

County Cavan Women

- Alice Fitzsimons & Catherine Cahill

Letter of Petition for clemency for Catherine Cahill – to The Lieutenant General & Governor General

His Excellency Lieutenant General and General-Governor of Ireland

The humble and suppliant Memorial of John Cahill of the town of Athboy, Dealer, most humbly sheweth

That on or about the eight day of June last, my Brother-in-law, Owen Brady, his wife and four children, came to my house from the County of Cavan, apparently in a very low condition. I was out labouring at the same time for the Rev^d R. Noble, Parish Vicar but my wife Catherine Cahill (the subject of this Memorial) not seeing her Brother or his family in her own house for upwards of seven years before this time entertained them and made them as comfortable as our humble means would afford her.

The next day, Brady's wife gave my Woman a Shawl and begged of her to sell it, or to pledge it for her, as they had no other means at the time to procure support for their family. In compliance with her sister-in-law's request, my Wife pledged the shawl for the value of two shillings and sixpence. Two days afterwards said Brady prevailed on his Sister (my Wife) to accompany him into Navan, to pawn some things he had in his Bundle. She always willing and very desirous to oblige her Brother went with him, and as a proof that she did not suspect the things, or clothes, he had in the Bundle were stolen, she pawned them in her own name! for Brady remained outside, whilst he sent her in to pledge the things for him. This my Lord is the sum and substance of her offence.

But to resume. The night after they were in Navan, we were all taken for those stolen goods and tried before the Assistant Barrister, Mr Murphy in Baileborough, County of Cavan. but, my Lord, in the presence of God, innocency was found in me. I was, of course, acquitted: which, I hope may be an extenuation of my Wife's offence. Brady and his Wife are sentenced to ten years transportation and, I believe, deservedly so, for he acknowledged their Guilt. My unfortunate wife got sentence for seven years to be transported from me, and her four young and helpless children; for being too compliant to her Brother and for doing what, in her ignorance, she thought no offence at all, but an act of kindness to a distressed relation

Now, My Lord, as common Father and Guardian of us all, I humbly beg, in the Name of our Lord God, the God of Mercy as well as Justice, that you will be charitably pleased to take my case into your immediate consideration; and restore my poor wife to her little helpless innocent children, from her present confinement in Grange Gorman, Dublin in company with Characters justly punished for their transgressions, and we shall as in Duty bound ever pray.

John Cahill and children

The Queen

V

John Cahill and Catherine Cahill his Wife

My Lord,

In compliance with your Lordship's request, I have the honor to transmit my report of the trial of Catherine Cahill, a convict under sentence of transportation.

The convict and her husband were both tried before me at the last sessions of Cavan, for having received into their possession knowing them to be stolen, various articles of wearing apparel, the property of Mr Samuel Jones. The principal in the felony, a man named Owen Brady had previously pleaded guilty and sentenced to transportation. He is brother to Catherine Cahill.

The first witness (Mr Samuel Jones) deposed, that on the night of the 29th May, last, His House had been broken open and that a shawl – a mantle – a coat and various other articles were carried away. The shawl and coat now produced, He positively identified as his property

John Carolin (a constable) was next produced and stated that in consequence of some information He had received, He made search in the House where the Prisoners lodged at Athboy, for stolen property, and He there found a mantle (which the Prosecutor identified as his property). The female Prisoner is sister to Owen Brady who has just pleaded guilty. Brady's wife claimed the articles as her own – but Catherine Cahill acknowledged that she had pawned the coat at Mr Finnigan's pawn office.

John Martin – (the next witness). Stated that He was in the employment of Finnigan, the pawn broker, and that Catherine Cahill had pawned in the office and received 12 shillings for the coat now produced (and which was identified by the Prosecutor) She gave her name as Catherine Cahill, but stated her place of residence to be Rathmore.

Mr [Shoulan?] Crawford (chief constable) then produced a shawl which He stated He had received from a man named Hall. William Hall deposed that He had purchased this shawl now produced to Him on the last Saturday three weeks ago from the female Prisoner.

Dublin September 16

1842

Upon the evidence the jury without hesitation found the female Prisoner guilty and acquitted her husband. It appeared to me to be a satisfactory verdict.

I have the honor to remain, my Lord, Your Lordships humble servant
P.M. Murphy, Assistant Barrister for Cavan
33 Baggot St

Dublin September 6 1842

My Lord,

I have the honor to acknowledge the receipt of a Memorial from John Cahill respecting his Wife Catherine Cahill and have to state in reply – That the convict was found guilty of having into her possession a quantity of wearing apparel which had been stolen by her Brother in a House into which He and some other thieves had broken at night. Both He and She and all her family - most infamous characters – Her Brother pleaded guilty and She, having been convicted upon very clear evidence and sentenced them both to transportation.

Her husband (the Memorialist) was represented to me at the trial to be a very decent man – but his Wife a most abandoned character – and I concurred with the magistrates at sessions in thinking that He was much better without Her & that public justice required She should undergo the punishment off transportation – and I know of no mitigating circumstances in the case.

I have the Honor to Remain my Lord
P.M. Murphy Assistant Barrister for Cavan 33 Baggot St

The Right Hon Lord Elliot

Newspaper Accounts of Trials - Alice Fitzsimons Brady & Owen Brady, Catherine Cahill

The Northern Standard 3 August 1839

COUNTY MONAGHAN ASSIZES

Monday last Grand Jury sworn in

James Halfpenny was indicted for sheep stealing, pig stealing, and cow stealing.

The case excited much interest, as it would end in dissolving a knot of robbers who infested the country for years past, and who were only discovered by the perfidy of one of the accomplices.

John Kenny examined by Mr Gilmore, Q.C. – Witness lives in Drumboory, in the county Monaghan; he lost two bullocks off his lands, on the 8th November 12 months; they were taken out of a field within 50 perches of his dwelling-house; they were worth 17 guineas.

Owen Brady examined by Mr Nelson – Witness recollects two bullocks of Mr Kenny's having been stolen in Nov 1837; before they were taken he had a conversation with the prisoner about them, in the house of one Ruxton, in Shercock; James Farley was with them; prisoner was insisting on witness and Farley going with him to Kenny's to steal the cattle; he also wanted Daniel McKay to allow his son to go with them, but he refused; this conversation took place on the Wednesday before the bullocks were stolen; had subsequent meeting with prisoner at Farley's house in company with several others; witness's wife was then present; they agreed to go for the cattle; they went from Farley's house to Halfpenny's and then to Kenny's land; Farley, Halfpenny, and witness's wife went into the field; witness remained in the road; they drove out the bullocks and drove them off; one went to Peter Carolan's house; Carolan killed it and had it ready for the market next day; the bullock was sold to Carolan for two pounds, and Carolan gave the sum of money to witness to give to prisoner; the head and other offal was brought to Farley's house and used there; the other bullock was sold to Neilson, another butcher.

Prisoner – I have no counsel, my Lord, nor the means of feeing one, and I am totally innocent of the robbery.

Witness (by the Court) – Did not give the information for a year after the transaction; told the keeper of Carrickmacross Bridewell, Mr Barry C.C., and Mr Evatt, J.P.

By a Juror – Never had a quarrel with the prisoner; the two bullocks were sold for £4.

Alice Brady examined – Is wife to last witness; recollects the time that the bullocks were stolen from Mr Kenny; saw prisoner in Pat. Farley's house the day before the robbery; he wanted her and her husband to go and assist him in taking the bullocks; had a previous conversation with him about it in Shercock, where he wanted the McKays to help him; witness and her husband, Pat Farley, and the prisoner, went for them on the following Wednesday night to Mr Kenny's land, whence they drove them to Shercock where they were butchered; one went to Peter Carolan, and the other to James Neilson, both of whom were butchers; witness went to Neilson with one of them; prisoner did not go with her; met prisoner next day in the town of Carrick, and Owen Brady gave him some money; heard the conversation between Brady and prisoner; they were rejoicing that as there was a couple of fairs that day they would be safe, as they would be searched first; Owen Brady

did not go into the field for them, but witness did; witness got her share of the money; it was divided into four parts and she got one and her husband another, Farley the third, and the prisoner the fourth, witness and husband got £2 between them.

