

A
REPORT
OF THE
PROCEEDINGS

UNDER A
SPECIAL COMMISSION,
OF OYER AND TERMINER, AND GAOL DELIVERY,
FOR THE COUNTIES OF
*SLIGO, MAYO, LEITRIM, LONGFORD AND
CAVAN,*

IN THE MONTH OF DECEMBER, 1806.

BY WILLIAM RIDGEWAY, ESQ.
BARRISTER AT LAW.

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1807.

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A SPECIAL COMMISSION.



SLIGO, DECEMBER 3, 1806.

A SPECIAL Commission having passed the Great Seal of *Ireland*, directed to the right hon. Lord Chief Justice DOWNES, and the Hon. Baron GEORGE, for the trial of certain offenders in the counties of *Sligo*, *Mayo*, *Leitrim*, *Longford* and *Cavan*, their Lordships arrived in *Sligo* on the 3d of *December*, 1806, and opened the Commission: the Court then adjourned to next day.

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Thursday,

Thursday, 4th December, 1806.

The following Grand Jury was sworn:

Rt. Hon. Lord Visc. Kirkwall	John Folliott
Rt. Hon. Henry King	William O'Bern
Charles O'Hara	Abraham Martin
Edward S. Cooper	Ar. B. Cooper
Owen Wynne	Thomas Soden
Owen Phibbs	Richard Wood
John Irwin	Michael Fenton
Thomas Ormsby	Roger Dodwell
Jones Irwin	Charles Martin
W. H. Phibbs	Robert King Duke
Harlow Knott	Thomas Ormsby
James Bridgham	

Lord Chief Justice DOWNES.

Gentlemen of the Grand Jury.

You are assembled here, at an unusual season of the year, to execute a most important duty. Gentlemen, upon any ordinary occasion I should not, perhaps, think it necessary to trouble you with any observations upon the nature of that duty. But as this is a special commission, much out of the usual course of time, it may be right, that I should address a few words to you, upon the nature of that commission, and to make some few observations upon those rules of law, that will be necessary, perhaps, to be applied to cases, which may be the object of this commission: and Gentlemen, it is impossible for me to observe upon the nature of this commission, without first expressing a most sincere satisfaction at finding so respectable an attendance of the Gentlemen of the county, in aid of the law upon this occasion.

The commission under which we sit, so far as it relates to criminal offences, is of the same nature as that under which you have been used to assist upon ordinary occasions at the assizes. But it applies to criminal cases only. Therefore we shall not proceed to try any civil cause, and you will not be called on to execute that branch of duty which you are obliged to do at the assizes; that of providing for the expences of public works, by presentment: that remains for the assizes. At present, we have

have only to execute our duty in criminal causes. The occasion of the present commission is, unfortunately, too well known; the unhappy state of this, and some neighbouring counties, where dangerous associations have been formed, has required some measure to be adopted by the Government, to meet the evil before its progress is so far extended, as that the ordinary course of the law might fail to crush the mischief. This commission then has issued, under which we are to act upon the ordinary principles of the law, which I trust, will be found strong enough to suppress the mischief, to restore public tranquillity, and do away all cause of alarm. I am strengthened in this hope, by recollecting, that upon various occasions of considerable public difficulty, perhaps not much differing from the present, similar commissions have been productive of the happiest effects, and I am the more encouraged in this expectation, when I consider the strong provisions, which the law has made for protecting the public from outrages committed by tumultuous assemblies; and the great powers with which the magistracy of the county is vested, in order to prevent or detect them; and although I cannot doubt the zeal and activity of the magistrates of this county, and though I am persuaded, that it is altogether unnecessary to remind them of those provisions, and of the powers they possess, yet it may not be altogether useless, that some of the principal provisions of the law, relative to the offences of the nature to which I allude, should be shortly and publicly adverted to now.

Gentlemen, the experience of every man must satisfy him, that it is not difficult for artful and designing men to hold out to a deluded populace, flattering hopes of a change of their situation, incapable of being realized, and often not desirable, if they could, and under pretences, seducing in their nature, to cover designs the most atrocious, and which are often concealed from those who by their numbers are intended to be made the instruments of effecting objects, which if openly stated to them, they would often shrink from with horror. Some are thus seduced, and many, as their numbers increase, are compelled by terror, to enter into associations and tumultuous assemblies, often under the control of persons, of whom most of them are as ignorant, as they

are of the real views with which they act. This deplorable mischief, the source of every thing that is miserable, the law endeavours to prevent, or suppress by strong provisions; the mere assembling in such numbers as to create terror; wearing any disguise or dress not usually worn upon their lawful occasions; assuming any particular name or denomination used for the purpose of distinguishing such association, and appearing in numbers, so distinguished; any one of these acts is, of itself, a very high offence, severely punishable; and that, although no act of violence be committed by any member of that association, and there is scarcely any act of violence, that persons of the description I have mentioned can do, when so assembled, that the law does not punish with death; any injury done by such persons so assembled by night, to the persons or property of any the King's subjects, becomes punishable with death; so the procuring others to join them in their offences, either by threats or promises is a capital offence; and as these associations have been found to bind themselves by oaths and engagements to the perpetration of their objects, the law punishes with death the person administering any oath or engagement, purporting to bind the person taking it to be of any association, or confederacy formed for seditious purposes, or to disturb the public peace, or to obey the orders of any commander or leader, or to conceal the fact of such oath being administered, or any illegal act committed, all these offences the law punishes with death; and the person, who without compulsion, shall take any such oath or engagement, is liable to be transported for life; and even if compelled, unless he shall disclose the whole of what he knows touching the compelling him to take such oath or engagement, and of the person and persons by whom it was administered, to a magistrate, he is liable to the same punishment. And as the law has thus held out its utmost terrors against those, who are guilty of the crimes I have mentioned, so does it arm the magistrate with strong powers for detecting them. The magistrates are empowered, in order to suppress such assemblies, to call upon all his Majesty's subjects of whatever description for their assistance, to disperse, apprehend, resist and oppose all persons concerned in such unlawful acts as I have mentioned; and if, in resisting and dispersing such offenders,

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any of these offenders should be wounded or killed, the law has authorized that act, and has indemnified the magistrate and those who assist him. Thus then, the magistrates are empowered to suppress such unlawful meetings, as they may have previous information of, and an opportunity of actually resisting. But the law does not rest satisfied with that provision, it has furnished them with great powers of detecting such combinations, and of discovering the acts they have committed, in order to bring the perpetrators of such acts to justice. If any two justices have reasonable cause to suspect any person to be guilty of any such unlawful assembly, as I have alluded to, they have power to summon such person, and to compel him to give security to keep the peace, and commit him if he refuses; and any single justice of the peace, who has cause to suspect any person to be capable of giving material evidence concerning these offences, to which I have adverted, and which are enumerated in the act, called *The White Boy Act*, the justice is empowered to summon and to examine him upon oath, as to the guilt of others, and to bind him to appear and prosecute; and if the person so summoned, shall refuse to submit to be examined, or to enter into recognizance, it is lawful for the magistrate to commit him. But if any discovery shall be obtained, it shall not be made use of against the party giving it.

Gentlemen, these are the principal provisions of the law, to which I have thought it right at present to advert; not that you can receive any information from the communication of them, but that the lower classes of the people may be fully aware of the dangers they incur, by joining in unlawful confederacies. As to your particular duty, as Grand Jurors, it is not necessary to take up any portion of your time in describing a duty, with which you are already well acquainted. I shall only add my strong recommendation, that in all cases that come before you, you should examine personally the witnesses for the prosecution, and not depend upon the written informations; and that you will consider, that after your duty here shall be discharged, in your character of magistrates and country gentlemen, your utmost zeal and activity will be necessary to restore tranquillity, and I am confident, that your exertions will receive all possible aid from government. I trust,

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your efforts will be effectual, and shall detain you no longer.

The Court then adjourned for some time, to give the Grand Jury an opportunity of examining the witnesses, after which a true bill was returned against *John M'Donough*, *William Kearney* and others. They were immediately arraigned, and pleaded *Not Guilty*, but saying they would not be ready for trial till next day, the Court adjourned.

Friday, December 5th, 1806.

The prisoners were brought to the bar, but refusing to join in their challenges,

John M'Donough and *William Kearney* were put to their challenges, and the following Jury was sworn:

James Soden	William Gibson
James Powell	Thomas Reilly
Andrew Hume	Alexander M'Gee
James Stewart	John Brown
Edward Gilman	Thomas Movstyn
William Smith	William M'Bride

To whom the prisoners were given in charge upon four several indictments; first, charging that they, with many others, on the 2d of *September* last, after sun-set, and before sun-rise, did maliciously and feloniously break and enter the dwelling-house of *Peter O'Neil*, at *Cartron Watts*, in the county of *Sligo*, that they maliciously assaulted and injured the habitation of *O'Neil*, and forcibly took away his money; second, charged a burglary; third, a robbery of *O'Neil* in his dwelling-house; and fourth, that prisoners provided an instrument for inflicting bodily pain and punishment upon *O'Neil*, in order to compel him to enter into an unlawful confederacy, called *Threshers*: that they inflicted punishment with that intent, and by menaces and intimidation, exacted money and goods from him, and by threats and violence caused him to send money to the house of *James Corkeran*.

Mr. RIDGEWAY opened the indictments.

Mr.

MR. ATTORNEY GENERAL.

My Lords and Gentlemen of the Jury,

In this case as counsel for the Crown, it is my duty to lay before you the the grounds of the present prosecution. The indictments upon which the prisoners are arraigned, have been read; and you are thereby apprized of the nature of the charges preferred against them. The charges go to a variety of acts, all, by the law of the land, capital, and if the prisoners are guilty of all or any of them, the consequence is death; the charges in their nature are such as draw down the highest punishment of the law. The prisoners are charged with breaking and entering the dwelling-house of a fellow-subject in the night time; with robbing that fellow-subject of his money, and with inflicting torture upon his person for the purpose of compelling him to become a member of their own lawless and dangerous associations. These are crimes, Gentlemen, which no civilized society can tolerate. They bid defiance to all law, and assert a claim of unconditional submission to those who avow themselves the bearers of that defiance. These are conditions under which no Government can exist. But if the crimes, with which the unfortunate men are charged, however atrocious, did not involve consequences of a peculiar nature, they would have been left to the ordinary visitation of the law, and would be tried at the regular assizes of the county. It is because they form part of a class of atrocities, which disturb the tranquillity, and in their progress endanger the safety of the country, that you have been assembled at this season of the year for the immediate and solemn dispensation of justice. Gentlemen, it is with great satisfaction I see, upon a subject of this emergency, so full and respectable an attendance, calculated to impress every mind with a sense of obedience to the law. Every gentleman of character—of rank—of consideration and of property, appears at his post on this important occasion, to give his personal sanction to the law. Judges of the land are sent, armed with his Majesty's commission, and armed with a character resulting from their learning and virtues, which reflect lustre and dignity on that commission. Gentlemen, every thing has been

been done on the part of the Government, to let the wretched people of this country see, that there are laws for the punishment of guilt, and that no nerve will be left unstrained, to give effect and vigour to them. I therefore rejoice, to see such an array of rank and property upon the Grand Jury, which has found the bills, and such a respectable description of gentlemen composing the Petty Jury which I now address, because it must remove from the minds of the wretched people, engaged in these outrages, the delusions which have been industriously spread to excite the hope of impunity. In aid of the magistracy, from whom information has been procured, they see the whole body of the county. Every man who has talent, character and property, rallying round the constitution. It is not therefore, merely for the purpose of inquiring into the guilt of the persons now on trial, but to bring home punishment to the great body of the guilty—protection to the great body of the innocent—to undeceive the abused, and give confidence to the disheartened, and to restore peace and tranquillity to the country, that this special commission has been issued; and you, Gentlemen, to perform your sacred part, have been sworn upon the Jury.

Gentlemen, it is far from my purpose or my wish, that by having your minds strongly moved with a sense of the mischiefs prevailing in the country, any of the prisoners should be visited with peculiar hardships. On the contrary, upon an occasion of this kind, it is my duty to caution you against the suggestions of rumour or prejudice: it is our duty to vindicate, not to strain the law. If the prisoners are guilty, the guilt should be brought home by clear legal evidence. God forbid! Gentlemen, that your abhorrence of the crime should work injustice to the criminal or the accused. But, Gentlemen, you will feel, that it is not irrelevant to the subject, to call your attention to what is, and what has been the state of the county; because it grows out of the association imputed to the prisoners, and it is therefore, that the consequence of guilt and punishment attaches upon them. And, therefore, Gentlemen, in calling your attention to the state of the county, and the nature of the outrages, I feel, that I do not transgress my duty in the case now before you.

Gentlemen,

Gentlemen, it is unfortunately too notorious to need any minute statement, that for some time past, the peace of the county has been infested by a set of persons assuming the name of "*Threshers*." Their outrageous associations have been in direct defiance of the law:—the business has originated with men, possessing no situation—whom no body knows—a set of men, who dare not avow themselves—a description of persons not possessed of any rank—of any property—of any talent—of any education—men, who are not placed in any situation, either by the conventions of society, or their own fitness, entitling them to dictate to their fellow-subjects, or to take upon themselves the task of reformation and of legislation. These persons have discovered, that the existing laws are not to their mind—they have found out, that there are errors in the State and in the Church, and they have conceived, that they are the proper persons to undertake the task of reforming them. But not satisfied with infringing the law in their own persons individually, they become associated for the purpose of saying, that no other person in the community shall dare to obey the law. So that the first act of those, who profess to interfere upon principles of liberty, is to exercise compulsion over the consciences of others, and to say, that no man shall presume to form an opinion for himself, nor act upon it, unless it meet the approbation of those self-created reformers. The pretext, upon which these illegal confederacies is formed, is a repugnance to the payments in support of the legal establishment of the church of the country, and also of the fees which have been usually paid, without any law to enforce them, to the clergymen of the catholic persuasion. The mode taken to accomplish this object, has been by assembling themselves at night in disguise, sometimes with arms, going to the houses of such persons as refuse to associate themselves in their body, and if necessary for their purpose, breaking open the houses of those persons, and robbing them of their property, inflicting torture upon those who become objects of their enmity, and if necessary for the final completion of their designs, if any person be honest or bold enough to give information against them, the business, which began in lawless combination, is consummated by *murder*.

Gentlemen of the Jury, this is the natural progress of associations of this kind. When men enroll themselves for the purpose of resisting the law, whatever the pretext may be, upon which they originally associate, the foulest crimes are generated in its progress; that which begins in anarchy ends in murder; and even murder itself, in the progress of outrage, may be only a preparation for the blacker horrors which are to ensue.

Gentlemen, there remains one circumstance of peculiar atrocity, with which this matter is connected. In the various forms and associations under which their designs have been conducted, it has been the policy of those people to administer *oaths* to the persons called upon by them, binding them to association and to secrecy. This offence is by law punished with death. The person, who commits it must pay the forfeit of his life. The person taking such an oath is banished for ever from his country: the mere circumstance of going to a magistrate and telling him of the oath being taken will not absolve the party; the oath must be taken against his will; for if it be taken voluntarily, he is, notwithstanding such information, liable to be transported for life. Gentlemen, this is no new-devised punishment, it is the established law of the land; it has been so for many years; it has been provided, and wisely, by the legislature to meet the outrages, which from time to time have infested this country: there is no disproportion between this punishment and the crime; it strikes at the roots of morality and religion, and tends directly to destroy those principles, which are essential to civilized society. Gentlemen, an oath is the sanction, by which under the law of the country we call upon the Creator to attest the truth and purity of our words; and this solemn sanction which our civil institution has borrowed from our religious code, is prostituted to bind together an association of traitors, robbers and murderers. The name of the living God is appealed to, for the purpose of witnessing and ratifying the infernal compact, by which these wretches league themselves against law and religion. Gentlemen, it produces a revulsion of every moral feeling to hear of such conduct; not that it is a violation of the laws and usages of society, but, because it is an outrageous blasphemy

blasphemy against our Creator to call upon him to attest and sanctify the crimes of his creatures.

Gentlemen, it is not necessary now to dwell upon the illegality of those associations, but while they profess to attack the property of the Church, I cannot pass them by without a few observations. The tithes of the Clergy of this country are their property; they are secured to them by the same laws, which secure to every man amongst you his estate, or his property, whatever the description of it may be: the same laws and the same right, by which any gentleman who hears me, holds his estate, transmitted to him from his ancestors: the laws which secure the fruits of each man's individual industry, are the title by which the property of the Clergy is secured to them; and I do trust, Gentlemen, that there is no man so selfish as to look to any system, by which the property of one part of the community shall be protected, and that of another spoliated. If there be any man so selfish as to wish it, let no man think it can be done. Let a multitude be assembled under the empire of *Threshers* and *Shakers*, armed and arrayed in order to make head against the rank and property of the country, and what shall stop their career? I wish my voice to extend to every man within these walls—to every man of sense and reflection, I would tell him, that there is no protection for rank, for property, for the State, but by resisting those disturbers, and making them feel the irresistible weight of the law. They say, they rise to redress grievances! But, Gentlemen, there is a mode known to the Constitution of redressing grievances, and there is no law to prevent men from stating them; there is a legal mode of claiming relief. This, I will say, that the Constitution of the Church is intimately connected with the Constitution of the State; it is a part of the same fabric, which has been handed down to us from our ancestors, and if there be any thing imperfect in it, no reflecting man will approach it, for the purpose of alteration, without extreme caution: he will be careful in the attempt to remedy its imperfections, not to affect the substance, or even the proportion, or beauty of the ornaments. But this task of reformation is undertaken—By whom? By the dregs of the community—anonymous ruffians, who fear the face of day, whose title is

founded in anarchy, and whose pretensions are enforced by robbery and murder !

I cannot pass by another part of these associations : I mean their attack upon the Priests. I meddle not with religious rites ; I mean the attack which is made upon the support derived from the voluntary bounty, which the members of the Roman Catholic persuasion have been in the habit of giving to the ministers of their religion, for celebrating the rites of that religion. It is not, that they say, we will not pay, for there is no law to compel them to pay. But they proclaim this, that no man, who chooses to do so, shall dare to pay his Priests, their fees ! For what purpose are these fees given ? They are given to obtain the rites of their religion : they flow from a sense of religion ; they flow from voluntary bounty ; they are enforced by no compulsion, the unfortunate men who receive them are armed with no law for their support ; and yet these associations are formed—To do what ? To rob the Priest of his benedictions and his prayers ! Do these men, besmeared with blood and covered with crimes imagine, that the ceremonies of religion, which are plundered from their clergy can give them a passport to a better world ? I cannot help feeling and deploring, that this view of the subject suggests an apprehension, that the devisors of this plan could have had nothing less in their contemplation, than eradicating from the minds of those upon whom they could operate, all sense of religion. Nothing but their hellish machinations could have devised such a scheme. If they expect that the people will be ripe to perpetrate crimes worse than these ; if they wish them to be the ready instruments of every design, which is diabolical, there is no plan so effectual, as the extinction of every sentiment of religion in the minds of the common people. What may be the form of the religion of the several classes of the people, I care not to enquire. If the principles of Christianity prevail ; if the sense of obedience to a supreme ruler of the world ; if the conviction of the existence of a future state, in which rewards and punishments are distributed, be kept alive in the minds of the people, they will never become the instruments for the commission of abominable crimes. But if these sentiments be extinguished ; if they shall be taught to cast
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off all regard for a future world, the ties which bind them to earth, as well as to Heaven, are rent asunder.

Gentlemen, we have had a miserable example in our own time. You may recollect, that not many years back, in a neighbouring country, the most dreadful atrocities were committed: you recollect the overthrow of an ancient monarchy; that overthrow, deplorable as it was, was not the most dismal scene of the tragedy. The horrors of that unfortunate revolution, in which the hands of the father were imbrued in the blood of the son; in which all moral and social relations were raised in mutual warfare, could not be perpetrated, until the sentiments of religion were previously extinguished in the minds of the people. Human nature was not outraged by gross and unexampled crimes, until a solemn decree was framed, declaring, that there was no God in Heaven! What the consequences were, every man knows. But this I state, that as soon as a settled form of government was established, it was found, that atheism and infidelity, which were the ready instruments to throw down an ancient throne were an insecure foundation for a new one; and one of the first acts of the founder of the new dynasty was to restore the consolations of religion to his thirsty and supplicating subjects.

Gentlemen, it is no wonder, that those who searched after democratical equality should be the foes of religion: religion is the genuine equality of mankind: it is the poor man's friend; during the troubles of this life, it renders him content with the lot of inferiority, which is the condition of his nature, and in the last awful hour of existence, it puts him upon a level with the highest and most exalted.

Gentlemen, it is a melancholy and disheartening thing, that our wretched peasantry can be deluded by such arts; and that they should be thus imposed upon after such miserable examples. For half a century attempts have been made upon the infatuated people of this country. What has been the consequence? Disgrace to the perpetrators; failure of their plans; ruin and death to themselves. Yet what is the condition of the poor unhappy people of this country; as soon as any disaffected mountebank appears, proclaiming his laws, and imaginary benefits, they become the willing instruments

instruments of his schemes, and their own destruction. Is it possible, they can for a moment imagine, that a great empire like this, armed with the law, protected by an army, with a regular administration of justice,—are they so infatuated, as to imagine, all these will yield to a few miscreants like those, under whom they have enlisted themselves? It is therefore principally to undeceive these miserable wretches; to rescue them from the grasp of fiends, who are working their destruction, that the law is sent down here, at this unusual season, to speak its emphatic language. What the law is, I will tell you. What the consequence of infringing it, is, you, Gentlemen, will tell; and I cannot help feeling, that in the consequence of this commission, we may look to an end of the confusion and anarchy, which has prevailed, and that the vicious may again be brought within the ordinary channel of subordination.

Gentlemen, in speaking as I do, with indignation for those crimes, I feel compassion from the very bottom of my heart for the victims of them. Seeing the mischiefs which have been spreading in the country by the artifices of miscreants, it does not surprize me at all, that many persons should be of opinion, that measures more summary should have been adopted, for the purpose of, at once extinguishing these mischiefs. I am satisfied that the opinion of such men was dictated by a feeling of the truest regard for the interests of their country; of genuine compassion and mercy towards the unfortunate delinquents themselves. But yet, my Lords and Gentlemen of the Jury, I trust that the government of the country will ultimately acquire credit from those who entertained the opinion I have mentioned, for the course which has been adopted in the present instance. The feeling of the Government has been, that the insult which has been given to the laws of the country is best vindicated by those laws themselves. The persons, whom we are now called upon to cope with, do not compose multitudes too strong for the arm of the law. It is not an assembly daring to stand before the exertions of the magistracy, but it is a lawless association of men, who find their safety in their obscurity, and I cannot help feeling a confidence, that when the victims of delusion shall have been undeceived;

ceived; when they find that the law was adequate to their punishment; that the Laity make a common cause with the Clergy; when they see atonement made to the laws by the speedy and energetic administration of justice, now in progress amongst you. I say, I feel a confidence, that after they have seen the array of this country drawn up for the investigation of their crimes; after they have seen the assemblage, this day, of every man of rank, character and property, feeling their interests united with those, who have been the subject of lawless attack; that the most salutary consequences will be experienced, and that these people will at length be convinced; that when they dare to raise their hands against the laws of their country, those laws will be found to have weight enough to fall down upon and crush them. What, Gentlemen, would it not be a miserable state of our country, to suppose, that armed as we are by the law; supported as we are by the aid of every gentleman in the country, and with an armed force, if such be necessary; that associations of men, whose names are not known; of no rank, property, or station, could not be put down, without doing away, for a time at least, the ordinary constitution of the land? If the time should unfortunately come, when, what is now tumultuous rising, shall assume an aspect of a different nature; if ever, which God forbid! those scenes shall be renewed, which we formerly witnessed; if treason shall rear its head in the country, and supersede the law, these wretches will have to sink under the tide of ruin, which will be let in upon them. But I trust, that no visitation of that kind will occur; but that with the ready assistance of the Government, and the aid of every loyal man, we shall be able to bring punishment upon the guilty, and that the law will be strong enough to wrestle with and put down these disturbers of the public peace.

Gentlemen, I shall say only a few words more. The laws in being, of which I shall make a short statement, will appear to every one, particularly calculated to meet the outrages, which at present exist: they are laws, which have not been recently introduced; for half a century, the country has been visited with partial insurrections: during a portion of the reign of the late King, and during the entire of the present, laws have

have been enacted, calculated to meet these crimes. These laws are still in full force and operation. If these insurgents assemble with arms; if they assume any particular denomination, or wear any badge, to the terror of his Majesty's subjects, by that mere act of assembling, though no further act be done, they are punishable by law. The magistrates are authorized to disperse and apprehend them. If they resist, and any be killed, the magistrate is indemnified; and if he has just cause to suspect, that any person can give information respecting such outrages, he may summon the person, examine him, bind him in a recognizance to appear, and commit him, in case he refuses. I wish this was generally known, that if any man meet such an assembly, he is called upon to disperse it, and to apprehend the persons assembled; and if death unfortunately ensue, the magistrate is indemnified.

The magistrate is also armed with extraordinary powers to preserve the public peace. He is entitled to call for the assistance of every man in the county. The power which the law has, in ordinary cases, entrusted to the Sheriff, that of raising the *posse comitatus*, is, in this instance, given to every magistrate; and if any man refuse to give this assistance, he is guilty of a misdemeanor. Persons not entitled by law to carry arms, are liable to have their houses searched, and the law protects the person making the search. If any persons, tumultuously assembled, shall assault, or injure the habitation, or property of another, they are punishable with death; every person who administers an oath, whatever the nature or purport of it may be, binding the person taking it, to be of a particular party or association, is punishable with death; any person who voluntarily takes such oath, is liable to be banished for ever; and he is not to suppose that after voluntarily taking such an oath, the mere circumstance, of going to a magistrate and telling him, will protect him;—two circumstances must concur to save him from punishment, first, that he was compelled to take the oath, and secondly, that he gave immediate information of his being so compelled; so that here are abundant provisions for the punishment of these offences. But, Gentlemen, it has been industriously circulated that these laws are expired; I tell you, and those

those who hear me, what was stated yesterday from the high authority of the Bench, that these laws are in full force and existence; and every man joining in unlawful confederacies is liable to pay the penalty inflicted by those laws.

Gentlemen, I have also to inform you, that under the statute of the 15th and 16th of his present Majesty's reign, commonly called "The Whiteboy Act," any person who harbours, conceals, or gives assistance to any person concerned in such outrages, is as much guilty as the person so concealed; and any person who supplies *horses, arms, or ammunition*, for the purpose of these confederacies, is liable to forfeit his life. Gentlemen, armed with these laws, which have been found competent to put down insurrections, as alarming as the present, with the honourable zeal and activity of the magistrates, which you may confidently look to, and with the sincere desire of Government to protect the loyal, and reclaim the guilty, are we to despair of the laws being able to cope with the mischiefs, and not to look for the restoration of tranquillity and peace? I cannot so persuade myself, and I am not uneasy as to the result. Gentlemen, with regard to the particular case now before you, it will appear that the prisoners, on the night of the 2d of *September* last, with many others, attacked the house of *Peter O'Neill*, at *Cartron Wats* in this county. He had been *audacious* enough to say, he would pay the dues which he had been accustomed to pay; he was not prepared at the instance of these legislators to renounce his obedience to the laws; he said, he would pay as he had formerly done; this was *high treason by their law*; they repaired to his house; they broke it open; they dragged him naked from his bed; they asked him for money; that is part of *their* system for redress of grievances; he had only one *tenpenny* piece; he had no more; but he was desired to send *more* to the house of a person, whom they named, but who is not now upon trial; they took him away naked, and one of the party had an instrument for carding wool, with which they inflicted punishment upon him, by severely excoriating his back; the prisoners will be identified by *O'Neill*, his *wife* and *son*, who plainly saw them; so that there are *three* witnesses to the transaction. If

these facts shall be proved, there can be no doubt of the melancholy necessity which will be imposed upon you. *O'Neill* gave information to Mr. *Soden*, the magistrate, and exhibited his back, which was excoriated with the torture which had been inflicted upon him; so that with regard to this being a case within the statute no question can arise; but if the evidence be not clear and satisfactory, no sense of danger or alarm should induce you to find a verdict against the prisoners. It will, in that case, be your duty to acquit them; but if you have no doubt of their guilt, I will not humble you or myself by supposing, that any of you would shrink from a firm and manly discharge of his duty.

PETER O'NEIL examined by the SOLICITOR GENERAL.

Q. Where did you live in the month of *September* last?

A. Within a couple of miles of this town, at a place called *Cartron Watts*.

Q. Did any thing particular happen at your house in the month of *September* last?

A. Yes, sir.

Q. At what time in *September* was it?

A. I cannot tell the night of the month; but it was the *Tuesday* before the races (this appeared to be on the 2d of *September*.)

Q. About what hour?

A. It was between one and three: they were at *Campbell's* about one, and I think it was two hours before they came to me: they had searched nine other houses before they came to me.

Q. What was done?

A. I was lying in bed: they rapped at the door pretty smart: I asked, who was that? "Open the door," said he; "What do you want; this is an odd hour of the night to come and have doors opened," said I. I asked them again what they wanted? They said, they wanted money for Mr. *John the Thresher*, and his men, and that they must be supported. I said, I had none; and then they burst in the door, breaking the door off the hinges. I started up quite naked, and got upon the floor, not being able to find my shirt.

Q. Had

Q. Had the door been fastened before this happened?

A. It was barred and bolted; the hinges were new, and the door was split and broke.

Q. Did you see any persons you knew?

A. I did; it was moon-light, though there was some rain.

Q. Look round and see if you know any of them here?

A. I know these two men, *John M'Donough* and *William Kearney*.

Q. Did you see them at your house that night?

A. I did.

Q. Were they dressed in any particular manner?

A. They wore white shirts over their cloaths, and white scarfs upon their hats.

Q. Had they any arms?

A. Some of them had rusty swords and bayonets, and *Jack M'Donough* had a gun.

Q. Are you certain of that?

A. Yes; I remember it from a blow he gave me, which will mark me to my grave.

Q. Had *Kearney* any weapon?

A. He had an old sword.

Q. Did either of these two men say any thing to you?

A. They did.

Q. What did they say?

A. They desired me to be quick—quick—had I the money ready for them.

Q. Which of them said that?

A. *Billy Kearney*, and his party.

Q. How many had he with him?

A. As far as I understand there were thirty; I followed them for a mile afterwards.

Q. Are you certain there were twenty?

A. I am sure there were twenty-six, if not twenty-eight.

Q. Were they all dressed?

A. They were all in white, like *M'Donough* and *Kearney*.

Q. Did these two men call themselves by any particular name?

A. They called themselves, "*Mr. John the Thresher*, and *William the Shaker*."

Q. Who called himself "*The Thresher*?"

A. *M^cDonough*.

Q. And who "*William the Shaker*?"

A. *Kearney*.

Q. Had you known these two men before that night?

A. I knew one of them, *Jack M^cDonough*, seventeen years, and *Kearney*, thirteen or fourteen years.

Q. When these men desired you to be quick and to have the money, what did you say?

A. I said, I had no money at the present time; but if I knew them to be coming, I would have had some for them, thinking to get off easy. I told them I had two guinea notes belonging to *Mullins*, which had been called down, and were of no use to them. I said this, in order to get rid of them, if I could with satisfaction.

Q. Was your wife present at this transaction?

A. She was.

Q. Was any other person present?

A. My children, big and little as they are, were there in their skins.

Q. Did you give these people any money?

A. I had some money; but I told them, I had only one tenpenny piece, and my wife said, she had another. They said, we were selling milk and turf every day, and could not but have money. They took me out of the house, and *M^cDonough* and *Kearney* ordered them to make ready the cards, and I heard them rubbing the cards together.

Q. After you heard the cards, was any thing done to you?

A. They bid me walk on; and when I went two or three steps I got the first rub; and when I looked back over my shoulder, they struck me six or seven blows with sticks upon my hips.

Q. Were you injured in any manner with the cards?

A. I was: that was the first; but going further on, they rubbed the other shoulder to make them even; and they struck me with sticks and bayonets surrounding me, as hounds do a hare. I did not look round after these strokes, because they were worse to me than the cards, and I got no strokes for some time; but they carded me, and then they struck me back again to the house.

Q. How

Q. How far did they take you from the house ?

A. About thirty-two yards, and back again to the house. I have measured it since with a weaver's yard, for they brought me as far as a bush, which I knew ; and they ordered the men to form into a body and be quick : when they put me into the house, they gave the word of command.

Q. Who did that ?

A. *M' Donough* and *Kearney*.

Q. Did they act according to these orders ?

A. They did ; and as I was going into the house, *M' Donough* gave me the last stroke with a gun, across the small of my back ; and I was so hurt, that I could not tie my shoes for twenty days, and I never will be the better of it. Two of my ribs were broke.

Q. At the time you and your wife said you had a tenpenny piece each, were you desired to do any thing ?

A. I said, in order to get rid of them, that I supposed they had a house in the country for the purpose of refreshing themselves, and that I would send money there ; and that I was sorry I had it not for them at that time. I said this, in order to get rid of them ; but I saw they were sore against me. We had a little money lying bye, and would have given them some, but I would not make a liar of myself, having told them I had none, but the tenpenny bit. He said, I should send it to *Jemmy Corcoran's*, or *Biddy Rogers*. I said, I knew *Corcoran*, and was a comrade of his, and I promised to send the money to him. My wife brought four pieces there ; but seeing so much money upon a table, and that stronger people than her paid but one piece, she left but one, especially as *Corcoran* was not there, but only a young girl.

Q. What was it that made these people sore against you ? What religion are you of ?

A. A Roman.

Q. Did you pay dues to your clergyman ?

A. I did ; and said, I always would, and why not.

Q. How old are the five children, who were in your house ?

A. One is seventeen years of age last Candlemas ; the next is fourteen or fifteen.

Q. Did you give this party any money ?

A. Two

A. Two tenpenny pieces were handed to them, but what became of them I cannot say; such was the confusion, the children crying, and these people dragging me about.

Cross-examined by Mr. BAKER.

Q. How long have you resided in this country?

A. Eighteen or nineteen years.

Q. Where did you live before you came here?

A. In the county *Tyrone*.

Q. What name did you go by there?

A. *Peter O'Neil*.

Q. Did you ever go by any other name?

A. That was the name that was christened to me.

Q. That is not the question; I asked, did you ever go by any other name than that of *Peter O'Neil*.

A. Never; men may call me what they pleased, but I used no other name.

Q. You say there were thirty men in this party?

A. There were twenty-six or twenty-seven.

Q. They were extremely cautious, lest their faces should be seen by you and other persons in the house?

A. I saw these mens' faces.

Q. Did not all the party seem cautious, lest you should see them?

A. I was among them for some time.

Q. But were they not anxious to conceal their faces?

A. They were striving to hide their faces sure enough. I am sure they did not wish to be seen, or they would not come by night, when they had daylight to work in.

Q. Did you ever hear of any rewards being offered to persons who would discover of those who are called "*Threshers*?"

A. By virtue of my oath, at that present time I did not. Mr. *Soden*, the magistrate, is here and can tell you.

Q. When did you first hear of rewards being offered?

A. I did never hear of it at that time.

Q. What time do you mean?

A. The

A. The night the *Threshers* were with me.

Q. Did you never hear of papers being posted up at the chapels and other places of rewards being offered?

A. I never did to my knowledge, nor was I ever promised any.

Q. The question is, did you ever hear it?

A. I never did.

Q. Did you ever go to hear the word of God after that night?

A. I did.

Q. Did you see any papers fixed to the chapel door?

A. I am no scholar.

Q. But did you see any papers upon the door?

A. There are many papers put on the door for cants, and rewards for things lost.

Q. But did you hear of rewards being offered for the discovery of the *Threshers*?

A. I did not, till long after.

Q. Did you ever hear of a place called *Banada*, in this county?

A. I do know it.

Q. Are you in the habit of buying and selling cattle?

A. Often I did.

Q. Were you ever at *Banada* upon a fair or market day?

A. I was one day after Christmas dealing with pigs.

Q. Had you any thing to do with a heifer, or a cow, or a beast of that kind?

A. That is only a bundle of nonsense; I have bought and sold cattle.

Q. Answer the question; had you any other cattle at the fair beside pigs?

A. I had a good many at different fairs.

Q. What other beast had you last for sale beside pigs?

A. A horse.

Q. What beside the horse?

A. A cow.

Q. Now it comes out. Did any man tell you, that you came by that cow not in the best way?

A. No.

A. No.

Q. Do you know *Thomas Dolan* ?

A. No, sir.

Q. Do you know a man of the name of *James Murphy* ?

A. I do, sir, he lives in this town.

Q. Did you ever see him in the fair of *Banada* ?

A. I do not know ; I knew him in this town.

Q. Did you ever see him in the fair ?

A. I cannot tell ; I might and I might not.

Q. What do you believe ?

A. I do not know whether I did or not.

Q. Do you believe you saw him or not ?

A. I cannot say whether I did or not.

Q. (*By the Court.* Do you mean to say, you can form no belief ?

A. I cannot say, my Lord ; I might or I might not have seen him.)

Q. Did *Murphy* ever tell you that the cow was the property of another man ; or did any man ever claim a cow said to be stolen by you ?

A. Not to my knowledge.

Q. What do you believe ?

A. They may belie me ; but I know nothing of it.

Q. Did such a thing occur as a man challenging a cow exposed to sale by you in the fair of *Banada* ?

A. There never was a stolen cow taken in my possession since I was born.

Q. But was a cow or other beast ever challenged which was exposed to sale by you in the fair of *Banada* or elsewhere ?

A. They blamed me for it, but could make nothing of it : I stood their defiance for it.

Q. Who made up the matter between you and *Dolan* ?

A. I know nothing of that.

Q. Do you not know *James Murphy* ?

A. I know nothing of him.

Q. Do you say, you do not know him ?

A. I know the man, but nothing of the business you mention.

Q. Did he ever interfere respecting the cow said to be *Dolan's* property ?

A. He did not,

Q. Were

Q. Were you not obliged to give up the cow upon that occasion? Was the cow taken from you?

A. No, sir. When I heard the cow was blamed to me, I left her in the pound, and went to enquire for the people who claimed her; but I did not know whether she was stolen or not.

Q. How long had you that cow in your possession?

A. I swopped her that morning in the fair.

Q. With whom?

A. A man who lived six miles off, as he said.

Q. What time was she claimed?

A. Between twelve and one.

Q. Did you make any attempt to discover the man?

A. I did.

Q. Did you make him out?

A. I did not, not knowing his name; but I got my own cow.

Q. How did you get her and the man not there?

A. She had not left the fair.

Q. Who had her?

A. A little gossoon of a boy; and getting my cow, I gave up the other.

Q. Did you offer a horse for sale that day?

A. No, not that day.

Q. But you did upon another day?

A. I did. I offered a horse for sale belonging to a friend of mine.

Q. Had you any other business there that day?

A. I had a heifer of my own: we had some drink together, and I helped him to the sale of the horse.

Q. You said you never heard of rewards being offered?

A. I did not.

Q. Did you ever hear of a man of the name of *Matthew Ward*?

A. I do in *Sligo* here.

Q. Did you ever tell him any thing about rewards?

A. I did not.

Q. Recollect yourself. Did you ever tell him you were offered 300*l.* for prosecuting?

A. No; but he asked me did I get such a reward; nor did I ever get more than 1*s.* 3*d.* from the General.

Q. Did you ever tell *Ward*, that you were to receive 300*l.*?

A. He said I was to get 300*l.* I told him I did not, nor did I ever hear I was to get it.

Q. Did you ever tell him, or any other, that you were to get 300*l.* for this service?

A. Upon my word I never did.

Q. But upon your oath did you ever say it?

A. I did not, nor could not; let any person prove it.

Q. Do you not deal in leather?

A. No.

Q. Had you ever any in your possession?

A. No.

Q. Were you ever charged with having any stolen leather?

A. I never was indeed.

Q. Do you know *Laurence Summers*?

A. No, sir.

Q. Do you know *Laurence Summaghan*?

A. I do.

Q. Where does he live?

A. At *Bogheroe*.

Q. Did he ever see you in any awkward situation?

A. No.

Q. Did he ever see you in custody, charged with having any stolen leather?

A. Never; I defy him.

Q. Do you know *George Rochfort of Sligo*?

A. I do; a comber.

Q. Do you know any other of the name?

A. I do; one who sells liquor.

Q. Did you owe money to either of them?

A. Not to my knowledge; I never had dealings with the comber, but to sell him a heifer, and I had drink from the other man: I may owe him for half-a pint, or some such thing, and my wife may owe the other the price of a comb.

Q. Did you ever, upon being applied to by either of them, promise to pay him money?

A. Why should I.

Q. Did you ever swear upon a book, that you would pay him?

A.

A. I had no dealings with them, but such as I mentioned.

Q. But did you ever swear you would pay any particular sum?

A. I told him I would pay him the price of the comb.

Q. Did you ever swear you would pay any particular sum?

A. I did not; my wife was to pay the price of the comb.

Q. (*By the Court.* But did you ever take any oath to pay money?)

A. I did not.

Q. Both of the *Rochforts* are honest men, and to be believed upon their oaths?

A. What can they say against me.

Q. Would you believe them upon their oaths?

A. I never owed them two-pence, but what I mentioned.

Q. But are they honest men?

A. I never heard any thing else of them.

Q. Would they perjure themselves?

A. I am sure they would not.

Q. Are not the prisoners generally reputed well-behaved men in the country?

A. I have nothing to say against them, but what they did to myself.

Q. *By the Solicitor General.* How soon after you were carded did you swear informations?

A. On the *Saturday* following.

Q. Before whom?

A. Mr. *Soden*.

Q. (*By a Juror.* Did you ever talk with Mr. *Abercrombie* upon this business?)

A. I did.

Q. Did you ever hear there was a quarrel between him and *Kearney*?

A. I did not.

Q. You said, they were very sore upon you; can you give any reason for it?

A. I believe if I had money to please them, they would not hurt me.

Q. Did they offer to swear you that night?

A. They did not.

Q. Were you ever sworn ?

A. I was about twelve years ago in the former troubles, when the militia was first raising: the landlords were obliged to bring in all the people, and I was sworn among the rest to the oath of allegiance.

Q. How old are you ?

A. I cannot say.

Q. Did you never hear any of your people say ?

A. I might, but do not recollect.

Q. Are you forty years of age ?

A. I believe so.

Q. Do you believe you are thirty-five ?

A. I believe I am, but cannot say.

Q. Were you married when you came from the North ?

A. I was married before that.

Q. How old were you then ?

A. I cannot say.

Q. How many acres of land have you with your house ?

A. I have had different quantities at different times.

Q. You said, there were twenty-seven men at the attack ?

A. I think so.

Q. You said, you followed them two miles ?

A. No ; only one mile.

Q. For what purpose did you follow them ?

A. To see how they behaved themselves, and where they went.

Here the Juror who asked these questions, exclaimed, " That is a fine boy ; all weeds should be taken away in the bud, and we should not be left in such a state ; this is my prerogative, and I will exercise it."

Q. (*By the same Juror.* Did you see a paper upon the chapel door ?

A. I did not.

Q. Did you ever ask any of the neighbours about such a thing ?

A. I did not, sir.

Juryman. Very well, sir !

MARY O'NEIL examined by *Serjeant Moore.*

Q. You are the wife of *Peter O'Neil* ?

A. Yes.

Q. Where

Q. Where did you live in *September* last.

A. At the *Windy Gap*, (this was another name for *Cartron Watts*.)

Q. Do you remember any people coming into your house?

A. I do, and will while I live.

Q. How long have you been in the county of Sligo?

A. Seventeen years next Christmas.

Q. How long have you been married to *Peter O'Neil*.

A. Seventeen years last May.

Q. How old is your eldest son?

A. Seventeen years and nine days next Candlemas.

Q. The night the people came to your house were you in bed?

A. I was.

Q. Where were your children?

A. In their bed.

Q. Was your eldest son there?

A. He was, the whole family were in bed—they came in great alarm, when the door was broke from its hinges with the force.

Q. Was that the first thing you heard?

A. They desired the door to be opened; on that my husband called out what they wanted—they answered, "Money, money, more or less for Captain *John*."

Q. Did your husband continue in bed?

A. He bounced up and they came in.

Q. Had he any thing upon him?

A. Nothing, but as the Almighty made him for he could not make out his shirt.

Q. What was done?

A. When they demanded money, he said, he did not know they were coming, or he would have some liquor for them.

Q. Had you any money?

A. We had—but did not make it out, there was such a puzzle.

Q. Was any money produced?

A. There were two tenpenny bits?

Q. What did they do with the family?

A. Nothing

A. Nothing—the children cried murder: they took my husband out and kept him away a quarter of an hour.

Q. Did you see any of the people?

A. I did, it was moon light.

Q. Look at the prisoners, and say, if you know them?

A. I think this is one?

Q. Can you take upon you to say, positively to say he was one of the party?

A. I am quite certain of it.

Q. Look at the prisoners again, and say if you know them?

A. I am certain of *Billy Kearney*, and *John M'Donough*.

Q. Were you acquainted with them before?

A. I was and saw them well that night.

Q. Where did you see them?

A. Near the door, and a gun in *John M'Donough's* hand, there was a man kept centry at the door, with a sword—my son wanted to get out, but the man at the door would not let him out—I wanted to get out also, but they said I should not breath.

Q. Did your husband come back?

A. He did and closed the door?

Q. Did you see the state he was in?

A. I did not then—he got part of his clothes which he put on and took the rest with them and went out, but he did not like to let me know the usage he got.

Q. Do you recollect any thing particular the centry said?

A. No;—but he was taking fire out of the stones all the time and threatening me not to speak.

Q. What was he taking the fire with?

A. With a sword.

Q. Did they say any thing?

A. My husband asked what reason they had for using him so. They said, that he had mentioned at a glass the Sunday night before, that for half an acre of land he would turn to the Church—they then wanted to kill a calf, but one of them said, “No, we have done enough to night.”

Q. By

Q. *By the Court.* Had your husband said any such thing?

A. No, but he was drinking with one of the prisoners in the dock, they were talking of tithes and charged him with laying out his oats before other men, and he said, he did not regard the *Threshers* more than any other men in the parish; and he said, he would pay his right—that happened on Sunday, and upon Tuesday, they attacked us.

Q. How long did your husband stay abroad?

A. I cannot tell, he returned a little before day, and in the morning he shewed me the way he was in.

Q. In what state was he?

A. In red flesh, torn across both his shoulders and he was worse where he got strokes in the hips and groin with the muzzle of a gun. He was not able to stoop with the way he was in, and on one side he was black.

Q. Did you after that take any money to any place?

A. I did, to *James Corcoran's*. My husband sent me two days after with four ten penny pieces, I enquired for the man of the house, and he not being at home and seeing only a little girl in the house, I left but one and did not own to the other.

Q. How came you to take the money to that house?

A. They gave it out to leave it there.

Q. Did you tell your husband what you did?

A. I did not for three or four days after, because I thought he would be angry at my not leaving all the money.

Q. Have you lived at that place since?

A. I did till this day week, when I left it from fear, and it was given up to the landlord.

Cross examined by MR. RAKER.

Q. At what hour of the night did this party come to the house?

A. I cannot say, I suppose it was between one and two, I cannot be particular.

Q. Did you hear your husband say it was between one and two?

A. I did.

Q. Was the breaking of the door the first you heard?

A. It was.

Q. Did your husband say that was the first appraisal he had of their coming?

A. He did.

Q. Did the prisoners enter the house?

A. They did not.

Q. You remained the whole time in the house?

A. I did.

Q. And *M^cDonough* and *Kearney* remained outside the door?

A. They did.

Q. There was considerable confusion in the family?

A. We were greatly alarmed.

Q. Then how can you recollect the faces of the people outside of the house?

A. There was no obstacle to my seeing them, they stood forenent me.

Q. When you were asked to identify the prisoners you said, you thought they were the persons?

A. I am quite certain.

Q. Do you know any others of the party?

A. I do know another.

Q. Were you not led to identify these men from knowing their voices more than their faces?

A. They drew up at a wall at a distance opposite the house, and only a small party came to the door.

Q. Did you ever say, you knew none of the party that were there that night, save that you believed *M^cDonough* was there, and that from his voice?

A. Perhaps I might know more of them if I could have gone out.

Q. But did you tell any person what I mentioned?

A. I durst not tell any person that I knew any of them.

Q. Did you tell any person, that you did not know any of the party?

A. Perhaps I might to save myself.

Q. Had you any such conversation?

A. There was many, and they asked me about it, but I did not give in to know them.

Q. Had

Q. Had you any conversation with *Henry Watts* about it?

A. I was with him since my husband went away.

Q. Did you tell him you knew none of the party, save *M'Donough*, and him only from his voice?

A. I might have said so, for reason to prevent myself from being destroyed.

Q. Did not your husband of his own free will and accord order you to go to *Corcoran's* with the money?

A. He did.

Q. Was it not first suggested by him, that the ten penny pieces should be left there?

A. The party mentioned it—he asked where would he leave the money, and they mentioned *Corcoran's* house.

Q. Do you mean to say, that the party first asked him to leave the money at that house?

A. They did, when he objected and said, he could not make up any money for them worth their accepting, they answered and desired him to leave it at *Corcoran's*.

Q. Do you swear, that the party first demanded money?

A. To be sure, for why would he send money, if they did not ask it.

Q. Your husband had no conversation with these people before they burst in the door?

A. Not to my knowledge.

Q. Could he have any conversation with them without your knowledge?

A. I think not, I do not know what conversation they had abroad.

Q. Did you hear any thing of a knock at the door?

A. I heard no knock, till they broke in.

Q. If he swore he had a conversation with them before they broke in, would you believe him?

A. I cannot answer for him.

Q. Were ye in the same bed.

A. We were.

Q. Could any conversation pass without your hearing it?

A. Not as long as he remained in the bed.

Q. Did you ever hear of any rewards having been offered

offered by the magistrates of this county, or other persons for the discovery of *Threshers*?

A. Not at that time.

Q. Did you since that time?

A. I did.

Q. Did you not hear of papers being put up on the market house, and the chapel door?

A. I did sometime after.

Q. How soon after?

A. I cannot say.

Q. Did not all the country hear of these rewards?

A. I suspect they did.

Q. Then of course your husband who was so materially interested in this matter must have also heard of these rewards being offered?

A. Perhaps he did, I cannot say.

Q. He and you had some conversation about them?

A. Not a word, I did not wish any such thing to come across me. I was quite happy, if they let me alone.

Q. Did you hear your husband was charged with cow stealing?

A. I did not.

Q. You paid something for him at one time?

A. I paid for four or five pound of meat, that was eat by *Bryan Donoughy's* boy.

Q. But your husband was taken up for it?

A. No, Sir.

Q. Who interposed and adjusted the matter?

A. Mrs. *McGowan*.

Q. Did your husband know that he was charged with stealing that meat.

A. He never stole it.

Q. But did he know he was charged with it?

A. He did not, he was in this town and I paid for it without asking him, for fear any harm should come across him.

Q. Was there any thing else laid to his charge?

A. There was.

Q. What?

A. A horse that was got at Mr. *Holme's* place, but he was not guilty of it.

Q. (*By a Juror*. Some time before your husband

was

was carded, he and the prisoners were drinking in a public house ?

A. Not these men, but *Nelson*.

Juror. I give that up : your husband was carded, as I believe, having heard of it ; but you say he came home a little before day ?

A. He did.

Q. Why did he go out ?

A. I did not ask him ; but I asked him where he was, and he did not tell me.

Juror. I have done with that. What time did you go before the Provost ?

A. I believe in three weeks.

Q. But he said his feet and legs were in such a state that he could not walk ?

Here this Juryman was informed that neither the Witness nor her husband had said any such thing : the account was, that he could not stoop to tie his shoes.

Juror. I misunderstood the Witness ; I did not sleep till six o'clock this morning.

JAMES O'NEIL examined by Mr. WEBBER.

Q. How old are you ?

A. Seventeen next Candlemas.

Q. Where did you live in *September* last ?

A. At *Windy Gap*.

Q. At whose house ?

A. At *Peter O'Neil's*, my father.

Q. Do you recollect any thing particular happening there on the night of the 2d *September* ?

A. I do, sir.

Q. What was it ?

A. This man, *William Kearney*, and others came to the door : they asked, was my father asleep.

Q. What was done with the door ?

A. They knocked it in.

Q. Did you get up ?

A. I did ; and looked through a window, and knew *William Kearney* and *Jack M'Donough*.

Q. Look about and try if you see them ?

A. These are the very men who were there.

Q. By virtue of your oath did you see them ?

A. I did ; and by the some token I looked through

the window: they took the handkerchiefs off their eyes and whispered together.

Q. Were there other persons there?

A. There were, but not so near the house.

Q. Did any of them come in?

A. *M'Donough* and *Kearney* came in, and took my father away.

Q. Did they ask for any thing?

A. They did: they asked for money for *John the Thresher*: my father said he had no money in the house, but would leave it where they desired.

Q. Were they content with that?

A. They were, and brought him out and carded him.

Q. Did you see that?

A. I did at a distance.

Q. Did they do any thing else?

A. They beat him with guns and sticks: he came back in a short time, put on his big coat and small clothes, went out, and did not return till day-light.

Q. Was any place appointed to send the money?

A. *James Corcoran's*.

Cross-examined by Mr. BAKER.

Q. Do you know Mr. *Abercrombie*?

A. I do.

Q. Had you any conversation with him as to this trial?

A. I had.

Q. Did he ask you what you could swear against the prisoners?

A. He did not.

Q. What conversation had you with him?

A. I was hired by him a month or five weeks ago.

Q. Then you entered his service after your father was carded?

A. I did, sir.

Q. Did he speak to you about the carding?

A. He asked me was such a thing done, and I told him there was.

Q. How far is the window, through which you say you saw the prisoners from the door of the house?

A. It

A. It was out from my bed; and when I got up I looked out.

Q. But how far is that window from the door?

A. A few feet.

Q. Had the persons who came in handkerchiefs upon their faces?

A. They had.

Q. Then was it possible for you to see the faces of the prisoners?

A. They put the handkerchiefs down over their faces when they came in; but while the others were making way for them by breaking the door, these two raised their scarfs, and I could see their faces.

Q. Could you have known them, unless you saw their faces at the window?

A. I would not.

Q. Where were the rest of the party?

A. They were standing a piece off from the house, till *M^r Donough* brought my father to them, and they got round him and carded him.

Q. Did they keep the handkerchiefs upon their faces at that time?

A. They did.

Q. Did they wear them when they went off with your father?

A. I do not know, for I did not see any near enough but *M^r Donough* and *Kearney*.

Q. Did they wear their handkerchiefs going away?

A. They did, sir.

Q. *By a Juror.* Describe the manner in which their handkerchiefs were on?

A. They had them over their hats and faces; and when they whispered, they threw them over their hats.

Q. How can you tell whether it was *M^r Donough* and *Kearney* came into the house?

A. I saw them at the window, and they came in when the door was broke.

Q. Can you swear it was the same two persons?

A. I can.

Q. Did you quit the house that night?

A. I did.

Q. At what time?

A. I went to look after my father, and could not see him.

Q. Did

Q. Did you hear the voices of any of them ?

A. I did not.

Q. Was it the first or second time of your father going out, that you went out ?

A. The second time.

Q. Did you go out the first time ?

A. No.

Q. Why not ?

A. Because there was a man with a sword, and he struck light out of the stories, and said, he would cut my head off.

Q. Were these two prisoners armed ?

A. They were.

Q. In what manner ?

A. *M^r Donough* was armed with a gun, and *Kearney* had a sword or stick ; I cannot say which.

Q. (*By the Court.* When first you saw these people, what sort of a night was it ?

A. It was moon-light ; and the moon was then getting under a cloud, and it was going to rain.

Q. (*By a Juror.* Was the window glazed ?

A. No ; but sticks in it.

Q. Could you easily see one or two men at the door ?

A. It was not at the door I saw these men ; they were just at the window.

Q. How high is this window ?

A. Not high.

Q. Was it as high as a man's head ?

A. It was not.

Q. Did they stand opposite the window ?

A. They did.

Q. Did you know their faces ?

A. I did.

Q. How long is it since you first knew them ?

A. Since I was five years old.

Q. What time have you to serve *Mr. Abercrombie* ?

A. Half a year.

Q. (*By the Counsel for the Crown.* Have you any house to live in now ?

A. I have not.

THOMAS SODEN, Esq. examined by the ATTORNEY
GENERAL.

Q. Are you a magistrate of this county ?

A. I am.

Q. How

Q. How long have you been a magistrate of the county of *Sligo*?

A. Upwards of thirty years.

Q. Do you know whether any disturbances have prevailed in this county for some time past?

A. There have, and for a considerable time.

Q. Do you know of any description of persons assembling under a particular denomination?

A. Not from my own knowledge, but from general report and sworn informations I am acquainted with the matter.

Q. Under what description have they assembled?

A. The lower order of the people have assembled under the denomination of "*Threshers*."

Q. Do they wear any particular badge?

A. They wear white shirts over their clothes, and handkerchiefs upon their heads.

Q. Do you know a man of the name of *Peter O'Neil*?

A. I do.

Q. Did he swear any information before you, and when?

A. He did, early in the month of *September*, either the 4th or 5th of the month, recently after the abuse he complained of.

Q. Did he complain of any particular injury?

A. He complained of having received blows from a gun, from sticks and other weapons; and he shewed me his back, which had been carded, and was then excoriated in a very severe degree. I heard of the occurrence, and heard that he was in *Sligo*: I came upon him unexpectedly: he was very reluctant, and it was with great difficulty I could get from him the circumstances.

Q. Had any terror prevailed in the country at that time?

A. A considerable degree of terror prevailed, and does to this present moment.

Q. Had any rewards been offered for persons giving formation at that time?

A. I cannot exactly say, though I was at the meeting.

Q. Did you offer *O'Neil* any reward at the time you took his information?

A. I

A. I did not offer the slightest reward, or hope of reward: I should have thought it improper: he was an unwilling witness: after he shewed his back, he was unwilling to give any evidence: I wrote a summons, which I signed with my own name, and those of two other magistrates, by whom I was authorized; and I served him with the summons to appear at a public meeting of the county; and then, rather than come forward in a manner so public, and so long before the assizes, he preferred giving the information privately before me; and he took me into a separate room, and gave me the information; and he said the terror he was in, if it should be known that he gave information, was the cause of his reluctance.

Q. (*By the Court.* What appearance had his back?

A. It was all excoriated: all, except the extremity: it was torn very close: the left side of the shoulder was all one entire mass of red, and torn.)

Q. Where was O'Neil kept afterwards?

A. He was at his liberty for some time: I suffered him to remain for a month, and then sent for him again; examined him to see if his information was credible and consistent: he gave me the same account, and then I issued a warrant against others named in the information, having granted a warrant against these prisoners before. He then expressed apprehension for his safety, and he sold his property, and I sent him to the General of the district, where he has remained ever since.

Cross examined by MR. BAKER.

Q. Why did you not act upon the information you received?

A. I acted upon it in part, but I did not know the man; his information went against a great many, and I thought it might be a great severity to apprehend them all, until I found him perfect in his recollection as to them all. I acted from motives of humanity.

Q. Then he did not give such an account at first as you thought warranted you to act upon it.

A. He gave very clear testimony, but the charge was so enormous and against so many, that I wished to consider it fully, not knowing the man. I afterwards issued warrants against all he accused.

Q. Did

Q. Did you hear of O'Neil before he came to you to give information.

A. Only from hearing of the attack upon him; but he did not come to me, I went to him.

JOHN IRWIN, *Esq.* examined by the SOLICITOR
GENERAL.

Q. Do you recollect the meeting of the magistrates of the county for the purpose of advertising rewards to informers?

A. I do.

Q. When was it?

A. There were meetings upon two successive days, on the 25th and 26th *September*.

Q. Had there been any advertisements previous to that?

A. Not to my knowledge.

Q. You are a magistrate of this county.

A. Yes.

Q. Are you able to say what is the state of this county, as to tumultuous risings—were they frequent in *September*?

A. They were.

Q. Have you seen any parties assembled?

A. I have.

Q. With badges upon them?

A. Yes.

Q. Describe in what dress they were?

A. They had white shirts, and bands upon their hats.

Q. Are they known by any particular denomination?

A. They are commonly known by the name of "*Threshers*."

Cross examined.

Q. Were these rewards talked of at all before the publication.

A. I do not think they were, for the idea originated at the meeting.

Case closed on the part of the Crown.

G

DEFENCE

DEFENCE.

Owen Sweeney, examined.

Q. Where do you live?

A. At *Carrowkeal*.

Q. How far is that from the house of *O'Neil*?

A. In the same town.

Q. Did the "*Threshers*," pay you a visit on the night of the 2nd of *September*?

A. I cannot say, being no scholar.

Q. Do you recollect the night *O'Neil* was carded?

A. I do.

Q. Was it a dark or a bright night?

A. It was a bright night.

Q. Had you any opportunity of seeing a party calling themselves "*Threshers*" that night?

A. I had, I saw a number of people at my own house.

Q. Did you view them closely?

A. Indeed I did.

Q. How long have you known *M'Donough* and *Kearney*.

A. Twenty years.

Q. Was *M'Donough* or *Kearney* among that party?

A. Indeed I did not see them.

Q. Upon your oath, having known them for twenty years, could they be among that party without your knowledge?

A. I viewed them closely and did not see one of them or I would have known them by their voices.

Q. Did you remark any person particularly among them?

A. I did not.

Q. Did you see any person carry a gun that night?

A. I did not.

Q. Can you say, whether the prisoners were there?

A. To the best of my opinion, they were not.

Cross examined by the ATTORNEY GENERAL.

