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Meeting with Ms. G. Peirce, solicitor for the
Birmingham Six, Embassy, London, 30th October 1989

1. Assistant Secretary Gallagher, accompanied by Mr. P. Murray, Embassy London, and Mr. A. MacUnfraidh, Anglo-Irish Division, met with Ms. Peirce to discuss the implications for the Birmingham Six of the quashing of the Guildford Four convictions. Ms. Peirce is the only solicitor currently representing the Birmingham Six, who are no longer on legal aid.

Summary

2. Ms. Peirce does not foresee an early or easy end to the Birmingham Six case. Her view is that she has no alternative but to continue her efforts to gather new evidence, and perhaps to try and "repackage" (as new evidence which has already been dismissed by the Court of Appeal. She firmly believes that without new evidence, the Home Secretary will not allow the case to be re-opened.
3. Ms. Peirce went on to say that, in the context of new evidence, the best hope of a breakthrough lay in establishing that the Six had been illtreated in custody and that, as a result, the confessions secured were illegal. Asked about any new developments in this regard, she said she had recently succeeded in establishing contact with a retired policeman (who had not given evidence before), and would be actively following up this contact to see if it enabled her to advance matters significantly.
4. At the political level, Ms. Peirce emphasised the importance of pressure being maintained by the Government and by politicians and prominent citizens in Britain and the U.S., with a view to ensuring that the political climate would be as receptive as possible whenever she submitted her request

to the Home Secretary to re-open the case and refer it to the Court of Appeal.

Possible ways forward

5. Mr. Gallagher, in outlining briefly the Government's long-standing concern on these cases, recalled the Minister's meeting with Mr. Hurd on 13 September and the Taoiseach's call for a complete review of the Birmingham Six case. He said that the Government would continue to lobby and to exercise political pressure for a re-opening of the case; in this regard, they would appreciate Ms. Peirce's views on the best route to follow, e.g. whether to press for a further referral to the Court of Appeal, for a special police enquiry (possibly to be conducted by the Avon and Somerset police in view of their record on the Guildford case) or for an extension of the current investigation into the West Midlands Serious Crime Squad (WMSCS). In addition, and perhaps parallel to a specific enquiry, he wondered if there was a role for a Review Body (to look at cases of this kind independently of the Court of Appeal), as had been suggested by Lord Scarman in 1982.
6. Ms. Peirce in response said that, while the Court of Appeal hearing of the case eighteen months ago had been most unsatisfactory (in particular in that it had usurped the role of the jury in deciding on matters of fact and had reversed the criminal burden of proof), she believed that the Appeal Court still represented the best way forward. As regards other possible options, she said she had little confidence in any further police enquiries, given in particular that much of the material not produced in evidence (non-material evidence) was now "gone". She emphasised again, therefore, that she proposed to concentrate her efforts on trying to secure new evidence.

7. Asked if there had been any recent developments in her search for new evidence, Ms. Peirce told us in strict confidence that she had succeeded in the past month in making contact with a new witness (a former police officer), and was tentatively hopeful that this would turn out to be productive. There was also evidence which, although the Court might not regard it as entirely new (e.g. evidence that the interrogation started earlier - as the prisoners claimed - than the police admitted), could be repackaged and submitted in order to augment any new material which came to light.

Role of Lord Lane/Appeal Court

8. In restating her view that the earlier hearing by the Court of Appeal had been unsatisfactory, Ms. Peirce made the point that it had been dismissive of evidence casting doubt on police witnesses, e.g. the prison warders, former police officers and the pharmacist Mr. Raynor. Moreover the role of Lord Lane was unsatisfactory. Following a decision of the House of Lords four or five years ago, life sentence prisoners had to be told what minimum sentence (to be actually served) would reflect society's view of appropriate retribution and deterrence. The trial judge, if alive, had a role in this process and makes a recommendation to the Home Office. As an aid to him, secret (and possible prejudicial) Home Office reports on the prisoners would be made available. According to Ms. Peirce, Lord Justice Lane, although he disapproves of the process because it is secret, exercised this role in relation to the Birmingham Six. He then sat on the Court, hearing their appeal; as a result, he should in her view have disqualified himself. Ms. Peirce hoped that a differently composed Court of Appeal (not including Lord Lane) would hear any further referral.

9. Ms. Peirce suggested that it would be helpful if we could prepare a critique of the role of the Court of Appeal in the Birmingham Six case, including expressing disquiet about the way that new evidence had been dismissed and about the role of Lord Lane. This critique should make it clear that it was not appropriate that the Court of Appeal should be regarded as the final arbiter in this case.

Support for transfer of prisoners to Northern Ireland

10. Ms. Peirce asked for support for those prisoners seeking transfers to prisons in Northern Ireland and, in this regard, she referred specifically to the case of Johnny Walker, one of the Birmingham Six, who is from Derry. The present refusal to grant transfers not alone penalised the prisoners but - and to a much greater extent - also their families. Mr. Gallagher assured her of all appropriate support in such cases.

A. MacUnfraidh,
2 November, 1989.

cc: PSM; AG
Mr. Nally; PSS; Dr. Mansergh
Mr. Mathews; Mr. Brosnan
Counsellors A-I
Box Dear Minister,