



Northern Ireland Affairs Committee

Oral evidence: [Administrative scheme for “on-the-runs”](#), HC 177

Tuesday 15 July 2014

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Members present: Mr Laurence Robertson (Chair); Mr Joe Benton; Lady Sylvia Hermon; Kate Hoey; Naomi Long; Jack Lopresti; Dr Alasdair McDonnell; Nigel Mills; Ian Paisley; David Simpson.

Questions 2320-2371

Witness: **Rt Hon. Paul Murphy MP**, former Secretary of State for Northern Ireland (October 2002 to May 2005), former Minister of State for Northern Ireland (May 1997 to January 1999), gave evidence.

Q2320 Chair: We will begin the public session. Mr Murphy, thank you very much for joining us. I think you know we are conducting an inquiry into the administrative scheme for on-the-runs. We are very grateful to you for coming to see us, especially at such short notice. I have mentioned my co-chairmanship of the British-Irish Parliamentary Assembly and your vice-chairmanship of that body. Is there an opening statement you would like to make with regards to the scheme?

Paul Murphy: Not so much a statement, but perhaps some caveats with regard to any evidence I might give, and there are two. The first I think you would have probably heard from Parliamentary colleagues of mine who have been before you. It is that of course we are dealing with a time that was very unusual. Things that might have been done then would not necessarily have been done now, in times which are normal.

The second one is more personal, in that I am reaching my 66th year, and the times that we are dealing with are a dozen years ago, sometimes. I calculated very roughly, recently, in the three years that I was Secretary of State, how many documents I might have had to read. It works out at 78,000 over three years, so bear with me if sometimes my memory is not as acute as a 25-year-old. Otherwise, I do not think I have any more general things to say. I look forward to answering your questions, which I think are on an issue that is of very great significance.

Q2321 Chair: Thank you very much for that. Perhaps we could start with the broad question: when did you first become aware of the scheme? Were you briefed when you took office as Secretary of State about the scheme?

Paul Murphy: We have to distinguish between the scheme, which was an administrative one, and the issue of on-the-runs generally as a policy. Perhaps I might, in attempting to answer your questions, possibly tell the Committee of my experience of the issue of on-the-runs, which goes back to the time when I was not Secretary of State, but when I was the Political Development Minister in Northern Ireland, between 1997 and 1999. Certainly the issue came up from time to time during the course of the talks, but of course the emphasis in the lead-up to the Good Friday Agreement was more with regard to release of prisoners, who were in prison in Northern Ireland. That was the most controversial, but also the most significant issue in terms of what one did with former IRA and loyalist paramilitary people. The issue of on-the-runs elliptically came up, but not to any great extent.

However, when I became Secretary of State some years later, the issue was one that had become more significant, in the sense that it was discussed at Hillsborough during the talks that led to the joint declaration of the two Governments¹. I am sure the Committee is aware that, at the end of those talks and with the publication of the documents associated with the joint declaration, there had to be produced a separate paper altogether on on-the-runs, because there was no agreement on it². Because there was no agreement, it could form no part of the declaration. I was aware of it in that context and it was pretty clear to me that any agreement on on-the-runs had to be precisely that—an agreement—in the same way that there was an agreement on the release of prisoners back at the time of the Good Friday Agreement. Secondly, there had to be general agreement within the talks that some sort of policy had developed, which there was not. It did not happen.

During my time after that, I cannot actually recall—but it does not mean to say I did not know—anything about the administrative scheme to which you were referring. I have had a look at the documents that have very kindly been sent to me and they may well have crossed my desk, but I do not see my name on any of them, in terms of being copied to me. As I say, I am not saying I did not know about it, but I cannot recall certainly it being an issue, in the way it developed into as the years went by. My knowledge of it was pretty slim, if at all. I will not deny that I saw it, but I cannot say that I can remember it. I do remember the issue of on-the-runs, but I want to distinguish between the two things completely.

Indeed, in general terms, I was during this period quite sceptical about the policy of dealing with on-the-runs as an issue, to such an extent that, after I had left office in 2005, when the legislation came into the House of Commons, I spoke at the second reading and expressed my misgivings then. I was free so to do, because by then I was on the back benches.

¹ The Joint Declaration by the British and Irish Governments (April 2003) can be found here: <http://cain.ulst.ac.uk/events/peace/docs/bijoint010503.pdf>

² The Proposals in relation to On-the-Runs (OTRs) (April 2003) can be found here: <http://cain.ulst.ac.uk/events/peace/docs/biotrs010503.pdf>

Q2322 Chair: Thank you. You took office first, as you say, in May 1997 and then left in January 1999. It is our understanding that the scheme began some time in 1999, so it may be that it came after you left the Northern Ireland Office. However, you went back, as you say, as Secretary of State from October 2002 to May 2005, when it was running. Are you telling the Committee you were not aware of a scheme?

Paul Murphy: No, I am not saying that; I am saying I cannot remember that I was aware of the scheme. I was aware of the issue of on-the-runs, but I cannot frankly remember the scheme. That does not mean to say I was not aware of it.

I did have a look at the memorandum that the Committee has had a look at, and which appeared in the newspapers on the weekend, by William Fittall, who was at that stage the political director or held such similar office in the Northern Ireland Office. He produced a paper that the Committee has looked at called “OTRs – a Brief History of Crime”³, which was written in September 2002, over a month before I arrived as Secretary of State. It is possible that I would have seen either this or some sort of précis of it in the documents that are always given to Ministers when they take office. It is called a first-day brief, and you are given a pile of documents saying that “This is what you want to know about Northern Ireland.” To be perfectly frank, other than some updating, I did not really need it all that much because I had been there before. The basic information about Northern Ireland obviously was not required, because I had been there for two years as Minister of State. However, obviously there were developments between the time I left and the time I arrived as Secretary of State, and I would have read some of it.

Having a read of William Fittall’s memorandum, again, a lot of it is to do with what you might call the general issue of on-the-runs, as opposed to an administrative scheme that sent letters to people that they were no longer wanted for crimes, which of course is what you are looking into.

Q2323 Kate Hoey: Welcome. You are basically saying really that, during your time as Secretary of State, you did not play a role or a role that you remember very much at all in the OTR scheme. Would that be fair?

Paul Murphy: Yes, it is. I have checked with former senior officials who worked with me at the time and others, former special advisers, and they cannot really recall that this was an issue for us to deal with then. It then became one, of course. I suppose it would not have become such a huge issue had the monumental mistake that led to this inquiry being called in the first place not come to light. It struck me that, when I was reading through the papers that I was sent, nearly all of them are about Sinn Féin lists with redactions, with technical details on them about people. I am pretty certain that that sort of thing would not have come across my desk.

There is a letter, which I can barely read, to Jonathan Powell in November 2002, which is just after I started. Again that deals really with what became the basis eventually of the collapsed legislation on on-the-runs, whether they should go before tribunals and courts,

³ ‘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>

what happens to the victims if the person does not turn up in person, which I thought was a grave error, and things like that, but not actually on the details of these letters that would be sent out to people, telling them that they were free to come back on British soil.

