

DIPLOCK COURTS

Date for answer: 12.11.87

12 November 1987

Oral No

MR JEREMY CORBYN (Islington North): To ask the Secretary of State for Northern Ireland, when he expects to bring forward legislation to re-introduce jury trials in Northern Ireland.

MR STANLEY

Trial by jury already takes place in all contested cases in the Crown Court involving non-scheduled offences and in those contested cases involving scheduled offences which have been "certified out" by the Attorney general.

Last year the list of scheduled offences which the Attorney General can "certify out" was extended but because of the risk of intimidation of jurors and perverse verdicts by juries, we do not believe that it is possible at present to re-introduce jury trials generally for scheduled offences.

c1753

Background Note

Although there has been much public speculation of late about the Irish Government's desire to see the Diplock Courts reformed so that scheduled cases would be heard before three judges rather than one as at present, there have also been suggestions that only with the return of more jury trials would there be a significant upturn in the majority's confidence in the administration of justice. Last month, the Committee on the Administration of Justice, an independent civil rights group in Northern Ireland, called for more jury trials with only the most serious terrorist cases still being heard by Diplock Courts.

As the Minister is aware, jury trials were abolished for terrorist type offences because of the danger that jurors would be intimidated or would otherwise reach perverse judgements. The standards of justice would therefore suffer. There is no reason to believe that these dangers are any less real today than they were in 1947 when no jury trials were introduced. This view was endorsed by Sir George Baker in 1984 in his review of the operation of the Northern Ireland (Emergency Provisions) Act and by the SACHR.

Since this question currently stands at No 42 in the list detailed supplementary material has not been provided. The answer accords

M1926

with the current line on the reform of Diplock Courts, and of our long term commitment to the restoration of jury trials (as well as steps recently taken to that end).

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CONFIDENTIAL

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(prepared in Dec)

BIRMINGHAM SIX/GUILDFORD FOUR/MAGUIRES

Line to Take : Defensive

The Government has no locus in the Court of Appeal's consideration of the Birmingham Six, which is currently taking place; there can be no question of influencing that judgment in any way. A decision on whether or not to refer the Guildford/Woolwich case to the Court of Appeal is entirely a matter for the Home Secretary which he will take after the most careful consideration. As the Home Secretary made clear in his statement of 20 January¹⁹⁸⁷, no representations have been made to him about the Maguire case which would cause him to think it fit to refer to the Court of Appeal. He remains happy to consider any further representations which might be made.

F/141

J.R.
BIRMINGHAM SIX

Background Note

The case was referred to the Court of Appeal on 20 January¹⁹⁸⁷. Section 17 of the Criminal Appeal Act 1968 provides the power for the Home Secretary to do so. The appeal hearing started on 2 November. ~~Our~~ ^{Our} latest information is that judgment is expected ~~around 9 December~~ ^{soon}; there are no indications as yet whether the 6 will have their convictions quashed, upheld or be retried de novo. All are theoretically possible. On the basis of the evidence presented so far, it would be rash to predict the outcome.

PN475

E.R.

Extradition

The UK/US Supplementary Extradition Treaty, which came into effect in December 1986, was a major step forward. It underlines the determination of both countries to combat the evils of terrorism.

ANGLO-IRISH RELATIONSPoints to make

1. We very much value the constructive relations we have with the Irish Republic and the Agreement provides a framework within which we and the Irish can develop our common approach on a wide range of matters. Our relations with the Irish have been, since the Agreement, mostly friendly. We had a particularly difficult patch over extradition in December, the ramifications of which go on, but the new strength of the relationship enabled us to weather the storm. We much more often resolve differences privately and on a basis of mutual confidence. The Agreement is leading to more realistic attitudes in both parts of Ireland.
2. The Agreement has the capacity to benefit all in Northern Ireland without damaging anyone's legitimate interests and aspirations. For Nationalists: the Agreement provides reassurance that their interests, identity and traditions are being taken into account. The signs since the Agreement have been of generally increased confidence in the nationalist community (as evidenced by the 19% drop in Sinn Fein's vote and 13% increase in the SDLP's vote in the recent Election). [Measures of particular benefit to nationalists in the last two years include proposals for strengthening employment equality legislation and practice; police complaints legislation; the commitment, already partly fulfilled, to end the 'I' voters anomaly; and the repeal of the Flags and Emblems Act.]
3. Our present exploratory "talks about talks" with the Unionists in no way damage legitimate nationalist interests. Development from these talks into more substantive discussions has of course never been guaranteed, and the Enniskillen atrocity has made the climate for constructive dialogue even more difficult. We would not contemplate any new arrangements for the future government of Northern Ireland which did not command the support of both communities. The Irish recognise the need for political development in the North. However progress in the short term is most unlikely.

4. [IF RAISED] Any proposal for changes to the Agreement would of course require discussion and negotiation with the Government of the Republic. The review due, under the terms of the Agreement; at the end of the year, is confined to the workings of the Conference.

5. The present Irish Government is no less strongly opposed to the IRA than the last one. We have high expectations on cross-border security co-operation and we now have in the Conference the mechanism to take this forward jointly and effectively. However, the process of getting tangible improvements on the ground is taking some time, partly because of constraints on the resources devoted to the security effort in the Republic. But the major arms search last month, carried out with full support from our security forces was a welcome sign.

6. The Irish have welcomed our proposed new equal opportunity legislation.