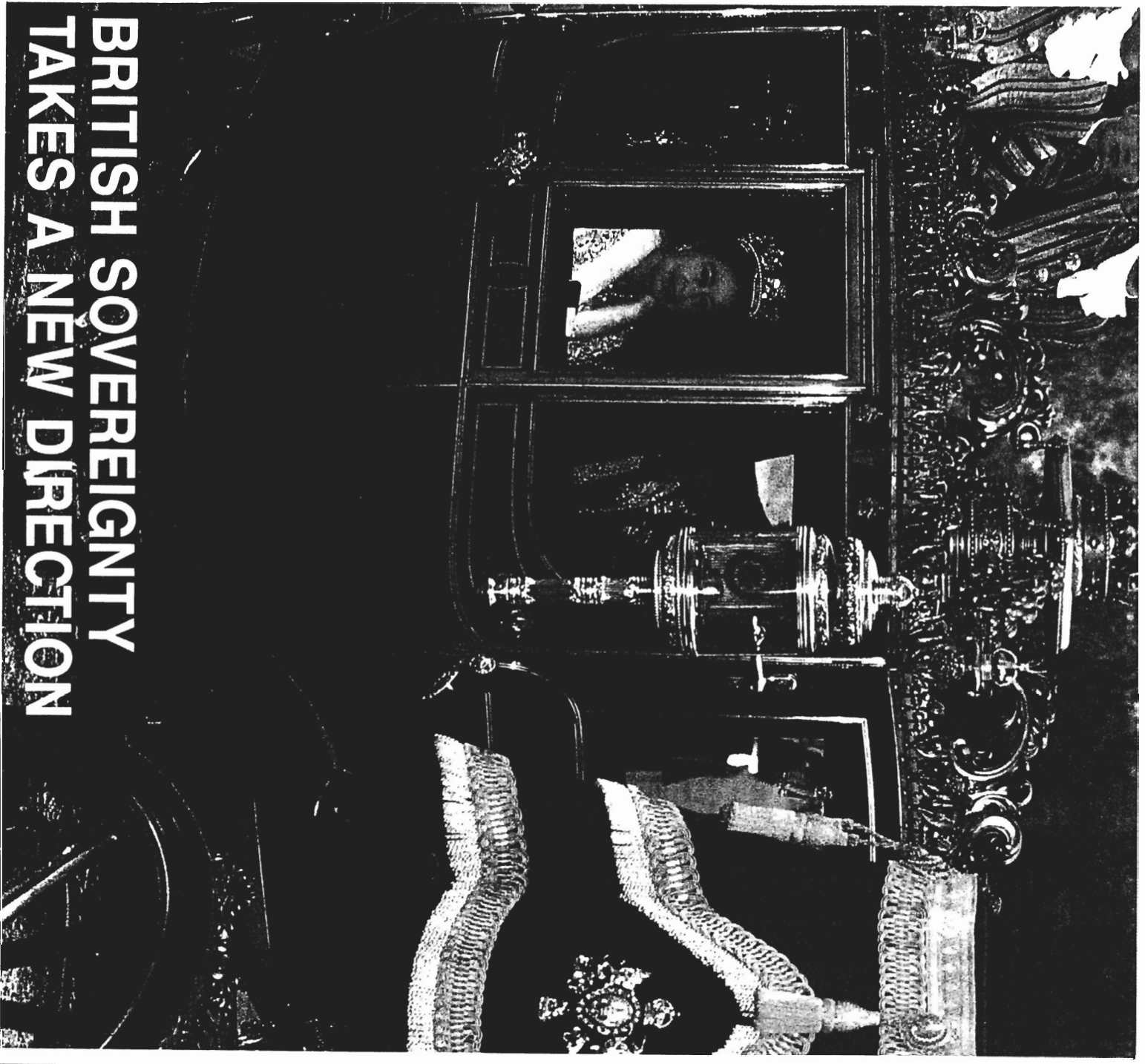


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**BRITISH SOVEREIGNTY
TAKES A NEW DIRECTION**

SOLVING NORTHERN IRELAND?

