**ONE BOLD DEED OF OPEN TREASON**

**Angus Mitchell**

**Dublin Review of Books**

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**The text below is a slightly edited version of an address given at Court No 1 in the Four Courts in Dublin on Easter Monday 2016, sponsored by RTÉ.**

One of the more unsettling facets of the barrage of history that has been unleashed to mark the centenary of the First World War is the silencing of those who either opposed that war or took a trajectory that cut against the grain of the imposed loyalties of that age, and, in particular, those loyalties where nation was pitted against empire. Roger Casement falls into both these categories. During a distinguished career as a British consular officer, he had driven two insightful investigations into European imperialism. In 1911, the British government was so impressed by his work that he was knighted. He had become the moral voice of the British empire. Five years later, he was in the Tower of London and about to face trial for high treason. His volume of essays *The Crime against Europe* contains a coherent attack on the legitimacy of Britain’s decision to go to war in 1914 and reasons why Irish independence could only be achieved through developing deeper connections to Europe. His mission to Germany, between 1914 and 1916 was, as he called it himself, “one bold deed of open treason”: a candid confession illuminating, among other things, his bitter differences with the Liberal imperialist elite that took Britain into the war.

Analysis of Casement’s treason and his treatment at the hands of the law remain deeply controversial and divisive. To those who enter the vortex, it is an intriguing way of gaining insight into the complex structures of both power and sexuality. To legal specialists, the moment allows for analysis of some of the most important legal luminaries of that age. But this is an easy digression from the analysis of the constitutional implications. In the final analysis, Casement’s story is about the use and abuse of history and the symbiotic tensions between law and history.

At the Royal Irish Academy symposium on Roger Casement held in May 2000, in response to a request from the Department of the Taoiseach, a great deal of new and original work emerged about the trial. Conor Gearty, professor of human rights law at the London School of Economics, argued that there were essentially three specific contexts for the trial: a constitutional context, a legal context and a political context. His essay concentrated on the legal context. He made a compelling case for how the ruthless instrumentality of the law evident in Casement’s trial was characteristic of how the judiciary of that time mercilessly handled enemies of the state. He wrote: “[o]nly those in full command of the forces of the state can boast that they are dispassionate while arranging the execution of their political opponents.”

Unfortunately, Gearty’s argument did not venture far enough into the realms of the political or constitutional. However, important political aspects of the trial were discussed in a different essay by Professor Owen Dudley Edwards. He looked at the relationship between the head of naval intelligence, Admiral Reginald “Blinker” Hall and FE Smith, the Unionist MP and attorney general, who led the prosecution of Casement. Dudley Edwards made a compelling case as to how the pursuit of Casement by Hall and his intelligence collaborator Basil Thomson at Scotland Yard locked the British government into a very unsavoury conspiracy. Dudley Edwards argued that Hall was the architect of the forgery of the Black Diaries, but Smith was not party to their conjuring. He even named a figure, with the necessary skills for masterminding the forgery, Frank Ezra Adcock, a King’s College, Cambridge professor of ancient history. Adcock was part of Hall’s loyal inner circle and would later play an important role in the development of British intelligence along the Oxbridge axis.

Perhaps the most significant shift in our understanding of Casement over the last twenty years has happened in the wake of the opening up of the British intelligence archive. Academic research or journalism that fails to engage with this missing dimension neglects a fundamental dynamic underpinning his interpretation. We now know that Casement was prioritised as one of the most dangerous enemies of the British state on the outbreak of war; and reining him in fixated different British intelligence agencies before and after his execution. But Casement should not be singled out in this regard. He was part of an entire coterie of intellectual radicals and peacemakers who were targeted by the imperial war machine. Other so-called troublemakers included the philosopher Bertrand Russell and ED Morel, Casement’s collaborator in the Congo Reform Association, whose work for the Union of Democratic Control led to his imprisonment in 1917 for a technical breach of the Defence of the Realm Act.

