

## NATIONAL ARCHIVES

### IRELAND



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CONCERNED COMMUNITY ORGANISATIONS

c/o 195 WHITEROCK ROAD,  
BELFAST BT12 7FW.

Telephone: 228928

27th October, 1983.

Dear Dr Fitzgerald,

Following our recent circular to Dail members concerning the 'supergrass' trials here in the Six Counties, we were heartened by the overall positive response from Dublin, and by the Dail stance taken on October 25th.

We now enclose some further documentation - a 'pack' containing Kitson's suggestion on how the legal system should be manipulated in situations such as ours, our own leaflet, and copies of two statements from prisoners currently on remand in Crumlin Road prison. The prisoners' statements illustrate some of the more sinister aspects of this latest phenomenon - perjury and internment-by-remand, to mention but two.

We also include a document that has been drawn up for us by members of the legal profession here. This mirrors the concern of many barristers and solicitors at the now almost total erosion of due process in the courts.

There are many other disturbing factors, for example, the Director of Public Prosecutions' reaction to the Lean case. When Lean swore under oath that the statements he had signed were signed while he feared for his life, the RUC said that the DPP was still considering continuing with the cases against those implicated by Lean! Another example can be found in the attached newspaper article.

Our group is now supported by over 300 community organisations and professional people, including doctors, clergy, social workers, community workers, and the chief of the Probation Officers in West Belfast, which is a measure of the alarm felt here by all sections of the community.

XII We would therefore ask you to meet with ourselves to further discuss this urgent matter. We are willing to travel to Dublin at any time.

Yours sincerely,

Frank Cahill

Frank Cahill, Chairperson, Upper Springfield Resource Centre.

Fr Desmond Wilson

Fr Desmond Wilson, Springhill Community House.

Ciaran De Baroid

Ciaran De Baroid, Community Worker, Greater Ballymurphy.



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'THE LAW SHOULD BE USED AS JUST ANOTHER WEAPON IN  
THE GOVERNMENT'S ARSENAL AND IN THIS CASE BECOME  
LITTLE MORE THAN A PROPAGANDA COVER FOR THE  
DISPOSAL OF UNWANTED MEMBERS OF THE PUBLIC.

'THE ACTIVITIES OF THE LEGAL SERVICES HAVE TO BE  
TIED INTO THE WAR EFFORT IN AS DISCREET A WAY AS  
POSSIBLE.'

BRIGADIER FRANK KITSON,  
BRITISH STRATEGIST IN TACTICS OF  
COUNTER-INSURGENCY.



# BRITISH STATE IN IRELAND

# SHOW TRIALS

1. In Brigadier Frank Kitson's analysis of Counter Insurgency tactics, he argues that all the State's machinery must be incorporated into the war machine. He specifically mentions the courts; that they be used to put away as many people as possible for as long as possible. The no-jury Diplock courts were introduced as part of this strategy. However, following the collapse of the torture centres on publication of Amnesty International's report, and the subsequent drying up of 'confessions', the no-jury courts were no longer achieving their end. A new refinement was necessary. It has come to us in the form of the 'informer' show trials.
2. The 'informers' have all been people who have themselves been accused of paramilitary activities, and have then been offered a way out by the police — save their own skins by becoming paid crown witness in one of these trials.
3. Between the time of the charges being laid against those accused by the paid crown witness, and the court case itself, the 'informer' will have been in protective custody for up to two years. We would be naive to imagine that this time is not used to the advantage of the crown case against the accused. The clarity with which evidence has been given would suggest much tuition.
4. British justice tells us that a person is innocent until proved guilty. All of those charged and convicted have been victims of the uncorroborated 'evidence' of paid police 'informers'. Not one shred of evidence exists to connect any of them to any of the activities of which they have been accused. They would, therefore, in a normal court, be proved innocent.
5. There is no defence against this system as the courts accept without question the word of the police agent. In the Christopher Black case, one man was convicted on Black's word, despite having produced 40 alibi witnesses who contradicted Black's evidence!
6. The reliability of the 'informers' is not questioned by the courts. In the Black case, Judge Basil Kelly described Black as a 'dedicated terrorist', a murderer etc, and then went on to say he was the best witness he had ever listened to! In the Skelly case, the first offence to which Skelly confessed was a Bren gun attack on the police in Clonard Street — an attack that the police claimed to have never happened! Yet the court did not consider that the rest of the 'evidence' might be unreliable enough for the accused to be acquitted.
7. The 'informer' show trials are designed to intimidate anyone who opposes the British State in Ireland.



