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Current State of U.S. Court cases of Irish Interest

1. Michael O'Rourke: Please see separate Note attached.
2. The most prominent case of Irish interest last year was the trial in New York in November 1982 of 5 men, including Michael Flannery, National Treasurer of NORAIID, on gunrunning offences. The trial attracted publicity in the United States, Britain and Ireland. All five were arrested following an FBI "sting" operation on charges on attempting to purchase weapons for the Provisional IRA. Flannery was charged with supplying the funds for the operation. At the trial lawyers for the defendants successfully pleaded that the State's main witness was a CIA agent with whom the defendants had dealt in good faith. They argued that because an agency of the US Government was involved, the attempted purchase was legal. The defendants were quite open in admitting involvement in gun smuggling and, in Flannery's case, in conspiring to purchase weapons. The five were acquitted on 5 November 1982. Flannery was subsequently appointed Honorary Grand Marshal for the 1983 St. Patrick's Day parade in New York.
3. In June of last year, following the arrest of three men in Limerick, four men were arrested by the FBI in New York. The four are Gabriel Megahey (39), Andrew Duggan (49) who were charged with attempting to purchase Redeye surface-to-air missiles, and Eamonn Meehan (46) and Colm Meehan (36), two brothers who were charged with attempting to ship to Ireland over four dozen automatic rifles and a silencer-equipped Uzi submachine gun. A fifth suspect, Patrick McPartland, was then still at large. In January of this year, defence lawyers for the Meehan brothers, in what was widely seen as a delaying tactic, asked for extra time in which to obtain evidence of "British Concentration Camps" in Northern Ireland to bolster an insanity plea on behalf of the two, whom they claimed were suffering a mental condition known as 'post-trauma stress disorder'. This plea was later rejected by the Court, and the trial opened as scheduled on March 1st. A final unsuccessful attempt to delay the trial had been made when the fifth accused, Patrick McPartland, gave himself up to the authorities at the American Embassy in Dublin on 14 February. McPartland subsequently returned to the U.S. but is to be tried separately, probably beginning in September 1983. The main defence was that the Meehans, Megehey and Duggan were entrapped by the FBI. All admitted their participation in

in gun running and acknowledged this support for the PIRA. They also claimed that, like Flannery, they believed that the CIA supported this gun running operations. On this occasion, however, the judge ruled that the latter argument was not a permissible defence. The four defendants were found guilty of conspiring to smuggle arms on 13 May. They were, however, released on bail pending appeal.

4. Bernard McKeon a New York building contractor, was indicted in September 1982 and charged with attempting to provide weapons for the IRA, following testimony given by an arms dealer, George de Meo, who, in his trial in North Carolina in 1979, had turned state's evidence. McKeon was tried in December 1982, but the judge declared a mistrial when the jury was unable to agree on the verdict. His second trial, in March 1983, was also declared a mistrial, since approval could not be secured in time from the British and Irish governments for classified material, which they had supplied as documentary evidence, to be made available to the defence. The third trial was scheduled to begin in June 1983.

5. There have been no developments in an immigration case involving Owen Carron M.P. and Danny Morrison who were arrested while attempting to enter the U.S. illegally from Canada in 1981. It appears that the case has been quietly dropped because of the difficulties involved in bringing both back for trial.

6. In February 1982, five men were arrested as they attempted to enter the U.S. from Canada with what is understood to have been a "shopping list" for weapons and ammunition, and a large sum of money. The men also had in their possession a replica of the Seal of the Department of Foreign Affairs, suitable, with refinements, for use for passport purposes. Two of the men were Irish Edward Howell and Desmond Ellis. Howell was deported shortly afterwards, but escaped while en route to Dublin. He was subsequently arrested here but was acquitted on a charge of membership of the IRA in April of last year. Ellis, who had originally absconded in 1981 whilst on bail facing a charge of possessing explosives in his Dublin home, was deported to Ireland on 3 March 1983. He stood trial on the same charge in the Special Criminal Court and in April 1983 was found guilty and sentenced to 7 years imprisonment.

7. An appeal has been lodged by the US Attorney in New York against the court decision in the case of Martin Flanagan. Flanagan had given information to the authorities on gunrunning and, in return for a guarantee of immunity, had promised to testify before a grand jury. However, when he took the stand, Flanagan refused to testify and invoked the Fifth Amendment of the US Constitution which protects against self-incrimination on the grounds that the promise of immunity did not protect him from prosecution in Britain or Ireland. The court upheld his decision.

8. The trial of Colm Murphy (from Northern Ireland) and Vincent Toner (from New York) began on 16 May 1983 in New York. They face charges connected with procuring and possessing unregistered firearms. Murphy in addition is charged with being an illegal alien.

9. Joseph Doherty, who escaped from Crumlin Road gaol in 1981, and was sentenced in his absence to 30 yrs imprisonment for the murder of an undercover army officer, was arrested in New York on 27 June as an illegal immigrant. He now faces extradition, though his lawyers have stated that he will contest such a move on the grounds that his crime was politically motivated.

Anglo-Irish Section
Department of Foreign Affairs
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Michael O'Rourke

Michael O'Rourke, born in Dublin 1952, was convicted in July 1975 on charges of possessing explosives, ammunition and firearms with intent to endanger life and was sentenced by the Special Criminal Court to two concurrent sentences of six years imprisonment. He escaped from Green Street Courthouse in July 1976 by blasting a hole in the cell wall. He entered the USA in February 1978 using a false passport in the name of Patrick Mannion. In November of that year he was arrested in Philadelphia on charges of illegal entry into the USA. He has been in custody since then while his lawyers explored various means of preventing his deportation to Ireland. The US authorities have been assisted by the Consulate in New York and by the Department of Justice who provided material to counter O'Rourke's claims in court. In March 1982 the Attorney General authorised Mr Robert Barr S.C. to travel to New York to present evidence in defence of the operation of Irish legislation such as the Offences Against the State Act and the Special Criminal Court.

In July 1982 the US authorities decided to deport O'Rourke, who appealed to the US Board of Immigration Appeals. After some delay on 24 May 1983 the Board turned down O'Rourke's appeal. O'Rourke was not deported, however, since his lawyer indicated that he was seeking a judicial review of the case in the Court of Appeals. O'Rourke has indicated that, if necessary, he would choose to be deported to Sweden. This seems unlikely, however, since the destination of a deportee is at the discretion of the US authorities.

O'Rourke's case has generated a great deal of publicity in the US and has attracted the attention of a number of Irish Americans. Former Congressman Charles Dougherty, in whose constituency the common law wife of O'Rourke resided, sought in July 1982 to initiate dialogue between the Irish Government and O'Rourke. It was explained to Rep. Dougherty that the Minister for Justice could not enter into 'negotiations' on an issue which was subject to judicial process in Ireland without risking contempt of court.

A number of campaigns have been launched in the US during the past six months, seeking to obtain O'Rourke's release. One has been launched by the "National Centre for Immigrants' Rights" (a Los Angeles organisation) which has made an appeal for \$500,000 to be used as

collateral in an attempt to have O'Rourke released on bail. The AOH has also taken up the case and its President, Joe Roche, has taken a particular interest in it. O'Rourke was appointed Honorary Grand Marshal of the Philadelphia St. Patrick's Day Parade this year.

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