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THE ROLE OF THE NATIONAL ARMY IN THE POLITICAL TRANSITION OF IRELAND, 1922-1924

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Abstract

On 6 December 1921, the Anglo-Irish Treaty was signed between Ireland and Britain. The terms of the Treaty, which granted dominion status within the Commonwealth to 26 of Ireland's 32 counties, divided the population, and especially the Irish Republican Army (*IRA*) that had fought for its independence. When civil war broke out in June 1922, the Provisional Government was faced with the critical challenge of an *IRA* insurgency that aimed to resume hostilities with Britain and collapse the Free State. Successful political transition, therefore, necessitated the immediate formation of a professional, regular army.

Through analysis of primary source records held at the Irish Military Archives, as well as relevant secondary sources, this article examines the dual challenge faced by Irish political and military leaders. Not only was political transition dependent upon the Army defeating the external threat of *IRA* insurgency, but also upon simultaneously overcoming the internal challenge of instilling an ethos of professionalism and discipline in the new National Army that was in stark contrast with the revolutionary spirit of lawlessness and guerrilla warfare that had pervaded the preceding decade.

In less than a year the National Army had defeated the insurgency and the fledgling state survived. The Army was legislated for soon after, bringing it under democratic control, and following the "Army Crisis" of early 1924 the final vestiges of disloyalty were purged, copper-fastening the primacy of political control over the military. This established a vital pillar of Irish democracy, one which saw the Defence Forces become

a bulwark against the next great challenge to the democratic order, the lure of fascism and dictatorship in the 1930s.

Keywords: Irish; Army; Free State; Civil War; Independence.

Introduction

On 6 December 1921, the Anglo-Irish Treaty was signed between Ireland and Great Britain, establishing the Irish Free State and formally ending the War of Independence (1919-1921), a ceasefire having been in place since 11 July 1921. On 14 January 1922, the Provisional Government was established to administer the 26 counties that would constitute the Free State until its official establishment on 6 December 1922.

The withdrawal of the embedded machinery of British governance after centuries of occupation resulted in administrative chaos. Compounding this, the terms of the Treaty, which granted dominion status within the Commonwealth to Ireland and only applied to 26 of its 32 counties, divided the population, and especially the Irish Republican Army (IRA) that had fought for its independence. The Provisional Government had to carry on regardless, proceeding with implementing the Treaty and the Herculean task of establishing a functioning state.

By June 1922 civil war had broken out, and the Provisional Government was faced with the challenge of an IRA insurgency that aimed to resume hostilities with Britain in pursuit of a 32-county republic and collapse the Free State by making it bankrupt and ungovernable. Successful political transition, therefore, necessitated the immediate formation of a professional, regular army and, perhaps more importantly, ensuring its loyalty at a time when loyalties could be fluid and fickle. The challenge, therefore, not only lay in suppressing the IRA insurgency, but in instilling an ethos of professionalism and discipline in the Army that was in stark contrast to the spirit of lawlessness and guerrilla warfare that had characterised the preceding decade.

The National Army Established

On 1 February 1922 the first uniformed troops of the hastily established National Army⁽¹⁾ paraded through the streets of Dublin, en route to the ceremony marking

1. While the term had been previously used to refer to the IRA during the War of Independence, the earliest use of the term “national army” in relation to the armed forces of the Provisional Government appears to be attributable to Alec McCabe, TD (Teachta Dála: a member of the Irish parliament) for County Sligo. The *Evening Herald* of 4 January 1922 and the *Freeman's Journal* of 5 January 1922 record him using the phrase, appearing in lower case, during the debates

the handover of Beggars Bush Barracks, the first military post to be taken over by the Provisional Government. This company-strength unit, known as the Dublin Guard, consisted of experienced IRA veterans of the War of Independence. The expansion of the National Army began immediately, with 3,500 men enlisted by April and by May the Dublin Guard had grown to brigade-strength.

