



The **Constitution** Unit



Nations and Regions: The Dynamics of Devolution

Quarterly Monitoring Programme

Northern Ireland

Quarterly Report
April 2005



The Leverhulme Trust

The monitoring programme is jointly funded by the ESRC and the Leverhulme Trust

Devolution Monitoring Programme

Northern Ireland report 22

April 2005

- **Premiers fail to close ‘comprehensive agreement’**
- **Bank raid and murder highlight IRA criminality**
- **Sinn Féin suffers major reversal in US**
- **Poll shows strong pre-election support for DUP**

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1. Summary Robin Wilson

It was supposed to be the final, final deadline. And it was to be the ‘deal of all deals’. But on December 8th, when the London and Dublin premiers, Tony Blair and Bertie Ahern, once more appeared in Belfast’s Waterfront Hall, symbol of post-agreement prosperity, the watershed was not to be.

The elaborate arrangement would have made significant changes to the Belfast agreement. It was crafted with the Democratic Unionist Party and Sinn Féin as major interlocutors, rather than the more centrist Ulster Unionist Party and SDLP in mind. And the proposals, particularly for the appointment of first minister and deputy first minister, were even more consociationalist than the 1998 accord. Rather than representing a project linking devolution to reconciliation, they were premised on intercommunal mistrust.

Mr Blair tried, disingenuously as it turned out, to suggest there was just one issue standing in the way of the ‘comprehensive agreement’—the demand by the DUP for photographs of IRA weapons decommissioning. As ever, decommissioning did indeed dog the argument. But so too did its ever-present flip side—the refusal by the republicans to renounce violence.

In the succeeding days and weeks, it was the latter that was to loom large. First, the junior party in Mr Ahern’s coalition, the Progressive Democrats, broke ranks in turning the spotlight on the IRA. Then, just 12 days after the non-deal, the IRA—as soon the chief constable, London and Dublin were agreed—carried off the biggest bank robbery in these islands, taking £26.5 million from the Northern Bank’s vaults in Belfast.

Even this was, however, topped by a brutal IRA murder in a bar a few hundred yards away at the end of January, followed by widespread intimidation of witnesses. A courageous campaign for justice by the five sisters of the murdered man, Robert McCartney, from a small Catholic enclave, highlighted the failure of the republican movement to recognise the rule of law.

The increasingly Jesuitical formulae crafted by the Sinn Féin president, Gerry Adams, to cope with these pressures saw his popularity plummet in the republic while, in Washington, the McCartney sisters stole his St Patrick’s Day diary engagements, up to and including with the president, George W Bush. But there was consolation in polarised Ulster, where a poll showed support for himself and his party largely unaffected—alongside that for his historical nemesis, Rev Ian Paisley, and his.

2. The ‘peace process’ Rick Wilford

2.1 Introduction

The publication on December 8th 2004 by London and Dublin of their proposals¹ to restore a power-sharing devolved administration to Northern Ireland seemed to signal how near and yet how far were the key players from achieving the resolution of the outstanding issues—notably the decommissioning of the IRA’s arsenal. In addition, the proposals detailed institutional and procedural reforms to all three pillars of the political architecture crafted in 1998: the assembly and the executive, the north-south bodies and the British-Irish Council.

The two governments had, it appeared, come close to overseeing the negotiation of a package that satisfied the Democratic Unionist Party’s determination to forge a ‘new’ agreement and Sinn Féin’s equally strenuous resolve, shared by the SDLP, to ‘defend the fundamentals’ of the Belfast agreement. But it quickly became clear that in key respects the proposals were aspirational rather than conclusive, thereby confirming the view among seasoned observers that a deal embracing the DUP and SF was, if not impossible, highly implausible.

Subsequently, the conclusion drawn by the chief constable, Hugh Orde, that the IRA was responsible for the spectacular Northern Bank raid—the largest in these islands—in Belfast shortly before Christmas,² dished any restoration of fully inclusive devolution, at least before the local-government (and anticipated general) elections in May.

In the light of alleged IRA responsibility for the robbery (a view shared in London and Dublin) and the even greater furore over the murder of Robert McCartney by IRA members in a Belfast bar in January, it may seem pointless to report on the most recent attempt to restore devolution. Yet the proposals do provide some indication of what had been agreed between the unlikely bedfellows of the DUP and SF. But before turning to the proposed institutional and procedural reforms, attention must turn to the neuralgic issue of decommissioning, which has nagged the political process from the first.

2.2 Decommissioning

Three acts of ‘putting weapons beyond use’ by the IRA—and one very minor act by the fringe Loyalist Volunteer Force, incidentally in full view of TV cameras—were insufficient to secure the commitment of the Ulster Unionist Party to the restoration of devolution. When the third such act, by far the largest to date, occurred in October 2003, one year after the fourth suspension of the institutions, the fact that the IRA permitted the head of the Independent International Commission on Decommissioning, John de Chastelain, to provide only a broad indication of the

matériel disposed of so angered the UUP leader, David Trimble, that he put the sequence ‘on hold’.³ It was the opacity of the process that brought the prospect of ‘re-devolution’ to a juddering halt.

Had devolution been restored it would have been during the run-up to the twice-postponed second assembly election, held eventually in late November 2003.⁴ This *could* have enabled the UUP and SF, together with the SDLP and the minor pro-agreement parties, to enter the election on a more positive note; it was not to be. Moreover, the tide of Protestant support for the agreement, which had never been in full spate, had progressively ebbed to the point where any significant contra-flow was probably unachievable, at least in the short-term.

Had the IRA enabled Gen de Chastelain in October 2003 to disclose a full inventory of the arms ‘put beyond use’, Northern Ireland *might* have moved on, and on the broadly prevailing terms. It didn’t: the DUP secured a victory at the election and transparency bulked ever larger thereafter—not only in its calculations, but also those of London, Dublin and Washington.

The second assembly election also underscored the continuing advance of SF at the polls, thereby realising Mr Trimble’s ‘nightmare’: the waning of the UUP and the SDLP and the waxing of their ethnic rivals, to the point where the latter became the two largest parties (in terms of vote share and, in the DUP’s case, seat share) in the nascent assembly. Thus, the renewal of the four-party executive on the pre-existing basis was prevented, as was any lingering hope that the planned review of the agreement could be limited to tinkering with its institutions and procedures. Instead, the parties and the governments embarked on a protracted set of negotiations that, *via* Lancaster House and Leeds Castle, and bilaterals in London, Dublin and Belfast (see November 2004 report), led to the failure on December 8th at Belfast’s Waterfront Hall.

The operative cause of the failure was, it seemed, the IRA’s refusal to agree to the demand voiced by the two governments, the US administration and all the parties, bar SF, for greater transparency on decommissioning, *via* a catalogue of photographic evidence. The concern to achieve visual proof had been made plain by the prime minister, Tony Blair, and the taoiseach, Bertie Ahern, before the Leeds Castle talks in September 2004—according to Gerry Adams, the SF president, a week before. But while the issue was tabled then by the governments, it had been in the political ether for considerably longer, certainly well before the previous collapsed deal of October 2003. A year later, in the changed post-election landscape, the two governments calculated that without such evidence the DUP would set its face against any negotiations for the foreseeable future.

Mr Adams said at the time of the non-watershed at the Waterfront that he had informed the two premiers at Leeds Castle that this demand was ‘unachievable’, and that he had been ‘shocked’ on November 17th when it appeared in their jointly drafted proposals: ‘We made clear from the beginning that this was not a runner.’⁵ But the

republic's foreign minister, Dermot Ahern, insisted in the wake of the failed deal that 'the refusal wasn't as explicit as is being indicated ... It was always part of the discussions that photographs may be necessary in order to ... bring the DUP over the line. Always, we knew that the issue of photographs in themselves might not be the difficulty but the publication of the photographs in such a way as would be seen as being a humiliation or a victory for one side would not be countenanced.'⁶

This equation, that visual evidence equalled 'humiliation', was not, in fact, introduced into the Northern Ireland narrative by the DUP but, rather, by SF's Mitchel McLaughlin in the wake of the Leeds Castle talks.⁷ Subsequently, it was exploited by the DUP, notably during a speech at the end of November by the party leader, Rev Ian Paisley, in his heartland of Ballymena, where he insisted that the IRA needed to don 'sackcloth and ashes' and that those who had 'sinned in public need to repent in public'. Such repeated rhetorical flourishes were, in turn, seized on by the SF leadership, who sought to portray them as further evidence of Mr Paisley's determination to humiliate republicans.

Whilst this interpretation was reiterated by SF in the run-up to, and the aftermath of, December 8th, Mr Paisley remained unrepentant. If anything, his rhetoric was strengthened in the light of that failure. Indeed, he reaffirmed that in his and his party's view, it was 'SF/IRA' which had 'pulled the plug on the deal', precisely because it 'never had any intention' of committing itself to exclusively peaceful and democratic means'.⁸ His view appeared to be reinforced by two meetings with Gen de Chastelain, on December 4th and 8th, at which the IICD head, according to Mr Paisley, confirmed that nothing had been discussed, let alone agreed, with the IRA on the modalities of decommissioning, including the widely shared insistence that there must be visual evidence.

Support for this judgment came from an unexpected quarter in the shape of Mary Harney, tanaiste (deputy premier) and leader of the Progressive Democrats, junior partner in the republic's governing coalition. Speaking in the Dáil, she confirmed that Dublin 'had supported others in their request to have photographs published' and, more interestingly, hinted that 'it would be wrong of anyone to assume that this was just about photographs, that that was the only outstanding issue'.⁹ Though Ms Harney did not elaborate, further details of what the IRA had or, rather, had not signed up to emerged over the next 48 hours.

In their proposals of December 8th the two governments had inserted the following paragraphs relating to the requirement for palpable evidence of decommissioning:

The IRA representative (to the IICD) has indicated that, in response to our request to agree mechanisms which would enhance public confidence in the decommissioning process, additional arrangements will be put in place. These will include the presence as observers during the process of two clergymen nominated by the two Governments following appropriate

consultation. These witnesses will be able to make public statements to the following effect on publication of the final IICD report in December: that they themselves have attended each decommissioning event that has taken place since their appointment as independent witnesses; that the inventory compiled by the IICD is a true reflection of what was decommissioned.

In addition, the IRA representative has told us that the IRA will have photographs of the weapons and materiel involved taken by the IICD, in the presence of the two independent observers. These photographs will be shown by the IICD to the two Governments and the parties at the time of the final report on IRA decommissioning and will be published at the time the Executive is established.¹⁰

This seemed compelling evidence of the IRA's commitment to put its arms beyond use, visibly and in an extremely tight timeframe. However, it quickly transpired that the IRA had *not* agreed to the inclusion of these paragraphs but, rather, that they were inserted by the governments, trusting that they would be endorsed by the republican movement—a case of wish being father to the collective thought.

On the day following the publication of the proposals, a report appeared in the Dublin-based *Irish Independent*, quoting 'authoritative sources'—believed widely to be within the PD leadership—who claimed that the IRA had refused:

- to endorse a declaration to recognise the need 'to uphold and not endanger anyone's personal rights and safety';
- to agree a timescale on SF's commitment to new policing arrangements;
- to discuss an inventory of arms and explosives with Gen de Chastelain; and
- to finalise arrangements on how and when it proposed to dispose of its weapons.¹¹

On the following day, a further leak claimed that side deals between the governments and the IRA embraced early release of those responsible for the 1996 killing of a Garda detective, Jerry McCabe; an effective amnesty for 'on the runs' (including two men wanted in connection with the murder of Garda McCabe); and reform of Seanad Eireann (upper house of the republic's Oireachtas, the parliament) to include a guarantee that at least some politicians from the Northern Ireland Assembly would automatically become members of it. None of these highly sensitive matters was included in the proposals published on December 8th.

The refusal of the IRA to countenance inclusion in the document of a commitment 'to uphold and not endanger anyone's personal rights and safety' is acutely troubling, not least because it is at odds with paragraph 13 of the Joint Declaration, published in May 2003 (see May 2003 report). Authored by the two governments, the declaration itemises the full range of paramilitary activities that must cease, ranging from military

attacks to exiling and ‘punishment beatings’. When the IRA produced its own response to the events of December 8th, it chose a different form of words.

The IRA made clear that within ‘the context of work to conclude a comprehensive agreement’ it would ‘move into a new mode which reflects our determination to see the transition to a totally peaceful society’ and that ‘all IRA volunteers [would] be given specific instructions not to engage in any activity which might thereby endanger that new agreement’.¹² The latter was a carefully crafted formulation that, inferentially at least, would enable the IRA to retain some weapons¹³ to ‘police’ its heartlands—as the former Northern Ireland secretary Mo Mowlam once rather inelegantly put it, to engage in ‘internal housekeeping’—and to defend its members from potential attacks by dissident republicans and others. Moreover, the phrasing implied that organised crime sanctioned and perpetrated by the IRA could continue, as attested so clearly by the £26.5 million bank robbery.

