

SUNNINGDALE – AN AGREEMENT TOO SOON?

Dr Seán Farren

Learning from Sunningdale: Conflict Resolution in Northern Ireland

University College, Dublin

15 June 2006

Why was it that a 1973 agreement that addressed essentially the same agenda as that which the Good Friday Agreement (GFA) addressed almost twenty-five years later, failed and failed so disastrously that it took that length of time for a replacement to be agreed?

Like its successor the Sunningdale Agreement addressed the issues central to a resolution of what is understood by ‘the Northern Ireland problem’ - relationships between the communities in the North as well as relationships between North and South proposing a partnership, power-sharing government for the region and a Council of Ireland to address all-island relationships. It also dealt with the constitutional status of Northern Ireland, human rights, prisoner releases as well as policing and judicial matters on an internal northern and all-Ireland basis.

It is not my intention in this paper to compare the two agreements but rather to examine why the Sunningdale Agreement failed and to ask what lessons can be drawn from that failure particularly given the faltering implementation of its successor.

For clarification I regard what we call the Sunningdale Agreement as two separate but essentially related agreements, the first negotiated between the Northern Ireland Assembly parties in October 1972 and the second that negotiated at Sunningdale involving the same parties and the British and Irish governments in the following December. In the former it had been made clear that only with a subsequent agreement addressing North-South co-operation as well as

constitutional, policing and judicial issues could the inter-party agreement persist.

My contention is, not that the issues addressed were not the central issues but that the Sunningdale agreement can be described as ‘an agreement too soon’. Comprehensive as its provisions were, because of its circumstances and, particularly, because of the failure to make sufficient progress on a number of key issues in ways that might have changed some of those circumstances, its early collapse was all but inevitable.

As in all conflict resolution situations Sunningdale was an agreement that demanded significant compromises from all its signatories. However, despite the language of compromise, few if any of the parties to the agreement were politically ready to move as far or as speedily as the agreement required in order for it to take root. This I believe to have been the case whether we are talking about the British or the Irish government, or more immediately the Northern Irish parties. Nor were the paramilitaries ready to move and the unrelenting terrorist campaigns of the IRA and loyalist groups during the short period of the power-sharing experiment intensified pressure on the already narrow scope for progress.

Circumstances – Immediate and Remote

By 1972 the ‘troubles’ in Northern Ireland were intensifying considerably, threatening not only increased political instability, but, more menacingly, outright civil war between unionists and nationalists. Following the killing of civilians by the British army on

Bloody Sunday in Derry in January 1972, and given that because of the *internment without trial* of suspected terrorists, most nationalist representatives had already withdrawn from the Northern Ireland Parliament and other public bodies, the British government's decision to prorogue that parliament and with it the devolved government of Northern Ireland, precipitated an urgent search for new political arrangements.

So from prorogation in March 1972 until November 1973 William Whitelaw, the NI Secretary of State, almost single-handedly spearheaded that search. The search aimed at restoring devolution on a basis that would have the widest possible support, i.e. support from both the unionist and nationalist community.

The pace set by Whitelaw was frenetic in its urgency and in its determination to succeed. Gone was the 'arms length' approach that had characterised British policy towards NI since its establishment in 1921. Gone too was the totally dismissive attitude towards the Irish government which had been part of that approach. A crisis existed and it had to be addressed in as fundamental a way as was possible.

The British, urged to do so by the Irish government and by the SDLP and the Alliance Party in Northern Ireland, had determined that restoring devolution to the region would only take place on the basis of a community or 'power-sharing' government. This meant the full involvement of representatives of the nationalist as well as of the unionist community in executive decision-making. In other words a coalition of such representatives would have to exist before devolved authority would be restored.

A second condition for restoring devolution was political and institutional recognition for what was being termed ‘the Irish dimension’ to relationships in Northern Ireland. Some kind of North-South council would have to exist to give expression to all-island relationships that the SDLP was insisting had to be integral to any new arrangements.

A British government discussion paper published in October 1972 *The Future of Northern Ireland* spelled out the case for these requirements and the steps that could be taken to achieve them – a referendum on the constitutional status of the region (mainly to reassure unionists), to be followed by an election to an Assembly and negotiations leading to the establishment of a cross-community government and a Council of Ireland. This paper effectively outlined the agenda for the negotiations that would lead to the Sunningdale Agreement.

