

ORIGINAL

BUREAU OF MILITARY HISTORY 1913-21

BURÓ STAIRÉ MILEATA 1913-21

No. W.S. 843

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BUREAU OF MILITARY HISTORY, 1913-21.

STATEMENT BY WITNESS

DOCUMENT NO. W.S. 843

**Witness**

Vincent Rice, S.C.,  
2, Northbrook Road,  
Leeson Park,  
Dublin.

**Identity.**

Junior Counsel for the defence in  
the trials referred to in his  
statement.

**Subject.**

Trial of Frank Teeling, William Conway  
and Edward Potter by British Courtmartial  
in the City Hall, Dublin, February 1921.

**Conditions, if any, Stipulated by Witness.**

Nil

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STATEMENT BY VINCENT RICE, S.C.,  
on the trial of Frank Teeling, William Conway and Ed.  
Potter, City Hall, Dublin, February 1921.

Foreword.

The following article is based on matters within my personal knowledge and on the use of the official transcript of evidence made at the request of the British Authorities by Messrs. Geo Walpole, Members of the Institute of Shorthand Writers, Portugal St. Buildings, Lincolns Inn, London W.C. 2.

It was published under the title "From Days of Terror" by the Irish Press, Dublin, and appeared in three sections on 11th, 12th and 13th November, 1952.

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By mid-summer of 1920 the Black-and-Tan Auxiliary Reign of Terror was mounting to its climax. To those who did not live through those days any narration of the facts will appear almost incredible. Yet they are conclusively proved not only by the evidence of living witnesses, but also by the mass of official documents which have since come to light, and by the public speeches and admissions of English Cabinet Ministers. For beyond any yea or nay, the British Government under Lloyd George had settled on a policy of murder, arson, looting and armed terrorism of the civil population in Ireland in order to suppress the insurrectionary movement. In the words of the Report by the American Commission of Inquiry:

"There exists neither under the laws of war nor under the codes of Martial Law in civilised States any justification for assassination, pillaging or terrorism, as a means of suppressing insurrection. And yet this Commission is reluctantly forced to the conclusion that such forces are relied upon by the Imperial British forces in Ireland to bring the Irish people once more under the control of the Imperial Crown".

In one week the terrorists sacked the towns of Balbriggan, Miltown-Malbay, Ennistymon, Lahinch, Mallow and Trim, murdering "as often as not". In the same month of February, 1921, in which the "trial" hereinafter recounted was held, a force of thirty-one armed Auxiliaries raided and robbed women shopkeepers in Trim. General Crozier, the Commanding Officer of the Auxiliaries, dismissed twenty-six of the thirty-one, and ordered that the remaining five be put on trial. Over his head, nineteen of the twenty-six whom he had dismissed were forthwith reinstated, while two of the five awaiting trial robbed a bank at the point of the revolver. Hamar Greenwood, when questioned in the House of Commons why the men awaiting trial for the bank robbery had not been kept in custody, explained that there was no prison accommodation for them, "owing to the number of cadets (Auxiliaries) under close arrest".

As a result of the countermanding of his orders General Crozier resigned.

As part of the campaign of the British Authorities, they posted a number of commissioned army officers dressed

in mufti, and posing as civilians, under assumed names, in lodging houses throughout the city of Dublin. The assignment of these men was to act as spies, to mingle with the people in the public houses, the hotels, and wheresoever citizens were assembled, to join in conversation, hail-fellow-well-met, and collect information as to the personnel of the volunteers and their future activities. They were amply supplied with funds to pay for drinks. As a consequence numbers of persons, many of whom had no connection with the volunteers, were arrested and put in internment camps without any sifting of evidence, without any charge being formulated against them, and without trial.

One of these officer spies was Lieut. H. Angliss, a lieutenant in the Royal Inniskilling Fusiliers. He was shot dead in his lodgings at No. 22 Lower Mount St. at nine o'clock on Sunday morning, the twentieth of November, 1920. At the trial of the men charged with shooting him, Mr. Travers Humphreys, K.C., Senior Prosecuting Counsel, described the deceased as follows:

"The deceased was Lieutenant H. Angliss, a lieutenant in the Royal Inniskilling Fusiliers. He was for good and sufficient reason living in Dublin last November under the name of McMahon, which was not his name, and he was known as 'Mr. McMahon'".

