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HIT, and some advantages -
tough on terrorism on both
sides and, paradoxically, helpful
to the Loyalist political parties.
Content?

PRIME MINISTER

Dear Tony,

PROSCRIPTION OF THE LOYALIST VOLUNTEER FORCE (LVF) AND CONTINUITYARMY COUNCIL (CAC)

I have been weighing up the case for proscribing the Loyalist Volunteer Force (LVF) and the Continuity Army Council (CAC). Both organisations are concerned in terrorism in Northern Ireland. I believe the time has come to proscribe them.

Legal Powers

Section 30(3) of the Northern Ireland (Emergency Provisions) Act 1996 provides that the Secretary of State may, by Order, proscribe any organisation that "appears to him to be concerned in terrorism or promoting or encouraging it".

Past policy and practice has been to confine proscription to those organisations which are "actively and primarily engaged in the commission of terrorist acts". Some 10 organisations are currently proscribed in Northern Ireland including PIRA, INLA and IPLO on the Republican side, and the UFF, UVF and the UDA on the Loyalist side.

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The main effect of proscription is that membership of the organisation in question becomes a criminal offence. A range of other activities in support of the organisation including soliciting finance or membership are also offences punishable with prison.

In practice the operational security advantages of proscription are slight. However it does demonstrate both the Government's and society's clear condemnation of the activities of a particular group. Proscription of the LVF could also have a marginally beneficial impact on the position of the Loyalist parties currently engaged in the talks process, whose position is under threat following recent Loyalist paramilitary activity. The RUC have also commented that although proscription would have no input on operational matters it would be helpful in investigations under the EPA and they would therefore support proscription.

The case for proscription

The LVF is a breakaway militant Loyalist group opposed to the Loyalist ceasefire. Its paramilitary activities have become progressively more serious in recent weeks, culminating in the atrocious and purely sectarian murder of Sean Browne, a leading member of the Gaelic Athletic Association on 13 May 1997 and an attempted bomb attack in Dundalk last week.

The Continuity Army Council is the military wing of Republican Sinn Fein, a party formed by those who left Sinn Fein some years ago in

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opposition to its "peace strategy" and which was highly critical of the IRA ceasefire. It was responsible for the bombing of the Killyhevlin Hotel in Enniskillen and other attempted bomb attacks in Londonderry and Belfast (most recently on 10 May).

Both organisations are clearly actively and primarily engaged in the commission of terrorist acts.

Impact on the talks

Within the talks process the position of the Loyalist parties (PUP and UDP) is under some threat following recent terrorist attacks (including one murder and a number of bombings) by the paramilitary organisations with which they are associated. Those organisations are already proscribed and no terrorist attacks can be condoned, but the Chief Constable's assessment is that their activities are broadly retaliatory (in response to the surge of IRA attacks before the election); and the Loyalist politicians have been active in urging restraint. Proscription of the LVF, which is clearly committed to the proactive use of terrorism, would be right in principle: it would also be seen as a firm condemnation of Loyalist violence, but one which might marginally strengthen the position of the Loyalist parties in the talks by reminding people of the contrast between the various Loyalist paramilitary organisations.

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The case for proscribing the CAC is clear on the merits; but it also provides a useful "balance" to the proscription of the LVF. The Government would be registering its commitment to oppose terrorism from either side.

Likely reactions to proscription

There has been considerable coverage in the media in Northern Ireland about the activities of the LVF and CAC and whether or not they should be proscribed. Proscription of both organisations should be widely welcomed. I would not wish to risk delaying proscription for fear of being forced to act in response to a major incident. In such circumstances, any potential credit for going ahead with proscription would be lost.

Mechanics of Proscription

In all previous cases where proscription has been introduced, action has been taken under the "urgent" procedure. This means that I would sign an Order under the Northern Ireland (Emergency Provisions) Act 1996 and introduce proscription with effect from midnight on the day of signing. The Order would be laid before Parliament that day and would need to be debated within 40 sitting days. Publicising the move would be by means of an arranged PQ to be answered on the day the day I signed the Order and a press statement.

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The Irish Government would be notified immediately before the announcement and I would also write to the Northern Ireland party leaders as well as the Opposition Spokespersons.

Possible challenge by judicial review and ECHR

There is always a slight risk of a judicial review challenge including to the use of the "urgent" procedure but in these circumstances I believe it could be successfully resisted if it was attempted. There are strong operational reasons for acting without warning and surprise will make it more difficult for the LVF and CAC to circumvent the exercise by moving their assets or changing their name.

Implications for GB

I do not anticipate that there will be a need to proscribe these organisations in Great Britain but would wish to draw the matter to the attention of the Home Secretary, the Secretaries of State for Scotland and Wales and, because of his responsibility for prosecution cases, the Attorney General.

Conclusion

In my opinion the circumstances now point to the need to proscribe the Loyalist Volunteer Force and the Continuity Army Council. I should be grateful for your approval to do so and for confirmation that the Home Secretary and other Cabinet colleagues are content.

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Because of the urgency involved and the need to arrange a PQ it would be helpful to have a reply within 24 hours.

A copy of this minute goes to colleagues in IN, to the Secretary of State for Scotland, the Secretary of State for Wales, the Attorney General and Sir Robin Butler.

A handwritten signature in dark ink, appearing to read "M. M. Maguire".

M.M

2 June 1997

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