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The State and Civil War, 1921–1923

i. Introduction

The nature and extent of independent Ireland were determined by two fundamental factors. The first was the settlement negotiated and signed by British and Irish representatives in December 1921. The second was the political and military conflict over acceptance of that settlement which followed in Ireland over the next two years. The divisions marked by treaty and civil war have haunted Irish politics ever since.

The post-treaty conflict had a profound effect on the course of development of the state's public order and defence institutions, and on the system of justice. The nature and powers of the present police force derive from the experience of the first traumatic years of qualified independence. The curious position occupied by the Irish defence forces can only be understood by reference to the state's perpetual internal security problem. The paradox of a country which since independence has set its store by the precepts of constitutional democracy, yet routinely puts provisions of its constitution in abeyance, cannot be explained without reference to the state's early experience of disorder, subversion, and civil war.

ii. The Search for Instruments of Order, 1921–1922

The six months following the signing of the treaty saw a struggle for power in Ireland which culminated in civil war. From its establishment on 16 January 1922 the provisional government consolidated its position, taking over from the British what the treaty described as 'the powers and machinery requisite for the discharge of its duties'.[1] However, in the key areas of defence and public order

[1] Article 17 of 'Articles of Agreement for a Treaty between Great Britain and Ireland', as published in the second schedule of *Constitution of the Irish Free State* [*English translation*] (Dublin, 1922); on the prelude to and conduct of the civil war see especially Garvin, *1922: The Birth of Irish Democracy*, Hopkinson, *Green against Green*, and J. M. Curran, *The Birth of the Irish Free State, 1921–3* (Alabama, 1980).

the new administration faced enormous difficulties. There, in the nature of events, there was no existing national machinery to be absorbed into the new state.

Where was the provisional government to get its military forces and its police? The IRA had divided on the treaty just as the Dáil had done, and the anti-treaty majority repudiated the authority of the provisional government and of the parliament of southern Ireland (as the Dáil for treaty purposes had become). This placed the new administration in a disastrous position. The anti-treaty IRA presented an enormous threat to government, parliament, and treaty. Until it was either brought under control or destroyed there was no prospect of peace and order in the nascent state. Between January and June 1922 continous efforts were made to produce an acceptable political compromise, but at the same time both the government and the IRA prepared for hostilities.

While they did so disorder and lawlessness flourished. The habit of civic discipline had been eroded in the War of Independence, there were plenty of guns and gunmen and no trained policemen outside Dublin, and there were many grievances to be ventilated. Attacks on British troops and on ex-Royal Irish Constabulary (RIC) men, some simply acts of local vengeance, others calculated to provoke a British military response, caused acute embarrassment to the administration and increased British pressure on it to take firm action against the republicans.[2] Frequent robberies and seizures of property, whether for the cause of the republic or for strictly private gain, emphasized the provisional government's lack of civil authority. Republican attacks on southern Protestants, sometimes in reprisal for those on Catholics in Northern Ireland, sometimes in furtherance of agrarian grievances, sometimes, to use the language of an Irish-American document of April 1923, in pursuit of an exclusively 'Republican, Catholic' and 'Gaelic' Ireland, called into question the new state's ability and will to protect its religious minorities.[3] To anyone not at the bottom of the rural heap, widespread land seizures appeared to threaten the entire social fabric. Labour unrest, including fitful use of the red flag and red rhetoric, seemed deeply menacing despite the enduring modesty of most of the labour movement's demands, methods, and aims.[4]

The provisional government's dilemma in addressing this chaos was acute. While the various strands of disorder were interwoven, their elimination required different approaches. For example, attacks on British troops or ex-police were plainly attributable to the IRA, whether or not the product of local indiscipline or of headquarters' calculation, and were impossible to prevent or

[2] Macready (commanding British troops in Ireland) to Collins, 15 Apr. 1922, National Archives, Department of the Taoiseach (NA, DT), S. 2984; Hopkinson, *Green against Green*, 73–4.

[3] 'An appeal to humanity', undated, Apr. 1923, with British consulate general, New York, to Foreign Office, 27 Apr. 1923, DT, S. 1976.

[4] E. O'Connor, *Syndicalism in Ireland, 1917–1923* (Cork, 1988), 140–67.

to punish without a direct confrontation between government and IRA, which both sides wished to avoid. But there was little sympathy for the labour movement within the republican leadership, and the government, accordingly, could contemplate a robust response to labour unrest.[5] The government's injunctions to let southern Protestants alone in the name of tolerance and pluralism, echoed by de Valera, the political leader of the republicans, were not completely consistent with its secret arrangements to wage war in combination with the IRA on the Protestant people of Northern Ireland.[6] Although land agitation was as difficult an issue for the republicans as for the government, the former could afford to ignore it and profit from the government's discomfiture. Republicans had a vested interest in disorder, whether or not they inspired it, because it underlined the provisional government's lack of practical authority in the country.[7] In these circumstances, it is hardly surprising that the government was unable to build a consensus on the restoration of civil order in the months leading up to civil war.

iii. The Policing Problem and the Making of the Garda Síochána, 1922–1923

The need for some form of police force to succeed the RIC had long been recognized, but nothing was done about it until RIC disbandment was almost at hand in January 1922. Local experiments in policing by IRA units and by the 'Republican police' of Dáil Éireann during the War of Independence had been useful mainly for propaganda purposes. After the truce overt political violence waned, yet other public order problems grew considerably in the vacuum left by the collapse of Dublin Castle's police system. In some towns the locals did what they could, organizing groups of men to patrol the streets to discourage crime, but they were no deterrent to any except the most timid and ill-equipped wrongdoer. Tensions within the national leadership, and the rush of other business, meant that the issue of policing was largely ignored.

The government's first response to post-truce policing problems was the establishment in Dublin of an armed plain-clothes force based at Oriel House, and soon to be known as 'Oriel House' or as the 'CID'. Its creation reflected the inevitable confusion surrounding public order policy, as the forces controlled by Dáil Éireann abruptly assumed responsibility for maintaining the peace where before they had operated to disturb it. Oriel House initially combined detective, security, and military and political intelligence functions. In essence, however, it was the creature of Michael Collins, set up by him, answerable to him, and headed by men who had operated under him during the War of Independence on intelligence and assassination work. While intended *inter alia* to

[5] Ibid. 158–64.
[6] Hopkinson, *Green against Green*, 83–6.
[7] Garvin, *1922*, 101–6.

help to control armed crime in and around Dublin, it lacked the discipline, the organization, or the personnel to serve as a civil police bureau. From early in 1922 Cork had a somewhat similar body, the 'Plain Clothes Squad' or 'City of Cork Police Force', composed of army officers and men, which appears to have been absorbed into a 'Cork Civic Patrol' formed 'by a number of private citizens . . . for the protection of property'. The body's 'duties include escorting postmen, keeping close observation on Banks, Post Offices, Public Institutions etc.', and they enjoyed neither the fame nor the notoriety of Oriel House.[8] Its colourful though brief history is dealt with in a subsequent section of this chapter.

The government's second response was the hasty creation of a police force to replace the RIC. This was the Civic Guard, brought into existence in unpropitious circumstances in February 1922. Its early vicissitudes have been described in detail elsewhere, but they require recapitulation here because they had a profound effect on the eventual development of a disciplined and effective civil police force. The decision to establish one was dictated by the prevailing disorder and by RIC disbandment. What was there to build on? The Dáil 'Minister for Home Affairs' had controlled a police organization of sorts, the 'Republican Police' headed by Simon Donnelly, during the War of Independence. But this was only a simulacrum: the force 'was a small one—probably from 10 to 20', who 'worked in the Minister's offices and were under his control and were paid . . . in the same way as the ordinary' Dáil civil servants.[9] So far from being capable of enforcing the law these men were themselves, like every other activist in the independence movement, continually in danger of arrest by the British authorities. After the truce they were able to operate openly, but they remained a very small, untrained group. Furthermore, they divided on the issue of the treaty. Donnelly and some of his men departed to establish a rival police organization on the republican side. What remained of the force was put under the care of Michael Staines, a pro-treaty TD, and was wound up in January 1922. The Dublin Metropolitan Police (DMP) inherited from the British remained in existence, but it did not seem an inspiring model for a new force. Its political detectives apart, it had survived the War of Independence largely by adopting a position of cowed neutrality.[10] The RIC, by contrast, had fought and lost and was gone. Yet it was the RIC which most influenced the development of the Civic Guard.

Early in February 1922 Collins established a committee under Staines to plan the new force. At the same time the provisional government set up a similar

[8] Brady, *Guardians*, 32; provisional government decision, 4 Sept. 1922, DT, S. 1705; Mortell to director of intelligence, 9 Jan. 1924, University College Dublin Archives, (UCDA), O'Malley papers, P17a/175; army finance office to Ministry of Finance, 25 Sept. 1923, NA, FIN1 747/104.

[9] Justice memorandum, 27 Apr. 1935, DT, S. 2232; *Committee of Public Accounts: Third Report* (Dublin, 1925), 70–1.

[10] O'Halpin, *The Decline of the Union*, 198–9.

group under Richard Mulcahy, the minister for defence. The two groups agreed on the outlines of a scheme, and the Staines group was expanded and asked to work out the details. They quickly produced a set of proposals which the provisional government accepted. The Civic Guard was to be an unarmed body of about 4,500 men, policing by consent rather than by force. With this important exception, apparently predicated on the assumption either that political crime would disappear or that it would be some other organization's business to combat, the proposals largely replicated the disbanded RIC. The Civic Guard would be a non-political force. It would be centrally controlled, and there would be no local input into its operations. Its head would be appointed by and directly answerable to the government.[11]

These proposals made some sense. The RIC had shown itself to be an enormously resilient force, in sharp contrast to the DMP, while in Britain unarmed policing worked very well. But the scheme had many drawbacks. Significantly, it perpetuated a structural weakness in policing in Ireland, the fact that the capital city was the responsibility of a separate force. It also failed to address a serious problem arising from this, which the RIC had recognized but never resolved, the absence of a national detective unit handling political crime throughout Ireland. During the War of Independence this had prompted the British to improvise with a variety of intelligence and security organizations, some civil, some military, some offshoots of British agencies such as MI5 and the Directorate of Intelligence, and others ad hoc local creations.[12] From the British point of view the results had been disappointing. A further weakness of the Civic Guard scheme was that the new force, organized on the same lines, sometimes occupying the same barracks, and administering much the same laws, might be depicted by the republican opposition simply as a new RIC, a creature of central government, insensitive to local needs and conditions, and primarily an instrument of oppression. Such criticisms could perhaps be answered by saying that the new force would be unarmed, and that it would be controlled by an Irish government elected by the Irish people. Thus Collins assured the first recruits that 'you will have one great advantage over any previous regular police force in Ireland and that is that you will start off with the good will of the people, and their moral support in the carrying out of your duties'.[13] In the early months of its existence, however, the reality was that the Civic Guard was not developed along the lines laid down by the Staines committee. What instead transpired was unrest, mutiny, and ultimately the disbandment of the original force. These setbacks were due to a number of factors.

[11] Brady, *Guardians*, 43–4.

[12] E. O'Halpin, 'British Intelligence in Ireland, 1914–1921', in C. Andrew and D. Dilks (eds.), *The Missing Dimension: Governments and Intelligence Communities in the Twentieth Century* (Basingstoke, 1984), 55–77.

[13] Notes for speech, n.d., but stamped 26 May 1922, DT, S. 9045.

