
Initiative '92

HEALING : COMMUNITY : CONSENSUS

A New North for A New Ireland

November 1992

Submission on behalf of the New Ireland Group

New Ireland Group

During the eleven years since it was formed, the New Ireland Group has issued many statements, written many letters to the press and published a number of pamphlets. Publications include – Invitation to a Challenge – 40.000 word submission to the New Ireland Forum, submission to the Devolution Committee of the Northern Ireland Assembly, A Proposal for Consensus, prepared for the gathering at Emhain Macha (Navan Fort) 29th June 1985 and a Proposal Based on the Principle of Consensus (1989).

This publication is our submission to Initiative 92 and we trust that it may contribute to the present debate about the future nature of society in Ireland.

John Robb, Chairman New Ireland Group

November 1992

Initiative '92

Responding to the conclusion of the present political talks

By the time this submission to Initiative '92 is published, the political talks on the future of Northern Ireland will have concluded.

The New Ireland Group looks forward to responding to the outcome of these talks. In particular, the Group will be interested to learn how the politicians have dealt with the issue of sovereignty. With this in mind, a further paper on the implications of the Irish constitution and the Northern Ireland Constitution Act is at present under consideration by the Group.

Index

The Anglo – Irish Process	3
Uncoupling the Irish Republic as well as Britain	4
Self Determination	7
New Connections - new world order	9
Local Community: Individual and Collective Powerlessness	10
Healing	11
Need for a Third Party	12
Evolving solution: capacity for change	13
Consensus seeking process	14
Setting the scene	
The Process	17
New Ireland	20
Appendix 1: Articles 2 & 3 of the Constitution	24
Appendix 11: Voting systems: the Preferendum	28
Appendix 111: Truce, Trust, Ceasefire and Amnesty	31
Bibliography	

Introduction

The Anglo-Irish Process

In the submissions presented by the New Ireland Group to the New Ireland Forum and subsequently to the Devolution Committee of the Northern Ireland Assembly, it was argued that political movement in Ireland in general and in Northern Ireland in particular should be based on the achievement of consensus in relation to the right to self-determination.

Confronted by the legacy of Anglo-Irish history and Irish sectarianism, it was also argued that the log-jam would never be disentangled unless those holding power in Britain and the Irish Republic were prepared to face up jointly to the implications of their conflicting claims to sovereignty over Northern Ireland.

The Anglo-Irish Process, initiated in 1980, made a fundamental break with the past when it referred to “the totality of relationships” in these islands.

Subsequently the New Ireland Group had hoped that it would have been possible for the two sovereign governments to act as joint sponsors of a consensus seeking process in Northern Ireland and as joint guarantors for its outcome provided such outcome was consistent with the fundamental democratic right of all peoples to self-determination based on the principles of consensus.

As we now know, the two governments chose a different course. Back in 1985, we acknowledged that there were reasons for choosing that course. We responded to the Anglo-Irish Agreement with the slogan-‘Don’t say no, give it a go.’

Persistent violence since the Anglo-Irish Agreement confirms – if confirmation were necessary – that the agreement is not a solution to our problems. Rather it was a point of achievement in a process enabling the London and Dublin governments to face up to the external conflict of claim; the time has now come to build on what has been achieved and to do so in conditions that will enable the people living in Northern Ireland to resolve constructively the internal conflict of loyalty.

Uncoupling the Irish Republic as well as Britain

In the aftermath of the Anglo-Irish Agreement, Dublin pursued an assertive influence on behalf of Nationalist rights and aspirations; it was quite evident, however, that there was no sympathetic quid-pro-quo from London for Unionists.

The Anglo-Irish Agreement (1985) marked an uncoupling of Unionist and British Government positions. It demonstrated that Unionists could no longer rely on the unqualified support of the British Government. Unionist sense of betrayal was all the more because unionists had not been involved in the deliberations leading to the Agreement and also because of the subsequent refusal of the British government to back down in the face of very considerable protest. As Richard Ford points out, there are now few Conservatives left who retain an emotional attachment to the Union.

The fact that the Agreement has operated – in London /Dublin governmental terms – more or less smoothly, suggests that the problem in Northern Ireland is no longer primarily about the relationship between the British and Irish governments. In terms of “the totality of relationships” it is now apparent that the relationships requiring attention are other ones. In this context, the opportunity that the Anglo-Irish Agreement represents can only be realized if there is now a parallel uncoupling of the position of the Irish government and Northern Nationalists.

One of our Southern members has suggested that “the crucial error is to regard the interests of Northern Nationalists as synonymous with those of the Republic”. To be more explicit, he continued:

“the Irish government and indeed opposition politicians should abandon the idea that they must give unqualified support to the Constitutional Nationalists in favour of the idea that they have responsibility to all the people of Ireland including those who consider themselves British.”

In 1987, a further development took place. Charles Haughey became Taoiseach for the second time. By giving an unexpected degree of commitment to the Agreement, Mr. Haughey enabled an unprecedented degree of bipartisanship in approach between the parties in the Irish Republic with regard to Northern Ireland.

Since the signing of the Anglo-Irish Agreement, there have thus been two developments of significance – unionists have become uncoupled from Britain and Fine Gael and Fianna Fail have converged in their approach to Northern Ireland.

By introducing such fundamental change in these relationships, other changes are set in train too. There is at least a real possibility of progress as some fluidity has been introduced into the process: 'yesterday's' perception of unity as the imposition of some kind of Irish uniformity is no longer visible on anyone's agenda.

