

NATIONAL ARCHIVES

IRELAND



Reference Code:	2006/133/667
Title:	Copy text of statement by the Taoiseach, Liam Cosgrave, TD, moving a resolution in Dáil Éireann on 31 August 1976 pursuant to sub-section 3 of Section 3 of Article 28 of the Constitution at a special meeting of the House to consider emergency measures to secure public safety, referring to the explosions at the Special Criminal Court on 15 July 1976 and the murder of the United Kingdom Ambassador to Ireland, Christopher Ewart-Biggs
Creation Date(s):	31 August 1976
Extent and medium:	18 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.

STATEMENT BY THE TAOISEACH, MR. LIAM COGGRIVE, T.D.,
MOVING A RESOLUTION PURSUANT TO ARTICLE 28.3.30 OF
THE CONSTITUTION, IN DAIL EIREANN, ON TUESDAY,
31st AUGUST, 1976.

I move:

That Dáil Éireann hereby resolves, pursuant to sub-section 3 of Section 3 of Article 28 of the Constitution,

- (a) that the national emergency created by the armed conflict referred to in the Resolutions, pursuant to the said Article, of Dail Éireann and Seanad Éireann of the 2nd September, 1939 has ceased to exist, and
- (b) that, arising out of the armed conflict now taking place in Northern Ireland, a national emergency exists affecting the vital interests of the State.

A Cheann Comhairle,

I believe the terms of this motion clearly indicate the Government's view of the gravity of the situation which led me to request you to summon a special meeting of the House to consider emergency measures for the purpose of securing the public safety. The measures which we deem to be necessary to meet the situation comprise the motion I have just moved and legislative proposals contained in the Emergency Powers Bill, 1976 and the Criminal Law Bill, 1976.

Deputies will, no doubt, have refreshed their minds

on the provision of the Constitution in question here. The provision means that if both Houses of the Oireachtas adopt the motions before them, any law subsequently enacted which is expressed to be for the purpose of securing the public safety and the preservation of the State in time of the armed conflict referred to in the motion shall be protected from challenge on constitutional grounds so long as the emergency continues.

There have been comments and headlines which suggested that the Oireachtas was to be asked to suspend the Constitution. Deputies will appreciate, I am sure, that this is not so. If it were true, the Constitution would have been suspended since 1939. The reality is that it has not been so suspended and will not be so suspended by adoption of the present resolution. The protection from constitutional challenge which would be afforded would extend solely to laws expressed to be for the purpose of securing the public safety and the preservation of the State.

The Government's decision to introduce this motion and the Bills which have been circulated was taken following two events which issued, in a new and menacing fashion, a direct challenge to the authority of the institutions of State and to their ability to discharge

the functions entrusted to them under the Constitution. I refer, firstly, to the explosions at the Special Criminal Court in Dublin on the 15th July last and secondly, to the murder of the late British Ambassador, Mr. Christopher Ewart-Biggs and of Miss Judith Cooke, Private Secretary to the Permanent Under Secretary of the Northern Ireland Office. Mr. Brian Cubbon, and the attempted murder of Mr. Cubbon and the driver of the blown-up car, Mr. Brian O'Driscoll on the 21st July.

The motion asks the House to resolve that the national emergency occasioned by the armed conflict referred to in the resolutions of Dáil Éireann and Seanad Éireann of the 2nd September, 1939 has ceased to exist. Those resolutions referred to the armed conflict then taking place in Europe, that is to say the Second World War. The continued existence of the emergency declared in 1939 fell to be reviewed by the Government when it was considering the action to be taken in the current situation. The need to secure the public safety and to preserve the State at the present time arises from the armed conflict in Northern Ireland and not from the armed conflict in Europe, referred to in the 1939 resolutions. Furthermore, the existence of the 1939 resolutions results in an anomalous situation which it is desirable should be corrected. It is for

these reasons that in the first part of the motion it is proposed to resolve that the national emergency declared by the 1939 resolutions has ceased to exist.

In relation to the second part of the motion, the significance of the two outrages to which I have referred is that they represent the culmination of a long series of violent crimes, perpetrated within the State but related, directly or indirectly, to the situation in Northern Ireland. They relate directly in that in many instances the criminals involved were residents of that area or persons formerly resident there. They relate indirectly in that they are the result of a cult of violence rampant in parts of that jurisdiction. Taken together, these crimes add up to a serious danger to the public safety and to the preservation of the institutions of State.

