

Committee on the Programme for Government — Subgroup on Policing and Justice

Tuesday 9 January 2007

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COMMITTEE ON THE PROGRAMME FOR GOVERNMENT — SUBGROUP ON POLICING AND JUSTICE

Tuesday 9 January 2007

Members present for all or part of the proceedings:

The Chairman, Mr William Hay

Mr Alex Attwood

Mrs Arlene Foster

Mr Gerry Kelly

Mr Danny Kennedy

Mr Raymond McCartney

Mr Ian Paisley Jnr

Witnesses:

Mr Peter Hain	}	The Secretary of State for Northern Ireland
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Ms Hilary Jackson	}	Northern Ireland Office
Ms Rachel Miller		

COMMITTEE ON THE PROGRAMME FOR GOVERNMENT — SUBGROUP ON POLICING AND JUSTICE

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The subgroup met at 12.03pm.

(The Chairman (Mr William Hay) in the Chair.)

The Chairman (Mr Hay): I remind members and the public that the subgroup is now in open session.

I welcome the Secretary of State to this meeting of the subgroup. I know that you came at very short notice to be with us. There was certainly a clear consensus in the subgroup that you should be here to discuss with us your letter of 28 December 2006, which we recognise is on a very important subject.

We will allow you a few minutes for introductory remarks, and the parties will then have five or six minutes each to ask whatever questions that they feel are necessary. I also welcome your officials, and I thank you all very much for coming.

Mr Peter Hain (The Secretary of State for Northern Ireland): Mr Chairman, thank you. I am grateful for the opportunity to talk to the subgroup. Hilary Jackson and Rachel Miller have come along to help me to answer any question that you might try to trip me up with.

Given that this is the first opportunity that I have had to address an Assembly subgroup since David Ervine's death, I want to place on record at the beginning that I think his death is a tragic blow, not just to his family obviously, and to him, but to the whole of Northern Ireland's political culture. He was an invaluable part of that, and he helped to make the transition that we have seen put into effect. The best way in which we could salute his memory is to restore the Government here in Stormont on 26 March.

I would like to, if I may, correct a basic misunderstanding that I have detected in some of the public comments made by some MLAs on what the Northern Ireland (St Andrews Agreement) Act 2006 actually means. When people talk about postponement of restoration on 26 March, or of the election, or a combination of both, they misunderstand the legislation. The legislation leaves no discretion for changing those dates. On 30 January there will be a dissolution of Stormont under the legislation either to have an election on 7 March, followed by a restoration on 26

March, or to close Stormont down for goodness knows how many years. It is a very clear choice — devolution on 26 March or dissolution. The legislation leaves no scope for any other option.

Since the subgroup invited me — and I thank it again for doing so — I shall address briefly one or two points about policing and justice. In particular, I shall discuss the letter that I sent to the subgroup over the Christmas break.

First, it is clear to me that all the major parties in the Assembly are committed to the principle of the devolution of policing and justice. Indeed, much is made in public debate about the DUP's position, and I shall quote from the paper that the party sent to the subgroup:

"However, the DUP has consistently indicated its support in principle for the devolution of policing and justice".

Therefore there is no party that does not agree with the Government that this is the desirable way to go in the future. Everybody wants the model for selecting the justice Minister, or Ministers, to be capable of commanding confidence right across the communities. There is no point in proceeding in any other way. The question of policing, justice, and the rule of law is so important and so sensitive that it must have cross-community support.

It remains my hope that the parties will be able to come to an agreement on the type of model that best meets Northern Ireland's needs. The paper was intended to aid the discussions that the subgroup was having on that model. It was also intended that it would set out a particular model, which, on the basis of the discussions I have had with the parties, is capable of meeting the concerns and aspirations of everybody who is represented at Stormont. Essentially, the proposal is that the long-term model for devolved policing and justice will be a single elected justice Minister in a single Department.

