

THE SEPARATIST



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INTRODUCTION

REPUBLICANISM is hardly ever discussed calmly. To most people the I.R.A. and Republicanism in general suggests gun-toting youths, fanaticism and misguided old men living in the past. They rarely get an opportunity of putting their ideas across to the public and as a result it is easy for the Press and Government to dismiss them as crackpots and dreamers. Ridicule of this nature is one of the hardest enemies to fight. Consequently they are always on the defensive, and ill-informed abuse tends to make them aggressive in discussion. Emotion or no emotion, Republicanism must be prepared to stand examination; to embrace or reject it without examination is folly.

This we may lay down as a first principle. We do not understand any doctrine until we understand what its attraction is for its supporters. This year more attention than ever will be focussed on Republicanism and the I.R.A. How will they emerge from this close scrutiny? What is it that attracts Irishmen to the Republican cause? What is it that makes them risk their jobs, freedom and even their lives? One thing is certain, the I.R.A. cannot be dismissed as mere gunmen screaming for blood. There is overwhelming support in the Republican movement today for a more realistic approach to Ireland's ills. This school of thought is disgusted with the way Ireland (32 Counties) has been ruled for the past forty four years and advocates sweeping social reforms especially in Education. They point out that Britain has changed its policy towards the 26 Counties and now rules by economic rather than physical means. They will fight this cheque book invasion, changing tactics as it suits them. This does not mean that the I.R.A. will lay down the gun, for they still believe that the final changing of power will come only with the threat of, if not the actual use of physical force.

Finally, we believe that many of those who attack Republicanism do so out of ignorance, and some because they fear it threatens their own economic well-being. They are satisfied with things as they are and worry that in some new arrangement their own share will be less. It is nauseating when men thus motivated attack Republicanism as Communism, Fascism and Terrorism, dragging God in on the side of their own self-interest.

Therefore the Irish Publicity Service, in publishing this booklet hopes to present to the reader a completely objective report on Republican theory and practice and it asks its readers to consider this survey impartially and to decide for themselves whether this organization deserves the persecution and hostility it gets or whether a neutral if not sympathetic attitude should be adopted towards it.



THE Republican movement has six branches.

There is the Sinn Fein political organisation, The Fianna Eireann boy-scouts, Cumann na mBan, Clann na h-Eireann, Clan na Gael and the Irish Republican Army. There are also a number of committees, such as the Prisoner's Dependents' Committee which cares for the families of the imprisoned and supports the relatives of the men who were killed in action. Clann na hEireann and Clan na Gael, based in England and America respectively, seek to organise the Irish emigrants in support of the Republican movement and in this they are meeting with fair success, publicising the movement's aims, selling the United Irishman and sending money home. Sinn Fein, if elected without a majority, will not take its seats in either Leinster House or Stormont. Until recently their main activities were contesting elections, selling the United Irishman and attempting through statements and public meetings to get their message of complete freedom across to the public. However, that the ordinary people are not interested in ideas which seem to them remote from their everyday problems has become apparent to Sinn Fein, for in recent months they have become involved in many social issues and in conjunction with other branches of the movement, are educating their members on questions of Agriculture, Finance, Economics, Trade Unionism, etc., with a view to working within the existing framework in such a way as to expose the basis of its existence.

This re-orientation is welcome but as it is completely out of step with tradition, it has led to the tag of Communism being levelled at Republicans and we would suggest that this is a result of fear by the movement's enemies who want to see the organisation remain isolated from the people where it would be easier to contain.

The Republican movement has no relations with the Nationalist Party in the North whom they regard as "Green Tories" where bigotry is as much their stock-in-trade as it is that of the Unionists. While the Unionists in the 6 Counties may be in a majority in that area, Republicans have always refused to accept the boundary set up by the British in the North, and take these people as a section of the inhabitants of a 32 County Republic from which as a minority, they have no right to secede. Republicans cannot accept that the recent trade agreement signed by this country and Britain will end partition, at any rate in any meaningful way. It could and may bring about an end to partition through the swallowing of Ireland as we know it by our yet-powerful neighbour. Partition is not the be-all and end-all of Republican policy, for of what use is freedom when it means simply the symbols of freedom, while the real power, economic power, is in the hands of the old colonial power. Only the outward form is changed, the intrinsic relationship is maintained.

HOW IT ALL BEGAN

THE Irish have resisted British invasion many times since 1169 when Wexford organised against the Anglo-Normans but the story of separatism or Republicanism as we know it today really began in 1791 with the formation of the "United Irishmen." Their policy was the unity of catholic, protestant and dissenter under the common name of Irishman and to break the connection with England by force of arms. 1798 was when the cause of the long down-trodden man under the banner of an Irish Republic brought Wexford man and Antrim man, Catholic priest and Presbyterian minister together in one great brotherhood of struggle. Five years later Robert Emmet was executed in Thomas Street, Dublin as a separatist leader of the ill-fated revolt of 1803. 1848 brought the revolt of the Young Irelanders and, isolated, as it was from the people, it was doomed to

failure as was the fight of the secret Fenian Brotherhood in 1867. In 1913 the Volunteers were formed by the IRB with Eoin McNeill, Professor of Early Irish History in U.C.D. as figurehead to counter Carson's Ulster Volunteers who were arming to oppose the Home Rule Bill of 1912. Some members were drawn from the I.R.B. some were Sinn Feiners and others were men of no political affiliations who simply wanted to make sure Ireland got what had been promised to her. This was the birth of the I.R.A.

In 1914 with the outbreak of war, the Home Rule Bill was shelved indefinitely with the full approval of Redmond, the ineffectual leader of the Irish Parliamentary Party in Westminster. He further alienated national opinion by welcoming an amendment to the Bill allowing the secession of the Six Counties.

The Republicans were now denounced as being pro-German and vigorously repressed. Redmond made impassioned pleas to the people of Ireland to support the British in her time of need and urged young men to join the British Army. The Republican Volunteers, enraged by the Amendment to the Home Rule Bill, and fearing lest Nationalist ideals and principles were being submerged by the War and British propaganda, decided to take action. In this they were joined by James Connolly, leader of the Irish Citizen Army which was formed during the 1913 strike, to oppose brutal police and military strike-breaking. The Citizen Army was definitely working class and anti-capitalist as well as Nationalist, and for the first time since 1798 there was unity among Protestant and Catholic, worker and militant Nationalist.

Despite opposition from McNeill, who believed only in defensive action by the Volunteers, the revolt took place at midday on Easter Monday, 24th April 1916. It took the Government completely by surprise. Pearse proclaimed the Irish Republic at the G.P.O. and other strategic buildings were occupied and held against the British Army for nearly a week. With the arrival of the British reinforcements, Pearse surrendered.

In the five years after 1916 support for the Republican cause increased as the people became more and more poisoned by the crimes of utmost savagery and brutality perpetrated by the Black and Tans, and more and more inspired by the Rising. Finally, liberal opinion in England and the rest of the world coupled with





an inability to defeat the guerilla army, forced the Government to call a truce on the 11th July, 1921.