The 'trial' of the men charged was held in the City Hall which had been seized, and commenced on February 21, 1921. The accused were Frank Teeling, William Conway,

Edward Potter and Daniel Healy. A nolle prosequi was entered in the case of Daniel Healy as there was no evidence forthcoming against him. The Crown was represented by Mr. Denis Henry, K.C., Attorney-General (who, however, took little part), Mr. Travers Humphreys, K.C., who had been a prosecutor in the "trial" of Roger Casement, and Mr. Rowland Oliver. These two latter were not members of the Irish Bar. They were conveyed from England in a destroyer and escorted to the Castle in armoured cars.

Frank Teeling was represented by Mr. Charles Bewley, William Conway was defended by Mr. Thomas Brown, K.C., and the writer as his junior, and Edward Potter by Mr. Albert Wood, K.C. and Mr. Samuel Porter. Counsel for the prosecution and we for the accused were closely seated together at one table. The Court Martial composed of army officers and a Judge Advocate sat on a raised dais facing us, their six Webley revolvers within reach of their hands.

Mr. Brown and the writer held our consultation on the eve of the "trial". We were then told that a little girl, Nellie Finnegan, aged eight years, on the morning of the shooting of "Mr. McMahon" had been to Westland Row Church at eight o'clock Mass making her first Communion, and on her way back to her home in Verschoyle Place, Lower Mount Street, had met William Conway with his brother on their way to nine o'clock Mass. The hour of the shooting was nine o'clock, and if her evidence was accepted, then William Conway was in Westland Row Church at the time when the shooting took place. In the course of the trial we produced a number of witnesses who deposed to seeing him with his brother in the church before Mass began.

The child's mother, Mrs. Mary Finnegan, worked around the neighbourhood of mornings as a charwoman, and some day or two after the shooting she told a lady, one of her employers, of her little daughter having met the Conways on their way to nine o'clock Mass on that Sunday morning. Her employer reported this to a British officer who lodged in her house; and he, realising the importance of this evidence for the defence of William Conway, went to Dublin Castle and reported to the police, requesting that the mother and child should be sent for, and statements taken from them. This was done, their statements being taken by a police officer.

I expressed a doubt as to whether in the then prevailing atmosphere the prosecution would produce these witnesses or inform us of their statements. Mr. Brown replied that of course they must inform us and make the witnesses available. On the following morning, being the opening day of the "trial", as we entered the Lower Castle Yard on our way to the City Hall, we saw a number of witnesses lined up against the wall, and among them Mrs. Finnegan and her daughter were pointed out to us. Mr. Brown said to me: "Now didn't I tell you they would have those two witnesses here?"

At the luncheon interval on this first day of the hearing, we passed through the Lower Castle Yard. Within the exit gate a group of Auxiliaries, ten or twelve in number, in their Glengarry caps, hung about. As we passed them by, one of their number stepped forward and, with a flourish of his arm, pointed to Mr. Brown, saying to his comrades: "That's Brown". With another flourish,

he named me, and then our solicitor. We were puzzled to know <sup>how</sup> he was able to identify us, for none of these men had been admitted to the Court, even the witnesses being admitted only one at a time. The incident took a sinister significance when on the final day of the "trial", Sir Henry Wynne, the Crown Solicitor, sent for Mr. Brown and said to him: "If your client is acquitted, you and your junior should not stay in your own houses to-night".

