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27 Sept. 1976

M. Burke

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London
J. Campbell

HQ
M. Burke

British Army misbehaviour

1. The Minister has received representations in the case of Majella O'Hare, who was shot dead on 14.8.1976 at Whitecross, Co. Armagh. It is understood that the RUC are investigating the shooting. This case should be raised with the British authorities with a view to establishing (i) whether the RUC inquiries have been completed and if so, what decision the DPP has taken on the RUC report and (ii) when is an inquest likely to be held. A copy of our file with background information will be forwarded to you in the bag.

2. Please refer to your 270 of 21.6.1976 regarding the case of Mrs. Susan Simpson and the misbehaviour of British soldiers at Eglis, Dungannon. As the British have promised to inform us of the outcome of their investigations into the above, this might be a suitable opportunity to raise these cases again.

3. In the case of Leo Norney (your 312 of 22.7.1976 refers) the inquest returned an open verdict and the coroner described Norney as an "innocent passerby who came to a terrible end". The question of whether compensation will be paid and the outcome of the DPP's investigation into allegations of falsification of evidence by members of the Black Watch Regiment should also be raised.

X

X

X

16 July 1976

J. McColgan

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London
Campbell

HQ
McColgan

1. The Secretary has instructed that we should raise with the British authorities the case of the delay in holding an inquest on Leo Norney shot dead by the British Army in Turf Lodge by a patrol of the Black Watch on 15th September, 1975. I am sending you in tonight's bag an extract from our file on the case which should contain all the information you will need.

2. The case should be raised with the British in the following terms:-

1. An inquest appears to be long overdue. What is the reason for the delay and when is one likely to be held?
2. Will compensation be paid to the family of Leo Norney?
3. Has the DPP prosecuted any of the soldiers of the Black Watch Regiment in connection with falsification of evidence? Were any of these soldiers involved in the Norney shooting incident?

3. In addition you should raise the question of compensation to the parents of Patrick McElhone, shot outside his parents house near Pomeroy, Co. Tyrone on 7th August 1974. As you will know from your own papers, McElhone's parents are extremely elderly and it is unacceptable that compensation has not been paid to them before this. The Minister has raised this particular case with

Done
16.7.76
[Signature]

Mr. Rees on more than one occasion and as it is now nearly two years since the incident you should express dissatisfaction in strongest possible terms to the British about the delay.

Mr. McColgan

I have taken a look at the Norney case in conjunction with that of Patrick McElhone. Both cases which involve the shooting of an unarmed civilian are basically similar but have been treated differently by the N.I. authorities.

In the case of McElhone a soldier was charged with his murder within weeks of the killing and the trial and inquest had all been held within 8 months. This was due to the clear-cut nature of the case and the fact that there was an independent eye-witness. Also the fact that a prosecution and trial took place enabled the Secretary of State to refer the case to the Court of Criminal Appeal and the House of Lords for further investigation of the issues involved.

None of these courses of action are now open in the Norney case as the DPP has decided after an interval of 11 months not to institute any proceedings against the soldiers involved. The DPP would have based his decision on an investigation by the RUC. There are now only three possible courses of action available to pursue the case further viz. a public inquiry, an inquest and a claim by relatives for compensation.

As the DPP has decided that there is insufficient evidence to warrant a prosecution against the soldiers and as there has been very little public agitation over the killing it is extremely unlikely that a public inquiry will be held. Gerry Fitt has criticised the delay in holding an inquest and was told last week that one is to be held shortly. Although an inquest has very limited powers it will be the first and probably only public opportunity to air some of the facts of this case. Much will depend on the attitude of the Coroner and the amount of evidence he asks the authorities to produce. No mention has been made in any of the newspaper reports of a claim having been lodged for compensation.

There are good grounds for us to express our concern to the British Embassy about this case

1. Leo Norney and the passengers of the taxi in which he was travelling were searched (without result) by an army

patrol minutes before he was shot dead.

2. He had a legitimate reason for travelling along the pathway where he was shot - it was about 200 yards from the house where his girl-friend lived.
3. The soldiers refused to allow anybody near the body which was then transferred to the Springfield Road Barracks for two hours before being brought to the Royal Victoria Hospital. When the body was handed over to relatives it was found to have badly bruised ^{and} or burnt hands and a black eye giving rise to allegations of an attempt to falsify the evidence.
4. A group of soldiers who were operating in the same area in which Norney was shot have been investigated in connection with falsifying evidence and a file has been sent to the DPP by the RUC with a view to prosecution (see cuttings from Observer on Norney file).
5. Norney had no terrorist convictions and no known association with the IRA.
6. The interesting wording of a sentence in the DPP's letter to Mrs. Norney: "Evidence available is insufficient to sustain criminal proceedings against any soldier in respect of the death of Mr. Norney." This implies that there is some evidence of misbehaviour on the part of the soldiers involved.

In the circumstances I think we would be justified in raising the following issues with the British Embassy:

1. An inquest appears to be long overdue. What is the reason for the delay and when is one likely to be held?
2. Will compensation be paid to the family of Leo Norney?
3. Has the DPP prosecuted any of the soldiers of the Black Watch Regiment in connection with falsification of evidence? Were any of these soldiers involved in the Norney shooting incident?

13.7.76