However, to ensure that there is a full sense of cross-community confidence in the new arrangements, I also propose that, at least in the early stages and years, the Minister should be supported by a deputy Minister. Those Ministers — a justice Minister and a deputy justice Minister, one from each of the two largest designations — will be elected by the Assembly on a cross-community basis before d'Hondt is run. Other Ministers, of course, would be appointed and would have been appointed in the likely time frame beforehand.

All those arrangements would be subject to review by the Assembly by 2011 in the way that has been set out by the Northern Ireland (St Andrews Agreement) Act 2006. My intention in putting forward this proposal was to provide a focus for discussions in the

hope that it would enable the parties to reach agreement on the model for appointing a justice Minister or Ministers. That remains my hope. It is my overwhelming preference that the model decided upon is determined by the subgroup and endorsed by the Assembly, in whatever form, and beyond that by the Programme for Government Committee.

In the event that agreement cannot be reached, the second preference is to have that model, or an alternative that the subgroup may wish to advise me on, and then to legislate to provide for either of those as the option that the Assembly could adopt. A variety of vehicles can facilitate that legislation. One could be by way of a Government amendment to the Justice and Security (Northern Ireland) Bill, which is currently before Parliament and which is due to go into Committee in the House of Commons at a later date.

In order to introduce the amendment while that Bill, if that is the chosen vehicle, is before the Commons, it would be my intention to make any necessary amendment either in the Committee Stage itself or at the Commons Report Stage, which could happen either at the end of January or in early February. It is important, therefore, that I know as a matter of some urgency what the subgroup's views are, so that I can take the necessary action and, hopefully, proceed to operate by consensus.

I know that there was concern about my issuing the letter to the subgroup during the Christmas break, but I did that because of our deadline. I appreciate that in normal circumstances it would not be ideal to raise such a significant matter during a break or recess, but I am sure that members will understand that the importance of the issue and the desire to reach a consensus was such that it was important for them to have an opportunity to look at the letter as early as possible.

I have read and heard all sorts of things about me imposing or forcing a justice Minister down the throats of the Assembly after it had been functioning for over a year — because it could only happen then. That would be a constitutional nonsense; it would not happen. That is not what I have got in mind. I intend to proceed by consensus. However, as the letter and associated model made clear, if there is wilful obstruction of the process, we will have to look at another way. The idea that I would impose a Minister from any particular party and stuff that Minister down the throats of the Assembly — especially in such a sensitive area — is ludicrous and is a constitutional nonsense. I look forward to the subgroup's conclusions, which I understand intends to produce by 17 January. Given our timetable, that would be helpful.

The Chairman (Mr Hay): Thank you, Secretary of State. I remind members that the Secretary of State has

to leave at 1.00 pm. I will call parties in alphabetical order.

Mr Paisley Jnr: Secretary of State, I welcome you to the subgroup's meeting. May I also take this opportunity to express the DUP's concern for the family of Mr Ervine. It is important that that is done.

Secretary of State, given that you do not have much time, I will cut to the chase. You said that there are twin pillars in the process. It is obvious that the Democratic Unionist Party has measured up and has not been found wanting in areas relating to power sharing. It is equally obvious that, to date, there has not been sufficient delivery on policing and support for the rule of law and the police from Sinn Féin. If that support is not delivered, the process will collapse. Make no mistake about it; if it does collapse, it will do so because of Sinn Féin's failure to live up to what it has got to do.

There are other issues, such as financial arrangements, that must be addressed by yourself and the Government. However, when all is cut and dried, there are twin pillars in the process, and Sinn Féin has not yet been able to support law and order. I repeat the view that you stated earlier: this is about delivery. There will be no progress until we get delivery from Sinn Féin.

I welcome the clarity of some of your comments, but I want to tease out some of the issues that are important to the DUP. Your paper was not helpful to this discussion. This morning, you said that your paper would aid a discussion and provide focus. If it has done that, fair enough. However, the details of the paper have not been helpful.

