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Mr Kipps

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Secretary of State

Tánaiste
Brian Lenihan TD
Minister for Foreign Affairs
Department of Foreign Affairs
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(on return) → PSS, *Mr Nally*
Mr Gallagher
Mr Renell
Mr Heath / *Mr Brown*
Counsellors

3 August 1988

Don Brian

*Delivered via the Secretariat
which has explained that the Tánaiste is away
on holiday and that an early reply is unlikely.*

EXTRADITION

Dr
5/3

I thought that we had an excellent Conference on 27 July and covered a lot of useful ground. However, the one item that does lag seriously behind is extradition, and I undertook to write to you about this and how I thought we should proceed. In this connection, I mentioned to you some recent figures for extradition requests showing a surprising and dramatic reduction in non-terrorist cases from both Northern Ireland and England and Wales. The annual average has fallen from almost 50 in 1983-1985 to under 10 since then. I have set in hand the enquiries that I promised to try and establish whether there has been a sudden fall-off in such cases, or whether it is that the various police forces are no longer bothering to pursue them..

2. Let me say again that I am under no illusions about how sensitive a matter this is for you and your colleagues. I know that there are those in the Republic who deeply oppose extradition (particularly for terrorist offences) and who will cause maximum political trouble in seeking to resist it. We saw - and took clear note of - the emotiveness and complexity of the issue as it arose when you brought into effect the legislation enabling the ECST to be ratified. And we are aware of the latest campaign which seems to be aimed at encouraging resistance to any new individual cases.

3. However I have to say frankly to you that extradition is a sensitive and politically explosive issue here too. We attach such



importance to it first because it is wrong in principle to allow criminals to exploit the different jurisdictions in order to escape justice (and often to continue operating as active and dangerous terrorists). But it is also of prime importance in the overall Anglo-Irish context: the success or otherwise of our extradition arrangements is viewed by both Parliament and the media as an indicator of the general state of health of the relationship between our respective jurisdictions. It is no exaggeration to say that with every application that fails (for whatever reason) the credibility of the relationship and the Agreement suffers. It is not the reasons for failure that people are interested in - it is the fact of failure. We are seen not to have got our act together, with the result that dangerous men are allowed to go free.

4. I believe that we have done a lot of useful work. In particular we have on our side applied much more rigorous scrutiny to our documentation, and we have appreciated your valuable guidance in this. We now have a much closer degree of consultation between the various agencies in the two jurisdictions. And I was particularly pleased that we were able to find a way, earlier this year, of dealing with the difficulties that we encountered following the passage of your Extradition (Amendment) Act. Yet this is still not being translated into results. And it is results by which we are inevitably judged. We must show that extradition is working and that fugitives, where sufficient evidence exists and all the normal safeguards are met, are being returned to face justice. As I said to you at the Conference, as long as the position remains that no terrorists have been returned since 1984 (and that even the flow of non-terrorists has greatly diminished in recent years) then it is impossible to claim that the arrangements are working satisfactorily.

5. So how do we proceed? Patrick Mayhew has been keeping me closely in touch with the work that he and John Murray have been doing. And I am sure that we should continue to look to them to discuss the handling of individual cases, and the legal issues to which those

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give rise. But the most recent difficulties that have arisen - including the implications of the McVeigh case - go much wider. They go to the nature of the statutory reciprocal arrangements, and the questions of what our two Governments should be doing to ensure that those arrangements result in the effective extradition of criminals who deserve it.

6. This is a matter that is expressly referred to in Article 8 of the Agreement, and for which your predecessor and I agreed to set up a joint Working Group of officials to assist the Conference. That Working Group has not met for some time. I would like to suggest that it now resumes its work. It would not, of course, commit or bind us. We should charge it to report back to the Conference; and then the ultimate decisions would rest with each Government in its jurisdiction. But I believe that the Working Group could do the necessary groundwork, assessing the problems that continue to exist, examining possible ways of tackling them, and dealing with some of the inevitable nuts and bolts issues that always arise in a field as complex as this. It could meet without publicity, in a way that Ministers cannot. And it might be charged with submitting a report to the Conference for its September meeting. (If you felt that it would be helpful to have a meeting which the Attorneys also attended, I would be happy for my part to propose that to Patrick Mayhew).

7. I hope that you can agree to the Working Group resuming its task. For both of us extradition is a matter of extreme political as well as practical importance. We owe it to the Anglo-Irish process to seek to resolve those problems that persist.

Thank you also for the article on the Canal, which will make good holiday reading!

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3

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