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BOMBING CASES

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TO BE CONSIDERED AGAINST DELIVERY

in Commons

ORAL STATEMENT BY THE HOME SECRETARY — 3.30 pm 20.1.87

Pl. fax to Dr O'Donovan from Ted Smyth. 20/1/87

With permission, Mr Speaker, I should like to make a statement on my review of the cases of the Birmingham pub bombings, the Guildford and Woolwich pub bombings and Mrs Anne Maguire and her co-defendants. Although there were, of course, connections between the Guildford bombings case and that of the Maguires, these were three separate cases, treated entirely separately in the courts. It follows that I have considered each one separately. I apologise for the length of the statement.

All 17 people concerned were found guilty of very serious offences by a jury following lengthy trials. The verdicts in each case were later upheld on appeal after further long hearings. In short, the question of guilt was in each case properly determined by due process of law.

A Home Secretary must consider very carefully in what circumstances if any he would be justified in interfering with a verdict reached by the courts. These are among the most important individual decisions which a Home Secretary has to take. Over the years all kinds of changes may come to alter the view which some people may take of a particular case. The enormity of the crime committed may cease to

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dominate the scene; those convicted may continue to protest their innocence; police procedures may be improved; new scientific tests may be developed; individuals may write books or produce television programmes which summarise days or weeks of evidence in a way which reflects their genuine conviction that the verdict was wrong or open to considerable doubt: as a result, a body of distinguished opinion may grow up to the same effect. All that has happened here.

In responding to these pressures a Home Secretary must never allow himself to forget that he is an elected politician and that, under our system, the process of justice must be kept separate from the political process. It is open to others to say: "if I were trying that case as a judge I would have given a different summing up", or "if I had been on that jury I would have reached a different verdict". But it is not open to a Home Secretary simply to substitute his own view of a case for that of the courts. It would be an abuse of his powers if he were to act as though he or those who might advise him constituted some higher court of law.

A different situation arises of course if new evidence or some new consideration of substance is produced which was not available at trial or before the Court of Appeal. In any civilised system of justice there must be a means whereby a case can be reopened so that new matters can be assessed alongside the old evidence by due process of law.

opinion about old evidence has governed the way in which my predecessors have used the power under section 17 of the 1968 Criminal Appeal Act to refer cases to the Court of Appeal. Mr Robert Kee, in his book "Trial and Error", implies that this distinction is a technicality. I disagree. In my view it is fundamental. It is hard to see how the Court of Appeal could fail to dismiss any reference to them based simply on the proposition, argued without fresh evidence, that their predecessors and the jury had got it wrong. More important, perhaps, this House and the public would rightly become deeply suspicious of a convention which enabled politicians to throw a verdict into doubt simply because they had developed, without any fresh evidence, a view that the verdict may have been mistaken. Once such a convention had become established the door would be wide open to interference in any case in which a Home Secretary thought it convenient to bow to pressure to have a case reopened.

I believe that my predecessors were right to take a principled view of the circumstances in which it is proper to exercise the power of reference to the Court of Appeal. After much thought I mean to follow them.

/Mrs Maguire...

THE MAGUIRES

Mrs Maguire, her husband Patrick, two of her sons (Vincent and Patrick), her brother-in-law (Patrick ("Guiseppe") Conlon), Patrick O'Neill and Sean Smyth were convicted in March 1976 of unlawfully handling explosives. The prosecution case rested almost entirely on the results of TLC (Thin Layer Chromatography) tests which indicated that all seven defendants had handled nitroglycerine. After a trial lasting six and a half weeks, during which the scientific evidence was examined at great length, all seven were found guilty. In July 1977 the Full Court, after a hearing lasting ten days, refused their applications for leave to appeal.

The defendants had protested their innocence throughout and have continued to do so. The case has been reviewed previously, most notably in the period 1980 to 1983 and following a debate in another place in May 1985, by which time Mrs Maguire, the last to complete her sentence, had been released from prison.

I have examined with the greatest care the arguments which have been advanced in particular by Mr Kee in his book published last October. I am clear that there is no new evidence or consideration of substance which I can regard as casting doubt on the safety of the convictions. I am placing in the Libraries of both Houses a memorandum which

sets out in greater detail the reasons why I have reached this conclusion. None of the arguments now presented succeeds, in my view, in challenging the scientific evidence. The scientific validity of the TLC test - which is not the same test as that used in the Birmingham case - has not been undermined. The main argument which Mr Kee now advances - that the samples must have been accidentally or deliberately contaminated - is not supported by any evidence. In these circumstances I can see no grounds on which it would be right for me to refer the case to the Court of Appeal.

