

NATIONAL ARCHIVES**IRELAND**

Reference Code: 2002/19/457

Title: Speech given in the Northern Ireland Parliament by Northern Ireland Prime Minister Brian Faulkner responding to accusations by Nationalist members of partiality in the administration of justice in Northern Ireland.

Creation Date(s): 13 May, 1971

Level of description: Item

Extent and medium: 6 pages

Creator(s): Department of the Foreign Affairs

Access Conditions: Open

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



305/14/18/3
" | "

Issued by the NORTHERN IRELAND INFORMATION SERVICE
Stormont Castle, Belfast BT4 3ST. Telephone BELFAST 63011

PRESS RELEASE

CENSURE MOTION

House of Commons - Thursday, 13 May 1971

Prime Minister (Rt Hon Brian Faulkner)

This Motion, Mr Speaker, calls seriously into question the conduct of my Rt Hon Friend the Attorney-General. As the House knows very well, these accusations represent merely a part of a wider campaign against the administration of justice in Northern Ireland.

It goes without saying that the aim of the whole Administration, and of the Attorney-General as a member of it, is to ensure in the administration of justice as in every other field efficiency, incorruptibility and absolute fairness. We have never been reluctant to consider carefully responsible and constructive criticism based on facts.

But this present campaign in general, and the particular example of it directed to-day against the Attorney-General, does not have this characteristic. We face instead mere assertions based to a very large extent on ignorance or misapprehension.

I say this having listened in recent days to the Questions and Supplementary Questions put to the Attorney-General, revealing as they do a readiness to draw inferences hostile to him based on inadequate knowledge of the cases concerned, and at times regardless of whether he had been involved in any way or not.

Let me take as an example the Question posed by the Hon Member for Falls only two days ago. It related to a particular Police Constable alleged to have been prosecuted at Holywood Petty Sessions on a particular day. No such Constable was prosecuted there that day, though another Constable was. The Hon Member for Dock, in a Supplementary, suggested that a "secret court" was held in Holywood to avoid publicity and that a strange Magistrate had been brought in. This was irresponsible nonsense. The Court sat on its proper day (Friday) and at its proper time. The usual Resident Magistrate did not preside quite simply because he was on leave. The case, I might add, was prosecuted by Mr Richard Ferguson, who is not entirely unknown to this House. It is because of this utter disregard for responsibility and simple accuracy that I am obliged to deal robustly with

these matters, and to examine not merely the substance of the Motion but the motives which I fear lie behind it.

Dr Goebbels knew very well in his day that if you say anything often enough and loudly enough and without adequate contradiction, it is liable to be believed by a wider and wider circle of credulous people. And I see in this current campaign two very great potential evils which are very properly my concern. These complaints are concerned with alleged injustice. I am as resolutely opposed to injustice as any man, not least when, by generalised smear and largely unsupported assertion, the integrity and impartiality of large numbers of honourable men in high positions is called into question. This is the first evil I see; the second is that attacks such as these can, and indeed are intended to, reduce public confidence and respect for the law, and thus to undermine one of the very foundations of orderly life in any community.

At the outset I cannot forbear to mention that allegations of partiality in the conduct of prosecutions or in the imposition of sentences are not the prerogative of any single quarter. Indeed it can almost be taken for granted that after any serious public disorder in a particular area one can expect in the first place allegations of Police or Army "brutality" and at a later stage protests about the bringing of prosecutions or their outcome before the Courts. If you want to draw the worst possible inference you can conclude that this proves the administration of justice to be rotten to the core. But is there not another distinct possibility:- that malefactors, law-breakers, people who set themselves against the interests of the whole community do not like being faced with the natural and proper legal consequences of their actions?

Nor is criticism of such matters unheard of in Great Britain or other places. After all, the administration of justice is not an exact science regulated by a computer, but a system served by a large number of human beings who are at times fallible like the rest of us. That is why we have in all jurisdictions Courts of Appeal, which sometimes find it necessary to criticise the decisions of inferior Courts.

What is objectionable is not that the administration of justice should be criticised, but that such criticism should be indiscriminate, ill-informed and politically motivated.

