

The right honourable David, the Lord Trimble
Of Lisnagarvey in the County of Antrim

Antony Alcock Memorial Lecture
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Introduction

I first met Antony Alcock in 1975. I had just been elected to the Northern Ireland Constitution Convention as a Vanguard Unionist representative for South Belfast. The creation of this body had been one of the proposals put forward by Unionists after the successful “general strike” organised by the Ulster Workers Council which brought down the Sunningdale Agreement. The Unionist leadership then put forward the idea of an elected conference table consisting of newly elected representatives of the people of Northern Ireland who would then try to find a way forward themselves without interference or imposition by the government.

The Convention was chaired by the Lord Chief Justice of Northern Ireland, Sir Robert Lowry, as he then was. The Chairman’s office decided to commission a number of background papers for the Convention and Antony was naturally asked to produce a paper on analogous divided community situations in Europe. Naturally Antony gave pride of place in that paper to the Sud Tyrol/Alto Adige. Soon afterwards Bill Craig and I had a meeting with Antony in which we discussed the various European cases. We were both impressed by Antony, impressed by his intelligence, his knowledge and his forthrightness. For me it was the beginning of a very fruitful relationship.

There were two highlights of that relationship. The first was in the Ulster Society for the promotion of Ulster British culture and heritage in which we and many kindred spirits worked cheerfully together. The publication of Antony’s book, *Understanding Ulster* was one of the Society’s high points. I was very pleased a few months ago when visiting Tom Strathclyde, the leader of the Conservatives in the House of Lords to see a copy of this book on his shelves!

The second highlight was the Northern Ireland Forum and the multi-party talks which covered the period from mid 1986 to April 1998, culminating in what is now most often referred to as the Good Friday Agreement. From the beginning of the paramilitary ceasefires in 1994 the government had wanted to find a way toward to a multi-party talks process. As a new leader of the Ulster Unionist Party I needed a mandate for any participation in talks. I was also influenced by the experience of the Constitutional Convention and wanted any such talks to be grounded in the democratic process. For this reason an elected body was viewed sceptically by nationalists and opposed by republicans.

The government compromised. Unionist got an elected forum. Nationalists got a distinct talks process in which persons and parties elected to the Forum could participate. But the British and Irish governments took part in the talks and clearly intended to exercise some leadership within them. In addition the government, rightly

fearful that some parties linked to paramilitary groups might struggle to get elected devised a novel electoral process. The DUP argued for list system with Northern Ireland constituting a single constituency. They hoped this would enable them to repeat their successes in the European elections where their leader regularly topped the poll. We wanted the familiar constituency based STV elections. What we all got was a constituency based list system and a separate NI wide list where the 10 top parties would get two members elected. The reason for the latter was to ensure that the paramilitary related parties would have some representative "elected". There were not then ten parties in existence and some were formed to make up the number!

The Ulster Unionist Executive left it to me to nominate our two candidates for the province wide list. I choose Antony for one slot, intending him to then join the talks team, primarily because his expertise on the international comparisons would be invaluable in the talks, as it was. But I also choose him because I wanted to have another good friend around! I am sorry to say that afterwards Antony felt that he had been under used.

John Gorman, was my other choice, intending him to focus on the Forum. I was not surprised, when after the election, Paddy Mayhew, the Secretary of State, asked if I would consent to John's appointment as Chairman of the Forum. John is a catholic whose loyalty to the union was indisputable and his record in the army, RUC and in public administration is exemplary. But he would then have been highly unlikely to be selected by an Ulster Unionist constituency association in the then equally unlikely event of him being persuaded to submit himself to selection. After the talks ended I was very happy to see the North Down Association having the good sense to select him as a candidate for the Northern Ireland Assembly elections in 1998, where he duly topped the unionist vote. Would that the East Londonderry association ever had enough sense to select Antony. It was theirs, and the party's loss.

The talks lasted for nearly two years, from 10 June 1996 to 10 April 1998. There were occasional moments and a few days of excitement, but for the greater part of those twenty two months it was a laborious grind often tedious and sometimes bad tempered. We often joked when selecting the two or three talks team members to go up and take our front seats at the talks table that we were sending them in "to bore for Ulster". It was easier for me. Early on I took the strategic decision that I would reserve myself for the major occasions. Some members of other parties alleged that showed a lack of commitment to the process. But I am sure that I was right. It meant that in the event of a disagreement or a deadlock on some, that I was free to come in to resolve it or give my authority to some compromise, without my judgment being clouded by the exchanges that led to the problem. This, however, threw a greater burden on Reg Empey, our chief negotiator, and on those, like Antony, who were permanently committed to that building in Stormont Castle grounds.

Antony settled in easily and quickly became a popular member of the team, who was always ready with useful and positive suggestions. Because of this involvement in the talks which produced the Belfast Agreement, that I regard as *the* high point of my political experience, and which agreement is today still the template for our political future, vindicated by the recent remarkable volt face by the DUP, I intend to devote this lecture to those talks and particularly their final stages, and then to reflect on them.

Preliminaries

The multi-party talks fell into several distinct phases. The first from their inception on 10 June 1996 until the renewal of the republican ceasefire on 20 July 1997. Much as we would have liked to make progress, very little was made and on 22 July 1997, the DUP and the UKUP walked out of the talks, declaring that the admission of Sinn Fein to the talks would result in a “sell out of the Union”. Peter Robinson declared that the proposals in the Frameworks document for a united Ireland were the predetermined outcome of the process.

