



Northern Ireland Affairs Committee

Oral evidence: [Administrative scheme for “on-the-runs”](#) HC
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Wednesday 25 June 2014

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Members present: Mr Laurence Robertson (Chair); Oliver Colvile; Mr Stephen Hepburn; Lady Sylvia Hermon; Kate Hoey; Jack Lopresti; Dr Alasdair McDonnell; Nigel Mills; Ian Paisley; David Simpson

Questions 1948-2057

Witness: **Rt Hon the Lord Reid of Cardowan**, former Secretary of State for Northern Ireland, gave evidence.

Q1948 Chair: Lord Reid, thank you very much for joining us. You know the Inquiry that we are carrying out, so there is no need for me to go into it at any length. I understand you would like to make a brief opening statement.

Lord Reid of Cardowan: Thank you very much, Mr Chairman. It is slightly longer than I had intended, because you were good enough to send me 250 pages of documents the night before last. I cannot promise that I can deal with these in detail. I want to be as helpful to the Committee as possible, but I may have to follow up with some detailed answers.

Nevertheless, arising out of them there are a number of issues that indicate to me the areas in which you are particularly interested. In my opening statement I will attempt to address them, and of course I will stay as long as you need afterwards to work through those, if that is possible. I will not rehearse the points that have been made by former Ministers about the importance of the on-the-runs to the negotiations, and the importance of the peace process to people in Northern Ireland. I take it we know that, and we agree that. I might, however, cover one or two areas.

I will say this on the context. The political context is well known to you. While almost everyone had signed up to the Good Friday agreement, the implementation remained to be done. The devil is very often in the detail, so there was a series of continual, consistent, and very often contentious negotiations and discussions. Secondly, that was carried out with a complexity that was as great as the intensity, because you not only had all the parties in Northern Ireland, of which you are aware—I think there were six or seven unionist parties alone in Northern Ireland at that time—along with other groups, like the Women’s Coalition and so on. In addition to that, you had the United States Government,

the Irish Government, to some extent the Canadian Government, and so on. Then you had the British parliamentary establishment, including your own Committee, Mr Robertson, who you will be pleased to know I did actually brief on the on-the-runs at the time. I covered quite a number of areas with them.

Q1949 Lady Hermon: In private or in public?

Lord Reid of Cardowan: In private. It was chaired by Michael Mates, and there was any number of people who were there. I have a record of the meeting. We certainly discussed on-the-runs and the question of an amnesty and so on. I will come back to that later, because there has been an impression created that somehow nobody knew about these discussions or the scheme at the time. That is far from the truth, I can assure you.

On the specific context of the OTRs, the Downey judgment set it out at paragraph 27. I will read that, if I might. ‘The Good Friday Agreement did not, however, deal with those who were suspected of (but not charged with) relevant offences prior to the Good Friday Agreement, or who had been charged with such offences but had thereafter escaped, or who had been convicted of such offences and thereafter escaped. A number were the subject of extradition proceedings. They become known collectively as ‘on the runs’.’ That is from the Downey judgment.

The one area where that actually misses a large group is in fact the one group that had not been foreseen: the “unknown unknowns”, if you like. That was lots of people who, for reasons known only to themselves and not to the authorities, had actually left the country and now wished to return. These turned out to be the majority of the people that were dealt with under the administrative scheme, that we had not, quite frankly, anticipated. The point I make is that the term itself, “on-the-runs”, became a collective catch-all shorthand for a series of people, not a homogenous group.

It is worth, if it is helpful to you, telling you the three main groups that I had to deal with during this period. First, there was a relatively small group of people who fell within the meaning, spirit, and intent of the prisoner release scheme, but who were excluded by the strict technical interpretation of the 1998 legislation. That group most obviously warranted the description, “anomalies”, which has been used on a number of occasions. They fell for consideration under the procedures of the royal prerogative of mercy. I am happy to go through the numbers and the details of all of them with you, but just let me say, in light of the fact that there have been some statements saying these numbered several hundred people, the total number of people considered and given a technical diminution of their sentence under the royal prerogative of mercy, over 16 years, was, to the best of my knowledge, 16. I will explain the categories and exactly why they met the qualification.

Lady Hermon: That would be very helpful.

Lord Reid of Cardowan: It was used under the RPM. If you want me to—

Chair: Carry on, and we will come back to that.

Lord Reid of Cardowan: That was the first group, which numbers about 16. The second was the group who were suspected of terrorist-related crimes, and where the evidential basis was sufficient to warrant investigation, arrest, and possibly prosecution. Nothing

that was done through the administrative scheme was intended to alter their status, and it did not. This scheme, if there had been an intention to somehow remove either the investigation or prosecution, would have had to be an amnesty scheme, and it was not. That group of people were left in exactly the same position as previously, and subject to the due process of law. They remain wanted, and the issue of dealing with this is still an unresolved issue. The reason that you have actually got the Committee and its considerations is because, despite that intention, a mistake was made in one case.

The third group was the largest group. They were people who were living outside of the jurisdiction of the United Kingdom, many of whom were unknown or unsuspected by the police or prosecuting authorities, or where the weight of evidence was insufficient to warrant further investigation, arrest or prosecution. These were the people who, in the main, had chosen to leave the country for reasons known only to themselves, but largely unknown to the authorities. They turned out to be a majority of the people who, on inquiry, received letters through the administrative scheme. However, they were not known or anticipated at the beginning for the simple reason that the police had no record on most of them.

Let me say something on the letters, which you will want to ask me about. As was pointed out in the Downey judgment, the 1998 act relating to prisoner releases was not an amnesty. Nor were the letters to individuals with which this committee is concerned. They offered neither an amnesty for the past nor immunity for the future. The wording was cleared with the Attorney General at the time, and was intentionally so. They constituted a statement of fact regarding the position of an individual at a point in time. In that sense, they fell far short of what Sinn Féin had wanted, and perhaps expected. They did not and could not bestow amnesty or immunity, because that can only be done by legislation. I spent a lot of the two years, as you will see from the papers, debating, deliberating, discussing, and testing to destruction the ideas of how such a piece of legislation could be done. We did consider amnesty proposals, quite separate from the administrative scheme. Indeed, the fact that we spent so much time and energy during the period examining and debating the idea of an amnesty, and multiple other variants of legislative options, some of which were actually suggested by members of the parties represented here today, is a clear indication that the administrative scheme did not itself offer any form of amnesty. There were precedents for amnesty, incidentally, in Northern Ireland. So we explored every possible option.

You will understand the process of the administrative scheme that had, if you like, the front office of the NIO passing it into the judicial process, but not intervening in that judicial process, and using as an interlocutor only the Attorney General. That is why in these papers you will not find me writing to the police or to the DPP, or anyone else: because the judicial process through which this was administered was sacrosanct.

Finally—I am trying to abbreviate here—on the issue of secrecy, as the Downey judgment pointed out as regards the issue of OTRs themselves, the issue seems to have been raised as early as 1998. The issue of the on-the-runs was certainly a live issue by the time I became Secretary of State, and was well known throughout the parties. Indeed, it was raised with me by the leader of the Ulster Unionist party within four days of me arriving as Secretary of State. He usefully left me an aide-memoire of things he wanted to discuss

with me, which is on the record. So it illustrates that this was already well known about at the time.

This is not to suggest there was an agreement about how to proceed. There was not an agreement on how to proceed. In fact the whole question of on-the-runs was a deeply contentious issue, although there were helpful suggestions, as I said.

On the question of the administrative scheme, this was established by the time I arrived. Like so many issues arising during the negotiations, we did not advertise it but nor did we keep it secret. We answered truthfully any questions asked, as in the parliamentary questions asked by Quentin Davies, the Conservative spokesman on Northern Ireland, or the use of the royal prerogative in the questions asked by Jeffrey Donaldson. In a small number of cases that was used.

I will finish on this: what is interesting, in retrospect, is why so few questions were asked regarding the administrative scheme, given that, as I said, this was known about; there is no question. I can go through the details of that later. It was not because nobody knew. The idea that the London-based Conservative spokesman, Quentin Davies, knew all about this scheme and therefore asked questions on it, and nobody in Northern Ireland knew about it, is unsustainable. The truth, I think, is different.

Firstly, what became known as the administrative scheme was not initially a scheme at all. It was meant to deal with a limited number of individuals, and it was only over time that it developed into the size that it has now. Secondly, and more importantly, at the time the administrative scheme was much less contentious than the much bigger question of a possible amnesty. That is what people were really concerned about. A scheme that was intended, in practice, to tell people who were not wanted that they were not wanted was much less contentious than the discussions that held out the prospect of people who had committed heinous crimes being absolved of those crimes and convictions. That is why I think there were so few questions.

There were 1,376 parliamentary questions asked to my Ministers and myself. I answered almost 400 of them, and even in the hundreds that were asked after my answer, on the parliamentary record, about the administrative scheme, including numbers, in response to Quentin Davies, there was not one other question on the scheme asked by anybody. There was not anybody who, as far as I am aware, asked about the royal prerogative of mercy, from Jeffrey Donaldson in March 2002 up until recently when Kate Hoey raised the issue. I am sorry you missed the point I made about the RPM, Kate, but I am happy to deal with it.

That is what I think are the most contentious issues for you, and I will conclude there. I am happy to try to answer any questions that you have.

Q1950 Chair: Thank you very much, Dr Reid. You have put people, or attempted to put people, into different categories. You also said that the Government did not play any role in the judicial process as such. Can I quote what Barra McGrory, the Director of Public Prosecutions for Northern Ireland, said? He was the solicitor for Sinn Féin at the time of the scheme, working for Sinn Féin. He says—and this is about three weeks ago to this Committee—“I have no doubt that many people received letters saying that they were not

wanted, who, in ordinary circumstances, the police would have liked to speak to”. Who stopped the police from speaking to them?

Lord Reid of Cardowan: You said this was the legal adviser to Sinn Féin at the time.

Chair: He was at the time of the scheme.

Lord Reid of Cardowan: First, I did not know the man as far as I am aware. Secondly, what he seems to be talking about is that some of his then clients may have perceived that this gave them a degree of immunity. If he did, then he is completely wrong. The degree of scrutiny that the police carried out on this is plain from the 250 pages that you sent to me. I am not going to go through it in detail unless you wish me to but there is actually one paper in here that spends six pages on the procedures that the police carried out, which included, incidentally, within the limits of operational effectiveness and not alerting people, speaking to witnesses who might still be relevant to a very old offence. There was no question at all—indeed, the whole scheme was designed in such a way that there was a wall between, if you like, the political context and the judicial process. Let me just explain it, because it is very important. This was happening within a political context of which you are aware. Sinn Féin, who did not recognise, incidentally, the Police Service at the time, would give names of people to the Northern Ireland Office, which people did not want their whereabouts known.

Once it went from the Northern Ireland Office to the proper legitimate and sole interlocutor of the Secretary of State, which was the Attorney General, that was then in a judicial process in which the Attorney General instructed or requested the DPP Northern Ireland to carry out relevant inquiries as to the status of an individual. The DPP Northern Ireland then requested information on that status from the Police Service Northern Ireland, who, incidentally, would also consult internally with Special Branch. They then conveyed that back to the DPP of Northern Ireland. He then cross-referenced that detail with his own files as to potential outstanding prosecutions, and he then wrote to the Attorney General. All of that was within the judicial process. The Attorney General then conveyed that to the Northern Ireland Office, and the Northern Ireland Office conveyed the outcome in a form of words agreed by the Attorney General, and, incidentally, probably known to—as one of your papers you have sent me illustrates—the Police Service Northern Ireland, in a letter that was given to Sinn Féin to convey backwards. It then went to a non-judicial process, so I disagree. I am not a lawyer but we did take legal advice, and the highest legal advice is of the Attorney General.

The only other comment I would make is this, because it is a broader point: one of the reasons that we were so reticent to make public statements on things connected with the on-the-runs, even when under intense pressure from Sinn Féin, and one of the reasons we were so careful about the wording of them, was that it was absolutely essential, and the Attorney General made clear to us it was essential, that we did or said nothing that could be, or could be perceived to be, an intervention in the judicial process.

We see the problem it causes even from today’s news when the judge in the Coulson trial has made remarks about statements that the Prime Minister made yesterday. That is precisely the point of which we were very, very aware indeed. The wording of the letter

was such, agreed with the Attorney General, and our statements were such, that, hopefully, nobody could perceive that that was an intervention in the judicial process.

Q1951 Chair: But you are saying that the senior prosecuting officer in Northern Ireland now, who knew the people that were being put forward, because he was working for them, is wrong to say that—I will repeat it—he has no doubt that many people—

Lord Reid of Cardowan: No, I heard you the first time. Yes, he is.

Q1952 Chair: “In ordinary circumstances”. Now who changed those circumstances from being ordinary?

Lord Reid of Cardowan: Nobody did.

Chair: Something went wrong somewhere.

Lord Reid of Cardowan: With great respect to his now status, at the time he was an adviser to Sinn Féin, I was Secretary of State in a British Government, and the Attorney General was British, so I am not sure that his contemporary experience at the time gave him an expertise that would allow him to interpret the workings of the Police Service Northern Ireland.

Dr McDonnell: Barra McGrory was not an adviser to Sinn Féin. He was a lawyer in private practice.

Lord Reid of Cardowan: Sorry, I said legal adviser. That is what I take a lawyer to be: a legal adviser.

Chair: I think we know what we mean.

Lord Reid of Cardowan: The point is, if he was legal adviser at the time to Sinn Féin, all I am saying is I was probably in a better position to be aware of the processes of the Police Service Northern Ireland than he was. But then again, who knows.

Q1953 Chair: That is fair enough. You then went on to say that the police looked at these names put to them very, very carefully indeed. You will be aware though that two or three weeks ago ACC Drew Harris said that the police are linking 95 of the people who received letters—through intelligence, nothing more—to almost 300 murders. That must have frightened you when you heard that.

Lord Reid of Cardowan: No, it did not frighten me because he went on to qualify it, or one of his colleagues did, by saying of course this did not amount to a threshold of evidence.

Chair: No, indeed.

Lord Reid of Cardowan: Unlike the people that we were dealing with, the IRA, we actually stuck throughout this wherever possible, and certainly throughout my time, to the due process of law. The due process of law in the United Kingdom, I do not need to remind you, is that if you do not have a sufficient threshold of evidence to be investigated,

arrested, prosecuted, then you are technically an innocent person. It is interesting to know that he said there was some intelligence on 95 of these people.

Chair: Indeed that is what he said.

Lord Reid of Cardowan: I think we all know the dangers of basing things completely on intelligence, and, with respect, I have some scars on my back about decisions made on the basis of intelligence that turned out to be not entirely correct.

Q1954 Chair: But you surely would not have expected somebody to have received a letter who the police had some intelligence on.

Lord Reid of Cardowan: Just explain to me: what was the nature of the intelligence?

Chair: Obviously he is not going to tell us that.

Lord Reid of Cardowan: Exactly. A conversation in a pub where somebody says that X is a bad fellow technically is intelligence.

Q1955 Chair: But he also thinks it will take two to three years to go through those cases. Now, it did not take that long to look at them originally, did it?

