





532/92

3306  
26 FEB 1994

OM: SIMON DAWSON  
ESL DIVISION  
25 FEBRUARY 1994

cc PS/Secretary of State (L&B) - B  
PS/Lady Denton (L,DANI&DHSS) - B  
PS/PUS (L&B) - B  
PS/Mr Fell - B  
Mr Thomas - B  
Mr Bell - B  
Mr Wood - B  
Mr Maccabe - B  
Mr Dodds  
Ms Marson  
Mr Brearley - B  
Mrs Rogers - B  
Mr Caine - B  
Mr Clayton (HOLAB)  
Mrs Morris (HO)

*Mr Kenny /  
for file*

*Done  
28/2*

Mr Johnson, D Division

LOCAL ELECTIONS [VARIATION OF LIMITS OF CANDIDATES' ELECTIONS  
EXPENSES] [NORTHERN IRELAND] ORDER 1994  
EUROPEAN PARLIAMENTARY ELECTIONS [NORTHERN IRELAND] [AMENDMENT]  
REGULATIONS 1994

The Secretary of State for Northern Ireland recently approved a proposal to lay before Parliament the above draft instruments designed to increase the limits on a candidate's election expenses at a European Parliamentary election and a local election in Northern Ireland. I understand the draft instruments are to be debated in the House of Commons at 5.00 pm on Monday 28 February together with draft instruments effecting increases in Great Britain. Home Office Ministers will consequently be taking the lead during debate but this submission covers background points which may be raised in relation to the Northern Ireland instruments.

B1

CT/ESL2/5083

Background

2. The limit on candidates' election expenses at local elections in Northern Ireland is laid down in the Electoral Law Act [Northern Ireland] 1962. The limit is increased from time to time by Order in Council under the 1973 Constitution Act, most recently in April 1993. General policy is that the local elections limit in Northern Ireland should remain in step with that in Great Britain and the local limit in Northern Ireland was therefore increased in April 1993 to bring it into line with that in Great Britain. The current limit in Great Britain and Northern Ireland is £192 and 3.8p per elector. Although there are no local elections in Northern Ireland until 1997 we would aim to match any proposed increase in the Great Britain limit in order to maintain the principle that there should be a uniform limit throughout the United Kingdom. The proposed new limit is £205 and 4p per elector.

3. The limit on candidates' election expenses at European Parliamentary elections in Northern Ireland is set under powers conferred upon the Secretary of State by the European Parliamentary Elections Act 1978. The current limit is £10,000 and 4.3p per elector. The need to increase the limit to take account of inflation is less pressing so far as Northern Ireland is concerned, but we would aim to replicate any increase in the limit for Great Britain. The proposed new limit is £13,175 and 5.7p per elector.

4. Further background briefing is attached. I shall be present at debate on 28 February.

(SIGNED):

SIMON DAWSON  
OAB EXT 6598  
25 FEBRUARY 1994

European Parliament Elections

1. The European Parliamentary limit on candidates' expenses in Northern Ireland is in practice higher than in any constituency in Great Britain. This is because the STV system there requires that the whole of Northern Ireland is treated as a single constituency for European Parliamentary elections [the limit being calculated according to the number of electors in a constituency].

Background Note - STV

2. The Local Elections (Northern Ireland) Order 1985 provides that local elections in Northern Ireland are held under the STV system of PR. The same system is used at European Parliamentary elections in the Province. Westminster Parliamentary elections are held under the simple majority system, as in the rest of the UK. The STV system is also used for all elections in the Irish Republic.

3. The STV system has been used for at least some types of election in Northern Ireland since the 1920s. The reason is that the electorate tends to vote along strict sectarian lines. Under the simple majority system the minority nationalist community would be denied adequate representation at local level (or in the European Parliament).

4. The main features of the STV system are:-

- (i) Voters mark each candidate in order of preference (they can vote for only one candidate if they wish);
- (ii) To be elected, a candidate has to obtain a "quota" of votes;



(iii) There are several variations based on the procedures used to determine the quota, count the votes and re-distribute the surplus votes;

(iv) Once a candidate has received the quota necessary to secure election the "surplus" votes are re-distributed among the other candidates according to second preference;

(v) Candidates with the lowest number of votes at any stage may be "excluded" and their votes transferred to the other candidates.

5. The process of transferring the surpluses of successful candidates and the votes of excluded candidates continues until all seats are filled by quota. The counting procedure is obviously much more complex than at an election under the simple majority system.

6. Multi-member constituencies are required if STV is to work properly. Hence the need to group wards into district electoral areas. Proportionality is reduced if the number of members returned in each electoral is too small: between 5 and 7 is considered the optimum number for local elections.

7. The Unionists have long objected to PR/STV on a number of grounds and might use the opportunity to deploy any of the arguments set out above, although they are not relevant to the instruments themselves. The use of PR/STV in Northern Ireland is difficult to justify purely on grounds of principle since some of the arguments in its favour would apply equally well in some parts of Great Britain.

#### Consultation with the Political Parties

8. The political parties in Northern Ireland were notified of the intention to raise the limits on candidates' expenses in respect of

th elections by letter dated 4 February 1994. Little or no enthusiasm on the subject has been shown by Northern Ireland parties when views on similar proposals have been sought in the past. Those notified were the Alliance Party, the Democratic Left, the Ulster Unionist Party, the Ulster Populist Party, the Democratic Union Party, the Workers' Party, the Northern Ireland Conservative Area Council and the Social Democratic and Labour Party.

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COM: A M DODDS  
ECONOMIC AND SOCIAL DIVISION  
OAB EXT 6495  
24 JANUARY 1994

1213  
25 JAN 1994

CIVIL SERVICE

*Handwritten notes:*  
1. I think it is a politician with some  
Marion Dodds' administration for last Bradley  
2. Does it not strike you as particularly  
crazy that the UK based Chief  
Electoral Officer relates to a  
based Nio Division? (like SACRE!)

cc

PS/PUS (L&B)  
PS/Mr Fell  
Mr Thomas  
Mr Bell  
Mr Watkins  
Mr Daniell  
Mr Brooker  
Mr Brook

(1057/1) - B  
- B  
- B  
- B  
- B  
- B  
- B

MS MARSON

ADVISORY ROLE FOR CHIEF ELECTORAL OFFICER IN FORTHCOMING SOUTH  
AFRICAN ELECTIONS

Mr Bradley has had the courtesy to inform us that he has been approached by black South African representatives through the European Union to act as an electoral adviser. A special unit has been set up by EU in South Africa to provide advice to the Electoral Commission who will supervise the forthcoming elections in April. Although Mr Bell is aware of this, I thought it prudent to alert a slightly wider audience to what I believe is a small bit of good news.

2. Mr Bradley's views about his independence from Government are legendary, but in recent months we have sensed a considerable warming in his day-to-day relations with ESL. There have been many examples of this, not least his willingness to discuss the future restructuring of his organisation and, indeed, a modest programme of staff reductions, which, if implemented, will be most welcome on the DRC front.

3. We know that he has been invited in the past to provide election advice to other countries, like Malawee, but the South African invitation is a major coup. As before, he will carry out this extra curricular work during annual leave and there will be no financial consequences for the Department.

