

# DÁIL ÉIREANN

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## AN COMHCHOISTE UM

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### FEIDHMIÚ CHOMHAONTÚ AOINE AN CHÉASTA

### JOINT COMMITTEE ON THE IMPLEMENTATION OF THE GOOD FRIDAY AGREEMENT

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*Dé Máirt, 23 Márta 2021*

*Tuesday, 23 March 2021*

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Tháinig an Comhchoiste le chéile ag 9.30 a.m.

The Joint Committee met at 9.30 a.m.

Comhaltaí a bhí i láthair / Members present:

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

I láthair / In attendance: Senator Erin McGreehan.

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

### **Business of Joint Committee**

**Chairman:** Deputy Carroll MacNeill will be in and out of the meeting because she has a concurrent meeting. No other apologies have been received.

**Deputy James Lawless:** I have a meeting of the Joint Committee on Foreign Affairs and Defence starting at the same time. I am afraid I will have to dip out in a while.

**Chairman:** That is fine.

**Senator Niall Blaney:** Deputy Brendan Smith is running a little late.

### **The EU and Irish Unity - Planning and Preparing for Constitutional Change: Discussion (Resumed)**

**Chairman:** We have two hours for this meeting and this is the only item on the agenda. I am conscious that some members did not get to contribute at our previous meeting, but there should be plenty of opportunity for everyone to speak today. I will try to be fair to everyone and rotate the contributions as we do at every meeting. There will be ten minutes each for Fine Gael, Sinn Féin, Fianna Fáil, the SDLP and the Alliance Party. We will then return to Sinn Féin before moving to the Independents, including party leaders. These will be Deputies Tóibín and McNamara and Senators Mullen and Black, followed by the Green Party and the Labour Party. If that is okay with everyone, we will proceed. I will try to be as flexible and helpful as possible. Is that agreed? Agreed.

We have Professor Colin Harvey and Mr. Mark Bassett on the line. We are meeting to continue our discussion on their paper, The EU and Irish Unity: Planning and Preparing for Constitutional Change in Ireland, and related topics. On behalf of the committee, I welcome them to the meeting.

I must read out a note on privilege. 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 that person or entity's good name.

We have Professor Harvey and Mr. Bassett's document and had a long debate at our previous meeting, but I would be happy if they made brief opening statements, if they so wish. We will then continue with questioning.

**Professor Colin Harvey:** I thank the committee for the further opportunity to discuss this matter. We appreciate the chance to follow up on our previous meeting. We submitted a follow-up written response after that meeting and we hope that members found it helpful. Today is an opportunity for us to talk through some of those responses and we would be happy to answer questions on those or related matters.

I will start by noting what members will have noted, that being, since our previous engagement with the committee, there have been further notable interventions in the discussion. In fact, it seems that not a week goes by without another major intervention in this debate. Members will be aware of last night's "Claire Byrne Live" programme on RTÉ and the paper being launched today by Deputy Jim O'Callaghan. There will be a shared island unit event this week and Ireland's Future is holding a major report launch on Thursday. We have also seen further proposals emerge around a timeframe and even a suggested date for when it might happen. In a sense, all of this underlines what we suggested at the previous meeting, that being, the momentum around this debate is remarkable. However, it raises the question of where the debate will go next.

I will address two of the questions covered in our written response and my colleague, Mr. Bassett, will focus on the other two. We hope that our written response will be made publicly available so that members of the public can read what we have written.

The first question we have addressed is that of how long the Northern Ireland institutions could or should continue after Irish reunification. The Good Friday Agreement contemplates a transfer of sovereignty from the UK to Ireland, but it does not expressly address the precise form that a united Ireland would take. The agreement and its values will shape that discussion alongside other existing obligations relating to continuity of protection. There are clear provisions in the Good Friday Agreement that are forward facing and the committee is well aware of concerning rigorous impartiality and guarantees around identity, culture, citizenship and rights. There should be no diminution of guarantees and protections as a consequence of a vote for a united Ireland. There must be an equivalent level of protection in terms of guarantees, protections and rights in the event of a united Ireland. We recognise the significance of shared institutions in the jurisdiction of Northern Ireland as one part of the Good Friday Agreement. Those Northern Ireland institutions will remain in place unless and until an alternative arrangement is agreed. We believe this is part of a larger, constitutional conversation that, as committee members know, is ongoing and intensifying at the moment, around the precise form a united Ireland will take with detailed questions around constitutional design. For example, there are proposals at the moment for a citizens' assembly to focus on some of these and related questions. That might be a helpful channel for this debate going forward. Whatever happens in terms of the Northern legislature, executive and judiciary, the approach will need to be consistent with current constitutional arrangements in Ireland or any new constitution that emerges, as well as other relevant legal obligations. We highlight the sense that this is part of an ongoing, larger conversation about constitutional design.

Why focus on securing referendums when important work on reconciliation remains outstanding? We are aware that this question often comes up and we felt it would be helpful to further clarify our response. In our view, the work on reconciliation is absolutely essential. The work is ongoing, and it must continue whatever the constitutional status of Northern Ireland. We take that as a basic starting point. However, our view is that reconciliation, and debates around reconciliation and a shared future, are simply not assisted or advanced by avoiding hard questions about the constitutional future. In other words, we do not help the cause of reconcili-

ation by avoiding doing the necessary homework in advance of these referendums taking place.

We also do not think the current debate is assisted by making reconciliation a precondition to holding the referendums contemplated in the agreement. In our view, this is not an either-or conversation. The work of reconciliation will continue alongside the referendums anticipated in the agreement. Arguably, in our view, making this an obstacle to progress breaches the express terms of the agreement, as does the recently mooted notion that these referendums can be categorically ruled out for an indefinite or set period of time. That sort of language runs very close to being out of step with the express terms of the agreement.

Echoing what we said in our first engagement, and welcoming the chance to follow up today, our strong advice to this committee is against reopening the express terms of the Good Friday Agreement. Instead, our advice today, as in our first engagement, is that the collective focus must be on the good faith implementation of existing commitments and good faith adherence to the textual requirements of the agreement.

My colleague, Mr. Mark Bassett, will address the other questions in our follow-up response. I thank the committee and look forward to the conversation.

**Mr. Mark Bassett:** I thank the Chair and the committee for the opportunity to come here again to speak. One of the questions asked on the last occasion, which I did not get a chance to address in full, was what was meant by external impediment in the Good Friday Agreement. In our written response, we said that at the core of the Good Friday Agreement and the constitutional arrangements in the UK and Ireland, is that Irish reunification is a question for the people of Ireland. It requires a vote in support in each jurisdiction but there should be no external or outside impediment. The report looked at the position of Irish membership of the European Union and came to the clear conclusion that membership of the European Union was not going to be an obstacle, nor was membership of the eurozone. I always thought that the phrase external impediment typically referred to the Westminster Parliament. It would not be open to a future British Parliament to disregard referendum votes in both the North and the South.

If one thinks back to previous Irish electorates voting for repeal, Home Rule or an Irish republic, it was dependent on winning support in the Westminster Parliament. We say that is no longer the case. There is still a very strong, traditional understanding of the sovereignty or supremacy of the Westminster Parliament in that it can legislate as it sees fit. Any restrictions on that choice are self-imposed. Examples are sometimes given that Westminster could legislate to prohibit smoking in Paris or to revoke the independence of colonies. We say that the reference to “without external impediment” is a recognition by the UK that it would not be practical or realistic for a future UK Parliament to frustrate those votes.

The other question we addressed in the subsequent written piece was whether or not it has to be a binary question when the referendums are posed in both the North and South. Does it have to be either Northern Ireland and the United Kingdom or a reunified Ireland? We say it is pretty clear in the Good Friday Agreement that this is the choice. It is a binary choice. Re-partition, independence, the accession of Northern Ireland to another state or indefinite joint authority between Britain and Ireland is not contemplated in the agreement. If that was proposed, it would require a back to basics approach to the agreement and we think that would be an unwise move.