Lord Reid of Cardowan: It took quite a long time because I think there were 161 cases by the time that I left. As it happens, the name “Downey” had floated in one of these papers and it took another seven years, I think, to clear that one, so these cases did actually take an enormous amount of time. If I can refer you to one of the documents in here if I can find it, there is a very interesting paper where Des Browne had a conversation about the possibility of speeding up this process, and at the end of the day it was actually rejected by the Police Service Northern Ireland because they said, very correctly, that even if you changed the question and demanded a lower threshold of scrutiny, you could not give the same level of assurance in it. That letter is quite interesting¹; it is page 594 if any of your colleagues have it.

Lady Hermon: From the Minister Des Browne to whom?

Lord Reid of Cardowan: No, this is actually a response. It is written by the DPP Northern Ireland to David Brummell, who was the legal secretary of the Attorney General. It is about the possibility of carrying out less scrutiny, if you follow me. But the interesting thing about it is about the wording of the letter and whether or not if you change the wording of the letter this would in any way mean that there would be less work to do, or whatever. He opens up by saying, “I have given very careful consideration to the issues which you raise”, which include the wording of the letter. “I have also conferred in confidence with Detective Chief Superintendent Kennedy, Headquarters, Crime, and Inspector X of the Extradition Unit, in consultation with senior professional staff”. Then he goes on to discuss it. What is interesting is that in the course of these deliberations it would appear that not only was there common knowledge about it, but there was apparent

¹ The letter from Sir Alasdair Fraser, Director of Public Prosecutions for Northern Ireland (1989 to 2010), to David Brummell, Legal Secretary at the Attorney General’s Chambers, 4 April 2002, can be found here: <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Letter-from-Sir-Alasdair-Fraser-to-David-Brummell-4-April-2002.pdf>

involvement in the police as to the acceptability of particular forms of wording in any communication that went out.

Q1956 David Simpson: John, you are very welcome. It is good to see you again. A lot of mystery surrounds all this. Maybe in your mind it is not a mystery trying to outline this, but we are trying to establish who knew about this and who authorised the letters to go out to these individuals. The perception out there by the general public, and by those who are victims, is that this is some form of amnesty or letters of comfort that these boys will never be brought to trial. So victims in their minds are saying, “We will never get justice here”. That is the bottom line of it. You mentioned in your opening comments Mr Robinson, and that you had private discussions with him or private—

Lord Reid of Cardowan: With Mr Robinson?

David Simpson: Did you not mention him at the very start of your meeting?

Lady Hermon: No.

Lord Reid of Cardowan: I did not actually mention Mr Robinson.

David Simpson: I picked you up wrong then.

Lord Reid of Cardowan: I certainly did not mention him, and the reason is he was on the committee at the time but I do not know if he was at the meeting.

David Simpson: It was Michael I think you mentioned.

Lord Reid of Cardowan: Michael Mates I said was chairman.

Q1957 David Simpson: We have taken a lot of evidence from the PSNI, from former Chief Constables, and from senior officials right through. They have said they knew nothing about these OTR letters. You may smile but that is the evidence.

Lord Reid of Cardowan: I am not smiling, because I do not actually think they did say that, but I will answer your question.

Q1958 David Simpson: Let us go a bit further. In a letter I think to yourself from Kevin McGinty², in March 2001, he stated, “It would also seem sensible for the RUC to be kept informed of any letter that is issued, so that the opportunity for confusion to arise as to the status is lessened.” Why were the police not told about the letters?

Lord Reid of Cardowan: Let me take the first question: did the police know about them? You said that the police denied knowing.

David Simpson: I stand to be corrected.

² The letter from Kevin McGinty, 14th March 2001, can be found here:
<http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Letter-from-Kevin-McGinty-14-March-2001.pdf>

Lady Hermon: You are absolutely right. We have had evidence from several retired police officers and Chief Constables who have repeatedly told us that they did not know about the letters.

Lord Reid of Cardowan: Let me just refer to your own interview with Sir Ronnie Flanagan³. Sir Ronnie Flanagan, when asked this specific question, at question 451, “Were you aware that letters were being issued?” Answer: “I had an awareness”. He then says “I had an awareness that letters of the type that I am describing would certainly have been contemplated, and I would not have had a difficulty with that”. I mention this because I noticed that during a previous interview it was being asserted that everyone in the Police Service denied that they knew of the letters. It is not true, according to your own interviews. Elsewhere in his testimony, Ronnie, for whom I have the greatest respect, by the way—I regard him as a colleague and a friend, as I do Hugh Orde—said, regarding the scheme, “I do not think it”—the scheme—“would have been a particular secret”. Now that does not suggest to me that there was no knowledge of it inside the PSNI.

I will not go through Hugh’s testimony, but I have that here, but Sir Hugh Orde did not actually say he did not know about it. He said that what happened to the letters after they left the PSNI was a matter for others; they had done their job on it, and that is absolutely correct. If you look at the documents at page 594 that you have supplied me with, that is the reference I think that I made earlier on. You will see that apparently the DPP were discussing these issues with the Police Service Northern Ireland—not only the issue but the formal type of words. This concerns a full detailed deliberation of the process and the forms of words that might be used. I could read it to you if you want but I mentioned it earlier on.

I could mention several other documents that, Chairman, you supplied to me. This is not me making this up. It is from the interviews you supplied, and they indicate that there was an awareness that there was a communication being made with individuals. And the answer to your second point, which is whether we wrote letters to the Police Service Northern Ireland telling them about the information they had already supplied to us that X was not wanted, is that, no, we did not write letters to them telling that which they had already told us. What they did do, and again it is in these documents—I can write to you and tell you exactly what page—is incorporated within the standard operating procedures at the end of the guidance for how to deal with these cases that everyone in the PSNI ought to be alerted so that their wanted list could be adjusted. That is the fullest answer I can give.

Q1959 David Simpson: Are you saying, then, John, that it was only certain individuals within the RUC or PSNI who knew?

Lord Reid of Cardowan: I am saying, because it is absolutely perfectly true, David, that I was not discussing these issues with the police. I was not, and the reason I was not was to respect the integrity of the judicial process. My interlocutor on these was the Attorney General. Because of the legal system, he was the only person who could have stopped the DPP Northern Ireland. They then spoke to the police. That was to retain it within the

³ The transcript from the Committee’s meeting with Sir Ronnie Flanagan on 30th April 2014 can be found here: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/northern-ireland-affairs-committee/administrative-scheme-for-ontheruns/oral/9013.pdf>

judicial system, so when Ronnie and Hugh Orde say there were no formal discussions on this, and so on and so forth, they are absolutely right. That was intentional because I was meeting them regularly to discuss normalisation, which is the reduction of the British military presence there, and other issues, but I would not raise this because I did not want any perception that there was political interference in any decisions. I got a list from Sinn Féin. I sent the list on to the Attorney General. From then on he dealt with it internally. It came back through the Attorney General to me. That was to retain the integrity of that system, David.

Q1960 David Simpson: Can we finish the last point? We have had evidence from senior officers who said that they knew nothing about these letters in any shape or form until the Downey case. Are you saying that they are misleading this Committee?

Lord Reid of Cardowan: No. I am not saying that because I cannot say whether any particular officer, 12 years ago, was fully aware of all of this. All I am saying is it would be wrong to give the impression that no one in the police, over a 14-year period, when they were dealing with 200 to 300 of these cases, which involved enormous work, ever asked the question, “Why are we doing this?” or was aware of the end product. I do not think that is sustainable, so the question that you asked is, “Who knew about these letters?” Let me just tell you. Obviously Sinn Féin, the Northern Ireland Office, the Attorney General, the DPP knew about them, as did, I believe, the relevant people inside the police, although we were not communicating to them; some of my officials might have been, on the process, but there was no formal communication from the politicians to interrupt the integrity of the process. The Conservative Party obviously knew because their spokesman asked me a question about it. The UUP certainly knew about the royal prerogative of mercy, because that is on the record. In March 2002, Jeffrey Donaldson asked me a question about that.

There is at least circumstantial evidence that there was a knowledge of it inside the SDLP, because within a month of me arriving there, there was a letter from one of your colleagues to Adam Ingram, asking about an on-the-run who had approached him; it was in Dublin, or certainly south of the border, asking Adam what the procedures and processes for clearing him were. I can give you chapter and verse on that if you want, but that was in February or March of 2001, within a month of me coming in.

Parliament knew, because I had put it on the record through a parliamentary question, and presumably people read that. I am not suggesting for a minute we advertised this or that we went out and made public statements about this scheme. Incidentally, if we had have done, there would have been a lot more applicants, and secondly, no doubt we would have been accused of rehabilitating the IRA retirees or something. But we did not do that; I admit that, but it was not kept a secret.

Q1961 Chair: Just for the record on that point, though, in the minutes Mr Paisley says to Sir Ronnie Flanagan, “So you were aware letters were sent by the Northern Ireland Office”, and Sir Ronnie said, “I was not”.

Lord Reid of Cardowan: He then goes on—

Chair: Yes, he does go on to say he would have no difficulty with someone getting a letter if they were innocent, but then Mr Paisley asked him the question again, “Were you aware that

people were getting those letters while you were Chief Constable?” He said, “No, not personally.”

Lord Reid of Cardowan: Can you just read question 451 to the Committee?

Lady Hermon: There was an inconsistency, John, in his evidence.

Lord Reid of Cardowan: Just to confirm, I am quoting—

Q1962 Chair: He does indeed say, “I had an awareness”. Then Mr Paisley says—

Lord Reid of Cardowan: No—

Chair: If I could just finish what I am saying, Mr Paisley says, “It is a ‘yes’ or ‘no’ question”. Sir Ronnie: “I am answering it in that way”. He had an awareness. I think a lot of people had an awareness of the issue of on-the-runs, but whether they had an awareness of letters being written to people—

Lord Reid of Cardowan: He specifically was pushed by Mr Paisley on the question of the letters.

Chair: Perhaps he said both.

Lord Reid of Cardowan: I have specifically addressed the OTRs, in its broad sense. I am perfectly happy to do so with you, and the issue of the letters. What he says on the letters is, question 451 asks, “Were you aware that letters were being issued?” and the answer to that is, “I had an awareness”—and then there is a space—“I had an awareness that letters of the type that I am describing would certainly have been contemplated, and I would not have had a difficulty with that.” So it is not the OTRs; it is the letter.

Q1963 Chair: But he also did say he was not aware—questions 445 and 443.

Lord Reid of Cardowan: Yes, it was a very interesting exchange.

Chair: Okay, we will move on.

Q1964 Lady Hermon: Would you like me to call you very formally “Lord Reid”, or we could just revert to “John”?

Lord Reid of Cardowan: I am more comfortable with “John”, but you may not be.

Lady Hermon: I will try “John”, and then we will see how we get on. If I change to “Lord Reid” it is a bad sign.

Lord Reid of Cardowan: Well, I think Peter Hain was called Peter, was he not?

Chair: Okay, let us carry on.

Q1965 Lady Hermon: It is very good of you to come along and to be so frank and so open with us. You said, in your introductory statement, amongst many other things, in your view there were three categories of on-the-runs—roughly three categories. You will know from last week’s evidence that we were told by one of your successors, the right hon. Member for

Neath, Mr Peter Hain, that, in fact there was a fundamental error, and that in fact we had not identified two categories. In all of your public statements and replies, John, to written questions in the House of Commons, did you ever disclose or make a difference between three categories of on-the-runs? How can one Secretary of State come one week and tell us there were two categories of on-the-runs—which came as a bit of a surprise, I have to tell you—and now we are hearing there are three categories of OTRS. Which is it?

Lord Reid of Cardowan: First, because I knew I had quite a long opening statement, I actually abbreviated it. I can tell you that I missed out a word—and I will give you a copy of this just to prove I am telling the truth here—“During my time, they can be very roughly categorised”—and I left out the interjection, “with the benefit of hindsight”—into three groups”, so it is only with hindsight. When I arrived there, there was probably between 40 and 50 cases. This was an incoherent scheme. Technically, with the benefit of hindsight, I suppose I should say four categories, because I did not include the extradition ones that Peter Mandelson dealt with. But for the purpose of analysis here, in order to understand the nature of this scheme, it is useful to distinguish in retrospect, once we had found out how many of these people were not actually known to the police, that there were three categories.

One was the RPM—royal prerogative of mercy—which I will deal with in detail if Kate or anybody else wants. The second one was the ones who were found to be wanted and are still wanted. The third one was, to use Rumsfeld’s words, “the unknown unknowns”. We did not know at the beginning that lots of these people who would apply would not be known to us, or to the police, who went for their own reason, and Mark Durkan pointed out for all sorts of reasons, perhaps connected with super-grasses or whatever.

Q1966 Lady Hermon: In other words, we have now established that, as a former Secretary of State, you now with hindsight think there are not even three but four categories of OTRs, and the previous witness last week, Peter Hain, with hindsight—I will insert those words for his benefit, but he did not use “with hindsight”; he was quite confident that we had a fundamental error as a Committee in not identifying the two categories. So you do not agree with him. Thank you, I am glad you are nodding in agreement with us. We do not think there are two categories either.

John, you described, as part of your evidence in reply to one of the earlier questions, a very complicated system. The names are fed in from Sinn Féin, they come in initially to the RUC, and Ronnie Flanagan at the time was the Chief Constable, then they go to the PSNI, then they go to the DPP and the Attorney General and all the rest of it. Would you describe that as the normal criminal process? Is that a normal criminal process?

Lord Reid of Cardowan: Nothing in Northern Ireland, at the time I was there, was normal. I am not trying to avoid the question. I am answering it. The political structures we established were not normal by UK standards, and a whole host of the prisoner releases were not normal. These were abnormal things in an abnormal, unique time. What was normal was that the process and the integrity of the process was the normal judicial process, though of course it was not normal in Britain to be collecting names to be handed to the police and saying, “Tell us whether these people are wanted”.

Q1967 Lady Hermon: Would you be surprised to have a parliamentary reply that says that all OTRs—not two, three or even four categories—but all OTRs went through the normal criminal process? Would that surprise you, to have that in a written parliamentary reply?

Lord Reid of Cardowan: It would not surprise me if, by “OTRs” what was meant was those people who were wanted and on the run, because those people would go through the normal process and indeed still have to go through it.

Q1968 Lady Hermon: Could I just interject there? Could you just reflect on the fact that these letters, I believe in your time, because you became Secretary of State—and in my view were a very good Secretary of State for Northern Ireland, just to put that on the record; the early years were very difficult years—from 2001 until October 2002. But these letters were signed off by Jonathan Powell in Downing Street. Was that normal? Was that part of the normal criminal process?

Lord Reid of Cardowan: No.

Lady Hermon: Thank you.

Lord Reid of Cardowan: No, it was not, and I tried to explain this. I am not trying to avoid it. There was a political context: Sinn Féin to the Northern Ireland Office, or Sinn Féin to Downing Street, was the political part. It is after that that it goes into the judicial process via the Attorney General, the DPP, Police Service Northern Ireland, Attorney General, and then back out into the postage side, which is the political side. Was that normal?

Lady Hermon: Of course not.

Lord Reid of Cardowan: No, that was not a normal procedure because we were dealing with Northern Ireland, but once it went into the judicial system, were the normal checks, balances, scrutiny, integrity and probity of that system retained? My answer to that would be “yes”. Indeed, to say anything other than that would not only be incorrect; it would also be in a sense questioning the probity and integrity of both the Attorney General and the DPP.

Lady Hermon: I have absolutely no intention of doing that.

