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QUEEN ANNE'S GATE LONDON SW1H 9AT

cc MR. E. O Tuathail.

19 June 1986

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23 JUN 1986

MINISTERS

Dear Peter,

You wrote to me on 5 March to draw my attention to your concern about the cases of the 6 men who were convicted in 1975 of the murders arising from the bombing of 2 public houses in Birmingham in 1974, and about the case of Mrs Ann Maguire who, with members of her family and 3 others, was convicted in 1976 of the offence of unlawfully possessing explosives.

I will deal first with the case involving Mrs Maguire. This has been reviewed on a number of occasions, most recently in the latter part of last year, following representations made during and after a debate in the House of Lords last May. In particular, we have examined a number of points which have been made about the forensic evidence and the thin layer chromatography test on which the prosecution largely rested. Having done so, I am satisfied that the doubts which have been expressed on this count would not justify my referring the case to the Court of Appeal.

Like you, I have also been mindful of the fact that Mrs Maguire and her co-defendants have consistently maintained their innocence. But, as I am sure you will recognise protestations of innocence, however consistently and vehemently maintained, cannot offer proper grounds for referring a case to the courts.

I have noted what you say about the climate of opinion in this country following in particular, the bombings at Birmingham, Guildford and Woolwich. This point was raised at appeal. The Court of Appeal paid close attention to it, and to the trial judge's summing up in this respect. The Court took the view, in effect, that the judge could have done no more than he did to point out to the jury in the clearest terms the need to avoid prejudice.

For a case to be returned to the court for review there must be some new evidence or consideration of substance, which has a bearing on the rightness of the conviction, for the court to consider. (Although you mention Section 2 of the Criminal Appeal Act 1968, this is a statutory provision which guides the Court of Appeal itself, and it does not directly affect my powers under section 17 of the Act.) I am afraid that I am unable to find any grounds or reason to depart from the view which David Mellor expressed in his letter of 31 January to Gerry Fitt, namely, that I cannot find sufficient grounds to justify referring the case to the Court of Appeal.

/I now turn

Peter Barry, Esq, TD

I now turn to the case of the 6 men convicted of the "Birmingham bombings". I have been carefully considering the points raised in the World in Action television programme on 28 October last year and the material presented to me by Sir John Farr MP. Our examination of this material is nearly completed but we have just received from the publishers an advance copy of a book Error of Judgment by Chris Mullin on the subject which is to be published on 7 July. Obviously we have not had time to consider its contents, but I note in particular that it is claimed that four men have been identified who carried out the bombings. It also covers such matters as the forensic evidence and the confessions.

Clearly it would not be sensible for me to try to reach a final decision on the question of referral to the Court of Appeal without taking account of the content of the book. We will look at it as quickly as we can, but I thought you would wish to know what the present position is. Of course, I will write to you again as soon as I have been able to take a decision.

Best wishes,

Yours,

Douglas Hunt.