

DÁIL ÉIREANN

AN COMHCHOISTE UM

FEIDHMIÚ CHOMHAONTÚ AOINE AN CHÉASTA

JOINT COMMITTEE ON THE IMPLEMENTATION OF THE GOOD FRIDAY AGREEMENT

Dé Máirt, 16 Feabhra 2021

Tuesday, 16 February 2021

Tháinig an Comhchoiste le chéile ag 10 a.m.

The Joint Committee met at 10 a.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
Jennifer Carroll MacNeill,	Frances Black,
Rose Conway-Walsh,	Niall Blaney,
Patrick Costello,	Emer Currie,
Pádraig Mac Lochlainn,	Annie Hoey,
Brendan Smith.	John McGahon,
	Rónán Mullen,
	Niall Ó Donnghaile.

I láthair / In attendance: Senator Erin McGreehan.

Teachta / Deputy Fergus O'Dowd sa Chathaoir / in the Chair.

The EU and Irish Unity - Planning and Preparing for Constitutional Change in Ireland: Discussion

Chairman: Apologies have been received from Colum Eastwood MP. Members of the Oireachtas are attending this meeting remotely from their offices within the Leinster House complex. It is not possible for them to participate remotely from outside the Leinster House campus.

If there is unwanted microphone feedback, it may be necessary for me to ask participants to mute their microphone. The person speaking may unmute his or her microphone. I ask that participants keep their microphone on mute unless they are making a contribution.

The meeting is being held in the Seanad Chamber. We have a difficulty in that we do not have the capacity to have a private session today, so all our business must be conducted in public. There are some administrative issues and correspondence which we can discuss at the end of the public session, even though we will still be in public session at that time.

As regards the rotation of members, I wish to be as fair as I can to everybody. I appreciate we have a two-hour session, at the end of which we are obliged to cease our work. If it is in order, I ask the parties to nominate their speakers. I will begin with Sinn Féin, followed by Fianna Fáil, Fine Gael, the SDLP, Alliance Party and DUP members who are present, and then the Green Party, the Labour Party and other members of the committee. I wish to be flexible in terms of time because this is a very important meeting. If there are no views to the contrary, we will go ahead with that approach.

Our engagement today is with Professor Colin Harvey of Queen's University Belfast and Mr. Mark Bassett, barrister at law, to discuss their paper *The EU and Irish Unity: Planning and Preparing for Constitutional Change* and related issues. On behalf of the committee, I welcome them both to the meeting.

The evidence of witnesses physically present or who give evidence from within the parliamentary precincts is protected pursuant to both the Constitution and statute by absolute privilege. However, witnesses and participants who are to give evidence from a location outside the parliamentary precincts are asked to note that they may not benefit from the same level of immunity from legal proceedings as a witness giving evidence from within the parliamentary precincts and may consider it appropriate to take legal advice on this matter.

Witnesses are also asked to note that only evidence connected with the subject matter of these proceedings is to be given and they should respect directions given by the Chair and the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable or otherwise engage in speech that might be regarded as damaging to the person's or entity's good name. I invite Professor Harvey and Mr. Bassett to make their opening statements.

Professor Colin Harvey: I thank the Chairman and members for the invitation to appear before the committee. I look forward to our discussion. The report was published in October

2019. As members will be aware, there have been several significant updates since then and key developments. It is our view that the key conclusions and themes of our original report still stand.

The context for the report and the discussion today is a broadening debate about the constitutional future of this island. To assist the committee, we have submitted a range of background reading. Members will be aware that not a day goes by without a new report, comment or initiative emerging around this debate. In particular, we have given the committee some evidence about significant civic initiatives such as the work done by Ireland's Future.

The title and focus of our original report was deliberate. The focus of our work is on planning and preparing in a responsible way for the change that we feel is likely to come on this island over the course of the next decade. We very much welcome the growing recognition of the need for planning and preparation, along with the proliferation of projects and initiatives around this question, whether those are civic, academic or governmental.

We need to frame our report. We intended essentially to mainstream and normalise the conversation. The Good Friday Agreement contemplates reunification. There is an international legal underpinning of the right to self-determination. It is recognised in the domestic constitutional law of both states. It is acknowledged in the Irish protocol and it has gained international recognition, all of which was comprehensively endorsed on this island on 22 May 1998.

We are essentially talking about commitments that have already been made. We are talking about obligations that are there now. We are also discussing taking forward what is an agreed process. I am attempting to underline that what we are saying is rather a banal and boring point which should be of surprise to no one. This is about taking forward things that have already been agreed.

The report was published in 2019. Mr. Bassett, others and I have produced subsequent work where we have tried to help and assist those working in this debate by outlining the framework and answering some questions around principles. We are trying to address what we believe a good faith interpretation of the Good Friday Agreement requires in an attempt to assist all of those who are increasingly involving themselves in this conversation.

Our report also highlights the role of the European Union, its institutions and member states. We very much hope that our work is in some way helpful to what is a growing conversation across this island, its future and constitutional change.

Mr. Mark Bassett: I thank the Chair and the committee for this chance of discuss the report. In the report, we have tried to identify the relevant aspects of EU law which concern Irish unity. We have looked at the position adopted by the institutions and the matters which might require further work within them. We have made some suggestions on how that could be addressed. In the report, we set out that the EU has confirmed that the process of Irish reunification would be considered a matter of public international law, comparable to German reunification. Ireland is a member state of the European Union. In the eventuality of reunification, the borders of the State would change but there would be no need for a treaty amendment or approval by any of the institutions.

We have also set out some of the issues with which the European institutions could assist both the Irish and British Governments. One important one is the rights of British citizens resident in a united Ireland under European Union law. We make the argument that there should be

no requirement that those citizens take up the option of Irish citizenship.

Another matter addressed in the report is the consequences for a united Ireland in the context of economic and monetary union. We suggest that the institutions should identify possible problems and suggest necessary supports as well as exceptions from European Union law on economic co-ordination.

We have also looked at some of the ways in which the institutions, including the European Parliament, should consider ensuring the democratic rights of all citizens in a united Ireland are best addressed. We have looked at possible changes in representation.

All of these are set out as suggestions at this point. Some of the recommendations have made their way into the withdrawal agreement. The report contains some recommendations that the institutions could take up and begin work on themselves in these certain subject areas.

I again thank the Chairman and the committee for the opportunity to present this report.

Ms Michelle Gildernew: I welcome both Professor Harvey and Mr. Bassett to today's meeting. This is a very timely discussion. I was lucky and privileged to be in Europe the night Professor Harvey and Mr. Bassett launched the report. I thank them personally for their outstanding and dedicated leadership, the work they have put into this and the measured and inclusive way in which they have held all the discussions.

Much has changed since the report was launched. Obviously, the institutions are back up and running, Brexit and the Northern Ireland protocol have been implemented and there is the shared island unit. Things have moved on considerably. Against that background, will our guests give us a general assessment of the stage we are at with regard to progressing a united Ireland?

Mr. Paul Maskey: I again thank Mr. Bassett and Professor Harvey for their presentation. I will keep my comments brief to allow others to come in. Within the document, there is considerable mention of dialogue and communication with the different sectors in society. If any lessons have been learned from the Brexit chaos and what we have seen over recent years, that dialogue did not take place among different sectors throughout the islands of Ireland and Britain. Our guests might comment on what lessons have been learned from the Brexit issue and can be taken forward, in case a referendum on Irish unity is ever held.

