

Catherine Kelly- = Irish transportation database CRF 1842 K4 Film 48

Margin annotation: W Connor 10 Mar 42

Castlebar
March 9 1842

Sir

I have the Honor to acknowledge the receipt of your Letter of the 4th Inst enclosing a Memorial from Catherine Kelly and Margaret Kelly prisoners in the Gaol of the County of Leitrim, on requesting me to acquaint you, for the information of His Excellency The Lord Lieutenant, with the particulars of the case, and whether there are in my opinion any mitigating circumstances that would render the Prisoners proper objects of Mercy.

From the Report of the Evidence which I herewith transmit, His Excellency will perceive, that the younger Prisoner, Margaret, was delivered of a child: and that upon being questioned as where it was she alleged that the birth had been premature: and upon being pressed to disclose what had been done with it she desired her mother, the other Prisoner, to procure it – that the body was found buried in a floor of a room in her father's house and that the appearances were such to induce the Medical Gentleman who was examiner, to conclude that the child had lived and had been killed by suffocation. I put the case to the Jury as favourably for the Prisoner as I thought myself warranted in doing, with respect to the fact whether the child had been alive, stating to them that if they doubted that fact, they might requit(refute?) of murder and convict the mother of concealing the birth. The Jury having found the Prisoners guilty, I did not feel the case to be one, in which I should be justified in not passing sentence. I have been informed by the Crown Solicitor, I W Hartman?, that the Prisoner Margaret made a confession, not given in Evidence, in which she states that she was delivered by her mother – that she became insensible, and did not see the child, and that upon enquiring about it from her mother, the latter told her that it had been still born. This in a great measure corresponds with what she appears in the Evidence to have stated to the Policeman, and is in itself not improbable and it may be observed that in the situation in which she then was, she may not have been able to collect or use the matter which was found in the throat of the child – Under the circumstances I would respectfully submit to His Excellency, that the life of the younger Prisoner ought to be spared - With respect to the other, although there is every reason to believe her guilt, yet His Excellency may not consider that the interests of Justice require a distinction to be made in this respect, and upon the whole, I should respectfully say that in my opinion His Excellency would be warranted in extending mercy to the prisoner, by commuting the sentence to one of Transportation for life

I have the Honor to be
Sir
Your most obedient Servant
Richard. W. Greene

E. Leversley?
Dublin Castle

1 Witness. William Porteus

I know both the Prisoners – Margaret Kelly lived with me as Servant for 7 or 8 years. She left me a short time before last November 1840. She had then the appearance of carrying a child. Her mother lived in a House on part of my land. I heard the Prisoner Margaret acknowledge that she had had a child. The Policeman said to her "You had a child": she said she had: he asked her where the child was. She said "it was born before the time" and "that it was so small, that it was not worth looking after". Sergeant Mc Kenna? of the Police then desired her to produce the child: she said she could not, until the morning: he told her that if she did not, he would make her a Prisoner. The Prisoner Margaret then desired her mother (the Prisoner Catherine) to produce the child. She did not do so at first, but when desired a second time she went up with the Policeman to a room and began to dig into the floor with a loy (spade). The Sergeant took the loy out of her hand and put it down carefully into the ground, and exposed part of a child. The Sergeant said it must remain there till next morning, and left two Policemen to keep guard. Next day the child was examined by Doctor Allingham.

I spoke to Margaret Kelly before she left my service, but she denied being with child.

2 Witness Henry M Kane Police Sergeant. – I saw the two Prisoners on the night of the 14 November last at the Home of Thady Kelly Father of the Prisoner Margaret. It is in this County. I went there between 11 & 12 at night. Three Policemen were with me. – Neither of the Prisoners was in the House before me, but when I came, they walked in with me. I told the young woman that she was charged with having had a child which was not forthcoming, and that anything she said would be given in evidence against her. She then said that she had had a child on the last fair night of Drumkeeran which was three days previous. I asked her where the child was: She said it was only small: I asked her if she meant to say she had had a miscarriage: to that she made no answer: I asked her if she had had a midwife. She said that no one was present but her mother. I then confined the older Prisoner in like manner: she said that she had been present at the birth, and that the child was dead born. I pressed her to tell me where the child was interred. She (Cath Kelly) refused saying that the young woman was married. I then told her that I would not leave the House without learning where the child was, and that if I was not informed of that, I would make them both Prisoners. Margaret then told her mother to show the child, upon which Catherine went into the room and I followed. She went to a corner of the room, and scraped the earthen floor with her hands. I asked her if the child was there? She said “yes” She then called for a Loy, which was produced and with it she turned up a small portion of the clay: I took the loy from her and turned up the clay carefully, till I saw the arm of a child bare. I asked her if that was the child, and she said it was. I made them Prisoners. I saw the body of a child there the next day but cannot be sure that it was the same. I gave charge of the child to Crogan a Policeman, and sent Joyce next day to relieve him. I was present at the examination by the Doctor. It was a male child. (The witness here produced a substance in paper, which substance he swore he saw taken out of the throat of the child at the Examination). This substance appeared to correspond with some pig’s ring which was on the floor.

