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ATTEMPTED IMPORTATION OF ARMS AT DUBLIN - MARCH/APRIL 1970.

Explanatory Notes for State Counsel from Peter Berry,
Secretary of Department of Justice.

PART I

- I. I have already drafted a statement, marked Part II, as to events in 1969 and the early part of 1970 which goes to explain the background to my part in the events of 18th to 22nd April 1970.
- II. I have drafted a statement, marked Part III, dealing with the period 18th/22nd April.
- III. I have also drafted a statement, marked Part IV, which explains why in February 1969 a certificate as to character was given by me, as Secretary of the Department of Justice, to Albert Luykx.
- IV. I have made a single page statement of my telephone conversation with Mr. Haughey, Minister for Finance on Saturday, 18th April which has been witnessed by Chief-Superintendent Fleming and submitted to the Attorney General.
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- V. Questions that may arise in the course of the trial in which my character and/or credibility may be put in question:
- VI. It is well-known to principals in this case that I am an agnostic, that I seldom engage in ritualistic religious practices except as a courtesy to others (death and marriage ceremonies). I may be challenged on taking an oath "to swear by Almighty God". It would be true for me to say that at very occasional times in the past 40 years when I have thought on the matter at all, I have had doubts about the non-existence of a Supreme Being. I could not truthfully say at the present time that I believe or disbelieve. But I have a code of behaviour which requires an adherence to truth and the rule of law operating in our community. The question is: should I take an oath or affirm? Unless counsel were to advise otherwise I should prefer to take the oath in the ordinary way and to ~~take the chance~~ ^{assume} that I would not be questioned on that aspect. But it is largely a matter of indifference to me; anybody who matters to me knows of my views.

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My relations with Mr. Ó Móráin.

VII. If I were cross-questioned about the propriety of going over my Minister's head, direct to the Taoiseach with the account of Mr. Haughey's conversation with me on Saturday, 18th April, I would explain the matter as recorded in Part II. [i.e. in relation to my Minister's illness and mental aberrations for some time and my knowledge that in earlier months he had not communicated information of a somewhat similar kind (see Part III) to the Taoiseach.] My intention would be to show that I had a deep respect and regard for my Minister, Mr. Ó Móráin, but that he had been showing signs, increasing as time went on, of illness on which he obviously needed medical help (sudden rages about trifles, complete forgetfulness of directions which he had given a day or two before, a complete lack of interest in matters in which, earlier on, he had been dead keen etc. etc., excessive perspiration.) I should like it to be brought out that of the fourteen Ministers for Justice whom I had served while continuously in the secretariat of the Department of Justice since 20th January 1927 (Kevin O'Higgins was murdered on 10th July 1927), Mr. Ó Móráin ranked very high in my estimation. [From the time that I was appointed on 1st February 1936 to be private secretary to the permanent Head of the Department I was close to the core of policy making, policy implementation (even during the periods 1948/51 and 1954/57 when non-Fianna Fáil Governments were in power) down to the present day.]

My relations with Mr. Haughey

VIII.

I should like it to be brought out, if possible, that of all the Ministers for Justice that I had known I regarded Mr. Haughey as the ablest and that it was a pleasure to me to serve under him for 4 years, that I felt a very personal regard towards him and that it was a matter of great distress to me that on 18th April he had tried to make me a party to his designs to illegally import arms which it was apparent from his very conversation ["Does the man from Mayo know?"] was not a matter of Government policy; that I felt it a

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PART II

Explanatory note of events leading up to the attempted
 importation of Arms at Dublin.

1. After the formation of a new Government, the Department of Justice circulated to Government in July 1969 a comprehensive memo drawing attention to grave developments in I.R.A. policy and activity, explaining the limitations on our legal powers to deal with the I.R.A. and certain lines of action that might be taken.
2. On 14th August "following consideration of the grave situation in the Six Counties the Government decided", inter alia (S936IN):

"that a committee comprising the Secretaries of the Departments of Justice, External Affairs, Defence and Local Government should be set up to keep the situation under continuous review and to advise the Taoiseach on the matter".

