

NATIONAL ARCHIVES**IRELAND**

Reference Code: 2002/8/484

Title: Statement by Minister for Justice Desmond O'Malley, relating to accusations that the government of the Republic of Ireland allow Republican groups to operate from their side of the border, the British Army policy of cratering border roads, Garda strength and recruitment, Republican activities in the Republic of Ireland, and ruling out the extradition of political offenders.

Creation Date(s): 15 December, 1971

Level of description: Item

Extent and medium: 11 pages

Creator(s): Department of the Taoiseach

Access Conditions: Open

Copyright: National Archives, Ireland. May only be reproduced with the written permission of the Director of the National Archives.

NEWS ITEM - OFFICIAL

The following statement has been issued to-day by the Government Information Bureau on behalf of Mr. Desmond O'Malley, T.D., Minister for Justice:

The recent outrages in the North merit unqualified condemnation. It is therefore all the more deplorable that it appears to have become a policy of Unionist spokesmen to use these outrages as an occasion for making and repeating wild political charges against the Government here. The charges are of course designed to appeal to the unthinking emotions of their own most extreme supporters and, as they well know, would not stand up to the cold light of reason. Apparently it is a matter of indifference to them that, when charges of this kind are made, the clear, unqualified condemnation of the outrages which has been repeatedly expressed by the Taoiseach on behalf of the Government is likely to be lost sight of in a welter of political recrimination. If Unionist spokesmen were setting out to push people into condoning or even supporting men of violence, they could not go a better way about it.

One complaint is that we on this side are not patrolling the Border. The Taoiseach has already pointed out that, even with the assistance of over 22,000 troops and U.D.R. members and a police force of over 4,000 members, they themselves find this an impossible task. In this small island, we have a Border of some 270 miles, a Border that is so artificial and so arbitrary that, time and again, trained members of the British Army claim that they have been unable to say where it is. The Northern administration, with the assistance of the British Army, cannot effectively patrol the Border but we on our side are publicly pilloried by them, not because they do not know the facts, for they do, but because they must find scapegoats for their own failures. Nobody knows better

- 2 -

than they do what patrolling the Border involves in terms of men and resources and they know too how much of our limited manpower and resources we have committed to the task.

They speak of people getting refuge here. I challenge them to say in precise terms what they mean. Are they trying to lead people to believe that the R.U.C. have evidence, sufficient to enable them to get a warrant for arrest, against anybody now in this part of the country, in respect of any one of the killings in the North in the last couple of weeks? Mr. Taylor knows quite well that, if the R.U.C. have this evidence, and if they send a warrant down here, it will be left to the Courts to determine whether or not the extradition of the man concerned is or is not in accordance with the law.

On this issue, I want to say categorically that a statement made by Mr. Taylor in a BBC interview on Tuesday to the effect that requests for extradition are being refused here is a gross distortion. The only requests that have been refused have been refused by the Courts, not by the Government. Despite the provocation offered by Mr. Taylor and his colleagues, we intend to continue to meet all our commitments in relation to extradition. Our law in this respect, it is well to point out, is exactly the same as in the North and as in England and follows well-accepted principles of international law which can be found set out in the European Convention on Extradition to which we are a party.

The simple, unchallengeable fact about trouble in Border areas is that there was no trouble of any kind worth mentioning there until the Unionist administration, for their own political purposes, persuaded a credulous British Government to send out the British Army to implement a policy of cratering roads in Border areas. This policy was at one and the same time so obviously futile as a security measure and so certain to provoke serious trouble and to lead to loss of life that one is forced to question what its true purpose was. If they were really serious about stopping trouble in Border areas, they would long since have acknowledged the fact and abandoned the policy of cratering roads. Even at this late stage, its abandonment would offer some hope that some of the damage could be undone.

15 Nollaig, 1971.

3.