On the 6th December, 1921, a Treaty was negotiated by plenipotentiaries of the Dail which partitioned Ireland and gave Dominion Status to the 26 Counties.

Sinn Fein had demanded an independent sovereign Republic for the whole of Ireland. Lloyd George insisted upon allegiance to the Crown, partnership in the Empire, facilities and securities for the navy, and complete option for the Six Counties. Every one of these conditions were embodied in the Treaty. Dail Eireann was summoned for the Treaty debates on December 14, 1921 and after eight days the deputies adjourned without taking a vote. By now all the forces that wanted a link with England, an agreement with England, swamped the question in specious arguments. The entire press of the country exploited the situation with such screaming headlines as "Ratification or Ruin." War with England became the theme of the hour—as if England had not been at war in Ireland for the previous two years. The debate resumed on January 3 and went on for five more days when finally, the Treaty was approved by 64 votes to 57. Mr. De Valera had said as the split over the Agreement loomed, "There is a definite constitutional way of resolving our differences." They tried the definite constitutional way for six months until British field guns began pouring their shells into the Four Courts. The Civil War was on.

By April, 1923, the I.R.A. had been beaten in the field. De Valera continued underground for three years, but in 1926, realising that he would never get anywhere on that basis, declared that if the Oath were removed any Republican could sit in the Dail and still

be a Republican. With this intention he formed Fianna Fail, took the Oath as being "merely an empty political formula" and entered the Dail on the 11th August, 1927, thus, doing in effect, what Collins had asked him to do in 1922.

Sinn Fein and the I.R.A. were still dedicated, however, to the ideal of a united 32 County Republic. In the late 1920's and early 1930's the I.R.A. moved towards the left. But the advocates of a Socialist Republic, as opposed to merely a political republic, did not achieve control before Fianna Fail won sole control of the Free State in 1933. In 1934 the I.R.A. split, the left wing forming Republican Congress and later a faction of congress fought on the Government side in the Spanish Civil War.

During the second World War the remnants of the I.R.A. was smashed to all intents and purposes by internment, executions and imprisonment in the Curragh. In 1948, after the internees had been released it was re-organised and grew in strength during the early fifties. On the 12th December, 1956, a military campaign was launched in the 6 counties, and military installations and border posts were raided. Some I.R.A. men were killed and many received stiff prison sentences. The 26 Counties Government opened the Curragh concentration camp and interned many Republicans and sympathisers. In 1962 it was seen that they could not beat the British and Irish Governments single-handed and they called a truce. At the moment this movement seeks to weld all labour and nationalist elements under one banner of freedom and equality. With a realistic programme of social and economic reform they are confident of success. It remains to be seen whether their aspirations can be realised.

PARTITION



AND FORCE

By Ciaran Mac An Fhaile

THE following article is taken from the March 1957 issue of "Hibernia." It is a reply to articles by the Rev. Dr. Alfred O'Rahilly which had appeared in earlier issues of "Hibernia." As space does not permit the inclusion of Dr. O'Rahilly's arguments, these may be had on request by sending a stamped-addressed envelope to Irish Publicity Service, 17 Inverness Rd., Fairview, Dublin 3.

The recent military action taken by young Irishmen of both North and South against the British Administration in Ireland has at least served the good purpose of raising the fundamental issues that underline what is called the "problem of partition."

Dr. Alfred O'Rahilly's analysis of the matter which appeared in these columns last month, dealt with the problem with more freedom of thought and expression than we have met heretofore. I must challenge, nevertheless, both his premises and his conclusions—in so far as he was sure of his premises at all. He has indulged in special pleading, based on selective evidence, and has shown a complete lack of Christian charity towards his political opponents. His arguments are erroneous and defective in the following respects:

(1) He cannot make up his mind whether the Dublin Government is the lawful Government of the six counties or not. This is a curious, and I suspect, deliberate indecision, for on this factor the morality of the present guerilla warfare rests. If the Dublin Government is the de jure government of the North then it follows that:

(a) The lawful Government of the country is being prevented from exercising its functions by force of British arms and the unlawful armed revolt of a pro-British minority armed by Britain, this minority owes allegiance to Ireland and obedience to their lawful Government.

(b) All Irishmen must, in pursuance of the virtue and duty of patriotism, strive to overthrow British rule in Ireland. It is the Dublin Government's bounden duty under the moral law to conduct and lead that struggle: if they refuse or neglect to do so, they lose their governmental authority because they have defaulted in the primary function of government, i.e.,

the protection of the National territory from outside aggression.

(c) In the event of the Dublin Government thus losing its **authority** (as distinct from its political and physical **power**) a right to revolt is exercisable by all Irishmen subject to usurping British rule in the North and a right (if not a duty) to assist in that revolt is vested in all Irishmen elsewhere. (Vide the case of the Vichy Government in France in 1940-'45 and the formation of the French underground in which thousands of Catholics — including priests like Abbe Pierre — fought in defiance of the Armistice signed by the lawful Government of the country).

If, on the other hand, the Dublin Government is not the lawful government of the North (which is the Republican submission) it follows that:

(d) This Government has no jurisdiction or functions in the North, so no usurpation of such powers is possible by the guerillas in that area.

(e) No lawful Government authority exists in the North, there is de facto rule by an alien usurper only.

(f) Consequently, subject to certain conditions, the Nationalists in the North have a right to revolt in arms against the usurpers, for Catholic moral teaching grants the right to private citizens to launch an armed rebellion where no lawful authority exists to exercise the prerogative of war. (Vide the Hungarian Revolt of 1956).

(g) Subject to similar conditions, citizens of the South have a right in such a northern revolt if they believe that only by such action can international justice be re-established in Ireland. Catholic moral teaching permits volunteers to participate in such revolts provided they act in good faith. (Vide the Irish Brigade which aided Franco's revolt in Spain in 1936-'39).

(h) A similar law to that mentioned at (g) applies even in the case of war between sovereign states, provided, of course, that objective justice can be shown to be on the side which the volunteer intends joining, moreover, such participation does not compromise the neutrality of the state from which the volunteers come. (Vide the thousands of Irishmen who joined the Bri-

(overleaf)

PARTITION AND FORCE (continued)

tish Army and fought against Germany in 1939-'45, in a conflict in which their own State was neutral. I am not inferring that England's participation in that war was necessarily a just one; I only mention the example as an instance of the great latitude of conscience allowed to Catholics in these matters).

2. Dr. O'Rahilly cannot make up his mind about another vital matter—he doubts whether the inhabitants of Ireland constitute a nation or not. This ludicrous doubt has been forced on him because if he accepts that we are a nation he knows he will be led inexorably to the acceptance of the Republican argument.

