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**Speech by the Taoiseach, Mr. Charles J. Haughey, T.D., on a
Bill to amend Articles 2 and 3 of the Constitution.**

Dail Éireann, 5th December 1990.

I believe that Dáil Éireann should reject the proposal made in this Bill for a number of reasons.

One good reason is that it is unnecessary. Ireland's commitment to the peaceful solution of problems is already contained in the Constitution and in many Treaties and international Agreements to which we are a party.

Another reason is perhaps a narrow technical one but valid nevertheless. It would surely be absurd for us to set down in our Constitution conditions which people outside our jurisdiction must observe in determining their future. Yet that is actually what this Bill proposes.

Another, in my view totally persuasive, reason for rejecting the proposed Bill is its disastrous timing. The attempt to put the Bill forward at this time, when sensitive and important negotiations are going on in relation to the three sets of relationships in this island and between Ireland and Britain, must be seen as irresponsible. By the signals it would give to the Nationalist community in Northern Ireland, it could well destroy for some time to come the chances of peaceful progress. It would certainly strengthen the hand of the men of violence who would undoubtedly claim that we had deserted the Nationalist community and that they were now their only protectors.

Before I go on to develop these arguments more fully, I would like to take the opportunity to reiterate most strongly this Government's total rejection of violence as a means of attaining our legitimate and democratic claim to unity. Violence does not

advance that cause: by dividing communities, it pushes ever further away the time when men and women of Ireland, whatever their political or religious beliefs or affiliations, can live together in peace, with respect and tolerance of each other's views and ideas. Progress can be made only through discussion and negotiation among the constitutionally elected representatives of the people of this island.

The Bill is unnecessary because there is already in the Constitution a provision which serves the same purpose as it is apparently intended to advance. Article 29 of the Constitution states:

"Ireland affirms its devotion to the ideal of peace and friendly co-operation amongst nations founded on international justice and morality.

Ireland affirms its adherence to the principle of the pacific settlement of international disputes by international arbitration or judicial determination."

The effect of these paragraphs is to make any reference to consent in Articles 2 and 3 of the Constitution unnecessary. Under them, the only way in which a dispute could be settled, under the Constitution, is peacefully.

There is, of course, the argument sometimes made that our Constitution can be invoked to justify the use of force in pursuit of the purposes of Articles 2 and 3. I utterly and totally reject the view that our legitimate democratic claim to unity can be construed by any reasonable person as a justification for using violence. There is absolutely nothing in the Constitution which can in any way justify the continuation of the campaign of violence being conducted by the IRA. In fact, those who follow the path of violence are making a travesty of the heritage of this country and our conduct since we gained independence, as well as denying totally the fundamental

democratic principles enshrined in our Constitution.

Our allegiance to those same principles, to the ideal of progress by consent, with the will of the people, has been a principle by which the action of successive Irish Governments has been governed. It has determined our attitude to the membership of international organisations. We are, for example, members of the United Nations for almost two generations now. One of the provisions of the Charter of that organisation is that members are required

"to practice tolerance and live together in peace with one another as good neighbours, and
to unite our strength to maintain international peace and security, and
to ensure....that armed force should not be used, save in the common interest".

As members of the United Nations, we have held steadfastly to these principles, not only in this country but in the many corners of the world where Irish soldiers have served as part of peacekeeping missions in furtherance of the cause of democracy and peace.

Exactly the same philosophy inspired this country to subscribe to the provisions of the Helsinki Final Act in 1975, in respect of the territorial integrity of each of the participating States. One of the provisions of that Act is:

"The participating States regard as inviolable all one another's frontiers as well as the frontiers of all States in Europe and therefore they will refrain now and in the future from assaulting these frontiers."

Again, in that Act, Ireland records its formal adherence to the principle of the peaceful settlement of international disputes.

In 1985, the Anglo-Irish Agreement was signed. That Agreement says that the British and Irish Government - and I quote - "affirm that any change in the status of Northern Ireland would only come about with the consent of a majority of the people of Northern Ireland."

This is a formal declaration by the two sovereign States which has been registered with the United Nations in confirmation of the solemn and binding nature of the undertakings it contains. The Agreement recognises the need for continuing efforts to reconcile and acknowledge the rights of the two major traditions in this island, represented on the one hand by those who wish for no change in the present status of Northern Ireland and on the other hand by those who aspire to a sovereign united Ireland achieved by peaceful means and through agreement.

The Agreement was the subject of a Supreme Court judgement in March last. I would remind Deputies of some of the Court's conclusions:

- It found that Article 2 of the Constitution consists of a declaration of the extent of the national territory as a claim of legal right.
- Article 3 prohibits, pending the reintegration of the national territory, the enactment of laws applicable in Northern Ireland.
- The Anglo-Irish Agreement is not inconsistent and is compatible with the Constitution and in particular with Articles 2, 3 and 29.
- The Agreement was not concluded in disregard of the interests of the Unionist community in Northern Ireland.