In recent years we have seen a virtually continuous assault on all the basic institutions upon which any country must rely. The first targets were those whose duty it is to enforce the law - the Police of this country. No doubt there were a few instances where individuals fell short of the highest standards; and any such instances have been exploited ad nauseam. But every objective - I repeat,

objective - inquiry came to the conclusion that the RUC overall behaved responsibly and with gallantry; in circumstances of the utmost strain and danger. It is instructive to see that since the Army have replaced the Police in this sort of situation, they have been the target for attacks so similar in their nature and even their wording as to be beyond coincidence. One realises, indeed, that in this situation a band of angels commanded by Solomon would not escape calumny.

Ever probing for any position to exploit, our critics then switched their assault to the executive agencies of central and local government, stressing particularly the need for impartial investigation. We appointed a Parliamentary Commissioner and a Commissioner of Complaints, and what has happened? There has been no sweeping indictment of the conduct of government in Northern Ireland; indeed, Sir Edmund Compton, who has been the Westminster as well as the Stormont Ombudsman, has made the comment that if anything the public is rather better served here. And now this further great onslaught dies away, and we find the forces of dissent mustering outside our Courts of Justice.

Thus, for a third time, we see the same insidious process at work, feeding upon the credulity of those who will not pause to consider facts in perspective.

Let us just think for a moment about how the administration of justice actually operates; and let us take as an example a type of case far removed from political passions:- the comparatively minor motoring offence, which has not resulted in any injury or damage to property. Now, supposing one wanted to mount a political clamour in this field, one could no doubt compile a whole dossier of apparently suspicious statistics. One would pick out individual cases and base upon them great structures of rhetorical argument. Why was the decision to prosecute Mr A for exceeding the speed limit, and on the same day merely to caution Mr B? Why, when brought to Court for the offence of exceeding the speed limit, had Mr X lost his licence and Mr Y only been fined £5. Disgraceful! Evident partiality! But wait a moment - do we know the full facts of the four cases. Mr A had been exceeding the limit by 20 mph in a densely-populated built-up area, to the potential danger of all other users of the road, while Mr B had momentarily gone a little over the limit on a long, straight, deserted stretch. Mr X who lost his licence had two other recent motoring convictions; while Mr Y had made the first blot on a blameless motoring record extending over many years. No one who has not actually been in Court, heard the evidence, and had an opportunity to know of all the factors bearing on the decision of the Magistrate or Judge, can conceivably speak with real authority. And in some of the recent comment on actual individual cases it has been apparent that those who have based so much criticism upon them have done so with very imperfect second-hand knowledge, as they may well learn to their cost in the fullness of time.

I make a distinction here between the system itself and the conduct and motives of those concerned with operating it. The system for the administration of justice in

any country can always be improved. In Great Britain they are now acting on the great Beeching review of the Courts, and we for our own part, following on the report of Mr John MacDermott's Committee, will be beginning shortly the work of setting up a new system for summary prosecutions to relieve the Police of a heavy burden they now have to carry.

But I draw your attention to two comments made by that Committee - a broadly-based Committee chaired by an eminent barrister of unimpeachable impartiality and integrity. In recommending the appointment of a Director of Public Prosecutions they placed it on record that "these observations and recommendations are in no way to be taken as any reflection of the manner in which the office of Attorney-General has been discharged over the years". And, in relation to the conduct of prosecutions by the Police, they said: "It is our unanimous opinion, formed from a wide variety of personal experiences, that the Royal Ulster Constabulary have discharged this burden which they have borne for so long with absolute integrity and a degree of competence which has always been remarkably high." I ask you to note in particular the choice of words - "absolute integrity". Moreover the Committee recalled in their Report an extract from the relevant Annual Report of the Law Society. "The President and Secretary were invited to meet Lord Hunt and his Committee. Before doing so they canvassed the views of members frequently practising in the High Court, County Courts and Magistrates' Courts regarding their views on the impartiality or otherwise of the Police as prosecutors and witnesses to confirm or not their own opinions. These views from practitioners, each of twenty years' experience and upwards, were unanimous regarding the fairness of all ranks and their readiness to assist the legal practitioner."

Such were the conclusions of people particularly competent to judge, drawn from both branches of the profession and both sections of the community. Against this background I take it much amiss that the Police should be accused in sweeping terms of partiality in the bringing of prosecutions. When I see the courage with which members of the force have endured ghastly physical attack not only upon themselves but upon their homes and families, (a most reprehensible recent development which again emphasises the nature of the men of violence), I am indignant that they should have to endure sneers of this sort.