If the Irish people constitute two nations (which is absurd) and the Border is the natural and lawful boundary between them (which is even more absurd), then the Border is inviolable. If we are one nation, then the Border is indefensible. Dr. O'Rahilly prefers to "hover" over the Border in a state of suspended judgment, because no matter which side he falls on he becomes bound by consequences which he does not relish. (It's so much easier to sit on the fence and call other people cowards and gangsters).

3. In his state of exalted schizophrenia he advocates the admission of Northern Nationalists M.P's into Leinster House. This would result in their voting on matters affecting people who did not elect them and their incapacity to vote on matters affecting the people who did elect them—a gem of political wisdom.

4. His reference to the barbarity of using "a portmanteau with a time bomb" and endangering the lives of civilians is rather naive. The guerillas have scrupulously avoided any risk to civilian life in their use of the time bomb—which is a perfectly legitimate weapon of war. On the other hand, I fail to recall any denunciation by Dr. O'Rahilly or our leaders of Church and State of the action of Irishmen in the R.A.F. in the last war who allowed incendiary, phosphorous and block-buster bombs on the civilian women and children of Germany. Nor do I hear any protest about those Irish mercenaries who are presently shooting down civilians in Kenya, Malaya and Cyprus, all in the service of unhallowed British tyranny, on the unimpeachable basis of "five guineas per week all found."

5. Dr. O'Rahilly scolds us all for not giving the Americans a base in this country "for a war in which we cannot possibly be neutral." He is presumably referring to some future war with Russia. It amazes me that a Catholic moralist should make such a rash and irresponsible statement. We must be neutral in any war that is unjust and the consensus of Catholic theological opinion today is that because of the uncontrollable and indiscriminate nature of modern weapons—especially the hydrogen bomb—all modern warfare fought with such weapons must be unjust. Yet Dr. O'Rahilly gaily decrees that we must join in the holocaust, and without even the leave of the Church, judges the issues years in advance! The man who strains at the time bomb, swallows the hydrogen bomb!

6. He implies that the present revolt is being conducted by "a handful of invaders" who shoot and run back across the Border to hide "under the skirts of our

Government." The accusation that these young men are cowards is a discreditable utterance from the Christian minister; in view of the true facts it is a sin against both the Eight Commandment and the Law of Charity. The young men laid to rest recently in Limerick and Monaghan (South and O'Hanlon), and their comrades, can be criticized for many things, since men may hold different opinions from theirs (as I do on some things) but there is one fault that may not be attributed to them by anyone having the slightest regard for the truth, and that is the foul charge of cowardice. Not even the British Army or the R.U.C. have said that, for they know that a handful of young men are attacking military and police forces that are at least two hundred times stronger numerically than they are. Their courage will be honoured long after Dr. O'Rahilly's unjust libel is both forgotten and forgiven.

7. Finally, his statement that the British Government did not engineer and does not now keep in existence the Partition of Ireland, shows an ignorance of political affairs that I will not attribute to Dr. O'Rahilly. The explanation for this remark lies elsewhere. It arises out of something a lot more sinister than ignorance.

There are other errors of fact and assertions of opinion in Dr. O'Rahilly's article that I would challenge, but I would prefer to end on a positive note.

The real cause of the moral dilemma that exists is that there is no Irish State co-extensive with the Irish Nation. The Dublin Government which claims to represent the whole of the Anti-Partition forces of the island is, in fact, bound by one of its own laws to uphold the legality of the Border. The statute in question is the TREATY (CONFIRMATION OF AMENDING AGREEMENT) ACT, 1925. By that law the State bound itself to recognise the Border as the proper territorial boundary between the then Irish Free State and the United Kingdom of Great Britain, and Northern Ireland. The 1937 Constitution had to make provision for this law—in Article 3—and as long as that statute remains unrepealed any Government in power here is **bound** to co-operate with the British and Northern Governments in keeping partition permanent. That is the real reason for thirty years inactivity by our political leaders on this issue; and that is why this generation is in revolt.

Before any more condemnations are uttered let both theologians and politicians ponder this anomaly: if a citizen of this State crosses the Border and enters a British Army Barracks in the North to join the army that occupies his native land and takes up arms against his own people, he is not stopped by the Gardai, he is not arrested on his return on leave and he is not condemned by the Hierarchy. But if he enters that same barracks to oust the British Army from his native land he is declared guilty of treason and of usurping the functions of Government and is declared to be in mortal sin.

The moral law that governs all other nations is completely subverted in Ireland. Treachery is deemed virtuous; patriotism is deemed vicious. Why, fellow-Irishmen? Why?

LOST LIBERTIES

This legal analysis of the Offences Against the State Act was written by a lawyer who is both a barrister and a solicitor.

THE suppression of civil and personal liberties in the 26 Counties has caused much public concern since 1939 when the Offences Against the State Act was first passed. Its continued use in Ireland, even in these days, calls for an up-to-date appraisal of the Act. I shall attempt to refrain from using the legal phraseology of the lawyer and analyse the Act and its effects in terms meaningful to the layman, that is to say, the farmer, the worker, the businessman, each of whom is seriously affected by this radical innovation injected into our legal structure in 1939. The Offences Against the State Act has been the subject of severe criticism in Ireland as well as the Western World recently where it was compared to South Africa's notorious Apartheid laws. The Act suspending civil and personal liberties in the 26 Counties is officially known as the "Offences Against the State Act." It became effective in 1939 and was then amended in 1940. The Act is very lengthy and so we will deal here with only the more significant phases of it.

In general, the Act creates a new series of offences which are made crimes. These crimes are by law required to be tried in secrecy before "Special Criminal" Courts. The right of trial by jury is abolished. The accused is presumed guilty in most instances. The accused is required to testify, whether he desires to or not. Upon conviction, the accused is not allowed to appeal to a higher court unless the Special Criminal



Court gives its consent. In actual practice there is no right of appeal. Part Two of the Act, as passed in 1940, is even more drastic as it allows the Government to imprison a person without ever holding a trial or making a charge.

It should initially be pointed out that the Act is not effective except when it is declared so by a "Proclamation" of the Government. Civil liberties as guaranteed by the 26-County Constitution are therefore effective until they are suspended by the Government's Proclamation. No limitations are placed on the Government's right to issue the proclamation suspending civil liberties. Any time it wishes to do so, it may publish the proclamation, suspend all personal rights and deprive our criminal courts of all jurisdiction. There is, of course, much more to the Offences Against the State Act than what you have read thus far.

Let us deal with the Act step by step, taking as our first subject, those things forbidden by the Act and
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LOST LIBERTIES (continued)

defined as crimes and offences. This brings us to Part Two of the 1939 Act, Sections 6 through 17 inclusive. Part Two of the Act contains some of the most radical provisions in the law as it contravenes and nullifies every recognised principle of our criminal law as established by our courts. This part of the Act outlines numerous things which are made crimes but fails utterly to describe with clarity the acts or things forbidden. It is an elementary rule of Criminal Law in any country where Anglo-Saxon law prevails (and this includes Ireland), that a law which labels an act criminal must satisfactorily describe in some detail the exact acts outlawed. The rule is such since the law recognises that fairness requires that a person be appraised in clear and concise language of the acts forbidden so that he can avoid them or if accused of committing the act, answer the charge against him.