The Irish Civil War officially broke out on 28 June 1922, when National Army troops opened artillery fire (using British-supplied 18-pounder guns) on Dublin's Four Courts, which had been occupied by anti-Treaty IRA and used as their headquarters since the previous April. The Civil War naturally necessitated the further expansion of the National Army, with its membership peaking at over 50,000. Even acknowledging the various nuances and arguments of what remains a contentious part of Irish history, most conspicuously due to its copper-fastening of the partition of the six north-eastern counties of the province of Ulster (Northern Ireland) which remain under British rule, the Treaty had the support of both Dáil Éireann (the Irish parliament) and a war-weary public. A disciplined and organised army was essential to fight the anti-Treaty IRA insurgency, implement and maintain law and order, vouchsafe the establishment and endurance of democracy, and ensure the survival of the nascent state. As it was described in the late 1920s by the General Staff, the National Army's "outlines were no mere projections of military theory ... but were the outcome of the dire necessity of a situation in which the very existence of itself and the State for which it struggled were at stake."⁽²⁾

Creating a Disciplined Force to Prevent "National Disaster"

However, building a professional and disciplined army from scratch, and the need for immediate and rapid recruitment, are incompatible goals. During the Civil War the National Army operated within a loose legal framework, having never been formally established by the Dáil, an anomaly that would be addressed by the signing into law of the Defence Forces (Temporary Provisions) Act in August 1923.

In September 1922, Commandant Dermot MacManus expressed his concerns about the Army's discipline and professionalism to its Commander-in-Chief and Minister for Defence, General Richard Mulcahy.⁽³⁾ MacManus was well-placed to comment, having served as an officer in the Royal Inniskilling Fusiliers and being wounded at Gallipoli before joining the IRA in 1920. He presented to Mulcahy a military command structure that was undermined by informality and over-familiarity; one in which it was common practice at the smaller barracks and posts for officers and men to mix socially, drink together, and call each other by their first names. As a result, when the officers had to assume authority or admonish the men under their command, they received no respect

on the Anglo-Irish Treaty.

2. Irish Military Archives (IMA), Memorandum on the Progress of the Forces, 1923-1927, HS/A/0876.

3. IMA, Publicity, Discipline, Morale, DOD/A/6906.

or obedience from them. The “monotonous spadework which means success in modern war,” the adherence to attention to detail and routine tasks that are an essential part of the training of professional military leaders, were lacking in most officers; where they possessed it, they lacked the authority to enforce it. MacManus attributed operational failures by the Army to this neglect of proper military operating procedures and they paid dearly for it. Recent research undertaken by the Irish Military Archives demonstrates that the number of National Army deaths during the Civil War was higher than previously believed, being in excess of 810 men.⁽⁴⁾

While it was difficult to effect major changes in the middle of fighting the Civil War, it was clear to MacManus that if discipline was not addressed immediately then “national disaster” would ensue. MacManus advocated ruthlessly combing out officers, only retaining those demonstrating sufficient competency and demoting to the ranks any who fell below the necessary standards. As well-trained officers could not be produced at a moment’s notice, he advocated the appointment of ex-British Army officers as unit adjutants and staff officers on the command and divisional staffs.

All was not lost, however. While even the best junior officers, as MacManus described them, were hopelessly behind the standard of other European armies, they were “second to none in pluck and grit.” The raw material was there at least. The most intuitive methods of instilling discipline in the Army were the establishment of formal legislation to underpin it (the above-mentioned Defence Forces (Temporary Provisions) Act) upon which regulations and instructions could be based, and an army legal system to enforce military law. Just how crucial this was is supported by the statement of the Judge Advocate General, Cahir Davitt⁽⁵⁾ in 1924:

“Recruiting for the National Forces during the period from June ’22 till the end of the year was free and unchecked, and ... a large proportion of the criminal element found its way into the Army ... nearly every criminally disposed person had a gun either from the Government or from [anti-Treaty leader] Mr [Éamon] de Valera, and needless to say the Government service, on account of the pay involved, was the more attractive.”⁽⁶⁾

The Army as “Pioneers in a new State”

As an overture to the passing of formal legislation in the form of the Defence Forces (Temporary Provisions) Act 1923, in November 1922 General Mulcahy published the

4. Published in 2023, archivist Lisa Dolan and volunteer Tony Kinsella researched and compiled the most comprehensive listing to date of National Army deaths, drawing on numerous sources held at the Military Archives and elsewhere.

5. Cahir Davitt joined the Irish Volunteers in 1915, and in 1920 was appointed as one of two circuit judges of the Dáil Courts, the parallel court system of the separatist Dáil Éireann established during the War of Independence. Davitt would go on to serve as president of the High Court in the 1940s and a judge of the Supreme Court in the 1950s.