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The Northern Ireland problem is often seen as insoluble. The first part of this article argues that there are possible solutions which can be explored. The second part, to follow in the next issue of CONTENTEMPORARY RECORD, will examine in more detail the difficulties of applying these solutions.

BRITISH political commentators, politicians and civil servants seem to relish declaring that 'there is no solution to the Northern Ireland problem' or that its deep-rooted conflicts 'can be managed but not solved'.¹ However, such tough-minded and self-congratulatory 'realism' is erroneous because there are many solutions to Northern Ireland's problems. If we are charitable the 'there is no solution' school of thought means to imply that there is at present no feasible macro-constitutional solution which can muster the agreement of the British and Irish governments as well as widespread consensus amongst nationalists and unionists within Northern Ireland. In this respect they seem to be correct. Northern Ireland seems to offer a perfect illustration of John Kenneth Galbraith's thesis that politics 'consists in choosing between the disastrous and the unpalatable'. Any solution to Northern Ireland's macro-constitutional problems must revolve around three questions affecting the status of Northern Ireland, the type of state to which it should belong, and the most appropriate way of organising political power within and across its divided communities.

WHICH STATE?

The first question is: to which state should Northern Ireland belong? There are five

logical ways in which Northern Ireland's statehood could be arranged. First, Northern Ireland could be incorporated into an all-Ireland state as Irish nationalists have traditionally wanted. Second, it could remain within the United Kingdom as Ulster unionists insist it should. Third, it could be made into an independent state as former British Prime Minister James Callaghan and loyalist paramilitaries have suggested. Fourth, it could be subject to the joint authority of the British and Irish states. Finally, it could be destroyed, and its territory and people divided between the British and Irish states in a second, and presumably final, partition of Ireland.

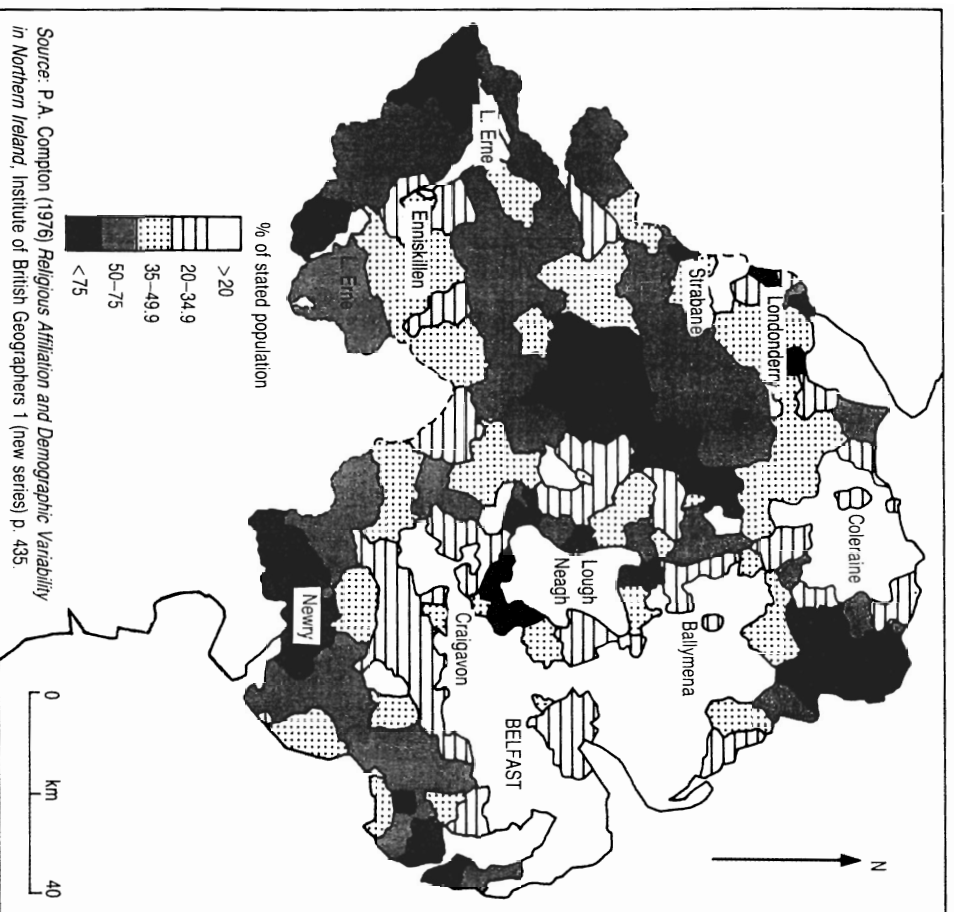
The first option, an all-Ireland state, is opposed by the majority of Northern Ireland's electorate, and vehemently and almost unanimously opposed by Ulster's Protestants who believe that they are British, and as a majority believe that their preferences should be paramount. They believe they would be economically impoverished, politically dominated and religiously oppressed in an all-Ireland state; and regularly demonstrate their willingness to fight to prevent their assimilation into such a state. The major weakness of Irish nationalism has been its signal failure to persuade Ulster Protestants that they are Irish, and that an all-Ireland state is a desirable proposition on economic, cultural or political grounds. The form of persuasion exercised by the Provisional IRA, and other nationalist paramilitary organisations, has been, to put it mildly, counter-productive.

