

O'Higgins, Kevin Christopher

by John P. McCarthy

O'Higgins, Kevin Christopher (1892–1927), politician, was born 7 June 1892 in Stradbally, Queen's Co. (Laois), fourth son among fifteen children (three of whom died in infancy) of Thomas Higgins, doctor and elected county coroner, who was the son of farmer John Higgins and Anne Waters of Clonmellon, Co. Meath, and grandson of Michael Higgins, a strong farmer of Athboy, Co. Meath. Kevin's mother, Annie, was the daughter of Timothy Daniel Sullivan (qv) and Catherine Sullivan. Her father had been the editor of the *Nation*, the lord mayor of Dublin, a member of parliament, and a leading figure of the 'Bantry band' faction within the Irish parliamentary party. Her mother was the aunt of Tim Healy (qv), who became the first governor general of the Irish Free State.

O'Higgins (who intermittently adopted the gaelicised version of the family name on becoming politically active) was educated at a local convent school, the CBS in Maryborough (Portlaoise), Clongowes Wood, Co. Kildare, and Knockbeg College, Co. Carlow. Aspiring to the priesthood, he studied at Maynooth and subsequently at the diocesan seminary in Carlow, but was dismissed from both places for disciplinary reasons, as well as academic failure at the latter. He entered UCD, receiving a pass BA and an LLB, and was called to the bar in 1923.

Politics and war In spite of his family's links to the Irish parliamentary party and the service of two of his brothers, Jack and Michael, in British forces during the first world war (one of whom, Michael, was killed in action), O'Higgins joined the Irish Volunteers and Sinn Féin. He campaigned for Dr Patrick McCartan (qv), a successful Sinn Féin candidate for parliament in a 1917 by-election for King's Co. (Offaly). In 1918 he served five months' imprisonment in Mountjoy and in Belfast for disturbing the peace during protests against British military recruitment in Ireland.

As an abstentionist Sinn Féiner he did not take his seat when elected MP for Queen's Co. in the 14 December 1918 general election. Instead, he sat in the first Dáil Éireann. In the first dáil ministry, he was assistant to the minister for local government, William T. Cosgrave (qv), then substitute minister (9 May–3 December 1920) during Cosgrave's imprisonment, and later assistant minister for local government (4 December 1920–26 August 1921), and helped to achieve the important objective of gaining the adherence of elected county councils and local government bodies to the revolutionary Dáil Éireann, a clear indication of a democratic mandate for the cause of independence. Subsequently he coordinated and directed those bodies in the harbouring of their resources after they lost public grants because of their pro-dáil position.

He was reelected for the Laois–Offaly constituency to the second dáil in the 24 May 1921 general election in Ireland, in which there were no contests; he was then appointed assistant minister for local government, and allowed to be a non-voting participant at cabinet meetings (26 August 1921–9 January 1922). In order to get married in October 1921, he refused to serve as one of the secretaries to the treaty negotiators, previous nuptial arrangements having been postponed because of the political situation. His bride was Brigid Cole, a professor of English at Knockbeg College in Carlow, whose late father, Andrew, and uncles were wine merchants and publicans, and whose mother, whose family name was Coogan, came from a Wicklow farming family. His best man was Rory O'Connor (qv).

Treaty and civil war: minister for home affairs Although originally opposed to any settlement short of republican status for Ireland, O'Higgins did accept the treaty and dominion status. Highly critical of Éamon de Valera (qv), then president of Dáil Éireann, for his condemnation of the signatories, he deferred to the judgement of Michael Collins (qv) and Arthur Griffith (qv). He was a leading supporter of the treaty in the dáil debates, where he emphasised the importance of popular support among the Irish public at large, if not among Sinn Féin activists. After the acceptance of the treaty by the dáil, he became minister for economic affairs (10 January 1922) in both the Dáil Éireann government headed by Arthur Griffith and the provisional government headed by Michael Collins. During the first half of 1922 he went frequently to London, in negotiations concerning the implementation of the treaty, the transfer of assorted governmental powers, and the tentative constitution of the Irish Free State.

