



NUI MAYNOOTH
Ollscoil na hÉireann Má Nuad

**THE GOVERNMENT'S EXECUTIONS POLICY DURING THE IRISH
CIVIL WAR 1922 – 1923**

by

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DEDICATION

To my Grandparents, John and Teresa Blake.

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LIST OF ABBREVIATIONS

Adj. Gen.	Adjutant General
A.S.U.	Active Service Unit
A.T.	Anti-treaty
Capt.	Captain
C-in-C.	Commander-in-Chief
C.I.D.	Criminal Investigation Department
Cmdt.	Commandant
C na nG	Cumann na nGaedheal
Col.	Colonel
C.O.S.	Chief of Staff
D.M.P.	Dublin Metropolitan Police
E.J.E.	Extrajudicial execution
F.S.	Free State Government
G.H.Q.	General Headquarters
G.O.C.	General Officer Commanding
Inst.	Instant
I.P.P.	Irish Parliamentary Party
I.R.A.	Irish Republican Army
I.R.B.	Irish Republican Brotherhood
M.A.	Military Archives, Ireland
M.O.	Medical Officer
M.R.	Master of the Rolls

N.A.I.	National Archives, Ireland
N.I.R.A.	Neutral Irish Republican Army
N.L.I.	National Library of Ireland
N.U.I.M.	National University of Ireland, Maynooth
O.I.R.A.	Old Irish Republican Army
O.C.	Officer Commanding
P.G.	Provisional Government
P.R.	Proportional Representation
P.T.	Pro-treaty
R.I.C.	Royal Irish Constabulary
ROIA	Restoration of Order in Ireland Act
Supt.	Superintendent
T.C.D.	Trinity College, Dublin
T.D.	Teachta Dála
T.N.A.	The U.K. National Archives, Kew
U.C.D.	University College, Dublin

INTRODUCTION

This thesis examines the executions policy undertaken by the pro-treatyite Provisional/Free State Government during the Irish Civil War (1922–23). Following the Irish War of Independence (1919–21) and subsequent Anglo-Irish Treaty Ireland's previously united nationalist movement fractured into opposing factions. The ensuing Civil War, fought between the Government and the anti-treatyite militants, known as the Irregulars, played an integral role in the development of the modern Irish State. Remarkably, this conflict has been marginalised in Irish revolutionary historiography. Similarly, the significance of the Government's official executions policy during the conflict has been further neglected and consigned to a footnote in existing works on the Civil War. Yet the execution of eighty-one fellow Irishmen and former comrades by the first independent Irish Government became one of the defining characteristics of the War. The proposition which underpins this study is that this executions policy had a significant impact on the dynamic of the Civil War, making it a far more ruthless and divisive affair. Moreover, it left an enduring legacy of bitterness in post-war Ireland, one which is still to be completely surmounted. In essence, this thesis presents an in-depth analysis of the effect of the executions policy on the character, course and outcome of the Irish Civil War.

In evaluating the policy several questions need to be considered. For instance, what compelled the pro-treatyites to employ official executions during the Civil War? How did the Government implement the policy during the conflict? Conversely, how did the Irregulars respond to the executions? Finally did the policy, which was devised to hasten the end of the Civil War, achieve its primary objective?

An understanding of the tactics employed by Irregulars, in their attempt to thwart the Government and National Army, is crucial when ascertaining why the executions policy was adopted. The Irish Civil War, caused primarily by differences over the Anglo-Irish Treaty, began on 28 June 1922. The pro-treatyite political and military leadership included Arthur Griffith, Michael Collins, Richard Mulcahy, Kevin O'Higgins and W. T. Cosgrave. Conversely, the anti-treatyite political and military hierarchy consisted of Eamon de Valera, Cathal Brugha, Liam Lynch, Liam Deasy, and Rory O'Connor. Following the collapse of the Irregulars' conventional resistance in both Dublin and Munster, by late July/early August, guerrilla warfare became their *modus operandi*. They subsequently dissolved into the countryside and broke up into smaller, more mobile, groups known as active service units or A.S.U.s and engaged in ambushes, sniping and armed raids. Moreover, the Irregulars focused on the country's infrastructure in an attempt to devastate commerce and cripple the Government financially. The Commander-in-Chief of the National Army, Michael Collins, had refused to adopt emergency measures to restore order. As will be demonstrated, his death, in a guerrilla ambush on 22 August, ushered in the Public Safety Resolution. This decree, which facilitated the Government's executions policy, will be examined in detail. Sanctioned on 28 September 1922, it was hoped that the resolution would halt the Irregulars' guerrilla campaign and end the Civil War.

Following the ratification of the emergency resolution the Government, as will be established, altered the implementation of this decree as circumstances dictated. Initially it restricted the application of the executions policy to Dublin, executing a total of twelve men in ten weeks. The inaugural executions, which involved putting to death four low-ranked Irregulars on 17 November 1922, were surrounded by controversy. Critics maintained that this event was a test case to facilitate the execution of a more prominent anti-treatyite, Erskine Childers, one

week later. It was also claimed that both the Provisional Government and the British Government had a vendetta against Childers which ensured his capture, conviction and death regardless of crimes committed. These conspiratorial allegations, in addition to the initial executions themselves, will be studied and assessed.

The Irregulars, in response to the executions policy, assassinated Seán Hales T.D. and seriously injured Deputy Pádraic Ó Maille on 7 December 1922. This event shocked the pro-treatyites. As will be demonstrated, the Government subsequently decided to alter radically the implementation of the executions policy. This affair, like the death of Collins before it, proved a turning point for the pro-treatyites. Firstly, four untried Irregular prisoners were put to death, on 8 December, in Mountjoy Jail in an event which was clearly outside the remit of the September resolution. In the long-term, however, the Government decentralised and accelerated its application of the emergency measures. Following the executions in early December the Government executed another seven men at once in Kildare on 19 December. These were the first to occur outside of the capital and it was the largest individual set of executions during the Civil War. Moreover, another sixty-nine men were executed by the end of the conflict. Sixty-three of these occurred outside Dublin; four were civilians executed for armed robbery. Thirty-four men were put to death in January alone. The Government also adopted an official hostage policy whereby several convicted prisoners, sentenced to death, received a stay of execution pending the improvement of order in their respective localities. This scheme proved successful and contributed to the pro-treatyites victory in May 1923.

The official executions formed a central part of the Government's prosecution of the Civil War. Evidence suggests that this policy achieved its primary objective and expedited the end of the conflict. Moreover, it altered irrevocably the landscape of the Civil War turning what

was an already fractious affair into an extremely acrimonious conflict and it imbued an enduring legacy of hostility in post-war Ireland.

No single academic work exists which focuses solely on the executions policy during the Civil War. This conflict has received limited scholarly attention compared to the wealth of academic work undertaken on both the 1916 Rising and the Irish War of Independence. The lack of dedicated research on the Civil War has ensured that the official executions within the conflict have been neglected. Any consideration afforded the policy to date has been restricted to broad generalisations based on incomplete evidentiary analysis. There is a tendency to view the executions in an incidental or cursory manner. Historians have chosen to focus almost exclusively on the causes, course and outcome of the conflict itself rather than provide an analytical examination of the most controversial policy employed by the pro-treatyites during the Irish Civil War.

Nonetheless, secondary sources on the conflict, whilst not abundant, can be divided into several categories. There are a number of survey histories which offer a general analysis of Irish history over long periods of time. Consequently, they do not provide an in-depth examination of the Irish Civil War, nor do they discuss the executions that occurred during the conflict in detail. On the whole survey histories tend to represent the Civil War and the executions as either a necessary or unnecessary by-product of Ireland's state building process. Furthermore, they tend to only mention one or two actual executions. In *Ireland since the Famine* (1971) F. S. L. Lyons briefly states that the executions, particularly that of Childers, induced hatred and resulted in a vicious cycle of revenge. Lyons states that Hales' assassination was directly attributable to the death of Childers. The killing of the pro-treatyite T.D. resulted in the reprisal execution of four

Irregular prisoners in Mountjoy Jail in December 1922.¹ R. F. Foster's *Modern Ireland, 1600-1972* (1988) implies that the executions, particularly the Mountjoy executions, were not repudiated by the public as this policy was undertaken not by Britain but by a native Irish Government. While this is true, the public accepted the executions policy for several reasons. For example, the Irregulars' guerrilla tactics ensured that public reaction was more muted than may otherwise have been the case. Even though the public acquiesced to the executions policy, he states that it left a deep scar on Irish society after the conflict.² Similarly, Dermot Keogh argues, in his book *Twentieth-century Ireland, nation and state* (1994), that the Government's execution of fellow countrymen and former comrades meant that there were no victors in the Civil War.³

There are a number of local histories which refer to the conduct of the Civil War in particular areas of Ireland. Such histories can be both useful and restrictive in equal measure. As they focus on specific localities they do not offer a detailed analysis of the conflict and, by extension, the executions that occurred nationally. However, they provide information pertaining to some of the men executed in their respective localities. Nollaig Ó Gadhra's *Civil War in Connacht 1922-1923* (1999), for instance, details several of the executions that occurred in the province of Connaught during the conflict. He refers to the six men executed in Tuam, County Galway, on 11 April 1923 yet omits the execution of both Michael Murphy and Joseph O'Rourke in the same barracks on 30 May 1923.⁴ Similarly, Tom Doyle, in his book *The Civil War in Kerry* (2008), refers to the seven executions that occurred in Kerry during the Civil War.⁵ However, a number of of his arguments particularly those pertaining to the Government's

¹ F. S. L. Lyons, *Ireland since the Famine* (Suffolk, 1973), pp 466-467.

² R. F. Foster, *Modern Ireland, 1600-1972* (London, 1989), p. 513.

³ Dermot Keogh, *Twentieth century Ireland, nation and state* (Dublin, 1994), p. 17.

⁴ Nollaig Ó Gadhra, *Civil War in Connacht 1922-1923* (Dublin, 1999), pp 82-85.

⁵ Tom Doyle, *The Civil War in Kerry* (Cork, 2008), pp 249-250 and pp 297-301.

official hostage scheme, launched in December 1922 to reduce guerrilla activity in Kerry, are unsubstantiated.

Several biographies of prominent figures in the Civil War feature material relevant to the present study. These include Risteárd Mulcahy's *Richard Mulcahy (1886-1971), a family memoir* (1999) and *My father, the General. Richard Mulcahy and the military history of the revolution* (2009) and M. G. Valiulis' *Portrait of a revolutionary, General Richard Mulcahy and the founding of the Irish Free State* (1992). As Richard Mulcahy was the Commander-in-Chief of the National Army, Minister for Defence and head of the Military Council during the Civil War he was directly involved with implementation of the Government's executions policy. Even though Valiulis and Risteárd Mulcahy do not deal with individual executions in detail both authors do refer to the post-war process of army demobilisation, a course of action which produced several significant consequences.⁶ It resulted not only in the Army Mutiny in March 1924 but, more importantly, it also led to the reinternment, in October 1924, of the men executed during the Irish Civil War.

Both Terence de Vere White's *Kevin O'Higgins* (1948) and John P. McCarthy's *Kevin O'Higgins: Builder of the Irish State* (2006) are worthy of mention. O'Higgins, more than any other person, was held culpable for the executions policy by the anti-treatyites. As Minister for Home Affairs and Vice-President of the Executive Council he was an ardent advocate of the executions policy both prior to and after the conflict. His assassination in 1927 was directly attributable to his actions during the Civil War. Although McCarthy and de Vere White refer to

⁶ Risteárd Mulcahy, *Richard Mulcahy (1886-1971), a family memoir* (Dublin, 1999), pp 192-193, see also Risteárd Mulcahy, *My father, the General. Richard Mulcahy and the military history of the revolution* (Dublin, 2009), pp 179-182, see also M. G. Valiulis, *Portrait of a revolutionary, General Richard Mulcahy and the founding of the Irish Free State* (Dublin, 1992), p. 202.

the executions their brief analyses are restricted to O'Higgins' possible involvement in one or two cases.⁷

Finally, Meda Ryan's *Liam Lynch - the real chief* (1986) is pertinent to this study. Unlike some prominent actors in the Civil War, Lynch did not leave behind a large set of papers, other than the various pieces of correspondence and orders located in several archival repositories throughout the country. Hence, Ryan's biography, which draws on many of these private collections helps facilitate a more comprehensive understanding of the Irregulars' Chief of Staff and, by extension, the anti-treatyite militant's response to the executions policy. For instance, she mentions Lynch's dismay at the executions and their purported abhorrent treatment of Irregular prisoners, especially the Government's official hostage scheme.⁸ Furthermore, her highlighting Lynch's decision to order the assassination of members of the Government is helpful as this directive had a major impact on the landscape of the Irish Civil War.

In addition to these secondary studies there are several works that deal specifically with the Irish Civil War. Eoin Neeson's *The Civil War in Ireland* (1966) and Calton Younger's *Ireland's Civil War* (1968) are examples of two useful but non-academic works on the conflict. Although the availability of primary material was a problematic issue during the 1960s, Younger's work is a good attempt at a non-partisan account of the Civil War. Neeson offers a somewhat subjective narration on the cause and course of the Civil War. Even though both Younger and Neeson do refer to the executions, their examinations on this matter are not extensive. Both briefly mention some individual cases but their analyses of the course and

⁷ Terence de Vere White, *Kevin O'Higgins* (London, 1948), pp 123-127, see also John P. McCarthy, *Kevin O'Higgins: Builder of the Irish State* (Dublin, 2006), pp 92-94.

⁸ Meda Ryan, *Liam Lynch – the real chief* (Cork, 1986), p. 143.

outcome of the Civil War are limited.⁹ That said, both Younger's and Neeson's works did hold the field until Michael Hopkinson's seminal work *Green against green, the Irish Civil War* appeared in 1988.

Hopkinson's book was the first detached analysis of the Irish Civil War. He manages to disassemble the intricate chain of events which caused the conflict and provides an analysis of what was a multifarious and disorderly event. The nucleus of Hopkinson's book lies in his chronological examination of the military conduct of the conflict. However, he does state that his account of the Civil War is far from definitive. While referring to the executions on a number of occasions he, like authors before and since, focuses briefly on the supposed link between the death of Childers and the first set of executions in Kilmainham Jail on 17 November 1922. He also addresses the legality of the Mountjoy executions.¹⁰ Nevertheless, this analysis of the executions policy, whilst useful, is not extensive.

John M. Regan's book *The Irish counter-revolution 1921-1936, treatyite politics and settlement in independent Ireland* (1999) takes a somewhat alternative view of the Irish Civil War and the revolutionary period in Irish history. He argues that the conflict was indicative of the counter-revolutionary character of the pro-treatyite Government following the death of Michael Collins. According to Regan, O'Higgins was the most doctrinaire counter-revolutionary as he relentlessly sought neo-imperialistic and conservative policies. A prime example of this was O'Higgins' resolute support for executions. His examination of the executions policy, however, is not exhaustive. Regan instead chooses to reference the executions in an incidental

⁹ Eoin Neeson, *The Civil War in Ireland* (Cork, 1966), pp 318-323, see also Calton Younger, *Ireland's Civil War* (London, 1968), pp 488-493.

¹⁰ Michael Hopkinson, *Green against green, the Irish Civil War* (Dublin, 1988), pp 189-192.

fashion arguing that both Childers' and the Mountjoy executions were prime indicators of the Provisional/Free State Government's counter-revolutionary *esprit de corps*.¹¹

Alternatively, Tom Garvin's book *1922: The birth of Irish democracy* (1996) champions the establishment of the Free State Government and their victory in the Civil War as a triumph for democracy and pro-treatyite pragmatism over the anti-treatyite authoritarianism. Garvin chronicles what he believes to be the undemocratic and unlawful conduct of the Irregulars during the conflict but there is little mention of the methods, in particular the executions policy, used by the pro-treatyites to win the Civil War. However, he contends that the decisions made by key players in the Government such as Cosgrave, Mulcahy and O'Higgins, particularly the execution of four untried men in Mountjoy Jail, were central in establishing the rule of law and the primacy of democracy throughout the country.¹² Similarly, Bill Kissane's book *The politics of the Irish Civil War* (2005) places the Civil War and the executions within a theoretical analysis of Ireland's decolonisation and democratisation process.¹³ Kissane's examination of the executions is quite sparse. This is understandable as Kissane's work focuses on the historiography of the Civil War and how competing analyses, initially developed by both pro- and anti- treaty advocates after the Civil War, continue to influence current attitudes towards the conflict.

Eunan O'Halpin analyses the development of Irish internal and external security policies since independence in his book *Defending Ireland, the Irish State and its enemies since 1922* (1999). Ireland's security strategy, according to O'Halpin, can be attributed to the Irish Civil War. He argues that during the War the Government set a dangerous precedent by willingly enacting state terror, in the form of official executions under stern emergency legislation, to

¹¹ John M. Regan, *The Irish counter-revolution 1921-1936, treatyite politics and settlement in independent Ireland* (Dublin, 1999), pp 109-120.

¹² Tom Garvin, *1922: The birth of Irish democracy* (Dublin, 1996), p. 162.

¹³ Bill Kissane, *The politics of the Irish Civil War* (Oxford, 2005), p. 10.

preserve the nation.¹⁴ O'Halpin refers to executions in the localities in his brief analysis of the Civil War. He suggests that these executions, on the whole, had a significant impact on Irregular morale and, by extension, restricted guerrilla activity in many areas. Furthermore, he argues that with the exception of Childers, Charlie Daly shot in March 1923 in County Donegal and those executed in Mountjoy Jail, most of those executed were low-ranking Irregular foot soldiers.¹⁵ This is true. However, as O'Halpin's work does not deal exclusively with the Civil War his overall examination of the Government's executions policy during the conflict is relatively limited.

Anne Dolan's *Commemorating the Irish Civil War: history and memory, 1923-2000* (2003) charts the official neglect of the pro-treatyite dead since the end of the Civil War in May 1923. Dolan's work contributes significantly to the historiography of Civil War politics as she argues that the history of this conflict has not only been assumed, distorted and most of all, ignored.¹⁶ Whilst those like Garvin tend to praise the process of democratisation Dolan is instead critical of the pro-treatyites for failing to commemorate the men who gave their lives for the success of this venture. She argues that the Irregulars honoured their dead much more enthusiastically since the expression of republican remembrance was well-established before the Civil War. However, as Dolan focuses primarily on pro-treatyite war dead this book does not refer to the executions during the Irish Civil War in great detail. She does mention briefly the reinterments of the executed men in October 1924. Yet Dolan inaccurately states that one man, Joseph Hughes, was one of the men put to death during the conflict.¹⁷ Hughes actually died on 1 November 1924. He was an innocent bystander during one of the reinterments. He received a

¹⁴ Eunan O'Halpin, *Defending Ireland, the Irish State and its enemies since 1922* (Oxford, 1999), p. 38.

¹⁵ *Ibid*, p. 30.

¹⁶ Anne Dolan, *Commemorating the Irish Civil War: history and memory, 1923-2000* (Cambridge, 2003), p. 2.

¹⁷ *Ibid*, p. 134.

fatal wound following an explosion from a grenade and died following an armed clash between Free State and anti-treatyite supporters in St. Patrick's Cemetery, Dowdallshill, Dundalk, County Louth on 30 October. Nonetheless, this minor inaccuracy does not detract from the overall quality of Dolan's work.

As this thesis devotes a chapter to the 1922 Public Safety Resolution, literature which examines emergency measures in Ireland were consulted. Colm Campbell's *Emergency law in Ireland, 1918-1925* (1994) and Seosamh Ó Longaigh's *Emergency law in independent Ireland 1922-1948* (2006) are of particular interest. Campbell provides a complex analysis of emergency law procedures enacted in Ireland during 1918-25, focusing on legislation within three jurisdictions: Ireland during British rule; the Irish Free State and Northern Ireland. He is one of few authors to acknowledge that eighty-one and not seventy-seven official executions actually occurred during the Civil War. However, the information he provides for some of these men is inaccurate as he gives the wrong date and location for several of the executions.¹⁸ Ó Longaigh's work also undertakes an intricate analysis of legislation and its implications during the period 1922-48. When dealing with the Civil War Ó Longaigh focuses on the provisions contained within the 1922 Public Safety Resolution. He examines the legal machinations surrounding the death of Childers and the Mountjoy executions. When examining other implications of Hales' assassination he, like Campbell, is one of only a few authors to acknowledge the existence of the mobile committee system which ultimately streamlined the Government's executions policy.¹⁹ However, Ó Longaigh's book, like Campbell's, does not deal exclusively with the Irish Civil War nor does it focus on the executions policy during the conflict. Therefore, any analysis of the executions is limited in scope and of an incidental nature.

¹⁸ Colm Campbell, *Emergency law in Ireland 1918-1925* (New York, 1994), pp 361-371.

¹⁹ Seosamh Ó Longaigh, *Emergency law in independent Ireland 1922-1948* (Dublin, 2006), pp 28-29.

There is a privately published non-academic book entitled *Seventy-seven of mine said Ireland* (2006) by Martin O'Dwyer which attempts to examine the executions that occurred during the Civil War. However, this piece of work offers little analysis of the executions policy. Instead it refers mainly to the last letters of the Irregulars executed during the conflict. For instance, he details the final correspondence of the four men put to death in Kilmainham Jail, Dublin in November 1922.²⁰ It appears that no archival material was consulted in the preparation of O'Dwyer's work as no reference is made to any relevant repository. Furthermore, there is no contents page, index or bibliography attached to this book.

Primary material for this thesis has been sourced from several different locations. Firstly, accounts written by contemporaries have been utilised. Works such as Walter Alison Phillips' *The revolution in Ireland 1906-1923* (1923) and both of Dorothy Macardle's books *Tragedies of Kerry 1922-1923* (1924) and *The Irish Republic, a documented chronicle of the Anglo-Irish conflict and the partitioning of Ireland, with a detailed account of the period 1916-1923* (1937) were consulted. These publications, although subjective, are useful precisely for that reason. They provide a valuable insight into contemporary arguments concerning the Civil War. Furthermore, when compared to more modern literature, these works help the reader assess changes in opinions and arguments over time.

Several Civil War participants have produced accounts which detail not only their individual experiences but also outline contemporary arguments concerning the conflict. These include Florence O'Donoghue's *No other law, the story of Liam Lynch and the Irish Republican Army, 1916-1923* (1954); Ernie O'Malley's *The singing flame* (1978); C. S. Andrews' *Dublin made me* (1979) and Liam Deasy's *Brother against brother* (1982). Even though these accounts

²⁰ Martin O'Dwyer, *Seventy-seven of mine said Ireland* (Cork, 2006), pp 18-26.

are subjective they provide an understanding of the opinions and subsequent justifications of the decisions taken by some figures most associated with the Civil War. Deasy's work is very useful. As the Irregulars' assistant Chief of Staff he was best placed to assess the impact that the executions policy was having on Irregular morale and how this affected their prosecution of the Civil War. Following his arrest in January 1923 he sought the cessation of hostilities, believing that the executions had placed the country in a very serious predicament and that it was futile to continue a war against such a policy.

Extensive archival research was also undertaken. The archives department located in University College, Dublin holds several substantial private collections pertaining to some of the most important and influential characters during the Irish Civil War. Particularly relevant are private collections pertaining to Richard Mulcahy, Eamon de Valera, Frank Aiken, Ernie O'Malley, Desmond FitzGerald, Kevin O'Higgins, Moss Twomey, Seán MacEntee, Seán MacEoin, C. S. Andrews and Hugh Kennedy.

Several private collections housed in the manuscript departments of both Trinity College, Dublin and the National Library of Ireland, Dublin were also used. With regard to the former repository the private papers of Childers, Robert Barton and Mary MacSwiney, amongst others, were utilised. This material was of immense use not only in the examination of Childers' execution but also the reinterment of the men executed during the Civil War. With regard to the latter archive the private papers of Florence O'Donoghue, Piaras Béaslaí, Niall C. Harrington, Kathleen McKenna Napoli, and Michael Collins were examined. Some smaller collections housed in the N.L.I., notably items of correspondence pertaining to Liam Lynch and Kevin O'Higgins, were also consulted.

A number of contemporary newspapers were consulted in the National Library via its 'Newsplan' database. As the majority of historians tend to overlook the executions themselves local newspapers can provide a wealth of local information pertaining to individual executions. This is especially true in relation to the examination of the execution of four civilians convicted of armed robbery and unlawful possession of arms during the conflict. As these men were not Irregulars they have received even less academic attention than the already under-examined execution of the seventy-seven Irregulars during the Civil War.

Documentation held at the National Archives, Dublin was consulted. This repository houses an extensive collection of files pertaining to Governmental departments which operated during the Civil War. Of particular interest were the Department of Taoiseach S files, Department of Finance FIN files, Department of Justice H files and the Provisional Government Cabinet minutes. Material held at the Military Archives situated in Cathal Brugha barracks, Dublin was also consulted. A significant number of captured Irregular documents and a large quantity of National Army operation reports were examined. These provided a more comprehensive description of several Irregulars and the events which led to their capture and subsequent execution. The Civil War Prisoners Collection was also examined as it records information on people interned by the State during the Civil War. However, as the vast majority of military records pertaining to the executions were purposefully destroyed prior to the transfer of power from Cumann na nGaedheal to Fianna Fáil in 1932, the benefit of this repository was not as great as it may have been.

Several Governmental papers pertaining to the Home Office and British Cabinet were inspected at the U.K. National Archives, located at Kew. This examination was necessary in order to identify and evaluate any involvement by the British authorities in the Provisional/Free

State's executions policy. It has been previously argued that the Secretary of the Home Office, Winston Churchill, influenced Childers' execution. Thus, any link between the British authorities and the death of Childers needs to be evaluated. Contemporary Irish parliamentary papers were also examined in detail. The Dáil debates provided a wealth of relevant material referring to the emergency resolution adopted by the Government in September 1922 and several of the executions that occurred during the Civil War. The debates can be viewed on the official Irish Oireachtas website, <http://historical-debates.oireachtas.ie/index.html>.

This thesis is comprised of seven chapters. Chapter one is introductory in nature. It will begin by placing the executions during the Civil War in context. The Government's policy will be measured against previous executions undertaken by the British, after the Rising and during the Irish War of Independence, in order to ascertain why public opinion, on the executions, seemed so sedate in 1922-23 in comparison to the period 1916-21. Even though the Government's executions policy was initiated during the guerrilla phase of the Civil War, chapter one will also provide the necessary background to the conflict itself and a description of the preceding conventional stage of the War. This phase began on 28 June 1922 as the Government and National Army faced the Irregulars in open confrontation. It ended in late July/early August following the collapse of the anti-treatyite military resistance in both Dublin and Munster. The Irregulars subsequently adopted guerrilla warfare engaging in sniping, ambushes and armed raids. Furthermore, they focused on destroying the country's infrastructure in an attempt to ravage the transitional Irish State financially. As the death toll and economic cost of the conflict continued to rise, attitudes towards the Irregulars hardened and calls for the adoption of emergency measures increased.

Chapter two focuses on the 1922 Public Safety Resolution. This decree, which facilitated the executions policy, was enacted by the Provisional Government in response to the Irregulars' guerrilla campaign. In order to analyse the resolution, the conventions contained within it as well as the circumstances surrounding its introduction need to be examined. The death of Michael Collins on 22 August, in an Irregular ambush, unified support for the adoption of emergency measures which would, it was hoped, hasten the end of the Civil War. Ultimately, this period in the conflict was characterised by increased severity, resolve and determination on the part of the Government and its developing army as it attempted to reach a prompt conclusion to the war.

Chapter three examines the inaugural executions carried out under the Public Safety Resolution. The successive execution of four low-ranked Irregulars in Kilmainham Jail on 17 November and that of Erskine Childers on 24 November lead to the emergence of several conspiracy theories. Critics maintained that there was a dubious relationship between both of these events. It was claimed that the initial executions were a test case to assess the possibility of executing more prominent Irregulars. It was also argued that the pro-treatyites had a vendetta against Childers and that the British were involved in his death. These allegations will be evaluated. Once instigated this executions policy not only hardened the resolve on both sides of the Treaty divide, it also irrevocably changed the character of the Irish Civil War, making it a far more callous affair.

Chapter four focuses on the Irregulars' reaction to the Government's executions policy and the immediate consequences of this response. Following the inaugural executions Liam Lynch issued an order advocating official reprisals. Subsequently, Deputy Seán Hales and Deputy Pádraic Ó Maille were attacked on 7 December outside Leinster House, Dublin resulting in Hales' death. This chapter centres on the premise that this single event acted as a catalyst that

significantly altered the landscape of the Civil War. The Government immediately altered its implementation of the executions policy and summarily executed four untried prisoners in Mountjoy Jail, Dublin on 8 December 1922.

Chapter five analyses the long-term consequences of the events of 7 December. Subsequent to this, the Government decided to modify radically the way it implemented the executions policy. Hence, the hostage scheme launched on 13 December 1922 will be evaluated. This policy, which amounted to the suspending of death sentences, was initiated in Kerry and extended to other areas such as Cork and Donegal and was designed to halt Irregular activity in these areas. Furthermore, the Government decided to augment and streamline the executions policy. Of particular interest is the Government's decentralised and accelerated application of the September resolution. Initially the executions had been restricted to Dublin, resulting in the death of twelve men in ten weeks. However, following the assassination of Hales and the Mountjoy executions sixty-nine additional executions occurred by May 1923, sixty-three of which occurred outside Dublin. Moreover, thirty-four of these executions took place in January alone, making it the worst month for executions during the entire conflict.

Chapter six will establish if the Government's executions policy achieved its primary objective, that is, hastening the end of the Civil War. Bearing this in mind the assertions made by Liam Deasy, after his arrest in January 1922, will be evaluated. Following his capture he called on several Irregular leaders to surrender given that executions had created a very serious situation in the country. In order to do this the remaining twenty-six executions that occurred during the Civil War need to be examined. Of particular interest is the execution of four civilians, on 13 March and 30 May 1923, for the unauthorised possession of arms following armed robberies, thus correcting the total number of men put to death during the conflict from

the previously accepted figure of seventy-seven to eighty-one. As these men were not associated with the Irregulars they receive little scholarly attention in existing works on the conflict. The Irish Civil War ended on 24 May 1923. It had been a bitter affair due in no small part to the Government's executions policy. However, the occurrence of several unofficial actions, by pro- and anti-treatyites alike, during the War instilled an acrimonious legacy in post-war Ireland. Hence, the atrocities which occurred in Kerry in March 1923 will also be analysed. These incidents represent the extremities of unofficial actions during the Civil War and, in terms of ruthlessness, rivalled any of the official executions.

Chapter seven will examine the circumstances that prevailed in Ireland directly after the conclusion of the Irish Civil War, paying particular attention to the post-war process of demobilisation. This process not only caused the Army Mutiny in March 1924 but it eventually forced the recently established Cumann na nGaedheal Government to release the remains of the executed men for reinterment. This chapter will examine the process of internment itself but it will also detail the extraordinary scenes that occurred during the reinterments in Glasnevin Cemetery, Dublin and Dowdallshill Cemetery, Dundalk, County Louth. Both events resulted in substantial armed clashes between pro- and anti- treatyite forces in the course of which an innocent bystander, Joseph Hughes, was killed in Dundalk. Despite these encounters the remains of the men executed during the Irish Civil War were finally returned to their respective families and laid to rest in consecrated ground in various cemeteries throughout Ireland.

It is not surprising that such a divisive conflict which ended without compromise or reconciliation has received relatively little scholarly attention to date. It is also understandable that such a contentious policy within this conflict has been largely overlooked by academics.

However, due to the passage of time and considerable political and social changes in Ireland since the Civil War new viewpoints can at last be offered. As Hopkinson stated in 1988:

In many respects [...] the 1980s is a better decade for writing about the Civil War than the 1960s, during which the two previous war histories [Younger's and Neeson's] were written. The last two decades have seen considerable changes in Irish politics and society, which have aided new historical approaches and perspectives. The old Civil War issues – of constitutional status and Anglo-Irish relations – no longer dominate Irish politics; passions resulting from the conflict have cooled somewhat with the death and retirement of many war veterans.²¹

Great strides have been made towards resolving another of the old Civil War issues since the 1980s, namely the northern question. Even though partition is still a reality, significant progress has been made in placing the ballot before the bullet in northern politics. As the centenary of the Civil War approaches 2010 is a more opportune time to finally examine the most controversial and divisive policy adopted by the pro-treatyites during the conflict: the eighty-one official executions.

Note on lists and terms used

As no complete list exists which relates to all of the executed men, one had to be compiled from several amalgamated indices. A number of comparable lists, which detail the names, locations and dates of the executions, exist; however, no two arrangements are identical. Some minor discrepancies are to be expected. For instance, John McNulty and Martin Moylan executed in Dundalk on 13 January 1923 and in Tuam on 11 April 1923, respectively, are sometimes referred to as Joseph Murphy and Michael Nolan. Inconsistencies of this nature are primarily caused by the use of aliases by Irregulars. Furthermore, Dublin was sometimes given as the location for the seven executions that occurred in the Curragh, County Kildare on 19

²¹ Hopkinson, *Green against green*, p. xi.

December 1922. Also old British names were sometimes given for the location of certain executions. Maryborough or Maryboro for example, which is present-day Portlaoise, was sometimes ascribed as the location of Thomas Gibson's execution on 26 February 1923. However, what is more concerning is that several of these lists mention different totals ranging from seventy-seven to eighty-one.

Several lists exist which refer solely to the seventy-seven Irregulars executed during the Civil War. For example, a list located in the Twomey papers in the U.C.D. Archives Department entitled 'Particulars of the 77 Free State Official Executions' was compiled by the Irregulars shortly after the conclusion of the conflict. Similarly Dorothy Macardle and Nollaig Ó Gadhra also published lists mentioning seventy-seven Irregulars in their books *The Irish Republic* in 1937 and *Civil War in Connacht 1922-1923*, respectively. However, other lists such as those in both Colm Campbell's *Emergency law in Ireland, 1918-1925* and in the de Valera papers in the Archives Department in U.C.D. state that a total of eighty-one men were put to death during the Civil War. This discrepancy relates to four civilians Luke Burke and Michael Greery put to death in Mullingar, County Westmeath on 13 March 1923 and Michael Murphy and Joseph O'Rourke executed in Tuam, County Galway on 30 May 1923 for armed robbery. Campbell does acknowledge these four names; however, the details he provides are inaccurate. He claims that the two executions in Mullingar occurred on 14 March 1923 and provides no information whatsoever for the executions in Tuam. Furthermore, the list located in the de Valera papers not only provides the incorrect date for the executions in Tuam, but also assumes that these men were Irregulars. A further list located in the Childers papers in the Manuscripts Department of Trinity College, Dublin refers to eighty names. This roll does identify the execution of Keenan, an alias for Burke, and Greery in addition to Murphy and O'Rourke on 13 March and 30 May

1923, respectively; however it does not mention Sylvester Heaney executed in Portobello barracks, Dublin on 8 January 1923. Finally, another list located in the Department of Taoiseach S Files in the National Archives, Dublin mentions seventy-nine names. Whilst referring to the execution of Murphy and O'Rourke, although providing an incorrect date 11 April 1923, it omits the execution of Burke and Greery. Ultimately, the list used in this thesis refers to the eighty-one official executions that occurred during the Irish Civil War, Irregular and civilian alike.

The terms used to distinguish both rival political/military factions are not used here in a prejudicial or pejorative manner. They were contemporary terms used during an extremely fractious civil war to distinguish political and military factions that had split several times. For instance, the 'Provisional Government' refers to the pro-treatyite Sinn Féin T.D.s appointed to facilitate the transfer of power from the former British administration. However, membership and position within this assemblage changed following the death of its Chairman, Michael Collins. This body remained in existence until it was superseded by the Irish Free State on 6 December 1922. Following this they are called the 'Free State Government' or simply the 'Government'. They are also referred to as the 'Cumann na nGaedheal Government' from March 1923 onwards. These generic terms are used to avoid confusion in a complex and confused situation where significant overlap occurred with the Second and subsequent Third Dáil which were also in existence during this period. Similarly the armed forces of the Provisional/Free State Government, which comprised of a number of pre-truce I.R.A. and several thousand promptly enrolled men, are referred to as the 'National Army' or 'National forces/troops' or just the 'Army'. Conversely the anti-treatyite Sinn Féin politicians are referred to simply as 'anti-treatyite T.D.s' as these politicians were very slow in setting up of a rival political regime to counter the Provisional/Free State Government. Even when this occurred in October 1922 their

administration existed only on paper and had little real influence on events. Additionally, the anti-treatyite I.R.A. are referred to as the 'Irregulars' as this was the contemporary term applied to them in 1922, admittedly by the pro-treatyites. They have also been called 'anti-treatyite/republican militants and combatants', however, this is only to avoid the repetition of the term 'Irregulars'.

CHAPTER 1

The ‘greatest calamity that could befall a country’

Historically speaking, executions have had a revolutionary effect in Ireland, particularly in the decade preceding the Irish Civil War. The execution of sixteen rebels by the British after the 1916 Rising and the putting to death of fourteen I.R.A. men during the Irish War of Independence aroused much anger, scorn and contempt for the British administration from Irish politicians and the public alike. On 11 May 1916 John Dillon, leader of the Irish Parliamentary Party (I.P.P.), contended in the House of Commons that the British Government’s response to the Rising had washed ‘out our [I.P.P.] whole life work in a sea of blood.’¹ Mass demonstrations coincided with individual executions. Furthermore, numerous county councils, chambers of commerce and trades councils issued resolutions supporting the rebels in the days and weeks after the Rising.² It was the public’s revulsion at the executions, as F. S. L. Lyons states, which provided the impetus for the post-Rising resurgence in Irish nationalism.³ The executions carried out, primarily in Kilmainham Jail, between 3 and 12 May created several martyrs. They also transformed not only the Irish political landscape but also Irish history forever.

Similarly, the executions during the War of Independence elicited immense criticism and public condemnation. For example, the execution of Kevin Barry on 1 November 1920 shocked the country. Barry, an eighteen year old student in University College, Dublin, was put to death for his part in the killing of three British soldiers which were collecting bread from Monk’s

¹ John Dillon quoted in Charles Townshend, *Easter 1916, the Irish rebellion* (London, 2006), p. 269.

² *Irish Independent* (13 May 1916).

³ F. S. L. Lyons, *Ireland since the Famine* (Suffolk, 1982), p. 376.

bakery in Church Street, in the north of Dublin city.⁴ With chronic insensitivity the British authorities executed Barry on the Catholic holiday, All Saints Day. As Donal O'Donovan states 'quite apart from the outcry against hanging a man on a church holiday, the British forgot, or perhaps simply ignored, the effect of executing a young man on a day when every church in the country would be full to the doors several times over.'⁵ This event created an outpouring of public sympathy and condemnation. For instance, nearly all baby boys baptised in Catholic churches in the days leading up to the execution were named Kevin.⁶ Furthermore, large crowds of kneeling people gathered and recited the rosary along the streets close to Mountjoy Jail on the morning of Barry's execution.⁷ Likewise, the execution of Patrick Moran on 14 March 1921, for his part in the assassination of British spies on Bloody Sunday 21 November 1920, evoked much public admonition. On the morning of his death thousands knelt in prayer outside Mountjoy Jail and several masses were offered in nearby churches.⁸

The executions during the Irish Civil War, on the other hand, did not elicit significant public denunciation. During the conflict the public, on the whole, acquiesced to the Government's executions policy. The majority of the country had voted for the Treaty. This, the Provisional/Free State Government argued, gave them a mandate to crush the Irregulars' rebellion by whatever means were necessary. It also meant that there were, automatically, fewer potential protestors against official executions. Furthermore, the guerrilla tactics employed by the Irregulars, such as the destruction of the country's infrastructure, requisitioning of supplies and money and the ambushing of National troops, continued to alienate the war-weary communities in which they operated. Moreover, the fact that the executions were carried out by a

⁴ Michael Hopkinson, *The Irish War of Independence* (Dublin, 2004), p. 87.

⁵ Donal O'Donovan, *Kevin Barry and his time* (Dublin, 1989), pp 128-9.

⁶ *Irish Independent* (4 Nov. 1920).

⁷ Ernie O'Malley, *On another man's wound* (Dublin, 2002), p. 232.

⁸ May Moran, *Executed for Ireland, the Patrick Moran story* (Cork, 2010), p. 157.

native Irish Government and not the British resulted in less public criticism. Unlike previous conflicts the Government and Army ensured, possibly due to awareness of the catalytic effect of executions in Ireland, that the executions during the Civil War were a highly secretive affair. For the most part, relatives of those executed did not learn of their death until after the event had taken place. Previously, the public were aware days in advance of an impending execution. This provided ample time to demonstrate, line streets, sign petitions and appeal for clemency. However, as the Civil war progressed speed was of the essence. Therefore, in most cases, men were tried, convicted and executed quite quickly. This removed the opportunity for potential criticism and sympathy to emerge and gain momentum. The Catholic hierarchy also denounced the Irregulars' armed rebellion in October 1922 and threatened militants with excommunication. This would have had a significant impact on how people viewed the Irregulars and, by extension, the executions policy. That is not to say that the executions during the Civil War went without censure. An obvious source of criticism came from the anti-treatyites and Irregulars. Furthermore, as the only notable opposition in the Dáil, the Labour party consistently criticised the Government for supporting the executions policy. Yet some pro-treatyites, whilst being supporters of the Government, disapproved of this particular policy too. They believed that the Government needed to defeat the Irregulars but the employment of stern measures was unjustified and other, more acceptable, methods would suffice. Nonetheless, in order to ascertain why the Government adopted an official executions policy in the first place an examination of the origins of the Civil War and the initial conventional phase of the conflict must first occur. Without this many of the important themes, ideas and arguments which form the basis of future chapters could not be sufficiently addressed.

On 6 December 1921 at 2.10 am the ‘Articles of Agreement for a Treaty between Great Britain and Ireland’ was signed at number 10 Downing Street, London. This document, also known as the Anglo-Irish Treaty, concluded the Irish War of Independence between Ireland and Britain and according to the British Prime Minister, David Lloyd George, it was the first treaty ever signed between the two democracies.⁹ This conflict lasted for over two years and it seemed that when a truce was called on 11 July 1921, the question of Irish independence would be finally settled. However, the optimism that had surrounded the truce and the subsequent Anglo-Irish Treaty quickly dissipated. Despite the fact that this agreement offered a significant amount of autonomy it did not deliver a fully independent Irish Republic. Hence, the Treaty was not entirely satisfactory to everyone and it immediately began to divide Ireland into both pro- and anti-treaty factions.¹⁰ It was backed by the pro-treatyites because it was seen as an end to war and the best possible deal that could have been achieved given the inequities between both delegations with regard to talent and experience.

The British delegation was comprised of several experienced negotiators such as David Lloyd George, Lord Birkenhead, Winston Churchill, Austen Chamberlin and Gordon Hewart. These men were hardened negotiators accustomed to dealing with imperial matters affecting the colonies of the British Empire whereas on the Irish side there was Griffith, Collins, Robert Barton, Eamonn Duggan, George Gavan Duffy and Erskine Childers as a non-voting secretary. For all the qualities these men possessed they could not match the negotiating capacity of their British counterparts. Additionally, this deal was backed due to the degraded military state of the I.R.A. following the War of Independence. It led many to believe that a resumption of hostilities with the British would prove futile. Ultimately, those who supported the Treaty recognised its

⁹ Frank Pakenham, *Peace by ordeal* (Cork, 1951), p. 3.

¹⁰ J. J. Lee, *Ireland 1912-1985 politics and society* (Cambridge, 1989), p. 54.

practicality. Moreover, they believed that it was a significant step forward, one which would eventually lead to an Irish Republic. The anti-treatyites viewed the compromises accepted by the delegates as sinful acts of betrayal to everything that had been fought for up to this point. They objected not only to the disestablishment of the Irish Republic, originally proclaimed in 1916 and reaffirmed in 1919, and the partition of Ireland but also to the oath of allegiance to the British King. The Treaty, which was accepted by a majority and denounced by a sizable minority, became a major cause for renewed tension.

Following the narrow ratification of the Treaty by the Dáil on 7 January 1922 by sixty-four votes to fifty-seven, the once broadly unified political and military spheres of the nationalist revolutionary movement in Ireland ruptured into opposing sections. This split was deeply personal as many of the leaders of both factions were close friends and former comrades during the War of Independence. The Anglo-Irish Treaty did not establish the Republic; instead it dictated that the new Irish State would have dominion status within the Empire and be called the Irish Free State or, in Irish, Saorstát Éireann. Furthermore, it confirmed the partition of Ireland as it offered the Government of Northern Ireland and its six counties an opt-out clause. This clause was duly enacted. However, the actual size of the northern territory was to be decided at a later date by a boundary commission. The agreement also ensured that an oath of allegiance firstly to the Irish constitution and then to the British monarch as head of the nations forming the British Empire would be taken by members of the new Irish Oireachtas.¹¹ Finally, the Treaty also stipulated that three naval bases Berehaven, Queenstown (Cobh), and Lough Swilly would remain under the control of the British Navy.¹²

¹¹ John M. Regan, *The Irish counter-revolution 1921-1936, treatyite politics and settlement in independent Ireland* (Dublin, 2001), p. 39.

¹² *Ibid*, p. 40.

The pro-treatyites saw themselves as pragmatists whereas they accused the so-called purist anti-treatyites of possessing a ‘holier-than-thou’ attitude towards the settlement with Britain, even though many were far from hard-line republicans.¹³ They charged the anti-treatyite politicians with being unrealistic and too idealistic in their aims. Collins, widely heralded as one of the main inspirations behind the War of Independence, due to his prominence in the I.R.A. and head of the I.R.B. but also as Minister for Finance and the leader of the Irish delegation in London was referred to by Griffith, during the Treaty debates, as ‘the man who won the war’.¹⁴ Collins believed that this settlement was merely a means to achieving the ultimate aspiration, a united Irish Republic. He, like so many others, was not entirely satisfied with the settlement. However, he famously argued that the Treaty ‘gives us freedom, not the ultimate freedom that all nations desire and develop to, but the freedom to achieve it.’¹⁵ Nonetheless de Valera, an enormous figure in the nationalist arena as leader of Sinn Féin and president of both Dáil Éireann and the Irish Republic, resigned his presidency on 9 January in protest at the Treaty. Following his failed attempt at re-election, by a close vote of fifty-eight votes to sixty on 11 January, he departed from this assembly with the other anti-treatyite T.D.s declaring that the Dáil’s endorsement of this agreement was illegitimate.

De Valera claimed that all of those who had voted for the Treaty had broken their oath to the Irish Republic. For the former President it was the element of proximity that made him doubt that Ireland would ever be afforded the same freedom and status as other far reaching dominions like Canada.¹⁶ He advocated another settlement known as ‘Document no. 2’ in which Ireland

¹³ Tom Garvin, ‘The anatomy of a Nationalist revolution: Ireland, 1858-1928’ in *Comparative Studies in Society and History*, 28, no. 3 (July 1986), p. 488.

¹⁴ Dáil Debates, *Debate on Treaty*, volume 3, col. 20 (19 December 1921).

¹⁵ *Ibid*, col. 32.

¹⁶ Mary C. Bromage, ‘De Valera’s formula for Irish nationhood’ in *The Review of Politics*, 13, no. 4 (Oct. 1951), p. 488.

would be externally associated with the British Empire. However, this article differed only slightly from the Treaty and received little support. Following this Griffith, founder of Sinn Féin and another prominent figure in Irish nationalism, was elected President of Dáil Éireann. As the largest party, which remained in the aforementioned assembly, the implementation of the newly sanctioned treaty was the prime responsibility of the pro-treaty Sinn Féin T.D.s. Collins, aided by Griffith, set about establishing a Provisional Government which would facilitate the transfer of power from the British administration to its Irish counterpart. Therefore, a confusing and complex situation of dual power now existed in Ireland whereby there were two relatively identical pro-treatyite cabinets in the form of the Second Dáil and the Provisional Government, Griffith being President of the former and Collins being Chairman of the latter. According to the Department of the Taoiseach:

The Ministry of the Second Dáil was at the time already in existence, and from the 16th January, 1922, until the 9th September 1922, there was a dual system of Government.

- (a) The Second Dáil Cabinet responsible to Dáil Éireann
- (b) The Provisional Government, apparently responsible to no Parliament.

The dual system terminated with the fusion of the two systems under the Third Dáil on 9th September, 1922.

After that date, the newly constituted Provisional Government appointed by that Dáil continued in being as the sole Government, until superseded on 6th December, 1922, by the formation of the 1st Executive Council pursuant to the Constitution of Saorstát Éireann which became law on that date.¹⁷

The anti-treatyite Sinn Féin T.D.s also regarded themselves as the legitimate government of the country. This situation was to become even more complicated following the split in the

¹⁷ Department of the Taoiseach, 'Second Dáil' (http://www.taoiseach.gov.ie/eng/Taoiseach_and_Government/History_of_Government/Second_D%C3%A1il.html) (1 July 2010).

I.R.A. over the Treaty. As a result, the anti-treatyite section of the I.R.A. also declared that it was the rightful government. In reality, the Provisional Government was the primary administrative body in the country as the Second Dáil, although remaining in existence until 9 September 1922, declined once the Treaty was ratified and de Valera and his supporters left the assembly. This convoluted situation remained until 6 December 1922 when the Irish Free State eventually came into being a year after the Treaty had been signed. Following his exit from the Dáil de Valera tried to rally support for his alternative settlement and for the anti-treatyite movement. The people of Ireland still had to vote on the Treaty and he believed that if he could get enough support for his ideals then the Treaty would fail. To achieve this objective he made several contentious speeches throughout Ireland in March and April of 1922 in which he prophesied civil war. In Killarney he stated that if the Treaty was accepted by the population then the I.R.A. ‘will have to march over the dead bodies of their own brothers. They will have to wade through Irish blood.’¹⁸ These controversial remarks, according to Michael Hopkinson, should be understood in the context of de Valera’s diminishing influence in Irish affairs. As de Valera had left the Dáil, thus resigning as President of that assembly and the Republic, his authority over the anti-treatyites decreased dramatically.¹⁹ When the Civil War started the militarists were at the forefront of the anti-treatyite movement whereas the politicians, generally speaking, were demoted to the background. De Valera remained the leader of an ousted section of politicians, neither trusted nor useful to the pro-treatyites or anti-treaty I.R.A. alike. It was not until the final phase of the Irish Civil War, when the politicians came to the forefront once again to negotiate, that de Valera regained some of his influence.

¹⁸ Michael Hopkinson, *Green against green, the Irish Civil War* (Dublin, 2004), p. 71.

¹⁹ *Ibid*, pp 70-71.

The schism caused by the Treaty did not limit itself to the political sphere. The divisive nature of this Treaty continued to influence other sections of the nationalist movement in Ireland, most notably the I.R.A. Hopkinson argues that the ‘problem of preserving army unity would have been difficult enough in a static military situation, considering the divisions in the IRA over the Treaty.’²⁰ Like the politicians, military leaders too argued fiercely over the contents of this document. What galled the self-proclaimed purists, other than the disestablishment of the Republic, was that under this Treaty an oath of fidelity to the British monarch, in his capacity as head of the Commonwealth, had to be taken.²¹ As a result of this ever-increasing rift both previously united military factions faced each other in a perturbed peace. While the General Headquarters Staff or G.H.Q. of the I.R.A. such as Collins, Mulcahy, Eoin O’Duffy and J. J. O’Connell supported the Treaty, several influential leaders such as Lynch, Deasy, O’Connor, Ernie O’Malley, Liam Mellows and Tom Barry, in addition to a significant portion of the pre-truce I.R.A., dismissed the agreement. It seems that only loyalty to Collins and Mulcahy, Minister for Defence and the Chief of Staff of the I.R.A., ensured that greater numbers did not challenge it. Unfortunately for the Provisional Government and newly established National Army only Michael Brennan’s Command in Clare, Seán MacEoin’s Command in Longford and elements of the Dublin No. 1 Brigade sided with the pro-treatyite Government. In addition to this, Listowel and Skibbereen were the only barracks in Munster which were occupied by men that supported the Treaty.²² Bill Kissane argues that from the outset of the Civil War the advantage lay with the anti-treatyite I.R.A. who dominated the provinces of Ulster, Connacht and Munster which in reality was three-quarters of the country. A mere seven out of sixteen I.R.A. divisions remained loyal to G.H.Q. and the Provisional Government. However, what was even

²⁰ Ibid, p. 58.

²¹ Garvin, ‘The Anatomy of a Nationalist Revolution: Ireland, 1858-1928’, p. 487.

²² Hopkinson, *Green against green*, p. 58.

more worrying for the pro-treatyites was that both the First and Second Southern Divisions under Lynch and O'Malley, respectively, sided with the anti-treatyites. They constituted a third of the total I.R.A.²³ Eoin Neeson states that at the beginning of the conflict the anti-treatyite forces may have even outnumbered the National Army by four to one.²⁴ Colm Campbell, on the other hand, places the numerical disparity between both forces around two to one.²⁵ Obtaining exact numbers is problematic; however, it is accepted that the anti-treatyites did initially outnumber the National Army by a significant amount. This numerical advantage was not to remain the case indefinitely. The National Army held several recruitment drives in which they significantly bolstered their numbers, aided undoubtedly by the level of unemployment in Ireland at the time.

These drives proved rather successful for the National Army as it grew from an estimated numerical strength of 10,000 men at the outbreak of hostilities on 28 June 1922 to over 55,000 men by the end of the conflict in May 1923.²⁶ F. S. L. Lyons argues that with 150,000 men unemployed recruitment for the National Army eventually increased to 1,000 men a day during the summer of 1922.²⁷ A significant number of those that enlisted did so for monetary reasons rather than any great commitment to the Treaty. According to Hopkinson, men were enlisted in the armed forces 'without training or medical tests and in many cases without a uniform.'²⁸ This is further evidenced by the Army's quartermaster, Seán MacMahon, as he stated it was literally a case of 'accepting every man that came along and offered his service.'²⁹ Properly uniformed and equipped it made its first public appearance when men from the Dublin

²³ Bill Kissane, *The politics of the Irish Civil War* (Oxford, 2007), pp 76-77.

²⁴ Eoin Neeson, *The Civil War in Ireland* (Cork, 1966), pp 118-119.

²⁵ Colm Campbell, *Emergency law in Ireland, 1918-1925* (New York, 1994), p. 155.

²⁶ Joseph M. Curran, *The birth of the Irish Free State 1921-1923* (Alabama, 1980), p. 238, see also John P. Duggan, *A history of the Irish Army* (Dublin, 1991), p. 120.

²⁷ Lyons, *Ireland since the Famine*, p. 463.

²⁸ Michael Hopkinson, 'Civil war and aftermath, 1922-4', in F. J. Byrne, W. E. Vaughan, A. Cosgrove, J. R. Hill and D. Ó Cróinín (eds), *A new history of Ireland, vii: Ireland, 1921-84* (Oxford, 2003), p. 34.

²⁹ *Ibid.*

Guard, under the command of Paddy O'Daly, paraded through Dublin past City Hall and took control of Beggars Bush barracks from the evacuating British forces.³⁰ Unfortunately, due to the nature of their organisation, the number of anti-treatyite combatants is more difficult to discern. Hopkinson puts the number at 12,900; however, he also mentions that these numbers were not attested so they must be utilised with caution.³¹

With the existence of two armies in the country trying to occupy the same territory the possibility of armed conflict increased dramatically throughout the early months of 1922. The split in the pre-truce I.R.A. was exacerbated when several incidents occurred between March and April which brought Ireland to the brink of civil war. Firstly, the speed of the British departure from Ireland, under the terms of the Treaty, ensured that local I.R.A. units took control of local barracks regardless of their attitudes towards the aforementioned settlement. Due to the haphazard occupation of barracks a serious episode known as the 'Limerick Crisis' occurred. This incident, which began as a local affair, developed into an event which almost triggered all-out military confrontation in Ireland. When a mid-Limerick Brigade, which had declared its loyalty to the Republic, moved to occupy several barracks situated around Limerick city the pro-treatyites were placed in a serious predicament. Faced with the potential loss of this strategically important area Brennan's pro-treatyite First Western Division, based in Clare and supported by loyal troops from Dublin, was ordered to occupy the barracks in Limerick. In response to this anti-treaty forces led by some men from O'Malley's Second Southern Division attempted to occupy the same military facilities.³² As a result, a stand-off situation emerged. O'Malley's plans for a prompt take-over of the barracks in Limerick failed to materialise as both sides showed

³⁰ Duggan, *Irish Army*, p.75.

³¹ Hopkinson, *Green against green*, p. 127.

³² *Ibid*, pp 62-63.

great reluctance in firing the first shots on old comrades. The crisis in Limerick was a major test of the National Army's and the Provisional Government's will to enforce the Treaty and govern the country. Griffith urged that all barracks in the city should be taken and was, to some extent, supported by Collins. However, Collins had always tried to maintain army unity and avoid civil war. Mulcahy vetoed proposals for open confrontation on the grounds of military logic as he knew that the National Army was not ready for an all-out war at that time. Thus, a peaceful settlement to this dangerous situation was sought. One was finally reached when both sides agreed to occupy several barracks each. This episode that had emerged spontaneously represented a major climb-down by the Provisional Government. The Limerick incident indicated to both the Government and National Army that the anti-treatyite forces, in terms of military equipment and men, held the advantage in the early period of 1922 as they appeared to be better equipped and had a better infrastructure to cope with a military showdown.³³

Secondly, as the military situation in the country worsened, several intransigent members of the anti-treatyite military wing demanded that an army convention be held to determine the proper course of action over the Treaty. In response to these demands Mulcahy reaffirmed the necessity to keep army unity under the control of the Dáil. He recognised that if permission for this meeting was granted then the Government and nascent National Army would be greatly embarrassed by the almost certain declaration of the anti-treaty I.R.A.'s independence from the Dáil. He subsequently informed the Cabinet that permission for any such convention should not be granted. He stated that:

All ranks will understand the intensity with which, in the face of our present very grave National position, means have been sought to avoid any definite breach in the solidarity and the Organisation of the Army, and in the wonderful brotherhood

³³ Ibid, p. 63.

of the Army which has been its true solidarity and the real framework of its organisation. The calling of the sectional Convention against the orders of G.H.Q. Staff breaks definitely, to some extent this solidarity and this organisation, but it does not and must not break to any degree the brotherhood of those who in the past have worked and borne responsibility together.³⁴

Mulcahy finally stated that any officer that attended a convention would be dismissed from the I.R.A.³⁵ Griffith banned holding any military convention on 16 March.

In the meantime O'Connor had declared that he was sole leader of the anti-treatyite military forces. In a press conference on 22 March, O'Connor claimed that he represented eighty percent of the pre-truce I.R.A. When questioned on whether or not he intended to set up a military dictatorship he replied 'you can take it that way if you like.'³⁶ Regardless of Griffith's ban the 'Army Convention' took place at the Mansion House in Dublin on 26 March 1922. At this meeting many anti-treatyite militants repudiated the authority of the pro-treatyite Dáil over the I.R.A. In addition, they established their own military executive and subsequently declared it to be the real government of the country. According to Garvin, those militants like O'Connor believed that the I.R.A. was solely responsible for establishing the Irish Republic and that it could not be disestablished by anyone. He states that 'They [the anti-treaty I.R.A.] saw themselves as having created the Republic, and no-one had the right to give it away, democratically or otherwise.'³⁷

The Convention did little to hide the fact that even the anti-treatyite faction of the I.R.A. was far from unified. It revealed Lynch's and his colleagues' unease at talks of military

³⁴ Extracts from Mulcahy's letter regarding banned Army Convention, 23 March 1922 (U.C.D. Archives, Aiken papers, P104/1232(6)).

³⁵ Ibid.

³⁶ Charles Townshend, *Political violence in Ireland, government and resistance since 1848* (Oxford, 1983), p. 367.

³⁷ Tom Garvin, *1922: The birth of Irish democracy* (Dublin, 1996), p. 31.

dictatorship by O'Connor. Conversely the 'extremists', such as O'Connor, disapproved of Lynch's 'moderate' ideals. Deasy, future Deputy Chief of Staff of the Irregulars, stated that during the Convention problems occurred due to the group of radical anti-treatyites. Until the Government banned the Army Convention this group remained a minority amongst the anti-treatyites which could be contained, according to Deasy. However, the ban gave them a platform to air their radical views. Deasy suggested that the elected I.R.A. Executive was deeply divided from the outset especially in its views towards Lynch and his First Southern Division. He stated that '[Lynch] was an acknowledged leader of proven worth and integrity, with the Republic as his guiding star, yet, it now became only too painfully obvious that he was not considered sufficiently extreme by some of his colleagues.'³⁸ The clash between the moderate and extreme factions of the anti-treatyites is accurately summed up by Hopkinson. He argues that beneath the surface this congregation revealed the anti-treatyites' disharmony and lack of a coherent purpose or plan of action. Minor arguments over who would chair the meeting occurred and several complaints were made by Cork men about their not being adequately represented on the new Executive. Oscar Traynor, the O. C. or Officer Commanding Dublin No. 1 Brigade, recalled that he threatened to resign over these complaints by Lynch. In addition to this many men criticised the lack of definite decisions made at the Convention. Nobody could pretend after this or any other convention, according to Hopkinson, that the I.R.A. pro- or anti- treaty was a single body.³⁹ This disharmony and lack of an effective and coherent strategy would ultimately result in the adoption of a reactive policy by the anti-treatyite forces and significantly hinder their prosecution of the Irish Civil War. However, were O'Connor's assumptions correct, was Lynch too moderate?

³⁸ Liam Deasy, *Brother against brother* (Cork, 1998), p. 39.

³⁹ Hopkinson, *Green against green*, pp 67-68.

For Lynch the possibility of civil war was unfortunate. According to Meda Ryan, Lynch had not been accurately interpreted by O'Connor. He had fought bravely during the War of Independence and passionately wanted to avoid civil war. Like Collins, he hoped that the publication of the new Constitution, which was required under the terms of the Treaty, would unite the I.R.A. However, if civil war came then he would not shirk his duty to protect the Republic that he had fought for during the previous war with the British.⁴⁰ Lynch divulged his personal views regarding the possibility of a civil war when writing to a friend:

[I] assure you that there is no one more upset than I am that past comrades in arms should now be shooting one another down. There can be unity if all forces will uphold the established Republic now as in the past. It is too degrading and dishonourable for the Irish people to accept a Treaty which brings them within the British Empire even if it were only for a short period.⁴¹

In addition to this letter he wrote to his brother, Tom, confiding that we 'are absolutely convinced of wiping out this supposed Free State, but we don't mind giving it a slow death, especially when it means the avoidance of loss of life and general civil war. If we are forced to it we will concentrate all our forces to wipe it out.'⁴² Lynch hoped that a solution could be reached to avoid conflict but if one could not be found he considered war a necessary evil if the Republic was to be saved. The fact that Lynch resumed his duties as Chief of Staff of the anti-treatyite militants following the fall of the Four Courts garrison was indicative of his dedication. This unwavering commitment, however, ensured that the Civil War continued longer than it otherwise would have.

⁴⁰ Meda Ryan, *Liam Lynch – the real chief* (Dublin, 1996), pp 96-99.

⁴¹ Letter from Lynch to Mrs. Cleary, 10 May 1922 (N.L.I. Archives, O'Donoghue papers, Ms. 31, 242).

⁴² Letter from Lynch to Tom Lynch, 1 May 1922 (N.L.I. Archives, Lynch letters, Ms. 36, 251(27)).

The establishment of the new anti-treatyite military executive made the necessity to occupy evacuated barracks even more important. Many neutral militants had declared their views at the Convention and sided with the anti-treatyites. Confrontations over barracks in both Birr, County Offaly and Renmore, County Galway coincided with the holding of the Army Convention and a number of other struggles occurred in April in areas around the Midlands and the East. Even though the Provisional Government was extremely concerned over Dublin, and despite the fact the National troops were in a minority there, no barracks were ceded to the anti-treatyite forces in the city. It was in Dublin, however, that the more hard-line and uncompromising of the anti-treatyite forces staged their most daring coup. On the night of 13 April men from Dublin No. 1 Brigade occupied various buildings throughout Dublin's city centre. These included the Four Courts, the Masonic Hall, Fowler Hall, Kilmainham Jail, Moran's Hotel and the Belfast Office.⁴³ The takeover of the Four Courts building by Commandant Patrick O'Brien, as an anti-treatyite headquarters, was intended as a symbolic indication to the country of the Provisional Government's failed authority and their inability to govern. In addition, the anti-treatyite executive of O'Connor, Mellows and O'Malley in the Four Courts hoped that by openly challenging the Provisional Government they could provoke the British into re-intervening in Ireland, ultimately forcing both factions of the I.R.A. together in a renewed war against the British. This scenario was indeed a possibility. These events alarmed the British Government. The British administration subsequently informed Collins that unless he dealt with this rebellion then the Provisional Government would be in breach of the Treaty and they would halt their evacuation and be forced to intercede.

⁴³ Duggan, *Irish Army*, p.78.

In an attempt to avoid a further deterioration of the situation in the country Collins organised an election pact with de Valera's anti-treatyite political followers to campaign jointly in the June election. This election, called the 'Pact Election', would ensure, it was hoped, that a coalition government would be formed afterwards. According to this agreement both strands of Sinn Féin would contest the election as one party and not oppose each other. In an attempt to portray some semblance of democracy, other parties were not excluded from contesting the election but it was hoped, however, that other parties such as Labour would not put candidates forward. Thomas Johnson, leader of the Labour Party, alluded to this in a letter to his son:

there was a pact between De Valera and Collins by which a free election was guaranteed but the two parties were not to oppose each other. There was a clause inserted however which said that all parties were free to act if they so chose, but it was evidently hoped by De Valera, and perhaps by Collins, that no one would enter the ring [...] However we [the Labour Party] concluded that we had stood down long enough, and we nominated eighteen men.⁴⁴

The pact would have undermined the nascent democracy in Ireland as it basically pre-determined the make-up of the government before the election occurred and despite the wishes of the Irish population. Some, like Griffith, had grave concerns regarding this deal. However, he reluctantly agreed following Collins' assurances that this was the only way to avoid civil war. The Minister for Home Affairs, O'Higgins, also had reservations over this election but he did see it as a way of avoiding an irreversible split. Prior to the election he spoke to his constituents and stated:

I stand now for getting the best out of the Treaty, for making the fullest use of the power and opportunity it gives us to develop, the moral and material resources of the nation. I have not abandoned any political aspirations to which I have given

⁴⁴ Letter from Thomas Johnson to his son, Fred, 5 July 1922 (N.L.I. Archives, Johnson letters, Ms. 27, 609A).

expression in the past but in the existing circumstances I advise the people to trust to evolution rather than revolution for their attainment.⁴⁵

The 'Pact Election' was mainly seen as a vote not only on the Treaty itself but also the new Constitution which Collins played a leading role in constructing. Initially, Collins attempted to reach a compromise with the hard-core elements of the anti-treatyite I.R.A. leadership by constructing a republican-type constitution. This Constitution, according to Akenson, attempted to pacify the more ardent anti-treatyites by omitting not only the oath to the British monarch and the Treaty itself but also removing the role of the British Government in Irish domestic affairs altogether.⁴⁶ Some prominent anti-treatyites such as Lynch were prepared to accept this compromise. In addition to this, Aiken, the O. C. Northern forces and eventual Irregular Chief of Staff, decided to remain loyal to the Dáil until the publication of the Constitution which was still being drafted. Aiken stated, on 19 June, that:

Our objective is a Republic for an undivided Ireland and to shake off every social and economic evil from which it suffers in consequence of English rule, and to build up a Nation that an honest Irishman can be justly proud of. If we cannot honourably work the Constitution as the quickest way to that end, the Constitution must go. Until it is published we cannot see our way clearly, and till then we shall take our orders from G.H.Q. under the Dáil Ministry of Defence unless we are asked to do something which is dishonourable.⁴⁷

The British quickly vetoed this draft constitution as being contrary to the terms of the Treaty. Furthermore, they stated that if the terms of the Treaty were not implemented in full then Britain would re-intervene in Ireland. Collins reluctantly agreed and had the document quickly redrafted.

⁴⁵ O'Higgins' election speech entitled 'To the Electors of Leix and Offaly', June 1922 (U.C.D. Archives, O'Higgins papers, P197/139).

⁴⁶ D. H. Akenson, 'Was De Valera a republican?' in *The Review of Politics*, 33, no. 2 (Apr. 1971), p. 251.

⁴⁷ *Morning Post* (19 June, 1922).

O'Higgins, who aided the passage of the Constitution through the Dáil, later stated that it was a strict but fair interpretation of the Treaty. He conceded that:

Many would have liked to do with the British what we read that Brian Boru did with the Danes, not far from here. But we did not do it. We were not able to do it. If we had been able to do it, the things that are in the Treaty and that are in the Constitution, that many here find irksome, would not be there [...] What we are asking the Dáil to face is simply that fact, because we failed absolutely to win out the 100 p.c. [per cent] of our programme and secure the inscriptions on our battle standards, we have had to swallow certain things which to many of us are objectionable.⁴⁸

This Constitution completely undermined the electoral pact between the pro- and anti-treaty factions, who went into the Irish general election on 16 June 1922 as hostile parties, both calling themselves members of Sinn Féin. The Constitution was not published until the morning of the election so the vast majority of voters outside Dublin had little opportunity to view the document before voting.⁴⁹ The pro-treatyites won the election with 239,193 votes to 133,864. A further 247,276 people voted for other parties, most of whom supported the Treaty.⁵⁰ The election showed a majority of the Irish electorate were in favor of the compromise that the Treaty represented. Yet Hopkinson argues that the election results were not a comprehensive victory for the Provisional Government and the Treaty. He states that the:

result did not represent a vote of confidence in the Provisional Government – still less an expression of resistance to Republican ideals. Instead it demonstrated a popular realization of the need of stable government, and the acceptance of realistic compromise with regard to Anglo-Irish relations. The electorate had at least been able to show that social and economic issues and, more particularly, the

⁴⁸ Dáil Debates, *Bill to enact Constitution*, volume 1, cols 360-361 (18 September 1922).

⁴⁹ Nollaig Ó Gadhra, *Civil War in Connacht 1922-1923* (Dublin, 1999), p. 22.