The Good Friday Agreement has formidable democratic authority. It was endorsed in referendums both North and South. It has formidable legal and political backing. There is bipartisan backing for it in the United States Congress. It is a feature of the Irish Constitution and the

UK's constitutional arrangements. It is in the EU-UK withdrawal agreement and is a matter of EU law as well as the mechanism for self-determination and reunification. We say that a referendum will be posed in those terms. It will be a choice for Northern Ireland whether it wishes to join a united Ireland, which is a member of the European Union, or remain as part of the United Kingdom in the Northern Ireland protocol. That is how we anticipate the vote will be formed.

That is enough from my opening statement, covering what we had written. As Professor Harvey said, I look forward to continuing the discussion and answering any questions from committee members.

**Chairman:** We have roughly two hours for a debate. I will ask a couple of questions. I am wearing a mask because I am deemed a vulnerable person for the purposes of this pandemic.

My question will be very clear. I fully believe in the concept of Irish unity and a united Ireland. I am starting from that premise, but will ask our witnesses devil's advocate questions. Confederal Group of the European United Left/Nordic Green Left, GUE/NGL, is clearly stamped on the front of their report. What is the significance of that? It seems from reading it that it is an independent, legal and academic report but what is the significance of the party political logo on the front? How would it be viewed by those who might be of a different persuasion to the GUE/NGL?

**Professor Colin Harvey:** I will take that question to start. I am here in my capacity as a professor at Queen's University Belfast and Mr. Bassett is here in his capacity as a barrister. We were commissioned to produce what is an independent report. Committee members will be aware that we have been working on these questions for a number of years in order to provide clarity on some of the legal challenges and questions around how this process will work. The independent report that we were commissioned to produce is part of a wider body of work that I and Mr. Bassett have been undertaking in order to inform the growing debate. The report emphasises the need for planning and preparing for what is coming next.

**Chairman:** My question is very simple. I do not doubt the integrity of the report and would not dare to question that. I am asking about the political nature of the stamp on the front. Professor Harvey is saying that independent research was commissioned and that political views are not expressed therein. Is that correct?

**Professor Colin Harvey:** We were commissioned by a European parliamentary group and have produced what is essentially a rather dull, technical and boring academic report, with footnotes, that is intended to assist in the debate on preparing and planning for change.

**Chairman:** During the course of the research, did the witnesses consult any political parties or did they look for views from people with a unionist perspective, for example? How did they reach their conclusions?

**Professor Colin Harvey:** The report itself is a doctrinal, desk-based research study and was advanced in that way. I would stress that I and Mr. Bassett, in the wider work we have been doing, have been engaging in a wide range of conversations with a number of people, some of whom are in attendance today, to try to help and assist the debate around how we plan and prepare properly for change on this island so that we do not make the mistake that was made on the other island with Brexit. We hope our work is helpful to that debate. If anybody asks us to write a research report, we are more than happy to engage with them.

**Chairman:** I am trying to identify whether the witnesses discussed the findings or recom-

mendations, which are important, with members of the unionist community.

**Professor Colin Harvey:** It is fair to say that the report has been widely discussed-----

**Chairman:** That is not the question I am asking. The emphasis on a vote is fine but the preparation for that vote is key. I certainly believe in a united Ireland but the issue that arises is consent. Getting to a consensual position is critical work, regardless of what the majority may ultimately decide. We need to bring as many of those who would be opposed to a united Ireland with us and any consensual changes that happen must be very deep and thorough. Emphasis must be placed on the work of building consensus. This committee, for example, is open to all but no unionist has come before us, although we did have a very good debate with Mr. Paisley, MP, recently and are hopeful of progress *vis-à-vis* the British Parliament and this committee. We need a full and open debate, commissioned by all of us. We must be totally inclusive in that debate, although I am not suggesting that the witnesses were otherwise. We must build consensus on economic, social and political issues, including poverty and education, because if we do not address those issues, no matter what the outcome of the vote, strife, dissonance and upset in communities will persist.

**Professor Colin Harvey:** I welcome the Chairman's comments. Our work is intended to inform the thinking of all communities on the island, including unionist communities, because there are some very technical questions here that need to be addressed. I agree with what the Chairman has said and would encourage him and committee members to invite a broad range of voices, particularly from Northern Ireland, who are engaged in this debate at the moment in civic society and elsewhere, to engage with committee and reflect on some of the points just raised by the Chairman. We will continue to clarify our work but I underline the fact that its aim is to inform the debate for all communities on this island, to make sure that we do not repeat the mistake that was made in relation to Brexit. We will continue to work in that spirit.

**Chairman:** I have taken up most of the Fine Gael time but there is still some remaining if any of my party colleagues wish to speak.

**Senator John McGahon:** I spoke last week so I am happy to give way to Senator Currie.

**Senator Emer Currie:** I spoke last time as well but do not need an excuse to speak again. I welcome Mr. Bassett and Professor Harvey. It is lovely to see them again. I am interested to hear what they thought of the debate last night. I came away from it feeling very positive that we were having a mature debate or discussion about a united or shared island. We have a tendency to see things in a less nuanced way and not to take the dynamics in the North into consideration but I felt that last night we had a deeper discussion about the reality rather than the perception of the dynamics on our island. That is a positive move and I would like to see that happen on a regular basis. I would like to see those voices represented on a regular basis, whether at this committee or in public discourse more generally. That said, the voice of the SDLP was missing and it would be nice to hear from it today. I am interested to hear the views of the witnesses on last night's debate. I am particularly interested in the question that comes up frequently in this conversation, namely, whether there is a conflict or tension between the 51% idea versus our experience of the Good Friday Agreement. The latter was the culmination of momentum which resulted in a universal decision, or if not completely universal, an overwhelmingly positive endorsement. Do the witnesses see a tension between those two approaches at the moment? Are the witnesses very focused on a timeline, a date and the role of the Citizens' Assembly?



**Chairman:** I am sorry to interrupt Senator Currie, but I must be fair to every party. At the previous meeting Sinn Féin was concerned that I did not give its members adequate time and I want to make sure that I give them and everybody else adequate time. We are out of Fine Gael time now, so to be fair I will move to Sinn Féin's time. I will ask Professor Harvey to respond to Senator Currie.

**Senator Emer Currie:** That is okay.

**Chairman:** I just want to sure that the politicians ask their questions and then the witnesses can answer them.

**Senator Emer Currie:** I am sure others will also cover the questions I had.

**Chairman:** I am advised that Deputy Mac Lochlainn has his hand up. I cannot see anything. His ten minutes start now. I want to be sure he gets his full time.

**Deputy Pádraig Mac Lochlainn:** Thank you very much, a Chathaoirligh. I did not get an opportunity to put a question the last day, so I appreciate the opportunity now to speak in this second round.

It is almost 23 years since the Good Friday Agreement was endorsed by the people in both jurisdictions on this island. That is more than a generation ago and much has changed. Reference has been made to the impact of Brexit, but the political landscape in the North has also changed significantly over that generation. Twenty three years is a considerable amount of time for dialogue and discussion. The Good Friday Agreement gave nationalists and republicans the right to democratically and peacefully pursue their objective of a united Ireland. That is what one does in a democracy. It is up to anybody in a democracy to win hearts and minds for their perspective, arguments and propositions.

Senator Currie referred to last night's debate. One point that occurs to me is that all of the political voices who argued that they are in favour of a united Ireland or argued that they are republicans stated that we need to prepare the ground for a referendum. We need to do this properly and that is exactly what is stated in this paper. At the first meeting with Professor Harvey and Mr. Bassett their presentation stated:

In our view the people of this island are likely to be offered a choice about their constitutional future in the decade ahead. It is essential that when that time comes everyone is clear about the consequences.