Ms Órfhlaith Begley: I extend the welcome to Mr. Bassett and Professor Harvey to the committee meeting. Like Ms Gildernew, I was in Brussels for the launch of the report, and much has happened since then. Both Brexit and Covid have reshaped how people view the concept of a shared island and that has accelerated the debate and discussion on Irish unity, while also introducing a fresh urgency in regard to the need to plan and prepare. The document refers to the need for prudent and responsible planning and to the role of the Irish Government in that regard. I understand that Professor Harvey attended the launch of the shared island unit. While that is to be welcomed, the Taoiseach stated on that occasion that a referendum would not be on his agenda for the next five years and referred to it as divisive. Many referendums are, by their nature, divisive but that does not negate the need to plan and prepare.

I would like to get our guests' views on the shared island unit. How could it facilitate the discussion on preparing for a referendum and could it also be used post referendum? If a referendum were successful, how could the unit be used to transition from partition to reunification? When do those preparations and plans need to take place? I refer in particular to the role of the

Irish Government.

Senator Niall Ó Donnghaile: I thank Professor Harvey and Mr. Bassett for their presentation. My question relates to the broader role of the institutions, some of which were key players in the formation and creation of the Good Friday Agreement while others are part of the outworking of the agreement itself. In the interim as we journey towards constitutional change, what role can the institutions, such as here in the Oireachtas, play to give voice to unionist and other traditions? Seanad by-elections are due to be held soon, and while I am not asking our guests to comment on the finer details of that issue, it affords us a unique opportunity via the Seanad to amplify unionist and other voices here. I am keen to hear our guests' views on the importance of the institutions acting in that respect in the here and now.

One of the other key institutions that was mentioned, not just in respect of the development of the peace process and the Good Friday Agreement but which has also been vocal and active in the ongoing discussion on constitutional change, is the US Congress. I am keen to hear our guests' views on what unique role the US could play in assisting and developing those conversations and the work towards constitutional change. The Seanad Special Committee on the Withdrawal of the United Kingdom from the European Union recently heard from Congressman Richard Neal, the chairman of the Committee on Ways and Means and the co-chairman of the Friends of Ireland caucus on Capitol Hill, and it was a very valuable contribution. In referring to the broader institutions, Professor Harvey and Mr. Bassett might comment on what they consider to be the key role for the US.

Professor Colin Harvey: I will work my way through the various questions before handing over to Mr. Bassett. On the question about the stage we are at, we are obviously further on than we were in 2019. As everyone will know, this conversation is gaining momentum every week. More and more initiatives are coming on board, and I have mentioned some of the civic and academic ones, with major universities now engaging in some of this preparatory work. I started by saying I think the island is on a trajectory towards these referendums taking place in the decade ahead but there is a need for more preparatory and planning work to take place.

As for the lessons learned from Brexit, where do we start? Two issues stand out. In the report and throughout the work we have done, we have placed an emphasis on responsible management and planning and preparing for constitutional change on the island, and that is not coincidental. We have looked at what happened with Brexit and we do not want that to happen on this island. We have placed enormous stress on advanced planning so that people will know what they are voting for or against when these referendums that we believe are coming take place. That is why the planning and preparation needs to start now. We have also emphasised the role of civic engagement. It is notable, for example, that Ireland's Future has placed an all-island citizens' assembly at the heart of its proposals. We do not need a top-down process; while we do need extensive Government involvement, we need to hear from people. Too much of the discussion on the island at the moment is based on assumptions of what people think, rather than engaging with wider civil society. We would very much like there to be extensive civic engagement.

On the questions about the Irish Government, I am disappointed to see the shared island concept being used and pitted against the idea of a united Ireland. For me, a united Ireland is a shared island. There is no either-or; these are not separate conversations. The shared island concept is intrinsically linked to the notion of Irish reunification. It is a new way of sharing the island. I would really like the shared island unit and the Irish Government to take a much more proactive leadership role in this discussion. It is at the core of the Good Friday Agreement. I

am aware of the argument about countering divisiveness but this should not be a divisive discussion. This is absolutely mainstream within the Good Friday Agreement and if one respects the agreement in all its parts, one has to respect the right of the people of this island to determine their own future. There is nothing divisive about that.

Turning to the institutions, it is notable that recent work, such as the recent discussion document published by Ireland's Future, has highlighted the role of legislatures throughout these islands in informing the debate. Too often we go straight to talking about governments but legislatures, such as the Oireachtas and the Westminster Parliament, all have roles in carrying out the necessary planning and preparatory work. Ireland's Future raised a basic question recently, which was to ask every institution on this island if they are prepared. I ask this committee that today. Is it prepared? Is it ready? Has the homework been done?

The committee will be delighted to hear two final points. One is engagement, invitation and being welcoming and embracing. We need to hear the diversity of voices that exist in the North of this island in the Oireachtas. That includes unionist voices and an increasingly diverse range of voices here that are not heard. The committee should welcome and invite people to come and speak. It is fed up of listening to people like me so it should invite somebody else to come to talk to it and engage. That is a way to extend a welcome to people from all communities in the North.

Regarding the US, we have deliberately focused on the international picture in much of our work. We have talked about the EU but the US also has an important role in providing support in a number of ways. There is now a supportive President in the White House. We enjoy bipartisan congressional support from the US for some of the issues that we are talking about today. It is important that bipartisan support continues into the future. We have seen the US Congress support the Good Friday Agreement, including the right to self-determination. It is important that friends in the US reiterate their support for the right of the people on this island to determine their own future and that should be a mainstream conversation.

What tangible international support will be available to an island that is undergoing constitutional change? We could nudge that conversation towards asking what tangible support the US Administration will give both before and after the referendums that we are talking about today. I hope that that conversation will become much more concrete in future.

Chairman: I thank Professor Harvey and Mr. Bassett.

Senator Niall Blaney: I welcome Professor Harvey and Mr. Bassett. We are kicking off what will be a lively debate. It is good to get a perspective on this and kick off the conversation. I note that there is correspondence from Ian Paisley that will probably be dealt with later. I listened intently to the presentation by the witnesses. I would like to get their perspective on a few matters. For me, the Good Friday Agreement was hard-fought and took a lot to get over the line. Many people see it in the context of those few weeks. Much work went on behind the scenes over many years. Why has the report not considered the impact of the US Congress and Presidency? The Good Friday Agreement is a model that has worked for us on this island previously. Why do the witnesses now think that we should work this through the EU? What dialogue have they had with unionist communities and politicians and what are their impressions of the report?

Professor Harvey referred to the shared island unit. I find that hard to take from an academic because some of the presentation sounds like it is only a matter of having the referendum and

then we are away. Let us not be that simplistic and let us remember how hard this was fought and won previously. It is not as simple as having a referendum. Much more dialogue needs to be held with unionist politicians. Without them being on board, I do not see this happening. My fear is that if there is a referendum tomorrow, it would not be won on either side of the Border. There is much work to be done. Reports like this and the language used in them make it much more difficult to achieve the objective that we are talking about. I feel that we are putting the cart before the horse. We have not had the necessary dialogue to bring unionists with us and create trust. The idea of the shared island unit is to create that trust and start working with them.

