

Response on behalf of the Irish Government  
by the Tanaiste. Mr John Wilson, T D

1 The task we have set ourselves in these Talks is an ambitious one. We are attempting to achieve a new beginning for relationships within Northern Ireland, within the island of Ireland and between the peoples of these islands. That goal, agreed by all of us in the March 26th Statement, is both an admission of past failures and a programme for future action.

2 Our discussions so far have been general and exploratory. Nevertheless they have highlighted a number of crucial issues we must address in our search for progress. The Irish Government have listened very carefully to the points made by other delegations. We are pleased that we ourselves were given an extensive opportunity to respond to them as the discussion proceeded, and to clarify the thinking behind our own opening presentation. We would propose in this response to repeat in a more formal way the chief points we made in the course of those earlier discussions.

3 Our entire approach is based on the belief that a precondition for any new understanding between all the parties around this table must be a general acceptance of the legitimacy of both traditions. We accept without hesitation the right of the unionist community to be unionist and the legitimacy of their tradition. We expect from the unionist community, in turn, an unquestioning acknowledgment of the right of nationalists to be nationalist and of the equal legitimacy of the nationalist tradition.

4 A necessary consequence of this fundamental statement is that the only institutions which have a chance of being workable and of proving durable are those which respect the equal validity of both traditions and do not privilege one over the other. In the Forum Report, we subscribed to the view that "both of these identities must have equally satisfactory, secure and durable, political, administrative and symbolic expression and protection". In the Anglo-Irish Agreement, the British and Irish Governments formally recognised "the need for continuing efforts to reconcile and to acknowledge the rights of the two major traditions that exist in Ireland, represented on the one hand by those who wish for no change in the present status of Northern Ireland and on the other hand by those who aspire to a sovereign united Ireland achieved by peaceful means and through agreement". This is the only basis on which any progress will be possible.

5 The challenge we face is to translate respect for both traditions from the level of abstract principle into actual political structures which both traditions can identify with. A major obstacle in this regard is the profoundly divergent views expressed around the table on the issue of self-determination.

6 The three pro-union parties form one school of thought on this issue. The people of Northern Ireland "are a historic and coherent community and have the right to determine their own future", according to the Alliance Party. "Dublin must recognise Ulster's right to self-



determination" according to the UDUP. "We do not and will never accept that Northern Ireland can give up its right to self-determination" according to the UUP.

7        However, the alternative nationalist view holds that self-determination should properly apply to the traditional unit of the island as a whole. There is within Northern Ireland a very substantial part of the population who share that alternative view. Their view of self-determination seems no whit less valid in the perspective of logic and history. If unionists, about a fifth of the population in the island, claim the right to reject all-Ireland structures on grounds of their self-determination, what argument of principle do they advance to deny nationalists, more than a third of the population of Northern Ireland, the right to reject Northern Ireland structures on exactly the same grounds? If we could suppress one term of the political equation in Northern Ireland it would indeed become easy to solve. The drawback is that all these "solutions" turn out in the end not to be solutions, precisely because they have suppressed one term of the equation.

8        It is quite clear that the two sides come to this table from very different directions. The question is whether we can reach such a measure of understanding that we can all agree to go forward in the same direction. To achieve that we must define what it is that divides us. Then we must build bridges sufficient to span these divides.

9        We are clearly divided on the legal aspects of the problem. The British Government and the three pro-union parties in Northern Ireland, for their part, rest on the legal basis set initially by the Government of Ireland Act 1920 and a whole series of subsequent Acts of the UK Parliament. They also invoke various political statements made over the years. The unionist parties would like everyone here to accept that position fully and without reservation.

10       The position of the Irish Government, for their part, is governed by the Irish Constitution, adopted by referendum in 1937 and authoritatively interpreted in various judgments of our Supreme Court. We will continue to be governed by those provisions unless and until our electorate agrees to change them in a referendum.

11       Articles 2 and 3 of the Constitution have been much criticised by the unionist parties as a territorial claim. I believe this distorts the thinking behind the Constitution. The Constitution has a preamble and three articles dealing specifically with the nation. Much of the rest, speaking very broadly, deals with the State, which is seen as the practical organisation of the Nation, insofar as it can be achieved with due regard to the reality of partition. The Constitution reflected a continuing assumption by the nationalist community that the traditional concept of Ireland as a unit remained the valid frame of reference. Self-determination for that unit as a whole was seen as the necessary and logical fulfillment of the nationalist aspiration to express the Irish identity.

12       It is also a mistake to look at Articles 2 and 3 in isolation from other provisions of our Constitution. The Irish courts have emphasised that these Articles must be seen in the context of the Constitution as a whole. It is quite clear that the Constitution is devoted to the ideals of ordered, peaceful international relations. Its pacific intent is unmistakable. We have drawn attention before to the relevance of Article 29. The Irish Government is also a signatory to the UN Charter, to the CSCE Final Act, to the Charter of Paris and to other international



agreements which leave no doubt whatsoever about the depth of our commitment to the peaceful settlement of disputes.

