

IRISH POLITICAL  
PRISONERS, 1920–1962

Pilgrimage of Desolation

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*Seán McConville*

# IRISH POLITICAL PRISONERS, 1920–1962

*Irish Political Prisoners* presents a detailed and gripping overview of political imprisonment from 1920 to 1962. Seán McConville examines the years from the formation of the Northern Ireland state to the release of the last Border Campaign prisoners in 1962.

Drawing extensively and, in many cases, uniquely on archives and special collections in the three jurisdictions, and interviews with survivors from the period, McConville demonstrates how punishment came to embody and shape the nationalist consciousness. *Irish Political Prisoners 1920–1962* commences with the legacy of the Anglo Irish and Irish Civil Wars – militancy, division and bitterness. The book travels from the embedding of Northern Ireland’s security agenda in the 1920s, and the IRA’s search for a role in the 1930s (including the 1939 bombing campaign against Britain) to the decisive use of internment during the war and the Border Campaign years. This volume will be an essential resource for students of Irish history and is a major contribution to the study of imprisonment.

**Seán McConville** is Professor of Law and Public Policy at Queen Mary, University of London. He has researched and taught at leading universities on both sides of the Atlantic. His interests and publications range widely, from Islamic criminal law to prison architecture, but have clustered around the philosophy and administration of punishment – historically, comparatively and in current debates. He is the author of the first in this trilogy *Irish Political Prisoners 1848–1922* (Routledge, 2003).

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# IRISH POLITICAL PRISONERS, 1920–1962

Pilgrimage of Desolation

*Seán McConville*

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## READING PATHS

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Jurisdiction			◇	◇	◇	◇					◇	◇	◇				◇	◇	◇
Ireland (Free State, Eire, Republic)			◇																
Northern Ireland		◇					◇	◇	◇	◇	◇		◇	◇	◇	◇			
Britain		◇	◇					◇							◇				
Type of custody				◇	◇	◇	◇	◇	◇	◇	◇	◇	◇			◇		◇	◇
Internment				◇	◇	◇	◇	◇	◇	◇	◇	◇	◇						
Imprisonment			◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇						
Penal servitude			◇			◇		◇	◇	◇	◇	◇			◇				

# ABBREVIATIONS

CID	Criminal Investigation Department
CPGB	Communist Party of Great Britain
CRO	Commonwealth Relations Office
DORA	Defence of the Realm Act
DPP	Director of Public Prosecutions
EOKA	Ethniki Organosis Kypriou Agoniston
GAA	Gaelic Athletic Association
GCE	General Certificate of Education
GHQ	General Headquarters
GOAD	good order and discipline
GOC	General Officer Commanding
GOIA	Government of Ireland Act
GPO	General Post Office
HMG	His/Her Majesty's Government
ICRC	International Committee of the Red Cross
IRA	Irish Republican Army
IRB	Irish Republican Brotherhood
IRPDF	Irish Republican Prisoners' Dependants' Fund
IRPDRC	Irish Republican Prisoners' Dependants' Reconstruction Committee
ISDL	Irish Self-Determination League
NAI	National Archives of Ireland
NDU	North Dublin Union
NIPD	Northern Ireland Parliamentary Debates
NLI	National Library of Ireland
OASA	Offences Against the State Act
OAS(A)A	Offences Against the State (Amendment) Act
OC	Officer Commanding
OTC	Officers Training Corps
PD	preventive detention
POA	Prison Officers' Association
POW	Prisoner of War

LIST OF ABBREVIATIONS

PP	Parliamentary Papers
PPC	Political Prisoners' Committee
PRO	Public Record Office (now National Archives)
PRONI	Public Record Office of Northern Ireland
RAF	Royal Air Force
REME	Royal Electrical and Mechanical Engineers
RIC	Royal Irish Constabulary
ROIA	Restoration of Order in Ireland Act
RUC	Royal Ulster Constabulary
SS	steamship
TD	Teachta Dála (member of the Dáil)
UCDA	University College Dublin Archives
UPA	Ulster Protestant Association
USS	United States ship
UVF	Ulster Volunteer Force
WPDL	Women Prisoners' Defence League

## AUTHOR'S NOTE

I offer some reflections on the substance of the work in the Introduction and wish here only to address usage and a few other matters.

The Irish state had three names during the years covered by this study. With independence in 1922 it chose to be known as the Irish Free State, a direct translation from the Irish, Saorstát Éireann. When a new constitution was adopted in 1937, the name changed to Éire (translated as Ireland), and then in 1948, with further constitutional change, it became the Republic of Ireland. Writing across these decades I have of course used the name officially established at the time to which the text refers. In addition to this, I have in places, for convenience and ease of style, adopted common usage, referring to the state as 'the South'.

I have also sometimes referred to Northern Ireland as 'the North'. This has been for convenience and to avoid cumbersome forms within particular passages. Upper case has always been used, to show proper respect for the two states and to distinguish political from geographic usage. Sometimes the governments have been referred to as 'Northern' or 'Southern', 'Belfast' or 'Dublin', respectively. The British government appears in places as 'London', 'Westminster' or (if it is the official as distinct from the political part) 'Whitehall'. In all these cases I hope that no sensitivities will be offended or *amour propre* disturbed.

Names can be very contentious in divided societies, and in Northern Ireland there seems to be no halfway house between Londonderry and Derry, referring to both county and city. Use one and gain the approval of the unionist community, the other and nationalists will be pleased. I have chosen fairly random usage as a way out of this dilemma and note that both forms appear fairly widely in the correspondence of officials and politicians in Northern Ireland (though not in public statements). Copy-editors are deeply (and properly) averse to inconsistency, and my wandering usage may have been tidied up rather more than randomness would indicate, but the reader will at least know my intentions.

A similar issue arises with the names of individuals, some of which changed in form over the years. The usual transition was to a Gaelicised form of an English name. There is no easy way to decide which form to use in this narrative. I have tried to keep to the name that was in use at the time the reference is made. Two

problems remain. Both forms may have been in use at the same time – one in court proceedings and newspaper reports for example, and the one at that time preferred by the individual. The second difficulty is that the rules for Gaelicisation seem to have been rather loose, and there was no guiding authority for the exercise. First names which are given in their English form generally have a recognised equivalent in Irish, but surnames can be more difficult. In some cases the solution was easy: an Irish family name which had been Anglicised was simply re-Gaelicised. With non-Irish family names, the procedure seems to have been to opt for some kind of phonetic similarity. This, as might be imagined, was somewhat arbitrary, at times fanciful, and spelling and intended phonetic rendering seem in some cases to have changed over the years. My aim, amid these possible uncertainties, has been to make it clear to whom I am referring, whatever form of their name they have chosen or were using at the time, and in the text to use the form then current, provided it does not lead to confusion. I would be foolish to claim complete accuracy in my navigation out of these perplexities, and I hope the reader will grant some latitude.

By far the greater part of this book is based on primary sources: archives, contemporary material and interviews. This has brought into the story a number of figures who have not previously appeared in the public record. I have given first names and whatever relevant additional details might be available, but in some instances, without a wholly disproportionate amount of labour and with success not certain, this has not been possible. Similarly, official, police and army correspondence is often – and for the researcher infuriatingly – addressed in general form from one office to another or from one incumbent to a counterpart, without the names of individuals being given. Correspondence to and from prisoners, because it is personal and domestic, frequently refers to a person by first name only, and beyond that is a blank wall. Where the record is fleshed out, I have in all but a very few instances provided the reader with what I have discovered. Always where personal details and other information are essential to an understanding of what is happening in the narrative they have been pursued as far as the available record allows.

The same approach of proportionate use of resources has been applied to biographical notes. Those who occupy public office or who are well-known activists are relatively easy to research, and there are good books and other sources of reference. Despite the difficulties, we have in many instances been able to piece together information about minor figures and private individuals. But of some officials and others we have had to remain largely uninformed. Looking at the biographical notes in general, the groups with which these pages are populated have been dealt with fairly and proportionately: Catholic, Protestant, English, Irish, Northern Irish, members of the IRA, prisoners, politicians, officials and police.

Documents are instruments of business and in public administration are usually intended to be registered and filed. Many are, nevertheless, the work of the hour and the day, frequently composed under pressure and despatched in

## AUTHOR'S NOTE

haste. In consequence, some lack even basic information which would assist the researcher (author, origin and date). We have pursued these details and have usually been successful in obtaining them or in providing a context but occasionally have not been able to go further than the incomplete record.

In the citation of newspapers and certain journals the letter following the page number indicates the column. Some newspaper files, such as Irish editions of English newspapers, have not survived. In these cases the cited item has been accessed through a cutting or fragment and therefore page and column information cannot be provided.

Where I have used secondary sources, full acknowledgement has been given, and, indeed, all sources, primary and secondary, are named. Permissions have been obtained, where necessary. I wish to pay tribute to three authors in particular who in their books put on record important information that otherwise would have been lost or exceptionally hard to retrieve: the late Uinseann MacEoin, Tim Pat Coogan and J. Bowyer Bell. All three deserve the gratitude of those who study these events.

Finally there is the question of notes. I prefer footnotes, and it was my intention and that of Routledge to provide these here, in a format uniform to the first volume. However, the text is at the physical limit of what can be bound into one book, and this problem is appreciably eased by using endnotes rather than footnotes. The alternative, of publishing in two parts, did not appeal and would have rendered the work prohibitively expensive. I trust that the endnotes will be tolerated and hope to return to the footnote format for the third and final volume in this series.

# ACKNOWLEDGEMENTS

There are certain communications which, because they are so conventional, are pallid and drained of feeling even before one embarks on them: congratulations and condolences are probably two that most of us will write with something of a struggle to pass beyond the usual formula. Thanks and acknowledgements present the same difficulty. The anticipation of their being written is pleasant to contemplate because a project has been brought into harbour and from the satisfaction and ease of completion the author wants to share relief and express gratitude. But the problem of composition remains. The acknowledgements that follow are necessarily expressed in conventional form and may seem both unoriginal and repetitive. It is with genuinely heartfelt thanks, however, that I acknowledge that this work could not have been completed without the support, kindness and hard work of a number of individuals and the funding of several organisations: I am truly indebted.

This has been a long and complicated project, endlessly engrossing and instructive, and unrelentingly demanding. Of wide scope and considerable depth, it has taken more than a decade to complete. It has involved library, archive and interview research in the three jurisdictions of the study, with additional visits to Australia and to the United States. Such work is expensive and could not have been attempted without the necessary funding. I happily acknowledge the financial contributions and moral support of the following bodies and agencies: the Atlantic Philanthropies; the Department of Justice, Equality and Law Reform (Dublin); the Harry Frank Guggenheim Foundation; the Home Office (London); the Leverhulme Trust; the Northern Ireland Office (London and Belfast); Queen Mary, University of London; and the Royal Irish Academy. I have also had valuable support from the Prison Service for England and Wales (now the National Offender Management Service, NOMS), the Irish Prison Service and the Northern Ireland Prison Service. Private donations met the expenses of a key component of the work.

Introductions have to be made, support expressed and the way smoothed to undertake even the initial stages of work of this sensitivity. I am especially grateful to Sir Martin Narey, Sir Joseph Pilling and to Seán Aylward, who from the outset supported the broad aims of the research. This early endorsement was

## ACKNOWLEDGEMENTS

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Without the encouragement and indulgence of colleagues, no long-distance academic researcher can hope to reach the finishing line. This is especially so in the busy and demanding environment of a leading law school, with all the heavy and pressing demands of teaching, research and administration: toleration, trust and forbearance are demanded in sometimes unreasonable quantities and at inconvenient junctures. The late Professor John Yelland, Head of Department during the first phases of the research and writing, was both understanding and supportive, a good and trusty colleague whose sly, penetrating but always generous and good-natured humour I am far from alone in missing. Professor Peter Alldridge, a succeeding Head, created an important opportunity at a key juncture, for which I shall long be grateful. My current Head, Professor Valsamis Mitsilegas, has continued along this most helpful path. I am lucky to have worked in the midst of an exceptionally friendly, able and supportive group of research-minded academics, and I thank them all for their interest, encouragement and constant stimulation.

Able and dedicated support staff are indispensable to the academic enterprise, and I wish to acknowledge my indebtedness to Nerys Evans, our current (and indeed first) Department Manager: she has an unwaveringly positive approach to all the administrative underpinnings of academic work and is always helpful in overcoming obstacles and finding solutions. For close on twenty years Jacqueline Dufaur has dealt with the financial side of my successive research projects. Her constant support and high level of skill have advanced the work in many practical ways. She held me to my fiduciary responsibilities in a tirelessly loyal manner, thereby saving me a deal of grief. Anett Loosz has taken over from Jacqueline in the Department in a most reassuring, skilful and invariably helpful and friendly way.

Queen Mary, a large multi-faculty college of the University of London, sets high standards for its scholars, whether academics or students, and I have been fortunate over the years to have benefited from the achievements of a succession of particularly talented management teams. The importance of a sympathetic and forward-looking ambiance is hard to overstate. Special thanks are due to former Principal Sir Adrian Smith, to Vice Principal Professor Philip Ogden (a friend since my first arrival at Queen Mary) who both took a particular interest in the work and went out of their way to be helpful; and to the current Principal, Professor Simon Gaskell, who has done all possible to facilitate the concluding stages of research and writing.

Among those who have helped me undertake the project and provide a reliable base of high-quality research for the writing I must first name Dr Anna Bryson, who joined the project at the outset as a highly recommended and promising

## ACKNOWLEDGEMENTS

young scholar. As Research Officer she was exceptionally diligent and frequently ingenious in seeking out and accessing many of the diverse sources upon which this book is based. She has a true feeling for the work and the material upon which it draws. Anyone who has ever engaged at this level will know how many hours, days and weeks of hard and often tedious toil it entails, whether they be in the library, at an archive or in the preparation and conduct of an interview: sometimes the end seems impossibly far away. A slip of the eye, an impatiently taken shortcut or a lack of zeal in verification can flaw the research. Anna has not only adhered to the highest standards but has passed them on to others. I am grateful for her loyalty, enterprise, application and flexibility, and gladly acknowledge myself to be the beneficiary of her numerous skills.

At the end of this volume, I list the principal archives and libraries I have used. Many thanks are due here: without good librarians and archivists we researchers simply could not work. I wish particularly to thank the following for their assistance and interest and always positive response to our queries and requests: Seamus Helferty of University College Dublin, Archives Department; Catriona Crowe and Tom Quinlan of the National Archives of Ireland; David Huddlesfield and Patricia Kernaghan of the Public Record Office of Northern Ireland (PRONI), and Aileen McClintock, its current Director and Deputy Keeper of the Records. I am also indebted to Yvonne Murphy, Linenhall Library, Belfast; Janette Martin, late of the Labour History Archive and Study Centre, Manchester (now at Huddersfield University); and to the Working Class Movement Library, Manchester. In Dublin, Commandant Victor Laing took a helpful interest in the project and greatly assisted our access to the Military Archives.

Several people gave me access to privately held material of considerable interest: Eamonn Boyce (memoir); Mairead Casey (Casey letters); Noel Kavanagh (material on the Curragh Internment Camp); Art McMillan (letters and memoir); and Seamus Murphy (Collins memoir). To all of these I am very grateful: these were important papers, informative and distinctive.

I have drawn on a number of interviews. A portion of these I conducted myself, but I could not have committed the time to cover more than a fraction. I may have overused the word 'sensitive' in describing this research, but none other is apt for the interviews: personal skills of a high order, integrity, engagement, lightness of touch, and a lively and attentive intelligence are essential. Anna Bryson made a particularly important contribution to this work, developing all the necessary skills, mastering a broad range of topics and conducting the greater portion of the interviews. Janette Martin (who also worked with me on the preceding volume) ably assisted with a specific group of interviews, as did Maggie Donnelly: both were resourceful and sensitive. Transcribing interviews is a skilled and difficult task, and Margaret Kallen tackled it with verve and brio. Violet Mogg performed the same work at an earlier stage.

It is no easy matter in this field to get people to contribute to a research and writing project: prospective interviewees are apt to be cautious and, indeed, suspicious – and have reason to be both. Endorsement and support from figures

## ACKNOWLEDGEMENTS

of standing are essential. I am grateful to the following for their trust, their sympathetic interest, for making introductions and giving advice: Eamonn Boyce, Brendan Culleton, Sean Heading, Noel Kavanagh, Commandant Victor Laing, Michael McCorry, the late Uinseann MacEoin, Jim Neeson, Sean O'Mahony and Peter Rigney. There are others, who, for a variety of reasons, may not be named but to whom I am also indebted.

Some material in this volume looks forward to the next and final part of this trilogy (1966–2000). In addressing that I had generous help from a number of people and organisations, including Gabriel Cleary, Coiste na nÍarchimí, John Gawned (Australia), Tom McCaughren, Laurence McKeown, William McQuiston (Ulster Political Research Group), Seán Curry and Seán O'Hare (An Eochair), Gerard Murphy (Tar Isteach), Tom Roberts (Ex-Prisoners Interpretive Centre) and Finlay Spratt (Prison Officers' Association). The late David Ervine and Ruairí Ó Brádaigh were particularly important in giving their time and making introductions.

A number of part-time researchers gave essential assistance, particularly on archives, newspaper files and special collections. This was an immense task, as the reader will see. Somewhere in the region of 100,000 pages of archive material were photographed, and many hundreds more were noted; a great number of newspaper files were searched. I owe sincere thanks to the following: Alda Balthrop, Eamon Darcy, Darragh Gannon, Brian Hanley, Helen Kelly, Eoin Kinsella, Matt Lyus, Anne Marie McInerney, Kevin O'Sullivan, Justin Dolan Stover, Máiréad Ní Choileáin, Aoife Ní Lochlainn and Ciaran Wallace. All worked with skill and a good heart. Kate O'Malley (now at the National Archives of Ireland) gave much valued support in the early days, when I was finding my feet with the multiplicity of sources.

Finally, we come to the production of the book. Because of my manner of composition, and my reliance above all on primary sources, portions of this text have been drafted and redrafted many times, and some chapters have in a most natural, but occasionally irritating, way delivered themselves of others. Several valued colleagues have turned manuscript into typescript and have struggled not only with my handwriting but with loops and arrows and a disorderly zoo of marginal instructions. I thank them all for their patience and skill. Susan Hemp, lately of Queen Mary, typed most of the script, in first and sometimes multiple drafts. Margaret Kallen prepared a good portion of the later drafts, and Margot Doran and Janet Alkema saw me across the line.

I have published with Routledge for almost forty years and have always had the support, flexibility and understanding that authors most value. Despite the pressures and changes that have swept the world of publishing, Routledge has maintained the highest standards in its lists, on which I feel honoured to appear. Victoria Peters was commissioning editor for this and the previous volume; her successor, Eve Setch, saw the book through to completion with skill and unwavering support. I am grateful to my agent, Susan Smith of MBA, whose patience and belief in the undertaking have been both remarkable and frequently tested.

## ACKNOWLEDGEMENTS

We have reached almost to the end of this roll-call of gratitude, but not to the tail end of importance. As copy-editor, Liz Hudson was part of the production team for the first volume of the trilogy, and I was delighted that she was able to take on this book as well. Her technical ability, sense of style, appreciation of the nuances and niceties of the various topics and controversies – and her candour and curiosity – have made an important contribution to the finished volume.

I should like to thank Maurice Hayes for reading the final script and making helpful comments. In laying down my pen I want to recall and acknowledge the sustained encouragement of the late Professor Norval Morris, of the University of Chicago Law School. A scholar of exceptional liberality of outlook and generosity of spirit, Norval has imposed on those of us who had the good fortune to have him as a mentor and friend an obligation to follow on and pass on something of his magnanimity.

Having inveighed against the conventional phrase, I must in conclusion now turn to it. I have sought and received advice, and I have had much assistance, as the reader will see, but I affirm that all errors and omissions, all judgements and interpretations, are mine alone, as is every word, well or ill chosen.

Seán McConville  
Department of Law, Queen Mary,  
University of London

# INTRODUCTION

This is the second volume in what will be a trilogy, dealing with Irish political prisoners from 1848 until 2000, or shortly thereafter. The first volume commenced the tale with the Young Irelanders of 1848 and ended with the establishment of the Free State, in 1922. We here take a small backward step to the autumn of 1920, the formation of Northern Ireland and the establishment, within the UK, of its devolved government and administration. The book concludes in 1962, with the release of the last men imprisoned for their part in what came to be called the Border Campaign. This was a series of attacks by the IRA and splinter organisations which were mainly launched along the border between the Republic of Ireland and Northern Ireland. The final volume, now in hand, will take the story forward to the Good Friday Agreement of 1998 and its immediate aftermath. Together spanning a narrative extending over a century and a half, each volume is complete in itself.

In the notorious trial of Stephen Ward in 1963, one of the witnesses, when confronted with what another had said, and which contradicted her account, made the response, 'He would [say that], wouldn't he?' Not original, but forcefully to the point, it has since been used (and in more salubrious settings) to denote patently self-serving explanations. Perhaps I should not invite the reader to recollect the exchange because I am going to venture onto that very ground. Every author of a work of this size will respond to reproaches about prolixity, and even sharper remarks about self-indulgence, by pointing to the complexity of the story, the multiplicity of events, characters and circumstances, and the need to address all, fully and fairly. This is certainly my plea, and before it is peremptorily dismissed, let us hasten to the facts.

This is a story of four tumultuous decades, told across three states, each with its own politics, laws, courts and system of penal administration. Nor is the figure at the centre of events easily described. The 'political' part of the term is in itself contentious, but even 'prisoner' is not straightforward. The latter term is generic (basically anyone who is a captive) and embraces several different types of custody. In ranking of notional onerousness, these range from a person on remand (awaiting trial), to executive-ordered detainees and internees, to those who have been convicted and sentenced. This last subdivides into the ordinary prisoner

(whose months or years have been ordered with or without hard labour), Borstal trainee and those serving sentences of penal servitude. Prisoners in this last category were more commonly known as convicts. Each category of prisoner was confined under somewhat different conditions and was subject to its own penal regime of deprivations and privileges. Loss of freedom is by far and away the most salient commonality, but beyond this each group had different experiences and tales to tell.

In the categories of imprisonment, a further division must be made. Men and women adapt differently to confinement, as both historical and sociological studies show. No person can leave at the gate of the prison the experience, attitudes, skills and motivations of their free lives. It would be unrealistic, therefore, to imagine that a community of women would live in the same way as that of men. Apart from the early years of this narrative, women make few appearances, but in the period around the Irish Civil War they left a distinctive mark, a deal of which, thankfully, they recorded.

I have used the term ‘political prisoner’ in the title of the book, and, since it is the focus and substance of my study, it must be explained and justified. I know that the expression will puzzle or even offend some, yet be taken for granted by others. With one exception – that of internees – my usage does not imply that these were persons imprisoned simply because of their political beliefs. And even with internees, whether they were north or south of the border, arrest and custody were not supposed to relate to political views only. In a probable minority of cases (though the proportion varied with circumstances and events), views and views alone were the dominant consideration in the decision to arrest and detain. In the balance of instances, attachments, associations and activities, which were observed or suspected but could not be proved in court, were decisive factors. Informants and other sources of information had to be protected; the case was there, but not strong enough; and the normal processes of law could not be followed – or so the authorities argued. At other times, campaigns of intimidation of juries, complainants and witnesses blocked the path to fair trials and paralysed the normal processes of justice. A solution had to be found were the law to be upheld and the fabric of the state protected, and internment was introduced. In a democracy, this is, or certainly should be, a solution of last resort. Its ineradicable problems are obvious: the detainee cannot confront witnesses; evidence is not tested; and a person’s freedom may be taken on the basis of hearsay, fleeting observation and interpretation of motives. All systems of justice make flawed and wrong decisions from time to time, but internment by executive decision, as we shall see, is particularly prone to do so.

Many, including those who ordered it, would concede the grave drawbacks of internment, even while justifying it as a last resort, a temporary and unavoidably necessary evil. But what of applying the term ‘political prisoner’ to those who were charged, brought to trial, convicted and sentenced? They have had the full benefit of law, and their guilt has been established in open court according to the rules of evidence and criminal procedure and the requirements of law. They

are simply criminals, many would argue: drop the ‘political’ part of the term. But, as we will find here, the motivation of these offenders cannot be ignored, nor can it usefully or plausibly be maintained that there is no difference between those who break the law for reasons of personal gain or passion, or moral turpitude, and those who do so in pursuit of a political programme. One may consider the political objectives foolish and misconceived and the methods utterly wicked, but there is a significant difference in intent and state of mind and even in normal jurisprudence these factors are important. This is not to preclude a finding of greater culpability against the political rather than the individual offender: that is a matter of judgement.

As far as I have been able to establish, with very few exceptions, and those usually of a trivial nature, the character and antecedents of the politically motivated offender differ from those of the ordinary criminal. The former usually have no criminal record (in the sense discussed here), whereas the latter have usually ascended a ladder of offences, as they work their way into prison. Some may, it is true, commit a grave offence as their first and only crime. (Murder in a domestic setting is the classic example of the first-time lifer.) As will be seen, the IRA and other physical-force republican organisations emphasised the differences between the two categories of offender. In theory, the organisation did not countenance any casual or individual law-breaking, insisting that authority be given for each and every action. Most of those who, at various times, dealt with these prisoners tacitly accepted that these were not run-of-the-mill criminal prisoners – whatever politicians, senior officials and police told the public.

None of this should be taken to palliate the offences which are chronicled here. All states are entrusted with wide reserve powers over property, the daily essentials (food, water and power) and the life of the citizen. Since all authority tends to be abused, the constitutions and law of democratic states provide a variety of checks, balances and safeguards. One may criticise their effectiveness, the consistency with which they are applied, and, from time to time, our reservations and suspicions are confirmed when shocking injustices occur and instances of grave neglect and concealment are uncovered. But, though not infallible, these systems are based on the rule of law and are equipped with robust procedures. They are deliberative, accessible and accountable and are intended to exclude arbitrariness and acts of great and petty tyranny.

Not so the paramilitary organisation, no matter how lofty its aims and majestic its declarations. It would claim accountability and point to its processes. No member of the organisation, it would say, may act in its name without authority, and sanctions, up to the death penalty, will be imposed on those who break these rules. But when the source of its authority is sought, the answer will be a tautology: history or the good of the nation – as divined by the organisation that takes life-and-death powers unto itself.

In the tale which we here unfold it will be seen that grievous harm was done to people and to property: lives were taken violently, often with apparent indifference, usually without remorse, sometimes with satisfaction and triumph.

Intimidation, physical and moral, cast a wide and deep shadow, and young men (and a few young women) were caught up in a movement that could thwart their chances of domestic happiness and modest material achievement.

To all of this the activist would – and did – reply that there was but one law in the land and that was the one by which they lived. Most would point to the moral claims and entitlements of that law and the burden of acceptance and obligation it entailed. They would insist that there was a paramount but usurped authority to which all who claimed to be Irish owed an inalienable duty. They would point to an apostolic handing on of authority, going back to the 1916 Easter Rising and perhaps to the Fenian Brotherhood of 1858. In the name of that living entity they were authorised – obliged – to act, and for it they would bear any cost, be it long years of imprisonment, or even death. And, it must be conceded, never forgetting the price that they forced on others, that over the decades to this cause they came and took the consequences. Many suffered long years of imprisonment, and some were executed. Yet in ranks of varying size they rallied, age by age and generation by generation, before and during the period covered by this study.

The state of mind of political prisoners is closely related to the stance and condition of their organisation beyond the walls. The strategic objectives and the tactics of the IRA in its various phases must therefore be a large part of the narrative. Beginning with a civil war fought and lost, we see, over a decade and a half, an insurrectionary organisation blundering dangerously and occasionally preposterously about in search of a role. This is followed by a formal declaration of war on Britain, bombs in British cities, loss of life and damage to property. Years of captivity followed in the three jurisdictions: the newly named Éire, Northern Ireland and Britain. The organisation was ground down and all but destroyed, eating itself in recrimination and internecine spite. Yet, in another decade and a half, we see the launch of the Border Campaign. At each point, the lives of the prisoners and the success or failure of the organisation are intertwined.

In this exploration, full consideration must be given to the laws and security measures of the three states. These are numerous and varied but easy enough simply to list. Behind each initiative there is a process of formation. Laws and administrative measures are debated within the legislature and bureaucracy, options are considered, objections raised and decisions taken with varying degrees of perceptiveness, rationality and fairness. Events and emotions, as well as leadership and skills, always have an influence, and the process is far from neat.

The tale of prisoners – political or ordinary – is far too often told without reference to their custodians and thus is incomplete and apt to be distorted. Between captor and captive there can be a connection as remote as a face glimpsed through the wires of a detention camp or the intimacy of exchanges of domestic news and concerns and conversations ultimately extending to hours and days but conducted in bits and scraps over several years. In these circumstances, prisoner and staff recognise that each may to some extent shape the life

of the other, that mutual respect is possible, and that they must find a way of living together. Both live prison lives, with all the pressures that are only partly grasped and never fully understood by those at liberty. This is a powerful bond, though both sides would probably deny it.

Lest we trip over the edge into sentimentality and notions of false domesticity, let us recognise that despite that which they share there are two very distinct tribes in prison. The political and indeed the ordinary prisoner is far from unfettered in relating to staff. No place of confinement is without its underground life involving contraband and illegal activities such as unauthorised contacts with the outside world. Carelessness or mischance may threaten this important commerce, but far more feared is the threat of the informer. Prisoners are ever alert for signs that a comrade is giving information – for favours, in malice or through naivety. Conversations between a prisoner and a member of staff, unless there is a context, or a witness, can raise suspicions and entail sometimes serious outcomes. The IRA developed mutual surveillance and accountability into a system, in ways and with consequences which I describe. It should be noted that staff are also constrained and colleagues will watch for signs of inappropriate closeness or undue familiarity with the other side.

Prisons are as omnipresent as the other features of our urban way of life, and we generally take them for granted. There may be a small frisson when first we notice a prison, or one is pointed out, but thereafter it becomes a scarcely visible part of the landscape. In most accounts of imprisonment, and certainly of politically motivated prisoners, the physical elements of the prison – its walls, cells, landings, gates, doors and yards – similarly fade away, or become a type of wrap-around adjective or backdrop in a narrative whose focus is on personality and events. Yet the provision and management of custodial premises – prisons, camps and occasionally ships – can entail many problems of politics, finance and administration. That tale also must be told, together with the effect of the physical environment on the lives of prisoners and staff alike.

For the past century and a half, and more, political imprisonment has periodically been at the centre of public events in Ireland. It has put its mark on Anglo-Irish and Intra-Irish relations, as well as the two religious and political communities of the island. The use of detention, internment and imprisonment, and the imposition of the death penalty, have frequently driven political and private discussion and debate. The new Irish state was launched in 1922 with the release of many hundreds of internees and prisoners in British and Northern Ireland custody (including some who were under sentence of death) and the near-simultaneous arrest of thousands more and their internment, imprisonment or execution under the authority of the Free State. Northern Ireland replenished its stock of internees and sentenced prisoners at the same time. Within the following few years in London and in Belfast the strict requirements of the law were pragmatically, and not without misgivings, bent to the requirements of political necessity. This contest between two forms of the public interest – law and politics – will be seen repeatedly throughout this narrative.

This is the material, taking us from the fugitive revolutionist in the rented back room to the deliberations of the higher levels of the judiciary, from reports of water and sanitation engineers to the prisoner choosing to forgo food or refuse the uniform as protest of last resort. Our story takes us from the heat and hatred of civil war to humorous or bad-tempered exchanges between prisoners and their guards, some of these not lacking in a certain kind of inventive satire. There is much that is merely the tedium and monotony that define imprisonment but also instances of extreme emotion and endeavour – humanity and true compassion and charity, as well as degradation, petty hatred and scurrility.

The people of this narrative range widely, from those, be they officials, politicians or prisoners, who merely followed their organisation's current line and did so within the approved glossary of terms, to those whose imagination and spirit took them in a different direction, sometimes with the charm of self-mockery. In research and writing I have tried to keep the human element foremost where possible and always prominent. I confess, before the reader finds me out, that I have sometimes twitched the tiller to sweep an attractive tale – or character – into the script. To regain the colour and reanimate the drama the picaresque must be tolerated and at times encouraged.

Working with such a mass of material, from legal decisions and statutory instruments to the recorded recollections of individuals, requires a deal of flexibility and an aptitude in blending. While I hope that in general I have succeeded in this difficult task, I am sure that some shortfalls will be uncovered and am well aware of my own inadequacies. It is a difficult leap from the vividness of an event relived in interview – the more gripping because it sometimes deals with pain or loss or triumph – to the tangible and intriguing nuances of the carefully considered, systematically debated and closely worded memorandum that perhaps prompted a change in public policy, that saved or took a life. Readers will themselves judge the mixture, the connection and the interweaving. I will only insist that the ingredients are necessary and that their force has been inescapable.

There remains the matter of approach. There is a self-evident obligation to give the facts as fully as they can be gathered and to present them even-handedly. In following this course here no relevant facts that I have uncovered and only a very few names have been withheld. Yet it would be foolish to claim impartiality. The revolutionary would disdain neutrality and the great majority would despise anything other than commitment to the cause and veneration of its guiding principles. The politician and the official might insist that the picture may be drawn in a few simple strokes – here the law, there the transgression and punishment and from that the duty of submission and obedience.

One can navigate between these demands but always in short courses: each instance has its facts, claims and counterclaims; every personality is more than two-dimensional. The law had its undoubted authority, for example, but sometimes it was conceived with too much regard to the narrow entitlements of the state rather than the spirit of democracy; its application was uneven and occasionally

flawed by a partisan spirit. The prisoner or internee sometimes had just cause for protest but often simply sought a fight – the armed struggle continued in a different form, or mere release from impotence and boredom. Judgements have to be made in the telling, and these are usually no more and certainly should be no less than an assessment that conscientiously strives to be full and fair. Others may choose to see the picture differently and to draw their own conclusions.

This is basic and obvious, but narration and analysis pose a deeper challenge: how do we approach the actors in events that have long since played out and whose conclusion is known? What attitude and manner of demeanour should we adopt? Or, to consider the issue from a slightly different angle, how do we relate to times that are not our own and whose spirit is to some extent alien, perhaps unattractive, and whose pulse has a different beat from our own? And, in effecting that approach, how do we cope with the inequality of the relationship between the observed and the observer and the inevitable lack of humility in the latter?

Any introduction to historical method will point to the so-called Whig fallacy: the tendency in some histories to define as worthy only those events and person-ages which in the manner of a narrow family genealogy have contributed to the present arrangement of society. Facts and values which are at odds with this line of merit are excluded, minimised or derided because they may contain hints that other courses were possible and that perhaps the outcome was far from inevitable or even desirable. No matter how conscious one is of the Whig fallacy (and for a generation or so some historians became so sensitive to it that narrative became intolerable to them), it is impossible to study the past without some kind of vantage point. One needs to make that explicit. I have no reluctance in declaring my preference for law and ballot box over any kind of extra-legal movement and for gradual and considered change rather than root-and-branch programmes, chimerical promises and millenarian hopes. This will be obvious from the substance and style of this volume, but perhaps it needs affirmation.

