

## Enniskillen Assizes

March 27, 1817

[No Jury list given]

Edward Rutledge was put to trial for the murder of his nephew James Rutledge.

*Catherine Monaghan examined by Mt. Torrens:*

Knows prisoner, and knew deceased, who was prisoner's brother's son & upwards of 20 years of age. Deceased lived with his uncle Hugh Rutledge; witness lived in Sheetrim; deceased had no house of his own; recollects being in prisoner's house spinning in February 1815; was there only one day; was getting ready to go home early next morning when she saw the prisoner coming down from his room; it was light; saw nothing in his hand; saw him go out shortly after with straw between his arms; saw him about a quarter of an hour after coming from the direction of James's cow-house towards the road rather fast; saw him afterwards go to the cow-house and look in at the door; the time of his looking in was about a minute, and then he went to the road; did not see him return, but when going home saw him in the haggard and the prisoner spoke out and bade her time of day; prisoner had nothing under his arm when going to the road; witness did not see deceased that day, not when she was at prisoner's house; saw a hatchet in prisoner's house on Monday in his son's hand; did not see it on Tuesday having made no observation respecting it; did not attend last Assizes.

*Cross-examined by Mr. Rolleston*

Was examined on three different trials of the prisoner before; that was the first time she had been at the prisoner's house; there were three tailors then working, and another girl and herself spinning; the tailors slept in the room; the girls slept on a loft; there was straw brought in for the girls to sleep on in the kitchen, but they declined sleeping there; thinks it would be an extraordinary time for a prisoner to commit a crime when so many strangers were about the house; prisoner was in the habit of rising early as country men do; his nephew went generally to the cow-house in the morning to see his cattle; prisoner saw the other girls; the straw the prisoner had in his arms going out, witness thinks was the straw that was brought in for the girls to sleep on; does not think prisoner should die for carrying out straw, most country men have hatchets; prisoner was doing nothing in haggard; his appearance was as usual.

*Bridget Shannon sworn.*

Knew deceased and prisoner; remembers the day James Rutledge was found dead; lived with his father; saw prisoner where the boy was killed, in the crowd; it was after breakfast; does not remember to have seen prisoner before that; witness slept in her father's house the night before; her house is a quarter of a mile from the prisoner's; was not examined before.

*Edward McManus sworn.*

Did not know deceased but knew prisoner; saw deceased lying in the house where the cattle were tied, he was lying on his face with his body towards the cattle and his feet towards the door in the groop; there were stones behind his feet which fell from the lintel that had been taken down; they were small stones and were lying three yards behind him; none of the stones were near the head of deceased; the door was not high; witness examined the head of the deceased; saw one mark only; it was a clean cut at the back of his head adjoining the neck; there was blood on his head and ears; but none on the stone which witness examined. Prisoner's brother Jack was in the cow-house when witness went in, did not see the prisoner there; the cow-house is twenty perches or more from prisoner's house; witness was examined twice before.

*Cross-examined by Mr. Deering*

It was in the parlour part of the house, where the cattle were, that deceased was lying; it was from the door of that part that the stones fell; could not see deceased until he went into the inner part; Jack Rutledge was there before witness; heard that prisoner gave himself up to the constable; witness was going about business when he went into the place.

*Thomas Walmsley sworn*

Knew deceased; saw him at his uncle's the night before; he slept in the house with him; deceased called him up in the morning, but went out before the witness was dressed; the next place he saw him was in the cow-house dead; deceased rose early every morning.

*Thomas Moffat sworn*

[curve of film makes right edge hard to read here--ed.]

Knew deceased; saw him the second day [?] his death, was a juror at the Coroner's [?] examined the body and saw a wound at [?] it was a clean cut and seem to be inflicted by [?] a sharp instrument; there was not much [?] was told deceased had been washed; it was [?] Hugh's house; witness examined the stones [?] deceased had been, but saw no blood on them.

*Cross-examined by Mr. Deering*

There was a roof over that part of the [?] where the cows were; it was an old dwelling [?] but the kitchen part was unroofed. James [?] party was at law between prisoner and deceased. William is the oldest brother of the family, not Edward.

*By the Court.* —There was an old window where the cows were.

*Re-examined.* —Deceased and prisoner were [?] law about the farm on which the cow-house [?] prisoner was in possession of the land; witness [?] an arbitrator on a reference between them [the?] harvest preceding; when all matters were [?] there was an award for costs and damages of [?] old house against the prisoner; does not know whether it had been paid.

*John Armstrong sworn.*

Is a coroner of the county; was called on [?] an inquest on deceased; saw a wound on back of deceased's neck, it was a clean cut about 2 inches [?] there were no marks or bruises.

*John Drummond sworn.*

Knows prisoner and knew deceased; was [?] the inquest; met prisoner, who told him the verdict was wilful and known murder. Prisoner [?] witness that he heard the mother's friends [?] [de]ceased would hold the land, and asked witness [?] write to Mr. Montgomery, an Attorney, to [?] if they could hold it. This was the land which the deceased and prisoner were at law about.

*Cross-examined by Mr. Rolleston*

William is eldest brother and entered a [?] land, and holds it since. The letter was [?] prisoner's own title to the land. The prose[cution] here closed.

*For the Defence—Thomas Chambers sworn.*

Is High Constable; knows prisoner; [?] him having given himself up to Thomas [?] who brought him to witness the second day after the death of the deceased; witness kept [?] that night in his own house, and brought him the next morning to Earl Enniskillen, who sent prisoner [with?] a single constable to Enniskillen Gaol. [?] son had been taken for the murder. Witness heard of a bad character of the prisoner in the [?]try. —Defence closed.