The Courts in this country, as well as England and America where Anglo-Saxon law prevails, have consistently set aside and avoided convictions based on vague and indefinite criminal laws. In effect the courts have ruled that a criminal law must be clear and definite so as to enable the general public to be in a position to avoid its commission. Part Two of the Offences Against the State Act fails to specify the acts forbidden as criminal and as a result almost anyone is liable to be picked up off the street and charged with a violation of some part of the Act, although upon reading the section allegedly violated he is unable to learn what exactly is forbidden by the law. For instance, under Section 7 of Part Two of the 1939 Act anyone who "prevents or obstructs" the "carrying on of the Government" is guilty of a felony and subject to seven years' imprisonment. One may well ask what is an act of prevention and obstruction as referred to in the law. It obviously is not defined in the Offences Act.

If one questions the Government's right to a part of the income tax claimed by a Government tax clerk, is he under this Section preventing or obstructing the "carrying on of the Government?" Who can say? Certainly the indefiniteness of the Section would expose almost anyone to such a charge and possibly seven years in jail.

Section 9 of Part Two makes it a crime to "encourage any person" in Government service "to be negligent." We are not told what the Section means by negligent. Obviously the word means many things to many people and as long as the act prohibited is not defined, we must only guess as to its meaning. These Sections, like so many others in the Offences Against the State Act, expose a person to any type of charge any Government official or police officer cares to make. In fact the Act allows the Government official to say what the alleged crime is. This vitiates against the entire Irish system of justice.

The Government is allowed to act as a press censor under Section 10 of Part Two of the Act which violates our basic right to a free and uncontrolled press. Specifically, Section 10 forbids the printing or publication of any document which is "incriminating" (whatever that means), any document which is "treasonable" (whatever that means), and any docu-

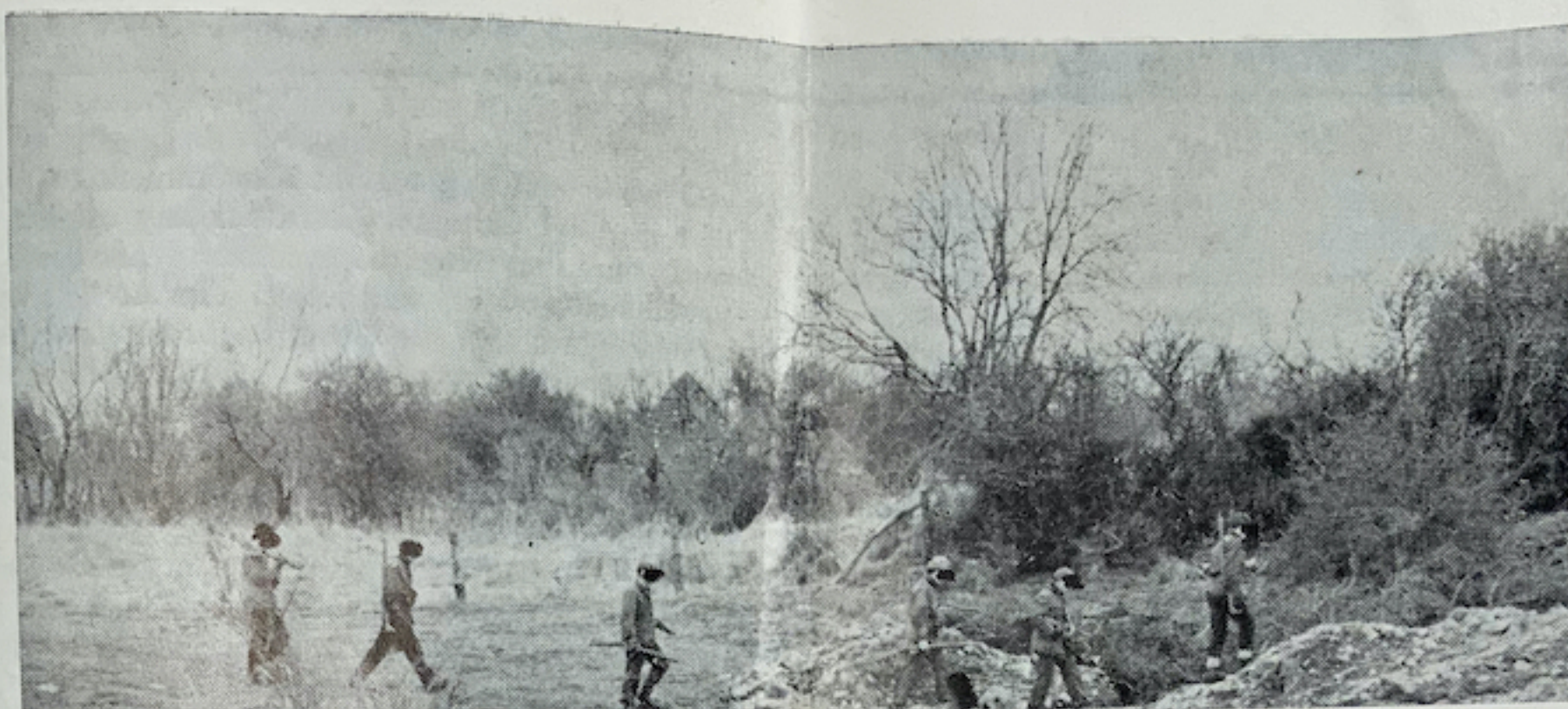
ment which is "seditious" (whatever that means). None of these terms is defined in the Act and so we are all at the mercy of the personal interpretation of this Section entertained by the Garda who happens to jail us. The great danger in all of these provisions lies in the fact that we are not appraised of what is unlawful and so we have nothing to guide our conduct.

Section 12 goes one step further and prohibits the possession by anyone of any document which is "treasonable," "seditious," or "incriminating." Once again these terms are not defined and one must guess what the local Garda Inspector thinks is "treasonable," "seditious," or "incriminating." I am certain that at this point the reader has concluded that the Offences Against the State Act is something borrowed from the Nazi Regime of Adolf Hitler or Communist Russia. The reader would be correct in arriving at such a conclusion as it is obvious that the ideology behind the Offences Against the State Act was borrowed from a dictatorial philosophy. However, the drafters of the Offences Against the State Act did not stop there for they also made Irishmen subject to English laws by the very terms of the Act itself. In the censorship provisions of Section 11 of Part Two the Act adopts certain parts of "Section 42 of the Customs Consolidation Act, 1876, and the provisions of that Act . . ." In 1876 an English Parliament was making laws for all Ireland and yet in this day and age the 26-County Government persists in adopting and enforcing English law!

