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Prevention of Terrorism Act: Speaking Points

At no time since the introduction of the PTA in 1974 has the Irish government objected in principle to the PTA. Government policy has been to monitor the operation of the Act as they affected Irish citizens and we have on many occasions made known our concerns to the British authorities about the operation of particular aspects of the Act. Among the points we have raised with the British Government are:

1. The numbers of innocent Irish people detained at points of entry and exit;

The annual number of those detained has been steadily decreasing since the peak of over 1,000 reached in 1975. The downward trend has been interrupted with the publication of the 1985 figures for detentions which at 193 shows an increase of 34 over the relevant figures for 1984. It is noteworthy however that 67 detentions in 1985 related to three specific security operations.

2. Delays encountered while the identity of people is established;

We have emphasised the need to speed up procedures at airports and seaports but it is inevitable that these delays will occur at infrequent intervals depending on the security situation.

3. Importance of a sympathetic approach to the relatives and friends of those detained;

There has been a noticeable improvement in the amount of information being conveyed to relatives but there is still considerable scope for improvement in this area.

4. Access to legal advice;

From 1 January, 1986 the Police and Criminal Evidence Act came fully into effect giving persons detained or arrested in connection with terrorist offences the right to have a solicitor and one other named person notified of the fact and whereabouts of their detention. The Act provides the right of access after 48 hours.

5. The importance of notifying the Embassy when an Irish citizen is detained;

We have been pursuing the question of automatic notification to the Embassy as soon as the British authorities are aware that they have an Irish citizen in detention or under arrest. While the Foreign Office and Home Office have continued to respond to our queries about individual cases they have not conceded yet the idea of automatic notification to the Embassy.

6. Aspects of the operation of the exclusion orders;

The number of entirely new exclusion orders made in recent years has declined dramatically. The figure for 1985 is 7. Exclusion orders are now limited to three years, cannot be used against persons normally resident in Britain and may be appealed. The recent review of the PTA by Sir Cyril Philips highlighted the undesirability of exclusion orders and while they continue to form part of the Act it is hoped that the British authorities will not renew this particular aspect of the PTA on the next occasion.

7. The danger that the Act might be seen as harrasing or intimidating the Irish community;

The scope of the Act is no longer confined to Northern Ireland and the number of detentions under the Act on Northern Ireland-related matters has been reduced 193 last year. The number of complaints we have received on intimidatory application of the Act by the police has correspondingly been decreasing over the last few years.

8. The need to avoid discrimination against Irish citizens in matters such as the requirements to fill in landing cards;

We have been assured that there is no question of discrimination against Irish citizens and that British passport holders are as much required to fill in

9. The need to avoid the use of the Act merely to gain information from those detained;

cards on air flights and sailings as Irish citizens or anyone else.

The proportion of those detained under the PTA and subsequently charged with offences continues to increase. In 1975 only 5.9% of those detained were charged and in 1985 over 19% were charged. We are encouraged by this constantly improving trend which goes some way to answering the suggestion that the PTA is used as an information gathering tool.

Notwithstanding this improvement there are obviously many instances where information gathering is a feature of detentions under the Act.

10. Difficulties encountered about the detention of minors;

We have had very few such instances in recent times.

11. Problems experienced by persons with names in Irish;

We believe there is a greater awareness and sensitivity on the part of the British authorities in this matter.

12. The need to avoid publicity and respect individuals' right to privacy;

No recent problem cases in this area.

13. The right of those detained to correct treatment and satisfactory conditions;

Embassy has been strict in its approach to British authorities where it felt that the manner and conditions in which Irish citizens were detained were unsatisfactory.



Anglo-Irish Section
4 March 1986

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INDIVIDUAL CASES WHICH MAY BE RAISED WITH THE MINISTER

A. Questions of Unsafe Convictions

(i) Annie Maguire, Guiseppe Conlon et al

The history in this case is well known. The position at present is that the Minister has written to the Home Secretary to ask that he refer the case to the Court of Appeal notwithstanding the Home Office position of demanding completely new evidence. The Minister first indicated his plan to do so in a Parliamentary Reply on 6 February 1986. The letter was handed over to Mr. Hurd on 12-3-86 by the Ambassador in London.

(ii) The Birmingham Six

Again the facts of the case are well known. Robert Hunter, Patrick Hill, William Power, Hugh Callaghan, John Walker and Noel McIlkenny were sentenced to life imprisonment in August 1975 for the pub bombings which claimed 21 lives in Birmingham.

Both the confessions and the forensic evidence (Griess testing) on which these convictions were founded have since come under considerable attack. As a result of public pressure, the Home Secretary publicly announced on 30 October 1985 that in the light of new evidence an enquiry would be launched as to whether to have the case returned to the Court of Appeal. The result of this enquiry is due soon. The Embassy in London has followed up on any complaints of ill-treatment during the time the six have spent in confinement, notably in 1976 and 1977. Recently, Patrick Hill has been demanding that the Ambassador visit the six in prison to hear their story. He has since been persuaded to accept a visit by an Embassy representative. The Minister's letter to the Home Secretary about the Annie Maguire case also included references to the Birmingham Bombing case.

