

# DÁIL ÉIREANN

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## AN COMHCHOISTE UM

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### FEIDHMIÚ CHOMHAONTÚ AOINE AN CHÉASTA

### JOINT COMMITTEE ON THE IMPLEMENTATION OF THE GOOD FRIDAY AGREEMENT

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*Déardaoin, 2 Meitheamh 2022*

*Thursday, 2 June 2022*

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Tháinig an Comhchoiste le chéile ag 1.30 p.m.

The Joint Committee met at 1.30 p.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
Jennifer Carroll MacNeill,	Niall Blaney,
Rose Conway-Walsh,	Emer Currie,
Brendan Smith,	John McGahon.
Pauline Tully.	

I láthair / In attendance: Mickey Brady, MP, Stephen Farry, MP, and Michelle Gildrenaw, MP.

Teachta / Deputy Fergus O'Dowd sa Chathaoir / in the Chair.

**Chairman:** I propose that we immediately go into private session. Is that agreed? Agreed.

*The joint committee went into private session at 1.38 p.m. and resumed in public session at 1.47 p.m.*

**Architects of the Good Friday Agreement (Resumed): Mr. David Donoghue and Mr. Rory Montgomery**

**Chairman:** Today, we have our second engagement with architects of the Good Friday Agreement. I welcome Mr. David Donoghue and Mr. Rory Montgomery. I thank them for giving of their time and attending. They are both distinguished former officials of the Department of Foreign Affairs and were heavily involved in various aspects of the process that led to the Good Friday Agreement.

I will read a note on privilege. The evidence of witnesses physically present or giving evidence from within the parliamentary precincts is protected, pursuant to both the Constitution and statute, by absolute privilege. However, witnesses and participants who are to give evidence from a location outside the parliamentary precincts are asked to note that they may not benefit from the same level of immunity from legal proceedings as witnesses giving evidence from within the parliamentary precincts, and may consider it appropriate to seek legal advice on the matter. Witnesses are also asked to note that only evidence connected with the subject matter of the proceedings should be given. They should respect directions given by the Chair and the parliamentary practice to the effect that, where possible, they should neither criticise nor make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable, or otherwise engage in speech that might be regarded as damaging to the person's or the entity's good name.

Members must not comment on, criticise or make charges against any person outside the Houses or an official by name or in such a way as to make him, her or it identifiable.

I ask our guests to note that some members will be appearing on the screen. We are very lucky that the committee consists of 16 Members of the Oireachtas. Ten of the 18 MPs elected to represent the North attend our meetings, although not all at the same time. We have a very good mix in the community. Unfortunately, we are missing the Unionist MPs, but everyone else attends. That is life. I invite Mr. Donoghue to make his opening remarks. He will be followed by Mr. Montgomery.

**Mr. David Donoghue:** I thank the Chairman. It is a great pleasure and honour to be here and, indeed, to be here with my good friend, Mr. Rory Montgomery. I will make a brief opening statement. I had a long involvement with Northern Ireland policy and Anglo-Irish relations while I was working in the Department of Foreign Affairs. I served in the Anglo-Irish section in the 1970s, 1980s and 1990s. I worked in different capacities on the Anglo-Irish Agreement in the 1980s, and the peace process and the Good Friday Agreement negotiations in the 1990s. In the second half of the 1990s, I was the Irish head of an institution that members may have heard of called the Anglo-Irish secretariat, otherwise known as "the Bunker" or "Maryfield", in Belfast. My main role during the Good Friday Agreement negotiations was to liaise on a con-

tinuous basis with the British Government on all aspects and to try to interpret British thinking and intentions for our Government. I finished my involvement with Northern Ireland in 1999 and went off to do other things. I had the pleasure of meeting the Chairman in New York a few years ago during one of my later roles but I still keep a very close interest in what is going on and I try to contribute in various ways. I have completed a book on the Good Friday Agreement negotiations, which will be published later this year.

I will not read out my entire statement give the time constraints. The first key point to make is that from the mid 1980s onwards we have been guided by the principle of close co-operation between the Irish and British Governments on all the aspects I mentioned, from the Anglo-Irish Agreement right through to the Good Friday Agreement. The road we travelled together was not always easy but, nevertheless, the two Governments were the motor. That applies particularly to the lengthy negotiations, which eventually reached culmination on Good Friday 1998.

It would be fair to say that in the summer of 1997 we reached a turning point with the arrival of two new Administrations in Dublin and London, which had solid majorities and which were in a position to give fresh impetus to the partnership. These were led, as we all know, by Bertie Ahern and Tony Blair, respectively. That created favourable conditions for the restoration of the IRA ceasefire in the summer of 1997 and for the convening of all-party talks, with everybody at the table for the first time, on substance. We had previously had a large grouping of the parties in 1996 but at a point where we had not yet got the substance. As of September 1997 we were finally able to get to substantive talks with everybody at the table.

Another confidence-building factor was the availability of George Mitchell as an independent mediator and chair for the talks along with his two colleagues. Most importantly, we had the presence of President Clinton behind the scenes. He was, as the members will know, a remarkable asset because he was a president with an unrivalled knowledge of the Northern Ireland situation going back quite a while and an unrivalled interest in the developments. He worked very closely with the Taoiseach and the Prime Minister of the day. I often think of him as a third partner to those negotiations. We were blessed in a sense with those happy developments as of the summer of 1997.

We had set out in two landmark documents a few years earlier a joint understanding between the British and Irish Governments of how constitutional issues would be articulated in the future agreement we were aiming at. These documents, as the members will know, were the Downing Street Declaration of December 1993 and the Joint Framework Document of February 1995. Between them, those two documents, in a sense, were trying to demonstrate to republicans that if they were to abandon violence and commit absolutely to peaceful politics, they could take part in a comprehensive talks process, which would validate Irish unity as a legitimate political objective and would also ensure a level playing field for people of both traditions, in a careful balancing of two key concepts, namely, self-determination and consent. The two Governments agreed the people of Ireland had a right to self-determination but the way in which this right was exercised would be subject to the principle of consent. It was a complex concept but one which married positions that were important to people of the two main traditions. It provided the basis for us to move towards the more operational end of the negotiations, getting into a potential agreement, which would cover the three strands, various institutions and human rights concepts, including equality. We had to first get the constitutional issues right and get them into a position which would be acceptable on both sides. We did that with those two documents and that opened the way for what eventually became the Good Friday Agreement.

I do not have much time to go into the decommissioning of weapons but there is no doubt it

stymied our efforts for several years. We, on the Irish Government side, found it simply impossible to accept this as a legitimate issue to be resolved in advance of negotiations. We could understand there would be an expectation that weapons would be eventually decommissioned as part of a new political dynamic but we could not accept that it would be made a precondition for taking part in negotiations to begin with. Suffice to say, that bedevilled our efforts for quite a while. If I were to tot it up, we probably spent 18 months or two years trying to find a way around this decommissioning blockage, a blockage which the British Government contributed to erecting. This was prior to the Blair Government. However, eventually we found a way by the autumn of 1997, which enabled decommissioning to be handled in a separate sub-committee of the negotiations. We still had to keep an eye on it and it would come back to haunt us from time to time but it was essentially handled apart from the main negotiations. That meant that as of September 1997 we were pointing towards a substantive agreement which eventually came. I will leave it at that because I know I have only five minutes at my disposal.

**Chairman:** Please continue. Everything you have to say is of major interest to all of us.

**Mr. David Donoghue:** I thank the Chairman for that. I will make another few points. The framework document, which was negotiated largely under the Fianna Fáil-Labour Party Government in the mid-1990s and was published under the new Government in early 1995, in effect, was a template that we, on the Irish Government side, saw for the future agreement. That did not mean we had in mind that every single comma and adjective would be included in the agreement but it set out, nevertheless, a range of understandings on the constitutional side and on the institutional side, which we felt would have to be part of a future agreement if changes to Articles 2 and 3 were to be expected as a consequence. Of course, all along the unionists wanted to see Articles 2 and 3 changed. We recognised that but we, in turn, knew there would be no possible majority in a referendum situation in this jurisdiction and in the North unless there were politically significant North-South bodies, including executive powers. We could not just have casual or insignificant structures. We had to have something that really made an impact, which had both a practical value and also was politically robust. We knew what sort of North-South bodies we needed as the *quid pro quo* for constitutional change and all of that was in the framework document. The British Government, generally speaking, was of the same mind. From time to time, it was a little more reticent in attaching itself publicly to the framework document, but it knew it was basically the blueprint for what would come out of the negotiations. When Easter week eventually arrived, and it come down to a final hectic, sometimes confused, few days, we were not sitting around a table, as we would be here. It did not involve formal negotiations, as one might imagine. There were eight parties there. There were two Governments. It was presided over by George Mitchell and his two colleagues. One might imagine that with that number of players and people one would have to have a more formal set-up, but the truth is that the deals were being done in small bilateral or trilateral settings. That is often the way it has to be. We deliberately engineered a kind of pressure cooker situation in Castle Buildings in the final few days, from about the Tuesday onwards, because it was clear that while we had the two Heads of Government there, they would not be there forever. Easter was also a deadline. George Mitchell had made clear it was a deadline for him personally so in a sense, it was now or never. We could, in theory, have gone on beyond Easter but the political dynamics were such that we knew we would have to finish for Easter. We did not quite finish within the deadline George Mitchell had in mind, which was Holy Thursday at midnight. We went into the Friday but overall, we managed to stick to the programme.

One reason that formal negotiations around a table would not have worked is that people were inclined to grandstand - no big surprise there - especially if they felt there was a media

angle. People were inclined to read out party positions or governmental positions and that was not a place in which one could do deals and reach compromises so we had to go for the more informal setting.

I will leave it at that. I do not want to take up all of the time and will make way for Mr. Montgomery. To start the ball rolling, I just thought I would make those points.

**Mr. Rory Montgomery:** I thank the Chairman and Mr. Donoghue. I am glad to be here with members of the committee and others who are joining the meeting from afar. By way of background, I worked on Northern Ireland affairs in the Anglo-Irish division of the Department of the Taoiseach from 1993 to 2001. Therefore, I was very much involved in the preparations for the negotiations and during the negotiations themselves I did a lot of work on drafting around the constitutional and institutional issues in particular. Then I spent the three years after the negotiation of the agreement working on the North-South institutions and trying to find a basis for the institutions to go live. I then went off to other places, principally the EU, but my last few years in the public service were dominated and dogged by Brexit. I was the lead official on Brexit in the Taoiseach's Department for a couple of years and then in the Department of Foreign Affairs. I found myself reacquainted with Northern Ireland more than I might have expected to be when I worked in EU matters.

Since my retirement three years ago, I have developed a number of connections with Northern Ireland. In particular, I am an honorary professor at the Mitchell Institute at Queen's University Belfast and am also on the steering committee of a project being run by the Royal Irish Academy and the University of Notre Dame called Analysing and Researching Ireland North and South, ARINS. We have published around 20 or 25 academic articles on all sorts of aspects of the future of Ireland, some directly related to the question of constitutional change and others not.

On a personal note, my parents are both originally from Northern Ireland. They have lived in the Republic since they went to university here. They are both 90 years of age so they have lived here a long time but still have close connections with Northern Ireland. By coincidence, my son is now living in Belfast. He is married to a woman from Belfast and I have a little nine-month-old Northern Ireland grandson, whom I met this morning, so I have a strong sense of a stake in the place.

I submitted a longer paper to the committee containing some reflections on the negotiations. I also circulated the text of a lecture I gave at Queen's University last year which was specifically on the question of what the Good Friday Agreement does and does not say about a united Ireland. That, in turn, was based on an academic article I had published by the Royal Irish Academy. I knew coming in here of the approach that Mr. Donoghue was planning to take and Mr. O'Connor very kindly shared his paper with me so I decided not to go at things in a chronological way but to make some personal reflections which are entirely incomplete and not comprehensive. They benefit from hindsight, which makes us all wiser but I hope they will be useful.

