

Castle File No. 2040.

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Childers

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C.7.

CHILDERS, Erskine.  
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Master of the Rolls—It is a question of very great moment. But what occurs to me is this: that once the Government of a country is constituted, is transferred to any body of people, it is the duty of that body of people, call it Dail or Provisional Government, or anything else, to maintain order and to suppress rebellion, which can be done only by force.

And once it is necessary to resort to force, then those to whom the preservation of the peace has been committed act independently of any Act of Parliament and derive their authority from the great emergency.

### PARLIAMENT'S POWER

Mr. Lynch—The answer to that, with all respect, is this: That if there is no legally constituted force for the purpose of defence, constituted in the only way that it can be constituted by law, any man who commits any acts of violence, no matter how extreme, can plead as a defence, "I did it as a supporter of the Government." Proclaiming himself a supporter of the Government, if the act is adopted by them, is an absolute defence, if they have no legally constituted force.

Any man who is a free-lance, who commits any nefarious act, no matter how violent and no matter how much it may be against the life and property of the subject may say, "Oh, I am a supporter of the Government. I am one of their forces." Who is to decide?

Master of the Rolls—The ingenuity of the argument redounds to your credit.

Mr. Lynch—The substance of my argument also does me great credit. I repeat—and I challenge an answer—that there is no power in this Parliament to do anything that would have the effect of an Act of Parliament without the assent of his Majesty. I will stand upon that argument.

Master of the Rolls—You may be perfectly right in that proposition. But, again, it will be urged that that does not affect the case on this principle: *Salus populi suprema lex.*

An emergency may arise when it may become necessary to disregard all laws—that is, if the people are to survive at all.

Mr. Lynch—I understand what argument might be made. Counsel proceeded to say that this might be an appropriate time to resume the thread of the argument which he had opened that morning. He submitted that the Restoration of Order in Ireland Act was still in force. The argument which was addressed to his lordship in the case of Egan v. Macready by the counsel representing Egan, and subsequently representing Higgins, applied in this case; and he (Mr. Lynch) adopted it. The argument in Egan's case did not appear in the official reports, but it appeared in Allen's case.

### THE R.O.I. ACT.

Master of the Rolls—There is a very short and meagre report of the argument of counsel in Egan v. Macready.

Counsel referred to the report of Egan v. Macready, in the "Irish Law Times" Report, 1921, and said it was an excellent report.

Master of the Rolls—My judgment went entirely on the Restoration of Order in Ireland Act, and were it not for that Act I would have refused the application in that case. But I was under the impression that you were prepared to say that the Restoration of Order Act governs the present case.

Mr. Lynch—So I am, certainly. That Act presents the means of dealing with the situation which is proposed to be dealt with in the present case.

### DIFFERENCES.

Master of the Rolls—You say that the Restoration of Order in Ireland Act deals with the present case. That will require a minute examination of the Act of Parliament. We cannot deal with this without going through every line of the Act of Parliament.

It occurs to me that there are provisions in that Act which plainly make it inapplicable to the present case.

Take the constitution of the court martial. You forget how the court martial was to be constituted.

Mr. Comyn—No, my lord. We will have to get the King's law here.

that this description which Mr. Lynch has given of that letter is not at all too strong. It seems to me to be nothing more than a mere evasion.

One of the objects of writing this letter here (Mr O hUadhaigh's) is to get at people who possibly may be debarred from getting legal advice. I cannot understand this. I would be glad to hear Mr. Kennedy.

Mr. Kennedy—Your lordship sees in the affidavit by Mr. O hUadhaigh the way in which the application is put.

Master of the Rolls—It may not be put in the best possible way in the affidavit.

### COUNSEL'S REPLY.

Mr. Kennedy—The application must be considered as it is put. Counsel quoted from the affidavit of Mr. O hUadhaigh, who stated he was acting for an officer of the Irish Republican Army, who did not recognise any authority in Ireland except the Republic. Each of these prisoners, added counsel, had an opportunity—

Mr. Lynch—There is no evidence of that. I am entitled to say that they hadn't.

Mr. Kennedy—The Regulations put in evidence by my friend give them an opportunity of having a solicitor and counsel to represent them. If any outside solicitor can come and apply on behalf and in the name of Mr. Childers. Claiming to be a Staff Captain in this supposed Army—

Master of the Rolls—That is not the application at all. There is no intention of applying in the name of Erskine Childers on behalf of any other person.

Mr. Kennedy—Then I ask: On whose instructions?

### BRITISH SUBJECT'S RIGHTS.

Master of the Rolls—I don't think it is necessary at all for any person to have instructions from a prisoner. I think it is the right of any British subject to apply for a writ of Habeas Corpus on behalf of another British subject who is in prison, because, if not, the Common Law right of getting a writ of Habeas Corpus will be defeated. Because you can easily conceive a case of a man being incarcerated and not allowed to communicate with the outside public, and the outside public not allowed even to know his name.

How then can that man be protected, except on the application of a fellow-subject for a writ of habeas corpus?

Mr. Kennedy—Is Mr. O hUadhaigh applying as a British subject on behalf of the applicant, who boasts that he is a Republican officer.

The Master of the Rolls—I understand that is his position.

Mr. Lynch—It is.

### BENEFIT OF POSITION.

Master of the Rolls—I don't think he has put it very clearly in his letter to you. But I think it is apparent what he means. He wants to apply for a writ of habeas corpus upon behalf of British subjects who, he says, are illegally detained, whose names he cannot ascertain, and are refused to him.

Mr. Kennedy—He wants to apply the benefit of any position he might have as a British subject under the advertisement and pretence of a member of the Republican Army.

Master of the Rolls—I don't know about the pretence. Do you deny that one British subject has the right to apply for a writ of habeas corpus for the purpose of protecting another who is illegally imprisoned?

Mr. Kennedy—We have not had an opportunity of looking into this. The only authority that I have had an opportunity of considering indicates that, unless it is shown that the person in question has not had an opportunity, then no other person can do it. That is the case of *ex-parte Childers*.

Master of the Rolls—I doubt very much if that applies to this case at all. Do you assert the right of keeping men in prison, trying and sentencing them, and then keeping back their names when applied to for them?

Mr. Kennedy—No; not to any person entitled to have their names.

Master of the Rolls asked who could be entitled unless on the instruction of the men themselves?

Mr. Sullivan referred to the affidavit before the Court and which, he said, did away with the suggestion that the applica-

it did not matter in the least what the men were called—soldiers, policemen, or anything else.

In the constitution of the Free State army all the technicalities might not have been observed, possibly they were not; but still it was the army of the Free State, invested with the power to restore order.

Mr. Lynch, in concluding, said the setting up of this military tribunal could not be justified.

Mr. Comyn rose and asked if he was entitled to speak next in support of the application.

The Master of the Rolls said he must adhere to the usual procedure, which was that when an application was made by counsel on one side the reply by the other side should come next.

## GOVERNMENT'S CASE

### EXISTENCE OF STATE OF WAR

#### MILITARY NECESSITY

Mr. Kennedy, K.C., replying for the military authorities, said that a great deal of Mr. Lynch's difficulty was due to the fact that he had taken up a dual position. He came into court for an Englishman to get the protection of the Court, for the man who proclaimed himself an officer of an Irish Republican Army who recognises only the authority of the Republican Government. One said that there was no war, and another said that he had been taken as a prisoner of war, and asked for treatment as a prisoner of war.

The Master of the Rolls said that there being two opposing armies he was satisfied that there was a state of war in the country.

Mr. Kennedy—There being a state of war, an armed rebellion in fact, then there is but one question—the necessity, the military necessity—of repressing the force which is directed to the overthrow of the lawfully established Government, which is entitled to use force to repel force.

The question of the degree of force is not a question which can be raised *durante bello*.

#### DECIDED QUESTION.

The Master of the Rolls said that he had already decided the question of the legality of military courts, and military necessity.

Mr. Kennedy said that there then was nothing left to Mr. Lynch but the Restoration of Order Act, 1920. That Act was passed in order to deal with a state of war between England and Ireland, and when that state came to an end with the Truce between the two nations, which was confirmed in the Treaty, the Restoration of Order Act ceased to have any application in Ireland.

The disorder existing at present did not arise from a state of war between those two countries, but it arose from the action of Mr. Childers and his friends.

The Master of the Rolls—The Act was for the purpose of controlling the British Army in Ireland, and it was based on the Army Act.

#### DIFFERENT CIRCUMSTANCES.

Mr. Kennedy—That is so. The present state of affairs exist under a wholly different set of circumstances, where the Government of this nation which has been established under and by the authority of the two opposing forces is now sought to be overthrown by an armed rebellion against that lawfully established Government. Against that state of rebellion the Government has organised an army by which it is repressing the force that has been raised against it.

That army of the Government could not be brought within the Restoration of Order Act.

That being so the case that Mr. Lynch founds upon Egan v. Macready does not apply.

Mr. Comyn then rose to reply for the applicant, but the Court adjourned till this morning.

The Court was crowded during the hear-

ing, among those present being the sisters and son of Mr. Childers, Mrs. Childers, who is an invalid, being unable to be present.

Mr. Lynch, K.C., Mr. M. Comyn, K.C., and Mr. Conor A. Maguire (instructed by Mr. Sean O h-Uadhaigh), appeared for the applicants; and Mr. Kennedy, K.C., Law Adviser to the Government, Mr. T. Sullivan, K.C., and Mr. John O'Byrne (instructed by Mr. Corrigan, Chief State Solicitor) for the Government.

## MESSAGE TO PRESIDENT

The following, says our London correspondent, was telegraphed last night to President Cosgrave:—"While recognising and rejoicing in Irish self-government and disclaiming any right or intention of interfering in Irish affairs, British friends of Ireland who have resisted extreme courses against Irishmen in the past beg respectfully to urge that there is no limit to the wisdom of clemency to rebels."

It was signed by Capt. Wedgwood Benn, Dr. Clifford, A. G. Gardner, Sir A. Marshall, John Masfield, H. W. Massingham, Gilbert Murray, Vivian Phillips, A. Ponsby, Sir John and Lady Simon, Col. Wedgwood.

Eoin P. O Caoimh, Carraig Dubh, writes paying a tribute to Mr. Childers' work for Ireland.



## GOUNOD'S 'ROMEO & JULIET'

PRODUCTION BY THE CARL ROSA CO.

The performance of Gounod's "Romeo and Juliet" last night at the Gaiety was distinguished by the noble, dignified and solemn interpretation of the Friar's music by Mr. Joseph Griffin. His rendering of the marriage scene eclipsed any performance I have seen. Faultless in diction, in music rich and full beyond expressing, in demeanour devotional, Mr. Griffin perceptibly raised the whole level of the presentation.

Mr. Cynlais Gibbs, as Romeo, sang with considerable power, but he does not quite catch the spirit of the part, and his words were not always distinct. Though not quite a convincing Juliet, Miss Josie Mason sang her music in acceptable manner and looked very pleasing. I do not, however, like the interpolation of cadenzas which Gounod never wrote. Miss Olive Gilbert, in Stephano's song, was also an offender in this connection. She acted, however, with unusual spirit.

### TONAL BEAUTIES.

A fine Capulet was found in Mr. Trevor Evans; but his song in the first act was cut; altogether, however, he made a good impression. As Mercutio, Mr. Hubert Dunkerley gave an admirable reading of the part—full of vigour and aggressiveness. He errs in perpetuating the mistake in the vocal score where the word "swain" is printed for the more obvious word "swan."

There were a few instances of ragged ensemble—notably in the beginning of the quartet ending the Friar's scene. The orchestra was quite admirable, and the tonal beauties of the score were artistically disclosed by Mr. Cuthbert Hawley's penetrating baton. I was glad to note that he has not only restored the solemn introduction to the marriage scene, but he has introduced a wedding march not usually heard on our stage.

It seems to me that the balcony scene would be more effective if the balcony were set in the centre of the stage. It would certainly make the scene between the lovers more intimate.

H.R.W.

## RUIN OF IRISH FISHERIES

### POISONING OF SALMON IN CO. CORK

Deep sea and fresh water fishing was discussed at some length by the Cork I.D.A. Council. Mr. S. Logan, Baltimore, suggested the creation of an Irish Fishing Fleet, the erection of a central fish market in Cork city, and the provision of cold storage. Rapid railway transit was an essential accessory to such a market. In Sept. last, Cork imported 49 tons of fish and exported only 16 tons. Mr. T. J. Murphy said the Cork Pure Ice and Cold Storage Co. could afford storage for large quantities of fish. Mr. D. J. Curran said the Corporation should be asked to erect a wholesale fish market.

Mr. Gamble drew attention to fresh water fishing. The net fisheries of the Blackwater, Lee, and Bandon were worth £45,000 a year, and the rod fisheries £5,000 more. During the past two summers,

owing to poisoning and dynamiting, there was scarcely a salmon left alive in the Blackwater, the Lee, and the Bandon, and such numbers of fish were killed in the Nore that the inhabitants along its banks, not being able to dispose of them otherwise, actually fed them to pigs.

Not only were the parent fish destroyed, but the fry of the previous seasons were completely wiped out. The killing of spawning fish is like killing cows when in calf. A committee was appointed to devise means for the protection of inland fisheries.

the present case had been applicable to their position.

He submitted that if any machinery was to be put in force for dealing with the exceptional state of circumstances which, it was suggested, existed in Ireland at present, that machinery was available by the R.O.I. Act. That Act was in force at present as much as any Act of the Imperial Parliament. That Act had not been repealed. And therefore whatever effect that Act would have had upon the arguments in a case twelve or eighteen months ago was available for him on these applications; and he strongly pressed his right to avail himself of these arguments.

That was a matter to which he should have called attention the previous day, but owing to the hasty way in which he entered the argument the matter escaped his attention at the time.

The Master of the Rolls—You are stating your case at a very great disadvantage.

### SENSE OF RESPONSIBILITY.

Mr. Lynch said his lordship was very kind. He complained of nothing. He appreciated the difficulties of his friends who were appearing against him. The affidavits had to be dealt with and so on. His colleagues and himself might have considered themselves aggrieved the previous day, and if they did say anything that, it might be suggested, reflected upon anybody, there was no intention on his part to say any such thing. They were all working in this case under a very serious sense of the responsibility which was cast upon them on both sides. And they all did the best that they could do to assist the Court.

He was sure his friends on the other side were doing everything straightforwardly and honourably. Nothing would be further from him than to say anything else, and he hoped he would not be considered fulsome in saying that he appreciated the kindness which had been extended to them by the Court.

Mr. Lynch said that the first matter to which he would call attention was as to what weight ought to be attached to the resolutions of the Parliament.

The Master of the Rolls—I thought you were going to develop your point under the Restoration of Order Act.

Mr. Lynch said he would come to that; but first, with regard to the resolutions of the Parliament to which he referred the previous day, he would wish to say a word as to their value and effect. The resolutions would be found in the "Gazette" referred to in the exhibits. In those it was stated that Parliament, conscious of the state of things that existed, empowered the military to adopt certain courses, including the setting up of certain tribunals. The resolutions were dated September 28th, and the proclamation was dated October 3. Counsel referred to the Acts passed in the reign of Edward II. contained in sixth vol. of Halsbury, page 374.

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### QUESTION OF VALIDITY.

Master of the Rolls—I understood that you were basing your argument on the resolutions of the Dail.

Mr. Lynch said he was referred to this Act for the purpose of showing the effect to the resolution, which had no legal validity whatever.

The Master of the Rolls—You contest the validity of the resolution and its force or effect?

Mr. Lynch—That is my proposition. The Master of the Rolls—Before coming to the authorities, why is it you maintain that the resolution has no force or effect?

Mr. Lynch—Because it is not law. Nothing could have legal effect except a Statute. Any resolution of Parliament had no force or effect, and that had been expressly stated by Parliaments on more than one occasion for the purpose of showing that nothing could have the effect of law except passed in the way prescribed—

The Master of the Rolls—What would give validity to that Act?

Mr. Lynch—The sanction of His Majesty, which was essential beyond all doubt. The Provisional Government should have powers to make law in like manner as the Parliament of the Free State when constituted. The Free State Parliament in the absence of the consent of the King contemplated a Governor-General, whose assent to legislation would be necessary before it became binding.

The Master of the Rolls said that counsel's argument went this length—that before the Provisional Government could enter upon any Act of Government it should pass an Act of Parliament which should be confirmed at least by the King.

What was the Provisional Government to do in the meantime. A Government must govern.

### TRANSFERRED FUNCTIONS.

Mr. Lynch replied that they could discharge functions from April 1st that were transferred to them under the Transfer of the Functions Order; but once they proceeded to do anything else they could only do it by an Act of Parliament. He thought that was a fair summary of the powers that were transferred. They had functions transferred to them for the administration of the country under that Order until the completion that was contemplated by an Act of Parliament. Article 9 dealt with the very important subject to which he was then referring. Nothing in that order should affect the control or administration of any existing naval, military, or air forces of the Crown. That article showed what was reserved.

The Master of the Rolls—It reserved, no doubt, any existing naval, military, or air forces of the Crown.

Mr. Lynch said that nothing, however, in the Order was to be construed as prejudicing the right of the Provisional Government to set up a military defence force in accordance with Article 8, provided it should be raised in pursuance of an Act of the Provisional Government. They could set up a defence force and use it for purposes which they thought necessary, provided they passed an Act of Parliament in the only way in which they could—they should obtain the King's assent after it had passed the House.

### RAISING OF AN ARMY.

The Master of the Rolls—I really don't know what you are contending. Is it that the Provisional Government had no power to raise an army?

Mr. Lynch—No, I don't say that. I say they had the power if they went about exercising it in the regular way by passing an Act of Parliament.

The Master of the Rolls—You must misunderstand me. Do you contend that this Order in Council was not sufficient to give them power, without any further Act of Parliament, to raise an army for their own purposes?

Mr. Lynch said it was not; there was something else necessary of them in order to validate or legalise the establishment of a military force—whether it was defence or any other name. That was necessary to have it properly constituted as a legal entity.

The Master of the Rolls said there were certain limitations in the Order, but the powers granted included the power of raising an army.

Mr. Lynch—Yes, by Act of Parliament.

The Master of the Rolls—it says nothing about an Act of Parliament. They took over all the Departments of State from the British Government. Under Section 8 they had power to raise an army subject to certain limitations, but surely, he asked, that involved the raising of an army.

Mr. Lynch said it did not. The Article read was limited by Article 9.

The Master of the Rolls—If they have an army it must be an army of their own. They cannot derive any assistance from the existing naval, military or air forces of the Crown.

### RAISING OF DEFENCE FORCE

Mr. Lynch said that they were entitled to raise a defence force, but they were entitled to raise it only in one way—namely, by an Act of Parliament, as was done in every other country. The Order prescribed



Mr. P. Lynch, K.C.



*Irish Independent*  
 27<sup>th</sup> 22. *Donnell*

# LAUSANNE THE HABEAS CORPUS APPLICATIONS

against this, but Lord Curzon replied that the decision was based on precedent, and that, as was the case in connection with the Sevres Treaty, these Powers would be able to defend their interests in the East at Lausanne, where, however, they would only have a deliberative voice. The Turks then yielded.

