

# NATIONAL ARCHIVES

## IRELAND



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Meetings in Northern Ireland, 23-24 December 1985

I had meetings on 23 and 24 December with the following individuals in Northern Ireland:

- Fr. John Murphy (Chaplain, Maze Prison);
- Fr. Denis Faul;
- Fr. Raymond Murray;
- Alban Maginness (Barrister and SDLP Chairman);
- Jim Dougal (RTE Belfast);
- Jim Fitzpatrick (Editor, Irish News);

The main topic of discussion with most of the above was the Kirkpatrick trial verdict and the consequent hunger strike. The following is a summary of the information and views which were conveyed to me:

1. Fr. John Murphy

I had previously called on Fr. Murphy on 20 December. I called on him again on 23 December and spoke by phone with him on the evening of 24 December.

In regard to the Kirkpatrick verdict, Fr. Murphy has heard from a civil servant in Belfast (whom he did not name but who, from the context, would appear to have been a NIO official) a rumour that Carswell, rather than acting on his own initiative (as has been rumoured elsewhere), was put under pressure to convict by Unionist politicians with whom he has connections (in the hope of undermining the Agreement).

Fr. Murphy has had a number of contacts with Bobby Tohill, the prisoner who has been on hunger strike since 19 December. In addition, Bishop Daly has met Tohill's wife at Fr. Murphy's request. Tohill, who is a practising Catholic and to some

extent amenable to influence from Fr. Murphy, has indicated that he would be prepared to settle for an appeal within 6-9 months and the presence of international observers at the hearing. He spoke initially of 6 months but Fr. Murphy persuaded him to be more flexible in this regard. He has also accepted suggestions made by Fr. Murphy in relation to observers: the Diocese could be represented (Bishop Daly would have himself represented by a solicitor) and representatives from the Irish Commission for Justice and Peace, the International Commission for Justice and Peace and the International Prison Chaplains Commission could be present. There is some suggestion that Tohill, an impetuous type, was allowed by his colleagues to go on hunger strike first because the case against him is particularly weak and his death could be more effectively exploited for propaganda purposes than that of, say, a known and hardened criminal.

Fr. Murphy has also spoken to Gerard Steenson, who commenced a hunger strike on 26 December. Steenson, whom he did not previously know and who is less open to persuasion than Tohill, is insisting on an urgent review of all supergrass convictions, even though Fr. Murphy has put it to him that this is a complicating factor and that it would be best to concentrate on obtaining an early appeal for the 27 Kirkpatrick defendants. It is believed that Jimmy Brown, the hard-line spokesman for the group, is actively pushing this line among the prisoners arguing that no trust can be placed in the appeal procedure ("this simply means three bigoted Unionists instead of one"). Fr. Murphy has had contact with Brown and felt initially that he had had some success in impressing on him the disadvantages of seeking a review. Subsequently, however, Brown's girlfriend, Roisin McDonagh, and other prisoner's relatives held a press conference (23 December) at which they said that the prisoners were seeking both an early appeal and a review. Fr. Murphy has since been endeavouring to bypass Brown and to deal as far as possible with the prisoners individually.

The defendants initially voted 14:13 in favour of the hunger strike (Brown, in fact, voting against it on timing grounds - the Christmas period and the fact that the Dail and Westminster will be in recess). In the meantime, however, it is believed that all 27 have committed themselves to it. After Steenson, three further prisoners will go on hunger strike on Thursday or Friday of next week. Fr. Murphy has been told that the only purpose is to obtain "justice", that the vote on the strike was taken spontaneously in the emotional aftermath of the verdict and that the strike is not part of a political strategy. However, he himself believes that it may suit the INLA to keep the strike going for the political purpose of placing them on an equal footing with the Provos and of enhancing the in status generally. For some time, in fact, the INLA have been looking for a pretext to challenge the Provos' monopoly on hunger strikes. There is also the danger that the Provos, though at present reportedly keeping their distance from it, may see in a prolonged hunger strike at this time an opportunity to destabilise the election campaign and to undermine the Agreement.