Q2324 Kate Hoey: So you were not actually formally briefed. I appreciate that you had been the Minister and, therefore, you probably would not get the same kind of briefing as a new Secretary of State, but you actually were not briefed on OTRs as a separate briefing, when you became Secretary of State.

Paul Murphy: I am sure the issue, the general issue of OTRs, would have been an issue. I do not think even that was a huge issue during my time. It became one eventually. We had, if you remember, at the beginning, the Hillsborough talks that led to the joint declaration, where it was a big issue, but which got nowhere. It probably raised its head at Leeds Castle, at future talks between the Irish Government, ourselves and the political parties then, but in between no.

Q2325 Kate Hoey: Would it be true to say that, at that time, because the letters we have—you have seen them—around about when you were Secretary of State, a lot of them were involving Jonathan Powell and the Prime Minister. Presumably, anything that was signed by the Secretary of State you would have seen, even if it was signed by someone in your office.

Paul Murphy: Yes.

Q2326 Kate Hoey: The letter of 15 November 2002⁴ talks about OTRs quite widely, but there was not anything significant enough in it, you felt at the time. Did you feel this was all just normal?

Paul Murphy: Insofar as anything was normal in Northern Ireland at the time. In terms of the discussions that were going on, either between Number 10 and Sinn Féin, or between my office and them, they would have been important talks, but they would not necessarily have been talks that led to any conclusions. Indeed, they did not in my time. It was later that the legislation was framed to go through. There were lots of examples of issues that different political parties in Northern Ireland regarded as being very important and which would be looked at seriously by the British Government and indeed by the Irish Government. It did not necessarily mean that they would come to fruition. This one did but then, as you know, fell by the way, because of opposition in the Palace of Westminster, including my own.

Q2327 Kate Hoey: Did the name Downey ever cross your—?

⁴ The letter from the NIO to Jonathan Powell regarding 'OTRs: Letter from David Trimble', dated 15 November 2002, can be found here: <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Letter-from-the-NIO-to-Jonathan-Powell-re-OTRs-letter-from-David-Trimble-15-November-2002.pdf>

Paul Murphy: Not to my knowledge.

Kate Hoey: Even though it appeared in letters or anything, it did not appear, as far as you can remember it?

Paul Murphy: I cannot recall it.

Kate Hoey: You never saw the name Downey.

Paul Murphy: I cannot say I never saw it. All I would say is that I cannot remember it. To put it another way, as I said in my caveats at the beginning of the session, you would have, in a night, as any Minister will have but certainly in Northern Ireland, your red boxes to go through, but you would also have to deal with quite a lot of intelligence information. Names would come up plenty through all those. I simply cannot remember it. It does not come out of me like some names would do, which I still remember, of notorious people who were incarcerated and let out and then put back again. You know who I mean. Those I do remember but, on this occasion, I do not.

Lady Hermon: It's very good of you, Mr Murphy—

Paul Murphy: That's quite alright, Lady Hermon.

Lady Hermon: Do you mind if I call you Paul?

Paul Murphy: Not in the slightest.

Q2328 Lady Hermon: It is very good of you to come at such short notice. It is very good of you indeed. I have taken here how you described the OTR issue and you spoke against the legislation when it was introduced. You said that in fact you were sceptical. It does seem to me very strange indeed, but I believe precisely what you have told us this afternoon, that you do not recall seeing any papers that specifically talked about the OTR scheme. The scheme was definitely running between 2002 and 2005, when you were Secretary of State for Northern Ireland. Would it have been known that you were sceptical about dealing with the OTRs? It is interesting that your name comes up in so few documents, of all of the hundreds and hundreds of documents, in connection with the Downey case. Do you think that you were wilfully kept in the dark about the scheme, because that is how it appears to me?

Paul Murphy: No, I do not think so. At least I would hope not.

Q2329 Lady Hermon: It is striking though. Do you not agree?

Paul Murphy: My view about it all was that, when the legislation eventually took shape and came before us in 2005—and I think the second reading took place on 23 November of that year—I decided, and this was quite unusual, I suppose—I had only left office a number of months before—to intervene, particularly on this occasion. I thought that the legislation was deeply flawed, not necessarily the principle, and I will come to that in a second, but the way in which people who were going to be, in inverted commas, “tried” under this system and how it was going to actually operate.

One that particularly troubled me was that the person would not necessarily have to turn up to this tribunal in person, and yet the witnesses and the victims would. There were things like that that deeply troubled me. The big misgiving I had was about the fact that the release of prisoners in the Good Friday Agreement came about because everybody in that room eventually agreed with it, with great reluctance on many people's part. Nevertheless, it had been agreed and then, of course, it was voted on in the referendum for the Good Friday Agreement. As disagreeable as it was to many people, and indeed it was disagreeable particularly to victims, and I can understand why, nevertheless it was the result of agreement.

What I was concerned about on this one, on the OTRs, was that there clearly was not cross-party agreement on it, far from it. The opposite was the case. It was seen simply as a negotiation between Sinn Féin and the Governments—British and Irish Governments, particularly the British Government on this. That was bound in the end to fail, which of course it did. The official line at the time, back in 2005, was that the legislation collapsed because Sinn Féin would not agree to its being extended to members of the armed forces. Now, that may or may not have been the case but, in my view, it collapsed because it would not have got through the House of Commons, or possibly the House of Commons, but certainly not through the House of Lords, without an immense battle, and it was not worth it.

To that extent that proved my point that, without the agreement of the political parties—and the last formal occasion when I was involved in it when it was not agreed was in the talks leading to the joint declaration in 2003—it could not really go ahead. The fact that it was tried without agreement and collapsed proved my point.

I will say, however, as I said at the beginning of the session, that all these things were unusual. Many of them were very disagreeable to people, and more than that, horrible, in terms of some people having to deal with it. At the same time, we were living in very difficult times and the big picture was we had to achieve peace, prosperity and reconciliation. Now, how you do that, it struck me, was that you get general agreement on doing that, however unpleasant these things might be.

Q2330 Lady Hermon: Can I just ask you, just picking up on the points that you have made, which are very significant: it seems in your evidence you had formed early on the opinion that the parties had to agree on the difficult issues that had been omitted? For example, OTRs had been omitted from the agreement as the early release of prisoners had gone into the agreement, and people had voted on it. Had you formed that view between 1997 and 1999 when you were the Political Development Minister? Were your views on OTRs well known at that stage?

Paul Murphy: I do not think the OTRs really became an issue until later on in the talks, because the big issue affecting IRA and loyalist paramilitary prisoners was their release in Northern Ireland. That was the big issue. The on-the-run side came a bit later, when people realised, particularly on Sinn Féin's part, that there were people who were outside the prisoner release scheme to whom this may or may not have been applicable. It was not a huge issue in the talks that led to the Good Friday Agreement. The big issue was prisoner release, which they called political prisoners.

