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#### EXTRADITION OF CRUMLIN ROAD ESCAPERS FROM THE REPUBLIC OF IRELAND

We shall shortly be seeking the return to Northern Ireland, to serve the outstanding portions of their sentences, of five individuals at present serving sentences in the Republic of Ireland imposed after an extra-territorial trial for offences committed in the course of an escape from Belfast Prison in 1981. I now have to decide whether, on return, the five should be required to serve the whole outstanding balance of their sentences; or whether account should be taken of the periods of imprisonment already served in the Republic.

The fact that these escapers were tried extra-territorially makes this a very unusual case, which is unlikely to affect the treatment of returned fugitives in England and Wales and in Scotland; nevertheless, I should like to ensure that you and Malcolm Rifkind are aware of the way in which I propose to deal with it.

The background is that R G Campbell, A Fusco, P P Magee, M A McKee, and Anthony Sloan all escaped from Belfast Prison in 1981 whilst serving long fixed-term sentences. In addition, Campbell, Fusco and Magee were subject to life sentences, running concurrently. All five fled to the Republic, but were arrested and tried extraterritorially there for the escape and connected offences. They were each sentenced to ten years' imprisonment in the Republic, subject to remission.

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The first of the five is due for release in July. We propose shortly to forward warrants under Section 72 of the Criminal Justice Act 1967 seeking their return.

Under Section 38 of the Prison Act (NI) 1953, time spent "unlawfully at large" does not count towards a prison sentence unless I direct otherwise. Our legal advice is that the five have been "unlawfully at large" from a Northern Ireland prison since 1981. Although this is the legal position, it may be difficult to sustain it when in fact the five have been imprisoned in the Republic after a trial initiated, in part at least, at our instigation. Unless I use my power of direction, therefore, no account will be taken of the period the five have served in the Republic in determining the length of time remaining to be served in Northern Ireland.

In fact, I intend to direct that full account should be taken. Although it is the normal practice of the UK and Irish courts to make prison sentences for escape consecutive to other fixed-term sentences, in this case the Irish court was not in a position to envisage the return of the five to Northern Ireland. It was therefore unable to form a view as to whether the sentence for escape which it imposed should be a consecutive, or merely a concurrent, penalty. As it happens, the ten-year sentence which it handed down was much heavier than the seven years maximum penalty for breach of prison in Northern Ireland, and the arrangements for remission in the Republic much less generous.

Unless I issue directions under Section 38 of the Northern Ireland Prison Act, the five will therefore serve very much longer - perhaps as much as seven years longer - in prison than they would have done had they escaped, been recaptured, tried, and convicted in the UK. This might be perceived (and not just in the Republic) as inequitable. That perception would, I am sure, considerably increase Irish resistance to the extradition of the five to Northern Ireland.

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(We already anticipate that the Irish will regard the sentences imposed in the Republic as adequate retribution, and not welcome the idea that the five should be required to serve any further period in Northern Ireland.) The Irish courts have a track record of imposing heavy sentences upon persons tried extraterritorially in their jurisdiction for crimes committed in Northern Ireland. I would not want to discourage them from doing so in future.

I therefore propose to direct in respect of all five escapers that the period of imprisonment served in the Republic should be taken fully into account in determining the length of time they have to serve in Northern Ireland.

I do not expect that this decision will set a precedent for very many future cases. (I am aware of just one, which is still some years ahead.) But in view of the possible implications in rare cases of individuals who escape from prisons in Great Britain and are subsequently imprisoned following extraterritorial proceedings in the Republic, you should be aware of my intentions.

Copies of this letter go to the Secretary of State for Scotland to the Attorney General and, for information, to the Secretary of State for Foreign and Commonwealth Affairs.

TK

RS/SJS (BTL)

Mr Steele

Mr Thomas

Mr Blackwell