

Ronald Reagan Presidential Library  
Digital Library Collections

---

This is a PDF of a folder from our textual collections.

---

**WHORM Subject File Code:** CO073  
(Countries: Ireland)  
**Case file Number(s):** 206442 (8 of 11)  
**Box Number:** 95

---

To see more digitized collections visit:

<https://www.reaganlibrary.gov/archives/digitized-textual-material>

To see all Ronald Reagan Presidential Library inventories visit:

<https://www.reaganlibrary.gov/archives/white-house-inventories>

Contact a reference archivist at: **reagan.library@nara.gov**

Citation Guidelines: <https://reaganlibrary.gov/archives/research-support/citation-guide>

National Archives Catalogue: <https://catalog.archives.gov/>

No. 12

# NEW IRELAND FORUM

Public Session

Thursday, 9 February, 1984

Dublin Castle

---

## REPORT OF PROCEEDINGS

	Page
Irish Episcopal Conference Delegation                    ...                    ...                    ...	1

# NEW IRELAND FORUM

Public Session  
Thursday, 9 February, 1984  
Dublin Castle

---

11.30 a.m.

**Chairman:** Dr. Colm Ó hEocha.

**FIANNA FÁIL**

**FINE GAEL**

**MEMBERS**

Mr. Charles J. Haughey T.D.	Dr. Garret FitzGerald T.D., The Taoiseach.
Mr. Brian Lenihan T.D.	Mr. Peter Barry T.D., Minister for Foreign Affairs.
Mr. David Andrews T.D.	Miss Myra Barry T.D.
Mr. Gerry Collins T.D.	Senator James Dooge
Mr. Jim Tunney T.D.	Mr. Paddy Harte T.D.
Mr. Ray McSharry T.D.	Mr. John Kelly T.D.
Mr. John Wilson T.D.	Mr. Enda Kenny T.D.
Mrs. Eileen Lemass T.D.	Mr. Maurice Manning T.D.
Dr. Rory O'Hanlon T.D.	

**ALTERNATES**

Mr. Paudge Brennan T.D.	Mr. David Molony T.D.
Mr. Jackie Fahey T.D.	Mrs. Nora Owen T.D.
Mr. John O'Leary T.D.	Mr. Ivan Yates T.D.
Mr. Jimmy Leonard T.D.	

**LABOUR**

**SOCIAL DEMOCRATIC  
AND LABOUR PARTY**

**MEMBERS**

Mr. Dick Spring T.D., The Tánaiste and Minister for Energy.	Mr. John Hume M.E.P.
Mr. Frank Cluskey T.D.,	Mr. Séamus Mallon
Mr. Mervyn Taylor T.D.	Mr. Austin Currie
Mr. Frank Prendergast T.D.	Mr. Joe Hendron
Senator Stephen McGonagle	Mr. E. K. McGrady

**ALTERNATES**

Mrs. Eileen Desmond T.D.	Mr. Seán Farren
Senator Mary Robinson	Mr. Frank Feely
	Mr. Hugh Logue
	Mr. Paddy O'Donoghue
	Mr. Paschal O'Hare

**Chairman (Dr. Colm Ó hEocha):** Ladies and Gentlemen, the Forum will now meet in public session. I should like very much to welcome the delegation representing the Irish Episcopal Conference — Dr. Cahal Daly, Bishop of Down and Connor; Dr. Josephy Cassidy, Bishop of Clonfert and Media Spokesman for the Bishops' Conference; Dr. Edward Daly, Bishop of Derry; Dr. Dermot O'Mahony, Auxilliary Bishop of Dublin and President of the Irish Commission for Justice and Peace; Reverend Dr. Michael Ledwith, Secretary of the Bishops' Commission for Ecumenism; Mr. Matthew Salter, Lecturer in Education at Queen's University; Belfast; and Mrs. Mary McAleese, Reid Professor of Criminal Law, Criminology and Penology at Trinity College, Dublin. We thank you very much for your submission and for agreeing to make an oral presentation.

The procedure adopted by the Forum at public sessions is that submissions are taken as read. The questions will be channelled through one speaker from each of the participating parties and there will be of the order of 20 minutes for each party representative. That is of the order of one and a half hours *in toto*. The Forum parties have a system of rotation whereby the parties take turns in leading the questioning, following in second place and so on and today the order is the SDLP followed by the Labour Party followed by Fianna Fáil and Fine Gael. To start off I would ask Seamus Mallon to speak, please.

**Mr. Mallon:** It is my great pleasure on behalf of all of the Forum to welcome you here today, to thank you for your very detailed submission and to look forward to a very full, frank and honest exchange of views between us on the matters which face us within this island. Perhaps Dr. Daly would like to address himself briefly to the Forum.

**Dr. C. Daly:** There has been a good deal of discussion since our submissions were first made and, therefore, I thought I would like to make a few introductory remarks, with your permission. First of all, the Catholic Hierarchy, let me make it plain, ardently desires to promote lasting reconciliation and justice and peace in Ireland and so it welcome the efforts being made by the New Ireland Forum towards achieving these aims. Any failure in its efforts would, in our view, be a grave setback to hopes for a just and agreed settlement to our island's grievous problems. Those working to bring about a reconciled society in Ireland will not find the Catholic Church an obstacle in their path.

The Catholic Church in Ireland totally rejects the concept of a confessional state. We have not sought and we do not seek a Catholic State for a Catholic people. We believe that the alliance of Church and State is harmful for the Church and harmful for the State. We rejoiced when that ambiguous formula regarding the special position of the Catholic Church was struck out of the Constitution by the electorate of the Republic. The Catholic Church in Ireland has no power and seeks no power except the power of the gospel it preaches and the consciences and convictions of those who freely accept that teaching. The Catholic Church seeks only the freedom to proclaim the gospel. It proclaims the same doctrinal and moral message under whatever constitutional or political regime operates in this island. The Catholic Church has always carried on its mission on the basis of a Thirty-two County Ireland. Since 1922 it has promulgated exactly the same teaching in Northern Ireland as in the Republic of Ireland. Political considerations cannot determine the fulfilment of a trust that we believe we have received from Christ. We are acutely conscious of the fears of the Northern Ireland Protestant community. We recognise their apprehensions that any political or constitutional or even demographic change in Northern Ireland would imperil their Protestant heritage. It is not for us to formulate proposals for constitutional change or to draft blueprints for a future Ireland. That is the business of legislators. Because a new Ireland could take so many different forms we could scarcely be expected to say what our Christian position would be in reference to this or that specific problem in a united Ireland. What we do here and now declare, and declare with emphasis, is that we would raise our voices to resist any constitutional proposals which might infringe or might imperil the civil and religious rights and liberties cherished by Northern Protestants.

So far as the Catholic Church and questions of public morality are concerned the position of the Church over recent decades has been clear and consistent. We have repeatedly declared that we in no way seek to have the moral teaching of the Catholic Church become the criterion of constitutional change or to have the principles of Catholic faith enshrined in civil law. What we have claimed, and what we must claim, is the right to fulfil our pastoral duty and our pastoral duty is to alert the consciences of Catholics to the moral consequences of any proposed piece of legislation and to the impact of that legislation on the moral quality of life in society while leaving to the legislators and to the electorate their freedom to act in accordance with their consciences. We made a

statement in 1973 and I would like to refer to it. The occasion then was the introduction of new law regarding contraceptives. We said then:

We emphasise that it is not a matter for bishops to decide whether the law should be changed or should not be changed. That is a matter for the legislators after a conscientious consideration of all the factors involved.

If I may very briefly turn to the matter of divorce, we bishops in Northern Ireland, the bishops whose dioceses fall within the territorial limits of Northern Ireland, issued a statement in 1978 — the occasion being the Draft Matrimonial Causes (Northern Ireland) Order and that proposed to bring the Northern legislation into line with the less restrictive divorce legislation in England. We then said:

Experience in England and Wales has shown that the less restrictive legislation has led to a sharp increase in the number of divorces.

Many people of all faiths in Northern Ireland are fearful that if the proposed legislation is put into effect here a similar increase in the number of divorces would follow and we are convinced that very few in Northern Ireland would wish to see so many of our marriages ending in the divorce courts, because this would certainly lessen the spiritual significance and the seriousness of marriage.

In fact, in the event the Northern Ireland legislation was changed and brought into line with the less restrictive legislation then obtaining in England and in the past five years the number of divorces has increased nearly threefold.

Our position on this and other matters of this nature is exactly the same as that of Catholic hierarchies the world over. Regarding divorce the Canadian Episcopal Conference said in 1967:

Divorce may cause problems more serious than those it seeks to control.

I give these simply as instances of the way in which we have tried to fulfil what we see as our inescapable pastoral duty. We do feel bound to alert the consciences of Catholics to the moral and social evils which, as experience elsewhere shows, follow from certain kinds of legislative enactment. We do naturally expect these considerations to be given mature and serious thought by Catholics. Nevertheless, we have never suggested that the moral considerations we advance are the only relevant considerations in

respect of any proposed piece of legislation and we have consistently stressed the rights and the responsibilities of conscience. I would like, if I may, to quote a significant passage from that 1973 statement I referred to earlier. I quote:

What we are saying is that the factors we have outlined are important and that they have tended to be overlooked in public discussion. They should be put into the balance along with such other factors as the actual degree of inconvenience which the present law in practice causes to people of other religious persuasions and a realistic assessment as to whether a change in the law would have any significant effect at the present time on attitudes towards the reunification of Ireland.

In the area of marriage legislation, however, we would above all desire positively to stress the inestimable benefit to society of the Christian vision of marriage and of family life. We would support and we would indeed call for a thoroughgoing reform of family law designed to give society's full support to marriage and the family unit and designed in particular to protect the rights of women and of children.

In the area of education the aim of the Catholic Church is to communicate to young people, in the most favourable possible environment, the full Christian message of love, forgiveness, tolerance and peace and thus strive to promote these values in society at large. We actively encourage interdenominational contact between Catholic and Protestant schools and colleges at every level of education and in teacher training. We strongly support the maintenance of the Protestant Church presence in the controlled or State school system in Northern Ireland and of the Protestant ethos of Stranmillis College of Education.

We admire and we support the determination of most of the Protestant communities in the Republic, particularly the Church of Ireland, to retain their own denominational schools and we urge that the State should give these schools even more preferential treatment than they already receive particularly by way, perhaps, of increased boarding school grants for Protestant secondary education. So far as violence is concerned, the Irish Catholic Bishops since 1969 have consistently and unequivocally condemned the use of violence to effect political change but we wish also strongly to affirm our conviction that social and economic deprivation and unemployment are major factors fostering alienation and violence in Northern Ireland and bringing an ever-increasing danger of alienation and social unrest in the

Republic of Ireland. Alienation and violence are often symptoms, symptoms of and reactions to underlying injustice and political or social discrimination and it is these underlying causes that must be tackled.

Finally, another dominant factor of alienation and violence in Northern Ireland is the lack of willingness for political or constitutional change on the part of the British Government and the Unionist and Loyalist political parties. This intensifies the sense of exclusion and alienation in the minority community and it fortifies the impression that constitutional politics offer no hope for necessary and just political change. There is also alienation coupled with insecurity and fear in the Protestant and Unionist community. For their sake too the early achievement of a political settlement and the establishment of stable political institutions seem to us to be imperative. It is because we are deeply apprehensive about the spread of this sense of alienation that we so earnestly wish success to the work of the Forum and hope that its conclusions will meet with positive response from all those who have political authority and responsibility in both parts of Ireland and in Britain. Thank you very much.

**Mr. Mallon:** I again thank Dr. Daly for that very comprehensive statement and, for my first question, I refer to the document on political pluralism, page 3, paragraph 2 of the printed submission. You say in that, and I quote:

It is clear that a political party which advocates a misuse of political force in pursuit of its policies cannot claim acceptance merely on the basis of political pluralism.

Would you determine that the Provisional IRA campaign is a misuse of physical force?

**Dr. C. Daly:** Totally, unequivocally, unreservedly, and we have said so from the very beginning of the campaign.

**Mr. Mallon:** Thank you. In your opinion then, any political party which advocated the misuse of that political force could not, by the definition in your pluralist document, claim acceptance merely on the basis of political pluralism?

**Dr. C. Daly:** Absolutely. The political party in question has gone on record as saying that it demands from all its candidates and members unequivocal support for what they call the "armed struggle". Therefore, everyone who supports and who votes for

that party must realise that their vote is certainly going to be misrepresented as a vote for violence. That is a very, very serious responsibility to assume in conscience. Having said that, I must also say that many people are driven, because of frustration, because of the alienation, the sense of exclusion, of hopelessness and the conviction and, from their point of view, the experience, that constitutional politics has not been permitted by the institutions of the State and has not been able to make political progress, to the conclusion that there is no hope of political change. They are duped into voting for that party. But they must realise, and experience is there to show it, that their vote will be interpreted — whatever their intentions — as a vote for violence.

**Mr. Mallon:** Thank you, Dr. Daly. The leader of that political party to which I refer, that is Sinn Féin, at their last Ard Fheis said, and I quote:

The armed struggle is a necessary and morally correct form of resistance.

In your opinion do you think it is necessary?

**Dr. C. Daly:** I would like to ask my colleague, Dr. Edward Daly to comment on that.

**Dr. E. Daly:** I have lived in the North all my life. I have worked there as a priest all my life. I live today in the Bogside area of Derry. I know many of the young people who got caught up in what is described as the “armed struggle”. I know their frustrations; indeed from time to time I have shared their frustrations. I understand the anger of people, the hopelessness of people at times; the disillusionment with constitutional politics that people experience. I understand why people would vote Sinn Féin but I could not justify that myself. At the same time, I would find it very difficult to point the finger at people, a mother who has two or three sons in prison: a family that has suffered a lot of harassment from time to time; I can understand that at an election there is a gut feeling that this is a way of protesting, this is a way of getting my own back at this system which is leaning on me so much. But, at the same time, many of those people, many of those families do not want violence. They have suffered violence in so many different ways. They themselves as victims of violence could not condone it. Still, people have voted. I am disappointed that so many people voted but still they have done so; I understand what makes them do so, living in the situation. I think one has to live in a situation like that to really experience the terrible

frustration that exists after 14 or 15 years living in a situation where you have Government without consensus and so many things happening over which you have no control. I greatly respect the courage of the constitutional parties in the Nationalist community. I greatly admire them. They have stood there through thick and thin over many difficult years. They have experienced great deprivation in their own lives and I would like to say that quite clearly. I would hope for a situation when it can come where there is some stability, some peace, where there is a lack of oppressive law that is so blatantly unjust. At the moment in Derry we have, I am sure, hundreds and hundreds of people affected by the supergrass issue. We have had young people killed by plastic bullets and still no redress. We had bloody Sunday. Again, speaking for myself in that situation I went out on a limb with other priests and gave evidence to a tribunal of which the Chairman was the Lord Chief Justice of Britain, Lord Widgery. I gave sworn evidence, subjected myself to cross-examination and found that the findings of the tribunal were a travesty of justice. I was totally disillusioned at that stage, completely disillusioned. I did what I believed in conscience I ought to do. If I were a young person at that age, of 17, 18 or 19 just getting my first vote, I wonder what I would have done in those circumstances. So, for that reason I am very loath to point the finger at a young person. I think it must also be taken into consideration that that vote was made up of many people who voted for the very first time in elections in Northern Ireland. I would also think that it was perhaps a fairly large young vote by people who do not take all the political considerations into their awareness and weigh out and balance things. It was very much — forgive the expression — a gut reaction. I cannot accept that a party which has as its central policy violence of a most terrible nature has the right really to get votes but, at the same time, living in the situation in which I live I understand why some people do vote for them.

**Mr. Mallon:** The final point on that question is: is the armed struggle as defined by Mr. Adams morally correct?

**Dr. C. Daly:** Again, unequivocally and in the most emphatic terms I declare in the name of the whole Episcopal Conference that it is totally unjustified, immoral. I would also like to say, though this is not the central consideration, that it is totally defeating the very aims it proposes to set itself to accomplish. Our great need in Ireland is for reconciliation between divided communities. Violence drives the communities further and further apart.

**Mr. Mallon:** Thank you very much. I shall move on to page 3, paragraph 3.3 of your submission on protection and support of the family. You say in fairly absolute terms:

It is our conviction that the introduction of civil divorce would be a direct attack on the very institution of marriage, therefore on the institution of the family and accordingly on the basic fibres of society.

In the same paragraph you say: "This is the universal experience of all those countries which have admitted divorce". May I ask you, have you any evidence to suggest that because of the existence of divorce legislation in Northern Ireland, Northern Ireland Catholics are less good Catholics in relation to marriage and respect for the family than, say, Catholics in the South where civil divorce is not permitted; or that Northern Protestants value the institution of marriage and the family less than their co-religionists in the South of Ireland?

**Dr. C. Daly:** I should like to ask Dr. Cassidy to respond in the first instance to that question.

**Dr. Cassidy:** I would like, with the indulgence of the Forum, to put that question into context and say that our attitude to civil divorce is determined, first of all, by our concern for the family. We say in the submission to which you refer that:

The family is the primary unit, the most basic unit in society. It is an institution of the natural order of things established by God and based upon marriage.

One could develop that in theological or philosophical or legal terminology but I prefer to put it in a more personal way and say two things — that the family's legacy to the individual and the family's contribution to society are of immense importance. The one thing we all have in common, even if we come to blows before this session is over, which I do not expect — we are prepared anyway because we have our croziers ready — the one thing we have in common is that we belong to a particular family. The family is so indispensable to us that it is the one thing we tend to take for granted, the one thing we can afford to take for granted. It is in the family that we belong, that we have a sense of security and a sense of stability. It is in the family that we first develop relationships, that we have the experience of loving and being loved. It is in the family that the individual has the first contact with community, that individualism broadens into communion, that the values by which we live are, by and large, a contagion. I

suppose one could put it a little bit poetically and rather predictably and say that the family is the anvil on which our characters and even our destinies are hammered out and shaped. The family's legacy to the individual and the family's inner life are, at the very same time, contributions or tithings to the larger community. What the cell is to the body or what the thread is to the tapestry or what the brush stroke is to the painting the family is to society. The family in its everyday life, in its everyday liturgy, in its ordinary ups and downs, in its daily banalities, in its ordinary commonplace manifestations of faithfulness and generosity and forgiveness, makes society what it is. This is a very important point and we want to emphasise this. Where the bond of marriage is enduring, where commitment for life is there, where love and fidelity are supreme values, society and not just the family is a major beneficiary. The family based on marriage and based on marriage for life is the single most important constituent grouping in society. It is even more important to society, I put it to you, than is the local cumann to the political party, though I might not expect total agreement on that. It is the ultimate force, the ultimate power for cohesion and harmony and stability in society. We say, neglect the family and you let the foundations sink; support and strengthen and reinforce the family and the foundations and society itself are reasonably secure.

**Mr. Mallon:** Thank you, Dr. Cassidy. You are, of course, assuring us that because we happen to live in the North of Ireland, where there is divorce legislation, that we are not any worse Catholics or Protestants for that?

**Dr. Cassidy:** I am, of course.

**Mr. Mallon:** In your opinion, which has had the more damaging effect on the traditional values of the Catholic community in the North — the existence of laws permitting divorce and contraception or the campaign of violence arising out of community divisions?

**Dr. Cassidy:** I am not a native of the North of Ireland and I do not live there but as an observer, looking from a distance, I would imagine the violence has done immensely more harm but it is not really a question, is it, of which does the greater harm. We hope in life to avoid all harm and we feel that divorce is harmful in itself. When I talked about the family there, I was not suggesting that every family is perfect and I was not suggesting that marriages do not break down. We all know situations and we come across them

in our pastoral life — we are meeting them every day — where family life is a dreadful ordeal and where family life can be a prolonged agony. We know that there are situations where relationships break down for a time or permanently and we know too that in modern life, for various reasons, the incidence of marital breakdown is on the increase and something needs to be done about it here in the South and badly needs to be done about it. You have to have sympathy for people who find themselves in these situations. We all know situations about which none of us, including bishops, would wish to pontificate. We particularly have to have sympathy for people who find themselves, through no fault of their own, in what I would describe as a marital vacuum, consigned, perhaps at a young age, to a life of loneliness or incompleteness. I think there is an instinct in all of us, if there is a second chance for happiness, if there is a second bite at the cherry, if you like, to give people that second chance. General arguments against civil divorce tend to dissolve and weaken in particular concrete, painful situations. Compassion takes over because we are not dealing with statistics, we are dealing with people. There is just one thought I would like to put and then a question, if I may. The reflection is this, when we talk about compassion, that Jesus Christ Himself, who was compassion incarnate, who was compassion in the flesh, taught clearly and emphatically that marriage is for life and our Church has been a constant witness to that teaching. Jesus Christ is somebody to whom most of the people on this island give their allegiance and that reflection in itself should give us pause. In relation to civil divorce, North and South, let me just ask a question. We recognise the pain in some marital situations. The crucial, core question has to be faced ultimately by the legislators and the people because it is they who must decide. We ask merely that what we have to say, that our teaching, our convictions in these matters be given serious weight and consideration. That is what we ask. We insist on nothing. We do not dictate. The crucial, core question to be asked is how do you alleviate the pain of some, how do you relieve and alleviate that pain without releasing in society a force which is destructive of many more? That is the core question. How do you prevent today's palliative from becoming tomorrow's plague? How do you prevent today's cure from becoming part of the disease? That is a core question and I think that in arriving at any conclusion we must take account of the common good. It is not easy to feel sympathy for the common good at all because the common good is a faceless thing. It seems to be a quantity rather than a need. It seems to be an abstract thing rather than an actual thing. It does not have a human face. It does not have an individual character. It

does not have a sense of humour. It does not have a personal predicament. Yet we put it very strongly to our people and to our legislators that the common good is all about people, that it is about the greatest happiness of many, many people, that it is about the values and institutions which inspire and sustain us in our daily lives. So we would favour, first of all, positive support for the family. If you wish, I will go into some detail about that.