The learned Judge addressed the jury.—[He re-]marked, that this was the fourth time this un[?] man had been tried for the crime, of which he stood charged. Three juries had sat upon [?] of which, differing as to the prisoner's guilt [or in-]nocence, had been discharged at the verge of the county, leaving the matter undecided. It [?] circumstance unprecedented in his Lordship's experience; but men's minds were as differ[ent] as their faces. It was now become their prov[ince] to decide, and his Lordship besought them not to [?] the example of the former juries operate [?] minds, but to be governed by the evidence [?] them, and determine it as their conscience [?] direct. It was a most anxious trial, and [?]ed they would not propose an example to [them]selves, but that they would deliberate, and [?]their most serious consideration and good [?] upon it. He hoped that they had taken notes [?]rately, as he had before requested them, [?]would now read his for them, in order to [?] them. His Lordship

here minutely read [?] notes, commenting in the most impartial [?] on such passages as were most necessary for [?] government. He explained the mortal [?] of the wound. The largest bullock if struck [in a ] similar way, must instantly drop. That the prisoner gave himself up they had heard, but perhaps this would not seem strange [?] son had been taken into custody, and the[?] no other person in the country, on whom to [?] the guilt. However, all was for their cons[?]tion and he again requested their serious at[tention] to it.

The jury, after about an hour's consid[eration] returned a verdict of *Not Guilty*.

John Berry stood indicted for that he, on 12th [?] last, did kill and murder one Richard Irvine, having given deceased a mortal wound on the body [with a] bayonet.

*William Slator sworn and examined:*

Knew Irvine, who now is dead; recollects [?] January last; saw deceased opposite his own [?] that evening; went with deceased down the [ road to the ] house of one Crawford, and from there to the Ale-house belonging to one John Drummond ; [doesn't know?] how long they stopped there; does not recollect [when?] in the evening they went; might have stopped [several] hours — (Here witness identified prisoner .) — [?] remained in the ale-house for some time, saw [?] the kitchen with one Henry Crawford. Prisoner [entered?] house first, about a quarter an hour before [?] it. —Prisoners' House is distant about half a mile from [?] house; deceased was accompanied by Cornelius [?] and witness, when leaving ale house: proceeded to the house of the deceased: came upon the road with [?] deceased instantly struck prisoner;; witness heard there was a little mutiny or dispute between them, shortly [?] after it deceased struck prisoner; he (prisoner) did not return the blow; saw no scuffle whatever between prisoner and deceased; heard deceased ask Berry was he [?] fight him in the morning; did not see deceased after [?] until last scrimmage arose between them (Berry and deceased ); does not recollect seeing any man of [?] of Kerr, or seeing anyone on horseback; witness [?] deceased proceeded to deceased's own place; was there a few minutes; afterwards turned off the road accompanied by Brackin; shortly after turning off they heard a great noise, as if proceeding from where he and deceased were on the road; heard distinctly the word "bayonet" uttered by some of the two (prisoner and deceased). Upon this witness and Brackin came back, [?] coming forward, saw prisoner with a bayonet in [?] heard prisoner saying to deceased , "Stand back , [?] bayonet" —swears prisoner had no bayonet on him at Drummond' s house; does not know where prisoner got the bayonet; cannot exactly state how long it was [?] the time of the first scrimmage taking place, until he saw the bayonet with prisoner; believes it

might be a quarter of an hour; saw no bayonet with any but the prisoner; did not see any weapon at the time with [?] after the decease of said Irwin went to [?] his house [?] the body of the deceased; saw a deadly wound that was the prod of a bayonet in the belly.

*Cross examined by Mr. Deering:*

Brackin is not here; has not seen him here [?]; Brackin, witness, and deceased were of a party; recollects that the first thing he (witness) saw, was deceased knock prisoner down with a hand staff; deceased then went away to his own place, or in that direction; prisoner also went homewards, prisoners' house is farther off the ale house than the deceased's; last scuffle took place near deceased 's house; Brackin was of the second party; Brackin (witness believes) had a loy shaft; can't say where he got it; during the first scuffle saw Brackin knock down prisoner a second time; believes there was nothing to prevent deceased from going home direct, after leaving the ale House; did not go into any house after first scuffle; believes deceased went to the house of one Walmsley, to look for prisoner; Walmsley's house is situated nearer the house of prisoner than where the affray took place—heard , and believes deceased turned back on the road, after he had gone to Walmsley's house, for the purpose of meeting with prisoner; believes deceased met prisoner coming on the road home.

In answer to question from the Judge—swears that he believes the blow given by Brackin, was the first he saw given on either sides.

*James Kerr sworn:*

Knows prisoner , recollect seeing him on the night of the 12th of January last, convenient to Drummond's store—heard some noises there—prisoner overtook witness on the road—prisoner asked him, to let him get on behind him, (witness was riding on horseback) which witness complied with—prisoner requested that witness would ride on fast towards Crawford's house, till he (prisoner) would get a bayonet for to stick the first of the three (meaning deceased, Brackin and Sleater ) he'd meet.

*James Johnston, surgeon, sworn:*

Lived in Enniskillen , was called on by Mr. Henry Irvine, the Coroner, to attend the inquest—examined deceased's body—saw marks of four wounds on his back, as if inflicted by a bayonet—believes deceased died in consequence of such wounds.

George Nixon, Esq. gave the prisoner an excellent character; never heard of any disputes or quarrel between them (deceased and prisoner,) before. George Willis, Esq. also gave prisoner of good character—verdict *Not Guilty*.

Gerard Irvine for shooting at Michael O'Neil and assaulting John Inch, and for a rescue.

Henry Sproule deposed that he went to Drumully to seize cattle. Prisoner's son fired a shot, and he saw prisoner rescue the cattle.

John Inch, swore that he went for the same purpose as last witness, saw the prisoner rescue the cattle, and with a bayonet attempt to stab witness, but did not wound him. The prisoner was found guilty, and ordered to be imprisoned six months.

John Cane, otherwise Goulding, for passing of 30 shilling note purporting to be of the Bank of Ireland etc.

Terence Magee, swore that he was in Enniskillen Fair in January last, and sold a pig to prisoner for 2£s 13s 5d. That prisoner gave him a 30 shilling note in payment, which he showed to James Beacom, and that prisoner endorsed the note by the name of James Goulding. The 30 shilling note was bad, and witness brought prisoner before Captain Irvine, a magistrate, who committed prisoner, and kept a part of the note giving the other part to witness.

John Fowler, a clerk in the Bank of Ireland, proved that both notes were forgeries.

John Gallogly, Gaoler, proved that the prisoner had gone by different names.