With regard to consideration of an uncoupling of the link between the Irish government and northern nationalists, very serious account must be taken of lessons learnt lest nationalists too experience that sense of betrayal felt by so many unionists. It is therefore vital that serious thought is given to the context in which any such uncoupling occurs. Uncoupling would introduce a further fluidity to that already achieved. It involves a facing of realities.

Just as the painful reality for unionists is that few people in Britain are deeply committed to the union, so the painful reality for Irish nationalists everywhere is that no Irish government now or in the foreseeable future is going to vigorously pursue the goal of unification.

The Anglo-Irish Agreement has brought about a new relationship between Britain and the Irish Republic, between Britain and the SDLP and between Britain and Unionists. Now we must look for a means of achieving a new and constructive relationship between Unionists and Nationalists in the North as part of the totality of relationships in the new European context.

Provided the ground is securely prepared and provided principles of democracy rather than prescriptive solutions are seen as the road to the future, any option should be open to discussion, not least that some form of guaranteed autonomy for Northern Ireland might become the precursor of a new political arrangement for Ireland as a whole. Such an arrangement would of necessity respect the diversity of cultural activity and tradition and should actively promote it.

We cannot remove from people what they feel they are and in this sense the British – Irish have just as much right as Gaelic – Irish, Jewish-Irish or any other form of Irish to find an unfettered place for their tradition in the building of the New Ireland provided, along with all others, each is restrained from imposing on the new order, residues of triumphalism or of past imperialism – ecclesiastical, ‘Anglo’ or otherwise.

The South and the Unionists

Since the signing of the Anglo-Irish Agreement, many people in the South have found it convenient to blame the Unionist leaders for lack of progress. However, despite some re-thinking of traditional nationalism, insufficient of substance has changed in the South as yet. Articles 2 and 3 remain un-amended and the results of two referenda in the 1980s gave credence to the view that the South remains, by and large, a confessional state. Yet, things are changing: the minorities in the 80’s Constitutional debate on divorce and abortion were much more significant than would have been the case ten years earlier. In 1990, Mary Robinson was elected President and all of us who have striven for a genuinely New Ireland, derive hope from the work she is doing in particular in her efforts to reach out and reach across to the Unionist/Loyalist people.

In a sense, she showed that the people may at least be moving ahead of most of their politicians in respect to the future. It remains to be seen how people will respond to the further referenda that are now envisaged.

The South and the SDLP

In terms of political activity, most Southern politicians seem to see their role with regard to Northern Ireland as supporting the SDLP. This inevitably represents a considerable obstacle to progress in Northern Ireland, as Unionists are never in the position of negotiating simply with northern Nationalists. Rather they feel they are negotiating – in their uncoupled predicament – with Northern Nationalists supported by the Southern Government and other groups such as Irish Americans.

“It is the poverty of the Nationalists’ imagination that insists that one must be one or the other i.e British or Irish. Identity does not have to be either /or, it can be both”, e.g Irish and European.

In articulating a vision of a New Ireland, we should want to talk in terms of unity. A concept of unity that accords with our idea of living the truth of our relatedness must value diversity and subvert the notion of unity as claim, the negation of the right of another to the identity of their choice. Unity we would define as the coming together of people in freedom to achieve their common aims. A new politic begins with a new language.

Self Determination

The United Nations Covenants on Human Rights affirm in Article 1. Clause 1, that:

“ All peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural developments.”

The implications of this fundamental human right are considerable. If, as a result, Republicans affirm the inalienable right of the people of Ireland to self-determination at the same as Loyalists are affirming the inalienable right of the people of Northern Ireland to self-determination, then this unqualified right to self-determination stands as justification of conflict rather than the means of its resolution.

In each case, the majority assumes that it has the right to determine for the minority what is right for it. It follows that the democratic right to self-determination cannot be an unqualified right just as the right to BE must ever be qualified by the need to BELONG. The justification of the democratic right to self-determination is deeply rooted in the historical description of democracy as “taking the people into partnership”. The democratic right to self-determination is not therefore a recipe for majoritarianism: it becomes valid only if consensus can be demonstrated in support of it. This then begs the question as to what we mean by consensus, how we achieve it and how we assess it.

The conclusion that the democratic right to self-determination is earned through the achievement of consensus is supported by Article 1, Clause 3, of both U.N Covenants taken in conjunction with Article 76c of the Charter of the United Nations.

Article 1, Clause 3 of both U.N Covenants affirm:

“The States Parties in the present Covenants, including those having responsibilities for the administration of Non-Self-governing and Trust Territories (? Northern Ireland), shall promote the realization of self-determination and shall respect the right, in conformity with provisions of the Charter of the United Nations.”*

Article 76c of the Charter of the United Nations asserts the need:

“To encourage respect for human rights and fundamental freedoms for all without distinction and to encourage recognition of interdependence of the peoples over the world.”

In other words, no nation state is any longer in a position to exercise absolute sovereignty over its affairs if indeed this was ever a realistic possibility. Sovereignty in today's world is becoming more and more qualified. The old style assumption that there is something inherently democratic in action based on the will of the majority is a contradiction unless the minority or minorities to which the majority relates have been clearly accommodated in consensus.

Majoritarianism is not democracy: one has only to consider the absurd example of the elected majority voting after each election to imprison the minority until it is time to exercise their vote in the next election.

