Internment, the IRA and the Lawless Case in Ireland: 1957-61.

by JOHN MAGUIRE

(University of Limerick)

The use of detention without trial, or internment, as an ethical and effective instrument in dealing with the activities of subversive organizations within the context of a constitutionally bound democratic state, has always been a vexed question. Is it right to violate the personal freedoms of a select number of citizens, by arresting and imprisoning them without recourse to the normal processes of the law, in order to protect the democratic liberties of the populace as a whole? In the Republic of Ireland, this has been a particularly problematic dilemma because of the danger posed by the IRA (Irish Republican Army) to the legitimacy of the state. Owing to the secret military character of the IRA and the fear it has engendered among the population, prosecuting its members before the ordinary courts has proved to be a thorny endeavour. As a consequence, internment, long considered an effective counter-insurgency device, has on several occasions been favoured in preference to the regular processes of the law, in order to restrain the IRA. During the civil war period, the Free State government, acting initially under martial law powers and latterly under the Public Safety Acts of 1923 and 1924, detained 11,480 people, while the Emergency Powers Act of 1939 and the Offences Against the State (Amendment) Act of 1940 were used to intern over 500 republicans for the duration of the Second World War.[1] The outbreak of the IRA's border campaign of 1956-62 was to be the final instance in which 'preventative detention', as it was termed by the government, was used within the Twenty-Six Counties. One of the internees of this affair, 21-year-old Gerard Lawless, together with his barrister, the formidable Sean MacBride, was to make history when he challenged his imprisonment before the Irish courts, eventually taking his case the whole way to the European Court of Human Rights in 1961.

The Lawless Case, as it became known, emerged within the context of an intensely conservative and parochial polity, characterized by an intense economic and cultural malaise and dominated by the powerful nationalist rhetoric of 1916 and *Hibernia Irredenta*.[2] This legal action was also to confound a government that was ardently attempting to portray itself as a solid democracy, and an advocate of the personal rights and freedoms of its citizens, in an ideologically-polarized international domain. The case, though ultimately unsuccessful, determined important legal precedents which restricted the executive's right to use internment in the future, thereby fundamentally altering the way in which the government sought to combat the IRA. Within the broader realm of international human rights law, the Lawless Case was the first to be heard by the newly established European Court of Human Rights, and was the first occasion in history when an individual citizen took legal proceedings against

a state. Accordingly, it is the purpose of this article to present a brief analysis of the Lawless Case and the factors leading to the introduction of internment during this period. The impact of the Lawless Case in relation to the construction and application of the European Convention of Human Rights will be assessed. Finally, within the domestic arena, this article will also consider the impact of Lawless's action on governmental policy towards contemporary republican violence.

On the night of 11/12 December 1956, IRA volunteers operating from the Republic of Ireland launched a series of attacks against 'military, police and radio installations, and … a court house and two bridges'.[3] This was the launch of the IRA's border campaign, a campaign that was to be characterized by a republican eschewal of military action south of the border.[4] Nevertheless, IRA attacks were staged and mounted from the Republic; curiously, due to the belief that an informer had infiltrated its ranks in the city, there were no IRA operations within Belfast during this period.[5] The border campaign, predicated on the traditional and dogmatic aim of 'an independent, united democratic Irish Republic',[6] represented the product of a sustained republican revival which had been underway since the late 1940s. During this resurgence, the republican movement enjoyed a significant increase in support on both sides of the border,[7] especially following a series of high profile arms raids in Northern Ireland and mainland Britain in the early 1950s. This quickly translated into an increase in political activity. *The United Irishman*, which had been launched in 1948, reached a circulation of 139,000 copies a month in 1954,[8] while Sinn Fein managed to enjoy considerable electoral success in the British general election of May 1955. In response to this outbreak of violence, Stormont mobilized the RUC on an emergency basis, but, standing at 2,800 strong, the force was below establishment levels and a further 215 B-Specials had to be activated on a full-time basis to make up the numbers.[9] The remainder of the force, which consisted of 11,600 mainly Protestant recruits, was called in to supplement RUC patrols and checkpoints.[10] In an effort to quell unionist outrage, the Northern Premier, Lord Basil Brookeborough, cautioned against any efforts to meet 'force with force', and insisted that the defence of Northern Ireland must rest with the government.[11]

South of the border, the position of the contemporary Irish government during this republican renaissance was particularly difficult, as it was a coalition that tenuously clung to power due to the parliamentary support of Sean MacBride's Clann na Poblachta, a party which harboured a strange mix of 'republicanism allied to social reform'.[12] As a result, the Fine Gael Taoiseach, John A. Costello, could not risk taking decisive action against the IRA, as this would alienate the hard-line republican faction within MacBride's party and risk collapsing the government. The position of this administration was further undermined by the activities of various IRA splinter groups, which undertook a series of attacks on British targets in Ireland, including the attempted bombing of the British Embassy in Dublin in January 1951.[13] The most well known of these groups was Saor Uladh (Free Ulster), formed by local Tyrone republican Liam Kelly in 1953. Kelly was dismissed from the IRA in 1951 for

planning an operation without the consent of the army council, and in 1954 Sean MacBride managed to compound the discomfiture of the government by securing Kelly's election to the Seanad (Senate). Saor Uladh gradually disappeared, but during its brief existence it was involved in an attack on an RUC barracks in Roslea, Co. Fermanagh, in 1955, and in blowing up the canal lock in Newry in May 1957.[14] The ambivalent attitude within Irish society to the use of force by republicans to further the 'national aim' of unity, coupled with this resurgence in violence, was further to complicate the situation for Costello's administration.

The deaths of two IRA volunteers, Sean South and Fergal O'Hanlon, during an attack on Brookeborough RUC barracks in January 1957 threatened to ignite nascent IRA sympathies, and was to demonstrate just how strong the allure of self-styled republicanism was south of the border in the 1950s. As Dermot Keogh states:

> Both men enjoyed the status of popular martyrs and were viewed by many as being part of the purer, unsullied 'republican' tradition which was contrasted with politicians caught up in the materialist world of Yeats's 'greasy till'.[15]