In 1970 proceedings were instituted by the Gardaí in respect of 13,710 indictable offences known to them - 44.5% of the total. In 1,532 other cases, representing a further 5%, the Garda Síochána were fully satisfied that they knew who was responsible but because the person could not be found or because evidence was inadmissible proceedings could not be instituted. The overall detection rate was 50%, as compared with 61% in the previous year. In the Dublin Metropolitan Area the detection rate was 37%, while in the rest of the country it was 69%.

It is a fact that the increase in the incidence of crime in this country in recent years is matched by corresponding or greater increases in other countries even though most of them have had, for very many years, a substantially higher rate of crime so that, starting from a much lower base, so to speak, a higher percentage increase might have been expected here. Likewise, the detection rate here, while it has, unfortunately fallen, still compares very well with that in other countries in which urban populations are growing. I think it relevant to make this passing reference to the position in other countries because, in view of the highly developed communications which exist nowadays between all parts of the globe, it is unrealistic to suppose that we in this country can escape the impact of what is happening all around us. I think we must accept that, despite our best endeavours and intentions, it is almost inevitable that the crime rate here will tend to become higher than we have been accustomed to in the past. To say this is not to be complacent about the present situation - quite the opposite - and I want to make it clear that I fully accept that we should make every effort to curb, and if possible reverse, the upward trend in crime which has been manifesting itself in recent years. The fact of the matter is that we have been taking, and will continue

4.

take, positive steps to strengthen the effectiveness of the Gardaí in dealing with the crime problem. I have arranged for the recruitment of an extra 400 Gardaí this year and next over and above the replacement of normal wastage. About 100 have already taken up duty and by January next I hope that the full 200 provided for this year will have done so. It has already been said in this House that an increase of this order is inadequate but I must emphasise that to speak of an increase of 400 men as if that were the whole story would be very misleading as to what in fact is being done. In addition to the increase of 400, which is the first ever increase in the Force, there is the fact that female clerical assistants are taking over routine office work from the Gardaí; 68 have already been recruited and the immediate target is 150. Furthermore, parking controls in the cities are more and more being exercised by wardens, thus relieving a substantial number of Gardaí for other work.

The estimate for the purchase of vehicles for the Garda fleet is almost twice that for last year and I intend to push ahead from year to year with the strengthening of the fleet. In addition, work is urgently in progress both on a new Garda communications system for Dublin and on a national radio network and I have no doubt that the benefits of the new systems will be far-reaching. As to the national network, it became clear that the permanent system that is being planned would take several years to complete. I could not accept a time-scale of this order and a special temporary project has therefore been initiated to give reasonable coverage over the country until the permanent network is in operation. The temporary system is expected to be in operation within the next six months or so.

In the matter of organisation, too, the Gardaí are adapting their methods of crime detection to meet current problems. One recent measure that I consider to be of significance is the creation in Dublin of a special Garda task force consisting of a Superintendent and 26 members of other ranks. This task force has already proved

5.

itself to be a very useful weapon in the fight against crime and further similar units may be created in the future.

The Government's determination to see effective action taken against the illegal possession of firearms is reflected in the enactment of the Firearms Act, 1971, which, among other things, increased the maximum penalties for the unlawful possession of military-type firearms and ammunition and which put beyond doubt that the offence of possessing firearms or ammunition with intent to endanger life or cause serious injury to property is committed even where the persons or property concerned are outside the State.

The Gardaí have considerably tightened the security measures relating to the storage and use of explosives. I regret that these measures have unavoidably caused inconvenience to a number of people who use, and must use, explosives in quarrying and similar work but I ask them to accept that the additional restrictions are necessary in present circumstances. While on the subject of explosives, may I emphasise once again that more than half of all the explosives used commercially in the North is manufactured down here. It follows that, if explosives are stolen in the North, it is more likely than not that they will have been manufactured here. In these circumstances, the point so repeatedly made by Unionist spokesmen in the North in relation to the origin of explosives used unlawfully there is of no validity whatsoever, but of course it serves as propaganda.

