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From: THE PRIVATE SECRETARY

cc: EO
JH.



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Private Secretary to the
Prime Minister
10 Downing Street
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Already seen by fax

6.4

ph

30

July 1996

31/7.

Dear John,

US EXTRADITION: JAMES JOSEPH SMYTH

I attach a speaking note for use in conversation with Tony Lake on the current extradition case before the US Secretary of State.

There is reason to think that a final decision should be taken in the next few weeks, and we should not miss an opportunity to press for the case to be resolved.

A copy of this letter goes also to William Ehrman for use during a Foreign Secretary telephone conversation with Warren Christopher. The Home Secretary is being similarly briefed for his meeting with the Americans and others in Paris.

Yours sincerely,

Robert Crawford

ROBERT CRAWFORD

BB/SOFS/28542

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EXTRADITION : JAMES JOSEPH SMYTH

Background

James Smyth escaped from the Maze in 1983 and was rearrested in California in 1992. He still has five years to serve, having been sentenced originally to twenty years imprisonment for the attempted murder of an off-duty prison officer. The Smyth case is the first test of the amended extradition legislation between the UK and the US. Sinn Fein supporters have been campaigning for his extradition to be deferred or blocked but they have not argued that a decision has any significance for the prospects for political talks. Proceedings against three other convicted terrorist Maze escapers are due to be heard in San Francisco in the Autumn.

2. The District Court ruled in September 1994 that Smyth should not be extradited since he would, if returned, be 'punished, detained or restricted in his personal liberty by reason of his race, religion, nationality or political opinions' (as provided for in Article 3a of the 1986 Treaty). Smyth himself has never contested the validity of his conviction.

3. HMG appealed against that decision, and the Court of Appeals ruled in July 1995 that Smyth should be extradited. This Court held that "the record does not establish ... (that) extradition will lead to detention and punishment on account of (Smyth's) race, religion, nationality, or political opinions rather than on account of his convictions for attempted murder." His request to appeal to the Supreme Court was denied on 2 July.

4. It is now for the US Secretary of State (within a 2 month period) to decide whether to sign the extradition warrant. A decision not to sign would be most unlikely, but the US Administration's receptivity to representations being made on behalf of Smyth must be giving comfort to his supporters.

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EXTRADITION : JAMES JOSEPH SMYTH

Points to make:

- I understand that all the legal processes involved in Smyth's extradition have been completed. The US Courts have concluded that imprisonment for a terrorist attempted murder is a proper basis for extradition. The final decision now rests with the Administration (Warren Christopher);
- In the present circumstances it is important for us to be seen to be working together to uphold the rule of law : we must show confidence in our systems of justice;
- Grateful for confirmation that we can look forward to Smyth's extradition without further delay;
- Grateful to have advance warning of the decision so that the necessary travel and custodial formalities can be completed;
- Aware of domestic political pressure, but hesitation over the extradition would expose the US Government to criticism for being inconsistent on terrorism.
- [If raised : Time in custody in the United States does not count towards a sentence of imprisonment in the UK. In Smyth's interests to return to prison in Northern Ireland.]

Ken Lindsay, Esq.,
Northern Ireland Office.

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