There is nothing in these findings which in my view takes from the adherence of the State to the principle of consent, and the peaceful settlement of disputes enshrined in our Constitution and in international Agreement after international Agreement.

I am quite clear that the constitutional requirement to seek the unity of Ireland by peaceful means is neither aggressive nor offensive, no more indeed than the Unionist desire to maintain the union is on their part. As I have said on other occasions I have a simple belief that unity on this island is preferable to disunity.

The Supreme Court affirmed the view that within the meaning of the Constitution the Government have complete freedom to pursue and develop peaceful and friendly co-operation. I should point out that the Articles in question in our Constitution are very similar in their intent to the former Article 1 of the German Basic Law, which in its preamble laid down the following constitutional imperative: 'the entire German people are called upon to achieve in free self-determination the unity and freedom of Germany'. This provision never constituted a physical threat to the former East Germany or served as a basis for the use of force. This has led in the fullness of time to the peaceful unification of Germany, East and West, with the consent of the people in both parts of Germany and of all the other parties involved in a general atmosphere of goodwill.

But if the present wording of our Constitution, the Charter of the United Nations, the Helsinki Final Act and the Anglo-Irish Agreement were not enough to record Ireland's acknowledgement of the need for progress by peaceful means, I would draw Deputies attention to the fact that as recently as last month I, personally, in Paris, affirmed Ireland's continuing adherence to these same principles and, in particular, signed the Paris Charter for a New Europe which we discussed in this House recently. Deputies will recall that that Charter provides that:

"In accordance with our obligations under the Charter of the United Nations and commitments under the Helsinki Final Act, we renew our pledge to refrain from the threat or the use of force against the territorial integrity or political independence of any State, or from acting in any other

manner inconsistent with the principles or purposes of those documents. We recall that non-compliance with obligations under the Charter of the United Nations constitutes a violation of international law.

We reaffirm our commitment to settle disputes by peaceful means."

Deputies will recall also that the Charter reaffirmed the Ten Principles of the Helsinki Final Act, including the provision that allows the possibility of changing frontiers, in accordance with international law, by peaceful means and by agreement. Indeed the signatories to the Charter welcomed the fact that 'the German people have united to become one State in accordance with the principles of the Final Act of the Conference on Security and Co-operation in Europe and in full accord with their neighbours'.

We have solemnly undertaken, as in these provisions, not to breach frontiers and not to use force but peaceful means only for the settlement of disputes. This is, I believe, a matter of both morality and pragmatism - as shown time and time again in country after country in Eastern Europe - that radical change can only come about and fundamental institutions of Government can be sustained only by the consent of the governed. Governments everywhere only last by the will of the people.

Against this background of national and international obligations entered into and most solemnly registered, and a simple and a pragmatic reading of the facts of public life, can anyone genuinely sustain the argument that there is a need now for a referendum in our country on Articles 2 and 3 of the Constitution?

Such a referendum would be politically divisive and totally unproductive.

It would open arguments which on all our past experience here

with referenda could develop in ways which nobody in this House or anywhere else can predict on questions of the utmost importance and sensitivity. It would lead to bitterness and dissension at a time when more than ever we need moderation and consensus.

These are not just my views or the Government's views. A regular commentator on Northern Ireland matters, Mary Holland, writing in the Irish Times on 21 March, 1990 in the aftermath of the Supreme Court judgement warned of the dangers of a divisive referendum on Articles 2 and 3 and made the point that the broader nationalist community in the North 'derives considerable comfort from the knowledge that the Irish Government regards them as its citizens and has a constitutional responsibility to look after their interest.' Even many of the most prominent of those who have argued the case for amplifying Articles 2 and 3 accept the idea that a referendum at the present time could be divisive and counter-productive. The SDLP have made it clear that they do not believe the Articles should be amended at present. Former party chairman, Mr. Sean Farren stated in the Irish News on 11 December, 1989 that the time for amendments would be 'in the context of a more comprehensive political settlement between both parts of Ireland'. This point of view was also clearly expressed at the recent SDLP Party Conference. The Labour Party in the Senate debate in March of this year also took a negative attitude to a motion to delete Articles 2 and 3, for similar reasons.

In many ways this motion is very badly timed, just as discussions on the current initiative of the Secretary of State have been making encouraging progress. A motion like this is almost a calculated attempt to damage that progress, by seeking to preempt something that may be raised during the negotiations themselves. The timing of the motion is politically inopportune. Those who support it are displaying a lack of political judgement, and have not properly thought out the implications of what they are doing. I believe they should not pursue the matter to a division in this House in the interests of political progress in Northern Ireland.

