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Ireland and the Nice Treaty

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Peter Doyle

Ireland and the Nice Treaty

The experience in Ireland of conducting two referenda on the Nice Treaty

Just for the record, let me remind you that the first referendum was held in June 2001, when the result was just under 54 % against and just over 46 % per cent in favour. The turnout was just under 35 %, the second lowest in the history of referenda in Ireland and by far the lowest in referenda related to Europe.

In the second referendum, held on October 19 last, there was a dramatic turn-around; 63 % said “yes”, 37 % “no” and 51 % of the electorate failed to vote.

Those among you who possess agile mathematical minds will be able to work out pretty quickly that the “no” vote changed little between the two referenda; from just over 20 % of the vote the first time to around 18 % last month. The key to the positive result the second time around, therefore, was the higher turnout, even though half of the electorate stayed away from the polls. Put another way, many voters who are inclined to be well-disposed towards the EU and who abstained last year actually turned out this time.

You might well wonder why a country which has enjoyed such largesse from the EU’s coffers should appear to be so reluctant to vote in favour of further integration and enable our less-fortunate neighbours in central and eastern Europe to share in the same good fortune. Had the EU not, after all, been a major factor in the creation of the phenomenon which has come to be known as the Celtic Tiger economy.

In parenthesis, a few statistics may help to illustrate Ireland's economic progress during its 30 years of EU membership. When it joined the then EEC in 1973 its per capita GDP was around 60 per cent of the European average; now it is around 120 per cent, second only to Luxembourg. Exports have increased by a factor of 1,000 per cent over the same period. Ireland has received approximately € 1.5 billion a year since 1973 in payments from the EU budget. Largely thanks to EU membership, it has attracted 20 per cent of all U.S. foreign direct investment into Europe over the last decade and is now reportedly the largest software exporter in the world. More than 700,000 new jobs have been created, many of them in the competitive high-tech area, thereby increasing the numbers in employment by around 40 per cent. Today, the unemployment rate is one of the lowest in the EU at just over 4 per cent.

Clearly, the Government and the two main opposition parties, all of them unreservedly pro-EU and pro-Enlargement, thought that the healthy state of the economy and the seemingly innocuous content of the Nice Treaty would not pose problems for ratification. In the run-up to the first referendum, they behaved accordingly. With the exception of the Prime Minister and Foreign Minister on the Government side, and one or two prominent Opposition members like former Prime Minister John Bruton, most major political figures on the "yes" side were noticeably absent from the debate.

Nor were the main political parties prepared to devote substantial funds to a campaign, in the knowledge that they would have to fight a general election campaign in the first half of 2002. So, funds were low and no relief was forthcoming from business interests which had done so well out of EU membership and the economic boom it helped foster.

I should also point out here that the Government is precluded by a ruling of the Supreme Court from spending taxpayers' money to achieve a particular result in a referendum. This ruling derived from a challenge in 1995 by a Green MEP, Patricia McKenna, who was a virulently anti-Nice campaigner.

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The “no” campaigners were hampered by no such constraints. Their referendum campaign started the day after the Treaty was signed and they appeared to have been well-funded, much of the money alleged to have come from overseas, including from the most Eurosceptic wing of the Conservative Party in the UK. And, despite the diversity of political agendas represented within the “no” camp, ranging from right-wing pro-life groups to far-left Communist remnants, they remained relatively cohesive throughout the campaign.

The “no” campaigners made much of the fact that only six months was available between the conclusion of the treaty negotiations in Nice and the referendum, and that this meant that there was not sufficient time for an adequate national debate on the issues, which were in any event too complex for people to understand easily.

With regard to the timing, there is, at first sight, some merit in their case. But it must be recalled that Ireland was the only member state obliged to have a referendum and the Prime Minister was anxious to return a positive result as soon as possible to facilitate the Enlargement process. He also wanted to clear the political decks for the impending general election which had to take place before July of this year.

The Government also felt that it could legitimately sell the Treaty on the basis that it was largely a mechanical exercise to enable the Union to function efficiently after Enlargement and that, weighed against the historical importance of that Enlargement, it was a proposition that should not detain the voters for very long.

This proved to be a rather naïve assumption, particularly in a country which has considerable experience of the referendum process. This historical experience has generally confirmed President de Gaulle’s observation that it is a blunt instrument and that people rarely vote on the issue contained in the ballot paper.