Lord Reid of Cardowan: Of course; I know that, and nor am I. Neither of these men, Alasdair Fraser or Peter Goldsmith or Gareth Williams—or before them—would contemplate anybody making a political decision that overrode the process. All I can say to you, Sylvia, is nor would I, whatever the difficulties. I can tell you that for two years I was subject to enormous pressure in one particular case to do that—either to use the royal prerogative of mercy or some other system for one person who it was believed was particularly meritorious. She had particular—

Q1969 Lady Hermon: “She had”, so you can confirm it was a lady.

Lord Reid of Cardowan: I can. I am not going to confirm a name. Although I could see the merits of the case, I could not overrule the judicial process.

Q1970 Chair: Who put that pressure on you, Lord Reid?

Lord Reid of Cardowan: I do not think it is any secret that Sinn Fein wanted the OTR issue resolved. They had been given a promise that the Government would resolve that. I spent two years trying to resolve it. I tested to destruction almost everything you can think of, including suggestions from David Trimble, which were very useful, suggestions from David Ford of the Alliance Party, which were equally useful, and suggestions from my officials. Sinn Fein never asked for an amnesty; they never used that word.

Q1971 Lady Hermon: What did they want?

Lord Reid of Cardowan: They just wanted it resolved, but the only way I could think that this could be resolved included an element of amnesty. That is why, 12 years ago, the preoccupation of most politicians in Northern Ireland was to argue against an amnesty, rather than to worry about an administrative scheme that apparently was designed to tell people who were not wanted that they were not wanted, and tell people who were wanted they were still wanted.

Q1972 Lady Hermon: Could you just confirm for the benefit of the Committee, because you did refer to “she” as you were describing this person anonymously—we presume that it is Rita O’Hare. Could you confirm that it is Rita O’Hare.

Lord Reid of Cardowan: I am not going to confirm any particular name.

Lady Hermon: So it was Rita O’Hare.

Lord Reid of Cardowan: Only to say that I did consider all sorts of ways in which this person might be allowed to come back. I discarded every one of them because I was not prepared to overrule the normal judicial process, and this was someone who had escaped while on bail; therefore there was no way during—

Q1973 Lady Hermon: So given the serious nature of the offences that she had committed, you would not countenance an amnesty; is that what you are trying to say?

Lord Reid of Cardowan: If you are asking me that question with a degree of anonymity, it is not that I would not consider an amnesty. During that period I tried to consider everything that might meet this commitment that had been given. It is that, eventually, having considered it, I would not do it; put it that way.

Lady Hermon: Can I just ask, because this is really interesting to us as a Committee—

Lord Reid of Cardowan: I am glad.

Lady Hermon: It is. You are being very forthright.

Lord Reid of Cardowan: I am trying to be as open as I can because I know how important this issue is.

Chair: Let us get the question.

Q1974 Lady Hermon: It is really important, but it is also really important for victims, not just at home in Northern Ireland but throughout the United Kingdom, who are listening to

these sessions and who greatly appreciate open and frank evidence given by witnesses. Unfortunately it has not been the case for every witness, but you have certainly helped this afternoon. I have never been a Northern Ireland Office official, I do not wish to be a Northern Ireland Office official, and I am one of the leading critics of what the Northern Ireland Office officials have done. We know that Mr Sweeney has been named in the Downey judgment; his name is in the public domain. Within the Northern Ireland Office, you have made it quite clear that “there was a wall” between the politicians and the legal institutions. If we could have the files from the Northern Ireland Office, is there a document in the filing cabinet, for example, that, when there were requests from the press or media about on-the-runs, with a protocol to be followed in terms of responding to the press? Was there a file, or certainly equivalent—so not too technical, please, if it is a logbook and not a file—for dealing with Parliamentary questions? Because I have read, with the greatest of care and respect, your reply to Quentin Davies on 1 July 2002⁴, and you have referred to it a number of times earlier this afternoon. At no stage is the administrative scheme mentioned; in fact it is wilfully omitted. So all I am asking is: can you confirm whether there is a protocol for dealing with parliamentary questions, with MPs and Committees? How was it handled within the Northern Ireland Office?

Lord Reid of Cardowan: Just in the course of your question, Sylvia, just for the record, you talked about a wall. First of all, I referred to me and not to officials, because officials from all sorts of places talk all the time. Certainly I tried to observe the proprieties of dealing only with the Attorney General, and it was through him that the process then went.

I do not agree with what you say. I cannot remember when this term, “the administrative scheme”, first came in, but I certainly do not remember being briefed on an administrative scheme when I got there. This began as an inquiry by a number of individuals.

Q1975 Lady Hermon: Sorry to interrupt, but in the evidence from one of your successors, our witness last week, the right hon. Member for Neath said, “As I understand it, this administrative scheme began some five years before I became Secretary of State for Northern Ireland on 6 May 2005 and continued after I left” in 2007. The administrative scheme, we know from Downey and we know from evidence we have already taken, began in 2000.

Lord Reid of Cardowan: The point I am making is on the name; you said there is no specific reference. I am looking at my answer to Quentin Davies. I never called this the administrative scheme. I am sure the name was about somewhere; it had started with a number of individual inquiries that gradually grew in number and came to be called the administrative scheme. In retrospect, we all referred to that, but I am not sure at which date. So the fact that that term is not used in my answer is not—I think you implied, or in fact explicitly said, “wilfully” left out of it. I said, “As a result of inquiries received and referred to the prosecuting authorities and the police, 32 individuals have been informed over the past two years that they are not wanted for arrest in relation to terrorist offences”. That is in response to a specific question from Quentin Davies on that. That is the substance of the scheme.

⁴ Lord Reid’s response to Quentin Davies on 1st July 2002 can be found here:

http://www.publications.parliament.uk/pa/cm200102/cmhansrd/vo020701/text/20701w35.htm#20701w35.html_sbhd2

Q1976 Lady Hermon: Could you just read the next sentence, because that brings me neatly to my next question. You went on to say, “In accordance with the policy announced by my predecessor on 29 September 2000, an additional 25 persons...” Now, the policy—

Lord Reid of Cardowan: That is the extraditions, I think, is it not?

Lady Hermon: I would love to know what that policy is, that you referred to in your parliamentary reply. I wonder what that policy was.

Lord Reid of Cardowan: I think that is the extraditions, which is the fourth category I added. I had only used three categories because I said “during my time”. In retrospect, you can categorise them as three, but actually the first ones that started were extradition proceedings, which were announced to Parliament in a statement in September 2000 by Peter Mandelson⁵, my predecessor. If I remember correctly, he was dropping extradition proceedings against certain people who were outside of the UK jurisdiction, but he made clear that did not have the effect of saying they could return without arrest. If they wanted to do that, they had to go through further proceedings.

Lady Hermon: That is very helpful.

Lord Reid of Cardowan: I think that is what it is.

Q1977 Lady Hermon: I hope it is, because you would accept it is entirely ambiguous because it does not identify what the policy was, but thank you for clarifying that. Just read to the end of your answer, if you would, please: “An additional 25 persons, who had left Northern Ireland without completing their sentences, have been informed since then that they can return to Northern Ireland without serving more time in custody and that the prosecuting authorities and police have confirmed they will not face fresh charges.” We understood, and certainly Jonathan Powell’s letter that is signed off and published on the Downey transcript of the judgment, indicate that that was not what was said in the letters. The warning was of course that if fresh evidence came to light that they would not escape prosecution.

Lord Reid of Cardowan: They did not get these letters, Sylvia.

Q1978 Lady Hermon: So what did they get?

Lord Reid of Cardowan: They got a public announcement, and there were specific, individual letters, I think; it was before my time. But they were not part of what we now call the administrative scheme; they were part of a specific element that was dealt with under the statement to Parliament, which withdrew extradition proceedings against them. But if they returned to Northern Ireland without serving more time in custody, the prosecuting authorities and police have confirmed they would not face fresh charges. It is 12 years ago now, but it is why I used the term “in addition”. So I dealt with those who had been dealt with under what is now called the administrative scheme, and said there were 32 of them, but I did not want to imply that that included the 25 that Peter Mandelson had already dealt with under extradition.

⁵ The statement by Secretary of State, Peter Mandelson MP on Extradition of Convicted Fugitives, September 2000, can be found here: <http://webarchive.nationalarchives.gov.uk/20130128134220/http://www.nio.gov.uk/press/2000/sep/000929c-nio.htm>

Q1979 Lady Hermon: But, John, you would accept that in your opening statement you were very critical about the number of questions that appeared not to be asked in Parliament about this particular issue. Would you now accept, with the benefit of hindsight, looking at your reply to Quentin Davies in July 2002, that while perhaps a perfect parliamentary reply in that it is technically correct, it was so ambiguous that people actually could not understand? There is no reference to extradition, cases being dropped and “would not face fresh charges”. We are now hearing with hindsight that this covered a fourth category of OTRs; it was ambiguous at the time.

Lord Reid of Cardowan: I do not think it is ambiguous, but that is a matter of judgment. I would say that since I wrote it and presumably knew what I was writing about, so it was not ambiguous to me. Secondly, the fact that it refers to the statement from Peter Mandelson made in September 2000 is anything but ambiguous. It is very specific; it tells you there is this other category that Peter Mandelson dealt with. If you are really worried about that, go and read his statement to Parliament, but in the meantime you have actually asked me about these 32. I have added the reference to Peter Mandelson’s statement because I do not want any ambiguity that the 32 includes the 25 under the extradition. It is a matter of judgment.

But as far as questions not being asked, in retrospect I understand, even after this was put on the record, why more questions were not asked, because the big concern was the amnesty, particularly after Weston Park, particularly when there was a public statement that said that the two Governments will address this issue. Then of course we said we would resolve it by the end of the year, and then so many things in Northern Ireland were shifted to March the next year. Then it was shifted to the end of March, and here we are 12 years later, and we still have not done it.

Chair: We are time limited. I am going to have to move on, because there are a number of other people who want to ask questions.

Lady Hermon: Sorry, can I just—

Chair: Very final one, please.

Q1980 Lady Hermon: Thank you, Chairman. With the greatest respect, and I do have the greatest respect for you. The reason lots of questions were not asked was because of the fact that we were repeatedly told in Parliamentary replies that OTRs were an anomaly that would have to be dealt with in the future. We were reassured, wrongly and incorrectly, it would be dealt with in the future and was not currently being dealt with. The reality was that it had been dealt with behind our backs since 2000. Thank you. I just had to put that on record.

Lord Reid of Cardowan: I do not want to end with discord, but naturally I do not agree with you.

Lady Hermon: Of course not.

Lord Reid of Cardowan: We kept making these statements that “we will address the issue” because quite frankly we could not find a way of addressing the issue. That is why you have got statements that are as general as they are. There is another thing as well—a brief comment. When you make a statement in the middle of negotiations, you want to be

careful that you are not committing yourself to something that is so specific you cannot get out of it. If you do not know how you are going to do it, you keep it general. Secondly, the reality of realpolitik is you do not want to undermine your own leverage in discussions and negotiations by giving away something specific for nothing.

Lady Hermon: Thank you, that is a nice reply.

Q1981 Jack Lopresti: Lord Reid, thanks for coming along this afternoon. I want to go back to what you were saying in your opening remarks about the fact that the scheme was not a secret. You naturally did not advertise it; it was something you did discreetly and the work was going on behind the scenes. So is it really credible for certain senior Unionist politicians to say that they knew nothing about it?

Lord Reid of Cardowan: Did you say Unionist Politicians?

Jack Lopresti: I did.

Lord Reid of Cardowan: I am not going to question anybody's integrity, if somebody says they did not know anything about this. All I am pointing you to is the evidence of what is in these papers and my recollection of the time. There were meetings that were secret, Jack. Can I call you Jack?

Jack Lopresti: Of course.

Lord Reid of Cardowan: There were meetings that were secret. One or two officials very close to me had secret meetings in a monastery in north Belfast with certain people whose names never are revealed, but went under the name "P O'Neill", as a nomenclature for the IRA. I had secret meetings with the father of one of the members of this Committee to discuss particular issues related to the Policing Board and to move things forward. I had any number of telephone calls that were meant to be secret, but, having looked at the evidence, did not always remain so, in an attempt to keep David Trimble as First Minister. You may think I got little thanks for it, but there you are. That involved discussions and abnormal things, like re-designation of the Alliance Party and so on.

So there were meetings that were secret. This was not in that category. It was not confidential in the sense that if somebody asked me about it I would say, "Oh no, no such thing exists". It was known about more widely than is perceived, but I am not going to question the integrity of any politician who says, "I knew nothing about this".

Q1982 Ian Paisley: Good to see you, Lord Reid. It is nice to you see at this Committee. You will be familiar with the writings of Sir Walter—to help people remember, Flodden Field. He penned a poem called *Marmion*: "What a tangled web we weave, when first we practise to deceive". I am not accusing you of deception.

Lord Reid of Cardowan: I can hardly make out what you are saying. I realise that it was an emotional articulation of this particular poem, but I cannot—

Ian Paisley: I am not accusing you of deception, but what am I asking is whether you accept that the whole on-the-run scheme has the touch of *Marmion* about it.

Lord Reid of Cardowan: If I knew what the "touch of *Marmion*"s was, I would give you a straight "yes" or "no" to that question.

Ian Paisley: It was about deception; it was about tangling people up; it was about obscuring the truth from some and showing it to others.

Lord Reid of Cardowan: No, I—

Ian Paisley: It was as clear as mud, the whole process, and it was designed to be so.

Lord Reid of Cardowan: I do not know about Walter Scott, but let me give you a quote from John Reid. “It is possible to look at an elephant and to say that no such animal exists”. So it is possible for you to look at the public statements made at Hillsborough and Weston Park, and the statements I made to so many hundreds of these questions, and say, “Ah, but you hid the OTR issue”. The OTR issue was never hidden. Admittedly, it was not publicly declared in the specific terms that Sinn Fein would have liked it to have been declared, because we could not find a way to resolve it. So there was a generality about the statements that said, “We will address this issue”, but never solved it.

If you are asking me, Ian, which may be implicit, to tell you the sort of things I went through considering and discarding, I am happy to do that, because I did consider truth and reconciliation; I did consider any number of schemes that involved giving some solace to the victims, because there is no doubt in my mind—and victims will maybe listen to these words and watch this—nobody needs to tell me of the pain they went through, whether it is the RUC widows, the survivors of members of the British Armed Forces, or on the other side the family of Rosemary Nelson. I met with her; I will never forget that meeting with her mother—who I think is now deceased—because of the lack of bringing things to a conclusion. I admit that when you try to resolve a conflict there is a tension between justice and future peace. That is a very difficult one. Justice and information for the victims, and ensuring that there will not be victims in the future. Inherent in that process is how you deal with combatants on either side. That is what the OTRs were about, not unique to this process. We could not find a way of resolving it. I tried, and ultimately Peter Hain tried, and failed. We still have not resolved it, so I do not think it was a hidden issue.

Q1983 Ian Paisley: Okay. If I can take you to some of the papers, when you first became Secretary of State, according to a briefing that will be in your paperwork—

Lord Reid of Cardowan: Can you give me the page, please, Ian?

Ian Paisley: It is 644, I believe. There is a document from William Fittall, the Associate Political Director, dated 3 September 2002⁶. He wrote about what was occurring whenever you first came to office; I am looking at paragraph 6 of his paper.

