

Thomas Townsend [6B03]



COUNTY COURT.

WEDNESDAY, JULY 16.

Mr. Justice BRAYTON appeared on the Bench at the usual hour, when after the arraignment of several prisoners, the following Jury was sworn:—

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| James Crofts, | John Whiting, |
| John Freke, | Richard Barrett, |
| Joseph V. Carpenter, | Frederick Burke, |
| John Wiseman, | John Baker, |
| Abraham Stanley, | John Swanton, |
| Henry Wrixon, | Anthony O'Flanagan. |

John Guetz, Francis Guetz, and Richard Bride were the first prisoners given in charge, being indicted for the murder of Daniel Morrison, on the 5th of February last, at the fair of Whitewell.

Mr. FREEMAN, who was Counsel for the prisoners, stated to the Court that a branch of this case had been tried at the last Assizes, and as he was well aware that it was one of manslaughter, he was willing to take a verdict of conviction for that offence. This proposition was not accepted, but the trial had proceeded but a short way, when it was evident that the cause would have no other result, the deceased having come to his death in a fray at the fair of Whitewell, which it appeared his own party had begun. Verdict accordingly.

TRIAL OF THE MEN WHO FORCIBLY TOOK ARMS FROM THE HOUSE OF THE REV. THOMAS TOWNSEND, AT FARRHY GLEEL.

William M'Donnell, Thomas Sullivan, and David Nagle, stood indicted for having on the 20th of May last, unlawfully assembled with others, and for having forcibly, and by menaces, compelled Mrs. Caroline Townsend, the wife of the Rev. Thomas Townsend, to deliver to them certain fire arms.

Mrs. Townsend being sworn and examined by Mr. QUIN, deposed, that she had seen, and knows the prisoners Nagle and M'Donnell, whom she now identified. She recollected the 20th of May last, and was at home on that day, Mr. Townsend being absent. She was sitting in the parlour with some of the children, when one of the servants, of the name of *Ann Roche*, came in and told her the Whiteboys were outside, upon which she went to the hall door and opened it, when four armed men entered, to whom she said they should have what they wanted, provided they did not kill her or her children. Before she got to the hall, the windows had been broken. In reply to her they said they wanted arms and must have them instantly: she answered that they should as soon as she could get the keys of the place where they were, and for this purpose went into the lining-room, they accompanying her, and having got the keys, she went up stairs, two of the men going with her, and two remaining in the hall. One of the former was the prisoner M'Donnell, of whom she had not the least doubt. She opened a press, pointed to a gun that was in it, and to another that was on the top of it, both of which the men took, went down stairs, and departed, with those they had left below; but in less than four minutes they returned and demanded more arms. One life they said was as good as another; that she must give more arms, and asked for an old rusty sword which they said was in another part of the house. They compelled her to open Mr. Townsend's study, that they might satisfy themselves as to whether it contained arms or not. She then saw no more of them at that time, and immediately on their departure she proceeded to Bowen's Court, to which place several prisoners were brought, and she

was called upon to inspect them, that she might know if any of those who had assaulted Farrihy-Glebe, were among the number. She discovered the prisoner, McDonnell, there, and identified him without hesitation. In six days several men were brought to her own house among whom was Nagle, and him also she then pointed out with certainty, as being one of the four who came into the house.

This lady, who gave her evidence with great presence of mind and considerable precision, though she was evidently affected by the novel situation in which she was placed, was cross-examined by Mr. FREEMAN with great ability. The object of the learned gentleman's questions was to endeavour to extract from her, that she must have been in such a state of alarm, on her own and on her children's account, during the time of the attack that she may be mistaken as to the identity of persons. She admitted that she did entertain apprehensions for the safety of herself and children, and that she had heard of fatal mistakes in the identification of prisoners, and has sometimes even herself mistaken a stranger for an acquaintance. There are, no doubt, very often strong family resemblances. She never saw the prisoners before, and fully admitted that she could not identify the prisoner Sullivan. Nagle does not live far from Farrihy, but she never saw him until the day of the attack.—Does not know how far a neighbour might or might not be likely to be concerned in such an attack. She had three female servants in the month of May last; one named Mary Fox, and the other two are each called Anne Roche, but one of them by way of distinction was always called Nancy Roche.