Q. You live very near *Peter O'Neil*?

A. I do.

Q. Was

Q. Was there a party at your house?

A. They did not do any harm at my house.

Q. They were a civil set of people that came to your house?

A. They were.

Q. Had they white shirts upon them?

A. They had.

Q. Had they any thing upon their faces?

A. They had not.

Q. What did they do?

A. They did not do any harm, only called at my house and swore me to keep down the Clergy and tithes.

Q. Had they any handkerchiefs upon their hats?

A. They had.

Q. Was your door open when they came?

A. No.

Q. Did they break it in.

A. No, I opened it myself for them.

Q. How many of them were they?

A. A good many.

Q. Were there thirty.

A. Very close upon thirty.

Q. Upon your oath do you believe they committed any outrage that night?

A. I did not know of any.

Q. (*By the Court.*) Did you hear of any?

A. Only what *O'Neil* told me next morning. He said, they did not do him a hap'worth of harm.

Q. Was it not known, that they scored his back?

A. He told me, they did him no harm.

Q. Did they get any money at your house?

A. No.

Q. Did they ask for any?

A. They asked for some; I told them, I had not any and they went away.

Q. What time was it?

A. After bed time.

Q. Was it near day light.

A. No, it was after ten.

Q. How far do you live from *O'Neil*.

A. Not past three acres.

Q. Was it before they came to you or after, that they went to *O'Neil*?

- A. I am told after.
- Q. Who told you ?
- A. Himself.
- Q. How did *O'Neil* know that they visited you ?
- A. Next morning he asked me, whether they had been with me.
- Q. Did they all go into your house ?
- A. No; but a good number came in.
- Q. And a good number staid out ?
- A. Yes.
- Q. You were a good deal frightened ?
- A. I was to be sure.
- Q. You did not know what kind of people they were ?
- A. I did not.
- Q. Were you glad to get rid of them ?
- A. To be sure.
- Q. Did you go out with them ?
- A. I did, a little way.
- Q. Did you talk with them ?
- A. I did.
- Q. Did you shake hands with them ?
- A. I did not.
- Q. How long were you with them ?
- A. About a quarter of an hour.
- Q. How many among them did you know ?
- A. Not one of them.
- Q. You opened your door for thirty men : you talked with them for a quarter of an hour : the night was bright : they had no covering upon their faces ; and you did not know one of them ?
- A. Not one.
- Q. If there was any man among them whom you knew before, you would have known him then ?
- A. I would.
- Q. Where does *M'Donough* live ?
- A. In *Sligo*.
- Q. How far from *Carrowkeel* ?
- A. Two mile.
- Q. How far does *Kearney* live from that ?
- A. Two mile.
- Q. What business do you follow ?
- A. Mason work.
- Q. Do you know the people about *Sligo* ?

- A. I do.
- Q. Would you know any from that part, if at your place that night?
- A. I think I would make a guess at them.
- Q. How soon after that night did you see *M^cDonough*?
- A. Not till I saw him in gaol.
- Q. How soon did you see *Kearney*?
- A. I think I saw him at mass on Lady Day.
- Q. Had you any talk about "*Threshers*?"
- A. No.
- Q. Was he an old acquaintance?
- A. He was.
- Q. And you had no talk with him?
- A. No.
- Q. What brought you to the gaol?
- A. I did not go there; I only saw him from me in the street.
- Q. Did you speak to him?
- A. Yes, through the grate.
- Q. Did any person desire you to speak to him?
- A. No.
- Q. Did any person tell him what you could say?
- A. No.
- Q. Did you mention to any person what you could say?
- A. No.
- Q. Who summoned you?
- A. *Tom Frost* gave me one.
- Q. Who gave you the other?
- A. *Jack M^cDonough's* brother-in-law.
- Q. What is his name?
- A. *John Hart*.
- Q. Were the people who were at your house, dirty or clean?
- A. They were not dirty.
- Q. What sort of horses were they mounted upon?
- A. No horses at all.
- Q. What sort of weather was it?
- A. Good dry weather.
- Q. If these people came from a distance, they must have set out before it was dark?
- A. I cannot say.
- Q. They were not upon horseback, nor dirty?
- A. No.

Q. If they were of your neighbourhood, you must have known them?

A. I think so.

Q. Where was *M' Donough* that night?

A. How do I know.

Q. Nor *Kearney*?

A. No.

Q. Nor you never asked them?

A. No.

Q. What family have you?

A. A son and daughter.

Q. How old are they?

A. The boy is twenty, and the girl sixteen; but the boy was not at home that time; he has been twelve years in Dublin.

Q. But the girl was in the house?

A. She was.

Q. Is she here?

A. No.

Q. Do you believe *O'Neil's* house was attacked that night or not?

A. I cannot say, the man told me they were with him.

Q. Do you believe him?

A. I do not believe the half of what he said.

Q. Can you say, why they did not put the handkerchiefs over their faces when they came to you?

A. I saw none of their faces.

Q. They proposed an oath to be taken by you?

A. They did.

Q. What was it?

A. Not to take any tithe from *Mr. Crombie*, or any other, but from the minister.

Q. Was there any thing else in the oath?

A. No.

Q. Was there any thing about the priest?

A. They wanted to keep down the church, and not to pay more than nineteen pence halfpenny for baptism.

Q. Was that part of the oath?

A. It was.

Q. Was there any thing about "*Threshers*?"

A. No.

Q. Or keeping secret?

A. No.

A. No.

Q. (*By a Juror.* Are you certain there was no other party out that night but one?

A. I cannot say.

Q. Did you hear of any other?

A. No.

JOHN DONOUGH *examined.*

Q. Where do you live?

A. Near *Clowerhill*.

Q. Is that near *O'Neil's*?

A. It is in the same quarter of land.

Q. Did you see any party of men upon the night of the 2d of *September*?

A. I did.

Q. Where did you see them?

A. They rapped me out from my bed.

Q. At what hour of the night was it?

A. I cannot exactly say: it was between two and three in the morning.

Q. How were they dressed?

A. They wore white shirts and white hats: they had handkerchiefs about their hats.

Q. Did you see their faces?

A. I examined them at the door.

Q. Have you known the prisoner *M'Donough* any length of time?

A. Since I was able to walk.

Q. Do you know the other prisoner *Kearney*?

A. I do these ten or twelve years.

Q. It was a bright night?

A. It was; but it rained very hard at that time.

Q. Can you say, whether *M'Donough* or *Kearney* were of that party?

A. *M'Donough* was not in the party: I saw no man there so tall.

Q. Do you know him extremely well?

A. I do.

Q. And he has a remarkable face?

A. He has.

Q. And he was not of the party?

A. Not to my opinion: if he was in it, I would know him.

Cross-examined by the SOLICITOR GENERAL.

Q. How many persons were there?

A. I cannot say.

Q. But you can guess?

A. About a score, or thereaway

Q. You saw them all?

A. A good many about the door.

Q. Did you know any one of them?

A. Not one.

Q. How long did you live there?

A. I was bred and born there.

Q. If they came from that neighbourhood, you would have known them?

A. I would.

Q. Then they were all strangers?

A. I do not know but they were.

Q. You are quite sure *M^cDonough* was not there; but you are not quite sure as to *Kearney*? Why not?

A. Because *M^cDonough* is so remarkable.

Q. It occurred to you, when you were looking at them, that he was not there?

A. I did not see him.

Q. When did it occur to you, that he was not there?

A. I cannot say when.

Q. Was it a month?

A. It was less.

Q. Was it a week?

A. I cannot say.

Q. Is not *M^cDonough* a remarkable man, with a mark upon his face?

A. He is.

Q. And easy to be known by any person who was acquainted with him for sixteen or seventeen years?

A. Yes.

Q. You looked at all their faces?

A. No, not all: they would not let me.

Q. But such as you did look at, you did not know?

A. I did not.

Q. Then *Kearney* might be among them, when you did not examine them all?

A. To my opinion, he was not.

Q. What

Q. What is your reason for thinking he was not there?

A. It is my opinion.

Q. But what is the ground of that opinion: there were two persons at least, whose faces you did not examine?

A. I do not know whether or not.

Q. Was there one man there, whose face you did not study?

A. I cannot answer that question.

Q. If you have a difficulty about answering that question, why did you say, there were some whose faces you did not see?

A. There were some I did not see: I am sure he was not there: if he was there, I would have seen him.

Q. Then you did not see him?

A. No.

Q. And you are sure he was not there?

A. To the best of my opinion he was not.

Q. What did they do to you?

A. They rapped me out of bed; called me by my name, both christian and surname.

Q. Then they knew you?

A. No, they did not; they were strangers.

Q. How did they know your name?

A. How can I tell.

Q. You got up?

A. I did: I answered to my name.

Q. What did they say?

A. They demanded money.

Q. Did you give them any?

A. Two tenpenny pieces.

Q. Did they tell you for what they wanted it?

A. They did not.

Q. Did they tell you it was for Captain *Thresher*?

A. They said, *John the Thresher* was there.

Q. Did they ask you to swear?

A. They did.

Q. What?

A. Not to buy any tithe from *Abercrombie* or *Kirwan*; and I said, I would do every thing in civility, and would do as my neighbours did.

Q. I do not ask you, whether you were actually sworn; but did the oath which they offered you, contain

tain any thing about *John the Thresher*, and obeying his laws?

A. They talked of that.

Q. And about not telling of him?

A. They started no such case as that.

Q. Was this the same party that was at *O'Neils*.

A. I cannot say—to the best of my opinion it was.

Q. What is your reason for it?

A. You ask me and I answer what is just.

Q. Did you ever see a *Thresher* since?

A. No.

Q. Did you see any man of that party since?

A. No.

Q. Would you know one of them, if you did?

A. I think not.

Q. *By a Juror.* Had they any arms?

A. One gun.

Q. Did you see any other arms?

A. There was a sword.

Q. Did you see any other?

A. Only one sword and one gun.

Cross examination resumed.

Q. Did you see the man who carried the gun?

A. I did.

Q. Are you sure it was not *M'Donough*?

A. I am positive he was not—he was not near his size.

WILLIAM COLE, examined.

Q. Where do you live?

A. At *Winay Gap*.

Q. Is that near the house of *O'Neil*?

A. Within sixty perch of it.

Q. Do you recollect the night upon which you heard *O'Neil* was carded?

A. I do, it was the night of the 2nd or 3d of *September*.

Q. Did you see any party of men assembled that night?

A. I did.

Q. Did they go to your house?

A. They

A. They did.

Q. The night was bright?

A. It was.

Q. Did you open your door?

A. Not till they threatened to break it open.

Q. How were they dressed?

A. In white shirts, with white bands round their hats.

Q. Did you look sharply at those people?

A. They brought me out and desired me to look at them?

Q. Did you do so?

A. I did.

Q. How many were there?

A. Fifteen or sixteen as I could perceive.

Q. Did you look at them?

A. I did, for such a time as they allowed me—a few minutes.

Q. You did examine them?

A. I did.

Q. How long have you known *M. Donough*?

A. Thirty years.

Q. And how long have you known *Kearney*?

A. Nine years.

Q. From every observation you made upon that party that night, could you see whether *M. Donough* or *Kearney* were there?

A. On my oath, to the best of my skill and knowledge, I did not see them. I think, if they were in the party, I would have known them.

Cross examined by SERJEANT MOORE.

Q. At what hour was this party at your house?

A. After cock crow.

Q. Was it day light.

A. No, it was between one and two o'clock.

Q. Were you in bed?

A. I was asleep, and they rapped me up—they told me if I would not open the door smartly, they would break it.

Q. Did they tell you, what they wanted?

A. They said, they wanted a little money to refresh Captain *John* and his men.

Q. What did you understand by that?

A. He told me, he was Captain *John, the Thresher.*

Q. What are *Threshers*?

A. I do not know.

Q. You have not heard of them?

A. No.

Q. Have you not heard of people rising in this manner?

A. They were with me on the Friday night after.

Q. Did you hear of them since?

A. Not in our neighbourhood.

Q. Nor you did not understand what he meant by the word *Threshers*?

A. Upon my oath, I did not.

Q. The Captain desired you to look at their faces?

A. He desired me to look at his men and he led me out in my shirt.

Q. For what purpose did he take you out?

A. I cannot tell that.

Q. You say, you viewed them to the best of your skill and knowledge, what skill and knowledge did you exert?

A. They were drawn up two deep in rank and file on the road opposite the door.

Q. Then he brought you along the line?

A. No, only to look at the men, and he desired me to go in again.

Q. Then you did not go along the line?

A. No, I was glad to get back.

Q. How far did they extend?

A. About thirty six yards.

Q. Did you go to one end of the line?

A. No only to the door, and I got in again, when he desired me.

Q. You did not go thirty six yards from the door?

A. I did not go two yards from the door.

Q. Did you go over to them at all?

A. I did.

Q. Can you take upon you to swear you knew the face of any one man, who was there?

A. I cannot.

Q. Had you an opportunity of seeing them?

A. I had not, because I was but a few minutes out of the door, when he ordered me in again.

Q. And

Q. And if any man charged you with knowing any of them, he would charge you with a falsehood?

A. He would, I could not see them.

TIMOTHY HART, *examined.*

Q. Where do you live?

A. In *Ballindarrick*.

Q. Where were you on the night when *O'Neil* was carded?

A. In *Jack M'Donough's* house, and slept with him.

Q. Where?

A. In this town.

Q. At what time did you go to bed?

A. At night fall.

Q. Had you occasion to waken during the night?

A. I had, in consequence of his child being sick, and his wife was sitting up on account of his being ill?

Q. Was that the reason you slept with *M'Donough*?

A. It was.

Q. Did you sleep much?

A. We did not, on account of the child being sick and on account of persons passing to the fair of *Ballymoat*, and one of the children is since dead of the same disorder.

Q. During the course of the night did you miss *M'Donough* out of the house?

A. I did not, I was kept awake by the children.

Q. Were you kept awake the whole, or part of the night?

A. The whole of the night, for I was not well myself.

Q. Are you positive, that *M'Donough* was not absent from his house, during the whole of the night of the 2nd of *September*?

A. I am sure of it.

Cross examined by MR. ATTORNEY GENERAL.

Q. How far is your place from the town of *Sligo*?

A. About eleven miles.

Q. Do you know *Peter O'Neil*?

A. I do

A. I do not,—I never saw him till this day.

Q. How far is your place from his?

A. I cannot say.

Q. Were you ever at Windy-Gap?

A. I was not.

Q. Are you positive?

A. According to my knowledge I was not.

Q. What is your business or trade?

A. I have no trade.

Q. Nor business?

A. I am a farmer?

Q. What land do you hold?

A. My father holds six acres of land and a mill.

Q. Do you live with him, or have you any farm of your own?

A. I have no farm of my own.

Q. Have you any property of your own?

A. No.

Q. Are you married?

A. No, Sir.

Q. Have you any family?

A. I have some brothers and sisters, my father and I make no difference.

Q. What mode have you of maintaining yourself?

A. My father maintains me.

Q. Of what age are you?

A. Twenty three.

Q. When did you first hear any thing of these *Threshers*?

A. I cannot say.

Q. When did you see any of them?

A. I never saw them but one night, and then they were at a distance from me.

Q. Do you know of their tendering oaths to any person?

A. No.

Q. Did you ever hear of any such thing?

A. I never did.

Q. Did you ever know of their tendering oaths to any person?

A. I knew nothing of them.

Q. Did you ever hear of their tendering oaths?

A. I know nothing at all about it?

Q. If you understand the question answer it?

A. Upon

A. Upon my soul, I do not understand it.

Q. Did you ever hear of their offering oaths to any person?

A. I did not.

Q. Or of their making any person swear?

A. I did not.

Q. Did you never hear any person speak of their swearing?

A. No.

Q. What brought you to *Sligo* on the 2nd of *September*?

A. I was there a week before?

Q. What connection is there between you and the prisoner *M'Donough*?

A. My sister is married to *M'Donough*.

Q. Was *John M'Donough* at home the entire of the week?

A. He was.

Q. Can you swear he was at home every night in the week?

A. I can.

Q. Were you kept the entire week awake by the children?

A. By unlocking the door, I would know of his going out.

Q. Did not you swear he could not go out any part of the week?

A. He could not?

Q. Did you sleep any other part of the week there?

A. I did.

Q. Was the child ill the entire week?

A. It was;—they were all sick together.

Q. And they kept you awake the entire week every night, as much as the night of the 2nd of *September*?

A. There were people sitting up.

Q. Upon your oath, did you sleep at all that night?

A. I did sleep—but by unlocking the door I would know who went out.

Q. Then whether you were asleep or awake, you would know if any person went out?

A. I would.

Q. Did you sleep at all that week?

A. I Did

A. I did.

Q. Did you at any time sleep long enough for any person to open the door?

A. He could not have left the house.

Q. Did you, during the entire week, sleep so as that any person could unlock the door?

A. He could not go out.

Q. (*By Jurors.*) Did you sleep any night that week?

A. I was awake the entire of that night.

Q. Did you sleep any the first night?

A. I did.

Q. Did you sleep any the second night?

A. I did not, on account of the children.

Q. Then you slept every night of the week, but the 2d of September?

A. I did.

Q. And why not that night?

A. On account of the children being unwell.)

Q. Is there a lock upon the door?

A. There is.

Q. You said some time ago, that the people going to the fair kept you awake?

A. So they did.

Q. They must have made a great noise?

A. They did.

Q. They were riotous people?

A. No, but they were noisy; they were not very noisy.

Q. But they were sufficiently noisy to prevent people from sleeping?

A. Yes.

Q. And still the noise they made was not sufficient to prevent you from hearing the door unlocking?

A. No, on account of the children; and the wife sitting up, kept me awake.

Q. Did she sit up other nights?

A. She did.

A. And yet you slept those other nights?

A. I did.

Q. When did it first occur to you to recollect, that you remained awake upon the night of the 2d of September?

A. Because the fair of *Ballymeat* was the next day.

Q. Was

Q. Was there any thing particular respecting that fair to make you remember being awake that night?

A. I can't say.

Q. Did any of the persons passing to the fair come into the house?

A. No.

Q. Who were in the house beside you?

A. *M^cDonough*, his wife and children.

Q. And his wife sat up?

A. Yes.

Q. And you slept with him?

A. I did.

Q. Did you sleep with him on other nights?

A. No.

Q. Then as there were no other persons in the house, why did you leave the bed you previously slept in, and go to *M^cDonough's* bed upon the night of the 2d of *September*?

A. Because I thought his bed was better, and the children were not lying quiet.

Q. You said, his wife sat up every night. Do you now say, she sat up every night, or not?

The witness seemed much agitated, and would not answer.

Q. Did his wife sit up every night, or not?

A. She did.

Q. And you slept by yourself every night, save upon the 2d of *September*?

A. I did.

Q. And upon that night you went to *M^cDonough's* bed, because the wife was sitting up. How do you account for that?

A. I do not understand the question.

Q. I shall repeat it, and beg of you to consider the situation in which you are. You say, that on the 2d of *September* you slept with *M^cDonough*?

A. Yes.

Q. And the reason was, because his wife was sitting up?

A. Yes.

Q. And upon the other nights you slept in another bed?

A. Yes.

Q. Why did you not stay in the same bed?

A. Because I got worse upon that night, and *M^r Donough* invited me to his bed.

Q. There was no person in the house, but *M^r Donough*, yourself, his wife and children?

A. There was not, and I told you so before: I have no more to say.

Q. Was there any person attending the children, or helping to take care of them?

A. I saw no person up with them that night.

Q. But did you see any person there, except those you mention?

A. There was not.

Q. Does your brother-in-law ever go to the fair of *Ballymoat*?

A. I do not know as for that.

Q. How soon did you leave the house after the 2d of *September*?

A. I did not leave it until the *Saturday* after.

Q. What kept you so long from your father's house?

A. I was unwell, and advised to stay at *Sligo*.

Q. Did any doctor attend you?

A. No.

Q. Did any doctor attend the children?

A. I cannot say.

Q. Did any apothecary attend them?

A. I cannot say.

Q. When did the child die; was it while you were there?

A. No.

Q. What was the disorder with which it was attacked?

A. The chin-cough.

Q. You said all the children were ill. Did they get any medicine?

A. I cannot say.

Q. Did you see them take any?

A. I did not.

Q. Who buried the child?

A. I was not there.

Q. Did any person come into the house upon the night of the 2d of *September*, to ask about the children?

A. Not after we lay down.

Q. Did any one before that?

A. There

A. There did, several.

Q. Who were they?

A. I cannot tell, being a stranger.

Q. You do not know one of them?

A. I know them by eye-sight, but not their names.

Q. How many brothers have you?

A. Two.

Q. Where were they at this time?

A. At home, at my father's.

Q. Are they there now?

A. They are.

Q. Where did you come from this day?

A. From home.

Q. Where did you stay last night?

A. In *M^r Donough's* house.

Q. Whom did you see there this day?

A. The neighbouring people coming in and out.

Q. Do you know the name of any person you saw there this day?

A. I do.

Q. Do you see any of them here?

A. I do not.

Q. Have you been in court since this trial began?

A. I have.

Q. Had you any conversation with any person, as to the evidence you were to give?

A. I had not, except with my attorney.

Q. Who is he?

A. *Mr. Darcy*.

Q. Is he your attorney?

A. No, but the attorney.

Q. Have you employed him in any case, except this?

A. He is the attorney in this business.

Q. Is not *M^r Donough's* house out of the way from *Sligo* to *Ballymoat*?

The witness would not answer this question.

Q. When did you first hear of the carding of *O'Neil*, and that *M^r Donough* was charged with it?

A. I heard it the next day.

Q. Did you hear then, that *M^r Donough* was charged with it?

A. No, but that it happened.

Q. When did you hear that *M^r Donough* was charged with it?

A. I cannot say, there were flying reports.

Q. But when you heard of the attack upon *O'Neil*, you remembered that it was upon the night, during which you were kept entirely awake?

A. I remarked it, because of the fair, the following day.

Q. Though you had not heard of the charge against *M'Donough*?

A. No.

Q. When did you see your sister?

A. This day.

Q. Had you any talk with her about the evidence you were to give?

A. I had.

Q. Since your sister's marriage, did you ever sleep in the same bed with *M'Donough* at his house, except upon the 2d of *September* last?

A. I did.

Q. When?

A. I cannot call to mind.

Q. Was his wife in the house at that time?

A. It was three or four years ago.

Q. How long has he been married?

A. Fifteen or sixteen years.

Q. Did you ever sleep any night with him, besides that of the 2d of *September*?

A. I did.

Q. Was your sister in the house at the time?

A. Yes.

Q. Where did the children sleep?

A. In the same bed, but I lay against the wall.

Q. Do you mean to say, that you and your sister and her husband slept in the same bed?

A. Yes.

Q. (*By a Juror.* Did you ever sleep with *M'Donough* before the 2d of *September* last?)

A. I did.

Q. Where did your sister sleep upon that night?

A. In the same bed.)

Q. Was there any other bed in the house at the time?

A. There was.

Q. Why did you not sleep in the same bed with him from the beginning of the week?

A. Because

- A. Because I got unwell the same night.
- Q. Where did you sleep upon the night of the 3d of September?
- A. At *M^cDonough's*.
- Q. In the same bed with him?
- A. I did not.
- Q. Did you often sleep with him?
- A. No.
- Q. Did you sleep with him any night after the 2d of September?
- A. No.
- Q. Nor any night before?
- A. I did.
- Q. You are unwell?
- A. Yes.
- Q. Have you been growing better or worse since September?
- A. I am getting worse.
- Q. Were you better or worse upon the 2d of September, than you had been before?
- A. I was worse.
- Q. And the cure you adopted for your sickness, was to remove from your own bed to *M^cDonough's*?
- A. Yes.
- Q. What physician advised you to go to *Sligo* for your health?
- A. Dr. *Shields* of *Baltys Shannon*.
- Q. What persons reside now in your sister's house?
- A. My sister, and her children.
- Q. Is there any person to assist them?
- A. No.

DENNIS LYNCH,

Examined by Mr. BAKER.

- Q. Where do you live?
- A. At *Windy Gap*.
- Q. Is that near *O'Neil's*?
- A. Yes.
- Q. Did you see the party, called *Threshers*, upon the 2d of September last?
- A. I did.
- Q. How many of them were there?

A. About

A. About thirty.

Q. At what time of the night did you see the party ?

A. I cannot ascertain the hour ; I was after sleep ; it was pretty late.

Q. Did they come to your house ?

A. They did.

Q. Did you go out ?

A. I did not.

Q. Was the night bright ?

A. It was, but rather cloudy.

Q. Did you make any particular observation upon them ?

A. I made this observation ; they were drawn up at a distance of sixteen or twenty yards from the house.

Q. Was the door open or shut at that time ?

A. It was open ; I was obliged to open it.

Q. Were you so circumstanced, as to see them ?

A. Two of them, singly by themselves, came to the door : they asked me not to take my tithe from *Abercrombie*, or *Kinselagh*.

Q. Did they say any thing else ?

A. My wife took a trembling ; they bid her not be afraid, and they demanded money.

Q. Did you view the party particularly ?

A. I did, at the distance they were from me ; but the two, who were at the door, appeared to be the best and ablest men of the whole party.

Q. Were they armed ?

A. One was armed with a gun.

Q. Upon your oath, was *M'Donough* or *Kearney* among that party on that night ?

A. Upon my oath I think not.

Q. Have you known them a long time ?

A. I have.

Q. How long ?

A. I have known *M'Donough* twenty-seven years.

Q. His person is remarkable ?

A. It is.

Q. He is a very tall man ?

A. He is.

Q. And you say, that neither *M'Donough*, nor *Kearney* were of that party ?

A. I think I can say so : no man of the party was so gross as either of the prisoners.

Cross-examined by Serjeant MOORE.

Q. What time of the night was it, when the party came to you ?

A. I cannot ascertain ; but the night was pretty far advanced ; I had slept before they came.

Q. How long did they remain with you ?

A. I cannot say.

Q. How long do you compute ?

A. About a quarter of an hour.

Q. How far before the others were the two men advanced ?

A. They were grosser than any other.

Q. But how far were they from the others, who were upon the road ?

A. From fourteen to twenty yards.

Q. How were they ranged ?

A. They were drawn up in a line.

Q. How many deep ?

A. Not more than two ; nor am I certain there were two itself.

Q. How were they dressed ?

A. In white shirts.

Q. Had they any thing on their hats ?

A. They had.

Q. What ?

A. White bands.

Q. What had they in their hands ?

A. Do you mean the party on the road ; I could not see.

Q. Can you say, whether they had any thing or not ?

A. If they had, they disguised them : I did not see them.

Q. Did you speak to any of them upon the road ?

A. I did not.

Q. Did you cross the road ?

A. I did not leave the door.

Q. Did you go outside of the door ?

A. I did not.

Q. Did you light a candle ?

A. I did not.

Q. *M'Donough* and *Kearney* are large heavy men ?

A. They

A. They are.

Q. Did you know *M' Donough* well?

A. I did.

Q. How soon after that transaction, did you see him?

A. I do not know.

Q. How soon do you think?

A. Not for two or three days.

Q. When did you see him before that night?

A. The day before.

Q. Did you see him on that very evening?

A. I did.

Q. What appearance had he then?

A. Nothing more than he always had.

Q. Had he any thing in his hand?

A. He had a gun: he came up to me at the garden where I was.

Q. That was the evening of the 2d of *September*?

A. It was.

Q. You asked him where he had been?

A. I did: he said, he had been at *Carrowgiweeney*; and I wanted him to stay, but he refused, and went out of my sight at a considerable distance on the road to *Sligo*.

Q. What time of the evening was that?

A. It was a little before night.

Q. Do you know *O'Neil*?

A. I do.

Q. Did you hear he was attacked that night?

A. They said so.

Q. Was he not carded?

A. He did not appear like a man that was carded; he might have been carded.

Q. Did you not hear that a number of persons have been accused for this business?

A. I did.

Q. And persons from *Carrowgiweeney*?

A. Yes.

TIMOTHY HART called again.

Examined by Mr. ATTORNEY GENERAL.

Q. Did you dine at *M' Donough's* house on the 2d of *September*?

A. I

- A. I did.
- Q. Did any other person dine there ?
- A. Yes.
- Q. Who ?
- A. Himself and his wife.
- Q. At what time did you dine ?
- A. I can't tell.
- Q. Was it light or dark, when you dined ?
- A. It was day-light.
- Q. Was it near dusk, or earlier ?
- A. It was near dusk.
- Q. Did you sit any time after dinner, or go to bed immediately ?
- A. We went to bed at night-fall.
- Q. Did *M' Donough* go to bed at night-fall ?
- A. He did.
- Q. Did he go out after dinner, and before he went to bed ?
- A. He did not.
- Q. Had he any fire-arms ?
- A. I did not see any.
- Q. Had he a gun in his hand that day ?
- A. I did not see it.
- Q. Was he in the house with you all that day ?
- A. I cannot say.
- Q. But after dinner, till bed time, he did not go out ?
- A. He did not.
- Q. How long before dinner was he within ?
- A. I can't say, not being a judge of that.

MICHAEL MULLINS,

Examined by Mr. BAKER.

- Q. Do you know the prisoner *M' Donough* ?
- A. I do these sixteen years.
- Q. Do you recollect the night of the 2d of September ?
- A. I do.
- Q. Did you see him that day ?
- A. I did.
- Q. Where ?
- A. I was going to *Ballymoat* fair, and saw him near *Windy-Gap*.

Q. At what time ?

A. A little before night, going to *Sligo*.

Cross-examined by Mr. SOLICITOR GENERAL.

Q. Had he a gun in his hand ?

A. He had.

Q. Was it near dusk ?

A. It was not very near dusk : it was dusk when I was four miles from town.

Q. How near town did you meet him ?

A. About a mile from this town.

Q. Could he have been in this town before it was dusk ?

A. He could. For ten years past I have been afraid of *O'Neil*, and could not buy a beast for fear he would steal it from me.

Q. How much money do you owe him ?

A. I do not owe him two-pence.

Q. How much does he claim from you ?

A. Half a guinea ; but I do not owe him a fraction, and never will pay him, because he stole seven times as much of my grass.

HENRY WATTS,

Examined by Mr. BAKER.

Q. Do you reside near this town ?

A. I live in the very place where this man and woman reside.

Q. You are their landlord ?

A. I am son to their landlord.

Q. Had you any conversation with *O'Neil's* wife subsequent to the 2nd of *September* last ?

A. I had.

Q. What was it ?

A. I asked her, did she think these men would hang. "I can't say," says she—"Molly, said I, "They say that you swear against them, that they were in it"—No, said she, "I only swore that I knew their voices."

Q. Had you any further conversation with either *O'Neil* or his wife ?

A. I

A. I never had, except at that time, and she told me, she would swear against *Jack M'Donough* and *Billy Kearney*.

Q. Did she say any thing else?

A. No.

Q. Did she talk of any inducement she had to do so?

A. No, Sir.

Q. Did she talk of rewards?

A. No—but *O'Neil*, at the time he went to sell his lease to my father, said, that there was a reward for any person, who would tell of them people.

Q. What time was that?

A. At the time it was said he was carded.

Q. Did he seem to intimate directly or indirectly that he expected any part of this reward?

Mr. Attorney General. The question is not strictly regular, but I do not object to its being answered.

A. I could not know by him, that he did.—I asked him down to the meadow, but he said, he must be home: I told him, I would give him half a pint of spirits to assist in the meadow, but he would not stir.

Cross examined by MR. ATTORNEY GENERAL.

Q. Have you not heard, that it was upon the 25th of *September* the magistrates offered rewards for discovery?

A. I cannot say; it was after this man was carded.

Q. How long have you been a yeoman?

A. Four or five days.

Q. Do you believe that any rewards were proposed, until the 25th of *September*?

A. I can't tell, except that he told me.

Q. Was that after the 25th of *September*?

A. I can't say.

Q. He has been obliged to leave that part of the country?

A. He has.

Q. Your father has not been under that necessity?

A. He has not.

Q. Was not your father in treaty with *O'Neil* for his lease?

A. Not that I know of.

Q. But he has bought it?

A. He has.

Q. For how much?

A. For ten guineas, or 10*l.*

Q. Had he not formerly been offered 100*l.* for it by your father?

A. Not to my knowledge.

Q. Would not the farm be worth more than 10*l.* to a man who could stay in the country?

A. It would.

Q. So then an advantage was taken of this man's situation?

A. No; for my father did not know of the transaction.

Q. Did you not know of it?

A. I did.

Q. Where was your father at the time the bargain was made?

A. In this town.

Q. Where did he live at the time?

A. In *Boyle*.

Q. And he now lives upon these lands?

A. He does.

Q. How many acres are there?

A. Four acres.

Q. How many years of the lease to come?

A. Ten or twelve years.

Q. What is the rent?

A. Six pounds.

Q. How near this town?

A. A mile and a half.

Q. Would he sell that interest for 50*l.*

A. I can't say.

Q. Would you?

A. I would not.

Q. Is there not a bog along with the four acres?

A. There is.

Q. Is not that more valuable than the rest?

A. I can't say.

Q. Would you sell it for 70*l.*

A. I would not.

Q. And your father has bought it for 10*l.* from this unfortunate man?

A. He.

A. He bought it at his own request.

Q. That was after he was carded?

A. It was.

GEORGE ROCHFORD,

Examined by Mr. BAKER.

Q. Do you know *O'Neil*, the prosecutor?

A. I do.

Q. Had you any dealing with him?

A. I bought a cow from him.

Q. Did he owe you any money?

A. I owed him a balance: I bought a cow, and had not the entire money: he took my word for the remainder: I was to pay him in a few days: I gave him two guineas in gold, and he was to give me 5*s.* 5*d.* in change. He said, if I would take his word, as he took mine, he would pay me that day eight days. He took his oath he would pay me that day eight days. I did not see him for a fortnight, when I asked him, why he did not come. He said, he had not the money. I asked him had he the money then. He said, not. I said, I would bring him to justice. He said, he would borrow it; and finding I stuck to him, he took the money out of his pocket and paid me.

Cross-examined by Serjeant MOORE.

Q. How long ago is this?

A. Nine years; and some of the neighbours hearing of this took advantage of it and summoned me.

LAURENCE SUMMERTON,

Examined by Mr. BAKER.

(N. B. When this Witness came upon the table, he spoke Irish; in which language he declared he could not speak English; but after some expostulation, he gave his testimony in English.)

Q. Do you know *O'Neil*, the prosecutor?

A. I do.

Q. Do

Q. Do you recollect his having been charged with taking leather at any time ?

A. I do.

Q. Whose property was it ?

A. It was *Bryan Tighe's*.

Q. He denied it, to be sure ?

A. He did.

Q. Did he deny it in any particular way ?

A. He denied his having taken it, though he gave it to his wife forenent my face, and his wife hid it, and it was taken from her.

Q. Where was this ?

A. Near *Tighe's* house.

Q. Did he take any oath about it ?

A. No, he did not.

Q. Did he steal it ?

A. He did.

Q. Did they return it to the owner ?

A. Not till I told him of it.—*Tighe's* wife took the leather from *O'Neil's* wife and beat her well with it.

Cross examined by MR. ATTORNEY GENERAL.

Q. Did you ever hear, that *O'Neil* swore he could not speak *English* ?

A. I did.

Q. And that he spoke good English after—was he not a perjured fellow when he did that ?

A. He was.

Q. And you took an oath, that you could not speak English ?

A. No, I was not sworn, when I said that.

Q. You were only near it.—Where are *Bryan Tighe* and his wife ?

A. They are here:

Q. How long ago was this transaction of the leather ?

A. It was a good many years ago.

Q. Was it twenty years ago ?

A. No.

Q. Was it ten ?

A. I can't say.

Q. Was *O'Neil* ever tried for it ?

A. No.

Q. You saw him steal it publickly in the market ?

A. No, but in the house.

Q. It

Q. It was before your face?

A. He thought, I was not looking at him—If he knew I was, he would not steal it.

Q. You were standing by?

A. I was at the far side.

Q. Were you in the same room?

A. Yes.

Q. And he gave it to his wife?

A. He did.

Q. Did you hear of *O'Neils* house being visited by people in white shirts?

A. I heard they were there, but did not hear their dress.

Q. Did you hear one of them had a gun?

A. I heard some way or other one of them had a gun.

Q. What is your situation in life?

A. A Labourer.

Q. Who employs you?

A. No one at all.

Q. Have you any land?

A. Yes.

Q. How much?

A. Two acres and a half.

Q. Do you pay rent?

A. I do, to *Sir Percy Gethins*.

Q. Did you hear, that persons are going about swearing people in the country?

A. I do not know, whether they are, or not.

James Murphy, examined by MR. BAKER.

Q. Do you know *Peter O'Neil*?

A. No, I was at the fair of *Banada*, and a man came up, and said his name was *O'Neil*, to sell a cow, it was taken from him.

Q. But do you know him?

A. I do not know the man.

DEFENCE FOR *Wm. Kearney*.

Mary Mullin, examined by MR. BAKER

Q. Do you recollect the night upon which *O'Neil* was said to be carded?

A. The

A. The next day I heard the report of it?

Q. Where did you pass the night of the 2nd of September?

A. In *William Kearney's* house, at *Magherabuoy*.

Q. In what part of the house did you sleep that night?

A. I slept nearer the door than he did.

Q. Was it in the same room with him?

A. No, he slept in a closet inside of the room where I slept, and I slept nearer any door of the house than he did.

Q. Did you sleep in the room next adjoining the closet in which he slept?

It was suggested by MR. ATTORNEY GENERAL, that this mode of interrogating the witnesses was leading, and consequently irregular: he hoped it would be avoided.

A. I did.

Q. At what time did you go to bed?

A. Between nine and ten o'clock.

Q. Are you a servant of *Kearney's*?

A. I had been serving in the house.

Q. Who slept in the bed with you?

A. Two children.

Q. Were they restless during the night?

A. They were; one of them is still weak.

Q. In consequence of that were you enabled to sleep much in the night?

A. I was restless all night.

Q. Do you recollect at what hour *Kearney* got up in the morning?

A. Not till after every one in the street was up.

Q. At what hour was it?

A. Between eight and nine.

Q. Was it possible for *Kearney* to have gone out of the house without your knowledge, and to have remained out for any length of time?

A. It was not.

Q. Did he quit the house during that night?

A. Upon my oath, he did not, upon any account.

Q. Are you related to *Kearney*?

A. I am not a drop's blood to him in any way.

Q. You

Q. You went there as a sempstress to him?

A. I did.

Cross examined by MR. SOLICITOR GENERAL.

Q. How near *Sligo* does *Kearney* live?

A. A small half mile.

Q. Where do you live?

A. I have no certain place of living.

Q. Where did you sleep the night before the 2nd of *September*?

A. In his house.

Q. How long before that did you sleep there?

A. From *Midsummer*.

Q. And how long since?

A. Ever since.

Q. Have you been employed there ever since?

A. No, but his wife is desolate.

Q. How so?

A. Since this man was taken.

Q. But before that, you say you were there, though neither a servant, nor a relation?

A. I was there.

Q. How came you there?

A. Sewing and knitting.

Q. All that time?

A. Yes.

Q. How many does his family consist of, besides his wife: has he a servant girl and children?

A. Yes.

Q. What is become of the servant girl?

A. She is here.

Q. Were any other persons there?

A. Another woman and a man.

Q. What is the name of the servant girl?

A. I forget her name;—it is *Margaret*.

Q. What is the name of the woman?

A. *Winnie Magarry*.

Q. What is the name of the man?

A. One *Kearney*.

Q. Is he any relation to this man here?

A. His brother.

Q. How long had the child been sick?

A. Four or five days.

- Q. Did the child keep you awake on other nights ?
 A. Every night she lay with me.
- Q. You did not close your eyes all night ?
 A. I did a little.
- Q. How long before that night did the child sleep with you ?
 A. Four nights before.
- Q. Why did it not sleep with you from the beginning ?
 A. I do not know.
- Q. Why did it sleep with you then ?
 A. Because the mother preferred me.
- Q. What were you paid ?
 A. So much a month.
- Q. How much ?
 A. Eight shillings and eight-pence a month.
- Q. Where did you live before that ?
 A. At *Aughamore*.
- Q. You have no settled place of living ?
 A. No.
- Q. You have a brother ?
 A. Yes.
- Q. He was examined here to-day ?
 A. He was.
- Q. *Kearney*, the prisoner, went to bed early ?
 A. He did.
- Q. Do you know *M^cDonough* ?
 A. I do.
- Q. How long ?
 A. Since I was a child.
- Q. Did you ever see *M^cDonough* at *Kearney's* ?
 A. I never saw him there.
- Q. Are you and your brother upon good terms ?
 A. Yes.
- Q. Did he ever tell you he was to prove something for *M^cDonough* ?
 A. No.
- Q. Nor did you tell him, that you were to prove something for *Kearney* ?
 A. No.
- Q. When did you last see him ?
 A. I saw him a while ago.
- Q. Did he know you were to be a witness ?
 A. I can't say.

Q. Did you know he was to be a witness?

A. I did not.

Q. You did not mention it to him?

A. No.

Q. Did you ever talk of being a witness for *Kearney*, or what you could prove?

A. I told every one of it.

Q. Where were you for the last two hours?

A. In the guard-room*.

Q. Was your brother there?

A. He was.

Q. You never talked to him of being a witness for the prisoner?

A. No.

Q. Did you ask him what brought him there?

A. I did not.

Q. Nor did he ask you, why you came there?

A. No.

Q. In what part of the house did *Kearney's* brother sleep?

A. He slept in the kitchen.

Q. How near the room where you slept?

A. It was off the kitchen.

Q. And *Kearney's* room was off that?

A. It was so.

Q. Then there was a room between the kitchen and the room where *Kearney* slept?

A. There was.

Q. Where did *Margaret* sleep?

A. In a settle-bed, where the other woman slept?

Q. In what room?

A. In a closet.

Q. Was that in the same closet with *Kearney*?

A. It was.

Q. Did the hall-door open into the kitchen?

A. It did.

Q. And *Winifred Magarry*, and *Margaret* and *Kearney* slept in the same place the night before?

A. They did.

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Q. Did

* This was a room in the Court-House, occupied by the Yeomanry on duty, as a guard-room, where the witnesses were accommodated during the trials.

Q. Did they sleep in the same place from *Midsummer* ?

A. No ; the servant girl did.

Q. But not *Winifred Magarry* ?

A. No.

Q. When did she come there ?

A. That night.

Q. For the first time ?

A. Yes.

Q. How long did she stay ?

A. Only that night.

Q. What brought her there ?

A. She lived in the street, and had a falling out with her husband, and came there for protection.

Q. And the child kept her awake the whole night ?

A. No ; it did not sleep with her.

Q. Did her husband come for her ?

A. He did, but was not let in.

Q. What became of her the next day ?

A. She went home.

Q. Are they here ?

A. They are about the Court-House.

Q. Is *Bryan Kearney* in the guard-room ?

A. He is.

WINIFRED MAGARRY,

Examined by Mr. BAKER.

Q. Do you recollect the night when it was said *O'Neil* was carded ?

A. I do.

Q. Did you happen to go to the house of *William Kearney* that night ?

A. I did.

Q. At what hour ?

A. Between eight and nine.

Q. What was the reason of your going there ?

A. A little falling out that came between me and my husband, and I was afraid he would beat me, and I went there.

Q. Did you stay long in the house after you went there ?

A. I staid till morning.

Q. Did

Q. Did you go to bed ?

A. His wife bid me go to bed ; I lay down, but did not take the clothes off me, but did not sleep, being so anxious about my cabin, and the misunderstanding between me and my husband.

Q. Where was the bed ?

A. In the same room with *Kearney* and his wife ; and I was lying in the same settle-bed with another girl, near *Kearney's* bed : I did not quit the bed, except twice during the night, when I went to the kitchen to light my pipe.

Q. When you went to the house of *Billy Kearney*, was he in bed, or not ?

A. He went to bed before my face : he asked me, what brought me there ; for he said, if I let my husband alone, he would not touch me.

Q. You say, you did not sleep ?

A. I was awake the whole night.

Q. Was there a woman of the name of *Mullins* there ?

A. There was.

Q. Where did she sleep ?

A. In the room adjoining, with two children.

Q. You had an opportunity of knowing, whether the children slept well ?

A. They were very restless all night ; they wanted drink.

Q. Was it possible for *Kearney*, the prisoner at the bar, to have left his house unknown to you ?

A. No man, woman, or child, could have left it without my knowledge.

Q. Did he leave it ?

A. He did not rise, till it was time for every one to rise.

Q. Did you see him get up in the morning ?

A. I did.

Q. At what hour ?

A. Six or seven o'clock.

Q. So you are positive he did not quit the house, during the whole time you were there ?

A. In truth I am positive. When I went to scour the churn for milk in the morning, I heard that *O'Neil* was carded, and *Kearney* did not leave his house that night.

Cross-examined by Mr. ATTORNEY GENERAL.

Q. What business does your husband follow ?

A. He is a carman.

Q. What business do you follow ?

A. None.

Q. What did you quarrel about ?

A. He wanted to take whiskey ; I would not let him, and we fell out about it.

Q. Did you ever hear of a person of the name of *Devanny*, being charged as one of those who carded *O'Neil* ?

A. I did hear of a man of the name.

Q. Is he related to your husband ?

A. No.

Q. You and your husband quarrelled about whiskey ?

A. We did ; and it was not the first or second time.

Q. Did you always go to *Kearney's* house upon these quarrels ?

A. I did that night, and ever since.

Q. Did you ever go there before ?

A. I did.

Q. How long before ?

A. I can't tell.

Q. Why did you go there ?

A. To avoid flogging, I was afraid he would beat me.

Q. Did he ever go there to look for you ?

A. He did, and he came to the door and desired me to go home and said, he would not touch me.

Q. Where is he now ?

A. He is here.

Q. Where were you when *Mary Mullins* was examined.

A. I was in the corner yonder.

Q. Could you hear what she said ?

A. I could not.

Q. Do you know *John M'Donough* ?

A. I do not.

Q. Do you know *Michael Mullins* ?

A. I do ; I used to buy noggins from him.

Q. Did

Q. Did he visit *Kearney*?

A. He might.

Q. Did you ever see him there?

A. I did not.

Q. Do you know *Mary Mullins*?

A. I do.

Q. Has she any children?

A. I do not know—she had not them there, if she has any.

Q. Were there any fire arms in *Kearney's* house?

A. I never saw any, only the tongs.

Q. Or any sword?

A. I did not.

Q. Did you hear any talk of the *Threshing*?

A. I did hear talk of it.

Q. Did you ever see any of the *Threshers*?

A. I never did.

Q. Did they attempt to swear your husband?

A. They would not trust him, for fear he would tell, when the whiskey was in him.

Q. Were they at *Kearney's* house?

A. I can't say.

Q. What hour was it in the morning, when you heard of the carding of *O'Neil*?

A. Troth early enough.

Q. Was it after you went home?

A. It was—I went home for a can to milk the cow, and that is early.

Q. Who told you?

A. Many, passing the road from the bog.

Q. And you heard them say *O'Neil* was carded?

A. I did.

Q. Did they say any thing else that happened at *Windy Gap*?

A. They did not.

Q. Did they speak of any other house being attacked?

A. They did not.

Q. Had you seen your husband before that in the morning?

A. I did.

Q. Had you made up the quarrel?

A. No, I left him at the fire side.

Q. Did you tell him what you heard?

Troth.

A. Troth, I would not make so free with him.

Q. When did you mention to any person that you were to give evidence?

A. I did not tell any body.

Q. Did you tell any body what you could prove?

A. I did to every body that asked me.

Q. Were you and *Margaret* and *Mary* and *Kearney's* brother brought together in company since that night?

A. No, except I went in to light my pipe, but nothing private passed.

Q. Had you any conversation with *Kearney's* brother, as to the evidence you were to give?

A. I had not.

Q. Had you any conversation with your husband about it?

A. I told him, I was to go in it and he did not hinder me.

Q. How soon after the 2d of *September* did you hear that *Kearney* was charged with carding *O'Neil*?

A. A good while after.

Joseph Hodson, examined by MR. BAKER.

Q. Do you know *O'Neil*, the prosecutor?

A. I know him by that name.

Q. Did you know him by any other name?

A. I did.

Q. When?

A. Between ten and eleven years ago, there was a gentleman of the name of *James Johnson*, whose daughter went off with her first cousin of the name of *James Johnson*, and had a child by him and this man, *O'Neil*, kept them in cog. and passed himself by the name of *M'Donough*?

Q. Is he the same man, who now goes by the name of *O'Neil*?

A. He is.

Q. At what time did he assume the name of *O'Neil*?

A. When those people returned to their friends and the child died, he assumed the name of *O'Neil*.

Q. What more do you know of him?

A. I keep a public house, and he used to make off with the reckoning—he used to drink there and run in debt, and pretend to fall asleep, and when stopped, he

he would take a book, and swear he would pay me that day week, and would not pay me.

Q. Would you believe him upon his oath in a court of justice from his general character.

A. I would not.

Cross examined by Serjeant MOORE.

Q. Where do you live?

A. I was born in this town?

Q. Do you not believe, that he knew this family of *Johnson*, that he harboured the young couple who had fled from their friends and changed his name to avoid their enquiry?

A. I believe so.

Q. Was there not some degree of delicacy in that?

A. I cannot say, but believe that was the reason.

Q. When you say he made off with the reckoning, you do not mean, that he scrambled up the money of others, and made off with it?

A. No, but he sconced me.

Q. Did you ever see him in a court of justice before this day?

A. No.

Q. Did you ever see him charged in a court with robbery or any other offence?

A. I never did.

Q. Did you ever hear of his taking an oath in a court of justice before this day?

A. No.

Q. Did you ever hear of his making an information before a magistrate until this transaction?

A. I never did.

Q. Did you ever hear of his taking a legal oath in the presence of a court of justice, or a magistrate?

A. I never did, and I make no doubt, but he did not.

Q. Then your disbelief does not arise from any thing, that he ever swore in a court of justice?

A. No.

Q. Is *O'Neil* the only debtor you have in your public house?

A. No, there are One Thousand.

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Q. Is

Q. Is it your opinion, that every man who is indebted to you is undeserving of credit upon his oath?

A. No, but he took an oath to pay me and would not pay me.

Q. You keep a public house in this town.—Do you expect popularity by the evidence you give?

A. I am not under two pence compliment to any of them.

Q. Do you know any other man, who knew *O'Neil* to pass by the name of *M'Donough*?

A. There may be many, but I do not recollect them.

Q. You have been here all day, and heard witnesses speak to transactions ten and eleven years back, and not a man of them called him *M'Donough*?

A. I can't say for that, I did not hear them.

Q. Do you know any other man, except yourself, who was acquainted with him by the name of *M'Donough*?

A. I cannot.

Q. Has he not been seventeen years in this county?

A. I can't say.

Q. Was not his son born in this county?

A. I heard he was.

Q. Was he not known by the name of *O'Neil*?

A. That was the first name I knew him, but *James Johnson* told me, his name was *M'Donough*.

Q. *By the Court.* How long did he go by the name of *M'Donough*?

A. As long as he had this couple there?

Q. How long was that?

A. Twelve months.

Q. How do you know that?

A. From *James Johnson*?

Defence closed.

LORD CHIEF JUSTICE DOWNES. *Gentlemen of the Jury.* The prisoners stand charged before you upon four several indictments (*which his Lordship stated*) they are all laid upon the same day, the 2d of *September* last. In the first indictment there are several charges, which the evidence, if you believe it, plainly supports, and each of these charges is capital. That indictment

indictment seems to be the most material: the same evidence applies to all the others; but the evidence goes completely to the first. Gentlemen, with respect to the second indictment, if you believe, that the entry into the house was made with an intent to take any of his goods and chattels without his consent, that indictment is also supported. But the intent must be to take some of his goods and chattels without his consent. The third indictment is for a robbery in the dwelling house; and the circumstances go fully to support that charge, if you believe, that they took the tenpenny token from him while they were in the house. The fourth indictment contains charges, also completely supported by the evidence, if you believe it, and your belief of it must rest with your own consciences. With regard to this last indictment, you will observe, that the evidence goes to shew, that this party provided an instrument of punishment and that they inflicted cruel torture with it. If you believe that act was done with the intent to compel *O'Neil* to enter into and become one of the association of *Threshers*, then that charge is supported. With regard to the other counts in the fourth indictment, there is evidence, that the man acknowledged to have two tenpenny pieces only and they were produced: what became of them does not exactly appear;—but there is this further evidence applying to the latter branches of the fourth indictment, that he offered to send them money wherever they desired him and they appointed a place to which four tenpenny pieces were sent; and it deserves your consideration, whether this charge is not also established against the prisoners.

Gentlemen, having thus stated the charges which are made against the prisoners at the bar, it is my duty to advert to the voluminous evidence which has occupied your attention during the entire of this day; and the case will depend upon the credit which you shall be of opinion, the witnesses for the Crown deserve. *Peter O'Neil*, his wife and son, all positively identify both the prisoners as acting in the outrages described to have been committed. These three witnesses state, that the house was attacked by a number of persons demanding money in the first in-

stance to refresh *Captain Thresher*; and, Gentlemen, that important fact of the outrage upon the house, does not depend merely upon the testimony of the witnesses for the Crown, though three of them concur in speaking to it; but other witnesses, two respectable gentlemen speak to it, and four of the witnesses for the prisoners shew, that similar descriptions of people were, with a similar object, assembled at other houses, close to *O'Neil's*: four or five of the witnesses for the prisoners all agree, that a similar party, with a similar object, in support of the common cause of the *Threshers*, on the very same evening of the attack upon *O'Neil*, was in the same neighbourhood, doing the very acts which *O'Neil* and his family describe. (*His Lordship then stated the evidence minutely from his notes, and made occasional remarks.*) As to the fact of its being a moonlight night, all the witnesses for the prisoners, as well as those for the Crown, agree in that circumstance. With regard to the gun, you, Gentlemen, may recollect, that not only *O'Neil* swore to *M'Donough* having a gun that evening; but two witnesses for *M'Donough* himself shew him to have had a gun in his possession that very evening. *Peter O'Neil* was cross-examined, with a view of bringing forward evidence to weaken his testimony; and if it has that effect, the prisoners have made a good defence. He said, he did not go by any other name, than that of *O'Neil*; upon which I shall observe, when I come to the testimony of the witness, who was produced against him. Many circumstances enquired of by the cross-examination of *O'Neil* and his wife, are material for your consideration; because they shew the great industry which has been used to examine into the history of these people, for the purpose of impeaching their credit; whether it shall have that effect, is for you to determine. By the testimony given by witnesses upon the part of the Crown, many of the capital charges are supported; and it will be for you to say, whether the testimony of the witnesses for the prisoners has had the success of doing away the evidence for the Crown; all agreeing, positively, as to the identity of the prisoners, and as to the facts stated to be committed by them. The evidence for the prisoners goes to shew that they were not of the party; and one of the witnesses for the prisoners swears, he does not believe that

that *O'Neil's* house was attacked; how far that declaration goes to destroy the credit of that particular witness you will determine, when you find all the other witnesses concurring in the fact, that not only *O'Neil's* was attacked, but that other houses in the neighbourhood were attacked in the same way.

Gentlemen, you are to determine, upon the whole of the evidence, whether the prisoners, or either of them be guilty or not. Without going through the charges minutely again, I may tell you, that if you believe the evidence of *Peter O'Neil*, his wife, and his son, capital charges are made out against both the prisoners. The fact of disturbances prevailing in the county, is established by the testimony of two magistrates; and there is abundant evidence, that even on the very same night, and in the very same neighbourhood, similar enormities were perpetrated: it is even made part of the defence of the prisoners, and therefore you cannot doubt, that assemblies of an illegal nature, calling themselves *Threshers*, have existed. Whether any party of them visited the house of *Peter O'Neil*, you will say what your judgment is. One witness says, he does not believe they were there; but you will determine, whether he has discredited himself: all the other witnesses shew, that similar facts were committed; that *O'Neil's* house was visited by them, is not only probable, but is positively sworn to by him, and indeed seems to be a fact not doubted. All the witnesses, save one, agree that it was attacked in the way he states; the report of it was spread through the country; it was heard by all, and there is no reasonable doubt of the fact. Then, Gentlemen, as to the particular outrage committed upon *O'Neil*, you find him in the presence of Mr. *Soden*, the magistrate, acting a reluctant part; affected by the terror, which prevailed through the country, and submitting at last to be examined; when the power of the magistrate was exercised in drawing up a summons requiring his attendance; and finding there was a power to force him to a disclosure of the facts, he gives information, and exhibits his back, tortured as he had been, with the appearance of raw and sore flesh; so that there seems to be no doubt that his house was visited in the manner he stated; for all the witnesses (except one), for the prisoners admit

it,

it, and that a cruel torture was actually inflicted upon him. Then, if you believe that he charges these men, now upon trial, falsely, you must believe that he, his wife, and his son, are joined in a conspiracy to take away the lives of the prisoners, innocent men, because he received that cruelty from others! No motive of malice towards them appears to exist: no particular motive is shewn, why he should be desirous of throwing such an offence upon men guiltless of the crime. You will determine whether any man can be capable of such conduct, and whether *O'Neil*, his wife, and son, are joined in a conspiracy against innocent men, and to charge them with a fact committed by others. You find, that shortly after the fact, *O'Neil* gave information of it rather unwillingly. You find him persevering in the same account in a month after, charging men, with whom he was well acquainted for years: his wife was also acquainted with them, as was the boy, of whose judgment you can form an opinion, and whether he does not appear sufficiently sharp and ripe in understanding for his years. You will determine, whether this evidence is the effect of conspiracy, or the result of conviction upon this man, his wife and son, or whether they are mistaken with respect to persons whom they have so long known.

Gentlemen, to oppose the evidence of the witnesses for the Crown, you have the testimony of the witnesses for the prisoners; first, those who state where the prisoners passed their time, and who, if they gain credit from you, cover the time of the transaction; and it is for you to determine, whether these witnesses deserve credit or not, and which class of witnesses you believe, those for the prosecution, or those for the prisoners. There is one portion of the witnesses for the prisoners, from whom very little favourable to them can be extracted. Those who state, that their houses were attacked upon the same night; their object was to shew, that their houses were attacked by the same men, and that the prisoners were not among them. What does their evidence amount to? that one set of men attacked all their houses that night; but can such an account satisfy you, that it was impossible for the prisoners not to be there? You will determine, whether any of those witnesses had such an opportunity of seeing every one
who

who was at their respective houses, as to be able to swear positively he saw them all, and that not a man was there, whom he ever saw before; that deserves consideration in the state in which this unhappy country now is.

Gentlemen, a personal attack is made upon the character of *O'Neil*; you will judge with what force. His testimony is corroborated by his wife and his son: perhaps the corroboration of a wife is not much; but they agree in the facts. See then, in what circumstances his character is impeached: one witness states, that he actually saw him steal leather, and this happened nine years ago. You do not find that he fled the country; that he was solemnly accused, or avoided trial. The charge rests upon the single testimony of that witness; and with regard to the fact, you will see that *O'Neil* could have had no notice of its being brought forward this day, so as to defend himself; and consequently he is not able to bring witnesses upon the subject. The charge is therefore only capable of a flat denial, which is given to it by *O'Neil*. You will then consider, how far his credit is affected by the circumstance. His credit is again attacked, by stating, that he took an oath to pay money, and violated the oath. You may well distinguish between a man's making a promise of that nature, and coming in a solemn way to depose against the life of another in a court of justice. But what is the fact, a balance of a crown remains due by him: he offers his word; the man hesitates, and then *O'Neil* swears he will pay him in eight days: he does not see him for a fortnight, and when pressed he pays the money. This shews, that much industry has been employed to scrutinize the character of the man, with what success, you will determine.

Then with regard to the fact of his having gone by another name, he denied it, and said, he always went by the same name. *Hodson* states, that eight or nine years ago, he went by the name of *M'Demough*. This rests upon the testimony of *Hodson* alone. No other person appears to have known him by that name; he has lived in the country ever since; the parties seek to impeach his credit in every way they can and *Hodson* is the single person, who can state the fact. One would think, it would

not be difficult to procure witnesses to prove that a man known in his neighbourhood by a particular name, no other witness is produced, and it is stated, that this fictitious name was assumed on account of one *Johnson*, for whom *O'Neil* harboured a young woman, for the purpose of concealing a seduction, not committed by himself, but by *Johnson*. It seems odd enough, that he should for such a purpose assume another name, but that is the account given of it, by the only witness who has been examined to the fact, though from the scope of the defence it is manifest that considerable exertion has been used to attack the character of *O'Neil*, and it is observable, that though he was interrogated with respect to the change of name, the circumstances afterwards stated were not brought to his attention, *Johnsons* name was not mentioned to him, nor the affair of the young woman. If these had been mentioned, it is possible he might have given a satisfactory explanation, and have shewn, that nothing immoral attached to him. You will observe also, that neither his wife, nor his neighbour who appeared as witnesses, were examined to that particular fact. And, therefore, you will judge, whether this last charge affects in any degree the credit of the prosecutor.

Upon the whole, gentlemen, if you believe the testimony of the witnesses for the prisoners, which goes to shew where they passed the night and which covers the time of the transaction stated by *O'Neil*, his wife and son, then you must suppose, that they are mistaken, one and all—or, you must believe, that they are joined in a conspiracy to revenge what they have sustained from others against innocent people. If you believe that, you should acquit the prisoners. If, on the other hand, you believe, that the witnesses for the prisoners have sworn falsely, and if you believe the account given by *O'Neil*, his wife and son, respecting the outrage, it will be your duty to say, that the prisoners are guilty of the capital charges stated in the indictments.

The Jury retired at ten o'clock, and after deliberating for an hour and a quarter, came out and asked the Court, whether they could convict one of the prisoners and acquit the other.

BARON GEORGE informed them, that there was no law to prevent them from making such a distinction. They might convict one prisoner, and acquit the other. They might convict both prisoners or acquit both, as in their consciences they thought right.

The Jury again retired and after deliberating further for half an hour, returned a verdict of *Not Guilty* as to *both* the prisoners.

The Court adjourned at near twelve o'clock at night, to ten the next morning.

Saturday, December 6, 1806.

Thomas Brennan was indicted, for that he with others, on the 15th of November in the 47th year of the reign, &c. after sunset and before sun-rise, did forcibly, maliciously and feloniously break into the dwelling house of *George Brett*, and did take and carry away three guns, value 3*l.* and one pistol, value 5*s.* the arms, goods and chattels of *George Brett*. He was also indicted, for a burglary and for causing arms to be delivered by threats and violence, &c.

The prisoner pleaded, *Not Guilty*, and a Jury being sworn, he was given in charge to them.

MR. SOLIGITOR GENERAL. *Gentlemen of the Jury.* It is my duty, in this case, to state to you the facts, the proof of which the present indictment will be supported, and I shall do any little more than state them. These are general topics suggested by the unfortunate situation of your county which it is of great importance publickly to discuss and enforce; but the able and eloquent address, which my Right Honorable and learned Friend delivered yesterday in this Court, renders it more than unnecessary, that I

should by treading in his steps, perhaps efface his impressions: whatever duty devolves upon him is always discharged in such a manner, that nothing is to be added by those who follow him — I will not affront him, or the publick of this county, by doubting that what fell from his high authority and his higher character, enforced by his admirable talents and more admirable feelings, has had a due effect upon all classes of his auditors. I take it for granted, if any ignorance has prevailed, or if any unfounded misrepresentations have been circulated upon the subject of your duties, and the laws, that such ignorance is now exposed, and that the dupes of such misrepresentations are disabused. I will not suffer myself to doubt, that such of the lower orders of this country, as had the good fortune to hear him, are now persuaded of their folly, and penitent for their crimes. Still more am I convinced, if there existed among persons of a higher description, any individuals infatuated enough to abet, countenance or connive at the outrages which disgrace your county, that those short sighted and profligate men will now open their eyes to the frenzy and wickedness of such conduct. If the base influence of an unworthy panic has been capable of relaxing the vigour, or neutralizing the activity of any man in this critical moment, which calls for the vigour and activity of all; I am confident, that such an abject principle stands now abashed and rebuked. But above all do I persuade myself, that every loyal and honest man now feels himself cheered and inspirited, assured of the efficacy of the laws and confident in the protection of the government.

