

**Written Submission by John Bruton, Former Taoiseach, to the
Oireachtas Committee on the Implementation of the Good Friday
Agreement on 8 December at 13.30pm**

SUMMARY

It is an honour to speak here. While there will be much detail in what I have to say, four points stand out.

The constant focus on a Border Poll is destabilising and it's impact on sentiment around Protocol is damaging the chances of progress.

Reconciliation within Northern Ireland, rather than constitutional change, should be the big priority now for the people of Northern Ireland, should be supported by the two Governments

The failure to abide by the duty of impartiality, as between the parties about the Protocol, by the British Government is in breach of the Good Friday Agreement;

The UK government's Bill to disapply the Protocol also breaches the GFA; this legislation breaches international law as well because it breaches an international treaty.

THE HISTORICAL AND PHILOSOPHICAL ORIGINS OF PARTITION

I believe that both Nationalism and Unionism need to re examine their underlying assumptions. Let me first say a word about the assumptions underlying Irish Nationalism.

The failure of the Act of Union of 1800 to integrate Ireland into a genuine Union with England, Scotland and Wales

after 1800 was partly due to the fact that these nations were Protestant in religion, whereas Ireland, outside NE Ulster, was predominantly Catholic.

The disastrous potato famine of 1845 to 1850, which cost millions of lives in Ireland, and to which the laissez faire economic policies of the Liberal government in London were a totally inadequate response, added to the sense of alienation.

From 1840 onwards, there was agitation in Ireland, either to repeal the Union, and restore the Irish Parliament or, at least, to grant Ireland Home Rule, with a Home Rule Parliament in Dublin with limited powers (excluding foreign affairs, defence and customs).

Both these proposals envisaged Ireland having a single Parliament for the whole island, without any exclusion of NE Ulster.

From early on, opponents of Home Rule argued that allowing a Dublin Parliament to govern the 4 or 6 counties in NE Ulster, where a majority Protestant population did not want to be ruled by a Dublin Parliament, would be unfair or unworkable.

” Unionists” in NE Ulster did not want to find themselves being continually outvoted in a Dublin Parliament, in the same way as Irish Catholic MPs had become used to being continuously outvoted in the Union Parliament in London.

The first attempt to grant Home Rule to Ireland was put forward by William Gladstone in 1886.

Nationalism was a popular doctrine in the nineteenth century, and John Bright, the British Radical and Liberal statesman, opposed Gladstones Home Rule proposal for all Ireland on the ground that there were two nationalities, not one, on the island of Ireland.

He said

“Ulster may be deemed a nationality differing from the rest of Ireland, as much as Wales differs from England”.

Charles Stewart Parnell recognised there was a problem here. He said

“It is undoubtedly true that until the prejudices of the (Protestant and unionist) majority are conciliated....Ireland can never enjoy full freedom, can never be united”.

He was not, however in a position to put forward a solution to the dilemma that he acknowledged existed. In a sense that dilemma remains unaddressed to this day.

A Third attempt to introduce Home Rule was made in 1912 by a Liberal government led by Herbert Asquith.

Responding to Asquith’s Bill, one of his Liberal backbencher MP s, Thomas Agar Robartes, said that Ulster unionists and Irish nationalists were two different nations with

“different sentiments, character, history and religion”

and that it would be impossible to fuse these two “incongruous elements” together. These differences of “sentiment, character, history and religion” are as relevant today as they were back in 1911, although the relative weight to be given to each of them may have varied in the meantime .

Agar Robartes proposed an amendment to the Home Rule Bill which would have allowed certain Ulster counties to opt out of Home Rule and continue to be ruled directly from London.

A similar argument was made by the Conservative leader, Arthur Balfour, who also opposed Home Rule for the whole island of Ireland, who said that the Unionists of NE Ulster and the population of the rest of Ireland had

“two (different) sets of aspirations, two sets of ideals and two sets of historic memories”.

It is hard to say that Balfour was wrong. Shared aspirations and ideals, and shared historic memories, are what shape and sustain nations in difficult times.

Irish nationalists, supporting Home Rule, rejected these arguments.