Bishop Daly wrote several days ago to Nicholas Scott, the relevant NIO Minister, requesting that the appeal date be brought forward. Pending receipt of the reply (which proved to be non-committal), Fr. Murphy saw Brian Palmer, Deputy Permanent Under-Secretary at the NIO in charge of security matters, at the Maze on 24 December. Palmer took the line that it was up to the Court of Appeal to arrange the transcript workload in such a way that the Kirkpatrick appeal could be brought forward. If this were to happen, the NIO would not merely have no objection but would facilitate matters "in every way possible". Palmer stopped short, however, of offering to indicate a specific date, though Fr. Murphy had the impression that he might eventually be open to persuasion on the question of indicating a general "time of year" in which the appeal might be heard. Fr. Murphy believes that the men themselves would be satisfied with a fairly general formulation as they

realise that the appeals pending at present should be over before Easter and that, therefore, their own stands a good chance of being heard shortly afterwards.

Fr. Murphy hopes that the Kirkpatrick solicitors will put pressure on the Court of Appeal to expedite matters. In this respect he is hopeful that Lowry may exercise the positive influence which, in another context, resulted in the release of 12 "lifers" on Christmas parole last Friday. Fr. Murphy himself will revisit the prison over the next few days, particularly with a view to seeking the intervention of the relatives (who are rumoured to be unhappy with the strike). He will again suggest to the men, and to their relatives, that holding out for a review introduces an unnecessary complication and that, as far as their appeal is concerned, a continuing hunger strike and its attendant publicity will lessen, rather than increase, the prospects of this being successful (as the judiciary will not wish to give the impression that they reached a decision under pressure). A further idea he is considering is to have Steenson transferred from the "high risk" prisoners' area (where he is currently located) to the block which houses, among others, Tohill and Provo prisoners and to have some of the latter (with whom Fr. Murphy is on close terms and who do not favour the strike) "work on" Steenson.

Fr. Murphy reckons that thirty days is the effective time available before permanent brain damage sets in. Tohill, who has now been on hunger strike for 8 days, seemed to Fr. Murphy (when he saw him on the fifth day) to be suffering more from the loss of concentration usually evident at this stage than other hunger strikers in the past have. He is believed to have an ulcer condition.

2. Fr. Denis Faul and Fr. Raymond Murray

Both Fr. Faul and Fr. Murray described the INLA (to which all 27 defendants belong) as "a bunch of lunatics". Most of the 27 are regarded as (or, at the very minimum, rumoured to be) guilty of serious crimes. Brown, for example, is believed to be the man behind the McGinn killing in Armagh some years ago. Steenson is also regarded as a man with a particularly unsavoury past. The INLA, accordingly, does not enjoy much support in the community. At the same time, however, the idea of any Republican being on hunger strike will have an emotive impact which will blur the distinctions between the Provos and the INLA. As the days go by, the INLA will undoubtedly pick up some support and may even feel sufficiently emboldened to carry out "an atrocity or two" which in other circumstances would have earned universal condemnation. This, in turn, will give the British Army an excuse to "do what they like" once again in Catholic areas and thus stir up tension. Most Provos would prefer not to get involved in a hungerstrike, considering that the time is not ripe, but there may be pressure on them "from the ghettos" to rally behind the INLA and demonstrate moral support. Both Fr. Faul and Fr. Murray expect that the hunger strike will result in some increase in electoral support for Sinn Fein and that Mallon, in particular, will be forced to take account of this "sympathy factor" in his election strategy. The whole situation, because of its by-election implications, constitutes "a highly inflammable mixture".

3. Alban Maginness

Maginness, on the other hand, feels that there would be no enthusiasm on the part of Provos, or their supporters, for a prolonged hunger-strike. That weapon was tried once before, it worked well at the time but the circumstances in which it was used ("spirits were really low at that time") were quite different from present circumstances. There is at present a

readiness on the part of many people, even firm supporters of the 1981-82 hunger-strikes, to give "another way", i.e., the Anglo-Irish Agreement, a chance. The Provos will take the line that this is not their hunger-strike and, resenting their inability to control it, will keep away from it. If the Anglo-Irish Agreement is to be defeated, the Provos will want to be able to "call the shots" themselves and will not want any credit for undermining it (by weakening the SDLP) to go to the INLA. Maginness thinks that in view of the INLA's fundamental unpopularity in the nationalist community, and the Provos' probable reluctance to support an untimely INLA initiative of this kind, the impact which the strike will have on, say, Mallon's election campaign will be less than is feared at present.