As you know, some people, in a juvenile way, have tried to make politics from your paper by suggesting that it was cobbled together in a dark, non-smoke-filled room — as the legislation now dictates — between the Democratic Unionist Party, Sinn Féin and the Government. I want you to confirm that my party did not play any part in such a conspiracy. I do not believe that such a conspiracy existed, and to play politics with such an important issue — as has been done in the weeks up to this discussion — has been unhelpful.

Turning to the main proposal, will you confirm that you have no plans, now or in the future, to change what is known as the triple lock in the Northern Ireland (Miscellaneous Provisions) Act 2006? Will you also confirm — and I believe you already have in your opening comments — that you will not impose a justice Minister over the heads of the people? As you said, it would be a constitutional nonsense — it would not work. We must refocus on realisable and realistic discussions. As you know, the DUP produced a detailed paper, which, although not the be-all and end-all of political papers, was put forward for discussion,

and discussions should emerge from it. I hope that we can get back to that urgently.

12.15 pm

Mr Hain: I welcome those points. I noted four, and I hope that that is all of them. First, I welcome the fact that you and Dr Paisley have said that the DUP will not be found wanting, either on the issue of devolution of policing and justice and the time frame, or on the principle of power sharing, subject to —

Mr Paisley Jnr: Secretary of State, let us not get into the time frame.

Mr Hain: May I answer your points, and then, by all means, you can come back to me?

Mr Paisley Jnr: Your boss did this yesterday. Let us not put words into people's mouths on the time frame.

Mr Hain: I am not trying to put words into people's mouths. I have just taken your phrase about not being found wanting, provided that the second pillar of the St Andrews process — delivery on policing and the rule of law — is agreed. To be fair to Sinn Féin, the ardhomhairle, which met a little while ago, was crystal clear about wanting to take things forward. I understand that there are discussions going on within Sinn Féin and its appropriate decision-making bodies to take that forward. I am convinced that there is a desire in the Sinn Féin leadership, as there is in the DUP leadership, to make this process work and to have restoration on 26 March 2007, with the twin pillars of power sharing and support for policing and the rule of law in place.

As to whether there was some kind of conspiracy, I agree with you, Ian, that there was no conspiracy between the DUP, the Government and Sinn Féin. In the unlikely event of that being possible, it would be an interesting scenario. There was no such conspiracy. We looked at the DUP's paper, which was welcome, and we looked at the proposals from parties, including Sinn Féin, the SDLP and others, and we tried to distil from those contributions the model that we thought would fly best. That is the model that we have given to the subgroup.

The triple lock is so called because, first, the Assembly would have to decide on a cross-community basis to receive the devolution of justice and policing powers; secondly, the First Minister and the Deputy First Minister, or perhaps the other way round, would have to table a motion to the Assembly; and thirdly, Parliament would have to vote for it. That procedure is set out in the Northern Ireland (Miscellaneous Provisions) Act 2006, and there is no proposal to change that, so it remains, as you put it, in place.

I have said what I have to say about imposition, and I am glad that that has been welcomed. I will try to explain why we have included that proposal. First, the

statement on that is a further expression of the commitment that both Governments gave in paragraph 11 of the St Andrews Agreement. That states:

“default by any one of the parties following restoration of the Executive should not be allowed to delay or hinder political progress in Northern Ireland.”

In other words, if there were wilful obstruction, on an unreasonable basis, we would have to find an alternative way forward. I said that, in part, as an inducement for there to be no wilful obstruction by anybody of progress on this agenda. All parties are committed to the principle of the devolution of policing and justice — I quoted earlier from the DUP paper, for example — so it is just a fallback mechanism in case of gratuitous or wilful obstruction; it is an inducement to not do that.

I will describe some of the circumstances in which it might be necessary for the Secretary of State to have such a power available. I should add that we do not intend to exercise that power when we put this amendment before Parliament; it would be exercised in the event of a crisis that occurred well into the life of the Assembly. The Government have set a time frame for May 2008; we want the devolution of policing and justice to have taken place by then.

