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to please PA John

13/1



QUEEN ANNE'S GATE LONDON SW1H 9AT

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RECEIVED
1725
16 FEB 1989
MUFAX ROOM
STORMONT HOUSE ANNEY

16 February 1989

Mr M. Mullan
We shall have to re-check the file?

Mr Gilmore
Pl. filed
Mr J Stephens

CS117/2

Dear Tom,

I received only yesterday my copy of your letter of 13 February to Geoffrey Howe. I have also seen his reply of 15 February. I agree with your balanced assessment. There are, indeed, risks in making an extradition application. The decisions of foreign courts which tend to be ignorant of Northern Ireland realities are unpredictable, and an adverse decision would be damaging. But the expert advice we have suggests that we have a good chance of success and to let Hanratty go would be wrong.

It is important to underline to the Germans that it is right for their criminal proceedings in respect of crimes committed much more recently than the offence in Northern Ireland to be properly dealt with in German courts before turning to the Northern Ireland offence. It would be sad if some German court used our extradition application as an excuse for regarding the charges against him as so minor as to put them on the back burner.

It would be unnatural if I did not mention this case when I see the German Minister of the Interior, Herr Zimmermann, during the Summit next week, but I shall make it clear that we are in no way making formal representations. It may be necessary for both us and the Germans to be able to say that the case was handled in accordance with the usual judicial procedures and that no political pressures were brought to bear.

I am copying this to the recipients of your letter of 13 February.

- 1/ MR POPE*
- 2/ CC PS/POFS (B) - 1 of 16 - M*
- PS/MPS (L+B) - 2+3 - M*
- PS/PUS (L+B) - 4+5 - M*
- MR STEPHENS - 6 - M*
- MR BURNS - 7*
- MR THOMAS - 8*
- MR MILES - 9 - M*
- MR A.P. WILSON - 10 - M*
- MR BELL - 11 - M*
- MR BLACKWELL - 12*
- MR MACCLABE - LOB - 13 - M*
- MR MASEFIELD - 14 - M*
- The Rt Hon Tom King, MP
- Secretary of State for Northern Ireland
- MR WOOD (L+B) - 15+16 - M*

Tom King
Douglas

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17 FEB 1989
CS07

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hcc



SECRETARY OF STATE
FOR
NORTHERN IRELAND

PS/SoFS (B&L)
PS/MoFS (B&L)
PS/PUS (B&L)
Mr Stephens
Mr Burns
Mr Thomas
Mr Miles
Mr A P Wilson
Mr Bell
Mr Blackwell
Mr Maccabe
Mr Masefield
Mr Wood (B&L)

NORTHERN IRELAND OFFICE

~~CONFIDENTIAL~~ WHITEHALL
LONDON SW1A 2AZ

*Mr Stephens
To see + PA.
C 16/2*

The Rt Hon Sir Geoffrey Howe QC MP
Secretary of State for
Foreign and Commonwealth Affairs
Downing Street
London
SW1A 2AI

*Mr Gilmore 13
-to see & file. Mr
Murphy wrote to SIL
about the counting of
time spent in custody abroad.
JAS
16/2*

February 1989

Dear Foreign Secretary

I am writing to inform you of my intention, subject to any views you or colleagues might have, to pass to you papers formally seeking the return of Gerard Thomas Hanratty from the Federal Republic of Germany. I understand that Patrick Mayhew strongly supports this approach, something to which I naturally attach weight.

You will be aware of much of the background to the case. Hanratty together with Terence McGeough was arrested on the West German border by a Customs official in August 1988. Both are being questioned by the German authorities about offences concerned with the illegal possession of firearms. In addition, McGeough may be charged with attempted murder.

The RUC have no grounds on which to seek extradition of McGeough (although the FBI may be interested in him). There is a strong case, however, for an extradition request for Hanratty. He absconded, while on bail, in 1984 after having been committed for trial in Belfast on charges including possession of firearms with intent to endanger life contrary to Article 17 of the Firearms (NI) Order 1981.

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It had been hoped that either the Germans or the Dutch or Belgians would be better placed than ourselves to press more serious charges, possibly in connection with the recent PIRA European mainland bombing campaign. It appears that this is not now the case because of lack of evidence. I do not question the German authorities' serious intention to prosecute Hanratty. I understand likely charges involve the illegal possession of firearms contrary to the Ordinary Weapons Law and the War Weapons Law. A charge under the War Weapons Law is considered to be more serious and if so charged, it is unlikely that Hanratty would be granted bail. The risk of bail will increase if charges can only be made under the Ordinary Weapons law. It is unlikely that the question of the German charges will be settled before Hanratty's custody is reviewed towards the end of February.

