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ON BEHALF OF	THAR CEANN
Department of the Taoiseach, Dublin 2. Tel. (01) 668 9333	Roinn an Taoisigh, Baile Átha Cliath 2. Tel. (01) 668 9333

Statement by the Taoiseach, Mr. John Bruton, T.D.

The Taoiseach, Mr. John Bruton, T.D., has expressed his sympathy for the family of Karen Reilly on this day when the agony of the loss of their daughter has been brought home to them once again. In the case of all prisoner releases, the sensitivities of victims should be borne in mind.

The Taoiseach has already made his position on the Private Lee Clegg case very clear. He told the British Prime Minister that all those convicted of serious offences should be treated equally before the law and by executive action.

The Taoiseach now expects the British authorities to apply the same approach to all other similar prisoner cases, both loyalist and republican.

3 July, 1995.

(27)

Mrs Breidge Gadd Chief Probation Officer

**PRESS RELEASE****STATEMENT FROM THE CHIEF PROBATION OFFICER**

Breidge Gadd, Chief Probation Officer for Northern Ireland tendered her resignation as a full member of the Life Sentence Review Board to Sir John Chilcot, Chairman of the LSRB following the meeting of that Board in June.

In a statement she said, "I have been a full member of the Board for the past ten years and during that time there were many times when I disagreed with Board recommendations.

"However the reviewing of a case at the June meeting was in my view a major deviation from principles of practice and procedure used previously by the Board. Because of this unprecedented situation I considered I had no option but to tender my resignation as a full member of the Life Sentence Review Board. Not to have done so would, in my view, have compromised our position with client groups, that serious adjudicated crime must be met with appropriate retribution.

"The Probation Board for Northern Ireland has been kept informed and in discussions with the Chairman of the Life Sentence Review Board I have indicated my willingness to adopt a similar role as professionals from other disciplines and act as an advisor to the Life Sentence Review Board when cases which have a direct involvement with PBNI are being considered."

Breidge Gadd

80-90 North Street, Belfast BT1 1LD
 Telephone No. (01232) 252400 Fax No. (01232) 252470
 The aim of the Board is to help prevent re-offending

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Teléfono } (01) 780822
Telefonos }

Telex 25300

Táirge }
Réferencia }



AN ROINN GNÓTHAÍ EACHTRACHA
Department of Foreign Affairs

BAILE ÁTHA CLIATH, 2.
Dublin 2.

TO Department of An Taoiseach
FOR Mr. P. Teehan

DATE 3-7-95 TOTAL NO. OF PAGES 3+1 (including this page)
FROM Mr. P. Hennessy

Anglo-Irish Division; Dept. of Foreign Affairs

Telephone No.: 4780822 (EXT _____) Fax No. 4754505

MESSAGE

①

Clegg's release - further comments by main political parties: 3/7/95'

- UDP:** While it welcomes Clegg's release, it felt his freedom had further fuelled the widespread discontent because of his preferential treatment.
- SDLP:**
(Joe Hendron) Called for the Government to free Loyalist and Republican prisoners.
- Sinn Fein:**
(Mitchel McLaughlin) The decision has serious implications for the peace process.
- Alliance:** John Alderdice told the SoS over the phone earlier this morning that he was unhappy about the contrast between the decision taken by the Government in Clegg's case and that in other controversial killings (a reference to the Kane/Timmons/Kelly case and the Latimer case).
- DUP:** Paisley says it is entirely wrong to equate the Clegg case with those of IRA terrorists. He hoped the Court of Appeal would soon have the opportunity to hear fresh evidence.
- Taoiseach:** He now expects the British authorities to apply the same approach to other similar pressure cases here.
- NIACRO:**
(Brian Gormley) The peace process must not be jeopardised by delay in considering the early release of other prisoners, now that Clegg has been freed. Brian Gormley says the release is obviously a political decision and, therefore, cannot be taken as an isolated case.
- PM's Offices:** Suggestions that the timing of Clegg's release was linked to the Conservative leadership campaign was utter and total rubbish. The PM was informed but not consulted. The release should not be a threat to the peace process as it was a quasi-judicial procedure which applied to all life sentence review prisoners.
- Malcolm Moss:** The decision should have no effect on the peace process and it wasn't political. It has little bearing on the process and should be viewed as a "one off" and judged on the merits of the individual case and not as any political decision. Discussions about prisoners on either side of

the divide should be part of the talks process.

