

From: THE PRIVATE SECRETARY



HOME OFFICE
QUEEN ANNE'S GATE
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19 December 1983

DEAR JOHN,

POSSIBLE PROSCRIPTION OF SINN FEIN

Following the Home Secretary's meeting with the Prime Minister this afternoon after his statement in the House, he has asked me to circulate the attached note by officials setting out the powers to proscribe under legislation relating to Great Britain and Northern Ireland, to assist the Ministerial discussions at 11.45 a.m. tomorrow.

..... I am copying this letter and enclosure to Peter Ricketts (Foreign & Commonwealth Office), John Lyon (Northern Ireland Office), David Hayhoe (Lord Privy Seal's Office), Henry Steele (Law Officers' Department), Murdo Maclean (Chief Whip's Office) and Richard Hatfield (Cabinet Office).

Yours BVW,
H. H. Taylor

H. H. TAYLOR

John Coles, Esq.

POSSIBLE PROSCRIPTION OF SINN FEIN

POWERS TO PROSCRIBE: NOTE BY OFFICIALS

The Prevention of Terrorism (Temporary Provisions) Act 1976 gives the Secretary of State power to proscribe, in Great Britain, "Any organisation which appears to him to be concerned in terrorism occurring in the United Kingdom and connected with Northern Ireland affairs, or in promoting or encouraging it". The IRA is proscribed under this Act as it was under its predecessor, the 1974 Act. The Irish National Liberation Army was proscribed in July 1979 following the assassination of Airey Neave.

2. The Northern Ireland (Emergency Provisions) Act 1978 (section 21) gives similar powers to the Secretary of State for Northern Ireland, in respect of the Province. The following organisations are currently proscribed in Northern Ireland: Irish Republican Army; Irish National Liberation Army; Cumann na h'Bhan; Fianna na h'Eirann; The Red Hand Commando; Saor Eire; Ulster Freedom Fighters and Ulster Volunteer Force.

3. Under both Acts it is an offence to belong or to profess to belong to a proscribed organisation, to seek or knowingly to give money or other resources to it, to support or invite people to support it, or to be involved in the organisation of its meetings. On summary conviction for membership under either Act a person is liable to imprisonment of not more than six months or a fine. On conviction on indictment the penalties are imprisonment of not more than five years (Great Britain)/10 years (Northern Ireland) or an unlimited fine, or both. The courts may also order the forfeiture of money or other property.

4. The IRA has been proscribed in Northern Ireland since its inception. Sinn Fein was also proscribed, and after direct rule the Northern Ireland (Emergency Provisions) Act 1973 continued this proscription. It was lifted on 23 May, 1974 in order to allow that wing of the Republican movement to participate in constitutional political affairs and to wean it away from terrorism. (The Ulster Volunteer Force was also deproscribed in 1974, but the proscription was reimposed the following year because it had clearly continued to participate in terrorist activity).

5. Sinn Fein has never been proscribed in Great Britain. The view has been so far that it has not yet gone beyond the expression of views, however repugnant, and that the proscription provisions are not intended to inhibit political discussion. (A similar view has been taken in respect of the Irish Republican Socialist Party, the political "counterpart" of INLA).

6. The Secretary of State may add to the list of organisations already proscribed by order made by Statutory Instrument. The order is subject to the affirmative resolution procedure (i.e. a 90 minute debate after 10 o'clock) unless the Secretary of State declares that, by reasons of urgency, it must be made without having been so approved. Where the urgency procedure applies, the order must be laid before Parliament after being made and ceases to have effect unless it has been approved within 40 days (excluding any period of dissolution, prorogation or adjournment of both Houses for more than four days). The procedure for proscribing an organisation in Northern Ireland, under the Northern Ireland (Emergency Provisions) Act 1978 is the same.

7. No proscriptions other than those mentioned above have been made, and there is no other power in any other legislation to proscribe organisations or individuals.

8. Under section 1(6) of the 1976 Act, a person is not guilty of an offence by reason only of his membership of an organisation before it was proscribed. There is a similar provision in section 21(7) of the 1978 Act for Northern Ireland. This means that a member of Sinn Fein would have to engage in its activities after proscription in order to be charged with an offence.