The first point I would make is that talk of a peace process can often be misleading. It is a misnomer. There was no single or singular peace process. There were quite different streams which flowed together into the final Good Friday Agreement. Going right back to Sunningdale, through the Anglo-Irish Agreement and the Brooke-Mayhew talks in the early 1990s, there was a whole series of attempts to establish institutions within Northern Ireland and, to some degree, North-South institutions as well. In that context, we can see that what happened in the early

1990s was very important. There was an acceptance on all sides of the need for a three-strand approach. At the same time, the question of constitutional change in the Republic as part of a deal came very much to the fore. Of course, the unionist desire to see the Anglo-Irish Agreement superseded was also very important. That is one whole stream.

The second stream, of course, was a peace process more narrowly defined as the bringing to an end of violence. I refer to violence by paramilitaries in particular but also the various elements of State violence which were the consequence of that. Obviously, the maintenance of peace was hugely important but there were other issues such as the position of prisoners, the question of decommissioning, which Mr. Donoghue mentioned, the question of demilitarisation, the scaling back of military installations and so on. That was a separate stream of issues.

Third, in the 1990s in particular there had been substantial progress on areas of human rights and, in particular, fair employment. Northern Ireland was becoming a more equal and less discriminatory place through the 1990s. It was still a long way away from where it has got to since but certainly progress was made. Then we had strong voices in favour of policing reform, arguing that it was fundamentally essential. Above all, Mr. Seamus Mallon was the voice of that but prominent members of the Catholic Church and the Irish Government were also very strong on it. Finally, from the early 1990s onwards, the whole concept of the North-South economy or the all-island economy began to grow, led by business leaders such as the late Sir George Quigley as well as the Confederation of British Industry, CBI, and the Irish Business and Employers Confederation, IBEC.

There were five different streams and they all fed in together and contributed in different ways. I am not saying they can be distinguished clearly, one from the other, in the end. I am being a bit schematic but they all had different origins and roots and they came together in the end. An important point to make is that the different players had different priorities. Some were focused on certain aspects of the negotiations, while some focused on other aspects. The unionists for their part were primarily interested in the ending of the Anglo-Irish Agreement and, in particular, Mr. Donoghue's secretariat. They also wanted to see changes to Articles 2 and 3 of the Constitution, which had come back into focus because there was a judgment in the Supreme Court in a case taken by the McGimpsey brothers, who were unionists. They argued that the Anglo-Irish Agreement was a violation of the Irish Constitution because of what it said about consent. The Supreme Court, while rejecting their case, said nonetheless that unification was a "constitutional imperative". That became a major issue for the unionists. They realised that the price they would have to pay for this would be power-sharing arrangements within Northern Ireland and North-South institutions. They were open to that but it is fair to say that they were a lot less enthusiastic about either of those things than the SDLP. The SDLP was the great champion of strong power-sharing institutions and strong North-South institutions as a balance and it is fair to say that the Alliance was in the same space. It also had an interest in rights, policing and other such matters.

The third major party around the table at the end of the negotiations was Sinn Féin. The interesting thing was that for Sinn Féin, being present at the table was extraordinarily important. The recognition of its democratic mandate was hugely important. However, the fact that Sinn Féin could not accept, intellectually or politically, the premise that there would be a continuing entity called Northern Ireland meant that it did not engage in any meaningful way in negotiations either on strand one institutions or on the North-South institutions. This is an important point. Bit by bit, there was an acceptance in practice that these institutions would exist and had to exist but this was not Sinn Féin's focus. Its focus was, above all, on the second stream of

issues, that is, the consequences of the end of violence. Above all, it was concerned about prisoner release and about avoiding explicit commitments and action on decommissioning. Those were its principal interests. It was, of course, interested in equality issues and the question of a future united Ireland. It is important to make the point that most of the institutional discussions involving the parties included the UUP and the SDLP, other parties, to a lesser extent, and the two Governments.

As I was saying, the different elements of the agreement had very deep roots. Many people and organisations contributed over the years and decades. If you were to meet my friend Mr. Jonathan Powell, who is a member of the Mitchell Institute, as I am, you might believe it all began on the Tuesday of Holy Week when Tony Blair arrived in Northern Ireland or, at the earliest, when Tony Blair was elected in May 1997. In fact, as we know, the process took much longer. There was a slow process between June 1996 and March 1998. Senator Mitchell and his team did a fantastic job in holding the ring and making the public case for the effort. As Mr. Donoghue said, there was then a sprint at the end of the marathon. It is almost impossible to exaggerate the extent to which things were chaotic and confused for the reasons Mr. Donoghue mentioned. I have been involved in many negotiations since, including at EU level, and that is how deals get done. They are a combination of fatigue, confusion and adrenaline, and the sense that the time has come.

Discussions were largely unco-ordinated. Only the Governments had an overview of what was happening. Representatives of the UUP and the SDLP were in one room talking about strand one. The Irish Government was talking to the UUP about strand two. Sinn Féin was talking to the British and Irish Governments about prisoners and decommissioning, etc. This near chaos, this fog of war, is almost typical of negotiating endgames but it means issues can be left unclear. There can be creative ambiguity but at times there can also be uncreative ambiguity, if you like, and a lack of clarity. It is bizarre. To give a couple of examples, the broad constitutional principles, as Mr. Donoghue said, had largely been settled between the two Governments in advance. There were three different constitutional aspects of the settlement. There were changes to Articles 2 and 3 and the British constitutional legislation, including provision for a future referendum, and the constitutional section of the agreement itself. Those three elements were never looked at together in the round. It means there is a bizarre situation in that the Irish Government has no role whatsoever in a formal sense in calling a referendum. Many people, even in the South, appear to misunderstand that. Of course, for political reasons the South would have to have a role in that regard but it is a strange gap in the agreement, to take one example.

There is an idea that those involved knew what they were doing in every case. I remember when the unionists reacted furiously to Chris Patten's recommendations on policing. Patten asked what did they think they were signing up to, to which my reply would be that they did not know what they were signing up to. The focus was so heavily on some other matters that the policing texts were drafted between the two Governments and the unionists never read them clearly and did not know what they were signing up to.

It is also worth recognising that while it is a legal text, only the section on constitutional issues is written in legal language. Only that section would resemble, for example, an EU treaty. Much of the rest of the agreement includes broad parameters that would be fleshed out through further negotiation between North and South. Other aspects, such as policing, would require future investigation. There were also statements of aspiration on symbolism and so on. There was sometimes a lack of clear elements in the agreement. I am not saying that was avoidable

because it could not have been otherwise but I make that point.

Looking back, it is interesting that some of the issues that have come to the fore in the intervening years got relatively little attention during the process. An enormous amount of attention was paid to North-South issues and structures. I was very much involved in those negotiations, as was Mr. Donoghue. I remember being in Downing Street for two or three days the week before the agreement, with Dermot Gallagher and Paddy Teahon of the Department of the Taoiseach and our British opposite numbers. We were working on texts to be given to the parties. That was taking a considerable amount of attention and was politically important for the SDLP and the Irish Government from, if you like, an offensive point of view, and very important for the unionists from a defensive point of view. Far more attention was paid to those structures than was paid to many of the finer details as to how the Assembly and Executive would work. Broad principles were certainly set out but how the developments might intersect was never thought through. I do not think an agreement of a different kind could have been reached but I make that point.

Little or nothing was said about legacy issues, reconciliation or anti-sectarianism, which is interesting. That was partly because not everything could be discussed but it was also because, as I have confirmed with some members of the Northern Ireland Women's Coalition, there was a sense that those issues would look after themselves if the political structures were in place. They were also considered soft issues, even women's issues possibly. They were to do with sentiment rather than hard constitutional language and so on. That is an interesting point. Many people would also feel that socioeconomic issues were not given the weight they might have been. Was that a realistic possibility? I do not know.

It is important to note that at the time, there was no need to say anything whatever about the places of Britain and Ireland within the European Union. The agreement states nothing, good or bad, about the Border. It states nothing about the place of Northern Ireland within the UK internal market. It was simply regarded as entirely unnecessary to include such references. Therefore, while either side can appeal to the spirit of the agreement, they cannot appeal to the letter of the agreement when it comes to Brexit.

This was an inclusive process in the sense that it included every party with an electoral mandate from the 1996 Northern Ireland Forum elections. Every party that had rejected violence and committed to the Mitchell principles was entitled to be present. However, at no point in the talks were all of the major parties represented at the same time. Sinn Féin was excluded from June 1996 to September 1997 in the wake of the bombing of Canary Wharf at the end of the IRA's first ceasefire. The two Governments found a basis on which to get Sinn Féin into the talks and when that happened, the DUP and the UK Unionist Party, led by Robert McCartney, walked out. Mr. McCartney was an eloquent and fluent figure albeit he represented a minority view. The consequence was that unionism was, in a way, under-represented in the final stages of the negotiations. One would have to say that the constant attacks of the DUP on the process and the outcome destroyed any prospect of broad unionist consensus in favour of the agreement. It is reasonable to ask if there would have been an agreement had the DUP been present and it is probable there would not have been. However, the absence of its representatives was destructive. There is no question about it. We must remember that while people talk about the 71% of Northern Irish voters who voted in favour of the agreement, only a bare majority of unionists, if that, voted for it. In the Assembly elections of June 1998, a majority of the MLAs returned were anti-agreement. That included a number of members of the UUP, principally Jeffrey Donaldson and Arlene Foster, who remained in the UUP for years but were constantly



working against David Trimble.

As Mr. Donoghue said, we do not want to go over the long story of decommissioning. For good reason, dealing with the issue was repeatedly delayed. Many people forget that Senator Mitchell came back for two months in the autumn of 1999 to try to find a basis on which the institutions could go live. On the basis of his intensive discussions, he confirmed a firm expectation at the end of November 1999 that decommissioning would begin immediately after the institutions were put in place. It was on that basis that David Trimble jumped. That expectation was, of course, disappointed. One could argue as to whether that was inevitable or otherwise. Some things were done by the unionists which made it more difficult for the republicans to come through. I feel that it was a missed opportunity. It helped to utterly destroy unionist confidence in David Trimble and it meant that the institutions were not functioning for a long period of time which meant the opportunities to build mutual confidence in the institutions was damaged.

David Trimble, while politically not always an easy interlocutor, to put it mildly, showed extraordinary bravery as a leader. He brought his party through a series of knife-edge votes in favour of staying in the institutions in the agreement. I do not believe any other of the political leaders involved would have done so. If Bertie Ahern had been winning votes in the Dáil by one or two votes, would he have kept going? Would Tony Blair have done so if the same was the case in the House of Commons? I do not think so. The republican movement was obviously and understandably focused on maintaining its own unity. That was entirely understandable and minimising dissident activity was entirely right. I acknowledge the approach taken by David Trimble. When I think back on it, the politically savvy thing for him to have done would have been to break on the decommissioning issue on 10 April 1998 and not signed the agreement. Who knows what would have happened then? He did not do it, however. His strategic insight was that it was better for unionism to engage. However, with all that happened thereafter, he effectively signed his own political death warrant in doing that. Things moved on. Of course, decommissioning was resolved. Mr. Ian Paisley, in the end, found it in himself to become the leader of the institutions. Mr. Peter Robinson was very important in this. The institutions have worked for most of the time from 2007, although not all the time. Interestingly, Mr. Jeffrey Donaldson is the only person who was a leading figure in 1998 who is still active in front-line politics. The consequences are real. The Executive, Assembly and the North–South institutions in those early years never really had a chance to deliver results and provide an arena for the building of confidence and understanding. As we have seen, unionism’s uneasy accommodation of the agreement continues to have very negative and serious consequences. While there are many causes of this, I do not believe it can be understood fully without an understanding of what happened.

Let me make a final point. I do not want anything I say to be seen as detracting from the extraordinary, enormous and enduring importance of the agreement — absolutely not. I feel incredibly proud to have taken part in it and, of all the things I did in my career, it is the one I am proudest of. At times, however, I think the narrative of its creation can be a little simplistic. It came out of a very complex, imperfect and ultimately very rushed negotiation. Some elements were more developed than others. With hindsight, I believe the weights placed on the various elements might have been different. I do not think the agreement was ever intended to be the last word and it should not be seen as such. It is for current and future generations of politicians and officials, civil society and, ultimately, citizens to decide if, when and how it might be revised or utterly superseded by a change in Northern Ireland’s constitutional status, which it provides for.

