

FA 31/88C

CONFIDENTIAL

Mr. Down

NH 6/4

~~100/88~~Can we file for
future reference please?

Mrs L Hutchinson, Cent Sec - B
(via Private Office (B), for
onward transmission to
PS/Dr Mawhinney)

cc PS/Dr Mawhinney (L)
PS/PUS (L&B)
PS/Sir K Bloomfield - B
Mr Stephens - B
Dr Quigley - M
Mr Chesterton
Mr Innes - B
Mr Miles - B
Mr N Hamilton - B
Mr J McConnell - B
Mr Hewitt - B
Mr S C Jackson - B

R.

DINNER WITH CONGRESSMAN KENNEDY : 6 APRIL 1988

Mrs Hutchinson's note of 1 April covered material for the dinner this evening. I attach brief lines to take on security and Anglo-Irish issues.

2. Also attached (for Dr Mawhinney only) is a copy of Mr Bell's submission of 29 March covering a draft reply from the Secretary of State to Congressman Kennedy's 16 March letter to the Prime Minister. I understand that a copy of the text of the reply - which Mr King amended - was delivered to Kennedy in Boston on 1 April before he left for Dublin. Private Office have said that there will be no signed original.

3. Congressman Kennedy (the son of Robert Kennedy) is regarded by many of his Congressional colleagues as an emotional and rather unstable character who carries little weight on the Hill. Nonetheless, his name guarantees him a significant place in the Irish-American community and he solicits and receives a good deal of media attention (as yesterday's altercation with the security forces in West Belfast indicates). The Minister will therefore wish to exercise considerable circumspection in dealing with him.

(signed:)

S J LEACH
SIL Division
6 April 1988

MR [Signature] Mr Buchanan

To see [Signature]

Briefing may be of
help again

MA
12/4

SECURITY ISSUES - LINE TO TAKE

In his letter of 16 March, Congressman Kennedy expressed the view that 'British security forces have taken on the character of death squads in Central America'. If Congressman Kennedy repeats this ridiculous allegation, the line should be:

- I totally refute only such comparison. The police and army have specific and well defined rules governing the use of firearms and are liable to the law. They are not above the law.

Lines to take on other topics are as follows:

Stalker/Sampson. The Attorney General's decision (in consultation with the DPP (NI)) is not the end of the matter. Disciplinary proceedings are being considered urgently. It should also be remembered that four police officers were tried for murder in relation to these matters.

Aidan McAnespie. I very much regret this tragic death. A soldier has been charged with unlawful killing and the case will be tried by the courts. I cannot comment on any specific details.

Three-Judge Courts. The Government is not persuaded that these are necessary. This proposal has already been considered and rejected by Sir George Baker, a senior judge, in a wide-ranging review of the Emergency Provisions Act.

Private Thain. Thain was released on licence in February 1987 following a recommendation by the independent Parole Board. The Parole Board look at all cases of life sentence prisoners, and take into account the likelihood of re-offending and the danger to the public. The Army, who have agreed to take him back, do not condone his offence in any way. They regard his offence as a tragic error of judgement by a young man - who had

been a soldier for only 2 years - in very difficult circumstances. There is no possibility of Thain being allowed to serve in Northern Ireland.

Gibraltar. Had the 65 kilos of Semtex been allowed to explode on site in Gibraltar, the carnage would have been horrendous. Bomb many times more powerful than Enniskillen - casualties could have been in hundreds. The three people shot were dangerous, hardened terrorists on a terrorist mission. Past experience indicated they were likely to have been armed. They could also have been in a position to detonate their bomb by remote control. Sir Geoffrey Howe made a full statement in Parliament on 7 March. There is no reason to hold an inquiry. There will be an inquest which, in accordance with Gibraltar law, will be held with a jury.

Milltown. We utterly condemn the attack on people attending the funeral. A totally indiscriminate and appalling act of sectarian violence. Michael Stone has now been charged with 6 murders, including the 3 at the cemetery. There is no evidence to link Stone or the Milltown incident with the UDA. (If raised - allegations that the RUC connived in the attack are baseless and despicable).

