



An Chartlann Náisiúnta
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Mr. Hennessy (on return)
Assistant Secretary O hUiginn,

Tánaiste's meeting with Joe Hendron and relatives of
Patrick Kane, Michael Timmons and Sean Kelly

1. Tánaiste's office confirm that the meeting is scheduled for 3.30 p.m. tomorrow, 3 March at the Tánaiste's office in Leinster House.
2. Brendan Mulgrew of Hendron's office has informed me (and I have passed this on to the Tánaiste's office) that the delegation will comprise:
 - Joe Hendron
 - Brendan Mulgrew (Joe Hendron's constituency worker)
 - Bernard Kane (father of Patrick Kane)
 - Jim Kelly (father of Sean Kelly)
 - Lorna Timmons (wife of Michael Timmons)
3. According to Brendan Mulgrew, Joe Hendron intends to open on behalf of the three men. Each of the family members hopes to speak briefly on behalf of his or her relative. Bernard Kane has apparently assembled an information dossier (the bulk of which will probably already be familiar to us) and intends to present it to the Tánaiste. Their hope is that the Tánaiste will listen to their concerns.
4. I attach suggested speaking points for possible use by the Tánaiste, which follows the lines of his recent reply to a Dáil p.q. (also attached), and a background note for his information.



Declan Kelleher
2 March, 1993

Meeting with Joe Hendron and relatives of Patrick Kane.
Michael Timmons and Sean Kelly

Speaking points in answer to presentation
made by the visiting delegation

- I am aware of the background to the convictions of Patrick Kane, Michael Timmons and Sean Kelly and the widespread concerns about the safety of these convictions which have been voiced by Joe Hendron, the Committee on the Administration of Justice and Kevin McNamara among others. I am glad to meet you today to update myself on your own views and concerns and to receive any further information which you feel may be helpful in these cases;
- I indicated recently in the Dáil the Government's position and confirmed that the Government have had the three cases raised with the British Government through the framework of the Anglo-Irish Agreement;
- As you know, the Northern Secretary of State has indicated that he is now considering the cases and that he will then take the action he considers appropriate. The ball is therefore in his court for the present;
- For my part, as I have made clear to the British authorities, I would welcome a decision to refer these convictions back to the Court of Appeal and I hope that justice will be served in this difficult matter.
- I intend to keep the cases under continuing review.

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Case of Patrick Kane, Michael Timmons and Sean Kelly
Note for the information of the T  raiste

1. Kane, Timmons and Kelly were each sentenced to life imprisonment for murder, and to fixed terms of 15 and 10 years on grievous bodily harm and false imprisonment charges, arising from the murders of two British Army corporals (Derek Wood and Robert Howes) at the funeral of Kevin Brady, in Andersonstown in March 1988. In addition, adverse inferences were drawn by the judge from Kelly's failure to testify at his trial, in accordance with the Criminal Evidence Order 1988. Kane, Timmons and Kelly, have been the focus of wide ranging concern on the grounds that they were only peripherally involved in the events of that day. (The fatal shootings of the two soldiers took place in a side alley to which they were brought by taxi after they were removed from Casement Park. Neither Kane, nor Timmons nor Kelly were found to have been involved beyond Casement Park. Kelly and Kane deny being in the park at all). The three appealed against their convictions in February 1991. Their appeals were dismissed in July 1991. Kane then applied for leave to appeal to the House of Lords but this was refused. Kelly intends to take a case to Strasbourg.

2. A total of forty-one persons have been charged with a variety of offences arising out of the murders of Corporals Wood and Howes, of whom twenty-one have been convicted of various offences (five for murder). Twenty people have been cleared. The persons who actually shot and killed the two Corporals have never been caught.

3. Doubts about the trials have ranged over a number of fronts. A central area of doubt is the controversial application, in the trial of Kane, Timmons and Kelly in particular, of the doctrine of "common purpose" according to which a person can be found guilty of murder even

though his own actions did not cause death. Moreover, a persistent claim has been that those present were acting in self-defence against a perceived loyalist attack. (Kevin Brady's death arose from an attack by a Loyalist gunman a few days previously at the funeral of one of the three IRA members killed in Gibraltar. In one of the first trials several individuals involved in minor ways at an early stage in events were indeed acquitted because of the possibility that they believed they were acting in self-defence). Moreover, video evidence introduced by the Crown at the trials (shot from a helicopter hovering above Casement Park) and the interpretation by the judges of that evidence have proved controversial, as has the fact that certain witnesses from the media gave evidence anonymously. Concerns have also been raised about the use of confession evidence (particularly in the case of Patrick Kane, who is deaf and slow) and the uneven approach of different judges in the nine trials that have taken place to date. One example (which is in fact encouraging for the three families) is the acquittal in December 1992 of a further defendant charged with murder, Billy Silcock, by Lord Justice McDermott. In effect, the Judge found that, although Silcock admitted he kicked and punched one of the Corporals, he was not guilty of murder since he was "more curious than hostile", a fringe participant, carried away by general hysteria and was following the lead of others. (This is largely the position put forward by Patrick Kane).

4. Our perception that the cases of Kane, Timmons and Kelly merit particular attention is shared by the Committee on the Administration of Justice, who have prepared a detailed analysis of the cases. While the CAJ have voiced deep concerns at many aspects of all of the trials, they would like to see these three cases in particular referred back to the Court of Appeal by the Secretary of State. Under Section 14(1)(a) of the

Criminal Appeal (Northern Ireland) Act 1980 the Secretary of State may, "if he thinks fit", refer a case to the Court of Appeal.

Action by the Government

5. For our part, we have raised the cases through the framework of the Anglo-Irish Agreement and have been told by the British side that new evidence is not a necessary condition for referral back to the Court of Appeal. An official of the Department has been in regular contact with the parents of one of the three men (Patrick Kane) and has also met with the parents of Sean Kelly. Late last year we were told by the British side that the cases were under review within the Northern Ireland Office.

Recent developments

6. On 5 February, Kevin McNamara wrote to the Secretary of State and requested that the convictions of Kane, Timmons and Kelly in particular and the others who have been imprisoned should be referred back to the Court of Appeal. Cardinal Daly expressed concern about the convictions of Kane, Timmons and Kelly in a meeting he had with the U.S. State Department on 9 February. Joe Hendron asked in the House of Commons on 18 February that the cases of Kane, Timmons and Kelly "and other associated ones" be referred to the Court of Appeal. The Secretary of State has indicated publicly that he is considering all of these cases and will then take whatever action he considers appropriate. The Tánaiste answered a parliamentary question on the issue on 23 February (copy attached).

Anglo-Irish Division
2 March 1993

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