Their paper argues that we should prepare the ground constitutionally. In last night's debate I did not hear anybody disagree with that politically but what is missing from this debate is what form that preparation takes. Is it endless talking shops or is there a structure to the preparation? For example, is it agreed that we have a Citizens' Assembly? I note with interest the speech given by Fianna Fáil's Deputy Jim O'Callaghan to the University of Sussex in which he put forward some propositions, for example, that one House of Parliament would sit in Belfast and that there would be regional policing arrangements. He is putting out some ideas about the form a new Ireland would take. Today, another Fianna Fáil Deputy, James O'Connor, argued that the three coalition parties should put in place a Minister of State with responsibility for Irish unity. There is a growing realisation politically that we need to responsibly prepare the ground for Irish unity. I accept that involves dialogue and discussion. I call on both Professor Harvey and Mr. Bassett to spell out the structures and processes that take us forward. Everybody agrees that in due course a referendum is inevitable, whether in five

years, ten years or other period. There is political acceptance that it is inevitable. Therefore, it is very responsible to prepare properly. What is the process? Is it by means of a Citizens' Assembly, a White Paper on Irish unity or an all-Ireland Oireachtas committee on Irish unity? Could the witnesses spell out in clear terms what they believe are the ways forward?

I accept there are different perspectives in our committee and the witnesses would have seen that at their first meeting. I invite those who challenged the paper at the previous meeting, who say they are in favour of Irish unity, to comment. In politics, as with everything in life, whether one is a manager of a football team or running a business, if one says one wants to make something happen one has to have a plan to make it happen. I ask those who challenge the paper to say what is their plan for moving towards Irish unity. How do they intend to advance the cause of Irish unity? Who are they making their case to and in what format? In what timeline should it take place? With all due respect, I put that challenge to all those who say they want to see Irish unity. I would like to hear a dialogue. This is a great opportunity. I accept there is a lot more to come. I hope that the MP, Ian Paisley Jnr., will join us soon to discuss some of his thoughts on all of this. He certainly indicated recently that he would. We want to hear more voices, but today is about hearing from Professor Harvey, and Mr. Bassett who is a barrister, as they speak in their professional capacities about their paper and what they think we should do. I invite other participants to give us their thoughts. This is a really important dialogue, as was last night's debate. They are my questions and that is all I have to say.

**Chairman:** Do we have any other Sinn Féin speaker before I call on the witnesses to respond?

**Deputy Pádraig Mac Lochlainn:** Could I get the answers first as other speakers got their answers following their rounds?

**Chairman:** That is not a problem. I just want to make sure no one else wishes to speak because a Sinn Féin member challenged me after the meeting and suggested I was unfair to him. I want to make sure that is not the case.

**Deputy Pádraig Mac Lochlainn:** I am only saying I would like to get the answers in the same way as other members did.

**Chairman:** Deputy Mac Lochlainn should hold on. There is no issue. We are not under the same time pressure today. I am asking if any other Sinn Féin member wants to come in at this time. It is fine if there is not. We will get the answers in the remaining four minutes. I take it there are no other members offering, so I am happy for the witnesses to respond to Deputy Mac Lochlainn's questions.

**Mr. Mark Bassett:** The report is focused on EU law and Irish unity. Within the report there is a focus on what aspects of EU law would be impacted by Irish reunification. There is some consideration of the State's commitments under economic and monetary union. It is suggested that-----

**Chairman:** I apologise for interrupting but Mr. Bassett's microphone is not very clear. His voice is going in and out.

**Mr. Mark Bassett:** Another issue that features in the report is the point that in a united Ireland, the duties of the sovereign nation state will fall on Ireland. The Irish Constitution will have to give proper regard to the principle of parity of esteem in its law and we have said that should also extend to EU law. One of the points is that there will be many residents and citi-



zens of the new united Ireland who will be British citizens. That status will be based on British nationality legislation but it will continue in perpetuity and it needs to be respected in the new united Ireland. There are a number of aspects of Irish electoral law in particular, which at the moment are based on Irish citizenship, so a helpful exercise at this point would be to identify what aspects of the Irish Constitution or Irish legislation are potentially in conflict with the duty of parity of esteem with the nation state exercising sovereignty in the North.

Other suggestions are made such as that work could be undertaken within the European institutions. Consideration will have to be given to rights of participation in the European Parliament for an enlarged state or in the Council also.

Another useful exercise would be identifying how the Northern institutions - the Executive, the Assembly and the Northern legal system - will be accommodated, at least initially, and unless and until something else is agreed under Bunreacht na hÉireann. A useful audit would be to identify if there is a potential conflict between any of the Constitution's provisions and executive, legislative or judicial power and to get ready to show that it is manageable under the current Constitution subject to amendments, which give effect to unification, and, importantly, give effect to the duties and responsibilities that Ireland will assume in a united Ireland.

The other aspect that could be considered is how the other east-west relationships will be accommodated in a new united Ireland. We believe for the most part that the provisions are operable in a united Ireland, but it would be helpful at this stage if work was undertaken within Departments in the Republic of Ireland to show exactly how that can be managed.

In terms of a citizens' assembly, it is suggested as being helpful within the report. It would be hoped that would build on the success of previous constitutional conventions and citizens' assemblies, draw in a membership from across the island, and make suggestions that would be part of any consultation process in advance of the referendums on unity.

The other point which is very important is that the preparatory work on the actual choice that will be presented to the electorate in the North and in the South should begin now. Some thought should be given to the wording or how reunification can be achieved under the Irish Constitution. Also, thought should be given to how the wording of the question will be posed in the North. We do not want a situation where we end up with incompatible results or two legal or constitutional systems which are shouting at each other, so to speak, with contradictory results. There needs to be co-ordination between the Irish and British Governments on how these concurrent referendums will take place.

**Senator Niall Blaney:** I want to say first that my opinions in respect of the report are personal. Coming from a very republican background, I, as much as anyone in this line, want to see unity of our people and our country, but I am also conscious of how where we have got to was achieved. With all due respect to the two witnesses, how it was achieved has been missed with regard to their report. For me, it does not give enough recognition to the background work that was done with regard to the coming together of the Good Friday Agreement. Incidentally, the Good Friday Agreement was never done with a time limit over anybody's head. It was a culmination of years of work that allowed us, in the end, to enter a room and get an agreement. If truth be known, it goes back to the 1990s. If the question of Irish unity was that easily settled, it could have been done with the Good Friday Agreement, so let us not cod ourselves. This is not something that will be easily achieved, but the one thing the Good Friday Agreement did have was respect for opinion and an assurance that everyone around the table had their say.

I was taken aback somewhat by the language used in the report and by the witnesses reporting on it. I believe they are predetermining the outcome of the poll with the continual talk of a united Ireland. Last night, Deputy Mary Lou McDonald spoke about not putting the cart before the horse. We all need to step back a little bit. This is not an effort to attack anybody at this meeting because that is not useful, but we need to be honest about how we approach this issue. I asked the witnesses several times on the previous day if they had engaged with unionism in terms of communities or political parties and they failed to answer that question. They danced around it, so to speak.

At the outset the witnesses said they had EU oversight. What EU oversight do they have? I do not believe they have any EU oversight. Their funding was got as a result of a couple of MEPs pulling funds together.

I believe their report is of a strong nationalist view. That is grand but I believe we need to start getting a view from the other side. I hope they take these comments from the perspective of me being helpful. For their report to have better grounding and an understanding all round, they will have to start engaging with unionist communities and politicians because its opinion is too much on one side. It is not grounded on enough academia. There is too much personal opinion in it.