Murder of 2 soldiers in Andersonstown. We utterly condemn this horrific and barbarous crime. There can be no possible justification for it - it has been unequivocally condemned as well by the Irish Government and the Roman Catholic Church. The 2 corporals were not on undercover duties and were not members of the SAS. [If asked about possible rescue: A joint police and army patrol moved in as soon as possible - the hostile and frenzied crowd made it essential to intervene in strength and approach carefully. A massive police enquiry is in progress - 4 people charged to date.]

Policing of funerals. The Chief Constable of the RUC has full operational control. It is a difficult and sensitive matter. HMG fully supports his decisions. But in the light of recent

events the Chief Constable is urgently reviewing how best to handle future funerals.

ST PATRICK'S DAY STATEMENT BY FRIENDS OF IRELAND

Line to Take

Welcome the statement's clear condemnation of those who try to achieve progress through terrorist action. Also glad to note Friend's support for the Anglo-Irish Agreement and our forthcoming legislation on fair employment. Have noted the Friends of Ireland's reservations about some aspects of Government policy and actions. We emphatically agree that it is of the highest importance to maintain confidence in the administration of justice: this has always been our policy.

Background

This year's Friends of Ireland statement (which attracted substantial Congressional support) was critical of recent events in the security and administration of justice fields (Stalker/Sampson, Aughnacloy, Thain, etc), alleging that these

"have created the perception that the British security forces are above the law".

ANGLO-IRISH RELATIONS - LINE TO TAKE

- Government absolutely committed to the Anglo-Irish Agreement as are the Irish Government. It addresses the central problems of the region, and makes a great and honourable contribution to solving them. Gives the Irish Government a regular and effective instrument by which they can put forward views and proposals about the North - a contribution of great value.
- Recent events have shown the strength of the Agreement, not its weaknesses. The machinery is still in place and in operation. The 25 March London meeting of the Intergovernmental Conference with Mr Lenihan and Mr Collins was positive and constructive.
- It is inevitable that we and the Irish will have our differences, though nobody could have foreseen the way in which so many tragic developments occurred in the first months of 1988. But we are, because of the Agreement and the Conference, in a position from which we can look forward.
- There will be further regular meetings of the Conference. They will address the full range of issues covered by the Agreement, including fair employment.

BIRMINGHAM SIX

- Case is regarded as sub-judice. Court of Appeal has not given leave to appeal to the House of Lords but has certified there is a point of law of sufficient public interest. The Six have lodged their application which is now before the House of Lords. Case sub judice
- Questions of guilt and innocence can only be properly determined by the courts. Not for the Executive to intervene - or comment.
- A full investigation and hearing has taken place. Court of Appeal has considered the issues at length and carefully studied all arguments raised by the defence. Immense care and attention devoted to each case. The proceedings have demonstrated strengths (not weaknesses) of British justice.
- In any event, the issue is not relevant to question of administration of justice in NI.

Use of Royal Prerogative of Mercy

- Home Secretary has already referred the case the Court of Appeal. The convictions have, after exhaustive consideration, been upheld unanimously. In these circumstances he does not think it right to interfere with them. Has made this public.

Independent Review Body

- Home Secretary has indicated that there is no justification for establishing an independent review body. It is primarily for the courts and judicial process to review convictions.

Matters raised by Mr Mullin MP

- Court of Appeal carefully reviewed convictions and found them to be safe. We are not aware of any evidence which the court was unable to consider and which merits further enquiries.

Background Note

This is a matter for the Courts and Dr Mawhinney should if possible not be drawn on this subject. The Court of Appeal upheld the convictions of the Birmingham Six on 28 January following an appeal hearing lasting some six weeks the longest appeal in British legal history. At a hearing on 18 February the Court of Appeal did not grant leave of appeal to the House of Lords. They did certify that a point of law of sufficient public interest had been raised and the Six had lodged a petition with the House of Lords seeking to pursue this point of law. The case is before the Lords Committee. It is not clear how long the process takes. The case should be regarded as sub-judice.

The Six were arrested in Britain and were not extradited from the Republic; the case therefore has no direct relevance to the Irish extradition issue. There were originally found guilty by a jury in Britain so the case is not relevant to the administration of justice in Northern Ireland, or to Diplock Courts.

The appeal attracted considerable publicity, with some critics starting from the arbitrary assumption that the Six were innocent and concluded that it was British Justice itself which was on trial. In these people's views confirmation of the sentence has proved the bias of the judges. In fact the thoroughness of the appeal showed that the judicial system is prepared to go to great lengths to ensure that justice is done.