

**Dermot Nally  
Papers**

**UCDA P254/99**

# ROINN AN TAOISIGH

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## CONFIDENTIAL

To: Dr. Martin Mansergh

From: Frank Murray

Re: **A Balanced Constitutional Accommodation: The Options**

I have read your excellent consultation paper (dated 12 November, 1997).

While mindful of all of the difficulties involved in conducting a referendum on the subject of articles 2 and 3, (particularly in the light of the McKenna Judgement), as well the need to keep the formulation to be put to the people as brief and as self explanatory as possible, nonetheless I would favour an outcome on the lines of option E - a possible new formula. I am attracted to this approach on the basis that it borrows heavily from the 1994 formula and adds the Downing Street Declaration self determination clause.

With a view to addressing Unionist sensitivities and, most likely, further objections, I would ask whether a new sub-article might be considered which would recognise, up front, the right of Unionists to retain their British Citizenship. What I am suggesting, in effect, is a parity of esteem type clause. I realise that this would of course require the agreement of the British Government, in advance of such a formulation being put to the Oireachtas or the people.

The basis of this idea comes from the 1984 New Ireland Forum Report. That Report, in advocating the establishment of a unitary State, achieved by agreement and consent, spelled out the structure envisaged as

*"amorcacing the whole island of Ireland and providing irrevocable guarantees for the protection and preservation of both the Unionist and Nationalist identities" (paragraph 5.7).*

The Report said that in a unitary state, persons in Ireland, North and South, who at present hold British citizenship would continue to have such citizenship and could pass it on to their children without prejudice to the status of Irish Citizenship which they would automatically acquire. The development of structures, relationships and associations with Britain which would provide "expression of the long established connection which Unionists have with Britain" was also suggested.

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As you are aware apart from the unitary state model the 1984 New Ireland Forum considered two other models of government - the Federal/Confederal State and Joint Authority. It is interesting to note that, in sum, these models provided for the concept of parallel British citizenship, the maintenance of special links with Britain and indeed joint citizenship rights to be conferred automatically on all persons living in Northern Ireland.

I put forward this suggestion in the spirit of the Downing Street Declaration which states *"that the time has come to consider together how best the hopes and identities of all can be expressed in more balanced ways"* and in the interest of developing a constitutional framework which would give *"institutional recognition of the special links that exist between the peoples of Britain and Ireland"* (paragraph 9 of Downing Street Declaration).

The precise wording of a possible constitutional sub clause and where it might be placed would require further consideration in consultation with the A.G.'s Office. If a change to Article 9 is to be pursued, as indicated on page 16 of your paper, perhaps an addition might be made to the suggested statement *"any person born in Ireland shall be a citizen of Ireland"*. This would be for the purpose of giving effect to the concept of joint citizenship rights being conferred automatically on all persons living in Northern Ireland (which would pass on to their children).



20 November, 1997.

c.c. Mr P. Teanon