I do not want to knock all of the report. Some of it represents a useful start but I do not believe the witnesses' report is complete. I think they could take it further and I would encourage them to do that and make an effort to start engaging with unionism because we need to come at this from a whole-of-picture perspective.

As far as preparing the ground is concerned, the Good Friday Agreement is not complete in all its entity. That is the first bit of work we need to do because if we do not do that, we do not have everybody around the table. This committee we sit on is not complete because everybody is not around the table. If we have learned one thing over the past decades it is that coerciveness does not work. We need to be inclusive and bring everybody on board. People like the witnesses are critical with regard to that.

This could be a good report but there is some work still to be done. That is my point of view. Some may be critical of it but there will not be an agreement down the road unless we are more inclusive and show the hand of friendship. Unless we show that we are all willing to share this island together, there will not be a happy conclusion to this.

**Professor Colin Harvey:** I welcome the “Claire Byrne Live” programme and all contributions to the debate. I hope it is clear that what we have been stressing today is a need for a wide, deep and inclusive conversation, along with preparation and planning in advance. Nobody wants a referendum tomorrow or next week. People want to be ready and that is the spirit of what we are talking about.

We have emphasised very much in our work that one must stick to the Good Friday Agreement and its terms. Again, I urge the committee to revisit the relevant provisions in the agreement around this.

In terms of our suggestions, we have talked about a Citizens' Assembly. We have underlined in our work that we need wide, deep and inclusive citizen engagement. The idea of an all-island Citizens' Assembly is a great one. The proposal for a joint Oireachtas committee and a Minister is also welcome. A White Paper from the Irish Government would be incredibly

helpful. Both Governments setting out the parameters of the process would be very helpful. I would be anxious about leaving this entirely to the Secretary of State. Both Governments engaging in advance would be helpful.

Ultimately, we are talking about preparing and planning in advance for a proposition. If a political party claims to be supportive of this constitutional objective, what will its representatives say on people's doorsteps - if we are allowed to do so at some stage - about its proposals? Ultimately, we are urging the committee to do the preparatory work in order that we have something coherent and credible to say about what the propositions of the Irish State, the Irish Government and those advocating change will actually be when these referendums happen within the next decade.

I appreciate the feedback on the report and we will take Senator Blaney's comments on board. I highlighted earlier that our report is one part of a larger body of work that we have been doing. We have supplied the committee with some of that larger body of work. We will happily follow up on that. That report is very much focused on the role of the European Union. We stressed in that report and in other work the need to plan and prepare in advance. We are aware this is not easy. However, I started the presentation with paying close attention to the nature of the current conversation. The level of engagement that is actually happening is striking. There is a risk that we fail to notice, for example, the level of civic unionist engagement in the current conversation and the level of engagement among those who find some of the old traditional labels deeply uncomfortable but want to have a sensible discussion about the constitutional future. There is actually civic unionist engagement, as well as engagement in this conversation by people who want to move beyond the old labels. We need to pay attention to that.

We very much see ourselves as part of that. In my academic capacity, I felt that what we have been doing is laying the groundwork on some of the more challenging legal questions. Other work that I have been doing in civil society is very much about engaging with civic unionism and with all elements of society. For example, a recent event held by Ireland's Future included engagement in the conversation from people from a unionist background. We should not underestimate or undervalue - it would be almost disrespecting it - the extent to which people are already involved in this process.

We use the language in the report and on the cover of planning and preparing for constitutional change. We have underlined in our work that the responsible and sensible thing to do is to manage and plan all this. In a sense, we very much agree with the committee that this should be an inclusive, broad and deep conversation. It benefits no one on the island, however, if we run away, hide from or use a variety of techniques to deflect from doing the hard work now.

**Ms Claire Hanna:** I apologise as I am in transit to an appointment. I could not get changed so I am going to keep my camera off.

I thank the witnesses. I do not have a large number of questions because I squeezed a lot in the last time. On the discussion of dates, I do not think we are ready. For the past several decades, our material well-being and day-to-day outcomes in Northern Ireland, let alone the project of reconciliation, are often overlooked and overshadowed by focus on the constitutional issues from both perspectives. There is a kind of a jam tomorrow conversation generally. That is not in any way denying or thwarting the conversation that is definitely under way. It is just a comment on all the stuff that requires to be done, regardless of constitutional outlook, as well as the day-to-day stuff one has to get through as an elected representative.

Professor Harvey suggested May 2023 for a referendum. Does he think that is achievable? On the comment about the continuity, or otherwise, of the Northern institutions, it has been the position of both the SDLP and Sinn Féin that they would continue. Richard Humphrey's legal opinion is that there is no sunset clause on them. Does Professor Harvey see merit in them continuing, both in terms of a kind of a forum through which to manage ongoing issues around equality and so on in the North and to facilitate some of the protections currently there for nationalists? The outcome of a border poll, one way or the other, does not solve all of our problems.

Does Professor Harvey see any potential in following other forms of devolution that might be prompted by having a Northern Assembly, whether that is opportunities for the north west and Donegal to participate in that? Does he see devolution being a regional parliament for Cork? Does he see basically the presence of a Northern Assembly stimulating conversations about other forms of devolution of power, such as an enhancement of the role of county councils? I noted he said that they are not set in stone. What vision does he have for them and what conversations might they promote more widely?

**Mr. Mark Bassett:** The continuation of the Northern institutions in the case of a united Ireland is an important aspect of the conversation and the Good Friday Agreement. The question of unity is a majoritarian one. At the moment, 50% plus 1 is enough in the North for union with Great Britain. It is a principle of democracy and equality of democracy that a comparable vote would be enough to ensure Irish unification. Against that majoritarian principle there are a number of counter majoritarian principles in the Good Friday Agreement. One of the most important of those is the shared institutions - power sharing in the Executive and assembly. There is a duty of parity of esteem on the government exercising sovereignty and that has to be taken more seriously by the Irish State. It probably has been taken seriously by the British State since 1998.

In the "Claire Byrne Live" programme last night, there were discussions about what should happen to the title of Taoiseach and Tánaiste and what should happen to the flag and symbols. The state in the North is the United Kingdom of Great Britain and Northern Ireland. The flag is the Union Jack. There is no power sharing in London and a hereditary monarch is the head of state. It is very important that the shared institutions continue but also that there is an audit of those aspects of the Irish State that could be objectionable and can be amended to ensure that power is seen and the equal protection of rights is given effect.

In terms of the idea of regional parliaments within the State, I have not detected an appetite for that in any of the legal or constitutional research that I have done. I will defer to the members of the panel who would know much more about that than I do.

Senator Blaney asked about engagement with unionist politicians. To explain, this report is a legal report. What we tried to do is identify the relevant applicable legal rules, whether they exist in public international law, EU law, UK law or Irish constitutional law. We have tried to explain how they are going to apply in the case of a united Ireland. That is the purpose of the report. Some of the conclusions are very clear and some of them are contestable but we have tried to set out reasonable suggestions. This report is one of a series that was commissioned by MEPs, one of which looked at the protection of the EU Charter of Fundamental Rights in Northern Ireland after Brexit. Another one looked at the possibility of a special designated status for Northern Ireland in EU law. This report tried to follow that template in identifying the relevant law and explaining how it might apply in these circumstances.

**Professor Colin Harvey:** I thank members for their questions. I will follow on from what Mr. Bassett has said. A few of the questions were directed towards the idea of dates so maybe I should say something about those. The spirit in which we have conducted this work is that these referendums are likely to happen, maybe sooner than people anticipate. In 2019, I made a suggestion around a possible date. The suggestion was born out of a sense of frustration, which I suspect many members of the committee share. I had been to one too many meetings where people stood up and said there needed to be planning and preparation but then everybody went home and did nothing. My view is that very little planning, project planning or homework would get done on the island of Ireland if the date was completely open-ended. My view, therefore, is that a timeframe is helpful to focus minds to get the work done. Again, I am not sure how much homework would get done on this island if there was no timeframe for the discussion.