M. Gorman: She expected it.

Joseph Peake: Bitter at how things have turned out.

Comments by John Alderdice

Interviewer: What points did you put to Sir Patrick when you spoke to him this morning?

John Alderdice: I discussed a number of disputed killings over the last year or two with Sir Patrick, in particular, cases like that of Patrick Kane and the others in Casement Park. Patrick Kane was a young man, a handicapped fellow, who was really convicted of guilt by association, simply because he was around at the time. The case of Neil Latimer, one of the UDR 4, is another one of the cases I have raised. And so, I think I am on fairly good ground in speaking to the SoS on this one, when I say that it does appear to those of us who look on in the situation, that a somewhat different attitude is being taken in respect of Lee Clegg, than in the case of disputed killings involving people in N.I. I'm not comparing Lee Clegg with terrorists. Its clearly quite different - a serving soldier making a split second decision and so on.

Interviewer: Did he take your point?

John Alderdice: Well, as you can imagine, he was fairly robust in his defence of the decisions he had taken. And, I wouldn't really have expected him to take a different reaction. But, I think that many people here feel that - and, I would emphasise this - this is not comparing terrorists with Lee Clegg - but comparing Lee Clegg's situation and the Government decision there with other disputed situations. And I said this to the SoS, you can't expect that this sort of decision is going to be very well received in the community.

Interviewer: Well, it hasn't been. And particularly not from what we've heard of whats being happening on the streets in the last few hours. I'm sure you mentioned that to the SoS. Was he aware of the delicate situation, shall we say, that might result because of allowing Lee Clegg out?

③

John Alderdice:

Well, I was speaking to him quite early this morning, before there were any reports of these kinds of things at all, and I was simply warning him on the basis of my feeling as to how the community would respond in general to this. And I think he can't have ended the telephone call without appreciating the level of my own concern. And I think he understands that I'm not somebody that's alarmist. I think he knows me well enough to know that I was genuinely raising concerns, at a time when the whole process has lost momentum and is in difficulties, not for any one reason, but because we've got uncertainty at the top of the Government, uncertainty indeed, in some of the political parties, lack of real talks about the situation and then a number of particular irritants of which the Lee Clegg one is just another. I think its a rather dangerous situation to be moving into the summertime with.



HOUSE OF COMMONS
LONDON SW1A 0AA

STATEMENT FROM SEAMUS MALLON MP NEWRY & ARMAGH 3rd July 1995

Newry & Armagh MP Seamus Mallon has warned that this morning's release of Private Lee Clegg could have serious implications both for the ongoing peace process and for the fundamental primacy of the rule of law.

Mr Mallon said, "This is a clear example of an executive decision being taken with complete disregard for judicial process, due process, or any other normal processes of the law. The Secretary of State has made a fundamental mistake by responding to a populist campaign by disregarding the demands of natural justice. The decision to release Private Clegg in circumstances where his conviction has been confirmed by every court in the land is not only a dreadful insult and slight to the family of his victim but it also undermines the integrity of the entire legal and judicial system.

The conduct of the Secretary of State over the last number of weeks adds up to little more than a cynical exploitation of the problems in Northern Ireland to try and resolve problems within the Tory Government.

In the process Sir Patrick Mayhew is merely laying in store greater difficulties for any future Secretary of State or Prime Minister to deal fairly even handedly and courageously with all of the demands of negotiating a peace in Ireland. There is no doubt that the position of all other prisoners must now be reviewed.

The Secretary of State has succeeded in making a laughing stock of a penal system already discredited by Birmingham and Guildford and other cases. He has brought the political process into total disrepute by cynicism of this magnitude, and he has seriously compromised the authority not only of the High Court and the Appeal Courts, but even the House of Lords. Today's decision will have eroded much of the confidence that the community had that this Government could manage to contribute to a successful peace process. That process can live without any more body blows like today's".