The prisoner was found guilty, and the Learned Judge, after remarking on the fraudulence of his conduct, and that no honest man had occasion to assume different names, sentenced him to 14 years transportation.

George Taylor, for stealing oatmeal from Michael Muldoon—to be transported for seven years.

Thomas Caddan, for a burglary and the house of Patrick Garvan, who swore that his house was broken into in January last, through the roof, by a party whose faces were blackened; that they broke an inside door; witness was in bed, and rose up when he heard the noise, took a pitch fork to keep the fellows off; that he made a noise to alarm the neighbors but that he was driven back to an inside room, from which he came that he was fired at three different times; and believes prisoner to be one of the party.

Anne Garvan, wife of the last witness, was sworn, and not speaking English, an interpreter was also sworn. Witness remembers the night, but saw only one person and did not know whether the prisoner was that person. The prisoner was acquitted.

Owen McManus, for stealing sheep from William Howe, who swore, that he lost his sheep, one of which he got on prisoners' land, that prisoner told him he got it in exchange for two lambs, which he believed to be the fact. —Not Guilty.

John Bowes, for stealing hay.—Not Guilty

Rose Devitt, otherwise Walsh, for stealing shop goods from Thomas Kernaghan of Enniskillen—Guilty —to be imprisoned three months.

William Corry, sen., Andrew Corry, and William Corry, jun. —For stealing linen cloth from Andrew Breaden—Guilty—to be imprisoned three months.

Patrick Hoey, for robbing and Robert McBrien of £11, and Daniel O'Neill and Pat Galagher, for aiding and assisting in said robbery. McBrien swore that Hoey leapt out of the ditch, knocked him down and robbed him, and that there were two others behind the ditch. On his cross examination he admitted it was dark, that the money was the price of private whiskey he had previously received from Hoey the same night. The Rev. Mr. Ovens, a magistrate, proved that the prosecutor, when lodging examinations, said he did not know that it was a Hoey robbed him. Mr. Ovens also gave Hoey an excellent character. The prisoners were acquitted.

Mr. Hugh Willis, officer of excise, was capitally indicted for having ordered a party of dragoons to fire at John Thompson, who received a ball in his cheek in consequence. The particulars of this transaction were inserted in our paper some weeks ago and must be recent in the recollection of our readers. Thompson swore that he heard Mr. Willis give orders to the dragoons to fire low. Lieutenant Shotten, who commanded the party, deposed that Mr. Willis had given no such orders, but, on the contrary, after having repeatedly called on Thompson and his party in the cot to surrender, desired the soldiers to fire over their heads. The Judge complimented Mr. Willis on the humane manner, in which he discharged his duty on the occasion. Thompson was afterwards tried for having illicit whiskey in his possession, and sentenced to six months' imprisonment, or to pay a fine of £10 to the prosecutor, Mr. Willis, in a truly laudable and manly spirit, left a receipt for the amount with the Gaoler for Thompson, thereby exonerating him from either fine or imprisonment.

Several trials are rising out of illicit distillation were disposed of, and a few fines struck against individuals concerned.

## Enniskillen Quarter Sessions

**July 24, 1817**

Tempo Riot

Michael McKeon, Michael Dunn, Peter Veldon, James Maguire, Patrick M'Barron, Michael Martin, Bernard M'Aroe, Patrick M'Anespy, James Martin, Terence Connolly, and Bernard M'Cormick were indicted for assembling and creating a riot in the fair of Tempo, etc. on the 28th of May last—and, Richard West, John Earls, William West, Robert Beatty, and Charles Hamilton, for assaulting different persons on same day.

James Veitch sworn—recollected the Fair of Tempo, on the May 28th last, was there after 2 o'clock, saw a party on the hill consisting of upwards of 50 persons, with staves and stones, heard a man cry out 'God save the King,' and others called out for the face of an Orangeman, or Protestant—Witness was beat with sticks without any provocation but knows none of the persons who did so—heard them call out "come into town and break the rascals' and windows."

John Lamy sworn—recollected the Fair of Tempo, was going out of town about 5, saw a party going towards a pound, who were met by another party— Martin desired them to stand in rank and keep their ground, they huzzaed for an Orangeman, or Protestant. Identified Martin.

Cross examined—it was about five or six in the evening, saw Earls and West in the Fair, did not see Mr. Bogue, the Priest; did not think, but heard that stones were thrown at the Priest, who wanted to scatter the mob—could not form a belief whether the mob threw stones at the Priest, did not see strokes, could not think that Earls or West went through the Fair shouting, but they might have done so.

William Livingston sworn—recollected the Fair, was standing near Ball's house, was surrounded by men falling into rank—Martin ordered them to prepare, and they formed—saw Bernard M'Aroe, and son James Maguire afterwards throw stones—did not know who struck him, saw no other until that party began to riot, but saw the Priest advise them home and push them.

Cross examined—it was opposite Murphy's door it commenced, was in the Fair early, and saw Earls, heard he had a dispute with one McManus, but did not believe he wanted to quarrel or raise a riot, saw stones thrown by a party off the hill, six or seven boys went up to see what they were doing, when they began to throw stones, they had no arms, but his party had firearms and went to disperse them.



James Armstrong—Was in the fair about 11 o'clock, was going down street where Patt M'Barren was, heard him say that there was to be a quarrel at the fair, a party fight.

John Earls saw about 100 persons on the hill beat men off it, and saw Pat M' Barern throw stones.

Cross examined—Was quiet that day, took no part until he saw his party beat, did not use any offensive expressions to any but one, did not see Robert Armstrong attack the traversers until afterwards; Armstrong was of his way of thinking; William and Richard West are also of his party; did not see them strike anyone; did not see Charles Hamilton, admitted there were shots fired afterwards; had no strokes with anyone, did not hear anyone say who dare oppose Earls, nor West cry huzza for Protestants, their reason for getting arms was because they were beat and abused—identified M'Anespy and M' Barren but did not see them at the commencement.

James Potter—saw Bernard McCormick about five or six o'clock coming to the hill, with others, and winding his stick and calling on them to come on, did not see West or Earls do anything at the time, nor before.

