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Speech by the Taoiseach and President of Fine Gael
Dr. Garret FitzGerald, T.D., to students at University
College, Galway on Monday, 8th December, 1986 at
7.30 p.m.

I want to speak to you tonight about a Bill which is at present before the Dail concerning which a number of misunderstandings have arisen, or have been created. The Bill is a new Extradition Bill which is designed to enable us to come in line with other European countries so that we may ratify the European Convention on the Suppression of Terrorism. This Convention has already been ratified by all the Member States of the Council of Europe with the exception of France, Greece, Malta and ourselves. Of these, France and Greece are already taking steps to ratify it. In this way a united European front against terrorism will have been established.

Why have we not done so long ago? The reason that we did not sign and ratify this Convention after it had been opened for signature in 1977 was that at that time, on the basis of the number of cases decided in the Superior Courts, it appeared that such ratification would have been in conflict with our Constitution. These decisions had seemed to exclude the extradition of persons charged with offences which could be held to be political, or connected with political offences, which in effect meant politically motivated crimes. In recent years however the legal position on this matter has been clarified. In two important decisions the Supreme Court

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granted extradition in cases where the offences were alleged to have been politically motivated. The Court held that because of the nature of the offences they could not be considered political offences or offences related to political offences. In order to qualify as a political offence it would be necessary to show that the person charged was at the relevant time engaged, either directly or indirectly, in what reasonable, civilised people would regard as political activity.

These decisions have removed the only impediment to our signature and ratification of the Convention which, as a country dedicated to opposing terrorism, we naturally wish to do - more especially as the remaining countries which for various reasons have hitherto deferred signature and ratification are now proceeding to take the necessary steps to adhere to the Convention. We would not wish to find ourselves the only European country which had not adhered to such an International Convention when there was no Constitutional reason for failing to do so. This island has after all suffered more from terrorism than most European countries and we have every reason to join in solidarity with the rest of Europe on this issue.

In the narrower context of this island there have however been some complicating factors - in particular questions relating to confidence in the administration of justice in Northern

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Ireland, and questions concerning the relationship between the security forces there and the minority.

When the Anglo-Irish Agreement was signed both parties agreed that there should be early progress in relation to the acceptability of the administration of justice and relations between the security forces and the minority community. Against the background of early progress in these areas, and in cross-border co-operation, we proposed to take the steps necessary to ratify the Convention on the Suppression of Terrorism by introducing an amendment to our extradition law. Since then there has been progress in these areas although there is still room for further action in respect of a number of matters - further action which was anticipated by the Secretary of State for Northern Ireland at the time of his recent announcement of a number of significant steps in relation to the administration of justice.

For our part we have taken two steps along the path towards ratification of the Convention. In February last we appended our signatures to the Convention which is the first step in the process, and several weeks ago we introduced a new Extradition Bill, the enactment of which will be necessary in order to enable us to ratify the Convention. The next step will be the enactment of this Bill by the Dail, next week, and by the Seanad in January, and its signature by the President.

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The provisions of the Bill will not, however, come into effect immediately on the signature by the President as would normally be the case. Instead a special procedure has been adopted, making provision for the Bill to come into effect in June of next year, by which time we anticipate that further important progress will have been made in relation to matters involving inter alia the administration of justice in Northern Ireland to which I referred earlier. However, recognising that the Dail and Seanad will want to be satisfied on these matters the Bill makes provision to enable the two Houses by way of resolution to postpone implementation of the Bill in June next year, so that the last word rests with the two Houses.

This seemed to the Government to be the most appropriate way in which, on the one hand, the necessary Bill could be placed onto the Statute Book to enable us to ratify the Convention, while at the same time meeting concerns that might exist as to whether before it came into effect appropriate progress had been made in relation to the matters mentioned in the Hillsborough communique.

I have noticed that in much of the discussion that has taken place in the last few days this unique feature of the Bill has been completely ignored, and the Bill has been treated as if it was to come into effect immediately on signature by the President, regardless of the question of what further progress is made in respect of these matters. I am anxious to correct the false impression that has thus been given.

