicted under that procedure have no connection with terrorism. The schedule, as it is drawn, catches allegations of offences committed from motives which are in no way political. This order extends the discretion of the Attorney-General to certify out of the provisions some offences additional to those already in the schedule. We know that the large percentage of charges which are not connected with terrorism relate to robbery involving the use of real or immitation firearms. The order does not give the Attorney-General power to certify out the offences under the provisions that I listed in the previous debate. I do not find it easy to understand the Minister's reason for that. It seems to be that discretion is not to be given to Law Officers because their decision might be misunderstood. We may have an opportunity to discuss that at greater length on another occasion.

This is one further example of the frustration that arises from legislating for Northern Ireland by unamendable orders. This is essentially an order on which we would have liked to table amendments to include those provisions. Then we could have discussed them, and we would all have known where we were. We can only make that point and hope that in due course the Government will hear and respond to it.

We accept the order, modest as it is, as what we hope will be the beginning of more effective reforms.

12 midnight

Mr. Robert Maclennan (Caithness and Sutherland): I shall not speak at length, because the general views of Social Democrat and Liberal Members on the order were adumbrated during the previous debate by my hon. Friend the Member for Isle of Wight (Mr. Ross). However, the view of the right hon. and learned Member for Warley, West (Mr. Archer) that it is possible to conduct criminal trials in Northern Ireland by jury seems completely unsustainable.

Mr. Deputy Speaker (Mr. Ernest Armstrong): Order. The hon. Gentleman will realise that we are discussing changes proposed to schedule 4 of the 1978 legislation. He must not speak to the last debate which was concluded.

Mr. Maclennan: The changes are being made to the 1978 Act, but they relate directly to jury trials and non-jury trials. It seemed that I could comment in passing on the general principle which the right hon. and learned Gentleman supported in his speech on this order. I do not seek to do more than that. I seek briefly and cogently to point out that the reason why we must stick to the Diplock trials and cannot move towards descheduling on a larger scale is that there is no guarantee of justice being done and jurors not being intimidated in the present position.

How do the Government view the difficulty of descheduling? It is not entirely clear from the nature of an offence whether it is associated with terrorism, for example a bank may be broken into to enrich the robber or to finance the IRA. It must be extremely difficult on the face of it to determine whether it is a terrorist offence which it would be appropriate to schedule, or whether it is not and appropriate for the Attorney-General to deschedule. It must be necessary for the Attorney-General to err on the side of assuming that offences capable of being terrorist offences are such.

Our anxieties about the continuance of the Diplock courts is to some extent alleviated by information which the Solicitor-General gave in tonight's debate and in the summer, in which he pointed out that the rates of conviction in Northern Ireland were not substantially greater for scheduled offences than for unscheduled offences where trials are conducted by juries.

Another point which has been overlooked is that, in trials of scheduled offences, certain additional rights are enjoyed by the accused, including the requirement that the judge give his reasons for his findings of fact as well as his sentence. Secondly, there is an automatic right of appeal against the judge's findings to the Court of Appeal which does not follow in the case of unscheduled offences.

These balancing factors, in my view, are reasons why it is right to move with caution towards descheduling. I hope that that view is shared by the Government. I think that the alliance would accept the reasons which were advanced by the Minister in opening the debate for not proceeding further or faster, and for rejecting those recommendations of Sir George Baker which he indicated the Government did not accept.

12.6 am

Mr. Ernie Roberts (Hackney, North and Stoke Newington): I have a few observations only which I make because I understand that there is unlikly to be a Division at the end of the debate.

I am opposed to the so-called temporary seven-year old Northern Ireland (Emergency Provisions) Act 1978. Even with the amendments proposed, it will not comply with the European convention on human rights. Furthermore, it will still not compare with the level of justice which exists in this part of Britain. I am advised that the Government are proposing these amendments based on the fact that they were the sort of amendments recommended by the Baker review.