We were at the beginning of a process and the Northern Ireland protocol came along. As we know from meetings last week, relationships are at a delicate stage. This is a delicate process. I do not agree at all that it is comparable to Germany. Those are my views. I am interested in hearing other people's views. I would love if it was that simple but it is not. The majority of us, in our hearts and souls, know that. We are here having a discussion and there are no unionists at our meeting. There is much to do before we get to the stages that the witnesses are talking about.

The US is paramount in all this. It was the key element in the Good Friday Agreement. Senator Ó Donnghaile mentioned that Richard Neal was presenting to us in the Seanad Chamber. I mentioned to him that day that it is my opinion that, with the involvement of the US Congress, a similar agreement to the Good Friday Agreement will be needed to get to a shared future. The more that we talk up a united Ireland, the less chance that we have of getting unionists to the table. I do not like to think of what the future will hold in that scenario. Peace has been hard-won on this island and I would not want to take steps back before we go forward.

Senator Erin McGreehan: I thank the committee for the opportunity to contribute. The Good Friday Agreement represents a dramatic change in my life as a person from a Border constituency. I never thought I would see it or to be able to speak to the committee about a united Ireland. This conversation needs to be had in a sensitive manner. We are on the hill of change. We can all stay on that hill together and battle against the winds and the elements, or we can fall down like Humpty Dumpty and go back 30 years to where we were. We do not want to go back. Too many lives have been lost and destroyed. Too much trust has been broken again and again to go back to those things. The report is very interesting but the discussion about it being very like East and West Germany being put back together again is a bit too simplistic. To me we are one island. We have been one island since we left the Continent, probably 1 million years ago, but we are two jurisdictions. I would love to be able to say we would have a border poll in the morning but what would be the price of a border poll in the next two years? Is it that we will have a united Ireland but we will have left a whole pile of our population behind? We did that in the 1920s and we do not want to repeat it. We had a civil war over leaving people behind in the 1920s and we do not want to do it again. We have to learn from our past and from our mistakes.

An awful lot of jurisdictional change would need to be done. We are speaking here about the work the Oireachtas has to do, but what about the work the British Government or Northern Executive might have to do? Where do we converge? Back in the day as a student, I did a thesis on how north Louth, south Armagh and south Down could come together. It was a very aspirational thesis on economic integration. We can only go so far unless someone starts converging, even on the likes of bin charges, electricity or rates. In five years' time, where will all of these come in? A body of work needs to be done very much from the Executive side just as much as it needs to come from the Oireachtas. I would love to see one island yet again in every sort of way but we must not forget the mistakes we made in the past as a country.

I thank the witnesses as this is a great conversation to have.

Chairman: Would the witnesses like to comment on this? Afterwards we will go to Fine Gael.

Mr. Mark Bassett: To take up the point on why the report focused on European Union institutions and not on the US Government for instance, the report was commissioned by the European Parliament. It was one in a series of reports that looked at issues such as the possibility of special designated status for Northern Ireland. Another report looked at what rights were available in EU law. This is the reason the report took the shape that it did. It was also intended to answer the question on what the status of a united Ireland would be in the European Union. During the Scottish independence referendum, the status of an independent Scotland in the European Union was an argument used by the Barroso Commission and the UK Government against a “Yes” vote. One of the purposes of this report was to give as clear an answer as possible that EU law recognises the right to self-determination. A united Ireland would be a member state of the European Union.

An analogy is drawn with German unification in 1989 and 1990 for a number of reasons. There are also very important distinctions. The report tries to show how EU law approached that question. Even back in 1957, when Germany joined the then European Economic Community, it included a declaration that German unification was a possibility. As a matter of EU law, trade between East and West Germany was a matter of German domestic law. We can see a parallel now with the common travel area and the provisions of the Ireland and Northern Ireland protocol. There was also a constitutional duty on the West German Government to work towards unity. We see this echoed in our Constitution. There was a clear constitutional path to unity in the German constitution. This is replicated in the Good Friday Agreement. It is a centrepiece of the Irish Constitution. It is a centrepiece of the Northern Ireland Act, which is part of the UK constitutional framework. It is recognised in international law in the British-Irish Agreement. It is now part of the bridge between the UK and European Union. It is in the withdrawal agreement.

There are other similarities in the citizenship provisions. Residents in East Germany could avail of West German citizenship and did so. There are some similarities with the availability of Irish citizenship for residents of Northern Ireland. The other parallel was that West Germany was a member state of the European Union in 1989 and 1990. Very early on, first the European Parliament and then the Commission took the view it was an exercise in self-determination and that a reunified Germany would be a good thing for Germany and for the European Union. Many of the institutions used the phrase with regard to German unification that it occurred “under a European roof”. There was assistance from the Commission. There was political support in the Parliament and the Council, which was chaired by Charles Haughey. There was a clear endorsement of the position in international law that this was not the creation of a new state but a changing border in an existing member state. We say this is similar to what would happen in the eventuality of Irish reunification. There are important differences but they should not be insurmountable. We state West Germany and East Germany were more different at that time than North and South are now.

In terms of the self-determination provision, the votes and referendums for a united Ireland are absolutely fundamental to the Good Friday Agreement. This right of self-determination is not an ornament but an instrument. The expectation is that it will be exercised at some time. It is not rhetoric like the pursuit of happiness in the US declaration. Preparatory work does have to be put in before the votes. People voting in both jurisdictions are entitled to honest, credible

and ambitious answers on issues such as healthcare, currency, employment and the administration of justice. This preparatory work should be taking place now. The Irish Government is particularly important in leading this type of work. It is also true that the Oireachtas and the institutions in the North can assist.

With regard to some of the important work that could be undertaken, we imagine that in a united Ireland there would be an immediate continuation of Northern Ireland institutions and law subject to the Constitution. The other matter would be that the Irish Constitution may have to be updated and possibly amended to take account of all of the obligations of the sovereign power which are set out in the Good Friday Agreement. A piece of work that could be done in either institution would be an audit of what aspects of Northern Ireland law may have to change and an audit of Irish law, including what provisions of the Constitution, if any, would not be consistent with the duties of equality, parity of esteem and citizenship that would come with a united Ireland.

Chairman: I thank Mr. Bassett.

Senator Niall Blaney: Before we move on, Chairman, I asked a question about engagement with unionist politicians. I was disconnected for a bit so I am not sure if it has been answered. I asked what engagement, if any, had taken place with the unionist politicians on the report.

Chairman: My apologies to Senator Blaney, I cannot see him and I did not hear him clearly. As I understand it, the Senator is asking for an answer to a particular question.

Senator Niall Blaney: Yes. Was there engagement with unionist politicians on the report or any feedback from them on it?

Professor Colin Harvey: I will take a number of points that were raised. First, in terms of the work that Mr. Bassett and I are doing, we recognise the complexity of the issues involved. At no point have we ever suggested that any of this is easy; it is complex. That is why we are calling for responsible planning and preparation and for that to involve civic society, but also to be government-led and resourced. It is precisely because we know this is complicated that we need the advanced planning first. I cannot reiterate that enough. The homework needs to be done in advance. Nobody is calling for a border poll next Tuesday, Wednesday or Thursday. People are calling for advance planning.