Mary Ann Brady examined by Mr Gilmor – Witness is sister to Owen Brady; recollects the time that the cattle were stolen from Mr Kenny's; witness then lived as a servant with Pat. Farley; saw Halfpenny in the house; heard them talking of what they were going to do; Halfpenny said he had a thing in view which would serve them if they would assist him; he then spoke of the bullocks; the next morning before daybreak, they set off and returned, after daylight, with the cattle; witness had gone to bed but was obliged to get up and let them out and close the door after them; Halfpenny, Farley, Owen Brady and Ally Brady, were the persons who went; when they returned, Farley had a beef-head, a heart, and tongue with him; witness was desired to get some of it ready for breakfast, which she did; prisoner said it would be a pleasant joke if Mr Kenny would buy some of the flesh of his own bullocks in the fair that day.

John McKay deposed to the fact of prisoner being in Ruxton's house on the day previous to the robbery in company with the informer and Farley.

Daniel McKay deposed that the prisoner asked him to send his son to assist him in the robbery, and that he refused, because he would not allow him to be guilty of it

A Rev. Gentleman, whose name we did not hear, on being called on by prisoner as to character, said he knew him some ten years since, but not lately, before that period he was a respectable comfortable farmer, in fact, one of the most so in his parish; having lost his farm for some reason, which he (witness) did not know as he had been a long time out of the country, he was now a common labourer.

Mr James Mason was called on as to character, but refused to give a good one. Verdict – Guilty; transported for 15 years.

Monaghan Thursday

Peter Carolan was indicted for receiving a bullock, the property of John Kenny, knowing the same to be stolen.

The prosecutors in this case were Owen Brady, and his wife, Alicia Brady, the informers who had prosecuted Jas. Halfpenny, the previous day, for the stealing of the same animal, but as testimony of the witnesses was uncorroborated – their characters of the worst description, and, their evidence contradictory the jury returned a verdict of Not Guilty, and the prisoner was discharged.

The Northern Standard 21 March 1840

James Gavey, John Peter, and Daniel McKea, were next placed at the bar, charges with having stolen sheep, the property of Joseph Nelson.

Joseph Nelson deposed that he lives at Corvalley, in the county Monaghan; on the 15th January had seven sheep on his farm; on the morning of the 16th missed four of them; those he missed were ewes; knows where prisoner Danl. McKea lives; resides about 1 mile from witness's house; saw the sheep the night before they were stolen; saw the afterwards in Carrickmacross barrack-yard; the police had them in custody; one of them was dead at this time; got all the sheep; saw none of the prisoners there.

Cross-examined. – Lost the sheep on the 16th January; saw them the evening before; one of the sheep belonged to a man of the name of Smith; Gavey lives about a mile from witness.

Sub-constable Mitchell, examined. – Was stationed in Carrickmacross in January; went in search of the stolen sheep, on the morning of the 16th; went to McKea's house, near Shercock; there were six or seven men with him; witness knocked at McKea's door, but got no answer; the house is a small one; witness then forced open the door; prisoners were up; they did not appear as if they were after getting up; found the sheep there; one of them was dead; does not know whether old McKea is a butcher or not; the sheep were identified in the barrack-yard by Nelson; the dead sheep was covered with straw, on which old McKea was sitting; witness left Carrickmacross about 11 or 12 at night; received his orders from the head constable; when witness first received orders to be in readiness he did not know what duty he was to go on; met a man on the road to McKea's house; was told, and thought it was a man of the name of Brady; knows Brady, but it being dark at the time the witness could not positively identify him.

Thomas Armstrong deposed, that he is keeper of Carrickmacross Bridewell; witness went with the police to McKea's house; it was about 4 or 5 o'clock when they reached it; one of the police forced open the door; the prisoners were all up at the time; witness saw the four sheep in the house; one of them was dead, and concealed under some straw, on which Daniel McKea was sitting;- met Brady on the road, about half-a-mile from McKea's house; can't say it was Brady who brought the policemen there; witness had the care of Brady for some time.

COUNSEL. – It appears that Brady "Does good by stealth, and blushes to find fame".

Owen Brady, examined. – Knows the prisoners the bar; recollects the night Nelson's sheep were stolen; had a conversation with the prisoners Gavey and John McKea; Gavey said he was going to steal the sheep.

Cross-examined. - Was out the night Nelson's sheep were stolen; was not at McKea's house; witness had no sheep with him the night he met the police; informed Capt. Berry that Garvey was to go to steal the sheep that night – witness was himself once in the dock, but was innocent of the crime laid to his charge; lives about a mile and a half from Nelson's house; cannot say what time it was when he met the police; was not at McKea's house that night.

Mr Peter McEneney, examined as to the character of the prisoners, - Witness knows the prisoners, and has always looked upon them as honest, proper, and industrious persons. – Guilty.

Drogheda Conservative Journal Saturday 16 July 1842

BAILIEBOROUGH JUNE QUARTER SESSIONS

These Sessions commenced at Bailieboro' on Monday the 27th June, and terminated on Thursday the 31st. The Crown business was finished on Monday evening – P.M. Murphy Esqre. Q.C. assistant Barrister for the County Cavan, and Mr Wilcox, R.M. of Kingscourt presided.

The following are the convictions and sentences:-

Ode, alias Owey Brady and Alice Fitzsimons, (who it as stated by Mr George Gillogby, gaoler of Cavan, were man and wife); pleaded guilty to an indictment, charging them with a burglary and robbery, in the house of Mr Samuel Jones of Lisball near Bailieboro', on the night of the 29th or early on the morning of the 30th May last, and having stolen various articles of male and female wearing apparel. They were sentenced to be transported for ten years each

After passing of the sentence, the female prisoner, Alice Fitzsimons, entreated that his worship would permit her to take her two youngest children with her, saying, "I'll allow him", meaning the male prisoner, Ode Brady, "to take the other two".

The worthy and really humane Barrister, stated his regret that it was not in his power to accede to her request, but added, that if the application was made in another quarter, he had no doubt but that it would be complied with.

Mr Gillogby then stated that he could give her liberty to take any child with her, provided it was under seven years of age.

John Cahill and Catherine Cahill were then indicted for having stolen a silk crape shawl, and other articles of wearing apparel, at Lisball, aforesaid, on the 30th of May last; the goods and chattels of said Mr Samuel Jones, they were also indicted for having same in their possession, knowing they had been stolen.

John Cahill was acquitted, and Catherine found guilty, and sentenced to be transported for 7 years.

Sergeant John Carolan of the Navan Constabulary, is entitled to great praise, as it was owing to his vigilance and activity these robbers were detected and brought to condign punishment, and the property stolen, restored to Mr Jones the rightful owner. For having seen an account of the robbery in the Hue and Cry shortly after its occurrence, he went to the office of Mr Finnigan, Pawnbroker, Navan, and having ascertained that a great Frieze coat corresponding with the description of the one given in Hue and Cry, he, with much difficulty, traced it to the female prisoner, Catherine Cahill.

[We must remark here, that it is a great hardship on Pawnbrokers that the law is so defective with regard to them. Mr Finnigan the Pawnbroker in Navan lost the money which he had lent on the coat, as the Assistant Barrister stated to John Martin, his Clerk, that he had no power to allow it to him.]

Inquest Catherine Cahill

TAHO SC195/1/17 Inquest 1413 Catherine Cahill

House of Correction for Females --- Cascades near Hobart Town in the County of Buckingham.

24th March in the ninth year of the Reign of the Sovereign

John Price

Oaths of Frederick Biggers, Samuel Duck, Samuel Ridler, John Sheene, Hugh Heap, John Sander and Joseph Glazier.

