

Liam Mellows' New York Court Cases

BY ALFRED ISACSSON, O. CARM.



Photo:
Liam Mellows (around 1920) at the Carmelite School in East Twenty-ninth Street in Manhattan. Mellows was a teacher at the school and played fiddle for its Irish dancing group. Courtesy of Alfred Isacsson, O. Carm.

Liam Mellows, born in 1895, was an Irish nationalist from his youth. A member of *Na Fianna* (the Republican boys movement), he was active in training new Volunteers.

Arrested under the “Defence of the Realm Act,” he did four months in Mountjoy Jail.

Arrested again, Mellows was sent to Reading Jail from which he escaped and was able to return to Ireland to lead the Volunteers in the west of Ireland during the 1916 Rising.

When Desmond Greaves was researching his book on Liam Mellows, he made a serious attempt, without success, to do research on Mellows’ legal entanglements in New York City.¹ Today, with the National Archives and Records Administration (NARA) on line, it is fairly easy to find the proper record groups, and their locations and contents.

This paper is the result of such research. It will deal with all the New York legal cases involving Liam Mellows that we have been able to uncover .

ARRIVAL IN THE U.S.

Sometime after the April, 1916 Rising, Liam Mellows came to the United States on a munitions ship out of Liverpool, using false seaman

papers in the name of Edward Moore.² A website dealing with Liam Mellows has him and Patrick McCartan arrested in New York City on the charge of participating in an Irish-German plot to sabotage Allied efforts in World War I and then being imprisoned in the Tombs in New York City.³ There are no records of such charges, and chronologically with other arrests these are not possible.

One point to keep in mind is that throughout this entire period, both the Carmelite, Peter Elias Magennis, living at Our Lady of the Scapular on East Twenty-eighth Street in Manhattan, and Liam Mellows were under surveillance by the Bureau of Investigation of the Department of Justice. The basis for this was officially stated as “Irish Activities.” The index of their record is in the group, “Old German Records, 1908–1922 (OG).” A perusal of this material illustrates the hysteria of the time against anything that had a hint of not being totally anti-German and pro-American. Though both Magennis and Mellows are in the index indicating they were investigated, the results of this surveillance are not present in the record group. Archives personnel indicated to me that these were probably sent to a court for evidence in a case or were destroyed. Magennis was involved in no court cases, and since Mellows’ court files have no such results, the surveillance records probably were destroyed.

For a reason that is not apparent, Liam Mellows, Patrick McCartan, and James Clarkin wanted to return to Ireland in 1917. Because they had all left Ireland surreptitiously, they could not return through the normal channels. They all filled out forms using aliases and fictional data, but enclosing real pictures of themselves, to obtain seamen certificates of American citizenship from the New York Collector of Customs. Liam Mellows chose the alias “Patrick Donnelly.” Once granted, these certificates could be used to travel to Ireland as seamen.

In November 1917, McCartan was arrested in Halifax, Canada while Mellows was apprehended in New York City. Both were placed in the Tombs. The two, along with James Clarkin,

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were indicted on December 3, 1917 for perjury and for conspiracy to defraud the United States. Both charges resulted from the falsity of their applications for seamen certificates. Clarkin was never apprehended, and his case was *nol prossed* on February 1, 1932.

On December 13, 1917, Mellows pleaded not guilty and was released on bail, but the amount was not stated. McCartan did the same a week later, and his bail was set at \$7,500. An undated and unsigned memo in the case file describes Liam Mellows as a "menace." Martin Conboy, his attorney, did not dispute the truth of the allegations against Mellows but denied that each one was sufficient grounds for legal action.

It was not until May 23, 1918, that Conboy argued the demurrers before Judge Learned Hand, regarded as one of the finest jurists in American history. He was also favorably inclined to Irish interests. This was at the United States District Court, New York Southern Division, located at Cadman Plaza in Brooklyn. On June 18, Hand ruled out the perjury charge but let the conspiracy charge stand. Not quite a year later, May 1, 1919, Liam Mellows and Patrick McCarran were

indicted a second time for the same incident. This time the charge was only for conspiracy to defraud the United States.

