



Northern Ireland Affairs Committee

Oral evidence: [Administrative scheme for 'on-the-runs'](#), HC 1194

Wednesday 13 May 2014

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Members present: Mr Laurence Robertson (Chair); Oliver Colvile; Mr Stephen Hepburn; Lady Hermon; Kate Hoey; Naomi Long; Jack Lopresti; Ian Paisley; Andrew Percy; David Simpson.

Questions 784-840

Witness: Rt Hon the Lord Trimble, former First Minister of Northern Ireland, gave evidence.

Q784 Chair: Lord Trimble, you are very welcome. Thank you very much for coming at such short notice to see us. We understand you have time constraints, so we will attempt to finish by three o'clock. Thank you very much.

You were obviously involved in the peace negotiations—the Good Friday Agreement—right at the beginning. Could I ask a general question: when did you first become aware of what is now referred to as the OTR scheme?

Lord Trimble: At the time of the Downey judgment¹. When that became known was the first I had heard of it. I was quite shocked to find that it had been operated since 2000. Between 2000 and 2005, I have not tried to count how many times we met either the Secretary of State for Northern Ireland or the Prime Minister, and at no time was any hint dropped to us about the existence of this scheme.

Q785 Chair: There were obviously a number of letters, including one from yourself to the Prime Minister dated 7 March 2002. There were letters from the then Secretary of State, John Reid, all discussing how to deal with the OTRs. John Reid's letters make it clear that Parliament would not agree to what he would have liked to have seen happen. Your own letter was a halfway house, in the sense of perhaps bringing people who could be granted bail at a formal appearance in court and, following a guilty plea, they would receive a notional sentence. I say "halfway house" because obviously the early release scheme would allow them to be released after serving two years. Your proposal was a halfway house—

Lord Trimble: No, it is not. I am sorry to say I was in error when I wrote that letter. I had misunderstood the nature and the effect of the early release scheme and thought that once the two-year period set out in the agreement was up, there was no question of people then serving

¹ A link to "The Queen v John Anthony Downey, Judgment: Abuse of Process" can be found here: <http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Judgments/r-v-downey-abuse-judgment.pdf>

time. That is why the letter is couched in that language. Had anyone drawn my attention to my mistake, I would have made it clear that I would have preferred people to serve the proper time. The whole thrust of both letters is that the normal legal procedures should apply and that nothing special should be done, other than what we did in the agreement.

On this issue I want to go back to the agreement, because there were discussions about what should be done with regard to prisoners and we were very clear that all the parties who I had talked to—and before the agreement I was not in communication with Sinn Féin, so I leave them to one side—were agreed that there should not be an amnesty. That is hugely important. It is hugely important because if you have an amnesty you are, in effect, conceding some degree of legitimacy to the violence of those who committed terrorist crime offences.

We thought it was very important that we stick to the principle that what was done by paramilitaries was wrong and that there should not be an amnesty. That remains my position now, and I disagree with all the people who pop up every now and again and somehow suggest that there should be an amnesty or say that we did not make provision for dealing with the past; we did. What we did with regard to the past was the early release scheme. We did not do anything beyond that. We did seriously think about truth and reconciliation processes, but in view of the experience in South Africa, where it was generally agreed by those that had studied it that that was a failure, we did not see a need to go down that road.

Q786 Chair: There was no OTR scheme that you knew about at the time.

Lord Trimble: Looking back in hindsight, one can see that a certain amount of the administrative scheme was hidden in public view. However, if you look at the parliamentary questions that were asked by a number of people on OTRs—by Lady Hermon and others—you find language being used by the Government that says that it has not yet brought forward proposals in dealing with OTRs.

Q787 Lady Hermon: And the date of those replies?

Lord Trimble: The replies are from 2000; I think the most recent is from June 2002. Mr Donaldson asked the Secretary of State to make a statement on his proposals to deal with the issue of on-the-run terrorists. Jane Kennedy replied for the Government: “The Government have committed themselves to taking steps to resolve this issue, which we believe is an important part of drawing a line under the past. We are still considering how best to discharge that commitment. Once that process is complete, we will make an announcement.”² That language is used again and again and again. Inevitably with regard to that language, we looked at that and said, “There is no existing OTR scheme”.

Q788 Chair: Why do you think the Government brought in the Northern Ireland (Offences) Bill in 2005?

Lord Trimble: Because the administrative scheme was limited in what it could do. What Sinn Féin really wanted was something more like an amnesty, and I think that is why we got that bill in

² Jane Kennedy’s written answer to Mr Donaldson (25 June 2002) can be found here: http://www.publications.parliament.uk/pa/cm200102/cmhansrd/vo020625/text/20625w17.htm#20625w17.html_sbhd7

2005. I have to point out that, as I am sure the Committee knows, I was not in Parliament at the time that Bill came through, and at that time I was not paying an awful lot of attention to what was going on.

Q789 David Simpson: You are very welcome, Lord Trimble. You mentioned in your opening comments the number of questions that were asked in the House of Commons. On 6 March 2002, you yourself asked the Prime Minister whether the Government intended to go back on their word that there would be no amnesty³. Why at that particular point did you raise that question? What was the context of that?

Lord Trimble: To be perfectly honest, I cannot remember.

Q790 David Simpson: You followed up the question on the 6th with the letter that the Chairman has alluded to, suggesting how you thought the OTRs could be dealt with, and you have explained that, on reflection, it maybe was not just what you wanted to put in writing. What further discussions with the Prime Minister or the NIO were held on this issue with yourself?

