

**The
so-called
‘Treaty’
and the
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‘Civil War.’**

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**The
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Revised

The so-called ‘Treaty’ and the so-called ‘Civil War.’

We are approaching the centenary commemorations of what are called the Treaty and Civil War. It would be useful to establish what these events actually were and were not. There was no such thing as a Treaty signed on 6 December 1921 and there was no civil war that began in June 1922. This is not playing with words because if there had been a genuine Treaty there would have been no so-called ‘civil war.’

I first thought about this some years ago when I read Seán Moylan’s speech in the Dáil debate on the so-called Treaty.

That speech is famous for its bloodcurdling conclusion in response to Lloyd George’s ultimatum of ‘*immediate and terrible war*’: “*If there is a war of extermination waged on us, that war will also exterminate British interests in Ireland; because if they want a war of extermination on us, I may not see it finished, but by God, no loyalist in North Cork will see its finish, and it is about time somebody told Lloyd George that.*”

This caused quite a shock and the Dáil session was adjourned to take it on board as it brought home to everybody what was really involved in the debate and what the consequences could be.

But it was a most thoughtful speech which he did not want to make as he was fed up with the unreality that dominated that debate. It was a very ad hoc speech. He began: “*I start with the assumption that every member of this Dáil has sufficient*

intelligence to know when a Treaty is not a Treaty, when an oath is not an oath.”

What did he mean?

What is, and is not, a Treaty?

So what is a Treaty? It is an agreement freely entered into between two independent states. Any threat by one party against another invalidates a Treaty. A Treaty signed under such circumstance becomes what the Chinese call an unequal Treaty, i.e., not a Treaty at all. Moreover what was signed on 6/12/1921 was actually not even called a Treaty – it was officially “*Articles of Agreement for a Treaty between Great Britain and Ireland*”. Therefore not in itself a Treaty – it was a preliminary to a Treaty. That was to come – but it never came.

A Treaty does not oblige one side to have an Oath of Allegiance to the other State. The UK Government does not and cannot have Treaties with its Dominions – that is oxymoronic – and the Articles of Agreement clearly stipulates Ireland to be a Dominion with an Oath to copperfasten that.

And Republicans have been their own worst enemy in ever referring to the document as a ‘Treaty.’ A Republican or anyone who does so is delusional.

All this should not be new. It was brought up by TDs in the Dáil debates on the issue. The most articulate was Dr. Ferran who said: “*I was out of order, it seems, when endeavouring to raise a point of order in connection with this motion. The Point is*

this: I say distinctly that no Treaty has been signed—that we have not signed a Treaty. If a Treaty has been signed at any rate it has not been produced to us. We have seen a document which, as I understand, is of the nature of practically an agreed agenda for a discussion which is to take place in London between our plenipotentiaries and the British plenipotentiaries if this Dáil approves.

Now, I will read on that point an authority of a sufficiently distinguished constitutional lawyer, with whom our plenipotentiaries came into intimate contact in London. It is very regrettable, I think, that we should have to go to Hansard for information of this kind. The Irish people have been told that there is a Treaty before them when there is no such thing. There is no such document in existence. There is such a document to be prepared if this Dáil votes away its existence as the Government of the Irish Republic and not until then. Lord Birkenhead, answering a question by the Earl of Midleton on the 16th December, said:

‘If and when the representatives of Dáil Éireann approve of these Articles of Agreement it will be necessary that there shall be meetings in order to deal with matters which are supplemental, and must necessarily be added in order to make the document a complete one.’

Now, we have been instructed here that we have a complete and unalterable Treaty before us. It is distinctly told us here that there is no such thing; that there are to be further discussions and alterations in this

Treaty over which this body will have no control. These will be agreed upon after discussion between the negotiators. Lord Birkenhead continues:

‘I most sincerely hope, and have every reason to believe, that when that part of the subject is reached which concerns the noble Earl (Earl of Midleton) he and his colleagues will be consulted, and that which has been agreed upon will, of course, be presented to Parliament in the form of an agreed Treaty. Only then will we have the Treaty in front of us.’

(Dr. Ferran, 10/1/1922)

This is pretty clear and if in doubt this is what Griffith said in reply:

“The questions, I think, which the Deputies refer to were sent across by Mr. Stack. They are:

‘(1) whether he had any communication, direct or indirect, from the British Government, in connection with the Treaty?’

The only communication I had was this produced here, except one where he (Lloyd George - Ed.) stated it was not a Treaty, and I got the official title: ‘Articles of Agreement between Ireland and Great Britain’.” (ibid.)