It was broadly felt among the public that successive Irish governments, since 1932, had given mere lip service to the attainment of a thirty-two county Republic; an aspiration that was to remain an unfulfilled ideal, in order to safeguard the status quo. The deaths of South and O'Hanlon were to capture the public imagination, with thousands lining the streets of Dublin and Limerick to pay their last respects in a massive public demonstration of a sentimental attachment to romantic republicanism. Within this hotbed of nationalist fervour, Irish society was also to exhibit its proclivity for sectarianism, when the inhabitants of Fethard-on-Sea, County Wexford, initiated a boycott of the Protestant minority within the town. In 1949, Sean Cloney, a local Catholic farmer, married Shelia Kelly, a Protestant. Insisting that the children of their union be educated in a Protestant school, despite the *Ne temere* decree of 1908, Mrs Cloney disappeared with her two children from the town on 27 April 1957. Following her appearance in Northern Ireland several days later, the local parish priest, James Stafford, ordered a boycott of all Protestant businesses in the area, pronouncing them collectively guilty of the 'kidnapping' of the Cloney children. Allied to the debacle surrounding clerical opposition to proposals for free ante- and post-natal care for mothers in 1951(the so-called 'Mother and Child Scheme'),[16] this ugly episode did much to exacerbate poor relations between Catholics and Protestants, in a state that habitually contrasted its much-vaunted 'religious liberty', with the bugbear of Orange intolerance in the north.[17]

In this volatile atmosphere, Costello's government was finally induced to take decisive action against the IRA, and ordered a series of arrests against known activists.[18] In response, MacBride, under pressure from the republican faction within his party to penalize the administration, proposed a vote of no confidence in the government on 28 January 1957, ostensibly on economic grounds. The ensuing

collapse of the coalition, following MacBride's withdrawal of support, was to return a strong Fianna Fáil administration to power, which had no qualms about getting to grips with the IRA. Since its foundation in 1926, Fianna Fáil had proved to be the main rival of the IRA in the struggle to claim the inheritance of the Irish revolutionary tradition,[19] and its leader, Eamon de Valera, had already demonstrated his resolve in dealing with that organization. In 1939, his government outlawed the IRA, and during the war years had six IRA men executed for murder, allowed three to die on hunger strike, had 500 interned and another 600 committed under the Offences Against the State Act of 1939.[20] In the immediate aftermath of the 1957 election, de Valera, in his final term as Taoiseach, quickly made his feelings clear; when asked about the government's position on the IRA, he replied: 'Private armies cannot be tolerated. That would lead to anarchy.'[21]

De Valera's first test was to come on 4 July 1957, when an IRA ambush of an RUC patrol outside Forkhill, County Armagh, resulted in the death of Constable Cecil Gregg, and the serious wounding of his colleague, Constable Robert J. Halligan. Within hours of this incident, Brookeborough made representations to Westminster in order to impress upon the Irish government the need to act.[22] This episode was particularly embarrassing, as the ambush site was a few miles from the border and on the following day the tracks of the raiders leading back towards the Republic were clearly visible.[23] In the wake of mounting diplomatic pressure from London, de Valera promptly took the step of introducing internment in an attempt to curb the activities of the IRA. Accordingly, over the next two days, sixty-three well-known members of Sinn Fein were arrested in a series of raids throughout the country.[24] Many were leading members of the IRA army council, including Thomas MacCurtain, who was arrested in Cork,[25] and the Sinn Fein President, Patrick MacLogan.[26] Within days, most had been transferred to the Curragh Internment Camp in County Kildare, which housed a total of 131 republicans by March 1957.[27]

The legislative basis for internment was contained in the Offences Against the State (Amendment) Act, 1940. This statute gave the government powers of arrest and detention without trial, which could be used:

> Whenever a Minister of State is of opinion that any particular person is engaged in activities, which, in his opinion are prejudicial to the preservation of public peace and order or to the security of the state.[28]

Enacted following a constitutional challenge to the powers of detention originally contained within in the Offences Against the State Act, 1939, this piece of amending legislation authorized a Minister of State, upon signature of a warrant, to detain suspects indefinitely. However, the government was also obliged to establish a 'Detention Commission', empowered to investigate the circumstances of a detainee's imprisonment and, if necessary, to produce a report compelling the government to release the internee in question.[29] Coupled with this apparent safeguard, the act incorporated a supervisory role for Parliament, as the government was also required to

furnish the Houses of the Oireachtas (Parliament) with particulars of detentions every six months.[30] Nonetheless, when compared with the provisions contained in the Special Powers Act of Northern Ireland, these counter-insurgency measures appeared to be relatively moderate. Officially the Civil Authorities (Special Powers) Act, this wide-ranging emergency law replaced Westminster's Restoration of Order in Ireland Act, and was made permanent in 1933. This act gave remarkably comprehensive powers of arrest and detention to the RUC, and enabled the Minister for Home Affairs to proscribe organizations and ban or reroute parades.[31] The act also empowered the Minister to introduce curfews within a specified area, to take possession or destroy buildings and other properties, and in special cases:

> Where after trial by any court a person is convicted of any crime … the court may in addition to any other punishment which may be lawfully imposed, order such person, if a male, to be once privately whipped.[32]

In this repressive legislative context, the introduction of the Flags and Emblems (Display) Act of 1954, which effectively banned the flying of the Irish tricolour,[33] was further to sully relations between the Stormont government and an increasingly disgruntled nationalist minority. This apparently trivial matter, which played into the hands of nationalist and unionist extremists, was to be skilfully exploited by both sides over the coming years to illustrate the perceived lack of parity of esteem between the two communities in Northern Ireland.

The application of Gerard Lawless to the European Court of Human Rights came against this backdrop, and was made at a time when official disquiet with the use of internment was beginning to manifest itself in the Republic. Several county councils and various public bodies inundated the government with resolutions seeking an end to internment, while on at least one occasion members of the Catholic hierarchy wrote personally to de Valera, expressing concern at 'the continuance … of a policy of internment without trial'.[34] Indeed, hints of this anxiety may be deduced from the decision announced by the government (despite the fact that there were no statutory provisions for such a measure), that if internees agreed to give an undertaking to respect the laws and constitution of Ireland, they would be released.[35] In addition, representations from various Irish-American groups and societies flooded the Department of the Taoiseach, in an effort to compel the government to halt the internment of IRA volunteers. This in turn necessitated the publication of a statement by the government that was to be distributed among Irish American circles and members of Congress, through the Irish Embassy and Consulates in New York, Boston, Chicago and San Francisco, making the case for internment.[36]

In an international sphere plagued by Cold War ideological divisions, the use of internment in democratic and capitalist Ireland was also proving to be an embarrassment. Ireland joined the United Nations in 1955, when a 'package deal', which admitted a balanced group of states from east and west, persuaded the Soviet Union to remove a long-standing veto. In 1957, the government, led by the External

Affairs Minister, Frank Aiken, embarked on a campaign of activism in an attempt to place Ireland firmly among the diplomatically forward looking 'middle powers', such as Sweden, Norway and Canada.[37] Consequently, the introduction of detention without trial was at variance with the projected image of Ireland as a democratic, libertarian and non-aligned regime. Ireland's membership of the Council of Europe and position as a signatory of the European Convention of Human Rights further undermined this position. Under Articles 5 and 6 of the Convention, which guaranteed to individuals the fundamental rights to liberty and fair trial, arbitrary imprisonment of this nature was prohibited. However, under Article 15, it was open to signatory governments to derogate temporarily from the rigours of the convention 'in time of war or other public emergency',[38] provided that the measures taken 'were to the extent strictly required by the exigencies of the situation'.[39] In order to avail itself of this clause, the government was obliged to send a notice of derogation to the Secretary General of the Council of Europe, informing him of the nature of the emergency involved and the means taken to contend with this threat to the life of the nation. Conscious of potential domestic hostility to the introduction of internment and wary of unwanted international attention in relation to this matter, the government chose to adopt an ambiguous position.