Lord Reid of Cardowan: Is that the one that starts, “Already by April”?

Ian Paisley: Yes, correct. He indicated, in the last sentence of that, “There were about a dozen OTR cases”. That was the point that was made to the Prime Minister. As the process evolved, later on, at paragraph 7, “During May 2000, Sinn Fein supplied their first list of 36 cases “subsequently increasing to 41)”. It then goes on to paragraph 12, indent 6 on page

⁶ ‘OTRs – A Brief History of Crime’, William Fittall, 3rd September 2002, can be found here: <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/OTRs-A-Brief-History-of-Crime-William-Fittall-September-2002.pdf>

648, where it says, “In March 2001, Sinn Fein produced a further list of names”, and the penultimate line, “162 names”. Throughout this process were you not surprised at how this had jumped from a dozen names to over 100 names?

Lord Reid of Cardowan: Yes, absolutely.

Ian Paisley: Did you challenge—

Lord Reid of Cardowan: Can I say something first of all just about this paper, and I will address your questions? This paper appears to be written by a guy who is a very good official, but not on this occasion. I think he was demob happy; it was his last paper. I never saw it until yesterday, as it happens. Had I seen it there would have been problems, because I think it is flippant in parts, including the flippant title: “A Brief History of Crime”, obviously meant to parody *A Brief History of Time*, by Stephen Hawkins. It is inaccurate in bits, and does not represent my views. However, there are elements of it that are accurate, and that is one of them that you have identified.

As I said earlier on, this started not as some great administrative scheme, but as, “Look, we have got a small number of these people and we need to deal with them”. What happened was, if you want to know the estimates of the time my recollection, from people, was that there are probably 40 or 50 of these. Of course, we were thinking of people who we knew were wanted. What we did not count on was there was all these people over here we did not know about because we did not have anything on them. They had gone abroad for reasons that were unknown to us. Again, that is the Donald Rumsfeld “unknown unknowns”. Most of the cases we have got have fallen into that category. So you are right: we did not know—

Q1984 Ian Paisley: Just on that point, Lord Reid, subsequently our evidence has shown that with 100 of these people, the police and the Head of Special Branch sat on that seat and told us that they were wanted for more than 350 murders.

Lord Reid of Cardowan: I think—the Chairman will correct me if I am wrong—I think that has already been dealt with, Ian, before you came in.

Chair: Yes.

Lord Reid of Cardowan: Let me take you through the detail if we have time. This might be of interest to you. The first cases, as far as I can make out, before my time, were extradition cases. The next set of cases, very roughly, were the cases that Kate Hoey has drawn particular attention to—the royal prerogative of mercy cases. In the course of the 16 years, that has applied, Kate, to 16 people.

Lady Hermon: Who were on the run.

Lord Reid of Cardowan: Who were on the run—16 terrorist-related offences. I do not know where the figures of hundreds come from that the Government has issued. It would have been better if they had specified how many of them, if any, were terrorist-related, because that has obviously caused a lot of confusion.

Q1985 Ian Paisley: That is incredibly helpful, but I know you are stuck for time. Did you not at some point through this process blow the whistle and say, “Hang on a minute”? You

are a tough negotiator. We have negotiated with you, and you were a tough knuckle. Gerry Adams said, way back in 1999, “I have 12 people”. Did no one say, “We are holding you to 12”? Why was he allowed to mushroom to this number?

Lord Reid of Cardowan: Of the 162, by the time I left only about 40 had been dealt with, and roughly 20 of them had turned out to be on-the-runs; that is people against whom we had evidence.

Q1986 Ian Paisley: It was still three or four times more than had initially had been asked.

Lord Reid of Cardowan: By the end of my period, the number of people—it may be in the figures actually—who were what you would call suspected terrorists, where you had a degree of evidence against them, was probably 25 or 30. It was double the number he had mentioned, but the rest of them that had not been anticipated were people on whom we did not have a lot of things. Let me just deal with this royal prerogative of mercy.

Q1987 Ian Paisley: I want to ask a specific question about the royal prerogative. I know Kate will probably want to come in on details. We have 11 of what I believe are the 16 names who have received the royal prerogative of mercy⁷. Without being specific about any of those individuals, did anyone who received the royal prerogative of mercy get it because they had turned informer and helped the Government?

Lord Reid of Cardowan: You are putting me in a really difficult position. The answer to that is “no”, but I have to say, if they had done, my answer would still probably be “no”. During my period, I can tell you “no”, and I will tell you what they got it for. There were 16 cases that all fell within the spirit and intent of the 1998 sentencing act⁸, but did not strictly fall within the technical terminology of the 1998 act for the reasons I will tell you. About half of them, Ian, were people who had committed an offence in 1972, which, had it been committed some months later, would have come under the 1973 act scheduled offences. I think it was the Emergency Provisions Act of 1973⁹. The 1998 prisoner release act released you on the basis of offences scheduled under the 1973 act, so if you committed exactly the same offence six months before that act had come in, you did not qualify, and that was where it was used.

Secondly, it was used for a group of people who had served more than two years in prison for the offences, but had not served it all in Northern Ireland. In other words, they had served a period of time less than two years; they had escaped and they had been re-arrested in Ireland itself under extraterritoriality, and imprisoned again, and in every case they had served more than two years.

⁷ 14 of the 16 recipients of Royal Prerogatives of Mercy (RPMs) are named in *Rodger’s (Robert James Shaw) Application [2014] NIQB 79*, which can be found here: http://www.courtsni.gov.uk/en-GB/Judicial%20Decisions/PublishedByYear/Documents/2014/%5b2014%5d%20NIQB%2079/j_j_STE9288Final.htm

⁸ The Northern Ireland (Sentences) Act 1998 can be found here: <http://www.legislation.gov.uk/ukpga/1998/35/contents>

⁹ The Northern Ireland (Emergency Provisions) Act 1973 can be found here: <http://www.legislation.gov.uk/ukpga/1973/53/contents>

The final one case was an anomaly whereby four people had committed the same offence, but because of where someone was picked up, three had qualified under the early releases and one had not. So that is it.

I will make it absolutely clear what it was not used for. The royal prerogative of mercy can be used for a pre-conviction pardon. It was never used during my time or the Labour Government's time for that purpose. So if you were somebody who was looking for a pardon and had escaped on bail but had not come to prosecution, it was never used for that. Secondly, it can be used for post-conviction pardon. It was never used for that. So no one who had been convicted of an offence had a pardon. Thirdly, the royal prerogative of mercy can be used where there is a technical exclusion from qualification by an act, but in the spirit and intention of the act itself you fell within the bounds of that. That is quite a normal one, and I suspect, though I do not know, that some of these hundreds that are mentioned, in answer to what Kate Hoey has been raising, by the Government, are not terrorist offences at all. I understand, although I cannot promise you, that some of them are as trivial as—not trivial; no offence is trivial—but motoring offences or—

Q1988 Ian Paisley: Lord Reid, just for the record, so that you know, of the 11 names that we have in front of us, six of them are mass murderers, one of them blew up the Docklands causing £1 billion worth of destruction and murdering two English citizens. These were not trivial offences; these were cold-blooded, bloody murder on the streets of Britain. There is an issue that I know the Member for Vauxhall will want to go through with you. Can I just ask my final question? Do you believe that the letters that were issued meant more than what they actually said?

Lord Reid of Cardowan: First of all, I take the point about those people that committed heinous crimes. That is precisely how people felt when the early releases came about, with the prisoner release scheme. There were people released from that who had committed terrible crimes.

Q1989 Ian Paisley: Yes, but we saw that. We did not see any of this. This was all hidden from us. The stark difference is that I got a chance as an elector in Northern Ireland to vote against the prisoner releases. I took it and I lost. This stuff happened behind my back. That is the difference.

Lord Reid of Cardowan: Again, Ian, it is rather emotive language. It did not happen behind your back. I actually declared it to Parliament in March 2002 specifically in an answer to Jeffrey Donaldson.

Q1990 Ian Paisley: Could you vote against it, John? I could not vote against this as a citizen of Northern Ireland

Lord Reid of Cardowan: No, you could not vote against the piece of legislation that became the Northern Ireland (Sentences) Act.

Ian Paisley: I could in the 1998 referendum.

Lord Reid of Cardowan: You were in a minority, and it was decided that that would be the act. The question then became whether people actually came within the ambit of that act or not. What happened was a perfectly—to use the word we used earlier—normal, legitimate procedure. You may like to know that not satisfied with officials advice on this,

I took counsel's advice before I did it, and that advice was that this was a perfectly normal way of bridging the difference between the spirit and intention of a piece of legislation, and the technicality of it.

Sorry, Ian, what was your second question?

Q1991 Ian Paisley: Did the letters mean more than what they actually said? Certainly the implication to the people who received them was that they put a great deal of store in those letters, even though, as you say, technically it is just a point-in-time letter.

Lord Reid of Cardowan: The letters meant what they said. You have seen the letters; they do not give amnesty for the past or immunity for the future. The wording was designed or approved by the Attorney General. When we wanted to change the wording, the DPP said in his advice to the Attorney General, "Do not do it because it gives you less assurance about what you are doing, and people could get the wrong impression". We tried to say nothing in public that could have allowed the perception to grow that they were letters of immunity, for the people involved in it who were receiving the letters. So the answer to your question is "no".

If, however, a mistake was made in the process, which is precisely what happened in the case of John Downey, obviously that had ramifications. That is why you have set this Committee up; but the judgment itself, as I read it, and I am not a lawyer, did not in any way say these were letters of immunity. It said it found for the complainant, because at the time the letter was issued, it was wrong and known to be wrong, and then was subsequently reinforced as being wrong within our limited period of time, and the authorities did nothing about it. That, as I understand it, is the abuse of process, not that a letter had been issued.

Q1992 Ian Paisley: John, you mentioned there was a mistake made in the John Downey case, and obviously we are looking at that. Whenever you were in office, on 29 January 2001, you received notification that a mistake had been made in another case¹⁰.

Lord Reid of Cardowan: In another case?

Ian Paisley: In another case. Would you like to elaborate on that individual?

Lord Reid of Cardowan: I would, but I am a bit blind on it. Is it in the documents?

Ian Paisley: Yes, on 29 January. Page 414.

Lord Reid of Cardowan: Sorry, Chairman, give me a second.

Chair: Sure. While we are checking, Lord Reid, I think there will be a vote at four o'clock. Are you okay if we run the Committee until that time?

Lord Reid of Cardowan: Yes, because I was overlong in my introduction, but I was trying to outline another thing.

¹⁰ The letter from Lord Williams to Dr John Reid, 29th January 2001, can be found here: <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Letter-from-Lord-Williams-to-John-Reid-29-January-2001.pdf>

Q1993 Ian Paisley: My understanding of that, Lord Reid, is that a letter was issued. They then discovered there was a mistake in the letter, and a process was found whereby it could be withdrawn to the individual and subsequently reissued with the correct version.

Lord Reid of Cardowan: The straight answer is that I cannot give you an answer at the moment, sorry.

Ian Paisley: Have you the redacted version?

Lord Reid of Cardowan: This is a letter on 29 January, written to me.

Q1994 Ian Paisley: Have you the name of the person in front of you, or is it redacted?

Lord Reid of Cardowan: It is redacted. I think I am working off the same paper as you. I arrived as Northern Ireland Secretary on 25 January, so this is four days after I arrived. There is a letter sent to me about a letter to Peter Mandelson concerning decisions taken by the DPP in relation to the prosecution of four names from the Sinn Féin list. One of the names is redacted, but it says, "There is no outstanding direction of prosecution. It was made after a thorough check. However, further information has come to his attention." I take it that he was then informed.

Q1995 Ian Paisley: Yes, so a mistake was avoided by a process. That is what it looks like.

Lord Reid of Cardowan: Yes, it does look like that.

Q1996 Ian Paisley: What mechanism would have been used, then, to withdraw that, and to have that letter of comfort that he received annulled?

Lord Reid of Cardowan: I do not quite get the question. Elsewhere in your papers, which you will have seen, there is a detailed outline of the detailed scrutiny that was given. Is it possible that mistakes will be made? Yes, it is. In any human system it is possible mistakes will be made. This one was caught early enough, and rectified. In the Downey case it was not, for whatever reasons, and you will be looking at that. In any human organisation, mistakes will be made, but the system, given that as far as we know there is only one uncorrected mistake that has been made, by and large has worked as it was intended to work: that is that those who are not wanted are told they are not wanted, and those who are wanted are told, "You are still wanted, and if you come back you will be arrested".

Chair: There are still three people waiting to ask questions.

Lord Reid of Cardowan: Are you rushing for my sake, Chairman?

Chair: I was informed you had to leave at 10 to.

Lord Reid of Cardowan: Yes, but I am happy to sit here until you are satisfied at least that you have got the answers you want.

Chair: That is good, thank you. There may be a vote; are you happy to come back after that?

Lord Reid of Cardowan: Yes.

Chair: Okay, thank you.

Q1997 Nigel Mills: Lord Reid, can I ask you to turn to page 591 in your bundle? It is a letter from March 2002.

Lord Reid of Cardowan: A letter from?

Nigel Mills: A letter from Anita Bharucha¹¹.

Lord Reid of Cardowan: Yes, one of the officials in the Northern Ireland Office.

Nigel Mills: Yes, in March 2002. It is interesting that the letter header obviously refers to the administrative scheme, which suggests that must have been—

Lord Reid of Cardowan: It must have been by then, absolutely.

Q1998 Nigel Mills: The last line of the first page, Lord Reid, talks about undermining the reassurance that such a letter is designed to provide. What is your understanding of what reassurance the letters were designed to provide?

Lord Reid of Cardowan: That they were not wanted. Incidentally, it would be useful, Chair, if we just point out whether a letter has been copied to me. That one was not obviously, as far as I can see, so I had no idea this was sent. I have never seen many of the documents in here because they were not copied to me. The point of the letter was to tell you whether or not you were wanted. At one stage it was taking such detailed energy and scrutiny by the police to carry out these checks that officials asked whether or not this process might be expedited, and might be expedited by, say, changing the wording on the letter so it was not so wide-ranging. I think the point that is being made here, or is in response to this letter is, “No, do not do that, because the level of reassurance you can give if you have not carried out a high level of scrutiny is much less than if you have carried out a high level of scrutiny.

Q1999 Nigel Mills: But the level of reassurance is pretty minimal anyway, is it not?

Lord Reid of Cardowan: There is a big argument, when you are in negotiations like this, trying to end a conflict, of whether something is meaningful or meaningless. I think one of the witnesses said to you, “These letters are meaningless anyway”.

Lady Hermon: They were not meaningless.

Lord Reid of Cardowan: No, but one of the witnesses said that to you. Similarly, people said to me, “Decommission is meaningless”. They can get rid of their weapons today and they can buy some tomorrow. There is a degree of symbolism in these things, but there is also a degree, as Sylvia is pointing out, of substance, which is, “At this point in time, we are telling you that you are not wanted”. The symbolism, I suppose, is we are attempting to resolve this issue. The symbolism to Sinn Féin, and I suppose to some others in the Nationalist community, though I cannot speak for them all, is that we said we would do this and we are doing it.