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CT/ESL/18091

R E S T R I C T E D

.. As you know, RID have informed me that their colleagues at the FCO South Africa desk already knew of the invitation and were very pleased to agree that Mr Bradley should accept it. As an officer, independent of Government, it can be argued that his impartiality is beyond question, but the fact that he has been given such an important invitation in the first place is surely an excellent advertisement for the quality and standing of the independent election process in Northern Ireland. I have already mentioned this at a recent meeting with Sir John Wheeler, who was genuinely impressed and I intend to take an opportunity of informing the Secretary of State when a suitable opportunity presents itself.

(SIGNED): A M Dodds

A M DODDS

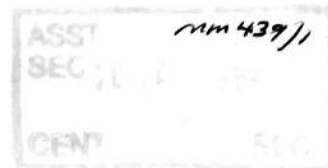
R E S T R I C T E D

CT/ESL/18091



532/2

C O N F I D E N T I A L



FROM:

A M DODDS  
ECONOMIC AND SOCIAL DIVISION  
OAB EXT 6495  
20 JANUARY 1994

cc PS/Secretary of State (L&B) - B  
PS/Sir John Wheeler (L,B&DFP\_ - B  
PS/Sir Michael Ancram (L,B&DENI) - B  
PS/Lady Denton (L,DANI&DHSS) - B  
PS/Mr Smith (L,DED,DOE) - B  
PS/PUS (L&B) - B  
PS/Mr Fell - B  
Mr Thomas - B  
Mr Legge - B  
Mr Bell - B  
Mr Williams - B  
Mr Watkins - B  
Mr Rickard - B  
Mr Brooker - B  
Mr Maxwell - B  
Mr Daniell - B  
Mr Maccabe - B  
Mr Caine - B

*Mr. Kent  
Interesting  
correspondence!*

MR DAVID BENTLEY, HOLAB - VERY URGENT!

LIMITS ON CANDIDATES ELECTION EXPENSES

I warned you this morning that we need to seek your views formally on whether we should consult Sinn Fein about the Government's proposals to increase the limits on candidates' elections expenses at Parliamentary, European Parliamentary and local government elections before the European Parliamentary Elections in June. You most helpfully agreed to respond as soon as possible and, for convenience, I attach copies of the following papers:-

- my submission to PS/Michael Ancram of 7 January;
- PS/Michael Ancram's reply of 10 January;

C O N F I D E N T I A L

CN/ESL/18072

- my further submission to the PS/Secretary of State of 17 January;

- PS/Michael Ancram's minute to the Secretary of State of 18 January;

- PUS' minute to the Secretary of State of 19 January.

2. You will see that it was our original intention to confine our consultation to a selection of seven major parties in Northern Ireland who had been informed, or consulted on previous occasions and our proposal was readily agreed by Michael Ancram. However, the submission prompted a wider debate within the Office, particularly in PAB and CPL, and I was obliged to put forward a further submission to the Secretary of State on 17 January setting out reasons for extending the list of parties - notably Sinn Fein - to be consulted at official level.

3. As you will see, from PS/Michael Ancram's note of 18 January, his Minister disagreed with what I had suggested about including Sinn Fein, and PUS, in his minute of 19 January, expressed the view that this was not the moment to take a fresh step in the direction of recognising Sinn Fein's status as a normal constitutional political party. However, PUS thought it would be helpful to have legal advice about the possibility of an application for judicial review of Sinn Fein's exclusion from the list of those parties consulted.

4. I fully realise that there is no legal obligation under the Representation of the People Act 1983 to consult political parties. It was simply a matter of courtesy that all the main parties in Great Britain have been asked for their views, if any, of the proposed increases. As it happens, the seven main parties in Northern Ireland were informed of the increases prior to the



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lections of 1991, 1992 and 1993. For reasons which I have been unable to discover, the same group of parties were actually consulted about their views prior to the election of 1988.

However, Sinn Fein were not informed, or consulted, in any of these exercises. There is therefore neither a statutory obligation nor any form of practice that can be cited to support the case for consultation now.

5. As against this, the following considerations are also relevant:

- a) Sinn Fein is a legitimate political party which fields candidates at all elections;
- b) a proposed increase in election expenses would therefore directly affect Sinn Fein;
- c) other Northern Ireland parties smaller than Sinn Fein (Conservatives/Alliance) have received letters either informing or consulting them about expenses in the past and will be consulted on this occasion;
- d) Sinn Fein already receive documents and publications on a regular basis from HMG for information and there are other contacts with officials over constituency business;
- e) Government lifts the broadcasting restrictions on Sinn Fein during elections.

6. Looking through the booklet "The Judge Over Your Shoulder" the question arises, in my mind, could Sinn Fein challenge HMG legally if it did not receive our letter on the basis that:

- a) other parties fielding fewer candidates would have received it;

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b) HMG is inconsistent in lifting broadcasting restrictions on Sinn Fein at election time, yet failing to inform/consult on a subject directly relevant to those elections;

c) HMG already acknowledges Sinn Fein's need for factual information in other areas of Government;

d) HMG is hampering Sinn Fein at elections by withholding information or by giving the opportunity to comment.

7. I would be grateful for your considered views.

A M DODDS

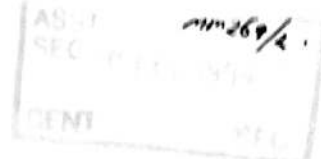
C O N F I D E N T I A L

CN/ESL/18072

CONFIDENTIAL

532/92

A M DODDS  
ECONOMIC AND SOCIAL DIVISION  
OAB EXT 6495  
10 FEBRUARY 1994



cc PS/Sir John Wheeler - B  
(L,B&DFP)  
PS/Michael Ancram - B  
(L,B&DENI)  
PS/Lady Denton - B  
(L,DANI&DHSS)  
PS/Mr Smith - B  
(L,DED&DOE)  
PS/PUS (L&B) - B  
PS/Mr Fell - B  
Mr Thomas - B  
Mr Legge - B  
Mr Bell - B  
Mr Williams - B  
Mr Watkins - B  
Mr Rickard - B  
Mr Brooker - B  
Mr Maxwell - B  
Mr Daniell - B  
Mr Maccabe - B  
Mr Caine - B

*ms* *Kenny*

PS/SECRETARY OF STATE (L&B) - B

LIMITS ON CANDIDATES' ELECTION EXPENSES

You may recall that in my original submission on this subject to PS/Michael Ancram of 7 January, I recommended that we write at official level to the seven main political parties in Northern Ireland about the revised limits on candidates election expenses for parliamentary, European Parliamentary and local government elections. That "core" list comprised the UUP, DUP, UPUP, SDLP, Alliance, Conservatives and Workers Party. While Michael Ancram readily approved the proposal, my submission provoked a wider debate among colleagues, especially in PAB and CPL. The main concern was that while we intended to follow previous practice by omitting Sinn Fein, there were now some grounds for suggesting that in the present highly charged and very delicate political circumstances they should be included after all. We had a particular worry about the possibility of judicial review.