This, however, leaves another problem. How does one deal with people and with courses of events with which one disagrees or even disparages? What then of even-handedness? The last, it seems, requires that one should lay out the facts, as uncovered, and that when judgements are made – as they must be – to apply criteria with consistency across the board. To condemn cruelty and callousness in one set of actors, for example, but to minimise or overlook it in others, would be literally injudicious. To impute bad faith to one group but without direct evidence to accept good intent elsewhere would be indefensible.

Yet agreement on this point – and surely it is elementary – does not resolve all questions about approach. In a work that has posed challenges and spurred debate for some eighty years, the philosopher Michael Oakeshott made a number of criticisms of historians and historiography. One is particularly pertinent here. He notes that the historian often undertakes the task of constructing an unbiased account of events and confuses this with the achievement of a world of facts uninfluenced by experience. But this may in turn mislead, since the historian may suppose that the notionally unbiased account, by being ‘independent of the

ideas and prejudices of this own place and time must be what is altogether independent of experience'. That, Oakeshott observes, is absurd. The writing of history encapsulates and is impossible without experience.<sup>1</sup>

The logic is that the historian must try to live in two worlds at once – which is very difficult – and always strive to be aware of this straddling of realities. Here we are constructing a narrative, but there we are also encountering a sequence of events, truly encountering, trying to make sense of them in their own terms. The duality is critical, since narrative is impossible without judgement. One must approach this difficult posture with some humility. The qualities that must be summoned up go beyond notions of empathy and sympathy – words so often invoked that they have lost a deal of meaning. Some effort must be made to reduce one's own stature and to curb the arrogance that the living display towards the dead. We sit as gods, watching our subjects in their endeavours, knowing from the outset that their hopes are futile, their actions essentially blind, at other times cheering them on to the race already won. This is true self-indulgence. We know the end of the tale (or think we do) and sate ourselves in delusions of omniscience.

The poet Wisława Szymborska ponders such questions, and in the poem 'The Letters of the Dead' expresses well the susceptibility to illusion to which historians are prone: 'We read the letters of the dead like helpless gods, / but gods, nonetheless, since we know the dates that follow.'<sup>2</sup> The words 'like helpless gods' are completely apt, and the poem's thrust, that we too are the dead in waiting, must, if properly embraced, sober us, abate arrogance and push us to the comforts of acknowledged fallibility. To see history as a chessboard and to observe the pieces move about is an illusion more about ourselves than the past, full of its own sadness.

I am sure that in places I have slithered into these and other pits and traps of perception and construction. What has kept proportion has been the undeniable roundness of character of my subjects, their appeal in adversity as well as success and my continuing desire to understand them. It is easy with some to enter into their concerns and to have some kind of conversation with them. Others – and it may not be the obvious ones – are without appeal or easy point of contact and are the greater challenge, the fences at which we fall.

One final point before I step aside into the shadow of the material and its exposition that properly obscure authors. Throughout the events that this book chronicles, I have been struck by the importance and recurrence of the concept of will. In this narrative it means far more than determination or persistence. It has moralistic and dynamic components, in Irish nationalism particularly expressed as endurance. Its centrality in republican ideology is undoubted. It may be seen across the decades from the Fenians' notion that will and sacrifice could triumph over circumstance and win corporality for the proclaimed and virtual republic. It was the focus of that supremely well-conceived, and in some ways sublimely enacted, political pageant, the Easter Rising of 1916. Belief in the triumph of will fed the hunger-striker and clothed the naked uniform-refuser.

## INTRODUCTION

It is easy to see how revolutionary movements grasp and disseminate the notion of the concept: often it is their only resource.

But use the phrase – say it out loud – and its appropriation by the mighty and the despotic comes immediately to mind. Should the lesser currents of life be gathered into the service of a political or religious will; and, if so, can limits be set and respected? As I write these words, historic communities in the Middle East are being torn apart for the advancement of religious will, for purity and exclusivity of doctrine. We have reason ever to fear the pursuit of the perfect and simultaneously to cherish and bewail the flaws and weaknesses of the everyday, the imperfections that so accurately and infuriatingly express the great and abiding strength of our humanity, common and, indeed, enduring.

And so I have tried to bring this narrative together, grateful for the opportunity, seized and instructed by the ideas and events, but above all by lives imagined, attempted and lost. Is this not who and what we are?

### Notes

- 1 Michael Oakeshott, *Experience and Its Modes* (Cambridge: Cambridge University Press, 1995), p. 94. He further points out that discovery without judgement is impossible.
- 2 Wisława Szymborska, *Views with a Grain of Sand: Selected Poems*, trans. Stanisław Barańczak (London: Faber & Faber, 1995).

# LOYALTIES

## Britain and Ireland

### **Bleak landscape, troubled times**

A hard, bitter and imperfect peace began on 11 November 1918 as the echo faded of the Great War's last shot. Lesser wars continued in the Baltic, Russia, Asia Minor, the Middle East and Ireland. Boundary changes and a clutch of new states altered maps and political balances and stirred new passions. The foundations of the world financial system had been undermined. European economies were prostrate; the Treasury of the United States of America could scarcely contain its vast reserves of bullion.<sup>1</sup> Revolution had shattered tsarist Russia and was the spectre that stalked central Europe. The most perspicacious strained to see ahead. The major conflict had lasted for fifty-one months; it was to be as long again before an uneasy and profoundly insecure armistice took hold across the Continent and its offshore islands.<sup>2</sup> Some of the post-war conflicts were social: working-class risings inspired by Marxist, anarchist or socialist doctrine; crumbling and discredited ruling classes and castes were swept aside, with others yet to triumph and consolidate. Authority was elusive in substance and frequently experimental in form. Blood was spilled for language and ethnicity, for irredentist or expansionist opportunities, and in a quest for safety in the unfamiliar and dangerous landscape emerging from the debris of the German, Austro-Hungarian, Russian and Ottoman empires. Struggles based on language and ethnicity were shot through and stiffened by religious confrontations: Christian against Muslim, Protestant against Catholic, Catholic against Orthodox, and a growing temper of anti-Semitism. Dragon's teeth were sown aplenty, fed and watered well and promised an early and bountiful harvest.

That place, blood, belief and language will fuel murderous conflicts is now a notion of domestic familiarity, headlines more tedious than shocking. Is it insecurity that leads communities to abandon neighbourliness, the routines and rewards of a peaceful and settled life – humanity itself – and take the awful plunge into violence? Must that violence, once loosed, fuel a chain reaction that endures and taints the generations? Is a longing for 'freedom' so devouring that it places this or that form of government, culture, people or language so far above another that deeds of depraved cruelty and violence are rationalised,

excused and even glorified? By some appalling alchemy does simple distrust mutate into hatred of the different that drives a war of religion or language? Is the perennial longing and fighting lust of young men a force in itself or merely potential, an instrument in the orchestra of malignity?

There was much to be taken, freely or at little cost, in the weeks, months and years following the 11 November armistice of 1918. Exclusion multiplies opportunity for the victorious: homes become vacant, employment and promotion available. When in the 1940s European Jews were finally driven out for slaughter, their stolen property was minutely recorded, carefully stored and recycled to reward the regime's supporters. Those occupying the vacated houses and apartments, filling the jobs and taking the promotions, those behind the directors' desks of the workshops and factories seized from the outcasts, those who took their time from another's watch: each had opportunity, comfort and good fortune to still conscience and to keep prejudice and hatred warm. All of this had been enacted on a smaller scale twenty years before.

But these mass movements transcend mere avarice. In whatever combination of malign and benign, men and women cannot be induced to step outside the customary and domestic round, to smother conscience and the instincts of pity and decency, to risk all, indeed, simply for material gain. National and religious movements channel the energies of many idealists and make devotees and disciples of those who seek a new dimension in their lives, who wish to be of service, to partake of transcendent forms of passion and joy, to be significant. This psycho-spiritual longing is the extra charge that makes so many conflicts truly ferocious. The grabbing of land, property and jobs has some boundaries of risk, some calculation of cost and benefit; the sordid and the selfish have human dimensions: there are only so many hours in the day for consumption, and most appetites can be sated. The transcendent cause and spiritual plunge are dangerously without calculation and seem to have no boundaries. There is a repulsive inhumanity in these quests for the perfect – and yet they are inseparable from our condition. Joy in death and delight in anticipation would seem perverse and over-imagined were it not for the astonishing fact that we now hear of them on a daily basis.

Ireland and Britain provide examples of many of these phenomena in the aftermath of the First World War. Victorious, the British Empire had been destroyed.<sup>3</sup> Carnage so vast inevitably subjects institutions of authority to question and challenge. This cultural, social and industrial turbulence of the inter-war decades is well documented.<sup>4</sup> The Anglo-Irish struggle finds its context here. Between a great swathe of nationalist, Catholic Ireland and Britain a fierce and brutal war raged between 1919 and 1921, in its causes and conduct part spiritual, part political and part material. Waged by peoples long intermingled and interconnected, it had the qualities of disillusionment and bitter shards of emotion of a shattered family. A ceasefire in July 1921 found fruition in a hard-negotiated Treaty the following December. Neither party was fully satisfied: the document was a thing of thin politeness, strained beliefs and only half substantial; the negotiators had cared far too little about reconciliation. The Irish secured

independence, but it was hedged about, denied burnish and glory, was not generously given, and did not extend to the whole of the island.<sup>5</sup> A part of the Empire's mother-country had been torn away, and Britain faced a new neighbour, alive with deeds and rumours of republicanism. Imaginative generosity was needed from both sides, but the wars had dried up the springs. And there was a fatal triangle. Ulster unionism, which had watched, deplored and feared the long negotiations and ambiguous agreement of the other two, now faced many deadly uncertainties.

In those three states – Britain, the Irish Free State and Northern Ireland – the events of the First World War, the complex Anglo-Irish relationship and the several years of armed struggle in Ireland, had thrown loyalties up in the air. They had fallen hither and yon, new patterns replacing the old. Their working out would shape Irish history for the rest of the century, eventually returning Irish issues to the heart of British politics.

### **Britain: the reluctant midwife**

Surviving a trauma, individuals and institutions often seek the comfort of familiar and now deeply cherished pathways. Never dominant, this current cut a path through inter-war political, social and cultural life; grievous loss vented in nostalgic longings. And yet with the losses and changes came possibilities which had to be evaluated, lived with, seized and exploited. Nor was this a period of change for which other great peace-tides provided a guide. The Paris Peace Conference was no Congress of Vienna. No obvious balances and bulwarks had been established. Punishing, draining and humiliating Germany would have seemed both vulgar and dangerous to a modern Castlereagh. Such cautionary voices were raised unheeded. The now-shattered frontiers of the old Europe were perhaps the least important changes. The fierce certainties of nationalism and ideology almost immediately began to whirl about and gather the storm that would renew Europe's unfinished war.

Following a convulsion of such proportions, the term 'victory' must be empty, misleading and, ultimately, mocking. Britain's endurance, its survival, had cost almost a million men, three-quarters of whom were from the UK. The war memorials are widely distributed. In great city centres, tiny villages and institutions as varied as churches, cathedrals, gentlemen's clubs, schools, universities, factories, offices and railway stations, they are so commonplace that we fail to see them. The death of youth on such a scale, the living reminders provided by the several million maimed and afflicted survivors, and the anguish of the bereaved ensured that, directly or indirectly, the war ate at the heart of all but the most isolated and insulated. The joy of peace, its profound relief, found expression in those public outpourings that still flicker and jerk in old movie newsreels. But after the Bacchanal came anger and cynicism, powerful solvents of the politics of pomp, presumption and grand gesture, it is true, but also of national confidence and ease.

Britain was deeply in the red. The National Debt had risen to fourteen times its pre-war level, and its servicing ate up nearly half the taxation take. Fiscal concern

and the international financial order dominated policy discussions. Owing the USA £850 million, Britain was unable to collect the large sums due from other wartime allies. There was a pervasive sense of skating on very thin ice: frugality and retrenchment seemed inescapable. Within two years of the armistice, restrictions in government expenditure combined with severe market downturns, unemployment and a rise in left-wing ideology in the labour movement to corrode workplace relations. The miners faced a lockout from April 1921 and were beaten back to work three months later with nothing gained. Humiliation bred hatred, and class warfare released more toxins.

British political possibilities seemed changed with the election of December 1918. A nominal Liberal, David Lloyd George, still bestrode the political landscape. His stature as wartime prime minister, his absolute conviction in his own indispensability and his need to continue in a coalition ministry fed disarray among his party colleagues and helped destroy the old Liberal Party. This rout was almost as comprehensive as that of Redmond's Irish Parliamentary Party.<sup>6</sup> The Liberal-Irish alliance, which had dominated Anglo-Irish affairs for half a century and more, simply evaporated. Sinn Féin's refusal to sit at Westminster meant that the unionist and imperialist outlook achieved an overwhelming parliamentary dominance.

Lloyd George's desire to continue as national leader required him to placate the Conservative and Unionist Party, now riding the political tide. Coalition Liberals were very junior partners in what was an alliance, but no longer a partnership. In the improbable event that Lloyd George wished to reconstruct Liberalism and make an alliance with Labour, the Conservative majority would have remained at an unshakeable 120 seats. Had Sinn Féin sacrificed its dearest principles – its *raison d'être* – and come to Westminster to join an anti-Conservative alliance, it would have counted for little: Conservatives would have retained an overall majority of around fifty. But this was the stuff of a disordered political imagination. Convinced that almost alone he had the ability and authority to make the peace and establish a new order among the nations, Lloyd George continued to lead the government, to display tactical virtuosity, and to hope for who knows what kind of political deliverance.<sup>7</sup>

British foreign policy was dominated by the need to reach an agreement with the defeated but unstable and still dangerous Germany, to restrain France, to deal with American plans for peace and reconstruction, to combat Bolshevism and to find productive relations with the new nations of central Europe. No one in the leadership thought it possible or even worthwhile to attempt to synchronise foreign and monetary policy. Maintenance of the Empire was an axiom. It was unthinkable in the immediate aftermath of a war in which it had so desperately and narrowly prevailed, that Britain should join the defeated empires which were stripped of possessions. The ruin and pathos of the vanquished hardened feelings against any change in the make-up of the UK; an obligation to honour the sacrifices of the dead and maimed meant loyalty to the Empire.

By war's end, the Irish insurgency which had begun in 1916 was again boiling up. The awful years of terror and counter-terror, of murders, ambushes, executions, retaliations, atrocities of all kinds, arson, intimidation, a gendarmerie and soldiery amok and a population conscripted for subversion, all drained the cup of human feeling between the two nations and their leaderships. Beset with difficulties on all sides, struggling to find a place in a world in which the tremors of shifting foundations were frequently felt, Lloyd George and his colleagues worked out an agreement with the rebellious Irish.

This peace had been snatched from seemingly irresolvable disagreements by means of Lloyd George's deftness and lack of scruple. In an act of political philandering, Carson and Craig, Collins and Griffith had been courted and made quite different and irreconcilable promises. In Ireland, personalities (living and dead), utopianism, elements of nihilism and revolutionary metaphysics then fuelled a civil war. From Westminster, the view was sombre and deeply unsettling: the Irish were at it again. But although British intervention was talked about, there was a sufficient sense of the trap that had been laid, of the consequences of reuniting and further enraging Irish republicanism, for caution and restraint to prevail. Instead, Lloyd George found common cause with those Irish leaders who saw the Treaty as a stepping stone. Enormous political capital was invested by unionist imperialists such as Churchill and Birkenhead. Public and parliamentary opinion was reassured and restrained. On a tide of destruction and hate-filled recrimination, the Irish Free State came into being. In the north of the island a new state stood by its ramparts and also claimed British support. British policy in the Irish Civil War easily found its course: support order, oppose extremism.

### **Fixing the boundary posts**

More difficult the post-settlement claims of the Northern and Southern Irish states. Two elements in the Treaty had swung waverers on the nationalist side (and the agreement had been approved by the thin Dáil majority of sixty-four to fifty-seven): a Boundary Commission and a Council of Ireland. The implied promise of both was a united Ireland: this was Lloyd George's nod and wink. There were large areas in Northern Ireland in which Roman Catholics were in the majority, and any plebiscite would record their wish to join the Free State. The Council of Ireland, intended to be a forum for the Free State and Northern Ireland governments, was solid gossamer, supposedly expressing the 'Irish dimension' and appearing to derogate from the separate status of Northern Ireland.

This was a reality only for those who strained in self-deception. Since the Council of Ireland lacked executive power and sanctions for non-participation, the Belfast government simply declined to attend, and the Council was stillborn, formally discontinued in 1925. The Boundary Commission was the nationalists' great and unfounded hope. There was (and is) a greater sense of county identity

in Ireland than in Britain, and this was something of a problem. Electoral boundaries followed county, district and urban lines, but population divisions of politics and religion were otherwise ordered. In contriving a land area for their new state, Ulster unionists sought the optimum balance between county areas and population. The full nine counties of the Province of Ulster would have brought within an uncomfortable range of parity the voting power of nationalists and unionists. A land area maximising unionist homogeneity might have proved to be geographically and economically – and perhaps psychologically – unsustainable. The fine-tuning of a district-by-district plebiscite was ruled out by the interspersed distribution of the two populations. Psephological state-building of this kind would have produced an ungovernable patchwork of mini-cantons and the risk of civil turmoil and forced resettlements. By choosing the six-county area, Sir James Craig and Edward Carson obtained the electoral dominance they sought. Roman Catholics – overwhelmingly nationalist – were sufficiently dispersed within it and, once proportional representation had been discarded, were excluded from political influence because they constituted only one-third of Northern Ireland's population. In critical local areas where the arithmetic of the first-past-the-post electoral system failed to give a unionist majority, gerrymandering secured the desired result.<sup>8</sup> London closed its eyes to the injustice, and no politician was far-seeing enough to worry about the long-term stability of such a state.

Westminster could have given teeth to the Boundary Commission. But the man who had hinted at a further distribution of territory and perhaps more was gone. On 19 October 1922, the Conservative Party, meeting at the Carlton Club, voted down the coalition. Andrew Bonar Law, one of Ulster unionism's greatest champions, became party leader and in the subsequent general election won a majority of seventy-seven over the other parties combined.<sup>9</sup> In office for only seven months, Bonar Law died within a year, but his administration was perhaps the least likely of all to read the Treaty favourably towards the Irish Free State. Stanley Baldwin, his successor, was by nature a conciliator, but Ireland was not on his agenda. He went to the electorate on the issue of trade protection, lost, and was succeeded by Ramsay MacDonald, who headed Labour's first and minority government.

MacDonald's was a weak administration with a maximum programme of showing that his party could be trusted to govern. Labour, together with independent and indeed many Coalition Liberals, had been appalled by certain policing and security policies and practices during the Anglo-Irish War, but this did not translate into a desire to revisit or amend the Treaty. The public mood was utterly unpropitious, political energy was low, and even had MacDonald such an intention he could not have carried it through Parliament. In any event, he was brought down in late September 1924 by a combined Liberal and Conservative vote of censure. In the ensuing election (the fourth in two years), the Conservatives secured 419 seats, Labour 151 and the Liberal remnant (once again under Lloyd George's leadership) only forty. The realignment of British

politics had been largely completed: Labour the largest party of the left, and the Liberals in third position.

During these turbulent years, one finds but few mentions of Ireland in the columns of *Hansard*. The contrast with the pre-war years is marked. In Redmond's day, every session – or so it seemed – had its rash of Irish questions. These often descended to the parish pump – a railway crossing or sub-post office here, a minor public preferment there. In the years of the settlement of Irish matters, 1920–2, there were debates and disputes at a grander level, but these were concentrated bursts of attention. For the rest, Westminster politicians were happy to be free from Irish concerns and wished Belfast and Dublin to get on with their business: many of their constituents wished them to go to the Devil.<sup>10</sup> Even Northern Ireland, part of the UK, was, in its internal affairs, deemed by the Speaker to be outside the remit of the Commons.<sup>11</sup>

This was the background to the final settlement of territory. On 15 March 1924, T. M. Healy, Governor General of the Irish Free State wrote to J. H. Thomas, Colonial Secretary in MacDonald's first Labour cabinet, asking that the Boundary Commission be set up, as provided under Article XII of the Treaty.<sup>12</sup> Thomas received the letter with a deal of perturbation and sent a lengthy and closely argued reply (from its tone and style personally drafted), counselling delay. He completely accepted the Free State government's right to make its request but asked ministers 'before taking a step they cannot retrace to consider whether, in their calm and dispassionate judgement, an irrevocable fixture of the boundary will help to bring nearer the voluntary union of all Ireland'. He begged them to pause and to take counsel with their friends 'before insisting on rights fraught with danger to the interests dearest to their heart'.

There was no way to know how the Boundary Commission would decide on the allocation of territory, but should it award to the Free State those border areas in which Catholics were a majority, the results would be injurious rather than beneficial. The separation of Catholics and Protestants would be even greater, 'and the forces tending to perpetuate partition strengthened thereby'. Any award of territory, moreover, would be confined to areas near the Border, and the bulk of Catholics 'will remain in the Northern area more isolated than ever'.

It might be hoped that a Northern Ireland state with diminished territory would, for financial reasons, be obliged to seek admission into the Free State. Thomas addressed this. The creation of Northern Ireland had been accepted by its Protestants only under protest; its formation had also been strenuously denounced by the Catholic minority and by every party in the South. He reminded the Irish government that there was another option: 'Were Northern Ireland to sue for reincorporation in the UK on the footing which these counties occupied before 1920, I know not what reasons a British government or parliament could give for refusing their request.'

The Free State should concentrate on the substantive obstacles to reunification: 'unrest, insecurity, and a sense of injustice and oppression in minorities'. It was his deep conviction 'that the union of all Ireland will be near when every man in

it feels himself secure in the enjoyment of civil rights'. Thomas summarised his advice: 'Deliberate inaction, boldly adopted and consciously self-imposed with the concurrence and approval of the legislature, would, I believe, accelerate the union of Ireland by years.'<sup>13</sup>

Cosgrave and his colleagues did not accept Thomas's advice. It is likely that the determination to press ahead despite such friendly cautions arose from a need to outflank republican political activists and to draw the sting of critics who questioned the nationalist credentials of the Free State. Thomas had dwelt on the dangers of an award of territory to the Free State while emphasising that he had no means of predicting the decision of the Commission. As it turned out, the vague language of that part of the Treaty proved fatal to Free State hopes. The wording allowed scope for the Conservative friends of Northern Ireland to block what had been represented to Collins and Griffith as the 'poison pill', a possibly decisive loss to the new state of territory in the border areas where there existed a Roman Catholic majority and nationalist preferences.<sup>14</sup> It is clear that at least some of the British signatories to the Treaty at the time had anticipated and accepted a possible loss of territory to Northern Ireland, including two of its six counties. Chamberlain told the Commons that had the clause not been inserted in the Treaty the Irish would not have signed it; Churchill reiterated this and recognised that the deliberations of the Boundary Commission could result in revisions adverse to the Northern Ireland government.<sup>15</sup>

Such had been the explicitness of the Commons warnings that Sir James Craig had at an early point indicated that his administration would shun the Boundary Commission were it to be set up. No other course would have made sense for unionists. They had not wanted Home Rule and had it forced upon them; in subsequent negotiations to which they were not party, the territory which they had chosen as the basis of a viable state was exposed to the risk that it would be significantly reduced, crippling their ability to survive. The Sinn Féin delegation may or may not have been misled, but that was their problem: 'not an inch'.<sup>16</sup>

Faced with the Northern government's tactical refusal to nominate a representative to the Boundary Commission, a special Bill was introduced in August 1924, authorising the British government to make the nomination. Parliament assembled in special session on 30 September 1924 to carry the legislation.<sup>17</sup> The Commission's membership and terms of reference then became the issue. The British nominated Ulster unionist Joseph R. Fisher to the place that Craig had refused to fill, allowing the unionists to refuse their cake and eat it. The Free State nomination was Eoin MacNeill, then its minister for education. As chairman, the two governments agreed on Mr Justice Richard Feetham, a South African judge.<sup>18</sup> Nationalists made much in retrospect about the imperial past of Richard Feetham. It was open to the Free State government to have considered the matter more carefully and to have pushed the case for a more neutral figure. It would not have been prudent for the British government to nominate someone whose views were distinctly removed from their own. Afrikaners had indeed

shown themselves sympathetic to the national aspirations of the Irish, but this did not hold for South Africa's English-speaking community, which was reflexively imperialist and therefore pro-unionist. Given that the third man and chairman of the Commission had a casting vote, it is hard to understand why the Free State government failed to see the crucial significance of this appointment and to dig its toes in.

Lloyd George's reputation was mottled during his lifetime and has undergone no startling transformation since. He practised politics with fewer restraints of principle than one would expect to find in one who held such high office. The Irish politicians who dealt with him knew his reputation and at the very least should have discounted his private undertakings. And quite apart from Lloyd George's deviousness (a type of moral rot not in itself ignoble were it enrolled in the pursuit of peace), it is written in the first pages of the negotiator's chapbook that no agreement should be assented to that depends on or offers a variety of interpretations. A family solicitor of the most modest competence would not let a client buy a house in this way never mind agree the deeds for a new state. Like many deals struck in politics (and business), the Anglo-Irish Treaty had an element of the confidence trick about it: certainly there was bluffing and wishfulness on both sides. The difficulties multiplied later when, with the principal Irish leaders (Collins and Griffith) dead and Lloyd George out of office, the small print mattered.

Following Judge Feetham's appointment (5 June 1924) but before the Commission began its deliberations, a flurry of letters hit the press. They dealt with the Treaty itself, as well as with the changed political situation. Article XII provided that if Northern Ireland exercised its entitlement to opt out of the Irish Free State (which it did in January 1923) then the Boundary Commission should determine the boundary between the two states 'in accordance with the wishes of the inhabitants, so far as may be compatible with economic and geographic conditions'.<sup>19</sup> The second clause is such a powerful qualification that it all but robs the first clause of value (or indeed meaning). The argument was also used that a significant amount of time had passed since the establishment of Northern Ireland and even since the exercise of the option, and therefore the new state had a *prima facie* claim for its territorial integrity to be respected: squatters' rights.

Lord Birkenhead had, on the day after he signed the Treaty, deplored the suppression of the nationalist-dominated Tyrone County Council by the Northern Ireland government: 'we propose that a Boundary Commission shall examine into the boundary lines with a view of rendering impossible such an unhappy incident'.<sup>20</sup> Four months later, however, in a confidential letter to Arthur Balfour, a man who had liberally mixed coercion with conciliation during his tenure as Irish Chief Secretary, Birkenhead was on a different tack.<sup>21</sup> Article XII treated Northern Ireland as an existing state and not (as another reading would have it) as a new state coming into existence upon ratification of the Treaty.<sup>22</sup> The only permissible interpretation of such a reading was to confine the Commission to minor changes, such as the correction of obvious local anomalies and

inconveniences. Lloyd George also took a very different line from that which he had pressed on Collins, although still allowing himself stearage room. He endorsed Birkenhead's view as 'the only responsible interpretation of that important clause'. He referred to the ability, integrity and impartiality of Feetham and concluded, 'I cannot imagine he will come to wild and unreasonable decisions which would tear up the territory of Ulster and leave it as a province with nothing but an unconsidered remnant of its land and population.'<sup>23</sup> Winston Churchill, another signatory, took a similar line. The Treaty had indeed contemplated a united Ireland, friendly to Britain, but the Article was intended to lead to nothing more than 'minor readjustments of boundary'.<sup>24</sup>

Other letters followed. A campaign had been mounted, with whatever degree of organisation and forethought, to pre-empt the scope and deliberations of the Boundary Commission. Ulster unionists took strength from these influential supporters, but, to dispel all doubt, Craig, in a rousing speech of 7 October 1924 to mark the opening of the Northern Ireland Parliament, underlined his government's position. Should the Boundary Commission produce unfavourable findings, he would, 'if no other honourable way out is open', resign his premiership and lead the people to defend any unfairly transferred territory.<sup>25</sup> This recalled the semi-treasonable threats of Carson and Law – repeated because they had served so well. The impact now was even greater since, far more than the Ulster Volunteers of 1914, Craig and his colleagues could possibly call on the services of a paramilitary Royal Ulster Constabulary (RUC) of around 2,500 strong – or at least the greater part of it. In addition, there was a territorial Special Constabulary, exclusively Protestant, of more than 35,000 men.<sup>26</sup> But all of this was unnecessary speculation: the notion of the British Army enforcing the secession of South Armagh, Tyrone and Fermanagh, and other border areas to the Free State, was far beyond the realm of realistic politics. And on the other side of the Border, as we shall see, the pragmatic leaders of the Irish Free State recognised that, whatever injustice they felt about it, the Boundary Commission would not produce a united Ireland. Replying to a militant critic of Free State policy, Kevin O'Higgins, Minister for Home Affairs, pointed to the chaos and destruction of the Civil War years and noted with characteristic acerbity that some people still wondered why 'the Orangemen are not hopping like so many fleas across the Border in their anxiety to come within our fold and jurisdiction'. If boundary changes came from the Commission, 'I shall consider that the British are an almost superhumanly wise people politically.' If there were no changes, the British would be foolish, 'but not nearly so foolish as ourselves'.<sup>27</sup>

The British and Free State governments made the best accommodation they could. The Commission, apart from a few trifling local changes, proposed no major adjustment other than the transfer from the Free State of a sizeable area of Co. Donegal. Eoin MacNeill had bound himself, with astonishing naivety, to signing the final report. In effect, this meant that he was in the hands of Mr Justice Feetham and Joseph R. Fisher. When at last he realised that the other two took a line very different to himself, his position became untenable, and, on

20 November 1924, he resigned.<sup>28</sup> This precipitated a crisis in the Free State government, reinforced by a leak in the *Tory Morning Post* of the proposed terms of the Commission's report.<sup>29</sup> There was a distinct possibility that Cosgrave's Cumann na nGaedheal government could fall, with very grave consequences for the peace and barely established stability of the Free State and thereby for Northern Ireland. The last gave the Irish some leverage.

In its advice to government, the Judicial Committee of the Privy Council had indicated that, once published, the Boundary Commission's report would have the force of law. It was imperative, therefore, that publication should not proceed.<sup>30</sup> On 27 November 1924, two days after MacNeill's resignation, a Free State delegation crossed to England. After discussion (including sessions between Kevin O'Higgins and Sir James Craig), it was decided that the difficulties could be overcome only by British and Free State legislation. This would deal with Article XII and (as a political inducement and help for Cosgrave in selling the boundary settlement to his electorate) Article V. The latter dealt with the financial obligations of the Free State in respect of its proportion of the war debts. It was agreed that the Irish share would be cancelled and that the Free State would increase the level of compensation to be paid to those who had suffered property losses between July 1921 and May 1923. The Council of Ireland was effectively wound up by being transferred to the Northern Ireland government (whose share of the war debt was also cancelled). With the exception (in 1938) of the handing back of the Treaty Ports, this was the final territorial settlement between the British and Irish governments.<sup>31</sup>

This agreement was one of the first acts of Stanley Baldwin's incoming government. It sat very well with his general policy of 'business as usual' uneventfulness and conciliation in domestic and foreign policy, which had so attracted the electorate. Although no one was completely satisfied, there seemed no basis for further trouble with Ireland. Republican insurgents had by then been conclusively defeated by the Free State. Craig had indeed taken on a substantial and resentful Roman Catholic and nationalist minority. However unhappy, that minority's armed element was no danger – especially in the light of the Free State's conciliatory policy and denial of a Southern hinterland and military refuge.

Intent on consolidating its own authority, recovering from the Civil War and finding a place in the community of nations, the Free State government entered into a period of cordial relations with Britain and with what was now called the Commonwealth rather than the Empire. Behind the scenes there were even reasonably cordial relations between individual members of the Free State and Northern Ireland governments, although neither openly attempted to improve neighbourliness or to give it more formal mechanisms.<sup>32</sup>

The Commonwealth was undergoing great change. At the 1923 Imperial Conference, the Free State had made little contribution, being both a newcomer and preoccupied with its civil war. Three years later, there was security at home and allies to be made abroad.<sup>33</sup> Smarting from what it considered to have been an improper interference in its internal affairs, arising from vestiges of a now

outdated view of dominion status, Canada was determined that the independent nature of members of the Commonwealth should be fully and openly acknowledged.<sup>34</sup> Having recently emerged from a world war in which their sovereignty and resources had to some extent been subordinated to British needs and policies, there was a general sense among the dominions that the constitutional relationship between Commonwealth nations needed a new framework: legality rather than sentiment, convention and precedent. Two countries alone of these had been involved in armed struggle with Britain: South Africa and the Irish Free State.<sup>35</sup> Both looked backward and forward in finding a loosening of imperial ties desirable. On the British side there was a recognition that a new framework would have benefits for all. Arthur Balfour (who had succeeded Curzon as Lord President) found a formula of words that fitted the times. Great Britain and the dominions were 'autonomous Communities within the British Empire, equal in status, in no way subordinate to one another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth of Nations'.<sup>36</sup> Such acknowledgement of the realities of the relationships between this group of nations became the basis for the 1931 Statute of Westminster.<sup>37</sup> In an ironic twist, this in turn provided a legal basis and cleared the political ground for an Irish repudiation of the Treaty. Cosgrave's pledge that this would not happen became a nullity the following year when de Valera's Fianna Fáil came into office and immediately began working towards 'external association' and all the trappings of independence to go alongside what was undoubtedly already the substance.

But this lay ahead. Throughout the decade following the foundation of the Irish Free State, relations between the British and Irish governments became ever more 'normalised' and stable. Successive British governments accommodated to the passage from Empire to Commonwealth and within that broad change its relationship with Ireland. This had been a source of strife and complications for centuries, and of death and destruction just a few years before. The Irish, North and South, were now handling their own affairs, and the heart of Empire had not ruptured. Rather, the new relationship between London, Belfast and Dublin was in tune with the temper of the times. At the end of that first decade, peace seemed unchallenged – as was the British determination not again to become involved in internal Irish affairs.

Despite this political understanding, social, cultural, economic and institutional ties were more complicated and certainly more difficult to disentangle – even where such severance was sought. Language, kinship, shared legal and educational institutions, the impact of Irish literature and drama, Irish workers in British cities, offices, factories and fields; English journals, newspapers, cinema, broadcasting, books and, of course, commerce and manufacturers throughout Ireland: all these maintained many powerful links and everyday shared experiences. A common currency and apparatus of public life also contributed to the sense that neither nation was truly foreign to the other: the lack of passports for

travel between the two states confirmed this, as did reciprocal voting arrangements. A divorce indeed, but with lingering and tolerable elements of cohabitation. Yet, as in many such arrangements, there was distance and a residual bitterness, a sense reviving on both sides from time to time of betrayal, bad faith, unaddressed injury and irreparably sundered fidelity.

