



Political Developments in Northern Ireland Since November 2003

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This note summarises developments since the Northern Ireland Assembly election on 26 November 2003 and discusses the current review of the *Belfast Agreement*. It is current until December 2004. Full details of recent legislation on Northern Ireland is given in Research Paper 03/69 *The Northern Ireland (Monitoring Commission etc) Bill[HL]*.

Contents

A.	A Summary of Political Developments since 1998	2
B.	Northern Ireland Assembly Election Results	4
C.	Pay and Allowances for Members of the Assembly	5
D.	Post Election Party Political Developments	6
E.	Review of the <i>Belfast Agreement</i>	7
F.	European Parliamentary Election results	12
G.	Direct Rule Continues	12
H.	Decommissioning	12
I.	Independent Monitoring Commission – First Report, Paramilitary Activities	15
J.	Independent Monitoring Commission – Second Report, Security Normalisation	20
K.	Independent Monitoring Commission – Third Report, Paramilitary Activities	23
L.	The First Annual Report by the Secretary of State	27
M.	Northern Ireland Select Committee Reports	28
N.	Northern Ireland Grand Committee	29
O.	Commentary on the Peace Process 2004	30

A. A Summary of Political Developments since 1998

On 10 April 1998, the *Belfast Agreement* was finalised. It was endorsed through a referendum held on 22 May 1998 and subsequently given legal force through the *Northern Ireland Act 1998*. The Assembly was elected on 25 June 1998 under the terms of the *Northern Ireland (Elections) Act 1998*.

The Northern Ireland Assembly met for the first time on 1 July 1998 and David Trimble (Ulster Unionist Party) was elected as First Minister with Seamus Mallon (Social Democratic and Labour Party) as the Deputy First Minister. Under the terms of the *Northern Ireland Act 1998*, the two posts are linked, so that if one resigns, the other is bound to do so. By summer 1999 agreement had still not been reached on the formation of an executive. US Senator George Mitchell presided over a review of the political process and the Assembly met on 29 November 1999 when 10 Ministers were nominated, according to the 'd'Hondt formula set out the *Northern Ireland Act 1998*. On 30 November 1999 the Secretary of State made the *Northern Ireland Act 1998 (Commencement Order No 5)* resulting in the devolution of powers to the Northern Ireland Assembly from 2 December 1999.

Continued problems regarding decommissioning led to the re-introduction of direct rule through primary legislation in the form of the *Northern Ireland Act 2000* which allowed for the suspension of the operation of the Assembly and Executive, restoration of devolution by order and for Northern Ireland legislation to be undertaken at Westminster by Orders in Council. Devolution was suspended from 11 February 2000 and 30 May 2000. Devolution was restored to Northern Ireland from June 2000 and there were two further one day suspensions of devolution on 11 August 2001 and 21 September 2001.

Throughout 2002, sectarian violence and allegations that the IRA had broken their ceasefire caused further problems for devolution in Northern Ireland. On 14 October 2002 the then Secretary of State for Northern Ireland, Rt Hon John Reid MP, announced the return of direct rule, following a police raid on Sinn Fein offices at Stormont and the resignation of two Democratic Unionist Party ministers from the executive. The Northern Ireland Office took on the work of the Executive and Assembly Bills were introduced into Parliament as Orders in Council.

Elections to the Assembly originally due on 1 May 2003 were postponed twice, first to 29 May 2003 and then until the autumn on the grounds that outstanding issues about the position of the IRA could not be resolved during an election campaign. The *Northern Ireland Assembly (Elections and Periods of Suspension) Act 2003* postponed the election due on 29 May and gave the Secretary of State power to specify the new date in an order. The Act provided for the temporary suspension of elections until 15 November 2003, but with power for the Secretary of State to continue the suspension for further periods of 6 months maximum.

A Joint Declaration was published on 1 May 2003 which stated that the devolved institutions, if restored, could flourish only in a climate of trust, and it stressed the necessity in this context of 'acts of completion' in the full implementation of the *Belfast Agreement*. As part

of the package of proposals surrounding the Joint Declaration, a draft Agreement on Monitoring and Compliance between the British and Irish Governments was published on 1 May 2003. This envisaged the establishment of an Independent Monitoring Commission to monitor the carrying out of various commitments under the Belfast Agreement. The *Northern Ireland (Monitoring Commission etc) Act 2003* was introduced to implement this proposal.

On 21 October 2003 negotiations between the Ulster Unionists and Sinn Fein resulted in a new date being announced for elections to the Northern Ireland Assembly. However, the likelihood of devolution being restored immediately after the elections was subsequently cast into doubt when David Trimble announced his dissatisfaction with the level of information disclosed in the latest round of decommissioning. Despite this, elections went ahead as planned on 26 November 2003.

A review of the Good Friday Agreement with all the political parties began in early 2004. However efforts were halted after the PUP leader pulled his party out from the review in March. After the European elections in June, review talks resumed in Stormont. A date of late September was set for the new series of political negotiations to be held in the view of restoring the assembly. The three days of intensive discussions at Leeds Castle in Kent, ended with parties failing to reach an agreement. Nonetheless further talks were held at Stormont to discuss the “sticking points”.

Much of the recent issues around decommissioning of IRA weaponry is about the visual confirmation of decommissioning. The DUP insists that there should be photographic and video evidence of the IRA handing in their weapons. There were indications in late November that these witnesses could be leading Catholic and Protestant clergyman.¹

By the end of November 2004 talks for an agreement had reached a critical stage. Sinn Fein President Gerry Adams met with the head of Northern Ireland’s police force, Chief Hugh Orde to discuss the “demilitarisation of republican heartlands”.² The meeting came after Ian Paisley held talks with the head of the decommissioning body to discuss IRA disarmament. Talks were also held by both leaders with Tony Blair at Downing Street in London to discuss their parties’ responses to the latest version of the British-Irish proposals on devolution.

On 8 December 2004 Ian Paisley confirmed that a deal to restore devolution would not be signed,. Tony Blair and Bertie Ahern held a news conference where the proposals for the agreement were published and made available for public scrutiny.³ The proposals document can be found on [http://www.nio.gov.uk/proposals by the british and irish governments for a comprehensive agreement.pdf](http://www.nio.gov.uk/proposals_by_the_british_and_irish_governments_for_a_comprehensive_agreement.pdf).

¹ *Photos the key for DUP to accept IRA arms wipeout, Belfast Telegraph, 18 November 2004*

² *Critical stage for NI process, BBC News, 29 November 2004*

³ *Progress but no deal says Blair, BBC News, 8 December 2004*

On 9 December 2004 a statement made by the IRA appeared in the republican newspaper, An Phoblacht. The full statement can be viewed on <http://sinnfein.ie/gaelic/peace/document/193>. The IRA said that they would move into a “new mode” and that in an event of a deal, there would be an end to all its activities with decommissioning complete by December “if possible”. The IRA would agree to the two clergymen overseeing the process.

Following the publication of the agreement proposals, the Secretary of State for Northern Ireland, Paul Murphy, made a statement to the House of Commons where he gave a brief on the failed negotiations for devolution. He told the House of Commons that he is scheduled to meet the Irish Foreign Minister, Dermot Ahern, to press forward in bridging this remaining gap. A British Irish Intergovernmental Conference is also due to be held on the 16 December and both the Irish and British Prime Ministers will meet again at the European Council on the following day.⁴

B. Northern Ireland Assembly Election Results

The results are summarised in Library Standard Note no 2801 *Northern Ireland Assembly Elections* available at <http://hcl1.hclibrary.parliament.uk/notes/sgss/snsg-02801.pdf> The Democratic Unionist Party won the most number of Assembly seats by gaining 30 out of the total number of 108, this was an increase of 10 from the 1998 election. They also won the highest share of the first preference votes with 25.7%. The Ulster Unionist Party won 27 seats which was one fewer than in 1998. The percentage of first preference votes received by the Ulster Unionist Party was 22.7%. Sinn Fein secured more first preference votes (23.5%) than the Ulster Unionist Party which resulted in the party winning 24 seats. The Social Democratic and Labour Party won 18 seats which was the lowest share of the vote of the major parties. The Alliance Party of Northern Ireland gained 6 seats and the three remaining seats went to: one Independent, one Progressive Unionist and one United Kingdom Unionist. The Independent was a GP, Dr Kieran Deeny, who ran a single issue campaign on accident and emergency services at his local hospital.

Turnout was 63.1% of the electorate, compared to 68.8% at the 1998 Assembly elections and 68.0% in Northern Ireland at the 2001 General Election.

In April 2004 the Electoral Commission published its first report into the Northern Ireland Assembly Elections of 26 November 2003. The Electoral Commission has a statutory duty to report on the administration of Northern Ireland Elections, however the elections were also the first to take place under the provisions of the Electoral Fraud (Northern Ireland) Act 2002 and the report considers the impact of this legislation. A major problem identified by the Electoral Commission was the decision to hold the election in the middle of the annual electoral registration period. As well as causing major logistical problems for the Chief Electoral Officer, this also led to people turning up to vote to find that their name had not

⁴ HC Ministerial Statement 9 December 2004, Column 1287

been entered on the register as they had only recently sent off their registration details. Other issues raised include: the drop in turnout, the use of photographic identification for voters which was judged to be a success, a reduction in fraudulent activities and the need for a review of voting system and procedures concerning levels of voting privacy and counting methods. The report makes a number of recommendations concerning the build up to elections, ways to increase public awareness and participation, the polling day itself and the count and aftermath.

Further developments with regards future elections within Northern Ireland were announced in the Boundary Commission for Northern Ireland Report published in May 2004. The Recommendations follow a Review which began last year. The Commission proposes that the number of constituencies should remain at 18 and recommend significant changes to some boundaries. The proposed constituencies and their electorates are shown in an Annex to the report and maps of the constituencies are attached.

C. Pay and Allowances for Members of the Assembly

Pay and allowances for Members of the 1998-2003 Assembly were most recently set by the Northern Ireland Assembly (Elections and Periods of Suspension Act) 2003. This included provisions to allow former Members to receive salaries and allowances up to the last nomination day for the next election and if nominated, up to the end of the day of the poll for that election.