The prosecutors in this case are young men of the name of *Brett*. They reside in the house of their father, not very far from this town; they are persons of decent and orderly character, and in consequence of their distinguished loyalty upon all occasions, they had been entrusted with arms for the protection of their persons and property.—To seize those arms, became an object to the banditti of miscreants, who now infest this country and within this fortnight, upon the day laid in the indictment, the habitation of this peaceable and innocent family was assailed by a numerous assemblage of those ruffians, among whom the prisoners

ners at the bar was particularly active—They demanded the arms; the *Bretts* refused them—they fired into the house and in vain attempted to force it—the old father was wounded, but the fire was returned by his sons—so spirited was the defence, that the attack would have proved ineffectual, if the assailants had not threatened to burn the house and partly carried their threats into execution: Then, and not till then, did those gallant young men surrender, and give up those arms, which their courage had shewed them so worthy to carry. The triumphant party retired with their spoil, and the prisoner at the bar has been since apprehended in consequence of the prosecutors following up their spirited resistance, by giving information to a Magistrate.

Such are the few facts of the present case. The offence imputed to the prisoner, is by the laws of the land most properly made capital; and if his guilt shall be proved to your satisfaction, he must atone for it with his life. You will hear it proved by evidence, which, if my instructions do not deceive me, must satisfy your minds. If you shall believe that evidence, the highest of duties and the most solemn of obligations call upon you to convict the prisoner. If you do not believe it, you are bound to acquit him. If you entertain a doubt of his guilt, you are also bound to acquit him; but you will remember, Gentlemen, that such a doubt as warrants an acquittal, must not be light or capricious; such as timidity or passion prompts, and weakness or corruption readily adopts. It must be such a doubt, as upon a calm view of the whole evidence, a rational understanding will suggest to an honest heart;—the conscientious hesitation of minds, not influenced by party, pre-occupied by prejudice, or subdued by fear.

Believe me, Gentlemen, that upon the discharge of the duties of Jurors, much of the fate of your country depends. In vain are those vigorous laws in force, which have been so maliciously represented and so credulously believed to have expired. In vain is your magistracy armed with those strong authorities and extensive powers, which in seasons of public disturbance are committed to their hands. In vain has the vigilance of his Majesty's Government brought justice home to your doors, by the speeding of this special commission at this

unusual season. If men, impannelled like you, in the discharge of the most awful duty, can be found to trifle with your consciences, forget your oaths and betray your country. That, in seasons of public commotion, disaffection should prevail, and that panic should be excited, is only what one must expect; but I trust in God, that neither shall ever be found invading and profaning that sanctuary of the law,—a Jury Box. I will fear no such consequence in your respectable county. I am satisfied that you will do your duties. If you do not, take upon yourselves the consequences. If this atrocious, though contemptible insurrection, should get head in your county, in consequence of impunity and encouragement, and in its formidable progress involve the ruin of all that is dear and valuable to you, it would be a melancholy aggravation of your misfortunes that they ought to be attributed to yourselves.

George Brett, examined by Mr. Serjeant MOORE.

Q. Where do you live?

A. I live in *Ballyglass*, near *Tobbercorry*.

Q. At whose house?

A. At my father's house.

Q. What is his name?

A. *George Brett*.

Q. How many sons has he living with him?

A. There were three at the time.

Q. At what time?

A. At the time of the attack.

Q. Name them?

A. *William*, *Christopher* and myself.

Q. When was the attack made upon the house?

A. On *Saturday*, the 15th of *November* last.

Q. Were you at home?

A. I was.

Q. Describe to the Judges and the Jury the nature of the attack and at what time of the night it was?

A. About the hour of eleven at night, there came a party about the house.

Q. Was the door fastened?

A. Not at that time—*Christopher* heard a noise and stepped forward to the door, and saw a man lurking,
 he

he then stepped back to where I sat and said there was a man at the door: we were surprised, this being a second attack, we ran to the door and looked out, and saw a party, we then made forward to where we had the arms.

Q. Where was that?

A. In the barn, joining the house.

Q. What arms had you there?

A. We had two guns and a pistol.

Q. Whose property were they?

A. The guns belonged to *Christopher*. The pistol belonged to my brother *Patrick*, who was not there at the time.

Q. When you got to the barn, what did you do?

A. When we entered the barn, we closed the door, and made to the arms, *Christopher* took the pistol and presented it out of the window, he gave me one of the guns and I presented it also, and snapped it, but it did not go off.

Q. Did you snap the gun at the time?

A. I did, while the party were breaking the windows of the dwelling house.

Q. Did you hear the windows breaking?

A. I did.

Q. Did you discover the cause why the gun did not go off?

A. I did not.

Q. What did the party do?

A. They heard the noise of the snapping of the gun and perceived where we had the arms, and called out, "Here is the arms." My brother *Christopher* took another gun, opened the door and snapped at them and burned priming, by which they saw the clearer, where the arms were—they then rushed forward and made a punch of a gun at the window and drove it in.

Q. Did *Christopher* close the door after snapping the gun?

A. He did.

Q. What did they do after that?

A. They pushed in a shutter of a window of the house, and then came forward towards us, calling out, "Take care of the window and the door,"—
they

they fired a shot through one of the windows and demanded the arms.

Q. Did you give them?

A. I refused giving them, and said, I had but one life, and one gun, and I would lose my life, before I would give up my arms.

Q. What was the consequence of that answer?

A. They told me, they would set the house on fire, if I did not give out the arms.

Q. Did they do any thing to shew that intention?

A. They went to the haggard and got a sheaf and made a light, and I thought the place was on fire.

Q. How near is the barn to the house?

A. It joins the house.

Q. Is it under the same roof?

A. It is.

Q. Did any of the family sleep in the barn?

A. I and one of my brothers slept in it.

Q. What did the party do afterwards?

A. They set fire to the straw and put it to the house, and I imagined the house was on fire, before I submitted to give up the arms.

Q. Did you see the fire?

A. I saw them get on the wall, with the fire, to put it to the thatch, and then I said, I would give up the arms, rather than let the house be burned.

Q. Did you give them any?

A. I did; I handed them out the gun and the pistol.

Q. Did you see any more of them?

A. They demanded the harder, that I should give up two stand more.

Q. Had you two stand more?

A. No, but one gun.

Q. Did you give that one?

A. I did not.

Q. What did they do afterwards?

A. They said they would burn the house, if the remainder of the arms and ammunition were not given to them. My brother gave them some ammunition, and a powder horn: but they threatened severely, if they did not get the remainder. I told them, I would go out to them, and let them use me, as they liked. They told me, I should not go out, as some
of

of the party would injure me. I said, I would open the door and let them in; so I opened the door, and they came in and got a candle, and some of them disguised themselves.

Q. How did they disguise themselves?

A. They put handkerchiefs upon their hats, and held them in their mouths.

Q. In what part of the house was this?

A. In a small room in the barn, where we slept.

Q. What did they do then?

A. When they got the candle, and began to search, one of the men dropped his covering: under the bed they got some ammunition, and another powder-horn and a gun, which we threw there for concealment.

Q. Was the man, who dropped his covering, one of the party who was searching?

A. He was the chief head-man.

Q. How long were they searching?

A. They were ten minutes searching the place.

Q. Were you there all the time?

A. I was: they planted a centry over me, and would not let me stir.

Q. Look round, and try if you see any of that party here?

A. This man (pointing to the prisoner) was one of the men in the house.

Q. Was he the guard over you?

A. No, he was not.

Q. Was he doing any thing?

A. He was searching about and looking for arms.

Q. Did you ever know *Thomas Brennan* before?

A. Yes, sir, I did; I saw him pretty often.

Q. Where did you see him?

A. I saw him in his own house.

Q. Was he the man who lost his covering?

A. He had no covering.

Q. Where did he live?

A. At *Camalacky*.

Q. How far is that from your father's house?

A. About three quarters of a mile.

Q. Have you ever seen him in other places?

A. I have, in neighbours' houses.

Q. Did they go away?

A. When they got the gun, which we had concealed, they

they called out aloud, that they had got it: one of them said, "What?" and the man said, "By the law we have got a fine blunderbuss."

Q. Your father was in the house all this time?

A. He was in the kitchen.

Q. Did you see any thing happen to him?

A. No; but what he told me afterwards.

Q. Did you see any mark upon him?

A. He had a mark and a lump upon his eye-brow, which he said was grazed by a ball fired in through the window.

Q. Is your father here?

A. No, sir, he is old and weak, unable to come here.

Q. Has he been from home this some time?

A. Not this half year.

Q. Is he able to come here?

A. He is not able to ride half the way.

Cross-examined by Mr. DAVY,—Prisoner's Agent.

Q. How soon after this night did you lodge informations?

A. On *Monday* or *Tuesday* following.

Q. What day of the week was the attack upon your house?

A. Upon *Saturday*.

Q. Did you hear of any rewards offered for prosecuting these people?

A. Not at that time.

Q. Were you in *Sligo* a short time before?

A. I do not recollect being in *Sligo* for six months before.

Q. Were you in *Tubbercorry* or *Banada*?

A. I was.

Q. Did you see any papers posted up there?

A. I did not.

Q. Did you hear of any rewards being offered?

A. I did not hear it, till such time as I was brought to lodge informations.

Q. Was it not under the impression of reward, that you prosecuted?

A. It was not from lucre or reward that I did so.

Q. Who brought you to lodge informations?

A. I

A. I got a summons from Major *Bridgham*; I was afraid to go voluntarily.

Q. What hour of the night was the party at the house; was it between eight and nine?

A. It was after that to my opinion.

Q. Are you certain as to the time?

A. I had no watch; but to the best of my opinion it was eleven.

Q. (*By a Juror.* Is the prisoner the person who found the gun?)

A. No, sir, it was not: it was the captain, as I thought, who commanded.)

Q. Would you have gone voluntarily to lodge informations, if you had not been summoned by Major *Bridgham*?

A. I would, if I was not afraid of being put to death.

CHRISTOPHER BRETT,

Examined by Mr. WEBBER.

Q. Where do you live?

A. In the parish of *Rathcondran*.

Q. In your father's house?

A. Yes.

Q. Were you there in *November*?

A. I was.

Q. Did any thing happen there?

A. There did.

Q. State what it was?

A. A number of persons, calling themselves *Threshers*, came to my father's house about eleven o'clock at night.

Q. What did they do?

A. They broke in the windows, and fired in shots at the windows, and demanded arms.

Q. Was any mischief done by the shots?

A. A ball slightly grazed my father.

Q. What did you do?

A. When I heard two or three shots, I discharged a pistol out of the barn at them.

Q. Did they get into the house?

A. They

A. They went into the kitchen, and I remained in the barn, till they brought a sheaf of oats, with which they threatened to fire the place, if the arms were not given out. Upon that, we gave out a gun and a pistol, and kept another gun, which we denied them, and they swore they would burn the house, if they did not get more. We told them, we would let them in to search, which we did, and they found the gun, which we were keeping from them.

Q. Did they ask for ammunition?

A. They did; and I gave them part, and threw more under the bed; and when they came in they found it, and took it with them.

Q. Did you know any of the party?

A. No, I did not.

Q. (*By a Juror.* Were you in the house the whole time?)

A. I was in the barn.)

Q. Was there a light?

A. We had no light in the barn; but when they came in, they got a candle.

Q. Was you acquainted with the prisoner any time before?

A. I had a light acquaintance with the prisoner; but I cannot swear he is the identical man.

Q. Was any of the party disguised?

A. Some of them had handkerchiefs upon their faces: he that searched the barn wore a handkerchief upon his hat.

Cross-examined by Mr. DAVY.

Q. Had you as good an opportunity of seeing these persons as your brother?

A. I do not suppose I had.

Q. What reason had you not?

A. I was not so well acquainted with this man as my brother.

Q. You swore you did not know any of the party?

A. I did not see the prisoner, so as to know he was there; perhaps my next door neighbour might be there, and I not know him.

Q. What hour was it?

A. About

A. About eleven.

Q. Might it not be between eight and nine ?

A. It was later : to the best of my opinion, it was eleven.

Q. (*By the Jury.* Were your brother and you near to a tall man in the barn ?

A. I was near to him.

Q. How close to him ?

A. Within two or three feet of him : we were guarded, while they were searching.

Q. Was there a light ?

A. There was a candle with the men searching for arms.

Q. How near was that to you ?

A. They were up and down the room ; my back was to the light.

WILLIAM BRETT,

Examined by the SOLICITOR GENERAL.

Q. Are you a son of *George Brett* ?

A. Yes.

Q. Were you in his house on the 15th of *November* last ?

A. I was.

Q. Do you recollect any thing particular happening ?

A. There did : there came a knot of people about the house.

Q. At what hour ?

A. About eleven at night.

Q. Were they disguised ?

A. I saw one man who had a handkerchief down upon his face.

Q. What did they do ?

A. They broke in the windows, and demanded arms, and fired some shots, and I handed out a musquet belonging to *William Ross* of *Ballymoat*.

Q. You were in the house all this time ?

A. I was.

Q. What more did they do ?

A. They ordered the door to be opened, threatening

to fire the house ; I opened the door ; and they swore they would take my life, if they did not get more arms ; I said, I had no arms in the house, but my brothers had the arms in the barn. They then swore they would take my life, for not letting them in at the first attempt. I got out into the street ; and it being dark, they did not perceive me more than one of themselves for a time. I had not my hat on ; and upon discovering me, they gave me a few strokes of a stick and drove me in. I remained some time, and got out again, and hid in the garden.

Q. Do you know any of the party ?

A. Only to the best of my opinion.

Q. Turn about and say, whether you see any of them here ?

A. I think this man was (pointing to *Terence O'Brien*, who was in the same indictment, but not upon trial.)

Q. Do you know any other ?

A. No, I do not.

Q. Did your father meet any injury that night ?

A. They struck him with a gun, and a ball slightly grazed him in the temple.

Not cross-examined.

Q. (*By the Court.* Were you in the barn at all ?

A. No, I was not.

MAJOR JAMES BRIDGHAM,

Examined by Serjeant MOORE.

Q. Do you know these people, of the name of *Brett* ?

A. Not till they came to lodge informations.

Q. Against the prisoner ?

A. Yes.

Q. How came they before you ?

A. In consequence of having issued a summons.

Q. Had you heard of the attack upon their house ?

A. I had.

Q. And you thought it your duty to summon them ?

A. I did.

Q. Did they attend ?

A. They came the next morning.

Q. And

Q. And you took their informations ?

A. I did.

Case closed on behalf of the Crown.

DEFENCE.

JOHN HART,

Examined by Mr. DAVY.

Q. Do you recollect the 15th of *November* last ?

A. I do.

Q. Do you know *Thomas Brennan* ?

A. I do.

Q. Did you see him that day ?

A. I did.

Q. Where ?

A. On the main road between *Sligo* and *Foxford*.

Q. At what hour ?

A. Between eight and nine.

Q. Was it near his own house ?

A. It was, near a musquet-shot.

Q. Did you continue with him any time ?

A. I did, till he got to his own house.

Q. Did you remain there ?

A. No, I was tired, and thought it too long to remain.

Q. Was there any person along with you ?

A. Yes, *Martin Sweeny*, and a girl.

Q. Is she here ?

A. No.

Q. What is her name ?

A. *Catherine Brennan*.

Q. Did you hear of the *Threshers* being out that night ?

A. I did ; I heard the alarm of the people and guns.

Q. In what direction ?

A. At that place.

Q. What place ?

A. *Brett's* house.

Q. Was that before you saw *Brennan* ?

A. It was.

Q. What

Q. What passed when you heard them?

A. The girl first took notice of it, and warned us, that the *Threshers* were out.

Q. Did you hear any shots?

A. We did hear shots fired.

Q. Was it after that you met *Thomas Brennan*?

A. It was; and after parting with him at his own house, I heard more.

Q. What distance from *Brett's* house were you?

A. A mile and a half, across a bog and dangerous places; it would be better to go three mile of the road, than cross it.

Q. When you came to the prisoner's house, did he go in?

A. He went in before my face.

Q. And you heard the shots at *Brett's* house at that time?

A. We did indeed.

Cross-examined by the ATTORNEY GENERAL.

Q. How far do you live from *Brennan's* house?

A. In the next village.

Q. How far is that?

A. The two quarters of ground adjoin.

Q. Are you 100 yards from him?

A. It is 100 perch distant, and more by taking a round with a beast.

Q. Which of you live nearest to *Brett*?

A. I am.

Q. Were you on that day in the market of *Sligo*?

A. I was.

Q. Who was along with you?

A. *Martin Sweeny*.

Q. And he returned with you?

A. He did.

Q. Where does he live?

A. In the next village again.

Q. How near to *Brett's*?

A. Nearer than me.

Q. How far from *Sligo* do you live?

A. About fourteen miles.

Q. Was it the market day of *Sligo*?

A. It was.

Q. What

Q. What were you doing there ?

A. Selling a hide.

Q. How did you carry it ?

A. Upon a beast ; a mare that was slow of foot, and not able to go fast.

Q. Did you ride all the way ?

A. No, I footed some of it.

Q. Why ?

A. To let the girl ride.

Q. At what time did you leave the market ?

A. I can't tell.

Q. To whom did you sell the hide ?

A. I do not know.

Q. You never saw him before ?

A. No.

Q. Nor heard his name ?

A. No, indeed.

Q. At what time did you reach *Sligo* ?

A. At ten.

Q. Did you meet a chap immediately for your hide ?

A. I did not for some time.

Q. About what time did you sell it ?

A. About two o'clock.

Q. Then you eat your dinner ?

A. I did, and was walking about for a time.

Q. But you dined in *Sligo* ?

A. I did.

Q. Where ?

A. At the widow *Brennan's*.

Q. Did any one dine with you ?

A. It is all the dining was a piece of bread out of my pocket, and some drink.

Q. You remained some time after ?

A. Yes.

Q. What time did you set out ?

A. I can't say ; it was dark before I got to *Ballasaderre*.

Q. Did *Martin Sweeny* go with you the whole way ?

A. He did ; I wished to have company ; the journey was long.

Q. You were afraid to meet the *Threshers* ?

A. I did not care to meet them.

Q. They

Q. They are a lawless set of people?

A. No, they are not; I have nothing to say as to that.

Q. How far did you go before you heard talk of the *Threshers*?

A. Within thirty perch of *Brennan's* place.

Q. You were alarmed at hearing of it?

A. We did not like to hear of it.

Q. What was the first alarm you heard?

A. I told you before.

Q. Tell it again?

A. We heard the noise of dogs, talk of people, and report of guns.

Q. Was this the noise of the *Threshers*?

A. According as we judged, it was.

Q. Which did you hear first, the voices of the people, or the noise of the guns?

A. The voices.

Q. How far did you go afterwards, before you heard the noise of guns?

A. Not seven yards.

Q. Did you stop to listen?

A. No.

Q. You continued to walk quietly on?

A. We did.

Q. And *Brennan* went into his house?

A. Yes.

Q. And you went on to your own house?

A. Yes.

Q. And you heard the noise still as you went on?

A. Yes.

Q. And *Martin Sweeny* went forward to his own house?

A. No, he slept in the village that night; there was a bad step for him to go.

Q. How far is his house from yours?

A. About 150 perches.

Q. So he stopped for the night without going home, though within 150 perches of his house?

A. He did; the night was bad; there was rain.

Q. When did it begin to rain?

A. Just before we got home.

Q. Was it before you heard the noise?

A. No.

A. No; we got into the house before the rain began.

Q. How long?

A. Not long; about five minutes.

Q. Then *Brennan* and you got into your houses before the rain?

A. Yes.

Q. Did *Martin* foresee that the rain was coming?

A. He did not like to go home in the dark; he is a delicate man, and the place was boggy.

Q. How long might be the time, between your first hearing the barking of the dogs and getting to your own house?

A. Not more than from twenty to thirty minutes.

Q. How near were you to *Brennan's* house, when you first heard the noise?

A. Within a musquet shot.

Q. And you kept your horse walking all the time?

A. Yes.

Q. How long were you travelling from *Brennan's* house to your own?

A. I can't tell.

Q. Were you half an hour?

A. No. It was more than ten minutes.

Q. Was it before or after you parted *Brennan*, that you heard the noise?

A. It was after.

Q. How many shots did you hear after you parted *Brennan*?

A. One or two shots.

Q. Were there any fired after you got home?

A. I do not know; for I did not desire to go out after I got home, being tired.

Q. Did you make any enquiry what was going on?

A. No.

Q. Who were in your family?

A. A wife and six children.

Q. Did they hear the noise?

A. They did not; they were not out.

Q. Did *Martin Sweeny* say whether he would go home or not?

A. He was in doubt whether he would or not, because of the bad step.

Q. What did he do with his horse ?

A. He left it at his sister's at grass.

Q. How soon after did you hear the particulars of *Brett's* house being attacked ?

A. When I went to prayers the day following.

Q. Did you see *Martin Sweeny* there ?

A. No : he was a little stiff, and did not go.

Q. When did you see him afterwards ?

A. Not for some days.

Q. When did you learn that he did not go home ?

A. From his sister's children.

Q. How far does she live from you ?

A. Twenty or thirty yards.

Q. Was it the next day, they told you that he did not go home ?

A. No : the day after.

Q. You asked them, whether he went home or not ?

A. No ; they told me.

Q. Why did they tell you ?

A. Because they were talking together.

Q. What did they say about it ?

A. They told me on the *Monday* that he did not go home, being in dread of the badness of the step.

Q. You said it was the badness of the night that prevented him ?

A. It was both he was in dread of.

Q. Had a drop of rain fallen before you parted ?

A. There were drops in the wind, and it seemed that it would rain.

Q. Did the sign of the rain make the step bad ?

A. No.

Q. Could he not have been home in five minutes ?

A. No : with a beast he could not, unless he went round half a mile.

Q. Could he not walk there ?

A. No : he is a stiff man.

Q. Did he not walk about the town of *Sligo* at the market ?

A. He did.

Q. Has he not a family ?

A. He has.

Q. How many ?

A. A wife, and four or five children.

Q. And

Q. And he had got back within 150 perches of his house, and would not go home from dread, as you say of the road and the weather?

A. He would not.

Q. When his sister's children told you of his sleeping there, had you heard of the prisoner being charged with this offence?

A. No.

Q. When did you hear it?

A. When he was taken up.

Q. When was that?

A. In the same week.

Q. When did you mention what you could prove on the trial?

A. I never mentioned it, till I came here.

Q. Did you ever tell any person that you were with *Brennan* that night?

A. No, not till I was summoned.

Q. When was that?

A. *Tuesday* last.

Q. You knew that *Brennan* was charged with this offence, and that he must be innocent, according to your account, and yet you never mentioned the matter till *Tuesday* last?

A. I did not tell it.

Q. Why did you not immediately tell that you could prove his innocence?

A. Because I did not understand it.

Q. When did you meet your neighbour *Martin* after that night?

A. I never saw him afterwards till last *Tuesday*.

Q. Did it never occur to you when *Brennan* was charged with this offence to go to *Martin* and talk of it?

A. I never thought of it.—(N. B. It appeared that *Brennan* was committed on the 20th of *November*.)

Q. Did you see any of *Brennan's* family after the charge was made?

A. I did; I saw his wife.

Q. Did you say any thing to her about it?

A. She knew it all herself.

Q. When did she come to you about it?

A. I cannot say the certain day.

Q. Was it shortly before *Tuesday* last?

A. I can't say, if you were to cut my head off.

Q. Was it a week ago?

A. I can't say.

Q. Did she come to you before you were summoned?

A. She did.

Q. When was it?

A. As near as I recollect it cannot be less than eight or nine days.

Q. Did she ask you any thing of it?

A. She asked what I could say and I told her.

Q. Did you not say just now that you mentioned nothing of it to any person until *Tuesday* last?

A. I did not.

Q. You did say so and assigned as a reason that you did not think about it? How soon after *Brennan* was charged did his wife come to you?

A. I was never asked about it till *eight* or *nine* days ago?

Q. Then it must be three or four days after he was committed that his wife came to you?

A. Yes.

Q. So she let three or four days pass without asking you?

A. She did not know it till himself told her.

Q. Did you tell his wife what *Martin* could say?

A. I did not tell her any thing but what I could say myself—she knew it herself.

Q. Did you speak to her about *Martin*?

A. I did not.

Q. Had you any conversation with the prisoner or any of his friends as to the evidence you were to give?

A. I had not.

Q. Had you any conversation with any of the witnesses who are to be produced?

A. No.

Q. Do you know what witnesses he means to produce?

A. I do not only myself.

Q. Have you heard what witnesses he means to produce?

A. Only *Martin Sweeny* and *Rose Brennan*, who was watching a child.

Q. Was she summoned?

She

A. She was.

Q. How do you know?

A. The wife told me.

Q. How often did you see the prisoners wife on this business?

A. Twice.

Q. Did you see *Rose Brennan* and *Martin Sweeny* this day?

A. I did.

Q. Did you talk with them about your evidence?

A. We were asking one another what we could do in the town and that is all.

Q. Were there any persons present at this?

A. There were?

Q. Who are they?

A. I can't say.

Q. Can you name any of them?

A. Only his brother who lives in this town.

Q. Did not the prisoner's Attorney ask you what evidence you could give?

A. He did.

Q. Did he not also ask *Martin* what he could say?

A. He did, *Martin* mentioned more than I could say?

Q. Then *Martin* is apprized of all the evidence you can give?

A. I suppose so.

Q. When did the prisoner's Attorney ask you these questions?

A. This morning after the Judges came into Court.

Q. Was *Rose Brennan* present?

A. She was.

Q. Did you ever hear the name of any person who was at the attack on *Brett's* house?

A. I did not till this man was taken up.

Martin Sweeny, examined by Mr. Davy. (This witness gave his testimony in Irish, and an Interpreter was sworn and desired to ask the witness upon his oath did he ever speak English to any person?—He answered only when he was drunk, and then he spoke a little gibberish of English.

Q. Do

Q. Do you recollect the night of the attack upon *Brett's* house?

A. I do, and was in this town that day.

Q. Did you see *Thomas Brennan* that day?

A. I saw him on the road, this side of his own house as I was going home.

Q. What hour of the night was it?

A. I can't recollect the hour or the time, but it was before any person went to bed, as I believe it might be about nine o'clock.

Q. Who was along with him?

A. *John Hart*?

Q. Was there any other person there?

A. There was a girl from the neighbourhood *Catharine Brennan*.

Q. When did you and *Hart* meet?

A. We met in this town and were going home from the market?

Q. Did you hear any noise before you met the prisoner at the bar?

A. The woman that was along with us first heard the noise and told us the *Shakers* were out.

Q. Did you hear any shots fired that night?

A. We heard the noise of dogs and men and to the best of my belief we heard the noise of guns before and after.

Q. How soon after you heard the noise of the dogs did you meet the prisoner?

A. At my own garden next the high road?

Q. But how soon was it?

A. It was not half an hour.

Q. How far did you walk together and where did you part?

A. We were together till he went into his own house.

Q. Did you hear any noise after you parted with the prisoner?

A. I heard noise and shots.

Q. What hour was this?

A. It might be between nine and ten.

Q. In what direction were the shots fired?

A. The side where *George Bretts* house is.

Q. Did you hear any thing of the attack the next morning?

A. O.

A. On the following morning I heard there was damage done to *Brett* the night before.

Cross-examined by The ATTORNEY GENERAL.

Q. Who told you on the following morning of the damage done to *Brett*?

A. The people of the town and the neighbourhood.

Q. Was it before you were out of bed?

A. It was not, but after I got out of my bed.

Q. What time did you get home that night?

A. I was at home before the family went to bed.

Q. What hour was that?

A. I am not skilled in watches.

Q. How far is your house from the place where you left the prisoner?

A. About half a mile.

Q. Were you much wet with the rain in going home?

A. There was a river before me, and it was worse to me than the rain.

Q. Where did you put your horse that night?

A. I put him eating the hay where I always put him.

Q. Did you get any supper after you went home?

A. I did, I always get it.

Q. Was it your wife got your supper for you?

A. I am not certain whether it was my daughter or my wife.

Q. Do you know *John Hart* well?

A. I do.

Q. Did you see him the next day at the Chapel?

A. I did not.

Q. Were you there the next day?

A. I was not there, I heard the Priest would not be let in, and I did not go there.

Q. What is become of the girl who travelled with you?

A. I do not know where she is, but I believe she is with her father?

Q. How far is his place from this town?

A. Fifteen or sixteen miles.

Q. Did you go into *Hart's* house that evening?

A. I did not.

Q. Why

Q. Why not?

A. I was not well, and was in great haste home.

Q. Did you stop any where until you got home?

A. I stopped at my sister's to smoke a pipe and I had a great number of things for the village, and some tobacco and salt for my sister.

Q. Who held your horse while you were at your sisters?

A. The horse was at the door.

Q. But did any body hold him?

A. She threw him some hay and there was no occasion to hold him.

Q. Why did *Hart* go with you to your sisters?

A. He did not go up for the way to *Hart's* house is different.

Q. Are you positive that *Hart* did not go up at all to your sisters?

A. He was along with me to the turn of the road, but did not go with me to my sisters?

Q. How soon did you see *Hart* after that night?

A. Not till the Sunday eight days after.

Q. Where did you see him then?

A. At Mass?

Q. Had you heard at that time that *Brennan* was charged with this business?

A. I did not hear it till he was taken.

Q. Was he taken before you met *Hart* at Mass?

A. He was.

Q. What conversation had you and *Hart* about the business?

A. We had not the smallest conversation about that night?

Q. Do you mean to say that you knew that *Brennan* was charged with *Brett's* business—that you knew *Brennan* was not there, and yet said nothing to *Hart* about it?

A. I did not.

Q. Did you tell *Hart* you were in a hurry home that night?

A. I did not.

Q. Did you tell him whether you would go home or what you were going to do?

A. I did not, but was going home as quick as I could?

Q. When

Q. When did you see *Hart* last?

A. I saw him here a while ago as I was coming on the table.

Q. Did you see him before that?

A. I did.

Q. Did you hear him say what he was to prove?

A. I did.

A. Where?

A. At the upper end of the town we were talking about the business.

Q. Was any person present?

A. I do not know, there were people within, but do not know whether they heard it or not.

Q. How came your talk about it?

A. Because we got a summons.

Q. Did *Hart* tell you what he was to say?

A. He did but I knew it myself as well as he.

Q. Did you tell *Hart* what you could say?

A. I made no remark about the business but I told *Hart* what I had to say.

Q. Did this conversation pass in the presence of any other person who is to be a witness?

A. I do not recollect.

Q. Are you sure?

A. I think not.

Q. Had you any conversation with *Brennan* the prisoner, that night before he got home.

A. Nothing more than his asking me about the market.

Q. Did you ask him about the shots?

A. We did not, for it was after parting *Brennan* we heard the shots.

Q. How long after?

A. A short way.

Q. Were you near enough to hear the voices of people?

A. I heard a noise of people and of dogs.

Q. How soon after the parting from *Brennan*, did you hear that noise?

A. It was a short time.

Q. Are you sure that *Brennan* was in the house when you heard that noise?

A. I am not sure whether he was or not, but we left him at the house.

Q

Q. Are

Q. Are you sure you left him at the house before you heard the noise?

A. We heard the noise before we came to his house, and after we left it.

Q. Then why did you say you had no conversation with him about the shots and the noise, because you had left him before you heard any?

No answer.

Q. Had you any conversation with *Brennan* about the noise?

A. I had not.

Q. Did *Brennan* say any thing about it?

A. We were tired and had no conversation about it only asking about the markets.

Q. Did any of them say any thing when the girl told them the *Threshers* were out;

A. They did.

Q. Who made any remark?

A. We stood and listened, and cried we heard that the *Threshers* were out.

Q. Was that before you met *Brennan*?

A. It was.

Q. How long before?

A. A small piece of the road.

Q. Did you tell *Brennan* when you met him?

A. No.

Q. Why not?

A. Because he must have heard it himself if he was not deaf.

Q. Did *Brennan* tell you any thing about it?

A. He did not.

Q. What were the articles you left at your sisters?

A. Salt, soap, and tobacco.

John Hart called again, cross-examined by the ATTORNEY GENERAL.

Q. Had you any conversation with any person since you were upon the table?

A. I had not.

Q. Where does the girl live who travelled with you the night of *Brett's* attack?

A. In

A. In the same town with myself.

Q. Where is she now?

A. At home.

Q. Why is she not here?

A. Because she could say nothing but what we could say.

Q. What articles did you bring from *Sligo*?

A. Salt and tobacco and little things of that sort.

Q. How much salt and tobacco did *Sweeny* bring?

A. I do not know.

Q. Had you much conversation with him on the way?

A. Only what neighbours say.

Q. Was he drunk?

A. No, he had no reason.

Q. Tell me any thing he said?

A. I cannot recollect.

Q. Was it *Irish* you spoke?

A. It was.

Q. Did he ever speak *English*?

A. Only when he is out of his senses he speaks a word or two.

Q. On what part of the road did you meet *Brennan*?

A. One hundred and fifty yards from his own place.

Q. Did you meet him or did you overtake him?

A. We met him.

Q. Then why did he turn back?

A. Because he asked us about the market.

Q. Which of you first heard of the *Threshers*?

A. The girl and the man who was with us?

Q. Do you mean *Sweeny*?

A. Yes.

Q. Which first spoke of it?

A. The girl did.

Q. Did any one remark upon it?

A. I gave ear to it?

Q. Did the prisoner say any thing?

A. We did not meet him at that time.

Q. Do you mean to say, you heard a noise before you met the prisoner?

A. Yes.

Q. How old is the daughter of *Sweeny's* sister who told you he was not able to go home Saturday night?

A. One of them is twenty five, but they both told me.

Q. How much land does the sister hold ?

A. Very near eight pounds worth.

Q. Had she a place for grazing *Sweeny's* horse ?

A. She had.

Q. What reasons did her daughters assign for their Uncle not going home ?

A. I asked them no reason, but he said himself, he was in dread of the weather and the bad step.

Q. Mention what he said ?

A. He said he was in dread of the weather and a bad step and thought he would stay at his sisters.

Q. Was it that put you in mind of enquiring about him on the Monday ?

A. It was.

Q. Did *Sweeny* say any thing when you were telling your evidence to *Mr. Davy* ?

A. I do not recollect he say'd a hap' worth.

Q. Where was it ?

A. In *Kelly's* shop.

Q. Where were you standing ?

A. On the floor.

Q. Where was *Sweeny* ?

A. Behind *Mr. Davy*.

Q. Were you all close together ?

A. We were ?

Q. Did *Sweeny* seem to think that the account you gave was true ?

A. I suppose so.

Q. Why so ?

A. Because he said he had nothing else to say but what I said, and had no English to express himself.

Q. Upon your oath had he heard what your evidence was when he said that ?

A. He had.

Q. Did you ever see *Sweeny* from that night till you saw him here this day ?

A. I never saw him from that night till I was summoned here.

Q. Did you not meet him at Mass ?

A. If I did I do not recollect.

Q. Call it to mind ?

A. I did not see him.

Q. Did

Q. Did you not see him the next day ?

A. No.

Q. Did you ever meet him from the time this business was laid to *Brennan's* charge till you met him here ?

A. I did not.

Q. (*By the Court*). Did you go to Mass the Sunday after *Brett's* house was attacked ?

A. I did.

Q. Did you see *Sweeny* there that day ?

A. I did not.

Q. Do you both go to the same Chapel ?

A. We do.

Q. Was it after *Brett's* house was attacked the Chapel was shut up ?

A. It was.

Q. Then why did you go there ?

A. Because I was obliged to go there as well as others.

Q. What obliged you ?

A. We were obliged to pretend to go to Mass.

Q. Was *Sweeny* standing by with the Attorney when you told him your evidence ?

A. He was.

Q. (*By a Juror*). How far from *Brett's* house did you meet *Brennan* the prisoner ?

A. A mile and a half.

Q. Could he have run from *Brett's* place and met you on the road ?

A. He could not.

Q. (*By the Court*). When you met *Brennan* he was on the road going from his own house ?

A. He was.

Q. At what hour was it ?

A. About nine.

Rose Brennan, examined by *Mr. Davy*. (This witness also gave her evidence in Irish, and a person was sworn to interpret it.)

Q. Do you recollect the night of the attack upon *Brett's* House ?

A. I do.

Q. Where

Q. Where were you that night ?

A. In *Thomas Brennan's* house from night till morning.

Q. Where was *Thomas Brennan* that night ?

A. He was within in the house—he went out for a quarter of an hour and returned again.

Q. At what hour was that ?

A. I do not know I have no knowledge of hours at all.

Q. Did you hear any shots at the time of the attack ?

A. I did not hear a ha'porth about it nor did I leave the House at all. There was a sick child, and I was taking care of it from night till morning.

Q. Can you form any opinion what hour it was when he went out ?

A. I can form no opinion of it, but he went out for a quarter of an hour and returned, and did not go out again.

Q. Was it after night fall.

A. It was about bed time.

Q. Did you see any other person that night ?

A. I did not see any body but heard people speaking to him on the road.

Q. Did you know them ?

A. I did.

Q. Who were they ?

A. *John Hart* and *Martin Sweeny*; I knew their voices, and I within the house.

Q. Did the prisoner leave his house after that conversation with those people ?

A. He did not till morning.

Q. When did he go to bed ?

A. Immediately after supper, he went to bed at the other side of me.

Q. Did he get up during the night ?

A. He did not, for I was sitting up from night till morning.

Q. Could he leave the house unknown to you ?

A. He could not.

Cross-examined by the SOLICITOR GENERAL.

Q. What day of the month was this ?

A. I do not know, but it was *Saturday* night.

Q. How

Q. How do you know it was the night *Brett's* house was attacked?

A. Because there was a report the next day that his house was attacked.

Q. Did you hear any shots?

A. I did not hear a shot at all.

Q. When your master came in, did he say any thing to his wife or any other person about shots being fired?

A. I did not hear a ha'porth about it.

Q. What took him out into the road that evening?

A. He was going to a pound, and returned back.

Q. Did he say what prevented him going to that pound?

A. We did not ask him?

Q. But did he say any thing without being asked?

A. I did not hear him say any thing about it.

Q. How far is the pound from the house?

A. About a mile.

Q. Was it on the way to *Sligo*, or any other road?

A. On the way to *Sligo*.

Q. How long had the child been sick?

A. A week.

Q. Were you nurse tending it the whole week?

A. I was not there a night at all but that night.

Q. Did you close your eyes that night?

A. I did not, nor was I sleepy.

Q. Do you know what *Brennan* wanted that night at the pound?

A. Looking for sheep, as he told me.

Q. Were they *Brennan's* sheep that were missing?

A. I do not know whose they were.

Q. Did he say any thing about the sheep till night?

A. I did not hear him say any thing about them.

Q. What did he say when he was going out?

A. I do not know.

Q. Then how do you know it was to look for sheep he was going?

A. He heard his sheep were in pound, and he went to look after them.

Q. When did you hear that?

A. I do not know.

Q. Who told it to you?

A. I do not know a ha'porth about it.

Q. And your master said nothing about it?

A. No.

Q. When he was going out, or when he was returning, did he say any thing about these people?

A. I did not hear him say a word.

Q. Did you ever afterwards hear he recovered the sheep?

A. I did not, nor did I enquire.

Q. What put the sheep into your head, if you did not hear of them?

A. When he was going out, he said he was going for sheep to the pound.

Q. Do you recollect you told me he said nothing about it?

A. I do not recollect a ha'porth of it.

Q. Would you have known any thing about the sheep, if he had not talked of them as he went out?

A. I would not know a ha'porth of it, if he had not told it as he went out.

Q. Do you know *Martin Sweeny*?

A. I do.

Q. Have you often heard him speak?

A. I do not know whether I ever did or not.

Q. Did you often speak to him?

A. I do not know a ha'porth about him.

Q. Did you not ever hear him speak?

A. I did.

Q. When?

A. I heard him often, and heard him that night on the road, and knew his voice.

Q. Where did you hear him before that?

A. I have no recollection.

Q. Did you ever hear him speak in *Brennan's* house?

A. I never did.

Q. Did you ever see him there?

A. I never did.

Q. Did you ever see him since that night?

A. I saw him the other day coming to town here.

Q. Where did you see him?

A. I do not know; I have no recollection.

Q. How long ago is it?

A. I saw him here this day.

Q. But you said you saw him the other day. Where did you see him then?

A. I do not know.

Q. Did you see him this morning before you came to Court?

A. I saw him here in the Court.

Q. Did you see him before that?

A. I saw him walking in the street.

Q. Did you speak to him?

A. Not a great deal.

Q. What did you say to him?

A. I did not say any thing to him, but salute him.

Q. Do you know *John Hart*?

A. I do.

Q. Had you any conversation with him this day?

A. I had not.

Q. Did you hear *Hart* tell any body what evidence he could give?

A. I did not; nor do I know what witness he could give.

Q. Did you ever tell what evidence you could give?

A. I did.

Q. To whom?

A. I was obliged to tell it when my name was put upon the paper.

Q. When was that?

A. Yesterday.

Q. Was *Hart* present?

A. He was not.

Q. Did you ever tell it before yesterday?

A. I do not know.

Q. When was *Brennan* first accused of this business?

A. I do not know.

Q. How long ago is it since *Brett's* house was attacked?

A. I do not know when it was.

Q. Was it a month?

A. I can't tell.

Q. Might it have been three months ago?

A. I can't tell.

Q. Is it a year?

R

A. No,

A. No, nor half a quarter of a year.

Q. Do you know where *Brennan* was any night after, or any night before the one you mentioned?

A. I do not know any thing of him, but that particular night.

Q. What family has *Brennan*?

A. His father and mother, wife, children and maid.

Q. How many children?

A. Four.

Q. What age is the eldest?

A. I don't know.

Q. What size is the eldest?

A. Not very big.

Q. Where is *Brennan's* father?

A. I do not know.

Q. Where is his mother?

A. I do not know.

Q. Where are the children?

A. They are at home, but the mother is through the place here.

Q. Were they all at home that night?

A. They were.

Q. Are you related to the prisoner?

A. No.

Q. How long did you live with him?

A. I did not live with him.

Q. How long did you live in the house?

A. I did not live in it.

Q. Were you ever in it before that night?

A. I was.

Q. How long before?

A. I can't tell.

Q. What brought you there that night?

A. His wife sent for me to take care of the children that night, because a child was dying.

Q. Are you sure that was the night you were sent for?

A. I am quite sure of it.

Q. Where do you live?

A. A little below *Brennan's*.

Q. How far from him?

A. I do not know.

Q. Who went for you?

A. A little girl.

Q. Is she here?

A. No.

Q. At what time of the evening were you sent for?

A. Before night.

Q. Who lives in the house where you live?

A. My father.

Q. What is he?

A. A Landholder.

Q. Did he know you were sent for that night?

A. He did, every body in the house knew it.

Q. Where is your father?

A. He is at home.

Q. Have your mother or sisters been summoned here?

A. They have not.

Defence closed.

BARON GEORGE.—*Gentlemen of the Jury*—*Thomas Brennan* stands indicted before you, on four several Indictments. It is not necessary to draw off your attention from the only material question, that occurs in this trial, by pointing out to you the particular distinction between these several indictments, because they are all capital charges under the act made for preventing tumultuous risings, and under the law against burglary.—The cause of preferring so many indictments, for one transaction, was, I presume, to obviate all difficulties, that otherwise might arise out of the evidence on the trial. And as without a question, the persons, who so attacked, in a riotous and tumultuous manner, the house of *George Brett*, and robbed it of the arms, are guilty of the matter contained in these indictments; you may now apply all your attention to find, whether upon the evidence before you, the prisoner, *Thomas Brennan*, was or was not one of those persons.

That the prisoner was one of those persons is proved by the testimony of *George Brett*, the younger, only. The testimony of *Christopher Brett*, or *William Brett*, do not go to that fact: *George Brett* has sworn, that when he opened the door of the barn, the persons who had attacked it came in, called for a candle and got one, and with that light searched for more arms, that

that they remained in the barn ten minutes. He swears the prisoner was one of them there—that he was searching about the house looking for arms—that he knew him before—that he had no covering at all to disguise or conceal him. That the prisoner lives at *Carnalacky* about three quarters of a mile from his fathers house, and that this witness has been in the house of the prisoner. Gentlemon, you observe, that although *George Brett* is positive as to the prisoner, yet *Christopher Brett*, his brother, who was in the barn at the same time with him, swears he did not know any of them—but this witness said, he did not before that time know the prisoner as well as his brother did, and had but a slight acquaintance with the prisoner before. The evidence which goes to charge the prisoner remaining thus, (for *William Brett*, the third witness in the prosecution, not having been in the barn at that time has said nothing against him) demands your most serious consideration—for you are on your oaths to answer, whether *George Brett* has charged the prisoner truly—or falsely, through mistake, or wilful malice. In the course of the trial, it has not appeared that any enmity ever subsisted between *George Brett* and the prisoner, or their families—You have not only heard what *George Brett* has said against the prisoner, but you have seen the manner in which he related it—You will judge how far *George Brett* appeared disposed to magnify, or enflame any thing to the prisoners prejudice; for where such a disposition appears, evidence cannot be heard with too great caution. You find this prosecution did not originate with the family of *Brett*—they were afraid to complain to the Magistrate; they attended before him by compulsion, and in obedience to his summons, and if they had not submitted to be examined and to be bound over to prosecute here, they would have been liable to be committed to the County Gaol. The examination appears to have taken place before the Magistrate upon the *Monday* after the fact, when leisure had intervened, to consider who the persons were, who attacked the house; and before such a length of time had elapsed as could prejudice the memory of the transaction; But, Gentlemen, if you shall consider this evidence, whilst it remained unanswered and uncontradicted

contradicted satisfactory, you will next consider the evidence offered in the defence and its effect.

The defence of the prisoner is what is called an *alibi*: That at the time he is charged to have been committing the crimes in the indictments mentioned at *Brett's* house—he was not and could not be there, for he was then in or near his own house, at the distance of three quarters of a mile from the house of *Brett*. This sort of defence having often been abused is heard with suspicion; yet when true, it is the very best defence and often the only defence, that an innocent man can make. The truth of this sort of defence is not always to be ascertained by the direct testimony of the witnesses called to prove it. Several witnesses are seldom produced in such cases without its being known, that they agree with each other in the substantial and principal fact they are to relate, and as in general, it is not to be expected, that a prosecutor should come with evidence prepared to meet this sort of defence, the usual test of its truth or of its falsehood, where the witnesses are unknown to the Jury, is a cross-examination of the witnesses, kept asunder, and fairly conducted under the eye and observation of the Jury.—And here, you should remember, that differences, or contradictions in circumstances, otherwise trivial, become important in shewing the truth or falsehood of such narrative. The defence of the prisoner here stands on the testimony of three witnesses; two of these witnesses, that is to say, *John Hart*, and *Martin Sweeny* go to the same matter; in their direct testimony they both say, that on this evening, on their way home from *Sligo*, they met the prisoner *Brennan*, near his own garden, at the distance of about the sixth of a mile from his own house; that this was after the attack on *Brett's* house had commenced; they accompanied him to his own house, whilst that attack was going on, and after they left him there, they heard shots in the direction of *Brett's* house, at the distance of near a mile. Gentlemen, for the testimony of these witnesses on the cross-examination, I wish to refer you to the notes which I perceive you have taken very fully, and to the observations which you yourselves may thereupon suggest

gest to each other. Gentlemen, the testimony of *John Hart* and *Martin Sweeny* has been followed by that of *Rose Brennan*; that girl has told you the business which led the prisoner out of his house on that night, when *Hart* and *Sweeny* swore they met him; and she swears, that she knew the voices of *Hart* and *Sweeny*, and heard them speaking with the prisoner on the road, near his door, when he returned to his house, as they had related. She swore, that after his return at that time he remained at home all the rest of the night, that he then eat his supper and went to bed—and she states, the occasion on which she was present to know all this—she says, she was in the prisoner's house on no other night but this, that the prisoner's wife sent a little girl for her to come and to take care of a sick child, that was dying in his house on that night, and that she took care of that child from night till morning; during which time she never closed her eyes—and this service she states was done by her on this night only in *Brennan's* house, where his father, mother, wife and children, and he then were.—Gentlemen, I have observed you pay the attention, that was due to the testimony of this girl, and doubtless also to the manner in which it was given; and if you believe it to be true, you cannot hesitate to acquit the prisoner; as according to that, he neither nor could have been at *Brett's* house at the time, nor have had any part in the disturbances that prevailed that night. But, Gentlemen, if you find you cannot believe this testimony of the girl, but discredit it, as being fabricated, you will consider how far that will go to affect the evidence of *Hart* and *Sweeny*, whose testimony this girl was examined to corroborate, and whose testimony, this girl, if she is to be believed, has so very materially corroborated. Gentlemen, it appears, that this attack was made on the house of *Brett*, the elder, not to commit a burglary of the common sort; but to rob it of arms and ammunition; but, gentlemen, the criminality of the persons concerned in it is not the less nor the offence the less alarming, but is of greater alarm on that account; it deserves to be considered for what purpose it is, that riotous and nightly mobs thus go about to seize into their hands the arms of the regular and orderly inhabitants of the country.—Gentlemen, it is not imputed

to the prisoner, that he was the captain or leader of these disturbers of the peace; nor that he was the man who fired into *Brett's* house; nor that he was the man, who with the sheaf of oats, threatened to burn the house, if the arms were not delivered out—what he is charged to have done is, to be searching about the house, looking for arms—and it is right, that you should know, and that this crowded audience should hear, that when a body or party of men go out to commit a felony, every man of them is as criminal as the Leader or Captain.—The Captain could do little mischief, if he were alone, and without the presence and support of his deluded followers: and likewise all persons here should know the danger of going forth with a riotous and tumultuous body of men, to disturb the peace; for although a man should go out resolved to do nothing more than to add himself to their number; yet that will not save or defend him in a Court of Justice; for here he will have to answer for every act, which the worst man of that party may in his wantonness and wickedness commit, in furtherance of the object of the rising; and thus it may happen, that a man, who never before offended against the laws of his country, may after he has joined such a body, and before he has remained a quarter of an hour in their company, or gone a fields length, be fatally involved, and guilty in law of murder, burglary, robbery, and the greatest crimes. Gentlemen, it is right, that you should know that such is the law, and it is important, that all now present should know it also. Gentlemen, upon the evidence here given, you are now to consider, and decide, whether the prisoner be guilty or not, and if upon the evidence, a fair or reasonable doubt arises, you should give way to that doubt, and acquit, but if you find your minds satisfied, and convinced upon the evidence, in that case you will find the truth.

The Jury retired, and after deliberating near an hour, returned a Verdict, *Guilty*.

The Court then adjourned to Monday, upon which day and Tuesday, the following persons were tried

before the Ld. Chief Justice: but the Hon. Baron GEORGE being obliged to go forward to Castlebar to open the Commission for the County of *Mayo*, and the Reporter having gone there also, he is unable to give any detail of the trials of those persons.

Monday, December 8th, 1806.

Thomas Kilmartin and *John Killellane* were indicted, for that they with many others, on the 21st of *September*, 1806, at *Lugnadiva* in the county of *Sligo*, did unlawfully, wilfully, and tumultuously rise, and assemble and appear by night to the terror of his Majesty's subjects—and did assume the name and denomination of *Threshers* and wear unusual badges, namely white shirts over their cloaths, and white bands over their hats, &c. &c. against peace and statute.

The Prisoners were found guilty, and sentenced to be twice publickly whipped, and imprisoned for six months.

Patrick Hart, *Bartolomew Bighlane*, *Archibold Biglane*, *James Kinzy*, and *John Kinzy*, were indicted, for that they on the 21st. of *November*, 1806, at *Oghill*, in the County of *Sligo*, did feloniously in a forcible manner, demand fire arms from *Robert Armstrong*, with intent feloniously to rob him thereof, against peace and statute.

The prisoners were all convicted and sentenced to be transported for seven years.

James Costello, indicted, for that he with others, *November* 18th, forty-seventh Year of the King, at *Tounatruane*, did forcibly and feloniously seize one gun and one sword, the arms and goods of *Dominick O'Donnell*, against the peace and statute, and did forcibly and feloniously seize and carry away certain ammunition to wit: ten balls, and half a pound weight of gunpowder, the goods of said *O'Donnell*.

The prisoners was acquitted, and *O'Donnell* was committed for perjury.

Patrick

Patrick Fagan, was indicted for that he *September 27th*, forty-sixth of the King at *Arbrahin* in County *Sligo*, after sun-set, did wilfully, maliciously, forcibly and feloniously, break into the dwelling house of *John Griffith*, against peace and statute.

The prisoner was found *Guilty*, and sentenced to be hanged.

SPECIAL COMMISSION.

CASTLEBAR, *December, 8th.*

The Honourable Baron *GEORGE* opened the Commission for the County of *Mayo*, and on the next day, the following Gentlemen were sworn upon the Grand Jury.

<p>Rt. Hon. <i>Dennis Browne</i>, Hon. <i>Henry Aug. Dillon</i>, Sir <i>Samuel O'Malley</i>, Bart. Sir <i>T. E. Brown</i>, Bart. Dom. <i>G. Browne</i>, Esq. <i>Peter Lynch</i>, Esq. <i>Thomas Lindsay</i>, Esq. <i>Charles Costello</i>, Esq. <i>Thomas Ormsby</i>, Esq. <i>Robert Rutlege</i>, Esq. <i>Anthony Gildea</i>, Esq. <i>John Ormsby</i>, Esq.</p>	<p><i>Charles O'Malley</i>, Esq. <i>Thomas Palmer</i>, Esq. <i>George Moore</i>, Esq. <i>Matt. Wyatt</i>, Esq. <i>Owen O'Malley</i>, Esq. <i>And. C. O'Malley</i>, Esq. <i>Pat. Lynch</i>, Esq. <i>James Madden</i>, Esq. <i>Connell O'Donnell</i>, Esq. <i>Wm. Palmer</i>, Esq. <i>And. Browne</i>, Esq.</p>
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BARON GEORGE. "*Gentlemen of the Grand Jury.*
 At a time when by the bounty of Providence and the bravery of our Fleets and Armies, all his Majesty's dominions (a few counties in this part of Ireland excepted) are in a state of profound peace and likely long to remain so; we are called together to quiet the alarms, that are disturbing your County.

“Gentlemen, for the punishment of offences which have aggrieved individuals, or are confined to a narrow circle, justice pervades your county, twice in the year, and then in convenient seasons. But an evil has gone forth among you, which is of unusual concern, and which calls aloud for an immediate remedy. Tumultuous and unlawful assemblies have been formed, names, made frightful by crime, adopted and disguises assumed, to spread terror—houses attacked in the night time—arms and ammunition taken—unlawful oaths administered—and tortures, before unheard of, inflicted!

“If the end to which these disorders are leading a deluded populace, were avowed, little mischief would be done. Foolish and credulous as the peasantry are, few would be found to go forth on such a forlorn hope. But this is not done—certain abuses and extortions, that are said to have arisen in the payment of the duties of the Clergy, have furnished a popular pretext, and are the only avowed grievances, this violence is intended to remove.

“Gentlemen, we all know, that every human institution, however necessary, however salutary, is liable to be abused; and there is no abuse that has not an appropriate remedy. Men, therefore, who really desire a remedy, may seek it, and may have it, without any danger to their lives, or any offence given to the laws. The oaths administered, though so artfully contrived to deceive and mislead, sufficiently declare the grand object of these disturbers. Men are sworn to obey the commands of every outlaw, who calls himself, *Captain Thresher!*

“Of what nature such commands may be, or who is, or who hereafter may be *Captain Thresher*, and by what authority he is set up, no one can tell. But the experience we have had of enormities, which had a similar beginning, fully declares the mischief, that lies concealed in the general words of such unlawful oaths; and the unfortunate men upon whom these oaths are forced, should be aware of this.

“Gentlemen, the government is anxious for your happiness, and determined to support you with all its might and with all its means, until all your alarms shall be composed. It is desirous to correct such evils early

early and whilst they are corrigible; and to restore that tranquillity, without which whatever you possess can be of little value. It has, therefore, hastened, overlooking all the difficulties of times and seasons, to throw open the doors of this Court, that we may here admit all those, who suffer under the apprehensions of this deluded rabble—that we may hear their complaints and redress their injuries, by due course of law, and in doing so, dispense justice, with mercy.

“Gentlemen, his Grace the Lord Lieutenant also, to give you the fullest assurance of his protection, and support, has spared from his Councils, and sent hither to advise and assist you, the highest officers known to the Law—Men dignified in station—You will soon find them also to be eminent in talents, and most sincere in their zeal for the public service.

“Gentlemen, it appears, that a report had been propagated, and generally believed, that the Statutes made against tumultuous risings to the terror of the people and that the laws, which were enacted to prevent riot and insurrection had expired, and were no longer in force. I think it therefore necessary to declare from this place, that these laws are unexpired and are in full force, and therefore under the Statutes, to which I allude, if any person or persons, having his or their body or bodies, or face disguised, or wearing a dress, or badge, not worn upon their lawful occasions, or assuming an unusual name, shall rise or assemble by day or by night, to the terror of the people, he and they is and are punishable as for a high crime and misdemeanor, and there is scarcely any act, which they can do, when so unlawfully assembled, to injure the person, habitation or property of any man, that is not punishable with death!—The Magistrates are bound by the duty of their office, where outrages of this sort are committed, to send out summonses and call before them every person whom they have reason, to believe can give information relative to such assemblies, the persons composing them and the offences, which have been committed.—The Magistrates are bound to apprehend all such persons as they may receive information against, and if the person summoned shall refuse to give information, he is to be imprisoned in the common gaol, until he submits

submits so to do, and he is to be bound in a recognizance to prosecute. The Magistrates and Peace Officers are bound to disperse, resist, oppose, and apprehend all persons concerned in such unlawful assemblies, and for that purpose they have a right to call upon every man in the community to aid and assist them; and it should be known, that if any man so called upon, shall dare to refuse, he is liable to be punished by fine and imprisonment. And in order fully to protect the Magistrates and all persons acting in aid of them, it is provided, that if any wounding, maiming or killing shall ensue the attempt to disperse and apprehend such unlawful assembly, the Magistrates and all persons acting with them, are discharged and indemnified to all intents and purposes whatsoever, and in addition to all this, it enacted, that compensation may be made to persons injured in their property, and the Grand Jury may present the amount thereof to be levied off the Barony, Half-Barony, Parish, or Townland, where the offence was committed, so as further to punish the perpetrators of the mischief, by making them contribute to the expence, which has been thereby incurred.

“ Thus, Gentlemen, you see, there are laws, with the severest sanctions, levelled at the evil, now on foot. Besides, you have a vigilant Government, commanding great armies, and otherwise strong in public confidence, ready to exercise all its energies in maintenance of those laws, and in protection of the good and peaceable inhabitants of the country. The legal powers of the Magistrates are ample, to discover offenders, and to bring them and their accusers to the Bar of this Court; and within this Court, I cannot fear, that any branch, or department of it will be wanting in its duty.

“ But, Gentlemen, it should be remembered, that the most perfect constitution, and the best laws on earth cannot, of themselves, preserve, or restore good order. Without these walls, they require to be administered by the Magistrates and Peace Officers, with ability—with activity, and courage—and within these walls, by the Court and the Juries, with justice and with fidelity. And, Gentlemen, if through the supineness of the Magistracy and Peace Officers, or
the

he distractions of the County, through a long contested election, disorder has gained strength, this is not the fault of the law,—nor the default of the Government:—It is right, that the blame should be laid, where it ought to rest, and there only.

“ I trust, that the Magistrates of this County have made provision for the due administration of justice in this Court.—I trust also, that what passes here may bring back thoughtless men to reflection, and wicked men to grace—that so they may meet the sacred festival of the Nativity of our Redeemer, as it advances, according to his Will, and according to his Holy Word, with sincere sorrow for past sins and past offences; and a firm resolution to repent and amend; and that with the new year, men so near being lost, may return with blameless lives to their peaceful labours, and our best hopes shall be realized, if abused, and misguided men shall only have the sense to consider those, who give them this advice, as their *friends*, and all, who would have them reject it, as their most mortal *foes*.”

James Mc Phadeen and *William Mc Phadeen* were indicted for that they on the 18th of *October*, in forty-sixth year of the reign, at *Minola*, did knowingly, maliciously, and feloniously, publish and deliver a certain message, tending to excite unlawful combination and confederacy, under the name and denomination of “*Threshers*” for unlawful purposes, and for the disturbance of the public peace, against the peace and statute.

The prisoners pleaded, *Not Guilty*, but refusing to join in their challenges, *James Mc Phadeen* alone was put upon his trial.

The ATTORNEY GENERAL stated the case on behalf of the Crown*.

* The copy of the Attorney General's speech upon this occasion has been mislaid, but will be published upon a future opportunity.

Rt. Hon. *Dennis Browne*, examined by the SOLICITOR
GENERAL.

Q. Are you a Magistrate of this county?

A. I am, Sir.

Q. Do you reside in this county?

A. I do.

Q. Have you resided in this county for the last year?

A. I have, but was occasionally absent attending my duty in Parliament.

Q. Have you been resident in this county for the last four months.

A. I have constantly.

Q. Has this county been during that last period in a state of tranquillity?

A. The disturbances of this county commenced in the barony of *Tyrarley*, about a year from last *November*, they remained stationary there till last *August*, when they made their way into the barony of *Gallan*, from which they made their way into *Clonmorris* and other baronies.

Q. In what manner do these disturbances exhibit themselves?

A. I speak from hearsay and information received on oath as a magistrate, and from the general rumour of the country.—The first object of the association was the reduction of tithes and Priest's dues—when it travelled into this part it assumed that, and also another shape, that of attacking the wages of weavers and other artificers—and latterly farmers. In different stages of its progress it professed different objects—all kinds of payments, whether of tithes, industry, labour, or farming—assemblies of people collected in disguise and wearing badges and armed, appeared in different parts of the country.—It shewed itself in posting up written notices, exciting people to rebellion under various different pretences. When I took steps in different parts to stop the consequence of these notices, by tearing them down and offering rewards, they adopted another mode of exciting disturbances, by delivering messages in the Chapels, threatening the Priests, and calling upon the Congregations, that if they did not lower their dues—avoid the payment of tithes,

tithes, and alter the wages of labourers, the *Threshers* would visit them, and that the Priests might have their coffins prepared—and that the flesh would be torn off their bones, which messages have had more effect in spreading the mischief, than any mode which was before resorted to.