Q2331 Lady Hermon: There is a very interesting letter—at least we have found it very interesting—from the then Taoiseach Bertie Ahern, in December of 1999, to the British Prime Minister, then Tony Blair of course. It was suggesting that since some republicans who were in the Republic of Ireland, who were fleeing from possible extradition to Northern Ireland, and others wanted for serious criminal offences, could abdicate and be pro-agreement, perhaps those potential extradition requests and that potential prosecution of named, though redacted, individuals should be considered by the British Government. Were you aware that that initiative had actually come from Dublin, rather than 10 Downing Street? That letter is on file. We have read it into the Committee’s evidence.

Paul Murphy: By that time, I was in the safe haven of Cardiff and had left Northern Ireland. I had left my job in Northern Ireland in July 1999, so I would not have been aware of the letter from the Taoiseach in December 1999.

Q2332 Lady Hermon: There was not such a big emphasis on it but, when you came back in 2002 as Secretary of State, we are interested in the fact that your name appears in so few letters. You were Secretary of State, but you seem to have been kept—and I put this to you again—in the dark by the Northern Ireland Office officials about a scheme that was up and running. Certainly the letters, the first ones, had been signed off in 2000 by Jonathan Powell in 10 Downing Street, and they continued throughout your three years as Secretary of State. To the best of your recall, and even you mentioned that you had spoken to your special advisers and they did not recall as well—I have to emphasise, I believe you entirely—I would like to understand why it would be that the Northern Ireland Office officials would not have briefed their Secretary of State, the Secretary of State for Northern Ireland, fully on this issue.

Paul Murphy: As I say, I am not saying that they did not. It was clear to me, because I am sure I would have remembered it—

Lady Hermon: Yes, I am sure you would as well.

Paul Murphy: —That had it been a big issue, something which they regarded as very important, they would have done. I suppose, in a way, when you look at the issue of on-the-runs, the big issue surrounding it was what became the basis of the failed legislation. This particular aspect of it, where basically you were sending letters to people saying, “We don’t want you anymore so you can come back to the United Kingdom,” was essentially what it is: an administrative scheme and not one dealt that would have necessarily been dealt with by Secretaries of State.

I gathered by the letters, as eventually one does of course, that they would have been in my name. Certainly later on, in the later letters I have seen, they were, “The Secretary of State for Northern Ireland says X, Y and X,” but in the same way that, if someone gets a change to the benefit rules in our constituency, it says, “The Secretary of State for Work and Pensions.” It is not that they have never seen anything like that, obviously. It is a bit different.

Lady Hermon: Paul, you are not equating someone claiming benefits with someone who was on the run for very, very serious offences.

Paul Murphy: No, I am not saying that.

Q2333 Lady Hermon: No, I knew that you were not. We have taken evidence from a former Secretary of State who claimed that the IRA never sought an amnesty for on-the-runs. Could you shed any light on that? Why would it be that the IRA never sought an amnesty for those on-the-runs?

Paul Murphy: They may not have called it an amnesty but, to all intents and purposes, it strikes me, the scheme that eventually became the basis of the legislation was, to all intents and purpose—not the administrative scheme, but the legislation that failed—more or less amounted to the same thing, in the sense that someone would go through a mock trial almost and then that person would be automatically let off, under the terms of the failed legislation, as it became. Although it was not called that—

That was very different from this scheme. I do not regard for one second a letter going to someone who is no longer wanted as being amnesty. Now, the fact that Downey was a terrible mistake and that he was eventually going to trial, and then the trial was stopped because of the letter that appeared before the courts, is a separate thing but, generally speaking, they were simply matters of fact that were being sent to these people that Sinn Féin had provided the PSNI and the officials with. I do not regard that as being an amnesty. However, the basis of the legislation, which came in, in 2005, could have been regarded as an amnesty of some sort, in the sense that they were let off after what I thought was a fairly meaningless trial process.

Q2334 Lady Hermon: In the many, many talks that you have had at what were very stressful and difficult times in Northern Ireland—you are quite right about that—in the early 2000s, did Gerry Adams or Martin McGuinness, or Gerry Kelly for that matter, ever mention an amnesty for on-the-runs?

Paul Murphy: I cannot recall it. I am not saying they did not, but would they have said it like that? I do not know. I suppose if you have a scheme that is similar to the prisoner release scheme resulting from the Good Friday Agreement, to all intents and purposes, that is more or less the same thing. They have been let off. An amnesty presumably applies to people where there is a charge against them. The people who were getting these letters under the administrative scheme were not going to be charged because they no longer had any interest in them. Therefore, that could not be seen as an amnesty, in that sense. It could only be, I would assume, in those cases of people where it was pretty clear, including Downey of course, that they were still wanted. If they were still wanted, but then they were let off, then that would have been an amnesty. That is a bit different from saying, “Look, you are no longer wanted, so you can come over here and leave wherever you are.” That is rather different.

Q2335 Chair: Can I pick you up on that point though, Mr Murphy? We have received evidence from the chief prosecuting officer in Northern Ireland now, Barra McGrory, who was the Sinn Féin solicitor at the time. He said to us, in ordinary circumstances, the police

would have liked to have spoken to these people. We then go on what Assistant Chief Constable Drew Harris said to us. He said that 95 of the people who received letters are in some way linked, through intelligence, to 200 murder investigations. He has since corrected that and said it is 295 murder investigations. That is only intelligence at this point. That is rather worrying, is it not?

Paul Murphy: It is. As you know, Mr Chairman, the fact that intelligence gathering, particularly by way of intercept, is used against a person, so long as this country will not allow the use of intercept as evidence in court, then it is not evidence. My own personal view, which I expressed when I was Chair of the Intelligence and Security Committee, is that it should be allowed, because the times when I have read names, right across the spectrum in Northern Ireland, of people who had done terrible things but could not be prosecuted because there was no evidence allowable was very often very distressing. I would often ask the question: why on earth can we not prosecute this person? We could not because the evidence gathered in the way it was could not be used in courts. That is why I think it is wrong not to be able to use intercept, which most countries can.

Chair: The police are re-looking at these cases now.

Paul Murphy: Good.

Q2336 David Simpson: You are very welcome, Paul. It is good to see you again. During your time as Secretary of State and subsequently leaving the position, had you any indication—this is really a point of clarification—who actually was in charge of the scheme within the NIO? What individual was in charge of it?

Paul Murphy: I cannot recall. There were divisions within the Northern Ireland Office. Some dealt with security; some dealt with politics; some dealt with other things; and some dealt with the legal side. One assumes it was either the legal or security officials who dealt with it, but I cannot off the top of my head remember.

Q2337 David Simpson: Can you remember any names of who those individuals would have been?

Paul Murphy: I cannot, off the top of my head. As you get older, as I said, it is not easy. In fact, I did talk to a former official, who was not responsible for this, the other day. They did mention a name, but the name did not really ring a bell. If I can remember it, I will come back and tell you on that one. I will have another chat and see. It is something again that does not come out of the page and hit you that a person with whom I was dealing on a constant basis was dealing with these things. My guess is that it was not a very high senior official who was dealing with it.

