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PS/MR NEEDHAM (LLB)-M SEC

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RAJATAN ROGAI
STORI SINGH HUSSAIN KHAN

PS/Sofs (L&B)-M
PS/Mr Stanley (L&B)-M
PS/Dr Mawhinney (L&B)-M
PS/PUS (L&B)-M
PS/Sir K Bloomfield-M
Mr Burns
Mr A W Stephens-M
Mr Barry DOE(MI)-M
Mr Chesterton
Mr Elliott-M
Mr Innes-M
Mr Spence-M
Mr J McConnell-M

MR Space

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~~Mr Hamilton~~

to see
return p)

CANDIDATES' DECLARATION - SDLP (& UUP) RESPONSE

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1. I attach a copy of the SDLP response to the discussion paper.
 2. The argument against the declaration - Not, perhaps, very cogently expressed and marred by some factual inaccuracies - is on lines which are now fairly familiar. The proposal is a "gross infringement" of democratic rights, which will be seen as a "move to disenfranchise a substantial number of people", giving a "massive propaganda weapon" to paramilitaries. The declaration, as proposed, is one-sided and does not deal with eg the UDA. There are problems about the definition of "support for violence", which will make it unenforceable, or, perhaps, enforced in a partisan way. Sinn Fein will make us a 'laughing stock'. Individuals could not be expected to bring cases because of the risk of intimidation (and the costs). Much better that paramilitary supporters should be exposed to the political process. But that process may be brought into disrepute. This is a pro-Unionist measure which will put community relations at risk.
 3. One conclusion which might be drawn from this paper is that the SDLP could be helped to live with a declaration, if we can make clear - by revising its terms - that it is not directed solely against Sinn Fein, but also against loyalist extremists; and if we can re-emphasize that Sinn Fein themselves (and others) will decide whether they exclude themselves from the

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political process, when faced with the need to subscribe to an entirely reasonable statement of support for democratic principles.

4. It would, I think be courteous for Mr Needham to respond personally to Mr McGrady. A short draft is attached. I am also attaching to this minute, since some will not have seen it, a copy of the UUP's comments which were, I believe, handed to Mr Needham personally. In the last few days we have heard suggestions that the UUP might be discussing this document, drafted before Enniskillen: it is now being made clear that it represents official UUP policy; the preference is for proscription, but a declaration would represent at least some response to unionist concerns. The paper has been forwarded formally to Mr McConnell. I doubt that a Ministerial acknowledgement would be regarded as helpful, but there would seem to be no harm in a short note to Mr Maginnis, on the lines proposed for Mr McGrady, if the Minister wishes.

D. C. Kirk

D C KIRK
Constitutional & Political Division
1 December 1987

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DRAFT LETTER

FILE NUMBER

ADDRESSEE'S REFERENCE

To	Enclosures	Copies to be sent to
B McGrady Esq MP SDLP South Down Constituency Council 14a Scott Street Downpatrick		hcc PS/SofS (L&B) Mr Kirk
(Full Postal Address)		(Full Address, if Necessary)

LETTER DRAFTED FOR SIGNATURE BY

MR NEEDHAM

(Name of Signatory)

Thank you for the SDLP comments on the discussion paper, 'Elected Representatives and the Democratic Process', enclosed with your letter of 30 November. It was particularly helpful to have these views within the deadline we specified. You would not expect me to comment at this stage, but I can say that we shall be carefully considering the SDLP's views, along with those of others, before any final decisions are reached.

SDLP

south down constituency council

16A Scotch Street
BONNYPATRICK

BONNYPATRICK 2883

Ref: LG/SDLP/87

30 November 1987

The Secretary
Northern Ireland Office
Stormont Castle
BELFAST BT7 3SS

Dear Sir

re: Elected Representatives and the Democratic Process

I enclose for your consideration and attention the SDLP response to the document "Elected Representatives and the Democratic Process" which was published in October 1987.