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In the preliminary discussion of the Bill an issue has been raised which is obviously the subject of very considerable confusion. It is the question as to whether before an extradition takes place a case should be made to the Irish Courts, by presenting evidence to show there is prima facie evidence on foot of which a charge is being laid against the person whose extradition is sought.

For many people unfamiliar with the operation of the law on extradition between States this may seem at first sight a reasonable proposal. What is not generally realised is that the provision of such a requirement would have the effect of requiring the extraditing State to go a very long way indeed in the Court of the country from which the person is being extradited, to prove their case against the person concerned. Such a requirement is not normal in Europe. It has operated in the United Kingdom, which is now changing its law to remove this obstacle to extradition. It had the effect of making extradition almost impossible there. Thus relatively few extraditions have been successfully effected from the United Kingdom with other European countries and the matter in recent years has reached such a point that one European country has given up attempting such extradition proceedings in the United Kingdom throughout the past 10 years.

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This prima facie requirement was in fact considered so inappropriate by Council of Europe States, and caused such obstacles to the practical operation of extradition, that in 1957 a Convention on Extradition was drawn up which provided that a request for extradition must be supported by a statement of the offences for which extradition is requested, the time and place of their commission, their legal descriptions and a reference to the relevant legal provisions. No requirement that a prima facie case must be shown before the Courts of the requested country may be incorporated in the law of a requested State under the terms of the 1957 Convention on Extradition.

Britain has hitherto been unable to adhere to this convention because of its unique legal provisions in this respect and legislation is now being prepared in Britain to bring them into line with the rest of Europe by eliminating this requirement so that Britain, like the rest of Europe, including ourselves, can have an effective extradition system, instead of the highly defective system which at present operates there. When this legislation has been enacted Britain too will ratify the Convention on Extradition.

It is notable that when our Extradition Bill was introduced, first in 1963 by Deputy Haughey, as Minister for Justice, and again when it was reintroduced two years later by Deputy Lenihan, (who succeeded Deputy Haughey as Minister for

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Justice,) this prima facie requirement was specifically excluded. The papers relating to that Extradition Bill show quite clearly that it was precisely because of the danger of a prima facie requirement making extradition ineffective, and thus making this country a potential haven for criminals in Europe, that the decision was taken to exclude any such requirement. It was in the light of this consideration that the Fianna Fail government of that time ratified the Convention on Extradition in the manner provided in the Extradition Act 1965.

The proposal that we should now reverse engines totally and, in the course of introducing this new legislation to provide for the effective extradition of people charged with terrorist offences, introduce a provision that would make such extradition impracticable in many cases, as has been done in Britain, is one which the Government will and must resist. To suggest that we should now pursue a course of action which requires us to denounce the Convention on Extradition, and to make the extradition of people alleged to have committed political offences very much more difficult instead of facilitating it, as was the intention of this legislation, is obviously an unacceptable proposal.

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While it is easy to understand that people might be tempted to see the suggestion as a worthwhile one at first sight, in the absence of any knowledge of the background to the issue, I believe that when the issues involved are explained, as I have endeavoured to do in this speech, there will be support for the Government's attitude in this matter. I do not think that our people want Ireland to be singled out either as the only country not to sign the Convention on Terrorism - which might very soon be the case if we do not enact this legislation - or as a country which has denounced the Convention on Extradition, which is a consequence of introducing the prima facie requirement.

In this instance our national interests, and our national reputation, both require that we take action along the lines set out in this Bill, in the form in which it has been presented by the Government.

The question as to the implementation of the Bill is a different one. We will leave in the hands of the Dail and the Seanad the will and the power to decide whether the Bill comes into force on June 1st next, as at present envisaged, or whether when that time comes they see good grounds for delaying its introduction in the light of the review of progress in the implementation of the provisions of the Anglo-Irish Agreement as further elaborated in the Communique issued at the time of Hillsborough.