It is notable that Bertie Ahern has followed my lead in suggesting the 30th anniversary of the Good Friday Agreement. I had suggested the 25th anniversary. We notice there is a convergence in the debate around the next decade. There seems to be an emerging sense that we are in a crucial decade for the constitutional conversation. As members know, Brexit has dramatically affected that debate. To emphasise and echo what Mr. Bassett has said, our contribution is to encourage and make sure people do the relevant planning.

On the Northern institutions, we have made clear that the guarantees and assurances continue unless and until alternative arrangements are achieved. We appreciate, as we acknowledge in our report, that there is discussion on a new constitution and new architecture. That is why we think there needs to be extensive civic engagement in preparing for that.

On the 50% plus 1 argument, to echo something Mr. Bassett said, we are a bit concerned that people are ignoring or neglecting the assurances, guarantees and protections that are already in the Good Friday Agreement around mutual respect, parity of esteem, equality of treatment and equality in rights. They will map forward on to the arrangements that we are talking, or they should map forward, and that is why we have talked about the sort of audit we described today. Rather than focus on the 50% plus 1 conversation - in our view it is 50% plus 1 - we need to spend more time thinking about the guarantees, protections and assurances that will reassure people and provide security, and that are there, in relation to carrying forward the values of the Good Friday Agreement.

The devolution conversation - the conversation around the Northern institutions - is profoundly helpful because, in my view, the Irish State is over-centralised. One of the great positives about this discussion is that it will encourage a wider discussion in Ireland around regional policy. Many regions on this island have been fundamentally failed, Donegal, for example, through the excessive over-centralisation of the existing State. If this conversation encourages a wider, deeper and more inclusive discussion about the over-centralisation of the current Irish State, that would be very welcome for people in the north west, for example.

**Chairman:** I call Dr. Stephen Farry, Alliance Party MP.

**Dr. Stephen Farry:** I will make a few observations to which Professor Harvey and Mr. Bassett are happy to respond. I stress again that I come at this issue as a non-nationalist but someone who is open to debates. I am engaging in discussions on a speculative basis and without prejudice to whatever view we may or may not take down the line as events and developments unfold.



I caution very strongly against setting artificial timeframes for when a border poll may or may not occur. The Good Friday Agreement is clear that this is a condition-led rather than date-led process. We are not at that stage yet but I fully accept that this is a fluid situation and that this may become apparent over the coming years. That could happen quickly or it could be further off in the distance. Again, we need to be open-minded in that respect.

There are two parallel discussions. They are interrelated but perhaps they need to move at slightly different paces. I respect that Professor Harvey is frustrated that there is not yet sufficient clarity on the precise thresholds for decision-making around invoking a border poll. I make very clear that I fully accept the rules that were set out in the Good Friday Agreement. I also recognise that they leave some further questions unanswered so I respect that there is a desire to get fuller clarification in that respect. At this stage, I would place far more emphasis on discussing what a potential united Ireland would look like. From my discussions with people in Northern Ireland, that is probably the more relevant and active debate at this stage rather than the mechanics of it. That is probably where the most focus needs to be placed in the immediate future.

There are three different elements that one would, in theory, walk through in trying to advance that debate. The first is about what loose or fragmented discussions are currently happening. I appreciate that some are frustrated they are not moving on to more structured discussions more quickly, but I do not necessarily share that frustration. This debate is still fairly embryonic, and the “Claire Byrne Live” programme from last night reinforces that point.

Much more can be done to try to crystalise the arguments and engage with a broader range of voices. Rather than simply having circular discussions, there is a challenge for civic society organisations, and our universities and colleges in particular, to convene more forums to work through some of those issues and talk about some of the grander details, not just on identity issues but matters of public finances, for example, and what would happen with health policy and provision.

I can also see merit in holding some form of civic forum or citizens’ assembly in due course, but I do not think we are at that point just yet. There is a question as to who would convene and organise any citizens’ assembly and how that assembly would be representative. More work needs to be done before we are at the point of a citizens’ assembly being convened. There is a bigger question because if a question were ever to be put in a referendum, governments would need to be involved in that process. Those three phases can obviously overlap with one another but they start at different points. I do not think we are at the second or third points just yet but I acknowledge that, in terms of a logical process, they would be steps in that wider journey.

It is important to take into account the magnitude of what is being discussed here. A territory changing from one sovereign state to another is pretty much unprecedented in modern times or even in the past century. The German reunification is not a like-for-like comparison, given the particular context there. The enormity of this is important to bear in mind and it is something to work through in a stage-by-stage process.

I have made this point previously but I will stress it again. Notwithstanding the wider constitutional and political debates around this matter, there is still significant space for practical North-South co-operation to be taken forward on a range of economic, social, environmental and infrastructure issues. That may be a precursor to something else or it might just stand on its own two feet, but that is something I would encourage a lot of focus to be placed on in the near term as well. I am happy for either Professor Harvey or Mr. Bassett to respond to those



reflections.

**Professor Colin Harvey:** I agree with the broad parameters of what Mr. Farry has said. First, it is absolutely vital that we clarify the process parameters of the referendum. Mr. Farry will know I have been writing to the Secretary of State to try to clarify that. It would be very helpful indeed if we knew a bit more and there was more transparency around this process because, as he has rightly pointed out, core aspects of this are condition led so it would be nice to know more about the conditions. Other questions are being clarified in Scotland at the moment around its referendum process, and we would like more details on that as well.

Second, I agree with the sense that we need to clarify the proposition. Real work needs to be done on this island about what the proposition is for the new constitutional arrangements. That is why there has been such a focus on a citizens' assembly as a way to try to move this debate on. Mr. Farry highlighted the work of universities. In the majority of universities on this island, somebody or other is doing a project or initiative relating to this question. There is extensive citizen engagement, which is very noticeable in the North, not just from advocates for constitutional change but civic unionist voices who are beginning to coalesce around what is starting to look like a sort of informal referendum campaign.

There are two aspects to this. One is the co-ordination of all that work. There is a lot of work going on at the moment. How is that being co-ordinated? Does the shared island unit, for example, have a role in doing that? Second, and I mentioned this earlier, if people are going to enter a referendum campaign, what are they going to say? I agree that not enough work has been done on the side of those advocating constitutional change as to what precisely the parameters of that change are. We have heard every suggestion in the discussion in the past while, from what is basically a continuity Good Friday Agreement to very radical constitutional change involving a new Constitution. The question I would raise with the committee today as regards taking forward its work is, what exactly is the proposition going to be? When people are campaigning in this referendum, what are they going to say? If they have not got an answer to that question, they need to start thinking about how they are going to get an answer.

**Chairman:** We agreed a rotation earlier on, so we will go back to Sinn Féin, then-----

**Deputy Peadar Tóibín:** I have had my hand up for a while.

**Chairman:** I have had Deputy Tóibín's name down for some time, but we agreed this rotation at the beginning of the meeting and Sinn Féin is next. Then we will go to Independents and he is the first of the Independents to have raised a hand at the moment.

**Deputy Peadar Tóibín:** I am not an Independent.

**Chairman:** I called Sinn Féin-----

**Deputy Peadar Tóibín:** The Chairman said I was an Independent.

**Chairman:** Apologies. The text I have in front of me says "Independents and Aontú". I apologise to the party's leader.

