

Enniskillen Assizes

March 18th, 1819

On Tuesday about 3 o'clock Mr. Sergeant Joy arrived in this town, and immediately after repair to court. After the commission was read and the usual proclamation made, the following gentlemen were sworn on the Grand Jury.

Hon. Colonel Creighton
Gerard Irvine,
Edward Archdall,
William Barton,
John Armstrong,
George Nixon,
John Richardson,
William Tennant,
George Hassard,
John Tredennick,
Hamilton Irvine,
Andrew Nixon,

William D'Arcy Irvine,
Montgomery Nixon,
John Douglas Johnston,
Richard Dane,
James Denham,
James Hall,
Samuel Gamble,
Robert Graham,
Charles Faussett,
James Taylor, and
William Armstrong, Esqrs.

Sergeant Joy then remarked that he would not deem it necessary to offer any observations to them respecting their duty, were it not for an alteration in the law respecting the investigation of Presentments, which took place since last Assizes. The Legislature conceiving it necessary that more time should be appropriated to the examination of Presentments, for the expenditure of public money, then under the former system could well be spared for that purpose, had directed that all applications should be submitted to the bench of magistrates at the Quarter Sessions preceding each Assizes. The Grand Jury were not, however, bound by the proceedings of those magistrates, but might act agreeable to their own judgment. They could not he said, entertain any proposal that had not been previously submitted in this way. In Cavan this law had not been acted upon, and a consequence was, that all public-works must be suspended in that county. Whether the alteration would affect any improvement, time and experience alone could enable them to form an opinion; certain it was, that under the former system the country had improved considerably. By the nature of the present Act, the secrecy in the proceedings respecting presentments was necessarily dispensed with; they were at liberty to discuss and converse respecting them openly. Their oath in this respect had reference only to Crown business.

After swearing witnesses in order to be examined by the Grand Jury, the court adjourned until Wednesday. A list of the trials will be given in our next.

Fermanagh Assizes

March 25, 1819

Our Assizes terminated on Thursday evening without any capital conviction.

The only trial that excited any interest was that of *Patrick Durnin*. He stood indicted that he on the 27th of July 1818 did kill and murder Andrew Somerville.

The first witness called was Francis Johnston, deposed that he did not know deceased, but heard it was Andrew Somerville; saw prisoner meet deceased and heard him desire deceased to stand; prisoner had a pole and a bayonet fixed on the end of it; saw deceased throw prisoner down on the bank of the river; deceased endeavored to pull the pole and bayonet from prisoner and then run away; saw prisoner following deceased, saw prisoner about a quarter of an hour after about 300 yards from where prisoner lay, had no conversation with him.

Cross examined by Mr. Rolleston:

It was on the lands of Drumkeen where the affair happened; Mr. Archdall's clerk lived in Lisnarick; does not know McKenna the Constable; heard prisoner was one of the guard that day; best of knowledge deceased and brother were prisoners that morning; and that they were arrested under Mr. Archdall's warrant; heard they were sent to Mr. Archdall's clerk in prisoners' custody; saw deceased were running from the clerk's ; believes prisoner was following to retake him; believes if deceased had stopped at the clerks [?] no damage would have been done; believes what happened was in consequence of deceased's escape; prisoner called deceased to stop once in hearing of witness; deceased ran away twice in sight of witness.

James Fleming sworn. Knew deceased; saw him on 27 of July; prisoner arrested witness; prisoner and deceased met on the road between Lisnarick and Milltown; prisoner had a pole and a bayonet; prisoner ran down deceased through the breast; deceased made for the debt; prisoner advanced; saw deceased dead on the road after.

Cross examined by Mr. Deering.

Does not know where deceased was stabbed; prisoner ran him down; witness was a prisoner, and standing at 200 yards distant; but McKenna, the guard and prisoner took witness; Knows James Carey, Mr. Archdall's clerk, and saw deceased [?] prisoner in the morning at the clerk's house; witness was taken prisoner for nothing; knows not what the warrant was for—or

what was sworn against him; was sent for the surgeon to Irvinestown by Major Irvine and did not return.