**Chairman:** What has shined from Mr. Montgomery's evidence, and Mr. O'Connor's last week, is the total commitment to and sterling work on behalf of peace on this island. It is matched by that of those civil servants and politicians, but particularly civil servants, who were driving the agenda in their own bailiwicks in the North and London. I wish we could get back to the consensus Mr. Montgomery referred to. The leaders of both Governments worked hand in hand, and we need to try to get back to that to bring the case forward. It is sad that those who took the biggest risk, and their parties, were very damaged in the end by the political fall-out. That is something to reflect on too. If future players have to make a new agreement, this must loom large in their minds. The sensitivity and relationship needed, particularly between unionism and nationalism and the North and South, are becoming more important as we move towards what I believe will inevitably be a border poll, with all its associated trauma and problems. There is a need to prepare, have as much consent as possible and build on the shared island initiative.

We will move on. Mr. Mickey Brady of Sinn Féin will be first, with 15 minutes, followed by Fianna Fáil, Fine Gael, the SDLP, the Alliance Party, the Green Party, Sinn Féin, the Labour Party, the Independents and Aontú.

**Mr. Mickey Brady:** Excuse my voice. I am currently isolating. I am far enough away not to contaminate anybody, at least physically. I thank the witnesses for their presentations. My first question has been answered to a certain extent. I was going to ask about the DUP being notable by its absence. The question was answered to a point in that it was said it is possible that had the DUP been present, the agreement might not have been signed. Was that a real possibility? It is ironic now that the DUP, including Mr. Jeffrey Donaldson, who is now its leader and who actually walked out of the talks, as has been said, is now quoting the Good Friday Agreement, saying it is under such pressure from the protocol and outlining how his party would hate to see it being badly affected. These are the people who did not participate or, indeed, sign up to the Good Friday Agreement. Do the witnesses believe the agreement would not have been signed had the DUP remained? It obviously walked out because republicans came back in. Was that the greatest possibility at the time?

On an agreement on a border poll and referendum, the criterion of 50% plus 1% is, as far as I am aware, democracy. It has been under a lot of pressure in various areas and from parties over the past while. We have tried several times to get various Secretaries of State to outline the criteria they might use to initiate a border poll. However, so far all parties, including the Labour Party with its shadow Under-Secretaries of State, etc., have refused to answer the question. At the time of the agreement, it seemed that the 50% plus 1% criterion and the fact that a British Secretary of State would be the one to trigger a border poll were accepted generally. I wonder was that the case. Was there much disagreement? Was there much argument about it?

The Chairman has mentioned parties who sacrificed so much and lost out. Having said that, republicans also took big risks to participate and, indeed, were a big part of the agreement and the contingent peace process. With respect, it does not seem to have done our party that much harm as it is now the biggest party on the island of Ireland. We are now waiting for a First Minister of Sinn Féin to take part in the Assembly when it does get up and running. Obviously, all parties took risks. Possibly some took more than others, but ultimately it is the public, the people, who have decided.

**Chairman:** Mr. Brady may have misunderstood me. I was talking about the unionist party that lost out; I was not referring to the nationalist side. It was Mr. David Trimble-----

**Mr. Mickey Brady:** With respect, that may-----

**Chairman:** We have avoided political rancour. I know Mr. Brady is not introducing any, nor am I. I was referring to-----

**Mr. Mickey Brady:** That is fine. The Chairman has explained that.

**Chairman:** The point I was making is that if we are to move forward, we will need a unionist leader who will feel safe and secure in his or her community when it happens. Anyway, it is back to Mr. Donoghue and Mr. Montgomery, and then Mr. Brady or any other contributor.

**Mr. Rory Montgomery:** We can divvy things as we go along.

**Mr. David Donoghue:** With the Chairman's permission, I will try to respond to the first question, which was very important. It was on whether there would have been an agreement had the DUP been involved. In my opinion, there would have been absolutely no agreement. It is hypothetical. We did witness the approach to the talks of the DUP and the UK Unionist Party, which was linked to it, at an earlier stage. As Mr. Montgomery mentioned, they left in September 1997 once Sinn Féin was back in. Hypothetically, if I were to guess whether they would have blocked an agreement had they stayed on and were still there in Easter week, I would certainly say they would have.

It is an issue of what happened. There is no doubt that the decommissioning issue weakened Mr. David Trimble. Eventually, several years later, he had to pay the price for it. In a way, what is more important is that the DUP found a way to reconcile itself to the new agreement, which clearly did command a significant level of support. Mr. Montgomery's point about 71% is absolutely valid but there was no doubt that the agreement was then part of the landscape. Several years later, the DUP was probably looking for a way of climbing on board rather than remaining in permanent opposition. That would be my guess. The way that they achieved that was through the St. Andrews Agreement of 2006, which, strictly speaking, was merely a tweaking of the Good Friday Agreement. It clarified a few points but it gave the DUP enough face-saving cover to decide that things were now radically different from what had happened in 1998 and, therefore, it could come on board. My gut feeling is that they would ultimately have found a way of coming on board even if it took several years but, in 1998, they would probably have walked many times before Easter week. They would not still have been there by Easter week. That was the reality.

On the point about Jeffrey Donaldson, it is true - I will not make a political comment - Jeffrey walked out on Good Friday itself. He was obviously unhappy with what was being negotiated. I suppose different people have different approaches to the agreement at different times. Of course, he was still in the UUP at that stage.

Ultimately, the DUP did the right thing, in my view. They found a way of narrowing the distance between themselves and the Good Friday Agreement.

**Mr. Rory Montgomery:** By the time the DUP came on board, the prisoner issue had effectively faded, decommissioning had been sorted out with the act of putting weapons beyond use by the IRA in 2005 and various other things had changed as well, not least that Mr. Paisley was now top dog, which, I think, was always one of his principal objectives. It is also important, and not to be underestimated, that even though they were not numerically very significant, the presence of the two loyalist parties, the PUP and the UDP, which stayed in with the UUP when Sinn Féin came in and the DUP walked out, was quite important politically and symbolically,

although, as I said, the other small unionist party walked out at the same time.

On the second question about the referendum, one can read in exhaustive detail in this article I wrote, which is published by *Irish Studies in International Affairs*, many of the origins of the different bits of the constitutional parts of the agreement, where they come from and how they were negotiated. As I think I said, the funny thing is that the two governments had reached this broad consensus on the basic principles of self-determination and consent and the concept of British or Irish, or both, etc. This was not challenged by any of the parties in particular. The UUP's focus was very heavily on the changes to Articles 2 and 3, but one of the odd things is, as I said earlier, because of the way things were organised or not organised in the last week or so, and because there was a sense that the constitutional issues parts had been dealt with, no real scrutiny was given to the finer points, in particular, of the British legislation. I know for a fact that a middle ranking official - my opposite number - drafted the legislation. He expected it would be the subject of much discussion with his colleagues and with us and it basically went through on the nod. For example, there had been provision for a referendum previously. The 1973 Northern Ireland Constitution Act required a minimum ten year gap between referendums. This was changed to seven, for example. I am not entirely clear how or why.

On the 50% plus one criterion, to be very clear, I still remember vividly on the last night of the negotiations being asked by Sinn Féin representatives why was the language in the agreement simply a majority and did it actually mean 50% plus one, and I said that that is what a majority means. If it is not qualified in any way, that is it. At the time, I do not remember anybody in the negotiations challenging the idea or raising the question of 50% plus one being an adequate majority or not. A majority is a majority. On the whole question of what would be the politically wisest way to proceed, that is another debate. The law is absolutely clear, including in the British legislation on this.

On the question of criteria, first of all, these things were not discussed in detail. If one looks back at it, if we had tried to go into every detail we would never have finished. It is interesting this question of criteria. The Tánaiste and Minister for Enterprise, Trade and Employment, Deputy Varadkar, said something to the same effect recently. On the other hand, there was a comprehensive study by University College London - a group of eminent British and Irish academics looking at all of the technical issues around referendums. Their view was in the end that it did not make sense to be too prescriptive about precisely what criteria should be met. That was also the view taken by the High Court in Northern Ireland when a case was taken by a loyalist paramilitary victim's father. It is a fine balance.

If you look back, it is almost 25 years since the agreement was reached. Nobody at that time would have thought that these would become live questions any time soon and of course, they did not. It was not necessary, maybe, to go into the kind of detail that ideally one might have wished people to go into. The Chairman is correct that these questions are more pressing now and probably must be addressed in this new era. That is kind of what I meant at the end when I stated that it is for present and future generations to build on and develop the agreement.

*Deputy Brendan Smith took the Chair.*

**Acting Chairman (Deputy Brendan Smith):** I thank Mr. Montgomery and Mr. Donoghue. There is over three minutes left in Mr. Brady's slot. Does Mr. Brady want to make a further comment? Is Ms Gildernew on the line?

**Ms Michelle Gildernew:** I am.

**Acting Chairman (Deputy Brendan Smith):** There is three and a half minutes left in the slot.

**Ms Michelle Gildernew:** My time would suggest that we do not wish to comment further at this point. If the Acting Chairman wants to move on, I will contribute in the second slot. That will work all right for us.

**Acting Chairman (Deputy Brendan Smith):** Fair enough. I call Senator Blaney for the Fianna Fáil group.

**Senator Niall Blaney:** I thank the Acting Chairman. Both Mr. Montgomery and Mr. Donoghue are most welcome today. This is a fascinating series for many of us. Many of us feel that this is particularly important work given the background that they themselves have explained in relation to the Good Friday Agreement, and for us to discover how it came about because many of us would like to see this island united as a people and moving on, the economy moving on, education, jobs, etc., and the island working as one. It is important that we learn lessons and understand what happened in the past to get to the point of the Good Friday Agreement. That is why this work, and their testimony in that regard, is important.

I thank Mr. Montgomery and Mr. Donoghue for the evidence they have given. Some of it has raised a number of questions. Maybe, at the outset, I will ask Mr. Montgomery about the statement he made in relation to David Trimble. Even Mr. Tim O'Connor referenced last week the likes of David Trimble, and, by extension, John Hume and Seamus Mallon, who to a certain degree sacrificed themselves and possibly their political positions for the prize of peace, but in the statement Mr. Montgomery made, he referenced Bertie Ahern. Could Mr. Montgomery clarify what he said about Bertie Ahern, who, at that stage, was tight for numbers? With the arithmetic in Dáil Éireann then, Mr. Ahern only had cover of two. He was dependent on Independents at the time, two of them Border representatives. Could Mr. Montgomery clarify that point?

In finding out who was the real driver in the process, this probably relates to the two Governments. Who was the real interested party here? Who was pushing these negotiations? Was the British Government really up for this? Was it driving this or was it going along with it? I would be interested in their thoughts on that.

There would be much talk nowadays that some of the activity along the Border that probably should not be going on, such as fuel laundering, were issues that were part of the negotiation of the Good Friday Agreement. Was that part of the talks that went on? Was allowing some of these illegal activities that go on even today part of the agreement and if it was, can they give us more detail in relation to it?

Also, did letters for what were termed "on-the-runs" form part of negotiations, and will they give detail on that? What would be the best approach to creating the best possible landing zone and space for constitutional change to happen? There is lots of debate about calling a border poll. We saw how hard it was to win the Good Friday Agreement and we see how difficult Brexit has been, as has dealing with the protocol. What are the witnesses' views? Some would be of the view that we should hold a citizens' assembly, call a border poll and get on with it. What is their view on that? In my view, it is far too simplistic in respect of the issues and all the parties involved, but I would like to know their opinions on it.

The question about members of political parties sacrificing their careers has been answered.

Mr. Montgomery mentioned that the DUP MLAs were part of the majority that was against the Good Friday Agreement following its acceptance.

**Mr. Rory Montgomery:** That was in relation to the UUP.

**Senator Niall Blaney:** Were there any other parties? Was it just the DUP and UUP that opposed the Good Friday Agreement at that stage?

**Mr. Rory Montgomery:** On the factual side, the DUP, a couple of Independents and the UK Unionist Party, led by Bob McCartney, were against the agreement. The UUP, a couple of Independents and the loyalist parties, which also had a couple of representatives, were in favour of it. That is one factor worth pointing out.