The first problem was the practical one of finding somewhere for the force to be organized and trained. In this, as in army affairs, the provisional government proved a hopeless quartermaster. Recruits were first housed in the main hall of the Royal Dublin Society and, from April, in part of a military barracks in Kildare which had previously been used for stables. These miserable conditions had their effect on the morale and discipline of the men. The second problem was the government's inability to get the recruits out of training and into police work quickly. The longer this large group of men—1,500 by April 1922—were kept cooped up together, ostensibly to receive training but in fact also because the government feared bringing the new force into operation in the prevailing political climate, the more likely it was that disaffection would spread. The third problem was the conspicuous role allotted to former members of the RIC and DMP. These were mainly men who had covertly worked for Collins's intelligence organization during the War of Independence, and he valued them for that service, for their practical police experience, and—probably—because he could rely on their personal loyalty to him. The difficulty was that the rank and file of the new force, selected by IRA officers acting on Collins's instructions, naturally found it difficult to take orders from men whom they had regarded as the enemy, and whose service to Collins they knew little about and were inclined to discount. The O'Sheil committee of inquiry, established after the May mutiny, commented that, particularly in training, there was 'too extensive use made' of ex-RIC officers 'considering that the main body were ex-IRA men'—of the 160 ex-RIC men who joined in 1922, fourteen were given the rank of superintendent or higher. This was doubly unfortunate because the recruits initially were trained along quasi-military RIC lines, with much emphasis on musketry and drill, which also relates to the fourth problem. This was that, contrary to initial intentions, the Civic Guard was provided with weapons. The O'Sheil report described this as a major mistake: 'arming all the men' encouraged the police to attempt 'to get their alleged grievances settled by threats and force of arms'. It created 'a militaristic instead of a peace outlook in the minds' of the new force, and did nothing 'to assure the public that the militaristic and coercive policeman was at an end in Ireland'.[14] In addition, arming the Civic Guard suggested that the government envisaged them as a gendarmerie to put down political disorder, as the RIC had been used, and the government's republican opponents naturally viewed the force in that light.

The fifth and undoubtedly the greatest problem was politics. Although recruits to the force were screened by men working under Collins's orders, some had anti-treaty sympathies. Furthermore, from March they were commanded

[14] Report by Kevin O'Sheil and Michael MacAuliffe, cited hereafter as 'O'Sheil/MacAuliffe report', 17 Aug. 1922, DT, S. 9045; Brady, *Guardians*, 53; J. Herlihy, *The Royal Irish Constabulary: A Short History and Genealogical Guide* (Dublin, 1997), 109–111 and 153.

by Staines, who was a pro-treaty TD. This was a bad start for a supposedly non-political, impartial police force intended to attract support from all parts of the community. Whatever the exigencies of the time—the provisional government naturally wanted someone on whose loyalty they could rely—Staines's appointment as commissioner made a bad situation worse. Not only was he a TD, but he evidently lacked the ability and the presence to develop the force effectively. The outcome of this succession of mistakes and mishaps was mutiny. On 15 May a self-appointed committee of the men demanded the removal of senior ex-RIC officers, and the next day 'assumed complete control of the [Kildare] camp and took over the armoury'. When Staines sent troops with an armoured car to recover the weapons, as he believed 'they were likely to fall into the wrong hands', the mutineers would not open the camp gates and the soldiers withdrew. After this rather half-hearted attempt to coerce the mutineers the government, already confronted with the IRA's occupation of the Four Courts, and uncertain about the political sympathies and motivations of the mutineers, slowly moved towards conciliating them. Collins made a number of visits to the camp and addressed the men, promising a committee of inquiry into their grievances and stressing the importance of their future role. His proposals were well received, although the mutineers' committee remained in charge in Kildare. When Staines returned to the camp on 9 June, apparently due to a misunderstanding between government and mutineers, he was refused admission. Two other officers who went down separately on his instructions 'seem to have been literally chased out of the Depot and of Kildare. They . . . were pursued by a threatening mob containing many members of the Civic Guard and . . . had to run for their lives and take shelter, after many adventures, in the house of the Parish Priest for the night.' Some days later Rory O'Connor led republicans from the Four Courts garrison into the camp with the connivance of a few sympathizers and cleaned out the armoury. He 'and his friends' also 'did their very best to try and seduce the men . . . to join him', without much success. For that the government were grateful, since it showed that most of the new force remained politically sound. The mutineers were paid for the first time since late May, and the promised inquiry, by Kevin O'Sheil and a Ministry of Labour official, was finally set in train in mid-July. Despite the fiasco of the O'Connor raid, weapons were subsequently provided for detachments assigned to protect roads and installations in various parts of Leinster. Curiously, this further departure from the principle of an unarmed non-combatant force attracted little interest and caused no trouble, perhaps because none of the detachments were involved in any serious engagements with anti-treaty forces.[15]

The report of the O'Sheil inquiry was presented on 7 August. Its findings were a curious combination of practicality and idealism. Its main recommendations

[15] O'Sheil/MacAuliffe report; Brady, *Guardians*, 69.

were that the Civic Guard should be disbanded and reconstituted, that no former or serving public representatives should be members of the force, and that ex-RIC and DMP officers should be employed only temporarily. They would be advisers to those holding 'the chief posts', and there should also be at least one experienced ex-policeman in each station in a subordinate position. Senior posts should be reserved for ex-IRA men together with 'one or more highly experienced officers or ex-officers of a foreign police body . . . for preference American, French or German', who would be employed for some years. A 'Gazette or Journal' where 'questions could be discussed . . . and general information given' should be started. The force would be split up into 'three separate groups or sections': the 'principal body' of unarmed policemen stationed throughout the country; a 'semi-military body, trained to the use of arms . . . a kind of reserve force at Headquarters'; and 'a detective force' which would 'operate in conjunction with if not under the joint control' of the heads of the Civic Guard and of the DMP.

The report also advanced an exalted vision of 'a police body that shall be the servants of the people, and have the confidence of the people; a police body neither militant nor coercive, above party and class, serving the Government of the people, no matter what form of Government the people may elect at any time'. To this end it suggested that, while the force should be centrally controlled, 'it would certainly be a good thing if a local council had the power to hold the local police body directly responsible for certain local duties, contingent on these not infringing on the police duties proper'. It urged the training and use of policemen on 'civilian duties' such as compiling 'statistics of various kinds', 'Ambulance and First Aid Work', and 'sanitary Inspection. The latter duty [is] almost entirely carried out by police in some foreign countries.' The effect of all of this would be to promote social harmony, and make people and police interdependent.[16]

This curious essay in the philosophy of policing elicited very little immediate response from the government. The civil war had begun, and there was no time for speculation about ideal structures for bringing police and community together, nor for enlisting foreign police advisers. However, the report's crucial recommendation that politicians should be kept out of the police was accepted, and was apparently put to Staines as grounds for his resignation. Furthermore, the force was disbanded and reconstituted, and a new commissioner chosen. The post was first offered to Sean Ó'Muirthuile, a close associate of Collins, but he chose to stay in the new army. The government then offered the job to General Eoin O'Duffy of the army's south-western command, who had also been close to Collins. He accepted, writing to Mulcahy, then both minister for

[16] O'Sheil/MacAuliffe report; the recent study by L. McNiffe, *A History of the Garda Síochána: A Social History of the Force, 1922–52, with an Overview of the Years 1952–97* (Dublin, 1997), has little to say either on the development of political policing or on the role of politics within the force.

defence and army chief of staff. O'Duffy recounted the difficulties and achievements of his command—while 'we engage them everywhere . . . other commands are not engaging the Irregulars as they might', denounced the cowardice, incompetence, and treachery of many of his troops, and pointed out that he had previously sought 'the position now offered. I would have accepted this position willingly then, as I had an idea that I could organise a proper Police Force.' Now, however, due to 'bad handling and weakness', the Civic Guard 'stands very low in the estimation of the people. It will be difficult to retrieve its position.' Nevertheless, for the good of the nation he was prepared 'to serve in any capacity that I can be of most value [in]'.[17] This letter was absolutely characteristic of O'Duffy in its combination of self-glorification, denunciation of others, reproach, and mock humility, as his eleven years as police commissioner, and his subsequent drift into authoritarian politics, were to show. What mattered in 1922, however, was that the government had found someone with the energy, capacity, and personality to rebuild the Civic Guard.

O'Duffy's impact was immediate. Through a combination of melodramatic exhortation and careful organization he gave the force a sense of purpose and direction. The principle that the police should be unarmed was finally put into practice. Despite the general chaos, stations were opened in most parts of the country by the end of 1922. In many areas there was very little that unarmed policemen could do to enforce the law, and they were often at the mercy of the local republicans, but despite their helplessness they appear quickly to have succeeded in their initial aim of winning public support. They also acquired virtual immunity from assassination by republicans—only one guard was killed in the course of the civil war, although many were assaulted and their stations ransacked and burnt out. Republican tolerance of the guards may be evidence of popular respect for unarmed policing, but it may also reflect an implicit understanding that the police would not interfere in republican activities. Until 1925 army intelligence officers maintained that the police avoided anything dangerous. One claimed early in 1924 that 'sergeants in . . . outlying stations in rural districts . . . close their eyes to a lot of things', and in August 1925 another noted the 'marked tendency' of the force 'to steer clear of any activity which might be regarded as bearing on political crime. This was only natural . . . [as] the force was unarmed and . . . at the mercy of irresponsible gun-men.'[18] This enforced neutrality was an important factor in enabling the Civic Guard to win public acceptance, which in turn made feasible its subsequent major involvement in political policing.

In the spring of 1923, as the civil war petered out, the Ministry of Home

[17] Copy of provisional government decision, 18 Aug. 1922, DT, S. 9045; O'Duffy to Mulcahy, 6 Sept. 1922, UCDA, Mulcahy papers (MP), P7/B/1.

[18] Report by Command Intelligence Officer, Waterford, 14 Jan. 1924 and memorandum by director of intelligence, with director of intelligence to chief of staff, 24 Oct. 1925, Military Archives (MA), file on 'Co-operation with Civic Guards'.

Affairs prepared a Civic Guard bill. Despite the frequently stated hope that the force would be seen as the people's police, not as an occupying body like the RIC, the ministry's draft threatened to turn the Civic Guard into its own private police force, with appointments at all ranks in the hands of the minister for home affairs. The draft did not address the problem of what to do with the DMP, though the attorney-general, Hugh Kennedy, expected the force would be merged with the Civic Guard once legal and financial problems could be overcome. Kennedy accepted that the Civic Guard should be centrally controlled and free from all local influences, but he suggested an important change in the bill. He wrote to the minister, Kevin O'Higgins, pointing out that under the Free State constitution the minister for home affairs was not automatically a member of the executive council, whereas it was necessary that responsibility for the appointment of the commissioner and his chief assistants should lie with the government as a whole: 'it is important to bear in mind that the force is not local, but is an organised national police force . . . No executive government could safely allow such a force to exist outside its immediate authority, or permit the governing heads of such a force to derive authority from any source other than the executive itself . . . I am also of the opinion that all officers [i.e. from the rank of inspector upwards] of the Civic Guard should be appointed by the Executive Council, though of course it would be done on the nomination of the Commissioner.' It appears that these differences about the bill ran deep. When O'Higgins spoke sharply to Kennedy, the attorney-general replied to 'My dear Kevin' in injured tones: he was 'astounded and disturbed' by O'Higgins' complaint about relations between the Ministry for Home Affairs on the one hand and Kennedy and his subordinate, the parliamentary draftsman, on the other. Kennedy had thought himself 'to be on the friendliest terms with Mr O'Freil', the secretary of the ministry: 'Am I then to suppose that honest differences of opinion, different angles of approach to various problems . . . constitute bad relations?' O'Higgins was surprisingly conciliatory: 'It may be that I overstated the case', though 'relations between your office and this Department, and the exact functions of both, simply clamour for definition'.[19] Whatever the root of the quarrel, Kennedy's view prevailed in the final draft.

