



Student name: Stephen Kelly.

Institution: Mary Immaculate College, Limerick.

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Introduction.

The trial of Irish Republicans between 1916-1922 by military court-martial finds its origins in the British government's emergency wartime powers, the Defence of the Realm Act 1914 (amended 1915, 1916) (D.O.R.A.). This legislation allowed for the trial of civilians for certain offences by military court-martial and gave British government ministers the power to make regulations for new offences without reference to parliament.¹ After the 1916 Rising, the military tried 187 Republicans using this legislation. These powers were expanded in August 1920 with the introduction of the Restoration of Order in Ireland Act (R.O.I.A.) which gave the military the power to try civilians by court-martial for all civil offences and the power to create new regulations making new offences. In December 1920, the British government declared martial law in the southern counties of Ireland. This was followed in January 1921 with the introduction of Military Courts (M.C.s) and the power to create new offences.² M.C.'s had, for example, the power to upgrade previously less serious offences to capital offences.³ This research paper will examine the use of courts-martial and M.C.s as a weapon in the counterinsurgency campaign against Irish Republicans from November 1919 to July 1921. It will focus specifically on the 18th Infantry Brigade (I.B.) area, part of the British army's 6th Division operating in southern Ireland.

The British army in November 1919, as part of a restructuring of the Irish Command, abolished the old system of military districts and replaced them with the more familiar military structure of divisions. The 6th Division headquarters was located at Victoria Barracks Cork and was commanded by Major General Peter Strickland. The division was comprised of three brigade's,

¹ Brian Barton, *The secret court-martial records of the easter rising* (2nd ed, Gloucestershire, 2010), p. 35.

² With the introduction of martial law, the military issued several proclamations, such as the enforcement of curfews, limitation in the use of bicycles and motor cars. Any person breaking these regulations could be tried by the military for breaches of the regulations.

³ Offences such as the carrying of arms and wearing British uniforms were two such offences where the sentence was upgraded to the death penalty under military courts. General Staff, *Record of the Rebellion in Ireland* (London, 1923), volume III, law, p.1.

16th (Fermoy), 17th (Victoria Barracks, Cork), and the 18th (New Barracks, Limerick). A fourth brigade, the Kerry Brigade (Buttevant) was added to the division in July 1920. The operational area of the 18th I.B. in 1919 was almost all of County Limerick and Clare, the northern half of Tipperary, including Nenagh, Thurles and Templemore, Birr in County Offaly and a part of North Kerry including Listowel. The brigade also had troops stationed in Charleville and Ballyvonare in north Cork. The addition of the Kerry Brigade in July 1920 reduced the operational area of the 18th I.B.⁴

Trial by the Military.

Between 1918 and 1921, the British government in Ireland was engaged in a counterinsurgency campaign against Irish Republicans. The role of the army in 1918 and the first seven months of 1919, was to aid the Royal Irish Constabulary and the Dublin Metropolitan Police in maintaining law and order. From 1918-1919 the authorities in Ireland used the implementation of Special Military Areas in Munster on five occasions in attempts to restore law and order.⁵ The declaration of these S.M.A.'s was granted under 29B of the D.O.R.R. (1914-1916). The establishment of an S.M.A. was effectively the isolating of a district as a punitive measure by partly restricting the movement of the population within that district to facilitate the restoration of order.⁶ The enforcement of the S.M.A. was the responsibility of the Competent Military Authority. After its use in Limerick in April 1919 the military never used this tactic again in

⁴ The introduction of the Kerry Brigade resulted in Listowel coming under the jurisdiction of the Kerry Brigade. Troops located at Ballyvonare were also moved to Kilmallock. In August 1921 Birr came under the control of the 5th Division.

⁵ S.M.A.'s was declared in County Clare from February 1918 to April 1918, Tralee from June to August 1918, West Cork in September 1918 to February 1919, Tipperary South Riding, January to June 1919 and Limerick city, April to June 1919. British Army General Staff, *Record of the Rebellion in Ireland*, (London, 1923), Volume III, law, p. 10.

⁶ William Sheehan, *A hard local war, the British army, and the guerrilla war in cork, 1919-1921* (2nd ed, Dublin, 2017), pp. 91-92.

Ireland. The S.M.A. did achieve results, but, overall, it required a vast number of troops and resources to make it work and was thus unsustainable in the long term.

The emergence of a Republican insurgent campaign of attacks against Crown forces in 1919 was, for the most part, concentrated on the forces of law and order: the R.I.C., D.M.P. and the judiciary. In 1919, the R.I.C. suffered 18 deaths and the army one.⁷ In the early part of 1919 charges brought against Republican insurgents in civil courts under D.O.R.R. were initially successful and proved effective. However, towards the end of 1919 the authorities found that the civil courts were close to collapsing. This change was brought about because of the increase in the number of cases and demands being placed on the courts. Local and resident magistrates were threatened and often resigned, with a small number being killed.⁸ Witnesses and jury members were also subjected to intimidation.⁹ This severely hampered the ability of the civil courts to function.

By the spring of 1920, 47 court houses and 277 R.I.C. stations had been burnt down and many magistrates had resigned.¹⁰ A further escalation of violence took place in 1920, with 24 members of the R.I.C. and two soldiers being killed between January and March. In May 1920 the British government held a cabinet meeting to discuss the situation in Ireland.¹¹ The

⁷ Private William Jones 2nd Battalion Kings Shropshire Light Infantry Regiment in Fermoy County Cork on 7 September 1919, British soldiers died in Ireland 1919-21, the Cairo Gang website, available at, <https://www.cairogang.com/> [accessed 10 September 2022].

⁸ At least three magistrates were killed between 1919 and 1920, John Charles Milling, Alan Cane Lendrum and Alan Bell. Brian Hughes, *Defying the I.R.A.? Intimidation, coercion, and communities during the Irish Revolution* (Liverpool, 2016), pp 40-47, John Curry 'The Murder of John Charles Milling R.M.' online article available at, Westport historical society website, <http://westmayo.ie/wp-content/uploads/2020/12/The-Murder-of-John-Charles-Milling-Regisident-Magistrate.pdf> [accessed 27 November 2022].

