

URGENT IMMEDIATE

FROM : STEVEN BRAMLEY
SIL DIVISION
20 JANUARY 1994

cc PS/Sir John Wheeler (L&B) - B
PS/Michael Ancram (L&B) - B
PS/PUS (L&B) - B
Mr Fell - B
Mr Legge - B
Mr Thomas - B
Mr Bell - B
Mr Steele - B
Mr Wood (L&B) - B
Mr Daniell - B
Mr Leach - B

PS/SECRETARY OF STATE (L&B) - B

IRISH EXTRADITION (AMENDMENT) BILL 1994

I attach lines to take for the Secretary of State in the House this afternoon. Although we have liaised closely with the Irish on this Bill, we had not been shown an advance copy. However, Mrs Geoghegan Quinn's statement yesterday confirmed our understanding from Irish officials of what the Bill would contain. They appear to have given us almost everything we could reasonably have hoped to see in the Bill. They have gone further than they needed to have done in order to fulfil our most basic demands, such as rationalisation of the political offence exception. Although we would have preferred a toughening of the criteria surrounding the grant of bail to extraditees, this presented constitutional difficulties for the Irish. But they have removed the jurisdiction to grant bail from the District Courts (similar to our magistrates' courts) and given it to the High Court. This should ensure a more unified and sensible approach to the grant of bail. There are similarities here with the vesting of the bail decision in terrorist cases in the High Court in Northern Ireland.

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All in all, the Bill is to be welcomed although it is rather belated. Lines to take, a background note and a faxed copy of the Bill and explanatory memoranda (not to all) are attached.

(signed)

STEVEN BRAMLEY
SECURITY AND INTERNATIONAL DIVISION
20 JANUARY 1994

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Issues to Take

- We are pleased that the Irish Government published their Extradition Bill this morning. We have encouraged them to bring forward this measure for some time. I wish it a speedy passage through the Dail this session and onto the Irish statute book.
- We understand that it contains a number of provisions designed to make the process of extradition between our two countries more logical and straightforward. Both Governments thought this was necessary.
- Both Governments agree that the existing extradition arrangements needed strengthening. This measure underlines our resolve to seek out terrorist criminals wherever they are and bring them back to face charges. The Bill will make that process simpler.

Q. Why has it taken so long for the Irish to get their house in order?

- Naturally, we would have preferred this Bill to have been introduced some time ago. We would like to see it on the Irish Statute Book as soon as possible. The Bill does deal with complicated legal issues (in particular, rationalisation of the political offence exception) and it is obviously vital for the Irish that they get these absolutely right.

Q. Should the Bill be seen as a sign of Irish weariness with PIRA's delay in responding to the Joint Declaration?

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- That is a question better directed to the Irish Cabinet. For my part, I do not think the Bill has anything to do with the IRA's attitude to the Joint Declaration. It is about ensuring that criminals are brought to justice.

Q. When will the Bill be brought into force?

- I hope as soon as possible. The Irish Government have agreed that the Bill should not come into force before speciality arrangements between the two countries are in place. [This will ensure that an extradited person should not be prosecuted for any offence other than that for which the extradition was granted.] The relevant subordinate legislation for this is far advanced in both countries, and is not expected to hold up implementation of the Irish Bill.

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BACKGROUND NOTE

The Secretary of State will have seen the statement made yesterday by Mrs Geoghegan-Quinn. This sets out the main features of the Bill. The Bill is to be welcomed. It meets our most pressing concern, the doubt surrounding which offences are subject to the political offence exception and which are not. It also deals with a number of British concerns, such as:

- the disparity of approach towards extradition applications which existed among Irish District Courts. Such applications will be centralised; all will be dealt with by Dublin Metropolitan District Court.
- leniency in granting bail in extradition proceedings. The Irish Constitution would not allow the State to appeal against a grant of bail to an extraditee, or to impose tougher criteria surrounding the grant of bail, but the Bill does ensure that bail decisions will now be taken at a higher level, by the High Court.
- confusion surrounding the point at which an extraditee to the United Kingdom should be handed over. This confusion should now be removed, since the Court order for extradition will no longer specify the handing over point.
- difficulties surrounding the extradition warrant. A Garda no longer needs to have the extradition warrant in his or her possession in order to make an arrest and the Garda commissioner can endorse the warrant before the person sought actually enters the Republic.

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- the 3 day period of remand following an arrest under a provision warrant. During this period the original warrant from the UK was to be delivered and endorsed. This has been expanded to 7 days. We would have preferred longer, but this is a step in the right direction.

The Bill has taken a long time to be published - we were told by the Irish at one point that it would be introduced before the 1993 Summer recess. However, it does deal with a complicated area of the law and it has been necessary for our lawyers to provide theirs with advice about points of detail.

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IRISH EXTRADITION BILL

SUMMARY

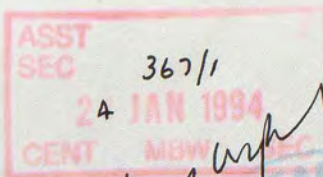
1. General welcome for Irish Extradition Bill published on 20 January.

DETAIL

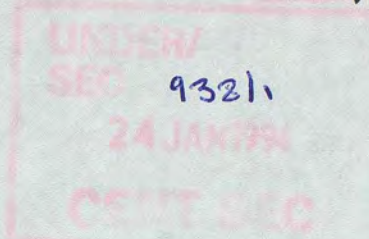
2. The Irish Extradition (amendment) Bill 1994 which was published on 20 January will extend the range of offences which cannot be regarded as political and bring a number of useful improvements to procedures governing extradition to the UK. It has been welcomed by opposition parties.

3. The Government has however been criticised by Fine Gael justice spokesperson Gay Mitchell because the Bill's publication was "totally unnecessarily delayed". He accused the Government of adopting a "carrot and stick" approach to bargaining on the North. Democratic Left leader Proinsias de Rossa welcomed the closing of the loopholes which was required irrespective of the response of Sinn Fein to the Downing Street Declaration.

4. Described as "tough and comprehensive" in an Irish Times article, the same paper's editorial describes it as "a very welcome move." It also suggests that publication of the Bill is a clear sign that "both the Dublin and London Governments are willing to press ahead" without Sinn Fein.



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Mr W. H. Jenkins
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