The civil war was over by the time the bill reached the Dáil in July 1923. The government felt in no position to complete the process of police reform, although they did accept a proposal to rename the force the Garda Síochána. It was only in 1925 that it became a truly national force with its absorption of the DMP, and it was a further year before the new force won undivided responsibility for political policing and domestic intelligence work.[20] Until then, as shall be seen, the government relied extensively on the army in political affairs.

[19] Kennedy's note, 13 May, and draft letter to Kennedy, n.d., UCDA, Kennedy papers, P4/759.
[20] Brady, *Guardians*, 104.

iv. The Problem of Political Policing

Shortly after the truce Michael Collins established the plain-clothes unit which soon became known as Oriel House, and subsequently was officially called the Criminal Investigation Department or CID. Its initial functions were to provide protection for key figures in the independence movement, to monitor the covert intelligence activities of British military and civilian agencies, and to tackle armed crime in Dublin. Its activities subsequently expanded to include intelligence work against opponents of the treaty and, notoriously, the suppression of the anti-treaty IRA in Dublin.

Oriel House was staffed largely by men who had worked in IRA intelligence during the War of Independence, and run by officers personally loyal to Collins. It adopted the form of a civilian detective bureau, rather than a military organization, its staff holding police ranks such as 'detective officer'. Confusingly, however, as an offshoot of the pre-truce IRA intelligence organization, it also had links with the intelligence directorate of the newly formed national army. After the truce military intelligence was dominated by former members of the Active Service Unit (ASU) controlled by Collins as director of intelligence during the War of Independence, when they 'carried out the most objectionable side of the pre-truce operations', the killing of officials, intelligence officers, informers, and collaborators. Experts in clandestine assassination, men of action who had lived on the edge since 1919, they posed a serious problem for Collins once the truce came. An army officer commented in 1924 that 'the very nature of their work' before the truce had 'left them anything but normal . . . if such a disease as shell-shock existed in the IRA . . . the first place to look for it would be amongst these men'.[21] They expected recognition for the risks they had run and the job they had done, and they assumed this would come through senior postings in army intelligence. But as a group they were doers, not organizers or analysers, and they were unsuitable for the bureaucratic environment of a strictly military intelligence headquarters.

This may explain why a number, under the deputy director of intelligence Liam Tobin, were assigned to Oriel House. According to one army officer Tobin, who retained his military intelligence position, was given a vague brief to develop a national detective organization: 'Somebody mentioned Scotland Yard, and at the same time pointed to Oriel House, and beyond that I do not think any further instruction was given' to Tobin. 'A genuine attempt was made to organise a kind of Scotland Yard for Ireland, but there was no time to consider details and consequently interest was lost'.[22] However, David Neligan, a veteran of the DMP, Oriel House, and military intelligence, and subsequently head of

[21] Major General Russell's evidence to army inquiry, 10 May 1924, MP, P7/C/29. [22] Ibid.

the Garda Special Branch from 1925 to 1933, said that the Tobin group formed a 'Military section . . . to do with Military Intelligence', while 'the CID section were to deal with bank robbers, etc. They were armed police and were very necessary because the DMP were unarmed and the Republican Police were inefficient', whereas 'the Military Intelligence men had not much to do in peace time'. When civil war broke out 'all those people' went back to the army.[23] 'Wherever there was anything exciting or dangerous on,' according to another witness, 'these men were to be found in the thick of it.'[24] They remained a hard core of malcontents, convinced once Collins died that neither their past services nor their work was being adequately recognized, and their sense of grievance ultimately led them to mutiny in 1924.

On 8 August 1922 Collins wrote that Oriel House 'is still nominally under' the army's intelligence department, and brusquely ordered the 'immediate removal of the Military Intelligence Officers from it' and its transfer to civil control. This was done on foot of a government decision of 31 July, itself apparently the result of tensions between the military and civil authorities over the division of responsibility for public order.[25] Joseph McGrath TD was later appointed 'Director General, CID', and the Ministry of Home Affairs took overall responsibility for CID affairs. It was funded through a separate vote in the 1922 appropriation act, an important technicality in so far as this meant that the Dáil in principle approved its existence, and that the government had to answer for its activities. However, its status remained unclear. Although it worked amicably with army intelligence during the civil war, it was no longer under military control. While it operated as a civilian agency in Dublin, it stood apart from the DMP, towards whose detectives Oriel House men had 'a feeling amounting to contempt' due both to their role under the British and 'their wretched pandering to the Irregulars'.[26]

When the CID was on the verge of disbandment its commanding officer Captain Pat Moynihan recorded its development and achievements during the civil war. In February 1923 it had over seventy staff 'who were engaged in combating the activities of the armed criminal in Dublin', of whom 'some 30 only could be utilised as Detective Officers. The others were employed on transport, clerical, patrolling and guarding duties'. The CID then absorbed two other plain-clothes groups: the Protective Officers Corps formed in November 1922 to guard ministers, government supporters, public offices, and important commercial buildings, and the Citizens Defence Force, consisting of about one hundred armed 'ex-British soldiers with a sprinkling of Irish Volunteers' organized for patrolling and intelligence-gathering 'on a semi-secret basis', and financed

[23] Colonel Neligan's evidence, ibid. [24] Russell's evidence.
[25] Collins to director of intelligence, 10 Aug. 1922, MP, P7/B/4; R. Fanning, *Independent Ireland* (Dublin, 1983), 44.
[26] Tom Ennis to Mulcahy, 17 July 1923, MP, P7/B/4.

from the secret service vote. This brought CID total strength up to 'approximately 350 men and women', about 140 of whom were used actively against republicans as detectives, 'street patrols', 'women observers', and 'observers or "Touts" '. In addition, it ran a number of agents 'in Irregular ranks' who sometimes produced 'results that were highly satisfactory'. This extensive surveillance apparatus enabled the capture of over 500 'active Irregulars', weapons, equipment, and documents, and the CID had over two thousand files on suspects. Moynihan was dismissive of the 'lying reports about . . . interrogations' spread by republican propagandists which led 'the average Irregular' to believe 'that the terrors of the Spanish Inquisition were mere lullabys [compared] to the treatment meted out to prisoners'. In fact 'it was never necessary to extract information from a prisoner by other methods than those recognised in other countries. The interrogation of any prisoner was at least as humane as that form at present extensively used in America and known as the Third Degree.' Moynihan noted the paradox that 'propaganda of an unscrupulous type may, while gaining its immediate object with the generally gullible public, have effects which were not foreseen by those utilising it'—many suspects were so afraid of Oriel House that they talked freely rather than experience its methods. Amongst those republicans lucky to survive CID attentions was Tom Derrig, later to serve in de Valera's first governments, who had one eye shot out while in custody.[27] Oriel House succeeded in its task of suppressing small-scale republican activities in the Dublin area, not by the sophistication or the efficiency of its intelligence work—which, like the army's, seems to have been rather poor—but by the more direct method of striking terror into its opponents.

The CID's conduct during the civil war was highly controversial. Allegations soon surfaced not only of widespread ill-treatment of suspects, but of killings—a British army intelligence résumé of 9 September spoke of the 'murder of a number of prominent Republicans . . . Certain of these . . . are laid to the door of Oriel House and most people' believed this.[28] There is little doubt that Oriel House men sometimes killed prisoners in Dublin during the civil war. So too did plain-clothes and uniformed soldiers, and so too did members of the other civilian units eventually amalgamated with Oriel House in February 1923. In some cases there was considerable eyewitness and other evidence. For example, in August 1922 two republicans were bundled out of a car in Drumcondra in broad daylight and shot dead. A British soldier saw 'a Ford car containing 6 men, three in P[rovisional] G[overnment army] uniform and three in trench coats proceeding North from the scene'. In September Patrick Mannion was shot in the head by troops as he lay wounded and defenceless near Mount Street

[27] Report by Moynihan for director-general, 12 Oct. 1923, DT, S. 3331; Ernie O'Malley to Jim O'Donovan, 7 Apr. 1923, in R. English and C. O'Malley (eds.), *Prisoners: The Civil War Letters of Ernie O'Malley* (Dublin, 1991), 35.

[28] Copy of 24th (P) Infantry Brigade weekly intelligence summary, 9 Sept. 1923, in DT, S. 1784.

Bridge. In October Charlie Dalton, one of Liam Tobin's coterie who was then serving in army intelligence, caught three harmless youths in possession of republican posters. The next morning they were found shot dead in a ditch in Clondalkin. Following a CID investigation Dalton was placed under arrest as 'a prima facie case has been established', but he was later allowed to resume his military duties.[29] The IRA man Bobby Bondfield was arrested in St Stephen's Green by some of Cosgrave's bodyguards, and he too was shot dead in Clondalkin.[30] Two months after the collapse of the republican campaign Noel Lemass was grabbed by men in plain clothes who may have been civilians or soldiers; his body was found that autumn in the Dublin mountains.[31] In such a climate, no doubt Oriel House was sometimes blamed for acts done by others. If so, it was a consequence of its own atrocious reputation.

Why did this happen? Part of the explanation lies in the War of Independence. Men who had unhesitatingly killed in cold blood on Collins's orders naturally found it hard after the treaty to play the policeman and to observe the niceties of arrest, charge, and trial or detention of suspects. In addition, sometimes sheer indiscipline or motives of personal revenge were also involved. Furthermore, aspects of the republican approach to civil war, such as attacks on non-combatants, their homes and their families, bespoke a penchant for terror tactics which invited a ferocious response. In this respect it must be asked whether some of these killings were carried out on orders, or at least in pursuit of what was thought to be government policy. On balance this seems unlikely. In relation specifically to Oriel House, there is no evidence that ministers suggested or approved the torture or murder of prisoners by civilian units. The ugly reputation of Oriel House was an acute embarrassment to an administration which so consistently justified its position by reference to law, order, public morality, and democratic values. This probably explains the speed with which the CID was disbanded once the civil war was over. However, there is no doubt that Oriel House's robust approach was an important factor in the campaign against republicans in Dublin. It may have been distasteful, but it seemed to work.

The 'CID' remained a term of obloquy long after the organization was disbanded in the autumn of 1923. It was used in republican circles, including in Fianna Fáil in its early years, to describe the Garda Special Branch. Yet some of those who might fairly be seen as the prime exponents of the methods used by Oriel House and other government forces subsequently rebuilt relations with the republicans whom they had harried so mercilessly—McGrath and Tobin are obvious examples. By contrast, men such as Cosgrave and O'Higgins, who

[29] Appendix to 24th (P) Infantry Brigade weekly intelligence summary, 2 Sept. 1922; papers on the Mannion shooting in the FitzGerald papers, P80/285; Supt. Tumbleton to director, CID, 13 Oct. 1922, O'Malley papers, P17a/164; newspaper cuttings on the Clondalkin shootings in DT, S. 1832.

[30] Andrews, *Dublin made me*, 231.