In one sense, the recent incidents raised the challenge to the State and to its organs to a new plane in that they were directed at the discharge of two functions fundamental to the government of the State. The murder of the British Ambassador struck at the conduct of our international relations while the explosion at Green Street struck directly at the administration of justice. The challenge thus posed called for an unequivocal response. This is given in the present motion and in the Bills before the House.

The Government believe that the extent of violent crime by subversive bodies and persons associated with such bodies, the new dimension added by the recent events and the further threat to the institutions of State implied by these events constitute a national emergency affecting the vital interests of the State. We believe it was necessary to make clear our response as soon as possible after the recent outrages and that it could not await the date fixed for the resumption of the House. To do so could only serve to embolden those dedicated to the overthrow of the institutions of State.

The motion refers to "the armed conflict now taking place in Northern Ireland". Regrettably, that conflict and the unsettled situation generally in that part of the country have been with us since a long before this Government took office. The toll in lives, in injuries to persons and in the destruction of property there has been enormous. Since 1969, over 1,600 persons have lost their lives, while over 18,000 have suffered injuries. The level of deaths and injuries as a result of violent attacks is now higher than in any year since the present conflict began, with the exception of 1972. On average, every day

this year has seen one murder, four injured in terrorist attacks, two bombings, two to three armed robberies and five shootings in Northern Ireland.

The conflict in the North has a number of aspects. There are the random and callous sectarian assassinations of civilians from both sections of the community there by members of paramilitary bodies or by the other killers from the other section of the community. From time to time, there have been outbreaks of factional violence between or within para-military bodies on the same side of the community divide. There is gangsterism under the guise of political motivation. It is obvious that alien and sinister influences are at work against the Irish people North and South irrespective of politics or religion. These aspects, especially the reciprocal sectarian shootings and bombings have claimed a great many lives.

But although the terrible circle of violence has affected all sections of the community in the North the principal element in the conflict is undeniably the armed campaign of violence conducted by the I.R.A. against the security forces and against the economy and life of the area. It is common ground, I believe, among all of us here that the divisions in the Northern community as a result of history, the discontent and frustration on the part of the minority consequent on the way in which the area was governed during the fifty years of devalued government and the resistance offered to the implementation of legitimate reforms campaigned for in a non-violent way provided ample potential for conflict in Northern Ireland. Nevertheless, the immediate cause of the deaths and injuries daily inflicted by bomb and bullet was the campaign of armed violence launched by the I.R.A. The appalling assassinations of Catholics by Loyalist para-military organisations, carried out by way of reprisals for the murders and bombings by the I.R.A., and the subsequent systematic and equally horrifying series of counter-assassinations and counter-bombings resulted in the ghastly spiral of tit-for-tat killings for which no end is in sight.

I and other members of the Government have repeatedly stressed that the violence in Northern Ireland is overwhelmingly indigenous to the area. The evidence for this is clear to all who wish to see it, for example, in the places of origin of those convicted for relevant offences in the Northern courts. We have said that the number of violent incidents involving persons crossing into the North from this side of the Border has been very small in relation to the scale of violence generally in the North. Again, the record continues to bear out the truth of this. We have pointed out that in the context of the overall scale of violence, the problem posed in the past by fugitive offenders or alleged offenders was, in numerical terms, of marginal significance.

In setting out again these facts of the situation, I do not wish to suggest that even if there were no violence here or no implications for the institutions of State in this part of Ireland, we could remain unconcerned or inactive. We could only remain unmoved by the sufferings of the people in the North if we were to turn our back on all that we have professed since the foundation of the State and indeed long before. So far from doing anything of the kind, the primary aim of our policy has been the safety of the lives of all in Northern Ireland, without distinction of creed or political affiliation.