The effect of their action is judiciously assessed by George Mitchell in the following terms,

The decision by Paisley and McCartney to quit the talks was predictable. Yet, if their objective was, as they repeatedly insisted, to end this process, then their walkout was a fateful error. Reaching agreement without their presence was extremely difficult; it would have been impossible with them in the room. ... No one can ever know for certain what might have been, but I believe that had Paisley and McCartney stayed and fought from within, there would have been no agreement. Their absence freed the UUP from daily attacks at the negotiating table, and gave the party room to negotiate that it might not otherwise have had. Mitchell, *Making Peace*, p.110

There was a further advantage for me. Following the precedent set in the Mayhew talks the multi-party talks had adopted the principle of sufficient consensus as a means of decision making. This meant that unanimity was not needed, it was sufficient if the proposition was accepted by both governments (HMG only in the case of strand 1) and a majority of unionists and a majority of nationalists, majorities being determined by reference to the support achieved by the parties in the elections held to the Forum in 1996. Ulster Unionists did not have an overall majority among unionists by themselves, but did so with the support of the PUP and the UDP, who both remained in the talks. So, without the DUP and the UKUP, we could still make an agreement and the UUP was now absolutely necessary for any agreement, so our position was simplified and strengthened with reference to negotiations with the governments and with nationalists.

I find the view of a senior Northern Ireland civil servant, reported in Godson, *Himself Alone*, at p. 288, that if the DUP had stayed in the talks that this would have produced a better agreement from a unionist point of view quixotic. The objective of the DUP was to prevent an agreement occurring, oblivious of the consequence that that would have played into hands of republicans. In any event our experience of working with the DUP in the Brooke and Mayhew talks in 1991/2 was quite negative. Then we had to devote most of our effort to trying to get the DUP to agree a realistic position. They were a constant obstacle to progress and contributed to the failure of those talks which were the last chance unionism had to do a deal without the presence of Sinn Fein.

In July 1997 after the renewal of the IRA ceasefire and the government statement that it would assess the effectiveness of that ceasefire over the following six weeks, it was clear that we would be faced with the entry of Sinn Fein into the talks in September. This was the first big decision we had to face. One made easier by the skilful way in

which Dermot Nesbitt handled a consultation exercise we launched in July. This, crucially, was not just an internal party exercise. It sought to engage with the wider public and key players in society as a whole. The object being to inform and change the whole public atmosphere. And it worked. When mid September came, the party felt comfortable with the decision we took. During this time our attention was focussed on this debate.

The concept of sufficient consensus had a further significance which we did not fully appreciate at the time. Because of our own problems, we were not following closely the argument within republicanism about their leadership's endorsement of the Mitchell Principles on peace and democracy which republicans were required to endorse as a precondition for their entry into the talks.

Two of those conditions read as follows,

- d. to renounce for themselves, and to oppose any effort by others, to use force, or threaten to use force, to influence the course of or the outcome of all-party negotiations;
 - e. to agree to abide with the terms of any agreement reached in all-party negotiations and to resort to democratically and exclusively peaceful means in trying to alter any aspect of that outcome with which they may disagree;
- Mitchell, *Making Peace*, p. 36

Because the ground rules for the talks, including sufficient consensus, had already been agreed, when republicans accepted the above principles, they were binding themselves to accept the outcome of a process in which they had no veto. The SDLP were then the majority party within nationalism. If we obtained their agreement, we could then do a deal which Sinn Fein would have to accept. This is why there was no need for me to ever actually to talk to them. It is understandable therefore that the republican leadership's endorsement of this led to a major split within the republican movement. McKeivitt, reputed to be the IRA's quarter master and a number of significant players within South Armagh/Louth IRA broke away to form "the Real IRA" and its political counterpart the 32 County Sovereignty Committee. Most unionists regarded this development with scepticism. But this and the position the republican leadership put itself it was not fully realised by unionism.

The months after Sinn Fein entered the talks were not productive. The talks broke up on 16 December for Christmas without being able to agree to an agenda. The last few sessions had been very bad Sinn Fein refusing to accept even the mere mention of an Assembly, Martin McGuinness reputed to have told Irish officials that there would be "bodies in the street" if an Assembly was discussed and SDLP, although privately in favour of an Assembly, reluctant to force the issue. The gloom was deepened by the murder of Billy Wright on 27 December.

Unknown to the public and most talks participants, Blair had started to take a direct interest well before the Christmas recess. Bits of paper reached us from Downing Street with words outlining what might be in an agreement. These evolved into a short paper. The Irish government made suggestions on constitutional change and north/south relations. The text was finally sorted in a series of telephone conversations between myself, Blair and Ahern over the weekend of 10/11

January 1998. I was particularly pleased with a conversation I had with Bertie Ahern late that Sunday night when we agreed language on the north/ south ministerial council which anticipated precisely the final agreement. There probably were similar conversations between the Prime Ministers and the SDLP, but I was not party to them. There is a good account of this and the full text of the *Propositions on Heads of Agreement* in Hennessey, *The Northern Ireland Peace Process* at pages 113 to 118 and on the negative republican reaction at page 120. Curiously the paper is not mentioned by Mitchell in his book. But this paper exerted a decisive influence on the talks. It ended the squabble over the agenda and set the scene for the subsequent agreement.

The Final stages

George Mitchell announced on 25 March after consultation, that Easter was the target for the completion of the talks. It was fairly obvious. There was a general consensus that if there was an agreement, it should be put to the people in a referendum and followed by elections to a NI Assembly and that these should happen in quick succession. If one then counted back from the last possible date for an Assembly election, it was clear that there would have to be agreement before Easter.

The first months of 1998 had been rocky, affected by paramilitary violence, the republican reaction to *Heads of Agreement* and governmental attempts, led we thought by the Northern Ireland Office, to balance it with some more nationalist friendly language. But by March it was clear that there was going to be a serious engagement in the run up to Easter. Later that month I was invited to Chequers at the weekend for a discussion of how matters might pan out. I decided to take Jeffrey Donaldson with me. It was a serious occasion. On a later visit I was able to see some of the Cromwellian momentos there and even handle the sword that Cromwell had carried through the battle of Naseby! This visit, however, was wholly devoted to business.

We left feeling we had a fairly good understanding of the government's position and tentative agreement on a number of matters.

