

FROM:

PRIVATE AND PERSONAL

B

THE RT. HON. LORD HAILSHAM OF ST. MARYLEBONE, C.H., F.R.S., D.C.L.



HOUSE OF LORDS,
LONDON SW1A 0PW

29 October 1986

The Right Honourable The Prime Minister
10 Downing Street
LONDON
SW1

My dear Margaret:

Security

I attach 4 cuttings from today's heavy newspapers about our collective decision on 3 judge courts.

At first I was disposed to think that this must have come from a lobby briefing, but my office are disposed to think that the most likely source is someone in the Northern Ireland Office. I make no judgment on this except to say that the lobby can hardly be the primary source since the Independent carries somewhat similar material. I hope you realise that I am not unduly concerned about my personal safety. But I have been for years what is called, I believe, a Prime Target, especially since I accepted responsibility for the Northern Irish Courts. I have never asked for personal protection and do not want it now, except, when I visit the Province, when I always get it. My family connection with Ulster is well known across the water.

But I would like you to find out, if you can, who was guilty of this indiscretion, and if you do find out I ask for no redress except that the offender whoever he may be (and I do not ask to know) should be told from me that by his indiscretion or disloyalty, or both, he has placed the life of the Lord Chancellor directly in jeopardy.

Yrs.

PERSONAL

PP's



Ref. A086/3085

MR WICKS

Thank you for your minute of 29 ^{ATTACHED} October about the stories about the Lord Chancellor's alleged opposition to three-man courts in Northern Ireland.

2. These articles must be based on information from some one who has been reasonably close to the recent Ministerial discussions of this matter. They have taken curiously long to surface, since the Ministerial discussion to which they relate took place nearly four weeks ago. It is not clear that the stories are based on a sight of documents: they read more like an oral briefing.

3. I take a serious view of this leak, and I have no doubt that it should be investigated. I am setting up an interdepartmental leak investigation, since the information could have come from any of several Departments. I should be grateful for the Prime Minister's authority to include Ministers in the investigation.

RIA

ROBERT ARMSTRONG

30 October 1986

PERSONAL



65171
1943
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Thank you for your check of 10 dollars which the
Ladies' Committee has placed in the hands of the
Committee in Boston, Mass.

These ladies must be found in the streets from
the fact that they are in the streets. They have
been in the streets since the day they were
born. They have been in the streets since the
day they were born. They have been in the streets
since the day they were born. They have been in
the streets since the day they were born.

I am sure that you will find the ladies in
the streets. I am sure that you will find the
ladies in the streets. I am sure that you will
find the ladies in the streets. I am sure that
you will find the ladies in the streets. I am
sure that you will find the ladies in the streets.

R/R

Very truly
yours

27 October 1943

PERSONAL



10 DOWNING STREET

From the Principal Private Secretary

SIR ROBERT ARMSTRONG

I attach a copy of a letter which the Prime Minister received today from the Lord Chancellor in which he in effect asks for an investigation to be made of the source of the story in today's newspapers about his alleged opposition to reform of certain aspects of the Court system in Northern Ireland. The offending newspaper articles are attached to the Lord Chancellor's letter. I shall be showing the letter to the Prime Minister overnight, but I should be grateful if you could meanwhile be giving some consideration to the action which the Lord Chancellor seeks.

I have already spoken to Stephen Boys Smith, to whom I am sending a copy of this minute, about the Lord Chancellor's security. I have asked that he should carry out a very urgent check to see whether the articles put the Lord Chancellor's safety in jeopardy and if so to take appropriate action. I should be glad if he could let me know the results.

N L WICKS

29 October 1986

PERSONAL

From: THE PRIVATE SECRETARY



HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

C.F.

*Please note this
+ file this
letter*

NW 30 October

Dear Nigel,

I attach the papers
on the Lord Chancellor's
refuge. No copies have been
taken here.

I will report further
when I hear of the considered
views of the Met Police

about the effect of these
articles.

Yours,

Stephen B. S.

Hailsham opposition to Diplock trial reform

By Colin Brown
Political Correspondent

REFORM of the controversial Diplock Courts in Northern Ireland has been blocked by Lord Hailsham, the Lord Chancellor, causing more political problems for Garret FitzGerald, the Irish Prime Minister.