The Irish Government are at present engaged in a series of discussions or negotiations with the British Government on an agreement or arrangement which has the prospect of transcending the Anglo-Irish Agreement in a way that can take account of the views of both Nationalist and Unionist in Northern Ireland. Does anybody seriously argue that in the middle of just such a negotiation this country should be plunged into a referendum on what could be a major issue in the talks? Such a proposal would inevitably lead to confusion.

More than that, it would at a time when the people of Northern Ireland are most in need of our understanding and support send them completely the wrong message. That is precisely what we could be doing - whatever about the intention or the actual wording of the Bill itself. As in so much that concerns Northern Ireland, it is not the phraseology that matters but the signals that can be read into the words. And the signal of this Bill at the present time would be totally wrong.

We are repeatedly told that the sensitivities of Northern Ireland should be borne in mind when we are conducting a debate about Articles 2 and 3. This Government have consistently demonstrated their acknowledgement of and respect for Unionist sensitivities. Our readiness for open-ended dialogue with the Unionist leadership has been signalled time and time again. In the current efforts to get talks under way which would embrace all the constitutional parties in Northern Ireland as well as the two Governments, we have consistently shown our flexibility in responding to various Unionist preconditions.

But it is important to remind this House that we have obligations also towards the Nationalist community in Northern Ireland - obligations which are not and cannot be secondary to those we owe to others. For over fifty years, Articles 2 and 3 have been of enormous importance for Northern Nationalists; our Constitution has reassured them that they have a place in the minds and hearts

of those of us who live in the South, that their aspirations are shared, that their claim to be members of the Irish family is not a hopeless dream.

Northern Nationalists have undergone a great deal over the past seventy years - their experience as second class citizens over so many of those years is perhaps sometimes difficult for many in this part of the country to fully comprehend. Over the past twenty years, constitutional nationalism has valiantly struggled to assert the legitimacy of the Nationalist vision while unambiguously condemning those who would contaminate that vision by the use of violence.

What signal are we to send to those who struggle so nobly to uphold the values of constitutional Nationalism? Are we to say that, after all, expressions of Nationalism have come to embarrass us in the South, that we no longer feel comfortable with a Constitution which gives full expression to the Nationalist ideal. I would submit that the day we make such an admission will be one not just of disappointment and disillusionment for Northern Nationalists but also, as I have said earlier, a day of comfort for the men of violence - they will assert that constitutional nationalism has been fatally weakened and that the claim to nationhood has become the exclusive property of the men of violence. It behoves all of us to think long and carefully before we would take any step which might be interpreted as sending such a signal.

I have always stated that new arrangements or structures which might be agreed for Ireland as a whole would clearly require an entirely new Constitution. We should not seek to solve the problem by making isolated moves or gestures, the final result of which, experience teaches, results in disappointment and setbacks. Unilateral changes will not result in peace, and indeed might have very detrimental consequences.

What I have in mind is not so far from what most other parties in

this House have contemplated. Not so many years ago, all the parties in this House sat together in the New Ireland Forum and produced a set of proposals or recommendations, to which all parties subscribed. I would like to remind Deputies of certain passages in that Report. I refer them, in particular, to paragraph 5.7 which was endorsed by all participating in it.

This states:

"The particular structure of political unity which the forum would wish to see established is a unitary state, achieved by agreement and consent, embracing the whole island of Ireland and providing irrevocable guarantees for the protection and preservation of both the Nationalist and Unionist identities."

The Forum Report sets out, at Chapter 5, the requirements which would have to be met to achieve the form of unity wished for by the parties to the Forum. Briefly, these requirements would include:

- a total cessation of violence which can have no place in the building of the Ireland of the future that we all desire;
- constructive dialogue with Unionists in Northern Ireland;
- accommodation of the two traditions, their aspiration and their loyalties;
- an all-round constitutional conference to formulate new structures.

I do not think, at this particular stage, we, in this House, should now seek to go outside the consensus developed among our parties on these issues by pursuing the road mapped out in this Bill of trying to solve one problem of the many that exist and trying to deal with the case of one community to the disadvantage of the other community.

All the Government's policies and actions are in accordance with the requirements of the Forum Report and I have made it clear that I would be willing to meet Unionists at any time to discuss

their concerns. Such a meeting should take place without preconditions and without prejudice to the Unionist position on the Agreement.

In short, the proposals in this Bill are superfluous and unnecessary, if not constitutionally offensive and could upset the broad consensus here on Northern Ireland that has existed since the New Ireland Forum; and they could send signals of despair to many constitutional nationalists whose hopes and aspirations some here are inclined to overlook on occasions like this.

For these and many other reasons, I would most strongly urge the House to reject the Bill.