⁹ Sean Enright, *The trial of civilians by military courts Ireland 1921* (Dublin, 2012), p. 22

¹⁰ Hughes, *Defying the I.R.A.?* pp 40-47.

¹¹ In attendance was the Prime Minister Lloyd George senior British ministers, Bonar Law, Churchill, Birkenhead and the new army chief of staff for Ireland General Neville Macready. Also in attendance was Sir Denis Henry, Attorney General for Ireland, Sir John Anderson a senior civil servant at Dublin Castle and Sir Hamar Greenwood a senior political advisor, Sean Enright, *The trial of civilians by military courts Ireland 1921* (Dublin, 2012), p. 22.

introduction of martial law was discussed but it was shelved as the legality of such a move was uncertain. The Judge Advocate General Felix Cassel advised that martial law could be introduced but warned that its introduction could engender great bitterness and prove counterproductive.¹² There was also a reluctance of the part of civil authority in Ireland to hand over power to the military.¹³

In June 1920 the situation deteriorated in the south of Ireland with the court system almost certain to collapse. In the southwest, 1,068 jurors were fined for not turning up for jury duty. Those that did were often hostile and it was almost impossible to secure a guilty verdict in a capital case.¹⁴ It is in this deteriorating situation that the R.O.I.A. was passed on 9 August 1920. This legislation marked an increase in the statutory powers of the army and as noted above, allowed the military to conduct court-martial trials of civilians for all offences under civil law. However, the military courts-martial could only impose the same punishments as civil courts under civil law. All capital cases where a sentence of death was passed had to be ratified by the Lord Lieutenant. Local magistrates continued to try lesser cases in courts of summary jurisdiction, where two magistrates sat together. When it was unclear where a case should be tried, it was referred to the government law advisor William Wylie at Dublin Castle. Between August and October 1920 there were 297 convictions recorded. Sean Enright suggests the court-martial system set up by the British parliament was the primary method of curbing the Rebellion.¹⁵ By the end of the year a total of 740 persons had been tried for offences against R.O.I.R. with 576 convictions. The total number of courts-martial for 1920 was 1,216, with 966 convictions, this figure includes cases where persons were charged under D.O.R.A.¹⁶

¹² Enright, *The trial of civilians by military courts Ireland 1921*, p. 23.

¹³ General Staff, *Record of the Rebellion in Ireland* (London, 1923), volume III, law, p.1.

¹⁴ Colm Campbell, *Emergency law in Ireland, 1918-1923* (Oxford, 1994), p. 58.

¹⁵ Sean Enright, *After the Rising, soldiers, lawyers and trials of the Irish Revolution* (Kildare, 2006), p. 70.

¹⁶ British army general staff, *Record of the Rebellion in Ireland 1920-1921* (Government publication, 1923), volume III, p.16.

Despite the success of trials under D.O.R.R. and R.O.I.R. the system was seen by the army as slow, with the right of review through the civil courts slowing down the process of promulgation of sentences.¹⁷

Irish Republican Army (I.R.A.) flying columns, formed in the summer of 1920, ironically benefitted from the introduction of R.O.I.R. as many republicans in fear of arrest went on the run and joined the flying columns.¹⁸ This increased activity of the flying columns in turn resulted in a further deterioration of the situation. In October the British Cabinet considered the introduction of Martial law, but it was not until after the I.R.A.'s Kilmichael ambush (28 November 1920) where 16 auxiliaries were killed and one mortally wounded, that Lord Lieutenant Viscount French on 10 December 1920 issued a proclamation declaring martial law in counties of Cork, Kerry, Limerick and Tipperary. On 4 January 1921, Clare, Kilkenny, Wexford and Waterford were added at the request of the military. Effectively the whole of the 6th Division Irish command was under martial law.¹⁹ One of several measures introduced with martial law in January 1921 was the introduction of M.C.s. These courts had the power to upgrade less serious offences to capital offences with a penalty of death. Unlike trials under R.O.I.R., sentences of death were not subject to ratification by the Lord Lieutenant and could be approved by the Military Governor General (General Neville Macready).

From November 1919 to April 1920 the 18th I.B. was under the command of Brigadier General (Colonel-Commandant) Clifford Coffin.²⁰ In April 1920 Coffin was replaced by Brigadier

¹⁷ Sean Enright, *The trial of civilians by military courts Ireland 1921* (Dublin, 2012), p. 27.

¹⁸ Enright, *After the Rising*, p. 74.

¹⁹ Campbell, *Emergency law in Ireland*, p. 30, Ireland proclamation of martial law (T.N.A., WO 35/9536).

²⁰ Coffin was a former World War One veteran, originally an engineer officer he commanded a brigade during World War One. He was decorated many times and awarded the Victoria Cross for conspicuous bravery, *London Gazette*, 14 September 1917, reported at Westhoek, Belgium, 31 July 1917 T/Brigadier General Clifford Coffin was awarded the Victoria Cross for most conspicuous bravery to duty at Westhoek, Flanders. Clifford was invested with his Victoria Cross by King George V at Buckingham Palace on 2 January 1918.

General (Colonel- Commandant) Archibald Rice Cameron. Cameron was also appointed the Competent Military Authority on 3 June 1920.²¹ For the first seven months of 1920, the 18th I.B. was only involved in the trial of republicans for offences under D.O.R.R. A large proportion of these trials took place at Victoria Barracks. The units of the brigade were at this time providing protection to the members of the R.I.C. and the judiciary.²² This changed in August 1920 with the introduction of R.O.I.A.