He was reelected in the 16 June 1922 election. After the outbreak of the civil war, he was relieved of his cabinet position and given a military staff position as assistant to the adjutant general (12 July 1922). In the cabinet reorganisation following Michael Collins's death, O'Higgins was made minister for home affairs (30 August 1922) as well as vice-president of the executive council (6 December 1922) when the Free State constitution came into force. He played the major role in securing dáil acceptance of the constitution. He also promoted the passage of the Army Emergency Powers Resolution, which authorised internment, military courts, and executions as legal instruments for the national army. He reluctantly consented to the retaliatory executions of four republican prisoners (8 December 1922), who included Rory O'Connor, after the assassination of a dáil member and the wounding of another as part of an announced republican campaign. His own father was killed during a republican raid on his home (11 February 1923).

Seeking the restoration of legal normality in place of martial law, even during the civil war, he obtained legislative approval for the temporary reinstatement of the old court system, pending the development of a new system, in areas of the country free from disorder. He ended the revolutionary Dáil Éireann courts, many of which had ceased to function and some of which were controlled by the insurgent republicans. When the civil war was over he obtained passage (1 August 1923) of public safety

legislation of six months' duration, allowing the continued internment of those held during the war. The act transferred the prosecutorial, judicial, and punishment functions away from the military to civilian authorities, while stipulating severe penalties, including flogging, after conviction for certain specified crimes such as armed robbery.

Aftermath of war: hunger strike and army mutiny O'Higgins led the poll in the Co. Dublin constituency in the 27 August 1923 election for the fourth dáil. The governing party, now called Cumann na nGaedheal, leaving the Sinn Féin label to the anti-treaty republicans, returned to power, but with only a plurality of votes. The absence of the Sinn Féin TDs turned the plurality into a majority.

From 14 October through 23 November 1923, O'Higgins had to contend with a hunger strike by many of the republican prisoners, critical of their conditions and desirous of immediate release. The government was unyielding and after the death of two hunger strikers the protest was called off. By the following summer more than 10,000 civil war prisoners had been released.

Early in 1924, when O'Higgins' position was retitled 'minister for justice' under the Ministers and Secretaries Act, the oireachtas renewed for twelve months the internment powers of the public safety legislation. In 1925, satisfied that the disorder in the country was sufficiently under control, he achieved the passage of a permanent treasonable offences act, which replaced internment with criminal proceedings for certain defined deeds.

During the crisis occasioned by the army mutiny of 6 March 1924, O'Higgins emerged as the strongest figure in the executive council. The mutinous 'Old IRA' consisted of officers upset at the prospects of demobilisation after the civil war. The minister for industry and commerce, Joseph McGrath (qv), who sympathised with them, resigned his post. Following a modification of their rebellious proclamation, the would-be mutineers were allowed to return to barracks and surrender arms, without likelihood of being charged, but also unlikely to be reappointed to their positions. However, before they did so, the army apprehended a number of them gathered in a Dublin public house (18 March 1924). At this point O'Higgins, acting as president because Cosgrave was ill, prompted the executive council to ask for the resignation of the army staff because of the action, which went against government policy. In turn the minister for defence, Richard Mulcahy (qv), resigned. O'Higgins opposed any private group within the army, whether it be the Old IRA or the IRB that Mulcahy and the army general staff had reactivated as an antidote to the appeal of the Old IRA. O'Higgins's actions guaranteed the ascendancy of civilian authority over the military, a central point in the solidification of constitutional democracy in an independent Ireland. However, some commentators did not regard Mulcahy and the IRB leaders as a threat, but actually supportive of civilian ascendancy and motivated primarily by anxiety about the Old IRA.

The framework of the new state The mutiny crisis led to a secession within the governing Cumann na nGaedheal party as McGrath and eight other TDs resigned their seats to necessitate by-elections in March 1925, in which they sought reelection as the 'National Group'. There had developed a growing sentiment within the party, critical of the aloofness of the executive council from the party organisation, both its standing committee and the rank and file, especially in terms of providing political favours and public positions, and in not being sufficiently nationalist. In five earlier by-elections in October 1924, necessitated by a death, a disqualification, and three resignations of incumbents, Sinn Féin won two seats. Out of concern about the March elections O'Higgins formed an organising committee whose members would be drawn from the existing standing committee, from the executive council, and from outsiders not connected to but sympathetic to the party. The new committee was dominated by O'Higgins and his allies, who were less drawn to the ideals of economic self-sufficiency and other nationalist populist causes, but more interested in making the new state function, and relying on the existing civil service (largely pre-dating independence) and even on former unionists. It also sought financial support for the party from the legal profession and the Licensed Vintners Association. In the March by-elections the government won seven of the nine seats. However, abstentionist Sinn Féin won two, as well as increasing its total poll at the expense of Cumann na nGaedheal.