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C O N F I D E N T I A L

Because of this debate within the Office, I felt obliged to put forward a submission to you on 17 January which recommended that Sinn Fein should indeed be included in the correspondence. The following day, I received a note from PS/Michael Ancram indicating that his Minister disagreed with my recommendation and this was followed by a note from PUS on 19 January expressing the view that this particular time, when Sinn Fein are unable or unwilling to respond to the Joint Declaration, was not the moment to take a fresh step in the direction of recognising their status as a normal constitutional political party. However, because PUS had noted my concern about the possibility of an application by Sinn Fein for judicial review, he thought it would be helpful to take legal advice.

3. We have now received the considered view of Mr Bentley of HOLAB, who confirms that he "would not consider a failure or refusal to consult Sinn Fein at all likely to be held unlawful". He also confirms that there could be no expectation of consultation on their part on the basis of regular past practice. Their case would need to be based on Section 19 of the Constitution Act (Non-Discrimination) or more generally on the unreasonable and improper exercise of the Secretary of State's discretion in the matter. As to Section 19, we should contend, consistently with our past practice, that the ground on which we treat Sinn Fein differently from other parties is their condoning of terrorist violence. This has been successful in the past. Similarly, while Sinn Fein may have points to make about expenses, Mr Bentley thinks that we are still justified in seeking to treat with constitutional parties only.

4. With this welcome reassurance, and bearing in mind Michael Ancram's original approval, I have now written to the secretaries of those parties mentioned in paragraph 1. On Chris Maccabe's

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I have also written to the Secretary of the Democratic Left  
is only consistent with our practice of communicating with  
Workers' Party.

5. Hopefully, we shall hear no more of this matter.

(SIGNED): A M Dodds

A M DODD

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File

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C G MACCABE  
POLITICAL AFFAIRS DIVISION  
6 MAY 1992

-6 MAY 1992

CONF SEC

~~Mr Mc Connell~~  
I'm up to 7.5

cc Mr Alston - B  
Mr Bell (B&L) - B  
Mr Watkins - B  
Mr D A Hill - B  
Mr D J R Hill (B&L) - B  
Mr Petch - B  
Mr Jardine PPRU  
Mr McConnell MBW - B  
Mr Fittall (Personal) - B

Mr Thomas (B&L) - B

#### RESEARCH INTO WEST BELFAST ELECTION RESULT

I attach a draft submission to PS/Secretary of State analysing the West Belfast election result in greater detail than hitherto and offering advice on the value of opinion polling in that constituency. The main body of the submission deals with West Belfast, and inevitably makes a number of fine judgments. I should welcome any comments/additions to this by Wednesday, 13 May. The part dealing with opinion polling is included as an Annex, and I should be particularly grateful for any comments Mr Jardine may have on it.

2. Mr Fittall suggested to Mr May that the Secretary of State perhaps envisaged a plan of action for West Belfast to demonstrate the advantages of having an MP who takes his seat and to emphasise to those who changed their voting intentions that they made the right decision. The attached submission suggests there were far fewer converts to the SDLP cause than might be supposed, but the Secretary of State may still wish to have a range of options put before him. There are, however, dangers in seeking to move beyond the MBW and TSN programmes already in place and, provided you and copy recipients are content, I suggest this area might most usefully be left for further exploration at any meeting the Secretary of State may wish to convene in the light of the submission.

(SIGNED)

C G MACCABE

CH EXT 2238

C O N F I D E N T I A L

Sinn Fein inflate the number claiming that between 3,000 and 4,000 Protestant votes went to Hendron, whilst the SDLP seek to minimise the effect talking about figures from 1,100 (John Hume) to 1,600+ (Brian Feeney - Belfast City Councillor). It is never going to be possible to offer a definitive answer, but our analysis suggests at least 2,000 Unionists voted for Hendron.

3. Dr Hendron secured Protestant votes for two main reasons. First, and most important, because Gerry Adams' continuation as MP brought disrepute upon the whole constituency. The Protestants voting for Hendron did so not because of any sympathy with SDLP policies (as is shown by their unwillingness to support Hendron in 1987) but because they were anxious to remove Adams and did not believe Hendron could do it without their help. Secondly, Hendron made gestures in the direction of the Protestant community conducting a token canvass in the Protestant Highfield area and leafletting the whole constituency. Additionally, a small number of influential figures on the Shankill were prepared to encourage people to vote for Hendron this time to get rid of Adams. The most notable (some would say notorious) was Alderman Elizabeth Seawright.

4. The decision of Protestant voters to come out in such numbers for Dr Hendron surprised many people. The two Unionist leaders had been firm in their opposition to any such move, and had both canvassed in the constituency. Some within both Unionist parties would have been happier to see Adams, as an abstentionist MP and physical embodiment of the support for the 'unacceptable face of Nationalism' within the Catholic community, elected rather than a fourth MP for the SDLP who might gain increased credibility as a consequence. The Ulster Democratic Party (UDP), a tiny Unionist party with close UDA links, advocated that Loyalists in West Belfast should vote for Hendron (hence Sinn Fein leaflets arguing Hendron was the UDA candidate and, since the election, graffiti on the SDLP Andersonstown office to that effect,) and that Unionists should not stand a candidate. But this call is not thought to have had any significant effect on the result. Ironically, the decision of the Unionist parties to stand a candidate may have made it easier for Protestants to vote for Hendron as they could go to the polls with everyone assuming they would vote UUP, and in private make their own decision.

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C O N F I D E N T I A L

Hendron cannot expect continued support from the Protestant community unless he, like Fitt, is able to demonstrate a willingness to work hard on constituency matters while avoiding statements, for example about the security situation, that might alienate that community. This is a particularly difficult path for Hendron to tread, as he is conscious of the need to be firm and active on security issues, given the fact that Sinn Fein will take every opportunity to criticise him on this front if he appears at all soft. The recent confrontation during a Sinn Fein-inspired demonstration on the Springfield Road, following the murder of Philomena Hanna, shows just what he is up against.

Workers' Party support

6. Before going on to consider the relative performances of Sinn Fein and the SDLP it is necessary to mention the other major change in the electoral result this time compared with 1987. This was the collapse of the Workers' Party vote because of the internal difficulties the Party faced shortly before the election. The Party's loss of over 1,000 votes is extremely significant in terms of explaining the overall West Belfast result; the SDLP believe they gained the majority of these votes and, even allowing for some abstentions this time around, 5-600 votes could well have been added to the SDLP total.

Sinn Fein

7. Sinn Fein actually did better in West Belfast in this election than ever before when one looks at their share of the poll. Adams lost only 36 votes although the electorate fell by over 4,000. These are sobering statistics. They reflect the great effort Sinn Fein put in to retain the seat, and the large body of support they continue to have in the area. Their claim to have won the Nationalist battle has some validity but, despite the pure mathematics of the poll, the loss of the seat is undoubtedly a big blow.

8. There was great concern on the part of the SDLP that Sinn Fein would undertake extensive electoral fraud, which, given the likely closeness of the two Parties' votes, might well have influenced the

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C O N F I D E N T I A L

Dr Hendron and his agent were in constant contact with the Chief Electoral Officer and wrote to Ministers suggesting, in particular, ways of preventing personation by means of forged medical cards. The medical card is one of the 'specified documents' which must be produced before an elector is issued with a vote. Although it is possible to forge this card it has remained on the list because it is the only document available to all electors. During the poll Hendron even asked for polling stations to be closed because of the threat of personation.