For example on the difficult issue of the north/south we explained our position that north/south co-operation had to depend on the authority of the respective legislatures, north and south and be accountable: that if such co-operation was not properly subordinated to the local legislatures that it would appear to be above them, a third seat of government in Ireland, similar to the ill-fated Sunningdale Council of Ireland. Moreover any appearance of imposition by the sovereign legislature would be fatal, reminding people of the hated Anglo-Irish Agreement, which had been imposed on unionists in 1985. These propositions flowed from the consent principle, failure to act in accordance with them would persuade the unionist electorate that government adherence to consent was insincere and would be ignored if it suited them. Blair understood our arguments, but pointed out the difficulty for the Irish government. Our approach would give the Northern Ireland Assembly and hence unionists a veto. Blair's view was that we had to cut a deal with Dublin, who he thought would settle for an upfront guarantee in the agreement of a number of cross border bodies. He thought somewhere around 6 to 8 would do the trick.

Overall, we were pleased when we left. I remember remarking to Jeffrey in the car taking back to Heathrow, “If we get 90% of that we’ll be flying.” The comment was an acknowledgement that the actual outcome could not possibly be as good. What we did not know is just where the shortfall would come and the evaluation that would subsequently have to be made.

The last week

As is well known the final week did not start well. Mitchell’s target of issuing his draft on Friday, 3 April was not achieved. This is set out in some detail in Mitchell, *Making Peace* at pages 151 to 165, and also by me in a *Daily Telegraph* in April 1998, reprinted in *To raise up a new Northern Ireland*. The agreed position of the two governments on strand 2 was only delivered to Mitchell on Sunday 5 April and officials only completed work on the annexes late on Monday. We saw the draft very late that night and as Godson reports in *Himself Alone*, p. 327, I was profoundly disturbed by it, and the next morning we had no doubt but that it had to be rejected, it was just essentially the Frameworks proposals again.

How had it happened? It appears that the Irish government were focussed on nationalist demands, especially Sinn Fein’s repeated insistence that they would not support an accord that departed from Frameworks. In addition, having already got Frameworks as an agreed paper with the British government under John Major, it would have been natural for the Irish to insist that the new government adhere to it as, presumably, both sides had already made their compromises it reaching that agreement. How then did this sit with Blair’s apparent acceptance at Chequers of our need for an arrangement based on consent? This I found particularly difficult to understand as the relevant parts of Heads of Agreement, had, at my insistence, and with Ahern’s agreement, reflected this¹. In an interview with Godson, John Holmes, the principle private secretary dealing with Northern Ireland matters that Blair had inherited from Major, admits that the British government took its eye off the ball. Yet in the same interview Holmes says that over the course of a few days Blair and Ahern met something like twenty times. It is hard to avoid the conclusion that in agreement with, or under pressure from, the Irish, Blair decided to prioritise keeping republicans in the process. Yet the consequence of that could have been not having an agreement.

But it could be that this was an early indicator of a weakness in the Blair style. As Godson reports, “Peter Bell adds that in the last week of the talks, there were so many face to face encounters between the two heads of government, apparently with no one else present, that it was sometimes hard for officials on both sides to know exactly what had been agreed between them- not least because their respective accounts of these encounters could diverge.” *Himself Alone*, pp. 335-6 An early example of sofa government. At the time we welcomed the displacement of the normal official

¹ - A North/South Ministerial Council to bring together those with executive responsibilities in Northern Ireland and the Irish government in particular areas. Each side will consult, co-operate and take decisions on matters of mutual interest within the mandate of, and accountable to, the Northern Ireland Assembly and the Oireachtas respectively. All decisions to be by agreement between the two sides, North and South.

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

channels, in this case the Northern Ireland Office, and the result was hailed as a success, and so helped set a pattern, which is now generally criticised

In extenuation of the original draft for strand 2, it could be said that the governments had dropped the insistence that the north/south council itself would have executive power. They had accepted my suggestion that where that was appropriate a quango should be created along the lines of the Foyle Fishery Commission. They could also claim that Heads of Agreement had not been explicit about which legislature would establish these bodies, and so they were not departing from a position agreed with me. I, however, took the view that it was implicit that it would be Stormont and the Oireachtas, and that, in any event, applying the consent principle it could be no other.

Blair could also state in his defence that Annex C of the Mitchell draft embodied his idea of “cutting a deal” for it listed eight “bodies, with the qualification that only the first five were agreed. He probably thought it then for me to see which of the final three I would persuade the Irish to drop, and at what price. If that was his position he was, perhaps characteristically, overlooking what was for us a vital point of principle i.e. that these had to be decisions of the Northern Ireland Assembly. Paragraph 7 said that the two governments were to legislate for the establishment of the Annex C bodies at the inception of the agreement.

It was not necessary for me to decide what the cause of the problem, for in telephone conversations with Blair on Sunday I believed that I had got through to him the seriousness of the problem and he was clearly rowing back from the text delivered to Mitchell, and Mitchell’s description to me the next day of the demeanour of the officials when Mitchell put to them my assertions that the Prime Minister was now somewhat unhappy with the text, reinforced my suspicion that at least part of the problem was in the Northern Ireland Office.

Nevertheless I did not want to get into a negotiation within the terms of the draft. We wanted the government to be ready to put it aside and start again from scratch. I was encouraged when at our meeting at Hillsborough on Tuesday evening he told me that as soon as he had seen the strand 2 annexes that morning, he realised that the paper was in trouble: that annexes A and B would have to go and paragraph 7 be rewritten. I responded that if the Irish also accepted the need for change we would be ready.

But he repeated what he had said to us at Chequers namely that I had to understand the Irish problem with this; it gave unionists, a veto on all and any cross-border co-operation. He still saw as a matter of us cutting a deal, they might accept our model, but at the price of a number of up front schemes guaranteed in the agreement.

Wednesday: Strand 2

This left it to us to settle matters with the Irish government at a meeting that began on Wednesday evening. Our problem, as is sometimes the case with unionists, was that we were very clear about what we did not want, but not so clear about how to achieve what we wanted. I knew it would be no good us protesting our good faith about mutually beneficial co-operation or citing the good record of previous unionist governments. The Irish government and its nationalist allies could scarcely go and tell their supporters that they had decided to trust the unionists!