And Dr. Ferran went on to comment:

“I rise to oppose the motion that Mr. Arthur Griffith be Premier of this House. Mr. Griffith, in his answer to one of the questions to-day, admitted that he was palpably tricked by Mr. Lloyd George. Mr. Griffith, when he got this document, found it was labelled ‘Articles of Agreement’. He sent it back to Downing Street, and some clerk there blotted out the words ‘Articles of Agreement’ and substituted ‘Treaty’, and when he had that done he thought he had

got a Treaty. In an answer to a question put by him to Mr. Lloyd George within the last few days he found he had no Treaty at all.

“Now, as regards the Presidency: it is necessary, I understand, that the head of every State when assuming office shall, by solemn oath, give an undertaking to maintain the Constitution of that State. That is a precaution that all States have found necessary for their own existence.

Now, I want to ask Mr. Griffith is he prepared, if elected, to give that undertaking by solemn oath, that he will preserve the Constitution of this State, which is the Irish Republic?

MR. GRIFFITH:

I am not going to answer Doctor Ferran, and I shall not do so any more. I object to this manner of jumping up and putting pharisaical questions to me. The oath that President de Valera took I can take with the same covering clause President de Valera put into it, that he would take it for the good of Ireland, and use it to do the best for Ireland. (ibid.) (All emphasis added).

So I think if Griffith, who led the negotiations on the Irish side, Birkenhead who drafted the document, Lloyd George who led the other side (and Seán Moylan and Dr. Ferran among others) agreed there was no Treaty then I think we have to agree there was no Treaty.

If it does not act like a duck, look like a duck, walk like a duck, quack like a duck, then it is not a duck.

What is a civil war?

The so-called Treaty is the crux of what the so-called civil war was about. If there was a Treaty worthy of the name there would have been no civil war because it would have meant Britain accepting the independent state that existed, the Irish Republic. It was the destruction of the existing Republic, specified in the Articles of Agreement that caused that war. What is a civil war? A civil war is between two opposing ways to run a country that can only be resolved by war. The American civil war was between a Union and a federation of states, the Spanish civil war was between a republic and Monarchical Fascism, the Russian between Bolshevism and anti-Bolshevism, the English between a Monarchy and a biblically inspired Parliament, etc. In other words two very different conflicting visions of how a country should be run. That was not the case here. All were Republicans. It was over the so-called ‘Treaty’ and nothing else.

That is why the so-called ‘Treaty’ is important to look at - what it was and was not and how it came about.

This is also necessary because of the scaremongering we have been hearing about commemorating the events surrounding the ‘civil war’. The less said the better sums up the Government’s and official opinion generally. We should make no apologies for commemorating these events and Republicans least of all.

The background

When the negotiations began on 14 July following the Truce on the 11th, the basic issues were made clear early on, i.e., that it was a Dominion versus the existing Republic or war which was on offer and when this was put to de Valera by Lloyd George at their first meeting the former rejected it out of hand. De Valera would not even take the Dominion document and went to walk away. The exchange that followed spoke volumes about both men and the fundamental issues that never changed substantially:

Lloyd George: “*Do you realise that this means war? Do you realise that the responsibility for it will rest on your shoulders alone?*”

de Valera: “*No, Mr. Lloyd George, if you insist on attacking us it is you, not I, who will be responsible, because you will be the aggressor.*”

Lloyd George: “*I could put a soldier in Ireland for every man, woman and child in it.*”

de Valera: “*Very well. But you would have to keep them there.*”

(Eamon de Valera by the Earl of Longford and Thomas P. O'Neill, p.137)

Lloyd George changed his tune and almost begged de Valera to keep negotiating. Lloyd George always chanced his arm in politics. What worked at any moment was what mattered. But he got nowhere with de Valera by threats or cajoling. The cajoling was taking him to the Cabinet room to show him the chairs for all the great Countries of the Empire, Australia,

Canada, India, South Africa etc. and there was one there for him – why leave it empty? Like Beelzebub tempting Christ by offering him the world – plus cigars and alcohol! But neither tactic worked.

He also famously said that negotiating with de Valera was ‘*like trying to pick up mercury with a fork*’ to which de Valera replied, ‘*why doesn't he use a spoon?*’

The breaking of the deadlocked talks

The talks were deadlocked between the demand for acceptance of the Republic and the offer of Dominion status within the Empire. The deadlock was broken by de Valera. He noticed that Lloyd George had used the phrase association about negotiating the terms of future relations between the two sides.

