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IRISH EMBASSY, LONDON.

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10.3.88
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8 March 1988

Dear Assistant Secretary

Lunch with the Solicitor General, Sir Nicholas Lyell, QC, M.P.

1. Despite a relaxed personal relationship going back to his backbench days, our initial conversation was overshadowed by recent difficulties and there was on either side a sense that, while we were off the record, anything said would be taken down and used. Lyell mentioned at a later stage that he had spent some of the morning being briefed, had gone through the Agreement in detail and had re-read the Taoiseach's Ard-Fheis speech.
2. As I have previously reported, Lyell is one of the most impressive figures met at Westminster. He is scrupulous and dissembling, and is widely believed to have a major Parliamentary career ahead of him: still only 49, he is considered to be the strongest candidate to succeed Patrick Mayhew, and the Home Office and, eventually, the Lord Chancellorship are already mentioned by observers. He has always shown sympathy and an anxiety to fully understand our positions on various questions, and has up to a point demonstrated an attractive frankness in his replies and comments.
3. He has recently returned from a tour of Northern Ireland courts. He met most of the judiciary and was in Belfast, Derry, Strabane, Omagh, Enniskillen, Armagh and Newry (perhaps other locations, too, which he did not mention). Although he had been in Northern Ireland many times before, he said that this visit taught him a lot about the various levels of tension under which the communities there are living. He found, for example, that many judges, and their families, are stressed and edgy. He has no doubt that daily tension affects them. The law is not, he said, a stainless-steel mechanical implement: it comes down to people, and people have weaknesses. However,

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"beleaguered" as the judges seem to be, he feels that they are highly conscious to be seen to dispense justice in a balanced way, and are conscious that their judgements and comments are under a spotlight.

4. Extradition

He made a number of points.

- He could well understand if, last November, John Murray felt frustrated and annoyed on two basic grounds: firstly, that Patrick Mayhew was clearly not prepared to meet his proposals; secondly, that Mayhew's manner could have added strongly to the effect given by clear unwillingness to do business.
- At that time, Mayhew was acting on the basis of a Government decision that London simply did not accept that the proposed Irish legislation was necessary. They were trying to prevent Dublin going through with it.
- He could understand that Dublin may be somewhat surprised now at the movement shown by the British side last week, and may wonder why that margin for manoeuvre was not shown four months ago. The answer is the point above.
- They have the impression that the suggestions made last week were found to be helpful by the Irish side. He hoped that John Murray would also find this and they are looking forward to hearing his reply.
- Lyell personally would very much like to see John Murray and Patrick Mayhew coming together personally to resolve the matter (if last week's meeting provided a basis for a working solution). "Both of them have taken a battering personally", he said, and neither could be blamed for that. The media, in his view, ran away with the story. In particular, he said, Mayhew was very deeply offended and upset about two things: firstly, the press accusations of "Mayhewism" and of ulterior motives for recent actions; secondly, the suggestions that he had commented unfavourably about John Murray personally (a piece by Bruce Anderson in the Telegraph was, in Mayhew's view, the most insulting).

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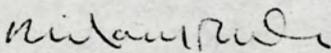
All this was deeply regrettable and, therefore, in Lyell's view, an early meeting between the two men could help to repair the damage done to the relationship by the media. (Lyell was most emphatic that Mayhew respected John Murray and wanted to get on with him, and that he was horrified by media comments to the contrary.)

- The British are still worried that the proposed system may not turn out to be judge-proof but they intend to go down the road to try to make it work. He speculated that Paddy McEntee is surely cooking up ways to get round the new system.
- He said that the treatment of errors in British extradition warrants has reached the category of the ludicrous. He could not, he said, accept that some of the reasons for rejection have been sound. If he were to spread out the history of these problems in front of his legal friends, they would blow up.
- In perhaps his most significant remark, Lyell said that they have evidence that some senior Irish judges are ill-disposed toward extradition, and will go to any length to find flaws in warrants. I responded very strongly to this and took Lyell back and forth on it at some length. I accepted, I said, that our conversation was quite off the record, but this was a most serious suggestion. He would not confirm whether the source of his information was diplomatic in Dublin, direct from judges, or what. He said he could not go further on that point. He was, however, explicit in saying that judges have themselves said so and that the British know it to be true. This, he said, adds to their deep concern that such judges will try to make the new procedures unworkable. He stressed that there was not the slightest suggestion that best efforts in the matter are not being made by the Irish side: on the contrary, he said, Irish anxiety to find a workable mechanism within the legal frameworks imposed by "Irish realities at the time" (which, he said, are understood in London) has been clear. We will just have to proceed, he said, in good faith. There are some low grade criminals on whom the system, when agreed, can be tried out. If, despite best efforts, we run into trouble, then we will have to tackle that in turn.

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5. Lyell accepted fully that the recent succession of difficulties has been compounded by failures on the British side, particularly on timing and lack of consultation. On substance, however, he said that in his view the Stalker/Sampson decision, if taken again, would be the same one despite the clear implications. He thought that, while there is much totally genuine and very strong feeling in Ireland about the Birmingham Six, the Crown case at the Appeal was very convincing and the appellants' case was, frankly, not so effective. He said several times that, given the real nature of the difficulties, and the political pressures they created in Dublin, there is now, as the water level sinks a bit ("if it is sinking"), a growing feeling in London that the Taoiseach's statements and actions have in all the circumstances been very restrained and balanced. Lyell said he thought that the Agreement, having survived thus far, has been hardened by being so bitterly tested.

Yours sincerely


Richard Ryan
Minister-Counsellor