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Council of Ireland Court to deal with certain
 offences where extradition is not granted

(For convenience, this note refers only to the case where a person commits an offence in the North, "escapes" to the South and is arrested here)

1. There are three broad alternatives - but all three have in common the factor that the accused man will be under the jurisdiction of the "All-Ireland" Court, which will have to have the same rules of evidence, procedure etc, irrespective of the venue of trial.

These alternatives are:

- I. That the law should provide that the trial should be here (i.e. the place where the man is arrested).
 - II. That the law should provide that the trial should be in the North (where the offence took place) or
 - III. That the law should adopt the approach that the man is under the jurisdiction of the All-Ireland Court and that the Court itself should have the right to decide the venue in each particular case, taking account of all the circumstances.
2. Alternative I - trial down here - presumably is the easiest to "sell" to people who might have an instinctive dislike of "political" offenders being "handed over to the North".

However, there are practical disadvantages, notably the following:

- (a) Witnesses would have to be brought down here from the North - and the question of compulsory attendance would arise (the problems associated with compelling witnesses to come into "another jurisdiction" would also arise for us in the "reverse case" i.e. if we had to compel witnesses to go North to testify)
- (b) The protection of witnesses would be a real problem - one need only mention the consequences if, for instance, an R.U.C. man (or a British soldier or a well-known "loyalist") was shot

down here while a witness in a case.

- (c) The risk of allegations that an acquittal was due to "bungling" by the prosecution here - with perhaps suggestions that it was deliberate.
- (d) The problems associated with keeping in jail here a man who had not broken our law and who would be a hero to some.
- (e) The problem associated with release on parole in due course - a bone fide decision to give an I.R.A. man parole could cause emotions to rise in Shankill.
- (f) Unless we were to have an "All-Ireland appeal Court as well (as distinct from having our own "domestic" appeal system), there could be problems associated with divergencies between, say, our Supreme Court and the House of Lords - i.e. if the Supreme Court here ordered the release of a Belfast I.R.A. man in circumstances where the House of Lords had in a similar case a "tougher" view.

3. The alternative of having the venue of trial in the North might seem at first glance to be extradition (and would no doubt attract criticism on that basis) but it would not really be extradition for the essence of extradition is the handing over of a person to the jurisdiction of a foreign Court - whereas the proposal here, irrespective of where the venue is, is that the man would be under the jurisdiction of the All-Ireland Court.

4. It would be taken for granted of course that any system involving a Northern Ireland venue would (and should) be linked with a watertight guarantee enforc/able by the All Ireland Court itself (or, alternatively, by an All-Ireland Human Rights Court) that -

- (a) the man could not be interned
- (b) that he could not be tried for any offence before an other Court in the North (which means tried for any other offence)
- (c) that, to give effect to (a) and (b), any such person would have the right to an acquittal on termination

of his sentence to return to the South unmolested during a period of say one month after he had been set free. (If he did not return within the period specified, he would then be liable to arrest in the ordinary way in the North.)