



# An Chartlann Náisiúnta National Archives

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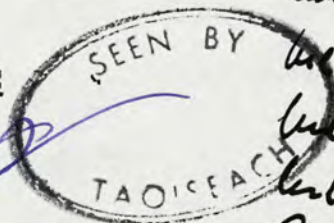
*Mr McParthy  
21.6.88  
20/6  
in particular  
15/6*

*To see plans, & Xoverleaf*

*cc Attorney General  
PSS  
Mr. Nally  
Mr. Russell  
Mr. Brogan  
Mr. Gallagher  
Councillors.*

**PAX**

**IMMEDIATE**



For O'Donovan from Donoghue

Subject: Prime Minister's replies to PQs on McVeigh's release, Attorney General's statement and subsequent debate

*15/6*

1. Prime Minister's replies

As previously conveyed, the Prime Minister answered three PQs in Question Time this afternoon on the McVeigh release.

Sir Anthony Combs, commenting that the "extraordinary decision" was bound to raise considerable suspicion about Irish determination to stamp out terrorism, asked if the Prime Minister would request the Taoiseach to ensure that the extradition of wanted terrorists was not prevented in future. The Prime Minister replied that the AG would be making a full statement later this afternoon. The judgment of the District Court was deeply dismaying as "we had thought that effective arrangements for extradition existed". The Crown Prosecution Service had expressly asked whether the provision of further evidence would be required and had been told No. The Government would be holding urgent consultations to deal with the implications of the decision. She understood that the Irish Minister for Justice would be making a statement in the Dail this afternoon. There could only be effective co-operation against terrorism if people on both sides of the border were actively committed to such co-operation.

James Molyneaux asked whether the PM would consider convening a meeting of the AI Intergovernmental Council, established in 1981 to consider all non-NI matters in dispute (which the AI Agreement has proven too narrow to handle). The Prime Minister saw little point in convening that Council. She wished, rather, to hear what the AG and the Irish Minister for Justice would have to say.

Ian Paisley asked for an assurance that the decision had not resulted from confusion on the British side, that everything had been done in accordance with the recent extradition agreement and that it would be her policy to have the same extradition treaty between the Republic and the UK as that between the Republic and every other part of the EEC. The Prime Minister repeated that they had thought effective extradition arrangements now existed, which was why they had been dismayed by the decision. The Crown Prosecution Service had done all possible. It had expressly asked whether the provision of further evidence was necessary and it had been specifically told that this would not be necessary. There was no fault on this side of the water or on this side of the border.

*Bonnie  
For (NO 10) plans  
- 26/8/88*



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2. Debate following AG's statement

The text of the AG's statement has been Faxed. It provoked a 45-minute debate, a summary of which follows.

John Morris (Labour's shadow AG) expressed astonishment at the judge's "extraordinary and totally unexpected" decision. He welcomed the confirmation that all the information required of the British Government had been provided. He raised the following points:

- is there a full and close understanding between himself and the Irish AG on extradition?
- what thought has been given to an appeal by way of a "case being stated" in order to ensure a firm ruling for future extradition proceedings?
- what further steps could be taken to ensure no repetition of yesterday's result?

In reply, the AG welcomed Morris' expression of dismay on behalf of all those ("and they are to be found on both sides of the water") who wish to see effective extradition arrangements. He confirmed that (as Morris had said) the issue of identification could have been raised at any time since 1965. He confirmed that a close relationship existed between him and the Irish AG - he was grateful for the latter's phonecall at a very early stage and he had again spoken with him on the phone today. He rejected any suggestion that they were at arms length on this or on any other issue. Regarding an appeal, he informed the House that the Irish Minister for Justice had made a statement indicating that the Irish State intended to appeal by way of "stating a case" to the High Court. He welcomed this statement as the judge's view of the requirements of Irish law, if left unchallenged, could have very serious implications. As to the future, the expressions of deep concern on behalf of the Irish Government were themselves an earnest of their desire to see effective extradition arrangements.