6. IMA, Statement of Cahir Davitt to the Army Inquiry Committee, 24 April 1924, AMTY/3/60.

“General Regulations as to Discipline.” Such instruments, however, are generally of use to dissuade and punish. The patriarchs of the National Army wanted to ensure that not just the disciplinary standards but also the moral character of its men reflected those expected, as it was described in the official army journal “An tÓglách,” of nothing less than “pioneers in a new State.”⁽⁷⁾

In understanding the role of the Army in the political transition of Ireland in this regard, it is vital to appreciate that the Army did not just grow contiguously with the new state, the two were intrinsically linked. The capacity of a government to exercise its democratic mandate and defend its territorial boundaries through organised and lawful force of arms is a fundamental element of any state establishing and securing its legitimacy. More than this, the history of the Defence Forces⁽⁸⁾ and the modern Irish state are inextricably linked – from the founding of the Irish Volunteers⁽⁹⁾ (*Óglaigh na hÉireann*) in 1913 and their instigation of the 1916 Easter Rising, through its evolution into the IRA and the struggle for independence (1919-1921), its subsequent split, birthing the National Army (1922), to the modern Irish Defence Forces over a century later. “*Óglaigh na hÉireann*” remains the official title of the Irish Defence Forces, deliberately maintaining a direct link to its antecedent organisation founded in 1913. This overlap between army and state was even more prominent in 1922 when, for example, simultaneously holding senior military appointments and political office was accepted practice.

“The Most Conservative-Minded Revolutionaries”

Minister for Home Affairs (renamed Justice in 1924) Kevin O'Higgins' well-known quip about being “the most conservative-minded revolutionaries that ever put through a successful revolution”⁽¹⁰⁾ has become a hackneyed trope epitomising Cumann na nGaedheal⁽¹¹⁾ variously as counter-revolutionaries or failed revolutionaries, conservatives responsible for a decade characterised by stagnation and the suffocation of revolutionary aspirations. Prof. Jason Knirck has refuted such claims without acting as an apologist for Cumann na nGaedheal's failings, making the case that they remained committed to the ideals of the independence struggle. He nuances this by acknowledging that revolutions must be consolidated, and this requires all parties involved to choose “which parts of

7. Unattributed, “Our Chaplains,” *An tÓglach*, Volume 1, No. 7 (new series), 19 May 1923, 18.

8. The Irish Defence Forces consists of the Army, the Air Corps (established as the National Army Air Service in June 1922) and the Naval Service, established in 1948. The Irish military was officially designated the “Defence Forces” on 1 October 1924.

9. A nationalist paramilitary group established “to secure and maintain the rights and liberties common to the whole people of Ireland” in response to the establishment of the Ulster Volunteer Force in 1912 by northern unionists, with the aim of resisting by force of arms the granting of Home Rule to Ireland by the British government.

10. Dáil Éireann debates, 1 March 1923, Volume 2, No. 35.

11. The political party formed from pro-Treaty parliamentarians in April 1923 and the ruling Irish party until 1932.

revolutionary ideology to emphasize, which to deemphasize and which to ignore,” a process which “often never resolves into a unified narrative.”⁽¹²⁾

For Cumann na nGaedheal, the Civil War represented the social and moral disintegration of the nation. Almost a year to the day from the shelling of the Four Courts, O'Higgins declared to the Dáil that:

“Throughout this country within the last year, the moral standard has been lowered and there has been such a wave of degradation that many people have lost all rudder and compass to guide them in matters of right and wrong; they have thrown the moral law to the winds, the law of God as well as the law of man.”⁽¹³⁾

Knirck points out that Mulcahy viewed the National Army not as the “selfless band of idealists” that the Volunteers had been portrayed as, but “no better or worse than the general population from which it was drawn.” None the less, he had great aspirations for the role of the Army in the establishment of the new state.

