



RESEARCH PAPER 98/57

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Northern Ireland: political developments since 1972

This paper looks at the legal constitutional, and electoral framework of Northern Ireland, and provides a chronology of events in the political and constitutional arena since 1972. It also gives statistics on casualties connected with civil disturbances, strength of the security services, and votes cast at Northern Ireland elections since 1972. Finally it gives a brief description of the *Belfast Agreement* of 10 April 1998. See Research Paper 98/11 *Public Processions in Northern Ireland* for an outline of the current public order legislation in Northern Ireland.

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Summary

The creation of the Irish Free State in 1922 left Northern Ireland, as defined in the *Government of Ireland Act 1920*, within the United Kingdom. Its legislature and executive functioned under the 1920 Act provisions until in the late 1960s the advent of the 'Troubles' brought devolved government to an end. Direct Rule from Westminster was imposed in 1972, and the Stormont Parliament abolished in the *Northern Ireland Constitution Act 1973* which provided for a new Assembly and a power-sharing Executive. The Sunningdale Agreement of December 1973 proposed a Council of Ireland, but there was growing Unionist opposition and in the *Northern Ireland Act 1974* the province returned to Direct Rule. There followed a succession of initiatives, including the *Northern Ireland Act 1982* which created a new Assembly (which lacked Nationalist support) and the *Anglo-Irish Agreement 1985* which attempted to entrench the status of Northern Ireland within the United Kingdom as long as its people preferred this and to give the Republic of Ireland a mechanism to represent its views on aspects of Northern Ireland. This Agreement was opposed by the Unionists.

The Three Strand Talks were launched in March 1991, but made no substantive progress before the Downing Street Declaration of December 1993, which devised a framework of an overall settlement. An IRA ceasefire came on 31 August 1994, followed by a loyalist paramilitary ceasefire. There were concerns over the likelihood of paramilitary decommissioning of weapons and an international body, the Mitchell Commission reported in January 1996. On 9 February 1996 the IRA ceasefire ended, but preparation for all-party talks continued in the *Northern Ireland (Entry to Negotiations) Etc Act 1996*. Elections were held on 30 May 1996 for representatives to the substantive all-party talks and for a new Northern Ireland (deliberative) Forum. Sinn Fein was not admitted to the talks until September 1997, following a new IRA ceasefire on 19 July 1997.

The *Belfast Agreement* of 10 April 1998 concluded the all-party talks; it proposed an overall settlement of the constitutional position of Northern Ireland with new legislation by both the UK and Irish governments, a new Northern Ireland Assembly, a new North/South Ministerial Council, a new British-Irish Council to bring together representatives from devolved administrations and the two governments, and a new British-Irish Agreement to replace the 1985 *Anglo-Irish Agreement*. The *Belfast Agreement* is to be subject to a referendum on 22 May 1998 in both Northern Ireland and the Republic. If there is agreement in both referendums a new Assembly will be set up following elections to be held under the *Northern Ireland (Elections) Act*. This Act completed its passage through the Lords on 7 May 1998. It completed its Commons stages on 22 April 1998.

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Part I Northern Ireland - the legal and constitutional framework

A. The Genesis of Northern Ireland in UK Law

1800 Union with Ireland Act. Article 1 enacted that the kingdoms of Ireland and Great Britain would, from January 1st 1801 and 'forever after, be united into one kingdom, by the name of the United Kingdom of Great Britain and Ireland'. The Irish Parliament was dissolved, and 100 seats were provided for Members representing Ireland at Westminster.

1914 Government of Ireland Act. This was passed on 18 September providing for the establishment of a bicameral Irish Parliament, but subject to Westminster's sovereignty. No special provision had been made for Northern Ireland. A simultaneous Suspendory Act was passed suspending the operation of the Act for the duration of the First World War. The Act never came into operation and was repealed by the 1920 Act (see below).

1920 Government of Ireland Act. This Act provided for a Parliament and government for the six-county unit of Northern Ireland and a separate Parliament for the remaining twenty six counties. Both Parliaments were to possess the power to legislate for the peace, order and good government of the area under their jurisdiction subject to certain exceptions. Both Parliaments were to be subject to the sovereignty of the Parliament at Westminster. The Act also provided for reduced representation of the Irish electorate at Westminster. There was to be a common High Court of Appeal with final appeal to the House of Lords and a Council of Ireland to consist of twenty representatives each from the Northern and Southern Ireland Parliaments. The Act envisaged an expansion of role for this Council to become one Parliament for the whole of Ireland. However, attempts to put the Act into operation in Southern Ireland failed, and the Act instead formed the basis of Northern Ireland's constitution until 1972. The Council of Ireland was never put into operation and the common High Court of Appeal was wound up after only a few months.

1921 Articles of Agreement for a Treaty (The Treaty) signed between the British Government and representatives of Sinn Fein was given force in the Irish Free State (Agreement) Act 1922. The schedule set out the Articles of the Agreement for a Treaty. Article 1 gave 'Ireland' the name of the Irish Free State but Article 12 provided for an Address to be presented to the King within one month of the passing of the Act 'The 'Ulster Month', by both Houses of the Parliament of Northern Ireland, requesting that the powers of the Irish Dominion Parliament and Government should not longer extend to Northern Ireland. Were the Address to be presented the Government of Ireland Act would continue in full force and effect for Northern Ireland. The Address was presented on 8 December 1922 to King George V.

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1922 Irish Free State (Consequential Provisions) Act provided that the Government of Ireland Act 1920 ceased to apply to any part of Ireland apart from Northern Ireland. Thus S.75 of the 1920 Act was amended to state that the "supreme authority of the Parliament of the United Kingdom shall remain unaffected and undiminished over all persons, matters and things in [Northern Ireland]".

1925 Ireland (Confirmation of Agreement) Act transferred those powers intended for the Council of Ireland in the 1920 Act to the Parliament and Government of Northern Ireland. This Act also wound up the Boundary Commission devised in the 1921 Treaty to settle the border question and Northern Ireland's boundaries remained as fixed in the Government of Ireland Act 1920.

B. The Boundaries of Northern Ireland

The Government of Ireland Act 1920 provided for a Parliament and government for a six county unit of Antrim, Armagh, Down, Fermanagh, Londonderry and Tyrone S.I.(2) reads as follows:

(2) For the purposes of this Act, Northern Ireland shall consist of the parliamentary counties of Antrim, Armagh, Down, Fermanagh, Londonderry and Tyrone, and the parliamentary boroughs of Belfast and Londonderry, and Southern Ireland shall consist of as much of Ireland as is not comprised within the said parliamentary counties and boroughs.

Attempts to put the Government of Ireland Act into operation in Southern Ireland failed (see above). The Articles of Agreement for a treaty (known as the Treaty) reached between the Government of Lloyd George and Sinn Fein and given the force of law in the United Kingdom by the *Irish Free State (Agreement) Act 1922*, provided under Article 12 for an Address to be presented to the King within one month of passing of the Act requesting that the powers of the Irish Dominion Parliament and Government be not extended to Northern Ireland. Article 12 also stated that if this Address were made a Boundary Commission would be set up to 'determine in accordance with the wishes of the inhabitants, so far as may be compatible with the economic and geographic conditions, the boundaries between Northern Ireland and the rest of Ireland'. After a refusal from the Northern Ireland Government to participate in the Commission, the Commission finally began its work in December 1924. The Irish Free State had hopes of a very favourable re-definition of the boundaries, but when some draft proposals were leaked to the *Morning Post* on 7th November 1925, showing only minimal gains, and some losses of territory for the Irish Free State, there was a furore in the Free State, and the Chairman of the Commission resigned. Subsequently, the British Northern Ireland and Free State Prime Ministers agreed to withdraw the report and not to publish it. Instead the three governments agreed that the extent of Northern Ireland be as laid down in SI(2) of the 1920 Act, and this was enacted in the *Ireland (Confirmation of Agreement) Act 1925* which amended the Articles of Agreement and the *Irish Free State (Agreement) Act 1922* by revoking the powers conferred by Article 12 on the Boundary Commission. The Irish Free State confirmed its acceptance of the 1920 Act boundaries by its *Treaty (Confirmation of Amending Agreement) Act 1925*. However, the question of the extent of the territorial waters of the south remained

unsettled until the 1970s.¹ The 1920 definition of the extent of Northern Ireland continues to be cited, for example, s.43 of the *Northern Ireland Constitution Act 1973* stated that 'Northern Ireland' has the same meaning as for the purposes of the *Government of Ireland Act*. However Article 1 of the 1925 boundary agreement referred to the extent of Northern Ireland as fixed by the 1920 Act² and the effect of that agreement is not dependent on the legislation remaining in force. In international law terms the territorial extent of a state is boundaries is dependent on custom and precedent as well as agreement.

C. Northern Ireland - Representation at Westminster

The 1920 Government of Ireland Act reduced Ireland's representation at Westminster from 105 MPs to 46 (13 from the six counties). It made provision for the continued representation of both parts of Ireland at Westminster. The arrangements for the south were, however, superseded by the Treaty of 1921 and *The Irish Free State (Agreement) Act 1922* provided for the 13 Northern Ireland MPs only to sit at Westminster. This number was reduced to 12 after the abolition of university seats in the *Representation of the People Act 1948*. The rationale behind the choice of 13 remains obscure.³ In the Act of 1914, Ireland was given 42, whereas on a population basis the number would have been more like 64. The then Chief Secretary to Ireland, Mr Macpherson said during proceedings on the 1920 Act 'the number 42 was selected [in the 1914 Act] not on any logical principle, but as a sort of adjustment to meet circumstances that might arise in future including devolution'.⁴ The 1920 Bill originally proposed 42 seats but the numbers were increased following the addition of university members to 46. The question of numbers was not discussed in depth during the proceedings on the 1920 Act, the argument mainly being about whether there should be any at all, or whether those who sat for Ireland should be allowed full speaking or voting rights.

The 1944 Redistribution of Seats Act set a statutory limit on the number of Northern Ireland seats at Westminster confirmed by the 1948 Act at 12. Following the introduction of Direct Rule of Northern Ireland, the question of the under-representation of Northern Ireland at Westminster arose. The Royal Commission on the Constitution⁵ recommended an increase to 17 seats, and pressure increased with the announcement of the start of the Third General Review of parliamentary constituencies in 1976 and the slim Government majority in Parliament. In July 1977, The Speaker announced that he had agreed to preside over a Conference in Electoral Law.⁶

¹ D.P.P. v McNeill 1975 NI.177

² this agreement was confirmed in the *Ireland (Confirmation of Agreement) Act 1925*

³ See Research Paper no. 98/2 *The Scotland Bill: Some Constitutional and Representational Aspects*

⁴ HC Deb 29/3/1920 c94

⁵ Kilbrandon Report Cmnd 5460

⁶ HC Deb 19/7/77 c13 79

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The Speakers Conference reported in February 1978⁷ recommending that the number of constituencies be increased to 17, and the Boundary Commission should be given a degree of flexibility to overcome practical difficulties, and the Commission be given powers to vary the number of constituencies from a minimum of 16 to a maximum of 18. These proposals were given statutory effect in the *House of Commons (Redistribution of Seats Act 1979)*, subsequently consolidated in the *Parliamentary Constituencies Act 1986*. The number of seats increased from 17 to 18 at the 1997 election, following recommendations from the Parliamentary Boundary Commission for Northern Ireland in its fourth general review.⁸

The Act of Union 1800 had provided for the election of twenty eight representative peers to sit in the House of Lords for life. *The 1922 Free State Act* had abolished the Lord Chancellorship of Ireland, the post responsible for administering the election of peers and no elections were held after 1922, but the remaining representative peers continued to sit. The last representative peer died in 1961. In 1966 the Committee of Privileges of the House of Lords ruled that the provisions of the Act of Union had ceased to be effective on the passing of the 1922 Act.⁹ The relevant Articles of the Act of Union were repealed in 1971 in the *Statute Law (Repeals) Act*. The House of Lords Committee for Privileges examined the issue again in its report on the Barony of Farnham,¹⁰ but declined the petition for a writ of summons.

D. Northern Ireland's constitutional guarantees

The constitutional position of Northern Ireland as an integral part of the UK is derived from the *Act of Union 1800*. In addition, the *1949 Ireland Act* passed after Eire left the Commonwealth and became a Republic declared in S1(2):

(2) It is hereby declared that Northern Ireland remains part of His Majesty's dominions and of the United Kingdom and it is hereby affirmed that in no event will Northern Ireland or any part thereof cease to be part of His Majesty's dominions and of the United Kingdom without the consent of the Parliament of Northern Ireland.

The *1973 Northern Ireland Constitution Act* abolished the Parliament of Northern Ireland and consequentially a new form of guarantee about Northern Ireland's constitutional status was required as set out in S.1:

Status of Northern Ireland

Status of Northern Ireland as part of United Kingdom	1. It is hereby declared that Northern Ireland remains part of Her Majesty's dominions and of the United Kingdom, and as it is hereby affirmed that in no event will Northern Ireland or any part of it cease to be part of Her Majesty's dominions and of the United Kingdom without the consent without the consent of the majority of the people of Northern Ireland voting in a poll held for the purposes of this section in accordance with Schedule 1 to this Act.
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⁷ Cmnd 7110

⁸ Cmnd 2949

⁹ Petition of the Earl of Antrim [1967] IAC961 [1966] 3WLR 1141 HL

¹⁰ HL 85 Session 1994/95

Schedule 1 made provision for polls to be held at intervals of not less than 10 years. A poll was held in March 1973 under the *Northern Ireland (Border Poll) Act 1972* (see p.14), but none have been held since.

It is worth noting that while Section 1 states that Northern Ireland will not cease to be part of the United Kingdom without the consent of the majority of the people of Northern Ireland it does not follow that the status of Northern Ireland would change if the majority expressed that wish in the appropriate statutory form. During the passage of the Northern Ireland (Border Poll) Bill in 1972 Ministers appeared to suggest that if a majority voted for unity with the Irish Republic that wish would be accepted by the UK Government.¹¹ As part of the Belfast Agreement (see Part IV) the draft legislation for the UK sets out an explicit commitment to introduce proposals to Parliament to give effect to a united Ireland if a majority of Northern Ireland people voted for that option. It is simply a majority of those voting which is required not a majority of the entire electorate as in the referendums in Scotland and Wales in 1979.¹²

The Anglo Irish agreement of November 1985 deals with the status of Northern Ireland in Article 1:

STATUS OF NORTHERN IRELAND

ARTICLE I

The two Governments

- (a) affirm that any change in the status of Northern Ireland would only come about with the consent of a majority of the people of Northern Ireland;
- (b) recognise that the present wish of a majority of the people of Northern Ireland is for no change in the status of Northern Ireland;
- (c) declare that, if in the future a majority of the people of Northern Ireland clearly wish for and formally consent to the establishment of a united Ireland, they will introduce and support in the respective Parliaments legislation to give effect to that wish.

The Downing Street Declaration of December 1993 set out the position of the respective governments as follows:

4. The Prime Minister, on behalf of the British Government, reaffirms that they will uphold the democratic wish of a greater number of the people of Northern Ireland on the issue of whether they prefer to support the Union or a sovereign united Ireland. On this basis, he reiterates, on behalf of the British Government, that they have no selfish strategic or economic interest in Northern Ireland. Their primary interest is to see peace, stability and reconciliation established by agreement among all the people who inhabit the island, and they will work together with the Irish Government to achieve such an agreement, which will embrace the totality of relationships. The role of the British Government will be to encourage, facilitate and enable the achievement of such agreement over a period through a process of dialogue and co-operation based on full respect for the rights and identities of both traditions in Ireland. They accept that such agreement may, as of right, take the form of agreed structures for the island as a whole, including a united Ireland achieved by peaceful means on the following basis. The British Government agree that it is for the people of the island of Ireland alone, by agreement

¹¹ see Mr Whitelaw, HC Deb 21/11/72 c1091

¹² see Research paper 97//61 *The Referendum (Scotland and Wales) Bill*

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between the two parts respectively, to exercise their right of self-determination on the basis of consent, freely and concurrently given, North and South, to bring about a united Ireland, if that is their wish. They reaffirm as a binding obligation that they will, for their part, introduce the necessary legislation to give effect to this, or equally to any measure of agreement on future relationships in Ireland which the people living in Ireland may themselves freely so determine without external impediment. They believe that the people of Britain would wish, in friendship to all sides, to enable the people of Ireland to reach agreement on how they may live together in harmony and in partnership, with respect for their diverse traditions, and with full recognition of the special links and the unique relationship which exist between the peoples of Britain and Ireland.

5. The Taoiseach, on behalf of the Irish Government, considers that the lessons of Irish history, and especially of Northern Ireland, show that stability and well-being will not be found under any political system which is refused allegiance or rejected on grounds of identity by a significant minority of those governed by it. For this reason, it would be wrong to attempt to impose a united Ireland, in the absence of the freely given consent of a majority of the people of Northern Ireland. He accepts, on behalf of the Irish Government, that the democratic right of self-determination by the people of Ireland as a whole must be achieved and exercised with and subject to the agreement and consent of a majority of the people of Northern Ireland and must, consistent with justice and equity, respect the democratic dignity and the civil rights and religious liberties of both communities, including:

- the right of free political thought;
- the right to freedom and expression of religion;
- the right to pursue democratically national and political aspirations;
- the right to seek constitutional change by peaceful and legitimate means;
- the right to live wherever one chooses without hindrance;
- the right to equal opportunity in all social and economic activity, regardless of class, creed, sex or colour.

These would be reflected in any future political and constitutional arrangements emerging from a new and more broadly based agreement.

The British position was set out again in *Frameworks for the Future*¹³ which promised change to the *1920 Government of Ireland Act*:

20. The British Government reaffirm that they will uphold the democratic wish of a greater number of the people of Northern Ireland on the issue of whether they prefer to support the Union or a sovereign united Ireland. On this basis, they reiterate that they have no selfish strategic or economic interest in Northern Ireland. For as long as the democratic wish of the people of Northern Ireland is for no change in its present status, the British Government pledge that their jurisdiction there will be exercised with rigorous impartiality on behalf of all the people of Northern Ireland in their diversity. It will be founded on the principles outlined in the Previous Paragraph with emphasis on full respect for, and equality of, civil, political, social and cultural rights and freedom from discrimination for all citizens, on parity of esteem, and on just and equal treatment for the identity, ethos and aspirations of both communities. The British Government will discharge their responsibilities in a way which does not prejudice the freedom

¹³ February 1995

of the people of Northern Ireland to determine, by peaceful and democratic means, its future constitutional status, whether in remaining a part of the United Kingdom or in forming part of a united Ireland. They will be equally cognizant of either option and open to its democratic realisation, and will not impede the latter option, their Primary interest being to see peace, stability and reconciliation established by agreement among the people who inhabit the island. This new approach for Northern Ireland, based on the continuing willingness to accept the will of a majority of the people there, will be enshrined in British constitutional legislation embodying the principles and commitments in the Joint Declaration and this Framework Document, either by amendment of the Government of Ireland Act 1920 or by its replacement by appropriate new legislation, and appropriate new provisions entrenched by Agreement.

Sinn Fein commented on the *1920 Government of Ireland Act* in its questions to the British Government on the Downing Street initiative in May 1994.¹⁴ S75 formed the centre of their attention, but constitutional experts consider that the purpose of that section is essentially declaratory. Under the terms of the *Belfast Agreement* the UK government have promised to repeal the 1920 Act in its entirety.¹⁵ There is no explicit commitment to repeal the *Act of Union*.¹⁶ as the draft clauses for incorporation into British legislation state "The Government of Ireland Act is repealed and this Act shall have effect notwithstanding any other previous enactment"

E. The Irish constitution

Articles 2 and 3 of the Irish constitution read as follows¹⁷:

Article 2.

The national territory consists of the whole island of Ireland, its islands and the territorial seas.

¹⁴ Dep 10849

¹⁵ The *Irish Times* 27.4.98 "Britain 'ruled out of the equation on North" reported the Taoiseach, Bertie Ahern as stating at the 1916 Easter Rising Commemoration that the Act of Union had effectively been brought to an end between 1920 and 1921 and that the Belfast Agreement made this clear on the North's status. But see Brigid Hadfield in *Public Law 1983* "Learning from the Indians: the Constitutional Guarantee Revisited" for a discussion on the status of the *Act of Union*. Ian Paisley has said "to argue that the Act of Union remains you can dispense with the Government of Ireland Act which brought into being the state of Northern Ireland is nonsensical. In reality is David Trimble seriously arguing that the writ of the 1800 Act of Union still runs through the whole of Ireland?" (DUP website 21.4.98)David Trimble has said that the" Act of Union remains untouched and intact" (UUP website Newsletter *Platform* article 18.4.98. Gerry Adams has stated that the Act of Union will be repealed by the forthcoming British legislation (*Irish Times* 11/5/98)

¹⁶ The *Act of Union* can be seen as fundamental law which could not be repealed by implication; see also clause 35 of the *Scotland Bill* which states that "the *Union with Scotland Act 1706* and the *Union with England Act 1707* shall have effect subject to this Act": the Notes on Clauses explain "it is the Parliament's intention that the provisions in the Bill.. should be given effect notwithstanding anything in the Acts of Union. This sends a clear signal that, in as far as there may be any inconsistencies, the provisions in the Bill are to take priority"

¹⁷ Saorstát Éireann = Irish Free State

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Article 3.

Pending the re-integration of the national territory, and without prejudice to the right of the Parliament and Government established by this Constitution to exercise jurisdiction over the whole of that territory, the laws enacted by that Parliament shall have the like area and extent of application as the laws of Saorstát Éireann and the like extra-territorial effect.

The Preamble to the Constitution identifies the enacting authority as the 'people of Eire'. It is worth noting that this constitution dates from 1937 when the constitution created for the Irish Free State in December 1922 was replaced by a new version drawn up by Eamon de Valera's Government. De Valera had opposed the Treaty with Britain and this opposition led to a brief civil war in the Free State. The 1922 constitution contained an oath of allegiance to the British crown, provided for a Governor-General and contained other references to the Dominion Status of the Free State. Much of the bitterness between pro and anti Treaty forces revolved around the oath of allegiance insisted upon by the British in the Treaty negotiations with the Irish, led by Michael Collins.

After De Valera came to power in 1932 he abolished the oath of allegiance, appeal to the Privy Council, the governor general and all references to the King in the 1922 constitution. The Irish 1936 External Relations Act retained the King as a symbol for external relations. De Valera introduced the new constitution *Bunreacht na hÉireann* to the Dail in March 1937. It proposed a Republican form of Government (without declaring a republic) an elected president of limited powers, and a bicameral government. The chief differences between old and new constitutions were in the incorporation of contemporary Catholic social values (eg. Article 41 prohibiting divorce), special recognition for the Roman Catholic Church (Article 44 deleted after a referendum in 1972) and a strong statement of Irish unity set out in Articles 2 and 3. The new constitution was the subject of a referendum on 1 July 1937. It had been opposed in the Dail by Fine Gael, who saw no need for a new constitution and Labour which wanted an outright declaration of a republic. However, the constitution was approved by 56.5% on a 68.3% turnout.¹⁸ It has been subject to some further amendments through referendums, but the basic principles remain the same as in 1937. Although the British did not favour the constitutional changes, there was some relief that the South was to remain with the Commonwealth. British attention was concentrated more on the refusal by De Valera to meet the financial obligations of the Treaty. In 1948 the Dail passed the *Republic of Ireland Act* replacing the *External Relations Act* and establishing Ireland as a Republic from Easter Monday 1949. Ireland left the Commonwealth; the British legal reaction was the *Ireland Act 1949* affirming the guarantee to Northern Ireland and retaining the legal position that citizens of the Republic were not to be regarded as aliens.

Clause 5 of the agreed communique issued as the Sunningdale Agreement in 1973 read as follows:

5. The Irish Government fully accepted and solemnly declared that there could be no change in the status of Northern Ireland until a majority of the people of Northern Ireland desired a change in that status.

¹⁸ *Referendums around the world* 1994) ed David Butler and Austin Ranney p. 269

The British Government solemnly declared that it was and would remain, their policy to support the wishes of the majority of the people of Northern Ireland. The present status of Northern Ireland is that it is part of the United Kingdom. If in future the majority of the people of Northern Ireland should indicate a wish to become part of a united Ireland, the British Government would support that wish.

The terms were challenged in the courts as being contrary to the Irish constitution. The action failed in the Supreme Court in *Boland v An Taoiseach*.¹⁹ The defendants, Irish Government Ministers, denied that Clause 5 of the communique set out the terms of any agreement between the two governments and claimed that it 'recites and records separate declarations' made by the governments at the Sunningdale Conference. Fitzgerald C J said²⁰:

That brings me to the question whether the communiqué, in particular clauses 5, 6 and 20 thereof, amount to an action by the Government which is beyond its powers and duties. In my opinion, clause 5 of the communique is not capable of being construed as an agreement. It is not so expressed. It is, consequently, clearly distinguishable from clauses 6, 7, 10, 11 and 20 of the communiqué, in each of which "agreement" is stated to have been reached. Clauses 2, 3 and 4 of the communiqué make it perfectly clear that the three parties to the conference were stating their respective distinctive positions in relation to the question of the unity of Ireland. Clause 5 contains declarations by the Irish and British Governments which are clearly distinct and are in no sense an agreement on fact or principle. The only words common to both declarations are "the status of Northern Ireland." If any inference is to be drawn from the method of printing the declarations side by side instead of consecutively, it must be to emphasise the distinction between them. The "status of Northern Ireland" and the acceptance of it is, to my mind, a reference to the *de facto* position of Northern Ireland and to nothing else, and the respective declarations are no more than assertions of the policies of the respective Governments and matters clearly within their respective executive functions.

O Keefe P noted that²¹:

An acknowledgment by the Government that the State does not claim to be entitled *as of right* to jurisdiction over Northern Ireland would in my opinion be clearly not within the competence of the Government having regard to the terms of the Constitution. I cannot presume that the Government would consciously make an acknowledgement of that kind and, accordingly, I accept the view of the Chief Justice that clause 5 represents no more than a reference to the *de facto* position of Northern Ireland coupled with a statement of policy in regard thereto.

Article 1 of the Anglo-Irish Agreement of 1985 seems to have been drafted with Irish constitutional requirements and the *Boland* case in mind. The constitutionality of the Article, which affirmed that a change in the status of Northern Ireland would only come about with the consent of the majority of the people in Northern Ireland was challenged by two Northern Ireland Unionists. In *McGimpsey v Ireland and An Taoiseach*²² the Irish Supreme Court ruled that Articles 2 and 3 reflected a claim as a matter of legal right to the entire national territory, and that Article 1 of the Agreement could only be construed as constituting a recognition of the

¹⁹ (1974) IR 338

²⁰ p.362

²¹ pp.363-4

²² [1990] ILRM 441

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de facto situation in Northern Ireland which did not involve abandoning the claim to re-integration of the whole territory. Finlay CJ, speaking for the Supreme Court said:-

With Articles 2 and 3 of the Constitution should be read the Preamble, and I satisfied that the true interpretation of these constitutional provisions is as follows.

1. The reintegration of the national territory is a constitutional imperative (cf. Hederman J. in Russell v. Fanning).
2. Article 2 of the Constitution consists of a declaration of the extent of the national territory as a claim of legal right.
3. Article 3 of the Constitution prohibits, pending the reintegration of the national territory, the enactment of laws with any greater area or extent of application or extra-territorial effect than the laws of Saorstát Éireann and this prohibits the enactment of laws applicable in the countries of Northern Ireland.
4. The restriction imposed by Article 3 pending the reintegration of the national territory in no way derogates from the claim as a legal right to the entire national territory.

He went on to say "There can be no doubt that the only reasonable interpretation of Article 1, taken in conjunction with the denial of derogation of sovereignty contained in Article 2(b) of the Anglo-Irish Agreement is that it constitutes a recognition of the de facto situation in Northern Ireland but does so expressly without abandoning the claim to the reintegration of the national territory". The case led to renewed calls for the repeal of Articles 2 and 3 from Unionists.

