



An Chartlann Náisiúnta National Archives

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NO 27

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CR. PST

Mr Nally

Mr. O'Doherty

Mr. Gallagher

Mr. Mathew / Mr. Brown

0113C

TO HQ FROM BELFAST
13 FEBRUARY 1989

IMMEDIATE

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FOR SECRETARY FROM O HUGINN

RE: FINUCANE MURDER

1. I SPOKE TO THE BRITISH JOINT SECRETARY THIS AFTERNOON AND GAVE HIM A COPY OF THE TAOISEACH'S STATEMENT AS INSTRUCTED. I SAID THAT THIS KILLING HAD A NUMBER OF DIMENSIONS OVER AND ABOVE THE HUMAN TRAGEDY INVOLVED. IN THE FIRST PLACE THE KILLING OF A SOLICITOR REPRESENTED A NEW CATEGORY OF VICTIM. THERE WERE GRAVE IMPLICATIONS FOR ADMINISTRATION OF JUSTICE IF LAWYERS WERE TO BE OPEN TO ASSASSINATION BECAUSE OF THE DISCHARGE OF THEIR PROFESSIONAL DUTIES. THE TAOISEACH'S STATEMENT GAVE THE MEASURE OF OUR CONCERN ON THIS. SECONDLY THE KILLING HAD OCCURRED IN THE WAKE OF MR. HOGG'S REMARKS IN THE HOUSE OF COMMONS, REMARKS WHICH HE HAD REPEATED ON ADVICE AS A FACT. THESE WERE WIDELY SEEN AT THE TIME AS DANGEROUS IN THAT THEY COULD BE CONSTRUED AS LEGITIMISING ACTION AGAINST CERTAIN LAWYERS BY THOSE WITH AN INTEREST IN ATTACKING THEM. MR. MILES WOULD BE FAMILIAR WITH THE PROTESTS VOICED AT THE TIME BY MANY RESPONSIBLE SOURCES INCLUDING MPS AND THE LAW SOCIETY HERE. A THIRD AND EVEN MORE DIFFICULT DIMENSION AROSE FROM THE WIDESPREAD RUMOURS WHICH HAD CIRCULATED IN THE NATIONALIST COMMUNITY FOR SOME WEEKS PREVIOUSLY THAT LOYALIST SUSPECTS HAD BEEN ENCOURAGED TO TAKE ACTION AGAINST CERTAIN NAMED SOLICITORS* IN THE COURSE OF INTERROGATION BY THE RUC AT CASTELREAGH BARRACKS. WE WERE, AS A RULE, DISMISSIVE OF THE RUMOURS

* *Mr. Finucane, Mr. McGee, Mr. Kelly were cited by Mr. O'Huginn*

WHICH PROLIFERATED IN BELFAST BUT THESE HAD ACQUIRED A CONSISTENCY WHICH HAD MADE A NUMBER OF RESPONSIBLE PEOPLE IN THE CITY INCLINED TO CREDIT THEM. I RECALLED THAT WE HAD INDICATED AT THE MEETING ON 3RD FEBRUARY THAT THE QUESTION WAS OF SUFFICIENT CONCERN THAT MINISTERS MIGHT WANT TO RAISE IT AT THE CONFERENCE. MY PURPOSE IN RAISING THIS ASPECT NOW WAS NOT TO ENTER INTO A DISCUSSION OF WHETHER IT HAD OCCURRED OR NOT SINCE, WHATEVER THE BRITISH CAPACITY TO ESTABLISH THE FACTS UNDERLYING THESE REPORTS, WE COULD DO NO MORE THAN ALERT THEM THAT THEY HAD BEEN WIDESPREAD BEFORE THE MURDER. THIS WOULD IN ALL LIKELIHOOD EMERGE IN PUBLIC. EVEN IF THEY DID NOT THE REPORT HAD BEEN SUFFICIENTLY WIDESPREAD TO IMPLANT FRESH DOUBTS IN THE MINDS OF MANY RESPONSIBLE NATIONALISTS ON THE ATTITUDE OF ELEMENTS OF THE SECURITY FORCES TO THE RULE OF LAW. THIS CLEARLY HAD UNWELCOME IMPLICATIONS FOR BOTH GOVERNMENTS.

2. I SAID THAT SPEAKING PERSONALLY I FELT THE TAOISEACH'S STATEMENT POINTED TO CERTAIN ACTIONS TO TRY TO MEET THE PRESENT DIFFICULTIES. CLEARLY THE TAOISEACH HAD WISHED TO AVOID BECOMING INVOLVED WITH PERSONALITIES BUT THE GOVERNMENT'S CONCERN AT THE DAMAGE DONE BY MR. HOGG'S STATEMENT WAS CLEARLY REFLECTED IN THE STATEMENT. IT WAS IMPORTANT THAT A LESSON SHOULD BE DRAWN FROM THE EXPERIENCE. IT WAS VITAL NOW THAT CARE SHOULD BE TAKEN TO PROTECT OTHER LAWYERS WHO MIGHT BE AT RISK. I ASKED WHETHER ANYTHING WAS BEING DONE IN RELATION TO OTHER TARGETS E.G. MR. MCDRORY AND SUGGESTED THAT IT SEEMED AN ELEMENTARY PRECAUTION TO DO SO. SECONDLY THEY SHOULD CONSIDER HOW BEST TO ALLAY THE CONCERNS RAISED BY MR. HOGG'S SPEECH. IT SHOULD NOT BE LEFT ONLY TO THE TAOISEACH TO ASSERT IN CLEAR TERMS THE ESSENTIAL ROLE OF LAWYERS IN PROTECTING AND OPERATING THE RULE OF LAW. THIS SHOULD BE DONE EQUALLY CLEARLY BY WORD, GESTURE, OR BOTH AT AN AUTHORITATIVE LEVEL IN THE BRITISH GOVERNMENT. MR. KING'S STATEMENT HAD BEEN HELPFUL BUT WE FELT ITS IMPLICATIONS SHOULD BE DEVELOPED.

