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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

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 Chief Superintendent John P. Fleming, Detective Branch, (witness no. 20):-
Dublin Castle.

I am a Chief Superintendent of An Garda Síochána in charge of Special Detective Unit, Dublin Castle.

As a result of information in my possession, I detailed a number of Detective Officers on the 17th April 1970 to maintain constant observation on Dublin Airport with particular emphasis on the Cargo Terminal.

On Friday, 1st May 1970, accompanied by Detective Inspector Patrick Doocey, I interrogated James J. Kelly of 98 Wainsfort Road, Terenure, Dublin, in the Bridewell Garda Station. Kelly had been detained under Section 30 of the Offences Against the State Act, 1939, earlier on the same date and taken to the Bridewell Garda Station. Kelly refused to answer any questions or to make a statement in connection with the illegal importation of firearms and ammunition, but stated that he would do so if the Minister for Defence, Mr James Gibbons, was present. I conveyed this message to Mr Berry, Secretary, Department of Justice, who later instructed me to have Kelly in my office

at Dublin Castle at 2.45 p.m. on same date to meet the Minister for Defence, Mr Gibbons. I was present during the meeting between the Minister and Mr Kelly and I heard the Minister advise Kelly to make a full statement about the whole affair. Kelly was very reluctant to do so but after further advice from the Minister, he agreed to make a written statement. The Minister then left my office and Kelly commenced to make a written statement. He was dictating the statement and I was writing down what he said: "I am a native of Bailieboro, Co. Cavan, where I was born on 16/10/29. I joined the Irish Army in 1949 and was attached to the Military College until 1951 when I was commissioned and transferred to 5th Battalion.

"In 1956 I went as Training Officer to the Boyne Area, F.C.A. and remained there until 1960 when I was transferred to Intelligence Section, G.H.Q.

"I have been with Military Intelligence since except for the period from 1963 to 1965 when I was an Observer with U.N.T.S.O. in Palestine.

"I returned from Palestine in 1965 and resumed my duties with Military Intelligence.

"After the outbreak of the trouble in Northern Ireland in August 1969, I became involved in Military Intelligence duties relating to same on both sides of the Border. I acted as liaison officer with various authorities of State in the 26 Counties."

At this point I asked Captain Kelly to name the authorities of State involved and also the names of any persons involved. He refused to do so. I reminded him of his agreement with the Minister for Defence a short time earlier, that he would make a full statement, but again he refused. He said: "Those men took me into their confidence and I'm conscience bound not to mention their names." I pointed out to him that the present enquiries

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

(Statement of C/Supt. J. P. Fleming, continued)

had been ordered by the Taoiseach and I asked him would he be prepared to give the names of the persons involved to the Taoiseach. He stated that he would be prepared to do this. When the Taoiseach consented to see Kelly, I took him to the Taoiseach's office in Government Buildings and I remained in the waiting room while Kelly spoke to the Taoiseach. After some time, the Taoiseach spoke to me and, as a result, I then conveyed Kelly back to my office in Dublin Castle. He was subsequently conveyed to the Bridewell Garda Station, where he was detained overnight. On the morning of the 2nd May 1970, I signed a further detention order in respect of James J. Kelly which order was given to the Sergeant in charge of the Bridewell Garda Station, authorising him to detain Kelly for a further period of twenty-four hours. I had Kelly again conveyed to my office from the Bridewell on the morning of the 2nd May 1970, but again he refused to co-operate or to

make a written statement. He did state to me, however, that he was not prepared to desist from his present activities at the moment as the arms and ammunition in question had been promised to the Republicans in the North, and that if he suddenly dropped out of the picture now, these people might think they had been double-crossed and go and do something foolish. Kelly was released from custody at 12.25 p.m. on the 2nd May 1970.

Albert A. Luykx of Sutton House, Co. Dublin, was detained under Section 30 of the Offences Against the State Act, 1939, at 6.35 p.m. on the 1st day of May 1970 and conveyed to the Bridewell Gárda Station. Accompanied by Detective Inspector Doocey I interviewed Luykx at the Bridewell Gárda Station on the evening of the 1st May 1970 in connection with the illegal importation of arms and ammunition. Luykx made a written statement to me which he signed in my presence. I produce it as Exhibit No. 9 He was released from custody at 11.20 p.m. on same date - 1st May 1970.

On Monday the 25th day of May 1970, accompanied by Detective Inspector Doocey, I interviewed Mr Charles J. Haughey, T.D., at his home, "Abbeville," Kinsealy, Co. Dublin. Mr P. O'Connor, solicitor, of Upper Ormond Quay, Dublin, was present during the interview. I told Mr Haughey that I was investigating the alleged illegal importation of firearms and ammunition into the State. That I had taken statements from a number of people in connection with the matter and that his name had come up frequently in those statements. I said that in the circumstances I felt he may be able to assist in the investigation. Mr Haughey said: "My name comes up in a lot of things." He asked me on whose instructions the investigation was being carried out and I told him it was on the instructions of the ~~Attorney~~ Attorney General. He then said he would like to help, that he felt that it was his duty as a citizen and as a former Minister of State to give every possible assistance. Before making any statement or answering

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(Statement of C/Supt. J. P. Fleming, continued)

any questions, however, he felt that as this was a very delicate situation, he should be given a list of the questions which I desired to ask him, as before answering he would have to keep in mind his position as a member of the Government, and that he may be disclosing secret matters on Government policy and decisions which he would not be at liberty to do under the Official Secrets Act. He asked me if I would give him a list of the questions I wanted him to answer and that he would look over them and see which of them he could answer without disclosing Government policy and decisions. I told him that before doing so I would have to consult with the Attorney General, and he said he understood this. He said I could either call back with a list of questions to him at his home or give them to Mr O'Connor, solicitor, at Ormond Quay, Dublin. Mr Haughey asked: "Is there any question of a prosecution at this stage?" and I told him that the matter had not been fully investigated yet. He then gave me a copy

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of his public statement, which, he said, had got wide publicity in the press and which he said I might like to have on file.

I now produce this document, Exhibit No.10.

On Wednesday, 27 day of May 1970, accompanied by Detective Inspector Doocey, I interviewed Mr Neil T. Blaney, T.D., at the office of Michael Ó Cleirigh, solicitor, Molesworth St., Dublin. Mr Ó Cleirigh, (Senior), was present during the interview. I explained the purpose of my visit and told Mr Blaney that his name had been mentioned by several people in their statements to me during my investigations. I said that I felt that he may be able to assist in the investigation. Mr Ó Cleirigh pointed out that while Mr Blaney would wish to assist in every possible way he was bound by the Official Secrets Act. He stated that if I would give him a list of questions I wanted answers to he would read over them with his client and answer any of them he could without disclosing Government policy. I said I would have to seek instructions from the Law Officers on this matter.