Crogan and Joyce, Policemen, were examined and proved that they had carefully kept guard, and that no change took place between the first discovery of the child, and the Examination by the Doctor.

3 Witness Edward Allingham M.D. I went to Kelly’s House about the middle of the day after the body of the child was discovered. I am Surgeon and live 10 miles from Kelly’s house. I saw the child disinterred, and examined the Body. It was a male child and could not have been long born. There were no traces of decomposition. It was a full grown child. When first disinterred the body was covered with clay. I had it washed with cold water. I have seen no external marks of violence. The face and neck were [... ..] usually florid. I examined the child internally [.....] lungs, heart etc. In the mouth there was a stuffing of a substance resembling Pig’s dung: it was in a moist state at that time: it is now much shrivelled: it had the appearance of a mixture of pigs dung and cut marks. There was pigs dung in a corner of the room, [.....] adjoining room or kitchen. I found this substance in both the mouth and throat. There was a bed in the room. I examined the child in order to ascertain whether it had been born alive. I examined the general development, the shape of the Chest, the nails etc. I also used the Hydro Static test. The Lungs and Heart floated. From all these observations, my opinion is, that the child did live. I felt the lungs which appeared as if respiration had taken place. The umbilical cord was cut off close to the belly: there was no cicatrix. I doubt feculent could have caused the stuffing of the throat. It could not be but by design: it could not have been by accident: some of the stuff had got beyond the epiglottis, and lodged in the Trachea, as if pushed. It was sufficient to cause death.

Cross Examined I made a very minute examination. The Hydrostular test is a very equivocal one in these cases: as [...] the floating of the Lungs: so indeed is every test: none known is unequivocal.

To His Excellency the Earl De Grey Lord Lieutenant General and General Gov^r of Ireland

The Memorial of Catherine Kelly and Margaret Kelly
Humbly Sheweth

That they were tried before the Sergeant Green? at Carrick-on Shannon and found Guilty in Murdering and Infant Child and sentenced to be executed on 9th April next . Memorialist most humbly implores your Excellency to order their sentence to be Commuted and not allow them to be executed and they shall for ever most fervently Pray

Carrick on Shannon
2nd March 1842

17, Nova Scotia Street
Birmingham March 20 1842

Her Majesty's Under Secretary of State for Ireland etc etc

Sir –

I will feel extremely obliged, as will many religious conservative friends, who have long sought that on Christian, rational and constitutional as well as moral grounds, the abolition of the punishment of death for crime, would you have the Kindness to lay the enclosed memorial before his Excellency. When [.....] conservative friends it is because it is to such the fashion of the present day to rank the persons who seek for the repeal of Sanguinary Statutes, enacted in barbarous, superstitious and brutalized ages, achieved by Infidels on higher and demoralized Priests, amongst those of the present day who such novel and wholesale revolutionary changes, amount the total demolition of our Seripherally(sic) Protestant Institutions. Therefore I trust Sir, you will admit that that sound conservative Journal, the Morning Herald, nor any of the papers that the honour of conducting for the last twenty years such is the Dublin Warden(?) – the statement, the Enniskillen Reporter and the Belfast Conservative, would be likely to lend themselves to anything of an unconstitutional nature. Indeed, Sir, I have not the least hesitation in saying that out of the thousands of Sincere christians who advocate the principles, and laws in my Memorial, more than some tenths of them are truly conservative, and supports of the present Government, do much so that they will not seek to press this question on Parliament in any way that might tend to give pain or annoyance to her Majesty's Ministers.

These latter sentiments I do not express authority, but from extensive correspondence and intercourse.

I have the honor to be
Sir,
Your respectful obed^t,
Servant
Indicipherable signature
Late Conducting editor of Dublin Warden & Statesman papers

Annotations at right angles to letter:

[.....] to His Excellency

CH 22 Mar/42

The Sentence has been commuted to Transp^t for Life

Mr Connor

Ht 22

It appears this sentence has been commuted inform writer accordingly

CH 23 Mar, 42

and 23d HM

To His Excellency Earl De Grey, Lord Lieutenant General and General Governor of Ireland etc

The Memorial of Joseph Henry Loden, for many years connected with the Editorial department of the Newspaper Press of Ireland, respectfully showeth:

That from long and serious investigations of the subject, Memorialist is convinced that the punishment of death for crime has had no salutary, lasting, beneficial effect on the morals of the Inhabitants of those countries where it is resorted to for that purpose but, that on the contrary, in the countries where the practice has been abolished, the crimes for which it was enacted have diminished, and the morals of the people improved in consequence, Memorialist verily believes, of the Sub titution of punishmenst of a much more exemplary nature and tendency – such as imprisonment for life, and other lengthened periods with hard labour, solitary confinement etc.