## ITALY AND THE ENTENTE

Before signing the Protocol making for complete unity of action by the Allies, Signor Mussolini wanted to make certain reservations. First of all it is understood he made a very long speech emphasising the fact that although Italy had won the war with the other Allies, she had not got out of the Peace Treaty all that could be expected.

He was told plainly then that that was not the place to make these statements, as the Lausanne Conference had been called only with a view to making peace between the Turks and Greeks.

## ANGLO-FRENCH DEAL.

According to Mr. J. G. Hamilton, the special correspondent of the "Daily Chronicle" in Lausanne (quoted by special arrangement), whatever the deal between M. Poincare and Lord Curzon is, it is evidently not strong enough to bear the disintegrating influence of daylight, as secrecy of the most rigid kind is being maintained.

Signor Mussolini, says a Press Association Foreign Special, told the journalists that Russia could not be ignored in the reconstruction of Europe.

Speaking of the relations between the Fascisti and the Vatican he said that he personally was intensely religious, and he saw no reason why the relations with the Vatican should not be most friendly.

There will be a meeting of the Commission on Territorial and Military Questions and the Straits under Lord Curzon at 10.30 a.m. to-day. M. Poincare is returning to Paris to-night.

The special correspondent of the Paris "Journal" at Lausanne, says Reuter, asserts that the Allies have agreed to a common attitude in the event of the Mdaua Convention being violated by the Turks. The special correspondent of the "Matin" has reason to believe that the Allies are prepared to make a concession in regard to the question of the freedom of the Straits.

It is announced semi-officially in Cairo that the French have decided to retain Northern Syria and not to cede it to the Kemalists.

## HOW THE SULTAN FLED

### IRISH GUARDS HEADQUARTERS HIS FIRST REFUGE

(Press Association Foreign Special.)  
 Malta, Tuesday.

Reports brought by H.M.S. Malaya regarding the flight of the Sultan say that it was pre-arranged that the British troops should assemble in front of the Palace for drill.

This not only attracted the attention of the crowd, but also kept them fully occupied with what was going on around them. In the meantime also, according to plan, a big military motor lorry arrived on the scene and diplomatically broke down. This deliberate accident further engrossed public attention. Soon after another motor lorry drove up in front of the Palace, but, of course, was not expected to break down and this carried away the Sultan and his party, first to the headquarters of the Irish Guards, and subsequently safely aboard the Malaya.

## ARMY COURTS CHALLENGED

### MR. CHILDERS' CASE

### COUNSEL AND POSITION OF MILITARY

### GOVERNMENT'S STAND

The arguments were resumed yesterday in the Court of Appeal in the applications on behalf of Mr. Erskine Childers and eight others for writs of habeas corpus.

Counsel contended that the Military Courts were illegal, as they were not set up by an Act of Parliament that had received the sanction of the King.

He also contended that the Army itself was illegal as it had not been set up by Act of Parliament, and also maintained that the Restoration of Order (Ireland) Act was still in force.

### The Eight Men.

Counsel for the State argued that there was a state of war in Ireland—a state of armed rebellion—and that the lawful Government were entitled to put it down by force.

The military refused to disclose the names of the eight men, on whose behalf application was also made, on the grounds that the application was not made on their behalf but on that of Mr. Childers.

## ARGUMENTS RESUMED

### THE DAIL RESOLUTION

Before the Master of the Rolls, in the Court of Appeal, yesterday, the arguments were resumed in the case of the King at the prosecution of Erskine Childers v. the O.C., Portobello Barracks and another, and in the case of the King at the prosecution of Sean O Uadhaigh v. the same. The second-mentioned case has reference to the eight men already referred to, whose names have not been disclosed.

At the outset Mr. Lynch said he would like to call the attention of the Court to one matter which slipped him the previous day. The Restoration of Order in Ireland Act was, he suggested, still in force and all its provisions were applicable to everything that was contemplated at the time of the passing of that Statute. Nothing had been done by any Statute to take away from its powers and effects; and therefore he submitted that any argument at any time subsequent to the passing of the Act applicable to the position of any person in the position of his clients is

by the King, Lords and Commons of England. Otherwise a resolution was of no effect.

The Master of the Rolls—What do you suggest should be the formalities that ought to have been complied with before the resolution became law?

Mr. Lynch—The only way that the matter could have been made right was by passing an Act of Parliament, which should have received the Royal Assent for the purpose of giving it validity.

The Master of the Rolls—In other words there should be an Act of Parliament of the United Kingdom?

Mr. Lynch—Yes.

The Master of the Rolls—That is confirmed by the House of Lords and afterwards receives the Royal Assent.

Mr. Lynch—Yes.

The Master of the Rolls—That would be contrary to the provisions of the Treaty.

Mr. Lynch—The Treaty is not law at present.

The Master of the Rolls—Why?

Mr. Lynch—Because it does not come into operation or law until after a certain period of time, which has not yet elapsed, and until it has received the sanction of the King, Lords and Commons of the British Parliament. This is just the same as the Treaty after the South African war. It was of no value or effect until it became a statute.

The Master of the Rolls—Surely the Treaty was confirmed by Act of Parliament.

Mr. Lynch—No, never.

## EFFECT OF RESOLUTION

The Master of the Rolls—Here is the Irish Free State Agreement Act, and the first clause of it reads:—

"The Articles of Treaty between Great Britain and Ireland shall have the force of law as from the passing of this Act."

And that is dated 31st March, 1922.

Mr. Lynch called attention to the transitional clauses. The Treaty, as he understood it, he said, contained a provision for setting up a Provisional Government, and the British Government shall take the steps necessary to transfer to such Provisional Government the powers and machinery necessary for the discharge of its duties. On the previous day he had referred to the Transfer of Functions Order under the Treaty, dated April 1st, 1922, and made by virtue of clause 2, section 1 of the Act of Parliament, before his lordship. Having quoted the article of the Treaty he stated that the members elected should constitute the House of Parliament, to which the Provisional Government should be responsible, and that Parliament with regard to the jurisdiction of matters within the jurisdiction of the Provisional Government should have the same power as the Parliament of the Free State when constituted.

They (the Parliament), he held, did not make any law in the way that law was made by the passing of a statute. In the absence of a statute, however, a resolution or resolutions purporting to give powers to anyone else had no validity. That was law since the time of Edward II.

## GOVERNMENT'S POSITION.

The Master of the Rolls—What could the Dail have done more than it did?

Mr. Lynch—They could pass an Act of Parliament.



## CHILDERS' CASE BEFORE MASTER OF THE ROLLS

that it should be done by Act of the body concerned. They might, if they thought fit, raise an army by an Act, but they did not do that. Clause 2, section 1, of the Irish Free State Agreement Act, described the manner in which they would make laws.

He referred to Halsbury, vol. 6, page 374, containing the Acts of the reign of Edward II., and also the statutes of the reign of Charles II., page 30. These, he added, were stated by Lord Halsbury to be still the law. Counsel read from Halsbury, and said the bearing of what he read upon the existing state of facts was this: that the House of Parliament decided, upon the prosecution of Charles I., that there was no power to do it without the assent of the King.

It was not an Act of Parliament, under the Constitution of England, without the consent of the King.

## THE FREE STATE ACT.

The Master of the Rolls—In other words, the King was one of the Estates of the Realm, and inasmuch as he took no part in the passing of these statutes, under which he himself was tried, they were void?

Mr. Lynch—Yes.

The Master of the Rolls—But you forget that you have the Irish Free State Act, which has been passed by the three Estates of the Realm, so that everything is legal.

Mr. Lynch—But everything which is purported to be done under it is not legal. To purport to pass an Act of Parliament by resolution was not legal. They could not make laws in the present Parliament of Ireland by an Act of Parliament.

The Master of the Rolls—Define what is the Constitutional difference between an Act of Parliament, that is, a Resolution of the House, taking the form of an Act, and a Resolution of the House which does not adopt that phraseology.

Mr. Lynch—I answer out of Bacon's Abridgement (reading), "A Statute is a written law made by the King and two Houses of Parliament." That is a Statute in England. A resolution of the House of Commons is not a statute in England. That is the distinction.

## KING'S ASSENT VITAL.

Master of the Rolls—And when the House proceeds by way of resolution, it is merely passing a resolution for its own guidance; and it is not intended to send on the resolution to the House of Lords for confirmation, and it is not intended to be submitted to the King. In fact it is not a law of the land at all. An Act of Parliament, on the other hand, must receive the assent of the three Estates of the Realm. But remember that you have not the three Estates of the Realm here.

Mr. Lynch—I am aware of that. But there is the King, whose assent is necessary to give effect at the present time to legislation passed in this Parliament. I take my stand on that. And I would like to know if it is questioned.

I take my stand on this: that no statute can be passed by the Parliament now sitting without the assent of the King. And I would like to know whether this is questioned by those who represent the authorities.

Master of the Rolls—Your submission then is that if there are not three Estates of the Realm in Ireland there are still two Estates, one represented by the Dail and the other by the King?

Mr. Lynch—Yes, that is my position.

## GREAT EMERGENCY.

Master of the Rolls—And that these resolutions which are referred to, and which sanction the Acts of the Army Council, have not received the assent of the King.

Mr. Lynch—Yes.

Master of the Rolls—It is a very interesting Constitutional question too.

Mr. Lynch—It is an interesting Constitutional question which, I submit, demands an answer, and I invite it.

Mr. Lynch said the Act was passed on August 9, 1920.

The Master of the Rolls asked for a copy of the Act.

Mr. Lynch agreed that the new stipendiary magistrates' courts could have dealt with the charges against Mr. Childers under the provisions of the Firearms Act of 1920, for which the penalty was penal servitude for life in Ireland, or two years in England, and that while these courts were open it was not legal to have tried him by military tribunal.

The Master of the Rolls said the Restoration of Order Act was now inoperative in Ireland, if it were in force no one could wear the uniform of a soldier except that of a British soldier, and there could be no Irish State Army.

Mr. Lynch said that there could if the Provisional Government had passed an Act in that behalf.

In the course of further argument, Mr. Lynch emphasised the fact that when the King's courts were open it was the privilege of every citizen to enter the courts for relief in the administration of the civil or criminal law, and it was the duty of every citizen to enter the King's courts and invite their assistance under certain circumstances towards his fellow-man.

So long as he wore the gown he now were he would never shrink from doing his duty in that manner. The action of military authorities had no terror for him,

and he hoped that so long as the King's courts remained open no Irish barrister would be deterred from coming into them and doing his duty, and that no Irish judge would be prevented from administering the law in those courts and giving every citizen the benefit of it.

The Master of the Rolls hoped he did not suggest that they would not get it in this court.

Mr. Lynch said he made no such suggestion.

## ACCORDING TO LAW.

He submitted that regulations dealing with the present situation could only be made according to law, and dealt with according to law, and he wished to impress on the Court the fact that the resolution passed in Parliament here had no validity or legal effect whatever, and they were in no better position with reference to military courts than if they had no tribunal at all. If after taking a man a prisoner they put him against a wall and shot him, without any preliminary formalities of a trial they would be in no worse position than if they had gone through the formalities of a trial by a court for which there was no legal sanction.

## THE EIGHT PRISONERS

## QUESTION OF THE NAMES

Arising out of the arguments, the Master of the Rolls asked counsel if he was in a position to say who were the eight men to whom he stated the case applied.

Mr. Lynch read a letter which the solicitor had that day received from Major-General O'Sullivan, which said:—"In order to enable the request to be considered, I shall be glad to be informed upon whose instructions the application is made." That, said counsel, was what was called sparring for time by these gentlemen. He did not think that, having regard to what happened on the previous day, the Adjutant-General was dealing with the Court and with application in a manner worthy of the Court. It was an evasion of the application.

## JUDGE'S COMMENT.

The Master of the Rolls asked if the Free State authorities made any attempt at a concealment of the names. The men, perhaps, had been tried and ordered possibly for execution.

Mr. Lynch—I will now make an application for an order that they would give the names of the men.

The Master of the Rolls—I must say

tion was made on behalf of those men or their relatives. The solicitor had stated that he had an interview with a man calling himself a Staff captain of the Irish Republican Army, who said that if the solicitor acted for him he should also make an application for those eight other men.

Mr. Lynch—That is not so.

Are we asked Mr. Sullivan, to give, for purposes that we well know, the names and addresses and place of detention, and the charges against these twelve prisoners? We are likewise, I suppose, to give the names and addresses and place of detention of every prisoner taken by the Free State army.

This is not an application for these people, but a move in the game.

Master of the Rolls—You ask me to say that this application is not bona fide?

Mr. Sullivan—Yes.

## UNDER SENTENCE.

Mr. Lynch said there seemed to be some confusion of thought, for his application referred only to eight prisoners, in addition to Mr. Childers. He then contended that notwithstanding the fact that Mr. O hUadhaigh was a solicitor it was within his right as a member of the public to make such an application. He referred to the fact that at the meeting of the Dail on Wednesday last, when it was well known that a number of men had been tried and sentenced, the Minister of Defence stated that of those sentences only one was confirmed.

That was published in the Press on Thursday morning, and the next thing that appeared was that on Friday morning at 7 o'clock four men, presumably four of those who were sentenced, had been executed. It was perfectly obvious that the remaining 8 were under sentence, and that they had been tried in connection with the possession of arms. The fact that Mr. O hUadhaigh was told by his client that it would be well for him to make a similar application for eight men in a similar position was no reason why he should not act in the matter.

Mr. O hUadhaigh would be devoid of all human feeling to decline to come to the relief of any body if it was once "put up" to him that he should do so.

Those eight men might be under sentence of death at this moment for having revolvers in their possession.

Mr. Comyn said Mr. O hUadhaigh would have ceased to be a man, as well as an upright citizen, if he did not make the suggestion that an application should also be made on behalf of these men when Mr. Childers had told him what was stated in the affidavit.

## NAMES REFUSED.

After further discussion, the Master of the Rolls, addressing Mr. Lynch, said—You have it now that the Provisional Government refuses to give any names.

Mr. Lynch—I am sorry for them.

Master of the Rolls—They may be within their rights or they may not be. It is entirely for them to say whether it is a wise course to adopt, whether the public mind will not be agitated very much by the refusal to give names of people who possibly may have been condemned to death.

Mr. Lynch—I will say nothing more about it at present.

After further argument, the Master of the Rolls pointed out that it was open to the Provisional Government to take up the position of saying that having regard to the present state of affairs this Court had no jurisdiction.

Mr. Lynch agreeing, went on to state that the Republicans had not a monopoly of the title "Republican Army." The officers and soldiers belonging to the Free State regarded themselves as a section of the Republican Army, and would resent any suggestion to the contrary.

## ARMY OF THE STATE.

The Master of the Rolls said that when once a state of war existed, as it did exist, the de facto Government had a right to call on those men to restore order, and



Discontinued

THE CASE OF MR. CHILDERS

APPLICATION IN HIGH COURT

WRIT OF HABEAS CORPUS ASKED FOR

An unexpected development in regard to the trial of Mr. Erskine Childers was an application for a writ of habeas corpus made in the Court of Appeal yesterday.

Counsel representing Mr. Childers attended at the private residence of the Master of the Rolls on Saturday, and obtained leave to serve notice of an application before him yesterday for a writ of habeas corpus.

Late on Sunday night counsel again visited the residence of the Master of the Rolls and obtained permission to serve a copy of the orders on President Cosgrave.

Yesterday the case was argued in the Court of Appeal, and was adjourned till to-day, the Master of the Rolls making an order that the execution be not carried out pending the hearing.

Similar orders were made in the case of eight other men stated to have been tried by military courts.

COUNSEL'S APPLICATION VISITS TO MASTER OF THE ROLLS

On Saturday Mr. Patk. Lynch, K.C., Mr. M. Comyn, K.C., and Mr. C. A. Maguire attended at the private residence of the Master of the Rolls, and applied for conditional orders of habeas corpus—one in the case of Mr. Childers and the other in the case of "each of the eight men who were tried and sentenced by military courts or committees set up under the decree of the Provisional Government and referred to in the answer of the Minister for Defence in reply to a question by Mr. Figgis, as reported in the 'Irish Times' of November 18, 1922."

The Master of the Rolls made an order giving leave to serve notice of an application before him yesterday for a writ of habeas corpus ad subjiciendum directed to the O.C. at Portobello Barracks, and the Adjutant-General, to produce the body of Erskine Childers.

MIDNIGHT VISITS.

About 11 o'clock on Sunday night, owing to certain information which had reached them, counsel and solicitor representing Mr. Childers and the 8 other persons mentioned attended at the private residence of the Master of the Rolls, and an application was made by counsel, as a matter of extreme urgency, for liberty to serve copies of the orders already made in the case of Mr. Childers and the other eight men on President Cosgrave, service of them having been already made on the Adjutant-General and the O.C. at Portobello Barracks. The Master of the Rolls granted the application.

Counsel and solicitor then motored to the offices of the Government and sought an interview with President Cosgrave. They were informed that the latter could not give an interview by telephone or otherwise unless it had been arranged for before 8 o'clock that night. Before the party left they offered the documents to the Chief State Solicitor, who came into the office, and he refused to take them. Copies of the orders were, however, served on an official.

THE CASE IN COURT

The Master of the Rolls, sitting in the Court of Appeal, yesterday afternoon, heard the case of the King (Erskine Childers) v. the O.C. Portobello Barracks and another.

Mr. Lynch, K.C., who with Mr. Comyn, K.C., and Mr. Connor A. Maguire (Mr. Sean O h-Uadhaigh), appeared on behalf of Mr. Childers, applied for a writ of habeas corpus ad subjiciendum, directed to the O.C. at Portobello Barracks and the Adjutant-General to have before the Court the body of Erskine Childers and to give reasons for his detention.

Mr. Timothy Sullivan, K.C. (instructed by the Chief State solicitor, Mr. Corrigan), who appeared, with Mr. John O'Byrne, for the Adjutant-General, said the affidavit had been served on them the previous night. An affidavit in reply had been prepared, and had been sworn in opposition to this motion, but it had not been filed, and he was afraid they could not have it ready for his lordship now. If there was to be any adjournment they would ask to have it as short as possible.

QUESTION OF ADJOURNMENT.

Mr. Lynch said if there was an affidavit filed in opposition to this motion he would ask to have an opportunity of considering whether it would not be advisable for his friends and himself appearing for Mr. Childers and the other eight men to reply to that affidavit. Having regard to the importance of the decisions in that case, he was sure Mr. Sullivan would concede that that was a reasonable application.

The Master of the Rolls—You don't want to go into the case to some extent blindfolded?

Mr. Lynch—That is so.

Mr. Comyn said at least seven days would be necessary for them to consider the questions of vast importance raised in this case.

Mr. Sullivan said that owing to the lateness of the service of affidavits on his solicitor, he feared he should have to apply for an adjournment in order to give him time to put in a replying affidavit.

The Master of the Rolls said he apprehended that that difficulty would arise, and that was the reason why he fixed 4 o'clock for the hearing of the application.

Mr. Sullivan said he would be ready to go on with the case in the morning.

MR. CHILDERS' OBJECTION.

After some discussion it was decided to proceed with the case now.