¹¹ The letter from Anita Bharucha, Head of RIR Division at the Northern Ireland Office, to David Brummell, 28 March 2002, can be found here: <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Letter-from-Anita-Bharucha-to-David-Brummell-28-March-2002.pdf>

You will find elsewhere in here that I sent a letter to the Prime Minister about the question of a one-sided amnesty. I say in there, which I did not know was ever going to become public, “I have to confess I have terrible personal opposition to this”, or words to that effect—that you would have an amnesty for one side. “However”, I say, “in principle I will accept that this has to be done”, and for a period of 10 months I tried to do that. Subsequently I went to the armed forces because they were part of the reason we could not have a total amnesty. They did not want moral equivalence with the IRA. I talked to the chiefs and I explained to them, perhaps not in entirely diplomatic language, that I understood the moral scruples and the philosophical nuances of this, but I did not think the British people would approve if we ever went with a one-sided amnesty and we were told that the British forces were not covered in it.

The point I am making in this is that there is both a meaning and a symbolism in it. The letter is meaningful. It gives a degree of reassurance to an individual, but it is also a signal to others with whom you have been negotiating: “We are trying our best to resolve this”. Unfortunately, the fact is that the ones who were not wanted and got the letters were not the problem. The problem is the ones who were wanted and are still wanted. That was the question of the amnesty, which people were so enervated about.

Q2000 Nigel Mills: I presume when you had discussions with Sinn Féin you did not suggest to them that this was a symbolic gesture that was probably meaningless.

Lord Reid of Cardowan: I am sorry; you are misquoting me. I did not say in any way it was meaningless.

Nigel Mills: No, but you did say it was symbolic gesture.

Lord Reid of Cardowan: I said it was both meaningful and symbolic. Listen, I was under no illusion that Sinn Féin did not regard this as the big deal. Sinn Féin wanted a resolution of this whole issue, full stop. They never ever asked me for an amnesty, and, with one exception actually, never suggested a specific name; they conveyed the names to me. So this was not a case of them being satisfied, or them thinking that somehow I had redeemed the promise of the Prime Minister and the Government. This was them saying, “Look, we want this resolved, but in the meantime we have got all these people who want to come back,” and me saying, “I will try and resolve the promise, but in the meantime I will ask the judicial authorities to tell you whether some of these people can come back”, and the ones who were not wanted could come back.

Q2001 Lady Hermon: So the letters were very important to Sinn Féin.

Lord Reid of Cardowan: The letters were important to Sinn Féin, but, I have to confess to you, far less than what they wanted.

Q2002 Nigel Mills: Did you explain to them this point that the prosecutorial authorities could effectively change their mind at a subsequent point?

Lord Reid of Cardowan: We had endless discussions with Sinn Féin, as I did with other people incidentally, on a range of issues. One of them that became a very sore point was an apparent inability, and it still exists, to address this question of people who were outside the jurisdiction who wanted to come back. Some of those, who were the difficult ones, could not be resolved by us, and have not to this day, because they were wanted. We had

to continually explain to Sinn Féin the nature of the judicial process, and the simple fact that a politician cannot override the judicial process—that is the whole point of democracy—so that we would, within the legal framework in which we had to operate, do what we could.

What we could not do, short of a legislative solution, was just to draw a line under this for either one side or the other. We still have not managed to do that. The papers illustrate that they came to recognise that there was a genuine problem, but I hope they also came to recognise that I, and I think others, tried to address it in good faith. This was something that had arisen in the course of the negotiations. It was not part of the Good Friday Agreement but arose out of it, and we did our best to resolve it, but there are some problems to which there are no solutions not only for Sinn Féin, but so far for the victims. I would have liked a truth and reconciliation committee. That is where we started, but having gone through about 10 different ways of trying to do it, we ended up thinking that at least a consultation would create the political atmosphere in which something could be done. This is one aspect that was meaningful, but symbolic as well.

Q2003 Nigel Mills: It has been debated in many of these sessions, this point in the letters about, “We do not want you, but if new evidence comes to light or if new offences come to light then things might change”. It is that question about whether new evidence is something that is completely new that you did not have available, or whether it is something you find in a file that you had not quite joined the dots on.

Lord Reid of Cardowan: I am not a lawyer, but I would guess both.

Q2004 Nigel Mills: That was your intention: “In all honesty we do not want you at the moment, but if we find some reason to want you then the letter has no standing”. That is what you intended this to be.

Lord Reid of Cardowan: It is not a matter of my intention; it is a matter of what the due process of law is, and the due process of law is that if there is evidence against you, or that comes to light above a certain threshold, then you are wanted, either for investigation, arrest or prosecution. It cannot be otherwise. Any politician could write any number of letters that say other than that, but it is not the law; it is not due process. Everything we did was within due process, which said, “At this point in time, after a lot of work and scrutiny, you are not wanted. You are just like anybody else in this country; if evidence comes to light in the future that you have done something wrong then you will be wanted. So it is neither an amnesty for the past nor immunity for the future, but at the moment, if you are asking, ‘Can I come back without fear of arrest—’”

Q2005 Mr Hepburn: Is it not a fact that if an individual goes to an MP to make an inquiry about their status within the law, their Member of Parliament can write to the Chief Constable and get a reply back saying, “Yes, they are”, or “No, they are not wanted”. It is as simple as that.

Lord Reid of Cardowan: Yes, absolutely. This was obviously happening on a larger scale. In fact it happened in Northern Ireland, as well. A Member outside of Sinn Féin wrote to Adam Ingram on 6 February 2001; I am going to quote from it. It says, “I have been approached by the family of a person who failed to honour bail conditions in the mid-1980s, and has since lived in the Republic of Ireland. The person was at that time

charged with scheduled offences. I am writing to determine the procedure to ascertain if the person was to return to the North, would he be rearrested and prosecuted?" To which, Adam Ingram, my Minister replied with a section that said, because this person skipped bail—it was pre-conviction—it was unlikely that anything would happen. But he said, as Mr Hepburn has just said—

Chair: Okay, order. We will suspend the public session; we will come back. We will suspend for 15 minutes.

Sitting suspended for a Division in the House.
On resuming—

Chair: Order. We will reopen the public session. Lord Reid, you were just about to read a quote, I think.

Lord Reid of Cardowan: Yes, just for the record, I think I was talking about whether or not, as Mr Hepburn had said, we would have responded in the same way to any representative, rather than just Sinn Féin. I was quoting one case in which we did that where one representative, who happens to be in the SDLP, wrote saying, "I have been approached by the family of a person who failed to honour bail conditions in the mid-1980s, and has since lived in the Republic of Ireland. The person was at that time charged with scheduled offences. I am writing to determine the procedure to ascertain if the person was to return to the North, would he be rearrested and prosecuted?" That was 6 February 2001, about three weeks after I arrived there. The response from Minister Adam Ingram on 7 March was to detail the broad outlines of the position, which included noting that this person had escaped while on bail and therefore was still in part of the process, but then said, "If you were to provide the name and date of birth of the individual concerned", which is exactly the details supplied with Sinn Féin, "I would be able to facilitate some further inquiries to establish his or her current status". That was Adam Ingram on 7 March. So yes, we would have responded in the same way to any inquiries that were received. ...

Q2006 Nigel Mills: My questioning was trying to establish exactly what all parties to the scheme understood the letter was meant to mean or imply, or what status it was meant to have. When you were Secretary of State, Lord Reid, did you ever have discussions with the police in Northern Ireland or the prosecutor or the Attorney General saying, "It would be very helpful if you could speed this up, perhaps cut a few corners and come up with the right answer"? Or was it completely left to their professional discretion what the answer was?

Lord Reid of Cardowan: To the best of my knowledge, in the two years I was there I never had a discussion on this matter formally, or probably not even informally, with the DPP or the Police Service. I am sure they were aware of this, but I tried to conduct the discussions through the interlocutor, who was the Attorney General. That is the conventional and proper person for a Cabinet Minister to speak to about issues connected with the judicial process. It was for him then to speak to the DPP, and the DPP to observe the proprieties to speak to the PSNI. My officials corresponded all the time on issues with the Police Service in Northern Ireland, and probably on other issues with the DDP. There certainly were occasions when the question was asked, "Is there a way to expedite this process?", or, "Would you need more resources to do this?" or whatever. But on the

substance of this, either as individuals or as a process, I did not do that for reasons that will be obvious to you.

Nigel Mills: I am going to ask you to dig out page 430 in the bundle of papers¹².

Q2007 Ian Paisley: Mr Chairman, before Lord Reid moves on, can I just ask him to clarify who wrote him that letter from the SDLP?

Lord Reid of Cardowan: I do not know whether it would be proper. It was not Alasdair. I do not think it is confidential; it was Alex Attwood. I am not saying there was any evidence that he knew about this particular scheme, but he was entitled, like anyone else, to ask the question about how somebody would ascertain if they were wanted or not. It is more likely that that question would be asked by people from the Nationalist and Republican community, the Catholic community, because of course when people from the Unionist and Loyalist community disappeared, they did not tend to go to Dublin, which was not a well known haven for Loyalists and Unionists.

To come back to page 430—

Q2008 Nigel Mills: Paragraph 8. I will not read the whole paragraph, but it records the listing of how the cases have been resolved to date, and it comments that Gerry Kelly asked whether there was any alternative to dealing with these cases to legislation. The Secretary of State, which I presume was you at this time—I do not know, actually—is quoted as saying, “If the prosecuting authorities maintain their current position, we have no alternative but to legislate”. Presumably you would be a bit surprised if the prosecuting authorities, having been through these things in some detail, suddenly changed their mind unless—

Lord Reid of Cardowan: I would have been extremely surprised.

Q2009 Nigel Mills: So this quote here is not a hint that perhaps they might be under some pressure to change their mind on the public interest?

Lord Reid of Cardowan: It is not a hint to that effect at all; it is a statement of fact to Gerry Kelly. Gerry Kelly is saying, “Why can you not absolve these people?” and I am saying, “Because we operate under the law, and this is a matter for the prosecuting authorities. Unless the prosecuting authorities change their mind, the way we have to do this is to change the law, and if we change the law that means legislation. If we take it to legislation there are going to be all sorts of problems.” As you can see from other documents here, I pointed that out to them. “Even if I was willing to take through a one-sided amnesty, I can tell you now, it is not going to work. Why? Because the House of Lords is going to vote against it, and probably the House of Commons, and an amendment will certainly be put up to include the British forces and the RUC and PSNI. So, Gerry, do you want that?”

This is all part of those discussions. What I am explaining to him in very precise terms is that unless, by some miracle, the prosecuting authorities change their mind, there is no alternative but to legislate. We cannot wish it away. I cannot do it by decree. Funnily

¹² The minutes of a meeting between John Reid, Gerry Kelly and others, March 2001, can be found here: <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Minutes-of-meeting-between-John-Reid-Gerry-Kelly-and-others-March-2001.pdf>

enough, having said we cannot do it, there was actually an amnesty in Northern Ireland, which was done by executive fiat. It was done in May 1969 by the then Prime Minister in Northern Ireland, Chichester-Clark. It was not for terrorist-related offences; it was for those who had been arrested and imprisoned for public order offences. Maybe there were some people who thought this could be done again. Incidentally, three of the people who were released at that time went on to become Members of Parliament.

Ian Paisley: One was my father.

Lord Reid of Cardowan: One of them was your father. Another one was Gerry Fitt. Another one was Bernadette Devlin.

Ian Paisley: But it was civil, not terrorist.

Lord Reid of Cardowan: So there may have been a feeling that somehow I could do the same by an executive decision. I had to constantly explain to people, “No, I cannot do that”, and that is precisely what that means. Unless the prosecuting authorities change their mind, I have no alternative but to legislate.

Q2010 Nigel Mills: Were you surprised at the approach that Sinn Féin took when Downey was arrested, when he basically came out waving his letter and they were saying, “But he has got a letter; you cannot do this”?

Lord Reid of Cardowan: Do you mean am I surprised that they have not come to this Committee?

Nigel Mills: I mean that when Downey was arrested, Sinn Féin issued a press release in 2013 saying, “You cannot do this. He has had a letter of assurance. You are going back on promises. This is completely wrong,” effectively.

Lord Reid of Cardowan: I do not think it is for me to be surprised about anything Sinn Féin does. As it happens, on that occasion I do not recollect what the reaction was. Personally I wish they had come here. I think it would help your deliberations, because otherwise, of course, there is one side of it I have tried to convey to you. God knows I am not a spokesman for Sinn Féin, but I have tried to convey to you that it was a big issue for them. I think the Committee would have benefitted in its deliberation from having their point of view.

Lady Hermon: We agree.

Q2011 Nigel Mills: Are you surprised, then, that they have let this ride all the way through until 2014, and just been happy with these letters? Are you not surprised that at some point they have not really kicked off and come back asking for the amnesty that failed eight years ago?

Lord Reid of Cardowan: I am not surprised. What Sinn Féin wanted was to draw a line. The problem is that drawing a line for only one side is very difficult. Drawing lines for two sides is hugely difficult for some people as well—the victims and their families, because whatever side of this conflict you were on there were broken hearts and broken families. There were people who suffered grievously, and prisoner releases was very, very difficult for them—no question about it. The idea of drawing a line under this where you

do not pursue is equally difficult. I think Sinn Féin know—I hope they do—that I, and I hope and believe my colleagues, did everything we could to try to resolve this issue. To be fair, people like David Trimble suggested schemes whereby it might be done, where people would come back and have a tribunal, and it would be very quick, and then they would be released the next day and so on.

Lady Hermon: After they admitted their guilt.

Lord Reid of Cardowan: Yes, after they had pleaded guilty. It would not apply to all of those who have received letters, with one exception, who received it by mistake—because of course they would not be brought to prosecution, but we are talking about this hard rump. I hope Sinn Féin believe that we did everything possible to try to resolve it; it is a problem that is in every conflict resolution. What do you do?

Q2012 Nigel Mills: You can see why some people might think the reason why Sinn Féin had been quite happy after the amnesty bill failed was that the accelerated scheme that took place, I accept, five years after you left this office had actually replaced the amnesty in their eyes, and they did not need to worry about it.

Lord Reid of Cardowan: I can see why some people reading some of the headlines might gain that wrong impression. That is why the work of this Committee is so important. It is very important that this Committee allows people to know that this was not an amnesty. You might not agree with what was done; you might not even agree with the way in which it was done. Obviously I will try to justify that, particularly in the circumstances of the time. But I think it is important for a Committee like this, with all the feelings, passions and politics that surround this issue, to put the victims at the middle of this, as you would ask me to do, and not to say or do anything that encourages them in the belief that this was ever meant as an amnesty. It was not.

Q2013 Chair: Lord Reid, the Government introduced a bill in 2005, as we know, the Northern Ireland (Offences) Bill¹³, which provided for a different scheme that cut across all communities. That was dropped, but in a letter to Lord Irvine on 14 May 2002¹⁴ said that—

Lord Reid of Cardowan: Which page, Chairman?

Chair: 622. You say that although an amnesty bill has been drafted, you go on to say how difficult it would be. What was in that amnesty bill?

Lord Reid of Cardowan: I am happy to write to you with the details of it. The reason that I do not want to say something inaccurate is because we had about a dozen iterations in an attempt to get something that we thought might be sellable. If you go right back to the beginning of the papers, you will see even then I was saying, “Okay, I myself do not like this one-sidedness, but we will try it”. By this time, I have given up any idea of trying the one-sidedness, and saying it has to be an all-sided amnesty, but we never took the bill to Parliament. I just felt we should have one drafted up so that we could put it to Parliament

¹³ The Northern Ireland (Offences) Bill 2005 can be found here:

<http://www.publications.parliament.uk/pa/cm200506/cmbills/081/2006081.htm>

¹⁴ The letter from Dr John Reid to Lord Irvine, 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>

if we ever thought the circumstances were conducive to it. Here we are, 12 years on, and the circumstances still are not conducive to it. They may never be.