**Mr. Mallon:** Could we take it on to a bit more detail then? May I ask you a very blunt question? I think most people would agree that if we are ever going to heal the divisions that exist on this island in a durable way the traditionally perceived sense of Irishness will have to be deepened and broadened to accommodate the political and moral values of those belonging to the Unionist tradition. Could you envisage a situation arising where Northern Unionists, or Northern Catholics for that matter, were asked to live in a new Ireland which diminished the availability of civil divorce as it at present applies in the North of Ireland or, to put the question another way, would you agree with what Bishop Kevin McNamara wrote in *Doctrine and Life* in March 1979 when he said:

It can make perfectly good sense that divorce should be permitted in any legal system that might apply to Ireland as a whole not for any profound theological reason but primarily because divorce is an already established part of the legal system governing Northern Ireland and also because those wanting divorce in a united Ireland would be much more numerous.

I would like if we could be specific about it because it is crucial to our deliberations as Members of the Forum and as legislators. Could you envisage that situation arising where people living in the North of Ireland who have those provisions would be asked to diminish them in a new unitary system within Ireland?

**Dr. C. Daly:** Perhaps Bishop O'Mahony would respond to that?

**Dr. O'Mahony:** One can say absolutely that there could be no diminution whatsoever of the civil and religious rights of the Protestants in the North of Ireland. It is not for us to decide what the blueprint is going to be. We do not know what it will be but what we do insist emphatically is that in no way whatsoever would the Northern Ireland Protestants lose in any way any one of their civil rights or religious liberties. Let us be quite clear about that.

**Mr. Mallon:** Is that in a new, say, Thirty-two County Ireland?

**Dr. O'Mahony:** Again, obviously in the new Ireland, whatever form it takes, I again underline the fact that the Northern Ireland Protestants must enjoy the civil and religious liberties which they enjoy at the present time.

**Mr. Mallon:** You state:

The bishops are not in any sense seeking to require that the teaching of the Catholic Church be made the criterion of Constitutional law in this country.

You also say it is neither your role nor your wish to do so. You also state that you are seeking to alert the civil authorities to the grave social dangers which are inherent in so many current situations and I think you are quite right to do so and have a duty to do so. Could I ask whether that is the totality of your role and your wish?

**Mrs. McAleese:** It may mean reiterating some of what has already been said. Bishop Daly at the outset said the Church does not want a Catholic State for a Catholic people. The Church believes in marriage as a sacrament, as an indissoluble union, as a contract for life. It is quite entitled to hold that view and to preach that view to its flock. Its sole jurisdiction is in relation to its flock. It does not seek to have any jurisdiction beyond that. It is not entitled to, nor does it seek to, tell any Government that the Catholic view of marriage should be enshrined in legislation because it is the Catholic view but it does reserve the right — the same right accorded to any group, any individual in a democracy which holds freedom of speech as a central element, as a matter of public interest — to comment in relation to issues of public morality. It sees itself as quite entitled to state its views, to add its views to all other views that go into the balance when legislators make decisions. It also, of course, means that legislators, at the end of the day, have the right to reject those views. Does that make it clear?

**Mr. Mallon:** It does, but perhaps we could make it even more clear. I think we as politicians readily accept the assurances given to us in relation to the separation of Church and State but I think we are all around long enough to know, and we are very fearful of the fact, that if we go on to embark on a situation in relation to the last question which I asked, in creating a new Ireland — and I am very thankful for Dr. O'Mahony's answer that the official Church position will be that there is a separation of Church and State — somewhere down along the line elements within the Church will be working against that statement. That makes it very difficult for the legislators and it is something we should clear up.

**Dr. C. Daly:** If I might make an initial response to that, there must be, there has to be a separation between Church and State and we totally endorse and emphatically reiterate that, but the separation between Church and State does not mean a separation between conscience and the electorate's responsibility in voting. We cannot expect voters to leave their consciences behind them when they go to the polling booth. Inevitably we would expect that those who freely accept the teaching of our Church will vote according to their consciences. That is all we ask of them. But we must have the right to carry out our duty to impart the moral convictions, the moral teaching of our Church to our own members. I should have thought that is part of the reality with which legislators are faced, part of the situation within which they operate.

**Dr. O'Mahony:** May I just add to that that all we want to do as a Church is to proclaim the values of the Kingdom, truth love, justice and freedom. That is all we want to do. But we would also claim the right to respond to any social or political issues or policies which have an underlying ethical, moral or religious element. Basically, all we want is the freedom to preach the gospel. We believe we have that freedom when we are separated totally and absolutely from the State.

**Mr. Mallon:** Thank you. May I ask a question on your document, Alienation? Your document is a very comprehensive survey of the reasons for that alienation. In your opinion, is it possible to end that alienation within the Catholic community in the North of Ireland? Is it possible to do it within the North of Ireland as it is presently constituted, especially in relation to the field of security or, in your opinion, are fundamental constitutional changes necessary if the allegiance and support of Northern Catholics are to become again positive factors in our society?

**Dr. C. Daly:** Very briefly, I should like to say that our greatest concern in Northern Ireland at present is the growing, the rapidly growing and deepening alienation of a large section of the Nationalist population, particularly the young population. It would be irresponsible to ignore that fact and to fail to be aware of the political implications of that fact for the future peace and stability of the whole of this island or for the British Government to underestimate the implications of that fact for the peace of these whole islands and for Britain's international reputation throughout the world.

**Chairman:** A final question please.

**Dr. E. Daly:** Could I add a little to that? Simply to say that there is alienation in both communities in Northern Ireland, alienation in the Catholic community. They feel that they are in a State of which they are not part and with which they cannot identify and in which they do not seem to have their rightful place. That seems to have been denied to them and in fact has been denied to them in many different ways. There is that alienation. There is the alienation that is generated by very, very high levels of unemployment. There is the alienation that is created by the very existence of a border that runs through parishes, that splits off towns from their natural hinterlands and trading areas, that runs through parishes and dioceses, that is unnatural but is placed there. There is alienation also due to the lack of sensitivity by many of the people in charge of direct rule, British politicians who are members of the Northern Ireland Office. Their first priorities, like those of any politician, are to their own constituents. If you have people who have the kind of executive power that people in the Northern Ireland Office exercise, who have to calculate the impact of any of their decisions on their constituents in East Anglia or any other part of England, I think it very often colours their policies. That alienation is there. There is also — and I think this must be said — a certain degree of disillusionment with the South among Catholics in Northern Ireland. They have been neglected by the South of Ireland, misunderstood by the South. Very few people from the South seem to take an interest in their problem. It is a switch-off topic in their conversation. Also, with the greatest respect, many of the political leaders from the Republic of Ireland seldom come North and when they do they meet a few very select people. There are many sources of alienation but there is no doubt in my mind that there is alienation and disillusionment and these are factors on which violence feeds and they are the source of many of our problems. Young people cannot identify with the State that governs them.

**Chairman:** A final question, please.

**Mr. Mallon:** Will you allow me a supplementary to that reply of Dr. Daly's because I think it is very important before my final question? It seems to me that one of the major factors in this process of alienation has been the security policy under which the Northern Ireland people have had to live. Dr. Daly was himself involved in one of the primary sources of alienation and that was the whole tragedy of the hunger strike. Could you try to assess for us the degree of damage that has done to the Northern Irish Catholic psyche?

**Dr. E. Daly:** I think it has done immense damage, that it was a major watershed. One of the major aspects that I touched on already is involved. Cardinal O Fiaich and I were very much involved before the first hunger strike began. I stress this — long before the first hunger strike began, both of us visited Long Kesh prison in March, 1980. We had heard rumours that there was discontent with the situation there, with conditions there, that a hunger strike was pending. We left there under no illusion that a hunger strike was going to take place, that it was not an idle threat. We sought a meeting with the Northern Ireland Office at that time; the Secretary of State was Humphrey Atkins. We were granted a meeting two days later and that was the first of six or eight meetings at which we tried to plead with them the gravity of the situation and the potential of it. We were ignored. We were played along over a period from March until October. Eventually, we were both summoned to London to a meeting and there more or less the final decision was made. After that, the hunger strike itself took its inevitable course with the inevitable impact that it had on both communities in the North, the Catholic and the Unionist communities. I think that was a major disaster and pointed to the insensitivity of politicians from outside Ireland in dealing with Irish issues, their lack of understanding and perception of those issues. Also — something that has been repeated again and again — their refusal to respond to the pleas of the moderates which gives those who advocate violence a perfect platform from which to say: "They do not listen to them; the only language they know is this." I think the British have a grave responsibility to show that they respond to something other than violence. Until they do, I think the problem of violence will remain. That is one of the great challenges that internationally should be put to Britain, to respond to political, democratic, moderate opinion for the first time in Ireland.

**Dr. O'Mahony:** Could I just add one brief personal comment to that? As you probably know, I was involved at one stage in trying to resolve the hunger strike. We begged and pleaded; we worked morning, noon and night to resolve it. We pointed out to Mr. Atkins and to Mr. Allison the devastating effect it could have if no resolution came about, that the communities would be polarised as never before and that the IRA would go from strength to strength. Everything we predicted happened. So, how important it is for the British Government to listen to moderate opinion!

**Mrs McAleese:** May I also add something? The single, most frightening factor to emerge in recent times, which is a good

indicator of the alienation in the North, is the fact that 100,000 people saw fit to vote for Sinn Féin, that the message of the Churches, the message of constitutional politicians seemed to be lost on the ears of people even appreciating that many among those people did not see their votes, whatever way it was interpreted by others, as a vote for violence. I think if it was not a vote for violence for many people it did signal a growing ambivalence about violence because while we who believe in the Church and believe in constitutional politics and who have preached the Gospel that peace is the way — the way we can achieve answers is through peace, negotiation and discussion — we have not any one of us been able to come up with the answers. None of us has been able to present the answers. The power does not lie in our hands unfortunately and those who did have the power do not seem to have used that power. It is unfortunate for constitutional politicians, particularly such as the SDLP in the North, that they have held the line in the face of the situation where patently constitutional politics were not getting anywhere. The sad thing is that the only people in Northern Ireland in the eyes of many, unfortunately particularly many of the young and the unemployed, the only people who seem to be able to get things done are those who have guns in their hands. That is a factor that we must worry about because, as I have said, many people who put their vote in the box for Sinn Féin did not give their vote to violence but gave it out of a sense of frustration of the small person against the big system by which he is oppressed, a way of telling people "I am fed up; do something for me". I wonder how far off is the day when those same people's ambivalence about violence may be resolved fully in favour of violence which it most certainly will be if the Forum, for example, is not successful, if constitutional politicians are not successful.

**Mr. Mallon:** That is a clear warning, I think, and an indication to constitutional politicians like ourselves as to what we have to do and how quickly we must do it. I thank Dr. McAleese for it. My last question refers to page 8 of your document, *Ecumenism in Ireland* where you say: "A short comparison will show that in this light Ireland is one of the most ecumenically active countries in the world at present." Those of us who are very closely involved in Northern Irish life recognise this and applaud it but it may come as something of a surprise to people outside Northern Ireland. If I may say so, I think that your document to some extent has understated the efforts in this field and you are rather hiding your light under a bushel. What, in your opinion, has been the effect in practical terms of the tremendous strides made in the ecumenical

field for people in the most strife-torn areas of Northern Ireland, not in academic or legalistic terms but in terms of people living in these most strife-torn areas?

**Dr. C. Daly:** I should like An tAthair Michael Ledwith who, although not living in Northern Ireland has a lot of contacts and great deal of ecumenical involvement there, to answer.

**Dr. Ledwith:** We have invested an immense amount of effort and resources in forwarding ecumenism in the last 20 years. Some people like yourself have suggested that this document in fact understates the matter. We do face immense difficulties still. People say that ecumenism is largely an affair of the middle classes which is substantially true. A lot of people, of course, place a burden on the Churches to resolve problems which the Churches obviously cannot do. The Churches are not simply the Church leaders. We are all members of the Church and we all have a responsibility and we need workers, housewives, doctors, lawyers, teachers and clergy to make a response as well for us. So, our basic aim is to try to make ecumenism filter down to all levels of the community and we face great difficulties there. Certainly things are far from ideal. There is a very long way still to go, even in ecumenism, but bad and all as things are I think they would be immeasurably worse if the ecumenical movement had not reached the incredible level that it has managed to achieve between the Church officials at least in Ireland and in I think the substance of their communions. We do face problems. One of the major problems has been the pressure, for instance, which amounts to intimidation, which has been exerted upon ecumenically-minded Protestants by anti-ecumenical zealots. This intimidation has sometimes taken the form of threats and even of physical danger to the clergy of the Protestant Churches. It has taken great courage on the part of the Protestant clergy to persist in their ecumenical contacts in the face of such a risk and we laud their efforts in keeping up with their contacts and work in the face of such danger to themselves, their wives, their families and their prospects. Ecumenism probably has a lot to achieve but I think ecumenism could solve all our problems in the North only if all our problems were religious problems whereas in fact our problems are far more political, social and economic, as has been said in different ways already this morning. They are problems of injustice much more than of religion. Ecumenism can deal with religious problems but, in so far as there is a religious dimension in the North, it is more because these political, social and economic divisions have superimposed themselves along religious lines. I

recollect that a few days before his death Cardinal Conway wrote a long letter to me which I see in retrospect was more a valedictory to the ecumenical movement in the Catholic Church and he said that most of the problems of Northern Ireland could probably be solved by the creation of 40,000 new jobs. I think that is really the heart of the matter. There has been a great deal of misunderstanding ecumenically. We are working very hard at that. It is not the sort of thing that hits the headlines but it has inevitably a very powerful effect ultimately on the members of all congregations. In so far as people turn to violence, in so far as they are driven to drastic solutions, I think it is not out of hate because they are Christians or because of what Christians believe. It is to the extent that they fail to be Christians that they hate one another, or that they are driven to it by extreme situations of tragedy and violence. I do not think that fundamentally the matter is a religious issue and ecumenism is limited in what it can achieve because of that.

**Mr. Mallon:** Thank you.

**Chairman:** I now call on Senator Mary Robinson on behalf of the Labour Party.

**Senator Robinson:** I would like to join in welcoming you to the Forum and thanking you for coming today to assist us in our work. Fundamental to the work of the Forum is the question of Church-State relations on which you have already commented. The submissions made by other Christian denominations to the Forum have placed great emphasis on the importance of removing from our Constitution and laws those elements which are seen to be divisive on religious grounds. They see this as essential to promoting the peace and stability on this island which the Forum seeks. How can we make progress unless we recognise and guarantee the rights of minorities?

**Dr. C. Daly:** We have not yet heard from Dr. Matt Salter and although this is not his direct and immediate concern he lives in an area which has suffered very greatly from violence and the deprivation which feeds it and is in turn fed by it. He lives in Anderstown. I should like him to make a contribution on that question.

**Dr. Salter:** In a way one of the problems about pluralism is that we are inevitably confronted with a tension and that tension is the relationship that we are able to manage between a respect for a

variety of views and yet contain that variety of views within some kind of general consensus, within some kind of a value system. Frankly, I do not think we can ever come to a situation where anything goes, where we can leave it up to everyone to do or to believe or to act in whatever way they please. That is not pluralism. As someone has said, it is plurality. On the other hand, we are confronted with the difficulty that we can seek to impose the view of one particular group in society on everyone else. That again is something that we must seek to avoid. In many ways my approach to it is somewhat different from that, say, of legislators. I imagine that it is by beginning with small things, it is by working our way towards a realisation of the value that is in other people's systems of belief and behaviour, that we can hope to achieve something. One of the things that strikes me as an example is the business of schooling in the North. The initial response to the violence and to the alienation was to suggest that we should have what were called integrated schools. That whole approach bears very much the marks of the thinking of the sixties. It bears the marks of what I might call an institutional approach. I think nowadays there are not very many people who would go along with that as being the most fruitful approach. Instead what we would seek to do would be to move forward in terms of reconciliation in such a way as to recognise values and do what we can before we seek to achieve some kind of profound institutional change. The one thing we have going for us in the North is that there are very many things that unite us, Catholic and Protestant, as well as very many things that divide us. It is within that context that we have to seek to move forward.

**Mrs. McAleese:** Perhaps I would be allowed to suggest that in the question that was asked there is a suggestion — not perhaps a direct reference to the constitutional ban on divorce but I think it might have been implicit in the question as one of the things that might perhaps be thought about in terms of its removal for the purposes of promoting civil and religious liberty. It is a pity that civil and religious liberty almost invariably revolves around solely the question of divorce because certainly if divorce and contraception are to be seen as the hallmarks of a liberal society then Northern Ireland was a very liberal, pluralist society a long long time ago. Since we are talking about this notion of pluralism, and I think the question has to be fairly bluntly answered, Bishop Daly said at the outset we do not want a Catholic State for a Catholic people. We welcome as a necessary corollary of that, and we hope people will accept the bona fides of the Church in this matter, that there is a genuine commitment to pluralism and to its

advancement. It is a mechanism for liberating men, for promoting tolerance and peace. It is a welcome ideal but the notion of pluralism has become a word of common currency. It is very often used without clarification of its meaning, in fact with the assumption that it has a settled core content, a settled meaning. It is very important, whenever we are discussing minority rights in the context of pluralism, that we are fairly sure of what we mean by it. It cannot mean brute pluralism, the insistence that society live by, let us say, the morality of the lowest common denominator. I suspect that that view would be anathema to most people on this island for a variety of very obvious reasons. Pluralism, in that sense, is simply not compatible with a reasonably human social existence. For example, no one who believed in democracy and freedom could conceive that simply because a considerable catchment of people in Northern Ireland appear to believe in the moral validity of using violence their viewpoint should be enshrined in law. There is clearly a minority who should be excluded and we cannot appeal to pluralism to justify introducing their view into legislation. Pluralism, as I understand it, means and strives to create harmony and tolerance amidst diversity. It does not seek to be indifferent to values or to relegate them merely to the private sphere. It is about the business of creating space for people, space in which groups can flourish to be different but it cannot guarantee them unlimited space because to do so might very often involve lessening the space of others. Pluralism has got to come to terms with and be able to come to terms with the problems of competing groups. It has to be able to place them as far as it can at arms length from one another so it must of necessity involve itself in balancing the claims of such groups. It must, in other words, devise ways of handling value judgments. It cannot handle those kinds of value judgments solely at the level of intellectualism in a moral vacuum because they will arise at the level of moral consciousness and will depend on the moral orientation of the individual or the group and while pluralism must allow dissent and diversity it also presupposes a human society in which there is a level of consensus — consensus that is maintained freely in open discussion. That is the essence of democracy. Even among groups which hold conflicting diverged views about certain subjects there must be a shared area or consensus. While pluralism then is not an end in itself it seems to be it must always be answerable. It is a question of balancing against the common good and I do not think it can demand from any one of us that we should stay silent on issues of public concern or fail to articulate our views simply because they may offend others, simply because they may not be views that are shared by others. I do not see that it should stifle comment.

**Dr. C. Daly:** We are certainly not saying that the aspects of these questions to which Senator Robinson has referred are not important and that they should be simply brushed aside. What we are saying is that these are not the only factors that are relevant. They should be put into the balance, they should be given their full weight, particularly in a situation where we need reconciliation. They should be weighed against the other factors which we would feel it our obligation as pastors to bring to the attention and consciences of our people, namely the consequences for the moral life of society and stability of its central cell which is the family. We want that these aspects be not ignored and we should not feel that it is sufficient to say this or that proposed piece of legislation is pluralist, therefore it must be accepted. Neither are we saying on the other hand that because this piece of legislation is pluralist it should be rejected. Each one should be examined on its own intrinsic merits.

**Senator Robinson:** I do not really feel that the question I asked was answered. Perhaps I could make it clearer by reformulating it. The question noted the fact that other Christian denominations placed great emphasis on the importance of removing from our Constitution and laws the elements that are religiously divisive. This is a forum for a new Ireland including the whole of the island of Ireland, not just Northern Ireland. Perhaps I could make the question clearer by referring to a very significant passage in the opening address this morning by Bishop Daly. It was a passage that was applauded by members of this Forum. He declared with emphasis that the bishops would raise their voices to resist any constitutional proposals which might infringe or endanger the civil and religious rights and liberties cherished by Northern Ireland Protestants. The question is why are you not raising your voices now in relation to the Protestants and others who are not of the Catholic faith in this part of the country? Surely they too are entitled to full civil and religious liberties and if we are to reach out to a new Ireland must we not create the basis of confidence that that is the framework that we would have?

