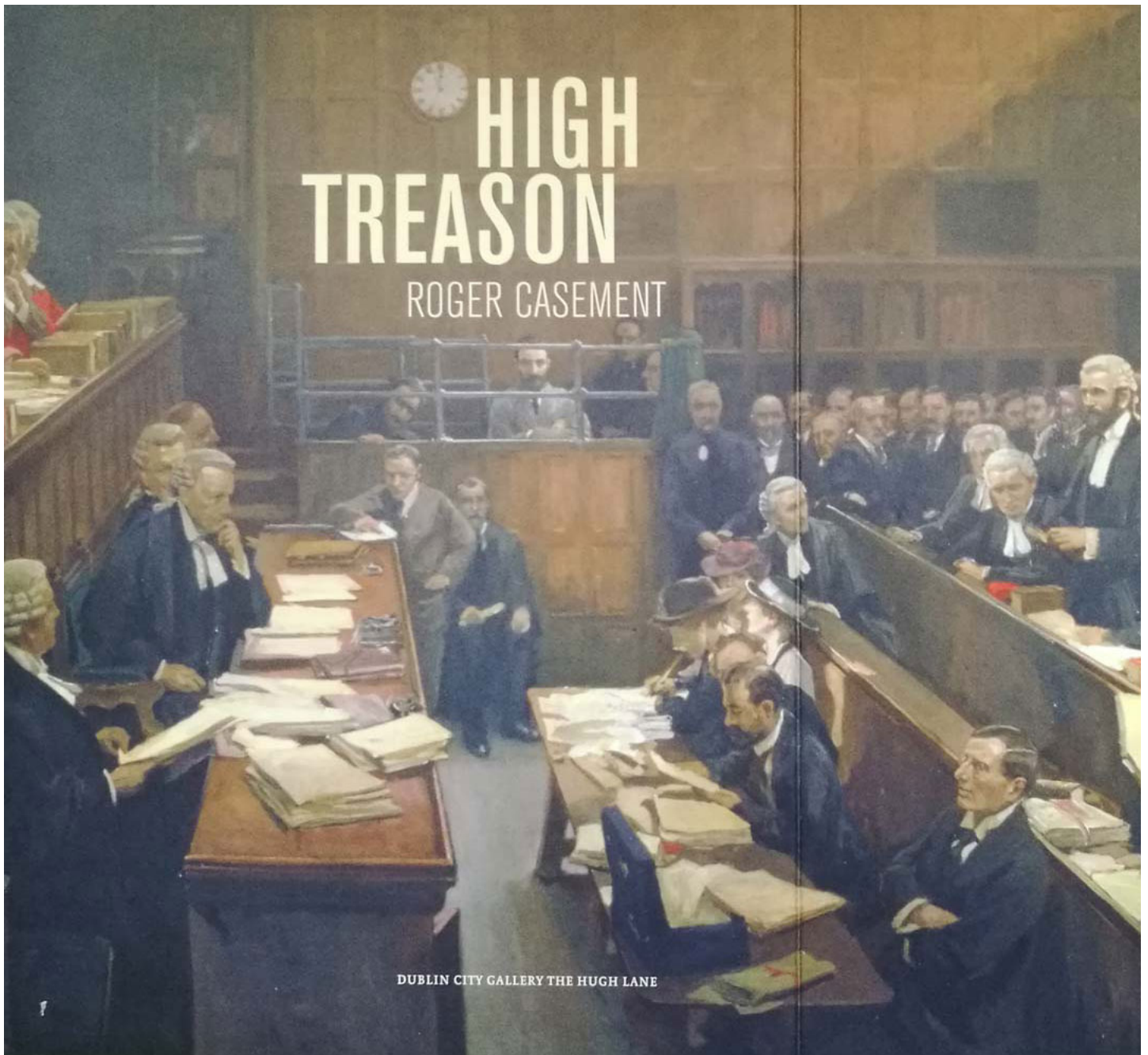


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Cover of a book published by Dublin City Gallery The Hugh Lane on Lavery's famous painting 'High Treason'

## Roger Casement: 'High Treason' & the Politics of Hanging

by Ed Mulhall

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The verdict was 'High Treason' and that was the title given to the painting depicting one of the most famous trials in British and Irish legal history. In Sir John Lavery's painting we look directly towards the accused, Sir Roger Casement. His Counsel, Serjeant Sullivan pleads the case for the defence. The main prosecution counsel, the Attorney General Sir Frederick E. Smith, unionist and one of the founders with Edward Carson of the Ulster Volunteers, sits ignoring a prompting from his junior counsel. In the solicitors' row, Casement's representative, Gavan Duffy, is seen studying a document with the American lawyer Michael Francis Doyle by his side and three women: Duffy's wife Margaret, taking notes, Casement's cousin Gertrude Bannister (Mrs. Parry) and his friend Ada McNeill. In the public gallery, Eva Gore Booth, sister of Countess Markievicz, then imprisoned following the commutation of her death sentence, is shown. On the bench are five judges led by Mr. Justice Darling who is said to have arranged for Mr. Lavery to do the painting. (Lavery had previously painted a portrait of Darling wearing the black cap used for pronouncing a death sentence).