### **Ireland: who is the custodian?**

In times of peace, such episodes of violence and disorder as may occur have a monstrous quality, distressing yet oddly reassuring to those not directly affected and who, with gratitude, continue in the routine of their lives. These aberrations simply confirm the virtues of the quiet, unremarkable and predictable, and when they are past assert the solidity of the structures of the normal. By 1922, Ireland had endured a decade of political upheaval unmatched since the times of Elizabeth I, Oliver Cromwell or William of Orange. Although unevenly inflicted, the destruction of life and property extended to many parts of the country, and insecurity was experienced by all. Sectarian hatreds led to murder, pogrom and retaliation in the six counties of Northern Ireland. With its overwhelming Roman Catholic majority, and quite a different history of interdenominational relations, sectarianism manifested itself differently and was more diffuse in the twenty-six counties of the Free State – though there were also localised episodes of murder, arson, robbery and intimidation.<sup>38</sup>

In further contrast to Northern Ireland, the First World War was a divisive topic in public discourse. Conscription had not been extended to Ireland, though its threat inflamed opinion, united all shades of nationalism and drove further home the wedge between Ulster unionism and nationalist Ireland. But even without conscription, Irish participation was considerable. Great Britain enlisted 24 per cent of its adult male population in the armed forces, Ireland only 6 per cent. But this amounted to around 206,000 men: some 27,000 Irishmen lost their lives.<sup>39</sup> These deaths and other casualties had their effect across the land: losses and sufferings intensified by the return to civilian life in Ireland. Some of the demobilised found their way into the Irish Republican Army (IRA), others into the Black and Tans and the Auxiliary Division. Many of those ex-servicemen who simply returned to their hearths felt the nation sweep on by them, their sacrifice and that of their comrades marginalised, even nullified, by an insecure sense of nationhood that abhorred, excluded or, at the very least, was embarrassed by the British connection.<sup>40</sup>

All that had happened since the Home Rule campaigns of 1912 combined to sweep masses of people into militant organisations, to agitate and intensify feelings, to blunt sensibilities and to erode constraints. The Ulster Covenant of 1912, the formation of the Ulster Volunteers and then the Irish Volunteers, gun-running into Larne and Howth were, in retrospect, gentle and misleading preludes. Rhetoric and posturing passed into reality and deed: hundreds of thousands of young men placed themselves under military discipline and

turned their emotions and ambitions from the worlds of work and domesticity to the transforming romance of bravery, sacrifice, death and national renown.

To move from such fancies to action is a terrible awakening. For the loyal sons of Ulster there was the Somme, the first battle of which produced a carnage over an eighteen-day period then as remarkable and awful as any in the long history of wars.<sup>41</sup> Judged by the volume of its deaths and maimings, the Easter Rising and the two years or so of the Anglo-Irish War were hardly remarkable – a total of casualties seen in a few hours of a skirmishing attack on the Western Front.<sup>42</sup> But those terrible battlefields of the First World War were removed from the lives of most non-combatants. What developed in Ireland was an urban guerrilla war, increasingly permeating civilian life, apt at any time to touch with tragedy and loss the most sheltered of existences. Terror and counter-terror were endured in a manner that in the old life would have seemed inconceivable; humans are wonderfully and tragically adaptable.

The motives of those who become involved in insurrection, rebellion and civil war are many, often passing their own understanding. At its most rational, there was a conviction that the national grievances of Ireland were so great that they called for immediate resolution and that, after a long but ultimately frustrated parliamentary campaign, no means were open but force: a national uprising was morally justified, and civic duty demanded participation or support. A considerable number of people, many of whom were intelligent, educated and with a position, prospects and property to lose, took this view. In later life, in their political and private actions, they showed themselves to be reasonable and ethical. We cannot, it is true, conclude from later actions and beliefs that on embarking on insurrection or revolution they were so reasonable, but we can say that they were not cast in some perverse mould of violence and unreason. Even at the time of their departure from the law they seemed capable of envisaging political goals well within the bounds of reason. It was from these ranks that many leaders of post-revolutionary, post-war political life were drawn.

But the ranks of revolutionaries included many types and sub-types. A Hardy-esque twist of fate pitched some into violent action. It was seemingly a chance meeting with a student colleague that drew Ernie O'Malley into insurrection, terror and civil war and made him a much-wounded and legendary fighting man.<sup>43</sup> Had there been no encounter that Easter Monday, would O'Malley, who not long before had thought of following a brother into the British armed services, have found himself on the side of established law and order, pursuing an unremarkable career in medicine? Perhaps. Or another type again: in his seventeenth year, Tom Barry had joined the British Army 'for no other reason than that I wanted to see what it was like, to get a gun, to see new countries and to feel a grown man'.<sup>44</sup> Campaigning in Mesopotamia, news of the Easter Rising reached Barry several weeks after the event, but this was enough to take him into the first ranks of IRA fighters on his return home three years later. Was he a born soldier whose desires for war, danger and glory were

only partly met by service in the British Army and who found a more perfect satisfaction in leadership in the Anglo-Irish War?<sup>45</sup>

Even more directly and more literally, some were accidental soldiers. There were those in Volunteer ranks who, on Easter Monday 1916, thought they were going out on yet another of the mock skirmishes that had become so familiar in Dublin in preceding months and were shocked to find themselves in action.<sup>46</sup> Some, no doubt, returned to civilian life when and how they could; others were turned into genuine revolutionaries by the camaraderie of battle and the months of internment that followed. Yet another group enjoyed the local status – and power – that came from membership of the IRA. And there were those opportunists, always ready to surface in times of upheaval and disorder, who grasped the chance to kill, to loot, to bully, consumed by the grievance of their exclusion from the established order. Another group again may have sought escape from the tedium of plough, cowshed and orchard: Tom Barry writ small. In a predominantly agricultural country where many had a poor and uncertain living, participation in Sinn Féin or in the IRA – especially after the Truce of 1921 – may have been a means of reserving a place in the queue for a government or local-government preferment in the great redistribution that was to come.

The strength and quality of the commitment to armed struggle therefore varied immensely. At one extreme there were those who went firmly before the firing squad or took the hangman's hand, fortified or enraptured with the righteousness of their cause, humbled by the usefulness and appropriateness of their sacrifice and fortified by the conviction of a shriven and certain passage to Paradise. A code of loyalty and bravery saw others through – to death or to the grey years of peace.<sup>47</sup> And options close to those who have dwelt in a brotherhood of death: the need to keep faith with their dead was for some far greater than politics or revolutionary doctrine or organisational discipline.

It could, of course, be a long and complicated journey into revolution. Pádraig Pearse travelled from Home Rule through Gaelic culture, language, literature and games to the oath of the Irish Republican Brotherhood (IRB) and then to a carefully crafted sacrifice.<sup>48</sup> James Connolly had come from international socialism, syndicalism and Marxism to a most unlikely terminus in militant nationalism.<sup>49</sup> Others found in the death of the 1916 leaders, and in those who followed them, an anchor for a passionate spirituality that commingled national and personal salvation. For these, the Republic was to be the enthronement of perfection, the joyous realisation of man's hopes, a wholly new beginning, the arrival of the beloved. Mary MacSwiney (whose brother Terence had recharged the republican movement by his Brixton hunger strike and death) wrote in 1922 to Richard Mulcahy, the head of the Free State Army.<sup>50</sup> Was the Treaty worth all the unhappiness (of the pending civil war), she demanded? 'Do you not realise that we hold the Republic as a living faith – a spiritual reality stronger than any material benefits you can offer – cannot give it up. It is not *we* who have changed it is you.'<sup>51</sup>

The unsettling and distorting effects of war upon the personalities of participants need little further comment. Those are often severe and persistent when war is joined in a regular army, with all the mental and physical controls, restrictions and support of military structures and discipline. When war, however terrible it may be, is experienced on a battlefield and far from soldiers' homes, there is, on demobilisation, a reasonable possibility of finding a new phase in one's life. Memories – happy, miserable, fearful and exultant – will remain. That they form one of the pillars of adult life is attested to by the associations, reunions and parades of comrades. For some, indeed, military service and war will remain the most intense experience of a lifetime: adventure, danger, comradeship, achievement, loss and survival have a piquancy of youth and romance which may in secret be mourned.

The man or woman involved in revolution and guerrilla war experiences all of the emotions, tests and demands of the regular soldier, and more. Always under threat of discovery or capture, injury or death, some can pass the dangerous months and years with little or no involvement in military action, confined perhaps to watching, carrying, hiding, sabotage, espionage or an occasional and inconclusive ambush. Others can experience intense action, the joy of survival, the power of life and death, the responsibility of command, a type of fame – and this at a young and unformed age. And there are, as twentieth-century history revealed all too clearly, many for whom war ruptures the crust that keeps them in a netherworld of their own instincts, fancies and desires. Those who rejoice in domination, aggression and violence find a golden chance to cross from imaginings and longings to action: to destroy, to humiliate and degrade, to inflict pain and fear, to kill – all such may satisfy a dark lust. Those who are full of envy and resentment get their opportunity to even scores, to demean, to devalue and scorn. Loathsome when fully exposed, the fortunes of war may of course make these worrying but far from unknown figures effective and much commended soldiers.

There is an opposite view. Those who from some distance of space and time contemplate war frequently fixate on the notion of sacrifice and contrast that nobility to the self-absorption and venality of peace. War is seen as a cleansing fire and a purge of all that is base: it is the birthing pangs of a new world, as the revolutionary cliché inevitably has it. Padraig Pearse found such joy in this destructive prospect that in the midst of the Great War's unprecedented horrors he described the times as 'the most glorious in the history of Europe'. By most accounts a kind and sensitive man, an intense but perverted vision allowed him to proclaim, 'It is good for the world that such things should be done. The old heart of the earth needed to be warmed with the red wine of the battlefields.'<sup>52</sup>

But to be charitable, we now know, far more than he, the evil that clings to such phrases. A country is not a briar patch to be reduced by a fire to fertile ashes and purified earth. Human beings, no matter their defects and vices, are not the same as weeds, and any political thought, any rhetoric, metaphor or violence of expression that suggests so is profoundly and inexcusably wicked and

destructive. War destroys the talented and the benign as easily as the corrupt and malign; it blights lives and destroys the patrimony of generations as easily as it consumes the institutions of pride and unjustified privilege; it deals misery out equally to the innocent, the ordinary and the guilty. As war proceeds, ebbs and flows, intensifies and dwindles, much of this may be obscured by the tumult and the haze, by blood-lust and righteous exultation.

### Civil War

The foundation of the Irish Free State is a well-known story, often rehearsed; we need not here recapitulate it in any great detail.<sup>53</sup> The Sinn Féin negotiators, able but inexperienced and acting as plenipotentiaries, signed the Treaty under great (and expertly stage-managed) pressure. Even the hour, 2 a.m. on 6 December 1921, betokened the desperation of the occasion – real and contrived. Lloyd George, whose experience *was* immense, would doubtless have insisted that manipulation was necessary and was a deed of grace: he was utterly convinced that drift meant disaster, giving opponents of the Treaty on both sides of the Irish Sea a chance to regroup. These were difficult decisions to swallow. The British, whose negotiators included several of the Empire's most stalwart unionists, and convinced imperialists, agreed to the dismemberment of the UK, to them the world's ultimate bastion of civilisation and decency. They had met as delegates, shaken hands with and come to agreement with those who had wrecked British institutions in Ireland, men who had only recently been described as members of a 'murder gang'. The massive political effort that the British politicians had made, and continued to make, unsurprisingly went unremarked and unapplauded in Ireland.<sup>54</sup> These were not the times for a broader or generous view.

The Irish had given up the Republic. This was the overriding sacrifice and immediate cause of the Civil War which would follow. The Republic had been a part of the solemn oath of the IRB since its foundation in 1858 and was by that undertaking declared to be virtually established, the entity to which allegiance was sworn. Its material triumph had been the goal of Fenianism through the decades that followed, an abiding compact, sealed by death and sacrifice. It had been the central focus of the 1916 Rising and of the first Dáil Éireann. The Republic had enjoyed a significant political and administrative existence throughout the Anglo-Irish War, its authority accepted, or enforced by arms. The acts of insurgents were not its only basis. In 1918 and again in 1920, the Irish electorate had shown its support, overwhelmingly and emphatically, for Sinn Féin and the Republic it upheld. At the moment of the signing of the Treaty, all the delegates plenipotentiary took their authority not from Sinn Féin alone but from the Irish Republic, yet the solemn agreement to which they put their signatures required the dissolution of the Republic.

Both sides were keenly aware of the difficulties they would face in selling the settlement to their followers, and that it would inevitably produce pockets of

inflamed and indeed enraged opposition. The British negotiators knew that the non-republican name of the new state, the oath of allegiance and fealty, and membership of the British Empire, were essentially stage props to distract attention from actual independence.<sup>55</sup> It was inconceivable that the British electorate or even the Commons would at some future time countenance a reconquest of Ireland on the issue of an oath, a name or even 'membership' of the increasingly fluid British Empire. Yet the stage props, so necessary for British politics, the symbolism and the sacred words, violently divided Irish opinion. Concentrating on the ceding of the Republic, the Irish delegates seem not to have recognised that through the agreement Ulster unionism had obtained a permanent veto over Irish unity.

For exercising their plenipotentiary powers and signing without reference back to the cabinet, the Irish delegates were criticised in the strongest terms by anti-Treaty colleagues. After intense discussion, the vote to accept the Treaty split the cabinet by four votes to three, with Éamon de Valera in the minority. The issue then went to the legislature. Several subsequent weeks of intense lobbying and debate ended, as noted, with a narrow Dáil majority (sixty-four to fifty-seven) in favour of ratification.<sup>56</sup> The British Parliament had met in special session three weeks before, and the Commons, after thorough and sometimes acrimonious debate, voted overwhelmingly (401 to fifty-eight) for ratification.<sup>57</sup> The stage props were a necessary face-saver, but, beyond a doubt, the guarantee to Ulster was the factor that enabled Conservatives to override deeply held convictions. The agreement was not to his liking, but Conservative leader Bonar Law admitted that he saw no alternative: the Irish should be given a chance to carry it through.<sup>58</sup> The Lords, ever the final bastion in reactionary thinking about Ireland, ratified by a smaller but still decisive majority of 166 to forty-seven. The Lords' debate included Carson's vitriolic personal attack on Birkenhead, who, he said, had abandoned Ulster once it ceased to serve his ambition. Curzon he accused of humbugging all during the anti-Home Rule campaign; others, including Lloyd George, got an equally savage drubbing.<sup>59</sup>

The voting done, there came the complicated business of carrying the Treaty into effect. There was, first of all, the question of the transitional authority. There existed a House of Commons for Southern Ireland, which, under the GOIA, had been elected in May 1921.<sup>60</sup> Sinn Féin had refused to participate in this body, and its candidates who had triumphed at the polls constituted themselves as the Second Dáil Éireann, meeting in Dublin's Mansion House on 16 August 1921, in the name of the Irish Republic. The Irish Commons nevertheless existed (and indeed had had an inaugural meeting on 28 June 1921) and had therefore had to be dissolved. On 14 January 1922, it met formally for the second and final time. Only those Sinn Féin members in favour of the Treaty attended, and they, together with the four Unionist members for Trinity College Dublin, approved the Treaty and elected the ministers of the Provisional government. A continuity of authority (which was at the same time a genesis) had been achieved. This interim government was to act as an executive until

(as provided by the Treaty) the Irish Free State came into existence on 6 December 1922.

There were now two governments in existence in the twenty-six counties of Southern Ireland, and, in the continuing presence of its armed forces, its functioning civil service and the Lord Lieutenant, a substantial vestige of the old regime. Northern Ireland had had its legislature and government for several months. So, by any reckoning, this small island had four governments: authority, multiply expressed, hung on gossamer. The Dáil ministries and the Provisional government largely overlapped and were occupied by the same persons. Arthur Griffith, elected President of Dáil Éireann after de Valera's resignation, did not join the Provisional government, although he shared responsibility for implementing the Treaty. Michael Collins became chairman of the new government and Richard Mulcahy its minister for defence, combining that position with minister for defence in the Dáil government.

This last duality has a Gilbertian ring about it yet was of great importance, since the Treaty had split the IRA. Many of its members had, however, taken an oath of loyalty to the Dáil, which, while it at first appeared to reinforce the anti-Treaty position, had, in reality, the opposite effect. It was imperative for the new government to buy time to build up a pro-Treaty regular army in place of the IRA, which had a tradition of autonomy that many members were straining to regain. Evading rather than confronting the issues of IRA ultimate authority and loyalty could only gain that breathing space. The narrow pro-Treaty majority that had been won in the Dáil was the basis for this manoeuvre. Mulcahy's Janus-like position and his gnostic statements were also immeasurably valuable in heading off immediate IRA action against the Treaty: in this he showed political skill of a high order. On 13 January 1922, he declared that the IRA could not be transferred to the authority of the Provisional government. The Dáil was the government of the Republic and the IRA its army. This reassured many Volunteers but obscured the fact that a majority of the Dáil had voted for the Treaty, and a prime figure in the Treaty negotiations, Arthur Griffith, was now its president. In practical terms, it mattered little therefore that the IRA was subject to the authority of the Dáil rather than that of the Provisional government. What did count was the military inaction of the anti-Treaty faction and the willingness of the remainder either to leave off soldiering or to serve the Free State.

Under cover of this impasse the new army was rapidly being organised. It had conventional ranks and command structure and was loyal to the Provisional government, which was its paymaster and source of appointments and promotions. Soldiers and officers were drawn from pro-Treaty IRA units and individuals, together with persons unconnected with the IRA. The sense of impending violence, the vast difference between the life, style and resources of a disciplined professional army and that of a guerrilla army and the uncertain authority of the Provisional government all made the creation of the new force a difficult and complicated task. But, despite many problems, within its first six months the National Army had expanded from a small nucleus to about 10,000 men.<sup>61</sup>

This new body was the rock on which the Free State had to be built. A state that depended on the British Army would not have gained the trust of the Irish people, or at least of a substantial section of them, and that would have invited republican resurgence. British military evacuation began almost immediately, demonstrating adherence to the Treaty and, at the same time, reducing the danger of clashes with republican forces. Arrangements for the demobilisation of the residue of 233 officers and 5,764 men of the Royal Irish Constabulary (RIC) were well advanced within six weeks of the formation of the Provisional government.<sup>62</sup> Despite his government's difficulties, weakness and lack of resources, Michael Collins well understood that evacuation strengthened its position. In mid-February there had been some suggestion in the English press that British evacuation had been slowed in order to assist the Provisional government. Collins took the rumour to Churchill:

The best way in which the British Government could help us at the present time is not by suspending the carrying out of the Treaty but by so adhering to its spirit and letter that Ireland will be convinced that Britain is really delivering the goods this time. Many people in Ireland believe that even at this late hour England will again trick us and this belief is used as much as possible to our disadvantage by those who oppose us.<sup>63</sup>

At the heart of Britain's coalition government was a group particularly well suited to steer its end of the Anglo-Irish relations through the tumultuous and unprecedented events that followed. Lloyd George had the necessary combination of ruthlessness, detachment, experience, guile and commitment to persuade, push and pull his cabinet colleagues. Winston Churchill, impetuous English patriot, had a deal of generosity and personal loyalty in his make-up and, together with Birkenhead, Chamberlain and Law, defended the Treaty and the Provisional government from unionist criticisms that ranged from the worried to the outraged. This quintet was certainly tested as events in Ireland headed, it would have seemed to any reasonable observer, towards disorder and breakdown.

The IRA had taken an oath to the Dáil at a comparatively late point in the Anglo-Irish War.<sup>64</sup> During the spring of 1922, it, and uncompromising Sinn Féiners, looked for a way forward. There remained sufficient heat in the old ties of comradeship and affection to prevent an immediate attack on the pro-Treaty units, now reforming into the National Army, efforts instead being concentrated on trying to revive a common front against the British. This proved to be the strategic blunder of its military arm that doomed the republican cause – though whether it would have prevailed in an immediate struggle in which they would also have had to face a reactivated British Army is at best questionable.

The republicans' political cul-de-sac was an insistence that there was a mandate beyond the popular will. It had become obvious that when it came to be put before the electorate the Treaty would secure their support. Various formulae

were sought to square this political circle. De Valera, an intelligent and deeply logical man, put the case with apparent fatuousness: ‘The people had never a right to do wrong.’<sup>65</sup> This was a curious doctrine for a republican of any hue, as de Valera must in his heart have recognised. He was in the frustrating position – not unfamiliar to conventional politicians – of knowing what was best for the country but seeing the people take the wrong course.<sup>66</sup> They often do, but it is precisely that right which is the essence (and occasional flaw) of democracy. In the more ideological and purest ranks of republicanism there was an ambivalent, uncertain and shifting attitude to democracy. Part of the reasoning behind the 1916 Rising was that the Irish people had become politically debased and needed a violent shock and the spectacle of sacrifice to call them to their national duty. This divination of the best interests of the people always was part of the special talent of revolutionaries, from Robespierre to Clarke and from Pearse to Lenin. In the autumn of 1922, republicans were infuriated by an observation in the Catholic bishops’ pastoral letter on the Civil War: ‘A Republic without popular recognition behind it is a contradiction in terms.’<sup>67</sup> If the objective of the armed struggle had not been to secure the right of the people to govern themselves (and therefore to make bad as well as good choices), then what had it been?

The Provisional government focused on an electoral mandate, which it linked to the rapid build-up of an army subject to political authority. Voters would be given the conditions of security within which to ratify or repudiate the Treaty and the Constitution (still being negotiated with the British) which was to flow from it. Through intimidation and attacks on polling stations, electoral officials, candidates, meetings, canvassers and supporters, irreconcilable republicans could have prevented the election or rendered it so uneven as to be meaningless. This would have created an impasse in the political revival of the country and, possibly, a break with the British. The last would almost certainly have led to a blockade and partial reconquest.<sup>68</sup>

To minimise these possibilities, Collins entered into a pact with de Valera to put forward a joint panel of Sinn Féin candidates, proportions to be in accordance with the voting strengths of the two groups in the existing Dáil. The coalition government that would follow this curious ‘election’ would include non-oath-taking ‘external’ ministers, heading departments but not voting in cabinet. The British were having none of it. Churchill pronounced the pact to be a violation of the Treaty, a rigged election to deprive the electorate of its voice on the Treaty and to clear the way for the Republic. Level talking, especially from Griffith, convinced the British negotiators that the pact was a sensible tactic and that Collins had stolen an important advantage from de Valera.<sup>69</sup> By this point, a great deal hung on the personal commitment, integrity and mutual trust of the Irish and British negotiators: vital national interests were involved, but it was personal ties and credibility that swung the deal.

The general election was fixed for 16 June 1922. From the outset, it became apparent that Sinn Féin would not have it all to itself.<sup>70</sup> The pact had nevertheless been a tranquillising influence, and, given the general state of disorder,

the election campaign was tolerably peaceful. Some candidates (especially from the Farmers' Party) were threatened by local republicans and withdrew; it is also impossible to compute how many would have liked to offer themselves but were deterred by intimidation and the general perception of danger in public life. The pact had involved some rigging, but not nearly as much as London had feared: only thirty-four Sinn Féin candidates stood unopposed. By agreement, seventeen came from each faction of the party, but one must wonder whether and by what means other parties were dissuaded from coming forward in these constituencies.<sup>71</sup> Far from perfect – but for all the intimidation, direct and indirect, and the unpropitious atmosphere, there was established an acceptable basis for a contested and authoritative election: with a certain amount of throat-clearing, the democratic voice was to be heard.

There were two significant and last-minute developments. On 14 June 1922, speaking on his home ground in Cork, Michael Collins addressed a large crowd, withdrawing the exhortation to vote for the Sinn Féin panel and urging the electors instead to support the candidates they most preferred.<sup>72</sup> This precisely timed repudiation of the pact, dirty but effective politics, wrong-footed the de Valera group.<sup>73</sup> Given what would emerge as the mood of the country, it is difficult to assess whether it swung votes; it is also hard to know how many of the rural electorate got to hear of it. Coming from Collins, however, it was a clear promise that the entitlement to a free vote would be respected. It is likewise difficult to gauge the effect of the Free State constitution, which was published only on the morning of election day. The timing was not a Provisional government ploy but rather the effect of the intense and protracted negotiations to obtain an agreement that the document conformed to the Treaty. It was only on 15 June 1922 that the Law Officers were able to make that declaration. The Irish had contrived to push the language of the document as far away as possible from any suggestion of continued British domination. On their side, the British had sought to purge it of republicanism.<sup>74</sup>

But these two last-minute developments were no *deus ex machina*. Most commentators agree that they had a marginal impact. There was a turnout of only 60 per cent, the electoral register was undoubtedly out of date and inaccurate, there were several worrying incidents on election day, and the traditional injunction to 'vote early and vote often' was doubtless piously observed. But, in the end, the voice of the people was heard.<sup>75</sup> Some 620,000 votes were cast, 60 per cent going to the Sinn Féin panel candidates. This bald figure masked an overwhelming defeat for the anti-Treaty side, which won only 131,000 first-preference votes, some 21 per cent of the total cast. Pro-Treaty Sinn Féin votes were almost twice that number (239,000), not far short of 40 per cent. Independents and Farmers between them won 115,000 (18 per cent) and Labour 133,000 (21 per cent – greater than anti-Treaty Sinn Féin).<sup>76</sup> Under the system of proportional representation, and because seventeen of its candidates had been elected unopposed, the anti-Treaty party secured more seats in the Dáil than these figures warranted. The government had fifty-eight seats, anti-Treaty

Sinn Féin thirty-six, Labour seventeen, Independents ten (including four from Trinity College) and the Farmers' Party seven. In all, ninety-two of the 128 Dáil seats were held by pro-Treaty members: the most determined casuistry could not conceal the fact that de Valera's prediction, given some months before, had come true.<sup>77</sup>

During the constitutional negotiations, and the election campaign, strenuous efforts had been made to reunite the IRA: this was seen as an essential step were civil war to be avoided. Discussions were complicated because there were several strands of opinion in the IRA, personalities and localism played important parts, and alliances frequently shifted. It was the unshakeable belief of the irreconcilable faction that the Treaty betrayed the Republic the IRA had sworn to defend and that that obligation transcended all others. Sections of this group favoured some form of military dictatorship – a logical consequence of the doctrine that right could transcend democracy. Before the election, on 13 April, anti-Treaty IRA units occupied the Four Courts and other Dublin buildings. Barracks were seized elsewhere, and within weeks there were clashes with the National Army. Despite these provocations, and much to the fury and deepening concern of the British Cabinet, the Provisional government pursued a softly-softly policy, where possible avoiding confrontation and keeping the door open for reconciliation. This last reflected, at least in part, the personal anguish of many on both sides at the prospect of violence between comrades. Collins, pivotal in the military struggle against the British, had run his underground organisation with a great emphasis on personal loyalty and now found himself particularly torn. The stand-off could not continue, however, and the Provisional government had to act or surrender.

During the weeks of meetings and negotiation, neither side had been idle in preparation. Republicans had robbed banks and post offices for the funds that government had denied them; motor vehicles, fuel, food and other supplies were commandeered, and numerous buildings were occupied. The National Army continued rapidly to expand and had begun to take in experienced soldiers from the British and US armies; it had also been supplied with a considerable amount of British *matériel*.

For some weeks, London had been pressing for action against those engaged in robberies, seizures and other acts of defiance. Cabinet had reached the point where it was prepared to use its own troops: an order to that effect was actually issued to General Sir Nevil Macready, Commander-in-Chief of British Forces in Ireland. For its part, the anti-Treaty IRA could not go on simply occupying buildings, robbing banks and confiscating supplies: these were means rather than ends. But still, it was reluctant to attack the Provisional government. A plan was made to attack the remaining British garrison with the intention of bringing on a reunifying general melee.<sup>78</sup> But events were to take quite a different course. On 22 June 1922, Sir Henry Wilson was murdered on the doorstep of his home in central London.<sup>79</sup> Years of speculation have not determined who ordered the killing. A substantial body of opinion holds Collins responsible – either in the

form of an earlier instruction not cancelled or as a response to the police and military advice and political support that Wilson was giving to the Northern Ireland government.<sup>80</sup> This involvement in Northern affairs particularly inflamed opinion in the South because of the actions then being taken against Roman Catholics in Belfast and elsewhere.<sup>81</sup> The British government had no reliable intelligence but not illogically assumed the assassination had been ordered by the anti-Treaty IRA headquartered at the Four Courts; the two IRA men arrested near the scene of Wilson's murder said nothing to indicate otherwise.<sup>82</sup> The killing had outraged British opinion, reinforced the unionist and diehard element in the Conservative Party and increased parliamentary pressure on the British Cabinet to resolve the situation in Dublin.<sup>83</sup>

Four days after Wilson's murder, one of the republicans' senior officers, Commandant General Leo Henderson, was arrested, in Ernie O'Malley's words, 'enforcing the boycott on a Dublin firm', that is, taking fifteen cars and a quantity of fuel at gunpoint.<sup>84</sup> The anti-Treaty GHQ (General Headquarters) decided to take hostage an officer of equal rank in the National Army and to hold him in the Four Courts against Henderson's release. The shortlist of candidates included Michael Collins, Chairman of the Provisional government; Richard Mulcahy, Minister for Defence; and Lieutenant General 'Ginger' O'Connell, Deputy Chief of Staff in the National Army.<sup>85</sup> Circumstances made O'Connell an easy seizure. The National Army command was informed that he would be swapped for Henderson. At the same time, an attack on the remaining British garrison was imminent.<sup>86</sup> All of this heaped potentially lethal contempt on the Provisional government. Churchill's public demand for immediate action complicated the situation. At its meeting on 27 June, notwithstanding the risk that it would be accused of dancing to a British tune, the Irish cabinet authorised an attack on the Four Courts and requested the necessary field-guns from the British garrison. That night, preparations were made, including the assembly of a small battery of eighteen-pound guns (apparently the heaviest that could be used without trained British gunners). At 3.40 a.m. on the morning of 28 June 1922, an ultimatum was delivered to the Four Courts, demanding surrender within twenty minutes. As expected, this was not forthcoming, and at 4 a.m. the National Army launched its attack.<sup>87</sup> Although skirmishes of sorts had been going on for some months, and lives had indeed been lost, the tide of civil war now began its flood: all was swept before it.

This war has been much considered and written about, and, while it is not necessary to duplicate that material, a number of observations bear restating.<sup>88</sup> Popular support for the republican side was not great, strong in pockets but unevenly distributed, and it dwindled rapidly. War-weariness was widespread, and there was a general readiness to accept the Treaty: this had been conclusively demonstrated in the general election. The need to commandeer and forage caused deep resentment and eroded republican discipline, and in towns such as Cork and Limerick it gave the anti-Treaty side the character of an occupying army. Their destruction of transport links also caused widespread

hardship. The Civil War was hugely destructive to an economy already shattered by several years of insurrection and disorder. The vulnerability of a poor agricultural country would, even under the best of circumstances, have been more than evident as the post-war downturn took hold in the major manufacturing countries. Civil war made the situation immeasurably worse and set the scene for a half-century of economic underdevelopment; it also destroyed utterly and comprehensively whatever faint reunification prospects might have existed. Unionist fears of republicanism and nationalism seemed amply justified: insurrection, subversion and guerrilla war stretching back to 1916 and beyond, and now a further outbreak of blood-letting and destruction. Finally, a crop of internecine hatred was sown that affected Irish life for generations.

Beginning with the odds stacked against them, the republican side adopted tactics that guaranteed defeat. Taking and holding buildings in Dublin made no military sense: it was little more than a reprise of the 1916 Rising, yet all were aware of how speedily that had been crushed by a relatively modest application of conventional military power. Indeed, tactics were hopelessly muddled, constantly attempting to combine the oil and water of political and military objectives. The republican leadership tried to be symbolic, evocative and inspirational and at the same time to be militarily effective. This last, we need hardly remind ourselves, means eliminating the enemy by the application of superior force. The Four Courts served as the republicans' GHQ, yet it had no store of food, inadequate munitions, no plan for outpost defence, deployed no scouts or roving patrols, was close to concentrations of Provisional government and British soldiers, was easily surrounded and was occupied without an escape or breakout plan: this was voluntary entrapment. The true importance of the Four Courts to the IRA leadership was, indeed, that it replicated the General Post Office (GPO) of 1916, was scene-setting in a pageant, intended to set loose a surge of patriotic feeling. In line with this, a proclamation was drawn up and posted around Dublin. The historical stage was everything: script, characters, lighting and mood music were all in place. Hours before surrender, Ernie O'Malley (who had taken over as garrison commander – ranks, function and military courtesies seeming to increase in importance as options narrowed and hopes faded) told a sympathetic visiting priest, 'We're not men just now, we're a symbol.'<sup>89</sup>

Likewise, in the countryside, there was an attempt to hold territory, even the brief establishment of a 'Munster Republic'.<sup>90</sup> A weaker force can succeed only if it has considerable mobility, determination, ferocity and the tacit or active support of a sufficient section of the people. Attempts to hold territory are futile when faced by a numerically superior enemy that has greater access to transport, supplies and artillery. Ferocity was absent from the beginning, and one can well understand the dilemma. A massacre of National Army troops in barracks, on parade, or on patrol could doubtless have been arranged, but it would have forfeited what was already dwindling political support. There were indeed fierce clashes at later stages in the Civil War – and atrocities by both sides – but the game had by then been lost. It is also worth noting the military consequences of

operating in the midst of a population at best neutral: information, shelter and other forms of support essential to the guerrilla are withheld.

By European standards, the toll in deaths and casualties of the Irish Civil War was small. It was said that some 800 National Army troops were lost between January 1922 and April 1924. Records, understandably, were poorly kept, and, even on the government side, such figures are not wholly reliable. Republican deaths, even more difficult to compute, probably amounted to just under 300 (including seventy-seven who were executed). Three or four times that number could be expected to have been wounded. Civilian deaths were numerous, but no accurate calculation can be given.<sup>91</sup> Loss of private property and damage to public property and the infrastructure was reckoned to be some £50 million, a huge sum in money values for the times and a very significant portion of Irish national wealth.<sup>92</sup> Casualties and destruction considerably exceeded those of the years 1916–21, particularly when the relative brevity of the conflict (eleven months) is considered.