The concept of what kind of association there should be between Ireland and the Empire was the crucial issue in these negotiations and deciding on what this should be was the way forward but ‘association’ alone seemed meaningless.

On 27 July 1921 de Valera “...was tying his bootlaces, sitting on the side of his bed in Glenvar,(his house –Ed.) when the word ‘external’ flashed into his mind. It would clarify all that he had been trying to say...The whole idea was that Ireland would be associated with the Commonwealth but not a member of the Commonwealth.” (ibid. p. 139)

The idea was that common interests between the two countries should be the basis of the relationship and this did not need common allegiances to be a success -

common sense rather than common allegiance was what was needed. It was one of those creatively ambiguous concepts that became the basis of all the future negotiations and kept them going. It could be made into whatever the skill of each set of negotiators could do with it for their own interests.

Lloyd George did not formally accept this approach but nevertheless he later issued the following invitation: “*We, therefore, send you herewith a fresh invitation to a conference in London on October 11th where we can meet your delegates as spokesmen of the people whom you represent with a view to ascertaining how the association of Ireland with the community of nations known as the British Empire may best be reconciled with Irish National aspirations.*” (29 September 1921).

The instructions to the negotiators

The instructions to the negotiators were clear and included:

“It is understood however that before decisions are finally reached on the main questions that a despatch notifying the intention of making these decisions will be sent to the Members of the Cabinet in Dublin and that a reply will be awaited by the Plenipotentiaries before the final decision is made.

It is also understood that the complete text of the draft treaty about to be signed will be similarly submitted.

It is understood that the Cabinet in Dublin will be kept regularly informed of the progress of the negotiations.” (Instructions to plenipotentiaries from the Cabinet)

The turning point – the Cabinet meeting of 3 December 1921

The crucial turning point was what happened at and after the Irish Cabinet meeting of 3rd December 1921. This meeting is underplayed by historians and in doing so the subsequent events are skewed and become almost incomprehensible. But this meeting was the crucial meeting.

Lloyd George put a ‘*final offer*’ which was essentially again Dominion status with an Oath of Allegiance by TDs to the King as head of a new state. David McCullagh in his book, *De Valera Volume I. Rise 1882-1932*, deals in some detail with this meeting. The basis for all subsequent events on the Irish side was laid at this meeting. Modern historians have tended to avert their eyes from it and concentrate on later dramas but this was the moment of truth. McCullagh treats it as such. All else followed from this meeting.

Griffith initially argued for acceptance of the draft and accepting the King as head of state. He suggested that they should sign it and leave it to the Dáil to accept or reject it. Brugha argued that this would “*split Ireland from top to bottom*”. Griffith eventually agreed and said “*I’ll not sign the document but I’ll bring it back and submit it to the Dáil and, if necessary, the people*” (p.238). On that assurance de Valera decided not to go. It was accepted that any Oath should be based on the concept of external association, acceptance of the King as head of the “*Association of States*” i.e., the Commonwealth, which

included Ireland but no acceptance of him as King of Ireland.

Brugha's argument about Cabinet unity being essential before presenting a case to the Dáil was of crucial importance. Brugha has had a '*bad press*' because of the drama of his death. But Brugha was a real parliamentarian by instinct rather than any experience of Parliamentary democracy. He personified the difference in approach between the conspiratorial approach of the IRB and the open democratic approach of the Dáil and the IRA. This is best illustrated in his efforts to have the IRA operating under the control of the Dáil.

In April 1919 he had got the IRA to be subject to Dáil authority, with Terence MacSwiney's support, and opposed by Collins and the IRB and it was not easily carried. He had this reaffirmed after the Truce again in opposition to Collins who wanted to maintain control of the Army by the IRB and outside Dáil control. It arose again on 25 November when Brugha sought to formulate new commissions "*in order to put the army of the Saorstát under the control of the civil Government, the cabinet has decided to issue fresh commissions and to offer re-enlistment to all ranks.*"

Brian Murphy explains that "Richard Mulcahy, the Chief of Staff, and his fellow officers at Headquarters, mostly members of the IRB were vigorously opposed to any change and resisted the new policy. Brugha, while acceding to these wishes and confirming the officers in their position, did secure a resolution which stated that '*the Army of the Republic has but one*

allegiance, namely, to the elected Government of the Republic'" (John Chartres: *mystery man of the Treaty*, by Brian Murphy.)

Murphy's book is the best I have seen on the substance and significance of this critical dispute. This difference with Collins and the IRB was fundamental as it was a dispute about the authority of the Dáil and control of the Army. Brugha also wanted a neutral venue for the negotiations which was a very good idea.