Mr. Lynch then proceeded with the application, which was grounded, he said, on the affidavit of his solicitor (Mr. O h-Uadhaigh), in which he gave an account of the trial of Mr. Childers by the Military Court while he and his counsel remained. They raised objection to the tribunal on behalf of the accused, but they were overruled. The first objection was that Mr. Childers objected to being tried by a tribunal which was not legally competent to try him on the charge preferred against him on the grounds, inter alia, that it had been hitherto universally conceded by jurists in every civilised community that prisoners of war should not be tried by a tribunal selected from the opposing military forces; and that such trials required an Act of Indemnity to correct the illegality of the proceedings; and until such Act of Indemnity was passed such so-called trials were contrary to law; that the defendant was not a civilian, and was not within the definition of the class of persons contemplated by the general regulations under which the tribunal purported to act, but that he was a staff officer in the Irish Republican Army, and that the regulations were null and void; that under the ancient laws of Ireland, as under the natural principles of justice and the laws of civilised States no soldier taken prisoner during hostilities could be tried or punished by a tribunal drawn from the ranks of his

military opponents or enemies; and that under the regulations of the International Red Cross Conference, 1921, which have been accorded international recognition, it was laid down that in civil war political prisoners are entitled to be treated as prisoners of war.

LEGALITY CHALLENGED.

In the list of the objections it was stated:—"Captain Childers does not recognise the legality of the Provisional Government, and consequently does not recognise the legality of this Court, which is set up under the supposed authority of that Government. He recognises the authority only of the Irish Republican Government and Army. He has been taken prisoner in war. He is an officer of the Irish Republican Army and he claims that if he is to be detained at all by any army whose legality he repudiates, he should receive the treatment of a prisoner of war.

"His own Government—the Republican—has accorded to the troops of the Provisional Government illigient rights, and he demands reciprocity on behalf of himself and his fellow-prisoners. If there is anything contained in the objections made by counsel on my behalf which is inconsistent with the above, or which could be construed as a recognition of any authority or Government in Ireland other than the Irish Republican Government, I hereby withdraw such objection.—Erskine Childers."

From an abstract of the evidence that was to be given against Mr. Childers it appeared that on Friday, 10th inst., at 5 a.m., a party of military went to the house of Mr. R. Barton at Annamoe, Co. Wicklow, which they surrounded.

Two or three of the officers entered the house at 6.30, and Mr. Childers was met on the landing upstairs with an automatic revolver in his hand.

He was pointing it at one of the officers. He was disarmed and placed under arrest. A man named Robinson was also in the house.

The affidavit concluded by asking for a writ of habeas corpus, and for an order restraining the defendants and the officers commanding Portobello Barracks from executing any order made by the military tribunal and confirmed by alleged confirming authority. Mr. Lynch said that the names of the other eight persons who were tried had been refused to Mr. O h-Uadhaigh.

PRISONERS' NAMES.

The Master of the Rolls—I want to know from counsel for the military if the names of the parties were refused.

Mr. O'Sullivan said his lordship might take that to be so.

The Master of the Rolls—If that is so, it would be nothing more than a step taken by the Government of this country to render nugatory the right of habeas corpus that is vested in every subject. It is difficult to conceive how a writ of habeas corpus could be directed for the purpose of saving any person unless that person can be identified in the usual way. If the names are not given I would consider it the duty of the Court to resort to every plan for the purpose of identifying these persons. Unless for good reasons I would regard the action of the Provisional Government as nothing less than a device to oust the jurisdiction of this Court.

No matter how great a criminal a man may be, he is at least entitled to apply to this Court.

In reply to his lordship, Mr. Lynch said he did not ask him to sit on appeal from the judgment of the Military Court, but that his case was rather that they had no jurisdiction. He contended that the army had not been legally established. It would require legislation to establish an army, and there had been no legislation for that purpose. Therefore any tribunal that appeared to be set up by the army, was illegal.

STATE AND REBELLION.

The Master of the Rolls—But Mr. Childers proclaims himself a rebel, not merely against the King, but against the Government that has been set up in Ireland, and he proclaims himself a member of the Irish Republican Army—that is a rebel army. If there is a rebel army then the Government that is charged with the administration of the State must have an army to oppose it, and there you have got a state of war. In other words force must be opposed by force.

Mr. Lynch said that would not support the position taken up by counsel for the defendants—that the members of one army should set up military courts for the trial of prisoners of war, or any member of the opposing force.

Master of the Rolls—Your point is that Mr. Childers does not recognise any act done by the Provisional Government?

Mr. Lynch—I do not take up that position. The position I take up is that whether he was a member of the Irish Republican army or whether he recognises no authority but that of the Republic, once I am his counsel I am entitled to say that the Court that tried this man had no power to try him. He is a human being, like any of us, and is entitled to the benefit of the common law of the land.

Master of the Rolls—That, no matter what the position of Mr. Childers is, he is entitled to be tried and condemned according to law.

QUESTION OF UNDERTAKING.

Mr. Lynch—Yes. Is a man who is avowedly a Republican and does not recognise the Provisional Government to be shot for his opinion? I claim that he is entitled by law, whether a man be a Republican or Free Stater, to be tried by a proper tribunal, and those gentlemen who deny to the relatives of the prisoners information as to where they are, or what sentence has been passed upon them have no right to come into this Court and take up the attitude which they have taken up.

They had refused the names of the eight men who had been tried and sentenced, and that was a thing for which there was no precedent.

The friends of the prisoners would stand the strain long enough to make these gentlemen remember that they had refused the information.

The Master of the Rolls suggested that it might be convenient to adjourn till to-day. He asked Mr. Sullivan if he was in a position to give the Court any undertaking that in the meantime nothing happened to the prisoners.

Mr. Sullivan said he could give no undertaking. He had no authority to do so, but if the Court adjourned for 20 minutes he would communicate with the authorities.

The Master of the Rolls—Is there anybody in existence who has any authority to give the undertaking?

Mr. Sullivan—If your lordship makes an order I'll communicate it to the authorities.

SUSPENSION ORDER.

The Master of the Rolls—The King's Bench made an order in a similar case suspending execution. My opinion is that the Court has no jurisdiction to make any such order unless there was a prima facie case made out for the issue of a writ of habeas corpus. In this case the Provisional Government have thought it necessary to file an affidavit answering the affidavit of the applicant. Therefore I must come to the conclusion that there is something to answer, and that it is a matter for discussion and deliberation. Pending that discussion and deliberation there ought to be no more done which could frustrate the object which the applicant has in view. Therefore I will make an order suspending execution of Mr. Childers pending the hearing of this application.

Mr. Lynch—And the other eight.

Mr. Sullivan—There is no evidence yet that sentence has been passed upon Mr. Childers.

The Master of the Rolls—I mean the execution of any sentence that may have been passed on Mr. Childers. I am asked to make a similar order in respect of eight men whose names are unknown, who are not identified, and who it is alleged the Provisional Government have in custody, and refuse to give their names. I have already expressed my opinion upon that

attitude of the Provisional Government. I think it will be found that this is the first case in the whole history of jurisprudence in which a subject of the King or of the Free State was imprisoned and his jailers refused the name of the prisoner when he wanted an opportunity of applying for the protection of a writ of habeas corpus.

THE EIGHT MEN.

"I may say that it astonishes me. If I have jurisdiction to summon the jailers here and compel them to give the names, I will do so. Possibly Mr. Lynch will consider the matter between now and tomorrow morning."

Mr. Lynch—I will ask for an order in the case of the eight surviving men who have been tried and whose names the military will not disclose.

The Master of the Rolls—it occurs to me that any British subject has a right to apply for a writ of habeas corpus on behalf of another British subject, as Mr. O h-Uadhaigh has done here.

I am perfectly certain that better counsels will prevail between now and tomorrow morning, and, in the meantime, I make an order that the executions be suspended in the case of Mr. Childers and the several persons mentioned, pending the hearing of this application.

Mr. Corrigan, solr., said he would accept service of the order and convey it to the Adjutant-General when received.

The Court adjourned till 11 o'clock to-day.

DUBLINSHOOTING AFFAIR

GIRL'S ALLEGATIONS AT INQUEST

An inquest was opened yesterday evening and adjourned till 4.30 to-morrow, into the death of John Crosby, Queen St., Dublin, who was shot in Queen St. on Saturday night, 11th inst., and died in Richmond Hospital yesterday.

Bridget McMahon identified the remains as those of her son, 23, unmarried. He was a labourer in John Jameson's distillery, and was her sole support.

At this stage Mr. O'Flaherty, for the authorities, asked for an adjournment on the ground that his instructions had only been received earlier in the afternoon. They wanted to have the matter fully gone into, and it was therefore very necessary to have the witnesses present to satisfy the Coroner and jury. He was not in a position to produce them then.

GIRL'S STORY.

Mr. Drennan, for the next-of-kin, thought it was an unreasonable application. The affair had taken place on Saturday week last. It was a very serious charge, and the authorities had all that time to have the necessary inquiries made. The charge would have to be proved to the hilt. He thought it was disrespectful to the Coroner and the next-of-kin not to have the military witnesses there. He understood that a man had been in custody for some days, and the authorities had had ample opportunity to make full inquiries.

The Coroner decided to hear the evidence of any witnesses available.

Kathleen Mooney, 47 Queen St., said that a lorry of soldiers arrived at her house, and proceeded to search it. During the search she went out to the street and met deceased, to whom she was talking when a soldier, who had a bandage around his head, searched him. The soldier got nothing on him, and then got up on the car. Another soldier came along from the back of the car, lifted up a revolver, and shot him in her presence. Deceased fell into her arms, and called for his mother. The soldiers got down from the car and took him out of her arms and brought him to hospital.

INQUIRY ADJOURNED.

Coroner Did you know the soldier? I did; he lived in the same street. Deceased gave no provocation to him.

At this stage Mr. O'Flaherty asked to reserve his cross-examination of the witness, and this the Coroner agreed to, as he said he regarded the case as much more serious than he had first anticipated. It was then intimated by an officer of the National army that the prisoner was outside under a strong escort.

Dr. Fitzsimmons, Richmond Hospital, gave evidence of the nature of the wound and of the operation performed on deceased's admission to the hospital. Death, in his opinion, was due to cardiac failure, following peritonitis, caused by a bullet wound.

TREATMENT OF PRISONERS

DUBLIN CORPORATION INQUIRY

At the meeting of the Dublin Corporation yesterday, Ald. Byrne, T.D., presiding, Mr. P. T. Daly moved the adoption of a report of the Committee appointed to inquire into the treatment of prisoners. The report recorded the evidence taken by the Committee. Mr. Daly said the committee had obtained evidence which they were prepared to submit to any tribunal, and they had gone far enough to present a very strong case for having the treatment of prisoners fully investigated.

Mr. Bohane seconded.

Mr. John Lawlor said the Committee visited Up. Merrion St. to see President Cosgrave in reference to the case of Miss Mary MacSwiney, and after waiting the best part of an hour they were told the President was too busy to see them.

INQUIRY TO CONTINUE.

On the motion of Mr. Doyle it was resolved that the report and letters dealt with by the Committee be forwarded to the Government for consideration.

Mr. O'Callaghan suggested that the report be printed and circulated.

Mr. Daly said the committee were satisfied they had sufficient evidence to support a case for inquiry.

Mr. Flanagan moved, and Mr. M'Intyre seconded, that the committee should continue their investigation without the administration of an oath.

Mr. M. J. Moran moved the adjournment of the meeting, but the chairman said he could not accept such a motion in the middle of a discussion.

Mr. Flanagan's motion was agreed to.

Ald. Dr. Keogh, T.D., moved the adjournment as a protest against the treatment of Mr. Jos. Clarke, a fellow-councillor, as disclosed in the committee's report.

Mr. Brennan seconded the motion, which was carried.

COMMITTEE RESUMES INQUIRY

The committee resumed its inquiry at the Mansion House last night, Mr. P. T. Daly presiding.

Mr. J. Mitchell said his son was arrested on August 5, and he afterwards saw him at the guardroom window, Wellington Barracks. His eyes were black. His son asked him for some cakes, which he got for him, and a soldier took them to him. He afterwards saw his son on the exercise ground.

In reply to Sir A. Beattie he said his son is 20, and was an apprentice to the motor engineering business. He has been removed to Portlaoighaise.

Mrs. Catherine Hartnett gave evidence as to her son, who received a bullet wound in the thigh while in custody.

Mrs. K. Penrose detailed the circumstances of the shooting of W. Saunders at Mountjoy.

Thomas Fisher, brother of James Fisher, who was executed on Friday, said his brother was 184. He did not see him after his arrest, and got no word of his trial, conviction, or execution until he read it in the Stop Press. He received an official telegram on Saturday stating: "The remains of James Fisher have been confined and buried in consecrated ground."

Mrs. Mary Twohig, mother of Richard Twohig, also executed, said she got no word that he was about to be tried. She had a letter from him on Tuesday, and another reached her on Saturday stating: "Good-by, mother; good-by for ever." She stated her husband was killed this month 5 years ago.

The inquiry adjourned for a week.



BATTLE OF DIPLOMATISTS

TURKS LEAD OFF AT LAUSANNE

REPLY OF GREECE

THE FRONTIER AND THRACE

The serious business of the Lausanne Conference was begun yesterday, when the Kemalists launched their diplomatic offensive.

A counter-offensive opened by M. Venizelos was developed by Dugo-Slavia and Rumania, both of which opposed a plebiscite in Western Thrace.

Soviet Delegate Arrives.

The arrival at Lausanne of M. Kovorsky, the Soviet Ambassador at Rome, promises to add further complexity to a very delicate situation.

The attitude of the Kemalists in Constantinople is not very conciliatory, and General Sir C. Harrington has found it necessary to warn them that there is a limit to the patience of the Allies.

DIPLOMATIC TANGLE

THE KEMALIST DEMANDS

By Special Arrangement with "Daily Chronicle."

Turkey opened her diplomatic offensive this morning in the first Commission by demanding the restoration of her European frontier to the line of 1913, and the right for the population of Western Thrace to vote themselves back to Turkey by plebiscite, says Mr. G. Hamilton, the special correspondent of the "Daily Chronicle."

As all authorities agree that Western Thrace is predominantly Turkish by race, this demand would mean restoration, not only of pre-war Turkey in Europe, but, to a great extent, of the frontier before the Balkan war. Ismet Pasha spoke briefly, and most curtly.

A counter-offensive was opened by M.

Venizelos, who urged that the new frontier should be not that of 1914, but 1915.

M. Venizelos also declared, quite logically, that Western Thrace was outside the scope of this conference. A counter-offensive thus started was developed in fuller force by Dugo-Slavia and Rumania, both of which insisted on limiting the frontier to the Maritza, in conformity with the Allies' Note to Angora of Sept. 23, together with demilitarisation of a zone (to be determined later) from the Black Sea to the Aegean. Both opposed a plebiscite in Western Thrace.

They further opposed any modification of the Treaty of Neuilly, fixing the boundaries of Bulgaria. It should be noted that the Treaty of Neuilly promises Bulgaria commercial access to the Aegean. The Bulgars desire territorial access, and are said to enjoy Italian support.

BULGARIA AND AEGEAN

The afternoon was devoted to a discussion of the Bulgarian claim for an outlet on the Aegean. The British, French, and Italian delegates expounded their views, and it is significant that it is not stated that these views were identical. Otherwise, the silence is complete. To-morrow Ismet Pasha will reply. The Turks to-night are nervous. It is evident that Ismet lives in dread of Angora.

According to a Renter's message, it is said that M. Venizelos is endeavouring to bring about an understanding between all the Balkan States, with a view to presenting a united front at the conference. Signor Mussolini left for Rome to-night.

ANGORA AND STRAITS

MURDER OF SOCIALIST LEADER

(Reuter's Cablegram.) Constantinople, Wednesday.

It is announced at Constantinople that the Turkish Governor has issued a proclamation stating that the Dardanelles will henceforth be subject to the Angora Government.

A telegram from Angora states that the Grand National Assembly has decided to replace Rafet Pasha by Selabedin Adil Pasha, Under-Secretary for National Defence.

The leader of the Socialist Party, Hussein Hilmi Bey, was assassinated in Constantinople yesterday by an Albanian, who was instantly arrested. The motive for the crime is unknown.

A Press Association Foreign Special says that a communique issued by Turkish Commandant at Constantinople says that it is forbidden to collect subscriptions in the name of charity without proper authority, and it is also forbidden to carry arms. The public must watch to prevent damage to telephone and telegraph wires. All persons guilty of infractions of these rules will be arrested and tried by court-martial. This communique is interpreted as being the thin edge of the wedge of proclaiming Turkish martial law in Constantinople.

ARGUMENTS IN CASE

OF MR. CHILDERS

IS THE TREATY RATIFIED?

MR. COMYN'S VIEW

COURTS LEGAL AND ILLEGAL

STATUS OF THE ARMY

Further arguments in the habeas corpus application on behalf of Mr. Erskine Childers were heard yesterday, and proceedings adjourned till to-day.

The whole day was occupied by arguments by Mr. Comyn, counsel for the applicant, in which he maintained that the only army in Ireland was the King's Army.

He contended, therefore, that if the prisoners were to be tried by military courts, the only legal court was one composed of officers from Parkgate St. (British G.H.Q.)

The R.O.I. Act.

The Irish Army, he said, if not the King's Army, was only a body of armed citizens, and had no power to set up such courts.

He also submitted that the Restoration of Order Act was still the law of Ireland, and that its regulations must be applied in this case.

LEGALITY OF ARMY

MR. COMYN'S ARGUMENT

In the Court of Appeal, yesterday, the Master of the Rolls resumed the adjourned hearing of the habeas corpus application on behalf of Mr. Erskine Childers in the case of the King (Erskine Childers) v. the O.C. Portobello Barracks and another. There was again a large attendance.

Mr. Kennedy, K.C., said that he wished to make a correction in a description of the Army given by Mr. Lynch on the previous day. Mr. Lynch referred to the National Army as the "Republican Army." From the very beginning that army was officially called Oglach na h-Eireann. It was, however, popularly called the Republican Army, but its real title was Oglach na h-Eireann.

Mr. Lynch said that originally the Irish Army was called "the Irish Volunteers." They were turned into the Irish Republican Army. In 1917 by resolution or act of Dail Eireann they were constituted the Irish Republican Army, and part of the army was now supporting the Free State. Even to the present and in the exhibits before the Court the defendants in this case had described themselves as "Republican Army."

MR. CHILDERS' NATIONALITY.

Mr. Kennedy—In every official document ever issued by the Free State Government the Army is described as Oglach na h-Eireann.

Mr. Lynch—This is an endeavour to displace the effect of an accurate statement of facts which I made yesterday.

Mr. Comyn said that the translation of Oglach was "Soldier—Soldier of Ireland." Proceeding with his argument, he said Capt. Childers was not an Englishman. According to the Constitution, for which his friends on the other side had some responsibility, Capt. Childers was an Irishman. His mother was an Irish lady, born of Irish parents. He was domiciled in Ireland since he was a boy, and he had worn himself out in the service of Ireland. He was happy now that he was making the last supreme sacrifice for the nation that he loved.