The statement did, however, confirm that the IRA would ‘conclude the process to completely and verifiably put all our arms beyond use ... speedily and, *if possible*, [emphasis added] by the end of December’ and ‘to further enhance public confidence [the leadership] agreed to the presence of two clergymen as observers during this process’. As to the widely shared demand for photographs, this was dismissed as ‘an act of humiliation’ that ‘was never possible’. In the IRA’s view, the DUP leader ‘made this demand publicly as the excuse for his rejection of an overall agreement to create a political context with the potential to remove the causes of conflict’.¹⁴

The IRA statement was welcomed by Mr Adams as a ‘declaration of peace’ but dismissed by Mr Paisley, who claimed that it showed that the IRA ‘never had any intention of decommissioning’. He went on: ‘Another secret act will not satisfy the public to any degree acceptable [*sic*]. I believe the IRA’s reaction is proof that they cannot and will not be honest about the matter of decommissioning and are therefore not ready for the democratic process, neither are they committed to peace.’¹⁵ In short, the ‘blame game’ was in full spate, and given added force by the leaks emanating from Dublin.

Decommissioning, the modalities of which remain unresolved, does have an inordinate capacity to stymie the restoration of devolution before the certain local government elections in Northern Ireland in May and the anticipated and simultaneous general election. It may be that it is less the principle of photographic evidence that is at issue, but rather its use—or perceived misuse. If nothing else, the prospect that such photographs could be emblazoned on DUP election literature was clearly too much for the republican movement to stomach. The governments had calculated that if such material were disclosed in private to the parties, its authenticity publicly confirmed by the two clergymen and, after a lengthy period—spanning for instance two or three reports by the Independent Monitoring Commission (see February 2004 report)—made public, that could suffice.

The two governments had envisaged just such a sequence in their proposals of December 8th. Following decommissioning, and two quickly produced IMC reports,¹⁶ one in December and the other in February, the photographs would fall into the public domain in March 2005, after the d'Hondt rule had been run to nominate ministers to a new Executive Committee. But less than a week after publication of the proposals, the SF president remarked, following a meeting with Mr Blair at Downing Street, that 'the photographs are dead and gone and buried in Ballymena' (*ie*, after Mr Paisley's 'sackcloth and ashes' speech). And he said: 'I don't think there is any possibility of resurrecting that issue.'¹⁷ Any lingering hope that the IRA would concede the demand for photographic proof of decommissioning was to be dashed by its new year message: it was, said 'P O'Neill', an 'unachievable demand'.¹⁸

Equally upsetting for the DUP were remarks by Mr Ahern, following a meeting in Dublin with Mr Adams and his SF colleague Martin McGuinness. On camera, the taoiseach declared that photographic evidence of decommissioning was 'not workable'. The DUP leader was so incensed that he immediately broke off all contact with Dublin, saying that 'as far as we are concerned Mr Ahern is a man that can't be trusted'. Later that day, however, Mr Ahern rang Mr Paisley to apologise.

And in the Dáil on December 15th, the taoiseach reaffirmed his government's support for photographs of decommissioning and said the IRA statement lacked clarity: 'Clarification is required that the IRA's commitment is, indeed, to a complete ending of paramilitarism and other illegal activity.' He continued: 'We are duty-bound to satisfy ourselves on this point. This whole initiative is based on this vital premise.'¹⁹

The inclusion of the phrase 'other illegal activity' was telling. It indicated in explicit terms that both partners in government, Fianna Fáil and the PDs, were resolved to end all criminal activity by the IRA, thereby reinforcing the preferred form of words suggested by the two governments (above). To try to finesse this point, Mr Adams had earlier insisted that criminality and republicanism were incompatible: 'You cannot be a criminal and a republican activist.' This assertion, and his insistence that 'if the IRA says they will not be involved in any activities which would jeopardise or run against an agreement, that should be good enough for everyone',²⁰ did not however deflect the other actors, including the republic's government, from seeking a definitive IRA commitment.

Chief among the sceptics, and a constant thorn in SF's side, was the PD justice minister, Michael McDowell (pronounced as MacDool). Speaking in the Dáil, he too insisted that there would be no deal without an end to criminal activity by the IRA: it was, he said, an issue on which 'there could be no budge from the Government and no fudge from Sinn Féin and the IRA', adding that the Government was 'totally united' on the matter.²¹

It quickly became evident that there was more to the breakdown of the 'mother of all deals' than photographs. The IRA statement did not sit squarely with the guarantees of personal rights and safety sought by the two governments which, if endorsed,

would spell an end to its involvement in criminality. Indeed, in a longer view what has been at issue ever since the 1993 Joint Declaration by London and Dublin on Northern Ireland—which demanded ‘a permanent end to the use of, or support for, paramilitary violence’—has been the republican movement’s sustained refusal to renounce violence *per se*.

Moreover, the not unlikely prospect that the IRA might be permitted to put beyond use *most* rather than *all* of its weapons would not, presumably, be acceptable to any party, other than SF. In addition, the planned release of Garda McCabe’s killers, indefinitely postponed in the wake of the bank robbery, is so emotive that it would have the potential to destabilise the coalition in Dublin and damage FF’s electoral prospects. Further, there is the vexed matter of the devolution of policing and criminal justice and related issues.

2.3 Policing and justice

In their proposals, the two governments said that a shadow assembly would be created in January 2005 (on the basis of the November 2003 election result) and that two committees would be established therein, the first²² to ‘consider modalities for devolution of Criminal Justice and Policing’. Agreement on these was to be reached by February. In ‘early summer’, the UK government would introduce legislation giving effect to the devolution of these powers, which would be implemented ‘once sufficient confidence has been established, as expressed in a cross-community vote in the Assembly, proposed by the First and Deputy First Minister’.

The preamble to the document said that the government would ‘work to promote the necessary confidence to allow such a vote to take place within two years’. Thus, the timetable for the return of policing and justice could have extended to 2007—the year that, *ceteris paribus*, the third assembly election would be held.

While all parties agree in principle on devolution of these powers, their transfer was contingent upon complete and verifiable decommissioning, an end to IRA criminal activity and the participation of SF representatives in the Policing Board and the district policing partnerships by the time the relevant legislation was enacted, *ie* the early summer of 2005—assuming, that is, that a Labour administration would be returned in the widely predicted May general election.

In their proposals the governments said that following ‘extensive discussions about prospects for extending support across all sections of the community for the new policing arrangements’, they had ‘a strong expectation that this process of decision making by Sinn Féin will be undertaken quickly’. This might, however, be a rather sanguine interpretation.

The party’s spokesperson on policing, Gerry Kelly, indicated in the wake of the proposals that issues remained unresolved, including the use of plastic bullets and the

removal of Special Branch as a ‘force within a force’, and that a final decision on whether SF would recommend the transfer of powers in the short run would depend on the content of the relevant legislation and whether a special ard fheis (party conference) endorsed it.²³ That said, on past performance, if such an ard fheis was to be convened it would be a clear signal that the SF leadership was seeking to ratify the proposals rather than debate their merits and demerits.

2.4 Institutional reform

Notwithstanding the impasse—compounded by the chief constable’s judgment²⁴ that the IRA was responsible for the Northern Bank robbery—the December 8th proposals provide a clear indication of the reforms which the two governments envisaged to all three institutional ‘strands’ of the 1998 agreement. Significant changes to the institutions and their operating procedures were proposed following the planned (February 2005) lifting of suspension, amendments to the Northern Ireland Act 1998 and related legislation, and repeal of the 2002 Suspension Act (already foreshadowed in the Joint Declaration of 2003). They are set out below.

Strand one

Executive formation: Under the 1998 act implementing the agreement, the first and deputy first ministers were elected on a joint slate by means of ‘parallel consent’, that is by concurrent majorities of *soi-disant* ‘unionist’ and ‘nationalist’ assembly members as well as an overall majority. Thereafter, the other ten departmental ministers were nominated by their respective parties, in an order determined by application of the d’Hondt mechanism. They were not required, individually or collectively, to seek endorsement from the assembly: their portfolios were allocated purely on the basis of electoral strength, as determined by the number of seats taken at the first plenary of the post-election assembly.²⁵

In the December 8th version, by contrast, the largest party in the largest ‘designation’ (unionist, nationalist or ‘other’) would be invited to nominate the FM and the largest party in the second largest designation the DFM. In current circumstances, this would mean a DUP and an SF member respectively, most probably Mr Paisley and Mr McGuinness. Then, d’Hondt would be triggered to determine the ten other ministers. By means of an ‘Executive Declaration’ tabled by the presiding officer, the 12-strong executive would require approval as a whole by the assembly, on the parallel-consent, or ‘50:50:50’, basis.²⁶

The original procedure was designed to embody the cross-community partnership principle that underpins the agreement’s wider consociational design. The new procedure could, however, be understood as decoupling the occupants of the two highest offices, albeit that they would be endorsed in combination with the other ministers. Certainly, the change would spare the DUP nominee for FM the embarrassment of seeking endorsement on a joint ticket the SF nominee for DFM. Conversely, it could be argued that the new procedure would consolidate a wider

partnership among all four major parties, which together account for 99 of the 108 seats in the prospective assembly.

But in calculating endorsement by the assembly, this would perpetuate the discounting of the votes of 'others'. Provided that an overall majority were achieved, including majorities of the 59 unionist and 42 nationalist MLAs, the requisite cross-community consent would be secured regardless of the others' disposition. In formal terms, 'otherness' would continue to carry the stigma of a devalued vote: the six Alliance members and the sole independent MLA would be denied the same status as the major communal parties in endorsing the executive.²⁷

Under this new procedure only one 'Executive Declaration'—the slate of 12 ministerial nominees—could be put to the assembly for a confirmation vote by the presiding officer. If the slate were not endorsed within six weeks of the assembly's first meeting then, as at present for the election of the FM and DFM, a fresh assembly election would be held. Any ministerial nominee would not however be allowed to remain a member of the executive if s/he had not voted for the declaration and, if the relevant nominating party could or would not nominate another of its number who had so voted, d'Hondt would be rerun excluding that party.

This, however, would be extremely problematic. In effect, short of an inter-party deal prior to the triggering of d'Hondt whereby each of the four eligible parties endorsed the proposed slate of nominees (though not, one assumes, their preferred portfolios), if one of those parties were not content with a nominee(s) of another party or parties on whatever ground(s), and voted against the nomination, then it would suffer exclusion from ministerial office. The new procedure could, then, be said to hold each of the nascent executive parties hostage to the other qualifying parties which, in terms of outcomes, is not unlike the original procedure whereby the departmental ministers were nominated without any requirement for an authorising assembly vote.

There was, too, a double anomaly in this proposed procedure. If at any time a vacancy were to arise among the ten departmental ministers, the procedure for replacement would be that operated during the assembly's first mandate: the relevant party simply nominates a successor from among its ranks without any requirement for a vote of endorsement. Such an eventuality would be likely, if for no other reason than the propensity of the DUP to rotate its ministers as it did, on two occasions, in the first assembly.²⁸ But, whatever the cause of such a vacancy—be it resignation, ill-health, rotation or some other reason—the replacement would be in effect a co-opted minister among his or her elected peers. To compound the incongruity, if the first or deputy first minister vacated the office, the successor would be nominated by the relevant party, following which the presiding officer would table a 'partial Executive Declaration', then subject to the 50:50:50 voting criterion.

Ministerial accountability: One of the issues on the DUP's agenda in its pursuit of a 'new' agreement was the lack or indeed perceived absence of ministerial accountability to the assembly and the executive. The Northern Ireland Act 1998

vested ministerial authority in individual ministers, rather than in the Executive Committee as a whole, thereby providing a textual warrant for ministers, if so disposed, to make autonomous decisions. While there was a ministerial code (and a pledge of office) for ministers in the first assembly, it lacked statutory authority: this lacuna would be closed by way of an amendment to the act.

A duty would be placed on ministers, including junior ministers, to act in accordance with the provisions on ministerial accountability of the code. An additional means of nurturing collective responsibility or, more negatively, constraining ministers from embarking on solo runs—instanced, in the case of SF ministers, by Mr McGuinness' summary announcement of the ending of the transfer test for 11 year-olds and Bairbre de Brún's decision to centralise Belfast's maternity provision in her own constituency of west Belfast—was envisaged. This was that on any decision incapable of commanding consensus within the executive a vote would be required, and any three ministers could require the vote to be taken on a cross-community basis. In effect, this would copper-fasten the mutual-veto requirement characteristic of consociational government.

Furthermore, under the proposals any issue which was 'significant and controversial' should be brought before the full executive. But no mechanism was specified for designating an issue as such, save that it fell outside the scope of any agreed Programme for Government or the first and deputy first minister agreed it should be brought before their colleagues.