However, Baker also put forward some other important recommendations for the Government to put into effect to make the Act a little more just. Among those was that the power of internment should be totally removed from the statute book. It was also recommended that all arrests should be on the basis of reasonable suspicion and not just suspicion; the army's powers of arrest should be confined to terrorist-type offences, the initial onus for opposing bail should be on the prosecution, and bail should be automatic for anyone held on remand for more than 12 months without committal for trial. Furthermore, confessions obtained by violence or the threat of violence should be inadmissible in court. Baker recommended that a limit should be placed on the number of defendants in any one trial. I maintain that the amendments so suggested will not make the emergency powers legislation any more just than it is at present.

Mr. Stuart Bell (Middlesbrough): This is the expurgated version of the speech that I might have made but for the lateness of the hour and courtesy to the House.

I welcome to our debate my hon. Friend the Member for Hackney, North and Stoke Newington (Mr. Roberts). I listened with interest to his brief remarks.

We waited with some eagerness to hear the hon. Member for Caithness and Sutherland (Mr. Maclennan). I had hoped to hear a definitive description of the alliance position which would have been of some assistance to the people of Northern Ireland. I regret that the message from

the hon. Gentleman is that the people of Northern Ireland have nothing to hope from the SDP/Liberal alliance other than half-baked, half-thought out, ill-advised and ill-conceived ideas. I am sure that that message will be clear.

The order extends the list of so-called scheduled offences in schedule 4 of the 1978 Act. They are not to be treated as scheduled offences unless the Attorney-General so certifies. As my right hon. and learned Friend the Member for Warley, West (Mr. Archer) said in his short but cogent speech, the order does not go far enough, but earlier the Secretary of State said that he would take into account the wider and more positive recommendations in the Baker report and that legislation would be introduced in this Parliament.

The Opposition do not intend to divide the House on this order.

12.13 am

Mr. Scott: With the leave of the House, may I say that we have covered briefly some interesting matters.

I must tell the hon. Member for Hackney, North and Stoke Newington (Mr. Roberts) that the order has to be seen against the background of the Government's declared intention further to implement the Baker recommendations by introducing legislation in this Parliament, as the hon. Member for Middlesbrough (Mr. Bell) recognised. We were conscious that this limited progress could be made through an amending order without primary legislation. We thought it right to demonstrate the Government's commitment and to respond to pressures by taking this modest step. The Government are determined to legislate further during this Parliament.

The Northern Ireland (Emergency Provisions) Act if fully consistent with the European convention on human rights and the United Nations international covenant on civil and political rights. It is a distortion to imply that it is not.

The hon. Member for Caithness and Sutherland (Mr. Maclennan) mentioned the distinction between different types of robbery. We have come to the conclusion that there is a difficulty in deciding, when firearms are used to rob a bank or post office, what the motive is—whether it is for paramilitary purposes or for private gain. To give the Attorney-General the power to decide whether it was a terrorist or domestic offence before the case comes to trial would prejudice the trial and we decided not to go down that road. But I have noted the hon. Gentleman's comments.

I am glad that the right hon. and learned Member for Warley, West (Mr. Archer) agrees that this order is a modest step in the right direction. I commend it to the House.

Question put and agreed to.

Resolved,

That the draft Northern Ireland (Emergency Provisions) Act 1978 (Amendment) Order 1985, which was laid before this House on 14th November, be approved.

Orders of the Day

CROWN AGENTS (AMENDMENT) BILL

Order for Second Reading read.

Motion made, and Question put forthwith, pursuant to Standing Order No. 69 (Second Reading Committees), That the Bill be now read a Second time.

Question agreed to.

Bill accordingly read a Second time, and committed to a Standing Committee pursuant to Standing Order No. 42 (Committal of Bills).