In 1924 O'Higgins fostered legislation making permanent the unarmed police forces of the nation, the newly created Garda Síochána and the older DMP, which, unlike the RIC, had not been disbanded. By the end of the year, he gained legislative sanction for the amalgamation of both forces.

O'Higgins advanced legislation on intoxicating liquor (1924, 1927), reducing the number of licensed premises and their hours of opening. In doing so he had to contend with opposition from obvious vested interests and many in the general public, as well as many in his own party, who blocked some parts of the intended legislation, such as a prohibition of mixed trading (that is, having a public house and a grocery store within the same premises), and forced him to compromise on some other parts, such as a single rather than a two-hour mid-day closing for urban public houses and a 9.00 p.m. rather than 8:30 p.m. closing for rural pubs on Saturdays.

O'Higgins seconded the successful motion by Cosgrave to amend the standing orders of the Oireachtas and prevent the introduction of bills of divorce, as it was only by private acts of parliament that divorce could take place in Ireland. O'Higgins opposed making divorce available, a position shared by the overwhelming majority of both dáil and seanad at the time.

Also in 1925 O'Higgins promoted legislation that expanded the existing Censorship of Films Act, 1923, to extend to advertising for films, a position that met with general approval. The following year he appointed a Committee on Evil Literature to consider extending 'the existing power of the state to prohibit or restrict the sale

and distribution of printed matter'. He received its recommendations later that year and asked the executive council for legislation. That legislation, which was not passed until 1929, called for the establishment of a censorship board to advise the minister for justice about indecent or obscene items that ought to be prohibited from circulation. That board's subsequent zealotry scarcely reflected the more restrained, although scarcely libertarian, position of either O'Higgins or the original committee.

Legislation in 1924 enabled women to exempt themselves from jury service, to which they had been subjected by 1919 British legislation. In 1927 O'Higgins sought to exclude women from serving on juries. He argued that it seemed administratively and financially inappropriate to summon women, since most who had been called had opted to be exempted. Significant dissent from advocates of women's rights resulted in a compromise that put women in a category with doctors, teachers, and journalists, who, although exempted from jury service, could apply to be called.

Relations with Britain, the north, and the empire Early in 1923 O'Higgins insisted within the executive council that the British be pressed to summon the boundary commission called for by the 1921 treaty. The British had held unsuccessful conferences with the Irish and Northern Irish leaders in the hope of achieving a solution to the boundary question without the need for a commission. When the commission was about to be established in the second half of 1924, O'Higgins suggested to the executive council that an agreed mandate be set up before it would meet that would be more specific than that in the treaty about settling the boundary according to popular wishes 'compatible with economic and geographic conditions'. Otherwise, he feared, the commission would pay minimal heed to popular wishes in determining the boundary. The executive council did not act upon his request. The commission, in fact, did interpret the treaty mandate narrowly, as its late 1925 report called for the transfer to the Free State of a much smaller amount of people and territory than nationalists had hoped, as well as the transfer of some areas of the Free State to Northern Ireland. To offset the consequent political crisis, O'Higgins joined Cosgrave and John O'Byrne (qv), the attorney general, in negotiating in London for an agreement (3 December 1925) cancelling the commission award, maintaining the existing boundary, and removing the treaty obligation of the Free State to contribute to a still-to-be-determined share of the imperial debt at the time of the treaty.

O'Higgins attended the imperial conference in London in the fall of 1923 and the League of Nations at Geneva in September 1925. He played a central role at the imperial conference in London (19 October–23 November 1926), which affirmed that the dominions were 'autonomous communities' and 'equal in status', and, reflective of the new status of the Free State, changed the royal title from that of king 'of the United Kingdom of Great Britain and Ireland and of the British dominions beyond the seas' to 'of Great Britain, Ireland and of the British dominions beyond the seas'. The change was nicknamed 'O'Higgins's comma'.

