Wicklow July 9th 1845

Elizabeth Davis: Indicted for that she being the Mother of a male child name unknown and kill and murder it by throwing it into a pond &c. on 24th of February.

Mary Deegan – Sworn. Knows the Prisoner, she lodged with her about a fortnight before Christmas. She was confined there sometime in February & delivered of a male child. She continued there a fortnight after the birth. She told witness she was not a married woman. She left on Sunday. She thinks the 24th of February. She got some clothes for the child from witness, saw those clothes on the child the day of the Inquest, they were the same clothes which witness gave Prisoner for the child. It was the 4th of March witness saw the child dead and the clothes on it, it was in the Inquest which was held at Killybegs Barracks. Prisoner was at the Inquest in custody. It was a frock and two caps witness gave and all the three articles were on the child.

Cross examined: Never heard her call the child anything.

Catherine Foley – Sworn. Knows the Prisoner – saw her on the Monday before the Inquest. She had a child about a fortnight old. She remained in witnesses' company about an hour and a half. She went in the direction of Coola House. Saw her again on the 4th of March at the Inquest. The child was in her arms and she was sitting at the fire when witness first saw her, the child appeared to be in health. She took the child away with her.

Cross examined:-. That was about two miles from the place where the Inquest was held. Prisoner came into where witness was. The man of the house asked her to sit down . She did so. Thinks she had a cloak on her.

Eliza Gehan – Sworn. Lives in Coolaken. Knows the Prisoner – saw her at the Inquest gave her a night's lodging on Monday night, the day back before the Inquest. She came in at the close of the night. She had no child with her. She asked for a night's lodging. She went away about twelve o'clock the next day – she said she walked from four miles below Carnew, is sure she is the same person. Witness was about two miles and a half from where the Inquest was held.

Bess Carr – Sworn. Knows the Prisoner. Lives about two miles and a half from where the Inquest was held. Saw her a fortnight before the Inquest was held and not in the interval. Witness met her coming out of Eliza Gehan's house. Knew the Prisoner before that, walked up a bit of the road with her. She had no child that witness could see, cannot remember all she said but she told her she had a child about a fortnight and said that she left it at M^{rs} Deegan of Baltinglass sick and that she was making her way back. She said it was a little boy. Witness asked her to go to her father's to wash her clothes and she seemed as if she would but she turned off and said she would be afraid of the woman M^{rs} Deegan if she did not go for the child.

Margaret Hopkins – Sworn. Lives near Ahone (Ardoyne?)was about the 24th of February. Thinks on a Monday evening, went home that evening about six o'clock. Saw a woman sit on the edge of M^{rs} Ashes' pond and wrapping a cloth around a child, she put the child down into the water and it cried when first put down and she pushed it down two or three times. She was wrapping a black cloth about its head – it was with her hand she pushed it. Witness was within seven or eight perches from her. Witness was on the road. The woman was at the far side of the pond. The woman came up and passed her. As she passed

witness said she had done that which God would notice. She said nothing but passed on and looked at the well. Witness saw that woman afterwards at the Inquest. Prisoner is that woman.

Cross Examination:- Witness is the Mother of the infant one in her arms and of several more – had a burden on her back so she did not turn down to the pond & so did not call out to the woman. Thinks now it would have been wise if she had done so. Knew the Prisoner before.

Francis Culhane Police Constable – was stationed at Killybegs in March last found the body of a child in the townland of Coolakenna in M^{rs} Ashes' pond on Monday the 3rd of March. The Inquest was held the next day. It had on a cotton gown and two caps when he found it – these were on it at the Inquest (produces the clothes). (M^{rs} Deegan recalled: identifies the frock and two caps as those she gave the Prisoner for the child). Witness had to drain the pond.

Henry Wm Morton Sworn In as Surgeon – attended the Inquest & examined the body. The child had received injury on the head but thinks the immediate cause of death was suffocation – it appeared previously to have been taken care of. It was a healthy male child. Witness saw the Prisoner in custody at the same time.

Verdict guilty
Sentenced to be executed on Saturday
the 16th August

The Jury recommended the Prisoner as the crime may have been committed with torment of temporary derangement or irritation.