Mr. T. MOORE. My Lords, I object to this evidence being admitted against the prisoner.

Mr. SOLICITOR GENERAL. We produce this evidence to shew that there is a disturbance in the country, and what the nature of it is. We shall afterwards shew how far the prisoners were concerned in it.

Q. You stated, that one part of these messages was to reduce the dues of the Clergy?

A. A great and leading object.

Q. By what name did this association pass in the country?

A. By the name of *Threshers*.

Q. Under whose warrant was the prisoner at the bar committed?

A. Under mine.

Q. Are you able to say, whether after the apprehension of the prisoner there was any increase or continuation of the practices you have described?

Mr. T. MOORE. My Lords, I submit, whether such a question should be put to the witness; it does not lead to any fact against the prisoner.

Mr. SOLICITOR GENERAL. Hitherto, my Lords, we have not enquired as to the prisoner, but respecting the general state of things. If there be any doubt respecting this particular question, I will waive it—and put one more general

Q. What has been the state of the county since the 21st. of *October*—has there been any alteration in the state of things?

A. A very material one?

Q. Of what nature was it?

A. Of a nature beneficial in the highest degree to the public peace, in so much that I stated to govern-

ment that the disturbances had ceased in the entire of the country of which I had the management.

Q. Did that effect take place in the neighbourhood where this man was taken?

A. It did, and the disturbances began in that barony.

Thady Thornton, examined by Mr. SOLICITOR GENERAL.

Q. Where did you live in the month of *October* last?

A. In the town of *Minola*.

Q. Was the neighbourhood of that town quiet, or disturbed last *October*?

A. As I heard and saw, it was very much disturbed.

Q. Did you see any of the persons concerned in the disturbance?

A. I did. They came to my house on the night of *Tuesday*, before the 14th of *October*, they took me out of my house naked, and brought me into the street.

Q. Were they many in number?

A. I did not count them; but they had the appearance of forty or fifty.

Q. Had they any particular dress?

A. They had white shirts over their bodies and handkerchiefs over their hats and faces.

Q. Do you recollect the *Sunday* after that?

A. I do—I think it was the 14th of *October*.

Q. Do you recollect seeing any particular person that day?

A. I saw the prisoner *James Mc Phadeen*, an old neighbour of mine; he came to me, and asked me, was I sworn to go to any place that day. I said, I was not, and if I was I would not go, as it was not proper. He said, that a party came to his house in disguise, and swore him to go to the Chapel to the town where I live, in *Minola*, and to go to the Clergyman. I said, that oath was not binding by laws of God, or King, and if he had a mind he might break it. He said, he could not, as he was in dread. I then went to Mass, and after Mr. *Nolan* came out to shake the holy-water among the people there assembled—

Q. By

Q. (*By the Court*). Was this after prayers?

A. It was when he shook the holy-water, there were some prayers before and some after it—it is towards the latter end of the service.

Q. Was it during the service?

A. It was during the service; he told the Priest he was sworn to come to him.

Q. Look at the dock—do you see *James Mc Phaden* there?

A. I do, there he is, next to the gaoler.

Q. What did he tell the Priest?

A. That he should marry persons for half a guinea, baptize for nineteen pence halfpenny, read Mass for thirteen pence, and at any house to which he came to confession, if he got hay and oats for his horse to take it—but if not, to go away, on pain of suffering for it.

Q. When this man told you he was sworn by the *Threshers* to go of this message, what did you say to him?

A. I told him, if it was my case, I would not go, that it was neither binding by the laws of God, or the country—he said, he was afraid.

Q. What more did you say to him?

A. I said, it was considered by the gentlemen of the country as a piece of business contrived by those who appeared in it and were going about.

Q. What did you mean by that?

A. That it was themselves were laying down these oaths and framing messages, and that no persons compelled them, but they themselves went about at night and went of the messages.

Q. Was *Mr. Nolan* threatened with any punishment?

A. He was.

Q. Of what sort?

A. I cannot say—but that he was told, he would suffer if he would not obey.

Q. Was the congregation there at the time?

A. They were, and there are nine of them here.

Q. In what parish was this?

A. In the half parish of *Minola*.

Q. Is that the prisoners parish?

A. No.

Q. How far distant is the prisoners parish ?

A. Two miles.

Cross-examined by Mr. T. MOORE.

Q. I suppose you are a person who have a great regard for your oath ?

A. Why should I not ?

Q. And do you not think, that another man should have respect for his oath ?

A. Yes, every honest man should have respect for his soul and his oath.

Court. Only for a legal oath—he should pay no regard to any other.

Q. But there are persons who pay no regard to a legal oath ?

A. There are such people.

Q. You thought it no inconvenience to go to the Chapel at *Minola*.

A. No.

Q. The prisoner does not live much farther from it than you, and why should you think it an inconvenience to him ?

A. I attended that Chapel for twenty-two years, and never saw him there before.

Q. But it was not too far to go to hear the word of God ?

A. No.

Q. Therefore there was no crime in that ?

A. I make no crime of it.

Q. You are well acquainted with *James Mc Phaden* ?

A. I am these twenty two years.

Q. Do you not think him as good a neighbour as yourself ?

A. To be sure, as a neighbour.

Q. Have you heard, that rewards are to be given to persons who convict others upon these trials ?

A. I have.

Q. And you expect none ?

A. I do not : I would do my duty without it.

Q. He

Q. He told you, that his neighbours, the *Threshers*, came to him and swore him ?

A. I did not say *his neighbours*, but the *Threshers*.

Q. But he came and told you what he was to do, and you advised him ?

A. I did, as an honest man, which I always thought him.

Q. If the priest of the parish said the same, would you believe him ?

A. I would.

Q. Who is the next magistrate to you ?

A. Mr. *Lynch*.

Q. How far is Mr. *Browne* from you ?

A. Ten miles.

Q. And you went that distance, rather than go to a neighbouring magistrate ?

A. Why should not I, when Mr. *Browne* came to me, and summoned me to give information.

Q. Did you ever see him before ?

A. To be sure ; do you think I was blind.

Q. Did you ever speak to him before ?

A. Never in my life.

Q. (*By a Juror.* When you recommended the prisoner not to go, what reason did he give ?

A. That he was put to his oath by these insurgents, and was afraid not to go.)

Q. Do you believe he was afraid ?

A. I believe what I have said ; but I did not ask him particularly.

Q. (*By Jurors.* Did he tell you, why he was afraid ?

A. He did not.

Q. But was he not afraid ?

A. He might, as I have been myself.

Q. Did he ask you, whether you were sworn by them ?

A. He asked me, whether I was when the people were with me.

Q. Had you told him of that ?

A. The whole country knew it.

Q. Did you mention it to him ?

A. I

A. I did not.

Q. What brought him to your house ?

A. To rest himself.

Q. Is that on the way to the chapel ?

A. No ; but he was there in the morning, before chapel began.

Q. Then he went out of his way to rest himself ?

A. It was only a few yards from the road.

JOHN BURKE,

Examined by the ATTORNEY GENERAL.

Q. Do you know *James Mc Phadeen* ?

A. I think I do, if I saw him.

Q. Look at the dock, and try if you see him ?

A. I saw this man (*pointing to William Mc Phadeen*) ; but do not know his name.

Q. Did you see him at *Minola* chapel ?

A. I did.

Q. Who officiated there ?

A. Father *Patrick Nolan*.

Q. Was it upon a *Sunday* ?

A. It was.

Q. Did *Mc Phadeen* do, or say any thing ?

A. When Father *Nolan* came to shake the water, he stood up, and said he came with reluctance, being sent by a *posse* of people, who came to his house a few nights before, to desire that he should marry for half-a-guinea, baptize for three sixpences, go to confession free, but if he had oats for his horse to take it, if not, to go away.

Q. Did he say, what would be the consequence ?

A. That is all I heard him say.

Q. Did he say, what the *posse* of people was ?

A. If he had, I would have taken him, till he named them.

Q. But did he say, what *posse* of people ?

A. These men that go about in white, as they go about in our part.

Cross-examined by Mr. T. MOORE.

Q. Was this a public chapel ?

A. It

A. It was not ; it was a private house, used as a chapel : we have no other chapel.

Q. Do you not believe, that this man himself suffered from the *Threshers* ?

A. No ; but I heard that another man in his village did suffer.

Q. *By the ATTORNEY GENERAL.* Was that the usual place of celebrating mass at *Minola* ?

A. I never saw mass celebrated in *Minola*, but in *Jennings's* house, or the *miller's* house.

FRANCIS IVERS,

Examined by the SOLICITOR GENERAL.

Q. Do you know *James Mc Phadeen* ?

A. I believe I would, if I saw him : this is the man (*pointing to the prisoner, James Mc Phadeen.*)

Q. Were you at any time at mass in *Minola* in *October* last ?

A. I was there when mass was celebrated in *Mr. Jennings's* house.

Q. Is that the usual place for celebrating mass there ?

A. It is : there is no other place.

Q. Did you see *James Mc Phadeen* there ?

A. I did.

Q. Did he say any thing ?

A. He said, he was sworn by a *posse* of people in disguise to come to *Minola*, and tell *Father Nolan* to marry for half-a guinea, to baptize for three sixpences, to say mass for a shilling, to go to confession free ; but if he got oats to take it.

Q. At what time of the mass was this ?

A. When the priest shook the holy water.

Cross-examined by Mr. T. MOORE.

Q. He told the priest he was not to demand more than certain charges ?

A. He did.

Q. But how did that tend to create tumultuous assemblies ?

BARON GEORGE.—When the evidence is closed, I will hear you to any point of law, and we can then discuss it.

Mr. T. MOORE. Q. Do you think you have stated the message truly?

A. I think I have, as he mentioned it.

Q. (*By the Court.* Did he tell the priest, who sent that message?)

A. He said, he was sent by a *posse* of people in disguise.)

Q. (*By Jurors.* Was he in dread, if he did not deliver it?)

A. He said, he came with reluctance.

Q. Was he afraid?

A. It's like he was.

Q. Did he say he was?

A. He did not: he said, he came with reluctance.

Q. Do you know his character?

A. I do not; but I never heard any thing bad of him.

Q. Do you suppose, that if a party of men came to you, you would be induced to act as he did?

A. I do not know, whether I would or not.

MATTHEW LALLY,

Examined by the ATTORNEY GENERAL.

Q. Do you know *James Mc Phadeen*?

A. I think I would.

Q. Look round and try, if you see him?

A. I believe this is the man (*pointing to William Mc Phadeen*) I never saw him but that once.

Q. Was *John Burke* at the chapel that day?

A. He was.

Q. And *Francis Ivers*?

A. He was.

Q. Upon what *Sunday* was it?

A. In the middle of *October*.

Q. Who was the priest that officiated?

A. The Rev. *Patrick Nolan*.

Q. Did

Q. Did you hear any man make a declaration to the congregation that day, when mass was over, and while the priest was shaking the holy water?

A. I did. He bid the congregation not to disperse, for he was sent there, and had a few words to say to them and the Rev. Mr. *Nolan*. He desired Mr. *Nolan* not to go on till he told him. He said, he was sent there of a message to Mr. *Nolan*, by a *posse* of people, in disguise, to tell him not to take more than half-a-guinea for marriage; thirteen pence for mass; and nineteen pence halfpenny for christening; and if he went to confession and got oats, to go quit.

Q. How soon after did you give information to Mr. *Browne*?

A. The day before *November* day.

(Not cross-examined.)

THOMAS BOLAND,

Examined by the SOLICITOR GENERAL

Q. Where do you live?

A. In *Minola*.

Q. Do you know *James Mac Phadeen*?

A. I saw him the day he came to *Minola*.

Q. Upon what day was that?

A. On a Sunday.

Q. In what month?

A. In *October*.

Q. What did he say that day?

A. When the prayers were over at mass, and the priest was shaking the holy water, *James Mac Phadeen* said, he was sent with a message against his will to the priest. He said, he was ordered to tell him, not to charge more than half-a-guinea for marriage; thirteen pence for mass, and nineteen pence halfpenny for christening. He said, he should lower his fees, and sinking his voice said, "if not, to have his coffin convenient."

Q. Did you hear him say that?

A. He was the next man but one to me, and I heard him distinctly.

Q. Look at the bar, and say, if *James Mac Phadeen* be there?

U

A. This

A. This is the man (*pointing to the prisoner ;*) and I am sorry to see him here, or that he was there at all.

Q. Did you give information to a magistrate of this matter, or did a magistrate go to you ?

A. Mr. *Browne* came to me, and I have been attending here at great inconvenience and loss.

Q. Do you know *Mathew Lally* ?

A. I do : he is my brother-in-law.

Q. Was he at the chapel that day ?

A. He was.

Cross-examined by Mr. T. MOORE.

Q. Do you not believe, that if such a message was delivered, it was by compulsion ?

A. He said at first, it was against his will.

Q. Do you not believe it was the fact ?

A. I cannot say ; you may form your own belief of it.

Q. Is it not the custom to compel quiet persons to deliver such messages ?

A. I believe he was driven to it, because I never saw him at that mass before : it was not his chapel.

Case closed on behalf of the Crown.

PRISONER'S DEFENCE.

MATHEW WILLES,

Examined by Mr. T. MOORE.

Q. Do you know the prisoner at the bar ?

A. I do.

Q. Do you recollect at any time his house being attacked ?

A. I do.

Q. In or about what time ?

A. It is I believe about seven weeks past.

Q. What day ?

A. I cannot tell the day ; but it was a week day, and the next *Sunday* he was charged to go to the chapel.

Q. Was *Sunday* the next day, or three or four days after ?

A. It

A. It was three or four days after.

Q. Is it not the custom with the *Threshers* to send quiet and peaceable men to go of their messages?

A. I believe so.

Q. (*By Jurors.*) How do you know they came to the prisoner's house?

A. I hearing of the disturbances in the country, and being of a different persuasion from them, I got afraid of them, living in a remote part, came to live next door to the prisoner, four years last *May*. I was in my bed, and about twelve o'clock I heard a mob, as I suppose, coming to *James Mac Phadeen's*; and I heard an uncommon screech, such as riotous mobs generally use. I said to my sister, "These are the *Threshers*, or *Shakers*, come to *Jemmy's*." I was in dread, being one of the people called *Protestants*, and thought I could not miss of being carded any way. I said, I would get up and make my escape. She said, the house was surrounded, and it was better to stay within. I rose and put on my clothes, and looking out, could see the people, the night being bright. There were forty of them. I staid, with the door open, and they appeared to me to push open his door. They went in, and I heard the sound of voices, and cannot tell what they said. They spoke in *Irish* about half a guinea. When they went away, the man came, and asked, were we asleep: we said not. He asked, Did we hear the transaction? I said, Yes.

Q. Do you know the prisoner's character?

A. Awhile hence I will speak of that. He asked, Did we hear any thing? I said, Yes. I asked, what they said about half-a-guinea. He said, they asked him fiercely to go to *Nolan* and desire him to marry for half a-guinea, which was the usual custom ever till now; to baptize for nineteen pence halfpenny, instead of five shillings and fivepence, which was the usual custom, and one shilling and a penny, instead of half a crown, for mass.

Q. You are convinced the prisoner was compelled?

A. I am satisfied he was reluctant. He said, it was the best way to pursue these people and take their lives.

Q. Is he a quiet man?

A. I believe him to be a quiet, industrious man.

Also, if there be a character wanting, there is Mr. *Patrick Lynch*, of *Clogher*, and Mr. *George Clendenning*.

Cross-examined by the ATTORNEY GENERAL.

Q. Did he pursue these people, so as to know them?

A. He did not.

Q. Why not, when he came out of his house, and expressed a wish to follow them?

A. He was afraid of the law and the *Threshers*.

Q. What was his fear of the law?

A. Because he was in the greatest trouble. He did not like the troubles.

Q. Which was he most afraid of?

A. He was afraid of the law and the *Threshers* both.

Q. Was he equally afraid of both?

A. He was afraid of them, as they threatened him.

Q. How many went with him to the chapel?

A. He went alone.

Q. You say the transaction at his house was three or four days before the *Sunday*, when he went to the chapel. Did he in the mean time go to any magistrate to give information?

A. I believe he went to *Charles O'Malley*.

Q. Why do you believe that?

A. Because he was telling me the case, and I advised him to go over to the Hon. *Denis Browne*.

Q. Did you tell him to go to a magistrate?

A. I did.

Q. Did you tell him to go to the chapel?

A. I did not, but would have gone myself, if they had sworn me.

Fear, infernal name,
Makes eternal flame !

He was afraid of his soul on the one hand, and his back on the other.

Q. The prisoner lives in a lonely place?

A. There are only six houses in it.

Q. Are

Q. Are there many *Threshers* about it ?

A. I cannot say. I cannot tell who they are, or where they may come from. I know nothing of them, being of an opposite persuasion.

Q. Are there many *Threshers* in that part of the country ?

A. I believe not. I knew this matter would be brought to the law ; and if Protestants were found in these facts, it would surely bring scandal and disgrace upon their cause.

Q. You seem to be a very zealous Protestant ?

A. I deny the doctrine of Transubstantiation.

Q. Did the prisoner go to Mr. *O'Malley* and give information ?

A. He told me so, and three more.

Q. When did he tell you so ?

A. The day after ; but whether he told me so or not, I knew it myself.

Q. Upon your oath, was Mr. *O'Malley* in the country at that time ?

A. I cannot say ; they went off to go there.

Q. Then he could go to a magistrate without fear, and yet he went to the chapel through fear ?

A. I cannot say.

Q. You did not advise him to go to the chapel ?

A. No ; and I give you a reason ; I was afraid of this coming to the law.

Q. Are you a preacher ?

A. No ; but a hearer.

Q. Could he not have gone to a magistrate and obtained protection ?

A. He might ; but I cannot reason upon that.

Examined by Mr. T. MOORE.

Q. You said, the prisoner and some others went off to go to Mr. *O'Malley* ?

A. They did ; three of them.

Q. You thought they went ?

A. I thought so ; I heard they went ; I was wondering at seeing them get ready, where they were going, and they told me where.

PATRICK LYNCH, Esq.

Examined by Mr. T. MOORE.

Q. Do you know the prisoner *James Mac Phadeen*?

A. I do.

Q. What is his character; is he a quiet peaceable man?

A. I never heard any thing else of him.

Q. Does he live in your neighbourhood?

A. He does.

Q. How long have you known him?

A. Fourteen or fifteen years.

Q. Did you know of his being concerned in the last rebellion?

A. I did not.

Cross-examined by the SOLICITOR GENERAL.

Q. Have you not heard that many persons who before had the character of quiet and honest men have yet engaged in the *threshing* business?

A. I have.

Q. And many engaged in it, who were not suspected before?

A. Yes.

Mr. T. MOORE.—My Lord, I submit, that the intention with which the message was delivered is a question for the Jury. The prisoner is charged to have done the act *maliciously*, and therefore the Jury are to determine, whether it was intended to excite tumult.

Mr. ATTORNEY GENERAL.—Where a message is delivered in the presence of a congregation to a priest from the *Threshers*, which message relates to the professed object of the *Threshers*, and the priest is told to have his coffin prepared, if he does not reduce his fees, can it be said, that it does not tend to promote and encourage unlawful combination and confederacy? for that is the charge in the indictment, not that it was calculated to excite tumult. As to the defence of compulsion, it is quite out of the case.

Mr. T.

Mr. T. MOORE.—My Lord, we would examine Mr. *O'Malley*, but he is not now in court.

Mr. BARON GEORGE.—I will think no time wasted in a case of this importance. If you think Mr. *O'Malley* can serve you, I will wait till midnight, that you may send for him.

Mr. DENNIS BROWNE, *again examined by Mr.*
ATTORNEY GENERAL.

Q. Was Mr. *O'Malley* in the country at the time of the transaction stated by *Willes*?

A. I know Mr. *O'Malley* as well as my brother, and to the best of my knowledge, belief and opinion, he was in *England*.

Mr. T. MOORE.—I beg leave to state what I understand the fact to be:—that the prisoner's father went to Mr. *O'Malley's* house to give intelligence of the matter, but it was after the Sunday when the message was delivered.

Mr. ATTORNEY GENERAL.—I admit the fact to be so.

BARON GEORGE.—*Gentlemen of the Jury.* In this case it is necessary to direct your attention to the charge which the prisoner is called upon to answer, (*here his Lordship stated the Indictment to the Jury*) The offence in the indictment is made a capital felony, by the act of 27th Geo. 3. c. 15. (*and stated the clause of that act*) upon the part of the prosecution five witnesses have been examined—all of them relate to you a fact, which the prisoner in his defence does not contest; two of these witnesses however go further than the others—One of them has sworn, that the prisoner not only told the Priest at the Chapel, in the hearing of the Congregation, the prices to be charged for the offices he mentioned, but also informed him, that if he charged any greater, he would suffer, and the last witness examined, stated, that he stood within one of the prisoner at the time the message was delivered,

delivered, and that the prisoner added in a low voice, that if the Priest did not act accordingly, "he should have his coffin convenient." This was not heard by the other witnesses, and it is accounted for in that manner. The defence does not deny the delivery of the message, but the defence, which is made will admit of serious consideration, before you decide the case; and upon the evidence two questions present themselves directly to you; the first is, whether this be a message tending to excite unlawful combination, within the intent and meaning of the statute; and the second is, "whether such compulsion as has appeared in evidence in this case will justify, or excuse that act so done," and these questions it will be your province to decide, subject to the advice which the duty of my office calls upon me to give.

It appears, that tumult and insurrection had arisen in that country, which had for one of its objects the lowering the dues claimed by the Priest, by force and violence. And it does not appear, that this combination had before the day laid in the Indictment, spread into the Parish, whereof Mr. *Nolan* was the Priest: and you will judge, whether it was not the object of the disturbers of the peace, who so united and swore the prisoner, that this combination should be excited amongst the flock, and parishioners of Mr. *Nolan*?—Gentlemen, it would seem, they were aware of the illegality, and of the danger of going themselves, openly to the Chapel, and delivering the message to the Priest; and therefore they engage the prisoner so to do, under circumstances which they expected, would procure him impunity, or compassion, for violating the law—Gentlemen, had those persons engaged the prisoner, and if in pursuance of that engagement, the prisoner had gone privately to the priest, and delivered him this message in private, such an act, however otherwise criminal, might not maintain this Indictment, but you are to consider, whether delivering this message publicly, in the hearing of the congregation, for which the Priest was then officiating, had not a direct tendency to excite that congregation, to be, and become of the unlawful combination, from which that message came; this seems to me to be matter of fact, fit for your consideration,

deration, and to be the only question that can well be made in the present case.

It remains, that I should inform you, what sort of duress or restraint will excuse a man in a Court of Law, who has done any act, which is by law a felony; and this is matter of law, calling upon the judge to give his opinion to the Jury. There is no doubt, that if a man, whilst the terror of immediate death is held over him, shall for the immediate preservation of his life, do an unlawful act, this may excuse him, because under such circumstances the act done cannot be considered to be his act, inasmuch as he is not a free agent. But it must appear, that the act was done at the very time the restraint was imposed; and from a motive of self preservation. And this is wisely the rule of law, for otherwise the greatest crimes might be committed with impunity. If a promissory oath imposed on a man to commit a felony at a future time, or a future day, was to be received as a defence upon trial, the inconveniences would be monstrous beyond all endurance, so that the law does not allow force as a defence, unless it be immediately operating at the time of the act done, depriving the party of his own free will and agency; as soon as he is delivered from the restraint, there is an end of the defence. But here this man had three or four days to consider, what was right and lawful for him to do. Whether he was to obey the law, or obey the *Threshers*? Whether he was to fear the law, or fear the *Threshers*, and for the choice he has made he is answerable; and has made himself subject to the same punishment, as if one of that association had, instead of making the prisoner the instrument to convey the message, delivered it of his own authority. Therefore, in my apprehension, the prisoner cannot excuse himself from the charge of felony, by saying he committed it in preservation of his life; because his life was not in danger at the time of the fact done.

Gentlemen, all these facts and circumstances are before you; You I hope, fully understand the statute, and the indictment founded thereon; and I think the evidence you have heard is fit evidence to go before you to consider, whether it does not maintain the present

indictment. You form the Tribunal, which the Constitution has entrusted with the decision of these matters. There seems to be no controversy respecting the evidence, and you will find according to the truth, and as your consciences may direct.

The Jury deliberated for three hours, and returned a Verdict, *Not Guilty*.

Wednesday, December 10, 1806.

Col Flynn, Charles Flynn, Laurence Flynn, John Callaghan, Daniel Callaghan, James Laydon, Patrick Barrett, John Flynn, Daniel Regan Thomas O'Hara, and Edmund Durneen were indicted for that they on the 16th of *November, 1806*, wickedly, maliciously and feloniously did conspire, confederate and agree together wilfully, feloniously, and of their malice, prepensed to kill and murder *Thady Lavin*, against the peace and statute.

They severally pleaded *Not Guilty*, and said, they were ready for trial, except *Edmund Durneen*, who said he had been arrested only the day before and therefore was not ready for trial, and upon the suggestion of **BARON GEORGE**, and with the consent of the *Attorney General* his case was postponed.

The following Jury was sworn for the trial of the other ten prisoners.

Thomas Kirkwood
George Gildea,
Francis Goodwin,
Thomas Hare,
Robert Fair,
Stewart Ferguson,

Richard Leviston,
James Clarke,
William Ferris,
Edward Malley,
Orne Lundy,
William Malley.

To whom the prisoners were given in charge.

MR. SOLICITOR GENERAL.—*Gentlemen of the Jury.*
In this case, the prisoners at the bar stand charged with

with having conspired to murder the late *Thady Lavin*. Such a conspiracy was by the statute law of this country in the year 1796, made felony of death; and in consequence of the frequency of such crimes in seasons of public disturbance, it has been further provided by a subsequent act of parliament, passed in the memorable year, 1798, that even to "solicit, encourage, persuade, or propose, or to endeavour to persuade any person to commit a murder" should also be felony of death without benefit of Clergy. Such are the dreadful penalties which the law denounces against the mere meditation of this most atrocious crime, even where the crime itself has not been committed.— Judge then, how justly those penalties attach upon persons confederated for such a criminal purpose, when their conspiracy, as in the present case, has been effectual and successful, and when the crime itself has been committed with every circumstance of atrocity, that would aggravate it, if it were capable of aggravation.

Upon the enormity of such an offence, I should not think it necessary to expatiate, when I address men of ordinary feelings and common understanding—but enormous and aggravated as the crime is, you would not be called upon, on this extraordinary occasion, to investigate it, if this were merely one of those cases, in which the King too frequently loses a subject, and the community a member, in consequence of the violence or malice of the individuals accused. Had it been merely so, it would have been reserved for investigation at the ordinary period of the assizes; but that period of enquiry has been anticipated, and you have been called upon, on the extraordinary occasion of this Special Commission, to decide upon the case of the prisoners, because the offence imputed to them immediately flows from, and intimately connects itself with, that dangerous and mischievous association, which for some time past has infested, disquieted and disgraced your County.—It is because that such associations naturally and necessarily lead to the commission of such crimes, that the code of laws, which have been enacted to suppress illegal confederacies, has wisely, and I will add, humanely equalized, in point of punishment, all offences

which can be committed in active furtherance of the purposes for which the confederates have associated. The nature of those laws, and the dangerous tendency of illegal combinations were amply and ably discussed by his Lordship in his charge to the grand inquest of the County, and by my learned colleague the ATTORNEY GENERAL in the first case, which yesterday was brought forward for public investigation. Whoever had the advantage of hearing what fell from those high authorities must be satisfied, that from the moment an unlawful confederacy of men has associated, every active step which can be taken in prosecution of their views, is assimilated to those higher crimes, to the commission of which it so necessarily leads; Death is the dreadful and the common punishment of all. A man, who looked upon this system of laws, without reference to the causes which produced it, and the occasions upon which only it is brought into operation, might be induced to consider this indiscriminate application of the highest of all punishments to every offence, as a reproach to the legislators who enacted it; but upon due consideration, whoever reflects upon the nature of public tumults must be satisfied, that *that* great object of human punishment, the prevention of crime, is most effectually provided for, by meeting in its origin the spirit of insurrection, with the vigour of wholesome law, and by denouncing as worthy of the greatest punishment, all offences, whose natural tendency is to produce the greatest crimes; therefore the mere assemblage of men, so confederated, is made a high misdemeanor by those laws, but when once the confederacy is formed, the supplying arms, or any other means to the confederates, the abetting them, in any of their objects, the sending of their threatening messages, the circulation of their system of terror, the administration of any of their unlawful oaths or engagements, are all capital felonies, and the law with equal severity, pronounces death to be the common punishment of all such offences. To a reflecting mind, the wisdom of such a system is perceptible, without any example. Even in the case of individuals, the natural tendency of the lesser crimes to produce the greater is proverbial, and familiar to every man's experience—one immorality naturally leads to another, the

the restraints of conscience once relaxed, and the obligations of duty once forgotten, the progress of the heart from one offence to a greater is easy and rapid.—But in the case of associated criminals, it is something more, it is necessary; when such a confederacy is once established, concealment becomes necessary to their safety, and the administration of unlawful oaths which bind them to each other by obligations of secrecy is adopted, as an expedient, which at once provides for their impunity and recruits their numbers; money and arms are wanting to their power, and the midnight plunder of both is the next violation of moral duty and of public law, into which they are precipitated: Active and loyal men become formidable to the confederacy, and individuals of their own society, who from feelings of compunction repent of their folly, and inform against their associates, become still more obnoxious to them. The assassination of the loyalist, or the informer follows next: thus the deluded wretch, who by some abominable incendiary, is taught to believe, that he associates with others for the redress of grievances, and the reform of abuses, gradually involves himself in the commission of every crime, which afflicts society, and which the laws denounce, and rapidly familiarizes his mind to every species of moral turpitude: the prophanation of an oath, robbery, burglary, and murder become the natural and necessary consequences of the confederacy once formed; and therefore most wisely and humanely has the code of laws, enacted to suppress such associations, encountered their mischief, by pronouncing death to be the punishment of every crime committed in furtherance of their objects.—That murder is frequently the consequence of such combinations is tragically illustrated by the facts of the case about to be submitted to your consideration.—Before I state to you those facts, let me observe, that the mischief of such associations, may not always stop, even at murder; associated for one purpose, those deluded wretches may easily be made the instruments of another. If at present their objects are not treasonable, they may however readily become so, whenever occasion furnishes an opportunity to designing and wicked men to make them so:—any

bad impulse may be at any moment given to an association formed for unlawful purposes, and connected and preserved by the commission of crime. High treason, that greatest of offences, known to our laws, which implies the meditated murder of the Sovereign, which aims at the destruction of our political constitution, the subversion of civil society, and the confusion of laws and property, is the ultimate mischief, which may not unreasonably be expected to flow from such confederacies, if not effectually counteracted. Therefore, it is, that at this extraordinary season of the year, his Majesty's Government has called upon us, at this Special Commission, to carry into speedy execution, those wholesome and vigorous laws against unlawful assemblies, which the crimes and follies of the deluded people have called into operation. Therefore it is, that you, Gentlemen of the Jury, are now impannelled to investigate a charge of conspiracy of murder, not merely an account of the abstract atrocity of the crime, but because it has been generated by that abominable and profligate association, fruitful of crimes, which it is the common interest, and common duty of all loyal and honest men to encounter and extinguish.

The guilt imputed to the prisoners at the bar, by the indictment which you have heard read, will be brought home to them by that species of evidence, which is called *circumstantial*.—It is often, the only proof which can support a charge of murder itself, and in such charges, it is frequently the most cogent, and least fallible of all evidence—of this there have been repeated instances, but where the crime charged is a conspiracy to murder, from the very nature of the offence, it is the only evidence which can be expected, unless some associate, by betraying his confederates, supplies to the prosecution the suspicious testimony of an accomplice:—in this particular instance, if my instructions have not deceived me, you will find a chain of indisputable circumstances, each part connected with the other, tracing the progress of the crime from its commencement to its consummation; shewing an adequate motive for its commission, exhibiting conduct in the prisoners calculated to secure its perpetration:—conduct, both before and after, inconsistent with their
innocence

innocence, and which according to the experience which we have of human character, it will be impossible to account for, except upon the supposition of their guilt.

On the 13th of *September* last, *Thady Lavin*, who had been one of the association, called *Threshers*, came before *Mr. Ormsby*, a magistrate of this county, and voluntarily gave information against a great number of his accomplices, and amongst others against *John Flynn*, the son of *Laurence Flynn*, and the near relation of *Coll Flynn*, now prisoners at the bar.—In the same Informations, he also swore against two persons of the name of *Durneen*, one of whom is the son and the other the nephew of *Edmund Durneen*, a prisoner now in the dock, and charged in this indictment, but who is not at present upon trial, he having alleged, that in consequence of his recent apprehension, he cannot be prepared until to-morrow. Upon these informations so sworn, *Mr. Ormsby* issued his warrant, several of the persons charged were apprehended, and were committed to prison. Several others, and amongst them the two *Durneens*, and one *John O'Connor*, still remain at large. Shortly afterwards, it became notorious that *Lavin* had sworn those informations, and it became unsafe for him to remain in the country, exposed to the fury and vengeance of the *Threshers*. *Mr. Ormsby*, having communicated these matters to his Majesty's Government in *Dublin*, received immediate orders to give to this informer every possible protection, and in consequence of those orders, the unfortunate man was removed from *Turneen* where he had formerly lived, to a safe place in the village *Crossmolina*, where a military force was stationed; there he remained in perfect safety, waiting until this Special Commission should be sped, in order to support his informations upon the trial of the persons whom he had accused. On the 10th of *November*, the different persons confined in *Castlebar Jail* upon his information attempted to escape from prison, by bribing the centinel, in which attempt they were defeated by the fidelity of the soldier, and the vigilance of the Jailor: The period at which this attempt was made and frustrated is very deserving of your attention, and you will judge how far it bears upon
the

the accusation against the prisoners. In four days after that attempt, on the 14th of *November*, *Lavin* with his wife went to their former habitation at *Turneen*, for the purpose of disposing of his property or removing it into the village of *Crossmolina*, where it might be protected. About that period, the County Election was to begin and Mr. *Ormsby* was obliged to leave his own house, and go to the distant town of *Ballinrobe*, where the Election was held: whether it was owing to that circumstance or what other, I stop not to enquire, but certain it is, that about this time, the vigilance before used for the protection of *Lavin* was relaxed, and the unfortunate man was most imprudently permitted to leave the place of his safety upon the occasion I have mentioned; he remained at *Turneen* that day, and on the next day but one, he and his wife attended the funeral of a person who was buried in *Crossmolina*. On their return from the funeral, they unfortunately met *Coll Flynn*, one of the prisoners, who addressed them, entered into a conversation with them upon the subject of the property which *Lavin* was about to dispose of, and proposed to become the purchaser of it. If this circumstance stood alone, perhaps it would escape observation, but when connected with those which follow, possibly this interview between persons so situated may appear to you extraordinary, and that a familiar and friendly conversation should take place between the accuser and the near relation of the accused, even upon a matter of business, may require some explanation. The treaty proceeded; *Coll Flynn* was liberal in his offers, he acquiesced in the demands of *Lavin*, the bargain was made, *Coll Flynn*, declared, that it should not be a dry one, and proposed to *Lavin* that they should drink together. *Lavin* agreed, notwithstanding the remonstrances of his wife, whose suspicions appear from the beginning to have been excited by this extraordinary and unexpected invitation. *Coll Flynn* said, "We can have a naggin here at *Oliver Roe's*," which was a house of entertainment near at hand. You will see in the progress of the case, that it was not probably the intention of *Coll Flynn*, that *Roe's* House should be the scene of their festivity, for he only proposed, that they should drink a naggin there: they repaired to *Roe's* and for some reason, which

which does not appear, were refused entertainment there; upon this, *Col Flynn* said, that they could get abundance of liquor at the house of *Laurence Flynn*, another of the prisoners at the bar; and to this proposal, the weak and unfortunate *Lavin* consented, notwithstanding the repeated and importunate remonstrances of his wife whose alarms seemed to have foreboded the meditated mischief. You will observe, that *Laurence Flynn* was father of one of those against whom *Lavin* had sworn, that his house was at some considerable distance, and that it was not a house of public entertainment. Hither they went, and what appears very deserving of attention, they found there assembled, the prisoners at the bar, *Charles Flynn*, *Patrick Barrett*, *James Laydon*, *Laurence Flynn*, *John Flynn*, and *Edmond Durneen*, the prisoner not now upon trial. In this Society, the unfortunate *Lavin* was persuaded to sit down and drink—and I entreat you, at this stage of the case, to pause and consider whether it is a circumstance reconcileable to your ordinary experience, that a company of persons, of whom the greater part were the near relations and connexions of those against whose lives *Lavin* had sworn, should, without some secret cause, select that very informer, as the companion of their festive hours, receive him with friendship, and associate with him upon terms of conviviality. When you consider the natural feelings of men so circumstanced, and the almost instinctive abhorrence in which all the lower classes of people in this country hold an informer, you will be of opinion that such a meeting, at such a time, in such a place and between such persons is at least extremely suspicious. As you will reason, the wife of *Lavin* felt: her foreboding heart was visited with a prescience of the scene that was to follow; She urged her infatuated husband to retire—but she urged him in vain; she looked significantly at him, made signs to him, pretended that she was particularly anxious to return on account of her children, who had been left alone, and by every means in her power endeavoured to awaken the wretched victim from his infatuation. At this moment, the prisoners, *Col Flynn* and *Charles Flynn* approached her, they sat down, one at each side of her, they threw their arms round her neck, embraced her with trea-

cherous and false caresses, soothed her impatience, importuned her to stay, offered that a girl then in the house should be sent home to take care of her children, and promised that her husband should return with her shortly—she was compelled to yield, and the devoted *Lavin*, regardless of her solicitations, seduced by their importunities, and affected by the liquor remained in the toils that had been spread for him: In a short time, the prisoner *Durneen*, sent for the prisoners *Daniel Regan* and *Thomas Horan*, who upon his sending for them joined the company, as did also the two other prisoners *John* and *Daniel Callaghan*—*Durneen* himself soon afterwards retired from the company—the drinking proceeded and night came on—four of the company, *John Flynn*, *James Laydon*, *Patt Barrett*, and *John Callaghan* at different times left the house, the two latter said, that they were going to fish, and the two former, took with them some women, who had been in the house. In about an hour two of them *John Callaghan* and *Barrett* returned with some fish, the others did not return—what was done, or contrived during the absence of them, and of *Edmond Durneen*, you may easily conjecture from what followed—in less than fifteen minutes after the return of *John Callaghan* and *Barrett*, the door flew open, five ruffians dressed in the habiliments of the *Threshers*, covered with white shirts and straw, rushed into the house; at their head stood *Edward Durneen* armed with a hatchet one of those against whom *Lavin* had sworn, and Nephew to *Edmond Durneen*, who had left the company shortly before;—four others followed him, armed with pikes and bayonets fixed on poles—one of them was *John O'Connor* against whom *Lavin* had also sworn—the others are as yet unknown: the moment that *Lavin* saw them, he knew his fate, he rushed towards an inner room—the ruffian with the hatchett pursued him, and clove him to the earth with repeated blows:—the wretched wife sprung to the relief of her husband, nature lent her more than ordinary strength; she seized the barbarian by the hair and brought him to the ground—the other monsters rushed upon their victim and dispatched him with more than thirty wounds: *Durneen* extricated himself from the woman—smote her to the ground with his hatchet, where his asso-

ciates after stabbing her in several places left her for dead. I pause for a moment, and call on you to contemplate the degree to which those associations deprave the human character. If I was asked what could afford the strongest evidence of the extinction of the moral sense and of the loss of every natural feeling I would answer: that the human heart must have arrived at its utmost possible depravity, when a being calling himself a man can lift his arm against the person of a woman—every generous feeling, every social affection, nay every natural instinct must first be banished from the breast. But to raise murderous weapons against the life of an unoffending wife; who had sworn no informations, who had provoked no vengeance, whose only crime was, to have devoted herself in an attempt to save her husband and the father of her children, transcends the ordinary limits of human wickedness and can only be traced as the necessary consequences of those infernal associations, leagued for other purposes, but precipitated by the nature of their confederacy into the commission of every crime—This observation may appear to apply, rather to the actual murderers, than to the prisoners at the bar. I return to them:—while this dreadful tragedy was acting, not an arm was raised; not an effort was made, not an exclamation was uttered by one of the prisoners at the bar; I rest upon this striking fact—it appears to me decisive, and I think it must so appear to you. Suppose for a moment, that all other suspicious circumstances in this case were accounted for; that the original meeting with *Col Flynn* was purely accidental, that the convivial intercourse between *Lavin* and the prisoners in the house of *Lawrence Flynn* whose son he had accused was natural, that their caresses of his wife were undissembled, that their importunate anxiety to detain him was sincere and unaffected. Let all this be taken for granted and it will only make it the more extraordinary, that the prisoners at the bar should have remained passive spectators of this horrid massacre. That so many human beings could look upon such a scene unmoved; that men bound by the laws of hospitality should see their guest butchered before their faces, without any interference; that so many *Irishmen*, of a Nation supposed to be character-

rized by manly courage and a generous spirit, and certainly distinguished for prowess of body and physical powers, should without one effort, see an unfortunate man and a helpless woman mangled before their faces, is what no experience of the human character can account for upon ordinary principles, and what I fear, in dreadful anticipation of your verdict, is irreconcilable with every supposition, except that of their guilt; you will hear also of their conduct after the murder. The assassins fled, no attempt was made to apprehend, or pursue them, or alarm the country. The bodies of the slaughtered man and wounded woman were almost immediately removed by the prisoners to *Turneen*, where the unfortunate *Lavin* had lived, and you will find, that on the following morning, some of the prisoners paid to the wretched widow a visit of condolence, of the motives and sincerity of which you will form an opinion. You will judge of the conduct of all the parties, both before and after the murder, and you will particularly consider by what means the assassins, who appear to have had no other object than the murder of *Lavin*, were able to discover, that he was to be found in that house, which of all others they had least reason to suppose that he would frequent.—Before I conclude, I avail myself, under the controul of the Bench, of this crowded auditory, composed so much of the lower classes of the people, to observe upon the wisdom of the legislature in providing, that such offences as you are now impannelled to investigate, shall not only be attended with the highest punishments, but shall be abortive and ineffectual.—In tumultuous periods, the murder of informers had always been a frequent crime, prompted not merely by the spirit of vengeance, but suggested by the hope of defeating the end of justice. To meet this dreadful mischief, the legislature in the year 1796, enacted that when an informer has given written informations upon oath before a Magistrate, if he should be afterwards murdered, those informations so given may be read upon the trial of the accused in evidence against them; thus do the wretches, who perpetrate so foul a crime, in the hopes of serving their confederates, in fact injure them most materially—the informer himself being dead, the opportunity of openly investigating

his evidence in the face of his country is lost, his written examination speaks for him from his grave, and those against whom he informed are affected by the full weight of all that he has sworn, unexplained, unqualified, and unimpeached—if his character could have been made questionable by involving him in contradiction and inconsistencies; if there were any thing in his manner which might render his credit doubtful, if he were such a witness as could not bear the torture of cross-examination in a public Court of Justice; if he had originally given false informations in any respect, and might be disposed upon the trial to retract them, all those advantages and chances are lost and taken away by the very persons who conceived, that in destroying him they destroyed his testimony: the prosecution is facilitated, and the defence is impeded by the very crime, which was perpetrated in the hopes of defeating Justice; and the law by this severe but necessary provision, applicable only to seasons of public disturbance, asserts itself against the greatest offence, which can be committed in furtherance of those confederacies, which in every step of their progress, it was the object of the legislature to encounter and defeat. I have now stated to you, the principal facts of this extraordinary and tragical case and made upon the nature of the offence, the observations which it suggests. It remains for you to consider and to weigh the evidence; you will find it, as I told you, merely *circumstantial*. If it shall appear to you insufficient to ascertain the guilt of the prisoners, or any of them, or if a rational doubt can be excited in your minds of their guilt, it is the anxious wish of those, who conduct this prosecution, that the unfortunate persons now upon trial may have the full benefit of such opinion, or such doubt: but if on the contrary, you are satisfied in your consciences of the guilt of those men; you will not, I trust, and am convinced, be deterred from the discharge of your awful duty, by any temporizing spirit or unworthy panic; you will remember, that the blood of a murdered man calls for vengeance, and that public justice calls for example.

JOHN ORMSBY, Esq.

Examined by the ATTORNEY GENERAL.

Q. Are you a magistrate of this county ?

A. I am, sir.

Q. Where do you reside ?

A. At *Gortnarabbey*, near *Crossmolina*.

Q. Mention generally, whether you know any thing of the existence and progress of the association which has been formed in the country under the denomination of "*Threshers* ?"

A. I know the whole county is, and has been for some time past infested with considerable disturbances by a number of persons stiling themselves "*Threshers*."

Q. What is the nature of the outrages committed by them ?

A. Of all kinds, such as swearing persons, taking up arms, destroying corn, dressing themselves in white shirts, and sometimes with straw, assembling in great numbers, breaking open houses, and other atrocities.

Q. Did you know *Thady Lavin* ?

A. I did.

Q. Did he at any time and when swear informations before you respecting any of the persons concerned in these outrages ?

A. He did.

Q. At what time ?

A. On the 12th of *September* last.

Q. Is that the information he swore before you ?
(*handing a paper to the witness.*)

A. It is.

Q. Did he come voluntarily before you, or had any charge been made against him ?

A. There was no charge of any kind made against him ; he came voluntarily to me at *Colonel Jackson's* house, while I was at dinner ; he there first mentioned the matter to me, and not having an opportunity to enquire particularly, the house being full, I appointed the next day to meet me : he met me the next day in the house of the permanent serjeant of yeomanry in *Crossmolina*,

molina, and he gave me this information, to which he swore.

Q. Did you hold out to him any prospect of reward or threat of punishment?

A. I did not. On the contrary, I told him he had no reward to expect: he said, he knew it right well: he was an intelligent man.

Q. After he swore the informations, were any of the persons sworn against apprehended?

A. A good many.

Q. Were they arrested immediately?

A. They were.

Q. Was it known in the country, that this man had sworn informations, or was there any suspicion of it?

A. I endeavoured to keep it secret; but by his coming to me frequently, and meeting me often in the village, the matter became known, and then he avowed publicly, that he was the person, who gave the information.

Q. After it was publicly known and avowed, that he was the person, was it considered safe to leave him at large?

A. I considered it very unsafe to leave him at large, and I received directions from government to take particular care of him, and I proposed to send him to *Castlebar*, where he could be taken care of in the prison, under a military guard. He objected to that, and said, that as he came voluntarily forward to serve the country, he would not be subject to the disgrace of confinement.

Q. He appeared to have been concerned in the outrages, of which he gave information?

A. He told me so.

Q. While you remained in the neighbourhood of *Crossmolina*, did he continue under any protection?

A. He did; he was under the protection of the permanent serjeant of the *Crossmolina* corps, a most active, zealous, and loyal man, in whose house *Lavin* lived.

Q. Were you under the necessity of leaving the neighbourhood of *Crossmolina*?

A. I was obliged to go to *Ballinrobe* on the 16th of *November*, the Sunday previous to the election.

Q. How soon after your leaving home, was the attack made upon *Lavin*?

A. I

A. I was in *Ballinrobe*; there I first heard it, either that day, or the very next; I am not quite sure.

Q. When you left home, *Lavin* was quite safe?

A. He was; and as I passed through the village, on my way to *Ballinrobe*, I gave him strongly in charge to the permanent serjeant.

Cross-examined by Mr. T. MOORE.

Q. Did *Lavin* give information against any who are not now upon trial?

A. He did against several.

Q. Are those persons in their habitations?

A. You know more of that than I do; if they were at their homes, I should have them, and make them make their appearance here.

Q. *By the Attorney General.*—Look at the information, and see whether any of the persons I shall name were charged by *Lavin*. Is *John Flynn* included?

A. He is:—*John Flynn* of *Tureen*.

Q. Is *Edmund Durneen* included?

A. There are two persons of the name of *Durneen* included; one is called *Big Durneen* of *Cloonaragh*, or *Gortduff*.

Q. Is *Michael Flynn* of *Tureen* included?

A. He is.

Q. Mention what persons you committed to prison, in consequence of *Lavin's* information?

A. I committed *Thomas* and *Michael Reap*, *Patrick M'Eniry*, *Patrick Herbert*, *William Gillespie*, *Thomas Moghady*, *Patrick Hagarty*, and others.

Q. Was *John Flynn* one of the persons sworn against?

A. He was.

Q. Can you mention the names of any others?

A. *John O'Boyle*, *Charles Doosey*, *Patrick O'Boyle*, *James Merrick*, and *Edmond Loughnane*.

Q. What was the nature, in general, of the offences charged against them; were they connected with the *threshing* system?

A. They were: they were charged with taking up arms, breaking open houses, swearing people, and such like.

Cross-

Cross-examination resumed.

Q. Against how many others did *Lavin* give information ?

A. Five or six others.

Q. Did they abscond ?

A. They did, or I would have arrested them.

GEORGE MOYSTYN,

Examined by the SOLICITOR GENERAL.

Q. You are permanent serjeant of the *Crossmolina* corps ?

A. I am.

Q. Do you remember *Lavin* being put under your care ?

A. I do.

Q. At what time ?

A. Shortly after the 13th of *September* last.

Q. How long did you keep him ?

A. He stopped with me till the 14th of *November*.

Q. How did he get out of your hands ?

A. He used to go back and forward to his place at *Tureen*, a mile and a quarter from *Crossmolina*.

Q. Was that in the day-time ?

A. It was.

Q. When did you last see him alive ?

A. On Friday, the 14th of *November*.

Q. Did you see him after his death ?

A. I did.

Q. When ?

A. I got an account of his death at eight o'clock on the morning of the 17th of *November*.

Q. Did you go to look for him ?

A. I went immediately, but he had been carried from the place where he was murdered to his own house.

Q. What appearance had his body ?

A. At the time I saw him, he was laid out without a shirt, with only a sheet thrown over him : he had six or seven stabs in his breast, and upon turning him, I saw upwards of thirty wounds : he had two cuts of a hatchet, or such a weapon, on the back part of his head, and an-

other cut near one of his eyes, which appeared like the cut of a hatchet.

Q. Did you see his wife at that time ?

A. I did : he was laid out at one side of the fire-place, and she was lying in a bed at the other.

Q. Had she any marks of violence ?

A. She had ; one side of her temple was bruised, as if with the back of a hatchet : she had a cut on her head, and a stab in one of her arms, as if an attempt had been made to stab her, and she had stopped it with her arm ; it came against the bone : the back of her hand was cut, as if with a hatchet, and on the next day, I saw nine or ten large black spots, like bruises, from the poll of her neck to the small of her back.

Q. Do you know *Col Flynn* ?

A. I do.

Q. And *John Flynn* ?

A. I do.

Q. What relation is *John Flynn* to *Col Flynn* ?

A. He is the son of *Charles Flynn*, who is cousin to *Col Flynn*.

Q. Do you know *Michael Flynn*, against whom *Lavin* swore ?

A. I do.

Q. What relation is he to *Col Flynn* ?

A. I do not know exactly ; but he is the son of *Laurence Flynn*, who I believe is cousin to *Col Flynn*.

Q. At whose house the murder was committed ?

A. Yes.

Q. Do you know *Charles Flynn* ?

A. Yes.

Q. Do you know where *Michael Flynn* is ?

A. I do not.

Q. What relation is *Charles Flynn* to *Col Flynn*, or *Laurence Flynn* ?

A. He is brother to *Laurence*, and cousin to *Col Flynn*.

Q. Do you know *Edward Durneen*, who was sworn against by *Lavin* ?

A. I know one of the *Durneens*.

Q. Do you know *Durneen*, who is now in the dock ?

A. I do.

Q. Is

Q. Is he a relation of the men sworn against ?

A. He is father of one of the *Durneens*, and uncle of the other, who were both sworn against.

The witness identified *Col Flynn*, *Laurence Flynn*, *John Flynn*, *Charles Flynn*, and *Edward Durneen*, the last man being in the dock, though not upon trial.

Cross-examined by Mr. T. MOORE.

Q. You say that *Lavin* was absent from the 14th to the 17th ?

A. He was.

Q. Did any of the persons against whom he gave informations abscond ?

A. A good many.

Q. (*By a Juror.*)—Did *Lavin* sleep in your house on *Saturday* the 15th ?

A. No, he did not ; he was absent from the 14th.

MARGARET LAVIN,

Examined by the ATTORNEY GENERAL.

(This witness not speaking the English language, an interpreter was sworn to explain her testimony.)

Q. Were you married ?

A. Yes.

Q. What was the name of your husband ?

A. *Thady Lavin*.

Q. Is he living, or dead ?

A. I am sorry he is dead.

Q. Do you recollect having been at *Crossmolina* with him ?

A. I do very well.

Q. Did you go with him at any time from *Crossmolina* to *Tureen* ?

A. I did.

Q. At what time ?

A. On Sunday.

Q. Was that the Sunday of his death ?

A. It was.

Q. Were you at *Tureen* on the *Saturday* before ?

A. I was ; it was there I lived.

Q. Do you recollect going with your husband on that *Sunday* to attend a funeral ?

A. I do very well.

Q. Do you know *Col Flynn* ?

A. I do.

Q. Did you meet him at that funeral ?

A. I did.

Q. Was it after the funeral ?

A. He was at the funeral, and in company with him.

Q. Do you mean in company with your husband ?

A. I do.

Q. Turn about and see if *Col Flynn* be in Court ?

A. This is he.

(Here the witness identified all the prisoners.)

Q. Had your husband any conversation with *Edmund Durneen* after the funeral ?

A. He had.

Q. What did he say to him ?

A. My husband was selling corn and sheep to *Col Flynn*.

Q. What reason had your husband for disposing of them ?

A. As he wanted to come in to live in the town of *Crossmolina*.

Q. Why did he want to live there ?

A. He was afraid of remaining in the place he was in.

Q. Was there any talk of drinking ?

A. There was.

Q. What was it ?

A. They went to drink half a pint of whiskey.

Q. Who proposed that they should drink the whiskey ?

A. I do not know, not being up with them at the time ; but *Col Flynn* having got the bargain, was to give the whiskey.

Q. Were you willing to go with them ?

A. I

A. I was not.

Q. Why not?

A. I was uneasy for him and my children.

Q. Where was it that the whiskey was to be drank?

A. In *Laurence Flynn's* house.

Q. Was there any place on the road where it was proposed to stop at first to drink a naggin of whiskey?

A. There was.

Q. Where?

A. At the house of *Oliver Roe*.

Q. Did they get the naggin there?

A. They did not.

Q. Why?

A. It was not in it.

Q. Did the people at *Oliver Roe's* tell them of any other place to go for whiskey?

A. They did not.

Q. Then they went from *Roe's* to the house of *Laurence Flynn*?

A. They did.

Q. Were you satisfied to go there?

A. I was not.

Q. Why not?

A. I was out all the day and wished to go home.

Q. Had you any apprehensions about your husband?

A. I had.

Q. Upon what account?

A. For fear the *Threshers* would kill him.

Q. Why did you think they were likely to attack him?

A. Because he informed against them.

Q. Do you know whether he had given information against the prisoner *John Flynn*?

A. He did not give information against him that I know of.

Q. What relation is *John Flynn* to *Col Flynn*?

A. They are brothers children.

Q. What relation is *Laurence Flynn* to them?

A. The same relationship.

Q. When you went into the house of *Laurence Flynn*, did you find *Charles Flynn* there?

A. I did.

Q. Was *Laurence Flynn* there ?

A. He was.

Q. Was *James Laydon* there ?

A. He was.

Q. Was *Patrick Barrett* there ?

A. He was.

Q. Was *John Flynn* there ?

A. He was.

Q. Was *Edmund Durneen* there ?

A. He was.

Q. What were they doing ?

A. They were drinking.

Q. (*By the Court.*—What time of the day was this ?

A. An hour before night.)

Q. Are there two *John Flynn*s ?

A. There are ; *John Flynn* here is the son of *Charles Flynn* ; the other *John Flynn* is the son of *Laurence*.

Q. Had your husband sworn any information against *John Flynn*, the son of *Laurence* ?

A. He had, as I heard.

Q. Did your husband continue any time in the house ?

A. He was a good while there.

Q. (*By the Court.*—How far is *Laurence Flynn*'s house from *Tureen* ?

A. Two or three acres.)

Q. Did you express any uneasiness at your husband's continuing there ?

A. I thought it too long he was remaining there.

Q. Did you signify it to him in any way ?

A. I was shaking my head at him, and making signs to him to come away.

Q. Did you mention any reason for your wishing to get away ?

A. I gave as a reason, that I was uneasy about the children, and wished to be going towards home.

Q. Did any person say or do any thing to prevent you going towards your husband ?

A. I

A. I got up to get away, and *Col Flynn* and *Charles Flynn* took hold of me to prevent me.

Q. In what manner did they prevent you, and what did they say to you?

A. They said, "Stay, my dear, it will not be long till you have him to go home."

Q. Did they put their arms about you?

A. They did.

Q. How?

A. One upon one side, and one upon the other.

Q. Did they put their arms round your waist?

A. No; but each of them got my arm under theirs.

Q. Were you sitting down, or standing at that time?

A. I was standing.

Q. Did they say any thing about the children?

A. They said, they would send a little girl home to take care of the children.

Q. What children had you at that time?

A. Four female children.

Q. Was any person sent for to come to the house of *Laurence Flynn*?

A. *Edmund Durneen* sent for *Daniel Regan* and *Thomas Horan*.

Q. Whom did he send for them?

A. I do not know what particular person was sent for them.

Q. How do you know they sent for those persons?

A. Because I heard they were sent for.

Q. Did you hear that at the time in the house?

A. I did.

Q. Did *Regan* and *Horan* come?

A. They did.

Q. How soon after they were sent for?

A. In half an hour.

Q. Did they join the party in drinking?

A. They did.

Q. Did any one speak to them, when they came in?

A. Every one there spoke to them.

Q. Did they speak loud, or in whispering?

A. They spoke loud.

Q. Did *John Callaghan* and *Daniel Callaghan* come into the house at any time?

A. They

A. They did.

Q. How soon after *Regan* and *Horan* came in, did the *Callaghans* come in?

A. A good while after.

Q. Were they sent for?

A. I do not know.

Q. Is *Laurence Flynn's* a public house?

A. It is not.

Q. After these persons came in, did any of the party go away?

A. There did.

Q. Which of them went away?

A. *John Flynn*, *James Laydon*, *Patrick Barrett*, and *John Callaghan*.

Q. How soon after *John Callaghan* first came in, did he go out?

A. It was a good time.

Q. Did these four persons go off all together?

A. They did not.

Q. Which of them went away first?

A. *John Flynn* and *James Laydon* first went out.

Q. Did they go together?

A. They did.

Q. Did they return?

A. They did not.

Q. Did *Patrick Barrett* and *John Callaghan* go out together?

A. They did.

Q. Did they return?

A. They did.

Q. Did they return together?

A. They did: they came back together in company.

Q. How long were they away?

A. About an hour.

Q. Did any one mention for what purpose they were going out?

A. They went to fish.

Q. Who said that?

A. *Patrick Barrett* and *John Callaghan*.

Q. Did any persons rush into the house at any time after?

A. There did.

Q. How

Q. How many ?

A. About five, or six.

Q. How soon was that after the return of *Barrett* and *Callaghan* ?

A. It was not an hour.

Q. Were those persons who rushed in disguised in any manner, or had they any particular dress upon them ?

A. The first man that came in was covered with straw, and the others had white cloathing.

Q. What did your husband do, upon seeing this party come in ?

A. He rose from the bed, where he was sitting, and ran to the upper room*.

Q. What did they do upon this ?

A. The man dressed in straw struck him with the hatchet.

Q. Was it with the edge of it ?

A. Yes.

Q. Where did he strike your husband ?

A. Upon the head.

Q. Did it split his head ?

A. Not completely.

Q. Did the rest do any thing ?

A. They did.

Q. What ?

A. One of them put a spear into his back, and it came out of his breast.

Q. Did you do any thing to save your husband ?

A. I did.

Q. What ?

A. I took hold of the man, who had the hatchet, by the hair.

Q. Was that at the time he was striking your husband ?

A. It was when he was making the second blow.

Q. Who was that man ?

A. *Edward Durneen*.

A a

Q. Is

* By *upper* room is meant an *inner* room upon the same floor, more remote from the outer door, than that in which the company were sitting.

Q. Is he any relation to the man, who is now in the dock?

A. They say, the man here is uncle to the man who was dressed in straw.

Q. Did any of the persons, who were there, do any thing to save your husband?

A. They did not.

Q. (*By a Juror.*—Were they drunk, so that they could not interfere?

A. They were not.)

Q. When you raised your arm to help your husband, did they attack you?

A. They struck me upon the forehead with the hatchet.

Q. Who did that?

A. The man who had it, *Edward Durneen*.

Q. Did you receive any other abuse?

A. I did.

Q. What?

A. A prod of a bayonet in the arm, and a cut upon my finger.

Q. Did you receive any injury upon your back or side?

A. They gave me a prod in the side.

Q. When you were receiving these injuries, did *Col Flynn* and *Charles Flynn* put their arms round you, so as to endeavour to save you?

A. They did not before I was struck with the hatchet; but when I got that stroke I fell, and cannot tell what happened afterwards.

Q. But before that blow, did any of the men, who were drinking there interfere, or do any act to save you or your husband?

A. They did not.

Q. Did any of those men interfere, or make any attempt to take the persons who committed the murder?

A. They did not.

Q. Did any of them call out for help, or call upon the neighbourhood?

A. They did not call for any help.

Q. After the body of your husband was carried home,

home, did any persons call upon you to condole with you ?

A. Yes: *James Laydon* and *John Flynn*.

Q. When was that ?

A. After he was laid out.

Q. Was the body brought home the same night ?

A. It was.

Q. (*By a Juror.*—What were the men in the house doing during the time of the attack ; did they move at all ?

A. I did not see one of them stir.

Q. Did you know any others of the men who came in besides *Durneen* ?

A. I did ; *John Connor*.

Cross-examined by Mr. T. MOORE.