While direct rule is still in operation, members of the new Assembly are subject to the provisions in paragraph 9 of Schedule 1 to the *Northern Ireland Act 2000*:

9(1) While section 1 is in force, the functions of the Assembly under sections 47 and 48 of the 1998 Act (remuneration and pensions) are exercisable by the Secretary of State.

The wording of s47(9)(a) of the 1998 Act causes some difficulties under direct rule since it refers to the member's entitlement beginning from the day he takes his seat in accordance with standing orders. Standing Orders make clear that it is necessary to first sign the roll of membership. This is inappropriate when the Assembly itself is not sitting. The Secretary of State has made a modification order to the *Northern Ireland Act* to make allowances payable from 5 December, 8 days from the poll, the time when the Assembly would have convened if devolution had been in place.⁵ A determination order sets out the amounts payable.⁶ The modification order was debated in the Lords on 9 December⁷ and in the Commons on 11 December. The salary is approximately 70 per cent of the full rate:- £31,817 per annum, the rate paid following suspension of the Assembly in October 2002, until dissolution in April 2003.

⁵ *Northern Ireland Act 1998 (Modification) Order 2003*

⁶ *Northern Ireland Assembly (Members' Salaries and Allowances) (No 2) Determination 2003*

⁷ HL Deb c701-8

During the Lords debate, the junior minister, Baroness Amos said that:

We have arranged for newly elected MLAs to receive a package of allowances to facilitate their work. We shall also expect this package of salary and allowances to cover the cost of the parties' participation in the forthcoming review.⁸

D. Post Election Party Political Developments

Subsequent to the Democratic Unionist Party's success in the Northern Ireland Assembly elections, Jeffrey Donaldson left the Ulster Unionist Party in December 2003. He then joined the Democratic Unionist Party on 6 January 2004. This resulted in the Democratic Unionist Party becoming the largest party from Northern Ireland in the Commons with a total of six seats.

The rise in support for the Democratic Unionist Party has major implications for the *Belfast Agreement*. This was raised in the Commons by Iris Robinson, member of the Democratic Unionist Party during questions to Mr Paul Murphy, Secretary of State for Northern Ireland on 14 January 2004:

Mrs. Iris Robinson (Strangford) (DUP): Does the Secretary of State agree that it does not augur well for the forthcoming talks if this Government are still in denial about recognising that 65 per cent. of Unionist voters do not support the Belfast agreement? Does he further agree that any agreement in Northern Ireland must command the support of a majority of nationalists, as well as a majority of Unionists?

Mr. Murphy: Of course I accept that there must be a proper engagement among parties that have received a proper mandate from the people of Northern Ireland—that includes the hon. Lady's party, and we understand that. She should also realise that it is still the case that a very large majority of the Assembly Members elected last November support the Good Friday agreement.⁹

The DUP has made clear that they would like any review of the *Belfast Agreement* to be a complete renegotiation. This is indicated by the Democratic Unionist Party policy document 'Towards a New Agreement':

The Belfast Agreement is fatally flawed. It cannot command the required support from within the Unionist community and is therefore unable to function. The flaws in the Belfast Agreement are so fundamental that it requires to be replaced with a new agreement.¹⁰

⁸ c702

⁹ HC Deb 14 January 2004 c808

¹⁰ Democratic Unionist Party Policy Paper: *Towards a new Agreement*, website <http://www.dup2win.com/>

Dr Ian Paisley held talks with Tony Blair on 5 February and presented proposals by which power would rest with the Assembly, rather than a separate executive. Chairs of Assembly committees would act as ministers, following a local government model of government.¹¹

After walking out of the review of the *Belfast Agreement* due to allegations of renewed Sinn Fein activity, David Trimble faced a challenge to his party leadership when a leadership election was forced at the Ulster Unionist Party's annual meeting on 27 March 2004. Coleraine based management consultant David Hoey and Portadown businessman Robert Oliver ran against him, but David Trimble managed to hold onto just under 60% of the vote.¹²

E. Review of the *Belfast Agreement*

During December 2003 the Prime Minister held a series of talks, including with Democratic Unionist Party leader the Rev Ian Paisley, aimed at establishing a working framework for the proposed review of the *Belfast Agreement*.

During questions to Mr Paul Murphy MP, Secretary of State for Northern Ireland on 14 January 2004 the Government reiterated their commitment to restoring devolution to Northern Ireland based on the results of a review of the *Belfast Agreement*:

Peace Process

Mr. Alistair Carmichael (Orkney and Shetland) (LD): If he will make a statement on the peace process.

The Secretary of State for Northern Ireland (Mr. Paul Murphy): It remains our objective to secure the restoration of devolved government in Northern Ireland on a stable and secure footing. We will be talking to the parties in the coming weeks about how this can be achieved, and we shall be presenting proposals, jointly with the Irish Government, on how the review of the operation of the Belfast agreement will be taken forward. It remains our view that the agreement is the political framework that is capable of securing the support of both communities in Northern Ireland, and we are committed to its implementation.¹³

The Northern Ireland Office officially announced the review of the *Belfast Agreement* on 19 January 2004:

The British and Irish Governments today jointly announced that the review of the operation of the Belfast (Good Friday) Agreement will formally begin on Tuesday, 3 February. This follows a period of consultation with the parties on the agenda and conduct of the review, which continues in meetings this week. The initial meeting will be held at Parliament Buildings in Belfast at 2:30pm.

¹¹ *BBC News*, 5 February 2004

¹² *BBC News*, 27 March 2004

¹³ HC Deb 14 January 2004 c804

The review was to be co-chaired by the UK and Irish Governments and took place over two days per week with an expected report date of Easter.¹⁴

During the first meeting on 3 February all parties gathered together to make an opening statement. The Secretary of State for Northern Ireland, Paul Murphy, said:

The Validation, Implementation and Review section is an integral part of the Belfast Agreement. It had long been anticipated that, under its terms, a Review of the operation of the Agreement would take place around this time, four years after the institutions began to operate in December 1999. We had, however, hoped and expected that the Review would take place in a context where devolution was functioning rather than in suspension.

It is widely acknowledged that devolution was a success. It brought government closer to the people of Northern Ireland. Ministers from all parties showed their effectiveness, and were able to draw on their close understanding of the social, economic and cultural challenges faced by Northern Ireland. All concerned worked hard and achieved a great deal for the common good of Northern Ireland's people.

From my perspective, the most welcome outcome from the review would be for me to lose responsibility for those matters which should, quite properly, be devolved.

The British Government's approach to the review discussions is straightforward. We want to see a return to devolved Government in Northern Ireland on a stable and inclusive footing, on the basis of the Belfast Agreement. We remain committed to the Agreement's vision of a genuinely peaceful and inclusive society in which the rights of all are respected. We remain pledged to implement our commitments under the Agreement, in the context of full implementation by others.

But we all know that, at present, there is insufficient confidence to enable the institutions of devolved government - and with them the full apparatus of the Belfast Agreement - to operate as intended.

The Government believes that it is just as clear what is required if that confidence is to be rebuilt. The Prime Minister spelt it out in his speech in Belfast in October 2002 after the institutions were suspended. There must be a complete end to all forms of paramilitary activity, bringing the transition from violence to exclusively peaceful and democratic means to an unambiguous and definitive conclusion. And there must be a matching commitment on all sides to the stability of the institutions of devolved government.

It is our hope that the review can help facilitate the process of rebuilding that trust and confidence, through dialogue.

¹⁴ Ulster could face assembly election in June' *Financial Times* 2 February 2004

In the terms of the Agreement itself, this review is concerned with the operation of the Agreement. The review is a chance for us all to consider how the Agreement has functioned, and how its operation might be improved for the future.

We have had submissions from each of you which begin to set out your ideas. We expect to hear more detail in the weeks ahead. It is clear from the material we have received that most parties see a variety of ways in which they believe the effective operation of the Agreement ought to be addressed. The Government has said that the fundamentals of the Belfast Agreement must remain in place. That remains the case. At the same time, there is an onus on all of us to look constructively at ideas, from whatever source, for improving the operation of the Agreement.¹⁵

So I hope that all of the parties represented here today will approach the review in a constructive spirit, both in bringing forward their own proposals and in receiving those of others. We will do all we can to facilitate such dialogue so that we may make genuine progress. I hope, too, that we can all agree that we should make progress as briskly as possible, consistent with the need for each of the participants to be given a fair hearing. The people of Northern Ireland, and beyond, will not understand if we get bogged down in procedural or other unproductive discussions when there is serious work to do.

This is an important agenda. But from my perspective, and, I hope, from yours too, it is just as important that the review is an opportunity for real engagement about how we can move forward to stable and inclusive devolved government in a peaceful society.

Discussions are intended to be confidential, but the various parties have issued position statements. Commentators noted that this in itself could be seen as a historical development for the Democratic Unionist Party as they sat around the same table as Sinn Fein. Ian Paisley said that he would only pursue negotiations via the Secretary of State for Northern Ireland not directly with Sinn Fein. However, over the weekend of 6/7 February, there were indications that some movement might be underway. BBC News reported the reaction of Sinn Fein to the DUP proposals:

Martin McGuinness described the DUP ideas as "a shift by that party from the never never land politics that they have inhabited for decades".

Whilst rejecting some of the DUP proposals, Mr McGuinness said they brought "the DUP into the ballpark of Good Friday Agreement politics".¹⁶

¹⁵ *Opening statement from the Secretary of State for Northern Ireland*, Northern Ireland Office Press Notice 3 February 2004

¹⁶ *Parties Begin Review Talks*, *BBC News* 9 February 2004

However, the UUP reaction was different:

Ulster Unionist leader David Trimble said the DUP proposals would allow Stormont to come back without the underlying problem being resolved - continued paramilitarism.

The Alliance Party has proposed a list of changes, including a smaller Assembly and an adoption of a 60-65 per cent weighted majority system for cross community measures, and a review of the number of departments. The SDLP and SF have argued for the restoration of devolution. Further detail on the terms of reference of the review was given in a parliamentary answer on 11 February:

Mr. Eddie McGrady (South Down) (SDLP): Will the Secretary of State reaffirm the Government's attitude and policy that the review is about the workings of the agreement, and not about the fundamental principles established and agreed to not only by the parties that participated in it, but by referendums, north and south, in Ireland? Will he confirm that it will be essential for a successful conclusion that all parties participating and agreeing will eventually participate in all strands—strands 1, 2, and 3? Documentation from the party of the hon. Member for East Londonderry (Mr. Campbell) deals only with strand 1. Will the Secretary of State say what is happening at the moment to the functioning of strand 2, which deals with north-south relationships?