**Deputy Rose Conway-Walsh:** I thank Professor Harvey and Mr. Bassett for this paper. It is enormously important and I refute some of the comments that have been made about it. There is real value in it because it raises key questions I have not seen raised anywhere else. In any papers that are written there are observations and certain editorial stuff, but there is real

factual stuff here, for instance, around who has the right to vote and other things. There are also questions about engagement with others and so on. I have yet to meet anybody who does not want to prepare or does not recognise the need for preparation. This question keeps being raised all the time, as if there is a cohort of people who do not see a need to prepare. We in my party see the need to prepare and understand what needs to be done, whether that be a constitutional assembly, a White Paper, an Oireachtas committee or a combination of all those things. To move the conversation on, we need to take that question off the table.

I hear what the witnesses are saying about the responsibility of this committee regarding how we are going to carry this forward. I am glad to have the opportunity to hear their input again today. Arising from the discussion and recommendations the last time we met - the Chairman will confirm this - we agreed to write to the Secretary of State to ask him to bring some clarity to the matrix and the criteria he was going to use, just as Professor Harvey had written to him in December. My first question relates to the follow-up letter he sent to the Secretary of State on 19 January. Has he had any response to that letter? I am interested in point No. 40 in the professor's paper that reunification should be presented as a vindication of the Constitution rather than an unacceptable risk to its stability. Will Professor Harvey speak further to that? Nobody has the monopoly on this, which Deputy McDonald made clear last night. Nobody owns the questions or the conversation around the constitutional future. We will all have input.

With regard to the third-level sector, I was very interested some weeks ago to see an article by Fionnán Uíbh Eochach in the *University Times* on the role that universities and the third-level sector would play in all of this. Does Professor Harvey have any suggestions around that?

Reference was made to other platforms. There is a new online platform that hosts the debate around the constitutional future debate that was prepared by Professor Peter Shirlow from the University of Liverpool, and a group working with him. Again, I believe this is really informed. Nobody has a monopoly on the conversation.

Perhaps Professor Harvey could comment on the Secretary of State, on the vindication of the Constitution, and on the third-level sector.

**Professor Colin Harvey:** I thank the Senator for the questions. I also thank the Senator for following up by writing to the Secretary of State. It is very much appreciated.

Again, the aim was to try to elicit some more clarity. Following on from the Court of Appeal in the McCourt judgment, I am conscious that the Secretary of State has significant amount of flexibility in triggering this process. My letters were really an attempt to try to get a bit more transparency and a bit more detail as to what precisely the Secretary of State does in this regard, for example, what evidence he relies on in reaching his judgment. I had basic questions on how often the Secretary of State reviews the relevant evidence. I believe this would be helpful for everyone on this island because, of course, the right to self-determination belongs to the people of this island. Clarity would be helpful. I have had two responses so far. I have shared correspondence with the committee members and a bit more widely. The committee members can reach their own conclusions from the responses. My view is clear. The response was from a group within the Northern Ireland Office. The Secretary of State has fundamentally failed to answer the detailed questions raised in my letter. To my mind this shows a profound lack of respect for the people of this island. My questions remain unanswered. I very much wish this committee all the best in having more luck than I had in getting detailed responses from the Secretary of State. It is very important. While it is not the only task at the moment, it is one part of the jigsaw. It is a piece in the jigsaw of moving towards these referendums taking place.

The Secretary of State needs to provide detailed answers.

Before I hand over to Mr. Bassett I will address briefly the Senator's second question. Universities have a fundamentally important role in this regard. A remarkable amount of work is currently ongoing such as the work of the ARINS project with the University of Notre Dame. Reference was also made to the work at the University of Liverpool. There is work going on at Queen's University Belfast, Trinity College Dublin and University College Dublin. In some senses the preparatory work has started and other people are, essentially, catching up. This is all very valuable in fleshing out some of the rather technical and boring detailed questions that need to be answered in advance. I would encourage that this work is continued. I would also encourage the committee and others to support that work. There is work to be done, for example, in establishing research programmes to facilitate that. There is an opportunity to support research, for example, by the shared island unit. I know it can be a bit nervous about going near the subject but I do not think it needs to be. The shared island unit can talk about how we share the island now and how we might share it in the future. Perhaps that unit could support and fund some of the work. Organisations such as Universities Ireland, which provides a co-ordinating role for universities across the island, could support the work so we are talking to each other and analysing the sort of detailed questions that arise.

Ultimately, I hope the committee is clear today, and from our last engagement, that our work is all about making sure we challenge myths, that we have an informed and evidence-based approach, and that we do the work in advance. This is bearing in mind what Dr. Farry said about this being a condition-led process and that we are not bounced into a border poll, so that when the time comes the people North and South will know precisely what they are voting for, that nobody is painting false promises on the backs of buses, and that it is a verifiable, credible and evidence-based conversation, whatever the outcome may then be.

**Mr. Mark Bassett:** On the point about the Constitution, there is a lot to admire about the Irish Constitution. It takes in fundamental rights and judicial review from the American tradition. It has features of parliamentary democracy, which we can see have been taken from England. A central feature of the Constitution is that it was drafted, adopted and amended with unity in mind. Some of the most important features of the document are now Articles 2 and 3. They can accommodate a united Ireland, subject to some specific amendments. A vote in the North for reunification should be seen as a compliment. For the most part and in the main, the State has been a success. There are some aspects of the Irish Constitution that are very much admired in the North. Participation in the referendums on the repeal of the eighth amendment and on same-sex marriage, and going further back the contribution of the electorate to approving or rejecting European treaties, was not something that was available in the UK with its different constitutional set up.

We must keep in mind that with the UK vision for Northern Ireland we can see the priorities of Britain are very different to the priorities in the North. The vote for Brexit was not replicated in the North. The form of Brexit that was chosen primarily by English MPs and the current UK Government could not be replicated on the island of Ireland. The mitigation of that is the Northern Ireland protocol. It is nobody's first choice. Nobody would design this from first principles as the best way. Northern Ireland is outside the European Union. There is a lot of unionist unhappiness with the practical outworkings of the protocol. Next year there will be an assembly election and two years after that there will be a vote on certain limited aspects of the protocol, particularly its rules on the free movement of goods, internal taxation, state aid and so on. If there is an assembly that votes to reject those aspects of the protocol, we are still left

with the conundrum that it is an EU and Irish priority that there is no hard border on the island. It is a UK priority also. Articles 5 to 10 that are in the protocol now will have to be amended, but something similar is going to have to come back and it is going to have to get the same sort of outcome. There were opportunities for less divergence in Britain but there is no political support for that. The future for Northern Ireland, the vote for union is a vote for being outside the European Union but in a protocol. As Professor Harvey has said, the task is for those of us who do believe in Irish reunification to come up with something more attractive than what is on offer from the current *status quo* for the medium-term future for Northern Ireland.

**Chairman:** I thank the witnesses. We have roughly half an hour left. At the moment Deputy Peadar Tóibín and Senators Rónán Mullen, Frances Black and Annie Hoey have not spoken. I am keen to be fair to everyone who is present. Deputy Jennifer Carroll MacNeill wanted to speak earlier and I did not have time to bring her in. We will hear from Deputy Peadar Tóibín of Aontú followed by Senators Black, Mullen and Hoey. That should let everyone in before we take the next round of replies and we should have adequate time for questions and answers after that.

**Deputy Peadar Tóibín:** Aontú is an all-Ireland political party and we have elected representatives, North and South. The word “Aontú” means “unity”. It is our primary goal as a political movement.

One of the interesting issues that came from the debate last night on RTÉ was the fact that most people now accept there will be a referendum. Even Gregory Campbell accepts that there will be a referendum. One of the fascinating elements of last night’s debate was the fact that the penny has not dropped with the southern Government. A referendum will be called independently of what the southern Government thinks and the southern Government has no actual role in whether a referendum is called. It will be called on the basis of whether there is likely to be a majority in favour of unity.