**Dr. O'Mahony:** I think it is a very good question, a very important question, and it has been put as we might expect, most eloquently by Senator Robinson. It is very important that we should have tremendous understanding and sympathy for the views of the Protestant Churches here in the South. Minority rights are always important. There can be many situations where the rights of the minority are far more compelling than the rights of the majority. For example, take the travelling people. To my mind, their rights

are far more compelling than the rights of the settled community. Take the unemployed. I believe their rights are far more compelling than the rights of those who have jobs. Take the homeless. Their rights are far more compelling than those of all of us who live so comfortably. So, it is terribly important to have a deep respect for the rights of the minority. I believe that in any given situation it is up to the legislature to ensure that there is a balance between the rights of the minority and the rights of the majority. It is not for the Church or for the Bishops to decide this. Clearly, in the building up of a new Ireland, the views, the considerations of the other Churches here in the South must also be taken into account. They are not the only considerations but it is important that they should be taken into account.

**Senator Robinson:** Thank you. Could I come to your submission on marriage and the family where you state your conviction that the introduction of civil divorce would be a direct attack on the very institution of marriage and therefore on the institution of the family and accordingly on the basic fabric of society. That conviction is not shared by other Christian denominations who have made submissions both to the Forum and indeed, very recently, to the Oireachtas Committee on Marriage Breakdown. They have made it very clear that they do not share that apprehension or fear or conviction. How in those circumstances could you justify a constitutional prohibition on divorce in a new Ireland context?

**Dr. O'Mahony:** Could I just say straightaway — and I think this is very important — that we accept that many people who advocate divorce do so out of caring and humanitarian reasons because to my mind, a marital breakdown must be, perhaps, the greatest human pain. The death of love is a terrible tragedy, not only for the partners but also for the children. Even as a priest and a bishop one has many contacts with marital breakdown and even just to be touched by the pain, one realises the enormity of this situation. So we accept that those who are advocating divorce, many of them do so for caring, humanitarian reasons. Also, we would accept that many of those who advocate divorce are aware of the social evils that result from divorce. Nevertheless, at the same time — I think this should be taken into account because it is so sincere — we are deeply, deeply concerned and worried about the long-term effects of divorce on society, the weakening of marriage, the weakening of the family and so on. We are concerned, for example, about the introduction of divorce which could not be restricted simply because there is something in-built into divorce legislation that

makes it so difficult not to have a multiplier effect. And, of course, we would be so concerned about the introduction of no fault divorce which can create so much injustice, so often to the wife and to the children. All that we are saying is that our consideration, just like the consideration of others, should be taken into account when this whole question of divorce is being debated. Ultimately, again, it is not for the Bishops to decide; it is for the legislators and ultimately for the people. To come back again to what I am saying, I think it is so important in the context of a new Ireland because we do not quite know what political shape it is going to take, please, we underline, let the Protestants of the North not be afraid and for the Protestants in the South, let me say again that we want their considerations to be taken into account but it would be asking too much for us to say: "Do not bother about what we are saying". What we are saying is so vital and important that it should also be taken into account.

**Dr. C. Daly:** May I add a word about the multiplier effect to which Bishop O'Mahony referred. As we said earlier, the legislation in Northern Ireland became less restrictive in line with England and Wales in 1978. In that year the number of divorces was 596. It leapt in the following year to 745; in 1980 to 912; in 1981 to 1315; in 1982 to 1471. Currently, in Britain the rate of divorce is 39 per 100 marriages. In the US, as we know sadly, it is 50 per cent of all marriages that ends and rapidly ends in divorce. What we are saying is that it should not be lightly assumed that divorce is the only answer, the simple answer or that its consequences are solely beneficial. We know very well of course that there are marriage breakdowns in Ireland, that they are in the Republic of Ireland, that they are increasing, that some remedy must be found. Surely it should not be impossible for us in this country with our tradition to find alternative provisions, to find other ways than simply slavishly copying the one that is nearest to hand, the divorce legislation that obtains in other jurisdictions. Surely it should be possible within our own values and traditions to look for other ways that will alleviate the very real cases of tragedy which need compassion, and to do this without undermining the stability of the family and weakening the moral consensus on which the whole stability of society depends.

**Senator Robinson:** Marriage, of course, for those who go through the religious ceremony is governed by two laws, the church law of their particular church and also civil law. In your submission you are very critical of, and consider that civil legislation to dissolve marriages would, in your words, be a direct attack on the very

institution of marriage. This has already been referred to. But is it not the position that the Catholic Church in its church law on marriage holds the position that marriages can be dissolved? They can be dissolved by the Church in certain circumstances and they can be dissolved in what appears to be quite a broad set of circumstances in the code of Canon Law, Canon 1143 of the code. I am not talking now about Catholic Church annulments. I am talking about the dissolution of marriage under Canon Law. That canon provides that a marriage entered into by two unbaptised persons is dissolved in favour of the faith of the party who has received baptism by the very fact that a new marriage is contracted by that party, provided the unbaptised party departs. The canon defines departure as being basically unwilling to live with the baptised party. You have there a Church dissolution of marriage, simply because the parties were unbaptised at the time, one of them subsequently becomes baptised and marries somebody else, provided the first partner has departed — an irretrievable breakdown of marriage. In most countries, to my knowledge that would still be a marriage according to the State law but it would be a dissolved marriage according to the canon of the Catholic Church for the baptised person. Does not that emphasise the necessity to distinguish between Church law, including Church law on the dissolution of marriage, and the State law and the need to have a State law on dissolution of marriage because there will be a number of circumstances where a marriage would require to be dissolved under the legislation of the State?

**Dr. O'Mahony:** I think it would be good to have Senator Robinson a canon lawyer as well. She might help with my answer. We believe that Christ regarded marriage so highly and regarded it as being so important for the happiness of people that he made it into a sacrament. So, Christian marriage is to my mind the most beautiful human sign of the self-giving, everfaithful love of Christ for his people. We believe that a sacramental marriage which has been consummated can be dissolved by no human power except death. There are, of course, as Senator Robinson rightly pointed out — and I am glad she did because it is important that we have a very open, free and frank discussion — some situations, very much by way of exception in which the Church can dispense: number one, where a marriage between two Christians has not been consummated and number two, where the Pauline privilege operates. That is, if you like Paul's pastoral solution to the situation where a marriage convert cannot live the faith because the other unbaptised partner will not live with him or her in peace. Thirdly, there is the question of what is called the Petrine privilege

where one or other of the parties is unbaptised. Where the Pauline or Petrine privilege operates it does so in what is called in favour of the faith, that is in favour of the spiritual welfare of the Catholic party. This is something that can only be understood within the community of faith. Secondly, we do not wish or want the State to recognise this discipline just as we do not want the State to recognise the discipline of any Church whether Roman Catholic, Protestant, Presbyterian or Methodist. We do not want the State to recognise the discipline of any Church whatever. Thirdly, in the minds of our people in no way do they equate this with divorce and indeed, because it is so exceptional, it has in no way undermined the stability of marriage within the Catholic community. It has in no way diminished the reverence of our people for the sacrament of marriage. It is totally and in many ways distinct from civil divorce.

**Senator Robinson:** Because of the dual laws that govern a marriage where there has been a religious ceremony of marriage, are there not attempts at times to avoid possible conflicts or confusions? For example, is it not the position in relation to annulments granted by the Catholic Church in Northern Ireland and indeed in Britain that the party seeking a Catholic Church annulment is required to get a civil divorce before such annulment will be granted by the Catholic Church?

**Dr. O'Mahony:** That is the position for a number of reasons, just in England. What one could say straight away is that where the legal process does not provide adequate legal remedies to ensure that justice is done to the parties and to the children, then it may be tolerated to seek a civil divorce purely for the mere civil effects. On occasions also, particularly in England, it has been necessary to have this civil divorce to, for example, protect the petitioner from the respondent who might apply to a civil court for alienation of affection. There are a number of reasons but the basic principle is that where there are no adequate legal safeguards provided by the civil law then a civil divorce may be sought simply to protect the rights in justice of the parties and their children.

**Dr. C. Daly:** Which happens, does it not, because there is only one way in which marriages can be in that sense dissolved and the civil consequences taken care of in justice. There is only one way of doing it in certain legislations and that is by way of divorce. That is no reason why there should not or could not be found alternative ways. I think it should also be said that in certain cases it is necessary to safeguard the utter and total confidentiality of all the

interviews and all the documentation that are required for a Church annulment. The expedient of going through the divorce court is one way of ensuring, *ante-factum*, before the church hearing, that there would be no danger of the Church proceedings being invoked in the civil court and thereby the confidentiality of the partners being infringed. That confidentiality is something which is absolute in the Church's eyes. It is not the practice in Northern Ireland that applicants for annulment should be asked to pass through the divorce courts.

**Senator Robinson:** I am sorry, I thought Bishop O'Mahony said it was the practice.

**Dr. C. Daly:** In England only.

**Dr. O'Mahony:** I was talking about England. In the Armagh Tribunal a civil decree of divorce is never asked for by the tribunal.

**Senator Robinson:** In the written submission to the Forum from the Irish Theological Association emphasis was placed on the importance of developing inter-church relations which, if improved, would contribute to the general reduction of fear and hostility on the island which the Forum seeks. In particular the Irish Theological Association would like to see an inter-church approach in a number of areas and one of these is in the area of mixed marriages. Would it not greatly diminish the fear and feeling of oppression if there was a genuinely inter-church approach to mixed marriages, not just consultation? Should Ireland not, in fact, see in the churches here a lead being given in this area, a much more concerted inter-church approach in this very sensitive and very painful area?

**Dr. Cassidy:** We are very conscious of the fact in the Catholic Church here in Ireland that mixed marriages and particularly the promise required in a mixed marriage has been an irritant and been perceived by many, even perhaps in our own Church, to be an injustice. We were very conscious in the new directory which we produced of the importance of reconciliation. We set out in that directory to foster understanding between individuals and churches, between the Catholic Church and the other Churches in this country to try to ensure, as best we could, sensitive and generous uniformity in dealing with mixed marriages in the different dioceses. There was a complaint at the time, and that is why we set out to start the directory, that there was a certain unevenness in the application of our regulations. It was felt that

one bishop was being more awkward than another, in so far as it is possible really for one bishop to be more awkward than another, in so far really as it is possible for a bishop to be awkward at all. We are a rather benign species given the chance. We set out to foster a sensitive uniformity. We set out to help priests to deal sensitively and sympathetically with mixed marriage couples. We set out to give a fuller explanation of the Church's teaching and remove misunderstandings and we set out to help the couples themselves to deal positively with their rights and responsibilities. The difficulty about the mixed marriages is represented all the time in public as the promise. Could I have a moment or two to explain what is involved so as to try to remove misunderstanding? In a mixed marriage there is no promise whatever of any kind, oral or written, required from the person who is not a Catholic. The promise required of the Catholic is to do all that is possible, to do all in his or her power, no more and no less, to ensure the Catholic baptism and up-bringing of the children. In giving the promise to do all that is possible two things have to be kept firmly in mind — the rights of the other person, the conscientious rights and convictions of the other person and the total context of the marriage, the unity of the relationship. I tend to describe it in triangular terms, if it is right to talk about marriage in triangular terms. You have three things. You have the promise to do your best, a sincere, genuine, honest effort from the Catholic, no more but equally no less and you have to take into account the unity of the relationship and the conscientious convictions of the other person. If two people come to me or to any priest and they want to get married and Mary is a Catholic and John is a Protestant I say to Mary: "Mary, will you promise to do your best to hand on the faith that you cherish and practise to your children?" and if she says: "Yes" then I say: "You must have the fullest regard for the conscience of the other person who has similar rights and obligations and you must have the fullest regard for the totality of the relationship between you." Nobody says: "You have to bring them up as Catholics." Nobody says: "You must do it." You must do all that is possible. The promise required of a Catholic is not a predator. It does not seek to pounce on or devour the rights of other people, the rights of people of other churches. It is not a Catholic hawk swooping from the sky on the unprotected conscience of another Christian. We recognise fully that people of other beliefs have similar rights and obligations but we do not consider it a coercion or an imposition on our own people to ask them to do their best. This is not an example of Irish Catholic perversity. This is not an invention by the Irish bishops. This is not an example of Irish episcopal intransigence. This is a universal law

of the Church and the very same regulations apply all over the world. We are not an autonomous body. We are not an independent church. We are part of the universal Church. We must try and apply the law as best we can. One distinguished commentator here in Ireland, who has a very strong ecumenical instinct, said that we applied the law in this matter in our new directory with maximum generosity. I have tried to explain the nature of the promise, the context of the promise, that it is a universal law, that it is not a predator. It does not plunder, it does not swoop on the rights and responsibilities of other people. These three points are very important and there is one other. If the promise were taken away in the morning the obligation to do all that is possible to hand on the faith would remain. That obligation on every Christian, not just a Catholic, is rooted in divine law and it comes from Christ's commission to preach the gospel to every creature. The nearest creature to me is my own child. In that sense mission territory is very close to home. I do not have to go outside the door. It is there on the doorstep. It is there in the kitchen. It is there on my knee. If I do not do my best to hand on the faith, as I cherish and believe it, to my own child then I am not taking Christ or His commission very seriously. That is the problem. We have an obligation there. If I can leave money and antiques to my child after death why can I not try to do my best to leave my faith during life? There is a difficulty there. There is a misunderstanding there. What I would like to get across most of all is that we fully recognise the similar rights and obligations among the members of other churches. We ask our people to do their best.

If I might say a word to the politicians, now that I have the chance. Politicians very often find themselves on the canvass, looking for votes. Very often down in our part of the country when they say: "Will you give me your number one?", the answer is: "I won't forget you." It is a classical response. It could mean anything and it usually does. That is the kind of ambiguity a politician has to endure but it is not the kind of ambiguity that the Church encourages in relation to the faith. In relation to the faith and the sacraments the Church looks for integrity. If you come to the Church to receive a sacrament all she wants to know is that you take your obligations seriously. So the promise in a mixed marriage is essentially in the Church reminder and response. You remind the Catholic of the obligations and you seek a response. It happens when you go to get your child baptised. It happens when a priest is renewing his priestly commitment. It happens when a bishop is being consecrated. They say: "Will you do your best?" It is not something a bishop imposes on the laity. It is part and parcel

of the teaching practice and the catechetical method of the Church. It is her way of trying to teach people and to elicit from them a genuine, serious response. The promise was never inserted by the Church to cause trouble between Catholics and Protestants. It is part of her whole life. It is part of the way she sees herself. The Anglican/Roman Catholic Commission said that our insistence on the obligation to do one's best should not be seen as institutional defensiveness, that it should not be seen as dismissive of other traditions. It should be seen as a reflection, and this was an ecumenical statement, of the Church's understanding of itself.

**Dr. O'Mahony:** No other bishop should attempt to speak after Bishop Cassidy but I will say just one sentence. It is simply that I am very happy to state that we have just finished here in Dublin a joint ecumenical preparation for couples who are going to enter inter-church marriages, a highly successful course.

**Senator Robinson:** It was, in fact, that inter-church element that I particularly wanted to ask about in this area. Looking back, but not looking back very far, Seamus Mallon paid tribute to the extent to which ecumenism is a reality on the ground in Northern Ireland and I think this is reflected in your paper and the reality bears that out but is it adequately reflected in this part of the country in a genuine inter-church way? If we look at the recent debate on the constitutional amendment, on the right to life of the unborn, was it not painfully obvious that there did not exist an inter-church or ecumenical forum to which a draft of the proposed amendment of the Constitution could have been referred in order to ascertain whether an agreed proposal in this area could emerge and if that had existed might we not have saved ourselves a very divisive and very painful debate which preoccupied us during last year?

**Dr. C. Daly:** Might I ask Dr. Ledwith to comment?

**Dr. Ledwith:** Well, I suppose it could have been done in that way. There are, however, certain serious differences between the Churches which perhaps might not be that easily resolved in a matter as fundamental as this. Whether they could be resolved, I suppose, is a matter of testing. There are, as you know, serious differences of view between the Protestant Churches and the Catholic Church on the sacredness of the life of the unborn. We regard that life as a fully human life from the first moment of conception. We do not accept certain theological opinions, even within the undivided Church in the Middle Ages, that the foetus

does not become a human person until the lapse of a certain number of days. We believe that opinion was based on a knowledge of biology which has long ago been surpassed. I certainly think your suggestion might be a good policy to follow in the future if matters of this kind were being proposed. What we were debating in the last referendum debate, of course, was a thing which is already implicit in the Constitution. I think if we were doing it in the future it might be a good policy to follow. However, I am not sure that by that process all differences in the Churches could be expeditiously resolved.

**Senator Robinson:** If the differences could not be resolved, then surely we should not have a constitutional amendment because it would conflict with the deep religious belief and the viewpoint of a minority — granted — but a minority which should be protected by the Constitution?

**Dr. Ledwith:** Perhaps, but we would not regard our position on the right of the unborn to life as a matter of sectarian belief or conviction. We think this is a basic human right and that this is the type of right that should be safeguarded.

**Senator Robinson:** Notwithstanding that there could not be agreement?

**Dr. Ledwith:** Well, as has been said many times this morning, our purpose is not to produce political solutions or indeed to produce legislation: we must insist on freedom to preach the Gospel to the consciences of those who belong to our own community. Certainly, nobody wants divisiveness or hostility or serious disagreements in any way on that matter but the form of legislation and of constitutional reform is ultimately for the legislators and for the voice of the people of the country.

**Dr. C. Daly:** Senator Robinson would know much more than I about this matter but I would like to suggest that the divisions which emerged in that particular campaign and referendum had to do not solely with religious and theological problems but also, I would suggest, with different traditions of political philosophy. There are different traditions and you would know this so much better than I do and they would affect one's understanding of what the Constitution is, even whether there should be a written constitution and what its purpose is in the legal framework of the country. These differences, to my mind, did emerge and they are not strictly theological differences; they are differences of political philosophy and they can be solved only by the electorate.

**Senator Robinson:** I wanted to ask one other question, again in the context of an inter-Church approach. It was one of the areas highlighted by the Irish Theological Association in their submission, that is the possible development in inter-Church schooling and in inter-denominational education. Accepting that the division of the schools system is not the cause of the problem in Northern Ireland the question nevertheless remains that if Catholic and Protestant children were brought up together in the same school in cases where this did not require bussing or any artificial risk to the children, they might learn greater tolerance of each other than, as is the norm at present, where they are brought up in separate schools. Given the increasing number of parents in both parts of Ireland who desire this option for their children, who would like to see their children given the option of multi-denominational, or even non-denominational schooling in some instances, should it not be important to support initiative and to develop that choice wherever possible in order to promote greater understanding among young children who will be future adults?

**Dr. C. Daly:** The Church does nothing to oppose or obstruct the efforts of people whose sincerity we respect and who feel that this is the way forward. However, even those who believe in the value of integrated education must recognise that their solution would affect very few. It could not, for long established historical and geographical reasons, be realised between, say, the Falls Road and the Shankill Road other than by some process of bussing which would expose young children to real physical danger, intimidation, threat to which no parents would willingly subject their children. We feel it is much better to try to reach the greatest number of people and expose the greatest number of our pupils to ecumenical inter-denominational contacts. We feel this is best done through contact between the schools and the teachers and through sharing between schools of the two traditions of the same materials wherever this is possible, particularly in sensitive areas, such as history, community relations, peace education and so on. In fact, there is in use in more than 600 schools at the present time a peace education programme which has been devised and for which materials, audio-visual as well as written, have been prepared jointly by the Irish Council of Churches and by the Catholic Justice and Peace Commission. Six hundred schools represent a very large number of schools already being exposed to what is perhaps our greatest need in this area of reconciliation which is education for peace, tolerance and understanding of our respective traditions. Surely it is much better to invite a Protestant clergyman from the Shankill or wherever to come to a school on the Falls

Road and talk to all the children there and to ask a priest or head teacher to go to a school in the Shankill or in East Belfast and talk about his tradition to the children there than it is to be content with a few isolated experiments and, as I said, we in no way oppose these. We respect the sincerity of those who advocate and share in them but we feel that the other way gives us the benefit of a thorough Christian formation which is a formation in peace, love, tolerance and reconciliation in the most favourable environment. That is why we have committed so much of our resources and personnel into a Catholic school system with a strongly ecumenical dimension. That is also why our parents in their overwhelming majority vote, as it were, with their feet or the feet or buses of their children to enter that system.

**Mrs. McAleese:** Could I comment on that since I, too, went through the educational system in the North and I very often hear this catch phrase used in the Republic: "Why do ye not all get together and integrate the schools; would that not help the problem somewhat." It makes a number of assumptions about the nature of people and their contact with each other that really my experience in Northern Ireland tells me quite directly are wrong. The notion that consensus comes from contact or even that understanding comes from contact is wrong. It is a dubious and simplistic notion. It would be nice if it were right. There are very many levels of contact in Northern Ireland between people which do not demand honesty in relationship. I myself lived in an area, which is often described as a flash point area, known as Ardoyne. It was a mixed area as I was growing up. I had tremendous contact with Protestant neighbours, played with them. They were in and out of my home but it did not stop one of them from becoming a member of the UDA and now doing a life sentence for killing five Catholics. Consensus does not always come from contact. It is worth noting in this context that Catholic education in Northern Ireland — I do not think any one would deny, first of all, the right of parents to decide what kind of education is best for their children — that Catholic education arises in the context, not out of a desire to create a sectarian education system but out of a genuine desire to extend the home vision, the vision of a Catholic way, the way of life simply to the school. I think the strength with which Catholic parents hold that view is told by the simple fact of how they ignore the facility which is open to them to send their children to the controlled school sector. It is open to them; they are paying for it in their taxes and they choose instead to create their own system which they also have to pay for even though nowadays it is heavily subsidised. They are twice penalised financially for the

privilege of sending their children to the system which they decide is the best for their children even in view of all the arguments about the potential for breaking down sectarian attitudes. I have very grave doubts from my own direct experience about the ability of the school to break down sectarian prejudice. In fact I am convinced that a lot depends on the nature of the contact and the honesty of the relationship involved.