New Connections

New World Order

The boundaries of the nation states were created by violence and sustained by force. As these boundaries go into the melting pot, minorities who in the past were kept dormant through various degrees of oppression, now begin to re-assert themselves. As a result, we are finding much fluidity: a majority in one context is a minority in another and vice versa. In the present state of flux, insecure minorities seek to escape cultural and other forms of domination either by seceding from that for which there is no consensus or by linking, trans-frontier, with communities with whom they better relate. Short of secession, however, there are many political forms available for the protection of identity and the promotion of trust on which to build a consensus for coming together and staying together – confederation, federation, condominium, consociation – all with or without forms of cantonisation and enlightened community democracy etc.

The awesome possibility of nuclear holocaust or ecological disaster and the rapid advance in communication technology have heightened our global awareness: in the changed circumstances of today, serious re-evaluation of the meaning and inter-action of terms such as self-determination, consensus and democracy is urgently required.

As we search for direction in the building of a New North for a New Ireland or as part of the much vaunted 'new world order' we are becoming increasingly, aware of minorities wishing to hive off from majorities as power and influence wax and wane precariously. Fear of loss of influence and prestige on the one hand, anger at being denied democratic rights on the other, combine to destabilize many societies. Democrats must address the issues of Consensus and Powerlessness.

The Local Community

Individual and Collective Powerlessness

The problems of the emergent minorities – ethnic, religious, linguistic or otherwise are accentuated at local community level where social alienation of one kind or another has built up resentment. Unemployment combined with stunted social space and powerlessness is an explosive mixture and we in Ireland should take note.

With over a quarter of a million people unemployed on the island of Ireland, the constitutional issue is certainly not the only one to cause the frustration and anger that leads to and sustains ongoing endemic violence. In addition to constitutional issues, it therefore falls to those participating in the consensus seeking process to consider how social consensus might be achieved at local community level.

To deal with the constitutional issue alone without also indicating the most serious concern about the conditions that have been responsible for widespread social alienation would risk placing the whole process at naught. This increasingly ugly alienation will not be resolved without action involving sacrifice by those of us who have the privilege of social space that allows us to make the elegant choices denied to so many others.

If we are serious about addressing the problem of endemic violence in Ireland we shall also have to address issues deriving from the powerlessness and dependencies of so many people as well as the challenge of healing in relation to the bitter legacy of hurt that we have done to each other.

The challenge of powerlessness is a challenge for the people and their representatives and is an issue for a separate pamphlet 'Route to Community Health Enterprise & Responsibility'. The need for healing is, here as elsewhere, a challenge in particular for church leaders.

Healing

Who will first give the lead in expurgating the effects of our past violation? Who will give the lead in expurgating the guilt of the violator as well as the resentment of the violated? Who will give the lead – through repentance – by asking genuinely for forgiveness? Who will first be ready to forgive? Long ago we used to hear the expression “wiping the slate clean” – that surly is the challenge in response to which our clergy – all of them – must give the lead. They have been known to criticize our politicians for failure: perhaps the politicians and the people should also be chiding the churchmen for failure in turn – the failure to lay to rest once and for all Ireland’s ancient curse – the curse of the bad blood of violence in the reformation/counter-reformation split that has kept us separated for so long – the curse of 1641 and 1649.

People whose forbears were separated by historical splits in consciousness and whose divisions have subsequently been deepened in the bad blood of recurring violence across an ever widening gulf of separation can hardly be expected, without healing of the historical wound, to live together in harmony! Politicians can only do so much. It is to our Holy Men and Women that we should be looking for a lead in the healing of the bitter wounds that we have inflicted upon each other. How else are we to be redeemed for the violation which we and our forbears have done to others by attitude as well as our action.

The violator clings to falsehood or suffers guilt: the violated feel resentful or seek revenge. Without the catharsis of healing, the cycle of violence cannot be broken.

The Third Party – Vital to the Process

Until healing of ancient wounds does occur – and there have been hopeful signs given by some of our more courageous clergy – there will remain, in the search for accommodation, a compelling requirement for trusted third parties in our deliberations. To resolve conflict by adverting to ‘the third party’ is a very old custom. The third party to be effective must be strong as well as trusted providing safeguards to generate assurance as we endeavor to resolve differences in a constructive manner.

As far as Ireland is concerned, the United Nations never seemed likely to provide an umbrella under which movement for constructive resolution could be fostered. The same is not true, however, for emerging European Institutions. Both Britain and Ireland have already surrendered a significant degree of sovereignty to Europe. Deep fears in Northern Unionists and Northern Nationalists of one or other side winning or losing, cannot be quite the same when the effect of whatever is won or lost will be shared between them in a pan-European context. Today, our conflict is more and more taking on the appearance of an intra-family feud rather than an inter-family vendetta and the EEC is there with the potential to become a moderating third party.

Evolving Solution with built in Capacity for Change

We are still coping with the residue of the legacy bequeathed by centuries of imperialism and division combined with state injustice, state force and state violence and the reaction to it.

Even so, there are not many people in today's Ireland who would still wish to react by supporting a solution in which Irishness is defined for us and uniformity sought through imposing the consequences of such definition upon us.

The search for a solution that would be 'final' in terms of victory or defeat for one side or the other, has in more recent times been exposed as the great contradiction; the claim to 'right' by so called victors is the great lie. The truth is that neither victors nor vanquished have a monopoly of right or wrong – the real battle is between awareness and ignorance, truth and falsehood – love and hope on the one hand, hatred and despair on the other.

