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PS/Secretary of State (L&B) - M

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20 NOV 1984
TELEFAX ROOM
STORMONT HOUSE ANNEX

HEAD OF THE N.I.
21 NOV 1984
CIVIL SERVICE

cc PS/Ministers (L&B) - M
PS/PUS (L&B) - M
PS/Sir Ewart Bell - M
Mr Brennan
Mr Bourn - M
Mr Doyne-Ditmas - M
Mr Burns
Mr Gilliland - M
Mr Wood
Mr Bickham
Mr Clark, RID, FCO

2 Mr Arvill O.R.
[Signature]

SINN FEIN ARD FHEIS

The note of the Secretary of State's morning meeting on 5 November asks two questions stemming from the Sinn Fein Ard Fheis: what authority did Sinn Fein have to use the Dublin Mansion House and were Adams' statements at the Ard Fheis within the law?

Use of Mansion House

This has caused some controversy in the Republic. The Mansion House is the official residence of the Lord Mayor of Dublin but has some public rooms for hire. Michael Keating, a Fine Gael TD and former Lord Mayor of Dublin, has criticised the letting of the public rooms in the Mansion House to Sinn Fein. The present Lord Mayor has defended the letting on the grounds that Sinn Fein was not a proscribed organisation and the public rooms were rented out on a commercial basis. Dublin Corporation has also made it clear that it could not discriminate in letting the rooms but that the hiring should not be interpreted as sympathy for Sinn Fein. The Irish Government have no power to deny Sinn Fein the use of the Mansion House. But there are reports that the Fine Gael group on the Corporation may try to have letting policy changed

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Newspapers record concern on the part of the Irish Government at the use by Sinn Fein of the premises, and the Lord Mayor has said to our Ambassador that he hopes we understand that the Ard Pheis was not being held in his residence.

It would be counterproductive for the UK Government to intervene either publicly or privately in this controversy/ ^{at this stage} But we will continue to monitor it closely with the FCO and the Dublin Embassy to see whether a suitable opportunity occurs for us to influence the debate. While firm action in Dublin by the Corporation to deny Sinn Fein a meeting place might put pressure on the UK Government to take comparable action, for example ^{to} deny Sinn Fein access to television and radio, it is nevertheless highly desirable for the Irish authorities to be seen to be doing everything possible to disrupt the IRA and its front men in the Republic.

Statements by Sinn Fein

The legality of Adams' statements (in particular the infamous remark about the Brighton bomb being "a blow for democracy") raises problems of extra-territorial jurisdiction. None of the provisions in force in Northern Ireland which might cover Adams' speech are extraterritorial, and so do not apply. Even if they did it is doubtful whether Adams' statement would be covered by Article 13 of the Public Order (NI) Order 1981 which deals with making speeches intended to stir up hatred against, or arouse fear of, any section of the public in Northern Ireland but which is directed more at expressions of sectarian hatred than support for terrorist organisations. Nor would Section 21 of the

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Emergency Provisions Act, which deals with soliciting or inviting a person to support or become part of a proscribed organisation, be suitable for generalised statements of support for paramilitary groups. In any case Adams' statement probably did not amount in legal terms to support for the IRA. Nor would Adams be likely to be found guilty of inciting the commission of specific offences. The issue of provocative statements by those supporting terrorists has been studied in depth by Mr Brennan's working group, with the conclusion that there was no satisfactory way of forming a law to prohibit statements such as Adams'.

As we understand it, the Republic's own law cannot be applied to Adams' statements on Brighton because of extraterritorial considerations. It is not an offence in the Republic to invite support for activities outside the jurisdiction of an organisation which is unlawful in the Republic (as the IRA is). But it is also doubtful whether, despite problems of extraterritoriality, Irish law would cover the coded language which Adams carefully used. We could press the Irish Government to take action in this area, but given the problems we found in extending the scope for our legislation on incitement, we doubt whether they would find themselves better placed. They would resent any pressure from HMG to take action which HMG cannot take itself.

Speaking Notes

In his note to Mr Abbott of 6 November, Mr Sandiford invited us to produce brief speaking notes on the proscription of Sinn Fein and the application of the law against those who express support for them. These ... are attached.

T.M. Gya

- Q. Why is Sinn Fein not proscribed?
- A. To proscribe Sinn Fein would give them a propaganda victory which they would exploit both here and abroad. It would be likely to make the security situation worse. And it would not be effective in stopping groups who support terrorism exploiting the democratic system.

If Sinn Fein decided to ignore the ban, the RUC would be faced with a need to make widespread arrests in Catholic areas and not only would there be violence as a direct result, but there would be increased support for hitherto moderate sections of the nationalist community and from sympathisers abroad. If confrontation did not suit Sinn Fein, either immediately or after a trial period, the name of their organisation could be changed and their activities could continue under a new banner.

The better course is therefore to keep a close watch on their activities and take any action on any breaches of the law, rather than attempt to outlaw the organisation itself.

Q. Why has nothing been done to prosecute Adams for his speeches condoning PIRA's outrages and predicting further attacks?

A. It is impossible to bring within the law the sort of statements made by Adams without a serious restriction on others' freedom of speech and on the freedom of the press. For these reasons the law does not outlaw general expression of support for or appreciation of the objectives or activities of terrorists, however repugnant such views are. It is not after all the expression of views we seek to outlaw in a democracy, but the evil actions themselves. It is therefore unlawful to incite individuals to commit specific offences, to solicit material support for a particular proscribed organisation, or intentionally to promote sectarian hatred or fear.

So far Adams appears to have been careful to stay within the law. But all his statements and those of others like him, are carefully analysed to see whether an offence has been committed. If it has, the prosecuting authorities will not be slow to take action.