As required by Article 15, a letter was dispatched to the Secretary General on 20 July 1957, informing him that Part II of the Offences Against the State (Amendment) Act had been activated by the government. He was notified that this measure was taken in order 'to prevent the commission of offences against public peace and order, including the maintaining of an illegal military force'.[40] In spite of this, the government, through a formula devised in the Department of External Affairs, attempted to fudge the issue. The wording of the letter was designed so as not to specifically admit of a derogation on the government's behalf, unless the European Commission of Human Rights decided that the measures it had taken had actually breached the Convention. In effect, the government was trying to have it both ways by using internment and attempting to sidestep the derogation issue.[41] The paragraph in question read:

> In so far as the bringing into operation of Part II of the [Offences Against the State (Amendment)] Act … involves a derogation in certain respects from the obligations imposed by the Convention … I have the honour to request that you be good enough to regard this letter as informing you of derogation in accordance with the terms of Article 15(3) of the Convention.[42]

An opposition question in the Dáil, designed to exploit this imprecision, asked Aiken if the introduction of internment involved a violation of Article 5 of the Convention. Aiken denied this was the case,[43] and was technically correct, at the time, when he asserted that the government had not reported a derogation on Ireland's behalf (as the European Commission had not actually decided if the use of internment had breached the Convention).[44]

The concurrent introduction of internment in the North with the detention of 150 republicans in Crumlin road prison, in 1957, was to ensure that the Irish government would not take a lone stance on the Lawless Case. Informal discussions between the two governments regarding security arrangements had been ongoing for some time, and internment on both sides of the border was now bound to hamper the IRA. The British were to take a keen interest in the progression of the Lawless Case, as any adverse decision by the European Commission of Human Rights would have had direct implications for the use of internment in Northern Ireland. A British embassy official reported of a conversation with de Valera:

> It would be politically most undesirable were there to be a decision at Strasbourg which would place the Republic in a position that they might have to release all those now in detention. This would give a tremendous boost to the IRA and might well result in a widespread increase in acts of terrorism on the border of Northern Ireland.[45]

Consequently, the British government stood ready to assist the Irish behind the scenes throughout the duration of the case, in order to ensure that Lawless's action was unsuccessful.

Gerard Lawless was well known to the Gardai, and first came to the attention of the authorities in 1953, when he was convicted in the Children's Court of malicious damage to a plate glass window bearing an image of Queen Elizabeth II.[46] He joined the IRA in 1955 and was considered by many within that organization to be a 'tough, violent and undisciplined agitator',[47] a dangerous individual, skilled in the use of firearms and explosives.[48] Indeed, he also had a problematic relationship with the IRA army council and became involved in a split within that organization led by Joseph Christle. This fracture was triggered following the expulsion of Christle from the IRA under acrimonious circumstances, owing to his proclivity for conducting unauthorized operations that attracted much unwanted publicity to the IRA in the build-up to its campaign. Unfortunately, Christle's popularity among the rank and file of the Dublin unit meant that his discharge was not taken lightly, and he immediately established his own faction, which became a lure to other republicans, including Lawless, who were dissatisfied with the perceived conservatism of the IRA army council.[49] This group took no specific name; it incensed the mainstream IRA when it linked up with Kelly's Saor Uladh and engaged in a series of armed robberies in the Republic.[50] The arrest of Sean Geraghty, a member of this group, following a raid for explosives on Wolfhill Quarries in Co. Laois in May 1957, strengthened the government's hand in asserting that internment was necessary owing to the intimidation of witnesses at Geraghty's trial.[51]

In September 1956, Lawless and three others from this splinter group were arrested in Keschcarrigan, Co. Leitrim, when found in possession of a quantity of arms following their return from Ballintra, Co. Donegal, after an aborted bank raid.[52] They were all

charged with possession of the weapons without being authorized by firearms certificates granted under the Firearms Act, 1925, and appeared before the Dublin Circuit Criminal Court in November 1956. However, without the oral testimony in the Court of the Superintendent of every police district in the country, as well as the Minister for Justice and the Minister for Defence, they were all acquitted on a technicality, as the state could not prove conclusively that Lawless and his companions had not been issued with a firearms certificate.[53] Lawless was again arrested on 14 May 1957, after the discovery of seditious documents in his home. He was charged in the Dublin District Court with possession of these documents and membership of an illegal organization; during his trial he made unsubstantiated allegations that he had been beaten by members of the Gardai in the Bridewell Garda station. He was ultimately convicted on the charge of possessing the documents and received one month's prison sentence.[54] It comes as no surprise, then, that Lawless's association with Christle's splinter group, combined with his previous history and his continuing illegal activities, ensured that he was earmarked for internment as soon as it was introduced in July 1957.

The circumstances leading to Lawless's internment are as follows. Following his release from prison, efforts were made by the Special Branch of the Gardai to follow Lawless, but he could not be located. On 11 July 1957, information was received by the Special Branch that Lawless was planning to travel to Britain in an effort to avoid internment. That evening, Detective Officer Daniel Connor arrested him under section 30 of the Offences Against the State Act,1939, as he was about to board the mail boat in Dun Laoghaire.[55] During the course of his interrogation in the Bridewell, Lawless alleged that Detective Inspector Philip MacMahon offered him employment and pay if he agreed to become a Garda agent. According to Lawless, he declined the offer and told the Detective Inspector that he 'greatly resented' being considered a potential informer. The following day, Lawless was notified that he was being detained for a further twenty-four hours pursuant to section 30 of the Offences Against the State Act, and on the morning of 13 July Lawless was transferred to the Curragh Camp in Co. Kildare. Upon his arrival in the Curragh, Lawless was presented with a warrant signed by the Minister for Justice, Oscar Traynor, ordering his arrest and indefinite detention under section 4 of the Offences Against the State (Amendment) Act. He was then lodged in the military detention barracks in the Curragh, colloquially known as 'The Glass House', before being conveyed to the internment camp proper several days later.[56] Following his arrival in the camp, the IRA camp Officer Commanding (O/C), Thomas MacCurtain, stated to the Camp Commandant, Carl O'Sullivan, that as Lawless was not a member of the mainstream IRA he had no authority over him, and pointed out the risk of friction between Lawless and the other republican prisoners. He asked that separate accommodation be provided and Lawless, who was actively ostracized by the other detainees, was given a hut to himself, where he remained until his release in December 1957.[57]

