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Dear David,

[Handwritten signature]

ROI: PUBLICATION OF WHITE PAPER ON MARITAL BREAKDOWN

Summary

1. Long awaited White Paper on marital breakdown, published on 29 September, contains proposal for a referendum on divorce "after a full debate on the complex issues involved". Opposition accuse Government of stonewalling.

Detail

2. The Government's White Paper on marital breakdown was published on 29 September. It states that the Government proposes to have a referendum on divorce "after a full debate on the complex issues involved and following the enactment of other legislative proposals in the area of family law which are outlined in the White Paper" (namely a Bill providing for joint ownership by spouses of the family home, and a Family Law Bill). Speaking at a press conference held to launch the White Paper, Minister for Justice Pdraig Flynn said that the referendum would be "to test public support for the introduction of divorce" and, he thought, would take place "next year sometime".

3. The White Paper sets out a number of grounds for divorce which might form the basis of legislation, if the people vote to remove the constitutional ban on divorce. These are;

- (1) Absence of normal marital relationship for five years with no possibility of it being resumed.
- (2) Separation for five years with future cohabitation unlikely.
- (3) Irretrievable breakdown with a judicial separation already granted, (but this will have to be in place for two years before a divorce application can be made).
- (4) Irretrievable breakdown on proof of one or a number of issues which include adultery, unreasonable behaviour, desertion for three years, separation for three years with consent or five years with no consent and the absence of normal marital relationship for three years.

Mr M. ... Central Secretariat

4. There was a cautious welcome for the document from Fianna Fail's coalition partners, the PDs. In a statement, the Minister of State for the environment Mary Harney said that the White Paper marked the fulfilment of an important provision in the revised Programme for Government, agreed last December between the two parties. She hoped the way could be cleared for an early referendum but thought that some of the grounds outlined were too stringent.

5. The Opposition, on the other hand, were quick to accuse the Government of stonewalling; Fine Gael Justice Spokesman Alan Shatter said that it was clear no referendum would be held in the lifetime of the present Government. They had failed to grasp the nettle and had offered little hope to the many locked in to broken marriages. The Labour Party called the proposals "vague and cumbersome" and the Democratic Left dubbed them "tentative and nervous".

6. On the whole, the press have welcomed publication of the White Paper, although the Irish Independent, in an editorial, deplored the absence of a timetable and Conor Cruise O'Brien, writing in the same paper, condemned it as a 'charter for time-wasting' and drew parallels with the Government's continuing failure to take action on decriminalising homosexuality, four years after Senator David Norris won his case against them in the European Court. Most papers draw attention to Padraig Flynn's own antipathy towards divorce and his reluctance, at his press conference, to say what advice he would give his own constituents when a referendum took place.

Comment

7. With commentators continuing to speculate on a general election early next summer, it is most unlikely that the referendum will take place during the life-time of this Government. But it is at least now on the agenda. Recent opinion polls have shown a majority in favour of legalising divorce (eg an IMS poll carried out in February of this year showed 60% in favour and 32% against). But it is worth bearing in mind that opinion polls taken before the June 1986 divorce referendum also predicted a 'yes' vote. In the end, however, the proposal was defeated by 63.5% to 36.5%, after vigorous campaigning from the pulpits and by an assortment of "pro-family" groupings, playing on the fears of many women that they would find themselves and their children abandoned and destitute (the then Fine Gael TD, Alice Glenn, for example, declared that women voting for divorce was like turkeys voting for Christmas). It is too early to predict what the results would be now, although I would, at the very least, expect a substantial increase in the number voting in favour, particularly if the necessary legislation to ensure financial provision for partners and children is already in place.

Yours ever,

Tracy

T Gallagher

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