Meeting the Challenge

Had Whitelaw’s task of persuading the main northern political parties of the wisdom of this strategy, been his only challenge it would have been difficult enough given dominant attitudes in both communities.

However, IRA and loyalist paramilitary violence posed a challenge of even greater urgency. Following Bloody Sunday the IRA campaign had intensified bringing with it a further intensification of loyalist violence against the Catholic community. The death toll from violence in 1971 was 174 and 1972 would end with more than double

that figure, to which can be added hundreds more injured as well as huge damage to property.

Whitelaw decided therefore to focus much of his early efforts on the paramilitaries, especially the IRA. The IRA's clearly stated aim was no longer what it had been in the early stages of the 'troubles', namely to act as a defence force protecting vulnerable Catholic areas from loyalist attacks. By 1971 it had already declared that its aim was to force a British declaration of withdrawal from NI. Its campaign of violence was aimed at 'striking at the colonial economic structure' and at making NI too expensive for the British to govern, hence precipitating the declaration that it would withdraw.

Having determined that the IRA was not for turning on its central aim Whitelaw effectively abandoned his contacts with its representatives. Thereafter he devoted almost all his efforts to getting agreement between the political parties. But neither the IRA nor the loyalists groups abandoned terrorism.

To achieve political progress Whitelaw had to confront what was virtually a classic expression of the zero sum game of two mutually exclusive demands contending for the same space. The unionist majority was determined to maintain Northern Ireland as part of the UK, while the substantial nationalist minority never having accepted this constitutional position aspired to see NI reunited with the rest of the island in a separate Irish state.

Unionist political leaders remained deeply imbued with the sense of siege that had characterised unionism for generations. Northern

Ireland was theirs to hold against the ever-present threat of absorption into an all-Ireland state that would be dominated, as they saw it, by Roman Catholics hostile to their Protestant faith and to their sense of Britishness. Hence the nationalist minority, which aspired to an all-Ireland state, had to be treated cautiously and kept ‘in its place’, a place that did not include any direct role in governing Northern Ireland.

The strong commitment to majoritarian forms of democracy that such attitudes produced precluded any concept of a power-sharing coalition involving nationalists. Even those unionists like UUP leader Brian Faulkner who saw the need for reform towards a more inclusive role for nationalist representatives, initially balked at the idea. Eventually Faulkner was to favour power-sharing, but not the majority of his party.

Alongside unionism’s political parties were the loyalist paramilitaries who had achieved mushroom growth from 1970. Their political agenda was to prevent any political change that could be seen as weakening NI’s position as a unionist controlled entity inside the UK. Both power-sharing and any North-South institutions were judged to pose such a threat and had to be opposed. As the ultimate enemy of NI the IRA was their main target. To pressurise it loyalists pursued a nakedly sectarian murder campaign against the Catholic community.

Within the nationalist community a majority had, from the time of partition, clearly recognised that attempting to force unity whether by political or violent action would not succeed. Nonetheless, attitudes towards the unionist community and towards the British

connection remained suspicious if not hostile while a minority remained wedded to the idea that violence was the only way to achieve unity. Most nationalists, therefore, had supported the non-violent civil rights campaign in the 1960's and the SDLP, founded in 1970 by leading figures of that campaign such as Gerry Fitt, John Hume, Austin Currie and Paddy Devlin, also commanded their electoral support.

The SDLP's major policy statement, *Towards a New Ireland*, published when Whitelaw was conducting his initial discussions with the parties, emphasised a strong commitment to Irish unity. In the SDLP's view any new arrangements for governing Northern Ireland should only be transitional to that end. Unionists were invited to negotiate their security and political influence in an all-Ireland context rather than remain in what the SDLP argued would always be an unstable Northern Ireland. Unionists, however, remained profoundly uninterested.

From Whitelaw's perspective the most hopeful points in the SDLP's approach were the party's total opposition to violence, its commitment to seeking constitutional change only through peaceful means and its willingness to enter into a partnership type government for NI. However, by also emphasising the need to measure every move towards an accommodation with unionists in terms of how it would contribute to unity the SDLP gave unionists opposed to power-sharing an excuse with which to justify their opposition.