As an internee, there were two routes open to Lawless if he wished to be released. The first and most effective way of securing his liberty was to give the undertaking to respect the Constitution required by the government. Paradoxically, few republicans availed themselves of this option, as it was felt that 'signing out' was unprincipled.[58] Unsurprisingly, Lawless refused to take this alternative, opting for the second route, which was to apply to the Detention Commission to have his case reviewed. The Detention Commission, consisting of a Judge of the Circuit Court, a Colonel in the Defence Forces, and a District Justice, sat for the first time in the history of the state on 17 September 1957, in the Courts Martial room of Connolly Barracks in the Curragh Camp.[59] Since it was the first ever sitting of the Commission, there was some confusion as to its legal status, and its members were in doubt as to whether it had the power to administer an oath to witnesses and if it had discretion to sit *in camera.*[60] Lawless's legal team, comprising MacBride and the eminent republican barrister Seamus Sorahan, sought to exploit this uncertainty in an effort to secure his release. MacBride hoped that they could manoeuvre the Commission into acting in a judicial manner, where Lawless would be accorded all the 'usual rights and privileges'[61] of a court of law including 'rights regarding the production of documents, the right to cross examine State witnesses [and] the right to *sub-poena* witnesses'.[62] As a result, MacBride stated that his client was anxious for the proceedings to be held in public and argued that the Commission fell under the provisions of Article 37 of the Constitution, obliging it to act in a judicial manner by administering an oath.[63] After deliberating on these issues the Commission disagreed and decided that it had the power to conduct the proceedings *in camera*, but it could not administer an oath to witnesses.[64]

The remainder of the hearing was held in private, where it was revealed that the government had already divulged an undated and unsigned file marked 'secret and confidential' to the Commission, as justification for Lawless's internment. Unfortunately, the Commission ruled that it was not bound by the rules of evidence and 'reserved the right to hear and receive evidence and documents, without disclosing such evidence or the contents of such documents to the applicant or his legal advisors'.[65] MacBride, clearly aghast that the government had tendered this report in such a furtive manner, argued that Lawless's interests had been gravely prejudiced by these rulings. Nevertheless, the Commission indicated that in all probability it would read the file, and adjourned until 19 September.[66] The following day, 18 September, MacBride applied to the High Court seeking an order of *habeas corpus*, claiming that the Detention Commission had made erroneous rulings, making it impossible for him and his team to discharge their duty.[67] The Judge hearing the application, Mr Justice Teevan, granted a conditional order of *habeas corpus*; however, MacBride requested that the order be made absolute, and opened a full hearing in the High Court on 8 October 1957. In the interim, the Detention Commission sat as arranged on 19 September and adjourned pending the outcome of the *habeas corpus* proceedings.[68] In the High Court, MacBride gave an early indication of the approach he was intending to use when he invoked the European

Convention of Human Rights. As the state had ratified the Convention in 1953, MacBride asserted that it was no longer open to the government to rely on powers that were in contravention of that agreement.[69] The court refused to accept this, citing articles of the Constitution that meant that while the state was a party to the Convention, it 'could not of itself in any way qualify or affect domestic legislation'.[70]

As a consequence of this adverse judgement, MacBride, now with the intention of pursuing the case through the European Commission of Human Rights, opened an appeal in the Supreme Court on 21 October. While there was little possibility that Lawless would receive satisfaction from such a manoeuvre, he was obliged under the European Convention to consider all domestic legal remedies before he was eligible to have his case heard by the European Commission. As the Offences Against the State (Amendment) Bill had been referred to the Supreme Court by the President, prior to signing it into law in 1940, it was not open to Lawless to challenge the constitutionality of his imprisonment. Subsequently, MacBride again sought to argue his case in terms of the Convention of Human Rights, and submitted that it conferred enforceable rights on Irish citizens.[71] Rejecting Lawless's appeal, the Supreme Court, in its reserve judgement of 4 December, did not accept MacBride's contention, upholding the findings of the High Court that Article 29 of the Constitution was an insuperable obstacle to importing the provisions of the Convention into the domestic law of Ireland.[72] Following the failure of this appeal, MacBride lodged his anticipated complaint with the European Commission of Human Rights on 8 November 1957, alleging a breach of Article 5 of the Convention and seeking financial recompense for Lawless.[73] The focus of attention then turned back to the internment commission that had adjourned its sitting in September. At the resumed session in December, Lawless finally secured his release from custody when a compromise in relation to the government's constitutional undertaking was reached with the Attorney General, Andriais O'Caoimh. Lawless, who stated that he could not respect the Constitution owing to religious objections,[74] consented to give a revised form of the undertaking, in which he agreed to 'obey' as opposed to 'respect' the Constitution. The Attorney General then recommended his release to the government, and Lawless was freed on 11 December 1957.[75]

Following Lawless's release, MacBride embarked upon the lengthy and complex process of prosecuting the case through the machinery of the European Commission of Human Rights. MacBride, who had made his name as a barrister representing republicans without payment in the 1930s, was well qualified and sufficiently experienced to promote Lawless's interests in this forum. Throughout his public career MacBride had taken a keen interest in international human rights, and, as Minister for External Affairs, was involved in drafting the European Convention. Certainly, throughout his colourful tenure as Minister, MacBride had a considerable impact on Irish foreign policy and greatly increased the country's diplomatic representation abroad, through membership of organizations such as the Council of Europe and the Organization for European Economic Co-operation (OEEC).[76] The

first stage of Lawless's application was written as both sides filed various observations and memorials, while the European Commission considered the admissibility of the case. In its defence, the government contended that Lawless's application was politically inspired and made for the purposes of propaganda, and sought to deny the admissibility of the case under Article 17 of the Convention, alleging that Lawless was a member of the IRA, or one of its splinter groups, at the time of his arrest in July 1957.[77] It had previously been laid down by the European Commission, in the German Communist Party Case, that under Article 17 anyone involved in an organization that was trying to supplant the freedoms set out in the Convention was barred from invoking it in their favour. Not surprisingly, Lawless denied these allegations and stated that he had disassociated himself from the splinter group 'sometime towards the end of 1956'.[78] This phase of proceedings eventually culminated with the convening of an oral admissibility hearing before the European Commission, held in Strasbourg on 19 and 20 June 1958, where it was ultimately decided to permit Lawless's application.[79]