Crown Agents (Amendment) Bill [Money]

Queen's Recommendation having been signified—

12.14 am

The Minister for Overseas Development (Mr. Timothy Raison): I beg to move,

That, for the purposes of any Act resulting from the Crown Agents (Amendment) Bill, it is expedient to authorise any remission of interest on the commencing capital debt of the Crown Agents for the period 1987-1991; and in this resolution "commencing capital debt" has the same meaning as in the Crown Agents Act 1979.

The money resolution is straightforward. It reflects the narrow and specific purpose of the Crown Agents (Amendment) Bill on which we had a full debate in Second Reading Committee last month. There is nothing of substance that I can add, and I commend the resolution to the House.

12.15 am

Mr. Stuart Holland (Vauxhall): I do not want to unduly detain the House at this hour, but issues were raised in Committee concerning the special estates of the staff of the Crown Agents pensions division at East Kilbride. The Minister assured us that he would seek to settle the matter by the end of December. Has he done that? If he has not, why not, and when can we expect a decision? We are prepared to anticipate that we shall get a better decision by waiting, but the Minister will appreciate the great anxiety of staff about their future and we should like to know when there might be a decision.

Mr. Raison: With the leave of the House, I should like to reply. I am afraid that I have to tell the hon. Gentleman that the matter is still under consideration. We have not yet been able to make a decision and I cannot say what the likely outcome will be. I realise the need to get on with it. I also realise that there is interest in it in East Kilbride.

I am anxious that we should make a decision as soon as possible. It has proved quite a complex matter—there are several interests that have to be taken into account, including the interests of my Department that pensions work is most effectively done, the interests of the Crown Agents and the interests of those concerned. I assure the hon. Gentleman that we are keen to get the matter settled as soon as possible, and I shall do all that I can to that end.

Question put and agreed to.

Urban Deprivation (Liverpool)

Motion made, and Question proposed, that this House do now adjourn.—*[Mr. Peter Lloyd.]*

12.15 am

Mr. Robert Parry (Liverpool, Riverside): I am pleased to have this opportunity to raise the subject of urban deprivation and housing problems in the inner-city areas of Liverpool.

In the debate initiated by the Opposition on a Supply Day on 11 December, I sat in the Chamber for more than five hours without being called. the debate covered the increasing poverty and deprivation in our inner-city areas and the Government's failure to deal with the serious pproblem of widespread disrepair in urban areas, the need to regenerate Britain's cities and the need to reverse the deliberate reduction of rate support grant and investment in housing which is leading to a major housing crisis and more homelessness among the more unfortunate members of our society.

I do not apologise for detaining the House so late, as I want to put on record my views and the problems facing my constituency and inner-city areas in Liverpool. According to figures supplied by the House of Commons Library, the estimated level of male unemployment in my constituency is 41 per cent. That is the highest in Great Britain, not just on the mainland. Of that number, 40 per cent. are under 25 and 61 per cent. have been unemployed for more than one year. Of the under-25s, 47 per cent. have been unemployed for more than 52 weeks. In areas such as Vauxhall, Everton and Toxteth, the true figure is well over 50 per cent.; more than one in every two people is on the dole and the scrap heap cannot be tolerated in any caring or civilised society or by any Government, including this most heartless and cruel one. The tragedy of long-term unemployment, especially among youth and white people is bad enough, but it is far more serious among black youth in Toxteth and other inner-city areas such as Handsworth, Brixton, Tottenham and Moss Side, which have witnessed horrific riots, violence and civil disturbances.

The Merseyside Manpower Services Commission has recently published a survey on ethnic minorities which shows that a disproportionate degree of unemployment is experienced by the black population of Liverpool and that, on average, black people need to be submitted for 25 vacancies before finding a job as compared to 15 for white people. I suggest that the figures are on the conservative side and can be multiplied throughout our urban areas. Mass long-term unemployment is, I believe, the major root cause of discontent in our inner-city areas.