John Doherty Wexford July 12th <u>1845</u>

To His Excellency The Lord Heytesbury Lord Lieutenant General and General Governor of Ireland

The Humble Memorial of the undersigned the Foreman and his fellow Jurors before whom **Eliza Davis** a convict under Sentence of Death for the murder of her child was found guilty at Wicklow Summer Assizes 1845,

Humbly Sheweth,

That altho" Memorialists were compelled from the nature of the Evidence produced on the trial of the unfortunate woman **Davis** to find her Guilty still they hope and earnestly beg of your Excellency to commute the Sentence to Transportation for life as it appears in Evidence on the Trial that up to the time of the unfortunate occurrence the child was properly taken care of and Memorialists believe she acted from Sudden Impulse and Memorialists have been Informed by the Sub Inspector of the District where the occurrence took place the said **Eliza Davis** is subject to fits the said Sub Inspector grounding his Report to us upon an Affidavit sworn this day in your Court at Wicklow.

And Memoralists as in Duty bound will pray

Thomas Elliott Foreman Thos Annesley John Doyle Henry Evans John Woodroof Thomas Miller John Jones John Buckley Joseph Aris Brass William Winder Rob^t Manning

Death case – Mr Hitchins 18 July/45 Ref^d to Barr & Judge July11/- [*4 lines crosswise overstruck page 1 of 2*]

D 18 1845

Elizabth Davis

Death

To be hanged 16th of August next. Chief Justice Doherty's Report annexed July 14

[?] The Prisoner is described in Clerk of Crown Return as Elizabeth Davis

To His Excellency Baron Heytsbury Lord Lieutenant General & General Governor of Ireland

The Memorial of the Governor of the Foundling Hospital Dublin

Humbly Sheweth

That Memorialists have been lately informed that a female named **Eliza Davis**, who had been placed as a Foundling under their care and brought up from infancy by this Institution has been found guilty before Chief Justice Doherty at the last Wicklow Assizes of the Crime of Infanticide and is at present under sentence of death.

She is but 19 years of age. On the 6th November 1840 she was apprenticed to a Farmer in the County of Wicklow for four years. And, as appears from the reports of the Inspectors who are annually sent from the Institution to examine into the state and condition of each Foundling during apprenticeship her character and conduct were irreprochable until seduced by a fellow servant who well knew her destitute circumstances, and who depended upon his not being obliged to marry her, he being of the Roman Catholic persuasion and she a Protestant.

That although the Crown most humanely assigned her both Counsel and Attorney at the time of the Assizes, yet the notice to these her advocates was so very short (the Attorney having only saw her the night previous to the trial) that it was impossible for them to prepare her case with full deliberation or to procure such witnesses as she required for her defence, the unhappy individual not having a friend in the world to suggest a word in her favour.

That hence a most material part of evidence was omitted for Eliza's Case, who was a fellow servant with the unfortunate culprit, has since the trial sworn an information that she knew the Prisoner to be subject to fits of Epelapsey and to use the phrase of the information "She would be during the interval before and after, "not right in her head" – and

this deponent went to the Court determined to state the fact, but never before having been examined as a witness, she was so very nervous and frightened that she did not know when to come forward not having been called for.

That moreover the evidence of the Doctor who examined the child states:that it had been taken "very good" care of up to the time of its being thrown into the water by
the delinquent. There is therefore every reason to suppose that the unfortunate Girl
committed the crime whilst labouring under the effects of one of those fits and not by
premeditation.

Taking therefore into consideration the Prisoner's youth, her destitute condition, without adviser or relative of any kind and her constitutional Malady which by times deprived her of right reason.

Your Memorialists would humbly pray

That your Excellency may be pleased in the exercise of the merciful prerogative of the Crown to commute the Condemnation of this unfortunate Female still under age, to such other sentence short of death as to your Excellency may seem fit.

Signed on behalf of the Governors of the Foundling Hospital Dublin this 18th day of July 1845.