We see a reluctance of preparation among some of the southern political establishment. We could see a referendum being called for five years’ time. Yet, the southern Government has actually carried out no practical work in preparation whatsoever for that referendum. That would create a political crisis if it were the case. It would be similar to the British finding themselves having a Brexit referendum with absolutely no political preparation in advance.

The type of preparation we should be looking at is convergence. I always look at the Border as a wall with 100 bricks. Each brick is a point of economic or social divergence. Each brick is a significant economic or social cost to the people. It is a difference in cancer treatment or income taxes. It is a difference in ambulance services or policing. It is a difference in drug treatment, third level education or road and rail infrastructure.

Some years ago I carried out a report for the then Joint Committee on Jobs, Enterprise and Innovation on the all-Ireland economy. Believe it or not, it was the first report carried out in the Oireachtas on the all-Ireland economy since the foundation of the State. I interviewed approximately 100 people from all different backgrounds in the North, including unionists, nationalists and those in between. Everyone agreed to the logic that if we plan, fund and deliver services together, they would be, by definition, better services and more efficient. Regardless of whether we look at it through the unity prism, it will make a major difference in the lives of people. This type of convergence means that on the sunny day when there is unity, there will not be a shock transition since there would have been a gradual convergence on both sides of the island in terms of the economy and society.

Senator Blaney spoke about how we should not coerce people from a unionist background into a united Ireland, and I agree. We need to attract, convince and persuade people about the benefits of unity. The Senator's view was echoed by the Taoiseach and the Tánaiste last night. However, they are forgetting that a minority veto is a form of coercion. If a minority of unionists decide nationalists cannot be part of a united Ireland, that is a form of coercion. The mechanism we have in a democracy to prevent that type of coercion is one whereby citizens sign up to the democratic will and signing up to the democratic will is at the heart of the Good Friday Agreement. I am amazed that some within Fianna Fáil and Fine Gael seem to be rowing back on that democratic principle. There is a danger in this, because it suggests there is one rule for the democratic will of nationalists and a separate rule for the democratic will of unionists. It changes the goalposts mid-flow and guts the majoritarian cornerstone of the Good Friday Agreement. I would caution the establishment parties against going down that road. We all need to agree to sign up to the democratic will of the people, North and South. There should be no ifs, buts or other caveats in that regard.

I have a question for our two esteemed guests regarding the issue of a civic forum or new Ireland forum. My instinct on this is that those of us in Aontú would like to see a new Ireland forum. We would like to see a situation whereby all in civic and political society across Ireland are invited to participate in a forum. The purpose of the forum would be to look at possible areas of convergence that are beneficial mutually to both sides of the community, North and South, and to the rest of the island. We could then work out what such an all-Ireland would look like. My concern is that in a citizens' forum many of the stakeholders who exist, especially those on the unionist side in the North of Ireland, would not believe they have a say in exactly the direction we are going. That is my question. Should we not look for a new Ireland forum based on the model used by Garret FitzGerald around the Anglo-Irish Agreement? Under that framework, all those from political and civic society across the island could be invited to discuss how we deal with the worst aspects of Brexit, how we converge, how we create unity of purpose and how we build towards Irish unity.

**Senator Frances Black:** I thank the Chairman for the opportunity to speak again to our two esteemed witnesses. This is an important report. It is important to highlight that it is an academic research tool to assist the discussion on the importance of planning and preparing for constitutional change. There is no doubt that many people have said we need to do more work on this. That is important to say.

I believe those in civic society are doing great work on this. Ireland's Future is an organisation committed to planning and preparing for constitutional change. It is a rights-based organisation created to protect the civil and religious liberties of all traditions and identities in Ireland in a spirit of mutual respect. That is the basis of the organisation. I believe that more work is required from the Government and people within political and elected leadership. That is important.

I am keen to get the thoughts of our two witnesses. We know there is a desire for a border poll following *The Sunday Times* survey recently in February. It reported that 51% of the people in the North supported a border poll being held within five years. My concern is that this does not reflect the State's readiness or willingness to openly discuss the possibility of a referendum. What more could parliamentarians do to promote productive discussion and conversations on facilitating a border poll and referendum? Those in civic society, including Ireland's Future, are having these discussions. Plenty of events have taken place and another is due to take place this Thursday on the economy. That is the reality. People want to know. My family live in north



Antrim. These are the questions they want answered. They want to know about the impact on health, housing and education and what a new Ireland would look like. These conversations are already happening. They are happening around the kitchen table all of the time. I welcomed last night's discussion. It was a very vibrant and healthy discussion.

The question I want to ask is how we, as parliamentarians, can promote productive discussions and conversations around facilitating a referendum? I have to say I am concerned, and in saying so I have to highlight the importance of planning and preparing, that at any time, the Secretary of State could call a border poll and we would not be ready. That is my biggest concern. That is why it is important for this committee to write to the Secretary of State also. I hope that is okay.

**Senator Annie Hoey:** I have one quick question. I know the witnesses have been bombarded with many questions. It is about the idea of a citizens' assembly. That is a model which was used and worked quite well here for what were considered contentious items. Will the witnesses elaborate on how they believe this could work in this instance? Would it have to happen in both areas, including Northern Ireland? Do the witnesses foresee this as a model that could work? We talked about other models, about Garret FitzGerald and different ways of doing things. Being a person who participated in one of the citizens' assemblies as a presenter, that kind of deliberative democracy provided a great opportunity for teasing things out and pulling things along. Will the witnesses elaborate on how this deliberative piece could work, including some of the frameworks we have that have been used in the past successfully? I know this is possibly going over ground which we have already trodden on.

**Deputy Brendan Smith:** I am sorry for missing the earlier part of the meeting. I had difficulty joining. I endorse the comments made by my colleague, Senator Niall Blaney, that the debate has to be inclusive. There is a danger we will not have everyone participating, including people from different political viewpoints. I want to see a united Ireland, but if we have a minimalist approach, then we will do damage and will put back the day when we will achieve a united Ireland. We would be denying a large cohort of the Irish people the ambition they want to achieve in the proper circumstances. Going back to Albert Reynolds's comments in December 1993, when the Downing Street Declaration was signed with John Major on 15 December, on that day, both the former Taoiseach, the late Albert Reynolds, and Mr. Major spoke about the need not to have a minimalist approach. They spoke generosity being needed on all sides. It is very important in that respect that we approach this with an inclusive agenda.

Mr. Harvey spoke about long-term planning, and I totally agree with that. There has to be an understanding of the other side's position. The Chairman and I are probably the only two committee members who were Members of the Oireachtas at the time of the Downing Street Declaration and the signing of the Good Friday Agreement. At that time, we clearly understood the political message that was given to us by our parties, which was the need to understand the other side's position and the difficulties they encountered in reaching an agreement. Having talked to Bertie Ahern, Mr. Clinton, Mr. Blair and the late John Hume, and others who contributed so much to achieving the Good Friday Agreement, they were always generous, patient and understanding of the other side's position.

People speak about citizens' assemblies. We have elected forums and it is these which have to do the preparatory work on what we all want to achieve in a proper way. Mr. Harvey mentioned that the Good Friday Agreement provides the mechanism, quite rightly, to achieve a united Ireland. That is in an international agreement endorsed by the people, North and South, on 22 May 1998. If we were to have spoken to people in March of 1998 and said in a *vox pop*



on any street in any county in any part of our island that, within a number of weeks, we would have a mechanism to achieve a united Ireland, I do not think the public at large at that time would have thought we would make that progress. We have the mechanism, thankfully, but we did not have it prior to May 1998.

Mr. Harvey spoke the previous day about commitments already made. Did Mr. Harvey or Mr. Bassett, in the course of their work, do an inventory of what has not been done pertaining to the commitments laid out in the Good Friday Agreement and in its successor agreements? If we are to move successfully to achieving a united Ireland, then we must implement and maximise the potential of the Good Friday Agreement and the successor agreements. We have seen what a lack of preparation did in regard to Brexit. Surely, we want a referendum where the homework will have been done and there will not be a mentality on either side that they are being forced into something.