The Government are firmly committed to take every possible action under the law against subversive elements that seek to achieve political objectives by violent means. Time and again from my earliest days in office I have made it clear that the law will be enforced against persons who engage in unlawful activities of this kind. Illegal organisations as we know them are unworthy

6.

of the support of right-thinking persons. They have been given no mandate to act on behalf of any section of our people and have no right to claim that they have one. They are utterly undemocratic and they represent nobody but themselves. Many of their members use their cloak of so-called Republicanism to lend respectability to activities that are purely criminal.

Certain Opposition Deputies have seen fit to support the contention of the Northern Prime Minister and of members of his Cabinet that the Government here are not anxious to take action against members of illegal organisations for unlawful activity within the State. Week after week, month after month, we have been hearing this sort of allegation being made by the Deputies to whom I have referred. Here I make a very clear distinction between the kind of criticism that says that more should be done than has been done and the criticism which says that nothing is being done, that the Government's attitude is ambivalent and, even, that the Government is in some way responsible for decisions of the Courts. It is possible that some Deputies who make these wild allegations genuinely believe what they are saying, but others among them are familiar with the rules of evidence and with related aspects of our law, and I am faced with the choice of concluding either that when they come in here they forget what they know outside or, alternatively, they take the view that they are entitled to look on this as a legitimate political game. It is, I suggest, too serious a matter to be a subject for political expediency. One way or the other, I think that the time has come for me to spell the matter out in the plain terms for the benefit of members of the public, and for the benefit of those Deputies who are willing to listen.

The position, in a nutshell, is that if we are to do more than we are doing at the moment about the activities of illegal organisations, we will need a very substantial change in the

7.

criminal law of this country - and, in particular, in the rules of evidence - and the question that members of this House, if they are sincere, must ask themselves is whether they would be prepared to support the sort of changes which would in fact be called for.

However, before I speak of the difficulties, I should like to put on record that a great deal has been and is in fact being done within the law as it stands. The Gardaí have had a substantial measure of success in dealing with subversive elements here and the facts are that prosecutions have been brought in every case where there was evidence on which charges could be based. They have carried out effective and widespread searches as a result of which they have seized large quantities of illegally held firearms, ammunition and explosives.* Apart from prosecutions relating to firearms offences, etc. there have been prosecutions for other offences as, for example, the making of unlawful collections. Over 250 people have been or are in the process of being prosecuted for making these collections. Many have already been dealt with by the Courts and penalties imposed.

*Seven of the raids carried out on 4th December were successful and several hundred pounds of explosives, 500 rounds of ammunition and 6 military type weapons were seized on that day alone.

It may be alleged - it has already been alleged - that some of these people are self-confessed members of illegal organisations and that membership of an illegal organisation is an offence.

I freely concede that, at first glance, this seems to be a valid point and it is because I concede this that I think it necessary to spell out why, despite the appearances, it is not in fact a valid point. There is nothing to be gained by bringing people before the Courts on criminal charges where it is clear that, under existing rules of evidence, there is no possibility of having them convicted. This is the position, for instance, in relation to many speeches reported in the newspapers which may

8.

appear to some people to be open admission of membership of illegal organisations. The first point to bear in mind is that newspaper reports are not in themselves evidence against the persons making the statements and that, to provide admissible evidence, it would be necessary to subpoena the journalist so that he could give oral evidence of what was said. This immediately raises the question whether a journalist would be able to testify to the exact words used at a particular point. Let us, however, suppose that he could. The main obstacle still remains and that is that, although what the person who made the speech meant to convey was quite clear to his listeners, a Court is not entitled to read between the lines. A court can convict only where it is satisfied beyond reasonable doubt and the benefits of any ambiguity must be given to the defendant. A member of this House may well be satisfied that where, in a particular context, a speaker sets himself up as a spokesman for "the republican movement" he means to be taken as a spokesman for the I.R.A. But there is all the difference in the world between being satisfied that that is so and proving it in Court. If Deputies want to deal honestly with this problem - and it is a problem - what I have mentioned is a major difficulty, if not indeed the major difficulty, in taking legal action. If anybody asks me how people in similar circumstances in the past were convicted, my answer (and this is no secret to the people concerned) is that convictions in the past were based almost entirely on the fact that accused persons had been found in possession of incriminating documents. It is very clear that they have learned their lesson in this respect for to-day they take care not to carry about with them the kind of document that would be evidence against them.