These changes resulted in a restructuring of the army's A.2 branch (legal branch, Irish Command) and the creation of regional offices.²³ At Victoria Barracks, Cork a legal branch office for the 6th Division was established. The newly appointed Legal Officer was Lieut-Colonel Hugh Mobray Meyler. He had an assistant legal officer (A.L.O.) and five court-martial officers (later increased to six) at his office at Cork. At Limerick there was an A.L.O. appointed to the 18th I.B. headquarters, major John Francis Eastwood.²⁴ Eastwood was a member of the bar and was engaged on a short-term commission. A second A.L.O., Captain A.J.B. Tapling, was added to the Brigade in 1921. Tapling was a practicing solicitor and listed as a general list officer. The A.L.O. supervised the legal work of their formation. They were also to act as judge advocate and advise the C.M.A. in all legal matters. In September 1920, Captain John Monck Campion Coles, a practicing solicitor (formerly, North Staffordshire Regiment) was given a

²¹ A.R. Cameron had previously served with the Royal Highland Regiment (Black Watch) in the Boer War and as a staff officer at Brigade and Brigadier general staff appointments during World War One, rising to the rank of Lieut-Colonel. Promoted Colonel 1919. In 1920 he was appointed OC 18th I.B, in 1922 promoted Major General and posted as G.O.C. Northern Ireland Command. 1931 promoted Lieut-General posted as G.O.C. Scottish Command. Retired from the army in 1937, source, Stephen Kelly. 'The New Barracks Limerick, 1914-1921' appendix 3, persons of interest New Barracks Limerick, M.A. local history University of Limerick.

²² This protection included the provision of guards for R.I.C. barracks, court houses and post offices, *Oxford and Buckinghamshire Light Infantry Regimental Chronicle*, 1920 p.161, gives details of the formation of numerous bicycle patrols on 7 July 1920 for the protection of magistrates traveling from Ennis to Limerick.

²³ British Army General Staff, *Record of the Rebellion in Ireland*, (London, 1923), Volume III, law, pp. 7-8.

²⁴ John Francis Eastwood served in World War One reaching the rank of major with the Grenadier Guards. He was a qualified barrister who became a conservative member of Parliament for Kettering from 1931-1940. He retired in 1940 to become a London metropolitan police magistrate. He died in 1952. Available online at the Peerage website, <http://www.thepeerage.com/p22906.htm> [accessed 2 September 2022].

short-term commission as a C.M.O. with the 18th I.B. In total, 40 C.M.O.'s. was appointed in Ireland. The C.M.O.'s prepared case files and acted as prosecutors. Staff officers of the brigade headquarters were also required to act as prosecution officers (See appendix 2). Between August and December 1920, at least 73 cases were tried by the military in the 18th I.B. area of operation for offences under D.O.R.A. and R.I.O.R. The R.I.O.R. was not only used for the trial of Republicans. In the 18th I.B. area at least three members of the R.I.C (Black & Tans) were tried between September and December 1920. One constable was charged with assaulting at woman at Knock County Clare and two others with the wounding of a young girl and shooting of two cows at Abbeyfeale, County Limerick.²⁵ The military also tried one priest, Reverend George Culhane, parish priest in Cratloe, for possession of a sporting rifle and ammunition.²⁶ In total, there were at least 91 trials of civilians.²⁷

Between December 1920 and January 1921 martial law was proclaimed in all of Munster, and the counties of Kilkenny and Wexford. This was followed in January 1921 with the introduction of number of proclamations which the military felt were necessary to combat the Republican insurgency campaign. The courts had no legal standing in English law and were introduced by the military under martial-law.²⁸ The M.C. operated in addition to trials under D.O.R.R. and R.I.O.R. and had a two-tier system. The Military Summary Court (M.S.C.) and the full Military Court. The M.S.C. function was to deal with less serious offences and operated in lieu of the

²⁵ R.I.C. constable John Huddleston was charged on 19 November 1920 with assaulting Mrs K. Kelly at Knock County Clare causing actual bodily harm, he was found guilty and awarded a sentence of one-year, hard labour (T.N.A. WO 235/08), p. 26. Constables Ernest Pauley and Albert Hishon were charged with firing at and wounding 11 years old Margaret Brosnan and the shooting of two cows at Abbeyfeale. They were found not guilty of the first charge and fined £10 for shooting the cows, the sentence was never confirmed. Source (T.N.A. WO.235/208).

²⁶ Reverend George Culhane, parish priest Cratloe was charged with two charges by district court-martial at Limerick on 28 December 1919 for possession of a rifle and 14 rounds of ammunition, He was fined £15 with a remission of £5, default of fine 14 days imprisonment, (T.N.A., WO 35/123/23).

²⁷ Data base of civilian trials by the British military in the 18th I.B. area from 1919-1921, compiled by Stephen Kelly (3 September 2022).

²⁸ A.P.V. Rogers, 'The use of military courts to try suspects' in the *International and Comparative Law Quarterly* (October 2002), Vol. 51, No. 4, p. 967.

County Courts. A military officer (major/captain) was appointed to act as judge by the military governor. Each unit A.O. had their own M.S.C. trial officers and there were at least 18 in the 18th Infantry Brigade area. This figure represented the largest amount for any of the brigades in the martial-law area.²⁹

The M.S.C. had the power to refer cases to the C.M.A. for trial by the M.C. The punishments that could be awarded by the M.S.C. included a fine of up to £100 and imprisonment with or without hard labour up to six months (for list of offences tried by the M.S.C., see appendix ‘2’). The M.S.C. could also make recommendations for internment and compel an accused with or without a conviction to enter recognizances with or without sureties.³⁰

Figure 1.1; Table containing details of M.S.C. trial officers in the 18th I.B. area on 11 July 1921.

Summary Court Trial Officer Locations	Number of Officers	Remarks
Limerick City	3	
Limerick West	3 or 2 (Figure not clear)	Newcastle West, Rathkeale
Limerick South	2	Kilmallock, Bruff
Tipperary North Riding	1	
Templemore	1	
Nenagh	2	
Clare County	4	Ennis, Tulla, Miltown Malbay
Killaloe	1	
Newport	1	

Source: General Staff, *Record of the Irish Rebellion in Ireland*, (London 1923), Vol III, law, Appendix M.J., p. 35, (T.N.A. WO 141/93).

The full M.C. so far as was possible consisted of a board of three officers. A field officer (Lieut-Colonel, in his absence a Major), who acted as the president and two board members: a captain and subaltern.³¹ The accused was entitled to have his own defence council or have an officer

²⁹ General Staff, *Record of the Irish Rebellion in Ireland*, (London 1923), Vol III, law, Appendix M.J., p. 35, (T.N.A. WO 141/93).