Progress now demands of us that we find a democratic formula whereby loyalists and republicans may live together in such a way that the natural tension inherent in difference will be harnessed constructively to enrich and expand us all. In other words we must be encouraged to embrace an evolving solution with built in capacity for positive response to changing circumstances.

The Consensus-seeking Process

Setting the Scene

In many parts of the world, people are breaking free from the shackles of their immediate past and we should be no exception.

In so doing, it seems right that dialogue should start where commonsense dictates-namely, in the territory of the conflict-Northern Ireland-and conclude – when history indicates, in an accommodation for Ireland in which people may live at peace with each other and for one another.

The conflict of loyalty within Northern Ireland has been sustained by the conflict of claim of sovereignty over Northern Ireland. One such claim is enshrined Articles 2 and 3 of the Southern Constitution (see appendix 1), the other enshrined in the residue of Section 75 of the Government of Ireland Act (1920). The two sovereign Governments are very much part of the problem and must therefore also be part of the solution. By facing up fully to their responsibilities in this respect, they could, as partners in the New Europe, galvanize us into constructive dialogue about our future.

The New Ireland Group would therefore urge the two sovereign governments to resolve their conflicting claims to sovereignty over Northern Ireland by making a joint declaration to the effect that – with appropriate safeguards in place-it is their intention:

- in due course to withdraw all claims to sovereignty over Northern Ireland and,
- in the meantime to act as joint sponsors of a consensus-seeking process and as joint guarantors for its outcome and,
- to seek the support of the European Community in so doing.

Appropriate safeguards should include a European /Commonwealth task force, available if needed, as back-up for the local police to ensure that any vacuum is not exploited by those who might prefer violent conflict to democratic consensus as the means of settling the outcome.

Such joint declaration should go a long way in dissolving Loyalist fears of being absorbed, either now or at any time in the future, into an extension of the present 26-county Irish Republic and should also go just as far in reassuring Republicans that the imperial assertion of the Westminster Parliament to sovereignty over them will in due course be removed (see Window of Opportunity, Newsletter, February 26th, 1992).

Further activation of the process could be achieved by appropriate amendment of Articles 2 and 3 of the Irish Constitution (see Appendix 1). The issue of Articles 2 and 3 is a particularly sensitive one, for it impinges significantly not only on the fears of Nationalists and Unionists living in Northern Ireland but also on the rest of Ireland in relation to the bitter legacy of Anglo-Irish and Irish sectarian history. In attempting to reassure Unionists regarding the irredentist perception of these Articles, it is vital that any proposed amendment does not accentuate feelings of isolation and insecurity among Northern Nationalists or – because of a negative outcome – merely serve to reinforce the worst fears of Unionists.

In short, the Articles in question might be re-phrased to emphasize aspiration to the building of a New Ireland in the spirit of brotherhood and patience with explicit repudiation of violence as a means of bringing this about (see Appendix 1).

We should also urge the wisdom of suspending the Anglo-Irish Conference for the duration of the consensus-seeking process and of replacing the present Maryfield Secretariat by European Secretariat throughout the same period. The joint London-Dublin sponsorship and joint guarantorship could then be mediated through activation of the Anglo-Irish Inter-Governmental Council – originally brought into being in November 1981. Again, we would stress the importance of having the work of this Council complemented by committed European Community endorsement.

If, in the changed context, all-embracing political dialogue is gradually to replace killing and mayhem, media bans on elected persons must be lifted.

In the changed context which would be produced by our proposals, there should be no justification whatsoever for any claim by Loyalists or Republicans of political motivation for further killing and therefore no sound reason to fear the outcome of scrutiny of the case which any political party might wish to put before the public through the media.

During the preparatory period prior to the onset of the consensus-seeking process, every encouragement should be given to the reduction of feelings of insecurity and to building up of trust. Inevitably, this must imply the provision of ever more cross-community sharing, exchange and celebration; in this respect, the roll of communication through cultural and sporting activities is vital so that each tradition may undergo reciprocal penetration by the other to the mutual advantage of both. Must Catholic schools never play rugby? Must state schools with their British Protestant ethos never enjoy hurling? And why, for that matter, shouldn't more grammar schools encourage soccer as one of their options?

If indeed "language is an expression of power", is it not time for us to protect ourselves from the power which is imposed upon us from outside through acquiring – in addition to a global language, which in our case is English, - the local Gaelic language which is unique to where we live. In sharing this ancient language and growing more confident in its use, we would be affording ourselves a measure of protection from an overweening penetration by others. The Icelandic population of a mere 250.000 has achieved a balance between local assertion of itself through Icelandic, and global outreach through English. As counter-balance to the language of centralizing power and as something we could share and enjoy it seems appropriate to reconsider the role of the Gaelic language in our future development.

In the conditions described, political dialogue to determine our future on the basis of consensus, would then be taking place in a fundamentally altered climate yet backed up by built-in Anglo –Irish and-hopefully-European support and safeguards aiming to assist and meet social and economic needs during and immediately after the uncertain period of the consensus seeking process.

