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1 May, 1998

Mr. Justice T.A. Finlay
Chairman
The Referendum Commission

Dear Chairman,

In response to the public advertisements by the Referendum Commission for submissions in regard to the proposed amendments to Articles 2, 3 and 29 of the Constitution of Ireland, arising from the Agreements reached in Belfast on Good Friday, 10 April, 1998, I am to enclose, for the attention of the Commission, a submission on behalf of the Department of the Taoiseach, supporting The Case for the Amendment.

Yours sincerely,



Walter P. Kirwan
Assistant Secretary
Northern Ireland Division

Summary

The Multi-Party Agreement represents the outcome of the most intensive and widely based negotiations ever seen in these islands, involving nationalists and unionists, loyalists and republicans. As such, it has real potential to command very widespread support, thereby consolidating peace and bringing to an end 30 years of conflict.

In particular, the Agreement provides for a fair and honourable accommodation between Nationalism and Unionism, creating a level playing field in which both traditions can promote their legitimate political objectives while at the same time working together in partnership and co-operation to their mutual benefit.

The Agreement also provides, for the first time since 1918, for a concurrent act of self-determination by the people of Ireland, North and South, which will cut the ground from under any false claim of justification for further acts of violence from any quarter.

The Agreement provides a balanced constitutional settlement, involving not only constitutional change here but also in Britain. These changes will reinforce the principle that in Ireland, North and South, it is the people who are sovereign: henceforth their wishes alone decide. Any other British claims will go.

The changes to Article 2 and 3 reflect modern republican thought and keep faith with the pluralist tradition of Irish nationalism. And, as a safeguard, the

amendments to our Constitution are framed in such a way that they are conditional on the successful completion of all the other steps necessary to bring the Agreement into force.

The Agreement provides completely new and fair institutional arrangements for the internal government of Northern Ireland, which ensure it must operate on a basis of partnership and agreement between the two main communities - rather than domination of one community by the other.

The Agreement establishes new, meaningful North-South interconnections, which will provide an unprecedented opportunity for the two administrations, North and South, to work together to their mutual benefit and to build trust. They will also give practical and institutional expression to the Irish identity of Northern Nationalists.

They will have a solid foundation in legislation in Dublin and at Westminster. The arrangements ensure that action on an all-island and cross-border basis cannot fall behind other aspects of the Agreements.

Finally, the Agreement involves - of particular importance for change on the ground - a series of major advances in the equality agenda in the political, economic, social and linguistic spheres and protection of human rights; in regard to justice and to a new beginning to policing in Northern Ireland, aiming towards an unarmed police force, reflecting in its composition and ethos, the make-up of the population there; and in regard to normalisation in a peaceful and stable society, including important provisions on prisoners and the removal

of security measures and installations, as the level of threat reduces, and on decommissioning.

In sum, the Agreement provides for a whole new beginning - based on partnership and trust - in relationships within Northern Ireland, between North and South and between Ireland and Britain. In particular it will mean a new beginning for everyone on the island of Ireland which will allow all the people, North and South, to live in peace and harmony, to develop and achieve their full human potential and to work together to their mutual benefit and prosperity.

**Submission from the Department of the Taoiseach
to the Referendum Commission**

Points in favour of the Nineteenth Amendment to the Constitution

- The constitutional amendment will allow the State to be bound by the British-Irish Agreement made in Belfast on 10 April, 1998. That commits the two Governments to support and implement the Agreement reached in the Multi-Party Talks (the Multi-Party Agreement).
- The Multi-Party Agreement, which is the culmination of two years of negotiations involving the Irish and British Governments, the Ulster Unionist Party, the Social Democratic and Labour Party, Sinn Féin, the Ulster Democratic Party, the Progressive Unionist Party, The Northern Ireland Women's Coalition and the Northern Ireland Labour Party, is comprehensive in its scope. It establishes the basis, not only for a new political landscape in Ireland, with institutional and political arrangements capable of reflecting the identities and ethos of both communities on the island, but also for the resolution of the conflict that has endured for 30 years and taken over 3,400 lives.
- The referendums, North and South, represent a concurrent act of self-determination by the people of Ireland as a whole for the first time since 1918. The new settlement will replace that of 1920/21. A Yes vote throughout the island will cut the ground from under any false claim of justification for further acts of violence from any quarter, Republican or Loyalist.
- The Multi-Party Agreement is a hard-won and fair compromise that recognises that we have to live together on this island, and for that we need peace, stability and reconciliation. It is a package: as such, it has to be seen as a whole. If we try to pick and choose, the whole thing will collapse.
- The Agreement is a balanced constitutional settlement involving not only constitutional change here but also in Britain. It provides a peaceful method of resolving in the future matters on which there are fundamental differences, while creating a basis for practical partnership and co-operation now.

