More Trade And More Jobs
How Certain Is A Catholic North?
Different Britain, Different Ireland
What The Nationalists Expect

Could Dublin Afford All Ireland?
SECTION FOUR

Framing The Future

The Best Of Both Worlds

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well. 1994 forthcoming. The first four ideas should be unacceptable to Brit-
on and Irish parliamentarians who rec-
ognize that Northern Ireland needs be-
spoke institutions, whereas for fifth and
most imaginative, still prove more cen-
tro usurial.

In Explaining Northern Ireland we
provide a five-paramouse which is sum-
marrised below (John McCrory and
Brendan O'Leary, Ireland: Real Lives).

as long as a majority of its population so
wishes, and firmly establishes that the
creation of a unified Ireland will occur if
and when a majority in Northern Ireland
so desires.

This principle often questions their
present guarantees while promising national-
stists that they can achieve their long-
term goal constitutionally.

The British government must there-
fore agree that Section 73 of the Govern-
ment of Ireland Act of 1920 should be
modified so that Westminster's sover-
egnty over Northern Ireland is clearly
conditional upon the consent of a major-
ity of the people of Northern Ireland to
remain within the Union.

The Irish government must also agree
to organise a referendum proposing that
Articles 2 and 3 of its Constitution be
amended so that the future creation of a unified Ireland is made conditional upon the consent of a majority of people in Northern Ireland. However, any Irish government which wishes to carry such a referendum, and which wishes to negotiate with northern nationalists that they will be protected as long as they remain in the UK, must ensure that four other changes discussed below will be guaranteed by the British government.

2. Proportionality and Power-Sharing. The two governments must agree that any devolved assembly shall be based upon proportional representation. Proportionality rules must be used to elect the assembly – STV, which is well established in Northern Ireland, is the obvious system to use.

Proportionality rules must also be used by the assembly to establish its committee structures and chairs. The technical Sergeant Major rule, which is fairer for small parties, should be used – in this way both Sinn Fein and the Alliance party will get a stake in the system. The same method should be used to elect the executive.

Proportionality rules will not be enough to ensure the consent of northern nationalists to any new constitutional order because for the present they still mean simple majority rule by Unionists — one of the major political causes of conflict in the Stormont years.

The right to consult in a referendum to be required, though it need not apply to everything. The assembly could be prevented from making legislative decisions that effect the expiry of the life of the assembly – hence the practice in Switzerland, a political system built on one that could also be required to proceed by consensus in specified areas of policy. But that right to consult with the people that the more power that is devolved to Northern Ireland should be guarded, including the management of finances and security. This means that the rights for politicians to participate in and work any new executive.

We would argue that, at the limit, the Northern Ireland Office and the Secretary of State for Northern Ireland should be abolished, and their functions carried out by the new executive and committee chair. The Foreign Secretary, the Home Secretary and the Attorney General could carry out British responsibilities in the intergovernmental responsibilities.

3. Parity of esteem and Treatment. Any settlement consistent with the Joint Declaration for Peace requires the two major national communities to enjoy full parity in the new political system. To this end a Bill of Rights will be necessary which in its function of calling for both rights as well as individual human rights.

This Bill of Rights must be interpreted by the Supreme Court in Northern Ireland, the decisions of which must in turn be adjudicated at the European Court in Strasbourg. As in Canadaittians should receive public support to challenge the consciousness of legislation. The establishment of new governments must elaborate the implications of equality and parity of esteem for the two major traditions. They must entail important symbolic changes; for example, a Northern Ireland Police Service, rather than the Royal Ulster Constabulary; and a Northern Ireland Judicial Commission, rather than Crown Courts.

They may also require changes in the recruitment and composition of the police and senior judiciary – for example staff from the Garda Siochana could be seconded to the police until Catholic recruits are present in sufficient numbers in the reorganised service.

Economically a firm entrenched commitment to fair employment is required, including affirmative action where necessary. All public policy will need to be evaluated by its implications for equality and parity of esteem.

Culturally a continuing commitment to equal provision for all kinds of primary and secondary education including both integrated and denominational schools will be necessary. The cultural insignia of both national traditions must also be equally protected or equally denied.

4. British, Irish and European Dimensions. British and Irish institutional dimensions are necessary – and it will be necessary for any future British-Irish Agreement to be extended to include members of the Northern Irish Assembly as well as representatives from Westminster and Dublin.

The priority here is to establish all-Ireland cross-border co-operation and British-Irish cooperation especially in police functions affected by the European Union. The establishment of such bodies need not mean any erosion of either state's sovereignty.

A rolling series of cross-border agencies should be set up, in some cases modelled on the European experience, e.g. commissions should be appointed by their respective jurisdictions for foodstuffs to carry out techno-scientific tasks. These commissions should be either UK-Republic of Ireland bodies or Irish-English bodies or agencies and will make more sense.

5. Double-helix Co-operation. Finally the two governments must establish mechanisms for protecting a constitutional settlement of the above kind. The best way to take this is to give the intergovernmental conference the role of safeguarding the constitutional settlement. In this way each community will be reassured that it has the protection of its respective nation state.

Each government in the intergovernmental conference should be empowered, after legal remedies have been exhausted, with the right to veto any law or measure of public policy which it deems fundamentally to threaten national, religious or human rights in Northern Ireland.

This mechanism will ensure that northern nationalists can be confident that there will be no return to the Stormont nightmare. It, may be objected that Unionists will see this as an intrusion by the Irish government in the affairs of Northern Ireland, and therefore taints unionist to joint sovereignty.

The answer to this objection is three-fold: first, this protection mechanism does not positively involve either the British or Irish states in directly governing Northern Ireland, but rather provides a check against a possible internal abuse of power; secondly, this protection must apply both to small communities e.g. protecting monastic against a perverse legal verdicts; and finally, to be balanced this mechanism must be institutionalised so that it would survive any change in the sovereignty of Northern Ireland.

In short, the British government must have the same role in protecting the unionist community if and when Northern Ireland became part of a federal Ireland in which the Irish government should have now as long as a Northern Ireland remains part of the United Kingdom.

This double protection should be further extended in the following case. It should be constitutionally established that whatever arrangements are now agreed for the government of Northern Ireland would continue to apply when Northern Ireland voted to join a United Ireland.

The entire constitutional package would be transferable, apart from the fact that the two governmental guarantees of the constitutional arrangements would change classes will one would now be sovereign and the other would be a protector of its national community.

These five ideas are consistent with the Anglo-Irish Agreement and the Joint Declaration for Peace. They offer a constructive way forward. They improve upon the status quo for northern nationalists while reassuring unionists that if and when Northern Ireland becomes a United Ireland they will receive the same protection to which northern nationalists should now be entitled.

They should be considered carefully by the Northern Ireland Office and the British and Irish governments, but they could be taken from our various books including The Politics of Anachronism. The Constitution of Northern Ireland (London: Allen Press, 1993).