

E. R.

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423/7
cc. The Special

185/19/17
ME/172/87/SH

PS/SofS (L&B) - Mufax

cc PS/PUS (L&B) - W 2/7
1. Sir K Bloomfield
Mr Stephens
Mr Burns - M
Mr Chesterton - M
Mr Innes
Mr Bell - M
Mr Blackwell
Mr Kirk - M
Mr S Hewitt
Mr J McConnell
Mr G Hewitt

2. See 3

MEASURES AGAINST SINN FEIN

I should record that, as I mentioned to you on the telephone this morning, Mr Lillis has been pressing me for clarification as to what lay behind recent media speculation about the imminence of Government action against Sinn Fein representation on local councils in Northern Ireland. The Irish have noticed in particular the coverage of the Secretary of State's remarks to the Press on 21 July.

2. I have told Mr Lillis that I am confident that no announcement of Government policy is imminent. Given the approach of the holiday season, I said that I thought it was extremely unlikely that any announcement would be made before the end of August at the earliest. I reminded Mr Lillis of the background to this matter, including the consultations with local political opinion carried out by Mr Needham during the winter of 1985/86, and the informal conversations which we had had in the Secretariat from time to time during which we had said that the most likely course of action would be the publication of a consultative paper, given that only in exceptional circumstances did we seek to legislate without an initial period for consultation beforehand. If any announcement was to be made after the summer break - and I emphasised that I was not aware that any decision had yet been firmly taken to make such an announcement - then I assumed that it would take the form of an

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announcement of options for consideration and for consultation with the interested parties. I could not say what the options for action might be, but there was plenty of press speculation on which Mr Lillis could draw. I added that any period of consultation would of course enable the Irish Government to give us their views, but that I was confident that we would inform them in advance (although not necessarily very much in advance) of any planned announcement.

3. Mr Lillis appeared generally content with this. But it is clear that he and his successors will continue to take a close interest in this subject. He took the opportunity of reminding me that the nationalist community would tend to oppose anything which seemed to inhibit the electoral rights of nationalists in general, and that they would particularly resent any Government action which seemed to discriminate against any nationalist grouping without imposing similar restrictions on extreme loyalist organisations. I said that we were well aware of the importance at least of this last point.

Mark Elliott

M ELLIOTT

22 July 1987

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cc PS/Mr Scott (B&L)-M
PS/Dr Mawhinney (B&L)-M
PS/PUS (B&L)-M
Mr Burns -M
/ Mr Bloomfield
Mr Stephens
Mr Barry
Mr Chesterton -M
Mr Elliott
Mr McConnell
Mr Wood

Secretary of State (B&L)-M

2 cc Mr Spence

3 SK 3

MEASURES AGAINST SINN FEIN: CONSULTATION PAPER ON CANDIDATES DECLARATION

1. You asked me to advise you on the timing for publishing the Consultation Paper. Mr Watkins' note of 26 February confirms your acceptance that doing nothing is not an option.
2. The presence of Sinn Fein on District Councils has created and continues to create difficulties so I have enclosed a paper from DOE which sets out their views and has taken into consideration NIO comments.
3. It is crucial to the success of any proposal for action that the necessary legislation should be in place before the May 1989 local government elections. I am pleased to note from Mr Watkins' note of 12 March that although a Bill is not included in the 1987/88 legislative programme the Lord President has said that if you were to raise this in Cabinet, he undertook to comment sympathetically to fit the Bill into the programme. However, if this is not possible, we could still meet the May 1989 timetable by including it early on in the 1988/89 programme.
4. You asked that my submission should reflect the combined views of Ministerial colleagues. I have circulated my views to Dr Mawhinney and Mr Scott. Dr Mawhinney has offered no comments. Mr Scott has said that while he read my draft submission "with care and not a little sympathy for the arguments" I advance, he has 5 main warnings, namely:-
 - 4.1 we should not give Sinn Fein an issue on which to mount a campaign, in view of their recent political setback in the Republic;
 - 4.2 publication of the paper now "would do nothing to help the SDLP in West Belfast at the next election" where he sees a "major opportunity to deal a blow to Sinn Fein";
 - 4.3 we should not make the task of developing rapport with the new Irish Government more difficult;
 - 4.4 we do not have clearance to proceed with the necessary legislation and so we should not embark on the publication until the way ahead is agreed; and
 - 4.5 we should not lose this valuable card now when deeper feelings dominate the local political scene.

I think that para 3 above answers the legislative point at 4.4 and would hope that my comments below would deal with Mr Scott's other arguments.