Second, when talking about the Good Friday Agreement we have to respect the right of unionists and loyalists in Northern Ireland to engage and participate in the conversation and, also, to engage and participate in the conversation about the maintenance of the union as well. We need to respect both of those things. There will be members of the unionist community here who are happy at a civic level to engage in either private or public conversations about the future of this island or these islands. There will be people within the unionist-loyalist communities who would prefer to focus on the maintenance of the current union. We have to respect that.

We have to also acknowledge that the report we have produced is an independent, academic, legal report. We have tried to frame the legal and policy space for inclusive conversations to emerge and develop. One of the interesting things that we have noticed in the past while is the civic dialogue that is emerging and voices from within civic unionism that are increasingly participating in this debate. For example, I was struck by an event organised last week by Ireland's Future where people from a unionist background were participating in a civic conversation about the future of this island. It was marvellous to see that.

In terms of going forward and Senator Blaney's point, there needs to be clarity from the Irish Government, this committee and the Oireachtas that unionists are welcome in the south of this island. There is often a lot of talk about the North. We started by emphasising the need for welcome and invitation, including to this committee. That is work in progress. We have to respect the different elements that I have outlined.

Senator Blaney also raised a question about the shared island unit. I welcome the establishment of that unit, but I would like it to be more ambitious and to be properly resourced and facilitated to co-ordinate and do the type of work that we are talking about, with an emphasis as well on leadership and co-ordination. Members will have noted, as we have, a proliferation of projects. There is a lot of work being done now, but more work is needed. At some point, there will need to be co-ordination of some of those projects to avoid duplication of effort in terms of some of the things we have talked about and are proposing. I would like to see the shared island unit being more ambitious. I would also like it to be properly resourced to take on a leadership role and a co-ordinating role in terms of some of the work that will be done.

To reiterate the point I was trying to make, I do not see the united Ireland discussion and the shared island conversation as separate. They are part of the conversation about how we are going to share this island in the future. As we said at the start, all of this is about obligations and commitments that are already there which, as stated by Mr. Bassett, are not merely decorative and ornamental and at some point will be operationalised. We would like everybody to get ready.

Chairman: We have approximately one hour remaining and I want to use the time fairly as best I can. The next slot is for the Fine Gael group.

Deputy Jennifer Carroll MacNeill: I will go first, followed by Senator Currie and then Senator McGahon. I thank our guests for their engagement with the committee today. Unionist members and all MLAs and MPs from all parties are welcome to be on this committee. We wish they would participate, but I can imagine it is difficult for them when the conversation, as it is today, is dominated by an inevitability of a unity referendum. It was mentioned that no date has been set but the witnesses are already on record as suggesting 2023 as a possible year for such a referendum. That is very close. I do not believe we are anywhere near ready for that. I note that today that date has been mitigated to within ten years. These are presuppositions that I do not believe are there. I do not agree that the comparison between Germany and Ireland is valid, historically, constitutionally or in terms of identity. I reject that part of the report. I do not think it is the same thing. In Germany, there was not a large group of people on one side who have a distinctly different identity and a different constitutional preference. There is not the same work on identity and humanity over other constitutionalities that would need to be done here as in the case of Germany. I reiterate the point made by Senator Blaney in that regard.

I find the report lacking in its concern in regard to not just the identity and political concerns of unionists but the rights-based concerns, despite that it focuses a great deal on that issue. In regard to the constitutional structures that may be appropriate or relevant, either at an Irish constitutional level or recognising those rights-based concerns from a European Convention on Human Rights, ECHR, perspective, while pages 66 to 69 acknowledge it, I believe the entire report needs to be infused with this idea rather than the inevitability of the constitutional structure changing. There is a supposition in the report that we must think about unity now and that because lots of people are talking about it means everybody is engaged in it. I do not believe that is so politically. As Senator Blaney said, to do so may be significantly counterproductive to those who would want an Irish unity referendum soon. What are the consequences of having

that referendum in 2023 or 2028 and people not participating in it and the turnout being low? I appreciate and fully understand the constitutional and legal rules that are there, but what are the political ramifications of this? What is the legitimacy of any such referendum? What are the consequences of having such a referendum in those circumstances and losing? What are the legal, political and social consequences of those things?

We do not have sufficient engagement with unionists at the moment. To be honest, I think it is a bit premature. I am interested in hearing the witnesses' responses to my questions. Senator Blaney asked about the engagement with unionist politicians on this report. I am also interested in hearing about that.

Senator Emer Currie: I welcome Professor Harvey and Mr. Bassett. I know Professor Harvey is based at Queen's University Belfast, which I attended. It is nice to engage with him. I have watched his presentations in the past and I have heard him speak a number of times. It is nice to get the opportunity to connect virtually. My worst nightmare is that we would have a border poll and we would lose. My worst nightmare is that we would not have an inclusive island based on the visions of people like John Hume, Seamus Mallon and Austin Currie and that would alienate people. I do not want to be in a situation where the shoe is on the other foot in terms of how our community would have felt in the 1960s and 1970s. My worst nightmare would be a return to how things were in terms of losses of life and violence.

I do not believe people should apologise for being cautious about any of this. One of my questions is about where Professor Harvey sees reconciliation in all of this. I feel we have scratched the surface of the work that needs to be done regarding reconciliation. Much of the time it is talked about but it does not feel like the biggest priority all the time, and to me it should be. I would like to hear Professor Harvey's views about that. I was interested in what he had to say about the terminology around the border poll and the language of the border poll. I know he wrote this report in 2019. I would like to hear how he feels about that now.

Professor Harvey has had a lot of engagement about the British Government and how a referendum would be triggered. Perhaps he could give an overview of where he is with that. There is a need here to separate out the electioneering around a united Ireland and then, at the same time, the preparatory questions and seeking of clarity on issues. It is difficult to do that, however, without moving down the road of people starting to electioneer. We already saw that in our previous general election. There was no sense that a border poll would be in five, ten or 20 years; it was let us have a border poll now. How does Professor Harvey make that distinction?

My message is that I do not believe it is wrong for people to be cautious whenever there is so much at stake. Much work has gone into all of this. I certainly feel that reconciliation must be at the core of everything we do. The report was written in 2019. I know Professor Harvey has engaged with many people. How does he find the level of engagement from unionists in general, not just when talking about diversity and inclusiveness, but in actually having that engagement?

Senator John McGahon: I have three or four key questions, which I will get through quickly. I remember when I was on Louth County Council in early 2017, approximately six to ten months after the Brexit referendum happened, that Sinn Féin had a motion calling for a border poll. One of the points I made back then, which I still believe now, is that we are far better off having a border poll when we know we are going to win it rather than taking the risk of losing it narrowly or of there not being a huge turnout and the narrative of it being questioned.

What do Mr. Bassett or Professor Harvey need to see in Northern Irish or Irish society to know there is a very good chance of a border poll actually being successful? What barometers are they are looking for to know there would be a credible chance? I accept that many people are talking about and discussing it. What key barometers are the witnesses looking out for to know whether a border poll would have a good chance of being successful?