Q2338 David Simpson: On a point that Lady Hermon made in relation to your name not being on a lot of documents and her opinion that she felt you were deliberately moved to one side on this, because of your sceptical views on it, we have received evidence, as you know, from different officers, past and present, from the PSNI. All of them, maybe bar one—

Ronnie Flanagan—but certainly the vast majority of them said that they knew nothing about the OTR letters; they knew nothing about this. Do you think that could be a similar case, that there are those within the NIO who felt that it was better for the PSNI and RUC officers not to know about this process?

Paul Murphy: I would hope not, but it is a funny old world.

David Simpson: It could be possible.

Paul Murphy: It is a funny old world and all sorts of things can happen. What is certain is that, if you look back through the history of the process, certainly from 1997 onwards, there were lots of different things happening separately all over the place, in terms of how you were going to get to a final peace deal. The Irish Government had separate conduits to the Taoiseach. Number 10 was dealing with certain things, and you only have to read the biographies, memoirs and histories of the time to realise that there was sometimes tension between the Prime Minister's office on the one hand, the NIO on the other and the Department of Foreign Affairs.

Probably the reason is—not probably, certainly the reason is that very often people in the talks, and those of you who are from Northern Ireland parties would understand this, would very often prefer inevitably to deal with the person at the top than people down below. Very often, you would get Prime Ministers and Taoiseachs flying to Northern Ireland frankly to do things that should have normally been done by myself or my equivalents in Northern Ireland but very often did not work like that. They would want the head of the world, so to speak, to deal sometimes with issues that they were not issues that could not have been dealt with by myself and others. There were all these different separate routes to the process, which sometimes meant that it was quite difficult to keep up with it.

Q2339 David Simpson: You mentioned earlier on when you were giving your evidence that peace had to be achieved in some shape or form. The Chairman mentioned the figures of 295 possible murders that these people were involved in, through the intelligence at this stage. Is it just the case that we had to achieve an end and it was politically expedient to do this to just get it done, in whatever shape or form we had to get it done?

Paul Murphy: First of all, you could not allow unsolved cases not to be examined although, as time went by, that became increasingly more difficult, because people die and memories fade. I set up, for example, the historical evidence team.

Q2340 David Simpson: Paul, sorry for cutting across. You are saying you could not allow, or the Government could not allow, cases not to be investigated or whatever, but the Chairman has stated that the evidence given from Drew Harris says that these people who received letters, based on the intelligence, could have been involved in 295 more murders. Surely that this was worth investigating.

Paul Murphy: Yes, except the difference is of course they were not there. The people we are talking about are, by definition, the people who had fled. The intervention that I made around about this time was the setting up of the HET with the PSNI, which I thought was

important, even though steps have happened since then. There have been developments. I do not want to comment on all that, but at the time it seemed a good idea to be able to look at things like that.

The other point, David, you make is about political expediency, if you like. It depends how you define it, really. Yes, it is very, very unpleasant and disagreeable. Decisions had to be made that could be very hurtful and offensive to people who had been the victims of crime in Northern Ireland, but I come back to my early point, which was that I would accept that had to be done, so long as it was done in such a way that everybody agreed it should be done. When you were doing what some people described as “side deals”—side deals, to be perfectly honest, happened all the time with all the parties, of one sort or another, but they vary in their importance—that never really works very easily and can have long-term consequences, such as the fact that the Select Committee on Northern Ireland is dealing with this today. That is one example of it. It is much better if you can obviously get agreement, particularly on the things that are the most difficult to agree upon.

Q2341 David Simpson: My last point, Chairman, very briefly: as you will know, a number of royal pardons or prerogatives have been given in relation to this. What is your view on that?

Paul Murphy: It is similar to the one I have just expressed. If you come to a solution it is very unusual, of course, because I understand that the use of such royal prerogatives of mercy had been unused for many, many years. Again, if there was general agreement amongst the political parties of Northern Ireland, then I would have no great issue with that. If, on the other hand, it is dealt with secretly or separately, then there is going to be trouble as a consequence of it. Whilst it might be necessary to do it, as I say, it should be done in the context of general agreement.

Now, everything is not perhaps as neat as that. When talks are going on, crises are happening, assemblies and executives are collapsing, and people are still being killed. The pressures of having to do things, unpleasant things sometimes, are very great in order to try to get out of that situation to move things along. It is unusual what has happened. A lot of the things that we agreed in the Good Friday Agreement but also afterwards, under normal circumstances, we would not contemplate doing, but, at the same time, these were unique circumstances that required unique solutions. That does not mean to say that cock-ups, if you like, like this one, the monumental ones that have led to your inquiry and the judicial one, in any way are excusable, because they are not. At the same time, and we know the Committee is aware, they were and to a certain extent still are unusual circumstances, which require unusual solutions.

Q2342 Ian Paisley: Good to see you, Paul. Could I go to your immediate last answer there? You used the term a “monumental cock-up like this one”. Last week we took evidence from Lord Goldsmith, whom you will know very well. He was asked, “Was this a cock-up or a conspiracy?” He tended more on the side that this was more of a conspiracy than a cock-up.

Paul Murphy: He is entitled to his view. I saw some of the evidence. I do not know is the answer to that, but it strikes me that a terrible mistake was made, in that the background to Mr Downey was not investigated properly. They should have realised that he was still wanted by the Metropolitan Police and should never have been sent a letter in the first place, because the whole purpose of these letters was to ensure that people were no longer wanted, but that was as the result, like all of these papers that I have been looking at, of what one would have hoped would have been intensive investigation into their backgrounds and also intensive research by the various police forces. If they have not done their jobs properly, then they have a lot to answer for.

Q2343 Ian Paisley: Looking at it with your experience—and you are on the Intelligence Committee as well, so you get to see an awful lot more than 99.9% of the public would ever get to see—do you believe that there was a conspiracy of silence, in terms of not discussing this OTR process?

Paul Murphy: Again, it is looking at two aspects of it. There certainly was not a conspiracy of silence on the issue of on-the-runs, because it was so controversial. Perhaps some of the details that eventually emerged in the legislation were not known, but the general view that Sinn Féin was pressing for on-the-runs to return and that some sort of scheme had to be devised by which they could, which eventually meant we had the legislation that failed, was certainly in the public domain. How much of these letters—the administrative scheme, which dealt with people who no longer were wanted—is quite another matter. The fact that I cannot remember it very much at all indicates that it certainly was pretty unknown. I understand that John Reid, at some point when he was Secretary of State, did produce a Parliamentary answer to a question that indicated that such a scheme existed.

Q2344 Ian Paisley: Again, you have put your finger on the nub, by saying that the letters themselves—the fact that there was a process that ultimately resulted in a letter coming out—were all very hush-hush. If you did not know about it, if you were kept in the dark about it, it would tend to suggest that this was more than just cock-up, would it not?

Paul Murphy: Yes, but the problem with what happened with Downey, and one hopes no more, but of course we do not know that until it is properly reviewed, is that if it is a letter to a person who was completely cleared by all the police forces concerned, then that is a purely administrative issue. “You can come back; we don’t want you anymore.” On the other hand, if the letter is a mistake and they got it wrong big time, then we have all the enormous consequences of that mistake, where trials are not held, victims are obviously in a terrible state over it and the general public is very, very concerned about it. That is really because in his case, presumably, he is still wanted. It has finished because of what has happened, but there may be others and I assume that is what they are looking at in great depth now.