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5. 5.1 In deciding whether or not to publish it is worth restating the basic political case. We know, and the public suspect, that Sinn Fein and the IRA are one and the same thing. We know and many Unionist Councillors tell us that Sinn Fein Councillors are required by the IRA to provide information on Unionist Councillors which could be used at any time for an attempted assassination. We know that the UDA has, as part of its organisation, the Ulster Freedom Fighters which like PIRA is a proscribed organisation. Some Unionist politicians make public utterances which support the use of violence for political ends.
- 5.2 In these circumstances a visitor from Mars could well wonder why it was the Government stood back and continually allowed representatives of some of the most vicious terrorist organisations in the Western world to continue to destabilise an already unstable community. He might be further confused when he learned that our long-term policy is to work towards devolution on the basis of partnership and when we know that as long as Sinn Fein and its counterparts are able to stand unhindered at elections the achievement of such a policy at Local and Assembly level is impossible.
- 5.3 If our immediate aim is to strengthen the position of the constitutional parties in both communities as a step towards future powersharing, we must adopt an evenhanded approach to both traditions. This requires a determination to make life more difficult for the extremists of both sides. (When I talk about extremists I am not talking about those who hold extreme political views but those who use their participation in the democratic process as a mask for support of terrorism.)
- 5.4 To agree that something should be suggested to be done has not proved an easy task: but it does now appear that there is an agreement in principle to publishing a consultation document with the preferred option of requiring candidates to take a declaration of non-support for proscribed organisations at candidature for Local Government elections. I hope I will not be misunderstood if I say that doubters of the strategy have now become doubters of the tactics.
- 5.5 It is now suggested that the timing is not right because publication of a consultation paper will firstly strengthen Sinn Fein's position against the SDLP at a forthcoming General Election and secondly at a sensitive time in our relations with the South we should avoid doing anything to antagonise Mr Haughey. It is therefore argued that nothing should be done this side of an election. (I have a hunch that there may well be different but equally powerful arguments for doing nothing after an election!) It was over 16 months ago that I was asked by you to produce a report on what action if any should be taken to exclude extremists standing for Local Government. It is public knowledge that recommendations

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have now been on the table for well over a year and the pressure to state our position will increase. It is, therefore, extremely difficult politically for the Government to continue to be seen to be inactive for much longer.

- 5.6 As we do not know the date of the election and as it could happen any time after May, the least you will have to say, now (if it is decided not to proceed), is that you have decided to defer a decision until after the poll and you will be pressed to say why. I find it difficult to envisage what reasons you could give publicly for such a stance. But whatever is said will be clearly seen to be acting at the behest of the SDLP and out of fear of upsetting Mr Haughey. Nothing would do more to strengthen the hands of those who suggest that the Hillsborough accord is not about consultation and discussion but has given the Irish a veto over the internal affairs of Northern Ireland.
- 5.7 You have repeatedly stressed that decisions affecting Northern Ireland rest with the Ministers responsible, but any further delay in publication would clearly show that in this case this has not happened. I am convinced that this is the right action and like other decisions we have taken such as Public Order and Flags and Emblems it is worth taking on its merits. I accept, of course, that the presentation of the consultation document needs to be handled with considerable sensitivity - particularly in the run-up to a General Election. That is why it must be shown to be targetted equally at the men of violence on both sides. This should not be an impossible task.
- 5.8 It must also be seen to be the decision of the British Government and only the British Government. Were the Irish or any other bodies given prior rights of consultation it would devalue the even handed approach essential to the introduction of a consultative document. This is not to say the Irish could not be informed in advance and their views will, of course, be taken into account during the consultation process, along with the views of all others.
- 5.9 While our decision may not overplease Mr Haughey or the SDLP, having spoken to PAB I do not believe it will do much political damage to SDLP in the short-term while at the same time it could, if introduced, be a major step to returning stability to Local Government and to help create the atmosphere that will bring the constitutional parties back to the negotiating table.
- 5.10 Some concern has been expressed from time to time as to whether the introduction of a Declaration would be an effective way of handling this problem. I am in no doubt that it is absolutely right and proper, in all the circumstances for Government to introduce this further criterion into the Council electoral process. The requirement to sign such a Declaration may well itself prove a major obstacle, since it is not inconceivable that there will be those who are not prepared to sign and who would not therefore

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stand for election. Even if they found a way round the Declaration however their actions and comments within Councils would be inhibited by having signed, since they would have to be careful not to breach the terms of the Declaration. Such a measure would also be even handed. Whichever method of enforcement is introduced, this would have to be triggered by others within the Council Chamber who believe that the terms had been breached by a Councillor. Government could take credit for having introduced the new procedures but its enforcement and policing would be for others.