"He allowed us to use his name," said Mr. Comyn, "on the sole condition that his honour was untarnished and that his fidelity to the principles for which he is giving his life remains clear, and that no vile tongue hereafter should be able to asperse the memory of that best of Irish men."

Counsel said that he and his colleagues had at once repudiated the authority of the military tribunal which tried Mr. Childers and the other prisoners.

STATE OF THE COUNTRY.

The Master of the Rolls said that he was dealing only with the case of Mr. Childers, and asked counsel not to embarrass the matter by interposing the case of the other prisoners.

Mr. Comyn submitted that the Restoration of Order (Ireland) Act 1920, and the regulations made thereunder was the law in Ireland to-day, and governs the procedure to be adopted by any person dealing with prisoners taken in disorder. None of the officers at Portobello barracks had taken the responsibility of saying that there was a state of war. In an affidavit by Gen. O'Sullivan it was stated that "for some time past grave disturbances and disorders have taken place throughout large areas in the country, and have been fomented by certain persons who are hostile to the Government, which has been set up by the people and seeking to overthrow it."

"Generally an armed rebellion is being carried on throughout the country against the Parliament of the people and the Government, which has the allegiance of the vast majority of the people."

The Army authorities consider that it is a matter of military necessity for the restoration of peace and order in the country that persons charged with commission of offences coming within the meaning of the resolutions passed by Parliament should be tried by military courts." Counsel contended that the military courts were illegal and that they had not been set up under any legal authority, and that the Treaty had not been approved by Parliament.

APPROVED OR NOT?

The Master of the Rolls—Do you say that the Treaty has not been approved by Parliament?

Mr. Comyn—I do. It was not approved by Parliament.

The Master of the Rolls—Then it has no legal existence.

Mr. Comyn—No, Parliament means the King, Lords, and Commons. Neither of the resolutions of the Parliament can be recognised in a court of justice. The Executive officers had no legal status.

Mr. Comyn said his argument would be as closely reasoned and concise as the circumstances of the case permitted.

Master of the Rolls—That is exactly what I want. I want to give you the full benefit of the law.

Mr. Comyn—I know that in this court we will receive now, as we have received in other days from your lordship, the full benefit of the law.

necessary for them to convince his lordship that the grounds of his lordship's decision in the Egan and Macready case were not the sole grounds upon which that case may have been decided.

He submitted that the Restoration of Order (Ireland) Act and the regulations made under that Act were the law of Ireland to-day, and that they must be applied in this case.

As counsel replying in a case of this magnitude it was his duty to have observed the difficulties that had been in his lordship's mind so that he might be able to answer them. The first matters to which he called attention was the extraordinary similarity between the affidavits made by the Military Commander in 1921 in the case of Egan and Macready and the affidavit now made by the Military Commander who was holding Capt. Childers and the other men in custody. He would read two passages which, he was sure, would have a great effect on his lordship's decision.

The Master of the Rolls said he did not see how that would affect it. He should decide the question of the application of the Restoration of Order in Ireland Act independent of any affidavit. That was purely a question of law.

GENERAL O'SULLIVAN'S AFFIDAVIT

Mr. Comyn said both affidavits said that they were dealing with a state of disorder and disturbance. Neither of those gentlemen ever took the responsibility of saying there was a state of war. Paragraph 2 of General O'Sullivan's affidavit stated, "For some time past grave disturbances and disorders have taken place throughout large areas of the country, and have been fomented by certain persons who are in political disagreement to the majority of the Irish people, hostile to the Government, and that they are seeking to paralyse and overthrow it by force."

Mr. Sullivan—Read the last sentence of the same paragraph.

Mr. Comyn (quoting)—"Generally an armed rebellion is being carried on throughout the country against the Parliament of the people and the Government which has the allegiance of the vast majority of the people." Here is portion of the second part of the affidavit: "In the circumstances, and having regard to the condition of the country, the armed forces consider that it is a matter of military necessity and essential for the suppression of the disturbances aforesaid, and the restoration of peace and order in the country, that persons charged with the commission of offences coming within the said resolution and Proclamation should be tried by military courts."

THE TREATY.

Mr. Comyn said this was almost in identical terms with the affidavit of General Macready with reference to a state of disorder and political disturbance. In the course of the disturbances a prisoner was captured, named Egan, who came before his lordship. Subsequently negotiations were opened between leading members of Poblacht na h-Eireann on the one side, and leading Englishmen on the other. These negotiations resulted in the signing of an instrument to which he would call attention especially in regard to the last clause of the instrument.

Master of the Rolls—Do you refer to the Treaty?

Mr. Comyn—Yes.

Master of the Rolls—Well, call it the Treaty.

Mr. Comyn then read paragraph 18 of the Treaty, which said—"This instrument shall be submitted forthwith by his Majesty's Government for the approval of Parliament by the Irish signatories to a meeting summoned for the purpose, of the members elected to sit in the House of Commons for Southern Ireland, and if approved shall be ratified by the necessary legislation." That instrument, said Mr. Comyn, was not approved by Parliament.

Master of the Rolls—If that is so it has no legal existence?

NOT AN ACT.

Mr. Comyn said that Parliament meant the King, Lords, and Commons, or, rather, the King with the advice of the Lords and Commons. What had happened in London? The House of Commons in the Address to the Throne which was passed said that they approved of the Articles of Agreement with Ireland. The House of Lords in reply to the King's Speech passed another resolution saying they approved of the Articles of Agreement.

The effect of those resolutions was not an Act of Parliament such as would be recognised in any court of justice.

The approval of the Treaty between Great Britain and France in 1919 was in very different language. There was in it a clause such as this—"This instrument shall be submitted by his Britannic Majesty for the approval of Parliament and by the French President for the approval of the French Assembly. That Treaty passed the House of Commons, the House of Lords, and received the Royal Assent. He submitted that in December, January, February, and March the Irish Treaty had no legal existence at all.

Master of the Rolls—It had no legal existence until ratified by Act of Parliament.

THE FORCE OF LAW.

Mr. Comyn—Ratified or approved. It cannot be ratified until it is approved, and if approved shall be ratified by the necessary legislation." Continuing, Mr. Comyn said the King was ruler of Ireland, ruling through his Ministers, in December, January, February, and March, and he (Mr. Comyn) intended to convey to the Court that the Executive Officers of the Provisional Government had no legal status whatever up to the 31st March. They could only act as Ministers of the Crown and they can only act now as Ministers of the Crown. The Treaty could not have the force of law until the date of the passing of the Act, 31st March, 1922. It was not retrospective, nor did it validate anything done before that day. And the transfer of powers only came into force on the 1st April by agreement between Mr. Collins and Mr. Churchill.

Master of the Rolls—What is the meaning of your observation? Isn't it stated that the Articles of Agreement shall have force of law as from the date of the passing of this Act?

Mr. Comyn said one part of his argument was that they were not approved on 31st March.

Master of the Rolls—Were they not approved on 31st March?

Mr. Comyn—They were not approved according to the terms of the instrument. If they were approved there would be no need for the language in the sub-section that followed. They would have been an impertinence on the part of the British Parliament, because under one sub-section they purported to make the Treaty an Act of Parliament which could be varied, amended or repealed by any subsequent Act of Parliament. The Treaty was not approved; it was not ratified.

Master of the Rolls—I feel bound to say I cannot follow you. Of course you are entitled to argue that black is white and white is black.

IS THE TREATY RATIFIED?

Mr. Comyn said if this were an instrument between two separate States it required ratification on the spot. It could not be ratified according to this instrument.

GREEK TREASON TRIAL

DEFENCE OF EX-MINISTERS

(Reuter's Cablegram.) Athens, Wednesday.

At the trial of the Greek ex-Ministers on a charge of treason, according to a semi-official Greek source, M. Theotokis, formerly Minister of War, spoke in his own defence, mentioning particularly his activity during the Asia Minor campaign. General Stratigos, formerly Deputy of the General Staff and Minister of Communications, said that M. Gounaris was reported to have received encouragement while in London from both Mr. Lloyd George and Lord Curzon. While the then Chancellor of the Exchequer, Sir Robert Horne, he added, was stated to have sent M. Gounaris a letter promising financial assistance. General Stratigos denied that he had prepared false reports on the military operations to deceive the public. M. Protopapakis, the former Finance Minister, said that the forced loan and ordinary revenue during his tenure of office had produced a total of 2,270 million drachmas, of which 1,450 million had been allotted to the needs of the army.

THE WAR ON THE RAILWAYS

FURTHER DESTRUCTION ON THE G.S.W.R.

An underbridge between Ballybrophy and Ashtuff, on the G.S.W.R., was blown up on Wednesday night, blocking the train service to the South. It was hoped to have the damage made good last night. Between Distow and Lixnaw an attempt was made to blow up an iron bridge. An attempt was made to ambush a train between Fenit and Tralee, but no damage was done.

Belmont Station was raided, all instruments damaged, and some cash stolen. A large granite block was dropped from a bridge on a train near Tallow, holing the roof of a third-class carriage and damaging two other coaches. South of Gould's Cross some chains were broken on the down line, but have since been repaired. Durrow signal cabin was burned down, and telegraph poles were cut between Fermoy and Ballynoleary.

On the M.G.W.R. a railway bridge at Ballybay, 3 miles from Athlone, was blown up by land mines yesterday morning, cutting off the train service on the Mayo line for some hours.

THE MARCH ON LONDON

UNEMPLOYED AND PREMIER

The 2,000 unemployed who marched to London are, for the time being, to stay there, supported by the Metropolitan Boards of Guardians.

This is the outcome of yesterday's proceedings, when a deputation from the marchers was received at Montague House by the Ministers of Labour and of Health.

The meeting proved abortive, because the deputation would not enter into any discussion without the presence of Mr. Bonar Law, who refused to meet them.

Mr. P. Have, national secretary of the organisation of the unemployed, told a "Daily Chronicle" representative (quoted by special arrangement) that they had refused to state their case in the absence of the Prime Minister.

The chief demands of the unemployed are, he said, "(1) work or maintenance at trade union rates; (2) administration of relief to be a national, and not local, charge."

DISGRACEFUL OUTRAGES

PROTESTANT CHURCHES ATTACKED

The Protestant church at Agharoe, Abbeyfeich, was broken into and a safe fixed into a wall destroyed. A bottle of Communion wine and a quantity of linen were carried away. The outrage is universally condemned.

A correspondent of the "Irish Times" says—St. Myra's Church, Co. Galway, is now a complete wreck, the vestry door being smashed in, the Communion table totally destroyed; the Communion rails, pulpit, and font broken. Big stones were flung through the thick plate-glass windows, which were all broken.

The Vicarage beside the church was set on fire and is now a hopeless ruin. The schoolhouse in the Vicarage grounds is also a total wreck; among things carried away from it were the floor and 16 new windows.

U.S. SHIP SUBSIDY BILL

THE STRUGGLE IN THE HOUSE OF REPRESENTATIVES

(Reuter's Cablegram.) Washington, Wednesday.

Opening the debate on the Ship Subsidy Bill in the House of Representatives to-day, Mr. Garrett, the Democratic leader, declared that the Republican administration with the death-rattle in its throat, was running true to form in favouring special interests.

Mr. Mondell, the Republican leader, replying, said that the Republicans were unable in 18 months to cure all the ills left by the late Democratic administration.

BRITISH LEGISLATURE

AMENDMENTS TO KING'S SPEECH

The swearing-in of Peers was yesterday continued in the House of Lords, amongst those who took the oath being the Prince of Wales. Of the members of the new House of Commons, 597 have now affirmed allegiance.

Mr. Ramsay MacDonald told the political correspondent of the "Daily Mail" that he intends to move the official Labour Party amendment, dealing with unemployment, to the Address, which will be read to-day. This will provide the first big battleground for the Opposition.

"The question of the occupancy of the Front Opposition Bench and the Opposition Whips' room in the Lobby is," says the correspondent, "affording an amusing Parliamentary comedy, for the Asquith-Grey Liberals are refusing to admit the claims of Labour to the sole occupancy. Mr. Hogg, the Asquith-Grey Chief Whip, said that under no circumstances would their leaders consent to leave the Front Bench."

Commander Kenworthy proposes moving an amendment regretting that the Government has not declared its intention to resume international relations with Russia by diplomatic recognition of its Government.

Responding to the toast of his health at a luncheon at the National Liberal Club, at which tributes to his work for Liberalism were paid by Earl Beauchamp, Mr. Asquith, Lord Grey, Sir J. Simon, and Lady Bonham Carter, Sir D. Maclean said Liberals were proud of the result of the election, there now being instead of 29, 60 clean cut Liberals in the Commons. The downfall of the Coalition had made public life cleaner and brighter, and there was not a Foreign Office in the world that was not glad it was gone.

ULSTER NATIONALISTS

IMPORTANT DUBLIN CONFERENCE

A conference of Ulster Nationalists without respect to sectional differences has been proceeding at the Dublin Mansion House for the past two days, but no official statement has been issued.

Not long ago a resolution asking for a conference was passed by the Derry Corporation, but was not acted upon. The understanding then was that only Nationalists returned to the Six-County Parliament last year would attend. Subsequently, Mr. Sean Milroy, on behalf of the Treaty Deputies in the Dail, undertook to arrange a conference on a larger basis, and the assembly in the Mansion House is the result.

Those attending were—Mr. Milroy (in the chair), Prof. Eoin MacNeill, T.D., Minister for Education; Messrs. T. J. S. Harbison, M.P., Tyrone and Fermanagh; Kevin E. O'Sheal, B.L.; Geo. Murnaghan, solicitor, Omagh; J. D. Nugent, M.P., Armagh; Geo. Leeke, M.P., Derry; P. O'Neill, M.P., Down; Rev. Philip O'Doherty, V.F., E.P., Omagh; Ver. Archdeacon Fenner, P.P., Enniskillen; and Aldermen Harkin (Belfast) and McCarron (Derry), the M.P.'s indicated being of course, members elected to the Six-County Parliament.

Boy's Sad Death.—Mr. Cooper, K.C., sent for trial at the Sessions, allowing bail, Arthur T. Burke, Lucan, and Cope St., Dublin, described as a commission agent, on a charge of having, while driving a motor car at Merchants' Quay, knocked down and killed Jas. McCarthy, aged 14 years, of Bride St. Evidence was to the effect that deceased rushed across the street. He died later in Stevens' Hospital. Mr. Corrigan, for Burke, reserved the defence, remarking that he had witnesses who could testify to the speed of the car.



THE CHILDERS CASE ADJOURNED TILL TO-DAY.

ment by an Act of Parliament which purported at the same time to legislate for Ireland. He wanted to show that the King was still ruler in the land, and that every person who exercised an act of government and every person who tried to suppress disorder in the country acted as the King's Ministers and servants, and that he acted as the servant of the King. That was the legal position he wished to make clear.

During the period that must elapse according to the Treaty the Parliament in this country consisted of the King and one House of Parliament.

The words of the Treaty implied that the Government of Ireland was the King's Government. Having quoted from the Transfer of Powers Order Mr. Comyn said there was no doubt that they included the maintenance of public order. His lordship was the King's Judge, and no man could interfere with him. His position and tenure were above the contentions of all parties.

He was a reserved service, and above all in this country and in England would give them the King's law in the King's court, and he (Mr. Comyn) was entitled on behalf of any man to show that what was being done in Portobello Barracks was a crime. He would not use a stronger word. That was why they were there.

STATE OF DISORDER.

The Master of the Rolls remarked that he was unable to follow the observations of counsel. Did Mr. Comyn dispute that the Provisional Government was the lawful authority in this country?

Mr. Comyn—I say this—

The Master of the Rolls—Do you or do you not?

Mr. Comyn—Within its powers and according to its functions.

The Master of the Rolls—What does it derive its authority from?

Mr. Comyn—From the King.

The Master of the Rolls—I thought it was from the Treaty.

Mr. Comyn—The Treaty is an Act of Parliament.

The Master of the Rolls—And from the Free State Act.

Mr. Comyn contended that the Provisional Government were acting as the King's Government and were faced with a state of disturbance and disorder. Oglach na h-Eireann had risen again. The same men who were in insurrection against the King in 1920 were in insurrection against his Majesty in 1922. The same methods were adopted. His lordship said under the protection of these officers and men of his Majesty's Army quartered in the Phoenix Park.

NO BRITISH ARMY?

The Master of the Rolls remarked that he saw around the army of the Irish Free State.

Mr. Comyn—The unseen power is in the Park; the marionettes are at the gate. The King's Government in Ireland were faced with a situation in which they must take action on his Majesty's behalf, and they were entitled to call to their aid armed citizens, and the King's officers and soldiers. There was a decree whereby the Provisional Government was authorised to issue commissions to the army signed in London on 6th December.

The Master of the Rolls inquired what use counsel made of that.

Mr. Comyn replied that he wished to show that they were commissioned officers of the King.

The Master of the Rolls again asked: What use do you make of it?

Mr. Comyn—That the R.O.I. Act and the regulations made have full force and effect, and the machinery is here for carrying them into effect. There was no such thing as the British Army, it was the King's Army.

The Master of the Rolls remarked that it was none the less British although counsel might say the King's Army.

EMERGENCY POWERS.

Mr. Comyn—The King's army is here, and the gentlemen in Portobello barracks are the King's army and the King's officers. The Provisional Government could proceed under the Transfer of Powers or act under a common law as the King's servants and officers. They did not elect to act under the Transfer of Powers, but brought in emergency powers entrusting to the army the duty of securing public safety and restoring order throughout the country. That was significant. The Government had done it, and the Government was the King and Executive in Ireland. The men who sat on the Commission in this case were the King's officers.

The Master of the Rolls asked where was the present argument of counsel bringing him?

Mr. Comyn said he was arguing that the Restoration of Order in Ireland Act and the regulations were for the Lord Lieutenant, Chief Secretary, and members of his Majesty's forces, and other persons acting on his Majesty's behalf.

The Master of the Rolls—You will see that it is impossible to adapt the Act of Parliament to existing circumstances.

Mr. Comyn—It needs no adapting.

NO FREE STATE ARMY?

The Master of the Rolls—Why?

Mr. Comyn—Because the regulations made under that Order can be carried out.

The Master of the Rolls—But these regulations apply only to what I call the British Army—you may call it the King's Army or Imperial Forces.

Mr. Comyn—I say the King's Army is here in occupation, and they are not to be ignored.

The Master of the Rolls—Is it your argument that the Irish Free State Army must be regarded as the King's Army?

Mr. Comyn—There is no such thing as the Free State Army.

The Master of the Rolls—Do you say that that must be regarded as the King's Army?

Mr. Comyn—Or armed citizens.

The Master of the Rolls—You say the Restoration of Order Act applies to the new army which has been raised in Ireland?

Mr. Comyn—That is one part. The other part is that the King's officers are here; the King's law is being infringed, and civilians with revolvers can be tried, and ought to be tried, by the King's officers who are here.

ARMY PROCEDURE

The Master of the Rolls—You contend that the Restoration of Order Act governs the operations of any army in Ireland no matter what you call it?

