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AN CHÚIRT DÚICHE



THE DISTRICT COURT

Form 4 — Rule 5

CRIMINAL PROCEDURE ACT, 1967

section 6 (1) (d)

STATEMENT OF EVIDENCE

Distsirict/Cóirt/Aire/óif

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 Colonel Michael Hefferon,
 67 Ballytore Road, Rathfarnham, Dublin. (witness no. 1) :-

I was Director of Intelligence at Army Headquarters from October 1962 until I retired on April 9th, 1970. On Friday, 29th day of May 1970, I was given a written authorisation at my home by Detective Inspector O'Dea and it was signed by the Attorney General, Col. Condon, and it authorised me to communicate official information within the meaning of Section 2(1) Official Secrets Act, 1963, to two named members of the Garda Síochána. The accused, Captain Kelly, was already a member of the Intelligence Branch when I was appointed Director in 1962, and he has served in that Branch since with the exception of two periods, one of two years when he was in the Middle East with the United Nations there, and a period of about nine months, ending July 1969, when he was attached to the Military College in the Curragh, on a Command and Staff Course. He was on holidays during August 1969. When he returned off leave about the end of August 1969, he reported to me that he visited Derry and Belfast during the troubles there in mid-August 1969. While there he met many of the Catholic residents in these areas. He also reported to me on what he had seen and the contacts he had made. I was satisfied that the contacts he had made would be useful from an Intelligence viewpoint. I instructed him to keep in contact with his informants and advised him to meet them down here within the State as far as

possible. As far as I am aware he only went into the Six Counties on two or three occasions on Intelligence missions. In view of Captain Kelly's useful contacts, he reported any new information he received direct to me. Due to the nature of his mission he was allowed a fair degree of freedom of movement in carrying it out. Captain Kelly usually contacted me about every second day, either personally or on the 'phone.

Some time in mid-January 1970, Captain Kelly came to me and told me that the Northern Defence Committees were without arms and were determined to negotiate the purchase of arms to defend the Catholic population in the event of Protestant extremists trying to wipe them out. The Defence Committees requested Captain Kelly to assist them, and I got the impression that it was technical assistance they needed in the purchase. I pointed out to Captain Kelly that he could not as a serving Army Officer become involved in the purchase of guns, but that if he wished to become involved he would have to resign from the Army, and I did not see any necessity for him to become involved. He felt, however, that he would be acting dishonourably if he did not assist them. I got the impression that Captain Kelly was prepared to accede to the request of the Northern Defence people in giving them assistance. I advised him that he should look into the interests of his family and career and to come back to me some time the following week. At this stage Captain Kelly did not tell me where the guns were to come from or where they were to come in to. He did not mention if any Minister had been approached for assistance in the purchase or import of guns for the Defence Committees. He did not discuss with me the Regulations governing the import of guns into the country. I am aware that Captain Kelly, during the time he was on the Staff Course in the Curragh that the question of his retirement from the Army came up, but he did not go ahead with it. He did not approach me about it on that occasion. About the end of January 1970, Captain Kelly came back to me and informed me that he was determined to retire and gave in his resignation form. I cannot recall if he asked me to be released on a particular date. He stated that he would be letting down the Defence Committees if he did not give them the assistance they asked for. I again spoke to him of his responsibilities to his family and to look for some suitable position before he let his application through, and I advised him to see either Mr Blaney or Mr Haughey. I cannot say which. He said he would do this. On this occasion I had no conversation with him about how development, if any, in the moves to get arms and ammunition for the Defence Committees were progressing. During the many conversations I had with Captain

I got this information from Captain Kelly. As far as I can remember it was somewhere in Germany he went to.

Around mid-March 1970, Captain Kelly told me that it was proposed to have him seconded to some post in the Department of Agriculture. I think it was some anti-smuggling he was to be employed on. This arrangement never materialised. Around this particular time Captain Kelly told me that he might have to go to Germany again in connection with the arms and ammunition for the North, and that lots of snags had developed in connection with them. About this time, as a result of my conversation with Captain Kelly, I suspected that these arms were to be brought in somewhere in this State. I could not at this stage gather whether they were to come in by air or by sea. Captain Kelly mentioned at this stage that he would be travelling with somebody from the Defence Committee, whose name was also Kelly.

About this time I saw Mr Gibbons again in his office. This would be the end of March 1970, or early April 1970. Captain Kelly thought he would be Duty Officer at G.H.Q. on the week-end he was going to the Continent. As it turned out, Captain Kelly made a mistake in his dates and he was not required as Duty Officer at G.H.Q.

I believe that Captain Kelly told me some time in March 1970 that Mr Haughey knew about the importation of arms for the North. I cannot remember specifically if Captain Kelly told me that Mr Blaney was aware of the importation, but my impression is that he did mention it at some stage. Captain Kelly, in conversation with me mentioned that there was some snag about Palgrave Murphy not bringing the cargo of arms. This was mentioned with his proposed trip to the Continent. He did not elaborate what the snag was, but that he was to travel to the Continent to sort it out. Captain Kelly rang me early in the morning of April 4th, 1970, about 9 a.m. or 10 a.m. He said he was ringing from Dublin Airport and I understood from his previous conversation what his mission was. His purpose of ringing was to inform me of his absence. He did not say if he was travelling alone or if he was accompanied by some other person. He did not say how long he would be away. I met Kelly when he returned from the Continent. This was before the 9th April 1970. Kelly told me that there was some difficulty about keeping the cargo at some post and they would have

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No. 216

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District Court Area of

District No.

