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SECRET

Sinn Fein in the Northern Councils: The British problem.

1. We have hitherto concentrated on the problem that this development poses for Dublin and the SDLP: Adams has energetically followed an impressive strategy of putting the SDLP into a political and ideological corner which has resulted in "legitimising" Sinn Fein, weakening the SDLP, reducing Dublin's room for manoeuvre and opening up a new strategic threat to the stability of the State.

2. Sinn Fein's performance in the Councils hitherto has been tactically impeccable. They have behaved with unflappable decorum in the face of unionist rancour, sectarianism and unwisdom, coolly taking advantage of every unionist false move to strengthen their own position and torment the unionists to further extremes of bigotry and discrimination (Craigavon, Belfast and Lisburn).

3. In all of this confusion, we have not given sufficient attention to the problems posed for Britain by the new situation. First the unionists are genuinely furious with the British for forcing them, to quote Frank Millar, "to sit down with Sinn Fein whom the British will not deal with": the feelings of the unionists are very understandable given the record of IRA murder of Northern Protestants. Second, the British have yet to decide definitively how to deal with Sinn Fein Councillors in a variety of situations. The British have said that Ministers will not meet with Sinn Fein Councillors. They have yet to state publicly whether they will appoint them to Area Boards even though the first indications are that they will not. There are other indications that the British may

stand down some Councils, e.g. Fermanagh, and replace them with appointed Commissions. We have learned however that British officials now believe that in any of these three cases the British would, if challenged under the 1973 Constitution Act, be found to be acting contrary to the law. Section 19 of the 1973 constitution Act provides in Subsection (1):

"It shall be unlawful for a Minister of the Crown, a member of the Northern Ireland Executive or other person appointed under section 8 above, the Post Office and any authority or body listed in Schedule 2 to the Parliamentary Commissioner Act 1967, Schedule 1 to the Parliamentary Commissioner Act (Northern Ireland) 1969 or Schedule 1 to the Commissioner for Complaints Act (Northern Ireland) 1969 to discriminate, or aid, induce or incite another to discriminate, in the discharge of functions relating to Northern Ireland against any person or class of persons on the ground of religious belief or political opinion."

4. This creates a grave dilemma for Hurd. If he applies the Act strictly he will have to endure unionist fury, perhaps of an extreme order, as well as the displeasure of Dublin not to mention that of Mrs. Thatcher. If he refuses to recognise Sinn Fein representatives in one way or another he runs the high risk of being found to be acting illegally. The evidence (Craigavon) now is that Sinn Fein will be prepared to use the Courts and British legislation to embarrass Hurd.

5. A "solution" might be to amend the 1973 Act or even to ban Sinn Fein. Both of these options would be politically highly unpalatable to the British but one or the other may come to be seen to be inescapable. If so, they would probably need some degree of support from Dublin to act. To acquiesce Dublin would need sufficient substance in a "package" to be able to judge that the SDLP and Northern nationalists generally would

be able to "stomach" whatever action were taken against Sinn
Fein. There may, paradoxically, be some room for manoeuvre for
us here.

M J Lillis
11 June, 1985.

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