Reg Empey had suggested that we offer an agreed work programme, the agenda of which might involve studies being commissioned by officials to consider the suitability of co-operation. John Taylor, was sceptical of this and had some ideas of his own. As we went up to see the Irish I had no clear idea in my own head. Dublin, of course were aware of Reg's proposal, as we had run it before Blair, and were going to reject it, as they did Taylor's more modest suggestions. Obviously they would have been aware of Blair's views and probably expected us to get into that territory before long and concede a number of pre-cooked co-operation schemes. If that happened then we would be dealing with an imposed deal and we would never be able to convince the unionist electorate that all this was and would be under the control of Stormont and any agreement would probably fail to be endorsed in the referendum.

It was during these discussions that the idea occurred to me of using the transitional period that there would inevitably be between the agreement and actual devolution of power to the Assembly. Northern Ireland Office officials had told me in other discussions about devolution generally that their estimate was that it would take some eleven months to get the necessary legislation to implement any agreement enacted and for the necessary administrative arrangements to be in place so that devolution could occur. During this period the Assembly would be in shadow mode. I then suggested that we use the shadow period to solve the problem. That the shadow Assembly should in discussion and negotiation with the Irish government and the NIO decide on what co-operation schemes there should be and how they should be structured and that the NIO should use its powers to legislate by Order in Council to give effect to the Assembly's decisions. The agreement would then be reworded, the language no longer prescriptive but instead the bodies were mentioned as illustrative of what co-operation "may include", and of course the lengthy annexes disappeared to be replaced by the short illustrative list. The beauty of it was that the Assembly would clearly be in control of the northern end of the negotiation and that the safeguard for the Irish government was that this would all have to be done before devolution.

I remember, while explaining this that Paddy Teahon, the Irish cabinet secretary, broke in and said it would be like threading pearls onto a string, one at a time, and then "they all come up together". At first I thought he was referring to the individual co-operation schemes, but then realised the pearls he was referring to were the Assembly and the north/south council. For him this meant if we did not agree to a council and worthwhile co-operation, then there would be no Assembly. For us it reinforced our argument that all the elements of the agreement must hang together, which Blair later described as "mutually assured destruction" and we insisted be made explicit in the introductory "Declaration of Support".

After a fairly brief discussion the Irish asked for an adjournment to consider the idea. I could see that this had possibilities, so I raced round to Blair's room to relay my idea to him. It was a good thing I did, for I found him slow to accept an idea which I thought elegantly solved everybody's problems. When the bilateral with the Irish resumed the conversation was cordial as we explored the mechanics of how to proceed. But then after midnight another senior member of the Irish delegation, who had been engaged on other business, came in and reacted negatively when the idea under discussion was explained. "But that's not what we agreed with the nationalists." A rather awkward argument then started and after a while the Irish said

we would have to break off the bilateral while they sorted themselves out. We agreed expecting to resume later on the Thursday.

In the event there no further meeting on the matter. We spend a fairly quiet day for most of Thursday. There were rumours of arguments within nationalism on the proposed solution for strand 2, but we did know who was arguing for what, and still do not know. For the moment there can only be speculation, but our impression was that a further intervention by Blair was necessary to settle matters. In any event, it became clear that in addition to accepting our model for the authority and accountability for north/south co-operation, the Irish had also accepted our suggestions as to how we give each other the necessary confidence in the start up period.

We realised at the time that the enormous implications of this. As Hennessey comments, “the Irish-UUP agreement on strand two represented the final collapse of Sinn Fein’s pan nationalist strategy.” (*Northern Ireland Peace Process*, p. 170)²

Thursday: Strand 1

While there were meetings on a number of other matters during the day, including a meeting of the Ulster Unionist Executive in the early evening, the crucial strand 1 meeting with the SDLP did not take place until late on Thursday.

By then we knew we had a very satisfactory position on the constitutional matters. This time articles 2 and 3 of the Irish Constitution were going to be changed. The territorial claim over Northern Ireland was going to go. We also knew that the so-called balanced changes to the British constitution would be just the reiteration of the existing position. We also had a strand 2 settlement which did not pose any constitutional problems. There were the issues which were later to dominate the public debate, namely, policing, decommissioning and prisoners, and various colleagues were engaged with them. But on Thursday there were not seen as crucial to getting an agreement, what was crucial was getting the SDLP’s agreement on Strand 1.

The Mitchell draft on strand 1 was not a problem. As he says,

We decided to leave the strand 1 section of our document in the form of options on key issues, rather than a definitive text. That was the reality. It was not a final text
Making Peace, p. 163

² There must have been some further dispute among nationalist on this for on 10 April I sent this letter below to Ahern by way of further assurance.

the proposed agreement provides that the Council will prepare a list of at least 12 areas, which may include the matters listed in the annex to Strand Two, in order to agree schemes for co-operation, to be implemented either through existing channels or by dedicated bodies operating on a cross-border or all Ireland basis.

It will be open for either party to propose areas, addition to, or in substitution for those in the Annex. I am sure that those in the shadow Council, who will be drawn from the Irish Government and the Northern Ireland Assembly, will give earnest consideration to all proposals in drawing up their initial list of areas to study.

I am sure that as time goes on those who represent us in the Council will have other and better thoughts than those we have today, and I hope that the experience of working together will lessen the suspicion and distrust which can still mar the relationships between our peoples.

The issues on Strand 1 had been thoroughly rehearsed over the years in and from the Mayhew talks in 1992. We had a consensus on the scope of devolution. We had consensus that the exercise of the devolved powers would be based on the principle of proportionality. We had argued for a local government style committee system where the committee as a whole would discharge the function. But a committee cannot sit all the time and does not execute all its own decisions and, in practice, the chairman and/or secretary would discharge much of the committee's function. All this had been probed in the Mayhew talks strand 1 committee report. But, as Reg Empey warned colleagues in 1992, and regularly repeated his warning in the years since, our committee concept had huge weaknesses, particularly with regard to co-ordination, and that some central committee would probably be needed. I was also conscious in that across the water there was a growing movement towards a cabinet system in local government.

