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TO: HQ

FROM: BELFAST

FOR: A/SEC O hUIGINN

FROM: JOINT SECRETARY

Paul Hill Appeal

1. As agreed, I spoke on Monday to Martin Williams about this hearing which begins today. The Secretary of State's Private Secretary, Jonathan Stephens, was also present and made some points.
2. I recalled that in 1989, after the release of the Guildford Four, we formally raised in the Secretariat the appeal which Hill lodged at that time against his conviction in Belfast in 1975 for the murder of Private Shaw. We had pointed to the connection between the two cases and in particular to the fact that the police evidence at the Belfast trial, on which Lord Justice Kelly had strongly relied, had been tainted by the eventual findings in the Guildford case. We had asked if it was the intention of the DPP to contest the appeal. In the last four years we had made a number of inquiries about the progress of the DPP's deliberations, whether he was investigating RUC conduct in the case, when the appeal would be heard and so on.
3. I said both the Taoiseach and Tanaiste had received representations and I had been asked to draw informal attention to some concerns on our side. Hill had already served sufficient time to ensure that he would not go back to prison. To many people, the DPP's decision to contest the appeal looked like a grudge match. It was known that elements in the British system had never accepted the final decisions in the Guildford or Birmingham cases, and indeed at the trial of Surrey policemen for perverting the course of justice in the Guildford case, the defence had suggested that the original convictions were justified. If the Northern Ireland Court of Appeal were to sustain Hill's conviction for the Shaw murder, it would cause a sensation here and in America and, as I put it, just in time for the Oscars. It could well appear that the Northern system was acting vindictively. In saying this, I wanted to make clear that we acknowledged the integrity of the present DPP and that we were obviously not in a position until the hearing to judge the basis on which he intended Crown Counsel to proceed.

4. I was told the appeal would be presided over by the Lord Chief Justice and could be expected to last about two weeks. Judgement was likely to be reserved and for some time. The British side said it would be better to have the matter heard openly. If the DPP had decided not to contest the appeal, that could have been very unsatisfactory for others, including the relatives of Private Shaw (he was an Englishman recently married at the time to a Belfast girl; the family have been making their feelings known and his widow issued an emotional statement against Hill yesterday). I acknowledged that this was a fair point. I hoped, however, for the sake of confidence in the administration of justice here, that the DPP would be seen to have good reasons for contesting the appeal in the overall circumstances of this case.
5. The British side made the further point that the Northern Ireland judges are very conscious of the damage which the Guildford and Birmingham cases have caused to the reputation of their English colleagues. The implication was that they are not going to sustain the conviction lightly. (We are aware here that the judges are very keen to maintain that their conduct in recent years in the Diplock Courts has been impeccable; one could argue with their decisions in some cases, such as the corporals' case, but generally we acknowledge that their reputation is improved).
6. The DPP's decision in this case, if it is on the basis that justice should be done openly, has some parallel with the decision of the present Secretary of State, as Attorney General, to override a decision in the Magistrate's Court in England not to prosecute three Surrey policemen involved in Guildford; they were tried on the Attorney's direction but acquitted. At the time, Mayhew was criticised for his action.
7. We will have to wait and see what the Crown produces in the case. I have heard that the Crown has a psychiatric report on Hill, not introduced at his trial, which has it that he told his counsellor that he did not feel too bad about the Guildford conviction because he had been involved in the Shaw murder. Rumours like this fly around in these cases and it may or may not be that such a report exists; even if it does it may not be possible to introduce it at this hearing. I mention it to show that the belief persists here that Hill was rightly convicted by the Belfast Courts.