Lord Trimble: There were very few discussions on this issue. My good friend David Campbell has been looking back at his notebooks. He would have accompanied me in virtually every meeting that we had, and he took a note of those meetings. He has read over his notebooks for the period from 2000 up to 2003, right up to and past Weston Park, and there are very, very few occasions on which the issue was raised. We only raised the issue in discussions on one occasion. The issue was raised by the Secretary of State and the Prime Minister from time to time. The one time we did raise it was at Weston Park, when there had been a report in the *Irish Times* saying that one of the things coming out of Weston Park was going to be a scheme whereby 60 persons—both Loyalist and Republican—were going to benefit from some arrangement whereby they would no longer have to stand charges. We raised that issue with the Prime Minister and he assured us that there was no substance in that report, and Weston Park contains a statement by the two Governments that they regard this as being an issue. The language used by the Government subsequent to Weston Park is misleading, because they keep talking about things being agreed at Weston Park, but those things on the OTRs issue and on other issues as well were only agreed by the two Governments, not by the parties present.

Q791 David Simpson: On 20 January 2002, a then member of your party was quoted in an *Observer* article making reference to the OTRs⁴. The article lists potential names on the list submitted by Sinn Féin to the Government for amnesties. That was a member of your party at that particular time. In light of this, do you still contend that you knew nothing about this scheme?

Lord Trimble: Yes.

David Simpson: When a member of your party put an article in the press putting names out there.

Lord Trimble: I do not recall that, and I do not know on what basis that person was speaking. I do remember an occasion when John Reid, the Secretary of State, was speaking to us, and he raised

³ Lord Trimble's question to the Prime Minister (6 March 2002) can be found here:

http://www.publications.parliament.uk/pa/cm200102/cmhansrd/vo020306/debtext/20306-03.htm#20306-03_spnew10

⁴ 'Fury as IRA fugitives win amnesty', *The Observer*, 20 January 2002:

<http://www.theguardian.com/uk/2002/jan/20/northernireland.northernireland>

the issue of OTRs, and he said that they had had some names given to them by Sinn Féin. He said that there were only about 20 cases amongst the names he had mentioned that were significant. He also said that a fair number of the names that he had received were names not known to the police. He went on to say that in some cases, going on the run was resorted to by persons in order to solve personal problems.

Q792 David Simpson: I have asked this question, and a number of other Members have asked this question, to present and former members of the PSNI. We found it astonishing—and I would like your opinion—that senior members of the RUC, past and present, knew nothing about these letters.

Lord Trimble: I have not read the evidence given to you in detail; I have skimmed through it. I must say, Chairman, I am delighted that your Committee is conducting this inquiry, particularly as it appears that Lady Hallett⁵ will be doing hers privately. It is a good thing that this material is brought into the public domain.

They were not told specifically about the letters; they were told that individuals had made enquiries. That was not true; individuals did not make enquiries. Sinn Féin came with lists and the scheme was run between the Northern Ireland Office and Sinn Féin. There was nothing then to directly alert people in the prosecuting service or in the police, and they may have assumed that the parties that they were dealing with—the people who produced the names to them—were operating in good faith too.

Q793 Lady Hermon: It is a delight to see you here this afternoon, David. Can I just ask you to put on your lawyer's hat for a moment and tell the Committee what you think the status is of the—we now know from the evidence we received last week—228 letters that were sent to OTRs? What do you think the status of those letters is now, post the judgment in the Downey case?

Lord Trimble: I have not seen a complete text. I understand—and correct me if I am wrong—that the letters say that they are only accurate for the day on which they are written and if further evidence becomes available that would change the situation, and all the rest of it. The letters in themselves are not conferring any great advantage on people, except that they might be tipping people off about the likelihood of being arrested. The Downey letter⁶ was criticised because it does not mention that he was still wanted by the Metropolitan Police. If that was in that letter, that would be tipping him off that he is liable to be arrested if he goes there.

Tipping people off gets you into a very difficult situation; in fact, there may be criminal consequences to tipping off a person who is a suspect or who is wanted by the authorities or who the authorities want to question. That aspect of the letter is problematic. In the Downey case, it was not the mere existence of the letter, nor the fact alone that the letter was inaccurate; the crucial element in the Downey case was that Downey believed he was safe going to London and he relied on the assurance he read into that letter, and he relied on that to his detriment. It was that that made the continuation of the case an abuse of process. I fully understand why the Attorney-General did not appeal the Downey case, because there was no doubt of the fact that Downey had relied on the letter to his detriment, and that then created the unfairness in proceeding with the case.

⁵ A link to the Hallett Review report can be found here: <http://www.hallettreview.org/report/>

⁶ A link to the letter from the Northern Ireland office to Mr John Downey of July 2007 is provided here: <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Cover-letter-from-NIO-to-Gerry-Kelly-and-John-Downey-OTR-Letter-July-2007.pdf>

Q794 Lady Hermon: I am not asking you about your views about Sinn Fein, but you have dealt with Sinn Fein representatives for an awfully long time at a very senior level. If the letters, as you say, were only accurate at a point in time, why were these letters so important to Sinn Fein for the OTRs?

Lord Trimble: Insofar as the letters said the people were not wanted for questioning or would not be charged if they came back, that, in effect, gave those persons comfort in coming back and, to that extent, solved the OTR problem with regard to those individuals.

Q795 Lady Hermon: In other words, they relied on them, but not to their detriment. They relied upon them.

Lord Trimble: Yes. Well, Sinn Fein did something else with them. Sinn Fein used them in order to keep loyalty and discipline amongst those persons. You see that very clearly in what happened with McGeough.

Q796 Lady Hermon: When they fell out with Mr McGeough they did not pursue his case, yes. Could I ask you whether you could throw some light on this? Do you believe that the OTR letters were a trade-off for the decommissioning by the IRA of their weapons?

Lord Trimble: I should have also added to what I said in answer to your last question that Sinn Fein would have liked the fact that this scheme was operated purely with regard to the IRA and not with regard to anybody else. It would have reinforced their view of themselves in that respect.

Q797 Lady Hermon: Which is, or was?

Lord Trimble: I am not here to stand as an apologist for them, so I will not talk about their view of themselves.

Q798 Lady Hermon: Just to come back to this, do you think that the OTR letters were a trade-off for the act of decommissioning, particularly the major act of decommissioning in 2001?

