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- PS/Mr Ingram (L&B)
- PS/Mr Murphy (L&B)
- PS/PUS
- PS/Mr Semple (Head of NICS)
- Mr Thomas
- Mr Steele
- ~~Mr Day~~
- Mr Bell
- Mr Leach
- Mr Watkins
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- Mr Brooker
- ~~Mr Perry~~
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- Mr Ferguson
- Mr Whysall
- Mr Blackwell
- Mr McCusker

*8/4*  
C.C. Mr Hunter  
Mrs Moore

From : ..... RICHARD WILSON .....

To: ..... PRIME MINISTER .....

Subject: ..... NORTHERN IRELAND CAMPAIGN .....

Date: ..... 6 APRIL 98 .....

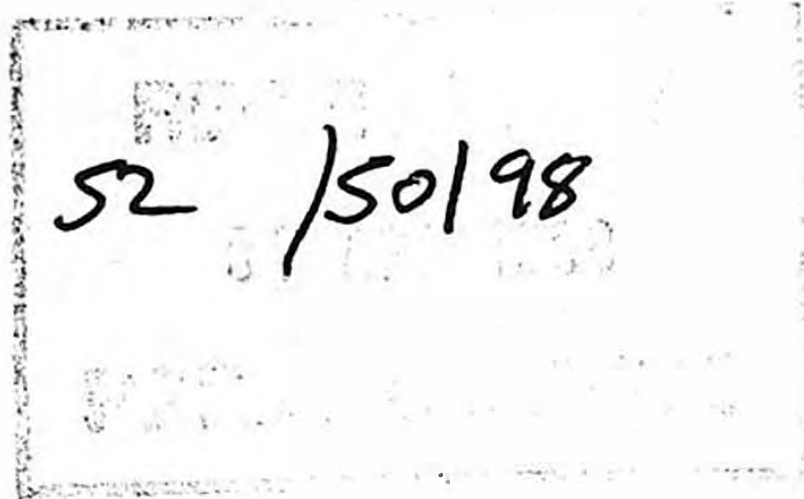




*Secretary of the Cabinet and Head of the Home Civil Service*

**PRIME MINISTER**

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## **THE NORTHERN IRELAND CAMPAIGN**

### **Issue**

On the assumption that an Agreement will be put to the people of Northern Ireland on 22 May, what position should Government Ministers take and what support should they receive from the Government machine during the referendum campaign?

### **Summary**

2. There is no reason of propriety to stop Ministers advocating support for a "Yes" vote. However, the specific question at issue has been judged important enough to warrant direct validation by the people of Northern Ireland over and above that given to the general policy approach put before the UK electorate as a whole at a General Election. In particular, the referendum is the chosen means for releasing the second of the "triple locks" (parties, people, Parliament) by allowing the people of Northern Ireland their direct say on the outcome of the talks.

3. My **judgement** is that - once Ministers have decided the prior question of whether campaigning for a "yes" vote is the best course **politically** - they should go on the public record with a statement explaining that they will be campaigning as Government Ministers and, as such, will

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continue to draw upon the support of the Government machine, including the Civil Service, in pursuit of their policy objectives. I further **recommend** that the scale and nature of the support given to Ministers should be carefully circumscribed, broadly along the lines used in the referendums for Scotland and Wales and now for London, to ensure that the playing field is not so tilted in favour of the "Yes" campaign as to call into question the validity of the result and thereby effectively undermine the purpose of the referendum.

4. Your answers to the questions below will, if you agree, enable us to produce a statement for Ministers to put on the public record at the outset of the campaign which will let the Northern Ireland Parties know the approach the Government intends to take and to provide guidance for civil servants.

### **Discussion**

5. An ad hoc group of Ministers chaired by Peter Mandelson looked at the arrangements governing the conduct of referendums last July. The question whether it was proper for Ministers to draw upon the support of the Government machine (propriety) was seen as a separate matter from the question whether it was advisable in relation to the political claims that could be based on the referendum result (prudence).

6. The group considered that a Government with a Parliamentary majority which submitted an issue to a consultative referendum did so because it considered the matter to be of such importance or sensitivity that it required a degree of legitimisation higher than would be conferred by conventional electoral and Parliamentary approval. To deploy the extensive resources of the Government machine to influence the outcome of such a vote could call into question the legitimacy of the eventual verdict. It could



also open up the outcome to the possibility of legal challenge. Although DSWR accepted that Ministers were entitled to use the full resources of Government in the campaign, in the event, both the Secretary of State for Scotland and the Secretary of State for Wales stated that their officials would be neutral in the run up to the referendum. The Deputy Prime Minister is to adopt the same self-denying ordinance in London. Whatever Ministers now decide for Northern Ireland, it will be necessary to explain any divergence from these precedents.

**Question 1: Is it politically advisable for Ministers to campaign for a "Yes" vote?**

7. There is in theory a respectable case for neutrality. Ministers in the Republic are constitutionally bound to remain neutral in their referendum campaign, and critics may try to make something of this difference. The answer is that these are two different countries which have different constitutional laws and conventions.