F. Amendments to the Irish Constitution

Article 46 provides for the Constitution to be amended. A Bill is introduced into the Dail, and having been passed or deemed to have been passed by both Houses, is submitted to a referendum. A majority of votes cast is required for the referendum to succeed and the amendment to become law.²³ A number of referendums have resulted in amendments to the constitution; there have been affirmative referendums on the question of EC membership and the Maastricht treaty (in 1972, 1987 and 1993), to lower the voting age to 18 (1972), to remove the special constitutional position of the Roman Catholic church (1972), to place a constitutional ban on abortion (1983) (since modified by further amendments following 3 referendums in 1993) amongst other topics.²⁴ An independent Referendum Commission now operates to ensure that both sides of the issue are publicised.²⁵

²³ Article 47(1)

²⁴ For further details see **Referendums around the World** (1994) ed. David Butler and Austin Ranney

²⁵ *Referendum Act 1998(Republic of Ireland)*

Proposals to amend Articles 2 and 3 have been made before in the Republic; the most detailed proposals have set out in the 1967 report of the All-Party Committee on the Constitution (December 1967). In the Downing Street Declaration of 15th December 1993,²⁶ the then Taoiseach, Albert Reynolds, gave the following commitment on amendments to the constitution:-

7. Both Governments accept that Irish unity would be achieved only by those who favour this outcome persuading those who do not, peacefully and without coercion or violence, and that, if in the future a majority of the people of Northern Ireland are so persuaded, both Governments will support and give legislative effect to their wish. But, notwithstanding the solemn affirmation by both Governments in the Anglo-Irish Agreement that any change in the status of Northern Ireland would only come about with the consent of a majority of the people of Northern Ireland, the Taoiseach also recognises the continuing uncertainties and misgivings which dominate so much of Northern Unionist attitudes towards the rest of Ireland. He believes that we stand at a stage of our history when the genuine feelings of all traditions in the North must be recognised and acknowledged. He appeals to both traditions at this time to grasp the opportunity for a fresh start and a new beginning, which could hold such promise for all our lives and the generations to come. He asks the people of Northern Ireland to look on the people of the Republic as friends, who share their grief and shame over all the suffering of the last quarter of a century, and who want to develop the best possible relationship with them, a relationship in which trust and new understanding can flourish and grow. The Taoiseach also acknowledges the presence in the Constitution of the Republic of elements which are deeply resented by Northern Unionists, but which at the same time reflect hopes and ideals which lie deep in the hearts of many Irish men and women North and South. But as we move towards a new era of understanding in which new relationships of trust may grow and bring peace to the island of Ireland, the Taoiseach believes that the time has come to consider together how best the hopes and identities of all can be expressed in more balanced ways, which no longer engender division and the lack of trust to which he has referred. He confirms that, in the event of an overall settlement, the Irish Government will, as part of a balanced constitutional accommodation, put forward and support proposals for change in the Irish Constitution which would fully reflect the principle of consent in Northern Ireland.

This commitment was repeated in *Frameworks for the Future*:

21. As part of an agreement confirming the foregoing understanding between the two Governments on constitutional issues, the Irish Government will introduce and support proposals for change in the Irish Constitution to implement the commitments in the Joint Declaration. These changes in the Irish Constitution will fully reflect the Principle of consent in Northern Ireland and demonstrably be such that no territorial claim of right to jurisdiction over Northern Ireland contrary to the will of a majority of its people is asserted, while maintaining the existing birthright of everyone born in either jurisdiction in Ireland to be part, as of right, of the Irish nation. They will enable a new Agreement to be ratified which will include, as part of a new and equitable dispensation for Northern Ireland embodying the principles and commitments in the Joint Declaration and this Framework Document, recognition by both Governments of the legitimacy of whatever choice is freely exercised by a majority of the people of Northern Ireland with regard to its constitutional status, whether they prefer to continue to support the Union or a sovereign united Ireland.

²⁶ Cm 2442

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The *Belfast Agreement* commits the Irish Government to a referendum on amendments to the Irish Constitution (see Part IV). There are no plans at present to amend the Preamble.²⁷

G. Direct Rule - the legal framework

Legislation

The Parliament of Northern Ireland established by the *Government of Ireland Act 1920* was prorogued by the *1972 Northern Ireland (Temporary Provisions) Act* and abolished on 18th July 1973 by the *1973 Northern Ireland Constitution Act*.

The current framework of direct rule has been in operation since July 1974, under the provisions of the *Northern Ireland Act 1974* in conjunction with the *Northern Ireland Constitution Act 1973*. The 1973 Act created three categories of legislative powers, excepted, reserved and transferred powers along with a power-sharing Executive which possessed devolved powers for the first five months of 1974. Excepted matters (listed in Schedule 2 to the 1973 Act) remain the responsibility of the United Kingdom Parliament and include foreign affairs, armed forces, anti-terrorism, elections, nationality and coinage. Minimum reserved matters are listed in Schedule 3 and include law and order powers. These could have been devolved but were not in fact transferred to the Assembly. Finally, all matters other than exceptional or reserved are categorised as transferred. After the dissolution of the Assembly and the restoration of direct rule in July 1974, the 1974 Act provided that Orders in Council could be made for Northern Ireland over the whole area covered by both reserved and transferred powers. Excepted matters may only be enacted by Act of Parliament. Orders in Council have been used for virtually all reserved and transferred matters since 1974, with the exception of fair employment legislation.

The provisions of the *Northern Ireland Act 1974* are renewed annually. Section 1(3) of that Act provide that during the interim period (defined in S.I. (4-6)), the provisions of Schedule 1 have effect with respect to the exercise of executive, legislative and other functions. The interim period began on 17th July 1974 and has been continued each year by orders under the affirmative resolution procedure.

Assembly

The *Northern Ireland Act 1982* made provision for a new Assembly to monitor the activities of the Northern Ireland departments and to make proposals for the resumption by the Assembly of the former functions. The Assembly was dissolved on 23rd June 1986 by the *Northern Ireland Assembly (Dissolution) Order 1986*²⁸, before any devolution of functions had taken place. However, the 1973 Acts and the 1982 Acts remain in force leaving open the possibility of a new Assembly being elected under those Acts. The *1973 Northern Ireland Assembly Act* at present provides for a 90 member assembly to be elected by single transferable vote. S.1 of the 1982

²⁷ but see recommendations for change by the Constitution Review Group (1996)

²⁸ S.I. no. 1036

Act enables the Assembly to make proposals to the Secretary of State for the resumption of either all the functions devolved by the 1973 Act or for the resumption of some only (to include proposals on the composition of the executive authorities responsible to the Assembly.)

H. The Devolution Framework

Originally, the *Government of Ireland Act 1920* transferred to the Northern Ireland Parliament the exclusive power to make laws for the peace, order and good government of the Province. A series of 'excepted' matters remained with Westminster and included foreign affairs, Crown, army, honours and titles. A second series of 'reserved' matters had originally been intended to fall within the jurisdiction of the Council of Ireland, had it come into existence. Since this did not occur the reserved matters remained at Westminster, including postal services, savings banks and the Supreme Court. These were transferred to Stormont in the 1925 Act. All other powers were 'transferred' powers of Stormont. This method of devolution contrasts with the *1978 Scotland Act* where the powers to be **transferred** were specified in great detail. Section 5 of the 1920 Act prohibited the making of laws interfering with religious, equality and the taking of property without compensation. Section 75 spelt out the continuing supremacy of the Westminster Parliament.

As for the devolution of executive powers, S.8(1) of the 1920 Act provided that the executive power would rest with the King who would discharge the prerogative or any other executive powers through a Governor. Section 8(3) provided that the powers delegated to the Governor would be exercised through the Northern Ireland departments headed by Northern Ireland Ministers drawn from Stormont, and who were also members of the Northern Ireland Privy Council. Stormont therefore enjoyed the type of powers possessed by overseas territories such as New Zealand, Canada, Australia and South Africa before their full independence.²⁹ The legislative powers were supplemented by constitutional conventions, such as that Westminster would legislate over transferred matters only with the consent of the Northern Ireland Parliament, and that no questions could be asked at Westminster on matters transferred to Northern Ireland since there was no Minister responsible for them at Westminster.³⁰ In addition, there was no particular desire at Westminster to exercise a close scrutiny of the affairs of the province - evident when the Northern Ireland Parliament abolished proportional representation for Stormont elections in 1929 and did not abolish the business franchise for Stormont, or the ratepayer only franchise for local government until 1968/69. The *1972 Northern Ireland (Temporary Provisions) Act 1972* brought the 1920 powers to an end.

²⁹ The 1920 powers are discussed in detail in *The Constitution of Northern Ireland* [1989] by Brigid Hadfield

³⁰ This followed a Speakers Ruling in 1923

1973 Northern Ireland Constitution Act

This Act also created three categories for legislative powers with identical names to those in the 1920 Act; excepted, reserved and transferred. Schedule 2 of the 1973 Act lists excepted matters including the Crown, foreign affairs, army etc. but also the franchise, prosecutions, appointment of magistrates and non Supreme Court judges, and special anti-terrorist powers. Law and order powers were 'reserved' powers which were excluded for the present from the normal legislative competence of the Assembly but in respect of which the Assembly could legislate with the agreement of the United Kingdom Parliament. All other powers were transferred³¹, but S.2 of the 1973 Act made the formation of a broadly-based Executive a pre-condition for the devolution of legislative power to the new Assembly. The 1973 Act established a Northern Ireland Executive consisting mainly of the political heads of the Northern Ireland parties, and presided over by a 'Chief executive member' who was also leader of the Assembly. The members of the Executive were to be appointed by the Secretary of State for Northern Ireland largely from among the existing members of the Assembly, and the Executive to be chosen was required to be widely accepted through the community having regard to the support it commanded in the Assembly (s.2.1(b)). The Secretary of State, having formed the Executive remained responsible for excluded and reserved powers. The Assembly was required under S.25 to establish consultative committees to advise and assist each Department head in the formulation of policy, and the committees were to reflect the balance of parties in the Assembly.

Clearly, the 1973 executive and legislative powers, although in form extensive, are no equivalent to the 1920 powers. The 1973 Act also contained provisions against discrimination, and restated Westminster legislative supremacy in Section 4(4). It also established a Standing Advisory Commission on Human Rights, and in S.12 provided in broad terms for consultations or agreements 'on any matter' with the Republic of Ireland or transferring functions to a body constituted under S.12. However, article 7 of the Sunningdale Agreement on a proposed Council of Ireland (comprising a Council of Ministers and Consultative Assembly) did not take effect.

Much of the 1973 Act remains on the statute book; under S.1 and 2 of the *1982 Northern Ireland Act* the Assembly could submit to the Secretary of State proposals to resume some or all of legislative and executive devolution under the 1973 Act, provided that the proposals had the support of 70 per cent of the Assembly or the Secretary of State was satisfied of widespread support across the community. In the event the SDLP and Nationalist parties took no part in the Assembly so the majority was never likely to be achieved. However, the Assembly was given deliberative powers by the 1982 Act via committees which scrutinised all departmental functions, both legislative and executive. These committees did not have a formal power to summon Ministers or officials or have access as of right to departmental papers.

³¹ The first devolution order listed the powers transferred - health and social services, housing, education, environment and agriculture

I. Elections in Northern Ireland

Stormont

Originally, both elections to Stormont and local elections in Northern Ireland were based on proportional representation. PR for local elections was, however, abolished by the Northern Ireland Parliament in the *1922 Local Government Act (NI)* and for elections to the Northern Ireland Parliament by the *House of Commons (Method of Voting and Redistribution of Seats Act (NI) 1929)*. Electoral matters had been transferred to Stormont under the 1920 Government of Ireland Act. Elections to Stormont had been by means of the single transferable vote, based on 10 constituencies, including Queens University, which continued to use STV until 1968 when the constituency was abolished. There were 52 seats in total. Following the 1929 Act single constituencies were created, but there was no provision for altering constituency boundaries until the Electoral Law Act (NI) 1968. However, the abolition of PR had little effect on the pattern or representation between Unionist and Nationalists.³²

Northern Ireland Assembly 1973

This Assembly of 78 members was elected by single transferable vote and voting took place according to the twelve Parliamentary constituencies. Both the 1975 Constitutional Convention and the 1982 Northern Ireland Assembly were elected by the same method with the same number of seats. The 1973 Act has recently been amended to increase the number of seats in an Assembly elected under its provisions to 90, following a recommendation from the Northern Ireland Boundary Commission in its fourth periodic review.³³

The proposal for a new 90 member Assembly set out in *Frameworks for the Future*³⁴ did not specify the form of elections, beyond indicating that it would be a form of PR. The Belfast Agreement however stipulates that STV be used for the election of 108 members. Elections to the European Parliament are also carried out using the STV; The whole province is taken as a single constituency since there are only 3 seats in Northern Ireland. Ireland has used the STV in multi-member constituencies since 1922. At present there are 166 seats in the Dail, representing 41 constituencies.

The Single Transferable Vote system calls for electors to vote for a single candidate, irrespective of the number of seats to be filled in the constituency, but to indicate preferences for the other candidates. A candidate is elected as soon as he reaches the electoral quotient computed according to a particular quotient, known as the Droop Quotient³⁵. The additional votes he obtains are then redistributed to the other candidates on the basis of the second choices expressed by electors. The same operation is carried out in the case of the candidates who are placed last and who are eliminated. If there are still seats to be filled after the second count, the process continues. STV is a mixed system in that it does not produce results which are fully

³² See *The Constitution of Northern Ireland* by Brigid Hadfield p.54 for further detail

³³ Cmnd 2949 October 1995

³⁴ February 1995

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proportional. It is widely used in present and former Commonwealth countries such as Malta and Australia and it was almost adopted in the UK after the First World War, following the recommendations of a Speaker's Conference in 1917. It was used for multi-member university seats from 1918-45.

STV has been used since 1972 for the new district councils created under the *Local Government (Northern Ireland) Act 1972*, one of the last Acts of the Northern Ireland Parliament. Each District Electoral Area must consist of either five, six or seven local government wards and each area returns as many council members as there are wards in the area.³⁶

An independent Chief Electoral Officer maintains the accuracy of the electoral register and is responsible for the running of elections. His office was established in 1972³⁷ and he makes annual reports on electoral matters,³⁸ including registration and election results.

The 1989 Elected Authorities (Northern Ireland) Act requires candidates at district council or Assembly elections to sign a declaration stating that the candidate, if elected, would not express support for proscribed organisations³⁹ or acts of terrorism. Signing the declaration is a condition of nomination as a candidate. Declarations are enforced by means of a civil action brought in the High Court by the district council, councillor(s) or elector(s) of the district council area concerned. Sinn Fein candidates signed the declaration at the 1989 elections.

J. Nationality

United Kingdom

The British Nationality Act 1948 (s.32(1)) established that Irish citizens were no longer to be British subjects (i.e. Commonwealth citizens) but were nevertheless to be treated for all purposes as if they were while in the UK. When Ireland formally declared itself a Republic and left the Commonwealth in 1949 the British government decided that this should not affect the position of Irish citizens within the UK. *The Ireland Act 1949* (s.2) provided that "it is hereby declared that, notwithstanding that the Republic of Ireland is not part of His Majesty's dominions, the Republic of Ireland is not a foreign country for the purposes of law in any part of the United Kingdom". The rationale behind this was given by the Prime Minister,⁴⁰ Clement Attlee.

As everybody knows, there are in Britain large number of people of Irish descent, some born in Eire and some born in this country, and there is a continual passage to and fro of people who come over to work or to study or for pleasure. It would be an extremely difficult thing to decide in every case from day to day as to what the exact status was of a person with an Irish name, and if we had had to attempt to make all citizens of Eire aliens, it would have involved a

³⁶ *District Electoral Areas Commissioner (Northern Ireland) Order 1984*

³⁷ Electoral Law (Northern Ireland) Order 1972 SI no. 1264

³⁸ The most recent report was for 1994/95 HC 12 Session 1995/96

³⁹ as defined in Schedule 2 to the *Northern Ireland (Emergency Provisions) Act 1978*

⁴⁰ Clement Attlee at Second Reading (HC Deb 11/3/49 c1855)

great expenditure of men and money and a great extension of the control of aliens. We had in particular also to remember the difficulties caused because of the fact of the land frontier between Northern Ireland, which is part of the United Kingdom and the Commonwealth, and Eire.

We therefore came to the conclusion that we should reciprocally decide that the people of Eire and the people of Britain should not be foreign to one another. Indeed, I go further. The same action may be taken by other Commonwealth countries. I do not pretend that the solution at which we arrived is completely logical - very few things in the relationship between these islands have been completely logical - but I believe they are practical and I believe that they are to our mutual benefit. I am aware, of course, that hitherto there has been this division in international law - it has come down from the past - in which one has recognised people as either belonging or foreign, but international law is made for men, not men for international law. We are moving into a time when various other relationships are being created. Therefore we thought this was the most practical solution.

Irish citizens may therefore vote and stand in Parliamentary local and European elections provided that the statutory residence requirements are met. In Northern Ireland there is a requirement of three months continuous residence in the constituency immediately previous to the annual date of 15 September.⁴¹

The UK and Ireland, together with the Isle of Man and the Channel Islands form a Common Travel Area. There are no immigration controls between the two countries. Irish citizens entering the UK automatically become settled on arrival, as do British entering Ireland. Until the *1971 Immigration Act*, the Common Travel Area was a purely administrative arrangement, but it now has statutory recognition. Part II of the *Prevention of Terrorism (Temporary Provisions) Act 1989* was used to control the movement of certain British citizens between Britain and Northern Ireland, and is beyond the scope of this paper.⁴²

Republic of Ireland

The *Irish Nationality and Citizenship Act* of 1956 gives every person born in Ireland 'Irish citizenship from birth' under s.6(1). However, s.7 (as amended by the 1986 *Irish Nationality and Citizenship Act 1986*) disappplies s.6(1) to a person born in Northern Ireland unless that person (or his parent or guardian) decides to register as an Irish citizen. Irish nationality will also be conferred if a father or mother is an Irish citizen. Therefore people born in Northern Ireland can register as Irish with very little difficulty. It is possible to hold both British and Irish citizenship. British citizens who fulfil the statutory residence requirements of the Republic have had the right to vote in Irish Parliamentary and local elections since 1985.⁴³ Under Irish electoral law however citizens must be ordinarily resident in order to be registered to vote; there are no provisions to enable Irish citizens living outside the Republic to vote.

⁴¹ For further details see Library Research Paper 94/93 "*Votes and Seats for European Parliament elections*"

⁴² no exclusion orders are currently in operation; Part II of the 1989 Act has ceased to be in force since 22 March 1988 (SI 1998 no 768)

⁴³ the *Electoral Act 1992* also allows EU citizens the vote except in referendums or Presidential elections where only Irish citizens are eligible

Part II Chronology of constitutional and political events

This chronology attempts to summarise developments in Northern Ireland since 1972. Although some major terrorist outrages are noted briefly, the chronology concentrates on the political process, and does not survey security issues in this period:-

Abolition of Stormont

In March 1972, after a sharp deterioration in the security situation in Northern Ireland, the United Kingdom Government informed the Northern Ireland Government that it proposed to take over direct responsibility for law and order. This proved unacceptable to the Northern Ireland Government, which resigned. The *Northern Ireland (Temporary Provisions) Act 1972*, proroguing the Northern Ireland Parliament and giving the UK Parliament power to legislate for Northern Ireland by Order in Council, was passed on 30th March. Under the Act a Secretary of State was appointed for the first time since partition with overall responsibility for the exercise of executive functions.

Border Poll

In March 1973, a 'border' poll was held in accordance with an under-taking given at the time of the introduction of direct rule. The *Northern Ireland (Border Poll) Act 1972* was the statutory underpinning. Every citizen of Northern Ireland aged 18 or over was asked to state whether he or she wished Northern Ireland to remain part of the United Kingdom or to be joined with the Irish Republic outside the UK. More than 600,000 voters out of a total electorate of just over 1 million went to the poll, and of these 591,820 voted to remain part of the UK. The poll was largely boycotted by the SDLP and other nationalists.

March 1973 - November 1974

A White Paper on *Northern Ireland Constitutional Proposals* [Cmnd 5259] was published in March 1973. Its proposals included the setting up of an Assembly of about 80 members elected by proportional representation. The Assembly would have committees whose Chairmen would form the Executive. The Secretary of State would remain in office and control of security matters would remain with Westminster. It provided for the setting up of institutional arrangements to facilitate consultation and co-operation between Northern Ireland and the Republic of Ireland. The White Paper reaffirmed the declaration that Northern Ireland would remain part of the United Kingdom for as long as that was the wish of the majority of the people.

The *Northern Ireland Assembly Act 1973*, which provided for the election of a single-chamber Assembly of 78 Members by the single transferable vote system, was passed on 3rd May 1973. Elections to the Assembly took place on 28th June.

On 18th July 1973 the *Northern Ireland Constitution Act* was passed, affirming that Northern Ireland or any part of it would not cease to be part of the United Kingdom without the consent of a majority of the people of Northern Ireland voting in a plebiscite. This marked a change from the *1949 Ireland Act* where the guarantee was given to the Parliament of Northern Ireland (see above). The Act abolished the Office of Government of Northern Ireland and the Parliament of Northern Ireland, defined the scope of legislative and executive authority and the manner in which it should be exercised, nullified any Northern Ireland legislation which discriminated on grounds of religious belief or political opinion, and laid down rules about the conduct of business of the Assembly, its dissolution, prorogation and election, and matters such as the privileges and remuneration of its members. The Assembly met for the first time in July.

In October, the Secretary of State for Northern Ireland, William Whitelaw, chaired talks at Stormont between Official Unionists, the SDLP and the Alliance Party on the possibility of forming a power-sharing executive. After further talks in November, it was announced that agreement had been reached to form an "Executive Designate". It had also been agreed that further steps should be taken towards developing relations between Northern Ireland and the Irish Republic.

Sunningdale Conference

In December 1973, tripartite talks were held between leaders of the Northern Ireland parties in the Executive Designate and Ministers of the governments of the UK and the Irish Republic. After three days agreement was reached and a communique issued. The main points of the agreement were:

- a) that a Council of Ireland should be set up to consist of 7 Ministers from the Irish Republic and 7 Members of the Northern Ireland Executive, a consultative assembly and a secretariat and;
- b) that the Governments of the United Kingdom and of the Irish Republic should register solemn declarations with the United Nations that the status of Northern Ireland could not be changed without the consent of a majority in the Province.

The agreed communique also covered law enforcement, policing and the release of detainees.

"Loyalist" opposition to power-sharing, and subsequent to the Council of Ireland proposals, had been growing, and on 4th January 1974 the Ulster Unionist Council rejected the agreement. Brian Faulkner, who had participated in the Conference, resigned as leader of the Unionists, although he remained at the head of the Executive. In the Republic of Ireland, the agreement relating to the status of Northern Ireland was successfully challenged in the Supreme Court as being inconsistent with the Irish constitution.⁴⁴

⁴⁴ *Boland v An Taoiseach* (1974) I.R. 338

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Legislative and executive powers had been devolved to the Assembly and the Executive sworn in on 1st January. In the February 1974 UK General Election Unionists opposed to the Executive won 11 of the 12 Northern Ireland seats. The incoming Labour Government maintained the Sunningdale Agreement, but on 15th May 1974, the Ulster Workers Council called a general strike in protest at the Sunningdale Agreement. A State of Emergency was declared on 19th May and Mr Faulkner and his colleagues resigned from the Executive on 28th May. The Assembly was prorogued the next day by an Order in Council. The Assembly was suspended (for one year initially) by the *Northern Ireland Act* passed on 17th July, which transferred the responsibilities of the Executive, temporarily, to the Secretary of State for Northern Ireland and Northern Ireland departments. Procedures for making laws for Northern Ireland by Order in Council on matters within the legislative competence of the Assembly were re-introduced.

The Constitutional Convention 1975-76

A White Paper published on 4th July 1974 entitled *The Northern Ireland Constitution* [Cmnd 5675] had proposed the setting up of a Constitutional Convention of 78 members to be elected on a multi-member basis from the 12 parliamentary constituencies by single transferable vote "to consider what provision for the government of Northern Ireland is likely to command the most widespread acceptance among the community there". Elections were held to the Constitutional Convention on 1st May 1975. The United Ulster Unionist Coalition (comprising the Official Unionists, the Vanguard Unionist Party, the Democratic Unionist Party and other Loyalists) won 47 of the 78 seats. The Convention sat for the first time on 8th May. Fundamental differences emerged between the Unionist parties and the nationalist SDLP. Unionist proposals were endorsed by a majority as the Convention's final report. These proposals were for a restored Northern Ireland parliament of between 78 and 100 Members with a wide range of powers and responsibilities including responsibility for internal security. The Government would be on the British Cabinet model with a system of committees on which minorities would be represented. The SDLP did not favour a system based on conventional party lines but preferred a "power-sharing" or coalition system of government. After considering the Convention's report, the Government decided that the report's proposals would not attract sufficiently wide support to provide stable and effective government. After being briefly reconstituted, the Constitutional Convention was finally dissolved in March 1976. On 3rd May 1977, the United Ulster Action Council called for a strike in support of their demand for the implementation of the Convention's report and an end to direct rule. However, the strike was called off at midnight on 13th May, having failed to win significant support.

The Constitutional Conference

In November 1979, the Secretary of State for Northern Ireland, Humphrey Atkins, proposed a conference of the four main political parties to consider ways in which an elected Assembly in Ulster could be given some measure of responsibility for governing the Province [cf "*The Government of Northern Ireland : A Working Paper for a Conference*" [Cmnd 7763]. Three parties accepted, the Democratic Unionist Party, Alliance Party and the SDLP. In the light of their discussions, the Government published a White paper on 2nd July 1980 "*The Government of Northern Ireland : proposals for future discussion*" [Cmnd 7950]. The paper set out options

for safeguarding the interests of the minority in the exercise of authority in Northern Ireland. It was acknowledged that the Conference discussions had not led to a negotiated agreement for the future pattern of government. The White Paper outlined the considerations that the Government felt should be taken into account in any new arrangements, and proposed areas for future consultations. No agreement was reached in the ensuing discussions.

The Northern Ireland Assembly 1982

In April 1982, the Government published its White Paper "*Northern Ireland : a framework for devolution*" [Cmnd 8541] which proposed a new 78-Member Assembly elected by single transferable vote. The Assembly would establish committees to monitor the policies and activities of each Northern Ireland department. It would report to the Secretary of State proposals for devolution of powers which were agreed by 70% of their Members. Provided Parliament approved such a report, the powers would be devolved. These powers could encompass full or only partial devolution. If the devolved powers lost their 70% support they could be "rolled back" to Westminster until fresh proposals were agreed. On achieving full devolution, the Secretary of State would appoint an Executive, and provided the Executive retained its support within the Assembly, elections would be held every four years.

The Northern Ireland Act 1982, provided for the restoration of devolved government in Northern Ireland as outlined in the White Paper. The Act received the Royal Assent on 23rd July 1982. Elections to the Assembly were held in October. The distribution of seats between the parties was as follows:

Ulster ("Official") Unionist	26	(increased to 27 on a subsequent by-election)
Democratic Unionist	21	
SDLP	14	(decreased to 13 on a subsequent by-election)
Alliance	10	
Sinn Fein	5	
Independent Unionists	2	

The SDLP Members declined to take their seats, on the grounds that the 1982 Act envisaged an interim Northern Ireland solution, with no 'Irish dimension' enshrined in a concrete fashion. The Sinn Fein Members said they would not participate in Assembly proceedings. (In June 1983, Sinn Fein Member Gerry Adams was elected as MP for West Belfast. He did not take his seat at Westminster). The Ulster Unionists withdrew from the Assembly in November 1983 following a terrorist attack on Pentecostal church in County Armagh in which three people were killed. They returned to the Assembly in May 1984.

As a result of the boycotts the Assembly was not able to assume all the powers envisaged in the 1982 Act, although it carried on its consultative functions. On 16th May the Assembly set up a Devolution Report Committee to look into proposals for various forms of devolution. The Government said that these proposals would have to be likely to command widespread acceptance throughout the community in Northern Ireland. The committee recognised this in its interim reports of October 1984 and February 1985.

Anglo-Irish Agreement - November 1985

Background

In the early months of 1980, Humphrey Atkins, the Secretary of State, had held several meetings with the Ulster political parties with inconclusive results. A summit meeting between Mrs Thatcher and the Taoiseach Mr Haughey in May 1980 concluded with a decision to hold "Regular meetings on a continuing basis".

At the Dublin 'Summit' Meeting on 8th December 1980, Mrs Thatcher and Mr Haughey commissioned joint studies on citizenship rights, security matters, economic co-operation, possible new institutional structures and measures to encourage mutual understanding. Mrs Thatcher and the Taoiseach Mr Fitzgerald received the studies at the Summit meeting in London on 6th November 1981 and it was agreed to publish all except the study on security.⁴⁵

The report recommended the possible establishment of four types of institutional co-operation:-

- 1) An Anglo Irish Intergovernmental Council "to provide the framework for intergovernmental consultation at Head of Government, Ministerial, and official levels, on all matters of common interest and concern".
- 2) A parliamentary tier, as "the natural and desirable complement" to the Intergovernmental Council.
- 3) An Advisory Committee, "on economic, social and cultural co-operation, with a wide membership reflecting vocational interests".
- 4) An Anglo-Irish Encounter organisation, "with the major function of organising high-level conferences on the Koenigswinter model [the Koenigswinter conferences are annual Anglo-German conferences of politicians and academics to discuss matters of mutual interest]. They were to be organised by an Executive Board consisting of "independent public figures of repute and ability and government representatives". This body was envisaged as a purely temporary measure, a first step towards the establishment of a permanent Advisory Committee.