But despite the dramatic setting and title, for Casement, at this stage, there was no hope of legal reprieve. This was the Court of Criminal Appeal. Lavery was painting in the benches where the jury three weeks previously, after a deliberation of 52 minutes, had proclaimed him guilty of high treason.

He had spoken from the dock. He taunted Smith: 'The difference between us was that the Unionist champions chose a path they felt would lead to the Woolsack: while I went a road I knew must lead to the dock.' (Remarks that led to Smith walking out, hands in pockets.)

He had watched the three judges of that court don their black caps and pronounce the death sentence. The grounds for appeal being addressed by Serjeant Sullivan in the painting had already being dismissed by the leading trial judge Lord Reading in his closing remarks to the jury, citing amongst other things the case of Boer War activist, Arthur Lynch. The key issue was whether an act of high treason could be committed outside the jurisdiction (i.e. Germany where Casement attempts to recruit for an Irish Brigade from prisoners of war for an Irish rebellion was the central charge in the trial) and the legal argument centred around an Act passed in the reign of Edward III. However it is clear that the judges had already determined their verdict before the hearing; Darling and another Judge Aiken had examined the Rolls, written in Norman French, which detailed the Act and found a gap equivalent to a punctuation which allowed for the crime to be committed in the realm, or elsewhere. Thus following Sullivan's presentation, the Judges did not require any submission from the Crown and the appeal was dismissed.



Sir Edward Carson (left) and F.E. Smith, later Lord Birkenhead, inspecting Ulster Volunteers prior to the outbreak of the First World War. (Image: *Illustrated London News*)

There was, technically, one more legal avenue open to the defence; that of appeal to the House of Lords and Gavan Duffy sought to exercise this immediately, with Casement's assent and he also provided detailed notes. But leave to appeal to the Lords could only be granted by the Attorney General and this was F.E. Smith, Casement's prosecutor and member of the Cabinet. For Casement, the only prospect of survival was now political and a commutation of the death sentence to one of life imprisonment which could be made by the Home Secretary, Herbert Samuel. Samuel was not prepared to take the decision alone and referred the case to the Prime Minister and the full Cabinet. There had been a large campaign underway in Britain, Ireland and the United States to prevent another execution and in the end the decisive issues that determined Casement's fate where ones which were never raised during the trial or appeal and they included the use of extracts of what became known as the 'Black Diaries'.

From the end of his trial on 29 June 1916, the British Cabinet discussed the Casement reprieve on five occasions. On 5 and 12 July, which were before the Appeal; and three afterwards, 19 and 27 July, and the eve of the execution, 2 August 1916. Asquith's biographer, the politician and historian, Roy Jenkins commented: 'There can be few other examples of a Cabinet devoting large parts of four (sic) separate meetings to considering an individual sentence - then arriving at the wrong decision.' The pressures on the Cabinet during this period were enormous. The War was at a crucial stage, severe pressure on the French at Verdun had led to the Somme offensive which began on 1 July 1916 with massive casualties. It was clear that the offensive was not immediately successful and that it would take much longer than anticipated. There were serious divisions in the Cabinet about the approach to the War effort, divisions compounded by the death of the War Minister Lord Kitchener and a belief by many within and without the Cabinet that Asquith might need to be replaced as Prime Minister. Such tensions were again compounded by the instigation of two inquiries into the War effort in the Dardanelles and Mesopotamia, which put pressure on both military and political leaders (and which followed on from the resignations and commission of inquiry into the Dublin Rebellion).

Both Lloyd George, within the Cabinet, and Edward Carson, without, were significant figures in this growing pressure. Lloyd George eventually agreed to become War Minister replacing Kitchener and Asquith chose his ally Edwin Montagu (rather than Winston Churchill, whom Lloyd George would have preferred to be his own replacement) as Munitions Minister. Tensions on the direction of the War effort persisted right through July with Lord Riddell, newspaper proprietor and Lloyd George supporter, noting in his diary that they discussed the possibility of an election where the issue would be 'a more vigorous prosecution of the war' which Lloyd George was now convinced would last another year. (They also discussed the prospect of Carson replacing Asquith as PM, about whom Lloyd George said he would be 'proud and happy to serve under. I think he would do well. My only purpose is to get on with the War.')

For all politicians, right through the month of July 1916, the war was to have a personal impact: the large number of casualties at the Somme led to letters of condolences and concern - even between political foes as Redmond wrote to James Craig about his brother wounded and lost in action. The difficulty with the war led also to an increased sensitivity about the role the United States might play. This was likely to have to wait until after the Presidential election - then at the selection convention stage.