John Redmond described the notion that there were two nations on the island of Ireland

“revolting and hateful”.

But neither he, nor most Irish nationalists, devoted enough thought, or imagination, to devising ways in which the incongruous elements, of Ulster unionists on the one hand, and Irish nationalists on the other, might be fused together in a single nation.

In fairness to Redmond, it must be said that his support for recruitment to the British Army in 1914 and 1915 was a form of indirect response to Unionist sensibilities. He wanted to show that nationalists and unionists had some aspirations and allegiances in common.

That said , the overwhelming majority of nationalists believed that no part of Ireland had a right to opt out. The argument was the following, for which they were prepared to make the supreme sacrifice.

Ireland was a geographic unit, an island, so, ipso facto, it should be one nation.

This put physical geography ahead of human geography. Territory ahead of people.

The only Irish nationalist who took Ulster unionist concerns seriously was the vice President of Sinn Fein, Father Michael O Flanagan, who admitted that

“in the last analysis, the test of nationality is the wish of the people”

And admitted that the Ulster unionists

“had never transferred their love and allegiance to Ireland”

and said that Irish nationalists

“claim the right to decide what is to be our nation, but refuse them (Ulster Unionists) the same right”.

I am not sure how much influence Father O Flanagan had on subsequent Sinn Fein policy although he continued to be active in the party. He seems to have been an eccentric individualist. He opposed the Treaty of 1921.

Going back a bit in time, many nationalists did not take Ulster unionist objections to Home Rule seriously at all.

They thought it was bluff, even when Ulster Unionists, opposed to Home Rule, armed themselves, and set up a Provisional Government to resist Dublin Rule.

The working assumption of Irish nationalists seems to have been that the Liberal government in London would coerce all of Ulster into accepting Home Rule. With hindsight, this seems quite unrealistic. The morality, practicality or wisdom of such a course does not seem to have been explored by nationalist thinkers. It was too difficult.

Nationalists argued that the resistance in Ulster to Home Rule was being fanned by elements of the British Conservative Party for domestic purposes. There was truth in this, but it was not determinative, in my opinion.

Nationalists argued that partition was imposed by the 1920 Government of Ireland act, passed in Westminster. This was literally true. If the partition had been made subject to consent, on a county by county vote in 1920, Fermanagh and Tyrone might have voted for rule from Dublin, but there still would have been partition, but along a different boundary.

Irish nationalism also adopted a rhetoric that did not include Ulster unionist aspirations.

For example, the language of the Irish, Gaelic, was to be the national language of Ireland, and while some Ulster unionists would have been able to speak Irish, they would not have seen this decision to make Gaelic the national language was part of a nation building project that belonged to them.

One nationalist writer, DP Moran said the

“foundation of the Irish is the Gael”

which excluded Ulster unionists (who are not of Gaelic stock) explicitly.

Symbols, like the monarchy, which meant, and mean, a lot to unionists, were explicitly rejected by Irish Republicans.

Indeed establishing an Irish Republic, and thus getting rid of the monarchy, seemed to be more important even than avoiding partition.

For example, Eamon de Valera, speaking in the Dail in 1921 during the Truce and before the Treaty negotiations commenced, said that if the Irish Republic was recognised, he would be in favour of

“giving each county the power to vote itself out of the Republic”.

In such a scenario, it is probable that, at the time, as I said earlier, Antrim, Down, Armagh and Derry would have voted to exclude themselves.

In more recent times, insistence by some nationalists on commemorating acts that Unionists regard as terrorism is counterproductive. Softness of tone does little to undo the underlying harm of such commemorations and rituals.

UNIONIST ASSUMPTIONS

It is probably not for me, or for you, to suggest how Ulster Unionism might rethink its assumptions. We could perhaps suggest themes for reflection.

Unionism might develop a more comprehensive and inclusive definition of “Ulster”, that recognises the contribution of people not of the “majority” tradition, to creating what is good about Northern Ireland today.

Sometimes gestures can make as big a difference as concrete actions. Arlene Foster’s attendance at the Ulster Final in Clones was important.