All but a very small number of terrorist crimes in the North are committed by persons from within that area. It must be recognised, however, that much of the violence is perpetrated by persons and bodies claiming to act in the name of the Irish people. While this claim has repeatedly been repudiated by our people, it imposes a heavy duty on us here to do all in our power to ensure that this part of the country is not a base for attacks in the North, or a source of arms or explosives, or a haven for fugitives. The Government have accepted this duty and acted on it. Deputies are aware of the very considerable strengthening of the Army and of the Garda Síochána so that between them they now number almost 23,000 men; of the intensive anti-terrorist activity of the security forces, particularly in Border areas; of the legislation passed enabling us to try persons accused of committing terrorist offences in the North and, for some offences, in Britain or elsewhere; and of the strict control on the possession of firearms and on the storage, movement and use of explosives.

As I have indicated, our concern to protect lives in Northern Ireland has been a major consideration in all we have done in the field of security. We have also recognised that the prospects of securing

agreement on a form of government to which both sections of the Northern community would give their allegiance would be greatly enhanced if the incidence of violence could be reduced and ultimately eliminated. A further reason for doing whatever we can to curb the violence in the North is the realisation that it is postponing to a distant future any hope of establishing a sense of common identity and interest between the two main streams in this country.

These are all considerations of the highest importance. But overriding all of them is our concern with the public safety and with the preservation of the State. The first duty of a democratic government is to protect the lives of their citizens and to allow them to live and go about their legitimate business in peace. We have seen in Northern Ireland how violence, if it gets out of control, can destroy personal and community life. There has been an overspill of that violence into this part of the country, an overspill with the most serious consequences and with even greater implications.

Since 1974, 37 people have been killed in the State as a result of bombings connected with the situation in Northern Ireland. The majority of the deaths occurred as a result of bombings which were explicitly stated to be in reprisal for acts of violence in Northern Ireland. There were a number of killings by I.R.A. assassins, including that of Senator Billy Fox. Members of the Garda Síochána lost their lives in the course of duty and were shot at or threatened by armed men. In the same period, since 1974, 189 people were recorded as having suffered injuries, some of

them very serious in nature, as a result of bombings apparently connected with the conflict in Northern Ireland. There were a number of cases where people were kidnapped or held hostage. Particularly noteworthy were the kidnappings of Lord and Lady Donoughmore and Dr. Herrema and the attempt made to obstruct by intimidation the executive branch of government. We have had hijackings of cars and helicopters. A number of workshops producing bombs, mortars and other weapons of destruction have been discovered. There have been a large number of armed robberies, very many of them, perhaps the great majority, to secure funds for the purposes of unlawful organisations. Since 1974 there have been no less than 81 armed bank raids and 56 armed post office raids. These included a number of mail train robberies of a very serious character. I have referred only to some of ^{the} more serious incidents since 1974. There were many others and, of course, they went back beyond 1974. Indeed, intimidation and fear on the part of witnesses and jurymen compelled the previous Government to issue a proclamation in 1972 that the ordinary courts were inadequate to secure the effective administration of justice and the preservation of public peace and order and to bring Part (V) of the Offences Against the State Act into force and to establish the Special Criminal Court.

The Government have faced the situation head on. We have met force with the legitimate force of the State and of the law. As I already mentioned we have taken far-reaching steps to deny the subversives access to arms and explosives. We have greatly strengthened the Army which is now at its highest ever strength in peacetime. We have increased Garda strength to record levels. We have greatly improved the equipment available to both the Army and the Gardaí.

These measures have had to be taken at considerable cost at a time when we are facing grave economic difficulties. We have strengthened the law. Above all, we have given the security forces our wholehearted support in their efforts to bring to justice those who commit crimes of violence or who are members of irregular and unlawful organisations.

The steps we have taken and the efforts of the security forces have led to the apprehension and conviction of those responsible for a great number of the crimes to which I have referred. Since this Government came to office, there have been 612 convictions in the Special Criminal Court. That is up to the end of last month.

I wish at this point to pay a well-deserved tribute to the officers and men and women of the *Gárda Síochána* and of the Defence Forces for the way in which they have discharged the duties placed on them, often tedious and sometimes dangerous, in protecting lives and property and in seeking out and arresting ruthless and desperate men. I also want to express our appreciation, in equal measure, of the services rendered by the officers of the Prison Service who have the custody of these people when they are caught and convicted. Their job is a very difficult one in current circumstances. On behalf of the Government and of all our people, I want to assure every man and woman in all three bodies that their efforts are deeply appreciated.

