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No. 216

AN CHÚIRT DÚICHE



THE DISTRICT COURT

Form 4 — Rule 5

CRIMINAL PROCEDURE ACT, 1967

section 6 (1) (d)

STATEMENT OF EVIDENCE

District/Court/Area/of

DUBLIN METROPOLITAN

District No.

THE ATTORNEY GENERAL

Prosecutor

ALBERT A. LUYKX, JOHN KELLY, JAMES J. KELLY,
CHARLES J. HAUGHEY and NEIL T. BLANEY.

Accused

Statement of the evidence that is to be given by ..Colonel P. J. Delaney...
Army H.Q., Parkgate, Dublin (witness no. 2):-

I was Commander of the Command and Staff School, Military College, Curragh, up to the 9th April 1970. I was attached to Intelligence Section from the 9th February 1970 and I took over as Director of Military Intelligence on 10th April 1970. During the period from 9th February 1970 to 10th April 1970, I was understudy to Colonel Michael Hefferon. In 1968/69 I met the accused, Captain James Kelly, when he was undergoing a Command and Staff course at my school in the Curragh. During that period Captain Kelly belonged to the Intelligence Section of the Army. During the period of his course in the Curragh, Captain Kelly called to my office one day and said he wanted my advice with reference to his leaving the Army. He stated that he wanted to take up writing as a career. I advised him to remain in the Army at least until his course was completed. He decided to do this. In March 1970 I became aware that Captain Kelly had submitted his application for retirement from the Army at about Christmas 1969. I do not know how this application was treated. During the period 9th February to 9th April 1970, Captain Kelly did not report to me or make my

acquaintance or give any account of his activities, past or present, to me. I saw him once in his office during that period but I had no conversation with him. When I took over as Director of Intelligence on the 10th April, 1970, Captain Kelly did not report to me and did not subsequently report to me until the 28th April when I ordered him to do so. I did not receive any brief on Captain Kelly's activities from Colonel Hefferon at any time. On the 8th April, 1970 I visited the Minister for Defence, Mr Gibbons, in his office, accompanied by Colonel Hefferon. It was normal practice for the incoming Director to be introduced to the Minister. At this time I had come to the conclusion that Captain Kelly should be transferred from the Intelligence Section. My reasons were as follows :-

- (a) Captain Kelly operated openly as an Intelligence Officer; He did not provide suitable cover, which fact could seriously compromise legitimate Intelligence activities as he became so well known.
- (b) He openly consorted with subversive groups.
- (c) Captain Kelly was well informed on the activities of the Intelligence Security Sub-Section and knew exactly how it worked and all its liaison contacts. The seriousness of his position vis-a-vis sub-paragraphs (a) and (b) could not be over-emphasised.
- (d) His emotional reactions to events in Northern Ireland pointed to his having lost that cool behaviour so necessary in an Intelligence Officer.

Between the 8th and 13th April, 1970 efforts were made to have Kelly seconded to the Department of Agriculture as an anti-pig smuggling executive. On the 13th April 1970, Kelly submitted a document indicating his agreement to secondment to Agriculture. This was three days after I took over as Director of Intelligence. I consider that Kelly's departure from Intelligence was now imminent. On the 17th April, 1970 Captain Kelly came under notice as being concerned in an attempt to import arms from the Continent and a Military and Garda investigation into his activities began. By the 23rd April,

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..... Accused

Statement of the evidence that is to be given by Colonel P.J. Delaney (cont'd.)

.....(witness no.):—

1970, Captain Kelly's secondment to Agriculture had not materialised and I again saw the Minister for Defence on that date. Captain Kelly was transferred from Intelligence Section on the 28th April, 1970. This transfer was carried out accordingly. Captain Kelly went on leave on the 28th April, 1970, following his transfer. He applied for permission to retire on the 29th April, 1970 and was granted permission to so retire as and from the 1st May, 1970. I have not seen Captain Kelly since the 28th April, 1970. Colonel Hefferon retired on the 9th April, 1970 and I have not seen him since he collected his belongings in the office about that time. During late August, September and October, 1969, Captain Kelly reported in from time to time. Most of his reports went direct to Colonel Hefferon but, occasionally, some little information was given to Security Sub-Section. During November, 1969 he had no contact with Security Sub-Section except for one incident in mid-November, but visited Colonel Hefferon occasionally in his office. He visited Colonel Hefferon on an average once a week, but

irregularly, during the period November, 1969 to the end of February, 1970. He was on annual leave from the 30th January, 1970 to the 13th February, 1970. So far as is known, he did not report at all during the month of March, 1970. From the 10th April, 1970 to 27th April, 1970, he did not report at all. During this period, as I have already stated, efforts were made to have him transferred from the Intelligence Section.