Complicating the situation from a nationalist perspective was internment, which had been introduced in August 1971 and had become totally counterproductive in its execution, the interrogation methods used with internees and the fact that it had focused almost entirely on people alleged to have been IRA activists. As a result the SDLP had withdrawn from Stormont and had pledged not to return for as long as internment lasted. Furthermore, internment complicated the already difficult issue of nationalist opposition to the police service, i.e. the RUC. This was an issue that unionists expected the SDLP to resolve at an early stage in implementing the Sunningdale settlement.

Also part of the equation given the outcome that Whitelaw hoped to achieve was the attitudes and positions of political leaders and of public opinion generally in the South. Southern attitudes towards the North ranged across the spectrum of nationalist opinion, from those who supported an accommodation along the lines of the power-sharing concept to those who sympathised with and actively supported the IRA's campaign.

The Fianna Fail government (1969-1973) had already experienced considerable trauma as a result of the arms trial saga in 1970. That trauma revealed that although a majority of the party supported a non-violent approach to the 'Northern question', some sympathy for IRA activity existed within its ranks, particularly when the latter was presented as 'defender' of Catholic communities. Such sympathy was displayed in varying degrees in other parties and in other sectors of southern public life.

So, much as the violence of the IRA was condemned and deplored in the South, there was no move to challenge rulings in the southern courts that violence by the North's paramilitaries was other than political and hence its perpetrators could not qualify for extradition to face trial either in Britain or in the North itself. The sacking of the British embassy building in Dublin in the aftermath of the Bloody Sunday killings revealed just how potent a factor anti-Britishness could become in the South, however latent it might otherwise appear. Southern governments had to thread carefully lest such sentiments be stoked beyond control.

Nowhere was this more acutely exemplified than with regard to Articles 2 and 3 of the South's constitution, which claimed jurisdiction over the North. Although recommended for change by an all-party committee of the Oireachtas in 1967, the articles came to be regarded as untouchable by most sections of southern political opinion once the troubles broke out. Unionists insisted that both the question of Articles 2&3 as well the issue of so-called fugitive offenders be dealt with within the Sunningdale Agreement. However, the terms in which they would be treated and more so the manner by which they were to be handled subsequently, left a lot to be desired as far as unionists were concerned.

Hesitant Implementation

Given the background and the political circumstances of 1973, the challenge to ensure progress based on the Sunningdale Agreement was daunting. So despite the best intentions of its signatories the agreement began to unravel almost as soon as its implementation

commenced. In conflict resolution terms the explanation for the unravelling lies in the absence of sufficient progress on several aspects which would have seen more than one party to the agreement having to deliver on commitments more or less at the same time.

Pro-agreement unionists were the first who had to take a significant step away from previously declared positions. However, amongst the agreement's signatories not only were these unionists the most vulnerable to attack from their own support base as well from the wider unionist community, they were also the weakest when it came to resisting any attack.

That first step was signalled when the power-sharing executive took office on 1 January 1974 with Brian Faulkner as First Minister and the SDLP leader Gerry Fitt his deputy. Pro-agreement unionists were now operating within a framework that brought nationalists into the government of NI and gave the Dublin government a significant role in relation to NI but was not seen to have required any immediate compromise or concession from any other signatory.

Articles 2&3 remained intact and there were no immediate moves on security such as SDLP acceptance of policing or moves to ensure the extradition of alleged terrorists from the South to the North. On the contrary Articles 2&3 were being authoritatively stated not to conflict with the statement on the constitutional status of NI contained in the Sunningdale Agreement while moves to encourage nationalist support for policing and to close loopholes which allowed paramilitary fugitives in the South escape justice awaited developments within the Council of Ireland. Adding to unionist

unease about the agreement and feeding growing opposition in that community was the IRA's campaign that continued unabated throughout the early months of 1974.

Already under fierce attack both from within their own party as well as from Ian Paisley's DUP, from William Craig's Vanguard Unionists and from loyalist paramilitaries, because of their earlier agreement to form a cross-community executive with the SDLP, pro-agreement unionists suffered the ignominy of their party's ruling council voting to reject the Council of Ireland just as the agreement's implementation was getting underway. That vote clearly signalled that the likelihood of sufficient support from the unionist community for the agreement's continued implementation was highly questionable.