³⁰ Deputy adjutant branch, British army general headquarters, Ireland, *circular memoranda on martial law* (Dublin, 1921), available at (T.N.A. WO 35/66/4).

³¹ *Ibid*, p. 4.

appointed. In addition, there was a judge advocate and a prosecution officer.³² The M.C. initially followed the rules and procedures of the field general court-martial.³³ This meant the gathering of a summary of evidence before a trial could take place. The M.C. differed in this matter and did not require the accused to be present when this summary of evidence was being recorded. This meant that statement of evidence could be taken denying the accused the right to question the person making the statement made unopposed. The accused also had the right to testify. This was an advantage for the accused who under civil in Ireland the accused was not allowed to testify in his trial.

In May 1921, the General Staff introduced the *Memoranda on martial law*. This circular asserted that the military had power to try all criminal offences and all offences under R.I.O.R. together, with the added authority to try breaches of regulations issued by a lawful body. An example of this was the arrest and trial of 23 persons for a breach of a curfew introduced by the military in Limerick city in May 1921 by a S.M.C.³⁴ Within the 6th Division area, there was three locations selected as venues for court-martial trials: the New Barracks Limerick, Victoria Barracks, Cork, and Waterford Barracks.³⁵ The New Barracks Limerick was the brigade headquarters for 18th I.B. and was where most courts-martial took place. There were usually more officers available at these locations for appointment to court-martial boards. The New Barracks also had a detention barracks for holding prisoners and the presence of a military hospital meant there was always a medical officer available to certify the accused as fit for trial. In addition, the barracks was a secure location which deterred Republicans from attack

³² In all cases where a death sentence was likely the president of the board was an officer of field rank and a Judge Advocate was always appointed. Deputy Adjutant General's Branch, Staff G.H.Q. Ireland, *Circular Memoranda on martial law*, (Dublin, May 1921). Available in file, martial law, involvement of civilians in martial law areas (T.N.A. W.O. 35/66/2), p. 4.

³³ The types of Court-martials and Court-martial procedures used can be found in, The Army Act 1881 and the 1907 rules of procedure, Colm Campbell, *Emergency law in Ireland 1918-1925* (Oxford, 1994), p. 59.

³⁴ Enright, *The trial of civilians by Military Courts*, pp 37-39. *Limerick leader*, 30 May 1921.

³⁵ *Ibid.*, p. 36.

and attempts to free prisoners. The proximity of Limerick Jail, where most of the prisoners awaiting trial were detained, minimised the risk of escape. It is known that the I.R.A. did consider attempted escapes from Limerick Jail but no attempt to escape was ever made.³⁶

On 26 December 1919 the biggest single arrest made under D.O.R.R and R.I.O.R. during the Irish War of Independence was at Caherguillamore near Bruff in County Limerick. A large force of R.I.C. from Limerick city, Pallasgreen, Bruff, and Kilmallock under the command of District Inspector John Regan, reported to number in the hundreds was assembled.³⁷ They were aided by a military search light team under the command of Lieutenant Henry Marion Genochio Royal Engineers and a large military force who manned the outer cordon. Major Dudley Sturrock the 18th I.B., intelligence officer, was also in attendance. Just before midnight the force assembled in the grounds of Caherguillamore House (home of Lord Guillamore who was not in residence at the time) and proceeded to raid the house. A gun battle ensued outside the house between the R.I.C. and I.R.A. resulting in the death of an R.I.C. constable and five Republicans who were mortally wounded or killed.³⁸ 138 male prisoners were arrested for unlawful assembly. The dance had been arranged by the 3rd Battalion East Limerick Brigade to raise funds to buy weapons for the battalion.³⁹ The arrested prisoners were subjected to very severe beatings before being taken to the New Barracks. There, they were segregated and local R.I.C. officers brought in from the districts to identify known Republicans. On 7 January 1921, 60 of the men were tried at Limerick Jail by a M.S.C. under D.O.R.R. for unlawful assembly on the night of the 26-27 December 1920. 40 were awarded sentences of six months

³⁶ For information on planned escape attempt see, Brian O Conchubhair (ed), *Limerick's fighting story 1916-1921*, Mercier Press (2nd ed., Cork, 2009), p. 351.

³⁷ Constable Alfred Hodgson, Martin Conway, Edward Maloney, Daniel Sheehan, Henry Wade and John Quinlan were all mortally wounded or killed at Caherguillamore. For further reading on the events at Caherguillamore see Tom Toomey, *The war of independence in Limerick, 1912-1921* (Limerick, 2010), pp.485-496.

³⁸ Tom Toomey, *The War of independence in Limerick, 1912-1921* (Limerick, 2010), pp. 488-490.

³⁹ *Ibid*, p. 486.

imprisonment with hard labour and 20 were sentenced in default of bail to three months imprisonment with hard labour.⁴⁰

On 12 January a further 59 were tried by a F.G.C.M., charged under regulation 27 of R.O.I.R., at Caherguillamore of the 26-27 December 1920, assembling with others, with armed sentries committing an act likely to cause disaffection.⁴¹ Major Eastwood acted as board president. The defendants were all found guilty and sentenced to 10 years penal servitude with a remission of five years⁴². Thomas Conway and John Mulcahy were convicted on 28 January 1921 for the same offence. They were also awarded a sentence of 10 years penal servitude reduced to five. G.H.Q. 6th Division described the operation as ‘One of the most successful operations of the year’.⁴³

The introduction of the M.C. is often over emphasised in terms of the number of cases tried.⁴⁴ In total there were only 128 people tried by the M.C. in Ireland between January 1921 and July 1921. At least 17 individuals, and possibly more, were tried by M.C.s in the 18th I.B. area. The military issued instructions that a trial should not take place under the M.C. structure unless there was a likely chance of a death sentence. All other court-martial trials were to be conducted by F.G.C.M. using regulations under D.O.R.R. and R.O.I.R. The military reasoning for this was to escape a clause compelling all prisoners sentenced by M.C. to serve their sentence in the martial law area (M.L.A.). This provision would have prevented the military from sending prisoners to England or any other place of detention outside the M.L.A. Between May and June

⁴⁰ *The Westminster Gazette*, 10 January 1921, p.1.