In considering the merits of the case, responsibility fell on the members of the European Commission of Human Rights to draw up a secret report containing an opinion as to whether the facts of the case disclosed a breach of the Convention. This report, in ordinary circumstances, was then to be transmitted to the Council of Europe, where the case would be finally decided.[80] To do this, the Commission was required to conduct an investigation with a view to ascertaining the facts of the case. The Commission, which consisted of a representative from each of the member states of the Council of Europe, was obliged to establish a Sub-Commission, consisting of seven of its members, five of which were chosen by lot and one each appointed by the parties, in order to discharge this duty.[81] Naturally, the government appointed the Irish member of the Commission, James Crosbie, to represent its interests in the case. Unfortunately for Lawless, MacBride committed a major blunder when he selected the British representative and president of the European Commission, C. H. M. Waldock, to be his man in the Sub-Commission. The rationale behind this decision was that MacBride, by appointing the British representative to the Sub-Commission, wished to emphasize that Lawless's actions were not anti-British, nor aimed at the British people. However, given Waldock's nationality and his influential position within the Commission, this was a strategy that was fraught with danger.

While the complaint was made against the Irish government, it did concern actions within Northern Ireland, which was, *de facto,* a part of the United Kingdom. The governments of Britain, Northern Ireland and the Republic of Ireland were grappling with the same IRA threat, and had responded in the same way with the introduction of internment. Therefore, it was reasonable to assume that Waldock would be very loath to condemn the actions of the Irish government, as this would also be construed as a direct attack on the actions of the British government. Waldock, like Crosbie, had a detailed knowledge of the Irish situation, and had already proven himself to be sympathetic to his own government's position when he originally opposed admitting

Lawless's case. Allied to this, Waldock was also in a peculiar position of influence as President of the Commission. The continental members of the Commission would have been aware of the commonality of language and legal systems between Britain and Ireland which sprang from a shared political, constitutional and legal history, and would have had a natural inclination to rely on the opinions of Waldock on these issues.[82] In defence of MacBride, this was a subtle and clever attempt to neutralize one of the most potent members of the commission: Waldock, who was required to act in an impartial capacity, now had a clear conflict of interest. It was hoped that Waldock, in an attempt to resolve this conflict, would put his impartiality to the Commission above his loyalty to his country. Regrettably, this tactic failed, as Waldock consistently stated the view, throughout the deliberations of the Sub-Commission, that there was no breach of the Convention by the Irish government.

Following a lengthy investigation of the facts by the Sub-Commission, which included a personal appearance by Lawless in April 1959,[83] its members formed the opinion that there was no violation of the Convention by the Irish government. This view was then transmitted to the plenary Commission, which drew up its report based on these findings. Nevertheless, it was predicted in the contemporary press, owing to the gravity of Lawless's allegations, that the Commission would circumvent the Council of Europe and make the landmark recommendation that the case be referred to the newly established European Court of Human Rights for final adjudication.[84] This court, which was originally envisaged under the terms of the European Convention of Human Rights, had not actually been set up until 1959. Therefore, as a result of the Commission's anticipated referral on 4 April 1960, Lawless's action not only became the first case to be heard by this body, but also turned out to be the first time an individual contested a lawsuit against a state.[85] Unfortunately, under the rules of procedure, Lawless and his counsel were prevented from pursuing his claim to final judgment in this arena, as he was not allowed to appear as a party before the Court.

The hearing of the case took place over a protracted period between October 1960 and July 1961, during which the Court issued three separate judgments, establishing much of its early case law. The Commission (in its appointed capacity as defender of the public interest) attempted to afford Lawless some standing before the court in the preliminary stages of the proceedings, despite opposition from the Irish government. Consequently, the first two of these judgments were concerned with the rights of the applicant and the Commission vis-à-vis the Court. Under Article 31 of the Convention, the report adopted by the Commission the previous year was to be transmitted only to the Council of Europe and the government of Ireland, who were not at liberty to publish it. Despite this, the Commission had also sent a copy of the report to Lawless, in order to obtain the observations of his counsel on the issues raised by the document. In its first judgment on 14 November 1960, the Court considered that as soon as a case had been referred to it, the proceedings took on a judicial character and hence were public, taking place in the presence of all parties. The Court therefore ruled that the Commission had not exceeded its powers in

transmitting the report to Lawless and was entitled to receive his written submissions, as it was in the interests of the proper administration of justice that the Court should have knowledge of and, if need be, take into consideration the applicant's point of view.[86] In its second judgment, handed down on 7 April 1961, the Court also ruled that the Commission, when it considered it desirable to do so, had the right to invite the applicant to place some person at the disposal of the delegates of the Commission,[87] usually the senior counsel of the applicant, as is the practice today.

Following these procedural questions, the Court released its judgment on the merits of the case on 1 July 1961.[88] The fundamental principles raised by the Lawless case related to whether or not a person could be imprisoned by ministerial order without charge or trial, and under what circumstances a state could suspend the operation of the Convention.[89] Throughout the course of the hearing, the Irish government persisted with its assertion that Lawless was deprived of the protections of the Convention under Article 17. It also contended that owing to the continuation of the IRA's border campaign, the government was entitled to derogate from the Convention under Article 15. After deliberating on these issues, the Court considered that the government's arguments under Article 17 were flawed, as it ruled that Article 17 was negative in scope. Essentially, Article 17 was solely designed to prevent anyone justifying, by implication from the language of the Convention, the right to engage in certain activities. In its ruling the court stated that:

> this provision…cannot be construed *a contrario* as depriving a physical person of the fundamental individual rights guaranteed by articles 5 and 6 of the Convention; whereas in the present instance G.R. Lawless has not relied on the Convention in order to justify or perform acts contrary to the rights and freedoms recognised therein.[90]

The Court also ruled that internment conflicted with the government's obligations under Article 5, as Lawless was not charged with any crime, nor brought before a judge for the purpose of trial. It added: 'if the construction placed by the court on the aforementioned articles [Article 5] is not correct, anyone suspected of harbouring an intent to commit an offence could be arrested and detained for an unlimited period on the strength merely of an executive decision.'[91]