I shall now consider the critical housing situation. I firmly believe that the right to life is the first basic human right but that the right to work and live in dignity with a roof over one's head follows closely behind. The right hon. Member for Wanstead and Woodford (Mr. Jenkin), when he was Secretary of State for the Environment, and the hon. Member for Eastbourne (Mr. Gow), when he was the Minister for Housing and Construction, visited my constituency, at my request, and both publicly stated after that they saw some of the worst housing they had ever seen. In spite of seeing pre-war slum tenements and appalling tower blocks, like the infamous "Piggeries" and the "Ugly Sisters", their response was to cut further Liverpool's allocation for the housing investment programme. The cuts have averaged 15 per cent. each year since 1979. Last year, Liverpool bid for £132 million to deal with its critical housing problems but was given only a miserly £31 million.

Then there were the central Government's cuts and the dereliction of responsibility by the Liberal-Tory coalition on the city council: few houses were built for rent for nearly a decade, the maintenance and repair departments were deliberately run down with job losses and the repair backlog reached epidemic proportions — the elected Labour city council, on a mandate given to it by the Liverpool people in two successive elections, kept its promise. It embarked on a crash programme of demolition of the old pre-war slum tenements and rat-infested tower blocks, maintenance of jobs within the council and provision of services. For that initiative, the democratically elected councillors will later this month face a court threat. This action may banish them from public office and make them bankrupt and even face imprisonment.

I have always supported the city council. I salute its brave councillors, its men of honour. Most of the 17 priority areas which are designated to be built in Liverpool are in my constituency. This is the most imaginative house-building programme in Britain. Where there were old slums, there are new building programmes. People are moving out of the slums to semi-detached houses and bungalows. There is sheltered accommodation for the aged and disabled. People, sometimes for the first time in their lives, are in a house with a garden in the back and front. I know people who are grandparents and great-grandparents who moved out of Victorian dwellings into the pre-war tenements and have never had a house. For the first time, they have a house in the community with a garden at the back and front. They are very happy about this.

According to the official figures, Liverpool, Riverside has 19·5 per cent. owner-occupiers compared with 55·7 per cent. for Great Britain. Rented council accommodation in the area is 53 per cent. compared with 31 per cent. nationally. On overcrowding, 8·5 per cent. of households in Riverside have more than one person per room, which is nearly twice the national average of 4·3 per cent. This is the highest in the north west. The last census shows that 6·2 per cent. of households in Riverside lacked or shared the use of a bath, which is nearly twice the British average of 3·2 per cent.

I must declare an interest in that I am a sponsored member of the Transport and General Workers Union and a member of its construction branch. Liverpool, despite its house-building programme, still has a waiting list of more than 20,000 people. It has the highest unemployment level in the construction industry in the United Kingdom.

It is crazy that, in areas of mass unemployment in the building industry and where there is a dearth of good housing, we witness the Government robbing the city of badly needed resources and finance. The "Group of Eight" in the construction industry, of whom the national secretary of my trade union, Mr. George Henderson, is one, has lobbied the Prime Minister, without success. Recently, the chairman of the Association of Metropolitan Authorities housing committee stated that it would need an injection of £19 billion just to keep the present housing stock in both the private and the public sector in a decent state of repair. In Liverpool alone, for every £1 spent on housing in 1979, when the Conservatives first came to

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From: THE PRIVATE SECRETARY

cc PS

NORTHERN IRELAND OFFICE
WHITEHALL
LONDON SW1A 2AZ

Charles Powell Esq
10 Downing Street
LONDON SW1

14th January 1986

Dear Charles,

... I enclose a copy of a paper prepared in Belfast which summarises current political developments in Northern Ireland, as background to the minute sent by Mr King to the Prime Minister on 11 January. It may be relevant to those preparing for the meeting now planned for Thursday 16 January.

I am sending copies of this letter and of the enclosure to the Private Secretaries of the Lord President, the Foreign and Commonwealth Secretary, the Home Secretary, the Defence Secretary, the Lord Privy Seal, the Chancellor of the Duchy of Lancaster, the Chief Whip and Sir Robert Armstrong.