Since the Gaelic Revival,⁽¹⁴⁾ the concept of “Gaelicness” had been an inextricable but intangible signifier of the aspirational independent Ireland. Now that it was no longer aspirational, defining a “Gaelic Ireland” was proving evasive. The Irish language was the most tangible touchstone, but after that its measure was ambiguous.⁽¹⁵⁾ It was from within this milieu that the hopes and aspirations placed in the Army, particularly by Mulcahy, arose. Not all of his contemporaries shared this outlook: Prof. Diarmaid Ferriter has described how Justice James Creed-Meredith⁽¹⁶⁾ had been “perplexed at Mulcahy’s contention that the post civil-war army could unite the country by leading a cultural resurgence.”⁽¹⁷⁾ To Mulcahy, however, as “the inheritors of that strength and of that bravery”⁽¹⁸⁾ typical of the great Michael Collins,⁽¹⁹⁾ the Army presented a self-contained, discreet, loyal branch of the state that traced its origins back to the foundational organisation of the independence struggle, the Irish Volunteers, itself tracing its symbolism to the ancient Fianna.⁽²⁰⁾ The Army, more than any other state

12. Jason Knirck, *Afterimage of the Revolution: Cumann na nGaedheal and Irish Politics, 1922-1932*, (Wisconsin: University of Wisconsin Press, 2014), 5–6.

13. Dáil Éireann debates, 26 June 1923, Volume 3, No. 34.

14. The national revival of Irish language and culture in the late 19th century.

15. Knirck, *Afterimage of the Revolution*, 105–140.

16. Irish nationalist, Justice James Creed Meredith was, among many other things, the President of the Supreme Court of the alternative legal system set up by the first Dáil Éireann in 1919, Chairman of the Army Inquiry Committee 1924, a judge of the High Court (1924-1937) and the Supreme Court (1937-1942).

17. Diarmaid Ferriter, *Between Two Hells: The Irish Civil War*, (UK: Profile, 2021), 169.

18. Richard Mulcahy, *To the Men of the Army*, 23 August 1922.

19. Irish revolutionary par excellence, politician, president of the Irish Republican Brotherhood (IRB), IRA Director of Intelligence and first Commander-in-Chief of the Irish Army. Collins was killed by anti-Treaty IRA forces in an ambush on 22 August 1922, aged just 31.

20. Legendary Irish warriors, whose symbolism is heavily drawn upon in the emblems and iconography of the Irish

institution, had the potential to embody the ideal of “Gaelic” manhood, becoming both a scion of the old Gaelic traditions and the vanguard of the new state.

Rules and Regulations

From July 1922, as the call to arms saw the ranks of the National Army swell, Mulcahy formalised its command-and-control structure through the designation of divisional commands, with eight stood-up by the end of August, while the recognisable shape of General Headquarters (GHQ) began to form at this time too. As Colonel J.P. Duggan observed, formalising the command structure along the conventional lines of a professional military was essential to maintaining an organised and disciplined force. Not only was this fledgling army inexperienced in conventional warfare and needing to be rapidly whipped into shape, but it was the only tool available to the Provisional Government to maintain law and order within the state.⁽²¹⁾ It could not impose discipline on an increasingly lawless country if it could not also enforce it within its own ranks.

The Public Safety Resolution

On 27 September 1922, the Provisional Government passed the “Public Safety Resolution,” a severe piece of emergency legislation providing for the execution of anyone bearing arms against the state. The term “legislation” is used loosely. Strictly speaking, the Provisional Government could not pass any laws without royal assent from England. While this was the basis of anti-Treaty arguments against the legitimacy of courts martial and executions during the Civil War, such claims were subsequently dismissed by Lord Justice James O’Connor, who declared that the Provisional Government was both *de facto* and *de jure* the ruling authority and was obliged to administer the law and suppress attempts to subvert or overthrow the state.⁽²²⁾

To the Army specifically, the “Public Safety Resolution” granted powers to bring before a court martial any civilian charged with: “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”; “possession without proper authority” of bombs, explosives or weapons etc.; or “the breach of any general order or regulation made by the Army Council.”⁽²³⁾ The punishments available to the Army ranged from the imposition of fines to execution. Between November 1922 and May 1923, 77 men were executed for political offences and 4 for civilian offences.

Defence Forces, most conspicuously on its cap badge.