In reply to a question which criticised the constant "moving of goalposts" by those responsible for the lower Irish courts, and which asked him to seek to have this loophole filled, the AG sympathised with the expression of dismay. He pointed out however that, as in Britain, judges in the Republic were independent of the executive. There was no doubt in his mind that the Irish Government wished to see effective extradition arrangements and he was grateful for, and extremely pleased with, the relationship which he had with the Irish AG. Asked by Molyneux if he was aware of media expressions of disillusionment following the decision, he disowned responsibility for media comment but said that the Government was determined to ensure effective



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extradition and he was satisfied that the Irish Government wished to see this also. The decision was, however, a very grave setback in terms of confidence in the administration of justice - a phrase which would be familiar from Article 8 of the Agreement. Jim Kilfedder suggested that the only beneficiaries of the decision were the IRA and McVeigh. An appeal by way of "stating a case" would only be on the narrow point of the judge's finding on identification. The AG agreed with the first point, reiterated the Government's deep dismay but said that it was best to look forward rather than back.

Merlyn Rees asked if, from his two conversations with the Irish AG, the AG could confirm that the Gardai would be unable to arrest McVeigh until the appeal was concluded. The AG said that there was at present no means of arresting McVeigh. It was totally uncertain whether the Gardai would be authorised in future to arrest him - hence the British Government's dismay. In reply to another question which wondered whether this setback would be brought up in the context of the review of the Agreement, the AG agreed that this was a grave setback for both Governments but said that it was not for him to indicate whether these matters would be reviewed either next November or beforehand. Asked whether the Extradition Act of 1965 had been taken into account in his recent discussions with the Irish AG, and whether there would be further consultations in order to avoid such a deplorable situation, the AG made clear that the fault, "if fault there is", did not lie with the 1965 Act. While he had made clear that he regretted the 1987 Act which amended that legislation, this did not bear on yesterday's decision. The British side had acted on the advice of the Irish State Solicitor, given in accordance with previous unvaried experience of the Irish courts, and the decision had taken them entirely by surprise.

Ian Gow claimed that in NI there was increasing bewilderment at the fact that the Government had granted the Republic a special privileged position when the latter seemed unwilling to play its own part in defeating terrorism. The AG would not agree that there had been no advance under the Agreement. However, the decision would indeed cause great dismay in NI and it was therefore important that both Governments should decide together how best to improve the existing arrangements. David Alton suggested that the real gainers from yesterday were those who wished to undermine the Agreement and he asked when the AG planned to meet his Irish colleague. The AG said that he had a close relationship with his colleague and that they would be in close contact. Barry Porter noted that both the Minister for Justice and the AG in the Republic had echoed the AG's sentiments. Action would be required from both of them in order to ensure that "we get what we were promised under the Agreement".

Chris Mullin noted the widespread belief that an Irishman charged with an offence here could not get a fair trial and he referred to the Birmingham, Guildford and Woolwich cases. Noting the ground advanced by the judge, the AG rejected any suggestion that his decision stemmed from a belief that Irish citizens could not obtain a fair trial here. Michael Mates criticised the failure to keep McVeigh under arrest



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pending technical clarification. He recalled the assurance given by the Taoiseach that, if he saw that the new Act was not working, he would endeavour to make it work. He asked the AG to make representations to the Taoiseach. The AG indicated that he would have personally welcomed a decision to keep the prisoner in custody. This would be a desirable change and he was sure that it would be one of the matters which the two Governments would wish to consider.

In reply to a question later in the debate, the AG said that credit would have to be given to an Irish judge for seeking to apply Irish law, even if yesterday's decision had occasioned equal surprise in London and in the Republic. In reply to another question, he said that nothing could be gained by the "disgraceful inference" that the Irish judge had been influenced by extraneous considerations. Replying to another questioner who pursued the possibility that the judge had been under Republican influence, he said that each Government must look at the case and decide whether the law or procedures were the best which could be devised in order to permit extradition.

Later interventions in the debate focussed on adverse implications for the Agreement. In response, the AG conceded that damage had been done but made clear that the Irish Government was not in a position to direct any judicial decisions and that this had to be remembered. When another MP suggested that the problem lay with "bloody-minded, eccentric and perhaps partial judges" rather than with the Agreement, the AG disagreed. He pointed out that, under Article 8, the two Governments agreed on the importance of public confidence in the administration of justice (a matter hitherto addressed only in relation to NI).

End