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PS/SECRETARY OF STATE (L)

cc PS/SofS (B)
PS/Mr Scott (L&B)
PS/Mr Patten (L&B)
PS/PUS (L&B)
~~PS/Sir Ewart Bell~~
Mr Brennan
Mr Angel
Mr Merifield
Mr Edis
Mr Reeve
Mr Bickham



10th
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2 SEC/4

ELECTORAL ABUSE

1. This note reports progress on the preparation of a Bill and work on other measures to reduce the scope for personation; and assesses the extent of electoral abuse at last month's European Assembly elections.

The European Assembly Elections

2. Personation by Sinn Fein at last month's elections is thought to have been well down on the level reached at the 1983 General Election. Nonetheless, they are reckoned to have obtained about 10,000 votes through personation. This apparent reduction may have been in part the result of over-confidence about their real support (their public forecasts of their performance ranged up to 120,000 votes); in part because electoral abuse has less scope for producing real gains in a Province-wide single constituency election than in Parliamentary, Assembly or local ones; and in part because of the steps which the Chief Electoral Officer, the RUC and NIO took against it.

3. There is every prospect, however, that electoral abuse will increase again in next May's local government elections. SF will be disappointed by this European result, but it has long been recognised that the May 1985 elections are the real test. Overtaking the SDLP on first preferences is still a possibility for them. The SF vote is not in decline: taking account of likely personation, their real vote remained about the same (amid generally declining turnout) as in 1983. Their record of

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constituency work will probably have a greater impact in local elections. Moreover, some of the SDLP vote could be vulnerable: 20-25% of SDLP voters are thought to have given Morrison their second preferences at the European Assembly elections. These are people who are evidently prepared to support a candidate tainted by terrorist associations in certain circumstances; they are in some degree floating voters of the nationalist community. We know little of their motivations: some might not be prepared to give SF a first preference. But had Morrison, not Hume taken all these floating votes, he would have polled up to 128,000 votes and Hume 112,000.

4. There are many areas, in consequence, where electoral abuse may well be decisive in local elections. There is thus as great a need as ever for measures to counter personation which is by no means confined to Sinn Fein. Moreover, political pressure for such measures will continue. In the light of the European Assembly election experience, the SDLP are continuing to press strongly for the introduction of identification requirements.

The Elections (Northern Ireland) Bill

5. We have now received from Parliamentary Counsel a draft Elections Bill which, in line with last September's Cabinet decision, permits the Secretary of State to make an Order requiring electors to produce one of a list of specified documents as proof of identity in order to obtain a ballot paper at a polling station. The Secretary of State asked Mr Scott to consider earlier this summer whether voters should be required to produce a specific identity card bearing a photograph of the elector but ruled this out following advice from Mr Scott, who, in his note of 15 May, suggested that "such a scheme would be likely to attract widespread criticism and a degree of boycotting from the electorate which would go a long way towards defeating its purpose". We are now considering how the Bill and, in particular, its supporting regulations (which will list the documents) can be drawn as tightly as possible against personation without entailing the risk of an unacceptably high level of disfranchisement of entitled electors. The right balance has to be struck between allowing a fairly wide range of

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documents while restricting the range to those which can not easily be forged or fraudulently obtained. For example, it is now clear that birth certificates should not be included.

6. Following my note of 29 March, the Secretary of State said that he would wish to consider the future of the Bill in the light of experience at the European Assembly elections. My note referred to the risk that Sinn Fein might not be deterred unduly from personation by identification requirements, which they might be able to circumvent. (However, we have reason to believe that Sinn Fein's knowledge and judgement of electoral matters can be faulty: it appears that some parts of the SF organisation thought that more stringent measures were in place for the recent European Assembly elections than was the case.)

Handmarking

7. At Cabinet last September the Secretary of State withdrew his earlier suggestion that the Bill might include handmarking provisions, but he asked for the scientific work to continue. Equipment better suited to polling station use than that demonstrated to the Secretary of State has now been developed, and we can be fairly confident that we have a system that is viable in practical and financial terms. The essential medical work that was put in hand, however, has not yet been completed. A number of tests are in progress, and no adverse results have so far been reported; but DHSS, who were consulted by the Home Office scientists as to the sort of tests that were needed, have recommended a number of extra tests. It seems now that the earliest stage by which we could hope that all the tests will be complete is the second half of September: moreover, slippage is possible, if for example the tests yield results that need further investigation. This delay is disappointing but we are operating in a field hitherto largely unexplored, and all the possible risks have to be fully investigated. So far as is consistent with that principle, we are pressing for the tests to be completed as fast as possible. It seems that, provided there are no adverse results, we should have the final results before the Bill is introduced at the beginning of the next session.