Yours Sincerely
Neil Ward.

N D WARD

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E.B

ANGLO-IRISH AGREEMENT - REACTIONS IN NORTHERN IRELAND

1. This paper attempts to record and analyse the various reactions in Northern Ireland to the signing of the Anglo-Irish Agreement on 15 November. It does not draw any conclusions, other than that opposition to the Agreement among the protestant community is deep-rooted and that the process of healing will be protracted. There is a general perception throughout the Province that the rules of the political game have largely been rewritten. Even those people - and they are few - who are indifferent to the consequences of the Agreement nevertheless acknowledge its significance. It is still too early to predict with confidence whether the opposition of the majority community will manifest itself in more widespread violence as constitional means are seen to prove ineffective; or when the support for the Agreement of the minority community will be demonstrated in positive political gestures by their constitutional leaders.

The Media

2. Of the Belfast daily newspapers, the Newsletter (protestant) traditionally reflects the view of the unionist establishment and has actively contributed to the articulation of unionist opposition to the Agreement. Regular double page features in the paper have appeared under a representation of the Union Flag and the heading "The Union Crisis". Some wild stories about the Conference and its deliberations have been carried uncritically, including allegations that the RUC were about to be issued with Garda-style uniforms, and that television weather forecasts were in future to cover the Republic as well as Northern Ireland. The Newsletter's editorials have been consistently implacable in their treatment of the Agreement. The whole scheme is 'devious' or 'pernicious', and the accord, 'conceived in duplicity, delivered in treachery and wrapped in barbed wire', has as its purpose 'to enslave and ensnare the unionist people'.

3. The widely-read Belfast Telegraph, traditionally a moderate and non - sectarian voice calling for restraint and common sense, reacted initially to the Agreement with considerable vehemence and has since given the Agreement a very cool reception, criticising the secrecy surrounding the Anglo-Irish negotiations and the Government's disregard

of the unionists' position. The fact that even the Telegraph feels obliged to publish editorials opposing the Agreement indicates the breadth and depth of concern which exists within the unionist community. The Telegraph has however sternly criticised unionist violence during public demonstrations against the Agreement, and has acknowledged that the unionists must provide constructive proposals for political development.

4. The Irish News (catholic) has predicatably welcomed the Agreement supporting the SDLP's line uncritically and urging unionists to give the Agreement a chance to prove its worth.

The Churches

5. Church leaders in Northern Ireland have always shown a much greater willingness to make public statements on political issues than their colleagues in Great Britain, and their views are more influential. The Presbyterian Moderator, in a statement agreed within the Church's governing body only hours after the signing of the Agreement, criticised it for eroding 'the sovereignty of the Westminster Parliament in this part of the United Kingdom' and for having been 'imposed without consultation with and the support of the majority'. This statement was publicly criticised by a small group of Presbyterian clergymen as having been issued too hastily and not genuinely reflecting the feelings of all members of the Church. They said that they were 'unhappy at the manner in which it was dismissed'. The Moderator's own position appeared to mellow, if only marginally, following his meeting with the Prime Minister on 12 December.

6. The Church of Ireland Bishops stated their concern that major decisions had been taken in secret and without adequate consultation, but acknowledged that the Agreement was 'an attempt to deal with long-standing political and community divisions' and urged that consideration of the Agreement should be carried out without 'inflammatory words or actions'. It seems likely that this more moderate reaction, which nevertheless falls well short of support for the Agreement, is the result of the influence of the Southern Bishops, who are numerically superior, over their Northern colleagues who remain generally opposed. The Methodist Church, traditionally the most reticent and least given to public utterances, issued a statement not dissimilar to that from

the Church of Ireland, recognising that the Agreement was 'a serious attempt to tackle the political impasse' but regretting the Government's failure to consult unionist opinion. The statement acknowledged the 'full right and obligation' of those who felt so moved to voice their opposition to the Agreement, and called on the SDLP to make some gestures, such as acceptance of the security forces, to demonstrate that the unionists could gain from the Agreement. This considered statement contrasted with the somewhat wild reaction of the Methodist President immediately after the Agreement was published when he stated that to expect protestants to accept the Agreement was like asking Jews to eat pork.