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IF YOU SHARE OUR CONCERN OVER THE PRESENT SYSTEM OF 'SUPERGRASS' SHOW TRIALS, WE WOULD ASK YOU TO ASSIST US IN THE FOLLOWING MANNER:

1. PUBLIC STATEMENT:

ASK YOUR ORGANISATION TO MAKE A PUBLIC STATEMENT WHICH WOULD BE ISSUED IN PRESS RELEASE FORM TO THE MEDIA.

2. LETTERS OF CONDEMNATION:

WRITE A LETTER OF CONDEMNATION TO:

- A) MARGARET THATCHER, 10, DOWNING STREET, LONDON.
- B) SIR MICHAEL HAVERS, ATTORNEY GENERAL, HOUSE OF COMMONS, HOUSES OF PARLIAMENT, WESTMINSTER, LONDON.
- C) MR JAMES PRIOR, STORMONT CASTLE, BELFAST 4, NORTHERN IRELAND.
- D) MR NEIL KINNOCK, LEADER OF THE OPPOSITION, HOUSE OF COMMONS, HOUSES OF PARLIAMENT, WESTMINSTER, LONDON.
- E) MR DAVID STEELE, LEADER OF LIBERAL/SDP ALLIANCE, HOUSE OF COMMONS, HOUSES OF PARLIAMENT, WESTMINSTER, LONDON.
- F) MR MARTIN FLANNERY, CHAIRPERSON, LABOUR PARLIAMENTARY COMMITTEE ON NORTHERN IRELAND, HOUSE OF COMMONS, HOUSES OF PARLIAMENT, WESTMINSTER, LONDON.
- G) DON CONCANNON, LABOUR SPOKESPERSON ON NORTHERN IRELAND, HOUSE OF COMMONS, HOUSES OF PARLIAMENT, WESTMINSTER, LONDON.
- H) MR CLIVE SOLEY, JUNIOR SHADOW SPOKESPERSON ON NORTHERN IRELAND, HOUSE OF COMMONS, HOUSES OF PARLIAMENT, WESTMINSTER, LONDON.
- I) MR DAVID OWENS, LEADER OF SOCIAL DEMOCRATIC PARTY, HOUSE OF COMMONS, HOUSES OF PARLIAMENT, WESTMINSTER, LONDON.
- J) AMNESTY INTERNATIONAL, 10, SOUTH HAMPTON STREET, LONDON WC2.
- K) COUNCIL FOR CIVIL LIBERTIES, 21, TABARD STREET, LONDON SE1.
- L) OTHER HUMAN RIGHTS ORGANISATIONS.

3. REQUEST SUPPORT.

REQUEST SUPPORT FROM ANY OTHERS YOU FEEL MIGHT HELP, ENCLOSING A COPY OF THIS LEAFLET AND THE PRISON STATEMENTS. (FURTHER COPIES MAY BE OBTAINED ON REQUEST FROM THE ABOVE ADDRESS.

4. ENCOURAGE DEBATE.

WRITE TO NEWSPAPERS, LOCAL COUNCILS, AND OTHER ELECTED REPRESENTATIVES.



STATEMENT OF GERARD O'BRIEN, CRUMLIN ROAD PRISON (ON REMAND)

I WAS LIFTED ON 24TH AUGUST 1982, TAKEN TO BALLYKELLY, THEN TO CASTLEREAGH. I WAS LIFTED UNDER SECTION 12.\* I WAS OFFERED BRIBES TO GO 'GRASS' BY BRANCHMEN DURING MY SEVEN DAYS' INTERROGATION. ALL THE INTERVIEWS WERE ABOUT 3 HOURS LONG. THEY CONSISTED OF VERBAL ABUSE, FILTHY LANGUAGE, ATTACKS AGAINST MY RELIGION. BUT I WAS STARTLED BY THE OFFERS OF LARGE SUMS OF MONEY TO TESTIFY AGAINST OTHER PEOPLE IN COURT. THEY SAID THAT THEY WOULD DRAW UP THE STATEMENTS AND ALL I HAD TO DO WAS LEARN OFF THE LINES. THEY SAID THEY WOULD SUPPLY THE NAMES FOR THE DIFFERENT PARTS OF THE INCIDENTS. I IGNORED ALL THESE BLACKMAIL ATTEMPTS.