The Process

Once the external powers have set the scene by providing necessary safeguards and by removing the duress of their conflicting constitutional claims, we would urge that the process should proceed as follows:

- An appeal by the sponsors and other leaders for a permanent paramilitary ceasefire and the announcement of an amnesty once this is effected (See Appendix 11).
- The convening of an open public forum in Northern Ireland under the chairmanship of a respected international figure, assisted by a neutral-perhaps European-commission and secretariat. The public forum should be open to receive submissions from individuals or parties without prejudice. The forum should be free to invite group spokesmen or individuals for oral cross-examination on the viewpoints expressed by them. It should be open to submissions on any topic relevant to peaceful resolution of our conflict. Contributions might therefore be expected to cover a wide range of topics and to include comment and proposals on constitutional, political, social, cultural, economic and local community matters. It is vital that any such public forum be in a position to have its deliberations generously reported through press and media or else ensure widespread distribution of an appropriate news sheet of its own. Outreach is essential if awareness is to be raised. Initiative '92 has already instituted such a forum and this may yet turn out to be part of what will be perceived historically as a 'preparatory period'. As a forum, Initiative '92 is being convened while the conflicting claims to sovereignty over Northern Ireland remain and without statutory European endorsement. While the protocol of the forum of Initiative '92 may be very similar to the one that we are advocating, the political climate in which the latter would be taking place would be significantly different. Even so, Initiative '92 should be a most valuable development; furthermore, it may signal the justification for further fora of a similar nature in the future.

In this respect, the possibility of satellite fora in centres and communities outside of Belfast should not be overlooked.

There is no reason why such fora could not be linked into the deliberations of a central forum just as surgical operations carried out by junior trainees under the

Antarctic Icecap may nowadays be monitored in the Department of Surgery in Aberdeen!)

- Following the conclusion of the public forum, a constitutional convention of say 100 delegates to be elected. Lest people feel that 100 is too many, it is perhaps worth recalling that in ancient Athens, the city council was known as the 'council of 500'; each of the 10 tribes provided 50 members! In order to promote the widest possible representation, a system such as the list system should be used – see Appendix 11.
- The constitutional convention might proceed as follows: (a) Consideration of the submission to and the final report of the public forum. (b) Definition of and consideration of the means of achieving and methods of assessing consensus. (c) A constitutional debate on all proposals which are likely to lead to consensus. Such debate should bring to the fore a wide range of constitutional possibilities with novel suggestions as to how consensus might be achieved for each of them. Proposals for many different solutions will undoubtedly appear on any agenda dealing with our historic divisions. For example, there would be advocates pressing for: (1) various forms of internal Northern Ireland solution re-linked to Britain. (11) Various qualified structures for 'total integration' within the United Kingdom. (111) Various degrees of autonomy veering towards independence for Northern Ireland. (1V) Spare the thought: varying degrees of re-partition within Northern Ireland. (V) New Federal arrangements both within the archipelago as a whole and for the archipelago as part of a new federation of European regions. (V1) Consensus for the building of a New Ireland-taking into account the variety of means of achieving it such as federal and confederal concepts, with or without canton subdivisions and with varying degrees of devolved power to the local communities.

At the conclusion of the convention, representatives to vote by preferendum (a mechanism devised by the Ecology Party) by which it is possible to determine which option, out of any number of options, has the greatest degree of consensus. Appendix 11.

- To seek ratification by the people of the option which, at the conclusion of the convention, yields the greatest degree of consensus and to do so by referendum requiring for ratification at least two thirds of the valid votes cast.
- Failure to reach conclusion of the process would lead to the reactivation of the full workings of the Anglo-Irish Conference and Secretariat until such time as the process could be tried again unless, through deadlock or as a more acceptable alternative, it is deemed necessary to consider European Protectorate Status for Northern Ireland as an interim measure.

New Ireland

Those who share the New Ireland's Group's belief that the most enduring consensus for the most liberating outcome will be found in the building of a new democratic order in Ireland, would be required to outline the conditions which could promote consensus for it (A Process Based on the Principle of Consensus – 1989,p19-21).

Perhaps the most significant measure in this respect would be the convening of an all-Ireland conference to test whether or not, the rest of Ireland was ready to make the accommodation necessary.

It has yet to be affirmed by political leaders in the South that the creation of a New Ireland will involve the dissolution of the Irish Republic as at present constituted. The constitution of a democratic New Ireland should reflect the requirements imposed by the challenge of consensus.

At the people's forum and also during the period of the constitutional convention, the New Ireland Group would urge that certain issues must be addressed if the New Ireland Option is to be promoted realistically. Consideration of such matters may well prove to be painful especially for those who have suffered injury, loss or bereavement or simply for those who have not come to terms – in the South as well as in the North – with the distance we have yet to travel if we are to deal conclusively with the causes and consequences of recurring violence which stretch back in the political consciousness of the people for such a long time. Even so, nothing that touches on the sensitive issues of identity, fear and hope should be excluded from the debate. At the very least the following matters should be addressed:

- Acceptance of the need for an **indefinite transition period** with special arrangements for its governance. This period would terminate only when new arrangements were clearly seen to be acceptable to the overwhelming majority of people. This would be consistent with our conviction that an evolving solution inviting participation to meet the challenge is much preferable to the notion of a final solution which would by implication of its specific nature, be a threat to those opposing it.

The onus would therefore be placed on those of us who believe in the potential of a New Ireland to ensure that those most fearful of it could grow in confidence as participants in its development.

The country cannot afford further exodus; it must seek commitment to give our young people-all of them-opportunity to build a worthwhile future together.