[31] Fanning, *Independent Ireland*, 148.

were undoubtedly uncomfortable at the excesses of the CID and associated units, remained objects of enduring republican contempt.

v. The New Army and National Defence, 1921–1923

The treaty imposed certain restrictions on the nature and size of the Irish defence forces. Article 6 reserved responsibility for 'the defence by sea' of both islands to Britain for an initial period of five years. Ireland was permitted to have seagoing vessels only for revenue and fisheries purposes, while article 7 allowed Britain to retain control of and responsibility for defending specified harbour and other facilities, and guaranteed continued British use and control of transatlantic cables and of war signals stations when needed. Article 8 laid down a rather vague formula restricting the maximum size of the Irish defence forces in relation to the relative populations of Ireland and Great Britain. Implicit in the treaty were two principles fundamental both to Irish defence policy and to Anglo-Irish relations: that Ireland in practice would always rely on Britain to defend the surrounding seas and skies, and that Ireland would never allow her territory to be used by any foreign country to harm Britain's defence interests. Ironically, the latter point had been put altogether more clearly in the ill-fated 'Document Number Two' produced by de Valera as an attempt at compromise between those for and against the treaty. Underpinning this limited recognition of British strategic concerns was a principle on which both pro- and anti-treatyites agreed, that the new Irish state would always stay out of other people's wars.[32]

The immediate concern of the British government after the treaty was not to restrict the size of the provisional government's army but to strengthen it. Unless this was done, the IRA might well defeat the government's forces in an armed confrontation. This overrode other considerations, including the riskiness of nurturing a strong southern army which might ultimately turn its guns on Northern Ireland—as Collins planned in the spring of 1922, and as unionists feared—and a probable reduction in enlistment of Irishmen in the British services.[33] Britain furnished all the weapons and supplies sought by the provisional government for its campaign against the republicans. She also provided twelve armed trawlers for the coastal patrol service set up to prevent gun-running and to provide sea transport for military units, on paper a clear contravention of article 6 of the treaty. The British circumvented this restriction by classifying the trawlers as 'revenue vessels', permitted by the treaty, in return for an

[32] 'Document Number Two' as reproduced in Curran, *The Birth of the Irish Free State*, 289–93.

[33] Hopkinson, *Green against Green*, 127; text of ? to secretary, Ministry of Home Affairs, Northern Ireland, 7 July 1922, O'Malley papers, P17a/181. On British considerations see P. Canning, *British Policy Towards Ireland, 1921–1941* (Oxford, 1985), 37–49.

undertaking that 'they should not be used against foreign ships outside British or Irish territorial waters'.[34] The Irish made other minor concessions, for example agreeing that in the event of Britain mobilizing she should have first call on any of her reservists serving in the Free State forces, but beyond what was outlined in the treaty no major pledges on the size and composition of the new state's permanent defence forces were sought or given.[35]

The transformation of pro-treaty elements in the IRA into a formally organized, paid national army under government control was difficult. Problems of equipment, morale, training, and inexperience were compounded by the reality that the army's first opponents would most likely be their former comrades in the IRA. However, the new army had some advantages over the anti-treaty IRA. The first was that the government which controlled it had British backing. The second was that it could look for guidance to Collins, who, in the words of one army officer, 'in pre-Truce days was . . . the Commander in Chief and the man. He was everything . . . Anybody knows that.'[36] The third was that its chief of staff Richard Mulcahy had a clear view of what he wanted to achieve, a permanent defence force controlled from the centre which would take its orders from the elected government. These elementary principles meant that, for all the indecision, ineptitude, lack of will, and want of co-ordination which at times afflicted the provisional government's forces, there existed functioning machinery for prosecuting the war under central control.

On the outbreak of fighting, the contending forces were roughly equal in strength, and the balance of combat experience probably lay with the anti-treatyites. However, unlike the republicans the government had the resources necessary quickly to expand its army, and could obtain equipment from Britain relatively easily. As the conflict progressed the army grew spectacularly, to the point that after peace was secured it itself for a time became the most potent threat to government authority. When the fighting began in June 1922 the government had about 10,000 men under arms. When resistance ceased eleven months later that number had increased fivefold, and the forces included a small air unit and a coastal patrol service.[37]

The expansion of the defence forces was due simply to the imperative of enforcing the government's writ throughout Ireland. There is no evidence that ministers had any further strategic aim in mind, whether the eventual occupation of Northern Ireland or the creation of a peacetime defence establishment along the lines of other British dominions. Such considerations had to wait until the civil war was almost over, when the planning of a peacetime army was begun. Until then, the army expanded piecemeal. It was given many civilian functions by default, and it established units such as the Railways Protection

[34] Acting secretary, provisional government, to Colonial Office, 5 Dec. 1922, DT, S. 1980.
[35] Governor-General to Colonial Office, 27 Mar. 1923, DT, S. 3238.
[36] Russell's evidence.
[37] Hopkinson, *Green against Green*, 127 and 265.

and Maintenance Corps, the Military Customs Brigade, and the Special Infantry Corps which had no place in a conventional military defence force. Throughout the civil war the army was dogged by the inadequacies of many of its officers, by the ill-discipline, poor condition, and inexperience of its troops, by ill-feeling and disputes between senior commanders, by the weakness of central control and the disastrous performance of its supplies organization. Military policy, performance, discipline, and commitment were the subject of sometimes hysterical attacks by Kevin O'Higgins and other ministers impatient to see the republicans crushed and order restored. In noting such tensions, it is important to stress that in broad terms the army swiftly achieved its primary military goal: within two months of the outbreak of fighting, serious republican resistance was limited to parts of the south and south-west, and the republican military effort had declined into a series of uncoordinated local guerrilla actions. The considerable military achievements of the early months of the war were, however, largely overlooked in the recriminatory atmosphere which grew up within the Free State leadership as residual republican resistance dragged on, and as the new force's inevitable administrative and other weaknesses became plain to see. It was these failings, rather than its positive achievements in its basic task of subduing the republican military challenge to the new state's existence, which were to shape its destiny in the following years.

vi. **Army Intelligence and Internal Security, 1922–1923**

Army intelligence is the only facet of military activity which requires detailed consideration here. In intelligence, as in everything else, the organization of an effective service was bedevilled by politics, by inefficiency, and by the unsuitability of some of those involved. It was only after the civil war had ended that an adequate organization controlled from headquarters emerged.

In some repects this was surprising. Because of his success during the War of Independence, Collins placed a premium on good intelligence, and most of his pre-truce workers remained loyal to him. But people who had been successful assassins did not always make good organizers of men or analysers of information. As rapidly became clear in the new army and in Oriel House, his principal pre-truce lieutenants were simply not suitable for the largely administrative work of building up an efficient state intelligence machine, either civil or military. It was only when, in the chaotic first weeks of civil war, that Collins turned his mind to the overall intelligence problem that army intelligence received the direction it needed. We have already seen that, on his terse orders, the officers attached to Oriel House were recalled to the army proper. A circular to all the commands was prepared, complaining that 'INTELLIGENCE has not for some time past been given the attention, thought and energy that is vitally necessary',

stressing that 'there was never a time when a thoroughly efficient intelligence Service was more vitally essential', and detailing the duties of each command Intelligence Officer (IO). A week later McGrath, the newly appointed director of intelligence, told Collins that the army's 'Intelligence service is only being reorganised. So far no reports have been received from the commands.' The biggest difficulty was to 'get the Officers to interest themselves in Intelligence', presently 'looked upon with something like contempt. I find that both Officers and men prefer to be more actively engaged than doing Intelligence work.' An efficient service would require 'the willing co-operation of the various staffs at GHQ and the five Commands'. Ironically, the leading republican Ernie O'Malley had almost identical criticisms to make of the IRA's approach to intelligence. It was 'extremely difficult to get a good man in charge' as 'there is too much of the touting idea about intelligence here . . . and higher intelligence has been neglected'.[38]

Despite his other preoccupations as commander-in-chief, Collins continued to press for action to improve intelligence. His conception of how army intelligence should be organized and what it should do owed at least as much to his clandestine experience during the War of Independence as to conventional military thought. His instructions show that, whatever the nominal division of responsibility between Oriel House and the army, the army organization he wanted would be concerned with political as well as with military intelligence, both inside and outside the state, and would also deal with counter-intelligence against British and Northern Irish espionage. It would be highly centralized and secure, with its own 'fully developed' communications system and codes. Crucially, the command IOs would keep in constant independent touch with intelligence headquarters by these means, and would not be simply the creatures of the command GOCs. He told McGrath to establish an 'Intelligence System' in Northern Ireland, 'on the basis of one Command for the entire area' under a single command IO, and he asked him to trace and watch two ex-RIC brothers named Greer thought to be 'connected with the British secret service'. He gave orders to collect information on republicans through well-disposed Irishmen in Britain, and he said that telephone tapping should be organized in conjunction with the Post Office, who would also assist with postal interception: 'We could start off with . . . the prominent politicians, well-known Anti[-treatyite]s, Bolshevics [*sic*], Fianna, Cumman [*sic*] Na mBan, I[rish] W[omen] W[orkers Union], etc.' He complained to McGrath about one command IO: 'Are we receiving definite reports from Commandant Thornton: . . . When he does come to town I am anxious to see him', as it 'appears to me that he is not confining himself to the Intelligence System in the Command . . . He must be

[38] Draft circular, 17 July, and McGrath to Collins, 25 July 1922, MP, P7/B/4; O'Malley to Lynch, 16 Aug. 1922, O'Malley papers, P17a/176.

instructed strictly in his own duties'.[39] This comment is particularly interesting: Collins had evidently realized that the penchant for action which Frank Thornton shared with other former members of the 'Squad' was an impediment to effective intelligence work.

Had Collins lived longer, it is likely that many of the army's intelligence difficulties would have been addressed and overcome. His death in August left a void of experience, drive, and authority at the centre which no other senior officer could fill. In October McGrath left army intelligence to become director-general of the CID. He was replaced on a temporary basis by Diarmuid O'Hegarty, the secretary to the provisional government, who carried out a survey of military intelligence activity in the various commands. He found that while some IOs showed skill and initiative, nothing at all was known at headquarters of the activities of others. In Limerick, 'only one report' had been received from the former south-western command, in which it was 'stated that an Intelligence Service was being set up, but so far we do not know of its existence beyond the absolute lack of any form of communication with this Department', while it was 'impossible at the moment to say anything definite as to the Intelligence work' in Cork. A fortnight later he held out hopes of 'better results and finer co-operation' throughout the south, but soon afterwards Mulcahy heard from Collins's brother Johnny that intelligence was going a begging in Cork for the want of 'machinery of any kind of an intelligent type to take it'.[40]

Until the spring of 1923, intelligence remained largely the preserve of the commands, where progress depended on the initiative of individual IOs and the interest of local commanders, and contact with army intelligence at headquarters was a matter of chance. Even in Dublin, where they worked side by side, co-ordination between headquarters and the eastern command IOs was inadequate, and operations were complicated by differing priorities. Dan Bryan, a very successful IO in Dublin, complained many years later that for most of the war intelligence headquarters completely failed in its proper functions of co-ordination, analysis, and distribution. This he attributed to a pervasive raiding mentality, with armed officers hanging around the office hoping the next tip-off would give them premises to search or a suspect to arrest, instead of leaving such action to the CID. Bryan maintained that local successes such as the discovery of the IRA's plan to destroy railway bridges around Dublin were not properly exploited, and that the thousands of IRA documents seized in raids were never adequately appraised. Thus, he believed, the chance was lost of crushing the republicans' military campaign in the autumn of 1922.[41]

[39] Collins to McGrath, 14 July and 1, 3, and 7 Aug., and to Tobin, 19 and 24 July 1922, MP, P7/B/4.

[40] Report by O'Hegarty, 13 Oct. 1922, UCDA, O'Hegarty papers, P8/7; weekly report by O'Hegarty, 28 Oct., and Mulcahy to Dalton, 7 Nov. 1922, O'Malley papers, P17a/164.

