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Tánaiste's meeting with the Home Secretary

14 September 1988

Speaking Points

- We appreciate the extreme sensitivity of the Home Secretary's position, and we understand his insistence that matters of guilt or innocence are to be determined by the courts, free from political interference.

- It must be stressed that the concern in Ireland about the Birmingham Six and Guildford Four verdicts is genuine and broadly based. There is a cross-party approach in the Dail and indeed the Home Secretary will be aware of the motion adopted by consensus in June. The issue has not become a political football and the Government are determined that it should not.

- We are conscious that the concern in Britain is equally broadly based and that Cardinal Hume and others have not lightly become involved in these cases.

Birmingham Six

- We would urge that humanitarian considerations be brought to bear in the treatment of the Birmingham Six. We know the Home Secretary's concern that the treatment of the Six cannot depend on some supposed question mark over their guilt. We would hope that improvements in their circumstances will be possible quite independent of any view as to their guilt or innocence.

- We are confident that any steps to improve their conditions will be enormously appreciated by the men themselves and their families. (Richard McIlkenny was very grateful for the arrangements made for him to attend his brother's funeral some months ago, and made a point of saying so during a recent visit by David Andrews T.D.)

- Given the co-operative prison behaviour of the men, we would hope that there are prospects of steps being taken in the foreseeable future such as decategorisation and perhaps movement of the men to an open prison, with periodic parole concessions (e.g. Christmas visit to their families).

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Guildford Four

- We are aware that the Home Secretary intends to announce his decision on referral before Parliament resumes. Any indications on the timing or the substance of the decision ?.
- If as we hope there will be a referral, the grounds of referral will be very important. We are aware of the Home Secretary's position that referral must rest on matters not previously before the Court. However, in addition to the new evidence on alibis, many eminent legal figures would argue for reconsideration of a number of elements of the original evidence. Arguably it is only when all the elements of doubt are taken together that the defence case of the Guildford Four can be adequately weighed.

Maguire Family

- Because of the link with the Guildford Four case, developments in the Guildford case may have implications for the Maguire family.

Shanahan, Cullen, McCann

- There was considerable concern in Ireland about the conditions in which Shanahan was held. We appreciate the responsiveness of Home Office officials when the various points were raised.
- We will have an Embassy observer at the trial when it opens in Winchester on 4 October.

Irish Prisoners in Britain

1. Public attention in Ireland has focussed mainly on four groups

- the Birmingham Six
- the Guildford Four
- the Maguire Family
- Martina Shanahan, Finbar Cullen, John McCann.

This note looks briefly at the present situation in relation to the various prisoners and at the policy options open to the Government in each case.

Birmingham Six

(i) Present Position

2. The Court of Appeal decision has failed to lay to rest the continuing doubts about the verdict in this case. Chris Mullin is likely to continue to make allegations in the House of Commons which will require a British Government response. Since the Court of Appeal decision, Mullin has made charges of (i) collusion between Crown witnesses Skuse and Det. Supt. Reade and (ii) collusion between Skuse and another police officer Sgt. Ray Paton. The former charge was investigated by the City of London police at the request of the Director of Public Prosecutions; the investigation "has not revealed any evidence of criminal conduct" (Sir Patrick Mayhew, House of Commons). The second charge is still under investigation but we have no reason to believe that the outcome will be any different from the earlier investigation. Meanwhile, Chris Mullin is likely to come under increased pressure in the Commons to identify those whom he claims to know were responsible for the bombings.

3. Members of the Birmingham Six are being held in groups of two at three different prisons in Britain: Richard McIlkenny and William Power in Wormwood Scrubs, Patrick Hill and Gerry Hunter in Gartree, Hugh Callaghan and John Walker in Long Lartin.

Three of the Six - Hunter, McIlkenny and Power - have recently been visited by a member of the London Embassy; in the case of McIlkenny and Power, the visit was made in the company of David Andrews T.D. Insofar as could be judged during the Embassy visits, Hunter appeared to be in a poor psychological state, and has apparently shown some evidence of irrational and paranoid behaviour since the Court of Appeal decision, while McIlkenny and Power by contrast appeared to be in good shape and their morale high. (It must be said however that we were earlier given a much more negative account of the psychological state of McIlkenny and Power by the Bishop of Derry - it is possible that their morale fluctuates considerably, or that Bishop Daly's deep sympathy for the Birmingham Six colours his judgement of their current state of mind).