Lord Trimble: It would be a different ball game if they had been used in that way. I did say a number of times to John Reid, "If you do anything for them over the issue of OTRs, you should make them pay for it". I was very disappointed with one aspect of the prisoner release scheme. The agreement specified a two-year period for decommissioning and a two-year period for prisoner releases. The agreement is a political document; it is not a legal document. It would have been entirely open to the Government, in the aftermath of the agreement, to say that they were going to link those two-year periods and say to Republicans that, "If you do not make progress on decommissioning, we are not going to progress prisoner releases". Government could have done that. If they had done that, it would have worked, because getting the prisoners out was so important to Republicans and they knew themselves that they were going to have to decommission anyway. McGuinness is famously quoted as saying to the Irish Taoiseach long before the agreement that he knows they are going to have to "banjax" the guns—that was the term he used. I was quite disappointed that the Government adopted a completely legalistic approach to prisoner release and did not exploit it that way. Subsequent to that, it was in my mind that if the Government was doing something else for Republicans, they should see to what extent they could then use that as leverage with the Republicans on other issues.

Q799 Lady Hermon: Can I just ask you, then, to reflect on the content of a document that became available when the Downey judgment was finally published? That is a letter signed by the then Secretary of State for Northern Ireland, John Reid. It is dated 14 May 2002⁷ and it is addressed to the then Lord Chancellor. It refers in the first paragraph to OTRs. In the second paragraph, it refers to the conclusion of the Weston Park talks and the agreement between the Irish and British Governments that this issue had to be dealt with. Then there is the key line on the first page of John Reid's letter, which reads, "After the IRA's decommissioning act in October"—I presume 2001—"we confirmed that we would follow through on the commitment by March". Would that give the impression that the comfort letters to OTRs were indeed a trade-off for decommissioning?

Lord Trimble: I am not sure of that. I do not know what the position would have been or what view the Government would have taken of these matters before decommissioning. I do not have the text of the Downey judgment with me, but my impression is that the administrative scheme was functioning before decommissioning took place, and so that would tend to point the other way. I never got any hint from the Government that there was no need for me to go to the considerable lengths I went to try to get pressure on Republicans for decommissioning if there was some other thing that they were doing to achieve it.

My initial position after the agreement was that it was up to the Government to obtain decommissioning—it was their job to get it. When it became clear that they were not going to make any particular effort in that direction and, indeed, when one heard the rumours that the Northern Ireland Office were saying that the Government should not bother about decommissioning, it was obvious to me that we were going to then have to take steps ourselves. I did, and those culminated in me resigning office. No one at any point suggested to me that it was not necessary for me to do this and that they had the matter in hand anyway. I might have welcomed it if they had said that to me.

Q800 Lady Hermon: What recollection do you have of pressure from the Irish Government on the British Government and, indeed, perhaps upon yourself to deal with OTRs?

Lord Trimble: I do not think the Irish Government ever raised it with us.

Lady Hermon: With you as the Leader of the Ulster Unionists.

Lord Trimble: I would need to—

Lady Hermon: Check with David Campbell again.

Lord Trimble: I would have to go back to the oracle on that.

Q801 Lady Hermon: Yes, the oracle is David Campbell with his diaries. When you do go back to David Campbell, perhaps you could just ask him to do a little bit of research around Christmas of 1999. Amongst the bundle of papers that were published after the Downey judgment was published, there is a really interesting letter from the then Taoiseach, Bertie Ahern, to the then Prime Minister, Tony Blair, at Downing Street, dated 23 December 1999⁸, making reference to those who might be

⁷ The letter from John Reid to Lord Irvine (14 May 2002) can be found here:

<http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Letter-from-John-Reid-to-Lord-Irvine-May-2002.pdf>

⁸ The letter from Bertie Ahern to Tony Blair (23 December 1999) can be found here:

on the run and being sought for extradition and prosecution. There are certain named individuals, though their names are redacted in this letter. "The named persons are very strong supporters of the agreement"—I am just reading from the text of the letter—"and, with full freedom of movement, will be able to play an even more effective role within the Republican constituency in Northern Ireland and in this state in persuading and leading those who might otherwise be sceptical towards an unqualified embrace of democratic politics". Perhaps when you speak to your good friend the oracle, you could just ask him if he had any awareness of pressure from the Irish Government in dealing with the OTR issue as early as 1999.

Lord Trimble: Right.

Q802 Oliver Colvile: Lord Trimble, thank you very much indeed for coming to see us this afternoon. We are very grateful for you giving up your time. We have taken a lot of evidence from police and from some of the lawyers and people like that, and from one former Secretary of State, and, with the exception of the former Secretary of State, all of them have said they had no idea at all that letters had gone out, or what the contents of those letters were. Do you think that what happened here was that there was a subversive strategy being pursued by Ministers in Government, and that they were not sharing that information with you or with other people? If you do think so, who do you think might have been the parents of such a strategy?

Lord Trimble: Again, the Downey judgment refers to Gerry Adams as saying that his preference was for an "invisible process", and he got what he wanted in that respect. Ministers probably did what they did to try to set it up in such a way that it looked as though they were not running it.

Q803 Oliver Colvile: Can you explain to us why you think they might have gone down that strategy route? Do you think they were so worried about keeping Sinn Féin and the IRA on-side, or do you think there were other reasons as well?

Lord Trimble: I would have thought that if the public were aware of the fact that there was a scheme that was designed to help only the Provisional IRA, there would have been quite considerable public outrage about that.

Oliver Colvile: Yes. I rather agree with you.

Lord Trimble: I was going to make some comment about the present incumbents of the Northern Ireland Office, but it would be hearsay. I am sure you are going to be speaking to the current Secretary of State, and indeed you may want to speak to Owen Paterson too about whatever decision was taken in 2010 and what the circumstances were, or how they appeared to him in 2010. In view of the question you are asking, if what someone told me yesterday is right, you will get interesting responses.

