

NATIONAL ARCHIVES

IRELAND



Reference Code:	2015/89/87
Creation Date(s):	21 November 1985
Extent and medium:	2 pages
Creator(s):	Department of the Taoiseach
Access Conditions:	Open
Copyright:	National Archives, Ireland. May only be reproduced with the written permission of the Director of the National Archives.



IRISH EMBASSY, LONDON

~~SECRET~~

17 Grosvenor Place

SW1X 7HR

21 November 1985

Discussion with the Attorney General, Sir Michael Havers MP

Dear Michael

At a small lunch given today by Jeffrey Archer (the new Deputy Chairman of the Conservative Party) I had a discussion with Sir Michael Havers which it may be of interest to report. Havers had major heart surgery about six weeks ago and, though he is up and about during the day time, he will not be returning to his duties until January. Accordingly, he does not expect to be in the House of Commons for the debate on the Anglo-Irish Agreement next week.

He spoke warmly of the good relationship which he has already been able to establish with our own Attorney General after just two meetings. He said it was "already almost as good" as the relationship he had established with his predecessor Peter Sutherland (which, in context, was high praise, since he had been speaking warmly of his relationship with the latter and contrasting it with his inability to establish any kind of relationship with some of his predecessors).

We talked about extradition, the McGlinchey case and our intention to accede to the European Convention on the Suppression of Terrorism. He thought our accession to the Convention was important. I referred to the fact that legislation would be needed; and that once it became necessary to introduce new legislation on extradition there would undoubtedly be strong pressure to move further away from the old "backing of warrants" procedure. The Government might find it necessary in the present climate to provide in legislation for a prime facie rule and other provisions might also be needed.

Somewhat to my surprise Sir Michael did not seem at all worried about this. He said that he would not mind at all if we moved now to a bilateral extradition arrangement on the same lines as Britain has with other countries; and he saw no real problem about our introducing in our legislation a requirement to show a prime facie case - even though Britain is inclined to move somewhat away from this approach in other extradition arrangements. His view was that it would be well worth accepting these changes in our arrangements in return for our accession to the Convention. At one point he mentioned the possibility that we might retain the previous arrangement in relation to non-political offences but he did not press this point or make very much of it.

In discussion of the probability of pressure now to introduce a prima facie rule I mentioned that developments in the McGlinchey case had added somewhat to the public pressure on this point, since it was being said that McGlinchey would not have been extradited to the North if the

strength of the case against him there had first had to be subjected to some kind of scrutiny in our courts under a prima facie rule. Sir Michael thought on the contrary that extradition would still have taken place in that event. He blamed the collapse of the case against McGlinchey in Northern Ireland on "the loss of my two witnesses". He also said that he thought it quite possible that, if McGlinchey had contested his subsequent re-extradition to the South, Lord Chief Justice Lowry would have refused extradition on the grounds that the alleged offence was a political one.

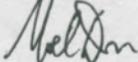
In further private discussion Sir Michael commented to me that Lord Chief Justice Lowry was an extraordinarily "political" Judge. As he put it "I am a member of the Government here and I am not half as political as Lowry is". A little later in the conversation he contrasted Lowry with Lord Chief Justice Lane in this country and made the point that the latter, in contrast to Lowry, is in no way "political". Havers asked me however to maintain confidence as regards his views on Lowry - though I could tell the Taoiseach if I wished.

We spoke also about the mixed courts issue. I explained (since I thought that Sir Michael might have been a bit out of touch with developments in the past few weeks) that our concern in the period immediately before the Summit was whether there was a genuinely open approach on the British side or whether doors had already been closed - in which case we had felt that it could be open to an accusation of bad faith to mention mixed courts in the Agreement as a possibility to be studied.

Sir Michael said that the real problem on mixed courts had been the position of Lowry and some of the Judges in Northern Ireland who had threatened to resign. I mentioned that they had subsequently withdrawn this threat but he did not think that was really enough to cancel their opposition. For his own part he had quite an open mind on mixed courts and does not really see the issue as the major problem from a legal or constitutional viewpoint that some would claim. While I would not want to make too much of it I had a fairly definite impression that he is not just open-minded but reasonably well disposed towards the possibility of mixed courts and that the advice he would give when in due course the issue comes up would reflect something of this.

I might mention that Sir Michael, as you know, is also Attorney General for Northern Ireland where the Director of Public Prosecutions comes under his responsibility. He maintains an office in Belfast which he was accustomed to visit two or three times a visit before his illness.

Yours sincerely



Noel Dorr
Ambassador

Mr Michael Lillis
Assistant Secretary
Department of Foreign Affairs
Dublin 2