The Offences Against the State Act rejects many principles of criminal law and procedure but perhaps the most glaring violation is found in those provisions of the Act which state that in the very first instance the accused shall be presumed guilty and shall be required to prove his innocence. Our own courts, as the courts in England and America, have always followed the principle that an accused is, in the eyes of the law, presumed innocent and the State must carry the burden of proving the accused to be guilty. Unfortunately, the Offences Against the State Act reverses this process and the accused is in many instances presumed guilty and the State is not required to prove his guilt.

As an example of this, Section 15 of Part Two of the Act provides: "In any prosecution under this Section the burden of proof that any act was authorised under this Section shall lie on the person prosecuted." Section 19 contains a similar provision and states that the charge itself carries with it a presumption of guilt on the part of the accused. The presumption of innocence in a criminal case has universally been accepted in all jurisdictions following Anglo-Saxon law. This includes Ireland, Great Britain, Canada, the United States and many other western nations. Admittedly the principle is not recognised in Communist Russia any more than it was in Nazi Germany. It is regrettable that the drafters of the Offences Against the State Act saw fit to nullify legal principles of personal liberties for which so many Irishmen fought and died.

As if motivated by fear of the people, the organisation of groups of people is forbidden by Part Three of the Offences Against the State Act. The Act provides



that the Government can ban any organisation which in its "opinion" is "unlawful". The ban is effected by a "suppression order." All this is done of course by the personal edict of a state official without a trial or hearing. Moreover Section 19 provides: "A suppression order shall be conclusive evidence for all purposes—that the organisation to which it relates is an unlawful organisation within the meaning of the Act." As you can see this Section is very sweeping. In effect, a Government official can ban and suppress any organisation he personally declares to be "unlawful". Not only is the organisation found unlawful without a hearing or trial, but any member of such an organisation is automatically guilty of a crime and subject to two years' imprisonment and heavy fines under Section 21.

All property of the "unlawful" organisation, both real and personal is forfeited to the State under Section 22. A similar provision was inserted by Hitler in the German Code. The law was especially applied to German Jews whose fortunes passed into the Treasury of the Nazi Party. In addition to the above provisions, a Chief Superintendent of the Garda can if "satisfied that a building is being used or has been used in any way for the purpose, direct or indirect, of an unlawful organisation," close any such building. The closing is automatic and no hearing or trial is held beforehand. (Section 25).

Although opinion and hearsay evidence is not allowed in our criminal courts, an exception is made to this rule by the Offences Against the State Act. An example of this is found in Section 26 of Part Four of the Act which allows the Chief Superintendent of the Garda to testify that an outlawed publication was published by an accused despite the fact that the police officer has no personal knowledge on the subject. Although our criminal courts and constitution forbid the use of testimony based on rumour and suspicion in criminal prosecutions, an exception is made in the Offences Against the State Act and an accused can be convicted solely on the basis of hearsay and rumour testified to by one who admittedly has no personal knowledge of the commission of the alleged crime.

Public meetings of citizens can also be banned by a Chief Superintendent of the Garda merely because he

"is of the opinion" that the meeting will aid or encourage an "unlawful organisation." (Section 27, Part Four). Anyone attending such meeting can be imprisoned and fined. The Act also permits any member of the Garda to "arrest without warrant." (Section 29). In this respect the Offences Against the State Act vitiates against our criminal laws which ordinarily require that an arrest must be based upon a warrant. Penalties under the Offences Against the State Act are extremely severe and go beyond the normal criminal penalties of imprisonment and fine. Section 34 provides that accused persons convicted by a "Special Criminal Court," who are in the employment of the State shall forfeit their "office, employment, place or emolument and the same shall forthwith become and be vacant." This means that a person, in addition to fine and imprisonment, will also suffer loss of his job and pension rights. The Section also deprives the accused of the right to public employment for a period of seven years in the future.

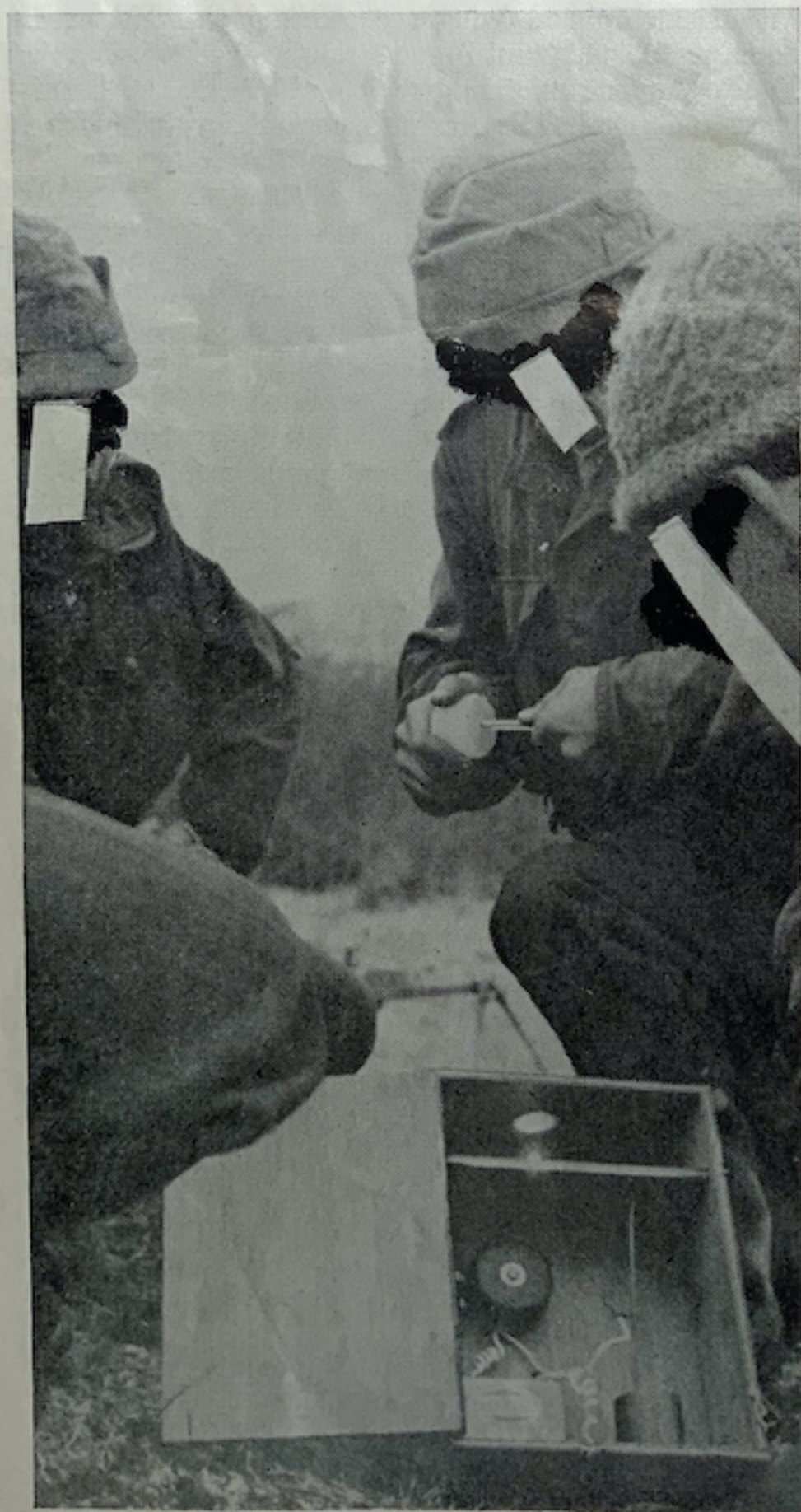
One of the most significant departures from our system of criminal law is found in Part Five of the Offences Against the State Act. This Part creates what are called "Special Criminal Courts." These Special Criminal Courts deprive our regular criminal courts of all jurisdiction in criminal matters. The "Special Criminal Courts" are in fact military boards which try non-military persons. All proceedings are held in secret. No appeals are allowed except where the Court gives its consent. All Special Criminal Court Judges are subject to removal at will, unlike Judges in our regular criminal courts. In practice, all Special Criminal Judges are high ranking military officers. The Government in effect is the accuser, prosecutor and judge of the accused. Under such a system justice is neither sought nor applied. The Courts merely provide the Government with a device to arrest, jail and impoverish persons who may or may not disagree with the Government's policy.