Catherine Cahill came to her death ... do upon the Oath say that the said Catherine Cahill died at the House of Correction aforesaid on the Twenty-third day of March aforesaid by the Visitation of God in a natural way.

Signatures.

List of persons summoned

- v Mr Samuel Duck
- v Frederick Biggers
- v Samuel Ridler
- Xxxxxxxxxxxx
- William Phillips
- v John Sheil
- v Hugh Heap
- William Newland
- George pace
- George Tennons
- James Belcher
- v John Sanders
- v Joseph Glazier

I hereby Certify that I have summoned the above named Persons to attend at the time and place within mentioned

24th day of March 1846

Signature

Island of Van Diemen's Land

To Wit –

Information of the Witnesses taken this Twenty third day of March in the Year of our Lord one thousand eight hundred and forty six before me John Price Esquire one of Her Majesty's Coroners for the Island of Van Diemen's Land and its Dependencies at the House of Correction near Hobart Town in the Said Island upon view of the Body of Catherine Cahill then and there lying dead as follows. To wit –

The Information on Oath of Anne Stevens saith I am nurse in the Hospital at the female House of Correction Hobart Town. I knew the deceased Catherine Cahill she was a Prisoner of the Crown but not under sentence but was in this building awaiting her confinement being Pregnant. She has been here eight months she was admitted into the Hospital on Friday last. On Saturday she was taken in labour about ten at night I attended her up to the next morning at nine – she ~~was~~ had had no violent labour pains. Dr Casey came at nine o'clock and saw her and examined her he gave her some brandy and wagger and told me then that she was alright except the pains should be stronger the water had broken between twelve and one o'clock in the morning Dr Casey saw her again between twelve and one o'clock as I saw alteration for the worse and sent for the Doctor I induced that she was weak and could not bear her pain he again examined the deceased and ordered more brandy and water to be given immediately. Dr Casey stopped with her ~~until she was~~ sometime when he went and fetched Dr Bedford. She was then delivered with the instruments. She lived till the next morning at four o'clock ~~am~~ I was with her when she died the Doctor saw her again that night at nine o'clock every attention was paid to her I have been a nurse in England and am satisfied that the deceased was treated with every attention. Mrs Hutchinson was with her during most of the afternoon. She was forty three years of age. The child was dead born

her

Anne x Stevens

Mark

Sworn before me this

24th day of March 1846

John Price
Coroner

The Information on Oath of Edward Bedford Esq^{re} saith I am a legally qualified Medical Practitioner. I attended the deceased Catherine Cahill on Sunday last Dr Casey who requested me to attend expressed his fears that the uterus had been ruptured during labour. She was not delivered at the time of our arrival and was alarmingly ill she was delivered by instruments by Dr Casey and myself of a dead child. She was ordered the necessary remedies without however any hope of her ultimate recovery. I have made a post mortem examination with Dr Casey of the body and found that the Uterus was ruptured at the lower and anterior portion. This is the occasion of the death of the deceased this has risen from natural causes most probably from the large size of the child.

E. Bedford

Sworn before me this
24th day of March 1846

John Price
Coroner

• **Martha Reilly**

Martha Reilly - Irish Transportation Records CRF 1843 R

Stamped Secretary's Office Dublin
13 Apr 43

Parsonage
April 12
1843

Dear Sir,

I must have expressed myself incorrectly if I have given His Excellency the Lord Lieutenant that I believe Martha Reilly to be innocent. I did not wish to go so far, but I signed the memorial recommending the case to the merciful consideration of his Excellency because I received some information which led me to doubt her guilt.

A man called Pat Brady who lived as ploughman at Cullis previous to its being occupied by Dr Canon, was desirous of being hired by me.-

In the course of conversation with my Steward He informed him that he had been induced to leave the Country by the McGinnells lest he should give evidence against them, and he gave my Steward to understand that the McGuinnells were guilty against whom the woman swore.

As soon as I heard this I informed Dr Carson of it as the person most concerned but before my letter reached him the woman was found guilty.

If what Brady says is true, it throws a doubt on the womans guilt.

Yr ob^t serv^t

M G Beresford

Stamped Secretary's Office Dublin

13 Apr 43

Sir

In reference to the petition in behalf of Martha Reilly now in Cavan Gaol, I have to state that I do not consider her innocent of the charge of perjury.

The entreaties of her mother, combined with the fact that this was the first offence she was charged with, prevailed on me to sign in favour of commutation of her punishment to imprisonment instead of transportation.-

But on a more mature consideration I think that on public grounds the crime ought to be severely punished – It prevails to a fearful extent in this County, and if not checked by the fear of present punishment it may spread more widely.

I am Sir
Your obedient servant
Thos Carson

Cavan 12th April 1843

Stamped Secretary's Office Dublin

29 Mar 43
Ely Place
March 29 1843

Sir

In reply to your letter of the 25th Inst. Enclosing the Memorial of Martha Reilly Prisoner in the Gaol of Cavan, and requesting me to acquaint you with the particulars of the case for His Excellency's information & whether in my opinion there are any mitigating circumstances which would render the Prisoner a proper object of Mercy. I beg to state that at the last assizes for the County of Cavan three men, John McGinnell Tho^s McGinnell & W^m [Doholme?] were indicted for maliciously setting fire to a stack of Hay the property of the Rev Tho^s Carson with intent to injure him, on the trial of this case, after the fact that the stack of hay had been set on fire & Maliciously and not by accident was fully established, Martha Reilly (the Memorialist) appeared as a witness and swore that on the night when the hay was burned she was returning from [Naheelis?] to Cavan – that she saw three men coming along the road – she got off the road and over a stile close to Mr Carsons hayyard, that the three men, who she swore positively were the three Prisoners passed near her, went into the hayyard, set fire to the haystack & that John McGinnell carried a can with fire in it,- for the defence it was sworn by a woman that she lodged in the house with Martha Reilly on the night the hay was burned – that Martha Reilly (is far from having gone to [Naheelis?] as she swore she did) was ill & did not go out that day – that she (Martha Reilly) was in her bed very early the next morning when she heard of the burning and that on hearing it said “I suppose it is some of the Callis boys did it & that there will be a handsome reward”. Samuel Moore Jun^r Esqr^e a gentleman of respectability (I believe the Treasurer of the County) was also produced – he swore that one of the Prisoners (John McGinnell) had been in his Service for ten or twelve years. – that on the night when Martha Reilly swore he was setting fire to the hay stack he was in Dublin with him and that he could not be mistaken, on this Evidence the Prisoners were acquitted and on the following day the Counsel for the Crown sent up Bills of Indictment for Perjury against Martha Reilly – I informed her that she had the privilege of postponing her trial to the next Assizes if she wished, but she stated that she preferred standing her trial at that time, on the production of the Evidence which I have already stated, complete with that of the three prisoners who had been charged on her Evidence and were acquitted, she was found guilty & I sentenced her to be transported for seven years, I next hastily add that taking into consideration the number of Witnesses who contradicted the solitary oath of Martha Reilly, but above all the high respectability of the gentleman (Mr Moore) who established an alibi for one of the persons charged by her, the conviction appeared to me to be unclouded by a doubt and if she were guilty of deliberately swearing against three innocent men and deposing as to facts of which she could have no knowledge the sentenced pronounced was well merited.

I confer therefore I have met. with more than common astonishment the enclosed Memorial in which two clergymen of high character and station certify “that they have no hesitation in recommending Martha Reilly as a fit & proper object for His Excellency's merciful consideration “ I am the more surprised as to the Revd Mr Carson is the person, whose hay was burned, who must know something of the case & who was, if I have not been misinformed present at one at least of the trials, The Case appeared to me so plain & the conviction of Martha Reilly is satisfactory that if her Memorial had been an ordinary one, signed as is too frequently the case, by persons who seek an ignominious popularity by recommending convicts to mercy without any knowledge of the facts & circumstances. I should have passed it over without notice – but as I cannot suppose that the Revd Mr Carson & the Dean of Ardagh have recommended a mitigation of punishment under the circumstances which I have detailed without good grounds for doing it, I take the liberty of suggesting that this letter should be forwarded to them and that they should be called on to state the grounds on which they feel justified in recommending Martha Reilly as a fit & proper object for His Excellency's Merciful Consideration.