Much of the work to have emerged since the interventions of both Gearty and Dudley Edwards papers at the RIA has taken a rather a regressive approach to the trial. Instead of delving more deeply into those specific contexts defined by Gearty, there has been an inclination to try and restore a rather static, one-dimensional view of the trial as a decent affair, where justice was seen to be done and the prisoner got his just deserts. Supporting that argument, the National Archives at Kew have preserved plenty of testimony to suggest that Casement was “egotistical”, “mad”, “a dreamer” and “sexual degenerate”, whereby he can be dismissed as little more than “a difficult client”. The truth is a little more complex.

The trial happened at the height of the war, when the fate of the British empire hung in the balance. Let us be honest, Casement was hell-bent on destroying that empire. From the opposite perspective, it is hard to measure the level of hatred levelled at him by those who wished to protect its sanctity. In the eyes of the authorities, he had transgressed against his class, his faith, his imperial heritage, and, thanks to the Black Diaries, his masculinity. It is not hard to see why the ruling establishment reviled him so deeply. His writings published in the *Continental Times* revealed his intellectual attacks on four of the most powerful statesmen of the age: James Bryce, Sir Edward Grey, Winston Churchill and Arthur Balfour. He had revealed official secrets and accused the British government of a host of crimes. By November 1914, he was locked into a dangerous conspiracy with his former paymasters – a conspiracy that is clearly defined in his Berlin diary. This is unpalatable and toxic history which reflects well on none of the antagonists. But it clearly shows that not all conspiracies are theories. Those historians who dismiss the argument for forgery as a “conspiracy theory” merely expose their own ignorance of this dimension.

Show trial is a term mainly associated with Stalinist Russia. It was first used by Brian Inglis in his biography of Casement in 1973. At the RIA in 2000 the term was used again by Chief Justice Ronan Keane, who agreed with the Inglis argument. To be clear: a “show trial” is a public trial in which the judiciary has already determined the guilt of the defendant. The trial is used for propaganda purposes to exact retribution from the accused and his support network rather than as an instance of corrective justice. Other examples of show trials might include that of Charles I or the Dreyfus case that rocked *fin de siècle* France. Casement’s trial, spanning the summer of 1916, needs to be understood in the context of other events.

His preliminary hearing at Bow Street Magistrates’ Court began forty-eight hours after the last executions of fifteen rebels in Kilmainham. This brought to an end the weeks that Casement had spent in solitary confinement in the Tower of London, where the most minimal amount of information was released about him. The trial was held at the end of June in the Royal Courts of Justice. It ended forty-eight hours before the Battle of the Somme began ‑ a moment requiring an extraordinary demonstration of blood-sacrifice by both Irishmen and Ulstermen in defence of Britain. Casement was executed on August 3rd, 1916, exactly two years since the epoch-defining speech by the foreign secretary, Sir Edward Grey, committing Britain to war. Grey’s declaration of war was followed by a speech from John Redmond. Let us remind ourselves of what Redmond said

I say to the government that they may tomorrow withdraw every one of their troops from Ireland. I say that the coast of Ireland will be defended from foreign invasion by her armed sons, and for this purpose armed nationalist Catholics in the south will be only too glad to join arms with the armed Protestant Ulstermen in the North.

Casement considered Redmond’s position as contemptible treachery, as treason, and he referred to it as such. The word “treason” is repeatedly used in Casement’s writings to describe both the ruling Liberal elite and the trajectory of the Irish Parliamentary Party from 1914 onwards. This is perhaps the reason why in 2016, when Redmond is being commemorated as a national hero and peacemaker, Casement’s presence is conspicuously absent in the rather limited discussion on the motives for the rebellion.

Both then and now, Casement’s trial brought to a head a number of entangled wars of representation, but in very different ways.  Perhaps the hardest aspect of Casement’s interpretation to discuss is his stated hatred of England. His prosecutor, FE Smith, made reference to this. But even today, reading through the Casement papers, it is hard to process some of what he said – the loathing is so explicit. I will admit that one of the shortfalls in my own work on Casement has been to properly address this. But that hatred was a product of wartime hatreds. In a climate of reconciliation and in the context of the peace process, this is the most sensitive of issues. The only essay to ever broach this question satisfactorily was written by Giovanni Costigan and published in the *American Historical Review* in 1955 where he charted the deepening despair of Casement in his correspondence with his fellow activist ED Morel. In his brief 1916 biography of Casement, LG Redmond-Howard argued that his radical turn was the product of nearly forty years of political fumbling over home rule. He was a creation of prevarication, the intransigence of the Unionist lords and the decision by Carson and Smith to arm the UVF and incite “the language of anarchy”. In other words, he was the outcome of a failure of government policy and the politicisation of due process.