Commemoration can play a role. As well as remembering the losses of the Ulster Division at the Somme, Unionists might also remember the sacrifices of the Irish division and notable casualties like Nationalist MPs like Tom Kettle and Willie Redmond.

Unionism might also try to lead the debate that is starting in the UK itself about the nature of the Union between Scotland, England, Wales and Northern Ireland. The legacy of Empire is not enough to keep the Union together indefinitely.

As the only part of the UK that has a land boundary with a non UK entity, Northern Ireland surely has a special right to an input to UK foreign and border policy. Edwin Poots recent intervention illustrates this.

Does the UK need a written Constitution to protect the smaller nations when big decisions, like Brexit or attempting to disapply already endorsed international Treaties, are being considered?

Of course, reciprocity will be important to encourage any such rethinking. Unionists need to convince the increasing middle ground that “the Union” is good for them.

Harsh confrontations over the Protocol do not help, especially as there will be a vote on the continuance of the Protocol in the NI Assembly on a regular basis, under article 18 of the Protocol, anyway.

BACKGROUND TO THE GOOD FRIDAY AGREEMENT

The Good Friday Agreement was a culmination of many efforts by successive Irish and British Governments to devise a basis for the governance of Northern Ireland that would be seen to be fair to both of the traditional communities in Northern Ireland.

The Stormont Parliament that provided internal governance for Northern Ireland from 1920 to 1972, operated on a basis of simple majority rule, and, given that self declared Unionists were a majority of the electorate for that entire period, non Unionists were effectively excluded from government office in Stormont. This meant that the Stormont Parliament was not considered either legitimate or fair, by a substantial minority of the population (non Unionists).

The Sunningdale Agreement of 1974 was designed by the Irish and UK governments, and by a majority of the parties in Northern Ireland, with the objective of fairness and inclusivity in mind. Unfortunately it was undermined by the so called Ulster Workers strike, and it was also vigorously opposed at the time by major elements within unionism, and by Sinn Fein and violently by the IRA.

The Anglo Irish Agreement of 1985 was another attempt to address the sense of exclusion of the nationalist minority, by providing that the UK government would afford the Irish Government a formal role in regard to policy in Northern Ireland.

This Agreement was used by the Irish government to press for even handed and impartial administration. It reduced the incidence of megaphone diplomacy by providing a mechanism for private diplomacy.

The Unionist parties had not been included by the UK side in the preparation of the 1985 Agreement, whereas the Irish government had consulted the main nationalist party, the SDLP. This led to a great deal of Unionist resentment. It also led to Unionists refusing to have contacts with the Irish government for a lengthy period

Both the Sunningdale and Anglo Irish Agreements included assurances that the status of Northern Ireland, as part of the United

Kingdom and would not be changed without the consent of a majority there.

There was some tension between these assurances, and the words of Articles 2 and 3 of the Irish Constitution, which appeared to make a claim, as of right, on the territory of Northern Ireland, without the wishes of the people living there being paramount.

THE ORIGINS OF THE PEACE PROCESS.

John Hume of the SDLP, in talks with Sinn Fein, sought a way to remove the theoretical justification for the IRA campaign of violence by seeking a redefinition of the concept of Irish national self determination.

Rather than self determination being expressed by means of a single decision by a simple majority of the people of the 32 counties of Ireland, John Hume sought to frame a proposition that could be agreed in identical terms, in simultaneous referenda, in both jurisdictions.

As long as the proposition put in both jurisdictions was the same, and majorities were achieved in both , this would constitute an act of national self determination by the Irish people as a whole.

It would ostensibly satisfy the demands of the Republican movement for national self determination, while simultaneously respecting the principle of consent.

This was the core concept underlying the Good Friday Agreement of 1998, and the referenda approving it on both sides of the border.

The founding document of the present peace process is the Downing Street Declaration of December 1993. It was negotiated between the two governments, with active involvement of both the Ulster Unionist Party and the SDLP. It acknowledged the legitimacy of both Unionist and Nationalist points of view.

It contains some very important principles and, in a sense, the outworking of the Good Friday agreement should be judged by reference to those principles.