[41] Bryan interview, 1983; Andrews, *Dublin made me*, 237. The initial tip-off which led to the thwarting of the bridge-blowing plan and the capture of the IRA's most active Dublin units appears to have come

Contemporary evidence suggests that the indifferent performance of the army's intelligence organization did give cause for concern: in February 1923 the army council called for a 'scheme for Military, Secret Service, Foreign [intelligence], to be submitted at the earliest possible moment', and a week later it directed that all captured documents should be forwarded to headquarters, a significant step in the development of a central intelligence bureau.[42] The council also decided that the 'raiding of houses for persons or materials' was to be left to 'plain clothes police', along with 'all shadowing of persons and places'. The army was also to hand over to the police all 'intelligence information with regard to persons and places to be watched'.[43] These orders presaged a major reorganization at the end of April 1923, just days after the republicans formally abandoned the fight, which is discussed in the following chapter.

vii. The Monitoring of the Republican Movement's External Contacts, 1922–1923

Republican activities abroad were of considerable interest and potential importance to the new Irish government. Information on them came from a surprisingly broad assortment of sources, including army agents in Britain, British police forces, British diplomats and consuls abroad, the British Admiralty, Irish diplomats in the United States and Europe, American police forces, and a New York private detective agency. These were the state's first and largest external intelligence operations.

Britain remained the most important centre of republican activity outside Ireland, just as it had been during the War of Independence. But republican activities were now hampered by the fact that the groups engaged in gun-running, propaganda, and assisting IRA operations were very insecure, because many of their members were known to people loyal to the treaty side. From the early days of the civil war army agents in Glasgow, Liverpool, and other cities in Britain reported on republican activities including the movements of suspects, arms smuggling, and plans to send parties of men across from Liverpool to mount surprise attacks on key points in Dublin. Their reports on their former comrades reflect a combination of familiarity and animosity: in Liverpool Paddy Walsh was 'Chief man for shipping the Goods to Ireland', Mick Joyce was 'helping to get stuff from Antwerp', while Sean Kearns was 'a communist—an awful blackguard'. A draper with an 'organising mind' had 'several bitches of

from the wife of the manager of the Maypole Dairy in George's Street, where an assistant had left early as he had to attend an IRA meeting. See C na D [?], IO, 2nd Eastern Division, to director of intelligence, 7 Aug. 1922, MP, P7/B/4.

[42] Army council minutes, 27 Feb., and O'Hegarty to all GOCs, 5 Mar. 1923, MP, P7/B/178 and 83.

[43] Army council minutes, 5 Mar. 1923, P7/B/178.

daughters'—an earlier version of this list had spoken of 'several wrong daughters'—and Tom O'Malley 'raided and created a terrible row in the house of Neill Kerr who was at that time Irish Government Agent in Liverpool'. One propagandist in Glasgow was a 'strong Communist' who 'received £40 [worth] of explosives from me for nothing and sold' them to the Citizen Army for '£30 in 1918. When exposed dropped out of movement.' As British police and security agencies also kept republicans under surveillance, activists were under constant pressure.[44]

The main problem for the Irish government was not to uncover republican activity in Britain but to find a way of dealing with it, since it occurred beyond their jurisdiction. For this they had to rely on the British authorities for help. In some matters, such as the issuing of passports to Irish people wishing to travel outside the British Isles, complete co-operation was automatic—the Irish authorities had the final say in which Irish applicants received passports and which did not.[45] In questions such as the extradition of wanted men and the suppression of republican propaganda, while the British were sympathetic, there were considerable legal obstacles in the path of effective action. Unless republicans in Britain broke British law, they could not be arrested there. Unless the Irish issued warrants for specific offences, they could not be extradited.

In October Mulcahy discussed these problems with A. W. Cope, the British official in charge of liaison with the provisional government. Mulcahy was concerned about arms smuggling, propaganda, and fund-raising by republican groups in Glasgow and elsewhere, about the safety of 'a dozen of our men in Glasgow who are engaged on intelligence work and who run risks at the hands of Irregular agents there', and about allowing these 'secretly and efficiently' to 'pass information' about 'arms traffic to the British Police'. Most importantly, however, he enquired if, 'without having definite charges' against key republicans 'we ask that the British police arrest them, and have them handed over to the Irish Government, will this be done?' In reply Cope undertook to arrange that Irish agents be issued with firearms permits, accepted the need for liaison between these agents and the British police, and said he thought pressure could be brought to bear on the proprietors of halls rented for republican fund-raising functions. He was also optimistic on the crucial question of extradition, agreeing that there would be no difficulty in sending suspects over on charges which would then be dropped, thus enabling the Irish to intern them.[46]

This proposal, on the face of it a flagrant abuse of the British courts, opened a Pandora's box of legal and political complexities which no subsequent British or Irish governments have been able to close. The specific scheme agreed by

[44] O'Hegarty to Sean Golden, one of the army's principal agents in Britain, 16 Dec. 1922, O'Malley papers, P17a/182; lists of suspects, one n.d., one of 12 Jan. 1923, ibid.

[45] Collins to McGrath, 5 Aug. 1922, MP, P7/B/4.

[46] Mulcahy to O'Hegarty, 14 Oct. 1922, O'Malley papers, P17a/197.

Mulcahy and Cope proved unworkable, despite British anxiety not 'to place any difficulties in our way', because it 'was questionable whether there was any statutory authority competent to issue warrants at that time in Ireland'. Only one extradition under warrant was sought, and it fell through for other reasons.[47] Increased liaison between army intelligence and Scotland Yard, and between Irish agents in England and Scotland and the local police and prosecuting authorities, ensured that the pressure on republicans was kept up, but the Irish authorities still wanted to have suspects under lock and key in Ireland. Eventually circumstances changed, following evidence that Liam Lynch had sent Pa Murray to revitalize the IRA organization in Britain and to mount operations there. Diarmuid O'Hegarty visited Scotland Yard in March 1923, and shortly afterwards British police arrested over one hundred suspects and shipped them to Ireland, where they were interned. Although Murray was not picked up then or afterwards, the British action broke the back of the IRA in Britain, as well as disrupting republican activities against the Irish government.[48]

Matters did not go so well in the courts: the House of Lords soon deemed the deportations illegal. The British were then obliged to ask for the return of all the 'internees with the exception of [the] small number . . . against whom criminal proceedings are contemplated'. By then the civil war was effectively over, and the Irish complied with the request. Art O'Brien, one of those released and sent back to Britain, was immediately rearrested there on conspiracy charges prepared with Irish assistance, convicted and jailed for two years.[49] In subsequent years extradition from Ireland to Britain and to Northern Ireland became what it has remained, a process fraught with political and legal difficulties. There is, therefore, considerable irony in the history of the first extradition problems between the two jurisdictions, and in the eventual intervention of the British courts to vindicate the rights of Irishmen improperly handed over to the Irish authorities.

The United States was the next most important centre of republican activities abroad. There the Irish government faced greater difficulties in obtaining information and in thwarting republican schemes. While well disposed towards the new Irish state the federal government had no great interest in the Irish issue. Dublin consequently had to rely mainly on its diplomatic representative Professor T. A. Smiddy. Smiddy, a fussy academic, was in many respects an unlikely choice to defend the interests of the new state in the rough-house of Irish-

[47] O'Hegarty to executive council, 7 June 1923, Kennedy papers, P4/659; Home Office memorandum, with Colonial Office to governor-general, 16 Dec. 1922, MP, P7/B/84.

[48] Hopkinson, *Green against Green*, 255; copy of Colonel Carter (Scotland Yard) to O'Hegarty, 17 Apr. 1923, MP, P7/B/83; Canning, *British Policy*, 79–80.

[49] Colonial Office to governor-general, 15 May 1923, O'Malley papers, P17a/195; minute by Cosgrave, n.d., DT, S. 6903.

American politics, where the most important émigré organization, Clan na Gael, had come out against the treaty. But he was at ease in dealing with officials and with national politicians, and in cultivating respectable opinion generally. Surprisingly, when the need arose he also donned cloak and dagger with some zest, warning Dublin that it was 'very inexpedient to mention names in anything connected with intelligence except by code', signing his telegrams 'Sinbad', and asking that any 'confidential letters' for him be addressed to 'Dr Henri Cortial, Cosmos Club, Washinton DC'. There are hints of scepticism in the records about his performance, including the cost to the secret service vote, but he continued to hold a watching brief on republican activities long after the civil war had ended.[50]

Smiddy had two main concerns: to detect and report on republican arms purchasing and smuggling, and to watch the movements and activities of prominent republicans in America. Unsure of whom to trust in Irish émigré circles, he enlisted the help of 'the most efficient Intelligence Detective Agency in the States' to shadow 'a Dublin Jew', Robert Briscoe, whom he believed—probably correctly—to be on a republican arms mission. In addition, he gave the agency a 'general direction to make investigations if there are any guns going to Ireland from the principal ports on the East Coast'—some months later he speculated that 'the activities of our agents' were 'seriously impeding' republican arms smuggling.[51] Smiddy also received reports on republican activities from British consulates throughout America, although until 1924 these were sent via London and Dublin and so could take weeks to reach him.[52] Smiddy was hampered by the fact that the purchase and export of arms was not illegal under American law, and that consequently the federal authorities had no reason to intervene or even to take an interest. The same held good in respect of visiting republicans, whom the authorities were not disposed to harry. One conspicuous exception was the labour leader James Larkin, whom Smiddy initially termed a leading arms smuggler. The Americans first jailed and then deported him, not for gun-running but for his activities as a labour agitator.[53] This illustrates an important point: whatever their indifference to Irish republican activities, in the 1920s many governments, including the British and the American, were acutely conscious of the dangers of communism, kept an international watch on it, and were sometimes willing to share information concerning it with Dublin.

[50] Smiddy to External Affairs, 2 Feb. and 20 Apr. 1923, DT, S. 5785 and 1976; Cosgrave to Smiddy, 8 Apr. 1923, S. 5785; government decision, 3 Apr. 1923, DT, G2/1.

[51] FitzGerald (minister for external affairs) to Mulcahy, 15 Dec. 1922, enclosing report by Smiddy, FitzGerald papers, P80/338; report by 'Sinbad', 20 Apr. 1923, DT, S. 1976.

[52] Governor-General to Colonial Office, 12 Jan. 1923, and Dominions Office to governor-general, 6 Apr. 1924, ibid.

[53] Governor-General to Colonial Office, 22 Feb. 1923, S. 2009; reports by 'Sinbad', 2 Feb. and 20 Apr. 1923, DT, S. 7785.

Links between communism and republicanism formed an important part of the government's investigations of republican activity in Europe. It was natural that left-wing groups should express sympathy for the republican cause—there were cries of 'Long live Ireland' in the Italian parliament during discussion on the arrest of Donal Hales, a republican activist, on the eve of a visit to Rome by members of the British royal family—but there were also more serious problems.[54] The government shared the general European mistrust of the new Soviet regime, both because it preached world revolution and because it provided inspiration for Irish socialists. In January 1923 Michael McDunphy, an official of the government secretariat, visited Irish diplomatic posts in Europe. Alarmed at evidence of meetings between a republican emissary and Soviet representatives, he advised that 'immediate steps' should be taken in France to set 'in motion the machinery of the Secret Police on the track of Irregular and allied Bolshevist activities in Paris', in Switzerland and in 'other countries likely to be affected'. The various police forces could supply reports 'at regular intervals . . . regarding the activities of . . . Irregulars abroad, as well as special reports in cases of urgency'.[55] Another official, Michael MacWhite, sent a more detailed account of republican overtures to the Soviets. In some respects this was reassuring, as it appeared that the woman bearing the 'dispatches from de Valera to Chicherin', the Soviet foreign minister, in Lausanne, was not taken 'seriously' by the Soviets or anyone else. MacWhite had received a somewhat dubious report that the republicans sought a loan of ten thousand pounds as well as an arms shipment 'which could easily be landed . . . in a western Irish port', and he suggested the government give this as much publicity as possible in Ireland and the United States.[56] Cosgrave subsequently spoke in public about this alleged intrigue, prompting a Soviet denial which was almost certainly true given their lack of interest in Ireland.[57] This episode was important not because it bespoke any sudden upsurge in republican/Soviet links, but because it suggested that the republican party and the IRA which controlled it were willing to seek an accommodation with the country then most feared by Britain. This propensity to seek help from Britain's enemies—first the Soviets, then the Germans—and thereby implicitly to undertake to help them against Britain—had ramifications for Anglo-Irish relations out of proportion to the generally feeble efforts of the republican movement to make such concordats effective.