I WAS FINALLY CHARGED ON THE LAST DAY WITH POSSESSION OF A REVOLVER AND AMMUNITION ON THE SOLE WORD OF RAYMOND GILMOUR WHO HAD CONFRONTED ME DURING ONE OF MY INTERVIEWS IN CASTLEREAGH. HE WAS BROUGHT INTO THE INTERVIEW ROOM AND SAID 'THAT'S HIM', AND TAKEN OUT AGAIN.

CONDITIONS IN CRUMLIN ROAD JAIL WHERE I WAS REMANDED TO ARE BRUTAL. WINDOWS IN THE CELL ARE BROKEN. WE GET VERY LITTLE EXERCISE..THE FOOD IS BRUTAL. THE JAIL IS INFESTED WITH BUGS, RATS AND MICE. VERY BAD SANITATION ETC.

I WAS REFUSED BAIL BY JUDGE MCDERMOTT AFTER POLICE SAID I WOULD COMMIT 'FURTHER ACTS OF TERRORISM'. HOWEVER, I GOT BAIL THE SECOND TIME UNDER JUDGE GIBSON. I HAD TO REPORT TWICE A WEEK TO POLICE STATION.

I WAS LIFTED AGAIN ON 24TH JANUARY 1983, UNDER SECTION 11, TO CASTLEREAGH. I WAS CONFRONTED THIS TIME BY A MAN CALLED ROBERT QUIGLEY, QUESTIONED FOR 3 DAYS, AND CHARGED WITH POSSESSION OF 2 GRENADES, ATTEMPTED MURDER, CONSPIRACY TO MURDER POLICEMEN, POSSESSION WITH INTENT OF A RIFLE AND MACHINEGUN, AND MEMBERSHIP OF THE IRA.

I WAS REMANDED TO CRUMLIN ROAD JAIL AGAIN, WENT FOR BAIL, AND WAS REFUSED.

I HAVE HAD A PRELIMINARY INQUIRY WHERE BOTH QUIGLEY AND GILMOUR APPEARED AT SEPERATE TIMES. IT WAS A FARCE FROM START TO FINISH.

BUT SOME OF THE CHARGES AGAINST ME HAVE BEEN DROPPED, NAMELY THE CONSPIRACY TO MURDER CHARGE, POSSESSION CHARGE, AND MEMBERSHIP.

SIGNED: GERARD O'BRIEN, DERRY.

\* SECTION 12 AND SECTION 11 REFER TO THE EMERGENCY PROVISIONS ACT (N.I.)



STATEMENT OF HUGH BRADY, CRUMLIN ROAD PRISON (ON REMAND)

'A' WING, 2ND OCTOBER, '83.

I WAS ARRESTED AT MY MOTHER IN LAW'S HOME ON 24/8/82. I WAS STAYING THERE BECAUSE MY WIFE WAS RECOVERING FROM GIVING BIRTH TO TWIN GIRLS EIGHT WEEKS PREVIOUSLY, AND AS I WOULD HAVE BEEN AT WORK ALL DAY, SHE NEEDED HELP WITH THE BABIES. TAKEN TO BALLYKELLY ARMY CAMP AND THEN TO CASTLEREAGH, WHERE I WAS QUESTIONED ABOUT POSSESSION OF 3 RIFLES ON A NIGHT DURING THE HUNGER STRIKE - 1981. ASKED TO SIGN STATEMENT SAYING THAT R. GILMOUR HAD FORCED ME TO KEEP WEAPONS FOR HIM. DENIED ALL KNOWLEDGE. I WAS CONTINUALLY OFFERED VAST SUMS OF MONEY TO GIVE INFORMATION ON IRA MEN OR ACTIVITIES. SUMS VARIED FROM £70,000 TO 1 MILLION. I WAS CHARGED WITH POSSESSION WITH INTENT OF 3 RIFLES, AND MEMBERSHIP OF THE IRA ON 31/8/82 AND REMANDED IN CUSTODY.