Northern Ireland ministers had supported the proposal to replace the Diplock court system, where a judge sits without a jury, with a bench of three judges to hear each case.

But Lord Hailsham, who earlier blocked more radical reforms, has again rejected the idea as an unacceptable precedent for the British legal system.

The Prime Minister has given her support for his advice and the proposal is now regarded as off the agenda until after the general election.

Ministers from the Republic will be disappointed at the rejection of the idea which they hoped would help them to secure support in the Dail, the Irish parliament, to approve an EEC treaty simplifying the extradition of alleged terrorists, including members of the IRA.

The Irish government had originally insisted that there was a link between the ratification of the treaty, due shortly, and the reform of the courts in Northern Ireland. But Irish ministers were persuaded to drop that link in the talks under the Anglo-Irish agreement.

The failure of the Thatcher Government to deliver any fundamental reforms on the Diplock courts will create further difficulties for the Taoiseach, whose government narrowly survived a censure motion in the Dail last week over the Anglo-Irish Agreement.

Dr FitzGerald's ministers were hoping that the reform of the Diplock Courts could be used as hard evidence that the Anglo-Irish Agreement was producing concrete improvements for the

advantages for the South.

Some Northern Ireland ministers also saw a propaganda advantage in reforming the courts.

Despite advances in the extradition of suspected terrorists by courts in the United States, the Diplock system is still seen as unjust by many Americans.

Lord Hailsham with support from some senior figures in the Northern Ireland judiciary, has strongly argued that three judges already hear cases on appeal from the Diplock system, but to extend the three-judge principle to the lower courts would be against all precedent.

One disadvantage with the proposal was that it might allow a judge to enter a minority verdict opposing his two colleagues, this would be used for propaganda purposes in Ulster. It would also require the creation of new judges and many barristers might be reluctant to serve.

The Lord Chancellor's opposition within the Cabinet persuaded ministers to drop the idea. This is the second time he has blocked reform. Earlier, he opposed a more radical proposal for judges from the South to sit in on cases in the North.

The next Anglo-Irish meeting of ministers will concentrate on improving cross-border security by improving collaboration between the Garda and the Irish police. This could involve training some Irish police in Garda police methods, in this country unless this proves too sensitive.

The Northern Ireland Office is preparing an order for the next session of Parliament to carry out three reforms on public order — a change to the Flags and Emblems Act to bring the Tricolour on to the same legal footing as the Union Jack; and the introduction of a new offence for action likely to create religious hatred and a requirement for organisers to notify the police in advance of all marches, including for the first time, the traditional Orange marches.

THE INDEPENDENT

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Time for new court system in Ulster

LORD HAILSHAM, the Lord Chancellor, is, we report elsewhere, as determined as ever to cling to the system of Diplock courts in Northern Ireland. Wrongly so. These special courts were introduced 12 years ago to deal with the genuine and substantial problem of intimidation of jurors in terrorist cases.

Lord Diplock resolved the problem with an elegant simplicity. He replaced 12 good men and true by one, judge.

Today, however, the Diplock courts have, themselves, become a symbol of all that is perceived to be wrong with the administration of justice in the Province.

Why, Republicans ask, should the six counties be offered a system of justice no Englishman would tolerate?

However unfairly, that query carries more clout in Europe, in the United States and in the Irish Republic than does the equally automatic reply — that few jurors will convict if the price is the possibility of a bullet in the back while out doing the weekend shopping. Yet, as the judicial system has become steadily less biased in

favour of the "Loyalists", so the courts have attracted less, knee-jerk support from the majority community. Meanwhile, in the Irish Republic, the existence of single-judge courts has made it more difficult for the Government to sell the Anglo-Irish Agreement to its own, restive, electorate. Unless the courts are modified, the Irish Government has warned Mrs Thatcher it will be impossible to force an extradition Bill through the Dail.

But, however reluctantly, few — not Dublin, not the democratic Nationalists, nor yet the constitutional Loyalists — seek a return to jury trials as yet. They dare not. The fear of renewed intimidation is too strong. The demands are for three judges to replace the present one, that new judicial appointments be used to replace the overwhelming domination of Protestant judges and that non-terrorist cases, now embraced by Diplock, be taken back into normal jurisdiction. They are reasonable, interim reforms which should be embraced against the day when jury trials can be resumed.