One of the points mentioned in the report was about voting rights. The witnesses said that we need a much more generous and inclusive franchise on both sides of the Border for this referendum when it comes along. In Professor Harvey and Mr. Bassett's views, what is a generous franchise? South of the Border, for example, is that opening it up to non-Irish citizens who currently cannot vote in referendums? Would it even mean opening it up to Irish citizens living abroad? Perhaps the witnesses would expand on how wide they see that franchise of who could and could not vote in the referendum.

Mr. Bassett said that if a united Ireland was successful, we would have to have a continuation of the institutions on either side of the Border until we get an idea of what does and does not work. How long would he envisage that happening? What does he see in terms of an amalgamation of two parliaments on this island? What does that look like? When does that happen after a unity referendum has possibly passed?

I wish to back up what Senator Blaney and my colleagues, Senator Currie and Deputy Carroll MacNeill, said. While I am not afraid to take on this debate and I do not mean to say that we are going too far ahead, because it is really important to have these conversations now and, as everyone agrees, to plan for this now, I would be fearful that we are leaving the unionist community in Northern Ireland behind where, with some of the dialogue and rhetoric they are seeing on this side of the Border, they are under the impression that a referendum might happen in the next year or two years. What more are we doing to make sure those concerns are looked after and that we make this as least divisive as possible when the time comes?

Senator Niall Ó Donnghaile: Put a unionist in the Seanad, John, would be a great start.

Senator John McGahon: Well you are voting for one, are you not? Good man, Niall.

Senator Niall Ó Donnghaile: You are not, is the point I am making.

Chairman: We will take answers from our guests and move on to the SDLP followed by Alliance, again with a gap for questions and answers. Professor Harvey or Mr. Bassett can respond to any of those points.

Professor Colin Harvey: I shall mention a few points and then pass over to Mr. Bassett. We would both like to take some of those questions and make sure we both have a chance to respond, if that is okay.

The starting point is that this is the Joint Committee on the Implementation of the Good Friday Agreement. Where we started in the report and in our opening statement is that this is central to that agreement. I have been quite concerned both about the attempt to try to differentiate this out from the agreement but also the language that often follows it. This is absolutely at the core of the constitutional provisions of the agreement.

In framing that as well, we have to mention the Brexit context. Many committee members will know that this part of the island is now outside the European Union. The provisions of the Good Friday Agreement offer people here across all communities an opportunity to return to

the European Union. It seems to me that it would be frankly bizarre if we were not having this conversation in the context of Brexit.

Brexit has also noticeably, tangibly and dramatically changed the nature of that conversation here. Many of the arguments one would have traditionally heard around this are falling away and being replaced by new arguments and new people engaging in the conversation. We must mention the Brexit context.

In terms of consequences and thinking about what happens before and after, what we have tried to do in our work is answer some - not all - of the questions, but to guide everything we do by urging this committee and others to do the preparatory and planning work in a responsible way so the referendums are managed in a way that addresses the concerns quite rightly raised by the committee and so that we also think in advance about the consequences and what happens next. We do not want to be in the position that emerged around Brexit and we have tried to make that as clear as we possibly can. We need to know, for example, what people will actually be voting for. There is a lack of clarity around that and that must be addressed. I do not see any contradiction between the concept of reconciliation and responsible planning for the referendums that are anticipated in the agreement. In fact, the responsible approach to reconciliation on the island would be one that proactively has concrete and practical things to say about the referendums that are anticipated. The irresponsible thing to do, and what would impede the process of reconciliation, is to pretend that these provisions of the agreement are not there.

One of the remarkable things about the provisions is the role of the Secretary of State for Northern Ireland in triggering the process. Mr. Bassett and I have done quite a lot of work around that. It motivated me to write a letter to the Secretary of State about his role and I am waiting for a slightly more detailed response to that. It is something that we need to hear more about. It is remarkable that fundamental constitutional change on the island of Ireland could potentially be triggered by a Secretary of State in London on a basis on which we do not have sufficient information. That motivated my letter and I know others have also been trying to get a response. It would be helpful if this committee could follow up on this matter after the meeting to see if it is able to get more help in answering those questions. The committee might have more luck on this than I have had.

On voting rights, on which Mr. Bassett will wish to speak, we have in our work suggested inclusive franchise. We looked at what happened and is happening beyond the 2014 referendum in Scotland, such as the emergence of voting rights for those 16 years and over. That is clearly an emerging trend and something we have suggested and recommended. There is also a principled reason for that, particularly for the younger generation which will have to live with the consequences of all this. It is important that they have a say in the future.

Mr. Mark Bassett: I thank members for their questions. It is very helpful to get informed criticism and feedback on this report. It was written in October 2019 and it should really be a starting place for looking at these issues. As Professor Harvey said, one of the possible triggers for unity referendums would be the consideration of the Secretary of State for Northern Ireland that there is a pro-unity majority in the jurisdiction. Last year, an important decision was made by the Northern Ireland Court of Appeal on the circumstances in which the discretion to call that vote exists and also the circumstances in which the duty to call that vote would arise. The court was very definite that the Secretary of State must approach that question on the basis of relevant evidence, in an honest manner and consistent with the duty of the UK Government to act with rigorous impartiality. It is not to be approached in the way that we might see the current UK Government approach the Scottish referendum, which is one that could be character-

ised as “This is a problem; how will it be defeated?”. The UK Government’s obligation is to give effect to the wishes of the Irish people. A relevant consideration for that is that Irish unity is a route back to membership of the European Union. That is something that the Secretary of State should be considering. The European Union is good for Northern Ireland and support for it remains high. There is little chance of UK reaccession under Article 49. The more plausible route at this stage appears to be Irish reunification and that is something the Secretary of State must take into consideration. If a decision to hold a referendum was reached by the Secretary of State, to be consistent with the Good Friday Agreement it would have to be matched by a concurrent vote or referendum in the Republic of Ireland. It would be better if the Irish Government and State were ready for that.

On voting rights, the Good Friday Agreement and the Northern Ireland Act provide a choice to the Secretary of State for Northern Ireland on who will make up the franchise. There are two obvious choices. The first is the Westminster voting lists, which are Irish, British, and qualifying Commonwealth citizens. The other, the more generous one which we hope would be used, is the assembly and European Parliament lists, which include EU citizens. In the Republic, if the vote on unity is to take the form of a constitutional amendment, that is, a change to the text of the Constitution, that is currently a restrictive list, one that is limited to Irish citizens resident in the State and registered as referendum electors. There is the possibility of a distinction between the franchises in both jurisdictions which is unfortunate. It is particularly unfortunate that British citizens resident in the Republic of Ireland could be excluded from that vote in the South. That is where we are at the moment so these are the issues that should be addressed.

Reconciliation and unionist engagement with this issue are very important but they are not absolute prerequisites in the Good Friday Agreement to the triggering of these referendums. The only legitimate basis for the partition of Ireland at this time is an assumption that the majority of people in the North support that constitutional option. That is the centrepiece of the Good Friday Agreement. If someone supports consent, we would say that person should also support the right for that consent to be tested - that is the right of self-determination, to use the language of the agreement, without external impediment. If there is a majority in both jurisdictions for unity, the obligation of the Governments is to work towards that.

I agree that there are very big differences between Irish reunification and German reunification. What the report tried to do was to set out the similarities in the legal and constitutional frameworks. It is correct that they would be seen, in terms of EU law at least, as comparable.