By the Jury—prisoner ran deceased through in the upper part of the body; deceased scrambled to the ditch; can tell nothing more, nor anything but what he knows.

This witness was exceedingly obstinate. The Judge, Jury, and counsel, endeavored in vain to elicit further evidence from him.

Felix Gormley sworn. Knew deceased, saw him fall on the road between Lisnarick and Kesh on the July 27th; saw but one man following the deceased, and did not know that man; he wore a red coat, and whitish trousers; had a weapon in his hand like a bayonet on a stick; saw deceased's body, and blood coming from about the neck; saw the man about four yards distance from deceased and going away.

Cross examined by Mr. Rolleston

The place was about 200 yards from Mr. Archdall's clerk's; heard deceased was a prisoner and escaped from the clerk's; heard that Durnin was one of the guard and had four or five prisoners; heard there was a scuffle between Durnin and deceased; saw them about a quarter of an hour before deceased fell; they did not close in sight.

By the Jury—The guard increased [sic] as they ran; Knows not who killed deceased; saw no one stick or stab at him; looked and saw no blood on the road.

By the Judge—deceased was running first; lost sight of them for some time; deceased was running with his back to the man.

George Dane swore—saw deceased on the July 27th; he was on his feet, and laid down on the road and bled; saw the wound in his neck; saw a man going from deceased, but could not identify him; did not see his face; he had a pole and bayonet; deceased's wound was a three cornered cut; saw no one but the man with red coat and pole near deceased.

By the Jury—saw a party; thinks there was more than one had a bayonet and pole; thinks deceased walked four or five yards in witness's sight before he lay down.

Charles Archdall, Esq., a Magistrate, sworn—Knows prisoner; saw him on the 27th of July, at witness's house; asked prisoner why he was guilty of stabbing Somerville? Prisoner replied, it was in defense of his life, and that Somerville said he would kill him with a stone.

Cross-examined by Mr. Rolleston—knew prisoner to be a peaceable industrious boy; saw McKenna, who was known to be a constable; witness granted a warrant against the Somervilles for felony; saw the warrant with McKenna on the morning of the 27th July; understood the Somervilles were arrested under the warrant; sent them to his clerk's in custody, heard they escaped from clerk's, particularly the deceased; believes the prisoner was armed with a bayonet to guard the prisoners; believes he ran after deceased to

retake him; five or six of the prisoners escaped from his clerk's; prisoner told witness deceased resisted ; heard nothing against the character of prisoner; knew him to be very industrious; he was helping his father to labour when called to guard the prisoners.

Alexander Aikens sworn—Knows prisoner; he was brought to witness's house on the July 27th, and on the 28th was committed to gaol.

Cross examined by Mr. Deering—prisoner was brought to witness's house guarded; witness was sent for to search for prisoner, and brought him in a cot across the lake; prisoner might or might not be threatened; he was much alarmed, and would not eat or drink; witness did instruct Mr. Bell, (agent for the prosecution) to challenge one of the jurors.

Mr. Sergeant Joy here stated, that when he entered the Court, he heard this witness say, that *Durnin ought to be hanged without a judge or jury*. The learned Judge here reprehended Mr. Aikens severely for expressing himself so unbecomingly, as if desirous of influencing his (the Judge's) mind on the trial, and wishing to deny the prisoner the ordinary benefits of the law. This reprimand, delivered with great emphasis and feeling, made a considerable impression on all present. The learned Judge then recapitulated the evidence, explaining the law to the jury, after which the jury retired for a short time and returned a verdict of—Not Guilty

Cormick Rourke and *Archibald Grenlees* were indicted for stealing two cows from Thomas Rooney, County Leitrim, and for receiving same knowing them to be stolen. Grenlees Acquitted—Rourke guilty of receiving, to be imprisoned six months .

Mary Graham, otherwise Murphy, for stealing wearing apparel from Captain Duvall, 81st Regiment,—submitted—to be imprisoned three months.