**Mr. David Donoghue:** We will try to answer a couple of questions as we go along, with the Chair's permission. I will pick one or two, in no particular order.

The OTRs were not part of the negotiations. It would have been extremely difficult politically for either Government to appear to be addressing the issue of those who had not even gone through the legal process. It was sensitive enough trying to find early release arrangements for those who were already imprisoned. There was speculation about side letters and so on but, as far as I am aware, they were not overtly part of the negotiations. I do not think they were covertly part of the negotiations either. I have never heard that. It was simply too sensitive for either Government to go there.

On the illegal activities, if the question is were they part of the negotiations, the answer is, "No, they were not". Of course, both Governments presumed that even after a ceasefire, some illegal activity of the kind the Senator mentioned would continue. It was just an unwelcome fact of life that it would happen. To give a direct answer, I am not aware of those having been on the agenda for negotiations and it is highly unlikely they would have been.

Sinn Féin was looking for clear assurances on prisoner releases. That was by far the most important topic for it on Easter Week. It can be understood why. As Mr. Montgomery said, Sinn Féin wanted to preserve the unity of the movement so the bargaining was done between Gerry Adams and Martin McGuinness on the one hand and Bertie Ahern and Tony Blair on the other. It was very much at Head of Government level. It came down to a two-year release point but they took quite a while to get to that. That really was the main issue I am aware of from Sinn Féin's point of view. As Mr. Montgomery said, it did not take a very close interest in the detail of the institutions. It wanted to make sure that North-South structures would be acceptable but it was not particularly following the detail of that or, indeed, other areas. Equality was a major issue for Sinn Féin, as was a serious commitment to policing reform, decommissioning in the sense of making sure it did not jeopardise the negotiations and the prisoner releases. As I recall, that was Sinn Féin's agenda during that last week.

The question of who the real drivers were is a very good one. It could not honestly be said who they were. I would like to think that successive Irish Governments were driving the process. Mr. Montgomery has described how, in effect, two positives came together. I will repeat the point that, going back several years, unionists had wanted to get a replacement for the Anglo-Irish Agreement because they did not like the structure it set up. The British Government of the day supported them in that, in a sense. It wanted to reconcile unionists to what had been achieved, ideally by getting a new agreement. The British Government in the early 1990s was actively helping, or looking for a way to get "a new and more broadly based agreement".

That was the phrase used. We were content to go along with that, although we had in mind an agreement that would transcend the previous one. We did not imagine a new agreement that would narrow the previous one. We wanted it to be bigger and better.

It could be argued that the British pushed harder than us in the early 1990s to get a replacement for the Anglo-Irish Agreement but we were part of successive Irish Governments that were pushing the peace process harder. We saw there was an opportunity - when I say “we” I mean at the political level. In fairness to John Major, he led a tricky administration in London. He would have liked to go further in some respects but was not able to do so because of his dependence on unionist votes. He was responding to, let us say, Albert Reynolds’s lead at the time. I am trying to say that at different times one or other Government was perhaps slightly ahead of the other but, all told, it was the two Governments that really drove the final stages of the negotiations from about 1995 on. At that point, it could not honestly be said there was anybody else. It was the two Governments, two Taoisigh and the Irish Government, institutionally, that led. We were certainly the ones who were most impatient to get rid of the decommissioning blockage. We were trying to find ways of rebuilding the ceasefire. In that sense, we were leading. I have probably dealt with that point. Mr. Montgomery will take over.

**Mr. Rory Montgomery:** I thank the Senator for his questions. I do not know if it was his father or grandfather, but Mr. Neil T. Blaney was a member of the Forum for Peace and Reconciliation, chaired by Judge Catherine McGuinness, from 1994 to 1995. I was in the secretariat at the time and I had the honour of meeting and talking to him then. It is good to see the family continuity.

I do not underestimate Bertie Ahern’s achievement for a second. I know his majority in the Dáil was tight. I worked with him on this and I worked very closely with him on European matters later on. He was an extraordinary negotiator. The substance of my point is there was a broad consensus across political parties in the South, especially once the agreement had been reached with 94% in favour of it in a referendum. There were no divisions in the same way there were no serious divisions within Northern nationalism about the agreement as a whole. The unionists were the one group that was split 50-50.

On the question of fleeing responsibility, Mr. Tim O’Connor told me he was delighted with himself for using the term “it takes a village” last week because he felt it did take a village. We could pick many people out. The importance of John Hume cannot be underestimated, clearly. He was the intellectual architect of the three-stranded approach and he was the person who took the biggest risks personally and politically in the opening up to republicanism, and the dialogue with Gerry Adams and so on. We were also very lucky that the two Governments came into power within a month of each other. Blair had a big majority and was not subject to the pressures others have been. There were some excellent officials on both sides, including senior officials and people like Mr. Seán Ó hUiginn, Mr. Dermot Gallagher and others on the British side, with an outstanding set of political leaders across the board.

The Senator asked about how best to approach things today. That is a rather different question. As I said, I am involved with this group set up by the Royal Irish Academy and the University of Notre Dame, which is engaging in commissioning lots of research on all sorts of different issues relevant, in some way, to the future of the island. Some of it is directly about how Northern Ireland is constituted. What is the Northern Ireland subvention? How big is it? How might it be retained or replaced? There are also human rights questions and the question of the franchise to be used in a referendum. There are other questions on issues such as co-operation in health, sport and so on. There is a lot of work of that sort going on. The De-

partment of the Taoiseach is sponsoring a lot of that work through the shared island unit. The Ireland's Future group, which is a civic nationalist group, is also very active. There are lots of things happening. On the question of whether it is the moment to bring the issue to the political level, that is a political decision. My personal view is that for the moment at least, it is perhaps best for politicians, as politicians and as Members of the Dáil or others, not to take the leading part. It is clear that there is no basis on which the British Government or the Secretary of State for Northern Ireland could possibly be required to call a border poll within the next five years, given the Assembly election results. Who knows if and when there would be such a majority? We talked about criteria earlier. My inclination is to feel that the work should continue. On the question of whether there is an advantage in bringing people together in a citizens' assembly or otherwise, there might be. My mind is open on that. The great juggling act, at all times, is how to carry forward these discussions in a way that is not seen as threatening or damaging to the current environment. For example, do we complicate getting a deal on Brexit if we take the discussions forward? I just do not know the answer. I will say that even the Royal Irish Academy body, which is essentially academic, has huge difficulties in getting unionists to take part in its research. The same is true of other studies which have been undertaken.

*Deputy Fergus O'Dowd resumed the Chair.*

**Chairman:** I think Deputy Brendan Smith is next.

**Deputy Brendan Smith:** I will take the next Fianna Fáil slot.

**Chairman:** I call Senator Currie followed by Deputy Whitmore.

**Senator Emer Currie:** I thank our guests for attending today. The documents they submitted to the committee were captivating, as I am sure this session will be as well. I want to ask Mr. Donoghue about his submission. On the first page of his opening statement, he remarked that an inclusive talks process would give the outcome legitimacy and stability. In Mr. Montgomery's submission, is it clear that there was something in the Good Friday Agreement for everyone and that this was very important. People could focus on the areas that mattered to them but ultimately, it was a compromise. Given events over the last few years and the current players on the stage, do the witnesses believe those days are gone? Is it essential that we get back there? There is a tension now and I ask the witnesses to reflect on that.

**Mr. Rory Montgomery:** I will start. As I said earlier, when we stand back and look at the leadership across the board, and the quality of Bertie Ahern's and Tony Blair's leadership, we were blessed to have a group of people that included John Hume, Seamus Mallon, David Trimble, John Alderdice, the Women's Coalition, David Ervine, and Gerry Adams and Martin McGuinness, who were extraordinarily able people. I must say that I think the biggest contrast now is the make-up of the current British Government. Even if I am benefitting from parliamentary privilege, I feel that now is not the moment to discuss Boris Johnson. I will simply paraphrase US Senator Lloyd Bentsen. I knew Tony Blair, and he is no Tony Blair, which is true. I think the approach of the British Government to Brexit has been rightly criticised. That is underlined by the fact that apparently, only 4% of the people of Northern Ireland - regardless of what community they come from - trust the British Government. I must say that I feel that the calibre of senior officials in the British Civil Service is not what it was. I say that quite frankly, having met many of them over the years. I think that in a way they have been badly buffeted by the way in which Government and the Civil Service have related in Britain over the past ten to 15 years, and particularly over the past few years. The depth of knowledge and commitment that was there in the 1980s with people like Robert Armstrong, David Goodall,



Quentin Thomas and John Chilcot, and so on is no longer there. That is huge. On the question of whether we can get back there-----

**Senator Emer Currie:** What about the island of Ireland as well?

**Mr. Rory Montgomery:** I am not going to run through the individual political leaders, if that is okay. There is always a tendency to look back and think that the people we knew when we were young were giants and the people who are younger than us somehow are pygmies. It is not that way. People simply rise to the occasion and emerge, quite rightly. I think the biggest single problem at the moment, if I am being frank about it, is the enormous lack of confidence and negativity within political unionism. I do not really know how that should be dealt with. It is interesting. Reading the Slugger O'Toole website, one can see that lots of people from a unionist background are saying precisely that. For all that David Trimble was difficult, he had a strategic idea about what he wanted to achieve, which I just do not see at present. I see people acting tactically and not very cleverly tactically either. That is the main problem. It is not for me to say, but I think it is the single biggest thing that we lack. There has always been a requirement for nationalism to try to be as genuinely understanding of unionism and as magnanimous as it can be, without diluting its principles. That does not always come easily. It cannot come easily for reasons that we understand. On an entirely personal note, I was glad to see that the First Minister-elect, as it were, has written to the Queen, praising her role in Northern Ireland over the years. That is an important gesture. I hope all of us on the island of Ireland who are not unionists will be able to contribute to this union of hearts.

**Mr. David Donoghue:** Just to add one or two extra dimensions to Mr. Montgomery's points, which I very much agree with, in the 1990s when we were limbering up for what became the Good Friday Agreement, remarkable personalities were involved, as Mr. Montgomery said. However, they were not necessarily in agreement all the time. They were strong personalities and frequently clashed. I do not want to give the impression that somehow it was easier then. A key ingredient was that there was a British Prime Minister at the time who was prepared to give a remarkable level of priority to the Northern Ireland issue. He was helped by the fact that he had a huge majority. He had the political pressure of his predecessor also having built up a head of steam on Northern Ireland. There was also an IRA ceasefire. The stars were aligned in such a way that it would have been difficult for Tony Blair to avoid giving it priority. However, I do not think that we quite expected that he would put it right at the top of his list of priorities. It was easier to imagine an Irish Taoiseach doing that. Bertie Ahern needed to have somebody with the degree of commitment that Blair had. That was quite unique. It is very hard to imagine a British Prime Minister normally putting Northern Ireland at the top of their list of priorities.

The Senator asked whether that can ever happen again, in effect. I entirely agree with what Mr. Montgomery said about the current incumbent. However, the truth is that even if there were a more promising incumbent, it would be difficult to imagine any British Government deciding that peace in Northern Ireland should get top priority. It goes without saying that the issue would be prioritised by any Irish Taoiseach. On the issue of officials, although they are career civil servants, in the 1990s the best and the brightest people wanted to work on the Northern Ireland peace process. They came from other British Government Departments; they were not all in the Northern Ireland Office. Some of them were in the Home Office or, dare I say it, the Ministry of Defence. They came from a variety of backgrounds and they were talented. One gets the impression that there is less commitment to the problems of Northern Ireland now. It is true that Brexit has changed everything but it is hard to imagine reproducing that degree of political and official level commitment that we had 20 years ago. It is a very good question. It

is one that troubles me a lot. I wonder if it was really a fluke that we happened to have all the stars aligned, with Bill Clinton thrown in as well. As I said in my opening remarks, he was a particularly useful resource because both unionists and nationalists felt reassured by him. That is quite unusual for an American President. As is well known, he played a key role in the last night of the talks. It is hard to imagine a better constellation of circumstances.