It would be extremely unwise, however, to adopt a complacent attitude as a result of the security forces' successes. The number of armed robberies in the State remains at an intolerably high level. In Northern Ireland, the tempo of armed attacks and bombing by the

I.R.A. has been stepped up again. And within the State we have had the clear challenge posed by the events to which I referred in my opening remarks. The challenge is from a body operating within the State but organised on a thirty-two county basis and with a substantial armed membership in Northern Ireland. In the Government's view, the situation requires that the Government should be able to take emergency powers to whatever extent may be necessary to crush the armed conspiracy against lives and democratic government which faces the nation.

I want to assure the House that there is no intention on our part of operating in an arbitrary manner under the immunity conferred by this motion, if passed by both Houses. The Government are conscious that for it to act in such a manner would be to play into the hands of those threatening our democratic form of government. It is our wish and our intention to proceed at all times in accordance with the rule of law. But the very existence in the Constitution of the Article under which this resolution is moved is evidence that there are circumstances in which a democratic government may be compelled to limit the exercise of individual rights in the interests of protecting from attack the ordered community of the State, without which anarchy and armed repression would reign supreme and the exercise of individual rights and fundamental freedoms be utterly abolished.

Deputies will note that under the Emergency Powers Bill, the only new power the Government are seeking is the power for the Gardaí to hold in custody for up to seven days, persons suspected in connection with the actual, attempted

or intended commission of a range of serious offences which have been a feature of the campaigns of violence and terror in recent years, or suspected of being in possession of evidence or information regarding such offences. The provision would lapse after twelve months from the date of the passing of the Act unless continued in force by Government order. Where it had lapsed it could be reactivated by Government order. The Emergency Powers Act would automatically expire when the Dáil and Seanad resolved that the national emergency proposed to be declared had ceased to exist.

Experience has shown that the period of forty-eight hours during which persons can now be held in custody under the law is often insufficient for the completion of Garda enquiries in relation to serious offences of the type in question. We have seen that the organisation and execution of such offences can extend widely over the country and involve a substantial number of persons. The security authorities consider that the extended period available for questioning suspects, as information becomes available in the course of enquiries, would unquestionably help to bring to justice the perpetrators of a significantly greater number of offences before they can carry out further outrages. The Government consider that in dealing with ruthless para-military organisations, the necessary limitation of individual liberty is fully justified.

The Minister for Justice will be dealing in more detail with the Emergency Powers Bill and with the other Bill, the Criminal Law Bill, 1976 which will, of course, form part of the normal law and is not

limited in its application to the period of a national emergency. This latter Bill contains a number of different types of provision. Firstly, there are provisions seeking to give improved and extended powers in the enforcement of the law and in the investigation of offences of what I may describe broadly as being of a subversive character. The Garda Síochána are given new and increased powers to search places and vehicles under a warrant issued by a superintendent, to search vehicles stopped during investigation and in certain circumstances, to search the occupants of such vehicles. The Garda are also given powers in relation to persons in custody under the provisions of any enactment under which persons may be arrested, kept in custody and questioned. The relevant Section includes powers in relation to establishment of identity, search of the persons and technical tests of assistance in solving these crimes.

Other provisions seek to increase substantially the maximum penalties for various offences under the Offences Against the State Act, 1939, and to provide that kidnapping, false imprisonment and "hi-jacking" of vehicles shall be felonies and to lay down very severe maximum penalties for these offences. Examples of the increases in maximum penalties are an increase from two to seven years imprisonment in that for membership of an unlawful organisation and an increase from 7 years to 7 to 20 years' imprisonment for obstructing the carrying on of any of the branches of the government of the State or the discharge of their functions by persons carrying out the duties or work of any of those branches. Here, I want to say unequivocally that persons convicted of terrorist offences can expect no amnesty in respect of their sentences.

Other provisions seek to plug any gaps in the range of subversive acts or activities constituting offences. These relate to such matters as recruiting persons into unlawful organisations, giving assistance to an escaped prisoner to evade recapture, injuring persons or property in prisons, smuggling material into and out of prisons and the unauthorised possession by prisoners of photographs, maps, sketches etc. of prisons, Garda stations and courthouses.

