

NATIONAL ARCHIVES**IRELAND**

Reference Code: 2001/61/3

Title: Copy Dublin Metropolitan District Court statement of evidence by Anthony James Fagan, Department of Finance, in the case against Albert Luykx, John Kelly, James Kelly, Charles Haughey and Neil Blaney, accused of conspiring to illegally import arms and ammunition into Ireland.

Creation Date(s): June, 1970

Level of description: Item

Extent and medium: 7 pages

Creator(s): Department of Justice

Access Conditions: Open

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

No. 216

AN CHÚIRT DÚICHE



THE DISTRICT COURT

Form 4—Rule 5

CRIMINAL PROCEDURE ACT, 1967

section 6 (1) (d)

STATEMENT OF EVIDENCE

~~XXXXXXXXXXXXXXXXXXXX~~

DUBLIN METROPOLITAN

District ~~NO~~

.....THE ATTORNEY GENERAL.....Prosecutor

ALBERT A. LUYKX, JOHN KELLY, JAMES J. KELLY,
CHARLES J. HAUGHEY and NEIL T. BLANEY,.....Accused

Statement of the evidence that is to be given by Anthony James Fagan,.....
 "Glendine", 21 Glennabbey Road,
 Mount Merrion, Dublin.....(witness no. 3):-

I am a Principal Officer in the Department of Finance. Prior to coming to the Department of Finance I was an Assistant Principal Officer in the Department of Agriculture during the period when the accused, Charles J. Haughey, was Minister for Agriculture. When Mr. Haughey became Minister for Finance in November, 1966, I was seconded to the Department of Finance some time afterwards and became a Principal Officer in 1968. I was Principal Private Secretary and Chief Information Officer to the Minister for Finance, Mr. Haughey. During the month of August, 1969 I got to know the accused, Captain James Kelly and I was aware that he was with Army Intelligence. As far as I can remember, I met Captain Kelly in the Minister's - i.e. Mr. Haughey's - office in Leinster House and in the Minister's presence. Captain Kelly was a frequent caller to Mr. Haughey's Office and after I had met him I often had conversations and other dealings with him, both in the presence of Mr. Haughey and alone. Mostly mt dealings with Captain Kelly were on the express instructions of Mr. Haughey, the Minister. On one

occasion when Captain Kelly called to see Mr. Haughey he was accompanied by another man, whom he introduced to me as Kelly. I asked Captain Kelly was he his brother and he said he was no relation. In my opinion this other man was the accused John Kelly. On Thursday, 19th. March, 1970, Captain Kelly called to my office in the absence of Mr. Haughey from his room in Leinster House and requested me to find out for his and the Minister's information what the prospects would be of a consignment of goods, which would be other than as described in the accompanying documentation, being imported without the misdescription being discovered by the Customs officials. Captain Kelly explained that the Government wished that these goods be imported without attracting any publicity and asked that the information as to the prospects of the misdescribed goods being detected by the Customs authorities be obtained and conveyed to the Minister, Mr. Haughey when he arrived. Captain Kelly said to me that the Minister knew all about it. I wished to be in a position to inform the Minister of Captain Kelly's call and on the information regarding the prospects of detention when the Minister arrive so I rang Mr. Culligan, Revenue Commissioners on that day 19th. March, 1970. When the Minister arrived at his office later on that day I informed him of Captain Kelly's visit and I gave him the information that the chances of detection by Customs authorities was in the region of two to one against in that roughly one-third of goods imported were examined to see if they correspond with the description on the documentation accompanying them. The Minister, Mr. Haughey appeared somewhat disturbed with what I told him and gave me the impression that he was not satisfied with the position. I was aware that the Minister for Finance had authority to direct that any goods should be permitted to be imported without Customs examination. I informed the Minister, Mr. Haughey of this. On the following day the 20th. March, 1970, Captain Kelly called again and saw the Minister in the Minister's room in Leinster House. I was not present at the meeting between them. When Captain Kelly was

No. 216

AN CHÚIRT DÚICHE



THE DISTRICT COURT

Form 4 — Rule 5

CRIMINAL PROCEDURE ACT, 1967

section 6 (1) (d)

STATEMENT OF EVIDENCE

District Court Area of

District No.

.....Prosecutor

.....Accused

Statement of the evidence that is to be given by Anthony James Fagan (contd.)
.....(witness no.):—

leaving he spoke to me and said some words to the effect that "Customs clearance is o.k.". I am not sure of the exact words used. Later, the minister, Mr Haughey, instructed me, in effect, that he was giving a direction that Customs clearance without a check was to be given to a cargo described as mild steel plate on the documentation accompanying it, consigned to Weluks Ltd. of 61 Capel Street, Dublin arriving at Dublin Port on board the m.v. 'City of Dublin'. I am not sure of the exact words used by Mr Haughey. Some of the detail information may have been and probably was given me previously by Captain Kelly. I have no doubt, however, that the directions given to me by Mr Haughey were to the effect set out by me above. At this time I had no direct knowledge of what the true identity of the goods described as mild steel plate might be but the suspicion that they might be arms and/or ammunition did exist in my mind. As a result of the directions given to me by Mr Haughey, I spoke to Mr Culligan over the phone. As a result, I spoke to Captain Kelly and gave him the