8. Under our constitutional rules, Ministers have already recently campaigned actively for "Yes" votes in Scotland and Wales, and by 22 May they will also have done so in the May London Referendum. The people of Northern Ireland would find it difficult to understand and believe whatever case might be deployed to explain Ministers' abstention from a referendum campaign, called to put to the vote a policy which has been pursued for a number of years on a bipartisan basis by successive Governments. There might be a risk that some people would assume that Ministers were not in fact committed to the Agreement. In any event, having arranged for a referendum to take place, it is incumbent upon the Government to ensure that the voters understand its position on the question being put to the vote.



9. For these reasons I imagine that you will want Ministers openly to support a "Yes" vote in the referendum. The precise strength with which they press their case will depend on the circumstances at the time but there seems to me a persuasive case that while giving a clear lead Ministers should leave most of the running to the Northern Ireland parties. If Ministers agree the broad approach in this note, Dr Mowlam will no doubt want to make detailed proposals about the scale and nature of Ministers' contribution to the campaign in the specific circumstances that apply at the time.

10. Against this background, I shall assume in the rest of this submission that your answer to Question 1 will be "Yes".

**Question 2: Should Ministers issue a public statement explaining the terms on which they are going to participate in the referendum campaign?**

11. I believe that there is a compelling case for such a public statement. Far better, I think, to set clear rules and stick to them than run the risk of attracting continuing attacks of the kind recently made by the Leader of the Democratic Unionist Party alleging plans for the "manipulation" of the media and the public on the basis of leaked documents.

12. If Ministers agree, we will produce such a statement. A first draft is at Annex A. Apart from its political preamble (paragraphs 1-3) this deliberately departs as little as possible from the precedents of the published guidance notes issued at the launch of the referendum campaigns in Scotland, Wales and London.



**Question 3: What support should Ministers have from the Government machine, including the Civil Service, when conducting their campaign for a "Yes" Vote?**

13. There is no precise answer to this questions. It is all a matter of degree. The rule of thumb is that in putting their case for a "Yes" vote, Ministers should not tilt the scales to such an extent that the validity of the result could be fairly called into question. At one end of the scale, I would think that this rules out an intensive television, radio and newspaper campaign paid for out of public funds setting out the Government's judgement of the advantages that would flow from the endorsement of the Agreement. At the other end of the scale, I see absolutely no difficulty in Ministers who are campaigning for the endorsement of Government policy drawing upon the normal backing of the Government machine - for example in terms of official transport during the campaign, and the production by civil servants, including Government Information Officers, of briefing, speaking notes and material in response to questions about and criticisms of the Government's policy. In providing such back-up, I think particular care will be needed to ensure that material produced is not partisan, unfair or unreasonable. While Ministers will be provided with more official support than those campaigning in the Scottish, Welsh and London referendums, I would advise that the Northern Ireland office follow the prudent course of the Scots and the Welsh in ensuring that its public statements about the Agreement and referendum are "proofed" by lawyers to reduce the Government's susceptibility to political and legal challenge through judicial review.

14. If you proceed on this basis, the Civil Service will be operating within the standard framework of helping Ministers of the duly constituted Government to pursue their policy objectives. As ever, they would be acting in support and on behalf of their Ministers and would not, for example, be undertaking any public speaking engagements at which they would give



their express views on the question before the electors.

**Question 4: How will Ministers explain any divergence in referendum practice as between Northern Ireland and Scotland, Wales and London?**

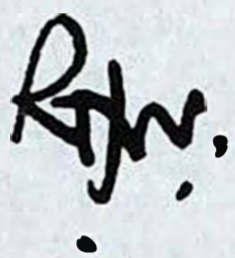
15. The Secretaries of State for Scotland and Wales and the Deputy Prime Minister have all made a virtue of publicly declaring the neutrality of their civil servants during "their" referendum campaigns. All three of them were canvassing in the context of the normal adversarial politics as practised on the mainland though none of these campaigns entirely followed the customary party political divide. The fact that the political parties' own organisations were engaged in the contests made it important for Ministers to distinguish acts and statements made as Government Ministers and as party politicians. Whenever acting in the latter capacity, they worked through the Labour Party machine. They turned to their civil servants for support on factual and analytical material generated for them within Government to develop and explain the policies at issue.

16. As a matter of fact, our judgement is that, (setting aside the preamble offered in paragraphs 1 to 3 at Annex A), the guidance for Civil Servants used in Scotland, Wales and London can be used with only minor contextual changes to reflect the different position in Northern Ireland. To the extent that there are differences, they can be justified by reference to the distinctive political situation in Northern Ireland where the Agreement which is being put to the vote represents the result of a bipartisan policy pursued by the main political parties of the United Kingdom. The Government is responsible for ensuring that the people of Northern Ireland understand its views on the Agreement: but the political party from which the Government is constituted does not organise in the Province and therefore, and to a carefully limited extent, proposes to draw upon the resources of the Government machine. This seems to me a defensible position.



17. I am copying this submission to the Secretary of State for Northern Ireland who is, I understand, broadly content with its conclusions, the Lord Chancellor and the Home Secretary. In view of the importance of the subject matter and the increasing use of referendums, I suggest that once you have approved the proposed course, all members of the Cabinet should be brought into the picture.