A divided Cabinet is a divided government and that means essentially no government. Brugha's case has ironically been confirmed by the way Brexit was handled by '*the mother of parliaments*' in recent years.

The problems there began in 2016 when six members of the Cabinet openly rejected the Government's position on the Brexit referendum - but crucially were not sacked.

This meant the Cabinet was not functioning, which meant the Government was not functioning and the electorate and Parliament were thereby disorientated and divisions increased daily as we all saw.

The country was divided '*from top to bottom*' – just as Brugha had predicted would happen if the divided cabinet proceeded at this point to put the Dominion proposal to the Dáil.

The role of the Irish Cabinet and the significance of Brugha's argument become crucial later on when the Dáil debated the so-called Treaty.

The dog that did not bark

But the really important event at this Cabinet meeting was the dog that did not bark – Michael Collins. McCullagh puts it as delicately as possible:

“Collins’s view was more confused” and on the oath “he was ambivalent, pointing out that it wouldn’t come into force for 12 months, and it might be worth taking that time.”(p.237).

He seems to be the only confused person at the 7 hour meeting which provided plenty time to clear up minds.

His very sympathetic biographer, Tim Pat Coogan says: *“The most eloquent statement of the day was embodied in Collins’ silence. As Childers notes in his diary ‘M.C. difficult to understand. Repeatedly pressed by Dev but I really don’t know what his answer amounted to.”* And in his biography of de Valera Coogan says that *“Collins had somewhat masked his hand.”* Another sympathetic writer, Pakenham in ‘Peace by Ordeal’ says: *“Collins’s attitude was more obscure.... his volubility dried up.”* (p.207). Dorothy MacArdle said *“Michael Collins’s view was complicated.”* (The Irish Republic.) Silence, confusion, complicated thinking, obscurantism are not the usual attributes associated with Collins.

It is clear he was deliberately not open and honest with his colleagues. He deceived them and that was confirmed by his subsequent actions. They were all of a piece as they showed his contempt for the Cabinet and led directly to the débâcle over

the so-called ‘Treaty’. The time is long overdue to call a spade a spade in relation to Collins.

There are minutes for the conclusion of that meeting - they are on the internet - and though divided it was agreed that:

(c) Delegates to carry out their original instructions with same powers.

(d) Delegation to return (to London - Ed.) and say the Cabinet won't accept Oath of Allegiance if not amended and to face the consequences, assuming that England will declare war.

(e) Decided unanimously that present Oath of Allegiance could not be subscribed to.

(f) Mr. Griffith to inform Mr. Lloyd George that the document could not be signed, to state that it is now a matter for the Dáil, and to try and put the blame on Ulster.

(h) It was decided that the President would not join the Delegation in London at this stage of the Negotiations.”

A majority voted for all this including Collins.

The last point, (h), is important. De Valera had argued for Collins to go in the first place because he wanted London to see a united cabinet – this was his focus all the time. And it is clear from these minutes that he would go again when he judged the most appropriate time to do so.

The other meeting on 3rd December – the source of the fatal division

The real problem was that Collins had arranged that the Cabinet were not the only people discussing the British proposal.

McCullagh gives the real reason for Collin’s alleged confusion etc.:

“Unknown to de Valera, the Cabinet was not the only body considering the draft Treaty. Collins had given a copy of the British draft to Seán Ó Muirthuile, secretary of the IRB, to put before ‘the lads’ – the Supreme Council. According to Ó Muirthuile, the oath proposed by the British was unacceptable, but a new version was drafted that expressed allegiance to the ‘Irish Free State’, with fidelity to the British Monarch in a subsequent clause. At best this was an appalling breach of confidentiality by Collins; at worst, it suggests he regarded the views of the Supreme Council as being of greater value than those of the Cabinet; the oath contained in the final treaty was in the IRB’s form rather than de Valera’s.” (p.239) (Emphasis added)

His loyalty was to the IRB not the cabinet hence his behaviour at the meeting.

What was de Valera’s tactic to get a solution?

External Association was the key - always. There was an ambiguity about this but it could be developed into a constructive ambiguity. Once proposed by him it had become the basis of the negotiations. It was based on an association with the British Empire that accepted the King as head of that association but not as King of Ireland. In fact this is what the Empire became in the form of the Commonwealth especially when India became a member in 1948.

To show there was no animosity towards the King, the Cabinet on 3rd December increased the amount paid to the King, in the civil list.