There were further political considerations. If the new administration was to work successfully, it would require a good working relationship between ourselves and the SDLP. I had no illusions of the DUP working with us. I knew that if we achieved an agreement they would oppose us bitterly, no matter what the deal was. But I thought that the unionist electorate would be more concerned about the constitutional and cross border issues, and would be more ready to compromise on power sharing. The SDLP would also face criticism from Sinn Fein. But any Sinn Fein criticism on constitutional matters would be directed primarily at the Irish government. The SDLP vulnerability would be on strand 1, where a return to Stormont would be problematic for northern nationalists and the SDLP would need to be able to show that they had not surrendered nationalists to unionist domination. The SDLP had spent a lot of time in the talks devising and polishing procedures to protect minorities. We were sceptical about their practical use. But the SDLP considered that they were necessary for them if they were to survive Sinn Fein attacks. Viewed in these terms the course of action for us seemed clear, and we conceded them. Those procedures are set out in paras. 11 to 13 of Strand 1 of the Agreement provide for a special committee to vet legislations and petitions of concern.

This left the question of whether we would move from our executive committee model to the ministerial model that virtually every other participant in the Talks preferred. We had reserved our position on this throughout the talks and I had been determined to hold it until the last moment. But I had long known, without ever actually saying so, that our position on this was untenable. I think most of my colleagues were of the same mind, and our move did not I think create any general controversy. Some veterans of the 1992 talks have, however, grumbled since. One curiosity - at the very end of that session with the SDLP, they asked if we could revert to using the term "Minister" for the person exercising executive power, rather than the more modern "Secretary". After a brief consultation, we agreed, to be surprised at their rather emotional reaction. It almost seemed that this word meant more than everything else. I suspect it was a reflection of their feelings during the old Stormont days.

It is interesting to note that neither the SDLP nor Sinn Fein had cause to invoke these minority protection procedures during the operation of the first Assembly. But this

may because of the rule we adopted in the Executive that any proposal or decision could be blocked by any three Ministers. This in turn meant that no proposal was ever brought to the Executive unless the Minister to bring it was sure that it would not be blocked. In fact we only ever had one vote in the Executive. We were of course, rather amused, when the three Minister rule was a key feature of “gains” the DUP claimed that they had made in the 2004 “Comprehensive Proposals” and has since been trumpeted as putting an end to so-called problem of “unaccountable Ministers”.

The last day

The meeting with the SDLP on strand 1 went into the small hours of Friday morning. On its conclusion we were then waiting for the Chairman’s office to pull together all the bits of the negotiations into a revised draft agreement.

Antony’s entry for Friday begins,

In the early hours of the morning still no draft – the food had all been eaten, the coffee machines had given up, only the bar remained in business.

In those early hours, Jack Allen told me that he had booked a room in the Stormont Hotel and he urged me to go there. He was worried that I might find myself faced later in the day with crucial decisions when I might be exhausted by lack of sleep. I took his advice telling I would leave my mobile phone on, and if there was a problem he could easily summon me. I got there, Antony’s diary says at 5 am, though I think it might have been earlier, and got to sleep quickly. I was woken by the phone shortly after 8 am and told there was a new problem with the revised annex to strand 2. That the Irish were putting into the list of bodies for consideration topics which had not been on the list we had agreed with them. I arrived, somewhat irritated, and after being briefed, had meetings with the Prime Minister and an Irish delegation, and sorted the matter out. I am afraid that in doing so I did not leave much room for debate.

Later in the morning the draft appeared. Again I physically separated it distributed to our various working groups and then after it had been digested called all the team, about 20 together, for a decision. As we walked into the room I overheard Peter Weir, who just in front of me saying, “Who says we are going to agree this?” This led me to start the meeting rather more forcefully than I should. But John Taylor, who was sitting beside me cautioned restraint. He said we had a lot of issues to go through and it would be better for me not to rush matters. As so often, he was right. John announced that he had a list of about 20 problems that he wanted to go through, and he started. I settled back and we went into each matter carefully. John’s points were all genuine, but for most of them we could find a satisfactory answer. In effect he was giving me the opportunity in a calm discussion with him of pulling the teeth of the problems before us.

At the end we boiled it down to two key problems, prisoner release and the linkage of decommissioning to holding office. As Hennessey reports in the *Northern Ireland Peace Process*, p. 169, in the discussions I drew a distinction between the

constitutional and institutional aspects of the matter and policy issues. The former, the constitutional changes, the north/south structures, the Assembly were generally acceptable. These matters, I pointed out, would be permanent and they represented a good deal for unionism against the background of the hated Anglo-Irish Agreement and what might happen if we were unable to make a deal. On the other hand the policy matters were within the responsibility of the government, whether we made a deal or not. The government would almost certainly proceed with them even if we refused to agree to the proposed agreement. On decommissioning and holding office I conceded the weakness of the draft. It did provide for exclusion, but only on a cross community vote where there was a very real danger that the SDLP would decline to act. Yet I pointed out that there was a degree of linkage, which could perhaps be built on.

An entry in Antony's diary gives his assessment of the position at about this point in the discussion.

"I saw it as 6 – 3 for a deal – but with great misgiving that not to accept would be even worse. (Trimble, Taylor, Maginnis, Alcock, Empey and Nesbitt versus Donaldson, Weir and Campbell)³"

It must be emphasised, however, that this was Antony's reading of the position. There was no vote, no decision, just an on-going discussion. At this point, I was not sure of John Taylor's opinion, and I would have considered David Campbell's position as much more open than that of Weir and Donaldson.

I suggested we go to Blair and make one last effort, but for that to have any hope of success we should prioritise. I asked the talks team which of the two key issues they considered most important. There was an immediate consensus that decommissioning was more important than prisoner release.

The delegation that went up to the Prime Minister contained the five most senior members of the talks team, myself, John Taylor, Reg Empey, Ken Maginnis, and Jeffrey Donaldson⁴. We all knew that this meeting with the Prime Minister was the last shot in our locker: that it would have to be followed by hugely significant decisions. The meeting was low keyed, polite, but with an undercurrent of tension. We explained the problem. Blair's response was, not unexpectedly, that he could not unilaterally change the text that was agreeable to the other parties and that it was not realistic to try to restart the negotiations at that late hour. I then mooted the idea of a letter from HMG containing some helpful commitments on the matter. I referred to the post agreement transition period in which perhaps the issue could be resolved. I even suggested some matters that such a letter could contain. Blair appeared to be receptive and undertook to consider the matter. This had been my intention in seeking the meeting, and having used the post-agreement, pre-devolution interval to solve the problems in strand 2, I was hoping to do the same in strand 1. But, contrary to other accounts I did not return with a letter in my pocket. We had to wait for it.