⁴¹ Sean Enright, *After the Rising, soldiers, lawyers, and trials of the Irish Revolution* (Kildare, 2016), p.150, *Limerick Leader*, 12 January 1921. p. 3.

⁴² Sentence concerning Joseph Costello one of the 59 charged and convicted was not confirmed and No reason is given. (T.N.A. W.O. 35/134), available online at, find my past website, <https://www.findmypast.co.uk/transcript?id=IRE/EAS/RIS/027458>, [accessed 10 November 1922].

⁴³ General staff 6th division, *The Irish Rebellion in the sixth divisional area* (Cork, 1922), p.65, Available in private papers of General Sir Peter Strickland at the I.W.M. (London), catalogue number.2626.

⁴⁴ Enright, *The trial of civilians by military courts Ireland 1921*, p. 1.

1921 six Republicans were sentenced to death within the 18th I.B. area by M.C.s. Captain Thomas Keane, 2nd Battalion, Mid Limerick Brigade I.R.A., was unique because his death sentence was the only one of the six to be carried out. Keane's trial began on 14 May 1921 and lasted three days. He faced two charges: 'levying war against His Majesty the King, by joining with others in attacking members of His Majesty's R.I.C.' and improper possession of a revolver'. Keane was defended by Robert Kinahan, who was led by Patrick Lynch K.C. (instructed by Mr Hugh O'Brien Moran).⁴⁵ The prosecution was led by Captain Coles. The board consisted of Colonel Roland James Percy Anderson (president), Lieutenant Colonel William Brooksbank Garnett and Major Henry Vernon Venables Kyrke (board members). The Judge Advocate was Major Eastwood.⁴⁶

On 17 May 1921 Keane was found guilty and sentenced to death by a firing squad.⁴⁷ A petition for mercy was sent to General Macready quoting the facts of the case, pointing out no execution had taken place in Limerick in 40 years. The petition outlined that such a gesture might bring benefits for the military and would be seen as a sign of goodwill in the city. The petition was signed by 17 individuals of influence within Limerick city. A cover note added to the petition by Cameron, noted that the signatories on the petition were men of known loyalty and considerable influence.⁴⁸ The petition was made up of both nationalist and loyalist signatures. Most of the loyalist signatories were business owners and they may have felt such an execution would bring further civil unrest.⁴⁹

⁴⁵ Military Court and Court of Inquiry file, Thomas Keane (T.N.A., W.O. 71/384).

⁴⁶ Ibid.

⁴⁷ For full account of the trial and further reading see, Military Court and Court of Inquiry file, Thomas Keane (T.N.A., W.O. 71/384), Sean Enright, *The trial of civilians by Military Courts*, pp 104-107.

⁴⁸ Ibid., p. 106.

⁴⁹ Military Court and Court of Inquiry file, Thomas Keane (T.N.A., WO 71/384), p. 94.

The Judge Advocate General Felix Cassel reviewed the case file. Cassel advised all was in order and clemency was a matter for Macready. The petition was denied. No High Court challenge was lodged against this decision. Had an appeal been made to the High Court this would have certainly prolonged Keane's execution. A possible reason why Keane's defence didn't lodge an appeal was because there had been no execution in Limerick for over 40 years and the defence believed the petition would be successful. This failure to appeal to the High Court, however, allowed the military to act immediately. At 10.30 hrs on 3 June 1921 Keane was executed by a firing squad at the military Detention Barracks.⁵⁰ He was pronounced dead by Captain Arthur John Ireland R.A.M.C. His family's appeal for his body was refused. A possible reason for this was that the military feared his funeral would attract large crowds like the funeral of Henry Clancy. Clancy was arrested with Keane and shot while trying to escape. At Clancy's funeral on 6 May 1921, Patrick Downey was shot dead by the R.I.C. in clashes with the crowd attending the funeral.⁵¹ It is likely the military were anxious to avoid any further trouble and not to allow the I.R.A. to use his funeral as a propaganda event.

On 17 May 1921 Edward Punch and Timothy Murphy were charged with levying war against his Majesty. Punch and Murphy were alleged to have been involved in a mills bomb attack on three R.I.C. officers at Careys Road Limerick on 23 April 1921.⁵² They were also represented by Lynch and Kinahan. As files for this case appear to no longer exist, the board members and the prosecution are unknown. Both men were found guilty of the charge and sentenced to death by shooting. The Defence submitted a petition for clemency. The case file went to Cassel, who said the sentence could be confirmed, but he recommended that in the future identification parades, a key factor in this case, needed to be conducted in a different manner. He

⁵⁰ *Irish Times*, 6 June 1921, p. 5.

⁵¹ *Limerick Leader*, 9 May 1921, p. 4.

⁵² Enright, *The trial of civilians by Military Courts*, p. 164.

recommended that the sentence should be delayed or commuted, so that the accused could testify against members of the R.I.C. who were accused of ill treatment. Macready commuted the sentence to life imprisonment.⁵³

On 28 May 1921 John Shine, Gortnagross, Athea, County Limerick was tried by a M.C. with improper possession of an automatic pistol on 11 May 1921. He was represented by Kinahan and Moran. There are no known trial records for this case. The *Limerick Leader* reported ‘The evidence went to show that accused was mentally affected and known as a Softy’. Shine was found guilty and sentenced to death by shooting. The case was confirmed by Cassel, but he advised Macready before carrying out the sentence he should request a medical report as the parish priest, Father William O’Shea from Athea, testified ‘He did not consider Shine responsible for his actions. His mentality was below the average’. It is not clear what resulted from this recommendation, but Shine was not executed and was released from prison in 1922.⁵⁴

On 24 June Patrick Casey was sentence by a M.C. to death by shooting. Casey was charged with improper possession of a pistol and 13 rounds of ammunition at Milford County Cork on 14 June 1921. He was represented by Kinahan and Moran. No known records exist for this trial, and it is not known who presided or prosecuted. Casey’s sentence was commuted to 15 years penal servitude with no apparent reason given.⁵⁵

John Joseph Egan on 11 June 1921 was charged by a M.C. with improper possession of ammunition at Quin, County Clare on 26 May 1921.⁵⁶ He was represented by Lynch and Hugh

⁵³ Enright, *The trial of civilians by Military Courts*, p. 164, *Limerick Chronicle*, 19 May 1921, *Limerick Leader*, 18,20 May 1921.