ARMS DECOMMISSIONING AND ARTICLE 15 OF THE CONSTITUTION

One important part of the Downing Street Declaration was the following

“The British and Irish Governments reiterate that the achievement of peace must involve a permanent end to the use of, or support for, paramilitary violence. They confirm that, in these circumstances, democratically mandated parties which establish a commitment to exclusively peaceful methods and which have shown that they abide by the democratic process, are free to participate fully in democratic politics and to join in dialogue in due course between the Governments and the political parties on the way ahead.”

Access to the democratic process was conditioned on “a permanent end to the use of or support for paramilitary violence“. The IRA were unwilling to say that their cessation violence was permanent. Indeed it was to prove NOT to be so.

Yet Sinn Fein wanted to participate in democratic politics, on the same basis as parties who relied solely on persuasion and were not supported by a private army.

The idea of a gesture of weapons decommissioning (Washington 3) was put forward as a symbolic, and second best, alternative to the IRA complying with the Downing Street Declaration, and saying their end of military operations was permanent.

When I became Taoiseach in December 1994, I was conscious of my obligations under the Constitution to the Houses of the Oireachtas.

Article 15 (6) of the Constitution says

“The right to raise and maintains military or armed forces is vested exclusively in the Oireachtas” and adds that “no military or armed

force”, other than one raised and maintained by the Oireachtas, “shall be raised and maintained for any purpose whatsoever”.

Clearly the holding of arms by the IRA on the territory of this state was/ would be a straightforward breach of the constitution. This was, and remains, fundamental to the democratic character of this state.

As an office holder responsible to the Oireachtas, I was obliged, as Taoiseach when asked by journalists, to say that I would welcome the decommissioning of such weapons, even as a symbolic gesture. To have given any other answer would have been to collude in a breach of Article 15 of the Constitution, and to accept the legitimacy of a private army. I was not willing to do that.

THE FULL RESUMPTION OF IRA TERROR

On 31 August 1994, the IRA had announced “a complete cessation of military activities”.

A loyalist ceasefire had followed on 13 October.

As well as not being permanent, the IRA cessation of military activities was not complete either.

Frank Kerr, a post office worker, was shot by the IRA, during a robbery on 10 November 1994.

On 8 December, 28 years ago today, Paul Dunne was shot by the IRA off the Lisburn road.

On 18 December , Francie Collins was shot on Lepper Street, and on the following day Chris Johnson was shot on Cooke Street.

On 1 January 1996, Ian Lyons was also shot by the IRA

In the 14 months after the IRA announced its “complete” cessation of military activities on 31 August 1994, there were 148 punishment beatings conducted by Republicans.

That was more than THREE TIMES as many punishment beatings as Republicans inflicted in the 14 months prior to the IRA cessation of activities on 31 August 1994!

THE TWIN TRACK APPROACH AND THE INTERNATIONAL COMMISSION ON DECOMMISSIONING

As Taoiseach , I was anxious to build on the work of my predecessor. Notwithstanding our different party affiliation, I offered to keep Martin Mansergh, Albert Reynolds advisor, to advise me on a full time basis. He provided me with a very valuable briefing initially, but Dr Mansergh felt himself unable to accept my offer, and I accepted and respected his decision..

Finding a way to involve Sinn Fein in political talks with other, unarmed, political parties was an inherently difficult question.

The very existence of a heavily armed group, associated with one of the parties, carried an implicit political and military threat to the other parties in negotiations with it. The negotiating playing field would not be level, to put it mildly.

On 28 November 1995, I persuaded John Major to agree in Downing Street to a formula to allow talks including Sinn Fein to get underway. This became known as the twin track approach.

The following is what we agreed

“ 1 The Prime Minister and the Taoiseach met tonight. After intensive efforts by both governments, and with the benefit of consultations with parties in Northern Ireland, the two governments have agreed to launch a "twin-track" process to make progress in parallel on the decommissioning issue and on all-party negotiations.

2. Both governments reaffirmed their commitment to securing the early launch of all-party negotiations. By way of the twin tracks, the two governments have the firm aim of achieving this by the end of February 1996. It is the two governments' considered view that, with cooperation from all the relevant parties in both tracks, that

objective should prove achievable. Both governments commit themselves to working, with others, to achieve it.”