And Memorialist further begs leave to state to your Excellency that it has been shown on unquestionable data, that in these, our own, countries crimes for which the punishment of death was

heretofore awarded, have diminished since the revision of that portion of the criminal code by which the statutes are repealed that so awarded it – together with the merciful relaxation of those that still remain on the Statute Book – and that in a ratio more than commensurate with increase of population and its consequent incitements and temptations.

Memorialist does not presume to offer these observations in ignorance that your Excellency can alter the laws as it exists; or that Judges of Assize can administer it other than they find it in the Statutes made and provided to apply to the cases tried before them; but from the conviction that your Excellency's humane disposition will induce you to graciously exercise the prerogative of mercy, vested in your Excellency as the Representative of our most gracious Sovereign.

Hence, Memorialist humbly and respectfully implores the humane exercise of that prerogative, in behalf of the unfortunate and wretched females, Margaret and Catherine Kelly, left for Execution in the Gaol of Carrick-on Shannon, who are to undergo the awful penalty of the law, for Infanticide, on the ninth of April next.

In thus setting forth these sentiments on the subject of the law of punishment of death for crime, and thus prefacing the prayer of this Memorial in behalf of the above unhappy beings; Memorialist does not, by any means, wish it to be understood that he impugnes or arraigns, the superior wisdom of those who heretofore from the barbarous customs of the times, conceive themselves called on to frame such sanguinary enactments; nor if those well meaning, but, Memorialist respectfully adds, mistaken Legislators, who still advocate the continuance on the Statute Book: as he trusts that increasing wisdom, arising out of growing moral and intellectual improvement, and practical experience; all founded on the rapidly, and widely-spreading influence of the doctrines and moral precepts of "the Glorious Gospel of the Blessed God" will teach them the unchristian character of Such Statutes, and their total failure and inadequacy for the accomplishment of the object for which they were enacted and are now enforced.

Memorialist cannot close these observations without gratefully and respectfully expressing his gratification at Your Excellency having already conferred and are still more likely to confer, on unfortunate Ireland, during Excellency's Viceroyalty, that salutary, impartial and truly conservative administration of the laws and Government, which for several years past she stood so much in need of. And the want of which was deplorably calculated to widen those unhappy divisions which have so long and lamentably distracted and demoralized her people, at least the great majority of them, and threatened the severance of national compacts – general discontent, disaffection and more than agrarian outrage. And Memorialist further and most earnestly prays, that God in his gracious wisdom, may long spare your Excellency, graciously and mercifully, to wield the Sword which our beloved Sovereign has to wisely and judiciously entrusted you with, and Memorialist etc etc

March 19 – 1842

J H Loden
Late conducting Editor of
Dublin Warden and Statesman Newspaper

*In margin: Death case W Connor
 Ans^d to Mr H McFlaherty 19 Mar/42*

To His Excellency Earl De Grey General and General Governor of Ireland

The Petition of Catherine Kelly and Margaret Kelly now confined in the gaol of Carrickshannon and sentenced to Die on the 9th of April next, – as recorded by Sergeant Green at the last Assizes Carrickshannon in the County of Leitrim for the Murder of an Illegitimate Child begotten by Margaret,

Humbly begs to state that they were ignorant of the fatal consequences which were to follow, as the only consideration which evoked them was shame and disgrace, and in order to prevent this too well known disgrace, your Pet^{rs} acknowledge they have committed that awful deed – which tho Almighty could not suffer^d to remain unpunished.

Your Pet^{rs}. therefore humbly crave pardon from God and implore your Excellency for a commutation of Sentence and that you will spare your Pet^{rs}.; that they may atone to the all seeing Eye for depriving the innocent of Life.

For which your Pet^{rs}. as in duty bound shall ever pray

We the Serving Journey and Merchants of DrumKeeran (and its vicinity) in the County of Leitrim who reside convenient to the place where the aforesaid deed was committed – considering it our duty respectfully and humbly to entreat and solicit your Excellency for a mitigation of sentence for the above Catherine and Margaret Kelly. From the following circumstances - beg to say that we are fully convinced they were labouring under the effects of extreme ignorance, and we are further enduced to state for your consideration, they have, heretofore lived as Moral Sober industrious and well conducted women, and as such we beg your Excellency to extend mercy towards them

Multiple signatures

Catherine and Margaret Kelly
Murder Death
9th April
Commute to Transportation for life
March Initials
1842

1. W^t. prepared
2. Sergt Greene ans^d 14th March 1842

Wt. sent 15th