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[REDACTED]

cc PS/Lord Gowrie (L&B)
PS/PUS(B)

[REDACTED]

Mr Jackson

[REDACTED]

MEMBERS OF THE ASSEMBLY : ACCESS TO PRISON AND PRISONERS

1. Before S of S left for the USA he agreed that I ~~should~~ approve on his behalf guide lines for dealing with approaches to Government by Sinn Fein Assemblymen except for the question of access to prisons on which proposals would be submitted to him on his return.
2. You will have received a copy of the general guide lines which I have approved. Perhaps you would show S of S the essential part (paragraphs 9 to the end). I attach a note on access to prisons both by Sinn Fein and other Assemblymen. This has been prepared by Mr Bourn in accordance with the "general steer" which S of S had agreed I should give.
3. The conclusions, with which [REDACTED] and I agree, are in the final paragraph which I submit for S of S's approval.
4. I would add that the final recommendation - paragraph 16 (vi) - that Sinn Fein Assemblymen should be treated as ordinary individuals so far as ordinary visits to prisoners are concerned will need to be kept under close review. More restrictive guide lines may have

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to be introduced if ordinary visits are used for improper political or subversive purposes.

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MEMBERS OF THE ASSEMBLY : ACCESS TO PRISON AND PRISONERS

1. The purpose of this minute is to recommend how we should deal with requests from Assembly Members for access to prison and prisoners; special attention is paid to Sinn Fein Assembly Members.
2. The governing principle is that, as in all our dealings with Assembly Members, we should aim to be as helpful as we reasonably can, bearing in mind that the Assembly will have a limited standing in reserved matters. As for Sinn Fein, we must take account of the Secretary of State's remarks on the recent Week-end World programme - see Annex A.
3. In general, therefore, we propose that Assembly Members should be treated like MPs and allowed:
 - a. to see prisoners from their constituencies - these are the "special constituency visits" available to MPs which do not count against the prisoner's allocation of visits;
 - b. one "general interest visit" per annum to each Northern Ireland prison.

We also propose that the facilities should not be available to Sinn Fein Assemblymen.

Special Constituency Visits to Prisons

4. We propose that prisoners should be allowed to see constituency Assembly Members of their choice, and that such visits should not count against the prisoner's ordinary

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allocation of statutory and privilege visits. This puts these visits on the same basis as the "special constituency visits" by Westminster MPs. We have not so far had to place any limit on the number of special constituency visits each prisoner receives - the number of visitors has never been enough to pose a problem. I think that we should start on this basis with Assembly visits; if numbers become unmanageable we may have to impose some limits.

5. In addition to these "Special Constituency Visits", Assembly Members from other constituencies may be included on normal visiting orders (ie within the prisoner's allocated total of visits) unless there is, exceptionally, some other ground under the ordinary rules relating to visits and visitors for objecting to their admission. Access to personal visits gives Assembly Members the same general rights to visit prisoners as every other citizen possesses, and, indeed, simply continues the rights they already enjoy.