**Dr. Salter:** May I make a point about this? One of the first points we should recognise in relation to prejudice is that a great deal of it is formed, as far as research can indicate, before the child comes to school and that the school in a sense is a secondary agent of socialisation. What interested me about Senator Robinson's point was that she tended to make it within an ecumenical context rather than as I would put it, within an educational institutional one. Making it within the ecumenical context she does something that is quite valid. In other words, she points to the fact that there are people of goodwill in Northern Ireland, both Catholic and Protestant parents, who feel that they need to do this in order to bring their children together in school, in order to advance their children's good and that of society. That is fine: I would have no hesitation in expressing my support for that. Where I have a reservation or where I would find some difficulty would be in some kind of a movement from the recognition of the value of that human and individual experience to the view that that is the way in which we deal with some if not all of the ills that Northern society is subject to. In that context, frankly, integrated schools is not a starter. It simply will not work. In some respects it smacks to me of the approach that educationalists, even though initially the whole business of integrated schools was introduced in a highly politicised context, had in the sixties and the seventies, the idea that all you had to do was to as it were, make major changes in institutional terms, that you produced, for example, comprehensive schools — I use the term in the British meaning of that word — and that society, as it were, will be equalised. One of the things that comes through quite clearly is that schools cannot compensate for society. If there is something basically wrong or misaligned in the relationships that exist within society, the school will not be able to off-set the damage that is being done. It is within that context, therefore, that we must approach the matter. The people of Northern Ireland are paying a lot of money for their schools. They are expected to look for some return. So, what we do is that we ask the questions: what is possible? What might work? It is in that context that we cease to conceive of the school as some kind of monolithic structure and we break it down into its

constituent parts. We say it may be very difficult to arrange a particular type of school community in relation to teachers or in relation to the children. I would point out that research done by a colleague of mine in Queen's University indicates that there is a very strong degree of overlap in the way in which Catholic and Protestant teachers conceive their job as professionals. It would be wrong — if I may say this in parenthesis — to say that the Northern Ireland school system is some type of totally separated arrangement. You might, in fact, say that it is not two systems. If anything, the Catholic schools in Northern Ireland constitute merely, I think, a sub-system rather than a separate system. There is a fair degree of overlap. Having said that, you look at what can be done in the schools. You do not seek to impose it from the top. You start where anybody now involved with curriculum development starts. You start with the people on the ground, the teachers and the children in the situation in which they find themselves and you say: "What can we do in this situation?" I know you will forgive me if I seem to pass some plaudits to a colleague of mine who was in what used to be the New University of Ulster when I say that, in fact, some very fine work has been done in Coleraine over the last ten years in this regard. What I am really saying is there is no way you can hope to achieve social amelioration in the North of Ireland by attempting to integrate schools. That would be one of the biggest factors making for destabilisation. If you attempted to do it in the context of recommendations from the New Ireland Forum. I know Mrs. Robinson would not envisage this. In a sense what we have to do is to work within what we are given and what we have and, in my view, this accords not only with whatever is practicable but it also seems to me to accord with what we know about how to go about getting certain things done in education.

**Dr. C. Daly:** Just one sentence to complete that. I have set up in the diocese a committee of teachers to promote inter-denominational contacts with schools of the other tradition. We find that there is a widespread desire that we do not give too much publicity to this kind of attempt because it hands an opportunity to extremists and fundamentalists to oppose what we are trying to do. Nevertheless, important work is going on in circumstances that are often not congenial but we are advised that it is better that it be given a low profile. For that reason, perhaps we might ask our friends from the media to respect the sensitivities there and not to, in any way, make the work that is going on more difficult by giving an opportunity to people to exploit the situation.

**Chairman:** Thank you. The chairman's lack of a crozier, combined with the fact that the members of the Forum and the delegation from the Irish Episcopal Conference have so much to say to each other means that our timetable has to be stretched. We will now take a break and reassemble at 2.45 p.m.

*Session suspended at 1.30 p.m. and resumed at 2.45 p.m.*

**Chairman:** The next series of questions will be posed by Deputy Brian Lenihan of Fianna Fáil.

**Deputy Lenihan:** Gentlemen and Professor McAleese, you are very welcome and thank you for your very enlightening presentation. Would I be correct in summarising the various points of view that you have put during the morning as saying to us here in the Forum that you have your part to play in the pastoral and spiritual sense and advice to give arising out of your status in the community but that the essential task of devising the appropriate political, constitutional and legal structures for a new Ireland is a task for politicians and legislators, taking into account what you have said from your wisdom and experience and your particular specialities?

**Dr. C. Daly:** Yes, and, if I may say so, also taking into account the views of the other Churches and the views of people who dissent from our position on this matter. We are inevitably asking that our own members will listen respectfully and give mature consideration to the points which we, as moral teachers, put before them. That is all. But it is the business of the legislators and of the electorate in their own conscientious responsibility to do what legislators must do, to propose legislation and what electorates must do, that is express approval or disapproval for that legislation. I am sure some of my colleagues might also wish to contribute.

**Mrs. McAleese:** Could I just say the short answer is "yes". That is a perfectly apt summary of what was said this morning.

**Deputy Lenihan:** From that, would you agree that in a new Ireland, as a primary task, it would be necessary to have a new constitution for that new state?

**Dr. C. Daly:** I do not think this would be a proper question for us, as churchmen, to answer. We have said there are various possible constitutional models and groupings and certainly it is not our

competence, nor is it our wish, to say which of these various groupings is the appropriate one.

**Deputy Lenihan:** I am not talking about any specific blueprint, Dr Daly, but as a general proposition that it would be a task for the legislators and politicians to devise a new constitution for a new Ireland?

**Dr. C. Daly:** Provided that this were one which fully took account of the rights of the whole people of this country and specifically, we asked this morning, should take cognisance of and give full protection to the civil rights and liberties of the Northern Ireland Protestants.

**Deputy Lenihan:** I can, therefore, summarise as the position that you would envisage, that this new constitution should embrace and accommodate all the differing traditions and values that exist in this island as a whole?

**Dr. C. Daly:** Precisely.

**Deputy Lenihan:** And, of course, that incorporates what Dr. O'Mahony said, I take it, earlier on and what you have just repeated, Dr. Daly, that the form and extent of these guarantees would entail no diminution or alteration in regard to the provisions which presently exist as far as the citizens of Northern Ireland are concerned?

**Dr. C. Daly:** Absolutely.

**Deputy Lenihan:** And flowing from that then I take it you would agree — again it is a matter for the legislators and politicians but I take it you would agree — that in order to ensure the maintenance of constitutional guarantees and legislative guarantees for all the citizens and all the traditions in this island it would be important to have absolutely cast-iron guaranteed provisions written into the Constitution to protect, on a permanent basis, these particular rights of which you speak?

**Dr. C. Daly:** Absolutely and I would say that is a matter of plain justice and not just of political expediency. I am not suggesting for one moment that you are suggesting otherwise but I would like to put it on record that we believe it is a matter of justice that the rights and liberties of Protestant Unionists in Northern Ireland be fully respected in any future Ireland.

**Deputy Lenihan:** May I then, as a final summarisation of the position, ask you to agree that this would appear to lead us in the direction that as far as the Catholic Church is concerned there is no impediment, taking into account the criteria you have mentioned, to the politicians and legislators proceeding on the endeavour to which this Forum is committed, the creation of a constitution for a new Ireland incorporating the principles of which we have just spoken?

**Dr. C. Daly:** I would just like to reiterate what I said at the beginning and I think it would also be a response to your question. Those who are working to bring about a society in Ireland reconciled in peace and in justice will not find the Catholic Church an obstacle in its path.

**Chairman:** Thank you, Deputy Lenihan. I pass now to Deputy John Kelly of Fine Gael.

**Deputy Kelly:** On behalf of my party I would like to thank the representatives of the Episcopal Conference for their presence here today and for their presentation and I would like to say also, because I think it has not been said before, that the very fact that this conference is taking place is something which has its own message. I think it would not have been thinkable in 1954, perhaps not even in 1964, and anyone, even people who may disagree with the ultimate object — which most of us here as individuals share — and who have no interest in the Forum's outcome, if they are any way fair minded, would have to recognise that and acknowledge that things have changed very radically here in quite a short time. May I ask the members of the delegation to answer a general question, first of all? The Government of a country, whichever party or parties compose it, has a duty of its own which the document which the Episcopal Conference circulated recognises is a separate and independent duty. Would the delegation recognise that that Government's duty is a duty to act on its own judgment, even where its collective judgment might differ from the judgment or perception of the Church to which perhaps the majority of its members, perhaps even all its members, might individually belong?

**Dr. C. Daly:** Bishop O'Mahony might like to come in on that. I would like to say first that, yes, politicians are dealing with a separate set of criteria, not totally separate but nevertheless a distinct set of criteria, and that these have to be put into the balance along with the moral criteria which we, as our pastoral

duty, lay before our people who include the legislators in some cases but include also a proportion of the people of the country.

**Dr. O'Mahony:** I have not much to add to that except to say that it is important that every consideration should be taken into account by the legislator and again the most important thing for the legislator is to balance the rights of the minority and the rights of the majority, in other words to find a balance between freedom and truth, if you like, because without truth, freedom is an illusion and without freedom, truth would be a tyranny.

**Deputy Kelly:** But even apart from the context of a minority/majority situation, would it not be a proposition which would be generally accepted by the Church, that legislators as a body with a collective responsibility have a responsibility which is different in kind from, and must be exercised independently of, the beliefs which are held by a Church to which, as individuals, they may themselves belong? That would be accepted, I suppose?

**Dr. O'Mahony:** Yes, they must act according to conscience.

**Deputy Kelly:** Bearing in mind that we have got clear the Government's duty as well as its rights, could I move to another question which bears more on the Church's role? It was touched on here this morning but not very thoroughly. If a conflict were to emerge between, on the one hand, maintaining a Catholic pastoral practice, a pastoral principle even, and another value which is not without Christian and theological dimensions, namely, the value of maintaining social and community harmony, particularly in times when the absence of that harmony means murder, would it not be reasonable both for Church and State to give precedence to the latter over the former, in other words, to give precedence to action which could be calculated to reduce tension even if that action conflicts with pastoral practices or principles as applied up to now?

**Dr. C. Daly:** That is precisely why we have been calling so strongly for new constitutional frameworks, new political structures, because at present these are a positive impediment to reconciliation. It is not just reconciling people but reconciling structures that we need.

**Deputy Kelly:** If I could get that point clear, the point Bishop Cahal Daly has made. You talk about new constitutional structures, you are not pointing specifically at the Constitution of

this Republic; you are speaking about institutional structures which would embrace this Republic and also the North of Ireland? You are not proposing particularly that our own Constitution in the Twenty-six County Republic should be adapted in some way — or are you?

**Dr. C. Daly:** There is no way that the Constitution we now have could be imposed on Northern Ireland Unionists.

**Deputy Kelly:** No, but do you see any value on any standard in adapting or amending our present Constitution even if no institutional link with the North were ever to emerge, even for our own purposes in this Republic?

**Dr. C. Daly:** I think, and our submission makes it clear, that our view is that any proposed change must be debated on its own intrinsic merits, including the merit of the contribution it might conceivably make to reconciliation in this island. That is one of the considerations; it is an important one, but it has to be kept in balance with the other factors which naturally and inevitably are the business of legislators to weigh.

**Deputy Kelly:** In trying to find the scale and what to put into the scale in striking this balance, we are dealing here with a problem of minorities, a minority within a minority both in the Six Counties and the Thirty-two Counties. The issue of pluralism has been mentioned a good deal this morning here, and the question of minorities and their bearing on pluralism is discussed quite a good deal in the Episcopal Conference's submission, but the minorities which the Conference chose to instance are the kind of minorities which we do not have in this country; or they may be there, but no one seriously suggests allowing them to dictate or set the tone or style of society. The kind of minorities we are dealing with are not little groups of bigamists or whatever other very marginal instances were mentioned in the document, but very large minorities, taking the island as a whole, of over a quarter when you are speaking about non-Catholic Christians. Surely any move, whether in the context of 32 counties or the smaller one, towards pluralism in a respectable sense of the word, in the acceptable sense of the word, must take into account minorities of that type and substance. That would be admitted. Even in the Republic where minorities are very much smaller but still substantial and respectable enough to deserve the respect and the rights which the majority have, would the delegation not see a need to make some advance even here for reasons quite independent of the North of Ireland?

**Dr. O'Mahony:** I think it is good at this point in time to focus on down here because to a certain extent we often talk of change down here as a plea to the North and really I feel that we should be judging some of these issues on their own merits. I have absolutely no doubt about that and no doubt about the fact that one has to seriously consider minority rights. That is definite and one has to try to balance these rights with Bishop Cassidy's now no longer faceless common good but ultimately it is for the legislators to decide this balance. I have no doubt, we would have no doubt, that their point of view must be taken into account. I would like to put on record, for example, on the question of divorce that in fact we respect the point of view of the Church of Ireland. We do not necessarily agree with it but we respect it.

May I just bring in here something that would be important when we are talking about South of the Border, that all we are saying about divorce is that it should not be lightly taken as the only remedy to marital breakdown. In other words, we see that we here in the Republic of Ireland have a unique advantage in that we have the opportunity of developing a jurisprudence, an alternative way that in some way would reflect the Christian view of the sanctity of marriage which is the view of so many of our people, Catholic and Protestant, down here. There are alternative legal ways, for example, the abolition of the status of illegitimacy which we would be in favour of; the development of the civil law of nullity; the development of property law, allowing for a community of property; development of maintenance laws. In other words, there are a variety of legal ways which would answer the problem of marital breakdown other than the legal remedy of divorce which is the one which is acceptable throughout Western Europe and the US but which we would regard as having devastating effects and creating more problems than it solves. We would be saying: "Why not look for alternative ways of coping with marital breakdown which we accept is a problem in this country?"

**Deputy Kelly:** Briefly, in reply to that, the questions of community of property, abolition of the status of illegitimacy and so on are themselves problems and values in their own right, but they do not bear on a broken-down marriage — at least the immediacy of their bearing is not, I think, apparent. The one which you did mention and is apparent is the question of the nullity jurisdiction. Both in your own submission to us now and earlier today, and in the written submission of a couple of weeks ago, it does seem that the Church is hinting that there could be no objection to an extension of the nullity criteria for State nullity purposes. But is that really

what is being said, not in so many words? Is that what is being hinted at? Could I ask what is the difference between a very generously extended nullity jurisdiction on the one hand and a dissolution jurisdiction on similar criteria on the other?

**Dr. O'Mahony:** I am glad that has been raised. It is an important point and one that I would expect from somebody of the Deputy's eminence. First, I think we would want to say about this that we do not want the State to recognise the ecclesiastical law of nullity. Secondly, we do not want the civil law of nullity to be brought into line with the ecclesiastical law of nullity because it is not possible to do that. They are not identical and I do not think they could ever be. Nevertheless, what we are saying — and we would be supported if you like, by the Coalition's White Paper on Nullity — is that there is room for legitimate development here in the field of civil law. In other words, the present civil law of nullity in Ireland is uncertain, could be developed taking into account legitimate developments in the civil law of nullity procedure in other countries and jurisdictions, and a reforming codifying law of nullity would in fact make nullity more understandable and the rights involved for our people and make it more readily accessible. This, then, would be a civil remedy available to all the people of our land, Catholic, Protestant and Dissenter south of the Border and also would close the gap — only close the gap — between civil and ecclesiastical law in this area. Finally, if it were simply to be divorce by another name I would have nothing to do with it. It would have to be operated strictly according to civil law legal criteria in this area.

**Deputy Kelly:** But would the delegation not accept that, seen as a human problem — and everybody who has mentioned it here this morning on whatever side has admitted that the thing is a cruel human problem — a nullity jurisdiction will probably not bring relief to more than a small fraction of people affected by it?

**Mrs. McAleese:** That is correct. It will be a very small, very limited jurisdiction. Bishop O'Mahony said it would not be divorce by a dishonest name.

**Deputy Kelly:** No. Could I just remind the delegation that Cardinal Ó Fiaich said some years ago shortly after his appointment that he anticipated that if ever a united Ireland context emerged the civil law in regard to marriage would have to be changed. If that means anything, would the delegation accept that it must mean, even if it does not say so in so many words, a

divorce jurisdiction? Or does the delegation envisage that in a united Ireland there would be two legal systems?

**Dr. C. Daly:** I should have thought that our requirement that the rights and liberties, civil and religious of Northern Ireland Protestants would be safeguarded, copperfastened in any future Ireland would indicate that there will, in any case, have to be constitutional safeguards built into a Constitution for a future Ireland, safeguarding those rights. I should go on from that and just reiterate that this is not the only value and these are not the only constituents in Ireland. They have their rights and these are fully conceded and must be fully safeguarded. But there are other people in this island as well as whose rights and electoral decisions have to be respected. I should have thought that if the law on the one hand goes much higher than the moral consensus obtaining in a society it becomes discredited. If on the other hand, it falls far below the moral consensus of a community, it brings the Legislature itself and the legislators and the law into discredit.

**Deputy Kelly:** There are two points I would like to put to the delegation after that reply from Dr. Daly. One of them is suggested by his use of the word "constituents". Every Dáil Deputy around this table — some of us have more than others — have constituents who are not Catholic. Why, in the context of a united Ireland should Protestant people north of the Border have more rights in this regard, more liberties which are reconcilable with their conscience than constituents of mine have here, or constituents of any other Deputy around the table? How would that be a new Ireland? It seems to me to be one setting up a new set of grievances.

**Dr. C. Daly:** I think that the possible models for a new Ireland are very various. We have no model for a new Ireland presented to us as yet. Therefore, we are being asked to answer a question totally without context. It seems to me that the context of the question has to be precisely framed before the question itself becomes meaningful or possible to answer.

**Deputy Kelly:** The difficulty is that those of us on the political side of this conference have to deal with concrete realities and sections and sub-sections. That is how we have to see the thing, rather than in generalities. I would like to connect what has been just said with what you said a little while ago, and also with what was in the earlier submission: and that is that the law cannot go too far above the level of the ethos, that the gap between law and majority ethos

cannot be too wide. Surely the perception that a legal system is going to mirror the majority ethos is the very thing that the Northern minority have complained about for 60 years. Admittedly, they have not had to complain about a legal system tailored denominationally. It has been tailored, if you like, ethnically and put into practice on a basis of ethnic discrimination. Nonetheless it could be said in defence of that system that it was one which corresponded with the majority ethos. In fact, one of their Prime Ministers did not put a tooth in it when he described it as "a Protestant State for a Protestant people". That has always seemed to us very offensive. Nonetheless, if we now adopt the idea that our laws cannot run too far ahead of the Catholic ethos, merely because a huge majority of our people are Catholic, are we not in danger of becoming a target for the same kind of criticism?

**Dr. C. Daly:** I was not talking of the ethos of the Catholic population of this country alone. We have tried to make it clear from the very beginning that there are two traditions, two communities, and pluralism should surely mean that each one of them would be recognised in its diversity.

**Deputy Kelly:** But, with respect, that is a generality that all of us could sign, but when it comes to putting it into the practice of a statute what are we to do? I think the delegation would accept that no politician around this table sees divorce as an easy question. Many of us, as individuals, would have great difficulty in making our minds up about it, quite apart from religious allegiance; but we are the ones stuck with the responsibility of leading the people, first of all, to accept a change — if we decided to do that — in the Constitution which at the moment outlaws divorce; and then to put our heads together and try to devise the appropriate criteria for creating a divorce jurisdiction because it will not spring, fully created, out of the ground. There never was such a thing here. We, therefore, have to work with concrete elements and not with generalities; and while we respect and share the generality that one has to accommodate minorities, how is that going to look in the black and white of the statute? Are we going to have a divorce jurisdiction, which no Catholic will be compelled to resort to, naturally, or are we not? We naturally do not take, and as legislators cannot seek, instructions from any Church on that; but we would be glad to have all views on it, and we are finding, I think, some difficulty in extracting a clear answer on a point of this kind.

**Dr. O'Mahony:** I am not sure that at this point in time there is an

absolutely clear answer except to say that as legislators one must take into account all the considerations — (1) the minority rights, the fact that there are people here in the South who believe that in certain circumstances they have a right to divorce; (2) obviously one has to take into account the effect on the North of Ireland, even though we should not be making a plea to the North; and (3) one has to take into account the social consequences of divorce legislation and also, I would believe, to seriously consider alternative ways of dealing with marital breakdown. In other words, you have to take all these things into consideration and decide what is in the overall interest then for the good of our people, for the good of our country, for peace, for reconciliation and so on. I do not think one could expect us to answer that question.