The reasons why the Committee were formed were never explained to me but my Minister did mention that it was set up on the proposal of Mr. Haughey. I assumed that the Committee was to take a role similar to that of a Committee appointed by Government to deal with problems of the N.F.A. two years earlier, also perhaps to keep the Taoiseach informed because of the holiday season when other Ministers might be on holiday. The first meeting of the Committee was held on the following day and it was agreed that the Committee's work would be in addition to and would not supersede the existing direct communication between both the Departments of External Affairs and Justice and the Taoiseach on matters of immediate concern to him. This direct communication was rarely exercised by the Secretary of the Department of Justice and only in the temporary absences of the Minister. In fact, the Committee held only two formal meetings but coordinated activities were set in motion to deal with the housing etc. of refugees from across the Border on which the Local Authority, the Red Cross Society, the Army and Garda cooperations were synchronised.

3. The Garda Special Branch made almost daily reports on I.R.A. activities.

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40 On 18th August a public statement purporting to be signed by "Cathal Goulding, Chief of Staff, Irish Republican Army" was made that the I.R.A. had commenced taking armed action in the Six Counties. This statement was issued, according to police information, by Goulding, Michael Ryan and Tomás Mac Giolla, in concert, without consultation with the other four Members of the Army Council. On 19th August the Taoiseach made a statement declaring that the Government would not tolerate the usurpation of its authority by any group whatsoever. On 20th August the Gardaí reported that, from confidential sources that had proved reliable in the past, they had become aware that a Member of Government had had a meeting with Goulding, Chief of Staff of I.R.A. and that "a deal" had been arranged by the Minister that if the I.R.A. should cease their physical force activities in the South in relation to the destruction of foreigners' property etc., in turn, they could have a free hand in moving weapons into the Six Counties. They also said that the Taoiseach's statement of 19th August had bewildered the I.R.A. in view of "the deal" with the Member of Government they had thought was speaking for Government as a whole. I made a general note on 20/8/69 to the Minister, Mr. Ó Móráin, and we conjectured as to what Member of Government might be involved. Later, the Minister told me that he had mentioned the matter informally at a Government meeting and that Mr. Haughey had said that he had had a casual meeting with some member of the I.R.A. organisation who had asked to meet him. The Special Branch learned from their own sources, the identity of the Minister and they did not view the meeting between Mr. Haughey and Goulding as a casual one, to be treated lightly. They said that the meeting had been preceded by a meeting between [redacted] and Ryan the O/C., Dublin Brigade and later Quartermaster General of I.R.A., who were co-operating in the purchase and importation of arms.

5 In September and October the Special Branch were receiving information from confidential sources that small consignments of arms were being imported by the I.R.A. without customs checks at Dublin Airport and at Dun Laoghaire sea-port. Their information, which was highly confidential, was that imports were timed when particular officers were on duty who would turn the blind eye. They had information that one such consignment went to the gang robbing James who, later on, on 3rd April 1970 were to shoot Garda Fallon. The importations were coupled with, inter alia, the name of [redacted] and it was freely said in Special Branch circles that Mr. Charles J. Haughey was aware of what was going on. In these months, also, information was received that [redacted] had been identified in photographs sent from Scotland Yard taken in their investigations in the U.K. into his activities while he was making payments for the purchase of arms: it was alleged that he had paid over to the I.R.A. thousands of pounds on named dates. Information was also received, again and again, of

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a liaison between Captain James Kelly of Military Intelligence and leaders of the I.R.A. in the Six Counties and that on one occasion (7th October - Cavan town) he had handed £7,000 in cash to a group of Northern Ireland I.R.A. leaders telling them that up to £50,000 would be made available to them to buy arms for use in the Six Counties. Information was also received that the [REDACTED] [REDACTED], were active in the supply of money and arms to the North.