⁵⁰ Hopkinson, *Green against green*, p. 110.

desire for settled conditions were of greater import[ance] to them than the endless debate over constitutional symbols and authority.⁵¹

The anti-treatyites refused to acknowledge the result of this election. According to Deasy, the results had little effect on the attitudes and morale of the anti-treatyite militants. He stated that this should not be wondered at as from ‘the first by-election in 1917 we were never unduly influenced by election results. Our mission was to continue the Fenian policy, to rouse the country and to strive for its freedom.’⁵²

O’Higgins recognised that the election results had irritated the anti-treatyite militants, even if they did not acknowledge the legitimacy of this election. He stated that the ‘general situation [in Ireland] is very serious at the moment, the results of the elections and the publication of the constitution have driven the proud fellows [the Irregulars] into a very ugly mood.’⁵³ The Constitution proved extremely disappointing for anti-treatyites such as Lynch. According to Ryan, the ‘Constitution which had been long-awaited [...] brought bitter disappointment to Republicans [...] The hopes and expectations of Liam Lynch were sadly shattered.’⁵⁴ Nonetheless, the June election played an important role in validating and legitimising the Treaty and the status of the Provisional Government. The pro-treatyite T.D.s now felt that they had their democratic mandate to enforce this settlement. Even though it did not prevent a civil war it greatly aided the establishment of the Free State Government during and after the conflict. The British Government now believed that the time had come for the Provisional Government and National Army to fully implement the terms of the Treaty and take

⁵¹ Ibid. p. 111.

⁵² Deasy, *Brother against brother*, p. 43.

⁵³ Letter from Kevin O’Higgins to an unspecified person, 22 June 1922 (U.C.D. Archives, O’Higgins’ papers, P197/87).

⁵⁴ Ryan, *Liam Lynch*, p. 113.

action against all those in armed defiance of the aforementioned settlement. For the British, whatever excuse existed for a delay in the Provisional Government's assertion of its authority was now gone.

Following the publication of the Constitution and the election on 16 June the anti-treatyite military executive held another conference to discuss unity proposals. At this meeting, on 18 June, the tensions between Lynch and O'Connor came to a climax. The resulting split was to weaken the anti-treatyite cause further several days before the outbreak of hostilities. At the conference Barry, the O. C. Second Southern Division, proposed a resumption of hostilities with the British unless they withdrew from Ireland in seventy-two hours. This initiative was supported by O'Connor and Mellows. It was opposed, however, by Lynch, Deasy and Seán Moylan.⁵⁵ Barry's motion was ultimately defeated due to doubts over its practicality. O'Connor then threatened to leave the convention if Lynch was given the floor. According to Seán McBride, eventual I.R.A. Chief of Staff and leader of Clann na Phoblachta, the policies of O'Connor and Lynch were diametrically opposed to each other. For O'Connor and the I.R.A. executive a renewed conflict with Britain was the most plausible course of action while those affiliated with Lynch proposed further unity proposals.⁵⁶ Following a call by McBride, approximately half the delegates left this convention for the Four Courts. Joe McKelvey, the O. C. in Belfast, was elected Chief of Staff in Lynch's place.⁵⁷ The motivations behind the locking of the Four Court gates to Lynch were, according to Deasy, most difficult to understand.⁵⁸ Lynch's Adjutant, C. S. (Todd) Andrews, commented on this 'extraordinary situation' after he went to the Four Courts to

⁵⁵ Extracts from a Notebook, the property of Seán McBride, July 1923 (N.A.I., Department of an Taoiseach files, D/T S 1233).

⁵⁶ Ibid.

⁵⁷ Hopkinson, *Green against green*, p. 115.

⁵⁸ Deasy, *Brother against brother*, p. 45.

meet O'Malley. According to Andrews, this meant that 'the Four Courts garrison had amputated their most powerful limb, effectively isolating themselves in the last bastion of the Republic.'⁵⁹ Lynch continued to operate from his headquarters in Dublin and enjoyed the continued loyalty of the majority of anti-treatyite militants. Irrespective of this the combatants in the Four Courts remained defiant and refused to acknowledge that they had become considerably weaker due to their expulsion of Lynch and his forces. Like the 1916 Rising before, the men holed up in the aforementioned building were, according to O'Malley, not just men they now represented a symbol of the Republic.⁶⁰

Coincidentally, at this time another event occurred which would ultimately force Collins' hand. On 22 June 1922 two I.R.A. gunmen Reginald Dunne and Joseph O'Sullivan assassinated Sir Henry Wilson in London. According to Hopkinson, Wilson had been trailed on a journey to unveil a war memorial at Liverpool Street station, London. Following this unveiling Wilson returned home where O'Sullivan and Dunne shot him as he was walking between the taxi that he had just left and the door of his residence in Eaton Square. In addition to this, two policemen were shot whilst both men tried to escape; however, they were eventually arrested.⁶¹ The motive for Wilson's killing is not difficult to ascertain. Seán Moylan recalled that Collins had often stated that Wilson was a thorn in his side and had repeatedly made the procurement of arms in Britain much more difficult.⁶² It has become historically accepted (although it was not publically known at the time) that Collins had ordered this assassination some months previously. British suspicions regarding Collins' involvement were confirmed as documentation mentioning Collins had supposedly been found on the arrested men. Joe Sweeney, the pro-treatyite military leader in

⁵⁹ C. S. Andrews, *Dublin made me* (Dublin, 2001), p. 243.

⁶⁰ Ernie O'Malley, *The singing flame* (Dublin, 1978), p. 117.

⁶¹ Hopkinson, *Green against green*, p. 112.

⁶² *Ibid.* p. 113.

County Donegal, recalled that Collins had informed him of his decision to order the shooting of Wilson. In addition, Sweeney stated that upon hearing the news that the order had been carried out, Collins seemed very pleased.⁶³ However, Peter Hart claims that the opposite is true:

Collins did not have much control over the IRA any more and would have needed an awfully good reason to arrange such a provocative murder at such a critical time. No such reason has ever been presented. And, since he showed no other signs of madness or bloodlust to give us an irrational explanation, we can acquit him of the charge.⁶⁴

The British Government was eager for action to be taken against the Four Courts garrison and as a result they readily placed the blame for this event solely on the shoulders of the aforementioned anti-treatyite militants. Lloyd George wrote to Collins on 22 June and reiterated that unless the Provisional Government moved on O'Connor and his men in the Four Courts then they would be forced to do so. He stated that:

I am desired by his Majesty's Government to inform you that documents have been found upon the murderers of Field-Marshal Sir Henry Wilson which clearly connect the assassins with the Irish Republican Army [...] Other information has reached his Majesty's Government showing that active preparations are on foot among the Irregular elements of the I.R.A. to resume attacks upon the lives and property of British subjects both in England and in Ulster. The ambiguous position of the Irish Republican Army can no longer be ignored by the British Government. Still less can Mr. Rory O'Connor be permitted to remain with his followers and his arsenal in open rebellion in the heart of Dublin in possession of the courts of Justice [...] His Majesty's Government cannot consent to a continuance of this state of things, and they feel entitled to ask you formally to bring it to an end forthwith [...] I am to inform you that they regard the continued toleration of this rebellious defiance of the principles of the Treaty as incompatible with its execution. They feel that now you are supported by the declared will of the Irish People in favour of the Treaty, they have a right to

⁶³ Ibid, p. 112.

⁶⁴ Peter Hart, *Mick, the real Michael Collins* (London, 2005), p. 397.

expect that the necessary action will be taken by your Government without delay.⁶⁵

The British offered military aid to the Provisional Government to facilitate the expulsion of the anti-treatyite forces from the Four Courts building and in other places throughout Dublin. Lloyd George stated that ‘His Majesty’s Government are prepared to place at your disposal the necessary pieces of artillery which may be required, or otherwise to assist you as may be arranged.’⁶⁶ Ultimately, the British Army had supplied the National Army with over 27,400 rifles, 6,606 revolvers, and 246 Lewis guns by the end of September 1922.⁶⁷ As a result of the assassination of Wilson British impatience towards the Provisional Government’s procrastination dramatically increased. Lloyd George subsequently ordered General Macready, the G.O.C. of the British forces in Ireland, to attack the Four Courts on 24 June with troops that had not yet evacuated the country. Macready wisely chose to ignore this request as he knew that it would ultimately destroy the Treaty. Nonetheless, British pressure on Collins remained. These demands placed him in a serious predicament. He could not be seen to be acting under British orders or as a result of British intimidation. Regan argues that ‘the growing threat of British re-intervention and the cohesive effect this would have on the disparate elements of the IRA was of primary concern to the [pro]treatyite Government.’⁶⁸ In addition, a significant amount of Collins’ hesitation to take action against the anti-treatyites in the Four Courts was due to the secret policy which he and O’Connor were implementing in Northern Ireland.

⁶⁵ Letter from Lloyd George to Michael Collins, 22 June 1922 (T.N.A., Cabinet Office papers, CAB 21/255).

⁶⁶ Ibid.

⁶⁷ Hopkinson, *Green against green*, p. 125.

⁶⁸ Regan, *The Irish counter-revolution*, p. 73.

In the first six months of 1922 Collins had been actively engaged in providing northern Catholics with weapons in order to counter the loyalist threat in the six counties. Collins had made a secret deal with O'Connor in which some of the guns that the British gave to the National Army were swapped with similar weaponry in the possession of the anti-treatyites and transported north.⁶⁹ This was done because Collins had to ensure that the military hardware that the British provided the National Army was not discovered in the North as if it were to be found, it would not take the British Government long to discern his involvement. This policy ran contrary to the terms of the Treaty, hence the secrecy. In order for the plan to run efficiently Collins held off on taking action against the anti-treatyite inhabitants of the Four Courts for as long as possible. However, British pressure had increased considerably due to Wilson's assassination. Collins knew that if he did not act then the British would. Even though Collins wanted to avoid civil war his hand was finally forced. Leo Henderson was appointed Director of the Belfast Boycott, an operation which the anti-treatyite I.R.A. renewed on the North, and he proceeded to levy fines on Dublin traders that stocked goods from Belfast. According to Piaras Béaslaí, I.R.A. and subsequently the National Army's Director of Publicity, Henderson and a body of men raided Ferguson's motor garage in Lower Baggot Street in Dublin on 26 June and seized motor cars valued at £9,000. Following this National troops under the command of Frank Thornton were dispatched to apprehend these anti-treatyites. Henderson was subsequently arrested and sent to Mountjoy Jail.⁷⁰ In response to this the anti-treatyite militants housed in the Four Courts building kidnapped General J. J. 'Ginger' O'Connell, assistant Chief of Staff of the National Army, and led him to the aforementioned garrison to be incarcerated.⁷¹ Collins and the

⁶⁹ Letter from Rory O'Connor from Mountjoy Jail, 15 September 1922 (U.C.D. Archives, Aiken papers, P104/1253(1)).

⁷⁰ Piaras Béaslaí, *Michael Collins and the making of a new Ireland*, volume 2 (Dublin, 1930), p. 402.

⁷¹ Deasy, *Brother against brother*, p. 44.

Provisional Government now had to act. Collins issued an ultimatum in which he called for those inside the Four Courts to evacuate. Following silence from the inhabitants he ordered the bombardment of the Four Courts at 4.30 a.m. on the morning of 28 June 1922. The Irish Civil War which had stumbled into existence now roared into being.

The Four Courts garrison, under the command of Commandant Patrick O'Brien, devised defence plans in conjunction with O'Malley and Traynor. However, these plans which only included some automatic weapons, rifles and a Rolls Royce armoured car, the 'Mutineer', proved to be insufficient. The National Army's attacking force in the city consisted of roughly 4,000 soldiers. O'Daly's Dublin Guards and General Tom Ennis' Second Eastern Division formed the backbone of this force, however, a significant quantity of them were raw recruits.⁷² Under the guidance of then Brigadier Emmet Dalton, a close friend of Collins and an experienced veteran of both the First World War and War of Independence, the bombardment of the Four Courts began with shells fired from two eighteen pounder field guns provided by the British.⁷³ The inexperience of some of the officers and men attacking the garrison could be seen as, according to Costello, many of the shrapnel shells fired at the Four Courts missed the building and others barely scratched the surface of the stone structure.⁷⁴ This is also evidenced by the fact that Dalton himself had to take control and operate the field guns in order to ensure that the shells hit their intended targets. Those pro-treatyites, such as O'Higgins, believed that this Civil War was regretful but necessary to ensure that the democratic wishes of the Irish people, entrusted to the Provisional Government, be carried out. He stated:

⁷² Peter Cottrell, *Essential histories, the Irish Civil War 1922-23* (Oxford, 2008), p. 36.

⁷³ Conor Kostick, *Revolution in Ireland, popular militancy 1917-1923*, 2nd ed. (Cork, 2009), p. 194.

⁷⁴ Francis Costello, *The Irish revolution and its aftermath 1916-1923, years of revolt* (Dublin, 2003), p. 308.

Civil war is almost the greatest calamity that could befall a country. Only the vindication of a very precious right, the protection of a very vital principle, could justify it. The right of the majority of a country's citizens to decide its destiny, to dictate its policy, to regulate its development in accordance with hard military, political, and economic facts, will be generally to be worth even the bitter price of civil strife. Whether the Parliament of a nation shall be the sovereign voice within the nation, or whether that voice shall be drowned and silenced by the matter of arms in the hands of men who give no obedience to the people through their representatives that is an issue so grave that no government could evade it [.]⁷⁵

O'Higgins declared that civil war could only be vindicated by enforcing constitutional government and implementing majority rule. No man, according to O'Higgins, had the right to betray the people of Ireland.⁷⁶ As stated in official notes circulated by the Provisional Government, the conflict was one which was not of their making. They believed, because they had won the elections, that the Treaty was democratically accepted and that no one had the right to challenge the will of the Irish people, militarily or otherwise. The Government stated that on 'them lay the responsibility of restoring and maintaining order in the country. They did not and do not shirk this duty, and they are determined that before they step, the common Irish people shall be the masters in their own house'.⁷⁷

The lack of military foresight, displayed by the anti-treatyite militants holed up in the Four Courts building, was apparent at the start of the Civil War. The fact that twelve of the sixteen members of the new executive were in the building at the time it was shelled showed a significant lack of judgment. Furthermore, the Four Courts garrison cornered in a small area of Dublin could not coordinate with other operations elsewhere. Kissane argues that confining themselves into a few buildings, as was the case in 1916, was not the most opportune way to win

⁷⁵ A pamphlet by Kevin O'Higgins entitled *The Irish Civil War and the events which led to it*, 8 January 1923 (N.L.I. Archives, McKenna Napoli papers, Ms. 22, 812).

⁷⁶ Ibid.

⁷⁷ Official notes on Government policy on aspects of the Civil War, 1922 (U.C.D. Archives, FitzGerald papers, P80/717(2)).

a quick victory in a civil war.⁷⁸ Ronan Fanning also argues the anti-treatyites' military strategy in the Four Courts was fatally misconceived. He states that the Irregulars had the military advantage in the early months of 1922. However, he contends that to avoid firing the first shots of the Civil War in order to tar the Provisional Government and National Army with the brush of aggression and guilt may have been politically prudent but it made no military sense. Fanning believes that the obsession with the symbolism of the Rising, in occupying major buildings in the vain hope that Collins would not do what the British had done, was ludicrous. He states that 'the military successes of the revolutionary war had been achieved through the guerrilla strategy of 1919-21 and that the 1916 rising had been a military fiasco was forgotten.'⁷⁹ F. M. Blake argues that the Irregulars' executive preferred to make a symbolic gesture of resistance rather than take the offensive. She also maintains that due to their defeat and capture a significant portion of the anti-treatyite forces elite, such as O'Connor, Mellows and McKelvey, spent the rest of the Civil War in prison.⁸⁰ These men would ultimately be executed by the Army as a reprisal for the assassination of Seán Hales T.D. in December 1922. Unfortunately, for the anti-treatyite forces, the absence of a clear proactive strategy became a common trend throughout the Civil War. The militants lacked any clear plan and as a result they quickly adopted a defensive strategy during the conflict. According to Townshend, the outcome of the Civil War was a foregone conclusion, militarily speaking, because the anti-treatyites rapidly lapsed into a reactive policy.⁸¹ P. S. O'Hegarty also stated that:

The course of the war speedily demonstrated the falsity of the Irregulars' position and calculations. They were on the defensive from the outset in Dublin and

⁷⁸ Kissane, *The politics of the Irish Civil War*, p. 77.

⁷⁹ Ronan Fanning, *Independent Ireland* (Dublin, 1983), p. 16.

⁸⁰ F. M. Blake, *The Irish Civil War and what it still means for the Irish people* (Dublin, 1986), p. 33.

⁸¹ Charles Townshend, *Ireland the 20th century* (London, 1998), p.115.

throughout most of the country, and they were in a great minority generally so far as popular support was concerned.⁸²

O’Hegarty was secretary to both Dáil and Provisional Government Cabinets and ultimately became chairman of the Office of Public Works.⁸³ The Civil War which had now begun finally brought both previously united sides of the Treaty divide into armed confrontation.

The opening of hostilities against the Four Courts Garrison pushed some relatively neutral members of the I.R.A. towards the anti-treatyite cause. Aiken initially decided to remain neutral until the publication of the long awaited ‘republican’ constitution. However, as Collins failed to deliver such a document Aiken’s anti-treatyite sympathies increased. In a statement released following the attack on the Four Courts Aiken stated that:

Fellow Citizens of the Irish Republic [...] The fateful hour has come. At the dictation of our hereditary enemy [Britain] our rightful cause is being treacherously assailed by recreant Irishmen. The crash of arms and the boom of artillery reverberate in this supreme test of the Nation’s destiny [...] Gallant soldiers of the Irish Republic stand vigorously firm in its defence and worthily uphold their noblest [traditions]. We especially appeal to our former comrades of the Irish Republic to return to that allegiance and thus guard the Nation’s honour from the infamous stigma that her sons aided her foes in retaining a hateful domination over her.⁸⁴

The Four Courts garrison fell within two days of heavy shelling and a storming by National forces but not before a significant portion of the building was completely demolished. The shelling of the building was described effectively by Commandant Simon Donnelly:

⁸² P. S. O’Hegarty, *The victory of Sinn Féin, how it won it, and how it used it* (Dublin, 1924), p. 123.

⁸³ Martin Maguire, *The civil service and the revolution in Ireland, 1912-38 ‘Shaking the blood-stained hand of Mr Collins’* (Manchester, 2009), p. 140.

⁸⁴ Statement made by anti-treaty I.R.A. Executive, 28 June 1922 (U.C.D. Archives, Aiken papers, P104/1235).

A final retirement to the last inhabitable portion of the building was ordered, the basement under the library. In the meantime negotiations had been going on between our leaders and the enemy through the medium of the priests. A short time afterwards Liam Mellows Joe McKelvey Ernie O'Malley with tears in their eyes addressed the men stating that to save the lives of such men they had decided to surrender. They informed the men that surrender was no dishonour while they were compelled to surrender their guns they would never surrender their principles.⁸⁵

O'Connor provides another account of the attack on the Four Courts by the National Army. He argued that neither Collins nor the National Army asked him or his men to evacuate the Four Courts before 28 June. He also stated that both Collins and Mulcahy were content to leave the men inside the building as while they inhabited the Four Courts their joint Northern policy could run effectively. O'Connor resolutely stated, when writing from his prison cell in Mountjoy Jail prior to his execution, that:

The lies and hypocrisy of the Free State Leaders are astounding, especially to those of us who took part in the army negotiations for unity and know the whole inner history of these negotiations [...] We were never requested to evacuate the Four Courts, on the contrary, at one meeting of the Coalition Army Council, at which Mulcahy, O'Duffy, Mellows, Lynch and myself were present, we were only asked to evacuate the Belfast Office, Kildare Street Club, the Masonic Hall and Lever Bros. At that stage we actually discussed co-ordinated Military Action against N.E. Ulster, and had agreed to an officer who would command both Republican and Free State troops in that area. We were also to send from the South some hundreds of our Rifles to use in that area, the reason given was, that it would never do if rifles – which had been handed to the “Government” for use against the Republic and which of course could be identified – were found in use against Craig. An exchange of Rifles was [effected]. It should be remembered that at this time the “Government” was publicly declaring that it was the “Mutineer” section of the army which was fighting the Ulster people [...] At this meeting I have referred to, someone suggested the evacuation of the Four Courts, and Mulcahy laughingly said that as long as we held that place, the war in the N.E. Ulster would be attributed to us. We, of course, had no objection. From this you see the real reason why we were not asked to evacuate the Four Courts. (We

⁸⁵ A brief account of the attack on the Four Courts by Commandant Simon Donnelly, June 1923 (N.L.I. Archives, Ms. 33, 0633).

subsequently got 25 minutes to do so) [...] You see also the double-faced policy of these men towards the people of “Southern Ireland” and their allies, the British.⁸⁶

The surrender of anti-treatyite garrisons proved to be the rule rather than the exception in Dublin. In an attempt to create a diversion for the Four Courts militants, several units of the Dublin Brigade, organised by Traynor and the Brigade staff from Barry’s Hotel, occupied and held strategic points around the city centre. The most formidable of these attempts was the occupation of the Hamman Hotel and several other neighbouring buildings on O’Connell Street by a force under the command of Garry O’Houlihan of the Second Battalion. After several days of fighting in Parnell Square, Talbot Street and the western side of O’Connell Street had fallen. In addition to this, the east side of O’Connell Street, which included the Hamman Hotel, was ablaze.⁸⁷ On 5 July O’Houlihan ordered an evacuation from the entire block of buildings. This order was not adhered to by a small group of men which included Cathal Brugha, former Minister for Defence and ardent anti-treatyite. That evening Brugha ordered the remaining men out of the building and he remained inside with Dr. Brennan and nurse Kearns. Those who surrendered stayed in the laneway and witnessed Brugha dash from the doorway of the building with two revolvers blazing. He was seriously wounded and subsequently died from his injuries.⁸⁸ Brugha’s death on 5 July was symbolic of the anti-treatyites’ prosecution of the conflict in Dublin. As the Four Courts fell so too did the rest of the anti-treatyite strongholds and by 5 July the Capital was now in the hands of the National Army and the Provisional Government. The

⁸⁶ Letter from Rory O’Connor from Mountjoy Jail, 15 September 1922 (U.C.D. Archives, Aiken papers, P104/1253(1)).

⁸⁷ Duggan, *Irish Army*, p. 83.

⁸⁸ Deasy, *Brother against brother*, pp 61-62.

Civil War in Dublin resulted in an estimated sixty-five killed and over three hundred wounded while the property damage amounted to between three and four million pounds.⁸⁹

The anti-treatyite evacuation of Dublin was haphazard and unplanned. As mentioned previously, the surrender of the Four Courts Garrison ensured that a significant amount of the anti-treatyite leadership had been imprisoned. In addition, Barry was arrested as he entered the Four Courts, prior to its bombardment by the National Army, dressed as a woman.⁹⁰ However, he escaped in August. Also, as many anti-treatyites recognised the inevitability of defeat, several leaders including de Valera escaped across the River Liffey to Mount Street and O'Malley and Seán Lemass escaped from Jameson's Distillery due to the ineptitude of their guards. Finally and most importantly, O'Duffy, acting on Mulcahy's orders, allowed Lynch, Deasy and Seán Cullhane to leave Dublin, following their arrest, as he believed that they were travelling south to ensure that both they and their respective commands would not participate in the conflict.⁹¹ Both Deasy and Lynch later denied that they gave any indication of this. Either way Mulcahy must have regretted this decision. Lynch and Deasy, who became Chief of Staff and assistant Chief of Staff respectively, would form the backbone of anti-treatyite military resistance during the Civil War.

Following these events Aiken, who initially remained neutral, was arrested by the National Army in Dundalk on 16 July. However, after his escape from prison he threw in his lot with the anti-treatyite forces. Although this was beneficial to the anti-treatyites their aspirations received another blow, on 27 July, when Traynor was arrested. On the same day, Béaslaí, in an attempt to control republican propaganda, issued his general instructions for Press censorship:

⁸⁹ Fanning, *Independent Ireland*, p. 16, see also Hopkinson, *Green against green*, p. 124 see also Deasy, *Brother against brother*, p. 62.

⁹⁰ Hopkinson, *Green against green*, p. 125.

⁹¹ *Ibid.*

The Army must always be referred to as the “Irish Army”, “National Army”, “National Forces”, “National Troops”, or simply “The Troops” [...] The Irregulars must not be referred to as “Executive Forces” nor described as “Forces” or “Troops”. They are to be called “Bands” or “Bodies” or “Armed men” [...] The term “Provisional Government” should not be used. The correct term is “Irish Government” or simply “The Government”.⁹²

It was these instructions which ultimately led to the anti-treatyite I.R.A. being labelled as the ‘Irregulars’.

Following the defeat of the Irregulars in Dublin Lynch and Deasy claimed that they had set up a defensive line throughout the province of Munster which incorporated Limerick, Tipperary and Waterford. They referred to this area as the ‘Munster Republic’. Harry Boland, another prominent anti-treatyite figure in the revolutionary movement as a leading member of the I.R.B. and close friend to Collins, stated that this province was entirely against the Treaty:

Munster is solid for the Republic as is most of the west. I do not know what may happen in Munster if the Free State troops invade that area. Of one thing I am certain, we cannot be defeated, even if Collins and his British guns succeed in garrisoning every town in Ireland. The Government of the Free State shall not function, as they and their army and officials shall be treated exactly as the Black and Tans were treated by the I.R.A.⁹³

Boland was fatally wounded outside the Grand Hotel in Skerries on 30 July 1922 and died in St. Vincent’s hospital from his wounds. However, his assertions that the anti-treatyite forces in Munster could not be easily defeated proved inaccurate, in the short-term at least, as in reality this so-called republic existed only on paper. Before the conflict in Dublin had come to an end it became clear to the leaders of both the National and Irregular troops that Limerick would be vital in any future conflict. According to Hopkinson, if the Irregulars had gained full control of

⁹² General instructions for censorship by Piaras Béaslaí, 27 July 1922 (U.C.D. Archives, Mulcahy papers, P7/B/53(3)).

⁹³ Letter from Harry Boland to Joe McGarrity, 7 July 1922 (U.C.D. Archives, O’Malley papers, P17a/161).

Limerick then both Brennan's Command in Clare and Galway and MacEoin's in Athlone, two vital pro-treatyite command areas outside Dublin, would have been completely isolated. In addition, he argues that if the Irregulars controlled Limerick then it could be used as a springboard for a further move on Dublin.⁹⁴ Accordingly, the hierarchy of the National Army ordered a national offensive to breach this so-called defensive line and capture the Munster Republic. They believed that it was only a matter of time before the Irregulars' resistance would disintegrate in the face of their ever-improving National force. In their efforts to capture the Munster Republic they not only dispatched columns overland to take Limerick and Waterford, they also initiated seaborne landings at various locations throughout the coastline of the South-East and West. Firstly, Brennan reneged on a previous truce between both forces occupying Limerick city. He attacked the anti-treatyite militants garrisoned there on 11 July 1922. Additionally, O'Duffy reinforced Brennan with a force of 1,500 men, four armoured cars and a field gun.⁹⁵ By 19 July the National Army had driven the Irregulars from their positions in Limerick and it was now in Government hands.

Meanwhile, as the Civil War gathered pace, the Provisional Government announced the setting up of an Army Council on 13 July which consisted of Collins as Commander-in-Chief, Mulcahy as Chief of Staff and O'Duffy as Assistant Chief of Staff.⁹⁶ Mulcahy also remained as Minister for Defence but as Collins was now in military uniform Cosgrave became acting chairman of the Provisional Government. This move was intended to inspire confidence in the National Army. Nonetheless Waterford City, despite some obstacles, was taken relatively easily by National troops via a small scale amphibious landing on 23 July 1922. In addition to this,

⁹⁴ Hopkinson, *Green against green*, p. 146.

⁹⁵ Cottrell, *Essential histories*, p. 49.

⁹⁶ Calton Younger, *Ireland's Civil War* (London, 1968), p. 376.

National troops disembarked from the *SS Lady Wicklow* and landed at Fenit pier, County Kerry, on 2 August under the command of O'Daly and members of the Dublin Guard. With the use of a large quantity of military hardware the National Army quickly occupied Tralee, Castleisland and Killarney without opposition. According to Niall C. Harrington, a junior officer in the Army at the time of the Civil War and future Deputy Director of Irish Intelligence, the 'armament we carried was formidable for that period of our military beginning.'⁹⁷ During this operation he claimed that the National troops had at their disposal:

one 18-pounder field piece, an armoured car named 'Ex-Mutineer' which had been captured at the Four Courts (where it had been 'Mutineer'); Lewis guns, rifles, ammunition in great quantities, grenades and grenade caps; tools of the trade for the task ahead.⁹⁸

The Army now switched its focus to Cork. With the aid of diversionary landings at Union Hall the *Avornia*, under Dalton's command, put ashore several hundred men and a large quantity of military equipment at Passage West, County Cork on 8 August. This seaborne operation, according to Deasy, seriously affected the Irregulars' prosecution of the conventional phase of the conflict.⁹⁹ Finally, the National Army also took control of Mayo and its surrounding areas due to an amphibious operation there. With Limerick and Waterford now occupied, by National troops, the Irregulars' aspirations at defending their so-called 'Munster Republic' through conventional warfare, like Dublin before it, were no more.

Although the level of Irregular resistance varied from area to area, nowhere were they able to defeat comprehensively the National troops. Collins confidently wrote to Cosgrave on 5

⁹⁷ Niall C. Harrington, *Kerry landing, August 1922, an episode of the Civil War* (Dublin, 1992), p. 69.

⁹⁸ *Ibid.*

⁹⁹ Deasy, *Brother against brother*, p. 72.

August and stated that despite the activity of localised columns in the West no ‘definite military problem’ faced them outside the First Southern Division area.¹⁰⁰ With the fall of the ‘Munster Republic’, in addition to the collapse of Irregular opposition in Dublin, it became increasingly apparent to the Irregulars’ hierarchy that they could not sustain a conventional war given the growing inequities between both forces. Deasy realised that the Irregulars’ confidence and optimism was crushed following the coastal landings in late July and early August 1922. He stated that:

Any possibility of our forces mounting a full scale defence of Munster was by now discounted. The Free State forces were well organized and fully equipped with arms, artillery, armoured cars and transport. They had taken us by surprise when they began landing troops at strategic points on the coast [...] This was really, for all of us, the bitter end of the first phase of the Civil War. The solid south, in which we had so much confidence, was completely broken.¹⁰¹

More importantly, even before the fall of the ‘Munster Republic’, Lynch recognised the Irregulars’ inability to conduct an effective conventional war against the National Army. Consequently, he issued an order on 25 July in which he stated that ‘Our Military policy must be Guerrilla tactics as in late war with common enemy, but owing to increased arms and efficiency of officers and men, it can be waged more intensely.’¹⁰² As the Irish Civil War progressed from July to August a general trend emerged whereby the Irregulars, following a confrontation with National forces, fled rapidly and burned the barracks which they had held as they retreated. They also began to focus on the country’s railway network in an attempt to devastate the Provisional Government financially.¹⁰³

¹⁰⁰ Hopkinson, *Green against green*, p. 172.

¹⁰¹ Deasy, *Brother against brother*, p. 72.

¹⁰² Letter from Liam Lynch to his general staff, 25 July 1922 (U.C.D. Archives, FitzGerald papers, P80/763(5)).

¹⁰³ Curran, *The birth of the Irish Free State*, p. 267.

The emergence of guerrilla warfare became an ever-increasing concern for the Government and National forces. Cosgrave, determined to portray the Civil War as an Irregular war against the Irish people, claimed that the tactics adopted by the Irregulars would result in significant hardships for the civilian population. He stated that:

As it becomes increasingly clear that the Irregulars cannot hope to offer successful military resistance to the National Army, their operations are assuming more distinctly the character of a war upon the economic life of the Irish people. Bridges are being broken and roads obstructed all over the country. In many places the railways have been cut and traffic interrupted. Within the last few days sections of the canals have been drained off. These acts do not prevent the progress of the National Troops; they do not even seriously impede the transport of military supplies. They are effective only against the civilian population. They prevent the proper distribution of flour and other imported foodstuffs, causing generally great hardships and in some cases actual starvation.¹⁰⁴

As the Civil War entered the month of August, the optimism that Collins demonstrated diminished as it soon became apparent that the National Army only had superficial control over large areas of Munster. The Irregulars, beaten conventionally, retreated into the mountains and adopted guerrilla warfare as their *modus operandi* for the remainder of the War. This meant that Boland's declarations that Munster would not be effortlessly defeated ultimately proved correct. In the short term, the Irregulars proved to be no match for the National Army. However, as the Civil War progressed and degenerated into a guerrilla conflict Munster, particularly Kerry, became a thorn in the side of the Provisional Government and National Army, one which ensured that the conflict would last for a further nine months.

The character of the Irish Civil War had shifted once again and now became a war based on ambushing, sniping and raids. Because the Irregulars were defeated conventionally they

¹⁰⁴ Letter from Cosgrave to the People of Ireland, July 1922 (U.C.D. Archives, Kennedy papers, P4/254).

adopted guerrilla tactics as they attempted to hinder the establishment of the Irish Free State. This internal conflict began with the National Army's bombardment of the Four Courts building in Dublin. However, due to the ineptitude and lack of forward military planning the Irregulars' prosecution of the conflict was severely hampered from the outset. Owing to the radical element of the anti-treatyite militants they had jettisoned one of their most able commanders and his substantial division of troops. Furthermore, because of their lack of a clear proactive strategy the Irregulars haphazardly prosecuted the conventional phase of the Civil War until they were driven from the majority of places which they claimed to occupy. Determined not to be defeated, Lynch and his remaining militants evaporated from the towns and cities and attacked army communication and supply routes, attacking the country's infrastructure and constantly ambushing Government forces. Yet for other prominent Irregulars, such as Aiken, the adoption of guerrilla warfare against former comrades was an unfortunate way to achieve the Republic. He stated:

In July 1922 we find ourselves through the trickery of our common enemy in two camps using all our talents and energy in fighting, abusing, and even maligning each other. We are the same men, the difference is, as an old priest said, that war with the foreigner brings to the fore all that is best and noblest in a nation, civil war all that is mean and base.¹⁰⁵

It was now early August 1922 and the conventional phase of the Irish Civil War was over. It has been established in the foregoing chapter that divisions within the anti-treatyite I.R.A.'s leadership, coupled with their defensive strategy, ensured that the Irregulars' prosecution of the Civil War was hampered from the beginning. The fall of both Dublin and the 'Munster Republic' further guaranteed that a conventional conflict was no longer an option for

¹⁰⁵ Letter from Aiken to all I.R.A. serving the Provisional Government, 3 August 1922 (U.C.D. Archives, Aiken papers, P104/1249(1)).

the Irregulars. Thus guerrilla warfare, by way of ambushes, sniping and raids became a reality. The decision by Lynch to adopt tactics such as these would irrevocably alter the dynamic of the conflict leaving it more callous and bitter affair. The Provisional Government and National Army, initially buoyant with their succession of victories, became increasingly concerned at the rising level of violence in the country. Moreover, they became progressively frustrated at their inability to defeat the Irregulars' guerrilla campaign. Consequently, further divisions emerged in the Dáil. Disharmony centred on the issue of adopting stern emergency measures which were necessary, it was argued, to hasten the end of the Civil War. Ultimately, the adoption of guerrilla tactics by the Irregulars meant that the likelihood of future retaliatory measures by the Government and Army increased significantly. For now, however, the general unity enjoyed by the nationalist independence movement prior to the Anglo-Irish Treaty was shattered. What remained was a country split by a civil war that had deteriorated into a malevolent guerrilla conflict.

CHAPTER 2

Emergency Powers: The 1922 Public Safety Resolution

Following the conventional defeat of the anti-treatyite militants by August 1922 and the adoption of guerrilla warfare by the Irregulars the Irish Civil War entered a new chapter. Due to the Irregulars' abandonment of large-scale engagements and the restructuring of their fighting formations into A.S.U.s the Government and its embryonic armed forces were plagued with a continual threat of ambush, sniping, and raids. Moreover, the constant sabotaging of the country's railway network threatened to leave the newly established state in economic ruin. As W. A. Phillips stated in 1923 'Towns might be taken [...] but the victors found themselves masters only of the ground on which they stood, while the vanquished melted away into the bogs and mountains, to harass the flanks and rear of their conquerors.'¹ Yet it was not until Michael Collins was killed in an Irregular ambush, on 22 August, that an official executions policy became a distinct possibility. This chapter focuses on the supposition that this incident acted as a catalyst for the Government, a government shocked to its core by the death of its leader. Collins and Mulcahy had opposed the adoption of stern emergency measures to tackle the Irregulars. However, Collins' death unified support for the adoption of increasingly resolute policies. Bearing this in mind the Public Safety Resolution, passed on 28 September 1922, will be examined. Adopted in response to Collins' death this decree facilitated the Government's executions policy during the Civil War. In order to evaluate a resolution of this nature the circumstances surrounding its introduction need to be assessed. The ratification of the emergency resolution irrevocably altered the landscape of the conflict. Ultimately, this period of the War

¹ W. Alison Phillips, *The revolution in Ireland 1906-1923* (London, 1923), p. 287.

was characterised by an increased severity, resolve and determination on the part of the Government and the developing National Army to tackle the Irregulars' guerrilla campaign and conclude the conflict.

Since the beginning of the Civil War numerous cabinet ministers, such as W. T. Cosgrave, Kevin O'Higgins and Patrick J. Hogan, believed that insufficient measures had been employed against the Irregulars. Hence, an atmosphere of growing impatience emerged within the Provisional Government. The opening sessions of the Third Dáil, which began on 5 September, coincided with increasing evidence of rising casualties, such as the death of the Commander-in-Chief General Michael Collins, and the spiralling economic cost of the conflict. The Irish Civil War would eventually result in an estimated four thousand military dead and wounded. The economic cost, which would nearly bankrupt this fledgling state, eventually reached an estimated £30 million in material damage with a further £17 million required to finance the War.² The hardening of resolve on the part of certain elements of the Provisional Government culminated in the formation of the controversial Public Safety Resolution. Introduced to the Dáil, on 27 September 1922, by the Minister for Defence and new Commander-in-Chief General Richard Mulcahy, this proposition would permanently change the face of this increasingly bitter conflict.

Debates both for and against the implementation of more comprehensive measures to tackle the rising level of lawlessness in Ireland were ever-present. The onset of the guerrilla campaign exacerbated the situation. Like the War of Independence before, ambushes on Government troops became commonplace. Moreover, the Irregular forces sought to create the

² For a breakdown of casualties and economic cost of the Irish Civil War see: Michael Hopkinson, *Green against green, the Irish Civil War* (Dublin, 2004), pp 272-273, see also, Niall C. Harrington, *Kerry landing, August 1922, an episode of the Civil War* (Dublin, 1992), p.152.

conditions whereby the establishment of order and the Provisional Government's authority throughout Ireland would become unfeasible. This intent was acknowledged by Liam Lynch, in a memorandum which he issued on 4 December 1922:

Activities on our side have been hitherto restricted to larger operations of guerrilla [...] Harassing tactics must be continually adopted to weaken enemy morale. Sniping and ambushing enemy parties, attacking posts, destroying enemy communications and supplies – these must be pushed and destroyed.³

For Lynch the most opportune way to defeat the pro-treatyite forces was to attack the infrastructure of the country upon which the Army and Government relied. This opinion was outlined in a letter to de Valera on 11 January 1923:

The following are our reasons for obstructing train communications:-

- 1 to delay enemy reinforcements and supplies.
- 2 by forcing enemy to use roads for transport, and so create more opportunities for attack on his forces by our A.S.U.s.
- 3 to force enemy to employ large numbers of his forces guarding railways and road convoys.
- 4 to prevent the travelling of his I/C's and spies.
- 5 to considerably delay his dispatches.
- 6 to hold up general administration of the enemy.⁴

Therefore, the Irregulars focused on the country's railway network with an orgy of destruction which was designed to bring the Provisional Government to its knees.⁵ Concern over attacks on the railway network and army supplies to the troops was emphasised in a letter from Collins on 31 July 1922 to his then Chief of Staff, Mulcahy. In an attempt to alleviate the problem Mulcahy suggested that military stores be placed on civilian trains, which would be guarded in order to

³ Memo number 7 from Liam Lynch, 4 December 1922 (U.C.D. Archives, Mulcahy papers, P7a/85).

⁴ Lynch's letter to de Valera regarding Irregular attacks on trains, 11 January 1923 (U.C.D. Archives, de Valera papers, P150/1749).

⁵ Joseph M. Curran, *The birth of the Irish Free State 1921-1923* (Alabama, 1980), p. 267.

provide a suitable deterrent against attack.⁶ Advocates of the adoption of increasingly stern measures were primarily civilian members of the Government. Conversely, those conciliatory elements within the Government which were opposed to the adoption of increasingly rigid measures were represented by Collins and Mulcahy. Collins, even though accustomed to conflict, had hoped for reconciliation. This was denoted by his reluctance to take firm action against the Irregulars that occupied the Four Courts.⁷ Furthermore, he had on numerous occasions encouraged peace initiatives in an attempt to restore military and political unity, as evidenced by the attempted Collins-de Valera electoral 'Pact' in May 1922.

Collins, as Minister for Finance and Chairman of the Provisional Government, was an excellent administrator and organiser. However, he also had an in-depth knowledge of the military side of the independence struggle due to his prominent roles in the I.R.A., I.R.B. and National Army. Both he and Mulcahy were previously comrades and close friends with many of those who had taken up arms against the Provisional Government and the National Army. Consequently, the loyalty and camaraderie felt by both men to their previous comrades may have influenced their attitudes towards the adoption of emergency measures.⁸ Even though both men held political portfolios they were perhaps more acutely aware of the ramifications of implementing increasingly stern policies against the Irregulars. Whereas certain civilian members of the Government, void of a certain amount of sentimental attachment to the pre-truce I.R.A., were primarily political beings and were more adamant to implement resolute policies. Even though O'Higgins did have a brief military career, it was by his own admission 'very short

⁶ General Order no. 12, 2 August 1922 (U.C.D. Archives, Mulcahy papers, P7/B/24).

⁷ James Mackay, *Michael Collins, a life* (London, 1996), p. 255.

⁸ *Ibid*, p. 245.

though very brilliant'.⁹ O'Higgins had been a member of the Volunteers, the predecessor of the I.R.A., and attempted to participate in the 1916 Rising. However, roadblocks prevented his admittance to Dublin on the day of the rebellion.¹⁰ Following the Rising he became the Captain of the Stradbally Company in the Carlow Brigade in 1917 but the title did not denote any active service.¹¹ When Collins temporarily left the running of the Provisional Government to Cosgrave in July to head the Army Council, O'Higgins was dispatched to the Adjutant-General's office to assist Gearóid O'Sullivan. O'Higgins, with little military experience, made an unlikely Commandant-General. Following Collins' death he was released from his military duties to pursue a much-preferred political career. He was appointed as Minister of Home Affairs on 26 August and Vice-President of the Executive Council on 30 August 1922 as part of the cabinet reshuffle following the death of both Griffith and Collins.¹² Collins was of the opinion that every effort should be made to avoid the implementation of drastic measures until it was an absolute necessity. Publicly he was determined to defend and consolidate the country's freedom as ratified by the people following the vote on the Treaty. He stated we 'have now a native government, constitutionally elected, and it is the duty of every Irish man and woman to obey it. Anyone who fails to obey it is an enemy of the people and must expect to be treated as such.'¹³ Privately, however, he believed that the Irregulars should be given an opportunity to capitulate, keep their dignity and beliefs intact, while adhering to the democratic principles as represented in the people's acceptance of the Treaty. He wanted to avoid any unnecessary destruction and loss

⁹ Terence de Vere White, *Kevin O'Higgins* (London, 1948), p. 119.

¹⁰ *Ibid*, p. 18.

¹¹ *Ibid*, p. 21.

¹² John P. McCarthy *Kevin O'Higgins, builder of the Irish State* (Dublin, 2006), p. 72; see also Regan, *The Irish counter-revolution*, p. 85.

¹³ Michael Collins, *The path to freedom* (Cork, 1996), p. 17.

of life. Moreover, he did not want to mitigate the Irregulars weaknesses by resolute action beyond what was required.¹⁴

Nonetheless, Cabinet divisions grew. Numerous examples of correspondence between Collins, Mulcahy and Cosgrave are indicative of the developing situation. When writing to Mulcahy, on 26 July, Collins acknowledged that the Government were contemplating the employment of increasingly stern methods to restore order in areas where violence still continued. Collins stipulated that the Government would support ‘the Military Authorities in whatever steps they may consider necessary to restore order in districts where military operations have ceased, but in which outbreaks of violence still continue.’¹⁵ In response to this early enthusiasm, indicated by the Government, Collins recommended that the Army should simply undertake general searches for arms and carefully look for local co-operation. According to Collins, if anything should be found the appropriate action to take would be to simply disarm in most cases, in other cases internment and in exceptional situations, trial. These proposals did not equate to unwavering support for the adoption of emergency measures. Mulcahy, in his response to the aforementioned letter, concurred with Collins. He stressed that all persons found in possession of un-reported arms after a given date would be ‘(a) Guilty of an offence and liable to a small penalty, and (b) That in districts where there is armed disturbance they shall be further liable to be charged with complicity in that disturbance.’¹⁶ This correspondence indicates that Mulcahy did not advocate the adoption of stern measures. Mulcahy, as Regan argues, ‘was more temperate than that of some of his civilian colleagues in the Government.’¹⁷

¹⁴ Hopkinson, *Green against green*, pp 176-177.

¹⁵ Letter from Collins to Mulcahy, 26 July 1922 (U.C.D. Archives, Mulcahy papers, P7a/57).

¹⁶ Response letter from Mulcahy to Collins, 28 July 1922 (U.C.D. Archives, Mulcahy papers, P7a/57).

¹⁷ John M. Regan, *The Irish counter-revolution 1921-1936, treatyite politics and settlement in independent Ireland* (Dublin, 2001), p. 105.

Cosgrave, as acting Chairman of the Provisional Government, voiced his support for the potential adoption of emergency measures in a letter to Collins on 27 July 1922. He stated that a proclamation should be issued warning all those Irregulars ‘that the troops have orders to shoot persons found sniping, ambushing or in possession of bombs, or interfering with Railway communications in areas which military operations have ceased.’¹⁸ Again, in response to the above letter and while in support of certain strategies, Collins documented his overall disapproval of the adoption of an unyielding approach towards the Irregulars. He stated that ‘I may say that I am in favour of drastic action being taken, but I am against the shooting of unarmed men in any circumstances when it is known to the Troops that the men are unarmed.’¹⁹ Mulcahy’s opposition to the adoption of stern action disappeared after the death of Collins on 22 August 1922 in an Irregular ambush at Béal na mBláth, County Cork.²⁰ This event was to shock both Government and Army. It crudely reminded both institutions of the grave threat that the Irregulars’ guerrilla campaign posed to the country. It was reported in the London newspaper, the *Daily Sketch*, that as Collins lay fatally wounded, following the ambush, he re-emphasised his distaste for the implementation of unyielding methods against the Irregulars. He told his close friend Emmet Dalton, who had accompanied him on the tour of the West, ‘Forgive them. No reprisals. Bury me in Glasnevin with the boys.’²¹

As Collins and Mulcahy represented the main force opposing the implementation of stern measures his demise left an enormous void which would prove difficult, if not impossible, to fill. This in itself presented many obstacles which would have enormous repercussions not only for the Government and the Army but for the entire landscape of the Irish Civil War. Collins’ death

¹⁸ Letter from Cosgrave to Collins, 27 July 1922 (U.C.D. Archives, Mulcahy papers, P7/B/29(158)).

¹⁹ Response letter from Collins to Cosgrave, 29 July 1922 (U.C.D. Archives, Mulcahy papers, P7/B/29(156)).

²⁰ Hopkinson, *Green against green*, p. 181.

²¹ Collins’ final words, 24 August 1922 (U.C.D. Archives, Mulcahy papers, P7a/63).

left important positions vacant and in urgent need of occupation to maintain stability. Collins was an able Government administrator and successful military commander. Mulcahy quickly adopted the role of Commander-in-Chief, while retaining his ministerial status as Minister for Defence, a move that caused some contention in the Dáil. Coupled with this, Cosgrave became Chairman of the Provisional Government, having already been elected President of the Dáil following the death, by brain haemorrhage, of Arthur Griffith, on 10 August 1922. His appointment was welcomed by the vast majority of the assembly as he was regarded as the best candidate for the post. As Curran states, Cosgrave had a wealth of administrative experience, which none of his colleagues could match and his participation in the Easter Rising in 1916 left him with unimpeachable nationalist credentials.²² Consequently, numerous ministers now occupied the military and political positions that one man, Collins, had previously held.

The death of Collins and Griffith, combined with the current military situation of ambushes and attacks on railways, had a resounding effect on the reformed leadership of the Provisional Government and Army. According to a British intelligence report on 26 August:

The tragic death of MICHAEL COLLINS, following so closely on that of ARTHUR GRIFFITH, will probably have one of two effects; it will either cause the Army and the Nation to lose its temper and take really drastic action against the rebels or it will dishearten them to a dangerous degree. For the moment the indications are that the second alternative is supervening.²³

The Government was indeed despondent after Collins' death. However, this quickly turned to renewed determination. Those who inherited Collins' legacy also inherited his policies. The Government issued a national message of condolence to the Irish people following his death. They stated that the Government were going to interpret his wishes and continue along the path

²² Curran, *The birth of the Irish Free State*, p. 251.

²³ British intelligence reports, 26 August 1922 (U.C.D. Archives, de Valera papers, P150/1646).

that Collins had set out for them. According to this message, he ‘has been slain to our unutterable grief and loss, but he cannot die. He will live in the rule of the people which he gave his great best to assert and confirm, and which his colleagues undertake a solemn charge to maintain.’²⁴ However, his colleagues’ interpretation of his policies proved to be somewhat different than that of the late Commander-in-Chief. Neeson argues that Collins’ policies were ‘followed [...] more rigidly and ruthlessly than he might have done.’²⁵ Hopkinson argues that Collins’ untimely departure, particularly the way in which he died, led to a greater degree of commitment and ruthlessness on the Provisional Government side, which culminated in the adoption of increasingly resolute measures.²⁶

Before emergency measures could be pursued the legislative abilities of the Provisional Government needed to be assessed. They were, despite claims by the anti-treatyites, the *de facto* government of the country. The Treaty, under which this Government had been established, was ratified by the Dáil and the country in January and June 1922, respectively. Furthermore, as the Third Dáil had begun on 9 September 1922, following the June election, the complicated nature of dual governance became less complex. The original dual system terminated on this date and saw the union of the Second Dáil and the initial Provisional Government under the Third Dáil. Following this a new Provisional Government was appointed responsible, technically speaking, to the Dáil and continued as the sole Government of the country until it was superseded by the establishment of the Irish Free State Government on 6 December 1922.²⁷ O’Higgins alluded to this on 28 September 1922. According to O’Higgins, we ‘are at the moment a Provisional

²⁴ Government’s message to the Irish people regarding Collins’ death, August 1922 (U.C.D. Archives, FitzGerald papers, P80/299).

²⁵ Eoin Neeson, *The Civil War in Ireland* (Cork, 1966), p. 170.

²⁶ Hopkinson, *Green against green*, p. 179.

²⁷ Department of the Taoiseach, ‘Second Dáil’ (http://www.taoiseach.gov.ie/eng/Taoiseach_and_Government/History_of_Government/Second_D%C3%A1il.html) (1 July 2010).

Government, and this Parliament is at the moment a Parliament to which the Provisional Government is responsible. It is not proposed by any act of ours to acquiesce in any departure from that position.²⁸ Hugh Kennedy, the law officer of the Provisional Government, was consulted to clarify the Government's legislative status. He subsequently became the Attorney General and first Chief Justice of the Irish Free State from 1922-1924 and 1924-1936, respectively.²⁹ Kennedy stated that, under the terms of the Treaty, the Provisional Government faced certain restrictions when passing laws.³⁰ These laws could only be concerned with functions actually transferred to the Provisional Government. Furthermore, they could only legislate for the twenty-six counties and pass laws relating to matters of administration during the period 6 December 1921 and would end upon the ratification of the new Irish Constitution or 6 December 1922, whichever was sooner.³¹ The Government was also restricted in making laws concerning the imposition of taxation.³² The most important issue related to royal assent. Under the terms of the Treaty royal assent was a pre-requisite before any law could be ratified in southern Ireland. Following the signing of the aforementioned settlement between Ireland and Britain a Governor-General would be the King's representative in Ireland and would fulfil this role. However, Kennedy argued that:

I am of the opinion that the office and functions of the Lord Lieutenant as such have ceased in the 26 counties since the passing of the Irish Free State Agreement Act. The appointment of a Governor General has not yet arrived [...] the Provisional Government is in my opinion in the position of both [of] these functions [...] It may well be argued by the British that the King's personal assent is requisite [...] This question may give rise to much difficulty which may be

²⁸ Dáil Debates, *The President's Motion, - The Dáil in Committee*, volume 1, col. 890 (28 September 1922).

²⁹ McCarthy, *Kevin O'Higgins*, p. 83.

³⁰ Hugh Kennedy, 13 September 1922 (N.A.I., Department of an Taoiseach files, D/T S 1735).

³¹ *Ibid.*

³² Seosamh Ó Longaigh, *Emergency law in independent Ireland, 1922-1948* (Dublin, 2006), p. 19.

avoided by confining the legislative work of the Parliament to resolutions on the subjects within the powers of the Parliament.³³

As a result, Kennedy advocated the adoption of resolutions instead of fully-fledged Acts of Parliament. Whether or not the Provisional Government possessed the absolute authority to introduce emergency measures, whilst noteworthy, is ultimately overshadowed by the fact that it ratified and implemented an emergency resolution regardless of issues concerning its legality. The Government introduced a retrospective Act of Indemnity in August 1923 designed to rectify any legal irregularities during the conflict which will be discussed in greater detail in chapter seven.

With this information in his possession Mulcahy made a final attempt to find a *rapprochement* with de Valera.³⁴ This meeting was ultimately unproductive. Mulcahy was criticised by his colleagues when they discovered that he had secretly met with de Valera. Following a statement, on 15 September, by Mulcahy detailing the powers required by the Army to restore order to the country, the Law Officer was instructed to draft the necessary bill.³⁵ On 27 September Mulcahy, under the auspices of the Provisional Government, introduced the Public Safety Resolution which ignited the Dáil into a heated debate. On the one hand, there were numerous members of the Government that advocated the adoption of more austere measures to tackle the Irregulars. These included, amongst others, Cosgrave, O'Higgins, and Hogan. Additionally, Mulcahy altered his outlook following Collins' death. This was counter-balanced by the Labour party and a small quantity of independent T.D.s. Opponents of the resolution did

³³ Kennedy's opinions regarding royal assent, 13 September 1922 (U.C.D. Archives, Kennedy papers, P4/946).

³⁴ Michael Hopkinson, 'Civil war and aftermath, 1922-4', in F. J. Byrne, W. E. Vaughan, A. Cosgrave, J. R. Hill and D. Ó Cróinín (eds), *A new history of Ireland*, vii: *Ireland, 1921-84* (Oxford, 2003), p. 44.

³⁵ G1/3, Provisional Government Minutes, 15 September 1922 (N.A.I., Provisional Government Cabinet Minutes, P.G. 6(a)).

not believe that implementing the decree would result in the restoration of order throughout Ireland or a quick end to the Civil War. Following the passing of the Treaty and the departure of the anti-treatyite political faction, led by the ex-President Eamon de Valera, the Labour party became the primary opposition in the Dáil. Yet, as the Provisional Government maintained a numerical majority of one hundred and twenty-eight seats to seventeen the opposition of the Labour party had little real effect or influence. Therefore, a sizeable section of the Provisional Government, now filled with a new resolve, pushed for the implementation of the controversial resolution.

The emergency powers, it was hoped, would effectively tackle the continuing situation of disorder and armed resistance that existed in numerous parts of the country and hasten the end of the Civil War. Resembling martial law, it endowed upon the National Army the responsibility of setting up military courts and/or military committees. These courts/committees had authority over both civilians and militants, and were charged with the task of restoring order and enforcing the Provisional Government's authority throughout the country. The resolution stated that the Government had:

entrusted to the Army the duty of securing the public safety and restoring order throughout the country and has placed on the Army the responsibility for the establishment of the authority of the Government in all parts of the country in which that authority is challenged by force.³⁶

Incorporated within the decree was the power to inflict a sizeable range of punishments which included execution, imprisonment, internment, deportation and fine for sundry offences that interfered with or delayed the effective establishment of order and Governmental authority

³⁶ Dáil Debates, *Precedence for Ministerial Business*, volume 1, col. 802 (27 September 1922).

throughout the country. The offences that could be investigated by the courts/committees included:

The enquiry by such Military Courts or Committees into the cases of persons charged with any of the offences following, that is to say:— Taking part in or aiding or abetting any attack upon or using force against the National Forces. Looting arson destruction seizure unlawful possession or removal of or damage to any public or private property. Having possession without proper authority of any bomb or article in the nature of a bomb or any dynamite gelignite or other explosive substance or any revolver rifle gun or other firearm or lethal weapon or any ammunition for such firearm.³⁷

Following the introduction of these proposed measures, the Dáil erupted into an intense and animated debate in which both advocates and opponents of an executions policy disputed the potential merits and drawbacks of the proposition.

Cosgrave, as President of the assembly, opened the discussion with a speech which characterised and represented the resolute attitude of the Government. He believed that the Government's primary responsibility was to the developing Irish democracy over the personal loyalties to former friends and colleagues. He argued that there was a necessity to extinguish, as quickly as possible, the current armed guerrilla resistance in the country, in order to save the social and economic livelihood of the country and to halt the increasing amount of military and civilian casualties:

In this resolution the Government asks for certain powers for the army, which the responsible Army authorities consider are necessary for the protection of their soldiers. If murderous attacks take place, those who persist in those murderous attacks must learn that they have got to pay the penalty for them [...] They must be taught that this Government is not going to suffer their soldiers to be maimed and ruined, crippled and killed.³⁸

³⁷ Ibid, col. 804.

³⁸ Ibid, cols 807-808.

Cosgrave acknowledged that it was hoped the resistance could be crushed by other means, a view once held by Collins and Mulcahy, but given the current military situation the adoption of such a hard-line course of action was, in his view, an absolute necessity. This is interesting considering that Cosgrave once decried the British for adopting an executions policy after the Rising in 1916 and during the War of Independence. Nonetheless, he accepted the severity of the proposal but could see no other way to defeat the Irregulars. He argued that:

although I have always objected to a death penalty, there is no other way I know of in which ordered conditions can be restored in this country, or any security obtained for our troops, or to give our troops any confidence in us as a Government. We must accept the responsibility.³⁹

Desmond FitzGerald, the Minister for Foreign Affairs, seconded the resolution and stated that the adoption of an official executions policy was completely unavoidable. He believed that it was crucial to facilitate the troops in carrying out their duties as expeditiously as possible. FitzGerald reminded the Dáil that a disastrous situation existed throughout the country where ruin was being spread and that ‘on an occasion like the present there is no opportunity, and there is no justification, for any quibbling about legality or [...] humanitarian catch-cries.’⁴⁰ FitzGerald’s comments are important. They are indicative of the sense of urgency and necessity that had infused the Government. He believed that every means necessary, irrespective of legality, should be employed to defeat the Irregulars and restore settled conditions. Coupled with this FitzGerald, like others such as Seán Milroy, argued that this policy was absolutely necessary to combat the economic impact that the Irregulars’ guerrilla campaign was having on the country through their destruction of the country’s infrastructure. He believed that the time had come for comprehensive action as the Irregulars had been given ‘every possible encouragement by the fact

³⁹ Ibid, col. 877.

⁴⁰ Ibid, col. 809.

that we have allowed them to inflict as much damage as they can.’⁴¹ Milroy agreed with FitzGerald and argued that the Irregulars’ continuous assaults on the economic livelihood of the country were completely unacceptable. He stated that Ireland was confronted by people who were defying the constituted authority of the Nation and were endeavouring to overthrow that authority by engaging ‘in an attempt to pass sentence of capital punishment on the economic life of the nation.’⁴²

Mulcahy, showing a *volte face* in relation to policy, requested that the assembly endorse the executions policy in order to save the livelihood of the country. He wanted to indicate to the Irregulars that their armed resistance would no longer be dealt with mildly. He stated in the Dáil:

We are asking for these powers that certain steps may be taken against people who commit murder and burn down property, people who are aiming at the life of the country [...] It is a necessity that these people in the country who are committing murder, who are committing arson, looting, and destroying the life of this country, should know that they shall forfeit their lives if they continue to do that work, and the Government must set up machinery for taking that forfeiture.⁴³

Mulcahy’s choice of rhetoric is interesting. No longer was he a member of a rebel organisation fighting for Irish independence, he was now Minister for Defence in the Government and Commander-in-Chief of the National Army. Mulcahy was proposing a policy that he once condemned the British for adopting. However, now charged with enforcing the Treaty and defeating a group of armed militants, his language became increasingly formal, contending that an executions policy was now an absolute must. Mulcahy suggested that the Irregulars’ constant attacks on the country’s railway network could prove disastrous to Ireland as the economic structure necessary for trade was being destroyed, arguing that:

⁴¹ Ibid, col. 810.

⁴² Ibid, col. 819.

⁴³ Ibid, cols 841-844.

All over the south of the country we have railway communications running from here to Waterford, from here to Mallow, and in a day or two to Limerick. But the country lying lateral between these points is practically without transport. There are no railways running there, because those forces that have thrown themselves loose on the country have smashed up the railway. Practically the whole South of Ireland is without means of transport and communication necessary to [do] business.⁴⁴

He claimed that the death penalty would be employed purely as a defensive measure to protect the property and lives of the people and was essential to facilitate the restoration of normal conditions to the country.⁴⁵ Mulcahy's assertions would be scrutinized further following several incidents, such as the reprisal executions of four men in Mountjoy Jail, carried out under this decree. Nonetheless, at this juncture the Minister for Local Government, Ernest Blythe, applauded the Army for its composure during the Civil War and argued that it was to the Government's credit that they did not hastily conceive this policy:

If there is anything that has been noticeable about the attitude of the Army since the beginning of the year it has been the desire of the Army, not only the High Command of the Army, but of the local officers and of the men to spare life as much as possible. It was that desire to spare life and to avoid the shedding of blood that caused the delay in operations as long as it was. It may be that their delay will bring and has brought additional bloodshed, but nobody will regret that delay because the whole purpose of it was to do everything to avoid settling this matter by killing.⁴⁶

Blythe stated that the high command of the Army, personified by Collins and Mulcahy, were not originally in favor of extreme measures. He argued that they endeavored to avoid the crushing of the armed resistance by executions. Darrell Figgis, an Independent T.D., supported the Government in their adoption of stern tactics. Acknowledging the severity of the proposition he

⁴⁴ Ibid, col. 842.

⁴⁵ *Irish Independent* (28 Sept. 1922).

⁴⁶ Dáil Debates, *Precedence for Ministerial Business*, volume 1, cols 834-835 (27 September 1922).

indicated that it was absolutely essential due to the tactics adopted by the Irregulars. He recognised that there existed a situation in Ireland so severe and unusual that unless it was tackled ‘by some Draconian method, the health of this country might be permanently destroyed, the sanity of this country might be permanently destroyed, and the welfare of this country undoubtedly will be permanently destroyed.’⁴⁷ Figgis acknowledged that the armed guerrilla resistance that existed within the country must be dealt with vigorously, however, he argued that the Army should not be given *carte blanche* to deal with the Irregulars.⁴⁸

The Labour party leader, Thomas Johnson, began the disputation of this resolution. Johnson, although against the adoption of an executions policy, argued that his disapproval in no way implied support for the Irregulars. He protested that his opposition was an attempt to save the good name of the Army and the Nation from the risks and dangers that would follow the adoption of such a policy.⁴⁹ Johnson condemned the lack of transparency, on the part of the Government concerning their proposition of these measures, believing that there was a necessity to carry out a detailed examination and disclosure of the military situation throughout the country before such powers could be assigned to the Army.⁵⁰ He claimed that the adoption of this kind of policy was a clear sign of weakness on the part of the Government and the Army, stating:

Anybody, I am quite certain, reading the resolution would say it was a sign, not of strength, but of weakness—an S.O.S. signal that the Army was not capable of dealing with the situation in the country, and that it would need to have powers over all men—civilians as well as soldiers— during peace or war in any part of the country.⁵¹

⁴⁷ Ibid, col. 850.

⁴⁸ *Irish Independent* (28 Sept. 1922).

⁴⁹ *Freeman's Journal* (29 Sept. 1922).

⁵⁰ Dáil Debates, *Precedence for Ministerial Business*, volume 1, col. 812 (27 September 1922).

⁵¹ Ibid.

He also questioned the Government over the potential emergence of a military dictatorship following the adoption of the proposal:

They have been granted power, and we are asked to confirm that grant of power to the Army, to set up Military Courts to try any cases that that Army wishes, to punish by death any civilian who breaks a general order or regulation made by that Army in the future. Military dictatorship indeed!⁵²

Johnson argued that this increased risk of dictatorship was unacceptable as the Government were not only requesting the adoption of the death penalty but also the ability to deport and intern offenders for indefinite periods.⁵³ However, the ultimate reason for the Labour party's opposition related to the discipline, or lack of it, in the National Army. Johnson focused on the type of the troops that would be entrusted to implement the policy stating that they did not possess the necessary experience to carry out such a task:

You have not got within your Army to-day that perfect discipline and control which would prevent a fearful disaster coming upon the good name of this country [...] You are not only authorising the Army to punish by death any offender against the Regulation or Order issued by that Army, but you are authorising that Army to deport or transport overseas any citizen of this country for any indefinite period. Is that a power that we are willing to hand over to the Minister for Defence or to his subordinates, most of whom have not one-tenth of the appreciation of the responsibilities of their position that he has.⁵⁴

Another Labour T.D., Cathal O'Shannon, concurred with Johnson. He acknowledged that the Army possessed numerous qualities; however, he stated that it was essentially the sum of its parts. He argued that the composition of the Army was practically identical to that of the anti-treatyite guerrillas. Hence, he believed that they did not possess the discipline or legal knowledge to enforce such a policy. According to O'Shannon, troops in the Army:

⁵² Ibid.

⁵³ *Freeman's Journal* (28 Sept. 1922).

⁵⁴ Dáil Debates, *Precedence for Ministerial Business*, volume 1, cols 813-816 (27 September 1922).

have not the training, the ability or the experience in decisions, involving big questions of law, constitutionalism and everything else. They are not fit to be the judges in courts that have power of life and death over tens of thousands and hundreds of thousands of people in this country.⁵⁵

O'Shannon and Johnson's arguments are valid to a certain degree. As mentioned in the previous chapter, a sizeable proportion of the experienced pre-truce I.R.A. chose to take the anti-treaty side during the Civil War. The National Army, therefore, contained a lot of inexperienced men recruited since the signing of the Treaty. The National Army did, however, contain some skilled pre-truce I.R.A. Furthermore, a small percentage of these seasoned fighters had also served in the British Army. For example, Emmet Dalton, a close associate of Collins had risen to the rank of Major in the British Army and had been awarded the Military Cross for gallantry during the First World War. Following his return to Ireland Dalton became a prominent member of the I.R.A. in Dublin during the War of Independence and subsequently became the G.O.C. Southern Command as a Major-General in the National Army during the Civil War.⁵⁶ Nonetheless, Seán Milroy stressed that any country's embryonic defence forces would face similar problems. Therefore, he claimed that the country's developing Army was not responsible for its own chief defects.⁵⁷ Blythe suggested that this lack of familiarity would benefit the situation. He argued that it would void these troops of a certain amount of ill-feeling and contempt towards the Irregulars, as he stated:

The fact that the Army consists so largely of recruits, of new men, of men of not very long experience hardly affects the matter when that is the spirit. Perhaps the only result of that will be that they will not have the hardness, the rigidity, the callousness that you will find in professional officers of long standing, and

⁵⁵ Ibid, col. 826.

⁵⁶ Peter Cottrell, *Essential histories, the Irish Civil War 1922-23* (Oxford, 2008), pp 60-63.

⁵⁷ *Irish Times* (27 Sept. 1922).

soldiers who had a long and hardening experience. And the suggestion that this thing will cause dark deeds to be done is also a ludicrous suggestion.⁵⁸

The inexperience and indiscipline of the National Army was one of the main reasons for the introduction of the proposal. Mulcahy was all too aware of the growing number of excesses carried out by National troops in various locations throughout the country. Following the death of Collins and the descent into guerrilla warfare National troops faced the continual threat of ambushes, sniping and raids by the Irregulars with no legal means to vent their frustrations. As a result, a certain number of unofficial executions occurred, especially in areas where the Irregulars' resistance was strongest, particularly in places like Dublin and Kerry. According to C. S. Andrews, the number of unauthorised killings 'by the Free State murder gangs, of which there were several, principally in Dublin, amounted to 153.'⁵⁹ Eunan O'Halpin substantiates Andrews' claims. He suggests that as many as 150 Irregulars were killed, outside the law, during the Civil War.⁶⁰ The majority of these unofficial incidents were carried out, according to both O'Halpin and Andrews, by National soldiers and by plain-clothes C.I.D, Criminal Investigation Department, men located in Dublin.⁶¹ The British faced a similar situation during the War of Independence. The British Government enforced martial law in several places in Ireland on 10 December 1920.⁶² They also adopted an official reprisal scheme, in early 1921, to stem the unofficial killings carried out by British troops in response to the I.R.A.'s guerrilla tactics. As Major-General Radcliffe told Sir Henry Wilson in September 1920: 'I think the only solution to this problem is to institute a system of "official" reprisals [...] If there is a definite scheme of reprisals in force, and made known beforehand, it should be easy to get the troops to restrain

⁵⁸ Dáil Debates, *Precedence for Ministerial Business*, volume 1, col. 835 (27 September 1922).

⁵⁹ C. S. Andrews, *Dublin made me* (Dublin, 2001), p. 269.

⁶⁰ Eunan O'Halpin, *Defending Ireland, the Irish state and its enemies since 1922* (Oxford, 1999), p. 35.

⁶¹ O'Halpin, *Defending Ireland*, p. 35, see also Andrews, *Dublin made me*, p. 269.