In spite of these findings, the decision in the case turned on the Court's ruling relative to the government's arguments concerning Article 15 of the Convention. Throughout the proceedings, initially before the European Commission of Human Rights and latterly before the European Court, the Irish government attempted to argue that the ambiguous letter sent to the Secretary General on 20 July 1957 did in fact amount to a notice of derogation. The Court ultimately accepted this contention and set about determining whether there was actually a 'public emergency threatening the life of the nation'[92] in existence in the Republic of Ireland at the time internment was introduced. The Court, setting a precedent by inquiring into this matter, laid the burden of responsibility to prove that such an emergency did exist firmly at the feet of

the respondent government. Subsequently, the state's defence in this matter was based on three premises. Firstly, there was in existence in the Republic of Ireland 'a secret army, engaged in unconstitutional activities and using violence to attain its purposes'; secondly, that the fact that 'this army was… operating outside the territory of the state' jeopardized the relations of the Republic of Ireland with Northern Ireland; and thirdly, that there was 'a steady and alarming increase in terrorist activities from the autumn of 1956 and throughout the first half of 1957'.[93] The court agreed, asserting that:

> the application of the ordinary law had proved unable to check the growing danger … whereas the sealing of the border would have had extremely serious repercussions … beyond the extent strictly required by the exigencies of the situation … therefore the administrative detention instituted under the act … of 1940 … appeared, despite its gravity, to be a measure required by the circumstances.[94]

This finding was crucially important for a relieved Irish government. As the court established that the government was entitled to derogate from the Convention under Article 15, it ruled in the government's favour and held that it had not breached the Convention when it interned Gerard Lawless in July 1957. [95]

The release of this judgment and the conclusions reached in it were of little practical consequence in the immediate short term, owing to the fact that the government had decided to discontinue the use of internment in February 1959.[96] In spite of this being coupled with declining IRA activity, it can be reasonably assumed that the progression of the Lawless Case played a substantial part in the government's decision. Nevertheless, Lawless's action was to have an unforeseen outcome for the IRA. The IRA emerged from the internment episode a demoralized and feuding organization, and between 1959 and 1961 the number of incidents along the border declined steadily. The extent of the decay in republican fortunes became apparent in the 1961 general election in the Republic, when Sinn Féin garnered just three per cent of the vote.[97] In this atmosphere, the government in Dublin was content to alleviate some security measures in the belief that the campaign was fading out. Ultimately this was not to be the case, as the IRA sought to reassert itself in the early 1960s. On January 27 1961, an IRA unit gunned down RUC Constable Norman Andersen a few yards from the border near Roslea, Co. Fermanagh.[98] This was a particularly callous attack, as a republican press release accused Constable Anderson of spying on the IRA in the Republic, whereas local rumour had it that Anderson was crossing the border to see a girl.[99] As the *Irish Times* noted:

> The assassination of Constable Anderson has given the government the most serious setback … The government now will be faced inevitably with the choice of an even more rigorous use of its emergency measures or the danger that new incidents may recur.[100]

This proved to be an accurate observation. Throughout March and April 1961, the number of IRA incidents in Northern Ireland began to rise; for example, on March 28 Glassdrummond Bridge in Co. Derry was destroyed and an RUC patrol was ambushed. The following November, a similar IRA ambush of an RUC patrol at Flurrybridge on the Armagh/Louth border, resulted in the death of another RUC Constable, W. J. Hunter.[101] The British government, horrified at this attack, tendered a note to the Taoiseach expressing 'gravest concern at the murder of an RUC Constable on the border'.[102] However, the release of the judgement in the Lawless case now seriously constrained the government if it wished to reinstate detention without trial. Resort to such measures exposed the government to the future possibility of another indictment before the European Court of Human Rights, where it would again have to justify and prove its actions in terms of a public emergency.[103] Therefore, endeavouring to end this campaign once and for all, the government opted to revive the Special Criminal Court.

Under the Offences Against the State Act 1939, the government was entitled to establish special courts consisting of army officers to try members of illegal organizations, if it was satisfied 'that the ordinary courts are inadequate to secure the effective administration of justice and the preservation of public peace'.[104] These courts differed from standard courts by virtue of the fact that the judiciary were to be army officers, with greater powers in relation to sentencing than ordinary judges. In addition, persons charged with serious offences before the Special Criminal Court would not have the safeguard of a jury.[105] In theory, the Special Criminal Court was designed for use during exceptional circumstances, to be disbanded when it was no longer needed. However, to counter the IRA threat during the Second World War, one such court was established in 1939 and over time was allowed to descend into an administrative limbo. As the IRA menace diminished, some of the court's members retired, with its last sitting held in 1946.[106] As a result, when resorting to the use of the Special Criminal Court in November 1961, the government simply appointed three new officers, Colonel James H. Byrne, Lieutenant-Colonel Joseph Adams and Lieutenant-Colonel William Rea, to fill the vacancies caused by retirement in a court that technically had never been out of existence.[107] The Special Criminal Court proved to be a much more effective instrument than internment, imposing sentences of up to eight years on republicans. By the end of December 1961, twenty-five men had been sentenced, leaving the *United Irishman* to complain 'that these military courts are used to maintain British rule'.[108] The IRA army council, faced with these unsustainable losses in manpower, finally terminated the border campaign on 26 February 1962, citing lack of public support.[109]

In summation, the Lawless Case was a ground-breaking lawsuit that had implications for the application of the European Convention of Human Rights, Irish counter-insurgency policy, and the activities of the IRA. The most obvious consequence revolved around the government's ability to use internment in the future, by fundamentally encroaching on the government's right of recourse to Article 15 of the

Convention. The European Court, by reviewing the factors which compelled the government to introduce internment and confirming the government's assertion that a public emergency existed within the state, enshrined a vital new principle. By determining for itself that conditions existed to justify derogation from the Convention, the Court could decide if the circumstances in a state warranted recourse to derogation, taking this decision out of the hands of signatory governments.[110] Allied to these constraints, political concerns were also to play their part in the ultimate abandonment of internment by the government, despite subsequent events in the 1970s that arguably might have justified its reintroduction. Over the years, Ireland has attempted to carve out a niche for itself as a moral and neutral voice in international affairs. Through its membership of the United Nations, Ireland has played an important role as an international peacekeeper. The employment of internment would undoubtedly have damaged this reputation.[111] The presence of Irish troops on their first peacekeeping mission in the Congo during the 1960s, together with the findings of the European Court of Human Rights, must have weighed heavily in the governments decision to reactivate the Special Criminal Court in 1961.[112]