18. You might also want to consider showing Mr Hague the statement at Annex A before its publication.



**RICHARD WILSON**

6 April 1998



## **ANNEX A**

### **FIRST DRAFT OF A STATEMENT BY THE SECRETARY OF STATE FOR NORTHERN IRELAND TO BE PUBLISHED AT THE START OF THE REFERENDUM CAMPAIGN**

1. So that there are no misunderstandings, I want to explain how I and my Ministerial colleagues will approach the Referendum Campaign on a new Agreement for Northern Ireland. I also want to place on the public record the guidance being issued to civil servants on their role and conduct during the campaign.
2. The Government contested the 1997 General Election "committed to reconciliation between the Unionist and Nationalist traditions and to a new political settlement which can command the support of both." It believes that the Agreement [agreed by the (majority of the) parties in the peace talks] provides the basis for such a settlement. As such, it believes that the Agreement provides a historic opportunity for the people of Northern Ireland to adopt the course of reconciliation and peaceful, democratic development.
3. Having worked intensively to encourage and facilitate this Agreement and to produce this opportunity for a democratic vote by the people of Northern Ireland, the Government will be actively encouraging the public to support the Agreement in the Referendum. In so doing, we will continue to draw upon the resources of Government at a sensible and appropriate level. We will be using our resources to ensure that the people are properly informed about the Agreement, to emphasise that it's your choice, your vote, and to encourage you to use it. The public will not be manipulated.



4. In line with this approach, civil servants will continue to support Ministers in presenting and explaining Government policy in line with normal Civil Service rules. Civil servants will take care to ensure that they conduct themselves in accordance with the Civil Service Code. The two central principles are:

- to maintain the political impartiality of the Civil Service;
- to ensure that public resources are not used for party political purposes.

5. As the Government will remain in office whatever the outcome of the Referendum Campaign and as the normal business of Government will continue during the Campaign, Civil Servants should continue to support Ministers fully in the discharge of that business.

### **Civil Servants' Involvement in the Referendum**

6. As political activity connected with the Referendum falls within the definition of national political activities, the general rules on civil servants' participation in such activities apply. These rules divide the Civil Service into three groups:

- the "politically free" - industrial and non-office grades;
- the "politically restricted" - members of the Senior Civil Service, civil servants in Grades 6 and 7 plus members of the Fast Stream Development Programme;
- the "intermediate group" - all other civil servants.



7. As the "politically free" group may engage without restriction in national political activities, they may take a full part in the referendum campaign.
8. As "politically restricted" civil servants are totally debarred from national political activities, they must take no part in the campaign.
9. Other civil servants may participate in the campaign provided:
  - they are not directly involved in work on policy directly connected with the Agreement or Referendum;
  - they do so in their capacity as private individuals, without reference to their roles or experience as civil servants, subject to Departmental permission. They should avoid acting in ways which would enable members of the public to associate their campaigning activities with the Civil Service and so put its impartiality at risk.
10. Staff who are uncertain whether and on what basis they may participate in given activities should consult their line managers who in their turn should consult the Principal Establishment Officer.

### **Dealing with Enquiries and Requests for Information**

11. Officials should be ready to explain the Government's position on behalf of Ministers in response to enquiries. Requests from or on behalf of campaigners, should be regarded as especially urgent - the aim should be to respond within one day.



12. Essentially this means that all (written or telephone) queries should be dealt with promptly, using, where possible, factual information or material already in the public domain. In all cases it should be made clear that any views given on the merits of the proposals are those of Ministers, and replies should be confined to the Government's case, with no view offered on the merits of different positions being taken by others in the campaign.
13. Such explanations should always be clear and objective. Enquiries from the media must be handled by Departmental Press Officers.

### **Ministerial Engagements**

14. Civil servants should continue to provide support for official Ministerial engagements where the settlement will be discussed - briefing, providing speaking notes, answering queries and offering explanations in support of Ministers. In the normal way civil servants should take care not to act in a way which risks calling in question their political impartiality in the minds of the public. For instance, in the case of events organised by:

- groups formed to campaign for a particular referendum outcome;
- party political groups, which are:
  - \* the political parties;
  - \* groups of which membership of a particular political party is a condition of membership;



\* groups with very strong associations with political parties,

civil servants should not attend and should ensure that any supporting material is confined to an exposition of the Government's position.

### **Official Information**

15. The Government believes that those with a vote in the referendum should have access to accurate information explaining the important proposals on which they are being asked to decide.

16. In providing such explanatory information, the long-standing conventions on the work of the Government Information Service will apply. In presenting Government policy and providing publicity and advertising material during the referendum campaigns, civil servants should continue to take their customary care to conform with these conventions which require that their activities should:

- be relevant to Government responsibilities;
- be objective and explanatory, not tendentious or polemical;
- not be, or liable to misrepresentation as being, party political;
- be conducted in an economic and appropriate way, having regard to the need to be able to justify the costs as expenditure of public funds.



17. In sum, civil servants should give Ministers their full and normal support in presenting and explaining Government policy on the Agreement.