On the third day of the hearing the evidence for the prosecution in Conway's case concluded. Neither Mrs. Finnegan nor her daughter had been in attendance after the first day; and, contrary to Mr. Brown's confident expectation, no intimation had been given to us that any such witnesses were available or that statements of evidence had been taken from them. The police had taken statements from them. That much we knew. It was presumably the police who had brought them to the precincts of the Court on the first day, but not again. The problem was: Who was responsible for the concealment of evidence in favour of the accused? Was it the Crown, the military, or the police? Mr. Brown, in opening the defence, proceeded to probe this question. Addressing the Court Martial, he pointed out that the accused when he was charged on January 5, had then and there made his defence by telling exactly where he had been at nine o'clock on that Sunday morning, November 20. Continuing, he said:

"The importance of that is this, and I emphasise it strongly: the military, or the Crown, or the police, - whoever had charge of the case - have had that statement of the boy

in their possession, and they knew where he said he was. It was open to them to make inquiries, either in Westland Row Church, or in the neighbourhood and find out whether this was true or not. I am sure my friends have not found any such statement, or they would have told us. I mean my solicitors".

Mr. Brown looked inquiringly towards prosecuting Counsel, but no admission was forthcoming.

We were aware that the briefs for prosecuting Counsel were prepared by an officer known as the Court Martial's Officer. He was a uniformed officer named Captain Martin, and he obviously had been a lawyer in civil life. He sat at the back of the Court. I looked back at Captain Martin. He was leaning forward in his seat and I thought he looked perturbed. I stood up, and, addressing the Court Martial, said: "Perhaps Captain Martin, who prepared the briefs for prosecuting Counsel, could inform the Court whether there are any such statements or not".

Captain Martin came forward to Counsel's table, and spoke to the junior prosecutor, who proceeded to turn over some pages of his brief. Captain Martin took the brief from him, and quickly turned over what seemed like a volume of pages; then, slowly, one by one, a few more pages; then put his finger down on a page. It was the statement of Mrs. Finnegan, and it was heavily underlined in red and blue pencil. At that moment The Attorney General came in, and observing that there was some commotion, he inquired what was the matter. Being



pointed out the page in the junior prosecutor's brief, he tore the page from the brief, and passed it over to Mr. Brown. The luncheon adjournment followed immediately, and Mr. Brown and I went to the cloakroom to fetch our hats and coats. The Attorney General followed in, and I went to him, and made a certain observation. He replied: "Travers Humphreys knew nothing about the statement". "Would you like me to prove to you that he had it in his brief?" I asked, and on his saying that he would, I called over Mr. Brown and said to him: "You were sitting beside Mr. Travers Humphreys. Did you see Mrs. Finnegan's statement in his brief?". "I did", he replied, "and it was under-lined like his junior's". The Attorney General made no reply, and we were satisfied that the information took him by surprise.

Mr. Brown, in the course of his speech for the defence, referred to the fact that Mrs. Finnegan and her daughter had been present at the commencement of the trial, having been brought there by the police who had taken their statements.

"I saw them myself", he said: "we had no statement of their evidence of any sort; but my friend (Mr. Travers Humphreys) allowed me to read from his brief a statement of the widow, and here it is: 'Statement of Mrs. Finnegan, 4 Verschoyle Court, Dublin, on the 21st January, 1921. On the morning of the 20th of 11th, 1920, my little daughter, Nellie Finnegan, who was at eight o'clock Mass in Westland Row, told me when

she came home that she met Billy and Paddy, meaning the two Conways, going to Mass. She did not say which Mass, and it would have been nine o'clock as she was coming from eight. We, she and I, knew them well from going in and out of Hynes's shop where they were working for at least two years. Shortly after the affray was over, that is about 9.40, I was standing at my door, and I saw the two Conways passing my door, and I took notice of them because I knew them. They entered Verschoyle Court from the Merrion Square end, and went out under the arch at the bridge end of Mount Street into Mount Street. Verschoyle Court runs at the back of Mount St. and parallel to it. The most direct way coming home from Mass at Westland Row would be along Mount Street without entering Verschoyle Court. I never saw them coming through Verschoyle Court from Mass before. I did not speak to the two boys that morning. Signed Mary Finnegan. Dated 22nd Jan., 1921".

Mr. Brown continued: "I have not seen that statement before; it is a statement taken by the Crown. It was only given me now by the courtesy of my friend (Mr. Travers Humphreys), and I thank him for it, and would like to put it in. My friend has put certain marks on it. It is taken from his brief; but if I could get a clean copy.

Mr. Travers Humphreys: "I will get a clean copy made".