**Mrs. McAleese:** I think it may be slightly unfair, in one sense, although I understand perfectly the legitimacy of the question, to expect the Church to give you an answer to a dilemma that clearly you as legislators have. We have expressed the point, time and again, that you have a job to do and it is entirely up to yourselves to do it. The Church wants no hand or part in making the decision. It is your decision. The only right the Church reserves is like any group in a democracy the freedom to have its say on the issue if the issue happens to be divorce and to have that taken into the balance. At the end of the day it is up to you how you weight that view.

**Deputy Kelly:** I hope I have not given the impression — I tried to give the opposite impression — that whoever governs this country is going to seek authority from anybody for doing their duty as they see it. I am glad we established a consensus about this across both sides of the conference; but I would like to put to the delegation a perception which was articulated by Bishop Cathal Daly earlier today when he said it was a matter of Christian duty to respect the conscience of others. I would like to have the delegation's view on how, in practice, we are going to see the Church behave where a voter, asked perhaps to vote on a constitutional amendment on divorce, will be looking for guidance as to how he is to reconcile his duty to be fair to minorities who disagree with him — or perhaps even fair to some Catholic neighbour of his who may agree with him, but who is desperate to get out of an impossible marriage — to be fair to these people while, at the same time, respecting the teaching of his own Church. That is a ticklish question and I would be glad to have some hint as to how the Church would see itself dealing with it.

**Dr. C. Daly:** I know you will argue that there is a lot of experience of divorce legislation and its implications and its consequences right around the world so I should have thought that there is a very good case to be made for feeling that this need not be the way, may not be the best way, and that, in fact, on grounds of compassion alone one could feel compassion for those whose marriages would be threatened and the children, whose future would be jeopardised, by certain kinds of legislation. Surely there is experientially a built-in multiplier in divorce legislation which, however, restricted it may wish to be at the beginning, becomes impossible to contain until you arrive, as in every legislation virtually in the western world at the present time, at the simple no fault divorce situation. Nobody foresaw that when it started. Nobody wanted that when it started but people are caught on a kind of moving staircase that carries them far beyond where they wanted to go, by the sheer momentum built into the legislation itself. It has not been possible to maintain restrictions. It is a very complex issue and it is easy to think that divorce is the only way. What we are pleading is that other ways have not been looked at and that people should not be left with any illusions about the consequences which not merely may, but from the experience of other countries, will follow from divorce legislation.

**Deputy Kelly:** I do not want to go back over ground we have covered but I think both Bishop O'Mahony and Professor McAleese admitted, very fairly, a few minutes ago that the only visible alternative, namely an up-dated and generously extended nullity jurisdiction, would not help more than a small fraction of the people whose marriages are on the rocks. So, I think that answer alone will not get us a great deal further. Could I ask a slightly different question? In order to have such a thing as a divorce jurisdiction here, there would have to be two stages. The first stage would be the removal, by referendum — it cannot be done otherwise — of the constitutional bar inhibiting the passage of any law providing for the dissolution of marriage. A quite separate second stage, which might be separated from the first by years, would be the construction of an appropriate divorce process, the elaboration of appropriate criteria and so on. A great deal of responsible thought and agonising reflection would have to go into this, and that would really be the important stage. Could I ask whether we can take it for granted that the Church would at least not throw its weight into the scale if there were a move to carry through the first stage, in other words, to bring the Constitution of this country back to what it was in the years 1922 to 1937 when there was no constitutional bar on such an

enactment, and years in which it can scarcely be argued the country was less Christian than it is now?

**Dr. C. Daly:** I am afraid, with very great respect, I would feel that that is a political question which is not appropriate for us to answer.

**Deputy Kelly:** It is not a political question, but I do agree that it is probably the first time since St. Patrick arrived that the representatives of the Hierarchy were asked to think on their feet.

**Dr. E. Daly:** May I just say that there have been bishops in this Castle before, facing tribunals? Bishops have their decisions to make too. Difficult decisions, unpopular decisions. They have to make them in conscience. They have to make them on the basis of long discussion and then stand by those decisions which they believe in conscience to be true. Anybody, in any position of responsibility or authority, has to make difficult decisions from time to time and live with those decisions. Admittedly, bishops perhaps have the advantage that they do not have to face an electorate every few years but at the same time anyone in authority must make difficult decisions and suffer the pain of making them. All of us have our own particular views. Our views may be diverse, but I think we must have the courage to take decisions and make decisions and in political situations particularly to go to the electorate and put the case as strongly and as sincerely as one can and then ultimately it is the electorate who make the decision.

**Dr. C. Daly:** I certainly would not wish to have been thought to cop out of the question by saying that this is a political judgment. I sincerely feel that the Church should not be expected to say whether there should or should not be a constitutional amendment on abortion, I mean divorce.

**Deputy Kelly:** Everyone here will recognise that perhaps it is unfair to press you too hard on a point of this kind, but might we hope that that is the equivalent of saying that the Church would maintain absolute neutrality on this question should it arise?

**Dr. C. Daly:** The Church will face that situation, as it has tried to face other difficult situations, when it is confronted with it but it is legislators who have to confront us with that situation. That is their responsibility, that is their right and that is their duty. Some may have thought that my slip earlier was a Freudian slip. It was a slip of tongue but there is nothing Freudian about it as far as I am

aware, although I have not been psychoanalysed. In fact, we did not give any guidance to our people about the amendment which people have in mind until a specific proposal was formulated by Government and proposed to the people by the Oireachtas. That will be our position with regard to any other proposed constitutional amendment. It is, first of all, the duty of the Oireachtas to formulate a specific proposal for constitutional amendment and then, if this has moral implications, if this has consequences, as we see it, for the moral quality of life in society then, as pastors, we would express our view but we would respect the consciences both of legislators and of the electorate in doing so.

**Dr. O'Mahony:** It is good to hear you speak because it gives us some insight into your own particular concerns and anxieties.

**Deputy Kelly:** Would the point of view which Bishop Cahal Daly expresses not be more applicable to the second stage of a possible process, if we ever inaugurate such a process, namely to the stage of constructing a divorce process? The first stage, namely removing the relevant section from the Constitution, would be merely bringing our basic law back to the stage at which it was when William T. Cosgrave and Eamon de Valera were successively Presidents of the Executive Council in the early days of this State. There would be no other strings to it. There would be no question of formulating a proposal. The proposal, if it were there at all, would be a purely negative one of deleting something which is there.

**Dr. C. Daly:** Certainly, I do not wish to be in any situation where I would seem to be saying that this or that period of the constitutional history of Ireland was preferable. I am sure you are not suggesting that. I just have to reiterate what I said before. It is the function of both Houses of the Oireachtas to formulate a proposal for constitutional amendment and when this is formulated we have to take our moral and pastoral decisions in respect of it and give the moral guidance which our people look to us to receive on it with full respect for their consciences and with full realisation that our pastoral guidance is not the only criterion and that ours are not the only values used and principles that have to be respected in the voting.

**Deputy Kelly:** May I move finally to another theme which has already been mentioned here today, the question of mixed marriages? The document which the conference circulated a

couple of weeks ago said that the Church's directory, the new Directory on Mixed Marriages, had been welcomed by, I think it said, a good deal of the Protestant churchmen. That leaves out of account, I think, the fact that the Church of Ireland described it as "profoundly disappointing". I did hear this morning a very good defence and explanation of the Directory — we all did — but, to the extent that the Directory — which of course is not just Irish, naturally it is a universal Directory — but to the extent that it is perceived by our own minority neighbours as disappointing, would there not be a case against the background of the value which, I think we admitted when we started, had to take precedence, of community reconciliation and harmony, would there not be a case for seeking a special regime in this connection tailored to Irish conditions which would leave Protestant partners in mixed marriages feeling in a condition of absolute equality with the Catholic partners so far as making decisions about children's upbringing is concerned?

**Dr. Cassidy:** I appreciate the point you are making. It is something to which the Irish Episcopal Conference gave consideration and we did consider, in view of the attention given to and the sense of injustice that is sometimes felt due to this particular promise, we did consider that we might appeal to Rome for a derogation. I think we should only have appealed to Rome if we felt that there was some chance, even a slight chance that Rome would accede to that particular appeal. We did not feel that. We might have done it as a political exercise — and I mean no offence to politicians. We might have done it as an exercise in public relations. We might even have informed the media to that effect or possibly leaked it to the press. We chose not to do that and let me explain why. Because in 1970 when Pope Paul VI issued *Matrimonia Mixta* — Mixed Marriages — there was a significant move forward there where the promise became simply to do one's best, to do all that is possible. Since 1970 and 1980, the mind of the Universal Church had been made very clear in a Synod of Bishops in Rome. That Synod of Bishops voted 9 to 1 to give greater power to local conferences of bishops in relation to mixed marriages on condition that the promise was retained. That was a 9 to 1 situation and politicians will appreciate how difficult it is to overturn that kind of percentage. While we were doing the Directory we knew that the Code of Canon Law was coming into being, that is the universal law of the Church. We waited for the Code of Canon Law in case there would be any change. We really did not expect a change for the reasons I have suggested. But there was a slight change in that, where before the promise was required normally in writing, now

the universal law of the Church said that it might be given orally at the behest or wish of the party or the couple. We incorporated that into our Directory. As I say, we did consider it because it is such an irritant, because it surfaces so often. We felt it would be dishonest to do it, that in effect what we would be trying to do really would be to pass the odium to Rome, or any odium that was attached to it. We preferred not to do that. If we thought that there was the slightest chance that there would be a change in what is a universal law of the Church and a law that applies in England and America and in Canada and all over the world, I think that in the interests of reconciliation, we certainly would have appealed for it. Let me say that is not necessarily the end of the story. This kind of irritant is a consequence of disunity. The Churches are divided. That is a fact. It is a sad and tragic fact. As the document on ecumenism makes clear, we are trying to work towards unity and the closer we come to unity the closer we come to a full resolution of that kind of difficulty. I do not think there can be a complete resolution as long as the Churches are divided. It is a challenge really to a more active ecumenism.

**Deputy Kelly:** That is an extremely frank and revealing statement which will give a lot of interest all round. For that reason I do not feel inclined to pursue it except to ask whether I have understood you correctly: may we take it from your expression "the story does not end here" that the inclination of the Irish Hierarchy to seek a relaxation of the rule to the point of equality is still present and will be pursued?

**Dr. Cassidy:** I think I would have to take issue with the words "the point of equality" because, as I tried to explain this morning, the promise asks our people to do their best. There is no question of violating the conscience of another person. We ask them to give a personal promise to do their best. A decision comes later within the unity and the context of the marriage. That is a joint decision by the couple. They, the parents, decide, with due regard for each other's rights and conscientious convictions. The parents decide how the children are to be brought up. I would take slight issue with that, but you can take it that if there is anything in that area that we can do to further reconciliation we will do it. In the Directory which we published — and believe me we took several years to prepare it; we drafted it and redrafted it and refined it — we went as far on the road to reconciliation as we could possibly go. We went really to the outer limits of generosity that the universal law of the Church would allow.

**Deputy Kelly:** I would like to thank the delegation again for their great frankness and their willingness to submit to an unprecedented interrogation from lay people.

**Dr. C. Daly:** May I have just one short final word? It is in connection with the discussion we had earlier about the morality of voting for Sinn Féin and its connection with the morality of violence. I feel I should put it on record. There has been some question about a division of opinion between the Cardinal, for example, and myself. This, emphatically, is not the case. We both say, and we say unambiguously, that it is morally wrong to support violence or to vote for political parties which support violence. This we will go on saying. That moral judgment is distinct from the pastoral analysis of the motives which have led people *de facto* to vote for Sinn Féin. It is simply not true, it is false and fraudulent for Sinn Féin to seek votes on social and community grounds and then turn around and claim that the votes so sought and so obtained are votes for violence. In the great majority of cases they are not. This gives Sinn Féin a specious but an utterly spurious and dishonest claim to electoral support for the Armalite. We have welcomed this opportunity of coming in person to meet the members of the Forum. At no time, as I am sure you all accept, were we unwilling or reluctant to come. We hope that whatever misunderstandings existed about this are now dispelled. We sincerely thank all of you, the members, for your time. We admire your dedication and your commitment. Might I even say, without wanting to preach at the end, that we assure you of our prayers, such as they are. We are grateful to you for allocating so much time to this presentation. Thank you.

**Chairman:** May I, Dr. Daly, translate into words the appreciation of the membership of the Forum of the very valuable contribution you have made and for sharing with us in such detail your views today. Thank you very much.

*3.50 p.m. Session concluded.*

DUBLIN:  
PUBLISHED BY THE STATIONERY OFFICE

To be purchased from the  
GOVERNMENT PUBLICATIONS SALE OFFICE, SUN ALLIANCE HOUSE,  
MOLESWORTH STREET, DUBLIN 2.  
or through any Bookseller

**Sale Price: IR£1.75**

Printed by Mount Salus Press Ltd.

# NEW IRELAND FORUM

## REPORT

2nd May 1984

NEW IRELAND FORUM

REPORT

CONTENTS

	<i>Page</i>
<b>Chapter 1: Preface</b> . . . . .	1
Proceedings of the Forum . . . . .	3
Acknowledgement of Assistance Received . . . . .	4
<b>Chapter 2: Introduction</b> . . . . .	5
<b>Chapter 3: Origins of the Problem</b> . . . . .	8
Failure of 1920 Settlement . . . . .	8
Consequences of the Division of Ireland up to 1968 . . . . .	9
Consequences of the Crisis Since 1969 . . . . .	12
<b>Chapter 4: Assessment of the Present Problem</b> . . . . .	17
Assessment of Recent British Policy . . . . .	17
Nationalist Identity and Attitudes . . . . .	19
Unionist Identity and Attitudes . . . . .	20
Need for Accommodation of both Identities in a New Approach . . . . .	22
<b>Chapter 5: Framework for a New Ireland: Present     Realities and Future Requirements</b> . . . . .	25
<b>Chapter 6: Unitary State</b> . . . . .	31
<b>Chapter 7: Federal/Confederal State</b> . . . . .	34
<b>Chapter 8: Joint Authority</b> . . . . .	37
<b>Appendix 1: Oral Presentations</b> . . . . .	39
<b>Appendix 2: Written Submissions</b> . . . . .	41

The following arrangement of the Chairman to be Dr. C. O. R. E. A. C. H. A. N. . . . .

# NEW IRELAND FORUM

## REPORT

### CHAPTER 1

#### PREFACE

**1.1** The New Ireland Forum was established for consultations on the manner in which lasting peace and stability could be achieved in a new Ireland through the democratic process and to report on possible new structures and processes through which this objective might be achieved.

**1.2** Participation in the Forum was open to all democratic parties which reject violence and which have members elected or appointed to either House of the Oireachtas or the Northern Ireland Assembly. Four political parties took part in the Forum: the Fianna Fáil Party, the Fine Gael Party, the Labour Party and the Social Democratic and Labour Party (SDLP). These four parties together represent over ninety per cent of the nationalist population and almost three-quarters of the entire population of Ireland. The parties which participated in the Forum would have greatly preferred that discussions on a new Ireland should have embraced the elected representatives of both the unionist and nationalist population. However, the Forum sought the views of people of all traditions who agreed with its objectives and who reject violence. The establishment and work of the Forum have been of historic importance in bringing together, for the first time since the division of Ireland in 1920, elected nationalist representatives from North and South to deliberate on the shape of a new Ireland in which people of differing identities would live together in peace and harmony and in which all traditions would find an honoured place and have equal validity.

**1.3** The leaders of the four participating parties met on 14 and 21 April, 1983 to consider arrangements for the Forum. Those present were the Taoiseach, Dr. Garret FitzGerald TD, Leader of the Fine Gael Party; Mr. Charles J. Haughey TD, Leader of the Fianna Fáil Party; the Tánaiste, Mr. Dick Spring TD, Leader of the Labour Party; and Mr. John Hume MP, MEP, Leader of the Social Democratic and Labour Party. The Party Leaders made the following arrangements: the Chairman to be Dr. Colm Ó hEocha,

President of University College Galway and the Secretary to be Mr. John R. Tobin, Clerk of Seanad Éireann; the Forum would be assisted by an independent secretariat<sup>1</sup>; membership of the Forum would comprise 27 members and 14 alternate members from the four parties.

1.4 The members and alternates nominated were:—

#### FIANNA Fáil PARTY

##### Members and Alternates

Charles J. Haughey TD  
 Brian Lenihan TD  
 David Andrews TD  
 Gerry Collins TD  
 Eileen Lemass TD  
 Ray MacSharry TD  
 Rory O'Hanlon TD  
 Jim Tunney TD  
 John Wilson TD

Paudge Brennan TD  
 Jackie Fahey TD  
 Jimmy Leonard TD  
 John O'Leary TD

Secretary: Veronica Guerin

#### LABOUR PARTY

##### Members and Alternates

Dick Spring TD, Tánaiste and  
 Minister for Energy  
 Frank Cluskey TD  
 Senator Stephen McGonagle  
 Frank Prendergast TD  
 Mervyn Taylor TD

Eileen Desmond TD  
 Senator Mary Robinson

Secretary: Diarmaid  
 McGuinness

#### FINE GAEL PARTY

##### Members and Alternates

Garret FitzGerald TD,  
 Taoiseach  
 Peter Barry TD,  
 Minister for Foreign Affairs  
 Myra Barry TD  
 Senator James Dooge  
 Paddy Harte TD  
 John Kelly TD  
 Enda Kenny TD  
 Maurice Manning TD

David Molony TD  
 Nora Owen TD  
 Ivan Yates TD

Secretary: John Fanagan

#### SOCIAL DEMOCRATIC AND LABOUR PARTY

##### Members and Alternates

John Hume MP, MEP  
 Seamus Mallon  
 Austin Currie  
 Joe Hendron  
 E. K. McGrady

Sean Farren  
 Frank Feely  
 Hugh Logue  
 Paddy O'Donoghue  
 Paschal O'Hare

Secretary: Denis Haughey

##### <sup>1</sup>Members:

Walter Kirwan (Co-ordinator), Kieran Coughlan, Hugh Finlay, Colm Larkin, Martin McMahon, Ciaran Murphy, Richard O'Toole, Frank Sheridan, Ted Smyth.

##### Administration, Press and Secretariat Staff:

Margaret Beatty, Josie Briody, Nora Daffy, Nuala Donnelly, Theresa Enright, Jacqueline Garry, Desmond Morgan, Mary O'Leary, Kathleen Redmond, Patrick Sherlock.

#### Proceedings of the Forum

1.5 The first session of the Forum was held in public in Dublin Castle on 30 May, 1983. It was opened by the Chairman, Colm Ó hEocha and was addressed by the Leaders of the four participating parties. There was a total of 28 private sessions and 13 public sessions and there were 56 meetings of the Steering Group, comprising the Chairman and the Party Leaders. In addition, sub-groups of the Forum examined in detail economic issues and the structures outlined in Chapters 6, 7 and 8.

1.6 Since the Forum was concerned to hear the widest possible range of opinion, in particular from Northern Ireland, written submissions were invited through advertisements in a wide range of newspapers, North and South. A total of 317 submissions was received from both parts of Ireland and from Britain, the United States of America, Belgium, France and Canada. These reflected many views, including those of the nationalist and unionist traditions, and covered a wide spectrum of topics such as economic, social, political, constitutional, legal, religious, educational and cultural matters. The Forum invited oral presentations from 31 individuals and groups in order to allow for further elaboration and discussion of their submissions. These sessions took place at 11 public meetings of the Forum from 20 September, 1983 to 9 February, 1984. The proceedings of these sessions have been published by the Forum. Appendix 1 lists the publications containing these proceedings. Appendix 2 lists individuals and groups who made written submissions.

1.7 A Forum delegation from the four participating parties visited the North on 26 and 27 September, 1983 and met groups representative of a wide range of opinion. On 23 and 24 January, 1984, another Forum delegation held discussions in London with groups from the Conservative Party, the Labour Party, the Liberal Party and the Social Democratic Party.

1.8 The following reports, which analyse in detail different aspects of the problem, were prepared by the Forum and have been published separately: *The Cost of Violence arising from the Northern Ireland Crisis since 1969*; *The Economic Consequences of the Division of Ireland since 1920*; and *A Comparative Description of the Economic Structure and Situation, North and South*. These reports contribute to an understanding of the problems involved and provide an important point of reference. The following studies were commissioned by the Forum and have been published: *The Macroeconomic Consequences of Integrated*

*Economic Policy, Planning and Co-ordination in Ireland* by DKM Economic Consultants; and *The Legal Systems, North and South* by Professor C. K. Boyle and Professor D. S. Greer. Studies on the implications of integration in the agriculture, energy and transport sectors, prepared for the Forum, are being published separately.

#### **Acknowledgement of Assistance Received**

1.9 The Forum records its gratitude to all who made submissions, written and oral. It acknowledges with thanks the contributions of those who acted as consultants on many aspects of the Forum's work. The very positive response to requests for assistance by the Forum and the large number of submissions and offers of help received bear striking testimony to the widespread and urgent desire among all traditions in Ireland that the Forum should succeed in contributing to peace and stability.