³ Antony seems to be keeping the score among the formal members of the talks team, ie the elected members, rather than among all those in the room, researchers, party employees and so on.

⁴ Most published accounts suggest that I went up to meet the Prime Minister alone. Mitchell is the only one that is explicit about there being a delegation, even so he merely says "At about mid-afternoon, five of the highest UUP officials, led by Trimble, met with Blair". *Making Peace* p. 179

On returning from the meeting with Blair I gathered all the senior party officers and some key talks team members in my room, across a corridor from the party's large general office where a large number had gathered. But so many people kept barging into my room, out of a very natural curiosity that the door of my room was locked. There was then a significant wait for the Blair letter to arrive. I remember at around this point, Jim Rodgers coming up to me and asking, in a low key manner, if I realised that all four Honorary Secretaries of the Party, of which he was one, were against the deal. But there was no hint in his tone that they would refuse to accept majority decisions, which in fairness to him, he, alone of the four, did.

While we were waiting, a call came through from President Clinton. I took the call at my desk in that room and all present could clearly hear my end of the conversation. This was a deliberate decision on my part, taking the call in the absence of colleagues would only have added to their anxiety. Clinton began to give what sounded as the beginning of an extended statement of how good an agreement would be for Northern Ireland. I cut across this to saying that I could bring him up to speed. I explained briefly our problem - decommissioning and its weak linkage to holding office. I told him there was a possible solution, namely as yet unknown commitments from Blair in a letter that was expected as we spoke. I then asked him to speak to nationalists to give the letter we hoped would contain such commitments the space in which to work. He hung up with the words that he would get across the matter immediately. Dennis Rogan's account of this is summarised in Godson, *Himself Alone*, p 352, but I very much doubt if, as Godson adds, I said, "We're in a mess." The president may have concluded with "Hang tough", but if he did my mind was elsewhere.

It is shortly after the Clinton conversation that what Henry McDonald describes as "a moment of low farce" occurred, *Trimble*, p. 208. Jonathan Powell, the Prime Minister's Chief of Staff arrived with his letter. But the door is locked. He knocks: but no-one inside hears. Eventually he pushes a note under the door saying that he was there. I am told. I go over to the door and unlock it. Jonathan hands the letter to me. I look at John and indicate with a nod of my head for him to come over. He stands beside me as I open the letter. I read it, holding it so that John can read it too. "That's OK. We can run with that." he muttered to me. For me that was the signal for my final decision.

The letter read,

I understand your problem with paragraph 25 of Strand 1 is that it requires decisions on those who should be excluded or removed from office in the Northern Ireland Executive to be taken on a cross-community basis.

This letter is to let you know that if, during the course of the first six months of the shadow Assembly or the Assembly itself, these provisions have been shown to be ineffective, we will support changes to these provisions to enable them to be properly effective in preventing such people from holding office.

Furthermore, I confirm that in our view the effect of the decommissioning section of the Agreement, with decommissioning schemes coming into effect in June, is that the process of decommissioning should start straight away.

I then made it clear that I was going to accept the agreement. There was no formal vote, but my clear impression was that a majority of the party officers agreed with me, and that only a few disagreed. I do not recollect any sustained discussion, nor any fierce opposition. We all knew that decision could be delayed no longer and I think everyone had known for some time what my view was. Rogan says that I “paused for what seemed like an eternity – he was staring impassively into the distance – and then simply declared, ‘right I’m going for the agreement.’”, Godson, *Himself Alone*, p. 355, make me now feel that I need a less romantic script writer! Mitchell recalls that I called him at 4.45 pm saying that we were ready for the final plenary session, *Making Peace*, p. 180.

There was then another moment of low farce. We started to move across the corridor from my office to the Party’s general room. Added to the problem of just getting so many into the room without an uncontrolled release of information, was the behaviour of the Alliance delegation whose room was just down the corridor. They were out in the corridor and approached us as we were moving between the rooms. Words were exchanged. A very senior Alliance member got quite excited and was shouting. McDonald has this incident, although he erroneously places it a little earlier in the afternoon, *Trimble*, p.207. Henry has the unionist protagonists as Taylor and Donaldson, but when I saw the commotion, my concern focussed on Ken Maginnis, who looked likely to respond in a characteristically vigorous manner. I separated them ushered the Alliance notable back into his room and may have indicated to him that he had no need to get so worked up.

Reg Empey recalled the brief meeting in that room, with over 50 people then present, as the seminal moment of the Talks. I recall it as being more of the announcement of a decision taken, rather than one to be made, but Reg is right in that, “if the room had turned against him, that would have been it.” Godson, *Himself Alone*, p. 355 It was just after this that, thinking of the talks rules that delegations consist of three at the table with three sitting behind in support, I said, conversationally, “right I’m going up, whose coming up with me?” I did not address this question specifically to Donaldson, but he was standing near by, and my recollection is that he, equally conversationally, said, asked to be left out as he had to leave for a family holiday.

When we got to the conference room there was a delay as the Chairman had waived the rules on numbers and many people were crowding in, particularly in the delegations of the paramilitary related parties. The Chairman then asked each party in alphabetical order whether they accepted the final document. Answering for the Ulster Unionist party, I said “yes” adding that I was accountable for that decision to the Ulster Unionist Council. The Chairman then announced that the vote had been carried on the basis of a sufficient consensus, Sinn Fein having abstained.

There then followed after an interval the final addresses to the plenary. As usual I had asked some colleagues for suggestions before going up for the final session. David Campbell gave me a sentence which I liked, thinking it struck just the right tone for

the final paragraph and I was given a piece of paper with a sentence which I used for the central paragraph. It read,

We see this Agreement as addressing the wounds which have damaged our society, ensuring that our diverse traditions attract respect and, above all, laying the foundations for a healthy, vibrant democracy to replace the stagnation, frustration and powerlessness of the last three decades.