They withdrew their non-guilty pleas for the previous charges with the understanding that no prison time would be served on the new charge. On May 14, both pleaded guilty before Judge Hand on the conspiracy charge, and he fined them each \$125. A *nolle prosequi* was issued for both of them on May 21, 1920.⁴

ALLEGIANCE TO IRELAND

The second case of Liam Mellows was his refusal to register for the World War I draft at his New York City Local Board 129. There is no record of his registration in the Board's Docket Sheet, a chronological list of registrants. His record is also not present among the registration cards. Mellows explained to the Board that he owed allegiance only to one country, Ireland, and could not serve in a war on the side of England. He also gave as an additional reason the silence of the United States on the freedom of Ireland and America's acquiescence to the British occupation of Ireland. When he was asked how, as an immigrant, he came to the



Photo: Smoke rising from bombardment of Dublin's Four Courts while it was occupied by Mellows and other anti-Treaties on June 30, 1922. Courtesy of RTE Stills Library, Cashman Collection, © RTE Ref.No. 0504/068.



Photo:
Part of damage to the Four Courts from 1922 bombardment is shown in print from original glass plate by T.J. Byrne, who supervised reconstruction of the buildings. Courtesy of Prof. John Byrne, Trinity College, Dublin.

United States, he refused to answer because it would reveal to the British how he escaped their clutches.⁵ Refusal to register for the draft was a federal criminal offense, and a search of Federal Court records show no record of a trial, indicating that Mellows was not indicted for this charge. It would seem that Mellows had hearings before a United States Commissioner who dismissed the charges.⁶ The dismissal of these charges could have been an attempt on the part of the Woodrow Wilson administration not to displease the Irish, a large part of the New York City population. Possibly, political influence was involved in the dismissal.

The third New York legal involvement of Liam Mellows was for a minor matter we do not know the specifics of. He had to appear before Judge Abraham Meyer, a justice of New York's City Court in March, 1919.⁷ This court dealt with minor matters. After the court revisions of 1962, this court ceased to exist and its records were destroyed.⁸

In the three legal encounters he had in New York City, Liam Mellows stood by his convictions and dutifully endured the processes they subjected him to.

CONCLUSION

Mellows secretly returned to Ireland in 1920 as a "mess man for the oilers."⁹ Because he was anti-Treaty, he joined those forces that sought to make life as unpleasant as possible for the Treaty supporters. With other anti-Treatites, Liam occupied the Four Courts in June, 1922. After a bombardment utilizing British cannons, the anti-Treaty forces surrendered and were sent to

Mountjoy Jail. When Sean Hales, a member of the Free State Dail, was executed on a Dublin street, four imprisoned anti-Treatites, including Liam Mellows, were selected by the Free Staters and executed on December 8, 1922 in reprisal.

Notes

- 1 Greaves, C. Desmond. *Liam Mellows and the Irish Revolution* (London, 1971); Rice to O'Callaghan and Nevins, NY, Nov 17, 1967, Archives, Carmelites of New York Province, Middletown, NY. Rice was seeking for Greaves the location of the papers of Martin Conboy, a lawyer of Mellows.
- 2 17098, Mellows Papers, National Library of Ireland (NLI); Cronin, Sean, *The McGarrity Papers* (Tralee, 1972) 69- 70; Cronin, Sean, *The Revolutionaries* (Dublin, 1971) 171.
- 3 MacAodh, Sean, "Liam Mellows: Young and Determined," *Ireland's Own History*; Searc's Web Guide. The *New York Times* Jan 4, 1919 repeats this error of the 1917 arrests.
- 4 Both are in US District Court, New York, Southern District, Case # 4486, C 10-420 and C 16-8-10. These papers include all the legal documents involved as well as the evidence, i.e., the three applications. All are in National Archives and Records Administration (NARA), NE Division, New York City. Mellows' application with his photo is C 16-10 while McCartan's is in C 16-9. "McCartan" is the spelling used throughout the case. The *New York Times*, May 15, 1919 reports the final outcome but has the fine as \$250 each.
- 5 Mellows to Mrs. Hearn, St. Albert's, Middletown, NY, Mar 25, 1919; Copy of Response and Mellows' communication are both in Hearn Papers, 15986, NLI. It is interesting that Martin Conboy, Mellows' lawyer in the previous case, testified in the case of Jeremiah O'Leary that no Irishman sought to avoid the draft. Conboy was the Director of the Draft in New York City. *New York Times*, Mar 11, 1919.
- 6 The records of United States Commissioners are preserved only to 1915.
- 7 Mellows to Mrs. Hearn, St. Albert's, Middletown, NY, March 25, 1919, Hearn Papers, 15986, NLI.
- 8 Municipal Archives, New York City, Aug 4, 2003.
- 9 150/668, memo, De Valera Papers, University College Dublin.