9. In the 1987 General Election the Chief Electoral Officer believed that there were around 5-600 successful instances of personation using forged medical cards. He is not yet prepared to make any estimate this year, and is looking carefully at the performance of the system. But there is no reason to believe that there was not successful fraud on a similar scale. Twelve forgeries were positively identified during the poll and two arrests were made for personation in West Belfast, in both cases the challenges being made by Workers' Party election agents. The continued existence of voting fraud also points to the necessity to consider further the arrangements to prevent such fraud (in particular the specified documents system and postal votes) at future General Elections and the forthcoming local elections, and at possible Assembly elections where many seats would be finely balanced under the single transferable vote system.

*sf knew who used it*

10. There is also clear evidence of the intimidatory nature of the Sinn Fein presence outside polling stations. We have heard convincing descriptions of groups of burly 'canvassers' who had to be negotiated by prospective voters at several stations. And on a tour of the constituency on polling day I saw for myself how menacing such groups can be. However, there was also a strong security forces presence at such stations and while, paradoxically, this could have worked to Sinn Fein's advantage, it is unlikely that many prospective SDLP voters were so afraid of the Sinn Fein supporters that they failed to cast their vote.

C O N F I D E N T I A L

Sinn Fein found it difficult to counter the SDLP arguments about the need for an MP who would represent his constituents at Westminster, that Sinn Fein does not attract jobs as SDLP MPs have done in their constituencies, not least via links with the United States, and that PIRA's actions resulted in the loss of jobs. This latter economic argument is clearly germane to the Secretary of State's question regarding the impact of Making Belfast Work (MBW) on voting intentions. It is not possible to ascribe changes in voting patterns to one initiative such as this, mainly because in the particular circumstances of Northern Ireland there is effectively no opportunity for the party introducing the initiative to benefit from it at the ballot box.

12. However, MBW has had an effect on those living in the West Belfast constituency. It has signalled the Government's determination to ameliorate the social and economic deprivation existing there and has demonstrated in some areas what can be achieved. It may therefore have brought home to the Unionist community in particular the need for a 'champion' to represent West Belfast internationally. <sup>recent / on his</sup> MBW has had an effect on the Catholic community too but it is difficult to gauge from recent election results whether this has affected voting intentions. But we assess that Sinn Fein will not suffer the reverses that improved economic conditions should bring whilst there remains considerable hardship and unemployment in the constituency. If Dr Hendron could create links with the US as the other SDLP MPs have, and bring work to West Belfast, this would help his cause immensely in both communities, though the location of any jobs would be watched very closely.

#### SDLP

13. Given the scale of the estimated Unionist vote for Dr Hendron and the collapsed Workers' Party vote going to the SDLP, the result was, in one sense at least, not a great success for them. If they received say, 2,000, Unionist votes and say 500 from the Workers' Party then they would only have mobilized an extra 270 'new' votes in comparison with the 1987 figure.

C O N F I D E N T I A L

However, the falling population means the SDLP did marginally better than suggested above, not least because the movement of Catholics away from West Belfast mainly involves the middle class who find the environs of South Belfast more congenial. These people would tend to be predominantly SDLP voters. It may be no coincidence in this regard that the South Belfast SDLP vote rose by 2,000 over 1987 (although the Party's vote also rose by similar amounts in North Belfast, Lagan Valley and Upper Bann.)

15. Through solid, high-profile, constituency work, the SDLP will be hoping Dr Hendron can make the seat safe next time as Eddie McGrady and Seamus Mallon have done in their constituencies this time. This ought to be feasible as Hendron has plenty of Nationalists left to persuade.

Conclusion

16. The overall conclusion is that the SDLP failed to make any inroads into the Sinn Fein vote in West Belfast, or to improve substantially their vote-winning capacity among those who had not previously voted. It is difficult to argue, therefore, that that the SDLP did well in West Belfast or that Government initiatives had any real effect on voting intentions, or indeed that there was a greater 'vote against violence' among the Catholic population in the constituency. The real challenge in analysing the West Belfast result is to explain the reason why Protestants voted for Hendron this time, but not in the 1987 election. There may have been some increased willingness among Protestants to vote SDLP in order to enjoy the full fruits of economic regeneration, especially in terms of inward investment, but the predominant reason appears to have been simply to keep Adams and Sinn Fein out.

C G MACCABE  
SH EXT 2238

C O N F I D E N T I A L

## UNION POLLS

The Secretary of State has sought advice on the usefulness of opinion polls as a research tool in West Belfast.

2. The historic problem with opinion polls in Northern Ireland has been their inaccuracy, because people have generally not been willing to admit to pollsters whom they have never met before that they vote for one of the 'extreme' parties - that is Sinn Fein or the DUP. For example, an Irish News poll of West Belfast opinion published on 6 April forecast as follows:-

|            |        |         |
|------------|--------|---------|
| SDLP       | 28.75% | (43.6%) |
| SF         | 20.5%  | (42.1%) |
| UUP        | 16.5%  | (11.0%) |
| WP         | 3.0%   | (1.9%)  |
| Undecided  | 21.5%  |         |
| Non-Voters | 9.5%   |         |

whereas the actual proportion of the vote gained by each party is as shown in brackets.

3. Thus whilst one might have expected the poll not to pick up the intention of Unionists to vote SDLP, it demonstrates the tendency mentioned above of understating the Sinn Fein vote. The 'undecided' category merely emphasises what an unsatisfactory medium the opinion poll is in this context.

4. On the other hand, the Sunday Times MORI poll, which Mr Worcester sent to the Secretary of State on 14 April, looked at Northern Ireland as a whole, and came closer to getting the overall vote accurate, although it underestimated the Sinn Fein vote by 3% and the SDLP by 3.5% overall. The Sunday Times poll estimated a 3-4% swing against Adams in West Belfast. Given that that poll for all of Northern Ireland was 1,000, and the one for the Irish News was 955, one might have expected the Irish News poll to be more



ate. The basis for the Sunday Times view of the West Belfast appears to be based solely on an overall Belfast poll figure. Indeed, so far as one can tell the MORI sample size involved only 50 people in all of Belfast who were going to vote either Sinn Fein or SDLP. Once one disaggregates that to West Belfast the database is so small as to be highly unreliable. If MORI looked at overall figures for Sinn Fein and the SDLP to make their judgement, that is also highly suspect as voting patterns in Belfast are quite different from elsewhere and, as mentioned, above Sinn Fein is always understated (3% out of 10% overall is a bigger loss proportionately than the SDLP's 3.5% out of 23.5% overall).

5. Opinion polls do have some merit in determining preferences and work is done on a continuous basis using the Northern Ireland Social Attitudes Survey (NISAS). In view of the conclusions in paragraph 16 of the submission, any research carried out post-election would need to concentrate on why people voted as they did rather than what made people change their minds. The former, of course, could only apply to Unionists if we really thought that they would admit to pollsters to voting SDLP in the election.

6. In place of NISAS this year, the organisation responsible, Social Community Planning and Research, is conducting an election survey for the UK which may cover the ground the Secretary of State is interested in. Results will, however, not be available for some time. In addition, further work is underway to look more specifically at the attitudes of the community to law and order. The value of opinion polls in an area such as West Belfast does however depend on the willingness of those interviewed to respond truthfully in order to allow an accurate picture to be built up. The danger is if Government bases its policies upon an inaccurate database - although a poll may of course offer some useful indicators even if not entirely accurate.