However, let us suppose, for example, that the Assembly chose a Minister in the way that I have suggested, or in an alternative agreed fashion put forward by this subgroup, but that that candidate's party leader tried — unreasonably — to block the appointment. Alternatively, the Assembly could decide that an appointment from a party outside the Executive, such as the Alliance Party, was desirable, or the Assembly could take the view that a distinguished person from outside the Assembly and who was acceptable to all the parties, should be the justice Minister in the early years of devolution. All of those ideas have been floated in recent months; ours is a proposal to try to break a possible deadlock on the issue. I hope that that clarification has been helpful, to Ian Paisley Jnr and to the subgroup.

Mrs Foster: There has been a lot of talk about wilful obstruction, which is a new term of art for us today. What do you mean by wilful obstruction? Is it when one party will not engage in the discussion, or is it something else? If, in your view, that wilful obstruction has taken place, can you see circumstances in which the triple lock, as we call it — the Northern Ireland (Miscellaneous Provisions) Act 2006 — would be changed?

Mr Hain: I see no circumstances in which the Northern Ireland (Miscellaneous Provisions) Act 2006 would be changed. All the parties, including the DUP, agree on the principle; the objective is clear. I am

trying to envisage circumstances in which, despite that, there was wilful obstruction of the process and I might have to introduce fresh legislation to take those powers.

For the reasons that I have described, that is not what I want to do. However, there may be a lack of trust between the parties, either on the ability to deliver power sharing to which all the parties are committed, or on the willingness to deliver — and I stress deliver — support for policing and the rule of law.

If, following the ardhomhairle — to which all parties are committed in principle — that distrust poisoned the atmosphere, and wilful obstruction made it more difficult to implement what everybody is agreed on, those powers might be necessary; but that is well down the track. Let us try to achieve consensus, which is by far the best option.

Mr G Kelly: I welcome the Secretary of State, and I wish to put on record my personal condolences to David Ervine's family.

The DUP went straight to the blame game. The Secretary of State was asked here to discuss this model. There was a lot of discussion about whether he had the right to put it forward. Personally, I do not care. If the man or woman on the street — or anywhere else — has a model that will help us to move on, it is the job of the PFG to get that model.

I welcome the fact that we have another model to discuss. It is up to us. Part of our job was to produce a model. The difficulty is that this is 9 January; we have been given an extension until 17 January; but we have not reached agreement. We have very little time. If we fail, what are we to do? However, I want to move on.

In the previous PFG meeting we argued over whether this paper should be submitted. Let us get down to dealing with the details involved in this model, whether it is a Sinn Féin model, an SDLP model or a DUP model. Let us try to reach some sort of conclusion.

Frankly, it is about vetoes. There is a point at which it is OK for the DUP to say that it is a devolutionist party — its members say that ad nauseam. However, there is no evidence of that on the issue of the devolution of policing and justice. They talk about several lifetimes, or about putting it off for ever.

That does not signify a belief that a transfer or devolution should take place. We need an indication that that will happen, and if it does not, we need to find a way for it to happen. It might be through that letter, or by another method, but we need to find a way to assure the people of our community that they will be in charge of the democratic accountability of a police service that will hopefully serve them.

Referring to the paragraph in the letter that deals with the transfer, I am keen — probably in contrast to

the DUP — that the British Secretary of State remains adamant that we find some way to make sure that policing and justice are transferred in this lifetime and not after several lifetimes. In other words, I want him to make a firm commitment to do that, whether it needs legislation. That is my first question.

Mr Hain: First, I agree with the substance of both your points. There is a short time frame, and that is why we must get our skates on. Mr Chairman, the earlier that I receive feedback from this subgroup, the better. That will be invaluable, because we have already started drafting and thinking about what a possible amendment to the Justice and Security (Northern Ireland) Bill might look like.

We will proceed with that legislative amendment, preferably by agreement, but if not, then necessarily by our best call of where we think consensus lies. I have called it as best I can in my paper on where I think consensus lies, but I genuinely would welcome cross-party agreement. If we get that, we will legislate accordingly.

