



An Chartlann Náisiúnta
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Fr. Ryan Excl.

Confidential

Extradition/Presentation of Fr Ryan Case in the US

1. The basic points which could be made in briefing, where appropriate, are given beneath.
2. We operate and are committed to extradition as an instrument in countering international terrorism and other serious crime.
3. There is a natural concern in Ireland as in every other country that extradition should be in accordance with due legal process and that a person's rights should be safeguarded. We have a number of internationally-accepted safeguards in our legislation (as does the US/UK Extradition treaty) and our citizens have the protection of our written Constitution which (like the American Constitution) guarantees personal rights.
4. These safeguards include (i) the requirement that there is an intention to prosecute a charge based on sufficient evidence, (ii) the requirement of a corresponding offence in our law, (iii) the right to plead a political motivation which has now been very severely restricted in our law in the case of violent offences and (iv) the right to expect fair trial and fair treatment in the requesting country.
5. It was on the last point that the extradition request failed in the case of Patrick Ryan. The Attorney described this case as "unique" because of statements in the House of Commons, heavily publicised in the media, carrying an assumption of guilt. There was also intense media coverage of the subject over a protracted period also carrying assertions or assumptions of guilt and attacks on his character. It was apparent that many such reports were based on information from official sources.

6. Our system is operated by the Courts but our law officers- (the Attorney General in extradition cases) have the duty of assessing whether a case should go before the Courts. Since the 1987 Act, the Attorney has had the statutory duty of satisfying himself that there is a sufficiency of evidence in every case as well as an intention to prosecute (ie as opposed to question a suspect or prosecute him on a different charge).
7. Extradition cannot be "on demand"; it must be in accordance with due legal process which necessarily, and rightly, takes time (as Americans especially will appreciate).
8. We have extradited over 800 persons to Britain and Northern Ireland since the 1965 Act. Almost of all of these were ordinary offenders but since 1984 five persons accused of serious offences on behalf of paramilitary organisations have been extradited - McGlinchey in 1984, Shannon in 1984, Quinn in 1985, Russell and Harte in the Summer of 1988. This compares very favourably with the response the British have had from the Americans and other friendly countries; in the last year the British have been refused the extradition of Irish persons by the Belgians (Ryan) and French (Flynn). Many of our European friends, eg, Belgium, France and West Germany will not extradite their own nationals under any circumstances. Our position in principle and practice is, therefore, advanced by international standards.
9. We could also note, where appropriate, what happened to our "political" extraditees to the British authorities. McGlinchey was acquitted on appeal in the North and returned to face charges here for which he was convicted; Shannon was acquitted in the North; Quinn was released by a London Magistrates' Court without even standing trial (Russell and Harte remain to be brought to trial in Northern Ireland). The outcome of the McGlinchey, Shannon and Quinn cases raised doubts in legal circles here that sufficient evidence

existed to justify extradition in the first place, which was a factor in the enactment of the evidential requirement in the Extradition (Amendment) Act 1987.

Criminal Law (Jurisdiction) Act 1976

10. The British have pursued the extradition route in recent years to the exclusion of the reciprocal extraterritorial legislation of 1975/1976. It may be noted that there were successful prosecutions in 6 cases involving 10 persons under our Criminal Law (Jurisdiction) Act 1976 between 1978 and 1982; one prosecution involving 3 persons failed in that period. Following the recent agreement of the two Governments that the CLJA could provide an alternative to the extradition method in certain cases, one person has been charged and is awaiting trial.

11. We should be cautious about advertising the CLJA as a prosecuting route in any particular case. The decision is one for our law officers and we can offer no assurance that their decision will be favourable. In the Ryan case, it would be desirable simply to quote from the Attorney's statement which notes that the CLJA provides a means of trial here before three judges and says he has asked the British Attorney to have the evidence available to him examined with a view to identifying all charges which could be tried here. (The British Attorney has not responded but may do so very shortly.)

Current Extradition Cases

13. Some American news media have suggested that we are "soft" on extradition because few returns have been made in response to requests made last year. This suggestion is based on British briefing which aims to discredit the Extradition (Amendment) Act 1987, the "Safeguards Act". It is of course absurd to argue that this Act is somehow failing because extraditions are not occurring within

months, in effect on demand.

14. For the record, since the Extradition (Amendment) Act came into force on 14 December 1987, we have received warrants from the British in respect of 18 persons. In 4 cases the warrants were withdrawn. In 8 of the remaining 14 cases the warrant(s) related to persons who had already been convicted and who did not therefore come within the scope of the evidential safeguard in the 1987 Act. In 4 of the 6 cases which did come within the scope of the Act, the Attorney approved the warrants for endorsement; in one case (Ryan) he did not; and in one case his decision has not yet been made. Of the 4 persons whose warrants were endorsed, one (an ordinary fugitive) was returned without appealing the subsequent District Court Order for extradition (ordinary fugitives do not tend to appeal to the higher courts). Two alleged paramilitary offenders whose warrants were also approved for endorsement, McVeigh and McClafferty, were released by the District Court. The State is appealing these decisions by way of case stated.



Declan O' Donovan

5 January 1988