I believe this was a major diplomatic achievement.

We also agreed at that meeting to establish the International body on Decommissioning chaired by George Mitchell.

It was not all plain sailing after that. For example, the Ulster Unionist Party refused to meet the Irish Government as part of the Twin Track approach. That party was willing to negotiate with elected representatives, but declined to meet Sinn Fein outside the context of an elected body.

The International Commission, having met all the parties, presented its report of 28 January 1996.

It recommended six principles on the basis of which the decommissioning and political talks could proceed.

They said;

“ Accordingly, we recommend that the parties to such negotiations affirm their total and absolute commitment:

- a. To democratic and exclusively peaceful means of resolving political issues;**
- b. To the total disarmament of all paramilitary organisations;**
- c. To agree that such disarmament must be verifiable to the satisfaction of an independent commission;**
- d. To renounce for themselves, and to oppose any effort by others, to use force, or threaten to use force, to influence the course or the outcome of all-party negotiations;**
- e. To agree to abide by the terms of any agreement reached in all-party negotiations and to resort to democratic and exclusively peaceful methods in trying to alter any aspect of that outcome with which they may disagree; and,**

f. To urge that 'punishment' killings and beatings stop and to take effective steps to prevent such actions."

In his response, in the House of Commons, to the International Body Report, Prime Minister John Major said that there was much in the report that he could welcome and endorse.

But the practical problem remained--how to bring all the parties together.

Self-evidently, the best way to generate the necessary confidence would have been for the paramilitaries to make a start on the decommissioning process. He saw no reason why they should not do so. Nor could I, especially as the paramilitaries had been so slow in complying with the Mitchell principles, as I have illustrated.

John Major and I were agreed that we were not prepared to accept that any one group should, through its intransigence, stand in the way of peace and a comprehensive settlement.

He said that one of the confidence-building measures taken up by the international body was the idea of an election.

The body made it clear that a broadly acceptable elective process, with an appropriate mandate and within the three-strand structure, could contribute to the building of confidence.

Mr Major said he believed an elective process offered a viable alternative direct route to the confidence necessary to bring about all-party negotiations.

In that context, he said it was possible to imagine decommissioning and political negotiations going forward in parallel.

He said the "election to peace talks" proposal had originated in Northern Ireland and, as recent opinion polls had shown, had widespread cross-community support there. A number of parties, including the UUP, the DUP and the Alliance party, had put forward proposals for some form of election.

I believed that accepting the holding of an election, as an entry method to inclusive negotiations, was hardly an exorbitant price for getting the UUP to sit down and talk with Sinn Fein.

Unfortunately neither Sinn Fein nor the SDLP were supportive of an election to a negotiating body, for reasons I cannot fully explain.

Events were to vindicate the electoral route to talks. Elections are a healthy part of democracy anyway.

The road was now open to inclusive negotiations. That was the important point.

Indeed, was through this elective body, and the talks it allowed, that the Good Friday Agreement was reached almost two years later.

But, ten days after John Major's suggestion of an elective body to activate twin track talks, the IRA ignited a huge bomb in Canary Wharf in London, murdering Inan Bashir and John Jeffries, civilian victims of what by any standard was a war crime. The operation was in planning for weeks, during the time Sinn Fein were talking to Senator Mitchell, and presumably reassuring him of their bona fides.

In any event, John Major and I successfully launched the talks anyway on 10 June 1996. Those are the talks that led to the Good Friday Agreement.

Sinn Fein not take part initially because their associates in the IRA had recommenced a full scale killing campaign.

But a venue for their participation had been created. They availed of it when they finally realised their "armed struggle" was getting them nowhere.

1998 DAIL DEBATE ON GOOD FRIDAY AGREEMENT

Others will have briefed you on the post 1997 process that led to the Belfast Agreement of 1998. I was Leader of the Opposition at the time so I will focus on the reaction to it after it was announced

The Agreement was debated in Dail Eireann on 21 April 1998. As Leader of the main Opposition Party, I welcomed the Agreement and commended all those involved. A few things I said then bear repetition.

