

Written evidence submitted by Joseph Ward (Doctoral Researcher, POLSIS, University of Birmingham)

***Background***

The evidence presented below is drawn from a chapter draft of a PhD project currently being completed at the University of Birmingham on the emergence of the referendum in British politics. It is submitted in conjunction with a full draft copy of the chapter to be used as a point of reference for the working group of the Irish Unification Referendums project. The chapter presents an archival analysis of the first referendum to be held within the UK – the Northern Ireland Border Poll, 1973. The data from which the chapter draws were primarily collected from the National Archives of the British state at Kew (London), and are therefore most relevant to the aspect of the project concerning the British government. In preparing this document I have gleaned the principal findings from the chapter and also tried to include those that seemed pertinent to the questions included in the CfE document. That said, it is likely that the broader context and detail contained in the chapter itself may be of wider interest to the group, and throughout this document I have often referred to the where you will find the more detailed point in the chapter itself.

As noted above, the chapter is very much in draft form at the moment, and part of larger project which is yet to be completed. As such, I would appreciate that the chapter draft was not published.

***Chapter Summary – Key Findings***

The key findings of the chapter are as follows:

- Analysis of primary documents reveals that from the time the idea of a referendum on the NI constitution was first discussed within the Home Office in late 1969, concerns about both the utility of the policy and its' potential risks for future governments were raised by officials. The motive to 'remove the (border) issue from day-to-day politics' remained a consistent element of the initiative from this point until implementation.
- Although the policy was dismissed under Wilson (1964-70), it retained the support of some actors, evident through submissions to the Royal Commission on the Constitution (Kilbrandon Commission – initiated 1969) which reported under Heath in 1973. Despite being superseded by more pressing security concerns in the early stages of Heath's government, it eventually re-emerged as a result of increasing urgency for a new 'political initiative' which attempted to provide a more sustainable solution to the seemingly intractable political and security crises the province posed for the British state in this period.
- In enacting and implementing the poll, officials built upon the practice of referendums related to decolonisation – Gibraltar (1967) in particular – as they passed initial legislation mandating a direct vote to be held, and a subsequent Order (as a statutory instrument) to stipulate the exact terms and conditions for the vote.
- Three dimensions ultimately motivated the decision to hold the poll. These were well summarised by officials: 'The aim of the plebiscite, as I understand it, is to offer the Protestants some reassurance, to offer Roman Catholics some "light at the end of the tunnel", and with luck to take the border issue out of party politics' (Ward n.d: 20).
- Overall, despite officials alerting ministers as to the potential problems of the policy throughout its gestation, the urgent need to provide reassurance to the unionist community in the face of direct rule overtook the other objectives as the principal motivation. As this became apparent to the nationalist community they coordinated an effective boycott campaign, disengaging from the process and concurrently undermining any possibility of

removing the border issue from political contestation. Although officials and ministers were aware of these developments, the policy was announced and implemented regardless.

- The result arguably created some space for the Heath government to implement more substantive initiatives around power-sharing and constitutional change (e.g. Sunningdale). However, in essence the politics behind the introduction of the border poll – the first referendum on UK soil – illuminate a number of tensions and contradictory motives in Westminster’s governance of the province which created problems for future governments both in relation to NI and other policy areas.
- The decision to hold the border poll set a precedent for referendum practice in Britain, increasing the strength and legitimacy of external pressures exerted upon the state and political actors to hold subsequent votes in other areas: a ‘precedential effect’.

### **Findings Related to CfE Questions**

The main points of relevance to the research questions of the working group are:

- In 1973 it was much more difficult to determine demography given the Catholic census boycott campaign that was organised in 1971 in response to the introduction of internment in particular (see Scull 2019: 42). There is clear evidence of official and ministerial discussions concerning Catholic and Protestant birth rates as far back as the late 1960s in the archival documents, however, and the impact of the growth of the Catholic population on Stormont elections (Ward n.d. 7).
- Though historically it is considered a nationalist demand (Whysall 2019: 1), the decision to hold the 1973 border poll was primarily motivated by the perception at Westminster that there was a need to reassure the unionist community in lieu of the imposition of direct rule. The border poll was thus considered a ‘bonus’ for the Protestants, even though it was not something PM Brian Faulkner, the UUP or the DUP had demanded (Ward n.d: 16).
  - The sentiment behind the reservations of the unionists is evident in correspondence between the UK and NI governments, in which Faulkner outlined 6 preconditions for the referendum system (held every 10-15 years) to be acceptable to the NI government. These included, *inter alia*, a threshold of 50% of the total electorate to be required for any vote for change to be legitimate (*ibid.* 15). As his government resigned in response to the insistence on direct rule from Westminster, the UK government took little heed of these demands in conducting the poll.
- In relation to the points on the potential role that Stormont might be able to play as a mediator between the UK govt and the NI electorate (Whysall 2019: 7), it is worth noting that the initial referendum provision was introduced in *addition* to the 1949 pledge for a majority of Stormont MPs being required to vote for a united Ireland to initiate a change (Ward n.d: 12; 16). Now that Stormont is operational again, it would be potentially be possible to reinstate a similar convention through a vote on a border poll in the Assembly at some point (perhaps prior to or after the 2022 elections?)
- Of the various constitutional alternatives to either union with the UK or a united Ireland that were considered under Wilson in particular, but also under Heath, these centred around three options: a) Independence with or outside the Commonwealth; b) a regime akin to the Associated States of the Caribbean; c) a regime similar to that enjoyed by either the Channel Islands or the Isle of Man (Ward n.d: 5-6).
- In considering how the different options on the ballot paper should be worded and structured, there was much discussion of how the vote should present ‘clear and comprehensive alternatives between which a rational choice can be made’, most likely

meaning ‘the status quo on one hand or a specified change on the other’ (Ward n.d: 14). These issues pertain to how any referendum process is organised in a future vote, and suggest that if – in accordance with the Good Friday Agreement provisions (Whysall 2019: 3) – the SoS decides to call a vote on the principle of a united Ireland prior to substantive negotiations taking place, it seems as though it would also be necessary to hold a second vote to confirm the consent of the electorate to the new arrangements – in-line with the recommendations of the Independent Commission on Referendums (2018) (see Ward n.d: 18-21 for discussion in relation to Gibraltar example).

- A further consideration that should be paramount in the minds of the NI, UK and ROI governments in relation to any future poll is the possible (inevitable?) politicisation of the legislative and implementation process surrounding the poll. This was a concern raised by officials throughout the process of implementing the 1973 vote, particularly pronounced because of the strategic objective to attempt to remove the border issue from political contestation (see Ward n.d: 8). One key example of this was with regard to timing, as the first SoS for Northern Ireland, Willie Whitelaw, had promised the unionists an early poll, which ultimately proved difficult to implement and exacerbated tensions between unionists and nationalists, as well as between NI and Westminster (*ibid.* 20-22).

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## References

Independent Commission on Referendums (2018) *Report of the Independent Commission on Referendums*. London: The Constitution Unit, UCL. Available at: <http://www.ucl.ac.uk/constitution-unit/research/electionsandreferendums/icreferendums>.

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