Q2345 Ian Paisley: It does appear that the information that the police fed into this process was then altered when it came out the other end by someone in the civil service, and that is what caused the problem.

Paul Murphy: That I do not know and, if it was, it certainly should not have been, because it was quite wrong if that happened.

Q2346 Ian Paisley: When you were answering David as well, you made, in my view, the nuance of it was a very gentle criticism of the leadership style of Tony Blair. You said Taoiseachs and Prime Ministers would fly in and demand certain things were done. Does this go back to the fact that there was a demand for a solution on a certain day and, ultimately, we are left to pick up the pieces?

Paul Murphy: It goes back to the fact that the leaders of political parties in Northern Ireland preferred to deal with the people at the top and I was not at the top, because at the top were the Prime Minister and the Taoiseach, and of course the Presidents of America and all the rest of it. In fact, because over the years the political leaders in Northern Ireland have been so used to dealing with heads of Government, and heads of state in some cases, they would often demand that a difficult solution would be resolved by them. Certainly in all the talks we had, not just the ones that led to the Good Friday Agreement, but Hillsborough, Leeds Castle and all the rest of them, clearly the Prime Ministers took the major lead.

Now, that obviously could cause tensions between the relevant Government Departments and the centre, but I also have to put the other point to the Committee that, without the involvement of heads of Government, we probably could not have achieved a lot, because they were heads of Government, because they had such enormous influence and because they were committed also to the success of the process.

If Tony Blair and the Taoiseach Bertie Ahern, others such as American Presidents and before that John Major, had not put their personal authority behind the process, then I am convinced the process would have collapsed. It had to be for that to occur but, in so doing inevitably, it could lead to tensions between those of us who were on the ground every day having to deal with it and Prime Ministers and Taoiseachs who had countries to run at the same time, so it was not always a cosy relationship. At the same time, it was a necessary thing to do and I know I would not have been able to, or my successors or predecessors would not have been able to, achieve what we did unless the heads of Government had been involved in the way they were, but that did produce tensions of its own.

Q2347 Ian Paisley: You mentioned Leeds Castle, and you were involved in the talks at Leeds Castle. The issue of OTRs, was that discussed at Leeds Castle?

Paul Murphy: It may have been, but I cannot recall. That comes back to my earlier point some moments ago that, very often, because the talks were structured in such a way, that people would go and see the Prime Minister and the Taoiseach; others would come and see me and the Irish Foreign Minister. Things were said there; things were said there; and

it was only afterwards perhaps you put these together, because they insisted very often on dealing with the people at the top. Eventually one got to know about it.

I would not be surprised if it was referred to, because Sinn Féin was pushing the issue all the time, and not about this administrative scheme, by the way. I do not think for one second that this would have been discussed at Leeds Castle, but they would have discussed, I am sure, again the issue of on-the-runs. Later on, after Leeds Castle was eventually gotten over, if you remember, it was dealt with by legislation in the middle of 2005; that would have been resulting from some of the discussion they had there, but that is on the general issue of OTRs as opposed to the administrative scheme.

Q2348 Ian Paisley: I appreciate the distinction you are making. I think it is very important that that distinction is made. You do accept that there was no reference to OTRs in the communiqué that was issued post-Leeds Castle and there were no annex documents at Leeds Castle that referred to this, unlike previous discussions.

Paul Murphy: I have not seen the papers but, if you say so, I absolutely believe you. Having said that, communiqués were pretty useless accounts of the events that took place, a lot of which were not actually written down at all.

Ian Paisley: They did mark certain lines.

Paul Murphy: Yes, they put a few things in, but they meant nothing, to be honest.

Lady Hermon: It is lovely to be free of the responsibility of Secretary of State.

Paul Murphy: I could not say that when I was in office.

Lady Hermon: No, you did not say that when you were in office.

Q2349 Naomi Long: It is very good of you to be with us. Could I just ask you a question that really relates to your arrival in the Northern Ireland Office as Secretary of State? That was in October 2002. What was Des Browne's role in the Northern Ireland Office at that point? Did he arrive at the same time or was he there before? I cannot recall.

Paul Murphy: Des Browne was already a Minister in Northern Ireland when I arrived but, having arrived, I decided that, because I thought he was a man of considerable talent, he should involve himself more with political development issues and so he became effectively the Political Development Minister after my arrival.

Q2350 Naomi Long: I have been told that in November 2002 Des Browne briefed the Northern Ireland Human Rights Commission about the potential of a scheme to deal with the on-the-runs issue, which would tie in with the workings of the scheme where the lists were provided. The first one was in November 2002. The date of the briefing, I believe, was 13 November 2002, and Des Browne and two officials apparently briefed members of the Northern Ireland Human Rights Commission about the potential of dealing with the on-the-runs issue by way of freedom of information requests. Is that something that you were

aware of, that that discussion was ongoing, as it would have been, I assume, ongoing as you arrived?

Paul Murphy: My guess is that he probably—well, not probably but certainly—would have known about some of the detail of the issue generally. I am not sure how much he knew about the administrative scheme, but of the issue of on-the-runs before I arrived on the scene in 2002. I guess it was a continuum there.

Q2351 Naomi Long: The specific point here that I am making is that he was briefing the Northern Ireland Human Rights Commission on the potential of dealing with on-the-runs through a scheme that would be based around freedom of information requests which, by their very nature, would require written responses, so written requests and written responses. Was that a live discussion during your time? Do you believe that was a discussion that pre-dated your arrival? This would have been quite early in your tenure as Secretary of State, but it was around the time that the first lists were being produced of names.

Paul Murphy: It certainly would not have been top of my list when I arrived because, when I arrived, both the Assembly and the Executive had collapsed and I had to try to resurrect those institutions. We went straight into the Hillsborough talks, which led to the joint declaration, which of course did discuss on-the-runs. My guess is that what eventually did not get agreed in those talks that led to the joint declaration were the sorts of things Des would have briefed the Human Rights Commission about. They were not secret in any way.

Naomi Long: No, as far as I am aware, they were minuted discussions.

Paul Murphy: You were not talking about anything unusual. You were talking about what judicial process would have to be or semi-judicial process would have to be arrived at in order to deal with it, all of which ultimately was rejected and collapsed.

Q2352 Nigel Mills: Mr Murphy, we get two explanations for this scheme in the short term. One is it was a perfectly normal use of the criminal justice system to tell people whether they were wanted or not, and the other defence is it had to be done for the sake of the peace process. It is quite hard to put those two together, because they sort of contradict each other. You seem to be saying that this was an unusual solution for unusual times. Are you erring more towards “it was necessary” rather than “it was normal”?

Paul Murphy: Whatever it was it was not normal. First of all, the issue of people on the run is not normal anyway. People flee in our country because they think they are wanted or they are wanted for crimes associated with terrorism, which is not normal. That is an abnormality in itself. Certainly the solution to the on-the-runs issue, whatever scheme would eventually come up with that and the one that became legislation was very much out of the norm, so extraordinarily out of the norm that it collapsed and did not get support, including from people like myself, because of the way in which it was constructed, so it was very much abnormal.