21. J.P. Duggan, *The History of the Irish Army*, (Dublin: Gill and Macmillan, 1991), 84-85.

22. Seosamh Ó Longaigh, *Emergency Law in Independent Ireland 1922-1948*, (Dublin: Four Courts, 2006), 26.

23. Military Courts – General Regulations as to Trial of Civilians, 2 October 1922, irishstatutebook.ie.

While some propagandists painted a picture of the executions at hasty, cold-blooded and hot-tempered, General Seán Mac Mahon's statement to the Army Inquiry Committee (discussed later) in 1924, in reference to military courts and executions during his time as Chief of Staff, demonstrates that these were not entered into in a spirit of recklessness but with discipline to the forefront of the minds of those tasked with this unenviable duty:

"During the month of September, an Dáil met and approved of proposals for setting up of Military Courts to deal with the Irregulars. In connection with this I may mention that the carrying out of executions was perhaps the most severe test on our troops. In an Army such as ours, which had been built in a hurry without the necessary training, and which had no time or means for fostering discipline it made us think carefully as to how the first executions should be carried out. It was proposed that the first execution should be carried out by a squad of officers as so much depended on it at the time and we could not afford to run any risk of our men refusing to carry out the work. It was, however, decided that a firing squad would be picked from the men of the best unit we had in Dublin and that proved successful."⁽²⁴⁾

Regulating the Army

While the National Army held the primary duty in enforcing wartime discipline and authority on behalf of the state, there remained a requirement to formalise the system of internal military discipline. Regulatory systems were introduced towards the end of 1922. On 19 October, Mulcahy issued the first "Defence Order." These consisted of:

"All instructions, regulations, rules and notifications of whatever nature and of a lasting or permanent character which should be communicated for information or guidance of the Forces generally or which apply to a branch of the administrative services"⁽²⁵⁾

Instructions and notifications from GHQ dealing with administration and discipline generally, and which were not deemed suitable for inclusion in "Defence Orders," were issued as "General Routine Orders" (GROs). These were issued by Mulcahy in his capacity as Commander-in-Chief, in contrast to "Defence Orders," which were issued in his capacity as Minister for Defence. The first GRO was published on 1 November 1922, the same day as the "General Regulations as to Discipline."

Under the "General Regulations as to Discipline," drafted by the JAG and drawing upon the existing British model for inspiration, the conduct of all persons subject to military law was governed by a comprehensive range of offences essential to the maintenance

24. IMA, Statement of Seán Mac Mahon to the Army Inquiry Committee, 6 May 1924, AMTY/3/27.

25. IMA, Defence Order No. 1, 19 October 1922.

of military discipline. These included mutiny and insubordination, desertion and illegal absence, sleeping or drunkenness while on post, being drunk either on or off duty, making false statements, commandeering vehicles or billets without authority, and, in case anything had been overlooked, “any criminal offence against ordinary law.”

The schedule of maximum punishments was severe but necessitated by wartime exigencies. Nothing less than the survival of the new state was at stake. The death sentence could be imposed for acts of treachery and cowardice, looting, violence, leaving or sleeping on-post or mutiny. Being drunk while off duty could see a commissioned officer dismissed and an enlisted soldier facing six-months’ detention. Illegally occupying a billet could result in imprisonment, and anyone guilty of withholding pay faced dismissal. For offences against ordinary law, the Army could impose the maximum punishment open to a civil court for the same offence.

Taking the form of a hard-back, notebook-size publication that could fit in the pocket, the “Regulations” contained forms of oath to be taken by members of courts martial, sample court martial applications, charge sheets, forms of commitment for military and civilian prisoners and to summons witnesses. Demonstrating a renewed focus on the strict military discipline expected from all ranks that was crucial to inculcating the ethos of the profession of arms in the young force, its closing memorandum implored the owner to “strictly observe the regulations as they apply to yourself and see that those under your command observe them likewise.” Discipline needed to be ubiquitous in the Army and instinctual in the soldier.

The Special Infantry Corps

One interesting digression on this bloody path to establishing the Irish state was the brief existence of the Special Infantry Corps (SIC). The SIC, which fulfilled something of a gendarmerie function, was established in January 1923 and disbanded again in December of the same year. Rather than being tasked with combatting the IRA, its task was to put down the wave of illegal land occupations, cattle driving and strikes that had flourished during the Civil War in conjunction with the IRAs campaign against the state. The Minister for Home Affairs, Kevin O’Higgins, who was justifiably concerned at the anarchy and criminality taking root in certain parts of the country, was instrumental in the corps’ establishment. Ironically though, for a man with such ostensibly trenchant views on law and order, O’Higgins communication with Mulcahy about the SIC demonstrates that he was not beyond bending the law to enforce order:

“We want a force like this in every County - a force that will be neither exclusively military nor police, but flexible to take on at any moment the functions of either. A great deal of wholesome work could be got in at the moment by men in green uniform under the cover of ‘military necessity’, and I think we should

aim at making the most of this fact before peace comes and pins us down to statutory law..."⁽²⁶⁾

While short lived, it is interesting to speculate upon the possible trajectory of both the military and police had this gendarmerie model endured, not least given the fact that for a period during 1924 General Eoin O'Duffy, a man of known fascistic and dictatorial leanings who would go on to join the nationalists in the Spanish Civil War, concurrently held the senior appointments in both the Irish military and police forces.

The Army, the State and the Law

Another important milestone in strengthening the authority of the Army during the birth of the state was the creation of an army legal system. The Office of the JAG was established on 15 August 1922, with Cahir Davitt as the office's first incumbent.

There was plenty of work for Davitt and his staff, so much so that he had difficulties in obtaining both qualified staff and the necessary officers to sit on courts martial. So bad was the situation that, by February 1923, Davitt had evaluated the strength of the legal service as insufficient to meet demands. Particularly considering the reorganisation of the Army's territorial commands in January 1923,⁽²⁷⁾ Davitt petitioned the Adjutant General for the attachment of additional, suitably qualified officers to assist each Command Legal Staff Officer. While subject to the scrutiny and exigencies of the Army Finance Office, particularly in relation to rates of pay and allowances, this increase was duly perused and secured.

Davitt and his team set to work, and as the large numbers necessitated by the Civil War came through the barrack gates, the military court system ruthlessly weeded out as many of those who subsequently proved unsuitable as possible.

The Mounted Services Mutiny and its Implications

More serious challenges to the legal authority of the National Army, most gravely in the form of mutiny, had the potential to not only undermine the force but the young state itself. Of all the volatile scenarios faced by the Army during the Civil War, perhaps none demonstrated how inextricably linked the Army was to the state than the Mounted Services Mutiny and its ensuing legal implications. This episode saw the first (and only) horse-mounted cavalry unit of the National Army refuse to accept the authority of a new Commanding Officer (CO) following the trial and subsequent discharge of their

26. IMA, Civic Power, Special Infantry Corps, Organisations and Distribution, O'Higgins to Mulcahy, 15 March 1923, DOD/A/08325.

27. IMA, General Routine Order No. 14, 18 January 1923.

previous CO for embezzlement, attempting to desert and “very shady transactions in connection with the purchase of horses.”⁽²⁸⁾

The unit was disbanded in September 1922 and the ringleaders were remanded for general court martial on 25 October.⁽²⁹⁾ All were found guilty on at least one charge. The death sentence, however, was commuted in all cases, something strongly advised by the Law Advisor to the Provisional Government, Hugh Kennedy, with the men receiving sentences of penal servitude or imprisonment without hard labour.

This case proved unexpectedly significant for another reason, with the potential to challenge not only the military legal system but the constitutional basis of the National Army itself and, by extension, the nascent state. On 31 October, Davitt forwarded to Mulcahy a letter from the defendants’ solicitor, P.J. Byrne, stating that he intended to apply for a writ of habeas corpus in respect of the accused. The implications were that:

“The question which will be decided upon the hearing of such an application will simply be this: Whether we have any right to try any soldier or officer of the National Forces, by Court-Martial or otherwise for any offence whatever, or to inflict any punishment. In other words the whole question of the constitutional position of the National Forces will be reviewed ... The charges upon which the accused were tried involve the death penalty, and the importance of the matter in every respect can hardly be exaggerated.”⁽³⁰⁾

This necessitated Davitt seeking advice from Kennedy. While the writ of habeas corpus was not pursued to the end (not without some obfuscation and heel-dragging on Byrne’s legal requests by the Army Legal Service), it impressed upon Mulcahy and GHQ the need for the formal legislative underpinning of the Army. This legislative pitfall was symptomatic of wider challenges to maintaining law and order faced by the Provisional Government. Dr Seosamh Ó Longaigh, for example, has written about this peculiar situation whereby the Provisional Government’s legislative powers were unclear during the Civil War. In the subsequent, more high-profile trial and execution of Erskine Childers,⁽³¹⁾ Ó Longaigh notes that a request had been made for a writ of habeas corpus based on the argument that the Provisional Government was prohibited from establishing military tribunals. While this was subsequently dismissed by Lord Justice

28. IMA, Suspensions: McGreal – Cavalry Officers – Curragh, Director of Operations to GSO Staff Duties, 1 November 1922, DOD/A/7213.