⁶² *Dublin Gazette* (10 Dec. 1920).

their unofficial efforts[.]’⁶³ The first of these reprisals occurred in Midleton, County Cork, on 29 December 1920 when British troops destroyed six houses in response to an earlier I.R.A. ambush that day.⁶⁴ For the first five months of 1921 attacks on property of alleged republican sympathisers and activists became commonplace.⁶⁵ However, as was the case with the British during the War of Independence, this effort was not very successful as unofficial actions also continued during the Civil War. The atrocities that occurred in Kerry in March 1923, which will be discussed in more detail in chapter six, were perfect examples. Nevertheless, several pieces of correspondence between Major-General Dalton and G.H.Q. in Dublin indicated the difficult situation that the National forces found themselves in different parts of the country. Dalton indicated that since he had arrived in Cork his forces had sustained constant losses. He stated that:

Since I arrived here I have had casualties to the extent of six killed and twelve wounded, most inflicted [in] Cork City. I must bring in Martial Law, or remain impotent. I will shoot without trial men found in possession of arms. Can I publish a notice to this effect. I must get more men for Columns if possible, send two hundred immediately also officers.⁶⁶

For Dalton the difficult conditions that he and his forces faced in Cork required that further, more resolute, action be taken if the Irregulars were to be defeated. He requested permission to execute Irregulars discovered with arms. In reply to this request, at 9.20 p.m. on the same day O’Duffy ordered Dalton to ‘Act vigorously especially with those who did not fight against the English, but don’t issue notice. Action is much stronger without them.’⁶⁷ In addition to this,

⁶³ Major-General Radcliffe quoted in Michael Hopkinson, *The Irish War of Independence* (Dublin, 2004), p. 93.

⁶⁴ Ibid.

⁶⁵ Ibid.

⁶⁶ Wire from Dalton to C.G.S. regarding situation in Cork, 2 September 1922 (U.C.D. Archives, Mulcahy papers, P17a/191).

⁶⁷ Ibid.

O'Duffy replied at 11.56 p.m. on 3 September and ordered Dalton to 'Set up Military Courts and try men on charge of MURDER or ATTEMPTED MURDER, and execute in both cases.'⁶⁸ O'Duffy's comments are noteworthy. In this instance, he was quick to advocate the execution of fellow countrymen; however, in similar fashion to Mulcahy, Cosgrave and FitzGerald, he had once deplored the establishment of British military courts and subsequent executions of I.R.A. men during the War of Independence. It is unclear if any men were executed following O'Duffy's order. Nonetheless, the theme of this correspondence is more important than its consequences. It can be ascertained from this correspondence that certain members of the pro-treatyite military hierarchy became increasingly frustrated at the prevailing conditions throughout the country.

Another example of this frustration occurred in Macroom, County Cork. Commandant Conlon, the O.C. in Macroom, reported the illegal shooting of an Irregular prisoner to Dalton on 18 September. According to Conlon:

The shooting of this prisoner here in the operations has caused considerable contempt amongst the Garrison here. They have paraded before me and have given me to understand that they will not go out on to the hills anymore. Therefore you will want to tell these officers from Dublin that they will want to stop that kind of work or they will corrupt the Army. But at the same time that does not clear me here, and the situation here is at present very critical, I may tell you among the men. If I was taken prisoner I would want to be treated as one. Therefore, we must do the same I oppose that policy in the strongest way.⁶⁹

Dalton then forwarded this message to Mulcahy in Dublin and stated that this incident was the work of 'the Squad'. The Squad were an infamous group of assassins originally put together by Collins in Dublin for the purpose of countering British intelligence efforts during the War of

⁶⁸ Ibid.

⁶⁹ Commandant Conlon to Dalton, 18 September 1922 (U.C.D. Archives, Mulcahy papers, P7/B/82).

Independence.⁷⁰ Following the decrease of military activity in Dublin, after the fall of the Four Courts, many of Collins' elite group landed in Munster during the naval landings in August 1922. Their controversial leader, Paddy O'Daly, would feature in several contentious incidents both during and after the Civil War. At this moment in time Dalton approved of the shooting of the prisoner but the men under his command were of the opposite temperament to Conlon's troops. According to Dalton:

Now I personally approve of the action but the men I have in my command are of such a temperament that they can look at several of their companions being blown to atoms [...] without feeling annoyed [...] but when an enemy is found with a rifle and amm[unition] they will mutiny if he be shot.⁷¹

In response to this communication Mulcahy neither agreed nor disagreed with the illegal execution. Mulcahy's prime concern was the reputation of the Army. He did not want a situation to develop where the Army would be embarrassed. He informed Dalton that he could return any officer that he thought needed to be returned.⁷² Mulcahy was placed in a serious predicament with situations like this. Mulcahy, according to Regan, faced a difficult task of controlling an army which had only the loosest command structures. He argues that discipline and loyalty in certain commands might not endure if Mulcahy imposed severe reprimands especially interference by Mulcahy in Collins' former Squad where he already had an antagonistic relationship. Mulcahy, like Dalton, resigned himself to the realities of the Army he inherited from Collins and ignored its excesses.⁷³ Younger argues that it was difficult to maintain discipline in the Army when seemingly innocent civilians shot National troops and having

⁷⁰ Michael Hopkinson, *The Irish War of Independence* (Dublin, 2004), p. 26.

⁷¹ Dalton to Mulcahy, 19 September 1922 (U.C.D. Archives, Mulcahy papers, P7/B/82).

⁷² Mulcahy to Dalton, 21 September 1922 (U.C.D. Archives, Mulcahy papers, P7/B/82).

⁷³ Regan, *The Irish counter-revolution*, p. 105.

achieved their objective either disappeared into the crowd or surrendered as prisoners of war.⁷⁴

According to Younger:

O'Higgins was critical of lapses by the National Army, and some of these lapses were inexcusable. Mulcahy, as high-principled as O'Higgins, deplored them too, but better understood the provocation and supported his officers. In the Dáil, Mulcahy frankly admitted some of the accusations against men of the National Army. He asked the Government on behalf of the Army, for special powers.⁷⁵

The adoption of the emergency resolution was, for Mulcahy, a necessity to halt these excesses. He argued that the proposal would give the commanders better control and influence over their men as they would now see that legal measures were being taken against the Irregulars who had ambushed and killed some of their comrades. Mulcahy stated in the Dáil that:

the putting of these powers into the hands of such a General Officer will give him greater authority over his men, and when he stands before a group of them who have three of their comrades dead by the hands of Irregulars he will not stand with his finger in his mouth and say, "Well, you will have to be more careful when you are going to Mass next Sunday." [...] In asking for legislation like this and for powers like this, we ask it in order to prevent men from taking upon themselves authority to execute people in an unauthorised way, and the dangers that without this legislation such executions will take place is great. They have happened in one or two instances and they would happen in thousands of instances if the men of the Army had not the control over themselves which the vast majority of the Army has.⁷⁶

Mulcahy alluded to a case that occurred between Swinford and Ballina, County Mayo when five captured Irregulars laughed at the sight of a dead National soldier in a sitting position on the roadside. According to Mulcahy, these Irregulars showed 'an almost fiendish delight at the fact that one of our men was killed.'⁷⁷ Furthermore, he stated that it was with great difficulty that the

⁷⁴ Calton Younger, *Ireland's Civil War* (London, 1968), pp 469-470.

⁷⁵ *Ibid.*

⁷⁶ Dáil Debates, *Precedence for Ministerial Business*, volume 1, cols 848-849 (27 September 1922).

⁷⁷ *Ibid.*, col. 849.

Commanding Officer prevented the death of these five Irregular prisoners. Ultimately, Mulcahy advocated the adoption of an executions policy in order to:

save our men from being in the position of being driven to that, and never departing from the attitude of chivalry and gallantry they have always shown [...] our men will have some chance, even among the very difficult and dangerous circumstances under which they work, of being chivalrous soldiers, who will continue to show, to those who are fighting in such an ugly fashion against them, and against the country, the chivalry and kindness and the manly disposition they have shown to them invariably, in the past few months.⁷⁸

Issues of inexperience and indiscipline were not the only concerns to be voiced by the Opposition.

The Labour party accused the Government of being too eager in their pursuit for the ratification of emergency powers. They were charged with side-stepping numerous issues of legality and were willing to place in the hands of untrained troops the power of life and death over potentially every citizen in the country. The disregard for morality, from the point of view of the Opposition, could only be described as a 'blood-lust'. O'Higgins immediately countered this claim and reiterated that these emergency powers were essential given the gravity of the current military situation:

I would ask Deputies here to believe that this particular motion does not spring from any blood-lust of the Cosgraves, the Mulcahys, or the O'Higginses, but springs from the realisation on the part of the whole Government of the urgency and gravity of the situation in which we find ourselves [...]⁷⁹

O'Higgins stressed that the Government did not think human life cheap. He maintained that the Irregulars were bleeding the country to death in their quest to cause anarchy and chaos. He stated

⁷⁸ Ibid, col. 850.

⁷⁹ Ibid, col. 858.

that ‘if there is to be a check to that we must take measures much stronger than any that have been taken up to the present.’⁸⁰ Following these animated debates a vote was taken on 28 September 1922. As the Labour party could not defeat the proposition, given the unquestionable numerical majority that the Government held, the motion was passed by forty-seven votes to fifteen, following minor amendments to its terminology.⁸¹

In an attempt to placate those opposed to the Public Safety Resolution the Government contemplated offering amnesty to the Irregulars. Mulcahy, still disappointed at having to adopt comprehensive measures, discussed this potential offer on 22 September 1922 in a letter to George A. Lyons:

With regard to those people whose tendency is voluntary to surrender, the actual state of affairs is that we are not looking for anybody except those actually engaged in carrying out attacks either upon our forces or on property, or known to be organising such [...] I would suggest that preferably that the young fellows themselves go to some priest known to be definitely on the Government side, or at any rate on the side of order and common sense, and surrender their arms to him. As far as those people that you meet are concerned you might be able to suggest such a priest to them; some one that would give them a good hard but sympathetic talking to. Failing this which would seem to be an ideal arrangement they could hand their weapons over to you and you could have them transmitted to us.⁸²

The Government was advised by one of their law officers, Kevin O’Shiel, to offer amnesty before the resolution came in to being as it would serve many purposes. Firstly, it would encourage the public to accept the executions policy and, secondly, the propaganda benefits to be gained should the majority of Irregular abstain from this offer of clemency would be significant.

According to O’Shiel:

⁸⁰ Ibid.

⁸¹ Dáil Debates, *The President’s Motion – the Dáil in Committee*, volume 1, col. 932 (28 September 1922).

⁸² Letter from Mulcahy to Lyons, 22 September 1922 (N.L.I., Ms. 33,675/A/1(27)).

The Dáil is engaged in the business of passing very necessary, but very drastic legislation [...] I believe such an Amnesty would have a very good effect on public opinion, and would certainly lessen captious criticism of the New Bill [...] Without an Amnesty the effect of the Decree might be to drive back into the ranks of the Irregulars large numbers of the luke-warm and timid who are only too anxious to seize every possible opportunity of escaping from their unpleasant commitments.⁸³

The Provisional Government having passed the Public Safety Resolution decided to incorporate an amnesty offer. It stated that:

a full amnesty and pardon should be offered to all those in arms against the State who, on or before October 15th, voluntarily deliver up all arms, ammunition etc in their possession and all public or private property unlawfully held or occupied by them, and cease to take part in armed opposition to the Government.⁸⁴

It was decided by the Government that it would receive full publicity and it would be printed in all newspapers pertaining both to Dublin and the surrounding provinces. Coupled with this, it was decided that members of the clergy would receive copies of this proposal in order to maximise its publicity. A proclamation, signed by Cosgrave and Mulcahy, was issued on 10 October stating that from 15 October the Army Council would exercise all the powers established within the emergency resolution.⁸⁵ Despite receiving maximum exposure very few Irregulars availed of this official pardon.

In comparison to previous legislation, such as the 1920 Restoration of Order in Ireland Act or ROIA, the Public Safety Resolution, whilst containing many similarities, differs due to its rigorous implementation by the Provisional Government. The Restoration of Order in Ireland Act, passed by the British during the War of Independence on 9 August 1920, provided the legal

⁸³ Letter from O'Shiel to Cosgrave, 28 September 1922 (U.C.D. Archives, Kennedy papers, P4/542(1)).

⁸⁴ G1/3, Provisional Government Minutes, 3 October 1922 (N.A.I., Provisional Government Cabinet Minutes, P.G. 27(a)).

⁸⁵ Neeson, *The Civil War in Ireland*, pp 226-227.

basis for the employment of numerous emergency powers throughout Ireland. This legislation sanctioned, amongst other measures, the extension of the jurisdiction of courts-martial to cover offences against the ordinary civil law.⁸⁶ The Act, resembling martial law, facilitated the application of the capital penalty against civilians tried under military judicial procedures.⁸⁷ According to both Joost Augusteijn and Hopkinson, the legislation proved counter-productive as it had a self-perpetuating characteristic. Enacted by the British administration to curb the growth of violence that had spread throughout Ireland, it actually produced quite different results. The ROIA resulted in numerous I.R.A. arrests but it also forced other militants underground. It contributed to the onset of guerrilla warfare and the emergence of mobile squads of men, known as 'Flying Columns', who disrupted communications and carried out numerous ambushes, assassinations and raids which proved successful against the British. The legislation, devised to restore order throughout Ireland, actually served as a catalyst for the I.R.A. as it ultimately increased the level of disorder that existed throughout Ireland.

The Public Safety Resolution is comparable to the ROIA. Endorsed during periods of war, both allowed for the execution, imprisonment, internment, deportation and fine of both civilians and militants. With regards to the former, any person suspected of acting or having acted or being about to act in a manner prejudicial to the restoration or maintenance of order in Ireland was liable for prosecution.⁸⁸ Similarly, with regards to the latter, punishment could be inflicted on 'persons found guilty of acts calculated to interfere with or delay the effective establishment of the authority of the Government.'⁸⁹ Another similarity in both declarations is the definition and description of offences. The Public Safety Resolution's description of

⁸⁶ *Irish Times* (4 Aug. 1920).

⁸⁷ M. A. Doherty, 'Kevin Barry and the Anglo-Irish propaganda war' in *Irish Historical Studies*, 32, no. 126 (2000), pp 217-231.

⁸⁸ *The Times* (28 June 1921).

⁸⁹ Dáil Debates, *Precedence for Ministerial Business*, volume 1, col. 802 (27 September 1922).

offences, mentioned earlier in this chapter, is quite comprehensive whereas the British Government chose to define a crime generically. The ROIA defines a crime as ‘any treason, treason–felony, misdemeanour, or other offence punishable by imprisonment or any greater punishment.’⁹⁰ This insubstantial description of offences mentioned in the ROIA, in comparison to the September resolution, does not imply inferiority. In defining a crime quite ambiguously the British administration ensured that the scope of this legislation was wide-ranging. The ambiguity meant that any person, militant or otherwise, faced prosecution for a vast array of offences. Even though it failed in its primary aspiration the ROIA was devised to tackle the activities of an armed guerrilla resistance who implemented numerous methods of attack. On the other hand, the meticulous approach of the Public Safety Resolution also ensured that the numerous guerrilla activities performed by the Irregulars faced prosecution. The definition of an offence, whether specific or non-specific, ensured that both sets of emergency powers would be widely applicable.

The implementation of these respective powers is where the similarity ends. As a result of the execution of fifteen rebels in Ireland following the Easter Rising in 1916 extreme nationalism gained considerable momentum in Ireland.⁹¹ It must be noted that another man, Roger Casement, was hanged in Pentonville Prison, London for his attempts to smuggle arms to the Irish rebels, bringing the total to sixteen.⁹² This enormous sway in opinion, amongst other contributing factors, helped fuel the Irish War of Independence. Consequently, the cautious British Government only executed fourteen I.R.A. men during the War of Independence.⁹³

⁹⁰ Restoration of Order in Ireland Act, 13 August 1920 (T.N.A., Home Office papers, HO 45/19665).

⁹¹ Charles Townshend, *Easter 1916, the Irish rebellion* (London, 2006), p. 287.

⁹² Dorothy Macardle, *The Irish republic, a documented chronicle of the Anglo-Irish conflict and the partitioning of Ireland, with a detailed account of the period 1916-1923*, 3rd edition (Dublin, 1999), p. 983.

⁹³ Hopkinson, *The Irish War of Independence*, p. 202, see also Charles Townshend, *The British campaign in Ireland 1919-1921* (Oxford, 1975), p. 194.

Therefore, knowledge of the catalytic effect that executions can have on a populous may have caused the British to incorporate a level of restraint when implementing emergency powers. They ultimately executed a total of thirty men in five years. The Provisional/Free State Government proved more vigorous and ruthless in the application of the Public Safety Resolution executing eighty-one men, a number nearly three times that of the British, in a little over six months. This figure might seem extreme in comparison, but it needs to be placed in context. Comparatively speaking, the executions during the Irish Civil War were, as Keogh states, small scale considering that at the end of the Hungarian Civil War more than 5,000 people were killed in the White terror, not to mention the 12,500 Finns that died in White prison camps in the summer and autumn of 1918.⁹⁴ However, as Lee argues, the numbers executed may not have a direct relationship with the psychological scars that a civil war can impart on a country. According to Lee, it does not seem that the atmosphere of Finnish politics was more polluted than its Irish counterpart in the aftermath of their respective civil wars. For instance, in Finland former adversaries were prepared to sever together in government after 1937.⁹⁵ Political conciliation in Ireland between Fianna Fáil and Fine Gael, on the other hand, is still to occur. This comparison does not undermine the importance of the eighty-one executions. On the contrary, it is indicative of the level of animosity that the Civil War, and by extension the Government's executions policy, imbued on post-war Ireland. Nonetheless, in 1922 the Provisional/Free State Government were aware of the possible revolutionary impact that executions could have on the public. However, they believed that they had a mandate to act vigorously against the Irregulars and that a situation existed in the country where not only was an

⁹⁴ Dermot Keogh, *Twentieth century Ireland, nation and state* (Dublin, 1994), p. 11.

⁹⁵ J. J. Lee, *Ireland 1912-1985 politics and society* (Cambridge, 1989), p. 69.

executions policy completely justified but the public would support or at least acquiesce to such a policy.

Following ratification of the Public Safety Resolution the Army Council, of which Mulcahy was the senior member, decided to augment the terms of the emergency resolution in October 1922. This order stated that:

From and after the date hereof any person shall:-

- a. Murder any person, or aid or abet the murder of any person, or attempt in any way to murder any person;
- b. Conspire to murder any person;
- c. Command, procure, incite, counsel, solicit, encourage, persuade or endeavour to persuade any person to murder any person,

Shall upon trial and conviction thereof by Military Court be liable to suffer death or any less punishment.⁹⁶

The order also stated that those who commanded and encouraged others to commit an offence would face prosecution. Also, those who communicated, gave intelligence, furnished supplies and assisted those committing offences would face the death penalty. Furthermore, the Army Council stated that those who assisted, or attempted to assist any person in civil or military custody to escape shall, following conviction, face penal servitude or any less punishment for their actions.⁹⁷

The adoption of the 1922 Public Safety Resolution denoted that the Government were willing to execute fellow Irishmen and former comrades in their effort to restore order, establish the Government's authority and the will of the people throughout Ireland. This decree stipulated that any person, militant or otherwise, caught in the unauthorised possession of a weapon would

⁹⁶ General Order, October 1922 (U.C.D. Archives, Kennedy papers, P4/652(1)).

⁹⁷ Ibid.

face the possibility of execution. It has been established that the death of Collins provided the impetus for the adoption of the executions policy. Prior to his death those who proposed such a policy faced considerable opposition from Collins and Mulcahy. They wanted to avoid any measures that would hinder reconciliation after the conflict. Given both men's stature and influence, particularly Collins', this resistance was enough to ensure that emergency measures would not be contemplated. However, following Collins' death this final barrier was removed. This incident shocked the Government and the country. It left those previously opposed, Mulcahy for example, in no doubt that an executions policy was now a necessity if the Irregulars were to be defeated. As Harrington suggests 'the Provisional Government believed that it had no alternative but to enforce [emergency measures] firmly if the country were to be pulled back from the abyss of anarchy, chaos and destruction.'⁹⁸ Evidence suggests that the Government needed to be creative when preparing the resolution. The Government's chief legal officer, Hugh Kennedy, stipulated that the Government would face several significant obstacles should it choose to pursue a policy of this nature. He believed that the Provisional Government faced restrictions, under the terms of the Treaty, relating to the passage of certain types of legislation. Furthermore, all legislation needed royal assent. To overcome such issues he advocated the passing of resolutions rather than Acts. As the King's representative in Ireland, the Governor-General, had not been established, Kennedy argued that the Provisional Government possessed the powers associated with that office. Ultimately, there is no evidence which suggests that the British disapproved of these measures or the way in which they were ratified. Given that the British administration was supporting the Government and Army financially and politically it can be assumed that they offered no opposition to the adoption of the executions policy. Nonetheless, the Government implemented the resolution regardless of issues of legality. The

⁹⁸ Harrington, *Kerry landing*, pp 143-144.

inaugural episode occurred on 17 November 1922 when four young men were tried and found guilty of the individual possession without proper authority of revolvers and executed in Kilmainham Jail, Dublin.⁹⁹ These executions, the first of eighty-one, not only hardened opinions on both sides of the Treaty divide but also irreversibly changed the character of the Irish Civil War, leaving it an increasingly bitter and acrimonious affair.

⁹⁹ *Irish Times* (18 Nov. 1922).

CHAPTER 3

A ‘Damned Englishman’

The execution of Erskine Childers

Following ratification of the Public Safety Resolution in September 1922 and the failure of the amnesty offer, which expired on 15 October, the Government sought to implement the emergency measures. This chapter focuses on its initial implementation of the executions policy. The inaugural executions, which were marred by controversy, will be examined. The execution of four low-ranked Irregulars on 17 November in Kilmainham Jail, Dublin for the unauthorised possession of revolvers followed closely by the execution of the prominent Irregular, Erskine Childers, in Beggars Bush barracks, Dublin on 24 November 1922 invited condemnation. Several conspiracy theories, which became associated with these events, will be evaluated. Opponents of the policy focused on a potential link between the executions in Kilmainham Jail and that of Childers. They believed that the executions on 17 November were a test case to see if this policy could be extended to include members of the Irregulars’ elite, particularly Childers. Moreover, the manner of Childers’ arrest was also scrutinized. Given that he was captured bearing a weapon in his familial home it was argued that this did not imply guilt and, therefore, did not justify the death penalty. Critics also sought to expose the supposed link between the British Government and the execution of Childers. It was argued that the Home Office, under Secretary Winston Churchill, influenced the decision to execute this man. Ultimately, opponents of the executions policy proclaimed that the pro-treatyites, particularly Griffith and O’Higgins,

had a vendetta against Childers and were obsessed with catching, trying and executing this man regardless of offences committed.

Even though the Public Safety Resolution had been ratified for several weeks the new Commander-in-Chief and Minister for Defence, Richard Mulcahy, exercised caution with regards to implementation of the decree. Mulcahy's procrastination, coupled with the Government's offer of amnesty, resulted in a delay between the establishment of the emergency powers and their inception. The postponement was symptomatic of the friction which was ever-present between certain members of the pro-treatyite political and military leadership. Following the death of Michael Collins, the civilian-military relationship between the Government and Army had altered. As a result, the personalities who inherited Collins' legacy were now at the forefront of the Government and the Army. However, they possessed different views with regards to the operation and relationship between both bodies. Their association, although never perfect, would not operate as smoothly as it had done under Collins. His military successor, Mulcahy, although a proven military leader, did not possess the same charisma and status as his predecessor. As a result, certain members of the Provisional Government, primarily Kevin O'Higgins and W. T. Cosgrave pushed for more Cabinet control over the armed forces. This is a point which is illustrated by Younger:

Impatient of the Army's inability to settle the issue [the Civil War] he [O'Higgins] sought more control by the Cabinet. Army leaders, [Mulcahy] on the other hand, thought he was meddling in their affairs already and that he should give more attention to his own Department.¹

This differed significantly from the relationship which Collins had with the Government. He was given a free hand with regards to the Army's liaison with the Cabinet. Mulcahy,

¹ Calton Younger, *Ireland's Civil War* (London, 1968), p. 469.

however, was not completely innocent in this matter. During the turbulent time of the Civil War Mulcahy was so focused on military affairs and often neglected his responsibility to inform the Government regarding certain military issues. Mulcahy was of the opinion that the Army was accountable to the Dáil but believed that there should be as little political interference as possible in the Army. His outlook further exacerbated the problem and increased hostility between both elements of the Provisional Government. As M. G. Valiulis explains:

There is no question but that he [Mulcahy] believed the army was subordinate to the government [...] However, he interpreted that principle very broadly. He believed that after it had decided general policy, the government should leave the actual working out of strategies and tactics to headquarters. Mulcahy resented [...] political interference in what were properly military matters.²

The delay, which frustrated O'Higgins and Cosgrave, was referred to when the President requested Mulcahy's attendance at a Cabinet meeting on 7 November. Cosgrave informed Mulcahy that considerable criticism had been expressed in preceding meetings due to the delay in setting up the military courts. He told Mulcahy that the lack of forthcoming information, pertaining to any trials and the distribution and execution of any sentences, invited condemnation. According to Cosgrave, 'To-day there will be a further hub-bub and they want your attendance at the beginning of the meeting and your business will be first on the agenda.'³

Friction did subside, temporarily, as both the political and military leadership decided that the time was now appropriate to finally implement the executions policy. The first case before a military court, under the Public Safety Resolution, occurred on 3 November 1922. The number increased to twelve in less than two weeks; however, only one sentence had been handed

² M. G. Valiulis, *Portrait of a revolutionary, General Richard Mulcahy and the founding of the Irish Free State* (Dublin, 1992), p. 62.

³ Letter from Cosgrave to Mulcahy, 7 November 1922 (U.C.D. Archives, O'Malley papers, P17a/190).

down and confirmed by military authorities. According to Mulcahy, these cases were all concerned with those accused of having possession without proper authority of a revolver and only led to the imposition of minor penalties. In an attempt to answer his critics in the Dáil Mulcahy stated that, ‘in one case the accused was convicted, and sentenced to undergo imprisonment for 12 calendar months with hard labour. This is the only case in which sentence has been confirmed and come into effect.’⁴ The outcome of this case was to pale in comparison to the subsequent sentences as the severity of penalties escalated rapidly when four young men were executed in Dublin in November 1922. This not only initiated what was to become an extensive executions policy, totalling eighty-one, but also marked a turning point in the conflict. The implementation of the Public Safety Resolution ensured that the Civil War would become a far more fractious affair. It not only represented, according to Costello, the Government’s harshest attempt to protect itself and the country but also indicated to the Irregulars that the Government and subsequently the Army were willing to meet their armed resistance with a bloody response.⁵

The inaugural set of executions occurred on the morning of 17 November 1922. Four young men were put to death in Kilmainham Jail in Dublin. James Fisher, Richard Twohig, Peter Cassidy and John Gaffney, all aged between eighteen and twenty-one, had been arrested in Dublin between 23 and 27 October. They were subsequently tried and found guilty of the individual possession without proper authority of a revolver and sentenced to death. Following this, the sentences were confirmed and duly carried out at seven o’clock that morning.⁶ The choice of venue for the first executions during the Civil War is remarkable given Kilmainham

⁴ Dáil Debates, *Questions – Military Courts*, volume 1 (15 November 1922).

⁵ Francis Costello, *The Irish revolution and its aftermath 1916-1923, years of revolt* (Dublin, 2003), p. 315.

⁶ *Irish Times* (18 Nov. 1922).

Jail's historic importance in the nationalist psyche. Several of the rebels executed after the Rising were put to death, by the British, in Kilmainham Jail; therefore, why the Government chose this particular site during the present conflict is somewhat perplexing. However, it appears that it was intended to indicate to militants and civilians alike that the Government took the Irregulars' armed resistance extremely seriously. That they would put to death fellow Irishmen in a place with such obvious emotive connections was designed to suggest, to the country, that the Government and Army possessed moral and mental fortitude. Nonetheless, the event caused outrage in the Dáil. The Opposition questioned the Government's motivations for executing four Irregular nonentities. Thomas Johnson argued that:

The possession of a revolver does not justify the execution of a man, lawfully or unlawfully, and no one, I believe, despite the decision of the Dáil, and no one in this Dáil, in his heart of hearts, believes that the possession of a revolver warrants the execution of the man or the woman who possessed it.⁷

Mulcahy argued, in response to these accusations, that anything which would shock the country into a realisation of the gravity of the situation which existed, where it became a necessity to take human life, was in fact justified. He defended the execution of these men when he divulged that they were apprehended in direct military action against the Government and the National Army. He stated that they were found in the streets of Dublin at night, in possession of loaded revolvers, waiting to take the lives of other men.⁸ Undeterred by criticism, Mulcahy indicated that the implementation of the executions policy would certainly continue. He argued that the executions were an absolute necessity in order to astound the country and issue a statement to the Irregulars that 'anybody who goes around with a loaded revolver in his pocket on the street seeking to take the lives of other men must be made face the fact that by doing so he forfeits his

⁷ Dáil Debates, *Military Executions*, volume 1, col. 2263 (17 November 1922).

⁸ *Ibid*, col. 2264.

own life.⁹ Mulcahy's comments did not satisfy the critics and considerable reservations regarding the Government's motivations endured.

Kevin O'Higgins did little to suppress the already charged atmosphere in the Dáil. In an attempt to answer the Government's critics, he claimed that they did not act impetuously or vindictively when deciding to execute these men. He argued that the initial case was chosen to deter all those in armed rebellion within the country and stated that the implementation of the emergency measures for any other reason would in fact prove counter-productive. According to O'Higgins, the Government chose these four men as it was necessary to take an average case first as they had no particular facts about them which distinguished them from the thousands of Irregulars throughout the country that were destroying the Nation.¹⁰ It must be noted here that the Provisional Government had handed over responsibility for enforcing the Public Safety Resolution to the Army. However, it appears that the Cabinet still played a crucial role in deciding who was actually executed after they were tried and convicted by a military court. It is unclear if the Cabinet approached the Army Council with a particular prisoner in mind or if the Army Council proposed a specific person and then the Cabinet decided the prisoner's fate. It was probably a joint decision given that there was an overlap in personnel between both parties, Mulcahy being Minister of Defence, Commander-in-Chief and head of the Army Council. The decision to execute should have remained solely with the Army since the September resolution clearly stated that the Government had entrusted to the Army the duty and responsibility of restoring order throughout the country.¹¹ In practice, however, evidence suggests that this did not occur. Nonetheless, those opposed to the Government's new policy believed that the initial set of

⁹ Ibid, col. 2265.

¹⁰ Ibid, col. 2267.

¹¹ Dáil Debates, *Precedence for Ministerial Business*, volume 1, col. 802 (27 September 1922).

executions were in fact a precursor to more divisive and contentious cases, where more infamous Irregulars would be put to death.

Despite the controversy which surrounded these initial executions, they did in fact serve a number of purposes. Firstly, they consummated the Government's Public Safety Resolution and they indicated to the country that they were prepared and willing to institutionalise the execution of fellow Irishmen in armed rebellion throughout the country. Secondly, as General MacMahon testified at the Army Inquiry in May 1924, the initial executions were practically a test case. He stated that they were a critical test of the temper within the Army.¹² It was a possibility at the time that soldiers may have refused, even mutinied, when confronted with official executions, especially in Kilmainham Jail given its recent history of executions. Now the National Army were charged with implementation of the executively sanctioned executions. Therefore, as Regan suggests, the shooting of the first four prisoners by the best and the most reliable unit in Dublin enabled the Government and General Staff to test the reaction of the Army.¹³ The ordeal provided a favourable outcome for the Government as the National troops carried out their orders successfully. Nevertheless, it is to be expected that the first set of executions would be used as a test case to assess the prospect of extending the scope of the policy. Consequently, the probability that the Civil War would witness further executions increased. This became evident when Ernest Blythe, another advocate of the adoption of stern measures, spoke in the Dáil. Having already suggested that if a man is taken in the street with a revolver with the intention of committing murder then that man must get 'the murderer's doom', he indicated that these initial executions were merely a prelude. He mentioned that 'I am afraid [that stern measures] have to be taken again, because at this stage I do not think that the

¹² Seán MacMahon statement to the Army Inquiry, May 1924 (U.C.D. Archives, Mulcahy papers P7/D/84).

¹³ John M. Regan, *The Irish counter-revolution 1921-1936, treatyite politics and settlement in independent Ireland* (Dublin, 2001), p. 111.

execution of four would suffice.’¹⁴ Coupled with this, O’Higgins again unaffected by the occasion argued that ‘we, in grave consultation and in grave council, have decided that if it is necessary to take the lives of many individuals then the lives of many individuals will be taken.’¹⁵ As a result, it was a certainty that, as James Fisher stated in his final letter to his parents, more Irregulars would ‘die [...] a soldier of the Irish Republic [,] die for Ireland.’¹⁶

Once the country had witnessed, albeit under questionable circumstances, the inception of the emergency powers resolution, the implementation of this procedure gathered momentum. Within a week of the initial executions another more divisive and controversial case presented itself. As an author Erskine Childers published several works, including *The riddle of the sands, a record of secret service* in 1903, *War and the Arme Blanche* in 1910 and *The framework of home rule* in 1911. In these works he criticised the British Government and its military forces for a variety of reasons which included their unpreparedness for the First World War, their use of obsolete cavalry tactics and he proposed an economically advantageous argument for the implementation of Home Rule in Ireland, respectively. Even though he had served in the British Navy he was a man who had sound nationalist credentials due to his participation in the Howth gun-running incident in July 1914 in which he landed a significant amount of arms and ammunition for the Volunteers from his yacht, the *Asgard*. In addition to this, he had proven himself during the War of Independence as a prominent member of Sinn Féin and T.D. for Wicklow. He was a Staff-Captain in the I.R.A. and an expert wartime propagandist. During the conflict with the British he was editor of the republican newspaper *Irish Bulletin* and the Dáil’s Director of Publicity. He had sided with the anti-treatyite faction during the current conflict.

¹⁴ Dáil Debates, *Military Executions*, volume 1, col. 2275 (17 November 1922).

¹⁵ *Ibid*, col. 2269.

¹⁶ Last letters of Richard Twohig and James Fisher, November 1922 (U.C.D. Archives, de Valera papers, P150/1657).

Childers, in an effort to resume his role as Director of Publicity for the Irregulars, was arrested with another individual, David Robinson, while en-route to Dublin from the South of Ireland. Robinson was a former British cavalry officer, tank commander and a holder of the *Croix de Guerre*.¹⁷ Childers was apprehended following a 5 a.m. raid on Robert Barton's residence, Annamoe House, County Wicklow on 10 November 1922. During the raid, on his cousin's house, Childers was caught in an attempt to evade arrest. When confronted by National troops he attempted to draw a small automatic pistol from his pocket. Following a significant struggle, however, he was disarmed by Lieutenant Gerard with the help of Officer J. Short.¹⁸

After his arrest Childers was kept in a large shed in Beggars Bush barracks, where he exercised several times a day by walking 'one measured mile inside the shed. Between his walks he would sleep for a few hours, and spent the rest of his time writing.'¹⁹ As Childers was a high profile prisoner the shed was closely guarded to prevent his escape or rescue by outsiders or by members of the National forces.²⁰ He was tried by military court at Portobello barracks, Dublin, on 17 November 1922 and charged with the unauthorised possession of the automatic pistol, found guilty and sentenced to death. Following the confirmation of the sentence it was duly carried out in Beggar's Bush barracks, Dublin, at 7 a.m. on 24 November 1922.²¹ There were fifteen men in the firing party. However, only five had loaded rifles. Paddy O'Connor, the officer in charge, arranged prior to the execution that the five loaded weapons were given to First World War veterans, due to their superior marksmanship.²² In the moments leading up to

¹⁷ Leonard Piper, *Tragedy of Erskine Childers: Dangerous waters* (London, 2007), p. 224.

¹⁸ Draft of evidence for the trial of Erskine Childers, November 1922 (U.C.D. Archives, de Valera papers, P150/1659).

¹⁹ Risteárd Mulcahy, *My father the General. Richard Mulcahy and the military history of the Revolution* (Dublin, 2009), p. 186.

²⁰ *Ibid.*

²¹ *Irish Times* (25 Nov. 1922), see also Official letter from Adj. Gen. Gearoid O'Suilleavan to Mrs. Childers, 24 November 1922 (T.C.D. Archives, Childers papers, Ms. 7829/8).

²² Mulcahy, *My father the General*, p. 186.

the execution Childers shook the hands of the men in the firing party and was then made to stand at the end of the shed where a section of the roof had been removed thus leaving him in the light.²³ The firing party remained in the dark where they could not be clearly seen by Childers. According to Risteárd Mulcahy, Childers did not require the *coup de grace* as his death was instantaneous.²⁴

Other, more irregular, accounts of Childers' execution also exist. According to one recent account:

After they removed the bandage from his [Childers'] eyes etc and placed his corpse in the coffin some five minutes after death or perhaps a little longer, Lt. Murtagh, brother of Peadar Murtagh and brother-in-law of Major General Paddy Daly rushed from the bottom of the shed and, to their credit be it recorded, horrified everyone present by firing his "Peter" (name given to the .45 Webley revolver) into the face of the dead man.²⁵

According to Marie Louise McCrory, the statement was probably given by a soldier present at the event and, if it is true, it is indicative of the hatred which characterised the Civil War. However, as the identity of the original author cannot be ascertained the credibility of this source cannot be attested. Nonetheless, if familial ties are any indication of ruthlessness the aforementioned Paddy O'Daly was not without controversy. O'Daly played a leading role in the killing of eight Irregular prisoners and the serious wounding of another, Stephen Fuller, with a landmine at Ballyseedy Cross, County Kerry on 7 March 1923. There may be some element of truth to the aforementioned account. According to Frank Holland, who was present at the actual event, Childers did require a *coup de grace*. Holland stated that:

When he was being lifted into the coffin his body didn't sag. I can't account for it [...] Our M.O. [Medical Officer] would not certify him as dead. It happened so

²³ Tim Pat Coogan, *De Valera, long fellow, long shadow* (London, 1993), p. 340, see also Mulcahy, *My father the General*, p. 186.

²⁴ Mulcahy, *My father the General*, p. 186.

²⁵ *Irish News* (18 Nov. 2002).

suddenly that there was not a tremble in his body. The officer in charge, who would shoot him if there was still life in him, wouldn't do it and M. M. did. P. O'C [Paddy O'Connor] or I had no revolver at the time but M. M. had and he shot him through the heart. His was the quickest death that was possible for a man to get.²⁶

This was a high-profile event in comparison to the first set of executions. It witnessed the putting to death of Childers for the unauthorised possession of a revolver, which was supposedly given to him as a present by Collins. The incident became one of the most divisive events during the Irish Civil War. According to members of Kildare County Council, it would 'only cause further bad feeling when we are all looking forward to peace.'²⁷ Nonetheless, it raised many important issues which require individual examination. Following the death of Childers, numerous conspiracy theories quickly emerged as those opposed to his execution questioned the validity of the courts set up under the Public Safety Resolution and the motivations which lay behind the execution of the prominent anti-treatyite.

Firstly, subsequent to his arrest, Childers refused to acknowledge the jurisdiction of the military court following orders issued by Liam Lynch.²⁸ An impressive legal team, which included Patrick Lynch, Michael Comyn, Conor Maguire, and Seán Ó hUadhaigh, decided to represent Childers. They decided to appeal his arrest in the civilian courts by revealing, what they believed to be, numerous flaws not only in the case constructed by the Army but also the legality of the military court system. They submitted a writ of *habeas corpus* to O'Connor M.R., Master of the Rolls, on his behalf. His counsel explicitly stated that it was not Childers' wish to

²⁶ Frank Holland's description of the execution of Erskine Childers, 14 March 1964 (U.C.D. Archives, Mulcahy papers, P7/D/84).

²⁷ *Kildare Observer* (2 Dec. 1922).

²⁸ Letter from Liam Lynch to Miss Marie Comerford, 16 November 1922 (T.C.D. Archives, Childers papers, Ms. 7829/3).

submit this plea unless it would be of use to other men tried by military courts. In his affidavit, on 18 November, 1922 Ó hUadhaigh stated that:

I say that the Plaintiff [Childers] personally charged me not to institute and such proceedings as this action unless they were brought in such a way as to be available for the other prisoners who have been dealt with by the alleged Courts. My instructions to act on behalf of the Plaintiff in this action were expressly conditional on my undertaking to him that I would bring them in such a manner as to ensure for the benefit of others in the like case.²⁹

Furthermore, he pleaded with O'Connor to intervene as he feared for his client's life given that four men had already been tried by military court and executed under the Public Safety Resolution. According to Ó hUadhaigh:

I have grave apprehensions for believing that if this Court does not intervene in this case, the Plaintiff's life [Childers] and the lives of the other persons who have been dealt with by such Courts in so far as they still survive may be forfeited by decisions of these Tribunals which I charge and believe were illegally constituted and were acting contrary to Law.³⁰

Childers' counsel submitted an additional affidavit outlining several objections in relation to his case.³¹ They claimed that under the resolutions of the International Red Cross Conference 1921, which had been accorded international recognition, civil war political prisoners were to be treated as prisoners of war, thus entitled to belligerent rights.³² Additionally, his advisors maintained that it had been universally accepted in every civilised community that prisoners of war should not be tried by any tribunal selected from the opposing military forces. They argued that such purported trials require an Act of Indemnity to correct the illegality of the proceedings and until such an act was passed such so-called trials were contrary to law. Finally, they stated that Childers was not a civilian and was not within the definition of the class of persons

²⁹ Seán Ó hUadhaigh's affidavit, 20 November 1922 (T. C. D. Archives, Childers papers, Ms. 7830/1).

³⁰ Ibid.

³¹ Statement of the Counsel's objections to the trial of Childers before a military court, undated (T.C.D. Archives, Childers papers, Ms. 7830/20).

³² Ibid.

contemplated by the general regulations of the September resolution under which the tribunal purported to act. He was a Staff-Captain in the Irish Republican Army. Therefore, they stated that the said regulations were null and void.³³

The writ of *habeas corpus* relied heavily on O'Connor's own decision in the case of *Egan versus Macready*. However, in his judgement O'Connor distinguished Egan's case from Childers' on the grounds that the former case was based primarily on the ROIA and that piece of legislation applied to the British Army and, thus, was not adaptable to the Irish Constitution as it is provisionally established.³⁴ Before O'Connor refused the application he stated that:

Now the Government is for the time being in a state of transition, we have what is called a Provisional Government pending the completion of the Constitution of the Irish Free State – but although the Government is only provisional it has been formally and legally set up, and its authority cannot be questioned. It derives its validity from the Treaty between Great Britain and Ireland and the Act of Parliament confirming it. [...] The Provisional Government is now *de-jure* as well as *de-facto* – the ruling authority bound to administer, to preserve the peace and to repress by force, if necessary, all persons who seek by violence to overthrow it [...] He [Childers] disputes the authority of the Tribunal and comes to this Civil Court for protection, but its answer must be that its jurisdiction is ousted by the State of War which he himself has helped to produce. However doubtful the law may have been in the past it is now clearly established that once a state of war [arises] the Civil Courts have no jurisdiction over the acts of the military authorities, during the continuance of hostilities.³⁵

O'Connor refused the application on the grounds that once a state of war had arisen the civil courts had no jurisdiction over the acts of the military authority during that state of war.³⁶ His defense counsel decided to appeal the verdict, however, Childers was promptly executed while the application was still being processed. Nonetheless, the issues raised by Childers' legal team were not to be the only questions which emerged following his trial and conviction. The manner

³³ Ibid.

³⁴ Colm Campbell, *Emergency law in Ireland 1918-1925* (New York, 1994), pp 248-249.

³⁵ O'Connor M.R. decision on Childers' habeas corpus plea, 23 November 1922 (T.C.D. Archives, Childers papers, Ms. 7830/3).

³⁶ Campbell, *Emergency law in Ireland*, p. 248-249.

and location of Childers' arrest was also questioned. Those opposed to the execution argued that the location and circumstances of his capture did not justify the death penalty.

Childers was, according to one official draft of evidence supplied by the Army personnel involved in his arrest, apprehended in the unlawful possession of a pistol.³⁷ There are also other official drafts of evidence, which despite containing many similarities with the aforementioned summary, such as the time, location and date of arrest, also contain some minute, yet important, discrepancies. In their sworn affidavits, Captain P. Byrne stated that 'he [Childers] was passing me I laid my hand on his arm, he then made an attempt to draw an automatic revolver, which was taken from him by Lieutenant J. M. Gerard in my presence. He was placed under arrest.'³⁸ In addition to this, Captain C. J. Coughlan verified Byrne's description of events as he stated:

When about half way up the stairs I saw Captain Byrne and Lieutenant Gerard struggling with a man [Childers] on the landing. I saw an automatic revolver in the man's hand, it was pointing towards Lieutenant Gerard. I then ran up, and grasped him round the waist. Lieutenant Gerard then disarmed him, and he was placed under arrest.³⁹

Finally, Lieutenant Gerrard provided the most important description of events as he stated:

When I entered the room he [Childers] brushed past me and got out on the landing, and there he was stopped by Captain Byrne. I had caught him by the sleeve, and I held on and we both struggled with him. I took a Spanish automatic revolver from his right hand. I saw Captain Coughlan examining the automatic and saw him taking a loaded magazine out from the butt, and ejecting one from the breach. He was placed under arrest.⁴⁰

This account details an attempt by Childers to evade arrest. Moreover, it maintains that he was willing to use his weapon if the opportunity presented itself. This constituted a threat to the lives

³⁷ Draft of evidence for the trial of Erskine Childers, November 1922 (U.C.D. Archives, de Valera papers, P150/1659).

³⁸ Seán O hUadhaigh's affidavit, 18 November 1922 (T.C.D. Archives, Childers papers, Ms. 7830/1).

³⁹ Ibid.

⁴⁰ Ibid.

of the soldiers and therefore justified the death penalty. As a result they indicated that, similar to the first executions, Childers was arrested in direct armed conflict against National troops. In order to obtain a more comprehensive picture other accounts, such as Childers' own recollections, need to be analysed. According to Childers' final letters to his wife Molly, which were smuggled out of jail, he stated that:

In case proceedings at my trial are never known, I want to say that I asked all the witnesses questions to show that a shooting fight – in the passage outside my door when taken – would have endangered two women there, and that is why I did not use my pistol, and only tried to force my way through. They admitted it was a fact.⁴¹

Childers' account offers a somewhat different interpretation of his arrest. Although in possession of a firearm, he claimed that he did not intend firing on those who came to apprehend him as he did not wish to injure those resident in the house in which he was lodged. This point of passive resistance can be further substantiated as it can be argued that Childers was arrested in what was essentially his familial home. This issue was highlighted in the Dáil on 28 November 1922. George Gavan Duffy not only questioned the Government over Childers' guilty verdict but also chastised the Government for convicting this man, and those previous to him, without proving their intent to use their weapons. According to Gavan Duffy:

Now, what happened? The military authorities apparently ascertained that Erskine Childers was living at the home of his childhood in Wicklow; they surrounded the house in the early morning; they found him there and arrested him, as I understand, getting out of bed with a revolver. They charged him for that he had a revolver without their authority; they sentenced him for that; and they executed him for that; for having a pistol in that private dwelling-house without the authority of the Provisional Government. That and that alone is his capital offence.⁴²

⁴¹ Irish Legation Circular for international justice and peace, 17 March 1923 (T.C.D. Archives, Childers papers, Ms. 7808/335).

⁴² Dáil Debates, *Dáil in committee – army*, volume 1, col. 2359 (28 November 1922).

This is also argued by Regan. He states that Childers was not captured in an armed raid on a military installation or against National troops, but taken from his own residence, a house in which he lived since he was a teenager.⁴³

Gavan Duffy continued to question the Government over their inability to prove Childers' actual intentions with his pistol. In an effort to express his point more effectively Gavan Duffy referred to the previous executions in Dublin on 17 November. He argued the four men were charged with the mere possession of revolvers and were executed because of their intent to kill National troops. However, Gavan Duffy stated that these four men were never charged with intent. He claimed that there is a substantial gap between the evidence required to convict a man for possession and the evidence required to convict a man of intent. If a man has a gun and no permit the court, he claimed, is obliged to convict him no matter what the extenuating circumstances were. He argued that if a man's intentions cannot be proven then he cannot be convicted.⁴⁴ He suggested that Childers' case was:

even worse. He is not found at night in a city, armed. He is found in a private dwellinghouse, and because he has that revolver—that pistol—in his home, in what, for the time being, really is his home, the house of relatives, he is put to death for that. I refuse to believe that this Dáil pliant as it is to the wishes of the Government in many respects would ever have consented to the passing of the resolution as it was passed, had it realised that such a thing as this would be done by virtue of its action.⁴⁵

In response, Cosgrave immediately rebuked Gavan Duffy and labelled him 'weak-kneed' and 'afraid of his own shadow.'⁴⁶ However, these arguments do contain a certain amount of substance. In another letter to his wife, Childers stated that his mother Anna was the daughter of

⁴³ Regan, *The Irish counter-revolution*, p. 109.

⁴⁴ Dáil Debates, *Dáil in committee – army*, volume 1, col. 2361 (28 November 1922).

⁴⁵ Ibid.

⁴⁶ Ibid, cols 2362-2363.

Thomas J. Barton, of Glendalough House, Annamoe, County Wicklow. According to Childers, that residence ‘became my own home and domicile from 1883 onwards, until I married in 1904, for both my parents having died when I was young, from the age of 13 I was brought up at Glendalough House by my uncle and aunt, Charles and Agnes Barton, along with their children.’⁴⁷ Coupled with this Robert Barton, Childers’ cousin and owner of the house in which he was arrested, supported Childers’ claim. Barton stated that ‘I do not remember the time when the Childers family did not reside at Glen [Glendalough] nor have I had recollections of my early childhood immediately subsequent to their arrival there.’⁴⁸ Nonetheless, the controversy does not conclude with the manner and place of Childers’ arrest, as there were several other factors which may have affected this case.

Despite Childers’ previous revolutionary record and the fact that he had been secretary to the Treaty delegation in London he became one of its fiercest opponents, which according to Hopkinson, bordered on obsessive.⁴⁹ The substantial division in opinion resulted in a great deal of animosity towards Childers from the pro-treatyite elite. According to Pakenham, Griffith disapproved of Childers’ inclusion in the Treaty delegation and only relented at de Valera’s request. The trust which de Valera placed in Childers was returned in abundance. According to a source close to Childers, he displayed a great deal of respect and loyalty towards de Valera. ‘During these past months I had a long talk with Erskine Childers about Mr. De Valera. I found that he held for the latter the most unbounded respect and affection [...] Mr. Childers described

⁴⁷ Irish Legation Circular for international justice and peace, 17 March 1923 (T.C.D. Archives, Childers papers, Ms. 7808/335).

⁴⁸ Robert Barton’s early recollection of the Childers family, undated (T.C.D. Archives, Robert Barton papers, Ms. 7834/8).

⁴⁹ Michael Hopkinson, *Green against green, the Irish Civil War* (Dublin, 2004), p. 190.

the perfect loyalty with which he and his colleagues supported and aided “the Chief.”⁵⁰ Even though the author of this note is unknown it can be substantiated by de Valera’s appointment of Childers as secretary to the Treaty delegation. As the unity once enjoyed by the Republican movement during the War of Independence began to falter over the Treaty, Childers’ association with de Valera ensured that he was distrusted by the pro-treatyite hierarchy. It was this distrust that was to transform into a serious antagonism which rivalled that of Collins and Brugha. According to Pakenham, ‘this tragic complex, whether we place the responsibility for it on human nature or on the circumstances that brought Childers to Ireland [his British descent], takes rank among the causes of the friction that was to cut the [Treaty] Delegation in two.’⁵¹

Hostility towards Childers escalated and was clearly evident during the Treaty debates. Following questions by Childers, Griffith, a staunch supporter of the settlement displayed a great deal of antipathy towards the former when he slammed the table and remarked: ‘I will not reply to any damned Englishman in this Assembly.’⁵² Consequently, as Regan suggests, the distrust held by Griffith was inherited by O’Higgins.⁵³ This was highlighted in the Dáil by Gavan Duffy. He argued that this sense of enmity towards Childers, displayed by certain members of the Government, resulted in the accused receiving an unfair trial. According to Gavan Duffy:

It was their [the Government’s] paramount duty to take quite exceptional precautions to see that in no way should they be influenced against him, that they should not be influenced against him in the smallest degree, except by what was definitely proved in evidence against him before the Court.⁵⁴

⁵⁰ Note extracts from an unidentified person describing Childers’ loyalty to de Valera, 1922 (T.C.D. Archives, Childers papers, Ms. 7829/19).

⁵¹ Frank Pakenham, *Peace by ordeal* (Cork, 1951), pp 98-101.

⁵² Dáil Debates, *President’s statement of policy*, volume 3, col. 416 (10 January 1921).

⁵³ Regan, *The Irish counter-revolution*, p. 109.

⁵⁴ Dáil Debates, *Dáil in committee – army*, volume 1, cols 2358-2359 (28 November 1922).

The issue of bias did contain some validity, according to Comyn. In a letter to de Valera, Comyn indicated that the military court established to try Childers ‘consisted of a junior Barrister and two young officers. I had a notion that they were selected for unpleasant work.’⁵⁵ He argued that this court was in fact completely prejudiced against his client. He stated that ‘honestly, I believe, [that] Childers is getting Black man’s law, that is, the law applied to negroes and hindoos under the English Privy Council.’⁵⁶ According to Gavan Duffy, a large segment of the country despised Childers. He argued that as a result of pro-treatyite propaganda, which supposedly engrossed the country, Childers was viewed by the political, military and civilian populations as a ruthless monster, an agent of the British Government and therefore deserving of the death penalty.⁵⁷ There is some truth to this. Childers was held responsible by the Government and the Army for orchestrating several Irregular attacks throughout the country. For example, it was alleged in the Dáil that he had commanded an expedition of Irregulars, on 29 August, which had set out to destroy the transatlantic cables in Valentia, County Kerry, by damaging one cable and attempting to sever the other.⁵⁸ These accusations also appeared in the press. In addition to the attempt to cut the cables in Kerry, he was also implicated in the destruction of several railway bridges and signal boxes throughout the country.⁵⁹ As a result, critics viewed his execution as an outrageous conspiracy. During Childers’ trial the Irregulars’ G.H.Q. issued a statement which argued that the verdict of the trial was assured beforehand because ‘your [the Government’s] vile propaganda, have loaded the dice against him.’⁶⁰ It was claimed that he was executed due to the anti-Childers sentiment that had engulfed the country and as a result of an anti-British or at least

⁵⁵ Letter from Comyn to de Valera, 18 November 1922 (U.C.D. Archives, de Valera papers, P150/1659).

⁵⁶ Letter from Comyn to de Valera, 22 November 1922 (U.C.D. Archives, de Valera papers, P150/1659).

⁵⁷ *Ibid.*

⁵⁸ Dáil Debates, *Statement by the President*, volume 1, no. 2, col. 76 (11 September 1922).

⁵⁹ *The Times* (7 Sept. 1922).

⁶⁰ Statement by I.R.A. G.H.Q., 15 November 1922 (U.C.D. Archives, FitzGerald papers, P80/304).

a vindictive action undertaken by the Government. In accordance with this theory a great deal of emphasis has been placed on numerous speeches made by O’Higgins in the Dáil.

O’Higgins firmly believed that Childers was one of those ultimately responsible for the Irish Civil War. O’Higgins claimed that this ‘able Englishman’ was responsible for misleading others through his propaganda and was intent on destroying the fabric of the country. During the debates over the Public Safety Resolution O’Higgins rose to his feet in the Dáil and argued:

I do know that the threads and ties which bind society, ties which bind the ordered fabric of this State, are strained to snapping point, and I do know that the able Englishman who is leading those who are opposed to this Government has his eye quite definitely on one objective, and that that is the complete breakdown of the economic and social fabric [...] His [Childers’] programme is a negative programme, a purely destructive programme [...] He has no constructive programme, and so he keeps steadily, callously and ghoulishly on his career of striking at the heart of this nation, striking deadly, or what he hopes are deadly, blows at the economic life of this nation [...] I am now referring to the Englishman, Erskine Childers. [We must] take what we consider are the most effective steps to check this headlong race to ruin.⁶¹

This statement, which exaggerated Childers’ actual involvement in the Civil War, added to the suspicion in the Dáil that the Government and the Army were anxious to capture, try and execute Childers. However, the reference to Childers as an Englishman was not the only one made by O’Higgins. When defending the first set of executions, on 17 November, he declared that:

If you took as your first case some man who was outstandingly active or outstandingly wicked in his activities the unfortunate dupes through the country might say, “Oh, he was killed because he was a leader,” or “He was killed because he was an Englishman,” or “He was killed because he combined with others to commit rape.” It was better in my opinion, wiser in my opinion, more calculated to achieve the object, to achieve the deterrent object, to take simply the plain or ordinary case of the men who go out with arms to kill their fellow-countrymen.⁶²

⁶¹ Dáil Debates, *Precedence for ministerial business*, volume 1, col. 859 (27 September 1922).

⁶² Dáil Debates, *Military executions*, volume 1, col. 2267 (17 November 1922).

O'Higgins later suggested that this was an innocent remark used to prove a point but it only added to the uncertainties held by those who claimed that Childers' fate was already sealed before he had even been arrested.

In a letter to Chester Allen Arthur Junior, grandson of the twenty-first American President Chester Arthur, from the Minister for Foreign Affairs, Desmond FitzGerald, indicates that the Government did not act vindictively when deciding to try Childers. In a previous telegram, on 12 November, Arthur attempted to chastise FitzGerald and the Government for capturing Childers. He stated 'If Childers is executed [reprisals] will follow. Reprisal[s] until all prisoners are killed and Ireland loses respect of world one more martyr will add weight to cause of republic [...] God forgive you for you know not what you have done.'⁶³ In his reply FitzGerald, Childers' former collaborator on republican propaganda, argued that they had to undertake these acts despite the fact that they were, previously, closely associated with Childers. According to FitzGerald:

It is, in a way, almost laughable to hear people talk as though we shoot these men, who were our most intimate comrades merely because we like shooting them [...] It is our misfortune that the situation demands that we should strike at those whom we least desire to strike [...] but you might remember that we are far more intimately associated with these men than you were [...] the difference between you and us is that you are an individual, able to consider your feelings [...] we are [...] responsible representatives. Each of us feels as you do, but we are not in your happy position.⁶⁴

Arthur's comments are important as they indicate that despite the fact that the public, for the most part, acquiesced to the executions policy the Government did receive some criticism, in this case from a foreign notable. However, as FitzGerald contended, the Government had no choice but to execute former comrades and friends in order to end the Civil War. FitzGerald did

⁶³ Telegram from Chester Allen Arthur Junior to FitzGerald, 12 November 1922 (U.C.D. Archives, FitzGerald Papers, P80/443 (2-4)).

⁶⁴ Ibid, reply from FitzGerald to Chester Allen Arthur on 13 December 1922.

concede in further correspondence to Arthur, on 29 January 1923, that the possession of a weapon was a technicality. Nevertheless, he firmly believed that Childers was, despite their previous relationship, ‘an immediate danger to the life of this country, and his execution certainly saved the lives of others.’⁶⁵

Critics also attempted to highlight the British Government’s involvement in this case. The British administration, although in the process of vacating the country, were accused of influencing the outcome of Childers’ case. In a statement made during Childers’ trial de Valera suggested that they were mere puppets of the British Government. He stated that:

the order has come from London that Capt. Erskine Childers, of the Republican Army, tried to-day behind closed doors by a Court that has no legal standing [...] If this order is carried out, not all the blood that will flow as a consequence will expiate our national guilt. If Erskine Childers be shot by Irishmen at England’s bidding we shall be called a nation of slaves.⁶⁶

The British Cabinet had previously indicated interest in the apprehension of Childers. The Home Office, under Secretary Winston Churchill, indicated on numerous occasions that they would like to have tried Childers for treason assuming they had the legal ability to do so. Numerous internal memoranda were circulated throughout Churchill’s department which inquired into the possibility of trying Childers, if he was located on British soil. According to one of these memorandums: ‘Assuming that evidence is available to prove an act of high treason or treason felony by Erskine Childers [...] the question arises whether such persons could legally, if found in England, be arrested and tried for such crimes.’⁶⁷ This was not the only time Churchill disclosed his personal feelings of contempt for Childers. Following Childers’ arrest Churchill,

⁶⁵ Letter from FitzGerald to Arthur, 29 January 1923 (U.C.D. Archives, Arthur papers, P72/2).

⁶⁶ Statement by de Valera regarding the trial of Childers, 17 November 1922 (U.C.D. Archives, de Valera papers, P150/1695).

⁶⁷ Home Office request for legal advice regarding Childers, 4 September 1922 (T.N.A., Home Office papers, HO 144/1768/436496).

speaking in Dundee on 11 November, scornfully referred to him as a ‘murderous renegade.’ He stated:

I have seen with satisfaction that the mischief-making, murderous renegade, Erskine Childers, has been captured. No man has done more to harm or shown more genuine malice, or endeavoured to bring a greater curse upon the common people of Ireland than this strange being, actuated by a deadly and malignant hatred for the land of his birth.⁶⁸

Churchill’s comments did not go unnoticed. In the Dáil Mr. Gaffney, a member of the Labour party, not only questioned the link between the initial executions and that of Childers but also argued that Britain’s involvement was undeniable. Gaffney argued that due to ‘the very fact that in England you had Winston Churchill, and men of his calibre crying down this renegade Englishman [...] should have set us thinking that there was a screw loose somewhere.’⁶⁹ However, these were only opinions expressed by the then Home Office Secretary and it has to be acknowledged that whether Winston Churchill, and by extension the British Cabinet, had any influence is indeed questionable and in reality insignificant as the Provisional Government and the National Army already had grounds to execute Childers. To date one important viewpoint has been omitted, Childers’.

Following his arrest, Childers made a detailed statement in which he highlighted several factors which he believed affected his case. He commented on the numerous speeches made by both O’Higgins and Churchill and he questioned the legality of the tribunal set up to try him. Furthermore, he examined the subject of his so-called dichotomous nationality as he felt that this was a key factor which contributed to his conviction. He stated ‘in view of the mass of prejudice which has gathered about me owing to false statements and calumnies, and innuendoes which

⁶⁸ Irish Legation Circular for international justice and peace, 17 March 1923 (T.C.D. Archives, Childers papers, Ms. 7808/335).

⁶⁹ Dáil Debates, *Dáil in committee – army*, volume 1, col. 2368 (28 November 1922).

have been made about me in the press and elsewhere for a year past.’⁷⁰ Childers claimed that propaganda was used and prejudices cultivated to ensure his conviction. He was referring to Griffith’s, O’Higgins’ and Churchill’s comments which either cast him as a ‘damned Englishman’, an ‘able Englishman’ or a ‘murderous renegade’, respectively. Childers argued that:

I have constantly been called an Englishman who, having betrayed his own country, came to Ireland to betray and destroy Ireland, a double traitor [...] According to the rules laid down by your own Government – I am by birth, domicile and deliberate choice of citizenship an Irishman. My father was English, born in England, my mother was Irish, born in Ireland, Anna, the daughter of Thomas J. Barton, of Glendalough House, Annamoe, Co. Wicklow [...] With the formal establishment of the Republic in 1919, it became necessary for people like myself, of mixed birth, to choose our citizenship once and for all. I chose that of the Irish Republic.⁷¹

The term ‘Englishman’ was, according to Childers, grossly and unfairly applied to him. He ultimately believed that he was an Irishman legally and morally and the application of this term only served to affect his chance of receiving a fair and unbiased trial. It is worth noting here that Childers was just as “Irish” as other high profile nationalist figures such as de Valera, Pádraic Pearse and Griffith, all of which have ancestral ties to foreign countries including America, Britain and Wales, respectively. Childers argued that:

When his [O’Higgins’] speech was made on November 17th, my case, so far as I know, was still *sub judice* [...] this sentence had to be confirmed and, in the case of a sentence of death, further confirmed by two members of the Army Council, and it seems probable that the speech may have influenced the minds of those whose duty it was [...] to review the sentence [...] I submit that it was a grave matter that this speech of Mr. O’Higgins was made when it was made. I understand that technically, at any rate, Military Courts are wholly under the Army, and that then Civil authority has no control over them – or rather has delegated its control to the Army – but Mr. O’Higgins spoke as though he himself

⁷⁰ Irish Legation Circular for international justice and peace, 17 March 1923 (T.C.D. Archives, Childers papers, Ms. 7808/335).

⁷¹ Ibid.

were, as a member of the Government, responsible, not merely for authorising the Army to execute, but for the policy of actually carrying out particular executions [...] The impression left on the mind was that so far from the Army having sole and autocratic discretion, the policy of carrying out the executions was a Cabinet matter, in which Mr. O'Higgins himself had a voice as well as General Mulcahy.⁷²

Childers also claimed that Churchill's speech at Dundee, in which the Home Secretary referred to him as a mischievous and murderous renegade, indirectly contributed to his conviction. He maintained that:

He [Churchill] has had personal charge of carrying out the Treaty for his Government and has been in constant and intimate association for that purpose with the Provisional Government and especially, among others, with Mr. O'Higgins. That such veiled appeal for my execution, with the abdominal slanders attached to it, would influence the mind of any Irish Minister.⁷³

Another important point, according to Childers, was that he was never convicted of being 'outstandingly active or wicked' as claimed by O'Higgins and Mulcahy. He declared that nothing was produced by witnesses beyond his identity, details of his capture and possession of an automatic pistol. No reference was made, according to Childers, to his activities since the beginning of the conflict. He argued that being charged with the possession of a gun alone was ridiculous.⁷⁴ Childers was adamant that he was not attempting to do 'this in the desire to shirk any penalty. If it is to be so, I will gladly and happily suffer the lot of the four lads executed on the 17th on the same charge as mine.'⁷⁵ He felt, however, that it was imperative that he put across his views about what he felt was a slanderous attack on both his character and the republican cause before his conviction and subsequent execution. Childers accepted responsibility for his

⁷² Ibid.

⁷³ Statement by Erskine Childers prior to his execution, 19 November 1922 (U.C.D. Archives, FitzGerald papers, P80/305).

⁷⁴ Ibid.

⁷⁵ Ibid.

propaganda but was appalled at how, as he believed, the Provisional Government over exaggerated his actual role in the Civil War. 'I take the fullest responsibility for any influence I may have had on my fellow countrymen. [However] That influence has been grossly and ridiculously exaggerated by our enemies in order to discredit our cause through me, but such as it has been I am proud of it.'⁷⁶ It was his opinion that there needed to be a counter-balance to all of the pro-treatyite propaganda which had been used against him to defame his character and to deprecate the cause which he supported while it was still possible to do so. This is important as it now facilitates a more comprehensive analysis of the factors which he felt contributed to his conviction and pending execution.

Childers' death was a considerable blow to Irregular morale. According to de Valera, when writing to Liam Mellows in prison, the loss of Childers was enormous. He indicated that 'Childers died like the good brave man he was [...] his loss is irreparable – not half so much because of his ability as because of the nobility of his character.'⁷⁷ However, unbeknownst to de Valera and Mellows the Irregulars' G.H.Q. was also formulating a response to the executions policy. They released a statement which argued 'If Erskine Childers dies in their hands, he will have died in the cause of Tone and Padraig Pearse, and his judges and his executioners will have acted in the cause of [...] Maxwell, and they should know that they cannot do these things with impunity.'⁷⁸ The Irregulars attempted to portray the Government and Army as British dupes throughout the Civil War. The executions policy provided them with ample opportunities to do so. In this instance, they were quick to link Childers' execution to that of previous revolutionaries in an attempt to taint the pro-treatyites with the same anti-British sentiment that

⁷⁶ Irish Legation Circular for international justice and peace, 17 March 1923 (T.C.D. Archives, in Childers papers, Ms. 7808/335).

⁷⁷ Letter from de Valera to Mellows, 25 November 1922 (U.C.D. Archives, de Valera papers, P150/1659).

⁷⁸ Statement by Irregulars' G.H.Q. regarding the trial of Erskine Childers, 15 November 1922 (U.C.D. Archives, FitzGerald papers, P80/304).

emerged after the executions of Pearse and Tone. Nonetheless, Childers hoped that his execution would mean an end to the Government's executions policy. He stated that 'Oh! will this nation soon understand and pay reverence to what actuates our comrades in the cause? I feel it will. If only I can die knowing that my death would somehow – I know not how – save the lives of others and arrest this policy of executions.'⁷⁹ However Childers, whose execution brought the total to five thus far, was proved wrong. The decision to execute him simultaneously issued a message to the Irregulars that no one, leader or otherwise, would be immune to prosecution under the Public Safety Resolution. Unfortunately for the aforementioned prisoner, Mellows, the Irregulars' response to the Government's executions policy ensured that he, along with three other prisoners, would also face the firing squad on 8 December 1922.

There was never really any doubt that the military court would find Childers guilty as technically he was under the conventions of the Public Safety Resolution. However, there were several issues which could have influenced this particular case. Evidence suggests the occurrence of a less speculative and more logical chain of events. It has been argued that there was a direct link between the executions of four men on 17 November and Childers' execution on 24 November. Critics claimed that the former event was a test case to assess the possibility of extending the scope of the executions policy to include members of the Irregulars' hierarchy. Furthermore, it was suggested that the executions on 17 November were devised to desensitise the country in preparation for a more controversial execution, that of Childers. While it has been established that the initial executions were a test case this does not imply conspiracy. The first cases under any new policy are used to assess to practicality of that policy. Even though Childers was, technically speaking, a leader the vast majority of those executed, as will be established in subsequent chapters, were ordinary soldiers and not members of the Irregulars' hierarchy. It is

⁷⁹ Extracts from Childers' final letters, November 1922 (U.C.D. Archives, de Valera papers, P150/1659).

evident that there was a relationship between both sets of executions. However, the connection was not a dubious or malevolent one. Moreover, having five executions in such a short space of time actually fuelled rather than quietened condemnation.

