

# O'Malley in call for Arms Trial to be 'cleared up'

By LEADER REPORTER

PROGRESSIVE Democrats founder Dessie O'Malley called for events surrounding the Arms Trial to be cleared up in the Dail this week.

Describing the issue as "a complex matter", he stated that the impression created by the Prime Time programme was that the changes to the Hefferon statement correspond closely to the markings made by the late Peter Berry on that statement, "that I had been furnished with the Hefferon statement complete with the Berry markings and that therefore I had colluded in deliberate and deceitful changes to that statement", said Mr O'Malley.

"As I pointed out in my earlier statement, there is simply no close correspondence between the Berry markings and the subsequent changes to the Hefferon statement."

He said that the changes which were made to the Hefferon statement were made "primarily to comply with the rules of evidence."

"Both the reports of the garda commissioner and the attorney make clear that all the evidence demonstrates that these changes were made by the prosecution legal team and typed by the Gardai and that, in any event, there was no involvement by either me or any member of the Department of Justice in that process."

He said that a number of commentators had made the point that, while accepting there were extensive changes to the other witness statements, the changes to Col Hefferon's statement were exceptional in that they altered the sense and intent of that statement and none of the changes to other witness statements altered the sense and meetings of those statements.

"Here again I believe that this charge does not stand up to scrutiny," said Mr O'Malley.

"Michael Donnelly of the Department of Justice made a five page statement in which he gave very damaging evi-



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dence concerning some of the accused. That statement was almost completely excised and the five pages reduced to a paragraph or so.

"The sense of that particular statement was completely changed in that all the damaging material was, quite properly, deleted on the ground, we must assume, that it mainly consisted of hearsay."

"The same is true of Mr Gibbons' statements. Large chunks of those statements, again containing highly damaging evidence and assertions against the accused, were excised and edited out."

"This brings us to the next question which none of those who contend for a conspiracy have yet answered. If there was a deliberate attempt to doctor the witness statement, why then was material damaging to the defence case also excised in the course of the editing process?"

"As I pointed out before, not all of the changes to the Hefferon statement favoured the prosecution. However, the extensive changes to the Donnelly statement, for example, all favoured the defence by excluding damaging and prejudicial hearsay

evidence. The same could be said of many of the changes made to the various Gibbons' statements."

Mr O'Malley said that a number of commentators questioned whether the changes to the Hefferon statement were hearsay.

"If the relevant changes to the Hefferon statement were on grounds of hearsay, why then was this line of cross-examination not objected to by counsel for the prosecution, it is asked."

"Firstly, I was not responsible for what prosecuting counsel does. Then as the Attorney points out, this all depends on the view which the prosecution legal team took in advance of the trial as to issues which would be relevant to the trial."

"As far as the issue of privilege is concerned, I must point out, as does the Attorney, that the claim of privilege was based on advice from counsel and the certificates of privilege were themselves drafted within the Attorney General's office."

"I must repeat again that the file in respect of which privilege was claimed, File S/7/70, was

in October 1970 a very different file from that released to the National Archives."

"In the intervening years, that file had become a sort of depository file within the Department for matters relating to the Arms Crisis. File S/7/70 today has documents which could not possibly have been the subject of public interest privilege, including the actual Book of Evidence, the trial exhibits, drafts of the claim of privilege and so forth."

"And while, unfortunately, it is not possible to recreate the file as it existed when, based on advice from the Attorney's office, I claimed privilege in October 1970, it seems clear that the claim of privilege related principally to matters relating to Mr Berry's contacts with President de Valera."

"For my part, I repeat once again that I had no hand, act or part in the changes or editing of any of the witness statements."

"This task was undertaken by the prosecuting legal team who appear to have acted with total propriety in accordance with the accepted practice of the day."

"The events of 1969-70 presented a threat of unparalleled gravity to this State. Despite the acquittals, there is no doubt but there was a wide-ranging conspiracy to import arms for the use of illegal organisations in Northern Ireland."

"There is no record whatever of the Government ever having purported to take a decision to import arms for this purpose and the evidence refutes that contention. I know I was there. I sat at the table from July 1969 onwards."

"Some of the commentary in the wake of the Prime Time programme sought to portray some of the defendants as some sort of latter day Dreyfus, while others were even more blinded to the realities and denied that there ever was a plot to import arms."

"One denied that the murder of Garda Fallon

had any bearing on the Arms Crisis. Yet there is some reason to believe Garda Fallon may have been murdered in April 1970 with a weapon which had been part of earlier illegal shipments into this State."

"There is also reason to suppose that some senior Gardaí suspected that a prominent politician was fully aware of this earlier importation and had turned a blind eye to it. These same gardai became aware through intelligence reports that by December 1969 certain politicians were funding illegal organisations."

"Such was the depth of the crisis which confronted Mr Berry in April 1970 and which, following my appointment as Minister for Justice in May 1970, I in turn confronted."

"Had Jack Lynch, Peter Berry and various Ministers been less than steadfast in our determination to preserve democracy and the rule of law, heaven knows what catastrophe would have befallen this State and the people of the entire island of Ireland."

"Prime Time has raised questions about the conduct of the Arms Trial itself. These questions have now been comprehensively answered insofar as they can be at this remove, and I am glad to note that the reputations of the late Peter Berry and myself have been vindicated."

"Now that these issues have been determined, I want answers to the Arms Crisis itself. Who conspired to import arms? Which politicians conspired to defeat the democratic process through this illegal importation? Which politicians conspired with members of illegal organisations? Which politicians encouraged the establishment of the Provisional IRA? What happened to the bulk of the money voted for the relief of distress in Northern Ireland?"

"It took a month of hard work by me and by two skilled people who helped me, to produce my statement of May 9 and to remove the obloquy. That should not have been necessary."