**Deputy Jennifer Carroll MacNeill:** I thank both witnesses for coming in. Listening to them and reading their statements gives a sense, as Mr. Montgomery said in his piece, of a long, hard-won process that came to an end at breakneck speed. We also get a sense from the way it was described that the purpose of the agreement was to try to end certain things - paramilitary and state violence - and bring about demilitarisation but the same level of thought was not given to what it was creating or moving towards, other than the strict constitutional or legal parameters around it.

It is also very interesting to hear from Mr. Montgomery about the different types of engagement. We were talking last week about Jeffrey Donaldson having said that unionists were not engaged on the equality piece. They were not against it; they just were not engaged. Mr. Montgomery mentioned Sinn Féin not having had the same engagement on strand one as it did on other pieces. That is very interesting to hear at this remove because it speaks to what was on the minds of people at the time. I say that not in a critical way but simply to try to develop a better understanding.

One of the most interesting things is the space we are moving towards. Ideally we are moving towards a peaceful but reconciled island or part of the island. I wonder about the extent to which the witnesses, if they were to do it again, would look at the political structures. Mr. Montgomery spoke about the designation of unionist and nationalist blocks being unhelpful in that way - I believe "entrenching division" was the phrase used - and about the d'Hondt system spreading everything. One gets the sense 25 years on that not enough has happened on reconciliation, despite the agreement leading with that, although I respect what was said about symbolism and softer language other than the constitutional stuff. If that is the case, does Mr. Montgomery believe the political structures have contributed to a move towards the edges rather than the entrenchment of the moderate centre? While the Alliance Party did very well in the most recent election, if we take the period overall, there appears to have been a move away from the centre and towards the edges. I wonder to what extent the political structures contributed to that.

**Mr. Rory Montgomery:** I tend to think the entire philosophy of constitutional nationalism inspired by John Hume and articulated in the New Ireland Forum of the 1980s, and extending all the way through the 1990s, was that there were two traditions, two identities, on the island of Ireland and a way needed to be found to reconcile them. Things were thought of very much in communal terms and that was a reflection of the reality. When one looks at the percentage of votes that unionists, nationalists and republicans got at the time, it was well into the 90s. This was effectively the political reality people were dealing with and the outcome was not, therefore, surprising. Again, there was a great fear on the nationalist side in particular about going back towards majoritarianism in Stormont. It was essential for nationalists to be able to demonstrate that they would be able to block any attempt by what was still a unionist majority to impose on them things that they did not want to have imposed. The situation has since changed immensely for various reasons. I do not know that the arrangements could have been much different at the time. That is the first point.

There were always critics from the middle ground and civil society who pointed out that this

meant that those who did not wish to designate as one or the other were put in a somewhat inferior position. That is true. Mark Durkan referred to the “ugly scaffolding” of the agreement, which was an excellent phrase. For the reasons I outlined, the institutions did not get up and running properly in 1999 and 2000. The focus of the unionists on decommissioning meant the spotlight was totally on the republicans on the other side and this helped to weaken the SDLP and also helped to weaken the unionists against the DUP. When the DUP came in, it was on the basis that it was not really a partnership with Sinn Féin but about division of the spoils. That was the DUP philosophy. There is a provision in the agreement for a review but it was never used. If there had been a few uninterrupted years and things had worked more normally and harmoniously, it may have been possible some time in the earlier 2000s to have a proper review and begin to look at these issues and maybe changes could have been made incrementally as we went along, within the overall framework. That was not possible, however. It did not happen and, to be frank, I find it hard to see it happening now.

**Mr. David Donoghue:** I will supplement what Mr. Montgomery has said. When we were negotiating the agreement - for the couple of years beforehand - we knew there would have to be special arrangements made on all sides to ensure that key decisions were supported by a majority of both traditions. There was almost common ground on that. The UUP never really challenged it. The phrase used was “sufficient consensus”. There had to be some formula that would demonstrate that a decision was carried by both traditions. Out of that came this idea that we would need the members of the Assembly to designate as one or the other. At the time it was seen entirely as a positive thing. Nobody was warning about what would happen if people were neither one or the other because the issue was not on the radar screen. The “other” category was never likely to be significant back then. In the meantime, it is now of greater interest because the “other” category is getting bigger and bigger.

I still feel we are a long way off, dare I say it, tinkering with the agreement. I do not mean that in a pejorative sense. We cannot really go back to reopen the agreement. Review is the key point. One could argue that, technically, the St. Andrews Agreement could have been seen as a review. The truth is that there has been no formal declared review of the agreement since 1998. That is as far as I think we should ever go. If there was any talk about renegotiating or reopening the agreement, it would be fatal. The issue that comes up most often is whether we still need to have this requirement for people to designate as nationalist or unionist. I think we do. Call me old-fashioned but I do not believe we have reached the point where we can dispense with that vital protection. In five years’ time, it might look different. We have the Alliance Party trend but obviously a lot of things would have to happen. I feel it is too early to imagine that we can do without that protection. We need to demonstrate that every key decision is supported by both sides. By the same token, while one could play around with titles and so on, the joint leadership is also a vital part of that.

**Chairman:** On that point, the difficulty is that the First Minister could be from the Alliance Party, that is, outside the nationalist and unionist groups.

**Mr. Rory Montgomery:** In theory, yes.

**Chairman:** However, the deputy First Minister cannot be.

**Mr. Rory Montgomery:** Yes. That is right.

**Mr. David Donoghue:** It may be a few years before we get to that point.

**Chairman:** I support what Mr. Montgomery is saying. If that is the problem, if a party that was neither one nor the other became the second largest party, not that I am suggesting that will happen, would it not make sense to change the agreement to allow for that to happen? It is the reverse of the first citizen-----

**Mr. David Donoghue:** Again, I am a bit old-fashioned but I am afraid if one were to start pulling at the ball of wool, the whole thing would unravel. I honestly fear that by reopening any part of the agreement, one would end up reopening another part of it.

**Chairman:** I hear what Mr. Donoghue is saying.

**Mr. David Donoghue:** For me, there would have to be an overwhelming reason to go back to the actual text of the agreement.

**Mr. Rory Montgomery:** I would respectfully disagree but that is another matter.

**Deputy Jennifer Carroll MacNeill:** What is the difference between reopening, on which I tend to agree with Mr. Montgomery, and review?

**Mr. Rory Montgomery:** The Deputy is right. That is an interesting point. Reopening the agreement in my view would mean abandoning the idea that a broad consensus in society is needed to continue. It would also mean abandoning the idea of strands one, two and three, all of that, as well as the rights and equality provisions. The St. Andrews Agreement already represented an important review or revision of the strand one institutions because it meant that the DUP or Ian Paisley, as its representative, was not obliged to present himself alongside Martin McGuinness for a single vote in the Assembly. That was symbolically very important for him. The two were chosen automatically and not through a vote of the Assembly. One might ask what difference it made but it made quite a big difference in reality.

I think one can look at things. The whole petition of concern mechanism has been grossly abused by the DUP in recent years. One of the weaknesses of the d'Hondt system and one of the big failures of the agreement has been its inability to deliver good and effective government. Part of the issue is that this may be the inevitable counterweight to there being an all-inclusive Executive without any real opposition. These seem to be the kinds of issues that could usefully be debated without going into the fundamental principles, but where do you draw the line?

**Chairman:** We will move back to Sinn Féin - if we have a Sinn Féin speaker.

**Ms Michelle Gildernew:** You do indeed, Chairman. I thank Mr. Donoghue and Mr. Montgomery for coming in to talk to us. They are both very welcome. I have been listening to their comments and I wish to ask a couple of questions. One of them - it might have been Mr. Montgomery, maybe in his opening remarks or shortly thereafter - talked about the Good Friday Agreement and who had voted for it. He said a very small minority of unionists voted for it. Given the demographics back in 1998, it would have had to have been a considerable number of unionists who voted for the Good Friday Agreement. It could not have been just nationalists who voted for it or-----

**Chairman:** I think Mr. Montgomery said "a small majority".

**Mr. Rory Montgomery:** I think "a bare majority" was what I said, so a majority, yes, but a very narrow one.

**Ms Michelle Gildernew:** Okay, but the point I am making is that a majority voted for it. It

is a bit like Brexit. A majority of people here voted against leaving the EU and we are left with the decisions taken across the water.

I was reasonably young at the time of the negotiations for the Good Friday Agreement and not involved in them. I was Sinn Féin's representative in London so I was kind of watching from the sidelines at that point and not heavily involved in any of the bilateral or trilateral meetings. I do remember very clearly, however, after the Good Friday Agreement was signed and delivered and all the rest of it, that there was a furious round of engagements within our party. We had brought members of the African National Congress, ANC, over at our own expense. We went on the road. We had big meetings with hundreds of people; we had smaller meetings with two or three people around a kitchen table. We went out and sold the agreement. I remember Mitchel McLaughlin saying at an event in Toomebridge that people in the room needed to read the agreement and then read it again. There was an acceptance and an acknowledgement that this was not a republican document and did not give us everything we wanted but was a template from which we could work. I was at an event a couple of weeks ago in Monaghan at which Deputy Tully said the Good Friday Agreement did not answer the constitutional question but asked it. I thought that was a very interesting way of putting it.

Since that time, we have seen some really important and fundamental aspects of the Good Friday Agreement not implemented, and that is what I would like the witnesses to focus their thoughts on. We are still waiting for a bill of rights. I have written to previous British Prime Ministers and have been told there is no demand for it. All the issues we were very exercised about in the run-up to the Good Friday Agreement we are still very concerned about. We are where we are on an Irish language Act, and it has been painstaking to get something on the table in that regard. There are issues around women's reproductive health, marriage equality and so on. These are issues we have really struggled to bring forward in the 25 years since the Good Friday Agreement. There are also, as I discussed with Tim O'Connor last week, the North-South bodies and the arrangements we have for co-operative work on the island of Ireland in a myriad of ways. I know there was a draft list which was reduced significantly, and what we got was the bones of what was left, but we would have thought that those areas of work would have grown as well during the intervening years and we would have continued to build trust and relationships across the island of Ireland and to work in a very cohesive, pragmatic and constructive way to deliver for all the people on the island.

Lastly, Mr. Donoghue referred in his opening statement to validating Irish unity "as a legitimate political objective". What are the witnesses' thoughts on how that has been? The "when" of a referendum has almost become an "if", and it is important that that does not happen. Irish unity is a legitimate political objective and we are entitled to continue to work towards it. Others are entitled to work towards their political objectives as well. There seems, however, to be a rowing back on that issue, and I would like the witnesses' thoughts on that too.

**Mr. David Donoghue:** I thank Ms Gildernew. I will take just a couple of those points. That was a very interesting quotation from Deputy Tully about how the Good Friday Agreement had not answered the constitutional question but asked it. I see it a little differently. I see the Good Friday Agreement as having asked the question but then having agreed that we would answer it only in due course. In other words, we almost parked it. It was the first time all sides were agreeing as to what the constitutional issues were and, in effect, saying that, at a point to be defined later, we could come back to them. In other words, the two documents I mentioned laid out the parameters as to how we would address constitutional questions. It meant that all participants were able to go into the negotiations in a more relaxed frame of mind because each

objective had been described as legitimate. It meant it was easier to put things to one side and to focus on institutional questions. I would like to think the questions were asked. Answers were not required immediately but, as I said, it was agreed they would be answered in due course.

That brings us to the border poll Ms Gildernew talked about. Again, curiously enough, not very much time was spent on that issue in the negotiations, as I recall. It was always understood that the Irish Government would de facto be automatically consulted before the Secretary of State for Northern Ireland would reach the determination. It is not in the document partly to ease unionist concerns, but everybody knows that, in practice, it would be effectively a joint decision. The Secretary of State will not pop this question in a vacuum. I think that is widely understood.