Now, what perhaps they are referring to is that the issue of a letter, the names for which were provided by Sinn Féin, was normal in the sense that this was an administrative letter

telling you that you could come back because you were not wanted anymore. It is normal, yes, in that it is administratively normal, but it is not normal in the sense that you send letters out to people generally who are criminals saying, “You are okay now; you can come back.” It was different because there were lots of them and because it formed part of the process, obviously. This was seen as being something that was important for the success of the process, although the big issue that they wanted, which is to say Sinn Féin wanted, went far beyond sending letters out to people saying they are no longer wanted. It went to people who were still wanted and they were liable to prosecution because they were wanted by the police, either in Northern Ireland or in Great Britain.

Therefore, as soon as they set foot on British soil, they would have been arrested and tried under normal circumstances. That is what the on-the-runs legislation was trying to deal with. It failed in the end to deal with it, but that is what they were trying to do. That is different from telling someone that they were now in a position where they would have actually taken advantage of that scheme, because they would not. If they were not wanted anymore, they would not have appeared before the courts. It was only by the terrible mistake that was made with Downey that they did.

Q2353 Nigel Mills: Does it seem surprising that this was such a big issue for Sinn Féin? They did not get the Bill they wanted; they did get these letters and, yet, the issue seemed to cease to be a big issue, in reality, after about 2007.

Paul Murphy: Sinn Féin and indeed all the parties in Northern Ireland were exceptionally skilful negotiators. I do not for a second blame them. If they are pushing, are they pushing from their point of view? It is for everybody else, including the Governments, to work out whether they should accept these things or not. You cannot blame them for trying. The other issue that was controversial, if you recall, was whether Members of Parliament who were elected as Sinn Féin MPs but do not take their seats up here should have been entitled to various Parliamentary expenses and privileges that they now have. That was a very controversial issue, but it was one that they pushed in eventually succeeded in getting. Now, they did not succeed in getting this, because our position was so immense to it.

Q2354 Nigel Mills: You see the fear is that the Bill did not happen; an accelerated letter-producing process did and seems to have satisfied them. Presumably either they dropped their demands or they thought they had got what they needed.

Paul Murphy: Only history will tell, I suspect, what they regarded as being critical to their needs and which they were just trying on in negotiations. Every party did that and I do not blame them, because they were coming from their own perspective. Not just Sinn Féin, every political party in Northern Ireland, because they were elected by people, had certain manifesto commitments they had to fulfil and because they believed in certain things, quite rightly pushed various things. Then it was the collective wisdom of the process that had to decide whether that is generally acceptable or not, and it was pretty clear that the on-the-runs simply were not, whereas the political prisoner thing, at the time, was agreed in the talks. There are lots of other examples too, which I will not burden you with, but

there were examples of where issues were pushed by different parties because they saw them as being very important to their cause, which had to go into the melting pot to be discussed and negotiated.

Q2355 Nigel Mills: I was just trying to seek your view as to whether you thought perhaps the letters had become some kind of alternative to a public amnesty scheme. It had become a kind of behind closed doors “let’s do a cursory review, close a few files; that will smooth it all over,” kind of situation.

Paul Murphy: If the letters did what they purported to do—that is to say simply to tell someone that they were no longer wanted—I cannot see that as either being an amnesty or as being anywhere near satisfying what Sinn Féin was pushing for, which was to get people back over the border who were wanted for very serious crimes and they would be let off in the same way that political prisoners were under the prisoner release scheme. The problem is when mistakes are made and people are sent letters that do not apply to them, and they are still wanted. Then it goes before the British courts and the courts have to abandon the trial because the letter was sent to them and they, in good faith, regarded it as being something that could let them off. It happened, but that was a terrible error and certainly was not the intention, I guess, of the scheme in the first place.

Q2356 Nigel Mills: The scheme that was operating when you were Secretary of State and the scheme that was operating in 2006-07 look quite different. The early one was a thorough review by the Director of Public Prosecutions, which aggravated the parties by being very thorough and very slow. We ended up with a very much speedier system, helpfully known as Operation Rapid just to draw attention to the speed, which was clearly a much more cursory review. Would you have been happy, as Secretary of State, for a scheme to have been in place that was doing effectively a cursory review many, many times quicker and many, many times more people than were done in your time?

Paul Murphy: No, because it would lead to what it did lead to, which were terrible errors, which could have had huge political consequences and did have huge political consequences in Northern Ireland. Such a scheme was not tight enough to be able to satisfy what people regarded as being important to be satisfied. That is to say that there was a thorough investigation into the background of these people so that, when letters were sent, they meant what they said. If it was cursory, and I do not know—obviously it was after my time—and sloppy, then they should not have been. I do not know enough about what happened after that to comment in any detail or depth on that, except that I suspect what happened was, as we got to the stage where legislation was being prepared, I assume there was expectation that the legislation would have gone through the Parliament, but it did not. It struck me it did not need an awful lot of background information to work out that it was going to be pretty much a struggle.

Indeed, looking at that very early memo by William Fittall, back in September 2002, he emphasises all those years before that any OTR legislation attempted, despite the cross-party agreement on the peace process, would have been very hard to get through

both Houses of Parliament, particularly the House of Lords. That is said in 2002. Now, it did not. It got here and it collapsed.

Q2357 Nigel Mills: Was the draft Bill around in your time as Secretary of State? I think it would have been drafted a long time before it.

Paul Murphy: I cannot remember, but maybe. All sorts of contingencies are dealt with, are they not, by efficient civil servants and they should do, as a result of having to listen to the demands of politicians eventually. I cannot remember it, but I was pretty determined. I look at my speeches, as one does, in November 2005. Some of the details, because I voted in favour at the second reading, but warned that I was going to vote for the amendments that were to come up, particularly those amendments that referred to people who were not going to turn up in person at these tribunals, which is something, by the way, that had appeared during the talks and was one of the sticking points, as to why OTRs were not agreed with at all. How on earth can you have someone not turning up, while you have the poor victims of these crimes having to turn up and give evidence? That was not right.

Q2358 Mr Benton: Actually in response to my colleague who has just been questioning you, you have covered a lot of the ground that I wanted to ask about. I was particularly concerned, particularly in the light of evidence that we have received formally, about the whole aspect of transparency, people acting ultra vires. You made reference to the difficulty and the unusualness of the whole period of the time in question. I think we can all appreciate that: that these were tremendously difficult times.

I cannot help concluding, particularly in the light of the evidence you have given here this afternoon, that you have strong reservations now. I know it is alright looking at things in retrospect, when everybody can sort of say, "Well, that was nonsense," but the fundamental aspect of it, as far as I am concerned, was that at the very least the problems that people are feeling, particularly when you are listening to the victims, is that the whole thing was not transparent enough. People did not understand what was going on. People seemed to be acting ultra vires.

Instead of asking you to elaborate, which you have done very well in terms of your reservations, what I want to put to you now is that, given your vast knowledge and experience of Northern Ireland affairs and looking back, would you agree with me that the things I have mentioned seem to be the fundamental things that are wrong and the reasons why reservations should have been held by all concerned? If, on reflection, you were in that position again, would you be insistent that it went before Parliament, obtained the will of Parliament or lower?