Cross examined—Earls could have done something without his notice, but could not have raised a quarrel without his knowing it.

John Thomson was at Tempo Fair, saw the prisoners Michael McKeon, Michael Dunn, and James Martin, rioting and throwing stones, did not hear them say anything.

Cross examined—Michael M'Keon was in front on the hill, could not be mistaken, there were more than 30 others but knew him, Dunn was on another hill called Cullian-hill.

William Nelson was in the fair, saw a mob at Murphy's door, identified James Martin and Terence Connolly who were in it, winding staves.

Cross examined— saw Earls and West in the Fair, but not doing anything, he was walking with Veitch, the mob was on the hill, and stones were poured down when he said God save the King.

James Nelson saw the mob tearing up the tent wattles, and making staves of them, others came with bludgeons, but he knew none of them.

Thomas Hart—was in the Fair, identified Peter Veldon, who was with the mob who but didn't see him throw stones.

#### Defence

Andrew Shiels sworn—this witness was unwilling to give testimony without payment, but at length said he saw Earls in the fair, the people were prevailing on him to be quiet.

John Hughes—refused swearing without payment.

Rev. Thomas Bogue, recollected the Fair in Tempo, came to it in the evening, and was in Mick Doran's house when he heard of riot, which he

thought it is his duty, as a clergyman, to prevent if possible, and went out in order to do so—went to the party over whom he thought he had most influence, expostulated with them, and begged of them to retire, they seemed willing to do so and did retire some distance, when one of them said shall we go off and they pursuing us—witness said he would pledge himself to prevail on the other party to be peaceable, and went to meet them; they were pursuing the former—witness expostulated with them also, and hoped to prevail on them to desist and be peaceable, when he heard one of them cry out "God save the King"—witness said there was no enmity to the King there, he had taken the oath of allegiance to the King, and felt bound to protect him and the country from any insult or aggression—when he conceived he had the parties nearly reconciled, West ran by him and shouted on which the rest followed and the riot began. On being asked, by way of cross-examination, had he heard or did he know of the intended quarrel, he remarked with some warmth, that the question was unnecessary and uncalled for, as the parties were too well aware of his mind and principles to inform him on such a subject. They well knew he would be the first to bring them to justice, as bound to do, not only by his duty to society, but as a Catholic clergyman.

Mr. Bogue here took occasion to repel a calumny which was attempted to be maliciously attached to his character, by a person who had stated before a Magistrate that although he exerted himself in public to prevent the riot, he had privately advised some of the party to it. The slanderer, he said, who could thus defame him, was no less dangerous than the assassin who would stab him in the dark.

The Court complimented Mr. Bogue on his candour and the fairness of his testimony, and concurred in the injustice of the calumny alluded to.

John Murphy remembered the Fair—was drinking in company with Bernard M'Aroe the prisoner in a house, when the quarrel commenced, when the party had retired they went out and saw people on another hill, they remained until they saw Mr. Bogue, who desired them not to go into the quarrel—M'Roe was not with them until after that time.

Pat Maguire swore, that the prisoner, Michael M'Keon was in his house in Tempo when the quarrel commenced, he went up to the head of his garden and returned when he saw a man passing with a gun—prisoner remained in the house until the quarrel was over.

Michael Brennan knew John Earls, heard him shout, and others followed him.

The case here closed with respect to the riot.

For the assault.

Bernard M'Aroe swore that he was assaulted, struck, and made prisoner, by John Earls and William West, half a mile from the Fair place,

and afterwards by Richard West and Robert Beatty, who read him to **Tempo**. He did not see stones thrown, nor was he of the party.

Michael Martin swore—he was assaulted by Richard West and Charles Hamilton, and the party they were with, Hamilton struck him with a hazel stick.

Catherine Campbell swore she was assaulted in her own house by Richard West, who broke open the door, beat her, and tore her by the hair, but she gave no offense, except endeavoring to keep her brother from them.

Ann M'Ginness swore she knew last witness, saw her struck by Richard West in her own house, with a staff, because she would not allow her brother to be brought out, her brother was charged with being in the riot, but he had been bringing home heifers from the Fair.

The Jury after some consultation returned a verdict of Guilty against all those indicted for the riot, who were each sentenced to three months' imprisonment; and against Richard West for the assault, who was sentenced to one month imprisonment.

Fifty-seven other persons were tried for various offenses, at these sessions, and in the Newtownbutler division sixteen, twenty-four of whom were found guilty, some discharged on paying fees, and fifteen imprisoned for different periods.

## **Enniskillen Assizes** **July 31, 1817**

The Assizes of this town commenced on Tuesday before the Hon. Justices Day and Fletcher, the former presiding in the Crown, and the latter in the Record Court.

Lt. Gen. Archdall, Foreman  
Hon. Colonel Creighton  
Edward Archdall  
Jason Hassard  
John Armstrong  
John Madden  
George Nixon  
George Lendrum  
William D'Arcy Irvine  
Arthur Brooke  
Hammond Irvine  
Henry Leslie

Richard Dane  
William Tennent  
Henry Irvine  
Williams Scott  
John Brien  
John Hassard  
Francis Graham  
Montgomery Nixon  
John Atkin  
James Hall, Esqs.,  
Andrew Crawford [?]