As for Ms Gildernew's point about validating Irish unity, what I meant is that the British Government in the joint documents in the 1990s and the Good Friday Agreement itself accepted that it was legitimate for people to want Irish unity achieved by peaceful means. The British Government accepted that and even said it would be encouragers, enablers and facilitators for agreement among the Irish people. All of that was good. It does not mean the British Government considers itself bound. I am not speaking for the British Government but, clearly, the timing of a border poll is for the British Government to decide. There was nothing in the agreement saying that it had to happen within a certain period of time. In a sense, I am going along with much of what Ms Gildernew says. To me, however, the question was deferred to, one, a point at which the Secretary of State technically pops the question, as it were, and, two, to a political context in which we all feel it would make sense to have a border poll. That is my take on it, that we were pushing the question a little down the road, perhaps - not very far down the road but a few years down anyway - and that, in the meantime, initiatives such as what we see in the shared island work programme would be taken forward. I think the shared island initiative is exactly what is required at the moment.

As for the draft list Ms Gildernew mentioned, she is absolutely right that there were various drafts of a whole series of policy areas. Some of them would have involved implementation bodies with executive powers. Some would have been more for harmonisation of effort. Some would have been just for consultation. There were different categories, but they certainly ran to several dozen policy areas under one or other category. I would not say we were left with the bones of them, but they were whittled down and they had to be agreed. A key point the Irish Government pushed was that these would be capable of dynamic growth. Obviously, Sinn Féin was looking for that as well. Personally, I am a little disappointed that it has not been possible to add to the initial list of bodies over the past 25 years, but I do recognise the political constraints that were against it. I am not happy with them but I recognise there were pressures coming from the other direction. We certainly worked hard to make it clear this would be an initial set of bodies and that it could be capable of additions over the years. From those original lists, there are many areas that are still relevant for North-South co-operation and where we want to be doing more.

**Mr. Rory Montgomery:** I will make a few quick points on the constitutional issues and then on the North-South co-operation. I do not believe it is altogether a fair summary to say the Good Friday Agreement had not answered the constitutional question but asked it. It set out some very important principles, which remain valid, the first of which is the legitimacy of whatever choice is made by the majority in Northern Ireland. Second is the recognition that it is for the people of Ireland alone to make the decision. Third is a recognition that the present wish of a majority of the people of Northern Ireland, freely exercised and legitimate, is to maintain the

union and that Northern Ireland's status as part of the United Kingdom reflects and relies upon that wish. That was, effectively, the Irish Government and others saying that, without getting into the history of partition or the history of the island, Northern Ireland is legitimately part of the UK on the basis of the principle of consent. However, there is also a recognition that this could change in the ways we know and that both Governments would then be under a binding obligation to give effect to those decisions. Fourth is the need for rigorous impartiality in the administration of Northern Ireland, irrespective of whatever the constitutional arrangements might be. Fifth is the very important line, which I was involved in drafting, "to recognise the birthright of all the people of Northern Ireland to identify themselves and be accepted as Irish or British, or both, as they may so choose", and that the right to hold citizenship would not be affected by future changes. Those are very important principles.

With regard to the question of a referendum, it is both "when" and "if". Ever since 1973, it has been open to the British Secretary of State to hold a referendum at any time. They did so in 1973 as a bit of a stunt, quite frankly. Now they are not obliged to hold a referendum unless they have a reason to believe a majority would favour a united Ireland. They are not obliged to, but they could do so if they wished to. The whole question of whether there is a wish would have to be worked out. I take Mr. Donoghue's point that the Irish Government and the British Government would have to take it into account, but as I said earlier, there was no look at how the different parts of the agreement were articulated constitutionally. There is not even a reference in Articles 2 and 3, for example, to a referendum in the Republic. One must assume it is implied, and I do not see how one could do it without it. It does not actually say "referendum". It is basically in Article 3 and it says, "It is the firm will ... that a united Ireland shall be brought about only by peaceful means with the consent of a majority of the people, democratically expressed, in both jurisdictions in the island." Could "democratically expressed" be a vote in the Dáil? Who is to say?

Mr. Donoghue spoke on North-South co-operation. There have been long lists of possible areas of co-operation. If one reads the Department of Foreign Affairs documents on Irish foreign policy, Seán Lemass was beating the bushes in the mid-1960s to find things to talk about with Terence O'Neill. This carried on through the Sunningdale Agreement, the Council of Ireland and on to this. The Good Friday Agreement would not have been possible were it not for Bertie Ahern making a major concession to the unionists early in Easter week. He scaled back considerably the level of ambition and certainly the volume. He scaled back the size of it and he agreed it would have to be negotiated as a separate exercise, directly after the agreement. I was involved in setting up the North-South institutions with Mr. Tim O'Connor as I was his right-hand man at that time. Like Mr. Donoghue, I would agree it has been very disappointing how the institutions have not developed. Some of the areas chosen were, to be honest, pretty trivial. Others were more important. I am not saying they have not done good work. The North-South Ministerial Council has been, on and off, a place for political leaders and Ministers to get together. Has it achieved what it should have achieved? No, it has not.

On the other hand, North-South co-operation has continued in other ways as well. Ironically, the most important single development in North-South co-operation of the past ten or 15 years has been the creation of the all-island single electricity market. That owes nothing to the Good Friday Agreement. It was agreed as a matter of common sense and for business. Funnily enough, that is the irony of what the unionists have always said, that these things do happen if they make sense. My own view is that one must have a reason to bring people together, and that there have not been such reasons is, I know, a frustration for many of my colleagues who have worked over the years on North-South co-operation. The unionists, UUP and DUP have gener-

ally taken a pretty negative and minimalist approach to the operation of these bodies. Equally, it is fair to say not everyone in the Republic, not every Department or public and State body in the Republic, is necessarily equally as enthusiastic about it as the political leadership might be.

**Chairman:** That might have been due to maybe having to share resources or a budget.

**Mr. Rory Montgomery:** I remember vividly at the time of the negotiation of the bodies, which was the follow-up, in late 1998 or early 1999, that one of the big issues was the whole question of inward investment. We in the Department of Foreign Affairs got the word very clearly that the IDA was absolutely opposed to any attempt to expand its efforts to cover the island. The Ireland of the South had a particular proposition based on corporation tax and on peace and security. From what I saw in my work in that regard, there was a fear of us risking contaminating the brand by bringing Northern Ireland into it. Equally, there were anxieties around tourism. Would tourists coming to the Republic be put off by the idea of some amnesty to the North? The partition was not all on one side, let us put it that way.

**Chairman:** Before I move on to the Fianna Fáil speakers, some of us met the chamber of commerce in Derry and we met with some people there who spoke to us on that very point. If we in the South are serious about the North, we should be looking at investing in job creation there. They pointed out to us that 40% of the workforce in the city of Derry comes from the Republic. Given the interactions there and the business around the port, there are many good things that could be done, even without a cross-Border body.

**Mr. Rory Montgomery:** A huge amount is being done and, as I said, there has been great progress. The whole idea and concept of North-South co-operation comes back to the maths, to be honest, and others.

**Chairman:** And education.

**Mr. Rory Montgomery:** In the 1990s, it was business-led by people such as Sir George Quigley. A lot has also been achieved and a huge amount has been done at local level that, technically speaking, is cross-Border as opposed to all-island co-operation. A lot more could be done. The problem mostly is on the unionist side, in my opinion, but we cannot exempt ourselves entirely.

**Chairman:** The agreement lays almost equal emphasis on the assembly and on the North-South bodies. It puts great emphasis on them, even though they do not iterate them, or they were post the agreement. The emphasis on the North-South bodies is very strong.

**Mr. Rory Montgomery:** Yes.

**Chairman:** Even though the reference may be absent from the agreement itself, in reality the emphasis is strong.

**Deputy Brendan Smith:** I am delighted to listen to Mr. Donoghue and Mr. Montgomery. They are excellent contributions. I apologise that I missed the very start of the meeting as I was delayed at an earlier meeting.

Both of the witnesses paid tribute, quite rightly, to Mr. Tony Blair. We should always record his interest and his leadership at that time. We would not be in the position we are today were it not for Tony Blair's major contribution. I always think of the people with whom who I am sure the witnesses would have had great interactions over the years, such as the late Kevin McN-



mará, the Labour Party MP, and other people in all parties in Britain who were great champions of the needs of the Irish community in Northern Ireland. That was at a time when it was not politically profitable for them in their own constituencies. I recall some MPs and some Members of the House of Lords from Scotland, England and Wales being very interested in Ireland and unafraid to stand up in their respective Houses to make the case around the injustices they saw inflicted on the nationalist community over the years.

One theme that has come across, which also came from Mr. Tim O'Connor last week, is the strong partnership that is needed between both Governments to make progress at political and official level. This comes through very clearly today. Mr. Donoghue also mentioned the role of President Bill Clinton. Some of the senior American people would tell us that President Clinton had been very much influenced by Senator Ted Kennedy and a group of people who worked closely alongside Senator Kennedy. I remember listening to Senator Kennedy state that his family support for President Clinton prior to his first successful election was very much based on Mr. Clinton having to take an interest in Northern Ireland and be supportive of the efforts of the Irish National Caucus. I recall Senator Kennedy saying this at a meeting I had the privilege of attending in Washington. It is always important in recollections that we recall the roles of those people and the inspiration they gave.

Mr. Donoghue mentioned the unique capacity of Mr. George Mitchell. Again, it was very important he was there in that particular role. Mr. Montgomery mentioned how David Trimble was constantly facing Ulster Unionist council meetings. We recall how very regularly on a Saturday morning that unionist council met. The commentary on BBC and UTV would be about whether the delegates from Fermanagh and south Tyrone turn up in such numbers. It was basically non-elected people within the unionist parties who were calling the shots that time. Did Mr. Trimble and his colleagues in the leadership do enough to prepare the ground for change among their party membership? It is obvious that other parties had prepared very well.

I recall some of the loyalist parties stating that they did not have confidence in the main unionist parties and at times, they sought the help of the Irish Government at political official level to deal with some of the issues they saw as being of major importance to them.

Last week, I mentioned that I remember when Bertie Ahern came to a group of us from the northern half of the country in the Fianna Fáil Parliamentary Party, and we had probably around 80 Deputies and probably well over 20 Senators, and telling us that Articles 2 and 3 were going to be changed. We did not expect that. We had always outlined the value and importance of Articles 2 and 3 but at a meeting at 7 a.m. in Ballyconnell, he, along with Martin Mansergh and the then Attorney General, David Byrne, told quite a large number of us what the prize on offer was if we were willing to go along with what he was proposing. The groundwork was prepared. We were taken aback initially that this was being suggested but Bertie Ahern won the argument without any opposition in the party.

Mr. Montgomery mentioned that North-South structures dominated interaction but in one way, I am glad they did. Colleagues on this committee will be tired of hearing me refer to it but the evolution and success of the all-Ireland economy happened without us talking about it because the right atmosphere was created through the new political structures and the new relationships North-South and east-west that emerged from the Good Friday Agreement. We have seen significant development in the North-South all-Ireland economy. Thankfully, constituencies like mine benefited significantly from that as did constituencies all over the country. In reviewing the Good Friday Agreement, we often leave out some of the areas that are exceptionally successful that we take for granted. We pocket them and move on to the next area of

complaint. We should always bear in mind what the success stories are.

Mr. Montgomery was pretty hard on himself with regard to how some ends could have been tied up better in terms of negotiations but I know that apart from his work and that of Mr. Donoghue at home in negotiating the Good Friday Agreement, they have had extensive experience at the most senior level internationally, particularly within the EU. They know that if there is no deadline, people will negotiate forever so I do not think a deal where everything has been tied up happens that often. Mr. Montgomery has been involved in EU treaties and different referenda. It is very hard to tie everything up. From that point of view, it is very understandable that some areas have been left very vague.

Mr. Montgomery also mentioned the studies by the University of London about the constitutional position *vis-à-vis* the provision in the Good Friday Agreement about the Secretary of State calling a referendum. Was Eoin Tannam was one of the-----

**Mr. Rory Montgomery:** She was one of the authors.

**Deputy Brendan Smith:** They appeared before this committee. I think they came down on the side of saying that you could not be too prescriptive about it. We could well understand that. If we are talking about a border poll and I passionately want to see a united Ireland, we must do the groundwork. If a border poll is called and the right spirit and partnership does not exist between both Governments, we will get the wrong outcome, which is the last thing we want to see. We know what David Cameron did with his Brexit referendum. He asked the question but did not get the answer he expected to get so, again, it was a case of lack of preparation. If we do not have that spirit between both islands, North and South and east and west, we will be having it in the wrong atmosphere. I sincerely hope we will be able to have a border poll and a successful one but I believe there is a lot of work to be done in the meantime.

