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Reference Code:	2018/28/2806
Creation Dates:	29 September 1988
Extent and medium:	3 pages
Creator(s):	Department of Foreign Affairs
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Gibraltar Inquest

Donagh McDonagh called on 28 September and again this evening.

The Coroner will sum up tomorrow. The verdicts could come tomorrow evening but will probably take more time. The Coroner seems determined to keep the jury incommunicado until they come up with verdicts. If more than two dissent, however, and maintain it, there will be no verdicts and the question of ordering a second inquest will arise.

McDonagh began with the view that the jury would bring in three verdicts of lawful homicide. He basically held to that view during the evidence of the SAS men but put a slight question mark over the killing of Savage. As the Gibraltar police and civilian witnesses gave evidence, he saw the jury begin to ask questions and detected a change in their attitude. They seemed appalled by the brutality of the killings, the danger to civilians close by and the account by the Gibraltar police of a slipshod operation.

Last week he thought it would not take much to move the jury either way. Today he said the broad view in the Court is that the jury will not bring in three verdicts of lawful homicide. The likely verdicts are two lawful homicides and one open verdict or unlawful homicide (Savage). There could even be one verdict of unlawful homicide and two open verdicts. The Treasury Counsel, Laws, on the other hand has made it clear in conversation that he expects a 3 : 0 victory (three lawful homicides) and will be shocked by any other outcome.

Proceedings of 28 and 29 September

The evidence of a civilian, Diana Treacy, that Savage was shot as he was running away made an impression on the jury.

Kenny Asquez stuck to his retraction of an earlier statement that

he saw a policeman put his foot on Savage and shoot him on the ground. McDonagh believes the retraction is the true position. Other evidence had shown he could not have witnessed Savage's death.

The British flew their electronics expert, Feraday, back to Gibraltar to counter the evidence given on Tuesday by Dr Scott (that the bomb could not have been detonated from the area in which the three were killed by the device shown in court). A signals officer gave evidence of testing successfully from various points in Gibraltar with equipment slightly different from that previously shown in court, but widely available. There is a clear conflict of evidence but McDonagh thinks Feraday was too glib and did not do himself credit with the jury.

A Gibraltar policeman, Corea, gave evidence that a Spanish policeman had made out a statement detailing the activities of the Spanish police in identifying and tracing the three before their entry into the Gibraltar. Corea said the Spaniard was personally very willingly to give evidence but had been ordered not to attend. The Treasury Counsel, Laws, made a meal of the personal willingness of the Spaniard to attend and his prevention from doing so by the Spanish authorities. He asked that the statement be admitted in evidence. McGrory objected on the grounds that he would not be available for cross-examination. McDonagh is not certain what the statement says about surveillance of the three as they entered Gibraltar. It does not say what information was provided to the British, which is a problem for McGrory. McDonagh expects to get a copy. Behind the scenes, the question has been raised of the court taking the evidence of the Spaniard in Spain. That is not possible because the court has no authority to sit outside Gibraltar.

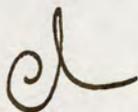
The Coroner pressed a number of times for the Spanish policeman to appear and extended the time limit to 2.30pm today. He did not turn up and the matter is now water under the bridge.

Today was reserved for legal submissions with the jury absent. McGrory ignored restrictions to matters of law and put on a lengthy tour de force beginning with Roman law and proceeding by way of Shakespeare and the man on the Clapham Omnibus to Ernest Hemingway's description of the corrida in Death in the Afternoon. He said many English people disliked the bullfight intensely on grounds of fair play; it was certain once the bull entered the arena that he would be killed by the matador. And so it was in Gibraltar on the 6th of March for Farrell, McCann and Savage. The killings were unfair, therefore unreasonable, therefore unlawful. Laws and Hucker were repeatedly on their feet. At one point they rose together and McGrory said "Alright boys, which of you is first?!" (The atmosphere between the Counsel has thawed. Laws now refers to McGrory (a bit condescendingly?) as "Mr McG" and "the wily old fox".)

McGrory was basically telling the Coroner what his summing up should be tomorrow morning to the jury. Pizarello eventually had to tell the local media that they could report only on the legal submissions in McGrory's presentation. They complained that they could not distinguish and were told in that event their newspapers could print nothing at all.

McDonagh thinks McGrory has got better as the inquest has gone on and would now do a much better job with the SAS witnesses.

The view is being taken in Gibraltar that Mrs Thatcher's comments on terrorism in Spain last week and in Northern Ireland yesterday are an extraordinary attempt to influence the jury.



Declan O' Donovan
29 September 1988

Mr Gallagher ✓
Counsellors ✓

Box