By an ingenious device the Act allows the Government to deprive the accused of a jury trial in our established criminal courts. This may be done any time the Government "is satisfied that the ordinary Courts are

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LOST LIBERTIES (continued)

inadequate to secure the effective administration of justice . . . " (Section 35). Even the Dail is helpless to invalidate any action of the Government under Part Five of the Act. In other words, the people have no recourse in the case of Governmental abuse and tyranny. As a matter of fact, Part Five of the Act is so sweeping that it allows the Special Criminal Courts to try any offence "under any particular enactment." (Section 36). This means that the Government's Special Criminal Courts are not limited to the trial of offences and crimes listed in the Offences Against the State Act, but may also try any other type of criminal offence.



This in effect allows the Government to try anyone in a Special Criminal Court for any offence whatsoever, thus depriving the accused of his basic right to a trial before a jury and judge. The Act is so sweeping in this regard that the Government is allowed to divest and deprive our regular criminal courts of all criminal jurisdiction. The Government is granted complete control over the Special Criminal Courts. This is made clear by a reading of Part Five of the Act. Each Court is required to have at least three members. Each member can be "removed at will by the Government." (Section 39). The average layman thinks of a judge as a barrister or solicitor of several years' experience but the Act provides that a Judge of the Special Criminal Court may be "an officer of the defence forces not below the rank of Commandant." (Section 39). As a practical matter, all Judges of the Special Criminal Courts have been high military officers, none of whom have had legal or judicial education or experience. The Judges of each Special Criminal Court are unfettered as to procedure, as Section 41 of the Act allows each Court to adopt its own procedure without restriction. Criminal procedure is as vital to an accused in a criminal case as the substantive law. Yet the Special Criminal Courts can employ whatever procedure they see fit without limitation of any kind. In fact, Section 41, Sub-Section 4 acknowledges that the Special Criminal Courts need not employ "the practices and procedures applicable to the trial of a person on indictment in the central criminal court . . .". The military overtones of the whole system of Special Criminal Courts is emphasised by Section 50 of the Act which provides for "military custody of any particular individual so sentenced."

The right of appeal is basic to all systems of justice. It is recognised as an absolute right even in the Russian system of justice. Despite this fact, a convicted person before the Government's Special Criminal Courts has no right to appeal except when permission to appeal is granted by the Court (Section 44). The realities of the situation make it obvious that a Special Criminal Court will hardly consent to an appeal concerning errors allegedly made by it.

It is elementary in our law that an accused can also question and contest the jurisdiction of a court which seeks to try him. The question of jurisdiction can be raised in a number of ways. However, an accused who questions the jurisdiction of a Special Criminal Court is guilty of criminal contempt of court under Section 51 of the Act and can be imprisoned for his crime.

A person in custody has no rights under Section 52 of the Offences Against the State Act. He must answer all questions and explain his whereabouts to the police. If he fails to "he shall be guilty of an offence under this Section and shall be liable on summary conviction thereof, to imprisonment . . ." (Section 52).

An accused in effect is deprived of his right to remain silent, a right commonly referred to at times as the right against self incrimination. The right to remain silent and not assist the accuser in his char-

ges against you has been recognised in Anglo-Saxon law for centuries. The rule is codified in the American Consitution in the Fifth Amendment of the Bill of Rights, which reads in part as follows:

"No person . . . shall be compelled in any criminal case to be a witness against himself . . ."

The Offences Against the State Act gives the Government broad powers of detention. These provisions are found in Part Two of the Act, which was passed in 1940. Under Part Two the powers of detention come into operation any time the Government decides to use the power. It has only to issue a proclamation (Section 3). Part Two is the most radical of all Sections of the Act and permits detention without a trial of any kind. Detention as used in this Section is of course imprisonment. The Government is given special powers of arrest and detention. A citizen can be arrested and detained any time a "minister of state" desires the arrest and detention. The minister need only feel that the person to be placed in detention is dangerous to the "public peace or to the security of the state . . .". The detained person is hauled off to prison where he stays until released. The release of prisoners is dealt with in Section 6 which reads as follows: "A minister of state may by writing under his hand, if and whenever he so thinks proper, order the release of any particular person who is for the time being detained under this part of this Act, and thereupon such person shall forthwith be released from such detention."

There is no limit to the length of the imprisonment under this Part of the Act. The Government decides who is to be imprisoned, where they are to be imprisoned and for how long they are to be imprisoned. The accused need not be charged with any crime and need not be brought before a judge or

magistrate. The Government alone decides what the punishment shall be. There is no charge, no hearing, no trial. There is just the imprisonment and the punishment.

Putting the matter simply, a person can be picked up off the street or from within his home and imprisoned without charge or trial for any period the Government desires. He has no recourse to the courts or to the law, for under the Act he has no rights whatsoever. The Government does not need a packed jury or a fixed judge as there are no court proceedings. The only obligation of the Government under the Act is to furnish the Dail with a list of persons imprisoned every six months.

Thus does the 26-County Government operate under the Offences Against the State Act. A reading of the Act makes it clear that as citizens we can enjoy our civil liberties only when the Government wishes us to. Our freedom is ours only so long as the Government wishes us to enjoy it. Our property is ours to use only so long as the Government sees fit. It is generally conceded by solicitors and barristers the country over that the people of the 26 counties no longer have a Government of laws but instead have a Government of men.