The tactics of the “no” campaign ensured that the referendum on Nice was no exception. The actual content of the Treaty figured only marginally in their campaign, whereas all manner of extraneous issues and concerns were

raised and gradually acquired prominence, if not dominance, in the national debate.

In particular, the “No to Nice Campaign”, which grew out of one section of the pro-life movement, mounted a very effective campaign spearheaded by inflammatory posters which featured such messages as: “You will lose Power, Money and Freedom” (without every specifying what this actually meant) and “No to Nice, No to NATO”. Another very effective poster sponsored by a group seeking to capitalise on the short lead-time provided by the Government was: “If you don’t know, vote No.”

The latter strategy paid off handsomely, unwittingly aided by the Government-appointed Referendum Commission which, sticking closely to its brief of presenting both sides of the argument, felt obliged to go beyond the actual content of the Treaty to deal with many of the broader issues raised during the campaign. It also had to explain the content of two other proposals being put simultaneously to the electorate, one to abolish capital punishment and the other to approve ratification of the International Criminal Court in the Hague.

Without going into too much detail about all the issues that contributed to the large “no” vote and the even larger number of abstentions, the following is a sample of the main claims of the “no” side:

- The Nice Treaty is not necessary for Enlargement; the individual accession treaties would suffice
- Ireland would lose its right to nominate a Commissioner and would have fewer MEPs and votes in the Council of Ministers, as well as losing its right to exercise its veto. All of this was seen as contributing to an even greater EU democratic deficit
- The reweighing of votes in the Council, together with the provision for enhanced cooperation, would lead to a two-tier Europe
- Ireland’s participation in the Rapid Reaction Force (actually a product of the Amsterdam Treaty which was approved by referendum in Ireland) was effectively an embryonic European Army and would mean the end of Ireland’s neutral status

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- Nice prepares the way for a European Superstate with its own military ambitions.

In the event, people seem to have been most influenced by three issues, according to the results of a poll which the European Commission's Representation in Dublin conducted after the first referendum. This showed that the lack of understanding of the issues, the perceived lack of control of EU developments by the Irish Parliament, and the threat to neutrality were the major factors.

The Government lost little time in dealing with these concerns. It set up a National Forum on Europe to facilitate debate on the Nice Treaty and the Future of Europe, in view of the opening of the Convention; it greatly strengthened the role of the parliamentary scrutiny committee, which had hitherto played a largely cosmetic role; and it obtained a declaration from its EU partners at the European Council in Seville that the Treaty posed no threat to Ireland's neutral status.

These measures may not have entirely removed the three issues from the agenda in the run-up to the second referendum, but they certainly featured far less prominently than they did the first time around. Instead, the "no" campaigners substituted a number of other issues which were not raised at all during the first campaign or which were accorded only secondary importance.

One of the most prominent of these was an attempt by the "no" campaigners to project themselves as protectors of the candidate countries' interests, claiming that they did not realise that they were being offered less attractive terms than previous applicants for membership. Diplomatic representatives in Dublin from these countries, as well as some of their senior statesmen who spoke at sessions of the Forum, were somewhat bemused, if not annoyed, by this characterisation of their negotiation strategies as naive or incompetent. Nor were they impressed by the dubious and unsought protection of people and organisations whose every action threatened to delay or scupper the very Enlargement which they professed to favour.

This tactic subsequently self-destructed when two of the main “no” campaign groups sought to foment fears of a flood of immigrants arriving in Ireland from Day One of Enlargement. This initiative, with its xenophobic and racist overtones, shattered the hitherto monolithic “no” camp, with the Greens and even Sinn Fein distancing themselves from such scare tactics (while not, of course, abandoning their own). The subsequent revelation of links between the leader of the “No to Nice” campaign and neo-fascist groups in Germany and Italy added a further nail to the coffin of these frustrated ambitions.

Another issue that gained increasing prominence as the second referendum approached was the claim that Ireland would lose its right to control the level of its corporate tax rate, which is the lowest in the EU and is regarded as a major factor in attracting foreign direct investment. This claim ignored the fact that the Government had successfully held out against the application of qualified majority voting on tax questions during the final negotiations in Nice and had no intention of abandoning this stance in the foreseeable future.

A third major issue was the fact that a second referendum was even being staged. The “no” campaign sought to represent this as unconstitutional and an insult to the democratic prerogative of the people as expressed in the first referendum. The Government countered that the issue was too important for both Ireland and the rest of Europe, including the candidate countries. It also pointed out that the turnout in the first referendum was only 35 per cent, and that since the first vote it had dealt with the three main issues as identified in the Commission’s poll.