The documents suggest that during the civil war the government had three main classes of information on republican activities in Europe and America.

[54] Copy of British ambassador in Rome to foreign secretary, 30 May 1923, S. 3114.

[55] McDunphy to FitzGerald, 26 Jan. 1923, FitzGerald papers, P80/752.

[56] MacWhite to FitzGerald, 13 Jan. 1923, and attached undated report, possibly a translation of a document originally prepared in French, DT, S. 3147.

[57] Text of Monsieur Klishko to foreign secretary, 21 Feb. 1923, S. 2108; S. White, 'Ireland, Russia, Communism, Post-Communism', *Irish Studies in International Affairs*, 8 (1997), 156–8.

The first was the intelligence obtained by its own forces in Ireland through interrogation of prisoners, interception of correspondence, and analysis of captured documents. The second was that which came directly from the handful of Irish officials abroad. The third was that provided by the British government, which came from British intelligence agencies, from British diplomats and consuls, and from material passed to the British by friendly governments. The British were to continue to be Dublin's principal external source of intelligence on republicanism abroad, although as the new state consolidated its standing internationally a certain amount of information came directly from foreign governments and police and security agencies.

viii. The Course of the War, 1922–1923

The civil war was, as recent research has admirably demonstrated, a miserable and confused business.[58] The kindest thing that could be said for the government's military performance was that it was less bad than the opposition's. Its forces were poorly organized, weakly led, and initially small in number. However, from the first the government controlled the levers of power, it had the assurance of British support, it had considerable legitimacy as a result of the June 'Pact' election which had returned a clear majority of pro-treaty TDs, and it had a clear political aim, to retain power and to vindicate the treaty. Collins put it thus on 14 July:

> What the Army is fighting at present is largely mere brigandage, and when not this it is opposition to the People's will. What they are fighting for is the revival of the Nation . . . this revival and restoration of order cannot in any way be regarded as a step backwards, nor a repressive, nor a re-actionary step, but a clear step forward.[59]

The theme of defending the popular will again occurs in a sombre note written in August by W. T. Cosgrave, evidently for publication in the event of his death, after learning that 'members of the Government are on the list to be shot'. This plan he termed, rather charitably, 'misguided patriotism . . . The people who so act are irresponsible and must not be allowed to cow or awe the people of Ireland.' Even if the entire government 'are shot and die others will be found to take their places. None of us could be indispensable . . . My place will be easily filled.' The 'people of Ireland . . . must prevail against any minority seeking to order their will or their life save under the laws which the people's representatives pass'. Cosgrave forgave whoever might kill him, and asked 'those who are in arms against the Government to consider if it be not possible to come to an

[58] Hopkinson, *Green against Green* is best on the civil war. For political developments see J. Lee, *Ireland 1912–1985: Politics and Society* (Cambridge, 1989), 56–69.

[59] Collins to Griffith, enclosing draft statement, 14 July 1922, DT, S. 1318.

agreement with the nation. No member of the Government wishes to continue any war on any section.'[60] This note of melancholy determination was perhaps peculiar to Cosgrave, but his government colleagues were equally fixed in their will to see off the republicans once the fighting had started.

Underlying the civil war split was the re-emergent divide between two streams in separatist thought which had come together after the 1916 rebellion. In essence the anti-treatyites, while quibbling about the mechanics of the June 1922 election, were dismissive of electoral opinion as the deciding factor in national affairs. Until the republic, pristine and complete, was achieved, the popular will did not matter because the people were not in a position to make the right choice.[61] This left electorally minded republicans, and in particular Eamon de Valera, in a deeply ambiguous position: as he wrote in September, resistance to 'the decision of the majority of the people' implied 'the repudiation' of what republicans 'recognise to be the basis of all order in government and the keystone of democracy—majority rule'. The anomalies in de Valera's stance, having attempted to forge a compromise on the treaty and having subsequently seen only 21 per cent of votes go to anti-treaty candidates, were obvious enough: as one northern republican who had come south in order to avoid internment put it to a former comrade,

> I am as I have always been in my national outlook, but I certainly must vehemently protest against the methods some people are using to further their ideas of principle. The Irregulars have (a great many of them) no principles other than that of opposition, destructive opposition to the Free State. They are not even against the connection with England, as witness de Valera's pronouncement on Document No 2. You will remember my attitude when the Treaty terms were first published . . . I ran amok, but since I came to the Free State I have been compelled by my reason and logicality and against my conscience to look facts in the face . . . I disagree altogether with armed opposition without reason.[62]

The republican opposition were unprepared for the conflict which they had precipitated, and were divided about how to proceed. The aim of the militarist group which had occupied the Four Courts since April had been to destroy the authority of the provisional government and to provoke the British army into a fight, and thereby to reunite the independence movement. Once this failed with the provisional government's attack on their positions in June, no coherent

[60] Note by Cosgrave, 12 Aug. 1922, DT, S. 2817.

[61] This argument is admirably advanced in Garvin, *1922*, 27–62. For a contrasting, republican legitimist view see B. Murphy, *Patrick Pearse and the Lost Republican Ideal* (Dublin, 1990), 139–44, 181–2.

[62] R. Sinnott, *Irish Voters Decide: Voting Behaviour in Elections and Referendums since 1918* (Manchester, 1995), 96–7; extract from de Valera to McGarrity, 10 Sept. 1922, quoted in S. Cronin (ed.), *The McGarrity Papers: Relations of the Irish Revolutionary Movement in Ireland and America, 1900–1940* (Tralee, 1972), 124; extract from Hugh Halfpenny (my grandfather) to Thomas Branagan, n.d. [1922], Public Record Office Northern Ireland (PRONI), HA/5/1921. See Mac Ruari, *In the Heat of the Hurry*, 71–2, 94.

military or political strategy emerged to replace it. In Dublin, as their occupation both of the Four Courts and of buildings in O'Connell Street showed, republicans were beset by their elevation of symbolism above military practicality; elsewhere, while some units performed competently, the lack of a functioning national command meant that their efforts had only a local and temporary impact.[63] The government's decisive success in quickly evicting republican forces from the main cities and towns put paid to the IRA's initial strategy of inflicting military defeat on the national army. Without political leadership once the fighting broke out as de Valera floundered in the background—in October 1922 he allowed himself to be appointed head of a republican government subordinate to the army council of the IRA, a make-believe arrangement which was to be a political millstone around his neck until he finally cast it off in 1925—the IRA havered between quasi-conventional warfare and the guerrilla tactics of the War of Independence. By contrast, and for all its deficiencies of organization, of training, of equipment, of leadership, and of morale, the army operated as a national military force under the control of a civilian government. Its operational performance during the first phase of the conflict could, furthermore, scarcely be faulted. It quickly established physical control of most of the country other than the south-west, reducing republicans to fragmented hit-and-run tactics. Ships were successfully used to transport troops around the coast, resulting in the almost bloodless reoccupation in July of Waterford and Westport, and in August of Cork and of other key towns still behind republican lines. After 11 August, when republicans under Liam Lynch abandoned the barracks at Fermoy, the anti-treaty forces held not a single military installation in the state.[64]

The republican campaign developed through a succession of hasty improvisations. After the abandonment of attempts to hold fixed positions in key towns, it grew to include not only action against military and police targets, and widespread destruction of roads, bridges, and railway lines, but also attacks on civilians believed to be government supporters, as well as incidental raids for money or supplies. In response to the Public Safety Act which gave military courts the power to deal with a wide range of capital offences, Liam Lynch declared open season on the persons and property of all pro-government TDs, all senators, and all prominent supporters of the government. For a combination of reasons from distaste to inefficiency, this policy of reprisal assassinations was only haphazardly applied. Nevertheless it represented both a further

[63] Hopkinson, *Green against Green*, *passim*; C. S. Andrews interview, 8 June 1982. Dr Andrews's memoir *Dublin made me* is a valuable republican account.

[64] The (IRA) army executive resolution appointing the republican government was moved by Con Moloney, my grandfather's brother. F. O'Donoghue, *No Other Law: The Story of Liam Lynch and the Irish Republican Army, 1916–1923* (Dublin, 1954), 276–7 and 342–3; on Lynch's strategy see ibid. 266–7; N. Harrington, *Kerry Landing August 1922: An Episode of the Civil War* (Dublin, 1992), 81–120.

upping of the stakes, and a reversion to War of Independence tactics.[65] Republicans showed a greater appetite for the less vicious tactic of arson, sometimes with fatal consequences. The government TD James McGarry lost his son when his house was set ablaze, and the father of Kevin O'Higgins was shot dead during an attempt to burn his home in Laois. O'Higgins, not surprisingly, treated with contumely a 'message . . . of maudlin regret for the murder . . . and an assurance that it was quite "unofficial" ' from Lar Brady, a leading Laois republican. The 'only assurance that the Minister could give him [Brady] was that *his* home and *his* family would be secure and that he need be in no anxiety about a reply in kind'.[66] Agrarian and sectarian as well as political motives clearly played a part in the arson campaign. A weekly situation report of 21 April 1923 is a typical catalogue: in Cavan 'house of Mr Moore' and in Longford 'Mrs Richardson's house' were burned; in Westmeath there were 'house burnings [in] Aughavass & Rhode', and in Meath 'house burning—Major Bomford'; in Offaly, 'Colonel Biddulph's house', in Carlow, 'house of Robert Power', and in Cork 'Frank Pitt's house' were all attacked. Other actions were harder to fathom: what on earth possessed the armed group in Ballina who 'demolished the park enclosure and released the hares', causing the abandonment of a coursing meeting?[67] Such venting of local spleen was no substitute for concerted military action. The leaders of the IRA proved hopeless generals, unwilling to adopt and to follow a coherent national strategy. Instead they stayed in their own bailiwicks, waiting for the enemy to come to them and to pick them off piecemeal.

Despite the shambolic campaign over which he nominally presided, to the day of his death in April 1923 Liam Lynch clung to the illusion that he could transform the military situation once enough weapons were secured. A captured letter to Sean Moylan in New York in February 1923 illustrates this:

> Further re Jetter [Captain J. T. Ryan, a Berlin-based Clan na Gael leader who had fled the United States in 1917 fearing arrest for involvement in German/Irish intrigues]: money for a few pieces of artillery should only be spent, as all finance possible is required here. I understood guns and submarine were on hands with our friends there, then why not push them here at once? Would that submarine have a few guns to hit up a few British ships? Nothing but artillery will clear up this war quickly. We have hopes also in another direction.

That Lynch was not simply fantasizing is indicated by another captured document, a letter sent by Moylan to a London cover address:

[65] Lynch to Michael Hayes (ceann comhairle of Dáil Éireann and speaker of the Southern Parliament), 28 Oct. 1922, UCDA, Hayes papers, P53/47; Hopkinson, *Green against Green*, 190.