The last two decades have witnessed the birth of dozens of new democratic nations in every corner of the world. This evolution, or revolution as some prefer to call it, was the direct result of a growing worldwide recognition of the dignity of man and his right to personal freedom. It was on this foundation that the United Nations were chartered. Where does the 26-County Government stand on such issues today? Not on the side of Human Rights and Civil Liberties, at least not as long as the Offences Against the State Act remains on the statute books.



IRELAND IN THE SEVENTIES

A REPUBLICAN VIEWPOINT

It has often been said that the Irish Republican movement is backward-looking, thinks nostalgically about the great but unsuccessful revolutionary movements of the past, is obsessed with the martyred dead, and generally speaking is incapable of forming a forward-looking programme for the final liberation of the nation from imperialism.

The Republican Movement today is capable of looking forward to the future 32 county republic and in projecting its features in broad outline. If it is visionary to propose means whereby Ireland may support an expanding population in increasing prosperity cherishing all her children equally, then we are in the tradition of the visionaries of 1916.

It will be said by others to be perhaps possible, but too difficult: too many people benefit from the existing relationship with Britain; to cut links would involve hardship. If cutting off the supply of patronage money is hardship, yes we promise hardship to those in receipt of it. We also promise hardship to those who regard it as a God-given right that they should be able to draw dividends from investments in the British Empire. We are prepared to forego the alleged benefits of the connection with Britain; we assert that these 'benefits' accrue only to a small fraction of the population, and that their abolition would leave us richer rather than poorer, in that it would enable us so to order society that the whole working population would be producing wealth. That this is possible may be proved by a simple sum: consider the net subsidy paid to Northern Ireland, about £60m., and add to it the net income from overseas investments (i.e. gross minus interest paid out to foreign investors here) which amounts to about £30m. This gives a measure of the 'benefit from the connection' accruing to a minority of the population. Now consider the benefit from breaking the connection: an extra 100,000 people at work at existing levels of productivity would increase the national income by about £100m.

This exposes the connection with Britain for what it is: a device for enriching the rich and keeping the poor in poverty. As a nation, by foregoing the alleged benefits we would be no worse off, but in fact better off in that we would have full employment in an expanding economy.

Why does Britain pay the subsidy? Because she considers it worth her while to pay out British taxpayers money to keep Ireland divided and safe for British investors to draw profits. Also, by keeping Ireland divided, and by the device of imposing a unified financial system, she ensures that the bulk of the Irish economic surplus (the savings of the Irish people) is syphoned off and used to develop the British economy.

Thus there are two totally opposed concepts of Ireland in the '70's. On the one hand there is the Republican concept of a united, independent nation, with its own independent financial system, planning the investment of its economic surplus in such a way as to give full employment with an expanding economy, trading in a diversified manner with a large number of different countries to mutual benefit, including Britain, with which relations will at last be regularised, and assuming for the first time its rightful place as the leader of the ex-colonial nations in the struggle against imperialism.

On the other hand there is the Lemass concept of a depopulated country-side producing beef, with isolated islands of precarious prosperity in the coastal urban areas, containing a few large factories manned by a declining work force producing with increasing degree of automation specialised consumer goods for export, well-developed ports to handle a substantial import/export trade, a well organised system for syphoning off potential discontent by subsidised emigration, an educational system tailored to fit the emigrant for work abroad. The Lemass concept excludes the six counties which by degrees will have decayed still further economically while retaining with increased vigour its religious sectarianism and bigotry.

The choice for every Irishman worthy of the name is clear.

The following points constitute the bones of an independent economic policy which is an alternative to surrender of our national independence.

A. DIVERSIFICATION OF TRADE

1) To increase the status and responsibility of Coras Trachtála; to give it power to act as an import-export agency for the purpose of signing long-term contracts for trade with countries other than Britain.

2) To secure diversification contracts in non British markets while seeking to retain access to the British market until the establishment of alternative trade links shall have strengthened our bargaining position sufficiently to enable a favourable new trade agreement to be achieved.

3) To orient our diplomatic service towards commerce; to extend it to all countries with which mutually beneficial trade is possible.

B. STRENGTHENING THE HOME MARKET.

1) An incomes policy such as to improve the position of lower-paid sections of the population, especially those with young families, whose basic consumption consists of essentials which are produced within the national economy.

2) Legislation to control rents and to curb speculative demolitions; a comprehensive housing policy from which the speculative element would be removed; to establish special low-interest housing loans which would be available for restoring old property as well as building new. This to be considered as part of a general scheme for increasing the purchasing power of the lower-paid urban dweller.

3) The increase of small-farm incomes by the establishment of co-operative marketing organisations to handle basic food-stuffs in such a way as to improve the positions of both producer and consumer.

C. PROTECTION OF INDUSTRY

1) Not to abandon any protected industry without ensuring that alternative employment of a similar or improved nature is established in the area.

2) To retain protection at the level necessary to prevent dumping by monopolistic large-scale outside firms.

3) To control strictly the profits of any protected industry.

4) To reduce costs in small-scale industries producing for the home market by the maximum use of scientific techniques in the productive process and in management; to this end to expand the scope and terms of reference of the state scientific and technological services.