As to the campaign itself, the Government decided to leave nothing to chance. The Prime Minister personally spearheaded the campaign, together with the Foreign Minister and a newly-created Minister for Europe. Every member of the Fianna Fail parliamentary party was made personally responsible for delivering the vote in his or her own constituency.

A major problem was finance. All the main political parties on the “yes” side had exhausted their resources in the general election and, as I have already explained, the Government could not dip into the exchequer to fund

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a campaign. However, this time around, IBEC, the employers' federation, weighed in heavily with a well-funded campaign, mainly targeted on backing the Prime Minister's keynote message that a second "no" would be a serious threat to the economy and to jobs.

The Irish Congress of Trade Unions played its part by dismissing the contention that Enlargement would threaten jobs, and the state agency responsible for selling Ireland as a desirable destination for foreign direct investment warned against frightening off either existing or potential investors.

These arguments, while owing little to European idealism, nevertheless played well with an electorate which, according to a newspaper poll published a week before referendum day, was more concerned about their economic future than the more lofty ambitions of the Founding Fathers. Despite the Seville Declaration, neutrality also remained a vital issue for many voters.

Now that the referendum has been passed, Ireland can proceed with its ratification of the Treaty. The parliamentary procedure for completing this process is currently underway and the Government expects to deposit the instrument of ratification in a month or so.

What lessons can be drawn from this experience? Looking firstly at the specifically Irish situation, it is clear that, despite all the demonstrable benefits it has derived from EU membership, the electorate's support for the Union, and particularly for further integration plans, cannot be taken for granted and that a number of concerns still remain to be resolved.

Among these are big questions such as the limitations of the Union, both in terms of its geographical scope and political competence; how to improve democratic control of the process; how to protect the role and rights of smaller member states; how to make the EU more understandable and meaningful to its citizens.

Shortly after the first referendum, the then Attorney-General identified in that vote what he called "a widespread perception that developments in

Europe were taking a turn, or moving in a direction, that caused deep unease.” These concerns remain and need to be addressed.

None of these issues is exclusive to Ireland. Nor is it unreasonable to suppose that if the Nice Treaty had required the holding of a referendum in all other member states the results might not have been any more predictable than the Irish outcome.

Of course, all these are matters which are being debated, or will be debated, in the Convention. But ironically, by virtue of broaching these complex issues, the Convention is in some ways creating even greater degrees of suspicion, perplexity or fear as citizens read about far-reaching proposals by many of the participants which could radically change the very nature of the Union. The average citizen is not capable of distinguishing between proposals that are likely to feature in an eventual constitutional treaty and those which are, and will remain, merely floating in the political ether for lack of support.

The former Portuguese Secretary of State for European Affairs, Mr. Seixas Da Costa, pointed out some time ago that heretofore the EU had “thrived on ambiguity” in making its incremental progress and in enabling its political leaders to bring the general public along with their ambitions and designs. I believe that the Irish referendum demonstrated that this is no longer enough, either for Irish people or for their fellow citizens in the rest of Europe.

In addition to clarity about the direction in which the EU is heading, a way needs to be found to promote a more active allegiance to the European ideal than exists at present. In my own country, successive Eurobarometer polls report that the Irish are among the most supportive of the EU and most conscious of its benefits. Yet, they are capable of rejecting a Treaty that would extend these benefits to the candidate countries and are extremely wary of any plans for further integration.

One explanation for this may be found in the most recent Eurobarometer which indicates that people may declare themselves to be supportive of the EU without necessarily possessing any strong sense of enthusiasm or a

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desire for engagement in EU issues. I suspect that this apparently contradictory phenomenon is not confined to Ireland.

A number of presentations to Ireland's Forum on Europe which I mentioned earlier, notably one made by Professor Larry Siedentop, spoke about the need to create a European demos that would sit easily alongside most people's feelings of allegiance to, and affection for their native country. Without it, he believes that the European project will not succeed to the extent that its most staunch proponents would wish.

Most of the concerns I have just outlined are, of course, a matter for the Convention in the first instance. It remains to be seen how many of them can be adequately dealt with and the degree to which they subsequently command the support of the public at large. Is it too much to hope for that a constitutional treaty with a shelf life of 50 years, as Mr. Giscard d'Estaing is reported to be aiming for, will establish a solid basis on which a European demos can be constructed over time?

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