[66] TJ Coyne (private secretary to O'Higgins) to adjutant-general, 23 Feb. 1923, O'Malley papers, P17a/188.

[67] Army situation report, 23 Apr. 1923, MP, P7/B/138, and daily calendar of incidents, 3 Jan. 1923, O'Malley papers, P17a/173.

We can get you any ammunition you want in any quantity. I have written 'the Boss' about a scheme we had for getting stuff in direct . . . We have one hundred silencers . . . Your news about the 'Artillery' is good. We have a man in Germany negotiating the same stunt and expect to pull off a big thing.

The 'big thing' was the purchase of four batteries of mountain artillery, four heavier guns, the appropriate shells, and millions of rounds of .303 ammunition. These were to be smuggled to Ireland by Ryan, accompanied by one hundred English-speaking military instructors. Lynch's hope that the submarine would be able to 'hit up a few British ships', presumably to draw Britain back into the fight, reflects a preoccupation with the symbolic which dominated the IRA's thinking and which was completely inappropriate to a military campaign intended to win physical control of the country.[68] This partly explains the IRA's failure in the early weeks of the civil war. Then, while at least as strong in numbers and morale, and collectively more experienced in fighting, than the fledgling government forces, it proved completely unable to devise and adopt a concerted military strategy. Instead the government was given time to consolidate its grip, first in Dublin and then in the key cities of Limerick and Cork. Thereafter the course of the war dictated that small-scale guerrilla tactics were the only ones viable against an enemy who controlled all the centres of population, the transport and communications systems, the bureaucracy and the national treasury and which, as the June election had indicated, enjoyed majority support. While sabotage, arson, and assassination made the country hard to govern, they failed to win political power for the republican movement, and they begot savage retribution. This we must now consider.

ix. **Government Policy on Subduing Unrest, 1922–1923**

From the outbreak of the civil war the government's policy was clear and inflexible. It would not tolerate armed resistance to its rule. It would introduce and operate draconian laws against those who challenged its authority. It would restore social order, discipline, and respect for the law. Above all, it would fight fire with fire, even beyond what emergency legislation permitted or envisaged. In all of this, it believed, it had the support of a large majority of the people. There were bitter differences on aspects of the campaign, particularly those between O'Higgins and Mulcahy on the army's alleged military and other failings, but to the world the government presented a united and uncompromising

[68] Lynch to Moylan, undated [early 1923?], and ? [probably Moylan], New York, to 'Mr Brooks', London, 27 Feb. 1923, UCDA, FitzGerald papers, P80/791. It is likely that this letter was intercepted or seized by the British and passed on to Dublin. Cronin, *The McGarrity Papers*, 69, 99, 105, and 134–5; Andrews, *Dublin made me*, 271–2; Hopkinson, *Green against Green*, 237.

face. Despite the sudden deaths in quick succession in August first of Arthur Griffith and then of Michael Collins, it pursued its aims with unwavering and ruthless will.

There were three strands to this ruthlessness. The first was the government's willingness to use harsh laws, most notoriously making the mere possession of arms a capital offence. Some ministers urged the use of these measures not merely to defeat the IRA but to crush social disorder, which they saw as a poisonous by-product of republican defiance. The second was its unwillingness or inability to curb the excesses of its own forces, most importantly the murder of prisoners. The third was its willingness to go beyond its legal powers in the widespread detention of republicans by the army and, more dramatically, in the summary execution of four unconvicted republican leaders in December 1922.

There was nothing new about the use of emergency legislation to quell disorder in Ireland, nor about allowing military courts to dispense justice for capital crimes. The provisional government simply took up where the British left off. Conditions were abnormal, the ordinary system of justice could not function, and harsh measures were therefore required as a temporary measure to help restore order. What distinguished the Cosgrave government's approach was its single-minded and calculated use of the death penalty under the Public Safety Act of October 1922. Under this legislation emergency judicial and punitive powers were granted to the army. Following a brief amnesty for anyone prepared to surrender his weapons and to stand aside from the conflict, these powers came into operation. Between November 1922 and May 1923 military courts dispensed justice in a cursory fashion: in the words of one officer, 'proceedings . . . showing where the Court was convened, the evidence heard and the prisoner sentenced to death' were sometimes recorded 'on one sheet of foolscap'. Seventy-three republicans were executed after trial, and many more were sentenced to death but remained prisoners around the country, their survival often conditional on the activities of their fellows still at large in the locality. The first men to die were deliberately chosen because they were small fry, as O'Higgins made clear in a notorious Dáil speech. The most senior figure to be shot for possession of a firearm was the propagandist and constitutional thinker Erskine Childers. Apart from Charlie Daly, shot in Donegal in March 1923 in dubious circumstances, and Erskine Childers, an implausible candidate for the role of gun-toting desperado who inspired unusual hatred because of his influence on de Valera, most of those actually executed were foot soldiers of the republic, not, as might have been anticipated in a civil war, the top men.[69]

From November 1922 until the war's end executions and the threat of execu-

[69] McAllister to director of intelligence, 28 Oct. 1929, MA, file on 'Intelligence Branch—Co-operation with Civic Guards'; Nora Harkin interview. She met Daly and three other armed IRA men near Stranolar shortly before they were captured. Daly's death caused great bitterness, as he was thought not to have carried out the killing he was accused of.

tions were used as an instrument of policy. By way of illustration, the army council minutes of 12 February 1923 deal with 'Executions. All bad cases taken during the current week are to be ready and dealt with in case . . . executions are necessary next week.' From then on, 'it must be anticipated that no clemency will be shown in any case . . . In every case of outrage in any Battalion area, 3 men will be executed. Men will be immediately concentrated at the Command Centre for this purpose.'[70] In fact executions continued to be at the discretion of the local commanders, who had a variety of factors to bear in mind. These included the state of local feeling, the level and nature of republican activity in the area, and, perhaps, the possibility of drastic reprisals against government supporters. Overall, the policy of selective executions after courts martial was very successful in restricting republican activity in many areas, in lowering republican morale, and in avoiding the national and international opprobrium which a more thoroughgoing approach might have provoked.[71]

During the war, however, the apparent reluctance of many local commanders to execute convicted men was particularly attacked by O'Higgins and his close associate Patrick Hogan, the minister for agriculture. In the social disorder and indiscipline accompanying the war these two men saw the imminent collapse of Irish civilization. The army, they maintained, did not understand that the spirit of anarchy had been loosed upon the nation: it would have incalculable effects if it were not ruthlessly extirpated. They put their views in two remarkable and much-quoted memoranda in January 1923. In an intemperate essay on the failure of security policy, Hogan warned that 'the land war will begin in earnest within a few weeks'. The people behind it were from

> the worst elements in the country districts with a pretty liberal sprinkling of wasters from the towns. They are practically all landless. The great majority have no genuine claim to land and would not make a success of farming . . . Their present methods are murder and arson.

Hogan also claimed that 'the time has definitely come when strikes and other disputes are being settled by shooting and arson. In Athy recently a dispute involving some farmers and three to four hundred labourers led to the haggards of seven of the farmers being burned, and one steward being shot through the hand.' He linked such unrest to a general fracturing of the republican campaign, which had become 'a war by different sections, different interests, and different individuals, with no common bond except this—that all have a vested interest in chaos, in bringing about a state of affairs where force is substituted for law.' All this could be easily remedied, if 'we only go about it properly. The people are thirsty for peace, and thirsty for strong ruthless measures.' These should be provided by 'an unusually steady, disciplined army acting with the utmost

[70] Army council minutes, 12 Feb. 1923, MP, P7/B/178.

[71] Hopkinson, *Green against Green*, 288; Andrews, *Dublin made me*, 251–4.

efficiency and ruthlessness', specifically by a new 'highly disciplined efficient reserve, not affected in any way by the provincialism' of the existing army, which would tackle disorder. He also asked for military 'inspectors who would be absolutely independent of the local commands', to overcome local reluctance to carry out executions for possession of weapons or for arson: 'I know that executions are only a second best, and that they cannot be continued indefinitely', but for the moment 'they ought to be going with machine-like regularity'. Hogan concluded by pointing out somewhat cryptically that action was also needed on '(a) Prisons and prisoners; (b) Women; (c) Payment of Army Accounts, and (d) The Drink Question.'[72]

O'Higgins argued on the same lines: 'We are not engaged in a war properly so called, we are combating organised sabotage and a kind of disintegration of the social fabric', so the military should 'perform many duties which, strictly and technically, might be said to be those of armed peace rather than of military'. His concern was not with organized republican resistance, but with the unleashing of 'greed and envy and lust and drunkenness and irresponsiblity' in the countryside. As 'the first sign of a crumbling civilisation' he adduced, bizarrely, the fact that 'the bailiff as a factor in the situation, has failed'. Thus the army should form special units to clear land, enforce court orders, and to assist in 'tracking and stamping out poteen traffic'. In addition, 'there should be executions in every county. The psychological effect of an execution in Dublin is very slight in Wexford, Galway or Waterford . . . I believe that local executions would tend considerably to shorten the struggle.'[73]

Underlying these apocalyptical warnings was a straightforward point: in its prosecution of the war, the army had been unable to compensate for the lack of civil authority in many areas. Disorder flourished in its absence. That point was accepted by the government, and the army agreed to do more in consultation with the civil authorities in the disturbed areas. This initially cheered O'Higgins up remarkably: he told Cosgrave that once the 'little committee of order', as he incongruously termed it, 'starts holding its occasional meetings, the idea will rapidly shape itself . . . Business men will take heart and realise that the courts are no longer an empty shamble, and that credit can be given with reasonable certainty of recovery.'[74] The succeeding fortnight saw no less than twenty-nine of the seventy-three legal executions carried out during the civil war, but with that grisly exception the army dragged its feet on the specific changes O'Higgins had sought: the military detachments he demanded only materialized as the Special Infantry Corps in the spring as a by-product of wider army reorganization. In April O'Higgins told Cosgrave that with the prevailing 'revolt against all

[72] Memorandum by Hogan, 11 Jan. 1923, MP, P7/b/96.
[73] Memorandum by O'Higgins, n.d., ibid.
[74] O'Higgins to Cosgrave, 12 Jan. 1923, ibid.

idea of morality, law and social order', 'no greater disaster could happen to the country than that "peace" should overtake it, leaving conditions such as these to be dealt with by a new and unarmed Police Force and by legal processes'.[75] With the war effectively over, he won his point about the deployment of the military. Units of the Special Infantry Corps, sometimes acting in conjunction with unofficial groups organized by farmers, made vigorous and partisan interventions in agrarian and industrial disputes. The labour historian Emmet O'Connor has pointed out that while 'the cabinet was anxious to maintain the values of liberal democracy', to the extent that this was achieved in the new state 'it was realized through the paradox of withholding the conventions of liberalism until after the crisis phase'. Government forces 'did not act within the law, were indisciplined, and often openly partisan' in their interventions throughout 1923.[76]

Hogan and O'Higgins wildly exaggerated both the extent and the depth of social disorder in January 1923, as well as its links with republicanism. The evidence cited by Hogan—a man wounded in the hand, and a few barns destroyed in Kildare—scarcely bespoke impending doom. His ideal remedy appeared to be the apprehension of the perpetrators and their trial and execution just as if they were active republicans caught in arms. Failing this, in his view, the least the army could do would be to shoot a few of its republican prisoners in areas disturbed by land or labour troubles, since this might give the agitators food for thought. Hogan's views though extreme were essentially pragmatic: as minister for agriculture he naturally defended the interests of substantial farmers threatened by strikes, while every politician was well aware that the land issue was a powder keg. He dealt with it, as the British had learned to do before him, not simply by coercion but by reform, putting through the 1923 Land Act which substantially disposed of most of the grievances underlying land agitation. O'Higgins's concerns were altogether more spiritual. He took the view that defeating the republicans militarily was not enough: the land grabber, the debtor, and the drunk were enemies just as menacing. Victory would be achieved only with the return of the bailiff, the restoration of the local credit system, and the extirpation of illicit distilling. Only then would the country rediscover its social discipline and its moral sense. This was a messianic agenda which put local social unrest, agitation, and indiscipline on a par with widespread armed resistance to the government. No other minister attained remotely the heights of verbal morality routinely scaled by O'Higgins, a man who, judging by what he said and what he wrote, saw everyone and everything—the war, land agitation, the army, industrial unrest, intemperance, republicans, even his colleagues—in terms of starkest black and white. Yet persistent shrillness should not be confused with consistency: we shall see that,

[75] O'Higgins to Cosgrave, 5 Apr. 1923, DT, S. 582.