Deputy Jennifer Carroll MacNeill: I thank Professor Harvey and Mr. Barrett for their responses. I agree with the point they are making on consent and the technical point in relation to that. The point we are making is that while that is the case, it is not without broader political ramifications. As Senator Currie said, there is a concern that not acknowledging those could lead to just as many problems as before. That is the impetus behind these concerns.

Ms Claire Hanna: I thank Professor Harvey and Mr. Bassett for their contribution and their written submissions. I have some technical questions arising from their submission and then I may ask a question arising from the Ireland’s Future document. Professor Harvey has put a lot of effort into trying to get a comprehensive answer from the Secretary of State on what he thinks might trigger a vote. It will not surprise him to learn that I do not believe we are that point either. The words that always come to mind are those of John Hume on Magilligan Strand when he said, “You may govern us, but you do not have our consent”. In the century of partition, as we think about the impact that had on Northern nationalists, that is why the issue is at the front of many people’s minds. I acknowledge that things are moving very quickly and that

the context has been changed, and I agree with Professor Harvey that it is prudent to explore the issues. I wish to follow up on Senator McGahon's question about what he thinks are the signals the Secretary of State should be considering. I appreciate that there are both legal and political interpretations of that.

The second question is about external impediment. Professor Harvey referred to one argument that was made, and it was one made by my colleague, the former Member of Parliament, Mark Durkan, about EU membership not requiring Article 49. He had framed the issue of EU membership as a potential external impediment. How broadly does Professor Harvey think external impediment should be defined, and does he have views resulting from that about the participation of the UK Government and what form that might take? In addition, what are his thoughts about the benefits of trying to transition this conversation away from a win-lose, "Yes"- "No" border poll and making it a conversation about two positive campaigns for two equally legitimate aspirations, as the Good Friday Agreement defines the constitutional aspirations in Northern Ireland? How do we make it a conversation defined by the principles and precepts of the Good Friday Agreement and not the type of binary win-lose conversation that we know is making some people anxious, rightly or wrongly?

I have another quick question. The impact of Brexit on the Good Friday Agreement is obvious, and Professor Harvey knows that the Supreme Court took a very narrow view of what came under the principle of consent in the Miller case. His Queen's University colleague, Professor Chris Cotton, criticised that judgment for taking a blunt view, and I agree. Are there other aspects of the agreement that have a mainstream understanding or interpretation, but which Professor Harvey believes might be vulnerable to a different legal interpretation if somebody were to challenge it? I appreciate that might be a somewhat specific question.

My last question is for Professor Harvey wearing his Ireland's Future hat. What does he envisage and advocate as regards the relationship between Britain and a theoretical new Ireland? How does he propose to enhance what is currently strand 3 and the east-west relationship? What does he see as the continuing role, or not, of the UK Government in the early years of a new Ireland?

Professor Colin Harvey: I will try to work my way through all the questions.

Ms Claire Hanna: I thought I would get my money's worth.

Professor Colin Harvey: Absolutely. One of the first questions was about the role of the Secretary of State. It is important to point out two matters. One is that the Secretary of State has a discretion to do this at any time. That is sometimes neglected. The other element of it, which Ms Hanna refers to as the duty on the Secretary of State, is when there is a duty to trigger this. The McCord judgment gives the Secretary of State a considerable amount of flexibility. There are other things in that judgment as well. In other words, the Secretary of State is not legally compelled to spell out a policy in an answer to one of my letters or in answer to a question. However, just because one is not legally compelled to do something does not mean it is not a good idea to provide further clarification as a matter of political judgment. There is nothing in the McCord judgment that would rule out the Secretary of State providing more clarity about the evidence that is taken into account and how that system currently works in the Northern Ireland Office - how often that assessment is reviewed, what types of evidence are weighed in the balance and how often Brandon Lewis refreshes his knowledge of that evidential base.

As regards the evidential base, it is everything that people have already spoken about in

terms of credible and reliable polling. There is also electoral evidence. In the context of post Brexit and the strong Remain constituency here, there is scope for a legitimate range of views on where we currently are in respect of that question appearing likely. Ultimately, the reliable credible evidence that is available would trigger that duty, but let me just turn that around slightly. First, we need to be ready in this conversation. What we do not want is the Secretary of State triggering this in the next couple of weeks. It is much better to focus the conversation on being prepared on this island first. I wish to make a suggestion. I believe that when we are ready on this island and when, for example, the Irish Government steps into this debate and signals it is ready, I believe, and I may be wrong, that the Secretary of State in London will not stand in the way of this process going forward. That is probably where we need to anchor the debate at present. Yes, we will eventually get more clarity from the Secretary of State about the type of evidence he is using, but ultimately I would prefer to prioritise getting ready on this island. My feeling is that when we are ready on this island the British Government will trigger this process, although I might be wrong.

Regarding external impediment, spelling out in a supportive and helpful way the consequences of both the process and outcome is not an impediment to the right to self-determination for people of this island. There is nothing in that which would prevent the European Union or the US from being very clear about the type of support that would be available to a reunified Ireland within the European Union, primarily for some of the reasons that Mr. Bassett stated. Member states and institutions of the European Union are affected by this decision. This would be a constitutional change happening in an EU member state. The EU has an interest in the outcome. In fact, we recommend in our report that the Commission and the European Parliament should already be engaged in that type of preparatory work, to think about the consequences.

In terms of the debate, everything we have done in our work is to try to suggest that we make this conversation as boring, technical and undramatic as is humanly possible. That might sound bizarre, but Ms Hanna will notice that we have not used the term “border poll” today, for example. We have tried to focus on the fact that we are talking about concurrent referenda on the island of Ireland in which we hope the sides in this debate will focus on what the agreement is ultimately about, which is persuasion about different constitutional options. I would prefer people to concentrate at present on building a credible and persuasive case to persuade people here and all people on the island about what the future might look like. I emphasise that the agreement provisions on this are about persuasion and convincing people of the merits of respective cases. At present, however, not enough work has been done. If people were to turn up on doorsteps, when we are ever allowed to turn up on doorsteps again, what would people be saying on either side of the argument now? Does anybody have the type of document the Scottish Government had when it approached the 2014 independence referendum? I would prefer if the focus was there.

There are two final matters, and one is the technical point in the Miller judgment. I have been surprised at the way consent has been used inaccurately in some of the conversations concerning the Brexit discussions. The principle of consent, as used in the Good Friday Agreement for these purposes, is ultimately a debate about constitutional change and Irish reunification. It is in that context that we are talking about consent here.

The question about legal proceedings and courts has been raised. I do not need to tell anyone here about what can happen once things enter a courtroom. Mr. Bassett could perhaps comment more on this aspect as he is a barrister, but while we may feel we have a convincing and persuasive argument as to what the provisions of the agreement mean, there can be unintended

consequences of litigation. A judge or a set of judges may take a different view. I think it is as clear as it can be, however, that the headline principle of consent refers to the debate we are having this morning on reunification.