And so I am not prepared to remain silent any longer. Our Police, magistrates and judges, who in the nature of things cannot readily defend themselves against attacks of this sort, deserve of us something better than to be made the whipping boys of Phase 3 of a continuing campaign. I do not claim they are infallible; they have no doubt made errors and will do so again, like their colleagues in every part of the world. But I am convinced from a contact with them stretching back now over many years that their aim is to do justice, to do it impartially, and to do so in the interests of all law-abiding people.

As for the Attorney-General, I speak from the closest personal knowledge when I say that this is also his aim. Here is a man who, for a mere fraction of the remuneration he could readily command as a senior member of the Bar, has borne over recent years a quite exceptional burden of work, and never been diverted from what he saw to be his duty by any potential clamour or unpopularity.

The argument is from time to time advanced that no man who is a Member of Parliament, of a particular political party, and of the Administration can conceivably occupy with public confidence a position in which he must perform quasi-judicial functions, particularly in regard to the bringing of prosecutions.

That argument will appeal only to those who are totally ignorant of the legal traditions of the United Kingdom; for if an Attorney-General were to be debarred from quasi-judicial functions on this account, how much more would this apply to the Lord Chancellor of England, who is not only a member of the Administration but of the Cabinet, and who at the same time is the most senior member of the judiciary itself? The idea that men such as Lord Hailsham of St Marylebone or Lord Gardiner would have allowed themselves to be diverted by any improper influence only has to be mentioned to be dismissed.

And if we reject the idea that there is anything wrong with the system in itself, we fall back on the notion that there are lower standards here:- that the leader of the Bar of Northern Ireland is less alive to considerations of professional honour and probity than people in other places. I reject that utterly and completely, as a quite groundless imputation.

Nor should it be imagined that in England, simply because of the existence of a Director of Public Prosecutions, the basic constitutional position is in any way different; for the Director remains responsible to the Attorney-General, who in turn is answerable to Parliament. At this point may I inform the House that it would be our intention in the fairly near future, following on the Government Statement issued after publication of the MacDermott Report to appoint a Director of Public Prosecutions for Northern Ireland, who will stand in a similar relationship to our own Attorney-General.

I commend to this House a statement on the position of the Attorney-General which Lord (then Sir Hartley Shawcross) made at Westminster on 29 January 1951. The tradition was, Sir Hartley said, to direct a prosecution when it was considered to be in the public interest, and in taking this decision - and I state these words with emphasis, because they are the key words here in 1971 just as at

Westminster in 1951 - "there is only one consideration which is altogether excluded, and that is the repercussion of a given decision upon my personal or my party's or the Government's political fortunes; that is a consideration which never enters into account".

I have no doubt whatever that precisely the same could be said by the present Attorney-General of Northern Ireland, as by his distinguished predecessors. He has been assailed at one time or another for being too severe with Republicans, for being too lenient with Republicans; for being too severe with "loyalists", for being too lenient with "loyalists". I admire his ingenuity if indeed he has managed to discriminate in so many mutually exclusive ways at one and the same time. But the true nature of the attack upon him is exemplified by the Motion before the House. It refers to the institution by the Attorney-General of criminal proceedings arising out of two types of case - firearms offences and street disorders. Yet, in relation to the latter type - offences related to street disorders - the plain fact is that cases do not normally come before the Attorney-General for directions as to prosecution at any time. In such cases it is the Police who would decide what should be the appropriate charge before them. When the cases come to Court the prosecutors - an Assistant Crown Solicitor and/or Junior Counsel - have a discretion to vary, amend, reduce or drop charges on the complete evidence which normally only becomes available after an initial remand, or if they find after consultation with crown witnesses that their evidence does not come up to the strength of their written statement. At no time would the Attorney-General normally come into this process; unlike the case of firearms offences, which are indictable. Is it not a pity, Mr Speaker, that a Motion such as this should be tabled on the basis of evidence ignorance of such elementary facts?

Rational criticism, well-based on facts, I will always consider in this as in every other field. But I want to make it very clear that we will defend the lawful institutions of this country against extravagant criticism based upon the minimum of fact.