[76] O'Connor, *Syndicalism in Ireland*, 163.

whatever his tirades and declamations, O'Higgins was as capable of equivocation in words and in policy as any of the fellow politicians whose prevarications and evasions he habitually denounced.

From the outbreak of hostilities the government was willing to go beyond its legal powers. Its justification was firstly that, unlike its opponents, it enjoyed majority support and was fighting to vindicate democracy, and secondly that, unless it gave an unequivocal display of its resolution, it might lose the civil war. Early on in the conflict, for example, Collins gave characteristically robust orders that in Wexford 'any man caught looting or destroying property should be shot at sight'.[77] The army also detained many people in advance of legal power to do so. In the context of civil war, minor breaches of the law in furtherance of public order and safety were an unimportant technicality. Summary executions, however, were another matter. On 8 December 1922 four prominent republicans, one from each province, Dick Barrett, Liam Mellows, Rory O'Connor, and Joe McKelvey, in prison since the capture of the Four Courts, were taken out and shot on government orders. This was a calculated act, done without any pretence of legality. The executions followed the killing by republican gunmen of a government TD, Sean Hales, and the wounding of another, the deputy speaker of the Dáil. That attack came on foot of an order from Liam Lynch directing the IRA to kill, amongst others, all deputies and senators who had voted for the Public Safety Act. In the IRA's view this enormous extension of the concept of collective responsibility from members of the government, already scheduled for assassination, to virtually anyone who publicly supported government policy, was morally superior to the only alternative it saw, that of shooting prisoners. It is an interesting illustration of a peculiarly militarist philosophy—those soldiers beaten in battle could be spared, those civilians victorious in politics should die. In fact Sean Hales had not voted for the offending act, being absent when it was passed, he had distinguished himself against the British and was still highly respected by republicans, one brother Tom was a leading IRA man in Cork, and another, Donal, was the republican representative in Italy. The republican historian Dorothy Macardle found some solace in the specious technicality that Hales was also an army officer, but the murder was a characteristically inept piece of work by the IRA.[78]

The declared policy of shooting public representatives invited a drastic response from a government which drew its legitimacy from the Dáil. The outcome was an act of state terror, of a kind never seen again in Ireland, as the government turned Liam Lynch's expansive logic of collective responsibility back

[77] Collins to director of intelligence, 10 Aug. 1922, MP, P7/B/4.

[78] Andrews, *Dublin made me*, 251; D. Macardle, *The Irish Republic* (1st edn., London, 1937; Corgi edn., London, 1968), 750. Despite his republican activities, Hales's Italian-based brother Donal reportedly commissioned a commemorative statue in Genoa in 1928, to be erected in Bandon. Appeal for subscriptions, n.d. (Oct./Nov. 1928), UCDA, MacEoin papers, QMG 344H.

onto the republican elite. The IRA got the message: no more TDs or senators were killed in the civil war, although the homes of a number were burned down. Whether this justified the government's action is a moot point. It already had ferocious legal powers with which to crush its enemies, and it was already militarily and politically in command of most of the country. The men it shot had been in custody for months, had not been convicted of anything, and had nothing to do with Lynch's order. This ferocious premeditated act also made it difficult for the government, if indeed it had the will, to control unofficial reprisals and murders by its own forces. Finally, the executions undermined one central tenet of its case, that the rule of law must always prevail. However, the absence of significant protests at the time from non-republican sources, and the results of subsequent elections, suggest that the general public acquiesced in drastic measures. This was an important practical lesson, which later governments took to heart. Whatever the theoretical objections to exceptional laws and actions against political crime, harsh measures never did serious political damage to an incumbent administration provided the response was seen to be proportionate to the immediate challenge posed by militant republicanism.

The four men shot on 8 December 1922 were not the only men to be killed outside the law. During the civil war and its aftermath a large number of republicans, perhaps as many as one hundred and fifty, were murdered while in custody or while supposedly evading capture. These killings can be divided roughly into two categories: those perpetrated by soldiers, and those by members of civilian or at any rate plain-clothes bodies such as the CID. The practice was first seen in Dublin, and as the fighting spread throughout the south and west so too did the murders, most notoriously in Kerry. Most army atrocities were committed either in hot blood in the immediate aftermath of engagements, or as calculated reprisals for republican attacks. For example, in September 1922 a number of soldiers were blown up by a mine near Macroom. An armed republican who then attempted to surrender was killed. Mulcahy defended this action in the Dáil, saying it was understandable that the surviving men should want to avenge their comrades. In fact, however, Emmet Dalton, the GOC in Cork, complained to Mulcahy that local troops were appalled at the man's death: while 'I personally approve of the action . . . the men . . . are of such a temperament that they can look at seven of their companions being blown to atoms by a murderous trick without feeling annoyed—but when an enemy is found . . . they will mutiny if he be shot'. The killing was 'the work of the Squad', the Dublin assassination unit set up by Collins during the War of Independence, and Dalton asked that they be withdrawn.[79] The atrocities in Kerry in March 1923 were also the work of hard men sent down from Dublin, in this case the Dublin Guards under P. T. Daly, as reprisals for the deaths of five soldiers killed

[79] Dalton to Mulcahy, 19 Sept. 1922, MP, P7/B/82.

by a republican mine. In one bloody week three groups of captured republicans were taken from prison and tied to mines which were then detonated. Eighteen prisoners were killed. These gratuitously savage acts—after all, the army had plenty of convicted prisoners which it could have executed quite legally—naturally caused an outcry. The government was acutely embarrassed, but it was unable or unwilling to investigate the deaths thoroughly lest it upset the army, and all ministers seem to have concurred uneasily in this. By contrast, when in June Daly and two other officers were accused of manhandling two daughters of a Kenmare doctor, on the face of it a rather less sinister offence than blowing prisoners to pieces, ministers were outraged at such lewd behaviour: O'Higgins, who, characteristically, threatened resignation over the army's unwillingness to punish those involved, and then changed his mind when the military refused to act, said the incident 'is in a class to itself . . . It is going to ring the death-knell of either discipline or banditry.' It was also another stick with which he could beat Mulcahy in their developing dispute over the army's performance and future.[80]

Unauthorized killings and other crimes perpetrated by civilian agencies did not excite the same criticism within the government. We have seen that Oriel House—the CID and satellite plain-clothes units—were responsible for a number of murders during and immediately after the civil war, as well as for widespread maltreatment of prisoners. Because such units operated in plain clothes, it was seldom possible to identify the people and units involved in individual cases. The motives for many killings were also obscure: it is said that personal vendettas were behind some of the most notorious murders. There is no evidence that any ministers were implicated, either directly or indirectly, in directing this terror: they can, however, fairly be criticized for the public equanimity with which they greeted unequivocal and repeated evidence of murder by government agencies.

Republicans, politically and militarily on the defensive from the outset, were appalled at the government's ruthless prosecution of the war. Their leaders took refuge on the moral high ground, contrasting the government's behaviour in introducing the death penalty for possession of arms with their own observance of 'the recognised rules of warfare'.[81] No matter that republicans were highly eclectic in their interpretation of such rules. For example, in Wexford the IRA warned that anyone giving information to government forces 'will be considered as military combatants and are liable to be shot by all the rules of warfare'.[82] Which such rule permitted the killing of defenceless relations of ministers? What legitimate war objective was met by the burning down of the homes of

[80] Quoted in Hopkinson, *Green against Green*, 264; T. de Vere White, *Kevin O'Higgins* (London, 1948; Tralee, 1996), 159. See Harrington, *Kerry Landing*, for a healing account of the Kerry campaign.

[81] Lynch to Hayes, 28 Oct. 1922, as in n. 65 above.

[82] IRA notice, with Brennan-Whitmore to director of intelligence, 12 Aug. 1922, O'Malley papers, P17a/176.

the Anglo-Irish, or the shooting of prominent government supporters? What honourable military purpose was served by the slaughter of Protestants in rural Cork?[83] Republican complaints about the government's attitude are revealing of an enduring strain in republican thought, whereby an extraordinarily strict litmus test of legality, of due process, and of general fairness is applied to actions of everyone save those in the movement itself. The role of state law in republican thought is paradoxical, since the movement on the one hand routinely denies the legitimacy of laws it happens not to like yet consistently complains that they are not fairly and correctly administered. This emphasis on unfairness is deeply rooted in republican critiques of the state, and goes well beyond the necessary sophistries of defence counsel. It remains a central though puzzling part of republican doctrine and propaganda.

x. **Conclusion**

There is no doubt that the government's political and military resolve came as a profound shock to republican opponents, who saw themselves as the military and political elite of the independence struggle. With Griffiths and Collins dead, the government appeared a ragbag of obscure lightweights, a group of opportunists who had come to prominence only when the British were leaving and it was safe to do so. To be outmanoeuvred politically by such tyros was bad enough, although, to the despair of the redundant de Valera, the IRA leadership had already abandoned any attachment to conventional concepts of democratic politics; to be outfaced in terror and to be defeated in guerrilla war was an even greater blow to republican pride, because it showed that even in the sphere of pure militarism into which the IRA had retreated they could be bested by a collection of untried nonentities.[84] The government might well have won without recourse to all the measures used, and without the various atrocities for which its forces were responsible. But at some point or other the government had to meet force with greater force, and IRA terror with state terror. It was death sentences and executions, not murders, that broke the IRA's morale. The introduction and use of such draconian laws did not provoke a crisis of legitimacy for the Cosgrave government: on the contrary, the evidence suggests that the majority of the people accepted these laws as necessary for the suppression of disorder. The complaints of republicans against both the savagery of the laws and the way in which they were applied were vitiated by the lawless ambience and undisciplined ruthlessness of the IRA's own campaign.

[83] P. Hart, 'The Protestant Experience of Revolution in Southern Ireland', in R. English and G. Walker (eds.), *Unionism in Modern Ireland: New Perspectives on Politics and Culture* (Basingstoke, 1996), 81–98.

[84] Andrews, *Dublin made me*, 251–2; Andrews interview.

The course of the civil war saw the definitive military defeat of the anti-treaty forces. Thereafter republicans working against the state had either to channel their activities into politics, or to work covertly as members of the underground IRA. Vindicated by the result of the civil war, the government's prosecution of it nevertheless raised awkward questions. Making hostages of condemned men, tolerating murder by state forces, shooting unconvicted republican leaders as a deterrent, using civil war legislation and the army to quell social and industrial unrest—all this set a grim precedent which some future government confronted with disorder might follow.