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14 May 1999 **No of pages including this one:2**

Taoiseach

To: HQ alliC pls.cc GSI/ **From: Belfast**
For: Colm O Eloinn 14/5 Section **From: Joint Secretary**

17.5.99

Subj: Letter from Secretary of State to NI Law Society

1. We forwarded yesterday a copy of the letter sent by the Secretary of State to the NI Law Society in response to the latter's resolutions supporting calls for independent inquiries into the deaths of Pat Finucane and Rosemary Nelson.

2. We have expressed some concern here about the second part of the letter, in which the Secretary of State (a) effectively invites a public debate with the Law Society about these sensitive issues; (b) does so with a series of questions which cast doubt on the open-mindedness which is asserted in the first part. This is a most unhelpful development which will unnecessarily antagonise the families, the supporters of both campaigns and the wider nationalist community at a difficult time. The letter should have concluded after the third paragraph.

3. David Watkins, with whom we discussed the matter yesterday, takes our point fully. He has denied any responsibility for the drafting of the letter. We have since established that it was drafted by Tony Beeton of the NIO's international and human rights section in London. An organisational anomaly in the NIO is that responsibility for inquiries, whether actual (such as the Saville Inquiry) or potential, rests with this unit and not with the security side in Belfast.

4. Watkins maintains that either his people or the political side (Bill Jeffrey and co.) would be closer to the political sensitivities of these issues and would have drafted accordingly. Beeton's unit have dealings with lawyers on a regular basis (eg in relation to extradition matters) and this would explain the decision to invite the Law Society to respond to questions - an element of the letter which Watkins considers

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politically inept.

5. I have also discussed the matter with Peter Bell and we have been assured that our concerns will be brought to the Secretary of State's attention.

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SEEN BY TAOISEACH

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Anglo-Irish Secretariat
Belfast

14 MAY 1999
FRIDAY, 14 MAY 1999

Secure Fax: 2088 Copy

13 May 1999 **No of pages including this one: 3**

For: Colm O Floinn **From: Kieran Dowling**

Subj: Secretary of State's letter to the Law Society re Finucane and Nelson murders

Copy of the above letter (dated 12 May), as provided by the British side, is attached.

GI/Sector

Tá, cark
The secretariat are in full flow here!
14.5.99

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John Bailey Esq
Chief Executive
Law Society of Northern Ireland
90 Victoria Street
BELFAST
BT1 3GN

[12] May 1999

[Dear John,]

THE MURDERS OF PATRICK FINUCANE AND ROSEMARY NELSON

I have seen the terms of the resolutions passed by the Law Society supporting calls for independent inquiries into the murders of Patrick Finucane and Rosemary Nelson. I acknowledge the Society's views and those of other international legal bodies.

The Government unreservedly condemns the murders both of Mr Finucane and Mrs Nelson, and we are determined that all necessary steps should be taken to ensure that those responsible are brought to justice. There have also been certain allegations made against the security forces in relation to the murders; likewise, I am determined to ensure that all the allegations are fully and fairly investigated, and are seen to be so.

The fact that a police investigation is under way in relation to the murder of Mr Finucane and related issues does not mean that the Government has closed its mind on what, if any, additional action is necessary in relation to the case. All options remain open, including the option you have called for. I am determined to keep developments under review and will not hesitate to act if I conclude that the public interest and the interests of justice require me to act.

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As lawyers however you will appreciate that there would be many potential problems associated with the setting up a public Inquiry to investigate the murder whilst the police investigation is continuing. For example:

- How would you ensure that the inquiry did nothing which could impede the police investigation?

- How would you resolve the potential difficulties of compromising future prosecutions?

- Many of the matters that the inquiry would be asked to consider would be likely to relate to intelligence gathering and operational security force activity, which could not be brought into the public domain. How would a public inquiry resolve this difficulty?

- How would you define the remit of the inquiry, not least to ensure that the potentially considerable amount of public money involved could be properly controlled?

None of these questions is easily answered. I would however welcome the Law Society's views on them.

[Mo]

MARJORIE MOWLAM

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