Q2014 Kate Hoey: It is very nice to see a former Secretary of State coming to us and being so honest and straightforward, and perhaps just drawing a comparison with previous Secretaries of State. Can I just ask a technical question on the royal prerogative of mercy? You know that huge figure of 365 between 1979 and 2002, and we know many of those, as you yourself said, were for what we would call very minor offences. What I do not understand, because at that time the system was still being run by the United Kingdom generally, is how in England at that time there were no royal prerogatives given for minor offences? How come Northern Ireland had all these minor offences for traffic things? To get the Queen to sign a royal prerogative—

Lord Reid of Cardowan: I think most of these are before the Labour Government, so I am as mystified as you. I am mystified by a number of things. One is the number. Secondly, why anybody—it is not for me to criticise the Secretary of State—but why anybody would put out a statement using that number without clarifying that a large number of these are small, minor and so on, thus giving the impression, presumably to a lot of victims, that there is another 350 or whatever terrorists being given royal pardons. Then finally, to say we lost the papers. I would have been much less comfortable, Ms Hoey, coming in front of you today defending those three propositions.

Fortunately, I do not have to because they did not appear during my period or the period of the Labour Government. During the period of the Labour Government the number of terrorist-related offences for which the royal prerogative of mercy was given, and not a pardon, pre-conviction or after conviction, but merely to bring cases that ought to have fallen under the legislation into the legislation, was 16, to my knowledge.

Q2015 Kate Hoey: I am sure that my constituents, if they are watching this, would wonder why they cannot get royal prerogative of mercy for minor car offences and so on. It is just very, very strange. Would you accept that?

Lord Reid of Cardowan: Maybe I should explain that particular point. Mercy, here, does not mean actually you have been let off with it. Certainly in the 16 cases over the 14 years with which you are primarily concerned, the terrorist-related offences, it meant that, to all intents and purposes, you should have fallen within this legislation, but because of some technical element—for instance you committed them several months too early in 1972, or you did not serve the whole two-plus years in Northern Ireland; you escaped, were caught and sentenced again in Ireland itself, but in every case they have served more than two years. It is not really being merciful; it is bringing you into line with the technicalities of it, but some people would have thought that the early release scheme itself was very merciful.

Q2016 Kate Hoey: I accept all of that, but it still does not answer the question—I accept you cannot—on those huge numbers. Can I just take your point on this? The early release scheme, as already has been said, was a very public scheme. We all knew about it, and the Northern Ireland public had opportunities to vote on that. Yet these 16 were all technical terrorists who had some way that if they had been in a different situation they would have also been on early release, which is probably why they were looked at. We know who the people that were given early release are. We know their names; it was public. We know who

was in prison and we know who was released. So why were these people treated differently? Why were there names not given? Why is there still a secrecy about who got the royal prerogative of mercy and indeed who got these letters? If someone has gone away on the run and had not done anything, why should they be ashamed that they were given a letter saying they had done nothing?

Lord Reid of Cardowan: There are two aspects to that. First of all, on the release of names for the prisoner releases, I will stand corrected on this, because I did not deal with that aspect, but my understanding was those names were not released. I may be wrong on that.

Q2017 Kate Hoey: But we know who had been convicted and gone to prison.

Lord Reid of Cardowan: Yes, you could deduce, but I do not think, Kate, that actually the Government released the names of those who were being released early, although I will stand corrected. It was possible to deduce it.

Second, the royal prerogative of mercy—and I am basing this on comments you made in the past, not my own knowledge of it—is published in the UK mainland but was not in Northern Ireland. I do not know what the answer for that is. It is possible to speculate that for some reasons there were intelligence-related issues, not with the 16 I am talking about; I answered that with Ian Paisley. None of these were given to anybody because they had turned and done a favour for the British. It may well be in previous decades they had been, but that is sheer speculation. I do know what the reason is. I take your point that there is an argument that if it applies to the rest of the UK it should apply to Northern Ireland, but then everything in Northern Ireland was unique, was it not? The whole political system made things difficult and, as you keep pointing out, abnormal in the way we had to approach things.

Q2018 Kate Hoey: Can I just ask you about Gerry Kelly? He committed an offence—or offences, really, by virtue of the fact of this jailbreak, and that is not disputable at all. Do we know, or would you have any idea whether the royal prerogative was exercised in this particular narrow case?

Lord Reid of Cardowan: As it happens, I do not. If I did, I probably would not tell you. What I can tell you is I never spoke to anyone in the course of the discussions or negotiations who pressed the case for a royal prerogative of mercy for themselves or for anyone else that I have spoken to, as far as I am aware. I cannot remember about 12 years' distance.

Kate Hoey: I think your memory has been very good.

Lord Reid of Cardowan: It has been helped by 500 pages of documents that were sent to me 36 hours ago. I give this caveat to everything I have said. Everything I have said, Mr Chairman, is based on my best recollection, and I have been as open and honest as possible. I am sure at this distance in time and with this number of documents, I am as liable as anybody else to make a mistake. I do not think I am making a mistake on this one. If I am, I have no doubt I will get home and some former official will phone me and say, “Yes, Kelly’s name was in this list or that list”.

Kate Hoey: And you will come back and tell us?

Lord Reid of Cardowan: If invited back; otherwise I could not tell you. To the best of my knowledge, what I am saying in fairness to the Sinn Féin representatives who spoke to me, is they never used the word “amnesty” and they never pushed anything for themselves. This was not a case of, “This would be helpful”. There was one particular case they did care about, and it was not one of the interlocutors with me, but they argued it was a very strong case of somebody who, despite what had happened in the past, whether they admitted it or not, had spent 30 years arguing for a peace process inside the Republican movement. They had been involved in talking to people, including one Secretary of State in Ireland, in America and here, and had particular compassionate grounds. That was one where I considered whether or not it would be possible to use the royal prerogative of mercy in terms of a pardon. It was a pre-conviction one, and it had not been used since 1891 or something, and had only been used after that for people who had given information. She did not fall into that category, so it was impossible to deal with it. Apart from that, they did not in any way attempt to promote their own protection, if I can put it that way.

Q2019 Kate Hoey: Maybe I missed this at the very beginning, which I apologise for if you mentioned it, but when did you first hear the name “John Downey”?

Lord Reid of Cardowan: I am laughing because I did watch the questioning of my predecessor, and he had difficulty. If I can rephrase your question: when was the name “Downey” ever put in a document that passed over my desk? The answer was 2001. Did it mean anything to me at the time? Absolutely not. What was the nature of the mention? It was 102nd on a list of 162 names, which gave only a name and a date of birth. How do I know? Because it was in the documents I looked at yesterday. There are three other mentions of this case because occasionally there would be an updating of this list. Interestingly, all but one of them says, “Update: John Downey, still not identified”, or words to that effect. In other words, the police did not know who this person was. So I have to say to you it did not ring a bell with me when this name came up. Only by poring over these documents did I find it was there, but there were 162 names on one letter out of 25,000 letters that I received, which was an unknown individual. They did not even know who he was.

Q2020 Kate Hoey: That is very helpful. Can you remember roughly, or just tell me vaguely even, how many times you think you would have received a personal letter to John Reid from the Attorney General?

Lord Reid of Cardowan: I have no idea, really.

Kate Hoey: He did not write to you very often.

Lord Reid of Cardowan: Actually, in some ways, yes. He would write to me and we would discuss things, because of the nature of the whole amnesty debate—whether we could do it legally and so on. I would guess a dozen; it would not be one a month; it would be a dozen around a particular period, something of that nature. Do you have a reason for asking?

Q2021 Kate Hoey: I was just wondering if you thought it surprising that the Secretary of State, Peter Hain, when he came last week did not recall a letter from the Attorney General

that had gone to him, very clearly saying that John Downey, after an investigation, was still having—for serious offences, terrorist offences.

Lord Reid of Cardowan: To be fair, as I understand that letter—again, you will correct me—because I do not know. I understand that there was a huge redaction—for those that do not understand, it was all blacked out—before the line that said “John Downey”. I assume that that big redaction was a list of other names. I may be wrong there.

Kate Hoey: We will not go any further because I do not think that was true in that particular letter. If you have not seen it, do not worry.

Lord Reid of Cardowan: I cannot comment on it, truthfully. I have been as honest as I can. The name did appear on a list. It was 102nd of 160-odd names. There was no other details, and at 14 years’ distance, it did not mean anything to me.

Q2022 Kate Hoey: That is a very different; do not worry. Can I just ask you two quick things? Were you surprised when Mark Durkan and David Trimble both, in giving evidence to us here, made it very clear that they knew nothing about the administrative scheme? They had obviously heard about on-the-runs, but were you surprised when David Trimble said how disappointed he was and Mark Durkan made his view clear that he knew nothing about it either?

Lord Reid of Cardowan: I was a bit surprised, but I am not questioning either of their integrities. I think both certainly knew about on-the-runs. If you look at these documents you will see that David Trimble was actually suggesting ways of resolving that issue.

Kate Hoey: Yes, but he did not know that you had decided a way of resolving it.

Lord Reid of Cardowan: Well, we had not.

Kate Hoey: You did; you sent out letters.

Lord Reid of Cardowan: The letters did not go to those who were wanted. That is the whole point. If that resolved the issue, there would have been no continual deliberation and anguish over an amnesty. If you read through these papers, Kate, you will see that a substantial proportion of them is committed to trying to find a way of solving it, which is itself, as I said in my introductory remarks, an indication that the letters were never meant to solve that. What they did is they sorted out those who were wanted from those who were not wanted. Did we envisage that is what would happen at the beginning? No, because we thought at the beginning what would happen is we would get names of people who were wanted.

Actually, what happened is all sorts of people applied who the police in some cases did not even know existed. Others they knew existed but did not have a threshold of evidence. In other words, at the beginning of the scheme, these were what I referred to earlier, I think before you came in, as Donald Rumsfeld’s “unknown unknowns”. The people who were wanted for interview, prosecution and investigation for terrorism were the “known unknowns”. That was the kernel of the problem and still is: how to resolve that, and to do so with an amnesty, whether it is inside a truth and reconciliation or whatever.

Q2023 Kate Hoey: Would you be pretty confident then that when the PSNI go through all these names again and through all the files that none of them will be found to have ever been suspected of anything?

Lord Reid of Cardowan: Am I confident that everything possible was done in terms of scrutiny to make sure mistakes were not made? Yes. Can I assure you that no mistakes were made? Obviously not. Downey was a mistake. All I know is that all possible efforts were made. There have been some terrible mistakes in Northern Ireland and in Britain. One of them was released from prison after 15 years and died this week, Gerry Conlon—the Birmingham Six, the Guildford Four, the Maguires. There were terrible mistakes on all sides, and in any human organisation it is possible mistakes will be made. I do not deny that is possible. All I do deny, Kate, is that the intention or the operation of this scheme was in any way an amnesty or immunity. It was not. What happened in Downey’s case is that the judge found for him because a mistake was made on that.

Q2024 Chair: Can I come in there, Lord Reid? Because the advice of our QCs is that that is not the case; the stay was put on the prosecution because he had the letter, not because it was mistaken.

Lord Reid of Cardowan: That is not my reading of it. You will have to take advice from other people, no doubt, who will wish to question it. I am not a lawyer. That is neither a complaint nor a boast; it is just a matter of fact. I did, in courtesy to this Committee, attempt to read through the judgment and I have to say a QC may see the world differently, but my only reading of this is that while the letter itself does not constitute an amnesty or immunity, nevertheless the fact that at the time it was given it was wrong and, crucially, known to be wrong, would then make it an abuse of process if it was overruled by a prosecution. However, what do I know?

Q2025 Chair: The problem we have is that our reading and our advice is that Mr Downey relied on the letter to his detriment. That was the reason why it could not proceed.

Lord Reid of Cardowan: Yes. It was an abuse of process.

Q2026 Kate Hoey: Can I make one final point? You have already mentioned it briefly, but if you were in a position where Sinn Féin or Gerry Kelly were taking advice from you, which is probably not very likely, would you advise them that they should really, for the sake of the victims particularly, come before this Committee?

Lord Reid of Cardowan: Not that they have accepted advice from me in the past—occasionally I think they did, but not the majority of the time. It is not for me to advise Sinn Féin, but I would say two things. The first is that the process of resolving a conflict inevitably involves the trickiest of all details, which is what happens to former combatants, if I can call them that—whether you call it a conflict, a guerrilla war, terrorism or whatever—and if you are truly going to do that, you somehow have to grapple that issue. I think it is recognised in this Committee. The solution may not be acceptable, but it is recognised that it has to be addressed.

In that context, if I was representing some people who were engaged against the British state and in the spirit that this problem needs to be resolved, I think that they would do themselves justice if they were to argue their case to this Committee. They would also be

able to correct any misapprehensions about whether this met what they really wanted. I have tried to make it plain that throughout this they did not act in a selfish fashion for themselves. I have made it plain that they did not ask for an amnesty, but they did say that we should keep our commitment to resolve this, as we had said. I hope I have also made plain that we tried to the best of our ability—I certainly did—to resolve this. I could not do it, but I acted in good faith.

Finally, of course, there are the victims themselves and they are on all sides of this, Kate. They are on all sides of this. This is why the peace process came into being—for two reasons: first, because we could not resolve this on either side militarily, by violence, and secondly because none of us wanted the future generation to suffer the grievous harm that the victims that you are talking about suffered in previous generations. I have decided to come here, not because you compelled me or subpoenaed me but because I think this is a very serious issue that has to be addressed, even if it is uncomfortable for lots of people.

Q2027 Dr McDonnell: There are a lot of things that, when I indicated I wanted to speak, have since been covered, but there are a couple of points I do want to make. First of all, John, could I thank you from the bottom of my heart for the contribution you made to bringing peace and stability to Northern Ireland? It would be remiss of me not to say that because you made a massive contribution and I could not always agree with you, but I could not but admire the effort you made.

Secondly, I would like to compliment you and thank you for the reference to my friend Gerry Conlon, who died.

Thirdly, I want to compliment you for the frankness and the openness of the evidence you gave today, because certainly it has developed the extent of my understanding significantly. If others had have been as frank and open as you, we would have got through this a lot quicker.

What I want to come back to is one brief point that has not been fully covered, but has been touched on it. It is about knowledge and who knew. It is my impression, and I would like your ratification and validation of it, is that a lot of people were vaguely aware that there was a problem, and yes, even my colleague, Alex Attwood had made representation. However, there was even an awareness that genuine efforts were being made to tackle the problems out there, but there was no awareness of the extent or the detail of the administrative scheme that was run. That is my assessment of it. As someone who was around, maybe not in the frontline, but certainly not far away from the frontline, I had absolutely no awareness. I had an awareness that there were pressures, there were demands and there were difficulties. The issues and the demands to resolve them were very clear, but I think the difficulty is that very few people knew that a solution of sorts, or a partial solution, was there. I am taking that broadly.

That is where the dichotomy comes in between some of us around this table and yourself. You were aware of the issues there. You were working on it and those who were working on it or were engaged were more up to speed on it.

