



An Chartlann Náisiúnta
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Reference Code: 2020/17/52

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*by Mr. Connelly
15-6-90
1516
(NO 20)*

TELEX

15 June, 1990.

To: H.Q. From: London
For: Brian Nason From: Paul Murray

*cc PST; PSY
de Nelly; Dep
de Mather; de 12
C-11-A1
J.S.*

Maguire Convictions

I have faxed the crucial paragraphs of the DPP's Counsel's statement at the May Inquiry.

Home Office

I talked to Robert Baxter, Miscarriages of Justice Director, about the Home Secretary's options. I asked why he had to refer the case to the Court of Appeal in the first place: could he not simply grant a free pardon? Baxter conceded that he could but that, as a matter of policy, he would not. Free pardon would only be granted where the Courts could not remedy an injustice. Otherwise, it was up to the Courts to rectify their own mistakes. I thought that I detected a note of irritation with the Court of Appeal: if there is such a feeling in the Home Office, it could be good for the Birmingham Six.

As regards timing, it would be a matter for the DPP to ask for an expedited hearing of the Court of Appeal. The delay in the Guildford Four case (about ten months) was largely a result of defence requests for more time. When the DPP did ask for an expedited hearing, it took place within two days.

Baxter said that the issue on which the DPP conceded yesterday that the convictions were unsafe was very narrow. There are other issues that Sir John May might wish to make part of his report, which would constitute further grounds for referral to the Court of Appeal. This would be in the Maguires' interest. Baxter said that Sir John wants to make sure that Lord Lane, the Lord Chief Justice, has "no way out" of quashing the convictions. If this is now the view of Lane, it might mean that the Home

Secretary will seek another mechanism (e.g. an inquiry) if he wishes to make progress on the Birmingham Six case after the police investigation is complete.

Sir John wants to register his anxiety about, for example, the behaviour of the Government forensic scientists, the way the prosecution was handled and the summing up of the trial judge (who was, as your know, Lord Donaldson, currently Master of the Rolls).

The Home Secretary has made it clear to Sir John May that he wants his report as quickly as possible, before Parliament rises on 23 July. The Court of Appeal rises the following week and the Home Secretary wants the cases dealt with before then. Mr. Waddington will make a statement to the Commons when he is in a position to announce the Appeal procedure.

CPS

I saw Ann Butler of the Crown Prosecution Service (which is headed by the DPP) at May Inquiry yesterday. I put it to her that the DPP's statement was very niggling, with its "however remote" qualification of the possibility of innocent contamination, which was now itself a best case scenario for what may have happened. She agreed: the statement was an attempt to put the best face on what had emerged at the May Inquiry.

Meeting between our Minister and the Home Secretary

Baxter said that the British Embassy in Dublin had reported that a request for such a meeting on the Birmingham Six was likely. He wanted to discuss the modalities. I said that I was aware that it might be requested but I had no specific information particularly on the Minister's timetable. I thought that, if we did make such a request, we would appreciate an early meeting, next month perhaps. Baxter said that he had advised the Home Secretary that he should agree to a request for an early meeting but he did not know the Home Secretary's mind on the issue. No doubt you will advise if you wish any further action at this end.

7.

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Form to be completed and inserted in the original record
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- (i) Reference number of the separate cover under which the abstracted part has been filed: **S230/08/05/00310**
- (ii) How many documents have been abstracted: **1**
- (iii) The date of each such document: **14 June 1990**
- (iv) The description of each document: **Informal discussion (copy letter)**
- (v) Number of pages: **2**
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Dublin 2

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M. K.
(7 years old)
Jared
approved!
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Dear Dermot,

Attached are (a) a draft statement on the Maguire family case, (b) text of the reply on the case by the Home Secretary in the Commons this afternoon and (c) text of a press release by the British DPP. The DPP's statement is not particularly generous, especially its use of the words "however remote".

Yours sincerely,

~~Dermot Gallagher,
Assistant Secretary.~~

cc: PSS

Government Statement on Maguire Family Case

The Government welcome in the most positive terms the statement made today to the May Enquiry by Counsel on behalf of the British Director of Public Prosecutions, that the Director now accepts that the convictions in the case of the Maguire family and their friends are unsafe and unsatisfactory. This statement fully justifies the long-held view of the Government that the convictions in these cases were unsafe.

The Government also welcome the statement by the Home Secretary in the House of Commons this afternoon that he does not believe that the convictions in these cases can be allowed to stand. They now look forward to the quashing of the convictions.

The Government share the sense of relief and satisfaction that this development will bring to so many concerned people in Ireland, Britain and elsewhere. One cause for regret is, however, that Giuseppe Conlon did not live to see this day.

Coming as it does in the wake of similar developments in the Guildford Four case, the views of the British Director of Public Prosecutions and the Home Secretary encourage the Government to hope that there will be an early and fully satisfactory resolution of the Birmingham Six case, which dates from the same period as - and indeed has many similarities to - the Maguire and Guildford cases. The Government will continue to pursue their efforts on the Birmingham Six case with the utmost vigour and priority.

14th June, 1990

Maquire Case..
Commons Reply by Home Secretary
14 June 1990

Hattersley:

..... the Director of Public Prosecutions statement to the May Committee that he regards the convictions of the Maguires as unsafe, what steps the Home Secretary now proposes to take on this and related matters?

Home Secretary:

Well, Mr. Speaker I shall tell the House that this morning the Counsel for the Director of Public Prosecutions told the May Inquiry that in his view the convictions of the Maguires and the others convicted of possessing explosives are unsafe and unsatisfactory. In view of this I should say straight away that, I do not believe the convictions can be allowed to stand. The correct course will probably be for me to refer the case to the Court of Appeal but I do not think it is right to do so until all the submissions on this issue have been presented to the Inquiry and Sir John May has had an opportunity to respond to them. Once I have referred the case to the Court of Appeal it would become sub judice and it would then be very difficult for the May Inquiry to go into those matters any further.

W4701

opp statement

The Maguire defendants

*cc Mr. Gallagher
Mr. Hara
Mr. Lough
Mr. Sullivan*

After careful consideration of the evidence given to the May Inquiry, the Director has concluded that each of the convictions must be regarded as unsafe and unsatisfactory.

The scientific evidence given to the jury may have misled them into excluding the possibility of innocent contamination but it is evident that, in the light of current scientific knowledge, this was a real possibility, however remote. It is in these circumstances that the Director has concluded that the convictions cannot be regarded as safe and satisfactory.