Mr. Comyn submitted that it governed the procedure to be adopted against any person taken prisoner in the course of the operations. On the other hand, the Provisional Government could face the situation boldly and pass a resolution in the Dail and comply with the provisions of Section 9 of the Transfer of Powers and have an Act of the Provisional Government. In other words, the resolution might be submitted to his Majesty for his assent. If that had been done it would not have been possible for him (counsel) to argue the matter. Mr. Comyn then proceeded to quote from the Army Act, and said that the penalty for unlawful possession of fire arms or ammunition was penal servitude for life or any less punishment. Counsel then getting somewhat excited exclaimed, "This is liberty."

These men—these English—know what liberty is. We don't. Perhaps we will teach the principles of liberty to some people before many years have passed."

THE ARMY ACT.

The Master of the Rolls—The Army Act only regulates the procedure of the British Army as distinguished from the Free State Army. How can you apply it to the Free State Army?

Mr. Comyn—So long as the British Army are here we are going to give them some thing to do.

The Master of the Rolls (laughing)—I hope you won't give them any more to do.

In the course of further argument, the Master of the Rolls asked—Do you say that the court martial is a court set up by the authority of the Army Act?

Mr. Comyn—It is a court martial set up with the sanction of the Lord Lieutenant.

The Master of the Rolls—It is set up under the authority of the Army Act.

Mr. Comyn—It would be an Army court martial.

The Master of the Rolls—A legal court martial, and not merely a military court.

Mr. Comyn—Yes.

The Master of the Rolls—You confine the Army Act to the British Army, and there is in this country an entirely new Army. How can you apply the Army Act to the new Army set up in this country?

Mr. Comyn said that no Army could be set up except under statute. There was no such thing as the British Army—they were both the King's armies.

WHERE COMPETENT COURT IS.

The Master of the Rolls said it was implied that this country under the Treaty had the right of setting up an Army which should not be the British Army. The armies of the British Dominions might also be the armies of the King. The Canadian soldiers might be supposed to be the soldiers of the King, but it did not follow that the Army Act applied to all the dominions overseas and also to the Free State Army.

Mr. Comyn said that the Treaty was ratified and there was a Free State Army authorised by an Act of the Free State Parliament it would be difficult for him to argue the case. But they were in a transitory state.

Mr. Comyn said there were several thousands of British military, with their officers, still in the Phoenix Park. Out of those officers a competent Court could be constituted to try this gentleman, who had been arrested in the Co. Wicklow.

There were no other soldiers in Ireland but the King's; there were armed citizens out to suppress Oglach na h-Eireann and the Irish Republicans—or to try and suppress them. A British military court would not impose on Mr. Childers or the other nameless prisoners, the sentence that had been passed. Mr. Childers desired the same fate, said counsel, as the poor boys from the Coombe who had been killed. If he were tried by a court of the King's officers that court would be restrained by the noble judgment of his lordship (the Master of the Rolls) in the case of Egan. He had laid it down in that judgment, and he would lay it down now as the law that so long as the R.O.I. Act was in operation it would protect the prisoner.

NOT THE KING'S ARMY.

There was a complete misconception of all the tangle of Irish legislation and rules for the last twelve months. The King and his Government were here; the King's laws, soldiers and judges were here, and his Government were here, and the King's representative was here; and people were posturing as if they were not. There was no change.

The Master of the Rolls—You cannot get a writ unless you show that Mr. Childers is in illegal custody. As far as I know he may be awaiting trial under the Firearms Act.

Mr. Comyn—We know that he has been tried.

The Master of the Rolls—But so far there is no evidence that sentence has been pronounced.

Mr. Comyn—It would be awaiting sentence elsewhere but for the order that your lordship made.

The Master of the Rolls—It does not appear what the sentence is.

Mr. Comyn—If he had been tried by court martial under the Restoration of Order Act by the King's officers we should have nothing to say. But Oglach na h-Eireann is not the King's Army.

The Master of the Rolls—I regret to say that I am not an Irish scholar.

Mr. Comyn—I regret it, too, for one of your lordship's breed ought to be a pure Gaelic speaker. We got the Gaelic down at the Burren Mountain from the O'Connors of Galway.

The Master of the Rolls—I am afraid you are wandering from the essential point. It is not to me that if it is not settled as to the authority, your lordship's remedy would be by a writ of prohibition.

Mr. Lynch—No; we are perfectly right before the Court.

QUELLING DISTURBANCES

Mr. Comyn referred to a writ in the House of Lords which declined to issue a writ of prohibition against a court which they described as a committee of officers and not a properly-constituted court under the provisions of the R. of P. Act. These gentlemen at Portobello were not officers who were qualified to try the prisoner, and, therefore, he was entitled to a habeas corpus.

If there was not civil war in Ireland the other side had no case, because all their case was based upon military necessity in civil war.

Counsel quoted the resolutions of the International Red Cross Conference, which recommended mercy to prisoners. That, he said, was the law for centuries in England and in Ireland. They never shot a prisoner taken in war in Ireland, and he hoped they never would.

THE LAW OF THE LAND.

On resuming, after the luncheon interval, Mr. Comyn continuing his statement, said that no doubt if there were breaches of peace in Ireland they were breaches of the King's peace. If there were insurrection and disturbance in Ireland as a result of the exertions of Oglach na h-Eireann and the Irish Volunteers and the Irish Republican Army they were against the King's peace, and if these disturbances were to be quelled they were to be quelled by the King acting in virtue of his Royal prerogative—through his Ministers in Ireland, his armed soldiers, his army, or through any armed citizens whom the Executive might be pleased to call to the assistance of the King.

If his (Mr. Comyn's) surmise was correct, and if this gentleman who made an affidavit was not the Adjutant regularly constituted by the King's army, assuming his suggestion, based on the evidence and upon the fitness of things, was not correct, and that he was only one of the leaders of a band of armed subjects, he was still acting for the King, and he might be entitled to rebel force by force, using no more force than was necessary.

But he was not entitled to select a military committee for the trial of offences against the King's law.

In other words no man could be punished in Ireland except under the laws of the land by process of law in the King's Court—legally punished—or by a military tribunal properly set up under the Army Act.

MILITARY NECESSITY.

Speaking of military necessity, counsel proceeded, who was to be the judge of that? Was it the leader of armed citizens or his friends and associates, or was it the Commander-in-Chief in the Park? He (counsel) did not know what position each of these men respectively held. He said the Court men were entitled to assume that everything was properly done in the King's name and under the King's authority, and the Court was bound to assume that.

Therefore in Ireland now, as in the last century and before, the only extra statutory power that could be exercised in Ireland was the power derived under the King's prerogative.

The Act that provided for the setting up of Military Courts was passed in 1799, after the Rebellion in 1798, in consequence of disputes which arose between the judges of the day and the military. The military captured prisoners and held them prisoners. The insurrection was still going on in several parts of Ireland at the time, and after about 160 men had been executed under martial law the judges who went on circuit insisted on having all prisoners brought before the Courts to be tried by them, and foremost amongst them was a very great judge—Mr. Justice Downes, afterwards Lord Downes.

That judge went to Waterford, and demanded, as the Master of the Rolls would here demand, that the prisoners should be given up. The military refused to give up the prisoners, and Justice Downes went back to Dublin, and protested in the noblest language against it. As a result of his

protest the Act of Parliament was passed in 1879 authorising the setting up of military courts, and such a court as would be set up here, provided that the resolution of one House of the Provisional Parliament had got the King's assent. The Preamble of the Act 39 of Geo. III acknowledged, no doubt, the existence of the King's Royal prerogative, but it only existed when the course of common law was unable to take place.

The peace of the Kingdom was so far restored at the time, counsel said, and proceeded to quote the Act of Parliament.

GREAT SIGNIFICANCE.

The Master of the Rolls—What are you reading all this for?

Mr. Comyn—Because it was read before the House of Lords, and every word was debated and discussed as it was considered of the utmost significance. It lays down the proposition that no doubt the King has a prerogative, and by virtue of that prerogative armed rebellion is resisted and suppressed.

It shows that if the courts of justice, the ordinary civil courts, are even partially functioning, martial law cannot exist—except by statute.

The law at that time was passed to enable them to answer writs of habeas corpus such as they were applying for that day. It showed how careful they were in those times to protect the principles of liberty, and how zealous they were to preserve them, and to prevent the taking of lives behind walls or closed doors, or without giving names—or obituary notices—he supposed they would not get such notices.

Whatever act was done by his learned friends was done under the Royal prerogative that force might be used against force to put down armed rebellion. If it were done under the Royal prerogative it would be his duty to submit to his lordship that that Royal prerogative was limited, and it was limited by statute. The statute which limited it was the Restoration of Order Act, 1920. To carry out the sentence of death they could have no Royal prerogative. They had only the right to imprison.

COURT AND ARMY.

They could not kill even by Royal prerogative. They could only kill in battle.

He thought they were agreed on that at all events. So far they were agreed that men might be killed in battle or hot pursuit. If a rebel was killed in battle or hot pursuit he was killed under the authority of the King; whoever killed him, and even if he was a beggar man. There was, said counsel, authority for that. But the King's prerogative was not law; it was governed by legislation and the R.O.I. Act abridged the Royal prerogative to the extent mentioned.

The Master of the Rolls—Can you show me how you can adapt the R.O.I. Act or make it applicable in this country to the state of affairs that exists in this country? Can you show me how you would apply the machinery—how you would commence to establish, say, a court martial?

Mr. Comyn—I say that the competent military authority should do that.

The Master of the Rolls—Who is that?

Mr. Comyn—The Commander-in-Chief.

Continuing, Mr. Comyn submitted as a legal proposition that the power in this country was therefore in the Park. It was the King's Army, and they could not have a court martial through the gentlemen in Portobello. They could have a court martial of gentlemen taken from the Phoenix Park, and they were the King's Army as much as the men in Portobello. The King's Court was higher than the King's Army, and it existed before the army.

POSITION OF THE KING

Mr. Comyn said he would ask: If this force in Portobello are irregular, if they are only a band of armed citizens, can they—

—they are still acting for the King—have more automatic power than the regular forces in Phoenix Park? That is the test of the case. The regulars in the Park could imprison men for their lives for having arms, but they could not shoot them. If the gentlemen in Portobello barracks, if they were regular King's troops having proper commissions—and his friends on the opposite side had not said yes or no to that—they could not shoot either the unknown men or Mr. Childers. They could only imprison them for their lives.

If they had no commissions from his Majesty they were still acting under the orders of his Majesty's Government, could they do more than the regular troops of his Majesty could do in the execution of their duty to his Majesty? That was the question of importance.

There was also involved the question as to whether the King, who was King of Ireland on 31st March, and would become King of Ireland on 6th December, was King of Ireland on 20th November.

They submitted that their argument led to the result that the R.O.I. Act was in force and must be applied to the case, and that Egan and Macready was the ruling authority. He submitted that the Executive of the Provisional Government could not, whilst the Courts were sitting, have this abnormal and irregular power in their hands.

NOT THE QUESTION.

Mr. Comyn went on to say that his friends on the other side and the people they represented might believe they had the power which they were exercising.

It was far from him to say that they were not acting honestly or that they were shooting men without proper trial and without believing that they had the power to do it.

Their bona fides, however, was not the question. The question was whether by the law of England or of Ireland they could get any foundation for this extra-judicial power, this extra-legal proceeding, if, in fact, the courts were available. Before the military or anyone on their behalf could be heard to say that the military had complete and absolute power to deal with matters as they liked, because they were acting under a public necessity, they must meet something which they did not attempt to deny in this case, namely, that the courts were available.

How they could say that the Courts were not available passed his comprehension.

Since the present case opened a man was sentenced by the Recorder of Dublin to five years penal servitude for having a revolver without lawful authority.

ADJOURNMENT SOUGHT.

In the course of further argument Mr. Comyn referred to several old statutes and submitted that the phrase "curiae apertae" in one of them meant that while the King's Court was open the King's judge knew no other law but the common law of England and Ireland and must give the law and the justice that he knew and must give the subject the rights which he inherited.

The Master of the Rolls remarked that there were a great number of Courts in this country to which might be applied the term curiae apertae, because they had got neither doors nor windows.

Mr. Comyn said he appreciated the difficulties which had arisen. He hoped the burning of the Courts would not alter the law, and that wherever the law was they would get it whether the Four Courts were burned or not. No one regretted more than he did the conditions under which they had to carry on work. Counsel then called attention to the fact that it was 4 o'clock and asked his lordship to adjourn until next morning.

The Master of the Rolls declined to adjourn, remarking that he had listened for three days to arguments and he did not know whether they were interminable. He would not, however, allow that to interfere with full argument in the case, but, in his opinion, it had been fully argued.

Mr. Comyn said he was entitled to make this submission, that having regard to the way in which they had worked for the past three or four days and his having had to make a long argument, involving great preparation, he was now exhausted and he could not do justice to his client.

The Master of the Rolls told Mr. Comyn to continue his argument and remarked

that he thought the subject was exhausted.

Mr. Comyn said he had not used any arguments except those relating to what had been advanced by the other side.

The Master of the Rolls again told Counsel to continue his argument.

Mr. Comyn said he had dealt with the special legislation as well as he could, and the doctrine of law which expressed the formula "curiae tunc apertae," but there was the other question.

The Master of the Rolls—Are you satisfied that you have done full justice to the point curiae tunc apertae and that part of the case?

Mr. Comyn—I am satisfied I have not done it justice, and that I have not done justice to my client, and I say with full solemnity and full responsibility, having made my protest, I will go on as long as I can now. Continuing, Mr. Comyn said that to whatever length the Executive might go in the necessity of emergency outside the ordinary courts of law, it could not go the length of justifying the assumption of judicial power and the carrying through of a trial with judgment and execution.

BROUGHT TO DUBLIN.

If they had shot the man in hot blood no one would complain, least of all the soldier whom they arrested, Capt. Childers.

By bringing him to Dublin, the military had put themselves in a worse position, because they brought him where he could be tried by a court, and he must be tried by a court if the King's law were to be upheld.

The other course said to be adopted by the military had a name, not in English or Irish law to-day. It was called "burgling justice"—taking a man, holding him for a while, shooting him, and then trying him. That was Judge Justice. A military committee could only be authorised by necessity. The necessity did not exist here, in fact. The jury was the judge of necessity, or the judge—not the litigant or the party to be restrained.

ADJOURNED TILL TO-DAY.

The Master of the Rolls said the case had lasted a very long time. It seemed to him that the subject had been fully dealt with, but if counsel said he had anything further to urge he would give an adjournment.

Mr. Comyn said his leader thought he had something worthy of consideration to add, and he (Mr. Comyn) also felt that he had arguments to urge which were well worthy of his lordship's consideration.

The Master of the Rolls said as it was a case of the utmost importance he would like to hear everything that every counsel in the case had to say. He noticed, too, that Mr. Comyn Maguire had devoted a great deal of attention to it, and was of great assistance, and if he wished to add anything he would hear him also.

Mr. P. Lynch—Thank you, my lord.

The Court adjourned until 11 o'clock this morning.

Mr. Lynch, K.C., Mr. Comyn, K.C., and Mr. Conor A. Maguire (instructed by Mr. Sean O'Flaherty) appeared for the applicants; and Mr. Sullivan, K.C., Hugh Kennedy, K.C. (Law Officer), and Mr. John Byrne (instructed by the Chief State Solicitor, Mr. Corrigan), for the military authorities.

DEPORTATION STORY

LONDON RUMOUR DENIED

Yesterday the "Northern Whig" published a report from its London correspondent that Mr. Erskine Childers and the eight other prisoners said to have been sentenced by military courts had been deported to Ascension Island, which had been acquired by the Irish Government from the British Government. Ascension Island is an isolated island in the South Atlantic, 900 miles from Cape Palmas, on the African coast. There is a cable station on the island.

"The Star" yesterday said it was officially informed by the Colonial Office that Ascension Island has not been given or leased to the Irish Free State for either a detention camp or a penal settlement. "It was suggested in London," adds the paper, "that Ascension Island is merely the slang name given to an island off the Irish coast which it was reported some weeks ago the Free State Government had secured as a detention camp. The Colonial Office reply is a complete denial, so far as the British Government is concerned. No island off the Ulster Coast has been leased or given."

"Islands off the coast of the Free State obviously belong to the Free State Government, and it is possible, of course, that they may be preparing a detention camp in such an island." It is further denied that Erskine Childers has been sent to Ascension Island, though the Colonial Office—which is apparently informed of his whereabouts—refuses to state where he is. There seems little doubt that the stories of his execution were false and that he is still alive.

GROSS INEQUALITIES

DERRY GERRYMANDER

"Sir Jas. Craig declared that the object of his Government was to afford the fullest civil and religious liberty to all within the Six-County area, and to show justice and fair play in the administration; but the redistribution scheme forced on them without inquiry, coupled with the allocation of members to the wards, showed that his protestations of impartiality was not meant to be given effect to. On the contrary, here they found stereotyped inequalities."

"22,928 Catholics will get at most 16 representatives and 17,857 Protestants will get at least 24 representatives; or, in other words, Catholics, being 56.21 p.c. of the population, get 40 p.c. of the representation, and all others (Protestants), 43.79 p.c. of the population, get 60 p.c. of the representation."

—Ald. R. Doherty, at Derry Corporation.

RUB ST. JACOBS OIL ON CHILD'S THROAT AND CHEST!

It breaks up congestion and brings Quick Relief.

No telling how soon the symptoms may develop, if neglected, into croup or pneumonia. You will never regret having that bottle of old honest St. Jacobs Oil handy. The moment you use it, it quickly loosens up coughs and colds in throat or chest— instant relief from pain, soreness, or stiffness follows.

St. Jacobs Oil is a certain remedy for Croup, Chest Colds, Bronchitis, Rheumatism, Lumbago, Neuralgia. Thousands of mothers know this.

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IS IDEAL

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Soap, Ointment, Talcum, sold every where. British Depot: J. N. Newbery & Sons, Ltd., 27, Abchurch Lane, E.C. 4.



CHILDERS. Erskine. 90, Stephens Green, Dublin.  
.12, Bushy Park Road, Rathmines, Dublin.  
13, Chelsea Embankment Gardens, London, S.W.

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Age.

Occupation.

Elected Sinn Fein M.P. for Co. Kildare, May 1921.

Director of Propaganda, Dail Eireann. and Publicity. (9-3-21)

*Voted against Treaty on Sat 7-1-22*

A notorious Nationalist. *and Extremist.*

Cousin of Mr R.C. Barton, M.P.

Closely connected with several noted English and Irish Families.  
*Apparently served with the C.I.V.'s in the S. African War. (see Press cutting)*

Served in the "Great War" as an Officer (Major) in the Royal Flying Corps.

After he left the Army, he resided at 20, Wellington Road, Donnybrook.

Active and leading Propagandist for the Sinn Fein Organisation.

Took an active part in the Gun-running enterprise at Howth.  
(File G/3558/1.)

O'Kelly in a letter to J. Hegarty 15-10-19 requests that CHILDERS be sent to Paris for useful and fruitful work on the French Press.

In June 1920 he became a Director of the National Land Bank, 68, Lower Leeson Street.

House raided 7-1-21. Programme of Lectures issued by the Popular Lecture Society on Economics, Industrial Development, Social Problems, History, Biography, and Art discovered.