#### Conclusion and recommendation

7. The Secretary of State may wish to discuss with officials the concept of an opinion poll to assess voting attitudes in West Belfast, but my recommendation is that insufficient accurate

tion would be gleaned from such an exercise to justify the  
siderable expense involved.

I am returning Mr Worcester's letter and enclosure to you  
together with a short draft reply (Annex C).

ST BELFAST GENERAL ELECTION RESULTS

1992

Elec 55,280

%

% Poll 72.3

|                   |        |      |
|-------------------|--------|------|
| Hendron, J (SDLP) | 17,415 | 43.6 |
| Adams, G (SF)     | 16,826 | 42.1 |
| Cobain, F (UUP)   | 4,766  | 11.0 |
| Lowry, J (WP)     | 750    | 1.9  |
| Kennedy M (NLP)   | 213    | 0.5  |

SDLP Majority 589

1987

Elec 59,400

%

% Poll 69.6

|                   |        |      |
|-------------------|--------|------|
| Adams, G (SF)     | 16,862 | 41.2 |
| Hendron, J (SDLP) | 14,641 | 35.7 |
| Millar, F (UUP)   | 7,646  | 18.7 |
| McMahon, M (WP)   | 1,819  | 4.4  |

SF Majority 2,221

1983

Elec 59,750

%

% Poll 74

|                   |        |      |
|-------------------|--------|------|
| Adams, G (SF)     | 16,379 | 36.9 |
| Hendron, J (SDLP) | 10,934 | 24.6 |
| Fitt, G (Ind)     | 10,326 | 23.3 |
| Passmore, T (UUP) | 2,435  | 5.5  |
| Haffey, G A (DUP) | 2,399  | 5.4  |
| McMahon, M (WP)   | 1,893  | 4.3  |

SF Majority 5,445

REPLY FOR SECRETARY OF STATE TO SEND TO MR WORCESTER

Mr Worcester Esq  
2 Old Queen Street  
London  
SW1H 9HP

Thank you for your letter of 14 April enclosing the findings of the survey you conducted on political attitudes in Northern Ireland in the run-up to the General Election. As you said, the survey brings out a number of interesting points, some of which may well bear closer analysis. The question of the information about community attitudes at the disposal of Government is one in which I shall be taking a close interest the coming months.

I am also most grateful for your kind remarks about my appointment. The task ahead is certainly challenging, but I believe the political talks in which we are currently engaged offer a real opportunity for progress towards the stable and prosperous society which Northern Ireland has been denied for so long.



213/6

FROM: PETER MAY  
DATE: 3 JUNE 1992  
POLITICAL AFFAIRS DIVISION

NOTE FOR INFORMATION

Done &  
8.6.92

cc PS/Secretary of State (B&L) -B  
PS/Mr Atkins (B&L) - B  
PS/Mr Mates (B&L) - B  
PS/Mr Hanley (B&L) - B  
PS/PUS (B&L) - B  
PS/Mr Fell - B  
Mr Thomas - B  
Mr Ledlie - B  
Mr Alston - B  
Mr Bell - B  
Mr Watkins - B  
Mr Maccabe  
Mr D J R Hill - B  
Mr D A Hill - B  
Mr Cooke - B  
Mr Rickard - B  
Mr Petch - B

8/6/92

in the summer  
interesting. Mr. Conway the  
points in para. 9 to 103.  
4.6

CONVERSATION WITH TOM KELLY

On Tuesday I had a long conversation with Tom Kelly, election agent to Joe Hendron in the recent General Election. Kelly, who is young and articulate, has now returned to his full time management consultancy job (although he is looking to move into marketing). He has in recent years run a number of successful election campaigns, including Mallon's victory in the 1986 by-elections and McGrady's in 1987. He is well respected within the party for his organisational capacity, and is currently a member of the SDLP executive. He is on the right of the Party, and would not be as green as Mallon. He has the job of convening a Party finance committee made up of businessmen to try and bring the SDLP back into a less precarious financial position. He claims not to have political aspirations to become a full time politician. In the forthcoming (May 1993) local Government elections, Kelly will once again run the West Belfast (ie Upper and Lower Falls wards) campaign.

R E S T R I C T E D

## Belfast Election

Kelly's view of the election campaign was not markedly different from the PAB analysis circulated earlier. He estimated some 1800 protestants had voted SDLP, and suggested that the vast majority of these had come from the middle class area, in which he claimed the SDLP had outpolled Fred Cobain, the unionist candidate. Their willingness to canvass Unionist areas, rather than taking for granted the fact that there would be tactical voting had been appreciated locally, and a number of follow-up measures were envisaged in order to ensure the interests of the protestant community were borne in mind. Among these were the opening of a new constituency office in Northumberland Street, which is easily accessible both from the Shankill and Falls areas. Kelly also said that he would be in touch with a Methodist Minister in the Shankill area to ask whether a further office might be established there. (He seemed less sure of his ground in talking about this and we must wait and see whether there is any substance behind it.)

3. Kelly paid tribute to the electoral machine Sinn Fein had brought into action on election day. He felt that Sinn Fein had been allowed to get away with an intimidatory presence outside polling stations for too long. He suggested that personation was rife, accounting for up to 2,000 of the Sinn Fein votes. Armies of supporters had been bussed from polling station to polling station and he had nothing but condemnation for the failure of the Chief Electoral Officer and his staff to prevent this. He alleged that offences had been committed which the Chief Electoral Officer's staff were too frightened to pursue.

4. The SDLP for the first time had for the first time managed to cover all the polling stations throughout the day, and this had helped to restrict personation abuse through frequent challenging. Kelly argued that this was not the SDLP's job. He was dismissive of Mr Bradley's refusal to acknowledge a problem existed in West Belfast. Kelly had approached Bradley in the run-up to the election in order to resolve a number of points, but the assurances had not always been honoured. He did not believe Bradley had a good awareness of the problems in the constituency, nor that

R E S T R I C T E D

R E S T R I C T E D

was willing to address the possibility of the need for further change. (This is not the first time the SDLP have been extremely critical of Bradley's performance, with Mark Durkan another notable critic). He said the Party were considering taking the CEO to judicial review over his handling of the election in West Belfast (comment: it is not easy to see what case they could make, and it may be bluster). The RUC came in for praise, however, for their helpfulness in curbing the excesses of Sinn Fein electoral manipulation.

5. Kelly said that Sinn Fein had been complacent in their approach to the election. Despite their substantial efforts in terms of personation, he believed they had miscalculated, reckoning the emigration of middle-class SDLP voters to South Belfast combined with their vote stealing would ensure the SDLP could not win. They had been shocked to discover the SDLP's efforts, not least in covering all the polling stations, and were desperate now to fight back. Sinn Fein had been very quiet since the election, and he surmised this would not last for much longer. Adams needed to re-assert himself rather than indulging in the introspective navel-gazing which appeared to be taking place at present. He had noted, with some surprise, that McGuinness had not dismissed Hume's commission proposal out of hand, and saw this as part of the ongoing and deepening debate within the provisional movement as to future policy. He did not believe the result of this would be a renunciation of violence.