The report was greeted with cautious enthusiasm in Britain. The Anglo-Irish Intergovernmental Council was set up almost immediately after the publication of the report, and the Anglo-Irish Encounter Group came into being in 1983.

⁴⁵ "Anglo-Irish Joint Studies - Joint Report and Studies" Cmnd 8414

Anglo-Irish Intergovernmental Council

The report Anglo-Irish Joint Studies⁴⁶ made the following recommendation:-

- (i) the establishment of an Anglo-Irish Intergovernmental Council to provide the overall framework for intergovernmental consultation, at Head of Government, Ministerial and official levels, on all matters of common interest and concern, with particular reference to the achievement of peace, reconciliation and stability and the improvement of relations between the two countries and their peoples; and what might be the component elements of the structure, its functions and certain aspects of its operation.

In November 1983, the Government published a report on progress: *Anglo-Irish Intergovernmental Council : communique of the Anglo-Irish summit on 7.11.83 and related documents* [Cmnd 9094]. It contained a review of AIIC activity since November 1981, with details of joint meetings. A similar communique was issued as a press release on 19th November 1984, after the second AIIC meeting at Heads of Government level. This summit was not thought to have been a success, and Mrs Thatcher's remarks about the New Ireland Forum report were thought to have led to a cooling in relations between the two governments.

The New Ireland Forum

The New Ireland Forum was launched on 30th May 1983 in Dublin with the object of exploring options for political development in the north and south of Ireland. In the aftermath of the IRA hunger strikes of 1982, the emergence of Provisional Sinn Fein as an electoral force was treated with great concern by the SDLP in particular. Participation was open to "all democratic parties which reject violence and which have members elected or appointed to either House of the Oireachtas or the Northern Ireland Assembly" [Report 2.5.84] but only four parties took part, all of which represented the nationalist point of view: Fianna Fail, Fine Gael, the Labour Party and the SDLP. The Ulster Unionists refused to participate in the Forum's work, although one Official Unionist, Dr Christopher McGimpsey broke ranks to give evidence to it.

Discussion on possible constitutional options had developed into serious consideration of three proposals:-

1. Joint sovereignty between Britain and the Republic over Northern Ireland;
2. Federation, with subsidiary regional Parliaments in Belfast and Dublin;
3. A unitary state, with a revised and liberalised constitution.

The report leaned heavily towards the last option, recommending the establishment by consent of a new united Ireland embodying constitutional safeguards for Northern Ireland Unionists.

⁴⁶ Cmnd 8414

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Reactions to the report were muted. James Prior, as Secretary of State, expressed disappointment in an immediate press statement [N.I. Office PN 2.5.84]. The Alliance party felt the report had committed itself to an unrealistic option. The Prime Minister rejected the three options when she met the Taoiseach Mr Fitzgerald at the summit at Chequers in November 1984. The Unionist parties rejected the report's recommendations, and subsequently published their own proposals in a paper called *The Way Forward*. These concentrated on the party's suggestions for administrative devolution, but also envisaged Northern Ireland having its' own Bill of Rights. It was further stated that while unionists were resolutely opposed to an "Irish Dimension" in the form of a constitutional institution, they would not object to an "Irish Dimension" in the form of state recognition of the legitimacy of the fostering of distinctly Irish cultural activities in Northern Ireland nor to state funding of such activities in proportion to the degree of public participation or interest in them.

Signing of the Agreement

In the years immediately before the signing of the Anglo-Irish agreement there was little sign that the British and Irish Governments were contemplating such an agreement. The Irish government had expressed disapproval of the British initiative for rolling devolution contained in the Assembly proposals of 1982 because there had been no prior consultation with the Republic, and the British Government had expressed irritation with the New Ireland Forum's emphasis on joint sovereignty in Northern Ireland. However, confidential British-Irish negotiations continued until the signing of the Anglo-Irish agreement on 15th November 1985 at Hillsborough Castle, the former residence of the Governor General of Northern Ireland. The extent of the negotiations were revealed by Garrett Fitzgerald in a speech to the Dail.⁴⁷

The Agreement is ... the outcome of ... negotiations which took place over a period of 18 months involving two summits between the British Prime Minister and myself; four informal meetings between us in the margin of the European Council meetings; three joint meetings between the Tánaiste [Deputy Prime Minister] and the Minister for Foreign Affairs on behalf of the Irish Government and the Secretaries of State for Foreign Affairs and northern Ireland on behalf of the British Government; ten meetings between the Irish Minister for Foreign Affairs with the Foreign Secretary and/or the Secretary of State for Northern Ireland; and about 35 meetings of the negotiating group led by the secretaries of the two cabinets, convening often as frequently as every week, as well as many other meetings of officials in the margin of these structured counters.

The Agreement was welcomed by all major parties on the British mainland, by Fine Gael and by the Labour party in the Republic and by the SDLP, and Alliance parties in Northern Ireland, but condemned by the UUP and DUP and Sinn Fein. Nationalists in Fianna Fail, including its leader Charles Haughey were concerned that the Agreement reinforced partition. The Agreement is summarised in an extract from *Sweet and Maxwell's Anglo-Irish Agreement*.⁴⁸

⁴⁷ [Dail Debates 19/11/85 c2573-4] (quoted by Brigid Hadfield in *The Constitution of Northern Ireland* (1989)

⁴⁸ pp 9-10 (1989)

General structure

The general structure of the Agreement and many of the particular provisions may be traced directly to the lengthy series of intergovernmental discussions and studies which have been summarised above, as well as to the Report of the New Ireland Forum (for a detailed account see B. Hadfield, "The Anglo-Irish Agreement 1985-Blue Print or Green Print?" (1986) *Northern Ireland Legal Quarterly*). This is clear from the following summary of the content of the Agreement:

The Preamble

This refers to the joint concern of the United Kingdom and Ireland as members of the European Community to achieve lasting peace and stability in Northern Ireland and to the need to recognise the existence of the two traditions and communities in Northern Ireland, and to accommodate both their respective aspirations and their rights to live in peace, to be free from any discrimination and to participate fully in the processes of government.

Section A: Status of Northern Ireland

Article 1 sets out the position of the two Governments as to the current situation and the need for majority consent within Northern Ireland for any change in status in similar terms to those adopted in the communiqués of successive summits.

Section B: The Intergovernmental Conference

Articles 2 to 4 establish a new intergovernmental ministerial conference and secretariat through which the Government of Ireland may put forward views and proposals on a wide range of matters of government and administration in Northern Ireland without prejudice either to British sovereignty or to the objective of establishing a devolved government in Northern Ireland acceptable to both communities.

Section C: Political Matters

Articles 5 and 6 impose on the Conference a duty to promote measures to accommodate the rights and identities of both communities and recognises the right of the Irish Government pending devolution to represent the interests of the minority nationalist community within Northern Ireland.

Section D: Security and Related Matters

Article 7 sets out the role of the Conference on security, policing and prisons policy within Northern Ireland.

Section E: Legal Matters Including the Administration of Justice

Article 8 sets out the role of the Conference in respect of law enforcement and extradition in both parts of Ireland.

Section F: Cross-Border Co-operation on Security, Economic, Social and Cultural Matters

Articles 9 and 10 set out the role of the Conference on cross-border security co-operation, and on cross-border co-operation on other matters pending agreement on devolution; it also provides for intergovernmental co-operation and for the possibility of international support for economic and social development in areas most affected by the troubles.

Section G: Arrangements for Review

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Article 11 provides for the review of the working of the Conference at the end of three years or earlier if either party requests.

Section H: Interparliamentary Relations

Article 12 provides for intergovernmental support for an Anglo-Irish Parliamentary body of the kind suggested in the Anglo-Irish Studies Report in 1981 if the two Parliaments so decide.

Section I: Final Clauses

Article 13 provides for the entry into force of the Agreement on exchange of notifications of acceptance.

Despite the complex structure of the Agreement and the very careful drafting of many of the individual provisions the objectives of those who drew it up can be summarised in simpler terms: first, to entrench the status of Northern Ireland as part of the United Kingdom until a majority of its people decide otherwise; secondly, to recognise the equal validity of both traditions in Northern Ireland; thirdly, to provide in the Anglo-Irish Conference a mechanism through which the Irish Government could represent the interests of the nationalist minority in Northern Ireland until such time as an agreement on devolution permitted representatives of that community within Northern Ireland to carry out that role for themselves; fourthly, to provide for cross-border co-operation on security and other matters, initially through the Conference and eventually between a devolved government in Northern Ireland and the Irish Government leaving a much smaller residual role for the Conference; and finally, to ensure that there was no conflict of sovereignty in the sense that ultimate responsibility for decision-making on either side of the border would remain with the United Kingdom and Irish Governments.

Article 1 of the Agreement has attracted considerable attention:

ARTICLE 1

The two Governments

- (a) affirm that any change in the status of Northern Ireland would only come about with the consent of a majority of the people of Northern Ireland,
- (b) recognise that the present wish of a majority of the people of Northern Ireland is for no change in the status of Northern Ireland;
- (c) declare that, if in the future a majority of the people of Northern Ireland clearly wish for and formally consent to the establishment of a united Ireland, they will introduce and support in the respective Parliaments legislation to give effect to that wish.

Those favouring the Agreement pointed out that the Republic by this Article was recognising that Northern Ireland belonged to the UK in an international treaty. However, Unionists noted that the Article began by referring to a change in the status of Northern Ireland, and that for the first time the Irish Government was offered in Article 2 a framework for putting forward its views on those areas in Northern Ireland which were directly administered under direct rule by the British Government:

ARTICLE 2

- (a) There is hereby established, within the framework of the Anglo-Irish Intergovernmental Council set up after the meeting between the two heads of Government on 6 November 1981, an Intergovernmental Conference (hereinafter referred to as "the Conference"), concerned with Northern Ireland and with relations between the two parts of the island of Ireland, to deal, as set out in this Agreement, on a regular basis with:
- (i) political matters;
 - (ii) security and related matters;
 - (iii) legal matters, including the administration of justice;
 - (iv) the promotion of cross-border co-operation.
- (b) The United Kingdom Government accept that the Irish Government will put forward views and proposals on matters relating to Northern Ireland within the field of activity of the Conference in so far as those matters are not the responsibility of a devolved administration in Northern Ireland. In the interest of promoting peace and stability, determined efforts shall be made through the Conference to resolve any differences. The Conference will be mainly concerned with Northern Ireland; but some of the matters under consideration will involve co-operative action in both parts of the island of Ireland, and possibly also in Great Britain. Some of the proposals considered in respect of Northern Ireland may also be found to have application by the Irish Government. There is no derogation from the sovereignty of either the United Kingdom Government or the Irish Government, and each retains responsibility for the decisions and administration of government within its own jurisdiction.

Note that the Irish Government was given a role where those matters were not devolved to a Northern Ireland administration, the intention presumably being to encourage Unionists to move towards powersharing in order to diminish the influence of the Republic.

The Anglo-Irish agreement - immediate reactions

In November 1985 the Anglo-Irish agreement was approved in the Commons by 437 votes to 47 against and in the Dail by 88 votes to 75 with Fianna Fail opposing. It was registered with the United Nations as a international treaty governed by the ordinary rules of international law.

The 15 Ulster Unionist MPs resigned their seats in the House of Commons in December 1985 in protest against the Agreement, and increased their majorities in the subsequent by-elections on January 23rd 1986. However, the SDLP gained another seat in Newry and South Armagh from the Unionists. Subsequently a 24 hour strike or Day of Action was held against the Anglo-Irish agreement on 3rd March in Ulster. The day was marred by violence and intimidation in some areas, condemned by Unionist leaders. These expressions of opposition to the Agreement did not appear to move the British Government, although in February 1987 a 400,000 signature petition was presented calling for a referendum on the Agreement. In June 1986, the Northern Ireland Assembly was officially dissolved. In the immediate aftermath of the Agreement, the Assembly had resolved to repudiate it, by 44 votes to 10 (16th November 1985). The Alliance Party had withdrawn, and from December played no further part in the Assembly which had suspended other business to set up a Committee on the Government of Northern Ireland.

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The Unionists also used the courts to challenge the Agreement in *ex parte Molyneaux and others*.⁴⁹ They applied for leave to seek judicial review on the grounds that it would be unlawful for the government to implement the Agreement without the authority of an Act of Parliament, but leave was rejected. Justice Taylor said that the Agreement was in the field of international relations and that it was not the function of the court to inquire into the exercise of the prerogative in entering into such an agreement. The Unionists had more impact in a case brought in the Republic⁵⁰ on whether Article 1 of the Anglo-Irish Agreement violated Articles 2 and 3 of the Irish constitution (see above pp 8-9 for further discussion)

Mrs Thatcher as Prime Minister visited Northern Ireland in December 1986 and reaffirmed her Government's commitment to the Agreement. In May 1987, the Ulster Unionists joint manifesto for the general election was issued, suggesting that unionist MPs might offer 'consent' to a new government in return for the suspension of the Agreement. In the election of 12 June, Official Unionist candidate Enoch Powell, lost his seat to the SDLP Eddie McGrady. He was the only sitting Northern Ireland MP not to be returned. In the Republic, Fianna Fail had been returned to power in February 1987 and the new Taoiseach Charles Haughey subsequently indicated that he would now support the Agreement.

In September 1987, Mr Molyneaux and Mr Paisley ended a 19 month boycott of contacts with government to meet the Secretary of State, Tom King. Belfast Unionist councillors subsequently agreed in October to pay fines and costs imposed by the High Court for their failure to conduct normal business in protest against the Agreement. However, the bomb at Enniskillen at a Remembrance Day Service on 8th November 1987 which killed 11 and injured 63 re-ignited concern over security in Northern Ireland. Security issues predominated in 1988 with the shooting dead of 3 members of the IRA in Gibraltar in March and the killing of 3 people by a loyalist gunman during the subsequent funeral in Milltown Cemetery. Yet another tragedy occurred in that month when 2 British army corporals were attacked and killed when their car met the funeral cortege of an IRA member in Andersontown, West Belfast. Further outrages occurred in 1988 including IRA attempts to assassinate senior judges and the head of the Northern Ireland civil service. As far as unionists at least were concerned, the Agreement had seemed to bring little alleviation to the troubles.

1989-1991

In early 1989, there were press reports of secret meetings at Duisberg in Germany between SDLP, UUP and DUP representatives. Peter Brooke became Secretary of State in July 1989, but in talks in August with the DUP and UUP he was told that devolution could not be discussed while the Anglo-Irish agreement continued.

⁴⁹ [1986] I WLR 331

⁵⁰ *McGimpsey v Ireland and An Taoiseach* [1990] ILRM 441

In February 1990, the first meeting of the British-Irish Inter-Parliamentary Body took place. 25 MPs each from the UK and the Republic met on 26th February, but the session was boycotted by the Ulster Unionists. The body has continued to meet, with Committee work forming a major aspect of its importance.⁵¹ This body had first been proposed by the Anglo-Irish Joint Studies of 1981 (see p.19).

There were reports in February 1990 that the IRA was seeking talks with the British government over a ceasefire. However, more attention focused on bilateral talks in early 1990 held by Mr Brooke, intended to lead to all party talks. The unionist stance against talks until the Anglo-Irish agreement was abandoned appeared to be softening, particularly as Mr Brooke emphasised the possibility of a gap between the meetings of the Anglo-Irish governmental conference.

Review of the Agreement

Article 11 of the Agreement had provided for a review of the working of the Intergovernmental Conference after three years. A copy of the *Review of the Working of the Conference* was deposited in the Library on 25th May 1989 [Dep 5036] and Tom King also published a paper *Developments since the signing of the Anglo-Irish Agreement*⁵². These documents mention the *Flags and Emblems Act* repeal, the expansion of the electorate in Northern Ireland, the *Public Order (NI) Order 1987* and forthcoming legislation on fair employment as achievements since 1985. They gave a positive picture of progress since the Agreement. Nevertheless, the workings of the Agreement remain opaque, the joint statements issued after each meeting of the Conference being the main source of information. Moreover, the tacit agreement by both the British and the Irish Governments not to emphasise the contribution of the Anglo-Irish Conference to specific decisions had tended to leave the public with the impression that it is ineffective.

The three strand talks

These were launched on 20th March 1991, by Peter Brooke, in the following statement to the Commons:⁵³

Some arrangements will be needed for liaison between the different strands of these complex discussions. All the Northern Ireland parties will participate actively and directly in the north-south discussions. The Unionist parties have made it clear that they wish their participation at those talks to be formally associated with my presence and that they will regard themselves as members of the United Kingdom team. It is accepted by all those involved that, to make full use of the interval between meetings of the conference to achieve an overall agreement satisfactory to all, it will be necessary to have launched all three sets of discussions within weeks of each other.

⁵¹ The *Table* 1994 "The British-Irish Inter-Parliamentary Body"

⁵² HC Deb 24/5/89 c539-543 [Dep 5035]

⁵³ HC Deb 26/3/91 cc765-766

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A first step towards getting related discussions under way in all three strands will be the opening, as soon as possible, of substantive talks between the parties in Northern Ireland under my chairmanship. These will commence with a round of bilateral meetings before moving on, as soon as possible, into plenary sessions. It has been agreed by all the participants that before long, when, after consultation, I judge that an appropriate point has been reached, I will propose formally that the other two strands should be launched. My judgment as to timing will be governed by the fact that all involved, have agreed that the three sets of discussions will be under way within weeks of each other.

It is accepted that discussions must focus on three main relationships: those within Northern Ireland, including the relationship between any new institutions there and the Westminster Parliament; among the people of the island of Ireland; and between the two Governments. It is common ground between all the parties that hope of achieving a new and more broadly based agreement rests on finding a way to give adequate expression to the totality of the relationships I have mentioned.

Talks will accordingly take place in three strands corresponding respectively to the three relationships.

After some initial optimism, and the declaration of a ceasefire by Loyalist paramilitary groups at the end of April to ease the process, the talks broke down in the summer, and in July the ceasefire was called off. Sectarian attacks continued to increase in 1991, and there were calls for Peter Brooke's resignation in January 1992 following his appearance on a Dublin chat show immediately after the killing of seven people by an IRA bomb at Tyrone. John Major, however, refused to accept Brooke's resignation and in February, Mr Major called in the Unionists political parties to discuss another upsurge of violence. Another round of talks on strand one of the three strand process began on 9th March 1992 and they resumed under the chairmanship of the new Secretary of State, Sir Patrick Mayhew on 29th April. At the beginning of July, Sir Patrick proposed that strand two (relationships in the whole of Ireland) and strand three (possible inter-governmental arrangements) be launched. The second strand was launched on 6th July under the chairmanship of the Australian, Sir Ninian Stephen, and the third on 28th July. The progress of these talks was summarised in a statement by Sir Patrick on 11th November 1992:⁵⁴

On 28 July in Dublin the two Governments held the opening meeting of the third strand concerning future relationships between them.

Throughout the talks I have received wise and indefatigable support from the Parliamentary Under Secretary of State, my hon. Friend the Member for Richmond and Barnes (Mr. Hanley). In particular, he chaired a most fruitful series of strand committee sessions, and has often deputised for me in the other strands.

The present talks, like those last year, were stipulated to be held during a specified gap between meetings of the Anglo-Irish intergovernmental conference, provided for under the Anglo-Irish Agreement. Before the talks resumed after our own general election, the two Governments announced that the next meeting of the intergovernmental conference would not be before the end of July. Since then the gap has been twice extended. My right hon. Friend the Prime Minister and the Taoiseach announced on 25 September, in a final extension, that the next meeting of the conference would be held on 16 November. More than six months have accordingly been available for these talks.

We have not yet succeeded in the ambitious task of securing an overall settlement, that is to say,

⁵⁴ HC Deb c877-878

"a new beginning for relationships within Northern Ireland, within the island of Ireland, and between the peoples of these islands."

Since the talks were held on the basis that

"nothing will be finally agreed in any strand until everything is agreed in the talks as a whole and that confidentiality will be maintained",

the question of a partial settlement did not arise. All the same, the talks have seen substantive and detailed engagement on issues of the first importance.

In strand 1 the Northern Ireland parties, together with the British Government, identified common themes and principles which should underlie any new political institutions in Northern Ireland, and examined possible structures which might reflect these.

In strand 2, in which of course the Irish Government have also been participants, delegations discussed fundamental aspects of relationships within the island or Ireland, and of the realities underlying them, including constitutional issues and questions of identity and allegiance. We examined the scope for enhanced co-operation within the island of Ireland, in the social, economic, and security fields, among others. We considered the nature of the structures which might best serve such co-operation.

In strand 3 the two Governments, as co-signatories of the Anglo-Irish Agreement, address in liaison with the other participants, possible principles for a new and more broadly-based agreement, and possible intergovernmental arrangements.

Much has been done to identify and enlarge the common ground, and to increase understanding and respect for the participants' respective positions. The process has involved hard work and commitment from all the participants. The talks participants have collectively reaffirmed their total abhorrence of, and unqualified opposition to, all forms of terrorism, from whatever source they may come. Nothing has taken place to alter my firm view that it was right to bring together the main constitutional parties in Northern Ireland and the two Governments to address, in a single process, a comprehensive agenda. It remains my judgment that, with good will and application, a comprehensive settlement can yet be secured. Those qualities are not lacking. Yesterday the talks participants agreed and issued a statement, copies of which have been placed in the Library. In it they recognised that "while at this time there is no basis to agree a settlement, they have identified and discussed most, if not all, of the elements which would comprise an eventual settlement; they have developed a clear understanding of each other's positions; and established constructive dialogue on ways in which an accommodation might be reached on some of the key issues which divide them".

All recognised the great value of that dialogue. The two Governments expressed their view yesterday that further dialogue was both necessary and desirable. The four Northern Ireland parties agreed with that, and accordingly undertook to

"enter into informal consultations with a view to seeking a way forward."

The House, although doubtless disappointed that we have not been able to achieve fuller agreement, will welcome that commitment. The objectives of the talks process remain valid and achievable. That is the expressed opinion of the independent chairman, Sir Ninian Stephen, and it is my opinion. The objectives are realistic. We have a duty therefore to build on what has been begun, however slow that process has been, and not to give up. We have a duty not to lose patience with what is a deeply historic problem; not to give way to exasperation; and not to recriminate.

Her Majesty's Government for their part, therefore, will steadily persevere. We shall maintain our line of approach to these objectives and continue also our commitment to resolute, fair and just government in Northern Ireland. Not only the people of Northern Ireland but the people of the rest of these islands-let us not forget them-deserve that of us.

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Attempts to resume the talks in the latter half of 1993 became over-shadowed by the Hume/Adams dialogue and then the Downing Street Declaration. Following the declaration of an IRA ceasefire, John Major issued a statement in which he committed the government to submit the final outcome of the three stranded talks to the electorate of Northern Ireland for approval in a referendum.⁵⁵

The Opsahl Commission Report

This was published in June 1993 (*A Citizens' Inquiry*). This was the result of the work of the Initiative '92 project which had called for citizens comments into ways forward for Northern Ireland to be given to seven "eminent observers" drawn from the academic and church communities of Britain and Ireland. The report called attention to the malign effect of direct rule which did not encourage local politicians to behave in a constructive manner, and suggested the establishment of a regional government for Northern Ireland based on power sharing. It envisaged that this government would be 'free to discuss and negotiate its relationships, institutional and other, with the government of the Republic of Ireland'. In response Sir Patrick emphasised that the political talks process offered the best opportunity of achieving a widely acceptable political accommodation.⁵⁶

On 20th March 1993, IRA bombs in Warrington killed two children, and aroused tremendous concern. A huge IRA bomb at Bishopsgate in the City of London in April led to major security precautions. It also had the effect of accelerating Government plans to act as reinsurer of last resort for non-domestic property in mainland Great Britain as enacted in *The Reinsurance (Acts of Terrorism) Act 1993*.⁵⁷ Violence flared again in October 1993 when an IRA bomb on the Shankill Road killed 10 people, and a subsequent pub shooting by the UFF at Greysteel killed 7 people.

Against this background there was considerable interest in continuing talks between John Hume of the SDLP and Gerry Adams from Sinn Fein. The Hume Adams dialogue has not been published. However, on November 28 1993, the *Observer* revealed that there had been contacts between the UK Government and the IRA through intermediaries. The Secretary of State, Patrick Mayhew, made a Commons statement on 29th November, placing the text of the exchanges in the Library (Dep 9904), and subsequently on 1st December, published a text of corrections to the exchanges.

⁵⁵ *Press Notice* 10 Downing Street, 16/9/94 "Statement by the Prime Minister"

⁵⁶ HC Deb 24/10/94 c454W

⁵⁷ See Library Research Paper 93/57

Downing Street Declaration

This was published on 15th December 1993.⁵⁸ It was a joint declaration issued by John Major and the then Taoiseach Albert Reynolds, and was intended to build on a popular desire for peace by devising a framework which offered something to all aspects of opinion in Ireland, North and South. In particular, it gave Sinn Fein a chance to participate in talks with the British Government provided there was a permanent end to violence. John Major summarised the declaration in his statement to the Commons as follows:⁵⁹

In summary, let me make it clear what is in the declaration and what is not. What is in the declaration is a renewed commitment by the British Government to Northern Ireland's constitutional guarantee; an acknowledgement by the Taoiseach that a united Ireland could only be brought about with the consent of a majority of the people in Northern Ireland; a willingness on the Taoiseach's part to make changes in the Irish constitution if an overall settlement can be reached; and a confirmation that if Sinn Fein renounces violence, it will be able to participate in future democratic discussions.

What is not in the declaration is any suggestion that the British Government should join the ranks of persuaders of the "value" or "legitimacy" of a united Ireland; that is not there. Nor is there any suggestion that the future status of Northern Ireland should be decided by a single act of self-determination by the people of Ireland as a whole; that is not there either. Nor is there any timetable for constitutional change, or any arrangement for joint authority over Northern Ireland. In sum, the declaration provides that it is, as it must be, for the people of Northern Ireland to determine their own future.

All the constitutional parties in Northern Ireland will wish to study the document very carefully. I should like today to extend an offer to meet each of the parties regularly in the future, so that I can hear at first hand their concerns and ambitions, and can set out to them the British Government's position. If we can work together to quell ancient fears and suspicions, we can help to build a better future for Northern Ireland.

I have made it clear that if it renounces violence, the way is open to Sinn Fein to join in legitimate constitutional dialogue. That is a political route which it now has no excuse not to follow. That is the opportunity offered by this joint declaration-and it has been obtained without compromising any of the constitutional principles that this Government have consistently espoused. The onus is now on Sinn Fein to take advantage of that opportunity: I urge it to do so.

There was also focus on the statement by John Major in paragraph 4 that on behalf of the British government that 'they have no selfish strategic or economic interest in Northern Ireland' (para 4) and on the joint commitment by both Governments in paragraph 9 to 'create, institutions and structures, which, while representing the diversity of the people of Ireland, would enable them to work together in all areas of common interest'. The commitment by Albert Reynolds to changes to Article 2 and 3 of the constitution in the context of an overall settlement was also noted (see above p.6)

⁵⁸ Cm 2442

⁵⁹ HC Deb 15/12/93 c1073

Downing Street Declaration - reactions

During early 1994, Gerry Adams sought what Sinn Fein called clarification of the Declaration, and on May 19th, the Northern Ireland office published a 21 page response to Sinn Fein's questions (Dep 10849). In March 1994, the establishment of a Select Committee for Northern Ireland was approved.⁶⁰ In July 1993, there had been press reports denied by John Major, that there had been a deal with the UUP to secure their support in Maastricht social chapter votes. The announcement by Tony Newton of the proposal to create the committee came on 16th December 1993.⁶¹

Three IRA mortar attacks on Heathrow in March 1994 were followed by a 3 day ceasefire over Easter from 6 April. There was widespread condemnation of the temporary nature of the ceasefire, but the outcome of the Sinn Fein conference in July 1994 was taken as a rejection of the Declaration. However, on 31 August an IRA statement announced a ceasefire from midnight that day. At first there was concern from loyalists that the ceasefire followed a secret deal between Mr Major and the IRA, and the Rev. Ian Paisley's meeting with the Prime Minister on 6 September ended in confrontation when Mr Paisley refused to accept assurances that there had been no such deal. The UUP MP, John Taylor, expressed some cautious optimism, and the announcement of a referendum on the outcome of the three strands talks by John Major on 16 September (see above) was apparently intended to allay loyalist fears. On the same day, the broadcasting restrictions on Sinn Fein were lifted with immediate effect.