(22) (27)

cc PST
PSS, 1/2 Fulley
S/Sec Dilly
F Murray
P Teehan
S Doolan
J Dalton
Joubt Lee
And, Ldc
Ry Wto
Ellis A

27

Telefón } (01) 780822
Telephone }

Telex 25300

Tagairt }
Reference }



AN ROINN GNÓTHAÍ EACHTRACHA
Department of Foreign Affairs

BAILE ÁTHA CLIATH, 2.
Dublin 2.

TO DEPT OF AN TAOISECH

FOR SEAN DONLON.

DATE 3/7/95 TOTAL NO. OF PAGES 8 (including this page)

FROM PAT HENNESSY

Anglo-Irish Division; Dept. of Foreign Affairs

Telephone No.: 4780822 (EXT _____) Fax No. 4754505

MESSAGE

please cc.

P. TEAHAN

F. MURRAY

cc

PS7
 AS A Foley
 F. Murray
 P. Tedder
 S. Lala
 T. Dalton
 A. Lala
 A. W. Tom

Private Lee CleggBackground Note

1. The incident, in which two joyriders Karen Reilly and Martin Peake were killed, occurred on 30rd September 1990.
2. Private Clegg was convicted of Karen Reilly's murder in June 1993. He was acquitted of the attempted murder of Martin Peake. He was also cleared of obstructing the investigation and perverting the course of justice.
3. Private Clegg appealed his conviction in February-April 1994. The conviction was upheld.
4. Private Clegg appealed the case to the House of Lords. Judgement was returned on 19th January 1995 and the conviction was upheld.
5. The Northern Ireland Office issued a statement on 23 January outlining a number of options open in the case:
 - (i) The Secretary of State has the option to refer the case back to the Court of Appeal if he considers there to be new evidence.
 - (ii) Under the regime for prisoners serving life sentences the Secretary of State has the power to release Private Clegg on licence, taking into account the views of the trial judge, the Lord Chief Justice, the Life Sentence Review Board and all the circumstances of the case.
6. Private Clegg's sentence was reviewed by Northern Ireland Life Sentence Review Board on 6 June and their recommendation referred to the Secretary of State.
7. On 3 July it was announced that Private Clegg had that morning been released on licence from Wakefield Prison.

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It was noted that the Secretary of State had taken into account judicial comments in the case, including by Lord Chief Justice Hutton in the Court of Appeal to the effect that, unlike other prisoners found guilty of murder, Clegg when he went on patrol "had no intention of killing or wounding anyone". [Ironically, for a number of years the Irish Government have argued for the introduction of a manslaughter type offence to facilitate prosecutions in lethal force cases.]

8. It was also noted that the Secretary of State took into account the views of the Life Sentence Board, "whose members were not unanimous".

Clegg's Future

9. Following his release attention is likely to focus on whether, as in the case of Private Thain (see below), Clegg is readmitted to the Parachute Regiment. Such a step would undoubtedly reinforce the sense of grievance in the nationalist community at today's development.

Related Developments

10. There have been more than 350 fatal shootings in Northern Ireland by the security force since 1969. Some 32 prosecutions have been brought, 8 since 1993. Seven prosecutions have been brought against RUC officers, none of whom have been convicted. There have been eight convictions (one of which was quashed on appeal), four of which were for murder. Private Thain, who was convicted in 1984, was released after two and a half years, and readmitted to the Parachute Regiment. Private Wright and Figher were convicted of murder in February 1995 and are planning to appeal those convictions.
11. The British Home Secretary, Michael Howard, announced on 24 February that the law on murder is to be reviewed in light of the concerns expressed by the Law Lords in their judgement.

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Suggested Approach

12. Given that Clegg's release is now a fait accompli, it is suggested that Government reaction, having registered the concern to which the decision is likely to give rise, should focus on the need to ensure that all prisoner cases are dealt with on an even-handed and impartial basis. The object should be to ensure that the decision on Clegg is matched by a similar sensitivity in the case of all those serving prison sentences arising from the conflict.