O'Higgins' referral to Childers in the Dáil on two separate occasions was also highlighted by opponents of the Government and the executions policy. Firstly, O'Higgins alluded to Childers as an 'able Englishman' engaged in 'a purely destructive programme' on the same day that the Public Safety Resolution was tabled, 27 September. Critics argue that this meant that these emergency powers were specifically devised for Childers. O'Higgins claimed that this was an innocuous remark. This may well have been the case. How could O'Higgins and the other pro-treatyites for that matter create or endorse a policy for a man that was still at large? None of those involved in the construction or proposition of the September resolution could have known that Childers would be arrested whilst in possession of a weapon nearly two months later. Furthermore, if the policy was meant solely for Childers then why did the executions continue after he was put to death? It is highly unlikely that the pro-treatyites would have devised such a controversial policy and executed eighty additional men just to facilitate the execution of one particular man. Secondly, critics also highlighted O'Higgins' comments on 17 November. When justifying the first set of executions, he stated that it was necessary to execute ordinary Irregulars first as this would send a clear message to other average Irregular soldiers that if they were caught with a weapon then they would face execution. O'Higgins claimed that if they took as the first case an Irregular leader and/or an Englishman then the message would have been lost as normal Irregulars would have assumed that the executions policy only applied to the anti-treatyite elite. O'Higgins would have been well aware of Childers' arrest on 10 November and, as evidence suggests, referred to him to prove a point and justify the executions which occurred

that same day. All that O'Higgins' comments indicate is that he, in addition to several other prominent pro-treatyites, loathed Childers. It suggests that following his capture, trial and conviction by military court the Cabinet, in conjunction with the Army Council, confirmed his sentence. This, however, does not imply existing intent or prove the Government was involved in a conspiracy. It must be noted that Childers and his associates proclaimed that his so-called intent to discharge his weapon, when being arrested, was presumed by the pro-treatyites. They further claimed that assumption did not equate to intent. However, they were just as quick to misrepresent O'Higgins' intentions and assume that he had malevolent objectives in mind when he referred to Childers in the Dáil.

The manner and location of Childers' arrest was also referred to as proof of a conspiracy. It was claimed that as he was arrested in his own home and did not use his weapon against the National troops then his conviction and subsequent execution was unjustified. Regardless of how this might be perceived by the general public, the Government were not unduly concerned. They believed that Childers was a menace to society, a man that led numerous Irregulars astray with his propaganda and as he was captured with an unauthorised weapon he was subject to execution. The issues surrounding Childers' arrest are interesting and noteworthy; however, they are largely irrelevant. Whether he was captured in his home or in open confrontation did not matter. He was still a prominent Irregular, one that had taken up a guerrilla struggle against the Provisional Government. Childers was apprehended with a weapon regardless of whether or not he intended to use it. He claimed that he did not fire his weapon as his relations were in the house at the time of his arrest. Does this mean that he would have been content to engage the arresting troops in a shoot-out if his relatives were not in the house? The fact remains that he was a self-proclaimed anti-treatyite. He was a prominent member of an organisation that had declared

its opposition to the Treaty and was engaged in military resistance against the Government. Conversely, would an armed O'Higgins have survived if a group of Irregulars raided his house and attempted to capture him? The Irregulars had indicated on several occasions that they were well capable of killing prominent pro-treatyites. For example, Collins was killed on 22 August. Controversy aside, Childers was captured with a weapon and under the terms of the Public Safety Resolution he was guilty.

Critics also alluded to the possibility of British involvement. This point is indefensible. It is evident that Churchill wanted to try Childers for treason and presumably execute him thereafter. Churchill certainly despised this 'murderous renegade', as he called him, but again this does not imply direct or indirect involvement in Childers' execution. The Provisional Government did not need British permission or support to convict and put Childers to death. The Irregulars also attempted to create a link between Childers execution and other nationalist martyrs, such as Pearse and Tone, in an effort to portray the Government and Army as British puppets. The Government was not overly worried by these attempts or how this particular case would be perceived by the public. They believed that in this instance people would view Childers' execution in the same way they did, regrettable but necessary. Despite condemnation from expected sources such as the Irregulars, anti-treatyite sympathisers and the Labour party, the Government were accurate in their assumption.

Finally, in several letters to Chester Allen Arthur Junior, FitzGerald admitted Childers' conviction for the unauthorised possession of a weapon was not the sole reason for his execution, however, it was enough to convict him. Again this does not imply conspiracy. It must be emphasised here that FitzGerald suggested that despite the fact that several prominent pro-treatyites loathed Childers they did not have a vendetta against him. He states that they acted out

of necessity. Childers was an influential character and was regarded as a clear and present danger to society. Thus, it was politically and militarily expedient to execute Childers. He stated that the Government did not execute Childers out of vindictiveness. After all Childers was, some months previous, close friends and comrades with the very same men that now faced him. According to the Government, they did not want to execute Childers but as responsible servants of the Irish people they had to act in the best interests of the country.

This is not to say that Childers' death was beyond reproach. The fact remains that he was put to death while his appeal, albeit a civil one, was still being processed. Furthermore, the pro-treatyites over-estimated Childers' actual influence and importance during the Civil War. It can also be argued that the execution of this man, and many others, for the mere possession of a weapon, given that the consecutive nature of the War of Independence and the Civil War had put weaponry in the hands of many people, is disputable. It must be emphasised that this was a time of civil war and hindsight was not an option in 1922.

CHAPTER 4

‘Terror Meets Terror’

Assassination and Executions

Following the executions in early November the Irish Civil War continued unabated. Determined to continue their prosecution of the conflict, the Government carried out three more executions in Beggars Bush barracks, Dublin on 30 November. These events caused Liam Lynch to reconsider the Irregulars’ policy concerning official reprisals. Prior to this he had opposed this course of action. However, his attitude changed following the execution of the eight Irregulars. Lynch issued an order, on 30 November, which stated that all those that voted for the Public Safety Resolution would be shot on sight. This directive resulted in the assassination of Seán Hales T.D. and the serious wounding of Deputy Pádraic Ó Maille outside Leinster House, Dublin, on 7 December. This incident will be examined in detail as the notion that this single event significantly altered the landscape of the Irish Civil War forms the basis of this chapter. The immediate consequences of this event, the extrajudicial execution of four untried prisoners in Mountjoy Jail on 8 December 1922, will also be analysed. This proved to be one of the most contentious incidents during the Civil War, one which even surpassed the attack on the previous day. The execution of four untried men signified the Government’s intentions to radically alter their implementation of the executions policy in response to the Irregulars’ policy of assassination, in reality, breaching the law in order to maintain it.

The execution of five Irregulars by 24 November 1922 caused Lynch great concern. He was determined to counter the impact that the executions policy was having on his troops. Lynch informed Eamon de Valera, on 25 November, that ‘at [the] last Executive meeting a unanimous

decision was come to that if [the] enemy carried out their Murder Bill by executing any members of I.R.A. [...] that all [the] members of P.G. [Provisional Government] Parliament who voted for Bill would be shot at sight.¹ In addition to this, Lynch stated that all Labour T.D.s would be notified that if they continued to participate in the Dáil that similar action would be taken against them.² De Valera, although uncertain about the effectiveness of a reprisals policy, concurred with Lynch. He argued that ‘the efficacy of reprisals is open to doubt, but as I see no other way to stop these others and protect our men, I cannot disapprove.’³ Lynch subsequently issued a letter to the Ceann-Comhairle of the Dáil, on 28 November, threatening drastic action against those who had voted for the emergency powers resolution. Regardless of the Irregulars’ threat the pro-treatyite political and military authorities put to death three more prisoners in Beggar’s Bush barracks, Dublin. Prisoners Joseph Spooner, Patrick Farrelly and John Murphy were executed on 30 November for the unauthorised possession of revolvers and bombs.⁴ These men had been arrested in Dublin near Oriel House, the headquarters of the C.I.D., whilst attempting to destroy the building.

Oriel House and its employees had an unsavoury reputation. It was established as a part of the Government’s first response to post-truce policing problems in Dublin. It had an armed plain clothes force which was charged with detective, security and both military and political intelligence functions.⁵ Irregular prisoners who were detained there were interrogated by men who, according to Ernie O’Malley, ‘were untrained in detective work, but they were handy with

¹ Letter from Lynch to de Valera, 25 November 1922 (U.C.D. Archives, de Valera papers, P150/1749).

² Ibid.

³ Letter from de Valera to Lynch, 27 November 1922 (U.C.D. Archives, de Valera papers, P150/1749).

⁴ Information regarding the executions in the Dublin Command, undated (U.C.D. Archives, O’Malley papers, P17a/191).

⁵ Eunan O’Halpin, *Defending Ireland, the Irish state and its enemies since 1922* (Oxford, 1999), p. 3.

their guns and they were tough.’⁶ One prisoner, Joseph Clarke, detailed his treatment by C.I.D. officers in an account which he gave on 13 November 1922. Following his arrest officers Frank Bolster and Dolan:

twisted my arms and kicked me on the legs and body, tore my moustache off with a scissors, razor and some other torture instruments. Dolan did most of the torture, assisted by Bolster. They also twisted my ears with a pliers. They also threatened to use a hot iron if I did not give them information. Dolan made a blow at me with a large black bottle. I dodged the blow; Bolster said I should be shot [...] I was told I would be taken to the torture room again in an hour’s time if I did not give [them] the information [they] wanted.⁷

Mulcahy tried to rationalise the putting to death of these three men as he had done for the first set of executions. He stated that these men were representative of the rank and file of the Irregulars throughout the country. He claimed that they were probably uneducated men without any political convictions and never meant to get involved in a situation as serious as they did.⁸ Mulcahy also suggested that we ‘provided for these men all the spiritual assistance that we could to help them in their passage to eternity.’⁹ Another detainee, a student named Seamus Mallin who attended University College, Dublin, had been convicted of the unauthorised possession of a revolver and sentenced to death along with the above prisoners. Fortunately for Mallin, his death sentence was commuted to imprisonment. This partial-clemency occurred upon the advice of the legal advisor to the National Army elite, a former Dáil court judge, Cahir Davitt. Davitt, who had been appointed Judge Advocate General on 15 August 1922, intervened and recommended that Mallin’s sentence be reduced due to the prisoner’s young age.¹⁰ Furthermore, Mallin’s familial

⁶ Ernie O’Malley, *The singing flame* (Dublin, 1992), p. 145.

⁷ An account by Joseph Clarke of the treatment of prisoners by the C.I.D., 13 November 1922 (U.C.D. Archives, Twomey papers, P69/250).

⁸ Dáil Debates, *Dáil in committee – estimates – motion for adjournment*, volume 1, col. 2542 (30 November 1922).

⁹ *Ibid.*

¹⁰ Seosamh Ó Longaigh, *Emergency law in independent Ireland, 1922-1948* (Dublin, 2006), pp 22-24.

connections may have played a part in this act of leniency. His father Michael Mallin, an Irish Citizen Army officer, had been executed on 8 May 1916 for his participation in the Easter Rising in which he commanded a group of Volunteers in Stephen's Green, Dublin.¹¹ This indicates that even though the Government were willing to execute former comrades and fellow countrymen, even in Kilmainham Jail, thus running the risk of being labelled hypocritical British pawns they did, in certain circumstances, express caution. In this instance, the Government recognised that they had to be careful about how this might be perceived by the public. Even though the public generally accepted the executions policy during the Civil War the Government did, at times, have to tread carefully when deciding who was to be put to death. Executing the young son of a 1916 hero might lead to a shift in public perception of the Government and its executions policy. Nevertheless, in comparable manner to the previous executions, official notification had not been forwarded to the relatives of the condemned Irregulars. Due to the secrecy which surrounded these events they were unaware that these men had even been tried. An announcement in the newspapers was the first notification they received.¹²

As Lynch's warning had gone unheeded he issued a general order to the O.C.s of all Irregular Battalions on 30 November 1922. This command stated that 'all members of Provisional "Parliament" who were present and voted for Murder Bill will be shot at sight.'¹³ It included the names of those who had voted in favour of the emergency resolution and also listed numerous other categories of Government supporters which would now be targeted and harassed by the Irregulars. For example, the residences of active Government supporters, all Army officers and all ex-British officers who joined the National forces since 6 December 1921 would

¹¹ Charles Townshend, *Easter 1916, the Irish rebellion* (London, 2006), pp 279-280, see also Brian Hanley, *The IRA, 1926-1936* (Dublin, 2002), p. 23.

¹² Dorothy Macardle, *The Irish republic, a documented chronicle of the Anglo-Irish conflict and the partitioning of Ireland, with a detailed account of the period 1916-1923*, 3rd edition (Dublin, 1999), p. 816.

¹³ General Order, 30 November 1922 (U.C.D. Archives, Mulcahy papers, P7a/83), see also Appendix 5.

be subject to attack.¹⁴ Lynch had sanctioned official reprisals in order to equip his forces with their own form of emergency powers as he sought to counter the psychological effects of the Government's executions policy. The issuing of the warning to the Government was an absolute necessity due to, in Lynch's opinion, the appalling undertakings of the National Army. He stated that the:

Provisional Government of Southern Ireland has embarked on a ruthless campaign of extermination and it is quite evident that they intend carrying this through to the last ditch. All their efforts are now concentrated on making a success of the terrorist tactics which failed the English in 1920-21. The F.S. [Free State] leaders have developed a most callous and blood-thirsty outlook and are prepared to go any length to destroy the REPUBLIC [...] His [Mulcahy's] salaried supporters have been allowed to go unmolested while our prisoners have been murdered and tortured in the most devilish fashion.¹⁵

Interestingly, Lynch condemned the Government for their 'bloodthirsty' imitation of British 'terrorist tactics', however; he was now countenancing similar methods. Moreover, he, like Mulcahy, Cosgrave and FitzGerald, denounced comparable tactics employed by the British during the War of Independence. According to Lynch, the Irregulars had acted admirably when dealing with prisoners which had been taken during the Civil War. Ryan suggests that Lynch had refused on numerous occasions to endorse reprisal action against prisoners of the National Army. She states that:

Requests had often been put to Lynch to allow Free State soldiers armed or unarmed to be shot as reprisals for the executions which the Free State Government were continuing to pursue, but Lynch refused to countenance this. Lynch thought that shooting prisoners was immoral; he wondered how as Christians the Free Staters justified such to their own consciences.¹⁶

¹⁴ Ibid.

¹⁵ Memo no. 7 from Liam Lynch, 4 December 1922 (U.C.D. Archives, Mulcahy papers, P7a/85).

¹⁶ Meda Ryan, *Liam Lynch – the real chief* (Cork, 1986), p. 151.

After the ratification of the Free State Constitution Bill and the Consequential Provisions Bill by the King on 5 December, the Irish Free State came into existence.¹⁷ The Provisional Government which was established to facilitate the transfer of power from the British to the Irish administration had run its course and was superseded by the Irish Free State Government. This historical event witnessed the appointment of Timothy Healy as Governor-General by the King. It also saw the re-election of W. T. Cosgrave as President and Kevin O'Higgins as Vice-President of the Dáil. This occasion was ultimately overshadowed by what followed. On 7 December, the day after the Irish Free State came into existence, two pro-treatyite deputies were attacked in Dublin whilst on their way to a meeting of the Dáil. This event, undertaken by a raiding party consisting of members of the Dublin No.1 Brigade, resulted in the assassination of Deputy Seán Hales and the serious injury of Deputy Pádraic Ó Maille, Leas-Cheann Comhairle of the Dáil, outside Leinster House following their luncheon in the Ormond Hotel. Both men had attended a conference which was held by prominent pro-treatyites as they attempted to establish a new political party, Cumann na nGaedheal. Following this attack, however, the pro-treatyites decided to postpone the public unveiling of their new party until April 1923.¹⁸ Unfortunately for Hales, as evidenced by the weekly operational report from Lynch to the Adjutant-General, he was shot unintentionally. In accordance with the report 'Padraig O'Maille, Deputy Speaker, F.S. [Free State] Parliament [was] wounded. Sean Hales, F.S. T.D. and officer of F.S. Army [was] shot dead – unintentionally – while in company of P. O'Maille. It was intended only to wound

¹⁷ *Irish Times* (6 Dec. 1922).

¹⁸ John M. Regan, *The Irish counter-revolution 1921-1936, treatyite politics and settlement in independent Ireland* (Dublin, 2001), pp 142-143.

Hales, but he was mistaken for O'Maille.¹⁹ The report further indicated that during the operation:

O'Maille was pointed out as our men were under cover in a laneway and during the few seconds while O'Maille turned back to speak to a friend he exchanged places with Hales and owing to their general appearance being somewhat similar the mistake was made [...] You will realise however that it was not intended to shoot Hales at the time [...] The intention was only to wound him.²⁰

Another account of this event was reported in the *Irish Independent* on 17 February 2002. The report entitled *The truth behind the murder of Seán Hales* detailed an encounter in 1985 between Ulick O'Connor, an Irish writer, and a man called Seán Caffrey during the run of O'Connor's play *'Execution'* in the Peacock theatre, Dublin. The play was based on the Mountjoy executions. Caffrey was, according to O'Connor, the Irregular Intelligence officer who took the official report from the man that had just shot Hales an hour or two previously.²¹ According to Caffrey, the man that pulled the trigger was called Owen Donnelly from Glasnevin, County Dublin. He stated that Donnelly was 'a rather girlish-looking, fair-haired fellow who had been a very good scholar in O'Connell Schools.'²² He also claimed that he had attended this school with Donnelly and that he came from a good family as his 'brother was a chemist in Cork and his father was a civil servant in the Custom House.'²³ Furthermore, Caffrey stated that Donnelly was delighted after shooting Hales. He claimed that Donnelly even 'gave a little chuckle, as if reminiscing over something which he particularly enjoyed.'²⁴ If true, this account suggests that Donnelly may have been aware that he had just killed his intended target

¹⁹ Dublin no. 1 Brigade weekly operational report to the Adjutant-General from Liam Lynch, 27 January 1923 (N.L.I. Archives, O'Donoghue papers, Ms. 31,242).

²⁰ Ibid.

²¹ *Irish Independent* (17 Feb. 2002).

²² Ibid.

²³ Ibid.

²⁴ Ibid.

Hales and not Ó Maille. Alternatively, Donnelly may not have cared which of the two deputies he shot once he killed one of them. If this is the case it is indicative of the animosity felt by some members of the Irregular forces towards the pro-treatyites and the executions policy.

What is not in doubt is that Hales was killed, whether purposefully or by mistake, at the hands of an Irregular assassin. What is interesting is the fact that Hales had not actually voted for the Public Safety Resolution. Even though he was an active supporter of the Government he was absent from the Dáil when T.D.s had voted for emergency powers. Additionally, he was not actually mentioned on the list that Lynch included with the general order which he had issued on 30 November.²⁵ This further substantiates the claim that he was not the intended target. Hales was a popular soldier as he had played an important part in the War of Independence. Unfortunately his family, like so many others, embodied the tragedy which is inherent in any civil war. His brother, Tom, had sided with the Irregulars and was, at the time of the assassination, a prisoner of the Government. This single incident, in which the Irregulars potentially threatened the lives of all Free State T.D.s and the existence of the newly-fledged Irish State, shocked the country. According to Stephen Collins, numerous Dáil Deputies fled Dublin in fear of their lives following this event. Cosgrave was aware that if the Dáil wilted in the face of this terror then Irish democracy and the Irish Free State would founder at its inception. He ordered the secret service to follow the fleeing Deputies and ensure that they returned to Dublin. Following this he met each T.D. individually and appealed to them to remain undeterred and honour their patriotic duty.²⁶ The assassination of Hales and the wounding of Ó Maille had an enormous impact on the landscape of the Irish Civil War. It was to have immediate and long-standing effects both of which eclipsed even the death of Michael Collins.

²⁵ See Appendix 5.

²⁶ Stephen Collins, *The Cosgrave Legacy* (Dublin, 1996), p. 38.

Firstly, it ensured a brutal and ruthless response from the newly-established Irish Free State Government and the National Army which rivalled the preceding assassination. Secondly, in the long term, this event set in motion what would prove to be a dramatic escalation in both the implementation and the geographical scope of the pro-treatyite's emergency resolution. It ensured that the Free State Government and the Army would become even more determined to crush the Irregulars' armed resistance. Essentially, it meant that whatever restraint was shown previously by both the Government and the Army was now removed and the wholesale implementation of the emergency powers would now occur. As Piaras Béaslaí indicated on 16 December 1922:

Brigadier Sean Hales, T.D., one of the bravest and most loyal soldiers of the Army of Ireland died on Thursday week, foully slain by the bullets of assassins [...] Stern measures are necessary if Ireland is to be saved, but we will carry on the work inspired by only one passion – the desire to save Ireland.²⁷

Following Cosgrave's address to the Dáil, on 7 December, Mulcahy issued a brief but emotional speech which stated 'There was neither Press present, nor were the Deputies asked if they would like to see their relatives, nor were they asked would they like to see a clergyman, nor were they asked had they any private business of their own that they would like to transact.'²⁸ Mulcahy's speech was indicative of his contempt for the measures employed by the Irregulars in comparison to the Government's executions policy which, theoretically speaking, offered due process. The Government's response to this event was to be swift and fierce. Firstly, Mulcahy immediately issued an unwavering proclamation to the country which was published in

²⁷ *An tÓglach* (16 Dec. 1922).

²⁸ Dáil Debates, *Assassination of Deputy Hales and wounding of Leas Cheann Comhairle*, volume 2 (7 December 1922).

the newspapers on 8 December. The declaration, which outlined the existence of a ‘conspiracy’ to assassinate the members of the nation’s parliament, stated that to preserve the:

Lives of the People’s Representatives, to Safeguard the life of the Nation itself, the Sternest Measures are necessary, and will be adopted. It is therefore announced and proclaimed [that] every person arrested in possession of any one or more of the articles or substances specified in the second paragraph [...] shall be liable to be brought forthwith before a Committee of Officers of the National Army and charged with such possession. Such Committee will investigate the charge, and report, in writing to the Confirming Authority [...] Upon consideration of the report of such Committee as aforesaid the Confirming Authority will, if satisfied [...] order such person to suffer death or such other punishment as they shall think fit. Such order will be carried out summarily.²⁹

Mulcahy’s declaration is interesting. As a prominent member of the I.R.A. during the War of Independence he countenanced the use of guerrilla tactics, such as assassinations; however, now that he was attempting to establish a state his attitude towards these tactics had changed.

The decree proved to be a clear indication of intent. The Government finally enforced the military committee system originally devised in the Public Safety Resolution. It outlined the setting up of mobile groups of officers which were to streamline the application of the aforementioned declaration. Campbell states that by spring 1923 captured Irregular prisoners were ‘having their cases disposed of not by military court but by summary Army committees as a matter of course.’³⁰ These committees composed of lower ranking officers, one of which could not be ranked lower than captain, would dispose of charges concerning the unauthorised possession of arms, ammunition and explosives.³¹ Even though military courts were favoured up until now these committees would permit a more summary application of the emergency powers on an increasingly decentralised basis. The previously sanctioned military courts would continue

²⁹ *Irish Times* (8 Dec. 1922).

³⁰ Colm Campbell, *Emergency law in Ireland 1918-1925* (New York, 1994), p. 194.

³¹ *Irish Times* (8 Dec. 1922), see also Ó Longaigh, *Emergency law in independent Ireland*, p. 28.

to operate, however, only in incidents where there was doubt placed on cases.³² Persons arrested in possession of arms would, as quickly as possible, be brought before a local committee of officers which would then analyse the arrest and subsequently report, in writing, if there had been a case of unauthorised possession. For those accused there seemed to be no provision for the accused to consult with a solicitor or barrister. However, the accused would have the opportunity to defend himself and could have an officer for that purpose, when in front of the aforementioned committee.³³ Upon receipt of a committee's report the officers would devise a punishment, which included that of death, and this sentence was to be carried out summarily in accordance with Mulcahy's proclamation. Davitt was concerned over the adoption of the committee system. He believed that they had no judicial function and were nothing more than drumhead courts martial. Davitt argued that as they merely investigated and reported, and as investigations were not legal trials, that the committees did not require any rules of procedure.³⁴ In order to keep the system of committees within the terms of the September resolution each committee would include an officer chosen by Mulcahy and certified by the Law Officer to be a person of legal knowledge – a command legal officer – who would ensure that committees were conducted appropriately and that reports were suitably presented.³⁵ He stated in his memoirs that as they were not judicial in nature, neither he nor his Office should participate in them. Davitt also added that the legal officers supervising these committees should do so as troops obeying orders.³⁶

³² Dermot Keogh, *Twentieth-Century Ireland, nation and state* (Dublin, 1994), p. 15.

³³ Ó Longaigh, *Emergency law in independent Ireland*, pp 28-29, see also Campbell, *Emergency Law in Ireland*, p. 216.

³⁴ Ó Longaigh, *Emergency law in independent Ireland*, p. 29.

³⁵ *Ibid.*

³⁶ *Ibid.*

This was not the only response by the Government and Army to the attack on 7 December. In addition to the swift establishment of military committees the newly formed Free State Government decided to sanction an event which would purposefully rival Hales' assassination. Following a late emergency Cabinet meeting on 7 December, which saw numerous heated and emotional debates, a decision was taken to execute summarily four Irregular prisoners as a response to the events of that day. It is believed by some historians, such as Hopkinson and Keogh, that Mulcahy and Eoin MacNeill proposed and seconded this radical motion at this meeting. O'Higgins, despite being an ardent supporter of stern measures, was the last to accept the decision. He was eventually persuaded as, according to the remaining members present at the Cabinet meeting, there was no other way to halt the Irregulars' policy of assassination.³⁷ However, the Irregulars believed, according to Andrews, that Mulcahy had neither the intelligence nor the nerve to initiate the Mountjoy executions.³⁸ Questions concerning the occurrence of the Cabinet meeting persist as no official minutes for the conference remain. When writing to C. S. Andrews, John O'Beirne claimed that it was common practice for the Government to omit certain information from official minutes. He stated that the Government decided, on 22 July, that Ministers should only be supplied with extracts of cabinet minutes which affected their own departments. He claimed that 'this was to prevent their Cabinet decisions being captured in toto [total], but it also means that unpleasant or very secret information/decisions might not have been made known to all Ministers.'³⁹ O'Beirne remarked that the secret meeting which occurred on the night of 8 December may not have actually taken place as:

³⁷ Michael Hopkinson, *Green against green, the Irish Civil War* (Dublin, 2004), p. 191, see also Keogh, *Twentieth-Century Ireland*, p. 15 and Desmond Greaves, *Liam Mellows and the Irish revolution* (London, 1971), p. 385.

³⁸ C. S. Andrews, *Dublin made me* (Dublin, 2001), p. 270.

³⁹ Letter from O'Beirne to Andrews, 1977 (U.C.D. Archives, Andrews papers, P91/89).

There does not appear to have been a Cabinet meeting on 7th December [...] I haven't been able to find any other reference in the Cabinet Minutes of this period [7 December] to the execution policy. It appears to me that Mulcahy at this time was really running the whole show and that the Free State Army was acting without reference to its civilian masters. Certainly the passage I've quoted above would make it seem that the Cabinet was retrospectively agreeing, especially since previous minutes do not contain reference to an execution policy in any form.⁴⁰

This explanation is implausible. O'Higgins referred to the 'coldest of cold discussions' in the Dáil, on 8 December, when T.D.s furiously debated over the Mountjoy executions.⁴¹ This indicates that a meeting of some sort, official or unofficial, did in fact occur. In a letter to Kevin O'Higgins' daughter, Una O'Higgins O'Malley, Uinseann MacEoin claimed that 'Mulcahy proposed it [the execution of four Irregular prisoners], and Eoin MacNeill seconded it. He was extremely bitter. The person who held out the most on the thing was Kevin O'Higgins.'⁴² A meeting did occur as the execution of four men did not occur miraculously. The decision resulted in an event which Deasy described as 'such an act of savagery that it seemed all principles of war were abandoned.'⁴³ In the early hours of 8 December four Irregular prisoners, Joseph McKelvey, Rory O'Connor, Liam Mellows and Richard Barrett were executed in Mountjoy Jail as a reprisal for the assassination of Deputy Seán Hales. The condemned men were the former I.R.A. Executive's Chief of Staff, Director of Engineering, Quartermaster-General and Deputy Quartermaster-General, respectively. They were in the custody of the Government since the fall of the Four Courts on 30 June 1922.⁴⁴ These men were not tried or convicted. They merely received notification, signed by Mulcahy, following the late Cabinet meeting on 7 December

⁴⁰ Ibid.

⁴¹ Dáil Debates, *Mountjoy executions*, volume 2, col. 72 (8 December 1922).

⁴² Letter from Uinseann MacEoin to Una O'Higgins O'Malley regarding the private Cabinet meeting on 8 December 1922, 10 October 1985 (U.C.D. Archives, O'Higgins papers, P197/229).

⁴³ Liam Deasy, *Brother against brother* (Cork, 1998), p. 112.

⁴⁴ Regan, *The Irish counter-revolution*, pp 115-116.

which informed them of their impending execution. The notice highlighted the emotion which the assassination of Hales evoked:

You _____ are hereby notified that, being a person taken in arms against the Government, you will be executed at 8 a.m. on Friday 8th December as a reprisal for the assassination of Brigadier Sean Hales T.D., in Dublin, on the 7th December, on his way to a meeting of Dáil Éireann and as a solemn warning to those associated [with] you who are engaged in a conspiracy of assassination against the representatives of the Irish People.⁴⁵

This event was a perfect example of how members of the pro-treatyite political and military hierarchy coalesced to decide who was to be put to death. Evidence suggests that these particular men were put forward for consideration, probably by Mulcahy, and that some sort of a vote was taken with O'Higgins being the last to consent. It must be emphasised that extraordinary circumstances influenced the case. A pro-treatyite T.D. had just been killed. Ultimately, speed was of the essence if the Government were to respond to Hales' assassination.

The carrying out of the executions tended to be shrouded in secrecy and as a result obtaining an accurate description of the actual executions themselves has proven difficult. However, with regard to the Mountjoy executions an account emerged in 1997 which provided an insight into the events on 8 December. The account came from a Parish Priest of the Holy Redeemer Church, Canon John Pigott. Pigott was one of the first three chaplains appointed to the National Army. When writing of this incident in the 1960s at the request of the late Father Liam Martin, on behalf of Archbishop John Charles McQuaid, he chronicled the events of the night prior to the execution of these men. According to Pigott, he was summoned to Mountjoy Jail around 1.30 a.m. and upon his arrival he was directed straight to O'Connor's cell where he met with a pale but resolute man. O'Connor insisted that no time should be wasted with

⁴⁵ Notice of execution, 7 December 1922 (U.C.D. Archives, Mulcahy papers, P7/B/85).

conversation and that both men should get down to the actual preparation. Pigott mentions that ‘I can say that no one could have made a more Christian preparation for death than did Rory O’Connor.’⁴⁶ After spending some time with the aforementioned anti-treatyite Canon Pigott gave the prisoner Holy Communion upon which the prisoner remarked ‘Do you know, Father, isn’t it strange – this is the Anniversary of my First Holy Communion.’⁴⁷ Following this he attended to Mellows. According to the Canon, he was ‘obviously agitated and talkative, and I believe, elated that he was to die for Ireland.’⁴⁸ Upon hearing from Mellows that he would not take the sacraments Pigott promised him that he would return to see him before the execution. He then returned to see O’Connor. A mass said by another priest, Canon McMahon, for the four condemned men occurred in the Chapel. When it came to the receiving of Holy Communion Mellows was the only one to refuse. Phil Cosgrave, Governor of Mountjoy Jail and brother of W. T. Cosgrave, stood to attention beside the altar and attempted to prolong the mass as long as possible so that Mellows might receive communion. His assistance failed. When the mass concluded the prisoners were promptly led out of the Chapel in single file and blindfolded. Pigott recalled that it was at this time that Mellows decided to make his peace with God. According to Pigott Mellows was ‘a deeply religious man, and his fervent prayers at the end had gained him a very special Grace from God.’⁴⁹ He received the Viaticum after a brief delay as Canon McMahon got locked in to the Sacristy by accident by Paudeen O’Keefe, the Deputy Governor of the Jail. Having made his peace with God, Mellows pressed upon Pigott to give to

⁴⁶ John, Pigott, ‘1922: Executions recalled’ in *The Athenry Journal*, no. 8 (1997), p. 8.

⁴⁷ *Ibid.*

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*, p. 9.

his mother a small crucifix that he had in his possession. This item was important to Mellows as he stated it ‘was out in 1916 too.’⁵⁰

Pigott remembered the event itself in great detail. According to the Canon, all the concerned parties were present in the prison yard and the four condemned men were ‘all brave and calm [...] [and] lined up before the Firing Squad.’⁵¹ Pigott gave the last absolution and with that Liam [Mellows] said ‘Slan Libh Lads.’⁵² The volley rang out. According to Joseph Campbell, a republican author and an Irregular prisoner in Mountjoy Jail at the time of the executions, the shots which killed the condemned men were ‘so loud at first that I thought it must be an explosion somewhere. But it had not the depth of sound of [a] bomb or mine – just rifle-shots in unison. About 12 revolver shots were heard following.’⁵³ For a prisoner during the Civil War life was, according to Campbell, very difficult. He contends that on several occasions the inmates, in Mountjoy Jail, were treated like ‘primitive animals.’⁵⁴ The fear of being shot by sentries or being executed caused him constant anxiety. For example, 19 November 1922 was, according to Campbell, a ‘lovely mild misty morning. Bells ringing for mass. [However, a] feeling of sick horror all the same grips me because of these executions.’⁵⁵ Even though this is only one account of a prisoners’ experience during the conflict it is indicative of the psychological impact that the Government’s executions policy had on those incarcerated at the time.

As was common practice at the executions two National troops stood by to provide the *coup de grâce* in case any of the prisoners had not been killed outright. According to Pigott,

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Ibid.

⁵³ Eiléan Ni Chuilleanáin, ‘As I was among the captives’ *Joseph Campbell’s prison diary, 1922-1923* (Cork, 2001), p. 40.

⁵⁴ Melosina Lenox-Conyngham, *Diaries of Ireland, an anthology 1590-1987* (Dublin 1998), p. 245.

⁵⁵ Ibid, p. 250.

McKelvey, who was still conscious, needed attention. He called ‘give me another [...] and another [...] and then there was silence [...] a great silence.’⁵⁶ With this the reprisal execution of the four men in Mountjoy Jail was concluded. Coogan also describes harrowing scenes at these executions as he states that most of the firing squad aimed at O’Connor ultimately setting his clothes on fire. This assertion, if true, might be linked to the level of animosity felt towards O’Connor for his role in splitting the I.R.A. however; this reference to O’Connor’s clothes being set alight seems dubious. Coogan further states that O’Connor required several additional shots from the officers standing by before he eventually died. Due to the concentration of fire on O’Connor one of the other men, Barrett, also required further attention.⁵⁷

Ernie O’Malley, who was also incarcerated by the Government when these executions occurred, stated that the ‘news was a great shock to me. I felt as if I had again been wounded, the same swift disappearance of my innards, an icy chill where they had been, and a trembling in my legs.’⁵⁸ *Poblacht na hÉireann*, the anti-treatyite newspaper, claimed that ‘Four more names added to the roll of Ireland’s martyred dead, four more [...] Irishmen murdered in your [Free State and National Army’s] name. [...] Done hastily and secretly to death in a British dungeon, shot down by British guns and bullets, that the Empire might prevail.’⁵⁹ While the British did loan military equipment to the National Army, this is another example of the attempts by the Irregulars to portray the pro-treatyites as British lackeys in order to undermine the credibility of the Government and, by extension, their executions policy. Conversely, the *New York Times* stated that the reprisal executions, ruthless as they were, implied a degree of moral courage

⁵⁶ Pigott, ‘1922: Executions recalled’, p. 9.

⁵⁷ Tim Pat Coogan, *De Valera, long fellow, long shadow* (London, 1993), p. 342.

⁵⁸ O’Malley, *The singing flame*, p. 197.

⁵⁹ *Poblacht na Éireann* (9 Dec. 1922).

which was rarely encountered.⁶⁰ This particular set of executions, which quickly became known as the ‘Mountjoy executions’, were carried out as a deliberate attempt to halt the Irregulars policy of assassination. As Ciara Meehan suggests, the Government became synonymous with the state and the Treaty, and an attack on one was seen as an attack against all. Thus, according to Meehan, ‘any perceived threats to the stability and security of the state – from either the extremists or even Free State elements – were responded to decisively.’⁶¹ This event proved to be the most controversial execution during the Civil War and was, in essence, an action carried out by a Government shocked to its core, willing to breach the law in order to preserve it.

Numerous questions arose over the moral justifications and legality of this particular action chosen by the Government. According to Tom Garvin:

The executions of Barrett, McKelvey, Mellows and O’Connor were certainly illegal, whatever the *Realpolitik* reasoning of the Government; they were executed without trial, for no particular crime other than being on the wrong political side; as jailbirds, they were notionally held guilty for crimes they could not possibly have committed.⁶²

Thomas Johnson was quick to highlight this point in the Dáil. He indicated that these four prisoners, except with the ‘connivance’ of the Government, could not have had anything to do with Hales’ assassination. He argued that these men could not have been involved in any conspiracy to murder members of the representative assembly as they had been in the charge of the Government for five months.⁶³ He stated that as a result of these executions, the Government had, after two days since the establishment of the Free State, destroyed the fabric of law in mindsets of the public. He claimed that ‘you [the Government] have killed the new State at its

⁶⁰ *New York Times* (11 Dec. 1922).

⁶¹ Ciara Meehan, *The Cosgrave party, a history of Cumann na nGaedheal, 1923-33* (Dublin, 2010), p. xiii.

⁶² Tom Garvin, *1922: The birth of Irish democracy* (Dublin, 1996), p. 162.

⁶³ Dáil Debates, *Mountjoy executions*, volume 2, col. 49 (8 December 1922).

birth.’⁶⁴ Johnson’s argument slightly over-estimated the public response to these executions and the executions policy in general. Mulcahy, in an attempt to keep informed of public opinion, received a special report from an intelligence officer following the event. ‘There is not much actual condemnation, but people would have much preferred the other more orthodox method. The reprisal tends to make the fight one between two parties instead of being an attempt to restore order by the Govt. of the country.’⁶⁵ Generally speaking, the public had become relatively immune to the Government’s employment of stern measures. There were several reasons for this. Firstly, the majority of the country, in varying degrees, supported the Treaty as indicated by the ratification of this settlement in the June election. Due to this support the Irregulars’ rebellion was seen by many as undemocratic. The Irish population also believed that the emergency powers employed by the Government were a necessary evil in order to restore settled conditions to the country. Secondly, as the public had become war-weary following, in quick succession, the First World War, the Rising, the War of Independence and the Civil War their attitudes towards executions became more temperate in comparison to the public’s reaction to the executions in 1916. The attitude of the Church’s hierarchy, towards the Irregulars, may have also impacted on public perceptions and, by extension, their opinion of the Government’s executions policy. Finally, the widespread employment of guerrilla tactics by the Irregulars, particularly the destruction of the country’s railway network, ambushes and raids, led to a desensitisation of the civic population towards the executions by the Free State Government. Ultimately, milk had to be brought to the creamery, cattle had to be driven to fairs, children had to travel to schools and mass had to be attended on Sunday. As Michael Harrington states, the

⁶⁴ Ibid.

⁶⁵ Intelligence Report, December 1922 (U.C.D. Archives, Mulcahy papers, P7a/198),

Irregulars 'lack of awareness that destruction of infrastructure seriously discommoded rural communities in carrying out their daily activities affected their support in those communities.'⁶⁶

The employment of exceptional measures against political crimes, in O'Halpin's view, did not do the incumbent Government any harm provided that the response was seen as proportionate to the immediate threat posed by militant republicans. This was evidenced by the absence of significant public protests at the time from non-republican sources.⁶⁷ The public support, which the pre-truce I.R.A. enjoyed during the War of Independence, had evaporated by the commencement of the Irish Civil War. This is further evidenced by a letter which was sent to Mulcahy on 9 December 1922 from E. P. Culverwell, a Professor of Law in Trinity College, Dublin. Culverwell suggested that if further executions were required then the Government should inform the public of the services, such as a chaplain or the chance to write last letters, received by the condemned men prior to their execution. This would, for Culverwell, directly contrast with the assassination of Hales and increase public support for the Government. He stated that:

As the Government knows better than anyone else what the necessities of the situation are, I feel that direct comment on their action is to be deprecated, but I also feel that the action is so unusual that every means might be taken to present it to the public in the most favourable way, i.e., with all those circumstances which show that every consideration of which the circumstances permit has been shown to the men who have been executed.⁶⁸

The Government did benefit from public support, however, not everyone approved of the executions policy. Another important piece of information can be obtained from the aforementioned description of events by Pigott. He stated that the then Archbishop of Dublin,

⁶⁶ Michael Harrington, *The Munster Republic, the Civil War in north Cork* (Dublin, 2009), p. 96.

⁶⁷ O'Halpin, *Defending Ireland*, p. 35.

⁶⁸ Letter from Professor Culverwell to Mulcahy regarding the carrying out of executions, 9 December 1922 (U.C.D. Archives, O'Malley papers, P17a/191).

Dr. Edward Byrne, spent many hours with Cosgrave on the eve of the executions in which he tried to persuade the latter to cancel the executions. In a letter to Cosgrave, on 10 December 1922, the Archbishop stated that the ‘policy of reprisals seems to me to be not only unwise but entirely unjustifiable from a moral point of view. That one man should be punished for another’s crime seems to me to be absolutely unjust.’⁶⁹ This admission not only suggests that a meeting of the members of the Executive Council did in fact occur but it also indicates that this high-ranking member of the Catholic clergy was critical of the Government’s executions policy. The fact that the Archbishop of Dublin condemned the act and the fact that Pigott administered the sacraments to the condemned men is very important. On 10 October 1922 the Catholic hierarchy issued a pastoral letter which amounted to a public condemnation of the Irregulars’ rebellion. This statement openly declared that the Church would excommunicate any Irregulars who continued their armed rebellion against the Free State Government and National Army. In addition to this, the statement ordered the Church’s members to refrain from administering the sacraments to captured Irregulars.⁷⁰ It is safe to say that the undertakings of both Archbishop Byrne and Canon Pigott were contrary to that declaration. Furthermore, other members of the Catholic Church privately criticised the Bishops’ denunciation of the Irregulars. This point is evidenced in a letter which was discovered on prisoner Edward McCluskey and sent to Mr. Cremins, in the Department of External Affairs, by Captain Hugh Smith on 18 January 1923. The letter was originally written by Edward’s brother, Packie, on 23 December 1922. He was a divinity student at Maynooth, County Kildare. Packie claimed that the Bishops’ threat of excommunication was nothing to cause concern. According to this letter:

By way of advice there is no need to ask you to do nothing which your conscience tells you is wrong and as long as you do that you need not fear the statement of

⁶⁹ Pigott, ‘1922: Executions recalled’, p. 8.

⁷⁰ Regan, *The Irish counter-revolution*, p. 109.

the Bishops. You can act without sin if you can say for sure that the above statement does not apply to you. I just say that much to solve any doubt about the matter. It is well to say that what would be a serious mortal sin for one to kill a soldier, might not be for another at all [...] Anyhow, be careful, as the Free State attitude is very severe towards those they capture.⁷¹

This suggests that the Catholic hierarchy denounced the Irregulars and their guerrilla campaign in public. Privately, however, some of the Church's representatives were divided with regards to the Government's executions policy and the hierarchy's threat of excommunication.

Following Johnson's accusations Gavan Duffy, a man who condemned the previous execution of Childers, claimed that the Government was not fit to run the country. This protest was supported by Cathal O'Shannon. Mulcahy maintained that these men were executed not as a result of the assassination of Hales but as a firm deterrent to ensure that the country was not destroyed or thrown into chaos. He claimed that they were executed as 'there are forces working round us to-day, more vicious, more insidious, and more striking than Britain ever employed against representative government in Ireland.'⁷² In effect, Mulcahy contended that the Irregulars were more ruthless than the British ever were and that the Government had no choice but to employ drastic measures in order to counter their 'vicious' tactics. Interestingly, the Irregulars held a similar opinion of the pro-treatyites given that the Government would ultimately execute eighty-one men during the Civil War, far outnumbering the executions carried out by the British in the previous decade. According to Mulcahy, the Irregulars were now willing to enact brutal methods in an attempt to thwart the Government's and the Army's effort to restore order to the country. This is an issue which had some validity. Even though Lynch had not sanctioned

⁷¹ Letter from Staff Captain Hugh Smith to Mr. Cremins, 18 January 1923 (U.C.D. Archives, FitzGerald papers, P80/342(1)).

⁷² Dáil Debates, *Mountjoy executions*, volume 2, col. 52 (8 December 1922).

official reprisals before 30 November the threat of killing Government officials was not a new occurrence.

On 4 August 1922 Cosgrave issued a memorandum to numerous ministers which highlighted a previous conspiracy against members of the Government. He stated:

The Government is aware of plots to murder the members of the Government who are carrying out the people's mandate to restore order to the country. They are further aware that certain Officers in the Army [...] give public notice of the existence of this conspiracy so that the people may be able to co-operate in tracking it down and may be prepared for any eventuality which may occur. They also take the opportunity of making it clear that, in accordance with the precedents of all civilised countries threatened with such outbreak of crime, the prominent members of the organisation will, together with all those personally taking part in them, be held responsible and brought to account.⁷³

Several Irregular officers also advocated the use of reprisals in their individual Command areas.

For example, an officer from the Third Western Division stated that:

We [are] getting on well down this part of the Country. [We] will continue indefinitely. So far we have 8 dead, 6 of those were foully murdered when prisoners were taken including the Divisional Adj. and Brigdr. Devins. Very Sad, although we are not out for vengeance, still we will make those in high places among the Free Staters realise that such things cannot be done with impunity [...] Excuse [the] scribble as I am writing under physical difficulties having some bones broken.⁷⁴

This report, if accurate, depicts several murders supposedly carried out by members of the National Army. Unofficial actions of this nature did occur during the Civil War and was one of the reasons behind the introduction of the Public Safety Resolution in September 1922. However, this account suggests that even after the ratification of the emergency powers unofficial actions still occurred. Nevertheless, officers from Cork No. 4 Brigade issued a threat to Denis Galvin, Commandant-General of the National forces in Kanturk, on 4 December 1922.

⁷³ Memorandum from Cosgrave, 4 August 1922 (U.C.D. Archives, Mulcahy papers, P7/B/29 (85-86)).

⁷⁴ Note from 3 Western division, 13 October 1922 (N.L.I. Archives, Childers papers, Ms. 7808/316).

They stated that following a Brigade meeting, on 2 December, a resolution was passed which advocated:

That in the event of any of Cork No. 4 Brigade, Irish Republican Army, being executed; and you countenance the carrying out of such orders by members of His Majesty's Imperial Forces (of which you are one) that you would meet the same fate. PEACE OR NO PEACE, even though it may incur the loss of lives. FURTHER [...] That in the event of a man or men of Cork No. 4 Brigade, Irish Republican Army, being executed, that an area of 12 miles be declared and that 10 Free Staters be executed in that area for every one of our men executed.⁷⁵

The fact that several Irregular officers had advocated the employment of reprisal action indicated that Lynch's order, on 30 November, was generally accepted amongst the ranks of the Irregulars. It also indicated that they intended to continue the assassinations policy.

Whatever reasons Mulcahy gave for the Government's actions the fact remains that these four men were clearly executed as a reprisal. The condemned men acknowledged as much in their last letters to their loved ones. Firstly O'Connor, in a final letter to his mother at 3.30 a.m. on the morning of his execution, stated:

I have just been notified that I am to be executed at 8 this morning for being "taken in arms" and as a reprisal for the shooting of Hales. I send you all my love, my best love. I ask father to forgive me as I have [opposed] his wishes in my action. I am going to confess soon. Do you know this is the anniversary of my first Communion [?] God bless and care [for] you.⁷⁶

Secondly, Mellows in a letter to his mother which was reported in a Republican broadsheet *Chun an Lae*, stated that:

The time is short and much that I would like to say must go unsaid. But you will understand; in such moments heart speaks to heart. At 3.30 this morning we (Dick

⁷⁵ Captured Irregular document from Cork no. 4 Brigade to Commandant-General Denis Galvin, 4 December 1922 (U.C.D. Archives, Mulcahy papers, P7/B/87 (60)).

⁷⁶ Final Letters of Rory O'Connor, 8 December 1922 (N.L.I. Archives, Ms. 33,642).

Barrett, Rory O'Connor, Joe McKelvey and I) were informed that we were to be "executed as a reprisal." [...] I go to join Tone and Emmet, the Fenians, Tom Clarke, Connolly, Pearse, Kevin Barry and Childers. My last thoughts will be on God and Ireland and you.⁷⁷

Mellows reference to previous nationalist martyrs is noteworthy; however, the circumstances which surround his execution are very different. These martyrs died in rebellion against British rule in Ireland, however, Mellows was put to death on the orders of former comrades as a reprisal for a crime that he had no part in. Finally, McKelvey when writing to his mother in the same newspaper indicated that:

How can I tell you the news, I have to let you know. I don't care at all for my own sake, but I grieve for the pain it will cause you, my loving mother. A document has just been read to me informing me that, as a reprisal for the shooting of Sean Hales, I am to be executed at 8 a.m. this morning. [...] I only hope I face the firing squad with [...] equanimity. Liam Mellows, Rory O'Connor and Dick Barrett are I think to go along with myself.⁷⁸

This was a point which O'Shannon was quick to argue. He not only accused Mulcahy and the Government of lying, but also accused them of using this falsehood in an attempt to cover up the murder of these four men:

Is the drafter of this official proclamation a liar, or is he telling the truth when he says that it has been done as a reprisal for the assassination of Deputy Sean Hales yesterday? [...] You did not give these men a trial at all [...] You murdered these men—nothing short of murder were the executions of these men this morning.⁷⁹

O'Shannon questioned the ability of the Government to steer Ireland through the Civil War, following their incomprehensible decision to execute these four Irregulars. He stated that the

⁷⁷ *Chun an Lae* (7 Jan. 1923).

⁷⁸ *Ibid*, (4 Feb. 1923).

⁷⁹ *Dáil Debates, Mountjoy executions*, volume 2, cols 54-55 (8 December 1922).

Government was absolutely incompetent and unfit to govern the country.⁸⁰ In response to O'Shannon's accusations Seán Milroy stated that if it were not for the Army, an army which he had such a poor estimate of, he would not be in a position to denounce the Government.⁸¹

O'Higgins, who was the last to consent to these executions at the critical Cabinet meeting, remained relatively quiet during initial stages of these debates. The reason for this was that one of the condemned men, O'Connor, had been the best man at O'Higgins' wedding. This issue is not dissimilar to the argument which FitzGerald alluded to when he had written to Chester Arthur. FitzGerald argued that it was quite difficult for the Government to endorse the executions of former comrades and friends. When O'Higgins eventually rose to his feet in the Dáil he argued that the Government acted without sentiment as they had been through times calculated to expel any feeling. He stated that they did not disclaim responsibility for the execution of these men but claimed that the Government wanted to finish the Civil War as quickly as possible. The decision to execute these men was taken, according to O'Higgins, the previous night following an extremely difficult meeting. He stated:

The thing that was decided on last evening was decided on after the coldest of cold discussions. We may be lacking in judgment, we may be lacking in wisdom [...] but I do say that from the day the Provisional Government was set up, and from the time we functioned below there in the City Hall, there was not an act done that was inspired by any other motive than the securing of the welfare and the safety and the freedom of the Irish people.⁸²

O'Higgins, in a poignant speech, one which saw him overcome with grief as he had to take a seat, challenged his and the Government's critics as he contended that:

There was never an act done through personal vengeance, and never an act done through hot blood. We have no higher aim than to place the people of Ireland in the saddle in Ireland, and let them do their will, but we will not acquiesce in gun-

⁸⁰ *Irish Times* (9 Dec. 1922).

⁸¹ Dáil Debates, *Mountjoy executions*, volume 2, col. 61 (8 December 1922).

⁸² *Ibid*, cols 72-73.

bullying, and we will take very stern and drastic measures to stop it. Personal spite, great heavens! Vindictiveness! One of these men was a friend of mine.⁸³

The Minister for Agriculture, Patrick Hogan, defended the decision taken by the pro-treatyite political and military leadership. He chastised Gavan Duffy for his accusations that the Army did not have the consent of the Dáil to carry out the executions. Hogan argued that the decision to execute was left at the discretion of the Cabinet and the Army Council stating that ‘we will continue to leave it to their discretion’.⁸⁴ Cosgrave, like O’Higgins, had remained relatively quiet. He finally contributed towards the latter stages of these debates. Cosgrave promptly summed up the Government’s and the Army’s position relating to the execution of these four men in Mountjoy Jail:

It is really a psychological question. It is where terror meets terror [...] Only the night before last I rang the Commander-in-Chief and asked: “Have you any trials on? If you have I think it is a time for showing clemency.” He said: “Yes; I thoroughly agree with that,” and the next day one of the most inoffensive members of this Dáil, [was assassinated] a man who had done great service during the war, and who entered the war with a hurley stick—a hurley stick was his first weapon— was struck down and an attempt was made to strike down the Deputy Speaker. I know full well there is a diabolical conspiracy on foot [...] There is only one way to meet it, and that is to crush it and show them that terror will be struck into them.⁸⁵

The execution of the four Irregulars in Mountjoy Jail on 8 December 1922 introduced the phenomenon of official extrajudicial executions to the Civil War. According to Edy Kaufman and Patricia Weiss Fagen there is no practice more blatant and degrading than the use of extrajudicial executions in any conflict. They state that:

The distinction between EJE and summary execution is blurred. For example, because summary executions are carried out on official orders of some kind they

⁸³ Ibid, col. 73.

⁸⁴ Ibid, cols 92-93.

⁸⁵ Ibid, cols 94-95.

are therefore not strictly speaking extrajudicial. On the other hand, an officially ordered execution may be considered extrajudicial when the accused is left without legal protections, and the authorities pass death sentences as standard means to rid themselves of undesirable elements of society.⁸⁶

Whether the Mountjoy executions were extrajudicial or not needs to be examined. The answer to this issue, according to the above authors, is not easily ascertained. The primary reason for this difficulty is that in any conflict the boundaries between legal and illegal executions, between extrajudicial executions and murder can become blurred. They argue that:

In a wide variety of cases it becomes impossible to differentiate between illegal executions in which the due process of law is severely curtailed or distorted (although there may be some kind of judicial procedure involving special decrees) and extra-judicial executions involving no process of law whatsoever. An illegal execution should be seen as an extrajudicial execution when the act is carried out behind a flimsy facade of debased legality, or under the pretext of instructions to lesser officials from above in the hierarchy.⁸⁷

Kaufman and Weiss Fagen argue that the introduction of guerrilla warfare into a conflict can distort these aforementioned boundaries and cause further difficulties in deciding whether or not particular sets of executions are in fact illegal or extrajudicial. Moreover, they claim that the introduction of activities like political assassinations and ambushes can increase the potential for the ruling authorities to adopt extrajudicial measures as a means to strengthen and retain their power. They state:

Generally one finds EJE used extensively in countries where urban or rural guerrilla movements have operated. By threatening the legality of the regime, and accepting the use of EJE for the advance of the revolutionary cause, the guerrillas have in many ways increased the options of the regime in acting against the due process of law.⁸⁸

⁸⁶ Edy Kaufman and Patricia Weiss Fagen, 'Extrajudicial executions: an insight into the global dimensions of a human rights violation' in *Human Rights Quarterly*, 3, no. 4 (November 1981), p. 82.

⁸⁷ *Ibid.* p. 83.

⁸⁸ *Ibid.* p. 86.

Evidence suggests that the events which occurred on 8 December 1922 were extrajudicial. Even though they were certainly outside the remit of the September resolution they may not have been, according to the above definitions, strictly illegal as they were approved by Mulcahy and the Executive Council. This was an issue alluded to, on 20 December 1922, when the Tralee Rural Districts Council wrote to the Minister for Fisheries, Fionán Ó'Loingsigh. The council passed a resolution which was proposed by Mr. Maurice Keane and seconded by Mr. J. D. Long. It stated:

That we, the Tralee Rural Districts Council view with horror the executions of the Prisoners [Mt. Joy executions] who were in charge of, and under the protection of the Government, as well as the execution of the eight prisoners [first eight executions] who were brought to trial [...] We feel that if the matter were put to the people to-morrow that [...] [the] public would not approve of the action of the Government [...] In our opinion it exceeds the worst tyranny of the British Government, and that, we call on the Kerry T.D.'s who support the Government to resign, as we hold them equally guilty with the Cabinet, and we adjourn the remaining correspondence, as a mark of respect to the memory of the deceased.⁸⁹

Like the correspondence FitzGerald received, from Chester Allen Arthur Junior, this resolution is indicative of the type of criticism the Government received following some executions. As this particular set of executions was more controversial than others, the level of public condemnation could be expected to rise accordingly. Furthermore, the rhetoric, such as the comparisons with British 'tyranny' used in such resolutions, is also expected to be more intense and emotive. However, despite receiving disparaging comments such as this, public criticism for the executions during the Civil War never reached the same level as it had done in previous conflicts. This is possibly due, in this particular case, to the tactics employed by the Irregulars, that is, the assassination of Hales and the serious wounding of O'Maille. The resolution is also interesting for another reason. It suggests that contemporary parties recognised that the first eight

⁸⁹ Resolution from Tralee Rural Districts Council to the Minister for Fisheries, 20 December 1922 (N.L.I. Archives, Béaslaí papers, Ms. 33,917 (15)).

executions, that is the executions in Kilmainham Jail and Beggars Bush barracks, were distinct and separate from those that occurred in Mountjoy Jail. According to these councilors, this was due to the fact that the condemned men were not even tried or convicted but were executed, despite being incarcerated for several months. They believed that the Government acted outside of the principles of the September resolution, which ensured a trial, when they decided to execute these four men. In response to this letter Ó'Loingsigh argued that:

I note the Resolution makes no reference to the burning alive of Emmet McGarry and attempt to burn alive his Mother, Brother and Sister, nor the foul murder of Sean Hales, T.D. without giving him time for a prayer. It would take a great many engineered resolutions to convince me that the people of Kerry, or one percent of them, are on the side of murder and baby-roasting and I am quite prepared to face my Constituents at the next Election to prove that I am not misrepresenting them [...] In the meantime I shall continue to give the Government all the support that I can in its efforts to suppress anarchy and restore ordered and decent conditions to our country.⁹⁰

According to Hopkinson, the Mountjoy executions were certainly abnormal. He argued that since the Public Safety Resolution was devised and enacted to try cases for execution and as none of the condemned men were tried under this decree then realistically no other conclusion could be deduced:

There could be no pretence that these executions were carried out under the Public Safety Act. All four men had been captured during the Four Courts Attack and had been in Mountjoy since that time [...] No argument could detract from the fact, however, that these were killings of untried and unconvicted men.⁹¹

In comparison to previous cases such as Childers', while he was afforded a trial and a means to defend himself, he was executed while his appeal was still being processed. Childers' execution

⁹⁰ Ibid.

⁹¹ Hopkinson, *Green against green*, p. 191.

was certainly irregular but may not have been extrajudicial or illegal despite the claims of his defense counsel.

Despite the aforementioned issues concerning the Mountjoy executions what were the precise criteria for the selection of these four men? According to *The General Regulations as to Trial of Civilian by Military Courts*, the responsibility for deciding who was to be tried was placed on the local G.O.C. in the command area where the offence was alleged to have taken place.⁹² In reality, however, prisoners were tried on the orders of the Military or Executive Council. With no particular offence committed, other than being a prisoner of the Free State Government, it is evident that other criteria were utilised in the choosing of these four Irregulars. Given that the process of executing Irregular prisoners was shrouded in secrecy and the trials and investigations under the new committee system were performed *in camera*, obtaining precise criteria for inclusion is difficult. It is possible, however improbable, that all of these men could have been randomly selected. Furthermore, it has been incorrectly argued that these men were in fact chosen to represent the four provinces of Ireland. Supposedly O'Connor was chosen to represent Leinster, Barrett for Munster, McKelvey for Ulster and Mellows was chosen to represent Connacht. This is unlikely as none of the men were from Connacht. According to Desmond Greaves, Mellows' biographer, he was 'so unmistakably a Leinster man that nobody would seriously consider him in this connection, unless he was paying a belated penalty for his part in 1916.'⁹³ Then again O'Connor and Mellows were ardent opponents of the Treaty, which might explain their inclusion. McKelvey on the other hand, despite briefly being I.R.A. Chief of Staff in the Four Courts, was less well known. The fact that he had been a principal member of the Irregulars might explain his addition. Barrett was a west Cork officer but he was not well

⁹² *Iris Oifigiuil* (21 Nov. 1922).

⁹³ Greaves, *Liam Mellows*, p. 385.

known outside his own area. Regan argues that revenge for Collins' assassination may have played a part in his inclusion.⁹⁴ Whereas Hopkinson argues, the fact that all these men were members of the I.R.B. could have influenced their addition. He states that O'Connor and Mellows were particular *bêtes noires* of the pro-treaty Army leadership. He claims that relations between O'Connor and Mulcahy had been particularly acidic over the previous Army unity discussions prior to the outbreak of the Civil War.⁹⁵ Another factor has been mentioned which may indicate why it would have been prudent to eliminate these particular men, personal knowledge of the secret Northern policy.⁹⁶ As stated previously O'Connor and Mellows, amongst others, had detailed knowledge of this policy.⁹⁷ It could be argued that the condemned men were all included for numerous different reasons as several of these motives are plausible. Nevertheless, the reason for their inclusion is relatively insignificant as what is ultimately important is the obvious injustice in executing untried and unconvicted prisoners who could not have availed of the Government's offer of amnesty in October, due to their incarceration.

Following this event the Irregulars attempted to indicate that they were unaffected by the Mountjoy executions. They argued that their troops had consecrated their lives for their cause. In addition to this they claimed that their forces sought no ease or comfort in the conflict and for 'those who seek such, and who by word or deed sanction such things (reprisals) know that for them there shall be no ease or peace until this monster, begotten of England, is utterly and finally destroyed.'⁹⁸ In a further attempt to indicate solidarity Lynch issued a General Order on 20 December which indicated his continuing support for further reprisal action against the pro-treatyites. He argued that from 'this date [on] when our prisoners are executed, a similar number

⁹⁴ Regan, *The Irish counter-revolution*, p. 118.

⁹⁵ Hopkinson, *Green against green*, p. 191.

⁹⁶ Regan, *The Irish counter-revolution*, p. 118.

⁹⁷ Letter from O'Connor, 15 September 1922 (U.C.D. Archives, Aiken papers, P104/1253 (1)).

⁹⁸ *The Nation* (12 Dec. 1922).

of [pro-treatyite] hostages in [the] brigade area of which prisoner is from must suffer the same fate. Divisional O/C's will confirm such sentence.'⁹⁹

The Civil War continued with no end in sight and the Irregulars continued to harass the country. This ensured that the Government's prosecution of the Civil War and, by extension, the executions policy was to continue. This was indicated in a private letter from O'Higgins to his brother Tom:

The burden has been pretty tough, as you say, but it is growing lighter and in any case it had to be shouldered or the country was down to a deeper depth than it ever reached, which is some depth. I know a lot of quite decent people are thinking badly of us now. It is unfortunate that the only way to remedy that situation would be to abdicate and let the British back, in which event a new and more numerous crop of equally decent people would be thinking and speaking harshly of us. On the whole our duty seems clear – we must push along and do our job [...] and take what's coming to us afterwards.¹⁰⁰

The sentiment expressed in this letter shows a side of O'Higgins rarely seen during the Civil War. He was usually very defiant and unrepentant. However, in this instance, O'Higgins' referral to 'a lot of quite decent people are thinking badly of us now' suggests that he believed some of the Irregulars were good people, acting out of principle and led astray by men like Childers. On the other hand, if O'Higgins meant the general public and was referring to those people, such as the Tralee Rural Districts Council, who criticised the Government's executions policy, he believed that the Government's duty was to continue on regardless of such disapproval. Nonetheless, Mulcahy had established the mobile committee scheme to streamline the executions policy. This would play an important role in the future conduct of the Civil War.

⁹⁹ General Order from Liam Lynch to all O/C's, 20 December 1922 (U.C.D. Archives, Mulcahy papers, P7/B/89 (27)).

¹⁰⁰ Letter from Kevin O'Higgins to Tom O'Higgins, 30 December 1922 (U.C.D. Archives, O'Higgins papers, P197/108).

Despite the fact that this period had witnessed the extremities of violence, with regards to reprisals and assassinations, neither the Free State Government nor the Irregulars were to resort to such official ruthless tactics again. Both acts of ‘terror’ had occurred in a short space of time and as the Civil War entered its sixth month the Free State Government and National Army now faced the Irregulars’ armed rebellion with new vigour and determination.

Following the eight executions in November Lynch decided that the best course of action, in response to the Government’s executions policy, was official reprisals. The decision led to the assassination of Hales and the serious wounding of Ó Maille. It has been established that this single incident set in motion a chain of events which would irrevocably alter the course and character of the Irish Civil War. Mulcahy, in response to the attack, issued a proclamation which announced the establishment of more efficient mobile committees to augment the military court system. This scheme was designed to streamline the executions. In the long-term it significantly altered the implementation of the Government’s executions policy. It not only decentralised the executions, spreading them around the country, but it also led to an acceleration of this procedure.

In the short-term Hales’ assassination resulted in the execution of four men in Mountjoy Jail. Evidence indicates that the execution of O’Connor, McKelvey, Mellows and Barrett were clearly outside the terms of the September resolution. They were put to death, in a ruthless act, as an extrajudicial reprisal for the events on 7 December. These four men were incarcerated long before the ratification of the September resolution. Therefore, to apply the emergency resolution retrospectively was illegal on any count but, according to the Government, it was an absolute necessity, ironically, to preserve the law and defeat the Irregulars.

It has been argued that these particular four men were chosen for a multitude of reasons. Supposedly O'Connor was chosen to represent Leinster, Barrett for Munster, McKelvey for Ulster and Mellows was chosen to represent Connacht. This is inaccurate as none of the men were from Connacht. Mellows, despite representing Galway in the first and second Dáil, was actually from Leinster. O'Connor and Mellows were fervent opponents of the Treaty, which might explain their inclusion. McKelvey, on the other hand, despite being the anti-treatyite I.R.A. Chief of Staff for a short period, was not as well-known as some of the other men. Similarly, Barrett, a west Cork Irregular, was not a prominent figure outside his own area. Regan claims that retribution for Collins' death may have determined his inclusion. He also claims that O'Connor's and Mellows' personal knowledge of the secret Northern policy may have helped influenced their inclusion. Whereas Hopkinson argues that both O'Connor's and Mellows' I.R.B. membership could have been a factor. They may simply have been in the wrong place at the wrong time. Nonetheless, the reason for their inclusion is relatively insignificant as what is ultimately important is the injustice in executing four untried prisoners which were imprisoned months before Hales' assassination occurred.

Evidence suggests that Hales was not the intended target in the preceding attack. He was absent when the vote was taken in the Dáil to ratify the Public Safety Resolution. Furthermore, he was not mentioned on the list which accompanied Lynch's general order on 30 November. According to the weekly operations report concerning this incident Lynch stated that Hales was shot unintentionally. But why execute anyone in response to this act?

It has been established that the Government were not going to stand for the gradual decimation of the Dáil. Given the fact that the entire elected representative body faced assassination, a situation that the Opposition seemed to forget, the Government did not have an

abundance of alternatives to choose from. Additionally, there is no evidence to indicate that the Irregulars would have halted the reprisals if the Free State Government did not answer the assassination of Hales with a brutal response. As the Cabinet felt that the very core of representative government and Irish democracy was being threatened they were determined, according to Valiulis, to ‘respond in such a way so as to make the price of a repeat occurrence much too high to pay.’¹⁰¹

It must be emphasised that the act of executing four untried incarcerated Irregulars did achieve its primary objective. As Andrews stated, these executions ‘were [a] very effective method of preventing the killing of TDs and Senators.’¹⁰² However, the Government had breached its own emergency resolution in order to preserve the law. They had met terror with terror, a method they once decried the British for. Nonetheless, as no other T.D.s were assassinated during the Civil War it could be argued, for the Government at least, that the end justified the means. That said, a child was burned to death when the house of Seán McGarry T.D. was attacked on 10 December. Furthermore, Cosgrave’s house was destroyed when a body of Irregulars burned it to the ground on 14 January 1923. The Mountjoy executions also contributed to the assassination of Kevin O’Higgins’ father. He was shot dead in his house in Stradbally, County Laois, on 11 February 1923. They also led to the death of O’Higgins himself in 1927.¹⁰³ In response to his father’s murder he stated that there would be no recrimination of any kind. O’Higgins reassured a leading republican in Co. Laois, Lar Brady, that both his family and home would be safe and secure as they ‘need be in no anxiety about a reply in kind.’¹⁰⁴ Ultimately, the

¹⁰¹ M. G. Valiulis, *Portrait of a revolutionary, General Richard Mulcahy and the founding of the Irish Free State* (Dublin, 1992), p. 181.

¹⁰² Andrews, *Dublin made me*, p. 270.

¹⁰³ Edward Purdon, *The Civil War 1922-23* (Cork, 2000), pp 51-52.

¹⁰⁴ O’Higgins private Secretary to the Adjutant-General, 23 February 1923 (U.C.D. Archives, O’Malley papers, P17a/188).

Mountjoy executions were indicative of the Government's willingness to modify its emergency measures as the situation demanded. This flexibility became a defining characteristic of the Government's executions policy in the subsequent months.

CHAPTER 5

‘executions in every County’

The decentralisation of public safety

Under the terms of the Anglo-Irish Treaty, the establishment of the Irish Free State occurred on 6 December 1922. However, this historic occasion was overshadowed by the assassination of Seán Hales T.D. and the serious wounding of Deputy Pádraic Ó Maille the following day. This incident ensured a swift and ruthless response from the pro-treatyites. Richard Mulcahy announced that summary action would now be employed against the Irregulars. This resulted in four extrajudicial reprisal executions in Mountjoy Jail on 8 December. Hales’ assassination also produced several lasting consequences which irrevocably altered the dynamic of the Civil War. It caused the Government to radically modify the way in which it implemented the executions policy. For instance, the official hostage scheme, initiated in Kerry on 13 December 1922 and extended to other areas such as Cork and Donegal, will be evaluated. The executions had been restricted to Dublin, at first, resulting in the death of twelve men over a ten week period. However, this changed following Hales’ assassination. The Government decided to decentralise and accelerate the executions. This development will be examined in detail. Facilitated by the introduction of the mobile military committee system sixty-nine additional executions occurred by May 1923, sixty-three of which occurred outside Dublin. Moreover, thirty-four of these executions occurred in January alone, making it the worst month for executions during the conflict. As the Civil War entered its eighth month the Government decided that all efforts would be made to defeat the Irregulars.