I do understand your answer about building in difficulty of trying to get it through both Houses of Parliament, but the point is it is something that ought to have seen to have been done, irrespective of what the outcome was. I would like your opinion as to that now. In other words, in retrospect, has the wrong thing been done, irrespective of who were the principal motivators? Was the wrong thing done and, if we were facing this situation again,

and I know this is hypothetical, would you be insistent as Secretary of State that it had, irrespective of the outcome, to go through the will of Parliament?

Paul Murphy: Parliament would not have had a role to play legislatively with regards to the administrative scheme. There is an argument that Parliament should have been informed, either through Parliamentary answers or something like that, which is rather different, but the scheme that simply sends a letter telling someone they were no longer wanted would not obviously require any Parliamentary legislation for that to occur. It is unusual, but it is not dramatic, other than what Nigel Mills was saying, quite rightly, that if the scheme itself—the administrative one now—was sloppy and, as time went by, became much more cursory and therefore people were not looking properly in any depth at the people concerned, then that is very concerning. In other words, you are sending letters to people who are wanted, because you had not done enough work to see whether that person is wanted or not. That clearly happened in Downey’s case. That is wrong and that is very different, but that is an administrative error.

The point that you make about this OTR legislation, which came forward and did require, by definition, legislation through both Parliaments, was fairly well known, to be honest. People were aware of what Sinn Féin was wanting and they were aware of why people were sceptical about it. As I said very early on in this session, I could have lived with an OTR solution if everybody else had agreed it.

The difference between the political prisoners, as they called them, being let out of prison during the course of the Good Friday Agreement or as a result of it, was that they had gone through due process. They had been to trial; they had been tried and they had been sentenced. Some of them served some time; others had not, but they had gone through the process. The difference between that and someone who was wanted for a murder or whatever it was and then was brought back, had not gone through due process and therefore was not found guilty or not guilty, is why all the soul searching that lawyers and civil servants and politicians went through to try to find a solution to on-the-runs ultimately did not work. It did not work because they could not get the backing of people across the political spectrum. Effectively, I suppose, it went too far.

The question that none of us will know is: if OTRs actually had been brought up more seriously in the 1997-98 talks, would they have formed part of the Good Friday Agreement as well as prisoner release—some people refer to them as political prisoners, but I do not—in Northern Ireland. Would that have formed part of the Agreement? I do not know. I think it was probably a step too far, but you can never tell; it depends on what people thought at the time. I do think it is right to emphasise the difference between the two: the OTR legislative scheme on the one hand, which collapsed and failed; and this administrative process on the other.

Q2359 Dr McDonnell: Paul, thank you for all your evidence so far and, indeed, thank you for the massive contribution you made to bringing peace and stability. It was deeply appreciated and you put in a lot of personal effort above and beyond the call of duty. You have covered a lot of ground, but there were a couple of points I just want to tease out for my own benefit and perhaps for the benefit of others in the Committee. You said that it was part of the joint Hillsborough declaration, but that it was part of a separate letter, a side letter.

Paul Murphy: No, there was a separate document produced, which was in the public domain, which would have formed the basis of some sort of agreement on OTR had there been one, but there was not. Therefore, the joint declaration would not have occurred if there had not been a separate document on OTRs, because there was not agreement on that. On the other hand, because it was something that was of importance to Sinn Féin and others, it was nevertheless put in a separate document. It was a document, I suppose in a sense, for information, as anything else, so people were aware that the issue had been discussed, but it had not been agreed.

Dr McDonnell: It was a letter of comfort in effect.

Paul Murphy: It was a document of comfort, but it was a public one. It was not something that could go anywhere, because there was no agreement on it. The joint declaration could not have said, “This is what we agreed,” because we did not; there was just no agreement on it.

Q2360 Dr McDonnell: Thank you. Paul, the second point I want to raise, again for absolute clarification, is the royal pardons. Did you as Secretary of State have any role in those? What was the mechanism for granting royal pardons? What mechanism exists even today for the granting of a royal pardon?

Paul Murphy: I cannot remember, Alasdair, but I am sure I would have to have signed a letter to somebody. I am not sure what the process would have been. It would have been very unusual. I cannot recall having done one.

Q2361 Dr McDonnell: Would it be the Secretary of State, the Prime Minister or would it be—?

Paul Murphy: I would have been both really. For example, when the Assembly was suspended, it fell to me to sign the document that suspended the Assembly, but I would not have suspended it without Mr Tony Blair knowing it. I would have got into awful trouble if I had done so. It would have been by general governmental agreement that these things happened. It would not have been left to one person to deal with that, other than the Prime Minister taking the lead on it, of course.

Dr McDonnell: It is not clear how the royal pardons came about.

Paul Murphy: I do not know the technical method by which it is recommended to the Queen, but the agreement to do it would have been an agreement Government as a whole would have come to, not just me.

Q2362 Dr McDonnell: The final point I want to make was, and the figures give or take a little, but Drew Harris’s comments are that something like 90 of the people who got letters—he has since corrected the figures—are suspected, wanted or have evidence against them, in terms of 59 murder investigations. Again, could you throw any light on any of that or where the gap is there?

Paul Murphy: As far as I can see, my general impression is that the letters refer to the fact that there is no evidence that could be used against them in court. Secondly and in addition to that, it would not be in the public interest to prosecute. It is something like that that the letters say. You know more about it than I do as Members of the Committee, because you have studied this in more detail than I have. Therefore, under the current law, they are safe to return. That does not take into account the point I made earlier, which the Chairman quite rightly referred to, that it may be that evidence gathered by intelligence indicates certain things, but that that evidence cannot be used in court and, therefore, legally cannot be used against them. I repeat my view that I believe evidence gathered by intelligence should be used by the courts, but at the moment that is not the law and I cannot do anything about it.

Q2363 Lady Hermon: I wonder could I just ever so gently disagree with one description and that was that the process was sloppy? I say that because we have taken evidence that every single OTR request we know went through the RUC, PSNI and then the Northern Ireland DPP, and that would have been Sir Alasdair Fraser. Sir Alasdair Fraser was a man of the utmost integrity and honesty, and a stickler for detail. What happened in the Downey case was unfortunately an official of the Northern Ireland Office, who was named in the Downey judgment, who phoned PSNI headquarters, did not explain why he needed the information, but he amended the letter that was issued to Mr Downey, so I would not like you to go on the record and say Mr Fraser was in any way sloppy.

Paul Murphy: That is sloppy in itself, in a sense.

Lady Hermon: Of the Northern Ireland Office certainly.

Paul Murphy: Of whomever. I am not saying who in particular, but clearly the process was such that it was not tight enough. Either this is a monumental exception, the Downey case, so that every other single letter that has gone out is okay, in the sense that they would not be in the same situation as Downey, or presumably they are checking them all, double-checking and treble-checking to make sure this will not happen again. The point that Nigel was making, which I thought was very interesting, was that as you got closer to the point where legislation was to be introduced, did this in any way mean that there were more people involved and were you taking the same sort of direct interest? I do not know is the answer to that.

