

ASST SEC 441/2 - 1004

17/94 7

ASST SEC 530/2  
23 FEB 1994  
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23 FEB 1994  
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*Mrs W...*

17/94

FROM: PS/SECRETARY OF STATE (B)  
23 February 1994

- cc PS/Secretary of State (B&L) - B
- PS/Sir John Wheeler (B&L) - B
- PS/PUS (B&L) - B
- PS/Mr Fell - B
- Mr Legge - B
- Mr Lyon - B
- Mr McMeel - B
- Mr Caine - B
- Mr Brearley - B

1358/2  
24 FEB 1994  
SEC

*Mr W...*  
*for file*  
*Steve*

T A Lee - B  
Criminal Justice Policy Division

**ADJOURNMENT DEBATE: NEIL LATIMER: WEDNESDAY 23 FEBRUARY**

Thank you for your note of 22 February and for the draft speech for the Secretary of State to use in the Adjournment Debate this evening. This was discussed on VCR this morning with you and Mr McMeel and amendments made. A fresh draft of the speech is now attached.

2. You also agreed to follow up the question of whether we can obtain a copy of the medical notes referred to in the booklet 'Witness for the Prosecution' to verify both their authenticity and relevance. It was agreed that you might need to get a view from the DPPs office. I would be grateful for advice on this in due course.

Signed

W K LINDSAY  
Private Secretary

Miss M...  
441/2  
17/94 7

ASST  
SEC  
1994

DRAFT SPEECH FOR THE SECRETARY OF STATE  
ADJOURNMENT DEBATE ON 23 FEBRUARY 1994  
PROPOSER: MR KEN MAGINNIS MP  
SUBJECT: IMPRISONMENT OF NEIL LATIMER

The hon Member for Fermanagh/South Tyrone has campaigned assiduously on Mr Neil Latimer's behalf, and I welcome his success in securing this adjournment debate on this subject.

I will explain at the outset my powers to refer a case to the Court of Appeal. They are the same as those available to the Home Secretary. I must emphasise that the judgment about guilt or innocence in a criminal case is entirely a matter for the courts, and that Government Ministers cannot substitute their own assessments of the evidence in a case for that of the courts. However, I am always ready to consider representations about any alleged miscarriage of justice to see if there is a justification for using my power to refer a case to the Court of Appeal. The normal criterion I would expect to be fulfilled before I would use this power is that there is some new evidence, or other consideration of substance, which has not previously been, and could not have been brought before the court by the defendant, and which appears to cast doubt on the safety of the conviction.

May I remind the House that Mr Latimer's case has already been before the courts on three occasions. The first two were the trial of the four UDR soldiers and the appeal to which they had an automatic right. In 1991, after very careful considerations of representations made to him, and the production of new evidence, my predecessor referred the cases of the "UDR4" back to the Court of Appeal.

The new evidence that had been produced as a result of Electronic Document Analysis - or ESDA - carried out on the police interview notes relating to the four men. The tests showed that some of the

Miss Myr  
17/94 7

ASST  
SFC 441/2  
1994

police interview notes had been rewritten, and that those parts of the notes had not been made contemporaneously at the time of the interviews, as had been claimed at the trial. In a very fully argued written judgment, delivered on 29 July 1992, the Court of Appeal quashed the convictions of Winston Allen, Noel Bell and James Hegan on the grounds that they were unsafe and unsatisfactory. However the Court was satisfied on other grounds as to Neil Latimer's guilt, and that his convictions were safe and satisfactory.

The Court of Appeal drew attention to the fact that, in giving evidence at the trial, Mr Latimer accepted the accuracy and authenticity of his statements of admission. The Lord Chief Justice for Northern Ireland said this in the judgement:-

"We are satisfied that the ESDA findings in relation to the interview notes of Latimer do not create a doubt as to the correctness of his convictions, because on his own evidence at the trial as to what happened in the interviews and as to what he said in the interviews, it is clear that on the night of 2nd/3rd December 1983 he confessed to murdering Mr Carroll. We are further satisfied that those confessions were true and were the confessions of a guilty man and not of an innocent man who, by improper police conduct, was pressed into confessing to a murder which he had not committed.

["No one reading the full transcript of the evidence of Latimer at the trial, and reading that transcript in an impartial way and with common sense, can doubt that he was a guilty man who, from a very early stage in the interviews, realised that, by reason of the information which Witness "A" had given, the police had a case against him that he was involved in the murder of Carroll, and who in the second interview on the day of his arrest said that things looked bad for him, and in the third interview told the police that he had shot Carroll, but tried for a period through a number of interviews to protect the other soldiers involved with him. But eventually, after the police had taken a further statement from Witness "A" on 2nd December, in which she confirmed that

Mrs Myr  
17/94 7

ASST  
441/2  
-PC

she had seen the mock arrest of Latimer in Lonsdale Street and him getting into the landrover, and the police had told him of this statement from Witness "A", Latimer on 2nd December made a full and truthful confession of what had happened and of his part in it."]

The Court of Appeal was clearly satisfied that Mr Latimer's written statement made in December 1983 was true in describing his part in the murder plan and how he shot Mr Carroll and that it was admissible in evidence against him. That part of the statement which described the parts played by Messrs Allen, Bell and Hegan was not admissible in evidence against them, and as a matter of law the court was not entitled to have any regard to that statement in considering the Crown case against them. This was because none of them had been present when it was made.