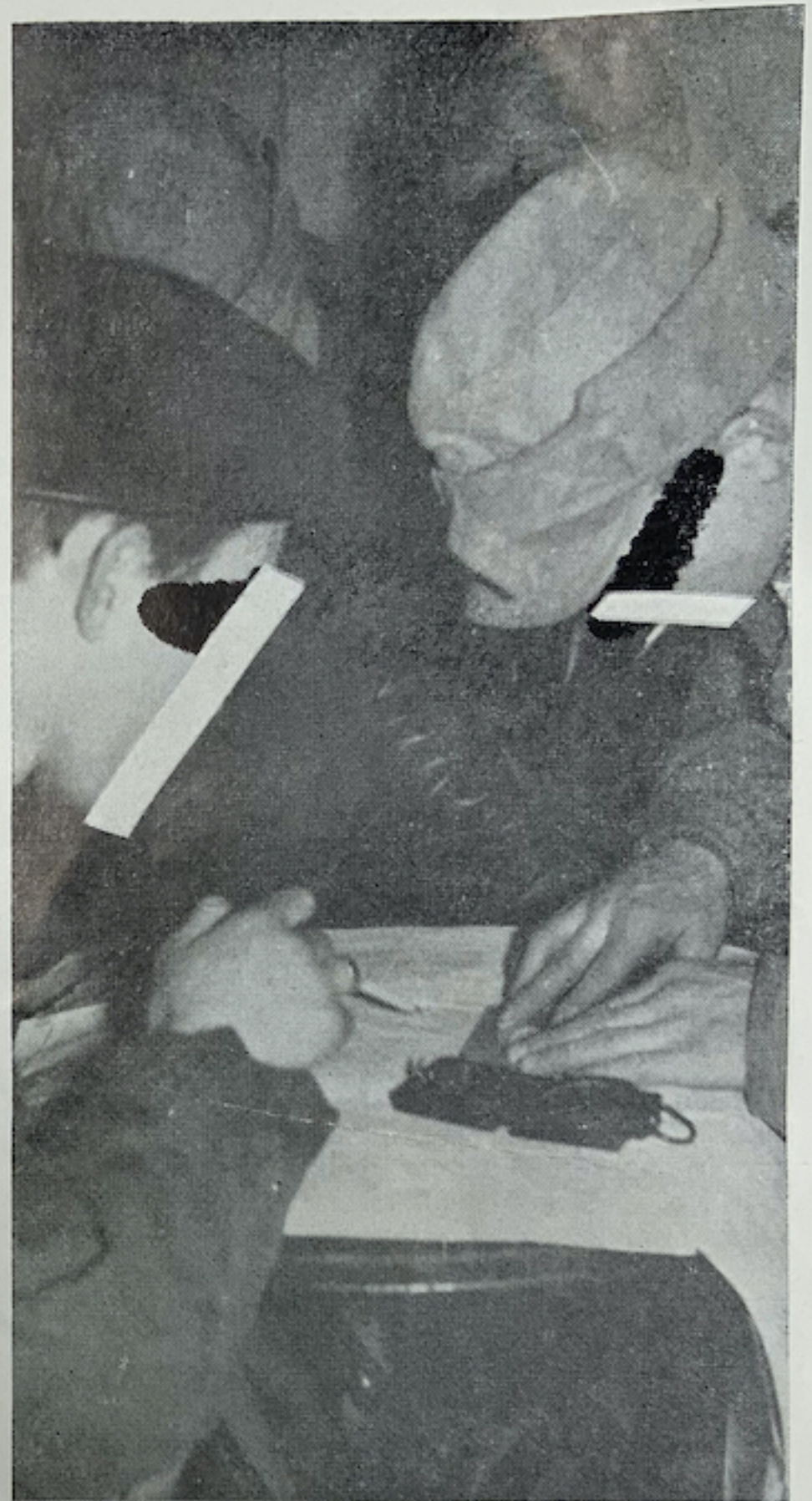
5) To abandon the philosophy that the 'inefficient' firm must go to the wall and to replace it by a policy of helping it to become efficient, if necessary by the state purchasing the firm from the old 'inefficient' management and running it as a state enterprise or leasing the buildings and plant to a co-operative of workers, technical and sales staff.

6) To establish new state industries, especially industries involving modern technology.

7) To change the law whereby industrial co-operatives are liable to tax while agricultural are not.

D. CONTROL OF CAPITAL MOVEMENT.

1) To reverse the policy of dependence on foreign capital, on the grounds of the need to retain control within the nation. Outside control involves danger of closure on a head office decision, like GEC in Dundalk.



2) To restrict the investment abroad of Irish capital by penal taxation on earnings from foreign investment, (other than investment into the Six Counties).

3) To centralise and reduce in value the Banks liquid assets held in London for purposes of trade, utilising the greater part of them for productive investment at home. The establishment of sufficient control over trade to render it possible to carry on with the banks external assets at (say) one third of their present value.

TO SUM UP:

This may mean hardship, but better the hardship of the birth-pangs of a new independent nation than the hardship of a slow death and decay. The people who suffer under the British connection are the working people. It is up to them to unite to defend their livelihoods.

THIS IS THE I.R.A.

WE made contact with the I.R.A. by means of a friend who knew someone who was a member of that organisation. While waiting at our secret rendezvous we tried to picture what our contact would be like. He certainly was no trench-coat, trilby enigma from the 'Tan war, but a well-dressed young man in his mid-twenties who was an accountant with a large city firm. He led us to a car and we were driven to a secret training camp high in the mountains. We passed two armed sentries with walkie-talkie radios as we approached the camp along a mountainy trail. The camp was a large clearing surrounded by trees and undergrowth and dominated by a hunter's cabin. There we met about forty young men armed with every conceivable weapon. They took no notice of us and, after receiving permission from the commanding officer, we roamed about watching classes in the rifle, sub-machine gun, explosives and small arms. These men were certainly no bunch of fanatics, but dedicated Irishmen deeply concerned with the mismanagement of their country and determined to establish justice and equality in a free Ireland.

"We want economic independence," one volunteer said, "I know no country can be self-sufficient, but the Irish Government should be able to decide where the next few million is to be invested, in the interests of the national economy, and not in the interests of some fat English director, whose concern for Ireland's future goes no further than his pocket."

Meticulously cleaning his Bren gun another volunteer said, "The essential work of the Republican movement at present is to stop the erosion of our national cultural, social and economic life by the forces of British imperialism. What we are doing is recognising the need to forge links with the Irish people and help them obtain their immediate needs, thus establishing ourselves as their recognised leaders in ALL areas of human activity."

"Could you put that into perspective, please?"

"Before we can face the British Government and her hirelings, we must unite the people in a mass freedom movement. To do this we must give leadership on all issues that in any way touch the National question. For example, we must involve ourselves in struggles for better housing, more employment, etc. We must fight emigration, bad conditions, factory closures and the foreign take-over of land because it all stems from partition and the economic dominance of this country by Britain."

"What do you mean by leadership?"

"We must know and show where we stand on all issues that affect the National question; we must go to the root of the problem and show the people it's cause, if we do this often enough we will clear away the illusion held by many people—that Ireland is free."

"Is this not James Connolly's idea of agitate, educate and organise?"

"It is."

"I have asked this question many times but I never seem to get a clear answer, what is the National question?"

"The National question means a Republic in which all the people of Ireland will have the complete ownership of Ireland; a Republic in which all the citizens will have EQUAL rights and EQUAL opportunities; a Republic which would guarantee religious and civil liberty and cherish ALL the children of the Nation equally. A Republic without liberty and equality would not be worth fighting for. I'm sure you realize that there is far more at stake in this fight than the changing of flags in the 6 Counties."

"This mass freedom movement you mentioned earlier, what will it be like?"

"What is it like, should be your question. The freedom movement of the 70's is already taking shape. In this country (North and South) inequality and injustice are paramount. We have started fighting this inequality and injustice. We have shown the people that their fight is our fight. We are convincing them that not alone do we believe in Liberty, Justice and Equality but that we are continuously fighting for them. Gradually the cynicism and indifference of a people betrayed in the past is giving way to the optimism and enthusiasm of a future worth fighting for."

Economic independence is not enough. The I.R.A. want a Gaelic culture and social justice and they want the British Army out of the 6 Counties. If Tommy doesn't go peacefully, they'll drive him out. They are experts on guerilla warfare and are confident that military action in the future, coupled with economic resistance now, will win them the support of the Irish people. If determination and realism can win it looks like the "Irish Question" will soon be solved.

The man we interviewed was twenty-four years old, married, employed as a company representative in Dublin, is a voluntary Trade Union official in one of Ireland's largest unions; in the I.R.A. two years, he was recruited by a union colleague who is now quite prominent. For security reasons we cannot disclose his name or the location of the camp.

Title: The Separatist

Organisation: Irish Publicity Service

Date: 1966

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