Soldiers inevitably became brutalised and behaved accordingly. In Co. Kerry there occurred terror and counter-terror as bad or worse than anything that happened during the Anglo-Irish War. In the early hours of 5 March 1923, four Free State soldiers, following up false intelligence about a dugout, were killed and another wounded by a booby-trap.<sup>93</sup> It was decided that thenceforward prisoners would be used to clear mines, but circumstances suggest that this was simply cover for murder. Two days later, nine captive republicans were taken to a mined barricade at Ballyseedy Bridge, near Tralee, Co. Kerry, where they were tied together and the mine detonated. Eight men were killed. The same tactics were followed in succeeding days, killing four men at Countess Bridge near Killarney and five at Cahersiveen. Addressing the Dáil and citing the Army's Court of Inquiry into the bridge incident, Richard Mulcahy, Minister for Defence, in effect approved of these tactics.<sup>94</sup>

Desperation begat increasing ruthlessness. On 27 November 1922, Liam Lynch, anti-Treaty Chief of Staff, responded to new emergency powers promulgated by the Army Council and sanctioned by the Dáil. This had granted extensive powers to Military Tribunals, including imposition of the death penalty.<sup>95</sup> There followed the execution of four republican rank-and-file combatants and then of Erskine Childers, the republicans' chief publicist and a nationally known figure in the Anglo-Irish War. Lynch's 'Orders of Frightfulness', issued three days after Childers's execution, set out fourteen categories of persons to be shot on sight by Republican forces. Sean Hales, a member of the Dáil, and Pádraic Ó Máille, Deputy Speaker of the Dáil, were shot on 7 December; Hales died and Ó Máille was wounded.<sup>96</sup> The threat to kill legislators and others was a deadly thrust at the vital organs of the new state. As reprisal, the Free State government (which had come into existence only the previous day) selected and shot four republican leaders who had been in custody since the fall of the Four Courts. The circumstances of the executions – the absence of any form of judicial process, rousing the men in the early hours and telling them that they were

shortly to be shot – reflected in equal measure the government’s desperation and its ruthless determination. A savage sundering of ties of comradeship was evident in the fact that one of the executed, Rory O’Connor, had the year before been best man at the wedding of Kevin O’Higgins – Minister for Home Affairs and one of those who authorised the reprisal killings.<sup>97</sup> The reprisal, as a clear demonstration of will, seems to have been effective, though it would remain a stain on the character of the Free State government. The government had several thousand republicans of varying ranks in custody, who now could be presumed to be hostages. Political assassination ceased, and republican attacks were thereafter largely – not wholly – confined to the destruction of property.<sup>98</sup>

The war shifted from the semi-conventional to the guerrilla, persisting despite several attempts at peace-making. As the republicans’ military capabilities waned, the political element became more important. De Valera had put himself at the head of a Republic which existed only in name but which had departments, issued communiqués and, of course, possessed stationery. In theory, this body should have controlled the Republican Army, but in reality it was entirely subordinate to it. As the republican leaders were harried and killed, one by one, and military defeat became an inescapable outcome, authority flowed back to de Valera. He remained a national figure of great importance, always associated in the public mind with the 1916 Rising. After a final and wholly fanciful peace attempt at the end of April 1923 (which would in effect have necessitated a repudiation of the Treaty by the now victorious Free State government), de Valera declared what was a ceasefire in name but which was a surrender in fact.<sup>99</sup> The Civil War ended on 24 May 1923.

De Valera and many other republican figures, political and military, did what they could to avoid joining more than 11,000 of their comrades in Free State custody. W. T. Cosgrave, President of the Free State’s Executive Council (cabinet), had promised de Valera and his colleagues full participation in a free political process, provided they accepted the principle that the majority vote should prevail and provided that arms were surrendered. These conditions were not met (arms were cached, not surrendered, and there remained the commitment to a Republic rejected at the polls). The republican leadership was, in consequence, condemned to an underground existence. With the Civil War behind him, Cosgrave decided to seek a fresh mandate, in a general election to be held on 27 August 1923. In the election run-up, de Valera was arrested on ground of his own careful choosing, attempting to address a meeting in the historically significant constituency of Ennis, Co. Clare. In the election itself, however, he was returned with a more than two-to-one majority over his opponent, Eoin MacNeill. His Sinn Féin party also did well, increasing its number of seats by eight. Other irreconcilable republicans were also returned, Mary MacSwiney and Constance Markievicz among them. Cumann na nGaedheal, the newly and belatedly formed party of the government, took sixty-two seats, de Valera’s Sinn Féin forty-four, and other parties (almost entirely pro-Treaty) forty-six.<sup>100</sup> The government again had an overwhelming working majority, but the electorate had

shown some sympathy with the underdog, had reaffirmed its regard for individual candidates, had expressed dissatisfaction with the executions and large-scale imprisonment and had shown that there remained support for a more republican type of politics. In a paradoxical way, this strengthened the new state: democracy cannot function without criticism, opposition and restraint of the executive.

It was not wholly unexpected, but certainly an irony, when two and a half years later, in March 1926, Sinn Féin narrowly reaffirmed its policy of not entering the Dáil (a ‘usurping legislature’) and de Valera immediately detached himself (‘I am from this moment a free-man’).<sup>101</sup> Within weeks, he announced the formation of a new political party, Fianna Fáil, with a strongly nationalist political, social, economic and cultural programme, drawing heavily on republican traditions. This expanded rapidly throughout the Free State, establishing the vital infrastructure of local branches, feeding what was clearly a widespread appetite for this type of political association, voice and outlet. There was appeal in blood and thunder revolutionary rhetoric which went no further down that road than words – nationalist fervour, nostalgia, vicarious struggle – then safely home to hearth, cocoa and bed. De Valera well understood this psychology and was adept in pandering to it, making speeches that blurred the boundaries between his new party and the old, enlisting the powerful ranks of the martyred to reassure the living. He drew considerable support from IRA members throughout the country, and their practical electoral work (canvassing and getting the vote out) contributed to his early and continuing success in elections. In the general election of June 1927, Fianna Fáil was able to breathe down the neck of Cumann na nGaedheal with forty-four seats to its forty-seven. Again, Labour, Independents, Farmers and others helped to make up a pro-Treaty majority. In a decisive development of immense importance to Irish politics (and history), republican voters had followed de Valera: Sinn Féin was crushed and won only five seats.

Events thereafter moved swiftly, in an unpredicted and tragic way. On 10 July 1927, Kevin O’Higgins, the able and steely Minister for Home Affairs (and a man who excited hatred and admiration but not indifference), was assassinated in a Dublin suburb on his way to mass. In response to what was feared might be a new onslaught on government and state, two Bills were rushed through. The Public Safety Act, 1927, gave extensive powers to deal with treasonable or seditious activities. Military courts were authorised to hear certain cases and to impose any penalty available to the Central Criminal Court, including death.<sup>102</sup> The running sore of abstention by Fianna Fáil – a continuing questioning of the legitimacy of the state – was also dealt with. The Electoral Amendment Act required candidates to undertake to take their seat and to subscribe to the oath if elected. The undertaking was by means of an affidavit, and a candidate who failed to comply with the requirement would automatically be disqualified.<sup>103</sup> To copper-fasten this legislation and to prevent further piecemeal tinkering, the constitutional provision that allowed for a voter initiative and referendum (to which de Valera had recently turned) was repealed.<sup>104</sup>

Fianna Fáil now had to choose between constitutional and unconstitutional action. If it wished to continue in politics, the party would have to accept the oath and the legitimacy of the Free State Dáil. A practical man wholly unattracted to fringe politics, de Valera had probably long since made up his mind. The new legislation was something of a gift. Here was a reason to abandon Fianna Fáil's abstention policy yet to respect the sentiments of his supporters. It was now, in the jargon of modern politics and marketing, a presentational issue. After some discussion and manoeuvre, Fianna Fáil deputies agreed to change their stance, and on 11 August 1927, de Valera and his colleagues entered the Dáil and signed the oath.<sup>105</sup> Almost immediately, Fianna Fáil flexed its muscles and, in alliance with Labour, attempted to oust the government on a confidence motion. On the Speaker's casting vote, this was lost. Two government by-election victories shortly thereafter encouraged Cosgrave to consolidate his position by means of a general election. Held on 15 September 1927, the poll allowed Cosgrave's Cumann na nGaedheal again to take government, supported by the Farmers' Party and Independents.<sup>106</sup> Fianna Fáil and Labour formed the now loyal opposition.

The final act in this process of legitimisation occurred following the general election of 16 February 1932. Fianna Fáil, with a narrow majority provided by the Labour Party, was able to form its first administration. Despite rumours of a *coup d'état*, the police and army remained loyal to the state and accepted the democratic verdict, as did the civil service. The handover proceeded smoothly. The outgoing government conceded gracefully, and the country could at last have confidence that democracy was truly rooted in a state born of war, revolution, disorder and fratricide.

### **The machinery of state**

The state apparatus that responded to the Fianna Fáil victory in 1932 was only ten years old yet was possessed of the essential characteristics of the administration of a mature democracy.<sup>107</sup> The police (now known as An Garda Síochána) had, to varying degrees, the imperfections of police forces the world over, and its political division had undoubtedly abused its powers and acted unlawfully on behalf of the status quo.<sup>108</sup> But, that aside, and whatever petty influences politicians, the clergy and others could bring to bear at a local level, the force in general seems to have been largely uncorrupt as an institution and was an instrument of stability. The Army, as has been noted, had expanded hugely and rapidly during the Civil War and had almost as quickly been reduced in size thereafter. That, and its very mixed nature (Old IRA, ex-British Army, new recruits) led to a mutiny in March 1924 by officers of the Old IRA. That had been overcome by a combination of firm action by senior officers, resolution by ministers and some deft recourse to smoke and mirrors. Thereafter, although there was a certain amount of continuing unrest over conditions, dismissals and demobilisation, the Army was firmly under civilian control and, in organisation and ethos, became a professional instrument of the state.<sup>109</sup>

The civil service which greeted de Valera on his accession to office was, in all the circumstances, an impressive instrument. Local government had for decades been an integral part of Irish party politics. Patronage exercised by the Irish Party and the Unionist Party in their respective bailiwicks had been levers to ensure electoral loyalty in an employment-hungry country. A young man helped into secure employment remained in the position of client and was a conduit through whom other local-government favours could be passed. The result was a mess of seemingly ineradicable cronyism, favouritism and straightforward corruption. The Local Government Board in Dublin exercised some control, but all except the most outrageous transactions were left undisturbed.<sup>110</sup>

To deal with those issues, which independence had apparently affected no more than to reorder the channels for preferment, it was necessary to develop a mechanism which could be efficient and fair, removing patronage from local and national politicians, clerics and other persons of influence. Important enough in peaceful times, this was a critical check on those who, irrespective of their suitability, felt that their service in the War of Independence or in the Civil War gave them a claim for employment in public service. Some seventy years earlier, almost exactly, patronage and nepotism had been tackled in Britain by the 1854 Northcote–Trevelyan Report. This had led, *inter alia*, to the establishment of the Civil Service Commission, a body free from political interference, which oversaw the process of appointment through open competitive examinations and certification of physical health.<sup>111</sup> The result was, within a generation, the transformation of the British civil service.<sup>112</sup> As much as the imperial behemoth, perhaps more, and certainly more urgently, the infant Free State required an independent and able civil service. It is a tribute to the perspicacity of inexperienced young ministers then running the country that in August 1923, with the Civil War only recently ended and its ruinous effects still straining all available resources, a reform of local government was pushed through.<sup>113</sup> Three years later, the patronage powers of the Minister for Local Government were discontinued. A three-man Local Appointments Commission was given exclusive authority to fill professional and senior appointments. Decisions on the lower grades continued to be made locally. Centrally, appointment and management were reorganised and put on a new footing.<sup>114</sup> In 1924, a Civil Service Commission was established to oversee central government appointments, which were by general competition. Tenure, remuneration and pensions were regulated by statute. The same principles were followed in army and police recruitment.<sup>115</sup>

It is important to grasp the strong moral position of those who are appointed on demonstrable merit and whose tenure is guaranteed during good service, and which stands in contrast to those whose position comes from patronage and splits loyalty between public service and private obligation. Civil servant and politician serve substantially (but not wholly) different functions. The legitimacy of the ballot-box is fundamental to democracy, but it is vital for public confidence that it should not be used to overwhelm or to politicise officials, to circumvent rules or to produce unfair decisions. Officials appointed through political patronage

and serving at will certainly find it almost impossible to resist their patrons. The legitimacy conferred by the open competitive examination therefore helps to establish a balance favourable to democracy. But the corrosive effects of patronage and favouritism were not the only threats to fairness and accountability in the new state. To deal with the dangers of subversion and disloyalty, another measure was needed, and those appointed to or promoted within the civil service or local government were obliged to make a formal declaration of allegiance to the state.<sup>116</sup> This was no light matter in a country where an oath had been a cause of civil war.

There were two elements that contributed to political influence in the distribution of posts in the public service, after 1922, whether central or local, or one of the semi-state enterprises that were established during this period. The first was the enduring expectation of political influence in appointments, which had been inherited from the decades of the Irish Party, and which was a feature of the system so usual that no one objected.<sup>117</sup> To this was added the demand, inevitable after a revolutionary or radical political change of government, that those who had put themselves at risk, or who suffered for the new order, should be rewarded. This, in itself, was shored up by the argument (which, of course, has substance) that a new and inexperienced administration needs loyal backing, and that, most unequivocally, comes from those who stood by its cause while it still struggled for power. Having been 'out' in one or another stage in the Irish nationalist struggle did not therefore convey privileges so unexpected or outrageous that they were unacceptable to the population.<sup>118</sup>

Various filters were established to regularise political access to public-service posts. Those were essential to show that there was a degree of system and fairness in selection. Competitive examinations were retained, but to these were added conditions.<sup>119</sup> The most obvious of these, favouring those who had been schooled in the nationalist traditions (and thus very few Protestants) was the addition of the Irish language to the selection process. Former army officers were exempted altogether from the examinations for both the higher and executive grades. At the lower end of the civil service, a range of basic (but, of course, secure and pensioned) posts were reserved for former soldiers of the Free State Army. (The same entitlement was granted in Britain and Northern Ireland to those who had served in the British armed forces.)

A civil service cannot be reconstituted overnight, and there were many specialised posts in finance, agriculture and fisheries, transportation, commerce, education, public health and the like, that needed continuity of service. This meant that the overwhelming bulk of the civil service was constituted of those who had served under British rule; no other arrangement would have been possible, even had there not been a civil war that necessitated as much stability as possibility in the new administration, were it to survive.

Some who had served under the British had been disloyal and had been dismissed. Others had given their service to the republican cause, covertly, had survived in office and now served under the new dispensation. Those who had

been dismissed could (and many did) apply for readmission to the civil service. Their claims were considered, and, if substantiated, they were re-employed. But those numbers were not great: only eighty-eight regained their positions in this way. Compare this, and the 131 officials who had served in Sinn Féin's parallel administration, to the 21,000 hold-overs from the old regime.<sup>120</sup>

While ordinary members of the previous civil service suffered no disability, those who had opposed the Free State in the Civil War, and who had been interned or imprisoned, were dealt with severely.<sup>121</sup> Those amounted to some hundreds of men (and a few women). The grades affected were mainly in the Post Office (which had been a significant reservoir of republicanism throughout) and also schoolteachers. Civil servants who had remained in post throughout the Civil War but whose sympathies with the anti-Treaty side had, in some fashion or another, become overt, were dismissed. The vacancies variously created were available to supporters of the government side, who had no problem in making the mandatory declaration of loyalty.<sup>122</sup>

Democracy, it is frequently assumed, is defined by free elections and an independent legislature. These are certainly required but equally indispensable is the rule of law and an independent judiciary. Equality before the law and access to it by individuals, together with processes for the enforcement of private contracts, derive from these principles and are themselves essential for a free and orderly life. The chaos and disorder of the Anglo-Irish War notwithstanding, there existed in the Free State a climate of opinion favourable to the reception and establishment of a legal structure. This was a conservative society that respected private property and legal rights. A number of Irish lawyers had participated in the protracted negotiations that had led to the Treaty and the Constitution: these and others were present at the birth of the Free State. Before the Anglo-Irish War, Ireland had a sophisticated system of courts, a well-developed legal culture and a sturdy legal profession. Irish lawyers practised in Britain, both as solicitors and barristers, a number rising to the top of their profession and to public prominence. The years of war had certainly bitten deeply into all this. Sinn Féin's establishment of a parallel civil administration, including courts, severely affected the existing system of justice. Rural disputes (land and livestock) were the principal issues brought before the Sinn Féin courts, while the British courts were boycotted, either because of political preference or the application of menace.<sup>123</sup> As fairly simple and inexpensive forms of arbitration, the Sinn Féin panels may have been reasonably successful. More complicated matters in contract, tort and commercial and financial law were utterly beyond them. But even where the British courts were used, civil order had so widely broken down that many court orders were unenforceable.

Court reform was an urgent priority were normal life quickly to be resumed and that confidence fostered which is essential to manufacturing and other forms of commerce, as well as investment. It is definitive of a functioning state that it administers justice: this is a vital service to the citizenry, and where it is absent little or no loyalty can be expected. This was demonstrated during the Civil War

when republicans used their courts to challenge the authority of the new state. Accordingly, on 24 July 1922, the Provisional government withdrew authority from the Dáil (Sinn Féin) courts. (A Judicial Commission was later established to deal with the Dáil courts' unfinished business.<sup>124</sup>) Elements of the British system were also discontinued at this time, magistrates' courts and the grand jury. New courts of summary jurisdiction (equivalent to the magistrates' courts) were established on 31 August 1922. These were to be called district courts and conducted by district justices.<sup>125</sup>

A further step was taken the following year when, in September 1923, the Courts of Justice Bill was introduced. This replaced existing county courts with circuit courts. Because of the determination of the Dáil and Senate rigorously to preserve judicial independence from the Executive, this legislation was a full eight months in the making, passing only in May 1924.<sup>126</sup> The higher courts were also adaptations of the British model but shorn of titles and procedures and imbued with a republican plainness, more appropriate to the new form of government in Ireland. Judicial appointments (critical to public confidence) were governed by legal service and seniority as well as by the requirements of state service.<sup>127</sup> Security of tenure completed the safeguards against political or other improper interference. All new courts were open for business by 1925, another indication of the establishment and stabilisation of the new state. A sense of change met some popular expectations, while a degree of continuity met others. It became possible – increasingly easily – to give civic loyalty to this new entity. Public servants – central and local government officials of varying levels of seniority, public employees from medical specialists to the various grades of the semi-skilled and labourers, as well as judges, police and soldiers – these, and others, and their kin, became defenders of the state. The disorders of the war against British rule, and the Civil War, had taken their toll. Now party politics rolled on, the state persisted and in itself promised an ordered and peaceful life for the citizen, dignity and international recognition for the country. To be against the state became a form of national subversion; to be against the government was a different matter altogether: a right, a periodic necessity – even a national inclination. But this commendable civic scepticism and criticism, the heart and lungs of democracy, were only possible because of the persistence of the state. That was worth defending.

## **Looking backwards, looking forward**

### *Permanent revolution*

It had been a difficult birth, but the infant had survived and was daily stronger. Civil war sows a bitter crop, vigorous, ineradicable, perennial in living memory, too often evergreen and malignant for children and grandchildren. It is, perhaps, easier for surviving combatants, in old age, to reach an accommodation and even a reconciliation. This can be a period when veterans, grateful to have

survived, put their lives in perspective and reflect on the common identity of hardships shared and on the cruelties and injustices perpetrated by both sides.<sup>128</sup> Those who merely hear the tales, sing the songs, read the memoirs and live the events vicariously may find it hard to leave the frisson of old wrongs behind.

Revolutions invariably cry justice and denounce tyranny, be it national or social, but they have an uncomfortable habit of taking up and supercharging the oppressive methods of the *ancien régime*. This is not an invariable rule but was demonstrated with appalling frequency in the twentieth century.<sup>129</sup> One factor in this phenomenon may be the comparative strength of the triumphant revolution. Some of the dire and inhumane actions of the Bolsheviks were perpetuated and rooted in the period of their greatest weakness, following the October Revolution. Pitilessness was lauded as a cardinal virtue, a personal strength, as they sought to hold then consolidate their power against tsarism (in civil war) and against foreign intervention. Ideology and ruthlessness in their leadership also played a great part; the weight of the various elements is hard to discern. The Portuguese revolution of April 1974, by contrast, peacefully dismantled the apparatus of repression of the Salazar decades, and in fairly short order set the country on the road to full democracy and regeneration. The leadership of the revolution then stepped aside.<sup>130</sup>

The Irish Free State emerged from its turbulent foundation as a reluctantly authoritarian democracy. The rule of law had, on occasion, been egregiously violated in the name of national destiny, then of state security and military necessity. As peace took hold once more, the government showed its willingness to submit to the law and to uphold the process of democracy. But it continued to possess, and was willing to use, extensive repressive powers, more sweeping and severe than those the British had deployed in their catch-all Restoration of Order in Ireland Act (ROIA).<sup>131</sup> A significant section of the population had shown an undiminished appetite for bright green republican politics when, in June 1927, it returned forty-four Fianna Fáil deputies to the Dáil (increased to fifty-seven in the snap election three months later). Outside the electoral politics with which de Valera and his followers had now, albeit grudgingly, decided to engage, there remained the far from inconsiderable remnants and scattered *matériel* of a secret army. The assassination of Kevin O'Higgins, the Minister for Home Affairs, on 10 July 1927, confirmed for its opponents the continued desire of irreconcilable republicanism to destroy the state and, at least on occasion, its ability to reach out with lethal effect. The sweeping Public Safety Act that followed the O'Higgins assassination was inevitable: democratic scruple was held at arm's length in democracy's name.

In its way, that legislation was a minor victory for the IRA (the leadership of which, as far as can now be ascertained, had not given its permission for the O'Higgins murder).<sup>132</sup> It is conventional wisdom among revolutionaries, of many types (but particularly on the left), that the state they seek to overthrow is stronger when it hides its repressive powers; that those powers are always in place; and that the task of revolutionaries is to pull aside the mask of power,

thereby demonstrating the state's corrupt and hypocritical nature to the people. This is the logic that justifies a campaign of provocation, seeks to draw in innocent and unattached civilians and finds hope in deaths and overreaction by the security forces. Such actions are not the substance of revolution, but preparation for revolution. In the inter-war decades, there were many inflammatory actions by the IRA and republican activists outside its ranks. In most instances, however, the supposedly oppressive nature of the state was demonstrated only to those already in the republican fold. To others, the state apparatus was thereby given sufficient justification. At a purely pragmatic and prudential level, it would have seemed foolish to dismantle it.

The policies and actions of the IRA are a principal focus of this book, but at this point, as we leave the formative years of the Irish State, a few preliminary observations may be helpful. The organisation had been defeated militarily, but this was a conquered and colonised country, and this was reflected in attitudes towards authority. There existed an instinctive, culturally fortified suspicion, at times amounting to an aversion, to government, broadly defined, and to the courts, police and prisons in particular. Informers and turncoats were reviled. There was always a ready, full and fairly easily tapped reservoir of sympathy for the underdog. Noble defeat and fidelity unto death had, after all, been woven into Irish nationalist history, literature and song for centuries, reaching a powerful apotheosis in the Easter Rising. Then there was, in addition, the messy and indecisive nature of the split in republicanism and the lingering regard that many on both sides had for individuals on the other and for the scattered shreds, themes and echoes of their cause. (This did not preclude detestation for their respective organisations.) Sympathy for the rebel, always a reflex, was almost impossible to extinguish: it could be roused by the fox fleeing across the landscape, hounds in pursuit. This difficulty was an intrinsic problem of legitimacy faced by all regimes that have come to power by revolutionary means. Questions of purity and of sufficient adherence to the founding doctrine are always there, as are easily brought charges and challenges. So was that most difficult of questions: if it was right to overthrow the oppressor, then why not the apostate?

Whether set to music or not, scenes from republican mythology rolled on. For the government, there was an abiding difficulty in this because its leaders claimed a place in the creation myth and were enraged when cast as traitors, snakes in what had been the perfect garden. It was a largely futile policy to attempt to set things right by commandeering the lexicon, but words and labels so brimmed with emotion that the attempt nevertheless had to be made. The term 'republican', with a capital or without, was particularly contested. As in the Dáil debate of December 1921–January 1922, on the terms of the Treaty, there were mutual denunciations of 'bad faith and worse'.<sup>133</sup> So it was also for the term 'IRA'. On the government side, augmented and reorganised, large sections had morphed into the National Army. Anti-Treaty forces claimed the name (and with it, of course, the glory of the rebel story); the government insisted that there was no continuity and no entitlement: in all government pronouncements, the

non-compliant IRA was described as ‘anti-Treaty forces’ or ‘Irregulars’. In the course of time, the term ‘subversive’, with its more negative and odious overtones, was preferred. So important was the naming of things in the political struggle that the government issued precise directives to civil servants on terminology. Under censorship rules, the press was similarly instructed.<sup>134</sup>

### *Soft revolution*

Stalin is reputed to have sneered, ‘The Pope! How many divisions has he got?’<sup>135</sup> The implication of the question was that while Stalin could deploy his tanks and divisions, the power of conquest and coercion, the Pope had authority that, while intangible, could nevertheless move masses of the faithful. In modern political discussions, a distinction is frequently made between ‘hard’ and ‘soft’ power. This is the point that Stalin’s implied ignorance was meant to illustrate. The defeated anti-Treaty forces, military and political, were, in the mid-1920s, able to exercise a surprising amount of soft power, certainly a spiritual division or two. De Valera’s performance in the elections of 1927 showed that; a widespread unease with condemnation of the IRA did not amount to support, but it was a constant reminder to the government that public sentiment was complicated. There was an overwhelming desire for peace, but that was seen in complex terms – conciliation as well as containment. Republicans were seen as wayward relatives, generally not ill-disposed intruders and, by their votes, a substantial section of the electorate wished to remind politicians that they should not forget their family history.

The contribution of political romanticism and the Irish literary revival of the 1890s and early 1900s to the political events that followed has long been debated.<sup>136</sup> It would be perverse to argue that the rich effusion of prose, poetry and plays had no political effect: art often runs ahead of politics, perhaps more frequently than it trails behind. It was not idle or egoistic for Yeats to wonder whether his play had sent men out to die.<sup>137</sup> Revolution must have a romantic core, just as it is always an act of faith and frequently – and perhaps necessarily – a repudiation of the rational. It must exalt in and of itself, become an object so consuming that death is a consummation. This is the stuff of musical, poetical and visual romanticism that meshed so well with philosophical and political romanticism throughout Europe from the 1840s onward.<sup>138</sup>

In Catholic and rural Ireland, these notions had particular resonance and ready vernacular forms. Notions of sacrifice were part of the spiritual life of the people, as were the persisting pre-Christian beliefs in a parallel spirit world of beings that inhabited the countryside and exercised powers in the lives of ordinary people. Nor was the romantic appeal confined to those who lived on and off the land. In a persuasive account of the imagery of the Easter Rising, Declan Kiberd draws attention to the ways in which the event took the form of a play and drew inspiration as much from drama as from politics.<sup>139</sup> He also points out that the leaders of the 1916 Rising adhered to the concept of ‘the triumph of

failure'. In a glorious cause, even if one should lose one's life – particularly if one lost it – one would save it. This is also, of course, a recurring theme in the New Testament.

This was not the only motive in Irish republicanism, as the state emerged from civil war. It is far easier (and much more plausible) to embed the 1916 leaders in the romantic tradition than the leaders of the War of Independence. Urban guerrilla warfare of bombing, arson, man-tracking, assassination and terror, one reasons, must surely drive out all notions of romantic nationalism. In many men who hunted down targets and killed at arm's length, other motivations must surely have been paramount. It seems surprising that even a notorious, irreconcilable republican such as Ernie O'Malley believed fervently in the old Fenian notion of the virtual Republic realised and now defended. But sublime objectives justified the most sordid of tactics.<sup>140</sup>

Those two dispositions came out of the Civil War: an attachment to the idea of the Republic that abhorred pragmatism and, because of the dead, rejected (and indeed could not deal with) the compromises of politics. If those were possible now, believers demanded, then why not in 1920, before the death and destruction? The Republic lived on, in the juridical sense, in the surviving members of the Second Dáil and in the Army Council of the IRA. This virtual, righteous and legitimate government had been usurped, betrayed and defeated in the field, but its claims and rights were not invalidated. For such a cause, to redress a monstrous wrong, all possible methods of clandestine warfare were not simply permissible but mandatory.<sup>141</sup>

Undying loyalty and unbreakable attachment are ubiquitous themes in all forms of romantic art, as is the sense of life lived with and enhanced by loss. Add to this the celebration of deeds of valour, audacity, ingenuity and resistance, praise for the fallen and the excoriation of traitors, and one has the rich material for insurrectionary art. The Free State government had at its disposal all the instruments of state and was faced by a scattered and riven opposition. The persistence of that clandestine and fugitive force can be explained in many ways, from the disputed Treaty to the blood debts of civil war, but it is impossible to account for its durability and periodic reanimation in political and organisational terms alone. Republican traditions, attachments and emotions drew strength from the very music, images and legends they inspired. This form of transmission, as with all folkish art, is never fixed, leaves abundant space for invention, embroidery and adaptation. A gathering of familiar symbols, tropes, tunes, terms and sentiments, together with a scabrous vocabulary of denunciation, energised and enlarged the core material. By this means, the republican tradition was kept fresh and given topical bite, enabling it to reach out to new audiences, enlisting new sympathisers and inducting supporters.

The Devil, it has been suggested, has all the best tunes. This observation might be extended to protestors and rebels (as indeed Lucifer supposedly was). There is a reason for this. Authority lectures and admonishes, justifies, congratulates and inflates itself with self-righteousness and therefore lapses into

tedium, pomposity and, inevitably, self-pity. There has always been tension when either a sacred or a secular power is artistic patron. As the Venetians found, together with princes and potentates throughout Europe, glory is best reflected by the beneficence of identifying talent and commissioning the artist or composer, unleashing creativity. The closely stipulated hymn to the patron all too often becomes a dirge; the flattering portrait may contain sly little glances or shades that satirise. For the art of subversion and protest, no such dilemmas arise. Protest, whether it be blues or ballad, poster, cartoon or satirical theatre, needs no greater patron than the audience; it carries its own coherence. The influence of popular culture has always been embedded in Irish nationalism, and within that music has been pre-eminent.

The ballad sits at the heart of republican music. With simple, catching and familiar tunes providing energy and tapping emotions, ballads are apt for simple, inexpensive and appealing community entertainment and participation. They are adaptable and readily topical. Lamentation, celebration, defiance and satire are equally easily accommodated: heroic deeds, tragic deaths, remarkable characters and affecting homilies are conveyed enjoyably, memorably and without a sense of preaching, wrapped around in beat and melody. Radio access increased dramatically in Ireland in the 1920s but was still a rarity in rural districts and in the poorer quarters of urban areas. Entertainment, in public houses, halls and private residences was live and local. Music for dancing and the singing of ballads was at the heart of these activities. Emotions stirred and sometimes soared, and a sense of community through participation became tangible. Amidst the range of life's themes – love, loss, home and exile, for example – nationalism and republican messages found easy rest. In the singing, the listening and the joining in, identity was affirmed and celebrated.

The ballad is a form of substance and endurance and has a history easily traced to mediaeval times. It has always been a thing available to, made and enjoyed by the people, as distinct from religious or art music. Ballads have been published as broadsheets and in collections, but they usually have no easily identified point of origin, or authoritative text, and are orally transmitted. This makes them elusive and enticing, the ideal vehicle for rebels and protestors, spanning the range from the insurgent under arms to the straight-faced satire of village and farmstead.<sup>142</sup> Because their structure can easily be mastered, they are particularly suitable for commenting on or memorialising changing events. An uncomplicated rhyming scheme means that no great poetical ability is required for composition, though many ballads have been clever, ingenious and moving.<sup>143</sup> The metre is a quatrain of three and four stress lines, with matching end-rhymes on the second and fourth. Of equal convenience, the melody has four pulse-beats, and (to match the rhymes) the tunes place emphasis on the ends of second and fourth lines.<sup>144</sup> To ease things yet further, there is a familiar repertoire of perhaps two dozen tunes into which all manner of words may be fitted.

The rebel cause is never lost in this type of popular music. Territory, men, arms and organisation may have gone down, but the good old cause lives on in

music where it is protected from questioning and realities. It cannot be suppressed by law (though that has been attempted) and, being intangible and ethereal, cannot be interrogated by reason. All music has the capability of being inserted in the personality, becoming part of the subconscious, creating and meeting needs simultaneously. Even though it is simple in form – perhaps *because* it is simple – the ballad has this quality to a marked degree. Learnt, sung, modified and enjoyed, a ballad of protest or rebellion can become a force and influence even greater than a law or institution. Such were the divisions that republicans brought to the fields of battle: firepower of a different kind.