I did not know it had been drafted by Antony until I read his diary.

I did not wait for the others to make their statements. On John's advice, I slipped out to get to the media before anyone else could, but not before thanking John for his support, McDonald, *Trimble*, p. 211.

Some Reflections

Were we right to make the agreement? My answer is still yes. I think my argument that the constitutional and institutional aspects of the agreement, which would endure, were, on balance, favourable, and that the negatives were short-lived, unchangeable aspects of government policy, was and is absolutely right and has been completely vindicated by recent political developments.

Yet it may be said that the short term negatives, prisoners, policing and the slow and reluctant paramilitary change, eroded support for the agreement, resulting in the eclipse of the Ulster Unionist party and my personal defeat in Upper Bann in 2005.

Could those negative aspects have been changed or ameliorated? Not, I think, on 10 April 1998, but, yes, in the months and years afterwards, they could have been avoided or made acceptable. In other words the post agreement difficulties were not inevitable.

Prisoners

I still think that this issue was over-hyped, both at the time and since. The numbers, just over 200 on "each side", were small in comparison with the total offences committed and with those prisoners who already released. Moreover, it was generally accepted in political circles that, in the event of an agreement, something would be done for prisoners. This was even accepted by Ian Paisley for, during the Brooke talks, he wrote to a loyalist prisoner, who was regarded as a go-between to the loyalist leadership in prison, saying,

"if we do manage to achieve an alternative to the Anglo-Irish Agreement and a democratic government is set up in Northern Ireland matters in relation to prisoners would have to be looked at very closely indeed with all the various considerations being weighed in the balance" 22 May 1991.

The recipient's name is erased in the published letter. On 11 May 1998 a Billy McCaughey who had served 16 years in prison for a murder committed in 1977, gave an interview to the Irish News. In the interview he claimed that he had acted as liaison with the paramilitaries and that,

“I had reassurance from Paisley and Robinson that if the Talks reached a successful conclusion then the issue of prisoners would have to be looked at. Even in 1991 the DUP was prepared to accept that the prison issue had to be resolved”.

It caused us great amusement in the Upper Bann constituency that one of the most vociferous local DUP critics of prisoner release had himself benefited from early release from prison.

We had no enthusiasm for early releases, but our ability to argue against them was undercut by the government’s knowledge of how Ulster Unionist governments had acted in the past. Lord Brookeborough, on the ending of the IRA’s border campaign in the early sixties, arranged for the early release of all those sentenced for terrorist offences, it being completed within 18 months. Moreover all those interned for terrorist activity were always released on the ending of the emergency!

I think the real heat in this issue was the comparison, between the state doing things for terrorists, while terrorists refused to reciprocate.

Decommissioning

This was the real problem. It concerned more than the mere act of giving up or destroying weapons, important though that is in itself. The big underlying issue was whether paramilitaries were prepared to decisively give up violence and criminality and participate in society and politics on the same basis as everyone else. Early decommissioning of weapons linked to early release of prisoners would have indicated clearly to the public that the paramilitaries were really changing. There was implicit linkage in the agreement, the two year period for prisoner release paralleled the two period for the completion of disarmament. Had the government insisted on that linkage, and it was clearly open for it to do under the Agreement, then the implementation of the agreement would have gone smoothly. Decommissioning would have begun long before the inclusive executive would have been formed. The unionist electorate would have seen the giving up of weapons as an explicit statement that the terrorist campaign was over and an implicit statement that it had been wrong, and they would then have been prepared to accept former “activists” participating in office in the new dispensation.

It should be remembered that in May 1998, at the time of the referendum opinion polls indicated that a majority of unionists favoured the Agreement, with its inclusive executive, at a level consistent with the result in that referendum. But a few months later in the autumn, opinion polls indicated that a significant shift had occurred to a more sceptical position. The honeymoon was short and the probability is that unconditional prisoner release, the repeated republican denial of an obligation to decommission, coupled with their repeated self-justification, when a little humility, if not forthright apology would have been more appropriate, caused the disenchantment.

Should we have refused to make the agreement because the firm exclusion provision we had discussed with Blair at Chequers had been weakened? If we had, would we have been supported by public opinion in Northern Ireland? Hard core unionist opinion probably would have rallied round, but opinion generally would not, and outside Northern Ireland, opinion would have rounded on unionism, with potentially catastrophic consequences. The republican game plan had been to create a pan

nationalist front, persuade the world that unionism was the problem, and then move the British government to make major constitutional changes. By making the Agreement, we neutered that plan. But we also moved our problems into the post agreement dispensation.

At first we were relaxed about decommissioning as this extract from a letter I wrote to the Grand Lodge of Ireland on 5 May 1998 indicates,

We want decommissioning But it will not be achieved unless the government insists on it. In the Stormont Agreement matters have improved to the extent that there is now a time frame for the completion of decommissioning and the government has said that it should begin immediately.

Kennaway, *The Orange Order*, p. 241.

A few weeks later decommissioning had moved up our agenda as it became clear that we could not rely on the government to achieve it and that the government's failure to do so coupled with its rather naive attitude to prisoner release was eroding unionist confidence.

In the years that followed it was common for unionists to sympathise with me on being let down by Blair. It is paradoxical that the point on which we had been let down was an assurance for which we had not asked, namely the final paragraph of Blair's letter of 10 April. In that it is said that decommissioning should begin in June when the decommissioning schemes are put in place. At the meeting with Blair that afternoon, I had suggested making changes in the agreement if there were problems post agreement, but I had not asked for a start date for decommissioning. Interestingly earlier in the last week I had been offered a start date, but had rejected it in favour of decommission as a pre-requisite for office, "as agreed as Chequers" and put that rejection in writing. (Memo to Blair dated 8 April, the bulk of the text is set out in Godson, *Himself Alone*, p 331, but Godson erroneously describes this as an internal memo.)

