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27/11
Don't forget report on the extracts from the scientific assessment.

23 November 1990

Mr Dermot Gallagher
Assistant Secretary
Anglo Irish Division
Department of Foreign Affairs
Dublin

Thomson
Time
27/11

cc PST; PSW; AG
Mr Nally; PPS
Mr Nally; Mr P
Mr P; Mr P

SCIENTIFIC MATERIAL IN THE BIRMINGHAM SIX CASE

Dear Assistant Secretary,

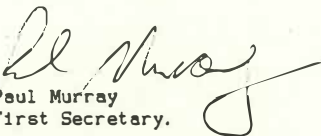
As I reported by telex yesterday, I was shown the Home Office scientific report and the results of the ESDA tests in the case by Hill, Power and McIlkenny when I visited them at Gartree on Tuesday last. I made such notes from the documents as the situation allowed. As I have already explained, both documents are complex, scientific and lengthy and the time element and conditions under which I operated [we had other matters to deal with and another outside visitor in the person of a monk joined in the visit, as did other prisoners] precluded a really satisfactory examination.

I would not therefore claim that that my notes have included every item of significance but what does emerge throws very great doubt on the Crown case and raises the possibility of concerted wrongdoing on the part of those who prepared the case against the Six.

It is, I think, no exaggeration to say that the forensic evidence against the men has been discredited and that the ESDA tests on the confessional material [the other major plank of the case against the men] have wider significance than in relation to Richard McIlkenny's evidence, although of course, they are particularly relevant in this connection. You will also note that the Court of Appeal is held to have given greater significance to some of the scientific evidence than it warranted and surprise is expressed that the Court did not comment adversely on the unsatisfactory nature of Dr Skuse's evidence.

Also attached is a copy of a manuscript letter which Paddy Hill gave me to give to the DPP demanding the immediate release of the Six: I should be glad of direction as to how to deal with this.

Yours sincerely,


Paul Murray
First Secretary.

Home Office Scientific Report

The following are extracts from the overall scientific report prepared by Dr A W Scalpehorn and dated 19 September 1990. The others involved in the scientific work were Dr JFL Lloyd, Dr M Stephenson, Mr M Fereday, and Mr J G Glaze, who are described as "individuals with a knowledge of this case and the analysis of explosives". The report was prepared by the Forensic Science Services (FSS) of the Home Office which was told "to review (the) evidence again".

Para 21: "If the conditions were as described by Dr Skuse it is difficult, if not impossible, to understand why the subsequent tests (TLC & GC) undertaken in Chorley all yielded negative results since they were far more sensitive and indeed specific. They also would have provided an objective permanent record for peer review at a later stage, unlike the Griess test."

Para 26: (Concludes that the significance of Dr Drayton's evidence) "is rather limited".

Para 27: "We are not qualified to question the legal basis on which the Appeal Judges reached their conclusions, however, we can place normal meanings on the words of the judgement and it seems that the significance of the findings (Dr Drayton's) was given a higher value than we would feel it warranted." (sic)

Para 28: "We were also surprised that Dr Skuse's evidence did not attract any adverse comment in the light of the unsatisfactory nature of many of the replies in his cross examination."

Para 31: "It is clear that a variety of tests were used in an attempt to confirm the presence of nitro glycerine in inorganic ions on handswabs taken from the Birmingham Six. At the time, no single test existed that gave a unique identification and therefore, to establish beyond reasonable doubt the presence

of nitro glycerine, positive results from a series of tests would be necessary. The results would additionally have to be internally consistent with each other. That was not achieved. Even the dubious single positive GC MS result on which the Court of Appeal placed so much weight had nothing to support it as that swab, tested afterwards, gave a negative Griess result. One might infer that as Mr Hill's right hand was positive, his left hand would have been. However, Mr Power's right and left hands were both Griess tested and one was positive and the other negative."

Para 32: We are not persuaded that the inorganic nitrate test was correctly carried out and believe that the significance of identifying ammonium is minimal. We cannot accept that the inorganic findings should be considered as a test to support the nitro glycerine work."

Para 33: "We therefore conclude that the presence of nitro glycerine on the handswabs on the two of the Birmingham Six on which it was reported cannot be considered to have been proved beyond reasonable doubt."

Extracts from the Report of Dr JBF Lloyd

- Para 16: (Dr. Drayton's machine showed "background spectrum" of 46 ion. In other words, this would appear to show that the machine threw up results similar to the Birmingham Six results even when it was run blank. Similar results obtained in other criminal cases were not deemed to be positive.)
- Para 20: (In relation to the Griess tests by Frank Skuse): "When taken with the efficiency of swabbing, the division of the samples and the time intervals ... the hands of the two giving positive results would have had levels of nitro glycerine in excess of anything seen before or since ..."
- Para 45: "The results (of Dr Skuse) are an absurdity. The amounts of nitro glycerine correspond to the content of approx an ounce of gelignite such as Frangex, and 2oz over the hands of the two Skuse/Griess defendants"
- Para 46: (For that, the hands would have to have been dripping wet and) "it would have been impossible to keep this amount of nitro glycerine upon them even briefly"
- Para 60: "... However, the experimental details Frank Skuse gave specifically (at the appeal on 20/10/1987) for the case samples at various points agree with neither test (Griess) 1 or test 2 conditions but seem to be variously hybridized versions of them."
- Para 61: (At trial Frank Skuse said the Griess test sample had been heated; at the appeal he said it had not been heated.)

Extracts from the Electro-Static Document Analysis (ESDA) carried out by David Baxendale, BSc, PhD, C Chem, MRSC, "Forensic Scientist specialising in the examination of documents".

(The material in this section is not direct quotation unless specifically designated as such).

Conclusions regarding the statement of witness JCS 27 (the statement by Richard McIlkenny)

1. Pages 7, 8, 9 and 10 were not recorded contemporaneously. Pages 7-10 did not form part of the original interview.
2. Other versions were prepared of pages 16 & 17.
3. Pages 2-6; pages 11-16 (and possibly page 1) originate from the same writing pad. These and pages 18 and 19 are original pages; pages 7-10 have been inserted and page 17 rewritten. The originals of page 7 and page 17 are absent; a rewritten version of page 16 is also absent.

(The rest of the evidence would appear to point to a mass of discrepancies in the other confessional evidence relating to all the defendants, such as different inks, different note pads, etc. For example Item JCS 95, the custody record of Hugh Callaghan, an entry officially signed by DSR Peter Higgins, draws the following comment:

"... in my opinion, there is evidence to show that Hornby wrote these entries ..."

There were other documents also officially signed by DSR Peter Higgins which the report concludes were unlikely to have actually been signed by either Higgins or Hornby.