↳ This information in detail was given from time to time to Mr. Ó Móráin who said that he hesitated to believe that Mr. Haughey and Mr. Blaney could be actively associated with the I.R.A. I suggested to him (I was then in Mount Carmel Hospital) to have a conference with the Commissioner and the top Special Branch officer in order to hear the details direct from them. He did so and saw the Commissioner and Chief Superintendent Fleming in the week following 7th December. Chief-Superintendent Fleming says that he showed the Minister his notes (Appendix A). Afterwards the Minister informed Mr. Ward, Assistant Secretary, who, as he knew, was aware generally of these matters, that he had asked the Commissioner to have matters relating to names and exact dates of payments of moneys to the I.R.A. checked. He commented adversely on the fact that the Garda officers did not know the occupation of [REDACTED]

γ On my return from sick leave on 5th January 1970, I was informed by the Assistant Secretary that, as far as he knew, the foregoing matter had not been followed up. I checked with the Commissioner who said that the information as to persons, dates and payments had been checked and confirmed by the S Branch and that he had been awaiting an indication from the Minister that he wished to resume the discussion. I drew the matter to the Minister's attention who said that in a serious matter of this kind involving Mr. Haughey and Mr. Blaney he felt that he would like further time to think the matter over. I said that I would bring the matter to his notice again in a couple of week's time and I reminded him of the danger that the Special Branch might start "leaking" information in view of the spate of armed robberies that had taken place in which the lives of Gardaí were endangered. At the end of January or early February I again reminded the Minister of the alleged involvement of the two Ministers and that I had been warned that within the Special Branch and in

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Garda Headquarters criticism of Government was becoming caustic and was mounting.

8 On 3rd April, Garda Fallon was shot dead by bank robbers, one of whom had been reported some months earlier to have received guns which were imported without undergoing any customs checks, through general arrangements in which [REDACTED] was playing an active part and of which Mr. Charles J. Haughey was alleged to have a general awareness.

9 When, on Saturday 18th April, Mr. Haughey phoned me with the purpose that the Gardaí should not interfere with a cargo coming into Dublin Airport, it being guaranteed that the cargo would go straight to the North, I viewed the matter in the light of my earlier knowledge of his meeting with Goulding, the Chief of Staff of the I.R.A., of [REDACTED] I.R.A. associations and payments to Goulding for the purchase of arms and Captain Kelly's direct negotiations with the Northern Ireland I.R.A. Command. At no time did it enter into my mind that the arms were being imported, not for the I.R.A. but for the purpose of giving means of self-defence to ordinary people in Northern Ireland and I never heard of the notion until after the public disclosures in relation to the two Ministers' participation in the attempted importation of arms. Ordinary men have no wish to handle firearms.

10 John Kelly, the Chairman of a Defence Committee in Belfast (sentenced in Northern Ireland to 8 years imprisonment in 1957^(4.4.57) for illegal possession of arms including a sub-machine gun) never came to Garda or Department of Justice or Government notice in connection with the Dublin Airport cargo until 9th May, after his picture had appeared on the television screen late on 8th May, and was then recognised by both the Surveyor of Customs and the Aer Lingus Supervisor of Cargo at Dublin Airport as the man who had visited them on 15th and 16th April and whom they had thought was Captain Kelly of Military Intelligence, an assistant to Mr. Haughey's 'Aide' in the Department of Finance. It was after the Taoiseach had handed the papers to the Attorney General for investigation of the criminal offence that John Kelly's identity came to the surface.

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In consequence, Mr. Kevin Boland's public allegations against the Taoiseach of "felon setting" and "treachery" were both untrue and irrelevant and were as false as his earlier allegations of Gestapo methods in Government when he said that he had evidence that at least one Minister's telephone had been tapped. In the Dáil on 9th May the Taoiseach nailed that allegation and gave a categorical assurance that no Minister or Deputy's correspondence or telephone had ever been the subject of a postal warrant.



ROINN DLÍ AGUS CIRT
(Department of Justice)
BAILE ÁTHA CLIATH
(Dublin)

PART III

Explanatory Note of PETER BERRY in relation to
the events of 18th to 22nd April 1970.

1 At 6.35 p.m. on 18th April, almost immediately after Mr. Haughey's conversation with me, (which is recorded in my statement of 21st May, my signature to which was witnessed by Chief-Superintendent Fleming) I had a 'phone call from Chief-Superintendent Malone. We spoke on the scrambled line.

