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204/5

FROM D C KIRK, CPL
10 MAY 1989

cc PS/Sir K Bloomfield -B
Mr Stephens -B
Mr Miles -B
Mr Thomas -B
Mr McCann, DOE (NI) -M
Mr Blackwell -B
Mr Daniell -B
Mr Masefield -B
Mr J McConnell -B
Mr R Wilson, Cent Sec -M
Mr Fisher

MR BURNS -B

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GOVERNMENT AND SINN FEIN AFTER THE ELECTION

At the PDG meeting last week, it was suggested that I might put together some advice for Ministers, to be submitted after the council elections, on this subject. I indicated that I had in mind to submit some separate advice to Dr Mawhinney in preparation for a Ministerial discussion next Monday.

2. On reflection, I should be inclined to recommend a slightly different course. As you will know, I have also now been asked to prepare advice for PUS for the forthcoming Ministerial discussion. I am putting together for him copies of a round of correspondence on this subject about a year ago, by way of background. I believe that it would also be helpful to submit now to Ministers, with a copy to him, some (preliminary) advice on the issues that seem likely to arise in relation to the introduction of the declaration and Ministerial policy on meetings with Sinn Fein.

3. With apologise for the short time now available, I should be grateful to know whether you and copy addressee would be content with the attached draft submission, which I should like to despatch to Ministers at about 4.00 on Friday 12 May. I should be happy to discuss any points which you or others may have. As you will see, the submission is not intended to be the "last word" on the subject, but it seems to me desirable to get in a "first word" fairly quickly.

(SIGNED)

D C KIRK
Constitutional and Political Division
OAB 6591
10 May 1989

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FROM D C KIRK, CPL
MAY 1989

cc PS/Ministers (L&B)-B&M
PS/PUS (L&B)-B
PS/Sir K Bloomfield -B
Mr Burns -B
Mr Stephens -B
Mr Murray, DOE, (NI) -B
Mr Miles -B
Mr Spence -B
Mr Thomas -B
Mr Wood (L&B) -B
Mr Blackwell -B
Mr Daniell -B
Mr J McConnell -B

GOVERNMENT AND SINN FEIN AFTER THE ELECTION

We can expect that a substantial number of Sinn Fein councillors, who will be bound by their "declarations against terrorism", will be elected on 17 May. It seems likely then that questions will soon be asked again about the Government's policy on meeting Sinn Fein representatives. This minute offers some preliminary advice on the problems that may arise.

2. The Secretary of State may recall that we last reviewed the guidance on approaches to Government by Sinn Fein about a year ago (my submission of 20 May 1989). Some thought was then given to the effect that the introduction of a declaration against terrorism might have. The existing guidance - including the policy of avoiding Ministerial meetings with Sinn Fein elected representatives (with some contacts with officials being permitted in certain limited circumstances) - was reissued, without significant amendment.

3. The question whether the declaration would affect policy on Ministerial contacts with Sinn Fein did not feature significantly in Parliamentary consideration of the Elected Bill. However, there was an exchange between Mr Robinson and the Secretary of State in the Second Reading debate (5 December):

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"Mr Robinson. If a Sinn Fein member signs the declaration, will the Secretary of State meet him?"

"Mr King. No, we have no such proposals. If Sinn Fein were to repudiate violence we would have to consider that. There is a clear distinction between not advocating or supporting violence and failing to repudiate it."

4. There is no sign that Sinn Fein are about to repudiate violence or dissociate themselves from the PIRA. While their council candidates have signed the declaration (and may well intend to abide by it), the party have made clear that its policy towards IRA action is unaffected. For example, Dodie McGuinness has indicated that the party has not abandoned its "principled position on the legitimate use of armed struggle in certain circumstances"; Alex Maskey has said that, "We will be mindful of the law but we still have a principled position as regards the conflict in this country and will continue to articulate that"; and Sean McKnight has said that Sinn Fein supporters were aware of the party's position on the IRA and there was no need to hear repeated public statements on it.

5. There seems good reason for arguing, therefore, that the fact that Sinn Fein councillors do not breach their declarations has no necessary implications for our policy of avoiding any Ministerial meetings with them. Since Sinn Fein have made clear that they continue to support PIRA violence, even if their councillors are prevented from voicing that support, the main motivation of our policy - to demonstrate the Government's contempt for supporters of violence - is unaffected. That policy could continue until such time as Sinn Fein clearly rejected terrorist activity. And it is of course not yet clear whether Sinn Fein councillors will abide by their declarations. Certainly, Unionists will be looking for evidence of breaches.