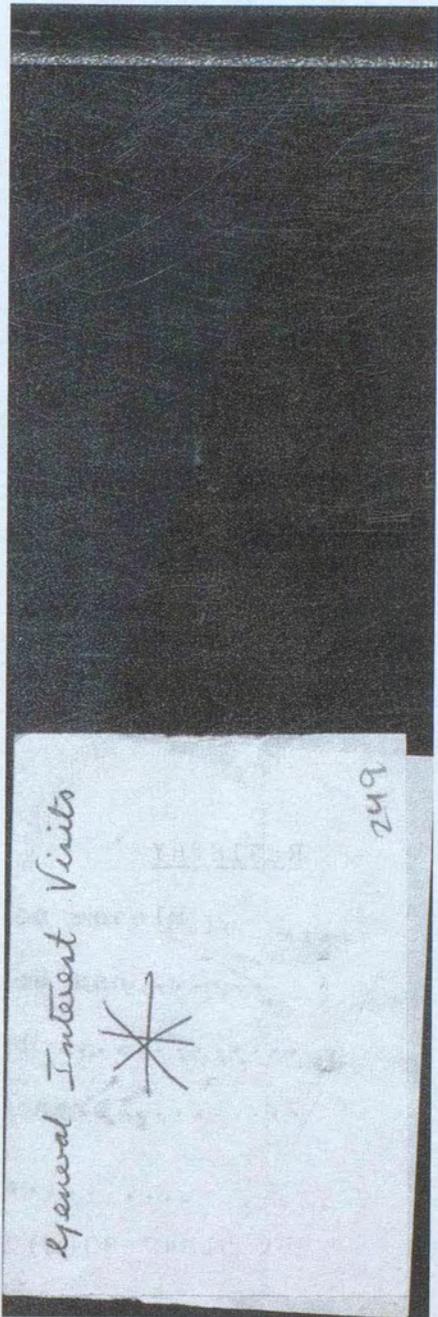
General Interest Visits to Prisons

6. It has been the practice for some years (it was suspended for a time during the Republic "dirty protest") to allow representative groups of Westminster MPs to make an annual "general interest visit" to each of the Northern Ireland prison establishments. Single member parties, eg Mr Frank Maguire and Mr Owen Carron, have been included in the arrangements. In practice, HMP Maze, and to a lesser extent HMP Armagh, have been the only establishments which MPs have wished to visit with any frequency.

7. These arrangements were extended to members of the previous Assembly in 1974, and we propose that we should offer the same facilities to the new body. Visits under this head may be in considerable demand while the campaign for segregation continues or at any time when there is significant unrest or protest in the prisons. Again we would propose the same criteria as were applied in 1974 and as apply to visits by MPs:-

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General Interest Visits



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- i. we should ensure as far as possible that any visiting group should be the "official" representatives of the party concerned and be led, or at least approved, by the party leader;
 - ii. the party should not exceed four in number;
 - iii. the timing of the visits must be arranged with the Governor, a reasonable period of notice being given;
 - iv. general interest visits should not be directly related to particular incidents;
 - v. each Assembly Member should be allowed one visit a year to each prison. We did consider whether Assembly Members should be allowed to visit each prison more than once a year because of their local interest. We think, however, that it would be best to spare the Governors and their staff the extra work that more visits of this kind would create, and to extend the present arrangements to Assembly Members as they stand.
- Party weekly?*

8. During the course of general interest visits Assembly Members, like MPs, would be able to have passing conversations with prisoners whilst touring the establishment. But we should make it clear that such visits are not to be used as a means of securing prolonged discussions with individual prisoners. We know from experience that there will be attempts to use these visits as a means of talking to the paramilitary leaders in the prisons, and we must try to prevent this from the start.

9. There seems no alternative but to treat the single member Unionist parties as separate parties; Mr Kilfedder seems unlikely to want to make visits.

Parties who have not taken their seats

10. We suggest that the SDLP members should be offered the facilities proposed in this minute for both constituency and general interest visits.

11. This takes us to the difficult question of the facilities to be offered to Sinn Fein. The Secretary of State has already said that Sinn Fein Assemblymen will have access to Junior Ministers on constituency affairs, but there are serious problems about treating them in the same way as others when it comes to prisons. We fully appreciate the argument that having allowed members of Sinn Fein to stand for election, we must face all the consequences and not single them out for any special, less advantageous treatment. But the following points are also relevant:

- a. as was clearly demonstrated during the hunger strike and the associated protest, the IRA aim to carry on "the war" as effectively as they can in the prisons as well as outside. To let Sinn Fein Assembly Members, who support violence, into the prisons would be seen as absurd by the majority of people in Northern Ireland - and could create a Loyalists reaction - and would be construed as political weakness in Great Britain;
- b. constituency visits are normally out of hearing; this would give Sinn Fein representatives the opportunity for clandestine communications - which could be especially damaging in the Converted Terrorist context - and constitute a threat to the security and good order of the prison. Even with close supervision it is not always possible to hear everything that is said;
- c. once visits are agreed in principle, restrictions on frequency or on prisoners to be visited would be difficult to impose and maintain;
- d. visits may be used for propaganda, for example, to make unjustified allegations of ill-treatment or about

pects of the regime or to support whatever kind of protest action may be in progress at the time;

e. Governors and their staff (who for a time if not at present were openly stated by the IRA to be legitimate targets for attack) would not relish the prospect of extending to Sinn Fein representatives the normal facilities and courtesies granted to MPs and other elected representatives. We do not think that prison staff would refuse to escort Sinn Fein Assemblymen; but against the background of IRA violence and murders of staff it would be unrealistic to expect them to react favourably or even neutrally.

12. The case against allowing any special facilities to Sinn Fein representatives seems to us overwhelming, and we recommend that neither constituency nor general interest visits should be allowed to them. When we are challenged on the point, we can justify our attitude by reference to Sinn Fein's support of the IRA's campaign of violence and the risk that their right to communicate with prisoners could be used to undermine the security and good order of the prison. There is also the point that, since each constituency has several members, no prisoner will be denied access to an Assembly member representing his own area. Circumstances may of course arise when it will be advantageous for HMG to let Sinn Fein Assembly Members visit a constituent. We shall have to consider such cases ad hoc; certainly the general rule must be to exclude them.

