

NOTE FOR THE RECORD

Mrs P. Mitchell
Pse. Spk.
5/9.

cc PS/PUS (L&B)
 PS/Mr Bloomfield
 Mr Brennan
 Mr A W Stephens
 Mr Chesterton
 Mr Elliott
 Mr Palmer
 Mr Hammond
 Mr Spence
 Mr Gilliland
 Mr G Hewitt
 Mr Jackson
 Miss Elliott o/r
 Mr Kendrick
 Mrs Madden,
 Crown Solicitors Office
 ✓ Mr A R Brown

5/9 cc. Mr. Dooling

ACCESS TO PRISONS BY SINN FEIN ELECTED REPRESENTATIVES

1. A case conference was held on 1 September to discuss Sinn Fein's application for judicial review of the Government's policy towards access to prisons by Sinn Fein elected representatives. Present were Mr Anthony Campbell, QC, Mr Hammond, Mr Nelson, Mr Palmer, Mr Alan Brown, Mrs Madden (Crown Solicitors Office), and myself. The main points to emerge were:

(i) the Government would need to respond to the application with an affidavit setting out its policy. This should be sworn at the highest possible level, preferably by Sir Robert Andrew. The risk that the swearer of the affidavit would be called to give oral testimony existed, but was very slight;

(ii) the affidavit should refer in general terms to the Government's policy towards Sinn Fein, emphasising that the purpose of the policy was both to mark the Government's disapproval of Sinn Fein and to inflict damage upon the cause of violence as such. The denial of prison access to the applicant, Mr Keenan, would be described as an example of the application of the policy. There was no need to deal in any detail with such matters as the attitude of Ministers to meeting Sinn Fein;

(iii) the hearing has been put back from 10 September to 22 September, but was low down on the list for the latter date

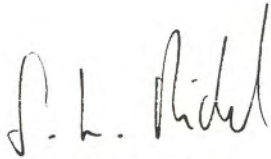
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and was unlikely in practice to be heard until October.

2. Counsel agreed to produce, as soon as possible, an affidavit based on the draft already provided by NIO, on which NIO comments would be sought. No further action is required until this arrives.



S L RICKARD

Constitutional & Political Division

3 September 1986

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PA Sinn Fein Judicial Review
File

copied to Mary Madden C.S.O. 22/9.

To: Mr A R Brown, PRBI - M

(3) cc Mr Palmer - M
Mr Jackson - M
Mr Hammond

From: S L Rickard, CPL

Access to Prisons by Sinn Fein elected Representatives

Here is the material asked for by Crown Counsel.

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Mrs. Pithers

SOME RECENT STATEMENTS OF SINN FEIN'S SUPPORT FOR THE USE OF VIOLENCE

Danny Morrison, then Sinn Fein's publicity officer, said at the 1981 Sinn Fein Ard Pheis:

"Will anyone here object if, with a ballot paper in this hand and an Armalite in this hand, we take power in Ireland?"

The following year's Sinn Fein annual conference on 30 October 1982, passed a resolution requiring "all candidates in national and local elections, and all campaign material, to be unambivalent in support of the armed struggle" (An Phoblacht /Republican News - hereafter AP/RN - 4 November 1982).

3. In giving judgement in Re Curran and McCann's application in 1985, Mr Justice Hutton said:

"Therefore I take judicial note of the facts that the policy and aims of Sinn Fein are to take power in Northern Ireland with a ballot paper in one hand and an Armalite in the other, that Sinn Fein gives unambivalent support to the 'armed struggle', which is the euphemism used by Sinn Fein to describe terrorist murders and other violent crimes committed by the Provisional IRA, and that when the elected representatives of Sinn Fein take part in the normal work of an elected council this is just one plank of their policy, the other plank being the unambivalent support of murder and other acts of terrorist violence committed to overthrow democratic government in Northern Ireland."

Other statements of support for violence from prominent members of Sinn Fein include:

Mr Jim McAllister (former Assembly member):

"I don't believe the IRA are committing atrocities. Where I live, they are tackling British forces and I believe they have the right to that". (Belfast Telegraph, 9 May 1985)

Mr Gerry Doherty (Derry City Councillor):

"The people I am asking to vote for me know that I am unambiguous in my support for the armed struggle and as a member of Sinn Fein I have made no secret of that fact". (Belfast Telegraph, 10 May 1985)

Mr Seamus Kerr (Chairman, Omagh District Council):

"If an employee or member of the council or whatever is a member of the British forces and if he is regarded by the IRA as being a legitimate target ... then certainly I would have no other option than to accept the fact that the IRA have every right to do whatever they do." (Belfast News Letter, 7 June 1985)

Mr Gerry Doherty, Derry City Councillor, described the bombing of Newry Police Station and the Conservative Party Conference in 1984 as:

"tremendous military successes" (Irish News, 1 July 1985)

Mr Paul Corrigan (Chairman, Perwanagh Council) said that he believes in the right of the Irish people to engage in an 'armed struggle' against the British. (Belfast Telegraph, 3 July 1985)

Mr Mitchell McLaughlin (Derry City Councillor) (in defending the PIRA murder of civilians working for the security forces):

"These civilians, whether pushing pens or pushing brooms ... are as culpable in their employment practices as they would be if they were directly involved in the manufacture of plastic bullets" (AP/RN, 31 July 1986)

Mr Martin McGuinness (former Assembly member):

"We are a socialist republican movement, a movement that supports the use of armed struggle in the six counties. Our attitude to armed struggle is clear and unambiguous and people can either accept it or reject it, but they cannot deny it ... the Irish are a subject people who have the right to be free and have the absolute right to oppose in arms the occupying forces of Britain" (AP/RN, 26 June 1985)

Mr Gerry Adams (President, Sinn Fein):

"The IRA are not terrorists. They are freedom fighters who are engaged in a legitimate struggle". (Sunday News, 3 November 1985)

"If by some freak the Ard Comhairle repudiated the legitimate armed struggle of the IRA you would be looking for another president" (Sunday Tribune, 3 November 1985)

(In reference to the shooting of Mr McAvoy) "It would have been better if he had not been shot in the 26 counties". (Sunday Press, 6 October 1985)

"The IRA are political soldiers who used armed means to resist armed aggression." (The Guardian, 22 May 1985)

"My position very simply is that the IRA have the right to engage in armed struggle ... I have never condemned the IRA. I don't ever foresee any circumstances in which I would condemn the IRA." (The Phoenix, 7 June 1985)

"To the men and women soldiers of the IRA, to Republican prisoners of war and their families we extend solidarity." (Daily Mirror, 4 November 1985)