On 9th March 1921 his residence (at 12, Bushy Park) was searched by Military for Firearms, but nothing was found.  
A written apology was sent to Erskine CHILDERS by the G.O.C. D.D. on account of this raid.

On 9th May 1921 his residence at 12, Bushy Park Road was searched and a quantity of seditious literature found.

Arrested; but released on the following day.

Typed letter from him re Irish Propaganda in British Dominions found at 204, Brunswick Street, Dublin.

Author of a fierce tirade against the English Government re imprisonment of Richard BARTON, M.P.

*Compiled "Irish Bulletin"*

contd/



contd.



Irish Bulletin of 29-6-21, shows, "Never imprisoned".

Mentioned in Epitome	53/4774	dated	28-4-21	Letter to Childers.
do	53/5148.	"	13-5-21.	As elected M.P.
do	53/5364.	"	22-5-21.	As Trustee of the Irish White Cross, and Member of the Standing Executive Committee, White Cross.
do	53/5624.	"	5-6-21.	As writer of Military Rule in Ireland.
do	53/5665.	"	6-6-21.	Name extracted from Note Book.

appointed secretary with Finian Lynch to the Dail Eireann Representatives attending the conference at Downing St, London on the 11-10-21.

Strongly supported DeValera on the side of the Republicans and voted against the Treaty.

One of the Committee of Direction and Editor of a paper entitled the "Republic of Ireland" which made its appearance 3-1-22. (IX/0896 and "Freeman's Jnl." 29-3-22.)

Previous history of his early life given by Arthur Griffith. (See cutting)

Defended his previous history as given by Griffith. (Press cutting 9-6-22)

Re-nominated as Anti-treaty candidate for Kildare and Wicklow to contest in elections June 1922.

Defeated at the Poll for 3rd. Dail.

BLACKROCK. COY. No. 1. Bn.

It is reported that this company is mainly composed of Republicans, and 200 men of this district are stated to have joined ERSKINE CHILDERS Force. Blackrock is however quiet.

When the Atlantic Cable Station at Waterville, Co. Kerry was seized by Republicans, all outgoing Press messages were censored under the direction of Erskine Childers. (IX/1360.

Was in charge of a party of irregulars who attempted to blow up Road Bridge at Mallow, but was prevented by the Parish Priest and the people ("Irish Ind" 17-8-22.)

In charge of a party of irregulars arriving at Valentia Harbour by boat, for the purpose of cutting the Transatlantic Cable, and was driven off by the P.G. troops after succeeding in cutting one. ("I. Times" 30-8-22.)

Reported in Cork that Childers had been wounded and captured by P.G. troops. ("Freeman's Jnl." 7-9-22.)

Reported as having definitely been seen in command of troops during the attack on Kenmare. ("Freeman's Jnl." 18-9-22.)

Reported as having been billeted in a house in the area of the mountains round Inchigeela. ("I. Ind" 12-10-22.)

Reported as having been seen driving with Liam Lynch at N. Cork. ("Freeman's Jnl" 28-10-22.)



Contd.

During the storming of Kilmallock by P.G. troops, and the subsequent hasty retreat of the Irregulars, Childers was seen in the town towards the end of the fight, evidently re-organising his men. He ordered the withdrawal of the last outpost. ("Sunday Ind" 6-8-22.)

An unconfirmed report states that DeValera and Erskine Childers have quarrelled, the former advocating a Constitutional Party, whilst the latter is in favour of continuing the fight. There is said to be a good deal of jealousy behind the quarrel. (W.I.S. No. 184.)

It is Officially announced that Childers was arrested in the residence of Mr. R.C. Barton, T.D. in Co. Wicklow, on Friday 10-11-22., together with another Irregular leader. Childers was found to have a Colt revolver and a quantity of ammunition in his possession. (Press 11-11-22.) DeValera is reported as having been in the house at the time, but evaded capture. ("Evening Mail" 10-11-22.)

Transferred from Portobello Barracks to Mountjoy Military Prison.

("Irish Ind" 14-11-22.)

*For reports on the trial, and the shooting of Erskine Childers, see cuttings in envelope.*



ON HIS MAJESTY'S SERVICE.

News cuttings referring to:

"Childers"



# TRIAL OF MR. CHILDERS

## PROCEEDINGS CONCLUDED

It is learned that the trial of Mr. Erskine Childers has concluded at Portobello Barracks. The proceedings were held in camera. According to a contemporary, the charge put forward by the prosecution was that of unlawful possession of a Colt automatic pistol, which, according to an official report issued at the time, was found on Mr. Childers when he was arrested on 10th inst.

Counsel engaged for the defence were Mr. Patrick Lynch, K.C.; Mr. Michael Comyn, K.C.; and Mr. Conor Maguire (instructed by Mr. Sean O h-Uadhaigh).

### PERSONNEL OF COURT.

No information as to the personnel of the tribunal has been obtained, but it is stated that the Court was composed of 2 officers of high rank and a legal member. After the opening addresses had been delivered by senior counsel for the defence, a statement of objections (7 in all) was handed in. After the adjournment another statement in Mr. Childers' handwriting was handed in. This document claimed belligerent status for Mr. Childers as "an officer of the Irish Republican Army," taken in war.

On the Court resuming, it was announced that the objections lodged had been overruled. Counsel then submitted a further statement, in which it was contended that under resolutions of the International Red Cross civil war political prisoners, were entitled to "prisoner of war treatment." Counsel for the defence, it is stated, then withdrew, declining to take any further part in the proceedings, which were resumed.

Mr. De Valera has issued a strongly-worded statement relative to Mr. Childers which we are not in a position to publish.

### Chinese Cabinet Crisis.

The Chinese Cabinet has resigned.—Reuters.

*Irish Independent*  
20<sup>th</sup> 21<sup>st</sup>



IRSKINE CHAMBERS TREATISE  
ON

METHODS OF INFLUENCING BRITISH LABOUR.

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British labour seems on the whole to be very ignorant and indifferent as to the Irish situation, and to have no definite policy.

The attitude is on the whole vaguely sympathetic to Ireland but the sympathy is passive and uninstructed, not active and well-informed. There is also some hostile and reactionary feeling.

The war is mainly accountable. The absence of Irish members from Parliament is also a drawback to publicity, for which nothing but active propaganda can make up. I find some quite intelligent and well-informed people ignorant of the elementary facts of the Irish situation, eg. the existence of the Republic.

Disheartening as this state of things is, it can be remedied, and surely ought to be remedied. Though the main work for Irish independence must undoubtedly be done in Ireland, on the Sinn Fein principle, outside propaganda cannot be neglected and is not being neglected in Paris and America. In England, too, the Irish Self-Determination League will do good work, but to turn the scale there must be support from some purely British section: and the section to be influenced should be Labour.

Self-determination should be the keynote of the propaganda.

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The following ways of influencing Labour are suggested:-

- (1) Through the Labour News Service, issued by the Press Department of the Labour Party.

Director: Herbert Tracey.  
53 Eccleston Square, London, S.W.1.

I saw Mr. Tracey and Mr. Gillis on June 6th 1919.

The Press Department disseminates to Labour journals and papers read by working men throughout Great Britain news in the shape of paragraphs of 15 - 25 lines (eg. Labour in Parliament, Industrial Labour Abroad, Labour and Co-operation.)

At present they distribute nothing about Ireland but are very willing to begin doing so, either in the shape of regular weekly notes or occasional notes. Contributions can be signed or unsigned.



They suggest, for example, that signed notes by Mr. T. Johnston would be useful among others. Subjects may be as wide as desired: politics, labour, etc.

Specially urgent and important information may be wired, for issue to daily press.

M.S. should reach the Director by Thursday morning.

Questions to be asked in Parliament should be sent to

W. Hillis, 33 Eccleston Square

who will get them asked.

- (2) Through an Advisory Committee of the Labour Party to be appointed to enquire into and advise on the Irish question with a view to framing a Labour policy towards Ireland.

No such Committee exists at present. I discussed the possibility of establishing one with Mrs Sidney Webb and Messrs Tracey, Gillis and Middleton on June 6th 1919. They anticipated no difficulty.

The procedure suggested was that the Advisory Committee on International Questions, already in existence, (Chairman, Sidney Webb) should report to the Labour Party recommending the creation of an Advisory Committee on Ireland.

A memorandum should be prepared for submission to the International Questions Committee at its next meeting on June 17th. The Memo. should briefly state the present Irish situation and show how urgent it is that British Labour should frame a policy - of the right kind - to meet it. Acting on this Memo. the International Questions Committee would recommend a Committee on Ireland.

Irish opinion could be represented on this Advisory Committee either (a) directly or (b) in the form of Consultative Members, or (c) simply as persons called on to give advice. Irish Labour men who are also members of the British Labour Party could of course, if they desired to do so, sit as full members of the Committee



The main thing would be to have a good written case prepared on behalf of Ireland and for a group of Irishmen to come over to England to the first meeting of the Advisory Committee and support the case by argument.

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"3" Through a publication to be issued officially by the Fabian Research Department as one of its series of standard books and pamphlets on questions of the day.

I discussed this question with Mr. G. D. H. Cole, the Acting Secretary, on June 5th, 1919. No such publication exists at present and I was informed by him and others that the numerous books on the Irish ~~xxxx~~ question are very little read by the working classes.

It is claimed that the Research Publications referred to have a circulation of from three to six thousand of a special character, being read by the kind of people who shape Labour opinion and take their facts and ideas for speeches etc., from these sources. They circulate through the Labour organisations throughout the country.

The cost, however, is a serious matter. The estimate is a total of 800. for total cost of production against which would be set off receipts from sales. The 800 includes 200 payment to the Author, 100 for authors expenses, travelling, office (if required) etc., 80 (being 10% on the 800) to the department for administration costs (including apparently typing, which they will do) and the remainder 420 for printing, producing, advertising etc., the book, at the present high ~~xxxx~~ very high cost of production in the publishing trade.

The money, if raised, could either be given outright or advanced, or partly given and partly advanced, the necessary business arrangements being made to meet the case.

A separate arrangement to be made about the American rights. The Labour Party itself cannot supply any funds, I gather.

If written, the book should deal as little as possible with history and as much as possible with facts of the present situation presented in a compact and attractive way, forcible but unrheterical, with well drawn logical conclusions.

(Signed) Erskine Childers.



"LEST WE FORGET ERSKINE CHILDERS"

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In the current issue of "Young Ireland" the war record of Erskine Childers supplied to that paper at the Editor's request by the British Admiralty and War Office, is given in full under the heading "Lest we forget Erskine Childers". It is the record of a brave and honourable man who going out as 30,000 other Irish men went out (including F.S. Major Gen. Dalton) to fight for the freeing of weak nations, risked death a hundred times for his ideal. When he found, as Major Gen. Dalton found, that Britain abandoned that ideal, Erskine Childers returned to Ireland and offered his services to the Irish leaders. They were accepted gladly and from 1919 to to-day he has served brilliantly, bravely, and with unquestioning devotion the Godly cause of human liberty. He might have had the honours and riches of an Empire. He preferred to sacrifice comfort, wealth, and the friends of a lifetime for justice sake. When a section of the Irish leaders also betrayed the ideal of liberty Erskine Childers again remained faithful to it, once more sacrificing position and his honour and reward, receiving instead only bitter calumny. Though past middle age he has gone out to endure all the tasks and hardships of the I.R.A. in the field. Those who defame such a man do not know what courage and honour mean. Will the Editor of "Young Ireland" who, while himself in obvious communication with the British War Office, fowly suggests that this thrice honourable man is a British Spy, produce his own record in the service of liberty? Well indeed will he deserve the love of the real Young Ireland, if it be as stainless and as manly as the record of Erskine Childers.



*Freemans Journal*  
31-8-22

**THE CABLE CUTTERS**

**Irregulars Aided By Ex-British Officer**

**CHILDERS' FELL DESIGN**

The activities of Mr. Erskine Childers, with the Irregulars, says this week's "Free State," seem to be chiefly devoted to wrecking Ireland's facilities for an important place in international trade and commerce. He appears to be using his experience as a British Intelligence Officer in selecting to destroy irretrievably those material advantages which would tend to enhance the prestige of the Irish nation as a link in world trade and commerce. The cable stations in Ireland have long been the envy of British and European financial interests.

It is a very sinister omen that the Englishman, Mr. Childers, should have had his name associated almost exclusively with diabolical attempts to wreck the Transatlantic cable station on the Irish coast. A few weeks ago it was stated in the public Press that Mr. Childers, assisted by two engineers from Krupps, destroyed the railway viaduct at Mallow, which will cripple and interrupt transport, trade and market facilities between Dublin and Cork for a long time to come.

**CHILDERS' WORK.**

On Tuesday, August 29, an official report by the Army Publicity Department stated that an attempt was made by the Irregulars to cut the Transatlantic cable at Valentia, and that Mr. Childers was in charge of the cable cutting expedition of the Irregulars.

It will be recalled that the cable stations at Waterville and Valentia were seized some time ago by the Irregulars, the operations of the stations held up, and the plant in the stations damaged, presumably by the orders of the Englishman, Mr. Childers. The English Press, with one voice, immediately agitated that Ireland should be deprived of the Transatlantic Cable Stations, and that they should be transferred to Cornwall.

Hitherto every message, every word, sent from Ireland to America by cable had first to be sent to London, and was thus delayed, and often held over until the English messages were despatched. Since the Irish Postmaster-General took over control of the Irish Postal Telegraph services, all messages cabled to America from Ireland are sent direct.

**IRELAND'S LOSS.**

If Mr. Childers succeeded in destroying the cables of the Irish coast it would be extremely difficult to withstand the demand by England to have those cables laid on to Cornwall, and thus Ireland would be practically isolated completely from all international lines of communication. Once this was done the cable companies might not be persuaded, in view of the very great expense that would be involved, to re-lay their cable lines again to Ireland.

*"IRISH INDEPENDENT"*  
19-9-22

**MR. ERSKINE CHILDERS**

To the Editor "Irish Independent."

Sir—For some reason of their own the Free State authorities think it good policy to invent and publish false reports about me and my doings. As these reports sometimes cause annoyance and misunderstanding, I wish to say that there is not a word of truth in any of the reports about me which I have seen printed in the daily Press during the last six weeks.

**ERSKINE CHILDERS.**

*IRISH TIMES 9/9/22*  
**A LIMERICK RUMOUR.**

**MR. CHILDERS'S WHEREABOUTS.**  
(FROM OUR SPECIAL CORRESPONDENT.)

LIMERICK, Tuesday.

A certain amount of mild interest has been aroused to-day in some official circles by a rumour that Erskine Childers has been captured. So far, there is absolutely no confirmation of this story, and no great reliance can be placed upon it.

If true, the news would be of first-rate importance, as there is no doubt that Mr. Childers is the chief military brain among the irregulars. He has had experience of warfare on land, by sea, and in the air, and his personal courage has never been doubted. To him may be attributed the early and accurate summing up of the military position which determined the irregulars to abandon their hold upon the towns and to take to their present infinitely more successful guerilla tactics, which have challenged the full resources of the national army to cope with them. His capture would deprive the irregulars of their soundest and most enterprising leader.

The High Command of the national forces, realising to the full the danger to the economic welfare and national solidity involved by a continuance of the present blind-man's buff, are determined to strain every sinew in an attempt to end it as rapidly as possible.

A whole-hearted and vigorous campaign may, and in all probability will, involve a considerable amount of discomfort to the civilian population, for it may be necessary to shut off from time to time large areas by garrisoning of roads, the installation of a strict permit system, and the interruption of all telegraph and postal facilities; but the alternative to this would, in the long run, be even more disastrous, for the economic life of the country, already greatly hampered, cannot survive much longer without a crisis.

**SIGNIFICANT INCIDENT.**

One small incident which has occurred in Limerick is indicative. The disturbance of fairs, markets, and roads, and the general sense of insecurity, have prevented the small country retailers from getting their flour from Limerick. The various cottage hearths which bake their own bread cannot be supplied; and, on the other hand, some of the flour mills in the city cannot sell their flour and are likely to be shut down. Labour in the district is anxious to keep all local industries going lest the ranks of the unemployed should be further swelled, and a notice has been served upon the bakers that they must buy no foreign flour.

This leaves in an awkward predicament those bakers who are expecting cargoes of flour from overseas. They cannot afford to cancel their contracts, and to do so would only cause further loss and unemployment to labour. Thus the vicious circle is completed.

At present the irregulars themselves seem to be advancing further and further on their policy of making life impossible. The mail trains from Kilrush to Ennis and from Cahir to Limerick Junction were "held up" on Thursday, and all the mails were removed. They have now, according to their declared intention, run the whole gamut of the methods which were employed against the English forces in occupation of the country. Unless a period is put to their activities the future of Ireland would appear to be a vast desolation, in the middle of which the few remaining citizens which the crippled countryside can support will wage an embittered struggle.

*"IRISH INDEPENDENT"*  
13-11-22

**MR. CHILDERS' CAPTURE.**

"I have seen with satisfaction," continued Mr. Churchill, "that that mischief-making — renegade, Erskine Childers, has been captured. No man has done more 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. Such as he is may all who hate us be."



Irish Independent  
3/3/22

Extract from Leader of  
FREEMAN'S JOURNAL 8.5.22

## THE TREATY NEGOTIATIONS

To the Editor "Irish Independent."

Sir—An erroneous statement in a letter given prominence in your issue of yesterday from "Treatyite and Republican," should be contradicted at once. It has already appeared twice in a Treatyist weekly paper, where it had little publicity, but, if it is going to get into wide circulation and be seriously believed, it had better be scotched at birth. The statement is that "the s.x North-East Clauses of the Treaty were merely adopted from the version of Document No. 2 presented to the British Delegates" (that is, in London, during the negotiations).

As Secretary to the Delegation, I am acquainted with the facts. The counter-proposals which were made to the British Delegates in London in opposition to their Dominion scheme did afterwards become the basis of Document No. 2, as presented by President de Valera to the Dail; but these counter-proposals never at any stage contained any reference to Ulster. They dealt solely with Treaty relations between Ireland, Britain, and the British Commonwealth.

The Ulster clauses of the Treaty were, in the first instance, negotiated by Messrs. Griffith and Collins, in conjunction with the inner group of British Delegates. They appeared in all the Dominion drafts, up to the final Treaty, and in no others.

ERSKINE CHILDERS.

12 Bushy Park Rd., Terenure, May 2.

Mr. Childers tells us we are "sick with the fear of war."

INDEPENDENT  
15.5.22

E. CHILDERS'S STATEMENT  
IN DAIL RELATING TO HIS  
SERVICE IN THE BOER WAR  
AND GREAT WAR.  
'IRISH TIMES' 9-6-22.

## "BASIS OF EQUALITY"

### MR. CHILDERS ON DOMINIONISM

To the Editor "Irish Independent."

Sir—In your issue of Saturday you gave prominence to some extracts from an article from the weekly "Free State," which proclaims as an important discovery that Mr. King, Prime Minister of Canada, somewhere about a year ago (no date is given) claimed "equality" for Canada with Britain. The discovery is trumpeted as a crushing refutation of a speech I made in the Dail on the "Treaty."