FIRST BAIL APPLICATION IN FRONT OF JUSTICE MCDERMOTT AND BAIL REFUSED. LEGAL AID DENIED. SECOND BAIL APPLICATION IN FRONT OF JUSTICE GIBSON. CROWN SAID NO FURTHER CHARGES. BAIL REFUSED. THAT WAS CHRISTMAS WEEK '82. THIRD BAIL APPLICATION IN FRONT OF JUSTICE O'DONNELL. REFERENCES FROM LAST EMPLOYER, DOCTOR'S CERT TO SAY MY WIFE WAS ON THE VERGE OF NERVOUS BREAKDOWN, AND LETTER FROM HEALTH VISITOR REF: ALLOCATION OF HOUSE WHICH WAS IN NEED OF REPAIR. PARISH PRIEST APPEARED WHO GAVE CHARACTER REFERENCE. JUDGE O'DONNELL SAID 'I THINK THIS IS A CASE FOR GRANTING BAIL'. AT THAT A DETECTIVE RUSHED ACROSS THE COURT AND WHISPERED TO DPP WHO THEN SAID 'THIS MAN FACES FURTHER CHARGES ON THE WORD OF SECOND INFORMER' - R. QUIGLEY. MY DEFENCE SPOKE AND SAID, THIS MAN HAS NEVER BEEN QUESTIONED OR CONFRONTED BY QUIGLEY. DPP REPLIED THAT ARRANGEMENTS WERE BEING MADE FOR THIS TO OCCUR. JUDGE SAID HE HAD NO OPTION BECAUSE OF THESE DEVELOPMENTS BUT TO REFUSE BAIL. I WAS QUESTIONED ON AND CONFRONTED BY R. QUIGLEY FOR THE FIRST TIME FIVE DAYS LATER. I APPEARED AT PRELIMINARY INQUIRY IN BELFAST AND WAS CHARGED WITH CONSPIRACY TO MURDER POLICE, POSSESSION OF FIREARMS, AND MEMBERSHIP OF IRA. AT THE END OF THE P.I. ALL CHARGES AGAINST ME ON THE EVIDENCE OF R. QUIGLEY WERE DROPPED. I WAS RETURNED FOR TRIAL ON GILMOUR CHARGES. I WAS MAKING A FURTHER APPLICATION FOR BAIL THIS WEEK. I AM AT PRESENT IN CUSTODY 14 MONTHS WITH NO PROSPECT OF TRIAL IN THE FORESEEABLE FUTURE. OUR TRIAL WILL NOT START UNTIL THE FINISH OF QUIGLEY CASE AS THERE ARE APPROXIMATELY 15 PEOPLE INVOLVED IN BOTH. THE EARLIEST DATE POSSIBLE LOOKS LIKE SEPTEMBER '84, GOING BY THE DURATION OF THE BLACK CASE (9½ MONTHS FOR 38 DEFENDANTS). OURS WILL LAST AT LEAST ONE YEAR, LEAVING ME HAVING SERVED OVER A 6 YEAR SENTENCE BEFORE A VERDICT. INNOCENT UNTIL PROVEN GUILTY IS MOST CERTAINLY NOT THE ACCEPTED NORM IN THIS PART OF IRELAND.



CONDITIONS IN THE PRISON ARE AT BEST DESCRIBED AS VILE. WE ARE LOCKED UP ON AVERAGE 22½ HOURS PER DAY. FOOD ON MOST OCCASIONS IS INEDIBLE. WE HAVE CABBAGE ON MINIMUM FOUR DAYS A WEEK. ON MANY OCCASIONS WE HAVE FOUND ALIEN BODIES IN THE MEALS, ESPECIALLY THE SOUP. COMPLAINTS FALL ON DEAF EARS. THE WHOLE PRISON IS BUG-INTESTED, I.E. COCKROACHES, FLEAS, MICE, RATS AND OTHER SPECIES OF VERMIN I DON'T KNOW THE NAME OF. SANITATION FACILITIES AFTER 7 O'CLOCK LOCKUP ARE BOTH DEGRADING AND UNHYGENIC -- A CHAMBER POT. THE VENTILATION AND HEATING ARE TWO EXTREMES. IN WINTER IT IS ALMOST IMPOSSIBLE TO UNDRESS FOR BED DUE TO THE COLD BECAUSE OF WINDOWS WITH NO GLASS IN THEM, BUT PAPER OR CLOTH TO BLOCK THE DRAUGHT. IN SUMMER IT'S LIKE A HOT ROOM. YOU'RE LEFT GASPING FOR BREATH. IT DOES NO GOOD TO COMPLAIN -- WE ARE ONLY PRISONERS. THE SUICIDE ATTEMPTS AVERAGE ONE PER WEEK. IF A MAN TRIES TO TAKE HIS LIFE DUE TO DEPRESSION OR WHATEVER, HE IS TAKEN TO THE PRISON HOSPITAL FOR STITCHING TO HIS WOUNDS, BUT INSTEAD OF FURTHER HELP AND MEDICAL ATTENTION, HE IS THEN SENT TO THE PUNISHMENT WING (B1) FOR TRYING TO TAKE HIS OWN LIFE!

