

MM/30/9

FROM: M T H MAXWELL
AS CENT SEC

DATE: 12 SEPTEMBER 1994

cc Mr Steele - B
Mr Bell - B
Mr Williams - B
Mr Brooker - B
Mr Bain, TFU - B
Mr McCartney
Mrs Kenny

MR WATKINS - B

MANAGING THE IRA CEASEFIRE : HURD POLICY

1. Mrs Kenny and I had a meeting this morning with Mr Denis McCartney, DFP Solicitor, about the operation of the Hurd policy in the aftermath of the IRA ceasefire.
2. As you know on 27 June 1985 the then Secretary of State, Mr Hurd, advised the House of Commons that Government funding would not be made available to those community groups where he was satisfied that there was a grave risk that such support would have the effect of improving the standing and furthering the aims of a paramilitary organisation, whether directly or indirectly.
3. Since 1985 22 community groups, other bodies and some individuals on both sides of the community have had their grants refused or terminated. Five groups who had funds withheld later had them reinstated following changes in their organisation. The most notable examples of the application of the policy have been Glor na nGael (where grants were restored) and Conway Mill (where grants have not been restored).
4. The purpose of our discussion with Mr McCartney was to decide whether we needed (a) to review the Hurd policy in general and (b) to work out now what our response should be were, for

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example, a request lodged by Conway Mill for Government grants. The issue was thrown into greater relief by a recent High Court decision given by Justice Kerr turning down an application for judicial review from a Belfast City Councillor, Mr Robert Lavery, who had applied for assistance under the Key Persons Protection Scheme. Justice Kerr turned down Mr Lavery's application on the basis that Sinn Fein had not denounced violence, and for this reason the Secretary of State, in turning down Mr Lavery's application, had not unlawfully discriminated against him within the terms of Section 19 of the 1973 Constitution Act. While this decision had been helpful to us pre the ceasefire, it might no longer be just as helpful in the light of the ceasefire.

5. Having talked through the issue with Mr McCartney the view which we reached on the application of the Hurd policy post ceasefire was as follows:
 - a. until the British Government accepts that the IRA ceasefire is for good, the Hurd policy should remain in place (although effectively it will not be operative until the ceasefire position is clarified);
 - b. if an application for assistance is received from Conway Mill, or indeed any other group which may have been denied assistance, we should continue to apply the policy as hitherto. If such groups seek to apply for judicial review of a continuing refusal to provide assistance, the legal machinery will be slow enough to have allowed the position to clarify and to enable us, if necessary, to review our decision;
 - c. the Hurd policy will continue to apply to INLA-related and Loyalist paramilitary groups until and unless they too declare a permanent ceasefire, although this issue may need to be re-visited in the context of changed political circumstances;

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- d. there is no need to make a separate statement on the Hurd policy: if it is decided to dispense with it any announcement can be wrapped up in any general Government statements about the ceasefire; and
- e. if the Hurd policy is eventually dispensed with, but racketeering and extortion continue, it should be for Departments to deal with individual cases in consultation with the RUC and TFU. We do not envisage a central role for Central Secretariat in such activity, since our involvement in Hurd policy cases was primarily "political": dealing with ordinary crime is not part of our responsibilities.

6. In summary our approach to Hurd is a monumental "wait and see".

[Signed: MTHM]

M T H MAXWELL
CENTRAL SECRETARIAT

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MM/15/9

FROM: M T H MAXWELL
AS CENT SEC

DATE: 6 SEPTEMBER 1994

cc PS/Mr Fell - B
Mr Watkins - B
Mrs Kenny

MR McCARTNEY
DFP

IRA CEASEFIRE : HURD POLICY

1. The Northern Ireland Departments have been asked by Mr Fell to consider how their overall objectives and programmes might be affected by the current peace scenario. In particular, he has asked what policies and programmes might be dropped.
2. One policy which on the surface comes into this category is the Hurd policy. While I suppose that we would not wish to drop the policy in the sense of rescinding the 1985 statement, presumably the policy would be "non-operative" if the peace scenario is a permanent one. We would also in the same context need to consider our response to an approach from say Conway Mill for funding: such an approach may indeed be already on its way.
3. There will be clearly complicated legal factors involved here and I would therefore be grateful if we could meet sooner rather than later to discuss this whole area, (which will in due course generate, I suspect, a number of Ministerial submissions).

[Signed: MTHM]

M T H MAXWELL
CENTRAL SECRETARIAT

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MEETING MONDAY 12/9/94 TO DISCUSS HURD POLICY

Present M T H Maxwell
 D McCartney
 D Kenny

Purpose of meeting to devise a strategy to deal with Hurd cases and general policy in the aftermath of the IRA ceasefire.

Difficult to devise a strategy as each case needs to be considered on its merits.

Recent High Court decision concerning a case brought by a Sinn Fein Councillor on Belfast City Council who had been refused assistance under the Key Persons Protection Scheme confirmed that Government could discriminate against Sinn Fein but that each case should be considered on its merits. Central to this judgement was the fact that Sinn Fein could not produce documentation which showed it did not support violence.

CONCLUSION

Those are people Government is entitled not to do business with.

Until Government accepts IRA ceasefire the Hurd Policy should remain in place and any further application from rejected groups (eg Conway Mill) should continue to be treated as before. If such groups seek judicial review, the British Government position should be clearer by the time it comes to court. Government position will be defensible.

Hurd will continue to affect INLA and loyalist paramilitary groups until and unless they too declare a permanent end to violence, but this is an issue that may need to be revisited in the context of changed political circumstances.

No need for a separate statement on Hurd it can be wrapped in on general Government statements if ceasefire accepted.

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If Hurd is dispensed with but racketeering etc continues it should be for departments to deal with in conjunction with RUC and TFU. No co-ordinating role for Cent Sec in this, as our involvement in Hurd was primarily because of its political spin and sensitivity. There is no role for Cent Sec in dealing with ordinary crime.

DEIRDRE KENNY

12 SEPTEMBER 1994

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