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- cc. PS/Ministers (B&L)
- PS/PUS (B&L)
- Mr Burns
- Mr A W Stephens
- NI Perm Secs
- Mr Spence
- Mr Chesterton
- Mr M Elliott
- Mr Kirk
- Mr J McConnell
- Mr Bell
- Mr S Hewitt
- Mr G Hewitt
- Mr Wood

PS/Secretary of State (B&L)

POLITICAL PROTEST ACTION

1. The purpose of this paper is to advise the Secretary of State of the up-to-date position of Unionist protest action and the consequences of current and previous action which could possibly hinder future dialogue on political developments.
2. There are two categories of problem:-
 - 2.1 those in which Ministers would have some discretion on both the decisions to be taken to resolve the difficulties and the timing of such decisions. These include membership of Boards and the presence of Sinn Fein in Councils; and
 - 2.2 those problems where no such discretion exists and the law is now taking its course. These include collection of public debts, surcharge of Councillors and display of banners.

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Issues subject to Ministerial discretion

3. The current position on these issues is:

3.1 Membership of Boards

I enclose on the attached Annex a summary of the position in respect of public bodies. The most important of these are the Health and Social Services, Education and Library Boards and the Fire Authority. Advice from Departments in respect of all these bodies is that neither the vacancies nor absences are having any detrimental effect on their work. In all cases there are still sufficient elected and nominated members attending meetings to ensure that a quorum exists and that business continues to be conducted. Where there have been resignations, the relevant District Council has been requested for further nominations although so far only one - Newtownabbey - has produced a nomination. In both the Health and Education Boards members could be disqualified for non-attendance within a period of 6 months. In at least two cases, letters warning of possible disqualification have prompted the return of the members to the Boards. No action has yet been taken by any of the Departments to fill vacancies other than requesting further nominations from Councils in line with the policy approved by the Secretary of State in April. Although Ministers may be faced with pressure from non-Unionist members who would be willing to take up these vacancies, any such action would certainly provoke considerable political controversy, both in respect of the principle and the method of selection. The Secretary of State is therefore advised that no action should be taken yet to fill vacancies, other than to continue to seek further nominations from Councils.

3.2 Presence of Sinn Fein

There are no known District Council issues at present which might raise the political temperature within Councils and require intervention by DOE within the next 6 months but there are signs that the Sinn Fein presence within Councils is re-emerging as a major issue as Councils

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gradually return to normal business. The Secretary of State has recently decided on how this is to be tackled.

4. Issues subject to normal legal procedures

4.1 Motor Tax

Mr Peter Robinson has been summoned to Court on 22 September in respect of non-payment of Motor Tax. If he declines to pay any penalties which the Court may impose, it is possible that he could be committed to prison in the period October/November. Mr McCusker has failed to pay fines and other penalties imposed on him at the end of May and a warrant for his imprisonment has been issued and may be executed at any time. Rev W McCrea and Mr James Nicholson have been offered mitigated penalties for non-payment of tax. Mr George Seawright, Mr Alan Wright and a second case against Mr Nicholson have also been detected as not having paid Motor Tax and proceedings against them will be initiated later this year. A second case is also being processed in respect of Mr Robinson. It is not yet possible to indicate the specific timing nor the possible outcome of these cases but they will arise during the period September/December. DOE will continue to pursue these cases in accordance with normal procedures.

4.2 Rates

The unresolved cases outstanding from the financial year 1986/87 would relate to Mr McCusker and Mr Robinson from whom the amounts due have just been recovered from their bank accounts by the Enforcement of Judgements Office. The Court process in respect of Mr Ken Maginnis has been completed and a decree granted but the matter will now be referred to the EJO and enforcement action seems 2/3 months away. The case in respect of Dr Paisley is in the same category as Mr Maginnis. The case of Mr Denny Vitty is currently with the EJO.

DOE advise that it is unlikely that any rate defaulters for the current

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financial year 1987/88 will be the subject of Court proceedings before end-August 1987 and it is as yet too early to say which local politicians are likely to be charged. There will be no terms of imprisonment for non-payment of rates since this is a civil debt.

4.3 Television Licences

The Post Office is currently taking legal advice as to how it might proceed against Mr Maginnis for non-payment of his Licence and they are also taking similar action in relation to Dr Paisley since they have been unable to make contact with him personally. The case against Mr McCusker was dismissed by the Courts on a technicality but the Post Office intend to pursue this. Further Court action and possible imprisonment is still some months away and so it is not yet possible to make a meaningful assessment of specific timing at this stage.