Consequently, bereft of party endorsement for an essential part of the Sunningdale Agreement Faulkner had no alternative but to resign the leadership. Politically he was now a deeply wounded and considerably weakened leader of a new pro-agreement party and only had the cross-community pro-agreement Assembly majority to sustain him as head of the Executive. The February UK general election results that gave anti-agreement unionists eleven of the twelve NI parliamentary seats merely expressed popular unionist endorsement for the UUC's decision.

Attempts to sustain the agreement contained no significant moves that could have helped pro-agreement unionists. Moves to slow down the introduction of the full Council of Ireland, or to progress reform to win nationalist support for the policing, or to enact legislation in

the South to deal with fugitive offenders etc., were irrelevant in scale and timing.

Anti-agreement unionists organised under the Ulster Workers Council (UWC) umbrella seized the initiative, organising public demonstrations, calling for fresh Assembly elections and threatening a general strike. The outcome became inevitable when the UWC declared a strike in May. As its grip tightened Faulkner and his colleagues resigned from the executive and the Assembly was prorogued on 28 May. With that, the new arrangements for governing NI and for creating new forms of cooperation between North and South were put on hold, there to remain for a quarter of a century.

Explanation and Lesson

The answer to the question posed at the outset is simple to state. It is that an agreement in NI requiring, as it must sufficient support from both main communities in order to reach it in the first place and, secondly, sufficient confidence to sustain it can only succeed if all parties meet their commitments and do so in mutually reinforcing ways.

While arguably the Sunningdale Agreement can be said to have had the first at the moment of its signing it certainly didn't acquire the second. From the moment its implementation commenced the agreement began losing unionist support mainly because their representatives were the only ones seen to have actually moved. As their support declined pro-agreement unionists rapidly lost

legitimacy as representatives of a significant section of their community. Without that legitimacy their continued participation in the new political arrangements was impossible.

Building sufficient confidence that a second Sunningdale type agreement could be attempted was to require much more movement across the whole spectrum of relevant interests than which had occurred in 1973 and early 1974. Most significantly the cessation of paramilitary activity would become an essential prior requirement. Then the prospect that all issues would not only be addressed but that all commitments made would be honoured in mutually confidence building ways, was also to be essential if another failure was to be avoided.

While the first requirement was met the crisis currently surrounding the implementation of the Good Friday Agreement underlines the extent to which the second has only partially been achieved. To our misfortune in the North we are, consequently, still living with the consequences of that failure.

The Sunningdale Agreement December 1973

1. The Conference between the British and Irish Governments and the parties involved in the Northern Ireland Executive (designate) met at Sunningdale on 6, 7, 8 and 9 December 1973.
2. During the Conference, each delegation stated their position on the status of Northern Ireland.
3. The Taoiseach said that the basic principle of the Conference was that the participants had tried to see what measure of agreement of benefit to all the people concerned could be secured. In doing so, all had reached accommodation with one another on practical arrangements. But none had compromised, and none had asked others to compromise, in relation to basic aspirations. The people of the Republic, together with a minority in Northern Ireland as represented by the SDLP delegation, continued to uphold the aspiration towards a united Ireland. The only unity they wanted to see was a unity established by consent.
4. Mr Brian Faulkner said that delegates from Northern Ireland came to the Conference as representatives of apparently incompatible sets of political aspirations who had found it possible to reach agreement to join together in government because each accepted that in doing so they were not sacrificing principles or aspirations. The desire of the majority of the people of Northern Ireland to remain part of the United Kingdom, as represented by the Unionist and Alliance delegations, remained firm.
5. The Irish Government fully accepted and solemnly declared that there could be no change in the status of Northern Ireland until a majority of the people of Northern Ireland desired a change in that status. The British Government solemnly declared that it was, and would remain, their policy to support the wishes of the majority of the people of Northern Ireland. The present status of Northern Ireland is that it is part of the United Kingdom. If in the future the majority of the people of Northern Ireland should indicate a wish to become part of a united Ireland, the British Government would support that wish.
6. The Conference agreed that a formal agreement incorporating the declarations of the British and Irish Governments would be signed at the formal stage of the Conference and registered at the United Nations.
7. The Conference agreed that a Council of Ireland would be set up. It would be confined to representatives of the two parts of Ireland, with appropriate safeguards for the British Government's financial and other interests. It would comprise a Council of Ministers with executive and harmonising functions and a consultative role, and a Consultative Assembly with advisory and review functions. The Council of Ministers would act by unanimity, and would comprise a core of seven members of the Irish Government and an equal number of members of the Northern Ireland Executive with provision for the