Then there was Ireland. Despite having intervened to limit any further executions of the key leaders it was clear to the Government that those executions already carried out had a significant negative impact internationally and could potentially impact similarly on any future political settlement. Thus Asquith, following his visit and consultations in the aftermath of the Rising in May, asked Lloyd George to try and get agreement on implementing the Home Rule proposals frozen since the eve of the War. Lloyd George embarked on bilateral negotiations avoiding any direct talks between unionist and nationalist and came up with a formula to implement Home Rule with six counties of Ulster excluded until, at least, the end of the war, when the final structure would be determined by an Imperial conference. A Dublin parliament would be formed immediately and all Irish MPs would continue to sit at Westminster. As was typical of a Lloyd George formula there was some ambiguity around the edges but he got agreement from both Carson and Redmond to the formula with a commitment from them to deliver more general support. Both the Unionist and Nationalist got the proposals through two very difficult meetings in mid to late June with both the nationalists, who would be left in the six counties, and the unionists of the south agreeing reluctantly. But when the issue went back to Westminster difficulties arose and discussion of these paralleled the Casement discussions.

On 28 June 1916, significant opposition from the bulk of the English Conservatives with Irish peers led to a series of crisis Cabinet meetings. One minister, Lord Selborne, resigned. Asquith reported to the King that chief opposition came from Walter Long, Lord Lansdowne and Lord Robert Cecil with the Conservative leader, Colonial Secretary, Bonar Law supporting the proposals. A key intervention came from the foreign Secretary Edward Grey who stressed the impact that a failure of the proposal would have on the situation in America. He was strongly supported by the First Lord of the Admiralty and former Conservative leader and Prime Minister, Arthur Balfour. Further resignations and a split were prevented by a proposal to set up a

sub-committee which would make proposals for additional safeguards to be included in the final formula. The committee included Attorney General F. E. Smith who, though a strong unionist, supported Carson's position on the plan. So pre-occupied with the Irish issue was the meeting that the Cabinet Secretary felt that adequate time was not given to discussing the War and this on 30 June just before the proposed Battle of the Somme.

The Cabinet meeting of 5 July considered the sub-committee proposals and the Casement case. It was also given a report on the first days of the Somme by Sir William Robertson using a large map to display the activity. This report was said to be 're-assuring' but the main business was Ireland and they discussed the recommendations that re-assurances could be provided by way of a special bill safeguarding naval and military rights for the duration of the War. The Cabinet confirmed this approach, with the dissident unionists seeming to assent. Agreement from Redmond was also forthcoming, although John Dillon in Dublin was becoming concerned at the further concessions.



The Ulster Division going over the top on the first day of the Battle of the Somme, 1 July 1916. (Image: *Illustrated London News*)

It looked like the Home Rule Bill would now be implemented. However on 11 July Lord Lansdowne, speaking for the Government in the Lords, exposed the major ambiguity in Lloyd George's proposals. Lansdowne stated that the exclusion of Ulster would be permanent and that the rest of Ireland would be subject to a strengthened Defence of the Realm Act with which a Dublin parliament could not interfere. The 'permanency' was a key as it emerged that Lloyd George had given Carson an assurance that there could not be a change to the exclusion without a further Act of Parliament, an assurance he hadn't shared with Redmond. Lansdowne's speech therefore alarmed the Nationalists who felt they had not been told the whole story, thus weakening the position of Redmond and Devlin, the main supporters of a solution that had left John Dillon sceptical. Thus the next Cabinet meeting on the following day, 19 July, would have seen the start of this unravelling and that was the meeting dominated by detailed discussion of the Casement case.

The Conservative leader Bonar Law was now also seeking further concessions particularly relating to excluding southern Irish MPs from voting on English matters (a proposal echoed in recent British history). But Redmond, who with Dillon was now accusing Lloyd George of treachery, was according to Asquith 'lost'. Asquith wrote 24 July 1916 that 'Redmond is trying to kill the whole thing, in fact it's dead'; a fact made clear by Redmond in a speech in the Commons that day, despite pleas from Carson to cross the floor for one last effort. So at the Cabinet meeting of 27 July the plan was abandoned and a Lord Lieutenant and Chief Secretary were appointed to Ireland. This, Lloyd George was to reflect in his War Memoir, 'led to the persistent growth of further disaffection, culminating in the chaos of the post war years and the ultimate settlement of the problem on lines which involved a bigger concession to Southern Ireland than would have been made in the scheme I proposed.' Lloyd George was by now War Minister and, by year end, Prime Minister.