6. Taking account of the migration of mainly middle-class catholics to South Belfast, and the prevailing difficulties the SDLP faced with a less than charismatic candidate, Kelly believed the party had done extremely well to hold its vote firm, compared to 1987. (This ignores Protestant tactical voting.) He acknowledged that the advantages of incumbency meant the party ought to retain the seat at the next General Election. He believed it essential that Hendron stand again, although a number of the other local councillors in Belfast had been arguing Hendron should stand down after his four or

R E S T R I C T E D

R E S T R I C T E D

the year term (mainly because of their own political ambitions). The result of the election had been a shot in the arm for the local SDLP organisation. A number of new members, perhaps amounting to as many as 20, had come forward and would be prepared to help in elections. In addition, now the existing party workers had tasted success, Kelly was most hopeful that the current majority Sinn Fein council representation from the two Falls wards could be ended next year. (At present Sinn Fein hold 3 of the 5 council seats in each ward, with the SDLP holding the other 2.) *Atwood think they'll increase by 2.*

7. There was also the question of whether and, if so, where Hendron should stand. He was already a councillor for Lower Falls, but were he to stand there again, Kelly believed Sinn Fein would stand Adams against him in an attempt to show Adams was more popular. Hendron might therefore shift to Upper Falls, (where Kelly believed the SDLP could top the poll in any case) or not run at all. Upper Falls was the area where they were more likely to make a council seat gain, thereby ~~by~~ evening up representation in West Belfast. (Note: the longstanding SDLP councillor, Cormac Boomer, is now an independent and would be standing against the SDLP in that ward. Kelly said it was vital that Boomer be beaten in order to achieve that aim, but his 15 years experience would make him a credible candidate, although the split with the party over his advocacy of internment would not help his case.) Kelly also hoped that a Protestant might stand in the Upper Falls constituency for the SDLP, as Robin Mullan, who is Director of the Northern Ireland Council on disability, was interested.

Joe Hendron

8. Kelly was clear that the coming year was an important test for Hendron's credibility in advance of the local elections which would be seen as a referendum on his first year in office. Hendron needed to be fed information frequently and steered in the right direction. There were plans for a group of professionals in different fields, such as social services and health to assist Hendron by providing him with material. Kelly himself had been offered the job as research assistant to Hendron but had turned

R E S T R I C T E D

R E S T R I C T E

down. The interviews for the post would shortly, and Kelly was clear that a strong bright individual was required. He did not believe that for that reason that Alex Attwood (SDLP Councillor for Upper Falls), who had his own political ambitions, would be suitable for the job. He gave no hint as to who his preferred candidate was.

9. Hendron was being encouraged to concentrate on the economic development side; there was the possibility of a link between West Belfast and Cleveland, Ohio. Kelly hoped that a group from Cleveland comprising politicians and leading businessmen would come to West Belfast sometime in the summer. He also envisaged the link including Toronto (a candidate for twinning with the whole of Belfast already), which would help keep the Protestants on the Shankill happy.


10. Hendron's prospects of Westminster re-election would be much damaged were the Poleglass and Tiwnbrook areas to be included in the constituency under the Boundary Commission proposals. It would be preferable for the SDLP if the Constituency were inclined to include part of the current South Belfast constituency.

Talks

11. In a brief reference to the talks process, Kelly made clear his view that the SDLP should continue to negotiate. He wanted the SDLP to be the last out of Parliament Buildings on this occasion. He believed it was crucial to Hume that Strand 2 should begin, but offered no view on the SDLP proposals themselves.

Other issues

12. Kelly mentioned, in passing, that the SDLP were likely to re-institute the post of General Secretary in a slightly different form.



R E S T R I C T E D



R E S T R I C T E D

Kelly, who used to work for Seamus Mallon, commented that Mallon himself never offered any positive views, nor contributed to party policy. He was critical of Mallon and his attitude generally, which he characterised as maintaining maximum independence for the Newry and Armagh area so that he could act without constraints. He acknowledged both Hume and Mallon were not party men, unlike McGrady who had been a member of the National Democratic Party prior to joining the SDLP.

14. Kelly is able and respected for his organisational ability. He is less interested in the day-to-day issues. His views on the election, and particularly the CEO, are heartfelt. His estimate of personation does, however, conveniently allow him to claim the SDLP would defeat Sinn Fein in a straight fair fight. This may be rather over-optimistic.

[signed R Neill for]

P MAY  
Ext 2232 SH

RN/8701

R E S T R I C T E D

C G MACCABE  
POLITICAL AFFAIRS DIVISION  
2 SEPTEMBER 1992

UNDER/ 106/4  
SEC  
-3SEP1992  
CENT SEC

JMcC  
43/9

NOTE FOR THE RECORD

1. In *Chim*  
2. In *McGinnis*  
*Central Secretariat*  
*HW*  
*3.1*

cc PS/Secretary of State (B&L) - B  
PS/Mr Atkins (B&L) - B  
PS/Mr Mates (B&L) - B  
PS/Mr Hanley (B&L) - B  
PS/PUS (B&L) - B  
PS/Mr Fell - B  
Mr Thomas - B  
Mr Ledlie - B  
Mr Watkins - B  
Mr Alston o/r  
Mr Bell (B&L) - B  
Mr Wood (B&L) - B  
Mr Petch - B  
Mr D J R Hill - B  
Mr D A Hill - B  
Mr Cooke - B  
Mr Rickard - B  
Mr Dodds - B

#### ELECTION PETITION AGAINST DR JOE HENDRON MP

Dr Hendron volunteered the following information during a conversation with me this morning.

2. As reported in today's press, the full hearing of the election petition against him by an Election Court constituted of Lord Justice Kelly and Mr Justice Higgins will be on 12 October. His counsel, Adrian Coulton and Robert McCartney QC, have already had several preliminary meetings with the judges in Chambers and their expectation is that the full hearing will last as long as a week. Although Mr McCartney's early assessment had been that Dr Hendron's chance of rebutting the petition was good, closer scrutiny of all the relevant material had revealed undeclared expenditure of around £1,000 in excess of the statutory limit. Mr McCartney has described this development as "very worrying" but, as mentioned in our earlier reports on the subject, he will be arguing that most if not all of the excess expenditure was inadvertent.

3. Dr Hendron is reasonably confident that this argument will carry the day. But he was quick to admit that his confidence is founded on his belief that the judges are "good men who will do the

C O N F I D E N T I A L

right thing by me" rather than his counsel's objective assessment that a successful defence of the petition in all its parts is highly unlikely. Nevertheless, whatever the outcome both Dr Hendron and Mr McCartney are hopeful that the Court's sanction will be a fine rather than a declaration that the election was void and disqualification of Dr Hendron from standing again.

4. In conclusion, Dr Hendron reminded me that his legal costs will be a significant drain on the SDLP's chronically hard-pressed financial resources. He said these costs, like the propaganda gift made to Sinn Fein who are behind the petition, are a direct consequence of the Party's sloppy administration.