The purpose of the changes to Articles 2 and 3 in our Constitution and to British constitutional law is to reinforce the principle that in Ireland, North and South, it is the people who are sovereign.

- Any British territorial claim to sovereignty, made without reference to the wishes of the people, going back to the Government of Ireland Act, 1920, the Act of Union and indeed to 1170, will go, being superseded by a new British Act which will reflect the principle of consent and that alone.
- In agreed British constitutional change, and the commitments made in the Agreement, the full legitimacy of nationalist aspirations is recognised.
- The British-Irish Agreement recognises the right of self-determination of the people of Ireland and that it is for them alone, by agreement between the two parts but without external impediment, to exercise that right.
- For the first time, the constitutional amendments, taken with the commitments in the internationally binding British-Irish Agreement, provide a clear and realistic mechanism - accepted by the British Government - by which a united Ireland can be put in place, by the consent of Irish people and by that alone.
- With their generous, inclusive but non-threatening definition of the Irish nation, the reformulated Articles 2 and 3 reflect modern, progressive republican thought that is truly pluralist, and keep faith with the open and inclusive tradition of Irish nationalism. The nation is defined in terms of people - but people clearly related to a specific territory, the island of Ireland, which, of course, includes all 32 counties.
- For the first time, the Irish nationality and citizenship rights of everyone born on this island, who wants to avail of them, are anchored expressly in the Constitution and in international law.
- There is clear recognition for the first time in the Constitution of the Irish diaspora.
- In the new Article 3, the firm will of the Irish nation to unity is expressed in strong terms, while recognising that it can only be achieved by consent, North and South. The words "in harmony and friendship" apply to the process of seeking unity.

- As a safeguard, the amendments to the Constitution are framed in such a way that they are conditional on the successful completion of all the other steps necessary to bring the Agreement into force. The new Articles will only replace the old ones if a referendum is successful in Northern Ireland, and at the same time as the new institutions - including the North/South Ministerial Council and the initial all-island and cross-border implementation bodies - come into operation.
- The Multi-Party Agreement involves completely new and fair arrangements for the internal government of Northern Ireland. The electoral system will ensure, using the single transferable vote, that the result is fair and impartial, and will ensure that the smaller parties have a reasonable chance of securing a seat. All democratic parties, who stick to peaceful means alone which have a significant level of support in the electorate will have Ministers in the Cabinet-type Executive, if they wish. The new requirement for parallel consent in the decision making process will ensure neither community can dominate the other. This is a requirement for measures to have majority support from the representatives of both communities. It is applicable to all key decisions.
 - In terms of the new institutions in Northern Ireland, the focus is on partnership based on equality.
 - The Agreements provide for meaningful North-South interconnections. The proposed new Article 3.2 and Article 29.7.2° will allow the State to join in these new arrangements - a North-South Ministerial Council and all-island and cross-border bodies to implement policies and actions decided by the Council. These arrangements will give institutional expression to the Irish identity of Northern nationalists. They will help to deepen practical interaction for mutual benefit between North and South and, over time, develop human and institutional bonds of trust and common interest.
 - The North-South arrangements will have a solid foundation in legislation in Dublin and at Westminster. Under the Agreements, the British Government must ensure that the implementation bodies are able to function when the Agreements come into force, thus making certain that action on an all-island and cross-border basis cannot fall behind other aspects.
 - The North-South Council is separate and independent from the proposed British-Irish Council, in which Ireland will participate as a sovereign state

and which poses no threat but rather a valuable opportunity for beneficial co-operation in these islands.

- The Agreements provide for a new British-Irish Intergovernmental Conference. This will have a strong focus on non-devolved issues in Northern Ireland, such as security and will enable the Irish Government to play a role similar to that under the (now to be replaced) Anglo-Irish Agreement.
- The Agreements involve major advances on the equality agenda including human rights protection and social, economic and cultural issues, including enhancement of the position of the Irish language in Northern Ireland. A range of statutory obligations and new institutions will ensure that human rights are protected, discrimination eliminated and the consequences of past discrimination tackled effectively.
- The Multi-Party Agreement involves major steps forward in regard to justice issues in Northern Ireland and to a new beginning in policing there, aiming towards an unarmed police force that will, in its make-up and ethos, reflect the diversity of the population in Northern Ireland.
- The Agreement also includes important provisions in regard to making life normal for people on the ground in a future peaceful and stable society, including provisions on the early release of prisoners, subject to safeguards; to de-escalation of security measures and installations, as the threat reduces; and to the decommissioning of arms and explosives held by paramilitary groups.
- The Agreements, fundamentally, facilitate change that is necessary for a new beginning for everyone on the island of Ireland that will allow all the people to live in peace and harmony and to develop and achieve their full human potential.