Lord Reid of Cardowan: First of all, thank you for your kind remarks. It will not surprise you to know that I held nine ministerial posts, so I was in the Cabinet for quite a while. My own view is that if I had never done anything else except play a small part in

forwarding the peace process, it would have been worth having all those years and, indeed, worth having a Labour Government, just for that itself.

Secondly, just on Alex Attwood, I do not know that Alex knew about this scheme, as it became known. I want to be clear on that. Where I use that is that he made representations, as he was perfectly entitled to do, and we responded in the way that we would have done to anybody who had asked. It was following Stephen Hepburn asking me, ‘Was this not the case?’ It was, and Alex was there.

Thirdly, with regards to your description of the level of awareness, if you had slightly amended it, I would have agreed with it very much, which was—“I do not think there was anybody in politics in Northern Ireland who did not know about on-the-runs. It was widely known that it was an issue. It was debated and discussed and so on. There was much less awareness of this scheme”. That is true. I would not use the words “no awareness”, but there was much less awareness of it and that is a description that I would not demure from.

Q2028 Dr McDonnell: I am glad you raised the question of Alex Attwood because it brings me to the second part of the question. I do not think Alex knew; in fact, I know he did not know, but I am a little baffled as to why your friend and mine, Adam, did not perhaps enlighten him somewhat more, in the same context that perhaps Gerry Kelly was being enlightened around the corner, if you like. If there were issues, it would have been very useful because, as far as I was concerned, and as far as he was concerned at that stage, that these issues, if they were being dealt with, they were being dealt with on an ad hoc, one-off basis.

Lord Reid of Cardowan: I can reassure you that he responded in exactly the same way we would have responded to Sinn Féin. When Alex wrote, he did not give a name, he did not give a date of birth and he did not give a particular description of the offence, although I think he said that it was somebody who had escaped while on bail. He said it was a scheduled offence.

When Adam wrote back to him, he said, “If you were to provide the name and date of birth of the individual concerned, I would be able to facilitate some further inquiries”. That is precisely the position with Sinn Féin, so what they gave was a name and a date of birth, and that was then passed to the Attorney General on a list. So he would get X, date of birth and that was passed to the Attorney General, who passed it to the DPP, who passed it to the PSNI, and then the PSNI then spent quite a considerable time in some cases trying to identify who this person was. In some cases, they never identified them because it was the wrong date or whatever. So it was exactly the same first step that Adam took that we would have taken with Sinn Féin.

Q2029 Lady Hermon: Can I just follow on from Alasdair’s point? Are you suggesting to this Committee, as you appear to be suggesting, that, with Alex Attwood’s inquiry on behalf of someone that he was representing as a public representative—you have been very careful in your language, as I would expect you to be, John; you are not a lawyer but you are very careful in your language—Adam Ingram wrote back to him, and that this was exactly the same first step as would have happened to Sinn Féin. John, are you saying to us as a committee that the person who was raised with Adam Ingram was going to be treated in exactly the same way as the Sinn Féin list?

Lord Reid of Cardowan: Yes.

Q2030 Lady Hermon: So you assuring this Committee that the person who was brought to the attention of the British Government to Adam Ingram, by Alex Attwood, would have gone through exactly the same process? It would have gone through the PSNI and then to the DPP?

Lord Reid of Cardowan: Yes, that is precisely the reason for asking for the name and date of birth.

Q2031 Lady Hermon: Does Adam Ingram confirm that that is the case?

Lord Reid of Cardowan: I have not been able to go through two years of—I do not even know whether Alex Attwood wrote back, because before he asked for the name and date of birth, Adam did outline that there would be difficulties because this person had escaped while on bail and you will remember that is precisely the problem we had with the one name Sinn Féin kept asking about—that this person escaped while on bail. So they were not ever going to get a letter that said, “You can come back”. So it may well be that that was sufficient for Alex not to pursue the thing, but the treatment was exactly the same, and if Alex Attwood, or anyone else—

Q2032 Lady Hermon: Or anyone else?

Lord Reid of Cardowan: Or anyone else had said, “Here are 12 names and addresses; would you please tell us if these people can come back without arrest,” we would not have said, “No, we cannot”. We would have gone through the same process; of course, it would have caused all sorts of problems about the scheme escalating but we did not refuse—and why? Because we were using the due process.

Q2033 Lady Hermon: What concerns me, John, and I have to just have to bring this to your attention, because in his sworn affidavit, in the Downey judgment, the right hon. Member for Neath, Peter Hain¹⁵, said he was very conversant with the implications of the running of the administrative scheme. He also said that the procedure was, in a number of ways, wholly unprecedented. It is not just the same, as in response to Stephen Hepburn, an MP phones the Chief Constable and asks, “Is my constituent wanted for a driving offence?” No, there is no comparison at all. Peter Hain said in his sworn affidavit that this procedure was “in a number of ways wholly unprecedented”. First of all, of course, “Sinn Féin being formally put on notice; individuals who otherwise might not know with any certainty that they could be subject to arrest were alerted. The second was that the scheme progressed in a non public manner.”

So having suggested to the Committee that Adam Ingram treated an SDLP inquiry in exactly the same way as all of the other OTRs, I think that would need to be confirmed to us, because that is what you are saying to us. I am not calling into question your integrity at all. I have too high a regard for you and I certainly do not want to do that, but I would be astonished if the same procedure was used: that it went to the PSNI, to the DPP, to the Attorney General and went out the other end.

¹⁵ Mr Hain’s witness statement to Mr Justice Sweeney can be found here:

<http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Peter-Hain-statement-to-Mr-Justice-Sweeney-January-2014.pdf>

Lord Reid of Cardowan: Thank you. Let me assure you; first of all, let me say that the scheme was unprecedented in the sense of the scale and so on. The right was always there to do it. Let me be, if I can, blunt with you. I would not countenance a position where we were using this scheme, once it had started to be underway, where we were refusing to do the same thing for a representative of the SDLP, nor would Adam.

Lady Hermon: That is really interesting.

Lord Reid of Cardowan: The reason that those set of inquiries were more likely to come from SDLP, and even more obviously from Sinn Féin, was precisely that the other community did not go to Dublin. It did not seek to go on the run outside the jurisdiction of the UK. If Loyalists and others disappeared they tended to disappear to London or Glasgow or somewhere like that. They would not end up in Dublin or the United States. So given that that is the case, the only other likely group of people who might be approached by people from that community, who had left the jurisdiction, were likely to be the SDLP. I have no idea and I am not implying or explicitly saying that Alex Attwood knew about this; he may not have done, Alasdair; I agree, but having made the inquiry, then it would have to be treated in exactly the same way as Sinn Féin's did. Of course, and I would not have allowed it to be any other way, by the way.

Q2034 Lady Hermon: That is really interesting. Can I just finally ask you whether in fact you have spoken to the retired Chief Constable, Ronnie Flanagan, since the Downey judgment? Have you spoken to him since the Downey judgment?

Lord Reid of Cardowan: I will be quite honest with you: I sent him a text when I heard about it that said, "Did you know anything about this Downey judgment thing?" He is in Abu Dhabi or somewhere. I was going on a visit to Abu Dhabi anyway. We did not discuss it there, but he did phone me and the total content of the call was, "Secretary of State, this was 2007. It was long after our time." So that was the total conversation that took place.

Lady Hermon: That was the total conversation that took place between Ronnie Flanagan and yourself?

Lord Reid of Cardowan: Yes.

Q2035 Lady Hermon: You put on record—and those of us who live in Northern Ireland will remember that time—there was a very positive, close, good working relationship between you as Secretary of State in Northern Ireland and Ronnie Flanagan as the Chief Constable, first of the Royal Ulster Constabulary and subsequently of the PSNI. It is surprising, to put it mildly. It is very, very surprising, given the very good, close working relationship that such a controversial and sensitive issue as OTRs certainly was—and you have been at pains to explain how difficult this was, and there was a peace process and all the rest of it—that at no stage did you discuss OTRs with the Chief Constable, Ronnie Flanagan, during your time as Secretary of State?

Lord Reid of Cardowan: During that time? I do not think I said that. I am just checking what you have said, Sylvia. I do not think I said I never discussed the subject of OTRs. I think I said I did not discuss the scheme, right? Because there is a difference.

Chair: That is the point: there is a difference, yes.

Lord Reid of Cardowan: The on-the-runs was a big issue that everybody knew about and everybody was discussing. Each of these issues, like the reduction of the presence of British military, the victims, the political establishment, on-the-runs—although they were all semi-autonomous, they were also all interrelated.

I made the point on one occasion—I think it is in these papers—that not only was a legislative amnesty difficult, but I think the phrase I used was, “There is no good me reaching an agreement with you, as Sinn Féin, if it shoves the Unionists off the other end”, because then what happens is the political establishment comes down. So it was quite possible that I discussed the on-the-runs in general with Ronnie Flanagan, but to the best of my knowledge never the scheme.

Q2036 Lady Hermon: Even though the scheme had been operational and signed off by Jonathan Powell through the RUC, the DPP, the Attorney General’s office, signed off by Jonathan Powell since 2000, and you came into post in 2001 and you were there until October of 2002. You are telling the Committee that you do not think you discussed that scheme with Ronnie Flanagan.

Lord Reid of Cardowan: That is right; that is what I am telling the Committee. To the best of my recollection, I did not. If Ronnie has said something else, I will stand corrected.

Lady Hermon: Oh, no. Ronnie did not.

Lord Reid of Cardowan: The reason would be this, Sylvia: among the briefings that you get at the beginning—you arrive there and you are not an expert in law or on judicial process, and you are certainly not an expert on Northern Ireland, although, God knows, being brought up as a working-class Catholic in the west of Scotland, I did not need a lot of briefing on the history of it, but you are not an expert on the detail of it, and one of the things you have explained to you is the complexity of how to deal with these individual cases. I think at that time there was 40. Therefore I would have come to know that there were certain things where it was dangerous to have direct communications in any detail at all with the police, or indeed Alasdair Fraser, on this. This had to be conducted with propriety with the Attorney General.

Q2037 Lady Hermon: Nevertheless you phoned him after the Downey judgment when you knew you were coming before the Committee. Is that the case?

Lord Reid of Cardowan: Yes¹⁶. When I was no longer Secretary of State—

Lady Hermon: Why did you do that?

Lord Reid of Cardowan: I did that because I suddenly saw these headlines claiming that there were amnesties, immunities and all the rest of it, and I had no idea of the dates of what had taken place. I did not know whether it was 2001 or 2010. I sent him this, “Do

¹⁶ Lord Reid subsequently asked that this statement be clarified in the formal record. He wrote, “I should make clear that my “yes” referred to the fact that I had contacted Sir Ronnie Flanagan, not that I had contacted him after I knew that I would be coming before the Northern Ireland Affairs Committee (NIAC). At the time I made brief contact with him - the time of the Publication of the Downey judgement - I had no idea I would be invited before the NIAC; indeed the NIAC enquiry had not even been established at that time.”

you know anything about this?” The response I got—I cannot remember whether it was by text or by phone—was, “No, this was long after our time.” As it happened, it was. It was 2007.

Q2038 Dr McDonnell: Two very quick ones, John, and thank you for all the information you have given us. Were you aware that Sinn Féin held some of the letters, at least one and possibly more, over the heads of the people that were involved?

Lord Reid of Cardowan: No. What do you mean Alasdair?

Dr McDonnell: They did not give the letters to the individuals.

Lord Reid of Cardowan: No.

Dr McDonnell: Used for disciplinary purposes? I think that was an abuse of process.

Lord Reid of Cardowan: I think it was, and it would have completely altered my perception about the acceptability of such a scheme had I known, but I did not know.

Q2039 Dr McDonnell: In some cases, they used the letters as a stick to beat people with. Anyway, the other thing is I am interested—because in your earlier discussion, and I am trying to get my head around this missing link, if you like, around Downey—in why the Downey case kicked around for a number of years. You seem to imply that people did not know who he was.

Lord Reid of Cardowan: Yes, I was just going on the papers here. I do not have a recollection of recognising it at the time; it was one of a huge number of names, but what I have noted from here is that there were three papers where on an update, if you like, on these names—I am not even sure they were copied to me; I think they were—but it said, “Yet to be identified”. So they did not know, and this happened quite a lot: that someone had been given the wrong spelling for a name or the wrong date of birth or whatever. Then—it is at the end of these papers—they thought they recognised him but they connected him with a crime that was not the crime, actually, for what he was wanted, so I guess that was some mistake as well.

Q2040 Dr McDonnell: Could it be possible that part of the problem there—and again, I do not want to teach my granny to suck eggs here—but he was born somewhere outside the jurisdiction; was it Donegal or Clare?

Lady Hermon: He lived in Donegal

Dr McDonnell: Yes, he lived in Donegal, but he was from Clare. It was not a case of the date of births quite simply not just tying up or that the date of birth could not be confirmed.

Lord Reid of Cardowan: I would be speculating. I do not know. It is possible.

Q2041 Dr McDonnell: It is a mystery that this kicked around for a number of years and then was given a letter that was a mistake? Some of the ones that were given the letters very quickly were not mistakes.

Lord Reid of Cardowan: Yes, I would be speculating if I gave you the reasons but it is true. I was surprised, very surprised, to see that the name had occurred in a list earlier on.

It takes seven years or something to do it; I have no explanation. I can only tell you what I know from re-reading these. As I said to Ronnie, or as Ronnie had said to me, “This was way after our time,” because the only date that he had heard of, incidentally I think through his wife—I should not tell that as it was in confidence, but he was in Abu Dhabi and he heard through his wife—and all he knew at the time was that this was 2007, and I said, “Fine.” That was it until, of course, Lady Justice Hallett started an inquiry, you have started an inquiry and I have tried to be as helpful as you I can.

Q2042 Oliver Colvile: Can I thank you very much, Lord Reid, for coming and speaking to us and for giving probably one of the most concise evidence sessions that we have held for a while? I will try very hard to make sure I do not take the full 20 minutes that my colleagues have ended up taking, because I realise that we are all quite busy. One of the big problems we have as a Committee is to make sure we understand whereabouts this whole process started and as to what was the thinking. You have done quite a bit as far as that is concerned, but am I right in thinking that you inherited this scheme?

Lord Reid of Cardowan: Yes.

Q2043 Oliver Colvile: And it was your predecessor; which one of your predecessors might you have inherited it from? Was it Lord Mandelson or was it Mo Mowlam?

Lord Reid of Cardowan: One caveat: I do not think it starts as a scheme; it starts as a response to particular inquiries. Again I am going on The Downey Judgement, but I think that the origins of it are 1998—the origins of the problem. Soon after the signing of the Good Friday Agreement, it is pointed out by Sinn Féin that there is a general anomaly here, and they raise a number of cases that have particular anomalies.

I tried to say at the beginning I thought there were four groups. One anomaly they would claim is, “These guys are over here, you have extradition proceedings out on them and all of them have served more than two years, or whatever. This group is sitting here, and some of them have served more than two years in prison but in two jurisdictions and so on and so forth. How do you resolve that?”