Q. Did you hear, that it is usual in that part of the country to buy malt, and convert it into whiskey ?

A. It is.

Q. How did it happen, that *Laurence Flynn* had this whiskey ?

A. Some malt he had himself.

Q. What did he do with it ?

A. He made whiskey.

Q. How long had you been residing in the house before this ?

A. He did not go home at all to sleep.

Q. Where did you pass the four nights you were absent from *Crossmolina* ?

A. I was at *Tureen*.

Q. Where was your husband ?

A. In the house of *Mr. Bray*.

Q. Where is that ?

A. In *Rahinimore*.

Q. You said, you wished to return home to your children, instead of drinking at *Laurence Flynn's* ?

A. I did.

Q. The conversation was loud ?

A. It was.

Q. And the persons, who went out, said, they went to fish ?

A. They did.

Q. How far off was the river ?

A. A little below the house.

Q. Did you see any fish that night ?

A. I did.

Q. Did they bring any in ?

A. They did.

Q. (*By a Juror.*—How much ?

A. Two or three trouts.)

Q. Did you eat part of them ?

A. I did not.

Q. Were they preparing any supper ?

A. They were.

Q. Do you believe the fish were taken by the persons who went out ?

A. I believe they were.

Q. (*By a Juror.*—How soon after they went out to fish, did they return ?

A. In about an hour.)

Q. The two persons, who went out to fish did not go out, or return with the others ?

A. They did not.

Q. *Patrick Barrett* and *John Callaghan* went to fish : had they any company with them ?

A. They had : the women went with them.

Q. Who were they ?

A. The wife of *Col Flynn* and his daughter, and his brother's daughter.

Q. What are the names of his daughter and his niece ?

A. *Polly Flynn* and *Winnie Healy*.

Q. How many were in the house at the time the *Threshers* came in ?

A. They were all there, except two.

Q. Then there were fourteen or fifteen persons ?

A. There were.

Q. In what manner did the *Threshers* come in ; did they push in the door ?

A. They came in one instant.

Q. How soon did they make the attack upon your husband ?

A. Instantly ;

A. Instantly; they made no delay.

Q. Was any violence offered to any other person in the house?

A. The man with the hatchet drove the woman of the house back.

Q. How long did you remain there?

A. Till I came to myself.

Q. How long was that?

A. I cannot tell.

Q. Who was in the house when you recovered?

A. The man of the house, and *Charles Flynn*, and his wife and son.

Q. In what state did you find yourself, and where were you, when you recovered?

A. I was bleeding on the floor.

Q. Was any of the five men there?

A. I did not see them.

Q. Did the people of the house see you recover?

A. They did.

Q. What did they do after that?

A. When I came to myself, I went out, and saw my husband stretched abroad.

Q. Was he dragged out of the house after being killed?

A. I do not know.

Q. (*By a Juror.*—Who were in the house, when you recovered?)

A. *Laurence Flynn*, *Charles Flynn*, and *William Flynn*, the son of *Laurence*.)

Q. Did you speak to *Col Flynn*?

A. I did.

Q. Did you desire him to go to any place?

A. I desired him to go and try where they had left *Thady*.

Q. Did you desire him to go to any of the neighbours, and tell them of the event?

A. I desired *Laurence Flynn's* wife to go to the neighbours.

Q. Were the neighbours told of it?

A. They were.

Q. Did any of the prisoners abscond after this?

A. They did not.

Q. (*By*

Q. *By a Juror.* Did any of the persons who remained give you any assistance in tying up your wounds?

A. They gave me help to carry him home.

Q. But did they assist you in dressing your wounds?

A. I did not think worse of my wounds at that time.

Q. Did they shew any disposition to assist you?

A. I cannot say.

Q. What do you believe?

A. I believe they had.

Q. Why didn't they help your husband, when the people were murdering him?

A. I cannot say.

Q. Did not those people rush in suddenly?

A. They did.

Q. Did you see what became of the man of the house.—Did he run off.

A. He was taking care of his wife, who was in a fainting fit on the bed.

Q. What time was this?

A. When I recovered.

Q. But what did *Laurence Flynn* do, when the party rushed in?

A. I do not know.

Q. How soon after were these persons taken up?

A. The next day.

Q. They did not go off that night?

A. They did not.

Examined again by Mr. ATTORNEY GENERAL.

Q. When you recovered, you found yourself lying on the floor, bleeding.

A. I did.

Q. Your husband's body had been dragged outside?

A. It was.

Q. Had any step been taken in the mean time to call the neighbours, or assist you?

A. There was not.

Q. Are there any houses near *Laurence Flynn's*?

A. There are three houses.

Q. Did

Q. Did *Edmund Durueen* express any fear when his nephew came in?

A. He was not there that time, he went out.

Q. Then *Edmund Durneen* had gone out of the house before his nephew came in?

A. He had, *Bridget Maurick* came for him.

Q. How long before the nephew came in?

A. A good while.

Q. Who was *Bridget Maurick*?

A. The wife of *Daniel Regan*.

Q. Had she any Brother?

A. I do not know.

Q. Do you know in what parish, *Callaghan* and *Barrett* live?

A. In *Moygowan*.

Q. Is that a different parish from that in which *Laurence Flynn* lives?

A. It is.

Q. Was there any door in the room to which your husband ran, and in which he was murdered?

A. There was the door of the room.

Q. Was there any outer door into the street?

A. Not from that room.

Q. *By a Juror*. How far is *Callaghan's* and *Barrett's* house from *Laurence Flynn's*?

A. I do not know, for I was never there.

Q. But they are in different parishes?

A. They are?

Q. *By the Court*. Were there any women in the house at the time the murder was committed?

A. No one, but the women of the house.

Q. How long before the murder was committed did the other women leave the house?

A. A good while—near two hours.

Henry Moran, examined by the SOLICITOR GENERAL.

Q. You are gadler of *Castlebar*?

A. Yes, Sir.

Q. Have you any persons in custody charged upon the information of *Lavin*?

A. I have.

Q. How

Q. How long have they been in your custody?

A. They were committed upon the 18th of *September*.

Q. Was any attempt made by them to break the gaol about the 10th of *November*?

A. There was—they bribed one of the centries; I got information from the Turnkey, and I spoke to the centry and desired him to go on with it, and I kept watch—they were to give him ten guineas. When the centry received the purse, he said, he would try if the other centries were asleep, and instead of doing so, he came into the kitchen and opened the purse, and they were prevented. There was silver and halfpence in the purse to make it feel heavy.

Cross-examined by Mr. T. MOORE.

Q. None of the prisoners now upon trial were there?

A. No.

Case closed on the part of the Crown.

DEFENCE.

Mary Flynn, examined by T. MOORE.

Q. Do you recollect the night of this unfortunate murder?

A. I do, it was Sunday night.

Q. Were you drinking that night any where?

A. I was.

Q. Where?

A. At the house of *Laurence Flynn*.

Q. Did you leave the house that night with any person?

A. I did.

Q. With whom?

A. With *John Flynn* and *James Laydon*.

Q. Was that before or after the murder?

A. We left him safe and sound, drinking with the rest.

Q. Where did you go to?

A. To *Charles Flynn's* house.

Q. What became of *James Laydon* and *John Flynn*?

A. There

A. They went to bed, and I and a little girl there did not go to bed.

Q. How long after did you hear of the murder?

A. I cannot give a particular account, but it was about two hours after we left the company.

Q. Can you take upon you to say, that during that time, *John Flynn*, and *James Laydon* did not go out?

A. They did not.

Q. Did you part company with them from the time of leaving *Laurence Flynn's* house till the time of the murder?

A. Not till we heard the hue and cry of the murder.

Q. Who told you of it?

A. It was a universal cry.

Cross-examined by Mr. ATTORNEY GENERAL.

Q. To whose house did you go with *John Flynn* and *James Laydon*?

A. To *Charles Flynn's* house.

Q. Who was there at that time?

A. Nobody but the children, for they were all at the drinking.

Q. What other woman was along with you?

A. *Polly Flynn*?

Q. What relation is she to *John*?

A. Uncle's daughter.

Q. Who is her father?

A. *Charles Flynn*.

Q. Do you mean *Charles Flynn*, who is now up for trial?

A. Yes.

Q. What relation are you to her?

A. Her Uncle's daughter.

Q. Who is your father?

A. *John Flynn*.

Q. Is he here?

A. No.

Q. Did *James Laydon* and *John Flynn* eat any thing at the house of *Charles Flynn*, when they went there that evening?

A. They did eat something before they went to bed?

Q. What did they eat?

A. Potatoes and milk.

Q. Have you any reason to recollect particularly the time they eat their supper, or were you desired to take notice of it?

A. Nobody desired me to remark it.

Q. How far is *Charles Flynn's* house from *Laurence Flynn's*?

A. About two or three acres.

Q. Why did *John Flynn* go to bed in *Charles Flynn's* house?

A. He is the son of *Charles Flynn* and lived there?

Q. Where does *James Laydon* live?

A. About a mile and a half from *Charles Flynn's*.

Q. Is it more than half a mile?

A. It is about a mile and a half.

Q. Did you ever know *Laydon* to sleep there before?

A. He did.

Q. Did he often sleep there?

A. When he used to come the road.

Q. Did you know *Lavin*?

A. I had no knowledge of him, but saw him once or twice, as I lived in *Tireragh*.

Q. Were you not much vexed at hearing of his death?

A. I was unhappy, as every one else was.

Q. Was not *Charles Flynn* much grieved?

A. He was as every one else was.

Q. Did you hear him say any thing of the person who did it?

A. He did not, nor did he know any of them.

Q. What time did *Charles Flynn* come home that night?

A. He did not come home till after the people came in and murdered the man in their presence.

Q. Did he come home until after you heard of the murder?

A. He did not.

Q. Did *Charles Flynn* say where he had been from the time the murder was committed, until he came home?

A. He did not leave the house from the time the murder was committed till he came to his own.

Q. What account do you give of *Charles Flynn* from the time the murder was committed, until he came home?

A. I

A. I can give no account, only he came in after the hue and cry.

Q. Did he give any account of the murder?

A. He was crying as hard, as if it was his brother.

Q. Did he tell *John Flynn* and *James Laydon*?

A. He sent them out of their beds and they began to cry.

Q. How long did they cry?

A. About half an hour.

Q. Were you crying with them?

A. I was crying with them and every one must pity him.

Q. Did you not consider him a worthy man?

A. We were all fond of him, as an honest man.

Q. Were they not fond of him, as an honest man for swearing against the *Thrashers*?

A. We could say nothing to him, as he did nothing to us.

Q. When you recovered from your crying, you set about discovering the murderers?

A. We went to assist in stretching him on some boards.

Q. But when did they look after the murderers?

A. I do not know when they looked after the murderers: we went to the man.

Q. Did *Charles Flynn* mention to *John Flynn* how he escaped from the murderers?

A. They gave him a blow on the head, as he told.

Q. With what was he struck?

A. I do not know.

Q. Did he not say, he had a narrow escape from the villains?

A. He did, and he thought he never would escape.

Q. Did they suspect *Charles Flynn* of swearing against *John Flynn* and *Michael Flynn*?

The Witness would not answer this question.

Q. What made them so angry with *Charles Flynn*?

A. Only because he happened to have the misfortune to be in the way.

Q. Do you know *Edmund Durneen*?

A. I have no knowledge of the people of the country, being only passing there that time.

Q. Do you know big *Durneen* ?

A. I do not.

Q. Do you know who came in with the message for *Durneen* ?

A. I cannot tell that, for I was not there at that time.

Defence closed.

Mr. Ormsby was again examined on the part of the Crown.

Q. Was *John Connor*, the man mentioned by *Margaret Lavin*, sworn against by her husband ?

A. He was.

BARON GEORGE, *Gentlemen of the Jury*. In this case, there are ten prisoners upon their trial: all the persons who are included in this Indictment, except *Edmund Durneen*, who having been apprehended but yesterday, and saying he was not ready for trial, but would ready to-morrow, I thought it right to give him time till to-morrow, before he was put upon his trial for his life. Gentlemen, the prisoners are indicted for a conspiracy to murder; By our act of the thirty-sixth Geo. III. chap. twenty-seven, all persons who shall by due course of law be convicted of conspiring, confederating, and agreeing to murder any person, shall be adjudged felons, and shall suffer death as felons without benefit of Clergy; and this crime may be complete, even though the conspirators should be disappointed in their purpose, either by the providence of God, or the exertions of man. Gentlemen, when the crime of murder is committed by several persons upon preconcert and deliberation, a conspiracy precedes the commission of the black deed itself. Gentlemen, as in this case, a murder was committed by several persons, the first question which now presents itself to your enquiry, is whether that murder was preceded by a conspiracy or not, and if it was so preceded, then, whether the men, now on their trial or any and which of them were of that conspiracy. Gentlemen, it is necessary, that you should know, that the crime of conspiring to murder a man can seldom be expected to be proved by direct and positive

tive evidence, unless testimony be given by a fellow conspirator. All such offences are in their nature dark and secret. It is to be expected that caution will generally be used, lest it should be observed or discovered by the victim of that conspiracy himself, or by those who might enquire into the circumstances after his death. But when all the conspirators stand fast to each other, there the proof of the crime is left to evidence of that sort, which now appears before you, and gentlemen, it is right to inform you that the circumstances which have been given in evidence (for it is only circumstantial evidence) are to be deliberately weighed, and considered, and if they amount only to a *light*, or to a *probable* presumption, that the prisoners are guilty, you will take care in such case, to make no mistake, but acquit them. But if all the circumstances, taken together, are such as to convince honest and conscientious men, and do amount to a *violent* presumption, that is considered as equal to positive evidence, and as little likely to deceive or mislead. Therefore, gentlemen, before I state the evidence to you, I premise these few observations, that you may apply to that evidence as I go along, and determine, whether the facts, which have been disclosed, satisfy you, that the prisoners, or any and which of them, acted in concert with the persons who committed the foul deed. Whether the prisoners or any of them had any previous communication concerning it, with the persons who came prepared to perpetrate it. It appears, that the men who committed the fact came in disguise to avoid prosecution. Material considerations arise from the place, in which the murder was committed, and from the persons sworn to be the actors in it. The evidence laid before you is intended as proof, that some of the prisoners drew the unhappy man to the fatal spot, with intent to have him thus murdered—that they knew, that would take place which afterwards did take place—that they were acquainted with the design, that they sat there delaying the man, till the persons should come to dispatch him—that they gave him no notice of the danger that was preparing for him, but concealed from him the knowledge of the design—that the fact, being no matter of suspicion to them, they took no part to save the wretched

wretched man, or to discover of, or apprehend the persons who committed the fact. But whether the evidence you have heard has shewn that such was the case or not, or has left the matter doubtful, is for your serious consideration.

Gentlemen, with these observations I will proceed to state the evidence to you, (*Here the learned Judge read the evidence minutely from his notes and made occasional remarks*)—That the charge stated by *Lavin* was not lightly made against the persons now in gaol under his information, appears from the attempt of the prisoners, against whom he informed, to break gaol; they rather wished to escape than venture to stand their trials; and being disappointed in that attempt, it was natural, that the friends and relations of those persons should be alarmed for their safety. (*After concluding the summing up the evidence the learned Judge proceeded:*) Gentlemen, upon this evidence, you are to consider, whether the prisoners or any of them conspired, and acted in concert with the persons, who committed the murder, or not. It is evident, the perpetrators of the crime had notice, that this unfortunate man was in the house of *Laurence Flynn*. They appear to have prepared and disguised themselves to commit this crime; and if they did so in concert with any of the people in the house, the persons who held such communications are guilty. In deliberating upon that question, you will consider the circumstances and put them together. It appears that *Lavin* had charged *John Flynn*, *Edward Durneen*, *John Connor*, and others; It appears that *Col Flynn*, one of the prisoners, is the near relation of *John Flynn*, so accused, and it is no violence to presume that enmity was entertained in the breast of *Col Flynn*, against *Lavin*. *Col Flynn* commenced a treaty for the purchase of some corn and sheep and part of the bargain was to go and drink with a man, who bore no small enmity to him; where is he brought? to the house of *Laurence Flynn*, according to one of the witnesses the father of a person against whom *Lavin* had sworn—here *Edmund Durneen* the elder, against whose son and whose nephew *Lavin* had given information, sends out for *Ryan* and *Horan* who came in half an hour, and this *Edmund Durneen* appears to be the Uncle of *Edward Durneen*, who soon after
rushed

rushed into the house armed with the hatchet. Thus he was surrounded by a number of persons, who, it would be fair to consider bore no small hostility to him, and it appears, that by those persons he was caressed, and when his wife apprehensive of the danger that hung over him, expressed a wish to go away, two men, who, one would think, would rather have wished her out of the house, take her each by the arm, and in order to persuade her to stay, use endearing expressions, and propose to send a girl to take care of the children; for whom consistent with the situation in which they stood, they could have had no more regard than for their father. In this manner, those unfortunate people were delayed:—some time elapses before the tragedy is acted; some women, who were of the party, were brought away from the place which was to be the scene of the transaction. *Edmund Durneen*, the father of one of the persons charged by *Lavin* withdraws outside the door, and is not present at the murder: and *John Flynn*, who was one of the persons in company, and *James Laydon* go to the house of *Charles Flynn*, and there they remain until they were afterwards roused in consequence of the fact. Upon the evidence in this case, there seems to be little doubt, that this murder was committed in revenge for the information *Lavin* had sworn, and to prevent his giving evidence against the persons he had accused. You are to consider, under these circumstances, what countenance and what reception he had a right to expect from this company, into which he had got and by which he was surrounded, if they had expressed or disclosed to him the genuine feelings of their hearts towards him.—It is for you then to consider, whether the kindness or hospitality shewn him was dissembled, or whether it was sincere, and if you are persuaded it was dissembled, then consider why it was so, and what purpose was such insincerity intended to answer.

Now, Gentlemen, this transaction appears to have taken place in a house, where a number of persons were drinking whiskey, and where private whiskey was distilled against law: an illicit dealing of this sort ought not to prejudice the persons on this trial; and I mention this circumstance to apprize you, that private distillation is apt to draw together various persons, who
may

may be strangers to the objects and pursuits of each other, and thus men may be present at a conspiracy of this nature, to whom the secret may not be disclosed and to whom it may not be necessary to disclose it. As to this, you are to consider the evidence with regard to *Patrick Barret*, and *John Callaghan* who went out before the murder, saying they were going to fish; and they did go to fish; a circumstance favourable to them, from which it may be believed they knew nothing of the transaction; for if they did, they would scarcely be in a temper of mind to go to fish; that circumstance is therefore submitted to your judgment. And, Gentlemen, you will also consider the other persons, against whom no other facts have been disclosed, nor any family connection stated, and whether it is not just and right to distinguish their case from the others. Gentlemen, I do not intimate to you any opinion whatever which I may entertain as to the guilt or innocence of any of the prisoners at the bar. It is not my province. The whole case depends upon circumstantial evidence, and you will consider, whether the prisoners, or any of them appear to have acted in concert with the men who committed the crime.— The facts disclosed seem to shew, that the principals in the first degree had accomplices, and you will judge whether any of the prisoners was so concerned. If you shall be of that opinion, you will find such of them guilty. But if you have such reasonable doubt as honest men can with safe consciences entertain, you should acquit them. For you must be convinced, that the object of this prosecution is to bring guilty men to justice, and not to make the sanction of the law light upon the head of those upon whom it ought not to light. I trust that this case is in the hands of men of humanity, knowing their duty to the prisoners and to the public; and therefore, you will fairly weigh the transaction. You see, the kind of evidence adduced is circumstantial evidence, but circumstances clearly and satisfactorily proved, and well connected, may as fully prove a fact, as direct evidence can do. You will decide, whether the evidence in this case has such an effect upon your minds.

The Jury retired for three quarters of an hour when they returned the following Verdict.

<i>Col Flynn,</i>	Guilty.
<i>Laurence Flynn,</i>	Guilty.
<i>Charles Flynn,</i>	Guilty.
<i>Patrick Barrett,</i>	Not Guilty.
<i>James Laydon,</i>	Not Guilty.
<i>Thomas Horan,</i>	Guilty.
<i>Daniel Regan,</i>	Guilty.
<i>John Callaghan,</i>	Not Guilty.
<i>Daniel Callaghan,</i>	Guilty.
<i>John Flynn,</i>	Not Guilty.

Thursday, December 11th, 1806.

Patrick Ratigan and Dominick Connor, were indicted for rising and appearing armed and assembled, with many others, to the terror of his Majesty's subjects, on the 25th of *November,* in the forty-seventh year of the reign.

The prisoners pleaded, Not Guilty, and a Jury being sworn,

William Brooks, was examined by the ATTORNEY GENERAL.

Q. Do you belong to any Corps of yeomanry?

A. Yes.

Q. To what Corps?

A. The *Ballina* Corps.

Q. Were you on duty upon the 25th of last month?

A. I was.

Q. Who was on duty with you?

A. *John Ormsby, Jasper Burke,* and others.

Q. Do you recollect getting information of any noise from any person and from whom?

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A. One

A. One of the guard was out and heard the noise of dogs—he said, there were *Thrashers* there as he believed—I sent him to listen—he said, to the best of his opinion, the *Thrashers* were out—we went forward, five or six men. We heard the shouts of people—we went further and heard dogs barking—we lay in ambush, expecting them down a hill, but hearing a shot, we advanced further, and surrounded the place where we thought the people were. Two men advanced and we desired them to stop, but they did not, and we fired upon them.

Q. *By the Court.* What time of the night was this?

A. It was after night a good while.

Q. What happened then?

A. They ran, and we met a man who called himself, *Patrick Flynn*.

Q. Where?

A. In the same field with the two men; I got hold of him and left him with the guard and pursued the rest, but did not overtake them. We got a number of straw bands in the field, and I put one of them upon *Flynn's* head—he said, he would not wish for half a guinea to have it on his head.

Q. Was there any corn thrashed in the neighbourhood that night?

A. There was in the same village—it was quite fresh and was thrown all about.

Patrick Flynn, examined by the SOLICITOR GENERAL.

This witness contradicted his written information and was committed for perjury.

The prisoners were acquitted.

Patrick Hargedan was indicted, for that he on the 21st of *November*, in the forty-seventh of the King, at *Foxfort*, in the county of *Mayo*, feloniously supplied arms, to wit, one gun, to persons unknown, to assist them in committing offences against the statute, 27 Geo. III. that is to say, inflicting punishments and destroying the property of liege subjects in order to compel them to assist and enter into unlawful combination and confederacy under the denomination of *Thrashers*, for the disturbance of the publick peace, against peace and statute.

Prisoner pleaded, *Not Guilty*.

JURY SWORN :

Thomas Elwood,
Peter Lynch,
Ralph Brent,
Thos. Rutlege,
Geo. Gildea,
Robert Betagh,

Thomas Heron,
William Ferris,
Robert Flynn,
Francis Wright,
Richard Leviston,
Edward Malley.

MR. ATTORNEY GENERAL.—*Gentlemen of the Jury*. I shall feel it necessary to say a few words, in explanation of the grounds upon which this charge is brought forward, and those principles of law, and the evidence to which it will be proper, that your attention should be directed. Gentlemen, the substance of the accusation, against the prisoner is this:—That he has supplied a body of persons, assembled under the denomination of *Thrashers*, with arms. This is a capital offence by the law of the country:—the particular act upon which the indictment is founded, is the 27 Geo. III. c. 15. by which it is enacted, that every person knowingly and voluntarily supplying horses, arms and ammunition to others for the purpose of carrying into execution any of the offences in that statute mentioned, shall be adjudged guilty of felony without benefit of clergy. This act of parliament has specified various crimes and among them, that of supplying arms for the purposes mentioned in the act. Accordingly the indictment here states, that the prisoner supplied arms to persons associated to destroy the property

perty of the subject. And therefore the law is clear; if it shall appear, that persons are so associated and that arms were supplied to them by the prisoner, he becomes a proper object of the provisions of this act of Parliament.

Gentlemen, it will be highly satisfactory to me, and to those who are concerned with me in these prosecutions, to find that the claims of justice shall require no new sacrifice, and that the painful task of calling down punishment upon the guilty shall terminate. But it is of importance to the peace of the county, that it should be seen and felt by the deluded beings, who have engaged in this conspiracy, that it is not merely the man, who inflicts a mortal wound and thereby commits a murder, who involves himself in punishment, but, as has been truly stated by my eloquent friend, the SOLICITOR GENERAL, every member of the conspiracy is tainted with the vice of the whole of it, and may be visited with the consequences of the crimes of others.

Gentlemen, it must strike you, that supplying arms to the persons engaged in this wickedness is an offence, not of a very inferior kind. The necessary consequence of co-operation is obvious, and at the same time, that they are thus assisted, the loyal are disarmed.

Gentlemen, it will be clearly proved, that in the house of *Robert Burke*, in the town of *Foxfort*, a gun was deposited by *Edward Hargedan*, in order to prevent its falling into the hands of the banditti, who infested the neighbourhood. On the morning of the 22nd of *November* last, the prisoner came to the house of *Burke* and took away the gun; he carried it away and declared that he took it for the purpose of giving it to the *Thrashers*. It will further appear, that upon being apprehended and charged with the fact, he admitted, that he carried it away for that purpose, and left it in a place appointed, and where it was to be found by them. So that the fact is not controverted; but the defence, as I understand, is, that he acted under the impulse of terror and compulsion. The facts, which he stated at the time, were, that a party of the *Thrashers* came to his house, the night before and administered an oath to him, that he would pro-
cure

cure this gun for them, and threatened his life, unless he did so, and that under the influence of this oath, he, on the following day took the gun. Whether this story of the oath, and the threat, and acting under the influence of fear be true, or not, it is not very necessary to examine; because that would be leading your minds from the subject of your present enquiry, and it would be fatal to the best interests of the country, if it were for a moment understood, that a defence of that kind, if established in point of *fact*, could be established in point of *Law*. I state it, in the hearing of the learned judge, from whose authority, you will hear what the law is, that such a defence, if ever so clear in point of fact, is utterly deficient in point of law—and one of the objects of this enquiry is, to let those deluded men feel, that there is in the country a greater terror, than that which operates upon their minds, that is, the law of the land. It is a principle of common sense—of all civilized countries—and of all law, that a man to be capable of committing a crime, must be a *voluntary* agent—his intention and his will must accompany the fact to make him criminal, and therefore if a poinard be put into the hand of a man and he is compelled by the dread of *immediate* danger to his own life, to strike another, he is not guilty, because his will has not concurred with the fact. But the idea of compulsion and terror arising from *previous* threats compelling a man to do an unlawful act at a *future* day, is altogether inadmissible by the law of the country and inconsistent with the clearest principles of reason. If this defence were admitted, there is no man, who could see the end or the consequences of it.—If a man intended to commit a crime, he would no longer do it himself and expose his life to the law; but he would go to another and threaten to take away his life, unless he, at a future day, committed the act, which is accordingly done in obedience of that command!—does it not revolt the mind to say, that by a circuitry of this kind, the worst crimes may be committed with impunity! You cannot draw the line between different offences: You cannot say, that if a man, under the influence of fear, administer an oath to another, he may defend himself, because he acted under fear; but if he committed a murder,

der, he could not so defend himself—that if a man delivered a message to excite combination, he would be innocent—but that if he burned another man's house, he would be guilty.—Gentlemen, it would shake the public safety to its very base, if this were tolerated for a moment. The law admits this:—if a number of ruffians surround a man, threaten him with instant death and continue force upon him and that he under the terror of the loss of life acting and continuing upon him, commits a crime; the law and the constitution, in indulgence for the principle of self preservation, which is the first law of nature, excuses him. But the same law says, in the same breath, that the moment the force discontinues—the moment, he is rescued from the persons who so surrounded him and put his life in danger, that moment, he becomes a free and accountable agent, and as such, he is subject to the rule and operation of law. And therefore, where a number of persons unlawfully assemble and threaten a man, that they will do him mischief, unless he commits a particular crime at some future day, it is the bounden duty of that man to seek the protection of the law—to repair speedily to a magistrate—to give him information to obtain his assistance and support, and not by obedience to such threats—an unmanly submission to such commands, violate the law. If it were true, that a number of persons attacked the prisoner—if they kept him within their grasp—brought him to *Burke's* house, and while mortal weapons were in their hands, he subdued by their physical force, took away this gun, God forbid, he should be tried for it! The laws of God—of humanity and of the land are the same—he would not be called to account.—But if a banditti assemble under the darkness of night and cause a man to carry their designs into execution when the dawn of day appears, that man is accountable, if he does so. If the law were otherwise, what would be the necessary consequence? That any band of conspirators associating themselves together would become more formidable than the law—they would encircle themselves with a terror, against which the terror of the laws could not operate, every man would yield to it, and wicked men would make it their pretence to abet and promote the designs of the conspirators.

Gentlemen,

Gentlemen, I have stated thus much, that you may understand the law upon the subject and the defence, which it is suggested to me, will be made. With these observations, I shall leave the case for your determination, under the control of the Court.

Robert Banks, examined by the SOLICITOR GENERAL.

Q. Where do you live?

A. In *Foxfort*.

Q. Do you know *Edward Hargedan*?

A. I do.

Q. Did he leave a gun in your house?

A. No; but one *Fox* left a gun with me, which he said belonged to *Edward Hargedan*.

Q. Where did you keep that gun?

A. Sometimes above stairs and sometimes below.

Q. When did you miss it?

A. On the morning of the 21st of *November* last.

Q. Do you know *Patrick Hargedan*?

A. I do—this is the man (*pointing to the prisoner*).

Q. Did you see him at your house about the time the gun was missed?

A. I did.

Q. At what time?

A. The same day.

Q. At what hour?

A. Pretty early.

Q. Was it before the gun was missed?

A. It was—he came into the house, and I asked him did he meet the men coming to work. He said, he did not—there was no other conversation.

Cross examined by Mr. T. MOORE.

Q. This gun belonged to *Edward Hargedan*?

A. It did.

Q. He is a relation of the prisoner?

A. He is.

Q. Can you form a belief, why *Patrick Hargedan*, applied for it?

A. I cannot say—he did not apply to me for it.

Q. Do you know the prisoner?

A. I do.

Q. Do

Q. Do you suppose he was connected with the *Thrashers*?

A. I do not believe he was; according as I can hear.

Q. By the SOLICITOR GENERAL. Have you any reason to know, whether he was, or not?

A. I have not.

Mary Roan, examined by the ATTORNEY GENERAL.

Q. Do you know *Mr. Banks*?

A. I do, Sir.

Q. Do you live with him?

A. I do.

Q. Do you know *Patrick Hargedan*?

A. I do.

Q. Did you see him at your masters house last *November*?

A. I did.

Q. What did he do?

A. He did nothing, only take a gun—I went up stairs after him, and asked him, what he was going to do with it?—He told me the *Thrashers* swore him last night, and then he sat down upon the bed and began to cry.

Q. Did he say, what the *Thrashers* swore him to, or what he was going to do with the gun?

A. He did not—When he began to cry, I asked him the reason, he said, they put him upon his knees three times to shoot him and he said, he would break the gun, before he would give it. I desired him not to do it, as my master would not break it, and they would have his life, if they knew he broke it. He said, he had but one life, and was near losing it last night, when they had the rope round his neck.

Cross-examined by Mr. T. MOORE.

Q. Is it not the practice of the *Thrashers* to put persons in fear of their lives?

A. I have nothing more to say than what I have.

*Robert Banks, Jun. examined by the SOLICITOR
GENERAL.*

Q. Where do you live?

A. In *Foxfort*.

Q. In whose house?

A. Of *Robert Banks*, my father.

Q. Do you know *Patrick Hargedan*?

A. I do—this is he.

Q. Do you recollect his coming to your father's house in *November* last?

A. Yes.

Q. What did he do?

A. He went up and the girl followed him—and he came down, cleaning his eyes as if he had been crying.

Q. Had he any thing in his hand?

A. A gun.

Q. Did he take it away?

A. He did.

Q. Did he say any thing?

A. I heard him say nothing?

*Raymond Kelly, Esq. examined by the ATTORNEY
GENERAL.*

Q. Do you know *Patrick Hargedan*, the prisoner?

A. I do.

Q. Do you recollect having questioned him at any time respecting a gun?

BARON GEORGE. Pray, Sir, before the prisoner said any thing to you relative to the gun, did you induce him to do so by holding out any hope to him, or did you threaten him in any manner?

A. I did not—either one or the other.

Q. What did he say?

A. He said, the *Thrashers* were with him a night or two before, and in consequence of their having sworn him, he went into the house of *Robert Banks* and took away a gun, and brought it to a private place, that was agreed upon by them, and he left it there for them.

Cross-examined by Mr. T. MOORE.

A. The prisoner was in custody at the time he mentioned this?

A. He was, with an Officer of the *South Cork Militia*.

Q. Was he detained afterwards?

A. No; I told the Officer, I would be answerable for him and he was enlarged.

A. He has come in voluntarily?

A. No,—the officer took him a second time.

Q. Do you suppose he had any connection with the *Thrashers*?

A. Not previous to that night.

Q. Do you not believe he was compelled?

A. He told me, they produced a rope and threatened to hang him.

Q. Do you believe what he said?

A. I should believe it.

Re-examined by the ATTORNEY GENERAL.

Q. Is there a magistrate in that neighbourhood?

A. There is—Mr. *Kelly* near five miles.

Q. Did the prisoner give any account of this matter to a magistrate?

A. He did not.

Q. Is there any military guard stationed there?

A. A detachment of the *South Cork Militia* was there at the time, and there is now a yeomanry guard.

Q. How far from *Foxfort* does the prisoner live?

A. About a mile and a half.

Cross-examined again.

Q. The prisoner did not conceal from you any of the circumstances.

A. I believe he told me the same thing, which he told others.

Case for the prosecution closed.

Mr. T. MOORE. My Lord, I submit, that this is not a case to affect the prisoners life—His defence has appeared from the cross-examination.

BARON GEORGE. It will depend upon the opinion which the Jury may form of the evidence.

Gentlemen of the Jury. The prisoner is indicted for having wilfully, maliciously and feloniously supplied a gun to certain disturbers of the peace, under the denomination of *Thrashers* and as has been mentioned by the ATTORNEY GENERAL, this offence is subject to capital punishment. It is my duty to tell you that the law of the land is most unquestionably such, as he has stated to you. He is the last man, who on the prosecution of a subject for his life, would mistake the law, or strain it to affect a prisoner with severity. There does not appear to be any contrariety of evidence respecting the facts in the present case.—The facts are to be collected from the direct and the cross-examination and you must consider them to be these:—That a body of men of the description of *Thrashers* came to the prisoner in the night—that they did threaten to hang him and that they swore him to go and take away this gun, of which we may suppose they had some intelligence, and to leave it for them in a certain place agreed upon between them. Gentlemen, you are to take it for granted, that they then left him and on the next day, he went to the town of *Fairfort*, where there was a military officer, and not far distant from which there was a magistrate, and under the influence of these threats he took away the gun. He appeared to feel no small sorrow for the act he was doing, and declared, that he acted so, because he was compelled. He took away the gun, and left it in the place for the *Thrashers*, and as it has not appeared since, a violent presumption follows, that it fell into their hands.

Gentlemen, having stated this, you are to consider, whether the fact of his having provided this gun and delivered it over to the *Thrashers*, persons disturbing the public peace, was excusable, or justifiable under the several circumstances here mentioned.—It has been stated to you, that if irresistible force operate upon a man and compel him to do an act at the instant,—that force so imposed will excuse him for the act in a court of Justice, where his life was in danger, or violent bodily mischief threatened—such an act is not considered

as the voluntary act of his mind. The law is undoubtedly so and is as plain as possible. But no force of that sort will excuse a man for having committed a felony, unless that force was held over him at the time of the felony committed. If he were able to extricate himself from the force, and is removed from the reach of it, he is not excusable in doing a criminal act. Gentlemen, this principle of law is founded in good reason; because what would be more easy than to form a combination in which one man should express his fears of the consequence of doing an illegal act and say to the rest, "Come and swear me and threaten me with death unless I do it—and then I will be able to defend myself." How is such a combination to be prevented if this kind of defence were allowed in a court of justice? the person accused would always appear as a crying reluctant man, acting under terror of death. Practices of this sort would universally prevail—men would say, they were compelled to commit particular offence upon one day—a felony on the next—to take away arms and ammunition and leave them in a certain place to be found by rioters and disturbers of the public tranquillity; and the defence for all this would be, that a party come at night and swore the man to commit these acts. What could be more dangerous, than receiving such a defence? The law, therefore, to guard against machinations of this kind, takes care, that nothing shall excuse a man for a criminal act, but that which is done under the *immediate* influence of force, from which he had no opportunity of escaping. The law expects of every man, that the moment the force is removed, he will complain to a magistrate and seek his protection. But if after the force is removed, and time has intervened, he does the act required of him, such defence cannot avail him.

Gentlemen, you will consider this case, and all the circumstances which have appeared. You will consider, what is due to the prisoner and to the public. You will consider the danger of collecting the arms and ammunition of the country in this manner and taking them out of the possession of honest
and

and well disposed men—what is to follow and to what uses are they to be applied. Consider, I say again, what is due to the prisoner and the country—and find such verdict as will satisfy your own consciences.

The Jury deliberated for two hours and a half when they returned a Verdict, *Guilty*, and recommended the prisoner to mercy.

BARON GEORGE. *Gentlemen of the Jury.* I will certainly transmit your recommendation to Government, and I am sure, that if the state of the country admits of it, the prisoners life will be spared. But it must be obvious, that no safety remains, if *Thrashers*, or other disturbers can go about recruiting their strength in this manner, by which others are induced to commit crimes under apprehensions from them.

MR. ATTORNEY GENERAL. My Lord, if it be not an intrusion upon the public time, or improper in me, standing here on the part of the prosecution, I would wish to say a few words. This prosecution was selected by me—God knows, not for the purpose of bringing down punishment upon this wretched man at the bar, (for it must be distressing to the feelings of every man to see such examples)—but to shew, by the verdict of a Jury, this important truth, that if a man commit an illegal act under the allegation of terror from this *banditti*, he cannot set it up as a defence, for the laws are armed with a terror beyond that, which such illegal assemblies can create. Any recommendation from Gentlemen of such respectability as compose the present Jury, who have manifested their sense of duty to the Constitution, so far as I can assist, shall not go without proper comment,—And if the state of the country shall leave the Government to its own feeling (although I am not authorized expressly to say so) I have no doubt, that every attention will be paid to such a recommendation, forwarded by the authority of the Court.

John Early and *Martin Early* were indicted, for that they on the 1st of *September*, 46th of the King, at *Rathmanagh*, maliciously and feloniously did assault the dwelling house and habitation of *Samuel Rogers*—2nd count charged, that they after sunset did forcibly enter the said house. There was a second indictment for a burglary in said house upon the 11th of *November* in the 47th of the King—in which there was a count for feloniously stealing and taking the goods of *Rogers*, to wit, three gallons of whiskey, out of his dwelling house, against peace and statute.

The prisoners pleaded, *Not Guilty*, but refusing to join in their challenges, *John Early* was put upon his trial.

THE FOLLOWING JURY WAS SWORN :

Robert Patten,
George Ormsby,
Thomas Ormsby,
Martin Blake,
Campbell Fair,
John Nixon,

H. Higgins,
John Kenny,
John Creavy,
Robert Fair,
Orme Lundy,
Henry Stanley,

Samuel Rogers, examined by the SOLICITOR GENERAL.

Q. Where do you live ?

A. At *Rathmanagh*.

Q. How long have you been a yeoman ?

A. Two years.

Q. Did any thing particular happen at your house in *September* last ?

A. There did.

Q. At what time in that month ?

A. About the 1st. of *September*.

Q. Was it in the day time or in the night ?

A. It was night.

Q. What happened ?

A. I was attacked by a party of men, who broke the door to pieces.

Q. At what time of the night was it ?

A. About twelve o'clock.—I was brought out and beat severely with guns and sticks.

Q. Of

Q. Of how many did the party consist?

A. As near as I could guess there were twenty men.

Q. Did they call themselves any particular name?

A. One man said, "Long life and success to Captain Thrasher."

Q. Were they dressed in any particular way?

A. They were:—Some wore white shirts, and others wore bands upon their hats.

Q. Were you much hurt?

A. I was cut with a blow of a gun, and received many strokes upon my arms, endeavouring to save my head and was sore for a long time.

Q. Did they give any reason for this treatment of you?

A. They did not.

Q. Do you see any of the party here?

A. This man, *John Early*, was one of the party.

Q. How long have you known him?

A. Fifteen or sixteen years.

Q. Did any thing happen to your house in *November* last?

A. There did.

Q. At what time?

A. About the 12th or 14th.

Q. What was done to your house then?

A. Three men came to the door, and they called for a dram in good *English*—my wife, got up and made down a fire, and upon the delay, the man without called and said, they must come in—She let them in.—

Q. At what hour was this?

A. About 12 at night?

Q. How many came in?

A. Three men.

Q. Were they armed?

A. They were.

Q. In what manner?

A. One had a sword—another a gun and another a pistol. The man, who spoke *English* took away the whiskey and brought it to the door.—My wife said, "Sure, you are not going to take away my substance.

Q. How much whiskey was there?

A. Six or seven gallons in a cag—one of them put a pistol to her breast, and said, if she stirred, he would

would shoot her.—They carried away the cag and I saw no more of them.

Q. Were the men who came the first night armed?

A. They were with guns, pistols, and swords.

Q. Do you know any of the party who came the second night?

A. I do.

Q. Whom do you know?

A. I know the man at the bar whom I pointed out before?

Q. *By the Court.* Had he any weapon in his hand?

A. He had a sword.

Q. *By a Juror.* Had he any thing in his hand the first night?

A. He had a stick.

Q. *By the Court.* How was he dressed?

A. In a brown coat, with a white band in his hat.

Cross-examined by Mr. T. MOORE.

Q. You are a yeoman?

A. I am.

Q. Is it the practice of the *Thrashers* to attack yeomen?

A. I do not know.

Q. What do you believe?

A. They attacked them several times, and took their arms.

Q. Mention any instance?

A. They attacked one *Craig*.

Q. Did they take yeomanry arms from him?

A. I cannot say—but he was a yeoman.

Q. You and the prisoner have been upon good terms?

A. We have.

Q. Was there ever any difference or quarrel between you?

A. There was some time ago.

Q. Did you ever say, that any other person was guilty of this matter?

A. I did—the other prisoner as well as this man.

Q. Did you ever charge any other person?

A. I

A. I never did.

Q. Did you ever hesitate to swear against these men?

A. I lodged examinations against them.

Q. Did you stop any time, before you swore, as a good, well disposed man would do.

A. I would have sworn informations early, but from dread of my life—but when I was attacked the second time, I thought it right to give information.

Q. You thought the best way of protecting yourself was to take these men up and hold them to bail?

A. I Do not think they were bailable.

Q. You were an armed yeoman and you were afraid.—Were you not bound to give informations?

A. So I did.

Q. But not for a month or two?

A. After the first attack.

Q. Had you any other person taken up for this offence?

A. I had not.

Q. You did not know any other person but these two—Was there any dispute between you and either of the prisoners about a Still?

A. There was.

Q. Mention what it was?

A. I will relate it.—This man and I had a Still in partnership—he took it away, and I could not get it out of his hands—We went before a Justice—and it was left to reference.

Q. Did any thing else happen between you?

A. There did not.

Q. Did you not go into his house with a musket and fixed bayonet.

A. I did.

Q. *By the Court.* When was this?

A. About four or five years ago—two years before I became a yeoman.

Q. By your oath, will you say it was five years ago?

A. It was between four and five.

Q. Had you any other dispute with the prisoner?

A. Never any other.

Q. Did you go before Captain *Knox*?

A. I did—that was about the Still?

Q. They took away the whiskey?

A. They did.

Q. And the prisoner had a white band about his hat?

A. Not at the time they took away the whiskey.

Q. You handed out the whiskey?

A. No, they took it away themselves.

Q. Was the prisoner's face covered?

A. No, it was not.

Q. How was he dressed, when the whiskey was taken?

A. He had a straw hat, and straw round his middle.

Q. That did not conceal his face?

A. No, it did not.

Q. So, he came openly, without any covering, to you, who knew him.

A. I do not know, whether he desired to hide his face.

Q. *By a Juror.* What kind of a hat had the prisoner?

A. A long one, like a Grenadiers cap—I cannot well describe it.

Q. How was the straw round his waist?

A. A wisp of straw round his middle tied with a straw rope.

Q. *By the Court.* Would that disguise his shape?

A. It might, but I knew his face.

Q. Had he any claim to the whiskey, which was taken away?

A. He had not—I distilled it myself the day before.

Mr. T. MOORE. Did you not say, you did not intend to prosecute?

A. If I did itself, that was no reason, I should not.

Q. Did you say, it was not at your desire those men were taken?

A. I did not.

Q. Did you say any thing about detaining them?

A. I do not recollect.

Q. *By a Juror.* You said, there were twenty of them?

A. As close as I can guess.

Q. Are

Q. Are you positive the prisoner *John Early* was one of them?

A. Sure enough.

Q. Are you positive, he is one of the three men, who came the second time?

A. I am.

Eleanor Rogers, examined by the SOLICITOR GENERAL.

Q. You are the wife of *Samuel Rogers*?

A. Yes.

Q. Did any thing particular happen at your house in *September* last?

A. There did.

Q. What was it?

A. The doors were broke and my husband brought out and beat; and when I went out to escape with my life, they struck me, and threatened to burn the house over my head, if I spoke of it.

Q. How many were in the party?

A. I could not tell, upon my conscience, but there were in or about twenty.

Q. Do you know any of that party?

A. This man, *John Early*, was one of them.

Q. Are you positive he is one of them?

A. I am.

Q. Did you know him before?

A. I have known him 14 or 15 years.

Q. Was he dressed in any particular manner?

A. He was not, but wore a white band upon his hat. The others had some of them shirts and some had not.

Q. Did they say, what they were or call themselves by any particular name?

A. They commonly call themselves *Thrashers*, but they did not that night, but broke in the door, like thunder.

Q. Did any thing happen to the house after.

A. There did.

Q. *By the Court.* Did any thing happen the first night, besides beating you and your husband?

A. No, but breaking in the door, and they took out my husband, and beat him and threatened us, if we spoke of it.

Q. How soon after was the house attacked again?

A. About two months ?

Q. What was done then ?

A. They came to the door, and asked for a drop ; I got up with trembling steps to get what they wanted. I made a light with the fire and got the cag—they took it from me and upon attempting to go after them, one of them put a pistol to my breast and said, he would shoot me, if I went out.

Q. How many were there ?

A. Three.

Q. Did you know any of them ?

A. I did, two of them.

Q. Who were they ?

A. The two *Early's*.

Q. Is the prisoner one of them ?

A. He is.

Q. How was he dressed on that night ?

A. He had straw upon him.

Q. Was he armed ?

A. He had a sword.

Q. Had the others any arms ?

A. They had a gun and a pistol.

Q. Did they do any thing to you.

A. They said they would shoot me if I attempted to go after them.

Cross-examined by Mr. T. MOORE.

Q. They brought your husband out of the house ?

A. They did.

Q. You followed him ?

A. Indeed I did not.

Q. They threatened to burn your house ?

A. They did.

Q. In a furious manner ?

A. They did.

Q. If your husband were asked, why he did not swear information, would he not say, that he was threatened to have his house burned.

A. He had fear enough.

Q. You have often talked with him about it ?

A. We knew it well enough without talking of it ?

Q. You live about half a mile from the prisoner ?

A. Yes.

Q. Did he come openly then to you?

A. He did.

Q. They said nothing of *Thrashers*?

A. They did not.

Q. Did you ever say, that the prisoner was not taken at your desire?

A. I did not.

Q. Did you say you had nothing to swear against him?

A. I did not.

Q. *By the Court.* These men lived within half a mile of you?

A. They did.

Q. Have they any land?

A. They have some.

Q. Have they families?

A. One has a child—the other, not.

Q. Had your husband a dispute with them?

A. He had, but we owed them neither spleen, or malice.

Q. How long ago was it?

A. Four or five years.

Q. Had you any other quarrel?

A. We had not.

Q. How long before the first attack did you see them?

A. Almost every day—they passed the door.

Q. They had no disguise upon them that night?

A. No.

Q. Why did you not charge these men at that time?

A. Suppose they threatened, they would burn the house over our heads.

Q. Had they no other purpose, but to beat your husband that night?

A. I believe not.

Q. Had your husband any arms?

A. No, he sent his fire arms to Captain *Knox*, when the disturbances began.

Q. Did these men search for any arms?

A. They swore him, whether he had any *French* arms, or ammunition.

Q. Had they a book?

A. They had some sort of a book.

Q. Who

Q. Who swore your husband ?

A. I cannot recollect which of the party.

Q. Was it in the house, or out of it, they swore him as to the arms ?

A. It was in the house.

Samuel Rogers called again.

Q. *By a Juror.* When the people first came to your house, did they administer any oath to you ?

A. They did, the first time.

Q. *By the Court.* What was the reason you did not make mention of the oath before ?

A. It was a matter before my examination—I was not asked it.—They came three or four times.

The Witness, *Samuel Rogers*, was then removed out of hearing and the ATTORNEY GENERAL resumed the examination of *Eleanor Rogers*, for the purpose of seeing whether they would be consistent.

Q. Upon what kind of a book did they swear your husband ?

A. I did not handle it—but felt it as the man was offering it to my husband ?

Q. Was it one of the twenty men who swore him ?

A. No.

Q. Was it upon the same night when the twenty men came ?

A. No.

Q. How long before that was it.

A. A fortnight.

Q. How many were of the party then ?

A. Seven or eight.

Q. Did they do any thing else but demand arms and swear him ?

A. Nothing else.

Q. Did they break open the door that night ?

A. They did—they desired the door to be opened, and broke it open.

Q. Were you in bed at the time ?

A. We were.

Q. Did they offer any violence ?

A. They struck me.

Q. Did

Q. Did they hurt your husband ?

A. They did not—he was at the fire side and they thought it me was there.

Q. Was it inside the house they swore him ?

A. It was.

Q. Had they any light ?

A. Nothing but the moon ?

Q. How could they know your husband ?

A. They knew his voice.

Q. Did your husband say any thing to them ?

A. He desired them to listen to him.

Q. Why did you not state this in your information ?

A. Because we knew nothing of them.

Q. Did you ever tell any person of this attack upon your house ?

A. Every one heard of it—the country knew it all round.

Q. Who was your next neighbour ?

A. *Michael Lyons.*

Q. Did you tell him ?

A. They all heard of it.

Q. How soon after ?

A. The next morning.

Q. Is there any person here to whom you told of that first attack ?

A: My Brother-in-law *Robert Gardiner* heard of it.

Q. *By the Court.* How many times was your house attacked ?

A. The first time was when they swore him had he any arms.

Q. How soon after did they come again ?

A. In a fortnight.

Q. Was that when the twenty men came ?

A. Yes.

Q. When did they come again ?

A. The third time they came for the whiskey.

Samuel Rogers, re-examined by the ATTORNEY GENERAL.

Q. How often was your house attacked within the last twelve months ?

A. Three times.

Q. Was

Q. Was it three or four times?

A. Three times violently—Some came one time without violence, I do not reckon that an attack.

Q. How long before the attack when the twenty men came was the first?

A. About a fortnight.

Q. How many were there at that time?

A. Eight or ten.

Q. Did you get out of bed?

A. As fast as I could.

Q. Was it out, or inside the house they swore you?

A. Inside.

Q. Was it upon a dollar they swore you?

A. No, but upon a book.

Q. Did your wife run out at the time they were swearing?

A. She ran out—but not that night—it was the next night they came she ran out.

Q. Where was your wife the time they were swearing you?

A. I cannot tell.

Q. What was she doing, when they were swearing you?

A. I cannot recollect, being so puzzled.

Q. Did you tell any person of this?

A. I did not deny it of any one.

Q. To whom did you speak of it?

A. I told many that they took away my gun.

Q. Did they get a gun that night?

A. They did.

Q. Where was it?

A. Near the fire.

Q. Was it a yeomanry musket?

A. No.

Q. What became of that?

A. I sent it to Captain *Knox*, lest it should be taken from me.

Q. When did you get the gun which was taken from you?

A. I got it about the time of the rebellion.

Q. Can you mention any one person to whom you gave an account of the attack the night they swore you?

A. I cannot recollect.

Q. Why

Q. Why did you not mention it when you swore informations?

A. Because I did not know any of them.

Q. Did they commit any violence that night?

A. They struck my wife.

Q. How came that?

A. Because in the dark they mistook her, I suppose.

Q. How did you see the book?

A. I would know a book when it was put into my hand.

Q. When you lost your gun, why did you not as a loyal man, give information to a Magistrate.

A. They threatened to destroy me, if I gave information of it.

Q. Where was your wife, when the oath was administered?

A. Hard by me.

Q. Where was she standing?

A. I dare say, she was sitting on the bed side.

Q. How long were they in the house?

A. I can't say, I had no watch.

Cross-examined again.

Q. You have some neighbours next door to you?

A. There are.

Q. How near does *John Flynn* live to you?

A. Next door.

Q. Did he hear of this attack?

A. He had a right.—The *Thrashers* often came to him.

Q. Do you know *Edward Nallen*?

A. I do.

Q. Could he hear of it?

A. He might, or might not.

Robert Orme, examined by the SOLICITOR GENERAL.

Q. Have *Rogers* and his wife been kept separate during their latter examination?

A. The man was desired to leave the Court, that he might be out of hearing while his wife was examined, and he did not return till her examination was closed.

DEFENCE.

Edward Nallen, examined by Mr. T. MOORE.

Q. Do you know *Samuel Rogers*?

A. I do.

Q. Do you know his wife?

A. I do; she is my Uncle's daughter.

Q. Had you any conversation with them, with regard to the arrest of the prisoner?

A. I had.

Q. Did they say any thing concerning them?

A. The first time *Roger's* house was broke, I was very sorry for it, and I went to them and found them crying, and I began to cry myself—I gave her every encouragement, and when she was done crying, I desired her to have courage, and these people would soon be put down; “My dear,” says I, “do you know any of these people?” “Troth, I did not”—said she, “Both me and my husband.”

Q. *By the Court.* Was any thing taken that night?

A. Not that I heard of—said I, “Did you know any of these *Rebels* that came to you,”—“I do,” said she, “but cannot mention them”—I pressed her and she told me, the two *Cavanagh's* and other names—and when I heard of her losing the liquor some time ago, and that these two men, neighbours, were taken up, whom I never suspected, *Samuel Rogers* came to me, and I said, “If *Early* be guilty, all the country are *Thrashers*,”—“I think nothing of the liquor, said he, but of the cag, which was a snug one”—I desired him to take his money, rather than prosecute his neighbours, though he was not friendly with them, for they had a dispute about a Still five years ago, and another about a cask of spirits twelvemonths ago.

Cross-examined by the ATTORNEY GENERAL:

Q. How do you know all this?

A. Because I was in the same village, and was present.

Q. What was the dispute?

A. They

A. They wrangled about a cask of spirits, and *Rogers* took a bayonet and a gun, and said, he would stab him, if he did not give up the cask.

Q. Who was present at this?

A. *John Flynn*, and another.

Q. Then they were always enemies and could not agree?

A. They were friendly enough after the first quarrel; but they fell out again.

Q. How near do you live to *Rogers*?

A. Near a quarter of a mile.

Q. They are relations of yours?

A. Yes.

Q. You are fond of them?

A. I wish them better, than all the *Early's* in the world.

Q. Why were you so anxious to know the names of the persons who attacked them?

A. That if she would let me into the secret, I would let her into another.

Q. If she told you some names, you would tell her more?

A. No, she would tell me, if she dare.

Q. Who frightened her?

A. The mob.

Q. Is there a mob in the country?

A. There is.

Q. Did you hear that *Rogers* lost his gun?

A. I did—they said, the *Neylan's* took it.

Q. Did he tell you of that?

A. He did.

Q. How soon after?

A. The next day.

Q. Did he tell you, he was sworn by them?

A. He did.

Q. Was that at the same time they took the gun?

A. It was.

Q. Did they break the door?

A. They told me the door was broke.

Q. When was the second attack?

A. I did not hear of the second, only the first and the last.

Q. When was the second?

A. I don't know, I only heard the people of the village speak of it.

Q. But there were three attacks?

A. I suppose there was.

Q. And you heard of the first and last from *Rogers* and of the second from the village?

A. Yes.

Q. The gun which was lost was not the gun, which *Mr. Knox* gave him?

A. No, but an old gun he had from the time of the rebellion, according as he told me.

Q. You have no connection with the prisoner?

A. No—neither kit, kin, nor relation to him.

Q. You expect nothing from them?

A. None at all.

Q. But you are anxious to serve your cousin *Rogers*?

A. I know the prisoners to be honest.

Q. And your cousin was a rogue?

A. No, the woman was not.

Q. Well, her husband was?

A. I say, nothing against him.

Q. You take no interest about the *Early's* being acquitted?

A. I do not care, whether they are, or not, but in justice?

Q. Upon your oath, did you never exert yourself to get them discharged?

A. No, but to give honest evidence.

Q. How soon were the *Early's* taken up after the last attack?

A. The night after.

Q. Was that the night of the day you had the conversation with *Mrs. Rogers*?

A. It was.

Q. What did she say?

A. She said, the whiskey was taken, and she suspected the *Early's* for it, but would not charge them for one thousand guineas till she got better proof.

Q. How did you introduce the conversation?

A. She introduced it herself.

Q. The *Early's* were in confinement at that time?

A. They were confined in the guard-house.

A. And it was in consequence of that, you went to talk to her?

A. *Rogers*

A. *Rogers* sent to me, to settle the matter—he said, he would liberate them, if he got the price of the whiskey—I told them that and they said, they would suffer to be hanged first, before they would pay, because they were innocent.

Q. *By the Court.* How much did he demand for the whiskey?

A. Thirty-two shillings.

Q. Did you ever talk to the *Early's* upon the subject of this charge?

A. Not till after I received a message from *Rogers*?

Q. Did you not before that time?

A. Never, only to come here to give evidence.

Q. But you went to the guard-house?

A. No—but they sent a woman of the name of *Peggy Kelly*.

Q. Then it was *Peggy Kelly* told you of the message and took your answer?

A. Yes—I went to *Mr. Moystyn*, to see, if he had any objection to liberate the *Early's*, if *Rogers* was satisfied, upon being paid the price of the whiskey.—He asked, “Was it from them I came,”—*Rogers* would not consent—therefore *Moystyn* would not do it.

Q. Did *Moystyn* say he would do it, if *Rogers* was satisfied?

A. I went to *Rogers* and told him he would be paid and I said I would pay it myself, before the *Early's* should remain in prison; but *Moystyn* would not be satisfied, without a courier from themselves—so there was one sent—but the *Early's* said, they would not pay a shilling, but would rather go to *Castlebar* for twelvemonths, or be hanged, before they would pay.

Q. Who was sent as the courier?

A. *Peggy Kelly*.

Q. Did you ever offer *Moystyn* any thing to release the prisoners?

A. I never did.

Q. What was the price put upon the whiskey?

A. Thirty-two shillings.

Q. What is your line of life?

A. A Tradesman.

Q. What trade are you of?

A. A. Mill-

A. A Mill-wright.

Q. Are you rich?

A. Rich enough—I would not give my trade for one thousand pound.

Q. *By a Juror.* Do you say that upon your oath?

A. I do not say that upon my oath. I am not to tell you, what I value my trade at.

Q. *By the Court.* Would you give up your trade for one thousand pound?

A. Not if I were in the beginning of my years.

Q. Did you ever make one thousand pound?

A. I did.

Q. What are you worth now?

A. Four hundred pound.

A. Have you that sum at interest?

A. No, but in my house, cattle, and property.

Q. And you would pay the money for the prisoners to obtain their release?

A. I would; not only for them, but for any christian, though more a stranger.

Q. *By Jurors.* Did you ever offer money to *Moystyn*, to release the *Early's*?

A. I offered him money in payment of the whiskey.

Q. Was that before you sent *Polly Kelly*?

A. It was after.

Q. By whom did you send the message?

A. By her.

Q. You said, they returned an answer by her, that they would not pay, but would suffer to be hanged—Was it then, you went to *Moystyn* and offered to give him thirty-two shillings?

A. I did not offer it, unless they would consent to pay it.

Q. Did you offer him any money of your own?

A. I did, the price of the whiskey, rather than they should remain. But I did not offer the money unless he would liberate the man, and he would not, unless the prosecutors were satisfied, and they would not do it.

Q. Was

Q. Was it after they refused, that you went to *Moystyn*?

A. I will answer no more.

Q. Was it after the message brought by *Peggy Kelly*, that you went to *Moystyn*?

A. I do not know what you say, you have bothered me so much.

Thomas Knox, examined by Mr. T. MOORE.

Q. Do you know the prisoner at the bar?

A. I do.

Q. What is his general character?

A. I know very little about him, but never knew any thing to his disadvantage.

Q. Do you know the prisoner personally?

A. I do.

Q. How long?

A. Five or six years.

Q. Do you know *Rogers*?

A. I do.

Q. What is his character?

Mr. SOLICITOR GENERAL.—My Lord, I object to that question. If the counsel intend to impeach the evidence of *Rogers*, there is a legal mode of doing it, which ought to be adhered to.

Q. You say you know *Rogers*?

A. I have no particular knowledge of him.

Cross-examined by the SOLICITOR GENERAL.

Q. Do you live in the neighbourhood of *Rogers*?

A. I do.

Q. Have not the *Thrashers* been in that neighbourhood?

A. They have.

Q. Pretty much?

A. I have heard so.

Q. *Rogers*' house was attacked three times?

A. It was attacked, but how often I cannot recollect.

Q. It was attacked more than once?

A. It

A. It was.

Q. Did *Rogers* give you up any arms to take care of?

A. No.

Q. You are not Captain *Knox*?

A. No.

Q. Do you know *Nallen*?

A. I do.

Q. What is his situation in life?

A. A wheelwright.

Q. Is he a man of opulence?

A. Not that I know of.

Q. What sort of a house does he live in?

A. A common cabin.

Q. Is he worth 400l.?

A. No.

Q. Is he a man of such substance?

A. No.

Q. Is he a common labouring wheelwright?

A. He is.

Q. Did you hear him swear he was worth 400l.?

A. I did.

Q. Did you believe him?

A. I did not.

Q. How long have you known him?

A. Many years.

Q. Have you ever known him to live so comfortably as to think him worth 100l.?

A. No.

Q. Has not *Rogers*, the Prosecutor, the character of an honest man?

A. He has.

Defence closed.

George Moystyn, examined by the ATTORNEY
GENERAL.