I am Sir

Your faithful & ob^t serv^t

John Doherty

E. Lucas Esq^{re}

To Earl De Grey Lord Lieutenant General
General Governor of Ireland etc etc etc
The Humble Petition of Martha Reilly a Convict in Cavan Gaol.

Sheweth,

That Your petitioner about 6 months elapsed Lodged Examination against three persons for maliciously setting fire to a Rick of Hay, and Oats, and burning it, the property of the Revd Dr Carson, Vicar Of Cavan.

Your Petitioner was immediately after sent to the castle where she remained until a few days before the Assizes commenced, when she was sent to Cavan to Prosecute, the Trial took place before His Lordship Chief Justice Doherty, the result of which was Your Petitioner Failed in convicting the Prisoners.

Your Petitioner was afterwards was placed in the bar and convicted to 7 years transportation.

Your Petitioner Humbly implores Your Excellency will vouchsafe to take her into your merciful consideration By mitigating her sentence of transportation to a limited period of confinement.

Your Petitioner is of honest industrious Parents resident of the neighbourhood of Cavan, as the Certificate outside corroborates, nothing has ever recurred to her to hurt her character previous to what she now stands convicted for.

Your Petitioner under the deplorable circumstances she has stated humbly begs Your Excellencies benevolent humanity will grant her prayer.

In Duty bound

Your Petitioner will ever pray

March the 20th 1843

We, do hereby certify, that we know the Petitioner Martha Reilly, now a convict in Gaol, and her family, residents of the neighbourhood of Cavan. And we have always considered them an Honest Industrious family. We therefore have no hesitation in Recommending her as a fit and proper object to Your Excellency for Your Merciful consideration.

Thos Carson, L.L.D. Vicar of Cavan

I beg to Join D^r Carson in his recommendation of Martha Reilly for the Merciful consideration of his Excellency.

MG Beresford D.D.

Arch. Of Ardagh

- **Ellen Duffy**

A letter of petition to the His Excellency, Thomas Phillip Earl De Grey Lieutenant Governor of Ireland
To His Excellency Earl De Grey Lord Lieutenant General and General Governor of the Kingdom of Ireland
Your Excellency

Whereas I Mary Anne Duffy being a daughter to Ellen Duffy, who at the last Sessions held in Cootehill being in March last my mother the said Ellen Duffy being through poverty and the intoxication of liquor was taken in the middle of Day light taking some cloths off a hedge the property of one of her own door neighbours who got her taken and put to gaol and had to remain until the s^d sessions of Cootehill she being brought to trial and sworn against notwithstanding the advocacy of the magistrates and respectable Gentlemen who solicited her freedom through hard swearing she was found Guilty and Convicted to transportation for seven years by Barrister Murphy who when hearing the way she was in committing the s^d felony he was very sorry he had to pass sentence on her but could not avoid it by reason of the hard swearing which was sworn against her he the Honorable Barrister most pathetically passed her sentence which her advocates numerous as they were Could not get repealed.

Your Excellency I went then and petitioned the s^d Hon^{ble} Barrister Murphy for pardon for my mother who made me to understand that the sentence could not repealed unless a reprief was got from under your Lordships hand

I have with drawn myself from my service and came to your Lord Excellency 52 miles upon very little pocket money to know if your Clemency my Lord would be a good as grant your reproof to the s^d Barrister Murphy who would receive it with kindness from and my Lord your Charity will be offrid by me to the most high at all times that his spirit shall move me to worship him and also all our distressed family in duty bound to do the same unto their lives end

Mary Anne Duffy
James Browne DD
Tho^s Foote
A. B Douglas

Envelope addressed to "His Excellency Earl De Grey
Lord Lieutenant General
Governor of the Kingdom of Ireland
Dublin Castle"

Thomas Philip Lord De Grey
Lord Lieutenant. Governor and General Governor of Ireland

The Humble Petition of Ellen Duffy

Petitioner humbly begs to state that she is at present confined in the Penitentiary Dublin under sentence of transportation, for seven years she was tried at the Cavan Quarter Sessions for Cavan in April 1842 for larceny for which crime she was convicted, Petitioner begs to state, tho telling against[.....] that she is of a highly Respectable Family and being a Protestant married unfortunately a Roman Catholic which caused her father to forsake her till his Death, which has caused her much misfortune.

Petitioner has four male children, the youngest at present but three years old which is completely deranging your unfortunate Petitioner thinking of leaving her small helpless Family never to see them any more.

Petitioner begs your Excellency will take her distress into your merciful consideration, and for the sake of that GOD from whom we all hope for Mercy permit her to remain at home with her helpless family by mercifully commuting her sentence and Petitioner will in duty be ever bound to pray.

Ellen Duffy
20th April 1843

We certify that petitioner is of a very respectable family and that her late father possessed considerable property in the County Fermanagh and was a well connected man.

signatures

- **Lucy Magaughran**

The Courier (Hobart Tas:1840-1859), Saturday 20 June 1857, page 2,3

COURT.-YESTERDAY.

Civil Sittings.

Friday, June 19.

(Before His Honor Sir Valentine Fleming, Knight, Chief Justice)

Ball. v. Dunn..

For the plaintiff Mr. Lees; the Attorney-General for the defendant (Nutt and Butler, Solicitors.)

Mr. Lees said that in this case he appeared for Thomas Ball, the plaintiff. The action was brought for the recovery of a balance of £46 2s. 4d. on a bill of £67 2s. 4d, the amount of a washing account due by the defendant, Mr. James Alfred Dunn, the first item in which occurred as far back as 18th July, 1854, the account extending up to February, 1857. The defendant had put in the following pleas- 1st. not indebted; 2nd, that before action was brought defendant had satisfied and discharged plaintiff's claim: and 3rd, a set-off by defendant for money lent and advanced by defendant to plaintiff, and for his use, and on an account stated.- On these: pleas issue was joined. Mr. Lees having read the items comprising the set-off, continued. The plaintiff in this case was a servant who had been in respectable circumstances, and both himself and his wife, Lucy. They had formerly been servants of the defendant, and Mrs. Ball after leaving defendant's service, and her marriage, had

followed the occupation of washing. Lucy Ball would state that about the end of June, 1854, defendant applied to, her and asked her if she would undertake to do his washing, and after some conversation it was arranged that Mrs. Ball should do defendant's washing at 4s. per dozen. She immediately commenced and continued to wash for defendant up to February, 1857. Two memorandum books were kept in which the washing was entered, and in February last Mrs. Ball's memorandum book was handed by the defendant to his housekeeper j to check the amount due to Mrs. Ball, and this book had not since been returned. Mrs. Ball was allowed to remain out of the large sum of money claimed a considerable time, although she had time after time requested payment. She had repeatedly seen the defendant and requested payment of the balance due to her, but had always been put off with some excuse or other. When she requested a settlement in February, 1857, it would be proved that she had seen the defendant, who had told her on that occasion that if she came down to the Commercial Bank he would settle the account. Mrs. Ball would prove that she had only received two sums of £6 and £7, for which credit had been given, and deducting that amount from the bill, there was the balance left for the recovery of which this action was brought.