7. The Catholic Church has naturally welcomed the Agreement but has warned the nationalist community of the dangers of triumphalism. Bishop Cahal Daly, the Roman Catholic Bishop of Down and Connor, will however have incensed unionists with a recent statement in which he said that the planned by-elections would prove nothing 'except that unionists are unionists; and the world knows that already. Marches will prove nothing except that unionists are determined to remain unionists; and no-one can be in any doubt about that'.

Political Parties

8. Unionist opposition to the Agreement has been marshalled and orchestrated largley by Mr Molyneaux, leader of the Ulster Unionist Party and Dr Paisley, leader of the Democratic Unionist Party, and their respective lieutenants. Despite some differences of style and emphasis the current solidarity of the two parties is unprecedented since the advent of the DUP. Even before the Agreement there were clear signs that the parties were coming together first in opposition to Sinn Fein and latterly in anticipations of an Anglo-Irish settlement. Mr Molyneaux and Dr Paisley, who are not normally considered good friends and who sit on opposite benches in the House of Commons, have shared numerous platforms since 15 November; and although Dr Paisley may have stolen the limelight through force of personality, stature, or voice, they have both delivered the same message of uncompromising opposition to the Anglo-Irish Agreement.

9. Both leaders have made it clear that they wish to use constitutional

means to demonstrate their opposition, and Mr Molyneaux particularly has been embarrassed by and quick to condemn outbreaks of violence by those demonstrating under the unionist flag. Nevertheless small elements of the crowd were able to exploit the two recent demonstrations at Maryfield in East Belfast by resorting to violence against the RUC despite the presence and pleas of their political leaders. Some prominent unionists have been less emphatic in condemning outbreaks of violence, seeing them as the inevitable consequence of the strength of feeling which the Agreement has aroused. They have hinted that once the forthcoming by-elections have taken place and all the constitutional avenues of opposition are exhausted, other leaders more prepared to espouse less acceptable methods may come to the fore. (The constitutional methods employed so far have included the suspension of business in all unionist-controlled District Councils; a boycott by unionist elected representatives on all statutory bodies and of all contact with NIO Ministers; and suspension of the normal business of the Northern Ireland Assembly and the establishment of an Assembly 'Grand Committee' to scrutinise the terms of the Agreement in the minutest detail).

10. It is interesting that some unionist leaders have put forward surprising alternatives as preferable to the Agreement. Mr Harold McCusker/UUP MP for Upper Bann, the currently ex-, has implied that even some form of power-sharing in a devolved administration in Northern Ireland would be better than allowing the Irish Government to have a formal role in the Province's affairs. Mr Frank Millar, UUP Secretary, has acknowledged that an independent Northern Ireland cannot be ruled out (although the united unionist front have firmly rejected any such idea).

11. The united unionist opposition is certain to continue after the 15 by-elections on 23 January which are seen as a necessary part of their campaign to show the depth of feeling of the majority to the Sovereign Parliament. The coherence of this alliance will however be called in question if constitutional methods are exhausted and demands for a more violent approach surface.

Loyalist Paramilitaries

12. The unionist leadership have been anxious to harness the support

of loyalist paramilitaries, not least to avoid maverick activity by less controllable elements. There have been no loyalist paramilitary incidents since the signing of the Agreement and although paramilitaries have been present at loyalist rallies there is no proof that they were responsible for the acts of violence which took place. A number of groups of loyalists have been established throughout the Province under the banner of the United Ulster Loyalist Front, with a wide spread of paramilitary involvement. These so-called 'Ulster Clubs' originate from opposition to interference with traditional protestant marches in Portadown in July 1985. They are designed to attract a wide cross-section of the protestant community and to act as a rallying point for co-ordinated opposition from all loyalist groupings, such as the Orange Order and the Apprentice Boys.