3. MR. MILES SAID THAT WHILE HE ACCEPTED THE TAOISEACH HAD AVOIDED PERSONALITIES HE NEVERTHELESS WISHED TO URGE IN THE INTEREST OF GOOD RELATIONS BETWEEN THE TWO GOVERNMENTS THAT WE DELETE THE PENULTIMATE PARAGRAPH ('THE NEED FOR GREATEST CARE TO BE GIVEN TO ANY STATEMENT WHICH MIGHT HAVE TRAGIC CONSEQUENCES ETC') BEFORE THE STATEMENT WAS MADE PUBLIC. THE GREATEST RESTRAINT WAS CALLED FOR IF A PUBLIC ROW WAS NOT TO DEVELOP. IN THE COURSE OF THE MEETING HE INFORMED ME THAT THE MESSAGE HAD BEEN CONVEYED TO MR. KING. MR. KING FELT THAT THE PARAGRAPH IN QUESTION WOULD BE VERY UNHELPFUL AND WOULD WISH TO TELEPHONE THE TANAISTE ABOUT IT. WE SUSPENDED THE MEETING TO ALLOW THIS CONTACT TO BE ARRANGED.

Mr King did not call.

** Mr. J. H. Quinn pointed out that as of lunchtime
he had had no contact with Mr. Hogg.*

ENDS
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5565

(No 27)

Instruction to Sean O Huiqinn

You are requested to ask for a meeting with the Secretary of State to make the following points concerning the killing last night of the solicitor, Mr. Patrick Finucane.

1. The attack on a solicitor who is an officer of the court is a new and sinister development in Northern Ireland. Mr. Finucane was well known for his defence of republican paramilitaries and, most recently, for his action on behalf of Mrs. Eleanor McKerr in the inquest into the death of Gervais McKerr, one of those shot dead in Armagh in late 1982. Mr Finucane successfully appealed to the Court of Appeal and won a judgement directing the police to give evidence in that case.
2. We are very seriously concerned about the implications for individual members of the legal profession in Northern Ireland. We would urge an immediate statement by the British Government at the highest political level to make it clear that an attack on any member of the legal profession in Northern Ireland because of professional actions he/she may take on behalf of clients, whoever they may be, is an attack on the system of justice and, therefore, especially worthy of condemnation. We think a statement by the Lord Chancellor would also be appropriate. In the circumstances that now exist we believe immediate action should be taken to correct any impression that the British Government consider lawyers defending republican paramilitaries as acting on anything other than a professional basis.
3. We have previously signalled our concern at the remarks by the Home Office Minister, Mr. Douglas Hogg, in the House of Commons on 17 January when he repeatedly stated as a fact and on advice that

"There are in Northern Ireland a number of

solicitors who are unduly sympathetic to the cause of the IRA".

As Mr. Seamus Mallon, who asked the Minister to retract his remarks on that occasion has already said, we do not believe that loyalist paramilitaries need prompting from a Minister to commit sectarian attacks. However, we do believe the remarks were unwise and unfortunate.

4. Our concern is heightened by rumours which have been circulating that policemen have prompted loyalist paramilitaries in custody in Castlereagh to attack solicitors acting for republican defendants. Those rumours concerned specifically Mr. Finucane, Mr. McGrory and Mr. Oliver Kelly. Last August, we already had reason to raise in the Secretariat the prejudicial publicity appearing in the British press concerning Mr. McGrory.

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Statement by the Taoiseach

I am horrified by the murder of Mr. Patrick Finucane and the injury to his wife in Belfast last evening. I offer my sincere condolences to his family.

No effort should be spared to bring the perpetrators of this dreadful crime to justice.

This murder is a particularly disturbing development and represents a major attack on the system of justice in Northern Ireland. It is vital to justice and to the rule of law in a democratic society that every accused person should have a fair trial and full legal advice and representation. Lawyers have a duty to act for accused persons and to ensure that they are properly represented in court.

In Northern Ireland, the lawyers have given their professional services conscientiously, impartially and courageously to anyone

in the community who has been accused of a crime. They have done so irrespective of political belief and in the wider interests of justice and the rule of law. It is essential that their role as officers of the court be respected, facilitated and upheld by the British Government and that their security be assured.

The need for the greatest care to be given to any statements which might have tragic consequences in Northern Ireland has once again been underlined and I expect that this aspect will be urgently and fully considered.

I have conveyed my views on these matters to the British authorities.

13/2/89