Mrs Ball sworn- My name is Lucy Ball; I am wife of the plaintiff; I know Mr James Dunn, the defendant; I arranged to do his washing; he engaged to pay 4's a dozen; I washed regularly for Mr Dunn up to February 1857; I washed up to that time for him 363 dozen and 7 pieces at 4s; it came to £57 2s. 4d.; I received some payments from Mr Dunn on account of the washing; I received no payment before February last; I had £5 from him in his own house, and a cheque for £7; I kept a book in which I entered every article I washed; Mr Dunn had also a book; Mr Dunn's housekeeper entered the clothes, and my husband copied the entry into my book; at Mr Dunn's request I brought down the book to Mr Dunn in February last and delivered them up to Mrs Crouch, Mr Dunn's housekeeper; Mr John Dunn, the father of the defendant was not present; I then asked for some money; Mr James Dunn said, go down to the bank and I will give you a cheque for the money; there was no mention made at that time of what was due to me; no remark was made at the time as to the charge being high; I went down to the Bank and Mr Dunn sent out a clerk to say he was engaged and could not see me on that day; I went again in the afternoon; Mr Dunn, senior, was then present; he said he had cast up the account, which did not correspond with the account which my husband kept, and that Mr James objected to pay 4s. a dozen, and that old Mr Dunn was getting his washing done for 2s. 6d. A dozen; he said if I would take off 1s. 6. A dozen he would settle with me; I said I could not, as I got 6s. a dozen, and only charged Mr James Dunn 4s.; he said Mr James Dunn would not settle with me; I said I would take no less; after that I saw Mr James Dunn and he went into his own bedroom and gave me a cheque for £7, for which I have given credit; he gave the butler the cheque and told him to tell me not to come any more there; the next morning I went down to get my books; I sent in the butler to ask for them; Mr James Dunn sent out word by the butler that if I came there any more he would send for a constable and give me in charge; the butler then told me to go away; he said he would give me in charge if I did not go off the premises; I saw the defendant a few days afterwards at the gate of his house; I spoke to him and asked him if he was going to settle with me; he told me if I would go down to the Bank after one o'clock he would settle with me.

By His Honor – What! After you had been ordered off the premises? Yes, Sir.

Examination continued – I went down but did not see him; I saw his messenger, and by the defendants orders I went down the next day; I went down to the Bank, and went in the back way; the messenger went in but he did not come out again, and the defendant came out; I spoke to him; he said he was very busy counting his notes, and had not time to look over his own bills; he told me at the time to come down the next morning to the Bank; when I went down the next morning, “he wouldn't like to spake to me;” I didn't go after him no more after that; I rendered him an account before that; it was £45 2s. 4d.; that was after the receipt of the £7; he took the bill out of my hand and said “It's all right Lucy, I'll settle with you in a day or two”

Cross-examined by the Attorney General – I gave him the bill at his own gate; he was on horseback; it was then he said it was all right; my master made out the bill; the coachman who lived there at the time was present when I gave defendant the bill; I know the coachman's name; I commenced washing for Mr Dunn in July, 1854; I came to wash for him because he came to my house and asked me to do his washing; I remember going to the bank in June, and I saw Mr James Dunn, (defendant); I never borrowed any money from him; I did not represent to him that my husband had been ill; that I swear; I did not represent that my husband and family had been subject to illness, and that thereby I had become reduced in circumstances; I did not ask him to assist me as an old servant of the family; I did receive some money from him; I received £10 at one time; I received it at the Bank; I could not just say,, but I had two or three other sums from him; I could not exactly say within what period I received these sums: it might be less or it might be more than two months; I believe it was in the year 1854; I got the first sum in June; I don't know whether the sum wm £12 I got shortly after that; I did not keep a

correct account of what I had ; I would have kept a more correct account if I'd know'd; I don't know if it was £12 or £50; it was not a £100, but I don't think was above £12; I make out that I received £35: it might be more: the £5 and the £7 had nothing to do with my washing bill; I received the other some beside tho £10 at the Bank; on the second occasion I did not say my husband was ill, and ask for a loan, promising to repay it; my husband was not ill during 1854, that I swear; he was at the time at Mr McLachlan's; I am quite certain my husband was not out of work at the time I received these moneys; I remember receiving from Mr. Dunn (defendant) £15 at the Bank; that was the last time I received from him; I did not say my husband was better and was about to set up a cab and horses, and that he had not quite money enough to complete the purchase; those several sums were paid to me by cheques; I am an old servant of the family: I can't remember what year I left; I borrowed £7 from Mr. John Dunn, junior, and paid him back; he save me the money when my husband was away in England ; that was all the borrowed money I had from him; I had no other money from him, under any circumstances; Mr. Thomas Brown never lent me any money: he gave me £3 for washing done; he did not lend me any money to buy a mangle; I never borrowed any money from him and never had any money from him on account of Mr. John Dunn, junior; I did not borrow money from Mr. Brown to buy a mangle offering to work it out; in February last I first spoke to Mrs. Crouch, the housekeeper; I received £5 from her; she did not tell me if she had made up the book; she said Mr. James had taken the two books into his bedroom that night; I did not tell Mrs. Crouch that the washing had then gone against them, nor nothing to that effect; I did not say that or anything to that effect to Mr. John Dunn, senior; I had then been washing for them for two years; I did say so to Mr. Dunn, for Mrs. Crouch summed up the books herself; Mrs. Crouch told me that Mr. James Dunn had summed the books up and that my account came to £57 2s. 4d.; this was before I received the £12; she summed up the book and said its £57; these are the words that passed between her and me; I told the old gentleman in his own parlour that money was coming to me; I swear I did not say that Mr. James owed me £13 on my washing account; I had nothing to say to the old gentleman when, he wanted me to reduce the price, and I never saw him afterwards; after receiving the £5 I saw the old gentleman; I did not ask him to request Mr. James Dunn to give me £7: the old gentleman knew nothing of our transaction; I saw the old gentleman but twice once in the evening and the second time in the morning of the next day; I did not receive the cheque for £7 the day after I received £5; the old gentleman before I received the £5 told Mrs. Crouch he would make Mr. James Dunn settle with me; - Mrs. Crouch was kind enough to speak to him and I saw the, old gentleman the next morning; I received the £5 the same afternoon; I spoke to the old gentleman the next morning and never spoke to him after that; I saw Mr. John Dunn the morning I received the cheque for £7; I did not speak to him on that morning..

Re-examined by Mr. Lees -I received £35 from Mr. James Dunn; that was for keeping a child; there was an arrangement between us about keeping the child; that was before the washing contract was entered into; I saw the defendant who came to my own house to make an arrangement about the child in May 1854; he asked me if I would take this child to keep; I told him that I had a big family of my own and that my husband would not be pleased for me to take it; I told him I should speak to my husband in the afternoon and would let him know in the morning: Mr. Dunn did not call in the morning and I went down to see him; I agreed to take the child at £1 a week; Mr. Dunn assented to my taking the baby at £1 a week; the child was brought to me the same afternoon that I made the agreement; after I had had the child for a short time he came up to me one afternoon and gave me £1; I have the child in my possession now, and have kept, fed, and clothed the child ever since May 1854, and supplied it with necessaries; he gave me the £1 to get some clothes for the child.

Cross-examined by the Attorney-General by consent of Mr. Lees-In May the child was brought; it was brought by a woman according to Mr. Dunn's orders; I don't know who it was; I have never seen the woman before; the child was about a week or ten days old; it was quite a baby; it was a girl; I suckled it myself with my own child; I received the £1 from Mr Dunn in my own place; I afterwards received £10; this was by cheque on the bank; the whole of the payments were made in 1854; I have made application for the money for the child since to Mr Dunn; I dare say it is two or three months ago; it might be more; it was before the affidavit about the washing bill; I have asked him several times before 1857 for money for the support of the child as well as for the washing bill; I asked him at his own house; Mr. Dunn did not tell me whose the child was, and I never asked him; he did not tell me who the mother was; I did not register the child; I asked the woman what its name was, and she said it was 'Mary;' I registered my own child; it might be a month or so older than the baby, but I can't exactly say; my own child's name is Mary Ann Ball; I don't know what month my own child Mary Ann was born; my husband has got it down in the Prayer Book, and he can tell you; the child brought to me was brought in the afternoon; it was nearly dark; the woman who brought it was a youngish woman; I never saw the woman before or since; the child was rolled up in a shawl, and was given to me' at the door; I made no enquiry at all of the woman. Mr. Dunn has been up to my place once since I have had the child; it was about eighteen or nineteen months ago; he was going to Sydney; he came once also up to the door in cab, but did not come out of the cab; he has only been to the house twice to my knowledge since the child was brought; once when he gave me a £1, and once when he came in a cab; the child is not here.