Henry Fakenham

Since the above memorial was drawn up the Rev^d S Donovan Incumbent of the Parish of Kilpipe has forwarded a declaration made before a magistrate to the effect that from frequent and personal knowledge, having lived in the same house formerly with the Delinquent, he can corroborate the certainty of **Eliza Davis** being subject to fits of long duration by which malady she was often left in a condition of Mental Inability after these attacks, as is also stated by her fellow servant Eliza Carr. Moreover, she had never concealed the child & treated it with maternal affection for the months till the moment of throwing it into the water.

The impartial declaration of the Rev^d Donovan is herewith transmitted.

Received from the Hon^{ble} - & Rec'd the Dean of St Patricks
Mr Hitchins A respite has been prepared H.H.
On 18 July/45
The Dean of St Patricks inf^d do HH
[illegible] [5 lines crosswise overstruck page 1 of 2]

[faded] July 18,1845

Sir,

I have [2 or 3 words illegible] the Lord Lieutenant to acknowledge the receipt of the Memorial of the Governor of the Foundling Hospital [2 words illegible] of **Elizabeth Davis** convicted of Infanticide at the last Wicklow Assizes, and to reacquaint you with the unfortunate circumstances [about 8 words illegible] His Excellency has been pleased to commute her sentence to Transportation for Life.

I have the Honor to be Sir Your obedient servant E Lucas

Andrew Nolan Esqr

I Solomon Donovan A.M. Incumbent of the Union of Kilpipe declare that I was formerly incumbent of the Parish of Mullinacuffe and lodged in the house of Mr James Twamley of Cronalea. That Eliza Davis now in Wicklow Gaol under sentence of death for infanticide served the said Mr James Twamley as an apprenticed servant during the four years of the time of my residence in said Mrs James Twamley's house. That the said Eliza Davis was to my knowledge subject to fits of a very peculiar nature, which frequently seized her while at work in the house and sometimes on the road. That she has remained as in a trance on these occasions sometimes the whole day, sometimes for 24 hours. That she very frequently had a bewildered look and remained silent when spoken to as if in a state of amazement. That I have no doubt but that the soundness of her mind was much impaired. That Bess Carr who has sworn to the fact of her Eliza Davis as being occasionally "not right in her head" had a good opportunity of being well acquainted with the said Eliza Davis having been a fellow servant of hers at Mr James Twamleys and a share of the same bed. That the evidence of Margaret Hopkins to the effect that she saw the said Eliza Davis drown her child is in my opinion wholly undeserving of the least credit. That if Margaret Hopkins was cognizant of such a fact she could not in my opinion have kept it secret so long. That the said Margaret Hopkins and her husband are very poor and distressed people and have a very large family. That the Margaret Hopkins was on a former occasion summoned to Carlow to give evidence in a somewhat similar case. That she at that time received by order of the Court a sum of money to defray her expenses which sum of money was in her estimation considerable That a hope of obtaining similar motive that induced her to volunteer her evidence against Eliza Davis. That said Margaret Hopkins has suffered imprisonment by sentence of the court as a thief, and has since been known to make statements utterly false and without foundation.

Taken acknowledged & solemnly declared under the Statute for abolishing Oaths, by the Rev^d Solomon Donovan.

Before me: W. K. Farinar

Magistrate for Co of

Sol^m Donovan Wexford, 16th July 1845

Copy

I **Solomon Donovan** A.M. Incumbent of the Union of Kilpipe declare, That I was formerly incumbent of Mullinacuffe and lodged in the house of Mr James Twamley of Cronalea. That Eliza Davis, now in Wicklow gaol under sentance of death infanticide was apprenticed from the Foundling Hospital to said Mr James Twamley and served him for four years during which time I resided in Mr James Twamley's house That I know the said Eliza to have been subject to fits of a peculiar kind which frequently seized her at her work in which she has lain as in a sleep for upwards of twenty four hours. That she frequently had a bewildered look and remained on those occasions silent when spoken to. That I have no doubt that her intellects were impaired. That Bess Carr who has sworn to the fact of her Eliza Davis being "not right in her head" had a good opportunity of being well acquainted with her having been a fellow Servant with her at Mr James Twamleys and an occupant of the same bed until the discovery of the pregnancy of Eliza Davis. That the evidence of Margaret Hopkins to the effect that she saw Eliza Davis drown her child is in my opinion wholly undeserving of the least credit. That if the Margaret Hopkins was cognizant of the fact she could not in my opinion have kept it secret so long. That the said Margaret Hopkins