If there were no more concessions by Lloyd George the showdown would therefore be for Lloyd George to decide whether or not to recommence the war, in fact declare war as war had never been declared, over the distinction between accepting the King as head of the Association but not as King of Ireland.

Would he dare do it? Would public opinion accept it - especially American - as this was 1922 and America was asserting its new power over Britain? Was the distinction worth a war? Naturally there was a risk of the threat of war becoming real but if Cabinet unity was maintained one way or another there would be no ‘civil war.’

de Valera’s crucial aim was unity at home at all costs and External Association had the support of Catha Brugha which was crucial. Cabinet unity would have avoided ‘civil war’ even if something less than a Republic was achieved. It was crucial to get an agreement that ‘stuck’ because another president, Woodrow Wilson, had made an agreement at Versailles three years before that was rejected by Congress. It was also accepted that he made a mistake in not sending envoys to do the actual negotiating and only going himself to finalise it after due consideration of the terms. Its rejection by Congress was momentous and particularly for de Valera who had focused so much on America to make his case to the world.

That was not a complete disaster for America itself even though it changed the course of American history and kept the US out of European politics for over 20 years.

Britain then remained the dominant power in Europe with disastrous results from its continuing balance of power policy that led directly to another world war. America might well have helped prevent that course of events.

But the same thing happening in the Irish situation would be a disaster for the country – that was plain to de Valera. Cabinet unity or lack of Cabinet unity was the key to everything.

John M. Regan appreciates de Valera's strategy:

“Against his maximum offer of external association de Valera had for tactical reasons to test to the point of destruction the British resolve not to go back to war. That in effect meant bringing the British to the point of fixing bayonets rather than merely rattling their sabres. To achieve the absolute extension of the British will to compromise de Valera constructed the Irish position in such a way as to enable him to conclude the talks personally at the eleventh hour. In these circumstances this was not only logical: it was good politics too.”

(The Irish Counter-Revolution 1921-36.)

In practice, this clearly involved a most intricate, subtle and risky diplomatic policy that played for the highest of stakes - war - but de Valera's previous dealing with the British Government (and subsequently) showed if anyone was up to it he was and in a way that was head and shoulders above all the others. By comparison they were all bungling amateurs.

A British official in the '30s once described de Valera as having a '*devious straightforwardness*' which is more usually

described as Machiavellian and that was exactly the quality needed for dealing with this type of situation and most specifically, Lloyd George, one of the most devious - and thereby most successful - politicians of all time. All this was lost on the people who prevented his strategy being implemented. McCullagh, though no fan of de Valera, says:

“But those who ascribe de Valera's position solely to wounded vanity and stubbornness miss the essential point: he was desperately trying to find a compromise that would preserve unity. That doing so would preserve his own leadership he chose to regard as a happy accident”. (p.249).

And Regan makes the very valid point that de Valera sought unity *before* any agreement whereas Collins judged that an agreement would bring unity *afterwards*.

He could not have been more wrong. He misjudged his own standing.

The IRB versus the Cabinet

McCullough's '*worst*' interpretation of Collins' actions was in fact the reality. Collins had no regard for the Cabinet – '*the lads*' were more important. Whereas Cabinet unity and its responsibility was what consumed de Valera. Yet the charge of disregard for democratic Parliamentary norms is rarely laid against Collins. But this was the essence of later problems. The IRB considered themselves the real Government of Ireland as they held themselves to be, virtually, since 1867, and had not taken on board the consequences of their own success in organising 1916 which was

democratically legitimised in the 1918 Election.

That Election changed completely the paradigm of Irish politics. Irish independence was now based on democracy not conspiracy. The IRB were naturally slow to disown their very successful methods of the past. And the IRB was Collins at this stage. The successful conspiracy had created a new democracy but the methods of the old were not suitable for the new situation. It hurts to have to be in any way critical of the IRB, *The Bold Fenian Men*, as indeed the song truly says: 'We may have good men, but we'll never have better' - but facts are facts.

The IRB approach now had catastrophic consequences.

Collins went on to ignore the next meeting between the British and Irish negotiators. Lloyd George smelt his opportunity when he saw this division. He met Collins and they made their own agreement which led to Collins helping to coerce the full negotiating team to accept the 'Treaty.' Collins thereby defied and totally ignored the agreed Cabinet decisions.

Lloyd George would not be confident his threat of war ultimatum would work without knowing that Collins was effectively on board. They were now on the same page.