4.4 District Councils

(a) Surcharge and Disqualification

Action by the Local Government Auditor in respect of the fines imposed and paid by Belfast and Castlereagh Councils will take place towards the end of 1987. Any surcharge likely to be made would not be the subject of Court proceedings unless the individuals concerned decided to appeal. Where an appeal is lodged, it must be within 6 weeks of the surcharge being levied and so the current timetable suggests that Court proceedings are unlikely before the Spring of 1988. Action by the Local Government Auditor against Craigavon Council on both the St Peter's GAA Club issue and the "Says No Banner" is currently the subject of legal advice by the auditor. Depending on the outcome of that advice, action by the Auditor could be taken before the end of 1987.

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(b) Banners

Further difficulties with District Councils may emerge in respect of the Says No Banners currently being displayed by 14 Councils. The temporary 3 months' consent granted to the Councils has now lapsed, a number have re-applied for consent but been refused and Antrim and Belfast have appealed against refusal. The Planning Appeals Commission has upheld the DOE decision in both cases. This means that DOE must take enforcement action against Antrim and Belfast and the others which did not appeal and DOE intends now to take action through the Courts. This will commence in 3 months' time to allow for a possible Judicial Review of the decisions of the Planning Appeals Commission by Antrim and Belfast Councils. It is likely therefore that from September/October the removal of the Banners will again have a higher public profile.

(c) Other Issues

There is a suggestion that both Omagh and Fermanagh District Councils may seek to adopt the MacBride Principles and, as a result, there is therefore the prospect of conflict for the Fair Employment Agency in its programme of investigation of District Councils during the coming months.

5. I propose to update the position in each of these areas on a monthly basis and report accordingly.
6. The Secretary of State is asked to:
 - (a) note the latest position on each of these areas;
 - (b) agree that no action should be taken yet to fill vacancies on public bodies; and

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- (c) agree that the position on these issues should be reviewed and updated monthly.

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20 August 1987

/JH

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ANNEX

1. Position on Boards: - All references are to Unionist members

(a) Health and Social Services Boards:

Eastern - 6 vacancies - nominations requested from District Councils. 5 from Ards and Belfast who have decided not to nominate. Response on one from Castlereagh not yet received.

- 1 member (from Belfast) at risk from 23 July for non-attendance.

Northern - 3 vacancies - nominations requested from District Councils. One re-nominated from Newtownabbey and will be invited to accept re-appointment. Two from Larne and Carrick awaiting Council consideration.

- 1 member from Ballymena at risk from September for non-attendance.

Note: 2 members from Antrim and Cookstown were absent for a prolonged period but returned following warning of possible dismissal.

Southern - 1 vacancy - nominations requested from Craigavon Council. Awaiting Council consideration.

- 2 members (including one SDLP) have already received warning for non-attendance but no reply received.

- 3 further members now to receive warning following non-attendance in June.

Western - no vacancies.

(b) Education and Library Boards

Belfast - 8 vacancies - nominations requested from Belfast City Council who have indicated that they will not be forwarding new nominations.

- 4 disqualifications for non-attendance.

South Eastern - 1 vacancy - nominations requested from Ards Council who have indicated that they will not be forwarding new nominations.

- 1 disqualification for non-attendance.

North Eastern - 1 vacancy - nominations will be requested from the Council when resignation procedures are completed.

Southern - no vacancies.

Western - no vacancies.

(c) Fire Authority

Four vacancies caused by resignation of members of Belfast Council. New nominations have been requested but the Council has indicated that they will not be submitting new nominations. No other members are at risk for non-attendance.

(d) Housing Executive

No vacancies caused by resignation but the 3 members appointed by the Housing Council play little part in Board proceedings.

(e) Housing Council

No vacancies. Adjourned every month but failure to conduct business has no effect on work of Housing Executive or DOE.

(f) District Councils

There have been isolated resignations in Antrim, Castlereagh, Carrick, Newtownabbey and North Down but all have been filled in by-elections. Vacancies on Councils has not caused difficulties although non-attendance at certain meetings eg Castlereagh and Belfast has prevented business being conducted because the meeting was inquorate.

(g) Drainage Council

No vacancies. Withdrawal of 6 elected members did take place at earlier meeting but 2 returned to subsequent meeting.

/JH