After the Grand Jury had been sworn his Lordship informed them that he had it in command from the Lord Lieutenant to call their attention to the subject of the new gaol, the erection of which was stated to have cost a very large sum. The money in the first instance, had been advanced by the Government, and it behooved them to [?] and be satisfied, that it had been properly expedited. It was said that there had been some departure from the terms of the contract, and it was incumbent on the Grand Jury to call upon the commissioners appointed on the occasion, who are responsible for the application of the money, and who should produce an account of the particulars. Whether the statement respecting the violation of the contract alluded to was correct his Lordship could not take it upon himself to say, but it was their duty to inquire and he hoped the result would prove satisfactory. He congratulated them on the peaceable state of the County, which, he was happy to find, was perfectly tranquil and which reflected great credit on the magistrates as well as on the population in general. Although the calendar presented a very unusual number of prisoners, it was pleasing to find that the crimes were all of an ordinary nature and were perhaps in many instances induced by the distressing circumstances of the times. It is a consolation that there appeared no instance of murder or sedition among them, nor any of those crimes that called for the Peace Preservation Act, or the other extraordinary powers with which the government had been armed, and which weighed so heavily on the districts placed under their operations here. That spirit of commotion, or discontent, which had been felt in other parts, was happily unknown in Ireland at present; and the distresses with which we were visited were born with patience and fortitude by the poor, while the entire benevolence of the affluent classes alleviated the pressure in a very considerable degree. His Lordship then made some allusion to the new Grand Jury Act. It appeared, he said, to the United Parliament that there had been some abuses in the system of Grand Jury taxation, which abuses the present act was intended to provide against. Compared with the original bill, which is framed by a respectable gentlemen of his acquaintance, Mr. Cooper, was he believed, pretty voluminous, the act now passed somewhat resembled a frigate cut out of a first-rate. This Act however would not take effect for month or two to come, according to another recent Act the taking of the oral evidence of witnesses before the Grand Jury had become an imperative duty; and much time and trouble would be saved if proper care were taken not to sign examinations for trivial and vexatious matters. In order, however, to give that satisfactory law more practical effect, it was incumbent on Magistrates to explain to the witnesses, that there were bound, not only to prosecute, but to attend

the Court at the commencement of the Assizes for the purpose he had stated. This obligation witnesses were not always aware, or observant of, sometimes delaying to appear till the second or third day, as was the case this time in Cavan, where half the prisoners were in consequence, discharged by proclamation. Such negligence, thus opening a den of wild beasts to prey on the country, was pregnant with evil, and he therefore hoped that attention would be exerted to secure the early attendance of prosecuting witnesses.

The trials were afterwards proceeded on. As the criminal business, which is unusually heavy, is not yet terminated, we postponed a detailed report on the proceedings, till next week. James Smith was found guilty on Tuesday, of the robbery of Mr. Steel's Tobacco Manufactory, as stated in a former number of this paper, and was sentenced to be transported for seven years. Yesterday John Wallace was convicted of uttering a forged note, and was sentenced to be transported for 14 years. Several other convictions took place for burglary, stealing cattle, and for various minor offenses, which we can now only notice in a general way.

In the civil Court there was bought one record, which did not possess any particular interest.

[continued]

## **Enniskillen Assizes**

**August 7, 1817**

Our Assizes terminated on Thursday last. By a laborious extension of the hours ordinarily devoted to public business, a calendar of very unusual magnitude was disposed of in a comparatively short period; and certainly the salutary powers of the law were never more judiciously and constitutionally dispensed, nor the ends of justice promoted in a more efficient, and satisfactory degree, than in the present instance, under the mild, anxious, patient, and enlightened direction of Judge Day, who presided in the Crown Court.

The following trials took place:

James Murphy, who had been transmitted from Monaghan, was indicted for the murder of James Duffy, on the 3d of May, at Laurel-hill.

Pat Duffy sworn. Recollected the 3d of May last—knew James Duffy, deceased, who was his son.—knows prisoner at the bar—saw deceased before his death, which took place in the house of William Johnston—saw marks on deceased's head, as if cut by a sharp weapon—witness went to Clonfad—knows where Laurel-hill is—near Mr. Griffith's, a magistrate—

saw him at cockfights—believes Mr. Griffith came to disperse the gathering.

Cross-examined— witness lives near Laurel-hill— prisoner lives there also—acquainted with prisoner—always on good terms with one another—swears that he was not advised by any person to prosecute— saw a number of persons in Murphy's house—cannot say whether his son (deceased) was drunk or not—knew Quin— heard and believes he disputed with Ned Boyle, but did not [?] hear of any strokes—it was prisoner who attended the guests—Murphy kept a public-house— prisoner was in the 43rd Regt.— believes he lost an eye and a hand in battle—deceased, witness and prisoner, were on the best terms, believes prisoner was always a well-conducted man— the morning his son died, witness made Murphy a prisoner—swears he had not any conversation with a magistrate at Redhill, and that said magistrate did not desire witness to say anything of Mr. Griffith; witness brought Murphy before Mr. Griffith, who gave him his liberty—a great number of persons were at cockfights that day—his son was sober at his work—believes drank a little.

James Duffy, examined.—Is Uncle of deceased; recollects third of May last—was at Clonfad— saw deceased there—is acquainted with prisoner—was at Cockfights—it was between 11 and 12 at night before quarreling began—first thing he saw was deceased and Ned Boyle quarreling—saw Boyle gathering stones for fiddler, saw a candle in Boyle's hand—Boyle dropped it— Boyle asked who the rascal was that tramped the candle—deceased said he was the person—saw Boyle behind the counter—Murphy, Smith, and Griffith were put out—door was shut— saw Mr. Griffin saw over deceased, did not see him strike him at that time—did not see prisoner strike him then—saw deceased in the ditch, lying speechless, nearly dead—Mr. Griffith was about to kick deceased, when he went forward, but Griffith did not touch him then.

Pat Duffy, a boy, sworn—remembers the 3d May—recollects cockfights; saw James Murphy (prisoner) and William Smith put deceased out by the shoulder—can't tell exactly whether prisoner went out then or not—saw William Smith winding a cane, on the road, over deceased's head— was at Cockfights—saw Ned Boyle—does not remember seeing deceased and Ned Boyle quarreling—might have had some words without his hearing them.—Acquitted.

*Thomas Broughton* indicted for a larceny of the guns of Philip McManus, and also for a larceny of the goods of Peter Maguire; and for two burglaries in the house of \_\_M'Caffry and Bryan Owens.

The first witness called was Bridget M'Caffry who swore that her house was broken open by a party; she saw three; they were disguised

with masks and she could not identify them, they took a shawl, which being produced she identified to be hers.

Robert Humphrey, a constable swore that he found in prisoner's house, a shawl and a mask under his wife's petticoat, both of which he here identified.

James Maguire another constable, found a stocking which was also produced and identified; when the prisoner's son was taken he confessed he was one of the robbers and that there were four of them concerned.