I trust you will find our comments to be constructive and useful

Yours sincerely

Eddie McGrady
EDDIE MCGRADY MP
SDLP SPOKESMAN FOR LOCAL GOVERNMENT

ELECTED REPRESENTATIVES AND THE DEMOCRATIC PROCESS

MICROFICHE PAPER

IN GULF EXPRESS

INTRODUCTION

In October 1987 the Northern Ireland Office issued the above discussion paper which it stated was a response to the "widespread public concern in Northern Ireland, shared by the government, over the role and activities of elected representatives whose attitude to terrorist violence appears incompatible with a genuine commitment to constitutional politics." As the paper stated its purpose is to describe the nature of that concern and to examine briefly the options available in seeking to resolve its causes.

BACKGROUND

For many years the British Government, through the Northern Ireland Office, encouraged at every opportunity paramilitary groups to participate in the democratic process, particularly local government. In doing so they provided not only practical assistance but also financial aid for the purposes of advice centres and other activities. As a consequence many of the paramilitaries participated in local government elections, usually elections and indeed health-board elections. This had the effect of giving further public platform to those paramilitary organisations who participated. It now appears that there is a reversal of Government policy in seeking to prevent such persons from participating in the democratic process. Whatever one's views about the use of violence in the furtherance of a political objective, nevertheless it is a grave matter to interfere with the practice of democracy and the rights of anyone to participate therein. Just as interference with the normal processes of law lead to many unsatisfactory complications so also will it be that interference with acceptable democratic standards create in itself substantial and disturbing distortions of the democratic process which will inevitably lead to a lessening of regard for that process, with the distinct possibility of substantiating the claim that violence is the only alternative.

The SDLP is opposed to the introduction of the requirement for a declaration against violence for the reasons stated hereunder. At the outset it must be made clear that the SDLP are totally opposed to violence in any form, non any power. By their policies and by their actions the SDLP have at all times totally opposed the use of violence or the support for violence or the heightening of tension by verbal violence at all levels of activity.

The SDLP would therefore submit that any legislation based on the discussion paper would be inappropriate for the following reasons:-

1

This proposal is a gross infringement of the democratic right of an individual to participate in the electoral process and to offer himself for election. It will be seen to be a move to disenfranchise a substantial number of people and thereby put them outside the ambit of the democratic process.

It is also incompatible that such proposed legislation would apply to local government only. Presumably the same arguments, if they have any validity at all, can apply to elections to a future Northern Ireland Assembly, to Westminster, to the European Parliament. It is obviously not the intention to apply these regulations to elections other than local government, thereby invalidating the whole proposed process.

2 The prevention of anyone from participating in the democratic process would be used as a massive propaganda weapon both at home and abroad by paramilitary organisations. Already in practice, in a by-election, even the proposed legislation has been used as a propaganda weapon whereby those who would endorse the use of violence justify their endorsement by the fact that they may be prevented from participating in electoral processes.

As the discussion document is so obviously directed against one political party it will be seen to be a propaganda coup for them. It is apparent that the document is also directed towards paramilitaries and their fellow travellers of the Unionist and Loyalist persuasion who also have an unenviable record of killings, bombings and other terrorist organisations in their "credit".

3 The proposed declaration indicates that the person making the declaration would not support or assist the activities of any organisation proscribed by law. The only organisations proscribed by law in Northern Ireland are the IRA and the UFF. (It is evident that paramilitary UDA simply uses the terminology of UFF for convenience). It is to be noted that there are over 200 members of the UDA at present in prison for murder and other serious crimes. Yet this organisation is not deemed to be suitable for proscription. Hence there will be the gross anomaly of persons standing for election who fully support UDA and other Loyalist organisations who do use violence day and daily in the pursuance of the political objective, but yet under the terms of reference of the discussion paper would be quite able to legitimately participate in the democratic process. This one-sided approach would obviously be another propaganda weapon for those engaged in republican violence.

- 3
- 4 The proposals will require a "definition of violence" and will require a "definition of a support of violence". How will it be possible to define the support for violence. Will it be violence actual or threatened, will it be violence physical or verbal, will it be violence of personal involvement or by proxy. What degree of support for violence will be interpreted as against the legislation.

The SDLP argue that it will be impossible to be even to be overruled in the application of this particular ruling - hence we are of the opinion that this will be bad law and bad law is worse than no law.