Relatedly, a proposed amendment to the 1998 act would provide for referrals of 'important' ministerial decisions from the assembly to the executive *via* a motion of concern by 30 MLAs within seven days²⁹ of the decision being made, whether by one minister or the executive as a whole. But in this case the presiding officer would have to consult the assembly parties to satisfy him/herself that the referral 'concerned an issue of public importance'³⁰ before passing it back to the executive. If the referral were to be made the executive would have to consider it within seven days, but thereafter a second referral in relation to the original matter could not be made.

Both provisions would represent an advance on previous operating procedures but, nevertheless, could occasion difficulties. Whereas in the case of an assembly referral the speaker would be the arbiter of 'public importance', it is not clear who would determine the significance of an issue within the executive. If, for instance, the first and deputy first ministers were to disagree over whether an issue was significant and controversial, there would not appear to be a mechanism to resolve the matter: presumably the two governments believed sweet reasonableness would prevail.

The once-off nature of a referral from 30 MLAs might also prove difficult to apply. Could, for instance, only one referral be made in respect of proposed budgetary allocations or would this procedure enable the MLAs to table referrals on a department-by-department basis? The role allocated to the speaker as the arbiter of public importance would also potentially be troublesome. It would not require too

great a leap of imagination to conjure up a situation whereby an assembly party would challenge the speaker's determination and thereby create a difficult working relationship within the chamber and elsewhere in Parliament Buildings.

Returning to the proposed statutory ministerial code, the governments said its substance would be discussed by the parties and subsequently agreed by the executive when formed. Thereafter, it would be laid by the FM and DFM before the assembly, where it would require endorsement by cross-community vote (either parallel consent or weighted majority as provided by the 1998 agreement). Any amendments to the code would also require cross-community support in the assembly.

The code would provide for the executive to be the forum for discussion and agreement on:

- cross-cutting issues, including those that were the lead responsibility of the finance minister;
- executive proposals;
- legislative proposals;
- a common position where necessary, as on 'external relationships' (the British-Irish Council, the North/South Ministerial Council and the European Union);
- the annual Programme for Government, incorporating an agreed budget; and
- the 'significant and controversial' issues referred to earlier.

While aspects of the proposed code echo those of the original, there would be novel elements. Besides the 'significant and controversial' issues, the common position on 'external' matters would respond to the DUP concern about lack of accountability in relation to the NSMC. The *quid pro quo* would be that the 1998 act would be amended to include a requirement in the pledge of office that ministers would participate fully in the executive, and both the NSMC and BIC. This would prevent any party, most obviously the DUP, from acting in a semi-detached manner by refusing to attend executive meetings, and plenary and sectoral meetings of the NSMC, as hitherto.³¹

Moreover, the pledge would require the first and deputy first ministers to 'observe the joint nature' of their office (OFMDFM): the co-equal political twins would, in formal operational terms, remain conjoined. But, to mix metaphors, this would be no guarantee that any marriage between the DUP and SF would be other than loveless. One patent risk of this political cohabitation would be 'balkanisation': it is entirely plausible that the incumbents would be tempted to prioritise the perceived needs and interests of their respective 'communities'. If this were to be the case, it could generate more 'segmental autonomy', another defining characteristic of consociational democracy, and thereby widen rather than close communal divisions.

Departmental restructuring: According to the proposals, one early item on the first and deputy first ministers' agenda would be a review of OFMDFM's functions and the possible transfer of some to other departments. This would be welcome. When the

initial reconfiguration of departments was undertaken during the shadow assembly in 1998-99, OFMDFM emerged with 26 functions somewhat hastily and untidily pulled together. It created a large and rather misshapen department, and one that was only partially accountable to its monitoring committee, the committee of the centre.³²

A political storm broke a few months before suspension in 2002, when this project revealed that the office had expanded to more than 400 officials (see August 2002 report). A slimmed down OFMDFM, with the committee of the centre placed on a statutory footing³³ in common with the ten other departmental scrutiny committees, would provide for a more administratively manageable and sensible allocation of functions and enhance the office's accountability.

The review of OFMDFM would be an early step in the restructuring of the devolved departments. The proposals also provided for a standing 'Institutional Review Committee', to examine the operational aspects of all strand-one (internal) institutions. Matters to be considered would be agreed among the parties, and committee reports would be discussed by the executive and the assembly. Where agreed³⁴ changes required legislative steps by London, these would be introduced in consultation, where appropriate, with Dublin. Relatedly, an 'Efficiency Review Panel' was envisaged, to be appointed by the FM and DFM, charged with conducting an efficiency and value-for-money audit of the strand-one institutions.

These measures were and remain high on the DUP agenda. Had the December 8th document been acted upon, the party would no doubt have sought to exploit the opportunity to scale back the number of departments and reduce the size of the assembly, both items on its wish-list. All such changes would, though, have required agreement within the executive and the assembly, which could have proved tricky.

Departmental 'space' would at least have to be created for one or two new departments, to accommodate the transfer of policing and justice powers, since the Northern Ireland Act 1998 stipulates that there can be 'up to ten departments' (in reality, 11 given OFMDFM), which would be the immediate case if devolution were restored. That said, the act could be amended to allow the creation of one or two new departments alongside those already in existence, but this would be highly implausible: the tide is running in favour of fewer rather than more departments at *élite* and popular levels.

There was, naturally, no agreement among the parties about the modalities of transferring policing and justice—this was to be the subject of a committee in the proposed shadow period, before full restoration of devolution. Had the December 8th (non-)deal gone ahead, one can only imagine what the atmosphere in that committee would have been like had the Northern Bank raid gone ahead too.

Two other changes were signalled in the section of the document dealing with strand one. First, the UK government reiterated its readiness to repeal its power to suspend devolution, first signalled in the Joint Declaration of April 2003—an item demanded

by both the SDLP and SF. Secondly, the UK government proposed an amendment to the 1998 act that would prevent MLAs from changing their communal designation during an assembly term except where associated with a change of membership of a political party—which would merely have reinforced exclusive political and communal identities.

Strands two and three

Under the proposed new ministerial code, draft decision papers for meetings of the NSMC and BIC would be circulated in advance (the period to be determined by the executive) to all ministers, any one of whom would have the right to initiate discussion on such a paper. This device, designed to trammel ministerial autonomy, would be underscored by the like provision in relation to strand-one matters, whereby a cross-community vote within the executive would be required if requested by any three ministers where no consensus could be achieved on those external matters defined in the code (above).

In addition, the UK government proposed amendments to the Northern Ireland Act 1998 concerning NSMC and BIC operating procedures. A lead minister would be entitled to attend meetings of either body where his/her interests were under consideration, thereby preventing the first or deputy first minister blocking attendance.³⁵ There would also be a statutory obligation on the FM/DFM to nominate a proxy replacement for a lead minister if s/he was proposing not to attend the relevant meeting and had not arranged for a replacement. In such circumstances, to facilitate discussion at any such meeting, the FM/DFM would be empowered to require the relevant documents and information from the lead department. And, given the requirement for cross-community ministerial representation at NSMC and BIC meetings, there would be a statutory obligation on the FM/DFM to nominate the other minister to fulfil that requirement. These amendments to the act would effectively provide for the uninterrupted operation of both councils, which was disjointed between 1999 and 2002.

The accountability of the BIC and, more particularly, the NSMC to the assembly was another issue high on the DUP's negotiating agenda. In the first mandate, ministers attending either body made a statement on the business to a plenary of the assembly. While the statutory committees could pursue these matters, accountability was generally wanting. To that end, the proposals included provision for the chairs and chief executives of the north-south bodies to appear before the assembly's statutory committees (including the so-redesignated committee of the centre) at least annually, thereby extending the investigative reach of MLAs.³⁶

While the scrutiny of north-south business would be enhanced by this reform, the capacity of the assembly to decide on such matters would remain narrowly circumscribed in the proposals. Only where a matter on the agenda of the BIC or NSMC lay outwith the responsibilities of the attending minister, or his/her proxy, would it be subject to decision by the assembly. From the DUP's perspective, this was a miserly and largely paper provision, and yet in its statement incorporated in the

proposals it was set to commend the wider agreement to its supporters ‘if implemented faithfully and fully’.

2.5 What next?

Now, however, the status of the ‘comprehensive agreement’ resembles that of the dead parrot in the Monty Python sketch. The DUP, the UUP and the Alliance Party have urged the governments to sanction the formation of a voluntary coalition minus SF, while the latter has exhorted London and Dublin to implement in full those aspects of the 1998 agreement, *via* the Joint Declaration, that do not require a devolved administration. For its part, the SDLP has as yet refused to entertain an exclusive coalition, as have the two governments who believe that devolution can only work with SF in the administration.³⁷

Nevertheless, trust in the SF leadership has taken a massive blow, one that will take a considerable period to recover from, whether in London, Dublin or Belfast. Which means that in the shorter, and even the more medium, term direct rule will continue. It is worth noting that at the time the proposals were published it was not assured that either the UUP or the SDLP would take their ministerial places in any devolved executive. Both were actively contemplating an opposition role, a decision that they can postpone for what is likely to be a considerable period.

In the wake of the bank robbery, the Northern Ireland secretary, Mr Murphy, told the Commons that he and his direct-rule colleagues would ‘continue to apply ourselves to governing Northern Ireland as effectively as possible in the absence of a devolved administration’.³⁸ Thus it was with an air of resignation, coupled with the recognition that the effect of the robbery on the political process was ‘deeply damaging’, that he remarked that he could not ‘forecast with certainty when it will prove possible to re-establish an inclusive power-sharing executive’. Mr Murphy did, however, reaffirm the government’s view that such an executive provided ‘the best long-term guarantee of peace and stability’.

During questions after his statement, though, the minister implied some possible alternative futures. For instance, asked by the Conservative spokesperson on Northern Ireland, David Lidington, whether the government would explore the possibility of establishing an executive without SF, Mr Murphy replied—rather teasingly—that ‘the Government have not ruled anything out or in’. He went on to say that ‘two things matter: one is that there be consensus among the political parties ... the other is that we cannot establish an Executive without either Unionist or nationalist representation’.³⁹ If, of course, the consensus is to include SF, then none is possible.

The mix of injured innocence, denial and anger expressed by the SF leadership concerning the chief constable’s conclusion on the robbery, shared by Messrs Blair and Ahern, renders any such agreement impossible. But Mr Murphy clarified his position in his reply to Kate Hoey: ‘I have neither ruled out nor in the possibility of

persuading democratic parties to set up a voluntary coalition excluding SF [but] such an arrangement could be made only if the parties that would form part of that coalition agreed to it.’⁴⁰ There could indeed be a three-party coalition of, to coin a phrase, the self-regarding ‘legal, decent, honest and truthful’. But this would, critically, rely on the SDLP’s preparedness to enter such a coalition, which in electoral terms would be a very risky course to take: *pro tem*, the party has set its face against it.

Mr Murphy was pressed on the option of an executive *sans* SF by Peter Robinson, the DUP deputy leader, who urged the Northern Ireland secretary to move on ‘without the gunmen and gangsters’ of ‘Provisional Sinn Féin’—rather more colourfully described by the SDLP MP Eddie McGrady as the ‘Provisional IRA in lounge suits’. Mr Murphy replied: ‘It may have to be that.’⁴¹

The minister was also open to the proposal that direct rule should be rendered more accountable, not least to MLAs. The dearth of accountability has been a running saga at Westminster for some time, as we have noted in several previous reports. On this occasion, when the issue was raised by Mr Lidington and Mr Paisley among others, Mr Murphy seemed more disposed to addressing it. Replying to the DUP leader, he made explicit reference to his party’s option of a corporate assembly, stating that ‘we would certainly consider [this] sort of arrangement’.⁴²

Mr Murphy reminded the house that the IMC had a role in determining any sanctions and penalties that might be applied to SF—and the republic’s government would be consulted on this matter. In February, the commission duly reported that the IRA had been behind the Northern Bank raid, as well as three other robberies in 2004. Had the assembly been sitting, the commission concluded, it would have recommended the exclusion of SF ministers from office.⁴³ As it was, only financial penalties were available. The following month, the Commons voted to suspend £400,000 worth of allowances to the four SF MPs. This blow to the party, albeit still marginal to its huge income, came on top of the loss for a second year of the £120,000 assembly research grant, originally withdrawn following an earlier IMC report.⁴⁴

First aid remains the principal response on the part of the UK government. Trust in the republican movement, including the leadership of SF, is now virtually non-existent. For its part, having rejected utterly the allegations of the chief constable and his fellow ‘securocrats’, SF is, in the words of Mr Adams, urging republicans ‘to resist any attempts to discriminate against them’. Lest one assume that the long war is back on the agenda, Mr Adams stated that such resistance should be in the form of ‘entirely peaceful democratic strategies’. This is unlikely to mean the adoption of Gandhian tactics, but rather an all-out effort to crush the SDLP at the looming elections and to increase the party’s already significant vote.