I would like to make some further comments in regard to two sections in the Criminal Law Bill, sections 3 and 15. Section 3 creates a new offence. It seeks to provide that any person who, expressly or by implication, directly or through another person, or by advertisement, propaganda or any other means, incites or invites another person (or other persons generally) to join an unlawful organisation or to take part in, support or assist its activities shall be guilty of an offence. The maximum penalty proposed is 10 years imprisonment. The section aims to get at those who avoid the dirty work in prosecuting campaigns of violence but who incite others to undertake or support the activities involved, as well as those who are responsible for recruiting often young and impressionable persons into illegal armies. Fears have been expressed that the section is too widely drawn and that the things referred to are too imprecisely described. I reject these criticisms. A reading of the section clearly shows that it is not aimed at suppressing the necessary and healthy debate on political and economic questions characteristic of a democracy or to stifle the free expression of views on these matters. It deals with incitement to join or to participate in or support the activities of unlawful organisations, that is to say organisations which advocate or encourage or seek to procure by force, violence or other unconstitutional

means an alteration of the Constitution; or which raise and maintain a military or armed force in contravention of the Constitution or attempt to do so; or which engage in, promote, encourage or advocate the commission of criminal offences or the obstruction of or interference in the administration of justice. This is the type of thing with which we are dealing in this section. The section is so framed that it can be used effectively against those who make no secret of their active support and encouragement for the kind of activities I have mentioned.

Section 15 proposes to confer on the Defence Forces power to arrest and search in certain, carefully defined circumstances. There is no question of altering the basic role of the Defence Forces in security. They will continue to act in aid of the civil power assisting the *Gárda Síochána* who will continue to have primary responsibility for internal security. Under the Bill, the powers of arrest and search could be exercised only on the request of a member of the *Gárda Síochána* not below the rank of Superintendent and members of the Defence Forces exercising these powers must be on duty and in uniform. A person arrested under the powers would have to be delivered into the custody of the *Gárda Síochána* not later than six hours from the time of his arrest - otherwise he would have to be released. The purpose in giving these powers is simply stated. It is to make available the maximum resources in countering the activities of unlawful bodies. The powers could be particularly useful in the aftermath of a major crime such as murder, kidnapping or jail break. While such powers were conferred on the Defence Forces on a number of occasions since the foundation of the State, it has not been found necessary to do so since the lapse of wartime emergency powers. However, I have no doubt that in current circumstances, our people wish to see the full resources of the State brought to bear in the fight against terrorism.

If I might refer again to the Emergency Powers Bill, the proposal in the Bill to give power to hold a person in custody, after arrest, for a period of seven days, could, in the absence of derogation, be regarded as a breach of the European Convention on Human Rights to which the State is party. That Convention provides for the right to liberty and contains certain procedural guarantees on arrest. Under Article 15 a power to derogate "in time of public emergency threatening the life of the Nation" is given to the contracting parties. Such an emergency exists here at the present time, and the measures which are proposed in the Emergency Bill are "strictly required by the exigencies of the situation" within the meaning of that Article. The Secretary General of the Council of Europe will be informed of the measures which it is hoped the Oireachtas will adopt and the reasons for them.

The measures we are proposing are necessary to meet and overcome the challenge thrown down by the recent outrages by an illegal armed organization dedicated to the overthrow of the institutions of this State and to enable the security forces to more effectively combat terrorism from whatever quarter. There is no question of the measures proposed being an attack on civil rights. They are measures to be enacted by the elected representatives of the people and represent the will of the people in the dangerous circumstances I have just mentioned. If people obey the law they need not fear the effects of these measures. They are not directed at law abiding people but against those who want to destroy the institutions of State and the Irish nation.

The crimes perpetrated by the men of violence have brought discredit to the name of Irishman throughout the world and death and damage to our own people. Our past has been devalued and our future threatened by their outrages. Our people have repudiated them repeatedly at the ballot box. Let us, the legislators, repudiate them again and with special force by our assent to the measures before us today. Let the message go out clearly from here to-day that the Irish people, through their elected representatives, their democratic government and their security forces are pledged to break and rid our country once and for all of this conspiracy of hate and evil.