His Honor said he would allow Mr. Lees to re-examine.

By Mr. Lees-The person who brought the child said she was sent by Mr. James Dunn; I mentioned I to Ball, my husband, the terms upon which I took the child; I spoke to him, and he agreed to take the child on these terms.

His Honor desired that the witness should remain in Court.

Robert Whyte, examined by Mr. Lees -I know Mrs. Ball and Mr. James Dunn; I recollect hearing Mrs. Ball speak to Mr. Dunn in reference to an account one day last February; I heard Mr. Dunn say to Mrs. Ball if she would come down to the Bank he would settle with her.

By the Judge I did not hear Mrs. Ball say anything to Mr. Dunn, but I heard the defendant say to Mrs. Ball if she would come down to the Bank he would settle with her.

Examination continued -On another occasion Mr. Dunn said to me in the carriage, speaking of Mrs. Ball, "there's that d.....d b.....d woman, I don't wish to see her, I wish she was somewhere or another;" I did not see Mrs. Ball give Mr. Dunn a piece of paper; I have told all I know.

Mr. Lees-That is the case.

The Attorney-General said he appeared before the court in this case as counsel for the defendant, and he would tell the jury at the outset that this was one of the most impudent attempts at extortion which had ever been heard in this court, at least during his experience. In the first instance, the action was based on an attempt to threaten Mr. Dunn unless he paid the demand with exposure, and this demand was made on the eve of Mr. Dunn's marriage for the purpose of extorting money. To expose this attempt it would be necessary for him to go into many minute particulars, which in almost any other case would be irrelevant. The jury would observe that the whole case depended entirely on the evidence of Mrs. Ball, and no opportunity had yet been given to test her evidence with that of other witnesses, as no other witness had been called, as the defendant had good reason to believe would have been the case. But the plaintiff had not called any other witness and had shown some caution in this attempt to extort money. As to the last witness (White) it was only necessary to say that he had proved nothing, and it would be shown that the only evidence which he had given respecting the language said to have been used by Mr. Dunn on one occasion was positively and absolutely false. This would be proved by Mr. Dunn, the defendant, himself, as that gentleman would be put in the box. The plaintiff's wife was an old servant of Mr. Dunn's family, and had been in their service for a considerable period. She had most probably been a good servant, and her master and the whole family continued to entertain a kind feeling towards her. Soon after her leaving the service of Mr. Dunn, senior, she married the plaintiff, Thomas Ball, and had at various times received assistance from the family, particularly from Mr. John Dunn and from Mr. James Dunn, on the latter gentleman's return from England. Mr. James Dunn was aware that his brother had frequently assisted the Bills, and that the sums which had been advanced by him had been duly repaid, and that was one reason which induced the defendant to listen to plaintiff's wife's tales of distress, and advance them money. Defendant left the colony in 1848, and returned in January, 1853, and was shortly after his return engaged at the Commercial Bank. He had never seen Mrs. Ball after his return until June, 1854, when she called upon him at the Bank. When she called she represented to defendant that her husband and family were very ill and in impoverished circumstances, and requested, as an old servant of the family, assistance in her distress, and defendant, from motives of kindness and knowing that both Mrs. Ball and her husband had been old servants of the family, relieved their deep distress. This occurred on several occasions, which the learned counsel pointed out, stating that the advances were all made by cheques, as will be soon in the evidence of defendant. Mrs. Ball received £45 altogether, but not repaying the amount Mr. Dunn sent for Ball to the Bank, where he saw him in the presence of his father, when Ball acknowledged that he had received all the money (£45), but that the statement of his wife respecting the purchase of a cab was not true. On being asked how he intended to repay the advances, Ball suggested that as his wife was a very good laundress, she should wash for Mr. James Dunn until the debt was paid, and to this arrangement defendant assented. He asked the Jury now to consider how far this was consistent with the testimony of the defendant. From the time the washing was begun, for a period of two years and eight months, it was sworn by Mrs. Ball that not a single payment had been made to her on that account. Was it consistent to believe that a washerwoman, not in easy circumstances, with her husband who had become insolvent, would continue washing for a gentleman in Mr. Dunn's position for such a lengthened period without asking for some payment? Was not such a supposition irreconcilable with the facts? Could they believe that Mrs. Ball had called for the washing week after week as the entries in the books showed from 22nd August, 1854, to the 23rd February last, without receiving anything whatever for the work? It would be proved that in February Mrs. Ball stated to Mr. Dunn's (senior) housekeeper that "the washing account had now gone against Mr. James Dunn" and she then requested payment of the balance. £5 was paid to her by Mrs. Crouch, the housekeeper at that time, by Mr. James Dunn's orders, and that account was repaid to the housekeeper by cheque; the same day. The reason the whole of the balance was not paid at that time was because Mr. Dunn had not then time to look over the accounts. A few days afterwards Mrs. Ball applied for the balance, and it was perfectly true that she then saw Mr. Dunn, senior, who told his son that he had better settle it, and Mr. James