29. Battalion Sergeant Major W. Lamphier, Quarter Master Sergeant W. Bracken, Sergeant Major J. Kinsella, Sergeant J. Maher, Sergeant P. Murphy, Sergeant J. Reid, Sergeant M. Slattery, Company Sergeant Major D. Shannon and Corporal J. O’Donnell.

30. IMA, JAG to Commander-in-Chief, 31 October 1922, CMA/024.

31. Erskine Childers was an English-born civil servant, author and Irish nationalist. He was a leading member of a committee that organised a shipment of arms from Germany to Howth (Dublin) for the Irish Volunteers in July 1914 on his yacht, the *Asgard*. He was a secretary to the Irish delegation during the Anglo-Irish Treaty negotiations, taking the anti-Treaty side in the Civil War. In November 1922 he was arrested and charged with possession of a small pistol, which had been given to him by Michael Collins, and later that month was executed by firing squad.

O'Connor, it demonstrates the precarious legal ground being trodden on matters that concerned not only discipline but life and death.

Nor was the tactical use of habeas corpus to attack and undermine the legal basis of military courts unique to the defence of the Mounted Services mutineers. Seán Enright, for example, has noted that very shortly after the Civil War, Michael Comyn, an anti-Treaty barrister who used his profession to discredit the Provisional Government's actions by means of inquests into deaths in state custody, sought a writ of habeas corpus in the case of Jock McPeake, a National Army man who had changed sides and stolen the Slievenamon armoured car for the IRA. The National Army had continued the questionable practice of holding military courts after the conclusion of the Civil War, when it was no longer justifiable, and in June 1923, anti-Treaty detainees initiated a sequence of habeas corpus proceedings against the Army, contending that with the war concluded, there existed no legal authority to detain them.⁽³²⁾ The issue was resolved in November 1924, when a general amnesty was granted and the majority of prisoners were released.

Demobilisation, Mutiny and Democratic Control

In May 1923, the IRA's Chief of Staff, Frank Aiken, issued the "dump arms" order, bringing the Civil War to an end. In September of 1923, a "Defence Order" was issued providing for the demobilisation of officers by March of the following year. This was a major contributing factor to the episode known as the "Army Mutiny" or "Army Crisis," and explains why it was an officer-centric event. The short-term Civil War contracts of the enlisted ranks meant that there was less friction in reducing their numbers.

The crisis centred around a minority group within the Army made up of Collins-loyalists and IRA veterans known as the Irish Republican Army Organisation (IRAIO). With support from a faction within government led by the Minister for Labour, Joe McGrath, they issued an ultimatum to the government "to suspend, and establish an enquiry into, demobilisation and reorganisation and to give the IRAIO a say in it."⁽³³⁾ Their grievances were centred on the perceived favouritism being shown to former British Army men over IRA veterans, the revival and influence of the Irish Republican Brotherhood⁽³⁴⁾ (IRB), and their perceived abandonment by the government of Michael Collins' conception of the Anglo-Irish Treaty as simply a stepping-stone to fuller independence. While it could be argued that the pre-Truce service of some of the leaders was being disregarded in the reorganisation of the Army for pragmatic purposes, some had been identified for removal from important positions due to their track record of

32. Seán Enright, *The Irish Civil War: Law, Execution and Atrocity*, (Dublin: Merrion Press, 2019), 1-7.

33. IMA, Major General Liam Tobin and Colonel C.F. Dalton to President W.T. Cosgrave, 6 March 1924, AMTY.

34. Secret, oath-bound, fraternal organisation, established in 1858 and dissolved in 1924, dedicated to the establishment of an independent democratic republic in Ireland. Through its infiltration of the Irish Volunteers, the IRB was the instigating force behind the 1916 Easter Rising.

violent and unpredictable behaviour, not least the mutiny ringleaders, General Liam Tobin and Colonel Charlie Dalton.