Mr. Murphy: Yes, the Government still take the view that the Good Friday agreement is the basis on which progress can be made. We know that the agreement covers fundamental matters such as the principle of consent, power sharing between parties, parity of esteem, which I have mentioned, and proper arrangements both north and south on the island of Ireland. All those things must be discussed and agreed in, as he rightly points out, a review of the operation of the agreement. There are inevitably differing views on the fundamentals of the agreement, but I believe that I have covered them. There are certainly differing views on the details of the operation of the agreement, and the discussions, reviews and negotiations are about trying to agree a compromise between nationalists and Unionists.¹⁷

A new round of talks took place on 24 February 2004, but these were dominated by claims that the IRA ceasefire had been broken by an incident involving the false imprisonment of a dissident republican.¹⁸ A joint statement was issued by the British and Irish Government:

Last Friday's events have inevitably had a serious impact on this week's discussions within the review and are a matter of deep concern. Four people face serious charges and the police are following up a number of very definite evidential lines.

We have listened carefully to the views of the parties and, in particular, to their concerns about the implications of these events for the establishment of the trust and

¹⁷ HC Deb 11 February 2004 c1398

¹⁸ *BBC News* 25 February 2004

confidence required to achieve a successful outcome to the review and to restore devolved Government in Northern Ireland

The Independent Monitoring Commission was established with the purpose of ensuring compliance with a number of key commitments relating to the Agreement. In the light of concerns that Friday's events represented a serious breach of paragraph 13 of the Joint Declaration, both Governments will now ask the Independent Monitoring Commission to examine these events in the context of the preparation of its first report and to bring that report forward from July to May. This report would be expected to cover all incidents and activities within its remit since the Commission was established in early January. A revised Programme for Government *Priorities and Budget 2004-6* was issued in January 2004. The consultation on the review of public administration, announced in 2003, was extended to 27 February 2004.¹⁹

In response to this during Prime Minister's Question Time on 25 February 2004, David Trimble threatened to walk out of the review of the *Belfast Agreement*.

On 2 March 2004, David Trimble carried out his threat and walked out of the review of the *Belfast Agreement* because of the failure of the Government to exclude Sinn Fein from the talks amid allegations of renewed IRA activity. Four men appeared in court on charges linked to the incident involving Robert (Bobby) Tohill, but IRA membership charges were later dropped.²⁰ Despite this, media sources reported the possible exclusion of Sinn Fein from the Northern Ireland political process by the British and Irish Governments²¹.

The Prime Minister met the Irish Prime Minister on 23 March 2004 at Hillsborough to discuss ways to restart the review of the *Belfast Agreement*. This resulted in an announcement by the Secretary of State for Northern Ireland that a target date of June 2004 (to coincide with the European elections) would be set for the parties to break the political deadlock. The first of two review meetings took place on Tuesday 27 April 2004. A Northern Ireland Office press release stated that:

There were useful exchanges between the parties and the two Governments on Strands Two and Three of the Good Friday Agreement.²²

Bertie Ahern had reportedly set a target date of early autumn to restore devolution, noting that a road map was being developed by the British and Irish Governments.²³

Review papers were circulated to the main parties in summer 2004 and are summarised in the Constitution Unit monitoring report for August 2004 at http://www.ucl.ac.uk/constitution-unit/monrep/ni/ni_august_2004.pdf

¹⁹ Northern Ireland Office Press Notice 24 February 2004

²⁰ *BBC News* 2 March 2004

²¹ *BBC News* 10 March 2004

²² <http://www.nio.gov.uk/press/040427b.htm>

²³ *Ahern sets targets to restore power-sharing in Northern Ireland*, 3 May 2004 *Financial Times*

F. European Parliamentary Election results

The election on June 2004 was conducted by STV in Northern Ireland. Full results are given in Research Paper 04/50 *European Parliament Elections* at http://www.ucl.ac.uk/constitution-unit/monrep/ni/ni_august_2004.pdf.

The main points are:

- The election of the first SF MEP, displacing the SDLP candidate
- Further decline in the share of the vote for the UUP and the SDLP
- SF also won a seat in the Irish Republic European elections

G. Direct Rule Continues

The draft *Northern Ireland Act 2000 (Modification) (No 2) Order 2004* was debated and approved in the Lords on 21 July.²⁴ This order extends direct rule until April 2005. The Government minister, Lady Amos, expressed hopes that this order would be the last under the 2000 Act provisions, but the Opposition spokesman, Lord Glentoran expressed dissatisfaction with the democratic deficit of Home Rule, while the Liberal Democrat spokesman, Lord Smith of Clifton, asked about the future of the salaries for Members of the Assembly.

In response to a question from Lady Hermon, the Northern Ireland Secretary, Mr Murphy, indicated that the total cost of maintaining the assembly since its suspension in October 2002 (until March 31st 2004) had been £36.6 million. Almost half of this (£15.4 million) related to costs attributable to MLAs and the parties.²⁵

H. Decommissioning

An Independent International Commission on Decommissioning had been established before the Belfast Agreement. The *Northern Ireland Arms Decommissioning Act 1997*²⁶ set out the framework for a decommissioning scheme. Similar legislation was passed in the Republic of Ireland.²⁷ On 26 August 1997 the British and Irish Governments signed the agreement establishing the International Commission on Decommissioning. It has issued a series of reports assessing the extent to which paramilitaries have decommissioned. Section 2 of the 1997 Act had limited the extent of the amnesty period established for the handing in of decommissioned weapons to a final date of 27 February 2002. This period was extended in the *Northern Ireland Decommissioning (Amendment) Act 2002* to a maximum period of 27 February 2007. Further details of the operation of the Commission are contained in Library Research Papers 01/114 and 03/69.

²⁴ HC Deb 21 July 2004c302

²⁵ HC Deb 15 June c887w

²⁶ 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 overseen by an independent commission

²⁷ *Decommissioning Act 1997*

On 26 January 2004, the Lords approved the *Northern Ireland Arms Decommissioning Act 1997 (Amnesty Period) Order 2004* which allows for the period of decommissioning to be extended as explained by the Leader of the Lords, Baroness Amos:

Baroness Amos rose to move, That the draft order laid before the House on 14 January be approved [5th Report from the Joint Committee].

The noble Baroness said: My Lords, the order appoints 25 February 2005 as the date before which the amnesty period identified in a non-statutory decommissioning scheme must end. The amnesty period is the time during which firearms, ammunition and explosives can be decommissioned in accordance with the scheme. The amnesty provides immunity from prosecution for the offences set out in the schedule to the 1997 Act—offences that might be committed during the decommissioning process. Most relate to possession, but others concern offences which may stem from a person's participation in decommissioning—centred not necessarily on the weapons involved, but on the behaviour which may accompany participation, such as the withholding of information, or making arrangements with terrorists.

Section 2 of the 1997 Act, as amended by the Northern Ireland Arms Decommissioning (Amendment) Act 2002, requires that a scheme must identify the amnesty period and that it must end before 26 February 2004 unless the Secretary of State, by order, appoints a later day. The purpose of this order is to extend that period until midnight on 24 February next year.

Naturally the Government would like to see the decommissioning of all paramilitary weapons as soon as possible. The order is a vital part of the process of delivering on that. Since the amnesty provisions were last renewed last spring, there has been a further act of decommissioning on the part of the Provisional IRA.²⁸

The *Northern Ireland Arms Decommissioning Act 1997 (Amnesty Period) Order 2004* was approved by the Commons on 11 February 2004. During the debate, Lady Hermon raised the issue of the transparency of the decommissioning process in response to which the Minister of State for Northern Ireland, Jane Kennedy acknowledged that although an extension of the decommissioning period was vital, it was only one of a number of factors that needed to be resolved in order to bring an end to violence in Northern Ireland:

Lady Hermon (North Down) (UUP): I am most grateful to the Minister for taking another intervention so quickly. Would she accept that no matter how often General de Chastelain tells the community in Northern Ireland how significant an act of decommissioning is, such acts are rendered meaningless for many people by the anonymity and confidentiality clauses? What can she say about ensuring that no confidentiality provision should be invoked for a further act of decommissioning? *[Interruption.]* I apologise for the interruptions from the sidelines on this Bench.

²⁸ HL Deb 26 January 2004 c79

Jane Kennedy: I acknowledged at the time of the previous decommissioning event that it was not sufficient to sustain confidence that the provisional IRA was committed to entirely peaceful means. In a way, we have almost moved beyond the question of arms decommissioning. We now demand of paramilitary organisations that they must put an end to many other activities. Those activities have been listed many times, and the hon. Lady will be aware of them. Training, the procurement of weapons and the targeting of individuals still go on, as do so-called paramilitary-style beatings and shootings of young men in and around Northern Ireland. People continue to be exiled by paramilitary organisations. All those activities must come to an end, and it is right to say that the debate has moved on and now focuses on them. As I have said, the decommissioning of paramilitary weapons is only one element—although a vital one—in the process of taking violence out of politics in Northern Ireland for good. The Government remain committed to securing genuine acts of completion from all paramilitary organisations, so that we can see the restoration of confidence, and thereby of stable and inclusive Government in Northern Ireland, as soon as possible.

I emphasise that we want decommissioning to be undertaken by all paramilitary groups, both loyalist and republican. We also call on those groups outside the peace process to engage with the decommissioning body to bring about full decommissioning, because we want to see an end to all paramilitary activity and to stem the rise of the mafia-like culture that threatens to replace it.²⁹

The UDA has announced that its ceasefire, declared in February 2003, will be indefinite.³⁰ There continue to be allegations of its violation however.

On Friday 12 November 2004 the Secretary of State for Northern Ireland, Paul Murphy announced his intentions to despecify the UDA, incorporating the UFA. This meant that the government was now prepared to once again recognise UDA's ceasefire. Following Mr Murphy's announcement a statement from the paramilitary group was read on Sunday 14 November at a loyalist commemoration by Tommy Kirkham of the Ulster Political Research Group, which provides political analysis for the UDA.³¹

Mr Kirkham said:

From today we are prepared to move into a process.

Our commitment to that process will be to work towards a day when there is no longer a need for a UDA and a UFF (Ulster Freedom Fighters).