I said history is what we make for ourselves and that there is nothing inevitable in it, and I added that we must replace the politics of (often irreconcilable) aspirations, with politics of accommodation.

I said that, if the two communities continue to define themselves in terms of mutually irreconcilable aspirations , as they are defined in the Agreement for the purposes of parallel consent, there would always be difficulties in achieving full rapprochement.

I said that the very nature of Unionism and Nationalism would have to change if there is to be a lasting settlement. That has not happened.

As I said earlier both Nationalism and Unionism need to re examine their underlying assumptions. For Irish Nationalism, this committee is a place where that work might start.

CALLS FOR A BORDER POLL

The Belfast Agreement allows for a poll to be called on whether Northern Ireland should cease to be part of the UK and join a united Ireland.

It says that, if the British Secretary of State is of opinion that a majority in Northern Ireland would support unification with the rest of Ireland, he or she shall hold a poll in Northern Ireland, to allow the electorate there to make that choice.

Apparently, this clause in the Agreement about border polls, was not the subject of close scrutiny in the final days of the negotiation in 1998. The focus in that week was on North/South institutions, decommissioning of weapons, and prisoner releases.

As a result of this lack of scrutiny, the Agreement provides little guidance as to how, and on what criteria, the Secretary of State might make such a momentous decision.

Nor is the role of the Irish Government, which would have to absorb Northern Ireland given much attention in the Agreement. The Secretary of State is not even required to consult the Irish government!

The Irish government would have to decide what special arrangements, if any, they might make to ensure that both communities in Northern Ireland, especially the one that is currently in favour of Union with Britain, are made to feel at home in a united Ireland. Symbolic issues-flags, emblems, anthems- will need to be worked out.

Nor does the Agreement set out how the public finance and tax implications of such a move would be dealt with. Northern Ireland currently receives a net subvention from London, which, if voters opted for a United Ireland, would thereafter have either to come from Dublin, or be rendered unnecessary by spending reductions on NI services.

I do not know if the Department of Finance in Dublin was even involved in the negotiations of this clause back in 1998. I doubt it.

It will not be easy, anyway, to predict the issues that might sway voters in a referendum, as we have seen in recent cases. The NHS was even made an issue in the Brexit referendum, although it had nothing to do with the EU.

Incidentally, while a large majority (67%) in the Republic told opinion pollsters in 2021 they would vote for a united Ireland, only 41% said they would be prepared to pay higher taxes to accommodate it, and even fewer would be willing to change the national flag or the national anthem to accommodate the British identity of the unionist population. Of course answers to hypothetical poll questions about remote future possibilities are not reliable.

Opinion poll questions often look only for a Yes/No answer. It would be helpful if the INTENSITY of divergent opinions could also be measured.

For example, might it be a good idea to invite opinion poll respondents to answer the same question but in two different ways.

“Would you vote for a united Ireland regardless of whether a majority of the unionist community was resolutely opposed to it?”

And also

“would you support a united Ireland if evidence suggested a significant proportion (say 45per cent) of the unionist were prepared to go along with it on broadly agreed terms, and/or would your opinion change if only 30% of unionists were prepared to go along with it?”

If there was a significant difference in the answers to these questions, that might help the Secretary of State to make a wise decision on whether it was timely to have a border poll.

ARE THE BORDER POLL PROVISIONS EVEN HANDED AS BETWEEN THE TWO COMMUNITIES?

The Good Friday Agreement requires whichever government is sovereign over NI, exercise its powers "with rigorous impartiality" and ensure "just and equal treatment" for the "identities, ethos and aspirations of both communities in" in NI.

"Aspirations" is the key word here.

By definition, unionists and nationalists have different and contradictory aspirations. One aspires to a united Ireland, the other aspires to continued union with Britain.

The provision in the Belfast Agreement for border polls seems, in an important sense, to contradict the " parity of esteem" between "aspirations" that is the underlying motive force of the Agreement.

This is because it provides for a one way street to Irish unity, with no possibility of a reversal of that decision.