People throw out this thing about a citizens' assembly. The shared island dialogues are bringing in people interested in the environment, business and sport. This is canvassing opinion far more extensively than choosing 99 people at random to negotiate and debate all issues. There is considerable merit in the shared island dialogues in so many areas of everyday activity.

Mr. Montgomery mentioned the Royal Irish Academy. I know the Department of the Taoiseach has commissioned the ESRI or the NESC. The most extensive analysis of the education system North and South was completed recently. I think it is all of those areas that we should bring together the necessary raw material. That would pinpoint the issues we need to address.

Mr. Donoghue mentioned the potential of the agreement not being reached. I agree with him 100%. There are areas where there should have been much more North-South co-operation such as health and education. Some of it is happening but not as part of a formal structure. In the area of higher education, there is collaboration between all the colleges North and South. Over the years, this State has probably put more financial resources into those joint projects between North and South than the Northern Ireland or British exchequer. We need to continue to build that. There have been good developments in health. Again, this is an area where more work can be done. Formal structures would drive greater and more intensive co-operation.

IDA Ireland concerns and how it was protective of our image were mentioned. I can understand that. In a Dáil debate, I suggested that Enterprise Ireland should be marketing Ireland in an all-Ireland context. I got a fairly severe blast from the former First Minister Arlene Foster. That put paid to that fairly quickly. There are so many gains that could be achieved from imple-

menting the agreement in full. There are issues that have not been addressed but there are issues that have not been addressed that were devolved to Stormont along with issues that fall under the remit of both governments. Implementing the agreement is critical.

I was talking to some people in the Department of Foreign Affairs. Unfortunately, the British-Irish relationship is not good at the minute. There are difficulties there. Unfortunately, the British Government has announced that it is taking the unilateral approach to some things where structures are already in place to deal with legacy issues. Legacy issues must be dealt with. The British Government has come up with proposals that are deplorable. You would associate them with some tinpot administration in central America rather than a parliamentary democracy in western Europe. It is a serious bone of contention for families of victims and victims themselves and many of the very good advocacy groups that have worked on behalf of victims over the years. Again, I thank Mr. Montgomery for his contribution.

**Mr. Rory Montgomery:** There are lots of people who could be named. The Deputy mentioned Kevin McNamara but one name we should never forget is that of Mo Mowlam, who played a really important role not even so much in the negotiations themselves in the final stages but more in terms of developing relationships between the British Government and all strands of society in Northern Ireland so she certainly deserves to be remembered. David Andrews and Liz O'Donnell are not to be forgotten either. Of course, there was the previous generation of leaders as well, like Albert Reynolds. John Bruton played his part, as did others. That is the first thing.

The Deputy also mentioned Ted Kennedy. That is a telling name because his brother, the president, did everything he could to avoid any engagement with the Irish issue at all - even when he came to Ireland in 1963. He just did not want to do it. The Irish ambassador to the US at the time wrote in a report that when he was talking to the president about the matter and mentioned the question of Irish unity, the president looked as if he had got another of his headaches. Ted Kennedy was totally different. Why was this? It was partly because he came from Boston, though so of course did JFK. It was John Hume above all who had the idea of reaching out to Irish America in a new way, bypassing the traditional structures of the Ancient Order of Hibernians and all the rest and speaking to the political mainstream. Then there was fantastic work done by successive Irish embassies in Washington but above all by Seán Donlon and Michael Lillis in the 1970s, and others. That helps to explain that.

The third question was on whether the Ulster Unionists had prepared the ground. The answer was they effectively had not. They were hopelessly badly organised. Mr. Donoghue knows this very well. When they came into meetings and so on, I think Jonathan Powell once said it was as if they were meeting each other for the first time very often and that they had never talked. Sinn Féin was brilliantly well-organised and systematic both in the way it approached the negotiations but also, as I think Ms Gildernew was saying, in the way in which it consulted and informed people about what was going on, which was really important and significant. The United Ulster Unionist Council was the particular way the party worked. It was not elected but its members were the representatives of all the constituency associations. In a strange way the Ulster Unionist Party was more democratic in its approach to its internal positions than anybody else. It did not work very well. They did not prepare the ground; not at all. A lot of people within unionism would have found it hard enough to swallow power-sharing and North-South co-operation even if there had not been the whole question of republicans, prisoners, decommissioning and all the rest of it, so they did not prepare the ground. On the other hand, if Trimble had been paying more attention to his grassroots would he have gone for it? Maybe

not. Certainly his predecessor James Molyneux avoided like the plague anything resembling a bold initiative.

I have a quick anecdote on Articles 2 and 3. Séamus Mallon told the story of how some time just around the time of the agreement in a meeting in south Armagh, he read out the text of Articles 2 and 3. He said we cannot be giving those up and we have to keep them. Then he said, “Well actually lads, these are the new Articles 2 and 3”. When people read Articles 2 and 3 they knew. They read fantastically well in my view and were a much more modern and open approach to the whole question, without sacrificing the ideal of unity.

On North-South relationships, the Deputy is absolutely right. There is a natural impulse behind the all-island economy anyway. It makes business sense. A strange irony has been Brexit has probably done more to develop that economy than almost anything. The question is whether the North-South institutions have done all they could to support this, build on it and channel it. I do not think so. Much of what is happening and has happened has been the result of individual businesses and initiatives seeing opportunities.

On the health question, the Deputy is absolutely right. One of the very first studies we did in this Royal Irish Academy ARINS project was precisely about North-South health co-operation. There were some very eminent academics such as Professor Deirdre Heenan and others. Even in the area of statistics there are enormous gaps and black holes when it comes to being able to compare outcomes North and South and there are huge issues of co-operation. I am on the board of Cancer Trials Ireland, which promotes all-Ireland cancer research. Again, there are lots of efforts but the structures are not there to develop it as we should, so the Deputy is entirely correct on that.

**Mr. David Donoghue:** I wish to come back to a couple of the points the Deputy made. On the question about Trimble preparing his party for the difficult decisions that would be coming, which Mr. Montgomery has touched on, one demonstration of the fact he had not prepared the party was what happened on the last day. Essentially, the way the week unfolded there was a heavy emphasis on Strand 2 and eventually the UUP got an agreement it was happy with there, and then Strand 1. Everything seemed to be fine on the Thursday evening. Trimble went off to a meeting of the United Ulster Unionist Council and came back in great form because it was happy with the way things were going. Then on the Friday, suddenly there was a crisis relating to decommissioning and the possibility Sinn Féin might become ministers without there having been a start made to decommissioning. Suddenly, we were in a big drama where Trimble almost has lost control of his party. Jeffrey Donaldson was talking about walking out, and so on. Clearly, more work should have been done within the UUP to prepare them for that very situation. Everybody knew at that point what the language would be on decommissioning in the agreement, which was it did not require decommissioning at that stage. A significant number of people in the UUP obviously were confronted for the first time on the Friday morning with this prospect. They panicked and then Trimble had to deal with it. The way he dealt with it was he got a side letter from Tony Blair, because there would have been no way the agreement itself would have been reopened to put in something to cover those unionist fears. That was never going to happen. I recall that as an example of where Trimble had not worked on his party in the way which, if I may say so, Bertie Ahern did with Fianna Fáil. Let me move to that point. I remember well it was considered vital for the Government to get the Fianna Fáil parliamentary party onside around Articles 2 and 3 because, as the Deputy knows much better than me, clearly Fianna Fáil had to accept this was a necessary price for everything else that would be coming. Those meetings he was at were pivotal, really, in getting public support later

during the referendum. Without Fianna Fáil at that time there would not have been the kind of commanding support that was needed.

In relation to a deadline, I touched on this earlier on. It was just a combination of factors where Mitchell had set the deadline of Holy Thursday. He threw in a bit of emotional blackmail, as it were, by saying he would be going home for the Easter weekend and he would not be coming back. He said this publicly. We assumed he would return eventually, if necessary, but, in effect, he was saying he was here until the end of the week, so take this deadline seriously. I like to think we did and even though there was the last-minute crisis with the UUP we still managed it within Good Friday. To echo the point, it concentrated minds. Mr. Montgomery and myself in other negotiations - he in the EU and me at the UN - have seen how important it is to have a deadline. It might be an illusory one or one easily broken but it gives people a sense they had to do something by a particular point in time. When we actually reached midnight on Holy Thursday, it must be said nobody noticed it. We were going through the whole night so nobody was out there with a watch saying we have missed our deadline but it was clear to everybody Friday was the absolute end of it and that is what it turned out to be.

**Mr. Rory Montgomery:** I was saying this is the way negotiations are and the higher the level, if you like, the greater the chaos and thicker the fog of war. That is how it is. My point is twofold. First, I talk to a lot of academic researchers, students and so on. A lot of the time you get the impression they think that somehow the agreement was engraved in tablets of stone and handed down from Mount Sinai. The reality is it came about in the way we described, so there is a lot in it that was not particularly carefully thought through. It was not a question of every word, syllable and comma being weighed but the overall. To compare with EU treaties, there tends to be a very strong legal service and secretariat that are building up the text incrementally as you go along and bits are filled in as you finish and things are decided upon. In this case, however, with the exception of the constitutional stuff, it was all almost thrown together in the past few days. It was not a very orderly process.

A final point is that Trimble was not on his own. He had some very important people with him, including Reg Empey and the McGimpsey brothers. In the end, even John Taylor stuck with him across the line, as did Ken Maginnis. It was far from a solo act. His leadership was crucial, however. He was elected leader after Jim Molyneaux in 1995. The other three candidates were Taylor, Maginnis and William Ross. I do not think any of them would have been capable of getting quite as far as he did.

**Senator John McGahon:** This has been really good. Going back to comments made at the start of the meeting, my view is that it goes back to Tony Blair that morning on Downing Street when he stated, "A new dawn has broken, has it not?". I have always wondered whether the British Government would have had any interest in trying to tackle Northern Ireland if it was not for the stonking majority Tony Blair had received and the zeal that a new Prime Minister experiences after such a political win. Such a euphoric win brings with it a zeal and zest to try to do something new and put one's mark on history. As noted in the Alastair Campbell diaries, in the first 18 to 24 months of the Blair Government, they wanted to make history on a range of things and they saw Northern Ireland as their opportunity to do that. I always wondered what would have happened if there had been a different election result back in 1997.

To come back to the point, there has been a series of questions in respect of our guests' views on what the Good Friday Agreement is and what we think of it today but I would love to know hear their insight as people who were in the middle of the negotiations. I am looking for the view of a fly on the wall. Who were the main players to deal with? Who was difficult

and who was not? Was there a time in the days of negotiation when they felt things were going south? At what point of the negotiations did they feel an agreement was going to be reached? What was it like being inside the pressure cooker of those negotiations?

**Mr. David Donoghue:** Many times in those few days, we thought the negotiations were going south. By “we”, I mean everyone from Bertie Ahern down on our side. It was very difficult to get compromise with the unionists on the legal framework for the North-South bodies. That might seem technical, but it is what much energy was devoted to for the first couple of days. Roughly speaking, it related to the kind of role the assembly would have in defining the mandates for the North-South bodies and things like that. There were several times when we thought we had almost reached an agreement with the unionists but then it fell apart. There was a point at which it looked as if they wanted to have mere feasibility studies, which is a code for saying there would be no action. We were destabilised by that. There were a couple of issues over decommissioning, the various implications of decommissioning and the kind of language we would have in the agreement. The mood swings were significant. Late on the Wednesday evening, we all thought it was over. We also thought it was over on the Friday morning. On one hand, we woke up-----

**Mr. Rory Montgomery:** We did not wake up.

**Mr. David Donoghue:** We did not wake up because we had all been sort of sleeping on the floor and so on. At about 8 o'clock or 9 o'clock that morning, we all thought the agreement was through and achieved, but then we began to hear rumours that Trimble was in trouble with Donaldson. I remember at lunchtime that day thinking it was all finished and it would take five years before we would be able to set up talks again, find somebody like George Mitchell to chair them and get everybody back in the right context. Most of us were writing off the whole adventure at lunchtime on the Friday. It is a matter of record that Trimble then got his side letter from Blair, decided he had enough to go ahead, rang George Mitchell and said he would sign, despite all the travails of his party. Mitchell rang Bertie Ahern, the Taoiseach, to say that, while we may not believe it, he had just had David Trimble in the room and Trimble was ready to go. The emotional rollercoaster was considerable, especially in the final couple of days. I am trying to give members a flavour of it. We all went into the room expecting there to be some catch but, with utter simplicity, each delegation leader simply said whether they were for the agreement or against the agreement. Trimble simply said “Yes”; just one word. Gerry Adams said something like, “Yes, subject to ratification by the Ard Chomhairle”, but that was perfectly understandable. We knew what that was about. The fact is that they were all saying “Yes” and that was a great moment. I will never forget it.