Together with this political difficulty, external pressure was also building on the Casement issue. From the moment his arrest became known members of Casement's family began to mobilise support for him, initially for his defence and then for his reprieve from the gallows. His sister Nina was in America where the Irish American community (including John Devoy) provided funds for the defence and sending Michael Francis Doyle over to the trial. They began lobbying the Senate, Congress, the press and the President on Casement's behalf. In Britain, Casement's cousins, Gertrude and Elizabeth, together with his friend Alice Stopford Green, began organising Casement's defence and mobilising public opinion through a series of petitions.

In Ireland the petition was organised by a committee led by Colonel Maurice Moore and Agnes O'Farrelly and including Douglas Hyde. Among the eventual signatories were 18 bishops and 26 MPs including Stephen Gwynn, Tim Healy, William O'Brien and Joe Devlin but not including Redmond or Dillon. Many other notable figures signed, including Æ, Edward Martyn, T.W. Lyster and Mary Spring Rice. In Ulster the writer Alice Milligan organised a petition that included many Ulster liberals. In London, one of the largest petitions was organised by Sir Arthur Conan Doyle. His motivation was not sympathy for Casement but tactical; he believed that the planned execution would damage support for the war effort internationally. Writers G.K. Chesterton, Jerome K. Jerome, journalist C.P. Scott and the Webbs were signatories. George Bernard Shaw who had met with Gertrude Bannister and Alice Stopford Green at Beatrice Webb's house before the start of the trial and who had drafted a proposed address to the jury for Casement also provided a text for one of the petitions (though he didn't sign it as his support he felt might be counterproductive). Many, including W.B. Yeats, Hanna Sheehy Skeffington and Eva Gore-Booth wrote directly to politicians and the Prime Minister. Yeats wrote: 'The pardon of Casement may give an opportunity for more moderate opinion in Ireland to recover something of its weight.' But as Yeats also stressed the most significant pressure was coming from the United States: 'I am convinced his execution will have an evil effect on America.'

Casement's sister Agnes Newman met the Acting Secretary of State at the end of April and wrote directly to President Wilson. The lawyer Michael Doyle had written to the President's secretary from London on 6 July saying 'John Redmond and Lord Northcliffe both told me the President's word would save (Casement)'. Wilson, who had just been re-nominated at the Democratic Convention in June, said that it would be 'inexcusable to do so' (as he had declined to intervene in a similar request on behalf of four Bohemian national leaders sentenced to death by the Austro-Hungarian government.) Many Irish American groups mobilised for direct and indirect pleas, the case was covered prominently in the national and local press, particularly in those controlled by William Hearst and many Congressmen and Senators were lobbied. Following the trial a motion was debated in the Senate asking the President to seek a 'stay of execution', this was sent on to the Foreign Relations Committee for resolution, a compromise wording was agreed on 29 July not mentioning Casement explicitly but asking for 'clemency for Irish political prisoners' and this was sent on to the President to be transmitted to the British Government. (In doing so Senator Martine read into the record of Congress Yeats' letter of appeal.)

The building American pressure on the Cabinet was best described by the British Ambassador to Washington Sir Cecil Spring Rice in a series of memos in late May and June. (Ironically, Spring Rice was a cousin of Mary Spring Rice who was involved with Casement in the earlier importation of arms at Howth). He wrote to the Foreign Secretary Sir Edward Grey on 9 June 1916:

'As to Casement: the Irish might regard his execution as a small matter in comparison with the others. But the great bulk of American public opinion, while it might excuse executions in blood, would greatly regret an execution sometime after the event. This is a view of important friends of ours here who have nothing to do with the Irish movement. It is far better to make Casement ridiculous than a martyr. The universal impression here seems to be that when here he acted like a madman. There is no doubt whatever that Germans here look forward with great interest to his execution, of which they will take full advantage.'

This analysis had a significant impact on the Cabinet deliberations where Edward Grey was prominent in arguing the case for a potential reprieve. He was supported by - amongst others - Lord Lansdowne and at the 5 July meeting the Cabinet asked for a psychological report on Casement to be prepared that might give grounds for more leniency. By then central to their evaluation of the case was not the evidence presented at trial but other materials that they were being briefed including the 'Black Diaries'.

### The Black Diaries & the Trial of Roger Casement



Angus Mitchell explains the impact the notorious 'Black Diaries' had on Casement's trial. The image shows a cartoon from an American pro-German publication. The caption on the cartoon read: 'Guilty of the same crime as George Washington. (Image: Digital Library@Villanova University)

