



# An Chartlann Náisiúnta National Archives

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AN ROINN GNÓTHAÍ EACHTRACHA  
Department of Foreign Affairs

BAILE ÁTHA CLIATH, 2.  
Dublin 2.

11 November 1988

*Confidential*

Mr Brian McCarthy  
Department of the Taoiseach  
Government Buildings  
DUBLIN 2

Dear Brian

*14/11/88*

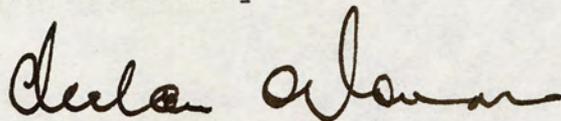
*x wife*  
I refer to your letter of 21 October enclosing a letter from Mrs Eleanor McKerr, mother<sup>x</sup> of Gervais McKerr, one of three members of the IRA killed by the security forces in a "shoot-to-kill" incident in Armagh in 1982. The inquest into the death of McKerr and his two companions, Toman and Burns, begins in Craigavon on Monday.

The question of Government attendance at the inquest may be in the minds of the relatives (although we have had no queries on this point in the Department). This Department's view is that it would not be advisable for the Government to be represented by an observer. I enclose a note which sets out our reasons and gives information on the inquests. Further information on the precise terms of Mr Kings certificate of immunity in regard to certain evidence is being sought.

The Tighe family solcitors have been in touch with us directly and through Brid Rogers of the SDLP on the question of legal aid. The position on that is that only a small amount is available for the purpose of obtaining preliminary legal advice. We hear, however, that in the Tighe case a barrister has offered his services. We expect that the other families will also have legal representation.

We would see no objection to a meeting with the immediate relatives of Gervais McKerr, but it may be preferable to offer it at official level. If you wish, officials of this Department will meet the immediate relatives.

Yours Sincerely

A handwritten signature in dark ink, appearing to read 'Declan O'Donovan', written in a cursive style.

Declan O'Donovan  
Counsellor

CC: Dr Mansergh

CONFIDENTIAL

Stalker/Sampson Inquests

There are three inquests. The first into the deaths of Toman, McKerr and Burns begins in Craigavon next week. We have been told in the Secretariat that it will take "weeks rather than days". The next inquest will be on Tighe, possibly about the end of January next, and the third will be on Grew and Carroll, possibly about April next. Since the only full-time Coroner in Northern Ireland, Mr Elliott, is taking all three inquests, one needs to be concluded before preparations can be made for the next to begin.

It is recommended that the Government should not have an observer at the first inquest. It would be prudent to avoid committing ourselves to a position on the other inquests for the present; they are still some months away; although we have no reason to believe that the Coroner will take a flexible view of the law on inquests set out below, it would be advisable to watch how he conducts the first inquest; and Tighe's inquest may need separate consideration because his death was recorded by the notorious hayshed tape which is at the heart of the Stalker/Sampson affair and because, unlike the others killed, he was not an active member of the IRA or involved with them in any way.

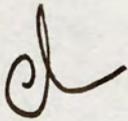
If we were to attend the first inquest, we would have to attend all three; and would be under pressure to attend the Loughgall inquest early next year and possibly all future inquests into deaths caused by the security forces.

Under law in Northern Ireland (as in this jurisdiction) the inquests will be limited strictly to the factual questions how, when and where the persons met their deaths. The answers to these questions are already well-known; criminal prosecutions

have already taken place (we have voiced our views on the judgements); and the inquests are, therefore, more than usually, formalities which are necessary to get out of the way in order, inter alia, to permit the families to take any civil proceedings they wish. The inquests will not return verdicts or express any opinion on questions of civil or criminal liability or delve into the background of the events. On that basis and in the absence of information that any flexibility will be exercised, there is no objective point to attending. Indeed, to attend might raise the hope of the relatives that the inquests will be in some way an inquiry of interest and might raise a question about the adequacy of an inquest procedure which we have ourselves. Lastly, our disapproval of the handling of the whole Stalker/Sampson is better registered by not attending the inquests. /

In case the Gibraltar precedent should be mentioned, it could be pointed out that the Gibraltar inquest had a much wider remit under Gibraltar law; the Coroner made it clear beforehand that he would go into the background; and Mrs Thatcher announced that it would be a proper inquiry and the only one that would be held.

Seamus Mallon of the SDLP agrees that it would be inadvisable to attend and cautions in particular that we should not put ourselves in the position of having to go the Loughgall inquest. /



November 1988