We have agreed with our government to enter into a process which will see the eradication of all paramilitary activity.³²

²⁹ HC Deb 11 February 2004 c1449

³⁰ *Loyalist group extends ceasefire*, *BBC News* 24 February 2004

³¹ *UDA 'working towards disarming'*, *BBC News*, 14 November 2004

³² *ibid*

On 15 November 2004, Paul Murphy made a statement to the House of Commons where he said that he wished to lay an Order before the House which would begin the effect of Friday's announcement to despecify the UDA:

First, I want to explain my actions in terms of despecifying the UDA. I have reviewed the status of all specified and other paramilitary organisations, as I am obliged to do under legislation, and concluded that there are sufficient grounds to despecify the UDA-UFF. For some time now, there has been contact between my officials and its political representatives, whom I, too, have recently met. I view that as part of an overall strategy to bring final closure to the problems that have hindered progress in Northern Ireland and to set in place an inclusive future for all, based on an enduring political settlement.

The UPRG announced a 12-month period of "military inactivity" by the UDA-UFF, known as the Gregg initiative, on 23 February 2003, and it announced an "indefinite extension" of that initiative on 24 February this year. I have taken advice from the Chief Constable and others and, as I am obliged to do under the terms of the Northern Ireland (Sentences) Act 1998, I have reviewed the status of all specified and other paramilitary organisations. It is my judgment, made in the round and having regard to the 1998 Act and other relevant issues, that the UDA ceasefire is now holding and is genuine.³³

Mr Murphy also welcomed UDA's statement and said that this was "positive".

I. Independent Monitoring Commission – First Report, Paramilitary Activities

The Independent Monitoring Commission was established formally on 7 January 2004; almost six years after the Belfast Agreement and ten years after the first Provisional Irish Republican Army (PIRA) ceasefire. Its immediate origins lie in the Joint Declaration of the British and Irish Governments of May 2003.

On 9 March³⁴, the IMC issued a statement to explain how it intended to go about its work. This statement set out the importance of seeking the views of the community as a whole and provided the contact details for their offices in Belfast and Dublin. The IMC has since issued a further invitation for interested parties to make representations to it, and the IMC's first report on paramilitary activity stressed again its willingness to hear from interested parties.³⁵

The first report by the Independent Monitoring Commission was published under article 4 and 7 of the International Agreement on 20 April 2004.

³³ HC Deb 15 November 2004 c1028

³⁴ <http://www.independentmonitoringcommission.org/publications.cfm?Month=3&Year=2004>

³⁵ Secretary of State's First Report under section 11(1) of the Northern Ireland (Monitoring Commission etc.) Act 2003, paragraph 2.4

Article 4 directs us to look at the continuing activities of paramilitary groups. Article 7 allows us when reporting under article 4 to recommend any remedial action we consider necessary or measures we consider might appropriately be taken by the Northern Ireland Assembly.³⁶

In the introduction to the report, the IMC outlines its mission statement as being:

To contribute in whatever way we can to the ending of the violence, other criminality, and exertion of pressure by or on behalf of paramilitary groups, and to help the people of Northern Ireland live their lives untroubled by paramilitary activity³⁷

The purpose of the report itself is to focus mainly on the use of violence by paramilitary groups and it is indicated that further reports will deal in more detail with the connections between these groups, organised crime and sources of funding.

The sources of information for the report are stated as follows:

we have acquired a wide range of information – from official sources, political parties, journalists, people in business and in academic life, and from private individuals, including from the bereaved and others who have suffered at the hands of paramilitary groups. We understand that some are sceptical about the nature of the information we receive, especially from official bodies. We are constantly broadening our sources and will acquire much more information. We urge people to come to us with information and views on everything covered by our remit. We assure them, as we have everybody so far, that we will observe any confidences they wish³⁸

The report considers the activities, membership and organisation of a number of both Loyalist and Republican groups. The groups investigated by the IMC are: Continuity Irish Republican Army and Republican Sinn Fein, Irish National Liberation Army and Irish Republican Socialist Party, Loyalist Volunteer Force, Provisional Irish Republican Army, Real Irish Republican Army and Thirty-Two County Sovereignty Movement, Ulster Defence Association, Ulster Volunteer Force (UVF) and Red Hand Commando.

Although the report indicates that the level of violence has declined considerably since the PIRA ceasefire in 1994 and the *Belfast Agreement* in 1998, the IMC also points out that over the period since 1 January 2003, 12 people have been murdered by paramilitary groups. They go on to state that:

While the number of murders, attacks on security forces and bombings by paramilitaries has sharply decreased, the level of other paramilitary violence has been and continues to be considerably higher than before the Belfast Agreement. These figures amply demonstrate what we say above on the importance of moving the

³⁶ First Report of the Independent Monitoring Commission (HC 516), paragraph 1.1

³⁷ First Report of the Independent Monitoring Commission (HC 516), paragraph 2.4

³⁸ First Report of the Independent Monitoring Commission (HC 516), paragraph 2.8

debate on from one about ceasefires and breaches of ceasefires to one about the totality of illegal paramilitary activities. Though many fewer are murdered, many more are being shot or assaulted.³⁹

The report provides the following statistics regarding the continued level of violence:

On the basis of reported figures – which, especially for assaults, may not reflect the full picture - the scale of paramilitary violence since 1 January 2003 has been worryingly high: approaching one murder a month; some three victims a week both from shootings and from assaults.⁴⁰

The IMC indicates where it considers responsibility for the increase in violence to lie:

Loyalist groups are now responsible for markedly higher levels of violence than republicans: about three quarters of the murders, nearly twice as many shootings, and over twice as many assaults since 1 January 2003. While individual incidents of violence may not be directed at a senior level except in the most serious cases, violence is authorised, and what is authorised can be prevented.⁴¹

Regarding the incident at Kelly's Cellars bar in Bank Street (Belfast) involving the beating of Robert (Bobby) Tohill on 20 February 2004 the report states the following:

We have received information from a number of official and unofficial sources. We have carefully reviewed all of this material. We are conscious that we are not bound by the strict rules of evidence and that the material has not been subject to the testing one could expect in a criminal trial. We do however believe this material, taken as a whole, indicates that the operation was one planned and undertaken by the Provisional IRA.⁴²

The relationship between paramilitary and political leadership is also discussed and two parties that would be represented in a restored Assembly are said to have links to paramilitary groups: Sinn Féin and the Progressive Unionist Party. Regarding the relationship between Sinn Féin and PIRA, the report states that:

Some members, including some senior members, of Sinn Féin are also members, including, in some cases, senior members of PIRA⁴³

³⁹ First Report of the Independent Monitoring Commission (HC 516), paragraph 4.10

⁴⁰ First Report of the Independent Monitoring Commission (HC 516), paragraph 4.10

⁴¹ First Report of the Independent Monitoring Commission (HC 516), paragraph 4.10

⁴² First Report of the Independent Monitoring Commission (HC 516), paragraph 5.6

⁴³ First Report of the Independent Monitoring Commission (HC 516), paragraph 7.4

It goes on to say that:

We recognise that there might not have been a PIRA ceasefire in the first place without influence from the leadership of Sinn Féin. By the same token Sinn Féin must bear its responsibility for the continuation by PIRA of illegal paramilitary activity and must recognise the implications of being in this position.⁴⁴

The situation regarding the Progressive Unionist Party is stated as follows:

While the Progressive Unionist Party is currently represented by only one person in the Assembly, the overall leadership of the party has close personal links with the leadership of the UVF and the RHC and we believe it is aware of the paramilitary activities of both these organisations. The Progressive Unionist Party's leadership as a whole does not determine these activities and may not be in a position to ensure prevention of them, but it can exert appreciable influence. **While we are satisfied that the Progressive Unionist Party and others exerted a positive influence in achieving the loyalist ceasefires we believe it has not sufficiently discharged its responsibility to exert all possible influence to prevent illegal activities on the part of the UVF and RHC.**⁴⁵

In the light of the findings of the IMC in relation to Sinn Féin and the Progressive Unionist Party, the report makes the following recommendations:

In the case of measures to be taken by the Assembly, they cannot apply until such time as the Assembly is restored. We nevertheless want to make clear that had the Assembly now been functioning, we would have recommended in respect of Sinn Féin and the Progressive Unionist Party measures up to and possibly including exclusion from office. In this way we can best indicate to those who are elected to the Assembly and who may aspire to serving in a devolved administration what they might expect from us at such time as restoration may come.⁴⁶

Whilst the Northern Ireland Assembly remains un-restored and it is not therefore possible for us to recommend measures it might take, we recommend that the Secretary of State should consider taking action in respect of the salary of Assembly members and/or the funding of Assembly parties so as to impose an appropriate financial measure in respect of Sinn Féin and the Progressive Unionist Party.⁴⁷

On 20 April 2004, the Secretary of State for Northern Ireland, Mr Paul Murphy, made a statement to the House of Commons in which he endorsed the findings made by the IMC:

In the light of that, and having considered the report, I am persuaded that it would be right to remove for a period the entitlement to the block financial assistance paid to

⁴⁴ First Report of the Independent Monitoring Commission (HC 516), paragraph 7.5

⁴⁵ First Report of the Independent Monitoring Commission (HC 516), paragraph 7.6

⁴⁶ First Report of the Independent Monitoring Commission (HC 516), paragraph 8.5

⁴⁷ First Report of the Independent Monitoring Commission (HC 516), paragraph 8.6

Assembly parties in respect of both Sinn Fein and the Progressive Unionist party, and I propose to do so next Wednesday, 28 April. I have therefore today made an order under the urgency procedure, amending the Northern Ireland Act 1998 as amended by the legislation that we passed last year, to allow me to take this step in the absence of a sitting Assembly. It will also permit me to act to reduce Members' salaries should I see fit to do so in the light of a future IMC report. I will, however, in line with the legal requirement on me to act fairly, take account of any representations that I receive by next Tuesday from the two parties concerned before reaching a final decision.⁴⁸

The PUP has contested the conclusions of the report and has broken off contact with the Commission.⁴⁹

On 29 June, Sinn Fein's application for the Judicial Review of the Secretary of State's decision to block financial assistance was granted. The hearing is still in waiting.⁵⁰