Collins's actions were all of a piece and based on a total misjudgement of how such an agreement would be received in Ireland. The IRB and its methods were past their sell by date and Collins thereby

completely misjudged the support there would be in the Army and outside for what he agreed to sign. He also misjudged the support he would get in the IRB itself and this led to its destruction. He was warned of all this by IRB members before he returned to London but hubris had set in that all would fall into place for him. The IRB being a secret organisation it is almost impossible to know of its workings at this point. There are no minutes of their meetings available to enable us to know such things. And there were many such meetings as "*Collins had returned almost every weekend.*" (Peace by Ordeal, p.198.)

According to Coogan, Collins had decided as early as mid-October, "*some time between 11 and 24 OctoberDominion status was as far as he was prepared to go.*" (p.242.). IRB records might throw light on this development if available but Coogan summarises correctly.

Logically then, "*Dublin*" became the problem for them and the British side became his allies in this!

Coogan quotes his correspondence of 4 November: "*Not much achieved, principally because P.M. (Lloyd George) recognises our over-riding difficulty – Dublin. Plays on that.*" And on 15 November: "*I prefer Birkenhead to anyone else. He understands and has real insight into our problems – the Dublin one as much as anyone else. Dublin is the real problem.*" (p.242).

So Collins had come to see the British Government as his ally against his own Government!

And Coogan goes on to draw the obvious conclusion: *“From what has passed before I believe it is not unreasonable to speculate that the ‘ultimatum’ could well have suited them (Collins and Griffith - Editor) because it gave them the opportunity of producing a fait accompli as opposed to further hair-splitting and politicking in Dublin which they feared would only result in losing Ireland a historic opportunity.”* (p. 264.)

Another sympathetic biographer explains that at this point *“The Volunteers had expanded out of all recognition, from about 3,000 before the Truce to over 73,000. Michael himself viewed this expansion with some alarm, fearing this army might fall under the control of ‘certain elements’ who might then use it for their own ends. It takes no flight of the imagination to guess who he had in mind. Added to this was the worry that there was growing interference from Dublin which he felt, might jeopardise the peace negotiations in London.”* *“Michael Collins – a life”* by Peter Mackay.

It was an extraordinary situation that the leader of the IRB now saw an expansion of membership and support for the army of the Republic as alarming! It illustrates that he and the IRB could not acknowledge and accept that a new paradigm had been created and that the Republic and its defence was now based on democracy and beyond the need for any form of conspiratorial politics. And this frame of mind led him to ally himself with the British Government against the leadership of the democratic Irish Government.

Because of this hostility to and misjudgement of “Dublin” the greatest irony in Irish history is that the IRB who did more

than any other body to create an Irish Republic was also primarily responsible for destroying the actual Republic that they helped create and instead turned it into a Dominion under the Crown.

The disregard for any respect for cabinet unity had created the new division that laid the basis for a so-called ‘civil war.’ On the British side, Lloyd George’s gofer, a delighted Tom Jones, reported to Hankey, the Cabinet Secretary, after the signing that *“it was a wonderful day.....in essentials we have given nothing that was not in the July proposals.”*

The debate on the ‘Treaty’

The debate on the Treaty was just that - a debate. The Dáil could approve the Articles of Agreement but not ratify them. Anybody could have approved them. But any real Parliament is not for debates in themselves. A debate in a Parliament should be more than a debate. A debate in a Parliament worthy of the name is to support, oppose or propose an action by the government concerned. Anything else is pure debate, waffle. A proper parliamentary debate assumes a government exists which means an agreed cabinet exists putting a definite proposal. If that is missing there is in effect no government. This was the situation in the Dáil because of the divided Cabinet.

The British delegation and their government and supporters had very serious divisions but they put a united case to their Parliament for ratification of the ‘Treaty’ - they would have seen it as crazy to do otherwise.

But this did not happen on the Irish side because the Cabinet was divided and presented a divided case to the Dáil which meant in effect no government proposal. The President, de Valera, the equivalent of Taoiseach today was opposed. The Irish government was therefore not presenting a case to the Dáil; Griffith was doing so on his own and on behalf of some others.

This was a farcical situation as the Dáil was not therefore debating an *Irish* government's proposal – support for or opposition to a motion on the Articles of Agreement - it was debating the British government's proposal and that government's ultimatum of renewed war was the overwhelming factor that carried the vote. As Mellows put it so well – it was the fear of the people not the will of the people that the 'Treaty' supporters relied on.

To get back to Moylan for a minute. He sensed the pointlessness of the debate when he began by saying: *"I have been here more than a week listening to speeches on various subjects, from Relativity to Revelations, and I don't think that the Irish Republican Government have got much further with the work of the Irish Republic during this week."* That was pointing out the difference between a pure debate and doing the work of a government.