Anne Roche was the next witness, she was examined by Mr. GOULD.—She deposed that she is now living with Mrs. Townsend as a servant and was so in May

last. She recollects the day when the Whiteboys came to Farrihy; she was in the Hall at the time of the attack. The hour at which it occurred was between twelve and one o'clock in the day. She saw the parlour windows broken. Is quite certain that the prisoner Nagle was there, and accordingly she pointed him out in the dock. She also pointed out Sullivan as having been of the party; she knew Nagle at Bowen's Court, where he was brought, with several other prisoners, the following evening, and she saw the other man the following Sunday, at Farrihy, he being also then in custody. At this part of her testimony, she said that she had made a mistake, that McDonnell was the man she had seen. (McDonnell was partly concealing his face with his hands, at the time that witness moved towards the dock for the purpose of identifying him, and the Court perceiving this, directed that he should be made to stand in a proper manner, leaving all his face visible, and the witness was then desired to try if she could identify him, which she did accordingly.) She further deposed, that she saw McDonnell at Bowen's Court, and that she had no difficulty in distinguishing him from several other men. The four men who came into the house at Farrihy, were armed with pistois. Saw two men go up stairs with Mrs. Townsend; McDonnell was one of these. Nagle was not; he was standing inside the hall door when she spoke to him, and begged of him not to do her mistress or the children any injury; he promised her that they should not be molested, and shook hands with her, and assured her that all they wanted was arms. She added, that the mistake she made was in putting the stick upon the wrong man, but she has no doubt as to the identity of McDonnell and of Nagle.

Mr. FREEMAN cross-examined this witness. She admitted that she had made a mistake in pointing out Sullivan, instead of M'Donnell, and that as she had made a mistake to-day, she might have done so yesterday, and may to-morrow; but she denied that she had made any mistake on the day of the attack. She said she was in greater terror then, on the table, than on the day of the attack, as she was in the habit of being among armed men, her father being a soldier in the North Cork Militia, and she was with the regiment in England, but not for several years past. The cross-examination of this witness was conducted with great ingenuity, but nothing was elicited from it, to counteract the direct.

William Townsend, a very fine young boy, between seven and eight years of age, was next brought on the table; and in consequence of his extremely tender age several questions were put to him, with the view of ascertaining whether he was competent to give testimony on oath, or whether he understood the nature of that obligation. He said, he could not read, but that he had learnt his Catechism, and when asked what was the nature of an oath, answered "it was calling God to witness he would tell truth." His several answers having, in the opinion of

the Court, established his competency, the oath was administered to him, and he stated that he knew one of the men who attacked his father's house in May last, and identified Sullivan as that man.—Sullivan he said stood at the hall-door, and had in his hand a piece of the frame of the parlour window which he had broken. Sullivan stood outside the door until the arms were taken out. Witness saw the prisoner in about an hour afterwards brought up to Bowen's Court, with a number of others, and knew him.—He was dressed in the same manner as he is now. He saw him the next day at the same place, with a *Kas-sogue* (a b's coat) on, and he knew him then too, and did not see him from that time 'till to-day.

Being questioned by Mr. FREEMAN, the boy artlessly stated that 'twas his Papa told him what an oath was, and that 'twas since the Whiteboys were at the house he told it to him. His Papa had been often speaking to him about the matter, and when he was wrong his Papa set him right. He was questioned touching his remembrance of persons he had seen visiting at his father's house, and said if he saw them again he would not know them; nor would he know the little boys in Cove (where his Papa now lives) with whom he played last week. He had been in the Grand Jury Room, but would not now recollect who he saw there, not even his uncle, as he had not often seen him; but he would know Major Freeman very well. [We should observe, in reporting the evidence of this child, on the cross-examination, that it was expressed in simple assent or dissent to the questions put to him, rather than by any statements of his own.]

Samuel Eason, a Sub-Constable, of the Police, was then examined, and stated that on the attack on Mr. Townsend's, he was sent in pursuit of the men, who, it was supposed, were concerned in that outrage; that he saw several men running up the hill towards Donemile from Farnhy, and not 200 yards distance from the latter place, saw one of them with a white jacket running across the field, in which he suddenly stopped, and began to work. He made a prisoner of this man

on his return, after going some distance in pursuit of others, and while engaged in pursuit of those, this man, whom he so made a prisoner, had changed his dress, that is, had put on a coat over his white waistcoat—This man the witness identified as being the prisoner at the bar, Sullivan—he saw Sullivan selected from several by young Mr. Townsend, at Bowens-court, on that day.