There were also indications that the Government was reviewing the sources of funding for political parties in Northern Ireland. The *Political Parties, Elections and Referendums Act 2000* gave parties in Northern Ireland an 'opt-out from the regulations on donations applicable to mainland parties for four years until February 2005. In a parliamentary answer, the Northern Ireland Office minister, John Spellar, stated that the Government was minded not to renew the opt-out and invited ideas on possible replacements for the scheme.⁵¹ However, on 18 November 2004 John Spellar gave a ministerial statement to the House of Commons where he indicated that this date would be extended to February 2007.⁵²

The publication of four reports from the Cory Inquiry into possible collusion between the security services in the murder of Robert Hamill, Patrick Finucane, Rosemary Nelson and Billy Wright in the form of returns to the House indicated again the sensitive nature of the allegations and their investigation by the retired Canadian judge Peter Cory.⁵³

On 26 May Mr Justice Girvan ruled in the Belfast Crown Court that the Real IRA is not a proscribed organisation for the purposes of Section 3 of the *Terrorism Act 2000*. Under Section 3 an organisation is illegal if its name appears under Schedule 2 of the Act, which lists only the IRA as being banned.⁵⁴ Paul Murphy stated that the Government will be seeking an appeal as soon as possible to challenge the ruling.⁵⁵ On 30 June the Northern Ireland Court

⁴⁸ HC Deb 20 April 2004, c173

⁴⁹ *Loyalists reject Commission talks*, 6 May 2004, *BBC News*

⁵⁰ Secretary of State's First Report under section 11(1) of the Northern Ireland (Monitoring Commission etc.) Act 2003, paragraph 3.14

⁵¹ HC Deb 6 May 2004 84WS

⁵² HC Deb 18 November 2004 104WS

⁵³ HC 470-474 2003-2004 Returns of the House are normally used to attract parliamentary privilege to reports containing allegations where defamation actions might otherwise arise. See 'Inquiries into collusion murders' *BBC News* 1 April 2004 http://news.bbc.co.uk/1/hi/northern_ireland/3588031.stm

⁵⁴ *Real IRA is not illegal, says judge*, 27 May 2004, *Daily Telegraph*

⁵⁵ *Real IRA loophole 'will be closed'*, *BBC News*, 27 May 2004

of Appeal overturned the decision, but has subsequently allowed an appeal to the House of Lords. (fn BBC News Real IRA ruling overturned 30 June 2004. For full details see the Francis Bennion website at <http://www.francisbennion.com/doc/2004/020/proscribed-after-all-01.htm>)

Prior to the publication of the First Report, Thomas John Paul Tolan, one of those arrested in connection with the Kelly's Cellars incident on 20 February 2004, applied to stop the report being laid before Parliament in advance of his trial ending. He claimed that the Secretary of State would be acting against the law since the report detailed the offences which took place. His application was dismissed. As a result of this, a Notice of Incompatibility has been lodged with the court, which challenges the compatibility of section 2(2) of the *Northern Ireland (Monitoring Commission etc.) Act 2003* with Articles 2, 5 and 6 of the European Convention on Human Rights. A hearing on this issue is expected.⁵⁶

J. Independent Monitoring Commission – Second Report, Security Normalisation

IMC's Second Report was presented on 20 July 2004, under Article 5(2) of the International Agreement establishing the Independent Monitoring Commission.

An outline of Article 5(1) as described by IMC is as follows:

Article 5(1) comes into force at such time as the British Government has published a specific programme of security normalisation. It obliges the Commission to monitor whether, in the light of its assessment of the paramilitary threat and the British Government's obligation to ensure the safety and security of the community, the commitments the British Government has made in that programme are being fulfilled to the agreed timescale, and it lists the things which the Commission is obliged to monitor. Under Article 5(1) the Commission is required to report its findings to the British and Irish Governments every six months.

Article 5(1) at present has not been activated since the British Government has yet to announce a programme of security normalisation or an accompanying timetable. On 20 April the Secretary of State of Northern Ireland requested the Commission to report on normalisation activities on the behalf of the British Government as stated under Article 5(2).⁵⁷

Article 7 of the International Agreement empowers the Commission to make recommendations which it thinks might be taken by the Northern Ireland Assembly. However, this does not apply to reports made under Article 5 and subsequently this exempts the commission from making any recommendations in this report.

⁵⁶ Secretary of State's First Report under section 11(1) of the Northern Ireland (Monitoring Commission etc.) Act 2003, paragraph 3.8

⁵⁷ Second Report of the Independent Monitoring Commission (HC 913), Annex III

The report highlights that:

It should be borne in mind, however, that this is a report under Article 5(2) not Article 5(1) and it does not therefore involve the monitoring of progress made on security normalisation against commitments given in a programme by the British Government. We will, of course, be monitoring such progress in future.⁵⁸

The report goes onto question what security normalisation actually is:

Much discussion about security normalisation focuses on the things specifically referred to us, namely standing down of military support for the police and the repeal of special legislation.

Security normalisation is also closely linked both under the Belfast Agreement and the Joint Declaration with the new policing arrangements and structures and must be viewed within the broader context of completing the evolution to a society in Northern Ireland that is normal, peaceful and secure.⁵⁹

Although the threat faced by security forces by paramilitary groups has decreased since 1998, the threat to individuals of the security forces still remains, especially by dissident republicans.

The report describes the current situation of security normalisation in Northern Ireland:

The picture across Northern Ireland is very mixed and can vary sharply within relatively small areas. In some places the position is essentially the same as would be found elsewhere in the UK and Ireland. In some communities, however, the police lack the support and confidence of the community which is the basis of conventional law enforcement. A few places still have many of the characteristics of the period of significant terrorist threat before the ceasefires. The picture continues to change.⁶⁰

It goes on to describe the response to this situation by the security forces:

The number of troops in Northern Ireland remains some three times higher than the Joint Declaration envisaged would be the case in normal circumstances. Military installations and helicopters are still used extensively for law enforcement. There is in force a considerable body of counter-terrorist legislation which is specific to Northern Ireland. Equally, as has been repeatedly said to us by people from both sides of the community, the presence of the Army is far less visible than it used to be, particularly but not only, in urban patrolling. Thus within a situation which is certainly not normal some significant changes have already taken place. Decisions to reduce the number of British troops available to support PSNI have been announced during the course of the preparation of this report. At the same time there is plenty of evidence to suggest

⁵⁸ Second Report of the Independent Monitoring Commission (HC 913), paragraph 1.10

⁵⁹ Second Report of the Independent Monitoring Commission (HC 913), paragraph 1.12

⁶⁰ Second Report of the Independent Monitoring Commission (HC 913), paragraph 3.2

that in those areas which are most affected by the level of continuing deployment of the Army in support of the police, by helicopter use, and by observation posts there remains dissatisfaction and annoyance with the invasion of privacy and the military environment created thereby.⁶¹

As requested by the British Government under Article 5(1), the report examines the use of the military in support of the police. It details the demolition of towers and observation posts in Northern Ireland; the withdrawal of troops from police stations in Northern Ireland; closure and dismantling of military bases and installations in Northern Ireland; troop deployments and withdrawals from Northern Ireland and levels of British Army helicopter use. Each of these areas are examined in the following way:

In each case we set out the position at December 1999. The British Government's Security Strategy Paper, against which we are asked to measure changes, was published on 22 December 1999. We then show the changes that have taken place since that date some of which are quite significant. Finally, we show the position at 31 May 2004. We envisage that this should serve as a baseline for any future reports we make under Article 5.⁶²

Despite the changes by way of reduction in abnormal security arrangements that have taken place since December 1999, the report concludes that:

The current situation remains well short of the normal profile identified in the Joint Declaration for achievement in an enabling environment by way of a normalisation programme over a two-year period.

In particular, the overall level of deployment of the Army in Northern Ireland has not reduced very significantly since 1999, though the level of actual use of the Army in support of the police has reduced considerably and the nature of that use has altered substantially.

In those areas that are affected by the continuing level of deployment of the Army in support of the police, by helicopter usage, and by observation posts, there is ongoing dissatisfaction and annoyance with the invasion of privacy and the militarised environment created thereby.⁶³

As requested by the British Government, the report goes on to give an account of the repeal of counter-terrorist legislation particular to Northern Ireland since the publication of its Security Strategy Paper in December 1999.

This section of the report begins with the framework within which the present Northern Ireland provisions are handled; then it records the changes to provisions particular to

⁶¹ Second Report of the Independent Monitoring Commission (HC 913), paragraph 3.3

⁶² Second Report of the Independent Monitoring Commission (HC 913), paragraph 4.3

⁶³ Second Report of the Independent Monitoring Commission (HC 913), paragraph 6.1

Northern Ireland made by the implementation of the *Terrorist Act 2000* and the changes to such provisions made since then; ending on the summarisation on the nature of the provisions in force now. The report goes on to conclude that:

Some of the provisions of counter-terrorist legislation particular to Northern Ireland have ceased to have effect and others have been amended.⁶⁴

IMC highlights that this report is an interim one pending the publication by the British Government of its programme of security normalisation. It ends on by detailing how IMC envisages to report under Article 5(1) once the programme has been published.

On 20 July 2004, the Secretary of State for Northern Ireland, Mr Paul Murphy, made a statement to the House of Commons in which he approved the findings made by the IMC:

On 20 April 2004 I formally requested the Independent Monitoring Commission to prepare a security normalisation report under article 5(2) of the international agreement between the British and Irish Governments.

Article 5(2) enables the British Government to commission the IMC to prepare a report on security normalisation activity undertaken over a specified period. I asked the IMC to report on all normalisation activities which have taken place since December 1999 up to the present time. The activities are set out in article 5(1)(a)(i) to (v) of the international agreement. The IMC report also takes account of views on the effects of normalisation on the ground and the programme of reform to deliver a community based policing environment in Northern Ireland. It is distinct from the monitoring of the programme of normalisation included in the joint declaration which is yet to be commenced.⁶⁵

K. Independent Monitoring Commission – Third Report, Paramilitary Activities

The Third Report by the IMC was published on 4 November 2004. As with the First Report, it is based on the continuing activities of paramilitary groups under Articles 4 and 7 of the International Agreement. An examination of illegal activities of prisoners released under the terms of the Belfast Agreement has also been initiated and will be discussed in future reports.