- Acceptance of that **degree of autonomy for a six county Northern Ireland or nine-county Ulster**, that would be required, firstly, during the transition period, in relation to matters which could not be resolved overnight and secondly, following conclusion of the transition period, in relation to requirements for regional decentralization, cantonization, etc, in this respect it is worth noting that Bunreacht na hEireann (The Irish Constitution) contains two very significant Articles: 15.1.3 states "*The Houses of the Oireachtas shall sit in or near the city of Dublin or in such place as they may from time to time determine*". Article 15.2.2 states: "*Provision may be made by law for the creation or recognition of subordinate legislatures and for the powers and functions of these legislatures*".
- **Irish membership of the Commonwealth of Nations.** The 'Common wealth' is no longer the British Commonwealth. It includes a number of republics and many of its members, in common with Ireland, have had their share of post-colonial problems. The Commonwealth could provide Ireland, as a neutral and small nation, with further scope to exert global influence for peace-making purpose: it would also provide means of bringing pressure to bear on our more powerful neighbour. Application by Ireland for appropriate association with the Commonwealth of Nations would be a significant gesture to Loyalist consciousness as well a test of Irish Republican willingness to compromise in order to accommodate.
- **A Bill of Rights** which would draw heavily on the European Convention of Human Rights, the United Nations Declaration of Human Rights and the United Nations Covenants on Human Rights. As token of intent and as indication of bonafides, consideration might be given, during this 'preparatory' period, for the incorporation of the European Convention into the domestic law of Northern Ireland and also into the Constitution of the present Irish Republic.

- Release of prisoners with **amnesty** on permanent ceasefire. See Appendix 111.
- **A Community Charter** to enable devolution of power to ensure, within overall regional and national guidelines, that participation is sufficiently effective to produce action appropriate to need where people live and work. The value of a community forum, community guilds, neighbourhood and townland associations, co-operative councils, citizen's advice bureau and a system of locally accountable taxation are all dealt with in a separate pamphlet being prepared for publication, Route to Community Health Enterprise and Responsibility'. Economic and Political power must be devolved to the people in such a manner as to ensure that no-one feels that they belong to what is so glibly described as an 'under class'.
- Consideration of the most appropriate **siting for a new all-Ireland parliament**, as well as the desirability of providing for regional assemblies along lines already referred to in Article 15.2.2 of the present Constitution of the Irish Republic.
- **Explicit separation of church and state** in any all-Ireland constitution.
- Commitment to the encouragement of **ecclesiastical, cultural, and social initiatives** to enable the children of Ireland to grow in unity. In particular, to address the sectarian and class basis of separation and, in so doing, to accelerate changes required in traditional attitudes that have promoted concepts of second-class partners or second-class citizens.
- **Underpinning of the economy**. Consideration of ways and means whereby the economy of the transitional period could be underpinned by European and American interests sympathetic to political reconciliation and stability in Ireland. Stability could easily be compromised by an unacceptable fall in the standard of living at a time when the economy would be vulnerable and the political climate uncertain.
- **The dissolution of the present State and Constitution of the Irish Republic**. It is axiomatic that the New Ireland cannot be the old Ireland in disguise.

- Should the delegates at the Northern Ireland Convention find consensus for promoting the New Ireland Option, then it would follow that an **all-Ireland Conference** should be convened in order to test whether or not the Southern delegates could meet Northern conditions.

Such a conference would be bound to consider the drafting of a provisional constitution that would reflect the degree of consensus which delegates had obtained for the new arrangements and this would be put before the people for ratification by an agreed weighted majority (perhaps two thirds) of votes cast **separately** in the North and in the rest of Ireland. In the event of failure to achieve ratification in either part of Ireland, the proposals to be referred back to the all-Ireland Conference for further consideration, amendment and further trial of ratification and this process to continue to successful conclusion unless it becomes apparent that such conclusion will not be reached in which case the Northern people would be compelled to consider again other options which would have been brought forward at the preceding Northern consensus seeking convention.

Appendix 1

Articles 2 and 3 of the Irish Constitution

At the prestigious McDermott Northern Ireland Law Society Lecture in 1977, the late Supreme Court Judge, Mr. Justice Kenny, stated that:

“When the people enacted the Constitution, they did not make a legal claim that the Parliament and Government established by the Constitution had any legal power under international or National Law to exercise any power over Northern Ireland.” 20

This statement was consistent with the position taken by the Supreme Court at the time of the Constitutional Challenge (Boland-v-an Taoiseach, 1974) mounted against the Irish Government’s ratification of the Sunningdale Agreement.

In 1977, during the passage of the Criminal Law Jurisdiction Bill through the Dail, the Government sought a Supreme Court ruling on its constitutionality.

In response, the Supreme Court affirmed that:

“This national claim to unity exists not in the legal but in the political order.”

Thus, by the latter half of the 1970s, it seemed that these Articles *“posed no threat to Northern Ireland that could be sustained in either National or International Law”*

(personal communication from the late Mr. Justice Kenny). In other words, in the unlikely event of a unilateral withdrawal by Britain, of its control over Northern Ireland, a coming together of the two parts of Ireland could not have taken place, outside of the use of force, without successful negotiation between representatives of those living in the territory generally understood by the term Republic of Ireland.

Since the late 1970s, therefore, moderating southern Nationalists were increasingly perceiving these Articles as aspirational and, as a result, were able to approach Unionists in a more relaxed political state of mind.

On the other hand, republican purists continued to view the Articles as enshrining a claim to Northern Ireland vindicated by the result of the 1918 General Election when only four counties-Derry, Antrim, Down and Armagh returned unionist majorities. The 64:57 Dail vote in favour of the Treaty of 1921, was rejected by republicans on the grounds that a Treaty and its ratification were achieved under duress by Lloyd George's threat of "war within three days" if it were not acceptable to the Irish team of negotiators.