Q. You are Permanent Serjeant of the *Crossmolina* corps?

A. Yes.

Q. Were the two prisoners taken up by you?

A. They were.

Q. Upon whose information?

A. Upon

A. Upon the information of *Rogers*.

Q. Did he state that he knew the prisoners?

A. He said he knew them perfectly: he desired me to go down and take them up, or they would go off in the morning.

Q. Do you know *Nallen*, who was examined here?

A. I do, Sir.

Q. Did he ever make any proposal to you, with respect to the prisoners?

A. He did.

Q. At what time?

A. I do not recollect exactly, but it was after the informations were sworn, it was two or three days after I took the prisoners.

Q. What proposal did he make?

A. He asked me if I had any objection to discharge the prisoners, if *Rogers* was paid. I asked him did he come from the prisoners; he said no, as he would not be allowed to go into the guard-room, but the woman who went with their victuals, brought a message from them. I said I had much rather he went to the prisoners themselves; he said he would not. I then asked him for the money; he said he had not so much money, but would pass his note to *Rogers*.

Q. Would you have discharged the men, if he had paid the money?

A. I would not, because informations were sworn against them.

Q. Then why did you listen to this proposition?

A. To see if it would corroborate *Rogers'* account. I wished to assist in punishing every person of this rebellious description, and if every magistrate and gentleman exerted himself, there would soon be an end of it.

Cross-examined by Mr. T. MOORE.

Q. *Nallen* told you he brought a message from the prisoners?

A. No, but that a woman brought him a message from the prisoners.

Q. Did he say any thing of *Rogers'*?

A. He said if *Rogers* would be satisfied, but I knew *Rogers'* mind.

Q. Would he not have liberated them, if he got the price of the whiskey?

A. I am sure he would not.

Q. But why talk of doubt as to proof, if he was sure of their persons?

A. Because he was told that Mr. Knox was to bring persons forward to impeach his character, and I was anxious to have some corroboration, and wished to support his character as a fair honest man.

Q. Did Mr. Knox intend to impeach his character?

A. I do not say that.

Q. Do you think Mr. Knox would interfere for people concerned with *Thrashers*?

A. I told him of their crime; and he came forward to interfere; I suppose he was uneasy for his tenants.

Q. The *Earlys* are his tenants?

A. They are.

Q. *By the Jury.* Did you see Mr. Knox who was examined here?

A. I did.

Q. Is that the gentleman you speak of?

A. No, Sir, it was *Henry Knox*.

Mr. T. MOORE. My Lord, there is no other witness for the prisoner; it is impossible to go into the defence of an *alibi*, because the prosecutor does not state the particular nights.

BARON GEORGE, (after stating the indictments and the evidence, said,) Gentlemen of the Jury, upon this evidence, there is no question, that the house of *Rogers* was repeatedly broken into by persons of the description, which has been stated to you, and about the period of time mentioned in the indictments. But, Gentlemen, you must perceive, that as *Rogers* does not swear particularly as to the time when those offences were committed, the persons charged are deprived, as has been stated by Counsel, of the defence, which otherwise they might have, of shewing where they were upon the particular night, if such had been stated. It would be unreasonable to expect, that the prisoner in this case should be able to produce witnesses to that fact. Therefore, Gentlemen, you will consider all those

those circumstances. The fact of the house being attacked and the owner plundered, seems to be notorious, and the single question for your determination is, whether the prisoner was one of the party who committed that offence.—He is positively sworn to, and if under all the circumstances, you believe the evidence, there is no doubt it maintains the indictment. But if, upon the whole, you have a rational doubt of the guilt of the prisoner, it is your bounden duty to lean to the side of mercy and acquit him.

The Jury retired, and after deliberating about half an hour, returned a verdict, *Guilty*.

Friday, December 12, 1806.

Mr. T. MOORE moved to postpone the trial of *William M^cPhadeen*, to the assizes, upon an affidavit made by the prisoner, stating that he heard, that the Right Hon. *Denis Browne* had spoken to the Jurymen, who had tried and acquitted *James M^cPhadeen*, the prisoner's brother, and reprobated their conduct.

BARON GEORGE. That is not sufficient ground to postpone the trial—none of that Jury shall be sworn upon the present, if the prisoner objects, so that he need be under no apprehension in that respect.

Mr. BROWNE. My Lord—

BARON GEORGE. It is not necessary you should say any thing upon this occasion.

Mr. ATTORNEY GENERAL. My Lord, Mr. BROWNE has requested me to solicit your Lordship, that as the prisoner has applied to postpone his trial, your Lordship would be pleased to comply with the application.

BARON GEORGE. I never saw an instance of such tenderness to a prisoner—this conduct is founded in principles of humanity, and I sincerely hope it may

tend to the peace of the country. Therefore let there be a special memorandum made, that the trial is postponed—not upon the affidavit—but upon the application of the prisoner and the ATTORNEY GENERAL consenting.

Trial postponed.

Patrick Flynn was indicted for perjury committed by him upon the trial of *Patrick Rategan* and *Dominick Connor*, and being convicted, was called up for judgment.

BARON GEORGE. *Patrick Flynn*, you appear to be one of those wicked men, who go about at night, attacking the habitations of peaceable men—you were taken in the fact of being riotously assembled with many others, at night, and from a motive of lenity and mercy, you were received to give evidence against your fellow conspirators.—But it now appears, that their false and illegal oath has more obligation upon you, than the oath which you took in the presence of God and of your country—the latter has been disregarded, for the purpose of saving your associates from punishment. If they had been convicted, they would have been subject to whipping and imprisonment—But see, how you have disappointed and deceived yourself—you are now exposed to punishment and shame—you shall be put in the pillory, as an example of scorn and indignation—and afterwards, you shall be transported for seven years, as unworthy any longer to tread upon *Irish* ground.

James Mame, *Richard Murphy*, and *James Cleane* were indicted, for that they, intending to excite and instigate the liege subjects of the King to enter into unlawful combination and confederacy, on the 12th of *August*, in the forty-sixth year of the King, at *Barnycarroll* in the County of *Mayo*, did knowingly

knowingly, maliciously and feloniously publish and deliver a certain message tending to excite unlawful combination and confederacy, which message was of the import and effect following, "that they were sent by the *Thrashers*, (meaning a certain combination and confederacy formed for seditious purposes and for the disturbance of the public peace) to inform the Priest and the inhabitants of the parish of *Kilcolman*, that the said Priest must reduce his charges for his duty, and that no person should pay more than three shillings an acre for tithe in future," against peace and statute.

There was a second count for publishing and delivering a message tending to excite unlawful combination and confederacy, generally.

A third count, for circulating a *notice* to the same effect as in the first—and a fourth count, stating the notice generally.

The prisoners pleaded, *Not Guilty*, and joining in their challenges, the following Jury was sworn:

Francis Elwood,
Thos. Kirkwood,
Peter Lynch,
Ralph Brent,
Thos. Rutlege,
George Gildea,

John Dennis,
C. H. Higgins,
Thos. Heran,
Robert Fair,
Wm. Ferris,
Campbell Fair.

Thomas Jordan, examined by the SOLICITOR GENERAL.

Q. Where do you live?

A. In *Barnycarroll*.

Q. Do you recollect being at the Chapel, when any thing particular happened?

A. I do, in consequence of a notice put up the night before.

Q. When was it?

A. It was early in *October*, I think the 10th.

Q. State the particulars which happened?

A. There was a notice posted up on the Chapel door, laying down rules for the payment of dues.—The Priest began to speak after Mass.

Q. What

Q. What did he speak about ?

A. He spoke of those, who wished to stint him in the prices, and to lay down rules.

Q. Did any other person speak, or address the congregation ?

A. There did.—*Clenane*, one of these men.

Q. Do you see him in Court ?

A. This is he.

Q. Do you see any other person, who was there ?

A. Yes, this man, *Richard Murphy*—I knew him well by eye-sight, but did not know his name till that day, though living in the same parish.

Q. What did *Clenane* say ?

A. When the Priest was done speaking, relative to that matter, *Clenane* said, he was forced to come, and he came with reluctance to give him the same message that was in the notice.

Q. Did he say, what it was ?

A. It was laying down rules, that there should be only half-a-guinea for marriage, nineteen pence half-penny for christening, and one shilling and a penny for private Mass.

Q. Was there any thing in the notice or advertisement about tithes ?

A. Not to my knowledge.

Q. Did any thing further pass ?

A. After we went out of the Chapel, there were some of the parishioners curious to know, what it was, and asked these men, not hearing what they said, what were the rules.

Q. Whose rules were meant ?

A. The *Thrashers*.

Q. What answer was made ?

A. *Clenane* said, 3s. 3d. an acre for potatoe soil for the tithe of the Protestant Clergy, and so forth and so in proportion—nineteen pence halfpenny for christening and that no more was to be allowed by the people who sent him there.

Q. Did *Murphy* say any thing ?

A. I asked him myself the same question when we were abroad, and he told me, they came out upon the same errand, and he told me the same particulars. I was the only man, who had put in my corn, for it was destroying in the fields, by pigs and cattle and I took the liberty of fetching it home.—The whole parish were afraid of these

these *Thrashers*, and these men told me, that they brought this message, they did not intend to be any longer concerned, and that they came to save their lives.

Q. How far do they live from the Chapel?

A. About a mile and a quarter—I spoke to them not to hurt me, if they came that way, as I was the only person in the parish, who took the liberty of putting in my oats.

Cross-examined by Mr. T. MOORE.

Q. Was not this the parish Chapel of the prisoners?

A. It was.

Q. Do you not believe they cannot read or write?

A. I believe they cannot.

Q. Have they families?

A. They have.

Q. If they refused to go of such a message, might they not lose their lives?

A. Either that, or they would suffer some severe punishment.

Q. If you were desired to do the same thing, you would not dare to refuse?

A. I would do any thing to escape death;—but as to coming to the Chapel, it was not my intention.

Q. Do you believe these persons had any other connection with the *Thrashers*, than what you have mentioned?

A. In my opinion, they had not.

Q. The last conversation was with yourself, and not in the way of a proclamation?

A. It was in answer to my question—I was wishing to protect my oats in the haggard.

Q. They said, they would not interfere further?

A. I begged them to protect my little substance, if they should be concerned—they said, they would not interfere further, and that they came to escape death.

*Patrick Fleming, examined by Mr. SERJEANT MOORE.**

Q. Where is your parish Chapel?

A. In *Barnycarroll* in the parish of *Kilcolman*.

* Mr. SERJEANT MOORE had remained at *Sligo*, to conduct the prosecutions there, and did not arrive in *Castlebar*, until *Thursday the 11th December*.

Q. Do

Q. Do you know the prisoners *Clenane* and *Murphy*?

A. I do.

Q. What day of the month was it?

A. I lodged informations on the 13th or 14th, and it was the *Sunday* before.

Q. What did you see them do, or hear them say?

A. The two men stood in the midst of the Chapel, and after Mass, one of them said, they were sent by the party going about, and did not wish it, if they could help it, to let the Clergyman know, he must abide by his former dues, and 3s. 3d. an acre—and after he had done, the other said he came of the same message.

Q. Which of them spoke first?

A. *Clenane*.

Q. Then *Murphy* said he came of the same message?

A. He did—they were both together.

Q. Were there many of the parishioners present at that time.

A. As many as there were hearing Mass—the Chapel was quite full.

Q. Did they whisper the Priest, or speak aloud?

A. They spoke it loud.

Q. Did you hear them say any thing outside the Chapel?

A. I did not.

Cross-examined by Mr. T. MOORE.

Q. Was *Jordan* present at this time?

A. He was.

Q. Did they not say they came with reluctance?

A. They did.

Q. Do you not believe they did?

A. I should suppose so, for they are too old to go upon bad schemes.

Q. Was there any thing said of notices?

A. As I was going to the chapel, I heard some of the people say, there was a notice upon the chapel door, but I did not see it, and cannot speak to a knowledge of it.

George Lyons, examined by the ATTORNEY GENERAL.

Q. Were you at the chapel of *Barnycarroll*, in October last?

A. I was.

Q. At what time?

A. On *Sunday*, the 10th.

Q. Do you recollect any thing particular happening there?

A. I do—two men came in and said, they were sent of an errand by a party of men, who came to them some nights before, and put them to their oath to tell the clergyman to put down part of his yearly wages and charges, and that no more was to be paid to the proctor, than 3s. 3d. for oats.

Q. Was this after prayers?

A. It was.

Q. Was it while the congregation was there?

A. Yes, in the chapel.

Q. Did they speak loud?

A. They did—I was at the far end of the chapel, and they at the door, and I heard them.

Q. When the congregation went out, did you hear these two men say any thing?

A. No, I did not.

Q. Try if you see the men?

A. They were strangers to me—this is one of them, (pointing to *Clenane*), but I am not sure as to the other.

Cross examined by Mr. T. MOORE.

Q. Have not these prisoners large families?

A. I cannot say—they are strangers to me.

Q. Do you not believe, that they are not connected with the *Trashers*?

A. I cannot say.

Q. *By a Juror.* How far do you live from them?

A. About four miles.

Q. In the same parish?

A. Yes.

Q. And you are not acquainted with them?

A. There are 100 men in the parish I do not know.

Q. Did you ever see them before?

A. Not to my opinion.

*Thomas Swannick, examined by the ATTORNEY
GENERAL.*

Q. In what parish do you live?

A. In *Kilcolman*.

Q. Do you keep the pound?

A. I do.

Q. What pound?

A. Of *Barnycarroll*.

Q. Where is it situate?

A. Just at the chapel.

Q. Who is the coadjutor of that parish?

A. *Thomas Prendergast*.

Q. Did he come into your house any time last October?

A. He did.

Q. What time of the month?

A. On *Sunday* the 10th or 12th, I am not certain.

Q. Do you know *James Mame*?

A. I do, this is the man (*pointing to the prisoner*).

Q. Do you know his person well?

A. I do.

Q. How long do you know him?

A. Fourteen or fifteen years.

Q. Does he live in your parish?

A. He does.

Q. How far from you?

A. Three miles.

Q. After the coadjutor came to your house, did you see *Mame*, the prisoner.

A. He came while the Priest was there drawing on his boots, and said, he was sent on a message by the *Thrashers*.

Q. Did he mention what it was?

A. He did—he told him, that he should come down to half a guinea for marriage, 19½d. for christening, and 1s. 1d. for mass, and no more should be paid, than 3s. 3d. an acre for tithe.

Q. Did he state that he was authorized to come with the message?

A. He said he was forced to come.

Q. Did he say how he was forced?

A. No.

A. No.

Q. Were any of the parishioners present?

A. There were.

Q. Did he speak aloud in their presence?

A. He did—they could not but hear.

Q. Had there been any notices posted up by the *Thrashers*?

A. There was a notice put up on the chapel door, the night before, and in the morning father *Barry* tore it off, as he passed through the village.

Q. Did you read it?

A. I did, part of it.

Q. Was it to the same effect as the message?

A. It was.

Cross-examined by Mr. T. MOORE.

Q. Do you not believe that *Mame* was forced?

A. He said so, at the same time.

Q. Is he not an honest, quiet man?

A. He is, no doubt.

Q. Do you not believe, that the *Thrashers* generally go to quiet men, and get them to carry their messages?

A. They do.

Q. By the ATTORNEY GENERAL. Is that for the purpose of escaping punishment?

A. I suppose so.

Q. By Mr. T. MOORE. Could they remain in the country, if they refused to go of the messages?

A. I cannot say.

Q. What do you believe?

A. They would be in dread of their lives, if they were not protected.

Q. By a Juror. Is there any magistrate in the neighbourhood of this prisoner?

A. There is—Mr. *Madden*, Mr. *Kirwan*, and Mr. *Rutledge*.

Q. What distance are they from him?

A. Two miles.

Q. By the ATTORNEY GENERAL. Are there many gentlemen

gentlemen in the neighbourhood?

A. There are.

Q. By Mr. T. MOORE. Could these Gentlemen protect him?

A. I believe they could.

George French, examined by the SOLICITOR GENERAL.

Q. Do you recollect taking any persons into custody?

A. I do, upon a warrant of the Right Hon. *Denis Browne*.

Q. What were there names?

A. *Mame, Murphy, and Clenane*. These are the men here, (*pointing to the prisoners.*)

Q. Where did you take them to?

A. I left them in the constable's house at *Clare*, 'till Mr. *Browne* got up in the morning.

Q. While they were in your custody, had you any conversation with them upon the subject of the *Thrashers*?

A. I will tell all that passed:—I went to *Clenane's* house first, he being furthest off—I knocked at the door, and saying I was a friend, he let me in—it was half past twelve—I asked him what kept him up 'till that hour, he said, what is that to you—when the candle was lighted, he knew me, and I asked him again what kept him up; he said, they had been dressing flax, and the fire was so great, he staid up 'till it burned out—seeing him barefooted, I asked for his shoes, which he produced, and I found them clean; I searched for other men, but found none there; I desired him to put on his cloaths, he asked for what business; I asked him was he at *Barnycarroll*, aye, said he, and if you were brought out in your shirt, and threatened to be carded, you would go yourself to that place. I then went to *Murphy's*, I knocked at his door—he asked, who is there; I said, a friend; so best, said he—a candle was got, and when he knew me he bid me welcome; he had been in bed—I desired him to put on his cloaths, telling him, that Mr. *Browne* wanted him. Why said he—I asked him, was he at *Barnycarroll*, and what bad luck brought him there—“it was that sure enough, said he—the *Thrashers* came some

some nights back and took me out, as I am now, and shook the cards to threaten me, that would strike terror into the mind of any man"—I asked him, were there many—he said, there were; I asked him, did he know any of them—he said, he did not, as they had shirts on, and hats over their faces.

Q. Did you then go to *Mame*?

A. I sent two men before me, lest he should get an account, while I was at *Murphy's*—When I got there, I desired him to get up—the poor man did so. I told him he must come to *Mr. Browne*; he said he would go readily—I asked him no questions, but brought him with the others to the Constable, and I told the Right Honourable in the morning.

Q. *By a Juror.* Do you know these three men?

A. I know two of them well, but do not know much of *Clenane*.

Q. What are their characters?

A. I heard nothing, but was proper and honest of the men.

Cross-examined by Mr. T. MOORE.

Q. Have they not families?

A. I believe they have—there were children lying in the *collough*, when I went into *Mame's* house.

DEFENCE.

James Madden, Esq. examined by Mr. T. MOORE.

Q. Are you a Magistrate of this County?

A. I am.

Q. Do you know the prisoners?

A. I know *Clenane* fifteen years.

Q. What is his general character?

A. The most confidential man I ever had, and I believe if I had not been at the Saltwater at the time of this transaction, he would not have gone to the Chapel.

Q. Do you know the other two prisoners?

A. I do—they were men of good character.

Cross-

Cross-examined by the ATTORNEY GENERAL.

Q. Has it not been the policy of the *Thrashers* to go to persons in the night and swear them to carry their messages in the day time?

A. I have heard so.

Q. Then their policy is—that as they would be liable to punishment, if they appeared by day, they prevail upon others, with the hope, that these will escape punishment by the representation, that they acted under terror?

A. I believe they wish to make such people the instrument to accomplish their purposes.

Q. And in that manner they succeed in having their messages carried through the country?

A. I believe so, because they dare not appear in the day time.

Thomas Ormsby, Esq. examined by Mr. T. MOORE.

Q. Do you know the prisoners?

A. I know *Mame*?

Q. What is his general character?

A. I always looked upon him as a quiet honest man?

Defence closed.

BARON GEORGE. *Gentlemen of the Jury.* In this case, these three unfortunate men are indicted in the manner which was stated to you, at the commencement of the trial:—the substance of the charge is, that they have carried about messages and circulated notices from the *Thrashers* in support of this conspiracy, which has been disturbing the peace of the County. It is not necessary to go through all the evidence, because the facts are not disputed.—It is proved, by the testimony of concurrent witnesses, and by the acknowledgment of the prisoners themselves, that they did go to the Chapel and as from the *Thrashers* deliver this message in the face of the Congregation—two of them went into the Chapel and the other went to the Coadjutor after the service and in the presence of some of the parishioners, delivered the same message. When they were apprehended for this

this crime, they very freely acknowledge, that they did go and do as has been represented ; but they state, that a few nights before a body of *Thrashers* came and whetted cards and threatened to punish them, if they did not go to the Chapel and deliver the message. Therefore their defence is, that they were not *voluntarily* disseminating mischief through the country, but were doing this act under terror and from fear, that grievous punishment or death might ensue, if they did not go as required. It appears to be the practice of these abandoned men, to go to the honest persons and to put this compulsion upon them—to swear them to circulate their messages, thinking that by such means the law will be evaded, and that no person can be punished. But if this were permitted, the consequence would be mischievous to the community and therefore you will consider the question, which you are to try. If the issue were, whether these unfortunate men at the bar are great objects of compassion and mercy—every man must pity them from the bottom of his heart—but are these things to continue?—If Courts and Juries, upon their oaths, determine against the written laws of the land, that such proceedings may be carried on and the persons thus employed acquitted, there will be messengers abundant. We must consider how the people are to be protected and the laws administered.—Was ever such oppression heard of, as has been disclosed in this case, and can the country tolerate it? The farmers cannot draw home their corn for fear of the *Thrashers*. One whose corn was devouring by pigs and cattle ventured to draw it within his little haggard, and he thought it necessary to make his peace with these men for so doing. Did you ever hear of such tyranny? Suppose the *Thrashers* swore a body of men to go and administer an oath to the inhabitants of a village, and if they did not, they would be carded. Would it be an excuse, that they did so, through fear? Would it be an excuse for robbery or murder? It is right, that this matter should be known—I have reflected much upon cases like this and it is a distressing office for a Judge or Jury to preside upon such trials—But, Gentlemen, we are bound to enforce the law and to put a stop to mischiefs which would otherwise be incurable. No

man feels more for the unfortunate prisoners than I do. You also feel for them: but we have a duty to perform—It is my duty to tell you, what the law is, and it is your duty to find according to that law. You will consider of the case and do justice to the country and to the prisoners.

The Jury retired and after deliberating some time, said they were disposed to find the prisoners guilty, if they were not to be hanged or transported. The Judge said, the Jury had nothing to do with the punishment, but if they chose to recommend the prisoners, he would transmit the recommendation to Government.

The Jury retired again and after deliberating further, found the prisoners *Guilty*, and recommended them to mercy, on account of their ignorance of the law—their great age—their good character, and large families.

BARON GEORGE. I will transmit your recommendation to the Lord Lieutenant.

Mr. ATTORNEY GENERAL: This prosecution was instituted to shew the people, that they cannot avail themselves of this defence of terror to violate the law—But when a Jury act according to law, their feelings shall be attended to, and no impediment will be thrown in the way of the recommendation of such respectable Gentlemen, forwarded by the authority of the Bench. However Government may not be able to extend mercy, unless quiet be restored:—if lawless persons continue to disturb the peace of the country, they may put it out of the power of Government to extend that mercy, which they otherwise would be inclined to do.

Martin Early was put to his challenges, and the following Jury was sworn :

John Perkins,	Richard Leviston,
John Gildea,	John Warren,
Francis Goulding,	Wm. Tully,
Wm. Ricby,	Moses Gray,
Sam. O'Malley,	Mat. Evans,
Edward Sprenle,	Thomas Rutlege,

The prisoner was given in charge upon the indictment stated in the case of *John Early*.—The same evidence was adduced as in that case, and the prisoner was found *Guilty*.

Col Flynn, Laurence Flynn, Charles Flynn, Thomas Horan, Daniel Regan, and Daniel Callaghan were brought up for judgment, and asked what they had to say why execution should not be awarded.

They made no answer.

BARON GEORGE. You have been very deliberately tried by a respectable and intelligent Jury, who considered seriously upon your case. They returned a merciful verdict ; for there were four other persons tried with you, charged with the same crime, and lest any mistake should intervene, (although there was very strong suspicion)—the Jury acquitted these four men, and I believe the verdict which found you guilty was felt by every person present at the trial, as a just and satisfactory verdict.—I am bound to say, that it was a verdict concurring with the opinion of the Court. The offence with which you were accused was of great enormity.—You have been engaged in a confederacy most alarming and destructive of the public peace and the public safety.—You have combined and united yourselves with a set of abandoned miscreants, who have spread misery and alarm through the whole county, and in furtherance of their designs, you committed a crime of the blackest enormity. It is from that confede-

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racy

racy all these misfortunes and miseries flow. You became members of a wicked association, who go about in the night time, disturbing the peace, destroying the property and endangering the lives of the inhabitants of the country. It appears, that the unfortunate deceased man, *Thady Lavin*, had been a member of the same wicked assembly, and that he, having some remorse, did think it his duty to put a stop to these outrages and therefore he gave information to a Magistrate, which was likely to prove useful, and beneficial to the public:—His doing so had a direct tendency to save the lives of numbers;—for how many must fall, if these proceedings are allowed to go forward?—It would seem, that he gave true information and was to be considered as a public benefactor.—But that was an offence, not to be forgiven, and it was accordingly determined to destroy him. This crime was committed with a view to stop the course of justice—with a hope, that when that man was destroyed, the laws of the land would be silent and ineffectual—and no longer afford protection to the King's loyal subjects.—What greater enormity can be conceived, than an offence committed with such views! You do not declare your purpose to the unhappy victim, nor openly attack him—but you draw him into dalliance, and treat him with dissembled kindness, and with expressions of affection for him and his family—In this manner he was ushered to the house of *Laurence Flynn*, where he was instantly surrounded by all the friends and connections of the persons he had accused:—he is there caressed with apparent cordiality, until a set of ruffians, armed with deadly weapons, rush in and destroy him, while you all sit present, delighted at what was passing!—The unfortunate woman of the house not prepared for such a scene, was thrown into convulsions!—I mention these circumstances, not to reproach any of you, but for the purpose of impressing your minds with a sense of your crime, and that you may make the best use of the few hours which yet remain for you, until you appear before another tribunal and a Higher Judge! I trust in God, it may have a salutary effect upon your minds, and your consciences and may dispose you to make some atonement to your country, which
you

you have so much injured. I therefore exhort you to consider of your situation and not to deceive yourselves by thinking you can deceive God, or the people, by saying you had nothing to do with the death of this man, because his life was not taken away by your hands—and that you did not murder him in the horrid manner which has been described. Doubtless you did not—but you appear to be the persons, who brought him to that spot and detained him by dissembled kindness until the murderers were introduced—they were not more deadly to him, than you, who appeared to be his friends.—I therefore exhort you, not to sin in your graves, not to attempt to brazen out a case of this nature—but confess your sins—pray to be forgiven—repent, and exhort all other deluded men to take warning by your example. Discharge the weight of guilt from your souls, in order that you may leave this world in a state fit to appear before the Throne of God, who is all purity and truth. Him you cannot deceive by any declaration, and do not leave this earth, with any thing but truth upon your lips. Take this advice, and I hope it will have a good effect. The peace of the country requires an example to be made without loss of time in this case—I am therefore to tell you, that all of you, except *Daniel Callaghan*, must undergo execution on to-morrow, and that he will suffer upon *Monday* next.

His Lordship then pronounced sentence in the usual form.

Saturday, December 13, 1806.

This day the sitting of the Special Commission Court closed, the Officers of the Crown having signified their intention not to proceed with any further trials.

The Hon. BARON GEORGE took that opportunity of addressing the gentlemen returned upon the Petty Jury pannel. Gentlemen, I find, that we shall have, upon this occasion, no more criminal trials. I think you extremely well deserve the thanks of the public, for the

very great propriety with which you have conducted yourselves.—You have supported the law, and the law will support you, if you be not wanting to yourselves. I trust, Gentlemen, that our proceedings will have the effect of pacifying your disturbed county, and in that hope, the Officers of the Crown have desisted from further trials. They wish to spare the poor wretches, who are the deluded instruments of outrage, as much as the public peace will allow.

Gentlemen, This court will adjourn—not to a very distant day, and if the peace of this county shall be composed, the court will not sit, until the regular return of the assizes. But if disturbances shall continue, it will be a sad necessity—but to which the Government must give way—and this court will sit again, to bring to speedy and condign punishment, those who shall offend against the laws. I trust in God, the people will listen to good advice and be happy—that they will not be living in the dread of the ministers of the law, and in those terrors with which guilty men are surrounded. Gentlemen, you are dismissed, and you will get due notice, in case it shall be necessary to call you together again.

Martin Early and *John Early* were put to the bar, and asked, what they had to say, why judgment of death should not be awarded against them.

BARON GEORGE. *Martin Early* and *John Early*! It is a lamentable thing to see two unfortunate men, who, if they had behaved themselves, would enjoy comfort, sent out of the world in an ignominious manner. It is really afflicting to think, how rational beings can be led into such mischief, as it appears, that numbers in this county have been seduced. If they reflected a moment upon what has happened in their own experience, or what they have heard from their fathers, as to the result of such confederacies, they must have been satisfied, that disturbances of this nature have never ended in favour of those who embarked in them: they have proved destruction to the wretched men and their families—their bodies are thrown into goal, and they afterwards suffer an ignominious

minious punishment—such are the consequences which continually follow such crimes. It is lamentable to see, how easy credulous people are led astray from the paths of peace and happiness. I trust, unfortunate men, that your example will have a good effect upon the peace of this county; and that men will return to their honest industry and their peaceful labours. They will then rest easy upon their beds, leading happy lives in the fear and love of God, and in friendship with their fellow creatures.—Every man must know, that social order and comfort cannot exist, if these deluded *Thrashers* were to go unpunished. I trust, that your example will have a good effect, and that such as have erred will reconcile themselves to the magistracy and the law, before it is too late; they should not think themselves bound by those regulations and oaths, which are stated to be forced upon them. Such oaths are not binding in the eye of God, or in the sight of man. The moment they are taken, they should be rejected, and remembered no longer. I trust, that the wretched men, who, in pursuance of such oaths, have been disturbing their neighbour's houses in the night, and taking away arms for rebellious and seditious purposes, will bring them freely to the magistrate, as an earnest, that they are returning to their allegiance and their duty, and not deceive themselves any longer. I pray most sincerely, that all who hear me will take this advice, and send it round through the country; that these shocking examples may not be necessary again, but that the country may rest in peace and in tranquillity.

Sentence was then passed in the usual form.

Patrick Hargedan, James Mame, Richard Murphy, and James Glenane were put to the bar.

BARON GEORGE. You appear to be four unfortunate men, who have been most cruelly abused, by those disturbers of the peace. They appear to have gone to your houses in the night time, and to have
sworn

sworn you to go forth to violate the laws of the land, and in obedience to that oath, you commit a capital felony. You were tried by a merciful Jury, who felt for your situation, and who expressed themselves accordingly. If it is to become a question, whether the laws of the land are to be obeyed, or not,—every man will answer, that they must be obeyed. It is impossible, that by any act of the *Thrashers*, or other misguided persons, obedience to the laws can be renounced. Those who endeavour to persuade you to the contrary, have no regard for your safety; they swear you to do an act, which forfeits your lives, and their oath is no justification of your crime.—It must now be known to all ranks in this county, that such a defence cannot prevail. Therefore, if ever it should happen again, (which I fervently hope will not,) that these deluded miscreants should rise and go to men's houses, and administer oaths to them, let me advise the persons so maltreated, to disregard such oaths. Their clergy, their landlords, and every man of sense knows, that such oaths have no binding force upon them. Let me advise them to go to the next magistrate, and state to him who have imposed this force upon them; give him a description of their persons, and he will be called upon to provide protection for those who shall so approach him, and the strength and arm of the law will be extended, to bring to justice those who offend against it. When disturbers go into a village, the inhabitants should arise, one and all, to resist them and bring them to justice.

You stand in a situation, which it is right should be known by you and by the country. You have been recommended to the Lord Lieutenant, by the gentlemen who tried you. They have interceded for your lives, and I am satisfied their recommendation will have a great effect, if the peace of this country will allow Government to extend mercy and spare your lives. But if those profligate and cruel men, shall in defiance of the law persist in their outrages, lay your blood at their doors, and blame them for your fate. The recommendation of the gentlemen who tried you, was founded in humanity, and is entitled to great respect. I shall transmit it to the Lord Lieutenant.—I hope it may have a good effect, and that you may be
restored

restored to your families; but that event will depend upon the peace of the country remaining undisturbed. In the mean time, it is my duty to pronounce the sentence of the law.

Which his Lordship accordingly did.

Baron GEORGE then addressed the Grand Jury: Gentlemen, you have performed your duty in a manner, that deserves the thanks of the Court, and which I hope will be beneficial to yourselves and the County. I trust, the sitting of this Special Commission, will be attended with good consequences to your County; and I am satisfied, it will be considered as an act of the greatest kindness, to those who may have been involved in crime, but who are yet reclaimable.

Gentlemen, it is of no small importance, that the laws in existence for the punishment of these disturbers, should not only be made familiar to the Magistrates, but should also be made known to the deluded men, who have been in the habit of violating them. It is of great importance, that the people should know the obligations to which they are subject; and that the Magistrates should know their legal powers—not hesitating to put them into execution in cases of emergency, by doubting their authority, but enforcing them with firmness and integrity.—Any man who seeks popularity from these delinquents, by conniving at their excesses, and glossing over their crimes, ought to be considered as their mortal enemy. The Magistrate who boldly steps forward and gives them good advice, and if they will not listen to it, puts the law early in force against them, is their friend;—he saves themselves from death, and their families from misery. If the people knew the value of such a Magistrate, they would esteem him.

Gentlemen, I am satisfied, from the propriety of your conduct, that you are of the description which I have last mentioned. You will return home, determined to
give

give efficacy to the laws—not to overlook small offences until they expand into great crimes.—Check the mischief in its origin; and while you are so acting, you will feel, that one good man, with the law at his back, is a match for an host of guilty persons, trembling with the fear of punishment.

Gentlemen, it is the intention of the court, not to terminate this Special Commission altogether, but to adjourn it over to a future day; and if the peace of the county shall not demand more—the victims and sacrifices, now made to the law, will be the only sufferers.—But if infatuated men are determined that more of themselves and their accomplices, shall come to an untimely end, this court will sit again, and further examples will be made, until tranquillity be completely restored.

Gentlemen, I do not say this to exhort you; because you require no exhortation;—but that it may be generally known, that the Government, which is the common parent of all the people, is determined to protect all its dutiful children, by the strong arm of its power, and the energy of wholesome laws, and to bring every violator of those laws to condign punishment.

Gentlemen, with these observations, the present proceedings close; and I trust, that all our labours will terminate in the happiness of your county.

The court was then adjourned to the 12th of January.

Carrick on Shannon, Dec. 15, 1806.

This day, *Lord Chief Justice DOWNES*, and *Baron GEORGE*, arrived here.

The following Grand Jury was sworn :

Henry John Clements,	Launcelot Stack,
Sir Hugh Crofton, Bart.	Cornelius O'Brien,
Matthew Nesbitt,	Wm. Stack, Jun.
John Carter,	John Birchall,
John Crofton,	Alexander Norris,
Duke Crofton,	John Moreton,
Francis Waldron,	James Stack,
Edward Simpson,	John Morgan,
Walter Peyton,	Bury Morris,
Robert Birchall,	Wm. Hamilton,
Myles Keon,	John Dunn,
Hugh O'Brien,	

The LORD CHIEF JUSTICE delivered a charge to them, nearly to the same effect, as he did to the Grand Jury at Sligo ; but congratulated the Gentlemen, that the state of their county did not require a long investigation.

16th December, 1806.

James Ferguson, Michael Grant, and James Connell, were indicted, for that they, with many others, on the 29th of *October*, 1806, with force and arms did rise, assemble and appear in arms, at *Gortemore*, in the county of *Leitrim*, to the terror of his Majesty's subjects, and did assume the name and denomination of *Thrashers*—and did wear unusual dresses and badges, to wit, white shirts over their cloaths, not being their usual dress upon their lawful occasions—against the peace and statute.

They were also indicted, for that they, not being thereto compelled by inevitable necessity, feloniously did take an oath, importing to bind them to be of a so-

ciety and confederacy formed to disturb the public peace, that is to say, "that they should keep secret " and obey the laws of the *Thrashers*, and attend " when called upon by them," &c. against the peace and statute.

Prisoners pleaded Not Guilty.

The following Jury was sworn :

George Percy,
Wm. Shanley,
Edward Lowther,
John Burke,
Thomas Connolly,
Michael Irvin,

James Carey,
Wm. Little,
Richard Connolly,
Robert Armstrong,
Thomas Little,
Charles Grogan.

MR. SOLICITOR GENERAL. *Gentlemen of the Jury.*

The Prisoners, upon whose trial you are sworn, stand indicted for having assembled unlawfully in arms, assuming a denomination not usually assumed, and wearing a dress not usually worn by his Majesty's subjects, upon their lawful occasions. If, upon the evidence, you shall be satisfied of their guilt, the law will call upon the court to inflict such punishment of fine, imprisonment, pillory, or corporal suffering, as in the discretion of their Lordships they shall think adequate to such a high misdemeanour:—They also stand indicted, for having voluntarily taken unlawful oaths, binding them to the wicked and profligate association, that has infested this county:—This is a more serious charge—the law has declared it to be a transportable felony; and if you shall be of opinion that the Prisoners are guilty of it, those unfortunate men must expiate the offence by banishment from their native land, for the remainder of their lives: To the commission of this latter crime, it is necessary that the oath should be voluntarily taken. If such an oath is by compulsion forced upon any man, the law, provided that in a certain time he informs a Magistrate of the fact, is too reasonable to consider him a criminal; but, in the case now before you, if my instructions have not deceived me, no such defence can be pretended. The misdemeanour with which the Prisoners

are charged, if they are guilty of it, takes away all excuse from the felony of which they are accused; and you will find by the evidence, that they were apprehended in arms, arrayed against the laws and peace of their country, and conducting themselves in such a manner, as shews them to have been active and willing members of the confederacy to which they belonged: I shall not attempt to prejudice your minds, by anticipating the evidence—I shall only say, that if you shall be satisfied of the guilt of the Prisoners, the public safety calls loudly for example and punishment.

That so few persons should, in this county, be accused of the crimes connected with the present insurrection, is a subject of congratulation to you, and of much satisfaction, and some surprize to us: When I consider the various rumours which were circulated, and remember the many complaints that were made of the state of this county, I can scarcely account for the appearance of your Jail and your Calender:—I will not suppose, that the representations made upon the subject, from respectable quarters, have been exaggerated:—I will not suppose that your magistracy have been supine and negligent in the discharge of their duties: I will rather believe, that mistake and ignorance have prevailed as to the nature of those offences, and of the laws in force against them; and I am the more disposed to think so, because it is certain that considerable pains have been taken to circulate an opinion, that the laws against tumultuous assemblies had expired, and that the Magistrates had no legal power to resist the disturbers of the public peace.

The prevalence of this error, the extraordinary credit which such a misrepresentation has obtained, and its obvious tendency to encourage the commission of crime, and to check the exertions of the loyal and well affected men, not only justifies me, but calls upon me to solicit the attention of the Public in this respectable County, to a short statement of the nature of those laws which are in full force, for the punishment of the guilty, and the preservation of the public tranquillity.

The Legislature, judging wisely of the nature of popular insurrection, has provided that the mere act of unlawfully assembling, shall be a high misdemeanour, punishable at the discretion of the court:—It has provided, that merely submitting voluntarily to take an oath or engagement, binding the taker to the illegal confederacy, shall be a transportable felony; but for every offence, implying an active participation in the views of a tumultuous association, there is but one punishment, and that is, Death:—Whoever compels another to belong to such a society—whoever invades the property, or assaults the habitation of another, in furtherance of the objects of such a combination—whoever procures, levies, or supplies money, arms, ammunition, instruments of torture, or any other means for their purposes—whoever abets, succours, or conceals any of the confederates—whoever spreads their false alarms, delivers their threatening letters, or spreads their system of terror, by circulating their messages—whoever administers any of their unlawful oaths or engagements—whoever excites others to engage in their confederacy, subjects himself to the highest of human punishments, and upon conviction of any of those offences, is condemned to suffer Death as a Felon, without benefit of Clergy.

The Laws also, in the dreadful emergency of commotion, invest the magistracy of the country with powers proportioned to the nature of the public danger:—All Magistrates are bound to apprehend, disperse, resist and oppose all persons engaged in any of those offences:—To enable them to do so, they are authorised to call upon and command all his Majesty's subjects of sufficient age and ability, to assist them. If the persons who have illegally assembled, after having been duly called upon to disperse, shall, to the number of twelve, continue and remain so assembled, they become guilty of a capital Felony, and upon conviction, shall suffer Death.—If force be necessary for their dispersion, the Magistrate is authorized to resort to it in the most summary and effectual manner; and if in the apprehending, dispersing, resisting, or opposing any such offenders, (I use the words of the statute) any person or persons shall happen to be killed, maimed,

maimed or hurt, the Magistrate, and all Persons who acted in his assistance, shall stand freed, discharged, and indemnified for the same:—These severe, but necessary laws, put the infatuated and criminal insurgents into a state of war with every loyal subject;—When assembled, they are exposed, in the first instance, to be opposed and dealt with as public enemies—the mere act of association subjects them to discretionary punishment—the mere engagement to belong to the association, to banishment for life; but every active step beyond that, which can be possibly taken in promotion of the confederacy, once formed, is a step towards Death:—Capital Punishment is the dreadful and common punishment of every such offence.

. This code of Laws is peculiar to this country, and is only called into operation, in seasons of public tumult and disturbance; the experience of many years, is at once a melancholy attestation of its necessity, and a convincing proof of its efficacy.—Illegal association, and tumultuous insurrection, seem to be the particular mischief of this land; but there is no instance (where an open rebellion has not raged) in which those laws have not been found adequate to the suppression of the evil.

It is but just to call them severe, but it is also just to call them merciful; they proceed upon that soundest of principles, the prevention of crime, and upon the known tendency of unlawful associations to produce it: In the case of individuals the progress from one offence to another is easy, but in the case of associated criminals it is rapid—the very nature of unlawful association is to enflame the passions of one man by the passions of another, and to bring into general action the collected vices of many. The man whose own temptations or frailty would be insufficient to urge him onward in the career of guilt, whose own reason or compunction might arrest his progress, is borne along with the torrent—bad example decides him—false shame hardens him and he is precipitated, scarcely voluntarily, and almost necessarily, into the commission of every crime.

It is therefore, a humane as well as a wise system of laws, which denounces the highest punishment against every offence of whatever character which from its nature is likely to lead to the higher and most aggravated enormities: its evidence is exemplified by the history and progress of these mischievous associations; some base and cowardly incendiary, afraid to shew himself, spreads amongst the ignorant and deluded multitude the spirit of discontent. The humility of the condition of the lower orders is represented as a grievance—every inconvenience of which they can complain, is represented as an abuse—their ignorance is played upon, their passions are fired, they are taught to confederate, and the solemnity of an oath is profaned in order to bind them to each other for the pretended purpose of redressing their wrongs:—their association is feeble, without money and arms. Plunder, midnight plunder, the invasion of the honest man's peaceful dwelling, becomes necessary to their progress.—Rapine and violence thus become familiar: every loyal man becomes their enemy—fear makes them cruel and vindictive, and torture and assassination are the base and ready instruments of confederated and guilty ruffians. Thus every moral principle is rapidly extinguished, every sense of obligation is lost, that consummation and vice to which an individual gradually habituates himself, a conspirator arrives at speedily, sometimes instantaneously, and the unfortunate and deluded wretch who perhaps in the morning associates with others, as he is taught to believe for the redress of grievances and the reformation of abuses, before the evening sun has set upon him is involved in the complicated guilt of robbery and murder, covered with crimes and stained with blood.

The experience of this Special Commission in other counties where the evil has been more extensive than in this, warrants this picture; but every man of sagacity must perceive that there is a further view of those associations—possibly in their origin unconnected with any principle of political combination, it is easy to see, that if not put down, they may become ready and formidable materials in the hands of the secret traitor and the public enemy, who never fail to avail themselves of every favourable opportunity.

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That our misguided peasantry should be so corrupted and depraved, and that it should become necessary to call into operation against them the sanction of laws so penal, must be a subject of deep regret to every reflecting and humane man:—How such infatuation should prevail even amongst the most ignorant of the community, it is hard to account for: perhaps nothing has so much contributed to produce such an effect as that which the present prosecution brings particularly under our observation; the abuse and profanation of the solemnity of an oath:—that an oath imposed by force, or binding the person who takes it to the commission of a crime should constitute any obligation whatsoever, implies an absurdity which one would suppose must shock the understanding of the most barbarous and ignorant savages;—yet we find that under this miserable delusion, in every instance of popular insurrection, our wretched people are led on by the incendiaries who seduce them, from one offence to another and engage in the commission of every crime which afflicts society, because they have sworn fidelity to the association in which they are engaged: they make war upon their fellow-subjects, they plunder their properties, they invade their peace, they degrade human nature, by the savage practice of torture, and finally they commit murder, thinking that by the solemnity of an oath they can have pledged themselves to God to violate all his commandments—They cannot think so, no creature possessing the reason of a man, be he ever so ignorant or uncivilized, could entertain so monstrous an opinion, if he reflected for one moment—the wicked men, who make instruments of such wretches must pervert their understanding as well as deprave their morals, before they can make the human intellect even in its most uneducated state, submit to such an imposition; A man who meditates a crime, is well aware of the guilt which he is about to incur, but he must be infatuated indeed, if he conceives that he can diminish that guilt by swearing that he will commit it.—He must be dead to every moral sentiment if he does not perceive that he aggravates his offence, by presuming to invoke the God of truth and purity to witness that blasphemous engagement by which he binds himself to outrage all laws human and divine.

How

How much more absurd is it to imagine, that such an obligation can bind, when it is imposed by force, and when an unfortunate wretch submits to it at the peril of his life? To take such an obligation under such dreadful necessity is no offence—the law excuses it, if atoned for by a speedy and an effectual confession; but the crime consists in the keeping of an oath so taken, a crime pointed out as explicitly by the common understanding of mankind, as it is denounced by the express laws of the country: I cannot but doubt that any intellect is gross enough to be abused by such a notion as that those oaths are binding; I rather suspect that the mind in such cases submits willingly to a deception of which it is conscious, and practices a fraud upon itself. Let the most ignorant peasant in this country be asked this question?—If a ruffian with a dagger at your heart, compels you to swear that you will on the following day burn your own house, murder the friend whom you esteem, the wife whom you love, or the children of your blood—Would you keep that oath? If he compelled you to swear that you would commit suicide and put an end to your own existence; would you keep that oath? There is no ignorance so brutal as to hesitate about the answer: and yet it is supposed, that these guilty and profligate men conceive that the oaths, which either willingly, or upon compulsion they take, call upon them for obedience to all the ordinances of Captain *Thrasher*, or any other ruffian who thinks proper to impose those obligations, even though the observance of his laws implies the violation of every moral duty. This abominable and ridiculous system cannot be submitted to: if it be ignorance, it must be disabused—if it be wickedness, it must be punished—Neither can be done with this incorrigible people, except by the laws speaking by their severest sanctions: Let it then be known that by those laws, whoever administers an oath binding another to belong to an unlawful Society, or any other illegal oath, must suffer death and whoever takes it willingly must be transported into a foreign and a barbarous land, torn from his home, his family and his friends and condemned to miserable banishment for the remainder of his life. Let it be further known, that the same dreadful punishment must fall even upon
him

him who takes such an oath under compulsion, unless in ten days afterwards, he gives information to a Magistrate of all the circumstances relating to his taking it, and discloses the names of those who administered such oath, and of all those who were present at the administering of it.

Gentlemen of the Jury, I have thought it necessary to offer to your consideration those observations upon the nature of the laws in force against tumultuous and unlawful assemblies.—You see that they are fully adequate to your protection, if carried into execution with vigour and fidelity—Your Magistracy are invested with abundant power to resist the progress of insurrection and to bring offenders to justice, if they are disposed to do their duty.—The Government of the Country has been vigilant over its interests, and by the issuing of this Special Commission has enabled you without waiting for the ordinary period of the Assizes to inspire the wholesome terror of the law, by prompt and speedy example: It only remains that you, as Jurors, should perform your important duty, without favour or affection, acquitting the innocent and convicting the guilty, fearless of all consequences and only mindful of the solemn obligation by which you are bound.—Be assured that if honest and loyal men co-operate with the Government—If your Magistracy are active, your gentry vigilant, and your Jurors honest, there will be no difficulty in putting down this contemptible and yet profligate and atrocious insurrection, and in putting it down by the sole force of those laws against which it has ventured to raise its audacious head.

I cannot and will not doubt, that the Gentlemen of the country will in their respective departments discharge their several duties—I will not suffer myself to believe that a base and unworthy panic excited by those despicable miscreants, the lowest and vilest of the community, shall be found influencing any man of character to the dereliction of his duty.—Fear, under such circumstances, must be as irrational as it would be contemptible; the facts which will be disclosed to you upon the present trial will demonstate that the wretches who affect to establish the reign of terror amongst you are panick struck, whenever an honest man confronts them: In cowardly and midnight assassination they

shew themselves, but whenever the loyal and the brave look them in the face they fly in dismay.

Still less will I allow myself to think that there exists any sympathy with the professed objects of the insurgents, or that any man in the rank of a Gentleman can be so infatuated, as to suppose that this banditti is to be connived at, because they have affected to confine their hostility to the Clergy, and to tithes.—It is easy to raise a clamour against the institution of tithes, or any other establishment, but let it be remembered that if the mob of the country is allowed to regulate any one species of property, it will not be easy to prevent them from exercising the same authority over any other, and if the Laity shall look with indifference upon the plunder of the Clergy, they must reflect that rents will be soon subverted to the same species of popular reformation. Let every well judging man remember, that the establishment of religion is necessary to the well being of Society, that such establishment cannot be supported, unless the Pastors of religion are maintained, that by the constitution of this Country, the title of the Clergyman to his Tithes is exactly the same as that of any Gentleman to his Estate, and that the same laws protect both: Let it be also remembered, that the complaints of the people as far as they seek an abolition of Tithes, are idle and absurd: It is not the man, but the land that is subject to Tithes. Every man who purchases an Estate purchases subject to the Tithe Estate of the Clergyman in the lands—every heir inherits subject to the same—every Tenant takes his lease subject in the same manner, and if Tithes were abolished to-morrow, the value of lands would rise proportionably to the Landlord, and the amount of rent would be in the same proportion increased against the Tenant.—As to the mode of collecting Tithes, it may possibly in some instances be exceptionable. —I will suppose that it is so, for a moment, without knowing how the fact is, but will any man of ordinary understanding, commit the regulation of such a matter to Captain *Thrasher*? Whenever a grievance exists, there are legitimate and constitutional modes of complaint, but the constitution and the law, and reason forbid, that the reformation of pretended or real abuses shall be entrusted to a

savage and infatuated peasantry, let loose upon society, freed from all the restraints which education imposes, defying all laws, and enforcing their assumed authority by the plunder and destruction of property, and the torture and murder of their fellow creatures: The same remarks apply to all other pretended causes of popular discontent—all the dearest rights of Society are interested in preventing mobs from becoming legislators. In that spirit are framed those wise laws against tumultuous assemblies, which you, Gentlemen of the Jury, are now called upon to carry into execution—I am satisfied, that you will discharge your high duty, faithfully and conscientiously, and be assured, that if every man does his duty, there is nothing fear.

Richard Irwin, Esq. examined by the ATTORNEY GENERAL.

Q. Are you a Magistrate of this county?

A. Yes, Sir.

Q. Have you resided in this county for the last five or six months?

A. I have, and for many years.

Q. Have you had any opportunity of being acquainted with the nature and progress of the disturbances in this county?

A. I have.

Q. Mention what has been the nature of them?

A. People have appeared in all parts of the parish about me, in arms at night, dressed with white shirts over their cloaths—going to the inhabitants, and swearing them to what they call the *Thrasher's oath*.

Q. What is that?

A. To keep secret; to attend when called upon; to observe the *Thrasher's laws*; not to pay tithes, but to the Rector, and to pay only certain fees to their own clergy.

Q. Have they administered oaths?

A. So I have understood, and it is so generally reported.

Q. Have they taken arms?

A. Not immediately about me.

Q. Did you fall in with any of these disturbers at any time?

A. I got information on the 29th of October, between twelve and one at night, that a party of *Thrashers* were marching in great force from the parish of *Clonee*, and were coming to the parish of *Carnygallan*, where they had not before appeared, and were swearing all the people as they went along.—In consequence of this information, I directed the Permanent Serjeant, who brought me the intelligence, to collect as many men as he could get, and that I would be with him, as soon as I could put on my cloaths. I then went out, accompanied by a gentleman who was in the house with me, and some of my servants?

Q. Did you come up with any party, and at what time?

A. I pressed forward with twelve or thirteen men, to the place where I heard these people were to assemble, and traced them from house to house, where I understood they were swearing the people, until we came to the lands of *Gortenmore*, in the parish of *Carnygallen*—one of the men said he saw the *Thrashers*; it was a light night, and I saw such a body in white, that it appeared like a stream of water, till they filed off at a turn in the road.

Q. Were they armed?

A. They were—I saw two guns, and a number of pitchforks, shovels, and other weapons.

Q. What happened?

A. They stopped at the house of *William Costello*.

Q. What number of them?

A. About one hundred and fifty.

Q. What was done then?

A. At *Costello's* house they called in a manner that I did not conceive the meaning of; then they gave a shout or huzza, which appeared as if to encourage the party.

Q. What did you do?

A. I fired upon them immediately.

Q. Did they remain, and give battle?

A. No; they ran in all directions—we were coming down a hill, and I believe our shots did not take place. We ran forward, but not being able to run as fast as the rest, and finding there was no opposition, I stopped

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ped on the ground where the *Thrashers* had been, and I picked up pikes, shovels, forks, and shirts.

Q. Did you take any of that party?

A. We did—these three men at the bar were taken.

Q. Were they in any particular dress?

A. *Grant* and *Connell* had their shirts over their cloaths, when I saw them. *Ferguson* had not any particular dress; he was taken in a bog hole, by a man of the corps, named *Ferguson*, who is a relation of the prisoner.

Q. Did they say any thing when they were brought to you?

A. They did: they confessed they had been sworn *Thrashers*.

Q. Did you give them any encouragement or hold out any threat, to induce them to make a confession?

A. I did not; I kept them at a little distance and interrogated them. They all said they took the *Thrasher's* oath, but each man justified himself by saying he was forced. I asked them, why they went out with white shirts? they said, they were forced to go out.

Q. Did they say who were of the party?

A. They said they did not know any of the party who brought them out that night; that they were all strangers.

Q. Did any of them mention the nature of the oath?

A. I asked *Ferguson*, for I had most dependance upon him, to tell the truth. He said, he was forced to swear to keep the laws, to go out when called upon, to keep secret, not to prosecute a *Thrasher*, and not to pay tithes but to the Rector. As to the Priest's dues he was not particular, being a Protestant.

Q. Had you any conversation with respect to their weapons.

A. I had—my men were finding fault with them. *Grant* acknowledged he had a *grape shaft*, it is a fork with three grains. *Connell* said he had a fork, and I brought him one, which he said was not his, and another being brought, he acknowledged it was his.

Q. Was any thing said about shirts?

A. *Grant* and *Connell* had their shirts upon them, and when *Ferguson* was brought, I asked him, where his

His shirt was, and it was found in his pocket wet and dirty.

Cross-examined by MR. KEON.

Q. At what time was this?

A. Between three and four o'clock.

Q. Did they disperse immediately upon your firing?

A. They did, in all directions.

Q. Had you any reason to believe their shirts were on them, at the time they were taken?

A. One of the men told me, they had not their shirts on when they were taken, but being found in their pockets, my men put them on.

Q. They said, they were compelled by force to take the oath?

A. The did.

Q. Did they all say so?

A. They all said the same thing.

Q. Did they say at what time?

A. They said, they were compelled several days before, and that the party who swore them, came to them that night, and took them out with them.

Q. Did you not know *Ferguson* to be a loyal man?

A. I did for some time before.

Q. *By the Court.* You say you did not hold out any hope; if you did not, how came they to mention any thing to you?

A. They conceived, that saying they were forced, would save them from prosecution.

Q. *By Mr. KEON.* Then they were in terror?

A. No, save being in custody; they were not put in terror by me: they considered they could not be prosecuted, alleging, that what they did was by force.

Q. Have you any reason to think, that your men used force to them, to make them confess?

A. I have not.

Edward Gallagher, examined by SERJEANT MOORE.

Q. Are you a yeoman?

A. Yes.

A. Yes

Q. In what corps?

A. In the *Carnygallen* corps.

Q. Were you out in the month of *October* last, with *Mr. Irwin*?

A. I was.

Q. When was it?

A. I do not accurately remember the night; I was out with him the night these men were taken.—We went in search of those people, called *Thrashers*. We came up with them at *Gortemore*, at *William Costello's* house.

Q. Did your party fire upon them?

A. We did.

Q. Were there many?

A. A great number.

Q. What hour was it?

A. We left home about one o'clock, and had gone about two miles and a half.

Q. What was the effect of the fire?

A. They ran at the first or second fire.

Q. Did you pursue any of them?

A. I did; I pursued them and was the most speedy.

Q. Did you come up with any of them?

A. I did.

Q. How many?

A. Two.

Q. Did you take them?

A. I did; these two, *Connell* and *Grant*.

Q. How far did you run from the time they broke, until you took them?

A. Not very far, only a small angle of a bog; it was not near a quarter of a mile.

Q. Had they any thing in their hands?

A. They had; one had a fork, and the other had a grape handle. As I ran, my waistcoat flew open and my shirt appeared, upon which they came up to me. They did not consider me to be one of the enemy, but thought I was one of themselves.—I desired them to stand, in the King's name, or I would shoot them. Upon which, they said they were unfortunate, as they did not know we were so near, or they might have escaped.

Q. Had they any thing on their hats, or over their cloaths?

A. They

A. They had not; but when I took the second man, I called out to the rest of our party for assistance, and upon their coming up we searched these men, and found shirts in their pockets.

Q. Did you see any other shirts?

A. I did, upon the party who ran away.

Q. Did you see any others?

A. I did, in the bog next morning; we found several there.

Q. Did these men say what they were?

A. They said, they were forced from home by a body of the *Thrashers*.

Q. Then they admitted, they were out with the party?

A. They did.

Cross-examined by MR. KEON.

Q. This was a moon-light night?

A. It was.

Q. How near were you to the party when you fired?

A. I cannot say—we were within shot.

Q. They ran a quarter of a mile?

A. Not quite.

Q. They ran very fast?

A. As fast as they could.

Q. How long would you be going that distance?

A. About five minutes.

Q. These two men turned back towards you?

A. They did.

Q. What reason have you for supposing, that your shirt caused them to turn back?

A. I have a reason for supposing, that they did not know me; but seeing my shirt open and exposed, they thought I was one of themselves.

Q. Had they time to take off their shirts and put them in their pockets, if they had them on when you fired?

A. It is possible they might.

Q. Is it more than possible?

A. I cannot say.

Q. Could you do it in that space of time?

A. It is possible I could.

Q. You

Q. You do not know, whether these men belonged to the body or not?

A. I cannot swear to that.

Q. Do you not suppose they were greatly frightened and bewildered, not perfectly in their senses, nor as cool if they had not been taken?

A. Very likely they were not.

Q. Did you threaten to do them any harm?

A. I did not.

Q. *By a Juror.* You say you lost sight of them?

A. I did.

Q. Do you think it possible, they could have taken off their shirts while they were out of your sight?

A. They might.

Ephraim Gilhooly. examined by MR. WEBBER.

Q. Are you a yeoman?

A. Yes, Sir.

Q. In whose corps?

A. In captain *Irwin's*.

Q. Do you recollect being upon service on the 29th of October last?

A. I do.

Q. Upon what service?

A. He brought me out along with him, to suppress a meeting of these *Thrashers*, who were gathering.

Q. Where did you go to?

A. To *Gortenmore*, where we came up with a body of men, whom I saw very plain.

Q. Was any thing particular in their dress?

A. There was ;—they appeared in white.

Q. What number were there?

A. They appeared as long as a corps of yeomanry.

Q. What was done?

A. We got orders to fire.

Q. Did you fire?

A. We did.

Q. What happened?

A. They retreated—they ran away.

Q. What did you do?

A. I pursued with the rest of my company; and there

there were two taken by *Gallagher*.

Q. Did you see any other ?

A. I did—I saw the Prisoner *Ferguson*.

Q. Where did you see him ?

A. I saw the appearance of a man, lying on his mouth and nose upon a shaking scraw, in dark cloaths, and his hat off—upon seeing him, I said, “Boys, here is one man pinned.” He raised himself with a grape, and I pointed my piece at him, and said, I would blow his brains out;—he dropped the grape, and corporal *Ferguson*, coming up, asked, was that *James Ferguson*?—he answered, it was.

Q. What was done with him ?

A. He was brought to the captain.

Q. Point him out.

A. This is the man. (Pointing to the Prisoner, *James Ferguson*.)

Q. Was there a shirt upon him ?

A. He had not a shirt over him;—but he had one with him, which was wet and dirty.

Richard Irwin, examined again.

Q. Did you see any shirt with the prisoner, *Ferguson* ?

A. I understand that corporal *Ferguson*, being a relation of the Prisoner, permitted him to put up his shirt;—I made him take it out of his pocket—it was wet and dirty, and I made him put it on.

Ephraim Gilhooly, cross-examined by Mr. KEON.

Q. You did not take any of these men yourself ?

A. No: Upon my return I saw those two men with *Gallagher*.

Q. They had no shirts upon them at that time ?

A. No.

Q. Nor had *Ferguson* as you saw, for he appeared in dark cloaths.

A. He had not.

Q. Were you the first that saw him ?

A. I was:—the other men passed him; but taking notice of him, I went close to him, and discovered him.

Q. Did

Q. Did you continue with him, until he was given to the captain?

A. I did.

Q. Are you certain he had a grape handle in his hand?

A. He had, or a stake like it.

Serjeant Wood, examined by the ATTORNEY GENERAL.

Q. Are you a yeoman?

A. Yes, sir.

Q. Were you out this night, which has been spoken of, with captain *Irwin*?

A. I was.

Q. Do you know the Prisoner, *Grant*?

A. I do:—he was in custody of *Gallagher*, when I came up; but I was pretty convenient to him.

Q. You mean close to him?

A. I do.

Q. Was he searched?

A. They were both searched;—one man had a shirt under his arm:—the other had a shirt in his pocket—It was *Grant*, I think, who had the shirt under his arm.

Cross-examined by Mr. KEON.

Q. You were not the first who came up?

A. I was not:—*Gallagher* had made them Prisoners.

Q. And you cannot swear, that they had those shirts in the manner you mention, at the time they were taken?

A. I cannot.

Q. Nor that you saw them among the party you fired upon?

A. Not to know them;—the party ran, and we pursued them.

DEFENCE.

Margaret M'Dowell, examined by Mr. KEON.