Within the broader context of international human rights law, the European Convention of Human Rights was the first international treaty to accord fully enforceable rights to individuals. The Lawless Case, while it is notable as the first lawsuit taken by a private citizen against a state, also brought into operation for the first time the full provisions of the Convention in the shape of the European Court of Human Rights. This body has evolved, together with other supra-national judicial entities such as the European Court of Justice, to become indispensable in the application and construction of international law. Lawless's action was also to determine the preliminary case law of the European Court of Human Rights and laid the precedent that it was open to the European Commission to receive the written submissions of the applicant, despite the fact that an individual was not allowed to appear as a party before the Court. In addition, the Lawless Case highlighted the potential influence that international agreements could have on Irish domestic legislation, despite the bar placed by Article 29 of the Constitution on the importation of international law into Irish municipal law. On a political level, the Lawless case revived official awareness as to the uses of the Convention against Northern Ireland. In February 1960, the Belfast Council for Civil Liberties wrote to the government requesting that it take an action to the European Court against the British and the Northern administrations, in an effort to challenge them to justify the continued use of internment within Northern Ireland.[113] While no official action was taken, discreet enquiries were made as to the government's rights if it wished to make a case in this regard.[114]

Finally, for the republican movement, riven by division following bitter feuding in the internment camp, Lawless's application was to have critical importance. The reconstituted Special Criminal Court was used ruthlessly against the IRA, imposing harsh sentences that represented an unsustainable drain on manpower. The IRA's safe

haven in the Republic was compromised, and this was coupled with a drastic collapse in public support when it became apparent that the campaign was heading towards a dead end; the IRA halted its military activities in February 1962. Tim Pat Coogan and Joseph Bowyer Bell both argue that, despite public hostility towards the IRA, it was the reintroduction of the Special Criminal Court which was to prove the final undoing of the campaign.[115] In his work on the 'B' Specials, Sir Arthur Hezlet concurs, and attributes the failure of the campaign to the outright opposition of the Irish government and the establishment of the Special Criminal Court.[116] If this is the case, Lawless's application, which encouraged the government to resort to this measure, could ironically and indirectly have facilitated the failure of the IRA border campaign.

NOTES:

[1] S. J. Connolly (ed.), *The Oxford Companion to Irish History* (Oxford: Oxford University Press, 2002), p. 273.
[2] R. F. Foster, *Modern Ireland 1600-1972* (London: Penguin Books, 1989), p. 571.
[3] *The Irish Times,* 13 Dec. 1956.
[4] Brian Feeney, *Sinn Fein: A Hundred Turbulent Years* (Dublin: The O'Brien Press, 2002), p. 195.
[5] Brendan Anderson, *Joe Cahill: A Life in the IRA* (Dublin: The O'Brien Press, 2002), p. 129.
[6] Irish Republican Army Campaign Manifesto, 12 Dec. 1956.
[7] Joseph Bowyer Bell, *The Secret Army: The IRA* (Dublin: Poolbeg, 1998), p. 239.
[8] Sean Edmonds, *The Gun, the Law and the Irish People: From 1912 to the Aftermath of the Arms Trial 1970* (Tralee: Anvil Books, 1971), p. 186.
[9] Sir Arthur Hezlet, *The 'B' Specials: A History of the Ulster Special Constabulary* (Belfast: The Mourne River Press, 1997), p. 163.
[10] Hezlet, p. 163.
[11] Tim Pat Coogan, *The IRA* (London: Harper Collins Publishers, 2000), p. 307.
[12] Eithne MacDermott, *Clann na Poblachta* (Cork: Cork University Press, 1998), p. 13.
[13] *The Irish Times*, 24 January 1951.
[14] Bell, p. 246.
[15] Dermot Keogh, *Twentieth Century Ireland: Nation and State* (Dublin: Gill & MacMillan, 1994), p. 229.
[16] For a full account of the circumstances surrounding the mother and child scheme see: J. J. Lee, *Ireland 1912-1985: Politics and Society* (Cambridge: Cambridge University Press, 1989) pp. 313-19, Keogh, pp. 210-13 and MacDermott, pp. 156-61.
[17] Marcus Tanner, *Ireland's Holy Wars: The Struggle for a Nation's Soul 1500-2000* (London: Yale University Press, 2001), pp. 339-41.
[18] Joe McGarrity (pseudonym), *Resistance: The Story of the Struggle in British Occupied Ireland* (Dublin: Irish Freedom Press, 1957), p. 35.
[19] Brian Hanley, *The IRA: 1926-3,* (Dublin: Four Courts Press, 2002), p. 144.
[20] Lee, p. 223.
[21] *The Irish Times*, 9 Mar. 1957.
[22] Ibid., 5 Jul. 1957.
[23] Ibid., 8 Jul. 1957.
[24] Ibid.
[25] Bell, p. 305.
[26] *The Irish Times*, 8 Jul. 1957.
[27] Coogan, p. 319.
[28] The Offences Against the State (Amendment) Act, 1940, No. 2 of 1940, Section 4 (1).
[29] Offences Against the State (Amendment) Act, 1940, No. 2 of 1940, Section 8 (1), (2) & (3).
[30] Brian Doolan, *Lawless V Ireland (1957-61): The First Case Before the European Court of Human Rights, An International Miscarriage of Justice?* (Dartmouth: Ashgate, 2001), p. 20.
[31] Connolly, p. 552.
[32] Civil Authorities (Special Powers) Act (Northern Ireland), 1922, Section (5).
[33] Coogan, p. 384.
[34] National Archives of Ireland (NAI), DT, S 13710 B, Letter to de Valera from Rev. Edward Hegarty, D.D., M.A., 3 Sept. 1958.
[35] NAI, 8th Government Cabinet Minutes Volume I, GC8/36, 6 Aug. 1957. The required undertaking read: 'I, _____, undertake to respect the Constitution of Ireland and