While there could be several border polls, where the option of a United Ireland is offered and rejected, if that option is once chosen, in the last of those polls, that would be it.

There would be no further Referenda. The decision in favour on a united Ireland would be final. In that sense there is no parity between the aspirations. I am surprised this anomaly has not got more attention in unionist circles.

If a majority in Northern Ireland voted for a united Ireland in a border poll, there would probably still remain a significant minority in Northern Ireland who might continue to aspire to rejoin the United Kingdom.

That aspiration is thus treated less favourably in the Agreement than is the aspiration of nationalists for a United Ireland.

One aspiration, once achieved, is irreversible.

The other aspiration is reversible, no matter how many earlier border polls confirming it have taken place. There is no parity of aspirations.

That is the way the Agreement has been drafted. It is hardly possible to change the rules at this stage, but voters, in casting their vote in a border poll, will need to bear in mind the one sided way in which the proposal is framed.

Voters, as citizen legislators, should exercise great caution.

Their priority should not be so much the option they personally would “like” , as finding the option they believe all sides will most likely be able to “live with”.

MAKING IT DIFFICULT TO RESOLVE THE PROTOCOL ISSUE

This border poll issue is, and will remain, contentious.

Indeed the constant publicity about the possibility of a border poll is unsettling.

It heightens the tension around the Northern Ireland Protocol, which Ulster Unionists wrongly see as a stepping stone to a United Ireland.

Calling for a united Ireland is seen as patriotic and popular here in the Republic, even though repeating such calls may actually be a barrier to practical reconciliation between the communities in Northern Ireland.

Under the border poll provisions of the Agreement, a united Ireland could come about by a majority of a mere 51% to 49%. As I have said, once it has happened, it would be irreversible, at least under the terms of the Agreement.

This simple majoritarianism seems to me to run counter to something the then Taoiseach, Albert Reynolds, said in the 1993 Downing Street Declaration.

He said

“Stability and wellbeing will not be found under any political system which is refused allegiance or rejected by a significant minority of those governed by it”.

If a united Ireland is carried by 51/49, there would likely be a significant minority in Northern Ireland, who would refuse allegiance to the decision. This minority would be geographically concentrated in parts of the province, where they might constitute a local majority. Experience suggests that policing and security in such areas could become very very difficult for the United Ireland government.

The framers of the border poll provisions of the Belfast Agreement do not seem to me to have taken sufficient account of Albert Reynolds wise words, in the Downing Street Declaration, about the importance of minority consent.

He saw further than they did. He saw that winning the allegiance on minorities was important for political stability. Simple majoritarianism is not enough.

Good governance requires minority consent. So Unionists, and Unionism should be taken seriously.

HOW TO VOTE IN A BORDER POLL

In looking, objectively and clinically, at the question of how to vote in a border poll, if it takes place, people on both sides of the Irish border should ask themselves some difficult questions.

They must ask themselves why there are 33 Peace Walls now, whereas there were only 23 Peace Wall in 1998. What deeper truth does that reveal?

**They must ask themselves, honestly , if the
“ ideals, historic memories and allegiances”**

of Northern unionists can realistically, as that point in time, be reconciled with the ideals, historic memories and allegiances of Irish nationalists.

In the last seven years has there been more or less integration across community lines? I fear the latter is the case.

Voters will have to ask themselves, based on evidence at the time, if they can reasonably expect that disparate elements in NI will be fused into a new civic patriotism, a new identity that a large majority can share, and that the remaining minority can live with?

If people do not believe that is possible at that time, a united Ireland will not work, at least not at that particular point in history. If so people should not vote for it.

This would be a very difficult decision to take, and voters will need great wisdom and prudence if we are to achieve the “stability and wellbeing” envisaged by Albert Reynolds in the Downing Street Declaration of 1993.

RECONCILIATION WITHIN NORTHERN IRELAND MUST BE THE PRIORITY

I believe we should try a different approach.

The priority now should be reconciliation WITHIN Northern Ireland.