### Notes

- 1 See Liaquat Ahamed's brilliant exposition of these events, their national and international ramifications: Liaquat Ahamed, *Lords of Finance: 1929, The Great Depression, and the Bankers who Broke the World* (London: Windmill Books, 2010), especially Chapters 7–9.
- 2 Some territorial disputes such as those between Poland and Czechoslovakia, Romania and Hungary remained heated and unsettled up to the Second World War and into our own times. See P. M. H. Bell, *The Origins of the Second World War in Europe* (London: Longman, 1997), pp. 29–32.
- 3 The British economy had been driven into steep decline, both relatively and absolutely. The authority on which the Empire based itself, part ideology, part utility and part power, no longer rang true. The USA had crossed its eclipse whilst the European powers entered theirs.
- 4 See, for example, Sean Glynn and John Oxborrow, *Interwar Britain: A Social and Economic History* (London: George Allen & Unwin, 1976). Harold Macmillan offers the interesting perspective of an active 'one nation' Conservative politician in his *Winds of Change, 1914–39* (London: Macmillan, 1966). A. J. P. Taylor's *English History, 1914–1945* (Oxford: Oxford University Press, 1965), almost half a century on, remains an instructive, provocative and incisive account of these decades. For an account of the social and cultural developments, see Chapters 5–11.
- 5 It cannot, however, be denied that Churchill's speech commending the Treaty to the Commons was a generous and warm-hearted one. His peroration paid tribute to Irish indefatigability. How had it happened that Ireland had in successive generations exacted such a toll on British politics? 'Whence does the mysterious power of Ireland come?... Ireland is not a daughter state. She is a parent nation. The Irish are an ancient race. "We too are," said their plenipotentiaries, "a far-flung nation"... How much have we suffered in all these generations from this continued hostility' (5 *Hansard*, vol. 149, col. 182, 15 December 1921).
- 6 Of the non-coupon (i.e. non-Lloyd George) Liberals, only twenty-six were elected in 1918. Lloyd George's majority was massive: 339 Coalition Unionists and 134 Coalition Liberals. Labour had increased its representation from thirty-nine to fifty-nine, but this, even combined with the independent Liberals, was insignificant in the face of Lloyd George's 338 majority.
- 7 Michael Kinnear is instructive on the anatomy of the coalition and the ambitions and tensions in contained. See *The Fall of Lloyd George: The Political Crisis of 1922* (London: Macmillan, 1973), especially Chapters 1 and 5.
- 8 The City of Londonderry is the much quoted example of gerrymandering, but there were many others. See John Darby, *Conflict in Northern Ireland: The Development of a Polarised Community* (Dublin: Gill & Macmillan, 1976), p. 51. Parliamentary constituencies seem to have been less susceptible to gerrymandering and boundary

- changes unfavourable to Catholics. See John Whyte, 'How Much Discrimination Was There under the Unionist Regime, 1921–68', in Tom Gallagher and James O'Connell (eds.), *Contemporary Irish Studies* (Manchester: Manchester University Press, 1983). In parliamentary debates on the Treaty, Lloyd George had insisted that '[t]here is no doubt... that the majority of the people of two counties prefer being with their Southern neighbour to being in the Northern Parliament' (Fermanagh and Tyrone had nationalist majorities; 5 *Hansard*, vol. 149, col. 40, 14 December 1921).
- 9 Andrew Bonar Law (1858–1923) was born in Canada and was leader of the Conservative and Unionist Party from 1911 until 1921. He held various ministerial posts in Asquith's and then Lloyd George's coalitions, including Chancellor of the Exchequer, and was a member of the War Cabinet, 1916–18. He became Prime Minister in October 1922, already in poor health. Seven months later he was diagnosed with throat cancer. He immediately resigned and was replaced by Stanley Baldwin. Law's 1912 speeches in support of Ulster unionism came close to a breach of the Treason Felony Act (11 & 12 Vict., c.12), which ironically had been introduced in 1848 to deal with the Young Ireland agitation and insurrection.
- 10 Parliamentary time had been given to these minutiae for decades. During one afternoon of questions in the pre-war Commons the following topics were raised: Irish foot-and-mouth disease and the cattle trade; gun-running in Ireland and the possible involvement of lieutenants and deputy lieutenants of counties, as well as magistrates; post-office wages in Belfast; taxation in Ireland; Home Rule protests in Belfast; police action at a trade-union congress in Dublin; steamrolling roads in Waterford; land purchase in Ireland; a national school on Achill Island, Co. Mayo; an old-age-pension case in Co. Limerick; clerical staff at Irish Land Registry offices; the use of Drogheda port for the export of fat cattle; three labourers' cottages at Enfield, Co. Meath (5 *Hansard*, vol. 62, cols. 1561–1619, *passim*, 18 May 1914).
- 11 This could be said to start with the case of Cahir Healy, Sinn Féin Westminster MP for Fermanagh and Tyrone. Healy had been elected whilst interned and had campaigned on an abstentionist platform. These elements did not, however, sway the Speaker when Healy's internment was raised as a possible breach of privilege. Rather, the challenge of breach of privilege failed because the detention had been ordered by the 'competent authority of Northern Ireland under the powers of the criminal law for the punishment of crime or the maintenance of order' (5 *Hansard*, vol. 159, col. 294, 27 November 1922). This was a seemingly perverse decision, since the Government of Ireland Act (GOIA), which had established Northern Ireland, had affirmed the supremacy of Westminster (Government of Ireland Act, 1920: 10 & 11 Geo. V, c.67). Besides the general weariness with things Irish, there was a pragmatic administrative judgement in the self-denying ordinance: Westminster could not be put in the position of routinely second-guessing the Northern Ireland parliament and administration. Should this have become an established convention, there could have been a paralysis of authority. Half a century later, Westminster did intervene, when a crisis demanded. But how, in setting up the division of responsibilities and authority between the two legislatures, could one provide a legislative format to distinguish between fundamental and merely domestic Northern Ireland issues? The failure even to attempt to establish a fallback power of review and intervention was a fatal flaw. It gave one party power without ultimate responsibility and the other responsibility without sufficient and convention-backed intervention powers. On Cahir Healy, see below, pp. 352–60.
- 12 *Articles of Agreement for a Treaty between Great Britain and Ireland* (London: HMSO [Cmd. 1560], 1921). Timothy Michael Healy (1855–1931), Irish Party MP for Wexford (1880–3), then Co. Monaghan, South Londonderry, North Longford, North Louth successively and finally (1910–18) East Cork. A conservative and clericalist Roman

- Catholic, he took a bitterly anti-Parnell stance when the Irish Party split. He lost his place in electoral politics in Sinn Féin's 1918 landslide. First Governor General of Irish Free State. James Henry Thomas (1874–1949), Labour MP for Derby. Started work on the Great Western Railway, where he became an engine driver and eventually General Secretary of the National Union of Railwaymen. Colonial Secretary in Ramsay MacDonald's first administration and held various ministerial positions thereafter in MacDonald's second Labour cabinet and then in the National Cabinet.
- 13 PRO HO/144/3915/5, Sir John Anderson Papers, J. H. Thomas (Colonial Secretary) to T. M. Healy (Governor General, Free State), 25 March 1924.
  - 14 There are numerous references to the representations that Lloyd George made on the issue of the proposed Boundary Commission. The key interview seems to have been a meeting between Lloyd George and Michael Collins on the morning of Monday, 5 December 1921, during which he noted the probability that the Boundary Commission would add parts of Fermanagh and Tyrone to the Free State. See Geoffrey Shakespeare, *Let Candles Be Brought In* (London: MacDonald, 1949), p. 86; Thomas Jones, *Whitehall Diary*, ed. K. Middlemas, 3 vols. (Oxford: Oxford University Press, 1969–71), vol. III, pp. 131 and 155–8.
  - 15 See 5 *Hansard*, vol. 149, col. 357, 16 December 1921; vol. 150, cols. 1271–2, 16 February 1922.
  - 16 The slogan is forever associated with Sir Edward (later Lord) Carson and Sir William Craig.
  - 17 See 5 *Hansard*, vol. 177; cols. 27–282, 30 September 1924 and 1 October 1924; cols. 363–471, 2 October 1924. The Bill was carried by a large majority, becoming the Irish Free State (Confirmation of Agreement) Act: 15 & 16 Geo. V, c.77.
  - 18 Joseph R. Fisher (1855–1939) was born in Co. Down. After a career in English newspapers in 1891, he became Managing Editor of the *Northern Whig*. Eoin MacNeill (1867–1945) was born in Co. Antrim. The first Professor of Early and Medieval Irish History at University College Dublin, he inspired the foundation of the Irish Volunteers of which he became Commander-in-Chief. Deceived by Pearse and MacDonagh, he countermanded orders for the Easter mobilisation. After release from prison for his part in the events that led up to the Easter Rising he returned to activity in Sinn Féin, holding ministerial offices in the Dáil. He supported the Treaty and held ministerial portfolios in the Provisional and Free State governments. Richard Feetham (1874–1965) was born in South Africa and educated in England. At the time of the Commission he was a judge in the Supreme Court, Transvaal Province.
  - 19 See Ronan Fanning, Michael Kennedy, Dermot Keogh, Eunan O'Halpin (eds.), *Documents on Irish Foreign Policy*, vol. I: 1919–1922 (Dublin: Royal Irish Academy, 1998), p. 358.
  - 20 *The Times*, 7 December 1921, 7f.
  - 21 Arthur James Balfour (1848–1930). Irish Chief Secretary, 1887–91; Prime Minister, 1902–5; leader of the Unionist Party until 1911. Nephew of Lord Salisbury and in 1921 a figure of continuing importance within the Party and British political life.
  - 22 In the Article, Northern Ireland 'is regarded as a creature already constituted having its own Parliament and its own defined boundaries'. *The Times*, 8 September 1924, 13b. Balfour had received Birkenhead's confidential letter in March 1922 and was only now making it public.
  - 23 *The Times*, 11 September 1924, 14b.
  - 24 *The Times*, 26 September 1924, 14b.
  - 25 *Northern Ireland Parliamentary Debates* (hereinafter *NIPD*), vol. 4, col. 1207.
  - 26 This was an unpaid body whose rudimentary training and light armament was more than compensated for by strong motivation, excellent local knowledge and ties and a

- large enlistment. See Sir Arthur Hezlet, *The 'B' Specials: A History of the Ulster Special Constabulary* (London: Tom Stacey, 1972); Michael Farrell, *Arming the Protestants: The Formation of the Ulster Special Constabulary and the Royal Ulster Constabulary, 1920–27* (London: Pluto, 1983).
- 27 Terence de Vere White, *Kevin O'Higgins* (Dublin: Anvil Books, 1986), p. 206.
- 28 Eamon Phoenix, *Northern Nationalism: Nationalistic Politics, Partition and the Catholic Minority in Northern Ireland, 1890–1940* (Belfast: Ulster Historical Foundation, 1994), p. 330.
- 29 *Morning Post*, 29 November 1924, 9e.
- 30 The Report has never been published, although the Commissioners did attempt to serve it on representatives of the Free State and Northern Ireland governments who were in London on 28 November 1924. Since neither delegation wished to see the Commission, something of a three-door farce ensued when all moved to Chequers for the weekend and Mr Justice Feetham turned up. See St John Greer Ervine, *Craigavon: Ulsterman* (London: Allen & Unwin, 1949), pp. 503–4.
- 31 For a detailed account of the settlement, see Phoenix, *Northern Nationalism*, *op. cit.*, Chapter 8.
- 32 Of course, each had to operate within the constraints of their respective electorates and party structures. For a view of the good personal relations between Cosgrave and Craig, see Ervine's account of the 1924 agreement and the exchange between Cosgrave and Craig (*Craigavon*, *op. cit.*, p. 507).
- 33 See D. W. Harkness, *The Restless Dominion: The Irish Free State and the British Commonwealth of Nations, 1921–31* (London: Macmillan, 1969), pp. 52–5.
- 34 See Robert MacGregor Dawson (ed.), *Constitutional Issues in Canada* (London: Oxford University Press, 1933), pp. 72–94; Harkness, *Restless Dominion*, *op. cit.*, pp. 84–5.
- 35 South Africa came to the 1926 Imperial Conference demanding a statement of full dominion equality (Harkness, *Restless Dominion*, *op. cit.*, pp. 84–6).
- 36 *Imperial Conference, 1926: Summary of Proceedings*: PP, 1926, XI [Cmd. 2768], 545, 14.
- 37 Act to Give Effect to Certain Resolutions Passed by Imperial Conferences Held in the Years 1926 and 1930, 1931: 22 & 23 Geo. V, c.24.
- 38 See, for example, Peter Hart's *The IRA and Its Enemies: Violence and Community in Cork, 1916–1923* (Oxford: Clarendon Press, 1998).
- 39 David Fitzpatrick, 'The Logic of Collective Sacrifice: Ireland and the British Army, 1914–18', *Historical Journal*, 38 (4) (1995): 1017–30; see also David Fitzpatrick, 'Militarism in Ireland, 1900–1922', in Thomas Bartlett and Keith Jeffrey (eds.), *A Military History of Ireland* (Cambridge: Cambridge University Press, 1996), pp. 379–406.
- 40 This indifference and hostility were not uniform, and there remained in Ireland a substantial group of ex-servicemen who made their service public at commemorative events. In an interesting essay on Dublin's Armistice Day commemorations, Jane Leonard points out that in 1923 and 1924 thousands assembled after memorial services in the Roman Catholic Pro-Cathedral and the Church of Ireland's St Patrick's Cathedral: 500,000 British Legion poppies were sold in the Dublin area in 1924. Some 20,000 veterans marked the customary silence, with an attendant crowd more than twice that number. Scuffles and disruption caused the ceremony to be moved to the Phoenix Park in 1926. A procession of ex-servicemen from central Dublin to Lutyen's elegant Irish National War Memorial Park at Islandbridge was an annual fixture until 1970, when they were discontinued on police advice. Jane Leonard, 'The Twinge of Memory: Armistice Day and Remembrance Sunday in Dublin since 1919', in Richard English and Graham Walker (eds.), *Unionism in Modern Ireland: New Perspectives on Politics and Culture* (Basingstoke: Macmillan, 1996), pp. 99–114, at pp. 102–3. See the *Irish Times*, 12 November 1925, 6c, 7a and 8c. The last

- procession from the city centre took place on 8 November 1970, with no reports of disturbances (*Irish Times*, 9 November 1970, 8a and b).
- 41 On 1 and 2 July 1916, the attacking British forces, including the 36th (Ulster) Division (comprising the Royal Irish Fusiliers, the Royal Irish Rifles and the Royal Inniskilling Fusiliers, all of which contained substantial elements of the Ulster Volunteer Force [UVF]) had almost 60,000 casualties, of which just over 19,000 were deaths. Four members of the 36th (Ulster) Division were awarded the Victoria Cross for action on 1 and 2 July. This and five further VCs awarded on the Somme in later battles were (and remain) sources of great pride to many Northern Ireland Protestants. See Peter Hart, *The Somme* (London: Weidenfeld & Nicolson, 2005). The Second World War produced more dreadful tolls, civilian and military. In the final battle for Berlin, for example, although estimates vary, perhaps 300,000 Russian and German soldiers and German civilians were killed. The concluding battles lasted from 22 April 1945 until the German surrender on 2 May 1945. See Anthony Beevor, *Berlin: The Downfall* (London: Viking, 2002).
  - 42 The Easter Rising resulted in 450 fatalities, including 132 soldiers, seventy-nine insurrectionists (fifteen of whom were executed) and around 250 civilians (Fitzpatrick, 'Militarism in Ireland', *op. cit.*, p. 392). Estimates of deaths during the Anglo-Irish War vary but are in the range of 3,000 upward. See, for example, Michael Hopkinson, *The Irish War of Independence* (Dublin: Gill & Macmillan, 2002), pp. 201–2.
  - 43 Ernie O'Malley, *On Another Man's Wound* (Dublin: Anvil Books, 1962), pp. 23, 28–9.
  - 44 Tom Barry, *Guerilla Days in Ireland* (Dublin: Anvil Books, 1999), p. 2. Implicit in seeing 'what war was like' was the opportunity to kill and to risk one's life.
  - 45 Barry's formation ('column') operated with a great deal of independence; such was the state of communications, the vestigial staff apparatus of the IRA's central command and the profound loyal sentiments of Barry and his followers, that no other course was possible. The sense of being an independent power and command was to persist into the Irish Civil War and well beyond, with significant consequences.
  - 46 Seán McConville, *Irish Political Prisoners, 1848–1922: Theatres of War* (London and New York: Routledge, 2003), pp. 419–20.
  - 47 See Ernie O'Malley's account of what was thought to be a last meeting with Robert Barton and Patrick Fleming in Mountjoy Prison, in Free State custody; "You've cheated us," said Paddy. "We go first..." A knock on the door. *Beannacht Dé leat, Éarnan*. "I'll see you on the other side." Ernie O'Malley, *The Singing Flame* (Dublin: Anvil Books, 1992), p. 219. This belief in the afterlife is so strong it can be expressed in terms almost geographical, like a medieval representation of the cosmos.
  - 48 Patrick (Padraig) Henry Pearse (1879–1916) remains one of the principal figures in Irish republicanism. Born of an English father and Irish mother, he was, from an early age, gifted with a vivid imagination and sympathetic instincts and wrote poetry in Irish and English. Educated at the Royal University, he was called to the Irish Bar but did not practise. He immersed himself in the Gaelic Revival and established St Enda's School at Rathfarnham, Co. Dublin. A founder member of the Irish Volunteers and a member of the IRB, he was at the centre of republican conspiracy. Commander of the insurrectionary forces in the Easter Rising, tried by court martial, sentenced and executed.
  - 49 James Connolly (1868–1916). Another republican figure of immense stature, born in Edinburgh of Irish parents. Served in the British Army and thereafter followed the path of the socialist agitator and labour organiser in Dublin, the USA, then again in Ireland. Attempted a synthesis of Marxism and nationalism but in the end opted for the latter. Commander of the Dublin forces in the Easter Rising, in which he was badly wounded. Tried and condemned by court martial and, because he was unable to stand, faced the firing squad in a chair.

- 50 Richard Mulcahy (1886–1971) was second-in-command in a relatively successful detachment of the Irish Volunteers in the 1916 Rising. Escaped serious punishment (probably through faulty intelligence) and was interned at Frongoch, North Wales. On release, became Deputy then Chief of Staff of the IRA (as the Volunteers had come to be known). Supported the Treaty and became a successful minister in the Provisional and then Free State governments; a founder member of Fine Gael.
- 51 UCDA, Richard Mulcahy Papers, P/7a/175. Mary MacSwiney played a leading part in the campaign to support her brother Terence in his epic and fateful hunger strike for release from prison. For an account of this, see Seán McConville, *Irish Political Prisoners, 1848–1922* (London: Routledge, 2003), pp. 740–50, *passim*. See also biographical note below, pp. 266–7, n. 21.
- 52 Pádraig Pearse, *Political Writings and Speeches* (Dublin: The Talbot Press, 1952), p. 216.
- 53 A useful and detailed account is given by Joseph M. Curran, *The Birth of the Irish Free State* (Tuscaloosa, Ala.: University of Alabama Press, 1980). See also Tom Garvin, *1922: The Birth of Irish Democracy* (Dublin: Gill & Macmillan, 1996).
- 54 Immediately after the signing Michael Collins wrote to a close friend: ‘I believe Birkenhead may have said an end to his political life. With him, it has been my honour to work.’ Rex Taylor, *Michael Collins* (London: Hutchinson, 1958), p. 189.
- 55 Perhaps Churchill should be excepted from accusations of showmanship. Over the following decades, he condemned what he saw as de Valera’s betrayal of the Treaty: he excoriated the man with the same heat that he condemned his doctrine. In an article in the *Daily Mail* in March 1932, following de Valera’s election victory the previous month, Churchill proclaimed the immutability of the Treaty. Were the Oath of Allegiance abolished in the Free State, the Treaty would have been broken: ‘the Free State will cease to exist as a political entity and would become a foreign country outside the Empire’. Churchill commended Michael Collins and Arthur Griffith, who had risked their lives for the Treaty. Indeed, the British Parliament had approved the Treaty because it believed an Irishman’s word was his bond: ‘Michael Collins gave his life to prove that this was true.’ Yet de Valera’s poll victory represented ‘Irish hatred of England’ (*Daily Mail*, 29 March 1932, ‘Plain Words on the Irish Treaty’, 8c–f). See also *Daily Mail*, 15 February 1933, ‘What Isolation Means to a Free State’, 10c–e.
- 56 *Dáil Debates*, vol. T, col. 345, 7 January 1922.
- 57 5 *Hansard*, vol. 149, col. 360, 16 December 1921.
- 58 5 *Hansard*, vol. 149, col. 209.
- 59 5 *Hansard* (Lords), vol. 48, cols. 36–53, *passim*. This reference to Birkenhead (Lord Chancellor and sitting on the Woolsack, only a few feet away) was unmistakable. He hoped to lose friendships of thirty years which were not based on confidence and trust: ‘And of all the men in my experience that I think are the most loathsome it is those who will sell their friends for the purpose of conciliating their enemies, and, perhaps, still worse, the men who climb up a ladder into power of which even I may have been part of a humble ring, and then, when they have got into power, kick the ladder away without any concern for the pain, or injury, or mischief, or damage that they do to those who have helped them to gain power’ (cols. 44–5). At times Carson’s anger seemed to consume him.
- 60 GOIA, s.1(1).
- 61 Eunan O’Halpin, *Defending Ireland: The Irish State and Its Enemies since 1922* (Oxford: Oxford University Press, 1999), p. 16. Just under a year later manpower peaked at about 55,000.
- 62 All but a few men of the most hated units (the Auxiliary Division of the RIC and the Black and Tans) seem to have been removed by February 1922. 5 *Hansard*, vol. 150, col. 2078, 23 February 1922.

- 63 NAI TAOIS/S/4562, Michael Collins to Winston Churchill, 16 February 1922.
- 64 In May 1920, and with some reluctance by officers and units. See Ernie O'Malley, *On Another Man's Wound* (Dublin: Anvil Books, 1962), pp. 138–9; see also David Fitzpatrick, *Politics and Irish Life: Provincial Experience of War and Revolution* (Cork: Cork University Press, 1998), p. 166.
- 65 Speech at Killarney, 19 March 1922: *Irish Independent*, 20 March 1922, 5f; Donal O'Sullivan, *The Irish Free State and Its Senate* (London: Faber & Faber, 1940), p. 59. The point could have been expressed with less haughtiness and might thereby have become more persuasive. What should a democrat do if the electorate vote in effect to end democracy? The German elections of March 1933 gave the Nazi Party a majority in the German parliament; Hitler had campaigned on an anti-democratic platform and had made it clear that he would dismantle the apparatus of democracy. Three weeks after the election, his parliamentary majority allowed him to take dictatorial powers. How can the 'will of the people' be held sacrosanct in these circumstances? Would preventive action have been justified? Similarly, in December 1991, the Islamic Salvation Front, an anti-democratic party, won the first round of Algeria's elections. A few weeks later there was a military coup, the second round of the elections cancelled and the ruling party continued in power. Where should a democrat have stood? De Valera might argue that his conundrum has not been resolved.
- 66 He was a politician with remarkable confidence in his own powers of perception and judgement, declaring in the course of the Dáil debate on the Treaty, as he offered his resignation as President, 'The first fifteen years of my life that formed my character were lived amongst the Irish people in Limerick; therefore, I know what I am talking about; and whenever I wanted to know what the Irish people wanted I had only to examine my own heart and it told me straight off what the Irish people wanted' (*Dáil Debates*, vol. T, col. 274, 6 January 1922).
- 67 *Irish Independent*, 11 October 1922, 5b.
- 68 British forces had by mid-May 1922 been reduced to a garrison of 5,000, concentrated in Dublin (PRO CP/3993, Report of General Sir Nevil Macready, 20 May 1922, Cab, 24/136). Plans had been drawn up for partial reoccupation and a blockade that would starve out rebel areas.
- 69 Curran, *The Birth of the Irish Free State*, *op. cit.*, p. 195; 5 *Hansard*, vol. 154, cols. 2126–8, 31 May 1922. Churchill emphasised the British government's continued adherence to the Treaty, as demonstrated by its various actions. He counselled patience and continued good faith and determination to make the Treaty work. But if, in spite of all of this, there was a failure in the process, Britain would have placed itself on the strongest ground 'to encounter whatever events may be coming towards us' (col. 2141).
- 70 As many as forty-seven non-Sinn Féin candidates were nominated, all of whom, with varying degrees of commitment, supported the Treaty (*Irish Independent*, 7 June 1922, 5d).
- 71 Certainly there were several occasions on which armed men prevented or attempted to prevent candidates from speaking (*Irish Independent*, 7 June 1922, 4b and 5f).
- 72 *Irish Independent*, 15 June 1922, 7f.
- 73 Although Tom Garvin (1922, *op. cit.*, p. 128) points out that there had been attacks on the homes of forty-seven Dáil candidates long before Collins repudiated the pact.
- 74 For a clear and concise account of these discussions, see Curran, *The Birth of the Irish Free State*, *op. cit.*, Chapter 14.
- 75 See the *Irish Times*, 13 June 1922, 8c; 22 June 1922, 17c; *Irish Independent*, 17 June 1922, 5a. In many areas the elections proceeded quietly and peacefully. Much seemed to depend on local IRA commanders.
- 76 Figures rounded up. See Richard Sinott, *Irish Voters Decide: Voting Behaviour in Elections and Referendums since 1918* (Manchester: Manchester University Press, 1995), Appendix 2.

- 77 De Valera had admitted in private that an election victory for the pro-Treaty parties was inevitable: people would vote for peace (Garvin, 1922, *op. cit.*, p. 124).
- 78 O'Malley, *The Singing Flame*, *op. cit.*, p. 86.
- 79 *The Times*, 23 June 1922, 10e, 14 (photographs), 23b (editorial), 18a–c (obituary). Sir Henry Wilson (1864–1922) was born at Edgeworthstown, Co. Longford and was commissioned into the Royal Irish Regiment in 1884. An outstandingly successful military career culminated with his appointment as Chief of the Imperial General Staff and promotion to Field Marshall. On his retirement, elected MP for North Down; advised the Northern Ireland government on security matters. Wilson was killed by an improbable duo. Reginald Dunne (who had served in the British Army in the First World War) was an OC (Officer Commanding) of the IRA's London Brigade and a student at the Roman Catholic St Mary's College (which trained teachers). Joseph O'Sullivan was a long-standing IRA activist, born in London, where he had lived all his life. During service in the British Army he had lost a leg. This made him a curious choice for a daytime assassination in the heart of London. The two men (captured whilst trying to flee the scene) were sentenced to death at the Old Bailey on 18 July 1922, and executed at Wandsworth prison on 16 August 1922.
- 80 Peter Hart argues that there is insufficient evidence to conclude that Collins ever authorised the killing. Peter Hart, *The IRA at War, 1916–1923* (Oxford: Oxford University Press, 2003), p. 162.
- 81 See below, p. 69.
- 82 *The Times*, 19 July 1922, 10e.
- 83 *The Times*, 23 June 1922, 10d, 17b; the newspaper denounced the murder in the strongest language as a deed which had not been approached since the murders of Cavendish and Burke in the Phoenix Park (17b). Sir James Craig, Prime Minister of Northern Ireland, had no doubt as to the motive for assassination and proclaimed that Wilson had laid down his life for Ulster. The Northern Ireland Parliament was adjourned as a mark of respect. *NIPD*, vol. 2, cols. 823–6, 22 June 1922.
- 84 *Irish Times*, 27 June 1922, 5d.
- 85 O'Malley, *The Singing Flame*, *op. cit.*, p. 88.
- 86 This was well publicised. O'Malley even persuaded some newly trained civic guards to hand over their small arms on that basis. Tom Barry and Rory O'Connor had done even better, winning over the guard at the Curragh Camp (where the guards were trained) and taking the arsenal. O'Malley, *The Singing Flame*, *op. cit.*, pp. 81–2.
- 87 O'Malley, *The Singing Flame*, *op. cit.*, pp. 95–7; Michael Hopkinson, *Green against Green: The Irish Civil War* (Dublin: Gill & Macmillan, 1988), Chapter 15.
- 88 See Hopkinson, *Green against Green*, *op. cit.* Tim Pat Coogan and George Morrison have provided a remarkable and at times deeply moving collection of war photographs and surrounding events. Tim Pat Coogan and George Morrison, *The Irish Civil War* (London: Orion, 1999).
- 89 O'Malley, *The Singing Flame*, *op. cit.*, p. 117. Of Rory O'Connor, Chairman of the Military Council of the anti-Treaty IRA, O'Malley observed, 'The fight [at the Four Courts] to him had been a symbol of resistance. He had built a dream in his mind and the dream was there; failure did not count and he evidently did not sense defeat' (p. 124).
- 90 Hopkinson, *Green against Green*, *op. cit.*, p. 129.
- 91 See Ronan Fanning, *Independent Ireland* (Dublin: Helicon, 1983), p. 39. See also n. 42 above.
- 92 See Hopkinson, *Green against Green*, *op. cit.*, pp. 272–3.
- 93 Niall C. Harrington, *Kerry Landing: August 1922* (Dublin: Anvil Books, 1992), pp. 148–9.
- 94 *Dáil Debates*, vol. 3, cols. 134–5, 17 April 1923.
- 95 Statutory Instrument, 2 October 1922, Military Courts: General Regulations as to Trial of Civilians. See also *Dáil Debates*, vol. 1, cols. 1734–8, 18 October 1922. David Fitzpatrick observes that the military courts established under the Act had powers

- 'exceeding the most egregious instruments created by the British or Northern Governments'. David Fitzpatrick, *The Two Irelands, 1912–1939* (Oxford: Oxford University Press, 1998), p. 133.
- 96 It was a poignant mark of the nature of civil war that Hales was, at the time, a republican officer in Cork.
- 97 The other three were Liam Mellows, Joe McKelvey and Richard Barrett. Rory O'Connor (1883–1922) graduated from UCD in Arts and Engineering. Fought in the 1916 Rising and became IRA Director of Engineering. Directed IRA's English campaign. Liam Mellows (1892–1922). Born Ashton-under-Lyme, near Manchester, and raised in Co. Wexford. Led Galway contingent of Volunteers in a number of minor actions in 1916. Fled to the USA, where he worked with the veteran Fenian John Devoy. Involved in arms purchases for IRA. Joe McKelvey (?–1922). Born in Stewartstown, Co. Tyrone. Defended Catholic minority during riots of 1920. OC 3rd Northern Division IRA, 1921. Richard Barrett (1889–1922). Acting Brigade Commander, West Cork Brigade. Arrested by British, March 1921, imprisoned at Cork. Released under amnesty.
- 98 Kevin O'Higgins was singled out for particular attention. His father, Dr Thomas F. O'Higgins, was shot dead by republicans in front of his family on 11 February 1923, and O'Higgins was himself assassinated on 10 July 1927.
- 99 Demonstrating his considerable political talent and rhetorical ability, de Valera's order took the form of an address to the 'Legion of the Rearguard'. He acknowledged that 'those who have sought to destroy the Republic' had secured military victory and promised that other means would be sought 'to safeguard the nation's right'. His defeated followers were, at the same time, instructed to cache their weapons, thereby indicating that the armed struggle remained a prospect in more propitious times. Arthur Mitchell and Pádraig Ó Snodaigh (eds.), *Irish Political Documents, 1916–1949* (Dublin: Irish Academic Press, 1985), pp. 161–3. De Valera doubtless had cause to regret this open-ended subversion when he came to office in the 1930s (see Chapter 6, below).
- 100 The Chamber had been expanded.
- 101 The Sinn Féin Ard Fheis met from Tuesday, 9 March to Friday, 12 March 1926. De Valera resigned following the failure of a motion that members should enter the Dáil were the oath abolished.
- 102 Public Safety Act, 1927, s.25 (1 and 2). Should murder or treason be proved ('found' might be more accurate), the court was obliged to impose the death penalty. No appeal was allowed from decisions of the tribunals, nor could civilian courts interfere with their proceedings.
- 103 Electoral (Amendment No. 2) Act, 1927, s.2 and Schedule.
- 104 This was clause 48 of the Free State Constitution which provided that a referendum provision could be put to the vote on the petition of not fewer than 75,000 voters. If the electorate then approved, a referendum clause would be inserted in the Constitution. Referendums could then be initiated by not fewer than 50,000 voters.
- 105 Even while signing, de Valera proclaimed that he was not doing so, theatrically removing a bible from the table and covering the wording of the Oath with some papers. The event went almost unreported in the Irish newspapers.
- 106 Cosgrave secured sixty-one seats, Independents twelve and the Farmers six. Fianna Fáil had fifty-seven seats, Labour thirteen, the National League two, and there was one Communist. The working majority was only five, however, since Cosgrave himself had been returned for two constituencies but held only one Dáil vote.
- 107 The development of this has been examined in Martin Maguire's impressive work, *The Civil Service and the Revolution in Ireland, 1912–38* (Manchester: Manchester University Press, 2008). For the developments after the Civil War, see Chapter 5.