Q. Do you recollect the 29th of *October* last?

A. I recollect the night, when *Ferguson* was taken,

Q. Did you see him that night ?

A. I did.

Q. Upon what occasion ?

A. There was a woman in my house—a sort of a midwife, and he wanted this woman to go to his wife, who was not well, to keep company with her, that he might the better stay away ; the woman was not fit to go out, by reason of having got a cold, attending another woman some few nights before.

Q. How long was he in your house ?

A. He was in it from the time he came, till about ten.

Q. Did he say any thing ?

A. My man desired him to stay a little longer ; but he said it would be unkind to stay away longer. But he would not go with these *Thrashers*, if they tore him off his horse ; and he was always talking against them.

Cross-examined by the ATTORNEY GENERAL.

Q. You know *Ferguson* a long time ?

A. I do.

Q. He was talking very often against those *Thrashers* ?

A. He was.

Q. And regretted much, that they swore him ?

A. He was always angry at them.

Q. How long have they been in the country ?

A. I cannot say—the report of them was in the country long enough.

Q. Did you ever hear him say, they had sworn him ?

A. I did not.

Q. He kept that a secret from you ?

A. He never told me ; but said, he would not go among them. He said, he would not walk with them.

Q. Had he a shirt in his pocket ?

A. He had not ;—but had one upon him.

Q. Did you search his pocket ?

A. I did not ;—but he was with me all day, beetling flax.

Q. Did he dine with you ?

A. No,

A. No, he went home to dinner, and came back to finish.

Q. How do you know he had no shirt in his pocket?

A. Because his coat was off.

Q. And therefore he had nothing in his pocket?

A. To be sure.

Q. And he came back at ten o'clock at night—was that to beetle flax?

Q. Had the *Thrashers* been out that night before he left you?

A. No.

Q. Had you heard they were to be out?

A. It was a common report they were.

Q. Whom did you hear say it?

A. I cannot say, there were so many said it.

Q. Did *Ferguson* say, they were to be out?

A. He did—but he came to shun them.

Q. Did he say, he was shunning them, because he heard they were to be out?

A. He did not; but said, he wanted to get away, as it was ungrateful to his wife to stay so long from her.

Q. He told you that, having first said, he came to shun them?

A. He did.

Q. He wanted the midwife to go to his house?

A. He did.

Q. And his wife was afraid of being alone?

A. She had a labour upon her at the time.

Q. When was she brought to bed?

A. In a few days after.

Q. Did you ever see any of these *Thrashers*?

A. I never did: I would go into an auger hole to avoid them.

Q. It is generally late at night, that these people go about, and force innocent people out of their beds?

A. It is, sir.

Q. Between eleven and twelve, and one in the morning?

A. I do not know at what time they begin.

Q. Was not ten o'clock the most likely time for the *Thrashers* to begin their diversions?

A. I do not know.

Q. Did you hear of the bog where the Prisoner was taken?

A. I

A. I did.

Q. How far is that from his house ?

A. Two mile.

Q. Did he go there to avoid the *Thrashers* ?

A. No : he went there for a woman for his wife.

Q. What is the name of the woman who lives in the bog-hole ?

A. I can't tell.

Q. Was it to get a woman for his wife, or to hide from the *Thrashers*, that he went to the bog ?

A. I will take no oath about that.

Q. Did he take a shirt in his pocket to keep the mid-wife warm, as she came along, and a shaft in his hand, to knock her down, if she refused ?

Witness would not answer.

Q. (*By Jurors.*) How far is your house from *Ferguson's* ?

A. Not far.

Q. Is it within hearing ?

A. It is within call.

Q. Could a great crowd of *Thrashers* have come to his house without your knowing it ?

A. There might.

Q. Would they have passed by your house ?

A. He is an innocent man, and they never call for him, because he is not fit for their purpose.

Q. Did you hear of their being about you that night ?

A. I heard them going thro' the hills.

Q. (*By the Court.*) Were they near you ?

A. No.

Q. How near were they to you ?

A. Within a call of us.

Q. Did you see them.

A. No : I heard their shouts.

Arthur McClean, examined by Mr. KEON.

Q. Do you know *James Ferguson* ?

A. I do.

Q. Did

Q. Did you see him on the 29th of *October*?

A. He came to my house late in the evening of the night he was taken.

Q. For what purpose?

A. He came to strive to shun that party.

Q. Did he make any declaration that he so intended?

A. He did.

Q. What did he say?

A. He told me he was afraid to be caught by them, as he went out in order to secure his cattle?

Q. At what time?

A. About night-fall.

Q. How long did he stay with you?

A. Not long; for he went to settle his cattle, before the night-fall. I thought he would have come back; but he was caught by these people.

Q. Did you see any more of him?

A. No.

Q. (*By a Juror.*) Were you not afraid they would have caught yourself?

A. I kept out of their way.

Cross-examined by the SOLICITOR GENERAL.

Q. You say he came to you about night-fall; how long did he remain?

A. About twenty minutes.

Q. Then he was twenty minutes with you, hiding from the *Thrashers*?

A. Yes.

Q. (*By the Court.*) Was he hiding?

A. He was striving to leave their way.

Q. What reason have you to know that?

A. I was hiding myself from them, and he came to stay with me.

Q. How far is your house from his?

A. About 100 yards.

Q. Was his wife sick at your house?

A. No.

Q. Had you seen him in the morning of that day?

A. I

- A. I had.
- Q. What was he doing?
- A. He was drying flax at *M^cDowell's*.
- Q. Did he dine there?
- A. I can't tell.
- Q. Did he go there in the evening?
- A. I can't say.
- Q. Did you hear the *Thrashers* that night?
- A. I did.
- Q. How long after *Ferguson* left you?
- A. It was an hour.
- Q. *Ferguson* did not like them?
- A. He did not;—he always said so.
- Q. He regretted he was sworn?
- A. No, not to me.
- Q. Did he tell you he was sworn?
- A. He did.
- Q. How long was that before he was taken?
- A. I can't tell.
- Q. Was it six weeks?
- A. No, about a fortnight.
- Q. How long had he been sworn before he told you?
- A. Two days.
- Q. Does not Captain *Irwin* live in that neighbourhood?
- A. He does.
- Q. What relation are you to the prisoner *Ferguson*?
- A. I am his Brother-in-law.

The other two prisoners did not call any witnesses.

Defence closed.

LORD CHIEF JUSTICE, (after stating the indictments) In support of these charges, several witnesses have been examined, and their evidence is strong to shew the Jury, that the prisoners were of the party illegally and tumultuously assembled—the prisoners are taken recently after the dispersion of the party, and *Ferguson* was lying on his face concealing himself.—The circumstance of the shirts is unaccounted for by the prisoners, and Gentlemen, you will determine, whether they had them for any purpose, but that of being out with the party. But it does not rest upon this;

this; for each of the prisoners acknowledged to Mr. *Irwin*, that he had taken the *Thrasher's* oath, and that they were of the party, but they alleged, they were forced. With regard to that defence, when a man attempts to excuse a criminal act upon the plea of force, it is incumbent upon him, to make out that case by clear and satisfactory evidence. The criminal act is clearly proved, and there ought to be evidence equally clear and satisfactory to shew, that force was operating upon him. There is no evidence produced by two of the prisoners at all tending that way—*Ferguson* has examined two witnesses to establish the fact. (*Here his Lordship stated their evidence*)—The prisoner is seen by the witnesses in the evening, and at ten o'clock, and he is taken about three in the morning:—he declared he was afraid of the *Thrashers*, but you will determine, whether he did any rational act to keep out of their way. But it appears upon the cross-examination of *Arthur M'Clean*, that *Ferguson* was sworn—but he did not state in what manner he was sworn. Therefore, Gentlemen, you will determine, whether this evidence can furnish any reasonable ground of defence. When a man sets up the defence of force, he admits the fact charged against him, and the defence of force ought to be clearly proved. You will judge, whether *Ferguson* was out that night in consequence of force operating upon him, for even supposing force to have been used upon a former occasion, that will not excuse him for joining the party on that night. Force can only excuse by its continuance, and unless you think, he was there that night, by force, the first indictment is maintained.—With regard to the others for taking the oath, the evidence depends upon the testimony of Mr. *Irwin*, supported, with respect to *Ferguson*, by the admission of one of the witnesses in the defence. Mr. *Irwin* was interrogated, whether he had held out any hopes to the prisoners or excited their fears to induce them to confess, for a confession so obtained could not be received in evidence—You heard his answer, and to apply the evidence against the prisoners, you must believe, that the confession was voluntarily, and if you are satisfied of that, you will next determine, whether the oath was of that nature which is stated in the indictment

ment, importing to bind them to be of the Society of *Thrashers*—the evidence is submitted to your consideration and you will decide, whether the prisoners are guilty of all or any, and which of the charges contained in the several indictments.

The Jury retired, and in ten minutes returned a Verdict, *Guilty*, upon all the indictments.

Wednesday, December 17th, 1806.

James Donnelly, a Sheriff's Bailiff, was arraigned upon an indictment charging him with delivering threatening messages from the *Thrashers* to the persons summoned to attend the Juries, at this Special Commission.—He pleaded, *Not Guilty*, and it appearing upon the evidence, that the prisoner had no criminal intention, but was speaking merely in jest, the prosecution was relinquished and he was acquitted.

James Ferguson, Michael Grant, and James Connell, were called up for Judgment.

LORD CHIEF JUSTICE. You have all of you been convicted of taking an oath to bind you to a lawless, criminal, and most atrocious banditti, who have disturbed the peace of this country—men, who have conducted themselves as you appear to have done—who have deserted the industry by which you could have maintained yourselves and your families, and who are wicked enough to bind themselves by a prophane oath, to obey the lawless commands of others, whoever they shall be—have by that act made themselves too dangerous to remain in the country a moment longer—You will, each of you, be transported for your lives, and the country, which you and your associates have infested, will be relieved from the presence of men, capable of such abominable wickedness, as to bind yourselves by an oath to commit any atrocity whatever which you may be desired by a confederate to commit. Therefore when the public hear, that you are sent from your friends and families, never to return, and any

any man asks the reason of it, let him be told, that it is for taking the *Thrasher's* oath, and he will be satisfied, that the punishment does not exceed the criminality of the act. Every man will feel a conviction, that those, who bind themselves by an oath to disturb society, make war upon their peaceable neighbours—They assemble in crowds for the destruction of the property of their unoffending neighbours—Every man must feel, that the just punishment of such an offender, is to remove him from the country, which he has made unhappy.—Such is your fate, and I hope your example will shew, that no man can violate the public peace or enter into these confederacies with impunity.—The mere act of confederation, is productive of so much mischief, that it alone is sufficient ground for supporting the sentence which removes you from the country, for ever.—You must be transported for life.

LONGFORD.

The Judges opened their Commission on the 18th of December, 1806, and on the 19th the following Grand Jury was sworn :

Sir Thos. Fetherston,
 Hon. Wm. Moore,
 Rd. L. Edgeworth,
 Richard Fox,
 Samuel Ahmuty,
 John Fetherston,
 Wm. Thompson,
 Henry Montford
 John Bell,
 Wm. Bond,
 Geo. R. Fetherston,
 Ralph Lennon.

I. R. Robinson,
 Mat. Crawford,
 Thos. Lennon,
 Robert Jessop,
 Ahmuty Richardson,
 Thomas Bond,
 John Batley,
 Edward O'Reilly,
 Samuel Crawford,
 Arthur Richardson,

BARON GEORGE, addressed the Grand Jury, in a charge containing the same topics, as delivered to the Grand Jury at *Castlebar*.

Thomas Fitzsimons, Patrick Coyle, farmer, James Kilbride, and Patrick Coyle, labourer, were indicted, for that they on the 20th of November, 1806, did assume the denomination of Thrashers, and under that name did rise, assemble and appear by night, armed, to the terror of his Majesty's subjects—against peace and statute.—There was a second count, charging, that they being armed, tumultuously did rise, assemble and appear, to the terror of the King's subjects.—And a third count, that they wore a particular badge, to wit, straw round their heads, with straw caps, and so wearing such badge, tumultuously did rise, assemble and appear by night, &c. against peace and statute.

The prisoners pleaded, Not Guilty, and the following Jury was sworn:

W. B. Montford,	Andrew Bell,
James Gregg,	John Bickerstaff,
Richard Webb,	J. A. Goldsbury,
Alexander Kingston,	Daniel Murray,
Thomas Coates,	James Wright,
Andrew Clogher,	Newcomen Armstrong.

Mr. SERJEANT MOORE. *My Lords, and Gentlemen of the Jury.* In the prosecution of the proceedings under this Special Commission, His Majesty's ATTORNEY GENERAL, whilst he has spared himself no labour, has very liberally participated with his learned friends, the important duty of making the opening statement in the several cases that have been brought forward for trial; and in this arrangement, it devolves upon me to state the particulars of this case,—the general nature of the offences with which the prisoners are charged, and the general principles of the statutes which have been from time to time enacted for their suppression and punishment: and, Gentlemen, I regret the less that this duty has been assigned to me, when I consider to what an inconsiderable extent the mischief has existed in this country, and the early and zealous disposition manifested by all classes to resist it, in the first instance.—If indeed it were otherwise,—if the mischief complained of had made a more extensive progress

progress amongst you, than it has—if there were any thing that required the exercise of extraordinary ability and judgment, I should lament, that in the discharge of our alternate functions, it should have fallen to my lot, to preclude the county from the advantage of the great talents which my Right Honorable and learned Friend so eminently possesses.

Gentlemen, It is right, and must be satisfactory to you, that I should shortly state, not what merely relates to the particular case and your particular county, but what my experience and observation of this confederacy has been in other places, where its delusions and its mischiefs have been more extensively diffused; and, Gentlemen, it seems to me, that its general character is that of an association, certainly of very wicked and evil designing persons, but not of any rank or influence in the community; and what must be a consolation to the mind of every good subject, not, as I conceive, partaking of any *political complexion*, or confined to any *particular party or persuasion of people*. Their professed object is that of regulating the payment of *tithes*, and certain dues customarily taken by the Clergymen of the Roman Catholic persuasion, and the rates and prices of manual and manufacturing labour.—These appear at least to be their professed objects; and the great instruments by which they seek to attain their ends, seem to me to be,—alternate terror and delusion—hope and fear—vain and wicked promises—daring and atrocious threats,—amplified and false reports of the numbers, and strength, and success of the association,—of the benefits which they profess to atchieve, and of the grievances which they pretend to redress. Gentlemen, with regard to terror and compulsion, the mean excuses of the timid and half inclined, I am happy to say, for the honor of the country in general, that they have had very little influence in forwarding this wicked association—in your county none whatever; indeed if the law were silent upon the subject, the truly brave man would find the principles which ought to govern his honor and direct his duties, written in his own heart. He would find, that the degree of force which ought to influence a firm and courageous mind, should be immediate and irresistible

sistible,—not admitting of the means of repulsion or resistance;—of any interval for escape or parley;—of any opportunity for evasion, or avoidance. Gentlemen, after what you have heard so fully and ably explained from the Bench, upon the subject of compulsion and inevitable necessity, as constituting a defence for entering into unlawful engagements, I do not feel it necessary to say any thing upon that subject in a case, the circumstances of which cannot possibly admit of a plea of that nature; but I am happy in the opportunity of mentioning the general experience, we have had of the resolute and successful resistance, given by individuals, some of them in the most humble conditions of life, to the progress of this combination, and in proportion as this spirit obtains and is cherished amongst the people, in proportion as they shall disdain to yield a prostrate and passive submission to the presumptuous ordinances of this wicked association;—in the degree that the Magistrates and other civil authorities of the county, shall discharge their duties with fidelity and vigilance; this combination called “*Thrashers*” will decline and dissipate, and at length vanish and sink to nothing. Gentlemen, by resisting the evil in the first instance;—by opposing its first approaches, and defeating its first array on the verge of your county, the communication of this mortal contagion has been prevented; and the misguided prisoners at the bar, as they are the first, will, I trust, be the last victims of this unhappy delusion within your county.

Gentlemen, The progress of this Commission has, besides many other salutary effects, produced this very satisfactory one for the country,—that it is now pronounced from the highest authority, that of the venerable Judges on the Bench, that the several laws relating to tumultuous assemblies are now in full force, and besides, that there remains no doubt of the existence of those laws;—no man can fail to understand them in all their parts and enactments, they have been so often and so fully explained and observed upon.—It is indeed the nature of this code of laws, (made for times of public inquietude,) to remain dormant and inactive in periods of public repose;—but they sleep without expiring;

expiring; and the moment riot and disorder appear in the country, those salutary laws are called into immediate force and activity; and they afford an extensive and ample remedy for every evil, which can arise from tumultuous and unlawful assemblies of every kind and description, and are so appropriated to such disturbances, that there is not a gradation of this species of crime from the highest to the lowest, from the moment of putting on the Straw Girdle and Cap, the White Shirt, or any other badge, through all the stages of insurrection, to the very confines of Treason itself, which these laws have not accurately pointed out and provided against.

Gentlemen, It was my intention, and perhaps it would have been the natural scope of my address to you, to have explained these three several acts of Parliament, the 15th and 16th of his present Majesty, called the "*Whiteboy Act*,"—the 27th of his Majesty, and the 36th. But I have been relieved from going much into detail upon the several branches of those Acts, by the very able and judicious exposition of them which has been just delivered by Mr. BARON GEORGE, in his Lordship's address to the Grand Jury, and which must have made an indelible impression on the mind of every man who heard it; insomuch, that I should consider it a presumption, (although it would otherwise have been my duty, if I had not been so ably anticipated,) were I to now attempt to tread in his steps, in giving an exposition of those laws; when it is not possible to say that any thing has been left obscure and unexplained.

Gentlemen, however, in touching in any degree upon these laws, I should not omit to observe, that great pains have been taken by the Legislature to correct that, which I consider to be the source and cement of these kind of associations, namely, the administering unlawful oaths; without that illegal and blasphemous bond, none of those conspirators, who in the memory of us all, under various denominations, have been from time to time disturbing the country, could have succeeded in seducing so many of the lower orders of the people to join them. It is therefore becoming, that
I should

I should mention distinctly, what the provisions are which the Legislature has from time to time enacted, with a view to that most fatal bond of combination and conspiracy, the administering of unlawful oaths. The *Whiteboy Act* makes it a high misdemeanour, by force, violence or menace, unlawfully to impose or tender any oath or any engagement, in any manner, on or to any person; and the person convicted is punishable at the discretion of the Judge. The statute of the 27th of the King, has made it a felony, for which the convict is transportable for life, in any manner to administer, or cause to be so done, any unlawful oath or engagement, and a felony transportable for seven years to take such, not being compelled by inevitable necessity; and lastly, the statute 26 Geo. 3d enacts, that to administer an unlawful oath, importing to bind a person to be of an association or confederacy, (such as these) or to bind the person not to give evidence, shall be a felony of Death. It is impossible indeed, for any honest and rational man to conceive (if there were not acts of Parliament upon the subject) how any man can be criminal enough to think himself bound by an oath, the very terms of which go to dissolve all those obligations, which it is the duty of human beings to observe, either from a sense of religion, or moral principle, or of duty to society at large. The very terms of the oath, import to bind the hypocritical, or deluded takers of it, to abandon all the duties which he owes to his Creator, and his fellow beings, and to release him from all obligations to observe the laws of God and man. They are sworn not to pay tithes, except to the Parson—not to pay dues to the Roman Catholic clergyman beyond a certain specified amount—not to pay more than certain prices to the working people. Thus, fixing a *maximum* for the wages of Labourers and Manufacturers. Then, conscious of their own criminality, these reformers and seducers of the people swear them “not to prosecute”—“to obey the laws of the Thrashers, and to attend whenever called upon” When men are legitimately called upon to attest their adherence and obedience to civil institutions, they are not sworn to obey laws which are unknown, or to support systems which are undefined. The sanction of all laws is their promulgation; and even the Creator has vouchsafed to reveal

reveal his Law to his created beings;—but these presumptuous conspirators affect to bind their party, by the blasphemous abuse of an oath, to obey laws which are unwritten and unexplained; couched in a vague and mysterious phraseology, insidiously simple, and artfully indefinite. But, Gentlemen, although the *Thrashers* have not stated in terms, what that system of laws is which is called “Captain *Thrasher’s* Laws,” and which they presume to swear the people to obey, every discerning man will easily know and understand this atrocious code, from its abominable effects. They are laws which ordain the overthrow of every institution of civil and religious authority;—the destruction of morals;—the confusion of property;—the frustration of justice;—they enact that the bounties of nature shall be wasted, and the fruits of human industry prematurely consumed; they sanction pillage and robbery, the infliction of cruel pain, and barbarous assassination. These are the laws which are called Captain *Thrasher’s* laws, and these are the purposes mentally reserved, and to which the obligation of obedience is sought to be exacted by an oath. Gentlemen, however, I am satisfied, that the fate of this confederacy will be that of all the many others, which have existed from time to time in the history of this, too easily (I am sorry to say) agitated and deluded country, disgrace and dismay will be the portion of all its contemptible members, and a total overthrow and disclosure of the whole system, and *that*, by the merciful, but firm arm of the law, without any deviation from the ordinary administration of justice; and I now predict, that we shall soon have an end of Captain *Thrasher*, his perjured oaths, his wicked laws, and his misguided followers. In saying this, Gentlemen, I but anticipate the same fate for this wretched combination, which has attended all other similar associations which have preceded it.—The White Boys!—The Hearts of Steel!—The Hearts of Oak!—The Right Boys!—The Peep of Day Boys! The Defenders!—and all those too, like the modern *Thrashers*, vainly endeavoured to secure and cement their confederacies by solemn oaths and obligations, if they can be called such. These have all been defeated and put down, and the same code of laws which were found sufficient to dissolve and extinguish all the former

O o

confederacies,

confederacies, and insurrections :—those same laws, when put in force with prompt and vigorous energy, will have the same effects against the combination of the present day. Unthinking and deluded people! what have they ever atchieved by these associations!—What has been the fruit of their guilty excesses?—What have they ever gained by the delusive promises held out to them by their criminal seducers?—Is it the way to wealth, honour, comfort, industry, security? No! but it leads to want and wretchedness—to the relaxation or total neglect of industry—to beggary and ruin—to disgrace, exile, premature death, certain and ignominious punishment. These have been the fatal consequences of such delusions at all times heretofore; these will ever be their consequences, as long as law, order, and government are triumphant in the land. To encounter these calamities, is it possible, that the lowest and most unthinking of the people, can any longer be led away, to abandon the pursuits of humble industry—to engage in guilty and profligate conspiracies—to desert their homes and their families—sacrificing every moral and social duty—wasting the night in criminal vagrancy, and the day in terrified concealment—afraid to meet their honest and peaceful neighbours—conscious of their offences—forgetting equally their interest and their duty, and altogether unmindful of the sacred obligations which they owe to their country, their King and their God?—It is impossible, that the flimsy knavery of the few wicked and insidious wretches, who have introduced this fatal combination among the peasantry, can any longer impose even upon the credulity of youth and inexperience.

Gentlemen of the Jury, the prisoners at the bar, are indicted upon the statute 15th and 16th Geo. 3. cap. 21. and section 2nd. which makes it a very high misdemeanor, for any person or persons, either by day or night, to rise and appear armed and disguised, or wearing any unusual badge, or dress, or assuming any unusual name or denomination and the charges against them to bring their case within these branches of the section of the act are, that they were of a party of the number of about five hundred, who on the night of the 20th of *November*, did assemble, and appear

appear in arms, by night, wearing the badge or dress of the *Thrashers*, namely *straw* round their hats and straw caps, and white shirts, and that they named and denominated themselves *Thrashers*; and Gentlemen, it will appear, that they were taken in the fact, by Mr. *Kerr*, the Chief Constable, assisted by Captain *O'Reilly*, of the Cavan Militia, and a military guard—these two gentlemen, and the soldiers will detail the circumstances of the transaction in evidence—it is a case, as I conceive; that cannot admit of doubt or difficulty and it will be attended with this salutary result, that the people will be convinced, that there is no device can evade the vigilance of the law, that there is danger attending the very name and dress of *Thrashers*, and that to assume either, is a degree of guilt punishable with fine, imprisonment, standing in the pillory, or whipping.

Gentlemen, before I close this address, I beg leave to congratulate this very respectable County, upon the spirit and unanimity which it has shewn in resisting this combination; the effect of which is, that the County may now be said to be in a great measure exempt from those disturbances and atrocities, which a more supine or timid conduct would have only generated and encouraged;—I have no doubt also, that you will add firmness, in the administration of the law, to vigour in executing them; and that by an honest and conscientious discharge of your duties, as Jurors, you will render law and justice triumphant over conspiracy and insurgency: and when the Judges and those who have attended them in their progress under this Special Commission, shall have left your County, you will continue to act as you have hitherto done, that you will remain at your posts, that you will protect the unprotected, inspire the timid with courage, and enable the poor, but well disposed peasant, to maintain his cottage as his castle of defence;—thus protected by the strong arm of the Government, and of the laws; supported by the Magistrate and resident Gentlemen, the country may bid defiance not only to those wretched insurgents, but to every other foe, that shall dare openly to assail its peace or insidiously to undermine its prosperity.

William

William O'Reilly, Esq. examined by the SOLICITOR GENERAL.

Q. Are you an officer in the *Cavan Militia*?

A. Yes, Sir.

Q. Where were you quartered lately?

A. In *Granard*.

Q. At what time?

A. In *November* last—at present I am quartered at *Athlone*?

Q. At the time you were in *Granard* was the country disturbed, or was it in a state of tranquillity?

A. It was very much disturbed by people called *Thrashers*.

Q. Were you called upon by any magistrate to go out against these people?

A. I was by Mr. *Kerr*, a peace officer.

Q. When were you first called upon to go out?

A. About the 13th of *November*.

Q. Did you fall in with any of them?

A. We did.

Q. To what amount?

A. To the best of my opinion, 400 or 500 men; from their shouts and their cheering, I judge that was the number.

Q. *By the Court.* Did you see them also?

A. No, my Lord, it was very dark that night—I only calculate from the noise they made?

Q. Did you meet with any yeomen on duty that night?

A. We met some who appeared to be collected for the purpose of protecting their houses.

Q. Did you come near those persons?

A. I got within fifty yards of them, when they were in the act of breaking open a poor man's house; I heard the knocks plainly at the door and my men fired upon them.

Q. What became of them?

A. They fled, leaving pikes, pitchforks, poles, hats, shirts and shoes to a great amount. The hats had white bands upon them.

Q. What kinds of bands?

A. White handkerchiefs with the corners hanging down.

A. What

Q. What was done afterwards?

A. After they dispersed, we thought it would be right to go up to the house.—We knocked at the door, they asked—who is there? Mr. Kerr answered, friends, Mr. Kerr from *Granard*.—Thank God, said the people within, “We have been defending the house, but are afraid, that the haggard is destroyed.”—We got a light and went to the haggard, and saw, that the corn was all thrown about in the wet and the dirt.

Q. Did you go out again.

A. I went out several nights without meeting any of them, until the 20th of *November*, when after great fatigue and much wet we were going quietly towards a place where we had information of a party assembling—I was with an advanced guard—Two of the men began to run forward, I went quick after them; one of them took up a hat with a band upon it and said the man who had it ran to the house, into which he was pursued by the other—the soldier had great difficulty in getting him out of the house—I told him to run him through if he did not come out—he then came out—I asked him his name, he said—“Give me a book and I will swear I do not know my name.—I asked him, of what country he was—he said, “Give me a book and I will swear I do not know”—I asked him, did the people of the house know him—he said, they did not, and the people of the house did deny him.

Q. Who was that man?

A. This is the man; I have since learned his name is *Fitzsimons*, (pointing to the prisoner *Thomas Fitzsimons*)—He is the man, who ran into the house—he had taken his coat off and was in his shirt—he attempted to escape three times and endeavoured to get his head through his shirt. After that, I ordered two of the men, in his hearing, to fix bayonets and to run him through if he again attempted to escape—and I myself told him I would run him through—I said this in order to keep him quiet.

Q. Did you hear the shouts of any party that night?

A. I did, of at least 500.

Q. Had your men their watch coats?

A. They had—I made them put their watch coats over their belts, lest they should be seen, the night being bright.

Q. Did you see any other person after the shouts?

A. I

A. I did;—there was a man brought a prisoner by one of my men: he was dressed in straw—this is he. *Patrick Coyle*, (labourer).

Q. How was he dressed in straw?

A. He had a straw cap and had straw about his head.

Q. Was any other prisoner brought to you?

A. Not immediately, I sent the men forward, and between the advanced guard and the main body, I met this man, *Patrick Coyle*, called farmer, with a pitchfork in his hand, going in the direction towards the party.

Q. *By the Court.* In what direction was the prisoner going?

A. In the direction to the main body of the *Thrashers*, or *Rebels*.

Q. Was he dressed in any particular way?

A. He was not.

Q. At what hour was this?

A. It was past twelve.

Cross-examined by Mr. FLEMING.

Q. You said that a soldier told you the man had gone into a house—Now I beg you will confine yourself to facts; Do you know any thing more of *Fitzsimons*, than seeing him when he came out of the house?

A. I did not.

Q. Upon your asking him his name, he said, he did not know?

A. He said, “If I gave him a book he would swear he did not know.”

Q. Did you believe him to be a mad man?

A. No, nor a fool either; but a knave, as all of his kind are.

Q. If you knew a man, who did not know his name, would you rather consider him a knave than a fool?

A. I would, or any man who would attempt to disturb the country.

Q. As to *Patrick Coyle*, the farmer, you say you found him between your main body and the advanced guard,

guard, with a pitchfork in his hand—Was the night dark?

A. Not then—it was bright.

Q. And he was moving in the same direction with your advanced guard?

A. No, I did not say that.

Q. Then your advanced guard was not moving towards the enemy?

A. No, not at that time.

Q. Did you intend to bring your main body to the enemy?

A. I did.

Q. Did you order them to advance?

A. No.

Q. What direction were you taking?

A. I was taking a position across the road to a place where I had information they were to assemble.

Q. Did you ever hear, that the place where you met *Coyle*, was upon his own ground?

A. I did not, but it was an odd hour for a man to be out with a pitchfork.

Q. Did you speak to him?

A. I desired him to come over to me, but he refused, I called to him, to stand and sent a soldier to take him, but desired him not to hurt him? I knew the soldier would fetch him. He desired him to submit, which he refused, until the soldier struck him two or three blows.

George Thompson, examined by Mr. O'FERRALL.

Q. To what regiment do you belong?

A. The *Cavan* militia.

Q. Were you quartered in *Granard* last *November*?

A. I was.

Q. Did you accompany *Mr. O'Reilly* in going out at night during that month?

A. I did several times, the first time was the 12th or 13th of *November*.

Q. Did you meet any party on the first night?

A. We did, a party called *Thrashers*, consisting of 500 or 600 men.

Q. When were you last out with *Mr. O'Reilly*?

A. About the 20th.

Q. Did

Q. Did you take any person that night?

A. I was in the advanced guard, and the last man but one, there was a man, whose name I have heard is *Fitzsimons*, came from the end of a house, with his hat dressed with straw, we had our watch coats over our belts, and he thought we were *Threshers*, but when he saw his mistake, he turned back, threw off his straw hat and ran into a house—I pursued him.

Q. How did you find him?

A. I gave him no time, he was tearing off his coat, and threw himself down upon some sheaves, I took him prisoner?

Q. Do you know him now?

A. I do, this is the man.

Q. *By the Court.* Are you sure you did not lose sight of him?

A. I did not, I dragged him out, but he resisted until the officer came to the house and then we got him out.

Q. Did the prisoner say any thing?

A. He said, he did not know his name, the man of the house denied him and cursed him for coming there.

Q. *By the Court.* Did the prisoner hear the man of the house deny him?

A. I believe so, he was near enough.

Q. Can you point out any more persons taken that night?

A. This is one (pointing to *Kilbride*) he had his hat dressed in straw, and had a staff in his hand; this man, *Patrick Coyle*, (farmer) had a pitchfork.

Q. Who took him?

A. *Clinton*.

Cross-examined by Mr. FLEMING.

Q. You followed *Fitzsimons* immediately?

A. I did.

Q. You never quit sight of him?

A. I did not, for I got to the door almost as soon as he did.

Q. Do

Q. Do you mean the outer door?

A. No, but the door of a room in the house.

Q. And then you came out of the house to inform your officer, that *Fitzsimons* was there?

A. No, but I suppose the remainder of the party told him, I pursued a man into the house.

Q. You saw *Patrick Coyle* taken; was it upon his own ground?

A. I do not know.

Q. Was he standing?

A. He was behind a ditch and *Mr. O'Reilly* desired him to come over, which he refused, and then a man was sent to take him.

John Clinton, examined by the SOLICITOR GENERAL.

Q. Were you out with *Mr. O'Reilly*, on the night when some men were taken?

A. I was.

Q. Do you recollect the persons who were taken?

A. I do.

Q. Point them out.

A. This man, *Kilbride*, and this *Fitzsimons*, *Patrick Coyle*, (labourer) and this *Patrick Coyle*, (farmer).

Q. Had they any arms, or weapons?

A. *Kilbride* had a lump of a stick, which I got in his hand.

Q. Had he any thing particular in his dress?

A. He had no dress on him, but he had platted straw.

Q. Who took him?

A. I took him; I thought I heard some noise about a house on my right hand, and with that, *Kilbride*, came running out of the gripe from the end of the house, and said, "Boys, welcome!"

Q. How were you dressed at that time?

A. We had frize great coats on over our belts.

Q. *By the Court.* Had the prisoner *Kilbride*, straw upon him at that time?

A. He had platted straw upon his hat.

Q. What passed, after he spoke to you?

A. I took hold of him by the breast and there kept

him; when he found who we were and that he was mistaken, he began to tremble and was afraid?

Q. Had he any weapon?

A. Nothing but some sort of a fork handle, I do not remember what it was.

Not Cross-examined.

William O'Reilly, again examined.

Q. Did you hear the expression made use of by *Kilbride*?

A. I did, I was within two yards of him, and I am sure he mistook the soldiers for a party of *Thrashers*?

James Foster, examined by SERJEANT MOORE.

Q. Were you out with *Mr. O'Reilly*, on the night of the 20th of *November*?

A. I was.

Q. Did you ever see a man of the name of *Patrick Coyle*?

A. I did.

Q. Point him out?

A. This is the man (this was *Pat Coyle*, called the labourer.)

Q. Did you see him at any place that night?

A. I did, I took him coming down the road.

Q. How was he dressed?

A. He was dressed in straw: he had straw on his hat, and about his body.

Q. How were you dressed?

A. In our watch coats and foraging caps.

Q. Where were your belts?

A. Inside the watch-coats.

Q. What kind of a night was it.

A. It was wet, but occasionally light.

Q. Had *Coyle* any thing in his hand?

A. He had a lump of a pole.

Q. What did he say?

A. "You are welcome—What kept you?"

Q. When you took him prisoner did he do any thing?

A. He began to pull off his straw, but I forbid him and brought him with his cap to my officer.

Cross-examined by Mr. FLEMING.

Q. You saw no party that night ?

A. No, not at that time.

Examined again on the part of the Crown.

Q. Did you see any of the persons who were assembled together that night ?

A. No, only those who were taken ?

Q. Did you hear any shouts ?

A. I did, many.

Q. *By a Juror.* Was it a usual time for people to be out ?

A. I think not.

Hugh Kerr, examined by Mr. O'FERRALL.

Q. Do you hold any employment in this county ?

A. Yes, I am Constable of the Barony of *Granard* ?

Q. Was the country disturbed in the month of *November* last ?

A. It was by a number of persons under the denomination of *Thrashers*.

Q. Did you take out any military party ?

A. I did, I took out Lieut. *O'Reilly*, and a party of the *Cavan* Regiment.

Q. Do you remember the first night you went out ?

A. I do.

Q. What numbers did you meet ?

A. I think there was 500 or 600 men, judging from the cheers they gave, and they cheered as regularly as a military body.

Q. Did you hear them attacking any house ?

A. I did, I heard them rapping and tattering at a house.

A. Did they get in ?

A. No, the persons in the house would not let them in: when we found them knocking at the door and making a great noise, and shouting out, "Follow Follow!" and hearing distinctly the feet of some of them, some of the soldiers fired; they instantly dispersed—we pursued and found pitchforks and pikes and shirts and shoes and hats with bands upon them.

Q. Did

Q. Did these people change this uniform after that night?

A. They did—they changed it to straw.

Q. Had they done any injury to the haggard of the house where you met them?

A. They had thrown down a stack of corn and scattered it about in the dirt, and they threw some sheaves upon the top of the house; they also threw down a cock of hay.

Q. How many men were inside the house, and who kept these people out?

A. Only the two sons of a Widow *Connell*, with whom they live, and they defended themselves with pitchforks.

Q. Did you go out again after that night?

A. I did, several nights.

Q. Did you go out on the night of the 20th?

A. I did.

Q. Had you any information which induced you to go to any particular place?

A. I had information, that they were to assemble at a particular place.

Q. Did you see any persons made prisoners that night?

A. I saw these four men at the bar.

Q. Were they dressed in any particular manner?

A. They all had straw, except *Coyle*, the farmer.

Cross-examined by MR. FLEMING.

Q. Where was it you met these people?

A. They came on the lands of *Culleenmore*, and continued to the lands of *Leitrim*.

Q. Do these prisoners live there?

A. I believe they live on the lands of *Culleenmore*.

Q. Where was *Patrick Coyle*, the farmer, taken?

A. At *Leitrim*.

Q. Upon his own ground?

A. I believe not.

Q. They might be within twenty perches of their own ground?

A. They were taken in different places.

Q. *Fitzsimons* was taken in a house?

A. He was taken upon the road, but ran into a house,

house, the people of which said they knew nothing about him.

Q. Did you know any of the people who composed the assembly?

A. I did not.

Q. How far was the main body of the party from the place where these prisoners were taken?

A. About a quarter of a mile.

Q. You did not get up with the main body?

A. I did not—if I had, you would have more of them here.

Q. Then the main body were assembled at the time these prisoners were taken?

A. They were shouting, as I could judge, in great numbers, and I think if we had not met those men, we would have got up with the main body.

Case closed on behalf of the Crown.

MR. FLEMING. *My Lords, and Gentlemen of the Jury.* I am in this case Counsel for the prisoners, and a very arduous task it is upon me under all the circumstances—when riot and disturbance has spread through the country to such a degree, as to make it necessary to send your Lordships upon this Special Commission, and that such pains should be taken for the preservation of the public tranquillity. Your Lordships, and the Gentlemen of the Jury have heard a very able and very proper statement from the learned Prime Serjeant, and as he did not regret that the task had fallen upon him,—that the abilities of the ATTORNEY GENERAL were not necessary upon this particular occasion, I feel as little regret in taking upon me the defence of these men, when I see, that they are tried before Judges, who will give them the benefit of the law, as far as they can be entitled to it, and that they are in the hands of a Jury who will consider dispassionately, and determine this case strictly according to law, as it will be expounded by the Court.

Gentlemen, the prisoners are indicted under the *Whiteboy Act*; and it is a necessary part of the crime, that they should assemble tumultuously together. Possibly, I may not be right in my construction of the statute;

statute; but as I read the law, it is necessary that a number of persons should assemble together, and that the mere finding of an individual, with a fool's cap upon his head, not in company with others, does not constitute the offence with which these prisoners are charged; but that it is necessary to shew they assembled in numbers. The statute says, "If any persons armed with firelocks or other offensive weapons, or having their faces or bodies disguised, or assuming any particular name or denomination, &c. shall assemble themselves," &c.—Therefore, it is not merely necessary that they should do the acts which are mentioned in the statute, but it must be proved, that they assembled together. Now these prisoners were taken at different places—the evidence does not shew that they were together, and I shall trouble the Jury with only one witness to shew, that one of the prisoners, *Patrick Coyle*, the farmer, was in his own field, and to shew the occasion of his going out, and that he took a pitchfork with him for his defence and preservation. My client will then be in the judgment of the court, whether he comes within this act of Parliament. With regard to the cases of the other prisoners, I am not furnished with any circumstances to do away the evidence which has been given against them; but I am sure they will be dealt with according to the principles of law, construed as strictly as possible in their favour.

LORD CHIEF JUSTICE DOWNES. The Jury must believe, that there was a tumultuous assembly, and that these prisoners were of that assembly, before they can be convicted.

MR. SOLICITOR GENERAL. Perhaps, my Lord, it will not be necessary that the Jury should be of that opinion; though, we think, if that were necessary, there is abundant evidence of it. The charge against the prisoners is, assuming an unusual denomination, and also rising; assembling and appearing in arms, and also for wearing a particular badge or dress. Now, the words of the statute are, "if any person or persons shall rise, assemble, or appear," &c. so that any one man appearing under those denominations, is equally guilty. But we admit, that in order to bring

the prisoners within the operation of the statute, it must be proved, that there was an insurrection for unlawful purposes. But once the country is proved to be in that state, *any man* who appears in an unusual dress, or with arms, to the terror of his Majesty's subjects, is within the statute—the offence is put disjunctively—and it is within the statute, whether one man or one thousand so appear.

LORD CHIEF JUSTICE DOWNES. You admit that there must be a tumultuous assembly.—Such a rising, or assembly implies more than *one* person, and the persons who rise or assemble, must be connected with the tumultuous object. They may form various and distinct parts of the system—there may be a rising, assembling, or appearing, as parts of the same body.

MR. SOLICITOR GENERAL. My Lord, we are all agreed upon that.

MR. FLEMING. Since I addressed your Lordships, I have been informed, that there are more witnesses than I had mentioned; your Lordships will excuse me for calling them.

COURT. You may examine as many as you think proper.

Thomas Coyle, examined by MR. FLEMING.

Q. Do you know *Patrick Coyle*, the prisoner, called the labourer?

A. I do.

Q. What relation is he to you?

A. Brothers.

Q. Where was he the night he was taken?

A. He was making off from these people.

Q. He wore a straw cap that night?

A. Yes;—my brother and I kept these people out some nights before—there were two other young men in the house with us; the night after a stronger party was to come, and we went through the country different ways to avoid them.

Q. Do you know any thing else of your brother that night, when he was taken?

A. I did not.

Q. Did you see him that night afterwards?

A. Not 'till I eat my supper.

Q. Do you know the other *Patrick Coyle*?

A. I do,—I was at his mother's house, making away from the *Thrashers*; he came in and asked me, "would I stay there that night?" I said I would not, that I was making off.—He went out for his mare, and I saw no more of him.

Q. Did he say for what purpose he was going for his mare?

A. No, he did not.

Cross-examined by MR. O'FERREL.

Q. Did you put any thing on your hat, when you went from home that night?

A. I never did.

Q. Do you not believe *Patrick Coyle* put some straw upon his hat, to escape from the *Thrashers*?

A. He told me the *Thrashers* caught him as he was making off, and put straw upon his hat.

Q. *By the Court.* When did he tell you that?

A. In the guard house at *Granard*, when he was a prisoner.

Q. At what o'clock did you see him that night, before he was taken?

A. It was half past ten, when I went down to his mother's place—but I remained there a long time.

Q. Did you remain there 'till twelve o'clock?

A. No.

Q. Did you remain there 'till eleven?

A. I did, till after.

Q. You hid yourself, I suppose?

A. I did.

Q. And you all made off from the *Thrashers*?

A. I believe so.

Q. Did you hear any shouts that night?

A. I did.

Q. Did you go towards the shouts?

A. I did not.

Q. Did the *Coyles* go towards the shouts?

- A. I believe not.
- Q. Did you ever see any gentleman with a white shirt over his cloaths, or a handkerchief upon his head?
- A. Never, but a dead man.
- Q. That was the only *Thrasher* you ever saw?
- A. I do not know what he was.
- Q. Had he a hat upon him?
- A. No.
- Q. How many of these rogues were about your brother *Paddy*, when they swore him?
- A. He did not tell me how many.
- Q. Didn't you beat them off?
- A. No.
- Q. Were there many?
- A. A great many.
- Q. Did you know any of them?
- A. No.
- Q. How long was that before your brother was taken?
- A. The night before.
- Q. Did you hear of the widow *Connell's* house being attacked on the night of the 13th.
- A. I did.
- Q. And that shots were fired?
- A. I did.
- Q. Did you hear that the party left behind them shirts, shoes and hats?
- A. I did.
- Q. Did you hear, that after that night they changed their dress from white shirts to straw?
- A. I did not.
- Q. How soon after that night did they appear in straw?
- A. I can't tell.
- Q. Did not your friends tell you?
- A. They did not.
- Q. When was *Pat. Coyle* sworn?
- A. He did not tell me.
- Q. Did you know any *Thrasher* in your neighbourhood?
- A. How can I tell, when I never went with them.
- Q. Do you know any one *Thrasher*?
- A. They said they were all sworn.

Q. But you never saw any of them ?

A. I did not, only the night they came to our house.

Q. You never heard the voice of a *Thrasher*, that it did not strike terror into your heart ?

A. I was always afraid of them.

Q. Did you ever hear that *Fitzsimons* was considered a fool ?

A. I did not.

Q. Did you ever hear of a man saying, "Welcome Boys"—to men he was afraid of ?

A. I did not.

Q. Did you ever welcome a soldier ?

A. Not in that station.

Q. You did not know one *Thrasher* in the barony of *Granard* before your brother was taken ?

A. I did not.

Q. Did you upon any other occasion ?

A. I did not.

Q. Nor hear of them ?

A. I did not.

John Hanlon, examined by Mr. FLEMING.

Q. Do you know any thing particular that happened upon the night of the 19th of *November* ?

A. I do ; they came to my sister's place, and we resisted and hunted them away :—*Pat. Coyle*, (labourer) and his brother, and one *Brady*, came to our assistance, when my sister called to them.

Q. Do you know any thing more ?

A. I do ; next night, I was in dread of a stronger party coming, and with terror in my heart, *Pat. Coyle*, *Brady*, and I, went off to avoid them.

Q. Where did you go to ?

A. We retreated from the *Thrashers*, as we formerly did.

Q. Did you see any of them that night ?

A. I did not.

Cross-examined by the ATTORNEY GENERAL.

Q. How far do you live from *Coyle's* place ?

A. About five perches.

Q. You resisted the *Thrashers* ?

A. The

A. The girl came, and said they were come ; I rose up, and went to the door, and rushed out with a pitchfork, and drove them away.

Q. How many were there ?

A. I can't tell.

Q. Were they five or five hundred ?

A. I can't tell ; I was in such a terror, I did not count them.

Q. Was there more or less than five hundred ?

A. There was not five hundred.

Q. Did you hear their voices ?

A. I did, some of them ; but I did not understand what they meant.

Q. You do not know their laws ?

A. I have heard them.

Q. Did they attempt to swear you ?

A. They did not.

Q. Why ?

A. Because I rushed out upon them ?

Q. They were frightened by you ?

A. They were.

Q. How far do you live from *Granard* ?

A. Three miles.

Q. Did you tell Mr. *Kerr* of this attack upon you ?

A. I did not ; I left the place to them, and let them do as they chose.

Q. Could you not have gone to Mr. *Kerr* in the morning ?

A. There was no use in going about to any body.

Q. How long were you absent from home, after these men were taken up ?

A. The next day I was in my own house.

Q. Where did you sleep that night ?

A. At one *Comusky's*.

Q. How near were you to the main body that night ?

A. I only heard them shouting.

Q. They were in the next townland to you ?

A. They were.

Q. At what time did you go away ?

A. I can't tell, having no clock.

Q. Did you hear the shouting before you went away ?

A. I did.

Q. Why did not you go out with *Pat. Coyle*?

A. Every man went according to his humour?

Q. You all agreed to go together?

A. We did.

Q. Where did *Coyle* say he would go?

A. He did not tell me.

Q. Did you put any straw upon your hat?

A. How could I get away if I did.

Q. Did *Pat. Coyle* put any upon his hat?

A. Not to my knowledge.

Q. If *Thomas Coyle* was afraid to stay in his house, was *Pat. Coyle's* a safe place for him?

A. He ran away several nights before.

Q. If he said he went to the other *Pat Coyle's*, would you believe him?

A. I can't answer for him.

Q. Did you ever see the face of a *Thrasher*?

A. Only the night they were at my house.

Q. Did you know any of them?

A. I did not.

Q. Have not many of the inhabitants of *Cullenmore* and *Leitrim*, been sworn by the *Thrashers*?

A. I can't tell.

Q. Can you form a belief as to the person or face of any one man, who has been concerned in the *Thrashing* business?

A. Barring seeing them to talk to me the next day: But to know them to be *Thrashers*, I did not.

Q. Did you ever hear that *Pat. Coyle* was sworn by them?

A. He told me they overtook him in his retreat, and made him swear.

Q. When did he tell you that?

A. The next day, when he was in custody.

Q. Did he tell you how many there were of them?

A. He did not;—I did not like to ask him, or to be acquainted with *Thrashers*.

Q. Did he tell you what the oath was?

A. I did not ask him.

Q. Did he tell you that he put straw upon himself?

A. I did not ask him.

Q. Did he tell of the soldiers overtaking him in his retreat?

A. I did not ask him.

Q. Did he tell you, that he said " Welcome, Boys, to them?

A. No.

Q. Do you suppose he knew any of them?

A. I can't say—I suppose he did not.

Case closed on behalf of the prisoners.

LORD CHIEF JUSTICE. *Gentlemen of the Jury.* The prisoners are charged with offences, which by act of parliament are made liable to certain punishments, as misdemeanors, at the discretion of the Court.—*Here his Lordship stated the Indictments*). It appears from the testimony of every witness, that the country has been infested by a number of persons, assuming the name and denomination of *Thrashers*. Introductory evidence was laid before you to shew you the state of the country, and the evidence given of the transaction charged in the indictment, demonstrates the same fact. It appears from the testimony adduced on the part of the Crown, as well as from that given by the prisoners that persons under the denomination of *Thrashers* were, at the time stated, the 20th of *November* last, assembled in the country, and it will be for you to say, whether any of the prisoners formed part of that assembly. It does appear that all the prisoners were taken on that night—that at the time they were taken, they were within a quarter of a mile of the main body of the *Thrashers*. It appears, if you give credit to the evidence, that three of the prisoners, *Fitzsimons, Coyle*, the labourer, and *Kilbride*, were each of them, dressed with straw upon their hats, which appears to be a common badge among the *Thrashers*, and in one count of the indictment, the prisoners are charged with appearing so dressed, and any act either of rising, assembling, or appearing in such dress, is a crime.—The tumultuous party consisted of upwards of one hundred :—the prisoners were taken at a short distance from that party, and you are to determine, whether they belonged to it, participating in its guilt, or not.—With regard to *Patrick Coyle*, farmer, it is not proved that he wore any particular dress or badge. But it appears that he was out with a pitchfork—with what view or object you will determine. With regard

to *Fitzsimons*, you, find that he was pursued into a house by a soldier, who did not lose sight of him, his conduct is matter for your observation. He is asked his name, and he answers "Give me a book and I'll swear I do not know," "Where do you live."—"I'll swear I do not know!" These are circumstances respecting this man, which deserve your consideration. If you believe the soldier, this prisoner conducts himself in the extraordinary manner, which has been represented. Whether that was the conduct of an innocent man, unconnected with this lawless banditti—or that of a man connected with them is a matter submitted to your judgment. He has brought no witness in his behalf.

With regard to *James Kilbride*, he is found with a straw dress upon him and a stake in his hand.—No evidence is brought on his behalf, and you will judge, from the manner in which he was taken, and from what was going on in the place, whether he was one of that assembly, which did rise, assemble and appear by night, in a manner sufficient to raise terror in the King's subjects, falling in their way.

With regard to *Patrick Coyle*, farmer, he was found with a pitchfork in his hand, and a defence is made for him, that he was either in, or close to his own ground, that he was there upon his lawful occasions, and was not one of the body—under these circumstances, his case differs from the others, he had no particular badge, or dress—What his object was in being out is for your consideration, and you are to determine whether he formed any part of the illegal association. If you have any doubt, to be sure, you ought to acquit him.

Patrick Coyle, the labourer, is taken under these circumstances. The soldiers had their coats on to disguise their uniform; he comes up and addresses them with a welcome; the soldier examined has endeavoured to account for this conduct—you will judge whether naturally or not, that the prisoner mistook them for some of the party, and did not suppose they were soldiers. If in fact he did know them to be soldiers and immediately upon his seeing them, saluted them with joyful expressions, it would be decided evidence, that

that those who came to preserve the peace were welcome and it would be strong in his favour. But if you think he did mistake them for some of the party, and under that impression saluted them, it will be for you to determine whether that circumstance, with the others which have been proved, satisfies you, that this prisoner belonged to that party.

In his defence, he has produced witnesses to shew, that he was not with the *Thrashers*, at least not voluntarily, and that he was in the act of escaping from them when met by the soldiers. You will consider that evidence and determine what effect it shall have upon your minds. Gentlemen, upon the whole of the evidence, you have to determine, whether all or any of the prisoners were of that tumultuous assembly—If you have any doubt of their guilt, they are entitled to a favourable Verdict.

The Jury found all the prisoners *Guilty*.

December 19th, 1806.

Patrick Wren was indicted for feloniously being present, aiding and abetting a person unknown in administering an unlawful oath to *Alexander M'Cabe*, "to be true to Captain *Thrasher's* laws—to attend when called upon—not to prosecute Captain *Thrasher* or any of his men, and to meet them the following night,"—against peace and statute.

2nd indictment for maliciously assaulting the dwelling house of *Alexander M'Cabe*, after sunset and by threats and menaces causing the hall door to be opened, &c. against peace and statute.

The prisoners pleaded, *Not Guilty*, and the following Jury was sworn:

W. B. Montford,
Richard Webb,
Alexander Kingston,
Thomas Coates,
Alexander Crawford,
I. A. Goldsbury,

James Wright,
M. Mc'Cutcheon,
John Breaden,
John Kinsley,
Thomas Lennou,
William Price.

John

John Strong, examined by the ATTORNEY GENERAL.

Q. Are you a yeoman.

A. I am, Sir.

A. In Captain *Bells'*.

Q. In what corps?

Q. Were you out last month doing duty with part of that corps?

A. I was.

Q. How many of you were in the habit of collecting and doing duty that time?

A. Generally twelve.

Q. At what place?

A. At *Magherabouy*.

Q. Were the yeomanry on permanent duty at that time, or were these voluntary meetings?

A. They were voluntary meetings.

Q. What was the reason of your meeting together to do this voluntary duty.

A. To avoid these men called *Thrashers*.

Q. Explain yourself.

A. That we should not allow ourselves to be sworn by them.

Q. Had you any reason to apprehend, that you would be sworn by them?

A. All the reason in the world, because they were all round us in every quarter of the country and therefore we thought it better to muster and protect ourselves.

Q. Had many of the people been sworn?

A. By all account there was a great many of them sworn.

Q. Do you know a man of the name of *Alexander M'Cabe*?

A. I do.

Q. Do you know *Patrick Wren*, the prisoner?

A. I do.

Q. Is he any relation of *M'Cabe's*?

A. His Brother-in-law.

Q. Have you known the prisoner long?

A. I have known him these twelve years?

Q. Have you ever had any difference or dispute with him?

A. No,

A. Not worth talking of—we had a dispute about a clamp of turf, for which he charged one half crown too much.

Q. How was it ended?

A. I left it to his oath.

Q. And abided by it?

A. Yes.

Q. How long ago was it?

A. Twelve months last harvest, but I bought the turf two years and a half ago.

Q. Do you recollect the house of *Alexander M' Cabe* having been attacked in the last month?

A. I do, well.

Q. At what time?

A. At four o'clock on *Thursday* morning, the 13th of *November*.

Q. Had you been on duty that night?

A. I was.

Q. How far is *Magherabuoy* from your house?

A. About two miles.

Q. How far is it from *M' Cabe's*?

A. Only half way.

Q. How many of the corps had been on duty that night?

A. About twelve.

Q. Do you recollect the names of any of them?

A. There are three of them in town, *Robert Crothers*, *Thomas Devany*, and *Henry Kennedy*.

Q. How long did you remain with them that night?

A. From about an hour after night fall, till near three in the morning.

Q. Did you break up at that time?

A. We did, for the purpose of going to our several homes.

Q. Did you return alone, or were you in company?

A. I went home alone; the rest lived nearly together.

Q. Had you your arms?

A. I had.

Q. Did you see any party of persons in your way, home?

A. I heard shouts in different directions, and I delayed, thinking they would be gone out of the way, that I might get home.

Q. What sort of shouting did you hear?

A. Huzzaing, and calling out, "Follow, follow," and there were also some shots.

Q. Where first did you see any of them?

A. At *M^cCabe's* door; within three perches, I saw a party cross the road to the left, and I had no effort to save myself, but to throw myself to the right, behind a low wall, within three perches of the door.

Q. How many of the party did you see?

A. As close as I could guess between sixteen and twenty persons.

Q. Had you an opportunity of observing whether they were armed?

A. They were.

Q. In what manner?

A. Clubs of different sorts, and poles, and for aught I know, pikes and guns.

Q. Did you see any of the guns?

A. No, but I heard shots, after they scattered.

Q. But did you see them at *M^cCabe's* door?

A. As they left the house and passed near me, I looked up and saw forks in their hands, but shortly after I heard some shots.

Q. Did you hear what passed at *M^cCabe's* house?

A. They talked a good deal.—I heard some of it, but a good deal not distinctly, for they spoke in a feigned voice—but I knew, they swore *Alexander M^cCabe*, not to prosecute Captain *Thrasher*, or any of his men.

Q. Did you see *M^cCabe* at the time?

A. I did; he was in his shirt at the door?

Q. Did you look over the wall at that time?

A. I did.

Q. How do you know any oath was administered?

A. I heard them say, "Kiss the book."

Q. And are you positive, that part of the oath was, "Not to prosecute Captain *Thrasher*, or any of his men"?

A. I am.

Q. Did you hear any noise at the door, before you saw *M^cCabe* there?

A. They called out, that he should get up, or they would break the door.

Q. Did you hear any knocking at the door?

A. I

A. I did.

Q. And was it after that you saw him in his shirt?

A. It was.

Q. How long did they remain at the door?

A. Quarter of an hour, or something better.

Q. Had you an opportunity of observing them any part of the time?

A. I did the whole time.

Q. Did the whole party go away together?

A. Some of them remained behind talking to *M^cCabe* and among others his Brother-in-law, *Wren*.

Q. Were you able to ascertain any of the person who remained?

A. *Patrick Wren*, and another.

Witness desired not to mention the name of any person, not on trial.

Q. Are you certain, that *Patrick Wren* the prisoner is one of the persons who remained behind?

A. By his voice.

Q. Were you acquainted with his voice?

A. I was.

Q. Had you such an acquaintance with him, as to enable you to swear to him?

A. I think so indeed?

Q. Have you any doubt of the fact?

A. I have not indeed.

Q. Mention what he said?

A. I could not understand rightly what he said to his Brother-in-law—the noise of the others passing prevented me hearing distinctly what was said.

Q. How long did the others remain behind the party?

A. About five minutes.

Q. During that time, had you an opportunity of observing his person?

A. Not at that time.

Q. But you distinguished his voice speaking to *M^cCabe*?

A. I did.

Q. Could you learn what they said?

A. They were telling him the parts they travelled, and whom they swore.

Q. Did the persons who had thus remained, afterwards pass on?

A. They did—they followed the party.

Q. How near you did they pass?

A. Nearly within two paces.

Q. Upon your oath had you an opportunity of observing them particularly as they passed?

A. I had.

Q. Did you know the persons of any of them?

A. No, none of them, except *Wren*, and the others?

Q. Are you certain, you saw him there?

A. I think I did.

Q. Are you certain you saw him then?

A. I think he was the man.

Q. But are you certain he was the person?

A. I am.

Q. *By the Court.* What do you mean by saying, you *think* he was the man?

A. By his size and hearing him speak.

Q. Did you observe him, so as to know his person?

A. Not then, but by his size.

Q. Did you afterwards see him, so as to know him more exactly?

A. When he overtook the party, he spoke again?

Q. How far was it from the house when he overtook them?

A. Between ten and twelve perch.

Q. Did you continue in the same place?

A. I did.

Q. How did you know him when he joined the party?

A. By his speaking again.

Q. Did you see his person at any time so as to know him?

A. Not in the dark.

Q. Was it a dark night?

A. It was starry.

Q. Could you ascertain what he said, when he joined?

A. He talked something, but from the noise, I could

could not exactly distinguish—but it was about the Threshing and “follow, follow.”

Q. Are you certain, you heard the voice of *Wren* among that party?

A. I am certain, I did.

Q. You have already mentioned, you had a quarrel with *Wren*?

A. I had the dispute I mentioned—I never denied it.

Q. His life is now at stake—are you certain he is the man you saw that night, as you mentioned?

A. I am certain it was his voice; if I was not certain, I would not come forward to lodge informations against him.

Q. How soon after did you lodge informations?

A. The day after I came to lodge informations, but Captain *Bell* was not in *Granard*—I left word for him to send for me—He did on *Monday*, and then I swore informations.

Q. You need not mention names, but were you able to ascertain any other persons among them?

A. I was, two others.

Q. Did you see them, or did you know them by their voices?

A. I knew them by their voices, and their persons—after the party dispersed, some of them came nearer to me.

Q. Did you charge those two persons, as well as the prisoner, when you swore before *Mr. Bell*?

A. I did.

Q. When did you next see any of your corps?

A. Next night.

Q. *By the Court.* Had *Patrick Wren* any thing in his hand?

A. He had either a poll or a fork.

Cross-examined by Mr. FLEMING.

Q. Where was the wall behind which you threw yourself?

A. Within three perches of *M' Cabe's* door.

Q. Was it within full view of the door?

A. Yes.

Q. Upon the opposite side of the way?

A. No.

A. No, but upon the same side.

Q. But you could not see, without rising up?

A. I could not.

Q. Then you hid yourself from this party, but took a peep now and then to see against whom you could swear?

A. I would be glad to know them all, if I could.

Q. Was the wall behind which you placed yourself, situate between *M^r Cabé's* house and your's, or between the guard house and his.

A. If it was between the guard house and *M^r Cabé's*, I would have fired upon them?

Q. What difference did it make in that respect, on which side you were?

A. Because I could retreat where I could get friends.

Q. Then you could not get friends near home?

A. No, not one.

Q. How near was your help?

A. A mile off.

Q. Then what difference was there, which side of the house you were at, when your help was a mile off?

A. A very great difference—I had a hollow to run down to where I could get assistance.

Q. But you could not escape up hill?

A. I could be taken by them, if I went the other way.

Q. Were you ever in the army?

A. You know best.

Q. Were you ever in the army?

A. Find that out.

COURT. Answer the question.