⁵⁴ *Limerick Leader*, 30 May 1921.

⁵⁵ *Freemans Journal*, 25 June 1921, p. 6.

⁵⁶ Easter Rising and Ireland under martial law 1916-1921(T.N.A WO 35/208), available at find my past website, <https://www.findmypast.co.uk/transcript?id=IRE/EAS/RIS/015032> [accessed 01 November 2022].

Kennedy.⁵⁷ The prosecution was led by Captain Tapling and the board president was Colonel Anderson. Egan was found guilty and sentenced to death by shooting. A petition was arranged for Egan at the town hall in Ennis.⁵⁸ This was a well organised petition collecting over 2,200 signatures from all sections of the community, including 145 ex-service men from the Ennis branch of the Comrades of the Great War. On the section of the petition signed by the Comrades of the Great War where it is evident, they believed the evidence against Egan was questionable.⁵⁹ The petition was sent to Macready, the Lord Lieutenant and the Governor General Viscount FitzAlan. Cassel advised Macready that he could ignore the petition and that all was in order. Egan's defence launched an appeal for a writ of Habeas Corpus in the Chancery Division before the Master of the Rolls Sir Charles O'Connor, based on the legality of the M.C.

The case appeared before the High Court in early July 1921.⁶⁰ On 11 July 1921 a truce came in to effect between British military and the I.R.A.⁶¹ Egan's defence requested a suspension of the case pending the outcome of another, linked case before the House of Lords (Sullivan and Clifford).⁶² O'Connor agreed and asked the military to give an under-taking not to carry out the sentence. Council for the military refused and the case proceeded. The basis of the argument was that the M.C. had no legal standing. O'Connor ruled the only legal standing for military trials was contained in the R.O.I.A. and only parliament could invoke any further powers. Therefore, a person charged with a capital crime, tried by the military, could only be tried under

⁵⁷ Hugh Kennedy was later appointed the first Attorney General for the Provisional Government of the Irish Free state on 31 January 1922.

⁵⁸ For further reading see, Military Court file, John Joseph Egan (T.N.A., WO 71/385), Ireland, Courts Martial files 1916-21, available at ancestry.com. [Accessed 23 June 2020], pp 3-55, 68-72.

⁵⁹ *Ibid*, pp. 68-72.

⁶⁰ *Ibid*, p. 110.

⁶¹ *Irish Independent*, 6 July 1971, p.10.

⁶² For further reading on Patrick Clifford and Michael Sullivan versus the Crown see, Sean Enright, *The trial of civilians by Military Courts*, p. 100.

R.O.I.A. O'Connor issued a writ for the prisoners to be produced in court on 29 July 1921.⁶³ The military refused, and O'Connor then issued writs for the arrest of Macready, Cameron and General Strickland.⁶⁴ A standoff ensued, with the government intervening and ordering the release of Egan. Thomas Keane was executed one month before the truce was declared. It can be argued he was unlucky, as he was the first due to be executed in Limerick. The outcry from his death and the time delay resulting from the legal challenges of Egan, Sullivan and Clifford ultimately saved the other prisoners. The truce was followed by the British government's suspension of executions. Therefore Murphy, Punch and Egan were never executed.

Between January 1921 and July 1921, 25 members of the R.I.C. in the 18th I.B. area were tried by the military (It is known at least 14 were B.T.'s). One auxiliary cadet, five priests and a reserve naval officer were tried for various offences ranging from larceny to assault and in one case constable William McGrath was charged with attempted murder of Constable Barron.⁶⁵ McGrath was found not guilty. The sentences for known loyalist supporters (William Gabbett and Hanley Hunt) for possession of arms and ammunition, appear to have been more lenient, as both were only fined. At least 50 persons were found not guilty of offences from September 1919 to July 1921. Offences varied from levying war against his majesty the King to larceny, possession of ammunition, unlawful assembly, possession of seditious documents and assembling with others, with armed sentries to commit an act likely to cause disaffection to his Majesty. In total it is known that between January and July 1921, 182 persons were tried by F.G.C.M and M.C.s in the 18th I.B. area. From August 1919 to July 1921 there was a total of 283 persons tried. This figure does not include the S.M.A. figures for 18th I.B. are records for