Yet the normally unflappable republican leadership was thrown into turmoil by the gathering storm arising from the murder by IRA members of a man from the Short Strand Catholic enclave in Belfast, Robert McCartney, at the end of January 2005, in

a bar just a few hundred yards away from the Northern Bank headquarters. Whereas for many Catholics, particularly the disadvantaged among whom SF's support is concentrated, the plight of bankers was a matter of no concern, the brutality of the murder of Mr McCartney and the *omerta* subsequently imposed by the IRA led to widespread outrage.⁴⁵

The five sisters of Mr McCartney, alongside his fiancée, led a hugely effective campaign for justice on their late brother's behalf, exposing the weak flank of SF on the issue of policing and the rule of law. Their support became such that they were welcomed on to Capitol Hill during the St Patrick's Day celebrations and even received a brief audience with the president, George W Bush, while the SF president, Mr Adams, found himself reduced to pariah status.⁴⁶

This sea change in US opinion did not look set to shift the electoral tectonic plates in the highly polarised domestic political context, but it did throw into question the whole republican 'peace strategy', in which the struggle for a united Ireland by primarily non-violent means relied heavily on the diplomatic weight conferred by American support. Even before the McCartney killing, Mr Adams was speaking of 'a very deep sense of crisis'.⁴⁷ And four weeks later it emerged that British politicians and senior police officers had been warned to increase their personal security, in the wake of what a government spokesperson—while stressing there was no evidence an end to the IRA ceasefire was imminent—described as security and political 'turbulence'.⁴⁸

¹ 'Proposals by the British and Irish Governments for a Comprehensive Agreement', (www.nio.gov.uk/proposals_by_the_british_and_irish_governments_for_a_comprehensive_agreement.pdf)

² By mid-January it became clear that £10 million of the total of £26.5 million stolen from the Northern Bank was untraceable (*Belfast Telegraph*, January 12th 2005).

³ In Northern Ireland, informed observers have suggested that the volume of weapons thus far put beyond use is equivalent to approximately 6 per cent of the IRA's arsenal (see, for example, Suzanne Breen, *The Village*, December 13th 2004). According to *Jane's Intelligence Review*, the IRA's stock includes 500 handguns, 1,000 rifles, one or two sniper rifles, 12 MAG machine guns, 20 heavy machine guns, 40 rocket launchers, one SAM missile, six flamethrowers, 600 bomb detonators and three tons of semtex (*Belfast Telegraph*, December 9th 2004).

⁴ See Wilford, Rick and Robin Wilson (2004), 'The Virtual Election: The 2003 Northern Ireland Assembly Election', *Representation* 40, 4: 250-265.

⁵ SF press release, December 8th 2004

⁶ UTV Newsroom Online, December 9th 2004

⁷ 'Inside Politics', BBC Northern Ireland, October 23rd 2004. In the course of interview Mr McLaughlin said: 'We have heard all the stuff about Stephen Spielberg type coverage of IRA initiatives. Those kind of things are designed to be provocative and also designed to be counter-effective in terms of the any goal of taking arms out of the equation ... Central to the DUP position, I think, would be a humiliating scenario for republicans that simply isn't going to happen.'

⁸ DUP press release, December 8th 2004

⁹ BBC News Online, December 8th 2004

¹⁰ *Proposals by the British and Irish Governments for a Comprehensive Agreement*, Annex D

¹¹ Tom Brady, 'IRA accused of failing to cut all links with violence', *Irish Independent*, December 9th 2004

¹² *An Phoblacht*, December 9th 2004

¹³ including, it is alleged by some, an undetermined number of new handguns imported from Florida in 1999 which have no forensic 'trail'

¹⁴ The republican phrase ‘the causes of conflict’ is generally understood as a euphemistic reference to partition and the British presence in (the north of) Ireland.

¹⁵ BBC News Online, December 9th 2004

¹⁶ The IMC’s reports, notably the first scheduled for February, were in part designed to accommodate the DUP’s insistence that following decommissioning a ‘decontamination’ period designed to test the republican movement’s commitment to exclusively peaceful and democratic means would need to elapse *before* it entered a power-sharing administration with SF. The IMC is normally tasked to report on a six-monthly basis: its third report on paramilitary activities was formally timetabled to appear in March 2005.

¹⁷ BBC News Online, December 13th 2004. A mordant observation current in Belfast was that the photographs had suffered the same fate as that of the ‘disappeared’ victims of the IRA, ie ‘dead and buried’ in some forgotten field.

¹⁸ *An Phoblact*, January 6th 2005

¹⁹ UTV News Online, December 15th 2004

²⁰ UTV News Online, December 13th 2004

²¹ RTE News Online, December 15th 2004

²² The second shadow committee was to be charged with ‘preparations for Government (including the draft Ministerial Code, draft Programme for Government and other preparatory issues needing discussion’). See Annex A of the December 8th proposals.

²³ *Irish News*, December 13th 2004

²⁴ See BBC and UTV News Online, January 7th 2005

²⁵ In the event of two or more parties winning the same number of seats then the ranking order of the nomination procedure would be determined by the number of first-preference votes secured. Note, too, that it is the number of seats taken at the first meeting of the assembly rather than seats won at the election that governs the nomination pecking order. This is pertinent in relation to the still nascent assembly. At the November 2003 election the DUP won 30 seats, the UUP 27, SF 24 and the SDLP 18, but three of the UUP bloc defected to the DUP, thereby reducing the UUP to 24 MLAs, the same number as SF, and it is on that basis that the d’Hondt process would be triggered if the second assembly were convened. Given that SF secured more first-preference votes than the UUP at the election, it would get the second nomination, after the DUP, and ahead of the UUP. However, should the sole Progressive Unionist MLA, David Ervine, decide to join the ranks of the UUP before the convening of the new assembly, this would elevate the UUP to second place in the chamber and enable it to have second choice of a portfolio.

²⁶ This proposal reflects a variant of the procedure adopted in relation to the consociational Swiss Federal Council: each of its seven members is elected by a majority of the United Federal Assembly *but in separate ballots*.

²⁷ Sustaining this procedure would to some extent qualify the claim of the assembly to be a parliamentary democracy. In respect of key decisions, the requirement for cross-community consent does mean that the votes of the ‘others’ are not factored into the first two numerical requirements for parallel consent (50:50:50) or the ‘weighted-majority’ alternative (40:40:60). But the formulae do include the ‘others’ in the third numerical requirement in each case, ie 50 per cent or 60 per cent of all MLAs, this being the required percentage of all votes irrespective of designation. Thus, the votes of the ‘others’ are counted in the overall vote but not, by definition, in the communal calculations.

²⁸ Private information indicates that the party *would* rotate ministers during a second assembly mandate, to enable ‘talented individuals’ to discharge ministerial roles.

²⁹ It is not clear in the document whether this is seven sitting days or seven calendar days.

³⁰ The previous speaker, Lord Alderdice, ruled that if a matter claimed the interest of 30 MLAs then it was automatically a matter of public importance (*Official Report*, March 4th 2002).

³¹ The DUP’s ministers were blocked from attending the BIC by the other executive parties as a reprisal for its boycott of the executive and the NSMC.

³² The external functions of OFMDFM were not included in the remit of the committee of the centre.

³³ In the first assembly it was a standing, rather than a statutory, committee.

³⁴ It is not clear from the proposals what the basis for agreement would be. Given the sensitivity of any proposed changes, it can be assumed that they would require cross-community consent. This would have the effect of further marginalising the seven ‘other’ MLAs.

³⁵ During the first assembly, the former first minister, Mr Trimble, had refused to authorise the attendance of the two SF ministers at NSMC meetings for a period. His authority to do so was denied in a judicial review sought by SF.

³⁶ There was provision for similar arrangements in the republic in relation to the Oireachtas. Chairs and chief executives could have appeared before committees during the first assembly term, or been compelled to under section 44 of the 1998 Act. The only novelty in the proposal was the annual requirement.

³⁷ See, for instance, 'Governments determined to keep door open to Sinn Féin', *Irish Times* January 10th 2005.

³⁸ HC debs, col 189, January 11th 2005

³⁹ *ibid*, col 191

⁴⁰ *op cit*, col 194

⁴¹ *ibid*, col 200

⁴² *ibid*, col 196

⁴³ available at www.independentmonitoringcommission.org/documents/uploads/HC%20308.pdf

⁴⁴ *Belfast Telegraph*, March 10th 2005

⁴⁵ *Sunday Tribune*, February 13th 2005

⁴⁶ *Guardian*, March 16th 2005

⁴⁷ *Irish News*, January 28th 2005

⁴⁸ *Irish Times*, February 24th 2005

3. ‘Devolved’ government Robin Wilson

3.1 Public appointments

There are more than 100 public bodies in Northern Ireland, representing a significant factor in the public life of so small a region (pop 1.7 million)—a particularly significant factor under direct rule. In November, the Central Appointments Unit in the OFMDFM published its 2003-04 report on public appointments, which continued to show poor female representation, in line with the conservative nature of Northern Ireland society.

Only 31 per cent of appointments held as of March 31st 2004 were female, down from 32 per cent the previous year. And just 27 per cent of chairs of public bodies were women.¹

During the survey period, the commissioner for public appointments, Dame Rennie Fritchie, published her report for the same period. In it she criticised OFMDFM over appointments to the Strategic Investment Board, a critically important public body charged with supervising the huge infrastructure programme on which government has embarked in Northern Ireland, purportedly to make up for a deficit in capital spending over the ‘troubles’ years. She complained that ‘there was nothing on record to show that candidates were asked to consider and declare actual, or potential, conflicts of interest, which given the nature of the body, was particularly important’.²

3.2 Victims’ commissioner

Northern Ireland already has a lot of commissions and commissioners: the Human Rights Commission, with (contrary to plans for the whole UK) a separate Equality Commission, a police ombudsman, an ordinary ombudsman, a police oversight commissioner, ditto for criminal justice and a children’s commissioner. But it is to get one more: a victims’ commissioner.

Making the announcement, the Northern Ireland secretary, Mr Murphy, once more sidestepped the really difficult challenge of devising a process of ‘dealing with the past’, on which the Northern Ireland Affairs Committee was taking evidence during the survey period. The minister told the Commons this could only follow a ‘broadly-based consultation’ and—presumably with an eye to December 8th, the bank raid and the McCartney killing—he went on: ‘In the light of recent events, I am clear that now is not the right time to launch such a broadly-based consultation process.’

He therefore confined himself to affirming the proposal for a victims’ and survivors’ commissioner.³ This idea of a ‘champion’ for victims of the ‘troubles’ goes back to a 1998 report by the former civil service head Sir Kenneth Bloomfield. Sir Ken was impressed by the quiet dignity of many of those he interviewed, and argued that they

needed a voice. But the complexity of issues and diversity of individuals hoovered up into the inelegant category of ‘victims’ has led practitioners to doubt whether one individual, as against a wider forum (as envisaged in the Joint Declaration of May 2003 and which the commissioner is now to take forward), can play this role.⁴

Meantime, a blistering attack was made on the Northern Ireland secretary by the outgoing chief commissioner of the Human Rights Commission, Brice Dickson. In an open letter to Mr Murphy,⁵ Prof Dickson bemoaned the failure of the government to confer upon it the range of powers commissions around the world enjoyed (such as to subpoena witnesses and compel the production of documents). And he complained: ‘Time and again the Commission has submitted recommendations to government only to have them totally rejected or, worse, ignored.’

He continued: ‘Most regrettable of all has been your government’s failure to support the Commission by filling the seats left empty by Commissioners who have resigned or retired.’ Indeed, Prof Dickson’s own term expired at the end of February but his successor has yet to be named.

¹ Central Appointments Unit (2004), *Public Appointments Annual Report 2003/2004*, volume 1, available at www.ofmdfmi.gov.uk/publicappointments/report0304.pdf

² *Belfast Telegraph*, January 25th 2005

³ NIO news release, March 1st 2005

⁴ Murphy, Martin (2003), ‘Policy and possibilities’, in Brandon Hamber and Robin Wilson (eds), *Recognition and Reckoning: The Way Ahead on Victims Issues* (Belfast: Democratic Dialogue), p45

⁵ NIHRC, February 22nd 2005

4. The assembly **Rick Wilford and Robin Wilson**

4.1 Accountability deficit

Successive reports have documented the growing unease at Westminster over the extent of accountability to which Northern Ireland Office ministers are subject under direct rule. This latter concern was lent focus during the survey period with the publication of the Northern Ireland Affairs Committee's report on its work over the previous year.¹

In January 2004, the committee appointed a sub-committee, chaired by Tony Clarke, to scrutinise transferred matters. During the year it reported on social housing in Northern Ireland,² and conducted two examinations of Northern Ireland departments, *viz*, the Department of Education, and the Departments of Finance and Personnel and Social Development.³ At time of writing it was engaged on two further policy inquiries, waste-management strategy and air transport.