- 5 The SDLP is of the opinion that the regulations or legislation will be virtually unenforceable or will be enforced in such a haphazard and haphazard manner as will create more disadvantages than the present situation. Certain paramilitaries or their supporters have already indicated that they will find it quite easy to circumvent the legislation and thereby make a laughing stock of the whole exercise.
- 6 There is also the very vague and dangerous area of who will initiate the action to enforce the regulation. The discussion paper appears to suggest that this will be done by the individual. This is obviously not going to happen because of the physical dangers to the persons who would initiate such an action and indeed the grave financial risks if such actions were to be lost at law.

It has been argued in respect of juries that the normal process of trial by juries has had to be abandoned because of the inability to ensure that jurors, as a group, would be free of personal intimidation. How much more liable to intimidation would an individual be in respect oneself, personally, one's family or one's business if he initiated such an action.

- 7 Giving paramilitaries and their fellow travellers an excuse not to participate in the democratic process and not to seek a mandate for their cause, makes it easier for them to propagandise a false image of their support, and removes or alleviates the need for them to prove their effectiveness in terms of electoral success. It also removes from them the obligation to justify themselves before the electorate the delivery of the promises given by them in the party manifestos.
- 8 In another way the whole democratic process, particularly at local government level, will be brought into disrepute. The consequences of such proposed legislation will be a series of on-going by-elections as elected member after elected member is challenged at law and found to be in transgression of the proposed legislation.

This ending series of local government disruptions would lead to heightened community tension and enhanced confrontation within the council chambers.

CLOSURES

From the above comments we can readily see that there is no value whatsoever in the proposed legislation, except consequences which are diametrically opposed to the result being sought. There is the added dimension that parties such as the SF who bring forth into the position of defending democratic process would be subjected to the erroneous interpretation of its some way supporting or supporting those who support violence. It must be categorically stated again that our concern is for good law and a sensible democratic process and that is the only basis on which our objections are founded.

We are further concerned that the proposed legislation appears to be based on the need to placate Loyalist forces, and therefore is based on a party political requirement rather than the general good. It is so coincidence that such proposals have come forward at a time when the Loyalist Councillors are filtering back to the Council Chambers after a strike of 18 days of protest against the Anglo-Irish Agreement.

It must be stated that the perception among non-Loyalists is that this proposed legislation is an attempt of reward to Loyalist parties in return for their participation in local government. Any of the same Loyalist Councillors know in fact engaged in the use of violence in the furtherance of their own political objectives. Such violence was amply demonstrated on various occasions, at barricades, intimidation of workers and any other ugly facets of street politics in Northern Ireland over the past decade and more.

It would appear that discussions have been held between the Northern Ireland and the National parties, in spite of their alleged refusal to meet British Government officials. In its White Paper it is stated that "the government has held a series of meetings with Northern Ireland Councillors on party delegation to explore views on what might be done. To such meeting with party delegations was held with the SF and we can only assume that such meetings were held with those of the National persuasions only.

It is important that the law be applied equally and that equitable attitudes be adopted by government. This does not appear from the presentation of this document which seems totally pre-occupied with violence from Sinn Fein and IRA sources, while totally ignoring the violence of the UVF and other Loyalist/Unionist organisations.

Such an approach is a remedy for further division and is detrimental to the stated government intention of promoting dialogue and understanding between the two communities in Northern Ireland.

It is therefore the SDLP's submission that such proposed legislation as requiring a declaration before participation in the democratic process should not be proceeded with.

On behalf of the Social Democratic and Labour Party,

Eddie McGrady MP

Local Government Spokesman

30 November 1987

AN ULSTER UNIONIST PARTY RESPONSE
to the Discussion Paper
"ELECTED REPRESENTATIVES and the DEMOCRATIC PROCESS IN
NORTHERN IRELAND"

The Ulster Unionist Party welcomes the, albeit belated, indication that Government now recognises the obscenity of sustaining a system whereby bona fide elected representatives are forced, by law, to share Council Chambers with those who would advocate and/or employ violence in pursuit of political objectives.

We have noted the expeditious manner in which the Speaker of the House of Commons was able to deal with the Corbyn/Bennett affair, which stands in stark contrast to the tardy way in which the Councils' issue is being dealt with.