6. Conclusion

Having carefully weighed up all the pros and cons, as expressed by officials and Ministerial colleagues, I remain convinced that publication of the Consultative Document now is the right course of action and would so recommend.

AB
PP RICHARD NEEDHAM
Approved by the Minister and signed in his absence
20 March 1987

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CONSULTATION PAPER ON CANDIDATES DECLARATION

NOTE BY DOE ON THE LOCAL GOVERNMENT IMPLICATIONS

1. The proposal for the introduction of a declaration by elected representatives against supporting a proscribed organisation arises largely because of the continued presence of Sinn Fein Councillors in local government.
2. Following the May 1985 local government election, 58 Sinn Fein Councillors were elected to 17 Councils although one Councillor (in Ballymoney) has subsequently been disqualified for non-attendance. In 8 of these Councils (Derry, Down, Fermanagh, Magherafelt, Moyle, Newry and Mourne, Omagh and Strabane) a SDLP/Sinn Fein combination is necessary for a nationalist majority over the total unionist group. Sinn Fein membership in the 8 other unionist-controlled Councils is Antrim (1), Armagh (1), Belfast (7), Cookstown (4), Craigavon (2), Dungannon (4), Limavady (2), Lisburn (2). Sinn Fein members are in the minority but their presence causes major and continuing disruption.
3. The unionist Councils with Sinn Fein members sought to deploy various tactics to minimise what they regarded as the disruptive role of Sinn Fein within Council Chambers. Test cases were taken against Craigavon Council and the Court held that while judicial notice could be taken of the policy of "armalite and ballot box", counter-action was for Government to take rather than individual Councils and so the Courts ruled against the tactics deployed. Following this, the adjournment tactic then began in the Autumn of 1985 in Craigavon and was followed at that time by an increasing number of unionist Councils adjourning in support of Craigavon. In November 1985, it was subsumed in the protest action taken by all unionist-controlled Councils against the Anglo-Irish Agreement. A number of unionist Councillors are at pains to remind their fellow Councillors of the reason for the original adjournment strategy.

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4. As the Minister responsible for local government, Mr Needham was asked by the Secretary of State in late 1985 to consult with the various parties and to report. These consultations were held with 22 different groupings and a detailed and lengthy report made to the Secretary of State on 31 December 1985. The expectation had been created in Northern Ireland that Government would take some firm action.
5. The draft consultation paper discusses the options which might be available and explores the problems which would be associated with legislation to introduce a declaration.
6. From a local government point of view, DOE believes that these difficulties are more than outweighed by the arguments in favour of proceeding now with the publication of the paper:
 - 6.1 Publication would demonstrate Government's determination to stand up to Sinn Fein on local councils. It would also counter the belief that, because of the Anglo-Irish Agreement, Government did not have the will nor the intention to act even-handedly at local level.
 - 6.2 Local Government is largely in a state of stagnation and ad hoc intervention by Government is necessary to maintain but not to develop services. Court action is persuading some Unionists to return to some semblance of normal business. However these court decisions are being presented by the DUP and OUP leaders as forcing unionists to sit in Councils with Sinn Fein. A Government proposal to take action against Sinn Fein would, therefore, help to bring moderate unionists back to transacting Council business.
 - 6.3 Proposals under consideration for changes in the local government law prior to the 1989 local government elections include the possible introduction of proportionality in Council appointments and nominations to public bodies; this would be warmly welcomed by minority interests in all Councils. However unless action is taken against Sinn Fein, it

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would give that party a right to Council chairmanships, membership of committees and nominations to public bodies which would further inflame unionists and damage the SDLP's position.

- 6.4 There is evidence that failure to act could allow the continued presence of Sinn Fein to become a respectable argument for supporting mass unionist resignations from Councils; this would force Government to appoint full-time commissioners in a number of districts, including those where the minority representatives would continue in office.
- 6.5 Many moderate councillors remain genuinely worried for their own safety because of the presence of Sinn Fein members and, in the absence of any sign of Government action, this may hasten their withdrawal from local politics altogether as much as their opposition to the Anglo-Irish Agreement.
7. DOE believes, therefore, that the positive step of publication of the consultation Paper would have the impact of helping to sustain the moderate element amongst unionists in bringing about some semblance of normality into those Council areas where there has been obstruction for the past 18 months. To the extent that the moderate element is lost from Local Government, it will have major repercussions for other areas of political progress in Northern Ireland. Whilst recognising the difficulties attached to the proposals, DOE would, in view of its responsibilities for local government, strongly recommend publication of the Consultation Paper in March 1987.

Department of the Environment (NI)

March 1987

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