The committee's activities have helped to bridge the accountability gap occasioned by direct rule, by 'systematic and targeted scrutiny' as the report indicates. But the committee recognises the obvious, in its comment that 'the scale of our effort cannot match the resources of the NI Assembly'.⁴

This stance has for some time been echoed by the Public Accounts Committee, which during the quarter complained that absenteeism among Northern Ireland's industrial civil servants was among the highest in the UK. The chair, Edward Leigh, said the committee had been 'appalled' by this evidence and expressed dismay that control systems were being 'simply ignored'.⁵

There was more in this vein when the permanent secretary of the Department of Employment of Learning, Will Haire, was grilled—not to say roasted—by the committee over nearly half a billion pounds spent on the Jobskills training programme in the region over eight years. Mr Leigh dismissed one of Mr Haire's answers as 'waffle', while one of the members said the programme was 'crap'.⁶

Mr Leigh repeated his claim that the region was suffering a lack of 'parliamentary scrutiny' in the absence of the devolved committee at Stormont. 'We do our best but we have to deal with the whole of the United Kingdom. We are the busiest committee as it is and we can't look at everything,' he said.⁷

This only serves to underscore the view that something needs to be done to improve the answerability and scrutiny of the NIO—unless, that is, a devolved voluntary coalition of the willing can be manufactured. In the absence of that, government renewed direct rule over Northern Ireland for a further six months in March.

4.2 Direct rule renewed

Presenting the renewal order in the upper house, the leader of the lords, Baroness Amos, also ensured in the process that elected members of the district policing partnerships in Northern Ireland retained their positions beyond the local-authority elections due on May 5th. This was presumably to stop the timebomb threatening the new policing structures—arguably the only set of post-agreement institutions left unshaken—represented by the electoral advance of SF, which boycotts those structures.

Given the SDLP is the only Catholic party represented on the 26 partnerships (which mirror the district-council areas), the government appears to have been concerned to ensure sufficient minority representation to sustain the legitimacy of the DPPs—which have been subject to intimidation from (mainly ‘dissident’) republicans—even if SDLP DPP members lose their council seats. The timebomb must surely start ticking again eventually, however.

Meantime, the credibility of keeping the assembly on life support, in the absence of devolution, continued to weaken during the period, particularly among middle-class Protestants. Lord Kilclooney of the UUP said during the renewal debate that, unless a scrutiny role were found for the assembly—a view which has editorial support from the liberal-unionist *Belfast Telegraph*⁸ but has found no Catholic endorsement—he feared that, at the next renewal six months hence, ‘the Assembly itself will have to be closed down as well’.⁹

In January, the finance minister, Ian Pearson, had told MPs that, since its suspension in October 2002, the assembly had cost £53.5 million. Of this, £23.2 million had been spent on MLAs’ salaries.¹⁰ The latter continue to be paid at 70 per cent of their entitlement, or £31,817. The *Belfast Telegraph* warned: ‘The public will not tolerate a costly, inactive Assembly much longer.’¹¹

¹ NIAC, *The Work of the Committee in 2004*, HC262, January 27th 2005

² NIAC, Sixth Report 2003-04, *Social Housing Provision in Northern Ireland*, HC493

³ The reports were, respectively, *Future post-primary education arrangements in Northern Ireland*, HC616; and the Third Report, 2004-05, *NI Departments 2002-03 Resource Accounts*, HC173.

⁴ *op cit*, 4

⁵ *News Letter*, December 2nd 2004

⁶ *Belfast Telegraph*, March 3rd 2005

⁷ *Belfast Telegraph*, March 4th 2005

⁸ January 12th 2005

⁹ *Belfast Telegraph*, March 3rd 2005

¹⁰ *Belfast Telegraph*, January 19th 2005

¹¹ *Belfast Telegraph*, January 20th 2005

5. The media Greg McLaughlin

5.1 Introduction

For the last few months, Irish politics have been dominated by an issue that simply will not go away—paramilitary ‘criminality’ and its implications for the ‘peace process’. It started just before Christmas, with the raid on the Northern Bank, went political in the new year when the chief constable pointed the finger at the IRA, and deepened into a crisis with the murder of Robert McCartney. This report looks at coverage of the developing crisis, and begins by setting it in the context of the failed deal in December.

5.2 Another deal that wasn’t

The much-hyped deal last December, to revive the institutions of the agreement, promised much but delivered little. Right up until the very last minute, the newspapers were printing optimistic signals. The *News Letter* promised ‘New hopes for peace—Adams agrees to approach IRA over decommissioning’, while the *Irish News* detected a ‘Step forward as Adams backs deal’.¹ The deal-breaker in the end was the DUP’s demand that the IRA don ‘sackcloth and ashes’ and publicly repent for its sins, and that its proposed act of total decommissioning be verified by photographic evidence—though there was much more to it than that (see ‘peace process’ section).

But the inevitable recriminations that followed focused more on the IRA’s ‘stubborn refusal’ than on the DUP’s ‘unreasonable demands’. The unionist *News Letter* was in no doubt where the blame lay. Its front page declared that ‘Provos Say No—refusal over arms photographs dashes peace deal hopes’.² The following day, it gave over its front page to a collage of four photographs and the headline: ‘The IRA gave us these pictures [aftermath of IRA bombings in Claudy, 1974, Enniskillen, 1987, and Shankill, 1993]’. Why can’t they give us this? [an IRA arms cache]’³

The nationalist *Irish News* preferred a ‘plague on all your houses’ analysis. Its leader wearily concluded: “Most of us did not spend all of yesterday glued to our TV screens. Indeed, after each fruitless round of political arm-wrestling, more and more of us have disengaged from politics altogether”.⁴ And that, for the *Irish News*, is part of the problem in Northern Ireland. We either mandate the failure to reach an agreement or we opt out altogether. ‘Most of us’ are responsible in some way for the failure of politics.

As usual, the two governments were forced into reverse spin to try to recover the initiative. Messrs Blair and Ahern went ahead with their scheduled media conference at the Waterfront Hall, and succeeded in getting at least a few ‘positive’ headlines. ‘Big push now to clear the way for a peace deal’, said the *Irish News*.⁵ Yet wasn’t that what the governments had been doing since the last failed deal in 2003? The sense of

unreality and deep pessimism that underscored this media event was as nothing, however, compared with what was to come.

5.3 The Northern Bank raid

When the news broke of the Northern Bank robbery in Belfast, immediate attention focused on its scale. It was estimated that anything up to £26 million was taken, making it the biggest in modern European history ('Belfast heist joins a list of record breakers', *News Letter*⁶). As the story unfolded, with details of hostage taking and the synchronised nature of the operation, fingers began to point towards the likely suspects: the IRA. The police refused to speculate in the early stages but the media were quicker off the mark: 'Did the Provos do it?' (*News Letter*⁷). The *Belfast Telegraph* went so far as to declare: 'Robbery casts cloud over talks'⁸—as if there hadn't already been heavy rain on the Blair-Ahern parade.

In her column for the *News Letter*, Suzanne Breen argued that the IRA were 'the likely suspects' for the robbery. 'That's not republican bias, it's just logic, and in some ways is a compliment to the Provos [who] have the level of expertise and sophistication to carry out such a professional crime.' But she also warned ('Name and shame'): 'There should be no restraint because of a desire to bolster the peace process. The truth must triumph over political sensibilities.'⁹

On January 7th, the chief constable, Hugh Orde, called a media conference to declare that the IRA was the prime suspect. Sir Hugh's decision to 'name and shame' put him in public confrontation with SF, whose leadership toured the studios in a desperate effort to get across the party line: in Mr McGuinness' words, the chief constable had 'not a scrap of evidence' for his suspicions. The headlines, next day, signalled the sense of deepening crisis.

The *Irish News* reported that the two governments were 'attempting to salvage the peace process', amid 'angry recriminations between the political parties'. The *News Letter* declared: 'Provos unmasked—peace in the balance as Orde points finger at IRA'.¹⁰ The *Irish News*, however, pointed out something that still applies at the time of writing. Sir Hugh simply expected the public to take his word for it, instead of presenting evidence for an assertion that had such serious political implications. It was important for both the process and public confidence in the police that detectives 'make arrests, bring charges and secure convictions' ('Pressure on Orde and SF'¹¹).

5.4 The McCartney murder

It seemed that things could only get better for SF after weeks of pressure over the bank robbery. They didn't. The murder of Robert McCartney on January 30th made things a whole lot worse. It was first reported as a serious crime but not one of any political significance. The SF MLA for South Belfast, Alec Maskey, expressed horror

and spoke to the *Irish News* about his fears of ‘a growing knife culture across the north’.¹² However, the drip of information, rumour, and speculation over the following days once again pointed to IRA involvement.

Public reaction to the murder, especially the direct intervention of the bereaved family, has put SF under the most intense political pressure and scrutiny, not from Ulster unionism but from Irish nationalism, north and south, and the Irish-American establishment (see political parties and elections section). Media coverage has sometimes bordered on the hysterical, with pundits and politicians outdoing each other in moral outrage. Typical of the format on television are *Let’s Talk* on BBC Northern Ireland or *Questions and Answers* on RTE. Instead of sober political analysis, such programmes seem to prefer the politics of the amphitheatre—gladiatorial combat with lots of blood and guts.

For example, in a recent *Question Time* from Belfast, the chair, David Dimbleby, threatened to stop the broadcast midway unless Mr McGuinness and the SDLP leader, Mark Durkan, desisted from hectoring each other. Yet, in the context of Northern Ireland, such panel programmes generally reflect the sectarian, antagonistic *status quo*, which does little to promote calm reflection and analysis. We rarely get an alternative counterweight, such as a representative from the trade union movement, the gay community or an ethnic minority. So criticising the panel members when they misbehave is akin to setting fighting dogs at each other, and then condemning them when they bite and gouge.

5.5 SF’s public-relations failure

But it is not all the fault of the media. SF, long reputed to handle public relations better than any other party in Northern Ireland, has done itself few favours. The party failed from the outset to establish a clear and credible party line on the bank raid or the McCartney murder, resorting in some desperation to what Mr McGuinness likes to call ‘whataboutery’. And, strangely, every time the party recovered some of the high ground it had lost, along came the IRA with a statement to fan the embers all over again.

The IRA’s response to the political fallout from the robbery was two statements, issued within 24 hours of each other. The first, protracted, statement referred in its initial paragraph to the 1994 IRA ‘cessation of all military operations’, and in the next to the conditions in which that cessation ended in 1996.¹³ The second, terse, missive warned London and Dublin: ‘Do not underestimate the seriousness of the situation.’¹⁴ Then came the startling public admission that the IRA had offered to shoot those of its members involved in the McCartney murder.¹⁵

Each time the IRA makes such statements, journalists seek responses from SF representatives, who in turn look like rabbits in the media spotlight. SF is genetically incapable of condemning the IRA or telling the IRA to go away, at least not in

public—and that is as much a strategic, public-relations problem for the party as it is a moral and political one.

A cartoon in the *Herald* (Glasgow) summed up its predicament ahead of St Patrick's Day and the traditional political exodus to America. It pictured Messrs Adams and McGuinness drowning their shamrock in a deserted Irish-American bar. The caption: 'Ourselves alone'.

The SDLP, for its part, has singularly failed to take advantage of SF's PR disaster ahead of the Westminster and local elections. The party leader, Mr Durkan, continues to talk in media soundbites while failing to present a clear, distinct vision of what it stands for and how it wants to recapture its position as the leading Catholic party.

5.6 The Northern Ireland media market

The current political crisis, then, has received sustained and comprehensive coverage in the regional news media, including a new entrant to the market, the *Daily Ireland*. Its first edition was published in compact tabloid format on February 1st, amid much lively debate about its challenge to the established nationalist paper, the *Irish News*. Like its stable mate, the *Andersonstown News*, it maintains a republican editorial line, though its coverage of the McCartney murder has been critical of the IRA and SF's response and hardly merits the soubriquet 'Provo rag' (from the republic's justice minister, Mr McDowell).

Daily Ireland's future is dependent on its ability to take sufficient market share and advertising revenue away from the *Irish News*, which has only just changed from European tabloid format to a new compact tabloid format (March 14th). For its strategy to succeed, therefore, it will have to tailor its ideological orientation to the centre ground of nationalist politics. In the northwest, meanwhile, the *Derry Journal* has launched a new Coleraine edition, to fill what it perceives as a gap in the market for a local nationalist newspaper in the Coleraine area.

¹ December 7th 2004

² December 8th 2004

³ December 9th 2004

⁴ December 9th 2004

⁵ December 9th 2004

⁶ December 22nd 2004

⁷ December 22nd 2004

⁸ December 22nd 2004

⁹ December 23rd 2004

¹⁰ January 8th 2005

¹¹ January 8th 2005

¹² February 1st 2005

¹³ *Irish Times*, February 3rd 2005

¹⁴ *Irish Times*, February 4th 2005

¹⁵ *Irish Times*, March 9th 2005

6. Public attitudes and identity Lizanne Dowds

The first survey of opinion since the Northern Bank robbery of December 2004 took place during this reporting period. To what extent had public opinion towards SF been affected by the robbery and the more recent McCartney murder? How, in turn, did this affect public attitudes to devolution? The *Belfast Telegraph/Newsnight* poll was carried out by Millward Brown Ulster.¹

Interestingly, the poll indicated that support for SF had dropped by only just over three percentage points, from 23.5 per cent at the November 2003 assembly election to 20 per cent. The SDLP appeared to have achieved a corresponding rise from 17 to 20 per cent. Party support had thus shifted marginally and predictably, but not to any huge extent.