The case for the prosecution having closed here, and the prisoners having entered on their defence, there was called for M'Donnell—

Nancy Roche, who being sworn, stated that she was living at Mr. Townsend's when the attack was made, but is not now, they having left that part of the country, and having no further business for her. She said she saw the men who entered the house, and would know them again. She was desired to look at the dock, and see if any of them were there. She did so, and having examined the prisoners, said there was a man at the attack who was *like* Nagle, but she would not say 'twas him. She had known M'Donnell for years, and positively swore he was not one of the attackers; if he had been there she would have known him.

The witness being cross-examined for the Crown, stated, that she was not married, neither was the prisoner M'Donnell. She knew Mr. Batwell, the Magistrate, had been twice before him, and told him if she saw the four men who entered the house she would know them.

Mary Fox was next examined. She also was living at Mr. Townsend's when the attack was made, but her evidence was of little importance to the Prisoner in whose defence she was called, (M'Donnell), as she said she saw but two of the men who entered the house, and that he was not one them.

Owen M'Donnell, for the same prisoner, deposed that on the day of the attack he saw him about ten o'clock in the morning going through Shanballymore

to the forge, with a plough-iron on his shoulder, and met him returning between twelve and one; and the witness had only just time to go into his own house to put on his cravat, in order to attend a funeral, when he heard of the "damage" being done at Farrihy. This witness was cross-examined for the Crown, but nothing material was elicited.

David Horagan deposed to nearly the same effect, with this difference, that he said the iron which the prisoner had going to the forge was in several pieces, and that, when asked by witness what he was going to do with them, he said, to get a set of shoes made for his mare.—In answer to a question from a Juror, the witness said that M'Donnell had no plough iron on his shoulder.

For the prisoner *Nagle* was called—John M'Donnell, who deposed that on the day of the attack on Farrihy, and for ten or eleven weeks before, Nagle had been in his employment, and that on that particular day they went to work in the morning, trenching potatoes, and that they continued together 'till two o'clock, when witness went to a funeral, where he first heard of the "depredation," at about three or four o'clock. On his return home in the evening, Nagle was before him there.—Nothing of any consequence was elicited from this witness on cross-examination.

For the prisoner, *Sullivan*, was produced *Marks Horagan*, who stated that he lived about a mile and a half from Farrihy, and that on the day of the attack there, he and Sullivan worked together from the morning 'till the evening, when both of them were taken by the Police, while they were at work. In the course of that day they had seen a great number of people, in twos and threes, and the soldiers and police running through the country. Sullivan wore a white jacket on that day, but a shower coming on, he put a habit over it. When they were arrested, they were taken to Bowen's Court, and fifty or sixty people besides.

This witness was cross-examined by Counsel for the Crown, and in answer to the questions proposed to him said, that the work they were at was hacking ground, and that two good men would do an acre of it in a day.

The Police-man, *Eason*, who had been previously examined, was re-produced for the Crown, for the purpose of contradicting that part of this witness's testimony which stated that he was taken up at the same time with Sullivan. *Eason*, however, confirmed that fact; but stated, as to the quantity of work done, when they were arrested in the field, that there was not as much as one man would do in half an hour.

Andrew Batemell, Esq., the Magistrate before whom Nancy Roche had been examined twice, was called to contradict what she had stated; but after several questions had been put to, and answered by him,

Mr. Justice *Barrow*, ruled that the evidence should be expunged. He then proceeded to charge the Jury, which he did at great length, and after recapitulating the evidence, pointed out how it applied to each of the prisoners. The question was one of identity, but all were not identified in the same way, *McDonnell* and *Nagle* being positively sworn to by Mrs. Townsend and Ann Roche; while the positive identity of Sullivan altogether depended on the child, deriving whatever corroboration it was entitled to by the collateral evidence of *Eason*. In conclusion the Learned Judge observed, that while upon the one hand, they were bound to give the benefit of any reasonable doubt they may entertain to the prisoners, or to either of them, according as the evidence may suggest it, they were not to strain or search their minds for any remote or improbable doubt, but were bound, by the duty they owed their God and their Country to pronounce that verdict, without being influenced by the consequences, which would attend the ends of justice.

