



An Chartlann Náisiúnta National Archives

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Gib file

A/Sec Gallagher
I mentioned this to the Taoiseach
last week. He was already aware
of it from Mr Justice and had
directed that Dr Harbinson not
go although Dr Gilson would
be free to do so

Mr Gallagher,

M 24
5

Positions
Dr. Harbinson would be
additionally invited for
to attend and there
should be no question, therefore, of
his being given permission to do so. Dr
Silencer's attendance is, on the other
hand, a private matter and one entirely
for him to decide. You may
wish to raise this at your weekly
personnel meeting with the Taoiseach.

1 Mr Dillon
2 Mr McMahon
25/5

Please see Mr McMahon's minute beneath on the question of Dr
Harbinson attending the inquest as expert advisor to Paddy
McGrory. I have mentioned this to Mr Brosnan and also to Mr
Russell whose office is responsible for the Chief State
Pathologist. You or the Secretary may wish to bring the matter
to the attention of the Taoiseach.

I doubt if it would wise to have the State Pathologist involved.
If Dr Harbinson does not attend, it is quite possible that Dr
Gilsenan will attend in his place. Dr Gilsenan deputises for Dr
Harbinson fairly often but he is not a State appointee (Dr
Harbinson is the only one). Mr Russell has described him to me
as "less guarded" in his manner than Dr Harbinson.

Mr Brosnan has agreed to check what the practice of our Coroners'
Courts is in regard to the supply of the pathologist's report to
the family prior to an inquest: it is likely that it would be
supplied given the nature of our legislation which appears to
give open access to it. We have obtained some material on the
conduct of Coroner's Courts in Britain which suggests that the
post-mortem report must be supplied to the family. A note by Mr
Dillon is attached.

Declan O'Donovan
16 May 1988

Note: I told P.J. McGrory on 17/5
that I thought it would be
best not to pursue a request
for Harbinson in the current
circumstances. He agreed.
J. J. 21/5/88

SECRET

A/Sec Gallagher
Mr. O'Donovan

When I met with P.J.McGrory on the evening of the 9th, he raised an issue of some sensitivity in relation to the forthcoming inquest on the Gibraltar 3. From previous conversations, I know that he has a close personal and professional relationship with Dr.Harbinson who, I was given to understand, has provided McGrory with a professional 2nd opinion in a number of cases over the years before the NI courts. (You will recall that he had wanted to use Dr Harbinson's services for a 2nd postmortem on the Gibraltar 3 - something which in the end did not take place and which McGrory now increasingly feels was a major mistake by the families at the time.)

McGrory
The Gibraltar Coroner has now informed him that he will not receive a copy of the Autopsy report or of the Pathologists' report prior to the inquest itself. McGrory feels that this will leave him at an obvious disadvantage ,in that the Attorney General will have access to this information prior to the inquest, if not officially from the Coroner , then through the police as he is the chief law officer of Gibraltar. He is therefore understandably anxious to have expert advice available to him at the inquest.It is for this reason that he is anxious to have a distinguished pathologist of Dr Harbinson's calibre available to him during the inquest hearing in Gibraltar. Dr Harbinson's envisaged role would be as an expert advisor, though I gathered that this would not preclude the possibility of Dr Harbinson being called as a witness to give expert testimony.

I gathered that he had already discussed this matter with Dr Harbinson who, while being willing personally to assist him in this manner, had pointed to the possible political considerations which would apply, given that he is the Irish Chief State Pathologist. Dr. Harbinson apparently felt that a decision on such a sensitive question would need to be made by the Taoiseach. (He also apparently intimated to McGrory that any request of this

nature by him to his own authorities would probably be automatically turned down.)

McGrory was anxious that we raise the matter with a view to an early decision as to whether Harbinson would be permitted to attend the inquest. I gathered that he has arranged a fall-back position in the event of a negative decision and would use another Dublin based pathologist, Dr. Gilfennan(?), recommended by Harbinson and who, I understand, is in private practice. (He had made the same arrangement at the time of the abortive 2nd postmortem on the Gibraltar 3.)

*Dr. Dublin
Gilfennan*

Given the sensitivity of the matter, I would be grateful if soundings could be made at the appropriate level regarding this request. In view of the time constraints in operation (the inquest is scheduled to be held sometime between 20June and 9July), I would like to get back to him on this over the next week or two.

Babu 7.7.88

Brendan McMahon
Anglo-Irish Division
11 May 1988

NOTE

Access to pathologist's report

Under British law the person making the post-mortem examination may not supply a copy of his report to any person other than the coroner without the consent of the coroner.

Copies of the post-mortem report must be supplied by the coroner to "properly interested" persons on application and payment of a fee. Alternatively, such persons may be permitted without fee to inspect the report.

A "properly interested" person includes persons whom the coroner is obliged to inform of the post-mortem arrangements. These include, inter alia,

- relatives of the deceased who have notified the coroner of their desire to attend, or be represented at, the post mortem
- the deceased's regular medical attendant
- the chief of police

A "properly interested" person is also a person whom the coroner is obliged to notify of the inquest arrangements and includes

- spouse
- near relative
- personal representative of the deceased
- any other person whom the coroner thinks to be entitled to examine witnesses at the inquest
- any other person whose conduct the coroner thinks is likely to be called into question at the inquest

S.A

16 May 1988

P.S. The above list is not exhaustive but covers the case in question. Other "interested persons" omitted include, for example the hospital where the deceased died.