Also feeding into Casement’s trial is a long, forty-year battle on the question of atrocities and crimes against humanity. Casement’s investigations of colonial abuse in the Congo Free State and the Amazon were investigations of imperial systems, including financial systems. His expose of King Leopold II’s administration may have suited Britain in the years following the Boer war as efforts were made to rebuild its tarnished reputation. But when Britain went to war to defend “plucky little Belgium”, the legacy of the Congo Reform Association struck very deep and endured as a highly inconvenient truth.

The most overlooked lawyer on Casement’s defence team is JH Morgan, professor of constitutional law and British army brigadier, who served as *amicus curiae*. Morgan had known Casement for several years and had edited a collection of essays on Irish home rule, *The New Irish Constitution* (1912). Contributors to that volume included the legal historian Sir Frederick Pollock and the historian Alice Stopford Green. It is a much neglected text in understanding the home rule crisis and is missing in much of the more recent interpretation. Morgan was part of a progressive discussion on home rule happening within Liberal imperialist circles in advance of the passing of the Home Rule Bill in 1912. In brief, the argument was made that home rule should be embraced by all as a positive step for both Ireland and the empire.

But when the war broke out, Morgan’s attentions were redirected to working with the historian and statesman James Bryce on his investigation into German atrocities in Belgium. One of the deeper contexts of the trial is its place within the discussion over crimes against humanity. A hundred years on, we can see that Casement’s turn against empire (and James Bryce) was based upon his diligent investigation of crimes against humanity. Those investigations of the dark heart of western imperialism gave him the moral authority to ultimately arm the volunteers and to undertake his mission to Germany on behalf of the Irish Republican Brotherhood. That is a vital subtext to the trial. I have written about this matter elsewhere but this argument still needs teasing out.

One further imbalance in our understanding of Casement’s trial derives from the fact that so much of his own writing has been overlooked or ignored. The George Gavan Duffy papers hold a substantive body of notes and memos dealing with each part of his legal process. This begins with the drafts of Casement’s brief to counsel, initially dictated to George Gavan Duffy in the Tower of London. Subsequent edited drafts of this document reveal how Casement was himself playing a game of chess with the facts of his life. He had managed to straddle two directly opposing spaces of secrecy: on one side, his work for the British Foreign Office, and, on the other, his deepening commitment to Irish revolutionary activity. In his annotated version of his brief, he notes that “to understand my action it would be necessary to understand me for many years”. He reveals with this statement how his end on the scaffold was the logical outcome of actions that reach much further back into his life than his work in the founding and arming of the Irish Volunteers.

We know that Casement wished to plead guilty of treason, a line that George Bernard Shaw also suggested (and most coherently explained in Fintan O’Toole’s argument in the Irish Times of March 26th, 2016). He noted: “I would prefer to plead guilty, but as I am advised that would be a most improper step under such circumstances and such a charge, I would say let the Crown prove its case.” He wanted to quite simply state that he had been illegally spirited out of Ireland and was facing a hostile room of English jurymen. So Casement’s own heart was not in that sense invested in his defence. His notes reveal that he was utterly unconvinced by Sullivan’s strategy based on a legal technicality and interpretation of the statute of Edward III of 1351, originally written in Norman French. Sullivan had little chance against the ruthlessly brilliant, FE Smith supported by some of the most able legal minds of the day: Bodkin, Branson and Humphreys. Casement wrote two lengthy memos on why his counsel, AM Sullivan’s, defence would fail. Beyond his criticism of the shortcomings of Sullivan, Casement was utterly critical of how the lord chief justice, Rufus Isaacs, presided over the case. He wrote:

What cannot fail to strike anyone who reads the report of my trial is the extraordinary discrepancy between the facts as revealed in the evidence laid upon the Jury, and the circumstances as narrated in the public press, and so obviously present in the minds of everyone in court.

