

C O N F I D E N T I A L

file

FROM D C KIRK, CPL
18 MAY 1989

hcc Mr Burns - B
Mr Thomas - B

PS/MR NEEDHAM

GOVERNMENT AND SINN FEIN AFTER THE DISTRICT COUNCIL ELECTIONS

I attach a draft minute which Mr Needham might like to consider sending, in the light of our discussion this morning.

(SIGNED)

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

Ms Mason *CAH*
18/5
18/5
Mark
19.5

file

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CPL/MS/6673

C O N F I D E N T I A L

DRAFT

cc Ministers
PUS
Sir K Bloomfield
Mr Burns
Mr Stephens
Mr Murray, DOE
Mr Miles
Mr Spence
Mr Thomas
Mr Wood
Mr Blackwell
Mr Daniell
Mr Kirk
Mr J McConnell

SECRETARY OF STATE

GOVERNMENT AND SINN ^{FEIN} AFTER THE DISTRICT COUNCIL ELECTIONS

I have now seen Mr Kirk's minute of 12 May and Mr Stephens's minute of 16 May. We discussed this subject at our Ministerial meeting last Monday. I agree with the general thrust of both the minutes. This subject requires careful handling; we need to be alert to developments over the next few months (and we do not yet know how the "issue" will, or will not, develop); but we should continue with our existing policy on meeting Sinn Fein; and we should be prepared to defend that policy robustly, as the need arises.

2. There are, however, some points I should like now to record in the light of our discussion and our agreement on future action.

3. The existing guidance on 'Approaches to Government by Members of Sinn Fein', which can remain in place, quite properly draws a distinction between meetings on "our ground", as it were, and theirs. Requests for a Ministerial meeting with Sinn Fein representatives, whether separately or as part of a council delegation, should be turned down. But the presence of Sinn Fein representatives at meetings which we are not ourselves arranging,

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for example on a Ministerial visit to a district council, often cannot be prevented. In many circumstances, it would be counter-productive to insist that Sinn Fein councillors should not be present, since this could enable Sinn Fein to dictate Ministerial movements and our attendance at particular functions.

4. We discussed the link with the declaration. There is a clear distinction to be drawn between the behaviour of Sinn Fein councillors, which can be controlled via the declaration, and their beliefs, which cannot be. It is because their beliefs have not changed, on their own admission, that it is right to continue our existing policy on Ministerial meetings with them. We demonstrate our abhorrence of those beliefs by not ourselves doing business with them. Councils, on the other hand, can only conduct their business with the involvement of all councillors. The declaration facilitates the conduct of their business, by providing a remedy against any councillor who abuses his office by expressing support for acts of terrorism or proscribed organisations.

5. I believe we can robustly defend our stance, as the need arises, and it is a stance which should be generally understood. Clearly, we should not close our minds to the possibility that Sinn Fein might one day repudiate the violence of the IRA, although there is no sign of that at present. On a point of presentation, however, we should now avoid the use of the word "repudiate", since Unionists sought unsuccessfully in the House to amend the declaration to include that term. Our case rests that Sinn Fein as a party continues to believe in violence, and Ministers will not meet with their councillors while they continue to hold that evil belief. At the same time, it is in the interests of all that councils should conduct their business, and the declaration is designed to allow them to do so, without fear of disruption by statements or other actions in support of terrorism.

RICHARD NEEDHAM

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DUSB/7445

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24/MAY 1989
①

Mr West 18/5
Mr Fisher
Ms Mason
CAM 20

I quite see the political argument
but not the legal one - I wd. be wary of July 17/v

FROM: A W STEPHENS
16 May 1989

encouraging militant republican litigation - negative

- PS/Secretary of State (B&L) - B
- PS/Ministers (B&L) - B
- PS/PUS (B&L) - B
- PS/Sir K Bloomfield - B
- Mr Murray, DOENI
- Mr Spence
- Mr Miles - B
- Mr Thomas - B
- Mr Wood - B
- Mr Kirk - B
- Mr Blackwell - B
- Mr J McConnell - B
- Mr Daniell - B

lawyers looking
for loopholes.
CAM 19/v

Access to Govt
by Sinn Fein
NH
25/5

RECEIVED
16 MAY 1989
DUS'S OFFICE
1263

Mr Kirk
An additional
argument - tho'
it leaves him open to the
accusation that they claim
to care more
for the constitution than do
the Ministers -
a clear
claim
to
wtd. present.
16/5.

MR BURNS - B

GOVERNMENT AND SINN FEIN AFTER THE DISTRICT COUNCIL ELECTIONS

I cannot help feeling that Mr Kirk's submission of 12 May is unnecessarily defensive and takes an unduly pessimistic view of the scope for justifying the continued refusal of Ministers to have dealings with Sinn Fein elected representatives even now that they have had to make the new statutory declaration.