The guerrilla phase of the Civil War was fought most furiously in Kerry. Even though the National Army possessed strong posts in the towns the Kerry countryside was a different matter. The centre, south and east of the county were dominated by Irregular units, particularly in the mountainous regions.¹ Communications of all kinds were constantly being destroyed and were out of action for long periods of time. Furthermore, the ambushing of National troops and convoys was a regular occurrence. Irregular activity in Kerry should not be over-estimated as throughout the conflict the anti-treatyite militants adopted a defensive strategy nationally and they constantly failed to take advantage of those areas in which they had a degree of control.² An event occurred in Kerry in early December regarding four Irregular prisoners captured with arms and ammunition. Prisoners Mathew Moroney, Thomas Devane, Cornelius Casey, and Dermot O'Connor were apprehended about a mile from Farmers Bridge in the direction of Currane on 1 November 1922. These Irregulars were tried separately at Ballymullen barracks in Tralee, on 23 November 1922, and each charged with the possession without proper authority of a rifle and having possession without proper authority of a bandolier containing a number of rounds of ammunition for those rifles.³ They were each found guilty and sentenced to death. Immediately after this General Murphy, the G.O.C. Kerry Command, recommended to Mulcahy that these four prisoners should be executed as they were caught in an armed attack on National soldiers.

Murphy was obliged to seek confirmation of these sentences from Mulcahy under the *General Regulations* issued on 21 November 1922. They stipulated that every 'sentence of a Military Court and every finding other than a finding of Not Guilty shall be subject to confirmation by the Confirming Authority [...] The Confirming Authority shall be any two

¹ Michael Hopkinson, *Green against green, the Irish Civil War* (Dublin, 2004), pp 203-204.

² *Ibid*, pp 204-205.

³ Letter from Mulcahy to General Murphy, 13 December 1922 (U.C.D. Archives, Mulcahy papers, P7/B/101 (26-28)).

members of the Army Council.’⁴ The Army Council, of which Mulcahy was the senior member, had the power to revise the sentence, confirm or refuse confirmation in whole or in part of the original or revised finding or sentence, and order a new trial of the accused by military court. It could also mitigate the punishment awarded by the sentence or remit, or reduce, or commute the same for any less punishment, and suspend the execution of the sentence.⁵ The confirming authority did not have the power to increase any sentence awarded by a military court. Where the sentence of a military court was sent back by the confirming authority for revision, the court did not have power to increase the original sentence.⁶

When reporting to Mulcahy, Murphy acknowledged that the Government’s executions policy was having a salutary effect on Irregular morale in Kerry. Yet he believed that if too many were killed then it would have a negative effect there. Murphy suggested that only those Irregulars caught like these four men, ‘red-handed’ in an ambush on National troops, then they should be put to death.⁷ He concluded by informing Mulcahy that the ‘Irregulars organisation here is well nigh broken up. Several of the best men have ceased to act [...] The capture of Kenmare will dispose of this last rallying ground [...] Then you can mark off Kerry as finished.’⁸ Mulcahy seemed satisfied with Murphy’s report. He congratulated him ‘on the very excellent work that you appear to have done [in Kerry] during the last few weeks.’⁹ Mulcahy received additional reports from the Kerry Command which confirmed that Irregular resistance was all

⁴ ‘General Regulations as to the Trial of Civilians by Military Courts’ in *Iris Oifigiúil*, no. 88 (21 November 1922), pp 698-702.

⁵ *Ibid.*

⁶ *Ibid.*

⁷ Letter from General Murphy to Mulcahy, 7 December 1922 (U.C.D. Archives, Mulcahy papers, P7/B/72 (6-8)).

⁸ *Ibid.*

⁹ Letter from Mulcahy to General Murphy, 11 December 1922 (U.C.D. Archives, Mulcahy papers, P7/B/72 (13-14)).

but finished. One such report stated that the ‘situation in Kerry is now well in hand [...] [the] ceaseless harrying that has been carried [out] on [the Irregulars] has borne fruit.’¹⁰

With the information regarding the four Irregular prisoners in his possession Mulcahy immediately sought the advice of Cahir Davitt. Mulcahy accepted Murphy’s assertions and was of the opinion, given the good state of affairs in Kerry, that these four men could be utilised in a more opportune way. Given the climate of animosity engendered by Hales’ assassination Mulcahy advocated that Irregular prisoners be sentenced to death but have their sentences postponed pending an improvement of conditions in a particular area. Mulcahy suggested that these four men be used as official hostages designed to finally quell the remaining Irregular activity in Kerry. Davitt saw no legal grounds for a pardon. He argued that the fate of these four men was a question of policy. When comparing this case to the Mountjoy executions Davitt stated that:

There are only two considerations which justify this course; firstly that circumstances of the nation at present justify almost anything that would serve to end the present [Irregular] campaign of murder and arson [...] secondly that the execution of persons tried and convicted in pursuance of a resolution of the Dáil as a reprisal, is preferable to the execution of persons untried and unconvicted.¹¹

The sentiment contained within Davitt’s argument, when referring to the Mountjoy executions, was similar to the Government’s at the time, a sense of the ends justifying the means, breaching the law to preserve it. However in this instance, the Judge Advocate General indicated his unease with Mulcahy’s hostage policy stating there ‘is no justification whatever for the course which cannot be called humane. In no criminal or court-martial code can a death sentence be suspended

¹⁰ Operation report from the Kerry Command to Mulcahy, 7 December 1922 (M.A., Irish Civil War Operation/Intelligence reports, Kerry Command, Box 10/1).

¹¹ A letter from the Judge Advocate General to Mulcahy, 12 December 1922 (U.C.D. Archives, Mulcahy papers, P7/B/101 (29)).

and normally the course indicated is foreign to all ideas of fair play and humanity.’¹² The latter comment raised the question as to whether or not the proposed course was outside the remit of the September resolution. What Davitt meant was that there was no legal power in existence to suspend the execution of men pending the conduct of others. However, Davitt finally argued that the policy was not inconsistent with the Public Safety Resolution passed in late September 1922 and therefore he supported Mulcahy’s plans.¹³

Disagreement emerged between the members of the Army Council in relation to the fate of the four convicted Irregular prisoners. Some believed that one month awaiting execution was adequate punishment whilst others believed that the executions should be carried out without delay. Mulcahy’s decision prevailed. In a Government statement, on 13 December, it was stated that the ‘Minister of Defence reported that in view of the improved situation in the Kerry area, he proposed to adopt a certain procedure in regard to the cases of four men who had been captured in arms, and tried before a military court. His proposal was approved.’¹⁴ Murphy received his final instructions on this particular situation:

Confirmation of the Finding and Sentence will be [...] sent [to] you in the case of Moroney, Devane, Casey and O’Connor, together with an instruction that the execution of the sentence has been suspended for the present with a view to seeing whether clemency may not ultimately be exercised in each of these four cases [...] The Army Council look on it that they cannot in fairness to the people of the country, and the Government, extend clemency to cases of this kind in Kerry unless the favourable report contained in your recent two letters to me of the 7th December is maintained almost absolutely unbroken for the next two or three weeks, and that [leading Irregulars in Kerry] Brosnan and McAllister, and those others you speak of, throw up their activities absolutely [...] What we have in mind is that should, within the next two or three weeks, a serious ambush take place, or a ‘spy’ case occur, or should the work on the railways in Kerry be interfered with, or should there be any other serious evidence that the Irregulars

¹² Ibid.

¹³ Ibid.

¹⁴ Government report regarding the situation in Kerry, 13 December 1922 (N.A.I., Department of an Taoiseach files, D/T S 1376).

are going to continue their activity in Kerry, it will not be possible to extend clemency in these four cases [...] The decision in the matter will rest entirely with the Army Council, but you will fully understand that we realise your responsibility so much that we are guided very much by your appreciation of the general situation and the significance of events [...] You will be getting a formal statement for issue to the Press locally.¹⁵

Mulcahy forwarded the information which he wanted Murphy to dispatch to the press. In this statement he argued that under paragraph 23 (e) of the *General Regulations*, in compliance with the Public Safety Resolution, the confirming authorities have suspended execution of the sentence in each of these cases.¹⁶ In order to ensure that this scheme achieved the highest possible publicity Mulcahy ordered Murphy to distribute posters throughout the county which stated that these men had been tried, convicted and sentenced to death but these sentences were suspended on several conditions.¹⁷ The *Irish Times* reported that:

the confirming authority, influenced by the favourable reports of the General Officer Commanding Kerry Command [...] has suspended the execution of the sentences in each of these cases on certain conditions – if, after Thursday, 21 December (1) ambushes or attacks on national troops, (2) interference with railways or roads, and (3) interference with private property are committed, the stay on the execution of the sentences will be removed, and the sentences of death on each of the above named men will be forthwith carried out.¹⁸

This action indicated the new resolve possessed by the Free State Government. They had, in reality, placed these men on death-row in an attempt to mitigate Irregular resistance in Kerry. Murphy's claims of pro-treatyite victory in Kerry were, according to Hopkinson, inaccurate and naive. He states that the 'south and east of the county, the area covered by Kerry No. 2 Brigade, were uncleared of [Irregular] columns until the very end of the war. Ambushes, raids and the

¹⁵ Letter from Mulcahy to General Murphy, 13 December 1922 (U.C.D. Archives, Mulcahy papers, P7/B/101 (26-27)).

¹⁶ Press notice regarding the executions in Kerry, undated (U.C.D. Archives, Mulcahy papers, P7/B/101 (28)).

¹⁷ Seosamh Ó Longaigh, *Emergency law in independent Ireland, 1922-1948* (Dublin, 2006), pp 27-28.

¹⁸ *Irish Times* (20 Dec. 1922).

blocking of communications remained frequent occurrences.’¹⁹ A true depiction of the conditions in Kerry can be ascertained in several pieces of correspondence received by Piaras Béaslaí. Eileen O’Sullivan, from Kenmare, County Kerry, stated that ‘I was quite ready to go to see you for a day or two on the last boat that was in Kenmare when the town fell to the Irregulars [...] I hope this reign of terror will soon be over [...] [I] hope you will keep quite well & escape the furies of the times.’²⁰ In addition to this, Domnall Ó Donneachdha from, Rathmore, County Kerry, wrote ‘I cannot look on any longer and see the unfortunate people of East Kerry persecuted by the Irregulars [...] No matter what you hear to the contrary the Irregulars have it all their own way and the people see no hope of release from them.’²¹ Kerry was far from clear and ‘finished’ as Murphy claimed. This was further evidenced, on 29 December 1922, when National troops were fired upon by Kerry Irregulars when they were returning on foot to Castlegregory barracks. In the attack two National soldiers, Private John Talty of Lisadeen, County Clare and Private Henry McLoughlin of Buncrana, County Donegal were shot and killed with another two soldiers wounded. Moreover, the anti-treatyite militants set fire and burned a portion of the aforementioned station.²² As a result of this incident it seemed that the stay of execution placed on the four Irregular prisoners in Kerry would be removed. Cosgrave alluded to this issue on 2 January when he responded to a question issued by a journalist affiliated with the *Cork Examiner*. When Cosgrave was asked whether or not the Kerry Irregulars would be put to death he responded ‘I very much regret it, but I am afraid they will be.’²³ Remarkably, this did not happen and it is unclear why they were not executed. The death sentences of the four prisoners were ultimately commuted to ten years penal servitude. They were also transferred from Tralee

¹⁹ Hopkinson, *Green against green*, p. 240.

²⁰ A letter from O’Sullivan to Béaslaí, 2 December 1922 (N.L.I. Archives, Béaslaí papers, Ms. 33, 965 (12)).

²¹ A letter from Ó Donneachdha to Béaslaí, 20 February 1923 (N.L.I. Archives, Béaslaí papers, Ms. 33, 918 (3)).

²² *Cork Examiner* (1 Jan. 1923).

²³ *Ibid* (2 Jan. 1923).

Jail, Kerry, to Mountjoy prison, Dublin, to serve their terms of imprisonment.²⁴ What were the motivations behind the official hostage scheme in Kerry?

According to Doyle, the stay of execution could possibly have been an authentic attempt by the Government to offer an olive branch to the Irregulars in Kerry.²⁵ T. Ryle Dwyer argues that these men were in fact held as hostages only to ensure the good behaviour of Irregulars over the Christmas period.²⁶ The hostage scheme was, for Ryan, an appalling tactic employed by the Free State to win the Civil War. She states that ‘it seemed that the Free State forces were out to win the struggle no matter how ruthless the methods.’²⁷ In reality, the reasoning behind this tactic may involve certain aspects from all of the above arguments. The *General Regulations* stipulate that the final say on whether or not a person was put to death lay in the hands of the Army Council. Even though Murphy wanted these four men to be executed Mulcahy believed that the suspension of the sentence would prove more beneficial to the pro-treatyites prosecution of the Civil War in Kerry. Mulcahy believed that the situation in Kerry was favourable so he decided that these four men would serve a better purpose as hostages. Even though this strategy initially failed in Kerry, as it remained a problem spot for the Army for the remainder of the conflict, the policy itself seemed sound when implemented elsewhere. According to Florence O’Donoghue, the Government’s new scheme had a significant impact on Irregulars’ morale. O’Donoghue, a prominent Cork republican having fought in the War of Independence, stated that the hostage policy ‘devoid as it was of the humanitarian consideration accorded even to criminals, imposed an additional strain on the convicted men in prisons and a more terrible

²⁴ Tom Doyle, *The Civil War in Kerry* (Dublin, 2008), p. 240, see also John M. Regan, *The Irish counter-revolution 1921-1936, treatyite politics and settlement in independent Ireland* (Dublin, 2001), p. 121.

²⁵ Doyle, *The Civil War in Kerry*, p. 236.

²⁶ T. Ryle Dwyer, *Tans, terror and troubles, Kerry’s real fighting story 1913-23* (Cork, 2001), p. 365.

²⁷ Meda Ryan, *Liam Lynch – the real chief* (Cork, 1986), p. 143.

responsibility on their comrades who were fighting outside.’²⁸ The decision to use these prisoners as hostages contributed to O’Donoghue’s decision to establish the neutral I.R.A. association (N.I.R.A.) in December 1922. This was an organisation for those I.R.A. men that decided to remain neutral during the Civil War.

Kerry was not the only location where this type of policy was implemented. Liam Moylan, a Cork Irregular, had been captured with arms in November 1922. Rather than being executed the authorities decided to use him as another hostage. Following his arrest, conviction and pending execution Moylan’s brother Con Moylan, O.C. transport in the Newmarket Irregular Battalion in Co. Cork, surrendered to the pro-treatyite authorities and was released in order to appeal to local Irregulars outside to surrender in order to save his brother’s life.²⁹ The threat of Liam’s execution placed his brother in serious predicament. According to Michael Harrington, Liam Moylan’s ‘life was at stake and he [Con Moylan] buckled under the strain. His surrender and subsequent request placed his fellow republicans in the [Newmarket] column in a terrible dilemma.’³⁰ Additionally, other Cork Irregulars in Mallow were placed in a similar situation. When the pro-treatyite authorities threatened to execute three Irregular prisoners named Bolster, Cunningham and Morgan the Mallow Urban Council forwarded a petition from the people of Mallow to the Government in an attempt to obtain a reprieve.³¹ The request forced local Irregulars to restrain themselves and their activities in their battalion area.³² In the end neither Liam Moylan nor any of the Mallow prisoners were executed. This was possibly due to the fact

²⁸ Florence O’Donoghue, *No other law: the story of Liam Lynch and the Irish Republican Army, 1916-1923* (Dublin, 1954), p. 289.

²⁹ Michael Harrington, *The Munster Republic, the Civil War in north Cork* (Dublin, 2009), pp 115-116.

³⁰ *Ibid*, p. 116.

³¹ *Cork Examiner* (20 Feb. 1923).

³² Harrington, *The Munster Republic*, p. 117.

that Cork remained relatively quiet during the Civil War. As Hopkinson states ‘Cork Republican IRA men very reluctantly entered the war and showed little commitment during it.’³³

The Mountjoy executions and the implementation of an official hostage scheme indicated that the newly-established Irish Free State Government had decided that any means necessary would now be employed in order to defeat the Irregulars. There was a growing belief amongst the pro-treatyites that the Irish Civil War had dragged on for long enough. They now believed that the restraint which they displayed in withholding the widespread implementation of their executions policy was no longer viable. A memorandum from Irregular G.H.Q. to all Brigades, on 8 December 1922, acknowledged as much as it stated that the Government intended to decentralise the executions policy:

You may take it that in the near future, the enemy now realising that the executions in Dublin have not had the desired effect, will carry out local executions as a last resort. In view of this I must ask you to concentrate in securing information re individuals who are actively supporting the enemy “Government” with a view to having the said individuals taken as hostages [...] and supporters or relatives of members of the enemy Govt. or Senate would be very useful, if members of the “Government” are not available, Army officers of high rank would, of course, be equally good hostages. Take this up with O/C. Command at once.³⁴

The reply also advocated that family members, if any could be obtained, of those in command of the National Army would be perfect hostages. It stated that ‘Mulcahy, a brother of the C-in-C., is I am informed stationed somewhere in the 3rd Southern Divisional area. We presume he has a

³³ Hopkinson, *Green against green*, p. 162.

³⁴ A memorandum from Irregular G.H.Q. to all Irregular Battalions, undated (U.C.D. Archives, Twomey papers, P69/189 (45)).

Commission. Can you locate him? He would be a useful hostage if we could lay [our] hands on him.³⁵

The Free State Government and Army now acted quickly to increase the pressure further on the Irregulars. Their actions were indicative of a significant shift in focus and a sign of an impending pro-treatyite policy. The Government, dissatisfied with progress made by the executions policy thus far, decided to expand the scope of the executions both numerically and geographically. The effects of this could be seen less than two weeks after the Mountjoy executions. Seven more men were executed in one single event in County Kildare. Despite constituting nearly nine per cent of the entire official executions during the Civil War, this event became the single largest set of executions during the conflict.³⁶ Even though Kildare was relatively subdued, in comparison to Cork and Dublin, during the War of Independence it became relatively more active and important, according to Hart, during the Civil War.³⁷ Seven Irregulars were executed, on 19 December 1922, in the Glasshouse section of the Curragh barracks, County Kildare. This building was a survivor from the British occupation and was named, according to Ernie O'Malley, due to the design of its roof and it was where the military authorities confined their own delinquents.³⁸ Stephen White, Joseph Johnston, Patrick Mangan, Patrick Nolan, Brian Moore, James O'Connor and Patrick Bagnel, all aged between eighteen and thirty-four, were executed following a raid on 13 December on a farmhouse near Mooresbridge, which is situated approximately one and a half miles from the Curragh.³⁹ According to a statement issued by Mulcahy on the day of the execution, these men were charged before a

³⁵ A communication from the Director of Intelligence to the Intelligence Officer Southern Command, undated (U.C.D. Archives, Twomey papers, P69/189 (49)).

³⁶ See Appendix 8 a.

³⁷ Peter Hart, 'The Geography of Revolution in Ireland 1917-1923' in *Past and Present*, no. 155 (May, 1997), p. 154.

³⁸ Ernie O'Malley, *The singing flame* (Dublin, 1992), p. 234.

³⁹ *Leinster Leader* (23 Dec. 1922).

military committee, the first of its kind, with being in possession without proper authority of ten rifles, two hundred rounds of ammunition, four bomb detonators, and one exploder. He subsequently stated that these men were found guilty under the September resolution and sentenced to death. The sentences were duly carried out on Tuesday 19 December at 8.30 a.m.⁴⁰ He also divulged that the condemned men, in the weeks prior to their arrest, were responsible for numerous attacks on National forces and train services in the area. These particular Irregulars belonged to a larger outfit responsible for the ambush of National troops at the Curragh siding on 25 November 1922.⁴¹ The column was responsible for a major attack on the Great Southern and Western railway line on Monday morning, 11 December. Two engines had been taken, during this incident, from Kildare train station and sent down the line into an obstruction near Cherryville. Finally, Mulcahy labelled these men as thieves as he claimed that they were responsible for the looting and robbing of local shops.⁴²

The destruction of railway lines, identified as one of reasons for the introduction of the Public Safety Resolution, was a well-practised guerrilla tactic employed by the Irregulars nationally and locally in Kildare. Given Kildare's close proximity to Dublin its connecting railway lines were a primary target for the Irregulars in their attempt to destroy the Free State Government and Army. According to an operation report from the H.Q. of the First Eastern Division to the Command Adjutant North and Eastern Command, on 24 October 1922, Irregulars in Kildare were well versed in the destruction of the local infrastructure. The report stated that a 'Telephone communication [was] smashed at Cellbridge. [The] Bridge over the Morrel [was] blown up. An attempt [was] made to blow up the Curragh Rail Bridge on the same night but

⁴⁰ Official report, 19 December 1922 (U.C.D. Archives, Mulcahy papers, P7/B/85).

⁴¹ *Irish Times* (20 Dec. 1922).

⁴² Official report, 19 December 1922 (U.C.D. Archives, Mulcahy papers, P7/B/85).

[the] exploder failed to act.’⁴³ A further example of Irregular guerrilla activity in Kildare could be seen in notes on military matters which were provided for the Free State Cabinet on 12 December. From these notes it can be discerned that Kildare Irregulars had within ‘the past few days [...] engaged on what seems to be a definite policy as affecting the destruction of railways at Kildare. 3 engines were destroyed, and on the Midland system a train was set alight at Liffey Junction and sent into Dublin.’⁴⁴

Controversy surrounded this particular set of executions. Officially another man, Thomas Behan, who had been discovered with these seven men, was fatally wounded whilst trying to escape through a window in the Glasshouse where the remaining men were executed.⁴⁵ However, a local historian, James Durney, maintains that Behan was in fact killed at Mooresbridge. Following the location of the Irregulars Behan obtained a broken arm when a National troop struck him with a rifle. When it came to the loading of these men on to a truck Behan was unable to mount the vehicle. As a result he received a swift blow from a rifle butt to his head and fell fatally wounded.⁴⁶ There appears to be a certain amount of validity to this argument. A note captured on the Irregulars’ Adjutant General, Tom Derrig, stated that Thomas ‘Behan [was] shot after [his] arrest [...] The relatives got [the] body of Thos. Behan. [It was] Brought from [the] Curragh Camp to Rathangan Chapel. [He was] Interred [the] following day in Rathangan Cemetery.’⁴⁷ Derrig was arrested, on 4 April 1923, on Raglan Road, Dublin. This note indicates that Behan was indeed killed on-site rather than executed. If he was shot like the other seven men then he would have been buried with them in the Curragh as this was common practice following official military executions. But whether or not he was killed at Mooresbridge

⁴³ Operation report, 24 October 1922 (M. A., Captured Documents Collection, Lot 2, 3/a).

⁴⁴ Notes for the Cabinet on military matters, 12 December 1922 (U.C.D. Archives, Mulcahy papers, P7/B/259).

⁴⁵ *Leinster Leader* (23 Dec. 1922).

⁴⁶ James Durney, *On the one road: political unrest in Ireland 1913-1994* (Naas, 2001), p. 127.

⁴⁷ A captured Irregular note, undated (M. A., Captured Documents Collection, Lot 2, 4/a).

or in the Glasshouse is unclear. Durney also states that these executions caused a lot of bitterness in Kildare. Local reprisals for the executions, such as the burning of country houses, were a common occurrence during the Civil War. In a purported retaliation for this particular set of executions the Earl of Mayo's residence was burned to the ground on 29 January 1923. That night around thirty armed Irregulars from Naas, Kill and Killeel arrived at the Earl of Mayo's home in Palmerstown, Naas, County Kildare. This particular residence was once home to one of the most important families of the British administration in Ireland during the nineteenth century, the Bourkes. They were the Earls of Mayo and Barons of Naas. The sixth Earl, Richard Southwell Bourke, was elected M.P. for Kildare in 1847. He was subsequently appointed Chief Secretary for Ireland on three separate occasions. He was also appointed Viceroy and Governor-General of India where he was assassinated in 1872.⁴⁸ The Irregulars that arrived that particular night viewed the house as a symbol of the Free State's compliance with British imperialistic aspirations. They made the servants place all the furniture in piles in the middle of each room, cover them with petrol and set them alight. The windows were then broken to assist the process. The house was completely destroyed but it was subsequently rebuilt at the expense of the Free State Government.⁴⁹

The burning of country houses, while forming one aspect of the Irregulars' retaliatory response to local executions, is a much more complex subject which needs further examination. The issue of agrarian violence was nothing new in Ireland. For generations land ownership was intrinsically linked to nationality and social standing in Ireland. Following the eruption of the 'Land War' in the 1880s and the founding of the Irish Land League in 1879, with its aim of ending landlordism and enabling tenant farmers to own the land they worked on, the British

⁴⁸ Durney, *On the one road*, p. 131.

⁴⁹ *Ibid.*

Government implemented several pieces of legislation, such as the Wyndham Land Act in 1903, in an attempt to finally remove this emotive issue from Irish politics. Land agitation, which was most prevalent in the west of Ireland, consisted of driving cattle, knocking boundary fences, posting threatening letters and the slaughter of livestock. On occasion, however, agrarian violence resulted in the murder of landlords and the burning of country residences. During the early part of the War of Independence, the Royal Irish Constabulary (R.I.C.) managed to keep agrarian crime in check. However, Terence Dooley suggests that, when the I.R.A. focused their attacks on rural R.I.C. barracks, thus forcing a significant number of them to close in 1920, agrarian disorder increased dramatically, reaching its pinnacle in the spring of that year.⁵⁰ For instance, the total number of agrarian crimes reported for the period from 1 January to May 1919 was 156. For the same period in 1920, the number had increased significantly to 712.⁵¹ Some rural I.R.A. leaders, such as Michael Brennan in County Clare, understood how to cultivate the general hunger for land in the countryside to entice young men into the revolutionary movement during the War of Independence. He stated that ‘I hadn’t the slightest interest in the land agitation, but I had every interest in using it as a means to an end [...] to get these fellows into the Volunteers.’⁵² However, during the Civil War the British forces had pulled out of Ireland, the R.I.C. was disbanded and no official police force was ready to take their place.⁵³ Furthermore, the Treaty had not promised any economic gains for the landless men or the holders of economically unviable land. Tom Garvin suggests that some I.R.A. leaders and their followers sided with the Irregulars for fear of losing what they had been promised by Sinn Féin and the

⁵⁰ Terence Dooley, *The Land for the People: the land question in independent Ireland* (Dublin, 2004), p. 39.

⁵¹ *Ibid.*

⁵² Quoted in Hopkinson, *Green against green*, p. 45.

⁵³ Terence Dooley, *Decline of the big house in Ireland: A study of Irish landed families, 1860-1960* (Dublin, 2001), pp 130-1.

I.R.A. during the War of Independence.⁵⁴ Nonetheless, the Irregulars manipulated agrarian discontent. In County Cork, for example, the I.R.A. forcibly seized at least eleven farms which belonged to alleged loyalist spies and subsequently executed them during the War of Independence. The land was let by the Irregulars to local farmers, during the Civil War, to ensure loyalty and support.⁵⁵

The Provisional/Free State Government watched nervously as the latest episode of agrarian disorder, feeding off anti-treatyite support, swept through the west and several other parts of the country. They feared that if this powder-keg of agrarian violence was allowed to remain unchecked, it would do irreparable damage to the country and the authority of the Government. The Minister for Agriculture, Patrick Hogan, had warned his colleagues since the beginning of the Civil War that increasing levels of agrarian disorder contributed significantly to the amount of violence in Ireland. Hogan knew that land and political issues were intertwined. He contended that for the majority of people living in rural Ireland, access to land continued to be a more attractive commodity than independence. He maintained that as the Treaty made no provisions for the completion of land purchase or redistribution of large untenanted estates the Government needed to rectify this issue in order to undermine the Irregulars' support, particularly in the west. He stated in a memorandum that the "land for the people" is almost as respectable an objective as the "republic" and would make a much wider appeal.⁵⁶ Mulcahy, acting on Hogan's suggestion, introduced the Special Infantry Corps, designed specifically to tackle agrarian disorder, in February 1923. Furthermore, the ratification of the Enforcement of Law (Occasional Powers) Act and the District Justices (Temporary Provisions) Act in March

⁵⁴ Tom Garvin, *1922: The birth of Irish democracy* (Dublin, 1996), pp 44-5.

⁵⁵ Dooley, *The Land for the People*, p. 44.

⁵⁶ Memorandum on land seizures by Hogan, 22 December 1922 (N.A.I. Department of Taoiseach S files, D/T S 1,943).

1923 was indicative of how serious the Government viewed the threat that agrarian violence posed to the country. Hogan's efforts to remedy the situation ultimately led to the ratification of the Land Act on 9 August 1923. The formal introduction of the legislation to the Dáil in May 1923 coincided with the end of the Civil War. Dooley argues that the anticipation of this land bill contributed to the decline in support for the Irregulars' and their agrarian campaign.⁵⁷

Agrarian violence certainly contributed to the level of disorder in several parts of the country during the Civil War. Moreover, the Irregulars undoubtedly engaged in and attempted to control this for their own advantage. Yet, it is unclear whether incidents like the burning of Palmerstown House in Kildare was actually a reprisal for the execution of seven men in December 1922 or whether it was an example of the apolitical agrarian violence that occurred during the conflict and the perpetrators simply claimed to be Irregulars. In many cases these attacks were undertaken by active Irregulars, as retaliation for local executions, against what they regarded as symbols of the British imperialism in Ireland. However, as was the case during the War of Independence, not all incidents were politically motivated. Many offenders merely proclaimed Irregular affiliation to bolster their credentials and lend legitimacy to their actions. Dooley contends that a significant number of the 300 county houses burned during the period 1920-23 can be put down to local agitators who simply wanted to expel local landlords and redistribute the untenanted and demesne lands.⁵⁸ The corollary of this also needs to be examined. It is unclear how many of those executed during the conflict participated in agrarian agitation as most men were convicted of either or both the unlawful possession of firearms and attacking National troops. But that is not to say that some executed men were not involved. For example two civilians, Michael Murphy and Joseph O'Rourke, were put to death on 30 May 1923 for

⁵⁷ Dooley, *The Land for the People*, p. 53.

⁵⁸ Dooley, *Decline of the big house in Ireland*, pp 171-207.

armed robbery in an event that was ultimately related to land trouble. These men were not associated with the Irregulars and claimed no political allegiances. This suggests that there were some instances where agrarian violence played a role in the conviction and execution of men during the Civil War. Nonetheless, the Kildare executions became the largest single set during the conflict. Given the importance of these executions, it is striking that several authors, such as Ó Gadhra and Campbell, incorrectly state that they occurred in Dublin. The mistake is even more remarkable considering that there is a memorial cross located in the centre of Kildare Town which is dedicated to the men executed in the Curragh Camp during the Civil War.⁵⁹ This is indicative of the lack of research undertaken on this area. Before 1922 ended two further localised executions occurred. Prisoners John Phelan and John Murphy were executed in Kilkenny Jail, on 29 December, for the unlawful possession of ammunition in a raid on Sheastown House.⁶⁰

January 1923 began with a rarity in relation to the Government's executions policy when five captured Irregulars were put to death in Dublin on 8 January. One of the reasons this case proved unusual was that those who had been executed so far had generally been killed for the unlawful possession of arms and ammunition, the Mountjoy executions being different as it was a reprisal. However, according to an official Army communiqué, Corporals Leo Dowling and Sylvester Heaney, and Privates Laurence Sheehy, Anthony O'Reilly and Terence Brady were court-martialled in Kilmainham Jail on 11 December 1922. They were charged with treachery given that they, at Leixlip, County Kildare, assisted and consorted with certain armed persons

⁵⁹ See Appendix 10.

⁶⁰ Details of Republicans executed in Ireland, 17 November 1922 – 11 April 1923 (T.C.D Archives, Childers papers, Ms. 7808/323), see also John P. Duggan, *A history of the Irish Army* (Dublin, 1991), p. 104.

and used force against National troops on 1 December 1922.⁶¹ In addition to this, the ‘Court found each of the accused guilty of both charges. They were sentenced to death. The sentences were duly confirmed in each case and the executions were carried out this morning at 8 o’clock.’⁶² According to an Irregular propagandist handbill, issued soon after this event occurred, these men’s:

eyes were opened [after the Treaty]. You saw that the treachery and falsehood, you had been betrayed; and like honourable men you returned to your old allegiance; to fight for the only cause worthy of your manhood – the Independence of your country. For this they executed you. For this you died.⁶³

Events since early December had caused certain Ministers, primarily Cosgrave, O’Higgins and Hogan, to lose patience and become increasingly sceptical of the Army’s ability to conclude the Civil War. They began to call for the alteration and increased implementation of the executions policy in a final attempt to finish the conflict. Even though it was 10 January 1923 the Public Safety Resolution which had been in operation for four months had, to the dissatisfaction of these ministers, not achieved definite results. Demands for further localised executions and the increased implementation of the policy intensified. This was highlighted in mid-January 1923 when a conference between the Executive and Military Councils occurred ‘to discuss the present situation, and to decide upon the most effective means of dealing with the lawlessness prevailing throughout the country, with a view to bringing it to a speedy end.’⁶⁴ In order to prepare for the crucial meeting each minister was asked to organise a comprehensive account of the affects that the Civil War had on their particular ministry and to devise a number

⁶¹ *Irish Independent* (9 Jan. 1923), see also Official Army communiqué, January 1923 (U.C.D. Archives, Andrews papers, P91/86 (8)), see also Appendix 1.

⁶² *Ibid.*

⁶³ Irregular handbill, undated (U.C.D. Archives, Twomey papers, P69/251).

⁶⁴ Conference between Executive and Military Councils, January 1923 (U.C.D. Archives, Mulcahy papers, P7b/96).

of suggested solutions. Both Hogan and O'Higgins produced extremely pessimistic memoranda. Hogan, whilst warning of an impending land war, indicated his frustration and argued extensively for the increased implementation of the September resolution. Hogan demanded that a clear-cut stern policy which would provide the Army, of which he was extremely critical, a free hand to halt the disastrous situation which existed in the country. Hogan claimed that if Ireland witnessed another two months like those that had just passed then it and the Irish Free State would crumble. He stated that:

The people are thirsty for peace, and thirsty for strong ruthless and efficient measures, because they believe such measures will bring peace. There will not be the slightest re-action against any measure we take provided they are strong and efficient, and the people will give us plenty of time to do our work if they feel we mean business.⁶⁵

Hogan believed that the public would support increasingly stern measures if they perceived these actions to be justified. The lack of overt public condemnation after the Mountjoy executions suggests that his assertions would be correct. Hogan argued that the Government and the Army must realise that the Civil War was a conflict that the Government and Army had no choice or alternative except to win. He stated that the country and the Army, for that matter, were confused and that the only way to obtain their objectives was to annihilate the Irregulars:

The Irregulars in these areas must be beaten and terrorised by the utmost military activity. Otherwise the cure is worse than the disease [...] I know the executions are only a second best, and that they cannot be continued indefinitely; in fact, they can only be continued for a fairly limited time, but within that time they ought to be going with machine-like regularity.⁶⁶

⁶⁵ Hogan's memorandum for the January conference, 11 January 1923 (U.C.D. Archives, Mulcahy papers, P7b/96).

⁶⁶ Ibid.

Hogan knew that even though the public, for the most part, supported the Government and the executions policy, this support would not remain indefinitely if the Government and the Army did not end the Civil War. The executions were accepted as a necessary evil to defeat the Irregulars, but if victory was not achieved quickly then support for the executions and the Government, for that matter, would dwindle. As a result, he proposed the adoption of increasingly severe measures. Hogan claimed that the machinery which allowed the Army to execute Irregulars had broken down due to ‘the unwillingness of indecision of the local commands, and legal difficulties.’⁶⁷

O’Higgins, in similar fashion to Hogan, argued that the previous executions were not having the desired effect as the centralised executions which occurred in Dublin did not influence those Irregulars who were located throughout the country. To rectify this problem he advocated more localised executions. According to O’Higgins:

I am of the opinion that there should be executions in every County. The psychological effect of an execution in Dublin is very slight in Wexford, Galway, or Waterford. The Irregulars in these Counties, as a rule, do not know the men who are shot in Dublin, and the effect on their minds is very little more than if they were reading an execution in a novel, or a history instead of a newspaper. I believe that local executions would tend considerably to shorten the struggle.⁶⁸

In this instance, O’Higgins, in order to prove his point, is being slightly impertinent. It is very doubtful that the Irregulars would look upon the execution of their comrades, wherever they occurred, as if they were being carried out in a novel. What O’Higgins wanted was to decentralise the executions policy, thus having them in every county, so that local Irregulars would feel the impact of the Government policy. He argued that if the pro-treatyites wanted to

⁶⁷ Ibid.

⁶⁸ O’Higgins’ memorandum for the January conference, January 1923 (U.C.D. Archives, Mulcahy papers, P7b/96).

win before the summer then there needed to be an immediate improvement and intensification of propaganda. O'Higgins said that this would be pointless and ineffective unless it was synchronised with other approaches such as the tackling of illegal land occupation and non-payment of debts and rates. In summation, he remarked 'we must kill the active Irregular, tackle the passive Irregular, [and] make friends with the rest.'⁶⁹

O'Higgins and Hogan believed that the Irregulars threatened Ireland militarily, politically and economically but they also posed a social danger to the country. According to Kissane, key figures 'within the civilian leadership were clearly convinced that behind the irregular campaign lay the menace of social revolution and this fear informed their more extreme proposals.'⁷⁰ Furthermore, O'Higgins possessed an almost overwhelming eagerness to see that his ideas and conceptions were translated into action.⁷¹ Following the conference, he wrote to Mulcahy in a more optimistic mood. He stated 'I was greatly gratified at the result of last night's discussion, and feel confident that when the decisions arrived at are translated into action, the results will be good.'⁷² Both O'Higgins and Hogan wanted to ensure that the Army did not ease up on the Irregulars and they were determined to pursue a ferocious policy of unconditional defeat rather than settle for a conditional surrender.⁷³ After the conference a further eight republican militants were put to death in less than a week. This indicated that the ideals discussed at the January conference were adopted and the determination to crush the Irregulars was stronger than ever. Thomas McKeown, John McNulty and Thomas Murray were executed in Dundalk on 13 January for the unlawful possession of revolvers and ammunition. The *Daily Bulletin*, a republican

⁶⁹ O'Higgins' memorandum for the January conference, January 1923 (U.C.D. Archives, Mulcahy papers, P7b/194 (3-6)).

⁷⁰ Bill Kissane, *The politics of the Irish Civil War* (Oxford, 2005), p. 92.

⁷¹ Terence de Vere White, *Kevin O'Higgins* (London, 1948), p.116.

⁷² Letter from O'Higgins to Mulcahy, 12 January 1923 (U.C.D. Archives, Mulcahy papers, P7b/194 (21)).

⁷³ Regan, *The Irish counter-revolution*, p. 121.

newspaper, stated that the speed at which these prisoners were apprehended, tried and executed was remarkable. It stated that McNulty and Murray ‘had been arrested only on the previous Tuesday, less than four days before their execution. Their “trial” consisted of a flying visit to the town by [the] Colonial General Hogan, for the purpose of passing the death sentence.’⁷⁴ Francis Burke, Patrick Russell, Patrick MacNamara and Martin O’Shea were also executed in Roscrea, Co. Tipperary on 15 January for the unlawful possession of varying amounts of arms and ammunition.⁷⁵ James Lillis was put to death in Carlow on the same day for the unlawful possession of a rifle and the taking part in an attack on national forces on 24 October.⁷⁶ According to the I.R.A. Roll of Honour, Lillis had originally joined the Free State Army in January 1922 but soon found that he had broken his faith with the Irish Republic and he returned to his old allegiance in May of that year. It stated that ill-treatment at the hands of the pro-treatyites caused him to change his mind. It mentioned that ‘he was beaten in the face with butts of revolvers and rifles and was then placed in a cell, and given no medical treatment of any kind.’⁷⁷ Lillis was actually tried in Dublin and then returned to Carlow to be executed. The Roll of Honour finally stated that he ‘died as he lived true to faith and country.’⁷⁸

The Free State Government and Army, unwilling to negate their renewed momentum, set about enacting supplementary emergency measures. On 17 January 1923 the Army Council issued a General Order, which became known as the ‘Stand-Clear’ order. The proclamation extended the remit of the Public Safety Resolution ensuring that it would now cover additional types of criminality. Under the order any person who shall:

⁷⁴ Extract from the *Daily Bulletin*, 22 January 1923 (U.C.D. Archives, Twomey papers, P69/257 (43)).

⁷⁵ Details of republicans executed in Ireland, 17 November 1922 – 11 April 1923 (T.C.D. Archives, Childers papers, Ms. 7808/323), see also Nollaig Ó Gadhra, *Civil War in Connacht 1922-1923* (Dublin, 1999), pp144-146.

⁷⁶ Details of republicans executed in Ireland, 17 November 1922 – 11 April 1923 (T.C.D. Archives, Childers papers, Ms. 7808/323).

⁷⁷ Roll of Honour, undated (U.C.D. Archives, Twomey papers, P69/165 (23)).

⁷⁸ *Ibid.*

Murder any person, or aid or abet the murder of any person, or attempt in any way to murder any person [...] Conspire to murder any person [...] Command, procure, incite, counsel, solicit, encourage, persuade or endeavour to persuade any person to murder any person [...] shall upon trial and conviction thereof by Military Court or Committee be liable to suffer death or any less punishment.⁷⁹

The directive greatly expanded the jurisdiction of the military courts and committees. It was designed to ensure that Irregular followers and sympathisers, i.e. civilians, would now stand an even greater chance of prosecution. According to Campbell, the expansion in power of the September resolution was enacted to ‘bring IRA back-up personnel and supporters within the net of those triable.’⁸⁰ It must be noted here that civilians were included in the September resolution, however, none had been executed to date. The resolution used the term ‘persons’ to ensure that the emergency powers were all-inclusive.⁸¹

Thomas Johnson seriously doubted the necessity for such an extension as he claimed that the military necessity, touted as one of the reasons for the adoption of emergency measures in September, no longer existed.⁸² Mulcahy argued that this directive was absolutely necessary in order to indicate to both militants and civilians that if they engaged in criminality, or co-operated and assisted the Irregulars’ armed rebellion in any way then they too would face immediate and merciless prosecution. He stipulated that:

This new Order of the Army Council is intended to be a Stand-Clear Order, and to make people definitely stand clear of the National destruction that is going on at the present time, if they do not want to be chargeable with it, and if they do not mean to be punished for it.⁸³

⁷⁹ Dáil Debates, *Army Council General Order*, volume 2, col. 876 (17 January 1923).

⁸⁰ Colm Campbell, *Emergency law in Ireland 1918-1925* (New York, 1994), p. 167.

⁸¹ See Appendix 2.

⁸² Dáil Debates, *Army Council General Order*, volume 2, col. 883 (17 January 1923).

⁸³ *Ibid*, col. 888.

Hogan argued that in obtaining the additional authority the Army had both the Dáil's and the country's support. He denounced Johnson's attempt to hide behind legal technicalities and political niceties. Hogan stated that the extension was a necessity to halt the Irregulars' national destruction in the quickest possible time by doing 'what every other Government in similar circumstances has always done.'⁸⁴ O'Higgins firmly believed that the Irregulars were severing the country's arteries and killing the Nation. He stated that the Government would do whatever was necessary to annihilate the Irregulars. He claimed that:

because the veins and arteries of the country are being cut, and because we bid fair to be classed with the nigger and the Mexican, as a people unable to govern themselves, we who have a democratic mandate, for the moment, to control the destinies of this country, will go very, very far indeed against the people who are menacing the life of this country.⁸⁵

O'Higgins also accepted that the Government had previously failed to fully implement the emergency powers and that this only served to encourage the Irregulars and make them believe that a compromise was possible. He stated that this assumption would be no more:

And if anyone who was opposed to us, or those now opposed to us, interpreted the moderation with which we used the power in the past as any symptom of indecision, as any indication of doubt about these issues, then unconsciously we have been cruel, cruel to the country, cruel even to those who are in arms against us, if we help to prolong the struggle by any lingering hope in the minds of our opponents that there could be compromise on those issues.⁸⁶

Finally, Cosgrave joined the debate over the 'Stand-Clear' order. He dictated that the Government and the Army would not and must not economise on the death penalty. He declared that it was completely legitimate and an absolute necessity if Ireland is to be saved, as he argued:

⁸⁴ Ibid, col. 898.

⁸⁵ Ibid, cols 904-905.

⁸⁶ Ibid, col. 905.

stern measures must be taken—in which we cannot economise on the death penalty. There is no use talking about drastic measures. Drastic measures are spoken about on the other side when they mean to take men's lives, but they will not say that. The death penalty is a thing we cannot economise on when there is such destruction, such disorder, and such hopeless lack of morality through the country from one end of it to the other.⁸⁷

Following the introduction of the 'Stand-Clear' order the Army issued another directive. Signed by the Adjutant General, Gearóid Ó Sulleavain, new procedures for the execution of a death sentence were introduced on 18 January 1923. These regulations superseded those issued in November. These procedures stipulated that the person or persons mentioned in the certificate of confirmation would be at once removed to the place of execution and be placed in a separate cell or cells. Furthermore, before 12 p.m. on the day before the execution, a copy of the certificate of confirmation, duly signed by the confirming authorities, which outlined the charges, finding, and sentence of the court, would be read over to the prisoner or prisoners concerned.⁸⁸ The prisoner or prisoners would be informed separately that the sentence would be executed at 8 a.m. the following day. They could then have the service of an Army chaplain or any clergyman he desired. This would be subject to the services of such clergyman being reasonably available and there being no individual objection to such clergyman by the G.O.C. of the area where the execution was to occur. With the exception of the clergyman no one would be allowed to visit the convicted prisoner. The utmost care was to be taken to ensure that the prisoner or prisoners were not subjected to any annoyance and that the prisoner or prisoners were to be treated with the utmost humanity, compatible with the fulfilment of the above instructions. The prisoner or prisoners, under death sentence, would be afforded facilities to write any private or business letters. Such letters would be censored in the ordinary way by the

⁸⁷ Ibid, col. 930.

⁸⁸ Procedures to be followed for executions, 18 January 1923 (U.C.D. Archives, O'Malley papers, P17a/191).

Command Intelligence Officer, and copies may be made. The originals together with any personal effects of the deceased would be forwarded to persons for whom they were intended. Following the execution of the prisoner arrangements would be made to assemble a military court of enquiry into the death of the prisoner or prisoners. The executed prisoner would then receive an expeditious burial within the confines of the barracks, when the court of enquiry had completed its deliberations. The certificate of confirmation would be produced at the court of enquiry, and both copies attached to the proceedings would be forwarded to the Army headquarters. However, notice would not be sent to the next-of-kin prior to the execution but immediately after the carrying out of the death sentence. Such notification would be signed by the Command Adjutant.⁸⁹

Mulcahy subsequently issued a memorandum in which he clarified the criteria for the distribution of cases between the military courts and the committees. In future, cases would be separated into two categories.⁹⁰ The first class of cases referred to persons who were guilty beyond doubt. These cases dealt with people that were blatantly caught and as a result were to be tried by the committees at Battalion level. The second class, however, were to be brought to Command headquarters and dealt with by a military court.⁹¹ This scenario had many similarities to the previous British system of drumhead courts. The decision to refer cases to committees of officers primarily involved cases of persons caught red-handed. This placed the accused at maximum risk of receiving the death sentence as, like their British predecessors, the minimum safeguards were to apply.⁹² One main effect of introducing the committee system in to the Irish Civil War at Battalion level was that the resulting executions were much more widely distributed

⁸⁹ Ibid.

⁹⁰ Mulcahy's memorandum, 18 January 1923 (U.C.D. Archives, Mulcahy papers, P7/B/169).

⁹¹ Ibid.

⁹² Campbell, *Emergency law in Ireland*, p. 217.

geographically than would probably have been the case had disposal of cases been limited to trial by a military court which were organised at Command level. Ó Longaigh states that:

approximately 140 persons came before the military courts and 9 were executed, with 85% of suspects being convicted. Of the 1,039 who came before the committees, 64 were put to death, with about 46% of suspects being found guilty. In total, 77 were officially executed.⁹³

These figures are not only simplistic but they are also inaccurate. Ó Longaigh claims that executed Irregulars had their cases dispatched either by a military court or a military committee. Whilst this was the general idea, there were some important exceptions to this trend. Ó Longaigh omits some crucial information and as a result his figures are incomplete. The executions during the Civil War were not as orderly as Ó Longaigh portrays them. He does not account for the four civilians executed for armed robbery during the Civil War, bringing the total number of official executions during the conflict to eighty-one. Due to the complete lack of information pertaining to these men it must be assumed that they were tried by a military committee as cases were almost exclusively dispatched by committees after 8 December 1922. Moreover, he does not allow for the five Irregulars which, being former National soldiers, were court-martialed and executed for treachery. As a result these men were not tried by a military court or a military committee.⁹⁴

With this new momentum the executions in January were set to continue unabated. Eleven Irregulars were executed on 20 January 1923, two in Limerick Cornelius McMahon and Patrick Hennessy, four in Tralee James Daly, John Clifford, Michael Brosnan and James Hanlon and five in Athlone, County Westmeath Thomas Hughes, Michael Walsh, Herbert Collins,

⁹³ Ó Longaigh, *Emergency law in independent Ireland*, p. 32.

⁹⁴ See Appendix 1.

Stephen Joyce and Martin Burke.⁹⁵ According to the official report, these eleven men had been found guilty ‘of being in possession of arms and ammunition without proper authority, and the two men executed at Limerick were further found guilty of being implicated in the destruction of the railway [in] Co. Clare.’⁹⁶ The executions which occurred in Athlone once again highlighted another controversial pro-treatyite policy. As stipulated in the aforementioned procedures it was common practice not to inform the next of kin until after the execution had taken place and withhold the body of any executed prisoners indefinitely. This was highlighted in the Dáil, on 30 January 1923, when Seán Ó Laidhin questioned Mulcahy:

if it is a fact that in connection with the five executions which took place in Athlone on Saturday, January 20th, the parents of the prisoners were not notified until after the executions had taken place; and, if so, what was the reason for this; also, why the remains of John [Thomas] Hughes, one of the executed men, were not given to his mother, at her request.⁹⁷

It must be noted here that Ó Laidhin refers to John Hughes. Evidence suggests that the executed Irregulars’ name was Thomas Hughes. Small differences are not uncommon amongst the names of the eighty-one men executed during the Civil War. Nonetheless, in response to the enquiry Mulcahy replied that it was neither the practice nor the intention of the Army to communicate with relatives of men who had been arrested. In the case of an execution, he stated that, formal notification would be sent immediately after the execution had taken place. He also declared that it was also not the intention to hand over the remains of any executed men to friends or family of the deceased.⁹⁸ Not satisfied with the Minister for Defence’s reply the Labour T.D. claimed that Thomas Hughes’ mother lived in very close proximity to Athlone and that she only received

⁹⁵ Ryan, *Liam Lynch*, p. 144, see also Ó Gadhra, *Civil war in Connacht*, pp144-146, see also The list of executed Irregulars during the civil war, undated (U.C.D. Archives, Twomey papers, P69/162 (40-42)).

⁹⁶ *Westmeath Examiner* (27 Jan. 1923).

⁹⁷ Dáil Debates, *Written Answers – Athlone Executions*, volume 2, col. 1087 (30 January 1923).

⁹⁸ *Ibid.*

word that her son had been killed, informally, when she was travelling around the town.

According to Ó Laidhin:

His [Thomas Hughes'] parents live one and a half miles from Athlone. His mother was in town at the market, and was going home when she was overtaken by some person in authority, who told her about the execution [...] As this was the first time in the history of Ireland that an execution took place in Athlone, and this man's people live within a mile of the town, surely it was the duty of the Government to notify them before executing him.⁹⁹

Ó Laidhin was completely shocked at the perceived insensitivity and inhumane nature of the Government and the Army. The issue over the remains of the executed men would cause further controversy and scandal for the Government after the Civil War. This will be discussed in more detail in chapter seven. According to Ó Gadhra, a sixth person had been tried and convicted along with the other five prisoners in Athlone. Tom Maguire, an anti-treatyite Sinn Féin T.D., was also sentenced to death. However, his sentence was never carried out possibly due to his status as a sitting Deputy, despite the fact that he along with de Valera and the other anti-treatyite T.D.s had walked out of the Dáil in protest at the Treaty.¹⁰⁰ This may have been an attempt, by the pro-treatyites, not to unduly antagonise public opinion. Nevertheless, for Martin Burke, as he stated in his final letter to his brother Jim, both he and his comrades were proud to die for the Republic:

Just a few lines before I pass away from this world forever. I suppose my time has come [...] Poor Tom Hughes is by my side, a soldier to the last. Stephen Joyce, Mick Walshe and Collins are going before God in the morning. I think with God's help I'm prepared to die [...] Poor old Dad, this will give him a blow, but it's a chance for a happy death. So goodbye until we meet again in that happy land beyond the skies.¹⁰¹

⁹⁹ Ibid.

¹⁰⁰ Ó Gadhra, *Civil war in Connacht*, p. 63.

¹⁰¹ Ibid, pp 66-67.

Another example of the rapid speed in which Irregular prisoners were arrested, tried and convicted occurred when four men were executed in Kerry. According to Paddy O'Daly, the new G.O.C. Kerry Command following General Murphy's transferral to Cork, prisoners James Daly, John Clifford, Michael Brosnan and James Hanlon were notorious republicans. Therefore, he pushed for their immediate execution. O'Daly declared that 'I am trying three exceptionally bad cases, caught with arms, by [a] council of officers. Will you [Mulcahy] sanction [the] death sentence. Verify by wireless. [The] Feeling here [is] very strong for immediate action.'¹⁰² Not content with Mulcahy's procrastination O'Daly contacted him again the following morning and enquired as to the whereabouts of the confirmation for these four cases. He stated that if 'you sanction [the] sentence on Daly, Clifford Bros. and Hanlon send me word in time to carry it out [at] 8 o'clock to-morrow morning (Saturday).'¹⁰³ Whilst O'Daly waited for the sentences to be confirmed he replied to a resolution, passed by the Tralee Urban Council, which demanded that the sentences of death imposed upon the four men be commuted to imprisonment. His reply is interesting and is indicative of the level of animosity that he felt towards the tactics employed by the Irregulars. O'Daly stated that:

I can assure you that it would be the happiest moment in my life if I were in a position to convey to you definitely that the executions were at an end. I would willingly give the remaining years of my life to see this unfortunate fight terminated [...] But, in justice to my dead comrades [...] Executions will stop when train-wrecking, murder and highway robbery cease [...] When the people of Ireland at a free election vote in favour of a truce with the murderers of Seán Hales, Emmet McGarry, and the train wreckers, I will then have finished serving the people of Ireland.¹⁰⁴

¹⁰² Wireless message from O'Daly to Mulcahy, 19 January 1923 (M.A., Irish Civil War Operational/Intelligence Reports, Box 16/10).

¹⁰³ Wireless message from O'Daly to Mulcahy, 20 January 1923 (M.A., Irish Civil War Operational/Intelligence Reports, Box 16/10).

¹⁰⁴ *Nenagh Guardian* (10 Feb. 1923).

Nonetheless, Mulcahy promptly replied and confirmed the findings by merely singing his name on the back of a brown envelope.¹⁰⁵ The four Irregular militants were put to death that same day, 20 January 1923. These executions indicate that level of armed resistance in the county was increasing rather than decreasing as Murphy predicted.

The executions in Kerry also indicate another consequence of the Government's decentralisation process. Previously, all the executions were confined to Dublin and the Cabinet, in conjunction with the Army Council, decided who was to be put to death. However, the vast majority of cases were now dealt with locally by the Officers Commanding the area where the offence was committed. Even though the Army Council, that is Mulcahy and his colleagues, had to confirm the conviction and authorise the execution, evidence suggests that the Cabinet's influence in the decision making process was significantly decreased.

A further seven men were put to death by the end of January as the Free State Government and National Army continued with the swift rate of executions. Three men, James Melia, Thomas Lennon and Joseph Ferguson, were executed in Dundalk on 22 January for the unauthorised possession of arms and ammunition. Melia and Lennon were under twenty years of age and had brothers in a Free State prison at the time of their executions. Both men had stolen a vehicle belonging to Senator O'Rourke and were captured following a raid on the Iniskeen station on 2 January. Ferguson, on the other hand, was a well-known local footballer.¹⁰⁶ According to Joseph Gavin and Stephen O'Donnell, news of the executions shocked the town of Dundalk, due to the young age of the executed men.¹⁰⁷ They were all members of the Fourth Northern Division's Dundalk Brigade. Melia, according to an Irregular report, was executed for

¹⁰⁵ Ó Gadhra, *Civil war in Connacht*, p. 63.

¹⁰⁶ *Connacht Tribune* (27 Jan. 1923).

¹⁰⁷ Joseph Gavin and Stephen O'Donnell, *Military barracks Dundalk: a brief history* (Dundalk, 1999), p. 43.

carrying arms when in reality he did not have any on him at the time of his arrest. He had signed papers to obtain his freedom following a previous arrest; however, following his release he once again continued to fight the National Army. It further stated that Melia was an excellent soldier and was willing to do anything for the cause.¹⁰⁸ Another captured Irregular Intelligence report claimed that the aforementioned republican combatants were actually caught with arms in their possession. It stated that ‘James Melia and Thomas Lennon had one revolver and some ammunition in their possession when arrested. The [Free] Staters say they got some grenades [and] a rifle and ammunition in or about the place where Ferguson was staying.’¹⁰⁹ According to the *Connacht Tribune*, demonstrations were held on 26 January outside the gates of the prison in Dundalk where these men had been executed. Local women recited the rosary and refused to disperse, however, they fled after revolver and machine gun fire was directed over their heads as a warning.¹¹⁰ Some demonstrations, of this nature, occurred in towns after local executions during the Civil War. However, for reasons stated already, the extent of these protests never matched those that occurred in 1916 or during the War of Independence.

Two men, Michael FitzGerald of Main Street, Youghal, County Cork and Patrick O’Reilly of Coast-Guard station, Youghal, Co. Cork, were put to death in Waterford on 25 January. According to the official report, both men were found guilty of the unauthorised possession of arms and ammunition having been captured at Ballinaclash, Clashmore, County Waterford on 4 December 1922.¹¹¹ Another man, Patrick Cuddihy, was also tried with these men. However, he only received five years penal servitude.¹¹² The Youghal No. 2 Council,

¹⁰⁸ An Irregular report, undated (U.C.D. Archives, in Twomey papers, P69/162 (12)).

¹⁰⁹ A captured Irregular intelligence report, 23 January 1923 (M. A., Captured Documents Collection, Lot 2, 4/a).

¹¹⁰ *Connacht Tribune* (27 Jan. 1923).

¹¹¹ *Freeman’s Journal* (26 Jan. 1923).

¹¹² Information on Patrick O’Reilly and Michael Fitzpatrick executions, undated (U.C.D. Archives, O’Malley papers, P17a/191).

County Waterford adopted a resolution denouncing these executions, offered its deepest sympathy to the relatives of the executed men and adjourned its meeting in protest.¹¹³ Three more executions occurred in Birr, County Offaly. Colum Kelly, Patrick Cunningham and William Conroy were put to death on 26 January. These men, according to the official report, were found guilty of the possession without proper authority of arms in Tullamore, County Offaly on 21 November 1922. These men were also found guilty of ‘feloniously and burglariously with intent the houses of several residents in Tullamore, and stealing therefrom a silver watch, several sums of money, with other goods [...]’¹¹⁴ Father Pat Gaynor, one of two priests who served as chaplains to the three men the other being Father Dinan, was impressed by their calm and composed nature prior to their execution. In his description of the executions Gaynor states that fifteen minutes before the actual event a Free State officer enquired if the men had any last requests. Two of them asked for some lemonade and the other for a bottle of stout.¹¹⁵ He also claimed that the condemned men were blindfolded and were executed sitting down on chairs. According to Gaynor:

the tallest boy – without any air of bravado – asked to be left face the firing-squad standing: there was not even a tremor in his voice and his comrades were equally calm and brave. On being told that he must sit in the chair, he obeyed without a word.¹¹⁶

Finally, he states that after the shots rang out two of the men seemed to be unconscious, if not dead, however, the third man ‘fell sideways and the chair toppled over and he lay, moaning and twitching, on the ground [...] three young officers advanced and placed revolvers against the

¹¹³ *Nenagh Guardian* (10 Feb. 1923).

¹¹⁴ *Irish Independent* (27 Jan. 1923).

¹¹⁵ Father Pat Gaynor quoted in Philip McConway, ‘Offaly and the Civil War executions’, in *Tullamore Tribune* (26 Dec. 2007).

¹¹⁶ *Ibid.*

boys' temples and fired one shot each[.]¹¹⁷ Two men, Patrick Geraghty and Joseph Byrne, were shot dead in Portlaoise, County Laois, on 27 January 1923.¹¹⁸ The official report concerning this set of executions states that Geraghty was tried on 5 January for the unauthorised possession of an automatic pistol at Croghan, County Offaly on 10 November 1922. Byrne was also tried on the same day with the possession without proper authority of a Webley revolver. The findings in both cases were confirmed and they were duly executed.¹¹⁹ Cinemas in Cork closed their doors in protest at the recent sets of executions throughout the country; however, the Free State authorities compelled them to re-open.¹²⁰

The claim that prisoners Cunningham, Conroy and Kelly, executed in Offaly, had been involved in burglary is interesting and appears to have some validity to it. According to a captured Irregular document, from the Adjutant General to the Adjutant Third Southern Division, it was stated that these men were 'reported to have been charged with burglary. I have already asked you to send me a report on this matter, we must be in a position to refute such charges. I require a statement from you [on] this case at once.'¹²¹ Philip McConway contends that none of these three men were actually associated with the Irregulars but were simply young men foolishly engaged in robbery. He claims that Seán McGuinness, the O.C. First Battalion, Tullamore, Offaly No. 1 Brigade, told these men to go home when they attempted to enlist in the Irregulars because of their young age.¹²² Yet, McConway states that the Irregulars, determined to maximise the propaganda capital from these executions, eagerly claimed them as Irregular

¹¹⁷ Ibid.

¹¹⁸ *Irish Independent* (29 Jan. 1923).

¹¹⁹ *Nenagh Guardian* (3 Feb. 1923).

¹²⁰ *Anglo-Celt* (3 Feb. 1923).

¹²¹ Captured Irregular letter, 26 January 1923 (M. A., Captured Documents Collection, Lot 2, 4/a).

¹²² Seán McGuinness quoted in Philip McConway, 'Offaly and the Civil War executions', in *Tullamore Tribune* (26 Dec. 2007).

soldiers. However, he provides no evidence to substantiate this assertion.¹²³ The fact remains that the official Army report and the captured Irregular document, pertaining to these three men, threat them as Irregulars. Nonetheless, since the beginning of the Civil War, and particularly since the death of Hales, the Government and the Army were attempting to portray the Irregulars as little more than undemocratic and ruthless criminals determined on destroying the social and economic fabric of the country. The hostage policy, as O'Donoghue suggested earlier, is perhaps further evidence of the Government's efforts. As the above official report, pertaining to the Offaly executions, clearly demonstrates and the official report issued after the seven executions in Kildare in December, the Government were quick to label some Irregulars as common thieves. The fact that the Irregulars had to constantly requisition much needed funds, materials and supplies from the public made the Government's task much easier. Therefore, having already made the unauthorised possession of any weapon illegal and punishable by death, their attempts to further criminalise the Irregulars for commandeering materials served several purposes. For instance, it helped justify the Government's rationale for fighting the Civil War, democratic principles and morale values. Moreover, it legitimised the methods that the Government were employing, particularly the executions policy, during the conflict. If they painted a picture whereby Irregulars were looting and stealing at will then the Government and Army received a certain amount of vindication in their efforts to defeat these so-called criminals. That is not to say that some members of the Irregulars, and the National Army for that matter, were not involved in burglary and looting as they certainly were but the Government made sure to highlight the Irregulars' involvement in such practices. What is also interesting here is that during the War of Independence the appropriation of supplies was an accepted practice,

¹²³ Philip McConway, 'Offaly and the Civil War executions', in *Tullamore Tribune* (26 Dec. 2007).

frequently employed by some of the same men in the Government and Army that were now referring to the Irregulars as delinquents.

This issue did not go unnoticed by the Irregulars Chief of Staff. Lynch knew that thievery would antagonise the public and decrease what little support they received from them. As a result he proclaimed ‘it is hereby solemnly notified that robbery will be sternly suppressed and that persons falsely representing themselves to be soldiers of the Irish Republican Army will be dealt with summarily.’¹²⁴ Nonetheless, this would not be the last time stealing would play a part in the determining of a man’s fate.

Following the executions in Dundalk, on 22 January, a communiqué was sent from Captain O’Connor, in the Quartermaster’s office, Dundalk military barracks, to Colonel O’Higgins, Quartermaster in the Dublin Command, Collins barracks, on 1 February 1923. It outlined the effect that the execution of former comrades and fellow Irishmen was having on the unfortunate National soldiers that had to carry out the terrible order. According to this message:

I [O’Connor] enclose herewith Accounts for Whiskey which was purchased on the order of General Hogan, and supplied to the Firing squads who carried out the execution here. I have certified these Accounts correct, and would be glad if you would arrange to have them paid.¹²⁵

The provision of alcohol for the troops, who had to perform such awful tasks, is perhaps an indication that the Army authorities recognised the intensely unpleasant nature of these duties. Nonetheless, the rapid pace of the executions was satirically attacked in Irregular pamphlet entitled ‘*Five Centuries To Go*’:

¹²⁴ Lynch’s warning regarding impersonation and theft, 9 February 1923 (M.A., Captured Documents Collection, Lot 43/1 (b)).

¹²⁵ Communication from O’Connor to O’Higgins, 1 February 1923 (U.C.D. Archives, Aiken papers, P104/1295).

The pace is too slow, Dick! [Richard Mulcahy] You are killing only about One Hundred Republicans a Quarter. At this rate it will take you Five Hundred Years to kill them all off. This is not good enough. If you don't hurry up we will have to get someone who will do the job quicker. Get on with the work Dick!¹²⁶

The executions dealt a huge blow to Irregular spirits. According to Campbell, the executions to date had a demoralising effect on the anti-treatyite militants.¹²⁷ While remaining armed resistance, particularly in Kerry, hindered the pro-treatyites from exercising complete control throughout Ireland it was clear by January that the anti-treatyite rebellion was collapsing. The capture of Liam Deasy, on 18 January 1923, did little to aid their cause. This event was to have significant implications, which will be discussed in the next chapter, for the final stages of the Irish Civil War. Deasy represented the most important example of the Cork I.R.A.'s reluctant participation in the conflict. He was very pessimistic about the Irregulars' chances of actually winning the Civil War and had been preparing for peace for some time. He was apprehended on the Galtee mountains whilst en-route to see Lynch to discuss the possibility of peace negotiations.¹²⁸

It has been established that the Government's official hostage scheme was adopted as another method to reduce the level of Irregular resistance in specific areas. Even though this plan initially failed in Kerry it did, however, prove relatively successful in other areas. It affected the morale of local Irregulars forcing significant amounts of them to appeal for peace, especially as the Civil War dragged on. Evidence also indicates that that the Government decentralised and accelerated for several reasons. Ó Gadhra argues that the decentralisation of the Public Safety Resolution was authorised and enacted to ensure that every county, Command and Battalion was

¹²⁶ Irregular pamphlet, 1923 (U.C.D. Archives, FitzGerald papers, P80/834).

¹²⁷ Campbell, *Emergency law in Ireland*, p. 168.

¹²⁸ Hopkinson, *Green against green*, p. 230.

involved in the execution of Irregular prisoners not only to spread future accountability but also to strike fear in to local republican circles. According to Ó Gadhra:

The toll of horror was spreading throughout the provinces, into almost every county and divisional area where the Free State army had triumphed. Every section of the army was being involved in blood and in bloody reprisals, not only in order to 'share the responsibility' but also to strike terror into each local area.¹²⁹

Similarly, Blake argues that as the executions were usually carried out at the discretion of the local commanders, even though the final say lay with the Army Council, the authorities wished that personal responsibility should be as widely spread amongst as many senior officers as possible.¹³⁰ While these arguments of mass-culpability may be plausible, they are nonetheless just opinions. Evidence suggests that one of the primary reasons for undertaking localised executions at Battalion level rather than Command level was to ensure that the executions would become much more dispersed geographically. This was to ensure that the effects of executions would penetrate a number of the localities where Irregulars operated. Moreover, it has been established that the adoption of this policy is undeniably linked to the attack on 7 December. This incident hardened the pro-treatyite's resolve and led to the adoption of a far more ruthless approach than may have otherwise been the case if it did not occur. In addition to this the Civil War had, in the eyes of the pro-treatyites, staggered on for long enough and it was time to finish it. Bolstered by renewed determination, engendered by Hales' killing, they enacted the 'Stand-Clear' order and enforced the committee system to streamline the implementation of the Public Safety Resolution. The pro-treatyites believed that they had a democratic mandate to operate as they did and that if they did not make these tough and controversial decisions to halt the Irregulars' destruction of the country then the Irish Free State would collapse.

¹²⁹ Ó Gadhra, *Civil war in Connacht*, p. 62.

¹³⁰ F. M. Blake, *The Irish Civil War and what it still means for the Irish people* (Dublin, 1986), p. 53.