AS I HAVE SAID I AM FROM DERRY. MY FAMILY HAVE TO MAKE A 150 MILE ROUND TRIP FOR A HALF HOUR VISIT, AND ALTHOUGH IT HAS NOT HAPPENED YET, THERE WILL BE TIMES WHEN MY WIFE CANNOT AFFORD TO DO SO -- SHE HAS TWO CHILDREN TO REAR AND A HOUSE TO RUN -- AND THEY MUST COME FIRST. NONE OF THESE FACTS ARE TAKEN INTO CONSIDERATION WHEN WE ARE ADJUDGED FOR BAIL. MY CHILDREN WERE TWO MONTHS OLD WHEN I WAS ARRESTED AND IF I GET OFF I WILL HAVE MISSED THREE YEARS OF THEIR LIVES. NOTHING CAN MAKE THAT UP TO THEM OR ME. I SINCERELY HOPE THAT YOUR COMMITTEE WILL HIGHLIGHT THE INJUSTICE OF THE PAID PERJURER SYSTEM. I WILL BE HAPPY TO GIVE YOU ANY FURTHER DETAILS YOU REQUIRE. I HAVE NO CRIMINAL OR POLICE RECORD APART FROM 30 CONVICTIONS FOR PARTICIPATING IN PEACEFUL H-BLOCK HUNGER STRIKE PROTESTS.

SLAN LEAT.

SIGNED: HUGH BRADY, DERRY.



## DISCUSSION PAPER.

### SOME DISTURBING ASPECTS OF CRIMINAL LAW PROCESS IN N. IRELAND.

THE TURMOIL AND POLITICAL VIOLENCE WHICH NORTHERN IRELAND HAS SEEN SINCE 1969 HAS BEEN COUNTERED BY THE STATE IN A NUMBER OF WAYS. INITIALLY, IT SOUGHT TO SUPPRESS IT BY LARGE MILITARY OPERATIONS IN SELECTED AREAS, AND ON OCCASIONS BY DIRECT NEGOTIATIONS WITH THE PERPETRATORS. IT THEN TRIED IMPRISONMENT WITHOUT TRIAL, BUT FOUND THAT THE POLITICAL OPPOSITION TO THIS WAS SUCH THAT IT HAD TO ABANDON IT AS A POLICY. FINALLY IT SETTLED ON THE INVOCATION OF EMERGENCY LAWS, PERCEIVING THIS COURSE AS HAVING THE ADVANTAGE OF ISOLATING THE PERPETRATORS OF VIOLENCE FROM THEIR RESPECTIVE COMMUNITIES, WHILE AT THE SAME TIME 'CRIMINALISING' THEM. THIS DOCUMENT HAS NOT BEEN PREPARED AS A DIATRIBE AGAINST THE STATE'S USE OF THE CRIMINAL PROCESS; INDEED IT SEEMS REASONABLE TO SEEK TO USE THE CRIMINAL PROCESS, ALBEIT WITH MODIFICATIONS, IN TIME OF EMERGENCY, TO PREVENT A BREAKDOWN OF SOCIAL ORDER AND TO GUARANTEE BOTH INDIVIDUAL AND COLLECTIVE FREEDOMS.