2. Surely a basic point, which the submission does not seem to take into account, is that District Councils have no responsibility either for the constitution which the IRA are seeking to subvert or for combatting the violence with which they are pursuing that objective? - whereas Ministers obviously do have those responsibilities. It seems to me to follow that, whilst the fact of subscribing to (and of course observing) the declaration can reasonably be regarded as sufficient to make Sinn Fein representatives tolerable in the former context, it is not sufficient to render them acceptable in the latter context. If that is so, I do not see why we need feel queasy about believing in the policy ourselves or justifying it robustly to others. Of course, not everyone on the political scene will see it - or want to see it - in that light, but that need not inhibit us from putting the argument loud and clear.

Signed AWS

A W STEPHENS

GLN 11254

SH 511, SC 244

CONFIDENTIAL

~~19/5~~

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MUFAXED

BOX

FROM D C KIRK, CPL
12 MAY 1989

1/5

MUFAX TO

MR JOHNATHAN STEPHENSM
PRB
DUNDONARD HOUSE
9/6/1989

- 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+M.
- Mr Miles -B
- Mr Spence -B
- Mr Thomas -B
- Mr Wood (L&B) -B
- Mr Blackwell -B
- Mr Daniell -B
- Mr J McConnell -B

PS/SECRETARY OF STATE (L&B) -B

GOVERNMENT AND SINN FEIN AFTER THE DISTRICT COUNCIL ELECTIONS

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 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. Further consideration may need to follow.

Background

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 1988). Some thought was then given to the effect that the introduction of the declaration might have. The guidance - including the policy of avoiding Ministerial meetings with Sinn Fein (while permitting some official contacts 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 Authorities (NI) Bill. However, there was an exchange between Mr Robinson and the Secretary of State in the Second Reading debate (5 December):

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

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1622
09 JUN 1989
MUFAX ROOM
STORMONT HOUSE ANNEX

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"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."

Sinn Fein in the Election Campaign

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 their 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.

Discussion

5. Sinn Fein councillors may well ask to see Ministers to discuss council or other business after the elections. They will want to demonstrate that they are 'delivering' for their nationalist electorate. It seems unlikely that they would contemplate any dissociation from the IRA as an offset for any 'concession' to them.

6. There seems good reason for arguing, therefore, that the fact that Sinn Fein councillors do not breach their declarations should have no necessary implications for our policy of avoiding 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

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will be looking for evidence of breaches.

7. On the other hand, it has never been easy to defend ourselves against the charge of 'double standards' or 'inconsistency' in expecting councillors to do business with Sinn Fein, while Ministers refuse to meet their councillors. Our defence is made that much more difficult by the introduction of the declaration. 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 do business with them, why can Ministers not meet them as they would meet other councillors? That line of argument may be particularly attractive to Sinn Fein and their supporters; but it would also seem fair. If we reject it, Unionists can continue to argue that there is no reason for them to do business with Sinn Fein councillors, since Ministers will not.

8. There is 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 policy for Ministers not to meet Sinn Fein. The introduction of the declaration has not (at least yet) changed Sinn Fein's policies. 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. We have continued to say that we keep the possibility of proscribing Sinn Fein under review. Any change in our policy 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 a significant change. 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

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declaration, unless there is some evidence of a real change in Sinn Fein policy. The change might simply help Sinn Fein.

9. But if the issue assumes public significance again, 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 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 may take advantage of any opportunity to criticize it in public debate. Our own 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.

Other Parties

10. 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 Ministerial meeting to a small political group with no elected representatives. (If it had only a few councillors, a meeting with officials 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

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council seats, we may need to consider the matter further. It would be important to adopt a stance that is consistent with our approach towards Sinn Fein, and seen to be consistent. If necessary, further advice will be submitted after the elections.

Conclusions

11. What conclusions can be drawn from this preliminary review? It is difficult to see how, on balance, we could change our policy on Ministerial meetings with Sinn Fein at this early stage. If the issue is raised in public debate, it seems best (in the absence of evidence that Sinn Fein's policy has changed) 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 can point out as necessary that councillors have chosen to seek election to their offices; all, bound by the declaration, have been elected and it is in the interest of all that councils should do their business effectively. Ministers do not require to talk with Sinn Fein, who have not repudiated the IRA, to do their business, etc.

12. We shall need to keep an eye on what is said about the declaration and potential breaches of it, but the Government have no part in any actions before the High Court. Ministers have never claimed that the declaration would necessarily do more than curb expressions of support by councillors (and Assemblymen) for proscribed organisations and terrorist activities. Any breaches will need to be handled in accordance with the new Act. In the likely circumstances after the election, it seems improbable that it will be helpful to say more on that score. However, we shall need to keep under review our handling of policy towards Sinn Fein. We may need to reconsider our stance at some stage.

(SIGNED)

D C KIRK

Constitutional and Political Division

OAB 6591

12 May 1989

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