From his activities in America and particularly from his embarkation to Germany, Casement was closely monitored by British naval intelligence. They had managed to intercept communication from the German embassy in Washington and so were alive to the possibility of Casement's mission in Germany leading to arms shipments and possible rebellion in Ireland. (To the extent of planning how they might intercept such a shipment). So when Casement was eventually apprehended and the *Aud* arms shipment discovered, it was the head of Naval Intelligence, Captain Reginald Hall, who (with Basil Thomson, Head of the Criminal Intelligence Division at Scotland Yard) interviewed him first on Easter Sunday morning. Once the Rising happened it became clear that Casement had an added significance as he was the one clear example of the connection between the rebellion and the Germans. (The connection was used in the court martial of the rebel leaders to justify execution verdicts). It was in those early interrogations that the diary, said to have been discovered at Casement's London lodgement, was first mentioned to Casement by Basil Thomson. Later, extracts were prepared which were then circulated outside the investigation by both Thomson and Hall. Those extracts contained graphic descriptions of homosexual activity including records of payments to boys, descriptions of genitalia and details of extensive contacts dated to the 1911 period. It was these same extracts that were to be the basis of the psychological report ordered by the Cabinet. They were also offered to Casement's defence team, by F.E. Smith, to see if they might be used to adopt an insanity defence and thereby entered into evidence. Serjeant Sullivan declined to view or use them. They were also shown widely to counteract the political pressure for Casement's reprieve, particularly from the US.

Walter Page, the American ambassador in London, was shown the extracts, by Thompson, which he said made him ill and wrote to Washington: 'I am privately informed that that much information about him of an unspeakably filthy character was withheld from publicity...if all the facts about Casement ever become public it will be well that our government had nothing to do with him or his case even indirectly.' Copies were sent by Hall and Naval Intelligence to Washington. In London they were shown to the Prime Minister and members of the Cabinet, to other politicians, including reportedly John Redmond (who has been recalled as studying them with a supporter back in Ireland), to King George V, to selected journalists (including the Associate Press representative and representatives from the Northcliffe press who reported on their existence in the immediate aftermath of the trial verdict) and to prominent individuals who were being lobbied to support a reprieve. (Horace Plunkett was shown them when in London and attending the opening of the trial). One of the most notable of the people to whom the extracts were shown was the Archbishop of Canterbury who sent the extracts for verification to a colleague of Casement's from his Africa days (John Harris who having inspected them believed them to be genuine). To many of the supporters of Casement it was believed that this was propaganda and the documents were forged. Others such as Shaw who allowed that they could be genuine believed them irrelevant to the issue of reprieve.

There is no doubt they had an impact in Cabinet, not only in seeking a possible alternative to execution on insanity grounds but also in allowing a propaganda tool that might dampen the potential political fallout if the execution were to go ahead. Those supporting the execution, particularly in the Home Office, also brought further evidence to the Cabinet deliberations as can be seen by the briefing note prepared for the key Cabinet meetings by the legal advisor to the Home Office Ernley Blackwell: 'It is difficult to imagine a worse case of high treason than Casement's. It is aggravated rather than mitigated by his previous career in the public service and his private character - although it really has no relation to the actual offence with which he is charged - certainly not to be pleaded in his favour. There are no possible grounds for interference in this sentence.' In delivering the assessment of the psychologists that there were no grounds based on insanity he added his own judgement: '...of later years he seems to have completed the full cycle of sexual degeneracy and from a pervert has become an invert - a woman, or pathetic, who derives his satisfaction from attracting men and inducing them to use him. I believe the diaries are a faithful and accurate record of his acts, thoughts and feelings just as they occurred and presented themselves to him. No one...could doubt that Casement intellectually, at any rate, is very far removed from anything that could properly be described as insanity.' He added: 'I see not the slightest objection to hanging Casement and afterwards giving as much publicity to the contents of his diary as decency permits.'

As far back as the end of May, when sending a memo to John Redmond on the negotiation proposals, Irish Party MP Stephen Gwynne written that "F.E. Smith said that Casement must hang." (He added that he also said that so too must the man who shot Skeffington). Smith continued with this conviction and as Attorney General closed off the last legal avenue for legal appeal. He, having consulted with his legal team for the trial, decided not to allow the appeal to go to the Lords. He later gave his reasoning: 'I had throughout argued that there was no substance in the point raised by the defence', but he also feared the political consequences if the Lords had upheld the appeal telling defence advisor Professor Morgan that if the Lords had upheld the appeal on a technicality then the Government might have fallen. (Smith and the Crown also abandoned the case against Casement's co-accused Daniel Bailey a released prisoner from the German camps who had travelled with Casement to Tralee and later was captured and sent for trial with Casement).

These tensions within the Government were very much present when the full Cabinet met to discuss the issue in detail on 19 July. In addition to the issues already raised they also had uncorroborated reports that some of the prisoners approached by Casement in Germany had been sent away for punishment when they refused to join his brigade and some may have died due to the hardship. More substantively they, at this meeting or the subsequent one, had extra documents left by Casement which showed plans for his brigade to support the German effort in Egypt if it failed to go to Ireland. This would have been a significant factor if it had been used in the trial. As well as the petitions and pleas for reprieve they also heard of complaints by Casement's American counsel Doyle that the defence had been prevented from bringing witnesses from Germany who would have given evidence that Casement was not in favour of a Rising at this time.

