

# NATIONAL ARCHIVES

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[Original sent to Mr. Waddy]  
Extradition - recent developments

S22695

- ① Mr. Harty
  - ② Mr. McElleney
  - ③ Registry - for S22695
- 15/11/84

McGlinchey case

The Supreme Court held in December 1982 that whether or not an offence would be regarded as a political offence would depend on whether the person charged was at the relevant time engaged either directly or indirectly in what reasonably civilised people would regard as political activity. It further held that no offence, regardless of who the perpetrators or the victim may be, can be accounted a political offence unless there is evidence to show that it arose, directly or indirectly, out of political activity in the sense already referred to in the judgement. The Court added that the excusing per se of murder and of offences involved in violence and the infliction of human suffering done by, or at the behest of, self ordained arbiters, was the very antithesis of the ordinances of Christianity and civilisation and of the basic requirements of political activity.

McGlinchey was extradited to Northern Ireland on 17 March last and was charged with the murder of Hestor McMullan on 19 March. He has made a number of court appearances since and is remanded in custody.

Shannon case

On 31 July 1984, the Supreme Court dismissed an appeal by Shannon against his extradition to Northern Ireland where he was wanted to face charges of murdering Sir Norman Stronge and his son. In delivering judgement, the Chief Justice said that the circumstances disclosed as to the murder were so brutal, cowardly and callous that it would be a distortion of language if they were to be accorded the status of political offences or offences connected with political offences. Shannon was extradited to Northern Ireland on 31 July and was charged with the murders two days later.

Prosecution for other offences

During the course of the Supreme Court hearing of the Shannon case, Justice Niall McCarthy warned the Northern Ireland authorities when he said that the successful operation of extradition proceedings depended on both parties complying with the terms of the Act. One of these is that a person should be prosecuted only for the offence for which his extradition is sought. He said "if either side were to breach this principle it would, I think, mean an end to the reciprocal arrangements". [The comment arose during a reference in Court to an earlier affidavit from McGlinchey in which he said that he had been questioned by the RUC about offences other than the one he had been extradited for.]

Other cases

Robert Russell was one of the 38 prisoners who escaped from Long Kesh last September. His extradition has been ordered by the District Court in respect of this offence and in relation to the murder of a prison officer on the same occasion. His appeal to the High Court is awaited.

Brendan Burns is wanted in the North for, inter alia, the murder of five British soldiers at Camlough in 1981. His extradition has been ordered by the District Court and he has appealed to the High Court.

In both these cases, affidavits are at present awaited from the British authorities. It is possible that the cases could be heard in the High Court by Christmas.

Vincent McKenna was served with a High Court order for his extradition to face charges of malicious damage to property in the North. He was to appeal to the Supreme Court but he has, in fact, handed himself over to the RUC within the past week.

John Quinn was before the High Court earlier this month where he failed to have his extradition order to the UK quashed. He

is charged with forgery and fraud in relation to travellers cheques and had claimed that the offences were political as the money he handled was for the use of the INLA. Judge Gannon ruled that the offences were not political. Quinn is likely to appeal to the Supreme Court.

Explosives offences in Britain

It should be borne in mind that the Criminal Law (Jurisdiction) Act, 1976, extends the Explosive Substances Act, 1883 to cover acts done by an Irish citizen outside the State. It will be recalled that Gerard Tuite was successfully prosecuted here under these provisions in 1982 in respect of explosives offences in England. He was sentenced to 10 years imprisonment. In the recent Glenholmes case, these provisions could have been used as an alternative to extradition procedures.

Northern Ireland Section

Roinn an Taoisigh

14 November 1984