The Court of Appeal drew a clear distinction between the weight of evidence against Mr Latimer on the one hand and Messrs Allen, Bell and Hegan on the other.

The involvement in this case of the woman known as Witness "A" has been closely scrutinised and indeed is the focus of the booklet "Witness for the Prosecution" prepared by the Honourable Gentleman and to which he has referred in his speech tonight. Whilst Witness "A" did not see the murder being carried out, the gunman was observed by another witness, Mrs Dunne, who gave the police a description of his appearance and clothing. Witness "A" told the police that shortly before the shooting she had seen a man, whom she knew to be Mr Latimer, dressed in clothing which resembled the description of that worn by the gunman.

It is true that the witness Mr Dunne, who saw the gunman also knew Mr Latimer and said he was not the gunman. It is very clear from the detailed written judgments of the court of trial and the Court of Appeal that the conflict between this woman's evidence and that of Witness "A" was considered most thoroughly by the courts. In this context the Lord Chief Justice said the following:-

Mrs Myr  
17/94 7

ASST  
SPC 441/2

"Witness "A"'s evidence, if it is true, establishes that a few minutes before the shooting of Mr Carroll, Latimer dressed in civilian clothes was behaving with members of a UDR patrol in a most unusual manner. Moreover, according to Witness "A"'s evidence, Latimer was wearing a tartan cap and gold-rimmed glasses and, according to Mrs Dunne's evidence, the gunman who shot Mr Carroll a few minutes after Witness "A" had seen Latimer in Lonsdale Street was wearing a check or tartan cap and gold-rimmed glasses. After his arrest Latimer, on the night of 2nd/3rd December made a full confession confirming Witness "A"'s account of what he had done in Lonsdale Street and going on to describe how, after he had got into the landrover in Lonsdale Street dressed in civilian clothes and wearing a cap and glasses, he had gone on to shoot Mr Carroll. However Mrs Dunne stated in her evidence that the gunman who shot Mr Carroll was definitely not Latimer and that the gunman was only 5 foot 1 inch or 5 foot 2 inches in height and was smaller than her, whereas it is the fact that Latimer is 5 feet 10 inches in height.

"Accordingly the position is that either Witness "A"'s evidence and Latimer's confession are incorrect or Mrs Dunne's evidence is incorrect. Therefore under section 2 of the Criminal Appeal (Northern Ireland) Act 1980 the crucial question for this court is the following one: is it safe and satisfactory to uphold the conviction of Latimer on the basis that Witness "A"'s evidence and Latimer's confession made on the night of 2nd/3rd December are correct and Mrs Dunne's evidence is incorrect? In the particular circumstances of this case the question can be restated in the following way: are we satisfied beyond a reasonable doubt that Mrs Dunne's evidence that the gunman was not Latimer is incorrect, bearing in mind all the other evidence, including the ESDA examination which the Crown accepted showed that the police lied about the writing and authentication of the interview notes.

"We are satisfied beyond a reasonable doubt that Mrs Dunne's evidence that the gunman was not Latimer, and that the gunman

was much smaller in height than Latimer, is incorrect and that, in truth, Latimer was the gunman. We are so satisfied because, for the reasons we have already stated at length, it is clear that Witness A's evidence of seeing Latimer dressed in civilian clothes getting into a landrover in Lonsdale Street was true. The arguments that her evidence as to what she saw in Lonsdale Street is true and is not a wicked concoction are, in our opinion, unanswerable. In addition, for the reasons we have stated, we are satisfied that Latimer's confession given verbally and in writing on the night of 2nd/3rd December 1983 was not an untrue confession made by a man pressed into making it by improper pressure from the police and by a desire on his part to get away from Castlereagh police office. It is clear that his confession was a truthful confession made by a man who realised the game was up."

I explained earlier the power available to me to refer a case to the Court of Appeal. I assure the House that I will carefully and fully examine any material which is made available to me to determine if it provides any grounds on which I can base a referral. I am sure the House would expect nothing less. I am sure that, in turn, the House would expect me to base a referral on matters of substance and not on pressure to make a referral.

I thought it right to set out certain passages in the judgement of the Court of Appeal so that it would be plain to the House the basis on which the Court of Appeal rejected the further appeal constituted by my predecessor's referral of the case. The Honourable Gentleman will know that I carefully considered representations made to me last year and about which I wrote to him on 11 January.

The purpose of The Honourable Gentleman's speech tonight, however, has been to assert that fresh material is now available which calls for a yet further reference to be made. That material comprises what are claimed in his booklet "Witness for the Prosecution" to be medical notes relating to Witness A in 1964 and 1965 and a

441/2  
17/94 7  
ASST  
SFC  
1004

professional opinion on their significance obtained from a  
psychotherapist.

I can assure The Honourable Gentleman that careful consideration is  
being given to the totality of that material, and to the points that  
he has made in his booklet, which have been supplemented in his  
speech tonight. He will understand that it has to be examined in  
the context of the constraints attaching to my power to refer a case  
to the Court of Appeal which I have already described this evening.  
He will know that I am not yet able to express a concluded view, but  
he has my assurance that the matter is being carefully considered,  
as will the points he has made tonight.