### The Execution of Roger Casement



Angus Mitchell on Casement's last days and his execution in August 1916. The picture shows Casement being escorted by police during his trial.

Following the meeting, the Prime Minister reported to the King that the Cabinet were unanimous in deciding not to intervene. Casement's execution was set for 3 August 1916. A decision confirmed by the Cabinet meeting held on 27 July which also confirmed the appointments to the Dublin Administration after the collapse of the Irish talks. The petitions continued to arrive and on 28 July Arthur Lynch MP, whose own death sentence for treason had been commuted, brought a petition from 39 Irish Party MPs to Asquith. Irish Party MP T.P. O'Connor who had been a key supporter of compromise during the Home Rule discussions now wrote to Asquith about Casement, suggesting that the German execution of a prisoner Captain Fryatt gave another context to the decision: 'our just protest against the murder of Captain Fryatt will be seriously discounted if in the same week, we execute even a traitor.' He added that Casement could get life imprisonment or be committed to Broadmore lunatic asylum: 'The doctors, I understand have reported adversely on the question of insanity, but the facts known to you and others, I am sure, leave no doubt that we are dealing with a man of entirely disordered mind.' O'Connor and John Dillon were invited to Downing Street to discuss the matter with the Prime Minister. They had a long detailed discussion which impressed O'Connor: 'I never listened to so dispassionate, so judicial, so balanced a statement of a tremendously complicated problem. But what I remember best is the revelation of the passionate humanity of the man.' The extent of this lobbying worried Scotland Yard and Basil Thomson noted with some concern that that Cabinet was maybe weakening on the issue. The Irish appointments were debated in the House on 31 July. There was no mention of the Casement reprieve in the main contributions to the debate by either the Irish MPs or the Government. Before the Cabinet meeting and alarmed at the collapse of the talks the new Minister for Munitions Edwin Montagu had made one last effort to get Redmond to reconsider and agree to another Buckingham Palace conference to break the impasse, he now told a colleague 'I have an idea we shall hang Roger Casement and shall feel sorry for it afterwards.'

With American concerns still a predominant worry, the Prime Minister met with the American ambassador Walter Page for lunch on 1 August: '[he told me] he could not in good conscience interfere with Casement's execution in spite of the shoals of telegrams he was receiving from the United States. This man, said he, visited Irish prisoners in German camps and tried to seduce them to take up arms against Great Britain - their own country. When they refused the Germans removed them to the worst places in their Empire and, as a result, some of them died. Then Casement came to Ireland in a man of war accompanied by a ship loaded with guns.' He spoke of the unmentionable Casement diary, which shows a degree of perversion and depravity without parallel in modern times. 'In all good conscience to my country and my responsibilities I cannot interfere.' As he left lunch Page met with Mrs. Asquith (who he described as the 'ugliest woman in the world') who put things more bluntly: 'she whispered to me that 'they' were trying to get Henry out of Government on the Casement issue. If Casement is hanged, they'll attack him, and if Casement is pardoned the same persons would attack him for that. Whatever the Prime Minister does is wrong. After a pause to light a cigarette she added: 'the damned old Tories.'

The Cabinet last discussed the issue on the eve of the execution, 2 August. This followed the motion in the US Senate which had been transmitted at least verbally to Sir Edward Grey before the meeting. It was accompanied by a note from Spring Rice stressing the strength of feeling and hinting that radical Irish Americans were now seeing the execution as a potential propaganda tool. (A strong interpretation of the motion from Spring Rice who now recommended reprieve for the first time did not arrive until the following morning an hour before the execution time). Bernard Shaw had a final appeal in that morning's paper citing the German execution of Captain Fryatt as offering a 'priceless opportunity of placing a reprieve of Casement in the sharpest contrast to the execution of Captain Fryatt. If we miss it and miss it in cold blood we must not expect America or France or any other country to draw that distinction between the merciful and magnanimous Briton and the cruel and ruthless Hun.' This meeting also heard of representation from the Vatican accompanied by a letter from Germany confirming that Casement was intent on stopping the Rising as outlined earlier by Eva Gore Booth in a

letter to the Prime Minister. Asquith had also had direct correspondence from Gertrude Bannister making one last plea. But perhaps one of the most significant letters read to Cabinet was from the Archbishop of Canterbury who despite having the diaries confirmed to him as genuine wrote to the Lord Chancellor: 'I think perhaps in my talk with you I overmuch concealed the strength of the instinct I find stirring within me to the effect that the really courageous course for the Government to adopt would be the commutation of the death sentence.' He argued that while a death sentence may have been deserved as a matter of justice, as a matter of policy and taking into account the Casement's other social deeds and health he should be committed to Broadmore, as it was the less 'irreparable of the two acts'. He said he purposely had not dwelt on all the complexities of immoral morbidities which were best left to professional mental experts but allowed that it had been an element but 'not more' in his consideration. The Lord Chancellor told the Archbishop the following evening that his letter had been part of the consideration but after what was implied to be a difficult discussion it had been decided to let the execution go ahead saying that for him the story of the mistreatment of prisoners after their encounter with Casement was a significant factor.