By contrast, many loyalists continue to perceive Articles 2 and 3 as a monstrous intrusion into what they identify as their right to govern the territory of Northern Ireland separately from the Irish Republic. Both Republicans and Loyalists might now ask how their respective majoritarian stances could ever be reconciled peacefully. In any case, 'the territorial imperative' seems dated as we face up to the reality that life on planet earth now depends on how we share today and conserve for tomorrow. Peaceful resolution of traditional stances has a special relevance in a nuclear age; without recourse to consensus politics as replacement for the arrogant majoritarianism of the past, there can be little hope for long-term survival.

Returning to the specific issue of Articles 2 and 3, reasonable people at the end of the 70s, and throughout the 80s, were suggesting on both sides of the border, that these Articles might be amended in order to rid them of ambiguity and to bring them up to date with developing legal and political opinion thus ensuring that they would express aspiration rather than claim. Wise people, however, feared that a referendum to change the Articles might well be counter-productive. Many of those who might have wished that the Articles had never been included in the Constitution, would have had difficulty, confronted by the legacy of Anglo-Irish history, in voting to change them. Failure to carry a moderating amendment would have reinforced fears in the Loyalist/Unionist community.

In considering the effect of these Articles on the process of political reconciliation, it should also be recalled that in 1937, the Irish Constitution was ratified by fewer than 40% of the voters in the 26 county area, while 30% voted against it and 31% did not vote. Had the vote of those living in the Northern six counties-about whom the Constitution expressed such predatory intent-been canvassed, the outcome might have been quite different!

The increasing tendency to a more liberal interpretation of Articles 2 and 3 of the Constitution was further supported by the wording of Article 1 (a) of the Anglo-Irish Agreement (1985). Then came the bombshell of the Supreme Court Judgment in the McGimpsey case, March 1990, which, in its ruling on Articles 2 and 3, concluded that:

“The re-unification of the National Territory is a Constitutional imperative”.

This judgment makes it extremely difficult for Northern Unionists to negotiate easily with the Southern Government on the issue of sovereignty for the hands of the latter are now tied in the knowledge that there can be no change in the current rigid position without recourse to a referendum.

Unionist-Nationalist dialogue is further inhibited by the fact that those Irish people who would claim political motivation for acts of violence in pursuit of unification, may, as a result of this judgement, receive certain sympathetic consideration before the law that would otherwise have been denied to them. The Supreme Court judgement could also have an unexpected effect. By coming out so strongly in favour of an irredentist interpretation, the Supreme Court may have –wittingly or otherwise- created the conditions in which amendment will increasingly be sought and become easier to achieve!

Citizens of the Irish Republic who feel disturbed by the implications of the Supreme Court judgement, have a simple remedy- the amending of Article 3 of the Constitution by eliminating the words which follow on the words “Pending the re-integration of the National Territory...” and replacing the eliminated words by the words, “the use of violence as a means of rendering such re-integration shall be prohibited” (Jack McQuillan, former T.D). The eliminated words would then require to be drafted into an additional section of the same Article.

Other proposals have been made which would restore an aspirational interpretation e.g. those of the all-Party Committee on the Constitution (December 1967) and those of the former Senator-now President-Mary Robinson (Irish Times, April 21st, 1990).

Taking into account the very real fears of the **Northern minority**, the hopeful and peaceful aspiration of the vast majority of the people of the Irish Republic and the vitally important need to reassure the **Irish minority** –namely, the Northern Unionist population-Articles 2 and 3 as they stand, and more significantly as they are perceived, are now an obstacle to the coming together of the people of Ireland.

In urging their amendment, however, the New Ireland Group is adamantly opposed to their repeal until such time as Britain is prepared to repeal its assertion of sovereignty over Northern Ireland as contained in Section 75 of the Government of Ireland Act and retained in the Ireland Act (1949) and further preserved under Schedule 6 of the Northern Ireland Constitution Act (1973).

The New Ireland Group would therefore urge that there should be:

- Urgent amendment of Articles 2 and 3 appropriate to the objective of promoting political reconciliation among the people of Ireland, taking into account the need to reassure Northern Nationalists that they will not be isolated and Northern Unionists that irredentism is neither intended nor implied. As indication of intent for a new and more hopeful era, a significant gesture could be made were these articles redrafted, in a spirit of brotherhood and patience, to express an aspiration to political accommodation between all the peoples of Ireland with explicit repudiation of violence as a means of bringing this about.
- No repeal of Articles 2 and 3 until such time as the Parliament of the United Kingdom is ready to repeal the residue of Section 75 of the Government of Ireland Act (1920).
- An affirmation by leaders of public opinion in the Republic of Ireland that the creation of a New Ireland implies the dissolution of the Irish Republic as present constituted.

Voting Systems: The Preferendum and Consensus

- **Plurality voting:** A candidate or an idea requires only to poll more votes than any other single candidate or idea listed on the voting papers i.e. the winner may poll fewer votes than the combined opposition.
- **Majority voting:** A candidate or an idea requires more than 50% of the vote i.e. the winner must poll more votes than the combined opposition. If, in a mult-candidate or multi-party contest, there is deadlock because no candidate or party has secured 50% of the total vote, it may be necessary to hold a second ballot or in the first instance to have two ballot paper-one for the first choice and one for the second choice, the latter to be used if the former fails to produce the 50% majority.
- **Weighted majority voting:** A candidate or an idea requires a greater proportion than 50% of the votes for that candidate or idea to be adopted.