and her husband are very poor and have a very large family. That the Margaret Hopkins on a former occasion was summonsed to give evidence in Carlow on a trial of a somewhat similar nature on which occasion she received a sum of money to defray her expenses in her estimation considerable- and that a hope of obtaining a similar or a greater sum was in my opinion the motive that induced Margaret Hopkins to volunteer her evidence against Eliza Davis. That Margaret Hopkins has twice the trial of Eliza Davis made Statements in exculpation of the part she took on that occasion namely that it was at my suggestion and by my advice she went & tendered her evidence against Eliza Davis and that I gave her money to enable her to bear the expense of the journey which Statements are totally false and without foundation.

[?Kilinor/Kilmer) Glebe Arklow 11th July 1845

The Chairman informed that she has been respited HH July 18/- [illegible] [[3 lines crosswise overstruck page 1 of 2]

<u>Death Case</u> Mr Hitchins 18 July/45

> Wexford July 12th 1845

Sir,

In reply to your letter of the 11th Ins^t enclosing a Petition on behalf of **Eliza Davis** under sentence of death in Wicklow Gaol and requesting me to reacquaint you with the particulars of the case for His Excellency's information and whether in my opinion there was any mitigating circumstances which would render the Prisoner a proper object of mercy I beg to enclose my notes of the sentence given on that trial and with great regret to state that I cannot discern any mitigating circumstances which would in my opinion warrant me in recommending the Prisoner as a proper object of mercy. If however His Excellency were, either from a perusal of the notes, which I have the honor to send for his consideration or from the circumstances suggested by the Jury or from any other enquiry which he may think proper to institute discursive grounds for extending mercy to this unfortunate woman I most humbly add that it will afford me sincere satisfaction.

I appointed a distant day (the 16th of August) for the Execution in order to afford His Excellency ample time for the consideration of this case.

I am Sir yours faithfully John Doherty

E. Lucas Esq &c. &c. &c.
Commute to transportation for Life
July 17th 1845 – Heytesbury
Chief Justice informed & respite prepared 17 July HH]
Rec^d 19th from His Exc & desp^d do H.H.
[5 lines crosswise overstruck page 1]

Mr Hitchins

County of Wicklow)
To wit)

James Twamley of Cronalea in the County of Wicklow, Farmer came before me one of Her Majesty's Justices of the Peace for said County And Voluntarily Maketh declaration and saith that he knows Elizabeth Davis now a prisoner under

Sentence of death in the Gaol of Wicklow. Saith that the said Elizabeth Davis is a foundling and was apprenticed to this declarant by the Governor of the Foundling Hospital in or about the month of January one thousand eight hundred and forty one for a period of four years. And as such lived with this declarant and in his service from that time up to the month of January one thousand eight hundred and forty five when her time was up. Saith that in a short time after the said Elizabeth Davis was so apprenticed, she was attacked with some description of fits, which continued at intervals during the whole time she lived with declarant . And when so attacked she would remain for several hours together in an incurible state, and would not come .to her usual state of mind for many days afterwards. Saith I was often obliged to call a medical aid to her when so attacked. And from repeated attacks of such malady deponent is firmly convinced that the mind and reasoning faculties of the said Elizabeth Davis was greatly impaired and weakened her on such that at times declarant believes she was not legally responsible for her acts.

Declared before me this 14th of July 1845 - at Ballinglen

Hibbs Newton J.P. For Co^{ty} Wicklow

July 18, 1845

Sir

I have [about 4 words illegible] the Lord Lieutenant to acknowledge the receipt of the Memorial of the Crown persons of the Town of Wicklow and in task only of **Elizabeth Davis**, convicted of Infanticide at last Wicklow Assizes, and to reacquaint you [about 8 words illegible] His Excellency has been pleased to commute the sentence of Death passed and pass to transportation for Life.

I have the Honor to be Sir your obedient servant E Lucas

Andrew Nolan Esqr

Stamped CHIEF SECRETARY'S OFFICE DUBLIN 45 JUL 19

To,

William A'Court

Lieutenant General and General Governor of Ireland

We the <u>only</u> members of the Society of friends resident at Wicklow, in which place **Eliza Davis** is now confined under sentence of death for infanticide.