GUILDFORD AND WOOLWICH

Next, the Guildford and Woolwich pub bombings. In October 1975, after a trial lasting over a month, Patrick Armstrong, Gerard Conlon, Paul Hill and Carole Richardson were found guilty of carrying out the bombing of two pubs in Guildford in October 1974 in which five people died. At the same trial Armstrong and Hill were convicted of two murders arising from the bombing of a public house in Woolwich in November 1974. All were found guilty by unanimous verdicts. In October 1977, after a hearing lasting eleven days, the Full Court refused applications for leave to appeal.

The convictions were based wholly on confessions made by the four to the police. It is common ground, and was fully before the court of trial and the Court of Appeal, that there were a number of inconsistencies and contradictions in the statements made. All four alleged at trial that those statements were untrue and that they had been improperly obtained. All four put forward alibis, which were plainly not accepted by the jury. Later, members of the Balcombe Street Gang and Brendan Dowd claimed that they, and not the four, were responsible for the Guildford and Woolwich bombings. These claims formed the main plank of the four's grounds of appeal.
The Court of Appeal, however, concluded that there had been - and I quote - "a cunning and skilful attempt to deceive the Court by putting forward false evidence". The Court of Appeal also specifically considered Carole Richardson's alibi evidence, concluding that it was concocted.

I have carried out a detailed examination of the points which have been raised about the convictions in this case.

It is clear to me, however, that no new substantive points have been raised. The arguments which have been put forward simply repeat or re-work those which were aired at trial or on appeal. Indeed, Mr Kee acknowledges there is no new evidence. Accordingly, I have had to conclude that there are

/no grounds which

no grounds which would justify my referring the case to the Court of Appeal. Again, I am placing in the Libraries of both Houses a memorandum which sets out in greater detail the reasons for my decision.

BIRMINGHAM

I turn to the case of the six men who were convicted in respect of the Birmingham pub bombings. In August 1975, after a two month trial, Hugh Callaghan, Patrick Hill, Robert Hunter, Noel McIlkenny, William Power and John Walker were convicted and sentenced to life imprisonment in respect of the bombing of two public houses in Birmingham in November 1974 in which 21 people were killed and 162 injured.
Applications by the six men for leave to appeal were refused by the Full Court on 30 March 1976. The men later pursued a civil action which was eventually dismissed by the House of Lords in 1981. The prosecution case rested principally on admissions made by the six men in police custody, together with scientific evidence which indicated that two of the men had handled nitroglycerine.

The six men maintained at trial that the admissions had been secured by means of police brutality and intimidation. The defence also disputed the scientific evidence, alleging that the results obtained on the Griess test were due to contact with a harmless substance called nitrocellulose.

As the House will be aware, the safety of the convictions has since been challenged, most notably in two "World in Action" programmes and in a book published by Mr Chris Mullin in June last year.

I have examined all this material with great care. I am satisfied that there is new evidence which would justify my referring the case to the Court of Appeal and I have now done so. The effect of my action is that the case will now be treated as an appeal by the six men and is sub judice. The House will understand why I cannot comment in detail. I can say, however, that the grounds relate to the scientific evidence given at the trial and the allegations by ex-P.C. Clarke that he witnessed intimidation of five of the six men in police custody and saw signs of injury on them. I am placing in the Libraries of both Houses a copy of a letter which I have today sent to my hon friend the Member for Harborough, and the report of a reappraisal of the Griess test which was conducted at my request by the Aldermaston Forensic Science Laboratory.

Following consultation between the Chief Constables of the West Midlands and the Devon and Cornwall forces, the latter force has been asked to undertake further inquiries into the allegations made by ex-P.C. Clarke. The results of that investigation will, of course, be made available to the Director of Public Prosecutions and the appellants.

I should add, for the avoidance of doubt, that the Court of Appeal is not confined to considering those matters which form the grounds of reference; and that it is open to the appellants to seek to place before the Court any matters which they wish to raise on their behalf.

As the House will recognise, these have not been easy decisions to make. I have thought it right to maintain the principle that I should interfere with the verdict of a court only where there is some new evidence or new consideration of substance which casts doubt on the safety of the convictions.

The second necessary principle is that where such material is to hand no consideration of amour propre or possible embarrassment should prevent a referral of the case. I believe that by following these principles a Home Secretary can best serve the interests of justice.