The second option, the continuation of

Northern Ireland as part of the United Kingdom, is strongly opposed by the nationalist minority within Northern Ireland, who make up most of Northern Ireland's Catholics, and is also formally opposed by the majority of the citizens of the Republic of Ireland. They argue that the Irish people as a whole were denied their right to self-determination when the island of Ireland was badly partitioned after the treaty between Britain and Ireland in 1921. They believe that the Irish state is right to claim sovereignty over Northern Ireland in its 1937 constitution. The current Irish Taoiseach, Charles Haughey, argues that Northern Ireland has proved to be 'a failed political entity', one in which systematic sectarian domination and economic discrimination has been endemic since its inception.² So far, Ulster unionists have never been able to persuade more than a minority of the Catholic minority that the British state is one which can treat them as full and equal citizens. The British themselves, whether their governments, political parties, or their peoples have also not regarded Northern Ireland as truly British. Despite Mrs Thatcher's assertion at the time of the Maze hunger strikes that Northern Ireland 'is as British as Finchley', successive British governments, including her own, have not taken measures to integrate Northern Ireland fully into the United Kingdom.

The third option, independence, is opposed by most actors within Northern Ireland. Unionists reject independence because it would mean that they would no longer be British, whereas nationalists reject it both because they would not be part of Ireland and because they would be a minority within a new state. British and Irish policy-makers reject this option as unthinkable, primarily because they do not believe such a state could be stable. Article 1 of the Anglo-Irish Agreement allows a majority in Northern Ireland to determine whether the territory is to belong to the UK or to the Republic of Ireland, but it does not permit such a majority to opt for independence. Others argue that an independent Northern Ireland would not be economically viable because it would be too small — a fallacious argument given the existence of numerous and viable small states, such as Singapore.³

The fourth option, joint sovereignty or joint authority, has been rejected by the current British government: first, because of the Thatcher government's well-known distaste for losing any iota of sovereignty; and second, because it is considered undemocratic since it would have to be imposed against the wishes of a majority of Northern Ireland's citizens. The most the current British government has been prepared to go in considering this option is embodied in the Anglo-Irish Agreement of 1985 (which was imposed against the



Source: P. A. Compton (1976) *Religious Affiliation and Demographic Variability in Northern Ireland*, Institute of British Geographers 1 (new series) p. 435.

Northern Ireland: Percentage distribution of Roman Catholics in 1971.

wishes of a majority of the province's electorate).⁴ As a result of the Agreement the British government undertook to consult the Irish government on all matters of public policy affecting Northern Ireland, through the forum of a regular Intergovernmental Conference, and to make 'determined efforts ... to resolve any differences' between the two governments (Article 2). Every reader of *CONTEMPORARY RECORD* is presumably familiar with the outraged reaction of Ulster unionists to this very limited British move in the direction of tacit joint authority, and with the subsequent difficulties both governments have had in managing the Agreement.⁵