Most respectfully beg leave to solicit thy merciful interference on her behalf by exercising the power we trust wisely and justly placed in thy hands, by changing her sentence (to whatever may appear to thee best) from that of death.

In addition to our belief that man is not under any circumstances authorized to deprive his fellow man of life, we may in the present instance add that having heard and made particular enquiry relative to her character our belief is that the prisoner was and is of weak intellect and at times of of unsound mind and at no time was there greater cause for her being so than the time at which she committed the melancholy act, without a friend, refused at the poor house, without a home, without food, and afflicted with Epilepsy a disease to which she has long been subject, we respectfully submit are causes well

calculated to increase her mental weakness, and lead us to hope for thy favourable consideration of her case.

Joseph Pim Samuel Greer Joseph Morton Henry Greer Joseph Pennefather Josiah Fayle

Death case Mr Hitchins

Memlst ansd 21 H.H.[3 lines crosswise overstruck page 1 of 2]

Stamped CHIEF SECRETARY'S OFFICE DUBLIN 45 JULY 19

To His Excellency The Lord Heytesbury Lord Lieutenant General and General Governor of Ireland

The Memorial of the undersigned on Behalf of **Eliza Davis** a Convict under Sentence of Death in Her Majesty's Gaol of Wicklow.

Most Humbly Sheweth

That at the Assizes held at Wicklow on the 8th and 9th Days of July Instant before the Right Honorable The Lord Chief Justice of the Common Pleas, one of the Judges of the assizes for the Leinster Circuit Eliza Davis, above mentioned was convicted of having caused the death of her infant child by drowning and was sentenced to be executed on the 16th day of August next.

That Memorialists are fully persuaded that the said convict, who is in the Twenty-second year of her age, and is afflicted with Epilepsy, has on different occasions exhibited strong indications of imbecility or aberration of mind Induced the fact of her having been subject to fits of insanity seems to be clearly established by the Affidavit of Elizabeth Carr her fellow servant, and by the solemn declaration of James Twamley her late Master and of The Reverend Solomon Donovan Incumbent of the Parish of Kilpipe in the County of Wicklow, who had lodged for some years in the house in which the said convict was an apprentice and servant.

That Memorialists understand that a report or statement was made to the Judge before whom the said convict was arraigned that nine cases of Infanticide had occurred within a year in the neighbourhood in which the said convict had resided, and that the said convict had been previously charged with a similar offence, which report or statement has been proved to be unfounded as letters from the Police authorities show that in the District alluded to only three Infanticides were alleged to have been committed within the last two years, and in the two of those three cases, the persons against whom charges had been brought have been acquitted, and the said convict above had been declared to have been guilty, and it is certain that the said convict had never before been charged with, or suspected of the crime of Infanticide.

That the said convict was strongly recommended to mercy by the Jurors who had immediately before returned a verdict of guilty against her, but that recommendation not having been presented to the Judge until his Lordship had pronounced upon the said convict the sentence of the Law, he told the Jurors that their recommendation must be addressed to your Excellency and not to him.

That surgeon Henry Morton proved upon the trial of the said convict that the infant appeared to have been taken good care of until the act was committed by which it was deprived of life, which fact (as Memorialists conceive) shows that maternal feelings were strong in the breast of the said convict and the deed may therefore reasonably be attributed to sudden and momentary phrenzy.

That Memorialists having learned that the worthy and worshipful Chairman and the Town Councillors of the Borough of Wicklow in the Spirit of Christian Charity or God like mercy have concurred in a Memorial to your Excellency imploring you to spare the life of the said convict, they deemed unnecessary to offering any further observation to your Excellency upon this melancholy subject, and heartily joining with the said Chairman and Town Councillors in the supplication for a commutation of the sentence of the said convict they will every pray.

