

CONFIDENTIAL

From: Tom Watson
Constitutional & Political Division
26 October 1999

Miss O'Brien
W02510
Brooker
Brooker
To work
20 OCT 1999
7 26 10

DESK IMMEDIATE



cc Mr Jeffrey
Mr Stephens
Mr McCusker
Mr Brooker
Mr Maccabe
Mr Crawford
Mr Osborne (HOLAB)
Miss McClelland (HOLAB)

NOTE FOR THE RECORD

SECRETARY OF STATE'S MEETING WITH ALLIANCE: STANDING ORDERS

The Secretary of State briefly met Sean Neeson and Seamus Close from the Alliance Party in Castle Buildings last evening. Mr Crawford and I supported the Secretary of State.

Summary

2. Both Alliance representatives came to talk about "designation of identity" under Standing Orders for the shadow phase. But rather than seeking to change their own designation, they asked whether the Secretary of State could alter the Standing Orders to permit "parallel consent" provisions to be based on a change to the designations themselves. The Secretary of State noted the request and confirmed that he would seek legal advice on their proposal.

Detail

3. Realising time was short, Neeson began by indicating that no one in the party was aware of the meeting with the Secretary of State nor the subject matter. The Alliance leader said discussions in the review were encouraging and he remained hopeful, but even if a successful conclusion was achieved, the "numbers game" in the Assembly could still prove problematic - especially when it came to the election of FM/DFM.

4. Neeson said that he and Trimble had recently spoken about this matter. The First Minister had enquired about Alliance changing its designation of identity since he was less enamoured by the thought of the NIWC providing his support - and in particular succeeding in an election on the basis of Monica McWilliams changing her designation. Neeson continued, saying it was impossible for Alliance members to change their designation; the party had been formed in 1970 as an alternative to unionism and nationalism and had consistently fought for its votes from this platform. Opting to change this fundamental position could not be sanctioned by the party.

5. Seamus Close joined the discussion and moved the debate on to consideration of a further proposition. Rather than the party changing its designation, could the Secretary of State not use the powers of Standing Orders to permit "parallel consent" to be measured as the majority of nationalists and others voting and the majority of unionists and others voting. Close cited the example of a late Standing Order being determined in July which ruled out an Executive being formed unless there were three designated unionists and three designated nationalists in place. If such a revision could be introduced then, why could something similar not be provided at this juncture?

6. Mr Crawford and I explained the background to the July amendment and its consistency with the specific provision in the Agreement (para 6, Strand one) which provided for designations of Unionist, Nationalist and Other. By contrast, what Alliance was proposing appeared to be outside the spirit and letter of the Agreement and could be vulnerable to judicial challenge. The Secretary of State proposed that Alliance's suggestion be raised with legal advisers today. On the face of it, however, it seemed as though the proposal would be impractical. The Secretary of State then asked whether the party was totally unable to change designation if legal advice discouraged their concept. Close was unequivocal in reply. Alliance couldn't countenance it. Furthermore why should a party which had attempted to hold the centre ground for so long now be asked to change its position. Why shouldn't Sinn Fein be asked to change their designation from nationalist to unionist? The Secretary of State interjected to suggest this was an implausible rather than impossible proposal.

7. Mr Crawford asked both Alliance representatives whether creating a facility in the shadow Standing Orders to permit members to change their designation at short notice and then change it back under the same period of notice was worth considering. Seamus Close, appearing more interested, asked whether this could be achieved. It was agreed that legal advice might again be helpful on this point.

8. The Secretary of State in concluding the meeting asked Alliance to do all it could, during the discussions this week, to ensure a positive outcome. The GFA had to work; there was no Plan B. He again urged them to consider changing their designation adding that while he accepted their fundamental political position of building centre ground between the two traditions, assisting the FM/DFM election would surely, in the long run, also provide progress towards Alliance's objectives.

Comment

9. In view of the above it would be useful to have advice from HOLAB before close of play today on:

- (a) the legal status of the Alliance suggestion for measuring parallel consent along the lines of nationalist/other and unionist/other - given para 6 of the GFA and the precedent set by the original election of FM/DFM;
- (b) the possibility of providing members with a facility to change their designation at short notice and to change it back under Standing Order 3 paragraph (3) without any of these changes counting against the terms of the Assembly's Standing Order 3, paragraph 8; and
- (c) whether, under an amended Standing Order 3 in the shadow phase the Presiding Officer could count, on a one-off basis, nationalist and others alongside unionists and others without members having to change their designation.

(Signed)

Tom Watson
Constitutional & Political Division
Castle Buildings Ext 22944