On the concluding day, Mr. Brown, addressing the Judge Advocate, said: "You will remember, sir, that on the last day when the learned Attorney-General was here I spoke to him about the evidence of another witness, who, I understood, had made a statement which had been taken down. The learned Attorney-General said that he would have a search made for it, and if any such statement was discovered to be in existence, I might put it in".

Mr. Travers Humphreys: "That is the original statement, sir", (handing document).

Mr. Brown, referring to the statement, now produced for the first time: "It is the statement of Nellie Finnegan, aged eight. It says: "On the Sunday of all the shootings in Dublin, I was coming home from 8 o'clock Mass in Westland Row. I saw Billy and Paddy - the boys out of Hynes's shop - in Merrion Square on the side the trees are on. They were going towards the city, and I met them in the middle of the Square. After I was gone a bit past them, I looked, and I saw them crossing the road towards Westland Row and going round the corner. After I had breakfast, I saw my mother going to the door, and I went too, and I saw them passing by the house and going out through the arch. It was soon after my breakfast, but I can't know what time it was. Signed, Nellie Finnegan. 24/1/21.""

Mr. Brown continued: "You will remember the mother made a statement, and the mother's statement is in evidence saying that the child told her this when she arrived home, and the mother said it was nine o'clock Mass the boys were going to. It is very unfortunate

that these two witnesses, who have been actually present while the trial has been going on, in charge of the police, were not called, or that notice was not given to the Counsel for the prisoner, that such evidence existed so as to enable us to call these witnesses. However, I have received these statements, and I make the best I can of them now at this late hour, and I put them in evidence."

This protest was received in silence, and the Judge Advocate passed to another subject.

At the conclusion of the addresses of Counsel for the defence the Judge Advocate summed up, and dealing with the case against Conway, said: "Although there is only one witness the Court is not only justified but bound to act upon the evidence of that witness if they are satisfied that she is an honest witness."

We for the defence at no time suggested that she was not an honest witness, but only that she was mistaken in her identification.

Referring to the many witnesses whom we had called as to seeing William Conway in Westland Row Church and on his way home, and in the case of none of whom, with one exception, was it even suggested that they had any connection with any organisation, the Judge Advocate said:

"If you can find young men who are wicked enough or perverted enough in their notions of what it is right and proper to do to get rid of those forces of law and order to which they are opposed, if you can find them ready to commit crimes of murder and violence of all sorts to effect their object, can you doubt that there would be no difficulty,

for them to find people who sympathised with them, and who would be willing to help them to carry out their designs by coming forward to give evidence which they know to be untrue in order to help the people who commit the murders to escape having to pay the penalty of their crime."

Mr. Brown addressing the Judge Advocate, said: "You did not mention the statements of the two extra witnesses which were put in at the end, which corroborated the story as elicited by the defence."

The Judge Advocate made no reply. The Court closed to consider its findings, and after a short adjournment, reassembled. The accused were asked if they wished to address the Court.

William Conway said: - "I am innocent of the charge brought against me. I know nothing of the transactions whatsoever. I fired no shots. I have never been in 22 Lower Mount Street, or seen the girl (the one witness against him), or any of the occupiers of the house in my life. I have never had a revolver."

Mr. Brown, asked if he wished to say anything, replied: "I can say nothing further than the statement he has made, that there has been no evidence that he was, in fact, connected with any political organisation. He is not a Sinn Féiner, or in any way connected with it; and further than that, only to say that a most unsatisfactory portion of the trial was the fact that two important witnesses not known to us were not produced until only their statements were put down at the eleventh hour.

I am sorry; it would have been much more satisfactory if that evidence had been given to us, and they had been produced before the Court."

The three accused being convicted there could be only one sentence for them - the sentence of death, subject to confirmation by the Confirming Authority.

Mr. Travers Humphreys in his closing address used all the arts of the practised prosecutor to discount the evidence for the defence. He went on to state that it was only on Saturday night that he had the information that any girl of the name of Nellie Finnegan had ever made a statement. He wisely refrained from giving the date on which Mrs. Finnegan's statement had been briefed to him. On the conviction of the three accused, he turned to me and said: "I don't think your client Conway should have been convicted."