During September and early October there was some controversy over the 'permanent' nature of the IRA ceasefire, but on October 21, Mr Major announced that the Government planned to open talks with Sinn Fein before the end of the year and that the remaining closure orders on border crossings would be lifted. He also lifted exclusion orders on Gerry Adams and Martin McGuinness of Sinn Fein. The announcement of talks was welcomed by David Trimble of the UUP, but condemned by the DUP who argued that Mr Major had contradicted his statement to the Commons on December 15th that the IRA had to make the clearest possible renunciation of violence.

On October 13, loyalist paramilitary organisations announced a ceasefire from midnight; the spokesman, Gusty Spence, however, made clear that their ceasefire would continue only as long as the IRA ceasefire.

The National Forum for Peace and Reconciliation held its first meeting on October 28 in Dublin. The National Forum formed the subject of paragraph 11 of the Downing Street Declaration:-

⁶⁰ HC Deb 9/3/94 c370

⁶¹ see Library Research Paper 94/39 A Select Committee for Northern Ireland Affairs

11. The Irish Government would make their own arrangements within their jurisdiction to enable democratic parties to consult together and share in dialogue about the political future. The Taoiseach's intention is that these arrangements could include the establishment, in consultation with other parties, of a Forum for Peace and Reconciliation to make recommendations on ways in which agreement and trust between both traditions in Ireland can be promoted and established.

For the first time since the 1920s, Sinn Fein was represented in these talks with other political parties of the Republic. The SDLP and Alliance parties are also represented, but UUP and DUP refused invitations, and the British Ambassador to the Irish Republic did not attend the opening ceremony.

A postal worker was shot dead during a robbery in Newry, on December 10, and the Irish justice minister, Maire Geoghegan-Quinn, suspended planned releases of nine IRA prisoners. The IRA subsequently stated that the ceasefire covered any use of arms, and Martin McGuinness condemned the murder.

On 5 December Sir Patrick Mayhew announced that savings of £180m could be expected from cuts in security spending in the next 3 years following the ceasefires. Sinn Fein held its first talks with the British government on 9 December. The invitation was extended on 1 December amid continuing concern that an early commitment to the surrender of weapons by paramilitary groups was essential. There was some press speculation that the invitation followed pressure from the US Presidency after Sinn Fein councillors were initially barred from a conference on economic investment which took place on 14 December. The British team was led by Quentin Thomas, the deputy secretary at the N.I.O., and the Sinn Fein delegation by Martin McGuinness. The talks lasted three hours with a further meeting planned for Christmas. Separate talks were held with representatives from the Ulster Democratic party and Progressive Unionist party which have links with loyalist paramilitaries on 15th December. On the same day a new Irish Government was formed by John Bruton from Fine Gael, together with the Labour party and the Democratic Left party.

Framework Document

A leak in the *Times* on 1 February 1995 of an early draft of the Framework Document resulted in a statement by Sir Patrick Mayhew to the House.⁶² He emphasised that the document would be offered to the Northern Ireland parties, not imposed on them, and a triple lock of consent would apply: the parties would need to reach agreement which would be put to a referendum of the people of Northern Ireland and then submitted to Parliament. On the evening of 1 February, John Major made a broadcast to the nation again emphasising that nothing would be imposed on Northern Ireland.⁶³

⁶² HC Deb. 1/2/96 c.1085-1100

⁶³ 10 Downing St. Press Notice 1/2/95

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On 22 February 1995 the Framework Document (Frameworks for the Future) was published. Part I : [*A Framework for Accountable Government in Northern Ireland*] was produced by the British Government proposing new democratic institutions in Northern Ireland; Part II : [*A New Framework for Agreement*] was a joint paper by the British and Irish Governments offering proposals for relationships within the island of Ireland and between the two Governments.

Part I was summarised as follows:⁶⁴

Possible Arrangements: Outline

5. Based on its discussions with the Northern Ireland parties and bearing in mind the preferred characteristics mentioned above, the Government believe that there would be a broad measure of agreement for an outline framework for new political institutions in Northern Ireland to include:

- Province-wide executive responsibilities;
- a single unicameral Assembly of about 90 members elected for a fixed 4 or 5 year term;
- elections to the Assembly by a form of proportional representation;
- a separate Panel, probably of 3 people elected within Northern Ireland, to complement the working of the Assembly. The Panel could be elected from a single Northern Ireland constituency by a system of proportional representation;
- a system of Assembly Committees, constituted broadly in proportion to party strengths in the Assembly, to oversee the work of the Northern Ireland Departments and other functions;
- legislative and executive responsibility over as wide a range of subjects as in 1973. If there were agreement it would be open to the Government to consider with the new institutions the scope for further transfers. Certain functions, including matters relating to the Crown, foreign affairs and defence, would remain at Westminster. It would be for consideration whether new institutions were given full legislative responsibility from day one or whether such responsibility would be assumed progressively;
- a system of detailed checks and balances intended to sustain confidence in the institutions. These might include powers for the Panel to nominate Assembly Committee Chairmen and Deputy Chairmen, to scrutinise and if necessary block legislation, and to arbitrate on public expenditure disputes; and a Code of Practice to specify the relationships between the Assembly, its Committees, Committee Chairmen and Departments;
- mechanisms to ensure adequate compliance with the UK's EU and other international obligations.

Part I fulfilled the undertaking given by John Major on 21 October 1994 that the Government would publish its own ideas on local accountability at the same time as the British and Irish Governments published their joint Framework Document. Part I suggested a power sharing Executive responsible to a Northern Ireland Assembly. Detailed arrangements were proposed

⁶⁴ pp4-5

for the chairmanship and deputy chairmanships of Assembly Committee, and all legislation would require the support of at least a majority of the relevant Committee and the full Assembly. Legislation would be dealt with by simple majority unless it was found to be contentious (ie financial or constitutionally) thus requiring a form of weighted majority approval, or threshold support. Matters transferred would be as extensive as in 1973. The *Northern Ireland Constitution Act 1973* had created three categories of legislative powers, excepted, reserved and transferred. Excepted matters included foreign affairs, armed forces, anti-terrorism, elections, nationality, coinage, reserve powers (which had the potential for being devolved) included law and order powers.

The Northern Ireland Affairs Select Committee would no longer be entitled to scrutinise matters for which the new political institutions become accountable, and unspecified 'protection' for a range of civil political, social and cultural rights would be reinforced. Members of the Assembly would play a significant role in any new North/South institutions (see below). New institutions responsible for implementing EC legislation and programmes in the transferred field were also envisaged.

Annex A to Part I set out the Government's approach to a political settlement which emphasised that new arrangements for the governance of Northern Ireland had to be acceptable and give appropriate expression to the identity of each of the two main parts of the community, that any political agreement had to address all relevant relationships, including that between Northern Ireland and the Republic, and that the current constitutional status of Northern Ireland would not change save with the consent of a majority of the people of Northern Ireland. Annex B gave the outline of a comprehensive settlement based on new political institutions in Northern Ireland, a new North/South body or bodies, the replacement of the Anglo-Irish agreement by a more broadly based agreement, a referendum in Northern Ireland on the proposals, and linkages between the various elements of an overall accommodation, provided the key distinction between transferred and non transferred matters, and between Northern Ireland and wider matters was preserved.

Part II represented the proposals of both the British and Irish Governments, and developed proposals in Annex B of Part I. It emphasised that the document was "not a rigid blueprint to be imposed" but was offered for consideration. The guiding principles were set out (para. 10):

10. They take as guiding principles for their co-operation in search of this agreement:

- (i) the principle of self-determination, as set out in the joint Declaration;
- (ii) that the consent of the governed is an essential ingredient for stability in any political arrangement;
- (iii) that agreement must be pursued and established by exclusively democratic, peaceful means, without resort to violence or coercion;
- (iv) that any new political arrangements must be based on full respect for, and protection and expression of, the rights and identities of both traditions in Ireland and evenhandedly afford both communities in Northern Ireland parity of esteem and treatment, including equality of opportunity and advantage.

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The proposals were summarised as follows (para. 13):

13. The two Governments will work together with the parties to achieve a comprehensive accommodation, the implementation of which would include interlocking and mutually supportive institutions across the three strands, including:
- (a) structures within Northern Ireland (paragraphs 22 and 23) - to enable elected representatives in Northern Ireland to exercise shared administrative and legislative control over all those matters that can be agreed across both communities and which can most effectively and appropriately be dealt with at that level;
 - (b) North/South institutions (paragraphs 24-38) - with clear identity and purpose, to enable representatives of democratic institutions, North and South, to enter into new, co-operative and constructive relationships; to promote agreement among the people of the island of Ireland; to carry out on a democratically accountable basis delegated executive, harmonising and consultative functions over a range of designated matters to be agreed; and to serve to acknowledge and reconcile the rights, identities and aspirations of the two major traditions;
 - (c) East-West structures (paragraphs 39-49) - to enhance the existing basis for co-operation between the two Governments, and to promote, support and underwrite the fair and effective operation of the new arrangements.

The British Government affirmed that there would be constitutional legislation and the *Government of Ireland Act 1920* would be amended or replaced (para. 20):

20. The British Government reaffirm that they will uphold the democratic wish of a greater number of the people of Northern Ireland on the issue of whether they prefer to support the Union or a sovereign united Ireland. On this basis, they reiterate that they have no selfish strategic or economic interest in Northern Ireland. For as long as the democratic wish of the people of Northern Ireland is for no change in its present status, the British Government pledge that their jurisdiction there will be exercised with rigorous impartiality on behalf of all the people of Northern Ireland in their diversity. It will be founded on the principles outlined in the previous paragraph with emphasis on full respect for, and equality of, civil, political, social and cultural rights and freedom from discrimination for all citizens, on parity of esteem, and on just and equal treatment for the identity, ethos and aspirations of both communities. The British Government will discharge their responsibilities in a way which does not prejudice the freedom of the people of Northern Ireland to determine, by peaceful and democratic means, its future constitutional status, whether in remaining a part of the United Kingdom or in forming part of a united Ireland. They will be equally cognizant of either option and open to its democratic realisation, and will not impede the latter option, their primary interest being to see peace, stability and reconciliation established by agreement among the people who inhabit the island. This new approach for Northern Ireland, based on the continuing willingness to accept the will of a majority of the people there, will be enshrined in British constitutional legislation embodying the principles and commitments in the joint Declaration and this Framework Document, either by amendment of the Government of Ireland Act 1920 or by its replacement by appropriate new legislation, and appropriate new provisions entrenched by Agreement.

The Irish Government promised that the Irish Constitution would be amended (para. 21):

21. As part of an agreement confirming the foregoing understanding between the two Governments on constitutional issues, the Irish Government will introduce and support proposals for change in the Irish Constitution to implement the commitments in the joint Declaration. These changes in the Irish Constitution will fully reflect the principle of consent in Northern Ireland and demonstrably be such that no territorial claim of right to jurisdiction over Northern Ireland contrary to the will of a majority of its people is asserted, while maintaining the existing birthright of everyone born in either jurisdiction in Ireland to be part, as of right, of the Irish nation. They will enable a new Agreement to be ratified which will include, as part of a new and equitable dispensation for Northern Ireland embodying the principles and commitments in the joint Declaration and this Framework Document, recognition by both Governments of the legitimacy of whatever choice is freely exercised by a majority of the people of Northern Ireland with regard to its constitutional status, whether they prefer to continue to support the Union or a sovereign united Ireland.

An indication of the North/South institutions was given in para. 25:

25. Both Governments agree that these institutions should include a North/South body involving Heads of Department on both sides and duly established and maintained by legislation in both sovereign Parliaments. This body would bring together these Heads of Department representing the Irish Government and new democratic institutions in Northern Ireland, to discharge or oversee delegated executive, harmonising or consultative functions, as appropriate, over a range of matters which the two Governments designate in the first instance in agreement with the parties or which the two administrations, North and South, subsequently agree to designate. It is envisaged that, in determining functions to be discharged or overseen by the North/South body, whether by executive action, harmonisation or consultation, account will be taken of:
- (i) the common interest in a given matter on the part of both parts of the island; or
 - (ii) the mutual advantage of addressing a matter together; or
 - (iii) the mutual benefit which may derive from it being administered by the North/South body; or
 - (iv) the achievement of economies of scale and the avoidance of unnecessary duplication of effort.

In relevant posts in each of the two administrations participation in the North/South body would be a duty of service. Both Governments believe that the legislation should provide for a clear institutional identity and purpose for the North/South body. It would also establish the body's terms of reference, legal status and arrangements for political, legal, administrative and financial accountability. The North/South body could operate through, or oversee, a range of functionally-related subsidiary bodies or other entities established to administer designated functions on an all-island or cross-border basis.

Specific arrangements for EU matters would also need to be developed, and legislation was envisaged in the British and Irish Parliaments to designate functions to be discharged or overseen by the North/South Body. It was stated that "Both Governments expect that significant responsibilities, including meaningful functions at executive level, will be a feature of such agreement". (para. 28).

More detail on the designated functions was given (para. 29):

29. Although both Governments envisage that representatives of North and South in the body could raise for discussion any matter of interest to either side which falls within the competence of either administration, it is envisaged, as already mentioned, that its designated functions would fall into three broad categories:

consultative: the North/South body would be a forum where the two sides would consult on any aspect of designated matters on which either side wished to hold consultations. Both sides would share a duty to exchange information and to consult about existing and future policy, though there would be no formal requirement that agreement would be reached or that policy would be harmonised or implemented jointly, but the development of mutual understanding or common or agreed positions would be the general goal;

harmonising: in respect of these designated responsibilities there would be, in addition to the duty to exchange information and to consult on the formulation of policy, an obligation on both sides to use their best endeavours to reach agreement on a common policy and to make determined efforts to overcome any obstacles in the way of that objective, even though its implementation might be undertaken by the two administrations separately;

executive: in the case of these designated responsibilities the North/South body would itself be directly responsible for the establishment of an agreed policy and for its implementation on a joint basis. It would however be open to the body, where appropriate, to agree that the implementation of the agreed policy would be undertaken either by existing bodies, acting in an agency capacity, whether jointly or separately, North and South, or by new bodies specifically created and mandated for this purpose.

Various examples such as EC programmes, cultural and marketing activities were given for the executive level; agriculture, consumer affairs, transport, education, health and economic policy were suggested for the harmonising level.

A Parliamentary Forum with representatives from "agreed political institutions" in Northern Ireland and members of the Oireachtas (Senate) in the Republic was expected (para. 36). A joint civil service to support the North/South body was envisaged. East/West structures between the British and Irish Government were proposed to replace the Anglo-Irish Agreement, but retaining a standing inter-governmental Conference to form the "principal instrument for an intensification of co-operation and partnership between both Governments" (para. 42). Further East/West co-operation was suggested (paras. 44-46):

44. Both Governments accept that issues of law and order in Northern Ireland are closely intertwined with the issues of political consensus. For so long as these matters are not devolved, it will be for the Governments to consider ways in which a climate of peace, new institutions and the growth of political agreement may offer new possibilities and opportunities for enhancing community identification with policing in Northern Ireland, while maintaining the most effective possible deployment of the resources of each Government in their common determination to combat crime and prevent any

possible recourse to the use or threat of violence for political ends, from any source whatsoever.

45. The Governments envisage that matters for which responsibility is transferred to new political institutions in Northern Ireland will be excluded from consideration in the Conference, except to the extent that the continuing responsibilities of the Secretary of State for Northern Ireland are relevant, or that cross-border aspects of transferred issues are not otherwise provided for, or in the circumstances described in the following paragraph.
46. The Intergovernmental Conference will be a forum for the two Governments jointly to keep under review the workings of the Agreement and to promote, support and underwrite the fair and effective operation of all its provisions and the new arrangements established under it. Where either Government considers that any institution, established as part of the overall accommodation, is not properly functioning within the Agreement or that a breach of the Agreement has otherwise occurred, the Conference shall consider the matter on the basis of a shared commitment to arrive at a common position or, where that is not possible, to agree a procedure to resolve the difference between them. If the two Governments conclude that a breach has occurred in any of the above circumstances, either Government may make proposals for remedy and adequate measures to redress the situation shall be taken. However, each Government will be responsible for the implementation of such measures of redress within its own jurisdiction. There would be no derogation from the sovereignty of either Government; each will retain responsibility for the decisions and administration of government within its own jurisdiction.

Representatives of agreed political institutions in Northern Ireland might be "formally associated" with the work of the Conference (para. 48) including notice of discussions and opportunities to participate.

Finally, some form of human rights charter underpinned by legislation to protect a specified set of rights was proposed (paras. 50-53):

50. There is a large body of support, transcending the political divide, for the comprehensive protection and guarantee of fundamental human rights. Acknowledging this, both Governments envisage that the arrangements set out in this Framework Document will be complemented and underpinned by an explicit undertaking in the Agreement on the part of each Government, equally, to ensure in its jurisdiction in the island of Ireland, in accordance with its constitutional arrangements, the systematic and effective protection of common specified civil, political, social and cultural rights. They will discuss and seek agreement with the relevant political parties in Northern Ireland as to what rights should be so specified and how they might best be further protected, having regard to each Government's overall responsibilities including its international obligations. Each Government will introduce appropriate legislation in its jurisdiction to give effect to any such measure of agreement.
51. In addition, both Governments would encourage democratic representatives from both jurisdictions in Ireland to adopt a Charter or Covenant, which might reflect and endorse agreed measures for the protection of the fundamental rights of everyone living in Ireland. It could also pledge a commitment to mutual respect and to the civil rights and religious liberties of both communities, including:
 - the right of free political thought,
 - the right to freedom and expression of religion,

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- the right to pursue democratically national and political aspirations,
- the right to seek constitutional change by peaceful and legitimate means,
- the right to live wherever one chooses without hindrance,
- the right to equal opportunity in all social and economic activity, regardless of class, creed, gender or colour.

52. This Charter or Covenant might also contain a commitment to the principle of consent in the relationships between the two traditions in Ireland. It could incorporate also an enduring commitment on behalf of all the people of the island to guarantee and protect the rights, interests, ethos and dignity of the unionist community in any all-Ireland framework that might be developed with consent in the future, to at least the same extent as provided for the nationalist community in the context of Northern Ireland under the structures and provisions of the new Agreement.

At the conclusion there was a commitment to submit the outcome of the negotiations to referendums both North and South (para. 55).

The Framework Document was widely publicised in Northern Ireland, with full page press advertisements, and television advertising. The Part I proposals for an elected assembly bore some resemblances to the proposals from the Ulster Unionists set out in *A Blueprint for stability* [1994] which advocated PR for a 90 seat assembly, and some form of charter of human rights. The Unionists, however, had no plans for a formal North/South body. The UUP and DUP condemned the document but agreed to participate in bilateral talks held by the Government. The UUP published its own proposals on 21 February 1995⁶⁵ which advocated an internal solution and an interim assembly to be called before negotiations. Tony Blair gave his support following Mr Major's statement to the House. Sinn Fein gave a cautious response. The DUP advocated an elected body.⁶⁶

The problem of decommissioning arms received increased attention following the launch of the document. At the initial meeting between Sinn Fein and Government officials on 9 December, Sinn Fein was told that 'disposal' of arms would be necessary for full involvement in inter-party talks. At subsequent meetings with the Ulster Democratic and Progressive Unionist parties (with links to Unionist paramilitaries) on 15 December, British officials stressed the need for the removal or disposal of arms. On 27 January 1995, The Republic's Mr Bruton and the Deputy Prime Minister, Mr Spring, held their first formal meeting with Sinn Fein. On 7 February 1995 the Dail agreed to lift the state of emergency established in the Republic since 1976. On 26 February, Sir Patrick Mayhew reiterated that there had to be 'substantial progress' on arms decommissioning before the accession of Sinn Fein to substantive talks. Early in 1995 the UUP security spokesman Ken Maginnis, submitted a plea for a internationally-led disarmament commission to Mr Major. In a speech in Washington on 7 March, Sir Patrick Mayhew set out what became known as the Washington Principles for entry into substantive negotiations:

"A willingness in principle to disarm progressively;

A common practical understanding of the modalities, that is to say, what decommissioning would actually entail;

⁶⁵ A practical approach to problem-solving in Northern Ireland

⁶⁶ Formula for Political Progress 10/1/95

In order to test the practical arrangements and to demonstrate good faith, the actual decommissioning of some arms as a tangible confidence building measure and to signal the start of a process".⁶⁷

Following assurances from the Progressive Unionist Parties and the Ulster Democratic Party, Michael Ancram, the Minister of State joined the exploratory talks on 22 March. The Government reacted unfavourably to an announcement by the United States Government that Gerry Adams would be allowed a visa to raise funds in the US and to attend the President's St Patrick's Day Celebrations.

Sir Patrick Mayhew invited the four main constitutional parties⁶⁸ to bilateral talks on the Framework Document on 13 April. On 24 April, the British Government announced that sufficient basis existed for the entry of Ministers into exploratory dialogue with Sinn Fein. According to the Northern Ireland Office Press Release⁶⁹, Sinn Fein said that they would discuss in a serious and constructive manner any issue which the Government wished to raise including decommissioning of arms, but had also said that they wished to raise issues concerning demilitarisation.⁷⁰ The talks between Sinn Fein and Michael Ancram took place on 10 May 1995, followed by an 'informal' meeting between Sir Patrick and Gerry Adams at an investment conference in Washington on 17 May.

There was increasing evidence of Dublin's concern that the decommissioning issue had created an impasse in the summer of 1995. In June, Sinn Fein withdrew from the exploratory talks at Stormont in protest at the Government's refusal to treat Sinn Fein on the same level as the other four main parties. It reiterated that weapons could only be decommissioned as part of an overall political settlement. The release on licence of Private Lee Clegg on 3 July after serving four years of a life sentence for murder resulted in serious rioting in nationalist areas. On 4 July, Mr Major was re-elected leader of the Conservative party following the leadership contest which began on 26 June. On 10 July there was rioting at Drumcree following an Orange Order march. Later in the month it became known that Michael Ancram and Sir Patrick Mayhew had spoken privately to Sinn Fein - twice to urge decommissioning.⁷¹

In August, the Government denied claims by the former Irish Prime Minister, Albert Reynolds, that the disposal of weapons by the IRA had not been raised as an issue during negotiations on the Downing Street Declaration.⁷² Gerry Adams warned in the course of a speech on the dangers facing the peace process that the IRA had not "gone away".⁷³ Sir Patrick Mayhew announced in a speech on 25 August that there would be a return to 50 per cent remission for paramilitary prisoners in Northern Ireland, but made no change in the Government's decommissioning position. Following the ceasefire anniversary on 1 September, the IRA issued a statement noting that it would not decommission its weapons "either through the front door or

⁶⁷ Press statement by Secretary of State for Northern Ireland 7/3/95

⁶⁸ DUP, UUP, Alliance and SDLP

⁶⁹ 24/4/95 'Minister to join exploratory dialogue with Sinn Fein

⁷⁰ ie. the withdrawal of British troops

⁷¹ *Belfast Telegraph* 24/7/95 "Ancram defends talks move"

⁷² *Guardian* 11/8/95 "Reynold's memory fails on arms issue"

⁷³ *Belfast Telegraph* 14/8/95 "Sinn Fein chief vows no change on arms issue"

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the back door".⁷⁴ There were indications however at the end of August that Sinn Fein would consider an international body to oversee decommissioning. On 8 September, David Trimble was elected leader of the UUP following the retirement of James Molyneaux. In September, Kevin McNamara, the former Northern Ireland spokesman, resigned from the front bench in protest at Labour's policy on Northern Ireland.

Attempts to hold an Anglo-Irish summit intensified in the autumn of 1995, but disagreements over decommissioning appeared to delay the summit. David Trimble called for immediate elections to a new Assembly on 22 September. The Northern Ireland (Remission of Sentences) Bill received Royal Assent on 8 November. A planned visit by President Clinton to Northern Ireland at the end of November increased pressure for an Anglo-Irish summit.

An Anglo-Irish communique of 28 November 1995 announced the launching of a new 'twin-track' process to make progress in parallel with the decommissioning issue and on all party negotiations. The political track was to invite parties for intensive preparatory talks for the proposed all party talks, and the decommissioning track was the establishment of an international body to provide an 'independent assessment' of the decommissioning issue. The Communique stated that the two Governments had the firm aim of launching all party talks by the end of February 1996. In his statement to the Commons on 29 November 1995, John Major said that the Government stood by the three [Washington] criteria for decommissioning. He noted that the British and Irish Governments had an acknowledged difference of opinion on the timing of disarmament, but had decided not to allow that difference to stand in the way of forward movement.⁷⁵ The IRA issued a statement on 7 December which reiterated that it would not disarm before all party talks. Invitations to all Northern Ireland political parties were issued on 1 December 1995 inviting them to participate in preparatory talks to establish all party negotiations in accordance with the Communique.⁷⁶

The Mitchell Commission

The International Body was chaired by Senator George J Mitchell, (United States) and the other participants were General John de Chastelain [Canada] and Mr Harri Holker [Finland]: It held a series of meetings and received evidence from all sides. It reported on 22 January 1996. It noted everyone "everyone with whom we spoke agrees in principle with the need to decommission". (para. 17) It found that each side of the argument reflected a core of reasonable concern which deserved to be understood and addressed by the other side (para. 29):

30. Those who insist on prior decommissioning need to be reassured that the commitment to peaceful and democratic means by those formerly supportive of politically motivated violence is genuine and irreversible, and that the threat or use of such violence will not be invoked to influence the process of negotiations or to change any agreed settlement.

⁷⁴ *Times* 2/9/96 "IRA gives blunt warning on weapons 'surrender'"

⁷⁵ HC Deb. c1200-1201

⁷⁶ Northern Ireland Press Office 1/12/95 "Twin track strategy"

31. Those who have been persuaded to abandon violence for the peaceful political path need to be reassured that a meaningful and inclusive process of negotiation is genuinely being offered to address the legitimate concerns of their traditions and the need for new political arrangements with which all can identify.

However, it considered it was not realistic for decommissioning to take place before the beginning of all-party talks:

34. The parties should consider an approach under which some decommissioning would take place during the process of all-party negotiations, rather than before or after as the parties now urge. Such an approach represents a compromise. If the peace process is to move forward, the current impasse must be overcome. While both sides have been adamant in their positions, both have repeatedly expressed the desire to move forward. This approach provides them that opportunity.

It proposed **six principles** for participants in the all party talks:

19. To reach an agreed political settlement and to take the gun out of Irish politics, there must be commitment and adherence to fundamental principles of democracy and non-violence. Participants in all-party, negotiations should affirm their commitment to such principles.

20. Accordingly, we recommend that the parties to such negotiations affirm their total and absolute commitment:

- a. *To democratic and exclusively peaceful means of resolving political issues;*
- b. *To the total disarmament of all paramilitary organisations;*
- c. *To agree that such disarmament must be verifiable to the satisfaction of an independent commission.*
- d. *To renounce for themselves, and to oppose any effort by others, to use force, or threaten to use force, to influence the course or the outcome of all-party negotiations;*
- e. *To agree to abide by the terms of agreement reached in all-party negotiations and to resort to democratic and exclusively peaceful methods in trying to alter any aspect of that outcome with which they may disagree: and*
- f. *To urge that "punishment" killings and beatings stop and to take effective steps to prevent such actions.*

The report considered "as progress is made on political issues, even modest mutual steps on decommissioning could help create the atmosphere needed for further steps in a progressive pattern of mounting trust and confidence" (para. 35).

The Mitchell Commission thought that the details of decommissioning should receive a high priority in all party negotiations, and that decommissioning by paramilitary organisations should be mutual. It noted that there was no equivalence between the weapons of the paramilitaries and those held by security forces, but in the context of building mutual confidence the Commission welcomed the commitment of the Governments, as stated in paragraph nine of the Communique "to continue to take responsive measures, advised by their respective security authorities, as the threat reduces". (para 54) It noted that the process of decommissioning should not require any party to be seen to surrender. (para 39) Decommissioning should take place according to the satisfaction of an independent commission appointed by the British and Irish Governments "on the basis of consultations with the other parties to the negotiating process". (para 40) The decommissioning process "should result in the complete destruction of armaments in a manner

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that contribute to public safety" (para 42) but should not expose individuals to prosecution. (para 47) The decommissioning process had to be mutual, offering the "parties another opportunity to use the process of decommissioning to build confidence one step at a time during negotiations". (para 50)

The Commission raised by way of suggestion the possibility of an elected body: (para 56)

56. Several oral and written submissions raised the idea of an elected body. We note the reference in paragraph three of the Communique to whether and how an elected body could play a part. Elections held in accordance with democratic principles express and reflect the popular will. If it were broadly acceptable, with an appropriate mandate, and within the three-strand structure, an elective process could contribute to the building of confidence.