Q804 Oliver Colvile: Don't worry; we will look forward to doing that too.

You were, if I remember correctly, a very senior player in all of this. The thing I am interested to know is: if you had known that this was going on, would you have asked the Prime Minister of the day what he was going to do to make sure that the people on the other side of the political divide were also taken into account? I represent, as you may know, a military garrison city, in the form of

<http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Letter%20from%20Bertie%20Ahern%20to%20Tony%20Blair,%2023%20December%201999.pdf>

Plymouth, and I have a lot of Royal Marines and former members of the armed forces. Would you have said, “Excuse me, but if we are going to do this, then we have got to make sure that these people are given the same level of support”?

Lord Trimble: There is an obvious fairness argument that if you are doing something for one paramilitary you should be doing it for others as well. I have mentioned how, on a number of occasions, without knowing anything about the scheme, I said to successive Secretaries of State, “If you are doing something, you should make them pay for it”. If I had known about the particular scheme, I would have been telling people to be very careful about that, because while notionally all that is happening is that the police and the prosecuting authorities are saying what they would do, the fact is that it appears that Ministers are looking for answers, and the people who had the matters coming to them would get the impression in most cases that the Ministers wanted to hear that people were no longer being sought. When you get into that area, you are getting into a very dangerous situation. I have reminded some people of an excellent article in the *Northern Ireland Legal Quarterly* of some 30-odd years ago—

Lady Hermon: Written by?

Lord Trimble: Professor Francis Newark—“The Campbell Case and the First Labour Government”. The first Labour Government in 1923 fell because of suspicion in the press that a Labour Minister had tried to influence the prosecution of a Mr Campbell, who might be described as a political activist. In 1923, the suspicion of a Government trying to interfere with the prosecution of one not-very-important person was enough to bring down the Government. If we had a situation where the Government was trying to influence prosecutorial decisions for hundreds of people who have committed terrorist offences—

Lady Hermon: 228.

Lord Trimble: It is a nice point.

Q805 Oliver Colville: I have asked a question during the course of this inquiry about perverting the course of justice. Do you think they were aware of what they were doing when they undertook this?

Lord Trimble: Paragraph 36 of the Downey judgment is remarkable. Paragraph 36 is the one that says that the then Attorney-General, who was Lord Williams of Mostyn, had sent a memorandum saying that he was gravely concerned about what was being proposed because he felt it would reduce public confidence in the judicial process. The next paragraph says that, after various letters and meetings, it was decided that things should be done “by the book”. The clear implication is that what was put up to Lord Williams of Mostyn initially was not being done according to the book. You may wish to see whether you can probe more clearly what the initial proposal coming from Government was. The Downey judgment does not mention it, and may suggest that it looks as though it was something more than the administrative scheme, because the administrative scheme can be presented as if it is going by the book, but something beforehand was proposed that most certainly was not going by the book. You may still be able to dig some of that up. That would be quite interesting.

Q806 Oliver Colville: I come back to this: do you have any idea as to who might have been the parents of this whole idea and the genesis of it? Do you have any suspicions?

Lord Trimble: I think it came right from the very top.

Lady Hermon: From Tony Blair? From the Prime Minister?

Oliver Colvile: Hopefully we are going to be seeing him later, so we can ask him some questions about it.

Lord Trimble: The Secretary of State, who at that time was Peter Mandelson.

Oliver Colvile: Yes. I think we have asked to see him too. We have got a full cast coming to see us.

Q807 Chair: We will try to speak to these people. Just going back to the Belfast Agreement negotiations, which you were, as I said earlier, very involved in, the prisoner release scheme was discussed, but how much were the OTRs discussed at that point?

Lord Trimble: I don't think OTRs were discussed at all. There was a discussion around, "Do you have some special procedures, along the lines of a truth and reconciliation process? What are we going to do with regard to prisoners?" The idea of releasing prisoners was not a particularly shocking one.

One of the curiosities about our situation, if you will forgive a little bit of whimsy on my part, is we never had this problem in the past with regard to other emergencies; it simply didn't exist. In other emergencies, before 1970, the Stormont Government and, before that, the London Government resorted to detention without trial—internment. When you interned people rather than taking them through the courts, when the emergency was over, everybody was released and there was no such problem. It was only because, in 1973, a decision was taken to end executive detention and use the courts that the problem was created. It did not exist apart from that. In the Brookeborough days—the troubles of that time of a rather short-lived border campaign—there were a handful of people who were taken through the courts. Apparently, at the end of the emergency, when the internees were released, the persons who had been convicted were released. They were released within 18 months of the end of violence. This was not known to the public at the time and certainly was not known to us until we started to raise issues in principle about early release of prisoners. The Government had done its homework on this and said, "Oh, but this has happened before. Brookeborough did it." That cut the ground from under our feet.

Q808 Ian Paisley: It is good to see you, Lord Trimble, at this Committee hearing. Thank you for coming. "Acts of completion" was a phrase that appeared in the Northern Ireland lexicon round about 2001 or 2002. We have a draft letter—I do not know whether it was ever sent to you or if you ever got sight of it—from the Prime Minister to yourself in November 2002⁹. In it, he says that the Government would only contemplate steps on difficult issues like OTRs in the context of acts of completion, and then goes on to say that "no decisions have been taken on precisely how we would do so". Was it your understanding that anything to do with OTRs would be in the final deal?

Lord Trimble: I really cannot answer that question because I do not know that my mind was turned to that issue and I am not quite sure what I would have done. "Acts of completion" comes from a very good speech the Prime Minister made, which initially heralded to us that he was making a significant change to policy and not continuing the approach he had taken after the

⁹ The draft letter from the Prime Minister to Lord Trimble (November 2002) can be found here: <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Draft-Letter-from-the-Prime-Minister-to-David-Trimble-November-2002.pdf>

agreement of being somewhat indulgent of the Republican movement. Unfortunately, the change was short-lived so the questions raised in that speech fell by the wayside.