Pat Owens sworn—his father's house was broken into on the night of the 11th of April last, on which night the house of one McCaffry was broken into; heard the door forced in; saw three men enter; they lighted candles; one of them stood over him with a bayonet, and they robbed the house of bacon and clothes; he could not distinguish them as they had masks on.

Brian Owens, father of last witness swore that his house was broken open; he saw it closed as usual at night; the door was knocked off the hinges, and three men entered with guns and bayonets who took all they could get; young Broughton said to witness there were four at the robbery, and the prisoner when apprehended said they would get all if they would be liberated.

Mary Owens, wife of last witness, recollected the house being broken open about a quarter of a year ago; the robbers were over her in the bed; they lighted candles; two of them had shirts on over their clothes, and one had a mask on, like that produced, but no shirt; the last mentioned took the yarn, the others took the money .

John Rourke— knew the prisoner and his son who escaped from prison; was with prisoner in March last; lived in Milltown; prisoner came to his house and asked him to go and rob Peter Maguire; went to Maguire's house with prisoner that night; there were four others; they stopped outside and asked to get in, but the woman refused to open the door as her husband was not at home; they pushed the door and it went in [sic]; the took two shirts, money, butter, and whiskey; there were five of them at the next robbery in the house of Phil McManus at Corraclare; prisoner told them all that McManus intended to pay rent next day and must have money; they robbed McManus's house of two tenpenny tokens and some half pence, which was all the money they could get, and also of butter, a coat and a pair of small clothes; prisoner's son was teaching school, and he said his son told him there was money at McCaffry's; the party consisted of four, the witness, prisoner, his son, and Thomas M'Corry.

All went to McCaffry's house; the door was shut and they forced it in; they were disguised, three with shirts and their faces covered, the prisoner had not a shirt; they robbed the house of about £4, some handkerchiefs,

butter, and whiskey; then they went to Owens' house and robbed it; prisoner was there also.

Cross-examined by Mr. Rolleston:

Saw the mask, and to the best of his knowledge it was the same that prisoner had; would not say that the witness deserved to be hanged; would rather all the men in court were hanged than himself; was acquainted with the prisoner 10 or 12 years, but not in habits of intimacy until this transaction; heard that prisoner's son swore against him (witness) before he swore anything.

Re-examined by Mr. Deering:

The first person he told of the transaction was the Priest, and the next was Major Armstrong.

Major Armstrong sworn—is a magistrate; heard what last witness swore now; what he swore and the information before him was the same; he was sworn against first by young Broughton.

Rourke again examined by Mr. Rolleston.

Tom M'Corry was his relation, and one of the party; he swore all he knew to the best of his knowledge and conscience— Conscience!! cried Mr. Rolleston. You may go down when you speak of conscience .

The Judge recapitulated the evidence and the jury, after consulting for some time, returned with a verdict of *Guilty*

The learned Judge, in the most solemn and impressive manner, proceeded to pass the sentence of the law. His Lordship, under evident emotion alluded in the most affecting manner to the very advanced age of the prisoner, (between 60 and 70) and lamented that those years, which might have been vouchsafed by Providence in order to give the sinner time for repentance, should have been abused so as at last to bring down his gray hairs, not only in sorrow, but in ignominy to the grave. He concluded by pronouncing the awful sentence of death—to be hanged on the 18th instant. We do not recollect ever to have witnessed a deeper impression of sympathy in a court of justice, than that produced by the eloquent and pathetic manner in which his Lord ship addressed the prisoner.

*James Smyth, Jane Smyth, and Arthur Lee*, stood indicted for robbing Mr. John Steele of tobacco.

Mr. Steele proved that his tobacco loft had been broken into on the 30th of March last, and robbed of twelve rolls of manufactured tobacco and on the 24th of April following was again broken into and robbed of eleven rolls, all of which had been in press; Mr. Steele also swore to the peculiar quality of his tobacco, which, from a particular attention in the manufacture, and the description of material of which it was made, was



superior, and sold for higher price than generally manufactured in this country.

Nicholas Smyth swore, that he saw from his own door the prisoner, Jane Smyth coming up School Lane, with something in her apron, on the Sunday evening after the robbery, that she seemed to totter as if from intoxication; on approaching this street she fell, and something rolled from her, which he took to be a roll of tobacco; he immediately ran forward, seized her, and brought her into Mr. Thompson's house adjoining, sent word to Mr. Steele, and send others to Smyth's house to search it, where they found more of the tobacco.

Edward Gamble was told of the detection of Smyth's wife as soon as it took place, and immediately after found Smyth himself in the street and made him a prisoner; witness then proceeded to Smith's house, which he insisted in searching and discovered two rolls of tobacco in a broken state, concealed in a bed; saw a woman there, whose hands and arms were blackened by rolling the tobacco, and had her also placed in custody.

Mary Brennan swore that she lodged in Smyth's house; on the night of the robbery she was alarmed by a noise in the house; Smyth's wife came to her and told her their lives were in her hands, and not to deceive them; that James, her husband, and Lee, had robbed Mr. Steele of more tobacco; James had got six rolls and Lee the remainder; the tobacco was put underground in the yard after the robbery, and on being taken out on this evening one of the rolls was wet, and Smyth's wife set her to roll off a part of it.

James Kiernan swore that he lived in Ballyconnell, that Smyth came to his house and sold tobacco to a person there; said he dealt in smuggled tobacco which he brought from Strabane; witness came to Enniskillen and bought a roll from Smyth, which he brought out of town and was to have had three rolls more sent after him; witness delayed on the road at the end of the town of considerable time waiting for the tobacco; while loitering about, and passed him on the road; he went into the adjoining field under some pretence, and threw the tobacco in a ditch; the man turned back and made him a prisoner.

Thomas Cosgrave, a constable, recollected being with others in search of Mr. Steel's tobacco, on the Sunday evening after the robbery; searched a house in Beggar Street, and went on out of town; saw last witness near Rossory bridge going into a gap, and took him prisoner. Mr. James Campbell was with him, and found that tobacco in the field, about 10 yards from the ditch; he gave it to Mr. William Quinton. To a question from the court, he said that it might have rolled from the ditch, as the ground with sloping; Kiernan said he could account for himself, that he went into the field about a necessary business, and denied the tobacco.

