



1. Mr Scott (L&B)
2. Secretary of State (L&B)

cc | Mr Bloomfield  
 Mr Brennan  
 Mr A Stephens  
 Mr Buxton  
 Mr Merifield  
 Mr Ferneyhough  
 Mr Coulson  
 Mr McKillop  
 Mr Jackson  
 Mr Bickham  
 PS/PUS(B)  
 Mr Lyon

2. See 11

DONAL IGNATIUS DONNELLY - EXERCISE OF THE ROYAL PREROGATIVE

This case was first submitted to Ministers last October (Dr Alford's minute of 3 October 1984). The facts are briefly as follows. Donnelly was convicted on 15 October 1957 of membership of the IRA and conspiracy to cause an explosion. He was sentenced to 10 years' imprisonment, but escaped from Belfast Prison in December 1960 and went to the Irish Republic where he has been living openly for almost 25 years. Now a successful businessman, he petitioned for the remainder of his sentence to be set aside so that he might be free to enter the UK for business purposes, and also possibly, we think, to visit his mother who still resides in Omagh.

2. Donnelly's offences were committed 27 years ago, when he was just 18, and involved no loss of life. His fellow terrorists in prison at the time were all released early, being granted a form of amnesty by the use of the Prerogative in 1963. Donnelly applied in 1964 and 1966 to have the remainder of his sentence set aside. The then Attorney General ruled that he must first surrender himself to the Governor of Belfast Prison, but Donnelly did not do so. On the other hand, when the present Attorney General's view was sought on the 1983 application his Department conveyed his view that it would be unreasonable and oppressive to prosecute Donnelly for his escape in 1960.

3. Weighed against this were two factors. The first was the police view that it is important to emphasise that escape from lawful custody cannot be undertaken with impunity, and that avoidance of recapture for a lengthy period should not simply result in the slate being wiped clean. The second was our desire not to be seen to be endorsing, or even drawing attention to, a policy of a previous Stormont regime of granting amnesties to those convicted of terrorist activities, particularly while the campaign continued within our prisons to gain political status or the recognition that certain crimes were politically motivated.

4. The case was put to Ministers in October on the basis that the remainder of Donnelly's sentence should not be remitted at that time, since remission could both draw attention to the concept of an amnesty for terrorist offences and also appear to condone an escape from prison. Ministers agreed that this recommendation was right for the time being, but directed that the matter should be reviewed in about a year.

5. Donnelly's solicitors were not informed of the year's postponement, merely that "at the moment" the Secretary of State was not prepared to grant Donnelly's request. Another petition dated 5 March 1985 has now arrived from them once more asking for re-consideration of the Secretary of State's decision. This has caused us to re-examine the case. Opinion among officials is not unanimous but there is a clear majority in favour of early, if not immediate, remission of sentence, by exercise of the Royal Prerogative. There is a strong case for this on humanitarian grounds; and if Donnelly were to fall into our hands I am sure that it would be seen as oppressive if we were to return him to prison so long after his offence and bearing in mind the blameless life which he has apparently been living in the Republic for many years. It ought to be possible to treat this case individually on its merits. On the other hand, there are still public interest considerations to be taken into account. As far as we know Donnelly no longer has any IRA connections; but he was convicted of an IRA terrorist offence, even though it was a long time ago, and has not served his sentence. The fact that the Prerogative had been exercised would probably become known and, in an election period, could be represented as an "amnesty" for an IRA terrorist. It could also be embarrassing

if we were thought to be condoning an escape from prison just when the Maze escapees from 1983 are coming to trial.

6. In Northern Ireland the time is never right; but I am inclined to think that the autumn might be more propitious. The local elections will be out of the way and we may have made some progress towards a political settlement - although neither of these events will necessarily lower the political temperature. A decision in October would mean that the Prerogative would be exercised towards the end of the year, which would be 25 years since Donnelly's escape - a period long enough for expiation and to discourage other would-be escapees. The latest petition does not introduce any new factors which were not known last October and I see no reason why Ministers should vary their previous decision. Accordingly, I recommend that the case should be reviewed in October 1985, as planned, with the presumption that, unless there has meanwhile been some change in the situation which would render this inadvisable, the Prerogative should then be exercised in Donnelly's favour.

28 March 1985

  
R J ANDREW