

PB/84/12/2235/ES

PS/Secretary of State (L&B)  
- Mufax

cc: PS/Mr Scott (L&B) - M  
PS/PUS (L&B) - M  
1 PS/Mr Bloomfield ✓  
Mr Bourn  
Mr Brennan - M  
Mr Burns - M  
Mr Merifield  
Mr Gilliland  
Mr Coulson  
Mr Lyon - M  
Mr Gavin Hewitt  
Mr Wood - M  
Mr Hammond - M

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McGLINCHEY

The case will be heard on Monday 10 December. It is not in good shape. Earlier this week, the Lord Chief Justice at a preliminary hearing of the evidence with counsel from both sides, agreed to a defence application that part of it should be struck out. This is the evidence of "system" ie of similar characteristics in other incidents which suggest a common modus operandi on McGlinchey's part. After the defection of the independent witnesses at committal proceedings, this was the stronger part of the remaining evidence.

2. Consequently, the Law Officers Department think it quite likely that in court on Monday (before a different judge) the defence will make an application for "no bill" - which the judge might well direct. This is, I fear, the worst possible outcome, implying as it does that the court considers the prosecution unworthy of even being heard.

3. The Law Officers Department are considering what comment, if any, the Attorney General should make in that eventuality (in defence presumably of the decision to prosecute). It does not seem suitable for the NIO to make any comment whatever on the outcome.

4. We shall ensure that the RUC are ready with the warrant which they have received from the Garda. Its presentation will ensure that McGlinchey is taken back into custody, probably

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E.R.

to appear in the Magistrates Court on Tuesday. The case for his return to the Republic would then be adjourned to the High Court, which could possibly hear it before the Christmas recess.

5. The Law Officers Department are today holding a conference to ensure that the line to be followed by Crown Counsel in those proceedings is fully understood and agreed (against the possibility that the case may eventually go to the House of Lords).

*P W J Buxton*

P W J BUXTON

6 December 1984

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