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Supergrasses

1. Up to March 1984, a total of 477 people had been charged with serious offences on the evidence of 26 police informers. Not all of the evidence was uncorroborated. The evidence of the supergrasses has had an effect on the Provisional IRA, the INLA and the UVF, notably in parts of Belfast and in Derry though it is probably true that new recruits have by now taken the place of those held on supergrass evidence.

2. Public comments by Northern Ireland politicians of whatever political hue were originally muted. This changed however as the number of convictions increased. At their Annual Conference in Belfast in January 1984 the SDLP passed a motion condemning the use of supergrasses. The DUP has also been firmly opposed to supergrass trials. The OUP, on the other hand, though they now have doubts were originally in favour of using informer evidence as a means of defeating terrorism. Various other groups have, however, expressed concern including the British Liberal Party which expressed the fear that innocent people may have been convicted and the British Labour Party. The Church of Ireland and Catholic Bishops of Derry in a joint statement expressed concern about the effect of the supergrass phenomenon on respect for the legal system. The Association for Legal Justice (prominent in the campaign to have plastic bullets banned) stated that the Secretary of State was "presiding over the destruction of legal justice in the North of Ireland". Father Denis Faul is known to be very much opposed to the supergrass phenomenon. In August, 1984, the Belfast Solicitor and SDLP Legal Affairs spokesman, Mr. Paschal O Hare withdrew from the Diplock courts in protest against the supergrass system.

3. While the supergrass phenomenon is disliked by those professing a concern for the legal system and for civil liberties in Northern Ireland, the British point out that it has led to the successful conviction of known subversives. The British Attorney-General, in answer to a written parliamentary question, defended the use of informer evidence and emphasised that any immunity offered to prosecution witnesses was disclosed to the defence. The Attorney-General also claimed that any information about payments made to a witness and his family was given to the DPP.

4. The publication in February, 1984 of a report compiled by a prominent British Labour barrister, Lord Gifford, and a number of other barristers on the use of accomplice evidence in Northern Ireland discredited the supergrass trials even further. The report condemns the use of such evidence which has, it claims, led to the conviction of innocent people and caused "a dangerous anger and alienation" among many Catholics and Protestants. Lord Gifford also criticised the Northern Ireland judiciary for their part in the manipulation of so-called supergrass evidence to secure convictions. While he did not believe that they had entered into any conspiracy, he said they were under "enormous pressure to find ways of convicting people". The judiciary did however on occasions implicitly endorse the use of informer evidence. One such example is Lord Lowry who sentenced seven IRA men to lengthy prison sentences on the evidence of Kevin McGrady, an informer whose general credibility he strongly attacked.

There has been evidence of some distaste for supergrasses on the part of members of the judiciary in Northern Ireland. On 23 November 1983, Lord Justice Gibson presiding at Belfast Crown Court acquitted seven of the 18 people who had been charged with a series of offences from attempted murder to INLA membership. He described Grimley, on whose evidence all 18 had been arrested, as a liar motivated for his own means. Two days later he sentenced eight of the remaining eleven accused to a total of 51 years in prison, while the three others were

given suspended sentences. The judge considered that there was additional evidence, besides that offered by Grimley, which warranted their conviction. On 19 December 1983, Mr. Justice Murray acquitted all four accused of all charges when he threw out the evidence of John Morgan, a former IRA and INLA member, whom he described as a dishonest and most unreliable witness. One of the four was however re-arrested on the evidence of another informer, Henry Kirkpatrick, immediately after his acquittal.

5. The practice of holding persons on remand for long periods of up to three years gives substance to the charge from nationalists that supergrasses provide internment under another guise. The fact that 10 Derry men were given heavy sentences in May 1984 on the evidence of the informer Quigley and that the trial of 37 people accused on the evidence of Derry informer, Raymond Gilmore, reopened as recently as this month make clear that the Northern Ireland authorities intend to continue with the practice of using informer evidence.

6. On 26 October, 1983, the Minister for Defence, Mr. Cooney, replied on behalf of the Minister for Foreign Affairs to a question tabled by Deputy Gerry Collins on the use of informers. A copy of the Minister's reply is attached beneath. More recently, on 14 September, 1984 the Department on the instructions of the Minister raised the general question of supergrasses with the British Embassy and in particular the case of Thomas Power, who has been held on remand for two and half years on the word of five successive supergrasses, three of whom had retracted their evidence. The points made to the Embassy were as follows:-

- 1 We accept that the uncorroborated evidence of an accomplice is admissible and we are aware of the difficulties of obtaining convictions for terrorist

offences in Northern Ireland in present circumstances. We are however concerned that it now appears that such evidence is being used in a systematic manner in Northern Ireland and is becoming a dominant feature of prosecutions in the Diplock Courts. The use of uncorroborated evidence of accomplices in non-jury trials raises particular difficulties, a jury being the most obvious safeguard when such evidence is presented.

2. In addition it is claimed, perhaps correctly, that the police are actively engaged in obtaining corroboration of this type. Such activities serve to increase the margin for error as well as increasing the danger that the accomplice will provide false evidence to suit his own purposes.
3. Our concerns about this are centred in two areas. Firstly we feel that the courts system in Northern Ireland is being brought into disrepute. Taken with the recent trials in which RUC men have been acquitted on charges of murder it has led to a widespread belief within the minority community that there is no redress within the judicial system. As recent riots in loyalist areas indicate this is not a view confined to nationalists.
4. Secondly we feel that some people are spending an inordinate amount of time on remand, without bail. People should not be kept in custody indefinitely on one (failed) charge after another. There is very considerable and widespread concern within both communities at the length of time persons are spending on remand. The courts should not become an alternative to internment, which is what some persons claim is in fact happening. The result is increased alienation and frustration.

5. We wonder therefore if the time has not come to reappraise the system as it has developed.

As yet no response has been received from the British Embassy.

Anglo-Irish Section

22 October, 1984