Q809 Ian Paisley: Did you ever receive a formal version of that draft letter?

Lord Trimble: It doesn't ring any bells, but it would not have surprised me.

Q810 Ian Paisley: Who do you blame for the OTR fiasco?

Lord Trimble: It has to go back to its original architects and the people who put it in place in 2000.

Q811 Ian Paisley: Do you have the same assumption as me that that is the then Prime Minister; the leader of Sinn Féin, Mr Gerry Adams; and the then Taoiseach, who seemed to hatch this in the embassy here in London?

Lord Trimble: I have no direct knowledge of an Irish Government involvement in it, but I would not have been surprised if there had been. I have no direct knowledge of that. Peter Mandelson was obviously part of it, and to a certain extent Lord Williams of Mostyn. It does look from Downey as though he was trying to limit what was being proposed, but he may also have signed off, as it were, on the final form of the proposals.

Q812 Ian Paisley: I know hindsight is a wonderful thing, but when you see what has happened with regards to OTRs and when it was happening, and then overlay your own involvement in the significant political development of Northern Ireland at that time, do you feel betrayed by Tony Blair and those players at that time?

Lord Trimble: I must confess I was quite hurt. We had had so many meetings with Secretaries of State and with the Prime Minister, and we approached those meetings in a candid manner. There were no hints dropped and no indications. Although some of the questions that were asked came close to containing a broad hint as to what had happened, at the same time, language was used in those questions that would have led us to believe that nothing was being done on the OTR front.

Q813 Lady Hermon: Do you feel you have been deceived by them?

Lord Trimble: Quite clearly the intention was to keep the information from us.

Q814 Ian Paisley: Upon that betrayal or deceit, would you be surprised, then, to learn that there were other secret deals with regard to, perhaps, criminal activity and a lackadaisical approach to dealing with drugs, fuel or tobacco?

Lord Trimble: It has been remarkable that some significant events that should have been followed by prosecutions were not. The most obvious one is the Castlereagh incident, where at one stage it looked as though criminal proceedings were going to occur and then they did not. I do not want to jump to conclusions—my general approach is that cock-up is more likely than conspiracy—but there are some suspicious circumstances.

Q815 Ian Paisley: But you are not portraying this OTR thing as a cock-up.

Lord Trimble: No. You are quite right. It is closer to conspiracy than cock-up.

Q816 Kate Hoey: It is very nice to see you, Lord Trimble. I just want to be clear that the last letter that you were involved with writing to the Prime Minister that we have seen on this issue was back in March 2002, and then you got the response that “no decision has been taken”. To all intents and purposes it had been put into the longish grass, and there would be some announcement made at some stage, yet even at that time they were already happening. After that, then, it is clear that you had no other involvement or anything to do with on-the-runs; you knew nothing more about it. It never occurred to you that this was happening behind the scenes.

Lord Trimble: No.

Q817 Kate Hoey: Good. I was going to ask you whether you feel let down. You said you felt hurt, which I think is a very good way of describing it given the huge amount of effort that you put in getting support from the pro-Union community for the agreement. What do you feel about people who say now, “Look, it’s all in the past. Let’s just draw a line under all of it”? There were even people who did not want us to have our inquiry because they felt that we were in some way going to rock the boat. Would you agree with those people who say, “We should not really be doing anything on this now. It is all in the past. What are we going to gain from it?”

Lord Trimble: Somebody popped up yesterday and talked about the need for amnesties. That issue has not gone away, and it is clear that there are people who will come back from time to time and probably think they are doing a public service by drawing attention to this, but I reiterate the point I made at the beginning: there is a huge issue of principle here and we cannot concede that there was any merit in the terrorist campaigns. I do that not just from a view that it is bad to acknowledge that; I also do that from the point of view that it is in fact the case. We are dealing here with a mature democracy where there were political means to resolve whatever grievances there might be, and there cannot be, in that situation, a justification for terrorism. There is that little quip about one man’s terrorist being another man’s freedom fighter. There is a clear distinction between the two, and the distinction is the one I have alluded to: that in a democracy, where there are channels that can be pursued politically and peacefully, there is no justification for politically motivated violence.

Q818 Kate Hoey: Can I ask you if you knew anything at all or had any dealings with people getting royal prerogatives of mercy and pardons? This seems to be slightly wider than the on-the-runs.

Lord Trimble: There is a very curious situation there. I was interviewed by Lady Justice Hallett on Friday afternoon.

Lady Hermon: Very interesting. Do you want to tell us more?

Lord Trimble: It occurred to me before going to see her that I should phone up another David. I phoned up David Lavery. He was my first Principal Private Secretary. He is also a graduate from Queen’s University, well known to me, but that is by the by.

Lady Hermon: A previous life.

Lord Trimble: Another life entirely. Anyway, I phoned him up. He said to me a very funny thing. He was speaking to a person—he did not name them—who, as well as having a judicial appointment, is also the Clerk of the Crown in Northern Ireland. Lavery said that these pardons relating to people in Northern Ireland should really have been sealed in the Clerk of the Crown's office, and the Clerk of the Crown knows nothing about them, and that is all very strange. I mentioned it to Lady Hallett—I drew some rather negative conclusions from it—and was then more than a little surprised later in the day to have another text message from David Lavery saying that he had had a conversation with the Clerk of the Crown's Office, and no royal pardons ever go through his office and they never appear in the *Belfast Gazette*. It is all an invisible process as far as Northern Ireland is concerned.

I know there is a question, too, about 10 years of records having disappeared, although I can see an innocent explanation for that, but that is in itself enough to make one's eyebrows go up. It is a very strange situation. People have made some comments to me that most of those 350 exercises of the royal prerogative of mercy are not terrorist-related cases, but again, without being able to track them all down, it is difficult to make any conclusions about them. We have this curiosity that, when they relate to people in Northern Ireland, there does not seem to be the same formality about the exercise as there is here in London.