13 The differing legal perspectives on the Northern Ireland problem are a reflection of differing political perspectives. I believe that a resort to purely legalistic argument is unlikely to advance our discussions. We are much more likely to resolve our legal differences by resolving our political differences than the other way round. I believe our political discussions will therefore hold the key to progress and these must start from realities.

14 There is the reality of Northern Ireland. The Irish Government accepts that Northern Ireland is governed as part of the United Kingdom. The UK is internationally responsible for it. The UK sits in the UN Security Council as "the United Kingdom of Great Britain and Northern Ireland". We know that a majority in Northern Ireland at present wish for no change in the status of Northern Ireland. The unionist parties pressed very strongly for that position to be recognised in all its consequences and without reservation.

15 That however is not the full extent of the reality of Northern Ireland. It is also a deeply divided society and a focus of grave conflict. Northern Ireland was created to cater for the unionist community only. Its borders were drawn to cover the maximum number of Ulster counties consistent with a safe unionist majority. It did not resolve the conflict between unionism and nationalism in Ireland. It merely transposed it into the "narrow ground" of Northern Ireland. A safe and predictable unionist majority was the unsurprising result of every test of public opinion within that area of reference. Thus, Northern Ireland politics reproduced the pattern and the communal arithmetic encoded in its very creation. When applied to a society deeply and permanently divided on communal lines, majority rule does not provide the potential for change which is an essential attribute of a healthy democracy. The substantial nationalist community within Northern Ireland - more than a third of the whole population - is effectively marginalised even by an impeccable application of majoritarian rules. The creation of Northern Ireland not only frustrated the wish of Northern nationalists to share in the independence of the rest of - Ireland. It also condemned them to outsider status in the administration of the new political entity.

16 In signing the Anglo-Irish Agreement the two Governments took a significant step towards formally recognising both aspects of the reality of Northern Ireland. Article One of the Agreement accepts that the wish of the present majority for no change in the status of Northern Ireland must be respected. It accepts equally that a change which aligned a majority of the people of Northern Ireland with the rest of the people of the island in a common exercise of the right to self-determination would be fully legitimate and would be implemented by both Governments. Other aspects of the Agreement recognised, either directly or by implication, the particularly difficult position of the nationalist community within Northern Ireland and accorded a role to the Irish Government in partial alleviation of it.

17 Any proposals for a successor Agreement must reflect both the importance for the identity of nationalists in Northern Ireland of the relationship with the rest of Ireland and the particular difficulties caused for them by the communal majority built into the foundations of Northern Ireland.



18 As our talks progress we will face a basic choice: We can all cling to our established positions, which are well known and well rehearsed over many years. If we do so we will rise from the table no better than we sat down. Indeed the situation may be worse, since the hopes invested in our dialogue will be frustrated.

19 We could instead take a new approach: We could set as our paramount goal the resolution of our differences, rather than the defence of our traditional positions. That involves each tradition accepting the reality of the other. None of the arrangements we have tried so far has worked in the sense of bringing peace to Northern Ireland, to the island of Ireland and to both islands. A new, more open and more imaginative approach is called for.

20 We could try to set matters right by looking at ways in which the unionist ethos could be accommodated in all-Ireland structures. Some delegations drew a distinction between the sense of nationhood and the structures of a state. If however, as the unionist parties urged, the Irish ethos can be accommodated in a British state, it would surely be equally valid to say that the British identity of unionists could be catered for in specially designed Irish structures. The unionist papers were emphatic that unionists will never consent to a united Ireland or to any process or settlement that would precipitate movement towards it. We must be careful of absolute claims by one side which involve absolute denials of the aspiration of the other. It is that which has created the vicious political cycle we are trying to break.

21 In all-Ireland structures the accommodation of the unionist community would necessarily be the dominant item on the agenda. All are agreed that structures would have to be radically altered to meet their needs. If however the context remains that of British jurisdiction in Northern Ireland, should the emphasis then not be placed on how to accommodate that group whose aspirations and identity are thereby denied their preferred expression and outlet, namely the nationalist community placed in a state designed expressly for unionism? What of their consent? What acknowledgment is to be made of their position? What will any political leader in that community be able to point to as proof that things have truly changed?

22 The UUP paper speaks of a union of hearts and minds between the unionist people and Great Britain. We do not take issue with this description. We would ask only that unionists in turn should reflect on the plight of that substantial share of the population of Northern Ireland who do not share these emotional bonds. For them, many of those symbols which the unionist tradition reveres evoke memories of a bitter and tragic historical relationship. They are not emblems of reassurance and solidarity, but of rejection and alienation.