The fifth solution to Northern Ireland's statehood is to partition its territory and population between the British and Irish states, creating a smaller and more homogeneously unionist and protestant British Ireland, and a larger Republic of Ireland which would incorporate the majority of Northern Ireland's nationalists and Catholics.⁶ This option is not publicly favoured by any British, Irish or Northern Irish political party. Organising a just and stable partition would also be very problematic given the distribution of the

relevant populations, and the numerous lives lost in previous British-administered partitions in Ireland, India and Palestine can hardly inspire confidence in the merits of any proposal to rectify the botched partition of 1920–25.⁷

Each of the logical ways in which Northern Ireland's statehood could be resolved entails obvious and profound costs, and much less obvious and more intangible benefits. Note that the status quo also has considerable and predictable costs. However, the question 'To which state should Northern Ireland belong?' is merely the first of a set of further complex questions. Moreover, the same style of problematic answers are reached when we examine the second question: of what type of state should Northern Ireland be an integral component?

WHICH TYPE OF STATE?

There are three established constitutional modes of organising sovereignty in liberal democratic states: in unitary, federal, or confederal forms. In their turn unitary

states, federations and confederations can be more or less centralised or decentralised, depending upon the structures of government, intergovernmental relations and the allocation of powers and functions. An Irish unitary state, advocated by Fianna Fáil in the Irish Republic, is not appealing to Ulster unionists, even if it were to be accompanied by extensive devolution of authority to the existing region of Northern Ireland. They find it unacceptable since it would inevitably vest sovereign power in the hands of the nationalist/Catholic majority in the island of Ireland. The fact that since 1982 it has been the objective of Sinn Féin and the IRA to obtain a unitary Irish state does nothing to enhance this option's attractiveness to Ulster Protestants.

An Irish federation or confederation would either have to be a two-unit federation or confederation, or it would have to be built upon three or more freshly created political provinces throughout the island of Ireland. The problem with a two-unit entity is that the historical track-record of such political institutions in bi-communal societies is disastrous. They have proven consistently unstable elsewhere in the world.⁸ The problem with any more than two-unit entity is that it would require very severe disruption of the existing institutional fabric of the Republic of Ireland, a price which neither its political elite nor its people seem prepared to pay. Thus even if unionists were prepared to contemplate such a schema it would probably not be viable.

The United Kingdom is presently a unitary state. Northern Ireland used to have a decentralised government within the UK's decentralised unitary state: the notorious Stormont parliament which presided over institutionalised discrimination against Catholics and nationalists. However, since 1972 Northern Ireland has been centrally governed, under direct rule from Westminster, and the Northern Ireland Office, tempered after November 1985 by the Anglo-Irish Agreement and the workings of the Intergovernmental Conference. The centralisation of government within the British unitary state, direct rule, has not proved more legitimate, nor has it produced successful conflict-regulation. Moreover, all British attempts to establish an agreed form of devolved government within Northern Ireland have failed. The Executive established after the Sunningdale conference in 1973 was brought down within a year. The Constitutional Convention of 1975–6 was wound up without agreement. Negotiations with Northern Ireland's constitutional parties by Secretary of State Humphrey Atkins in 1979–80 proved fruitless. Rolling devolution, the schema devised by Secretary of State James Prior in 1982, foundered on nationalist abstention and the

refusal of unionists to advance devolutionary proposals which might win nationalist consent.⁹ Historically informed pessimists therefore have good reasons to suppose that the current round of talks about talks⁹ about devolution, orchestrated by the new Secretary of State Peter Brooke, are likely to go the way of their precursors. If, and when, all the invited parties agree to share the same conference venue they are unlikely to be speaking the same language.

The United Kingdom has never formally been a federation or a confederation. However, even if it were to become more like a federation or a confederation, let us say after the establishment of Scottish and Welsh devolution as well as powerful English regions by a radical reforming Labour government, it is not clear what significance this constitutional transformation of the UK state would have for solving the problems of Northern Ireland. Ulster unionists would presumably seek a UK federation which gave them autonomy within Northern Ireland and a bulwark against Irish nationalism; whereas Northern Irish nationalists would see a UK federation or confederation as failing to meet their aspiration for an Irish dimension, and would fear that it might become a vehicle for the re-establishment of something resembling the Stormont regime.