I will give another example in respect of litigation. Regarding the McCourt case, in writing to the Secretary of State for Northern Ireland and in taking the case itself, one outcome of that would be a judge, the Judiciary or the Secretary of State setting the bar at a very high level. Sometimes we get the answer we might not want from some of these interventions, and that is as true of politicians as it is of members of the Judiciary in respect of litigation concerning the Good Friday Agreement. Some parts of the agreement are not written in a way that is similar to an Act of the Parliament at Westminster but are instead open to elements of constructive ambiguity or perhaps destructive ambiguity which might be the better way of putting it.

Although much of the focus of our report and the discussion today has been about how we share this island, we are going to be sharing these islands in future. The agreement will frame the conversation we have before and after these referendums. At the centre of our work is the need for strong, robust and good institutional relationships around these islands. It is a good point whether we might be able to do more in the context of the British-Irish Intergovernmental Conference and the British-Irish Council or to add to their institutional architecture to ensure the relationships around these islands are good and prosper in future.

Part of the argument for constitutional change that people often forget or sometimes neglect is that those involved in advocating for constitutional change think relationships will be better at the far end of all this and that the system and the relationships we have now are not working. Many of those advocating change and constitutional change feel committed to working for that change because they feel we can do better across these islands. Holding Scotland in a constitutional arrangement which it does to want to be a part of, for example, does not seem to be the wisest thing to do from the perspective of good strong relationships across these islands in the longer term. I am thankful for the question.

Dr. Stephen Farry: It might be helpful at the outset if I recap the Alliance Party position on these discussions. As people will appreciate, the party is not defined around the constitutional question. We have some elected representatives, members and supporters who take a pro-union perspective and some who already take a pro-united Ireland perspective, while most of our people would probably have an open mind regarding the future and be prepared to listen to debates on this topic. Having said that, we are conscious that many debates are happening, not just on the future of the island of Ireland but also regarding the future of the UK. We are willing to take part in any rational constructive discussion on a without prejudice basis. In that regard, I am pleased to take part in this session and in similar exercises. I also stress that the Alliance Party recognises the mechanisms contained within the Good Friday Agreement for decision-making, including the thresholds that have been accepted, albeit they can be fleshed out in much greater detail, as Professor Harvey and others advocate.

I will make a few other points before I address the specific question. It is important to stress that the emphasis now must be on dialogue and issues regarding precisely what the questions would be in any referendums, if they were ever to occur. That matter is still to crystallise. It is the same with issues regarding the trigger points for any referendums being called. They also need to crystallise, if at a later point. The emphasis must be on discussions and conversations happening to see where consensus can be built. There must also be a teasing out of several of the practical issues which we must address and to challenge ourselves concerning many aspects of those issues.

If we were ever to see a referendum called, it would also be crucially important that it would be one that would have a prospect of success. A situation where Northern Ireland were to end up in a succession of referendums on this issue would be incredibly difficult for our politics. We therefore see a referendum being very much the end point of a process. There is no guarantee that a referendum would be called, but at the same time, if it were to be called, it would have to be a process which would move and proceed with some degree of smoothness while recognising the great differences of opinion in Northern Ireland.

Turning to the example of German reunification, I wish to stress that happened very swiftly following the fall of the Berlin Wall, in less than 12 months. The process of reunification in that context was eased, however, by what was then the West German government taking a major decision to bear considerable financial and economic costs, which may not be an option on this island at this stage. Obviously, the differentials that existed between West and East Germany are nothing close to the differences between the two jurisdictions on the island of Ireland today. However, there was almost unanimous support across both parts of Germany for reunification, which will obviously not be the situation in the context of Ireland.

My question for Professor Harvey and Mr. Bassett in the context of having recognised the principle of consent and that being a binary choice is whether they nonetheless also recognise, at least academically and theoretically, that there are other models we can talk about. I refer to being able to talk about different models within what would essentially be a single Irish state. However, are there other models, even *sui generis* types of considerations, of some form of shared sovereignty that could be explored as alternatives? What would be the views of Professor Harvey and Mr. Bassett on that aspect, especially if those concepts were potentially likely to generate a much greater sense of consensus?

In the same vein, to what extent is it useful, without prejudice to any wider political or constitutional change, that we in the short run fully exploit what are still untapped opportunities for practical economic, social and environmental co-operation on the island? I am struck that we have had the North-South structures of the Good Friday Agreement for more than 20 years now. Whenever I sat on the North-South Ministerial Council, it struck me that it was a perfunctory-type process and it was not really being used to its full advantage. On a practical level, therefore, by building on the shared island unit, among other initiatives, to what extent is there scope to focus in the short term on building up those aspects of practical co-operation of which I spoke? That could be an end in itself or it could ease some of the wider political and constitutional questions that people want to pursue.

Mr. Mark Bassett: The Good Friday Agreement recognises two possibilities, namely, that Northern Ireland is going to be part of a reunified Ireland or it is going to continue to be a constituent and integral part of the United Kingdom. If there is to be another proposal involving re-partition or joint authority, that would require agreement between the Governments and the support of the political parties.

On identifying the questions that need to be posed in both jurisdictions, in the North we imagine that the question would have to give effect to the promise of reunification in the Good Friday Agreement. It would not really be a matter just for the Secretary of State alone. It would be taken by the UK Government, would have to be approved by the electoral commission and would have to take into consideration the question to be asked in the Republic. It would be unwelcome if the answer to unity in the North was “Yes” and it was phrased in a different way in the Republic such that there were clashing messages or clashing information. In the Republic we would expect the question to be ultimately identified in the Attorney General’s office, ap-

proved by the Cabinet and then the Oireachtas. Hopefully, it could be contained in one question in much the same way that the provision of the Irish Constitution giving a higher status to EU law was achieved. That would prevent incompatible or conflicting provisions of the Constitution.

It should be remembered that the Assembly elections in Northern Ireland which are on the horizon are possibly shaping up as a referendum on the withdrawal agreement and, in particular, the Ireland-Northern Ireland protocol. There is the possibility of exiting from some of the provisions which have prevented a hard border so Northern Ireland's membership of aspects of the internal market and the free movement of goods is not set in stone. It is to be renewed. In that context, where there is an express recognition of the democratic consent for the continuation of those provisions, the more obvious question is whether Northern Ireland would like to return to the European Union as part of a united Ireland. That is also relevant to the question.

Professor Colin Harvey: I will follow up briefly with some responses. First, what we have tried to do in much of our work is to outline the existing framework in terms of the agreement and existing law and policy and to frame our responses in relation to that. It is notable that Ireland's Future has placed an all-in citizens' assembly at the heart of its proposals. Too much of this debate is based on assumptions about what people want, including about what people might want to continue into the future. Those assumptions need to be tested by the groundbreaking idea of asking people and having engagement with citizens about what they want for the future. The question is likely to be closely aligned, as in much of this, to the Good Friday Agreement language but the role of a citizens' assembly, as has been done in the past, in clarifying preferences around different options would be remarkably helpful at this time. A citizens' assembly is a vehicle whereby experts would come and give presentations, in which a range of options would be laid out and we would all have a clearer idea of what people on this island want to see in the future. Some of the assumptions we are making in this conversation need to be tested by speaking to people on the island. I think that is a significant proposal.