.....Prosecutor

.....Accused

Statement of the evidence that is to be given by

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

(Statement of Colonel Michael Hefferon, continued)

Kelly, I became aware that he was in direct contact with the accused, Mr Blaney, and the accused, Mr Haughey, about aid for the Defence Committees in the North. I have no recollection that Captain Kelly ever mentioned to me that either Mr Blaney or Mr Haughey were specifically interested in the importation of arms for the defence of the North at this time. About this time I had a conversation with the Minister for Defence.

After this Captain Kelly came to me and informed me that he had been with Mr Blaney and Mr Haughey and that he had explained to them about his retirement, and they promised to see Mr Gibbons about it. I told Captain Kelly, when I told him to go to either Mr Blaney or Mr Haughey, that he should tell them of his involvement with the Defence Committees in the North, and that in my view he could not remain in the Army due to his involvement.

Some time around mid-February 1970, I was speaking to Mr Gibbons in his office. At this stage I was in possession of some further facts regarding Captain Kelly's involvement in the arms deal for the defence of the North. I was aware that he had accompanied some of the Defence Committees member or member to the Continent to negotiate for the purchase of arms.

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(Statement of Colonel Michael Hefferon, continued)

to shift it. I gathered from him that the question of having it transported to this country was far from settled. On 8th April, 1970, I visited Mr Gibbons in his office and I was accompanied by my successor, Colonel Delaney.

I remember getting a 'phone call from Tony Fagan on Saturday afternoon, 18th April, 1970, at my home. It was between 5 p.m. and 6 p.m.

Captain Kelly visited my home on a few occasions after I retired. It may have been mentioned in the course of conversation that he would have to travel to the Continent again and he may have said that nothing was happening. Some time after 18/4/1970, Tony Fagan rang me at my home, and as a result I went down to see him in his office. It may have been Monday, 20th April, 1970. On that date Tony Fagan rang Captain Kelly in Vienna to relay the Minister's - Mr Haughey's - message to him. I did not hear the conversation as I was in the outer office.

Captain Kelly called to my home on 28th April, 1970 and he told me that he had been transferred from Intelligence at G.H.Q. to Recruit Training in Cathal Brugha Barracks. He felt he was under surveillance and mentioned he was going to retire. He told me that the arms deal had been called off and that he had been in Vienna. He may have said that John Kelly was with him, he did not elaborate and I did not press him on this point. He gave me the impression that he thought he was the victim of circumstances. He was indignant and thought Mr Gibbons had let him down. He tendered his resignation on 29th April, 1970, and was given permission to retire on May 1st 1970. Subsequent to Captain Kelly's retirement, I visited him at his home, and I was introduced to the accused, John Kelly, there. The attempted importation of arms was not discussed while I was there. This was the first time I met John Kelly.

On Thursday the 23rd day of April, 1970, Captain Kelly rang me and told me that Mr Blaney would like to see me in his office around 3 p.m. I went with Captain Kelly to Mr Blaney's office in the Department of Agriculture. After a while Mr Gibbons came down, after Mr Blaney had rang for him. Mr Blaney spoke about the fact that some of the Revenue Commissioners and Civil Servants were being questioned by Special Branch, and they wondered on whose authority this was being done, as Mr Haughey, Minister for Finance, was seriously ill. Mr Blaney said that he would try to see him that evening and inform him of the situation. Mr Blaney, did not, as far as I can recollect, mention anything about the arms deal being off, but it was understood by all present that it was off. Mr Gibbons contributed very little to the conversation, but agreed that Mr Haughey should be made aware of developments, if his Doctor permitted this. The main theme of the discussion was why the Revenue Commissioners were being questioned by the Gardai. Both Mr Gibbons and Mr Blaney left at 4 p.m. and agreed to meet again at 6 p.m. I came back at 6 p.m. and I told Captain Kelly that I was available if required. Captain Kelly went and met both of them and they were breaking up when I joined them. There was nothing new and Mr Blaney decided that he would try to see Mr Haughey. This was the first time I met Mr Blaney. I never discussed the arms importation with Mr Haughey himself. Captain Kelly never told me that he was from the Department of Finance at the Airport. Captain Kelly did say during our discussions that he expected that Mr Haughey would arrange Customs clearance. Captain

No. 216

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

(Statement of Colonel Michael Hefferon, continued)

Kelly told me at some stage that a cargo of bullet proof vests came in for the Defence Committees. I believe that I only came to hear of it after I retired. I never made any approach to anyone to facilitate the importation of arms for the Defence Committees. I met Captain Kelly before his appearance in Court. He called to my home and discussed his pension rights. He brought up the question of the arms and stated that they reverted to their original owner. I understood from this conversation that they were shipped to Spain. He never mentioned how much the arms cost or what amount was involved. Captain Kelly never informed me who the guns would be consigned to here.

I did not at any time assist any person to import arms illegally into this country.