

PREM19

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MINISTERS

(Propriety of appointing a
Minister likely to become a
member of the European
Assembly)

Confidential Filing

The problems arising from the appointment as a Minister of an M.P. who is also a Member of the European Assembly

MINISTERS

MAY 1979

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
8.5.79							
9.5.79							
16.5.79							
<p>PREM 19/94</p>							





With the Compliments
of the
Private Secretary
to the
Secretary of the Cabinet

N. J. Sanders, Esq

Cabinet Office,
London, S.W.1.



Ministers
NBPM
MS

CABINET OFFICE

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From the Secretary of the Cabinet: Sir John Hunt GCB

Ref: A09574

16th May, 1979

Thank you for your letter of 9th May. I have consulted the FCO at official level about the questions in your letter. The position is as follows.

2. No other Member State has a Minister in Parliament. Ministers from Member States are normally present only during Question Time, when a Minister - usually from the Ministry of Foreign Affairs of the State concerned - represents the Presidency and answers questions from members of the Parliament addressed to the Council, or when a statement - e.g. about a European Council meeting - is made by a Minister from the Presidency.

3. The Treaty assigned distinct roles to the Assembly and the Council of Ministers and these have evolved by tradition in ways that would make it difficult, if not impossible, either for a Minister to be a member of the European Assembly or for a delegation from one Party from a particular Member State to be seen to be taking the whip of the Government of that State.

4. The traditional distinction in roles has been formally enshrined in Article 6(1) of the Act annexed to the Council of Ministers Decision of September 1976 providing for direct elections, which begins:

"1. The Office of Representative in the Assembly shall be incompatible with that of:

- member of the Government of a Member State; ..."

Article 4(1) says, furthermore,

"Representatives shall vote on an individual and personal basis. They shall not be bound by any instructions and shall not receive a binding mandate".

/This

M. Maclean, Esq.

This Act was specified as a Community Treaty under the European Communities Act 1972, and both Articles are directly binding on the United Kingdom. Article 6(1) seems to me to constitute a formidable obstacle to the proposal now being considered.

5. In the present, nominated Parliament, the Conservatives made up a Group almost completely on their own, with the addition of two Danes. In the directly-elected Parliament they might decide to stand alone or to form part of the larger Group. In either case, if they were seen to be taking a formal whip from London, it would be at least open to argument that they were infringing Article 4(1). Furthermore, if they were part of a Group with another or several other Parties, they might find themselves at odds with the line decided by their Group.

6. As far as Mr. Godber is concerned, I am informed that he went to Geneva and New York from time to time in connection with his general responsibilities for inter alia Disarmament and United Nations Affairs. Apart from one period of about two months at the end of 1974 in New York, the longest he spent in either place was about a week. He was of course based in London, although he travelled widely in connection with his other Ministerial responsibilities. It does not look as though his experience constitutes a very relevant precedent for this case.

7. There are, as I said in my letter of 8th May, other possible ways of ensuring that the Conservative Delegation in the European Parliament maintains close links with Government thinking. For example, through dual mandate members from the Commons (possibly 4) and Conservative MEPs who are also members of the House of Lords, there will remain a direct contact between the two Institutions. These members may be expected to know to some extent what is happening in their relevant Houses in Westminster. Another possibility would be for a paid member of the staff of the Group to which the Conservatives belonged to be responsible for maintaining liaison with the Conservative Party in the United Kingdom to ensure that the Conservative MEPs were aware of developments in Party thinking. As you know the European Parliament allots funds to the Groups, according to their numerical strength, for supporting staff.

8. You say that the Chief Whip may wish to pursue this question with the Prime Minister. In that context perhaps I could offer two suggestions:-

- (a) As paragraph 1 above says we have obtained factual information from FCO officials in order to answer the Chief Whip's questions. But FCO Ministers may well have views on how best to achieve the necessary liaison: and the Chief Whip may want to get these before seeking the Prime Minister's ruling.
- (b) There may be something to be said for not taking a substantive decision on the liaison arrangements until after the European Elections have been held and the views of MEPs themselves can be ascertained (when we should also be able to discover how other Governments are tackling the problem).

9. I am copying this letter to Nick Sanders (No. 10).

M. J. VILE

12 DOWNING STREET,
S.W.1.

With
The Private Secretary's
Compliments



Government Chief Whip
12 Downing Street, London SW1

Ministers

PA

MS

9th May 1979

Thank you for your letter of 8th May about the propriety of appointing as a Minister a Member who may subsequently become a Member of the European Assembly.

The Chief Whip was most grateful for Sir John Hunt's view on this and will, I imagine, wish to pursue the question with the Prime Minister. As you surmise, he is anxious to ensure that there are appropriate liaison arrangements between Westminster and the Assembly. The Chief Whip takes the point about a Minister being absent from the country for several months in the year but he has asked whether other member States have Ministers in the European Assembly and if so, how do they manage. He also recalled that Mr Godber had a semi-permanent appointment at the Geneva Disarmament Conference and at the UN and wondered whether this could not be regarded as a precedent for the situation you describe. The further point he raised was whether it would be acceptable if the Minister were in fact to be answerable for Government policy in the European Assembly or alternatively, if the Euro MPs are to have a Whip, could he not behave there exactly as Whips at Westminster do but with the added advantage of being a member of the UK Government. Before taking this up with the Prime Minister, the Chief Whip would welcome further advice on these points from Sir John Hunt.

I am copying this letter to Nick Sanders at No.10.

(M MACLEAN)

Martin Vile Esq.,
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10 MAY 1979



With the Compliments
of the
Private Secretary
to the
Secretary of the Cabinet

N. J. Sanders, Esq

NBAM at the
stage

MJS

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London, S.W.1.



MINISTERS

CABINET OFFICE

70 Whitehall, London SW1A 2AS Telephone 01-233 8319

From the Secretary of the Cabinet: Sir John Hunt GCB

Ref: A09497

8th May 1979

You asked for advice on the constitutional propriety of appointing as a Lord Commissioner of the Treasury a Member likely to become a member of the European Assembly after the Assembly elections. His function would be to act in a liaison capacity between the Government and Conservative members of the Assembly.

In Sir John Hunt's view, the central difficulty about this proposition relates to the position of the Whip concerned as a Minister. As a Minister, he is, like all other Ministers, bound by collective responsibility. He cannot speak for only himself: he must always speak and act as a Minister. It would however seem very anomalous to have a Minister in the European Assembly, who would have to operate within the confines of collective responsibility and yet would not be answerable in that Assembly for the Government's policies. He would not be able to participate as a full member either of the Assembly or of his Party grouping whether in speaking or in voting because of his prior obligation to the Government at Westminster.

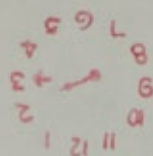
Apart from this major difficulty of principle, there is the further question of whether it would be regarded as acceptable by the House of Commons or of public opinion generally for a member to draw a Minister's salary when it was known that he had to be out of the country for at least three or four months a year, mainly during sessions of the Westminster Parliament. Even if his role as a Minister is identified as a liaison job, it would be pointed out that he would not be in a position to participate fully in the day to day activities of the Government, or to fulfil the normal role of a Whip.

Having said all this, the case for some liaison arrangement is clearly very strong, and the Government will need to consider carefully how best to fulfil this function. One possibility might be for it to be done by a Whip who did not have a dual mandate but whose job would be to keep in touch with Conservative members of the European Assembly. But there are no doubt other possibilities.

I am copying this letter to Nick Sanders (No. 10).

Murdo Maclean, Esq

AMJ. VILE
(M. J. Vile)



- 8 MAY 1979

END

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