participation of other non-voting members of the Irish Government and the Northern Ireland Executive or Administration when matters within their departmental competence were discussed. The Council of Ministers would control the functions of the Council. The Chairmanship would rotate on an agreed basis between representatives of the Irish Government and of the Northern Ireland Executive. Arrangements would be made for the location of the first meeting, and the location of subsequent meetings would be determined by the Council of Ministers. The Consultative Assembly would consist of 60 members, 30 members from Dail Eireann chosen by the Dail on the basis of proportional representation by the single transferable vote, and 30 members from the Northern Ireland Assembly chosen by that Assembly and also on that basis. The members of the Consultative Assembly would be paid allowances. There would be a Secretariat to the Council, which would be kept as small as might be commensurate with efficiency in the operation of the Council. The Secretariat would service the institutions of the Council and would, under the Council of Ministers, supervise the carrying out of the executive and harmonising functions and the consultative role of the Council. The Secretariat would be headed by a Secretary-General. Following the appointment of a Northern Ireland Executive, the Irish Government and the Northern Ireland Executive would nominate their representatives to a Council of Ministers. The Council of Ministers would then appoint a Secretary-General and decide upon the location of its permanent headquarters. The Secretary-General would be directed to proceed with the drawing up of plans for such headquarters. The Council of Ministers would also make arrangements for the recruitment of the staff of the Secretariat in a manner and on conditions which would, as far as is practicable, be consistent with those applying to public servants in the two administrations.

8. In the context of its harmonising functions and consultative role, the Council of Ireland would undertake important work relating, for instance, to the impact of EEC membership. As for executive functions, the first step would be to define and agree these in detail. The Conference therefore decided that, in view of the administrative complexities involved, studies would at once be set in hand to identify and, prior to the formal stage of the conference, report on areas of common interest in relation to which a Council of Ireland would take executive decisions and, in appropriate cases, be responsible for carrying those decisions into effect. In carrying out these studies, and also in determining what should be done by the Council in terms of harmonisation, the objectives to be borne in mind would include the following:

- (1) to achieve the best utilisation of scarce skills, expertise and resources;
- (2) to avoid in the interests of economy and efficiency, unnecessary duplication of effort; and
- (3) to ensure complementary rather than competitive effort where this is to the advantage of agriculture, commerce and industry.

In particular, these studies would be directed to identifying, for the purposes of executive action by the Council of Ireland, suitable aspects of activities in the following broad fields:

- (a) exploitation, conservation and development of natural resources and the environment;

- (b) agricultural matters (including agricultural research, animal health and operational aspects of the Common Agriculture Policy), forestry and fisheries;
- (c) co-operative ventures in the fields of trade and industry;
- (d) electricity generation;
- (e) tourism;
- (f) roads and transport;
- (g) advisory services in the field of public health;
- (h) sport, culture and the arts.

It would be for the Oireachtas and the Northern Ireland Assembly to legislate from time to time as to the extent of functions to be devolved to the Council of Ireland. Where necessary, the British Government will cooperate in this devolution of functions. Initially, the functions to be vested would be those identified in accordance with the procedures set out above and decided, at the formal stage of the conference, to be transferred.

9. (i) During the initial period following the establishment of the Council, the revenue of the Council would be provided by means of grants from the two administrations in Ireland towards agreed projects and budgets, according to the nature of the service involved.
 - (ii) It was also agreed that further studies would be put in hand forthwith and completed as soon as possible of methods of financing the Council after the initial period which would be consonant with the responsibilities and functions assigned to it.
 - (iii) It was agreed that the cost of the Secretariat of the Council of Ireland would be shared equally, and other services would be financed broadly in proportion to where expenditure or benefit accrues.
 - (iv) The amount of money required to finance the Council's activities will depend upon the functions assigned to it from time to time.
 - (v) While Britain continues to pay subsidies to Northern Ireland, such payments would not involve Britain participating in the Council, it being accepted nevertheless that it would be legitimate for Britain to safe-guard in an appropriate way her financial involvement in Northern Ireland.