So as to ensure that Hanratty remains in custody beyond the custody review it would be necessary to have an extradition request with the German authorities before the review takes place - I understand that 20 February should be accepted as the deadline.

Any extradition request carries with it the risk of failure. The Ryan case demonstrated all too clearly the storm that can blow up around a failed request. It might be said that a failed application so soon after the Ryan case might provoke an even greater reaction since another friendly European state would be seen not to have supported HMG in our policies towards Northern Ireland. The Federal Republic is an unknown quantity in this area. This will be our first attempt to extradite a PIRA suspect from FRG and the attitude of the German Courts is not known.

An inevitably high profile extradition case together with any associated political asylum application will expose HMG's policies

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in Northern Ireland to public scrutiny. It is open to the defence to challenge any aspect of Northern Ireland life and in addition it is open to the Court to make any enquiries it thinks fit. It is possible that we would be challenged on areas such as the Criminal Evidence (Northern Ireland) Order 1988 and the derogation from the European Convention on Human Rights arising from the Brogan case. It would be surprising indeed if Hanratty did not raise the question of his likely treatment on his return to custody in Northern Ireland or raise the usual republican propaganda about the alleged general ill-treatment of the Catholic minority. Unfortunately the offence in question is not covered by the European Convention on the Suppression of Terrorism which excludes from the political offence exception the most serious crimes against the person or property.

Nevertheless, if we are to test the German Courts at any stage it is unlikely that there will be a much firmer case in Northern Ireland than that of Hanratty. The DPP(NI) has said that there would be "a reasonable prospect, amounting even to a probability of securing the conviction of Hanratty in Northern Ireland". Senior Crown Counsel goes further saying that "one would be amazed if Hanratty were not convicted". On the other hand the outcome of such hearings in foreign courts is always uncertain. But failure in a court is less damaging than political intervention as with the Ryan case in Belgium, but we assess that this is much less likely in the Federal Republic.

In addition, the damage which would be caused by our failure to submit a request might be considered to be as great if not greater than the risk of failure of an application. That Hanratty's co-accused were sentenced to 10 years imprisonment for the same offence is a matter of public record. We would open ourselves to some of the same criticisms (but for different reasons) which we have recently seen levelled at the Belgian Government.

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A final, but nonetheless significant point is that by not seeking the extradition of Hanratty from Germany we might well be shutting the door on the opportunity to extradite Hanratty's remaining co-accused Gary Stephen Adams who is currently in custody in the Republic of Ireland.

As you know we have been consulting closely with the Embassy in Bonn and the Ambassador has advised that, while recognising the risks of failure, they do not seem high and are unimportant in relation to the need to ensure that Hanratty does not escape due process.

There is a significant conjunction of events of which you and the Prime Minister should be aware. It is that the Prime Minister will be visiting the Federal Republic on 20 and 21 February for meetings with Chancellor Kohl just before Hanratty's custody is due for review, and it is likely to become known - at least to the authorities - that we have applied for his extradition. I recommend that the Prime Minister should mention the case to Chancellor Kohl and stress its importance to us. I shall arrange for appropriate briefing to be provided. It would be my hope that no public reference to the case would emerge during the summit.

In the light of all of the above, I believe most strongly that it is in the best interests both of justice and of HMG to seek the return of Hanratty to face trial in Northern Ireland.

The necessary papers are in the process of preparation. Copies will be submitted to the legal adviser in Bonn before 16 February for checking. I then propose to submit the formal request to you before 20 February in order that HM Ambassador might pass the papers to the Government of the Federal Republic of Germany in good time.

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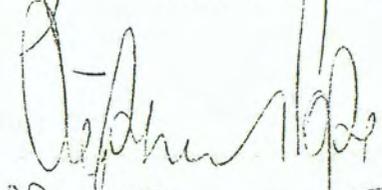
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It is normal practice not to confirm or deny the existence of an extradition request until it is a matter of public note in the other country concerned. Once this is the case, I intend simply to confirm if asked, that a request has been made. Colleagues may wish to do likewise.

As ever in extradition cases, speed is of the essence. I look forward to hearing from you as soon as possible, but in any event by Wednesday if we are to submit the papers in good time.

I am copying this letter to the Prime Minister, Patrick Mayhew, Douglas Hurd, George Younger and Sir Robin Butler.

Yours sincerely


TK
(Approved by the Secretary of State and signed in his absence)

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