When later the Court Martial re-assembled for another case, I applied for a copy of the shorthand note of the evidence and of the entire record, and was advised to apply to the General Officer Commanding-in-Chief in Ireland. This we did and in due course the transcript was furnished. *transcript I prepared a statement* With the aid of the ~~statement~~ of the various incidents already described - the suppression of the evidence of Mrs. Finnegan; the fact that the statement of her evidence was in fact in the briefs of prosecuting counsel, and was heavily underlined in them, this latter circumstance satisfying us that the statement had been discussed in consultation; the fact that Mrs. Finnegan and her daughter had been brought by the police to the precincts of the Court on the first day, but not

again; the fact that Mr. Brown had satisfied the Attorney General that he had seen Mrs. Finnegan's statement in Mr. Travers Humphrey's brief - all the amazing features of the travesty of justice that was called a trial. Mr. Brown had meanwhile gone to Belfast, and our solicitor brought my recital to him for his signature, if he agreed with it. We were aware that Mr. Henry was on the eve of being appointed Lord Chief Justice of Northern Ireland, and that Mr. Brown was to succeed him here as Attorney General. It appeared obvious that if he signed he might prejudice his prospects of promotion here. Having carefully read the statement, he said to our solicitor: "Every word of that is accurate;" and signed it. Copies of it were sent to the General Officer Commanding-in-Chief in Ireland, the Prime Minister, the Chief Secretary for Ireland, the Attorney General, the Judge Advocate.

While Mr. Brown was still in Belfast, I met the Attorney General in the Law Library, and he said to me: "I am doing my best to get your client Conway reprieved".

"And what about Potter?" I asked.

"You have nothing to do with Potter", he replied.

"I have this much to do with Potter", I said;

"I was present all through the trial which was a disgrace to the administration of justice. I am making an affidavit setting out the whole story, and Brown and I intend to bring a motion before the Court of King's Bench".

"The King's Bench have no power to interfere", he replied.

"I know that," I said, "but the newspapers have the right to publish what I swear, and that will be a nice revelation to the world of the way in which justice is perverted here."

A few days later Conway and Potter were reprimanded.

A word in conclusion on the attitude of the Irish Bar in cases where they prosecute. They do not allow personal feelings to influence them. If they have any information in their possession in favour of the accused which is not known to the defence, they consider it their bounden duty to disclose it.

Mr. Travers Humphreys had been Junior Prosecutor in the "trial" of Roger Casement. He was raised to the Bench in England in 1928 - that is, eight years after his activities on the Irish scene. In the year 1945 - that is, 29 years after the execution of Roger Casement - he published a volume of his "Recollections and Reflections." It is not to be wondered at that he has nothing to say in it about his activities in Ireland; but he could bring himself to write:

"I was glad when I saw in the newspaper that Casement had been hanged... The Southern Irish are adepts at imparting a political flavour to what in England would be called by its real name - murder or treason."

In 1939 he presided over the trial of some Irishmen charged with conspiracy to use explosives in England. In his summing-up to the jury, he said, addressing one of



the accused: "You are a rebel against all constituted authority. You are a member of a gang which committed murders of British officers and others up to 1922".

This outburst was too much for the English Court of Criminal Appeal, which quashed the conviction.

Sir Patrick Hastings - one time Attorney General in England, in his Autobiography, bleats about the fairness of English justice. Describing a trial for murder in which he was engaged, the trial judge being Mr. Justice Humphreys, writes:

"The case for the prosecution was outlined by Senior Counsel for the Treasury, and, in accordance with a tradition which in recent years has become universal in our criminal courts, it was presented with absolute fairness; the strong points against the prisoner were properly brought to light, while at the same time, the evidence or arguments which might tend to assist him in his defence were placed frankly before the Court. The summing-up of Mr. Justice Humphreys was, as in his case it always was, a masterpiece... His examination of the evidence was careful, accurate, and strictly fair."

This paean to English justice was written after the "trial" and execution of William Joyce

Signed:

*Vincent Rice*  
(Vincent Rice)

Date:

*7th May, 1953*

7th May 1953

Witness:

*Arthur E. Cobett*