B. Strip-Searching

Ms. Anderson and Ms. O'Dwyer are presently remanded in custody in a special wing of Brixton Prison, part of a larger group charged with conspiracy to cause explosions. Ms. Anderson is believed to be directly connected with the Brighton bombing though neither is in fact directly charged with that. The two have been on remand since 1 July 1985 on Cat. A.

Throughout the period of their remand they have alleged persistent ill-treatment and harassment by prison authorities, laying special stress on allegedly excessive strip searching. The figures they give are roughly 60% higher than those the Home Office admit to, and the Home

Office figures would indicate an average of one strip search a day. It should be noted that the Department of Justice would not find the Home Office figures unusual in their own practice.

The Embassy has raised these matters, in response to representations. The Home Office's response has been to contradict the more serious allegations and justify the lesser. They have specifically denied ignoring Ms. Anderson's medical problems (migraines and recurrent tonsillitis), punishing the two simply for talking and locking them in solitary confinement for all but three hours of the day. The case has been raised in the Dail (12.11.85) where the Minister said he would have the matter raised with the British. There has also been interest in the House of Commons, with two recent P.Q.s (17 and 23 April) and an Early Day Motion. There has been considerable media interest in the case. A recent attempt to obtain a High Court injunction against further strip searches was unsuccessful. Representations concerning the two women have continued, and as the trial, which began on 6 May progresses, further pressure can be expected.

C. Question of Attendance at trials

Dr. Maire O'Shea was acquitted of conspiracy to cause explosions and withholding information on 4-5 February. The case received much attention at the time. It focussed a great deal of attention on the Prevention of Terrorism Act and the role of the Irish Embassy in cases under the PTA. Because of the considerable importance of the case, the Embassy sent an observer to monitor much of the course of the trial. This was a most unusual step. (The IBRG have since claimed that it was only taken as a result of pressure from them.) Because of scarce resources and the large number of trials which may involve Irish citizens, the Embassy cannot in any event attend all trials. Each case is assessed on its merits. The Embassy normally monitors trials by contact with legal representatives, family and British authorities. The importance of the Dr. O'Shea case was the general perception that the PTA itself was on trial and the subsequent acquittal of Dr. O'Shea will no doubt bring pressure to bear for further reform of the PTA.

The Brighton Bombings

The Embassy has come under pressure from a number of directions concerning attendance at this trial. There have been representations from Dr. Maire O'Shea, the ICPO, and Deputy Pat "the Cope" Gallagher, as well as from relatives of the defendants. The Embassy has attended on a number of days at the trial.

D. Transfers

James Daly

This problem has only arisen recently. James Daly is a non-political offender presently on Cat. A in Albany Prison, Isle of Wight. Both he and his family have been making strenuous representations to the Department in an effort to obtain a transfer to a prison which would be more accessible for visits. Until this request is acceded to he is refusing to obey prison rules; this has in turn led to his being segregated from the other prisoners. This case was the subject of a parliamentary reply on 10 April 1986. The Embassy has raised this case with the British authorities and is awaiting a reply.

Paul Gunning

Paul Gunning

May 1986

TRANSFER OF PRISONERS AND COUNCIL OF EUROPE CONVENTION

1. Transfer of Prisoners

According to the most recent figures available (November 1985) there are 966 prisoners from both parts of Ireland in British jails, of which 50 are classified as Category A.

- There has been a campaign by various prisoners' relatives and support groups, particularly the IBRG, for repatriation to Ireland of these prisoners. This applies to both terrorist and non-terrorist prisoners.
- The British authorities have to date transferred only five prisoners to Northern Ireland and although not ruling out future transfers, they have rejected all applications on behalf of prisoners convicted of terrorist-type offences. The British have highlighted the security problems they have with such transfers and these considerations are not easily dismissed.
- There are complaints from time to time about frequent moves of prisoners within Britain from prison to prison. We have made our concern known to the British authorities and highlighted the distress and hardship it causes to prisoners and their relatives.

2. Council of Europe Convention on Transfer of Prisoners

The Convention, which was opened for signature in 1983 and which has been signed and ratified by Britain, is not yet in force. The Convention would make it possible for a person sentenced to prison in a foreign state to serve the sentence in his own country if both states are parties to the Convention.

- Pressure groups in Britain expect that if Ireland becomes a party to the Convention that the prisoner transfer problem will be solved at a stroke and we have received representations pressing for our early signature.
- Signature of the Convention by Ireland is at an advanced stage of consideration. This Department supports the principle of the convention but the Department of the Public Service are not anxious to proceed with it until the full implications of signature can be assessed in terms of the manpower and resources required to implement it.

- The Convention in any event does not confer an automatic right to transfer - each request requires the agreement of both states and the individual prisoner concerned. The British reservations about individual transfers could still apply even if we signed the Convention.



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