In his statement to the House on 24 January, John Major welcomed the report and the six principles and proposed elections as a route to all party negotiations: (HC Deb. c.355)

To sum up, we believe that, in the light of the Mitchell report, there are two ways in which all-party negotiations can now be taken forward. Both are fully consistent with the six principles set out in the report. The first is for the paramilitaries to make a start to decommissioning before all-party negotiations. They can-if they will. If not, the second is to secure a democratic mandate for all-party negotiations through elections specially for that purpose.

Those are two routes to all-party negotiations and to decommissioning. The choice between them is ultimately for the parties themselves. I believe that the people of Northern Ireland have every right to expect that one or other of those routes will be taken, and taken soon. For our part, we, together with the Irish Government, will intensify our discussions with the parties. I intend to meet the Taoiseach again in the middle of February to review progress.

Proposals for elections were welcomed by the Unionist parties, but the Irish Government was reportedly upset that it had not been fully consulted before the announcement.⁷⁷ The SDLP and Sinn Fein also opposed elections. The Irish Government subsequently proposed 'proximity talks', citing the talks held at Dayton, Ohio designed to resolve the Balkan conflict.

On 2 February the Forum of Peace and Reconciliation published its report: *Paths to a Political Settlement: Realities, Principles and Requirements*. The report was not fully agreed to by Sinn Fein which was concerned about the text of the paragraph on self determination and consent.

On 9 February, the IRA ceasefire ended with a bomb in Docklands, killing two people. Further bombs were discovered in London in subsequent weeks. The British and Irish Governments refused to meet Sinn Fein until there was a new ceasefire. On 28 February Mr Major and John Bruton held talks at 10 Downing Street, and an Anglo/Irish communique was issued, regretting the end of the ceasefire, and agreeing that the resumption of Ministerial talks with Sinn Fein required the restoration of the ceasefire. Both governments agreed to conduct "intensive multilateral consultations" before all party negotiations on 10 June:

⁷⁷ *Times* 29/1/96 "Spring attacks Major over Ulster poll"

10. The Prime Minister and the Taoiseach agreed that the two Governments would conduct intensive multilateral consultations with the relevant Northern Ireland parties in whatever confirmation was acceptable to those concerned, beginning on Monday 4 March and ending on Wednesday 13 March. The purpose of the consultations will be to:

- (a) reach widespread agreement on proposals for a broadly acceptable elective process leading directly and without preconditions to all party negotiations on 10 June 1996.
- (b) reach widespread agreement on the basis, participation, structure, format and agenda of substantive all-party negotiations; and
- (c) consider whether there might be advantage in holding a referendum in Northern Ireland with a parallel referendum held by the Irish Government in its own jurisdiction on the same day as in Northern Ireland. The purpose of such a referendum would be to mandate support for a process to create lasting stability, based on the repudiation of violence for any political purpose.

The Governments would review the outcome of the consultations immediately after 13 March, and the British Government would bring forward legislation on the elective process, and the decisions would be announced on the other issues.

The Communique stated that all participants on the all party negotiations in June would need to "make clear at the beginning of the discussions their total and absolute commitment to the principles of democracy and non-violence set out in the report of the International Body. They would also have to address, at that stage, its proposals on decommissioning".(para 12) Finally, the two Governments called on Sinn Fein and the IRA "to make Sinn Fein's participation in the process of such negotiations possible".(para 12)

In his statement to the Commons following Mr Major's meeting with Mr Bruton,⁷⁸ the Prime Minister emphasised that there was a clear route to all party negotiations. He noted that he would have preferred to have reached agreement on details of an elective system, the nature and role of an elected body and the format structure and agenda of the all party negotiations by 28 February, but whether or not agreement on these issues was reached by 13 March, the Government would put forward to the House legislative proposals for elections in Northern Ireland, and would take decisions on the nature and role of the body and the format of all party talks, based on a judgement of what is likely to be broadly acceptable. The Government would make its own views clear after 13 March on the proposal for referendums North and South. In response to a question from Tony Blair, Mr Major made clear that for Sinn Fein to take part in the all party negotiations there would need to be a ceasefire, and that the Mitchell principles would be the lead item for the negotiating teams on 10 June. If violence resumed during all party talks "by that violence, that party would have voluntarily excluded itself from the negotiations".(HC Deb. c.905) He reminded the House of the triple lock; that any agreement at the end of all party negotiations would be put to a referendum of the people of Northern Ireland before proposals were put to the House. In response to a question from Paddy Ashdown, Mr Major indicated that elections would precede 10 June by a few days. (HC Deb. 908)

⁷⁸ HC Deb 28/2/96 c900-902

Preparation for all-party talks

On 21 March 1996 John Major made a statement on the arrangements for all-party negotiations. He noted that the form of elections had been one of the main areas of disagreement between the political parties in the intensive consultations held between 4-13 March and that the Government had therefore come forward with their own proposals:⁷⁹

Three main systems have been proposed: an election in 18 constituencies, each electing five members by single transferable vote; an election on a party list system across one single Northern Ireland constituency, and a single constituency election across Northern Ireland with votes for parties, but not for named candidates. None of those systems has secured the clear support of major parties representing each of the main communities. Some parties have even threatened not to participate in the process and thus abort the possibility of all-party negotiations should one of the other systems be chosen.

I made it clear in my statement on 28 February that, if no agreement proved possible, the Government would come forward with proposals based on a judgment of what is most likely to be broadly acceptable to the parties and to the people of Northern Ireland. Whatever the merits of each of the three main systems, it is clear that none, on its own, meets that criterion of broad acceptability.

We have therefore considered how to proceed. We have decided to propose a new system, including the most attractive elements of other proposals. We will therefore introduce legislation, immediately after the Easter recess, providing for an election on 30 May using a list system rather than individual candidates, organised in 18 constituencies, but not by single transferable vote, and supplemented by Northern Ireland-wide party preference.

Briefly, electors will have to register just one vote which they will cast, in the constituency, for the party of their choice. Five seats in each of the 18 constituencies will be allocated from party constituency lists of candidates, published in advance, in proportion to each party's share of the vote. In addition, the votes in all the constituencies will be aggregated and the 10 most successful parties across the whole of Northern Ireland will secure two elected representatives each, from party lists published in advance.

I believe that this is a fair and balanced system that will produce a representative outcome. The Province-wide element should help to achieve the widely shared objective of making the negotiating process as inclusive as possible through representation of the smaller parties.

The elections will create a pool of 110 elected representatives. The successful parties will be invited by the Secretary of State to select, from among their representatives, negotiating teams for the negotiations to begin on 10 June. The transition from the elections to the negotiations will be automatic and immediate.

He noted that Sinn Fein had currently excluded itself from negotiations by the ending of the IRA ceasefire, but it could make itself eligible to participate "through the unequivocal restoration of the ceasefire". (c.498) He emphasised that the Mitchell proposals on decommissioning would be addressed at the beginning of the talks: (c.498)

The negotiations need to take place in an atmosphere of confidence. As I told the House on 28 February, all parties will need to make clear at the beginning of negotiations their total and absolute commitment to the principles of democracy and non-violence set out in the Mitchell report and to address, also at the beginning of negotiations, Senator Mitchell's proposals on decommissioning. There can be no backing away from that. Equally, there must be confidence that, as the negotiations proceed, they will be comprehensive and address all legitimate issues.

⁷⁹ : (HC Deb. c.497-8)

Mr Major stated that the elected forum would meet in Belfast on a regular basis when negotiations were not in session, in order to "promote dialogue and mutual understanding". (c.498) It would not participate in the negotiations but could interact with the process at the request of the participants and the legislation would provide for the forum to be able to conduct hearings at which public submissions by relevant bodies or individuals could be made. The forum's life would be time-limited to 12 months, renewable up to a maximum of 12 months, but it would not continue if negotiations are no longer in progress. The forum would be required to proceed by broad consensus.

Mr Major said that the Government's judgment was that at present the case for a referendum on the use of violence for political ends had not yet been conclusively made but "we have not ruled out the option of holding a referendum with an appropriate questions or questions on the same day as the elections".(c.498) In response to the statement there was concern from the representatives of the three major Northern Ireland parties about the novel form of the elections. Mr Major indicated in response to a question from James Couchman that the constitutional parties in Northern Ireland would be indicated on the face of the Bill. (c.506)

A consultative paper was issued on 21 March⁸⁰ providing some further details on the elective process and the Bill which would provide a power by statutory instrument to hold a referendum in Northern Ireland on a question connected with the negotiations. This would fulfil the Government's undertaking that the outcome of all-party negotiations would be submitted to the people of Northern Ireland before being submitted to Parliament. The Bill would also set out the procedural steps from elections to talks:

Timetable for transition to negotiations

14. The Bill will set out, as appropriate, the procedural steps necessary to lead directly and without preconditions from the election to the convening of all-party negotiations:

- immediately after the election, the Secretary of State will be required, subject only to the discretion described below, to invite leaders of those parties which achieve representation in the election to select negotiating teams no later than Monday 3 June;
- each Government will also establish a negotiating team at the same time;
- all-party negotiations with a comprehensive agenda will be convened on Monday 10 June at a plenary meeting involving the negotiating teams of all participants.

15. In the Communique of 28 February, both Governments expressed the hope that all parties with an electoral mandate will be able to participate in all-party negotiations. However, both Governments also agreed that the resumption of Ministerial dialogue with Sinn Fein and their participation in negotiations requires the unequivocal restoration of the ceasefire of August 1994. In the event of the IRA failing to restore its ceasefire of August 1994, Sinn Fein will therefore not be invited to select a negotiating team and will not participate in negotiations. To give effect to this, invitations to the leaders of parties to select teams and attend negotiations will need to be at the discretion of the Secretary of State, whose policy it will be to exercise this

⁸⁰ *The Framework for a broadly acceptable elective process leading to all-party negotiations* Northern Ireland Office March 1996

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discretion solely for the purpose set out here and after consultation, as appropriate, with the Irish Government.

The paper noted that the elected forum would be "unable to exercise legislative executive or administrative functions and will have no power to determine the conduct, course or outcome of the negotiations". (para. 18) There would be a requirement that the membership and chairmanship of committees be allocated on a proportional basis reflecting party strengths in the forum. (para. 19) There would be provision for the selection of a chairman and adoption of procedural rules. (para. 20)

On 15 March the Northern Ireland office had published a paper of the ground rules for substantive all-party negotiations⁸¹ which had aroused some fears in Unionist circles that the issue of decommissioning would not be the first item on the agenda. In his statement the Prime Minister emphasised that the 15 March paper was a paper for consultation not a blue print with decisions.⁸² The paper noted that negotiations on the three interlocking strands would commence on the same day and proceed in parallel. (para. 14) The paper set out the detailed ground rules as follows:

15. Strand One negotiations will involve the British Government and the political parties:

- negotiations will take place on the basis of an agreed agenda and in appropriate formations as agreed by the participants;
- they will be chaired by the British Government operating agreed procedural rules;
- the Irish Government will be kept informed of the progress achieved in Strand One through agreed liaison arrangements.

16. Strand Two negotiations will involve both the British and Irish Governments and the political parties:

- negotiations will take place on the basis of an agreed agenda and in appropriate formations as agreed by the participants;
- they will be chaired by an independent Chairperson operating agreed procedural rules.

17. Strand Three negotiations will involve the two Governments and will involve appropriate consultation and liaison arrangements with the political parties.

18. In addition to plenary sessions of the negotiations, some practical arrangements will be needed for liaison between the different strands of these complex negotiations. While the management of each strand is for its participants, a Coordination Committee composed of representatives of the two Governments and of the political parties, chaired by the independent Chairperson of Strand Two (or, in her/his absence, by a person agreed by the participants) will be established to coordinate the progress and the procedures of the negotiations across the three strands. The Coordination Committee would address unresolved procedural issues and could also determine the modalities for dealing with any issue which does not fall exclusively within any of the three strands.

⁸¹ Dep Paper 3014 35

⁸² HC Deb 21/3/96 c.501

19. The negotiations will proceed on the shared understanding that nothing will be finally agreed in any strand until everything is agreed in the negotiations as a whole. It would nevertheless be possible, solely on the basis of consensus among the participants, to reach contingent agreement on individual aspects.

20. The negotiations will operate on the basis of consensus. However, if in Strand One or Two it should prove impossible after determined efforts to achieve unanimity, the Chairperson may, without prejudice to the provisions of the previous paragraph, operate on the basis of sufficient consensus among the political parties to allow negotiations to proceed. (The rules for establishing sufficient consensus will be agreed in advance of negotiations by the participants, and such rules will ensure that any departure from the rule of unanimity is within minimal limits and will, in all cases, ensure that any decision taken will be supported by a clear majority in both the unionist and nationalist communities in Northern Ireland.) Additionally, as regards Strands Two and Three, both Governments would have to endorse a particular proposition for it to be deemed to have achieved sufficient consensus. The overall outcome across all three strands would also need to attract a sufficient consensus from the participants.

Over the following few weeks the Northern Ireland office finalised the plans for the elections and the all party negotiations, following some consultation with the Northern Ireland parties. The SDLP and DUP had originally favoured a party list system of elections across the province, while the UUP and the Alliance Party favoured the use of STV in the 18 Parliamentary constituencies. At first there was some concern amongst all the Northern Ireland parties that the electoral system proposed on 21 March would be unworkable. Initially it appeared that only 15 parties would be allowed to stand and the position of independent candidates was unclear. These points were addressed in Schedule 1 of the *Northern Ireland (Entry to Negotiations, etc) Act 1996*.

Part III *Northern Ireland (Entry to Negotiations) etc Act 1996*

See previous section for background to the passage of this Act.

This Act was not significantly amended during its passage through Parliament. On Second Reading on 18 April 1996 the UUP opposed the Bill on the grounds of the electoral arrangements.⁸³ The Bill passed through its final stages in the Lords on 25 April 1996.

The Act set out the framework for the electoral arrangements. Schedule 1 provided for five delegates to be elected from each of the 18 new Northern Ireland Parliamentary constituencies plus an extra 20 delegates for Northern Ireland as a whole; that is two delegates selected from each of the ten parties with the largest aggregate vote. Part II of Schedule 1 set out 30 parties for which lists of candidate could be submitted. The constituency delegates were selected using the calculation set out in paras 8-11 of schedule 1. The formula in paragraph 8 was basically the Droop quota, which is already well known in Northern Ireland elections as it is used in calculations for the Single Transferable Vote. If seats remained unallocated after the application of the Droop quota then under paragraph 11 the d'Hondt Rule was used.⁸⁴

The regional seats were allocated under a first past the post system. The ten parties with the largest numbers of voters across the province were allocated two delegates each. Candidates were disqualified from standing if they were detained in prison or unlawfully at large i.e. S3 of the *Representation of the People Act 1981* applied. The *Elected Authorities (Northern Ireland) Act 1989* provisions requiring candidates to state that they do not support proscribed organisations or acts of terrorism did not apply. The franchise was limited to those entitled to vote at local elections who are registered at an address within the constituency⁸⁵.

Under the terms of S2 the Secretary of State was to invite the nominating representative of each party with delegates to select a team, but he "shall refrain from inviting nominations from the nominating representative of a party, or exclude delegates already nominated from entering into the negotiations, if and for as long as he considers that requirements set out in Command Paper 3232 are not met in relation to the party". This related to the participation of Sinn Fein which was dependent upon the "unequivocal restoration of the ceasefire of August 1994"⁸⁶

S 3 and Schedule 2 provided for a deliberative forum made up of the elected delegates. S 3(3) made clear that the forum will not have any "power to determine the conduct, course or outcome of the negotiations" although it may consider their course if the participants of the negotiations so agree in their rules of procedure. S3 would cease to have effect at the end of May 1997 unless the Secretary of State laid an order to prolong its life to May 1998. An order to the effect was laid in June 1997.⁸⁷

⁸³ HC Deb vol 275 c851-936

⁸⁴ for details on the operation of d'Hondt see Research Paper 98/47 *Voting Systems*

⁸⁵ para 4 Schedule 1

⁸⁶ Para 9 Cm 3232 *Northern Ireland: Ground Rules for Substantive All-party Negotiations*

⁸⁷ *Northern Ireland (Entry to Negotiations Etc) Act 1996 (Revival of Section 3) order 1997*

S. 4 gave a wide power to the Secretary of State to hold referendums by statutory instrument requiring affirmative resolutions. The Order would state the question to be asked and the franchise to be used. The referendums were to be "for the purpose of obtaining the views of the people of Northern Ireland on any matter relating to Northern Ireland"⁸⁸. However the power will not extend to the holding of a poll on the status of Northern Ireland under the *1973 Northern Ireland Constitution Act*⁸⁹. Courts will not have jurisdiction over the outcome in terms of the ballot papers counted or the answers given in a referendum. S 4 was to cease to have effect at the end of May 1999.

Following the Northern Ireland Border Poll Act 1972 a border poll was held on 8 March 1973. Every citizen of Northern Ireland aged 18 or over was asked to state whether he or she wished Northern Ireland to remain part of the UK or to be joined with the Irish Republic outside the UK⁹⁰. The legislation required the ballots to be counted "by reference to Northern Ireland as a whole" presumably to avoid the formal identification of areas with a united Ireland majority, possibly leading to demands for re-partition. The poll was largely boycotted by the SDLP and other nationalists. Schedule 1 of the 1973 Act makes provision for polls on the status of Northern Ireland to be held at intervals of not less than 10 years, but no poll has been held since 1973.

On 16 September 1994 the Prime Minister, John Major, committed the Government to submitting the final outcome of the three stranded talks to the electorate of Northern Ireland for approval in a referendum:

"So for the avoidance of any doubt I want to make clear today that the government will submit the final outcome of the three stranded process of talks to the electorate in Northern Ireland for approval in a referendum. That is to say, we will consult the people of the province on the full package of proposals as a whole. The details of such a referendum will rightly be for discussion with the parties."⁹¹

The commitment to a referendum was repeated by John Major in his statement to the House on 28 February 1996:

Let me reiterate what the right hon. Gentleman said about the status of Northern Ireland. I remind the House of the triple lock to which I have referred in the past, one part of which is that, at the conclusion of the all-party negotiations-on the presumption that there is an agreement at the end of those negotiations-that agreement, emerging from the all-party negotiations with ie constitutional parties, would be put to a referendum of the people of Northern Ireland. Only thereafter would it be brought to the House.

⁸⁸ Clause 4 4(1)

⁸⁹ see above p 8

⁹⁰ see above p

⁹¹ Press Notice 10 Downing St 16.9.95 Statement by the Prime Minister

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The triple lock exists in the agreement among the parties to the negotiations-constitutional parties above all-in the agreement of the people of Northern Ireland in a referendum, and, on the back of those two agreements, in legislation brought before Parliament for its agreement. That is what we have referred to as the triple lock. It is to guarantee that the consent principle for Northern Ireland, which is widely accepted by almost every party and is self-evidently the will of the House, can be sure to have been met to the satisfaction of the people of Northern Ireland.

At Committee stage of the Bill Michael Ancram reiterated that "if the people of Northern Ireland were to vote against the propositions, they would not be brought before Parliament"⁹²

A. The Command Paper

*Northern Ireland: Ground Rules for Substantive All-Party Negotiations*⁹³ was published on the same day as the Bill. It was very similar in wording and form, to the consultative paper published on 15 March. The opening plenary session would "adopt and commit the participants to negotiate a comprehensive agenda which provides reassurances both in terms of addressing the report of the International Body and ensuring that a meaningful and inclusive process of negotiations is genuinely being offered. This agenda will include all the significant items which the various negotiating teams consider relevant and which will, therefore, have to be addressed in the search for agreement" (para. 14). Participants would be expected to maintain confidentiality on all aspects of the negotiations and to make every effort to reach agreement (para. 16). A Business Committee would coordinate progress and procedures, composed of representatives of the British and Irish Governments and the political parties.

Finally the Command Paper emphasised the Mitchell principles:

"If during the negotiations, any party demonstrably dishonoured its commitment to the principles of democracy and nonviolence set out in the report of the International Body by, for example, resorting to force or threatening the use of force to influence the course or the outcome of the negotiations, or failing to oppose the efforts of others to do so, it would no longer be entitled to participate in the negotiations." (para. 17)

The resolution of both the British and Irish Governments not to admit Sinn Fein to the negotiations until the IRA ceasefire of August 1994 was unequivocally restored was noted at para 9.

The Command Paper reaffirmed that both the British and Irish Governments will submit the outcome of the negotiations for public approval by referendums in Ireland - North and South before being submitted for parliamentary ratification (para. 26).

⁹² HC Deb vol 276 22.4.96 c50

⁹³ Cm 3232

B. The Talks Process

The multi party talks began on 10 June 1996 following the elections on 30 May. Ten political parties were successful⁹⁴ but not all took part as the following extract from the Northern Ireland Office website⁹⁵ on the talks make clear.

Who is there?

Ten political parties - the Alliance Party, Labour (a Northern Ireland-based grouping not associated with the party in Great Britain), the Northern Ireland Women's Coalition, the Progressive Unionist Party, Sinn Féin, the Social Democratic and Labour Party, the Ulster Democratic Party, the (Ulster) Democratic Unionist Party and the Ulster Unionist Party - were successful in the elections held in May 1996 to constitute the talks. Sinn Féin was not admitted until September 1997, however, following the resumption of the IRA ceasefire. The Democratic Unionist Party and United Kingdom Unionist Party have not attended since July 1997. The Ulster Democratic Party was excluded on 26 January 1998, and returned on 23 February. Sinn Féin was excluded on 20 February, with an expectation of return, subject in particular to a complete, unqualified and unequivocal IRA ceasefire being observed, on 9 March.

In **Strand One** the parties meet with the British Government, which is in the Chair. In the **plenary, Strand Two and some committees** the parties and British Government are joined by the Irish Government, all meeting under Independent Chairmen. In **Strand Three**, the two Governments meet alone, but there are meetings to liaise with the other participants on issues in this strand.

All parties on entering the talks commit themselves to the Mitchell principles of democracy and non-violence, set out in the report of the International Body on Arms Decommissioning. Parties which demonstrably dishonour their commitment to the principles are not entitled to remain in the talks.

The Independent Chairmen

There are three Independent Chairmen: Senator George Mitchell, the former majority leader of the US Senate; General John de Chastelain, former Chief of Staff of the Canadian Armed Forces, and Mr Harri Holkeri, the former Prime Minister of Finland. The roles of each are set out in the rules of procedure. The British Government chairs Strand One.

The talks did not progress beyond procedural issues in the period June 1996 to March 1997. The parties could not agree on the preliminary issue of decommissioning of weapons by paramilitary groups. No IRA ceasefire was then in operation. The *Northern Ireland Arms Decommissioning Act 1997*⁹⁶ set out the framework for a decommissioning scheme, following the principles of the Mitchell Report, but no practical implementation began. Sinn Fein had been entitled to attend the Forum but never did so and the SDLP withdrew from the Forum (but not the talks) after the

⁹⁴ Results for the Forum were: UUP 30 seats, , DUP 24 seats, SDLP 21 seats ,Sinn Fein 17 seats ,Alliance 7 seats, UKUP 3 seats, PUP 2 seats, UDP 2 seats, Womens' Coalition 2 seats, Labour 2 seats

⁹⁵ www.nio.gov.uk/ptalks.htm

⁹⁶ The Act allowed anyone acting in accordance with a decommissioning scheme to hand in arms and explosives to do so without risk of prosecution, the whole process being overridden by an independent commission

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disturbances at Drumcree in July 1996 An order to suspend the Forum was laid on 10 March 1997,⁹⁷ in accordance with the *Northern Ireland (Entry to Negotiations, Etc) Act 1996* which required its suspension if the multi-party talks were suspended. Following the general election the new government laid an Order to revive the Forum in June 1997⁹⁸.

Tony Blair, the new Prime Minister, made a speech on 16 May offering contact with Sinn Fein in advance of a ceasefire but emphasising that Northern Ireland was likely to remain part of the United Kingdom.⁹⁹ On 25 June 1997 Tony Blair made a statement about Northern Ireland giving background to an aide-memoire issued to Sinn Fein and setting out the government position on decommissioning.¹⁰⁰ He said that detailed talks would start in September and would be finished by May 1998, with or without the participation of Sinn Fein¹⁰¹. On 26 August the two governments signed an agreement to set up an Independent Commission on decommissioning which would operate under legislation passed by both the British and Irish governments.

On 19 July the IRA announced the restoration of its ceasefire and on 29 August the new Northern Ireland Secretary Mo Mowlam announced that she had decided to invite Sinn Fein to enter the talks process since in her opinion they now met the requirements of the *Northern Ireland (Entry to Negotiations) Act 1996*.¹⁰² On 14 September Sinn Fein affirmed its commitment to the Mitchell principles of democracy and non-violence.¹⁰³ Doubt remained as to whether the UUP would join the talks but on 24 September Mo Mowlam was able to announce the start of substantive negotiations on the three strands of the multi-party talks. A Procedural Motion and Agenda was agreed¹⁰⁴ At the same time the Independent Commission on decommissioning was launched as a formal by the two governments, chaired by General John de Chastelain¹⁰⁵The DUP and the UKUP still refused to attend the talks.They had withdrawn in July 1996 at the time of the Drumcree disturbances.

On 7 October the British government published its opening statements on Strands One and Two. Conclusions of intensive consultations were put to a Review Plenary session at the beginning of December. The British and Irish governments put forward a series of Propositions on Heads of Agreement together with an accompanying Joint Statement, noting that they formed only a basis for discussion:

⁹⁷ The Order was debated in the Commons on 19 March 1997 HC Deb c996-1010

⁹⁸ *Northern Ireland (Entry to Negotiations, Etc) Act 1996 (Revival of Section 3) Order 1997*

⁹⁹ *Guardian* 17.5.97 "Peace in their time?". See also *Scotsman* 17.5.97 "A last chance for Sinn Fein?"

¹⁰⁰ HC Deb 25.6.97 c847-860

¹⁰¹ *Times* 26.6.97 "Blair delivers ultimatum on IRA ceasefire"

¹⁰² *Northern Ireland Office Press Notice* 29.8.97 "Statement by the Secretary of State" (encl)

¹⁰³ *Times* 10.9.97 "Sinn Fein vows to turn its back on use of force"

¹⁰⁴ *Northern Ireland Office Press Notice* 24.9.97 "Secretary of State announces launch of substantive negotiations"(encl)

¹⁰⁵ Cm 3753 September 1997

PROPOSITIONS ON HEADS OF AGREEMENT

Balanced constitutional change, based on commitment to the principle of consent in all its aspects by both British and Irish Governments, to include both changes to the Irish Constitution and to British constitutional legislation

Democratically elected institutions in Northern Ireland, to include a Northern Ireland Assembly, elected by a system of proportional representation, exercising devolved executive and legislative responsibility over at least the responsibilities of the six Northern Ireland Departments, and with provisions to ensure that all sections of the community can participate and work together successfully in the operation of these institutions and that all sections of the community are protected.

A new British-Irish Agreement to replace the existing Anglo-Irish Agreement and help establish close co-operation and enhance relationships. embracing:

-An intergovernmental Council to deal with the totality of relationships, to include representatives of the British and Irish Governments, the Northern Ireland Administration and the devolved institutions in Scotland and Wales, with meetings twice a year at Summit level.

-A North/South Ministerial Council to bring together those with executive responsibilities in Northern Ireland and the Irish Government in particular areas. Each side will consult, co-operate and take decisions on matters of mutual interest within the mandate of, and accountable to, the Northern Ireland Assembly and the Oireachtas respectively. All decisions will be by agreement between the two sides, North and South.

-Suitable implementation bodies and mechanisms for policies agreed by the North/South Council in meaningful areas and at an all-island level.

-Standing intergovernmental machinery between the Irish and British Governments, covering issues of mutual interest, including non-devolved issues for Northern Ireland, when representatives of the Northern Ireland Administration would be involved.

Provision to safeguard the rights of both communities in Northern Ireland, through arrangements for the comprehensive protection of fundamental human, civil, political, social, economic and cultural rights. including a Bill of Rights for Northern Ireland supplementing the provisions of the European Convention and to achieve full respect for the principles of equity of treatment and freedom from discrimination, and the cultural identity and ethos of both communities. Appropriate steps to ensure an equivalent level of protection in the Republic.

Effective and practical measures to establish and consolidate an acceptable peaceful society, dealing with issues such as prisoners, security in all its aspects, policing and decommissioning of weapons.

On 27 January the British Government produced papers on Strand Two (North/South Structures) and Strand Three (East /West Structures)

On 26 January the Ulster Democratic Party left the talks, following a number of sectarian killings linked to the UFF. At a subsequent meeting with the UDP officials at the Northern Ireland Office made clear that 'if over a period of weeks a complete unequivocal and

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unqualified UFF cease-fire were demonstrated and established...the Governments would consider the possibility of the UDP rejoining the negotiations.'¹⁰⁶ The UDP rejoined the talks on 23 February after a statement by the two governments on 20 February.