I think what happened—but again, I do not know the detail of 1998 and 1999—is after the signing of the Good Friday Agreement, as in all conflict resolutions, the question of prior combatants arises. Two sides fighting each other who have done things that the other side dislikes and, in some cases, if it is against the state, that are unlawful, whether it is terrorism or whatever. How do we resolve this? The Prime Minister says, “We will resolve it. I promise you that we will resolve it.” Then that has developed by the time that Peter Mandelson comes in to attempting to resolve some individual cases but not really having a resolution of the big case, which can only be done by legislation and probably an amnesty. Peter takes the view, expressed in one of the papers, which he expresses to Brian Cowen, the Irish foreign secretary, who is also my counterpart, that he could not muster more than 5% support from Parliament or the population for a one-sided amnesty. So we continue to deal with the specific ones or twos who then become 40.

I then come in. We are dealing with the 40, which becomes known as the administrative scheme but test to destruction all possible ideas for a more general settlement of the real question, which is addressed at the core of 40 or 50 people who are wanted for terrorist activities and crimes. That has continued to this day. It has not been resolved. What

begins as one or two people then becomes, as it has done over time, more methodological and you can call it a scheme. Does that explain the narrative?

Q2044 Oliver Colvile: You come into place—I have never been a Minister. I have done some work with Ministers but I have never been a Minister, so I do not necessarily know the process. So you come into place and you have been appointed as the Secretary of State. You arrive in your office, and how fairly soon into your first few days did somebody, an official within your Department, come and sit down and say, “Now then, Secretary of State, we have to now just talk through with you some of the big challenges that you are going to be facing”? Who would have actually talked to you specifically about this issue?

Lord Reid of Cardowan: I am appointed at 6.30 at night on Burns Night on 25 January.

Oliver Colvile: It is not a great time.

Lord Reid of Cardowan: Actually, I have spent all day defending Peter Mandelson on television against several accusations. I was the Scottish Secretary. Peter had a bit of a problem. So at 6.30 in the morning I started to defend him on *GMTV* and was so successful that by 6.30 that night I had his job. So I am called to Downing Street. I know, because I was Scottish Secretary, the Prime Minister either wants a briefing on me on Scotland or, given that Peter Mandelson has just announced he is resigning, I am becoming Secretary of State for Northern Ireland. So on these occasions you do what you would do; you phone your wife and say, “Look, I think there is something coming up here”. You go in. The Prime Minister, as it happened, had an engagement that night and was changing his shirt so we had a preliminary discussion in his office, which lasted about three minutes, saying, “Will you take over Northern Ireland?” The answer was “yes”. You come out. As it happened, who was sitting outside was the Chief Constable of Northern Ireland, who happened to be in Downing Street that night—Sir Ronnie. So I met Sir Ronnie and walked out the door but this time accompanied by six very large people, who are your protection team. I got in the car; they fly you to Northern Ireland.

I was there the next day and did the press conference and so on. At this stage, somebody produces a big briefing book and you start to read through the briefing book. Hopefully by the end of the week, you will have come across most of your major stuff. As it happens, in the course of that week, I had two meetings where the on-the-runs were raised—I think my memory is correct—one with Sinn Féin and one with David Trimble. So before I actually get to grips with this issue that I had never heard about—

Lady Hermon: Did David Trimble object to you doing—

Lord Reid of Cardowan: Yes, what David did was we had a courtesy meeting and he said, “There are a number of questions I want to ask you about and issues I want to deal with”. He obviously was not too happy, and he left me an aide-memoire. One of them was on-the-runs, so I naturally say, “What is this on-the-runs business?” At the same time, I have meetings going with Dr Paisley, Gerry Adams, and so on, so you are learning, as it were, on the job. Does that answer your question?

Q2045 Oliver Colvile: Yes. So by the time you arrived in the place, were letters already going out?

Lord Reid of Cardowan: Yes, that is my recollection. I think that is true.

Q2046 Oliver Colvile: So it probably was under Lord Mandelson's time?

Lord Reid of Cardowan: I think, from memory, four of the royal prerogatives had been done before I came in, and the residue during my time. I think—yes, letters had gone out because Jonathan Powell had signed one or two at the beginning. Now, that is not unusual, can I say, for Northern Ireland anyway?

I mentioned at the beginning—you may have thought it was irrelevant, Mr Chairman—the intensity and the complexity of negotiations, and I mentioned a dozen parties in Northern Ireland plus the British establishment, plus the Irish Government, plus the US and so on, which meant that some negotiations were conducted bilaterally. Sometimes I felt as though they were unilateral; nobody was listening to me. Multilateral discussions took place. They took place at the level of the Secretary of State and the leaders of the parties there. However, because you are talking about transition, effectively, from conflict to peace, from war to peace, then it is natural that they also communicated with the leader of the United Kingdom, which is the Prime Minister. This scheme originated, in its mechanics, in discussions with the PM, and therefore the first request for this to be done through the judicial process would have been done through Downing Street. When it came back out, it would then have been signed by Jonathan Powell in Downing Street. After a short period of time, that process passed to the Northern Ireland Office.

Lady Hermon: I apologise; I just have to leave.

Q2047 Oliver Colvile: So did you have an official in the Northern Ireland Office who had ownership of this scheme?

Lord Reid of Cardowan: Yes, I would have said it was Bill Jeffrey, probably.

Oliver Colvile: He was your permanent secretary.

Lord Reid of Cardowan: Yes. Well, nothing is normal in Northern Ireland, Oliver. It is the only Department where you have officials who are political advisers. So the Northern Ireland Secretary actually had an official who covered political issues and, under that, there were a number of things. So he would have handled the sensitivity of that side, Bill Jeffrey, and obviously there would have been people in the justice Department and others who from time to time were dealing with a range of issues with the police, the judiciary and so on. Bill was probably, after Jonathan—he was also one of the interlocutors with P. O'Neill.

Q2048 Oliver Colvile: So you were aware then, from pretty much an early stage, that these letters had been going out to people who had been provided by Sinn Féin?

Lord Reid of Cardowan: Yes, I would have been, although I have to say, in the plethora of issues that was raised in the blitz of the first few weeks, this would not have struck me as the biggest issue. Probably even the royal prerogative of mercy would have come higher in that because I would have had to say, "Here are these guys; here is the counsel's advice; this is why the anomalies arise," and so on. But I would have been aware, yes.

Q2049 Oliver Colvile: So, now being aware of it, and you obviously wanted to have a conversation with your political private office, the big issue you also said to yourself, I would

have thought, would be, “Hold on one second. If we are going to be sending these letters out to people who have got form as far as Sinn Féin is concerned—“

Lord Reid of Cardowan: People who have...?

Oliver Colvile: People who are terrorists, frankly. We therefore also need to make sure—because of the comments that you said earlier, I presume that you also said, “What are we going to do about those people on the other side and, frankly, those members of the military who might also find themselves in this situation?” Would that have happened? Would you have raised that?

Lord Reid of Cardowan: Let me tell you what my official would have said. He would have said, “First of all, Minister, these letters will not go out to anybody who is a terrorist, suspected of being a terrorist or against whom there is a threshold of evidence of their being a terrorist; they will only go to people who do not fall into that category. You will have the happy job of sorting out the resolution of the other 50 who do fall into that category, and we will brief you later on the amnesty proposals.” So that is the first thing; there was not a question of, “These letters will be going out to terrorists”. The letters only went at the end of a process that identified who was not wanted with a threshold of evidence.

The second thing is, when it came to the amnesty proposals, or a truth and reconciliation forum, or the mechanics for resolution of combatants, then the question was: would it be one-sided or two-sided? My own personal view was, “We will never sell a one-sided amnesty to the British Parliament and the British public. It is not fair. It is not equitable and it will not get through Parliament.” However, I would be briefed: “Minister, this is what we appear to have promised.” My view then was, “In that case, I will test it to destruction to see if it is possible”.

By the end of that year, we had come to the conclusion that it was not possible and was then told, in the course of the year, that one of the problems with applying it to everybody, including the British forces, is the view that the Chiefs of Staff take that they will not have moral equivalence with the IRA. I therefore asked for meetings with the chiefs and the Secretary of State for Defence and explained in my own language how I thought that would be perceived. Several days later I got a letter from the Defence Secretary saying that the chiefs had considered this and they saw the point. Therefore, if any individual soldier wished to apply under such a scheme, were it introduced, then in fairness they could not stop them, and that would apply to the RUC and the PSNI. However, that was not acceptable to Sinn Féin.

Q2050 Kate Hoey: So why did you not stop the whole thing then? Because it seemed like Sinn Féin just had to say, “We do not like this”, and everybody said, “Okay, because we do not want you to bomb on the mainland, we accept it”.

Lord Reid of Cardowan: We did not stop the whole thing because there were, Kate, a dozen variants on the theme. So I wanted to illustrate good faith; I wanted it to be seen by Sinn Féin that I was doing my utmost to try to find a way of meeting the commitment that we had given to them, and that, if we came to the stage where it just proved utterly impossible, they knew it was not because I was saying, basically, “We are going to renege on this promise”, but that we had done our best and our utmost. I also knew it would

cause problems for Sinn Féin because they had to carry their people with them. This was not just them grandstanding. They had to carry their people with them and a lot of the people who they would have liked to have seen brought back, they certainly would argue, had a great influence on a larger number of people in supporting the peace process.

Q2051 Oliver Colvile: Was there, at any stage, any criteria given to you as to what would qualify for one of these letters?

Lord Reid of Cardowan: That you were not wanted, effectively; that there was not a sufficient level of evidence about you that would warrant arrest, investigation, pursuing of cases, or prosecution.

Q2052 Oliver Colvile: So that being the case, the problem which we now have is that we have some families who we have seen quite a bit of during the course of the last few weeks of doing this Inquiry, where we have got families of the victims saying, “Where are we now supposed to end up by going with this, because we do not think there will be any of justice out of this? We cannot find it.” So how do we try to resolve that matter, because at the moment they feel somewhat stymied about being able to get an answer to the problem of their family having been killed?

Lord Reid of Cardowan: I completely understand that. That is completely understandable, and if I was in their position I would feel the same. I know how grievously they hurt and I know how grievously the families hurt when the prisoners were released as well. I said earlier on that I think in conflict resolution there is a great tension sometimes between justice for the past and peace for the future. This is one of those tensions. However, what I would say to the families is this: these letters did not and were never intended to give people against whom there was any degree of evidence that suggested they ought to be arrested, investigated or prosecuted—there was no intention in this process whatsoever of allowing them to escape justice.

The Downey case has arisen because a mistake was made. This process was one that told people who were not wanted that they were not wanted. It did not tell people who were wanted that they were not wanted. Those people are the 40 or 50 people left who were wanted and they are still wanted. The only way that will ever be tackled is by legislation that goes through the House of Commons. The circumstances, and the popular and public and parliamentary feeling, have never been conducive to that happening. That is as much as I can say in that.

Q2053 Oliver Colvile: The other point that I would also make to you is that we know, do we not, as well that Downey had his letter sent to him. Do you know when the Downey letter¹⁷ was sent?

Lord Reid of Cardowan: No.

Oliver Colvile: You do not.

Lord Reid of Cardowan: I think it was 2007, but I have no idea.

¹⁷ The OTR letter sent to John Downey can be found 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>

Oliver Colvile: It was 2007 so it was after your time.

Lord Reid of Cardowan: Yes, it was five years after my time.

Q2054 Oliver Colvile: The other issue which we have is to what extent did you, or rather more importantly the Northern Ireland Office or the PSNI or whoever, end up by talking to the Metropolitan Police about potential people that they might be interested in talking to who were living—

Lord Reid of Cardowan: No, it would not have been proper for me to get involved in that. As I said earlier, once we had handed over to the Attorney General, the judicial process—the due process—had to take place. It went through him to the Director of Public Prosecutions in Northern Ireland, the PSNI, who consulted with Special Branch. They then reported back to the DPP; he then reported back to the Attorney General; that was due process. It would not have been right for me to have been phoning the Met on any particular case or, indeed, about process. I am sure officials further down in all these departments were constantly in touch over a whole range of issues but certainly we tried, wherever possible, to retain the integrity of the judicial process without political intervention.

Q2055 Oliver Colvile: I am sure you have read some of the transcripts of what we have been doing previously, and one of the comments that I have made is that I have perceived that there is a threat that some of this stuff could be perceived as perversion of the course of justice. Certainly when we met with the Attorney General in Northern Ireland, he said, “Yes, that could be the case”. So if there has been a way in which the Government unfortunately has gone and stopped potential terrorists from being brought to book, you think that that is a mistake in the system rather than somebody setting out to actually do that.

Lord Reid of Cardowan: Absolutely. All I can say to you is—and, again, these documents that you have supplied are quite interesting on this, because there is quite a little bit of the Attorney General alerting us to this possibility. One of the reasons that we had to be very careful about what we said in public on any of this, including the OTRs, was lest we be perceived as intervening with the due process of justice, because there was a particular case in a court in Dublin. I cannot remember the details but a judge had stayed the process for some reason, on the basis that a public statement had been issued at Weston Park in the name of the two Governments. We had to make absolutely plain that that did not intervene with the legal process, which should continue. We were aware of that. The Attorney General was very, very aware of this and telling us about it, so we had to be very careful about what we said.

Q2056 Oliver Colvile: You will be glad to know that we have him coming to see us next week.

Lord Reid of Cardowan: It was one of his predecessors. It was Gareth Williams and then Peter Goldsmith—and they constantly said to us, “We have looked at this. We do not mind you asking us but this cannot be done. This needs a legislative amnesty.”

Q2057 Oliver Colvile: The final question I will ask you: did you feel that quite regularly Sinn Féin frankly bypassed you and went straight to Number 10 and to speak to Tony Blair?

Lord Reid of Cardowan: No, I do not take these things personally. Mr Adams was head of the political wing of the Irish Republican Army—Provisional IRA. He denies he was ever in the IRA, fine, but he was the president of the Provisional Sinn Féin. Provisional IRA were coming to the negotiating table to end the conflict that had lasted 30 years in its latest phase and, depending where you date the beginning, up to 800 years prior to that. It is perfectly understandable that Mr Adams would wish to deal with the Prime Minister of the United Kingdom, as well as the Secretary of State.

I have to say, in our private deliberations with Martin McGuinness and Gerry Adams, they were tough negotiators, but I believe that, as much as any politician was, they were upfront. So was Dr Paisley, so was David Trimble, so was David Ervine, and so was Mark Durkan, who you have interviewed; they were people who would tell you where they stood on issues.

Of course, fine-tuning the implementation of an agreement is much more difficult than agreeing the headlines. The devil is in the detail so when you get into that and getting into finding a way in detail and in practical terms of resolving this issue, that we were committed to resolving—and I wish we could resolve it. I think we should continue to try to resolve it, which is one of the reasons Sinn Féin should be here, because there may be a way of resolving it; maybe we are ready for a truth and reconciliation forum. What we have to try and do is make sure that the resolution for the problem of prior combatants of the two sides that were fighting each other is weighed equally with justice to the victims, so that they get the chance of a degree of truth and a degree of knowledge of the circumstances of what happened and when it happened. I am very sad that we have not managed to do this. It may well be that it will take generations. It may well be that only time will resolve it, but this scheme was never meant to resolve it.

Oliver Colvile: Thank you very much, sir, indeed for answering all of my questions.

Chair: We have gone on about three hours. It has been a very long session. It has gone way beyond the time we thought we would allocate but, Lord Reid, thank you very much. It has been a very valuable session. Thank you.

Lord Reid of Cardowan: Thank you Chairman.