Dunn then gave a cheque for £7 in settlement of the claim. It would also be proved that when Mrs. Ball saw Mr. Dunn, senior, she mentioned her claim as a balance of £12. 8s. by these two payments of £5 and £7 that balance was settled. From that time Mr. James Dunn, the defendant, heard nothing whatever of Mrs. Ball, until he received a letter from Mr. Lees demanding payment of £45: Mr. Dunn saw Mr. Lees immediately afterwards, and told him that there was no foundation whatever for this demand, as the balance due had been paid, and Mr. Lees promised to communicate with Ball; next day he received a remarkable epistle, which stated that Mr. Lees had seen both Ball and his wife; who both denied having received the money for the work which had been done, and that they told him (Mr. Lees) that the money which they had received was for the maintenance of a child of his (Mr. Dunn's), and therefore, that it would perhaps be as well to arrange the matter, to save the annoyance of an exposure. The Attorney General had heard of threatening letters, but did not know if this was one, but it was very like it. It said "it would perhaps be as well to arrange matters"; it meant that it certainly was not pleasant to be charged with having a child to keep, and that, the matter should be hushed up and arranged to save exposure. But Mr. Dunn did not wish this matter to be arranged on such a footing as that. However, Mr. Dunn, conscious of his own innocence, so far as that charge was concerned, and knowing that the whole thing was a falsehood, determined to risk the exposure, and he appeared before them that day to say the charge was a fabrication, and an evident falsehood from beginning to end: and though no doubt some difficulty was thrown on the defendant, yet he hoped to lay before the jury such circumstances as would convince them, irrespective of the unlikely nature of the charge that it was groundless. Mr. Dunn was therefore determined to resist extortion; and accordingly Mr. Lees commenced the action, and called before them Mrs. Ball to support it, and she had told them her story. Did it not strike the jury as an extraordinary circumstance that nothing had been said about the maintenance of that child for so long a period? Was it not an extraordinary statement that an arrangement should have been made to have kept a child; that the child should be brought by a woman to Mrs. Ball whom she had never seen before and had never seen since, and that since the period when it was said the child was brought (in 1854) no payment except £1 had ever been made either in respect of the child or of the washing until February 1857? Why, according to the agreement stated by Mrs. Ball to have been entered into with Mr. Dunn, he would now be liable beyond the washing account to upwards of £100 for the keep of the child, besides this £45 said to be due for washing. Could the jury believe that if the statements of the plaintiff were true Mr. Dunn would ever have allowed this action to have been brought? Would he not have taken measures to have prevented it? But, as always happened when parties got up such cases as the present, they always overshot the mark, as had been done in this instance. The plaintiff had endeavoured to make out that the defendant was worse than they could conceive it possible for a man to be, but Mr. Dunn would be put into the box and would relate all the circumstances which had been adverted to, and his evidence would also be borne out by the evidence of his father, Mr. John Dunn, and of Mrs. Crouch, the housekeeper. He (the Attorney General) could also understand the great anxiety of his learned friend (Mr. Lees) to get the washing book out of defendant's hands, but what was wanted with that book of the plaintiff's when the accounts were settled? Now, since this action had been brought, the attention of Mr. Dunn's advisers had been drawn to the book which Mr. Ball kept, and on one of the leaves a pair of sharp eyes would discover that a balance had been struck, and that an attempt had been made to strike it out, by putting some dark ink across it; but the attempt did not succeed. It would be proved that this book was in the same state now as it was when it was received from Mrs. Ball to cast up her account, and if the jury held it up to the light they would see underneath the scratching out "money received £45," and underneath some other marks; in one place was "balance due £10," and just below that again "balance due £10 2s. 4d." This was another of those circumstances which would show to the jury how this attempt at extortion had been framed and concocted, for this book was the very book kept by the plaintiff himself. His client was not answerable for the correctness of plaintiff's book, but he would prove that it was in just the same state as when it came into defendant's possession. No application had ever been made for it until the action was brought, and then every anxiety had been shown by plaintiff to get hold of it. Another circumstance for consideration had also transpired since the case had come into court that day. And now with respect to this supposed child, Mrs. Ball said that when this supposed child was brought to her, she was suckling a child of her own, about a month old, and that she also therefore suckled the child brought by a woman whom she had never seen before nor since. Upon hearing this statement the Registers of Births for the years 1853, 1854, and 1855 had been examined, and it was found that on the 18th March, 1853, a female child of Thomas and Lucy Ball, born in February, registered, and another of their children in August 1855, but the register contained no entry whatever of a child of plaintiff being born during the year 1854, in which year Mrs. Ball said she was suckling. This was another circumstance to lead to the conclusion that no belief could be placed in the plaintiff, and was one of those circumstances which Providence supplied to discover such false statements, and one which had only been noticed since the action was brought on that very day. The learned counsel concluded by saying that if he proved the statements he had made on behalf of his client he could confidently ask for their verdict, and by asking the jury if they could for a moment suppose that two gentlemen in the position of Mr. Dunn and his father would be guilty of the crime of wilful and corrupt perjury.

Mr. James Alfred Dunn examined by the Attorney General. I am the defendant to this action; I returned from England in January, 1853; previously to my leaving the colony I knew the plaintiff's wife to be a servant in my father's service; she was not married; plaintiff was also in my father's service; I am not quite certain if they married from that service; they married in 1846 I believe; after my return to the colony I first saw Mrs. Ball in the early part of June, 1854, at the Commercial Bank; she came and enquired for me, and reminded me of her old and faithful services to my father many years back; she said two of her children were lying dangerously ill, that her husband had received an injury from which he was laid up and prevented getting work; she then asked me to lend her some money; upon those representations I gave her I believe £10 at that time by cheque; she received the money ' across the bank counter. (Bank book containing the entry put in.) I was aware that my brother John had assisted the Balls, and had always been repaid; a few days afterwards she again called at the Commercial Bank and told me that her family were still ill; she stated that she had always repaid my brother when he had lent her sums of money, and asked me if I would trust her a few pounds more; I then gave her a sum of money by cheque amounting to £12; this was on the 23rd June. (Bank book showing debit to witness of this sum put in.) The wife of plaintiff came to me again on the 18th July.

Mr. Lees said it would save time to admit the sums.

His Honor said that was not the question. It was important to know the circumstances under which the money was paid.

Examination continued -On that occasion : the woman said her husband was getting better, and solicited £8; she said her husband would soon obtain employment, and would pay me off; I lent her £8 by cheque also; Mrs. Ball called again on the 9th | August, 1854, and stated that her husband had quite recovered; that he intended setting up a cab and horses, and asked me to lend her £15 to complete the purchase; I lent her that sum by cheque also; she did not call after that time; I found the promises of repayment were not kept in a few weeks time, and having heard injurious reports respecting Mrs. Ball's character, I sent for her husband, Thomas Ball; he came; I saw him in the presence of my father, and I told Ball under what circumstances I had made the advances, enumerating each; he replied that he was perfectly aware that his wife had had the money, that his children had been laid up by illness, but that he had never intended purchasing a carriage and horses as his wife alleged, but he was quite willing to pay me as soon as he was able; he said he only got £40 or £60 a year in his occupation as coachman, and asked me to allow his wife to wash for me till the debt was satisfied; I said I would do so; I then wrote out an acknowledgment, which Ball signed; I cannot now find that document; since that time, up to February last, Mrs. Ball has regularly washed for me; neither she nor Ball ever made any application to me about washing until about February; the application was made through my father's housekeeper, Mrs. Crouch; on reference to my Bank book I find this was on the fourteenth of February; in consequence of what Mrs. Crouch said to me I told her to give Ball £5; Mrs. Crouch said she considered I owed Mrs. Ball £12; I only gave £5 that I might look into the accounts; I repaid Mrs. Crouch on that day. (Bankbook produced, showing debit of this sum.) I did not look into the account then, but at the instance of my father I paid her £7 on her own statement; I gave a cheque, for the amount, and handed it to a servant to give to Mrs. Ball. (Cheque produced.) I heard nothing further until I received this communication from Mr. Lees. (Letter, 15th ' April, requesting payment, put in.); I met Mr. Lees in the street; I was with my father; I told Mr. Lees the state of the case; Mr. Lees said he would see Mrs. Ball and bear what she had to say; I shortly afterwards received this letter from Mr. Lees. (Letter stating that the money received by Mrs Ball was for the maintenance of a child of Mr. Dunn's, and -suggesting a settlement to prevent exposure, put in and read.) I placed the letter in the hands of my solicitor.

Q. Is it true that you went to Mrs. Ball's house in May, 1854?

A. I did not.

Q. Is it true that you made any arrangement with her for the maintenance of the child at £1 per week?

A. I did not.

Q. Did you ever give her £1 to buy clothes for that assumed child ?

A. I did not

Q. Did you pay £45 towards the keep of that child?

A. I did not. I never in my life heard a word about this supposed child until I heard it from Mr. Lees. I was married on 23rd April last. I never said to the man White " There's that d.....d b...woman, I don't want to see her. I wish she was somewhere" On the morning mentioned I was driving some new horses, and turning into the yard saw the woman Ball; I could not hold the horses, and I said, ' for God's sake take that woman out of the road, what's she doing there?' she was standing in the gateway; White was my father's servant at the time; he was discharged for habitual drunkenness. No one else was near. I have called at Mrs. Ball's house in a cab; it was for the purpose of getting my linen, which she had detained for some time.

By Mr. Lees -I was in England from 1848 to October 1852; Lucy Ball had then left my father's service; I did not see her till she called on me in June, 1854; I sent the letter by my servant to Ball requesting him to call at the Bank; I sent no message to him by Mrs. Ball; I had no conversation with Ball previous to his coming into

the Bank as to the memorandum he was about to sign; the memorandum was a simple acknowledgment of the debt.

Did you promise Thomas Ball to destroy that memorandum ?

Mr. Dunn - I did not. My brother John Dunn told me he had lent the Balls money shortly before he went to England; Mrs. Ball often delayed sending my clothes home, but never under the pretext that she was not paid; Mrs. Ball never handed me any account. Prior to your letter of the 15th April (the first) I had no communication with you respecting this matter; I did not send Mrs. Ball to your office for an account; I made no reply to the last letter from you.