The work of reconciliation must be done, in the first place, by the people of Northern Ireland themselves, but with the active support of the Dublin and London governments. It should be seen as an end in itself and not as a preparation for either in united Ireland or continuance of the Union.

Indeed part of the problem has been that many nationalists have seen the Good Friday Agreement as a staging post of the road towards a united Ireland, whereas many unionist saw it as a final destination, a full settlement. This difference of perception is crucial.

Reconciliation requires the creation of a shared perception, and shared achievements, that become a basis for a shared allegiance.

The political leaders in Northern Ireland need to work towards shared achievements, of which all can be proud, which become part of a new shared historic memory, gradually replacing the divisive memories of the past.

Shared ideals must be forged by negotiation , discussion and achievement at every level, among the people of Northern Ireland.

Unionists must begin to imagine themselves into the minds of Nationalists, and Nationalists into those of Unionists.

This requires a conscious and structured effort of the imagination, among every age group among the people of Northern Ireland.

Instead of being boosters for one side or the other in the constitutional debate, creative people in Northern Ireland should

lend their talents to this very demanding exercise of the imagination.....that of forging a new shared identity.

Let me conclude by returning to the topical issue of the Protocol, and the unilateral attempt to disapply it, by the UK.

THE DUTY OF IMPARTIALTY IMPOSED ON THE SOVEREIGN GOVERNMENT BY THE BELFAST AGREEMENT

As I read it, the Good Friday Agreement of 1998 reflects two core values

+ rigorous impartiality by the sovereign government as between to two traditions

+ determination of their constitutional future by the people of Northern Ireland (consent)

Part of the wisdom of the Belfast Agreement is that it requires whichever capital is sovereign at the time, London or Dublin, to be rigorously impartial between the communities. This would apply even if Northern Ireland had voted to enter a United Ireland. The obligation of impartiality would then be on the shoulders of the Irish government.

The wording is as follows. The two Governments

“ affirm that whatever choice is freely exercised by a majority of the people of Northern Ireland, the power of the sovereign government with jurisdiction there shall be exercised with rigorous impartiality on behalf of all the people in the diversity of their identities and traditions and shall be founded on the principles of full respect for, and equality of, civil, political, social and cultural rights, of freedom from discrimination for all citizens, and of parity of esteem and of just and equal treatment for the identity, ethos, and aspirations of both communities;”

I believe the current UK government, by promoting legislation to disapply almost the entirety of the Northern Ireland Protocol, against the wishes of a majority of the Northern Ireland Assembly,

is breaching its duties under the Belfast Agreement. It is being partial in favour of one party, the DUP. In so doing it is actually placing the DUP in a difficult position and is using them for English political purposes.

I leave it to others to decide what legal remedies might be sought for this breach of impartiality, and in what forum.

Quite simply, the current UK government is not impartial. That is a breach of both the letter and the spirit of the Belfast Agreement.

The UK governments Bill to disapply the Protocol also breaches the principle in the Good Friday Agreement that the people of Northern Ireland be able to determine their own future, that is the principle of consent.

The referendum decision by the people of Northern Ireland, accepting the Good Friday Agreement in 1998, was an act of self determination on their part.

The Protocol to the Withdrawal Treaty preserves consent and self determination of their future , by the people of Northern Ireland. But the Protocol Disapplication Bill takes it away.

Consent and self determination are preserved in the Protocol by Article 18. This Article provides for consent by the people of Northern Ireland to the continuance of the application of the Protocol. This consent will have to be sought at least every 8 years.

It was on the basis of Article 18 that Prime Minister Johnson accepted the Protocol, and he fought and won a UK General Election on that basis.

Subsequently he changed his mind and introduced legislation unilaterally to disapply the Protocol. This legislation continues to be part of the current UK governments legislative programme and has reached Report Stage in the House of Lords, a very advanced stage on the way to signature into law.

It is UK legislation which is to be imposed on Northern Ireland.

There is no equivalent of Article 18 in the Protocol Disapplication Bill. It is to be imposed, indefinitely, regardless of what a majority of the Northern Ireland say. This legislation should be withdrawn.

Of course, this legislation also breaches international law, because it attempts a unilateral revision of an international Treaty.