- 108 See Fitzpatrick, *The Two Irelands, op. cit.*, pp. 168–70.
- 109 O’Halpin, *Defending Ireland, op. cit.*, Chapter 2.
- 110 On local government, see Mark Callanan and Justin F. Keogan (eds.), *Local Government in Ireland: Inside and Out* (Dublin: Institute of Public Administration, 2003), especially Richard Haslam’s essay ‘The Origins of Irish Local Government’, pp. 14–40. See also Mary E. Daly, ‘Local Appointments’, in Mary E. Daly (ed.), *County and Town: One Hundred Years of Local Government in Ireland* (Dublin: Institute of Public Administration, 2001), pp. 45–55.
- 111 *Report on the Organisation of the Permanent Civil Service*, PP, 1854 [1713], XXXVII, 1. The Civil Service Commission was established in May 1855.
- 112 I discuss this in Seán McConville, *English Local Prisons, 1860–1900: Next Only to Death* (London and New York: Routledge, 1995), Chapter 12.
- 113 Local Government (Temporary Provisions) Act, 1923.
- 114 The Civil Service Regulation Act, 1924, established a unified civil service under the authority of the Minister for Finance. The previous system, under which various sections had devolved budgets and recruited staff, was abolished. There was a tussle over the authority of the legislature’s oversight of the civil service. This culminated in agreement that accountability would follow the indirect path of untrammelled executive oversight and responsibility. The executive was, of course, accountable in this, as in all other matters, to the Dáil. See a portion of the discussion at *Dáil Debates*, vol. 6, cols. 1451–66, 27 February 1924.
- 115 Tom Garvin concludes that, by and large, the functions of politicians and civil servants were successfully separated by these measures and correctly sees this as a major achievement. Tom Garvin, ‘Democratic Politics in Independent Ireland’, in John Coakley and Michael Gallagher (eds.), *Politics in the Republic of Ireland* (London and New York: Routledge, 1999), pp. 350–64. See also Martin Maguire’s clear and detailed narrative: *The Civil Service and the Revolution in Ireland, 1921–38 op.cit.*, Chapters 3 and 4. *For a pre- and post-independence sweep (including the courts), see Lawrence W. McBride, The Greening of Dublin Castle: The Transformation of Bureaucratic and Judicial Personnel in Ireland 1892–1922 (Washington, DC: Catholic University of America Press, 1991).*
- 116 This had been a requirement since the inception of the new state. From August 1922, a declaration of fealty was required from all members of the still-unamalgamated (i.e. Dublin Castle and Dáil Éireann) civil service. The form reflected the turbulence of the time and the Civil War still raging. ‘I have not taken part with, or aided and abetted in any way whatsoever the forces in revolt against the Irish Provisional Government and I promise to be faithful to that government and to give no aid or support of any kind to those who are engaged in conflict against the authority of that government’. NAI FIN/E326/1; circular E326/5, 22 August 1922.
- 117 Whether from the contribution of the emigrant Irish or other groups, political influence became a seemingly ineradicable part of municipal administration in the large cities of the USA. The great social observer Milton L. Rakove encapsulated this in the title of his account of the reign of Richard J. Daley in Chicago: *We Don’t Want Nobody Nobody Sent: An Oral History of the Daley Years* (Bloomington, Ind.: University of Indiana Press, 1979).
- 118 The pre-qualification did, of course, multiply the number of claimants. O’Malley and others noted the substantial expansion in the ranks of the IRA following the Truce of July 1921. As late as the 1950s, Dublin wits commented on the improbable number of beneficiaries from the public purse, whose claim was based on having been ‘out’.
- 119 Competitive examinations for the civil service in British-ruled Ireland began in 1855 and were uniformly required by 1871 – much the same chronology as in Britain. See

- Michelle Millar and David McKevitt, 'The Irish Civil Service System', in A. J. G. M. Bekke and Frits M. Van Der Meer (eds.), *Civil Service Systems in Western Europe* (Cheltenham: Edward Elgar, 2011), pp. 36–60, at p. 39.
- 120 McBride, *The Greening of Dublin Castle*, *op. cit.*, pp. 307–8; Ronan Fanning, *The Irish Department of Finance, 1922–58* (Dublin: Institute of Public Administration, 1978).
- 121 Under the terms of the Treaty, those unwilling to continue service had been allowed to retire on a pro-rata pension or to seek service in Northern Ireland. Those options ensured that those who remained were willing or, at least, compliant employees.
- 122 The loyalty test superseded the requirement imposed by the Provisional government in August 1922.
- 123 Fitzpatrick, *The Two Irelands*, *op. cit.*, pp. 82–3. The Dáil had issued its decree establishing local arbitration courts in June 1919, but the measure was unevenly implemented.
- 124 The Dáil Éireann Courts (Winding-up) Act, 1923, provided for the judicial commissioners to deal with outstanding Dáil business.
- 125 On 30 October 1922, the Dáil decree establishing its courts was rescinded for lower courts in the provinces. District judges were assigned to their various courts in early November 1922. Mary Kotonouris, *Retreat from Revolution: The Dáil Courts, 1920–24* (Dublin: Irish Academic Press, 1994), pp. 14–15.
- 126 Courts of Justice Act, 1924. The Act was complex and weighty, extending to 104 sections.
- 127 The new judges seem to have been fairly evenly balanced between newcomers and those who had served under the British. This exemplifies the way in which the need for continuity was balanced with legitimising innovations throughout the system.
- 128 See, for example, Niall C. Harrington's memoir of fighting in Kerry in August 1922. Harrington had been a soldier of the Free State and, in the course of researching events of the time, had contacted men who had served with the Irregulars (as government called the anti-Treaty IRA). As he walked an old battleground with those men, still holding bitter memories, all rancour was set aside. Niall C. Harrington, *Kerry Landing: August 1922* (Dublin: Anvil Books, 1992), p. 153 and *passim*.
- 129 To take but two examples from left-wing revolutions (nationalist and right-wing counterparts could be chosen as well). Tsar Nicholas II was an autocrat, but the constitution of Russia during his reign bore no comparison in oppressiveness to that of his successors. Stalin, when captured by the authorities in 1902 and in 1913, was ordered into a Spartan but endurable exile for his revolutionary banditry. When in power, he dealt with his opponents (real, but mainly supposed) with utter ruthlessness and cruelty and presided over the deaths of millions. Fidel Castro was sent to prison for his 1953 rising against Batista but was released under an amnesty. Throughout his rule of nearly half a century, merely political and conscientious opponents were ruthlessly suppressed. No overt action was needed: mere dissent lay close to treason. Many were executed or done to death in prisons and camps. One of his erstwhile comrades, Armando Valladares, was locked up in solitary confinement, the door of his cell welded up (studied sadism) to underline the hopelessness of his fate: he was to envisage solitude, contempt and suffering unto death. Valladares survived a long and terrible captivity and was released in response to outside pleading and pressure. See, respectively, Simon Sebag Montefiore, *Young Stalin* (London: Weidenfeld & Nicolson, 2007); Armando Valladares, *Against All Hope: The Prison Memoirs of Armando Valladares* (Sevenoaks: Coronet, 1987). It is instructive to speculate on the dialectical transformation and magnification of oppression by certain successful revolutionaries. Their rage is unappeasable, it seems: even the oppressiveness of the displaced regime is held in contempt and surpassed.
- 130 Reaching further back, General George Washington's surrender to Congress of his command of the Continental Army on 23 December 1783 was a significant step in

- the development of democracy and constitutional legality in the USA. The submission of an army commander (especially a successful one) to civilian rule is a delicate stage in transition from revolution to state-building.
- 131 Restoration of Order in Ireland, 1920: 10 & 11 Geo. V, c.31.
- 132 Tim Pat Coogan, writing with authority and on the basis of inside information, describes the assassination as impetuous and unauthorised. Tim Pat Coogan, *The IRA* (London: Fontana, 1980), pp. 79–80. It is something of an irrelevance whether it had been ordered or not. The organisation sought, in every way, to topple the Free State, its defeat in the Civil War merely blocking a frontal assault. It execrated the new state, denounced its ministers as traitors and hirelings and, in every way, justified their murder, restraint coming only from expedient calculation. Taking one of the oldest statutes on the offence – Treason Act, 1351: 25 Edw. III, St 5, c.2 – the IRA stood guilty (as it would have been proud to admit) of compassing the monarch's death (read, ministers of the new state) and of levying war when it could.
- 133 *Dáil Debates*, vol. T, especially sessions on 3–10 January 1922. The debate is also notable for the weight of emotion attached to symbols and the utter rejection by some leading republicans of pragmatic argument as a form of desecration and moral taint.
- 134 See below, p. 235, n. 238; p. 273, n. 90.
- 135 The remark may be apocryphal, but it has survived because it is a striking way of reflecting on power and authority. It was supposedly made by Stalin to Pierre Laval, in 1935. Quoted in Winston S. Churchill, *The Second World War*, 6 vols. (London: Cassell & Co., 1948), vol. I, p. 105.
- 136 The literature on this development is considerable. Declan Kiberd has brought a great deal of the material together in his masterly work of narrative and interpretation, *Inventing Ireland: The Literature of the Modern Nation* (London: Jonathan Cape, 1995).
- 137 'Did that play of mine send out certain men the English shot?' in 'The Man and the Echo', *The Poems of W. B. Yeats*, ed. Richard J. Finneran (New York: Macmillan, 1983), p. 345.
- 138 This topic has also produced numerous essays, books and surveys. For the European picture, see, for example, Charles Pouthas, 'The Revolutions of 1848', in J. P. T. Bury (ed.), *New Cambridge Modern History: The Zenith of European Power, 1830–70* (Cambridge: Cambridge University Press, 1960), pp. 389–415. For instructive and humane insights into identity and nationalism, see Rebecca West's classic *Black Lamb and Grey Falcon: A Journey through Yugoslavia*, 2 vols. (London: Macmillan, 1942). Michael Ignatieff is always perceptive and thought-provoking, and his exploration of aspects of nationalism's modern forms is essential reading for those seeking connections between the various strands of the phenomenon. See Michael Ignatieff, *Blood and Belonging: Journeys into the New Nationalism* (London: BBC Books, 1993). There is a warehouse of material on romanticism and nationalism in Ireland, and from it two contrasting books are instructive: R. F. Foster's *W. B. Yeats: A Life*, vol. I: *The Apprentice Mage* (Oxford: Oxford University Press, 1997) is outstanding in drawing together so many threads and laying bare dynamics. Colm Tóibín's *Bad Blood: A Walk along the Irish Border* (London: Vintage, 1994) gives shocking glimpses of the two nationalisms of the island of Ireland: it is a haunting account, similar in some ways to Rebecca West's unpicking of the Balkan tangle.
- 139 Kiberd's is a comprehensive review of revival drama, full of compelling examples, including *Cathleen Ní Houlihan*, a 1902 play by Yeats. Cathleen was a withered remnant who would be restored to queenly glory and radiant youth only if young men were willing to kill and die in her cause. Kiberd, *Inventing Ireland*, *op. cit.*, p. 200; n. 137 above.
- 140 See O'Malley's chronicle of his activities in the Anglo-Irish War, *On Another Man's Wound*, *op. cit.*; and O'Malley, *The Singing Flame*, *op. cit.*, especially Chapter 7.

- 141 In theory, and certainly, republican theory provided no guide to restraint. A large loss of civilian life, the infliction of bestial tortures and other actions seemingly lay beyond the range of permissible activities, but as much because of who the revolutionaries were as of any political doctrine. A deal of this was prefigured and justified in the raucous and unforgiving divisions that emerged in the Dáil Debates on the Treaty. See n. 56 above.
- 142 Grove notes that ballads usually deal with popular themes, including events which are tragic and adventurous: ‘They may be based on some historical event, but the incidents related seldom correspond closely with verifiable facts, being distorted by bias, rumour and hearsay... Nevertheless, they are truthful in the sense of reflecting once current states of mind, which may at last harden into belief.’ Stanley Sadie (ed.), *The New Grove Dictionary of Music and Musicians*, 29 vols. (London: Macmillan, 1980), vol. II, p. 71.
- 143 Some were loved and became memorable because of their unabashed awfulness, notably the compositions of the great doggerel poet, William Topaz McGonagall (1825–1902) (born in Dundee, Scotland, to an Irish father). His ability (if such is the word) to chronicle contemporary events in outrageously bad verse won him a great following.
- 144 Sadie, *New Grove Dictionary*, *op. cit.*, p. 73. For a useful survey of the broader musical context in Ireland, see vol. IX, especially pp. 316–18.

# NORTHERN IRELAND

## Ourselves alone

### **To have and to hold**

By the mid-1920s, North–South divisions were stronger than ever. No body of people could contemplate casting their fate in with those engaged in civil war; nor would the memory of those events soon fade. Disorder, destruction and loss of life in the South confirmed the views of many Northern Protestants (and probably some Catholics) that loss of the British connection would simply unleash the dark side of Irish nationalism: its violence, propensity for secret societies, grudges, feuds and hatred of all that was not Catholic and Gaelic. At government level, this image was moderated, it is true, by the determination of the Free State to suppress armed insurrection and to uphold democracy under law. Successive elections showed that the great majority of Free State voters sought stability and rejected violence. But the nature of the state’s nativity and those first turbulent years animated long-held fears and reinforced distrust.

At the popular level, the increasing power of the Roman Catholic Church within the Free State was a major concern. Northern Ireland was itself deeply religious and conservative in social thought and policy, frowned on divorce, indecency (as it was seen) in literature and the arts, and in matters such as sabatarianism was more than willing to allow religious considerations to shape public policy. But rejection of ‘Rome Rule’ lay at the heart of Protestant traditions and fed its stereotypes, and many developments in the Free State confirmed the validity of these concerns. Constant calls for Irish unity and the abolition of the Northern state were completely counterproductive. The 1921–2 raids across the border (discussed below) demonstrated that at least some republicans were intent on conquest and coercion; the activation of the Boundary Commission suggested that even the Southern government hoped to destroy Ulster with salami-slice tactics.

There was an aspect of Northern Ireland’s religious and social make-up which nationalist and republican leaders certainly knew, but which they failed fully to ponder. Unlike their co-religionists in Southern Ireland, Ulster’s Protestants were a majority and were to be found substantially distributed across all classes and occupations and in all parts of the province. A portion had their feet firmly

planted in the soil with which they had an affinity quite different from the Anglo-Irish Protestants of the South. Another portion formed the bulk and the backbone of the extensive manufacturing section of the Northern economy. Northern Catholics might contemplate the historic injustice of the conquests, confiscations and plantations and long for restoration and reparations, but Protestants had an equally strong sense of entitlement and their own history of grievances and experience of atrocities.

These mutual perceptions were powerful drivers of sometimes fearful hostility. At the political level, the rhetoric of Ulster unionism could be fervid and exaggerated and, at times, outrageously sectarian, triumphalist and calculatingly hurtful. Republican rhetoric was more divided. Irish unity was a matter of pious observance in the speeches of Southern politicians but was not a part of practical politics. Northern nationalists pined for unity with the South but in practical matters found themselves largely ignored by their erstwhile countrymen. Their politics were defensive, and their narrative often seemed no more than a series of unavailing protests. And all the time, the two societies – very different even when administratively united under British rule – developed separately and distinctively. Some British politicians had envisaged a national and general growing together of the two states. Fifty years after Partition, Ireland would be more divided than ever.

Northern Ireland had been created by a Westminster Act variously unwanted by Ulster unionists and by nationalists and republicans alike.<sup>1</sup> Division was rejected by dogma originating in the formative days of modern Irish nationalism. The doctrinal fervour of Southern nationalists was matched by the intense practical objection of most Northern nationalists and Catholics that they would be left as a large but helpless minority in an unsympathetic and even hostile unionist and Protestant state.<sup>2</sup> The history of bitter sectarian divisions and periodic outbreaks of communal violence gave an edge of fear to the objections of the Ulster Catholics.

The passage of time has obscured the initial antipathy of Ulster unionists towards the proposed new state. This shifted to ambivalence, to approval and then to visceral loyalty. At the core of Ulster unionism was a belief that they were a distinct British people living in the island of Ireland. Their forefathers had conquered their territory and defended it with determination and sacrifice: this was a patrimony worthy of defence. It was axiomatic that the freedom, safety, welfare and economic advancement of their community required a continuation of the tie between Britain and Ireland and, failing that, between Northern Ireland and Britain. The mixture of religion, politics, economics and social exclusiveness made a powerful bond indeed. Unionists were sometimes derided for their archaic celebration of Williamite victories more than two centuries previously, but those battles, the array of forces and the settlement of the Glorious Revolution informed and framed the Ulster Protestant's view of the world. History had passed and had embedded a sense of siege and a fear that a triumphant and almost exclusively Catholic nationalism meant the yoke of servitude.

That a large portion of the island had decided upon an alteration of the relationship with Britain deeply alarmed them. That their own state had been brought into existence as a form of compromise was also unsettling especially since, in the selling of the Anglo-Irish Treaty to its supporters by the pro-Treaty section of Sinn Féin, there had been much play upon the temporary nature of Partition. For Ulster unionists there was the realisation that if something as basic as citizenship could be altered and boundaries shifted, deals on national destiny sealed in the small hours in a London room, nothing was guaranteed. This view of events saw the Treaty as a reward for violence. To the Ulster unionist, aghast at acceptance of Home Rule in 1920, there remained much more safety in a relationship with Westminster, the Empire and, above all, the Crown – uncomplicated by devolution.<sup>3</sup> That organic tie could be understood, expressed and defended: it was above politics and politicians. Only thus could unionists escape the sense that they had been pushed from brotherhood to cousinship within the British family – from the status of Sussex or Yorkshire to that of a less integral, remote and possibly disposable territory. To those devotees of Glorious Revolution, an earthquake had unmade the landscape. Disloyalty, treason and violence had been rewarded; loyalty and respect for the law devalued and repudiated.<sup>4</sup>

But there was another side to this analysis. Besides the doctrine of the Protestant Succession, the central components of the 1701 Act of Settlement were the conditional nature of monarchy, its subordination to law and therefore the possibility of its lawful termination.<sup>5</sup> The core of the Act was the concept of government by consent. This replaced the Stuart doctrine of the divine right of kings and reconciled monarchy with mechanisms of accountability. The condition of consent passed into British political life and thence over time (and not without hindrance) into the apparatus and procedures of state: legislation, law enforcement and the administration of justice. This doctrine should have been transferred in its totality to the new state of Northern Ireland. The end of British rule in the rest of Ireland certainly confirmed the need to obtain the consent, if not the support, of the governed and showed what happened when this was forfeited. It is ironic and tragic that the principal fruit of the Glorious Revolution should have been so misunderstood or marginalised by the *soi-disant* Williamite devotees who founded Northern Ireland: there can be no legitimate government without consent, and a people who are ruled without consent are unfree and have the right, and, some will inevitably proclaim, the duty, to rebel. The notion of one group dominating another by providential right was a doctrine more expressive of the later Stuarts than of William and Mary.

Such doctrinal consistency and political clarity required qualities of statesmanship far beyond those current in Northern Ireland at the time of its foundation. It is certainly tragic that this long view was not taken – and may not have been politically possible. The genesis of Northern Ireland was insecurity rather than a desire for freedom. This meant that the machinery of state would be defensive and inevitably repressive of the minority. A state must declare itself to be *for* something, to have some purpose: it needs myth, legend and style.

Northern Ireland came into being for protective reasons, and that would define its ethos for the following half century. Watchfulness, distrust of the other and loyalty to one's own would shape style and determine method. In its wider, truer, sense, Northern Ireland could never be truly unionist.

That sense of insecurity (and a deal of distrust of British politicians) had, in the end, convinced Ulster unionists of the need for their own state. A Northern parliament set up and an administration created, it would be no little matter to reverse the process. The lopping off of territory (through the Boundary Commission, for example) would be more easily inflicted on an entity that did not have the standing and resources of a state.<sup>6</sup> Perhaps, therefore, a devolved unionist state – odd creature though it sounded – might be the better option after all? Its parliament would have a voice that could not easily be stilled or, as at Westminster, submerged in a greater volume and wider representation of British domestic and imperial interests. Its apparatus of state and relationship to the Crown would invest it with a dignity and lend a quality of immovability. And then there were the direct-force aspects of Ulster unionism: the accumulation of arms, the training of volunteers and the rhetoric that went to the edge (and perhaps over) of sedition and treason. Would it not be better to keep that armed and organised element of loyalism in the kraal and within the law? Surely it was possible to place it under the direction of a regular authority responsible to a parliament in which unionists would have an unshakeable and perpetual majority? Rather than a stepping stone to a united Ireland, was not the new state a stout wall of stone, a means of preserving the Union, from Sinn Féiners, the fickle fortunes of Westminster parties and the deviousness of Whitehall alike?

There was also much unhappiness and foreboding among Southern unionists. Partition was not in their interest: far better to be part of a large and resourceful Protestant minority in a unified Irish state with a Home Rule constitution, with most of the familiar British institutions left intact and with ultimate power reserved to Westminster. The Easter Rising and the War of Independence nullified this option, so the least worst outcome was a unified Irish dominion, under Free State rule.<sup>7</sup> With the six counties of Northern Ireland removed from the new entity, Southern Protestants were reduced to a mere 10 per cent of the population.<sup>8</sup> Despite the repeated assurances of the Free State leaders, Protestants felt that their interests would be subjugated and that political defeat would be followed by cultural, religious and demographic erosion and eventual effacement. The interests of the two groups of unionists were thus very different, as were their cultures and antecedents. As the doctrines of the Catholic Church increasingly infused and dominated key aspects of public policy in the South, the plight of their co-religionists confirmed the followers of Carson and Craig in their creed.

Once the principle of Home Rule for Northern Ireland had been accepted, Ulster unionists had further decisions to make. As noted, calculations on the viable area of the new entity led one group to press for inclusion of all nine counties of the ancient province of Ulster. In this they were encouraged by several British

politicians, even though a four-county state had been canvassed as a compromise only eight years before.<sup>9</sup> But the intervening years had shown what passions and hatreds lay within these disputes. There were, moreover, strong geographical, economic and psychological arguments for the larger unit. On presentational and substantive grounds, a larger unit in which Protestants comprised 57 per cent of the population was preferable to a smaller one with a two-thirds Protestant majority.<sup>10</sup> It could reasonably be anticipated that a relatively balanced population would oblige both sides to compromise and accommodate; and alliances such as Labour might even be made across sectarian lines: this process in itself could make for stability. Another view – possibly held by the same people – was that nine-county demographics made Irish unity more likely and perhaps not too long postponed.

The British Cabinet's Irish Committee, which was entrusted with the task of drawing up the Government of Ireland Bill, wavered. On 17 February 1920, it opted for nine counties.<sup>11</sup> As a result of representations from James Craig and other leading Ulster unionists, this position was abandoned a week later.<sup>12</sup> Craig and his colleagues had taken a close look at likely constituency outcomes. With nine counties, the Ulster Unionist Party could look for a majority of only three or four in a fifty-two seat assembly. Even this might be reduced by Labour or another party attracting working-class votes across sectarian lines. A lost vote in the new parliament could overnight pass the Northern state into a united Ireland, since the unwritten British constitution did not provide for entrenched legislation. Six counties and no more it would have to be. Fewer than six counties would encourage another danger: Westminster at some point taking the view that the new state was an unviable anomaly. Commerce, manufacturing and investor confidence and market psychology demanded a hinterland.

### **Children of disobedience**

The pathway of these decisions has been outlined from the perspective of unionism, but nationalists and republicans saw things very differently. One of the curiosities of Irish political discourse over half a century was the insistence by all parties that they adhered to the doctrines of democracy. The Southern Irish insisted that the vast majority of the Irish as a whole wanted Irish unity, and this was confirmed by the sweeping Sinn Féin victories in the last all-Ireland election in December 1918: Ulster should bow to the democratic will. Unionists insisted that theirs was not a minority vote but a majority within an entity and a people quite different and distinct from that of Southern Ireland. Into our own times many unionists have insisted that power-sharing within Northern Ireland is undemocratic and that the will of the majority, simply expressed, should prevail. Their opposite numbers within republicanism have equally fervently proclaimed Northern Ireland to be a gerrymandered state, and therefore without legitimacy. Thousands of lives and many billions of pounds have been consumed by this dispute.

Within an island where a vigorous localism had survived all the pressures of transformed communications, where townland, village, parish, town, district and county – bush, tree, hedge and field, indeed – have shaped and held identity, it could be misleading to refer to differences between Ulster and the other Irish provinces. All geographic units, to some considerable extent, preserved and valued local and regional distinctions; all nurtured a degree of parish-pump xenophobia. But in its history, and particularly in its majority and type of Protestants, Ulster was different from other parts of Ireland, and the differences within did not block a deep sense of common identity.

Though few said it at the time (and very few probably saw it), a continuation of Westminster rule would have served Ulster Catholics and therefore Ulster Protestants far better. Diluted by the broader concerns of a large and prosperous country and empire, carried along by its pace and held to far stricter and fairer standards of public life, sectarian and communal divisions would have been less oppressive and remedies more easily sought. But union with Britain had already been staked out as the ground of Ulster unionism and nationalism did not have the flexibility of tactics, still less the strategic vision, to question what form that union should take and what strategic political advantages it might hold. Nationalist (particularly republican) doctrine fixated on the notion of one exclusive nationality that fitted all who lived on the island of Ireland. There was indeed a point where Ulster unionism could have been encouraged to follow its instincts and to demand the union be left undiluted by devolution. Pressure from Irish nationalism, North and South, could have assisted this outcome: it is hard to see what element in the British Cabinet would have resisted it.

Shocked by the thwarting of their hopes, and fearing what lay ahead, Northern Catholics generally failed to embrace the new realities and withheld their allegiance from the new state; some tried to imagine it away. As though it were an option that cantons were part of the new order, certain local authorities run by nationalists declared loyalty to Dublin rather than to Belfast. Teachers in some Catholic schools initially refused to accept Northern Ireland salaries, and some were, for a short time, paid instead from Dublin.<sup>13</sup> Nationalist politicians (and these were, for the most part, the remnants of the Irish Parliamentary Party) decided not to participate in the new legislature; republicans continued to seek its destruction. The Roman Catholic hierarchy refused to establish formal relations with the organs of state.<sup>14</sup> Labour, whose doctrines emphasised the overriding common identity and unity of interests of all working people, could not evade the Partition issue and consequently split. Some attempts were made to make the new state more palatable to Catholics, but these lacked the drive and vulnerability of sincerity, or the allure of imaginative generosity; suspicion and gracelessness multiplied on all sides. The most significant concession was to recruit Roman Catholics for the new police force, the RUC. Had this been proportionately achieved, one-third of the constabulary would have been Catholic, and a critical state institution might perhaps have become more acceptable to the minority population.<sup>15</sup>

Abstentionism led all too easily to exclusion.<sup>16</sup> Nationalism, which, unlike republicanism, was entirely peaceful and constitutional, and Catholicism were treated as forms of disloyalty and therefore as dangers to the new state. In the sense that most Catholics did not wish Northern Ireland to exist, it was true that they were not loyal to it. But this was an opinion to which they were surely entitled. To act on it (other than within the law) was quite a different matter. Nor did attitude to the state necessarily determine one's attitude to one's employing organisation. Conversely, Protestant and Orange affiliations commended themselves to many public and private employers. There were various strands to this. Protestant and Catholic workers were frequently at each other's throats at this time: openings were few and fiercely guarded. To many employers, a mixed workforce may simply have been a potential for friction, best avoided. It was not easy to leave the troubles and tensions of the wider community at the factory gate. But, in some instances, refusal of employment to Catholics was simple bigotry and a sharing of the spoils with one's own. Times were hard, becoming harder, and it seemed simple enough to answer the question of who should have jobs in a flat or contracting economy. But, particularly in sensitive fields of public employment – police, prisons, the post office and middle and higher reaches of the civil service – there may have been an additional and perhaps more pragmatic reason for caution. Had not the IRA under Michael Collins skilfully subverted British rule by recruiting or placing agents at all levels in the public services? This became obvious in the setting up of the Free State and the concurrent emergence and rewarding of some of those agents. And, within a few years, all of this was confirmed and celebrated by the memoirs and historians of the Anglo-Irish War.<sup>17</sup> In 1925, an oath of allegiance was instituted for all public appointments (a requirement also in the Free State). This was no light matter or mere form of words in a society in which religious obligations and scruples were a central part of everyday life and where an oath was binding. But even this solemn declaration was seen as an insufficient guard against treachery. Catholics were found places in the public services but were concentrated overwhelmingly in the lower grades. Denominational affiliation was a bar (not consistently or predictably enforced) to recruitment and promotion. As this became known, and possibly exaggerated, Catholics stopped applying and so heightened their self-perception as an excluded and disadvantaged minority.<sup>18</sup> A self-sacrificing process had been set in motion.

The relationship between politicians and the electorate is never static, with constant see-sawing. On many issues, and for most of the time, voters are content to follow their chosen party: they have bought a package and stick with it. But politicians who move too far away from their followers risk their authority (and create opportunities within their own parties for those who would dispute them). This has been repeatedly confirmed in Northern Ireland as moderate unionist leaders have been rejected by their party or have struggled to keep control. It is all too easy to overlook or minimise the political restrictions within which James Craig worked in the first uncertain months and years of his new

state. Having acknowledged this, and accepting the fact that Craig abhorred violence and did what he could to ensure peaceful stability, there was an unhappy narrowness in his political vision. He occasionally allowed himself to yield to the temper of the moment and made public statements that rubbed salt into Catholic wounds, thus creating or adding to deeply felt feelings of resentment. He gave little weight to the need to bind up his riven community, to conciliate and incorporate. He preferred to tackle nationalism head-on rather than to attempt to bypass it, to speak directly to nationalist voters and shift the direction of debate. Nor was this confined to the first turbulent and rather desperate years of the new state. More than a decade after Northern Ireland had been stabilised and secured, Craig told its House of Commons that he had held high office in the Orange Institution for many years, 'and I prize that far more than I do being Prime Minister. I have always said that I am an Orangeman first and a politician and Member of this Parliament afterwards.'<sup>19</sup> Whatever his private feelings, this was not a proper statement for a prime minister of a religiously divided state to make; and, quite apart from propriety, it was bound to be dangerous and counterproductive.

Yet James Craig was a moderate in his government. No member of his cabinet had been educated at university level; most were narrow and provincial, and some were decidedly sectarian in outlook. Only Craig and the Marquess of Londonderry had had ministerial experience at Westminster. Edward Archdale, Minister for Agriculture, in 1925 expressed satisfaction at the fact that there were only four Catholics employed by his department.<sup>20</sup> Other ministers pandered to Orange Order complaints about the employment of disloyal people in the public service: 'disloyal' being a thinly veiled code for Catholic. John Andrews, Minister for Labour, in 1933 ordered an investigation into an Orange Order claim that the majority of porters at the Stormont Parliament building were Roman Catholics. Of the thirty-four porters, he found only one, a temporary appointment, was a Catholic.<sup>21</sup> A year later, a Stormont gardener was dismissed because of allegations of republican sympathies, even though he had a good British Army record and had been in the service of the Prince of Wales.<sup>22</sup> Around the same time, the Minister for Home Affairs, Sir Dawson Bates, refused to have Catholics employed in his department, even in the most junior positions.<sup>23</sup> In 1934, he discovered that one of the Stormont telephonists was a Catholic and thereupon refused to use his telephone until the unfortunate telephonist was transferred.<sup>24</sup> When Minister for Agriculture, Sir Basil Brooke, told a Twelfth of July crowd at Newtownbutler, Co. Fermanagh, that a great number of Protestants and Orangemen employed Roman Catholics, but he himself had not a Roman Catholic about his own place.<sup>25</sup> Wherever possible, loyalists should employ 'good Protestant lads and lassies'.<sup>26</sup> What is noteworthy is that these and kindred remarks were made more than a decade after the establishment of Northern Ireland. No Catholic would need a particularly thin skin to feel bitterness and rancour at such utterances: these indeed were the waters of Babylon.<sup>27</sup>

The sectarian remarks of the Northern ministers and politicians – and they can only be read as sectarian in intent as well as in meaning – must be given context, though hardly excuse. From their point of view, the Roman Catholic minority had several characteristics that led unionist politicians to make such remarks and to feel comfortable in doing so. First, Catholicism was largely synonymous with support for the Nationalist Party or republicanism. Only a very small number of Catholics voted Unionist, and almost certainly none was (or was permitted to be) active in that party.<sup>28</sup> Ulster Liberalism had pre-deceased its parent in Britain, and Labour was weak and divided. The issue went beyond what in another setting would have been party affiliation. Constitutional nationalism and republicanism alike questioned the very existence of the Northern Ireland state. This was emphasised when Craig, in an angry Stormont debate, referred to the disloyal person as anyone out to break up that Constitution established by Great Britain.<sup>29</sup> The disloyal should be denied employment for several reasons. Roman Catholics, Craig claimed, liked to employ their co-religionists ‘and leave our people to employ those they cannot employ themselves’. But those – and only those, he implied – who supported the Constitution should benefit from it. He added the saving grace that this should hold whether or not they agreed with government policy. But since policy was defined by the Union, and no other government was likely to hold office in Northern Ireland, this was tongue-in-cheek sophistry. An additional reason for not employing the disloyal was that every one of them was ‘a potential voter for destruction of this country’. Finally, ‘there is grave danger in employing men who at the first opportunity will betray those who employ them’.<sup>30</sup>

There may have been some truth in Craig’s observations. This was a sectarian society, and on both sides co-religionists were doubtless preferred employees. But surely he was too sweeping, too pessimistic and too shallow. Certainly, this parliamentary debate, and a number of others, were sad, mean-spirited affairs, studded with jeering, baiting and mutual contempt. It is hard to see how any who took part in them maintained their self-respect, still less respect for their opponents. Most Northern Catholics would indeed have preferred to be part of an all-Ireland Free State. Sincere Catholics wished the conversion of ‘heretics’;<sup>31</sup> sincere nationalists wished the reunification of Ireland. These views, provocative no doubt, were matters of opinion and even conscience. Those coming from a Protestant tradition by definition took their stand in a repudiation of Catholicism as unreformed, erroneous and imperfect Christianity loaded with the sacramental accretions and pretensions, a vessel of medieval corruption. One of the central tenets of Protestantism, especially in its political manifestations, was opposition to the intolerance and overweening claims of the Catholic Church. But non-Protestant and non-unionist views, as long as they found no expression in illegal activities, should have been tolerated and certainly should not have affected Catholics’ rights as citizens of Northern Ireland. Even in the 1920s they would have had little if any effect on their civic (as distinct from social) standing elsewhere in the UK.<sup>32</sup> Yet Sir James Craig’s precepts excluded Catholics from

the most basic of rights: to disagree with impunity. They also withdrew the state from an important duty of care: to promote the welfare of all its citizens and to help them provide themselves with a livelihood, or, at least, not to impede their ambitions and efforts. The Northern Ireland state defined itself by loyalty to the Crown, but the Crown was based on that freedom of conscience and politics established by the Williamite victories, the Glorious Revolution and the Act of Settlement. That Roman Catholicism had been the historic enemy derived from Rome's attempted hegemony and intolerance (as well as the track of European history and politics). There was profound historical irony in the anti-Catholicism, real or rhetorical, of Craig, Brooke and others. The supreme value and virtue of British political culture – its tolerance – was being limited, even denied, by the leader of a state that had come into being ostensibly to protect those basic liberties. The superiority of a state based on the British Constitution could be demonstrated only by including, not excluding, its dissident minority.

But it takes at least two to conciliate, and Craig and his ministers could argue that they had no partners. Roman Catholic and nationalist leaders had little appreciation of British constitutional history and no inclination to put unionism to its own test – possibly little notion that such a test existed. Indeed, most conformed to the ultramontane Catholicism then approaching its zenith in Ireland and had no intellectual apparatus or steerage room to take the fight to the Protestant state by invoking its antecedents. There was, of course, the threat and only slowly receding tensions arising from the IRA campaign against the Northern state (which we examine below). But even ballot-box politicians withheld recognition, and it was not until 1925 that Nationalist MPs took their seats in the Northern Ireland Parliament. As in the Free State, Sinn Féin condemned this step and continued to insist upon abstention. By that time, the mould may have been set, and, despite good personal relations between Joseph Devlin (the Nationalist leader) and Sir James Craig, and some gestures of reconciliation, Ulster unionism continued on its way, indifferent to the wishes and interests of the minority, unaware that it daily forged a weapon for its enemies.<sup>33</sup>

### **Authority lost, power confirmed**

It had been anticipated that the constituency-based simple majority rule of the British electoral system would not prove adequate as an instrument of democracy in such a rigidly divided community. First-past-the-post voting would condemn the minority to perpetual exclusion from office. Accordingly, proportional representation had been provided by the GOIA as an equitable and protective device.<sup>34</sup> One of the first acts of Craig's government had been the withdrawal of proportional representation for local elections, a far-reaching matter, considering the patronage powers of local authorities.<sup>35</sup> Instructively, this renegeing on a key safeguard evoked not a single comment, much less protest at Westminster. Proportional representation was retained for parliamentary elections, and by 1927 there were ten Nationalist MPs and two (abstaining) republicans. This was not,

nor could ever be, a threat to the Unionist majority, yet in 1929 proportional representation was also abolished for parliamentary elections. Joseph Devlin continued to sit in the Northern Ireland Parliament, but in May 1932 he and his party walked out, returning only in October 1934. Thereafter, the Nationalists (who had never accepted the status, privileges and responsibilities of an official opposition) distanced themselves from the institution, attending only spasmodically and, in effect, leaving the Unionists without an effective opposition until 1963.<sup>36</sup> For those thirty years, the Nationalist Party limited itself to anti-Partitionism and protesting against anti-Catholic discrimination: a ‘well-worn rut of sulkiness and whinging’ as Marianne Elliott observes.<sup>37</sup>

In all of this, it is important to remember the scale of the Northern Ireland Parliament, its limited powers and the pace at which it operated. With a House of Commons of fifty-two members and a Senate half that size, the Commons was less than a tenth the size of the Westminster House of Commons, and the Senate was little more than 3 per cent of the 800-or-so-strong House of Lords. At the same time, it was disproportionately large, considering the respective sizes of Great Britain and Northern Ireland.<sup>38</sup>

Like the legislatures of several of the smaller and more sparsely populated American states, Northern Ireland’s was essentially a part-time legislature, meeting for only a few months in each session. Since its powers were subordinate to those of Westminster, it followed the rule that it would not discuss matters which were ‘excepted’ (foreign relations) or ‘reserved’ (services financed exclusively by the Westminster budget). On its part, as we have seen, Westminster denied itself questions and debate on matters that fell within the powers exercised by the Northern Ireland Parliament. Today, this arrangement would be called ‘subsidiarity’ and would be lauded by the European Union as an essential democratic device. Given conditions in Northern Ireland, however, this framework of exclusions and self-denying limitations had an undemocratic and ultimately destructive effect.

So narrowly limited, with one party enjoying an unchallengeable majority in perpetuity and with ministers who held office for long periods – two prime ministers (James Craig and Basil Brooke) held office for twenty years each, four-fifths of the life of the Northern Ireland government – debates were narrow and repetitive. Everyone had heard what everyone else had to say, in every possible way. When sparks did fly, it was almost invariably on Catholic–Protestant, North–South issues, often given a twist by minutely recited local claims, grievances and counter-assertions. Discussions then followed a predictable course, often degenerating into mutual and necessarily unproductive recrimination; spite was vented self-indulgently. The overall impression created was that of an inward-looking county council in a backward area, overlaid with Swifitean caricature and touches of Samuel Butler’s Erewhonian fantasy.