Dealing with the demands made by the prisoners Maginness considered that, as things stand, a Kirkpatrick appeal could probably not be heard until the autumn of 1986. One possibility, however, would be for Lowry to declare that, given the public importance of the matter, all appeals against "supergrass" convictions will be hurried up. (As he himself has overturned "supergrass" convictions in the past, such a position would be quite consistent). As for the judicial review, Maginness can make little sense of the idea. A "review" normally arises only in relation to the workings of a specific body or institution (e.g. malpractices by a County Council). It is not possible to carry out a "review" of what is, for better or for worse, the law. What is unavoidable is that the verdict must first go to the Court of Appeal. If the latter's finding is deemed unacceptable, it could be appealed to the House of Lords with a view to the eventual preparation of new legislation. However, the Lords will insist, as one of a number of stipulations, that the Court of Appeal should recommend referral of the matter to them. Thus, there is no clear machinery which could be invoked in order to grant the request for a "review" nor is it clear what would happen in the cases of persons who have successfully appealed against

"supergrass" convictions. In Maginness' view, the way around the problem would be to ask the British authorities to take "a quiet administrative decision" not to conduct trials in future which were based on supergrass evidence. To back up this request, the following grounds could be adduced:

- the public on both sides of the divide in Northern Ireland are manifestly unhappy at the practice;
- the judiciary (as Maginness knows from his own contacts) are unhappy because the judicial system is being gravely damaged in the eyes of the community;
- the Court of Criminal Appeal, specifically, is unhappy, as is evident from the frequent overturning of "supergrass" convictions;
- while the British Government may see short-term gains in being able to keep some well-known criminals behind bars for a couple of years (until their appeal against a "supergrass" conviction succeeds), these gains are outweighed by the damage done to society in terms of the loss of confidence in the judicial system and increased support for paramilitaries.

It is patently absurd, that, as in Northern Ireland at present (but nowhere else), a judge should "warn himself" that the evidence before him is uncorroborated. If uncorroborated evidence is to be used, then at the very least the present one-man Diplock Courts should be replaced by two or three-man courts, with possibly the introduction of juries for less serious categories of offence (e.g. possession of weapons, hijacking).



4. Jim Dougal

Dougal believes that the British Government is most unlikely to bring forward the appeal date appreciably, as this would appear to be a concession under pressure. Like Maginness, he feels that there will be little support in the nationalist community for a hunger-strike - "the context of 1981-82 cannot be recreated". Furthermore, the INLA as such enjoys little support and will not be backed by the Provos. If there is to be an intermediary with the British Government, he thinks that Bishop Daly (who has already been quite active) would be the right man. However, his gut instinct is that under pressure from the relatives (who he understands, are not as resolutely behind their men as the H-Block relatives in 1981-82 were) the hunger-strikers will give up before too long. As the days go by and Mrs Thatcher remains firm, relatives will say to them, "accept a promise of an earlier appeal and forget about the review", and they will come off the strike.

5 Jim Fitzpatrick

Fitzpatrick (who is himself a former lawyer) had heard a rumour an hour or so before our meeting ("via the relatives") that the hunger-strike will be called off. In his view, the solicitors must point out to their clients that, if the strike continues, the Court of Appeal will decide that it is being pressurised and may underline its refusal to bow to intimidation by rejecting the appeal. Fitzpatrick told me that in the nationalist community most of the 27 are regarded as serious criminals who do not deserve support. He also said that

Carswell, who convicted them, is a High Court judge with no previous experience of criminal cases who, furthermore, was the target of an assassination attempt within days of his appointment in 1984.

*David Donoghue*  
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26 December, 1985

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