Deborah Bell— lived in Ballyconnell; the James Smyth, who called himself Maguire said he was a smuggler of tobacco from Strabane; never knew him before she saw him in Ballyconnell; witness lives in a part of Kiernan's house and follows dealing; bought 3 lbs. the first time she saw Smyth— the prisoner asked witness, who told her to call him Maguire, and whether it was Kiernan, to which she replied that she heard him called Maguire.

Catherine Kiernan— is wife of James Kiernan, knew prisoner and identified him; saw him on the 22nd of April when he called at her house and asked was it there James Kiernan lived; called himself Maguire; said he was going to Ballyconnell with tobacco from Strabane; witness called on Deborah Bell and desired her to buy some cheap as possible—Deborah Bell and Betty Abercrombie bought some; he came with more again, and said he had three rolls coming from Strabane ; prisoner went away and her husband followed him.

William Quinton—got his horse and rode after Kiernan, and got the tobacco as above stated which he showed to Love, the manufacturer .

James Love—is Mr. Steel's tobacco manufacturer, examined the roll of tobacco on Monday morning 27th of April, the day after it had been found; has lived with Mr. Steele for seven years and can take upon him to say, that he knew it to be one of those he manufactured; has no doubt whatever of it; examined the two rolls found by Mr. Sweeney which were shown to him, and knew them to be Mr. Steel's also. To a question by a juror he stated that he had a private mark by which he could not be deceived, and said that some rolls were manufactured with stark [sic], when others were scarce, and that he generally put up a two-year mark on them in order to ascertain their differences and remark it to Mr. Steele when selling there; recollects that the night of the first robbery there were 12 rolls lost, 10 of which through the activity and exertions of the inhabitants, had been found; those found latterly were part of the 11 taken at the second robbery.

Jane Noble for the defense stated, that the upper part of Smyth's house had been occupied by Brian Campbell's family, and the soldier's wife Mary Brennan, that Smyth was engaged to labour for her on the day after the robbery, she wakened prisoner at 4 o'clock in the morning; he rose up and went to witness's field, and was there when he was taken first on suspicion, on which occasion Mary Brennan said to her she would clear Smyth.

Mr. Steel was here called on for a character of the prisoner, which he said he considered good ten years ago, but said he had since reason to alter his opinion.

The Judge in charging the Jury remarked, that a chain of circumstantial evidence, when well-supported throughout, was the most conclusive that

could be offered; he recapitulated the evidence, and remarked on every circumstance in the most impartial manner. The Jury retired for a short time and returned a verdict of guilty against James Smyth, and acquitted Jane Smyth, his wife, and Lee. Smyth was sentenced to seven years transportation, and Lee was ordered to find bail for his good behavior for the like period, the Judge remarking that the prisoner, without such constraint on his conduct, would certainly get himself hanged.

*Peter Maguire, James and Michael Maguire*, the father and two sons, for stealing a cow from Thomas Trotter.

Thomas Trotter, swore that he tracked the cow from his field to the prisoners' cow house, where he found nothing but blood and scraps of meat. He followed these marks to a place, where he found the skin and forelegs, which he had no doubt were those of his beast. He found a carcass in the water convenient to Maguire's house and the offals in a creel which he himself had before lent to the prisoners. There was nothing further material on this evidence, except that one of the sons wore right and left foot shoes, which corresponded with the tracks of the person who drove the cow off. —Michael and James, Guilty, and transported for seven years—Peter, Not Guilty, but to give security for good behavior for the like period.

*Edward McGolrick* for stealing sheep from John Aiken, Esq.—Not Guilty—to give security for good behavior for seven years.

*Thomas Keohan* for stealing potatoes from Robert Hassard—Guilty—to be burned in the hand and imprisoned three months.

*Francis Armstrong*, otherwise Michael McCarthy for having forged notes, in his possession, and for uttering one for 30s., purporting to be on the Bank of Ireland, No. 10,529, with intent to defraud etc.—to be transported for 14 years

*Jane M'Alinnen* for stealing a cow, from John Brackin—Not Guilty.

*James Baxter* for stealing a cow from John M'Cluskey— Not guilty.

*James Kilfedder* for having in his possession a forged 30s. note, on the Bank of Ball and Co., and uttering same with intent to defraud,—Not Guilty.

*James M'Nab* for stealing a mare, from Francis O'Neill—Not Guilty.

*Patrick and Michael Maguire*, for a burglary and robbery in the house of Thomas Hicks.

Thomas Hicks swore, that his house had been broken into through the roof on the night of the 12th of March, and a quantity of bacon, and £1 of money taken thereout; that on searching next day with some others, they found the bacon in a hole some distance from the house; they thought it a good plan to detect the thieves to watch the hole that night, which they did, and saw the two prisoners come to it; they ran forward and seized Michael, who confessed he was at the robbery; Pat made off, and witness

fired after him; he fell, but affected his escape, and was taken next day in the County of Cavan.

Robert Hicks corroborated the above evidence. The prisoners offered no evidence, but stated that firing [sic] had been scarce, and that after their day's work they were going to the mountain for peat to burn, and had to pass in the above direction; that the cause of Pat's running off was his being alarmed at a number of persons with firearms.

They were both found guilty, and sentenced to be hanged on Thursday the 28 of August—the unfortunate men, on hearing their sentence pronounced, manifested strong symptoms of agitation and distress.

*William Atkinson*, for stealing a pig. The prosecutor in the trial stated, that he had found the pig with the prisoner, and that it had been killed, and cut up in quarters. On being asked by the Court, how he knew it to be his? He replied, that he saw the head, and knew it *by the countenance*. This kind of recognition, however sagacious it might appear on the part of the witness, was not taken as sufficient proof of the identity of his deceased acquaintance, and the prisoner was accordingly acquitted.

*John Maguire, Pat M'Manus, Daniel M'Manus, James M'Manus, and Charles M'Aspirid*, for stealing potatoes, etc. from John McManus of Aughakeeran. There were ten others the bills against whom were ignored.