The result of the debate

The Dáil abolished itself and some then set up a Dominion under the Government of Ireland Act 1920 which not a single person in the 26 counties had voted for. The new government was set up under a British Act of Parliament not an Irish one.

De Valera said that in this situation a majority had no right to do wrong and he was right. Some issues cannot be reduced to mathematics – and he knew his maths. For example, if the present Dáil voted by half a dozen votes to abolish itself and rejoin what's left of the British Empire - would it be acceptable?

That is what happened in the Dáil in January 1922 and those who won the debate then went to Dublin Castle - they had to go there to ratify the 'Treaty' - and accept power from the Lord Lieutenant under a British Act of parliament in accordance with the 1920 Act.

This was more than flesh could bear and was not accepted by the vast majority of the volunteer IRA. The most enthusiastic supporters were the Southern Unionists and the Church who had never accepted the Republic. A new mercenary army had to be created to defeat the volunteer army. This new army had no moral authority or Irish legal authority and had to resort to a war of terror to succeed which they did in a pure military sense but not politically or morally.

How to commemorate this 'civil war'?

A few years ago an iconic barbaric event of that war, Ballyseedy, was mentioned in the Dáil by Martin Ferris. A young Fine Gael TD responded as follows:

"Deputy Ferris raised the issue of Ballyseedy, for example, and I have been there. I can say, in clear conscience and without any doubt in my mind, that the events at Ballyseedy constituted an atrocity. I can also say that people who were murdered, or executed, without trial by the

Cumann na nGaedheal Government were murdered. It was an atrocity and those people killed without a trial by the first Government were murdered. That is my view." (Dáil, 24/11/2011)

He is describing war crimes. That would be a most appropriate basis for commemorating the 'civil war' in a few years' time because it was a very honest description of the reality of that war. The speaker was An Taoiseach, Leo Varadkar, TD, and as the facts have not changed he must surely be in a position to ensure that his assessment is acted on for the commemorations.

Maybe then we can move on - as the saying goes - and Mr. Varadkar would become a historic Taoiseach in more ways than one.

Jack Lane

Annex

**Report:
Launch of pamphlet "The so-called Treaty and the so-called Civil war."
Pearse House, 8 November 2019.**

Jack Lane said that it was important to call historical events by their proper names. Otherwise it can be impossible to assess their real significance. But it was done all the time as a shorthand way of explanation. But it can lead to Humpty Dumpty's way with words: "*When I use a word it means just what I choose it to mean—neither more nor less.*" And that has obvious problems if we want to speak sensibly about anything.

For example it is quite misleading to talk of a Famine here in the 1840s and by doing so the substance of the atrocity is totally and inevitably distorted. The Stormont regime being called a State which

it never was or could be, and the peoples there being just two traditions, two cultures, two tribes, etc. etc. when two nations would be the most apt description.

It is similar with the *Articles of Agreement* signed on 6th December 1921. It was quite simply not a Treaty no matter how often it is described as such. It could not be a Treaty as only one party was recognised as an independent state, the UK, and the other was treated as a Dominion, a subordinate, and it was signed under threat of renewed war by one party on the other. It could hardly even be called an unequal Treaty as the Chinese call forced Treaties because the subordinate government was not even consulted before it was signed.

The event known as the civil war could not be such as both sides agreed on the form of state they claimed to want - a Republic. One side wanted to preserve the Republic that existed and the other side believed that they had to destroy it under the threat of renewed war in order to re-establish it again! It was not freedom to achieve freedom but the destruction of the freedom that existed. It was claimed to be a stepping stone but stepping stones can take you in two directions – backwards or forwards and this was a stepping stone back into the British Empire.

It was in effect a continuation of the War of the Independence whose whole *raison d'être* was the establishment and defence of the independent Republic that had been voted for, established and defended in arms for 3 years.

Because of the description of the war over the *Article of Agreement* being called a civil war we are told that the two parties that emerged are *civil war parties* are thereby rendered inappropriate and redundant as

political entities because that particular war no longer exists. This is how a misleading description of an event gives a misleading description of what exists today and has done so for nearly a century. It assumes that the very nature of our political structure is misguided and irrelevant. The assumption is that society has lived in a false political consciousness for a century with irrelevant political parties. Our politics are in a permanent time warp.