In voting for representatives, the above systems take insufficient account of minority parties of significance. The latter are denied representation unless their people are concentrated in a particular locality or region.

- **Proportional Representation:** By introducing proportional representation of one kind or another, it is possible for those holding minority view- points to have greater likelihood of influencing the outcome of the particular election. By using proportional representation, parties, which cannot achieve a majority or plurality of votes, retain the possibility of electing someone to represent them. In using proportional representation, the size of the electoral constituency is critical; the larger the constituency in terms of seats, the more proportional the representation will be.

- **The List System:** The P.R system is primarily focused on the election of candidates rather than parties, whereas, the List System is more concerned with parties. The parties compile lists

of candidates but the elector votes for the party, not the candidate. After the election, the party allocates its delegates to the seats that it has won. This may be carried out in accordance with the known order delegates on the party list. In a 100 member assembly, any independent or party recording 1/100 of the votes cast, has the right to one seat. (2/100 of the votes cast confirms 2 seats and so on).

- **Referendum:** In the early 1980s, the New Ireland Group considered how the P.R system of voting for candidates might also be applied to policy decision making as well. Around that time, one of our members introduced us to his, then novel, concept of the referendum and subsequently to the matrix voting system. These, in particular the referendum, have been used effectively at the four People's Conventions, hosted by the New Ireland Group and held in the Mandela Hall of Queens University Belfast. Briefly the Referendum works as follows: (a) a consensor lists all the options for which he/she has concluded there is support, either by commitment or by numerical strength or both, but excepting any option which, in her/his opinion, is repugnant to generally accepted principles of human rights, such as those enshrined in the United Nations Declaration of Human Rights, the United Nations on Human Rights and the European Convention on Human Rights. (b) The voting paper is presented as a list of the options. The voter gives each option, for which she/he wishes to vote, a score – highest score to the one she/he favours most, lowest score to her/his least favoured option. The highest score will be the same number as the total number of options for which the voter votes, the lowest score will always be 1. By voting for all the options, the voter ensures the highest score possible for his/her most favoured option. The voter is only encouraged to acknowledge the democratic right of others to hold a contrary opinion but is also rewarded for so doing-the greater the number of options for which she/he votes, the higher the score for her/his most favoured option. Thus, in a fully taken up 10 option voting paper, a first preference would receive 10 points and the tenth preference would receive 1 point.

In-spite of the Human Rights safeguard, options will inevitably appear on the voting paper which could be so unacceptable to certain voters, that they would spoil their voting paper rather than give a score to the options in question. Rather than spoil

her/his paper, the voter should decide how many of the options she/he can vote for and then score that number against her/his most favoured option. Thus, in a 10 option preferendum, if there were four options, so unacceptable to the voting 'democrat' that she/he could not give even a low voting score to them then such a voter would have the choice of giving her/his lowest acceptable option a score of 1 and a score of 6 to the option which she/he favours most. (c) For each of the options, the points attained on each of the voting papers are then added up and the option with the greatest number of points is the one deemed to have achieved the most acceptable degree of consensus. In a age of desk top mini-computers, preferendum voting is not only timely but will soon become a very practical means of assessing consensus.

Appendix 111

Truce, Trust, Ceasefire and Amnesty

Northern Ireland has suffered 23 years of lethal violence on its streets and this is only the most recent manifestation of the recurring cycle of violence experienced in Ireland by the quarter-century for some 400 years and in Belfast by the decade since the 1830s.

Over the years, many people who condemn violence out of hand would also admit-if they were being honest-to holding different feelings of sympathy and censure depending on who was the violator and who the violated. Thus, while we are ready with our condemnation of violence, many, if not all of us retain elements of the unresolved conflict deep inside ourselves.

It was not for no good reason that J.C Beckett (18) reminds us in *'The Making of Modern Ireland'*:

"It is a proverb of old date, that the pride of France, the treason of England and the war of Ireland shall never have end. Which proverb, touching the war of Ireland, is likely always to continue, without God set in men's breasts to find some new remedy that never was found before".

With regard to the need for a ceasefire, it is axiomatic that we shall not have peace without one.

As people who have considered paramilitary psychology will be aware, a ceasefire, short of out and out victory or defeat, is incredibly difficult to negotiate because of the great concern of paramilitary leaders about remobilization after any period of de-escalation leading to de-mobilization; likewise, those opposed to the

paramilitaries also fear that any period of truce will be used by the paramilitaries for regrouping and re-stocking. Where there is no trust, the fear of being deceived in some way or another makes leaders hesitant.

On the other hand, if we do not earnestly seek a means of obtaining a permanent ceasefire-and the sooner the better-political violence will still be with us a decade from now.

We would suggest, that the following matters need to be addressed, in a coordinated manner:

- The linking of amnesty to ceasefire in conjunction with the preparation for a democratic consensus seeking process.
- A period of Truce.
- A call for ceasefire with amnesty at the outset of the democratic consensus seeking process.

The period of Truce would be an opportunity to determine the democratic nature of the consensus-seeking process so that it may be inaugurated with a realistic appeal for permanent ceasefire in return for amnesty.

It should be confirmed that all parties would be free to participate in the consensus seeking process in proportion to their level of support. In this respect, it is a considerable drawback at present that Loyalist paramilitaries-unlike their Republican counterparts-lack identifiable political representation.

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