The Jury retired, and in a short time returned a Verdict of *Guilty* against *McDonnell* and *Nagle*, and acquitting Sullivan. His Lordship in the most feeling and impressive manner proceeded to pass sentence on the convicted men. They had been indicted, tried and found guilty of the perpetration of one of those crimes which had so long afflicted and disgraced this country. These outrages were of such a nature, and committed under such circumstances of horror, that it was difficult to believe they could be the work of reasonable, much less of civilized beings. The Country was groaning under the consequences of these crimes, but

Extracts from Samuel Lewis' Topographical Dictionary 1837

CLONMEL, a borough, market and assize town, and a parish, partly in the barony of UPPER THIRD, county of WATERFORD, but chiefly in that of IFFA and OFFA EAST, county of TIPPERARY, and province of MUNSTER, 23 miles (W. by N.) from Waterford, and 82 1/2 miles (S. W. by S.) from Dublin; containing 20,035 inhabitants, of which number, 17,838 are in the town. It is situated on the banks of the river Suir, in a beautiful and fertile valley bounded by picturesque mountains, and on one of the two main roads from Dublin to Cork, and that from Waterford to Limerick. With the exception of that portion which is built on islands in the river, it is wholly on the northern or Tipperary side of the Suir, and is connected with the Waterford portion by three bridges of stone. The principal street is spacious, and extends from east to west, under different names, for more than a mile in a direction nearly parallel with the river; the total number of houses, in 1831, was 1532. The town is lighted with gas from works erected, in 1824, by Messrs. Barton and Robinson, of London, who sold them, before they were completed, for about £8000 to the British Gas-Light Company of London, under whom they are now held on lease. The provisions of the act of the 9th of George IV., for lighting and watching towns in Ireland, have been adopted here: the inhabitants

are amply supplied with water by public pumps in the various streets. Several newspapers are published, and there are four news-rooms, one of which is a handsome building lately erected at the eastern end of the town, and called the County Club House. At the eastern entrance into the town are extensive barracks for artillery, cavalry, and infantry; behind them, on an elevated and healthy spot, is a small military hospital, capable of receiving 40 patients. The parish extends beyond the Suir a considerable distance into the county of Waterford, and comprises 8907 statute acres, of which 5922 are apportioned under the tithe act. The principal seats are Knocklofty, that of the Earl of Donoughmore; Kilmanahan Castle, of Lieut.-Col. Nuttall Greene; Marlfield, of J. Bagwell, Esq.; Barn, of S. Moore, Esq.; Woodrooff, of W. Perry, Esq.; Rathronan, of Major-Gen. Sir H. Gough, K.C.B.; Kiltinane Castle, of R. Cooke, Esq.; Darling Hill, of the Hon. Baron Pennefather; and Newtown-Anner, of Lady Osborne: there are also many other handsome residences. The views from the demesnes of Knock-lofty and Kilmanahan Castle abound with interest and variety, and are not surpassed by any in this part of the country. At Kiltinane Castle a very rapid stream issuing from a rock forms a remarkable natural curiosity. The living is an entire rectory, in the diocese of Lismore, and in the gift of the Corporation: the tithes amount to £300. The glebe-house was built by aid of a gift of £100 and a loan of £650 from the late Board of First Fruits, in 1810; the glebe, dispersed in small parcels in the town and suburbs, comprises 2a. 1r. 2p. The church, dedicated to St. Mary, is an ancient structure, with a handsome octangular embattled tower, 84 feet high, at the eastern extremity of the south side; it was formerly a good specimen of the early English style of architecture, but on its repair, in 1805, it was modernised and retains but little of its original character; a grant of £1019.12. was made by the Ecclesiastical Commissioners for its repair. In the chancel is a beautiful monument, by Taylor of York, to the memory of Mary, wife of J. Bagwell, Esq., and recording also the death of that gentleman and his eldest son, the late Rt. Hon. Wm. Bagwell, uncle of the present proprietor of Marlfield. There is also a monument erected by the parishioners, in the year 1795, as a tribute of respect to the memory of Dr. J. Moore, who was rector of this parish for 66 years. In the porch are slabs with inscriptions and armorial bearings of the noble family of Hutchinson, Lord Donoughmore, and in one of the shields are impaled the arms of Moore, of Barn. The R. C. parish is co-extensive with that of the Established Church, and is the benefice of the vicar-general of the united dioceses of Waterford and Lismore, and contains two chapels, one in Irishtown, and the other a large and neat modern building in Johnston-street; also a Franciscan friary in Warren-street, lately rebuilt, and a Presentation convent situated beyond the western bridge. There are places of worship for Presbyterians in connection with the Synod of Munster, the Society of Friends, Baptists, Unitarians, and Primitive and Wesleyan Methodists. The grammar school was founded in 1685, by R. and S. Moore, Esqrs., ancestors of the Mount-Cashel family, who endowed it with the lands of Lissenure and Clonbough, in the county of Tipperary, producing a rental of £369, for the gratuitous instruction of the sons of freemen in Latin. The old school-house having fallen into decay, a large and substantial building has been erected within the last few years at the western extremity of the town, on a site granted at a nominal rent by the late Col. Bagwell, and at an expense of nearly £5000, of which £4000 was advanced out of the consolidated fund, for the repayment of which £240 per annum is appropriated from the proceeds of the endowment: there are at present, including boarders, about 90 boys in the school. A parochial school for boys is partly supported by a joint bequest from Dr. Ladyman and Mrs. Pomeroy, amounting to £7 per annum, late currency, and £2 per annum from the rector; and there are a parochial school for girls and an infants' school, both supported by voluntary contributions: a handsome and commodious building has been lately erected for these schools, containing three school-rooms, each capable of accommodating 100 scholars. Two schools for girls are superintended by two ladies, who teach the children gratuitously; a school for boys is supported by collections at the R. C. chapels, which are partly appropriated in paying the master's salary, and partly in providing clothing for the children; and there are Sunday schools in connection with the Established Church and the Presbyterian and Methodists' congregations. The number of children in attendance daily is, on an average, 580; and in the private pay schools are about 650 children.