Given the political stalemate, the attitude of the Roman Catholic hierarchy was of considerable importance. The tale is simple and short: it shunned the Northern Ireland government from the beginning. Since Nationalist members

initially boycotted the Northern Ireland Parliament, no Catholic chaplain was appointed (an unwise omission on Craig's part). This decision is the more curious since there had been no problem in asking the Catholic Church to nominate chaplains to prisons, where (initially) they were paid a modest fee for services and attendance.<sup>39</sup> In 1925, Nationalists decided to enter the Northern Ireland House of Commons. The Speaker, Sir Hugh O'Neill, asked Cardinal O'Donnell, the Roman Catholic Primate and Archbishop of Armagh, to appoint a chaplain. The request was referred to the Bishop of Down and Connor in whose diocese Stormont was located: no more was heard of the matter. Two years later, the Nationalists had ten MPs. Successive primates and bishops maintained the policy of non-involvement and non-cooperation.<sup>40</sup> As a result of this stubbornness and ill-will on both sides, laid down in strata of resentment, the first official meeting between a Northern Ireland prime minister and a primate of the Roman Catholic Church in Ireland did not take place until 25 February 1971, more than fifty years after the foundation of the state.<sup>41</sup> A Roman Catholic chaplain had been appointed to Stormont not long before the meeting. Better late than not at all, but this is a significant record of irresponsibility, of bigotry and of mutual and mischievous disregard, wherever the balance of fault lay.

As noted, the other source of authority for Northern Catholics was Dublin. The sense of abandonment caused by the Treaty probably never faded. As the Free State struggled to survive, it displayed an uncertain and complex attitude towards Northern Ireland. A treaty had been signed that accepted Partition. In its first critical couple of years, the Southern government was being sustained in office substantially through British good offices and material support, but, for the initial months at least, was playing a double game. The Northern Ireland government wanted peace and stability in the South and was defending its own territory only.<sup>42</sup> Yet, sectarian riots in various Northern towns, and especially in Belfast, showed the position of Ulster Catholics to be precarious, with rogue elements in the security forces of the new state being involved in acts of serious violence and even murder. Thousands of Catholics were driven from their workplaces and homes; churches and other properties were destroyed.<sup>43</sup> Collins, who had shown a particular interest in the fate of the Northern minority, and who may eventually have found a pragmatic politics to support his concerns, was killed in a civil-war ambush on 22 August 1922. With his death, the Free State lost a highly talented leader. One of the consequences was that the country turned inwards, accepting Northern Ireland as an established state and leaving Northern Catholics to make the best of the conditions in which they found themselves.

Despite the supposed hopes of successive Southern governments and political leaders, the two parts of Ireland, historically and culturally distinctive in any event, moved further apart. The 1932 advent to office of Éamon de Valera deepened the divergence. Always strong in the rhetoric of anti-Partitionism (though far less so on Irish unity), de Valera had in 1922 split from his comrades over the Treaty – not on the issue of Partition, but on continued membership of

the British Empire of that portion of Ireland which had secured its independence. His assertive republicanism, erasure of the final symbolic links with Britain, assertion of *de jure* sovereignty over the territory of Northern Ireland and gratuitous confirmation within his 1937 Constitution of the special status of the Roman Catholic Church, hardened divisions in the island and reinforced Partition. It is incomprehensible that he or his advisers could have imagined otherwise. Yet, among Ulster Catholics, the desire still persisted to belong to the Southern state: they felt deeply that they had no other home. The Irish tricolour became a symbol of that longing, as was the orientation to Dublin for cultural and sporting links. But from the South came little more than words and the cold comfort of brandished emblems, and these often at election time when nationalist sentiments were obligatory ornaments for manifestos and addresses to constituents. Northern Catholics' sense of Southern betrayal was considerable. This survived the generations, with Eddie McAteer, leader of the Nationalists, declaring in the 1960s, 'we are the bastard children of the Republic. Sometimes, they must needs acknowledge us, but generally speaking they try to keep their distance.'<sup>44</sup>

### **The sinews of state**

A major but seldom-considered factor in the state of insecurity that developed in Northern Ireland was the status of the Truce. Momentum for this came from the conciliatory speech delivered by George V on the opening of the Northern Ireland Parliament on 22 June 1921, a reaching out that was the essential first step in ending the Anglo-Irish War. The Truce was signed by Major-General Sir Nevil Macready, GOC (General Officer Commanding) of British Forces in Ireland. It was authorised by the British government and by de Valera in his capacity as President of the Irish Republic. The terms were negotiated by Robert Barton and Eamonn Duggan, representatives of the IRA who had been specially released from British custody for the purpose; the document was signed on 9 July 1921 and came into effect two days later. No Northern Ireland official or politician was party to the Truce, nor were they consulted. It would appear that the first Sir James Craig knew of it was from the newspapers.<sup>45</sup>

By this time, Northern Ireland had existed *de jure* as an entity for seven months and nineteen days, and *de facto* for rather longer. The situation in its six counties was quite different from that prevailing in the rest of Ireland. The IRA had not conducted an offensive campaign along the lines it had been able to follow in the south and west of Ireland and in Dublin. In addition to the Army and the RIC, it was confronted by its loyalist and unionist equivalent, the UVF. This body had been formed by Sir Edward Carson in 1912 to resist by force of arms, if necessary, the imposition of Home Rule in Ulster; it had claimed a membership of 100,000 men and appears to have had many well-equipped and trained units. Through mass enrolment in the British Army (notably the 36th [Ulster] Division) during the First World War, it had ceased to exist as a functioning organisation,

although many of its members and an amount of its armament continued to be available.<sup>46</sup>

Faced with what by 1920 had become a major and acute threat to British rule in Ireland and the possible imposition not only of Home Rule but of an all-Ireland and wholly independent republic, steps were taken to re-establish the organisation, the leading part in this being taken by Sir Basil Brooke, a highly decorated soldier and later Prime Minister of Northern Ireland. This organisation began to function before the Northern Ireland state came into existence, and the members of the reactivated body did what they could to counter the IRA in rural areas and to supplement the RIC, which, severely decimated by the IRA and demoralised by its impending disbandment, had been reduced to a poor level of effectiveness. The reconstituted UVF, at least in theory, had the same status as the IRA: it was an unofficial and probably illegal body under the ROIA. UVF members had no more right than the IRA to bear arms and, unless they knew that its members were well disposed towards them, had to hide weapons when they encountered an RIC or army patrol.<sup>47</sup>

For several months in 1920, therefore, there existed a loyalist paramilitary organisation, Protestant in membership and with a partisan and probably sectarian ethos. This body carried out patrols, mounted roadblocks and occasionally engaged in actions against the IRA. It was poorly armed and undermanned, with a leadership of uneven quality and experience, but it had the advantage of considerable local knowledge, a constant flow of intelligence (especially in rural areas) and a relationship to the regular forces of law enforcement that allowed a degree of freedom of action. It had the considerable drawback, however, of being seen by the Catholic population as a sectarian Protestant body. Patrols, roadblocks and searches provided numerous opportunities for encounters fraught with sectarian and personal hostility, which thus heightened tensions. As far as can be ascertained, no UVF member was arrested during these months for the illegal possession of arms or for other forbidden acts. With this force in the field, uncertainty about the application of the Truce to Northern Ireland, the impending demise of the RIC, restricted operations by the Army, IRA regrouping and upsurges in sectarian tensions, there would be many occasions for violence and disorder and uncertain instruments to counter them.

The Anglo-Irish Treaty formally excluded Northern Ireland from the Free State – but it had already excluded itself. Under the 1920 Government of Ireland Act, an administration had been set up and was rapidly being consolidated. This speed was in large part driven by the threats to the new state, both internal and external. As the Anglo-Irish War reached its crisis, relations between the Protestant and Catholic communities in the Northern cities worsened considerably. The Protestant working class feared that they were being railroaded into an Irish republic (Home Rule plus and Rome Rule unrestrained). There was, sadly, a long history of intercommunal confrontation and violence, but the tensions of the war and then the Truce fuelled a particularly savage series of riots in July 1920.<sup>48</sup> Who initiated this disorder and the exact sequence

of events is now hard to discern. To anyone familiar with Northern Ireland, July and August – the ‘marching season’ – are sensitive, strained and at times dangerous. Catholics would have had it that following the Truce they were attacked and that units of the IRA defended them. The fledgling Northern administration insisted that there was an attack on the police by the Belfast IRA on 14 July 1921 (just five days after the Truce was signed) and that this provoked rioting and sniping.<sup>49</sup> The end result was clear enough: some 8,000 Catholics were driven out of their jobs in the Belfast shipyards and factories, and hundreds of others fled their homes. There was a great destruction of property, and at least forty-eight people were killed, with several hundred wounded and injured.<sup>50</sup>

These events were of the greatest import for Ulster unionism. With no effective forces at its direct disposal, the Northern Ireland government was unable to protect property and lives, and its standing with its Protestant supporters was severely strained; Catholics were further alienated. The British government continued to have responsibility for law and order, yet did not appear to be acting with sufficient vigour. London, constrained by the terms of the Truce, genuinely wanted peace and did not wish to provoke Sinn Féin and the IRA by a clampdown. There was a serious failure in communication and an appearance of drift. Leadership of the loyalist population began slipping away from the Ulster Unionists and into the hands of communal groups.<sup>51</sup> The Northern state might have then imploded and, at best, come under British military rule for a period, with all the concomitant political uncertainties. The IRA, a substantial section of which did not expect to reach a final settlement with Britain, continued to rearm, train and regroup, in violation of the Truce.<sup>52</sup> The IRA’s Northern divisions, unlike those in the South, functioned primarily as Catholic defence forces. Its rearmament was understandable and yet intolerably threatening to Protestants: it further increased the very conflict that it was arming against. The embattled, beleaguered and fearful state of mind of loyalists is not usually given sufficient weight by those who take a look backwards from the surviving state and the grandly entrenched Stormont of the later decades. None of this justified the appalling attacks on the minority, which were themselves corrosive of authority, but it does help explain why it was so difficult to establish order.

Grossly aggravating these internal problems, Northern Ireland faced cross-border raids. This external threat may have been worsened by the Treaty. After this was ratified by the Dáil, on 7 January 1922, IRA and Sinn Féin prisoners and internees were released. Many hastened to join or rejoin active units of the IRA. According to Northern Ireland government sources, this was a factor in renewed sniping and intercommunal violence in Belfast and also in the strengthening of the groups engaged in cross-border raids. The Treaty also led to a split in the IRA and eventually to civil war. In the months preceding an out-and-out clash between the pro- and anti-Treaty forces, the British government transferred a considerable quantity of *matériel* to the Free State’s rapidly expanded National Army. Vital British interests rode on the survival of the Free State, and, certainly at infantry level, aid was not stinted. At the same time, Collins, an

accomplished clandestine operator, exchanged some of the incoming British arms for those already in the IRA's possession.<sup>53</sup> His intention was twofold: to bring a degree of *rapprochement* to the IRA factions in the South and to resupply IRA units in Northern Ireland with weapons that could not be traced, if captured.<sup>54</sup>

The last raises the question of Collins's objective in supporting IRA activities in Northern Ireland. Was this an offensive strategy, intended to bring down the new state, or was it a primarily defensive move to protect Northern Catholics from murderous attacks? It would be a natural assumption that, having fought the British Army to a standstill, a divided Northern state would pose no insuperable obstacle to what Collins saw as total victory. A close analysis by Collins's sympathetic and well-informed biographer, Tim Pat Coogan, shows that he principally sought the destruction of Northern Ireland and that on this issue he acted deceptively and certainly in bad faith in his contacts with the British and Northern governments, and even with his own cabinet. Indeed, the majority of his Provisional government colleagues wanted to concentrate resources on defeating the anti-Treaty IRA and postponing to another time the issue of Partition.<sup>55</sup>

On the surface, Collins appeared to desire reasonable working relations with the Northern Ireland government and, above all, to protect Northern Catholics. At a meeting with Sir William Craig on 21 January 1922, agreement was reached on five points.<sup>56</sup> This envisaged a further meeting to consider, *inter alia*, an alternative to the Council of Ireland as a means of conducting North–South relations. Other points were more specific, though not necessarily achievable. Craig agreed to seek the reinstatement of the several thousand Catholics who had been intimidated and driven from their jobs; Collins agreed to call off the boycott of Northern goods. The issue of republican prisoners held in Northern Ireland would be considered at a future meeting of the two men. It was also agreed that, instead of convening the Boundary Commission to fix the frontier between the two states, Collins and Craig would work this out themselves.

There was a mixture of guile, duplicity and pragmatism on both sides. The clauses on the Boundary Commission, a constitutional meeting and republican prisoners were vague and non-committal. The more specific undertakings were in the interest of both states: Collins wanted Catholics reinstated in their workplaces, and Northern manufacturers and traders wanted the Free State boycott lifted. Even here, of course, both Craig and Collins could resile, whilst insisting that they had done their best. But they could not control their followers.

The first Collins–Craig pact made little difference in the level of disturbances. If anything, attacks, home-burnings, murders and kidnappings appeared to increase over the weeks that followed. Craig and Collins were brought together again on 30 March 1922, and the following day the results of their meeting were published in the form of a second agreement – a fairly frank acknowledgement that earlier hopes had been thwarted, which opened with the promise that 'Peace is today declared.' The main issues of contention were again addressed, and both governments pledged to cooperate in restoring peace in affected areas. Steps were to be taken to help form a more religiously balanced police force in

Northern Ireland. A joint committee of Protestants and Catholics would be established to look into complaints of violence and intimidation, and people driven from their homes would be encouraged to return. Relief works would be funded by a £500,000 Westminster grant, with two-thirds of the created jobs going to Protestants and one-third to Catholics (reflecting their proportions in the general population). The IRA would cease its activities, and, subject to agreement between the parties, political prisoners would be released, provided their offences had been committed before the agreement was published.<sup>57</sup>

Behind the politeness and faux earnestness, North–South tensions had worsened. Collins and his close associates continued to support IRA activities in the North, including an attempt by members of the pro-Treaty forces to rescue from Londonderry Prison the three IRA men who had been condemned to death for an earlier escape attempt on 2 December 1921, in the course of which a constable and special constable on duty in the prison had been killed.<sup>58</sup> An armed party of IRA men from the 5th Northern Division, masquerading as footballers, were arrested in Dromore, Co. Tyrone, on 14 January 1922, on their way to rescue the condemned men.<sup>59</sup> This led to a further round of countermeasures. The Dromore prisoners claimed that they were, by the terms of the Truce, allowed to carry arms. Collins pressed Craig for their release. Craig advised Collins that the men should apply for bail and that he would instruct the Northern Ireland Attorney General not to oppose it. Bizarrely, although he had been in talks with Craig, presumably on the basis that he was Prime Minister of Northern Ireland, Collins and his associates would not agree to this application for bail, since it entailed a recognition of the Northern Ireland courts. Eoin O’Duffy, Chief of Staff of the National Army, agreed and instead proposed to Collins that 100 men prominent in the Orange Order should be kidnapped in Fermanagh and Tyrone and held as hostages in the Free State. These could then be traded for the republican prisoners in the North. In a memorandum to Collins outlining the scheme, O’Duffy said that the raids would proceed the following evening unless he had a countermand from Collins.<sup>60</sup>

The operation, for reasons that are now unclear, was delayed for a further week when forty-two people were kidnapped in night-time raids and taken into the Free State. These included ‘numerous leading citizens’ and twenty members of the Special Constabulary.<sup>61</sup> In a flurry of telegrams thereafter, Lloyd George warned Collins that ‘if anything approximating to this has happened’, the Treaty itself was imperilled.<sup>62</sup> Relying on the camouflage provided by the disorder of the brewing civil war, Collins pleaded ignorance. He claimed that because of the three men under sentence of death in Derry he had made ‘special efforts’ to prevent acts of violence. He would do everything he could for the safety of the captured men and to ensure they were returned to their homes.<sup>63</sup> Collins got away with this denial of complicity solely because anti-Treaty forces were more plausible culprits and because in the Free State he was actively engaged in outflanking and defeating them.

It may have suited Lloyd George and his colleagues to affect to believe Collins and his Provisional government colleagues: muddle was preferable to confrontation, as long as the general trend was towards peace and stability. But weekly reports from General Macreedy minced no words. Attacks in Northern Ireland by the IRA's 2nd Northern Division in counties Tyrone and Derry were so extensive and well coordinated that there could be no doubt but 'that they form part of a deliberate plan'. It was therefore difficult to believe 'that the whole affair was not known to the IRA leaders in Dublin, if not actually planned by them'. Macreedy noted that Commandant General McKeon (he apostrophised the rank), 'a leading assistant of Collins and Mulcahy', had made a speech in Mullingar on St Patrick's Day referring to a corps being raised for operations against the North and for which he requested recruits, being willing to lend the body himself.<sup>64</sup>

Macreedy did not think that a full-scale attack was being mounted against Northern Ireland. The objects of the IRA's operations, he judged, fell short of that and were threefold: to show that large portions of Northern territory were disaffected; to show that the Northern Ireland government could not maintain law and order; and, by operations in Northern Ireland, to relieve IRA forces on the border and in Belfast.<sup>65</sup>

The kidnappings intensified sectarian tensions and violence in Northern Ireland: Protestants felt that in the fog of war the threat had come to their own doorstep, accompanied by lies and dissimulation. Many had always believed that nationalists (read Catholics) were crafty, underhand, secretive and intent on revenge and destruction: here was proof. These tensions led to a stepping up of the forces on either side. As a precaution and warning, Winston Churchill, now Secretary of State for the Irish Office, halted the evacuation of British troops from the Free State and reinforced units in Fermanagh. A-Specials (full-time constables) were sent into the area, and, for the first time since the Truce, B-Specials (part-timers) were mobilised. Almost inevitably, this gathering of forces engendered its own malign momentum. Because Ireland had a unified train network, a party of eighteen Specials, en route to Enniskillen (in Northern Ireland) on Saturday, 11 February 1922, passed through a Free State salient and were attacked by a much larger group of uniformed IRA soldiers as they changed trains in Clones, Co. Monaghan. Five were killed, nine wounded, and five captured.<sup>66</sup> However it was regarded by nationalists, the Special Constabulary was a lawfully constituted crown force. The Clones ambush could not but appear to Protestants as an atrocity and a provocation. Anger boiled over, and the resultant sectarian rioting in Belfast produced thirty-one deaths, many more injured and wounded and considerable destruction of property.<sup>67</sup>

Craig had sought authority for hot-pursuit cross-border raids by his Specials. This had been vetoed by Churchill, who saw it as placing the future of the Provisional government in great danger.<sup>68</sup> He understandably and correctly feared a national and perhaps uncontrollable conflagration. Sections of the IRA would have welcomed such raiding by columns of Specials as a means of forcing

the hand of the Provisional government and reuniting republicanism. The British continued to focus on shoring up and stabilising the Provisional government, continuing its own evacuation and concentration of forces while countering the resurgence of militant republicanism in the South. Indeed, only two weeks after the kidnappings, Churchill supported Collins's request for an additional 1,000 rifles and some armoured cars.<sup>69</sup> With the other Treaty negotiators on the British side, Churchill believed in the ultimate integrity of the individuals with whom he was negotiating and in the personal commitment and obligation of all the signatories to see the Treaty implemented, in spirit as well as in the letter. He was convinced of Collins's good faith, or at least his caution. The British 'softly-softly' policy was a source of great frustration and anger for loyalists and unionists – and for their IRA counterparts. Without a fresh deployment of British troops, which London saw as a possible violation of the Truce, Belfast had to look to a major expansion in the Special Constabulary to protect its territory and outlying districts. Even there, the going was not straightforward since Churchill feared that a large and heavily armed Special Constabulary could tempt Craig into rescue missions and pre-emptive raids. Reinforcement and augmentation were, accordingly, limited to a level appropriate for 'defensive purposes'.<sup>70</sup> In a storm of rumour, alarm and panic, it was an almost impossibly difficult and skilful balancing act by a master politician. Craig, in the meantime, continued to increase his strength in men and *matériel* and to improve their organisation; he also took further legal powers to deal with republican activities.

In a move that was to be fateful in a way he could not have imagined, the newly elected Ulster Unionist Westminster MP for North Down, Field Marshall Sir Henry Wilson, was appointed to advise on security. Wilson was Ulster-born, recently retired as Chief of the Imperial General Staff, unquestionably one of the leading soldiers of his generation and a resolute unionist.<sup>71</sup> Major-General Arthur Solly-Flood was appointed commander of all Northern Ireland police forces on 20 April 1922, and a number of other senior army officers were also seconded for this service.<sup>72</sup> This was a formidable array of command talent and experience.

### **Policing**

In much the same manner as the Provisional government was straining to build its regular army to ensure the survival of the state, Craig and his colleagues maximised the number of their men under arms. As a subsidiary part of the UK, there could be no question of Northern Ireland having its own army. A police force could, however, be developed along the lines of a paramilitary gendarmerie rather than the 'civilians in uniform' model of policing in Great Britain. The soon-to-be-extinct RIC, moreover, was seen as an apt model of a paramilitary force, under strong central control, well armed and mobile, suitable for Irish conditions. Unlike the British constabulary, this force should be prepared to police without the consent of the population if necessary.

In September 1920, the British Cabinet agreed that there should be established a special constabulary for use in the six counties of what was to become Northern Ireland.<sup>73</sup> Detailed planning had been undertaken by that part of the Irish civil service which had been earmarked for relocation to Belfast in anticipation of Partition.<sup>74</sup> Details of the scheme were published on 22 October, and advertisements inviting applications were placed in Northern newspapers on 1 November.<sup>75</sup> Although the announcement referred to a special constabulary for the whole of Ireland, it stated that this would be established 'area by area as circumstances may require'. In those last months of 1920, it was far from clear what direction the Anglo-Irish War might take: uncertainty was the only certainty. Three classes of constable were envisaged. Class A would be full-timers enlisted to serve in the RIC, but only in the divisional area from which they were recruited. These would be paid £3 17s. 6d. per week and would be armed and equipped as the RIC. The second class, the B-Specials, were enrolled for occasional duty, weekly drill and duties in their local area. These received a nominal six-monthly payment of £5 'to cover wear and tear of clothes and boot-leather'.<sup>76</sup> For drills in excess of one per week they would also be paid 2s. 6d. They would usually be provided with the same arms and equipment as the RIC. B-Specials would have their own officers, who would come under the direction of the local police authority. The third class, C-Specials, were a reserve, to be used only in case of what would have been a national emergency. They received no payment and were drilled only occasionally.<sup>77</sup> The scheme was put into operation two counties at a time. Proclamations were issued in the individual counties, signed by the deputy lieutenant, using powers long in abeyance 'to raise a militia'.<sup>78</sup> Within months, many units of A-Specials had been formed and deployed. A shortage of arms and the inevitable delays in completing the training of part-timers delayed the deployment of the B-Specials until the late spring of 1921.

This was a considerable force, combining efficiency with location and reach with economy. The A-Specials were to have an establishment of 2,000. The B-Specials were a much larger group – 4,000 in Belfast alone – and a proportionate deployment throughout the province. The reserve C-Specials were to be 6,000 strong.<sup>79</sup> The first two classes could act as a cadre, allowing the enrolment of a much greater number at short notice, whilst the organisational structure and lines of communication and supply provided the necessary infrastructure for an extensive and, if necessary, rapid expansion.<sup>80</sup> In mid-December, the Specials were put under the charge of Charles Wickham, an experienced and versatile soldier who had served with distinction in the Boer War and the First World War and then in Siberia, where he had been promoted to Lieutenant Colonel. He had joined the RIC in November 1920 as Divisional Commissioner.<sup>81</sup>

The new paramilitary RUC had two roots. The first was the UVF. This acted as a stop-gap auxiliary from the late spring until mid-autumn 1921. During this period, the UVF retained its unofficial status, and its members were unpaid and, indeed, acting in defiance of the law.<sup>82</sup> This popular militia largely faded away in the autumn of 1920, as the official police forces took shape. Some safeguard

was provided against an influx of sectarian or other undesirable elements into the newly formed RUC by establishing a selection committee composed of magistrates. The UVF tried to circumvent this barrier. Its commanding officer, Lieutenant Colonel Wilfred Spender, envisaged a mass enrolment of his men, with the applications vetted and submitted via his organisation.<sup>83</sup> This was not permitted, but many UVF activists were nevertheless drawn into full- or part-time service with the new police body. The second root of the new police force was the RIC. As noted, by the middle of 1920 this had begun to buckle under the weight of the IRA attacks, threats and intimidation. Being an all-Ireland force, it comprised a high proportion of Roman Catholics. As ideas began to form about a new police force for Northern Ireland there arose several objections to a simple transfer of a section of the RIC to the new government: this was the approach outlined in the 1920 GOIA.<sup>84</sup> Unionists were uneasy or unhappy about the high proportion of Catholics that would have been involved in such a transfer. The efficiency of such a force, its willingness to confront the IRA and, ultimately, its loyalty to the Northern state all seemed to be in doubt. For their part, many Southern Catholics would not have sought or accepted transfer to a new force, operating in such fraught circumstances and requiring allegiance to a Protestant-dominated government and administration. The atmosphere of danger and intimidation in which they had latterly worked, an understandable reluctance to start again in a new organisation and the comparative generosity of pension and severance arrangements for those who wished altogether to discontinue their service were additional weights in the scales, all together blocking the apparently pragmatic RIC-to-RUC transformation.

With the GOIA likely to become law in the autumn of 1920, however, practical arrangements for policing had to be made. The widespread sectarian violence of the summer of 1920 was the background to the British government's acknowledgement that it did not have sufficient forces at its disposal to enforce order in Northern Ireland. The transition from the national mobilisation and vast army of the First World War to peacetime soldiering had been made, and any reversal would have been politically unacceptable.

The transitional demands upon British forces in the rest of Ireland, the need to keep a margin of military capability in reserve as well as the innumerable commitments of Empire made it almost inevitable that Ulster's loyalists should have to take a major hand in defending themselves: this was both their tradition and present desire.

The RIC continued in existence throughout 1921, though as a much-diminished and demoralised force, dwindling and fading away. Sectarian violence (in which some of the B-Specials played a part), a vigorous IRA campaign in the South and a great deal of political uncertainty led sections of the Northern Ireland government to wish to go beyond the Special Constabulary scheme and to have what amounted to Northern Ireland's own army. Field Marshall Sir Henry Wilson, military adviser to the new government, wanted to have both the RIC and the Specials disbanded and placed under military command. This body

would be joined by 20,000 UVF men who had been reactivated by Lieutenant Colonel Fred Crawford, a major figure in direct-force Ulster unionism, who had organised the 1912 gun-running. To arm this force, the Northern Ireland government had asked London to supply 26,200 rifles and 5,240,000 rounds of ammunition.<sup>85</sup> The British government refused, anxious as it was to come to terms with Sinn Féin and to prevent any possibility of a North–South confrontation. It may also have been mindful that it was Wilson’s alarming view that all of Ireland should be reconquered by Britain.<sup>86</sup>

Withdrawing from most of the area of the Free State and concentrating its men in special demobilisation centres, the RIC began a final, phased run-down in February 1922. There was a formal winding-up parade at the RIC’s Phoenix Park headquarters on 4 April, though the processing of men out of the force continued for another four months. Throughout this time, demobilised RIC men were locally harassed, attacked, threatened and frequently forced to leave the country. This rout, the indignities, humiliation and violence offered to faithful servants of the Crown, and the dilatory response and general pusillanimity of the British government added to unionist fears: loyalty was being put away as an embarrassment, it seemed.

Westminster, constitution and law had blocked the way to an Ulster army but allowed the reorganisation of the police to proceed. Following a Committee of Inquiry under the chairmanship of Lloyd Campbell, MP, Belfast decided that it would have a regular constabulary, to be a province-wide body, initially 3,000 strong. Of this, one-third would be Catholics, one-third Protestants from the RIC and one-third from the Special Constabulary. That portion of the RIC then serving in Northern Ireland would be disbanded, not later than 31 May 1922.<sup>87</sup> In late April, it was announced that the King’s permission had been obtained to call the new body the Royal Ulster Constabulary. The necessary legislation passed the Northern Ireland Parliament the following month, and the RUC came into existence on 1 June 1922.<sup>88</sup> Against a brief campaign of protest, Charles Wickham became its first head, with the old RIC title of Inspector-General.<sup>89</sup> He would remain in post until 1945.

The Campbell Committee, in setting out the shape of the new force, had identified a number of contentious issues. Some of these would remain unresolved, attracting criticism throughout the RUC’s existence. Serving such a fractured and religiously sensitive community, representativeness and therefore denominational composition were of critical importance. Campbell and his colleagues recommended a quota of one-third Roman Catholics. This was to be made up through suitable transfers from the RIC, with any shortfall filled by new recruits. Such an apportionment would never be achieved, the percentage of Catholics in the RUC being 21 per cent at its highest, averaging 17 per cent over the years and dropping steadily throughout the years to 7 per cent in 1995.<sup>90</sup>

A second, far-reaching recommendation addressed the organisational structure and oversight of the RUC. Although the counties of Northern Ireland had much the same machinery of governance as those in Britain, it was decided not to

follow the British tradition of a locally controlled constabulary. This was partly a consequence of taking the RIC, a national service on gendarme lines, as a foundation for the new body, and partly a means of excluding local religious and political influences. Had several local constabularies been established, Belfast and some of the larger towns, as well as the counties, would have qualified for their own forces. It is likely that at least some of these would have been controlled by police committees in which Roman Catholics predominated. One can see that this might have led to difficulties in the conditions of disorder prevailing at the time, but, in the longer term, local control might have had the benign consequence for the new state of encouraging Roman Catholic participation and a nationalist sense of inclusion (or at least less exclusion). The decision to shut out local interests meant that the dominant unionist influence would override all others: an immediately attractive course to those struggling with the difficulties of the time but an obvious and ultimately fatal canker.

It would have been extraordinarily difficult, though not impossible, to prevent the RUC being seen by the nationalist minority as a blunt instrument of unionist hegemony. As we have already noted, Sir Dawson Bates was convinced that Roman Catholics were intrinsically disloyal.<sup>91</sup> It was a matter of concern to him that any were in public employment in positions of sensitivity: what could be more important to the survival of the state than the wholehearted allegiance of its police? Despite the Campbell Committee's formula, therefore, determined efforts were made to restrict the Catholic proportion in the RUC.<sup>92</sup> Almost from the outset, the Ministry of Home Affairs and unionist politicians favoured making up the RUC numbers by taking men from the Specials (exclusively Protestant) rather than by transfers from the RIC.<sup>93</sup> By June 1924, the number of former Special Constabulary members was roughly in balance with the number of former RIC men: 1,391 to 1,353.<sup>94</sup> But the Specials, numerically dominant or not, had unquestionably established their distinctive presence within the new organisation. A bias towards Protestant recruitment is, of course, only part of the reason for the under-representation of Catholics.<sup>95</sup> At this distance, it is impossible to quantify, but Catholic reluctance to join the new force, for both individual and community reasons, was also an important factor. Given levels of unemployment and the number of former members of the armed services in the Catholic community, there cannot have been a shortage of suitable men. In May 1925, Sir James Craig told the Northern Ireland Parliament that only 500 Roman Catholics had come forward to fill the 1,000 places which had been kept open for them.<sup>96</sup>

There were attempts to draw Northern Catholics into the workings of the Police Committee, but for reasons not now entirely clear these floundered throughout the spring and early summer of 1922. In April, Craig wrote to Collins asking for his nominations and suggestions for membership of the Committee, to represent the Catholic and nationalist interest. Collins replied that he hoped to be able to offer 'the names of our representatives' within a day or two.<sup>97</sup> From the correspondence, it seems that while Craig and his colleagues were not

prepared to accept nominations directly from Sinn Féin, they were willing to accept a Collins nomination – presumably of a non-party and uncontroversial Catholic.<sup>98</sup>

It had been mooted in the Craig–Collins discussions that Catholics would form the police force for Catholic areas, at least on an interim basis. There was some concern about this in unionist circles and unhappiness that Craig was willing to countenance the immediate filling of the Catholic quota for the A-Specials. Spender told Craig that the Ministry would do what it could to achieve that, but that he assumed the instruction applied only to Belfast. It had been hoped that the Catholic quota could be met by transfers from the RIC (thereby, no doubt, assuaging concerns about background, loyalty and the like, as well as getting the services of trained constables). Spender noted that older members of the RIC were not volunteering in satisfactory numbers but that there were ‘a large number of Roman Catholic volunteers with little Police experience’.<sup>99</sup>

For a time, Bates seems to have been confident enough about securing sufficient Catholic participation to stabilise the new police force. Certainly, in late April he thought that he could establish a Catholic police committee without Collins’s cooperation.<sup>100</sup> A week or so later, however, it appeared that Bates had re-evaluated and that he had misgivings about going ahead as planned. Officials pressing for a decision on the commencement of training for the Catholic B-Specials found Bates unwilling to agree to the initial steps to summon the Catholic volunteers and to train them. Spender proposed that the Catholic B-Specials should follow the ordinary Special Constabulary course and that the County Commandant and City Commissioner should call the first meeting. Volunteers would then be told the objects of the force and patrol areas, and other arrangements could be made.<sup>101</sup> For some reason, this proposal did not go forward.

The final remnant of these tantalising exchanges and possibilities came on 7 June 1922, when Spender informed Craig that the (presumably first) meeting of the Roman Catholic Police Committee was to take place that afternoon and that ‘Father Laverty has asked for a safe conduct [for] Dr McNab for whom an order has gone out for arrest and imprisonment.’<sup>102</sup> Again, it is not recorded what happened to this request, but the Roman Catholic Police Committee failed to develop and certainly made no impact. This seems to have been an initiative that ran into the sand and was not recovered.<sup>103</sup>

In these early years, two approaches to Northern Ireland policing were possible. One was to navigate a course through sectarian tensions and sensibilities to a service which, although predominantly Protestant, would be demonstrably balanced and could lay claims to an impartial enforcement of the law. This may have been beyond the practical political abilities of Craig and his colleagues; it may have been beyond anyone’s. The other, easier and more immediately practical, course was to ride the wave of alarmed and militant loyalism and to benefit from its fierce commitment, even allowing such recruits to see themselves as members of a Protestant militia. It is easy in retrospect, and with modern standards of public service, to condemn the Northern Ireland government’s choices. They were certainly wrong, short-sighted and ultimately destructive, but

they were perhaps unavoidable in the circumstances then prevailing, with the political talent available and in an atmosphere heavy with suspicion on both sides and devoid of creative generosity.

The RIC had exercised a firm policy forbidding its members from participating in politics or from membership of secret societies such as the Hibernians or the Orange Order.<sup>104</sup> The intention was to prevent any compromise or apparent compromise of police loyalties. If, in the larger geographical area, less religiously tense and more mixed population of an all-Ireland jurisdiction, this restriction was thought essential, how much more necessary might it be in Northern Ireland, where the denominational ratios were so finely balanced and where feelings were so easily inflamed. But, again, the government's choice was propitiatory and immediate rather than looking to the long term. In June 1922, in the midst of yet more sectarian upheavals, Bates was asked whether members of the RUC could privately and in civilian clothes attend meetings of the Orange Order. On 18 July 1922, a standing order was issued by Major-General Arthur Solly-Flood, military adviser to the Northern Ireland government and in charge of establishing the new police force. Members of the RUC were allowed to be members of the Orange Order and to attend its meetings, but not in uniform or to the detriment of their duties.<sup>105</sup> The purpose of the Orange Order was to resist what was seen as Catholic social, political and religious hegemony and to do so by preserving the links with the Crown and upholding the Protestant Succession. It took an uncompromising line which insisted that civil and political liberties were incompatible with membership of the Roman Catholic Church.<sup>106</sup> By departing from the policy of the RIC, established and reiterated in statute, and by allowing membership of this and similar organisations, a significant statement was being made about the RUC's political and religious ethos and about its civic priorities.