The Times 29th Oct.

Hailsham blocks Irish move

By Nicholas Wood
Political Reporter

Lord Hailsham of St Marylebone, the Lord Chancellor, is blocking a move by Dublin to replace the one-judge Diplock courts with three-man tribunals, it was disclosed yesterday.

The proposal, to be tabled at the meeting of the Anglo-Irish conference next month, is regarded favourably by the Northern Ireland ministers, Mr Tom King, Secretary of State and Mr Nicholas Scott, his deputy.

They see merit in the Irish case that broadening the composition of the courts, which hear terrorist trials in Ulster without a jury, would strengthen their reputation abroad and defuse the charge that they are unfair and discriminate against the Roman Catholic minority.

Dr Garret FitzGerald, the Irish prime minister, who gained the right to make representations to London about the administration of the province under the Anglo-Irish agreement signed last year, is pressing for re-constituting the courts.

But Lord Hailsham believes the proposal amounts to interference in British sovereignty and is resisting it strongly. The Prime Minister is said to be in no mood to overrule him.

Under Diplock, judges have to publish the reasoning behind their verdicts and the Irish move would extend this arrangement to the three-man courts.

The Lord Chancellor is worried about what would happen in the event of a split decision. Diplock courts were set up in 1973 by Parliament to hear terrorist cases on the recommendation of a commission chaired by Lord Diplock. Juries were abolished for fear of intimidation.

The Guardian 29th Oct.

Thatcher refuses support for ministers and Dublin

Hailsham blocks reform plan for Diplock courts

By James Naughtie,
Chief Political Correspondent

Changes in the Diplock court system of one judge and no jury in Northern Ireland are being blocked by Lord Hailsham, the Lord Chancellor, against the wishes of senior Cabinet colleagues.

Mr Tom King, the Northern Ireland Secretary, Sir Geoffrey Howe, Foreign Secretary, and Sir Michael Havers, Attorney-General, support reform as part of Britain's effort to improve the administration of justice under the Anglo-Irish agreement.

Lord Hailsham's refusal to contemplate change means that the Prime Minister has decided for the moment to resist requests from Dublin and from her own Northern Ireland ministers.

The Irish Government will go ahead, probably next week, with its legislation to ratify its accession to the European convention on terrorism but Dr Garret FitzGerald, the Taoiseach, has told Mrs Thatcher that the passage of legislation through the Dail will be made much more difficult by Britain's refusal to deal with the problem of the Diplock courts.

Dublin favours a three-judge bench for cases now dealt with by a single judge, sitting without a jury.

Britain's practical arguments against a change have rested on the difficulty of recruiting enough judges — given the tense security background — and the difficulties posed by the possibility of split verdicts from a three-judge bench. However, it is clear from ministers involved that there is now a consensus for change which is being blocked by Lord Hailsham.

The Lord Chancellor's objections appear to be regarded by Mr Thatcher as an insuperable obstacle. It is likely that she will oppose reform as long as he sits on the Woolsack.

Dr FitzGerald, who faces a difficult situation in the Dail and a daunting election within four months or so, is making it clear that some movement on the British Government's part would be immensely helpful. For the moment, however, he is likely to be disappointed.

Those who favour reform of Diplock are now reconciled to trying to produce other changes in the administration of justice to assist the progress of the Anglo-Irish agreement one year old on November 15 while Lord Hailsham remains in office.

Daily Telegraph 29th Oct.
... able time ..

Hailsham bars calls to end Diplock trials

By Our Political
Correspondent

LORD HAILSHAM, the Lord Chancellor, is blocking demands by the Irish Government for the ending of the Diplock courts, where a judge sitting alone without a jury tries terrorist cases, in Northern Ireland.

The administration of justice in Ulster will head the agenda at the next full meeting of the Anglo-Irish Conference next month.

Dublin is expected to step up its demands for terrorist cases in the North to be tried by a panel of three judges.

Irish ministers argue that this would increase the confidence of the minority Roman Catholic community in the courts, and make terrorist trials more acceptable to international opinion.

Strong line

However, Lord Hailsham is understood to be taking a strong line against what he regards as the Republic's interference in the judicial processes in the North.

He is also worried about finding sufficient judges for such courts in the North, and by the prospect of split judgments in terrorist trials.

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