

27 AUG 1982

E.R.

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Mr. Marshall (L)

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c.c. PS/Secretary of State(L&B)-M
 PS/Ministers (L&B)-M
 PS/PUS(L&B)-M
 PS/Sir Ewart Bell
 Mr. Bourn
 Mr. Marshall(L)-M
 Mr. Buxton
 Miss Davies
 Mr. Angel(L)-M
 Mr. Blatherwick
 ✓ Mr. Kennedy, Clerk to the
 Assembly
 Mr. Hayes, Netherleigh
 Mr. Abbott (L)-M
 Mr. Angel (L)-M

SDLP ABSTENTIONISM

Mr. Hewitt is circulating separately a note for the record about the SDLP's decision to stand for the elections but not to attend the Assembly.

2. In all that Mr. Hume has said since last night it is clear that he hopes after the election to re-open negotiations with the Secretary of State for some different kind of initiative (essentially one involving power-sharing and an enlarged Irish dimension) on the basis of the election results. The current capacity for the SDLP for self-delusion is such that he will calculate that the Secretary of State will prefer to start again rather than persist with the present Assembly Act in the absence of the SDLP.

3. This presents us with a particular difficulty. On the one hand we have to make it clear to the SDLP that the 1982 Act has now passed into law, that there is no question of tearing it up and starting again, and that with or without the SDLP the Assembly will meet soon after the Election. The Secretary of State in his Radio interview today has put down these markers.

4. But at the same time we are going to need to talk to the SDLP - as well as to the other parties - after the Election and before the Assembly meets, not least because we cannot afford to pass by any chance, however remote, of getting the SDLP to modify their stance.

5. This balancing act is going to be complicated by Mr. Haughey who will be as anxious to use the SDLP stance to pressurise HMG as will Mr. Hume to use Mr. Haughey for the same purpose. There are already signs (Dublin Telegram No.241 (- attached)) that Mr. Haughey has already

/... realised

realised that we have most to gain from discussing the situation on the basis of the 1982 Act and that he has most to gain in terms of his current objective of embarrassing us from talking to us on the basis of SDLP proposals yet to be formulated and published.

6. It is much too soon to draw any specific conclusion about our course of action except the obvious one that we must try to stay on the tightrope and keep the SDLP in play on our terms.

7. There is however one immediate practical requirement. The Act refers to "Members of the Assembly" and "the Parties in the Assembly" in reference to the 70% proposals and the balance of Committees and Committee Chairmen. If I understand Standing Orders correctly the first piece of business will be the selection of a Presiding Officer (which the SDLP will presumably boycott) and the formal "signing on" procedures will follow that. It seems to me at first sight that we may need to take advice on whether we are in any real danger of the SDLP candidates having stood for election as members of the Assembly nevertheless being deemed for the purposes of the Act not to be members of the Assembly because they have not turned up at the election of the Presiding Officer or thereafter.

8. The Act was drawn up specifically to exclude the possibility of majorities being formed on the basis of those present and voting, in order to produce the 70%, rather than on the basis of those elected. It may be, if the Unionists are clever enough, that they can use the SDLP abstention to produce perfectly valid proposals under Section I of the Act, having the support of 90% of the "Members of the Assembly".

9. As for the Committees, we cannot avoid their being Unionist dominated (and behaving accordingly) if the SDLP boycott. But it would certainly be to our great advantage if the SDLP were deemed to be nevertheless "a Party in the Assembly" and places left vacant for them.

10. You may think that CPL will need to consider the Constitutional points raised here fairly soon.

Glavin Rebell

D.J. WYATT - 26 August 1982 (MR/534)

(Dictated by Mr. Wyatt and signed in his absence)

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