At the conference O'Higgins met with Lord Carson (qv), former unionist leader, and L. S. Amery, secretary of state for dominion affairs, and proposed the unification of Ireland as a separate 'kingdom of Ireland', sharing the same monarch as Great Britain. Although Amery forwarded the suggestion, neither the Northern Ireland prime minister, James Craig (qv), nor the British cabinet received it favourably.

Lady Lavery The discovery of letters between O'Higgins and Hazel, Lady Lavery (qv), the American-born wife of the artist and society portraitist John Lavery (qv), confirmed early suspicions that he had become infatuated with her. She had played a major role in facilitating social contacts for the members of the new Irish government whenever they were in London. The romance seemed quite out of character with O'Higgins's reputation as a devout catholic, and more than likely it remained platonic. The episode has to be weighed against the political and emotional pressure imposed on a relatively young man who in a few years had consented to the execution of his best man, whose father was murdered, and who lost a new-born son, while the government of which he was part had to contend with a civil war and continued lawlessness and some armed opposition afterwards.

Assassination O'Higgins was reelected for Co. Dublin in the 9 June 1927 general election, in which Cumann na nGaedheal got forty-seven seats while the major opposition, de Valera's new party, Fianna Fáil, got forty-four. That party's pragmatic willingness to take their seats in the dáil, if they need not take the oath to the king, enabled them to draw support from most of the old Sinn Féin followers and an increasing number of dissatisfied government supporters. However, the oath requirement barred them from taking their seats. In the smaller dáil, Cumann na nGaedheal was able to form another government with the support of a few independents and the Farmers' Union. In the new government O'Higgins retained the vice-presidency and Justice, but also assumed the post of External Affairs.

On Sunday, 10 July 1927, he was shot several times by three gunmen while walking from his home, 'Dunamase', in Booterstown, Co. Dublin, to a noon mass at his parish church, and died a few hours later after explicitly expressing forgiveness for his assailants. The assassins were never captured, but nearly sixty years later, after all were dead, their identities were revealed in the memoirs of an IRA veteran, Harry White. All were IRA members, but had acted on their own, rather than under orders of the organisation. After the assassination the government proposed legislation that would strip abstentionist TDs of their seats. The threat prompted Éamon de Valera and his Fianna Fáil followers to overcome their republican scruples and sign the required form containing the oath to the king and take their places in the dáil. Accordingly, O'Higgins's assassination might be interpreted as the blood sacrifice that brought the major opposition into constitutional politics.

O'Higgins had three children: a daughter Maev; a son, Finbarr, who died in infancy; and a daughter, Una (qv). Maev became a Carmelite sister; Una, who married surgeon Eoin O'Malley, was active in ecumenical and peace movements, and ran as

an independent candidate for Dáil Éireann in the Dún Laoghaire constituency in the 1977 general election. She died in December 2005.

Terence de Vere White, *Kevin O'Higgins* (1948, 1986); D. W. Harkness, *The restless dominion* (1969); Maryann Gialanella Valiulis, *Portrait of a revolutionary: General Richard Mulcahy and the founding of the Irish Free State* (1992); Mary Kotsonouris, *Retreat from revolution: the dáil courts, 1920–24* (1994); Tom Garvin, *1922: the birth of Irish democracy* (1996); Sinéad McCoole, *Hazel: a life of Lady Lavery, 1880–1935* (1996); Eunan O'Halpin, *Defending Ireland: the Irish state and its enemies since 1922* (1999); John M. Regan, *The Irish counter-revolution, 1921–1936* (1999); Jason Knirck, 'After image of the revolution: Kevin O'Higgins and the Irish revolution', *Éire-Ireland*, xxxviii (2003); Kevin Matthews, *Fatal influence: the impact of Ireland on British politics, 1920–1925* (2004); John P. McCarthy, *Kevin O'Higgins: builder of the Irish state* (2006); information from Mrs Una O'Higgins O'Malley