**Senator John McGahon:** It all moved quite quickly from Friday morning onwards.

**Mr. David Donoghue:** It moved quickly after that initial crisis.

On the point in respect of Blair, he got a landslide victory in 1997 but he had been thinking for some time before that of taking an initiative on Northern Ireland. Bertie Ahern had contact with him before they each became head of government. It is not as if Blair decided only when he saw the scale of the victory that he could do something on Northern Ireland. For some time before that - let us say it was a year - he had been planning it.

**Senator John McGahon:** Mr. Donoghue mentioned Senator Mitchell. How important was the role of America through the whole negotiation process in terms of shepherding people, keeping people onside, minding people and keeping everyone in check? How important was

the role of Clinton, Mitchell and American democracy in the middle of this negotiation?

**Mr. Rory Montgomery:** George Mitchell and his team - Nancy Soderberg and others - played an extraordinarily important role in keeping the show on the road. They presided over the formal sessions. He was an incredibly articulate spokesman for the importance of agreement. He could communicate superbly in simple, succinct and dignified language. He had also, of course, been involved in drawing up the famous Mitchell principles of non-violence and so on. All of that was very important. However, the actual negotiation of the text was overwhelmingly between the two Governments and the various political parties in regard to individual aspects, such as prisoners in the case of Sinn Féin and North-South issues and so on in the case of the SDLP and the UUP. That was kind of how it worked. The role of Clinton was obviously very important. Members may remember the famous visa for Gerry Adams back before the IRA ceasefire, at the end of August 1994. That was significant and caused a rift with the British Government for a period, as well as between the British and Irish Governments. The American involvement was hugely important but, at the same time, it was overwhelmingly an agreement that was home-grown between the British and Irish Governments, as well as politicians and others across the islands.

I have many memories of it. An opinion poll was published in the *Belfast Telegraph* in early March. Of those polled, 10% thought there would be an agreement, while 90% thought there would not. In mid-March we started exchanging texts and language between the two Governments. As I stated earlier, there was frantic work on North-South issues and that moved to London for three days the week before. Bertie Ahern happened to be there with Tony Blair. Britain had the EU Presidency at the time and Bertie Ahern was over there for that and they met but it was, above all, the group of officials. I remember faxing things off to people - one faxed things in those days - from the Downing Street fax machine and thinking to myself that this was quite something. I think it even had the Downing Street fax header and cover page on it. That is the way it worked. Another document was sent from a hotel in Cheltenham by a then senior civil servant who liked his racing, but that is another day's work. That was a bit earlier. There were many moments.

As Mr. Donoghue stated, when we reached agreement with the British in respect of North-South issues on the Saturday beforehand, that was good. There was then a very strong unionist reaction. The deal was that Bertie Ahern made his compromise on the Wednesday night. The weird thing was that was not being very well communicated. I remember that Paddy Teahon came in and instructed Tim O'Connor and me to write some new language on North-South issues. Tim and I wrote up more or less what we assumed our position had been and was, and gave it to Teahon, who said it was not what he wanted at all. It was only at the third go that he told us about the changes to which Bertie Ahern had agreed, which then made it possible for us to know what it was he wanted. That is the kind of way things can work. On the final day, as Mr. Donoghue said, there was a mixture of total exhaustion and adrenaline. He might remember that some of us had been staying in the Stormont Hotel and there was a loyalist threat so we all had to be moved into a bunker and sleep on the floor. On the final day or two we were just sleeping on chairs and so on. There was a great exhilaration because it was a beautiful bright morning. I remember going for a walk around the castle buildings and the Stormont estate. It had been a really cold and frosty morning, with snow overnight. The loyalists had been throwing snowballs at the DUP, whose members were protesting outside the walls. I was with my friend, Mr. David Cooney, later Secretary General of the Department of Foreign Affairs, and another of my bosses, and we agreed that no matter what happened to us in the rest of our careers, nothing would ever equal it. He went on to be a Secretary General and I went on to be

the permanent representative to the European Union and so on.

There was a premature celebration. Despite the fact it was Good Friday, somebody had laid hands on a few bottles of champagne so this was drunk with great excitement at 10 a.m. or 11 a.m. We then heard the deal was not finished after all. There was exhaustion, incipient hang-over and general despair; it was a terrible moment. As Mr. Donoghue has said, the word then went through. I will never forget because Mr. Mitchell convened the meeting and all the leaders sat around the table. Everybody in the building, more or less, forced their way into the back of the room. There were guys in chef's whites who fought their way through to stand in the back of the room. Everyone was there and there was a tremendous sense of a democratic moment.

We also had the final irony with the press conferences because there had to be a formal British-Irish agreement. As the committee knows, the agreement was in two parts, with a formal British-Irish agreement and the text of a multiparty agreement as an annexe. The text had to be signed and Prime Minister Tony Blair was in a mad hurry to get off the stage for his Easter holidays. His wife and kids were already there on some fine estate loaned to them by the then Spanish Prime Minister, Mr. José Aznar. He had to be dragged back in to sign this text. I had been organising this with my British opposite number. The nearest room was one with no flags or anything. There were dirty coffee cups on the edge. We sat them down and only one photographer, who was from Reuters, could be found. That is why there is only one photograph of the two of them signing the thing. I arranged that a member of our delegation, the co-ordinator, would be there to give the pen to sign the document but she could not be found so I had to do it. They went sprinting out of the room. Mr. Blair went out and got his helicopter. Off he went for his Easter holiday. It was extraordinary.

**Senator John McGahon:** That is excellent. It is like we were all sitting there in the room.

**Mr. Rory Montgomery:** One of our colleagues was Mr. Eamonn McKee, and I do not know if he is on the committee's list. The Government jet was sent back up for the lesser lights of the delegation. It had already delivered the Ministers and the Secretary General. As Mr. McKee said, it was as if we had won the all-Ireland or the world cup.

**Senator John McGahon:** That insight is what I was looking for. I was trying to find out what it was like, and that was superb.

**Senator Emer Currie:** There was the question of early release of prisoners and provisions around Troubles-era convictions. Was there any conversation around amnesties at the time? Given where we are with legacy, was there any conversation around a statute of limitations?

**Mr. David Donoghue:** I do not remember, to be honest. It was more a case of what criteria would be used for granting people early release. Each case would have had to be considered. The word "amnesty" implies a kind of blanket decision to let them all out. There still had to be a process of evaluating each case. It would take some time after the agreement before the first releases would happen. I do not think an amnesty, as such, came up. I was not involved directly in those negotiations but that is my memory.

**Mr. Rory Montgomery:** The prisoners issue is very specific but there was no broader look at the question or the role of the British army, for example, or other elements. The language is almost offhand. It states:

It is recognised that victims have a right to remember as well as to contribute to a changed society. The achievement of a peaceful and just society would be the true memorial to the



victims of violence.

It is virtually nothing, in other words. There was no serious discussion of this at the time at all.

**Senator Emer Currie:** We covered it last week but I just wanted to check.

**Mr. Mickey Brady:** In the talks and negotiations leading to the final agreement, was there much conversation around the root cause of the conflict? Was it addressed in any great detail?

**Mr. David Donoghue:** I would make a distinction between the documents that had been agreed a couple of years earlier and the negotiations. For the Downing Street Declaration of December 1993, there had been much consideration of the key drivers of conflict and what caused the conflict, as well as how to address those factors in a statement by the two Governments. The background had comprised contact between John Hume and Gerry Adams, initially, and then there were other contacts involving Dr. Martin Mansergh and others. In that process there would have been a dialogue about the causes of the conflict. That got translated into the negotiation of the Downing Street Declaration during 1993. In the same way, those contents would have continued into 1995 and the framework document.

I could not honestly say that in the week leading up to Good Friday, there was lengthy analysis of the factors behind the conflict. I was not in every meeting involving the Sinn Féin colleagues but it is unlikely. At that point we were all into trying to get a concrete agreement. It was being put together piecemeal, as Mr. Montgomery states. There was a chunk of text here on victims of violence, another chunk on reconciliation and another chunk on prisoners. It was being put together at high speed. I would be surprised if there was any opportunity to have a fuller debate on the causes of conflict. To answer Mr. Brady's question, it had happened in 1993 coming up to the Downing Street Declaration. That was key.

**Mr. Rory Montgomery:** It is important to recall that at the beginning of the talks, Sinn Féin personnel were imprisoned. I cannot remember but I imagine those parties that were present would have made opening statements giving their own historical slant on what had happened. I said I was involved with the Forum for Peace and Reconciliation. The forum model should not be totally forgotten about as a way of involving politicians, the public and other interest groups. That is another day's work. At that time, parties certainly did speak and I remember the Sinn Féin representatives. The parties presented their perspectives on the origins and root causes of the conflict. In general, it would have been entirely counterproductive to try to get any kind of agreed narrative on what happened.

**Mr. David Donoghue:** Mr. Montgomery reminds me of something else, which is that in the strand two talks from October 1997 onwards where Sinn Féin was actively involved, there were sessions where Gerry Adams and Martin McGuinness gave the republican perspective on everything that happened. These were not the Easter week negotiations but in the period from October to December 1997, when we got into the strands for the first time, I remember distinctly quite good debates where there would occasionally be some engagement with unionists. I remember on one occasion Mr. Reg Empey responding, although not directly. There was an issue with that for a while. He responded to the republican version of how the conflict came about. Mr. Montgomery reminds me that in the period we had very good exchanges.

**Mr. Rory Montgomery:** In a way, the declaration of support at the beginning, which I was involved in drafting and which was not subject to a lot of scrutiny, deliberately avoided trying to offer a view as to the root causes or where blame lay. Implicit in the part on the constitu-

tional issues was a kind of balance or recognition. The right of the Irish people as a whole to self-determination, which was a key republican demand, was balanced by the need for consent. Within that there was a key unionist requirement of acceptance of the legitimacy of Northern Ireland as part of the UK, on the basis of consent, without going back to what happened in 1920 or thereafter. However, it also recognised that a substantial section of the people in Northern Ireland share the legitimate wish of the majority of the people of the island of Ireland for a united Ireland. The text was balanced. It implicitly nodded at these things but when it came to violence in particular, it stated:

The tragedies of the past have left a deep and profoundly regrettable legacy of suffering. We must never forget those who have died or been injured, and their families. But we can best honour them through a fresh start, in which we firmly dedicate ourselves to the achievement of reconciliation, tolerance, and mutual trust, and to the protection and vindication of the human rights of all.

That was an attempt to recognise the huge injuries and stresses people had suffered, including physical, moral and emotional, but not to take a view as to the precise chain of causation or otherwise.

**Chairman:** This meeting has been very enlightening and rewarding for all of us. It has given us a new perspective on history but also the present, the pitfalls we face and the way forward. I say this respectfully. If we politicians had careers as successful in changing our country as the witnesses have had, and their commitment in their professional life, we would be doing very well. It has been a wonderful experience having them here and I thank them very much for giving us their open and frank views.

**Mr. Rory Montgomery:** Officials can do all they want to do but the politicians have to lead.

**Chairman:** I know that. Thank you very much.

The joint committee adjourned at 4.13 p.m. until 1.30 p.m. on Thursday, 23 June 2022.