10. It was agreed by all parties that persons committing crimes of violence, however motivated, in any part of Ireland should be brought to trial irrespective of the part of Ireland in which they are located. The concern which large sections of the people of Northern Ireland felt about this problem was in particular forcefully expressed by the representatives of the Unionist and Alliance parties. The representatives of the Irish Government stated that they understood and fully shared this concern. Different ways of solving this problem were discussed; among them were the amendment of legislation operating in the two jurisdictions on extradition, the creation of a common law enforcement area in which an all-Ireland court would have jurisdiction, and the extension of the jurisdiction of domestic courts so as to enable them to try offences committed outside the jurisdiction. It was agreed that problems of considerable legal complexity were involved, and that the British and Irish Governments would jointly set up a commission to consider all the proposals put forward at the Conference and to recommend as a matter of extreme urgency the most effective means of dealing with those who commit these

crimes. The Irish Government undertook to take immediate and effective legal steps so that persons coming within their jurisdiction and accused of murder, however motivated, committed in Northern Ireland will be brought to trial, and it was agreed that any similar reciprocal action that may be needed in Northern Ireland be taken by the appropriate authorities.

11. It was agreed that the Council would be invited to consider in what way the principles of the European Convention on Human Rights and Fundamental Freedoms would be expressed in domestic legislation in each part of Ireland. It would recommend whether further legislation or the creation of other institutions, administrative or judicial, is required in either part or embracing the whole island to provide additional protection in the field of human rights. Such recommendations could include the functions of an Ombudsman or Commissioner for Complaints, or other arrangements of a similar nature which the Council of Ireland might think appropriate.

12. The Conference also discussed the question of policing and the need to ensure public support for and identification with the police service throughout the whole community. It was agreed that no single set of proposals would achieve these aims overnight, and that time would be necessary. The Conference expressed the hope that the wide range of agreement that had been reached, and the consequent formation of a power-sharing Executive, would make a major contribution to the creation of an atmosphere throughout the community where there would be widespread support for and identification with all the institutions of Northern Ireland.

13. It was broadly accepted that the two parts of Ireland are to a considerable extent inter-dependent in the whole field of law and order, and that the problems of political violence and identification with the police service cannot be solved without taking account of that fact.

14. Accordingly, the British Government stated that, as soon as the security problems were resolved and the new institutions were seen to be working effectively, they would wish to discuss the devolution of responsibility for normal policing and how this might be achieved with the Northern Ireland Executive and the Police.

15. With a view to improving policing throughout the island and developing community identification with and support for the police services, the governments concerned will cooperate under the auspices of a Council of Ireland through their respective police authorities. To this end, the Irish Government would set up a Police Authority, appointments to which would be made after consultation with the Council of Ministers of the Council of Ireland. In the case of the Northern Ireland Police Authority, appointments would be made after consultation with the Northern Ireland Executive which would consult with the Council of Ministers of the Council of Ireland. When the two Police Authorities are constituted, they will make their own arrangements to achieve the objectives set out above.

16. An independent complaints procedure for dealing with complaints against the police will be set up.

17. The Secretary of State for Northern Ireland will set up an all-party committee from the Assembly to examine how best to introduce effective policing throughout Northern Ireland with particular reference to the need to achieve public identification with the police.

18. The Conference took note of a reaffirmation by the British Government of their firm commitment to bring detention to an end in Northern Ireland for all sections of the community as soon as the security situation permits, and noted also that the Secretary of State for Northern Ireland hopes to be able to bring into use his statutory powers of selective release in time for a number of detainees to be released before Christmas.

19. The British Government stated that, in the light of the decisions reached at the Conference, they would now seek the authority of Parliament to devolve full powers to the Northern Ireland Executive and Northern Ireland Assembly as soon as possible. The formal appointment of the Northern Ireland Executive would then be made.

20. The Conference agreed that a formal conference would be held early in the New year at which the British and Irish Governments and the Northern Ireland Executive would meet together to consider reports on the studies which have been commissioned and to sign the agreement reached.