The IMC notes that this report has been prepared ‘during a period of intense discussions between Northern Ireland political parties and the British and Irish Governments’.⁶⁶

⁶⁴ *ibid*

⁶⁵ HC Ministerial Statement 20 July 2004, Column 11WS

⁶⁶ Third Report of the Independent Monitoring Commission (HC 1218), paragraph 1.6

The report makes a fresh assessment of all the paramilitary group's activities from the period of 1 March to 31 August 2004. These paramilitary groups were initially examined in the First Report and readers are invited to refer to that report.

During the period after the last IMC report paramilitary violence has been continuing at a high level. The rate however, has decreased compared to the previous period, especially among the republican groups. The report goes on to conclude:

Despite some considerable reductions, the level of paramilitary violence remains high, particularly with loyalist groups. There were 3 murder victims in the six months March to August 2004 and a further victim died in October. Averaged out, there were 2 victims of shootings a week and 2 to 3 victims of assault a week over the same period.⁶⁷

The report compares the Loyalist and Republican Groups in terms of shootings and assaults:

Loyalist groups remain responsible for higher levels of violence than republican ones: over three times the number of victims of shootings and over twice the number of victims of assaults.⁶⁸

The issue of exiling people from Northern Ireland is one form of paramilitary activity and is briefly discussed; however the report highlights this is an area where little evidence has been received and subsequently an accurate figure of the situation can not be reached. The IMC will refer to exiling in more detail in future reports.

In IMC's First Report an association was found between the leadership of paramilitary groups and two of the parties elected to the Northern Ireland Assembly. The first association was between the elected party Sinn Féin and the paramilitary group PIRA. The second was between the Progressive Unionist Party and the paramilitary groups, UVF and RHC.

IMC refers to its First Report in regards to these relationships:

The circumstances and associations were not the same in each case but we concluded that neither party had sufficiently discharged its responsibility to exert all possible influence to prevent illegal activity by the paramilitary groups with which they were associated. We noted that had the Assembly been functioning at that time we would have recommended measures against both these parties up to and possibly including exclusion from office, and that any recommendations we might make following restoration of the Assembly would be proportionate to the then prevailing circumstances. Because the Assembly was not restored at the time of our report we recommended that the Secretary of State should consider taking action in respect of

⁶⁷ Third Report of the Independent Monitoring Commission (HC 1218), paragraph 4.15

⁶⁸ *ibid*

the salary of Assembly members of these two parties and/or the funding of the parties. He decided to do the latter for a period of 12 months.⁶⁹

The report makes the following conclusions:

Some paramilitary groups have scaled back the intensity of their activity but none have materially wound down their capacity to commit violent or other crime. Dissident republican groups are the most committed to continuing terrorism.

Paramilitary groups from both sides remain deeply engaged in serious organised crime. Criminal activity by paramilitary groups poses a significant continuing threat which the suspension of politically motivated activity by such groups will not of itself bring to an end. A number of recent incidents give us cause to fear an increase.⁷⁰

The report has considered Asset Recovery as being important in combating paramilitary crime. It advises agencies to work together to maximise its benefits.

It goes onto mention the role of tax as a weapon against paramilitary crime:

We believe that tax has a bigger part to play in countering the illegal activities of paramilitaries, within the Organised Crime Task Force strategy on organised crime, and in conjunction with other law enforcement agencies.⁷¹

In responding to paramilitary crime, the report makes the following recommendations:

All the UK agencies involved in the Organised Crime Task Force should ensure that their strategies fully reflect the significance of the organised crime threat in Northern Ireland, including the unique element of paramilitary participation.

All relevant agencies should focus on how to maximise the benefits of assets recovery as a means of tackling paramilitary organised crime.

The British Government should provide the Assets Recovery Agency with the necessary resources for its work in Northern Ireland.

The Inland Revenue in the UK should ensure that its priorities for enforcement of the tax laws fully reflect the special challenge of organised crime in Northern Ireland and the role of paramilitaries within it.⁷²

⁶⁹ Third Report of the Independent Monitoring Commission (HC 1218), paragraph 7.2

⁷⁰ Third Report of the Independent Monitoring Commission (HC 1218), paragraph 8.2

⁷¹ *ibid*

⁷² Third Report of the Independent Monitoring Commission (HC 1218), paragraph 8.5

In responding to other manifestations of paramilitary activity, the report recommends:

The British and Irish Governments should ensure that in any forthcoming introduction of regulation on charities they take account of the need to reduce the possibilities for paramilitary groups to launder funds through charities.

In considering future controls over the funding of political parties both the British and Irish Governments should take account of allegations that paramilitary groups may be able to divert illegal funds to such parties, and should ensure that appropriate steps are taken to prevent this.

The Secretary of State for Northern Ireland should consider whether research could usefully be undertaken on how and to what extent restorative justice schemes can help encourage people to turn away from paramilitaries in a manner which ensures standards are maintained and safeguards fully observed.

The Secretary of State for Northern Ireland should consider facilitating the preparation of guidance for people who have to engage with paramilitaries during this time of transition, as part of helping to end deference and deny legitimacy to paramilitary groups.⁷³

Other issues which the IMC reports on in this publication were, restorative justice, deference to paramilitary groups, collusion, allegations of paramilitary funding of political parties and charities.

The next IMC report is due for production in April 2005 and will cover any paramilitary activity in the six month period from 1 September 2004.⁷⁴

On 4 November 2004, the Secretary of State for Northern Ireland, Mr Paul Murphy, made the following statement to the House of Commons in which he welcomed the findings made by IMC's Third Report:

On 28 October 2004 I received a report from the Independent Monitoring Commission (IMC). This report was made under articles 4 and 7 of the international agreement that established the commission. The report makes an assessment of paramilitary activity in Northern Ireland during the six-month period March 2004 to September 2004. I welcome this report. I have considered its content and I am today bringing it before Parliament. I have placed copies in the Library of the House.

The IMC's report concludes that some paramilitary groups have scaled back the intensity of their activity but none have materially wound down their capacity to commit violent or other crime. Dissident republican groups are the most committed to continuing terrorism. Paramilitary violence in the form of murder, shootings and

⁷³ Third Report of the Independent Monitoring Commission (HC 1218), paragraph 8.6

⁷⁴ IMC Press Release, 4 November 2004, www.independentmonitoringcommission.org

assaults has considerably reduced in the past six months but remains at a disturbingly high level. The proportionate reduction is greater on the part of republican groups. Most violence is attributable to loyalist groups. The range of paramilitary activity remains wide. Paramilitary groups from both sides remain deeply engaged in serious organised crime.

The IMC makes several recommendations in its report. The first set of these are about paramilitary involvement in organised crime. I remain very committed to addressing the issue of organised crime in Northern Ireland. Partner agencies will work with our counterparts nationally and internationally to take effective action to disrupt the workings of the criminal organisations. If criminal proceedings cannot be brought, cases will be referred to the Assets Recovery Agency to retrieve the proceeds of crime, through either civil action or taxation. The IMC also recommend that guidance be prepared for those who have to engage with paramilitaries. This is a complex issue. I will examine the recommendation in detail.

In April, I said I would review the current suspension of block financial assistance imposed on Sinn Fein and the Progressive Unionist Party on receipt of this report. I am giving careful consideration to this, and I will of course take into account the matters set out by the IMC.⁷⁵

The Independent Monitoring Commission was dismissed by Sinn Fein as being an “echo-chamber” for “securocrats”, adding that it had no credibility amongst nationalists. The criticism came after the ‘Commission admitted that its last report wrongly identified a Bangor man, Michael O’Hare, as a UDA murder victim’.⁷⁶

L. The First Annual Report by the Secretary of State

Under section 11(1) of the *Northern Ireland (Monitoring Commission etc.) Act 2003*, the Secretary of State for Northern Ireland is required to lay before parliament an annual report on the operation of the agreement between the British and Irish Governments that established the Independent Monitoring commission and the operation of the relevant provisions inserted into the *Northern Ireland Act 1998*.⁷⁷

The Secretary of State, Mr Paul Murphy, published the First Annual Report on 17 November 2004.

⁷⁵ Written Ministerial Statement on the publication of the Third IMC Report, by Mr Paul Murphy, 4 November 2004

⁷⁶ *Weapons supremo back but no sign of move*, *Belfast Telegraph*, 27 October 2004, by Noel McAdam

⁷⁷ Written Ministerial Statement on the publication of the First Annual Report, by Mr Paul Murphy, 17 November 2004

Mr Paul Murphy highlights the material covered in the annual report:

The first annual report, published today, covers the twelve month period to 18 September 2004. The report sets out the steps that have been taken to establish the IMC in accordance with the agreement between the two Governments.

The report refers to the two IMC reports published in the reporting period, and describes the actions taken as a consequence of those reports. The various documents and reports referred to in my annual report are all in the public domain.⁷⁸

IMC's Second Report covered security normalisation as under article 5(2) of the Agreement. In the Secretary of State's First Annual Report, he details how is going to respond to this Second Report:

In line with the Joint Declaration commitment, the Secretary of State will commission a report under Article 5(1) of the IMC Agreement when the enabling environment is in place.⁷⁹

M. Northern Ireland Select Committee Reports

The Northern Ireland Affairs Committee published its first report of 2003-4 in which it criticized the scrutiny process in respect of Northern Ireland legislation since the suspension of the Assembly:

13. During a suspension, the Government uses the provisions of the Northern Ireland Act 2000 ('the 2000 Act') to put legislation on devolved matters, which would ordinarily have been handled by the Northern Ireland Assembly, through Parliament as Orders in Council. We were concerned to discover in the early months of this year that the Northern Ireland Office had also decided to use powers under this Act to process Orders in Council on reserved matters (for example, the draft Criminal Justice (Northern Ireland) Order 2003), rather than using the procedure under s85 of the 1998 Act which would otherwise have been used.

14. The difference between the procedures under the 1998 and 2000 Acts rests on prelegislative scrutiny. Under s85 of the 1998 Act proposals for draft legislation on reserved matters—such as the proposal for a draft Firearms Order—must, except in cases of emergency, be presented both to Parliament and to the Northern Ireland Assembly for a statutory two-month consultation period prior to being formally laid. Under the 2000 Act procedure there is no such requirement. The 2000 Act procedure therefore allows Government, if it so chooses, to put Northern Ireland legislation through the UK Parliament without either consultation in draft or any opportunity to amend a draft Order once it has been formally laid.....