But the origin of party division that reflected the division over the acceptance or not of the *Articles of Agreement* encapsulated at that point a fundamentally different approach to relations between Ireland and the UK. The relationship between the two countries was the defining and substantial issue for Ireland over centuries and continues to be so to the present day as the war in Northern Ireland showed and as Brexit has shown.

It is quite natural therefore that the political parties of any country represent different approaches to the societies' essential, consuming issue which in our case was and is the relationship between the two states and the level of independence/subservience between the two.

That relationship obviously changes but as the French say: *plus ça change, plus c'est la même chose*.

But a person such as Maurice Earls in a recent talk says “*My argument then is that the war between the Treatyites and Anti-treatyites was not especially significant either in itself or in its afterlife.*”

That approach permeated his talk and is an attempt to explain away most of the 20th century political history of Ireland or at the very least gives all politics here for the

past century an air of unreality. (*Small Potatoes and Civil War*, September 20th, 2019.)

This view permeates all Liberal/left thinking about Ireland's last century of politics. Many, especially those on the Left, regard it all as matter of mass delusion on the part of the electorate for the past century as they insist on treating any deviation from a left/right split as unreal and misconceived.

But it is they who are misconceived in trying to impose a structure that is simply not appropriate and this is the main reason the Left has been left behind by the electorate though Connolly showed the way out of this for the Labour movement. But only lip service is ever paid to his work and the substance of it and he is just given a perfunctory acknowledgement by the Left.

Lane said that Martin Mansergh takes another approach. Writing in *The Irish Catholic*, 31 October, he warns about the “*Dangers of a constant revolutionary mentality*” and for him the Irish ‘civil war’ was a result of people who wanted to continue with revolution like some affliction they had acquired.

The problem with this is that there was no revolution in Ireland. The one and only successful revolution in Ireland had already happened – the tenant farmers after decades of war had got rid of landlordism – a successful class revolution.

The war that began after 1916 was a war for political independence, no more and no less and as it was known to everyone who participated in it. I knew some of them – they were determined, capable and courageous – but they were not revolutionaries. They had got what they

wanted in most ways but not political independence. They wanted to govern themselves and to continue doing what they were doing in every other way.

Moreover the whole world agreed with them. They were told that a world war had been fought for the freedom of small nations by British Empire and up to 50,000 fellow countrymen had died for it; that the US had entered the war to ensure national self determination across the world and that Russian left the war and now supported all efforts at the self determination of all subject nations. It was the *zeitgeist* of the age.

Nobody was against it!

After voting overwhelmingly for this self-evident right the Irish found to their great surprise that they had to fight a war to actually get it. They fought the war to a standstill by July 1921. The effort was then stymied in December 1921 by the British government successfully splitting the Sinn Fein leadership and under the threat of renewed war getting them to accept a so-called Treaty and abolish the Republic.

Mansergh describes the situation then as: “*There is no question that the public at large post- Treaty wanted a return to normality.*” What normality? The pre-Treaty normality was an Independent Irish Republic and that was exactly what the ‘*anti-Treatyites*’ were fighting for. It was THEY who wanted a return to normality. They were the conservatives in this situation - not the ‘*revolutionaries.*’ What other pre-treaty normality was there that anyone wanted to return to?

The new abnormal (revolutionary?) element was that created by those who accepted the ‘Treaty’ and had to set up a new mercenary army to terrorise and crush the volunteer army that had created the independent Republic.

Mr . Mansergh is another person who should use words to mean what they actually mean and not be another *Humpty Dumpty*. He is, after all, credited with being one of our leading public intellectuals.

There was no revolution, there was no Treaty and there was no civil war.

Irish Political Review, December 2019

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Very soon we will have commemorations of the ‘Treaty,’ so-called, a document that was signed on 6 December 1921 and the ‘Civil War,’ so-called, that was launched in June 1922.

This pamphlet establishes that there was no Treaty signed and the war that was launched in 1922 was one of Republicans against Republicans and it could not therefore have been a civil war if words have any meaning. A civil war in these circumstances is oxymoronic.

It was a war over what was signed in London in defiance of what the Cabinet had unanimously agreed three days earlier. What was signed was ‘*Articles of Agreement*’ but a Treaty was not signed or agreed.

How and why this happened is examined here.

If a Treaty had been signed between the existing Irish Republic and the British Government there would not have been any war between Republicans as any Treaty worthy of the name is made freely between independent states.

But the ‘*Articles of Agreement*,’ under the threat of ‘*immediate and terrible war*,’ entailed the abolition of the Dáil and the Irish Republic that had been voted and fought for.

This is what made the so-called civil war inevitable.

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