Mr. Harvey also spoke about the shared island unit and others have a massive role in ensuring the practical co-operation on this island is stepped up. Institutions on this island do not engage or talk to each other anywhere near enough. We should focus at the moment on maximising the agreements we have in place, maximising co-operation, and ensuring the €500 million already committed to the shared island initiatives is drawn down and that practical co-operation for the benefit of all the people of this island is advanced. Momentum is needed to ensure we deliver on what is achievable through those agreements, particularly the Good Friday Agreement, which is an international agreement. That is an incremental and necessary approach for us to have in place the necessary framework to achieve a united Ireland in due time.

**Senator Erin McGreehan:** I echo my colleague, Deputy Smith, in all of what he said. I very much welcome this debate. I would speak about the concept of a united Ireland until the cows come home. It is something I grew up with and is something which is innate within me. We need to have this discussion and we need dialogue between all parties.

A majority of members on this committee are very much in favour of a united Ireland. The elephant in the room is the fact we do not have enough of the divergent voices at this committee meeting. Referring to what Deputy Smith said, have we fulfilled the Good Friday Agreement? Last night, Naomi Long made a very valid comment. To paraphrase her, she said that if there is a divided Northern Ireland, there will not be a united Ireland. Northern Ireland is divided in terms of flags. How are we going to bring along people? We need to bring them along. We need clear actions and a path forward. I will jump on that path but we need a correct path. It needs clear actions.

I echo what Deputy Tóibín said, that it is about convergence. How do we work east-west and North-South on converging our island to make it a single island and to make it stick? A hundred years on, where are we in regard to partition? We do not want to be 200 years on or 100 years on from a border poll and still be at the top of that hill, and still be divided. Unionists are still very much a part of this island. We need to start celebrating a shared history and our shared past. Going back to my own personal story, the McGreehans landed in Castletown-cooley straight after the Battle of the Boyne, when William cleared out north County Louth. We came afterwards and plenty of unionists came along with that wave. We could say that I came with the unionists and with that story. It is part of my story and we are still living and farming in Castletowncooley to this day. It is a similar path to that of many people on this island who are very proud of it and we need to embrace it. We need to look at how we can jump on a path together. It really does need to be part of a convergence and part of an inclusive story.

To go back to another Louth person, D'Arcy McGee went to Canada and helped to create much of the democracy there and brought together people in Canada united in diversity. If this committee were to bring about anything it should be to be very clear that we need to be united in all our diversity. I welcome the conversation and the debate last night but we need to be very careful that we do not march ourselves up to the top of the hill and say we will go for a border poll but leave many people behind. I thank the Chair for the opportunity to speak.

**Chairman:** As everybody who wants to speak has addressed the issue I will make some points before I call our witnesses. There are three phases to this, namely, prior to the vote, the vote itself and after the vote. All of these are fraught with challenges, opportunities and potential difficulties. The way I see the preparation time and the convergence is that, as members have acknowledged, the excellent academic work is being done. The part that is missing is political liaison and it is missing big time. With all our articulation here today, nobody from the unionist community is giving us their views. This is a huge gap.

The vote is one thing. The report itemises the difficulties of exercising the franchise in the North compared with England and Scotland. This is a major issue. If there is a referendum and it is lost, many people will be in an extremely difficult situation. If it is passed, there will be the alternative situation and it will also be a difficult situation. How do we jump these fences in the timeline and preparation? The report has certainly brought about great discussion here today and it has been very welcome. I know the witnesses cannot address all of these issues.

No report is perfect, not even one with such excellent authors as our guests. I acknowledge the importance of the report. The key issue is that we have to bring everybody with us, or as many people as we can. The idea of 50% plus one will not work for a huge number of people and, therefore, we would be going backwards and not forwards. We have to get it absolutely right. I thank the witnesses and ask them to summarise.

**Professor Colin Harvey:** Obviously, I cannot address all of the detailed questions raised by committee members but I very much appreciate the comments, reflections and feedback. We will take them on board in our work. We are happy to engage further with the committee. I will start by saying we have underlined in our work that we need to stick to the Good Friday Agreement parameters and framework. Nobody here wants to rewrite the Good Friday Agreement, and this is our starting point. The rules are reasonably clear already.

When we speak about sharing the island now and in the future, the Irish State and civil society have the capacity to do two things at once. In other words, we must think about how we share this island better in the here and now. Nothing we are saying is contrary to this. In fact, we think this work needs to be stepped up and the work of the shared island unit on this is very welcome and is to be encouraged and supported. We also need to think about how we plan and prepare for how we will share the island in future. This is in the Good Friday Agreement. We are speaking about the implementation of the Good Friday Agreement today. What we are speaking about is a normal everyday part of the constitutional framework in the agreement about how we might share the island in future. We need to address it in this framework and tone and we need to do the preparatory work on this. The worry, and what inspires a lot of our work, is that there is a bit too much complacency. There is a bit too much that sounds like prevarication on not wanting to do the difficult homework. There is a sense of doing it tomorrow or putting it off until next week. Some of the motivation for the timeframe is slight frustration that while many people do not want to face difficult homework nobody is doing anybody any favours, on the committee or elsewhere, by avoiding the hard work on preparing and planning.

There is another point on civic engagement. At the centre of many proposals at present is the idea of an all-island citizens' assembly on Ireland's future. Although a variety of other models have been pointed out, including involving politicians, we are particularly aware that citizens and civic engagement North and South have to be central to shaping this discussion. It cannot be an elite-led discussion in which, in a sense, professors such as me in a university dictate the models for the future. I would much rather that these proposals and options are discussed and debated among people and they emerge from the conversation, shaped by the evidence, expertise and comparative experience.

The Oireachtas, as the Legislature, has a vital role. Nothing is either-or. We can have a citizens' assembly and we can also have Oireachtas committees working away and doing vital work. Too many of these discussions are dominated by governments. We need legislatures to step up here and elsewhere to help in the preparatory task. The work cannot be taken on alone even by a citizens' assembly. It has to be done by others.

Deputy Brendan Smith made a comment on the agreement. What we are speaking about is central to the agreement. This is about the implementation of the agreement. Although we are focusing on the referendums we also need to underline, and I agree, that other parts of the agreement have not been implemented. I have spent many years of my life working on equality and human rights. For example, Northern Ireland, the North, this region needs a bill of rights. This is still not implemented. It is not either-or. We can do more than one thing at once. This is about implementing the agreement in the longer term. Ultimately, for those on the side of constitutional change it is about ensuring the constitutional arrangements that emerge are successful and work and that everybody is better off at the far end of all of this. I thank the committee.

**Mr. Mark Bassett:** I will not add much because Professor Harvey covered many of the points. It is very important that there is engagement from unionism in the debate about what the shared island will look like in future but it cannot prevent the debate from happening. Those in a position to assist, explain and reassure should do so.

We would very much like to provide an inventory of those aspects of Irish law or UK law that could be criticised as not being consistent with the Good Friday Agreement. It is a little bit of work and we will be happy to submit it to the committee later in the year. If the referendums are lost, the status quo will remain. Everyone will have had his or her say and it will have been a fair procedure.

**Chairman:** Mr. Bassett, I am terribly sorry, but our time is up and we must finish. I apologise for having to do this, but we have no choice. Our maximum time of two hours is up. Thank you, Professor Harvey and Mr. Bassett. If you wish to send further comments, we will circulate them afterwards. I thank everybody for attending, but I must conclude the meeting now under the regulations of the Oireachtas.

The joint committee adjourned at 11.30 a.m. *sine die*.