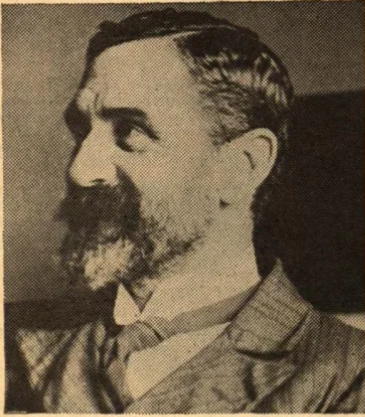
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Advertisement for an pamphlet written by Casement published in American pro-German newspaper *Issues and Events*, framed in the context of his imminent execution. (Images: Digital Library@Villanova University)

The earlier Cabinet tension had perhaps weakened the position of Landsdowne in supporting a reprieve and Lord Grey would later assure Spring Rice that it was the practical decision, Spring Rice then sought more information on the diaries to help influence the aftermath.

That same evening the Home Secretary, Herbert Samuel, wrote to his wife of the deliberations:

'There has been much doubting in Cabinet - among a few. The question has been discussed there three times, this morning for an hour and a half. I have had no doubt that, as the man is certainly not insane, there is no ground on which he can be reprieved. Although his execution will create a (somewhat artificial) row in America and give rise to a certain amount of passion in Ireland, and although the *Manchester Guardian* and the *Nation* will denounce us, his reprieve would let loose a tornado of condemnation, would be bitterly resented by the great mass of the people in Great Britain and by the whole of the army, and would profoundly and permanently shake public confidence in the sincerity and courage of the Government. In the end the Cabinet unanimously came to this conclusion. But there are moments when a Home Secretary is a post far from agreeable. Had Casement not been a man of atrocious moral character, the situation would have been even more difficult.'

The tensions in the Cabinet remained as was clear from a diary entry that evening by Lloyd George's secretary (and mistress) Frances Stevenson: 'The Irish are clearly not going to rest until the Government is out. The PM seems to be anxious and nervous & there is some talk of his resignation. Mrs A is very alarmed and today has written D a very urgent letter, begging him to use his influence and send the Wimbornes back to Ireland, her way of pacifying Ireland, whence danger threatens the Premiership...however D treats all these letters with contempt. Society women do not appeal to him & have never had any influence over his actions.' But the decision was made: 'we had to hang him' the longest surviving member of the Asquith cabinet Lord Samuel said to Robin Dudley Edwards in 1957 and F.E. Smith, later Lord Birkenhead, was just as clear: 'I threatened to resign from Cabinet unless this traitor was executed. You will remember what a tremendous effort was made to save Casement and for a time the Government was wobbling. I gave them the choice of Casement or myself. Nothing gave me greater delight than the hanging of Casement.'

Asquith, who had been in favour of a repeal but felt in the end that they could not be any more lenient than Maxwell was with the rebel leaders, sent a hand written reply to Gertrude Bannister on 2 August: 'It is with sincere pain (& only in compliance with your request that I inform you) that after very full consideration, the Cabinet today came to the conclusion that there were no sufficient grounds for a reprieve. I need not assure you that I wish it had been possible for them to arrive at a different conclusion.' The Governor of Pentonville told Casement that he would be executed the following morning and in his final messages relayed through the Catholic priest who tended to him in his final hours was a statement that his dominant thought was to "keep Ireland out of the War, England has no claim on us.'

Following his execution on 3 August the Government issued a statement: 'All the circumstances in the case of Sir Roger Casement were carefully and repeatedly considered by the Government before the decision was reached not to interfere with the sentence of the law. He was convicted and punished for treachery of the worst kind to the Empire he had served and as a willing agent of Germany.' It listed each of the new items backing up the decision, 'conclusive evidence, the Egyptian plans, the treatment of the German prisoners some of whom have died' and dismissed the idea that he was trying to stop the Rising as it was not put in evidence at the trial. It also alluded to the diaries: 'materials bearing on his mental condition were placed at the disposal of his Counsel who did not raise the plea of insanity. Casement's demeanour since his arrest and throughout and since the trial, gave no ground for any such defence, and indeed was sufficient to disprove it.' The verdict of high treason had resulted in the ultimate punishment. The *Times* editorial of the following day supported the outcome and added: 'But if there were any virtue in the pomp and circumstance of a great British trial it can only be weakened by inspired innuendoes which whatever the substance are now irrelevant, improper and unEnglish.'