If only this jewel from Mr. King's lips had been discovered earlier, wails the writer of the article, my speech could have been exposed as a "jester's folly." How this could have been done, there is wisely no attempt to explain, by quotation or otherwise. The writer goes on to maintain that Ireland is thus proved to be the "equal" of Britain, and that Republicans are wrecking the crowning achievement of 700 years.

### CLAIM OF DOMINIONS.

This would be amusing enough if the times were not so grave, and I wonder the "Irish Independent," which should from its traditional policy understand Dominionism, takes it seriously. Yet the germ of something serious may be extracted from it. Equality with Britain was, of course, claimed by her Dominions long before 1921. If the writer of the article knew his subject, he would not have bothered about Mr. King, whose utterance turned on a question of etiquette, not of substance, but would have gone back at least as far as the Constitutional Resolution passed at the Imperial Conference of 1917, to the action of Sir F. Borden in insisting in 1919 on the separate ratification of the Treaty of Versailles by the Canadian and other Dominion Parliaments to the claim of General Smuts in the same year to "absolute equality of status" for South Africa, and to other well-known subsequent speeches of the same statesman, down to his complaint only the other day that his invitation to the Washington Conference reached him through Downing Street, not direct from the United States.

The writer might also have quoted admissions of this claim for equality from several responsible British statesmen. But neither he nor any one else could say precisely what the constitutional position of Britain and her Dominions is now. The Imperial Conference of 1921 was called to determine this, but kept its proceedings secret, and is reported to have decided nothing on the ground that things were working well and that rules and definitions might be embarrassing.

### RIGHT TO SECEDE.

"Equality" with Britain, of course, implies for the Dominions a sovereign independence as complete as that of Britain, and a right to secede from the Commonwealth without interference from Britain. The British Government, speaking as a Government, has never formally admitted their right, though for geographical reasons it could hardly be contested in practice, and it is no wonder that New Zealand and Australia, for example, which desire the protection of the British fleet—gratis—do not press for its formal admission.

Canada, on the other hand, can say or do what she pleases: right or no right. She is protected in the last resort by the Monroe doctrine, while her vast and distant territories make her uncoerceable by Britain. But behind all lies the governing fact that Canada and the other Dominions are genuinely loyal to the British Crown and connections and don't want to upset things by claims and counter-claims. What has all this to do with the Irish position and the "Treaty?"

Ireland is not loyal to the British Crown. She is so close to Britain as to be physically in danger from her and the "Treaty" does not even pretend in its text to give the Free State Canadian status. Clause 2, saying that the "law, practice and constitutional usage" of Canada shall apply to the Free State is headed by the words, "Subject to the provisions hereinafter set out" and the said provisions annul Canadian status.

Would Canada tolerate the transference of a quarter of her territory to British rule and military occupation? Would Canada tolerate Clauses 6 and 7? The former prohibits an island nation from defending itself or its foreign commerce by sea. The latter allows England to occupy permanently four Irish ports in peace and to control wireless and cable communications with the outside world, and in time of war or "strained relations" to use the whole island as a military and naval base, implicating Ireland in every British war, and making her a mere dependency of Britain—the "front trench" of Britain, in Mr. Lloyd George's words on December 14 last—with political results that can be imagined.

### LAW AND USAGE.

For remember that Clause 2 makes the "Law" as well as the "usage" of Canada apply, with the given limitations, to the Free State; the law, with all its Royal and Imperial mechanism, to be modified only by an appeal to the "usage" of a country with a different status.

The substance of all I have written I said in the Dail, in the course of a general attack on the whole principle of meeting the demand of an ancient nation like Ireland by a Dominion expedient. I called Canada "virtually," i.e., potentially, "independent," and showed the absurdity of comparing her position with Ireland's. But my speeches matter little; what we want is a solution of the present crisis.

If the Treaty party really believe that we get "equality" with Britain under the Treaty, in heaven's name, let them test their view by putting it up to Britain to recognise that "equality," not in phrases, but by acts. And let us regain unity on that basis.

The article you quote from admits that the Treaty was signed by the compulsion of a superior over an inferior, with no question of "equality," but says that ever since it was signed we have come into our heritage of equality. Very well, act on that. An election held under a threat of war is not equality. Let the threat of war be withdrawn. But go further. Don't let us quibble about phrases while Rome burns.

### RECOGNITION.

Britain is an internationally recognised sovereign State. If Ireland is the equal of Britain, then Ireland has the right to be internationally recognised as a sovereign State. What Canada chooses for her own reasons is neither here nor there. Equality is equality. Ireland has chosen to be a Republic, and demands recognition from Britain. Let the Treaty party join us on that platform. And, having established unity on that basis, let them insist on the elimination from the Treaty of all clauses manifestly and glaringly inconsistent with the status of sovereign equality—the first four Dominion clauses, the degrading defence clause, the Ulster clauses.

If Britain really means that Ireland is her equal, let her prove it here and now. It is up to the Treaty party to persuade her to prove it. War upon a technicality is surely unthinkable, and if Republicans and Treatyites are agreed on fundamentals, civil war is impossible.

ERSKINE CHILDERS.

12 Bushy Park Rd., Dublin.

P.S.—May I add my regret that the "Independent," which is usually courteous, quoted the "Free State's" description of me as "Major, D.S.O."—a phrase meant intentionally to be offensive. I have long severed all connection with the British army, and hold no rank in it. It would not have been thought decent to refer to the late General Adamson by his former rank in the British army.

Mr. Childers rose to make a personal explanation. He was sorry, he said, that President Griffith was not in his place, as he felt a delicacy in speaking on the matter while he was not there. The statement made by President Griffith was that he was an Englishman and had spent all his life in the British military secret service. It was qualified later by a statement as to his work as Intelligence Officer. There could be no point or object in making that statement unless it had an implication in it that his position and action there were in some way dishonourable and that he was acting not only in the British interests, but in some disreputable way as a secret agent of England. He was not an Englishman in any true sense of the word. Everyone knew that he had sworn allegiance to the Irish State, and no man who was an Englishman did that. His mother was Irish and his father was English. He was educated in an English school and college, like many boys in his position, and in due course entered the British Civil Service on the staff of the British House of Commons.

There he became "Britonised and Imperialised," and he had been in the South African War, like thousands of other Irishmen. He was sorry now that he had. By process of moral and intellectual conviction he came away from Unionism into Nationalism, and finally into Republicanism. A few years later he left the British Civil Service and threw himself entirely into working for Home Rule for Ireland. He had published a work called "The Framework of Home Rule." A year after he left the British Civil Service he worked up the scheme of complete Home Rule very much on the lines familiar to the Dail, and now in the form of Dominion status—writing and speaking—and finding it so desperately hopeless of winning anything for Ireland through the British Liberal Party, he took part in organising a supply of arms for the Irish Volunteers. Then came the great European War, and, like so many thousands of men, he went to that war. He wished that he had not. Now, as to the basis of this charge: that of his having acted as a secret military service or intelligence officer, he wished to make his position clear to the Dail. Every soldier knew that intelligence work forms the part of one section of the work of every active unit. His work was active service work almost entirely throughout the whole war, with the exception of a few months when he was flying in aeroplanes as observer, taking photographs, drawing maps, and making reports. That was the beginning and end of the charge, as far as he was concerned, with secret service or intelligence work in the British Army.

He realised at the end of the war that the old era was dead, and the era of the Republic had come. Directly he was discharged from the British Army he immediately cut all connection with it, and threw himself heart and soul into the Republican movement in Ireland.

From the first moment that he came to Ireland he offered his entire time and service to the Republic, and he should never forget the kindly and generous way in which he had been received, and the implicit trust that had been placed in him. He heard of no suggestion that he had ever abused any trust reposed in him, and his conscience was quite clear on that. He could see no justification of these attacks of President Griffith. He was human enough to realise that President Griffith might have felt deep resentment against him owing to his opposition to the Treaty. He could understand Mr. Griffith, after completing, as he thought, the crowning achievement of his life spent in the service of Ireland, in brilliant and imperishable service for Ireland, regarding him (Mr. Childers) as a late-comer and interloper, and feeling bitter. For his part he would be content to dismiss the whole thing from his mind and to regard it as a permanently closed chapter. If the President, on his side, made some expression of regret that he was led by momentary and uncontrollable feeling into expressions of attack which he regretted, he, personally, would be happy to leave it at that. This kind of thing would do the Dail or the nation no good.

Madame Markievicz seconded the motion. Mr. Collins said that he would have to reply on behalf of Mr. Griffith and the members of the Government.



No. 2. SHEET.

# Speeches on the Ratification by CHILDERS. Erskine.

'INDEPENDENT' 24-12-21.

'INDEPENDENT' 27-12-21.

'FREEMAN'S' 18-3-22.

## THE TREATY OATH AND THE OTHER MR. E. CHILDERS EXPLAINS

To the Editor "Irish Independent."  
Sir—An attempt—partly deliberate, partly the outcome of ignorance—is being made to confuse the mind of the public, by rumour and innuendo, about the origin and character of a form of oath supposed to have been authorised by the President as an alternative to the oath contained in the Treaty. It is being stated that this alternative oath was expressly sanctioned, if not drafted, by the President, and that there is no difference between it and the Treaty oath save a "quibble of words." In the interests of truth, this legend must be blown to the winds at once. There is an issue real and grave enough to be faced without the intermixture of false and irrelevant issues.

The necessity for an explanation arises from the fact that part of the contents of two confidential documents submitted (among others) to the Dail in secret session, and under a pledge of secrecy, were communicated, without their context, to the public by a Deputy speaking in support of the Treaty in public session on Dec. 21.

**ALTERNATIVE OATH.**  
Plainly the matter cannot rest there. That the public should know a little—just enough to confuse and prejudice their minds, and no more—is out of the question, and, as secretary to the delegation, I am bound to do my duty in enlightening them so far, and only so far, as the circumstances require.

It should be understood, then, that the alternative form of oath was drafted at the London office of the delegation on the morning of Dec. 4, the day before the Treaty was agreed to. It formed, though for the first time, part of a set of counter-proposals which, varying in form but not in principle, had, with the knowledge of the Dail Cabinet, been pressed for some time past upon the British negotiators in opposition to their Dominion scheme. These counter-proposals carried out the sole and single purpose of the delegation in going to London—the purpose, that is, of negotiating on honourable terms an association of Ireland with the British Commonwealth. And by honourable terms was meant such an association as would safeguard the independence of Ireland.

**NATIONAL HONOUR.**  
The origin of the oath was as follows—On Dec. 3 the latest of the British drafts for Dominion status was laid by the delegation before the Cabinet in Dublin and submitted to oral criticism. The Dominion clauses, No. 1-4, including the oath—that is, the most vital clauses—were rejected summarily and no objection came up as to why the oath could safely be added to the proposals, in order to get a point, compatible with the Treaty, in meeting the British objection.

The President said that he thought there might be some objection to the oath, of course, the freedom provided for in the count, which the King and British wholly eliminated—as was to be faithful to the Treaty and some recognition of the King as "Head of the Associated States."

**VERBAL INDICATION.**  
This was purely a verbal indication thrown out by way of not an instruction to the meeting and the criticisms and the meeting were not to have been improper. It was put into writing merely verbal indication. Above is a photograph of Mr. Erskine Childers as driver in the C.I.V.'s (City of London Imperial Volunteers), a regiment specially formed to fight for the extinction of the Boer Republics.

There was, in fact, no need or call for anything more definite in view of the express undertaking given at the time by the Chairman of the Delegation that no Treaty would be signed in which allegiance to the Crown was demanded without prior reference to Dail Eireann.

At a meeting of the Irish Delegates on the following morning, Dec. 4, in London, the Irish counter-proposals were re-drafted for the last time in preparation for a critical Conference in the afternoon.

**COUNTER-PROPOSALS.**  
The early and vital clauses defining the Status of Ireland were left unaltered. The first was as follows:—  
"The Legislative, executive, and judicial authority of Ireland shall be derived exclusively from the elected representatives of the Irish people."

This clause is on the face of it an affirmation of the independence of Ireland. It excludes the British King and British authority wholly from Ireland, and ensures that any Treaty made by Ireland with another country must be the voluntary undertaking of a free nation.

There followed clauses providing for the Association of Ireland, on free and equal terms, with the British Commonwealth, including Britain and her Dominions, together with a "recognition" of the British Crown as "Head of the Associated States"—a recognition perfectly consistent with the position of a nation already defined as free, but associated with a great group of States.

**SOME INCONSISTENCIES.**  
Then comes the Oath:—  
"The Oath to be taken by members of the Irish Parliament shall be in the following form:—'I do swear to bear true faith and allegiance to the Constitution of Ireland and to the Treaty of Association of Ireland with the British Commonwealth of Nations, and to recognise the King of Great Britain as Head of the Associated States.'"

The terms of this Oath may be open to criticism. Time pressed. There were many other pressing points—defence, trade, etc.—to discuss and defects were overlooked. "Allegiance" to a Constitution is not an appropriate term. It will be noticed, too, that the phrase at the end, "Head of the Associated States," is used, inconsistently with the phrase in the earlier Association Clause, where the King is described as "Head of the Association."

**IMMATERIAL DIFFERENCE.**  
The change was the outcome of a difference of recollection as to the phrase thrown out verbally by the President on the previous evening. There was very little discussion about it, because the difference could not have been otherwise than immaterial. It could not have occurred to any of us that the phrase, "Head of the Associated States" meant that allegiance, or even recognition, was to be given to the King as Head or King of each individual State, including Ireland (the meaning now being attributed to it by innuendo), that construction being in flat contradiction with the terms of Clause 1, which excluded the King wholly from Ireland, as well as with the Association Clauses.

**THIN DISGUISE.**  
But the major point is this: that there was no misunderstanding whatever as between the British and Irish delegates. There the issue was plain and clear. On the one hand, Dominion Status and an Oath in accordance with it, demanding with a transparently thin disguise the allegiance of Irishmen to the King in Ireland twice over, once in the form of fidelity to the Irish Constitution, which, under the terms of the Treaty, must contain the King in its organic structure, and again to the King himself, in virtue of the common citizenship of Great Britain and Ireland. On the other hand, a free Ireland, in voluntary and friendly association with Britain and the other States of the Commonwealth and an oath in accordance with that status and relation.

It was upon that clearly defined issue that the outcome of the final conferences turned. It only remains to add that no oath appears in "Document No. 2," that is the alternative proposals to be submitted to the Dail by the President.

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We have received the following from Mr. Childers:—  
"Sir—Mr. Griffith has stated vaguely that my letter 'does not represent the facts.' In what respect? I challenge him to explain."

Mr. Erskine Childers, T.D., said they had the damned Englishman before they now (laughter). He did not take much account of that, but the secret of it was that Mr. Griffith was in a terrible rage, because he (Mr. Childers) opposed him in London, when he was trying to betray the Irish Republic, which he was doing his best to save.

'FREEMAN'S' 12-1-22.

## TO CHILDERS. IRELAND, 1922

(With apologies to the late Mr. Wordsworth.)

Erskine! thou shouldst be leaving at this hour:  
England hath need of thee beneath Big Ben.  
Thy sword is stagnant; so should be thy pen.  
Among thine own intrigue will win thee power:  
Why thrust on us thine ancient English dower  
Of interferingness? We are Irishmen:  
O give us up; betake thee home again!  
For here the grapes of office are gone sour.  
Thy rôle is at the Bar. Oh, spare thy heart,  
And tune thy voice for Hyde Park oratory.  
Left-wing Commander of the R.F.C.!  
Canst thou not travel through the light of day  
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Mr. Erskine Childers said that as far as lay in their power it would never be said of the Irish people that they would relinquish of their own free will the government of their own making to which they had sworn allegiance. They had to meet unscrupulous and dangerous propaganda. They were told that the Treaty would be a step towards the Republic. Those who made that statement meant that they were going to accept from England something with a lie upon their lips and in their hearts. They were going to profess a loyalty which they did not feel. Men of that type could not be trusted. Two days before the Treaty was signed Mr. Griffith had promised not to sign any document without first submitting it to the Cabinet. He broke that pledge.

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The President said words to the effect that he thought there might be an Oath of Obedience to the Irish Constitution—meaning, of course, the free Constitution provided for in the counter-proposals, from which the King and British authority were wholly eliminated—as well as a pledge to be faithful to the Treaty of Association, and some recognition of the King of England as "Head of the Association."

**VERBAL INDICATION.**  
This was purely a verbal comment, thrown out by way of suggestion. It was not an instruction to the Delegation—none of the criticisms and suggestions made at the meeting were instructions—it would have been improper if they had been. Nor was it put into writing—no written drafts were made of any criticisms. It was a merely verbal indication of the President's mind on the point, and everybody present must have taken it as such.

There was, in fact, no need or call for anything more definite in view of the express undertaking given at the time by the Chairman of the Delegation that no Treaty would be signed in which allegiance to the Crown was demanded without prior reference to Dail Eireann.

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'FREEMAN'S' 11-1-'22.



V. 3 (City of London Imperial Volunteers), a regiment of the Boer Republics.



The official journalistic oracle of Irish Republicanism is now Mr. Erskine Childers. Recently he took over the editorship of the de Valera organ, "The Republic of Ireland," in succession to Mr. Liam Mellows (the reasons for whose withdrawal from that position have not been made known), and is now doing his best through its columns to support those members of the I.R.A. who have thrown off allegiance to Dail Eireann, and to prevent the Irish people from expressing their views on the Treaty at the polls.

In this week's issue of the "Republic" he gloats over the proceedings at last Sunday's sectional Convention, and jubilantly proclaims that "it is no answer for Mr. Griffith to appeal to the sovereignty of Dail Eireann"—the assembly his nominal leader, Mr. de Valera, has declared to be "the supreme authority" of the Irish people.

A glance at some of Mr. Childers' previous writings may be of interest at the moment, as showing the mentality of this official interpreter of de Valeraite Republicanism, and the validity of his claim to voice the ideals of Irish nationhood.

### EXULTANT JINGO.

There has recently come into our hands a copy of "In the Ranks of the C.I.V."—the book in which Mr. Childers relates his deeds of valour when serving against the Boers. The "C.I.V.," it may be recalled, was a body of volunteers recruited in London (its full title was City Imperial Volunteers) to aid in the task of subjugating the gallant Boer Republics—those small nations of South Africa which the British Jingo had determined to destroy.

When the call for recruits was made Mr. Childers was on a visit to Ireland, but he immediately rushed back to London, and thus began the glorious adventure which he records so proudly. How truly glorious it was, and how true a lover of liberty one must account the adventurer, the following extracts show:—

"Then came the hurried run over from Ireland, the application for service, as a driver, the week of suspense, the joy of success, the brilliant scene of enlistment before the Lord Mayor, and the abrupt change one raw January morning from the ease and freedom of civilian life, to the rigours and serfdom of a soldier's."—(Page 2).

### THOUGHTS ON REPRISALS.

July 3rd.—"Many of the farmhouses are smoking ruins, the enemy, after annexation, being rebels according to law, and not belligerents; but it seems to me that such a policy is to use a legal fiction for an oppressive end, for it is quite clear that this part of the Orange River Colony has never been conquered."