## **CHAPTER 2**

### **INTRODUCTION**

2.1 The Forum has been imbued with an overriding sense of the importance and urgency of its task. It was established against a background of deep division, insecurity and violence that threaten society, primarily in Northern Ireland but also in the Republic and to a certain extent in Britain. The continuing crisis in Northern Ireland has reached critical proportions, involving intense human suffering and misery for many thousands of people. The persistence of division and of conflict on such a scale poses a fundamental challenge to those who support and practise democratic principles as a means to resolve political problems; in particular, since Britain exercises direct responsibility, it is a serious reflection on successive British Governments. More than thirty years after European statesmen successfully resolved to set aside their ancient quarrels and to work together in the European Community, the continuation of the conflict in Northern Ireland represents a dangerous source of instability in Western Europe and a challenge to the democratic values which Europe shares in common with North America and the rest of the Western World.

2.2 The analysis by the Forum of the crisis in Northern Ireland (Chapters 3 and 4) illustrates the inherent instability of the 1920 constitutional arrangements which resulted in the arbitrary division of Ireland. Each generation since has suffered from the discrimination, repression and violence which has stemmed from those constitutional arrangements.

2.3 The study by DKM Economic Consultants shows that the economic outlook for the North is very bleak as long as the present political paralysis and violence continue. This study indicates that on the basis of foreseeable economic trends, and in the absence of a political settlement leading to an end to violence, there will be virtual stagnation in the economy and a further substantial increase in unemployment. Unemployment in the North would increase from an estimated 122,000 in 1984 to as much as 166,000 (about 32 per cent of civil employment) by the 1990s. Without political progress the scale of economic and social problems will

increase greatly, exacerbating a highly dangerous situation. This will make increasingly intolerable the social and economic burden for both sections of the community in the North. It will also lead to a major increase in the financial burden on Britain because of the mounting cost of security and the increased expenditure necessary to shore up the economy and living standards of the area. For the South, there will be a further diversion of resources to security where expenditure is already disproportionately greater than that of Britain, while the adverse effects on the economy, particularly in the border areas, will be prolonged.

**2.4** The immediate outlook for the North is extremely dangerous unless an acceptable political solution is achieved. The long-term damage to society worsens each day that passes without political progress. In political, moral and human terms there is no acceptable level of violence. There are at present no political institutions to which a majority of people of the nationalist and unionist traditions can give their common allegiance or even acquiesce in. The fundamental social bonds which hold people together in a normal community, already tenuous in the abnormal conditions of Northern Ireland, have been very largely sundered by the events and experiences of the past fifteen terrible years. However, despite the drawing apart of the two traditions since 1969, respect for basic human values was for a time maintained within each tradition. But as sensibilities have become dulled and despair has deepened, there has been a progressive erosion of basic values which is in danger of becoming irreversible. The immense challenge facing political leaders in Britain and Ireland is not merely to arrest the cancer but to create the conditions for a new Ireland and a new society acceptable to all its people.

**2.5** The need for progress towards this objective is now so urgent that there can be no justification for postponing action. A major reassessment by Britain which at present exercises direct responsibility for Northern Ireland is required. There is an overwhelming need to give urgent and sustained priority to the initiation of a political process leading to a durable solution.

**2.6** The conflict inherent in the Northern situation has surfaced dramatically in the last 15 years and the situation is progressively deteriorating within the present structures. The alienation of nationalists in Northern Ireland from political and civil institutions, from the security forces and from the manner of application of the law has increased to major proportions. There is fear, insecurity, confusion and uncertainty about the future in the unionist section of the community. Northern Ireland today is

characterised by the fact that neither section of the community is happy with the *status quo* or has confidence in or a sense of direction about the future. It is essential that any proposals for political progress should remove nationalist alienation and assure the identity and security of both unionists and nationalists. Accordingly, in the search for the basis of a political solution the British and Irish Governments must together initiate a process which will permit the establishment and development of common ground between both sections of the community in Northern Ireland and among all the people of this island.

## CHAPTER 3

### ORIGINS OF THE PROBLEM

#### Failure of 1920 Settlement

**3.1** The existing political systems in Ireland have evolved from the 1920 constitutional arrangements by Britain which resulted in the arbitrary division of the country. Prior to 1920 and during many centuries of British rule, Ireland was administered as an integral political unit. The establishment of Northern Ireland as a separate political unit was contrary to the desire of the great majority of Irish people for the political unity and sovereignty of Ireland as expressed in the last all-Ireland election of 1918. That election also confirmed that the Protestants of North-East Ulster, fearful for the survival of their heritage, opposed separation of Ireland and Britain. Although the (British) Government of Ireland Act, 1920 contemplated the eventual establishment of an all-Ireland Parliament within the United Kingdom, the settlement in fact entailed the partition of Ireland into two separate political units.

**3.2** The Government and Parliament set up in the North were broadly acceptable to the unionist majority in the North and to the British Government; while maintaining their desire for Irish unity, when this was not attained, nationalists in the South dedicated themselves to building up the Southern state. Two groups found that their interests were not accommodated—the Northern nationalists and the Southern unionists. However, the constitutional, electoral and parliamentary arrangements in the South specifically sought to cater for the minority status of Southern unionists and did so with considerable, if not total, success. The intention underlying the creation of Northern Ireland was to establish a political unit containing the largest land area that was consistent with maintaining a permanent majority of unionists. Since they were now in a minority, the Northern nationalists were the principal victims of the arrangements and, although some hoped that the Boundary Commission would bring within the jurisdiction of the South areas of predominantly nationalist population, this did not take place.

**3.3** Because of the failure of the British government to accept the democratically expressed wishes of the Irish people and because of the denial of the right of nationalists in the North to political expression of their Irish identity and to effective participation in the institutions of Government, the 1920 arrangements did not succeed. The fundamental defects in the resulting political structures and the impact of ensuing policy led to a system in the North of supremacy of the unionist tradition over the nationalist tradition. From the beginning, both sections of the community were locked into a system based on sectarian loyalties.

**3.4** The failure of the arrangements was clearly acknowledged by the British Government in 1972 when they replaced the Government and Parliament of Northern Ireland, established under the Government of Ireland Act, 1920, with direct rule. The subsequent Northern Ireland Constitution Act, 1973 was intended to provide a framework for agreed government in Northern Ireland but, following the collapse in 1974 of the ensuing Sunningdale arrangements, many of the provisions of the 1973 Act have been effectively in abeyance. Thus, over 60 years after the division of Ireland, workable and acceptable political structures have yet to be established in the North.

#### Consequences of the Division of Ireland up to 1968

**3.5** During the Home Rule for Ireland debates in the British Parliament in 1912, many arguments were advanced by British political leaders in favour of maintaining the unity of Ireland. The British Government had introduced a Bill that proposed to give Ireland a separate Parliament with jurisdiction over her internal affairs while reserving power over key issues. However, faced with the unionist threat to resist this Bill by unlawful force, the British Government and Parliament backed down, and when the Government of Ireland Act of 1914 was placed on the statute book in Westminster, there was a provision that it would not come into operation until after Parliament had an opportunity of making provision for Ulster by special amending legislation. The message—which was not lost on unionists—was that a threat by them to use violence would succeed. To the nationalists, the conclusion was that the democratic constitutional process was not to be allowed to be effective. This legacy continues to plague British-Irish relations today.

**3.6** Although partition was established by the British Parliament in the Government of Ireland Act, 1920, that Act also made provision for the two parts of Ireland coming together again, and it sought to encourage this process through a Council of Ireland.

In the period immediately after 1920, many saw partition as transitory. It soon became clear, however, that successive British Governments were in practice willing to allow a system of untrammelled one-party rule in Northern Ireland to be exercised by and on behalf of the majority unionist population. Not only were the wishes of the people of the rest of Ireland as a whole discounted but the identity of nationalists in the North was disregarded.

**3.7** Since its establishment, partition has continued to overshadow political activity in both parts of Ireland. The country as a whole has suffered from this division and from the absence of a common purpose. The division has absorbed the energies of many, energies that otherwise would have been directed into constructing an Ireland in which nationalists and unionists could have lived and worked together. Instead of a positive interaction of the unionist and nationalist traditions, the emphasis in both parts of Ireland was on the predominant value system of each area, leading to a drifting apart in laws and practices. The most tragic measure of the Northern Ireland crisis is the endemic violence of the situation. Moreover, the situation has persistently given rise to tensions and misunderstandings in the British-Irish relationship in place of the close and harmonious relationship that should normally exist between neighbouring countries that have so much in common.

**3.8** In its report, *The Economic Consequences of the Division of Ireland since 1920*, the Forum noted that division gave rise to considerable economic costs, North and South. For example, in the absence of co-ordinated long-term planning, capital investment in areas such as energy, education and health has entailed considerable duplication of expenditure. The impact on areas contiguous to the border was particularly adverse. Not only were they detached from their trading hinterlands, but the difficulties of their location were worsened by their transformation into peripheral regions at the dividing line of two new administrative units. Had the division not taken place, or had the nationalist and unionist traditions in Ireland been encouraged to bring it to an end by reaching a mutual accommodation, the people of the whole island would be in a much better position to benefit from its resources and to meet the common challenges that face Irish society, North and South, towards the end of the 20th century.

**3.9** Since 1922, the identity of the nationalist section of the community in the North has been effectively disregarded. The symbols and procedures of the institutions to which nationalists are required to give allegiance have been a constant reminder of

the denial of their identity. Apart from a few local authorities and the power-sharing Executive which was briefly in being following the Sunningdale Agreement of 1973, they have had virtually no involvement in decision-making at the political level. For over 50 years they lived under a system of exclusively unionist power and privilege and suffered systematic discrimination. They were deprived of the means of social and economic development, experienced high levels of emigration and have always been subject to high rates of unemployment. The consequences of this policy became particularly evident in those areas which have a predominantly nationalist population.

**3.10** Unionists had to cope with a situation which was not their first choice. Originally, they opposed change and sought to keep all of Ireland in the United Kingdom. They later opposed Home Rule and then independence for the whole island. In the event, the South became a Dominion, and later a Republic outside the Commonwealth. Provision was made for the two parts of Ireland to come together in a Council of Ireland but the North was also given the option not to be part of the new Irish State and to revert to the United Kingdom. This option was exercised at once and the North found itself with a Home Rule devolved government which it had not sought. From the beginning, unionist insecurity in regard to their minority position in the island as a whole had a profound effect on the manner in which political structures were organised in the North. Political dialogue with the nationalists was avoided for fear of undermining the unionist system of exclusive power and privilege. Fears were stimulated of forcible absorption of unionists into an all-Ireland Republic, dominated as unionists saw it by a Roman Catholic and a Gaelic ethos. Those fears led many unionists to equate Roman Catholicism with nationalism and to regard the nationalist minority in the North as a threat to the survival of their power and privilege.

**3.11** As a result, the people in both sections of the community lived under the shadow of sectarian politics and the fear of domination of one tradition by the other.

**3.12** Irish nationalism found sovereign and international expression in partial fulfilment of its objectives through the establishment of an independent, democratic state in the South. Since 1922, the primary efforts of successive Governments have been concentrated on consolidation and development of the State which has a record of significant achievement. The process of development of an institutional and legal framework, of

international assertion of sovereignty, and of concentration on industrial, economic and social development resulted, however, in insufficient concern for the interests of the people of Northern Ireland. Efforts were made from time to time by all nationalist parties to highlight the effects of the partition of the country, and the injustices which the nationalist population of the North had to suffer, without response from successive British Governments. Moreover, the experience of partition has meant that for two generations there has been no unionist participation in political structures at an all-Ireland level. Rather, the Southern state has evolved without the benefit of unionist influence.

### **Consequences of the Crisis since 1969**

**3.13** Since 1969, Northern Ireland has endured a sustained political crisis. This crisis has been different from previous manifestations of the underlying problem, not only because of the scale of the violence, but also because the crisis has shown no signs of early resolution. On the contrary, the political conflict underlying the violence has worsened and will continue to do so unless there is urgent action to bring about significant political progress.

**3.14** The present crisis in the North arose when non-violent campaigns in the late 1960s for basic civil rights and for an end to systematic discrimination in the areas of electoral rights, housing and employment were met with violence and repression. Even modest steps towards dialogue and reform undertaken by the unionist administration of Northern Prime Minister, Terence O'Neill met with vigorous opposition from certain sections of unionist opinion. Some of that opposition found expression in sectarian attacks against nationalists and bomb attacks on public utilities. The partial attitude of the local institutions of law and order, especially the B-Special Constabulary, resulted in failure to protect the nationalist population against sectarian attacks, which were particularly virulent in West Belfast. The conditions were thus created for revival of a hitherto dormant IRA which sought to pose as the defenders of the nationalist people. The resulting conflict gave rise to the deployment of the British Army on the streets of Northern Ireland in 1969.

**3.15** The British Army was initially welcomed by the nationalist population as providing protection from sectarian attacks. However, the relationship between the nationalist population and the British Army deteriorated shortly afterwards. This was due to insensitive implementation of security measures in nationalist areas and a series of incidents in which the British Army was no

longer perceived by nationalists to be acting as an impartial force. 1970 was thus a critical turning point and the experience of nationalists then and subsequently has profoundly influenced their attitudes, especially in regard to security. Among the major incidents which contributed to this alienation were the three-day curfew imposed on the Falls Road in June 1970; the internment without trial in August, 1971 of hundreds of nationalists; the subsequent revelation that some of those taken into custody on that occasion were subjected to treatment later characterised by the Strasbourg Court of Human Rights as "inhuman and degrading"; the shooting dead of 13 people in Derry by British paratroopers in January, 1972; and the beatings and ill-treatment of detainees in Castlereagh Barracks and Gough Barracks in 1977/78, subsequently condemned in the official British Bennett Report.

**3.16** Some hope of an improvement in the plight of nationalists followed the introduction of direct rule by Westminster in 1972. Negotiations in 1973 between the Northern parties and subsequently at Sunningdale between the Irish and British Governments, with Northern nationalist and unionist participation, brought about the short-lived Executive in which nationalists and unionists shared power in Northern Ireland. Provision had also been made as part of the Sunningdale Agreement for a new North-South dimension through a Council of Ireland. Both the Irish and British Governments made declarations on the status of Northern Ireland in which the Irish Government recognised that there could be no change in the status of Northern Ireland until a majority there desired it, and the British Government affirmed that if in the future the majority of the people of the North should indicate a wish to become a part of a united Ireland, the British Government would support that wish. However, faced with extremist action by a section of the unionist community, a new British Government in 1974 failed to sustain the Sunningdale Agreement. The collapse of the Sunningdale arrangements dashed the hopes of nationalists and seriously damaged the prospects of achieving peace and stability in Northern Ireland. It recalled the earlier backdown of 1914: to unionists it reaffirmed the lesson that their threat to use force would cause British Governments to back down; to nationalists it reaffirmed their fears that agreements negotiated in a constitutional framework would not be upheld by British Governments in the face of force or threats of force by unionists.

**3.17** Until the Downing Street Declaration in 1969, the plight of Northern nationalists was ignored by successive British

Governments and Parliaments. However, notwithstanding the attempts to remedy some of the worst aspects of discrimination and the introduction of direct rule from London in 1972, the structures in Northern Ireland are such that nationalists are still discriminated against in social, economic, cultural and political terms. Their representation and influence in the private and public structures of power remain very restricted. There is, in practice, no official recognition of their identity nor acceptance of the legitimacy of their aspirations. In the economic sphere, as the reports of the Fair Employment Agency have shown, discrimination against Catholics in employment persists. Their day-to-day experience reinforces nationalist convictions that justice and effective exercise of their rights can come only from a solution which transcends the context of Northern Ireland and which provides institutions with which they can identify.

**3.18** Despite the British Government's stated intentions of obtaining political consensus in Northern Ireland, the only policy that is implemented in practice is one of crisis management, that is, the effort to contain violence through emergency measures by the military forces and the police and through extra-ordinary judicial measures and a greatly expanded prison system. The framework within which security policies have operated and their often insensitive implementation have, since 1974, deepened the sense of alienation of the nationalist population. Inevitably, as during the 1980/81 hunger strikes when the warnings of constitutional nationalists were ignored by the British Government, security issues have been exploited by the paramilitaries in order to intensify alienation and with a view to increasing their support. Such alienation threatens the civilised life and values of entire communities and undermines the belief that democratic policies alone can offer peace, justice and stability.

**3.19** The paramilitary organisations of both extremes feed on one another and on the insensitivity of British policy and its failure to provide peace and stability. Their message is one of hatred and of suppression of the rights of those of the other tradition. Their actions have caused appalling loss of life, injury, damage to property and considerable human and economic loss to the people of both traditions. They succeed only in sowing fear, division and distrust within the whole community.

**3.20** The negative effect of IRA violence on British and unionist attitudes cannot be emphasised enough. Their terrorist acts create anger and indignation and a resolve not to give into violence under any circumstances. They have the effect of stimulating additional

security measures which further alienate the nationalist section of the community. They obscure the underlying political problem. They strengthen extremist unionist resistance to any form of dialogue and accommodation with nationalists. Similarly, terrorist acts by extreme loyalist groups which affect innocent nationalist people have a correspondingly negative impact on nationalist attitudes. The involvement of individual members of the security forces in a number of violent crimes has intensified this impact. Every act of murder and violence makes a just solution more difficult to achieve. The greatest threat to the paramilitary organisations would be determined constitutional action to reach and sustain a just and equitable solution and thus to break the vicious circle of violence and repression. No group must be permitted to frustrate by intimidation and threats of violence the implementation of a policy of mutual accommodation.

**3.21** The Forum's report, *The Cost of Violence arising from the Northern Ireland Crisis since 1969*, has attempted to quantify the human loss and economic costs of violence and political instability in the North. The most tragic loss is that of the deaths of over 2,300 men, women and children. These deaths in an area with a population of 1½ million are equivalent in proportionate terms to the killing of approximately 84,000 in Britain, 83,000 in France or 350,000 in the United States of America. In addition, over 24,000 have been injured or maimed. Thousands are suffering from psychological stress because of the fear and tension generated by murder, bombing, intimidation and the impact of security measures. During the past 15 years, there have been over 43,000 recorded separate incidents of shootings, bombings and arson. In the North the prison population has risen from 686 in 1967 to about 2,500 in 1983 and now represents the highest number of prisoners per head of population in Western Europe. The lives of tens of thousands have been deeply affected. The effect on society has been shattering. There is hardly a family that has not been touched to some degree by death, injury or intimidation. While the South and Britain have not suffered on the same scale, they too have been affected directly by the violence – by bombings, armed robberies and kidnappings and by other acts resulting in deaths, maiming and threats to security; they have also had to bear a significant price in terms of extraordinary security and judicial measures.

**3.22** As that report also shows, the economic and financial costs have been very high. They include additional security costs and compensation for deaths, injuries and considerable damage to property. Since 1969, the estimated total direct cost, in 1982

prices, is IR£5,500 million<sup>1</sup> incurred by the British Exchequer in respect of the North and IR£1,100 million<sup>2</sup> incurred by the Irish Exchequer in the South. Over the past 15 years the violence has destroyed opportunities for productive employment, severely depressed investment that could have led to new jobs and greater economic well-being, and greatly damaged the potential of tourism. These further indirect costs in terms of lost output to the economies of the North and the South could be as much as IR£4,000 million<sup>3</sup> and IR£1,200 million<sup>4</sup>, respectively, in 1982 prices.

<sup>1</sup> Equivalent to Stg.£4,507m. or US\$6,501m. at current (30 March 1984) exchange rates.

<sup>2</sup> Equivalent to Stg.£901m. or US\$1,300m. at current (30 March 1984) exchange rates.

<sup>3</sup> Equivalent to Stg.£3,278m. or US\$4,728m. at current (30 March 1984) exchange rates.

<sup>4</sup> Equivalent to Stg.£983m. or US\$1,418m. at current (30 March 1984) exchange rates.

## CHAPTER 4

### ASSESSMENT OF THE PRESENT PROBLEM

#### Assessment of Recent British Policy

**4.1** The present formal position of the British Government, contained in Section 1 of the Northern Ireland Constitution Act, 1973, is that the only basis for constitutional change in the status of Northern Ireland within the United Kingdom is a decision by a majority of the people of Northern Ireland. In practice, however, this has been extended from consent to change in the constitutional status of the North within the United Kingdom into an effective unionist veto on any political change affecting the exercise of nationalist rights and on the form of government for Northern Ireland. This fails to take account of the origin of the problem, namely the imposed division of Ireland which created an artificial political majority in the North. It has resulted in a political deadlock in which decisions have been based on sectarian loyalties. Sectarian loyalties have thus been reinforced and the dialogue necessary for progress prevented. The Sunningdale Agreement of 1973 introduced dialogue and partnership to the government of Northern Ireland. However, the hopes thus raised were dashed by a number of factors, amongst them, the refusal of the then British Government to support the power-sharing Executive in the face of extremist loyalist disruption.

**4.2** Since the Sunningdale Agreement of 1973, several initiatives have been undertaken in response to circumstances with the stated aim of resolving the problem in a context limited to Northern Ireland. These initiatives foundered largely because the problem itself transcends the context of Northern Ireland. It is only in a fundamental change of context that the effective exercise on an equal basis of the rights of both nationalists and unionists can be permanently ensured and their identities and traditions accommodated. Although the policy of the British Government was to favour power-sharing, there was no firm determination to insist on implementation of this policy in practice. Nor was recognition of the Irish identity of Northern nationalists given any practical expression. Thus it is that initiatives, which may give the appearance of movement and flexibility to domestic and international opinion, have been inadequate through not addressing

the fundamental nature of the problem. Instead the crisis has been addressed as a security problem and the political conditions which produced the conflict and sustain the violence have in effect been ignored.