5. Dr Hendron will keep in touch with me as the case proceeds.

(SIGNED)

C G MACCABE  
SH Ext 2238

FROM : D A HILL  
ESL DIVISION  
23 SEPTEMBER 1992

ST  
C  
992  
JMcC  
175/9  
SEC

11345

Ms Murphy

Mr. P. Ryan  
File  
25.9.92

UNDER/ 1013/9  
24 SEP 1992  
CENT SEC

Mr. MacCabe  
Not looking good.  
JJC  
24.9

cc PS/PUS (B&L) - B  
PS/Mr Fell - B  
Mr Thomas - B  
Mr Ledlie - B  
Mr Alston - B  
Mr Bell - B  
Mr Wood (B&L) - B  
Mr Petch - B  
Mr D J R Hill - B  
Mr Cooke - B  
Mr May - B  
Mr Rickard - B  
Mr Dodds - B  
Mr Caine - B  
Mr Clayton- HOLAB

MR MACCABE  
POLITICAL AFFAIRS DIVISION

Mr. Watkins  
for free  
JJC  
23/9

ELECTION PETITION : DR JOE HENDRON (BELFAST WEST)

I attach a note on the law relating to election expenses and the effect of exceeding the limit on expenses, together with suggestions as to the way in which the law might apply in the case of Dr Hendron.

2. I understand that the petition is due to be heard on 12 October. I should stress that we do not know what the court will determine and it would be foolish to try to predict the outcome without a much greater knowledge of the facts than we have. However, the second part of the note assumes both that the limit on election expenses was exceeded and that expenses which should have been included in the return were not.

3. To summarise the position as we understand it, if the election court finds Dr Hendron has substantially overspent, and that the over- expenditure was "knowingly" incurred the likelihood is that he will lose his seat, and be incapable of standing for further election to that seat. A by-election would have to be held within about three months of the election petition hearing, if not sooner, there being no appeal for the decision of an election court.

C O N F I D E N T I A L

CN/ESL/13073

**CONFIDENTIAL**

The attached note has been agreed with Mr Clayton in Home  
Office Legal Adviser's Branch.

**SIGNED): D A Hill**

**D A HILL  
ECONOMIC AND SOCIAL DIVISION  
23 SEPTEMBER 1992**

**CONFIDENTIAL**

CE/ESI/12072



**LECTION PETITIONS: FALSE RETURNS AND DECLARATIONS AS TO ELECTION  
EXPENSES**The legal position

The law provides that a candidate or election agent who knowingly exceeds the statutory limit on election expenses is guilty of an illegal practice (section 76(1) of the Representation of the People Act 1983); and that a candidate or election agent who knowingly makes a false declaration as to election expenses is guilty of a corrupt practice (section 82(6) of the 1983 Act). Either or both findings may be made by an election court in its deliberation of an election petition alleging overspending on parliamentary expenses (the current limit in a borough constituency such as Belfast West with about 55,000 electors is in the region of £6,400).

2. Under section 144 of the 1983 Act, at the conclusion of a trial of a parliamentary election petition the election court determines whether the member whose election is complained of was duly elected or whether the election is void. The court makes a report to the Speaker, and the House of Commons subsequently gives the necessary direction for confirming or altering the return of the member, for issuing a writ for a new election or for carrying the determination of the court into execution as the circumstances may require. The House has no discretion; it must follow the court's finding.

3. Under section 158 of the 1983 Act, the report of an election court under section 144 states whether any corrupt or illegal practice has or has not been proved to have been committed by or with the knowledge and consent of any candidate at the election, and the nature of the corrupt or illegal practice. If it is reported that a corrupt practice (other than treating or undue influence) or an illegal practice was committed with the knowledge and consent of a candidate, he is treated as having been reported

CONFIDENTIAL

personally guilty of the corrupt or illegal practice in question. The report under section 144 also states whether any of the candidates has been guilty by his agents of any corrupt or illegal practice.

4. Under section 159 of the 1983 Act, if a candidate who has been elected is reported by an election court personally guilty or guilty by his agents of any corrupt or illegal practice, then his election is void. In the case of a parliamentary election, such a candidate is incapable from the date of the report of being elected to and sitting in the House of Commons for the constituency for which the election was held -

- a) if reported personally guilty of a corrupt practice, for ten years;
- b) if reported guilty by his agents of a corrupt practice or personally guilty of an illegal practice, for seven years;
- c) if reported guilty by his agents of an illegal practice, during the Parliament for which the election was held.

6. A candidate reported by an election court as personally guilty of a corrupt or illegal practice is, in addition to the relevant disqualification described in paragraph 5 above, subject under section 160 of the 1983 Act to certain incapacities in relation to registering as an elector, voting or holding public office, depending on the nature of the practice in question.

7. Corrupt and illegal practices are also offences under criminal law. The Representation of the People Act 1985 repealed the provisions by which corrupt and illegal practices were triable by an election court. Corrupt practices are now triable only either summarily or on indictment; illegal practices are only triable summarily.

Section 158(3) of the 1983 Act provides a saving in certain circumstances against the provisions of section 159. If a candidate is reported guilty by his agents of treating, undue influence or any illegal practice, and the court further reports that the candidate has proved to the court -

- a) that no corrupt or illegal practice was committed at the election by the candidate or his election agent and the offences mentioned in the report were committed contrary to the order and without the sanction or connivance of the candidate or his election agent, and
- b) that the candidate and his election agent took all reasonable means for preventing the commission of corrupt and illegal practices at the election, and
- c) that the offences mentioned in the report were of a trivial, unimportant and limited character, and
- d) that in all other respects the election was free from any corrupt or illegal practice on the part of the candidate and of his agents

then the candidate shall not be treated for the purpose of section 159 as having been reported guilty by his agents of the offences mentioned in the report.

9. The 1983 Act confers on the courts the power of granting relief, in various circumstances, to an innocent candidate or election agent against the consequences of acts in which they have not participated, or which are due merely to inadvertence. Section 86 of the Act sets out authorised excuses for failures as to returns and declarations as to election expenses. The power to grant this relief is not, like that under section 167 of the Act

which relates to illegal practice, payment, employment or hiring), confined to cases of default from inadvertence, accidental miscalculation, or other reasonable cause, but extends to cases of default, error, and false statement caused by the misconduct of an agent or other person (although only an innocent person can obtain relief).

Election petition against Dr Hendron

10. It is impossible to say how the law would apply to Dr Hendron's case without full knowledge of the facts as they will be established by the election court. In particular we do not know how great any overspend might prove to be. What follows is based on the assumption both that the limit on election expenses was exceeded by a substantial amount and that expenses which should have been included in the return were not.

11. It might be difficult for Dr Hendron or his election agent to argue successfully that he did not "knowingly" contravene section 76(1) of the 1983 Act. "Knowingly" is not the same as "intentionally". An illegal practice would be committed if the candidate or the election agent knew the expenditure was being incurred even though neither had formed an intention to exceed the limit.

12. Section 86 would appear to have no application in relation to a breach of section 76(1), as opposed to the existence of some error in the return. It is possible that section 167 might be used to obtain relief if Dr Hendron or his election agent could point to some accidental miscalculation and if the other requirements of section 167 have been satisfied. Section 158(3) would not be of assistance to Dr Hendron if either he or his election agent has committed a corrupt or illegal practice.

