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FROM: P N BELL
BRITISH SECRETARY
17 April 1998

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cc: see attached list

For X.
Mr McCaffiness

MR JEFFREY

CONVERSATIONS WITH THE IRISH - AFTER THE AGREEMENT

British - Irish Communications

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In the absence now of almost daily contact between Irish and British Ministers and senior officials in Castle Buildings, the Anglo Irish Secretariat, during our last days, is likely to regain its importance as a major resource for both Governments not least in ensuring our approach to implementation of the Belfast Agreement is synchronised.

The position looks almost clear in the next days & the visit might disappear at least in the short term. There are quite a few papers on the floor.

Towards a 'Yes Vote'

2. For example, over the last 24 hours, I have reminded David Donoghue of the need to do everything legitimate in our power to help Mr Trimble secure the support of the UU Council on Saturday, and, if possible, for both of our Government to bite our lips if, in defence of his own position, he asserts linkages between, most obviously, decommissioning, the release of prisoners, or the membership of the new Executive. I explained that we had no intention of challenging some of Mr Trimble's more questionable recent assertions, and that if pressed, we would rely on, without further gloss or explanation, the kind of language in the Prime Minister's recent "comfort letter" to which Mr Trimble had himself referred in public (and with which the Irish were familiar). David Donoghue raised no difficulty about conveying my request to Dublin, and I noted with satisfaction that, while talking later in the day to Francis Richard - who called on us in the Secretariat yesterday afternoon - he believed the Irish Government would have to listen 'with clenched teeth' to quite a lot over coming weeks if the Referendum was not to be lost.

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Referendum

3. It is possible that Ministers may become nostalgic for each others' company, and seek more IGC's. David Donoghue took my point that, while we should probably plan for at least one further meeting, we must not allow this to impact unfavourably on the Referendum, Assembly Elections (or even Drumcree). So possibly none till June? If necessary, 'Adare-style' meetings are less controversial alternatives.

4. Most of our exchanges have, however, dwelt on more technical matters. Thus, for example, I took David Donoghue in some detail through our thinking on the Referendum Campaign, as set out in Richard Wilson's minute to the Prime Minister of 6 April, with the gloss that while there was indeed a political element to the approach Ministers' decided to take in regard to the Referendum, the issue of propriety - for the reasons adduced by PUS yesterday morning - could not be ignored. We also, I reminded David, had to take the possibility of a legal challenge from the "No Campaign" particularly seriously. Given the problems the Irish Government has experienced in the past on related issues - he is less relaxed, it seems, than Tim O'Connor about the implications of McKenna. David Donoghue appeared to find my presentation particularly helpful, and certainly took extensive notes. He has promised to keep me abreast of both Irish thinking and associated legislative developments (see below).

Legislation

5. The Irish side fell further into our debt, following Alan Whysall's detailed briefing, again yesterday afternoon, on the legislative mountain, including on prisoners, that we would have to enact between now and the end of the year to give statutory effect to our various commitments. (No separate note of this briefing will be circulated, but I have suggested to Alan Whysall

that there might be some advantage for NIO/NID colleagues, quite as much as the Irish to circulate a short child's guide to all the legislation that is planned: giving the proposed timetable; title of the measure (where known); and summarising its effect). (The Irish know, incidentally, of our Ministerial concerns, because PUS has told them, of the potentially conflicting needs not to overload the NI legislative plate (to the annoyance of Cabinet Colleagues) and the advantages of exploiting the political momentum by doing as much as we can, legislatively, as soon as we can).

6. David Donoghue was clearly impressed by the scale of the work we are undertaking, and had little to say in response to our questioning about what comparable legislation would be required in his jurisdiction. Further details were, however, promised and you will now have seen Richard Clarke's account of Irish plans and problems. David Donoghue, however, confirmed to me and PUS this morning that their Irish Referendum Bill would be introduced next Tuesday, and out of the Dail by midnight Wednesday. No further Irish legislation would, apparently, be needed except for specific empowering legislation in respect of implementation bodies. Although our meeting was designed to bring the Irish up to speed on our thinking, and, by implication, to chivvy them up, Alan Whysall and I did nevertheless speculate ourselves on the possible further need for new legislation to permit the various participating bodies in the British/Irish Council, eg to incur expenditure for whatever it did. We also saw considerable advantage, once this series of legislation had been completed, in ensuring that Government, practitioners, and the wider world had the benefit of a Consolidation Act at an early opportunity in 1999.

The near future?

7. More generally, the Irish remain sanguine about the outcome of the Referendums. North and South: they believe, for example, that - even if Gerry Adams and the Sinn Fein leadership may not be able to bring that party into active support - Sinn Fein will certainly not actively campaign for a "no vote",

and all the indications remain, according to David Donoghue, that Adams will recommend acceptance to his Ard Comhairle. They are similarly optimistic about the UUP (and accordingly determined not to make Trimble's task more difficult - see above). On the other hand, they were disappointed that "only" 61%, in the most recent opinion poll in this morning's Irish Times, would apparently vote "yes" in favour of changing Articles 2 and 3. (Although today's rating of the Taoiseach has inspired them). Neither myself nor Frances Richards' shared David Donoghue's mild disappointment: Even the latter seemed to accept that, once the campaign got underway, and the argument in favour of a "yes" vote was more strongly heard, there was likely to be further improvement in the Republic.

8. Irish minds are also turning to the merits of a Liaison Group meeting towards the end of next week (in London) to ensure that both sides were continuing to implement in harmony. The principle of such a meeting seems desirable. But Thursday or Friday, the suggested dates, would clash with the Board's 'Strategic planning away day' which you may not want to miss. The proposed agenda, whether for next week or later, seems in principle unobjectionable and would include (in no particular order):

- Referendum Management/Legislation;
- President Clinton's visit/"money from America";
- Other legislation;
- Secretariats for Council of Ministers, BIIC, BIC;
- Preparing for Implementation Bodies.

9. In respect of the last two elements you should note (a guard against) an Irish hankering for the new BIIC (and Secretariat) to operate a round of

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informal 'tutelle' over policy making in devolved matters; to 'pre-cook as far as possible, the nature of North/South Co-operation'.

10. I should be grateful if you could let me know your reaction to the proposed Irish timing.

Signed:

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