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Border Duties - Defence Forces

Part I - Background

1. In August 1969 following outbreaks of violence in Belfast and Armagh involving the loss of lives the then Taoiseach stated that the agreement of the British Government was being sought to the employment of a United Nations peace-keeping force, or in the alternative, to a joint Irish/British force in the North. At the same time, the immediate withdrawal of the B. Specials was being sought. He announced also that the First Line Reserve was being mobilised so as to ensure that they would be in readiness for participation in peace-keeping operations. Obviously, this approach never got off the ground.
2. Since the troubles in the North erupted there have been several incursions across the Border by British troops. These incursions have been the subject of several Dail Questions and repeated representations to the British Government. In October 1971 the then Taoiseach stated in reply to a Dail Question that there had been 40 confirmed incidents of incursions by British troops since August 1969. In the course of replies to supplementary questions he expressed the view that many of the 40 incidents had been, perhaps, accidental adding that "Some were deliberate".
3. As of October 1971 the instructions to British troops regarding the pursuit of persons who crossed the Border (as advised by the British Embassy) were as follows:-
 - a. (Troops) pursuing individuals in Border areas must discontinue the pursuit immediately if such individuals cross into the territory of the Irish Republic. Troops will not open fire against such individuals who have crossed the Border and who thereafter take no further action against them.
 - b. Troops who are fired upon from positions within the Republic

without exposing themselves to risk of death or injury."

Quite obviously the foregoing instructions have been considerably amended since October 1971. At that time the relevant instructions to the Defence Forces were as follows:-

"Individuals or parties of British Military Forces.

It is known that British military forces have strict orders regarding infringement of the Border and therefore it can be assumed that any parties encountered here have crossed the border unintentionally. Action will be confined to polite but firm intimation of their position and assistance to the nearest Border crossing if required."

Some time prior to October 1971, the Defence Forces had been instructed of the need to ensure that there would be no infringement of the Border by them. At one time the idea of a stand-back distance of one mile had been mooted but there would be practical difficulty in applying a specific stand-back distance (allowing for the tortuous route of many roads).

4. The basic role of the Defence Forces in the Border area is one of assisting the Garda Síochána as required. When called out in aid of the civil power an officer or man does not differ in the eyes of the law from any other citizen. In practice the Defence Forces have no statutory powers of search and arrest and a Garda presence is required for these purposes. In this respect they are on a different footing from the British Army which has statutory powers to stop, search and arrest.
5. Communication between the security forces North and South of the Border is confined to that between the Gardaí and the R.U.C. Apart from any considerations of policy this arrangement accords with the role of the Defence Forces (by ensuring Garda involvement in dealing with incidents as an essential pre-requisite). This has been standard practice since 1969 and the Defence Forces have been positively discouraged from having any contact with the British Army. At all times it has been emphasised that the Defence Forces and the British Army operate independently. Special care has been taken for example in connection with press interviews, films on security activities etc to bring out this point.

5A. If there were direct contact and liaison between the Defence Forces and the British Army, (except perhaps in the most rigidly controlled and carefully selected areas of activity) such a development would become known quickly because to be meaningful the liaison would have to be reflected at the operational level. At any rate it would be prudent to assume that disclosure would almost certainly occur. It is difficult to predict what the consequences would be as the attendant circumstances could greatly ameliorate or aggravate them. Apart from the political repercussions, there is the possibility that the two forces would be bracketed together and that the Defence Forces would become a 'legitimate target' of subversives. Moreover, in view of the highly critical publicity which the British Army has attracted, one has to reckon with the possibility of resentment within the Defence Forces to any association with British Forces, with consequent deleterious effects on morale and recruitment. While Irish and British forces can and do, work cheerfully side by side on U.N. missions, it does not follow that the same spirit would prevail when the mission area is here in Ireland.

PART II - Mr. Merlyn Rees' Proposals.

6. A basic fact of the internal security measures in the Republic is that they are primarily the responsibility of the civil authorities, in effect the Garda Síochána. The Defence Forces fulfil an age-old function of rendering aid to the civil power when required. This is the sole legal cover, albeit a tenuous one, for their activities in this field. They are given no 'emergency' or additional powers and, in effect, are limited to the role of the good citizen responding willingly to calls for aid from the Gardaí but subject to all the restraints that a democratic constitution imposes.
7. The situation of the British Army in the North is far otherwise. Starting from a protective role towards the Catholic population in 1969, circumstances forced it into the position of being the dominant security element - indeed the only effective law-and-order force in some areas. Inevitably they had to have special powers.
8. Any approach to the problem of co-operation and liaison between the security forces in the two parts of the country must have as its starting point a clear appreciation of this fundamental difference between their respective roles and circumstances. If we were to agree that the Defence Forces should be involved in the ways Mr. Rees suggests, it would be tantamount to some form of military treaty or alliance to meet an emergency situation in Northern Ireland. The question could be asked whether the situation is such as to warrant an outright emergency action such as the granting of special powers to the Defence Forces and additional powers to the Gardaí. There could thus be an open and frank avowal of the problem and of the measures necessary to deal with it (including cross-Border military co-operation on the ground).

9. It is not suggested that such drastic action is essential at this stage in order to reach an adequate and workable accommodation with the British, which might give them the essentials of what they want without at the same time embroiling ourselves to an unacceptably dangerous degree in the violence in Northern Ireland. Bearing in mind the primary position of the civil authorities in the Republic's internal security arrangements and the fact that there already exists a considerable degree of co-operation between the Gardaí and the R.U.C. on the ground, this channel of communication and liaison should be investigated with a view to adapting it to the new requirements and giving it the necessary equipment, organisation and personnel. There is a great deal to be said in favour of having one body - in our case the Gardaí - in charge of local liaison arrangements and communications.
10. It is suggested that the reply to Mr. Rees should assert the fundamental principles of our security arrangements (and, indeed, the political reality behind them), and within these parameters be as forthcoming and co-operative as we can possibly be. The reply should stress the positive things we can do and avoid negative or recriminatory postures as far as possible.