**4.3** The immobility and short-term focus of British policy—the fact that it has been confined to crisis management and does not take account of fundamental causes—is making an already dangerous situation worse. There is increasing frustration with the state of political paralysis, uncertainty as to long-term British intentions and growing mutual mistrust between both sections of the community. The failure to provide the nationalist population of the North with any constructive means of expressing its nationalism and its aspirations is undermining constitutional politics. The net effect of existing policy is to drive both sections of the community in Northern Ireland further apart, alienating them from each other and providing a breeding ground for despair and violence. It has thus contributed to the emergence in both sections of the community of elements prepared to resort to violence, on the one side to preserve, and on the other to change the existing constitutional position.

**4.4** The problem of security is an acute symptom of the crisis in Northern Ireland. Law and order in democratic countries and, in particular, the introduction of emergency measures depend on a basic consensus about society itself and its institutions. Present security policy has arisen from the absence of political consensus. In Northern Ireland extraordinary security actions have taken place that call into question the effectiveness of the normal safeguards of the legal process. This has led to harassment of the civilian population by use of abnormally wide powers of arrest and detention, exercised not for the purpose of bringing suspects before a court of justice and making them amenable to a process of law but for the purpose of gathering information and unjustifiably invading the privacy of a person's life; e.g. between 1978 and 1982 more than 22,000 people were arrested and interrogated, the vast majority being released without charge. This has the consequence that the availability of the legal remedy of *habeas corpus* in Northern Ireland is in practice extremely limited. It has also at different periods led to the use of internment without trial combined with inhuman interrogation methods that have been found to be in breach of the European Convention on Human Rights; the trial and conviction of people on evidence of paid informers; the use of plastic bullets; and killings by some members of the security forces in doubtful circumstances. The various measures were introduced on the basis that they were essential to

defeat terrorism and violent subversion, but they have failed to address the causes of violence and have often produced further violence.

**4.5** Nationalists, for the most part, do not identify with the police and the security forces. It is clear that the police will not be accepted, as they are in a normal democratic society, by the nationalist section of the community nor will they themselves feel confident in their relations with nationalists, until there is a change in the political context in which they have to operate.

#### **Nationalist Identity and Attitudes**

**4.6** The parties in the Forum, representing a large majority of the people of Ireland, reaffirm that their shared aim of a united Ireland will be pursued only by democratic political means and on the basis of agreement. For nationalists, a central aim has been the survival and development of an Irish identity, an objective that continues in Northern Ireland today as nationalists seek effective recognition of their Irish identity and pursue their rights and aspirations through political means. For historical reasons, Irish nationalism may have tended to define itself in terms of separation from Britain and opposition to British domination of Ireland. The positive vision of Irish nationalism, however, has been to create a society that transcends religious differences and that can accommodate all traditions in a sovereign independent Ireland united by agreement. The aim of nationalists, therefore, in seeking Irish unity is to develop and promote an Irishness that demonstrates convincingly to unionists that the concerns of the unionist and Protestant heritage can be accommodated in a credible way and that institutions can be created which would protect such concerns and provide fully for their legitimate self-expression.

**4.7** The division of Ireland inevitably gave rise to the unconscious development in both parts of Ireland of partitionist attitudes on many political, economic, cultural and social questions of importance, diminishing significantly the development of a prosperous democratic society on the whole of the island. Such attitudes persist up to the present day. However, the tragedy of Northern Ireland and the suffering of the people there has stimulated among nationalists in both parts of Ireland a new consciousness of the urgent need for understanding and accommodation. The work of the Forum has underlined the urgent need for sustained efforts and practical steps in the political, economic, cultural and social spheres to transform the present nationalist/unionist relationship and to promote and secure consensus. In addition both parts of Ireland, North and South, face a number of economic and social realities which contribute to the sense of

urgency in providing for a political solution. These include the demographic profile of the population and the very high unemployment rate in both parts of the island, and the problem of steady emigration from Northern Ireland of a substantial proportion of educated young people.

#### **Unionist Identity and Attitudes**

**4.8** Unionists have tended to view all forms of nationalist self-expression as being directed aggressively against them and the North's status within the United Kingdom. Although the true nationalist ideal rejects sectarianism and embraces all the people of Ireland whatever their religion, Northern Protestants fear that their civil and religious liberties and their unionist heritage would not survive in a united Ireland in which Roman Catholicism would be the religion of the majority of the population. They base this fear on a number of factors including the diminution of the numbers of Southern Protestants since partition and the perception that the Constitution and certain laws in the South unduly favour the ethos of the predominant religion. The Forum has attempted not only to determine "what do unionists seek to prevent?" but also "what do they seek to protect?". What they seek to prevent varies to some degree but includes: an all-Irish State in which they consider that the Roman Catholic Church would have undue influence on moral issues; the breaking of the link with Britain; and loss of their dominant position consequent upon giving effective recognition to the nationalist identity and aspiration. In attempting to answer the more important question of "what do unionists seek to protect?" and to identify what qualities in the unionist ethos and identity must be sustained, nationalists must first of all acknowledge that unionists, sharing the same island, have the same basic concerns about stability and security as nationalists. The major difference between the two traditions lies in their perceptions of how their interests would be affected by various political arrangements. These perceptions have been largely formed by different historical experiences and communal values.

**4.9** In public sessions of the Forum, contributors who put forward the unionist point of view were asked "what is it that the unionists wish to preserve?". Three elements were identified in their replies:

- (1) Britishness
- (2) Protestantism
- (3) The economic advantages of the British link.

The degree of emphasis on each of these three elements varied among those who made submissions.

**4.9.1** Unionists generally regard themselves as being British, the inheritors of a specific communal loyalty to the British Crown. The traditional nationalist opposition to British rule is thus seen by unionists as incompatible with the survival of their own sense of identity. Unionists generally also regard themselves as being Irish even if this does not include a willingness to live under all-Ireland political institutions. However, many of them identify with Ireland and with various features of Irish life and their culture and way of life embrace much that is common to people throughout Ireland.

**4.9.2** The Protestant tradition, which unionism seeks to embody, is seen as representing a particular set of moral and cultural values epitomised by the concept of liberty of individual conscience. This is often accompanied by a Protestant view of the Roman Catholic ethos as being authoritarian and as less respectful of individual judgement. There is a widespread perception among unionists that the Roman Catholic Church exerts or seeks to exert undue influence in regard to aspects of the civil and legal organisation of society which Protestants consider to be a matter for private conscience. Despite the implicit separation of Church and State in the 1937 Constitution, many unionists hold the view that the Catholic ethos has unduly influenced administration in the South and that the latter, in its laws, attitudes and values has not reflected a regard for the ethos of Protestants living there.

**4.9.3** There is also an economic concern in the perception of unionists in the North which is shared by nationalists. Studies by the Forum show that while living standards, North and South, are now broadly comparable, the North is heavily dependent on, and its economy sustained by the financial subvention from Britain. While a settlement of the conflict entailing an end to violence and the dynamic effects of all-Ireland economic integration would bring considerable economic benefits, reconstruction of the Northern Ireland economy and the maintenance of living standards in the meantime would require the continuing availability of substantial transfers from outside over a period of years, whether from Britain, the European Community and the United States of America, or from Ireland as a whole.

**4.10** There are other factors that are important in understanding the unionist opposition to a united Ireland. Among unionists there are fears rooted in history and deriving from their minority position in Ireland as a whole. In more recent times the campaign of IRA violence has intensified those fears. Tensions have also arisen in regard to the South's extradition laws. There are similar fears in the nationalist tradition, based on experiences of discrimination, repression and violence. In modern times, the unionist sense of being besieged has continued. Unionist leaders have sought to justify their opposition to equal treatment for nationalists in Northern Ireland on the basis that the demand for political expression of the nationalist identity, no matter how reasonable and justified, would lead to nationalist domination over the unionist population in a united Ireland.

#### **Need for Accommodation of Both Identities in a New Approach**

**4.11** The Forum rejects and condemns paramilitary organisations and all who resort to terror and murder to achieve their ends. It strongly urges people in Ireland of all traditions and all those who are concerned about Ireland elsewhere in the world to refuse any support or sympathy to these paramilitary bodies and associated organisations. The acts of murder and violence of these organisations, and their denial of the legitimate rights of others, have the effect of undermining all efforts to secure peace and political progress. Constitutional nationalists are determined to secure justice for all traditions. The Forum calls for the strongest possible support for political progress through the democratic process.

**4.12** Before there can be fundamental progress a major reassessment by Britain of its position is now essential. Underlying British thinking is the fear that the risks of doing something to tackle the fundamental issues are greater than the risks of doing nothing. This is not the case. The situation is daily growing more dangerous. Constitutional politics are on trial and unless there is action soon to create a framework in which constitutional politics can work, the drift into more extensive civil conflict is in danger of becoming irreversible, with further loss of life and increasing human suffering. The consequences for the people in Northern Ireland would be horrific and it is inconceivable that the South and Britain could escape the serious threats to stability that would arise. With each day that passes, political action to establish new structures that will resolve the fundamental problems becomes more pressing. Such political action clearly carries less risk than the rapidly growing danger of letting the present situation drift into further chaos.

**4.13** The new Ireland must be a society within which, subject only to public order, all cultural, political and religious belief can be freely expressed and practised. Fundamental to such a society are freedom of conscience, social and communal harmony, reconciliation and the cherishing of the diversity of all traditions. The criteria which relate to public legislation may not necessarily be the same as those which inform private morality. Furthermore, public legislation must have regard for the conscientious beliefs of different minority groups. The implementation of these principles calls for deepening and broadening of the sense of Irish identity. No one living in Ireland should feel less at home than another or less protected by law than his or her fellow citizen. This implies in particular, in respect of Northern Protestants, that the civil and religious liberties that they uphold and enjoy will be fully protected and guaranteed and their sense of Britishness accommodated.

**4.14** It is clear that a new Ireland will require a new constitution which will ensure that the needs of all traditions are fully met. Society in Ireland as a whole comprises a wider diversity of cultural and political traditions than exists in the South, and the constitution and laws of a new Ireland must accommodate these social and political realities.

**4.15** The solution to both the historic problem and the current crisis of Northern Ireland and the continuing problem of relations between Ireland and Britain necessarily requires new structures that will accommodate together two sets of legitimate rights:

- the right of nationalists to effective political, symbolic and administrative expression of their identity; and
- the right of unionists to effective political, symbolic and administrative expression of their identity, their ethos and their way of life.

So long as the legitimate rights of both unionists and nationalists are not accommodated together in new political structures acceptable to both, that situation will continue to give rise to conflict and instability. The starting point of genuine reconciliation and dialogue is mutual recognition and acceptance of the legitimate rights of both. The Forum is convinced that dialogue which fully respects both traditions can overcome the fears and divisions of the past and create an atmosphere in which peace and stability can be achieved.

**4.16** A settlement which recognises the legitimate rights of nationalists and unionists must transcend the context of Northern Ireland. Both London and Dublin have a responsibility to respond to the continuing suffering of the people of Northern Ireland. This requires priority attention and urgent action to halt and reverse the constant drift into more violence, anarchy and chaos. It requires a common will to alleviate the plight of the people, both nationalists and unionists. It requires a political framework within which urgent efforts can be undertaken to resolve the underlying causes of the problem. It requires a common determination to provide conditions for peace, stability and justice so as to overcome the inevitable and destructive reactions of extremists on both sides. Both Governments, in co-operation with representatives of democratic nationalist and unionist opinion in Northern Ireland, must recognise and discharge their responsibilities.

## CHAPTER 5

### FRAMEWORK FOR A NEW IRELAND: PRESENT REALITIES AND FUTURE REQUIREMENTS

**5.1** The major realities identified in the Forum's analysis of the problem, as set out in earlier chapters, may be summarised as follows:—

- (1) Existing structures and practices in Northern Ireland have failed to provide either peace, stability or reconciliation. The failure to recognise and accommodate the identity of Northern nationalists has resulted in deep and growing alienation on their part from the system of political authority.
- (2) The conflict of nationalist and unionist identities has been concentrated within the narrow ground of Northern Ireland. This has prevented constructive interaction between the two traditions and fostered fears, suspicions and misunderstandings.
- (3) One effect of the division of Ireland is that civil law and administration in the South are seen, particularly by unionists, as being unduly influenced by the majority ethos on issues which Protestants consider to be a matter for private conscience and there is a widespread perception that the South in its laws, attitudes and values does not reflect a regard for the ethos of Protestants. On the other hand, Protestant values are seen to be reflected in the laws and practices in the North.
- (4) The present formal position of the British Government, namely the guarantee, contained in Section 1 of the Northern Ireland Constitution Act, 1973, has in its practical application had the effect of inhibiting the dialogue necessary for political progress. It has had the additional effect of removing the incentive which would otherwise exist on all sides to seek a political solution.

- (5) The above factors have contributed to conflict and instability with disastrous consequences involving violence and loss of life on a large scale in Northern Ireland.
- (6) The absence of political consensus, together with the erosion of the North's economy and social fabric, threatens to make irreversible the drift into more widespread civil conflict with catastrophic consequences.
- (7) The resulting situation has inhibited and placed under strain the development of normal relations between Britain and Ireland.
- (8) The nationalist identity and ethos comprise a sense of national Irish identity and a democratically founded wish to have that identity institutionalised in a sovereign Ireland united by consent.
- (9) The unionist identity and ethos comprise a sense of Britishness, allied to their particular sense of Irishness and a set of values comprising a Protestant ethos which they believe to be under threat from a Catholic ethos, perceived as reflecting different and often opposing values.
- (10) Irish nationalist attitudes have hitherto in their public expression tended to underestimate the full dimension of the unionist identity and ethos. On the other hand, unionist attitudes and practices have denied the right of nationalists to meaningful political expression of their identity and ethos.
- (11) The basic approach of British policy has created negative consequences. It has shown a disregard of the identity and ethos of nationalists. In effect, it has underwritten the supremacy in Northern Ireland of the unionist identity. Before there can be fundamental progress Britain must reassess its position and responsibility.

5.2 Having considered these realities, the Forum proposes the following as necessary elements of a framework within which a new Ireland could emerge:—

- (1) A fundamental criterion of any new structures and processes must be that they will provide lasting peace and stability.

- (2) Attempts from any quarter to impose a particular solution through violence must be rejected along with the proponents of such methods. It must be recognised that the new Ireland which the Forum seeks can come about only through agreement and must have a democratic basis.
- (3) Agreement means that the political arrangements for a new and sovereign Ireland would have to be freely negotiated and agreed to by the people of the North and by the people of the South.
- (4) The validity of both the nationalist and unionist identities in Ireland and the democratic rights of every citizen on this island must be accepted; both of these identities must have equally satisfactory, secure and durable, political, administrative and symbolic expression and protection.
- (5) Lasting stability can be found only in the context of new structures in which no tradition will be allowed to dominate the other, in which there will be equal rights and opportunities for all, and in which there will be provision for formal and effective guarantees for the protection of individual human rights and of the communal and cultural rights of both nationalists and unionists.
- (6) Civil and religious liberties and rights must be guaranteed and there can be no discrimination or preference in laws or administrative practices, on grounds of religious belief or affiliation; government and administration must be sensitive to minority beliefs and attitudes and seek consensus.
- (7) New arrangements must provide structures and institutions including security structures with which both nationalists and unionists can identify on the basis of political consensus; such arrangements must overcome alienation in Northern Ireland and strengthen stability and security for all the people of Ireland.
- (8) New arrangements must ensure the maintenance of economic and social standards and facilitate, where appropriate, integrated economic development, North and South. The macro-economic and financial implications are dealt with in the study by DKM Economic Consultants published with this Report, which is based on a range of assumptions with regard to the availability of external financial transfers.

- (9) The cultural and linguistic diversity of the people of all traditions, North and South, must be preserved and fostered as a source of enrichment and vitality.
- (10) Political action is urgently required to halt disillusionment with democratic politics and the slide towards further violence. Britain has a duty to respond *now* in order to ensure that the people of Northern Ireland are not condemned to yet another generation of violence and sterility. The parties in the Forum by their participation in its work have already committed themselves to join in a process directed towards that end.

**5.3** It is clear that the building of a new Ireland will require the participation and co-operation of all the people of Ireland. In particular, it is evident that the people of the South must wholeheartedly commit themselves and the necessary resources to this objective. The parties in the Forum are ready to face up to this challenge and to accommodate the realities and meet the requirements identified by the Forum. However, Britain must help to create the conditions which will allow this process to begin. The British Government have a duty to join in developing the necessary process that will recognise these realities and give effect to these requirements and thus promote reconciliation between the two major traditions in Ireland, and to make the required investment of political will and resources. The British and Irish Governments should enter into discussions to create the framework and atmosphere necessary for this purpose.

**5.4** Among the fundamental realities the Forum has identified is the desire of nationalists for a united Ireland in the form of a sovereign, independent Irish state to be achieved peacefully and by consent. The Forum recognises that such a form of unity would require a general and explicit acknowledgement of a broader and more comprehensive Irish identity. Such unity would, of course, be different from both the existing Irish State and the existing arrangements in Northern Ireland because it would necessarily accommodate all the fundamental elements in both traditions.

**5.5** The Parties in the Forum are convinced that such unity in agreement would offer the best and most durable basis for peace and stability. In particular, it would have a number of advantages and attractions:

- It would restore the historic integrity of Ireland and end the divisions in the country.

- It would enable both traditions to rediscover and foster the best and most positive elements in their heritages.
- It would provide the most promising framework for mutual interaction and enrichment between the two traditions.
- It would give unionists the clearest sense that all of Ireland, in all its dimensions, and not just Northern Ireland, is their inheritance and the opportunity to share in the leadership and to shape the future of a new Ireland.
- It would end the alienation and deep sense of injustice felt by nationalists.
- It would provide a framework within which agreed institutions could apply economic policies suited to the particular and largely similar circumstances and interests of both parts of the country, and in which economies of scale and the possibilities of integrated planning could be fully exploited.
- It would best allow for the advancement internationally of the particular and largely common interests of Ireland, North and South and for the contribution, based on distinctive shared values, which the people of all traditions can make to the European and international communities.
- It would end the dissipation of energies in wasteful divisions and redirect efforts towards constructive endeavour, thus giving a major impetus to the social, cultural and economic development of the entire country.

**5.6** The Parties in the Forum will continue to work by peaceful means to achieve Irish unity in agreement. There are many varying constitutional and other structures of political unity to be found throughout the world, for example, Australia, France, Italy, Spain, Switzerland and the United States of America which recognise to the extent necessary the diversity as well as the unity of the people concerned and ensure constitutional stability. It is essential that any structures for a new Ireland must meet both these criteria.

**5.7** The particular structure of political unity which the Forum would wish to see established is a unitary state, achieved by agreement and consent, embracing the whole island of Ireland and providing irrevocable guarantees for the protection and preservation of both the unionist and nationalist identities. A unitary state on which agreement had been reached would also provide the ideal framework for the constructive interaction of the diverse cultures and values of the people of Ireland. A broad outline of such a unitary state is set out in Chapter 6.

**5.8** Constitutional nationalists fully accept that they alone could not determine the structures of Irish unity and that it is essential to have unionist agreement and participation in devising such structures and in formulating the guarantees they required. In line with this view, the Forum believes that the best people to identify the interests of the unionist tradition are the unionist people themselves. It would thus be essential that they should negotiate their role in any arrangements which would embody Irish unity. It would be for the British and Irish governments to create the framework and atmosphere within which such negotiations could take place.

**5.9** The Forum in the course of its work, in both public and private sessions, received proposals as to how unionist and nationalist identities and interests could be accommodated in different ways and in varying degrees in a new Ireland. The Forum gave careful consideration to these proposals. In addition to the unitary state, two structural arrangements were examined in some detail — a federal/confederal state and joint authority — and a broad outline of these are set out in Chapters 7 and 8.

**5.10** The Parties in the Forum also remain open to discuss other views which may contribute to political development.

## CHAPTER 6

### UNITARY STATE

**6.1** A unitary state would embrace the island of Ireland governed as a single unit under one government and one parliament elected by all the people of the island. It would seek to unite in agreement the two major identities and traditions in Ireland. The democratic basis of a unitary state in Ireland has always existed in modern times. Historically up to 1922 Ireland was governed as a single unit and prior to the Act of Union in 1801 was constitutionally a separate and theoretically equal kingdom. Such a state would represent a constitutional change of such magnitude as to require a new constitution that would be non-denominational. This constitution could only be formulated at an all-round constitutional conference convened by the British and Irish Governments. Such a constitution would contain clauses which would guarantee civil and religious liberties to all the citizens of the state on a basis that would entail no alteration nor diminution of the provisions in respect of civil and religious liberties which apply at present to the citizens of Northern Ireland. These guarantees could not subsequently be changed, except in accordance with special procedures.

**6.2** The rights of all citizens would be guaranteed in the constitution. Reinforcing guarantees would incorporate in the constitution the clauses of the European Convention on Human Rights with a right of access to the European Court of Human Rights.