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8. The political prospects for handmarking have hardly improved, however. At his meeting with the Secretary of State on 25 June Mr Hume, despite his party's anxiety about personation in the light of experience on 14 June, expressed his opposition to handmarking. It is likely that SF could whip up an effective propaganda assault against it, with which the SDLP might feel obliged to go along. Moreover, unionists, though they have said little about the proposal, would be likely to react strongly against it, particularly when they are smarting over other distinctions in electoral law and practice between GB and NI. If a permissive power were included in the Bill to allow the Secretary of State to provide, by Order, for handmarking, Cabinet would have to be invited to reverse last September's decision. For all these reasons, the odds are stacked against handmarking for this Bill, but we have told the scientists that, thorough as we accept they must be, we want the tests brought to an early conclusion so that if, in future, handmarking is favoured, the necessary scientific testing has been completed.

Representation of the People Bill

9. As Ministers have decided (though not announced), we are for the moment adhering to the position in the Representation of the People Acts White Paper, that the more liberal arrangements for absent voting should not apply in Northern Ireland because of the danger of increased electoral abuse. A scheme for allowing proxy voting where postal or proxy voting is allowed in GB is in reserve, and could be introduced by a Government amendment during the passage of the Bill. This scheme is not quite so satisfactory as the White Paper position from the point of view of preventing electoral abuse, but it is acceptable. (In the context of the White Paper proposals, the Home Secretary is being further recommended to remove the right to an absent vote in Parliamentary elections in Northern Ireland on grounds of change of address because of the opportunities it offers for electoral abuse.)

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Other Measures

10. We have in hand a review of the Electoral Law Act (NI) 1962, which regulates local government elections, and shall consider some questions relevant to electoral abuse. Among them will be whether modifications to polling station procedures, including further provision for party officials serving as personation agents, are desirable. We aim to complete the review by December, identifying any changes in the law that could be made by Order in Council, if necessary before the May elections. The tighter restrictions on postal voting applied at the NI Assembly and European Assembly elections already apply to local government elections. The Chief Electoral Officer is reviewing the number and location of polling stations in the light of changes in local government boundaries. A larger number of polling stations makes personation more difficult: it is in the bigger stations that personation works best. On the other hand it also stretches parties' and police resources. The CEO will try to strike the best balance he can here. He is also continuing his programme of specially selecting high calibre electoral staff for difficult areas, and proceeding with his training programme. The further computerisation of the electoral registration process he envisaged has slowed somewhat as a result of the delays in completing the Local Government Boundaries Commission report. We are working with the Chief Electoral Officer on what can be done, nevertheless, to improve the accuracy - already high, by GB standards - of the electoral register for 1985.

Discussion

11. As suggested above, while provisions for identity cards, with photograph, or handmarking have attractions, they are unlikely to be acceptable to the Secretary of State's colleagues, especially as Cabinet has already decided what a Bill should contain. It would be difficult to produce new considerations to persuade other Ministers, particularly the Home Secretary, to depart from what has been settled. There are also significant penalties in doing nothing: the constitutional parties expect a Bill as

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envisioned and the SDLP believe that they have a commitment to that effect. The Bill, although short, is not entirely straightforward technically; and the wider issues it raises could lead to some controversy in Parliament. It will not eliminate personation, but it will reduce the scope, should disrupt Sinn Fein, and will demonstrate the Government's determination to take action while stopping short, this time at least, of more extreme measures (which could in any case be counter-productive because of the propaganda advantages they could give to Sinn Fein).

Timing and Resolution

12. We have a firm slot for the electoral abuse Bill in the legislative programme, and as correspondence earlier this year with Lord Whitelaw indicated, it is well understood that the Bill must be introduced very early next session, and then make rapid progress. The contents of the legislative programme should not be disclosed before the Queen's Speech, but the constitutional parties know that a Bill is envisioned, along the lines which the Secretary of State canvassed with them in April 1982. I suggest that we should indicate to the parties informally, perhaps through PAB, that we are pressing ahead with a Bill in time for the local government elections next May. There is no commitment to have a further round of consultations with the parties, but the Secretary of State has indicated to them that they would be kept in touch with developments.

Conclusion

13. The position has changed little since the Secretary of State took this issue to Cabinet last September. Each option, including doing nothing, has disadvantages, but the best course appears to lie in pressing ahead with the Bill for which Cabinet approval and an early place in next session's legislative programme have been secured; and I so recommend.

N.C.ABBOTT

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6 July 1984

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