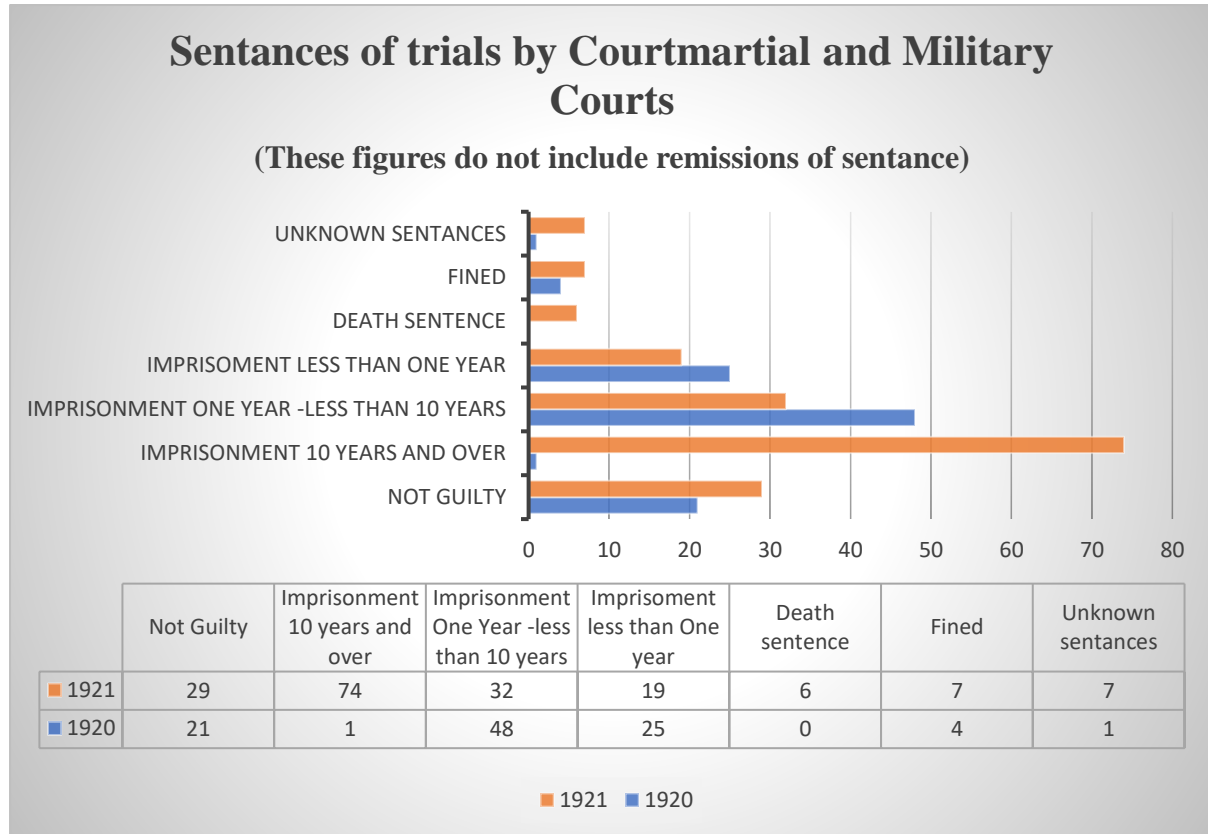
⁶³ *Limerick Leader*, 27 July 1921, p. 3.

⁶⁴ General Peter Strickland was officer commanding the 6th Division and the Military Governor for the M.L.A.

⁶⁵ Court martial-civilians, trial of constable William McGrath R.I.C., wounding with intent to murder constable Barron, (T.N.A., W.O. 35/126/66).

the brigade are not available however 2,296 were tried with 549 sentences of imprisonment nationally.

Figure 1.2; Bar chart of sentences of trials by Court-martial and Military Courts.



Source: Data base compiled by Stephen Kelly.

C.M.O. Colonel Roland Percy Anderson,

Roland James Percy Anderson was appointed as a court-martial officer on 2 November 1920 with the Irish Command, with the honorary rank of Colonel.⁶⁶ His appointment was part of a drive to recruit retired senior officers to act as presidents of court-martial boards.⁶⁷ Anderson was a very experienced officer in court-martial trials, but he had no legal qualifications. On

⁶⁶ Personal diaries of Lieut-Colonel Roland James Percy Anderson 11 Hussars, Horsepower museum, London, available online at the Ogilby Trust Website, Muster Tom, <https://www.theogilbymuster.com/record/838274> [accessed 1 September 2022].

⁶⁷ R.J.P. Anderson enlisted in the Army 1893. He served on the Northwest Frontier (1897-1898), the Boer War (1889-1902), the Rhodesia Field Force (1902-1904, special service officer) and between 1914-1919 World War One. He was promoted to Lieut-Colonel in 1916 and served as the officer commanding 11th Royal Hussars. Until 1919.

arrival in Ireland, he was posted to the 18th I.B. From November 1920 to March 1921 Anderson kept a personal diary of events. This diary is a valuable reference and shows the mindset of a senior figure in the 18th I. B. involved in the trial of Republican prisoners. Anderson wrote, Captains Cummins and Coles advised him on legal matters and did all the preliminary work required for trials. He also notes the dangerous and ever-worsening situation in the surrounding area describing several attacks on Crown forces. He gives detail of events that took place between November 1920 and April 1921. He discusses his social life in Limerick, referring to hunting and playing golf. He speaks of his association with the Royal Welch Fusiliers and loyalist O'Grady Delemeyes. He comments 'no officer would be safe in this part of the country only for the fact the Sinn Feiner's were afraid of reprisals'. This is an endorsement of the unofficial reprisals by a senior officer before official reprisals were introduced in the M.L.A. in January 1921.⁶⁸ Anderson, mentions the high number of cases he had to try, referring on 15 November to five cases he tried for possession of seditious documents. He observes that all the documents had been well typed and could only have come from well-regulated offices in Dublin, who's authors must be well known yet he had not heard of anyone being prosecuted. Anderson claims the farmers were very friendly and did not appear to have any feeling against the troops as they were 'sick of the Sinn Fein movement'. Anderson discusses a court of inquiry he presided over, tasked with investigating unofficial reprisals of soldiers. He records an obvious sympathy to the troops who took part in rioting in Limerick describing their behaviour as a silly and breaking a few windows in the town.⁶⁹ He also makes the point he was involved in the trial of soldiers for mostly desertion and theft but gives no details on the numbers involved.

⁶⁸ Between November and December 1920, 180 unofficial reprisals were carried out by the Auxiliaries, members of the R.I.C. and the army.

⁶⁹ Jenkins Stanley, 'The Oxfordshire and Buckinghamshire Light Infantry in Ireland 1919-1923' in *bugle and sabre*, III (2009), p. 36, *Limerick Leader*, 17 November 1920, *Limerick Chronicle*, 20 November 1920.

Anderson welcomed the introduction of martial law. Which he regards as good news and the isolation of the murder gang. He argues, 'if the conviction for bearing arms had carried with it forfeiture of land the effect would have been far greater as an Irish man, clings to his lands'. Anderson complains about the difficulties experienced in getting witnesses together for cases often leading to long delays and adjournments. He says 'No man dares to give information. He would not live 24 hours'.