the laws, and I declare that from this day forth I will not be a member of, or assist, any unlawful organisation.' See: NAI, DT, 98/6/360, Memo from Department of Justice.
[36] NAI, DT, S 16209 A, Department of External Affairs Minute from Washington Embassy.
[37] Connolly, pp. 589-99.
[38] The European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950, Article 15 (1).
[39] Ibid.
[40] NAI, DT, S 14921 C, Letter to the Secretary General, Council of Europe, 20 Jul. 1957.
[41] Doolan, p. 41.
[42] NAI, DT, S 14921 C, Letter to the Secretary General, Council of Europe, 20 Jul. 1957.
[43] NAI, DT, S 14921 C, Parliamentary Question No. 41 to the Minister for External Affairs, 23 Oct. 1957.
[44] Doolan, p. 40.
[45] Ibid., p. 96.
[46] NAI, Department of External Affairs (DEA), 98/3/127 Part IV, Miscellaneous Papers, Garda Memorandum, 15 Dec. 1958.
[47] Bell, p. 279.
[48] NAI, DEA, 98/3/127 Part IV, Miscellaneous Papers, Garda Memorandum, 15 Dec. 1958.
[49] Edmonds, p. 190.
[50] Ibid.
[51] NAI, DEA, 98/3/127 Part IV, Miscellaneous Papers, Garda Memorandum, 18 Dec. 1958.
[52] Ibid.
[53] NAI, DEA, 98/3/127 Part IV, Folder No. 4, Observations of the Irish Government on the Reply of Gerard Lawless, 25 Mar. 1958.
[54] NAI, DEA, 98/3/127 Part IV, Folder No. 1 Statement of Complaint and Claim, Schedule No. 8, Affidavit of Gerard Lawless, 10 Dec. 1957.
[55] NAI, DEA, 98/3/127 Part IV, Miscellaneous Papers, Garda Memorandum, 15 Dec. 1958.
[56] NAI, DEA, 98/3/127 Part IV, Folder No. 1 Statement of Complaint and Claim, Schedule No. 1, Affidavit of Gerard Lawless, 18 Sept. 1957.
[57] Edmonds, p. 204.
[58] Anderson, p. 144.
[59] NAI, DEA, 98/3/127 Part IV, Folder No. 1, Statement of Complaint and Claim, 8 Nov. 1957.
[60] NAI, DEA, 98/3/127 Part IV, Folder No. 1, Statement of Complaint and Claim, Schedule No. 1, 8 Nov. 1957 .
[61] NAI, DEA, 98/3/127 Part IV, Affidavits (and Exhibits therein referred to) Orders and Judgement of the High Court of Ireland and Notice of Appeal to the Supreme Court of Ireland, Schedule No. 1, Copy of letter dated 9th Sept. 1957 from P. C. Moore, Solicitor to the Secretary of the Government.
[62] Ibid.
[63] NAI, DEA, 98/3/127 Part IV, Folder No. 1, Statement of Complaint and Claim, Schedule No. 1, Summary of Arguments advanced in the Irish High Court and Supreme Court, 8 Nov. 1957.
[64] *The Irish Times*, 18 Sept. 1957.
[65] Ibid., 19 Sept. 1957.
[66] Ibid.
[67] Ibid.
[68] Ibid., 8 Nov. 1957.
[69] Ibid., 9 Oct. 1957.
[70] Ibid., 17 Oct. 1957.
[71] Ibid., 22 Oct. 1957.

[72] Ibid., 4 Dec. 1957.
[73] NAI, DEA, 98/3/127 Part IV, Folder No. 1, Statement of Complaint and Claim, 8 Nov. 1957.
[74] In fact Lawless objected to Article 44 of the Constitution, (which was deleted from the Constitution in 1972), which recognised the special position of the Catholic Church in Irish society, but also recognised the position of other churches including the Protestant denominations and the Jewish faith. Lawless's objection stemmed from the fact that this article did not put the Catholic Church in a state of pre-eminence over all the other religions present in Ireland.
[75] NAI, DEA, 98/3/127 Part IV, Folder No. 3, Reply of Complainant to the Submissions Made by the Respondent Government, Affidavit of Ciaran MacAnally, 21 Feb. 1958.
[76] MacDermott, pp. 134-5.
[77] NAI, DEA, 98/3/127 Part IV, Folder No. 7, Decision of the Commission as to the Admissibility of Application No. 332/57, 30 Aug. 1958.
[78] NAI, DEA, 98/3/127 Part IV, Folder No. 5, Reply of the Complainant to the Observations of the Respondent Government, 25 Mar. 1958.
[79] NAI, Office of the Attorney General [herein OAG], Shelf No. 1, 304, Box No. 1, Decision of The Commission as to The Admissibility of Application No. 332/57, 30 Aug. 1958 Submitted by Gerard Richard Lawless against the Republic of Ireland.
[80] Vincent Beger, *1960-1987, Case Law of the European Court of Human Rights* (Dublin: The Roundhall Press, 1989), p. 2.
[81] Doolan, p. 92.
[82] Ibid., pp. 92-4.
[83] NAI, OAG, Shelf No. 1, 301, Box No.1, Verbatim record of the hearings held by the Sub-Commission on 17, 18 and 19 Apr. 1959.
[84] *The Irish Independent,* 2 Jan. 1960.
[85] *The Irish Times*, 5 Apr. 1960.
[86] Beger, p. 3.
[87] Ibid.
[88] European Court of Human Rights (ECHR), Lawless V Ireland (1961) [online document] http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=332/57&sessionid=250357&skin=hudoc-en accessed 14/9/2004.
[89] *The Irish Independent*, 2 January 1960.
[90] ECHR, Lawless V Ireland (1961) [online document] http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=332/57&sessionid=250357&skin=hudoc-en accessed 14/9/2004, p. 19.
[91] Ibid., p. 25.
[92] The European Convention of Human Rights and Fundamental Freedoms, 1950, Article 15(1).
[93] ECHR, Lawless V Ireland (1961) [online document] http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=332/57&sessionid=250357&skin=hudoc-en accessed 14/9/2004, p. 29.
[94] Ibid., p. 30.
[95] Beger, pp. 8-9.
[96] NAI, 8th Government Cabinet Minutes Volume II, Offences Against the State (Amendment) Act, 1940: Release of Detained Persons, 17 Feb. 1959.
[97] Bell, p. 332.
[98] *The Irish Times*, 28 Jan. 1961.
[99] Bell, p. 331.
[100] *The Irish Times*, 28 Jan. 1961.
[101] Ibid., 13 Nov. 1961.

[102] Ibid., 15 November 1961.
[103] Doolan, p. 239.
[104] The Offences Against the State Act, 1939, Section 35 (1).
[105] *The Irish Times*, 23 November 1961.
[106] NAI, DT, S 11837 B, Department of Defence Memo, 3 November 1951.
[107] *The Irish Times*, 23 November 1961.
[108] *The United Irishman*, December 1961.
[109] Bell, p. 334.
[110] Anthony J. Jordan, *Sean MacBride: A Biography* (Blackwater Press: Dublin, 1993), p. 157.
[111] Doolan, pp. 238-9.
[112] *The Irish Times*, 23 November 1961.
[113] NAI, DT, S 14921 C, Letter of Belfast Council for Civil Liberties, 5 February 1960.
[114] NAI, DT, S 14921 C, Memo to DEA, 9 February 1960.
[115] See Coogan, p. 329 and Bell, pp. 333-4.
[116] Hezlet, pp. 185-6.