Government Policy

4. In the absence of any truly significant new evidence emerging, or of Chris Mullin disclosing the names of those he believes responsible for the bombings, it is difficult to see any basis on which the case might be re-opened in Britain. The lawyers for the Six have been considering an appeal to the European Court of Human Rights but even the prisoners themselves do not expect that much would come of this, if it were to go ahead. In these circumstances, the only realistic course for the Irish Government seems to be to concentrate on trying to ameliorate the conditions under which the men are held. The generally excellent behaviour of the men in prison and their good relations with prison staff establish a basis for pressing for decategorisation (i.e. removal of the men from their present category A status with all the restrictions that implies) and, in the medium term, possible movement of the men to an open prison and periodic parole concessions. Such steps will not be easily taken, since the Home Office will shy away from any action that might seem to imply a doubt as to the guilt of the Six; however it is reasonable to expect that, in a year or so, they should come under serious consideration.

5. In the short term, it will be important to assure the Six, and those campaigning on their behalf, that their case has not dropped from sight. We will need to ensure a regular pattern of visits by the London Embassy, periodic contact with the Home Office, and mention of the case as appropriate in public statements.

Guildford Four

(i) Present Position

6. The British Home Secretary has stated that he will reach a decision before the end of the Parliamentary recess (i.e. before 22 October) on whether or not to refer the Guildford Four case to the Court of Appeal; there have been some indications that a decision may be imminent. Mr. Hurd has been considering a police report on the case for some months past; at his meeting with Ambassador O'Rourke in June the Home Secretary described the situation in relation to the Guildford Four as "fragile". The relatives of the Four are pessimistic about the outcome of the Home Secretary's re-examination of the case, as in their view the parameters of the police investigation were drawn too narrowly.

7. Two of the Guildford Four members - Gerard Conlon and Paddy Armstrong - are held in Gartree Prison; Paul Hill is now held on the Isle of Wight; the fourth, Carole Richardson, the only English member of the group, was de-categorised some years ago and has no contact with our Embassy. The campaign on behalf of the Four has emphasised that the stress and strain on the prisoners has led to a deterioration in their physical and mental health. Particular attention has focussed on Armstrong's reported nervous breakdown and Hill's constant removal from one prison to another.

8. An Embassy official visited Conlon and Armstrong in July and Hill in August. Armstrong said that at his own request he was put into a segregation unit and into the hospital wing of Gartree

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prison for two weeks in June; he has now returned to light workshop duties. (The Home Office says Armstrong "cracked" because of gambling debts owed to other prisoners; Armstrong attributes it to the strain of waiting for the Home Secretary's decision). As regards Hill, his latest removal to the Isle of Wight means that he has been moved a total of 48 times. The Home Office maintains that the frequent moves are due to Hill's uncooperative prison behaviour; in explaining his 'punishment' move from Long Lartin to Winchester in July, the Home Office told the Embassy, in confidence, that Hill had sought to create a "no-go" area in Long Lartin prison. Insofar as could be judged during the Embassy visit, in August, Hill seemed in reasonable physical health, despite some discomfort with a throat problem. Conlon was moved at the end of March to Full Sutton prison in the North of England; after representations from the Embassy and others he was brought to Gartree prison which made family visits easier. He appears to be in reasonable mental and physical shape, although understandably embittered at fourteen years of what he alleges to be false imprisonment.

(ii) Government Policy

9. Most informed observers are of the opinion that the Guildford Four case is a strong one - stronger indeed than that of the Birmingham Six - and that there are convincing grounds for referral to the Court of Appeal. Clearly it is desirable that we continue to use every channel open to us to press for referral (full retrial, while it would offer more scope for the Guildford Four defence, does not seem a realistic option). The grounds of referral will also be very important. To date the Home Secretary has insisted that referral must rest on matters not previously before the Court; the problem is that the new evidence in the Guildford Four case is relatively slim and it is only when all the doubts arising are looked at cumulatively that the strength of the Guildford Four case becomes apparent. The wider the grounds of referral therefore, the better prospect it offers to the Guildford Four.

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10. There are also a number of matters in relation to the prison conditions of the Four that the London Embassy has already taken up with the Home Office and that should continue to receive our attention. In particular, Armstrong, Conlon and Hill have all complained about their visits being supervised and held away from the main prison visiting area (Armstrong suspects that it is Hill's behaviour which has resulted in unsupervised visits being withheld from Conlon and himself). The requests of the prisoners in this regard are not unreasonable and should continue to receive our active support.

Maguire Case

(i) Present Position

11. Mr. and Mrs. Maguire and their two sons, as well as three others, were found guilty of possessing explosives in the aftermath of the 1974 Guildford and Woolwich bombings. The seven received sentences of from four to fourteen years. One of them, Guiseppe Conlon (father of Guildford Four member Gerard Conlon) died during his term of imprisonment; the others have served their terms and have been out of prison for some time. They have always maintained their innocence and the campaign continues to clear their names.