9.

If there are Deputies who genuinely feel that not enough is being done, I ask them to face the reality of what I have said and to ask themselves if they would be willing to accept a fairly substantial change in the rules of evidence and perhaps in other aspects of the criminal law.

The allegation is repeatedly made that training camps with military-type exercises and use of firearms, etc., are being openly conducted in remote areas in this part of the country. It is obvious that in a matter of this kind I and the Government have to depend on the sources of information available to us and, in the context, that means, primarily, the Garda Síochána. I want to state categorically, first of all, that no evidence has been produced by anybody to support allegations that training camps are being openly conducted. Not only that but the Garda Síochána say that they are positively satisfied that, with the exception of a very few instances of unarmed training exercises by small numbers of persons, there is no basis whatsoever for this allegation. By small numbers, the Gardaí mean half a dozen or less, and even such small groups seldom engage in the open air in anything that could be classified as "training". It is true, of course - and here I am back to my earlier point - that if the Gardaí find half a dozen people whose background they know engaged in a walk amongst the hills, they may be in no doubt that it is not the love of nature that has brought them out, but that is not evidence. I would emphasise, however, that the Garda Síochána have given me the most categorical assurance that allegations that training and drilling are going on here on any scale, in the open, are just not true.

- 10 -

The fact that there have been minor battles close to the border between British Forces and what must be assumed to be members of unlawful organisations has been utilised by some Northern Ministers and others in support of the argument that members of illegal organisations living south of the border habitually make incursions across it into the North. The evidence does not support that argument.

It is true, however, that the wholly senseless policy of blowing up and spiking border roads that is being pursued by the British Army has caused grave inconvenience to the local people on both sides of the Border and has provoked resentment and ill-feeling on a wide scale. It is a policy of violence that has played directly into the hands of subversive elements who availing themselves of the situation created by the understandable resentment of local people, have sought to escalate the violence by shootings, burnings and explosions. Property on both sides of the Border has been destroyed. Lives have been lost. I hope that the British Government will quickly come to realise the futility of what is being done. This provocative policy can only have been adopted to placate the right-wing of the Unionist Party without any regard for its effect on the people in the Border areas or for the dangerous situations that it creates. There is no justification for it and no evidence that it has produced any worthwhile result. One thing is clear - it has demonstrated how artificial a boundary the Border really is. The obvious foolishness and futility of the cratering policy leads me to believe that it is a deliberate action by the British Government, instigated by certain leading Unionists, to try to involve this part of the country which is relatively peaceful in the kind of situation that exists in the Six-Counties.

11.

Amongst the accusations that are regularly made by northern spokesmen is that shelter is given down here to people who have committed serious crimes in the North - that is, crimes related to the current violence in the North. Frankly, this kind of charge annoys me. What the people concerned know well is that what is at issue here is whether there should be extradition for political offenders. However much one must condemn the current campaign of violence, one must accept, and the authorities up there must accept, that the offences in any particular case may be held by any court - domestic or international - to be political offences; and in accordance with the terms of the European Convention on Extradition to which we and most European countries have subscribed (as well as in accordance with the terms of the Extradition Acts in force both here in in Britain), political offences are not extraditable. It is not just a matter of countries not being expected to extradite for these offences; the fact is that extradition for political offences is positively forbidden by the Convention. I, for my part, have on occasion been asked to exercise certain powers vested in me by the Extradition Act to declare that a particular offence was a political offence. I have never once done so as I believe that such a decision should be left to the High Court to make on the basis of sworn evidence produced in public.

In regard to extradition generally, the position is that in the calendar year 1970, 169 warrants, 23 of them from Northern Ireland, were received for execution here, and 140 warrants were issued from here, 20 of them to Northern Ireland. So far, no warrants have been received from any of the other countries who are parties to the European Convention on Extradition nor have any warrants issued from here to any of those countries.