CHAPTER 6

‘The serious situation which the Executions have created’

The capture of the Irregulars’ assistant Chief of Staff, Liam Deasy, on 18 January proved a significant blow to their hopes of victory in the Irish Civil War. Following his arrest Deasy circulated a letter, to several prominent anti-treatyites, appealing for peace. He recognised the affect that the executions policy was having on Irregular morale and, by extension, their prosecution of the conflict. This chapter will evaluate the validity of Deasy’s assertions relating to the ‘serious situation which the Executions have created’¹ and establish whether or not the policy actually achieved its primary objective, the hastening of the end of the Civil War. Bearing this in mind, the remaining twenty-six executions during the conflict will be examined. Of particular interest is the execution of four civilians, on 13 March and 30 May 1923, for the unauthorised possession of arms following armed robberies. These men were not associated with the Irregulars; thus the attention that they receive to date is almost non-existent. Yet these executions were facilitated by the Public Safety Resolution and should be included in this body of research. The Irish Civil War was an acrimonious affair, partly due to the Government’s official executions policy. However, the occurrence of several unofficial actions carried out by both sides of the Treaty divide contributed to the bitterness which endured long after the final shots were fired in anger. The atrocities which occurred in Kerry in March 1923 will also be analysed. They represent the extremities of unofficial actions during the Civil War and in terms

¹ Liam Deasy’s circular appeal to de Valera, 18 January 1923 (U.C.D. Archives, de Valera papers, P150/1697).

of ruthlessness rivalled any official executions. Nonetheless, it was now February 1923 and the Civil War continued as did the executions policy.

By mid-January the Irregulars' guerrilla prosecution of the Civil War was disintegrating rapidly in the face of the National Army which was financially, numerically and logistically stronger than the anti-treatyite militants. Irregular defeats, captures and deaths were also on the increase and, due to the decentralisation of the Public Safety Resolution, the anti-treatyite combatants throughout the country faced the ever-increasing possibility of execution should they be discovered with arms. According to Hopkinson, the first four months of 1923 saw a definite collapse of the Irregulars' military effort. He argues that any large-scale military activity was impossible, only small A.S.U.s remained and arms and financial resources were extremely limited. He states that 'the conflict had become patchy and localised and scarcely merited the term 'war'. Captures and deaths did much to demoralise the cause [...] The only type of activity possible in much of the country was house-burning and the wrecking of communications.'² Furthermore, the introduction of the Special Infantry Corps in February 1923, designed to tackle agrarian disorder in the countryside, particularly where Irregulars were involved, served to increase the pressures on the Irregulars further. According to Regan, even though a guerrilla victory was still technically possible, although highly unlikely, the National Army were in an abundantly better position considering they were bankrolled and armed by the British. He argued that for the Irregulars it became a war of 'indefinite attrition fought against insurmountable odds.'³

² Michael Hopkinson, *Green against green, the Irish Civil War* (Dublin, 2004), p. 228.

³ John M. Regan, *The Irish counter-revolution 1921-1936, treatyite politics and settlement in independent Ireland* (Dublin, 2001), p. 121.

The apprehension of Deasy proved to be another turning point in the Civil War. Having fought during the War of Independence in Cork, he was a proven military leader. Even though the War of Independence was fought fiercely in Cork the present conflict was a different matter altogether. Deasy argued that in the ‘south of Ireland where I had an intimate and personal knowledge of the great majority of those who were taking an active part in the anti-Treaty side there was no enthusiasm for this war.’⁴ It must be noted here that Deasy’s arguments are subjective. Thus the position he took, with regards to surrender, in addition to his efforts to justify that position, need to be taken into account when examining the arguments he subsequently put forward in his book *Brother against brother*. Nonetheless, Deasy did represent, according to Hopkinson, ‘the most important example of the Cork IRA’s reluctant participation in the conflict.’⁵ Deasy had for some time acknowledged the futility in the conflict’s continuance. He ultimately believed that the Irregulars were right to protest militarily at the so-called abandonment of the Republic by the pro-treatyite elite. The real tragedy for Deasy was that this armed protest did not end on 30 June 1922 with the fall of the Four Courts building in Dublin. His pessimistic beliefs were reinforced following a disheartening tour of the Third Southern Divisional area in early January 1923.⁶ He finally concluded that peace negotiations were the only viable option.⁷ However, he was captured on 18 January as he lay asleep in O’Brien’s safe-house at Ballincurry, Cahir, County Tipperary on the Galtee Mountains.⁸ The prominent anti-treatyite awoke to find the house in which he was staying surrounded by National troops. Before he could attempt an escape he discovered:

⁴ Liam Deasy, *Brother against brother* (Cork, 1998), p. 113.

⁵ Hopkinson, *Green against green*, p. 230.

⁶ Deasy, *Brother against brother*, p. 113.

⁷ M. G. Valiulis, *Portrait of a revolutionary, General Richard Mulcahy and the founding of the Irish Free State* (Dublin, 1992), pp 192-193, see also Meda Ryan, *Liam Lynch – the real chief* (Cork, 1986), pp 143-144.

⁸ Dáil Debates, *Peace move*, volume 2, col. 1470 (9 February 1923), see also Deasy, *Brother against brother*, p. 108.

an officer standing at the foot of the bed with a revolver. I was trapped, well and truly, with no option but to accept the position as it was. The officer was joined by others and they waited while I dressed. Then they searched the room and found a loaded revolver under the pillow and some extra rounds of .45 ammunition in my trousers pocket [...] The loaded revolver was sufficient evidence for a charge.⁹

At Deasy's trial he was charged with having in his possession, without proper authority, a long parabellum revolver and twenty-one rounds of ammunition.¹⁰ Deasy remained silent when the prosecuting officer asked for the maximum penalty. He was found guilty and sentenced to death.¹¹ The findings were transferred immediately for confirmation by the special wireless telephone system which was used by military units to maintain communication with G.H.Q. in Dublin. Following a brief delay the sentence was confirmed and relayed to the G.O.C. Waterford Command Major General T. Prout.¹² The order stated that 'I enclose you [the] certificate of confirmation in the case of William Deasy. You will have sentence executed tomorrow Saturday morning 27th. January, at 8 [o'clock].'¹³ However, Mulcahy received a message from Prout at 10 p.m. on 26 January. It stated that Deasy requested a stay in execution in order to aid an ending of the present hostilities. He was then removed from Clonmel to Dublin, on 29 January, where he signed a statement declaring that he would help persuade other Irregulars to surrender. The declaration was published in the press the following morning. It stated 'I accept and will aid in [the] immediate surrender of all arms and men as required by General Mulcahy.'¹⁴ Furthermore, he was instructed to forward a copy to several members of the anti-treatyite hierarchy such as

⁹ Deasy, *Brother against brother*, p. 108.

¹⁰ Dáil Debates, *Peace move*, volume 2, col. 1470 (9 February 1923).

¹¹ Deasy, *Brother against brother*, pp 110-111.

¹² *Ibid.*

¹³ Confirmation of the death sentence for Liam Deasy, 26 January 1923 (U.C.D. Archives, Andrews papers, P91/85 (10)).

¹⁴ Circular letter from Liam Deasy, 29 January 1923 (U.C.D. Archives, de Valera papers, P150/1749).

Lynch, de Valera, Aiken and Frank Barrett in an attempt to persuade them to cease their participation in the armed rebellion.¹⁵ In one such letter to de Valera he stated that:

Previous to my arrest, I had decided to advocate a termination of the present hostilities. My principal reason was based on the grounds that the National position was decreasing in strength, rather than increasing; as a result, not so much as the actual fighting, but primarily because of the particular side phases that had arisen, and were being concentrated on, vis., the executions and what has followed as a result. That the latter phase would develop and become more intense, I had not the slightest doubt, and to avoid our country and people being reduced to such a state, I am prepared to advocate a cessation on lines that would mean a temporary setting aside of the attainment of our ideals.¹⁶

In the circular appeal, Deasy indicated to the remaining prominent anti-treatyites that he had already intended to propose peace, however, his capture prevented him from carrying out his intentions. He then put forward several reasons why the continuance of the Civil War was irresponsible and futile. Deasy declared that:

In considering the whole position, there are a few matters I will put before you all, and asked that they be carefully weighed before making your decision:-

- (a) The increasing strength of the F.S. Army as evidenced by the present response to the recruiting appeal.
- (b) The decrease in strength [...] of the I.R.A. consequent on the recent numerous arrests.
- (c) The entirely defensive position of our units in many areas, and the general decreasing in fighting.
- (d) The "War Weariness" so apparent in many areas.
- (e) The increasing support of the F.S. Government, consequent on our failure to combat the false propaganda.
- (f) The serious situation which the Executions have created; Reprisals, Counter-reprisals etc.¹⁷

¹⁵ Ibid.

¹⁶ Letter from Deasy to de Valera, 18 January 1923 (U.C.D. Archives, de Valera papers, P150/1697), see also Appendix 6.

¹⁷ Ibid.

It was the final part of this appeal which caused the Irregulars, according to Deasy, the most concern. He believed that the country was being ruined by the official executions as he stated ‘This calls for more serious consideration than the others.’¹⁸ He knew that if the Irregulars continued their armed resistance then the Government would increase their implementation of their executions policy even further. This would antagonise the Irregulars and result in more reprisals. The resultant vicious cycle would engulf the entire country where families fought families until the losses on both sides were so great that British soldiers would intervene and be welcomed with more enthusiasm than was displayed at their departure. He finally pleaded that ‘whatever the sacrifice, we must prevent such happenings, if the position of Ireland supreme is maintained.’¹⁹

The declaration of peace made by Deasy impacted differently on both sides of the Treaty divide. In the Dáil Mr. D. J. Gorey, a member of the Farmers party, commended Deasy when he stated that the announcement in that morning’s papers was the most important that had been made since the Dáil assembled. He claimed that it was very important to see a man of such considerable standing in the Irregular ranks as Liam Deasy realising facts and coming to the conclusion that no greater disservice could be done to anti-treatyite aspirations than a continuance of the Civil War.²⁰ Mulcahy had a somewhat more pragmatic view of this event. He argued that:

He [Deasy] was satisfied, temporarily, at any rate, to live the lie that you could rid the country of what he calls the common foe, or any outside person interfering with the affairs of this country, and that you could build up this country by the use of the bomb and the torch and the petrol can. He was prepared to live that lie in the hope that in the turn of events they would be able to get away from the situation which they got themselves into, but like the responsible man that he is,

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Dáil Debates, *Peace move*, volume 2, col. 1467 (9 February 1923).

he was not prepared to endorse that lie with his death, and to die leaving on the people who had been led by him into the actions that they were led the impression that he believed so much in the fact that you could do these things, that he was satisfied to lay down his life for them.²¹

Deasy's appeal, however, did not have an immediate effect on the Irregulars' hierarchy. It did weaken the morale of the ordinary Irregular militants but it did little to alter the opinions, in the short-term, of the majority of the leadership as they categorically rejected his proposals.²² According to Costello 'while Deasy's statement no doubt served to weaken the Republican effort, the statement had little impact on the IRA's leadership, in or out of prison.'²³ Some like Lynch and O'Malley, who consistently refused to acknowledge the Irregulars' diminished military position, believed that Deasy's petition was a scornful insult to the Republic. Others, although aware of the Irregulars' crumbling military stance, believed that it was not their duty to decide whether the conflict continued or not. Upon receipt of Deasy's petition Lynch stated that the 'war will go on until the independence of our country is recognised by our enemies, foreign and domestic. There can be no compromise on this fundamental condition. Victory is within our grasp if we stand unitedly and firmly.'²⁴

O'Malley was appalled at Deasy's plea for peace. According to O'Malley, it represented 'rank indiscipline' which he loathed.²⁵ Upon receipt of a daily newspaper in his prison sick bed, O'Malley asked the prison chaplain to take a statement from him and have it published in the press. He stated that:

²¹ Ibid.

²² Michael Hopkinson, 'Civil war and aftermath, 1922-4', in F. J. Byrne, W. E. Vaughan, A. Cosgrove, J. R. Hill and D. Ó Cróinín (eds), *A new history of Ireland*, vii: *Ireland, 1921-84* (Oxford, 2003), p. 51.

²³ Francis Costello, *The Irish revolution and its aftermath 1916-1923, years of revolt* (Dublin, 2003), p. 316.

²⁴ Liam Lynch's reply to Deasy's appeal, 7 February 1923 (U.C.D. Archives, de Valera papers, P150/1697).

²⁵ Richard English, "'The Inborn Hate of Things English": Ernie O'Malley and the Irish Revolution 1916-1923' in *Past and Present*, no. 151 (May, 1996), p. 194.

I would like to point out to our men how gallantly boys of eighteen have walked out to their firing squads. Life was precious to them, but they did not falter. I wish that their example might again be brought to the memory of all our officers. The men without rank have shown the way to die; it is our duty to follow their good lead.²⁶

According to O'Malley, this caused the chaplain to take two nervous steps backwards from his bed as he advocated that Irregulars, who had been sentenced to death, should take their fate proudly for the Republic. He condemned Deasy's so-called cowardice. He believed that Deasy should have led by example instead of seeking to avoid execution. O'Malley had been arrested in a spectacular scene following a daring raid on his elegant retreat on Ailesbury Road, Dublin by National troops. In the early hours of 4 November 1922 National soldiers surrounded Mrs Humphreys' house in the prosperous Herbert Park area. He was concealed in a secret room, however, the troops knew exactly where to locate him. O'Malley, determined to evade the pro-treatyites, decided to shoot his way out. During the fierce engagement which ensued one pro-treatyite troop was killed and Mrs O'Rahilly was accidentally wounded by O'Malley. He was badly wounded himself and spent the next few months in a prison hospital battling for his life.²⁷ The Government were anxious to execute O'Malley. Ironically, he proved to be too ill for execution. In this instance a sense of caution, due to O'Malley's condition, may have entered the mindsets of the pro-treatyites. They were, perhaps, unwilling to execute a severely injured man given the possible comparisons with James Connolly. Badly wounded, he was executed in a chair by the British after the 1916 Rising.

Robert Barton agreed with O'Malley's sentiment. He wrote to de Valera stating that while an honourable surrender would be more acceptable than a dishonourable compromise,

²⁶ Ernie O'Malley, *The singing flame* (Dublin, 1978), p. 216.

²⁷ Hopkinson, *Green against green*, p. 211.

prisoner's lives should not even enter the minds of the Irregular leaders when deciding policy. He argued:

Better an honourable surrender unconditionally than a dishonourable compromise. The fate of prisoners should never be considered, whether many or few, leaders or rank & file. If we can win today tomorrow or two years hence, carry on and let them execute every prisoner they hold. Each volley hammers home another nail in their coffin.²⁸

Barton assumed that the Government's executions policy would lead to its downfall. He hoped that the putting to death of Irishmen would result in mass public demonstrations and an upsurge in nationalist sentiment, in similar fashion to the aftermath of the Rising; however, this did not happen. Nonetheless, Frank Barrett, the O.C. First Western Division, gave a somewhat alternative response to Deasy's petition. While he concurred with Deasy's argument he stated that he would continue his defence of the Republic if that was the wish of the Irregulars' H.Q. According to Barrett:

The six headings which the D.C.S. [Deputy Chief of Staff] submits for our consideration are unfortunately too truly representative of the real position [...] We are prepared to carry on to the end if it is the decision of G.H.Q. and our Government. I know I am viewing the situation from its worst aspect but it is always well that we know our weak points especially when playing the game of war.²⁹

Lynch's Adjutant, Todd Andrews, acknowledged that the morale of the ordinary rank and file militants had received a 'bad blow' due to Deasy's appeal.³⁰ Andrews admitted that his 'own morale was in neutral gear but even so I had no intention of opting out or of advocating such a

²⁸ Letter from Barton to de Valera, 24 February 1923 (U.C.D. Archives, de Valera papers, P150/1801).

²⁹ Frank Barrett's reply to Deasy's appeal, 5 February 1923 (U.C.D. Archives, de Valera papers, P150/1697).

³⁰ C. S. Andrews, *Dublin made me* (Dublin, 2001), p. 285.

course of action to others. While I believed the war was irrevocably lost, I felt the decision to call it off was no responsibility of mine.³¹

Even though Deasy's appeal received a mixed reception it was not the only one of its kind. Following his petition other Irregular leaders petitioned for their freedom in an attempt to obtain a peaceful settlement to the Civil War. To the displeasure of the Irregular hierarchy Maurice Sweeney was paroled in order to conduct peace negotiations with several Irregular officers in the West of Ireland. According to a captured Irregular document:

Maurice Sweeney has been out on parole for a week conducting "peace negotiations" and meeting our Officers and men for this purpose. Also he got further extension of parole yesterday (17th) for this purpose and proceeded to Connemara today. You are to inform him that his actions in this direction are absolutely contrary to G.H.Q. Orders and that he must desist from conducting his business any further. Also, if he persists, that, much as we regard him personally, we cannot tolerate it and we will have to take whatever action we find necessary.³²

Additionally Tom Barry, who initially denounced Deasy's appeal, became increasingly disillusioned with the Civil War and eventually signed his name to peace moves published in the *Cork Examiner* on 8 March 1923. Significant numbers of Irregulars incarcerated in prisons, such as Limerick and Waterford, also agreed with Deasy. For example, 600 men in Limerick prison, through eleven nominated representatives, made an appeal to the G.O.C. Limerick Command to contact the National Army's headquarters and request that four prisoners be paroled in order to

³¹ Ibid.

³² A captured Irregular document from Second Western Division to O. C. Connemara, 18 February 1923 (M.A., Captured Documents Collection, Lot 2/1a).

appeal for peace to prominent Limerick Irregulars.³³ Another plea was made to General Prout, on 10 February 1923, on behalf of ninety-eight detainees in Clonmel, County Tipperary.³⁴

Deasy's appeal is significant as it is essentially an acknowledgement, by a senior anti-treatyite, of the impact that the executions policy had on the Irregulars' prosecution of the Civil War. Until now they portrayed a resolute attitude in the face of the executions. Now, Deasy openly admitted that the executions carried out by the National Army had a significant effect on the anti-treatyite militants and that they seriously hampered the Irregulars' prosecution of the conflict. It caused other prominent anti-treatyites to divulge their own opinions, negative or positive, regarding the Government's executions policy. It can be argued that when faced with execution Deasy would have signed anything placed in front of him to avoid execution. This argument contains further substance given that Deasy had been quite defiant in the past when he denounced the executions policy. Following the first set of executions Deasy ordered the O.C.s of all Irregular battalions that all 'ranks will be notified immediately to stand firm and resolute against the latest and last device of the enemy to crush the Republic – The murder campaign by execution.'³⁵ Ryan suggests that Deasy was forced to sign his appeal due to pressure from Mulcahy and his impending execution.³⁶ This was not the case, according to Deasy. He stated that he was not coerced into appealing for peace. He agreed to the deal because the calamity that was the Irish Civil War had continued for long enough and that it was futile to continue against an ever-improving opponent. Deasy was not going to admit cowardice in any case yet as assistant Chief of Staff he was all too aware of the increasing Free State military strength, the increasing rate of captures, arrests and executions and the denigration of popular support for the

³³ *Cork Examiner* (9 Feb. 1923).

³⁴ *Ibid* (12 Feb. 1923).

³⁵ Order from Deasy to O.C.s all Irregular battalions, 19 November 1922 (M.A., Captured Documents Collection, Lot 4/1 (d)).

³⁶ Ryan, *Liam Lynch*, p. 144

Irregulars. He stated that ‘I can honestly say that I have never regretted the decision. I made it without fear or favour and in the best interests of the country as I saw it.’³⁷ But the question needs to be asked, why did the pro-treatyites not just execute this prominent anti-treatyite as they did so many others and in doing so issue another stern message to the Irregulars?

According to Garvin, there was a simple explanation as to why the Government did not execute Deasy. Garvin argues that Denis (Dinny) Lacey, of the South Tipperary Irregulars, had arrested five farmers who were brothers of the National Army’s commanders in the area. Garvin suggests that if Deasy was put to death then these five men would be executed as a reprisal for the killing of the assistant Chief of Staff.³⁸ Whether Mulcahy and the Free State Government would have acquiesced to Irregular threats, such as this, in the midst of the busiest month of executions during the Civil War is questionable. Evidence suggests that they were willing to execute Deasy as they captured, tried and sentenced him. Moreover, an execution date was set. It must be emphasised that Deasy approached the pro-treatyite authorities for a reprieve. Thus, they decided to use him in the most opportune way. Like the Government’s hostage scheme before, it was a win-win situation for the Free State Government and National Army. If Deasy achieved a termination in hostilities then this would suit the Government. Alternatively, if Deasy failed to agree to a deal he would be executed as he was already convicted and his death sentence was confirmed. Even though his petition for peace failed to bring about an immediate cessation of hostilities it did damage the morale of the rank and file Irregulars. Hence, it did contribute to the Government’s victory in May 1923.

³⁷ Deasy, *Brother against brother*, p. 114.

³⁸ Tom Garvin, ‘The aftermath of the Irish Civil War’ in Gabriel Doherty and Dermot Keogh, *De Valera’s Irelands* (Cork, 2003), p. 76.

In an attempt to facilitate Deasy's proposal the Government decided to incorporate another offer of amnesty to assist those who wished to adhere to his appeal. According to Mulcahy:

the Government decided to make the matter public for the benefit of all concerned, and to issue the offer of Amnesty which has this morning been issued, so that no excuse should be left to anybody for the continuation of the present destruction, and so that no leader or group of leaders could act as a kink in the hose that would prevent the rank and file getting the benefit of knowing what the position was, from the point of view of men like Deasy and others, and getting a chance of accepting the conditions which the Government have put upon their being allowed to return to their homes.³⁹

It is difficult to say if many Irregulars accepted the amnesty offered by the Government. However, as the Civil War continued it can be assumed that the numbers that accepted the offer were not sufficient enough to warrant a cessation to hostilities in January 1923.

Deasy's appeal and the Government's amnesty offer ensured that there was a lull in executions during the month of February. However, they were not stopped completely. Despite the appeal one execution occurred as the pro-treatyite leadership did not intend to halt the executions indefinitely. Mulcahy decided, on 12 February, that 'bad cases' should be prepared for execution.⁴⁰ Moreover, the Army Council had decided on 18 February that 'it must be anticipated that no clemency will be shown in any case.'⁴¹ Thomas Gibson, a former National soldier, was executed in Portlaoise, County Laois on 26 February having already been court-martialled in Roscrea, County Tipperary on 18 January 1923. He was charged with:

treacherously assisting the enemy, in as much as on 19th. November, 1922, being then on active service, he left PORT LAOIGHSE BARRACKS, and took with

³⁹ Ibid.

⁴⁰ Seosamh Ó Longaigh, *Emergency law in independent Ireland, 1922-1948* (Dublin, 2006), pp 31-32.

⁴¹ Colm Campbell, *Emergency law in Ireland 1918-1925* (New York, 1994), p. 223.

him five rifles, and one grenade cup. He was absent until 10th January, 1923, when he was arrested with two prominent Irregulars, all three being at the time in possession of arms. VOLUNTEER GIBSON was found guilty of the charge and was sentenced by the Court to suffer death by being shot. The sentence was duly confirmed and was carried out at Portlasighise on 26th February, 1923.⁴²

Gibson had deserted from Portlaoise barracks the National Army, on 19 November 1922, and had taken with him five rifles and a grenade. He was captured, on 10 January 1923, while asleep in a safe house.⁴³ According to Father Thomas Barbage, the local chaplain, this execution should not have occurred as Gibson was ‘unbalanced in mind, and that his mother had been a patient in Maryboro [Portlaoise] Lunatic Asylum.’⁴⁴ Whether this assertion is true or not, Gibson had committed treachery and, as a result, was shown no mercy.

Following this, members of the neutral I.R.A., formed by Florence O’Donoghue in December 1922, requested a meeting with Cosgrave. They hoped that they could bring about a truce and, in doing so, end the Government’s executions policy. In this meeting, on 27 February, members of the neutral I.R.A.’s Executive, Donal Hannigan and M. J. Burke, attempted to ascertain Cosgrave’s attitude towards the possibility of a ceasefire.⁴⁵ It proved a futile effort as Cosgrave had already refuted the possibility of a truce or negotiations whilst the Irregulars continued with their guerrilla activities. He stated, on 16 February, that the Government would not compromise with the Irregulars:

The Government is determined to put down this revolt against democracy regardless of the cost. Let no man be deceived. If anyone continue[s] in this unnatural war upon his own people after the expiration of the stated period of Amnesty [offered after Deasy’s appeal], he must be prepared to pay the price in

⁴² Information on the execution of Thomas Gibson, 26 February 1923 (U.C.D. Archives, O’Malley papers, P17a/191).

⁴³ Philip McConway, ‘The Civil War in Offaly’, in *Tullamore Tribune* (2 January 2008).

⁴⁴ Father Thomas Barbage in Philip McConway, ‘The Civil War in Offaly’, in *Tullamore Tribune* (2 January 2008).

⁴⁵ Bill Kissane, *The politics of the Irish Civil War* (Oxford, 2005), p. 140.

full, for there will be no going back on this. Further. Let it be clearly understood that there will be no meetings for negotiations on the part of the Government with De Valera, Liam Lynch, or any of their collaborators in destruction, male or female.⁴⁶

Hannigan argued that unless the Civil War was concluded promptly then it would become increasingly embittered and the Government and National forces would ultimately lose public support.⁴⁷ Cosgrave, aware of Gibson's execution, countered that argument and stated that the 'executions have had a remarkable effect. It is a sad thing to say, but it is nevertheless the case. The unfortunate thing about them is you have to execute the unfortunate dupes, and the responsible people were not got.'⁴⁸ Cosgrave further stated that if the anti-treatyites did not cease their armed rebellion then:

we must exterminate them. If they [the Irregulars] have any idea of a modification of our terms [an unconditional surrender] they are sadly mistaken. They cannot burn the whole country and we will get them eventually. I am not going to hesitate if the country is to live and if we have to exterminate ten thousand Republicans, the three millions of our people is bigger than this ten thousand.⁴⁹

Cosgrave's assertion was certainly an exaggeration; however, his sentiment cannot be ignored. According to Hopkinson, the Government would not compromise on constitutional and political issues whilst they were in a far superior military position than the Irregulars. Thus, for Cosgrave and the Government, compromise was not an option. Therefore, due to the Irregulars' inability to accept the prevailing military position in the country, the Civil War continued. He states that the 'war continued because there appeared no means of bringing it to an end, either by negotiations

⁴⁶ Letter from Cosgrave, 16 February 1923 (U.C.D. Archives, Kennedy papers, (P4/547 (2))).

⁴⁷ Interview between Cosgrave and neutral I.R.A., 27 February 1923 (U.C.D. Archives, Mulcahy papers, P7/B/284 (113)).

⁴⁸ Ibid.

⁴⁹ Ibid.

or by complete military victory.⁵⁰ O'Donoghue subsequently wound up the neutral I.R.A. in March 1923 stating that its purpose was incapable of fulfilment.⁵¹ March 1923, like December 1922, became one of the most notorious months during the Irish Civil War. Not only did eleven official executions take place in the space of four weeks but a number of unofficial incidents occurred resulting in the death of several Irregular prisoners. In terms of controversy these events rivalled the Mountjoy executions.

Kerry became the thorn in the side of the National Army and Government as the military stalemate in this county persisted into March 1923. The comments which General Murphy made in December 1922 regarding his success in Kerry proved to be highly inaccurate. Even though anything which resembled a large-scale Irregular engagement did not occur ambushes, raids and the destruction of communications remained a frequent occurrence. The large sweeps which had been devised by the Army to catch the remaining elusive Irregular columns proved unsuccessful. The unpopularity of the National troops in Kerry did little to dampen Irregular resistance in the county. These troops who were non-natives of Kerry were primarily composed of members of the Dublin Guard and were frequently implicated in allegations of violence against prisoners and the local community. According to Hopkinson, complaints and rumours about violence on Irregular prisoners and general troop indiscipline were commonplace.⁵² Inspection reports highlighted that the command area, now under the control of Paddy O'Daly, left a lot to be desired. This in itself was not a major problem, as a certain amount of indiscipline is to be expected from an army that was promptly put together during a time of civil war. However, when troop indiscipline is antagonised by the enemy's use of guerrilla tactics it can lead to

⁵⁰ Hopkinson, *Green against green*, p. 229.

⁵¹ *Ibid*, p. 185.

⁵² *Ibid*, p. 240.

further unpleasant episodes. One such incident occurred at Knocknagoshel, on 6 March 1923, when an Irregular mine killed five National troops, including three officers, and seriously wounded another. The mine was placed at the scene in an attempt to kill Lieutenant O'Connor. It was claimed that he was responsible for the torture of Irregular prisoners.⁵³ According to a captured Irregular document:

A trigger mine was laid in Knocknagoshel for a member of the F.S. Army Lt. O'Connor who had made a hobby out of torturing Republican prisoners in Castleisland. On Tuesday a party of F.S. troops including Lt. O'Connor proceeded to the place and two Cops. Lt. O'Connor and the two privates were killed.⁵⁴

In response to this guerrilla attack on National forces O'Daly issued a proclamation on the 6 March which stated that any obstacles such as stone barricades, dug-outs or dumps discovered by officers in Kerry were not to be interfered with by National troops. O'Daly stated that the officer in charge should immediately proceed to the nearest detention barracks and bring with him a sufficient number of Irregular prisoners to remove the barricades.⁵⁵ He was so infuriated at the attack which occurred at Knocknagoshel that he threatened serious disciplinary action against any officers that attempted to remove any Irregular barricade themselves. O'Daly claimed that since 'the Four Courts fight, mines have been used indiscriminately by the Irregulars. The taking out of prisoners is not to be regarded as a reprisal but as the only alternative left [to] us to prevent the wholesale slaughter of our men.'⁵⁶ This order ensured, however, that the incident which occurred on 6 March at Knocknagoshel would be a mere prequel to an even more controversial event. On 7 March at 3 a.m. nine Irregular prisoners,

⁵³ Captured Irregular reports, 16 March 1923 (U.C.D. Archives, Mulcahy papers, P7/B/90 (30)).

⁵⁴ Ibid.

⁵⁵ Material relating to the atrocities in Kerry, April 1923 (N.L.I. Archives, Harrington papers, Ms. 40, 629/1).

⁵⁶ Ibid.

chosen by Colonel David Neligan, were taken from Ballymullen barracks in Tralee and ordered to clear a mine at Ballyseedy Cross about three miles from the aforementioned garrison. These particular men were chosen as none of them were closely related to any members of the clergy. The reason being was that the clergy, who publically supported the Free State, would not be unduly antagonised. These selection criteria raise an interesting point. Did they also help determine who was to be officially executed? All of the official executions during the Civil War were carried out for reasons specific to the individual cases. These reasons ranged from the unlawful possession of weaponry and attacks on National troops to reprisals and from treachery to armed robbery. Furthermore, it is probable that, of the eighty-one men put to death during the conflict, some were related to members of the clergy. Thus, it is unlikely that these criteria formed part of the wider process of selection for official executions. Nevertheless, Neligan chose John Daly, Michael O'Connell and Patrick Buckley from Castleisland; Stephen Fuller, George O'Shea and Tim Twomey from Kilflynn; Patrick Harnett from Finuge; James Walsh from Churchill; and John O'Connor from Waterford.⁵⁷ According to the official report made by the court of enquiry, held on 7 April 1923, the men in question lost their lives in an explosion, caused by a landmine, while they removed obstructions from the road which were placed there by the Irregulars. The report further stated that the Irregulars placed the mine there with the object of causing loss of life amongst members of the National Army. The court of which O'Daly was the President, an issue which caused some controversy, validated the actions of the National soldiers and also supported his order to use prisoners to remove barricades by stating that:

it has been found necessary to employ civilian prisoners for the purpose of removing obstructions since September last in this particular command, owing to

⁵⁷ T. Ryle Dwyer, *Tans, terror and troubles, Kerry's real fighting story 1913-23* (Cork, 2001), p. 369.

the high percentage of casualties suffered by members of the army, having themselves been obliged to remove trap mines, which had become the principal weapon of the Irregulars [...] The Court further find[s] that the allegations contained in the Irregular propaganda submitted to the Court, particularly with reference to the maltreatment of prisoners are untrue and without foundation, and that no blame is attached to any officer or soldier engaged in the operations in which these prisoners lost their lives.⁵⁸

Lieutenant Harrington became increasingly suspicious of these findings. He began to investigate the matter further in an attempt to ascertain and divulge an honest account of these events. Harrington planned to gather as much information as possible with the intention of forwarding it to O'Higgins whom he knew would be extremely concerned at the indiscipline of the Army and the possible cover-up by O'Daly and Mulcahy. He discovered that the findings of the court of enquiry were 'totally untrue':

The mine was constructed in Tralee under the supervision of two [...] officers [...] Ed Flood and Jim Clarke, and with the complete knowledge and encouragement of Major Gen. Paddy Daly [...] Ballyseedy was a reprisal for Knocknagoshel. It was planned and carried out by a group of "Dublin Guard" Officers. The prisoners were tied together and blown to pieces. Those not immediately killed were bombed, shot to death. One (Stephen Fuller) escaped.⁵⁹

Harrington suggested that the National troops in Kerry, with the full knowledge and consent of O'Daly, had taken nine Irregular prisoners from their cells in Ballymullen, Co. Kerry and tied them to a landmine which they then exploded killing these men as a reprisal for Knocknagoshel. An Irregular report verifies this account. It stated that three prisoners named O'Shea, Fuller and Twomey, who were in Free State custody with about five other prisoners in the Tralee workhouse, were taken from their fellow prisoners and marched to the guard room between 1 a.m. and 2 a.m. on Wednesday, 7 March 1923. The nine prisoners, who were arrested two weeks

⁵⁸ Material relating to the atrocities in Kerry, April 1923 (N.L.I. Archives, Harrington papers, Ms. 40, 629/1).

⁵⁹ Ibid.

previously and who were unarmed when arrested, were then transported to Ballyseedy Cross with a guard of about twenty members of the National forces. According to the report, once the transport arrived at Ballyseedy Cross each prisoner's hands were tied behind their backs with a strong cord roughly a foot long. Then their feet were bound together, above the ankles, with a strong rope. Finally, the prisoners' legs were bound together above the knees and they were tied together with a strong rope around a mine that had been placed there previously by the National troops.⁶⁰ Following this preparation:

The prisoners backs were to the mine and the majority of the Guard moved away leaving 2 of their number covering the Prisoners with rifles. At a given signal the remainder of the Guard ran and the mine was exploded electrically as no fuse had been seen lighted by the prisoner who escaped. The explosion was a deafening one and when the survivor [Stephen Fuller] came to his senses he crawled away as far as he could [...] While crawling away he heard rending cries [...] all the remaining 8 were not dead, but then the sound of rifle fire and exploding grenades was heard and those who were [alive] were finished with the rifle and bomb.⁶¹

According to Harrington, the above report was received from an officer who interviewed the escaped prisoner, Stephen Fuller. Years later Fuller gave his own account of the events which occurred at Ballyseedy Cross on 7 March 1923. In an interview, which was aired as part of an RTÉ documentary in November 1997 entitled '*Ballyseedy*', Fuller verified the aforementioned account in the Irregular report. Firstly, he described how he was brought into a room in Ballymullen barracks and shown nine coffins. He was then informed that the remains of his comrades were in the coffins. Following this, he stated that the National troops fired revolver shots at him which ricocheted all over the room. Fuller and eight of his comrades were subsequently escorted to Ballyseedy Cross where they were bound in a circle around a make-shift mound in which the National soldiers had placed a landmine. The bomb was then detonated

⁶⁰ Ibid.

⁶¹ Ibid.

and Fuller was blown free and landed a short distance away on the bank of a river, which he then entered to escape. According to Fuller, ‘I got into the river anyway, it was very deep and I was deciding myself whether I’d stay in the river [...] I could keep down my head over the water under the bank and they wouldn’t see me if they were looking for me.’⁶² Following this, he heard several smaller explosions and rifle fire which were used to ensure that the remaining prisoners were dead. He eventually made it to a house where he was taken in and cared for until the following morning when he was taken away by local Irregulars and hidden.⁶³ The Irregular report stated that the scene of the ‘massacre’ presented a shocking sight the following morning. ‘The road was covered with blood, pieces of flesh, bones, boots, and clothing were scattered about.’⁶⁴ When the remains were handed over to relatives they ‘stoned every member of the Free State Army they saw [...] [the remains] were removed to other coffins and those provided by the Free State Army were kicked through the Barrack gate.’⁶⁵ This was not to be the last of these controversial events.

The following day another attempt to force prisoners to clear mines was foiled when some of the prisoners escaped. However, on the same day another mine exploded killing four more prisoners at Countess-Bridge near Killarney with another, Tadhg Coffey, escaping. According to Mulcahy, upon reaching Countess-Bridge the National troops found a barricade of stones on the road near the bridge. The officer in charge sent for prisoners to remove it. He further stated that five prisoners returned and were ordered to remove the obstruction. Mulcahy claimed that prisoners:

⁶² Interview with Stephen Fuller, in RTÉ documentary, *Ballyseedy* (12 November 1997).

⁶³ *Ibid.*

⁶⁴ Material relating to the atrocities in Kerry, April 1923 (N.L.I. Archives, Harrington papers, Ms. 40, 629/1).

⁶⁵ *Ibid.*

had been working for a few minutes there was a loud explosion, followed by several small ones. The military party had, meantime, been ordered to stand clear while the work of removing the barricade was going on. On approaching the barricade after the explosion they found four of the prisoners dead. The fifth prisoner was missing, and a search of the locality failed to find him. The barricade contained a mine and several hand grenades.⁶⁶

Finally, five more Irregular prisoners were killed by a mine at Cahirciveen, County Kerry on 12 March 1923. However, each of these five prisoners was, according to Lieutenant McCarthy, shot in the legs prior to the explosion in order to ensure that none of the men would escape. Following this incident he resigned his commission from the Army in protest.⁶⁷

These particular events are very important when analysing the Irish Civil War as they represent the extremities of the unofficial actions during the conflict. As has been the case with the official executions that occurred the reasoning behind these particular events also needs to be examined. As stated previously, Kerry became increasingly difficult to control and the National Army's attempts to decisively defeat the Irregulars in this county foundered. Kerry's mountainous terrain facilitated the Irregulars' guerrilla methods, particularly the laying of mines. This was a constant problem for the Army and its personnel. As Kerry proved to be an Irregular stronghold the National Army operated there under extreme pressure and adverse conditions. The guerrilla methods employed by the Irregulars on the National soldiers would have tested the resolve of any army. Furthermore, they could not regard the majority of the population as friendly partly because of their own actions and partly through fear or loyalty to the Irregulars. Even though Irregular resistance had been broken throughout the country Kerry remained a problem-spot, one which needed to be cleared if the National Army were to be victorious.

⁶⁶ Dáil Debates, *Kerry prisoners' deaths*, volume 3, col. 136 (17 April 1923).

⁶⁷ Dorothy Macardle, *The Irish republic, a documented chronicle of the Anglo-Irish conflict and the partitioning of Ireland, with a detailed account of the period 1916-1923*, 3rd edition (Dublin, 1999), p. 840.

However, as Valiulis states, ‘it was not surprising that the areas which witnessed the worst lack of discipline were those in which the war dragged on the longest.’⁶⁸ The Irregulars were not innocent in this matter. Knocknagoshel was a perfect example of this. Mulcahy alluded to this issue when he was questioned about the events in Kerry. He stated that:

The troops in Kerry have had to fight against every ugly form of warfare which the Irregulars could think of. They have lost 69 killed and 157 wounded, and their record there is such that it is inconceivable that they would be guilty of anything like the charges that are made against them in the Irregular statements which are at the present moment being circulated in profusion in connection with those occurrences. On the other hand, the Irregulars in Kerry have stooped to outrage of every kind. Of the 69 of our men killed in that area, 17 lost their lives guarding food convoys to feed the people in outlying districts. The Knocknagoshel incident is typical of the methods of their warfare, as is the recent urging of the O/C. of this particular area that the creation of unemployment would help their campaign.⁶⁹

Mulcahy, as always, was concerned about the reputation of the Army. This concern led him to make some questionable decisions. Mulcahy supported the Army and O’Daly unconditionally. In the Dáil, Johnson questioned Mulcahy over the questionable make-up of the court of enquiry. In response Mulcahy stated ‘They have my fullest confidence from that point of view. I have the fullest confidence that the honour of the Army is as deeply rooted in them as it is in any of us here at Headquarters or in any member of the Government.’⁷⁰ Conditions in Kerry aside, Mulcahy played an important part in these particular set of events as he refused to acknowledge or question the conduct of O’Daly and his troops in Kerry. There is no evidence which suggests that Mulcahy had prior knowledge of these particular events but by refusing to recognise any irregularities in the discipline of his troops in Kerry he essentially aided its cover up. He provided a thin facade of legitimacy over these events in an attempt to maintain the

⁶⁸ Valiulis, *Portrait of a revolutionary*, p. 187.

⁶⁹ Dáil Debates, *Kerry prisoners’ deaths*, volume 3, col. 138 (17 April 1923).

⁷⁰ *Ibid.*

Army's reputation. This conspiracy did little to heal the ever-present division and tension between the civilian and military aspects of the Free State Government. This strain culminated at the end of March when the Military Council, Mulcahy included, tendered their resignations to the Government, for the first time, on 27 March 1923. The Cabinet refused to accept their resignations, at this juncture.⁷¹ The Government were well aware of the necessity of having strong and unified military leadership during a time of civil war. Despite the fact that early March 1923 witnessed some of the most contentious events during the Irish Civil War the conflict and the executions policy continued.

Seven executions occurred on 13 March 1923, one week after the atrocities in Kerry. Firstly, three executions took place in Wexford. Volunteers James Parle, John Crane and Patrick Hogan were members of the Fourth Battalion South Wexford Brigade and were arrested, on 14 February 1923, in possession of arms and executed in the County Hall.⁷² Secondly, the last centralised execution occurred on 13 March when James O'Rourke was put to death in Kilmainham Jail, Dublin. Thirdly, the only execution to occur in Cork during the Civil War took place the same day when William Healy of 52 Dublin Street, Blackpool, Cork was executed at 8 a.m. This is a further indication of the level of resistance that occurred in this county due primarily to the lack of enthusiasm for a civil war by leaders like Deasy. Healy was arrested with arms following an attack on a house in Blarney Street.⁷³ As stated previously, reprisals for local executions, particularly the burning of country homes, were common during the Civil War. This case was no exception. Several attempts to burn property were made by the Irregulars in response to Healy's execution. The report stated that:

⁷¹ Regan, *The Irish counter-revolution*, p. 174.

⁷² Details of the executions in Wexford, 13 March 1923 (M.A., Captured Documents Collection, Lot 2 4/a).

⁷³ Daily report from Cork, 13 March 1923 (M.A., Irish Civil War Operation/Intelligence reports, Cork Command, Box11/1).

8 attempts to burn property made, two were unsuccessful. In most cases the reason given was the “Executions”. All attacks were made on people friendly with or having connections with the Army. Two murders took place. One in Cork, an old man unidentified with any movement. The reason given was Healy’s Execution. One in Bantry, a boy of sixteen years. The reason given was [a]“reprisal for [the] execution of our comrades.”⁷⁴

Furthermore, several additional residences of people identified, by the Irregulars, as being connected to or having pro-treatyite sympathies were also attacked. The private dwellings of Sealy King of Richmond and Harding of Kilbrittain were burned to the ground on 16 March 1923.⁷⁵ Finally, the Irregulars attempted to burn the house of Jerome Kingston, of Kilgariffe, Clonakilty on the same night, however, National troops succeeded in putting the fire out before much damage was done.⁷⁶

Of the seven executions, on 13 March 1923, two are particularly noteworthy. According to an official statement in the *Westmeath Examiner* two executions occurred in Mullingar, Co. Westmeath. It stated:

Henry Keenan, Newcastle, County Down and Michael Greery, Athenry, Co. Galway [were charged with] Taking part in an armed raid on the Hibernian and Northern Banks, Oldcastle, Co. Meath, on February 27th, and with being in possession of £385 19s 11d, stolen money. The accused were tried by military courts, found guilty and sentenced to death. The sentence was duly carried out on Tuesday morning at 8 a.m.⁷⁷

This statement had to be rectified shortly after the executions had taken place as it had been discovered that one of the men, Keenan, had used an alias, the correct name and address being

⁷⁴ General weekly report from the Cork command, 26 March 1923 (M.A., Irish Civil War Operation/Intelligence reports, Cork Command, Box11/1).

⁷⁵ Daily intelligence report, 19 March 1923 (M.A., Irish Civil War Operation/Intelligence reports, Cork Command, Box 12).

⁷⁶ Ibid.

⁷⁷ *Westmeath Examiner* (17 Mar. 1923).

Luke Burke, from Keady, County Armagh.⁷⁸ The Government had finally extended application of the emergency resolution to the civilian population. Even though these men were civilians they were armed and apprehended after committing armed robbery. The execution of civilians was abnormal for the Civil War, however, it should not be wondered at. The September resolution, in addition to other decrees, stipulated that civilians would face the death penalty if they possessed without proper authority any weapons. Under the 'Stand-Clear' order in January 1923 for example anyone who 'attempt[ed] in any way to murder any person' would face the death penalty. What is surprising is that the Government only executed four civilians given that they executed seventy-seven Irregulars. This can be explained as the public, generally speaking, assented to the execution of Irregulars. It is doubtful, however, that public support would continue if the Government undertook extensive civilian executions regardless of the crimes committed. They had always stated that they were fighting for democracy, for the Irish people. If they executed civilians on a large scale their credibility would disappear and support for the Irregulars and perhaps British reintervention would increase. As nothing appears in the Dáil Debates referring to this event it appears that the Government received little political criticism over these executions. It was just another indication of the Government's resolute determination to restore order to the country by any means necessary. It was not the only occasion, however, where civilians fell afoul of the executions policy.

Following the executions which occurred on 13 March Donegal witnessed its only set of executions during the Civil War. Irregular prisoners John Larkin, Timothy O'Sullivan, Daniel Enright and Charles Daly were executed in Drumboe Castle, County Donegal on 14 March 1923. According to the Executive Council minutes there were several attempts by concerned parties to

⁷⁸ *Freeman's Journal* (15 Mar. 1923).

halt these particular executions. However, the Government and Army did not consider these appeals practical. Mulcahy had stated that he:

received a number of letters from Tirconnell with reference to certain impending Executions, asking that these be not carried out [...] It was decided that he should reply to the effect that the decision already made in connection with these matters could not be altered.⁷⁹

Whereas the majority of those executed during the conflict were regular soldiers Daly, like Childers and those executed in Mountjoy Jail, was a high-ranking Irregular. According to Seamus McCann, an associate of Daly, he was appointed the O.C. Second Northern Division, covering Co. Tyrone and Co. Derry, which primarily operated in the Sperrin Mountains in April 1921. Daly subsequently established his headquarters in Raphoe, Co. Donegal. While there he was joined by some of his old comrades from Kerry. These men travelled north to fight the British during the War of Independence two of which, Daniel Enright and Thomas O'Sullivan, were executed with Daly. Daly moved his headquarters to Glenveigh Castle when the Civil War started. He was accompanied by Seán Lehan and his staff from west Cork. However, as Donegal was predominantly pro-treaty it was very hard for the Irregulars to operate. With the National Army in constant pursuit they could not spend any more than one night in a particular town. On the night they were apprehended, Daly and his comrades had just lay down and even had their boots on when the house in which they were staying was surrounded by a large National force. Daly reached for his rifle but before he could get it he received a blow from a rifle butt. Several men were with Daly when he was arrested, Seán Larkin the O.C. South Derry Brigade, Daniel

⁷⁹ Executions in Tirconnell, 14 March 1923 (N.A.I., Executive Council minutes, no. C. 1/61).

Enright and Timothy O'Sullivan from Listowel, Co. Kerry. After their arrest the men were lodged in Drumboe Castle.⁸⁰ In his final letter to his father, Daly stated:

Perhaps I may have been more conscientious in the service of my country than God's, but the service of both are so closely identified that I trust in his Mercy for forgiveness if it has happened that I have been more diligent in the service of Ireland than in his [...] Goodbye dear Father, may God and his blessed Mother strengthen me and comfort you and all the others.⁸¹

Three other Irregulars, Daniel Coyle of Falcaragh, Co. Donegal, James Donaghy of Dungiven, Co. Derry, and James Lane from Clonakilty, Co. Cork were arrested with Daly. These men signed an undertaking in which they agreed not to take up arms against the Government and Army again.⁸² Whether or not Daly and his associates were given an opportunity to sign such a declaration is unclear. A statement issued by the Government's Department of Publicity declared that four Irregular prisoners had signed a declaration to avoid execution and to indicate to other Irregulars that the continuance of armed resistance was pointless. The fourth prisoner Frank Ward was not mentioned in the original information pertaining to Daly's arrest. He was, however, included in the statement which was signed by the four Irregulars. Whether he was one of the party arrested with Daly and was just accidentally omitted or whether he was a prisoner in Drumboe Castle at the same time and then included it is unclear. It is of little consequence either way. What is important are the details of this scheme. The prisoners stated that:

We believe the cause of our country could be best served by pursuing or opening some avenue towards a peace understanding [...] When arrested the late Chas. Daly and his comrades were on their way to evacuate the country under official orders from H.Q. [...] Therefore we can't see what is to be gained by such acts, [as they] jeopardise the lives of the men held under sentence of death. As we believe those responsible for such acts brought about the execution of Daly and [his]

⁸⁰ Information concerning Charles Daly, undated (N.L.I. Archives, O'Donoghue papers, Ms. 31, 315).

⁸¹ Ibid.

⁸² Ibid.

comrades [...] We believe we are held as hostages, for the peace of the county, and it is not in a spirit of fear we act, but we think it not fair to us to be held responsible for the acts of those, whom we disclaim any knowledge or association with [...] We believe we are expressing the wishes of our deceased comrades in this appeal.⁸³

These men were used, like the hostages in Kerry and Cork before them, by the Government and Army to pacify Donegal considering that four executions had just occurred there and in a further attempt to undermine the remaining Irregulars which operated there. As the Civil War entered April 1923 it also entered its final phase, one which would see the culmination of the conflict, however, not before fourteen more Irregulars were executed in several different locations throughout the country. Furthermore, Lynch's death removed the final barrier that had blocked any credible chance of peace and an end to the Irish Civil War.

Lynch finally agreed to hold a meeting at the end of March in the area of the Nire Valley, County Waterford. Unfortunately for those in attendance details of this meeting were extracted from republican prisoners in Dublin and large sweeps were devised under the command of General Prout. The meeting began on 24 March and continued for four days but because of the threat of capture it was held in several different locations. It was the first opportunity since October for the Irregular hierarchy to meet properly. The assembly was called primarily to discuss Barry's motion to end the conflict as he believed that further armed resistance would not further the cause of Irish independence. De Valera was admitted to the meeting, after a long debate, and had no voting rights. Following the defeat of Barry's proposal and several other propositions a resolution was eventually passed which allowed de Valera to conduct peace talks which were in line with Irregular demands. The Military Executive had a veto over any

⁸³ Government publicity department statement, 17 March 1923 (U.C.D. Archives, Mulcahy papers, P7/B/89 (97-98).

conclusions of these negotiations.⁸⁴ Lynch, although not totally adverse to a truce on his terms, had been determined not to surrender on the Free State Government's conditions. Lynch divulged to Florence O'Donoghue, on 8 March, the Free State would gain too many advantages if a truce was called. He argued:

Before we can agree to a truce we must have some assurance that the independence of the country will be recognised or that the present domestic enemies are prepared to stand with us in upholding our independence. As the war has gone on owing to the differences which existed last June [...] I suggest that you forget happenings and position created since start of the war and get down to removing difficulties which started it. This is my best suggestion to bring about a truce.⁸⁵

Lynch believed that the removal of the Free State and the National Army was the best way to bring about a truce, one which would suit the Irregulars. According to Dan Breen, it was only Lynch's unrealistic assumptions which kept the Civil War going. He stated that:

By late spring 1923 it was becoming obvious that the Republican army had disintegrated to such an extent that a further continuation of the struggle seemed useless [...] Most of the leaders realised the hopelessness of the position and urged that the war should be ended. The Chief of Staff, General Liam Lynch, maintained that the army was sufficiently strong to continue resistance for an indefinite period.⁸⁶

This argument is also advanced by Paul Collier, Anke Hoeffler and Måns Söderbom. They argue that the larger the degree of over-optimism regarding military prospects in a civil conflict the longer the conflict will last. What should naturally occur is that as the conflict continues the regular flow of new military information which is inconsistent with these initially overoptimistic expectations should ensure a convergence towards reality. It becomes progressively easier to find

⁸⁴ Hopkinson, *Green against green*, p. 237.

⁸⁵ Letter from Lynch to O'Donoghue, 8 March 1923 (N.L.I. Archives, O'Donoghue papers, Ms. 31, 261 (2)).

⁸⁶ Dan Breen, *My fight for Irish freedom* (Dublin, 1989), p. 184.

a settlement recognised as mutually beneficial.⁸⁷ Lynch refused to accept any advice given to him mentioning defeat. His over-optimistic beliefs ensured that the Civil War continued far longer than it would have otherwise.

After the inconclusive meeting in late March it was agreed that the Executive Council should meet three weeks later in April when they knew the results of de Valera's peace moves. By then they would have a better understanding of the military position in the West. However, Lynch did not survive to chair this meeting. His fears about the risks of the Irregular Executive meeting together were confirmed on 10 April 1923. Lynch, accompanied by Aiken, William Quirke and Seán Hyde on the slopes of the Knockmealdown Mountains, near Newcastle, County Tipperary was surrounded by National troops commanded by Thomas Ryan and Lieutenant Clancy. Lynch and his comrades were only carrying revolvers and were 'exhausted by their fugitive existence.'⁸⁸ While the Irregular party was fleeing up a hillside Lynch was struck by a long-range bullet and died that evening. According to Aiken, who was with Lynch when he died:

a single shot rang out and Liam fell. We could hardly believe him when he said he was hit, we started to carry him off saying the act of contrition and he repeating it. He was suffering badly – he was shot through the body – and the carrying hurt him. He begged us several times to leave him saying they (the Staters) might bandage him when they came up. We left him down, he gave us his pocket book; we took his gun and left him [...] To leave him was the hardest thing any of us ever had to do [...] I was last leaving, having been [carrying] his feet. I was afraid to even say "Good-bye Liam" least it would dishearten him.⁸⁹

Lynch was a noble leader, according to de Valera, and he died honourably. De Valera stated that the Irregulars' task was a hard and sad one as they were faced by former comrades in

⁸⁷ Collier, Hoeffler and Söderbom, 'On the Duration of Civil War' in *Journal of Peace Research*, 41, no. 3 (May, 2004), pp 254-255.

⁸⁸ Hopkinson, *Green against green*, p. 238.

⁸⁹ Letter from Aiken concerning Lynch's death, 6 July 1923 (U.C.D. Archives, Aiken papers, P104/1301).

arms who had deserted them in their pursuit of the Republic. Finally, he proclaimed that it was better to die honourably, as Lynch did, than to live as a slave.⁹⁰ Other prominent anti-treatyites were also captured. Austin Stack was arrested near Ballymacarbry on 14 April. He was a senior member of the Republican Government and was captured in possession of peace terms which backed the Archbishop of Cashel's proposal for a simple dumping of Irregular arms. According to these terms:

Realising the gravity of the situation of the Army and the Republic, owing to the great odds now facing them, and the losses lately sustained; and being of opinion that further military efforts would be futile [...] the defensive war which has been waged by our Army during the past nine or ten months has made it impossible [...] We the undersigned members of the Army Council and of the Executive, and other officers of the Army, do hereby call upon and authorise the President [de Valera] of the Republic to order an immediate cessation of hostilities.⁹¹

Stack's terms were not supported by Seán Gaynor, Frank Barrett and Dan Breen, who were with Stack prior to his capture. Shortly afterwards Breen himself was discovered in the Glen of Aherlow and many other Irregulars including Barrett, Gaynor and Andrews were captured and jailed.⁹² The Irregulars' Army Executive met again on 20 April at Poulacapple near Mulinahone, County Tipperary. The meeting had to be postponed due to Lynch's death and the intensity of National Army activity in the area. At this meeting Aiken was elected Chief of Staff following a proposition by Barry and seconded by Seán MacSwiney.⁹³ Aiken was one of the few remaining original members of the Army Executive and whether those who elected him meant it or not his appointment vastly improved the prospects of the adoption of a more realistic attitude towards

⁹⁰ *Daily Bulletin*, no. 165, 13 April 1923 (U.C.D. Archives, de Valera papers, P150/1813).

⁹¹ Documents discovered on Stack, 16 April 1923 (U.C.D. Archives, Aiken papers, P104/1256).

⁹² *Ibid.*

⁹³ Minutes from Irregular Executive meeting, 20 April 1923 (U.C.D. Archives, Aiken papers, P104/1263 (1)).

negotiations.⁹⁴ Aiken was much more akin personally and ideologically to de Valera than Lynch ever was. He backed a motion that peace should be made with the Free State Government on the basis that the sovereignty of Ireland and its territory were inalienable. The proposition passed by nine votes to two. A subsequent motion by Barry and Tom Crofts which proposed that a total surrender should occur was defeated. Nonetheless, the conflict was still in motion and the pro-treatyites were determined to finish the Civil War on their terms.

Following the death of Lynch, on 10 April, six men were executed in Galway. These men Seamus O'Malley, Frank Cunnane, Michael Monaghan, John Newell, John Maguire and Martin Moylan were put to death in Tuam on 11 April 1923. Three men were also executed in Tralee barracks in Kerry on 25 April. They were arrested in an extraordinary episode which proved to be the last major episode of the Civil War in Kerry. In mid-April Timothy (Aeroplane) Lyons and five members of his North Kerry Irregular column, were pursued by National soldiers. They subsequently took cover in Dumfort's Cave, one of the Clashmealcon caves, on the face of a tall cliff facing the Atlantic Ocean off the Kerry Head. This proved a poor choice of refuge as when the men entered the cave they were trapped inside by National forces under Michael Hogan's First Western Division. According to a general weekly report, the cave 'was a veritable death trap and was absolutely inaccessible – as the Cave mouth commanded the one steep path leading from Cliff to the beach.'⁹⁵ Following the stand-off two National soldiers were shot dead as they attempted to enter the cave.⁹⁶ This alone sealed the fate of the Irregulars, if they were captured. In addition to this, two of the Irregular column Thomas McGrath and Patrick O'Shea drowned as they tried to escape on the night of 16 April. Lyons himself surrendered on 18 April, however,

⁹⁴ Hopkinson, *Green against green*, p. 256.

⁹⁵ General weekly report from Kerry, 17 April 1923 (M.A., Irish Civil War Operation/Intelligence reports, Kerry Command, Box 10/3).

⁹⁶ Niall C. Harrington, *Kerry landing, August 1922, an episode of the Civil War* (Dublin, 1992), p. 151.

the rope which the National soldiers used to haul him to the top of the cliff broke and he fell to his death on the rocks below. The area where his body lay was then littered with bullets. The remaining Irregulars, Hathaway, Greaney and McInerney surrendered and were hoisted to safety and then arrested. According to the aforementioned report Reginald Hathaway, alias Walter Stephens, had in his possession when taken prisoner a note of safe conduct from O'Daly, given to him on a previous release. The report also claimed that Hathaway was a deserter from both the British and National armies. O'Daly was eager to have these men tried and executed.⁹⁷ He tried and convicted these men and subsequently requested confirmation of the sentence on 19 April. Following a brief delay the confirmation arrived and O'Daly carried out the sentence. Thus:

Reginal[d] Stephen Hathaway, James McInerney, Edward Greaney, were tried by a committee of Officers on [the] following charges: (1) Taking part in an attack on National Troops at Clashmealcon, Ballyduff, Co. Kerry in which Lieut. Pierson and Vol. O'Neill were killed (2) Robbing Ballyduff Post Office (3) Burning of Civic Guard Station at Ballyheigue (4) Stripping of Civic Guards. (5) Being in armed opposition to the Government. The Court found the three accused guilty of all charges and sentenced them to death. The sentence was duly confirmed and carried out at Tralee Jail at 8. o'clock this morning.⁹⁸

The Free State Government also had to finalise their ongoing efforts to establish a new national party in April 1923. Even though the pro-treatyite faction of Sinn Féin had formed the Provisional Government, following the ratification of the Treaty, and later created the Free State Government in December 1922 the old Sinn Féin party structure had been in serious demise since the split in January 1922. Efforts were made throughout 1922 and the early parts of 1923 to establish a new political party with a constitution, an executive council and grass roots organisation. Following several preliminary conferences the name Sinn Féin was jettisoned and

⁹⁷ Wireless message from Chief of Staff to Mulcahy, 22 April 1923 (M.A., Irish Civil War Operation/Intelligence reports, Box 16/10).

⁹⁸ Radio report to Mulcahy from Kerry Command, 25 April 1923 (M.A., Irish Civil War Operation/Intelligence reports, Kerry Command, Box 10/9).

the name which Arthur Griffith assigned to his original Sinn Féin organisation, Cumann na nGaedheal (League of Gaels), was adopted. However, as Hales was assassinated in December 1922, following one such meeting, the official launch of the new party was postponed. The first public Cumann na nGaedheal convention was held in the Mansion House on 27 April 1923. Roughly 150 delegates and representatives attended amid a strong military presence.⁹⁹ Remarkably, the new party got off to a bad start as Cosgrave declined the presidency of the organisation and it instead went to the Minister for Education Eoin MacNeill. The fact that the Party was led by Cosgrave in the Dáil and by MacNeill outside emphasised the abnormal situation which existed between the Government and the Party.¹⁰⁰ The strained relationship was a consequence of Cumann na nGaedheal's unusual birth. According to Meehan, 'Born in the midst of the bloodshed of a civil war, the party was created to support a government already in power, and in the decade that followed the relationship between the two bodies was far from harmonious.'¹⁰¹ This situation continued for several years and was one of the reasons for Cumann na nGaedheal's decline over the coming decade.

It was now the end of April 1923 and the Irregulars' guerrilla resistance had all but collapsed. Despite this it was business as usual for the Government and Army. They executed Patrick Mahoney on 26 April. This Irregular was arrested for armed robbery and executed in Home barracks, Ennis County Clare.¹⁰² It has also been stated that Mahoney had been arrested with another Irregular, J. O'Leary, after a group of National troops were ambushed by the Irregulars in Carmody Street in Ennis on 21 April. One National soldier, Private Stephen Canty

⁹⁹ Regan, *The Irish Counter-Revolution*, p. 141.

¹⁰⁰ *Ibid*, p. 144.

¹⁰¹ Ciara Meehan, *The Cosgrave party, a history of Cumann na nGaedheal, 1923-33* (Dublin, 2010), p. 3.

¹⁰² Operation report from Limerick Command, 26 April 1923 (M.A., Irish Civil War Operation/Intelligence reports, Limerick Command, Box 3/2).

was killed by an Irregular called Miko Casey.¹⁰³ It was also claimed that the jury at the inquest into Canty's killing found that neither Mahoney nor O'Leary 'could have fired the fatal shot.'¹⁰⁴ Nonetheless, both Mahoney and O'Leary were sentenced to death. O'Leary's sentence was later commuted to ten years imprisonment.

This proved to be the final straw for Aiken. Following the execution in Ennis the new Irregulars Chief of Staff Aiken, who had authorised de Valera to seek an honourable peace, realised that it was futile to continue armed resistance regardless of de Valera's actions. Therefore, he issued a general ceasefire order on 30 April 1923.¹⁰⁵ However, the Government were determined to put the final nail in the Irregulars' coffin, literally. Two days after the Irregulars' ceasefire both Christopher Quinn and William O'Shaughnessy were executed on 2 May 1923 in Home barracks, Ennis County Clare.¹⁰⁶ Apparently both of these men were also implicated in Canty's killing.¹⁰⁷ The Government were, as Fanning suggests, implacably resolved that surrender should be unconditional.¹⁰⁸ They assured the anti-treatyites, through the use of intermediaries, that during the cautious moves towards peace that the Irregulars had to recognise that the resolution of all political issues should be decided by the majority of the people's elected representatives and that the State should have in its control all lethal weaponry present in the country. De Valera issued peace terms to the Dáil which centred around six conditions, one of which was that 'no individual, or class of individuals [...] can be justly excluded by any political oath, test, or other device, from their proper share and influence in

¹⁰³ Pádraig Óg Ó Ruairc, *Blood on the banner, the republican struggle in Clare* (Dublin, 2009), p. 318.

¹⁰⁴ *Ibid.*

¹⁰⁵ Ceasefire order from Aiken, 31 April 1923 (M.A., Captured Documents Collection, Lot 67/1(a)).

¹⁰⁶ Operation report from Limerick Command, 2 May 1923 (M.A., Irish Civil War Operation/Intelligence reports, Limerick Command, Box 3/2).

¹⁰⁷ Ó Ruairc, *Blood on the banner*, p. 319.

¹⁰⁸ Ronan Fanning, *Independent Ireland* (Dublin, 1983), pp 21-22.

determining national policy, or from the Councils and Parliament of the nation.’¹⁰⁹ In response to these demands Cosgrave firmly stated:

Now, I am not impressed by these peace conditions or peace statements or peace proclamations. An examination of them does not convince me that there was any real intention of making peace; none whatever [...] Examine these proposals any way that you wish, in any humour that you wish, and you will find that as far as the party that has promoted disorder is concerned they are prepared to accept peace only if they are guaranteed a lease of political life [...] We have said from the very commencement that we are prepared to wipe the slate clean but we are not prepared to take any risk with regard to the possession of arms by people who do not realise their responsibilities as citizens.¹¹⁰

Finally, at a joint meeting between the Republican Government and the Irregular military Executive Council held between 13 and 14 May decided that Irregular arms would be dumped. While they did not openly accept the Government’s terms of an unconditional surrender both the anti-treatyite military and political leaders realised that they did not have many alternatives. Both Aiken and de Valera finally issued their dual call to dump arms on 24 May 1923. In their joint order Aiken acknowledged that the ‘foreign and domestic enemies of the Republic have for the moment prevailed. But our enemies have not won.’¹¹¹ He also stated that neither ‘tortures or firing squads, nor a slavish press can crush the desire for Independence out of the hearts of those who fought for the Republic or out of the hearts of our people.’¹¹² In addition to this, de Valera stated:

Soldiers of Liberty – Legion of the Rearguard: The Republic can no longer be defended successfully by your arms. Further sacrifices on your part would now be in vain and continuance of the struggle in arms unwise in the national interest. Military victory must be allowed to rest for the moment with these who have

¹⁰⁹ Dáil Debates, *Proposals for peace*, volume 3, col. 677 (9 May 1923).

¹¹⁰ Dáil Debates, *Finance Bill, 1923. – Adjournment motion – Peace proposals*, volume 3, cols 816-818 (10 May 1923).

¹¹¹ Order of the day, 24 May 1923 (N.L.I. Archives, Ms. 35, 262/2), see also Appendix 7.

¹¹² *Ibid.*

destroyed the Republic. Other means must be sought to safeguard the nation's right. Eamon de Valera.¹¹³

The Government continued executing Irregulars regardless as they claimed they could not verify the legitimacy of the documents. As the Irregulars had merely dumped their arms the Government did not want to seem like they had reached a settlement with the anti-treatyites. They remained determined to end the conflict on their terms. This resulted in two final executions. Two civilians were executed in Tuam on 30 May 1923, six days after the supposed end of the Civil War. According to the official report from the National Army G.H.Q:

Michael Murphy, Ardrahan, Co. Galway, and Joseph O'Rourke, Coxtown, Ardrahan, County Galway, were tried before a military tribunal at Tuam on 24th May, 1923, on the charge of taking part in an armed robbery in that they did on the 2nd day of May, 1923, steal from the Munster and Leinster Bank, Athenry, a sum of money. Both the accused were further charged with being in possession, without proper authority, of two Webley revolvers and a sum of money stolen from the bank on the same day when arrested at Newport, Athenry, County Galway.¹¹⁴

The *Freeman's Journal* stated that these two farmer's sons were captured two hours after the armed robbery with nearly £700. It also claimed that both men admitted their guilt, but declared that the robbery had no political significance but was related to land trouble.¹¹⁵ It finally stated that these men were blindfolded and walked unflinchingly to their doom.¹¹⁶ This case is a further indication that, even though these men were not associated with the Irregulars, agrarian disorder contributed to the level of lawlessness that existed in many parts of the country, particularly in the west, but also in other areas like Kildare.

¹¹³ Ibid.

¹¹⁴ *Connacht Tribune* (2 Jun. 1923).

¹¹⁵ *Freeman's Journal* (31 May 1923).

¹¹⁶ Ibid.

The fact that these executions occurred after the orders on 24 May did not escape contemporary commentators. According to one reporter, ‘in view of Mr de Valera’s order it hopes these executions – although the motive is stated not to have been “political” – will be the last, and that the end of the unhappy state of affairs in Ireland has now been reached.’¹¹⁷ Darrell Figgis alluded to this fact when he questioned Cosgrave in the Dáil. He inquired:

if it is the policy of the Executive Council to execute the sentence of death in the case of prisoners taken for offences other than offences in which the taking of life resulted or was clearly the intention, as in the case of the executions announced to have been carried out at Tuam?¹¹⁸

In response to this inquiry, Cosgrave stated that he had received no assurances that the orders given by both Aiken and de Valera were legitimate and that the Irregulars’ armed rebellion had ceased. He stated:

The documents referred to purported to be over the names mentioned, but the Government has no knowledge as to whether they in fact emanated from the persons so named. The Government has received no assurance of a cessation of defiance of the authority of the people or of the acts of sabotage and outrage described by the Deputy as “hostilities.”¹¹⁹

Following this Johnson asked the President whether the original reasoning for the adoption of the 1922 Public Safety Resolution, military necessity, still applied to the present situation in Tuam. Cosgrave replied, ‘I take it the action that has been taken in this case, and all cases, has been taken by reason of the military necessities of the time.’¹²⁰ Cosgrave’s claim is interesting. How could it be a military necessity to execute two men given that the conflict was technically over?

¹¹⁷ *Tuam Herald* (2 Jun. 1923).

¹¹⁸ Dáil Debates, *Ceisteanna – Questions. [Oral Answers.] – Death Sentences*, volume 3, col. 1419 (1 June 1923).

¹¹⁹ *Ibid.*

¹²⁰ *Ibid.*

These proved to be the final two official executions of the Irish Civil War and brought the total to eighty-one.

