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NO HAVEN FOR TERRORISTS

The Taoiseach, Mr. J. Lynch, T.D., speaking at a meeting of the Fianna Fáil Party Committee on Northern Ireland in Leinster House on Thursday, 27th April, 1978, said: -

The question of persons who commit offences in one jurisdiction and flee to another is a subject on which there is misunderstanding. This is reasonable given the technical nature of the subject. What is not so reasonable is that some persons should apparently try to foster this misunderstanding and misrepresent our position.

It is important to remember that many States guard the right to decide whether or not they will extradite their own nationals, irrespective of the offence of which they are accused. Thus, for example, Belgium, Denmark, France, Germany and the Netherlands all prohibit the extradition of their own nationals to a foreign country. In this respect, our extradition laws are more liberal than those of many European countries.

Political offences or offences connected with a political offence are in a category of their own. For a long time special reservations have applied in national and international laws to persons claiming political motivation for their acts. These reservations were well described by the British Solicitor-General, Sir Dingle Foot, in the House of Commons, during the debate on the British Extradition Act, 1965, when he said: -

"The exception relating to offences of a political character is thoroughly familiar and has been included in our extradition legislation ever since 1870. Indeed, the tradition that we do not return to the country of origin persons who are accused of political offences goes back to the Napoleonic Wars."

In 1965, an attempt was made in the European Convention on Extradition to try to regularise the law. This Convention provides specifically that extradition shall not be granted "for a political offence or an offence connected with a political offence". Ireland, together with many European countries, is a signatory of that Convention.

The spread of terrorist crime has resulted in many other international Conventions. The "Hi-jacking" Convention, which appears in our legislation as the Air Navigation and Transport Act, 1973, and the Montreal Convention on the same subject, of 1971, rejected the claim that extradition was an appropriate remedy, in spite of strong pressure by the Soviet Union and the United States. Foremost among those opposing the claim were the United Kingdom and many western European States. The Convention followed the long established principle of international law of aut dedere aut judicare on which our approach is based. This means that if a State does not extradite, they will try the person themselves. That is the basis of the Criminal Law Jurisdiction Act, 1976, which is matched by similar British Legislation passed in 1975.

Similarly, when the taking of hostages was discussed at the European Council of July, 1976, the Heads of State or of Government of Belgium, Denmark, France, Germany, Luxembourg, Netherlands, Ireland, Italy and the United Kingdom, accepted this same principle of try or extradite. The principle is, therefore, not in any way new or strange in national or international law.

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However, it is ignored in the European Convention on the Suppression of Terrorism which was opened for signature on 17th January, 1977. This country has declined to sign that Convention, not because of any lack of determination to operate, to the full, the law against those who use violence for political ends, but quite simply because the Convention is against the spirit of our Constitution and of previous international Conventions.

Our adherence to the principles of international law is so firm that it is enshrined in Article 29 of our Constitution which states that Ireland accepts the generally recognised principles of international law as its rule of conduct in its relations with other States. The Convention on Terrorism does not lay down a generally recognised principle of international law: and, its signature by a limited number of States in this part of the world, some of whom are also signatories of the Extradition Convention, does not change that position.

In fact, some of the States which have signed or ratified have done so with important reservations. Sweden, Italy, Norway and Portugal, for example, entered reservations as to their right not to extradite in respect of political offences or offences connected with political offences. France said that in signing it did so in the belief that it must be "reconciled with respect for the fundamental principle of the criminal law and of the Constitution which states in its preamble that 'anyone persecuted on account of his action for the cause of liberty, has the right of asylum on the territory of the Republic'". The effect of these reservations is to wipe out for practical purposes much of the alleged effect of the Convention. Yet none of these countries has been subjected to the barrage of envenomed criticism which we have had to suffer.

Contrary to the allegations that are so freely made, I want to refute totally the idea that our partners in the European Communities have felt the need to bring pressure to bear on us. They all recognise from our conduct of affairs our determination to eradicate terrorism.

What is our position? I doubt if any country in Europe has taken as strong a stand against those who would use terror for political ends. The vast majority of the Irish people, North and South, totally repudiate the campaign of violence being waged by a small minority; and the judicial and security institutions of the State fully reflect these feelings.

At the recent meeting in Copenhagen of the European Council I, with the Minister for Foreign Affairs, joined with other Heads of State or of Government of the European Community in asking the appropriate Ministers to increase their co-operation in a Community framework and submit their conclusions, as soon as possible, on the proposals before them for the creation of a European Judicial Area. The intention is to get over the legal and practical difficulties posed by national boundaries, in the fight against terrorism. In this work the principle of try or extradite is fully acknowledged and recognised, and we are co-operating whole heartedly on this basis.

In this island, we believe that a single court system to try offences, irrespective of the part of the island in which they are committed would be by far the most effective way of dealing with terrorism. It would get over many of the practical difficulties of the present system. But so long as the present

system, which provides in both Irish and British legislation for the principle of "try or extradite", is there we will apply it. The point is that we have not been given the opportunity. Let me point to the facts.

Section 9 of On 20th December, 1973, the Offences Against the Person Act, 1861, was activated. This provides for trial for murder or manslaughter in the country where the person is apprehended, in the same manner as if the offence had been committed in that country. Despite the existence of this provision on the statute book for over four years now, there has been only one case where it might definitely have been used; and in that case, the person concerned returned to Northern Ireland while on bail here, was arrested and sentenced to life imprisonment.

In 1976, the Criminal Law (Jurisdiction) Act came into force. This provides for trial in the country where a person is apprehended, for a wider variety of offences involving violence than the 1861 Act. Again, notwithstanding the range of offences to which the Act applies, not a single application for its use has been made to the authorities here.

I think it is desirable that these facts be widely understood. This country is no haven for terrorists. While there can be little doubt that the border is a factor in the violence in Northern Ireland - many would argue that it is its root cause - the extent of its role can be greatly exaggerated and myths can be promulgated for purposes which have nothing to do with security. While there may be doubt as to the precise reasons for these myths, there can be no doubt as to the Irish Government's determination to use and to continue to use to the full the forces of the law against those committing crimes of violence for political ends.

At the same time, we must continue to point to our conclusion that the solution to this problem lies not in the security area - but in political initiatives which take into account the aspiration of the vast majority of the people of this island to unity, through reconciliation and by peaceful means. There is little point in attacking the symptom while ignoring the causes.