Alliance Party

13. The moderate non-sectarian and pro-union Alliance Party had some difficulty in distilling a coherent policy on the Agreement, and although a substantial majority eventually endorsed the generally supportive, though not entirely uncritical line advocated by the Party Leader, Mr John Cushnahan, many members of the Party still have reservations.

The SDLP

14. The SDLP's reaction to the signing of the Agreement has appeared naive and lacking in assurance. Despite the clearly satisfactory outcome from their point of view of negotiations in which they were able to play a significant part, their public posture has been deliberately muted while they await developments on the work and results from the Intergovernmental Conference. Somewhat worryingly, they do not seem to be paying much attention to the determined unionist opposition to the Agreement. Their preoccupation is now to make the Agreement work and to see off the challenge of Sinn Fein in the 23 January by-elections (the SDLP is only contesting those 4 seats in which Sinn Fein has candidates). Thus they see no need to placate unionist opinion by reaffirming their commitment to devolved Government in Northern Ireland or, even after seeing the two riots outside Maryfield in which over 50 policemen were injured, by demonstrating unambivalent support for

the RUC. The deputy leader of the SDLP, Seamus Mallon (now contesting the marginal Newry and Armagh Parliamentary constituency) who is also the party's spokesman for security matters, has continued to make statements highly critical of the security forces in general and the UDR in particular, the effect is likely to be still further to inflame unionist opinion.

Sinn Fein

15. Sinn Fein, while condemning the Agreement for entrenching partition, have been disingenuously quick to claim credit for their part in what has so far been achieved. They see a need to maintain their support in the nationalist community particularly for the by-elections. The Provisional IRA has shown its own determination to continue the struggle by a series of major and effective attacks on RUC stations, particularly in border areas, which have served not only to arouse unionist anger but also to cast doubt on the effectiveness of cross-border security co-operation, one of the major objectives of the Agreement.

The Public

16. Opposition to the Agreement amongst the protestant community remains very solid, and of those who do not actively oppose the Agreement the vast majority are extremely unhappy about it. The figure of over 100,000 people demonstrating outside the City Hall in Belfast on 23 November represents some 10% of the entire protestant population. Only a few are indifferent or resigned to the Agreement, and fewer still can be said positively to support it. Many people who have always claimed no interest or involvement in politics have begun to express views. Many misconceptions remain - that the status of Northern Ireland has changed, that the consultative role played by the Irish Government is not balanced by any role for the UK Government in matters affecting the Republic, that the Secretariat is a complaints bureau for the nationalist community and that the position afforded to the SDLP by the Dublin Government has stood on their head all the normal rules and conventions of democracy. If some of these misunderstandings can be corrected - and this will only be achieved with difficulty - the Agreement may gradually win more acceptance.

Prospects

17. At present unionist leaders are clearly conscious of the danger of allowing the more extreme elements amongst those opposed to the Agreement to display their opposition in unconstitutional and unacceptable ways. If after the 23 January by-elections the unionist parties find that their policy of non-co-operation with Government is having no effect, and merely isolating them still further from public opinion in the United Kingdom and beyond, they may be forced to reconsider and to enter into some sort of discussion with Ministers. It is clear, however, that a very long and slow process of healing is needed.

IRELAND
RELATIONS
PT 13

CF. PT. file CR.

10 DOWNING STREET

cc P. Yes ok -
N.I. Meeting.

The following can attend on Wed. 15 Jan at 11.30:-

S/NI
Ld Pres
Ref
LRJ
EW
HHS
RTA
PDet.

The Ref. will be in the Emly. Can the FO. send a Minister?

CR.

P.T.O.

Ray all want
to know what
it's about.

Will you
be circulating
a paper?