2 Mr. Malone told me that Chief-Superintendent Fleming was then in the room with him listening to our conversation. He said that at 6.20 p.m. a 'phone call had been received on [REDACTED] (which is an unlisted police number in Garda Headquarters which had been given earlier by Mr. Fleming to a customs official) ^(Carpendale) from a Mr. Tony Fagan who introduced himself as a civil servant and Mr. Haughey's 'Aide' saying that he wished to speak to Chief-Superintendent Fleming "on a delicate matter". Mr. Malone knew of Mr. Fagan and told him that Mr. Fleming was not available: Fagan then asked if Mr. Fleming became available before 7.15 p.m. that he might 'phone him at [REDACTED] and, failing that, Mr. Fleming might 'phone Mr. Haughey, the Minister for Finance, at [REDACTED]

3 I told Chief-Superintendent Malone that Mr. Fleming should not 'phone either Mr. Fagan or Mr. Haughey and that he should not have any contact with them. I told Mr. Malone that Mr. Haughey had already 'phoned me about letting a certain cargo through Dublin Airport and that I had said 'No'. At this stage I really realised the enormity of the attempts that were being made to subvert the police controls on the importation of the cargo of arms.

4 A short time later, I 'phoned my own Minister's unlisted home number but was unable to communicate with him.

5 I then considered the position carefully. I was aware that my Minister had been showing signs of illness and mental aberrations for some time past and I had actually discussed the question of a medical check-up



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for him several times with a close Mayo family friend of his, Dr. Christy Macken of North Circular Road, Dublin; (unfortunately the Doctor himself became ill and was in hospital for a fairly prolonged period where he was visited by the Minister and myself separately).

I had also suggested, a month or so earlier, to a Member of Government (Mr. Haughey) whom I regarded as the Minister's friend that Mr. Moran needed medical attention.

6 In the result, I could not reconcile the Taoiseach's repeated public statements as to the Government's peaceful intentions towards the North with the action of one of the Minister's, Mr. Haughey, who, it appeared to me, was acting treacherously towards him.

7 Having regard to my personal knowledge, over a long period, of the characters of each man for whom I had profound respect I was in a frightful dilemma. It occurred to me that if the Taoiseach had been, for diplomatic reasons, speaking with two voices, I would put him in a most embarrassing position if I were to go direct to him with the information as to Mr. Haughey's action. However, I finally come to the conclusion that "diplomacy" could not possibly be the answer, and that the Taoiseach was too honest to lie on a matter of this kind. Having made up my mind to a 99.5% degree at that stage as to my course of action I decided to consult the one person whom I felt I could trust to give me good advice as to whether I would be behaving with propriety in going over my Minister's head direct to the Taoiseach.

8 I 'phoned the President and told him that information of a very serious character of, perhaps, immediate national significance had come into my possession and that it might not reach the Government in the normal course of events. I asked him would he advise me as to whether my loyalty ended with informing my Minister or whether I would be justified in speaking direct to the Taoiseach. The President asked if I were sure of my facts and I said yes. He again questioned me saying was I absolutely sure of



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my facts and I said that I was absolutely sure. The President then said that my loyalty was to Government and that I should communicate with the Taoiseach.

9 I did not inform the President of the nature of my information and he did not ask me any question in relation to its nature.

10 In consequence, I saw the Taoiseach early on Monday morning. Meanwhile, on the evening of Sunday, 19th April, I had received from Chief-Superintendent Fleming a report of that date and I brought it to the Taoiseach's notice on the following morning when I recapitulated my conversation with Mr. Haughey. I saw the Taoiseach again on Tuesday morning and showed him a further report dated 20th April which I had received late on Monday evening from Chief-Superintendent Fleming.



P. Berry

PART IVALBERT ANTOINE LUYKX

Born in LOMMEL, Belgium on 22/8/1917.

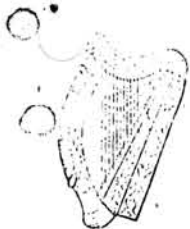
1 This man sought political asylum in Ireland in October 1948 and it was granted by the then Minister for Justice, General MacEoin, in continuation of the policy established post-war by his predecessor, Mr. Gerald Boland. As the civil servant at that time in charge of that type of work I had an interview with Luykx. [I also met quite a number of other Flemings and Bretons who were given asylum]. In 1954 Luykx applied for and was given a certificate of naturalisation as an Irish citizen. His association in 1952 with a prominent member of the I.R.A. was not regarded as having any sinister connotations.