Q819 Kate Hoey: No. Yet a lot of them were before devolved government.

Lord Trimble: Yes. It has been said to me that one of the reasons for pardons was that the legislation for prisoner release contained an error. It used the phrase "scheduled offences". The concept of scheduled offences stems from the legislation that implemented the Diplock court in the autumn of 1973, so cases before the autumn of 1973 would not be scheduled offences, and therefore technically were not going to benefit from the prisoner release scheme. I concede that is a problem. It could have been done by a short amendment to the legislation, but for some reason it was decided to use the royal prerogative of mercy in those cases rather than amend the Act and bring people through under the formal prisoner release scheme.

Q820 Kate Hoey: Whatever the reason for it, do you agree that there is absolutely no reason why all of that should not be in the public domain?

Lord Trimble: Absolutely. We have an anomaly that this process appears not to go through the same public procedures that take place here. If there is an exercise of the royal prerogative in England, it appears in the *London Gazette*.

Q821 Kate Hoey: Is there anything you would like to say—and obviously we will be seeing him—about Peter Mandelson's interest in this? Do you think it is something that we will be helped by?

Lord Trimble: We had a small debate on OTRs in our place, although you might not be aware of it, because it was done on the Third Reading of the Northern Ireland (Miscellaneous Provisions) Bill. I know we have got someone called the Lord Speaker, but our predecessors very wisely only agreed to the creation of the post of Lord Speaker on the clear understanding that the Lord Speaker would only do what the Lord Chancellor did beforehand, so we remain masters of our own procedure. Consequently, there is no one to rule you out of order. Those of us who are interested in this issue did discuss it with the various Whips, who agreed that it was reasonable that we should have a broader debate than what would normally flow from the terms of the Northern Ireland (Miscellaneous Provisions) Bill. We had a quite good debate on OTRs in that

context. Peter was in the House earlier that day, and I was rather surprised that he did not take part in the debate. I saw him in the corridor afterwards and mentioned it to him. He was more than a little miffed, because he had not been told that the debate was going to be broader, and he proceeded to discuss the issue with me, or at least to talk about OTRs with me. While I do not intend to repeat what he said, because you are going to see him yourself, I think you will find that he has something interesting to say.

Q822 Kate Hoey: Good. Finally, at this moment in Northern Ireland, I presume you understand—but you might like to just explain—how the majority of the public in Northern Ireland feel so angry about all of this. What does it tell about the deals that might currently be being done even as we speak within Parliament or within the Governments that no one knows about?

Lord Trimble: Yes, it is going to have a very negative effect on the public confidence in the process when it is clear that an invisible scheme for the benefit of one particular constituency has been arrived at, and it is a very bad way of governing.

Q823 Naomi Long: Welcome to the Committee. It is good to have you with us. Can I return to the *Sunday Times* article and the subsequent correspondence that you had with the Prime Minister around that article? You wrote to the Prime Minister on 11 November 2002¹⁰. I just want to quote from the letter, because I want to clarify something that you said earlier. It says: “This, of course, is not the Ulster Unionist position”, referring to what had been reported in the paper. It said: “I have made the suggestion that the alleged on-the-run problem could be resolved through existing legal procedures, namely a guilty plea and a conviction coupled with an application under the early release scheme. This would put OTRs on exactly the same footing as others—i.e. released on licence. The reported scheme would put them in a more favoured position.” Does that summarise your consistent view throughout that period on how the issue of the on-the-runs should be addressed when you were dealing with Government and when you were dealing with other parties in negotiations? Was that basically the Ulster Unionist Party’s and your position throughout that period?

Lord Trimble: Yes. We had made our concession in the agreement, and it was the early release scheme. I was not going to agree to anything that would be undermining the early release scheme and would be treating people in a more favourable way than the early release scheme. At the time, releasing people out of remission or after two years looked to a lot of people extremely generous. In retrospect, I do not know that people have that degree of strong feeling about it, and the licences have been remarkably effective. I know there have only been a handful of cases where people have been recalled, but there have only been a handful of cases where it has been necessary to do so. It does look as though the release on licence has worked to dissuade people from returning to criminal activity.

Q824 Naomi Long: But it would be fair to say that the early release scheme in itself was perhaps one of the most controversial aspects of the Good Friday Agreement at the point where it was discussed—

Lord Trimble: At the time; that is right.

¹⁰ The letter from Lord Trimble to the Prime Minister (11 November 2002) can be found here: <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Letter-from-David-Trimble-to-the-Prime-Minister-11-November-2002.pdf>

Q825 Naomi Long: In the next paragraph of the letter, you went on to say that you had not been informed or consulted about the scheme in the *Sunday Times* report. “My requests over recent months for information about this matter have always been met with the response that the Government was proceeding in accordance with my suggestions.” Were you aware of any cases that had been dealt with in the way that you suggested that would have led you to believe that when it came to the issue of the on-the-runs they were proceeding down that route?

Lord Trimble: No, I don’t think so.

Q826 Naomi Long: The on-the-runs were a really big issue. It has been raised a number of times by people, some slightly exaggerating the enormity of the issue, others perhaps slightly underplaying it. How significant an issue were the on-the-runs throughout that period around Weston Park through to, say, 2004-05?

Lord Trimble: I have never regarded it as a terribly important issue, because we did not have an amnesty, so people who had committed offences were still liable to be made amenable if the evidence was there. I was quite comfortable with that being the situation. You have also got a differential between various constituencies. There were a significant number of Republicans on the run; there were not so many Loyalists on the run. They tended to get arrested. Going to Scotland was not necessarily a good place to go and hide, because they got arrested there. I do not think there are all that many Loyalist on-the-runs, but I think I did come across one, believe it or not, in Cape Town. It is a long story. He would not say why it was he had left Belfast. He was a Shankill Road man who was helping with a factory that was using machinery that came out of an old linen plant in the north and had been shipped out to Cape Town, and he was helping to install it. He was very knowledgeable about that. As I say, he hailed from the Shankill and he had clearly left there. He was not going to go back, and he would not tell me why, but I am afraid I suspected I had encountered a Loyalist on-the-run.