Q2364 Lady Hermon: If it would be helpful, there is a passage again in the Downey judgment that reveals a confidential letter between the Prime Minister, Tony Blair, in December of 2006. That was well after the legislation had been dropped—well after it had been dropped—in which he agreed and offered in writing to Gerry Adams that he would expedite the existing administrative scheme to make sure that all the OTRs were dealt with before he left office. That is in place unfortunately.

Paul Murphy: It can lead to things like Downey.

Q2365 Lady Hermon: Lady Justice Hallett is reviewing whether in fact there was another error, as in the Downey case, and we are all hoping that she is going to identify that there were no errors. Likewise, the PSNI is conducting their own separate review, which will take two to three years, going through every single one of the OTR cases. I wonder, Paul, how you would describe the situation in Northern Ireland? It is years after you have left it, so fast-forward five years after you leave as Secretary of State and take us to 2010. How would you have described the situation in Northern Ireland in 2010, in terms of the peace process and how settled things were in 2010?

Paul Murphy: Enormously better than they had been when I arrived on the scene in 1997, with an Executive and an Assembly now eventually up and running, and a completely different place. Obviously there are problems still there to be solved—there is no question about that—but it is very different from when I first went there, and most of you around this table have a much longer experience than I do of Northern Ireland.

At the same time, there is no doubt that what happened has transformed Northern Ireland and was at the same time seen in the world as something that is an example of a peace process. Sometimes it is not as neat and tidy as one would have liked, and things can happen like this that need investigation, and things can happen like the legislation, which did not work. Nevertheless, ultimately, the process did work and, as a consequence of that—thank God—we are in a position that is very different to the one we were in before. That is because of the sterling work that Northern Ireland politicians and the people of Northern Ireland have put into it.

Q2366 Lady Hermon: That is very kind of you. Things were so good in 2010, as you will know, policing and justice had been devolved to Northern Ireland and the Alliance Party leader, David Ford, had been elected as the Justice Minister in the spring, before the general election. Sitting on the backbenches, looking across at the Coalition Government, in light of how Northern Ireland had improved and how stable Government was, what was your reaction when you discovered that the OTR scheme had been carried on by the Coalition Government, had been carried on by Mr Cameron when there was a change in administration in 2010?

Paul Murphy: I rather fancy that they probably would not have known much about it, in the same way that I did not. I do not know.

Q2367 Lady Hermon: We have evidence that they were actually briefed in opposition about the scheme. Certainly the Attorney General was briefed and the shadow Secretary of State, we have been told in evidence, were briefed before they came into Government and they chose to continue it, post the devolution of policing and justice. How does that strike you? You are amongst friends, so you can tell us.

Paul Murphy: It strikes me that that is not unusual. The continuum of government is there; the scheme has started. The only thing I would comment on is I think there is a case for a wider number of people, politicians in Northern Ireland, to have known about it. The more people who know about these things, the better, and I do not see really why in any way this should be a secret. As long as the scheme is such that it literally is an administrative one, why should it be a secret? I really do not see any need for that

because, as long as it is working smoothly and it is there, if people regarded this as being something that should not happen, then the political parties in Northern Ireland should come together and discuss it, including Sinn Féin of course.

Q2368 Lady Hermon: Are you critical then of the secrecy that was maintained from the year 2000, right through to the Downey judgment in 2014—14 years?

Paul Murphy: I rather suspect this was more complacency than anything else. Not “complacency”, that is not the word. There were things that were more important, in the sense of occupying the time of Ministers, than this one. There were lots of things that went on that meant that Ministers had to look at how Northern Ireland was governed, how the process was completed and all the rest of it. In the scheme of things, an administrative scheme is not particularly as important as getting Northern Ireland back on its feet. As it has turned out, with hindsight, it has caused a lot of fuss.

Lady Hermon: A lot of anger and a lot of hurt as well.

Paul Murphy: Therefore, it is better for these things to be out in the open, I suppose, than not be. If it is explained properly and if political parties, including Sinn Féin, sat around at a table and discussed it, then what is wrong with that?

Q2369 Lady Hermon: So you are critical. I do not want to put words in your mouth. You are critical that this was a secret scheme kept from the likes of David Trimble.

Paul Murphy: I am not even sure that people thought, “Should we make this public?” My guess is it might not have even crossed their minds that they wanted to do that. Considering everything that was going on, it never really came much to their attention and they probably had not given it sufficient thought to say, “Should we actually raise this scheme now, at this point, with all the parties in Northern Ireland?” My guess is that it never occurred to them to do it, but that is a guess that they would have to answer themselves on this, in the same way that, perhaps looking back, if I had known about it—and I assume, as I said at the very beginning of this session, I might well have done—should it have been an issue? It is different then, because the issue of OTRs, the big issue, has died. It is not there anymore, but this one is still existent. It is certainly known now, and that is because it went wrong and that is probably not the best way for it to get known.

Q2370 Lady Hermon: The scheme has stopped and we do know that Mr Gerry Adams asked for an invisible scheme, and we do know that Mr Blair, as Prime Minister, gave him an invisible scheme, so it was a secret scheme.

Paul Murphy: In defence of that, what might have been important to be kept confidential all those years ago, and there is an argument about that, is different from now. The world has changed a lot since Tony Blair left office. There is stability in Northern Ireland. The Executive is running. The parties are working together, despite the problems that we have, and we all know about them. Perhaps it would have been advisable to make it public, except it probably never crossed people’s minds. Now with hindsight, and it is a big thing

hindsight, perhaps it would have been, because I cannot personally see anything in it that would have caused a huge amount of fuss because of the administrative nature of it. Nevertheless, it is always better to involve more and more people. My philosophy was always: the more people who are involved in making decisions, the better. If you get people to agree, then obviously it would work better than if people are not being involved.

Lady Hermon: I agree entirely.

Q2371 Jack Lopresti: Paul, just for clarity, obviously you were aware as Secretary of State of the issue of on-the-runs, but you were not entirely clear about the solution that was being made or that was being undertaken while you were in office. I am not talking about hindsight, knowing what has transpired and why we are here but, if it had been on your radar in a bigger way or if it had been ultimately your decision to sign off, would you have allowed the letters to have gone out in the way they had? Would you have been comfortable with the whole concept of it?

Paul Murphy: My view would have been that, like everything else, these things should have been discussed with all parties. The way in which you go forward is to do precisely that. It did not always happen, not just on this but other things as well. Again, you have to put yourself back into the historical context of it: huge pressures, terrible crises occurring, people being murdered and all sorts of terrible things happening. This would not necessarily have been top of your list. As I said to Lady Hermon just now about the issue of general negotiations, it is always better to involve people. On this occasion, that obviously was not seen to be the case, but hindsight, as I said, is a great thing. What you can do now in 2014 possibly was not as easy as that back in 2003 and 2004, when things were looking very grim and very bleak.

Chair: Thank you very much, Mr Murphy, for joining us. It has been very useful to us. Thank you for coming.