12. The Maguire case is linked to the Guildford Four case; police attention was initially drawn to Mrs. Maguire by statements of Paul Hill and Gerard Conlon who both alleged that she had been involved in planting the Guildford pub bombs. No explosives were found at the Maguire house but the seven were arrested when nitroglycerine tests proved positive (the test was negative in the case of a third Maguire son who was not charged). Since the prosecution case rested almost wholly on the positive nitroglycerine test, attempts to overturn the convictions involve challenging the validity of this test. The Home Office has consistently maintained that the type of test used (Thin Layer Chromatography-TLC) is fully reliable: "although new tests have

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been developed, the TLC test has not been shown to be defective in any way". (Home Office Memorandum January 1987). Mr. Hurd stated in Parliament in January 1987 that he could find no grounds to justify referral of the Maguire case to the Court of Appeal.

(ii) Government Policy

13. Because of the link between the Guildford Four and the Maguire cases, it is reasonable for us to press the point that a referral of the Guildford Four case has implications for the Maguire verdict. However it would be a mistake to underestimate the insistence of the Home Office on the adequacy of the forensic evidence in the Maguire case and its consequent insistence that the verdict should not be called into question. Unless the TLC test becomes discredited (as the Greiss test now is) it is highly doubtful that the Maguire verdict will ever be reconsidered or overturned. While it remains a matter of serious concern that an injustice may have been done to the Maguire family, it seems unrealistic to expect any development in this case for the foreseeable future.

Shanahan, Cullen and McCann

(i) Present Position

14. The trial of Martina Shanahan, Finbar Cullen and John McCann is scheduled to begin in Winchester on 4 October; the charge is conspiracy to murder Tom King or persons unknown. (The latter charge was dropped at the committal stage but subsequently added again - such a procedure is apparently not unusual).

15. Martina Shanahan is held at Risley Remand Centre and the other two are in Brixton prison. Shanahan has been visited by an Embassy official on four occasions since last December; Cullen was visited once but appeared wary of contact with the Embassy; McCann has not sought any direct contact although some requests have been relayed to the Home Office on his family's behalf. (McCann's parents appear anxious to differentiate their

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son's case from that of his two co-defendants and are concerned to avoid any politicisation of his case). The very severe conditions under which Shanahan was held in the initial months gave rise to considerable concern on humanitarian grounds. However, following intervention by the Embassy and others, these conditions have improved considerably.

16. The solicitor for Shanahan and Cullen, Ms. Gareth Pierce, has expressed serious concern at the choice of Winchester as the venue for the trial, on the grounds that it is a garrison town and pro-Conservative. The families of the two defendants have echoed this concern. (McCann has a different solicitor who has not, to our knowledge, taken up this point). Gareth Pierce has sought without success to have the case heard instead in the Old Bailey, despite the fact that this would involve a delay of some months. There is little doubt but that, if the verdict goes against the three, the campaign on their behalf will insist that a fair trial with an unbiased jury was not possible in Winchester.

17. It is difficult to assess the validity of this argument. Certainly there is a garrison in Winchester and indeed (although this has not yet received publicity) the regiment which was involved in the Ballygawley killings last months is based in that area - a factor which might substantiate some of the fears of the defence team. It is also true that Winchester is a prosperous pro-Conservative town. On the other hand, the jury for the trial will be picked not just from Winchester town but from the surrounding county area. Also many people familiar with Winchester would argue that, far from being dominated by the garrison presence, it is a thriving multi-business town where a jury would be fairly typical of juries to be found in similar towns throughout Britain. Given the large Conservative majority in Britain, for a town to be pro-Conservative is not unusual or untypical and of itself is obviously not an argument against the acceptability of Winchester as a trial venue.

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Government position

18. It would seem advisable for us to be extremely circumspect in any public comment about this case. The manner in which the case is conducted will need to be carefully observed, particularly given the ill-defined nature of the charge and the circumstantial nature of much of the evidence. (We have already indicated in a letter to Martina Shanahan's brother that the Embassy will have an observer at the trial.) At the same time the circumstances of the arrest of the three and the evidence found on them - including a notebook with impressions of registration numbers of vehicles at Tom King's house, a booking form for the Blackpool hotel at which the Conservative party Conference would be held, a variety of blank and false driving licences, £4,500 in notes - are difficult to reconcile with any innocent explanation. We also have to be sensitive to the fact that the potential victim of the alleged conspiracy was the Secretary of State, co-chairman of the Intergovernmental Conference. These considerations would suggest a very low key approach on our part to a campaign on behalf of the defendants in this case.

A. Anderson

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9 September, 1988

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