Q. Were you ever in the army?

A. Never.

Q. Were you ever enlisted and attested?

A. Never, till I became a yeoman.

Q. You had a dispute with the prisoner?

A. I had about turf.

Q. Did you not owe him money?

A. I did, for turf.

Q. How long did you owe it?

A. He said, it was a year.

Q. You

Q. You left it to his oath?

A. I did.

Q. Was not a Magistrate present?

A. There was.

Q. Did not a Magistrate summon you and order you to pay?

A. He did.

Q. When you were called upon here, how came the counsel to know of the dispute?

A. I told it immediately at the time.

Q. Then you were afraid your evidence would not be sufficient in consequence of this dispute?

A. That was not the reason.

Q. What was the reason?

A. I thought it no harm?

Q. Did you think it was any good?

A. Neither good, nor harm.

Q. It was matter of conversation?

A. Just so.

Q. And you did not think it would affect *Wren*?

A. I did not.

Q. You only saw the tops of the polls as they passed you by?

A. Yes.

Q. Did you lie so close, that you could only see the tops?

A. I raised myself, and saw them.

Q. Did you not say, you only saw the tops of the polls?

A. I saw them between me and the sky.

Q. You did not see the persons of any of them?

A. I saw them there?

Q. Did you not say, that your reason for knowing they were armed was, that you saw their weapons between you and the sky?

Q. You did not see the persons of any of them?

A. I saw them there.

Q. Did you not say that your reason for knowing they were armed was, that you saw their weapons between you and the sky?

A. I did not say so, but I had reason enough to know they had arms.

Q. You were anxious to avoid being sworn?

A. Yes.

Q. And

Q. And you went to keep guard for that purpose?

A. Yes.

Q. And you went home this night thinking there was no danger of being sworn?

A. To be sure.

Q. Then how came you to set out just at the time, when it was convenient to be sworn, considering the time you must have been upon the road?

A. It was not so.

Q. You left guard at three o'clock?

A. Yes.

Q. Was that a very secure hour to break off guard, and go home alone?

A. If you had staid out as many nights as I did, you would be glad to get to bed.

Q. You need not argue with me, but answer.—Did you not get to *M' Cabe's* while the party were there?

A. Yes.

Q. They spoke in a very odd kind of manner, when they were all together?

A. They did.

Q. You could not hear what they said?

A. Not well.

Q. But you heard some of it better than other part?

A. I did—when those remained behind.

Q. Did you ever hear any part of this indictment against the prisoner read?

A. I did not.

Q. Did you ever know what were the necessary words to support it?

A. I did not—I did not say the prisoner said anything in particular, but that he was of the party.

Q. But you recollect their threatening, better than any thing else?

A. Some part of the oath I heard distinctly.

Q. What was the latter part of it?

A. "Never to prosecute Captain *Thrasher* or his men, and to be ready to come, when called upon."

Q. Can you tell any thing else they said?

A. No.

Q. By virtue of your oath, did you ever, in the hearing of any person, declare you would be revenged of *Wren*, the prisoner?

A. Never.

Q. Did

Q. Did you ever express enmity to him?

A. Never—but what I said to himself.

Q. What was that?

A. I said, perhaps I would be even with him.—But this is more than I wished.

Q. Were you ever in any department?

A. I was a Constable.

Q. Are you one now?

A. No.

Q. How came that?

A. I do not know.

Q. Were you broke?

A. I was.

Re-examined by the ATTORNEY GENERAL.

Q. Did you communicate to your Corps, what you saw that night?

A. I did.

Q. To whom?

A. To the guard.

Q. Mention their names?

A. Two of them are here whose names I mentioned before.

Q. When did you tell them?

A. The next night.

Q. Was that the first time you saw them after this business?

A. It was.

Q. Upon your oath, did you tell them that the prisoner was one of the persons concerned?

A. I did.

Q. Did you mention the names of the other persons whom you knew?

A. I did.

Q. Where are those other persons?

A. I know not.

Q. How soon after did you take the prisoner?

A. I was not of the party who took him.

Q. Did the other persons charged, live in the country?

A. They did.

Q. Are they in the country now?

A. I cannot tell.

Q. Were any attempts made to take them?

A. There were:—their houses were searched.

Q. When was *Wren* taken?

A. On the *Sunday* when I lodged examinations.

Q. *By the Court.* You say you were afraid to fall in with this party.—How came you to go so close to them?

A. I did not think they would come that road.

Q. Did you not hear them rapping at the door, before you reached the wall?

A. No, they were coming up, and they came so quick, I could scarce save myself.

Q. And you had passed the house, before they arrived at it?

A. I had—they came across the road, and I got behind the wall.

Q. The night was dark?

A. It was rather light.

Q. Was there light enough to know the face of any of the party?

A. No.

Q. Then you swear to the prisoner only by his voice?

A. Only by his voice and size.

Q. *By the Court.* Who wrote down what you said when you swore informations?

A. I believe it was Captain *Bell* himself.

Q. Did he take down your words?

A. He did.

Q. Did you say they had white shirts?

A. I stated to him, they had not white shirts—and cannot say what they had.

Q. Do you know how to write?

A. I do not.

Mr. ATTORNEY GENERAL stated, that he had no objection that the informations should be shewn to the Counsel for the prisoner, and intreated that the Court would examine the witness.

BARON GEORGE. I am sure you desire nothing, but an investigation of truth.

John

John Bell, Esq. examined by the COURT.

Q. Whose hand writing is this information?

A. Every word of it is mine.

Q. It is stated in this information, that the party mentioned in it was dressed in white, as if they wore white shirts?

A. I understood so—I took it down from the man himself—I am in the habit of taking informations from the mouths of the persons swearing them, and I do not think I would have stated it thus, if it had not been so represented to me.

John Strong, examined by the COURT.

Q. You told Mr. *Bell*, the party was dressed in white, resembling linen shirts?

A. I did not.

John Bell, Esq. re-examined by the ATTORNEY GENERAL.

Q. Do you recollect the circumstance of the constables being reduced?

A. I do.

Q. Was the witness, *Strong*, reduced at that time, or was he dismissed for any improper conduct?

A. There was some report of a shot having been fired by this man and another in *Edgeworthstown*, in consequence of a trial between Mr. *Edgeworth* and Mr. *Bond*;—it was thought improper and was complained of as such, and the reduction took place immediately after.

Q. Did *Strong* apply to you before he swore these informations?

A. I heard he had been in *Granard* looking for me, and I sent to him to come to me on Sunday after church, and then he swore the informations.

John Strong, examined by the COURT.

Q. Was this party dressed in white, resembling linen shirts?

A. They were not.

Q. If they had been so, would you have seen it?

A. I think I would distinctly see it.

*Thomas Devany, examined by the SOLICITOR
GENERAL.*

Q. What corps do you belong to?

A. Captain *Bell's*.

Q. Do you recollect keeping guard with *Strong*, any time last month?

A. I do.

Q. Do you recollect parting with him at an early hour in the morning? -

A. We quit guard and went home in the morning.

Q. Do you recollect to have heard of *Alexander M' Cabe's* house to have been attacked by the *Thrashers*?

A. I do.

Q. After that, did *Strong* give you any account of it?

A. He did.

Q. Were you and *Strong* on guard that night?

A. We were.

Q. Did you see him next night?

A. I did.

Q. Did he give you an account of the attack?

A. He did.

Q. Where did he say he was?

A. Convenient to the house.

Q. Did he mention how many were there?

A. He said a multitude.

Q. Did he mention the name of any of them?

A. He did, *Patrick Wren*.

Cross-examined by Mr. FLEMING.

Q. He said he saw *Wren* there?

A. He did—he told me he saw him in the crowd.

Q. Did he say so, positively?

A. He told me he was in it—I did not examine him particularly.

Q. Did he tell you, where he was convenient to the house?

A. He

A. He did—he told me he was behind an old wall, next the garden.

Q. Was he acquainted with *Wren* before?

A. I suppose he was.

Q. He must have seen him there, or he would not have known him?

A. Of course.

Q. He said he saw him?

A. He did.

Q. You are sure he said so?

A. He did.

Q. *By Jurors.* Did he tell you, he saw any white shirts upon them that night?

A. He said, *Alexander M' Cabe* was in his shirt.

Q. But did he see any white shirts upon the crowd?

A. He did not tell me any such thing.

Robert Crothers, examined by SERJEANT MOORE.

Q. Do you know *Strong*?

A. I do.

Q. Were you upon guard with him?

A. I was.

Q. Where?

A. At *Magherabouy*.

Q. Did he ever tell you, of his seeing any persons at *M' Cabe's* house?

A. He did.

Q. How soon after?

A. The next night after it happened?

Q. Had he been with you the night before?

A. He had.

Q. At what time did he quit you?

A. As near as I can guess, it was three o'clock.

Q. Did every man go home then?

A. I believe so—I was gone a little before him.

Q. Mention what he told you the next night?

A. He said, as he was passing *M' Cabe's* house, he saw 16 or 18 men coming across the road to *M' Cabe's* door, and he threw himself behind a little wall, that was convenient—that they went to the house and rapped at the door,—ordered him to come out,—that he came out in his shirt, but he could not understand a good

good deal of what they said; but a book was desired to be given to swear him to Captain *Thrasher*.

Q. Did he mention how many of them there were?

A. He did, and he said there were four at *M' Cabe's* door.

Q. Did he mention *Wren's* name as one of them?

A. He did.

Q. Did he say any thing more?

A. He did—he said he saw long poles, but could not tell whether they were pikes or poles.

Q. Did he say any thing as to shirts?

A. No.

Q. Or that they had any thing upon their hats?

A. No.

Q. Which did he, or the party go away first?

A. They did.

Q. Did he tell you whether he saw *Wren*, while he remained behind the wall?

A. He said, *Wren* went to the door, and he understood by his voice that he was there.

Q. Did he say he saw *Wren*?

A. He said, as they passed, he knew him by his size.

Q. Did he say whether he heard his voice afterwards?

A. He did, but I do not recollect exactly the place.

Cross-examined by Mr. FLEMING.

Q. You have given very nearly the same account as *Strong* did?

A. I do not know.

Q. Did you hear his evidence this day?

A. I heard something, but not all he said.

Q. He gave you a particular account?

A. I believe so.

Q. He said, he only knew him by his voice?

A. He said, he understood his voice—I do not recollect the very words.

Q. *By a Juror.* Did any of you advise him to lodge informations?

A. We said, it was better to let Captain *Bell* know of it.

Mr

MR. ATTORNEY GENERAL said, he would call *Alexander M'Cube*, though it was not originally intended to examine him, as the prisoner was his brother-in-law.

Alexander M'Cube, examined by MR. O'FERRALL.

Q. Where do you live?

A. In a place called *Leitrim*.

Q. Do you remember any party coming to your house last month?

A. Yes.

Q. Were you in bed when they came?

A. I was.

Q. Was your family in bed?

A. They were.

Q. What did they do?

A. They called and rapped at the door, and desired it should be opened.

Q. Did you open it?

A. My wife did, and denied I was in it, and they wanted her to take an oath, whether I was or was not. She said, she would not take an oath for them.—They threatened to ill use her, if I was not to the fore.—I was hiding upon a loft, and hearing this, I jumped down—they threw down a book and desired me to take it up. The woman would not let me, but they insisted I should.

Q. Did you take it up?

A. I did.

Q. Did they ask you to swear any thing?

A. "Never to swear against Captain *Thrasher* or his men, to give no more than half a guinea for marriage, one shilling and one penny for christening, and to attend them the following night."

Q. Do you remember any more of it?

A. That was all that was in it.

Q. What number was there?

A. I could not see more than three or four at the door.

Q. Did they wear any thing upon them?

A. They did—they wore white shirts, and white handkerchiefs upon their hats.

Q. Did you know any of them?

A. P

A. I did not—the night was dark, and I was obliged to grope for the book.

Q. What relation is the prisoner to you?

A. Brother-in-law.

Q. Had you your cloaths on?

A. Only my shirt.

Not cross-examined.

MR. FLEMING. My Lords, upon the part of the prisoner, I shall examine one witness to prove that *Strong* was in his Majesty's service.

William Smith, examined by Mr. FLEMING.

Q. Do you know *John Strong*?

A. I do.

Q. How long?

A. Twenty-five years.

Q. Where do you reside?

A. In the parish of *Granard*.

Q. Did he live in that neighbourhood?

A. He did.

Q. Have you ever known him to be in his Majesty's service?

A. I have, in the 48th regiment.

Q. Do you swear he was in that regiment?

A. He was in the character of a recruit, and was called in the church of *Granard* as a private soldier.

Q. Were you in church that day?

A. I was, and he was married there, as a private soldier.

Cross-examined by the ATTORNEY GENERAL.

Q. Who was the Clergyman?

A. Dr. *Brooke*.

Q. How long ago was it?

A. Eighteen years.

Q. What uniform did he wear?

A. The uniform of the regiment faced with white.

Q. It made a great impression upon you?

A. It did—I had no wish to come here, but I got his Majesty's summons.

Q. What

Q. What business do you follow?

A. Bleaching linen and yarn.

Q. Do you follow that business now?

A. No, not this summer, the business being bad?

Q. Do you employ men?

A. I do sometimes.

Q. Are you a yeoman?

A. I was.

Q. Were you called upon to do permanent duty?

A. I was not.

Q. Were you dismissed from the Corps?

A. When they were disbanded.

Q. Were you dismissed?

A. No.

Q. How long do you know the prisoner?

A. Twenty years.

Q. Do you remember the night of the attack upon *M' Cabe's* house?

A. I do.

Q. Did you see *Wren* that night?

A. I did, that evening upon his own potatoe ground.

Q. At what time?

A. An hour before dark.

Q. Did you hear of the *Thrashers* that night?

A. I very often heard of them.

Q. Were you ever called upon to prove where *Wren* was that night?

A. I was not.

Q. How long was *Strong* in the army?

A. The detachment marched to *Cork* for foreign service, and after some time, he came into the country with another wife, whom the people said was his uncle's daughter.

Defence closed.

Baron GEORGE. *Gentlemen of the Jury:* The Prisoner stands indicted for an offence, which the Legislature has made a capital crime. Upon a trial, so very serious, it is absolutely necessary, that the proof should be so convincing, as not to leave a rational doubt on the minds of the Jury, before they convict the person accused. It appears that *M' Cabe's* house was attacked

by the *Thrashers* on the night stated, and that the oath charged in the indictment was administered; and upon the very next evening, *Strong* gave an account of all the circumstances of the transaction, to those who were upon guard with him. He also went before a Magistrate and gave information. Gentlemen, it is material to observe, that there appears to be a variance between his information sworn before the Magistrate, and his evidence given here, in one particular circumstance; for the Magistrate has taken down, in the information that he swore, the persons he saw were dressed in white, resembling linen shirts;—here, he says, they were dressed in their ordinary cloaths:—he told the same thing to his brother soldiers; but *M' Cabe*, who was sworn, said, that the persons at his house were dressed in shirts, and had white bands. Gentlemen, you heard the situation in which *Strong* was placed, at the time of the transaction:—he states, that he is acquainted with the voice of the Prisoner, and from that and from his size, having seen him pass near in the darkness of the night, he takes upon him to swear positively that the Prisoner was one of the persons. It is very possible, that *Strong* does firmly believe, that the Prisoner was one of the persons; but it is for you to determine, whether that opinion may not be rashly taken up.—He swears to the voice of the Prisoner, tho' he is not able to mention what passed—or that he understood any words which were pronounced by that voice. *M' Cabe* must know the voice of the Prisoner, being his brother-in-law, at least as well as *Strong*, and he says he did not know one of the party. Under these circumstances, Gentlemen, there is room, in the present case, for rational doubt in the minds of a Jury: where that is so, and a man is upon trial for his life, a Jury should give way to that doubt, and acquit the Prisoner, in order, that no possible mistake shall occur upon so serious a subject.

The Jury retired for some time, and returned a verdict—*Not Guilty*.

The ATTORNEY GENERAL expressed himself perfectly satisfied with the verdict; and that the Jury acted with great propriety.

Peter Morris was indicted, for that he, on the 5th of November, 1806, feloniously did administer an unlawful oath to a person unknown, of the import following: "To be true to the *Thrashers'* laws, and not to prosecute a *Thrasher*, or give evidence against him," against the peace and statute.

The Prisoner pleaded *Not Guilty*—and the following Jury was sworn:

W. B. Montford	James Wright
Richard Webb	P. McCutcheon
Alex. Kingston	John Breaden
Thos. Coates	John Kinsley
And. Crawford	Thomas Lennon
J. A. Goldsbury	Wm. Price.

George Forbes, examined by the ATTORNEY GENERAL.

Q. Do you know *Peter Morris*?

A. I do.

Q. Shew him to me?

A. This is the man. (*Pointing to the Prisoner.*)

Q. Where did you live in *November* last?

A. With *Patrick Mulligan*.

Q. Was you servant to him?

A. I was.

Q. How long did you live with him?

A. Near half a year.

Q. Do you recollect *Mulligan's* house being attacked by any party of people?

A. Yes, sir, I do.

Q. What description of persons were they?

A. They appeared to be a set of *Thrashers*—that was the name they went by at times.

Q. Did they give themselves that name?

A. They did.

Q. Had they any particular dress?

A. They had white shirts, and white upon their hats?

Q. Were there many?

A. About half a score.

Q. What time in the month of *November* was it?

A. I cannot recollect the exact day ; but it was after *Hollentide*.

Q. What day of the week was it ?

A. Sunday.

Q. Did they demand admittance in any way ?

A. They did.

Q. Mention how ?

A. We were in bed—they came round the house, rapped at the door, and desired it to be opened ; and *Mulligan's* wife ran and opened the door.

Q. When the door was opened, did they administer an oath to any person in the house ?

A. They desired the man to come forward :—I made answer, it was a woman was in the house. They said, no harm should happen to her.

Q. What did they do ?

A. They desired her to lift the book, and swear not to prosecute any of Captain *Thrasher's* men ?

Q. Did they swear any person :—you need not mention names ?

A. They did.

Q. What was the oath ?

A. “ Not to prosecute Captain *Thrasher* or his men ; and to be up to Captain *Thrasher's* laws, and to join them the first and second night following.”

Q. In consequence of what passed that night, were you in company with them afterwards ?

A. I was to be in uniform as they were.

Q. Did you accordingly go among them, and when ?

A. I did, on the next night following.

Q. How many persons were in company on that night ?

A. As nearly as I could make it out, about the matter of two score.

Q. Were they in uniform ?

A. They were all.

Q. How long did you continue in company with them that night ?

A. Two hours.

Q. What kind of uniform had they ?

A. White shirts over their cloaths, and handkerchiefs round their heads.

Q. Did they attack any house that night ?

A. Yes, 'sir, they did.

Q. On

Q. On the following night, were you again in company with any of them?

A. Yes, sir, I was.

Q. Were they dressed in the same manner as on the first night?

A. They were; but I was not—I had only a handkerchief.

Q. Did you know the persons of any of the people, who were out on the first night?

A. I have a knowledge of them.

Q. Was an oath administered to any person upon the first night you were out?

A. Not that I saw.

Q. Was there on the second night?

A. All that I saw, I'll tell you: We were going up a hill in a small body, and we went to a house.

Q. Did you see that house since?

A. I did.

Q. When?

A. Yesterday morning.

Q. Who was with you?

A. Mr. *Kerr* and some of the army.

Q. Did you point out the house to Mr. *Kerr*?

A. I did.

Q. Was that the house you are now going to give an account of?

A. It is.

Q. What passed on the second night you were out?

A. We came to the door—

Q. How many?

A. There were upwards of five.

Q. Had they any arms?

A. One of them had a gun.

Q. Which of them?

A. The Prisoner.

Q. Was he one of the party?

A. He was.

Q. Do you know where he lived?

A. I do.

Q. Did you know him before?

A. I had a small acquaintance with him.

Q. How far did he live from *Mulligan's*?

A. A quarter of a mile.

Q. Did you know whose house it was?

A. Not

- A. Not at that time.
- Q. Mention what the party did at that house?
- A. They rapped at the door, and desired it to be opened; a man came forward, and there was a book, or paper, or something in the name of a book, thrown down to him, and he was desired to take it.
- Q. Did he take it?
- A. He did.
- Q. What was said to him?
- A. "To be true to the *Thrasher's* laws, and never prosecute a *Thrasher*."
- Q. Who threw down the book?
- A. To the best of my belief and knowledge, it was the Prisoner.
- Q. Was the Prisoner present?
- A. He was.
- Q. (*By the Court.* Are you sure and positive the prisoner was one of the party?)
- A. Yes, my Lord, he was.)
- Q. How long was the party at this house?
- A. I cannot tell the space of time.
- D. Do you know a man of the name of *Mathew Balfour*?
- A. I do.
- Q. Have you known him long?
- A. Yes, sir, I have.
- Q. How long?
- A. Since I can well remember.
- Q. Was he out along with you the first night?
- A. No.
- Q. Was he on the second?
- A. Yes, he was.
- Q. Can you tell how he happened to be there?
- A. Yes;—he came to me where I was, and I went with him.
- Q. Was that the same night when the oath was administered?
- A. Yes.

Cros-examined by Mr. FLEMING.

Q. You were out two nights?

A. Yes.

A. Yes.

Q. Were you not more ?

A. No.

Q. The party broke up ?

A. Yes, after my limited time.

Q. What was that ?

A. Two nights.

Q. (*By the Court.* Do you mean that you were sworn to attend them two nights ?

A. Yes.

Q. And after that quit them ?

A. I did.

Q. You know nothing of them afterwards ?

A. No.

Q. When did you give information of this ?

A. I cannot recollect particularly.

Q. Before whom did you give information ?

A. Captain *Bell*.

[Here the information was referred to ; and it appeared to be on the 19th of *November*.]

Q. Who brought you before Captain *Bell* ?

A. My master was going to bring me ; but my brother came to *Granard*, and sent for me there, and brought me to Captain *Bell*.

Q. Is your brother a yeoman ?

A. He is.

Q. Of Mr. *Bell's* corps ?

A. Yes.

Q. What were you promised for giving the information ?

A. Nothing at all.

Q. Were you never promised any thing ?

A. No, I never was.

Q. Did you come forward to acknowledge, you had taken the *Thrasher's* oath ?

A. I did.

Q. And you did so voluntarily and without any promise made to you ?

A. I did.

Q. Then you knew you had committed a crime ?

A. Yes.

Q. Were you not promised to be forgiven ?

A. I was.

Q. Who promised that?

A. Captain *Bell*.

Q. Provided you swore against *Peter Morris*?

A. If I would give information against the *Thrashers*.

Q. You have long known *Peter Morris*?

A. No, I have only a small acquaintance with him.

Q. How long have you known him?

A. To see him, up and down as a journeyman weaver.

Q. Do you not know him to be a man of good character and well spoken of?

A. Yes.

Q. He was always considered a man of good behaviour?

A. Yes.

Q. You do not know the man who was sworn?

A. I do not.

Q. Can you tell who swore him?

A. To the best of my belief.

Q. Can you swear positively?

A. I think it rather hard to swear positively who did it.

Q. How was the man sworn?

A. The book was thrown upon the threshold and he was desired to lift it and take the oath as told to him.

Q. *By the Court.* Who repeated the words of the oath?

A. I do not particularly remember.

Q. Did the man of the house repeat the words?

A. Not, till they were told to him.

Q. (By the ATTORNEY GENERAL.) Had any examinations been sworn against you, when you gave information?

A. Not to my knowledge.

HUGH KERR,

Examined by the SOLICITOR GENERAL.

Q. Do you know *Forbes*, the last witness?

Q. Did you go to any house with him?

A. I went to a house which he brought me to, fourteen miles off in the county of *Longford*.

Q. Whose house was it?

A. The house of *James Reilly*.

Q. What was the town land?

A. *Dunbeggan*.

Q. Was the man of the house at home?

A. He was not.

Q. Did you enquire for him?

A. I did, and could not find him.

Q. What was your object in going there?

A. *Forbes* brought me to the house, and said, it was one of the houses which the party was at, but he did not know the man's name.

Q. What did you intend to do with *Reilly*, if you had found him?

A. I would have brought him here to this Commission.

Not cross-examined.

MATHEW BALFOUR,

Examined by Serjeant MOORE.

Q. Where do you live?

A. In the lands of *Clancragh*.

Q. Were you living there last Hollontide?

A. I was.

Q. Did you ever go out with any people about that time?

A. I did, when I could not help it.

Q. What caused you to go out?

A. They came to me dressed in white shirts and white hatbands.

Q. Did you see any arms?

A. They said, they had a gun, but I did not see much of them.

Q. What did they do?

A. They came, and a dog barked; they struck at the door, and ordered us to open it; I was in bed, and desired them to have patience; then I opened the door, and desired them to come in, and they threw some-

thing upon the floor, and swore me "to be up to the *Thrasher's* laws;" I asked, what they were; they said, to pay half-a-guinéa for marriage, one shilling and one penny for christening, &c. &c. They then swore me, whether there was another man in the house, and they went peaceably away, having sworn me to meet them the night following on the hill of *Dunbeggan*.

Q. Do you know *Peter Morris*?

A. I do; this is he.

Q. How long have you known him?

A. Two or three years.

Q. What did you do the next day?

A. I had a couple of brothers-in-law in the *Granard* Yeomen; I went to them the next evening, and told them of this.

Q. Did you after that go to the meeting, which you were sworn to attend?

A. I did; I went to *Dunbeggan*, and not seeing them, was returning home, when I met them on the road.

Q. How were they dressed?

A. They all had white shirts over them.

Q. How many were there?

A. Three or four^t score, under or over.

Q. Had they any thing in their hands?

A. Some had forks, some stakes and bayonets upon poles.

Q. What did they do when you met them?

A. They waited for a little time, and then they dispatched a party.

Q. Did you go with that party?

A. I did.

Q. Where did they go to?

A. To *Dunbeggan*, to all the inhabitants there.

Q. What were they doing?

A. I can't say, as I did not go up to the houses; but they went to all the houses in it, from house to house.

Q. How many people did you know there?

A. Not very many.

Q. You need not mention the names of any but such as are here?

A. This man, whom I take to be *Peter Morris* was there.

Q. How was he dressed?

A. Equal to all the rest; I saw no difference.

Q. Was

Q. Was there a gun?

A. I compute there was a gun.

Q. Who had it?

A. To my opinion this man at the bar had it.

Q. Upon your oath, was he of the party that night?

A. They were all together; they scrupled going down to *Rathmore*, where the Yeomen was. This man had not scruples more than the rest; but he said, he would not go to it. He said, there were some men sworn to Captain *Bell's* Yeomen, and he would not go there.

Q. Were there any Yeomen there?

A. There were five Yeomen.

Q. Of Captain *Bell's* corps?

A. Yes. The prisoner said, any man who chose to go voluntarily might, but he would not go to any place to raise a disturbance.

Q. Did the party go to *Rathmore* that night?

A. They did not; I left them, and I believe they did not go.

Q. Did they separate then?

A. They did.

Q. Who told the party the Yeomen were there?

A. I did.

Q. Why did you tell them?

A. I told them, the Yeomen would not give into their laws, on account of Mr. *Bell*, till they saw further.

Cross-examined by Mr. FLEMING.

Q. How many nights were you with them?

A. Only the one night.

Q. You parted, when they refused to go where the Yeomen were?

A. I did; and I suppose they all went home afterwards.

Q. You said, there were three or four score?

A. There were more or less.

Q. Was there that number the whole time you were with them?

A. I was sometimes from the main body, and sometimes with them.

Q. But did the party amount during the whole time to forty?

A. They did.

Q. You were afraid not to go?

A. If I was not, I would not go.

Q. And many an honest man might be afraid?

A. To be sure; and to my opinion not many would go, if they were let alone.

Q. There were many equally unfortunate with yourself?

A. I think we were all of one crime.

Q. And who would not have gone, if they had not been forced?

A. I think there was not a man would go, if he could avoid it; I say, to the best of my opinion.

Q. And you consider *Morris* like the rest?

A. I suppose there was worse men than him in it.

Q. Do you know *Forbes*?

A. I do.

Q. Was he with you?

A. He was that night.

Q. But you know no more of him, than that he was there?

A. No.

Q. (*By the Court.*—Do you know *Reilly's* house in *Dunbeggan*?

A. I do.

Q. Were you at his house that night?

A. I was not at his house. When we came into the village the men were divided, and sent in threes and fours to each house; some went to one house, and some to another.

Q. Upon your oath, did you see the prisoner that night at *Dunbeggan*?

A. He might be in it; but I did not see him in *Dunbeggan*.

Q. Did you see the prisoner that night?

A. I did, at *Rathmore*.

Q. How far is that from *Dunbeggan*?

A. The next mearing.

Q. Did you see him there, before or after the party were in *Dunbeggan*?

A. After.

Q. Was it in *Rathmore* they separated?

A. It was.

Q. Did

Q. Did you see any book with them ?

A. I saw no book.

Q. Did you hear any mention made of a book among them ?

A. I did ; but do not know who said it.

Q. What was said ?

A. One man would ask, where the book was, when they got to a door.

Q. What answer was made ?

A. Somebody would go forward to the door.

Q. Are we to understand, that you say positively, that the prisoner was that night with the party in *Rathmore* ?

A. I do.)

Q. (*By the Jury.*—Was the prisoner dressed in white ?

A. He was ; they were all dressed in white ; a man dare not go, unless he was dressed.

Q. Had you a white shirt ?

A. I had.)

Q. (*By the Court.*—Had *Peter Morris* any thing in his hand ?

A. He had.

Q. What was it ?

A. I do not know ; there was no one in it, but had something in his hand.

Q. What sort of a thing was it ?

A. It might be a gun ; but it is hard to say what it was.

Q. Did you ever swear it was a gun ?

A. I do not know but I did ; but I might make a mistake.

Q. Do you recollect, whether you told the magistrate, that the prisoner had a gun ?

A. I do not doubt but I did.

Q. What do you say now ?

A. To the best of my opinion he had.

Q. Can you say positively ?

A. I cannot.

JOHN BELL, Esq.

Examined by Mr. O'FERALL.

Q. Do you know *Forbes*, who was examined here ?

A. I do.

Q. Did he swear any information before you ?

A. He did.

Q. Was there any information sworn against him at that time ?

A. No.

Q. Did he go before you without any force ?

A. I believe so ; I spoke to his brother upon parade to fetch him to me, which he did, and he gave me information of this matter.

Q. Do you know *Balfour* ?

A. I do.

Q. Did he give any information ?

A. He did.

Q. Was there any charge against him at the time ?

A. There were some persons named by *Forbes*, and I did not proceed against them under the act of parliament as I might.

Q. Was *Balfour* one of them ?

A. Yes ; and *Wiggins*, his brother-in-law, gave me a message, that if I sent for him, he could give some information.

Q. Did you send for him ?

A. Not immediately, because I doubted how far it would be right, in case he should be implicated. Afterwards I sent him a letter, and pledged myself he should not be molested till he returned.

Q. Did he after that give information voluntarily ?

A. He did.

Q. Did you make him any promise ?

A. None ; but that he should not be molested in coming or returning, and he gave his information as readily as any man could.

Cross-examined by Mr. FLEMING.

Q. You sent a message that *Balfour* might come upon his parole ?

A. That

A. That he should not be taken in coming to me, in consequence of my letter.

Q. Was not *Forbes* in custody?

A. He was.

Q. Then he might have been in the same place with *Morris*?

A. No; there are circumstances making a difference.

Q. Do you consider that you have any power to say that one man is inferior in guilt to another, and that you will choose one of them to appear as a witness?

A. No; but I consider that I was anxious that a man of a greater degree of guilt should be brought to punishment.

Q. Is *Balfour* deserving of credit upon his oath?

A. I believe he is.

Q. If he swore that every man who was out was forced, would you believe him?

A. I would take down his information in writing to that effect, if he stated it so.

Q. But if he swore it upon the table, would you believe him?

A. I cannot give my judgment upon that.

Q. Is he a man of credit?

A. I think he is a man to be believed upon his oath.

Q. But if he swore, that every man of the party was no more criminal than himself, would you believe him?

A. If he swore contrary to his informations, I must doubt one or the other.

Q. If he swore that every man was forced, would you believe him?

A. If he stated that at first, I would have stated it in his information; but he did not attempt to say that.

Q. Is he not more likely to tell the truth when cross-examined in Court?

A. I think so.

Q. And if he contradicted himself, would you think him deserving of credit?

A. You may answer that yourself.

Q. (*By the Court.*—Suppose *Balfour* swore, that all the people were out by force, would you believe him?

A. I

A. I would not take his meaning literally ; I think he meant that all such of his neighbours as he knew were forced, and I might believe that.

DEFENCE.

GEORGE O'BRIEN,

Examined by Mr. FLEMING.

Q. Do you know the prisoner, *Peter Morris* ?

A. I do.

Q. How long have you known him ?

A. Near nine years.

Q. What is his character, and state it to the Court and Jury ?

A. I never knew a more prudent and better conducted man in my life. In the rebellion, and every insurrection, he left his own place to acquit himself of getting into conspiracies against the King and Country.

Q. Did he live near *Ballinamuck* ?

A. He did.

Q. What was his conduct during the troublesome times ?

A. He would go to respectable people, who were not joined with the rebels.

Q. Why ?

A. To shun the people of the country, who were in a rebellious way.

Q. Did you know many others do that besides himself ?

A. I never knew a man of his kind do it but himself.

Cross-examined by the ATTORNEY GENERAL.

Q. In what county do you live ?

A. In this county, towards the borders of *Leitrim*.

Q. The people of *Leitrim* have been very kind to the people of this county, by including them in their plans ?

A. I have no connection with any county, but my own.

Q. In what corps are you ?

A. Not

Q. Did you go to any house with him?

A. I went to a house which he brought me to, fourteen miles off in the county of *Longford*.

Q. Whose house was it?

A. The house of *James Reilly*.

Q. What was the town land?

A. *Dunbeggan*.

Q. Was the man of the house at home?

A. He was not.

Q. Did you enquire for him?

A. I did, and could not find him.

Q. What was your object in going there?

A. *Forbes* brought me to the house, and said, it was one of the houses which the party was at, but he did not know the man's name.

Q. What did you intend to do with *Reilly*, if you had found him?

A. I would have brought him here to this Commission.

Not cross-examined.

MATHEW BALFOUR,

Examined by Serjeant MOORE.

Q. Where do you live?

A. In the lands of *Clancragh*.

Q. Were you living there last Hollontide?

A. I was.

Q. Did you ever go out with any people about that time?

A. I did, when I could not help it.

Q. What caused you to go out?

A. They came to me dressed in white shirts and white hatbands.

Q. Did you see any arms?

A. They said, they had a gun, but I did not see much of them.

Q. What did they do?

A. They came, and a dog barked; they struck at the door, and ordered us to open it; I was in bed, and desired them to have patience; then I opened the door, and desired them to come in, and they threw some-

thing upon the floor, and swore me "to be up to the *Thrasher's* laws;" I asked, what they were; they said, to pay half-a-guinea for marriage, one shilling and one penny for christening, &c. &c. They then swore me, whether there was another man in the house, and they went peaceably away, having sworn me to meet them the night following on the hill of *Dunbeggan*.

Q. Do you know *Peter Morris*?

A. I do; this is he.

Q. How long have you known him?

A. Two or three years.

Q. What did you do the next day?

A. I had a couple of brothers-in-law in the *Granard* Yeomen; I went to them the next evening, and told them of this.

Q. Did you after that go to the meeting, which you were sworn to attend?

A. I did; I went to *Dunbeggan*, and not seeing them, was returning home, when I met them on the road.

Q. How were they dressed?

A. They all had white shirts over them.

Q. How many were there?

A. Three or four score, under or over.

Q. Had they any thing in their hands?

A. Some had forks, some stakes and bayonets upon poles.

Q. What did they do when you met them?

A. They waited for a little time, and then they dispatched a party.

Q. Did you go with that party?

A. I did.

Q. Where did they go to?

A. To *Dunbeggan*, to all the inhabitants there.

Q. What were they doing?

A. I can't say, as I did not go up to the houses; but they went to all the houses in it, from house to house.

Q. How many people did you know there?

A. Not very many.

Q. You need not mention the names of any but such as are here?

A. This man, whom I take to be *Peter Morris* was there.

Q. How was he dressed?

A. Equal to all the rest; I saw no difference.

Q. Was

Q. Was there a gun ?

A. I compute there was a gun.

Q. Who had it ?

A. To my opinion this man at the bar had it.

Q. Upon your oath, was he of the party that night ?

A. They were all together ; they scrupled going down to *Rathmore*, where the Yeomen was. This man had not scruples more than the rest ; but he said, he would not go to it. He said, there were some men sworn to Captain *Bell's* Yeomen, and he would not go there.

Q. Were there any Yeomen there ?

A. There were five Yeomen.

Q. Of Captain *Bell's* corps ?

A. Yes. The prisoner said, any man who chose to go voluntarily might, but he would not go to any place to raise a disturbance.

Q. Did the party go to *Rathmore* that night ?

A. They did not ; I left them, and I believe they did not go.

Q. Did they separate then ?

A. They did.

Q. Who told the party the Yeomen were there ?

A. I did.

Q. Why did you tell them ?

A. I told them, the Yeomen would not give into their laws, on account of Mr. *Bell*, till they saw further.

Cross-examined by Mr. FLEMING.

Q. How many nights were you with them ?

A. Only the one night.

Q. You parted, when they refused to go where the Yeomen were ?

A. I did ; and I suppose they all went home afterwards.

Q. You said, there were three or four score ?

A. There were more or less.

Q. Was there that number the whole time you were with them ?

A. I was sometimes from the main body, and sometimes with them.

Q. But did the party amount during the whole time to forty ?

A. They did.

Q. You were afraid not to go?

A. If I was not, I would not go.

Q. And many an honest man might be afraid?

A. To be sure; and to my opinion not many would go, if they were let alone.

Q. There were many equally unfortunate with yourself?

A. I think we were all of one crime.

Q. And who would not have gone, if they had not been forced?

A. I think there was not a man would go, if he could avoid it; I say, to the best of my opinion.

Q. And you consider *Morris* like the rest?

A. I suppose there was worse men than him in it.

Q. Do you know *Forbes*?

A. I do.

Q. Was he with you?

A. He was that night.

Q. But you know no more of him, than that he was there?

A. No.

Q. (*By the Court.*—Do you know *Reilly's* house in *Dunbeggan*?

A. I do.

Q. Were you at his house that night?

A. I was not at his house. When we came into the village the men were divided, and sent in threes and fours to each house; some went to one house, and some to another.

Q. Upon your oath, did you see the prisoner that night at *Dunbeggan*?

A. He might be in it; but I did not see him in *Dunbeggan*.

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A. I did, at *Rathmore*.

Q. How far is that from *Dunbeggan*?

A. The next mearing.

Q. Did you see him there, before or after the party were in *Dunbeggan*?

A. After.

Q. Was it in *Rathmore* they separated?

A. It was.

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Q. Did you see any book with them ?

A. I saw no book.

Q. Did you hear any mention made of a book among them ?

A. I did ; but do not know who said it.

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A. One man would ask, where the book was, when they got to a door.

Q. What answer was made ?

A. Somebody would go forward to the door.

Q. Are we to understand, that you say positively, that the prisoner was that night with the party in *Rathmore* ?

A. I do.)

Q. (*By the Jury.*—Was the prisoner dressed in white ?

A. He was ; they were all dressed in white ; a man dare not go, unless he was dressed.

Q. Had you a white shirt ?

A. I had.)

Q. (*By the Court.*—Had *Peter Morris* any thing in his hand ?

A. He had.

Q. What was it ?

A. I do not know ; there was no one in it, but had something in his hand.

Q. What sort of a thing was it ?

A. It might be a gun ; but it is hard to say what it was.

Q. Did you ever swear it was a gun ?

A. I do not know but I did ; but I might make a mistake.

Q. Do you recollect, whether you told the magistrate, that the prisoner had a gun ?

A. I do not doubt but I did.

Q. What do you say now ?

A. To the best of my opinion he had.

Q. Can you say positively ?

A. I cannot.

JOHN BELL, Esq.

Examined by Mr. O'FERRALL.

Q. Do you know *Forbes*, who was examined here ?

A. I do.

Q. Did he swear any information before you ?

A. He did.

Q. Was there any information sworn against him at that time ?

A. No.

Q. Did he go before you without any force ?

A. I believe so ; I spoke to his brother upon parade to fetch him to me, which he did, and he gave me information of this matter.

Q. Do you know *Balfour* ?

A. I do.

Q. Did he give any information ?

A. He did.

Q. Was there any charge against him at the time ?

A. There were some persons named by *Forbes*, and I did not proceed against them under the act of parliament as I might.

Q. Was *Balfour* one of them ?

A. Yes ; and *Wiggins*, his brother-in-law, gave me a message, that if I sent for him, he could give some information.

Q. Did you send for him ?

A. Not immediately, because I doubted how far it would be right, in case he should be implicated. Afterwards I sent him a letter, and pledged myself he should not be molested till he returned.

Q. Did he after that give information voluntarily ?

A. He did.

Q. Did you make him any promise ?

A. None ; but that he should not be molested in coming or returning, and he gave his information as readily as any man could.

Cross-examined by Mr. FLEMING.

Q. You sent a message that *Balfour* might come upon his parole ?

A. That

A. That he should not be taken in coming to me, in consequence of my letter.

Q. Was not *Forbes* in custody?

A. He was.

Q. Then he might have been in the same place with *Morris*?

A. No; there are circumstances making a difference.

Q. Do you consider that you have any power to say that one man is inferior in guilt to another, and that you will choose one of them to appear as a witness?

A. No; but I consider that I was anxious that a man of a greater degree of guilt should be brought to punishment.

Q. Is *Balfour* deserving of credit upon his oath?

A. I believe he is.

Q. If he swore that every man who was out was forced, would you believe him?

A. I would take down his information in writing to that effect, if he stated it so.

Q. But if he swore it upon the table, would you believe him?

A. I cannot give my judgment upon that.

Q. Is he a man of credit?

A. I think he is a man to be believed upon his oath.

Q. But if he swore, that every man of the party was no more criminal than himself, would you believe him?

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Q. If he swore that every man was forced, would you believe him?

A. If he stated that at first, I would have stated it in his information; but he did not attempt to say that.

Q. Is he not more likely to tell the truth when cross-examined in Court?

A. I think so.

Q. And if he contradicted himself, would you think him deserving of credit?

A. You may answer that yourself.

Q. (*By the Court.*—Suppose *Balfour* swore, that all the people were out by force, would you believe him?

A. I

A. I would not take his meaning literally ; I think he meant that all such of his neighbours as he knew were forced, and I might believe that.

DEFENCE.

GEORGE O'BRIEN,

Examined by Mr. FLEMING.

Q. Do you know the prisoner, *Peter Morris* ?

A. I do.

Q. How long have you known him ?

A. Near nine years.

Q. What is his character, and state it to the Court and Jury ?

A. I never knew a more prudent and better conducted man in my life. In the rebellion, and every insurrection, he left his own place to acquit himself of getting into conspiracies against the King and Country.

Q. Did he live near *Ballinamuck* ?

A. He did.

Q. What was his conduct during the troublesome times ?

A. He would go to respectable people, who were not joined with the rebels.

Q. Why ?

A. To shun the people of the country, who were in a rebellious way.

Q. Did you know many others do that besides himself ?

A. I never knew a man of his kind do it but himself.

Cross-examined by the ATTORNEY GENERAL.

Q. In what county do you live ?

A. In this county, towards the borders of *Leitrim*.

Q. The people of *Leitrim* have been very kind to the people of this county, by including them in their plans ?

A. I have no connection with any county, but my own.

Q. In what corps are you ?

A. Not

A. Not any at present ; I was in the *Carnygallon* corps.

Q. When did you quit them ?

A. About a year ago, being inconvenient to me.

Q. You have heard that the country has been infested with disturbers ?

A. I have.

Q. Do you not consider them a great nuisance ?

A. In the way they go on ; for they were with me, and put an oath to me not to take tithe.

Q. Do you not consider them as innocent men, wishing to redress grievances ?

A. I cannot answer that.

Q. Do you consider them as a set of lawless miscreants, or laudable reformers ?

A. From the way they are represented at present I think—

Q. How do you mean represented ?

A. By the Government.

Q. Do you not think they are accused unjustly ?

A. I do not know.

Q. Can you form no belief of that ?

A. No.

Q. Have you not expressed your opinion of the cruel treatment of the *Thrashers* in *Mayo*, by the Juries ?

A. I never heard of it at all.

Q. Did you not hear of the proceedings at *Sligo* and *Castlebar* ?

A. No.

Q. Did you not hear that some men were sentenced to die ?

A. I did.

Q. And you expressed a feeling for the poor people ?

A. I was sorry to hear they were brought in so innocently.

Q. Just as innocent as *Morris* ?

A. I suppose the same way ; there is no man so loyal or well conducted.

Q. Do you not believe that many were frightened to join the *French* ?

A. Yes.

Q. But *Morris* acted a loyal and a gallant part ?

A. He used to leave his place to avoid rebellious mobs.

Q. When the *French* came, he acted like a loyal person to his King and Country ?

A. I cannot answer for that.

Q. How long is it since the *Thrashers* paid you a visit ?

A. I cannot rightly tell.

Q. Try and recollect ?

A. Some time in *November*.

Q. Did they propose any oath ?

A. They did to myself and others.

Q. Was that oath taken by any person ?

A. It was.

Q. Did that person go to a magistrate and give information ?

A. I can't say.

Q. Would you not be likely to know, if he did ?

A. I can't say.

Q. Would you not know, if a young gentleman of twenty five years of age, five feet eleven inches high, with a drab coat, leather breeches and boots, went to a magistrate to give information ?

A. I can't say.

Q. Did you ever hear that a person of that description had taken the *Thrasher's* oath ?

A. Perhaps you mean myself.

Q. I do not impute such a thing to you ; but did that person go to a magistrate ?

A. He did.

Q. To what magistrate ?

A. To Mr. *Booker*.

Q. In what time ?

A. In a few days.

Q. Did that person know any of them ?

A. If you mean me, I did not.

Q. Had you any arms in the house ?

A. I had,

Q. Were they Yeomanry arms ?

A. They were not.

Q. What did you do with them ?

A. I gave them to the Captain.

Q. What arms had you in the house ?

A. A gun.

Q. Did you ever lend it to any one ?

A. No;

A. No ; except a man might ask it by way of diversion to fire at a mark.

Q. Did you take a shot at the party that night ?

A. I did not.

Q. Is there any person here will give a character of yourself ?

A. There is Mr. *Newman*.

Q. Is there any person, not a sworn *Thrasher*, who will give a character of you ?

A. I believe so ; Mr. *Andrew Crauford*.

DEFENCE CLOSED.

LORD CHIEF JUSTICE DOWNES stated the indictment to the Jury, and then proceeded to sum up the evidence. It appeared, that the country had been infested by disturbers, assuming the name of *Thrashers*, and who under that name, and dressed in a particular manner, went about at night, and administered oaths to the inhabitants. With regard to the fact charged against the prisoner, there was the testimony of *Forbes*, who appears to have gone to a magistrate recently after the fact, and he swears the prisoner was one of the party who went to the house at *Dunbeggan*. The party consisted of three or four score. Some of them, of whom the prisoner was one, went to the door ; the man of the house was called for ; he appeared ; a book was thrown down, and he was sworn. The witness is not positive by whom the man was sworn ; but he swears positively that the prisoner was one of four or five persons who were acting thus at the house. If the Jury believed he was there, as represented, and that he participated in the general object, it is the same offence ; because all who were aiding, abetting, and assisting at the moment are equally guilty with the person who administered the oath. *Forbes* also stated, that the oath administered was, " To be up to the *Thrashers* laws, and not to prosecute a *Thrasher*." It will be for the Jury to say, whether that is the import of the oath stated in the indictment ; for the prosecutor is not bound to set out the exact words. If the Jury believed that this oath was of the import alleged in the indictment, and that it was administered for the purpose of making the person to whom it was administered become a member of that

confederacy, which is proved to exist, the first charge stated against the prisoner will be supported; provided, Gentlemen, you believe that the prisoner was one of the party. With respect to that fact, the witness could not swear positively who administered the oath; and as to the arms carried by the party, he would not swear positively that the prisoner had a gun: the witness only swore upon his belief. However, the witness swore positively that the prisoner was present at the house, when the oath was administered, and you, Gentlemen, will determine upon his credit.

Gentlemen, another witness was examined in support of the indictment, named *Mathew Balfour*. Both these witnesses appear by their own account to have acted in the very transaction, with regard to the conduct of which they appear to criminate the prisoner. *Forbes* gave information, before any charge was preferred against him: nor to this moment does it appear that any information has been sworn against him. *Balfour* was implicated by the account given by *Forbes*. Under these circumstances, Gentlemen, these witnesses come before you, each participating of the offence, of which they accuse the prisoner, and therefore their testimony should be received with all imaginable caution. In the ordinary cases of burglary and robbery, when a person who has participated in the offence appears, and deposes to his being present at the transaction, the fact of inculcating himself gives a credit to his narration, so far as that you may safely credit his accusation of himself. But so far as it may affect others, a Jury generally require some corroboration from circumstances, or other testimony. In the present case, perhaps, you will think that they were reluctantly engaged; one of them gave an account of the transaction, and a peace officer went to the house, in expectation of finding the man who was sworn, but he was not found, nor does he appear as a witness on either side. In consequence of the information given by *Forbes*, *Balfour* was sent for, and upon his examination here, he admits he was one of the general party, but not at the house where the man was sworn. He also states, that the prisoner was one of the party, and he mentioned the reluctance expressed by the prisoner to go to a village, on account of the Yeomen.

men. As to the fact of the prisoner carrying a gun, he would not swear positively to it now: he had stated it to the magistrate, which he admits he might have done, but might be mistaken, and you will determine how far that affects his credit or not. Belief is not evidence of any material circumstance against a man, but as to the material fact of the person of the prisoner, both the witnesses are positive.

Gentlemen, the prisoner's defence rests upon character, to which *O'Brien* has been examined; he states the prisoner to be a man of good character, and extremely prudent; and he describes him as always anxious to keep himself out of the power of disaffected people; and if you believe that, it is a circumstance in favour of the prisoner; and if that shall induce you to entertain a doubt of the testimony of *Forbes*, and the other witness: or if you shall believe, that while the prisoner was with the party at the moment the oath was administered, he was acting under the fear of death being inflicted upon him by that party, and with no other motive, it is a plain case for the prisoner, and you ought to acquit him. But you will recollect the account given of a consultation among them, in which the prisoner takes a part, and advises them not to go to the village of *Rathmore*, and his advice was taken; because there was a party of Yeomen in the place. You will consider, whether that was the conduct of a man acting under the fear of death. If the fact of the gun were positively sworn to, it would be an additional circumstance to rebut the defence endeavoured to be extracted from the cross-examination of *Balfour*. But I must add, that in all cases where a party sets up the defence of force, he should establish that fact to the thorough conviction of a Jury; because the fact charged being proved by positive evidence to the satisfaction of a Jury, the defence of force ought to be proved equally to their satisfaction to induce them to rest a verdict upon it. That defence can hold no longer than during the immediate pressure of the force. If after it is removed, the person who was so restrained, goes to a magistrate, and gives him an account of the transaction, it will add much to his defence. But if he rests without disclosing it, and waits till he

is prosecuted, his defence will be considerably weakened.

Gentlemen, if upon the whole you believe that the prisoner was one of the party who were at the house in *Dunbeggan*, while the oath was administered, acting voluntarily there, the indictment is supported, if you think the oath was of the import which is stated. If upon the evidence you shall have any rational doubt, either of the presence of the prisoner at the time of administering the oath, or of the import of the oath, it will be your duty to acquit him. But if you are satisfied that such an oath was administered, and that the prisoner was voluntarily present, it will be your duty to find him guilty.

The Jury deliberated for a short time, and returned a verdict,—*Guilty*.

Farrell Blaney, and *Thomas Donoghoe*, were indicted, for that they, with many other evil-disposed persons unknown, on the 14th of *November*, 1806, at *Mullinmore*, in the county of *Longford*, being armed with fire-locks, fire arms, and other offensive weapons, did wilfully, tumultuously, maliciously, and unlawfully rise, assemble, and appear by night, to the terror of his Majesty's subjects, against peace and statute.

A second count charged, that they wilfully, maliciously, and unlawfully, did assume the particular name and denomination of *Thrashers*, the same not being a name or denomination, usually assumed by his Majesty's subjects upon their lawful occasions, and under that particular name, did wilfully, maliciously, and unlawfully rise, assemble, and appear by night, &c. to the terror of his Majesty's subjects, &c. &c.

Prisoners pleaded,—*Not Guilty*.

The following Jury was sworn :

Robert Shaw,	M. V. Moore,
Andrew Noble,	D. M'Cord,
Robert Beatty,	Alexander Dwyer,
John Wilder,	John Allen,
Francis Holton,	James Wilder,
Claudius Beatty,	William Healy.

RICHARD KERR,

Examined by the SOLICITOR GENERAL.

Q. Where do you live ?

A. At *Mullinmore*, in this county.

Q. How long have you lived there ?

A. Two years.

Q. In what situation were you before you lived there ?

A. I had served his Majesty, and am now on the *Chelsea* pension, and am a Yeoman in Captain *Bell's* corps.

Q. Do you recollect any thing happening at your place on the 13th of *November* last ?

A. A party of people assembled in a lawless manner, came to my house with grapes, pitchforks, and other weapons.

Q. Was there any knocking at the door ?

A. They began to push and knock at the door, and I thought they would knock it down.

Q. Did they say any thing ?

A. They desired me to open the door ; I first threatened them with the law, but they threatened, and then my wife spoke to me, and I was obliged to open the door.

Q. Did you see any persons ?

A. I saw them all assembled.

Q. How many ?

A. By computation, two or three hundred.

Q. What did they do ?

A. I wanted to light a candle, but they would not let me ; they compelled me to assemble along with them, and they administered an oath to me.

Q. What

Q. What was it ?

A. I told them I had no call to the *Thrashers*, or to their clergy, but notwithstanding they would not quit me, but swore me not to take any tithe, but from the minister of the parish, and to pay 1s. 4d. an acre, or leave the tithe there, and then they went on with their own minister about marriage and baptism.

Q. Did they force you to take any arms ?

A. They did ; my Yeomanry fire-lock.

Q. Do you know any of your neighbours, who were forced to go out that night ?

A. I do, *Terence Brady*, and *James Brady*.

Q. After you left your house, where did you go to ?

A. To a fort.

Q. How far from your house ?

A. Near half a mile.

Q. On your way to the fort, did you meet any persons ?

A. I saw several joining them.

Q. What hour was this ?

A. Between twelve and two ; and there was a rear party behind the main body I was in, compelling the people falling back to keep up.

Q. Did you see any persons with whom you were acquainted, join them ?

A. I did.

Q. What are their names ?

A. *Farrell Blaney*, and *Thomas Donoghoe*.

Q. When you saw them, were they dressed in any particular manner ?

A. They had some sort of dress.

Q. What sort ?

A. It inclined to be white.

Q. (*By the Court.*—Could you not see their dress, as well as their faces ?

A. It was their voices I first knew.)

Q. Was the white dress outside their other clothes ?

A. They were in white, but whether it was inside or outside I cannot say.

Q. Had they any thing in their hands ?

A. They had clubs.

Q. Did

Q. Did they go with you into the fort?

A. They were with another party. After we got into the fort, we saw these men coming in, and several others from different quarters.

Q. When they came in, was there any thing said, or was there any difference of opinion?

A. They were contending what places they would go to.

Q. Did *Blaney* or *Donoughoe* take any part in that dispute?

A. I did not hear them.

Q. Was there any division?

A. There was, after a long contending; one party was for going one way, and another to another.

Q. Did the prisoners go with one or other?

A. They did, as I did myself, which I could not avoid, being compelled.

Q. When you first saw them, did you hear any challenge?

A. I did; they challenged every body.

Q. What answer did these men give?

A. They answered, "Friends to Captain *Thrasher*."

Q. Do you recollect hearing any gun fired?

A. I do, right well.

Q. What happened then?

A. They all dispersed.

Q. (*By the Court.*—Where was the gun fired?)

A. They got into a field convenient to a house; there were some men lying on a bank; a shot was fired, and the party immediately dispersed.)

Cross-examined by Mr. FLEMING.

Q. You saw 200 or 300 people?

A. By computation.

Q. When you were going towards the fort, you saw the prisoners, and knew them by their voices?

A. Yes, Sir.

Q. You only knew them by their voices?

A. That is all; you would not know your brother from the darkness of the night.

Q. Is that the only reason you have for swearing to them?

Y y

A. It

A. It is.

Q. You saw no more of these men?

A. I did not.

Q. Were they of the party which went down to the house, where the shot was fired, or of those who went in another direction?

A. I cannot tell.

Q. You said, you could not tell, whether the white dress was inside or outside their cloaths; explain that; if it was under their cloaths, how could you see it?

A. I could, if their breasts were open, or if it was a white waistcoat.

Q. It might have been a white waistcoat?

A. Perhaps so.

Q. How could you say the prisoners had white dresses, when you did not know their persons?

A. There was no man but had something white upon him.

Q. Do you mean to say, that the prisoners had something white upon them?

A. I do.

Q. And yet you do not know, whether it was inside or outside their cloaths?

A. I cannot say; only I saw something white about them.

Q. How long were you in the army?

A. I was two years in the West Indies, and three years in other places, and I am about three years at home.

Q. Do you know the prisoners well?

A. I do.

Q. They dug potatoes for you?

A. They did.

Q. Did you quarrel with them about their wages?

A. No.

Q. Had you any dispute with them?

A. I had not.

Q. Was there not a dispute between you?

A. There was.

Q. Did you owe them any thing?

A. I did not; I always overpay my men; if there be twopence or threepence over, till they work it out.

Q. But you know nothing of these men being of the party, but from their voices?

A. Nothing more.

Q. How

Q. How did you settle the wrangle about their wages?

A. I owe them nothing.

Q. (*By the Court.*—Did they claim any money from you?)

A. They did not.

Q. What was the dispute?

A. About a year ago; but I do not mean to bring it forward; I bear them no malice; it is not worth relating.)

Q. State what it was?

A. I pay workmen honestly; I paid one of these men thirteen pence over his due, and he told me he would come back with the change, or do other work; but he did not come, and when I spoke to him afterwards, he abused me.

Q. Which of them was that?

A. *Donoughoe*.

Q. Did *Blaney* work with you?

A. He did; but there was nothing between us. When I came back the next night, there were thirty men rank and file, who threatened to skiver me.

Q. (*By the Court.*—You say, you knew these men by their voices; what did they say?)

A. They answered the challenge.

Q. Did you hear them say any thing, but answer the challenge?

A. No.

Q. Were any other persons with them at the time?

A. There were four or five together.

Q. Did they all speak at once?

A. No; they spoke in twos or threes.

Q. And speaking in that way, could you distinguish the voices of each of these men, so as to swear to them?

A. I could.

Q. Have you any reason for knowing them, but by their answer to the challenge?

A. No; I have not.

Q. Did you see their faces?

A. I did not.

BARON GEORGE.—*Gentlemen of the Jury.*—You see the kind of evidence which is given against the prisoners. The witness did not see their faces, and the only reason he has for charging them is, that when four or five men were challenged together, and they answered, he takes upon him to select the voices of these two men from the others. There is no other circumstance. This is far from being persuasive evidence: it is rather extremely vague, and therefore you can have no doubt in acquitting the prisoners.

Verdict,—*Not Guilty.*

Peter Morris was put to the bar for judgment, and sentence of death was pronounced upon him.

Thomas Fitzsimons, Patrick Coyle, James Kilbride, and Patrick Coyle, were sentenced to be twice publicly whipped in the town of *Granard*, and imprisoned six months

CAVAN,

MONDAY, DECEMBER 22, 1806.

The Judges opened the Commission this day, and the following Grand Jury was sworn:

Nathaniel Sneyd, Esq.
 Thomas Nesbitt,
 Henry Clements,
 Arthur Fleming,
 Charles Coombe,
 Charles Coote,
 James O'Reilly,
 James Saunderson,
 Thomas Barrowes,
 Oliver Nugent,
 Samuel Moore,
 John Richardson.

I. M. Boyle,
 Cooper Young,
 Christopher Badin
 Luke Magrath,
 John Baker,
 John Adams,
 Henry Lanauze,
 John Tallon,
 C. Nesbitt,
 Ralph Dawson,
 Richard Griffith,

LORD CHIEF JUSTICE DOWNES delivered to them an appropriate charge.

Francis Donoghoe was indicted; for that he, on the 8th of *November*, 1806, at *Mucklagh*, in the county of *Cavan*, did feloniously administer an oath to one *George Thomas*, importing to bind him to be of a certain society, under the denomination of *Thrashers*, formed for the disturbance of the public peace, "that he should live up to Captain *Thrasher's* laws; not to take his tithe from a proctor; nor discover of a *Thrasher*."—A second count stated the oath to be, "not to inform or give evidence against any brother, associate, or confederate, &c."—A third count, "for causing and procuring an oath to be taken of the import stated in the first count;" and a fourth count, "for causing and procuring to be taken the oath stated in the third against peace and statute.

The prisoner pleaded,—*Not Guilty*.

JURY.

Henry Grumley,
William Grumley,
John Quigley,
John Finlay,
Thomas Finlay,
Francis Storey,

James Graham,
Robert Briggs,
William Cleminger,
John Black,
Robert Creighton,
Alexander Finlay.

MR. ATTORNEY GENERAL stated the case on behalf of the Crown.

GEORGE THOMAS,

Examined by the SOLICITOR GENERAL.

The witness prevaricated in his testimony, and contradicted his original information sworn before the magistrate; in consequence of which the prisoner was acquitted.

George Thomas was then indicted for wilful and corrupt perjury committed by him in giving evidence upon

upon the former trial. He pleaded,—*Not Guilty*, was tried, convicted, and sentenced to be transported for seven years.

Counsel for the Crown.

Rt. Hon. Attorney General,
Mr. Solicitor General,
Mr. Serjeant Moore,
Mr. Ridgeway,
Mr. Webber, at Sligo, Castlebar, and Leitrim,
Mr. O'Ferrall, at Longford and Cavan.

Crown Solicitor, at Sligo, Castlebar, and Leitrim,
Arthur Dunn, Esq.
At Longford and Cavan,
James Galbraith, Esq.

Counsel for the Prisoners.

Mr. Baker, at Sligo,
Mr. T. Moore, at Castlebar,
Mr. Keon, at Leitrim,
Mr. Fleming, at Longford and Cavan.

FINIS.