The Irish Civil War was over. However, what forced the anti-treatyite militants to dump their arms on 24 May 1923? Did the Government's executions policy, as Deasy claimed, create a very serious situation in Ireland? It has been established that Deasy's assertions were in fact representative of the situation in Ireland in January 1923. Moreover, it has been ascertained that the official executions did indeed achieve their primary objective, the hastening of the end of the Civil War. Evidence suggests that the Government's alteration and augmentation of the executions policy, as conditions dictated, ensured that the effect of the policy infiltrated Irregular units all over southern Ireland. Initially, this policy was restricted both in scope and geographical dispersion resulting in only a few executions in Dublin. Following the attack on 7 December it was decided that these emergency powers would be streamlined and summarily applied all over the country. Evidence aside, it is only logical that an executions policy would impact on the dynamic and outcome of a given conflict. To say that a policy of this nature had no effect on the Irregular morale or their prosecution of the Civil War would be negligent.

It must be emphasised that the executions policy was not the only factor that contributed to the Irregulars' defeat. In reality, their military position had deteriorated significantly in the months which followed fall of the Four Courts in June 1922. The Government and Army benefited greatly from the support of several important parties. It received financial and military assistance from the British Government and it also benefited from both public and clerical support. Furthermore, evidence indicates that the Irregulars' own defensive tactics also contributed to their eventual defeat. They outnumbered and were better equipped than the National Army at the start of the conflict. They also faced an opponent which was initially

uncertain and indecisive with regards to the possibility of fighting fellow Irishmen and former comrades. The decision taken by Rory O'Connor and his associates to barricade themselves in to the Four Courts, and other areas around Dublin, ensured that a considerable number of able anti-treatyite leaders were captured and removed from any further participation in the Civil War. Generally speaking, these defeats proved to be the rule rather than the exception. The Irregulars' response to the executions policy also contributed to their defeat. Lynch's endorsement of reprisals and the subsequent assassination of Hales served to strengthen pro-treatyite resolve and directly led to the augmentation of the Government's executions policy. It was Lynch's unrealistic assumptions that kept the War going far longer than it otherwise would have. Once he was killed the final barrier to peace was removed.

Following the events in early December it became clear that the Government would continue to adopt increasingly resolute policies to decrease the level of lawlessness and disorder in the country. One such strategy was the execution of civilians. It has been established that the Government executed four civilians for the unauthorised possession of weapons and armed robbery during the Civil War. Therefore, eighty-one executions and not seventy-seven executions actually occurred during the conflict. Moreover, evidence suggests that two of these executions happened six days after the supposed conclusion of the War.

The Irish Civil War nearly bankrupted the fledgling state. It resulted in several thousand military dead and wounded and it also ensured that the country's detention facilities were filled to bursting point with thousands of incarcerated Irregulars. Furthermore, due to the executions policy, in addition to the unofficial actions, a bitter legacy was imbued upon post-war Ireland. Even though they refrained from accepting the Free State's terms of an unconditional surrender

publically, the end result amounted to the same thing as the Irregulars dumped their arms and ceased fighting.

CHAPTER 7

‘Extraordinary Graveyard Scenes’

The 1924 reinterments

The Irish Civil War ended in May 1923. Yet the issues which caused the conflict and the controversy which surrounded the methods used to win the War did not just simply disappear following the cessation of hostilities. One of the main reasons for this was that the National Army still held the remains of the executed men interred in a number of military installations throughout Ireland. However, as will be established in this chapter, the Government’s post-war process of demobilisation caused the closure of several of these facilities and, by extension, led to the reinterment of the executed men in October 1924. Bearing this in mind the process of reinterment will be examined in detail paying particular attention to the contemporary conditions which forced the Cumann na nGaedheal Government to release the remains of these men. Furthermore, the extraordinary scenes that occurred during the reinterments in Glasnevin Cemetery, Dublin and Dowdallshill Cemetery, Dundalk, County Louth will be studied. Both of these events resulted in substantial armed clashes between pro- and anti- treatyite forces in which an innocent bystander, Joseph Hughes, was killed. Despite these encounters the bodies of the men executed during the Irish Civil War were finally returned to their respective families and laid to rest in various cemeteries throughout Ireland. Given that the conflict proved so divisive, the return of these remains would not have occurred so quickly had it not been for the prevailing conditions that existed in Ireland following the dumping of arms by the Irregulars.

The Cumann na nGaedheal Government could not dwell on victory as the cessation of hostilities in May 1923 did not result in the wholesale return of normal conditions throughout the

country, nor did it mean a total disappearance of the issues and controversy that the Civil War and the executions policy exposed. The Government now had to contend with consolidating their victory and rebuilding the country after several successive years of war and social turmoil. This would not prove to be an easy task. The Irish exchequer was nearly bankrupt as a result of two consecutive wars.¹ Thousands were dead and wounded.² Furthermore, Irish detention facilities had swelled to bursting point with between 10,000 and 11,000 Irregular prisoners by May 1923.³ Significant numbers of Irregulars and a large quantity of weaponry also remained in circulation which left the Government anxious over the possibility of the resumption of hostilities at a later date. For instance, 985 rifles, 1,156 revolvers, 185 pistols, 2,979 shotguns and 1,262 bombs were seized by the Gardaí between 1923 and July 1931.⁴ This all contributed the air of uncertainty which prevailed over Ireland in the immediate aftermath of the Civil War. There was, as Ferriter states, ‘an inevitability about post-Civil War pessimism, particularly given the number of republicans in prison by the end of the conflict, and that the governments hands were still red with the blood of official executions.’⁵

In reality, the morale of the Irregulars had been broken for some time due in part to the executions policy and they were in no condition to attempt any kind of coordinated military offensive. They became more concerned with avoiding arrest rather than a renewed campaign. This was indicated by several reports from the Director of Intelligence to the Chief of Staff of the

¹ Garreth FitzGerald, *Reflections on the Irish State* (Dublin, 2003), p. 17.

² For a breakdown of casualties and economic cost of the Irish Civil War see: Michael Hopkinson, *Green against green, the Irish Civil War* (Dublin, 2004), pp 272-273, see also Niall C. Harrington, *Kerry landing, August 1922, an episode of the Civil War* (Dublin, 1992), p.152.

³ Bill Kissane, *The politics of the Irish Civil War* (Oxford, 2005), p. 162, see also Anne Dolan, *Commemorating the Irish Civil War* (Cambridge, 2003), p. 16, see also Tim Pat Coogan, *De Valera, long fellow, long shadow* (London, 1993), p. 356.

⁴ ‘Anti-State Activities: Joint Pastoral of Hierarchy and Events Leading up to Its Issue’, 1931 (N.A.I., Department of an Taoiseach files, D/T S 5864B).

⁵ Diarmaid Ferriter, *The transformation of Ireland 1900 – 2000* (London, 2005), p. 300.

National Army. One such report, on 26 May 1923, stated that there had been a definite reduction ‘in aggressive activity and in almost every Command the Irregulars are devoting their main attention to avoiding arrest and capture of their arms. Their efforts to reorganise would seem to have been an absolute failure.’⁶ Nonetheless, the pro-treatyites was justifiably paranoid. Even though the morale of the defeated Irregulars was severely depressed armed crime throughout the country remained a major issue for the Government. This was acknowledged by Kevin O’Higgins when he proclaimed, prior to the ceasefire, that the ‘aftermath of these last ten months is going to be more serious, perhaps, than the last ten months themselves. In many areas you have conditions bordering on anarchy.’⁷ On 26 September 1923 H. M. Murray, a civil servant, informed the Cabinet that armed robberies would significantly increase after the Civil War. Murray argued that:

This particular brand of crime will likely reach [a] higher water mark within the next six or nine months owing to the demobilisation of a large number from the Army and the releasing of prisoners, throwing on their own resources a large number of men who have been used, for so long, to conditions which have torn moral standards to shreds.⁸

Garda figures on serious crime recorded that 260 armed robberies and 119 armed raids occurred during the six months from July to December 1923.⁹ These figures cannot be totally attributed to the Irregulars. According to O’Higgins, by the end of 1923 ninety-five percent of crime in the country was attributable to the Army or to demobilised men.¹⁰ Even though this was an exaggeration a certain proportion of the crimes could be ascribed to ill-disciplined elements in

⁶ General weekly survey for the Chief of Staff, 26 May 1923 (M.A., Irish Civil War Operational/Intelligence Reports, Box 16/6).

⁷ Hopkinson, *Green against green*, p. 263.

⁸ H. M. Murray memo to the Cabinet entitled ‘Civil War: Conference of Cabinet Committee’, 26 September 1923 (N.A.I., Department of an Taoiseach files, D/T S 3306).

⁹ Garda serious crime returns from 1 July – 31 December 1923 (N.A.I., Department of an Taoiseach files, D/T S 3527).

¹⁰ Hopkinson, *Green against green*, p. 264.

the Army and/or to demobilised officers. Firstly, of the 260 armed robberies mentioned above thirty-six involved members of the Army with seven being found guilty. Also, of these 260 incidents seventeen cases involved demobilised men with nine being found guilty. Secondly, of the 119 armed raids fourteen cases occurred where members of the Army were implicated. Additionally, five cases involved demobilised men with one being convicted.¹¹

Several post-war inspection reports from various commands continued to indicate a serious lack of discipline inherent in many barracks, especially in the Kerry Command. This was evidenced by an infamous incident which became known as the ‘Kenmare case’. According to *Éire*, four Free State officers forced their way into a well-known and highly respected doctor’s house and attacked two of his daughters on 22 June 1923. The officers flogged the young girls with their belts and smeared their hair with cart grease. Following an investigation Lieutenant Harrington, the same officer that carried out the Ballyseedy investigation, discovered a revolver in the grounds where the assault occurred ‘which he identified as belonging to Brigadier-General O’Daly, the same man implicated in the Ballyseedy massacre. One of the young ladies in defending herself had also left ample identification marks on the face of one of her assailants.¹² O’Higgins, constantly critical of the ill-discipline and inefficiency within the Army, informed Cosgrave that if the case was not dealt with immediately he would not join any future Cumann na nGaedheal Government.¹³ In similar fashion to the incident at Ballyseedy, O’Daly and his men were not reprimanded as, according to Mulcahy, there was not enough evidence available. The existence of this threat to the country whether by the Irregulars or ill-disciplined National troops/ex-troops ensured the adoption of a two-pronged strategy by the Government. Firstly, in

¹¹ Garda serious crime returns from 1 July – 31 December 1923 (N.A.I., Department of an Taoiseach files, D/T S 3527).

¹² *Éire*, 19 July 1924 (N.L.I., Harrington papers, Ms. 40, 629/2).

¹³ Letter from O’Higgins to Cosgrave relating to the Kenmare case, 17 August 1923 (N.L.I., Harrington papers, Ms. 40, 629/2).

tackling the Irregulars the Government decided that there would be no widespread release of anti-treatyite prisoners and no subsequent reduction in the severity of emergency powers. In addition, Cosgrave and his ministers advocated the holding of a general election. The legitimisation of the State would hopefully reduce the appeal of crime and decrease support for the Irregulars even further. Secondly, the Government would over-haul the Army in an effort to decrease its size and increase its efficiency and respectability.

Even before the dumping of arms by the Irregulars the Government began to contemplate new successive emergency legislation. As a result, it quickly passed the Public Safety (Emergency Powers) Act on 2 July 1923. This Act, according to O’Higgins, was regretful but an absolute necessity. He stated that this legislation ‘is based on recognition of facts, however unpleasant, and a recognition of the conditions which are likely to exist, if not to prevail, in this country for 5 or 6 months.’¹⁴ This law was primarily devised to ensure the continued internment of Irregular prisoners incarcerated throughout the country until settled conditions were established. Like its predecessor, the Public Safety Resolution ratified in September 1922, this legislation provided for the maximum punishment of death. It also allowed a wide range of offences to be punishable by penal servitude and permitted flogging on conviction for arson and armed robbery.¹⁵ However, due to some constitutional entanglements, particularly article 47 of the Constitution, this piece of law was deemed to be insufficient.¹⁶ The Public Safety (Emergency Powers) (No. 2) Act 1923 was devised. It augmented the previous legislation and ensured that the constitutional issues were now inapplicable. With the matter over internment resolved the Government set about to legally protect itself for the methods it employed to win the

¹⁴ Dáil Debates, *Public Safety (Emergency Powers) Bill, 1923. First Stage*, volume 3, col. 1984 (15 June 1923).

¹⁵ Seosamh Ó Longaigh, *Emergency law in independent Ireland, 1922-1948* (Dublin, 2006), p. 38.

¹⁶ For a description of Article 47 of the Constitution see Ó Longaigh, *Emergency law in independent Ireland*, p. 40.

Civil War. Two months after the end of the conflict Cosgrave introduced the Indemnity Act to the Dáil on 30 July 1923. This legislation stated that no action or other legal proceeding whatsoever, whether civil or criminal, shall be instituted in any court of law in the Free State as a result of any actions that occurred during the Government's suppression of the Irregulars' rebellion. It covered the period from 27 June 1922, the day before the conflict started, until the day the Act was passed.¹⁷ It stated that any measures undertaken by the Government were done in good faith for the public's safety. These actions were:

done by a person[s] holding office under or employed in the service of the Provisional Government or the Government of Saorstát Eireann in any capacity whether military or civil, or by any other person acting under the authority of a person so holding office or so employed.¹⁸

Section three of this piece of law is of particular interest to this thesis. It stipulated that:

Every military court or committee or tribunal [...] established since the 27th day of June, 1922, and before the passing of this Act [...] shall be deemed to be and always to have been a validly established tribunal, and every sentence passed, judgment given, or order made before the passing of this Act by any such military tribunal shall be deemed to be and always to have been valid and to be and always to have been within the lawful jurisdiction of the tribunal.¹⁹

This section ensured whatever issues that existed, with regards to the legality of the Public Safety Resolution, no longer applied. Moreover, it guaranteed that acts carried out in accordance with the conventions of the emergency decree were exempt from legal reproach. With the Irregulars legislated for, in the short-term at least, the Government now set its focus on the holding of an election and the reconditioning of the Army.

¹⁷ Dáil Debates, *Indemnity Bill, 1923 - Dáil in Committee*, volume 4, col. 1753 (1 August 1923).

¹⁸ *Ibid*, cols 1753-1754.

¹⁹ Dáil Debates, *Indemnity Bill, 1923 - Dáil in Committee*, volume 4, cols 1775-1776 (1 August 1923).

Eamon de Valera, despite being a fugitive, advocated anti-treatyite participation in the up-coming general election in August 1923. Thus, he travelled to his former constituency in County Clare on 15 August. However, as he took to the podium he was quickly arrested and transported to Arbour Hill prison, Dublin.²⁰ This act alone was important as it had a resounding effect on the development of the Irish political landscape. The emphasis placed on arresting and incarcerating de Valera demonstrated that the Free State authorities still regarded him as a key opponent. This helped restore him to the top position in the anti-treatyite movement following the nominal influence he had during the Civil War. As a result of the conflict, the anti-treatyites lacked an abundance of resources normally required to run an effective election campaign.²¹ Furthermore, they possessed only rudimentary organisation and they had no coherent publicity machine. That said anti-treatyite propaganda did feature in the campaign. In County Clare, where de Valera was running for re-election, posters were displayed which stated ‘We will wade through the blood of our fellow Irishmen and through the blood of Members of the Government.’²² Moreover, the anti-treatyites used the Civil War executions in an effort to attract a sympathy vote. For instance, the aforementioned election poster asked the question ‘Executions – Was this the will of the people of Clare? [...] Vote for De Valera.’²³ Despite the fact that many of their candidates were in hiding or imprisoned, they managed to carry out a rather successful campaign.²⁴ The anti-treatyites gained a respectable forty-four seats in comparison to Cumann na nGaedheal’s sixty-three. The remaining political parties such as the Independents, the Farmers and Labour achieved sixteen, fifteen and fourteen seats, respectively.²⁵ Even though Cosgrave

²⁰ For an account of de Valera’s arrest see *The Times* (16 Aug. 1923).

²¹ J. J. Lee, *Ireland 1912-1985 politics and society* (Cambridge, 1989), pp 94-95.

²² See Appendix 11.

²³ *Ibid.*

²⁴ *Irish Times* (31 Aug. 1923).

²⁵ F. S. L. Lyons, *Ireland since the Famine* (Suffolk, 1982), p. 485.

and his Government did not do as well as they expected de Valera's anti-treatyite abstentionist policy enabled Cosgrave to form another Government with a comfortable majority.

The results of the 1923 election highlighted several important issues. Firstly, even though the Irregulars were defeated militarily the anti-treatyites were far from beaten politically. This fact became more apparent and important as the decade progressed with the rise of Fianna Fáil. Secondly, results suggested that resentment at the methods used by the Government to win the Civil War may have influenced the electorate. Further antipathy at the continuous employment of emergency legislation effected voting patterns in certain places throughout the country. Kerry for example, where the Civil War was most fiercely fought, is worth noting. Conor Maguire, an anti-treatyite election organiser stated that 'Our greatest successes have been gained in the two counties in which the Free State terrorism was greatest, and in which it is probable that most of our workers were in prison. I refer to Leitrim – Sligo and Kerry.'²⁶ Yet this claim was not entirely correct. Kerry did indeed witness seven official executions and a number of atrocities during the Civil War and this did contribute to the anti-treatyites good performance in this constituency. Four anti-treatyite deputies were elected in comparison to three Cumann na nGaedheal deputies in the August 1923 election.²⁷ But Maguire's assertion that 'Free State terrorism' aided great successes in the Sligo – Leitrim constituency was unfounded. There were no official executions in either county during the Civil War. However, the level of military activity in this constituency, whether pro- or anti-treatyite, during the Civil War was relatively minor in comparison to other areas such as Kerry or Dublin City. Peter Hart states that both Sligo and Leitrim consistently feature at the lower end of the scale in relation to military activity

²⁶ Hopkinson, *Green against green*, p. 262.

²⁷ Brian M. Walker, *Parliamentary election results in Ireland 1918 – 92* (Dublin, 1992), p. 112.

during both the War of Independence and the Civil War.²⁸ The anti-treatyites only managed to elect three deputies to the Dáil in comparison to Cumann na nGaedheal's four deputies in this election.²⁹ Even though Maguire's claim proved inaccurate for Sligo – Leitrim it did indicate that anti-Government sentiment remained a notable issue in places like Kerry.

On the one hand the election results gave encouragement to the anti-treatyites. According to Coogan, the 1923 election results signified 'a backlash against the executions'.³⁰ This is a possibility. Even though the public, generally speaking, supported the Government and consented to the executions policy, during the Civil War, some of these supporters may have, now that the conflict was over, reconsidered their position. But whether or not any such changes occurred purely because of the executions policy is difficult to say. Conversely, the election legitimised the Free State's existence and endorsed the Government's motivations for fighting the Civil War, democracy and the primacy of the ballot over the bullet in Irish society. Electoral success although important for the Government was not the only challenge they faced in the immediate aftermath of the Civil War. The Government had to implement the second phase of its post-war strategy, reform of the armed forces from an army constructed for war to a suitably sized peacetime force which was, if the Kenmare case was any indication, disciplined and efficient. This process was to produce some significant and interesting consequences. Firstly, it resulted in a mutiny within the Army. Even though the number of men that actually mutinied was small this event remained significant. It facilitated the development of a non-political armed force subordinate to the civilian government of Dáil Éireann. This from an army that was, over the past several years, rife with factionalism and a government that expressed, at best, a fragile

²⁸ Peter Hart, 'The Geography of Revolution in Ireland 1917-1923' in *Past and Present*, no. 155 (May, 1997), pp 142-176.

²⁹ Walker, *Parliamentary election results*, p. 112.

³⁰ T. P. Coogan, *De Valera.*, p. 361.

control over its armed forces, was a significant achievement. Secondly, it resulted in further scandal for the pro-treatyites. It not only forced the Government to return the remains of the executed men for reinterment, amidst rumor and indignation, but it also ensured substantial violent demonstrations and armed clashes between Government forces and anti-treatyite supporters in several locations throughout the country.

In the immediate post-war period the responsibility of preserving public order primarily rested with the National Army which numbered around 52,000 men in April 1923.³¹ The armed forces were aided by the recently established Garda Síochána, an unarmed police force, established in August 1922 and numbered about 4,500 by the first half of 1923.³² However the Army was, as previously discussed, haphazardly put together out of necessity in an effort to prosecute the Civil War. As O’Halpin states, during the Civil War the Government’s response to military inefficiency was wholesale expansion as ‘the priority was to defeat the republicans, not to nurture an effective, disciplined military machine [...] [however once] the civil war was over, drastic contraction was inevitable.’³³ According to Gialanella Valiulis, the process of demobilisation planned to ‘transform the nature of the military from a politically-involved and independent guerrilla force into a highly professional and disciplined army subject to unquestioning civil control.’³⁴ The immediate peacetime objective was to reduce the size of the armed forces to roughly 20,000 men of whom 1,400 would be commissioned officers.³⁵ Final projections were for an army sized around 18,000 men.³⁶ The process was initiated on 15

³¹ Hopkinson, *Green against green*, p. 265.

³² Dermot Keogh, *Twentieth-Century Ireland, nation and state* (Dublin, 1994), p. 18.

³³ Eunan O’Halpin, ‘Politics and the state, 1922-32’ in F. J. Byrne, W. E. Vaughan, A. Cosgrove, J. R. Hill and D. Ó Cróinín (eds), *A new history of Ireland, vii: Ireland, 1921-84* (Oxford, 2003), p. 99.

³⁴ Maryann Gialanella Valiulis, ‘The ‘Army Mutiny’ of 1924 and the Assertion of Civilian Authority in Independent Ireland’, in *Irish Historical Studies*, 23, no. 92 (November, 1983), p. 358.

³⁵ Keogh, *Twentieth-Century Ireland*, p. 19.

³⁶ Gialanella Valiulis, ‘The ‘Army Mutiny’ of 1924’, p. 358.

September 1923 when the Ministry of Defence issued its Defence Order no. 28. This directive stated that ‘It is notified for general information that in consequence of the reduction of the strength of the National Forces, arrangements are being made for the demobilisation of a certain number of Officers.’³⁷

The process of demobilisation was resented by a number of officers collectively known as the Old I.R.A. or O.I.R.A. headed by Major-General Liam Tobin and Colonel Charles F. Dalton. First and foremost these officers were, as O’Halpin states, dissatisfied with the prospect of decimation due to the radical reduction in the size of the Army.³⁸ They also felt that they were unfairly treated in favour of ex-British troops. In reality, however, relatively few ex-British army officers had been retained in the Army and those that were had particular skills required by the National forces.³⁹ The O.I.R.A. was also dissatisfied with the lack of progress made towards the Republic by the Government and Army Council which it also believed to be an I.R.B. clique. These discontented officers issued an ultimatum to Cosgrave, on 6 March 1924, demanding a satisfactory end to their grievances.⁴⁰ They demanded the removal of the Army Council and immediate suspension of Army demobilisation and reorganisation.⁴¹ After the ultimatum a series of events transpired which would result in the resignation of several deputies, two of which were Cabinet ministers, the demise of the Army Council and the final subordination of the Army under the civilian Government.

The March mutiny resulted in the resignation of forty-nine officers, including three Major-Generals, five Colonels, seventeen Commandants, twelve Captains and twelve

³⁷ Defence Order no. 28, demobilisation of officers (Payment), 15 September 1923 (U.C.D. Archives, Mulcahy papers, P7c/1).

³⁸ O’Halpin, ‘Politics and the state, 1922-32’, pp 99-100.

³⁹ MacMahon’s testimony to the Army Inquiry, 1924 (U.C.D. Archives, Mulcahy papers, P7/C/35).

⁴⁰ Dáil Debates, *The Army Position*, volume 6, col. 1894 (11 March 1924).

⁴¹ *Ibid*, cols 1894-1895.

Lieutenants. Fifty officers also absconded with military materials which included eleven Lewis guns, twenty-one rifles, one grenade rifle, one revolver, forty-one grenades and 35,400 rounds of .303 ammunition.⁴² Joseph McGrath, Minister for Trade and Commerce and an overt supporter of the O.I.R.A., resigned, as did several of his supporters, due to a raid on his house by the Army.⁴³ As a consequence an Army Inquiry was established. At the investigation Mulcahy resolutely defended his position and stated in response to accusations of a resurgence of the I.R.B. within the Army's hierarchy that the 'I.R.B. was never organised, or re-organised, or intended to be organised as a counter-blast to the "Old I.R.A." or any other such association.'⁴⁴ O'Higgins finally succeeded in realising an aim he held for many years, the complete subordination of the armed forces under the civilian leadership in Dáil Éireann. He was determined, as Regan states, to ensure that 'neither he nor the institutions of the state would ever again take their stride from a soldier's boot'.⁴⁵ O'Higgins took charge of the situation as Cosgrave was supposedly ill. Mulcahy had already retired from the Army in May 1923 following the conclusion of the Civil War to focus on his political career as Minister for Defence. However, he now resigned from this ministerial post in protest at O'Higgins' sacking of the Army Council.⁴⁶ Mulcahy would remain in the political wilderness until Cosgrave reluctantly reinstated him to the Cabinet in 1927 as Minister for Local Government and Public Health. Ironically, Cosgrave bowed to pressure from members of the Cumann na nGaedheal Party which included, amongst others, both O'Higgins and Hogan.⁴⁷ However, at this juncture, he paid the price for his long-term rift with his civilian colleagues, such as O'Higgins and Cosgrave, in the

⁴² Tobin Mutiny file, undated (U.C.D. Archives, Mulcahy papers, P7/C/196).

⁴³ Dáil Debates, *Dáil in Committee - The Army Position*, volume 6, col. 1972 (12 March 1924).

⁴⁴ Mulcahy's statement to the Army Inquiry, May 1924 (U.C.D. Archives, Mulcahy papers, P7b/149).

⁴⁵ John M. Regan, *The Irish counter-revolution 1921-1936, treatyite politics and settlement in independent Ireland* (Dublin, 2001), p. 197.

⁴⁶ Risteárd Mulcahy, *My father the General. Richard Mulcahy and the military history of the Revolution* (Dublin, 2009), p. 13.

⁴⁷ *Ibid.*

Government and the more radical elements, such as Tobin and Dalton, within the Army. This entire act was significant as it allowed O'Higgins to amputate, what he felt was, an infected limb and undertake a comprehensive clear-out of disloyal elements within both the Army and the Cabinet. To bridge the gap left by Mulcahy's prompt exit, Eoin O'Duffy became the G.O.C. of the National Army and Cosgrave became Minister for Defence, in addition to his other ministerial posts.⁴⁸

The anti-treatyite's remained in some difficulty too. Following the initial boost to morale that the results of the August 1923 election provided their *esprit de corps* quickly foundered once more. This was evidenced by the failure of the latest set of hunger strikes which occurred between October and November 1923. The strike began in Mountjoy Jail on 14 October and lasted forty-one days. It spread to several other prisons and internment camps and at one point it included up to 8,000 men. The primary demand was release. However, all but 200 strikers stopped after the first month. In the end two prisoners died around the fortieth day and the remaining strikers ceased on 23 November 1923.⁴⁹ Furthermore, the upcoming first anniversaries of the men executed during the Civil War did not receive the support that some, like Ernie O'Malley, expected. On 24 November 1923 O'Malley, aware of the potential propaganda that could be achieved if these anniversaries were handled correctly, ordered all ranks to turn out and undertake to their fullest abilities the work for which the men were put to death. The order stated:

Let every Volunteer make it a practice to examine his conscience on the anniversary of all those who died to defend the rights of the Republic of Ireland. Let him find out his own capabilities, get busy on the work for which he is fitted

⁴⁸ Keogh, *Twentieth-Century Ireland*, p. 20.

⁴⁹ James Healy, 'The Civil War Hunger-Strike October 1923' in *Studies: An Irish Quarterly Review*, 71, no. 283 (Autumn, 1982), p. 213.

and educate himself and those around him to do all that is necessary to complete the work for which his comrades died.⁵⁰

His call, however, did not appear to be headed in places like Cork, judging by official reports from the Cork Command. Very few people turned out to acknowledge the anniversary of the four Mountjoy executions on 15 December 1923. This report stated that the:

anniversary celebration of the execution of Rory O'Connor, [Richard Barrett] Joe McKelvey, and Liam Mellows, attracted very little attention in Cork City. Scarcely one hundred persons participated, and enthusiasm was at a very low ebb. Even ex-prisoners did not trouble to turn out.⁵¹

This could be partly explained by the fact a large number of Irregulars were still imprisoned or on the run. In Dublin city, however, the anti-treatyites organised a 'Monster Demonstration in O'Connell Street'⁵² for the first anniversary of the men put to death in Mountjoy Jail in December 1922. According to this notice, 'Miss Mary MacSwiney will address the Meeting [and there will be a] Procession Afterwards.'⁵³ Cumann na mBán and Sinn Féin Cumainn were requested to go, however, Labour and other bodies were invited to attend.⁵⁴ It is unclear if this demonstration was well-attended. Even though anti-treatyite morale seemed to be suffering after the Civil War, the Government now faced another problem. A further by-product of demobilisation was the relocation of the bodies of the executed men that were interred in several barracks throughout the country which were set to close.

⁵⁰ Memo from H.Q. Midland Division to all ranks, 24 November 1923 (U.C.D. Archives, O'Malley papers, P17a/70).

⁵¹ Fortnightly review from Cork Command to the Director of Intelligence, 15 December 1923 (M.A., Irish Civil War Operation/Intelligence – reports by Command, Cork Command, Box12).

⁵² *Irish Independent* (8 Dec. 1923), see also Appendix 12.

⁵³ *Ibid.*

⁵⁴ *Ibid.*

As the numbers of soldiers decreased so too did the number of barracks required to house and train the remaining troops. As certain facilities closed and soldiers moved to different locations the issue of relocating the interred bodies of the executed men became a concern for the Government. Cosgrave was aware since the inception of the Government's process of demobilisation that something would have to be done with the remains of the executed men. He was equally aware that this issue would cause significant problems for the Government if handled incorrectly. It had been policy during the Civil War to retain the remains of these men indefinitely. Cosgrave was of the opinion that the remains might be returned to the families in the distant future, however, for now another, less public, alternative would have to suffice. Due to this uncertainty he sought the opinion of O'Duffy. In a letter from Cosgrave's office to O'Duffy, on 20 June 1924, his secretary indicated that:

He [Cosgrave] is disposed to hand over the remains to the relatives on some particular day, from every particular station in which executed remains are buried. He simply gives this as an indication of his personal opinion but that the matter would have to be put up in the ordinary way for consideration.⁵⁵

O'Duffy disagreed with Cosgrave. In reply to Cosgrave's letter he stated, on 27 June, that it was not desirable to exhume and return the bodies. He believed that:

The re-interment of an executed Irregular would almost certainly be made the occasion for a demonstration for the purpose of attracting the sympathies of the general public towards the bereavement of the relatives at a time when the necessity for the executions has to a certain extent faded from the minds of the people. I am also of the opinion that a general exhumation of all bodies from posts likely to be evacuated in the near and distant future, is not desirable. I think, there will be far less comment in dealing with such cases when the evacuation of a post is under completion.⁵⁶

⁵⁵ Letter from Cosgrave's office to O'Duffy regarding the possible release of remains, 20 June 1924 (N.A.I., Department of an Taoiseach files, D/T S 1884).

⁵⁶ O'Duffy's reply to Cosgrave's letter regarding the possible return of remains, 27 June 1924 (N.A.I., Department of an Taoiseach files, D/T S 1884).

This response was not as helpful as Cosgrave had hoped. O'Duffy merely advocated ignoring the issue and completing the closure of unnecessary military stations regardless of the remains. But a decision had to be made. Cosgrave decided that further problems for the Government had to be avoided. He finally opted for the secret exhumation and relocation of the remains to other, more permanent, military installations rather than return the remains to their families. This was indicated in the minutes of the Executive Council on 5 July 1924. They stated that it 'was agreed that the remains of executed men buried in posts about to be evacuated should be exhumed quietly [,] encased in strong oak coffins and re-interred in the nearest military post proposed for permanent occupation.'⁵⁷ As a result of Cosgrave's cautious approach the pro-treatyite authorities remained in possession of the bodies of the men executed during the Civil War for nearly four additional months.

Cosgrave's decision was promptly put in to practice. To facilitate these secret exhumations guidelines were drawn up. On 24 July Commandant R. J. Feely, on behalf of the Adjutant General, stated in a confidential letter to the Army Finance officer that:

it has been decided to exhume the remains of executed Irregulars interred in places not likely to be held as permanent military posts, and re-inter them at permanent posts. As in the majority of cases the remains have been interred for a considerable time, the work of exhumation is an objectionable and disagreeable one, consequently the G.O.C. Forces has agreed that the personnel engaged should be suitably remunerated. He Adjutant General suggests that extra pay at the rate of 1/6 per hour should be issued to each of the men engaged, and would like to have the necessary sanction (financial) for the issue of this money. For your information I am to say that with a party of 10 men working in relays the time taken is 3 hours, and the number of posts to be evacuated is 10.⁵⁸

⁵⁷ Minutes of the Executive Council, 5 July 1924 (N.A.I., Department of an Taoiseach files, D/T S 1884).

⁵⁸ Confidential letter from the office of the Adjutant General to the Army finance officer, 24 July 1924 (N.A.I., Department of Finance files, FIN/s004/0215/24).

It was only a matter of time before the public became aware of the covert procedure. Ultimately, the controversy which surrounded one particular case, the relocation of the six men from Tuam, County Galway, to Athlone barracks, County Westmeath, forced Cosgrave's hand and finally resulted in the reinterment of the men executed during the Civil War.

Colonel M. Dunphy, on behalf of O'Duffy, informed Cosgrave on 1 August 1924 that 'Tuam Workhouse will be evacuated as soon as possible after the 5th instant, by which date the bodies interred there will be exhumed and re-interred in Athlone.'⁵⁹ The remains of the six men executed in Tuam during the Civil War were unceremoniously exhumed and transferred to Athlone quietly, without the consent of the families of the dead men. However, following public knowledge of the existence of the exhumations Cosgrave and the Cumann na nGaedheal Government received considerable criticism not only from fellow T.D.s, County Corporations and members of the public alike but also the Secretary of the Cumann na nGaedheal party itself. Cosgrave's attempt to literally bury the problem had failed and now both he and the Government faced significant condemnation. He received a letter from member of the Farmers Party, Patrick F. Baxter T.D. on 13 August 1924. In this letter Baxter outlined his dismay at the secretive manner in which the Government handled the exhumation and relocation of the men interred in Tuam. He stated that:

A matter has been brought to my notice which although outside the confines of my constituency [...] calls for protest. I refer to the recent action as reported in the press of raising the bodies of executed men in Galway for re-interment elsewhere. If such a step became necessary unquestionably the proper step was to inform the relatives of the deceased men and hand over the bodies. Rumour has it that because of probable evacuation of the tuberculosis hospital at Roscrea similar action may also be taken there and perhaps at some other places. Such events as these do far more to add fuel to the flickering embers of hate and endanger

⁵⁹ Confidential letter from Colonel M. Dunphy on behalf of O'Duffy to Cosgrave regarding the closure of Tuam barracks, 1 August 1924 (N.A.I., Department of an Taoiseach files, D/T S 1884).

thereby the National position than would any display over a burial ceremony which might take place if the bodies of these men were handed over to their relatives. These men could not by any stretch of the imagination be styled criminal and I am sure even you however wrong you believe their action to have been do not believe they were criminal in the true meaning of the word. I think it right that I should make this protest directly to you in the hope that you will take such appropriate action as will put this matter right and save us any such experience in future.⁶⁰

Following this Pádraic Ó Maille protested to Cosgrave on 27 August. Ó Maille stated that the removal of the remains from Tuam had caused a good deal of resentment in County Galway. He suggested that the time to return the remains of the executed men to their relatives was now at hand before any further damage to the Government's reputation could be done.⁶¹ He argued that:

If the Government came to this decision there would not be very much trouble in the matter as, I understand, identification discs are placed on each of the coffins. Of course if the remains are handed back there may be some demonstrations, but such demonstrations will not have much effect seeing that the grievance those parties complain of is removed.⁶²

Despite the fact that the Irregulars attempted to assassinate Ó Maille, in December 1922, he urged Cosgrave to adopt a conciliatory approach to negate the damage caused by the incident at Tuam. The secret relocation of the remains also elicited a resolution from Waterford Corporation on 2 September 1924. The council protested against the Government's recent action of secretly exhuming and reintering the remains of the men executed in Tuam barracks. It stated that:

We consider such action as being most un-Irish and un-Christian, and calculated to cause most unnecessary and grievous pain to the relatives of the deceased and we request that in future similar cases of evacuations of Military Posts, any such

⁶⁰ Letter from Baxter to Cosgrave regarding the relocation of remains from Tuam to Athlone, 13 August 1924 (N.A.I., Department of an Taoiseach files, D/T S 1884).

⁶¹ Letter from Ó Maille to Cosgrave regarding the relocation of remains from Tuam to Athlone, 27 August 1924 (N.A.I., Department of an Taoiseach files, D/T S 1884).

⁶² Ibid.

remains of executed Republicans should be handed back to relatives, or, otherwise left to rest in peace.⁶³

Finally, on 16 September 1924, the Cumann na nGaedheal's Secretary, the Coiste Gnotha, intervened. The Secretary chastised Cosgrave for his decision to secretly disinter and relocate the remains of the executed Irregulars. The Secretary was primarily concerned with the political repercussions that this incident might have. Cosgrave was bluntly reminded of the five pending by-elections and that the continuance of the procedure would only aggravate the electorate further. The Secretary argued that:

In these circumstances the Coiste Gnotha believe that the Ministry of Defence must surely have had good and sufficient reason for their action in digging up the remains of recently executed men at Tuam and elsewhere and unceremoniously disposing of them in some fashion which can only have been satisfactory to the official who gave the order, but which certainly has produced violent indignation amongst our members, and is regarded throughout the country as nothing short of an atrocity [...] With a view therefore to disseminating the information and undoing to the best of our ability the political harm done by this unfortunate order, the Coiste Gnotha would be grateful for a statement of the reasons which made such action necessary on the part of the Ministry of Defence.⁶⁴

Even though Cosgrave rarely listened to the party he realised the effect this initiative was having on the Government's reputation. Following the anti-treatyites' relatively good performance in the August 1923 general election he knew that the Government could ill-afford a further reduction in public support. He knew that if the anti-treatyites abandoned their abstentionist policy the dominance enjoyed by the Government in the Dáil would swiftly disappear. Cosgrave finally bowed to both public and political pressure and decided not to provoke the electorate any further.

It was announced in the press, on 18 October, that the Government were to release the bodies of

⁶³ Resolution passed by Waterford Council, 2 September 1924 (N.A.I., Department of an Taoiseach files, D/T S 1884).

⁶⁴ Letter from the Coiste Gnotha to W. T. Cosgrave, 16 September 1924 (N.A.I., Department of an Taoiseach files, D/T S 1884).

the executed men on 24 October 1924. Cosgrave, aware of the demonstrations that occurred outside Kilmainham Jail in 1916, due to the prolongation of the execution process, decided that all the remains were to be returned in a single day. He knew that if the Government staggered the returning of the bodies over several days, public sympathy for the executed men, and by extension the anti-treatyites, might increase. Nevertheless, the announcement in the papers stated that 'if they did not notify their intention of claiming the remains before Monday next, the military authorities would have them buried in sanctified ground.'⁶⁵ Thus, almost two years after the first set of executions occurred during the Irish Civil War the families of the eighty-one executed men could finally give their loved ones the burial they believed they deserved.

Following the announcement provisional instructions were outlined for the exhumation of these remains. On 18 September É. Ó. Frighil wrote to Cosgrave and suggested that:

the most appropriate time would be from 5.15 p.m. on any week day or from 2 p.m. on Sunday as from these hours work is closed down and the prisoners are in their cells and the regular staffs, excepting patrols, are off duty. The Sunday time may be the most desirable as this will allow for the entire work being done during day-light hours.⁶⁶

Officers that undertook exhumation duties were to receive extra pay. To facilitate payment those who carried out these duties were required to submit their work details to the Army Finance officer who would forward them on to the Department of Finance. From two submissions, tendered by Captain Stafford and Captain Kearns, a detailed account can be constructed outlining when the exhumations occurred and what the officers got paid. These particulars relate to exhumation work from the middle of July, which applies to the secret exhumations, to the end of

⁶⁵ *Dundalk Democrat* (18 Oct. 1924).

⁶⁶ Letter from Ó Frighil to the Ministry of Defence regarding provisional instructions for the exhumation of remains, 18 September 1924 (N.A.I., Department of Justice files, D/J 197/45).

October 1924 after the public announcement was made. (See *Table 1* at the end of the chapter). The Army Finance officer requested that both men receive adequate pay for duties performed. He stated ‘I attach for your information particulars of the duty performed by the two officers under consideration and recommend as recognition of the extra services performed payment of £15 to Capt. Stafford and £5 to Capt. Kearns respectively.’⁶⁷

In accordance with the general release of remains applications were submitted from relatives and republican associations alike. For example, the Republican headquarters submitted an application for several executed Irregulars which stated:

It has been announced from Republican headquarters that applications have been made to the General Headquarters of the Free State Army for the remains of the following executed men: - James Fisher [...] Peter Cassidy [...] Richard Twohig [...] Joseph Gaffney [...] Erskine Childers [...] Joseph Spooner [...] Patrick Farrelly [...] John Murphy.⁶⁸

Cosgrave knew that the occasion of receiving the remains would result in large demonstrations as the anti-treatyite movement would attempt to derive as much sympathy as possible. He was determined to ensure that pro-treatyite forces acted professionally and not engage in any behaviour which would result in scandal. To achieve this end Cosgrave issued an order which stated:

With reference of the handing over of the remains of Executed Irregulars, there is to be no unnecessary armed display. Armed Guards will be present at the actual handing over to the relatives at the mortuary. The Guards at the gate will “Present Arms” as the Hearses pass out.⁶⁹

⁶⁷ Letter from the Army Finance Officer to the Department of Finance relating to two Officers that performed exhumation duties, undated (N.A.I., Department of Finance files, FIN s004/0215/24).

⁶⁸ *Irish Times* (20 Oct. 1924).

⁶⁹ Order from Cosgrave regarding military procedure during the removal of remains, 30 October 1924 (N.A.I. Department of an Taoiseach files, D/T S 1884).

With the date set at 24 October 1924 and the applications submitted many barracks throughout Ireland began returning the remains of the men executed during the Civil War.

Erskine Childers' remains were received from Beggars Bush barracks, on 24 October, by Robert Barton. He described the event in excellent detail. He stated that he, accompanied by Childers' immediate family, arrived at the aforementioned barracks at 8.45 a.m. where a small crowd of fifty to one hundred people and several hearses were waiting in the rain. At around 9 o'clock the barracks gates opened and the cortège entered accompanied by Medlar, the undertaker. Upon entering the yard Barton saw two soldiers either side of a coffin which was of a 'dull, dark yellowish red colour without any furnishings except for a small tawdry and tarnished name plate insecurely fastened on the top with the name Erskine Childers on it.'⁷⁰ Eventually the undertaker gave the order and his men aided by National soldiers transferred the coffin into the hearse and the vehicle moved to give space to the next family waiting to receive remains. According to Barton, all 'the coffins were the crudest and cheapest manufacture [...] The concrete floor was running water as a constant drip fell from the coffins; I had noticed this in the case of Erskine's coffin.'⁷¹ He also noted that the National troops in attendance presented arms and saluted the coffins as the cortège left the barrack's courtyard. He concluded by stating that:

We filed out between them [the hearses] and passed again the sentry in front of his box still standing "at the ready" with the bayonet fixed and facing the entrance and so in through the great gate and out into the friendly street where a large crowd now awaited our return.⁷²

⁷⁰ Barton's account of the receiving of Childers' remains, 28 October 1924 (T.C.D. Archives, Barton papers, Ms. 7834/6).

⁷¹ Ibid.

⁷² Ibid.

This was indicative of the returning of the remains from military installations throughout the country and the majority of events occurred without major incident. In addition to the above example, the removal of the remains from Kilmainham Jail passed without problems. According to a report from Sergeant Jeremiah Tangney of the Dublin Metropolitan Police (D.M.P.) to Superintendent A. Lawler this removal saw roughly ‘150 men and women marched in military formation, and proceeded by Island Bridge Road, Old Kilmainham, James’ Street, en route to Hardwicke Hall. The police paid attention and no incident arose.’⁷³ The *Kerry News* described the harrowing scenes during the returning of the remains of the seven Irregulars executed in Tralee during the Civil War. According to this article:

The remains of James McEnery [...] Edward Greaney [...] James Hanlon [...] Reginald Stenning [...] Jack Clifford [...] Michael Brosnan [...] and James Daly [...] the seven Republicans who were executed in Tralee jail by order of the Free State Government, were handed over to their relatives yesterday [...] Shortly after one o’clock hundreds of people began to gather outside the jail gates. The relatives and dearest friends of the dead soldiers gathered nearest to the closed and guarded entrance; and the heartrendering cries of the grief stricken ones, as they waited the conclusion of the operations within the prison.⁷⁴

Some minor incidents did inevitably occur. For example, several Irregulars were arrested at the Costume barracks, Athlone, County Westmeath when they caused a disturbance during the receiving of the remains interred there. T. Killeen, from the office of the Director of Intelligence, wrote to the Chief of Staff, on 30 October 1924, and reported that a party of twenty four Irregulars marched in military formation to the main gate of the barracks. They were subsequently halted upon arrival. It further stated that Bernard Mulvihill from Coosan, Athlone, was in charge. He was subsequently arrested for illegal drilling. Following his arrest another man

⁷³ A report from Sergeant Tangney of 10 A Division D.M.P. to the Superintendent A. Lawler regarding the removal of six men from Kilmainham Goal, 29 October 1924 (N.A.I., Department of Justice files, D/J H 197/45).

⁷⁴ *Kerry News* (29 Oct. 1924).

took charge of the party but he was also detained. Five arrests were ultimately made. The remains were then taken to their respective destinations. In the case of those men native to the district their remains were taken to Athlone's town hall. Conversely, non-natives were transported to the local railway station.⁷⁵ The report concluded by stating:

The demonstration at the removal of the remains consisted of about 500 people, a good many of whom were simply lookers-on. The general public took no interest in the proceedings. The crowd, small as it was, was very disorderly, and a large proportion of the Irregular element in attendance was under the influence of drink. It may be said that the condition of the Irregulars and their disorderly behaviour were anything but a mark of respect to the dead which was evidently their intention.⁷⁶

The remains of both Luke Burke and Michael Greery, two civilians executed in Mullingar on 13 March 1923, were also returned shortly after noon on 24 October. As Burke was a native of Keady, County Armagh, his remains were subsequently transported north. An hour after Burke's remains were taken Greery's confined remains emerged and were covered in a tricolour and followed by a significant procession to his final resting place where Dr. Conor Byrne, a Republican T.D. for Longford-Westmeath, gave the funeral oration.⁷⁷ This is interesting. Neither of these men were associated with the Irregulars yet following the release of Greery's remains the tri-colour was draped over his coffin as if to initiate a republican burial. The anti-treatyites were therefore attempting to use the occasion of this man's reinterment for their own benefit. Surprising considering that he is then omitted from any republican roll of honour. Nonetheless, despite some small disturbances, such as the one in Athlone, the relatives of the executed men were finally in possession of their remains. Once the bodies were received,

⁷⁵ Report from the T. Killeen from the office of the Director of Intelligence to the Chief of Staff regarding an incident in Costume barracks, Athlone, 30 October 1924 (N.A.I., Department of an Taoiseach files, D/T S 1884).

⁷⁶ Ibid.

⁷⁷ *Westmeath Examiner* (1 Nov. 1924).

funeral arrangements were made and carefully planned in order to derive every possible propaganda benefit from the events. It was announced in the *Irish Times* that the majority of the bodies of the men executed in Dublin were:

transferred last night from Hardwicke Hall, Hardwicke street, to the Carmelite Friary, Whitefriar street, Dublin. They were conveyed in hearses, and passed in the following order:- Rory O'Connor, Liam Mellows, Richard Barrett, J. Gaffney, P. Cassidy, J. Fisher, R. Twohig, T. Brady, [L] Dowling, S. Heaney, L. Sheehy and A. O'Reilly. There was a wreath on every coffin. Behind the hearses marched a large cortege, in the midst of which were the relatives of the executed men, in cabs, and three bands. The procession included contingents from various Sinn Fein Clubs, the Cumann na mBan, Fianna Scouts, and Girl Scouts, and was accompanied by Miss Mary MacSwiney, Madame Markievicz, Mr. Dan Breen T.D.; Mr. Charles Murphy T.D.; Mr. Art O'Connor, and Mr. P. O'Donnell, T.D. It set out at 8 o'clock, and went through the heart of the city, passing large crowds of onlookers all along the route.⁷⁸

Childers' body remained in Hardwicke Hall until the day of the funeral, 30 October 1924. Several of the remains were repatriated back to their own individual localities. The bodies of Joseph McKelvey, Leo Dowling and Sylvester Heaney were transported by train to Belfast City, County Antrim, Kildare town, County Kildare and Dunleer, County Louth, respectively. McKelvey's remains were transported to Amiens Street railway station accompanied by a guard of honour with a procession which included the Fianna Boy Scouts and members of Cumann na mBán.⁷⁹

Due to the nature of these reinterments Cosgrave decided that they would be supervised by National troops. He stated that when these burials were taking place 'Special precautions are to be taken that arms will not be carried by [anti-treatyite] Body Guards on the Street, and that no

⁷⁸ *Irish Times* (30 Oct. 1924).

⁷⁹ *Ibid.*

Firing Parties will be allowed.⁸⁰ When outlining the efficacy of using armed troops to oversee the reinterments Cosgrave stated:

It is obvious that a demonstration of armed men, not under the control of the State, but in opposition to the State, cannot be permitted, and every effort will be taken in the present and in the future to prevent any such armed displays. Persons taking part in them do so at their own risk.⁸¹

The decision to place National troops at the reinterments meant that there would be two adversarial sets of forces, some with arms, in close proximity attending already volatile events which were filled with animosity and grief. This proved to be a recipe for disaster. As Dublin witnessed the highest number of executions, totaling eighteen, it proved to be the main location for the reinterments. Even though several sets of remains were repatriated throughout the country a significant number were kept in Dublin to be buried in the Republican plot in Glasnevin Cemetery, on 30 October 1924. According to the *Irish Times*, the procession which followed the transferal of the bodies from Whitefriar Church to Glasnevin Cemetery was ‘one of the largest seen in the city for some time.’⁸² It further stated that the hearses carrying the remains were followed by relatives ‘in a long line of mourning coaches and taxi-cabs, and the rear was brought up by many thousands of marching men and women. Although rain fell heavily large crowds assembled in the streets.’⁸³ Once the funeral procession arrived at the aforementioned cemetery and the ceremony began the inevitable occurred.

⁸⁰ Order from Cosgrave regarding military procedure at the reinterments, 30 October 1924 (N.A.I., Department of an Taoiseach files, D/T S 1884).

⁸¹ Dáil Debates, *Ceisteanna – Questions. Oral answers. – Searches at Dundalk*, volume 9, cols 752-753 (5 November 1924).

⁸² *Irish Times* (31 Oct. 1924).

⁸³ *Ibid.*

According to a report from the Adjutant Dublin No. 1 Brigade the ‘Glasnevin incident’ as it became known witnessed:

About an hour before the Funeral [procession] arrived a Party of Free State Troops consisting of about 50 men accompanied by about 20 C.I.D. [Criminal Investigation Department] men entered the Graveyard. The F.S. [Free State] military remained at the F.S. plot but the C.I.D. went straight to the Republican Plot [...] The Superintendent of the Graveyard was informed that they [The C.I.D. and Free State troops] were present to see that the F.S. plot was not interfered with. Immediately [after] our Firing Squad had fired the third volley a party of C.I.D. men rushed at them and the [Free State] military doubled to the scene. Whether through ignorance or otherwise no attempt was made by the military to surround the crowd or to hold the exit gate, consequently the men of the Firing Squad got away.⁸⁴

The event was reported in the *Irish Times* the following day, 31 October 1924. In an article entitled: ‘The Republican Funerals. Exciting Graveyard Scenes. Searches by Troops.’ it was stated that National troops arrived at the cemetery around 4 o’clock in tenders and took up position on the boundary wall in sight of the Republican plot. The remains of the executed men were received by Father Fitzgibbon and P. J. Rutledge gave the graveside oration as the last two coffins, those of O’Connor and Childers, were being lowered. When Rutledge had concluded the ‘Last Post’ was sounded and six young men all in possession of revolvers drew them and fired into the air. Before the second volley was sounded a woman on the outskirts of the crowd shouted that the soldiers were approaching.⁸⁵ According to the article:

The soldiers approached with fixed bayonets, but the majority of the people remained where they were. Some of the women hurled epithets at the soldiers, who quickly surrounded the men standing about the graves. They searched many of them but so far as could be learned no arms were found, and apparently the

⁸⁴ Report from Adjutant Dublin No. 1 Brigade to the Adjutant-General concerning the Glasnevin Incident, 26 November 1924 (U.C.D. Archives, Twomey papers, P69/140 (26-30)).

⁸⁵ *Irish Times* (31 Oct. 1924).

men who had fired had succeeded in getting away in the first rush [...] When the soldiers were leaving the graveyard they were subjected to abuse.⁸⁶

Ultimately, several of the executed Irregulars were laid to rest in the Republican plot. These include, amongst others, Richard Twohig, Peter Cassidy, James Fisher, John Gaffney, Patrick Farrelly, Erskine Childers, John Murphy, Joseph Spooner, Rory O'Connor, and James O'Rourke.⁸⁷

A similar event occurred in Dundalk, County Louth, during the reinterment the men executed there in January 1923. According to a report from Commandant P. King, the Eastern Command Adjutant, to the Chief of Staff a large altercation occurred between Free State and anti-treatyite supporters in St. Patrick's Cemetery, Dowdallshill, Dundalk, County Louth on 30 October 1924. The report stated that sixteen Free State officers, some dressed in civilian clothing, and thirty-four men armed with revolvers and rifles surrounded the cemetery and grave to prevent the admittance of parties of Irregulars. It further declared that:

The Funeral cortege arrived at the Grave Yard about 3.30 p.m. and after the necessary ceremonies had been conducted four men and four girls were noticed along the sides of the graves. Immediately the sound of revolvers being discharged was heard, the Officers in Mufti made a rush and secured two men named Ivor Monaghan and James Goodfellow, with revolvers in their hands. Another revolver was picked up on the ground. A hand grenade and some revolver shots were fired by civilians in the crowd at the party of troops in the Grave Yard. The Troops fired a number of shots in the air.⁸⁸

The *Dundalk Democrat* published an article, on 1 November, entitled: 'Gunfire! Extraordinary Graveyard Scenes in Dundalk' which stated that:

⁸⁶ Ibid.

⁸⁷ See Appendix 9.

⁸⁸ Report of an incident that in Dundalk at the reinterment of executed Irregulars, 1 November 1924 (N.A.I., Department of an Taoiseach files, D/T S 1369/5).

When the coffins had been laid in the graves six young men proceeded to fire three volleys from revolvers. [Free State] Military, who were on duty inside and outside the cemetery, rushed in with fixed bayonets towards the men [...] Hundreds of shots were exchanged between the soldiers and the armed civilians.⁸⁹

Both of the arrested men were tried in early November. The Judge was prepared to give the men the benefit of the First Offenders Act if they gave sureties of good behaviour for twelve months. However, both men refused to give such guarantees. The Judge sentenced them to one month without hard labour. He finished by saying 'I am sorry to do it but I have to do it.'⁹⁰

The sentence was seen as lenient by both the Director of Intelligence and the Commissioner of an Garda Síochána. The former sent a letter to the latter in which he vented his frustration. Following receipt of this letter the Commissioner then forwarded the original letter to O'Higgins in the Department of Home Affairs on 7 November. In this letter the Director of Intelligence argued:

It is absolutely useless arresting Irregulars for being in possession of arms unless they get at least twelve months with hard labour. Sentences, such as the one imposed in Dundalk and in other places recently, will only make these persons anxious to get arrested so that they will be popular heroes when they get out, as used to occur about 1919.⁹¹

The Commissioner added his own thoughts which were just as scornful. He believed that both Goodfellow and Monaghan should have been dealt with firmly. He was of the opinion that if the defendants had been arrested during the Civil War they would certainly have been executed.

I make no comment on the matter myself, beyond saying that the two defendants deserved no consideration, apart altogether from the case under discussion. If

⁸⁹ *Dundalk Democrat* (1 Nov. 1924).

⁹⁰ *Ibid.*

⁹¹ A letter from the Commissioner of an Garda Síochána to the Department of Home Affairs regarding the Dundalk Incident, 7 November 1924 (N.A.I., Department of Justice files, D/J H197/45).

arrested during the period their activities had full scope, and they were much sought, they would certainly have been executed.⁹²

The presence of National troops at the reinterments also elicited public condemnation. This is evidenced by a letter received by O'Higgins from Joseph Dolan, a family grocer from Ardee, County Louth. Dolan claimed that the incidents that occurred in various cemeteries throughout Ireland would give the anti-treatyites and 'all the crowd of childish wretches securities and better propaganda material than they could themselves plan or desire.'⁹³ He claimed that the anti-treatyite movement was dying out and that events such as these would not only 'win them sympathy from hitherto supporters of the Govt. [but] will [also] embitter their followers and revive all the dying hostility of their rank and file.'⁹⁴ Dolan supported the executions policy. However, he seemed perplexed on the issue of returning the remains. He stated it 'was quite right to execute these prisoners, but why were not their bodies given back the day of their deaths and this gesture of kindness would have killed half the antagonism that keeps burning still.'⁹⁵ He summed up by stating 'when they were being returned now, why were not their friends and die-hard boy adherents let bury them as they liked. What harm did their childish revolver firing do? Was not the presence of Military in the graveyard altogether offensive and unnecessary[?]'⁹⁶ In response to this letter O'Higgins wrote:

The Government can scarcely be expected to tacitly accept the idea of two armies in the country. Further the Dail, having passed an Act regulating the possession and use of firearms, cannot afford to allow that Act to become a dead letter and to be openly flouted. If military funerals and volleys over graves were to be permitted how long would it be before we should have an irregular army

⁹² Ibid.

⁹³ Letter from Joseph Dolan to O'Higgins regarding the Dundalk Affair, 1 November 1924 (N.A.I., Department of an Taoiseach files, D/T S 1884).

⁹⁴ Ibid.

⁹⁵ Ibid.

⁹⁶ Ibid.

marching with arms and in military formation through the country? The Dundalk affair does not seem to have been well-handled and it appears to me that military action should have taken the form of prevention at an earlier stage rather than intervention when the offence had actually happened.⁹⁷

O'Higgins assertion that the incident in Dundalk was mishandled was an understatement. Due to the altercation in Dundalk on 30 October one man, Joseph Hughes, was seriously hurt and died from his injuries the following day. According to Commandant King, 'one man named Hughes was wounded. It is not known how he was wounded, but the description of the wound would resemble a splinter from a hand grenade.'⁹⁸ According to correspondence between the Superintendent, John Farrell, and the Garda Commissioner, Hughes died on 1 November 1924 at 3 a.m. after suddenly lapsing into unconsciousness around midnight. The Superintendent also stated that:

Hughes 'did not belong to any political organisation, and was on the occasion of his getting wounded in St. Patrick's Cemetery there as an ordinary spectator. It is obvious from the [Inquiry] proceedings [...] that the Republican party are endeavouring to use this young man as a "pawn" purely for propaganda purposes.'⁹⁹

His parents, according to Anne Dolan, were quite averse to efforts by republicans to organise his funeral. They wanted to bury their son in private, without politics and party lines.¹⁰⁰ Hughes was buried, according to Superintendent Farrell, in:

Castletown Cemetery on Monday, and it is rumoured [...] that the Republican party will endeavour to represent to the public that he belonged to their organisation and give him a public funeral. I am reliably informed that his

⁹⁷ Ibid, reply on 3 November 1924.

⁹⁸ Confidential letter from Commandant P. King, Eastern Command, to Chief of Staff regarding the Dundalk Affair, 1 November 1924 (N.A.I., Department of an Taoiseach files, D/T S 1884).

⁹⁹ Letter from the Superintendent John Farrell to the Garda Commissioner regarding the death of Joseph Hughes, 1 November 1924 (N.A.I., Department of Justice files, D/J H 197/45).

¹⁰⁰ Dolan, *Commemorating the Irish Civil War*, p. 134.

relatives are adverse to this procedure, so possibly there may be some trouble here over this matter.¹⁰¹

The death of an innocent spectator raised serious questions in the Dáil. One T.D. from Clare and member of the Farmer's Party, Mr. Conor Hogan, questioned Cosgrave on whether or not civilians were given adequate notice of the inherent risks in attending these reinterments due to the presence of armed troops. Cosgrave responded if 'they give us warning that they are going to use these arms at these demonstrations, we will give the necessary warning afterwards.'¹⁰² Mr. Hogan pressed Cosgrave to comment on death of Hughes, however, the former evaded this awkward issue stating:

The facts as to the incidents referred to are being inquired into. The investigation has been delayed on account of the holding of an inquest in connection with a death resulting from the incidents. Pending the receipt of the military report I am not in a position to make any statement, but I will communicate with the Deputy on the matter as soon as possible.¹⁰³

Despite Cosgrave's political posturing and the fact that a man had lost his life in the Dundalk affair the remains of the men executed during the Irish Civil War were finally buried by their families and friends in a ceremonious manner in several cemeteries throughout the country.

The cessation of hostilities in May 1923 did not mean an end to the controversy and dispute over the causes of the Irish Civil War and the manner in which it was fought. Even though the country faced numerous problems following the conclusion of the conflict the Cumann na nGaedheal Government was determined to work the Anglo-Irish Treaty over which

¹⁰¹ Letter from the Superintendent John Farrell to the Garda Commissioner regarding the death of Joseph Hughes, 1 November 1924 (N.A.I., Department of Justice files, D/J H 197/45).

¹⁰² Dáil Debates, *Ceisteanna – Questions. Oral answers. – Searches at Dundalk*, volume 9, col. 753 (5 November 1924).

¹⁰³ *Ibid*, col. 752.

the War was fought. As evidence suggests it enacted several contentious post-war policies to aid the return of settled conditions to the country. It has been established, however, that it was the Government's decision to demobilise a significant portion of its armed forces, in September 1923, which caused significant controversy in the immediate aftermath of the Civil War. Two main consequences of this process aggravated both pro- and anti- treatyites alike. Firstly, it caused discontent with the Army and resulted in a mutiny in March 1924. Secondly, it forced the Government to release the remains of the executed men for reinterment in October 1924 following several weeks of both public and political condemnation. Inevitably, numerous clashes occurred at these ceremonies and one man, Joseph Hughes, lost his life. Despite this the fact that these reinterments occurred at all is worth noting as reinterments associated with other, less divisive, conflicts did not occur for nearly eighty years. For instance, the 'Forgotten Ten', i.e. the men executed in Mountjoy Jail by the British during the Irish War of Independence, were not reinterred until 2001.¹⁰⁴ Even though contemporary conditions influenced the prompt reinterment of the men executed during the Civil War it is important that it occurred as promptly as it did. It removed one of the obstacles to post-war reconciliation. The latter stages of 1924 also saw the introduction of a general amnesty as the Government decided that it was not in the best interest of the State to enact any further criminal proceedings for crimes committed during the Civil War.¹⁰⁵ By the summer of that year the vast majority of the remaining Irregular internees, including de Valera, were released and only those with criminal convictions were retained in prison.¹⁰⁶ Yet the most important thing for the families of the executed men, at least, was that they finally got the chance to bury them in a manner which befitted those that had fought and died for Ireland.

¹⁰⁴ Documentary on 'The Forgotten Ten' entitled *An Deichniúr Dearmadta*, in TG4 documentary (28 March 2002).

¹⁰⁵ Civil War amnesty resolution, 4 November 1924 (N.A.I., Department of an Taoiseach files, D/T S 4120).

¹⁰⁶ Hopkinson, *Green against green*, p. 271.

Table 1

Captain Stafford's work schedule was as follows:

<u>Location</u>	<u>Date</u>
Kehoe Barracks	Night of 17th & 18th July '24
Wexford Prison	25th & 26th July '24
Rosess' Castle, Birr	30th & 31st July - August 1st
Tuam Military Barracks	5 th , 6 th & 7 th August 1924
Drumboe Castle	25 th , 26 th , 27 th , & 28 th Aug. 1924
Beggars Bush Barracks	15 th September, 1924
Mountjoy Prison	18 th September, 1924
Kilmainham Prison	25 th September, 1924
Carlow Barracks	29 th September, 1924
Kilkenny Barracks	7 th October, 1924
Mullingar Barracks	13 th October, 1924
Southern Command including: Cork Prison, Waterford Home Barracks, Roscrea Castle Barracks, Ennis, Limerick & Tralee Prisons	14 th October to 24 th inclusive
Arbour Hill Barracks	October 25 th , 1924

Captain Kearns' work schedule was as follows:

<u>Location</u>	<u>Date</u>
Prison and Barracks, Dundalk	October 15 th , 16 th , and 17 th 1924
Curragh Camp	October 18 th , 1924
Carlow Barracks	October 20 th , 1924
Maryboro' Barracks	October 21 st , 1924
Athlone Barracks	October 23 rd , & 24 th , 1924.

Source: Letter from Captain Stafford to Assistant Adjutant General regarding payment for exhumation duties, 13 November 1924 (N.A.I., in Department of Finance files, FIN s004/0215/24).

CONCLUSION

The Irish Civil War and the methods by which the conflict was fought had a significant impact on post-war Ireland. The bitterness engendered by the official and unofficial actions performed by both sides during the Civil War ensured that prompt reconciliation was unlikely. The fact that the War did not end in a compromise or a comprehensive victory ensured that political reunification was improbable. This remains the case. Both main political parties in Ireland, Fianna Fáil and Fine Gael, owe their origins to the divide that the Treaty created and both the Civil War and executions policy solidified. The former party was established in 1926 by Eamon de Valera and the anti-treatyite Sinn Féin T.D.s who wished to enter the Dáil. The latter was a coalition established on 8 September 1933. It consisted of the Cumann na nGaedheal Party, Eoin O'Duffy's Blueshirts, so-called due to their attire, and National Centre Party.¹ This is the most evident and enduring consequence of the Civil War. But it was certainly not the only one as the acrimonious atmosphere generated by the conflict did not simply evaporate in May 1923.

Following the conclusion of the Civil War the Government and the Army still possessed the remains of the eighty-one executed men. The reinterments, in October 1924, provided the first real stage for the anti-treatyites to further demonstrate their contempt for the Government and the Treaty. It has been established that these reinterments occurred not out of any desire from Cumann na nGaedheal to heal civil war wounds but because of the considerable public and political pressure placed on the Government following their mishandling of the remains during

¹ For the establishment of Fianna Fáil see Diarmaid Ferriter, *The transformation of Ireland 1900 – 2000* (London, 2005), p. 309, for the establishment of Fine Gael see Tim Pat Coogan, *De Valera, long fellow, long shadow* (London, 1993), p. 470.

the demobilisation process. The reinterments resulted in sizeable republican demonstrations in several parts of the country as remains were received, streets were lined in support and cemeteries were filled to finally bury their loved ones, friends and comrades. However, as previously mentioned, several of these events were marred by armed clashes. Ultimately one man, Joseph Hughes an innocent spectator from Dundalk, County Louth, lost his life in one such skirmish. This was not the only way in which the Civil War and the executions policy continued to affect post-war Ireland. Members of the Cumann na nGaedheal hierarchy, such as Richard Mulcahy and Kevin O'Higgins, never managed to purge themselves of culpability for the executions. This was to have major consequences for both men in the years following the Civil War.

An unarmed and unprotected O'Higgins was assassinated near his home whilst on his way to mass in Booterstown, County Dublin on 10 July 1927.² Three I.R.A. men Archie Doyle, Bill Gannon and Tim Coughlan came upon the Minister by chance and shot him several times.³ O'Higgins was loathed by the anti-treatyite militants for his role during the Civil War.⁴ Furthermore he had, on several subsequent occasions, reiterated, what he believed to be, the necessity for his and the Government's actions during the War. For example, he stated at an election rally in Sligo in January 1925 that 'I stand over those seventy-seven executions and over seven hundred and seventy-seven more if they become necessary.'⁵ In this instance, O'Higgins was trying to reiterate his, and Cumann na nGaedheal's, ability to govern the country by taking stern action against, what he argued was, a national threat. According to O'Higgins' wife Brigid, he remained resolute, yet forgiving, until his death. He stated that my 'hour has come and my

² Eunan O'Halpin, *Defending Ireland, the Irish state and its enemies since 1922* (Oxford, 1999), p. 67.

³ Conor Foley, *Legion of the rearguard: the IRA and the modern Irish State* (London, 1992), p. 66.

⁴ Ibid.

⁵ *Irish Times* (19 Jan. 1925).

work is done [...] May God forgive those who did this thing to me. [...] You must hold no bitterness in your heart against them.’⁶ Remarkably, Mrs. O’Higgins received a letter of condolence from Rory O’Connor’s sister, Eily. She wrote: ‘Dear Mrs. O’Higgins, Words are of little avail in times of grief – but I would like to offer you from myself & the whole family our most heartfelt sympathy. May God console you as he alone can. I remain very sincerely, Eily O’Connor.’⁷ The O’Connor and O’Higgins families were close friends and the fact that Kevin was the best man at Rory’s wedding made the decision to sanction his execution in Mountjoy Jail, in December 1922, even more difficult for O’Higgins. Given the circumstances the sympathy shown by Eily O’Connor is worth noting.

President Cosgrave quickly introduced the Electoral (Amendment) (No. 2) Bill to the Dáil, on 20 July 1927, after O’Higgins’ death. The legislation required electoral candidates ‘to make before nomination a declaration on oath of intention to take their seats therein and to take the oath [of allegiance] required by Article 17 of the Constitution’.⁸ The provision ensured that every elected T.D. was obliged to take the Oath or forfeit their seat. De Valera subsequently altered his abstentionist position and finally took the Oath, ironically declaring it an ‘empty formula’, and entered Dáil Éireann with his anti-treatyite T.D.s on 11 August.⁹ The Oath had not been so insignificant for de Valera five years previously. This would not be the only time that de Valera altered his position concerning policy that he vehemently opposed during the Civil War. Fianna Fáil went from strength to strength after they entered the Dáil eventually taking power on 9 March 1932. The transfer of power from the victors of the Civil War to the vanquished proved

⁶ O’Higgins’ final words, 1947 (U.C.D. Archives, O’Higgins Papers, P197/225).