Similarly, performance ratings for Mr Adams from SF supporters were dented but not dashed. The proportion of SF supporters feeling he had performed ‘well’ or ‘very well’ over the last two years had dropped from an overwhelming 93 per cent to a still fairly overwhelming 88 per cent. In contrast, only 55 per cent of SDLP supporters gave the same rating to Mr Durkan—a drop of 15 percentage points from 70 per cent in 2003. Among Catholics as a whole, 62 per cent felt that Mr Adams had performed well, compared with just 38 per cent saying the same of Mr Durkan.

What was perhaps even more interesting was that, on the Protestant side, support for the DUP appeared to have increased slightly, from 25.6 per cent in the assembly election to 28 per cent. In contrast, support for the UUP had plummeted, from 22.7 per cent to just 16 per cent, according to this poll.

Performance ratings followed suit. Mr Trimble was running even with Mr Durkan in that only 55 per cent of his party’s supporters felt that he had performed well over the last two years (a drop of 13 percentage points). In contrast, ratings for Mr Paisley from his party’s backers had increased by 12 points, from 69 to 81 per cent. Among Protestants in general, approval of Mr Paisley was running at 62 per cent, compared with only 38 per cent for David Trimble. Again, this mirrored the position on the Catholic side.

	% feeling that party leader has performed well
Among Protestants	
Ian Paisley	61
David Trimble	35
Among Catholics	
Gerry Adams	62
Mark Durkan	38

The Millward Brown poll was carried out just before the IRA made its offer to shoot those it believed responsible for the murder of Mr McCartney. But, even so, a substantial 44 per cent of SF supporters already believed that the IRA should disband, and almost 60 per cent said it should decommission all its weapons. But set against this was the finding that only 60 per cent of people in Northern Ireland believed that the IRA was actually responsible for the Northern Bank robbery. Thus it appears unlikely that attitudes are being driven by a belief that the IRA committed the robbery, as against a sense that a ‘time has come’.

Similarly, attitudes among SF supporters towards the way the leadership had responded to the McCartney murder were divided, but not massively so. Sixty-five percent said that they were ‘satisfied’ with how the leadership had responded, while a quarter indicated that they were dissatisfied.

There appear to be varying shades of opinion on the way back to devolution. Nearly half of Protestants (45) would support the return of the assembly and the inclusion of all parties if the IRA were to disband and verifiably decommission. But about the same proportion (43 per cent) would opt for ending the suspension of the assembly with the exclusion of SF. Very few Catholics (6 per cent) would go along with this latter position and 47 per cent of Catholics felt that the assembly should simply be restored with the full participation of all parties.

It was always possible that Northern Ireland’s political landscape might have changed considerably between the November 2003 election and a general election in May/June 2005—given the outcry over IRA ‘criminality’ and the extent to which SF was implicated in this. But this poll suggests that has not happened to date.

A reversal of support for SF and/or the DUP might have made a significant difference to the post-election political agenda. At the moment there appears to be very little drop in support for SF, along with a slight increase in support for the DUP. There is no resurgence in personal support for Messrs Durkan and Trimble (quite the reverse); while the position of SF and the DUP looks remarkably stable.

¹ A quota sample of 1,010 adults were interviewed on March 7th and 8th 2005 at 56 randomly selected sampling points.

7. Intergovernmental relations Wilson

Elizabeth Meehan and Robin

7.1 British-Irish Council

While the North/South Ministerial Council remains in cold storage, the British-Irish Council met twice during the period. The first meeting, of the misuse of drugs sectoral group, was held in Edinburgh on November 8th 2004 and chaired by Noel Ahern TD. The British delegation was led by the direct-rule health minister in Northern Ireland, Angela Smith. Officials included Stewart Johnston of the Office of First Minister and Deputy First Minister.

The meeting received reports on the progress of the group's work programme and set out a future work plan. Guernsey is to lead on interventions with young people, Scotland on the children of drug-abusing parents and Wales on confidential inquiries into drug-related deaths. The meeting also agreed to strengthen the operation of the group and exchanges of information among members. Regular meetings of ministers and officials, between formal meetings, will be chaired by the republic's government. It was agreed that the next formal meeting would be in mid-2005.¹

The second meeting was a summit. The two governments were represented by the taoiseach, Mr Ahern, and the UK deputy prime minister, John Prescott. The main focus was tourism and the council agreed on areas where enhanced co-operation was thought beneficial, statistical techniques for measuring the importance of tourism, and the training and recruitment of leisure staff. The council was also briefed on the work of the sectoral groups: drugs (led by the republic), the environment (UK), telemedicine (Isle of Man), knowledge economy (Jersey), transport (Northern Ireland), indigenous, minority and lesser-used languages (Wales), and social inclusion (Scotland). It was noted that the focus of the next summit would be on telemedicine and, thus, hosted by the Isle of Man some time in 2005.²

7.2 British-Irish Intergovernmental Conference

The British-Irish Intergovernmental Conference—the repackaged, post-agreement version of the Anglo-Irish Intergovernmental Conference established by the 1985 Anglo-Irish Agreement, which unionists had detested—met twice during the quarter.

The first was a stocktaking meeting at Hillsborough Castle a week after the Waterfront episode. Unsurprisingly, the two teams, led by the Northern Ireland secretary, Mr Murphy, and the republic's minister for foreign affairs, Mr (Dermot) Ahern, affirmed that the 'comprehensive package' presented then by

the two premiers could ‘fully realise the vision of a new beginning promised by the Belfast Agreement’—if only the parties would accept it.³

A much more expansive range of issues—including the McCartney killing, the bank raid, victims’ issues and inquiries, the Human Rights Commission, north-south and ‘east-west’ matters, electoral issues and party donations, and reception of the Irish-language TV channel in the north—comprised the agenda for a BIIC meeting at the Department of Foreign Affairs in Dublin in March.⁴ The conference agreed to a further meeting in May and, in the context of prolonged direct rule and no meaningful inter-party discussions in the north, it may be that this London-Dublin axis will become the main line of political communication—much as in pre-devolution days.

Meantime, the two governments came to an agreement on a long-running sore during the period—discharges into the Irish Sea from the Sellafield nuclear reprocessing plant. The deal, signed by the British ambassador, Stewart Eldon, and the republic’s environment minister, Dick Roche, in Dublin in December, allows the Radiological Protection Institute of Ireland regular access to the Cumbrian plant. The republic had taken the UK to court under the UN convention on the law of the sea and Mr Roche insisted that his government remained committed to Sellafield’s ‘safe and orderly closure’.⁵

¹ Ministerial meeting of the misuse of drugs sectoral group of the British-Irish Council, *Communiqué*, November 8th 2004, www.britishirishcouncil.org/documents/drugs3.asp

² British-Irish Council summit, *Communiqué*, November 18th 2004, www.britishirishcouncil.org/documents/gsy_summit.asp

³ BIIC *Joint Communiqué*, December 15th 2004

⁴ BIIC *Joint Communiqué*, March 2nd 2004, available at www.nio.gov.uk/media-detail.htm?newsID=10969

⁵ *Guardian*, December 11th 2004

8.1 Introduction

The year 2004 ended with an announcement by the South Down SF MLA, Caitriona Ruane, that campaigners for the ‘Colombia three’ would be seeking to enlist the support of the EU over the sentences imposed (*in absentia*) by the Colombian courts on the three Irish republicans convicted, on appeal, of co-operating with FARC *guerrillas*. In response, the DUP MEP, Jim Allister, wrote to fellow MEPs and the president of the European Commission to urge that the EU should ‘not engage on behalf of terrorism’.¹ Otherwise it was ‘business as usual’ this survey period *vis-à-vis* EU matters: money and the draft constitution.

8.2 Peace programme

On January 11th 2005, the UUP MEP, Jim Nicholson, proposed to the European Parliament that the ‘Peace’ programme be extended for a further two years.² Such a request had been made by the taoiseach and the prime minister, Messrs Ahern and Blair, at the European Council meeting of June 2004, with the voluntary sector and political parties lobbying in support.

Following the council meeting, there was consultation with all interested parties and over 70 responses were received. This was followed by a proposal for a two-year extension (€160 million on top of a previous total of €1 billion over the past decade), based on a proposition from the Special EU Programmes Body (SEUPB). The proposal was formally accepted by the commission on January 13th 2005.

London and Dublin have been working on consequent amendments to the operational programmes and commission agreement on the way forward was expected in April. The extended programme would have a ‘stronger emphasis on reconciliation’, with a ‘balanced economic and social focus’, while continuing to address cross-border activity, support for victims, training for women (including support for childcare) and communities lacking social capital (especially the Protestant working class and ethnic minorities).³ The EU also contributes to the International fund for Ireland, which has shifted its focus from unemployment and deprivation and, like the Peace programme, will now concentrate on reconciliation.⁴

8.3 European constitution

During the period, a referendum was held on the constitution in Spain, where a majority (though on a low turnout) agreed to its ratification. The republic is expected to hold one in autumn 2005 and those in favour are hoping for a 'yes' vote in the coming French referendum (where support was ebbing at time of writing) on the ground that it would encourage a similar outcome there. The UK referendum, the most likely of all to be 'no', is not expected until 2006, well after the forthcoming general election,⁵ though the question to be put has been announced.⁶

Domestic electoral politics on the island of Ireland led to a row about ratification in the European Parliament between Daniel Cohn Bendit of the Greens and the Dublin SF MEP, Mary Lou McDonald.⁷ Her party was accused of debating the constitution on grounds that had nothing to do with it and of lying about its content. The leader of the Green group claimed that SF's (mis-)interpretation of the constitution, as neo-liberal and promoting militarism, was causing difficulties for the Greens in the republic in their decision about whether to support it. The Green Party TD and member of the convention on the constitution, John Gormley, disputed the idea that his party's stance would be determined by that of any other party.

From another front, SF was coupled with the DUP in criticisms by the Dublin Labour MEP, Proinsias de Rossa, who claimed that they were alike in opposing the constitution on the basis of an outdated understanding of sovereignty. Indeed, all three Northern Ireland MEPs—Jim Allister of the DUP, Jim Nicholson of the UUP and Bairbre de Brún of SF—are united in the 'no' camp.

To this confusion can be added the discovery that 45 per cent of voters in the republic (against an EU-wide average of one third) claim not to have heard of the constitution, though, at the end of 2004, 61 per cent of them said they approved of it, and it did have a high place on the agenda of the republic's EU presidency.⁸ Despite the intermingling of the constitution and the domestic politics of the two parties that operate on an all-island basis, it may yet turn out that the constitution, as well as the euro, will reinforce the division between that part of the UK that shares a land border with another member state and its neighbour.

8.4 Dirty business

It emerged during the survey period that nine of 14 UK districts that failed to comply with an EU directive aimed at preventing pollution of rivers and coastlines by sewage were in Northern Ireland. The European Commission has issued a 'reasoned opinion' to the UK government on the issue—a final warning ahead of a possible case before the European Court of Justice.

Under devolution, the UUP environment minister Dermot Nesbitt angered environmentalists by endorsing housing developments for which adequate sewage facilities were not available. The commission pointedly warned that the Northern Ireland problem risked 'being exacerbated by a decision to allow substantial new development to go ahead in some of the areas where no appropriate wastewater treatment is in place'.⁹

¹ *Irish Times*, December 21st 2004

² *Irish Times*, January 11th 2005

³ Department of Finance and Personnel news release, March 7th 2005; *Irish News*, March 8th 2005

⁴ *Irish Times*, February 2nd 2005

⁵ *Irish Times*, January 11th 2005

⁶ 'Should the United Kingdom approve the treaty establishing a constitution for the European Union?', *Irish Times*, January 27th 2005

⁷ *Irish Times*, January 12th 2005

⁸ *Irish Times*, February 3rd 2005 and December 11th 2004. The taoiseach, Mr Ahern, was awarded an honour for the republic's handling of the presidency by the European Economics and Financial Centre in London (*Irish Times*, November 20th 2004). Support for the EU in general remains high in the republic, where poll respondents are second only to Luxembourg in saying that they are pleased their country is a member (*Irish Times*, December 11th 2004).