Background

Para. 2. We agree. Here is, indeed, a "fundamental" point which must be impressed on the SDLP....that the "principle of democracy" should not be sacrificed on the altar of political expediency.

Para. 3. We agree, but with the clear proviso that "stable local democracy in Northern Ireland" alludes to a principle, and is not taken to imply that Northern Ireland presently enjoys comparable democratic Local Government to other United Kingdom regions.

Nor can we accept such an wildly inaccurate generalization as, "other politicians.....are also ambivalent about the use of violence for political ends". This comment is quite scurrilous and fails to acknowledge the restraint displayed by the vast majority of councillors, often in the most trying circumstances.

In the context of IRA/Sinn Fein violence, and since no other paramilitary group has had representatives of its political wing elected to Councils, such a statement appears weak and apologetic, and serves only to ameliorate Sinn Fein's position.

Para. 4. We agree.

Para. 5. We note.

Para. 6. We disagree. The Public Order (Northern Ireland) Order 1987 was not designed specifically, or mainly, to deal with the problem of councillors who would support and use violence

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to achieve political objectives. It would be interesting to ascertain, on the basis of cases brought, whether this Order has yet been able to be invoked for the purpose of dealing with Sinn Fein councillors' open advocacy and condonation of violence either within or without the Chamber.

Options

Para. 8. **Proscriptions:** noted. The proscription of Sinn Fein is a more general issue and one which we feel, to be able to be effectively implemented, will require a prior commitment to introduce selective internment. Ulster Unionists are committed to such a course but accept that it is a subject for another debate. We believe that it would lead to further undue delay in dealing the Councils' issue if proscription had to be dealt with at the same time.

Para. 9. **Oath of Allegiance:** noted. While many Unionists would favour an Oath of Allegiance they accept that such a step would be interpreted as being deliberately designed to devalue the political aspirations of all Nationalists. It would provide the excuse which the SDLP require to justify its joining with Sinn Fein to oppose the imposition, on candidates, of measures to deal with the present anomalous situation in Councils.

Para. 10. **Extended Disqualification:** noted. There appears little reason to consider the matter at this time. Where imprisonment resulted from involvement with a proscribed organisation, we would expect ongoing difficulties to be able to be dealt with through measures to be incorporated under the heading at Para. 11. However this issue is worth, at least, further examination.

Para. 11. **A Declaration as a Condition of Elected Offices:** we agree in principle. As to whether, "there would be widespread support for the proposition", will depend, to a large extent on the attitude of the SDLP. Its initial knee-jerk reaction, and that of the Labour Party's spokesman on Northern Ireland, has been to reject the idea.

Nonetheless, a logical argument to justify such measures should be clearly, regularly and forthrightly enunciated by Government and the Northern Ireland Office. The principle must be established in the public mind before there is further elaboration on the details. Already one battle has been lost, insofar as it is generally felt that Government really does not care and is only considering action in order to placate Unionist politicians and councillors. Both the SDLP and Unionists believe this.

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Immediate action is required in order to disabuse everyone of this notion, with future emphasis on the all-embracing aspect of the proposed legislation, i.e. the requirement for every candidate to abjure all prescribed organisations in order that the very basis of democracy can be safeguarded.

The Alliance Party would go so far as to propose that all protest which involved the breaking of the law should be included in measures to be introduced, but this is foolish. The right of the individual to confront what he believes to be "bad law" in a strictly non-violent manner (passive Civil Disobedience) has long been inherent in our democratic system and should not be revoked.

Para. 19. Wording of the Declarations: we disagree. The raison d'être for proposed legislation is likely to be called into question if the present draft wording for the Declaration is not amended. It is so weak that it would render any legislation totally ineffective.

For example, what will constitute "support" for violence? How exactly would one define "assist" in the process of furthering violence? Indeed, if "assistance" were able to be proved there is already legislation to deal with the matter.

The wording of the Declaration must, therefore, be re-drafted in a manner which will present real difficulties for paramilitary-sponsored organisations like Sinn Fein. One must recognise that those who have lightly condoned murder will not, as would honourable men, have any compunction about signing a declaration as such. The need to discover the "Achilles heel" of organisations like Sinn Fein is paramount.