Anderson tells us how dangerous it was for an officer to travel outside of barracks and makes the point an officer always had to have his revolver in his hand. He argues that the Republican defendants had a right to use Kings Council in their defence and did so at great expense. He then complains that the military were not allowed to hire such counsel for the prosecution, and he saw this as an unequal situation. He argues an inexperienced prosecution officer gets hypnotized by a clever council and there is nobody to bring forward the other point of view. He refers to his association with the prosecution and court-martial officers, but he does not see this as a conflict of interest. It is known Anderson presided over at least two of the six capital cases where the defendants were awarded the death penalty and it is possible that he presided over all six as records do not exist for the remaining cases.

Conclusion.

The introduction of court-martial trials and the M.C. was seen by the military as an important weapon in the fight against insurgency. The conviction of 121 people at Caherguillamore effectively wiped out the operational capability of the 3rd Battalion East Limerick Brigade I.R.A.⁷⁰ and the comment by 6th Divisional headquarters describing the operation as one of the

⁷⁰ Tom Toomey confirms in his interviews with Jed O'Dwyer (O'Dwyer was present at Caherguillamore on 26 December and although injured he escaped capture) that O'Dwyer informed him after the arrests at Caherguillamore he took over the 3rd Battalion whose capability to launch further attacks was effectively wiped out as all the effective members had been arrested and the battalion was never able to mount an significant

most successful operation this year supports this statement. However, the full freedom and benefits that the military sought with the introduction of the M.C. was never achieved. This was due to defence council's legal challenges and judgements in the civil courts which ultimately delayed the process. The military believed for the courts to be an effective weapon sentences had to be severe and carried out quickly.⁷¹ There was success in non-capital cases with the speedy execution of trials and confirmation of sentences. In capital cases six death sentences were awarded with only one execution taking place.

The military believed severe sentences sent the insurgents a message and this is supported by local historian Tom Toomey. Toomey makes the point that Thomas Keane was the only person executed in Ireland outside of Dublin and Cork. Toomey argues Keane was executed because he had a young family and the shock of such an execution was a message to those involved in insurgency that no mercy would be shown.⁷² However it is more probable he was executed because he was the first to be given the death sentence and no appeal was made to the civil courts. This allowed the military to act swiftly. Keane's case was an example of how the military wanted the M.C.s to operate. There is no doubt that the military felt this was the way to deal with the 'murder gang', and this is supported in Anderson's diary when he welcomes the introduction of martial law and the upgrading of offences to capital cases with a sentence of death.⁷³

Overall court-martial trials used vast amounts of military resources and tied up large numbers of officers in their administration and they did reduce delays in administering justice but proved

action after that. Interview with Tom Toomey, 20 September 2021, local historian on the war of independence in Limerick and author of, *The war of independence in Limerick. 1912-1921*(Limerick, 2010).

⁷¹ Despatch 1554, from G.O.C. in command Dublin to War Office, 22 February 1921, available at (T.N.A. W.O. 141/48).

⁷² Interview with Tom Toomey, 20 September 2021.

⁷³ Personal diaries of Lieut-Colonel Roland James Percy Anderson 11 Hussars, Horsepower museum, London, available online at the Ogilby Trust Website, Muster Tom, <https://www.theogilbymuster.com/record/838274> [accessed 1 September 2022].

not to be an effective weapon in solving the insurgency problem in Ireland. However, the military did believe if the truce failed that martial law would need to be extended to the whole of Ireland. This extension of the M.L.A. would effectively mean a continuation and expansion of trials by the military supporting the military belief the trial of civilians was an effective weapon in the campaign against the insurgents and an important part of their plan.⁷⁴

⁷⁴ Steps to be taken in the event of the termination of the truce with Ireland (20 October 1921) file (T.N.A. W.O. 141/55).

Appendix's

- Appendix 1: List of offences tried by Summary Military Courts.
- Appendix 2: List of military legal appointment holders in the 18th I.B area.
- Appendix 3: Map of 18th Brigade area of operation in Ireland
from July 1920 to January 1922.

Appendix 1

List of offences tried by Summary Military Courts.

Breach of curfew regulations.

Possession of arms and ammunition.

Possession of seditious documents.

Possession of uniform of the Irish Republican Army.

Possession of equipment of her majesty's forces.

Loitering.

Driving a motor car without the owner's permit.

Using a bicycle without permission

Giving false name when arrested.

Being a member of an unlawful association, i.e., I.R.A.

Collecting money for arms.

Refusing to give name to a military officer.

Failing to have a list of occupants on back of door.

Failing to give information concerning rebels.

Failing to report removal of proclamations posted by the military in the window of his house.

Harbouring Rebels.

Attempting to avoid arrest.

Failing to clear an obstruction from the road.

Being a suspected person.

Having seditious writing on the wall of his house.

Unlawful arrest.

Failing to report information concerning an ambush.

Conveying I.R.A. despatches.

Having licensed premises open after prohibited hours.

Making defamatory statements against the forces of the Crown.

Attempting to obtain money by threats.

Communicating contagious disease to the troops.

Refusing to halt when called upon to do so.

Theft.

Drunkenness.

Assault.

Driving a vehicle without a light.

Maliciously damaging private property.

Source: Colm Campbell, *Emergency Law in Ireland, 1918-1925* (Oxford, 1994), p. 90.

Appendix 2

List of military legal appointment holders in the 18th Infantry Brigade

Appointment	Rank	Name	Remarks
Trial Officer	Colonel	Roland James Percy Anderson	
Assistant Legal Officer	Major	John Francis Eastwood	
Assistant Legal Officer	Captain	A.A.B. Tapling	
Court-martial officer	Captain	John Monck Campion Coles	
Staff officer Court- martial officer	Captain	Cummins	
Brigade Major/Prosecution officer	Major	John Meredith Houlton	Michael Collins papers
Staff officer /Prosecution officer	Captain	Harry Alban Dix	Michael Collins papers
	Lieutenant	J.F. Smee	Michael Collins papers
Brigade intelligence officer	Lieutenant	Harry Albian Davis	Michael Collins papers

Appendix 3

Map of 18th Brigade area of operation in Ireland from July 1920 to January 1922.



1. Source: Ireland, six ordnance survey maps indicating Army Div. Sections (T.N.A. AIR 5/769)

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