Wicklow July 1845

[27 signatories]
Francis Chomley A.M. Rector of Drumkay
& Vicar of Wicklow
John Dickson Clk
J.A.[?] J.P.
[illegible] A.M.Curate of [?] Castlegrange Ashford
Patrick O'Doherty Clk Ashford
James [?]
WSA [?] Delgany

Thos [?] Clk Glanely J Dickson J.P. Ballyfree Glanely Ashford Will Major Clk Dunganstown Wm [?] Clk Dunganstown John Grant P.P. Wicklow
Eugene Clarke P.P. Glendalough
Cuthbert Eccles Wicklow &c 44 Eccles St
M Sullivan R.C. Curate of Wicklow
John Eccles Curate of Wicklow
Wm [?] Constabulary Pay Master
Robert[?] Rector of Kiltallagh A.M.

Robt Porter Protestant Chaplain Gaol of Wicklow R.H. Birch [Col], R.A. Kilquade William [Blake] Wicklow William H [?] M.D. Wicklow Thos Baldwin [?] officer Wicklow [?] Banker, Wicklow John Parker { Church Wardens Wicklow [?] Wilkinson John Perrin

It not being likely that I shall be personally present when the petition returns to Wicklow I have requested this slip of paper to be affixed with my name attached. W.H. [illegible]

Death Case
Mr Hitchins
Mr Chomley inf^d &c H.H.[3 lines crosswise]

To His Excellency Lord Heytsbury Lieutenant General and General Governor of that part of the United Kingdom called Ireland

The Humble Memorial of the Undersigned being the Chairman and Commissioners for the time being of the Borough of Wicklow in the County of Wicklow

Sheweth.

That at the last Assizes held at Wicklow in and for said County on the 8th and 9th days of July instant a person named **Eliza Davis** aged 22 years was convicted of the Murder of her infant child and sentenced by the Right Honble the Lord Chief Justice of the Common Pleas to be executed on the 16th of August next.

Memorialists further shew that they have caused enquiries to be made from persons competent to give correct information on the subject and from the result of such enquiries they are induced humbly to approach your Excellency and lay the facts of this melancholy case before you with a full and confident hope that your Excellency will extend to her that mercy that she shewed not to her own offspring but which was the result of a weakness and deficiency of Intellect as appears by the sworn testimony of Elizabeth Carr her fellow servant and the solemn declaration of the Reverend Solomon Donovan Incumbent of the Parish of Killpipe in said County a Copy of which is herewith sent.

Memorialists further shew that the said Eliza Davis was a foundling and as such bound apprentice to a person named James Twamley of Cronalea in said County and was seduced while in his employment by a person in the house to whom she brought the child about 14 days after its birth when she offered to support it for the sum of £2 a year which was refused nor the slighted support of any kind, which drove her into such a state of desparation as to commit the melancholy deed being seized with one of the fits alluded to by the Revd Mr Donovan.

MemIt^s shew that affidavits corroborative of Mr Donovan's statement have been filed with the Deputy Clerk of the Crown one made by a Policeman impugning the character of the said Margaret Hopkins and shewing to demonstration that the evidence of said Hopkins could not be true. The other made by a person named Eliza Carr who had been a fellow servant of Eliza Davis's and slept in the same bed with her which states that said Eliza Davis was frequently attacked with said fits.

Memorialists humbly shew that the reason of these facts not being put forward as matters of Defence was that counsel or attorney were not assigned to the Prisoner in sufficient time to have the evidence brought forward nor in fact until she was put upon the Trial.

Memorialists further shew that a strong recommendation to mercy was put forward by the Jury who tried the case but by some fatality it was not given until sentence was passed when the Judge stated that it should go to your Excellency and not to him.

Wicklow July 15th 1845

Joseph Pennefather

Memorialists therefore most humbly pray that your Excellency may be pleased to reprieve the said Eliza Davis and commute the sentence in such a way as to your Excellency shall seem meet Memorialists stating to your Excellency that no Execution of a female has occurred in this County for the last ninety eight years.

And Memorialists will Pray

And. Nolan Chairman of the Commissioners John Chapman Joseph Morton James Reynor Michael Byrne Hy Nolan [? Collins] James Barry Samuel Smyth James Byrne Henry Hopkins M [?] Alex [?Horsbrough] Richard Nolan Joseph Pim John Edwards Michael O'Rourke Martin Hagerty Mathew Travers
