Drugs: The Judicial Response

(*CONTINUED FROM MAY ISSUE*)

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Sentencing

General

In Ireland the courts have consistently set their face against setting down sentencing tariffs. In *The People (DPP) -v- Cannon*[58], the Court of Criminal Appeal rejected the principle of the validity of sentencing guidelines:

'The courts here so far have rather set their faces against this idea of guidelines or tariffs for sentences. We put great store on the fact that each case must be considered in its individual frame, while being mindful that a sentence must be proportionate to the offence in question and to other sentences imposed in similar situations - though it. needs to be emphasised, that very rarely will two cases be exactly alike.'[59]

What every court, however, is aiming for is not uniformity of sentence, which is an impossibility, but rather uniformity of approach.[60] The obvious legislative policy of increasing the maximum sentences for drug offences binds the courts to review their sentencing policy upwards. A complete absence of any mitigating factor in the behaviour of a defendant is clearly a central factor in a large sentence.

There must come a point where a person who is a commercial dealer in hard drugs, and therefore a menace to society, cannot escape the maximum sentence.[61] Life imprisonment is never to be imposed automatically for a drug offence. In this country such a sentence has never been imposed. In New Zealand, however, Cooke P. has warned that the activities of major drug traffickers should be equated with murder as they pose just as serious a threat to society.[62] ,

The dilemma faced by courts in sentencing persons who are addicted to narcotic substances has already been noted. This dilemma will continue, though the' ability of courts to deal flexibly with addicts, ordering or encouraging treatment and holding out a carrot of a review followed by a suspended sentence to those who deal rigorously with their own habits at least leaves the possibility of reform open.

The commercial dealer, who may be a recreational user, is at the most serious end of the sentencing scale and the helpless addict is at the other. In between there are the semi-dependent, the opportunistic small time couriers and the addict-menace engaged in every form of criminality with a view to feeding his own habit. Unlike the simplistic legislative models that have been proposed in many countries, including our own, sentencing approaches to such defendants cannot be based merely on the quantify of drugs in their possession.

This is a factor of chance. A major dealer will make sure, under most circumstances, to have only a little, if any, of a drug in .his possession. Exceptions can occur. Pathetic donkey figures can blindly close their eyes to what might be in a camper van which they are asked to drive from the continent to Ireland. They may later be found with huge quantities of drugs. It is too easy to overestimate the importance of the mere quantity of drugs involved when it comes to sentencing. McFarlen writes:

> 'The quantity of drugs is but one factor to be considered; care must be taken to ensure that an accused is not being sentenced on a "pound by pound" basis.'[63]

Sentences should reflect the quantity of drugs involved, but are not to be determined simply by multiplying the amount of *the* drug by some period of time.[64]

Even if legislation did not distinguish between different types of drugs the courts would still be under a duty to do so. The sentences imposed with regard to various dangerous drugs should bear a proper relationship to one another having regard to the relative seriousness of the drugs.[65] The social effects of such drugs are often led in evidence in prosecutions. The position with regard to ecstasy was. considered by the Court of Criminal Appeal in *The People (DPP) -v- Purcell.*[66]

The investigating Detective Sergeant described for the trial court how the widespread use of ecstasy in Limerick City, particularly among the fifteen to twenty five age group had led to a big increase in hospital admissions from the suspected ill effects of the drug. Against this background a sentence of five and a half years for the possession of two thousand ecstasy tablets was upheld.

In England, a similar approach was taken in *Warren -v- Beeley*[67] where the Court of Appeal held that the tariff with regard to offences concerning ecstasy should be maintained at substantially the same levels as in relation to other Class A drugs.[68] Countries such as Canada, with experience of crack-cocaine, have warned of the severe and quasi-immediate dependency which it forms. The fact that it is a cheap drug in that country, within the finances of adolescents has led to exemplary sentences being imposed.[69]

Couriers

In order to excite the sympathy of the court, drug traffickers may deliberately recruit students or elderly persons Courts have warned against encouraging this practice by providing misplaced sympathy[70] The Alberta Court of Appeal warned that:

'Sympathetic though we are to the plight of many couriers, such concerns must give way to the need to protect society from the untold grief and misery occasioned by the illicit use of hard drugs.'[71] .