**6.3** In a unitary state, there would be a single legal and judicial system throughout the island. The study by Professors Boyle and Greer, *The Legal Systems, North and South* shows that there would be no significant technical obstacle to the creation of a unified legal system.

**6.4** Political and administrative arrangements in a unitary state would be devised to ensure that unionists would not be denied power or influence in a state where nationalists would be in a majority. For example, provision could be made for weighted majorities in the Parliament in regard to legislation effecting

changes in provisions on issues agreed to be fundamental at the establishment of the new state. In the Senate unionists could be guaranteed a minimum number of seats. The powers of the Senate could include effective blocking powers in regard to the issues agreed to be fundamental. Mechanisms for ensuring full Northern participation in an integrated Irish civil service would have to be devised.

**6.5** A unitary state would have a single police service recruited from the whole island so designed that both nationalists and unionists could identify with it on the basis of political consensus.

**6.6** A redefined relationship between Britain and Ireland would take account of the unionist sense of Britishness. In a unitary state, persons in Ireland, North and South, who at present hold British citizenship would continue to have such citizenship and could pass it on to their children without prejudice to the status of Irish citizenship which they would automatically acquire. The state could develop structures, relationships and associations with Britain which could include an Irish-British Council with intergovernmental and interparliamentary structures which would acknowledge the unique relationship between Ireland and Britain and which would provide expression of the long-established connections which unionists have with Britain.

**6.7** All the cultural traditions in Ireland, North and South, would be guaranteed full expression and encouragement. The educational system would reflect the two main traditions on the island. The Irish language and culture would continue to be fostered by the state, and would be made more accessible to everyone in Ireland without any compulsion or imposition on any section.

**6.8** A unitary state achieved by agreement between the nationalist and unionist traditions would for the first time allow full participation by all traditions in the affairs of the island. This would require a general and more explicit acknowledgement of a broader and more comprehensive Irish identity. A unitary state would promote administrative and economic efficiency in the island by ending duplication and separate planning and investment programmes and by facilitating integrated promotion of investment, exports and tourism. Natural resources, oil, gas and minerals will be developed for the benefit of all the people of Ireland and could make a significant contribution to securing the economic basis of the state. With no scope for conflicts of jurisdiction and with single taxation and currency systems, the implementation of

an integrated economic policy suitable to the largely similar needs of the economies, North and South, would be facilitated, with consequent benefit. Integrated economic policies would ensure a united voice in advancing vital interests of both parts of Ireland, especially in the European Community, within which both North and South have common interests in areas such as agriculture and regional policy which diverge from the interests of Britain.

## CHAPTER 7

### FEDERAL/CONFEDERAL STATE

**7.1** A two state federal/confederal Ireland based on the existing identities, North and South, would reflect the political and administrative realities of the past 60 years and would entrench a measure of autonomy for both parts of Ireland within an all-Ireland framework. While protecting and fostering the identities and ethos of the two traditions, it would enable them to work together in the common interest.

**7.2** A federal/confederal constitution would be non-denominational and capable of alteration only by special procedures. There would be safeguards within each state and in the country as a whole for the protection of individual and minority rights. There would be a federal/confederal Supreme Court to interpret the constitution and to adjudicate on any conflicts of jurisdiction between federal/confederal and state governments, which could be made up of an uneven number of judges, one of whom could be from another country—possibly a Member State of the European Community—with the remaining judges coming in equal numbers from North and South. There would either be a special Bill of Rights or, alternatively, all the rights already defined and accepted in international conventions to which Ireland and the UK are signatories would be incorporated in the new federal or confederal constitution. This constitution could only be formulated at an all-round constitutional conference convened by the British and Irish governments.

**7.3** In a federation, residual power would rest with the central government. Certain powers would be vested in the two individual states. A confederation would comprise the two states which would delegate certain specified powers to a confederal government.

**7.4** In a federal/confederal arrangement, each state would have its own parliament and executive. Authority for security would be vested in the federal/confederal government in order to gain widespread acceptability and to ensure that the law and order functions were administered in the most effective and impartial manner.

**7.5** In a federation, the federal parliament could have one or two chambers, a House of Representatives, and/or a Senate. Laws relating to previously agreed fundamental issues could be passed only if they received the support of a weighted majority of the Senate in a two chamber system or of the House of Representatives in a one chamber system. The federal government would be approved by and be responsible to the federal parliament. The powers held at the federal level would be a matter for negotiation but in an Irish context matters such as agriculture, industry, energy, transport, industrial promotion and marketing might be more efficiently administered on an island basis at federal level, while other services such as education, health, housing and social welfare might best be administered by the individual states. The functions of Head of State could be carried out by a President, the office alternating between persons representative of the Northern and Southern states.

**7.6** In a confederal arrangement, the powers held at the centre could be relatively limited (for example, foreign policy, external and internal security policy and perhaps currency and monetary policy), requiring a less elaborate parliamentary structure at the confederal level. It might suffice to have an arrangement whereby the representatives of the two states would determine jointly issues of policy relating to the powers of the confederation. The decisions taken by the confederation would, as appropriate, e.g. implementation of EEC directives, fall to be implemented by the authorities in the individual states.

**7.7** A federal/confederal arrangement would, in particular, provide institutions giving unionists effective power and influence in a new Ireland. The Northern parliament would have powers which could not be removed by an Act of another parliament. Existing civil and religious rights in the North would be unaffected. With a federal/confederal framework unionists would have parallel British citizenship and could maintain special links with Britain. Mechanisms for ensuring full Northern participation in the federal/confederal civil service would have to be devised. Provision would be made for the full recognition and symbolic expression of both traditions.

**7.8** A federal/confederal arrangement would allow the retention within the North and South of many laws and practices reflecting the development of both areas over the past 60 years. All the cultural traditions in Ireland, North and South, would be guaranteed full expression and encouragement.

**7.9** A federal/confederal arrangement would allow all those living on the island to share and give expression to the common aspects of their identity while at the same time maintaining and protecting their separate beliefs and way of life. The central authority would promote their common interests while the state authorities protected individual interests.

## **CHAPTER 8**

### **JOINT AUTHORITY**

**8.1** Under joint authority, the London and Dublin governments would have equal responsibility for all aspects of the government of Northern Ireland. This arrangement would accord equal validity to the two traditions in Northern Ireland and would reflect the current reality that the people of the North are divided in their allegiances. The two governments, building on existing links and in consultation with nationalist and unionist opinion, would establish joint authority designed to ensure a stable and secure system of government.

**8.2** Joint authority would give political, symbolic and administrative expression of their identity to Northern nationalists without infringing the parallel wish of unionists to maintain and to have full operational expression of their identity. It would be an unprecedented approach to the unique realities that have evolved within Ireland and between Britain and Ireland.

**8.3** Joint authority would involve shared rule by the British and Irish Governments. Although this could be exercised directly, there would be enabling provision for the exercise of major powers by a locally-elected Assembly and Executive.

**8.4** There would be full and formal recognition and symbolic expression of British and of Irish identity in Northern Ireland and promotion of the cultural expression of the two identities. Joint citizenship rights would be conferred automatically on all persons living in Northern Ireland, resulting in no diminution of the existing rights of Irish or British citizenship of persons living in Northern Ireland.

**8.5** A comprehensive and enforceable non-denominational Bill of Rights for Northern Ireland would be promulgated ensuring the protection of both individual and communal rights and freedoms.

**8.6** The overall level of public expenditure would be determined by the two Governments. Problems of external representation of

Northern Ireland would be resolved between the two Governments.

8.7 Under joint authority the two traditions in Northern Ireland would find themselves on a basis of equality and both would be able to find an expression of their identity in the new institutions. There would be no diminution of the Britishness of the unionist population. Their identity, ethos and link with Britain would be assured by the authority and presence of the British Government in the joint authority arrangements. At the same time it would resolve one basic defect of (a) the failed 1920-25 attempt to settle the Irish Question and (b) the present arrangements for the government of Northern Ireland — the failure to give satisfactory political, symbolic and administrative expression to Northern nationalists. Structures would thus be provided with which the nationalists in the North could identify, which might reverse their progressive alienation from existing structures. Security arrangements in which for the first time both nationalists and unionists could have confidence could be developed, thus providing a basis for peace and order. The climate would thus be created for the emergence of normal political life, of compromise and of mutual confidence based on security in the reciprocal acceptance of identity and interests.

## APPENDIX I

### ORAL PRESENTATIONS

Proceedings of Public Sessions at which Oral Presentations were made.

<i>Volume Number</i>	<i>Presenters</i>
No. 2	Sir Charles Carter; Prof. Loudon Ryan (21 September, 1983).
No. 3	Mr. Seán McBride; Rev. Fr. Brian Lennon SJ; Prof. David Harkness; Mr. Hugh Munro (4 October, 1983).
No. 4	Mr. Robin Glendinning; Sen. John Robb; Mr. Michael McKeown (5 October, 1983).
No. 5	Sir John Biggs-Davison MP; Northern Ireland Cross-Community Professional Group; Mr. Desmond Fennell (6 October, 1983).
No. 6	Dr. Roy Johnston; An tUasal Labhrás Ó Murchú, Comhaltas Ceoltóirí Éireann; Mr. Frank Curran; Col. Eoghan Ó Neill; An tUasal Micheál Ó Loingsigh, Irish Sovereignty Movement (11 October, 1983).
No. 7	Rev. Sydney Callaghan (20 October, 1983).
No. 8	Rev. Dr. W. T. McDowell, Synod of Dublin, Presbyterian Church in Ireland; Mr. Michael O'Flanagan and Mr. Michael O'Mahony, Federalism and Peace Movement (3 November, 1983).
No. 9	Women's Law and Research Group; Very Rev. Dr. S. J. Park (17 November, 1983).

- No. 10 Church of Ireland; Dr. Richard Kearney and Dr. Bernard Cullen; Dr. George Gordon Dallas; Mr. David Roche and Mr. Brian Gallagher, Irish Information Partnership (8 December, 1983).
- No. 11 Mrs. Sylvia Meehan; Messrs. Christopher and Michael McGimpsey; Mr. Clive Soley MP; Belfast Group of Unionists (19 January, 1984).
- No. 12 Irish Episcopal Conference (9 February, 1984).

## APPENDIX 2

### WRITTEN SUBMISSIONS

Of the 317 groups or persons who made written submissions, the following gave permission for their names to be published:—

Mr. Joseph Adams, Newtownabbey; AIM Group for Family Law Reform Help Centre, Dublin; Mr. Rory Barnes, Dublin; Major Sir Hugh Walker Bart, Kilmallock; Belfast Group of Unionists; Sir John Biggs-Davison MP, House of Commons, London; Mr. Charles Boyd, Bray; Professor C. K. Boyle, University College Galway and Dr. T. Hadden, Queen's University, Belfast; Fr. John Brady S.J., College of Industrial Relations, Dublin; Maire Bhreathnach, Baile Átha Cliath; Professor Ivor W. Browne, Dublin; Mr. Leonard Browne, St. Johnston, Co. Donegal; Mr. I.D. Brownlee, Manchester; Mr. David Buttimer, Tralee; Mr. Garret Byrne, Sligo; Energy Conservation and District Heating Association of Ireland, Dublin; Rev. W. Sydney Callaghan, Belfast; The Irish Theological Association, Dublin; Mr. Gerard Cavanagh, Woodford, Co. Galway; Dr. Dennis J. Clarke, Centre for Irish Studies, Philadelphia; Mr. R. J. Clements, Newcastle, Co. Down; Mr. Tom Coffey, Dublin; The Communist Party of Ireland, Dublin; Dr. P. A. Compton, Queen's University, Belfast; Mr. Michael Connaughton, Dublin; Dr. Sean Cooney, Kilmacanogue, Co. Wicklow; Mr. Finbarr Corry, Dublin; Glenree Centre for Reconciliation; National Federation of Youth Clubs, Dublin; Dr. Bernard Cullen and Dr. Richard Kearney, Dublin; Mr. Frank Curran, Derry; Mr. Justin Curtis, New Ross; G. Gordan Dallas and others, Belfast; Mr. Frank Dalton, Massachusetts; Democratic Socialist Party, Dublin; Mr. D. J. Devenney, Dundalk; Elizabeth Donohue; Drumelis, Co. Cavan; Mr. Finbarr Dowdall, Glanmire; Team Theatre Company, Dublin; Mr. M. J. Eldred, Dublin; Rev. Eric P. M. Elliot, Belfast; Mr. P. J. Emerson, Belfast; Women's Law and Research Group, Dublin; Mr. James Farrell, Longwood, Co. Meath; Mr. Michael Farren, Dublin; Mr. H. C. Fay, Belfast; Dr. M. A. Fazal, Trent Polytechnic, Nottingham; Mr. Desmond Fennell, Dublin; Mr. P. G. Finucane, Dublin; Ms. Jennifer FitzGerald, Belfast; Dr. William Fitzgerald, Kinsale; Planned Sharing Research Association, Dublin; Mr. Terence Flanagan, Kiltimagh; Mr. Hugo V. Flinn, Greystones; Mr. Edward Fogarty, Dublin; Mr. Joseph F. Foyle, Dublin; Forgiveness and Politics, London; Rev. Ernest W. Gallagher, Belfast; Irish in Britain Representation Group; Irish Mennonite Movement, Dublin; Monaghan Chamber of Commerce and Industry; Mr. Robin Glendinning, Belfast; Mr. B. Gordon, Belfast; Bord na Gaeilge, Baile Átha Cliath; Mr. D. Greer, Dublin; Mr. Adrian Guelke, Queen's University, Belfast; Peace State, Norfolk; Mr. W. A. Hanna, Belfast; Mr. Edward G. Hannon, Newtownabbey; Professor David Harkness, Queen's University, Belfast; Mr. Brian Harrison, Delgany; Simon Community Dublin; Mr. R. B. Haslam, Limerick; Mr. Martin Hawkes, Dublin; Celtic League, Baile Átha Cliath; John and Una Hoey, Belfast; Mr. Finbarr J. Hurley, Cork; P.E.A.C.E., Cork; Irish Commission for Justice and Peace, Dublin; Irish Co-Operative Organisation Society Ltd. & Ulster Agricultural Organisation Society Ltd.; Irish Countrywomen's Association; Irish Planning Institute; The Academic Staff, Irish School of Ecumenics; Dalkey School Project; Mr. Roy H. W. Johnston, Dublin; Mr. Niall Jordan, Dublin; Mr. Stephen Kearney, Dublin; Mr. Don Keenan, Belfast; Mr. George Kelleher, Inniscarra, Co. Cork; Mr. Hugh D. Kelly, Lifford; Council for Civil Liberties, Dublin; Mr. Andrew Kiely, Newbridge; Knights of St. Columbanus; Rev. Fr. Brian Lennon S.J., Portadown; Community Alderman Sean Dublin Bay Rockall Loftus, Dublin; Professor W. S. Lowry, Belfast; Mr. Paul Lynch, Dublin; An tUasal Seosamh Mac an Bheatha, Irvinestown, Co. Fermanagh; Mr. Robert MacIennan MP, House of Commons, London; Conradh na Gaeilge; An tUasal Liam Mac Mathuna; Luimneach; Mrs. Margaret P. McAllister, Bangor; Mr. Sean McBride, Dublin; Mr. Sean McCann, Belfast; Ms. Carmel McCarthy, Newry; Dr. Diarmuid McCarthy, Bristol; Mr. Wm. McCawley, Castleblayney; Mr. James McCormack, Cahir; Mr. John

McCormack, Dublin; Mr. John McCrory, Strabane; Mr. Joseph McCullough, Dublin; Mr. J. B. McDonnell, Dublin; The Synod of Dublin, Presbyterian Church in Ireland; Professor James McEvoy, Queen's University, Belfast; Dr. Christopher D. McGimpsey, Belfast; Mr. Liam McGloinn, Dublin; Federation of Irish Societies, Britain; Mr. Conor McHale, Dublin; Mr. Jarlath McLnerney, Gort; Mr. Michael McKeown, Dublin; Mr. Henry McLean, Waterford; Mr. Noel G. McMahon, Coleraine; An tUasal Sean MacNialluis, Carrick, Co. Donegal; Professor Paul B. McNulty, Dublin; Mr. Louis McRedmond, Dublin; Ms. Monica McWilliams and Ms. Avila Kilmurray, Northern Ireland Poverty Lobby, Belfast; Mr. F. I. Magee, Ampleforth College, York; Dr. Deirdre C. Maguire, Dublin; Mr. James Martin, Dublin; Mr. Brian Mongaoui, Dublin; Mrs. Sylvia Meehan, Dublin; Mr. Thomas Mellett, Ballinrobe; Methodist Church in Ireland; Dublin Interdenominational Christian Committee; Rev. John Morrow, The Corrymeela Community, Ballycastle, Co. Antrim; Mr. Adrian Munnely, Aosdana, Dublin; Mr. Hugh Munro, Dublin; Ms. Dervla Murphy and Mrs Una O'Higgins O'Malley, Dublin; Prof. John A. Murphy, University College, Cork; Mrs. Kathleen Murphy, Kilkenny; Mr. John Neill, Belfast; The Two Traditions Group, Belfast; Mr. Warren Nelson, Thurles; Dublin Branch, New Ireland Group; Irish Campaign for Nuclear Disarmament; Mike and Clare Norris, Dun Laoghaire; Northern Ireland Community Study Group, Belfast; An tUasal Micheal O Bearra, An Spideal; Ms. Aine O'Brien, Waterford; Mr. James O'Brien, Limerick; Mr. Brendan O'Cearbhaill, National Co-operative Council; An tAthair Seán Ó Coinn, Granard; An tUasal Micheal O Coisdealbha, Baile Atha Cliath; Divorce Action Group, Dublin; Mr. John O'Connell, Dublin; Mr. Kevin O'Connor, Limerick; Mr. Ulick O'Connor, Dublin; Mr. Micháel Ó Cuinneagáin, Donegal; An tUasal Lorcaín Ó Dóláin, Dublin; Mr. John O'Donnell, Ballymoney; Mr. P. D. O'Donnell, Dublin; Mr. Michael O'Flanagan and Mr. Michael O'Mahony, Federalism and Peace Movement, Dublin; Mr. Andrew O'Gallagher, Dublin; An tUasal Risteard O Glaisne, Baile Atha Cliath; An tUasal Pol O Lochlainn, Derry; Irish Sovereignty Movement, Dublin; Dr. Padraig O'Malley, University of Massachusetts, Boston; Comhaltas Ceoltóirí Éireann; Col. Eoghan O'Neill, Comhdháil Náisiúnta na Gaeilge; Mr. Michael O'Neill-Mockler, Dundalk; An tUasal T. Ó Raifeartaigh, Dublin; An tUasal P. S. Ó Riain, Dublin; An tUasal Sean O Riain, Baile Atha Cliath; An tUasal Eamon O Ruairc, An Bhruiseill; Mr. Padraig O Ruairc, Baile Atha Cliath; Mr. Sean O'Shea; Dublin; An tUasal M. O Suilleabhain, University College, Cork; Very Rev. Dr. S. J. Park, Dublin; Mr. Brian Patterson, Irish Management Institute; Mr. Tom Paulin, Field Day Theatre, Derry; Mr. Charles M. Peters, Puckane, Co. Tipperary; T. J. Pickvance, University of Birmingham; Mr. Stephen Preston, Drumbo, N. Ireland; Canon W. C. G. Proctor, Dublin; Irish National Teachers Organisation; Co-Operation North; Irish Gay Rights Movement, Cork; Mr. John A. Raftery, Glenamaddy; Senator John Robb, New Ireland Group; Mr. Pat Roche, Dun Laoghaire; Mr. Richard Rowan, Dun Laoghaire; Senator Brendan Ryan, Seanad Éireann; Mr. Patrick Joseph Ryan, Templemore; The Standing Committee, General Synod, Church of Ireland; Mr. Hugh Sacker, Donard, Co. Wicklow; Mr. Con Scanlan, Shanagolden, Co. Limerick; Childminder's Union, Midleton; Mr. Conor F. Sheehan, Sixmilebridge, Co. Clare; Mr. James Sheehy, Dublin; Association of Interchurch Families, Dublin; Community Government Movement, Dublin; Mr. Clive Soley MP, House of Commons, London; The Green Alliance, Dublin; Mr. Michael Stokes, Dublin; Northern Ireland Cross-Community Professional Group, Belfast; Mr. Frank Sweetnam, Sligo; The Transcendental Meditation Movement, Dublin; Single Women's Association, Dublin; Mr. John Tod, Dunmore East; Mr. Dermot A. Walsh, Carrigart, Co. Donegal; National Gay Federation, Dublin; Mr. Sean J. Waring, Dublin; Mr. Alec Watson, Dun Laoghaire; Professor J. H. Whyte, Queen's University, Belfast; Mr. Maurice J. Wigham, Religious Society of Friends, Waterford; Fr. Desmond Wilson, Belfast; Mr. John F. Wilson, Dublin; Mr. Joseph Woods, Newtownabbey; and Young Fine Gael, Dublin.



DUBLIN:  
PUBLISHED BY THE STATIONERY OFFICE

To be purchased from the  
GOVERNMENT PUBLICATIONS SALE OFFICE, SUN ALLIANCE HOUSE,  
MOLESWORTH STREET, DUBLIN 2.  
or through any Bookseller

Sale Price: 25p

Printed by Mount Salus Press Ltd.