Arguably, the most significant of all Casement’s defence notes and not released or referenced until 1995 are his Prison Papers, held at the National Archives at Kew (HO 144/1636/331643/32A). In this collection of short notes and memoranda, Casement deliberately connected his own action to the “painful stairs of Irish history”. In the background to his official defence it is clear that Casement was compiling a parallel defence of his actions, and one he knew that would never come to court in the heat of war, but would intrigue historians in years to come as the flesh and bones of his trial was picked over. These papers provide the scaffolding for his apotheosis as a revolutionary martyr. He compares his own situation to that of the United Irishman Wolfe Tone and the trial of the Rev W Jackson, writing at one point: “The history of my country is the justification of my act.”

History and law fuse at every turn of both the courtroom drama and Casement’s parallel defence. We might remind ourselves that Ireland’s cultural revival had required a rewriting of Irish history. Eoin MacNeill, the first chief of staff of the Irish Volunteers, was a historian and UCD lecturer. James Connolly’s *Labour in Irish History* references in the opening paragraph the new historical writings of Alice Stopford Green and her hugely influential works *The Making of Ireland and its Undoing* (1907) and *Irish Nationality* (1911). Casement’s defence notes pulsate with historical references.

The legal and political insiders who were privy to Casement’s downfall surely realised, especially in the light of Casement’s speech from the dock, that when future generations came to assess the case, they would see these massive fault lines. How would his prosecutors hold up under the scrutiny of history? HG Wells later wrote that the decision to allow Smith to lead the prosecution against Casement was a shocking conjuncture.

Is it possible to claim that Casement had checkmated the system? In delivering a sentence of death, English law would add his name to the list of Irish national martyrs and endow with him with exactly the end he desired. It is striking how much internal correspondence at both a diplomatic and cabinet level, circulating between London and Washington in the weeks before his execution, remark on the importance of denying Casement the martyr’s crown.

The diaries were necessary therefore to convict Casement of base criminality. In 1916 homosexual acts were still punishable by death. It is right to say that Casement was executed because of the use of the diaries in a coordinated smear campaign. Even if the diaries were never introduced formally into the proceedings, they worked their magic. In that sense, Casement is truly a “gay martyr” because the groundswell of support at the highest political level would never have succeeded without their intervention. As Mr Justice Donal O’Donnell has pointed out in his paper, one of the reasons that Casement was given a public trial and not court-martialled by a secret military tribunal was so that his supporters could not accuse the government of “killing him in secret”. Yet once the Black Diaries were introduced into the wider dimensions of Casement’s trial that is exactly what happened. Furthermore, Casement wished to be hanged in public, in front of a crowd, and not behind closed doors at Pentonville, but this request was denied him. (I will expand on this part of my argument in the second part of this paper, which I will deliver at the Hugh Lane Gallery on April 14th: The Appalling Vista of Roger Casement’s Trial.

To conclude, in his seminal essay “The Prose of Counter-Insurgency”, the Indian historian Ranajit Guha investigates how dominant historical narratives are formed when confronted by insurgency or rebellion. The consciousness of the rebel is denied coherency and agency. To simplify Guha’s argument, he examines the bias in all narratives of counter-insurgency: how the first draft of history is written by the authorities either in terms of official documentation or official news: the sacred primary sources of history. However, such sources are open to manipulation and always written from the perspective of power; they are rarely representative of the revolutionary mindset. Once these primary sources have been established, any problems within the narrative can be cleared up by memoirs or first-hand accounts. There are secondary and tertiary levels of interpretation that further embed the official version to produce “value-free history”. It is interesting to see how many facsimile newspapers have been published for this centenary year without any effort to draw attention to the fact that they were the product of an age when government censorship and control of news were rampant.