The final point Dr. Farry made is a great one. Let me be clear: we do not co-operate practically enough on this island at present. The shared island unit and others have a massive role in ensuring that practical co-operation on this island is stepped up. Institutions on this island at the moment do not engage or talk to each other anywhere near as much as they need to. The sort of support that is promised in the programme for Government in the South, New Decade, New Approach, needs to be realised to build basic infrastructure and create well-being projects for everyone across the island. We are talking about the future but the shared island concept is hardwired into the here and now as well as the future and we could do much better here and now in improving practical co-operation in anticipation of where we might be going next. The Irish Government has a significant responsibility to be much more forthcoming in relation to this debate. It needs to, in some senses, catch up with civic society and the leadership that is being shown across civic society on this island and join the conversation in a practical way. I thank Dr. Farry for the question.

Chairman: I want to identify which parties have not spoken. I understand Deputy Costello of the Green Party was present earlier. If he is present now----

Deputy Patrick Costello: Yes

Ms Michelle Gildernew: If I can remind the Chairman before Deputy Costello comes in that Sinn Féin did not have all their time at the beginning of the meeting and need to get back in.

Chairman: Can I have the floor, please? I am trying to identify people who have not spoken. Is Senator Hoey, who checked in earlier, still present? She has left. Senators Black and Mullen were here earlier. I do not know if they are still present. Right. I propose to take the people who have not spoken in that order. Ms Gildernew had a point to make.

Ms Michelle Gildernew: Yes. The Chairman cut us off at the beginning of the meeting. We did not have enough time and some of our members have not spoken yet. The Chairman stopped us in the middle of the contribution and said we had four minutes left. We would like to use them, if the Chairman does not mind.

Chairman: I am sorry that Ms Gildernew has a different clock to me. My clock said the first hour of this debate was shared fully between Sinn Féin and Fianna Fáil. I am the Chair now. The clock I go by is the one I see in this room. Ms Gildernew is wrong to make such an accusation and I reject it. Sinn Féin was asked to nominate its speakers. I told them they had ten minutes. Over all the meetings we have had, I have bent over backwards to make sure Sinn Féin was notified. I talked to Ms Gildernew before meetings and her colleagues during meetings to make sure they were clear on the fairness of the procedures in the Oireachtas. I call Deputy Costello to speak on behalf of the Green Party.

Deputy Patrick Costello: The advantage and disadvantage of speaking later on is that many of the points I wanted to raise have already been raised. I will echo a couple of things. Senator Currie said we have only scratched the surface in relation to reconciliation and I feel that is true in respect of almost everything we have been discussing around this topic. I would be interested in hearing more - perhaps with the Ireland's Future hat on, as was said - in relation to the conversation with unionists and loyalists about the future that they see. When we tried to have a joint meeting recently with the Assembly, some unionist voices refused to join the committee simply because we were there. That is not a very helpful approach - let us put it nicely that way. It is not a helpful approach to these fundamental issues. What is being done? What can be done? I share the speaker's call for the shared island unit to be more ambitious and to have and lead these conversations and the outreach to a community that does not want to engage with these conversations one way or another. That is really important.

We must acknowledge that the Irish Government and State needs to do more. Are we living up to our commitment to support the shared institutions? Many members here have spoken about the North-South Ministerial Council being simply perfunctory and not meaningful. Has the Irish State lived up to its commitments regarding reconciliation under the Stormont House Agreement? It has not done so at all. What does that say about the Irish State's view of the shared island and both communities?

There has been much talk about a complete return to violence but we must give some credit and realise that we are a different island from what we were in 1968 and 1969. Part of this comes from the rights-based perspective and international human rights instruments that we must put front and centre as part of any conversation. Surely these will provide a shared language of how to best make decisions.

I am also conscious that this is an incredibly complex matter and reducing it to a binary choice of "Yes" or "No" is not only difficult but potentially dangerous. All we have to do is look at the campaign and rhetoric around Brexit to see how taking a complex matter and distilling it into "Yes" or "No" can cause problems. This suggests the importance of the conversations beforehand and building a clear picture of what that "Yes" or "No" would be about. There is also the possibility of exploring multiple choice voting or other novel ideas. If the witnesses

have an opinion on that, I would love to hear it.

Ultimately, there will be much more uncertainty. There are matters that do not give a damn about a line on a map that will affect everybody and I keep talking about climate change in that regard. It is just one challenge we are facing, no matter what community or side of the line we are from. We must also be really cognisant that the union that many are loyal to is starting to crack. A border poll held next week versus one held the other side of a Scottish independence referendum that succeeds would be a very different prospect. I do not know to what extent a Welsh independence referendum is on the agenda but there is growing talk about it one way or another. There is much uncertainty and if we are not trying to at least have those conversations, we will really struggle in the face of that complexity and uncertainty.

Chairman: I have tried to be fair to everybody and I gave every party free rein in the questions. There are only seven or eight minutes left and we have Senators Frances Black and Rónán Mullen still to contribute. I have already had requests to invite our speakers back again for a further session as soon as possible and everybody would consent to that. I must stop at noon exactly. The witnesses might reply to the Senators either in writing or at the next meeting they attend.

Senator Frances Black: I thank the witnesses for a very clear and comprehensive contribution. Both statements were fantastic. What I am hearing today is that it is absolutely vital that we plan and prepare for constitutional change. It is so important that we advocate and promote debate and discussion, including the possibility or viability of new constitutional arrangements on the island of Ireland. That is very much guided by the Good Friday Agreement, the protection of human rights and equality and the fostering of mutual respect between all views and traditions that share this island.

We know Brexit has dramatically changed the social and political dynamic on this island and that is what we must talk about. We have heard quite recently Mr. Bertie Ahern saying there will be a border poll within the next five to ten years. We must prepare for that and bring in people from all backgrounds. Ireland's Future is an organisation that is being driven by civic society and it held a wonderful webinar called "A New Ireland: A Warm House for All". The panel comprised unionist voices and we heard that unionists want to have this conversation in civic society and are open to it. Mr. Trevor Lunn, MLA, one of the speakers, said he would love to come to speak before this committee because he wants this conversation.

I warmly welcome the witnesses today to speak about this matter of constitutional change, which must happen on the basis of the consent of citizens on the island of Ireland as informed by the Good Friday Agreement. The Secretary of State for Northern Ireland could call a border poll at any time and we must be ready. This committee must be able to constantly discuss planning and preparations for what a new Ireland would look like. That is vital.

The witnesses may not get a chance to answer my questions and the time has gone very quickly. What can we do as a committee to support that planning and preparation? That is really important. What can we do as a committee to support the message being given by the witnesses today in preparing for a new Ireland?

Chairman: I am under orders to finish at noon so Senator Mullen might be able to finish his questions at the start of the next session. We do not seem to be able to establish contact with him.

To summarise the communications received from members, it seems everybody wants our guests to return for some further debate. I have received messages from Senators Ó Donnghaile and Black and Deputy Carroll MacNeill. There is interest in the question of alternative shared sovereignty models and the practicalities of constitutional change and shared identity. We have had difficulties but I regret that Sinn Féin made that charge against me, which was unfair and unwarranted. I try to be fair to everybody and I have a record of being honest and straightforward. I hope that in future meetings people will agree to the process we have.

It remains for me to thank the witnesses, who are very competent and qualified. I have many questions and I hope to put them in the next session.

The joint committee adjourned at noon until 10 a.m. on Tuesday, 2 March 2021.