⁷⁸ *ibid*

⁷⁹ Secretary of State's First Report under section 11(1) of the Northern Ireland (Monitoring Commission etc.) Act 2003, paragraph 4.7

The Committee concluded that changes were needed:

20. It remains wrong in principle that Parliament should lose its statutory rights of consultation over matters it has for the time being reserved to itself, simply because of a minor technical flaw in the Northern Ireland Act 2000. As a result of the suspension of the Assembly, and the Government's decision to use one marginally flawed procedure rather than another, legislation is being pushed through Westminster which, if it related to England or Scotland, would be subject to the full process of Parliamentary scrutiny; and on which, if the Assembly were not suspended, there would be no question about the Government's duty to consult. While the substitution of the 2000 Act procedure has provided the NIO with an administratively convenient solution in the short term, we are concerned that this action sets an unfortunate precedent both for Parliament and, potentially, for the Government itself. If the flaw in the 2000 Act indeed makes the procedure under s85 of the 1998 Act inoperable during a suspension of devolved government, the error must be corrected without delay.⁸⁰

The Committee noted the intention to bring in a further draft Order in Council under the 2000 Act procedure to deal with racial and other crimes of hatred.⁸¹ The report also noted the Committee's role in scrutinising the various departments of the Northern Ireland Executive.

A sub-committee of the Northern Ireland Select Committee has also been established, with the following terms of reference:

In order to undertake more scrutiny of previously devolved issues the Committee has set up a sub-committee mainly to undertake inquiries into matters that previously fell within the remit of the Northern Ireland Assembly.

It is chaired by Tony Clarke and all members of the Committee are eligible to participate. The Committee website indicates its current areas of activity.⁸²

N. Northern Ireland Grand Committee

The Constitution Unit monitoring report for August 2004 notes apparent SDLP opposition to the Grand Committee meeting in Northern Ireland. The Grand Committee last met on 8 July to debate the draft Northern Ireland (Budget)(no 2) Order.⁸³ The main purpose of the draft order was to authorise the balance of the 2004–05 main estimates, which are in addition to the vote on account that Parliament approved in March. The procedure illustrated the democratic deficit, since only two and a half hours was allowed to debate the whole public expenditure plans for Northern Ireland.

⁸⁰ HC 146 Session 2003-4

⁸¹ HC 146 Session 2003-4, paragraph 19

⁸² http://mirror.parliament.uk/parliamentary_committees/northern_ireland_affairs.cfm

⁸³ <http://www.publications.parliament.uk/pa/cm200304/cmstand/nirelg/st040708/40708s01.htm>

O. Commentary on the Peace Process 2004

This section summarises the main events from the beginning of 2004 when the review of the Good Friday agreement, which involved all the political parties, began in Stormont.

Following the abduction attempt of the dissident republican Robert (Bobby) Tohill from a Belfast Bar on 20 February, the Secretary of State, Paul Murphy requested the IMC to investigate. He described the incident as a “serious breach”. Chief Constable Hugh Orde said that this was the work of the Provisional IRA. The First IMC Report on 20 April backed the Chief over the Tohill affair and recommended financial sanctions against Sinn Fein and the PUP. The government accepted the recommendations despite protests from both parties.⁸⁴

The review process was stalled on 2 March 2004, after the Ulster Unionist Party leader pulls out saying the failure of the government to exclude Sinn Fein following the alleged false imprisonment of a dissident republican was “quite appalling”. It was decided on 26 May 2004 that the review process was to be put on hold for the European elections in June. Review talks resumed in Stormont in June 2004 after the elections. At the end of July the Northern Ireland Office announced that in late September the British and Irish Governments would hold a fresh round of political talks aimed at restoring the assembly. Leeds Castle, Kent, would play host to these talks. Preliminary talks began in Belfast in early September. The British Prime Minister said that these talks should if there was any will among the political parties to end violence and share power. The Secretary of State, Paul Murphy said that these negotiations were to be the most critical in the peace process. The three days of intensive negotiations in Kent ended with parties failing to reach an agreement. Nonetheless, a mood of optimism led to further talks in Stormont where the sticking points of the Leeds Castle negotiations were further discussed.⁸⁵

The “sticking points” were described as follows:

The sticking points in the process have included the method of electing a first and deputy first minister, a date when the assembly can control policing, and whether or not 30 assembly members can challenge ministerial decisions.⁸⁶

Much of the recent issues around decommissioning of IRA weaponry is about the visual confirmation of decommissioning. On 24 October 2004, the DUP deputy leader, Peter Robinson insisted that his party’s position on IRA disarmament and activity had been “clear and consistent throughout the negotiating process”. This came in response to remarks made by Sinn Fein that the DUP wanted to humiliate the IRA over its demand for visual decommissioning. The DUP deputy leader added, “Crown forces and the unionist community

⁸⁴ *BBC News, Northern Ireland*, Timeline: Northern Ireland Assembly, 20 September 2004

⁸⁵ *ibid*

⁸⁶ *DUP respond over arms, BBC News*, 24 October 2004

have been humiliated by the way in which bases and stations have been demolished and by the treatment of those who have defended our province”.⁸⁷

On 18 November, The Belfast Telegraph reported:

The Irish and British Governments believe it will require witnesses and photographs to verify IRA decommissioning in a way which will be accepted by the DUP if the deadlock on the restoration of the Northern institutions is to be broken.

As the two governments presented their “best assessment” proposals for a resolution to Sinn Fein and the DUP yesterday, there were indications that the “witnesses” could be leading Catholic and Protestant clergyman.⁸⁸

Talks for an agreement reached a critical stage by the end of November 2004 and newspapers reported a possible deal within days. Sinn Fein President Gerry Adams met with the head of Northern Ireland’s police force, Chief Hugh Orde in what was described as a historic meeting.⁸⁹ Mr Adams said that the issue of the “demilitarisation of republican heartlands” was discussed.⁹⁰ The meeting came after Ian Paisley held talks with the head of the decommissioning body to discuss IRA disarmament.

Both Gerry Adams and Ian Paisley met separately with Tony Blair at Downing Street in London to discuss their parties’ responses to the latest version of the British-Irish proposals on devolution; meetings were held in very late November and early December. Mr Blair said the talks were at an “intensive stage” and he did not want to raise hopes.⁹¹ Mr Paisley said “It’s now or never. You must have done with your arms. You must put them away.” He added “I think if we get there, we are there. And I think seeing is believing.” Mr Adams said that the Sinn Fein Party is committed to reaching a deal and does not want to delay the process. He added, “We are concerned that the time frame is stretching. We want to see all this done very. Very quickly.”⁹²

On 8 December 2004 Tony Blair and Bertie Ahern held a news conference where the proposals for the agreement were published and made available for public scrutiny.⁹³ The proposals document can be found on http://www.nio.gov.uk/proposals_by_the_british_and_irish_governments_for_a_comprehensive_agreement.pdf.

Following the intensive talks at Leeds Castle, the proposals focused on four areas which the governments saw as key to getting a deal. These include the need to bring all forms of

⁸⁷ *ibid*

⁸⁸ *Photos the key for DUP to accept IRA arms wipeout, Belfast Telegraph, 18 November 2004*

⁸⁹ *Q&A: Push for a deal, BBC News, 29 November 2004*

⁹⁰ *Critical stage for NI process, BBC News, 29 November 2004*

⁹¹ *DUP in NI talks with Blair, BBC News, 30 November 2004*

⁹² *ibid*

⁹³ *Progress but no deal says Blair, BBC News, 8 December 2004*

paramilitary activity to an end; the need to decommission all paramilitary weapons; the need for a clear commitment on all sides to the stability of the political institutions; and for the achievement of support for policing from all sides of the community.⁹⁴

The proposals can be summarised as follows:

Paramilitary activity

The governments said they were confident that the IRA was willing to agree to a "full and permanent cessation of all paramilitary activity". Secondly, the IRA was expected to set a deadline, with the international independent arms body, to get rid of all its weaponry by the end of December 2004.

Political institutions

The British government said it would lift the suspension of the Northern Ireland Assembly and executive at the earliest opportunity. This would happen in three stages:

1. As the IRA begins decommissioning weapons, the parties would nominate ministers.
2. Once decommissioning is complete, a shadow assembly would begin work in January 2005.
3. The full power-sharing arrangements would follow as quickly as possible - probably in February 2005, due to the time needed to pass legislation at Westminster.

The proposals include a new ministerial code which would bind the executive to the principles of cross-community power-sharing, such as equal treatment of people from both traditions, fair prioritising of policies and so on. A revised pledge of office would seek to address similar issues. Separate measures would also be introduced to amend the way the assembly members approve ministers. The government would also ditch its powers which allow it to suspend the Assembly.

Policing and justice

Downing Street said that if republicans agreed to support the new police service, the government could devolve responsibility for policing and justice to the assembly - ultimately leading to minister or ministers for these areas in the power-sharing body. This move would depend on Sinn Fein calling a special party conference known as an Ard Fheis to debate policing. It would be asked to approve the party nominating members for the community board that governs the police service, leading the way to more members of the nationalist community joining the force.

Statements: The IRA

The governments also proposed a form of words for a statement from the IRA. This statement would recognise a just and lasting piece had been secured and, crucially, resolve what the IRA describes as the causes of conflict. This would mean the IRA could move into a new mode as part of the transition to a totally peaceful society. It would conclude the process to completely and verifiably put all its arms beyond use.

⁹⁴ *Proposals by the British and Irish Governments for a Comprehensive Agreement*, paragraph 1

Finally, the IRA should declare its members have been given specific instructions not to engage in any activity which might thereby endanger the new agreement.

Statements: Arms inspectors

The International Independent Commission on Decommissioning - the people charged with ensuring paramilitary weapons are dealt with, would also make a statement. The IICD was to say that two observers would join its monitoring of arms decommissioning, both of these being clergymen. These witnesses would be able to make public statements about the process.

A further proposal was that photographs of the weapons and material would be taken by the commission and subsequently shown to the governments and parties. This would coincide with the body's final report on the IRA and then would be published when the executive takes power.