⁹ *Belfast Telegraph*, January 15th 2005

9. Relations with local government Rick Wilford and Robin Wilson

One key feature of Northern Ireland's economy is the scale of its public sector. A research report published by the review of public administration during the survey period underscored its scale by comparing it with Scotland. It disclosed among other things that the public sector accounts for almost one in three (32 per cent) of all jobs in Northern Ireland, compared with just over one in five (22 per cent) in Scotland; that there are 119 public bodies in Northern Ireland compared with 107 in Scotland (with three times the population); and that whereas local government in Scotland employs around 330,000 staff and has a budget of £8.5 billion, in Northern Ireland the comparable figures are 10,000 jobs and a £338 million budget.¹

The future of local government in Northern Ireland is high on the RPA's agenda, both its scale and functions. In October 2004, the NIO junior minister Ian Pearson had published draft proposals to reduce the number of district councils from 26 to seven, which provoked an outcry from the political parties and others (see November 2004 report), concerned at the proposed size of the prospective councils (there would be an average population of around 250,000). Following representations from the parties, Mr Pearson requested the RPA team to think again about the number of councils and to employ a concern for 'local identity' in drawing up revised proposals.²

Meantime, the Committee on Standards in Public Life pointed out in a report in January to the prime minister that 'Northern Ireland is alone in the UK in not having a statutory framework to govern the standards of conduct of councillors'. The Department of Environment in the region issued a code in 2003, but the committee said this offered 'no clear means of enforcement'. It recommended a legally-binding ethical framework but suggested this should await the restoration of devolution.³

¹ See report on RPA web site at www.rpani.gov.uk/study.pdf.

² OFMDFM news release, November 12th 2004

³ *Belfast Telegraph*, January 19th 2005

10. Finance

Rick Wilford and Robin Wilson

The finance minister, Mr Pearson, unveiled the 'revised priorities and budget' on December 20th 2004, coincidentally the same day as the massive bank raid. His statement¹ indicated that between 2002 and 2008 total spending on public services would have increased by a fifth in real terms, to over £9 billion. Included in the budget were significant gains for health and education. By 2007-08, current expenditure on health and social services (and public safety) would increase by 23 per cent, to an annual total of £3.7 billion. Over the same period expenditure on education was planned to increase by 11 per cent and capital investment by 62 per cent.²

Alongside the budget allocations, Mr Pearson published for consultation a ten-year investment strategy³ produced by the Strategic Investment Board established under the Reinvestment and Reform Initiative (see 'devolved' government section and May 2002 report). This strategy anticipates the eventual delivery of *circa* £16 billion of capital investment in key infrastructure, including £3.6 billion in education, £2.2 billion in health, social services and public safety and £4.4 billion in regional development.

The initiative will be financed *via* conventional public expenditure, borrowing under the terms of the RRI and an as yet unstated number of public-private partnerships (with an associated, indeterminate effect on mortgaging the public-finance future). In addition, of course, Northern Ireland is on the verge of significant reforms in its rating system, which will *inter alia* fund the interest payments on the RRI, and the introduction of water charges.

In respect of the shift in 2007-08 from rateable to capital value as the basis for calculating the new rates for domestic and non-domestic properties, the finance minister announced that for each of the next two financial years the domestic regional rate would increase by 9 per cent, with a 6 per cent rise in 2007-08 'to ease the transition to the new system'. This elicited hostility to the budget among all four main parties, which characteristically failed to indicate how instead they would raise revenue and sustain expenditure.⁴

According to a University of Ulster economist, Michael Smyth, 'We cannot expect Essex man to go on subsidising our lifestyles.' Prof Smyth calculated (unfortunately reliant on 1998 data) that whereas residents of Berkshire paid £4,135 more per head than they received in transfers per year, the comparable figures were £848 for Scotland, £45 in Wales and a *negative* figure of £1,145 for Northern Ireland.⁵

Water charges are planned to be introduced in 2006-07 and at the end of November the minister responsible, John Spellar, launched a consultation on the various proposals for reform, by way of a draft integrated impact assessment.⁶ This remains a highly controversial measure and one on which the parties have also found a

generally common cause in resisting.⁷ The controversy will be redoubled when draft legislation finalising the proposals is published.

Similarly controversial, and also involving the Northern Ireland Public Service Alliance trade union—relationships with which were embittered by a long pay dispute—will be the cuts in the civil service Mr Pearson announced in February, in line with the chancellor's 'efficiency' savings. Two thousand jobs were to go in the region, he said.⁸

There was further evidence during the survey period of the increasing tensions over matters financial, as Northern Ireland expenditure comes under tighter government scrutiny. The education minister, Barry Gardiner, initiated a statutory inquiry into financial management and control at the Belfast and South Eastern Education and Library Boards, following the discovery of significant overspends by both: £5.6 million in the latter case and £5.4 million in the former.⁹ In the new year, his battle with the five boards became more intense,¹⁰ with three of them insisting on a meeting with the minister before they would make the cuts required.¹¹

¹ DFP news release, December 20th 2004

² Full details are available at www.pfgbudgetni.gov.uk.

³ available at www.ofmdfmi.gov.uk/isni

⁴ 'Parties united in attack on Pearson's budget', *Belfast Telegraph*, December 21st 2004

⁵ *Scope*, March 2005

⁶ Department for Regional Development news release, November 29th 2004. The draft integrated impact assessment is available at www.waterreformni.gov.uk.

⁷ At time of writing four unions representing water service workers were balloting on industrial action, concerned at the prospective loss of more than 700 jobs when the government company takes over from the Water Service in 2006.

⁸ *Belfast Telegraph*, February 15th 2005

⁹ Department of Education news release, November 10th 2004

¹⁰ DE news release, February 24th 2005

¹¹ *Irish News*, March 11th 2005

11. Political parties and elections Duncan Morrow

11.1 Changed utterly?

Without forewarning, this survey period saw some of the most remarkable political developments in Northern Ireland since the Belfast agreement. When the talks aimed at restoring devolution under the joint aegis of the DUP and SF collapsed in December (see ‘peace process’ section), the London-Dublin strategy was focused on returning to the same negotiations some time after expected Westminster elections in May. Yet events—and, in particular, the Northern Bank robbery and the murder of Robert McCartney—intervened to change the face of politics in an entirely unanticipated fashion.

Instead of presiding over a process in which nothing seemed to dent its momentum, SF found itself managing a crisis of still indeterminate proportions, the primary upshot of which seems to be that no progress towards devolution is now thinkable without credible moves to put the IRA out of business. For the first time in many years, the primary question determining progress is not the unwillingness of unionists to accept civil rights but the capacity of the republican movement to transform itself into a recognisably democratic political party.

Such was the furore facing republicanism that even historically huge changes, such as the severing of the official link between the UUP and the Orange Order, passed almost without comment. Meanwhile, the immediate beneficiaries of the crisis of confidence in SF’s *bona fides* have been the erstwhile nay-sayers of the entire project in the DUP, poised to make significant gains in the Westminster and local elections.

11.2 The collapse of talks

In spite of continually extended deadlines, the latest attempt to re-establish devolution collapsed in disarray in December (see ‘peace process’ section). The response in Northern Ireland, beyond political circles, was remarkably muted. In pursuit of the final agreement, it was the republic’s government which seemed to have undergone the greatest immediate political pain when it announced, to huge outcry, its willingness to release the killers of Garda Jerry McCabe.¹

The governments remained determinedly upbeat, stressing their commitment to continuing with their efforts to restore power-sharing, even before the general election.² But within days this had started to unravel, as in the republic the PDs broke ranks with the still-hopeful consensus by insisting that the failure of the IRA to address its involvement in criminality was as significant as the absence of satisfactory photographs of IRA decommissioning.³ In spite of continuing bilateral conversations,⁴ it was already clear that the chances of any pre-Christmas accord had disappeared.

Such was the general ‘end of term’ atmosphere that any implications of the unprecedented robbery at the headquarters of the Northern Bank were largely lost in the general amazement that such a feat was possible.⁵ Many commentators were initially convinced that no organisation would have risked the entire ‘peace process’ for such a publicly visible crime. Matters escalated sharply, however, when the chief constable, Mr Orde, made clear that he believed that the IRA had indeed been responsible and was supported in his assertion by the taoiseach, Mr Ahern.⁶ In an interview on RTE, Mr Ahern explicitly charged the SF leadership with bad faith during the previous negotiations, claiming: ‘This was an IRA job, a Provisional IRA job which would have been known to the political leadership.’⁷

In spite of outraged reaction from the SF top brass,⁸ relations with the republic’s government deteriorated sharply. Both the PD justice minister, Mr McDowell, a long-time critic of SF, and the FF foreign minister, Dermot Ahern, joined the criticism, and other FF ministers queued up to emphasise that the prospect of SF entering government through coalition with their party had disappeared. In an angry exchange in the Dáil, Mr Ahern accused the republican leadership of turning violence on and off to suit its political purposes.⁹

At the same time, the dependence of the political process as currently designed on SF participation was underlined by repeated government assurances, from Dublin and London, that negotiations including SF had to continue.¹⁰ Furthermore, the republic’s government, along with the SDLP, declared itself opposed to any financial sanctions on SF proposed by the Independent Monitoring Commission, for fear that such sanctions would confirm a sense of republican martyrdom.¹¹

In response, the IRA released an angry statement, withdrawing from all agreements about weapons made in the lead-up to the failed deal before Christmas and accusing the two governments of changing the basis of the ‘peace process’.¹² When the governments played down the statement and the DUP accused the IRA of ‘throwing its toys out of the pram’, the IRA released an unprecedented second statement, apparently warning the governments to take its previous statement more seriously.¹³ When the IMC confirmed the view of the chief constable (that the IRA was indeed responsible for the Northern Bank robbery and other crimes), Mr Adams challenged the taoiseach to have him arrested.¹⁴ For the first time in many years, however, SF was losing the propaganda battle outside its core constituency.

11.3 A colossal crime machine?

The sense that events were slipping beyond the control of a single-party propaganda effort was compounded by two additional events. On RTE television, Mitchel McLaughlin, SF aspirant for the Foyle seat held by the former SDLP leader (and now retiring MP), John Hume, confirmed under pressure from Mr McDowell that he did not believe that the murder of Jean McConville—a mother of ten whose body was ‘disappeared’ by the IRA for more than 30 years—was a crime. In doing so, he was

restating a republican commonplace that the IRA was a legitimate army engaged in war, which could not therefore be accused of crime. Mr McLaughlin's statement went further by appearing to restate the core IRA belief that it remained the only legitimate authority on the island of Ireland, incapable of committing 'crimes' as such, thereby undermining the entire legal basis not only of Northern Ireland but of the republic as well.¹⁵

The furore, especially in the republic, was less damaging to SF, however, than the crisis which followed the death of Robert McCartney. Mr McCartney, a bouncer in a popular Belfast city-centre bar, was murdered by a gang when he intervened to stop an attack on another customer.¹⁶ In the aftermath, an estimated 70 witnesses were ordered to leave the bar, being warned to speak to no one, and the bar was forensically cleaned of any evidence. There were immediate rumours that the killing had been the work of senior figures in the Short Strand IRA, but it was also clear that no witnesses were prepared to speak to Police Service of Northern Ireland detectives.

Mr McCartney's five grieving sisters, long-term residents of the Short Strand and traditional SF voters, took the unprecedented step of calling for full co-operation with the police, in an increasingly vocal media campaign. In spite of IRA denials of 'official' involvement in the killing, republicans continued to resist pressure for direct contact with the PSNI. The insistence of the McCartney sisters on the need for convictions and the failure of witnesses to come forward meant the pressure on republicans continued to grow. Attention was increased by the sisters' persistent and astute use of the press in their pursuit of justice, including direct contact with Dublin and the US administration,¹⁷ culminating in their extraordinary access to the White House on St Patrick's Day.

The third, and perhaps in the long run even more damaging, crisis emerged when gardaí in the republic seized £2.3 million in notes and detained seven suspects in an investigation into money laundering, in the aftermath of the Northern Bank robbery. In a bizarre twist, one of the arrests (in Co Cork) was triggered when banknotes being burned on a bonfire drifted into neighbouring gardens, while other 'dirty' money was found (in Dublin) inside a box of soap powder in a car.¹⁸ Even more unexpectedly, the only confirmed banknotes from the raid on the Northern were found in toilets at a PSNI social club on the outskirts of Belfast; this was dismissed by Mr Orde as a 'stunt'.¹⁹

SF's *bête-noir*, Mr McDowell, described the IRA as a 'colossal crime machine' laundering huge sums of money. He also accused the IRA leadership of being in total control of the military and political sides of republicanism and rejected any division between the two.²⁰ While police on both sides of the border proceeded cautiously, Mr McDowell went further by publicly stating a commonplace presumption that Martin McGuinness, Gerry Adams and the Kerry North TD Martin Ferris were members of the IRA army council.²¹ Although neither the taoiseach nor the Northern Ireland secretary would publicly confirm his allegation, the damage to SF internationally was

considerable, and all three men were forced to issue a statement categorically denying membership of the IRA.²²

While there was a consensus that SF's core vote in Northern Ireland was largely immune to external attack on grounds of crime and violence, the republican movement now found itself under simultaneous pressure from its core community (over the McCartney murder) the Irish establishment (over its questionable commitment to exclusively democratic means) and the international community (over IRA involvement in large-scale crime). While northern unionists were clearly delighted by the turn of events, both unionist parties deliberately took a back seat in pressing their claims.