Asquith was not to see out the year as Prime Minister and indeed it was an Irish MP, Sir Edward Carson who with Bonar Law had led the backbench revolt, that saw Lloyd George become Prime Minister. Later he would appoint F.E. Smith as Lord Chancellor, thus fulfilling Casements prediction of gaining the 'woolsack'. Smith and another of those featured in the Lavery painting were to meet again in another significant moment of Irish history, when the political solution to the government of Ireland and partition were finally agreed. Gavan Duffy, Casement's solicitor, was a member of the Irish delegation led by Arthur Griffith and Michael Collins in the Treaty negotiations of 1921. On the British side led by Prime Minister Lloyd George was Lord Birkenhead, the former Attorney General F.E. Smith. During the lengthy negotiations, Collins himself a keen student of the activities of British

Intelligence discussed the provenance of the Casement diaries with Smith. Smith proclaimed their authenticity and arranged for Collins and another member of the delegation, Eamon Duggan, to inspect them. Duggan gave this account: 'Michael Collins and I saw the Casement diary by arrangement with Birkenhead. We read it. I did not know Casement's hand writing. Collins did. The diary was in two parts - bound volumes - detailing ad nauseum details of sex perversion, of the personal appearance and beauty of native boys. It was disgusting. There was nothing to suggest it was a copy of another man's diary. Collins was satisfied it was Casement's. So was Birkenhead.' Serjeant Sullivan was also to pass a late verdict. Giving evidence to the Bureau of Military History he stated of Casement:

'First, he wished it to be known that from the moment of his landing, he was striving, in every way to prevent the occurrence of Easter Week...the second matter which troubled him was the fear that the prosecution would introduce in the trial the deplorable diaries...I did not even discuss it with Casement, beyond insuring him that the Diary would not be alluded to during the trial. He was very nervous about it, and, inspite of my efforts to avoid the subject, he intruded the observation that the matters recorded in the Diary were inseparable from the manifestation of distinguished genius. He meant, no doubt, that if the matter did appear at the trial, this theory would be put forward, coupled with the notorious proofs. Beyond this strange occurrence there is nothing that is not better known to the public and to myself in connection with the trial.'

It was Sullivan who was responsible for the large Lavery canvas "High Treason" coming to King's Inns in Dublin on permanent loan from the Royal Courts of Justice in London, in 1951. Lord Birkenhead who wanted the painting to hang in the British Law Courts died before the painting was completed. In finishing the larger painting from the smaller canvas painted in the jury box, Lavery had sought assistance and photographs from some of those present including Margaret Gavan Duffy and Gertrude Bannister. Bannister wrote to Lavery: 'So long as Roger is life-like what matter anyone else?'

#### Further Reading

1. High Treason (Roger Casement, Dublin Hugh Lane Gallery, Dublin 2016)
2. Mary E. Daly editor, *Roger Casement in World History* (Dublin, 2005)
3. Séamus Ó Síocháin, *Roger Casement, Imperialist, Rebel, Revolutionary* (Dublin 2008)
4. Angus Mitchell, *Roger Casement, 16 Lives*, Dublin, 2013.
5. Jeffrey Dudgeon, *Roger Casement, The Black Diaries* (Belfast, 2016)
6. Roger Sawyer, *Casement, The Flawed Hero* (London, 1984)
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8. B. L. Reid, *The Lives of Roger Casement* (Yale, 1976)
9. H. Montgomery Hyde, *Trial of Sir Roger Casement* (London, 1960)
10. Herbert O. Mackey, *Roger Casement* (Dublin, 1962)
11. Roy Jenkins, *Asquith* (London, 1988)
12. Alan J Ward, *Ireland and Anglo –American Relations, 1899-1921* (London, 1969)
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15. Bernard Wasserstein, *Herbert Samuel, A Political Life* (Oxford, 1992)
16. George Bernard Shaw, *The Matter with Ireland* (London, 1962)
17. France Stevenson, *Lloyd George A Diary* (London)
18. Dermot Melady, *John Redmond* (Kildare, 2014)
19. Robert Schmuhl, *Ireland's Exiled Children* (Oxford, 2016)
20. A. M. Sullivan, *The Last Serjeant* (London, 1952)
21. Sir William James, *The Eyes of the Navy* (London, 1955)
22. Arthur Slink editor, *Woodrow Wilson Paper Vol. 36* (New Jersey 1981)
23. Lord Riddell, *Lord Riddell's War Diary* (London 1933)
24. Stephen Gwynn, *Letters and Friendships of Sir Cecil Spring Rice* (London, 1929)
25. G.K. A. Bell, *Randall Davidson, Volume 11* (London, 1935)
26. Denis Gwynn, *Life of John Redmond* (London 1932)
27. Ruán O'Donnell, *The Impact of the Easter Rising* (Dublin, 2008)
28. Ian Colvin, *The Life of Lord Carson* (London, 1936)
29. Ronan Fanning, *Fatal Path* (London, 2013)
30. F S L Lyons, *John Dillon* (London, 1968)

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