To this end, the Declaration must be drafted in a way which will thwart the aims and devalue the "credibility" of those who act as political advocates for terrorist organisations. That we do not accord these people any "credibility" must not blind us to the reality that there are those who do.

It has been for this reason that we have, in the past, suggested that the word "REPUDIATE" must be included in any declaration. To require e.g. Sinn Fein to "repudiate" the Provisional IRA should present it with a serious "credibility" problem.

It follows, of course, that each proscribed organisation will have to be specified, by name, in the Declaration. To simply leave it, "repudiate all proscribed organisations", will enable Sinn Fein to say that they consider the Provisional IRA not to be proscribed by any authority which they are willing to recognise.

(cont. Para. 14)

Para. 14. Which Stage of the Electoral Process: we agree. The crux of the proposed legislation must be that it seeks, first, to prevent the candidacy of those who would intend to use the Councils or other elective Chamber as a forum to promote violence for political purposes. To leave the matter for resolution until violence-promoting candidates are elected is certain to ensure continuous uproar in Council Chambers.

If the men of violence can be so inhibited that they are unable to seek election that will be an end of it. There will be no television and radio slots; no denial of the franchise; no forum for their evil propaganda.

But if they are elected and are then presented with a declaration which prevents them taking their seats, then the exercise will not even be worthwhile. It will appear that a section of the electorate have, indeed, been disenfranchised. Those disqualified will have been provided with the essentials for a massive propaganda victory which will remain ongoing during the entire life of the Council.

Paras. 15 & 16.

Enforcement: Any breach of the Declaration must be deemed a criminal offence. Let there be no equivocation on this issue. The proposed legislation is neither for the convenience or the protection of an individual. It should be portrayed as neither a salve for Unionist sensitivities bruised by 17 long years of terrorism nor as a weapon to be placed in the hands of Unionists.

Rather, the Declaration is urgently required in order to protect and maintain those electoral processes upon which our democratic system of government is founded. It is the primary duty of Government to sustain those processes for the benefit of the electorate. No self-respecting government could contemplate any abdication of that responsibility.

CONCLUSION.

The Ulster Unionist Party (+) has carefully considered all the points contained within the Discussion Paper and, in response, has attempted to provide constructive comment and to put forward positive amendments. It has sought to promote ideas which are attainable and which it believes will be effective. It has sought to find a formula which cannot, on moral grounds, be rejected by the SDLP.

But, in adopting such a course, there has been an uneasiness

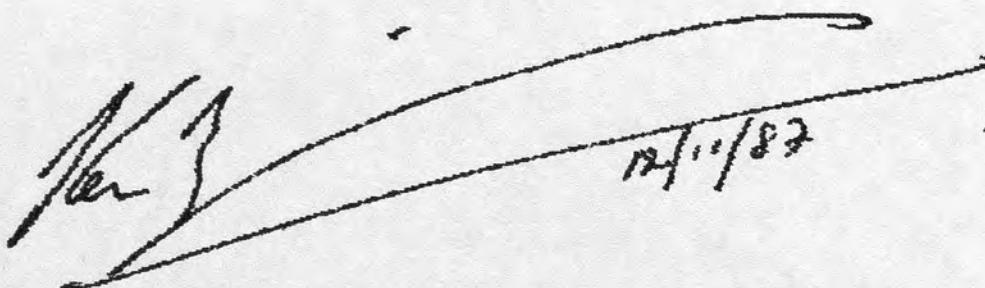
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lest Government may wrongly assume that here is the basis for debate and negotiation. Such a conclusion would be erroneous and would be to totally misjudge the Ulster Unionist position.

The Ulster Unionist Party believes that the responsibility to deal with the "Armalite and the Ballot Box" syndrome in Council Chambers is, exclusively, Government's.

But, insofar as the Party has here set down its thoughts, it has done so on the basis of what would be the minimum acceptable conditions in which it would be prepared to contest any future Council elections.



KJ
12/1/87

(*) This response has been considered and approved by:-

1. The Officers of the Ulster Unionist Party.
2. The Executive of the Ulster Unionist Councillors' Association.
3. The Ulster Unionist Parliamentary Party.