HOWEVER, EFFICIENCY IN THE APPREHENSION AND TRIAL OF PERSONS MUST, EVEN IN TIMES OF EMERGENCY, BE DELICATELY BALANCED AGAINST THE RIGHTS OF ACCUSED PERSONS. IN THE LONG TERM IT MAY BE MORE CORROSIVE FOR OUR SOCIETY TO SET ASIDE THAT CORPUS OF LAW WHICH SERVES SPECIFICALLY TO PROTECT ACCUSED PERSONS, THAN, FOR EXAMPLE, TO IMPRISON WITHOUT TRIAL. DUE PROCESS PROVIDES WHAT THOMAS MORE DESCRIBED AS THE 'THICKET' WHEREIN INNOCENT PEOPLE MAY HIDE. THE LAST TEN YEARS HAVE SEEN THE STRIPPING AWAY OF ALL IMPOEDIMENTS TO EXECUTIVE CONVENIENCE. THE EROSION OF DUE PROCESS IS BEST EXEMPLIFIED BY THE FOLLOWING LEGAL CHANGES:

- 1) ARRESTED PERSONS MAY NOW BE HELD FOR QUESTIONING FOR UP TO SEVEN DAYS.
- 2) THE LIBERAL RULE OF THE COMMON LAW THAT ANY CONFESSION BY AN ACCUSED PERSON WHICH WAS OBTAINED FROM HIM BY ANY THREAT OR INDUCEMENT, HOWEVER SLIGHT, UTTERED OR HELD OUT BY A PERSON IN AUTHORITY WOULD BE INADMISSABLE HAS BEEN REMOVED AND REPLACED BY THE STATUTORY REQUIREMENT THAT CONFESSIONS BE ADMITTED IN EVIDENCE UNLESS THEY HAVE BEEN SHOWN TO HAVE BEEN OBTAINED BY TORTURE, IN HUMANITY OR DEGRADATION. THE COMBINATION OF LENGTHY DETENTION FOR QUESTIONING AND A CHANGE IN THIS RULE ON ADMISSIBILITY HAS ALMOST CERTAINLY BEEN RESPONSIBLE FOR THE POLICY OF FORCED EXTRACTIONS OF CONFESSIONS WHICH HAS OBLIGED THE EUROPEAN COURT TO FIND THE UNITED KINGDOM GUILTY OF INHUMANITY AND DEGRADATION.



- 3) THE COMMON LAW RIGHT TO BAIL, CHERISHED FOR CENTURIES, HAS BEEN RELEGATED TO A PRIVILEGE, HEDGED IN BY STATUTORY CONDITIONS, AND IN CONSEQUENCE MANY PEOPLE NOW WAIT UP TO TWO YEARS IN CUSTODY AWAITING TRIAL.
- 4) THE MOST PROFOUND CHANGE OF ALL HAS BEEN THE ABOLITION OF THE JURY IN ALL SCHEDULED OFFENCES AND ITS REPLACEMENT BY A SINGLE JUDGE AS THE SOLE ARBITER OF FACT. NOT INFREQUENTLY JUDGES HAVE HAD PLACED BEFORE THEM PAPERS CONTAINING GROSSLY PREJUDICIAL AND WHOLLY INADMISSIBLE EVIDENCE SUCH AS HEARSAY AND OBLIQUE REFERENCES TO A DEFENDANT'S PREVIOUS CONVICTIONS. WHILE INVARIABLY PROMISING TO BANISH SUCH MATERIAL TO THE BACK OF THEIR MINDS IT IS INCONCEIVABLE THAT A SOLE ARBITER OF FACT CAN FAIL TO BE INFLUENCED BY SUCH MATERIAL.
- 5) THE MOST RECENT WEAPON IN THE EXECUTIVE ARMOURY AGAINST PARAMILITARIES HAS BEEN THE USE OF SO CALLED 'SUPERGRASSES' OR INFORMANTS. THE SOCIAL DESIRABILITY OF REPRESSING CRIME HAS BEEN ADJUDGED TO BE SUCH THAT ACCOMPLICES HAVE BEEN PERSUADED TO TESTIFY IN RETURN FOR PROSECUTORIAL IMMUNITY AND FOR BOTH FINANCIAL AND OTHER GAIN. PERHAPS THE CESSATION OF THE FORCED CONFESSIONS PRECIPITATED THE OVER-NIGHT FLOWERING OF THIS PHENOMENON BUT THE ADJUDICATION OF CRIMINAL CASES ON THE BASIS OF THIS KIND OF TESTIMONY RAISES THE MOST PROFOUND ETHICAL AND LEGAL QUESTIONS, SOME OF WHICH MAY CAST A SHADOW UPON EVEN THE UNDENIABLE SOCIAL DESIRABILITY OF APPREHENDING THE PERPETRATORS OF VIOLENCE.