The court held that first time couriers should receive three to five years for carrying up to 1 kilogram of cocaine, and six to eight years for amounts over 1 kilogram.[72] Couriers are often astonish-.ingly poor, uneducated and vulnerable and so are easy targets to a trafficker who will view them as expendable. It may be, however, as one commentator has warned, that persons caught courier-ing drugs may belong to a class of persons whom customs officials are trained to look out for. Carrying drugs may well be spread around as diverse a group of people as possible in order to lessen the chances of detection.[73]

Students

Claims of leniency are made on behalf of students who are caught in possession of small amounts of drugs, particularly cannabis, for personal use. A discharge without conviction may be asked for on the basis, particularly in this country, that any drugs conviction can affect the potential for obtaining visas. The New Zealand Court of Appeal has held that each case must be .examined on its own merits and that there would not be a proper exercise in judicial discretion if offences by stud-rents were to be treated as being in a special category.[74]

The fact that a conviction for a drugs offence could prove fatal to a professional qualification can be pleaded by way of mitigation. Again, the New Zealand Court of Appeal has refused to create a special category in respect of much cases, indicating that each case "lust depend on its own facts. Where, however, the direct and indirect consequences of a conviction are out of all Proportion to the gravity of the offence, "us should operate as an overriding . consideration.

A lack of remorse by students who use soft drugs in order to relax, can prove a countervailing factor in the attempt to avoid a conviction. In this country the principle most likely to influence sentencing is that of equality of all citizens, be they students from well to do backgrounds, or the impoverished, in being dealt with by the law. Where drugs are trafficked to young people the courts should reflect this fact in their sentence.[75] An extreme example was *Condoleon* where a sentence of three years for supplying soft drugs to girls aged fifteen and seventeen was reduced because • the prosecution had failed to contend that the girls were not previously interested in marijuana![76]

Social Supply

The possession of drugs for personal consumption is a mitigating factor; in the case of cannabis meriting only a fine under our legislation, until the third offence, and in the case of other drugs limiting the sentence to seven years for personal possession, as opposed to life imprisonment, in the case of possession for supply. The personal nature of the consumption has been held to be a mitigating factor, as can be the fact that drugs were to be supplied only within a small circle of friends.[77] The presence of a commercial motive will be seen as an aggravating factor, even if only friends are involved.[78]

Drugs for a Third Country

There is no mitigation in the claim that drugs were merely in transit to another country, or that they were not intended for distribution in the country in which the defendant is being tried. Because the drugs trade is an international business, countries owe to each other a duty to co-operate in the fight against trafficking.[79]

In *The People (DPP) -v- Loopmans and Van Onzen* the Court of Criminal Appeal rejected the notion that possession in Ireland for the purpose of supplying ultimately to the United States either destroyed an element of the offence, thus entitling the defendants to be acquitted, or was a mitigating factor. O'Flaherty J. warned that persons using Ireland as a staging post for the importation of drugs to other countries could expect only the severest treatment.[80] Neither is being a foreigner a mitigating factor.[81]

Assisting the Investigation

In sentencing two members of the Greenmount Gang who had promised co-operation to the authorities, including the giving of evidence against other gang members. Judge Cyril Kelly noted that the effect of their actions was to place their lives, and those of their families, in immediate danger.[82] The judge upheld the wide range of international authorities which supported this approach. The High Court of Australia has held:

> 'It would be to close one's eyes to reality to fail to recognise that in areas of organised crime in this country, particularly in relation to drug offences, the difficulties of obtaining admissible evidence are such that it is imperative, in the public interest, that there be a general perception that the courts will extend a degree of leniency, which would otherwise be quite unjustified, to those who assist in the exposure and prosecution of corrupt officials and hidden organisers and 'financiers by the provision of significant and reliable evidence.'[83]

In Ireland, giving evidence in open court that an offender has assisted can immediately put his life in danger. Our Constitution, however, requires that the courts operate in public unless a law, passed subsequent to 1937, allows for a private hearing. The unavailability of such private hearings means that a judge can be left in the dark where an offender has substantially assisted the police, but does not otherwise wish to endanger his life or enter onto a witness protection programme.

In general, a judge will have regard to whether the nature and effect of the information related to a trivial or a serious offence; whether the information brought persons to justice who would not otherwise have been brought to justice and whether the defendant was prepared to give evidence against other offenders in court.[84]

Role of the Defendant

How does one know, unless one admits evidence as to police suspicions, how serious has been the role of an offender on an individual charge? In *The People (DPP) -v- Purcell*[95] an objection was made in the Court of Criminal Appeal about remarks by the prosecuting Garda at the sentencing stage, to the effect that the defendant was known to the Drug Squad to be a very close associate of the principle dealer in drugs in North

Dublin, involving the supply of cannabis and ecstasy.