On 19 March, Mulcahy ordered the arrest of the conspirators, who were drinking in a public house in Dublin. This was done without the authority of General Eoin O'Duffy, who had recently been given the new, dual appointments of "General Officer Commanding the Forces" and "Inspector General," in order to restore order and discipline in the wake of the IRAO's ultimatum. In response, the Executive Council (the cabinet) called for the resignation of the Army Council – the Chief of Staff (Lieutenant General Seán Mac Mahon), the Adjutant General (Lieutenant General Gearóid O'Sullivan) and the Quartermaster General (Lieutenant General Seán Ó Murthuile). They also requested that the Commander-in-Chief, General Richard Mulcahy, resign as Minister for Defence.

The crisis, and subsequent inquiry, initially had negative implications for public and political perceptions of the loyalty and discipline of the Army. However, the subsequent report of the "Army Inquiry Committee" vindicated the Army, copper-fastened the subordination of the military to the democratic process, and ultimately showed the discipline of the force in a positive light. The "Army Crisis" represented the final purge of those who clung to the militancy and anti-democratic tendencies inherent in guerrilla insurgency and revolutionary subterfuge but which now had to make way for the machinery of democracy. With disloyal elements removed, the primacy of democratic rule over the military was ensured.

The crisis, however, also contributed to government and civil service neurosis in Irish defence policy-making and preoccupation with civilian control. The vesting of the power of "command-in-chief" in the government, to be exercised on its behalf by the minister for defence, has meant that to the present day, neither the Army nor the Defence Forces as a whole has ever had unified military command.⁽³⁵⁾ This has been described by numerous commentators as having kept the force starved and on life-support, unfit for any truly meaningful role in national defence and neutered of a proper system of military command.

Conclusion

By the end of 1924, as David McCullagh has deftly described, it became abundantly clear that the Cumann na nGaedheal Government had little gratitude to show to the Defence Forces, despite owing its, and the state's, existence to it.⁽³⁶⁾ Very shortly after the end of the Civil War it became abundantly clear that the Army was to be left to wither on

35. There is no unified commander of the Irish Army. Territorial command is vested in the General Officer Commanding (GOC) each army brigade. The same is true in respect to the Air Corps and Naval Service (Flag Officer). The highest appointment in the Irish Defence Forces is Chief of Staff, but they do not have unified command authority.

36. David McCullagh, "David McCullagh on the centenary of the Defence Forces," *RTE Culture Website*, 17 April 2023, www.rte.ie/culture/2023/0417/1376822-david-mccullagh-on-a-century-of-the-irish-defence-forces, accessed 18 April 2023.

the vine, as the government “starved the Defence Forces of resources at a crucial stage in its development.”⁽³⁷⁾ In fact, the report of the “Army Organisation Board” in 1926, the state’s first attempt at establishing a defence policy, advocated a reduction to just 5,000 permanent troops by 1940, envisioning it as a “skeleton or scaffolding” upon which a fighting force could be built in time of war.⁽³⁸⁾ The first real test, however, of the Defence Forces’ loyalty to the state-building project to which it has been so instrumental, came after the 1932 general election. This was won by Fianna Fáil, a party formed in 1926 by anti-Treaty politicians who realised the futility of their erstwhile policy of abstention. The imminent prospect of former Civil War adversaries heading for ministerial office understandably caused nervousness among many senior Army officers in particular. There were rumours, among others, that they were to be replaced with anti-Treaty republicans. Immediately prior to the handover of power the Minister for Defence, Desmond Fitzgerald, issued an order to the Army to burn certain Civil War records including those relating to executions, fearing reprisals should these details fall into the wrong hands. Certain elements within the state’s civil and military services even contemplated a coup, with General Eoin O’Duffy canvassing support within the Army for a military dictatorship with himself in charge. The Chief of Staff, Major General Michael Brennan, swiftly quashed any such seditious ideas, and the Defence Forces remained steadfast and loyal during the transition of power.⁽³⁹⁾ The loyalty of the Defence Forces had not been tested like this since the “Army Crisis” of 1924. Unlike many other European countries at that time, thanks in no small part to the loyalty of its Defence Forces, fascism did not take root in Ireland. With the peaceful transition of power in 1932, the nomenclature of the Defence Forces as “the servant of the nation”⁽⁴⁰⁾ was affirmed anew.

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