As to the rest of Blair's letter, it is generally assumed that Blair let me down on that too: but that is not my view. He undertook to support changes. If anything he went further and made changes unilaterally. The Northern Ireland Act 2000, made at our request, enabled the British government to suspend the Assembly and executive when republicans failed to follow up the creation of the Executive with the beginning of decommissioning. Of course we would have preferred the exclusion of Sinn Fein from office. But Blair's reply to our request was that he could not compel people to remain in office, ie that the SDLP refused to be in office with unionists to the exclusion of republicans.

Ultimately, we did achieve agreement in changes to the Agreement that could lead to exclusion from office, although through an as yet untried procedure. Namely the new statutory power for the British government to remove a party from office on the recommendation of the Independent Monitoring Commission. Had this been in place or in prospect in October 2002, the Assembly might have survived. The responsibility for that failing in the last resort lies with the determined rearguard action against the IMC fought by the Northern Ireland Office under John Reid in the spring and summer of that year.

It is often said that the Blair letter was of no effect. This is wrong. As a paper, issued before the actual agreement and not objected to by any of the other parties it is, in international law, an authoritative interpretation of the text of the agreement. So, Blair's final paragraph on the commencement of decommissioning is to be regarded as an authoritative explanation of the decommissioning section of the agreement. So it would have been an enormous help to him had he been prepared to insist on that statement, and suspend prisoner release until decommissioning began..

Policing

Before the final stage of the Agreement there was a consensus to kick this past the final negotiations as an issue which would be too difficult to resolve. The chosen means was the appointment of a commission. So our concern was with its terms of reference. Our concern was with the break-up of the police, either geographically or functionally (two tier policing), because that might enable former paramilitaries to gain control of policing in some areas or in respect of some functions. This can be seen from my letter of 5 May 1998 to Grand Lodge,

The really important issue is preserving the integrity of the RUC. You will have noted the public commitments by the Secretary of State and the Prime Minister that paramilitaries are not about to be recruited into a two tier police force. We will have, however, to continue to be vigilant on this issue as it was and will be an issue irrespective of talks or agreements. As Ken Maginnis MP has been warning for years there are elements in the NIO who see the sacrifice of the RUC as the way of appeasing paramilitaries. Kennaway, *The Orange Order*, p. 242

In a real sense the integrity of the present police force, which structurally is the same force that existed in 1998, has been preserved, subject to some lingering worries about recruitment of part time constables. The prospective devolution of policing and justice to the Assembly will not change this, even if there is a Sinn Fein, so-called Policing Minister. For under British policing law and practice no Minister controls the police. A chief constable has a duty to uphold the law, but is operationally independent as to how he does so, and he is accountable, that is must explain what he did, to the policing board, which contains representatives of the community generally. The one thing he does not do is take orders from the government.

The changes to the composition of the police are changes we would have wanted to see. But which we think could be achieved without discrimination. The changes to the way of working are changes which were part of the necessary and desirable adjustment from anti-terrorist to normal policing and were generally foreshadowed by the RUC's own fundamental review.

The hurt to the police family has come from the symbolic changes in a context which failed to acknowledge the service and sacrifice that had gone before. It was ironic that on the day when the Patten report was launched that Chris Patten should quote an unnamed unionist politician who warned him that he could get the changes of substance right, but still lose if he got the symbolic changes wrong. I was that politician, and did he get it wrong. By contrast the policing board when formed did a much better job of the one bit of symbolism left to it. Not perfect, but better.

Which leaves me with the conclusion that we should never have left this matter to a Commission mainly composed of outsiders. Enormously difficult as it would have been, it could only have been handled better if the local parties had had responsibility for it.

A final thought. The Patten dispensation is not immutable. The Royal Irish Constabulary only acquired the prefix Royal many years after its creation. It is a pity that the DUP in its recent negotiations did not try to achieve some rebalancing of the policing symbols, by for example, seeking to have the title “Royal” conferred on the Police Service. Then they could have come out of those negotiations with something the Unionist community would have valued. Whereas they only secured fig leaves to cover their decision to share power with republicans.

Unfinished business

At the end of my meeting with the Prime Minister on the Tuesday of the final week when I had a real sense that we could succeed, I said to Blair,

“If we pull this off there is two things I want you to do for me. First I want a K for Empey and Gorman, and then, after the Assembly is settled, I want you to extend Labour Party organisation to Northern Ireland.”

I explained that Empey as chief negotiator had done a lot of the hard work and his efforts deserved recognition. Gorman had also done a sterling job as Chair of the Forum and honouring him would also be a mark of recognition for the Forum as a whole. As to the Labour party, I had long been of the opinion that its boycott of Northern Ireland was wrong in principle and an obstacle for the development of normal politics. But I deliberately put in the qualification because I considered that without first putting in an Assembly that offered nationalists “their place in the sun”, they would bitterly oppose Labour party organisation in Northern Ireland as not only a threat to their parties, but as an attempt by unionists to avoid a serious political engagement with them.

Blair delivered on the first, although officialdom put me to a difficult choice when they said, for reasons I did not clearly understand, that they could not both be done on the next available list. Displaying a quiet unjustified lack of confidence in John Gorman’s staying power I put him in first.

As to the second, I reminded Blair of the matter from time to time and he never looked very comfortable about the matter, but in fairness, it is only now as the future for the Assembly appears stable, that this bit of unfinished business looks like becoming practical politics. As you can gather from recent events I hope to return to this issue in the future.

A final thought

Antony was unionist and a friend of the unionist community in Ulster. But not an uncritical one. In the conclusion of his talks diary he reflects on the character of the unionist community, which in its

“utter lack of charity, prefers to be an outraged victim, rather than an outright victor, and until this victim mentality is ended, this community will not prosper.”

We should ourselves acknowledge that there is truth in this observation and try to avoid, those modes of thought, those persons and parties who encourage this form of self pity.

The Last word

Antony’s diary concludes with this comparison,

“UU v QUB

A triumph for UU. QUB had one front line negotiator, whereas UU had four. AA was particularly proud that three of his students were involved in the back-up teams.”

It would not be right for me to comment on that, here on this occasion.