Letters to and from Assemblymen

13. Letters to and from Assembly Members can be treated in the same way as letters to and from MPs ie prisoners should be allowed to write and receive them provided that the content of the letters is not objectionable on other grounds. As for Sinn Fein, letters do not present the same kind of difficulty as visits, and there is no need for Sinn Fein representatives to be treated differently from other Assembly Members.

Access to Boards of Visitors and Visiting Committees

14. Boards of Visitors and Visiting Committees are appointed by the Secretary of State for all prison establishments under provisions in the Prison Act (Northern Ireland) 1953. Boards (at prisons) and Committees (at Young Offenders Centres) have certain duties under Prison Rules, but they are essentially independent of Government and we are anxious that they should be seen to be so. It seems doubtful whether Assembly Members will have much interest in the work of the Boards/Committees, but we think the right course would be to allow them to approach Boards if they wish. We would however send guidance to all Board/Committee chairmen to ensure a reasonable degree of uniformity of practice.

Other Matters

15. Three other points are relevant:

a. The position of Mr Owen Carron

Mr Carron was not elected as a Sinn Fein MP, and has been given the normal visiting facilities allowed to other Westminster Members. We do not propose to withhold these facilities now that he has been returned as a Sinn Fein Assemblyman. This may lead to awkwardness if he and perhaps others, including Gerry Adams, are elected MPs in the future on a Sinn Fein ticket. We can, however, consider that situation if and when it is necessary.

b. Mr Gerry Adams and other Sinn Fein Assemblymen-
personal visits

If the Secretary of State approves the proposals in this minute, Mr Adams will not be allowed any special visiting facilities. Furthermore, as the regulations stand at present, he is not permitted to visit as a personal or ordinary visitor because he is an ex-prisoner. Mr Adams' visit to Maze during the hunger strike was part of a special

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exercise and does not affect the general position. We accept that election as an MP or an Assemblyman has normally been taken to overrule this prohibition, as in the cases of Dr Paisley and Rev William McCrea. But we do not propose to make any further exceptions to the normal rules so as to allow Mr Adams to come in as an ordinary visitor. On the other hand, we would not propose to bar Sinn Fein Assemblymen as a group from these visits. To do so would have the curious result that Sinn Feiners who had been successful in getting elected were barred, while unsuccessful candidates were not. We can always consider, with prison Governors, whether special arrangements should be made for the supervision of visits by known Sinn Feiners, whether Assemblymen or not.

c. The European Convention on Human Rights

We have taken advice from the Foreign and Commonwealth Legal Advisers on whether the proposals in this minute accord with the European Convention on Human Rights. We have been advised that they do; it is worth noting, however, that we might have been held to be in breach of Article 8 of the Convention (which protects the individual's right to "respect for his private and family life") if we had been seeking to prevent Sinn Fein Assemblymen as a class from making individual personal prison visits of the kind described in paragraph 5 above.

Summary

16. We accordingly recommend that the Secretary of State should approve the following proposals:-

- i. Assembly members other than Sinn Fein should be allowed facilities for constituency and general interest visits as outlined in paragraphs 4,7 and 8;
- ii. these facilities should not be extended to Sinn Fein;

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- iii. prisoners should be allowed to write to and receive letters from Assemblymen in the same way as with MPs;
- iv. if they request it, Assembly Members should be allowed access to Boards of Visitors and Visiting Committees on the basis proposed in paragraph 14;
- v. Mr Owen Carron should continue to be allowed the facilities which he has hitherto been granted as a Westminster MP;
- vi. Sinn Fein Assemblymen should be treated as ordinary individuals so far as ordinary visits to prisoners are concerned, ie they should not be barred unless under the normal rules.

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ANNEX A

In his Week-end World interview with [REDACTED], the Secretary of State was asked if he would be prepared to see Mr Adams. He replied:

"No, the position is absolutely clear. If they are prepared, or Mr Adams or anyone else is prepared, to talk about constitutional government, that means renouncing weapons and renouncing violence, then that is one state of affairs. As far as representing their electors is concerned and their constituents, then we have a form whereby they are able to make representations and are able to see Junior Ministers and they do get answers from Ministers to letters that they write, and that we will of course continue to do we've always made a very clear distinction between talking to them on a constitutional basis and dealing with the problems of their constituents, because their constituents are people in Northern Ireland, they have been elected in this case by democratic means and we have obviously a duty towards those constituents and that we will fulfil."

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