Furthermore, it is important that there is clarity about the model so that we can make the necessary preparation for devolution. That is very important in every respect. On the time frame, both Governments' positions are very clear. We want devolution of policing and justice to be achieved by May 2008. That is why the Northern Ireland (St Andrews Agreement) Act 2006 places a duty on the Assembly to report to the Secretary of State by 27 March 2008 on where things stand. That is very clear. That is the course on which we are set, and we hope that that will be achievable. Provided that there is the necessary delivery on policing and that all parties support policing and the rule of law, I — and the Prime Minister — believe that the timetable is achievable. The Prime Minister made an assessment last week, which was welcomed by the leader of the DUP, in which he said that the timetable was achievable.

Therefore we can find words and opportunities to poke each other in the eye and to disagree with each other, but the big prize here is a fantastic prize, which is making what happens in this Building work. It means that decisions will be made by all of you rather than by me. That is in our reach across the policy board and on the issue of policing and justice as well.

Mr G Kelly: Further to that, different sections of our community clearly have huge issues of trust. On that basis, Sinn Féin has argued that we need strong cross-community safeguards. Indeed, every aspect of the Good Friday Agreement argues for those safeguards. We have argued that the first sitting of an Assembly should introduce a model for ministerial oversight, at least in the short-term.

I know that the model that you have put forward is for a justice Minister and a deputy justice Minister. Sinn Féin, on the other hand, argues for a model that accepts two justice Ministers of equal authority, because we believe, and indeed all parties believe and argue, that that will clearly be an issue of deep worry.

Sinn Féin has argued that a model be agreed in the first sitting of the Assembly. We want strong cross-community safeguards that are consistent with the Good Friday Agreement to be included in that model. We have also argued for shared ministerial oversight, which would deal with the trust deficit — at least in the meantime — because at some point we will need to leave the issue of trust behind and instead rely on the fact that, in its absence, we can have agreements and contracts that people will stick to instead.

Therefore is there any reason for your going for a justice Minister and a deputy justice Minister instead of having two co-equal Ministers?

12.30 pm

Mr Hain: I have received two broad propositions from a variety of parties. The first, which Mr Kelly has today confirmed as Sinn Féin's preference, is to have two Ministers who would have joint status and be equal in every respect. The other is for a single justice Minister. However, given the lack of trust and the sensitivity that exists over this matter, it would probably be best to have a Minister from both the major communities — at least in the early years and, probably, during the first term of the Assembly, which would run to 2011. Of course, the length of the term would be for the Assembly to decide.

However, the deputy justice Minister would not — as it were — make the tea and do the photocopying; the deputy Minister would have, in every respect, a senior post and the share of responsibilities would be agreed between the Minister, the deputy Minister and the First Minister and the Deputy First Minister. The deputy justice Minister would be invited to sit on the Executive and would have a genuinely important role.

The reason for not having two justice and policing Ministers — or whatever their final title may be — is that they would be dealing with an independent judiciary, an independent Director of Public Prosecutions, and the independent Police Service of Northern Ireland, which, through its procedures, is more accountable than other police force anywhere in the world. The idea that there would be, as it were, two Ministers to whom the Chief Constable would have to report equally would be a recipe for stalemate and logjam. It would be much better to proceed on the basis of a justice Minister and a deputy justice Minister. However, if there were a justice Minister and a deputy justice Minister, the deputy justice Minister

would have a significant influence, and that would be recognised.

Mr Attwood: I also extend my condolences to Jeanette Ervine, her children and the wider Ervine family on David's death.

I welcome the Secretary of State. In one way, I welcome his paper because we needed a kick up our collective arses — and some arses, in particular, need a kick. The paper concentrates minds on the big issue when perhaps they were not so concentrated before. However, I have some problems — as, I am sure, the Secretary of State can imagine.