TULLAGH, a parish, in the Eastern Division of the barony of WEST CARBERY, county of CORK, and province of MUNSTER, 6 1/4 miles (S. by W.) from Skibbereen, on the southern coast; containing 3422 inhabitants. This parish, which includes the island of Sherkin or Innisherkin, and the village and sea-port of Baltimore, is situated on the harbour of Baltimore, and comprises 5796 statute acres, as apportioned under the tithe act, and valued at £3174 per annum. The surface is hilly and in some places rises to a considerable elevation; the principal eminence is Ballylinch, 649 feet above the level of the sea. The greater portion of the parish is rocky, in some places quite bare, but in others affording good pasture: about one-half of the land is under cultivation, and as it consists chiefly of small patches among the rocks, spade husbandry is necessarily adopted, and the manure is conveyed on horseback. Good freestone is found near the shores of the inner bay, and slate exists in several places. The principal seats are Baltimore Castle, the residence of

Mrs. Freake; Lough-Hyne, of Jas. O'Brien, Esq.: Baltimore House, of Jno. Collins, Esq.; the Cottage, of Thos. Baldwin, Esq.; and the glebe-house, of the Rev. J. R. Smyth. The living is a rectory and vicarage, in the diocese of Ross, and in the patronage of the Bishop: the tithes amount to £300. The glebe-house was built about 1818, when £100 was given and £825 lent by the late Board of First Fruits; the glebe comprises 10a. 1r. 3p. The church, towards the erection of which the late Board also granted a loan of £600 in 1818, is in the village of Baltimore. The parochial school at Baltimore, built in 1832 at the expense of Lord Carbery, is a large and handsome structure, comprising a centre and two wings, the former containing the master's apartments and the latter the male and female schools; in this, and in another school to which a sum of £4 per ann. is contributed by the Catholic inhabitants, for the education of the poor children, about 200 children are instructed. The extensive and picturesque ruins of Baltimore castle still remain. The remains of the church are picturesquely situated on the shore of a small bay opposite the island of Ringa-Roga.

FARRAHY, a parish, in the barony of FERMOY, county of CORK, and province of MUNSTER, 6 miles (W.) from Mitchelstown, on the road to Doneraile; containing 2085 inhabitants. It comprises 4770 statute acres, as applotted under the tithe act, and valued at £3475 per annum. The land is of medium quality and chiefly under tillage; and the state of agriculture is gradually improving. There is a considerable portion of mountain pasture in the north of the parish, where it borders on the county of Limerick, from which it is separated by part of the range called the Galtees. Two small oatmeal-mills are worked by streams from these mountains, at the foot of which is situated Bowenscourt, the seat of H. C. Bowen, Esq. It is a rectory, in the diocese of Cloyne, forming the corps of the deanery of Cloyne, in the patronage of the Crown: the tithes amount to £410. The glebe-house was erected by aid of a gift of £100 and a loan of £900, in 1819, from the late Board of First Fruits, and has a glebe attached of about 25 statute acres. The church, a plain building with a tower surmounted by a small wooden spire, is now undergoing a thorough repair, for which purpose the Ecclesiastical Commissioners have recently made a grant of £317. About 12 children are instructed in a Sunday school, under the superintendence of the Protestant clergyman.