Pat. Magavran and *Pat. Gilbride*, for stealing six sheep, and for having said sheep in possession, knowing them to be stolen—guilty of the latter to be imprisoned six months.

George Benson, a boy of 14 years old, for stealing 18 £. bank notes and silver, from Henry Hughes, of Enniskillen.—guilty—to be transported for seven years.

Henry Benson, father of the above prisoner, for having in his possession concealed 14 £s. of the money stolen by his son. The money was found sewed up in a pair of old small clothes belonging to this prisoner, but on the confession of the son previously made before the Provost, that he had committed the act, and that his father knew nothing of it being so concealed—the father was acquitted.

John Green, for stealing a watch from Thomas Mulligan, of Enniskillen, and for having same in his possession, knowing it to be stolen—guilty of the latter charge, to be imprisoned in three months.

William Leval, for picking pockets in the Fair of Irvinestown, on the eighth inst.—guilty, to be transported for seven years.

Hugh Wiggins, for stealing a bolt of ribbon from Finlay Buchanan of Enniskillen, and for having same in his possession, knowing it to be stolen—guilty, to be imprisoned six months.

Peter Thompson, for stealing a handkerchief from same person, and for having in possession etc.—guilty, to be imprisoned two months.

Several others were discharged by proclamation.

Twenty-two persons for offenses against the revenue laws, submitted and were sentenced to pay a fine of £10 each, or be imprisoned six months.

Eighteen for similar offenses traversed, and were found guilty, to be imprisoned one month, and pay £10 each to the prosecutors; or in failure of payment of the fine, to be imprisoned six months longer.

Twenty-nine for the like offenses were acquitted.

There were only two records in the Civil Court, neither of which were of any importance.

August 5, 1819

Enniskillen Assizes

The Hon. Justice Fletcher arrived here on Saturday evening from Cavan, and on Monday morning opened the commission in the Crown Court, when the following gentlemen were sworn on the Grand Jury:

Lieutenant General Archdall, M. P., Foreman,	
H. Brooke,	J. D. Johnston,
Gerard Irvine,	John Richards,
William Barton,	Richard Dane,
John Armstrong,	James Denham,
John Richardson,	James A. Auchinloch,
William Tennant,	Samuel Gamble,
William Humphreys,	Robert Graham,
Hamilton Irvine,	Charles Archdall,
Adam Nixon,	Charles Faussett,
W. D. Irvine,	William Watkins,
Montgomery Nixon,	James Taylor

His Lordship then addressed them to the following effect:—he began by stating that he found by the calendar, the extent of crime in this county had decreased since he last presided here. Indeed the country, particularly in this quarter, wore a promising aspect; the prospect was cheering. The criminal list, he said, evidenced the tranquil state of this county, a character which it always maintained, more than any other in the kingdom. His Lordship then alluded to the new Grand Jury Bill, of which he supposed they had some knowledge, at least the worthy foreman, as one of the Representatives of the County, he was certain, was in possession of the whole matter. He then remarked on the present mode of appointing sheriffs, which he said, was attended with the best consequences. In Longford, said his Lordship, the Sheriff contrives to execute the several duties of his office with the civil power, which showed the absurdity of resorting to the military, when their assistance was rendered useless by the activity of the former. On looking around he did not perceive any red coats here; however, a few of them as temporary guards, might be necessary at times. He then made some observations on the necessity of dispatching the business respecting the indictments, and made some comments on the impropriety of magistrates committing persons to prison on frivolous grounds, arising perhaps from prejudice, from partiality, from interest, or from ignorance; in which he begged not to be understood, as alluding in any degree to the gentleman he now addressed, but to be considered as applying generally.

The business of the Assizes was so trifling and unimportant that a report would be useless. One man named *Fee*, transmitted from Cavan for cow-stealing, was found guilty, but recommended by the Grand Jury and sentenced to seven years transportation.

The Hon. Justice Moore did not arrive until Monday evening. On Tuesday he took his seat in the Record Court, but had nothing of importance to try. A few causes were settled by arbitration, and the business terminated on Tuesday and they usual manner, without any capital conviction, except the one above stated.