Statements: Democratic Unionists

The DUP were to say that they welcomed the new agreement and that it significantly benefits the whole community. Following confirmation that IRA arms have been dealt with, the party would be prepared to participate in the new arrangements. It would then urge loyalist paramilitaries to follow the IRA's example and dispose of their arms too.⁹⁵

Mr Blair's comments on the failure to reach a deal were, "I think there is an inevitability about this process which is locked in. I can't see this process going backward but I do know that it's going to require extra effort to finish the journey". With regard to the visual decommissioning of IRA weaponry, Sinn Fein President Gerry Adams said "We made it clear then, that this wasn't a runner, in fact we asked the governments to take it out their draft outlines. They explained to us there was no other way of getting the DUP to look at this". Ian Paisley was quoted stating that, "We were in the process of resolving these outstanding matters when IRA/Sinn Fein brought their discussions with the governments to an end".⁹⁶

On 9 December 2004 a statement made by the IRA appeared in the republican newspaper, *An Phoblacht*. The full statement can be viewed on <http://sinnfein.ie/gaelic/peace/document/193>. The IRA said that they would move into a "new mode" and that in an event of a deal, there would be an end to all its activities with decommissioning complete by December "if possible". The IRA would agree to the two clergymen overseeing the process. It also added: "For his part, Ian Paisley demanded that our contribution be photographed, and reduced to an act of humiliation. This was never possible. Knowing this, he made this demand publicly as the excuse for his rejection of an overall agreement to create a political context with the potential to remove the cause of conflict".⁹⁷

Following the publication of the agreement proposals, the Secretary of State for Northern Ireland, Paul Murphy, made a statement to the House of Commons where he gave a brief on

⁹⁵ *Northern Ireland: Peace process proposals, BBC News, 8 December 2004*

⁹⁶ *Progress but no deal says Blair, BBC News, 8 December 2004*

⁹⁷ *IRA says photos 'never possible', BBC News, 9 December 2004*

the failed negotiations for devolution. Mr Murphy said, "I am absolutely convinced that the day when the final piece of the jigsaw can be put in place is not far off". He said there had remained an outstanding issue "which could not be resolved". That, he added, "is the transparency with which the decommissioning process should be carried out". He told the House of Commons that he is scheduled to meet the Irish Foreign Minister, Dermot Ahern, to press forward in bridging this remaining gap. A British Irish Intergovernmental Conference is also due to be held on the 16 December and both the Irish and British Prime Ministers will meet again at the European Council on the following day.⁹⁸

On 9 December a number of parliamentary questions were put to the Secretary of State of Northern Ireland Paul Murphy by members of various political parties in Northern Ireland. Most took this opportunity to congratulate Mr Murphy and the governments on the work they had done on the peace proposals and shared Mr Murphy's disappointment in being unable to reach an agreement. Most of discussion was based around the issue of the IRA and decommissioning and there was also reference to Sinn Fein and its position on policing in the agreement proposals.

Mr David Lidington, Conservative, referred to the comments made by the Irish Deputy Prime Minister Mary Harney, who said, "It would be wrong of anyone to assume that this was just about photographs, that that was the only outstanding issue". He asked the Secretary of State what the other issues on which the agreement was not possible. Mr Murphy responded, "I think that the question goes beyond the issue of photographs to that of confidence about the transparency of decommissioning. Transparency and confidence are the important issues".⁹⁹

The issue of including all political parties in the proposal discussions was also highlighted by a few members. Mr Eddie McGrady (SDLP) said, "The Secretary of State said that the two parties that he mentioned particularly, Sinn Fein and the Democratic Unionist party, were leading parties of the respective communities. May I point out to him that combined they represent 49 per cent. of the people of Northern Ireland, and that the other 51 per cent. have, de facto if not de jure, been virtually excluded from the negotiations?".¹⁰⁰ In reply, Mr Murphy pointed out that in a sense, every party in Northern Ireland is in a minority, because no one party commands the majority. He added, "I do not for one second diminish the role of all the other parties; I am simply accepting the reality that, for the agreement to work and an Executive to be set up, agreement will have to be reached between the two parties that achieved the election result to which I referred".¹⁰¹

There was an air of frustration as some members stressed that, "Photographs are not a substitute for independent verification, but an important symbol that weapons have been decommissioned. They are not a symbol of the IRA having been disarmed; they are pictures

⁹⁸ HC Ministerial Statement 9 December 2004, c1287

⁹⁹ HC Deb 9 December 2004, c1290

¹⁰⁰ HC Deb 9 December 2004, c1291

¹⁰¹ HC Deb 9 December 2004, c1292

of weapons that are no longer of use. At this late stage, cannot we convince the IRA that the pictures are of weapons, not pictures of the IRA being disarmed?"¹⁰²

Mr Paul Murphy emphasised that, "Although there is still work to be done on the issue we have been discussing this afternoon, there is nevertheless a feeling of hope, even though we were disappointed".¹⁰³

On 20 December there was further setback to the political settlement in Northern Ireland after a gang stole more than £26 million from the Northern Bank headquarters in Belfast. Following the robbery the province's police chief, Hugh Orde said "in my opinion, the Provisional IRA were responsible for this crime and all the main lines of the inquiry currently undertaken are in that direction"¹⁰⁴

The Secretary of State for Northern Ireland, Paul Murphy, in a statement to the House of Commons condemned the robbery and said that it had "deeply damaged" efforts to restore the power-sharing executive. He stood by the comments made by the Chief Constable, Hugh Orde calling him "a man of the highest calibre and intergrity". He went on to say that "Government will not promote a political settlement in which a party inextricably linked to an organisation that has carried out major criminal acts can assume responsibilities again in a devolved Administration."¹⁰⁵

Following his statement there were calls to impose sanctions against Sinn Fein. Mr David Lidington, Conservative, expressed sympathy for the families that were victims to the robbery and added "The robbery and the Chief Constable's words last week have grave implications for the entire political process in Northern Ireland". He asked the Government to introduce a motion to suspend the privileges and parliamentary allowances of the four Sinn Fein MPs in the House of Commons:¹⁰⁶

Mr. David Lidington: ...The Secretary of State mentioned sanctions against Sinn Fein, and I would like to ask him three specific questions on that issue. First, in the light of the intelligence to which he and the police now have access, will he consider recalling individual prisoners who have been released early on licence under the Government's early-release scheme? Secondly, given the widespread belief that the profits of crime are helping to fund political parties linked to paramilitary forces, will he look again at some of the exemptions that parties in Northern Ireland have from the normal rules on party funding, especially those relating to foreign donations and to publishing accounts? I note that he said that he would be discussing this matter with the Irish Foreign Minister soon. In the light of those discussions, will the Secretary of State undertake to drop, or at least postpone, proceedings on the statutory instrument to extend the current exemptions, which the Government tabled shortly before Christmas? Thirdly, will the Government now introduce a motion to suspend the privileges and parliamentary allowances that have been given to Sinn Fein

¹⁰² HC Deb 9 December 2004, c1300, Comment by Mr Robert Walter (North Dorset) (Con)

¹⁰³ *ibid*, Comment by Mr Paul Murphy

¹⁰⁴ Peace hopes hit as police blame IRA for bank job, Financial Times, 7 January 2005

¹⁰⁵ HC Ministerial Statement 11 January 2005, Column 188

¹⁰⁶ HC Ministerial Statement 11 January 2005, Column 189

Members of this House despite their refusal to take their seats and represent their constituents properly? It is intolerable for taxpayers' money to be doled out in this way to a party that remains inextricably linked to violent organised crime.

Mr Murphy: ...The hon. Gentleman also raised the question of this House suspending the privileges and parliamentary allowances of Sinn Fein Members. First, I have already said in my statement that the Government will consider a range of possibilities in the coming days, and I think the House would agree that we need to take some time to consider the most effective way of bringing pressure to bear on the republican movement. [Hon. Members: "Why?"] Not least because we need to discuss a number of the issues relating to sanctions and penalties with the Irish Government—[*Interruption.*] Perhaps the House will allow me to finish. Secondly, I understand that the House has its own rules regarding whether we should allow such actions to happen, and the Government will have to reflect on the significance of that. Thirdly, the Independent Monitoring Commission also has a role in determining what sanctions and penalties, if any, should be introduced with regard to Sinn Fein. We do not want to take a decision on these issues today, because we need to look at the whole picture. I have not ruled anything out on these issues.

In an appearance on the BBC's Breakfast with Frost programme, the Sinn Fein MP Martin McGuinness said that no one in the Sinn Fein leadership had any knowledge of the raid. He added "I don't see how it could have been in the interest of the IRA, who have made such a powerful contribution to the peace process going way back to their cessation in 1994, to be involved in such a risky operation, which would have undermined the republican contribution to a vitally important peace process."¹⁰⁷

On Tuesday 25 January, after a meeting with Gerry Adams, Bertie Ahern said that he supported the Garda assessment "The Garda authorities which naturally I would look to in the first instance, their assessment is that this robbery was carried out by the provisional movement. It would not have taken place, an operation of the scale of this, without the agreement and sanction of the provisional leadership. That is advice I as taoiseach have to take."¹⁰⁸ He added that he would be "opposed to sanctions against any party in the political process".

However, Sinn Fein President Gerry Adams voiced concerns that sanctions may still be imposed on his party. He said that he believed the International Monitoring Committee, which reports on paramilitary activity, would be called in. "They will then make some recommendation and, in some way, the governments will try to distance themselves from that by saying: 'this was an independent body and we are simply acting on its recommendations'"¹⁰⁹ Sinn Fein has vowed to "fight" the British Government on any plans to invoke sanctions.

¹⁰⁷ Robbery 'not in IRA's interests' BBC News, 16 January 2005

¹⁰⁸ Ahern repeats IRA robbery claim, BBC News, 26 January 2005

¹⁰⁹ Adams' fears over party sanctions, BBC News, 24 January 2005

Following a meeting with Gerry Adams and Martin McGuinness at Chequers the Prime Minister warned Sinn Fein that the peace process was in profound difficulties. A spokesman for number 10 said “that while he still wanted to find a way forward which included Sinn Fein, it was his duty as prime minister to underline, in the starkest terms, that that would not be possible if paramilitary and criminal activity continued to be carried out by the IRA in defiance of the wishes of the people of Ireland, north and south, as expressed in the 1998 referendum.”¹¹⁰

¹¹⁰ Peace process ‘in profound difficulties’, BBC News, 28 January 2005