John McManus proved, that his house was attacked in May last, about 10 o'clock at night, while he and his family were in bed; he had secured the door in the usual way, previous to his going to bed, and was awakened by the noise made by forcing it in; he lay near the door, but was afraid to rise, there were so many of the robbers; the night was moderately light, and he knew the prisoners, (identified them)—they remained in the house more than three hours, and took potatoes, yarn, and the tablecloth; he found the potatoes in a hole, near the house of one of the prisoners and some in the house. On his cross-examination witness said, that he thought no other person in the house saw the prisoner; his wife might have seen them; he delayed lodging examinations in the hope of recovering his property.

John Fausset was produced to impeach the credibility of last witness's testimony, and deposed that his character was not good; that on one occasion he swore to witness that he had not five shillings, and shortly after same day, paid him six shillings.

Rev. James Duffy stated, he knew the two M'Manuses and Maguire, and their character was good; that of the prosecutor was not admirable; he knew him to take an oath, which he did not serve, and also to beat his father.

Two others were produced in support of the prosecutors character. Pat M'Manus was acquitted; the rest of the prisoners were found guilty.

And for announcing sentence the learned Judge addressed the prisoners, stating, that by the fundamental principles of our constitution, the house of the every man, from the prince to the peasant, was his castle, that the laws gave equal protection to him, and it adjudged the punishment of death to the person that dared to assail and any dwelling house, even by lifting the latch, with intent to rob or injure the peaceful inmates. His Lordship then remarked, that while the family in question were reposing in supposed security, taking their necessary refreshment, after a day well spent in industrious pursuits, they (the prisoners) were prowling about like beasts of prey, and ransacking the habitations of the honest and well-disposed. To the merciful manner, in which they had been indicted they now owed their lives, but such punishment, the law left in his power to inflict he should pronounce, namely, that they be transported for seven years.

This punishment his Lordship has since been merciful enough to change to 6 months' imprisonment.

*William Costelo* for stealing a heifer and bullock from John Armstrong, off the lands of Bostanney.

George Hanly, the herd, swore that the cattle had been on the lands, on the night of the 4th July last, and were stolen before sunrise in the morning of the 5th, but knew nothing of prisoner's character.

William Armstrong—went in search of the cattle, and found the heifer with James Brady, Wattle Bridge, and the bullock with prisoner, who said he had bought them the day before, at Newtownbutler Fair; witness arrested Brady, who said, that Costello had left the heifer with him, to have killed for the next market, (of Clones, we suppose), and had driven the bullock to Cavan. Brady went with Mr. Armstrong in search of the prisoner, and found him with the bullock at Ballyduff.

Samuel Betty, one of the jurors, gave prisoner a character, but the learned Judge, in delivering his charge, said that character in such a case, where the guilt was so well-supported by a chain of conclusive evidence, was of little avail. In cases where doubt remained respecting the prisoners' guilt, it might be of service, but he could not see how it should serve a person against whom such evidence appeared as in the present instance. The prisoner was found guilty and sentenced to be publicly whipped, on the 7th instance, and to be imprisoned 3 months.

*James Betty* for stealing linen cloth, and a shift, from Anne Kelly—guilty—to be imprisoned three months and pay a fine of £10 to the King.

*James Coyle* and *Peter Coyle*, for burglary— Not Guilty .

*Mary Charleton* for stealing sheep—Not Guilty .

*James Callaghan*, for burglary in the house of John Carrothers— Not Guilty

*Sarah Jones* for stealing sheep—Not Guilty.

*John Maguire* for stealing a cow, from James Kean— Not Guilty

*John McGolrick* for stealing a heifer, from Robert Allen,— guilty—to be transported for 7 years.

*John Rourke* for stealing a cow—It appeared that the prisoner sold the cow to James Elliott and after being paid drove her off, taking the money with him—Not Guilty—the judge ordered an indictment to be made out against the prisoner for swindling, but the prosecutor had left the court .

*Charles Shields* for stealing a cow, prisoner's sister swore that she saw him buy the cow, in Dromore fair proceeding day, that prisoner was a stranger to her, and had only lodged in her house that night. Not Guilty—to give security.

*Catherine Conlan* for stealing sheets— Guilty, to be imprisoned five weeks.

*John Wallace* for stealing a mare, from James Drum— Not Guilty—to give security for good behavior for 7 years.

*Patrick Tierney* for stealing meal and potatoes—Not Guilty—to give security for good behavior.

*Stephen Cassidy* for stealing sheep—Not Guilty—to give a security.

*Patrick Mulligan* for stealing a cow, from James Kieran.—Not Guilty.

*Philip Monaghan* for stealing a cow, from Francis Cashell.—Guilty—Transported for seven years.

*Thomas Golding* for picking pockets— Not Guilty .

*Edward and Margaret M'Cue* for stealing blankets, the property of James Maguire—Not Guilty.

*Catherine Harris* for stealing chequer— Guilty—to be imprisoned four months.

*Owen Mohan* [?] for stealing a cow, from James Wilson—Guilty— to be transported for seven years.

*Michael Cassidy* for stealing two heifers— Not Guilty—to give security for good behavior.

*Patrick and Bridget Cassidy* for having stolen goods in their possession—Not Guilty—the former to give security for good behavior.

*John Wallace* for stealing sticks—Not Guilty.

*Bryan Maguire, Sen., and Bryan Jr., Thomas [Haran?], and Margaret M'cabe* for burglary—Not Guilty .

At the conclusion of the business, the learned Judge in pronouncing sentence of transportation on some of the prisoners for stealing cattle, commented [?] matter, on this description of [?] had become so frequent, and which he said, had something peculiarly base and flagrant in its nature. In almost every instance the depredations of such unmanly wretches were directed against the poor, unprotected man, whose cow perhaps constituted the sum of his wealth, and the support of his family. His

Lordship emphatically stated, that should he come this Circuit next Assizes, he would feel it his duty to pass sentence of death on all who might be convicted of similar offenses. He, therefore, wished this determination, on his part to be impressed on the minds of those concerned in such practices, and trusted that it would be made generally known, that none might be deceived with delusive hopes of lenity.

*Erratum*—In the list of the Fermanagh Grand Jury, published in our paper last week, read *John Aiken* for *John Nixon*, which latter name was inserted through mistake.