If the Secretary of State were to step back from this issue — obviously, there are a lot of politics around the devolution of justice — does he not find it ironic that, although the DUP will not give a date for the devolution of justice, Sinn Féin could be on the Policing Board tomorrow, with a lot more power over policing matters than a devolved Minister would ever have? Is it not ironic that Sinn Féin has made an issue of the devolution of justice, when any policing Minister would have a lot less power than a Sinn Féin member of the Policing Board? Does the Secretary of State not think that when we step back from this issue — regardless of the politics and profile surrounding it — it is ironic that the Policing Board, the Police Ombudsman, and the PSNI will continue to hold the powers over policing, and that those powers will not fall to a policing Minister?

Mr Hain: I find many things that are said in debates, or through points or postures from various party spokespersons, ironic. Of course, I could not possibly say that of anyone in the SDLP — that would be an outrageous suggestion.

I do not want to single out individual parties on this issue. However, Mr Attwood made an important point and, if I am right, Mark Durkan also made the point eloquently in the House of Commons a few weeks ago. A lot of power has already been devolved to the Policing Board and district policing partnerships. It would be an act of monumental folly if the whole process fell through due to the de jure completion of devolution of policing while forgetting the practical devolution of policing that has already happened. Should all the parties want to take their seats on the Policing Board they would find that the power there is quite significant.

Policing Board members have, in a sense, more influence than the Secretary of State over the Chief Constable in operational matters. That is, and has been, the situation for a number of years. Mr Attwood makes a powerful point.

Mr Attwood: Thank you for that. Your paper states that the deputy justice Minister will have lead responsibility. However, is it not the case that, as with

any other junior Minister in the Assembly appointed under the Northern Ireland Act 1998, the deputy justice Minister will be subject to the direction and control of the justice Minister?

It would be interesting to hear if the Secretary of State intends to table legislation that will vary the powers of deputy, or junior, Ministers, or if the powers of the deputy justice Minister will be subject to the direction and control of the senior justice Minister and, ultimately, subject to agreement regarding those powers by the First Minister and Deputy First Minister and the justice Minister.

Secondly, if a party were to decide to go for the justice Ministry under the 50:50:50 cross-community voting model, which some people claim is consistent with the Good Friday Agreement but which is not, would that party have to make that Ministry its first pick? If a party is entitled to more than one Ministry could it choose the one it wants and try to opt for the justice Ministry later?

Thirdly, people say that there is tension between the Secretary of State's assertion that, at the moment, there are no circumstances in which the Northern Ireland (Miscellaneous Provisions) Act 2006 legislation — the triple lock — would be changed, and his assertion that he might legislate to take certain powers to himself to enable the appointment of justice Minister. Some people would say that that is a bit like riding two horses — that the triple lock exists but that it can be taken away.

The SDLP would be delighted if the Secretary of State removed the triple lock because it was never justified. How can he convince the members of the subgroup that there is no tension between those assertions?

Mr Hain: I formed my conclusions about a deputy justice Minister as a result of discussions with the parties. Although provision for junior Ministers already exists, I did not think that it was a helpful prefix in the context of a deputy justice Minister because we are talking about a person who would be of equal status, more or less, to a Minister. Such a provision would need to be made through the amendment that I intend to make because the deputy justice Minister would not be like a junior Minister. We need to examine the issue together and, if we proceed with this model, Chairman, the subgroup's views would be extremely welcome. The matter would be subject to agreement between the justice Minister, the deputy justice Minister and the First Minister and Deputy First Minister. We could proceed by consensus.

The position of justice Minister is an important post; it is a most sensitive area, as is shown by the number of problems that we have had over the past few weeks

and months. I have outlined the way that we were planning to proceed.

Another important point is where the appointment of a Minister for justice and policing would fit into the d'Hondt sequence. As with the other alternative models that are provided for in the Northern Ireland (Miscellaneous Provisions) Act 2006, the appointment will be made outside the d'Hondt arrangements and before ministerial appointments are made. The Minister will be chosen by the Assembly on the cross-community 50:50:50 process that we have suggested. The party from which the justice Minister is chosen will have that office count towards its total number of ministerial seats under the d'Hondt formula, but it will not affect its first choice. If a Member from party X were chosen as the Minister for justice and policing, and that party were already in the Executive and was entitled to more than one ministerial post, its first choice would be unaffected, and the Minister for justice and policing would count as its second or third choice, depending upon which party it was.