The objection was that this observation was unsupported by evidence and was prejudicial to the accused. The Court of Criminal Appeal accepted that a judge could not take into account an allegation unsupported by evidence, but it was prepared to assume that the trial judge, with vast experience in such cases, would not have taken account of any such allegations. If one is not to introduce Garda suspicions and if one is not to pursue a sentencing guideline based merely on amount, the answer would appear to be that the prosecution should call evidence of any factor which it regards as removing a potential mitigating factor to the accused.

So, while one cannot aggravate a sentence by reason of the fact that prior unprosecuted crimes have been committed, a judge will be aware that a failure to advance a 'once off enterprise' as a mitigating factor leaves the sentence towards its upper limit. Similarly, evidence of observed activities on prior occasions, when no detections were made, evidence of high living, evidence of frequent flying, evidence of the availability of vast amounts of money, all tend towards the kind of factors which judges have seen to be present in only the worst cases.

Dealing With Proceeds

Prior to 1996

Most European countries have had long standing offences of laundering money generated by crime.[86] Ireland introduced such a measure only in 1994 through section 31 of the Criminal Justice Act, 1994. This makes it an offence for a person who is engaged in drug trafficking or other criminal activity to conceal, disguise, convert or transfer any property which in whole or in part, directly or indirectly represents his proceeds from drug trafficking. The mental element involves a purpose of avoiding prosecution or a confiscation order. It is also an offence to assist such a person if the secondary party knows or believes the property represents, in whole or in part, directly or indirectly, the other person's proceeds of crime. Finally, it is an offence for a person who knows or believes that property is, in whole or in part, directly or indirectly, the proceeds of another person's crime, to handle that property.

Banks were, for the first time, made subject to stringent requirements designed to eliminate the possibility of a blind eye being turned in certain circumstances. The reverse is the case. An open eye must be turned to banking transactions with a view to uncovering any covert criminal purpose; Criminal Justice Act, 1994, section 32.

Most European States have confiscation provisions. As far as we can see they are all based upon the fact of a conviction and the possibility therefore of establishing profit by reason of criminal activity.[87] From these examples an ideal model of restraint pending the disposal of a charge, of confiscations of the proceeds of crime in certain cases with presumptions reversing the onus of proof onto a defendant was constructed. The result was implemented in the Criminal Justice Act, 1994. In essence, where proceedings have been instituted for an indictable offence or a drug trafficking offence, or are about to be instituted, and it is reasonable to think that a confiscation order may be made, or where one has been made, the High Court acting otherwise than in public on the application of the Director of Public Prosecutions, may restrain the person from dealing with all of his property, subject to discharge or variation.[88] A receiver may be appointed in aid of this process.

This function is by way of preservation only. A receiver appointed after a confiscation order may proceed to sale.[89] A confiscation order is made upon a sentence for drug trafficking[90] or other indictable offence.[911] The court may determine what benefit has accrued to a person by way of their criminal activity. A person may be required *to* give information as to his property and if he does not then the court may draw an inference from such failure.[92] In the case of drug trafficking, assumptions are made against an accused except where they are shown to be incorrect or give rise to a serious risk of injustice. The assumption is that moving back for a period of six years from the time when proceedings were instituted, all property received by him was taken free of encumbrance and was a payment or reward in connection with drug trafficking. Similarly, expenditure during that time is assumed to have been as a result of his carrying on that activity.

Since 1996

The departure from this model was introduced in the Proceeds of Crime Act, 1996. The Act came into force on the 4th of August, 1996. It is now the subject of a Constitutional challenge. Therefore the Act is simply described without comment on this issue. In essence it is much simpler than the 1994 Act. Any property obtained or received at any time in consequence of or in connection with the commission of an offence can be frozen by order of the High Court. The court must be satisfied that the property constitutes, directly or indirectly the proceeds of crime or was acquired, wholly or in part, with property that represents, directly or indirectly, the proceeds of crime.