23 There are reasons of fairness and equity why the position of the nationalist community in Northern Ireland deserves our particular consideration for as long as they find themselves in that context, which was not of their choice or designed in their interest. There are eminently practical ones as well. Unless the consent of that community is forthcoming, no new arrangements can hope for any better success than the old. Their agreement is no less a condition of workability or durability than that of the unionist community. Any attempt to make their agreement subordinate to the principle of majority rule will fail, as it has failed in the past, because it ignores the particular circumstances of Northern Ireland.



24 Furthermore the position of the nationalist community in Northern Ireland is one of the key elements at issue in any proposal to change the Irish Constitution, or indeed in the search for a new and more broadly based agreement. It is a straightforward political reality that if the Irish Constitution is to be amended in any way, this can be done only by referendum. A proposal to alter or remove Articles 2 and 3 would have little chance of commending itself to our electorate unless it were presented in the context of agreement having been reached on a set of arrangements which would ensure full equality of treatment for both traditions. Such an agreement would offer significant reassurance to the electorate and would improve the chances of the proposal being accepted. If it appeared that the proposal denied the right of people in Northern Ireland to be Irish or worsened their position, there would be very considerable, perhaps overwhelming, opposition to it. A proposal for amendment which was made in such circumstances would face the near-certainty of defeat.

25 I trust, therefore, that it will be clear to delegations around this table that the placing of a proposal before our electorate in relation to Articles 2 and 3 could not be contemplated in isolation from the wider issues involved. A key consideration will be the extent to which the objectives which have been set for the present talks are, or seem likely to be, realised. Should we be successful in that regard, a new situation would obtain and we would then be ready to give careful thought to its constitutional implications.

26 Our prospect of success will therefore be measured by the degree we accept the reality that there are two identities, two traditions, two communities - and that the tragedy of Northern Ireland will not end until political arrangements are decided which will ensure equality of treatment between both. Let us devise together, around this table, arrangements which will ensure true equality of treatment, both at the level of individual rights and in terms of the communal identities which are equally precious to both sides. A true partnership between the two communities in the North, allied to a new partnership between North and South, would help to achieve a lasting settlement capable of transforming relations on this island and between Ireland and Britain.

27 The subjects of security cooperation and legal cooperation were raised in a number of the presentations which opened our discussions. Those issues have also been touched upon in the course of the questioning of various delegations, including the Irish Government.

28 Security cooperation has always been a central element of the Irish Government's response to the present campaign of violence in Northern Ireland. The measure of that response can be seen in the demands placed on our Exchequer in terms of the additional security costs arising out of the Northern Ireland situation. Those costs now run at about £200 million per annum and represent a very considerable commitment. In comparative terms it means that our per capita expenditure on security related to the Northern Ireland situation is about four times that of the UK.

29 The measure of that response can also be seen on the ground. The number of Gardai assigned to Border Divisions has more than doubled in the period since 1970 as has the number of Gardai dedicated to anti-terrorist work within the Force as a whole. It is to be seen in the day to day cooperation between the police forces on both sides of the border and in the successes the Garda síochána have had in securing the arrest and conviction of those who engage in terrorism and in depriving them of their armaments. Our record speaks for itself. It



has also been acknowledged on many occasions by the British Government and by those who have responsibility for policing in Northern Ireland itself.

30 Legal cooperation to ensure that fugitive offenders in either jurisdiction are made amenable to justice has been another feature of the Irish Government's response to the campaign of violence. The procedures which exist for this purpose include the provision, North and South, for the extra-territorial trial of offences committed in the other jurisdiction - our Criminal Law (Jurisdiction) Act 1976 and the UK Criminal Jurisdiction Act 1975. These gave effect to the recommendations of the Law Enforcement Commission established following the Sunningdale Agreement. There are also the simplified extradition procedures based on the backing of warrants which apply in both jurisdictions. Ireland ratified without reservation the European Convention on the Suppression of Terrorism. We are one of only eight countries to do so. In applying that Convention we permit the extradition of our own citizens, in contrast to the practice of many European countries.

31 It is important to recall, however, that extradition and extra-territorial trial are legal and judicial processes and, as with any other form of judicial process, have to be implemented with due regard to legal safeguards. Irish law is no different from the law of any other country in providing for such safeguards or in giving them effect.

32 The fact also remains that persons sought for terrorist-related offences have been successfully dealt with, some under the extradition procedure and others under the extra-territorial trial procedure. Such persons will continue to be dealt with under whatever procedure is appropriate in individual cases. To that end a considerable investment has been made by both Governments - within the framework of the Anglo-Irish Conference - to ensure that these procedures operate effectively.

33 Moreover, their continued successful operation remains an important element of the Irish Government's commitment to defeating terrorism. In the area of extradition, the Government have already indicated their intention to further strengthen the existing arrangements by way of further legislation.

34 The Irish Government are open to ideas on matters of security and legal cooperation. We will be willing to discuss them just as we have discussed and furthered ideas on these matters, with the benefit of the advice of the police chiefs on both sides, within the framework of the Anglo-Irish Conference.