SUPERGRASSES ARE ACCOMPLICES; THEY ARE PARTICIPES CRIMINIS AND, AS LORD SIMONDS HELD IN DAVIES V DIRECTOR OF PUBLIC PROSECUTIONS;

'IN A CRIMINAL TRIAL WHERE A PERSON WHO IS AN ACCOMPLICE GIVES EVIDENCE ON BEHALF OF THE PROSECUTION IT IS THE DUTY OF THE JUDGE TO WARN THE JURY THAT, ALTHOUGH THEY MAY CONVICT UPON HIS EVIDENCE, IT IS DANGEROUS TO DO SO UNLESS IT IS CORROBORATED'.

IN A TRIAL WITHOUT A JURY THE ALMOST RITUALISTIC EXERCISE OF A TRIAL JUDGE WARNING HIMSELF AS THE SOLE ARBITER OF FACT THAT IT IS DANGEROUS TO CONVICT HAS NO MEANING SAVE TO MAKE HIS JUDGEMENT UNIMPEACHABLE IN THE EVENT OF AN APPEAL.

THE CONCEPT OF PROOF BEYOND A REASONABLE DOUBT IS NOW IMPERILLED WHEN THE UNCORROBORATED EVIDENCE OF INFORMERS IS ACCEPTED BY JUDGES. WHY SHOULD THIS PARTICULAR FORM OF TESTIMONY BE ESPECIALLY SUSPECT?



- A) THE INFORMER IS A PARTICIPANT IN VERY SERIOUS CRIMES FOR WHICH HE COULD NORMALLY ANTICIPATE A HEAVY SENTENCE. FEAR OF GOING TO PRISON, OR RETURNING THERE GIVES HIM AN ENORMOUS INCENTIVE TO PLEASE THE POLICE. HE MAY BE ASKED BY THEM TO INCLUDE PERSONS IN HIS TESTIMONY WHO WERE NOT PARTICIPANTS IN A PARTICULAR CRIME BUT WHOM THE POLICE NEVERTHELESS WISH TO APPREHEND. HE MAY TESTIFY THAT SUCH A PERSON HELPED PLAN A CRIME WHICH WAS NOT SUBSEQUENTLY EXECUTED E.G. THE PLANTING OF A BOMB. SUCH TESTIMONY INVOLVES THE INFORMER IN NO REAL RISK DURING CROSS EXAMINATION. ONLY AN IRREFRAGIBLE ALIBI WILL AVAIL A DEFENDANT THUS IMPLICATED. IF THE INFORMER IS VAGUE AND SAYS X WAS PRESENT AT A DISCUSSION ABOUT SHOOTING A POLICEMAN ONE DARK WINTER'S NIGHT IN 1979, HOW CAN X MEET THAT CHARGE?
- B) THE 'DEALS' WHICH INFORMERS ARE OFFERED ARE NOT BEING DISCLOSED. FINANCIAL REMUNERATION IS A POWERFUL INCENTIVE TO ENCOURAGE PEOPLE TO PLEASE THEIR EMPLOYERS. LACK OF CANDOUR BY INFORMERS, WHO HAVE STATED THAT THEY ARE IN RECEIPT ONLY OF SUPPLEMENTARY BENEFIT AND THAT THEY DO NOT KNOW WHAT WILL HAPPEN TO THEM AFTER THEIR TRIAL, HAS BEEN A BROODING OMNIPRESENT FEATURE OF THESE TRIALS THUS FAR.
- C) THE CHARACTER OF THE INFORMERS HAS BEEN THEIR WEAKEST FEATURE, BUT THIS HAS TO SOME EXTENT BEEN GLOSSED OVER BY THE COURTS BY STATING THAT PEOPLE WHO COME FROM DIRTY NESTS WILL OF NECESSITY BE OF QUESTIONABLE CHARACTER, TRIAL JUDGES NONETHELESS BELIEVE THEY ARE STILL CAPABLE OF SAYING WHETHER OR NOT AN INFORMER IS TRUTHFUL. THE EVIDENCE OF CHRISTOPHER BLACK WAS ACCEPTED DESPITE THE FACT THAT HE CONCEDED IN CROSS EXAMINATION THAT HE HAD PERJURED HIMSELF IN AN EARLIER MURDER TRIAL BEFORE THE SAME JUDGE. IN THE TRIAL INVOLVING THE INFORMER BENNETT, BENNETT WAS CAUGHT OUT TELLING MANIFEST LIES UNDER OATH: HE WOULD CLEARLY HAVE SAID ANYTHING TO RID HIMSELF OF IMPORTUNITY. YET HIS UNCORROBORATED EVIDENCE WAS SUFFICIENT FOR CONVICTION, AND THE CLEAR SHORTCOMINGS OF THE WITNESS WERE PUT DOWN BY THE TRIAL JUDGE TO THE FORENSIC SKILL OF DEFENCE COUNSEL. FRIGHTENING AS ALL THIS IS, IT ALSO TRANSPIRES THAT THE MENTAL CONDITION OF CERTAIN OTHER INFORMERS IS HIGHLY SUSPECT: ONE SUFFERS FROM RELIGIOUS DELUSIONS; ANOTHER WAS DISCHARGED FROM THE ARMY ON THE GROUND THAT HE WAS A PSYCHOPATH. EVEN IF ONE WERE TO ACCEPT THE PROPOSITION THAT INFORMERS ARE TELLING MOST OF THE TRUTH MOST OF THE TIME, WOULD THIS PROVIDE A SAFE BASIS TO PROCEED TO A CONVICTION?