(681).N28031/A.310000.4/69.W.P.W.Ltd.22

name or names of certain Customs officials at Dublin Port. I cannot now recall the name or names I gave to Captain Kelly but they were the names supplied by Mr Tobin. I next received information concerning the proposed importation of cargo on the 18th day of April, 1970. On that date, a Saturday, shortly before 3 p.m., I received a phone call from Mr Tobin at my home. As a result, I wished to speak to Mr Haughey or Captain Kelly urgently. At about 3.10 p.m. I phoned Mr Haughey's house but did not succeed in getting in contact with him. Shortly after that I rang Colonel Hefferon and spoke to him. Sometime well before 6 p.m., the accused, Mr Neil T. Blaney, rang me at my home and asked me where Mr Haughey was as he wanted him urgently. I told Mr Blaney that Mr Haughey was at the Curragh races and was expected home at about 6 p.m. I think Mr Blaney mentioned that Captain Kelly was abroad during this telephone call but I cannot be sure if it was during this conversation or during a second telephone conversation which I had with Mr Blaney later that same day. At approximately 6 p.m. on that same day I rang Mr Haughey at his home and spoke to him over the phone. I told Mr Haughey that I had had a phone call from Mr Tobin shortly before 3 p.m. on that same day and that Mr Tobin had told me that if the cargo arrived it would be seized by the Gardai unless someone phoned Chief Superintendent Fleming, at a number which Mr Tobin had given me, to ensure that everything would be alright from the point of view of the Gardai. Mr Haughey said that he knew about it as he had had a phone call from Mr Blaney who had given him that information. Mr Haughey told me to phone Chief Superintendent Fleming and say that it was alright to let this cargo in and that if the Chief Superintendent had any problem in the matter he should ring Mr Haughey at his home. I gave the phone number at which Mr Tobin had informed me Chief Superintendent Fleming would be available to Mr Haughey. I then rang the telephone number Mr Tobin had given me but failed to contact Chief Superintendent Fleming. Shortly after this Mr Haughey phoned me again to say he had thought it wise for him

No. 216

AN CHÚIRT DÚICHE



THE DISTRICT COURT

Form 4—Rule 5

CRIMINAL PROCEDURE ACT, 1967

section 6 (1) (d)

STATEMENT OF EVIDENCE

District Court Area of

District No.

.....Prosecutor

.....Accused

Statement of the evidence that is to be given by Anthony James Fagan (contd.)

.....(witness no.):-

to phone Mr Berry, Secretary of the Department of Justice, about the matter and that, as a result of his conversation with Mr Berry, the whole thing was called off. I then phoned Chief Superintendent Fleming again but failed to make contact with him. At approximately 6.15 p.m. on that same day, Mr Blaney again phoned me and said he had been speaking with Mr Haughey and that everything was o.k. On the following day, Sunday 19th April, I received a phone call from Captain Kelly who said he was calling from Vienna. I have no doubt that it was Captain Kelly's voice. Captain Kelly told me that he had got a message and that he would have to leave Vienna by noon on the next day. He asked me to ask "the Bossman" what instructions there were. He gave me a phone number so that I could ring him back. Next morning I gave Mr Haughey the message given to me by Captain Kelly. My Haughey said he had been speaking to Mr Gibbons; the minister for Defence, and they agreed that the whole thing had got to be called off. Mr Haughey instructed me to inform Captain Kelly to this effect. I did this by

(681).N28031/A.310000.4/89.W.P.W.Ltd.22

ringing the number which Captain Kelly had given me in Vienna and I spoke to Captain Kelly on the phone. I conveyed to him the message given me by Mr Haughey and Captain Kelly replied to the effect that he understood the message and asked me to inform his wife, Sheila, that he would be home later that night or early on the following morning. I last saw Captain Kelly in Leinster House on the 28th or 29th of April, 1970 when he called concerning his retirement from the Army. Mr Haughey phoned me at my house on the 7th day of May last, the evening before he issued a statement to the Press, and he said to me "I am thinking of getting out a statement - I'll quote part of it to you to see what you think". He then quoted something like this :- "I categorically deny having been involved in the import or attempted import of arms". I said that, whatever about the last word (meaning arms), something was attempted. He said that the first he remembered hearing about this was on that Saturday evening, the 13th April, to which I have referred. I said to Mr Haughey "Surely you remember my conversation with you in your room in Leinster House about allowing stuff through the Customs without examination and you agreed that this should be done and that I should tell my opposite number (meaning Culligan) that it was o.k.". Mr Haughey's reply was "I will take another look at it so". On the night of the 20th May last I was on my way to my car which was parked in Merrion Square near the rear entrance to Leinster House, when Mr Haughey was alighting from a car and he came over to greet me. He said "You look worried" and I answered "Why shouldn't I" and he replied "You have nothing to worry about. All you have to say is that you were acting under instructions". This was the last contact I had with Mr Haughey. On the 19th March, 1970, I did not know positively that the cargo that was in question consisted of arms and ammunition. I had my suspicions but the words "arms" and "ammunition" were never used by anyone who discussed the matter with me. The action I was required to

No. 216

AN CHÚIRT DÚICHE



THE DISTRICT COURT

Form 4 — Rule 5

CRIMINAL PROCEDURE ACT, 1967

section 6 (1) (d)

STATEMENT OF EVIDENCE

District Court Area of

District No.

.....Prosecutor

.....Accused

Statement of the evidence that is to be given by ...Anthony James Fagan (contd.)

.....(witness no.):-

take was, for me, routine, involving Army Intelligence, the Minister for Defence, all with the approval of the Minister for Finance. The only individuals I dealt with were the two officers of Army Intelligence, Colonel Hefferon and Captain Kelly, and the two officers of the Revenue Commissioners, Mr Culligan and Mr Tobin. In all the actions I was required to take, I, as a Civil Servant, was acting on the instructions of a senior Minister of the Government, the Minister for Finance. In all my appointments in the Civil Service I was required to acknowledge in writing that "I undertake to perform all and any duties assigned to me from time to time by my Minister". This I did to the best of my ability.