⁷ Condolence card from Eily O’Connor to Mrs. O’Higgins, 13 July 1927 (U.C.D. Archives, O’Higgins papers, P197/126).

⁸ Dáil Debates, *Public Business – Electoral (Amendment) (No. 2) Bill, 1927 – First Stage*, volume 20, col. 809 (20 July 1927).

⁹ Diarmaid Ferriter, *Judging De V, a reassessment of the life and legacy of Eamon de Valera* (Dublin, 2007), p. 103.

to be one of the undeniable achievements of the emerging Irish democracy.¹⁰ However, two days before Cumann na nGaedheal were due to leave Office the Minister for Defence, Desmond FitzGerald, discreetly ordered his secretary to destroy all material relating to the Civil War executions lest it fall into the hands of Fianna Fáil. This previously unreported order was given as FitzGerald believed that the:

Proceedings of Military Courts, including Committee of Officers. Reports on and details of Executions 1922 – 1923 period [...] contain information which may lead – if disclosed to unauthorised persons – to loss of life, you are hereby ordered to destroy same by fire.¹¹

This is significant. It was an acknowledgment by the Government that material pertaining to the Civil War executions policy was, even after ten years, still highly sensitive. This previously undiscovered order, more than any other, affected this thesis as it ensured that a substantial quantity of primary information pertaining to the Irish Civil War executions was destroyed in 1932.

Mulcahy's close association with the Civil War executions had major ramifications on his political career. In 1948 the Irish electorate voted for change after sixteen years of Fianna Fáil governance. Despite winning sixty-eight seats and remaining the largest party they were toppled by a coalition formed between Fine Gael, Clann na Poblachta, Clann na Talmhan, Labour, and several Independents.¹² Clann na Poblachta was established on 6 July 1946 in Barry's Hotel, Dublin, by former I.R.A. Chief of Staff and barrister Seán MacBride.¹³ It appealed to republicans that had become disillusioned with violence. Mulcahy, having become the leader of Fine Gael in

¹⁰ John M. Regan, *The Irish counter-revolution 1921-1936, treatyite politics and settlement in independent Ireland* (Dublin, 2001), p. 279.

¹¹ Secret order from the Minister for Defence Desmond FitzGerald to his secretary, 7 March 1932 (U.C.D. Archives, Andrews papers, P91/86 (20)), for full order see *Appendix 4*.

¹² Moody, T. W., Martin, F. X., (eds.), *The course of Irish history* (Cork, 1994), p. 331.

¹³ Elizabeth Keane, *Seán MacBride, a life* (Dublin, 2007), p. 73.

1943 following Cosgrave's departure, was the presumed choice for Taoiseach. However MacBride, a former anti-treatyite who was imprisoned by the Free State Government on several occasions and a man that had a history of defending I.R.A. men against execution during the Second World War, would not form a coalition under the premiership of a man with such clear ties to the Civil War executions policy. According to Elizabeth Keane, 'MacBride could not agree to Mulcahy's becoming Taoiseach, as Mulcahy had been commander of the Free State forces during the Civil War and had once signed an internment order for MacBride.'¹⁴ It must be emphasised, however, the fact that Mulcahy and MacBride could serve in the same government having being on opposite sides during a bitter civil war indicated that tensions had abated, to some degree, by 1948. It was also indicative of an avid desire to stop de Valera and Fianna Fáil from forming another government. A compromise candidate was chosen to become the head of the first Inter-Party Government, John A. Costello. He was a staff member in the office of the Attorney-General during the Civil War. Costello had become the Attorney-General and was also a Cumann na nGaedheal T.D.¹⁵ The legacy bequeathed to Ireland by the Civil War and the executions policy did not just affect the Irish political landscape or result in the destruction of highly sensitive historical material. The executions that occurred under Cumann na nGaedheal had set a notorious precedent. Remarkably, given his stance during the Civil War, this was a pattern repeated by de Valera and Fianna Fáil during the Second World War.

Initially, de Valera decided to placate the I.R.A when he came to power in 1932. However, they continued to be a menace to society with their open drilling and several political

¹⁴ Ibid, p. 91.

¹⁵ Dermot Keogh, *Twentieth-Century Ireland, nation and state* (Dublin, 1994), pp 185-186.

murders throughout the 1930s.¹⁶ He finally proscribed the organisation in June 1936.¹⁷ Furthermore, he enacted the Emergency Powers (Amendment) (No. 2) Act on 5 January 1940 in response to events undertaken by the I.R.A. For example, the Coventry bombing on 23 August 1939 and the Phoenix Park magazine raid on 23 December 1939.¹⁸ Following the advent of the Second World War, known as the ‘Emergency’ in Ireland, he decided to crack-down on the republican dissidents. Ireland remained neutral during the War. De Valera and his administration ultimately executed six I.R.A. men, allowed several others to die on hunger strike and interned over five hundred men without trial during the Second World War.¹⁹ Firstly, Patrick McGrath and Francis Harte were found guilty of the murder of Richard Hyland, of the Garda Special Branch, during a raid on 98a Rathgar Road, County Dublin. They were sentenced to death by shooting on 20 August 1940.²⁰ The sentence was carried out in Mountjoy Jail at 6.45 a.m. on 6 September. Richard Goss was charged with shooting at military officers and police with the intent of resisting arrest on 18 July 1941. Convicted on 1 August 1941, he was executed on 9 August 1941.²¹ George Plant was charged with the murder of Michael Devereaux on 27 September 1940. He was convicted and executed on 25 February 1942 and 5 March 1942, respectively.²² Maurice O’Neill was arrested for shooting at Gardaí with the intention of resisting arrest on 24 October 1942. The incident resulted in the death of Detective Mordant. He was convicted on 5 November and put to death on 12 November 1942. Finally, Charlie Kerins was

¹⁶ For information on the I.R.A.’s political killings during the 1930s see Keogh, *Twentieth-Century Ireland*, pp 78-79.

¹⁷ R. F. Foster, *Modern Ireland, 1600-1972* (London, 1989), p. 547.

¹⁸ For information pertaining to the Coventry bombing see Coogan, *De Valera*, p. 523, for information pertaining to the Phoenix Park magazine raid see Departmental notes on events concerning subversive organisations from 1931-1940, 29 January 1941 (U.C.D. Archives, MacEntee papers, P67/534 (pp77-78)).

¹⁹ Keogh, *Twentieth-Century Ireland*, p. 110.

²⁰ Departmental notes on events concerning subversive organisations from 1931-1940, 29 January 1941 (U.C.D. Archives, MacEntee papers, P67/534 (pp 86G-86H)).

²¹ Confidential notes on I.R.A. activities 1941-1947, undated (U.C.D. Archives, MacEntee papers, P67/550 (p. 141)).

²² *Ibid.*

hanged on 1 December 1944 having been convicted, on 9 October, of killing of Sergeant Denny O'Brien. O'Brien had commanded the raid in which McGrath and Harte were captured on 9 September 1942.²³ With these actions, as Lyons argues, 'the wheel came full circle and the logic of the Civil War was worked out to its own grim conclusion. The men who had upheld the revolution against the state now upheld the state against the men who still believed that revolution was a sacred duty.'²⁴ Coogan also argues as de Valera had adopted emergency measures, filled internment camps and executed I.R.A. prisoners 'The mantle, or nemesis, of the civil war executioners had finally descended on to the shoulders of Eamon de Valera.'²⁵ That said Ireland's neutrality possessed a positive side. Despite the fact that neutrality damaged an already stagnant economy the policy commanded over-whelming public and political support. It also gave the country a sense of confidence and common dedication to a national purpose. This did a great deal to mollify civil war divisions.²⁶

De Valera finally stepped down in 1959, thirty-six years after the conclusion of the Irish Civil War.²⁷ When he left office he handed the reins of power to Seán Lemass. Lemass, himself a veteran of the Civil War, ironically presided over a generational transition in Irish politics and society. According to Garvin, Lemass:

had the good fortune to come to power at a time coincident with a general wave of opinion that looked for sweeping changes in Irish government policy and Irish society [...] a generational change was occurring, as people who did not remember the revolution or its passions took over from the older people.²⁸

²³ Ibid, see also Seosamh Ó Longaigh, *Emergency law in independent Ireland, 1922-1948* (Dublin, 2006), p. 261.

²⁴ F. S. L. Lyons, *Ireland since the Famine* (Suffolk, 1982), p. 535.

²⁵ Coogan, *De Valera*, p. 525.

²⁶ John A. Murphy, *Ireland in the Twentieth Century* (Dublin, 1975), p. 107.

²⁷ J. J. Lee, *Ireland 1912-1985 politics and society* (Cambridge, 1989), p. 331.

²⁸ Tom Garvin, *Judging Lemass, the measure of the man* (Dublin, 2009), p. 208.

Lemass was relentless in removing de Valera's old and increasingly gerontocratic power group, all of which were appointed due to their roles in the revolution forty years previously, siding with young progressive men instead of the 'boys of the old brigade'.²⁹ After initiating this evolution Lemass finally retired in 1966 and Jack Lynch, former Minister for Finance, became leader of both Fianna Fáil and the country as an Taoiseach.

Lynch was a relative light-weight compared to previous Taoisigh. Born in 1917 he was an all-Ireland sportsman and arrived relatively late to politics when he was elected as T.D. for Cork Borough in 1948.³⁰ His premiership marked a natural watershed in Irish politics, one which had begun under the auspices of his predecessor. For the first time since 1922 the incumbent Taoiseach was not a veteran of the revolutionary period in Ireland. Several other stalwarts also departed over the coming years. Frank Aiken, for example, stepped down as Minister for Foreign Affairs and Tánaiste in 1969.³¹ Consequently, Irish politics was gradually transfused with new younger forward-looking politicians that were far less entrenched and untainted with the bitter politics of the Irish Civil War. Previously politicians tended to cultivate the Civil War legacy not only for political gain but also political identity. Lee states that 'as other distinguishing features between the main parties become more difficult to discern, only memory continued to divide them.'³² Due to the progress made in such areas as national sovereignty, the establishment of the Irish Republic in 1949 by Costello for example, the necessity for their successors to brandish these memories to promote the illusion of fundamental differences gradually disappeared.³³ Lynch's attainment of power occurred concurrently with the fiftieth anniversary of the 1916

²⁹ Ibid, pp 214-216.

³⁰ Keogh, *Twentieth-Century Ireland*, p. 184.

³¹ Ferriter, *The transformation of Ireland*, p. 620.

³² Lee, *Ireland 1912 – 1985*, p. 69.

³³ Foster, *Modern Ireland*, pp 573-574.

Easter Rising. The national celebrations, as Ferriter states, encapsulated a pride in the past and confidence in the future.³⁴

Fianna Fáil tended to lag behind Fine Gael on this matter. This was due to Fianna Fáil's relevant dominance in Irish politics with one man, de Valera, at its pinnacle for four decades. For instance, only twenty-two men held ministerial post in all of de Valera's administrations from 1932–1954.³⁵ Whereas Fine Gael/Cumann na nGaedheal, even though its hierarchy composed of revolutionary veterans such as Cosgrave and Mulcahy from 1923–1959, new younger men rose to prominence within the party. That said familial ties were important for political success in Ireland. For example, Liam Cosgrave and Garreth FitzGerald, being sons of W. T. Cosgrave and Desmond FitzGerald, both became Taoiseach in 1973 and 1981, respectively.³⁶ Additionally, Erskine Hamilton Childers, President of Ireland from 1973–1974, was the son of Erskine Childers.³⁷ Finally, Charles Haughey was Lemass' son-in-law and became Taoiseach on three separate occasions between the years 1979–1992.³⁸

Outside of politics efforts were also made by other veterans of the conflict who were determined to ensure that their hatred did not contaminate the mind-sets of their children. C. S. Andrews stated that:

I had the most disastrous bitterness [...] it was a motivation in my official life that we republicans could do it better than those [Free State] bastards. My wife who was as equally involved in the Civil War [...] she and I made every effort to keep that feeling away from our children and I think with great success.³⁹

³⁴ Ferriter, *The transformation of Ireland*, p. 563.

³⁵ Lee, *Ireland 1912 – 1985*, p. 337.

³⁶ For information on Liam Cosgrave see Keogh, *Twentieth-Century Ireland*, p. 321, for information on Garreth FitzGerald see *ibid*, p. 355.

³⁷ Lee, *Ireland 1912-1985*, p. 483.

³⁸ For information on Charles Haughey as Taoiseach in 1979 see Keogh, *Twentieth-Century Ireland*, p. 346, as Taoiseach in 1981 see *ibid*, p. 359, as Taoiseach in 1987 see *ibid*, p. 373.

³⁹ Interview with C. S. Andrews, RTÉ documentary, *Seven Ages* (2000).

That said old tensions did not disappear completely. For example, a straightforward debate over financial estimates in the Dáil in 1950 devolved into a contentious debate over the executions that occurred during the Civil War and the Second World War. Deputy Patrick McGrath, of Fianna Fáil, attempted to draw Deputy Con Lehane, of Clann na Poblachta, into an argument pertaining to the procedure for executions in Ireland. McGrath, in an attempt to stifle Lehane shouted across the floor ‘There were 77 executions.’⁴⁰ However, Lehane promptly responded referring to the fact that the British executioner, Albert Pierrepoint, was employed by the Fianna Fáil Government during the Second World War to hang Charlie Kerins. Following this taunt Lehane stated, ‘I am not going to allow myself to follow Deputy McGrath along the lines of that interjection. It would be easy for Deputies continually to hark back to events in the past. This country has a future.’⁴¹ Another example of this occurred, on 3 December 1958, during a debate on the abolition of the Proportional Representation (P.R.) system in Ireland. Deputy Frank Sherwin, an Independent T.D., attacked the Fianna Fáil party for employing, what he believed to be, callous tactics during their election campaigns. He accused Fainna Fáil of using inflammatory rhetoric, pertaining to the Civil War executions, in an effort to heighten emotions throughout the country and win votes. Sherwin stated that:

The difference between them [Fianna Fáil and Fine Gael] was the Civil War and it has been largely personal ever since. Each side, especially the Fianna Fáil side, largely depends on a certain blood lust which they continue to stir in the *Irish Press*, always going back to the executions with the intention of getting people to rally back to them.⁴²

⁴⁰ Dáil Debates, *Committee on Finance – Vote 29 – Office of the Minister for Justice*, volume 122, col. 1137 (7 July 1950).

⁴¹ Ibid.

⁴² Dáil Debates, *Third Amendment of the Constitution Bill, 1958 – Second Stage (Resumed)*, volume 171, col. 1544 (3 December 1958).

Finally, in 1996 a debate between an Taoiseach John Bruton of Fine Gael and future Taoiseach Bertie Ahern of Fianna Fáil over the eightieth anniversary of the Rising denigrated in to a heated debate over who were the true founders of the Irish State.⁴³ These instances, however, have proven to be exceptions rather than the rule. The resentment bequeathed by the Civil War and the executions policy, which must have seemed immortal in the immediate aftermath of the conflict, has naturally given way to progress.⁴⁴ That is not to say that the conflict and the executions have lost their significance. A nation cannot expect to move forward if it ignores a major part of its origins. Accordingly, what has been ascertained from this study of the executions policy employed by the pro-treatyites during the Irish Civil War?

The executions policy formed a central part of the Provisional/Free State Government's prosecution of the Irish Civil War. Yet, there was nothing new about emergency measures in Ireland. The British, as stated previously, executed a total of thirty combatants between the Rising and the War of Independence. The Civil War executions differed, however, as they were undertaken by the first independent Irish Government. It has been established in this study that the pro-treatyites implemented the emergency measures in a calculated and unyielding fashion. They ultimately executed eighty-one men in a little over six months, nearly three times the amount that the British put to death in over five years. It is also evident that this policy, introduced to hasten the end of the Civil War, did in fact achieve its objective. It must be emphasised, however, that it was not the only factor that contributed to the pro-treatyites' victory in May 1923. The Government benefited from the support of several important and influential parties: the public; the hierarchy of the Catholic Church and the British Government. The

⁴³ Dáil Debates, *Ceisteanna – Questions Oral Answers – National Commemorations*, volume 461, cols 416-423 (7 February 1996).

⁴⁴ Lyons, *Ireland since the Famine*, p. 587.

National Army, moreover, received finance and equipment from the British. Furthermore, after several successful recruitment drives the Army was also numerically superior to the Irregulars, despite the fact that many of these recruits were of a poor quality. The Irregulars' tactics, their defensive and uncoordinated prosecution of the conflict in particular, also contributed to their eventual defeat. The introduction of the Special Infantry Corps and the Land Bill, in February and May 1923, respectively, played a part in the Irregulars' demise. The formal introduction of the 1923 Land Bill into the Dáil, it has been argued, contributed to the decline in support for the Irregulars, particularly in the west of Ireland. Nonetheless, the pro-treatyites may well have won the Civil War without resorting to the execution of Irishmen and former comrades. Given that the executions policy imbued such an acrimonious legacy on post-war Ireland, one which would take decades to subside, whether or not a policy of this nature was ultimately justified is open to question. The pro-treatyites did not have the luxury of hindsight in 1922. The Irregulars posed a significant threat to the establishment of the Free State and victory in the Civil War was by no means a foregone conclusion for the pro-treatyites. In considering the effect that the adoption of guerrilla tactics by the Irregulars had on the conflict, it has been shown that it changed the face of this increasingly bitter war. It has been established that the killing of Collins shocked the Government and crystallised support for the adoption of emergency powers. The Government were now determined to meet 'terror with terror.'

The introduction of the Public Safety Resolution, on 28 September 1922, irrevocably altered the dynamic of the Irish Civil War. The resolution, adopted to tackle the Irregulars' guerrilla tactics, facilitated the executions and ensured that the conflict became a more bitter and divisive affair. Critics of this decree questioned its legality. The hypothesis that the resolution was unlawful was based on the supposition that the Provisional Government, as a transitional

institution, did not possess supreme legislative authority. Evidence suggests that there is some merit in this claim. Hugh Kennedy, Law Officer, acknowledged that the Government was not exactly on *terra firma* when it came to ratifying certain types of legislation. To circumvent this restriction Kennedy advised the Government to adopt resolutions when introducing emergency public safety measures. This important point is generally overlooked in existing academic works on the Civil War. It is assumed that this decree was a fully-fledged Act of Parliament, however, it was not.

Questions concerning the validity of this resolution, while interesting, need to be placed in context. The Provisional Government was the only credible administration in Ireland during the conflict, despite the claims of the anti-treatyites. As the Government of the country it had, in theory, the right to introduce emergency measures to defend itself and its citizens during a state of war. This point was acknowledged by Judge O'Connor M.R. in refusing Erskine Childers' *habeas corpus* plea. It must also be emphasised that the Government passed a retrospective Act of Indemnity in August 1923 to correct any irregularities. Ultimately, the Government implemented its emergency resolution regardless of its legality.

Controversy inevitably surrounded the initial executions. It has been argued that there was a connection between the executions of four men, on 17 November, and Childers' execution on 24 November 1922. It was claimed that the inaugural executions were a test case to gauge the possibility of executing members of the Irregulars' hierarchy. Furthermore, it was suggested that the executions on 17 November were devised to desensitise the country in preparation for Childers' execution. It has been established that a less controversial and more rational chain of events occurred. The initial executions were undoubtedly a test case. However, the first cases under any new policy are used to assess the practicality of that policy. Even though Childers was,

technically speaking, a leader this does not imply conspiracy. The vast majority of those executed during the conflict were ordinary soldiers and not members of the Irregulars' elite. It is evident that there was a relationship between both sets of executions, however, the link was not as questionable as was claimed. Furthermore, there is no evidence which suggests that the inaugural executions were designed to dampen the eventual criticism that the Government would receive following Childers' execution. The occurrence of five executions in one week rather than decrease condemnation actually fuelled it.

It has been demonstrated that the Public Safety Resolution was not devised solely for Childers. Those involved in proposing emergency measures, on 27 September, could not have known that Childers would be captured, armed with a gun, on 10 November. Moreover, it is highly improbable that the pro-treatyites would have executed eighty additional men to facilitate Childers' death. If the executions policy was meant purely for Childers then why did it not stop following his death? Critics also claimed that O'Higgins' referral to Childers on two separate occasions in the Dáil was proof that the pro-treatyites had a grudge against the prominent Irregular. Evidence indicates that the pro-treatyites, particularly O'Higgins and Griffith, did loathe Childers. However, these contemptuous opinions do not equate to pre-existing intent. The pro-treatyites seized an opportunity to issue a stern warning to all Irregulars when Childers was captured, tried and convicted. They did not put him to death for personal pleasure. According to FitzGerald's letters to Arthur, the decision to execute Childers was taken not out of vindictiveness but out of necessity.

Evidence indicates that there was no British involvement in Childers' execution. What is evident is that Churchill wanted to try Childers for treason. However, it must be emphasised that the Provisional Government did not need British permission to convict and execute this man

given that he was already guilty. It has been established that arguments concerning the manner and location of Childers' arrest are in fact irrelevant. Whether he was captured in his familial home or in an open engagement does not matter. Childers was a prominent and influential anti-treatyite. He was a member of an organisation that was engaged in military resistance against the Government. Controversy aside, Childers was armed when he was captured and under the terms of the Public Safety Resolution he was guilty.

December 1922 was an important month during the Irish Civil War particularly as it witnessed several of the most controversial incidents during the conflict. Following the adoption of the Public Safety Resolution and its subsequent implementation the Irregulars' Chief of Staff, Liam Lynch, reconsidered the practicality of reprisals against those who voted for the emergency measures. Subsequently, two pro-treatyite T.D.s Pádraic Ó Maille and Seán Hales were attacked on 7 December 1922, the latter being killed. Evidence suggests that Ó Maille was the intended target and Hales was shot by mistake. The fact that Hales did not vote on the September resolution may explain this. In considering the effect that this single event had on the landscape of the Civil War it has been demonstrated that Hales' assassination more than any other event, the death of Collins included, permanently transformed the character of the conflict. It resulted in four controversial executions and had a drastic impact on the Government's implementation of the executions policy.

As has been argued in preceding chapters Hales' assassination led to the extrajudicial execution of four Irregular prisoners in Mountjoy Jail on 8 December 1922. It has been argued that these four men were chosen to represent each province of Ireland yet Liam Mellows, chosen

to represent Connaught, was undoubtedly a Leinster man.⁴⁵ In reality, there are a myriad of plausible reasons which could explain why each of these men were chosen. Regan argues it was politically and militarily expedient for the pro-treatyites to execute some of their most intractable opponents. He also suggests that several of these particularly high ranking Irregulars had intricate knowledge of the secret joint northern policy undertaken during early 1922 by both Collins and O'Connor. Whereas Hopkinson states that some of these men were particularly despised by the pro-treatyite leadership due to their roles in the split in the I.R.A. Some theories are more credible than others. Nonetheless, the reason for their inclusion is of little significance compared to the actual executions. It has been shown that these four men could not avail of the offer of amnesty in October as they had been incarcerated for several months. Furthermore, they were executed without trial as a reprisal for an attack that they had no part in. This may seem like a disproportionate response, however, it needs to be placed in context. This was only one event of which there were many. The Mountjoy executions only resulted in the death of four men whereas a further sixty-nine men were put to death by the end of the Civil War. This response was indicative of a Government shocked to its core. They did not know if Hales' assassination would be an isolated incident. Evidence indicates that other Irregular attacks were set to continue. They responded in such a way as to make the price of further assassinations much too costly for the Irregulars. It must be emphasised that as no other political assassinations occurred during the conflict it can be argued that the Government's course of action was indeed justified. However, it was events such as this which contributed to and helped perpetuate the acrimonious legacy in post-war Ireland.

⁴⁵ Bill Kissane, *The politics of the Irish Civil War* (Oxford, 2005), p. 88, for information on Mellows see Desmond Greaves, *Liam Mellows and the Irish revolution* (London, 1971), p. 385.

It has also been shown that the Government subsequently decided to drastically alter the implementation of the executions policy in response to Hales' assassination. Dissatisfied with the impact of the executions the pro-treatyites introduced the mobile committee system. This scheme has received little scholarly attention in existing works on the Civil War. Yet it is highly significant as it characterised the Government's implementation of the executions policy in the latter half of the Civil War. It has been ascertained that the scheme was devised to decentralise and streamline the executions. It ultimately ensured that the effects of the policy would be felt by Irregulars throughout the country rather than simply in Dublin. A prime example of this was the seven executions that occurred in Kildare, on 19 December 1922, making it the single largest set of executions during the Civil War. The acceleration of the executions policy is further evidenced by the thirty-four men put to death in January alone, of which thirty occurred outside Dublin.⁴⁶ This became the worst month for executions during the Civil War.

It must be emphasised that the Government's decentralisation process also altered the procedure for choosing who, after trial and conviction, was to be executed. Evidence suggests that prior to decentralisation the political and military leadership jointly decided who was to be put to death. However, following the shift in focus from Dublin to the localities the responsibility was transferred to the G.O.C.s in the area where the offence was committed. It appears that the local commanders tried and, if found guilty, convicted the Irregular prisoners. If the sentence was death then the G.O.C.s were obliged, under the regulations, to seek confirmation of the verdict from the Army Council. Upon receipt of the necessary verification the sentence was carried out as quickly as possible.

⁴⁶ See Appendix 8 c.

The case has been made that the events in early December, like the death of Collins before, acted as a catalyst for the Government. Growing increasingly impatient at the continuance of the Civil War it devised a number of additional strategies to defeat the Irregulars. Evidence suggests that the Government initiated an official hostage scheme in Kerry in December 1922. The policy, which was also implemented in other areas such as Cork and Donegal, consisted of suspending death sentences provided that there was a measurable reduction in guerrilla activity in a particular area. Even though the policy did not have the desired effect in Kerry, as it remained a hotspot for Irregular resistance until the end of the conflict, the scheme as a whole proved relatively successful. Even though it is unclear if any Irregulars that received a stay in execution were ultimately executed the possibility of death proved just as effective as an actual execution. It has been shown that this policy placed Irregulars in a serious predicament and had a considerable impact on their morale. The lives of their incarcerated comrades now depended on their behaviour. As a result a significant number of anti-treatyite prisoners sought release in order to persuade active militants to surrender in order to avoid further executions.

It must also be emphasised that towards the end of the conflict the Government refrained from restricting the scope of the emergency resolution to just militants. The Public Safety Resolution, in addition to subsequent orders such as the 'Stand Clear Order', allowed for the execution of civilians. However, the Government only executed four non-combatants in total. This can be explained by the fact that the public acquiesced to Irregular executions. It is doubtful that this support would continue if the Government initiated widespread civilian executions. The Government had prided themselves on their civic duties and responsibilities. If they undertook widespread civilian executions then the Government's credibility would diminish rapidly. This

would, in turn, favour the Irregulars who always claimed that the pro-treatyites were a vicious group of British puppets. The scholarly attention that these four cases have received to date is almost non-existent. This study has established not only their identities but also when, where and why they were put to death. Thus these four men can be finally included in the list of men executed during the Irish Civil War.

In considering the impact of the Government's executions policy on the outcome of the Civil War the case has been made in the foregoing chapters that they did, despite the claims of Frank Aiken, ultimately hasten the end of the conflict. He claimed in his order to dump arms on 24 May 1923 that neither 'tortures or firing squads, nor a slavish press can crush the desire for Independence out of the hearts of those who fought for the Republic or out of the hearts of our people.'⁴⁷ Aiken's defiant tone, in the face of total defeat, cannot conceal the fact that individual sets of executions, the controversial Mountjoy executions in particular, achieved their primary objective the halting of the Irregulars' policy of assassination. Irregular morale was constantly harassed. It must be emphasised that the threat of execution, signified by the Government's official hostage scheme, in addition to the acceleration and decentralisation of the executions policy significantly impacted on the morale of Irregulars. It is unrealistic to assume that the execution of seven men in one event, thirty-four in a single month and eighty-one in six months did not have any effect on the morale of the Irregulars and, by extension, their prosecution of the Civil War. Incidents such as these ensured that the full rigor the Government's emergency powers were felt throughout the country.

The impact that the executions policy had on the Irregulars was specifically acknowledged by Liam Deasy. Following his arrest, in January 1923, Deasy stated that the

⁴⁷ Frank Aiken's 'Order of the day', 24 May 1923 (N.L.I., Archives, Ms. 35,262/2).

executions policy had created a very 'serious situation' in Ireland where ultimate disaster would occur unless fighting ceased. Whether this would have occurred is open to question, however, the Government showed no indication of stopping the executions. Despite a lull in February, due to Deasy's circular appeal for peace, the Government executed a further twenty-six men by the conflict's end in May 1923. Furthermore, it has been established that they executed two men several days following the conclusion of the Civil War. Other high ranking Irregulars acknowledged the effect that the executions policy had had on their prosecution of the conflict. Subsequent to Deasy's appeal Tom Barry, Todd Andrews, Frank Barrett and Maurice Sweeney also appealed for peace, partly because of the detrimental effect of the executions.

This dissertation set out to examine a much-neglected area of Irish history, the Government's executions policy during the Irish Civil War. The thesis questions were posed: why was this policy adopted; how was it implemented throughout the course of the conflict; how did the Irregulars respond to this course of action and how did the executions policy affect the character, course and outcome of the Civil War? It has been established that the Government adopted the executions policy to tackle the Irregulars' guerrilla warfare in an attempt to hasten the end of the Civil War. It was also determined that the Government willingly altered the implementation of this policy as circumstances dictated. This flexibility characterised the executions policy. Evidence suggests that many of these alterations were directly attributable to actions undertaken by the Irregulars. Analysis of the foregoing chapters has established that the executions policy did alter the dynamic of the Civil War and ultimately expedited the end of the conflict. It can also be argued that Joseph O'Rourke and Michael Murphy were not the last people to succumb to the executions policy. Evidence suggests that an innocent bystander,

Joseph Hughes, was killed at the reinterment of the executed men in 1924. Moreover, O'Higgins' assassination in 1927 can be directly attributed to his role during the Civil War.

Hindsight was not an option in 1922. The Government and Army may well have won the Civil War without resorting to such a controversial and divisive policy. This begs the question, was the executions policy justified given that it imbued such an acrimonious legacy, one which took decades to subside? This is a subjective question which is difficult, if not impossible, to answer regardless of the amount of research undertaken. It was the aim of this study to present the facts, based on the available evidence, and not to imply retrospective justification for acts undertaken either by both the pro- and anti- treatyites during the conflict. The fact remains that eighty-one men were put to death during the Civil War and whether or not this policy was necessary remains open to question.

APPENDICES

1. List of the Eighty-One Official Executions During the Irish Civil War

<i>Name</i>	<i>Place of Execution</i>	<i>County of Execution</i>	<i>Date of Execution</i>
James Fisher	Kilmainham Jail	Dublin	17/11/1922
Peter Cassidy	Kilmainham Jail	Dublin	17/11/1922
Richard Twohig	Kilmainham Jail	Dublin	17/11/1922
John Gaffney	Kilmainham Jail	Dublin	17/11/1922
Erskine Childers	Beggars Bush barracks	Dublin	24/11/1922
Joseph Spooner	Beggars Bush barracks	Dublin	30/11/1922
Patrick Farrelly	Beggars Bush barracks	Dublin	30/11/1922
John Murphy	Beggars Bush barracks	Dublin	30/11/1922
Rory O'Connor	Mountjoy Jail	Dublin	08/12/1922
Liam Mellows	Mountjoy Jail	Dublin	08/12/1922
Joseph McKelvey	Mountjoy Jail	Dublin	08/12/1922
Richard Barrett	Mountjoy Jail	Dublin	08/12/1922
Stephen White	Curragh Camp	Kildare	19/12/1922
Joseph Johnston	Curragh Camp	Kildare	19/12/1922
Patrick Mangan	Curragh Camp	Kildare	19/12/1922
Patrick Nolan	Curragh Camp	Kildare	19/12/1922
Brian Moore	Curragh Camp	Kildare	19/12/1922
James O'Connor	Curragh Camp	Kildare	19/12/1922
Patrick Bagnel	Curragh Camp	Kildare	19/12/1922
John Phelan	Kilkenny Jail	Kilkenny	29/12/1922
John Murphy	Kilkenny Jail	Kilkenny	29/12/1922
Leo Dowling	Portobello barracks	Dublin	08/01/1923
Sylvester Heaney	Portobello barracks	Dublin	08/01/1923
Laurence Sheehy	Portobello barracks	Dublin	08/01/1923
Anthony O'Reilly	Portobello barracks	Dublin	08/01/1923
Terence Brady	Portobello barracks	Dublin	08/01/1923
Thomas McKeown	Dundalk barracks	Louth	13/01/1923
John McNulty	Dundalk barracks	Louth	13/01/1923
Thomas Murray	Dundalk barracks	Louth	13/01/1923
Fred Burke	Roscrea	Tipperary	15/01/1923
Patrick Russell	Roscrea	Tipperary	15/01/1923
Martin O'Shea	Roscrea	Tipperary	15/01/1923
Patrick McNamara	Roscrea	Tipperary	15/01/1923
James Lillis	Carlow Jail	Carlow	15/01/1923
James Daly	Tralee barracks	Kerry	20/01/1923

John Clifford	Tralee barracks	Kerry	20/01/1923
Michael Brosnan	Tralee barracks	Kerry	20/01/1923
James Hanlon	Tralee barracks	Kerry	20/01/1923
Cornelius McMahon	Limerick	Limerick	20/01/1923
Patrick Hennessy	Limerick	Limerick	20/01/1923
Thomas Hughes	Athlone barracks	Westmeath	20/01/1923
Michael Walsh	Athlone barracks	Westmeath	20/01/1923
Herbert Collins	Athlone barracks	Westmeath	20/01/1923
Stephen Joyce	Athlone barracks	Westmeath	20/01/1923
Martin Bourke	Athlone barracks	Westmeath	20/01/1923
James Melia	Dundalk barracks	Louth	22/01/1923
Thomas Lennon	Dundalk barracks	Louth	22/01/1923
Joseph Ferguson	Dundalk barracks	Louth	22/01/1923
Michael Fitzgerald	Waterford	Waterford	25/01/1923
Patrick O'Reilly	Waterford	Waterford	25/01/1923
Patrick Cunningham	Birr	Offaly	26/01/1923
William Conroy	Birr	Offaly	26/01/1923
Colum Kelly	Birr	Offaly	26/01/1923
Patrick Geraghty	Port Laois	Laois	27/01/1923
Joseph Byrne	Port Laois	Laois	27/01/1923
Thomas Gibson	Port Laois	Laois	26/02/1923
James O'Rourke	Kilmainham Jail	Dublin	13/03/1923
William Healy	Cork	Cork	13/03/1923
James Parle	Wexford Jail	Wexford	13/03/1923
Patrick Hogan	Wexford Jail	Wexford	13/03/1923
John Creane	Wexford Jail	Wexford	13/03/1923
Luke Burke	Mullingar	Westmeath	13/03/1923
Michael Greery	Mullingar	Westmeath	13/03/1923
John Larkin	Drumboe	Donegal	14/03/1923
Timothy O'Sullivan	Drumboe	Donegal	14/03/1923
Daniel Enright	Drumboe	Donegal	14/03/1923
Charles Daly	Drumboe	Donegal	14/03/1923
Seamus O'Malley	Tuam barracks	Galway	11/04/1923
Frank Cunnane	Tuam barracks	Galway	11/04/1923
Michael Monaghan	Tuam barracks	Galway	11/04/1923
John Newell	Tuam barracks	Galway	11/04/1923
John Maguire	Tuam barracks	Galway	11/04/1923
Martin Moylan	Tuam barracks	Galway	11/04/1923
Edward Greaney	Tralee barracks	Kerry	25/04/1923
Reginald Hathaway	Tralee barracks	Kerry	25/04/1923
James McInerney	Tralee barracks	Kerry	25/04/1923
Patrick Mahoney	Ennis	Clare	26/04/1923
Christopher Quinn	Ennis	Clare	02/05/1923
William Shaughnessy	Ennis	Clare	02/05/1923
Michael Murphy	Tuam barracks	Galway	30/05/1923

Joseph O'Rourke	Tuam barracks	Galway	30/05/1923
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Note: Those names in **Red** were civilians officially executed by the National Army during the Irish Civil War. Those in **Blue** were tried by court-martial and executed for treachery having formally been National troops but captured aiding Irregulars.

Source: Particulars of the 77 Free State Official Executions, undated (U.C.D. Archives, Twomey papers, P69/162 (40-42)), see also Dorothy Macardle, *The Irish Republic, a documented chronicle of the Anglo-Irish conflict and the partitioning of Ireland, with a detailed account of the period 1916-1923*, 3rd edition (Dublin, 1999), pp 984-985, see also Nollaig Ó Gadhra, *Civil War in Connacht 1922-1923* (Dublin, 1999), pp 144-145, Colm Campbell, *Emergency law in Ireland, 1918-1925* (New York, 1994), pp 361-371, see also List of executed men, undated (U.C.D. Archives, de Valera papers, P150/1657), see also List of executed republicans, undated (T.C.D. Manuscripts Department, Childers papers, Ms 7808/324), see also List of executed Irregulars, undated (N.A.I., Department of an Taoiseach S Files, D/T S 1369/5).

2. The 1922 Public Safety Resolution

	TRANSLATION.
“(1) DE BHRÍ gur chuir an Rialtas mar dhualgas ar an Arm an pobal do chosaint ó bhaol agus dea-órdú do bhunú arís ar fnaid na tíre agus gur chuireadar de chúram ar an Arm údarás an Rialtais do dhaingniú I ngach páirt den tír ina bhfuiltear ag cur I gcoinne an údaráis sin le fóiréigean.	“(1) WHEREAS the Government has entrusted to the Army the duty of securing the public safety and restoring order throughout the country and has placed on the Army the responsibility for the establishment of the authority of the Government in all parts of the country in which that authority is challenged by force:
“(2) AGUS DE BHRÍ gur chuir Comhairle an Airm in úil don Rialtas go bhfuil sé riachtanach chun an dualgas agus an cúram do cuireadh ortha do chólíona le héifeacht go mbeadh comhacht ag Comhairle an Airm chun Cúirteanna no Coistí Airm do chur ar bun ag a mbeadh lán-chomhacht chun cúiseanna do scrúdú agus daoine do phionósú ar iad d'fháil ciontach I ngíomhartha do thiocfadh trasna ar no do mhoilleodh údarás an Rialtais do lán-dhaingniú agus go mbeadh comhacht ag Comhairle an Airm údarás do thabhairt le daoine atá I mbraighdeanas Airm ag Comhairle an Airm do chimeád in áiteanna atá laistigh no lasmuich de líomatáiste dlí an Rialtais agus fós go mbeadh comracht acu deighleáil agus seilbh in airm theine do rialú.	“(2) AND WHEREAS the Army Council has represented to the Government that in order to discharge effectively the duty and responsibility so placed on them it is essential that the Army Council should have power to set up Military Courts or Committees with full powers of enquiring into charges and inflicting punishments on persons found guilty of acts calculated to interfere with or delay the effective establishment of the authority of the Government, and that the Army Council should have power to authorise the detention in places whether within or without the area of the jurisdiction of the Government of persons in Military custody and power to control the dealing in and possession of firearms;
“(3) AGUS DE BHRÍ gur soiléir don Rialtas fírinne na faisnéise sin agus gur thoilighedar go ndéanfaí fé údarás Chomhairle an Airm gach no aon cheann de sna nithe agus na rudaí seo leanas.	“(3) AND WHEREAS the Government, recognising the force of such representations, has sanctioned the doing under the authority of the Army Council of all or any of the following matters and things:
(a) Cúirteanna no Coistí Airm do chur ar bun chun cúiseanna I gcoinne daoine I dtaobh aon cheann de sna cionta a luaidhtear 'na dhiaidh seo do sgrúdú ar choiníoll, amh, go mbeidh mar bhall de gach Cúirt no Coiste Airm dá leithéid duine ambain ar a luighead a ainmneoidh an t-Aire un Chosaint agus a	(a) The setting up of Military Courts or Committees for the enquiring into charges against persons in respect of any of the offences hereinafter mentioned provided however that every such Military Court or Committee shall include as a member thereof at least one person nominated by the Minister of Defence and certified by the Law Officer to be a person of legal knowledge and experience;

dheimhneoidh an Dlí-Oigigeach bheith 'na dhuine go bhfuil eolas agus taithí dlí aige.	
(b) Na Cúirteanna no Coistí Airm sin do sgrúdú chás daoine go bhfuil aon cheann de sna cionta so leanas curtha 'na leith sé sin le rá:—	(b) The enquiry by such Military Courts or Committees into the cases of persons charged with any of the offences following that is to say—
(1) Bheith páirteach I no do chabhrú le no do chur suas chun aon ionsuidhe do dhéanamh ar no fórsa d'úsáid I gcoinne an Airm Náisiúnta.	(1) Taking part in or aiding or abetting any attack upon or using force against the National Forces;
(2) Creach tóiteán lot gabháil seilbh no aistriú no díobháil mhídhleathach do déanamh do mhaoin phuiblí no phríobháideach.	(2) Looting arson destruction seizure unlawful possession or removal of or damage to any public or private property;
(3) Bheith I seilbh gan údarás chóir aon bhoma no aon rud de nádúir bhoma no aon dynamite, gelignite, no aon stuff phléasgach eile no aon phiostal, rifle, gunna no arm teine eile no arm marbhtach no aon lón d'aon arm teine dá leithéid.	(3) Having possession without proper authority of any bomb or article in the nature of a bomb or any dynamite gelignite or other explosive substance or any revolver rifle gun or other firearm or lethal weapon or any ammunition for such firearm;
(4) Aon ordú no riail ghenerálta a dhéanfaidh Comhairle an Airm do bhrise agus na Cúirteanna no Coistí Airm sin do thabhairt bhreith bháis no bhreith dhaorphríosúin ar feadh aon téarma no bhreith phríosúin ar feadh aon téarma no do chur fíneála d'aon mhéid le no gan phríosún ar aon duine a ciontófar ag aon Chúirt no Choiste mar sin in aon cheann de sna cionta roimhráite. Ar choiníoll ná cuirfear aon bhreith bháis mar sin I bhfeidhm ach fé cho-shighniú dhá bhall de Chomhairle an Airm.	(4) The breach of any general order or regulation made by the Army Council and the infliction by such Military Courts or Committees of the punishment of death or of penal servitude for any period or of imprisonment for any period or of a fine for any amount either with or without imprisonment on any person found guilty by such Court or Committee of any of the offences aforesaid. Provided that no such sentence of death be executed except under the countersignature of two members of the Army Council;
(c) Fé údarás Chomhairle an Airm gach no aon duine atá tógtha no cimeádtha 'na phríosúnach ag an Arm Náisiúnta d'aistriú go dtí aon áit no áiteanna laistigh no lasmuich de líomatáiste dlí an Rialtais agus aon duine mar sin do chimeád no do chur don phríosún in aon áit no áiteanna laistigh no lasmuich den líomatáiste dlí roimh-ráite.	(c) The removal under authority of the Army Council of any person taken prisoner arrested or detained by the National Forces to any place or places whether within or without the area of jurisdiction of the Government and the detention or imprisonment of any such persons in any place or places within or without the area aforesaid;
(d) Díol seilbh aistriú agus deighleáil I	(d) The regulation and control of the sale possession

bpiostail riflí gunnaí agus airm theine eile do rialú agus do riara.	transfer of and dealing in revolvers rifles guns and other firearms;
“(4) ANOIS deimhnigheann agus molann an Dáil seo déanamh gach no aon cheann de sna gníomhartha agus na nithe roimh-ráite ag no fé údarás Chomhairle an Airm agus an cead ata tugtha ag an Rialtas uatha mar gurb é tuairim na Dála gur riachtanas Airm déanamh na nithe uile roimh-ráite ag no fé údarás Chomhairle an Airm. Ar choiníoll amh maidir le n-a leithéid d’órdú no de riail ghenearalta mar roimh-ráite go luaidhfear ann an pionós is mó is féidir do chur ar dhuine as ucht a bhriste agus go leagfar é ar bhord na Dála so agus go mbeidh feidhm aige ar chríochnú cheithre lá ar a mbeidh an Dáil I siosóin 'na dhiaidh sin mara mbeidh rún curtha I bhfeidhm ag an nDáil seo roimhe sin á chur ar ceal.	“(4) NOW this Dáil being of opinion that the doing by or under the authority of the Army Council of the several matters aforesaid is a matter of Military necessity doth hereby ratify and approve of the sanction given by the Government and of the doing by or under the Authority of the Army Council of all or any of the acts and matters aforesaid. Provided however that as regards such general order or regulation as aforesaid the same shall specify the maximum penalty which may be inflicted for any breach thereof and shall be laid on the table of this Dáil and shall take effect on the expiration of four days thereafter during which this Dáil shall be in session unless this Dáil shall have previously passed a resolution disallowing the same.
“Baile Atha Cliath an 28adh lá so de Mheadhon Foghmuir, 1922.”	“Dublin this 28th day of September, 1922.”

Source: Dáil Debates, *The President’s Motion-Clause 4*, volume 1, cols 926-931 (28 September 1922).

3. Notice Given To O'Connor, McKelvey, Barrett and Mellows

7th. Nov. '22.

You _____ are hereby notified that, being a person taken in arms against the Government, you will be executed at 8 a.m. on Friday 8th December as a reprisal for the assassination of Brigadier Sean Hales T.D., in Dublin, on the 7th December, on his way to a meeting of Dail Eireann and as a solemn warning to those associated [with] you who are engaged in a conspiracy of assassination against the representatives of the Irish People.

Signed on Behalf of the Army Council:

Risteárd Ó Maolchatha

General.

Commander in Chief.

Source: Notice given to the Mountjoy four, 7 December 1922 (U.C.D. Archives, Mulcahy papers, P7/B/85).

4. Ministry of Defence Order on 7 March 1932

The Secretary,

- (a) Intelligence Reports – including Reports and particulars supplied by Agents and other persons.
- (b) Secret Service Vouchers, etc.
- (c) Proceedings of Military Courts, including Committee of Officers. Reports on and details of Executions 1922 – 1923 period.

As the above-mentioned documents contain information which may lead – if disclosed to unauthorised persons – to loss of life, you are hereby ordered to destroy same by fire, extracting therefrom previous to such destructions such particulars as you consider might be required hereafter in the conduct of the business of the Department of Defence.

Deasmhumhain Mac Gearailt

MINISTER FOR DEFENCE.

7th. March, 1932.

Source: Order from the Minister of Defence, Desmond FitzGerald, to his secretary, 7 March 1932 (U.C.D. Archives, Andrew papers, P91/86 (20)).

5. Response To The ‘Murder Bill’

OGLAIGH NA hEIREANN.

(Irish Republican Army).

GENERAL HEADQUARTERS,

DUBLIN. 30th November, 1922.

GENERAL ORDER.

To: O/C., All Battalions.

“ENEMY MURDER BILL”.

1. All members of Provisional “Parliament” who were present and voted for murder Bill will be shot at sight. Attached find list of names.
2. Houses of members of Murder Bill, Murder Gang and active supporters of P.G. who are known to support Murder Bill decision will be destroyed.
3. All Free State Army Officers who approve of Murder Bill and aggressive (misspelling) and active against our Forces will be shot at sight; also all ex-British Army Officers and men who joined the Free State Army since the 6th December, 1921.
4. Individual action on paragraph 2/3 will be ordered by Brigade O/C.
5. To be duplicated and transmitted to O/C., all Units.

CHIEF OF STAFF.

NOTE: On day of first execution an Order to shoot at sight members of P.G. was issued in Dublin ½ Brigade, since an opportunity was not got to put same into effect.

LIST OF MEMBERS OF P.G. PARLIAMENT
WHO VOTED FOR MURDER BILL.

W.T. Cosgrave	F. Bulfin
Walter Cole	William Seers
John Dineen	Richard Hayes (Doctor)
Sean Hayes	D.J. Gorey
J. J. Walsh	Sean Milroy
P. J. Ward	Michael Hennessy
Desmond FitzGerald	Liam De Roiste
Seumas Derham	Patrick McGoldrick
Richard Mulcahy	Darrell Figgis
Michael Staines	John Rooney
Daniel McCarthy	Sean McGarry
E. Alton	Phillip Cosgrove
Gerald Fitzgibbon	Joe McGrath
Eoin McNeill	Dr. Myles Keogh
Padraig O'Maille	Sir James Craig
George Nicholls	W. Thrift
James Crowley	Prof. W. Magennis
Richard Wislon	Joseph Whelehan

James. N. Dolan

William Hayes

Sean McKeon

James Murphy

Ernest Blythe

Doctor J. Byrne

D. Vaughan

T. Carter

Andrew Lavin

Alec. McCabe

Piaras Beasley

Christopher Byrne

Kevin O'Higgins

Frank McGennis

Eamon Duggan

Peter Hughes

Thomas O'Donnell

Doctor V. White

James Bourke

Michl. Doyle

Source: Irregulars' response to the 'Murder Bill', 30 November 1922 (U.C.D. Archives, Mulcahy papers, P7a/83).

6. Liam Deasy's Circular Appeal For Peace on 18 January 1923

Previous to my arrest, I had decided to advocate a termination of the present hostilities. My principal reason was based on the grounds that the National position was decreasing in strength, rather than increasing; as a result, not so much as the actual fighting, but primarily because of the particular side phases that had arisen, and were being concentrated on, vis., the executions and what has followed as a result. That the latter phase would develop and become more intense, I had not the slightest doubt, and to avoid our country and people being reduced to such a state, I am prepared to advocate a cessation on lines that would mean a temporary setting aside of the attainment of our ideals.

My arrest prevented me carrying out my intentions, and it was not until I saw the development of a campaign above referred to; vis., taking people as hostages because of the acts of their sons and brothers, that I decided to ascertain the extent to which I might go in taking action inside.

In considering the whole position, there are a few matters I will put before you all, and asked that they be carefully weighed before making your decision:-

- (a) The increasing strength of the F.S. Army as evidenced by the present response to the recruiting appeal.
- (b) The decrease in strength [...] of the I.R.A. consequent on the recent numerous arrests.
- (c) The entirely defensive position of our units in many areas, and the general decreasing in fighting.
- (d) The "War Weariness" so apparent in many areas.
- (e) The increasing support of the F.S. Government, consequent on our failure to combat the false propaganda.
- (f) The serious situation which the Executions have created; Reprisals, Counter-reprisals etc.

Regarding (a): Undoubtedly the increase is due to unemployment, but then a War like the present will only make for more unemployment; in other words, more fodder for the battlefield.

(b): In many areas we are confined to the numbers at present under arms and instances of arms being dumped for want of men are not rare. More serious is the loss of fighting Officers.

(c): Protection of small columns by road blocking etc. and the impeding of Railway traffic is the general rule. Ambushing, town fighting, etc. is so very isolated that its effect on the general situation is nil.

(d): This is apparent in the South and not confined to the rank and file, but also among the Senior Officers of certain of our best Brigades.

(e): Comment is needless. This may not be support, but at any rate propaganda has alienated a big percentage of genuine separatists from us.

(f): This calls for more serious consideration than the others. There is nothing to prevent the Government from continuing and naturally reprisals will follow; so will counter-reprisals. Then we will have arrived at a point where the war will be waged by both sides against the people, in some cases against active people, but in the majority non-combatants, whose only crime is having a son or brother in either Army, will suffer. Family against family will be forced to fight in defence, until the losses on both sides will be so great, some other power, probably England, will be called to intervene, and possibly will be welcomed with more enthusiasm than was displayed at her departure. By this phase we gradually forget the National position – it must be so in a death struggle of this kind. At whatever the sacrifice, we must prevent such happenings, if the position of Ireland supreme is maintained.

Source: Liam Deasy's circular appeal to de Valera, 18 January 1923 (U.C.D. Archives, de Valera papers, P150/1697).

7. Orders Of The Day

24th May 1923.

Comrades:

The arms with which we have fought the enemies of our country are to be dumped. The foreign and domestic enemies of the Republic have for the moment prevailed.

But our enemies have not won. Neither tortures or firing squads, nor a slavish press can crush the desire for Independence out of the hearts of those who fought for the Republic or out of the hearts of our people.

Frank Aiken, Chief of Staff.

Soldiers of Liberty – Legion of the Rearguard:

The Republic can no longer be defended successfully by your arms. Further sacrifices on your part would now be in vain and continuance of the struggle in arms unwise in the national interest.

Military victory must be allowed to rest for the moment with these who have destroyed the Republic. Other means must be sought to safeguard the nation's right.

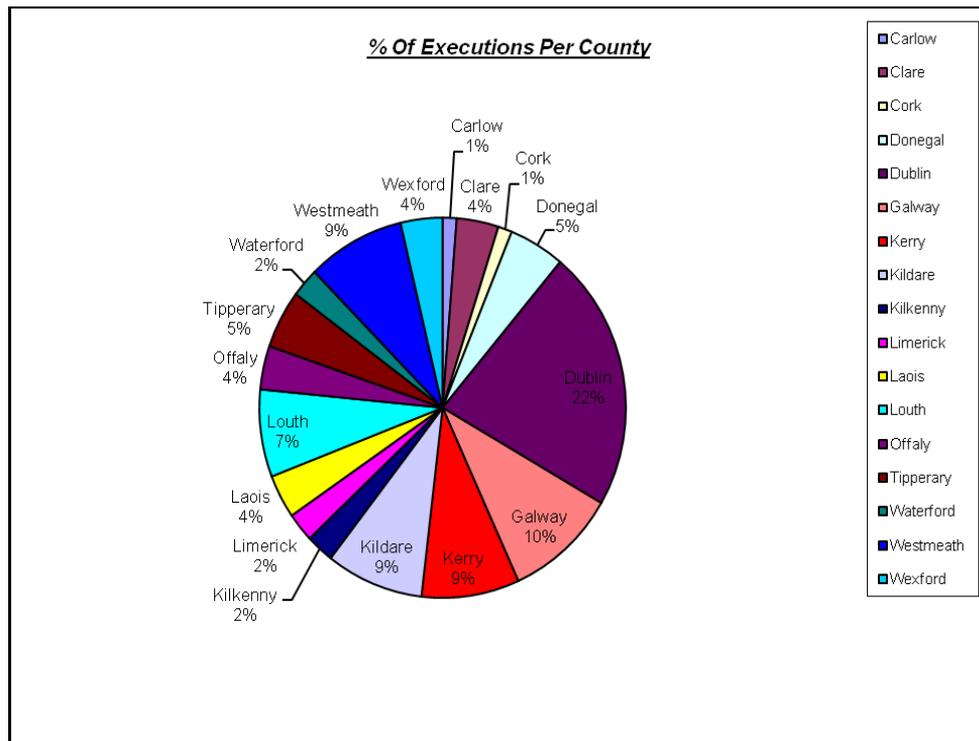
Eamon de Valera.

Source: Orders of the day, 24 May 1923 (N.L.I., Archives, Ms. 35, 262/2).

8. Statistical Analysis

a) Percentage Executions Per County

<i>County</i>	<i>Quantity</i>	<i>% of Total</i>
Carlow	1	1.23
Clare	3	3.70
Cork	1	1.23
Donegal	4	4.94
Dublin	18	22.22
Galway	8	9.88
Kerry	7	8.64
Kildare	7	8.64
Kilkenny	2	2.47
Limerick	2	2.60
Laois	3	3.75
Louth	6	7.41
Offaly	3	3.70
Tipperary	4	4.94
Waterford	2	2.47
Westmeath	7	8.64
Wexford	3	3.70
Total	81	100
Average		4.76

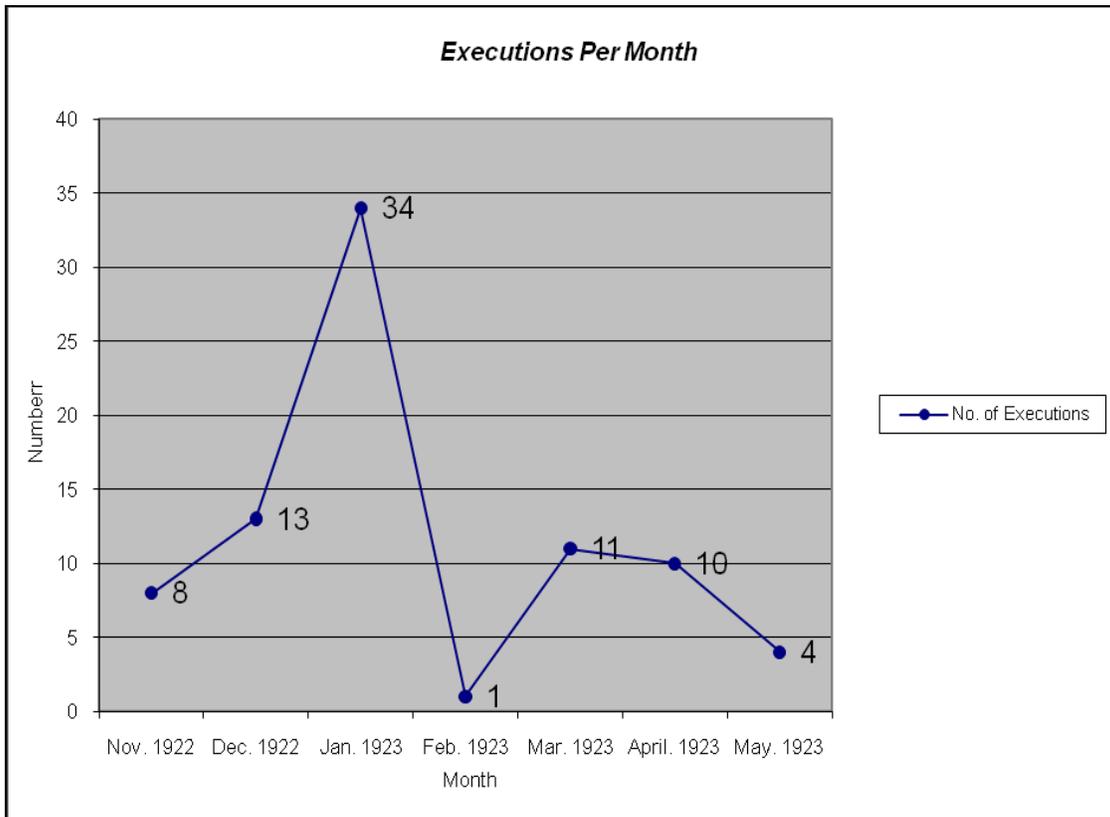


b) Executions In Kildare

<i>Name</i>	<i>Place of Execution</i>	<i>County of Execution</i>	<i>Date of Execution</i>
Stephen White	Curragh Camp	Kildare	19/12/1922
Joseph Johnston	Curragh Camp	Kildare	19/12/1922
Patrick Mangan	Curragh Camp	Kildare	19/12/1922
Patrick Nolan	Curragh Camp	Kildare	19/12/1922
Brian Moore	Curragh Camp	Kildare	19/12/1922
James O'Connor	Curragh Camp	Kildare	19/12/1922
Patrick Bagnol	Curragh Camp	Kildare	19/12/1922

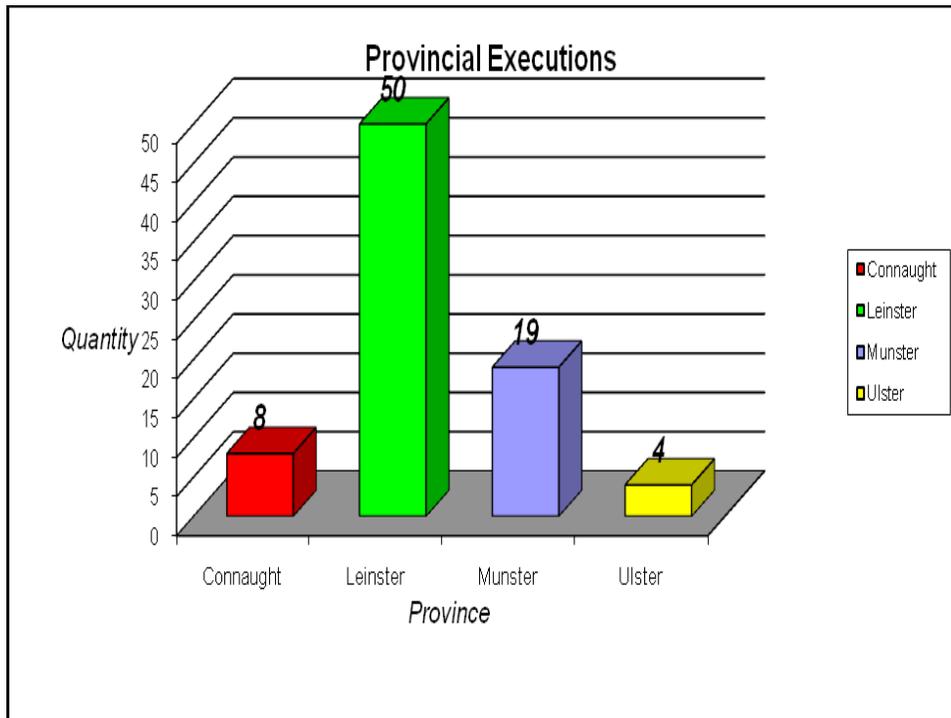
c) Executions Per Month

<i>Month</i>	<i>No. of Executions</i>
November 1922	8
December 1922	13
January 1923	34
February 1923	1
March 1923	11
April 1923	10
May 1923	4
<i>Total</i>	<i>81</i>



d) Provincial Executions

<i>Province</i>	<i>Quantity</i>
Connaught	8
Leinster	50
Munster	19
Ulster	4



9. Republican Plot at Glasnevin Cemetery.

a) Republican Plot Plaque



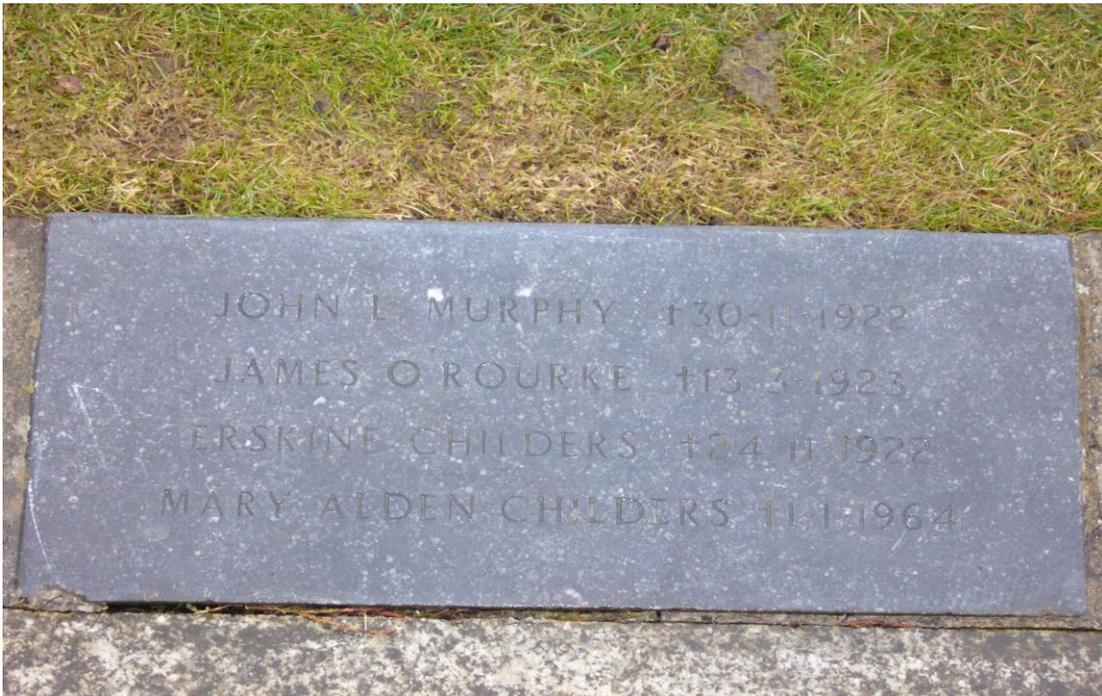
b) Peter Cassidy and Joseph Spooner.



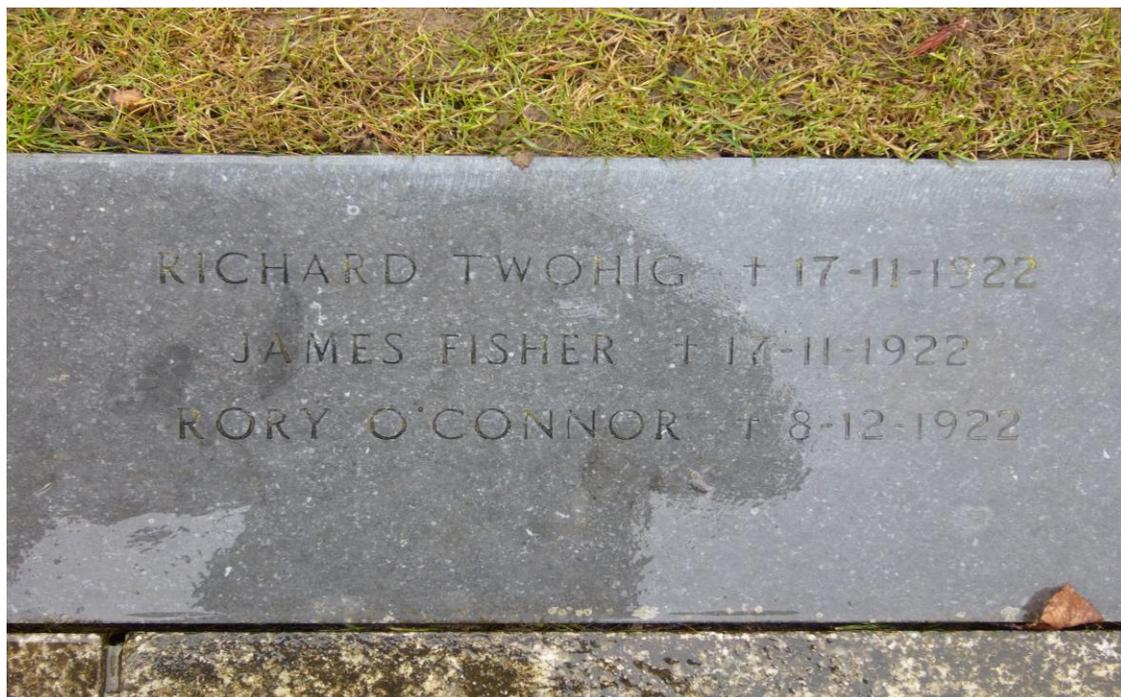
c) John Gaffney and Patrick Farrelly



d) John Murphy, James O'Rourke and Erskine Childers



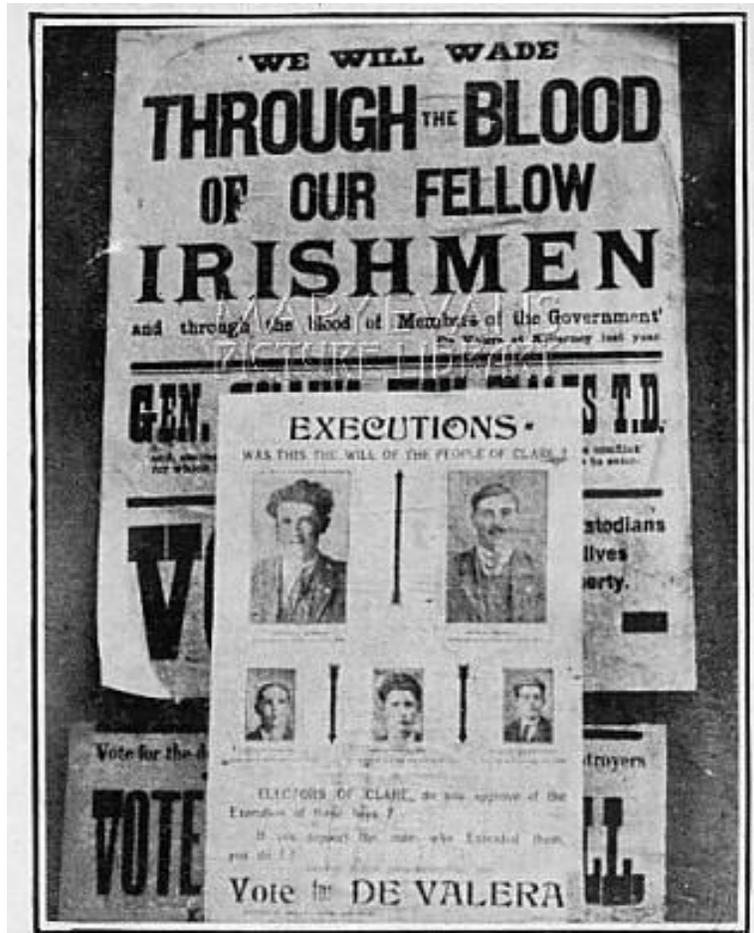
e) Richard Twohig, James Fisher and Rory O'Connor



10. Civil War executions memorial in the Market Square, Kildare Town.



11. Anti-treatyite propaganda used in the 1923 General Election



Source: 'Irish Elections 1923', viewed on Prints-Online website, available at: http://www.prints-online.com/pictures_621450/irish-elections-1923.html [4 March 2011]

12. 'Monster Demonstration' advertisement

SINN FEIN
FIRST ANNIVERSARY COMMEMORATION
of the death of
Rory O'Connor, Liam Mellows, Joe McKelvey and Dick Barrett
MONSTER DEMONSTRATION
In O'Connell Street, Dublin,
ON
TO-MORROW (Sunday), DECEMBER 9, 1923
At 3.30 p.m. sharp.
MISS MARY MacSWINEY will Address the Meeting.
Procession Afterwards.
Cumann na mBan and Sinn Fein Cumainn are requested to
attend.
Labour and Other Bodies are Invited.
BANDS WILL ATTEND

Source: *Irish Independent* (8 Dec. 1923)

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