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IRISH EMBASSY, LONDON

No 20

17 Grosvenor Place,
SW1X 7HR.

Confidential

7 December, 1989.

Mr. D. A. Gallagher,
Assistant Secretary,
Department of Foreign Affairs,
Dublin.

Dear Assistant Secretary,

Mr. Murray reported last week on some hopeful indications in regard to the Birmingham Six but cautioned that attitudes at political level might be less positive.

Evidence of such an attitude at political level was clear in a conversation I had (at our annual Press Reception on 5 December) with Sir Nicholas Lyell QC, M.P., the Solicitor-General.

Lyell began by making the usual point that there are differences between the Guildford Four and Birmingham Six cases. In the latter case, he said, the confessional evidence was tested in great detail over five days in the Appeal hearing and in addition there was scientific evidence and a considerable body of circumstantial evidence.

The point he most emphasised relates to the judgment in the Appeal, which he said is in the public domain and which he argued has not been refuted or seriously questioned since it became available. I pointed out that the judgment had in fact been widely criticised and I gave examples, for instance, in regard to the evidence of ex-WPC Lyness, whom the judges simply chose to disbelieve. Lyell continued to maintain that the 150 page judgment, which he said he had studied in detail, is a clear and careful statement of the case and he repeated that there has been no serious professional analysis of it, of which he is aware, which casts doubt upon it. He suggested that if there are real weaknesses in the judgment of the Court, a critical analysis would by now have appeared. He added that the Crown legal team in the Appeal case were convinced that no miscarriage of justice had occurred.

In further conversation, I drew Lyell's attention to the current investigations in the West Midlands Force and to the similarities with the Guildford case. He accepted that if new evidence emerges it will be followed up. He also accepted that if doubt were thrown, in a reasoned way, on the judgment in the Appeal, this was something he would also

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look at. However, the fact that "500,000 people in Ireland" (or in Britain) have generalised doubts or concerns about the case is not something which can affect the issue.

The Solicitor-General clearly shares the view of his colleagues in the Crown Prosecution Service that the judgment of the Appeal Court was correct. Nevertheless what he says perhaps suggests a line which might be followed up, if professional resources were available to do the necessary study of the judgment. In fact, I know an academic lawyer who has said privately that he has read the judgment and is critical of it. I do not know if he would wish to go public but this is something we could possibly follow up.

Yours sincerely,



Ambassador