On 20 February the two Governments concluded that there had been IRA involvement in two recent murders and that given the clear link between Sinn Fein and the IRA Sinn Fein was not entitled to participate in the talks. However it was the expectation of both Governments that Sinn Fein could return on 9 March if there was clear evidence that the IRA ceasefire was being "fully and continuously observed".¹⁰⁷

The draft decommissioning scheme presented to the participants in the talks was published on 6 March 1998. *The Northern Ireland Arms Decommissioning Act 1997 (Amnesty Period) Order 1998* was debated in the Lords on 19 March 1998.¹⁰⁸ It fixes the maximum duration of an amnesty period as ending before 27 February 1999, as explained by the junior minister, Adam Ingram in a debate in the Commons Second Standing Committee on Delegated Legislation:

The draft order is an illustration of the Government's commitments, one of many commitments that, together with the Government of the Republic of Ireland, we have made and kept. In August 1997 the British and Irish Governments signed the agreement establishing the Independent International Commission on Decommissioning, whose work has been so instrumental in providing the basis for the Government's draft decommissioning scheme. In September, we appointed General John de Chastelain as chairman of that commission, and Ambassador Donald Johnson and Brigadier Tauno Nieminen as members. They produced their initial report on decommissioning, and proposals for decommissioning schemes, last year. In consultation with the members of the talks liaison sub-committee on decommissioning, the two Governments have taken those proposals forward into draft decommissioning schemes. The preparations that have been made enable voluntary decommissioning to happen.

Having explained how we have arrived at the draft order, I shall now turn to its contents. The order fixes the maximum duration of any amnesty period that is identified in a decommissioning scheme. The order is needed because the 1997 Act requires any amnesty period to end before 27 February 1998. Without the order, therefore, we could not currently make a decommissioning scheme. The effect of the order is that any amnesty period identified in a decommissioning scheme must end before 27 February 1999.

During an amnesty period a person who decommissions arms in accordance with a scheme benefits from an amnesty in respect of the offences set out in the schedule to the Northern Ireland Arms Decommissioning Act 1997. That gives effect to the recommendation contained in the report of the international body of 22 January 1996 that people who decommission weapons should not be exposed to prosecution in the act of decommissioning. Because these arrangements are quite complicated, I emphasise that it is the non-statutory decommissioning scheme and not the order that will, and indeed must, set out the dates of the duration of the amnesty period.

¹⁰⁶ Northern Ireland Information Service 30.1.98 "Meeting with UDP" (encl)

¹⁰⁷ Northern Ireland Office "Joint Press Statement by the British and Irish Governments" 20/2/98

¹⁰⁸ HL Deb 19.3.98 c881-890

Hon. Members will have noticed that there are blank spaces in paragraphs 1 and 5 of the draft scheme that we have circulated, where those dates would appear. The Committee, of course, is not being asked to approve that scheme but it will be relevant to its discussions. We could, of course, make the scheme as soon as the draft order comes into force. However, in practice, it is likely that we will make the scheme when we have identified that a paramilitary group has shown a willingness to decommission arms.

I remind the hon. Members that the combined effect of the 1997 Act, the draft order and the decommissioning scheme is the statutory suspension of important parts of the criminal law. We do not wish to give effect to that lightly or on the off-chance that a group might be stimulated to begin decommissioning. I am sure that none of us would want to take the risk before it is strictly necessary, of the scheme's provisions being abused or taken advantage of in a way that would allow someone to evade prosecution for an offence on the pretext that he was involved in decommissioning.

Every step has been taken in the draft scheme to minimise the risk of abuse once decommissioning starts. The important issue is that the Government should be in a position to implement any scheme without delay. That is why we are bringing forward the order now rather than waiting until there is a proposal for actual decommissioning.

I now turn to the decommissioning scheme document that we placed in the Library and Vote Office on Friday. Copies were sent to members of the Committee. I shall begin by outlining the scheme's provenance and status. First, it is a draft scheme and it may be subject to changes in the light of comments from the parties in the talks liaison sub-committee on decommissioning to whom the two Governments presented it on 25 February. I would, of course, welcome any views expressed by the Committee on the detailed provisions of the scheme. We may also wish to make changes, of a minor and technical nature, to ensure mutual compatibility with the Republic of Ireland's regulations. It was always our intention that a scheme should be as flexible as possible to allow for the circumstances prevailing when actual decommissioning takes place.

The draft scheme gives effect to proposals for decommissioning schemes made by the Independent International Commission on Decommissioning, and I welcome the opportunity to record the Government's appreciation of its work. The effective and efficient manner in which it carried out its remit, and the process of consultation that was engaged in by the commission, have resulted in proposals for decommissioning schemes that were endorsed by the participants in the talks liaison sub-committee and by the two Governments.

The commission's work is the basis of the draft scheme. As was the case at other stages of the process, there has been close and continuing consultation between the British and Irish Governments. In the Republic of Ireland the decommissioning scheme is in the form of draft regulations. As the UK scheme is non-statutory it differs in form from the Republic's regulations, but both drafts are designed to have the same effect and to be consistent with each other while fulfilling the different legal requirements and administrative practices in the two jurisdictions.

It is essential that we have arrangements that are consistent to enable decommissioning to take place throughout the island of Ireland, and the close co-operation that we have had with the Irish Government is to be unreservedly welcomed.¹⁰⁹

¹⁰⁹ SC Deb 11.3.98

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An Anglo-Irish Intergovernmental conference was held on 5 March 1998 and a joint statement was issued which invited Talks participants to join in intensive work needed to reach agreement before Easter 1998¹¹⁰ with referendums to be held in both states during May. The murder of a Catholic and Protestant at Poyntzpass on 3 March was cited by the Irish foreign minister David Andrews as adding an extra sense of urgency.¹¹¹ Sinn Fein were formally re-admitted to the talks on 9 March but did not actually return until 23 March; there was opposition from UUP members who called for the permanent exclusion of Sinn Fein following suspected IRA violence.¹¹²

On 25 March George Mitchell set Thursday April 9 as the deadline for an agreement and announced that negotiations would take place five days a week. The RUC Chief Constable confirmed that the IRA were not implicated in recent violent incidents.¹¹³ A report prepared by Tom Kelly, the director of communications in the Northern Ireland Office on strategies to promote the popular endorsement of an agreement was leaked on 27 March.¹¹⁴ Bertie Ahern, the Taoiseach, suggested five yearly polls on the continued existence of the north-south border on 30 March.¹¹⁵ From the beginning of April there were intensive negotiations. An initial document drawn up by Mr Mitchell was put to the parties on 7 April and Mr Blair went to Belfast on the same day to intensify negotiations; there was immediate opposition from the UUP at the Mitchell draft. There were talks on a continuous basis from Wednesday 8 April until the agreement was reached in the afternoon of 10 April 1998.

¹¹⁰ Northern Ireland Office Press Notice 5.3.98

¹¹¹ *Times* 6.3.98 "Ulster peace talks to end by Easter"

¹¹² *Guardian* 24.3.98 "Sinn Fein returns to talks turmoil"

¹¹³ *Guardian* 26.3.98 "Find Ulster peace by April 9, parties told"

¹¹⁴ *Scotsman* 28.3.98 "Mowlam says civil servants may sabotage peace talks"

¹¹⁵ *Times* 31.3.98 "Unionists reject Ahern poll idea"

Part IV The Belfast Agreement of 10 April 1998

The Agreement was published as *the Belfast Agreement: An Agreement Reached at the Multi-Party Talks on Northern Ireland*.¹¹⁶ In her statement to the Commons on 20 April Mo Mowlam summarised the Agreement as follows:

The main elements in the agreement are:

Firstly, on constitutional issues, the British and Irish governments have formally resolved our historical differences through the general and mutual acceptance of the principle of consent. Northern Ireland is part of the United Kingdom, and will stay that way for as long as that is the wish of a majority of the people who live there.

If the people of Northern Ireland were formally to consent to the establishment of a united Ireland, the Government of the day would bring forward proposals, in consultation with the Irish Government, to give effect to that wish.

Under the agreement, the Irish Government will bring forward proposals to amend the Irish Constitution to bring it into line with this understanding, and the necessary changes will be made to British constitutional legislation.

Secondly, there will be greater democratic accountability in Northern Ireland through the devolution of a wide range of executive and legislative powers to a Northern Ireland Assembly.

In the Assembly, posts of executive authority will be shared on a proportional basis and safeguards will be in place to protect the interests of both main parts of the community.

Thirdly, there will be a North/South Ministerial Council bringing together those with executive authority, North and South, to work together by agreement on matters of mutual interest. Those participating on the Council will be mandated by and remain accountable to the Assembly and the Irish Parliament.

And at least six "implementation bodies" will be identified within the next six months to put decisions taken by the Council into effect on a cross border or all-island basis in specified areas. More such bodies or mechanisms may be established by agreement between the two sides, North and South.

Fourth, there will be a British-Irish Council to bring together our two Governments and representatives of devolved administrations in Northern Ireland, Scotland and Wales, and from the Channel islands and the Isle of Man. This development builds on the Government's key programme of constitutional reform.

Fifth, there will be a new British Irish Agreement to replace the Anglo-Irish Agreement signed in November 1985. This new Agreement will be brought into effect as soon as the other elements of the deal are in place.

The British Irish Agreement sets out the new shared understanding on constitutional matters. It also creates a new British Irish Intergovernmental Conference which will deal with all bilateral issues between the two Governments. And in recognition of the Irish Government's special interest in relation to Northern Ireland there will continue - as now - to be regular meetings between me and the Irish Foreign Minister.

However, in future, relevant executive members of the Northern Ireland Administration will also be involved in these meetings to discuss non-devolved issues which arise in relation to Northern Ireland.

The existing joint Anglo-Irish Secretariat at Maryfield will close before the end of this year.

¹¹⁶ Cm 3883 April 1998 It is available at the Northern Ireland Office website at www.open.gov.uk

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The agreement also includes a range of measures to enhance the proper protection of basic human rights including a new independent Human Rights Commission in Northern Ireland to consult and advise on the scope for defining rights supplementary to those in the ECHR which the Government are already in the process of incorporating into our law across the UK.

A public consultation is already underway about the proposals in our Partnership for Equality White Paper. Subject to that consultation, those proposals - including the establishment of a powerful new Equality Commission - are reflected in this agreement along with other proposals to encourage parity of esteem between the two main political and cultural traditions.

Finally, the agreement looks ahead to the creation of a normal and peaceful society in Northern Ireland.

It establishes a clear process for the decommissioning of illegal weapons that can start forthwith and a commitment by all the parties to work constructively in good faith with the Independent Commission and to use any influence they have to achieve the decommissioning of all paramilitary arms within two years of the referendum.

It commits both Governments to reducing the profile of security measures and emergency legislation as the threat to peace and good order reduces.

There will be an independent Commission to consider what kind of policing service would be appropriate in a Northern Ireland free from the threat of terrorist violence; and a parallel review of the criminal justice system.

The agreement also commits both governments to put in place mechanisms to provide for an accelerated programme for the release of prisoners.

Let me be clear, this is not an easy issue for anyone. But it is an indispensable part of this agreement - as we said it would be.

For our part the British Government will deal with this through a new Sentence Review Body to look at each prisoner on a case by case basis to determine their eligibility for release.

Most eligible prisoners will qualify for release on licence within two years. If the circumstances allow the remainder will be released at that point. It must be emphasised however, that this timeframe is variable, depending on the degree of genuine commitment to peace.

Prisoners associated with groups who do not maintain a complete and unequivocal cease-fire will not qualify. Those prisoners who do qualify, will be released on licence and returned to prison if they engage in any further terrorist activity. Prisoners convicted of offences committed after 10 April of this year will be excluded from the new arrangements.

These are crucial safeguards and a briefing note giving more detail of the proposed arrangements has been placed in the Libraries of both Houses.

The Secretary of State noted that the referendum would be held on 22 May:

I am laying an Order today setting 22 May as the date for a referendum to seek the views of the people of Northern Ireland on the proposed settlement.

The decisive judgement must come from the people whose daily lives will be directly affected by it.

A parallel referendum will be held in the Republic of Ireland on the same day to give the people of the Republic an opportunity to express their views on the agreement and on the constitutional amendments which will be necessary to bring it into effect.

Thereafter it is proposed that elections should be held to the new Northern Ireland Assembly, before the end of June, and the necessary legislation will receive its Second Reading on Wednesday.

Following the election the Assembly and the North/South Ministerial Council would operate in "shadow" mode, making the necessary preparations, until the main implementing legislation, which I intend to bring forward as soon as possible, has been enacted and brought into effect.

A draft order *the Northern Ireland Negotiations (Order) 1998* was laid to set out details of the referendum, as well as an order to wind up the Forum, a statutory requirement under S3 of the 1996 Act, since the talks have been concluded.¹¹⁷ These Orders were approved on 22 May.

A. Constitutional Issues

The Agreement was prefaced by a declaration of support from the participants in the talks. It set out drafts of legislation to be enacted in the United Kingdom and the Republic of Ireland as well as commitments by the British and Irish governments on constitutional issues:

CONSTITUTIONAL ISSUES

1. The participants endorse the commitment made by the British and Irish Governments that, in a new British-Irish Agreement replacing the Anglo-Irish Agreement, they will:

(i) recognise the legitimacy of whatever choice is freely exercised by a majority of the people of Northern Ireland with regard to its status, whether they prefer to continue to support the Union with Great Britain or a sovereign united Ireland;

(ii) recognise that it is for the people of the island of Ireland alone, by agreement between the two parts respectively and without external impediment, to exercise their right of self-determination on the basis of consent, freely and concurrently given, North and South, to bring about a united Ireland, if that is their wish, accepting that this right must be achieved and exercised with and subject to the agreement and consent of a majority of the people of Northern Ireland;

(iii) acknowledge that while a substantial section of the people in Northern Ireland share the legitimate wish of a majority of the people of the island of Ireland for a united Ireland, the present wish of a majority of the people of Northern Ireland, freely exercised and legitimate, is to maintain the Union and, accordingly, that Northern Ireland's status as part of the United Kingdom reflects and relies upon that wish; and that it would be wrong to make any change in the status of Northern Ireland save with the consent of a majority of its people;

(iv) affirm that if, in the future, the people of the island of Ireland exercise their right of self-determination on the basis set out in sections (i) and (ii) above to bring about a united Ireland, it will be a binding obligation on both Governments to introduce and support in their respective Parliaments legislation to give effect to that wish;

¹¹⁷ *Northern Ireland (Entry to Negotiations Etc) Act 1996 (Cessation of Section 3) Order 1998*

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(v) affirm that whatever choice is freely exercised by a majority of the people of Northern Ireland, the power of the sovereign government with jurisdiction there shall be exercised with rigorous impartiality on behalf of all the people in the diversity of their identities and traditions and shall be founded on the principles of full respect for, and equality of, civil, political, social and cultural rights, of freedom from discrimination for all citizens, and of parity of esteem and of just and equal treatment for the identity, ethos, and aspirations of both communities;

(vi) recognise the birthright of all the people of Northern Ireland to identify themselves and be accepted as Irish or British, or both, as they may so choose, and accordingly confirm that their right to hold both British and Irish citizenship is accepted by both Governments and would not be affected by any future change in the status of Northern Ireland.

2. The participants also note that the two Governments have accordingly undertaken in the context of this comprehensive political agreement, to propose and support changes in, respectively, the Constitution of Ireland and in British legislation relating to the constitutional status of Northern Ireland.

ANNEX A

DRAFT CLAUSES/SCHEDULES FOR INCORPORATION IN BRITISH LEGISLATION
ANNEX A

DRAFT CLAUSES/SCHEDULES FOR INCORPORATION IN BRITISH LEGISLATION

1. (1) It is hereby declared that Northern Ireland in its entirety remains part of the United Kingdom and shall not cease to be so without the consent of a majority of the people of Northern Ireland voting in a poll held for the purposes of this section in accordance with Schedule 1.

(2) But if the wish expressed by a majority in such a poll is that Northern Ireland should cease to be part of the United Kingdom and form part of a united Ireland, the Secretary of State shall lay before Parliament such proposals to give effect to that wish as may be agreed between Her Majesty's Government in the United Kingdom and the Government of Ireland.

2. The Government of Ireland Act 1920 is repealed; and this Act shall have effect notwithstanding any other previous enactment.

SCHEDULE 1

POLLS FOR THE PURPOSE OF SECTION 1

1. The Secretary of State may by order direct the holding of a poll for the purposes of section 1 on a date specified in the order.

2. Subject to paragraph 3, the Secretary of State shall exercise the power under paragraph 1 if at any time it appears likely to him that a majority of those voting would express a wish that Northern Ireland should cease to be part of the United Kingdom and form part of a united Ireland.

3. The Secretary of State shall not make an order under paragraph 1 earlier than seven years after the holding of a previous poll under this Schedule.

4. (Remaining paragraphs along the lines of paragraphs 2 and 3 of existing Schedule 1 to 1973 Act.)

ANNEX B

IRISH GOVERNMENT DRAFT LEGISLATION TO AMEND THE CONSTITUTION

Add to Article 29 the following sections:

7.

1. The State may consent to be bound by the British-Irish Agreement done at Belfast on the day of 1998, hereinafter called the Agreement.

1. Any institution established by or under the Agreement may exercise the powers and functions thereby conferred on it in respect of all or any part of the island of Ireland notwithstanding any other provision of this Constitution conferring a like power or function on any person or any organ of State appointed under or created or established by or under this Constitution. Any power or function conferred on such an institution in relation to the settlement or resolution of disputes or controversies may be in addition to or in substitution for any like power or function conferred by this Constitution on any such person or organ of State as aforesaid.

1. If the Government declare that the State has become obliged, pursuant to the Agreement, to give effect to the amendment of this Constitution referred to therein, then, notwithstanding Article 46 hereof, this Constitution shall be amended as follows:

i. the following Articles shall be substituted for Articles 2 and 3 of the Irish text:

"2. [Irish text to be inserted here]

3. [Irish text to be inserted here]"

ii. the following Articles shall be substituted for Articles 2 and 3 of the English text:

"Article 2

It is the entitlement and birthright of every person born in the island of Ireland, which includes its islands and seas, to be part of the Irish nation. That is also the entitlement of all persons otherwise qualified in accordance with law to be citizens of Ireland. Furthermore, the Irish nation cherishes its special affinity with people of Irish ancestry living abroad who share its cultural identity and heritage.

Article 3

1. It is the firm will of the Irish nation, in harmony and friendship, to unite all the people who share the territory of the island of Ireland, in all the diversity of their identities and traditions, recognising that a united Ireland shall be brought about only by peaceful means with the consent of a majority of the people, democratically expressed, in both jurisdictions in the island. Until then, the laws enacted by the Parliament established by this Constitution shall have the like area and extent of application as the laws enacted by the Parliament that existed immediately before the coming into operation of this Constitution.

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2. Institutions with executive powers and functions that are shared between those jurisdictions may be established by their respective responsible authorities for stated purposes and may exercise powers and functions in respect of all or any part of the island."

iii. the following section shall be added to the Irish text of this Article:

"8. [Irish text to be inserted here]"

and

iv. the following section shall be added to the English text of this Article:

"8. The State may exercise extra-territorial jurisdiction in accordance with the generally recognised principles of international law."

4. If a declaration under this section is made, this subsection and subsection 3, other than the amendment of this Constitution effected thereby, and subsection 5 of this section shall be omitted from every official text of this Constitution published thereafter, but notwithstanding such omission this section shall continue to have the force of law.

5. If such a declaration is not made within twelve months of this section being added to this Constitution or such longer period as may be provided for by law, this section shall cease to have effect and shall be omitted from every official text of this Constitution published thereafter.

The draft clauses for incorporation in British legislation will presumably replace S.1 and Schedule 1 of the *Northern Ireland Constitution Act 1973* which provide for polls on a ten yearly basis on the issue of remaining within the UK. The drafts now explicitly commit the UK government to laying before Parliament legislation to permit the inclusion of Northern Ireland within the Republic should a majority of the population of Northern Ireland express such a wish. There is no provision in the Agreement for a weighted majority for consent to unification with the Republic, or for a majority in both communities or for a referendum which would indicate alternative choices, such as a co-dominion or a return to direct rule. There are no such provisions in the 1973 Act either.

B. Strand One - The New Assembly

The Strand One agreement provided for a 108 member Assembly to be created under new legislation which would exercise full legislative and executive authority in respect of the six Northern Ireland Government Departments¹¹⁸. Allocations of Chairs of committees, Ministers and committee membership would be made in proportion to party strengths under the d'Hondt formula.¹¹⁹ Key decisions including the election of First Minister and Deputy First Minister would be taken on a cross community basis. It was intended that at its first meeting members of

¹¹⁸ these will broadly cover finance and personnel, agriculture, education, health and social services, economic development and environment

¹¹⁹ The D'Hondt formula is explained in Research Paper no 98/47 *Voting Systems*

the Assembly would register a declaration of identity - nationalist, unionist or other ¹²⁰for the purposes of measuring cross community decisions, which would be designated in advance. (para.6) Either parallel consent or weighted majority would be used:

- (i) either parallel consent, i.e. a majority of those members present and voting, including a majority of the unionist and nationalist designations present and voting;
- (ii) or a weighted majority (60%) of members present and voting, including at least 40% of each of the nationalist and unionist designations present and voting.

Executive functions would be discharged on behalf of the Assembly by a First Minister and Deputy First Minister and up to ten Ministers with Departmental responsibilities; committees would have a scrutiny, policy development and consultation role with respect to the Department with which each is associated; they will approve relevant secondary legislation and would take the committee stage of relevant primary legislation.

As a condition of appointment Ministers would affirm the terms of a Pledge of Office and could be removed from office following a decision by the Assembly taken on a cross community basis if the responsibilities of the Pledge were not met. The Agreement noted "Those who hold office should use only democratic non-violent means, and those who do not should be excluded or removed from office under these provisions" (para 25) A letter from Tony Blair to David Trimble on 10 April¹²¹ stated that "If during the course of the first six months of the shadow Assembly or the Assembly itself, these provisions have been shown to be ineffective, we will support changes to these provisions to enable them to be made properly effective in preventing such people from holding office."

The Pledge of Office is as follows:

Pledge of Office

To pledge:

- (a) to discharge in good faith all the duties of office;
- (b) commitment to non-violence and exclusively peaceful and democratic means;
- (c) to serve all the people of Northern Ireland equally, and to act in accordance with the general obligations on government to promote equality and prevent discrimination;
- (d) to participate with colleagues in the preparation of a programme for government;
- (e) to operate within the framework of that programme when agreed within the Executive Committee and endorsed by the Assembly;
- (f) to support, and to act in accordance with, all decisions of the Executive Committee and Assembly;

¹²⁰ no further indication is given in the Agreement on the definitions to be used or the feasibility of a member modifying his identity

¹²¹ Dep 98/282

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(g) to comply with the Ministerial Code of Conduct.

CODE OF CONDUCT

Ministers must at all times:

objectivity in relationship to the stewardship of public funds;
be accountable to users of services, the community and, through the Assembly, for the activities within their responsibilities, their stewardship of public funds and the extent to which key performance targets and objectives have been met;
ensure all reasonable requests for information from the Assembly, users of services and individual citizens are complied with; and that Departments and their staff conduct their dealings with the public in an open and responsible way;
follow the seven principles of public life set out by the Committee on Standards in Public Life;
comply with this code and with rules relating to the use of public funds;
operate in a way conducive to promoting good community relations and equality of treatment;
not use information gained in the course of their service for personal gain; nor seek to use the opportunity of public service to promote their private interests; observe the highest standards of propriety and regularity involving impartiality, integrity and ensure they comply with any rules on the acceptance of gifts and hospitality that might be offered;
declare any personal or business interests which may conflict with their responsibilities. The Assembly will retain a Register of Interests. Individuals must ensure that any direct or indirect pecuniary interests which members of the public might reasonably think could influence their judgement are listed in the Register of Interests;

This Pledge of Office is considerably more detailed than the equivalent oath for members of the Northern Ireland Executive in the 1973 Act.¹²² There has been criticism of the potential difficulties of removing a member of the Executive who is suspected of breaching the Pledge, given the requirement that removal can only be achieved on a cross community basis. There is no provision for an oath or pledge for backbench members of the Assembly.¹²³

The Assembly will therefore have the power to pass primary legislation in devolved areas, subject to the ECHR and any forthcoming Bill of Rights for Northern Ireland as promised elsewhere in the Agreement. A Scottish type of devolution seems to have been preferred to the Welsh model, given the separation of legislature from executive and powers over primary legislation. There will be arrangements to ensure input into EU policy making and disputes over legislative competence will be resolved by the courts. The post of Secretary of State for Northern Ireland will remain, but a consultative Civic Forum would be established. The Northern Ireland Grand and Select Committee will remain according to the terms of the Agreement although it is clear from devolution proposals elsewhere that the continuance of equivalent bodies for Scotland and Wales may need to be reviewed by Parliament.

The election of the 108 members would be by Single Transferable Vote with six members from each Parliamentary constituency. The 1973 legislation as amended had laid down five members for each constituency.¹²⁴ The smaller parties had argued for a continuance of a top up system along the lines used for the Forum elections in 1996. Sydney Elliott of Queen's University has

¹²² *Northern Ireland Constitution Act Schedule 4*

¹²³ see *Northern Ireland Constitution Act 1973 s21* on unlawful oaths

¹²⁴ *Northern Ireland Constitution Act 1973, Schedule*, as substituted by SI 1982 no 1838

predicted the following on the basis of the 1997 general election results: 39 UUP, 24 SDLP, 16 SF 16 DUP 9 Alliance 2 UKUP and 2 PUP. He has also predicted 4 UUP, 3 SDLP 2 SF and 1 DUP (or possibly 1 SF and 2 DUP) for the ten ministers to be appointed by the Assembly¹²⁵

It is worth noting that in the 1973 and 1982 legislation the Executive were appointed by the Secretary of State from among members of the Assembly. Under the Agreement the new Assembly would allocate members of the Executive itself. The cross community voting procedures are also novel¹²⁶, but John Bruton, the former Taoiseach, has warned in the Dail debates that "this procedure, while necessary, institutionalises the existence of two conflicting aspirations by importing them into parliamentary procedures"¹²⁷

The Agreement made clear that the Assembly would meet without legislative or executive powers to resolve its standing orders and working practices and make provision for associated new bodies:

Transitional Arrangements

35. The Assembly will meet first for the purpose of organisation, without legislative or executive powers, to resolve its standing orders and working practices and make preparations for the effective functioning of the Assembly, the British-Irish Council and the North/South Ministerial Council and associated implementation bodies. In this transitional period, those members of the Assembly serving as shadow Ministers shall affirm their commitment to non-violence and exclusively peaceful and democratic means and their opposition to any use or threat of force by others for any political purpose; to work in good faith to bring the new arrangements into being; and to observe the spirit of the Pledge of Office applying to appointed Ministers.

C. Strand Two - the North/South Ministerial Council

Strand Two provided for a North/South Ministerial Council to bring together those with executive responsibilities in Northern Ireland and the Irish Government "to develop consultation, cooperation and action within the island of Ireland - including through implementation on an all-island and cross-border basis - on matters of mutual interest within the competence of the Administrations, North and South" (para 1)

There were arrangements to ensure effective operation:

2. All Council decisions to be by agreement between the two sides. Northern Ireland to be represented by the First Minister, Deputy First Minister and any relevant Ministers, the Irish Government by the Taoiseach and relevant Ministers, all operating in accordance with the rules

¹²⁵ *Belfast Telegraph* 14.4.98 "Who will sit in the Assembly and what power will they wield?"

¹²⁶ the *Northern Ireland Act 1982* used various mechanism to denote cross community assent, but did not require members to affirm their community identity. See *The Constitution of Northern Ireland* Chapter VI by Brigid Hadfield

¹²⁷ Speech to Dail on *Nineteenth Amendment to the Constitution Bill 22.4.98*

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for democratic authority and accountability in force in the Northern Ireland Assembly and the Oireachtas respectively. Participation in the Council to be one of the essential responsibilities attaching to relevant posts in the two Administrations. If a holder of a relevant post will not participate normally in the Council, the Taoiseach in the case of the Irish Government and the First and Deputy First Minister in the case of the Northern Ireland Administration to be able to make alternative arrangements.