There is the separate question of whether Dr Hendron has committed the more serious offence (under section 82(6)) of knowingly making a declaration falsely. The relief offered by section 167 would not be available since it does not apply in respect of corrupt practices. However, section 86 (in particular, section 86(3)(d), which refers to "inadvertence or any reasonable cause of a like nature") may provide relief.

14. Contrary to Dr Hendron's apparent belief, the election court has no power to impose a fine or any other sanction under criminal law. As mentioned in paragraph 7 above, corrupt and illegal practices are no longer triable by an election court. The court's duty is to determine whether the member whose election is complained of was duly elected and to make a report stating whether any corrupt or illegal practice has or has not been proved to have been committed.

15. We understand that, in addition to the possible breaches of the law considered above, there were two further irregularities in connection with the return and declarations as to Dr Hendron's election expenses. First, Dr Hendron himself, rather than his election agent, signed the return as to election expenses. This is only appropriate where the candidate is his own election agent. Since Dr Hendron had a duly appointed election agent at the time when the return was made, the return was not in the form prescribed in Schedule 3 to the 1983 Act. Arguably this failure is an illegal practice under section 84 of the Act. Secondly, we understand that no declaration as to election expenses was made by the election agent and that the only declaration was the one made by Dr Hendron. The failure by the election agent to make a declaration is in breach of section 82(1) of the 1983 Act and accordingly is an illegal practice by the agent under section 84 of the Act.



. Neither of the two irregularities described in paragraph 16 above was referred to in the election petition. They might nevertheless be picked up by the election court. An illegal practice can also be prosecuted in the criminal courts.

Consequences if Dr Hendron's election is declared void

17. An election court has the power in exceptional circumstances to declare the candidate with the next greatest number of votes to a successful candidate to be elected in his or her place. This only occurs when the successful candidate is, and was known to be, disqualified from membership of the House of Commons at the time of his election (with the effect that people who voted for the candidate are deemed to have thrown their votes away). Since this does not apply to Dr Hendron, there will have to be a fresh election (at which Dr Hendron, if he is reported guilty or guilty by his agents of a corrupt or illegal practice, would be unable to stand) if his election is declared void.

18. There is no appeal from the determination of an election court, which is final to all intents as to the matters at issue on the petition.

19. If Dr Hendron's election is declared void, then we can probably expect the House of Commons to be informed of the fact by the Speaker when or shortly after the House returns on 19 October. The House will then be required to give the necessary direction for issuing a writ for a new election. The writ is normally issued on the same day as, or the day following, that on which a motion for the Speaker to make out his warrant for the issue of writ is moved. By parliamentary convention, the motion is normally moved by the Chief Whip of party to which the previous member belonged within three months of the date on which the vacancy occurred. However, it is possible that the effect of Section 144(7) of the 1983 Act is to require the writ of election to be moved without delay. This would be a matter for the House authorities.

16 JANUARY 1992

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MM 362/1  
CENT SEC

245/1  
11 JAN 1993

CC PS/Mr Mates (L&B) - B  
PS/Mr Hanley (L, B & DENI) B  
PS/PUS (L&B) - B  
PS/Mr Feil - B  
Mr Thomas - B  
Mr Bell - B  
Mr Wood (L&B) - B  
Mr D J R Hill - B  
Ms Marson  
Mr Caine - B  
Mr Clayton, HOLAB

PS/SECRETARY OF STATE (L&B) - B  
ELECTION PETITION: DR JOE HENDRON

*Mr. H. G. ...*  
*for free*  
*8/1/93*

The hearing of the petition against Dr Hendron was completed before Christmas. Judgement was reserved. It will be delivered soon - possibly next week.

2. We cannot predict what the outcome will be. It may be that Dr Hendron's election will be confirmed. But there is a possibility, if the election court finds that Dr Hendron substantially overspent and that this over-expenditure was knowingly incurred, that he will both lose his seat, and be incapable of standing for further election. There is no appeal from the findings of the election court so, in this event, a by-election would have to be held within about three months.

*m/s*  
*Ms Murphy*

3. I attach a detailed note on the legal position, cleared with our legal advisers, which was originally submitted when the hearing of the petition began in October.

Line to Take

4. Whatever the result of the election court, the Government will

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CN/ESL/14580

should be drawn into detailed comment. But, if pressed,  
the line to take should be:

- All election candidates have to abide by the law.
- The decision in this particular case is entirely a matter for the election court.
- Parliament has no discretion to override the decision of the election court.

(SIGNED): Jonathan Stephens

JONATHAN STEPHENS

C O N F I D E N T I A L

CN/ESL/14580

## MR PAT BRADLEY: BIOGRAPHICAL NOTE

Mr Bradley, who is 57, was appointed as Chief Electoral Officer on 1 May 1980. He is the third person to hold the office since it was created in 1972.

2. Mr Bradley had previously worked, since 1974, as the Deputy Electoral Officer for Londonderry (his home town). Before that he worked for the Local Enterprise Development Unit and as an industrial researcher at Du Pont in Maydown and in Warrington. He has a BA degree in the social sciences from the Open University and is, or has been, an associate member of the Institute of Personnel Management. Mr Bradley was made OBE in 1986.

3. Mr Bradley is forthright and vigorous in defending the independent status of his office. Although he is often criticised by the political parties (see briefing note C) he is not, so far as we are aware, regarded as being other than strictly impartial.

4. The CEO has no retirement age. Mr Bradley indicated some time ago that he intended to remain in post until he is 65, ie until August 2,000; we do not know if that is still the case. We are currently considering, with the Treasury, the CEO's retirement and superannuation arrangements and will at some stage ask Mr Bradley to give us a firmer indication of his intentions.

Background note

The Chief Electoral Officer is appointed by the Secretary of State under section 14 of the Electoral Law Act (Northern Ireland) 1962. Under the Act the CEO is responsible for the conduct of Northern Ireland Assembly and district council elections in Northern Ireland, the preparation of polling station schemes, the maintenance of election equipment and generally all administrative matters relating to elections in the Province.

2. Under the Representation of the People Act 1983 the CEO is the electoral registration officer and the returning officer for each parliamentary constituency in Northern Ireland. He is also the returning officer for European Parliamentary elections in the Province (under section 26 of the 1983 Act, as applied by the European Parliamentary Elections (Northern Ireland) Regulations 1986).

3. District council elections in Northern Ireland are for the most part conducted by the Chief Executives of the councils as deputy returning officers, although the CEO as returning officer retains overall responsibility for the conduct of the elections.

4. The CEO has eleven Deputy Electoral Officers (DEOs) to assist him, primarily in the compilation of the electoral register and related duties. The DEOs each have their own office and are responsible for electoral registration in a specified area. The CEO also has a small number of administrative staff at his headquarters office in Belfast.

5. The CEO has no direct counterpart in Great Britain, where electoral registration and the conduct of elections are primarily the responsibility of local authorities.



the CEO is an independent officer responsible to the Courts in performance of his duties. His staff are not civil servants, though terms and conditions of service are similar to those of his staff.

Under the 1962 Act the CEO holds his office "during good behaviour". A power of removal is rested in the Secretary of State, but that power is only available where the CEO misbehaves. The CEO has no retirement date: an office under the Crown held during good behaviour is held for life. Pension arrangements for the current CEO are the subject of discussions with the Treasury (see also Briefing Note B).