Q827 Naomi Long: When Shaun Woodward gave his evidence to the Committee¹¹ he said that this was critical to the peace process at the point when he was around, which was in 2007—clearly beyond your time. At any point in the process, did you feel that if the on-the-runs issue was not dealt with, Sinn Féin were in danger of walking away from the process or in danger of collapsing the process or the structures?

Lord Trimble: No.

Naomi Long: At no time?

Lord Trimble: At no time did I think there was any likelihood of Sinn Féin walking away from the process—after the agreement was made. It was not clear until then. I do remember that right up until the last minutes and hours, it had been the Sinn Féin position to oppose a Northern Ireland Assembly. They put huge pressure on the SDLP not to make an agreement. In April 1998, Sinn Féin did not support the agreement and was doing its best to prevent one coming into existence. Then, when it was clear that there was going to be an agreement, they changed their position

¹¹ The transcript of Shaun Woodward’s oral evidence to the Northern Ireland Affairs Committee on 9 April 2014 can be found here:

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/northern-ireland-affairs-committee/administrative-scheme-for-ontheruns/oral/8472.html>

very rapidly, and they changed their position enormously. I kept reminding Blair of that because it completely undermined, or at least it was in stark contrast to, the notion that Republicans put about that there was a danger of them pulling out of the agreement. Martin and Gerry were saying that they wanted to implement the agreement but there were other people in the Republican movement who did not, and they might get the upper hand, and so on and so forth. That is just a subtle form of blackmail, but it is blackmail. I felt that the Government gave far too much credence to that argument. My view was—it was not just my view, it was the Irish Government's view—that Adams and McGuinness were firmly in control of the Republican movement and there was no prospect of them pulling out.

Q828 Naomi Long: They continued to raise the issue with Government, clearly, throughout that time, as parties do raise their own issues with Government. Government clearly believed, or have said to us that they believed when we have asked them, that it was crucial to the peace process. The issue then evaporated. It was no longer raised, publicly or privately. Did you have any questions at that point in time as to what had happened? What was your presumption as to what had happened around the issue of the OTRs?

Lord Trimble: What happened was the 2005 Bill. That clearly was what the Government were working on when they were talking in the answers they gave about working on proposals. The proposals emerged in the form of the 2005 Bill, and that Bill then collapsed. It is highly doubtful that that Bill would have got through the Lords, but I cannot say that with authority because that Bill came and died in the interval when I was hanging around in no man's land between the two Houses.

Q829 Naomi Long: I realise you have already made reference to the fact that you perhaps were not following things quite so closely just at that point, but did you find it strange at all that when that Bill failed the issue seemed to disappear with the Bill? Did you find that strange, given your previous negotiations with Sinn Féin and your experience of how they handled the process? Were you surprised that they walked away, or did you think it was explained by the fact that they had been one of the parties to refusing the Bill? In the end they had rejected it themselves. Did you accept it on face value, if you like, on that basis?

Lord Trimble: Not knowing what there was in the background, it would not have surprised me if the Government was saying to them, "Look, we tried. We brought forward proposals, but it was clear that they were not going to go through Parliament." There was some comment about them, after dropping the 2005 Bill, saying they were not going to try again, and they were in a position to be able to say that all the Northern Ireland parties were against them on this issue. So it would not surprise me if they then said, "We are not doing anything with regard to it". I would have assumed that this issue would have gradually diminished in importance as time went on.

Q830 Lady Hermon: David, could I just pick up on a few comments in response to one of Naomi's questions just now? There was considerable outrage and shock about the revelations in the Downey judgment. One of the comments that was made afterwards by a former Secretary of State, the right hon. Member for Neath, was that these administrative letters were indeed necessary to save the peace process. Just to confirm, Mr Downey's letter was signed off on 20 July 2007¹². Could you just

¹² A link to the letter from the Northern Ireland office to Mr John Downey of July 2007 is provided here: <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Cover-letter-from-NIO-to-Gerry-Kelly-and-John-Downey-OTR-Letter-July-2007.pdf>

reflect on how stable Northern Ireland was in 2007 and confirm that the right hon. Member for Neath was completely wrong when he claimed that signing off a letter in 2007 to Mr Downey was saving the peace process?

Lord Trimble: Yes. You put it very well. I am tempted to say what I think about the Member for Neath, but I will leave it to your imagination.

Kate Hoey: Please do.

Chair: That answers the question, then.

Q831 Lady Hermon: That answers the question. I feel almost embarrassed even reading this to you, David, because once upon a time you were my very distinguished party leader when I was in the Ulster Unionist Party. It does grieve me to read this to you. Again, this is a letter that has been put into the public domain with the bundle of papers after the Downey judgment. It is dated 15 November 2002¹³. It comes from the Northern Ireland Office, it goes to Jonathan Powell in Downing Street, and it is in response to your letter to the Prime Minister saying that the newspaper reports at the weekend were wrong. This is the Northern Ireland Office writing to Jonathan Powell. The line that really bothers me is: “The proposed draft reply to Trimble is deliberately minimalist and goes no further than our public line”—being the Government’s public line. “Trimble is certain to publish the Prime Minister’s response.” As I say, I am embarrassed to even read that the Northern Ireland Office were being “deliberately minimalist”. Does that surprise you as much as it shocked me, or is that how you felt you were being treated by the Northern Ireland Office in those days?

Lord Trimble: I did not have a good relationship with the Northern Ireland Office for most of my time.

Q832 Lady Hermon: So those words do not surprise you, saying “Let’s have a minimalist approach to dealing with the leader of the Ulster Unionist Party”—the chief negotiator on behalf of the Ulster Unionist Party during the Belfast Agreement negotiations.