An interim order, made otherwise than in public, restrains dealing in such property for twenty One days or, on an interlocutory application being brought, until the disposal of that application. An interlocutory order freezes the property for seven years. Then a final order is made transferring the property to the Minister for Justice.[93]

A civil standard of proof rests upon the applicant. Evidence is admissible from an officer of An Garda Sfochana that he or she believes that the property is the proceeds of crime.[94] Cases proceed in private until such time as a person against whom an order is made either discloses, or has had a reasonable opportunity to disclose the nature of whatever defence they wish to make; Section 8(4) of the Proceeds of Crime Act, 1996; *M -v- G,* Supreme Court, unreported, 10 May, 1997. A respondent may also be required to disclose the source of their property[95] and a receiver may be appointed at any time when an interim or interlocutory order is in force who, under the control of the court, may take possession of property and manage, dispose of it or otherwise deal with it.[96] None of these provisions are dependent upon the existence of a conviction or the institution of proceedings against any person. They were claimed, as a result, to be unconstitutional in terms of alleged procedural effects and an attack upon property rights. This argument was rejected in the High Court, but is now under appeal to the Supreme Court.[97] It the Act survives the challenge to its constitutionality[98] it may operate as a paradigm for comparative legislation. The purpose of the Act is the creation of; a civil remedy whereby criminals and

their associates are deprived of profit corn crime."

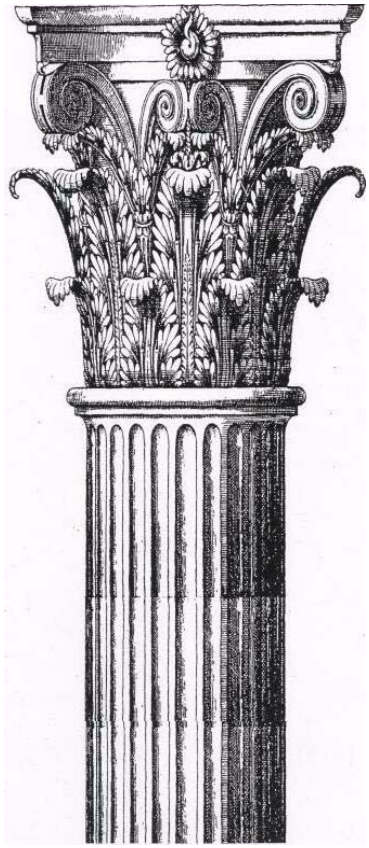
A defendant has ample opportunity to defend the application. The only power that can be exercised without the right to contest it is the initial freezing order which under ordinary circumstances will not last for longer than a month. An interlocutory application can be contented in the same way as any application for an injunction. In addition, where much an application is granted, whether contested or not, a defendant may bring an application[100] to overturn any feezing order made. This can be on the asis of a contest initiated after failing to contest an earlier application or it can be reason of a desire to bring further vidence before the court after an earlier contest has been lost.[101] A final disposal order of whatever property is being frozen, or converted into cash in a bank y a receiver, is made only if a defendant as not shown that the property does not constitute, directly or indirectly, the proceeds of crime or is not acquired with in connection with such property.

The court is, moreover, at liberty not make a disposal order, notwithstanding the absence of such proof by the defendant 'if it is satisfied that there would be a serious risk of injustice'.[102] L huge discretion is therefore vested in the judiciary. One might tentatively suggest that the legislature does not want persons to be deprived of property who have, in good faith, and who have knowledge of the true nature of the business conducted by the individuals with whom they are dealing, provided services or goods on a reasonable value asis to persons who turn out to be criminals or their associates. Evidence given in the constitutional challenge before McGuinness J. indicated that the Gardai regarded as an essential component of the struggle against crime that profits should not be safe from seizure.

A conviction based model carries with it the necessity to obtain proof beyond reasonable doubt that a articular offence was committed. While is constitutionally essential if Justice is to be avoided to persons accused of crime, the manner in which can be laundered and moved into the hands of associates indicates a caution against a conviction based model being ideal. Many people comment that Godfathers steer clear of actual execution, but reap the profits. They will commit any offence up to and deluding murder to ensure the. secrecy of their operation.[103]

Courts in the United Kingdom seem to be in the forefront of granting orders which operate on a world-wide basis.[104] Such an order acts in personam only and freezes property by binding the defendant not to deal with it. Third parties without notice may require, depending upon the state of national legislation, formal enforcement proceedings within the courts of their own country. The courts may also, in aid of freezing orders, extend the duty to make an affidavit disclosing assets to foreign property.[105]

It is impossible for us to comment on the mutual enforceability of court orders which freeze, in aid of the confiscation of the proceeds of crime, assets in foreign jurisdictions. At least one such order has been made in Ireland. Obviously, on the Mareva model a number of world wide orders have been made in ordinary civil proceedings. It may be that judicial attitudes are so turned against profiting from the proceeds of crime that whatever discretion is left to them within the Member States of the European Union, will be used in aid of the orders of other Member States' courts freezing the proceeds of crime. It is clear that this will be not just a Europe-wide problem, but a global one.