Footnote.—"I leave this as I wrote it, but drivers are not politicians, and doubtless there were special circumstances, such as treachery, concealed arms or sniping, to justify what at the best must be a doubtful policy; for a burnt farm means a desperate farmer."—(Page 122).

July 6th.—"Had a jolly talk with some Paddies of the Munster Fusiliers about Ireland, etc."—(Page 129).

July 12th.—"Williams and I got leave to spend the morning out, and walked to Bethlehem over the veldt. A rather nice little town but all the stores shut, and looking like a dead place. It was full of troops. Some stores had sentries over them, for there had been a great deal of looting. We hammered at a store door, and at last a man came out and said he had nothing to sell. However, he gave us leave to look around, which we did, with an exhaustive scrutiny which amused him.

"At first there seemed to be nothing but

linseed meal and mouth-organs, but by ferreting round, climbing to shelves, and opening countless drawers, we discovered some meal flour, and reproached him for his insincerity.

"He protested that it was all he had to live on, but at last consented to sell us some, and some mixed spices, the only other eatable he had, besides a knife and fork, braces and sponges."—(Page 141).

### LOOTING EXPLOITS.

July 16th.—"We passed a farm just now which was being looted. Three horsemen have just passed with a chair each, also picture-frames (all for fuel, of course), and one man carrying a huge feather mattress, also fowls and flour. Artillery don't get much chance at this sort of game."—(Page 148).

July 19th.—"Visited a pile of loot taken by some 38th men, and got a lump of home-made Boer soap, in exchange for some English tobacco. It has a fatty smell, but makes a beautiful white lather. They had all sorts of household things, and a wag was wearing a very piquante piece of male head-gear."—(Page 156).

July 24th.—"We camped just where the neck ends, near an empty farm, which produced a fine supply of turkeys, geese and chickens. The Captain, who has charge of our commissariat, never misses a chance of supplementing our rations. Williams was sent to forage, and for personal loot got some coffee and a file of Boer newspapers, or rather war-bulletins, published in Bethlehem and roughly lithographed, chiefly lies, I expect."—(Page 169).

### ONLY A BABY'S HAT.

July 28th.—"We camped just outside the town and there was a rush for loot directly, of course, only from unoccupied houses, whose rebel owners are fighting. Unhappily others had been there before us and the place was skinned. But we got a Kafir cooking-pot, and a lot of fuel, by chopping up a manger in a stable. My only domestic loot was a baby's hat, which I eventually abandoned, and a table and looking-glass which served for fuel."—(Page 173).

July 28th.—"Half the houses are empty and gutted; we are all going to sleep in houses to-night. There has been a row about looting a chemist's shop; our fellows thought he was away with the Boers, but he turned up in the middle. There were some curious bits of plunder."—(Page 175).

July 29th.—"Fortunately Williams brought back from his expedition, besides fowls, etc., for the officers, some bread and, king of luxuries, a big pot of marmalade, which he bought from a pretty little Boer girl, the temporary mistress of a fine farm. Her father, she proudly explained, was away fighting us, 'as was his duty.' Williams was quite sentimental over this episode."—(Page 179).

### OUR NATIONAL ANIMAL.

August 24th.—"I got into a covered wagon with seats to hold about eight men, sat down with six others, Munsters and Wilts men, and am now waiting for the next move. . . . By a most lucky hap Williams and I had the night before bought a leg of fresh pig from a Yeomanry chap, and had it cooked by a nigger. In the morning, when we separated, I had hastily hacked off a chunk for him, and kept the rest, and we now had a merry meal over the national animal of the Munsters. It was pleasant to hear the rich Cork brogue in the air.

"It seems impossible to believe that these are the men whom Irish patriots incite to mutiny. They are loyal, keen and simple soldiers, as proud of the flag as any Britisher."—(Page 226).

August 30th.—"He (a trooper of the 18th Hussars, who was captured at Talana Hill) gave me an enthusiastic account of the one 'crowded hour of glorious life' his squadron had had before they were captured. They got fairly home with the steel among a party of Boers in the hills at the back of Dundee, and had a grand time."—(Page 238).

## MR. CHILDERS. Mr. Griffith Gives His Record. FOUGHT THE BOERS. His Connection with the British Forces.

The following document was handed to Mr. Erskine Childers and the Speaker of the Dail by the President at the adjournment of the Dail last night:—

"Mr. Erskine Childers' early life was spent as a clerk to the British House of Commons. In 1899, when the British proceeded to overthrow the Boer Republic, Mr. Childers offered himself as a volunteer against the Republicans. He enlisted in the City Imperial Volunteers and served as a driver in D. sub-division of the H.A.C. Battery. He wrote two accounts of his exploits against the Boer Republicans—one under the title of 'In the ranks of the C.I.V.' and the other, in conjunction with Mr. Basil Williams, under the title of 'The H.A.C. in South Africa.'

"Returning to England, he resumed his position in the British House of Commons and remained there until the end of 1910. During this period he wrote and published 'The Riddle of the Sands'—a work designed to work up feeling in favour of an attack by the English navy on Germany. At the outbreak of the Anglo-German war he was appointed a lieutenant of the R.N.V.R., and promoted in 1916 to be Lieut.-Commander. He later (1917) became Observer-Lieut. R.N.A.S., and was promoted Major. He served until March, 1919, when he ceased to be employed. He came to Ireland in the same year, and is now editor of 'The Republic of Ireland.'

"During part of 1916 he acted as an Intelligence Officer for the British Air Department. During 1917 he was sent over to Ireland from his military duties to act as a Secretary to the so-called Irish Convention. He received several commendations from his military authorities for his air work, and was awarded the D.S.C., with the note that he acted as Observer in many important air reconnaissances and showed remarkable aptitude for observing and collating the results of his observations.

"The following is the oath of the C.I.V., in which he served against the South African Republicans:—'I swear by Almighty God that I will be faithful and bear true allegiance to her Majesty Queen Victoria; her heirs and successors, and that I will, as in duty bound, honestly and faithfully defend her Majesty, her heirs and successors in person, Crown and dignity against all enemies, and will observe and obey all orders of her Majesty, her heirs and successors, and of the generals and officers set over me. So help me God.'"

### MR. CHILDERS'S RECORD.

"In this present week there was published in the *Poblacht na hEireann*, which was edited by an Englishman, who has spent his life in the military secret service of England—(Applause and interruption.)

Mr. Griffith said that he would give the record of Mr. Childers.

Mr. Childers—Where are you going to get the record?

Mr. Griffith said that he had not got it now, but he would give the record to-morrow. He would produce incontrovertible proof that Mr. Childers was in the Secret Service Department against Germany.

Mr. Childers said that he was an Intelligence Officer in the Air Force of the British Army. He was not in the Secret Service.



# Speeches on Ratification by CHILDERS. Erskine.

'INDEPENDENT.' 20-12-21.

## NO ISOLATED REPUBLIC

### MR. CHILDERS' ADMISION

Mr. Erskine Childers paid a tribute to Mr. Collins's able and eloquent speech while expressing himself in profound disagreement with his conclusions. He had said many things which he (Mr. Childers) admired and respected; he had said others which he profoundly regretted. He wished to recall to the Assembly one point which was scarcely, if at all, touched on by the Minister of Finance, the question whether Dail Eireann, having declared its independence, should approve of and ratify a Treaty deliberately relinquishing and abandoning it.

He missed, in the speeches of the Minister for Foreign Affairs and the Minister of Finance, some note of regret for the significance of the step they had taken in London, the effect of which was for Dail Eireann to vote for its own extinction, after a history which they themselves, perhaps more than anybody else, had done so much to make honourable and noble. The Minister of Finance said quite rightly that there was

no question when they went to London of an isolated Republic standing alone, without tie or association with any other land. No such question was before Dail Eireann and the nation. The sole question was, how would it be able to effect an association with the British Commonwealth which should be honourable to the Irish Nation?

In his opinion, the speech of the Minister for Foreign Affairs was misleading on that point. It ought to be understood that that object was held before the delegation except in that last terrible hour, and that the counter-proposals did reserve the independence of Ireland while arranging to associate it with the British Commonwealth, and he hoped that other members

of the Delegation would confirm what he said.

There was no question in the action of the Delegation in London of acting on some sub-conscious or unadmitted resolve to betray the Republic and to commit Ireland to an association which would forfeit her independence. The proposals on their side were honourable to both. They stated in explicit terms that they demanded the preservation of the independence of their country, to exclude the King of England and British authority wholly, and

only when that was done, and Ireland was absolutely free in Irish affairs, to enter an association on free and honourable terms with Britain.

That, alas! was lost in the last hour, and the result was the Treaty. The Minister of Finance had spoken generally of that Treaty as placing Ireland in the position of Canada—"equality of status with Great Britain." was the phrase used by the Minister for Foreign Affairs, and he thought, too, by the Minister of Finance. The Minister for Foreign Affairs used the phrase, "a final settlement." "A settlement that is not final," was the phrase used by the Minister of Finance. There was that broad and fundamental distinction between them.

At any rate, the settlement was commended to them as placing Ireland in a position virtually making her as free as Canada, although technically making her subject to the control of the British Crown and Parliament. Apart from the question as to whether that Assembly should or could surrender its own independence and declare itself subject to the British Crown and Parliament, did the Treaty carry out what the Minister of Finance represented? It did not.

## OCCUPATION OF PORTS.

It should be understood clearly by Dail Eireann that it did not give them what was called Dominion status.

The Minister of Finance passed lightly over the clause concerning the occupation of their ports. He did less than justice to the subject. It was not merely a question of occupying ports, but it, in effect, declared that the people of Ireland had no responsibility for defending it from foreign attack. The clause in question said that Ireland was unfit to be entrusted with her own coastal defences.

That was the most humiliating condition that could be inflicted on any nation claiming to be free, that it was not to be allowed to provide against attack by a foreign enemy.

## THE POSITION OF CANADA

It was true that there was a proviso saying that the matter would be reconsidered in a few years, but there was no guarantee whatever that anything would result from that reconsideration, and the most that she appeared to be allowed was to take a share in her own coastal defences. Clause 7 declared that permanently and for ever some of the most important ports were to be occupied by British forces.

There was no question of Dominion status, no question of constitutional usage, and these qualifying words were used in the second clause—that in time of war such other facilities as the British Government might require for the purposes of defence aforesaid. In other words, if she was pleased to say

that there were strained relations or actual war with foreign Powers, any use whatever could be made of this island, whether for a naval or a military purpose.

He need not say that no such conditions or limitations attached to any Dominion, least of all to Canada.

Canada was actually free to defend her own coasts and raise her own naval and military forces, and the Minister of Finance truly pointed out that Canada had a real and genuine share in the decision of these great questions of foreign policy and of peace and war, upon which the destiny of a nation depended. Ireland under this Treaty would have none.

What was the use of talking of a share in foreign policy; what was the use of talking about the responsibility of making treaties and alliances with foreign nations which might involve the country in war? Nothing was to be gained from a share in taking part in decisions of that immense magnitude unless the country which had that share had the power, if it pleased, to say it would not be a party to that treaty and would not be a party to the war?

If she had not that power, she had no power.

## TIES OF BLOOD.

If they were to discuss, discuss, discuss, no one would listen to them, and he would like to point out the vital significance of this in the case of Ireland. They spoke of Canada, and of conferring upon Ireland Canadian status. What was Canada? Part of the Continent, the nearest part of which was 3,000 miles, and the farthest part 7,000 miles from Britain—a great, immense nation absolutely unconquerable by England, and what was even more, she was attached to England by ties of blood which produced such relations between the two countries that there was no anxiety on England's part.

These were two great facts—the distance and the blood-tie. Canada had a real share in these questions unquestionably. What was the position of Ireland—after 750 years of war, lying close to the shores of her great neighbour? What guarantee had she of the equal voice she would have in the decision of these questions with England actually occupying her shores and committing her inevitably, legally, constitutionally, and in every other way, to all her foreign demands and to all her wars?

## "NO REAL POWER."

Ireland would have no real power of free and independent action where English interest was concerned. The words in Clause 2 about constitutional usage—could they be construed as conferring on Ireland the same power as that possessed by Canada? If any question arose in Canada as to the construction of a clause in the Canadian Constitution, Canada had the power to say:—

"That is our construction—if you do not like our construction, we shall give up our relations with you altogether."

That was the strength of Canada's position. Was it suggested, or could it be suggested, that it would apply to Ireland? Let them read their Treaty in the light of these conditions. He supposed few people had any doubt as to what legally the Treaty means. The Minister of Finance was talking about the construction they would place upon the Treaty.

But the Treaty was the Treaty. It would bind Ireland. The Minister was bound to say that the Treaty which he and his colleagues had brought back from London placed Ireland in a position which she could honourably accept and could honourably carry out without insincere reservations as to what was possible or not possible as to the meanings.

## IRELAND UNDER TREATY

Now, Mr. Childers asked, what title did Ireland hold, what was her position under the Treaty. They were all told this was a Treaty. It was not signed as a Treaty, but had since been called one. He (Mr. Childers) did not lay stress on the distinction of words, but on this, that the relation of Ireland to England was going to depend, so far as Ireland was concerned, on the act of the British Parliament, and nobody knew yet what form it was going to take.

It was one of the surprise features in these negotiations that no undertaking or guarantee was obtained before the Treaty was signed.

It was certain that the Act passed in 1867 would unquestionably govern Ireland's position. What did this assembly think of that? Did they not think that the freedom and liberty of Ireland was inherent in

the people of Ireland, derived from the people, and that it could only be given away or surrendered by the people. Or did they think their right to freedom was derived from an Act of the British Government?

At this point a member declared there was a deliberate misquotation of a document by the speaker.

Mr. Childers said the member who had just spoken made a very interesting point. He would quote the letter from Mr. Lloyd George, whom the Minister of Finance objected to have quoted.

A Member—If there is to be quoting it ought to be accurate quoting.

Mr. Childers, proceeding, said the letter stated the framing of the Irish Constitution would be in the hands of the Irish Government, "subject, of course, to the terms of this Agreement." Now he did seriously wish to warn the members of the Dail, if they were going to take the tremendous step, not to be under any futile, idle illusions as to what they were doing.

Did the Deputies who interrupted him suppose Ireland was going to have all the freedom she chose, but rather "subject to the terms of this Agreement" and every limitation, and there were hundreds of them in this constitution. Certainly, under the Act of 1867 all the fundamental limitations, the authority of the Crown and the other matters would inevitably appear in the Irish Constitution, if framed under the terms of the Treaty. What would the first thing be?

Apparently the Legislature of Ireland would be no longer Dail Eireann, but the King, the Commons, and Senate of Ireland.

The King would be part of the Legislature of the island. The King would have powers there, or, if not the King himself, the King's representative, the Governor-General, or whatever he may be. He would have power to give or refuse his sanction to any Act of the Irish Legislature.

## POWERS NOT OBSOLETE.

Now he knew very well, no one better than he did—who, like all lovers of freedom, had ever been watching and following the development of freedom in the British Dominions, and with intense interest—that these powers were virtually obsolete in Canada.

But he did not suppose that those powers were going to be obsolete in Ireland. How could she be free if her destinies were to be irrevocably linked with England under this Treaty, if the association with her was to be that of a bond-slave, as it was under Clauses 6 and 7, which he had read to them.

Did they suppose that that supremacy of England was going to be an idle phrase in the case of Ireland?

Did they not see that every act and deed of the Irish Parliament was going to be jealously watched over the water, and that every act of legislation done by Ireland would be read in the light of that inflexible condition that Ireland virtually was a Protectorate of England, for under the Treaty she was nothing more.

## GONE FOREVER.

The functions of the King as an individual were very small, indeed. What the King meant was the British Government. Let there be no mistake—under the terms of this Treaty the British Government was going to be supreme in Ireland.

If they passed the Treaty, their rights and independence were gone for ever.

It should be remembered, too, that the Governor-General would be there definitely as the centre of the British Government in Ireland. They could not have it both ways. It was useless for the Minister of Finance to say certain things were necessary, because Ireland was nearer to England, and at the same time to say that Ireland would get all the powers of Canada, which was three thousand miles away. Those two proposals were contradictory.

## BRITISH TROOPS RETURN?

The Governor-General in Ireland would be close to Downing St. He would be in close and intimate touch with British Ministers. Irish Ministers would be the King's Ministers. The Irish Provisional Government would be the King's Provisional Government.

Every administrative act in Ireland, every administrative function in Ireland would be performed—they could not get away from it—in the name of the King and the Government behind the King, and the Government behind the King would be barely 200 miles away to exercise immediate control over what was done in Ireland.

The letter from Mr. Lloyd George said that the British army was to evacuate Ireland, if this Treaty was passed, within a short time. Did they suppose that under this Treaty the Irish army was going to be an independent army? Did they really suppose that if the British troops were to evacuate the country within a short period

there was anything to prevent them returning under full legal powers. There should be no illusions about that.

If they placed under a foreign Power the responsibility for the defence of the coasts of Ireland, they placed the responsibility for the defence of the whole island upon that foreign Government. How could they separate the coastal defences of an island from its internal defences. Every commission held in the army of the Irish Free State would be signed either by his Majesty or his deputy in Ireland.

He was quite sure that in the mind of the Minister of Finance it was a genuine, open feeling that he had expressed of making the most of a Treaty which, in his view—though he (speaker) was not quite clear as to his exact view on the subject—represented the very utmost that Ireland could dream of obtaining at this moment of history.

## "BACKWARD STEP."

"But," said Mr. Childers, "I beg him, and all others who are inclined to agree with him, to reflect upon the step we are taking."

This was a backward step. Parnell had said no man had a right to set a boundary to the onward march of a nation, and Parnell was right. He spoke at a particular moment, since when

Ireland had taken a step from which she could never withdraw, declaring her Independence.

It would be disastrous, he thought, if now that assembly were to declare there was no chance of making peace with England.

There was a chance, and it rested with England to understand that Ireland was genuinely anxious to hold out the hand of friendship, if only that hand would be grasped on terms that would mean Ireland standing as a free nation, and England honourably regarding that freedom, and not treating her with suspicion and distrust. That, he hoped, could still be obtained, but they were not, by their own act, to abandon their independence.

He held that assembly could not do such a thing, and certainly no such step was ever taken before in the history of Ireland.



Mr. Erskine Childers.



DATED AUGUST 18th.1921.

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**PUBLICITY.**

Mr. Erskine Childers dealt with the work of the Publicity Department, and mentioned that recently an analysis of some foreign papers produced interesting results. 117 papers were taken. They came from every country in Europe practically. Only eight of them could be definitely described as anti or hostile to Ireland. Forty-eight could be described as definitely in favour of Ireland, and the remainder—about sixty—were neutral, but gave great emphasis to Irish news, and, on the whole, acted fairly. He also gave details of the statistical activity of the Department. The Department encouraged Irish authors to produce works of national interest and representative of the culture of Ireland.

The various reports were either adopted or referred for consideration to private session.

Mr. de Valera then moved that the remainder of the business be referred to a private session.

The Deputy Speaker declared the public session adjourned, and announced that the Dail would assemble in private session in the morning.