Casement’s most indelible act of subversion was not the part he played in his discreet funding of cultural and political organisations involved in the national struggle, or in his recruitment of Irish Volunteers, or in his planning of his gun-running exploits, or in his negotiations with the German general staff for the recognition of Irish independence, or in his collaboration with other anti-imperialists. His most seditious act was to place on record an archive mapping and explaining the logic of his rebellion and treason. All of this is codified in his great speech from the dock. He left historians of a future time to judge his damning denunciation of imperial power and the “treason”, as he termed it, of both the British ruling class for taking Britain into the war, and Redmond’s Irish Parliamentary Party for committing Irish men to the defence of an empire that was the very instrument of Ireland’s historic and continuing oppression.

This is the archive that contains the logic explaining the context for his one bold deed of open treason. It reveals why a young, idealistic man exposed to colonialism in Africa grew to doubt his values as a privileged white man and spoke out against the racial hierarchies sustaining power. It reveals, too, how the decades of prevarication over home rule led him further towards an extreme solution in the face of an establishment that had grown complacent from their privilege. His story is deeply unsettling to the seamless narrative of western historiography, and indeed to that unwritten understanding between law and history.

The Black Diaries remain the instrument by which his archive is controlled, by locking down his meaning into an endless polemic and denying him the moral high ground that was officially bestowed when he received his knighthood in 1911. My argument has never been about doubting the question of Casement’s sexuality (I have no problem acknowledging the “gay” Casement, albeit a contemporary construct). But the reasons the Black Diaries coincide with the moments when his moral authority was most essential are the weakest link in their fabrication. They deliberately interfere with the logical evolution of his justification for taking Ireland onto a revolutionary footing.

But the fabrication can be revealed in ways that are not merely detailed arguments to do with intertextual analysis, the murky matter of provenance and questions relating to motive. The forgery reveals itself on the level of deconstruction. Historians and Casement’s many biographers have left their fingerprints all over this toxic narrative. Continuing analysis will expose the supremacy of the official archive in authorising the prose of counter-insurgency. However, that in turn has required a collective failure to apply the basic methodologies upholding the discipline of history and to work out what actually happened.

The genealogy of British intelligence can be traced through the two Halls (Blinker and Frank), Basil Thomson, Patrick Quinn, into the newspaper and publishing world of Max Aitken, Peter Singleton-Gates, Rene MacColl and H Montgomery Hyde. Much of the writing on the trial up to now has been about defending the reputation of the English legal system during the war, rather than understanding the constitutional, legal and political implications of the most momentous high treason trial of modern times.

It is quite bewildering to me to watch senior historians in both Britain and Ireland refuse to engage with this story on its own terms and in its different contexts – and fail to apply the rigour demanded of their profession. As the law in 1916 was checkmated by Casement’s treason, so his narrative can return to unmask the agreed lie. In this story we are faced by the unpalatable truth that once the law is corrupted, then, history too must be corrupted, if the authority of the legal judgment is to be upheld over time.

Lord Acton, some would say the greatest historian of the Victorian age, a mentor to Alice Stopford Green, who tried unsuccessfully to bring his great library to Ireland, crystallised the central dilemma about the relationship between secrecy and the law when he wrote: “Everything secret degenerates, even the administration of justice; nothing is safe that does not show how it can bear discussion and publicity.”

To end, Lesley McNaughton, a blood-relative of Casement, who is visiting Ireland from New Zealand for the centenary celebrations, will read a passage written by Casement on the eve of his execution. The passage crystallises the historical complexity of all that we commemorate today with a prescient clarity:

What was attempted so valiantly this year by a handful of young men is the only episode of this war that should survive in history. The rest is either mistaken slaughter of brave men or plotting to destroy an enemy by hate for motives of greed or domination. I cast no stone at the millions of brave dead men throughout Europe – God rest their souls in peace – but the cause it is alone that justifies the end, and the cause of all the great combatants is essentially selfish and greedy.
Ireland alone went forth to assail evil, as David Goliath, unarmed, save with a pebble, and she has slain, I pray to God, the power and boast and pride of Empire. This is the achievement of the boys of 1916, and on it the living shall build a sterner purpose, and bring it to a greater end.

1/4/2016

*Angus Mitchell is the author of* Roger Casement *in the 16 Lives series. His latest book is an edition of Casement’s German Diary:* One Bold Deed of Open Treason: The Berlin Diary of Roger Casement 1914-1916*, published by Merrion Press.*