During the transitional period between Assembly elections and transfer of functions at least 12 suitable subject areas will need to be identified by 31 October 1998 by representatives from the transitional Administration and the Irish Dail from the list in the Annex: The Agreement provided for the north south bodies to form an essential part of the new arrangements:

10. The two Governments will make necessary legislative and other enabling preparations to ensure, as an absolute commitment, that these bodies, which have been agreed as a result of the work programme, function at the time of the inception of the British-Irish Agreement and the transfer of powers, with legislative authority for these bodies transferred to the Assembly as soon as possible thereafter. Other arrangements for the agreed co-operation will also commence contemporaneously with the transfer of powers to the Assembly.

11. The implementation bodies will have a clear operational remit. They will implement on an all-island and cross-border basis policies agreed in the Council.

12. Any further development of these arrangements to be by agreement in the Council and with the specific endorsement of the Northern Ireland Assembly and Oireachtas, subject to the extent of the competences and responsibility of the two Administrations.

13. It is understood that the North/South Ministerial Council and the Northern Ireland Assembly are mutually inter-dependent, and that one cannot successfully function without the other.

The Council would be supported by a standing joint Secretariat, and there was provision for a new parliamentary forum formed from the Assembly and the Oireachtas (Irish Parliament), as well as an independent consultative forum.

The Annex is reproduced below:

1. Agriculture - animal and plant health.
2. Education - teacher qualifications and exchanges.
3. Transport - strategic transport planning.
4. Environment - environmental protection, pollution, water quality, and waste management.
5. Waterways - inland waterways.
6. Social Security/Social Welfare - entitlements of cross-border workers and fraud control.
7. Tourism - promotion, marketing, research, and product development.
8. Relevant EU Programmes such as SPPR, INTERREG, Leader II and their successors.

9. Inland Fisheries.

10. Aquaculture and marine matters

11. Health: accident and emergency services and other related cross-border issues.

12. Urban and rural development.

Others to be considered by the shadow North/ South Council.

It is notable that the shadow Assembly will now have a role in determining the functions of North/South bodies, in contrast to the *Framework Agreement* of 1995 which simply envisaged the involvement of the British and Irish governments. The term 'executive' has been avoided in the text of the Agreement.¹²⁸

D. Strand Three-British-Irish Council

The Agreement set out a new British-Irish Agreement to replace the 1985 *Anglo Irish Agreement*. Relevant executive members of the Northern Ireland Administration would be involved in meetings of the British -Irish intergovernmental conference. The Conference would have "no power to override the democratic arrangements set up by this Agreement" (para 9)

A new British-Irish Council comprising representatives of the British and Irish governments, devolved institutions in Northern Ireland, Scotland and Wales, when established, and if appropriate elsewhere in the United Kingdom together with representatives of the Isle of Man and the Channel Isles. It would meet to exchange information, consult and use best endeavours to reach agreement on matters of mutual interest, such as transport links, cultural, health, educational and approaches on EU issues. It would normally operate by consensus. Interparliamentary links would be encouraged, perhaps building on the British Irish Interparliamentary body.

E. Human Rights

The British Government would complete incorporation into Northern Ireland law the European convention on Human Rights, and would create a statutory obligation on public authorities in Northern Ireland to carry out all their functions with due regard to the need to promote equality

¹²⁸ but see the SDLP website for their view that the bodies will be executive and the UUP website for counter views

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of opportunity. A new Northern Ireland Human Rights Commission would be established by Westminster legislation with an extended role beyond that of the current Standing Advisory Commission on Human Rights, along with a new statutory Equality Commission to replace existing equality commissions such as the Commission for Racial Equality.

The Irish Government is also committed to bringing forward measures to "strengthen and underpin the constitutional protection of human rights" (para 9) including establishing a Human Rights Commission. A joint committee of representatives from each Commission was envisaged.

The British government also promised measures to assist economic growth and stability in Northern Ireland and to promote measures on employment equality included in the White Paper *Partnership for Equality*¹²⁹ as well as cultural measures, including the promotion of the Irish language.

F. Decommissioning and Security

The Agreement stated that participants reaffirmed their commitment to the total disarmament of all paramilitary organisations and confirmed their intention to work to achieve the decommissioning of all paramilitary arms within two years in the context of the implementation of the overall settlement. The British and Irish governments were committed to the normalisation of security arrangements and removal of emergency powers.

G. Policing and Justice

The Agreement promised an independent commission on policing:

3. An independent Commission will be established to make recommendations for future policing arrangements in Northern Ireland including means of encouraging widespread community support for these arrangements within the agreed framework of principles reflected in the paragraphs above and in accordance with the terms of reference at Annex A. The Commission will be broadly representative with expert and international representation among its membership and will be asked to consult widely and to report no later than Summer 1999.

The Annex set out the terms of reference. A parallel wide-ranging review of criminal justice was also promised with a report to the Secretary of State by Autumn 1999. Terms of reference were set out in Annex B. The Agreement also noted that the British government was prepared to devolve responsibility for policing and justice issues. Chris Patten, former Governor of Hong

¹²⁹ Cm 3890 March 1998

Kong, has been proposed as the Chairman for the Commission, but no official appointment has been made.

H. Prisoners

Mechanisms to provide for an accelerated programme for the release of prisoners were promised by both governments:

PRISONERS

1. Both Governments will put in place mechanisms to provide for an accelerated programme for the release of prisoners, including transferred prisoners, convicted of scheduled offences in Northern Ireland or, in the case of those sentenced outside Northern Ireland, similar offences (referred to hereafter as qualifying prisoners). Any such arrangements will protect the rights of individual prisoners under national and international law.
2. Prisoners affiliated to organisations which have not established or are not maintaining a complete and unequivocal ceasefire will not benefit from the arrangements. The situation in this regard will be kept under review.
3. Both Governments will complete a review process within a fixed time frame and set prospective release dates for all qualifying prisoners. The review process would provide for the advance of the release dates of qualifying prisoners while allowing account to be taken of the seriousness of the offences for which the person was convicted and the need to protect the community. In addition, the intention would be that should the circumstances allow it, any qualifying prisoners who remained in custody two years after the commencement of the scheme would be released at that point.
4. The Governments will seek to enact the appropriate legislation to give effect to these arrangements by the end of June 1998.
5. The Governments continue to recognise the importance of measures to facilitate the reintegration of prisoners into the community by providing support both prior to and after release, including assistance directed towards availing of employment opportunities, re-training and/or re-skilling, and further education.

I. Implementation

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The Agreement committed both governments to referendums on Friday 22 May,¹³⁰ with the Irish Government supporting a bill in the Oireachtas amending the Irish Constitution as set out in the Agreement. A majority of those voting in both referendums is required for the Governments to introduce legislation in support of the Agreement and to hold elections on Thursday 25 June. The Assembly would meet initially in shadow mode, and the Agreement noted that the Assembly would "make preparations for the effective functioning of the Assembly, the British-Irish Council and the North/South Ministerial Council and associated implementation bodies" (para 35) A review of the Strand One arrangements was promised after a specified period.

J. The Referendums in Northern Ireland and the Republic

The *Northern Ireland (Entry to Negotiations etc) Act 1996* provided statutory authority for the referendum to be held on 22 May 1998. The power in S4 is wide-ranging, enabling the Secretary of State to set the question and the franchise. However the power did not extend to authorising the Secretary of State to hold a border poll under the *Northern Ireland Constitution Act 1973*.

The **franchise** is the parliamentary one, with the addition of peers and the exclusion of voters resident overseas. EU citizens who can vote in local and European Parliament elections, are excluded from the parliamentary franchise. In Northern Ireland there is a three month residency qualification before entry on to the electoral register. The **count** will be conducted by the Chief Electoral Officer for Northern Ireland and will be conducted on an all Northern Ireland basis, so that voting figures for local areas such as constituencies will not be available.¹³¹ This follows the precedent of the 1973 Border Poll. Each party successful in the Forum elections of 1996 will be eligible for one free postal communication, in line with general election procedure.¹³² In a press notice Mo Mowlam has stated that "apart from this single round of campaign literature for all parties the Government will not be providing any funds for either the 'yes' or 'no' campaigns."¹³³ In the Lords debate Lord Dubs for the Government said that it was up to each party to decide what to put in their leaflet and that the Government had no plans for the allocation of broadcasting time (c1236)

The question is set out in the Schedule as follows:

SCHEDULE I

Article 3(3)

¹³⁰ Thursday 21 May 1998 is Ascension Day

¹³¹ see comments by Lord Dubs, for the Government, HL Deb 22.4.98 c1237

¹³² Article 4(6) as applied by Article 2 of the order

¹³³ Northern Ireland office 17/4/98 'Fair treatment for all parties in the referendum'

FORM OF FRONT OF BALLOT PAPER

Counterfoil No.
The counterfoil is to have a number to correspond with that on the back of the ballot paper

DO YOU SUPPORT THE AGREEMENT REACHED AT THE MULTI-PARTY TALKS ON NORTHERN IRELAND AND SET OUT IN COMMAND PAPER 3883?

YES	
NO	

FORM OF BACK OF BALLOT PAPER

No.
Northern Ireland Referendum

The *Northern Ireland Negotiations(Referendum) Order 1998* was passed by the Commons and the Lords on 23 April 1998.¹³⁴

The UUP Council approved the Agreement by a majority of 72 per cent on 18 April.¹³⁵ The Agreement is supported by the SDLP¹³⁶, the Alliance Party, the Labour Party¹³⁷ the Women's Coalition, the UDP, the PUP and opposed by the DUP¹³⁸ and UKUP. Gerry Adams, for Sinn Fein, told the party's Ard Fheis (Conference) on 18 April that "when the vote was taken [at the plenary session of the talks] I did not vote and Sinn Fein has yet to make a decision on this document. I had previously made it clear that our negotiating team would report back to the ard chomhairle (executive committee) which would assess the document in the context of our peace strategy and that we would approach this development in a positive manner."¹³⁹

The IRA issued a statement which appeared on 30 April in *An Phoblacht/Republican News*¹⁴⁰ as follows:

"The leadership of Oglaih na hEireann (the IRA) have considered carefully the Good Friday document. It remains our position that a durable peace settlement demands the end of British rule in Ireland and the exercise of the right of the people of Ireland to national self-determination.

"Viewed against our republican objective, or any democratic analysis, this document clearly falls short of presenting a solid basis for a lasting settlement. "In our view, the two imminent referenda do not constitute the exercise of self-determination and voters' attitudes

¹³⁴ HC Deb vol 310 c930-940 HL Deb 22.4.98 c1227-38

¹³⁵ for the text of the resolution passed see UUP website www.uup.org

¹³⁶ see website for their comments www.sdlp.ie/sdlp/agreement.htm

¹³⁷ a Northern Ireland party not associated with the British Labour party

¹³⁸ see DUP website for their "10 ways in which the Union is fundamentally weakened" www.dup.org.uk

¹³⁹ Sinn Fein website sinnfein.ie/ardfheis/98ardfheis.gerry.html Presidential Address

¹⁴⁰ taken from the ITN website

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to the referenda should be guided by their own view and the advice of their political leaders."

"However, the Good Friday document does mark a significant development. But whether or not this heralds a transformation of the situation is dependent totally on the will of the British government. Accordingly, we will carefully monitor the situation."

"There appears to be yet another attempt to resurrect the (arms) decommissioning issue as an obstacle to progress. The IRA commitment to assisting the search for peace and justice is a matter of public record. This commitment remains."

"Let us make it clear there will be no decommissioning by the IRA. This issue, as with any other matter affecting the IRA, its functions and objectives, is a matter only for the IRA, to be decided upon and pronounced upon by us."

"We are mindful of our responsibilities and of the need for continued vigilance during these challenging times. We are aware, also, of those who will resist any dynamic for change. They need to face up to the reality that peace demands justice, equality and national rights for the people of Ireland."

"We commend the efforts of Sinn Fein. They can be confident of our desire to see all republicans engage in their decision-making process at this time in a constructive and positive way. We wish Sinn Fein further success in the development of their peace strategy. It remains clear that movement towards a lasting peace is a shared responsibility of all Political leaders."

"We face the future united, committed and dedicated to the struggle for Irish unity and independence."

Tony Blair and Bertie Ahern stated in response that the Agreement was designed as a whole package, and could not be cherry picked¹⁴¹. The former Taoiseach, John Bruton, has criticised IRA assertions that the referendums did not constitute the exercise of national self-determination.¹⁴² There have been reports that the IRA have amended their constitution to allow members who also belong to Sinn Fein to take up seats they win in the Northern Ireland Assembly.¹⁴³ The Conservative and the Liberal Democrats have welcomed the Agreement. Andrew Mackay, the Conservative spokesman, has however warned that verbal commitments from Ministers on prisoner releases and decommissioning should be set out in the two forthcoming Bills on prisoner releases and constitutional changes, and that these Bills should be given adequate time for debate.¹⁴⁴

Sinn Fein delegates voted to take up seats in the new Assembly at a special conference on 10th May where it was approved by 96 per cent. The conference also endorsed the Belfast Agreement by a large majority (no roll count was taken). Sinn Fein is expected to campaign for

¹⁴¹ *Irish Times* 1.5.98 "Sinn Fein must take whole deal" *Irish Times* 2.5.98 "Ahern urges paramilitary groups to wind up activities"

¹⁴² *Daily Telegraph* 5.5.98 "Sinn Fein can't have it both ways"

¹⁴³ *Guardian* 5.5.98 "Secret IRA move gives Adams hope"

¹⁴⁴ *Daily Telegraph* 29.4.98 "The guarantees we must have"

a Yes vote in both referendums.¹⁴⁵ However, a new grouping calling itself the 'real IRA' issued statements on 9th May to indicate that a terrorism campaign would continue.

Tony Blair intervened to ensure that the Parades Commission¹⁴⁶ did not publish its initial conclusions on contentious marches; two loyalist members of the Commission resigned in protest. Decisions will be announced five days before the marches take place.¹⁴⁷

The Referendum in the Republic of Ireland

The **franchise** for the referendum in the Republic of Ireland will be Irish citizens resident in the Irish Republic.¹⁴⁸ Ireland does not have legislation permitting its nationals resident overseas to vote in any type of election or referendum. The **question** will ask voters whether they approve the proposals in the *Nineteenth Amendment of the Constitution Bill 1998* which contains the amendments to the Irish Constitution as set out in the Framework Agreement. The **count** will take place in individual constituencies.¹⁴⁹

The Bill makes clear that the amendments to Articles 2 and 3 will occur only once the new British-Irish Agreement takes place and this new Agreement is dependent on changes to British legislation on the constitutional position of Northern Ireland and the establishment of North-South bodies. If the British-Irish Agreement does not enter into force the whole amendment will cease to have effect after 12 months. This period can be extended. Technically the amendments are to Article 29 of the Constitution inserting firstly a statement that the State may consent to be bound by the Agreement, secondly provisions to enable the institutions established under the Agreement to function, and finally insertion of a mechanism whereby new Articles 2 and 3 can be substituted

Under the *Referendum Act 1998* an independent referendum commission is required to prepare a statement containing a general explanation of the subject matter of a referendum and to "foster and promote debate or discussion in a manner that is fair to all interests concerned" (.s3(1)(a)) It has powers to distribute literature and can request broadcasting time to carry out its functions. The Government is not therefore in a position to use public funds to support one side only in a referendum.

Voters in Ireland will also be asked at the same time a separate question on the ratification of the Amsterdam Treaty. Sinn Fein urged the Irish Government to put back this aspect of the referendum without success. In the Dail debates on 22nd April 1998 the *Nineteenth Amendment to the Constitution Bill* John Bruton, the former Taoiseach, raised questions about the potential constitutional entitlement of all Irish citizens to vote in the Republic's elections or to be represented in the Oireachtas whether or not they were resident in the Republic and suggested that a challenge under Article 1 or 6 of the Constitution might follow on this point. He also raised

¹⁴⁵ *Irish Times* 11/5/97 "Most opposition to changes from South"

¹⁴⁶ for background see Research Paper 98/11 *Public Processions in Northern Ireland*

¹⁴⁷ *Daily Telegraph* 24.4.98 "Blair ban on Drumcree report is attacked"

¹⁴⁸ *Electoral Act 1992 s 7*

¹⁴⁹ both Northern Ireland and the Republic will begin counting at 9am on Saturday 22nd May

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issues about the jurisdiction of the courts in relation to the North/South bodies, and noted that the only statutory definition of the extent of the Irish state was in the *Government of Ireland Act 1920*, which would be abolished. Following an initiative from Mr Ahern the All-Party Joint Oireachtas Committee on the Constitution has agreed to examine ways in which people in Northern Ireland could play a more active role in the Republic, including the possibility of allowing Irish citizens living in Northern Ireland to vote in presidential elections and referendums,¹⁵⁰ and of MPs elected in Northern Ireland sitting in the Dail (without voting on issues).

K. The Northern Ireland (Elections) Act 1998

The Bill was published on 21 April 1998 and completed all its stages in the Commons on 22 April and its Lords stages on 7 May. The Act is intended to establish a body to be known as the *New Northern Ireland Assembly*; no functions are conferred upon it beyond those set out in Clause one:

The New Northern Ireland Assembly

1.-(1) There shall be an Assembly called the New Northern Ireland Assembly, for the purpose of taking part in preparations to give effect to the agreement reached at the multi-party talks on Northern Ireland set out in Command Paper 3883.

- (2) The Secretary of State may refer to the Assembly-
- (a) specific matters arising from that agreement, and
 - (b) such other matters as he thinks fit.

(3) The Assembly shall consist of 108 members.

(4) The initial members shall be returned at an election for the constituencies in Northern Ireland which would return members to the Parliament of the United Kingdom if a general election were held on the date of the passing of this Act.

(5) Each constituency shall return six members.

(6) The Schedule to this Act (which makes supplementary provision about the Assembly) shall have effect.

This follows the precedent of the *Northern Ireland Assembly Act 1973* which governed the elections to the Assembly and did not set out the functions of the Assembly.

The date of the poll is set as Thursday 25 June and the franchise to be used is the local electorate, in contrast to the electorate for the May 22 referendum. The local electorate is to be

¹⁵⁰ *Irish News* 27.4.98 "UU fury at north politician for Dail plan" taken from website. Sinn Fein has argued that its Northern Ireland MPs should be allowed to sit in the Dail: Although Members of another legislature outside the Commonwealth are disqualified from the Commons, Westminster MPs are allowed to sit in the Dail, as long as they are Irish citizens under Irish legislation

used for elections to the National Assembly for Wales and the Scottish Parliament; it includes EU citizens and peers but excludes overseas voters.

The election will be by Single Transferable Vote, as commonly used in Northern Ireland for local elections and elections to the European Parliament. There will be no top up list system as used for the 1996 Forum elections. The Secretary of State has power to make provision for the filling of vacancies. There was some discussion in the Commons debate on the Bill as to whether by-elections should be held. Paul Murphy, junior Northern Ireland minister, said that the government would consult on the matter and then set out general principles,¹⁵¹ in an order subject to affirmative resolution.

EU citizens, peers, members of the Irish Seneadd,¹⁵² would be eligible for membership of the Assembly, but otherwise the disqualifications applicable to membership of the Commons including those in the *House of Commons Disqualification Act 1975* would apply under Clause 4.¹⁵³ This includes prisoners detained or unlawfully at large serving sentences of more than one year for an offence. Membership of the IRA and several Loyalist paramilitary groups remains illegal under the *Northern Ireland (Emergency Provisions) Act 1996*, s.30. Finally the Act makes clear that the legislation will only take effect if there is a majority of those voting in favour of the Agreement in the referendum in Northern Ireland (Clause 8).

¹⁵¹ HC Deb vol 310 22.4.98 c910

¹⁵² Seamus Mallon brought a case to the European Court of Human Rights, following his disqualification from the Northern Ireland Assembly in 1982 on the grounds that he was a member of the Seneadd See *M v UK* Appl 10316/83 37 D& R 110,116. NB Members of the Dail remain ineligible for membership of the Assembly

¹⁵³ The *Elected Authorities (Northern Ireland) Act 1989* s8(2) enabled the Secretary of State to bring into force the disqualification of a person from the Assembly who was found to have acted in breach of the terms of a declaration against terrorism as determined by s7 of that Act. There is no provision in the Agreement for an equivalent disqualification

Part V

Statistics relating to Northern Ireland

Table 1 sets out official figures, collated by the RUC, for the number of deaths connected with the civil disturbances in Northern Ireland since 1969. Since 1969 there have been a total of 3,248 deaths recorded in Northern Ireland, of which 2,293 were of civilians.

Table 2 gives similar information for injuries connected with the security situation. Since the start of the troubles more than 40,000 people have been injured: of these, more than 26,000 have been civilians. Civilians, in these statistics, include paramilitaries and others who might not always be considered to be civilians in the usual sense. There are no government figures available which separate these groups¹⁵⁴ but a recent study of deaths in Northern Ireland contains some analyses of death reports which allow such figures to be calculated up to the end of 1993¹⁵⁵.

Table 3 sets out the number of deaths recorded between 1969 and 1993 as a whole according to the agency responsible for the killing and the status of the person killed. Over this period, 3,285 deaths are covered - rather more than the total given in Table 1 because these figures include deaths relating to the troubles *outside* Northern Ireland, whereas the figures in Tables 1 and 2 only cover those in the province.

Of the 3,285 deaths covered, 3,059 occurred in Northern Ireland, 91 in the Irish Republic, 118 in mainland Britain and 17 elsewhere in Europe. Republican groups were responsible for 1,926 deaths, Loyalist groups for 911, British forces for 357 and the Irish Republic forces for three. In the remaining 88 cases it has not been possible or appropriate to identify the perpetrator.

Table 4 sets out the number of British troops (regular services) stationed in Northern Ireland and the strength of the Ulster Defence Regiment (UDR - now the Royal Irish Regiment) over the period 1969 to 1995.

Table 5 gives figures for the economic subvention paid to Northern Ireland which makes up the difference between public expenditure there and the province's attributed share of UK taxes, rates and other miscellaneous receipts. The additional costs of military operations in Northern Ireland are not included in the economic subvention. The estimated sums which the Ministry of Defence requires to fulfil those tasks which relate directly to the campaign against terrorism in Northern Ireland are also shown in Table 5. These figures relate to the *additional* cost of the Army's task in Northern Ireland. These are costs over and above those that would have been incurred had the troops been on duty at their home base rather than on an emergency tour of duty in Northern Ireland. From 1992/93 these figures show spending on the General Officer Commanding (Northern Ireland)'s budget, which covers much of the cost of maintaining the British Army in Northern Ireland.

Tables 6 and 7 give details of the numbers of votes cast in elections in Northern Ireland since direct rule was established. The somewhat fluid nature of party politics in the province, particularly in the first half of the 1970s, means that trends are sometimes not easy to detect, but the voting data have been grouped in an attempt to make comparisons over time possible.

¹⁵⁴ HC Deb 21 November 1991 c247-8W

¹⁵⁵ "An Index of Deaths from the Conflict in Northern Ireland 1969-1993" (M Sutton 1994)

Table 1

Deaths connected with the civil disturbances in Northern Ireland:
1969-98

	RUC/RUCR	UDR/RIR	Regular Army	Civilians	Total
1969	1	-	-	13	14
1970	2	-	-	23	25
1971	11	5	43	115	174
1972	17	26	105	322	470
1973	13	8	58	173	252
1974	15	7	30	168	220
1975	11	6	14	216	247
1976	23	15	14	245	297
1977	14	14	15	69	112
1978	10	7	14	50	81
1979	14	10	38	51	113
1980	9	9	8	50	76
1981	21	13	10	57	101
1982	12	7	21	57	97
1983	18	10	5	44	77
1984	9	10	9	36	64
1985	23	4	2	26	55
1986	12	8	4	37	61
1987	16	8	3	68	95
1988	6	12	21	55	94
1989	9	2	12	39	62
1990	12	8	7	49	76
1991	6	8	5	75	94
1992	3	2	4	76	85
1993	6	2	6	70	84
1994	3	2	1	56	62
1995	1	-	-	8	9
1996	-	-	1	14	15
1997	4	-	1	17	22
1998 (a)	-	-	-	14	14
Total	301	203	451	2,293	3,248

(a) To 31 March.

Source: RUC Statistical Information Table 1

Table 2

Injuries connected with the civil disturbances 1969-1998

	RUC/RUCR	UDR/RIR	Regular Army	Civilians	Total
1968	379	-	-	..	379
1969	711	-	54	..	765
1970	191	-	620	..	811
1971	315	9	381	1,887	2,592
1972	485	36	542	3,813	4,876
1973	291	23	525	1,812	2,651
1974	235	30	453	1,680	2,398
1975	263	16	151	2,044	2,474
1976	303	22	242	2,162	2,729
1977	183	15	172	1,017	1,387
1978	302	8	127	548	985
1979	165	21	132	557	875
1980	194	24	53	530	801
1981	332	28	112	878	1,350
1982	99	18	80	328	525
1983	142	22	66	280	510
1984	267	22	64	513	866
1985	415	13	20	468	916
1986	622	10	45	773	1,450
1987	246	12	92	780	1,130
1988	218	18	211	600	1,047
1989	163	15	175	606	959
1990	214	24	190	478	906
1991	139	56	197	570	962
1992	148	18	302	598	1,066
1993	147	27	146	504	824
1994	170	6	120	529	825
1995	370	5	8	554	937
1996	459	2	53	905	1,419
1997	357	14	136	730	1,237
1998 (a)	74	-	21	152	247
Total	8,599	514	5,490	26,296	40,899

(a) To 31 March.

Source: RUC Statistical Information Table 2

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Table 3

Deaths connected with the civil disturbances 1969-1993 (a)

	Who kills							Total
	IRA	INLA	Official IRA	Loyalist	British forces	Irish Republic	Others	
Who killed								
British forces	1,006	45	13	12	9	-	-	1,085
Alleged informers	59	6	-	16	-	-	-	81
Civilians working for British	33	-	2	-	-	-	-	35
Loyalist military activists	24	3	-	-	13	-	-	40
Republican military activists	-	-	-	28	141	3	-	172
Loyalist political activists	9	2	-	-	-	-	-	11
Republican political activists	-	-	-	32	-	-	-	32
Sectarian killings	133	18	-	713	-	-	-	864
Killings of British VIPs & civilians in Britain	48	-	-	-	-	-	-	48
Unintentional killings	376	19	11	32)	-	-	-	438
Others	67	29	23	78)	194	-	88	479
Total	1,755	122	49	911	357	3	88	3,285

(a) Includes deaths outside Northern Ireland

Source: "An Index of Deaths from the Conflict in Ireland 1969-1993" (M Sutton 1994)

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Table 4

Strength of security forces in Northern Ireland 1969 to date ^(a)

	RN/RM	Army	RAF	<i>Regular forces total</i>	UDR/RIR	RUC	RUC reserve
1969	515	2,926	1,461	4,902	-	3,061	-
1970	259	7,245	1,312	8,816	3,326	3,044	-
1971	128	10,410	562	11,100	4,151	3,809	436
1972	1,661	12,949	713	15,323	6,741	4,086	1,284
1973	302	17,250	830	18,382	9,098	4,257	2,134
1974	266	15,827	898	16,991	7,816	4,391	2,514
1975	287	14,564	881	15,732	7,676	4,564	3,860
1976	302	14,454	871	15,627	7,793	4,902	4,819
1977	221	14,262	944	15,427	7,616	5,253	4,697
1978	198	14,159	930	15,287	7,812	5,692	4,686
1979	143	12,727	834	13,704	7,761	6,110	4,605
1980	797	11,970	622	13,389	7,425	6,642	4,514
1981	124	11,114	905	12,143	7,431	6,943	4,752
1982	118	10,885	796	11,799	7,350	7,334	4,870
1983	135	10,375	847	11,357	7,026	7,718	4,840
1984	131	9,294	835	10,260	6,929	8,003	4,493
1985	162	9,180	880	10,222	6,468	8,127	4,439
1986	184	8,912	994	10,090	6,508	8,259	4,508
1987	191	9,920	1,047	11,158	6,535	8,234	4,414
1988	163	9,645	1,079	10,887	6,364	8,236	4,646
1989	139	9,695	1,141	10,975	6,312	8,227	4,654
1990	234	9,578	1,165	10,977	6,208	8,259	4,623
1991	233	9,403	941	10,577	6,106	8,243	4,544
1992	197	11,314	1,046	12,557	5,988	8,222	4,561
1993	258	11,141	1,108	12,507	5,613	8,478	4,593
1994	182	11,003	1,127	12,312	5,500	8,464	4,573
1995	217	8,520	1,155	9,892	5,172	8,493	4,690
1996	296	10,395	1,124	11,815	4,947	8,415	4,685
1997 ^(b)	321	11,016	1,140	12,477	4,757	8,423	4,402

Notes: (a) The service manpower figures are for 1 January except for 1969 to 1971 and 1991 to 1995 which are for 1 July and 1996 and 1997 which are for 30 September.