As countries move, like Ireland, to freeze and confiscate the proceeds of crime the natural reaction of organised crime will be to move offshore. Mutual enforceability depends upon national laws. It would seem, however, that laws which are less stringent than those outlined above, both in relation to money laundering, non-conviction based freezing and confiscation and laws which place definite and distinct obligations on banks to turn an enquiring eye to new customers, facilitates an infusion 'of criminal funds. Strong reasons of policy indicate that such activities should not have a hiding place. Potentially serious problems arising from the presence of organised crime would surely follow in any country that is perceived to be a weak link in the determination to stop drug traffickers profiting from their activities.

Speculations

At present there are approximately four hundred addicts on the Eastern Health Board waiting list for treatment. Officials estimate that health boards needs to open about twenty five more treatment centres, in addition to the existing twenty eight, to cope with the current demand.[106] The *Garda Survey of Drug Addicts* shows that a substantial number of participants had not sought treatment of any kind. Reasons for not seeking treatment included: it is pointless (20%), it is too hard to get to a centre (11%), I do not need treatment (30%) and I would not be accepted for treatment (10%).[107]

Dublin seems to have led the way in developing a truly horrendous drug addiction problem. It would be nice to believe that we could begin to show the way out. In New Zealand, the Court of Appeal has twice taken time off from an appeal to consider the evidence of experts as to how the rapid growth of cocaine use, particularly its derivative crack-cocaine had occurred in the United States and the United Kingdom.[108]

In spite of the writers' lack of expertise in areas outside of law it has been necessary to dare to express

tentative views as to how problems have arisen and as to bow they might be capable of solution.

Courts have traditionally had the task of having to grapple with extreme problems of expert testimony leading them into fields far outside their own areas of competence. When it comes to drug addiction we are dealing with criminogenic substances which relate to people's failings and weaknesses, the inter-relationship of groups within society and the horrible effects that it has on self-inflicted victims and those who, in turn, become the victims of those victims. If there is anything that has been learnt from a survey of this area it is that warehousing does not work. Simple determinate sentences, except for those deserving of the highest possible punishment which a court can impose, rarely work.

Forcing dependants into viewing themselves as having a problem, using alternatives to imprisonment, catching offenders early and diverting them into probation and treatment programmes, and offering the prospect of sentencing reviews or more lenient sentences with suspension on probation under strict conditions to those who look at their problem seriously seems to be the only response that offers any prospect of success. On the executive side resources must be made available on a phased basis to those programmes which are shown, after initial and intensive pilot studies, to work.[109] On the police side the continuing and urgent nature of their struggle calls for our admiration and support.