What about a federation or confederation of the British Isles: as some utopians are wont to suggest? Would not such an institutional transformation satisfy the dual national aspirations of the peoples in Northern Ireland? Perhaps, but the British and Irish states are unlikely to surrender sovereignty over all their territories to solve the Northern Irish question if they currently find it so difficult to manage their conflicting sovereignty claims over the province. Moreover, Irish nationalists, both North and South, would see any proposal for a federated or confederated British Isles as a Trojan horse for the re-incorporation of Ireland under British control, and for that reason alone such an idea would be rejected out of hand.

What of the idea that Northern Ireland's problems will be transcended within the framework of an emergent European federation or confederation? It is true that joint membership of the European Community has profoundly aided the development of good relations between the London and Dublin governments but it is not obvious what impact spillovers from increasing European union will have on intra-communal relations within Northern Ireland. Key issues surrounding dual national identity, the administration of justice, military policing, paramilitary violence, discrimination and the distribution of local political power are not likely to be resolved as by-products of the repercussions of 1992. The removal of tariff barriers and increased economic



Peter Brooke, Secretary of State for Northern Ireland.

cross-border cooperation between the Republic of Ireland and Northern Ireland, if it materialises, will not resolve a conflict centred on nationality and ethnicity. Moreover, the border across Ireland is likely to remain one of the most heavily policed in the European Community whatever the fate of the 1992 project. European cooperation is something desirable in its own right, not something to be favoured because it will be a panacea for Northern Ireland.

Unitary, federal or confederal formulae for a Northern Ireland which stays in the UK, or becomes part of an all-Ireland state, do not appear to advance the search for a solution, at least upon cursory inspection. The same argument holds true for an independent Northern Ireland or for a Northern Ireland governed under joint authority. In part the reason why these formulae are unhelpful is that they are imprecise about the nature of their implications for political decision-making.

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- (1) Such opinions are especially common in non-attributable interviews with British policy-advisers.
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- (3) A spirited case for an independent Northern Ireland is made by James Crippins and Margaret Moore, 'Chapter 10. The Case for Negotiated Independence', in McGarry, J. and O'Leary, B. (eds) *The Future of Northern Ireland*.
- (4) Discussions of why the Agreement was signed can be found in T. Hadden and K. Boyle, *The Anglo-Irish Agreement, Commentary, Text and Official Review*, Sweet and Maxwell, 1989 and B. O'Leary, 'The Anglo-Irish Agreement: Statecraft or Folly?' *West European Politics*, 1987, 10, 1: 5-32. Analysis of its progress can be found in B. O'Leary, 'The Limits to Coercive Consociationalism in Northern Ireland', *Political Studies*, 1989, xxxvii, 4: 562-88 and 'Chapter 12. Northern Ireland and the Anglo-Irish Agreement' in Dunleavy, P. et al (eds) *Developments in British Politics* 3, Macmillan, 1990.
- (5) See B. O'Leary, 'Northern Ireland and the Anglo-Irish Agreement' in Patrick Dunleavy et al *Developments in British Politics* 3. Eloquent arguments in favour of joint authority have been advanced by A. Kenny, in *The Road to Hillsborough*, 1986; Pergamon and in 'Chapter 9. Joint Authority' in McGarry, J. and O'Leary, B. (eds) *The Future of Northern Ireland*.
- (6) The most cogent case for repatriation as a solution to the Northern Ireland question can be found in L. Kennedy, *Two Ulsters, A Case for Repatriation*, 1986, Belfast. An abbreviated version of his argument can be found as 'Chapter 5. Repatriation', in McGarry, J. and O'Leary, B. (eds) *The Future of Northern Ireland*.
- (7) See T.G. Fraser, *Partition in Ireland, India and Palestine*, 1984, Macmillan.
- (8) See M.J.C. Vile, 'Federation and Confederation: The Experience of the United States and the British Commonwealth', in D. Rea (ed.) *Political Co-operation in Divided Societies: A Series of Papers Relevant to the Northern Ireland Conflict*, 1982, Gill and Macmillan, Dublin. It will be interesting to see if democratic Czechoslovakia proves an exception to this generalisation.
- (9) See the discussion in C. O'Leary, S. Elliott and R.A. Wilford, *The Northern Ireland Assembly*, 1982-6, 1988, Hurst.

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