I have been asked about the triple lock. That is provided for in the legislation. Parliament has decided that, and there is no proposal to change that, as I said to Mr Paisley at the beginning. I am trying to find a way forward. In the event of having to find a solution, I have signalled that it would be my intention, or the intention of the person occupying my position, to legislate to find a solution in the way that I have described, particularly in respect of some of the options that I have described, including a person outside the Executive, a person from a party outside the Executive, a person outside the Assembly, or some other kind of circumstance. If we did not have a logjam and a deadlock, created by an inability to find consensus here, we would not have to use legislation to find a solution.

Mr Kennedy: I also express my condolences to the Ervine family.

Secretary of State, both your letter and your model are being added to almost daily. On behalf of the Ulster Unionist Party, I must state that we feel that the process that you are engaged in undermines not only the work of this subgroup, but that of the Policing Board. Furthermore, it contaminates the political system. The party is concerned at the continued emergence of side deals and details.

This very day, there is an indication that the Prime Minister will be making a major statement, or issuing something tomorrow, on the role of MI5. The subgroup is unaware of the detail or content of that. That is how you are conducting business. You have even moved the goalposts in your model this morning. You now indicate that the deputy Minister for justice will, in effect, have equal status, which is not stated in your

letter or in the model outlined on 28 December. It appears that you are searching about for anything that will give you a political lifeboat, and that is an unsatisfactory way to do business.

I have a number of questions for you, Secretary of State. Your letter reads:

“If that agreement cannot be achieved, however, the model as described in the attached paper is the basis on which I will legislate”

You have said that that might not be the most desirable position, but that you will clearly proceed on that basis and that if you do not enforce a Minister, you will certainly enforce the model. That would presumably include the devolution of policing to the Assembly by May 2008.

12.45 pm

Can you confirm whom you have been talking to in your discussions, which political parties you have spoken to and which, if any, have agreed to this model or these proposals? Have you had discussions with any parties in relation to the need for you to appoint a Minister for justice?

There was confusion again yesterday when articles by the Prime Minister were published in various well-known newspapers indicating that it was his view that the leader of the DUP had given an indication and had agreed a timetable for devolution of policing and justice. Is that your understanding? Is your view of that similar to the Prime Minister's, or do you side with the leader of the DUP? What is your view?

If a Sinn Féin ardchomhairle and Ard-Fheis approve its leadership's recommendations and the party moves on policing, I ask the Secretary of State whether he can confirm that the DUP has given sufficient signals that the election will proceed and that a devolved Administration will be established on 26 March, assuming — and it is a big assumption — that the DUP is the largest party; and that, consequently, there will be agreement that policing and justice be devolved in May 2008. Is that a yes or a no?

Mr Hain: Let me answer those questions in order. Without engaging in argy-bargy with you, Danny, which I have no desire to do, I want to point out that, in the past, the UUP has prided itself on being the reasonable party, as it were, that seeks to find a way through rather than create obstacles to progress. I do not find your contributions to be in that spirit, if I may say so.

Mr Kennedy: That is a badge of honour for us.

Mr Hain: Fine, but I reject absolutely your accusations, and the rhetoric surrounding them, that I am somehow undermining the subgroup, or, even more preposterously, undermining the Policing Board, by

putting forward a model that is based on discussions between the parties, and that I am somehow contaminating politics by talking to parties.

I remind you that, when I sought to meet all the parties on Friday 15 December 2006 at Stormont, your party was unable to attend, although I understand that there were good diary reasons for its not being present. I will meet the UUP this afternoon, and no doubt that that will prompt somebody to say that a side deal is involved.

I meet parties, and talk to party leaders, all the time. I am more than happy to talk to your party or to its leader. If I had been able to meet your party on 15 December, it would have been able to contribute to the discussion. I reject flatly that there is any conspiracy to contaminate politics.