D) THE LENGTH OF TIME WHICH THE INFORMER SPENDS UNDER THE PROTECTION OF THE POLICE - NORMALLY ABOUT ONE AND A HALF YEARS - AFFORDS ENORMOUS OPPORTUNITIES TO THE POLICE TO COACH A WITNESS AND TO PUT HIM THROUGH MOCK TRIALS. INFORMERS WHO HAVE RECENTED HAVE ALLEGED THAT THIS TAKES PLACE. THE DEFENCE CANNOT EFFECTIVELY PROBE THIS ASPECT OF THE TESTIMONY OF INFORMERS. STATEMENTS OF EVIDENCE MAY BE BEING LEARNED OFF BY HEART. DURING THIS PERIOD OF PROTECTIVE CUSTODY, PEOPLE HAVE BEEN NAMED FOR THE FIRST TIME AS HAVING BEEN PARTICIPANTS IN CRIME ONLY AFTER THE INFORMER HAS BEEN IN SUCH CUSTODY FOR MANY MONTHS. THIS WAS THE CASE WITH THE DEFENDANT TOBIAS MCMAHON IN THE BLACK TRIAL. A ALTHOUGH ALLEGING HE WAS A TOP I.R.A OFFICER, BLACK DID NOT REMEMBER THAT MCMAHON HAD PARTICIPATED IN ANY CRIME UNTIL MORE THAN SIX MONTHS OF BLACK'S PROTECTIVE CUSTODY HAD PASSED.

THE DESIRE TO CUT AWAY FORMIDABLE IMPEDIMENTS TO CONVICTION HAS RESULTED IN A REDUCTION IN THE QUALITY OF THE ADJUDICATORY PROCESS. MAXIMUM LEGAL EFFICIENCY IS IN SEVERE DANGER OF RESULTING IN MAXIMUM TYRANNY. THE MANIPULATION OF DUE PROCESS MAY NOT END WITH THE USE OF SUPERGRASSES. JUDGES, LAWYERS AND OTHERS MUST STRIVE TO PROTECT THE INTEGRITY OF THE ADJUDICATORY PROCESS. THEY MUST NOT BECOME THE UNWITTING INSTRUMENTS OF OPPRESSION OR EXECUTIVE CONVENIENCE.

'SOMEONE MUST HAVE BEEN TELLING LIES ABOUT JOSEPH K  
FOR WITHOUT HAVING DONE ANYTHING WRONG HE WAS ARRESTED  
ONE FINE MORNING'.

THE FRIGHTENING WORLD OF KAFKA'S CENTRAL CHARACTER MAY HAVE ALREADY ARRIVED FOR MANY IN NORTHERN IRELAND.