Nonetheless, there was no doubting that the presuppositions of the 'peace process' had been radically altered by events: without the effective and credible disbandment of the IRA there is little prospect of cross-community devolution in Northern Ireland. In effect, the entire political structure of the agreement has come unstuck.

Immediate events confirmed a new pattern. First the IRA acknowledged that republicans were involved in the McCartney murder and expelled three members, named in the *Sunday World* newspaper.²³ The expulsion, and a subsequent rally in support of the family in Short Strand,²⁴ did little to increase the flow of hard information to the PSNI, however. In an unprecedented move, the SF leadership suggested that people with information about the McCartney killing might go through the police ombudsman's office.²⁵ Finally, in the lead up to the party's Ard Fheis, SF suspended seven party members because of their alleged involvement in the murder.²⁶

SF's political difficulties were confirmed when it was isolated in failing to support an SDLP motion in Belfast City Council urging anyone with information to go directly to the PSNI. More significantly, Northern Ireland's political leaders were not invited to attend the St Patrick's Day celebrations at the White House, for the first time in ten years, and were replaced by a group of community activists and the McCartney sisters.²⁷ An opinion poll in the republic showed support for SF dropping from 11 to 9 per cent and a significant fall in the personal popularity of Mr Adams.²⁸ In another poll, 69 per cent of southern voters said that they opposed any government coalition including SF.²⁹ Attempting to stem criticism, Mr Adams invited the sisters to the SF conference, where he devoted a large part of his speech to addressing their concerns, without calling on people to inform directly to the PSNI.³⁰

Despite all the criticism, both governments still believe SF is central to any comprehensive peace deal. But the length of the journey to travel was underlined by the IRA statement on March 8th (International Women's Day!), in which it offered to shoot those it believed were responsible for Mr McCartney's murder. The political establishments of Britain, Ireland and the US reacted with horror at this public admission of IRA summary justice and the DUP leader, Mr Paisley, called for the arrest of the SF leadership.³¹ Westminster duly voted to remove the allowances gleaned by the party's four abstentionist MPs.³²

But in spite of all the pressure, opinion-poll support for SF in Northern Ireland remains remarkably solid (see public attitudes section). The SDLP may have increased hope of retaining Mr Hume's seat, and certainly enjoyed its most confident conference in years.³³ Nonetheless, actual support for the SF candidate in a by-election across the border in Meath rose from 9 to 12 per cent, albeit on a sharply reduced turnout.³⁴

The implications for political progress are stark. The restoration of devolution is now unthinkable without a willingness on the part of the SDLP to exclude SF from a restored executive, which remains unlikely. In the absence of such a strategic change, only the formal and public commitment of the IRA to disband could trigger a serious deal. Such a commitment still seems a long distance away. In the indeterminate interim, the prospect is for prolonged direct rule and co-operation between London and Dublin. In practice, Northern Ireland is in a deep political freeze until after the May elections, when further events may determine the immediate outcome.

11.4 Tectonic shifts within unionism

Aside from the republican crises, unionists of all shades were most exercised by comments made by the republic's president, Mary McAleese (who grew up in north Belfast), to the effect that Protestants in Northern Ireland had been taught to hate Catholics in the same way as Nazis had grown to despise Jews.³⁵ A clearly distraught Ms McAleese, who has spent considerable political capital building a direct relationship with elements within the paramilitary Ulster Defence Association, expressed deep regret for the remarks and acknowledged that she had been clumsy in choosing to highlight the sins of one side only.³⁶

The episode served to underline the eternal fragility of relations between the tribes of Ireland. It is hardly news to suggest that many young Protestants grew up to hate Catholics; the real sin was to isolate Protestant hatreds without reference to their Catholic counterpart and to raise them in the context of the Holocaust. Few unionist politicians appeared willing, however, to grant any validity to the president's comments.

Meanwhile, preparations for elections continued, with the selection of Michael McGimpsey as UUP candidate to replace the retiring Rev Martin Smyth in South Belfast. The wider picture, however, was of the continued advance of the DUP. The *Belfast Telegraph* poll confirmed that the DUP had established itself as by far the larger of the two unionist parties in popular esteem. Republican disarray has only served, to most Protestants, to underline the wisdom of DUP refusal to enter a coalition last December.

The scale of the shift was brought home when the Orange Order voted to sever its 100-year link with the UUP in this the latter's centenary year.³⁷ Less than three years

ago, the order resisted attempts by Trimble supporters to make the same move. Now, the triumph of the DUP is such that many members welcomed the end of an historic association.

11.5 Conclusion

The political structure of the agreement is now in complete disarray. At the same time, there appears little appetite for a return to the violence of the 70s.

Notwithstanding IRA statements withdrawing any commitment to put weapons 'beyond use', or attempts by the loyalist ex-prisoner Johnny Adair to re-establish himself in Northern Ireland,³⁸ broad if superficial tranquillity is more likely than widespread violence—at least until the marching begins in the summer.

Indeed, a manifest difficulty is growing political disengagement. Electoral registration is declining, and on the eve of publication of figures showing a drop of 150,000, to little over one million, following the anti-fraud arrangements introduced in 2002,³⁹ the NIO junior minister John Spellar announced that the need for annual registration would be softened. Anyone who had registered the previous year would be carried forward for a further year, even if they did not re-register.⁴⁰ Concern was expressed by the Northern Ireland Affairs Committee about the 'stark decline' in registration,⁴¹ and in February 2005 the leader of the Lords, Baroness Amos, announced legislation would be rushed through, retrospectively to reinstate those who had failed to re-register in the September 2004 canvass. (Peers meanwhile extended for two years the exemption of parties in Northern Ireland from the ban on foreign funding—which, paradoxically, allows SF to raise money from US supporters under more liberal terms than would be available to it if it were confined to the Republic of Ireland.)⁴²

The UK government continues to make small-scale announcements in an attempt to keep a broader social process alive: apologising to the Guildford Four and the associated Maguire family for the miscarriage of justice following the 1974 bomb in the town,⁴³ and announcing the appointment of a victims' commissioner (see 'devolved' government section) and a fund for investigating unsolved murders.⁴⁴ But until some time after the elections in May are over and the full scale of the republican crime empire is revealed, no real change can be expected.

¹ *Irish Times*, November 30th 2004

² *Irish News* December 9th 2004

³ *Irish Times*, December 10th 2004

⁴ *Belfast Telegraph*, December 13th 2004

⁵ *News Letter*, December 21st 2004

⁶ *Belfast Telegraph*, January 7th 2005

⁷ RTE radio, *This Week*, January 9th 2005

⁸ *Irish Times*, January 14th 2005

⁹ *Irish News*, January 27th 2005

¹⁰ *Irish Times*, January 20th 2005

¹¹ *Belfast Telegraph*, February 1st 2005

¹² *Irish Times*, February 3rd 2005

¹³ *News Letter*, February 5th 2005

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- ¹⁴ *Irish Times*, February 11th 2005
¹⁵ RTE, *Questions and Answers*, February 7th 2005
¹⁶ *Irish News*, February 1st 2005
¹⁷ *Belfast Telegraph*, February 16th 2005
¹⁸ *Irish Times*, February 19th 2005
¹⁹ *Sunday Tribune*, February 20th 2005
²⁰ RTE radio, February 18th 2005
²¹ *Irish Times*, February 21st 2005
²² *Irish News*, February 22nd 2005
²³ *Irish Times*, February 26th 2005
²⁴ *Irish News*, February 28th 2005
²⁵ *Irish Times*, February 28th 2005
²⁶ *Irish Times*, March 4, 2005.
²⁷ *Belfast Telegraph*, March 3rd 2005
²⁸ *Irish Times*, March 4th 2005
²⁹ *Sunday Business Post*, March 6th 2005
³⁰ *Sunday Tribune*, March 6th 2005
³¹ *Irish Times*, March 9th 2005
³² *Belfast Telegraph*, March 10th 2005
³³ *Irish Times*, February 14th 2005
³⁴ *Sunday Tribune*, March 13th 2005
³⁵ *News Letter*, January 27th 2005
³⁶ *Newsletter*, January 28, 2005.
³⁷ *Belfast Telegraph*, March 12, 2005.
³⁸ *News Letter*, January 11th 2005
³⁹ *Belfast Telegraph*, December 1st 2004
⁴⁰ *Belfast Telegraph*, November 30th 2004
⁴¹ *Belfast Telegraph*, December 15th 2004
⁴² *News Letter*, February 1st 2005
⁴³ *The Times*, February 10, 2005.
⁴⁴ *Belfast Telegraph*, March 8th 2005

12. Public policies

Rick Wilford and Robin Wilson

It was a busy time for John Spellar. In addition to his brief on political development—enough, one would imagine, to keep him fully occupied—he announced a raft of policy initiatives. There was a new fuel poverty strategy,¹ roundly criticised by the relevant NGOs;² the first funding decision under the government's Integrated Development Fund;³ a draft neighbourhood renewal plan for Derry;⁴ a statement of intent to tackle deprivation in the predominantly Protestant 'Village' area of Belfast⁵ (a communalist approach which flies in the face of equality commitments under 'section 75'); and a consultation on proposals for tackling homelessness.⁶ He also took the next steps in bringing forward the much awaited and long-overdue commitment made by the devolved executive to a Single Equality Bill.⁷

Along with the health and environment minister, Angela Smith, Mr Spellar (wearing his regional-development hat) unveiled for consultation area and transport plans for Belfast.⁸ Ms Smith had mixed news on hospital waiting lists. She reported that inpatient lists had fallen by more than 3,500 over the 12 months to September 2004, while outpatient lists had increased by more than 12,000 over the same period.⁹ When she returned to the subject in March 2005, the news she had to report was darker: a smaller annual inpatient fall (to December 2004) and an outpatient queue lengthening by more than 17,000 over the calendar year.¹⁰

She had unalloyed news to deliver in advance of the new strategy for primary care to be published in 2005, *viz* an injection of a further £14 million into primary-care services on top of the £45 million invested in the new General Medical Services over the previous two years.¹¹ In mid-December Ian Pearson and Ms Smith launched Northern Ireland's equivalent of the Wanless review, by announcing the appointment of Prof John Appleby of the King's Fund to conduct a review of health and social care provision, the final report of which is due in June 2005.¹²

In late December Ms Smith published for consultation a 20-year regional strategy for health and social services,¹³ which emphasises prevention, community-based services and closer team-working across health and social care. This followed the findings of the review on public health published almost simultaneously.¹⁴ The document, *A Healthier Future*,¹⁵ was generally impressive but its failure to commit to a smoking ban in workplaces and public places sparked annoyance from health professionals. With Scotland already having moved to emulate the republic in this regard, pressure in Northern Ireland is strong, with the doctors' and nurses' associations uniting behind the campaign,¹⁶ and evidence of wider public support.¹⁷ A ban on smoking in the civil service was introduced from New Year's Day.¹⁸

Wearing his economy minister's hat, Barry Gardiner reported historically low unemployment rates and the highest level of jobs on record in his new year message.¹⁹ But low unemployment in the region conceals its low *employment* rate, with only seven out of ten working-age adults in work. When Mr Gardiner released

the revised version of the ‘economic vision’ for Northern Ireland in February 2005, its twin goals were to raise productivity and activity levels. There was no commitment to enhance employment as such, in a document with a markedly *laissez-faire* tone. Following criticism of its absence from the draft issued late last year, there were three paragraphs on sustainable development.²⁰

¹ Department for Social Development news release, November 23rd 2004

² *Belfast Telegraph*, December 15th 2004

³ DSD news release, December 29th 2004

⁴ DSD news release, December 6th 2004

⁵ DSD news release, November 23rd 2004

⁶ DSD news release, November 4th 2004

⁷ OFMDFM news release, December 16th 2004

⁸ Department of Environment news release, November 30th 2004

⁹ Department of Health, Social Services and Public Safety news release, December 1st 2004

¹⁰ DHSSPS news release, March 3rd 2004

¹¹ DHSSPS news release, December 8th 2004

¹² DFP news release, December 13th 2004

¹³ DHSSPS news release, December 21st 2004

¹⁴ DHSSPS news release, December 22nd 2004

¹⁵ available at www.dhsspsni.gov.uk/publications/2004/healthyfuture.asp

¹⁶ *News Letter*, February 9th 2005

¹⁷ *Belfast Telegraph*, March 3rd 2005

¹⁸ *Irish Times*, January 5th 2005

¹⁹ DETI news release, January 1st 2005

²⁰ DETI (2005), *Economic Vision for Northern Ireland*, available at www.detini.gov.uk/cgi-bin/downutildoc?id=936