### **Political limits**

A stronger line came to be taken about the involvement of RUC members or Specials in any kind of party-political activities. The danger here was that of more extreme loyalists outflanking the government and using police services as a personal credential and police connections as an organisational framework. These possibilities were forcefully brought home to the Northern Ireland government in 1923 and 1924 through the activities of District Inspector John William Nixon, an able and energetic member of the RIC, who had transferred to the RUC.<sup>107</sup> Nixon became the Worshipful Master of the Sir Robert Peel Memorial Loyal Orange Lodge, which, taking advantage of the special dispensation to join societies, had been established for an exclusively RUC membership. He had strong connections with leading unionists, and the first annual general meeting of the Sir Robert Peel Memorial Loyal Orange Lodge was addressed by Sir Dawson Bates.<sup>108</sup>

In January 1924, Nixon addressed the Lodge, making a number of political points of some sensitivity.<sup>109</sup> These remarks were reported to the government,

which was concerned about this overt and challenging connection between policing and politics. It cast an unwelcome light on the connection between the RUC and Orangeism and seemed to indicate that Nixon had political ambitions that could perhaps threaten the unionist leadership. The speech was particularly provocative to government because, following similar remarks at the Lodge on 3 January, there had been an oblique rebuke. This took the form of a general statement of policy, issued on 17 January 1924, by Charles Wickham, Inspector-General of the RUC. Unlike the RIC, the circular pointed out, members of the RUC were allowed to be members of certain secret societies and to vote at parliamentary elections. In order to retain public confidence in the impartiality of the RUC, its members 'should not... take part by speaking or entering into discussions where political or sectarian opinions are expressed'. During election campaigns and at certain other times the Inspector-General could give permission 'to attend, strictly individual and in their private capacity' meetings in their district. Attendance was solely for the purpose of hearing candidates' views and in no circumstances should uniform be worn when attending.<sup>110</sup>

Timing and form showed that Nixon was the sole and unmistakable target of the circular, and he immediately accepted the challenge. Less than a fortnight later, he spoke again on a number of political topics at a lodge meeting.<sup>111</sup> By his contrivance, newspaper reporters were present, together with MPs and a member of the government. This was an open and calculated act of defiance. Disciplinary proceedings were initiated, went uncertainly forward and culminated in an interview with Wickham at which Nixon was obliged to answer 'yes' or 'no' to a list of questions. On 28 February 1924, not much longer than a month after the offending speech, he was dismissed from the RUC, on full pension. (He had by then served twenty-five years as a police officer but was well short of pensionable age.) Nixon's previous good connections with senior unionists were of little avail. Craig and his colleagues rejected all pleas from their own benches. For several months, Nixon's case was raised in Parliament, as opportunity permitted. The government would not countenance reinstatement – and indeed would have lost its Inspector-General and a deal more besides had it been tempted to do so. The pugnacious ex-policeman entered politics, obtaining office as an Independent Unionist, first as a Belfast councillor and after some years as a member of the Northern Ireland Parliament. He would be a vociferous presence in Ulster politics for many years to come. During the period of Nationalist boycott of the legislature he had the distinction of being the sole opposition.

The visceral connection between policing and Northern Ireland politics, the dangers for both parties and the range of sensitivities involved were demonstrated in quite a different way in a parallel case a year later. Sir Basil Brooke, a Fermanagh unionist and landowner who would succeed Sir James Craig as Prime Minister of Northern Ireland, and one of the pioneers of the Protestant protective militia that evolved into the Ulster Specials, raised his banner of militant unionism. He was convinced that the B-Specials had been vital to Ulster's survival, and he himself exemplified the connection between policing and unionist politics.<sup>112</sup> He had

been highly decorated for service in the Great War and was County Commandant of the Fermanagh Specials. On 28 March 1925, the *Northern Whig* reported a speech that he had delivered from the chair at a Unionist meeting at Brookeborough. An election was imminent, and Brooke had taken a tilt at faint-hearted and faltering Unionists and at the Nationalists. He also referred to allegations that the electoral register had been ‘stuffed with Specials’ and observed that Fermanagh had ‘given as many men to the Special Constabulary as any other two counties in Ulster, and those others were only taking their places’.<sup>113</sup>

Officials of the Ministry of Home Affairs expressed concern at the speech. In the light of what had transpired the year before in Nixon’s case, action was unavoidable. Brooke was written to, and on 16 April 1925 he replied, expressing regrets but explaining that he had not known that the Inspector-General’s order ‘applied to leading Officers of the Special Constabulary’. He pointed out that when the Special Constabulary was formed, people with county interests were asked to help raise the force ‘more as a patriotic duty than for any other duty’. He himself paid considerable taxes and rates on his property and, in consequence, had a deep interest in local and general politics. If, however, it was the government’s wish that he should not take part in political meetings, he was prepared to abide by those orders.<sup>114</sup> Brooke remained in office as County Commandant until May 1929, when he discontinued his service in the Specials.<sup>115</sup> Nixon might have reflected that wealth had its privileges, or, alternatively, that a little more tact when he had been called to account might have left him in his place in the RUC. More likely, politics had always been his intent, all the more easily followed on a full police pension.

These strictures on open political involvement apart, the RUC ethos had been established and accepted. Hopes of a representative police service had been rejected or at least scaled down. The mechanism was similar to that of the other branches of the Northern Ireland public service. Unease, suspicion, bigotry, discrimination, rewarding one’s own and rejection of Catholics on the one hand; reciprocal bigotry, nationalist antipathy to crown service, rejection of Partition, revanchism and an unwillingness to become involved on the other. Once established, these perceptions fuelled a self-sustaining chain reaction. They were underpinned by republican intimidation of Catholics who entered the service of the state – extending in some cases to violence and murder. Such extreme reactions apart, Catholic and nationalist disapproval was in itself uncomfortable for those in public service who lived within their confessional communities. The life of a Catholic in police or prison service cannot have been easy, with rejection by most of their co-religionists, and with wariness and perhaps even suspicion from some Protestant colleagues.<sup>116</sup>

### **Police atrocities**

With fateful rapidity the sectarian perception of policing in Northern Ireland was dipped in the fixative of police-related atrocities. On Thursday, 23 March

1922, two Specials on patrol in the centre of Belfast were killed by the IRA. There was a swift reprisal. In the small hours of the following night, five gunmen forced their way into the home of Owen McMahon, a Catholic publican. All seven men in the family, together with a male lodger, were collected together in one room and shot. Five died, and two more were wounded (one later dying in hospital). The youngest son (aged eleven) was unhurt. The rumour circulated that the assassins, who had worn raincoats to conceal their inner clothing, were policemen in uniform.<sup>117</sup> Over the years that followed, the name of District Inspector John Nixon was associated with this dreadful event.<sup>118</sup> No substantial connection has ever been made, however, and Nixon may have been linked to the atrocity because he already had a degree of notoriety. No one was or ever would be arrested for the McMahon murders. This was a test of the impartiality and determination of those responsible for leading the police (and the government), and they failed.<sup>119</sup>

Within days, there was a further Belfast outrage, and, once more, Craig's government failed to react. Brown Street barracks covered the Shankill Road area, a bastion of militant loyalism. On Saturday, 1 April 1922, George Turner, an RIC man from the barracks, was shot dead whilst on foot patrol on the Old Lodge Road.<sup>120</sup> In reprisal, it was alleged that a group of Brown Street Specials went on a violent rampage. Three Catholic men were killed, all in their homes; one was battered to death with a sledgehammer. This man's seven-year-old son was shot in the head and died the following day. No arrests were made, though it is inconceivable that the identities of the perpetrators were unknown. Several requests from the Provisional government for information went unanswered. It seemed as though a degree of sectarian counter-terror would be countenanced by the Northern Ireland government. Some in the Roman Catholic community may have feared that they were being held hostage against the deeds of the IRA. Such, perhaps, was the fear that the attacks were intended to kindle.

Three months later, this fear was appallingly confirmed by an incident, known as the 'Cushendall Massacre'. Hot on news of Wilson's assassination in London on 23 June 1922, a combined party of ten Specials and a number of soldiers travelled in four or five lorries from Ballymena, Co. Antrim (a Protestant town) to Cushendall, Co. Antrim (a Catholic town). By the time they left Cushendall, three Catholic men (John Gore, aged twenty-two; John Hill, twenty-six; and James McAllister, eighteen) had been killed and two others wounded.<sup>121</sup> On this occasion, the killings and shootings had been witnessed by credible persons of standing who gave detailed accounts of the event. Instead of an immediate promise of an independent investigation, however, the Northern Ireland government put out a wholly fictitious account of an IRA ambush in the course of which the Specials returned fire and killed four of the ambushers in the course of a 'desperate fight'.<sup>122</sup> There was also a clumsy attempt to distract attention from Cushendall with an atrocity story from the South. The *Northern Whig* ran a story of a sectarian raid on an unnamed Protestant home in Co. Tipperary on 22 June, in the course of which several men raped the woman of the house.<sup>123</sup>

From Westminster, this delayed publication and juxtapositioning of the two reports in the *Whig* looked like a crude manoeuvre. Lionel Curtis, Secretary to the Provisional Government of Ireland Committee, wrote, at Churchill's behest, to Sir James Masterton-Smith, Permanent Under-Secretary at the Colonial Office. Sinn Féin could be countered not by counter-propaganda but by investigations. Churchill had received a letter from the nationalist leader Joseph Devlin, enclosing an eye-witness account of the affair from Mrs Nancy Letts, widow of a distinguished professor of chemistry at Queen's University, Belfast.<sup>124</sup> The upshot was that a month later Devlin and Craig met in Churchill's room at the Colonial Office. It was agreed that Devlin would ask a parliamentary question and that, as crown forces had been involved, the British government would take charge of the inquiry: this would give authority and credibility that a Northern Ireland investigation could not hope to have.<sup>125</sup> Churchill told the Commons that Sir James Craig, 'while not desiring himself to initiate the inquiry, has intimated his willingness to give all possible facilities'.<sup>126</sup>

Initially it was proposed that the inquiry should be conducted by General Sir Archibald Rice Cameron, GOC Northern Ireland, but, on reflection, Churchill instead asked for a civilian. Frederick Temple Barrington-Ward, KC, Recorder of Hythe, agreed to take charge.<sup>127</sup> This was strongly resisted by General Macready. It was without precedent, he protested, for a civilian to conduct an inquiry into a military matter, and, without legislation, Barrington-Ward would have no authority to do so. Macready also objected to the proposed power to compel witnesses to attend, to administer the oath and to cross-examination by those bringing the complaints – in short, to an independent inquiry with teeth.<sup>128</sup> Mark Sturgis, now at the Colonial Office (having been Sir John Anderson's assistant at Dublin Castle during the preparation for the British handover), assured General Macready that such an inquiry was not envisaged. Barrington-Ward had not been given powers to compel the attendance of witnesses or to administer the oath. Churchill was insistent that all witnesses should be voluntary and that the questions be put by Barrington-Ward alone. Macready would have been further reassured by Barrington-Ward's decision to conduct the inquiry in private.<sup>129</sup> These decisions, while ensuring military cooperation, almost certainly diminished Catholic confidence in the investigation.

The verbatim record of the inquiry (which was closed for more than half a century) was indicative of the bitter state of feeling then existing in Northern Ireland, the insecurity and the general background of violence. There was some suggestion – certainly plausible – that the B-Specials' raid had been retaliation for the shooting of Sir Henry Wilson three days before the massacre. One of the Cushendall victims pleaded that he was an ex-serviceman. He was told that it did not matter: the man who shot Wilson was also an ex-serviceman.<sup>130</sup> Another factor was recent IRA activities in the Glens of Antrim (a Catholic area). The presumed assumption was that the local population had been acquiescent or complicit.<sup>131</sup> This conjecture was tendered in support of the claim that the joint patrol had been fired on as it entered Cushendall. This was certainly

contested by local people, but visitors supposedly confirmed that the police had been fired on.

The counterclaims were a mere smokescreen, blown away when Barrington-Ward concluded that no one except the B-Specials and the military had fired and that there was no indication of provocation by the people of Cushendall. He also found that two men were wounded by the Specials and that James McAllister, John Gore and John Hill had been murdered by one of the ten Specials. He was not able to identify the killer. The military was exonerated. The sequence of events he recounted started with the despatch of an army patrol to Cushendall to investigate a reported IRA concentration in the Glens of Antrim. The patrol had called at various police stations on its way to Cushendall, and, at Ballymena, a party of ten B-Specials had asked to join them. This had been agreed, although the request from a locally based unit to leave their district should have tripped a warning. En route, the party encountered what it took to be an IRA grouping, but Barrington-Ward concluded that this was an innocent gathering.

Barrington-Ward's investigation substantiated Devlin's Commons' allegations. A cover-up immediately followed. On 16 September 1922, Craig wrote to Curtis at the Colonial Office asking that publication of the report be stayed until he had a chance to consult both Barrington-Ward and Churchill. By Churchill's direction, the report was printed and circulated to the Cabinet, marked 'Very Secret'. Some modification had been made at Craig's request, but the essence of the report was unaltered and was damning. It was agreed that publication would be held back lest prejudice bar the way to a fair trial. Sir John Anderson, the Permanent Under-Secretary at the Home Office, however, took the view that all ten Specials could be prosecuted for murder.<sup>132</sup>

But responsibility for law and order in Northern Ireland had been handed over to Belfast. Churchill had initially supposed that a court martial would be the best way to proceed, but the B-Specials were deemed not to be under army jurisdiction (though they could have been so brought, if wished, by proceeding under the ROIA). Since imperial jurisdiction had been declined, the case had to proceed as an exclusively local matter: London would have no say. The Northern Ireland Deputy Inspector-General of the RIC and the Chief Crown Solicitor disputed Barrington-Ward's findings and, bizarrely, concluded that there was no *prima facie* evidence on which to go to trial. Richard Best, the Northern Ireland Attorney General agreed, as did Bates.<sup>133</sup> These senior officials did not seem unduly perturbed that the report was not to be published, that there were to be no prosecutions, and yet three British subjects were dead and two wounded, and the gravest allegations against crown forces remained untested.

The afflicted persons (survivors of the murdered men and the two who had been wounded and maimed) submitted their claims for compensation against Antrim County Council. A year later, these were dismissed in proceedings at Ballymena Court. Assistant County Court Judge Bates, KC, contradicted Barrington-Ward's findings to conclude that the police had been fired on. But even if they had not, he did not think that the crimes allegedly committed by the

Specials met the test of ‘unlawful assembly’ which was necessary for the applicants’ claim to succeed. Crimes had indeed been committed, but without a finding that there had been an unlawful assembly the County was not liable.<sup>134</sup> This effectively ended matters as far as procedural remedy went. On 10 April 1923, the new Cabinet’s Irish Affairs Committee (Churchill was not a member of Bonar Law’s short-lived administration) agreed that Barrington-Ward’s report should not be published, since British troops had been exonerated.<sup>135</sup> In the autumn of 1923, the appeal against the County Court’s refusal of compensation was heard before Northern Ireland’s Lord Chief Justice, Sir Denis Henry, and was dismissed.<sup>136</sup>

At the time of the Cushendall murders, the Irish Civil War was in its initial stages. Before and during those hostilities, waves of lawlessness, some politically motivated, others simply criminal, had battered all parts of the island. Assault, wounding, robbery, rape, arson and murder in all their ghastly forms had proliferated and were aggravated and made terrible by a general sense of state impotence. Civilians were kidnapped, homes invaded and property stolen and destroyed, and, in the climate of frightfulness, comment, if any, was muted. Protestants suffered massacres as terrible as that at Cushendall. On 17 June 1922, less than a week before the Cushendall events, six Protestant civilians were murdered in or near the townland of Altnaveigh, close to Newry, Co. Down. The perpetrators were members of the IRA’s 4th Northern Division, and this, as far as can be seen, was an official action. The victims were of both sexes, from nineteen to pensionable age. All that the killings and destruction (a dozen or more homes were burnt or bombed) had in common was that the victims were Presbyterians.

The Cushendall massacre could be lost in the pattern of atrocity and counter-atrocity of the times. But it was this very fact that give it distinction. The forces of law and order must be precisely that, or they lose their essence and purpose. Acting atrociously under colour and cover of law, they are more reprehensible than those who deny and wish to bring down the law by means of atrocity and outrage. Cushendall was a test, and, assuming he would not be compelled to act by the moral imperative alone, the wise politician and his party would have seen it as an opportunity to demonstrate tenacious fidelity to the law and to the high purposes of state. Perhaps in the fog of war, in the insecurity of a new administration, in the anger of followers, and in the destructive atmosphere of sectarianism, no other option was open to Craig but to close the door and move away. But it was another fateful decision.

### **Fear of the Free State**

The cross-border attacks of 1922 (sniping, arson, bombings, skirmishing and kidnappings) naturally reinforced unionists in their perception that the Free State harboured malevolent intent and remained unreconciled to the existence of Northern Ireland. Details are now murky, but it seems that it was not only the

IRA that engaged in these actions. Claims were made that the National Army also engaged in cross-border attacks. Given the newness of the Army, the rushed training of recruits, the lack of indoctrination, deepening divisions within republicanism and nationalism and the turbulence of the times, it seems entirely possible that there were instances of army sniping.<sup>137</sup> This was a fresh memory, both in fact and in perception, in the spring of 1924, when the Free State's activation of its Boundary Commission option raked over the coals of Northern insecurity. An additional and potentially destabilising factor was Craig's illness. Probably caused by stress and exhaustion, this was sufficiently serious for him to take a month's leave, cut off from work. London and Dublin, as well as Craig's colleagues, realised his vital importance in keeping the whole of the complex relationship on an even keel.<sup>138</sup>

The Free State's decision to release de Valera from prison on 16 July 1924 further stirred Northern anxieties. At this point, he was the leader of a group of forty-four Sinn Féin members of the Dáil, all of whom regarded the Free State as an illegitimate entity and the Northern Ireland government as an out-and-out enemy. Now at liberty, de Valera would be able to use his considerable political talents, network of adherents and substantial public support to rally republican sentiment. An electoral shift could see the pro-Treaty parties reduced to a minority and de Valera granted a popular mandate to take the country along a republican and revolutionary road, with all the martial and material resources of the state at his disposal. This was the nightmare view from Belfast, and it would precipitate a secret clash with the British government.

On 11 August 1924, the Northern Ireland government expressed its concerns about 'the recent significant political developments in the Free State'. It requested the Imperial government to provide a 'clear statement' of preparations to be taken in the event that a republic were established in the Free State, taking a hostile attitude to Northern Ireland. In particular, Belfast worried about the small numbers and limited detachments of British troops stationed in the province. It recognised that any reinforcement might be misinterpreted by the Free State, but, should the situation develop unfavourably, it might become necessary to mobilise the Special Constabulary. The threat might be such that even this would be an insufficient deterrent: 'The Northern Government are aware that the Free State is equipped with artillery and that it has recently increased its Air Force, and they think it right to point out that there is no warlike material in Northern Ireland competent to meet and cope with these instruments of war.' Any incursions similar to those of 1922 would make it difficult for the Northern authorities to maintain law and order.<sup>139</sup>

The War Office was asked for comment. A week later it replied, setting out two scenarios: (1) a republic is set up in the Free State; and (2) the Free State government continues to exist, but hostile incursions on an extensive scale are made 'by troops purported to be from the Irish Republican Army'. Responsibility for dealing with external aggression rested with the Imperial government. Instructions had been issued in December 1922 to deal with possible Southern

aggression, and General Cameron had drawn up a defence plan. Certain military facts had to be taken into account. Cameron had at his disposal five battalions and one armoured-car company. One battalion would probably be tied down in Londonderry. The remaining force was too small to watch more than a small fraction of the 200-mile frontier. Although desirable for military reasons, it would be politically unwise to reinforce the Northern Ireland garrison before incursions actually occurred. Troops had to be kept concentrated in order to retain their mobility and to deal with any threatened point. The consequence of these requirements was that there could be no thought of troops relieving the RUC and Specials of their frontier duties until considerable reinforcements had arrived: even then the police would still have to be deployed on the frontier.<sup>140</sup>

In the light of these operational considerations, there should be consultation between the GOC Northern Ireland and the Inspector-General of the RUC. These discussions would deal with the conditions under which the police would come under military control, arrangements to attach staff and army-liaison officers to the police and the division of operational duties between the army and the police. Appropriate military reinforcements were being identified (but not sent). These would, in the first instance, include units of artillery and engineers, and, should the South use its air force, an anti-aircraft unit as well as a unit of aircraft. Following this, an infantry brigade would be sent, together with further units of artillery and engineers. All of this was to deal with the large-scale incursions by regular military units of the Free State. The Army assumed that minor raids by republicans, sniping and kidnappings would, in the first instance, be dealt with by the RUC and Specials on their side of the border and by the Free State Army on the other. Military units might be moved in support of the police, but such situations, as long as the police could deal with them, would not be defined as 'external aggression'.<sup>141</sup>

Within a few weeks of this memorandum, Ramsay MacDonald's government lost a vote of confidence. Stanley Baldwin's second administration did not take office until November 1924, and thus it was almost five months before Belfast received a reply to its letter. The Home Office tackled the obvious point first: the Northern Ireland government was speculating rather than proceeding on the basis of any reliable intelligence: 'Sir William Joynson-Hicks has no reason to think there is any probability of the situation contemplated in this letter arising in the near future.' It was desirable, however, that the two governments should understand their respective functions and duties. Defence was a matter reserved to the British government under s.4 of the GOIA, 1920. Cooperation between the Army, police and Special Constabulary would be necessary for defence, and the relevant planning should be undertaken. Minor raids across the border were matters for the Northern Ireland government. To avoid any confusion as to what was a minor raid and something greater, there should be army-police consultations.<sup>142</sup>

These discussions were speedily arranged and were attended by the various police and army officers directly concerned, as well as Sir James Craig, Sir

Dawson Bates and General Sir Archibald Rice Cameron, who submitted a memorandum on army–police cooperation. It was agreed that the Specials should be assigned to border-watching duties and the troops deployed as mobile reserves. There was some backtracking by the Northern Ireland side, which agreed that, unless a hostile republican government were set up in the South, border incursions were likely to be on a scale within police capabilities. In certain mountainous areas, however, the best way to deal with incursions might be to deploy joint police–army flying columns. There was nothing objectionable so far, but the memorandum went on to propose a policy of cross-border hot pursuit. Craig had broached this with Churchill three years previously, and it had immediately and emphatically been rejected: ‘it would be advantageous if such columns could follow any raiding party, *if necessary beyond the frontier*’. This clause was slipped in, and the letter ended on an emollient note.<sup>143</sup>

There was not the slightest chance that such an alarming proposal would pass unnoticed in Whitehall. Anderson immediately marked the offending words and wrote to the War Office, asking for their account of the army–police conference; particular reference was made to the hot-pursuit proposal. It was important to make clear to the Northern Ireland government, Anderson wrote, that ‘His Majesty’s Government are not prepared to give any countenance to the possibility of police or Specials crossing the border.’ Should circumstances ever arise when armed forces might have to cross the border, the whole situation would have to be reviewed by the government and instructions would be issued to the GOC. But unless and until then, ‘it is most important to prevent any violation of the border’. The Home Secretary requested the observations of the Army Council on the army–police conference.<sup>144</sup>

The Army Council agreed with the Home Office; had they not, the issue would have gone to Cabinet. On 18 March 1925, Anderson wrote to S. G. Tallents (Imperial Secretary in Belfast) for the information of the Northern Ireland government. Hot pursuit was emphatically forbidden: ‘Any attempt by the Police Forces of Northern Ireland to take action outside the jurisdiction of the Northern Government would, of course, be illegal and would be open to the greatest possible objection.’ If there was any reason to think that this was not clearly understood, the government of Northern Ireland was asked to ensure that all police and Special Constabulary officers were instructed that their forces should not cross the frontier.<sup>145</sup>

This was, altogether, a curious episode. To raise the threat of invasion from the South in 1925 when there was no evidence whatsoever such a possibility was likely, when security within Northern Ireland was at a high level and constantly improving and when Anglo-Irish relations and mutual trust were in a similar good state, was odd indeed. De Valera had an undoubted following, but there was no concrete sign that he would advance to office in the near future, or that if he did he would launch an invasion. Nor, given the importance of the issue for Northern Ireland, were de Valera’s military ambitions (as distinct from his political utterances) probed. Imperial government had an unequivocal responsibility to defend Northern Ireland, and, in the whole of British party politics, there was no

sign that this guarantee would not be honoured. Equally, no mature politician (and Craig was that) could imagine that, holding such a grave responsibility, any government would be prepared to grant to another a power such as cross-border hot pursuit, to be decided locally and on the hoof. Whether the Northern Ireland Cabinet had frightened themselves with the spectre of de Valera or whether Craig was playing another game is hard to say. Were his references to the artillery and air-force capabilities of the Free State an oblique bid for some version of the still-desired Northern Ireland Army? Perhaps all that Craig wanted was a reiteration of the British government's guarantee of the territorial integrity of his state. That was what he got, together with an absolute ban on any kind of police or military adventurism. Within his state Craig possessed a great degree of autonomy and discretion – but these stopped at the border.

### **Special powers**

Civil war in the South, cross-border raids, IRA activity in Belfast and elsewhere, a disaffected Roman Catholic minority and volcanic eruptions of sectarian violence were the background to the taking of emergency powers. The deeper background was a struggle of more than four decades to avoid submergence in a Catholic-dominated state. Beyond that there were religious, social and cultural divides maintained by both sides with undying zeal. An ineradicable sense of siege, of precariousness and of unseen forces of subversion was the patrimony of Northern Ireland. Every state has a right to defend itself, a duty to secure the lives and prosperity of its citizens and, certainly in any entity that claims to be a democracy, a continuing obligation to allow them to go peacefully about their business. In times of exceptional danger, a temporary extension of power and authority into spheres from which the state is normally excluded may reluctantly be agreed. The judgement that democracies make is how far these powers should go and for how long they should be kept. Facing its own challenges, Britain had provided itself with the far-reaching Defence of the Realm Act (DORA) and its offspring, the Restoration of Order in Ireland Act (ROIA).<sup>146</sup> The Free State also had no hesitation in bringing in a number of Emergency Powers Acts.<sup>147</sup>

No matter how great the emergency, the prudent legislator will proceed without enthusiasm and with caution. The taking of exceptional powers must be justified by special and pressing circumstances, and these must be real and verifiable, not imaginings and rhetorical possibilities. The matching of means to ends must be set out comprehensively and meticulously, not only as a whole but also in relation to each component and provision: there should be no gratuitous loading of onerous restrictions on the citizen, or back-door concessions to bureaucratic convenience, or ambition, or the *lèse-majesté* anxieties of politicians and functionaries. One must be aware of the peril of unintended consequences. This is a balancing act of short- against long-term risks. Such special legislation must have no greater lifespan than is necessary. If the likely end of the period of

emergency cannot be predicted or discerned, there should be a sunset clause to guarantee that the measure will, within a fixed period, be brought before the legislature, once more to be fully reviewed and justified.<sup>148</sup> In the operation of the measures, powers of oversight and restraint must be provided, both by the legislature itself and by the higher courts. Recognising the essential yet easily displaced and damaged balances between legislature, executive and judiciary, and between the state and the individual, constitutional doctrine should always be thoroughly investigated so that it may be respected. Reluctance, unease and a constant self-questioning – all that is the opposite to haste and enthusiasm – should govern the use of such measures. Emergency powers are justifiable only if they are vital to protect democracy and the rule of law; they are, like some cancer treatments, toxic and damaging and, if prolonged, are invariably destructive. On all these grounds of approach, motive and structure, the Civil Authorities (Special Powers) Act (Northern Ireland), 1922, trespassed on or violated basic principles of constitutional law and wise governance.<sup>149</sup>

In the discretion it conveyed to the executive, the Special Powers Act went to the very limits of democratic legislation and justiciability. By exempting the working of the Act from several key restraints by the judiciary, habeas corpus, juries, justices of the peace and coroners, an almost perfect instrument of dictatorship was implanted within a democratic framework. Even its sunset clause was eventually removed. It is true and of critical importance that the Northern Ireland legislature was subordinate to that of the UK. *In extremis*, this would have been a backstop, but Westminster had entered into a self-denying (and self-indulgent) ordinance that allowed Belfast a wide latitude in matters of law and order. Notions of civil rights as a distinct concern and body of jurisprudence had yet to develop: this was not the common-law method or style. It is also important to acknowledge that Sir James Craig and his colleagues were not the material from which dictatorship can be fashioned: they subscribed to the basic values of the British Empire: respect for law, restraint in government and Christian ethics in public affairs. The awful circumstances of Northern Ireland's birth combined with a narrow political and essentially sectarian outlook would nevertheless blind them to the deeply un-British nature of the Special Powers Act, as would their sweeping definition of 'disloyalty'.<sup>150</sup> Their ultimate safeguard was that of the modified oligarchy of the older democracies: put good and sound men at the top and they will always do the decent thing and never abuse their powers.

A line-by-line analysis of the Act and subsequent amending and extending measures is not possible here, but we may briefly examine its principal features. The keystone was the delegation to the executive of virtually unlimited law-and-order powers. It granted equally extensive powers of secondary legislation by giving the Minister for Home Affairs authority to make, revoke and vary regulations (seemingly of any kind) under the Act.<sup>151</sup> On his part, the Minister could delegate many of his powers, conditionally or unconditionally, to any police officer. Unlike delegated legislation in Britain, where regulations or subsidiary laws are laid before Parliament for a period and are at least in theory submitted to a

positive or negative challenge, regulations under the Special Powers Act could be revoked only by a parliamentary petition to the lieutenant-governor (the senior functionary of the ornamental part of the Constitution), who would, of course, act on his government's advice. The same party held office in Northern Ireland for more than half a century, from the foundation of the state until the 1972 suspension of its parliament. The opposition in those years was inadequate and frequently unengaged and could never hope to overturn the ruling party's legislative majority. The accountability or otherwise of the government to the legislature in the matter of special powers, or any other instrument, might therefore be thought to be of no great import. But the need periodically and publicly to justify amended regulations and actions under such powers would, even in a state dominated by one party, would have been some restraint. From the debates on the Bill, moreover, we know that there was within unionism (itself a coalition on non-Union issues) some unease about certain powers: liberal unionism was not entirely dead, and the entry of the Nationalist Party into the Northern legislature in 1925 would (if only marginally) have augmented its vigilance.<sup>152</sup> The unwritten British constitution is frequently criticised for failing to make a sufficiently clear distinction between the executive and the legislature.<sup>153</sup> This has at certain points appeared to be a weakness: if so, measures such as the Special Powers Act have the undoubted capacity to turn a flaw into a crack and that into a fissure in the political fabric.

Besides its un-British character, the Act was far from 'Special'. Catastrophic and extraordinary times demand fitting remedies. As noted, once the emergency has passed, the normal, expected and comfortable ought to be restored: that, after all, is the object and justification for emergency legislation: to preserve and restore and then, as part of that desired return to normality, for the distasteful remedy to expire or be repealed and to vanish from the scene. When first introduced, the Special Powers Act had an expected life of one year; thereafter, it had to be renewed by the Northern Ireland Parliament. These annual renewals continued until 1928. Then, with peace, law and order so well established that white gloves (signifying no criminal business) were presented to judges in a number of districts, the Special Powers Act was, remarkably, extended for five years.<sup>154</sup> With that unjustified extension about to end, an amending Act was brought in that made the 1922 Act permanent.<sup>155</sup> In his 1927 memorandum to the Northern Ireland Cabinet, Bates pointed out that the Act had been little used. During 1927 there had only been one conviction, and that for an offence committed in 1926. He said, however, that this tranquil state of affairs was probably due 'to the moral effect of the Act and Regulations being in force'.<sup>156</sup> In this he may have been partly correct, as we shall see, but it was not the 'moral effect' of the Act that gave it such potency.

Far more to the point, the annual renewals gave an opportunity for questioning the need for such a measure and for challenging its provisions in Parliament or elsewhere. Some of the powers, Bates admitted, were 'very drastic as part of the enactment'. As we have seen, the Northern Parliament had handed to the

executive far-reaching powers and, in respect to the Act and its workings, reduced itself to a cipher. Bates was not satisfied with this, however. Annual renewal afforded an opportunity for 'hostile, ill-informed criticism of its provisions; such criticism being especially bitter when it has been found necessary to utilise any of the powers of the Act'.<sup>157</sup> There would be considerable opposition to making the measure permanent: 'it would be represented as an attempt to override the Habeas Corpus Act and a serious infringement of the rights and liberties of the people'. But this objection notwithstanding, permanence was better: Anthony Babbington, the Attorney General, agreed with him. They had been influenced in reaching this conclusion by the fact that 'certain disloyal elements' were continuing their activities 'though in a somewhat suppressed form'.<sup>158</sup> It is a telling comment on the quality of cabinet government in Northern Ireland that no one resisted Bates's logic: there was little or no subversive activity that necessitated action under the Act, yet somehow or other grounds for making it permanent were conjured up. Some doubts may have been raised since it was decided to take a more gradual approach. For whatever reason, Bates went for a five-year extension rather than attempting at this time to force the more drastic course. Perhaps this was a testing of the water; with little opposition from Britain and the Free State, or from Ulster's Catholics, permanence could be the next step. This happened in 1933 when a further Special Powers Act was brought in.<sup>159</sup> The renewal clause of the 1922 Act (s.12) was simply amended, making the Act permanent.<sup>160</sup>

The catch-all nature of the measure is to be found not only in its wide-ranging provisions and in the power to issue regulations on virtually any aspect of daily life but in an 'in-case-I've-forgotten-something' clause that any legislature concerned with the rule of law, or capable of more than basic political calculations, or desirous of justifying its existence, should have thrown out:

If any person does any act of such a nature as to be calculated to be prejudicial to the preservation of the peace or maintenance of order in Northern Ireland not specifically provided for in the regulations, he shall be deemed to be guilty of an offence against the regulations.<sup>161</sup>

This allowed the prosecution and conviction of a person for an action, which, at the time it was done, was not prohibited by law but which could be construed by the authorities as being prejudicial to peace and order. Such a provision introduces deep uncertainty, is irremediably speculative, violates basic doctrines of common law and British constitutional thinking and calls to mind Soviet jurisprudence in the 1930s, which turned law into an ever-flexible political tool, making the very concept of law a deceptive sham.<sup>162</sup> Having regard to the extraordinary scope of the specific provisions and regulations, it is inconceivable that this section was necessary.

There already existed a wide range of ordinary statutory powers to deal with conspiracies, violence and damage to property. Statutes such as the Treason