The UDR/RIR figures (which cover full-time and part-time members) are for 1 January except for 1969 to 1971 and 1994 to 1996 which are for 1 July and 1991 to 1993 which are for 1 April. The 1997 figure is for 30 September.

The RUC figures (those for the Reserve cover full-time and part-time members) are for 1 January except for 1969 which are for 1 July

(b) 1997 figure for the Army includes the Province Reserve Battalion and the Rural Reinforcement Battalion which are fully committed to Northern Ireland although only one company of each is currently deployed in the Province.

Sources: *HC Deb 12.7.90 c336W and earlier written answers*

Defence Statistics 1992, 1993 Table 3.11

MoD Statistical Return TSP 10

Northern Ireland Annual Abstract of Statistics 1987 Table 4.12, 1992 Table 4.5

Annual Report of Chief Constable of RUC

Ministry of Defence

HC Deb 6 November 1997 c323-4w

Table 5
Economic subvention and costs of the Army's task
£ million

	Economic subvention	Extra costs of Army's task ^(d)
1969/70	74	2
1970/71	88	7
1971/72	126	14
1972/73	181	29
1973/74	312	33
1974/75	389	45
1975/76	565	60
1976/77	620	65
1977/78	688 ^(a)	69
1978/79	848	81
1979/80	944	96
1980/81	1,090	111
1981/82	1,064	149
1982/83	1,149	143
1983/84	1,305	141
1984/85	1,489	121
1985/86	1,536	135
1986/87	1,593	144
1987/88	1,570	166
1988/89	1,698 ^(b)	174
1989/90	1,757 ^(c)	201
1990/91	2,018	218
1991/92	2,436	317
1992/93	3,156	405
1993/94	3,395	490
1994/95	2,764	511
1995/96	3,207	475
1996/97	3,448	505

Notes: (a) Excludes a once and for all payment of £250 million to write off the debt of the Northern Ireland Electricity Service.

(b) Excludes a payment of £390 million in connection with Shorts plc.

(c) Excludes a payment of £265 million in connection with Shorts plc.

(d) From 1992/93 defence expenditure figures refer to expenditure on the General Officer Commanding (Northern Ireland) budget.

Sources: *HC Deb 22 March 1993 c498W; Northern Ireland Office Appropriation Accounts; National Insurance Fund Accounts Ministry of Defence Expenditure Plans 1998/99, Cm 3902*

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Table 6

Votes cast at elections in Northern Ireland

	Districts* May 1973	Assembly* Jun 1973	General Feb 1974 ^(c)	General Convention* Oct 1974 ^(c)	May 1975	Districts* May 1977	General May 1979	European Parliament* Jun 1979	Districts* May 1981	Assembly* Oct 1982	General Jun 1983
Democratic Unionist (a)	29,610	78,228	58,656	59,451	97,073	70,850	70,975	170,688	176,816	145,528	152,749
Vanguard Unionist (b)	14,467	75,759	75,944	92,262	83,507	8,135					
Official Unionist	286,112	211,362									
Ulster Unionist			232,103	256,065	169,797	164,900	254,578	125,169	176,342	188,277	259,952
United Ulster Unionist						17,901	39,856			11,550	
Unionist Party of Northern Ireland				20,454	50,891	13,691	8,021	3,712	(d)		
Pro-Assembly Unionist			94,301								
Independent Unionist/Ulster Popular Unionist							36,989	38,198	12,491	14,916	22,861
Other Loyalist/Unionist Conservative	60,693	81,786	0	7,942	10,140	13,218	0	0	21,699	9,502	0
Alliance	94,474	66,541	22,660	44,644	64,657	80,011	82,892	39,026	59,219	58,851	61,275
Northern Ireland Labour/Labour '87	17,422	18,675	17,284	11,539	9,102	4,732	4,411		9,854		
Social Democratic & Labour Party	92,600	159,773	160,437	154,193	156,049	114,776	126,325	140,622	116,487	118,891	137,012
Republican Clubs/Workers Party	20,680	13,064	15,152	21,633	14,515	14,277	12,098	4,418	12,237	17,216	14,650
Republican Labour	2,594	1,750									
Nationalist/Unity	16,737	8,270	17,593	32,795		8,161	22,398		9,487		
Irish Independence Party							23,086		25,859		
Provisional Sinn Fein										64,191	102,701
Others	55,590	7,033	23,496	1,386	2,430	46,055	14,358	50,406	45,011	4,198	13,725
Total	690,979	722,241	717,626	702,364	658,161	556,707	695,987	572,239	665,502	633,120	764,925

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Table 6
Votes cast at elections in Northern Ireland

	European Parliament*	Districts*	General	Districts*	European Parliament*	General	Districts*	European Parliament*	Forum	General
	Jun 1984	May 1985	Jun 1987	May 1989	Jun 1989	Apr 1992	Jun 1993	Jun 1994	May 1996	May 1997
Democratic Unionist (a)	230,251	155,297	85,642	109,332	160,110	103,039	108,863	163,246	141,413	107,348
Vanguard Unionist Official Unionist										
Ulster Unionist	147,169	188,497	276,230	193,028	118,785	271,049	184,608	133,459	181,829	258,349
United Ulster Unionist Unionist Party of Northern Ireland										
Pro-Assembly Unionist										
Independent Unionist/Ulster Popular Unionist	20,092		18,420			19,305				
Other Loyalist/Unionist	0	19,712	20,138	28,359	0	2,256	17,025	0	53,856	23,745
Conservative				5,956	25,789	44,608	9,437	5,583	3,595	9,858
Alliance	34,046	45,394	72,671	42,659	27,905	68,695	47,649	23,157	49,176	62,972
Northern Ireland Labour/Labour '87		3,692		1,726	1,274					
Social Democratic & Labour Party	151,399	113,967	154,087	129,557	136,335	184,445	138,619	161,992	160,786	190,814
Republican Clubs/Workers Party	8,712	10,276	19,294	13,078	5,590	4,359		2,543	3,530	2,766
Republican Labour										
Nationalist/Unity		8,191		804			1,762			
Irish Independence Party		7,459								
Provisional Sinn Fein	91,476	75,686	83,389	69,032	48,914	78,291	78,092	55,215	116,377	126,921
Others	2,172	11,451	281	23,678	10,109	9,046	43,051	14,672	41,826	7,989
Total	685,317	639,622	730,152	617,209	534,811	785,093	629,106	559,867	752,388	790,762

* indicates first preference votes

Notes: (a) Democratic Unionist Loyalist Coalition in 1973 Assembly election.

(b) Vanguard Unionist Loyalist Coalition in 1973 elections; Vanguard Unionist Progressive Party subsequently.

(c) The UUP, VUPP and DUP formed the United Ulster Unionist Coalition, which was supported by Independent Unionists in 1975.

(d) Included with Ulster Popular Unionist with which the party was in coalition.

Source: Derived from WD Flackes & S Elliott Northern Ireland A Political Directory and Research Paper 94/78

Britain Votes 6, Rallings and Thrasher; Report of the Chief Electoral Officer for Northern Ireland 1996-97, HC 385 1997-98

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Table 7

Votes cast at elections in Northern Ireland - percentage shares

	Districts* May 1973	Assembly* Jun 1973	General Feb 1974 ^(c)	General Convention* Oct 1974 ^(c)	May 1975	Districts* May 1977	General May 1979	European Parliament* Jun 1979	Districts* May 1981	Assembly* Oct 1982	General Jun 1983
Democratic Unionist (a)	4.3%	10.8%	8.2%	8.5%	14.7%	12.7%	10.2%	29.8%	26.6%	23.0%	20.0%
Vanguard Unionist (b)	2.1%	10.5%	10.6%	13.1%	12.7%	1.5%					
Official Unionist	41.4%	29.3%									
Ulster Unionist			32.3%	36.5%	25.8%	29.6%	36.6%	21.9%	26.5%	29.7%	34.0%
United Ulster Unionist						3.2%	5.7%			1.8%	
Unionist Party of Northern Ireland				2.9%	7.7%	2.5%	1.2%	0.6%	0.0%		
Pro-Assembly Unionist			13.1%								
Independent Unionist/Ulster Popular Unionist							5.3%	6.7%	1.9%	2.4%	3.0%
Other Loyalist/Unionist Conservative	8.8%	11.3%		1.1%	1.5%	2.4%			3.3%	1.5%	
Alliance	13.7%	9.2%	3.2%	6.4%	9.8%	14.4%	11.9%	6.8%	8.9%	9.3%	8.0%
Northern Ireland Labour/Labour '87	2.5%	2.6%	2.4%	1.6%	1.4%	0.8%	0.6%		1.5%		
Social Democratic & Labour Party	13.4%	22.1%	22.4%	22.0%	23.7%	20.6%	18.2%	24.6%	17.5%	18.8%	17.9%
Republican Clubs/Workers Party	3.0%	1.8%	2.1%	3.1%	2.2%	2.6%	1.7%	0.8%	1.8%	2.7%	1.9%
Republican Labour	0.4%	0.2%									
Nationalist/Unity	2.4%	1.1%	2.5%	4.7%		1.5%	3.2%		1.4%		
Irish Independence Party							3.3%		3.9%		
Provisional Sinn Fein										10.1%	13.4%
Others	8.0%	1.0%	3.3%	0.2%	0.4%	8.3%	2.1%	8.8%	6.8%	0.7%	1.8%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Research Paper 98/57

Table 7

Votes cast at elections in Northern Ireland - percentage shares

	European		General	European		General	European		Forum	General
	Parliament*	Districts*		Districts*	Parliament*		Districts*	Parliament*	May 1996	
	Jun 1984	May 1985		May 1989	Jun 1989		Apr 1992	Jun 1993	Jun 1994	
Democratic Unionist (a)	33.6%	24.3%	11.7%	17.7%	29.9%	13.1%	17.3%	29.2%	18.8%	13.6%
Vanguard Unionist (b)										
Official Unionist										
Ulster Unionist	21.5%	29.5%	37.8%	31.3%	22.2%	34.5%	29.3%	23.8%	24.2%	32.7%
United Ulster Unionist										
Unionist Party of Northern Ireland										
Pro-Assembly Unionist										
Independent Unionist/Ulster Popular Unionist	2.9%		2.5%			2.5%				
Other Loyalist/Unionist		3.1%	2.8%	4.6%		0.3%	2.7%		7.2%	3.0%
Conservative				1.0%	4.8%	5.7%	1.5%	1.0%	0.5%	1.2%
Alliance	5.0%	7.1%	10.0%	6.9%	5.2%	8.7%	7.6%	4.1%	6.5%	8.0%
Northern Ireland Labour/Labour '87		0.6%		0.3%	0.2%					
Social Democratic & Labour Party	22.1%	17.8%	21.1%	21.0%	25.5%	23.5%	22.0%	28.9%	21.4%	24.1%
Republican Clubs/Workers Party	1.3%	1.6%	2.6%	2.1%	1.0%	0.6%		0.5%	0.5%	0.3%
Republican Labour										
Nationalist/Unity		1.3%		0.1%			0.3%			
Irish Independence Party		1.2%								
Provisional Sinn Fein	13.3%	11.8%	11.4%	11.2%	9.1%	10.0%	12.4%	9.9%	15.5%	16.1%
Others	0.3%	1.8%	0.0%	3.8%	1.9%	1.2%	6.8%	2.6%	5.6%	1.0%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

* indicates first preference votes

Notes: (a) Democratic Unionist Loyalist Coalition in 1973 Assembly election.

(b) Vanguard Unionist Loyalist Coalition in 1973 elections; Vanguard Unionist Progressive Party subsequently.

(c) The UUP, VUPP and DUP formed the United Ulster Unionist Coalition, which was supported by Independent Unionists in 1975.

(d) Included with Ulster Popular Unionist with which the party was in coalition.

Source: as Table 6

Appendix I

**COMMONS DEBATES ON NORTHERN IRELAND
GOVERNMENT & CONSTITUTION
1972-1998**

Subject		Date	Reference
Northern Ireland Negotiations (Referendum) Order 1998 and- Northern Ireland (Entry to Negotiations) Etc Act 1996 (Cessation of Section 3)Order 1998		22.4.98	310 c930-40
Northern Ireland (Elections) Bill		22.4.98	310 c833-929
Belfast Agreement Statement		20.4.98	310 c479-500
Prevention of Terrorism (Temporary Provisions) Act 1989		05.03.98	307 c 1250-74
(Partial Continuance) Order 1998			
Statement of events in Northern Ireland 30 January 1972 (Bloody Sunday)		29.01.98	304 c 501-507
Public Processions (Northern Ireland) Bill	2R Rep & 3R	18.12.97 04.02.98	303 c 494-547 305 c 1090-192
Northern Ireland (Emergency Provisions) Bill	2R Rep	18.11.97 11.12.97	301 c 168-217 302 c 1215-54
Statement on Reform of Counter-Terrorist Legislation		30.10.97	299 c 1027-37
Northern Ireland (Interim Period Extension) Order 1997		30.06.97	297 c 847-60
Statement on Government's Continuing Search for Peace and a Political Settlement (includes proposal for decommissioning committee)		25.06.97	296 c 847-60
Northern Ireland (Emergency Provisions) Act 1996 (Amendment) Order 1997		12.06.97	295 c 1321-32
Northern Ireland (Entry to Negotiations, etc) Act 1996 (revival of Section 3) Order 1997		02.06.97	295 c 135-55
Northern Ireland Grand Committee & Northern Ireland Business Standing Orders		19.03.97	292 c 950-80
Northern Ireland (Entry to Negotiations) Act 1996 (Cessation of Section 3) Order 1997		19.03.97	292 c 996-1010

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Subject		Date	Reference
Northern Ireland (Emergency and Prevention of Terrorism Provisions) (Continuance) Order 1997		19.03.97	292 c 1011-29
Prevention of Terrorism (Temporary Provisions) Act 1989 (Continuance) Order 1997		05.03.97	291 c 917-59
Motion for the Adjournment on the Constitution		20.02.97	290 c 1055-150
Statement on Northern Ireland Parades (North Report)		30.01.97	289 c 507-22
Northern Ireland Arms Decommissioning Bill	2R	09.12.96	287 c 22-90
	Rep & 3R	16.01.97	288 c 470-515
Statement on events in Northern Ireland, Including review of Parades and Marches		15.07.96	281 c 783-799
Northern Ireland Act 1974 (Interim Period Extension) Order		19.06.96	279 c 938-972
Northern Ireland (Emergency Provisions) Bill	LA	13.06.96	279 c 446-448
Elections (Northern Ireland) Order 1996		01.05.96	276 c 1231-51
Northern Ireland (Entry to Negotiations) Bill	2R	18.04.96	275 c 851-936
	Comm	22.04.96	276 c 23-168
	Comm & 3R	23.04.96	276 c 205-338
Prevention of Terrorism (Additional Powers) Bill All Commons Stages		02.04.96	275 c 152,156-299
Prevention of Terrorism (Temporary Provisions) (Continuance) Order	}		
	}		
Prevention of Terrorism (Exclusion Orders) Regulations	}	14.03.96	273 c 1124-71
	}		
Statement on Anglo-Irish Summit & Peace Process		28.02.96	272 c 900-912
Northern Ireland (Emergency Provisions) Bill Report & 3R		19.02.96	272 c 41-108

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Subject	Date	Reference
Statement on Bomb Explosion in London (South Quay) and end to IRA ceasefire	12.02.96	271 c 655-673
Statement on report of Mitchell Committee on Decommissioning of Arms	24.01.96	270 c 353-370
Northern Ireland (Emergency Provisions) Bill 2R	09.01.96	269 c 31-115
Statement announcing Twin-Track Initiative and establishment of Mitchell Committee	19.11.95	267 c 1199-1211
Northern Ireland (Remission of Sentences) Bill 2R and Remaining Stages	30.10.95	265 c 21-72
N. Ireland Act (Interim Period Extension) Order	05.07.95	263 c 469-90
N. Ireland (Emergency/Prevention of Terrorism Provisions) (Continuance) Order	12.06.95	261 c 501-47
Prevention of Terrorism (Temporary Provisions) Act 1989 (Continuance) Order	08.03.95	256 c 348-97
Statement on 'Frameworks for the Future' and local democracy framework document	22.02.95	255 c 355-70
N. Ireland (Adjournment)	27.10.94	248 c 1018-105
N. Ireland Act (Interim Period Extension) Order	30.06.94	245 c 956-78
N Ireland Emergency/Prevention of Terrorism Provisions (Continuance) Order	24.05.94	244 c 263-307
N.Ireland Select Cttee (Membership)	29.03.94	240 c 853-95
N.Ireland Prevention of Terrorism (Temporary Provisions) (Continuance) Order	09.03.94	239 c 292-339
N.Ireland (Adjournment)	22.10.93	230 c 483-550
N.Ireland Act (Interim Period Extension) Order	24.06.93	227 c 467-501
N.Ireland Emergency/Prevention of Terrorism Provisions) (Continuance) Order	08.06.93	226 c 151-200
N.Ireland Prevention of Terrorism (Temporary Provisions) (Continuance) Order	10.03.93	220 c 955-99
N.Ireland Act (Interim Period Extension) Order	18.06.92	209 c 1054-94

Subject	Date	Reference
N.Ireland (Emergency/Prevention of Terrorism Provisions) (Continuance) Order	10.06.92	209 c 369-420
N.Ireland (Adjournment)	05.3.92	205 c496-535
Prevention of Terrorism (Temporary Provisions) (Continuance) Order	24.02.92	204 c 689-739
N.Ireland (Emergency Provisions) (Continuance) Order	23.07.91	195 c 1112
N.Ireland Act (Interim Period Extension) Order	20.06.91	193 c 514-75
Prevention of Terrorism (Temporary Provisions) (Continuance) Order	04.03.91	187 c 21-71
N.Ireland (Emergency Provisions) Bill 1990/91 :		
2R + MR	19.11.90	181 c 23-112
W + M, Rep + 3R	06.03.91	187 c 290-430
LA	20.06.91	193 c 485-513
N.Ireland Act (Interim Period Extension) Order	05.07.90	175 c 1138-224
N.Ireland (Emergency and Prevention of Terrorism Provisions) (Continuance)	12.03.90	169 c 30-71
Prevention of Terrorism (Temporary Provisions) (continuance)	06.03.90	168 c 819-44
N.Ireland Act (Interim Period Extension) Order	22.06.89	155 c 508-44
N.Ireland (Emergency Provisions) (Continuance) Order	08.03.89	148 c 904-46
Elected Authorities (N. Ireland) Bill Report + 3R	26.01.89	145 c 1206-90
2R	05.12.88	143 c38-120
Prevention of Terrorism (Temporary Provisions) Bill 1988/89		
2R + MR :	06.12.88	143 c 207-82
A.O.T.:	23.01.89	145 c 692-742
Rep + 3R	30.01.89	146 c 29-108
N.Ireland Act (Interim Period Extension) Order	29.06.88	136 c 403-77
N.Ireland (Emergency Provisions) (Continuance) Order		
"	25.02.88	128 c 475-98
"	01.03.88	128 c 883-919

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Subject	Date	Reference
Prevention of Terrorism (Temporary Provisions) (Continuance) Order	16.02.88	127 c 925-949
N.Ireland Act (Interim Period Extension) Order	07.07.87	119 c 198-263
N.Ireland (Emergency Provisions) (Continuance) Order	08.04.87	114 c 310-400
Prevention of Terrorism (Temporary Provisions) (Continuance) Order	10.02.87	110 c 263-86
N.Ireland (Emergency Provisions) (Continuance) Order	16.01.86 19.02.86 19.06.86	89 c 1307-35 92 c 415-37 99 c 1268-96
N.Ireland Act (Interim Period Extension) Order	19.06.86	99 c 1214-67
N.Ireland (Emergency Provisions) (Continuance no. 2) Order	26.06.85	81 c 1028-49
N.Ireland Act (Interim Period Extension) Order	26.06.85	81 c 970-1027
Prevention of Terrorism (Temporary Provisions) (Continuance) Order	21.02.85	73 c 1299-320
N.Ireland (Emergency Provisions) (Continuance) Order	20.12.84	70 c 575-672
N.Ireland (Emergency Provisions) (Continuance) Order	08.12.83	50 c 517-571
N.Ireland Act 1982 (Amendment) Bill 2R	02.12.83	49 c 1147-64
Prevention of Terrorism (Temporary Provisions) Bill 1993/94	2R: Rep + 3R:	24.10.83 25.01.84
		47 c 52-116 52 c 932-1026
N.Ireland (Emergency Provisions) (Continuance) Order	12.05.83	42 c 975-993
N.Ireland Act (Interim Period Extension) Order	12.05.83	42 c 934-974
Prevention of Terrorism (Temporary Provisions) (Continuance) Order	07.03.83	38 c 564-642
N.Ireland (Emergency Provisions) (Continuance) Order	09.12.82	33 c 1057-1083
N.Ireland Assembly Order	26.07.82	28 c 878-896
N.Ireland Act (Interim Period Extension) Order	30.06.82	26 c 999-1016

Subject	Date	Reference
Northern Ireland Bill 1981-82		
2R + CWH	27.05.82	24 c 1071-1155
"	08.06.82	25 c 37-181
"	09.06.82	c 214-374
"	15.06.82	c 747-1058
"	23.06.82	26c 308-406
A.O.T	22.06.82	26 c 166-209
Rep + 3R	29.06.82	26 c 756-865
N.Ireland (Emergency Provisions) (Continuance) Order	30.06.82	26 c 941-998
N.Ireland (Devolution) White Paper (Cmnd 8541)	28.04.82	22 c 850-936
Prevention of Terrorism (Temporary Provisions) (Continuance) Order	15.03.82	20 c 151-171
N.Ireland (Emergency Provisions) (No. 2) Order	15.12.81	15 c 259-279
N. Ireland Economy (Opposition Day)	18.03.81	1 c 290-335
Prevention of Terrorism (Opposition Day)	"	1 c 336-374
Prevention of Terrorism (Temporary Provisions) (Continuance) Order	18.03.81	1 c 375-395
N.Ireland (Emergency Provisions) (Continuance) Order	10.12.80	995 c 1026-1046
N.Ireland (Emergency Provisions) (Continuance) Order	22.07.80	989 c 429-61
Prevention of Terrorism (Temporary Provisions) (Continuance) Order	04.03.80	980 c 405-38
N.Ireland (Emergency Powers) (No. 2) Order	11.12.79	975 c 1093-208
N.Ireland Government White Paper (Cmnd 7950)	09.07.80	988 c 552-720
N.Ireland Government Conference Working Paper (Cmnd 7763)	29.11.79	974 c 1498-1618
N.Ireland (Emergency Provisions) (Amendment) Order	25.07.79	971 c 741-70
N.Ireland Act (Interim Period Extension) Order	02.07.79	969 c 925-1066
N.Ireland (Emergency Provisions) (Continuance) Order	02.07.79	969 c 1067-70
Prevention of Terrorism (Temporary Provisions) (Continuance) Order	21.03.79	964 c 1624-6

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Subject	Date	Reference
Shackleton Report on Prevention of Terrorism Legislation	21.03.79	964 c 1505-624
N.Ireland (Emergency Provisions) (Continuance) Order	06.12.78	959 c 1499-586
N.Ireland Act (Interim Period Extension) Order	30.06.78	952 c 1703-836
Prevention of Terrorism (Temporary Provisions) (Continuance) Order	15.03.78	946 c 543-98
N.Ireland (Emergency Provisions) (Amendment) Order	08.12.77	940 c 1678-764
N.Ireland (Emergency Provisions) (Amendment) Bill 1976-7 2R & Remaining Stages	30.06.77	934 c 712-20
N.Ireland Act (Interim Period Extension) Order	"	934 c 633-86
N.Ireland (Emergency Provisions) (Continuance) Order	30.06.77	934 c 687-712
Prevention of Terrorism(Temporary Provisions) (Continuance) Order	09.03.77	927 c 1472-570
N.Ireland (Various Emergency Provisions) (Continuance) Order	17.12.76	922 c 1933-2048
N.Ireland (Various Emergency Provisions) (Continuance) Order	02.07.76	914 c 879-923
N.Ireland (Interim Period Extension) Order	"	914 c 808-879
Prevention of Terrorism (Temporary Provisions) (Continuance) Order	26.04.76	910 c 113-156
N.Ireland Constitutional Convention	12.01.76	903 c 51-162
N.Ireland (Emergency Provisions) (Continuance) Order	11.12.75	902 c 742-814
Prevention of Terrorism (Temporary Provisions) Bill 1975-76 2R :	26.11.75	901c 874-1004
Rep + 3R :	28.11.76	904 c 441-560
LA :	22.03.76	908 c 157-67

Subject	Date	Reference
N.Ireland (Emergency Provisions) (Continuance) Order	04.11.75	899 c 233-94 c 2071-2104
N.Ireland Act (Interim Period Extension) Order	26.06.75	894 c 843-74
N.Ireland (Emergency Provisions) (Continuance) Order	26+27.06.75	894 c 143, c886-980
Prevention of Terrorism (Temporary Provisions)	19.05.75	892 c 1082-1162
N. Ireland (Opposition Day)	05.12.74	882 c 1951-2070
Prevention of Terrorism (Temporary Provisions) Bill 1974-75		
2R + CWH	28.11.74	882 c 634-938
3R	"	c 939-44
N. Ireland Bill 1974		
2R + CWH	15.07.74	877 c 45-193
3R		c 193-7
N.Ireland (Emergency Provisions) (Continuance) Order	09.07.74	876 c 1273-318
N.Ireland Constitution White Paper (Cmnd 5675)	"	876 c 1162-1272
N. Ireland (Adjournment)	03.06.74	874 c 878-1183
N. Ireland (Adjournment)	04.04.74	871 c 1463-82
N.Ireland Constitution (Amendment) Bill 1973-74		
2R	13.12.73	866 c 668-809
N.Ireland (Emergency Provisions) Proscribed Organisations (Amendment) Order		
	06.12.73	865 c 1583-99
	22.11.73	864 c 1569-685
N.Ireland Constitution Bill 1972-73		
2R + CWH	24.05.73	857 c 680-802
"	14.06.73	c 1716-858
"	21.06.73	c 695-830
Rep + 3R	03.07.73	859 c 261-444
N.Ireland (Emergency Provisions) Bill 1972-73		
2R	17.04.73	855 c 275-392
CWH	14.05.73	856 c 1025-1146
Rep + 3R	05.05.73	859 c 735-880
N.Ireland (Temporary Provisions) Extension Order	28.03.73	853 c 1445-65

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Subject	Date	Reference
N.Ireland Constitution White Paper (Cmnd 5259)	28&29.03.73	853c1318-44,1537-68
N.Ireland Assembly Bill 1972-73 2R + CWH	16.04.73	855 c 31-223
N.Ireland (Border Poll) Order	23.01.73	849 c 388-417
N.Ireland Detention of Terrorists	11.12.72	848 c 45-104
N.Ireland (Border Poll) Bill 1972-3 2R + CWH	21.11.72	846 c 1089-224
	23.11.72	c1529-1697
3R	"	c1697-1712
"Future of N. Ireland" Discussion Paper	13.11.72	846 c 43-160 1537-668
N.Ireland Electoral Law	31.07.72	842 c 43-163 1135-58
N.Ireland (Temporary Provisions) Bill 1971-72 2R + CWH	28.03.72	834 c 238-368
	29.03.72	c 445-764
3R	"	c 767-802
N.Ireland Bill 1971-72 2R	23.02.72	831 c 1363-426
CWH	"	c 1426-50
N.Ireland (Opposition Day)	24.07.72	841 c 1326-90
" " "	29.11.71	827 c 32-183
N.Ireland (Adjournment)	12.06.72	838 c 1071-134
Opposition Adjournment (Allowed under S.O.9)	20.03.72	833 c 1076-1145
N.Ireland (Adjournment)	01.02.72	830 c 264-332
"	25.11.71	826 c 1571-678

Notes

2R = Second Reading; CWH = Committee of the Whole House

MR = Money Resolution; AOT = Allocation of Time W + M Ways + Means

3R = Third Reading; LA = Lords Amendments.

NI Act (Interim Period Extension) order debates = debates to continue in force the provisions of the *Northern Ireland Act 1974*.

Jean Fessey and Amina Gual

April 1998

Appendix 2

Chronological List of Secretaries of State for Northern Ireland

24 March 1972	William Whitelaw
2nd December 1973	Francis Pym
5th March 1974	Merlyn Rees
10th September 1976	Roy Mason
5th May 1979	Humphrey Atkins
14th September 1981	James Prior
11th September 1984	Douglas Hurd
3rd September 1985	Tom King
24th July 1989	Peter Brooke
15th April 1992	Sir Patrick Mayhew
3 May 1997	Dr Marjorie Mowlam

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Research Paper 98/57

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3.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		_____

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