Lord Trimble: As I say, I did not have a good relationship with them, and most of the people there I held in contempt. We only got an agreement because they were excluded from the negotiations in the final week.

Lady Hermon: Sorry, just repeat that.

Lord Trimble: We only got an agreement because the Northern Ireland Office officials and the Secretary of State were excluded from the negotiations during the final week.

Lady Hermon: Because of their disruptive influence.

Chair: This is in 1998.

Lord Trimble: In 1998. We would not have had an agreement if the Northern Ireland Office had still had charge of the process.

¹³ The letter from the NIO to Jonathan Powell (15 November 2002) can be found here: <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Letter-from-NIO-to-Jonathan-Powell-re-OTRs-letter-from-David-Trimble-15-November-2002.pdf>

Q833 Lady Hermon: That is really interesting. You referred to the gentleman—I assume—who appeared to be on the run in South Africa. David Ervine was involved in those negotiations in the lead-up to the signing of the Belfast Agreement. Was there any mention by him or representatives of Loyalists that there could be some scheme devised that would be the equivalent to dealing with on-the-run Republican terrorists?

Lord Trimble: Republicans keep referring to there being an “anomaly” that had to be dealt with. We did not think there was an anomaly. I do not think there is an anomaly. There is the early release scheme. The early release scheme is there for every person who is convicted of an offence.

Lady Hermon: Yes, whether Loyalist or Republican; it was even-handed.

Lord Trimble: Yes.

Q834 Naomi Long: Does it bother you that the Government now adopt the language of “an anomaly”? Shaun Woodward gave evidence to the Committee a number of weeks ago, and he referred to it as an anomaly. That struck me as most peculiar at the time, in that these were simply people who may or may not have been guilty of a crime but had not yet been tried.

Lord Trimble: I am not surprised to hear people who held the post of Secretary of State for Northern Ireland merely repeating Sinn Féin language. It is not new.

Q835 Chair: We have asked the police this; I put it to them. As far as they are concerned, they treat each person as an individual. If they have something on them, they speak to them. They should not form a group—is that what you are saying?

Lord Trimble: Yes. As I say, there is no anomaly.

Chair: We will have to wind up in a couple of minutes.

Q836 Kate Hoey: As a matter of interest—and you may not want to comment—do you think that any of the current senior leadership of Sinn Féin have had special deals done with them over the years so that, whatever is said, they will never be prosecuted for anything?

Lord Trimble: I am sorry; that is speculation. I would prefer not to speculate.

Kate Hoey: I thought you might.

Q837 Oliver Colville: Can I also just correct one thing? None of the Ministers in the Northern Ireland Office of this current Administration have yet appeared before us, so we have not heard them use the word “anomaly” at this stage of the game. I just think it is important that we make sure that is right. The Americans were very involved in the whole business of the peace process in Northern Ireland too. Do you have any view on whether or not the Americans might have been involved in any discussion about this, or whether there would have been any encouragement or thinking through?

Lord Trimble: It is possible. One must not assume that there was a consistent American position; there were different Administrations and there were different approaches taken by the different Administrations. The Republican Administration, I am quite sure, would have taken a line rather

close to myself, and the Democratic Administration would have been quite different in that respect. I do not want to go into it more detail, because if I go into it in more detail I will start talking about personalities. Of the personalities I dealt with, there was one I had a very good relationship with; my relationship with the others was not quite so good.

Chair: It is three o'clock. One final question.

Q838 Lady Hermon: David, when you were the leader of the Ulster Unionist Party, you would have had, I am absolutely sure—in fact, I may have been with you at some of these meetings—meetings with the then Chief Constable of what was originally the Royal Ulster Constabulary, Ronnie Flanagan, who carried on as the Chief Constable of the Police Service of Northern Ireland, and subsequently with Hugh Orde, who succeeded him as Chief Constable of the PSNI. We know from evidence from both of them¹⁴ that there was a small team of police officers working within the crime branch dedicated to looking at the requests that came through from Sinn Féin with lists of names on them. At any time, did you ever have anybody nod or wink or whisper, or even just spell out the fact that within the police service or, indeed, the RUC, with both of those Chief Constables, there was such a unit dealing with OTRs requested to be looked at by Sinn Féin?

Lord Trimble: No. The persons you mention never gave any hint of it, and those handful of people who would improperly leak information to me from the police never mentioned it.

Lady Hermon: Do you want to rephrase that last comment? Those who would properly give you briefings never mentioned it.

Chair: Never trust the word of a politician; I said the last question was the last one, but I will bring Stephen in. Lord Trimble has got to go to another meeting.

Q839 Mr Hepburn: Jonathan Powell insists—and he includes it in his diaries—that the DUP knew about the concessions made to Sinn Féin about the on-the-runs. What do you say about that?

Lord Trimble: I thought Jonathan just made that comment with regard to the DUP and not the Ulster Unionist Party. People have dug this up about the leadership of the DUP saying at one stage to him that, “We know you are going to do something about on-the-runs, but we do not want to know about it. All we want is a letter saying all this was agreed in Trimble’s time.”

Q840 Lady Hermon: Do you believe that to be accurate?

Lord Trimble: Yes. I have no doubt.

Chair: We will have to wind up. We are out of time. Lord Trimble, thank you very much for joining us. It has been a very interesting and very important session. Thank you very much.

¹⁴ The transcript of Sir Hugh Orde’s oral evidence to the Northern Ireland Affairs Committee on 9 April 2014 can be found here:

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/northern-ireland-affairs-committee/administrative-scheme-for-ontheruns/oral/8472.html>

The transcript of Sir Ronnie Flanagan’s oral evidence to the Northern Ireland Affairs Committee on 30 April 2014 can be found here:

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/northern-ireland-affairs-committee/administrative-scheme-for-ontheruns/oral/9013.html>

