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ADDRESS BY DR CONOR CRUISE O BRIEN AT A MEETING
ON A NEW CONSTITUTION ON THURSDAY 26 JANUARY.

Speaking at a discussion on 'A new Constitution', organised by the Dublin North Central Constituency Council of the Labour Party at the Gresham Hotel on Thursday 26 January Dr Conor Cruise O'Brien, TD, Minister for Posts and Telegraphs said that obviously the most desirable way of bringing about a new Constitution was by consensus between the parties. Exhaustive discussions had been held over several years on this question but it had not been possible to find consensus on the basics of a new Constitution and he thought it had now to be accepted that such consensus was not obtainable, and that if a draft of a new Constitution was to be put to the people a party controversy over it would be inevitable. This was not necessarily a bad thing, but it was something that could not be rushed into. The ground would have to be prepared with care and there was need for adequate public discussion, in a calm or relatively calm atmosphere before the issue was brought to the test, of a contested referendum.

"The All Party Committee on Irish Relations set up to discuss this and other related matters" said Dr Conor Cruise O'Brien "has not met since June 1975. After such a lapse of time, I think it has to be recognised that the All Party Committee is deadlocked despite the best efforts of its individual members and particularly of its Chairman Deputy Paddy Harte who is of all members of the Oireachtas perhaps the most dedicated to reconciliation with and in Northern Ireland. I think that the best use that can now be made of its endeavours is to examine the reasons why it came to deadlock, and to draw conclusions from these. I do not propose to follow here the course of the deliberations of the Committee; it would neither be proper nor practicable to do so.

But the broad facts of the deadlock which brought these deliberations to a standstill are already widely known, having been reported to the three political parties involved, and I think it is in the public interest that the implications of these facts should be publicly discussed.

The crux of the discussions, in relation to the Constitution, concerned Articles 2 and 3 and the apparent claim which these articles imply to a suspended right of jurisdiction over Northern Ireland. The committee heard a number of witnesses on this matter. All these who had any claim to represent any significant section of Protestants and Unionists in Northern Ireland including representatives of the Protestant churches unanimously stressed that Articles 2 and 3 were interpreted by Ulster Protestants generally as a claim to jurisdiction over them and were therefore strongly resented. It was considered offensive and arrogant that the people of the 26 counties should have enacted a Constitution which purported to be of right the Constitution of Ireland," (defined in the Constitution as the whole island) even though a third of the population of the island had not been consulted about that Constitution at all. These representatives strongly urged that Articles 2 and 3, and the spirit they represented, were a serious barrier to reconciliation between the two communities and traditions in Ireland. Some of them went further and suggested that our Constitution in its present form, and its maintenance in that form, despite our knowledge that it was offensive to the vast majority of Ulster Protestants, caused our claim that we were seeking reconciliation with the same Ulster Protestants to be regarded as hypocritical.

The representatives /...

The representatives in question were strong and unanimous in their insistence on these points. It should be remembered that the Ulster Protestants and Unionist representatives who agreed to appear before this committee were, almost by definition, moderate people. People with extreme views in that community were invited to appear before the committee but refused, or did not reply. The people who were talking to us, therefore, were moderates who were seeking, at some personal risk and sacrifice, for reconciliation between the two communities in Northern Ireland, and between Northern Ireland and the Republic, and it was their unanimous contention that our present Constitution and in particular Articles 2 and 3 - though also other aspects of the Constitution including the constitutional prohibition of any divorce legislation - were constantly thrown in their teeth by the extremists of their community and were seriously damaging to them in their efforts to make moderate counsels prevail in that community. It will be remembered that Articles 2 and 3 were used in this way, and with all too great success by Loyalists who sought to undermine the Sunningdale Agreement in 1973-'74.

To many of us in that committee, these agreements appeared extremely cogent. Since the avowed object of the committee was to seek reconciliation, we did not see how we could dismiss or ignore the views of those with whom we were supposed to be seeking reconciliation, especially of those among them who were seeking reconciliation with us. We felt therefore that a new Constitution should be put before the people omitting the present Articles 2 and 3 and frankly declaring itself to be what it was - and what the present Constitution is in practice, though not in proclamation - a Constitution for our actual present State consisting of 26 counties.

This would not preclude the expression of an aspiration to see the people of Ireland united by free consent, nor would it preclude the enactment of a new Constitution for the whole people and territory of Ireland, in the event of that consent and agreement coming into being.

There was however another view in the committee and unfortunately the division ran along party lines. The Labour members were Deputy Barry Desmond - who played an outstanding part in the work of the committee - and myself. The Fine Gael members were Deputies Garret Fitzgerald, Declan Costello and Paddy Harte. There were differences of emphasis between us but we all favoured taking into account the views of the Ulster Protestant representatives and the introduction of a new Constitution without the present Articles 2 and 3 - which were the touchstone of the whole dispute.

The Fianna Fail representatives on the other hand, while declaring their willingness to go to very great lengths of concession whenever Ulster Unionists were prepared to sit round a table with the rest of us to discuss all-Ireland political arrangements, were opposed to any basic change in the absence of such a meeting. That is the position of that Party, according to public declarations of its spokesmen, and it is that position that is the main block in the way of a new Constitution.

As Ulster Unionists - almost by definition - are unwilling to sit round such a table, this meant that the Fianna Fáil attitude effectively ruled out any significant initiative for reconciliation on our side. As one Ulster witness said to the committee: "unless you are prepared to change Article 2 and 3 of your Constitution without conditions you needn't bother talking about reconciliation. You might as well save your breath".

Fianna Fáil now talk ad nauseam every weekend about fresh initiatives but they are themselves the barrier to the most effective fresh initiative within the power of the people of this State: the enactment of a new Constitution.

There is much in our present Constitution that is of value; there is also much that is outmoded, much that was shaped by the political context of forty years ago, both in the Irish Free State of the time and in Europe. There is a strong case for a new Constitution - simpler, less grandiloquent, and less ecclesiastical in tone and language. Curiously enough, the Irish Theological Association has produced a draft, which goes far to meet these specifications, including that of de-ecclesiastification. The first Constitution of the State also had these qualities. The case for a new Constitution is a wide-ranging one, a number of its aspects have been covered by the other speakers. If I have concentrated on Articles 2 and 3 it is for three reasons:

First, because these Articles deal with the fundamental question of what population and what territory the Constitution is supposed to cover.

Second, because the ambiguous way in which they cover this question is clearly a barrier to reconciliation in this island, and

Third because the unwillingness of one political party to change these Articles has been the main barrier to the framing and adoption of a new Constitution.

Clearly, no initiative in this matter will be taken during the lifetime of the present Dail. But I very much hope that the necessary initiative will be taken by the next Dáil. I assume of course, and it is a reasonable assumption, that in that Dáil the Government will again be a Fine Gael - Labour coalition. I hope, and - along with a good many others - I shall urge, that the new Government will have a draft of a new Constitution prepared: that it will publish that draft and have it discussed by a wide public, and that it will then proceed to the necessary legislation and Referendum. I believe that the people of this State will adopt a new Constitution once they are shown that such a Constitution can serve the cause of peace and reconciliation in this island.