Anglo-Irish Division

} July, 1995

A9782



**NORTHERN IRELAND
Information Service**

3 July 1995

NORTHERN IRELAND OFFICE STATEMENT: PRIVATE LEE WILLIAM CLEGG

The Secretary of State's decision

Private Lee Clegg has this morning been released from Wakefield Prison under a licence signed by the Secretary of State for Northern Ireland, Sir Patrick Mayhew.

The time spent in custody

Private Clegg was remanded into close military custody by order of the Court on 31 July 1991 until 24 June 1992, and was then confined to barracks until 4 June 1993, when he was sentenced to life imprisonment for the murder of Karen Reilly and has been in prison thereafter.

The power to licence

A statutory power permits the Secretary of State for Northern Ireland to release on licence any person sentenced to life imprisonment. In practice the Secretary of State requires to be satisfied that in all the circumstances of the case the prisoner has served a sufficient period in custody, including when on remand, to meet the needs of retribution and deterrence for the offence, and also to be satisfied that release would not constitute an unacceptable risk to the public. If a licensed person's subsequent behaviour presents a danger to the public the Secretary of State may recall him to prison to resume his sentence in custody.

Stormont Castle, Belfast BT4 3ST. Telephone (01232) 520700 Fax (01232) 528473/528478/528482
Old Admiralty Building, Whitehall, London SW1A 2AZ. Telephone 0171-210-6471/2/3. Fax 0171-210-6823/3785

The procedure followed

Before deciding to release Private Clegg on licence the Secretary of State duly considered these questions in the light of all the circumstances of his case, including the judicial comments contained in the judgments of the courts dealing with the case at every level. A passage from the judgment of the Court of Appeal is annexed.

The Secretary of State also duly took account of the confidential recommendation of the Life Sentence Review Board, whose members were not unanimous.

In addition he sought and considered, as by statute he was obliged to do, the confidential views of the Lord Chief Justice of Northern Ireland, and of the trial judge, on the question of release on licence.

Fax sent by :

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Extract from the judgment of the Court of Appeal delivered by the Lord Chief Justice, Sir Brian Hutton.

"Under the existing law, having found that Private Clegg fired that shot with intent to kill or cause grievous bodily harm, the trial judge was obliged to find Private Clegg guilty of the heinous crime of murder which carries a mandatory sentence of life imprisonment, and it was not open to the judge to find Private Clegg guilty of the lesser crime of manslaughter where the judge can sentence the accused to the period of imprisonment which he considers appropriate in all the circumstances of the crime.

"There is one obvious and striking difference between Private Clegg and other persons found guilty of murder. The great majority of persons found guilty of murder, whether they are terrorist or domestic murders, kill from an evil and wicked motive. But when Private Clegg set out on patrol on the night of 30 September 1990 he did so to assist in the maintenance of law and order and we have no doubt that as he commenced the patrol he had no intention of unlawfully killing or wounding anyone. However he was suddenly faced with a car driving through an Army checkpoint and, being armed with a high velocity rifle to enable him to combat the threat of terrorism, he decided to fire the fourth shot from his rifle in circumstances which cannot be justified and the firing of his fourth shot was found to be unlawful.

"It is right that Private Clegg should be convicted in respect of the unlawful killing of Karen Reilly and that he should receive a just punishment for committing that offence which ended a young life and caused great sorrow to her parents and relatives and friends.

"But this court considers, and we believe that many other fair-minded citizens would share this view, that the law would be much fairer if it had been open to the trial judge to have convicted Private Clegg of the lesser crime of manslaughter on the ground that he did not kill Karen Reilly from an evil motive but because, his duties as a soldier having placed him on the Glen Road armed with a high velocity rifle, he reacted wrongly to a situation which suddenly confronted him in the course of his duties. Whilst it is right that he should be convicted for the unlawful killing of Karen Reilly, we consider that a law which would permit a conviction for manslaughter would reflect more clearly the nature of the offence which he had committed."