The Prime Minister is making a statement tomorrow on national security and MI5. I do not want to pre-empt that statement, because it is for Parliament to hear what the Prime Minister has to say rather than any other body, including, with respect, Chairman, this subgroup, for reasons that you understand.

I can say that the statement will address various parties' concerns, including, as it happens, concerns that the SDLP has raised about the respective future roles of the Police Service of Northern Ireland and the security service. I want to stress that they are separate organisations with distinct roles and separate channels of accountability. However, those organisations will obviously need to liaise closely, as happens right across the United Kingdom, in order to protect the community from international and other forms of terrorism, especially from al-Qaeda, which is a living and present threat. The new arrangements that the Prime Minister will describe tomorrow are meant to facilitate dealing with that threat.

On the question of moving the goalposts, I do not want to indulge in textual banter, but as it says in the model that we put to you:

“In addition to providing overall support to the Justice Minister, the Deputy Minister will have his or her own lead responsibilities”

— “lead responsibilities”, not some kind of office-boy role —

“to be agreed between the Minister and the Deputy Minister and FM/DFM but including oversight of the implementation of transfer arrangements and new departmental structures.”

That was a suggestion. Again, if the UUP or the subgroup has a better idea — well, that is why we are here and why we put the model forward.

Finally, you asked, essentially, whether we would achieve restoration on 26 March. As I explained

earlier, there needs to be clarity of understanding that the legislation provides either for devolution on 26 March via an election on 7 March or for dissolution. There are no other possibilities, no question of postponement, and no other option is provided for in the legislation. Fresh emergency legislation would have to be introduced into Parliament to change that in any way. I put on record to the subgroup that there is not the slightest chance of that happening. I took an emergency Bill through Parliament only a couple of months ago; the idea that I would go back, with the Prime Minister's support, and say: "Please guys, we got the dates wrong, can we try again?" is preposterous. That will not happen.

I think that we are proceeding towards restoration on 26 March, provided that delivery is achieved on the twin pillars of commitment to power sharing and commitment to support for policing and the rule of law. There is every expectation that the DUP and Sinn Féin leaderships want to achieve that.

The Chairman (Mr Hay): Can you be quick with your question, Mr Kennedy?

Mr Kennedy: Mr Chairman, thank you for your indulgence. Just in relation to — *[Interruption.]*

The Chairman (Mr Hay): The Division bell has sounded. Can you ask your question quickly?

Mr Kennedy: Is the emergence of the Prime Minister's statement tomorrow an indication of further side deals between the Government and Sinn Féin, and will there be more to follow?

Mr Hain: As I said, we have talked for days and weeks and months with all the parties on all these matters; people have sought clarity, and we are giving clarity.

Mr Paisley Jnr: This is an important issue. It is a national intelligence issue, and we should not allow it to be kicked about in such a way that it undermines the community's confidence in the national — *[Interruption.]*

The Chairman (Mr Hay): I do not know whether members want to quit or not; if they do not, we can continue. However, the Secretary of State has to leave at 1.00 pm.

Mr Paisley Jnr: I would like clarification from the Secretary of State. The St Andrews Agreement was supposed to increase the Northern Ireland focus in national security by way of the national intelligence security committee, which, I understand, is an issue that is still being considered. Can you confirm that nothing will be introduced that allows for an independent oversight role in national security, and that political parties in Northern Ireland will be given a greater awareness of what is actually happening at national security level, which is a very different matter?

Mr Hain: The primacy of national security is an excepted matter. That will be absolutely protected. There is no question of different accountability arrangements. You will have to await tomorrow's statement for the detail, but I think that you will approve of it.

The Chairman (Mr Hay): Secretary of State, we will end the meeting there. I thank you for your presence today. This subject has generated some lively discussions among the subgroup. Speaking as Chairman, I think that there is unity of purpose to try to solve the problems.

Mr Hain: Thank you, Chairman. I am at your disposal in future if you need me.

The Chairman (Mr Hay): I thank you and your officials.

Adjourned at 12.54 pm.

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