6. On the other hand, it has never been easy to defend ourselves against the charge of 'hypocrisy' for expecting councillors to do

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business with Sinn Fein, while Ministers refuse to meet Sinn Fein councillors. Our defence is made that much more difficult by the introduction of the declaration. After all, the declaration was designed as a Government response to concern over the presence of Sinn Fein in the councils. If Sinn Fein councillors 'legitimise' themselves by observing their declarations, and we expect Unionists to sit down with them, why can Ministers not do the same on the same basis that they would meet other councillors? That line of argument may be particularly attractive to Sinn Fein and their supporters but it would also be fair. If we do not follow it, Unionists can continue to argue that there is no reason for them to do business with Sinn Fein councillors if Ministers will not.

7. There is something of a dilemma here. We would not want to pretend that Sinn Fein have abandoned support for violence, if they fairly clearly have not. The key questions seem to be: are Ministers right not to talk to Sinn Fein because of their support for violence? and what advantage might be gained from a change of policy? It has long been the policy that Ministers do not meet Sinn Fein. The introduction of the declaration has not (at least yet) changed Sinn Fein's policies and it is difficult therefore to use it to justify a change in our policy. Indeed, the steps we have taken since last summer - notably, the broadcasting restrictions - have served to underline the Government's rejection of dealings with Sinn Fein and our view of them as an 'unconstitutional' party. Any change in our policy on meeting Sinn Fein now - even if it was simply to allow Sinn Fein councillors to join delegations of councillors discussing council business with Ministers - will be seen, by unionists and Sinn Fein particularly, as signalling a change of significance. We could expect Sinn Fein to exploit the opportunity to argue that the Government recognised the legitimate role of their party in representing nationalists. We should be hard-pressed to argue that any change was 'logical', 'fair', and 'consistent' with the introduction of the declarations, if there is no evidence of a real change in Sinn Fein policy. The advantages in this situation are likely to be all Sinn Fein's way.

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8. But if the issue assumes public significance again, as it may, it will be difficult for us to play up Sinn Fein's continuing support for violence - as a reason for Ministers continuing to refuse to meet their elected representatives - without at the same time appearing to undermine the value and significance of introducing the declaration in the first place. None of the NI political parties currently has any enthusiasm for the declaration and all of them may take advantage of any further opportunity to criticize it in any public debate. Our own public handling of the issue will also be affected by any prospective actions against councillors (which will make those cases sub judice) and of course by the outcomes of such cases - which may highlight the difficulties of proving that breaches of the declaration have actually occurred. It is also worth noting that Sinn Fein have been fairly careful in their utterances during the election campaign. So far as we are aware, no statements have been made which would necessarily be evidence of a breach of the declaration (although some might be), had they been made by councillors after election.

9. The matter may be further complicated by the presence in the councils of others than Sinn Fein who are thought to support violence or known to be closely associated with organisations who do. A case in point is the recently revived Ulster Loyalist Democratic Party (ULDP), who earlier this year sought a meeting with the Secretary of State, which was turned down mainly on the basis of their known association with the UDA. In their letter, the party indicated that they rejected violence, although they did not of course specifically dissociate themselves from the UDA. Even if we accepted their good faith, we would not normally offer a meeting with a Minister to a small political grouping with no elected representatives. If it had only a small number of councillors, a meeting with officials rather than a Minister might be more appropriate in any case. The Private Office reply indicated that the Secretary of State could not agree to a meeting "at the present stage of the party's development". If the ULDP does win any council seats, we may need to consider the matter further. It would be important to adopt a stance that is consistent with our approach

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towards Sinn Fein, and seen to be consistent. If necessary, further advice will be submitted after the council elections.

Conclusions

10. What conclusions can be drawn from this preliminary review of the potential problems after the elections? There seems to be no good case for reconsidering at this stage our policy towards Ministerial meetings with Sinn Fein. If the issue is raised in public debate, it seems best (in the absence of new evidence on Sinn Fein's attitude towards violence) to continue to take the line used in the House by the Secretary of State. It seems unlikely to be to our advantage to raise the temperature and better to handle the matter in a low-key way. We shall need to keep an eye on what is said about the declaration and potential breaches of it, but the Government will not be a party to any actions in the High Court. Ministers have never claimed that the declarations would necessarily do more than curb expressions of support by councillors (and Assemblymen) for proscribed organisations and terrorist activities. Any breaches of the declaration will need to be handled in accordance with the terms of the Elected Authorities Act. In the likely circumstances after the election, it seems improbable that it will be helpful to say more than that. However, we shall need to keep under review our handling of policy towards Sinn Fein and it cannot be ruled out that we shall want to reconsider our stance on Ministerial meetings with Sinn Fein at some stage.

(SIGNED)

D C KIRK
Constitutional and Political Division
OAB 6591
May 1989

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