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58. CCA Unreported, 15 December, 1997. Contrast to *R -v- Armah* 76 Cr App R 190 (1982) where the English Court of Criminal Appeal established a general range of sentence tariffs for drug offences.
59. It is to be noted that previously in *The People (DPP) -v- Preston,* CCA, Unreported, 15 October, 1984, the court adjourned its determination so that a list of previous relevant sentences could be prepared for its consideration. Tariffs have also been rejected in Scotland and in Canada; see *R -v- Lessard* 59 CCC (3d) 123 and Lord Fraser - *What Price Drug Abuse - The Prosecution of Offences of Drug Abuse/Distribution in Scotland,* 184 Scolag 8 (1992).
60. B*ibi* (1980) 2 Cr App R (S) 177 at 179.
61. See the remarks of McMahon J. in *The People (DPP) -v- Larry Dunne,* •Unreported, High Court, 23 May, 1985. In *The People (DPP) '-v- Cannon,* op cit, the Court of Criminal Appeal held that, 'a supplier of a hard drug like heroin cannot expect any mercy from the court, he' must expect to get an exemplary sentence'.
62. *R -v- Beri* [1987] 1 NZLR 46 at 49. See also *R -v- Curtis* [1980] 1 NZl.R 406.
63. Drug Offences in Canada - 549.
64. *Alien,* Unreported, 27 April, 1995 (CA,. WA).
65. See Rinaldi - Drug Offences in Australia, page 7.
66. CCA, Unreported, 14 July, 1997.
67. [1996] 1 Cr AppR (S)223.
68. See generally Bucknell - Misuse of Drugs (1996) para 9.001.
69. *R -v- Dorvilus,* 60 CCC (3d) 437.
70. *R -v- Hamouda* (1982) 4 Cr App R (S) 137. English cases on sentencing couriers include: *Ayoub* (1972) 56 Cr App R 581; *Mehagian & Fen-wick* (1972) 57 Cr App R (S) 488; *R -v-Mbely* (1981) 3 CrimApp R (S) 157.
71. *R -v- Cunningham,* 104 CCC (3d) 542 at 574. No mercy will be shown to a courier motivated by greed: *Farrugia,* Unreported, 31 March, 1979 (CCA, NSW).
72. See also *Choon Sien Tee* (1994) 71 A Crim R 181 at 183.
73. Shiels - *Sentencing the Drugs Courier* 35 JLS 228 (1990).
74. *Police -v- Roberts* [1991] 1 NZLR 205.
75. *R,-v- McAuley, 52* Cr App R 230.
76. 69 A Crim Rep 573 (1993).
77. *Bennett* (1981) 3 Cr App R (S) 68 and see Rinaldi at 243.
78. *Bowman Powell* (1985) 7 Cr App R (S) 85; *Leaver,* The Times, 14 March, 1989.
79. *R -v- Prickong* [1990] 1 NZLR 5 at 7; "This country must co-operate with others and have regard to their interests in combating the international drugs scourge'.
80. Court of Criminal Appeal, Unreported June, 1996.
81. Rinaldi at page 35.
82. Circuit Court, Unreported, September and November, 1997.
83. *Malvaso -v- The Queen* [1989] *16S* CLR 227.
84. *R -v- Sivan* (1988) 87 Cr App R 407. See also *Malvaso -v- The Queen* [1989] 168 CLR 227; *R -v- Delellis* [1990] 2 NZLR 147; *The People (DPP) -v-Maloney* 3 Frewen 267 at 269 where a failure to give evidence was held to be an improper factor in aggravating sentence; *Choon Sien Tee* 71 A Cim R 181; *Sehitoglu and Owkan* [1998] 1 Cr App R (S) 89; *R-v- Tsolacos* 81 A Crim R434.
85. Court of Criminal Appeal, Unreported, 14 July, 1997. See also *The People (DPP) -v- Walsh,* 3 Frewen 248 (1989) . and *The People (DPP) -v- McEntee,* CCA, Unreported, 10 November, 1997.
86. Law Reform Commission Report - *The Confiscation of the Proceeds of Crime* (1991)39.
87. Our only information in this regard is the Law Reform Commission Report; op cit, chapter 3. In addition this was confirmed by police officers from Finland, France, Belgium and the United Kingdom at a European Police drug conference which the first author attended in December, 1997.
88. Sections 23 and 24 of the Criminal Justice Act, 1994.
89. Section 19(5) of the Criminal Justice Act, 1994.
90. Section 4.
91. Section 9.
92. Criminal Justice Act, 1994, section 11.
93. Proceeds of Crime Act, 1996, section 3.
94. Section 8.
95. Proceeds of Crime Act, 1996, section 9.
96. Contrast the powers under the Criminal Justice Act, 1994, section 24(7) for interlocutory receivers and section 20(2) for final receivers after confiscation order which has the same words as in section 7 of the Proceeds of Crime Act, 1996.
97. See *Gilligan -v- The Criminal Assets Bureau, Ireland and the Attorney General,* McGuinness J. Unreported, 26 June, 1997.
98. As to a previous challenge to a similar kind of confiscating measure see *Clancy -v-Ireland* [19SS] IR *326.*
99. See remarks in relation to the corresponding British legislation of Leggatt L.J. in *Re: Thomas* [1992] 4 All ER819.
100. Section 3(3) of the Proceeds of Crime Act, 1996.
101. In any event, the Act is not even limited by that fairly obvious restriction.
102. Section 4(8) of the Proceeds of Crime Act, 1996.
103. Per Carney J. in the Director of Public *Prosecutions -v- The Special Criminal Court,* High Court, Unreported, 14 March, 1998.
104. *Derby -v- Weldon and Others,* [1990] Ch48; [1989]WLR276.
105. *Deutsche Bank -v- Murtagh* [1995] 1 ILRM 381, citing *Derby -v- Weldon* (above).
106. *The Irish Times, 9* March, 1998.
107. *Illicit Drug Use and Related Criminal Activity in the Dublin Metropolitan Areas,* 1997, page 24.
108. See *R -v- Latta* [1985] 2 NZLR 504; and *R -v- McFartane* [1992] 3 NZLR 424.
109. We would like to thank Sharon Kearney LL.B for assisting in the final form of this paper and for offering many useful suggestions.