2 In February 1969, my Minister, Mr. Ó Móráin, told me that he had received representations from Mr. Blaney that Luykx required a certificate, from the Department of Justice for production to the Belgian Ministry of Justice which would show that he was of good character. I looked up the files and had an interview with Luykx on 7th February as to what was involved: he produced a letter from a friend in Belgium dated 13/12/'68 which went to show that he was suspect in the Belgian Ministry of Justice of engaging in subversive activities propagating "Neo-nazisme" although he had been in Ireland for over 20 years. I made enquiries of the Gardaí and then discussed the case with the Minister and, in consequence, devised a form of certificate which I felt might properly issue. The Minister approved and wrote to Mr. Blaney on 7th February sending him a copy of the certificate which was to issue on that day to Luykx. Mr. Blaney acknowledged the letter on 7th March and said a lot of nice things about Luykx.

3 When Luykx's activities in relation to the importation of arms in April 1970 came to my notice, I asked External Affairs on 4th May to inform the Belgian Ministry of Justice that the certificate issued by me on 7th February 1969 for production to them should be regarded as withdrawn.

4 I also made a note, to consider in due course, whether Luykx had obtained his Irish certificate of naturalisation by false pretences and whatever steps could be taken with a view to revocation of the certificate. I had misgivings as to doing anything about this and do not advise it.

5 Luykx holds an Irish passport issued in Dublin in 1965. It is in the possession of the 'B' Branch.



Appendix B

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ROINN DLÍ AGUS CIRT
(Department of Justice)
BAILE ÁTHA CLIATH
(Dublin)

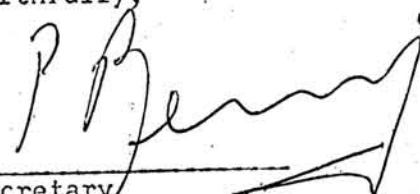
7th February 1969.

Dear Sir,

I refer to our interview this morning and confirm my statement that during your period of residence in Ireland which has been continuous since 1948 you have not offended against the criminal law in any way and you have not come under unfavourable police notice.

Additionally, I confirm, at your request, that the Department of Justice have no reason to think that you have been in any way engaging in subversive political activities of either an internal or international character.

Yours faithfully,


Secretary

Albert Luykx, Esq.,
Sutton House,
Sutton,
CO. DUBLIN.

Translation of letter L. Kiebooms Esq. B.L.
St. Bavo Street
Wilrijk
Antwerp

Mr. Albert Luykx
Sutton House
Sutton
Dublin.- Ireland.

13.12.1968.

Dear Sir,

As promised to you last week I have written a letter to Mr. Vranckx, Minister for Justice, about your case. He replies to me as follows :

- " In reply to your letter of the 3 December 1968 regarding
" Mr. Luykx, I have to advise you that at this moment I cannot
" alter the decision taken by my predecessor on the 4 Juli 1968.
" I notice that Luykx has escaped during his internement, which
" is his good right; it is normal that the consequences due to his
" escape can only be attributed to him selves.- In case he had
" remained here, his term would have been served and he would be
" a free man now.
" On top of that he has decided to leave the belgian community
" definitely, because he and his children have acquired the Irish
" Nationality on the 26 August 1954.- He now will be treated as
" a foreigner.
" From the informations in my possession it appears that he is
" still courting nazi-sympathy's, as it is know in international
" circles that he supplies help to organisations which endeavour
" to re-vive that theory.

From the above it appears that certain notes are attached to your file, on which the Minister is referring to when he is suspected you of Nazi-sympathy's by supplying assistance and help to certain organisations of international character, trying to propagate Neo-nazisme.

It would be very advisable to collect all possible arguments to repudiate this accusation.

Yours faithfully,

Decision of 4 July 1968.

" I have the pleasure to advise you that the verdict of Albert Luykx has expired since 26 August 1968; but the person in question has been subject to an administrative decision by which his entry into the country has been forbidden. Taken 4 July 1968. "