(The washing book was here put in.)

Mr. John Dunn, examined by the Attorney General - I am the father of the defendant; I was present about August, 1854, at a conversation between Ball and my son James; I had suggested to my son that the man should be sent for; Ball came; my son told Ball of the amount advanced to his wife, telling him the different dates at which she got the money; the circumstances under which the money was lent were told to Ball, but I do not recollect what they were, except one about an advance to complete the purchase of a cab; my son then asked Ball if he knew of the money being lent to his wife; Ball said he did know that his wife had received the money, but what his wife stated about his having to complete a purchase of two horses and a cab was not true; I then asked him how he intended to pay the money; he said he had only £40 a year, but his wife was an excellent laundress, and if my son was satisfied to let her, his wife should work out the amount, and in the meantime if anything occurred to enable him to do so, he would make a payment; my son agreed, and Ball then asked him to write out an acknowledgment, which my son did; it was then read over to Ball, and signed by him: I knew it was signed by what was going on. (It should be stated that Mr. Dunn senior is blind.) In February last Mr. Dunn called at the house; she said the account was now in her favour, and she would be obliged if I would speak to my son and ask him to pay her the balance; I am sure that my son James did not know that the account was on Mrs. Ball's side, or he would have paid it; she came again in ten days, and asked me to speak to James, as she said there was, after payment of £5, still a balance of £7; I told James, as we were leaving the avenue, that he had better turn back and leave a cheque for the money, as it was of little consequence if Ball's account was a few pounds more or less; we then turned back, and I waited in the verandah while my son wrote the cheque; I do not recollect any conversation in the presence or hearing of Mrs. Ball as to the price per dozen; nothing of the kind occurred.

Did you tell Mrs. Ball in February last that if she would take off Is. 6d. a dozen the account would be settled ? No, never. I never told her either that Mr. James Dunn would settle the account.

By Mr. Lees- I ascertained the money had been lent to Ball by my son James; he told me at least three times when he had advanced the money.

Q. Was it on examination of cheques?

A. He told me several times, and I advised him not to do so any more; no one but my son James was present; I do not recollect when Mrs. Ball brought the washing books.

Mrs. Crouch - My name is Elizabeth Crouch; I am housekeeper to Mr. John Dunn, senior; I have been so for seven months; I superintended the giving out of Mr. James Dunn's clothes to the laundress whilst Mr. James Dunn was living in his father's house; they were set down in the book produced, which, was in use when I went to Mr. Dunn's; there was a different book for Mr. John Dunn's washing; the same laundress did not wash for both; Mrs. Ball washed for Mr. James Dunn; she applied for money in February on account of the washing, saying that her children were ill; she had never asked for money before that time; I asked Mr. James Dunn, who asked me to pay her £5, and I did so; I examined the books to see if the washer- woman's book was correct with mine; both books were correct one with another from beginning to end; in particulars they did not correspond, but in the result they did nearly enough; those are my figures; Mrs. Ball told me to put down £12, as Mr. Dunn had lent her £40; Mr. Dunn told me it was £45, and I therefore brought the balance to £12 2s. 4d., deducting the £45; Mrs. Ball told me this when she gave me her book to make up the account; Mr. Dunn repaid me the £5 the same day; Mrs. Ball called again in about ten days; Mr James Dunn wrote out a cheque, which he gave to the butler, who handed it to Mrs. Ball; she did not come again; she ceased washing for Mr. James Dunn about the latter end of February; she left the house directly she received the cheque, but called to ask for the washing to be given to her again about a week after; I told her it was already given to another person, and that she would not have it again; she seemed very angry, and exclaimed with an oath that she would have revenge upon Mr. James Dunn, and would put it into Court. About three weeks after I went to live at Mr. Dunn's, Mrs. Ball spoke highly of the family, and said Mr. James Dunn had lent her money; this is Mrs. Ball's book, which she gave to me to compare with my own; it is in the same state now as then; I recollect seeing that (erasure in the book) when she left it with me.

By Mr. Lees -Mrs. Ball did not say for what she would put Mr. James Dunn in Court; she did not say there was any money due to her; when she told me that Mr. James Dunn had lent her money she said she should never be out of his debt; when she asked for some money, she asked me to give the books to Mr. James to make

them up; Mr. Dunn senior was not present when Mrs. Ball was paid the £5; I was not present at any conversation between Mrs. Ball and Mr. Dunn senior in reference to the washing.

[Mr. Fielding Browne -I am the Commissioner of Insolvent Estates in Hobart Town; I produce the papers in the insolvency of Thomas Ball

Mr. Lees objected to this evidence, as the present was not a case of Insolvency.

His Honor overruled the objection.

Mr. Browne's examination continued -The declaration of insolvency is dated 17th March, 1856; he was declared insolvent on his own petition. (Schedule sworn to by insolvent put in. It showed 'assets, £7; book debts, nil; the whole amount of debts, amounted to £68 ls. 7d.) - The person present is the Thomas Ball

Mr. William Sorell, Registrar- General of the Island and Deputy Registrar-General of Births, Deaths and Marriages for the District of Hobart Town, produced the Registry Books of Births for 1852, 1853, and 1854.

Mr. Charles Babington Brewer -I made a search of the Register Book of Births this morning during this trial; I have searched that book from the year 1853 to 1855- inclusive ; I searched the Register for the purpose of seeing the registry of births within that period of children of Thomas Ball: I find in February 20, 1853, a registry of the entry of a female child; name of the father Thomas Ball; name and maiden surname of the mother Lucy Ball, formerly McGahard; profession of father, coachman. In 1854 there is no registry of the birth of any child of Thomas Ball and Lucy his wife. In 1855 there is an entry of the birth of a male child on August 6th.

Mr. Lees proposed to call the plaintiff to rebut the evidence for the defence.

His Honor cited Wright v. Willcox in a late book of authority, showing that unless plaintiff had been taken by surprise he could not be examined; but he would allow it on the understanding that the only evidence that could be given must be to rebut unexpected evidence.

Thomas Ball, examined by Mr. Lees -I am the plaintiff in this action; in the month of March, 1856, I went through the Insolvent Court; I professed to state in my schedule my credits; I did not mention Mr. James Dunn as a debtor, for two reasons; first, because I thought as it was for work done by my wife it was not necessary; my other and principal reason was this -I did not in consequence of something my wife told me; in 1854 I was in the service of Mr. McLachlan, Davey-street; my wages were £2 a week; I was not in any time of 1854 suffering from illness.

By the Attorney-General - I will not say that some of the children were not ill during that year; I went into Mr. McLachlan's service in the early part of 1853 as coachman ; they were living in Davey street; they had just arrived by the Derwentwater, at that time in this colony; I was engaged by the name of a coachman.

The Attorney-General then summed up, commenting on the evidence of each of the witnesses called for the defence, and concluded a lengthened speech by condemning the action as a concoction to extort money, supported by wilful and corrupt perjury.

Mr. Lees replied, and emphatically denied that he had been any party to bringing this action. He had waited upon Mr. Dunn, and had written to him, but that gentleman had not chosen to reply to his second letter, in which he informed him of the statements made by the Balls, and he asked if that was a business like course to adopt? He contended that he was bound to receive the statements of the Balls, corroborated as they were by the man Whyte, and he felt bound to bring into Court their case, although the Balls were poor and needy, even against such a wealthy man as Mr. Dunn. He was bound, he repeated, to take the statements of the Balls, and not refuse to act for them because they were poor, needy, and illiterate. He had but done his duty, and how ever poor a man might be, he would ever do his duty by any person who came to him for advice. The learned counsel then replied on the whole case, and in conclusion repeated, that had Mr. Dunn have replied to his second letter, or shown him the document said to have been signed by Balls he (Mr. Lees) would have been no party to the bringing the present action.

The Chief Justice then summed up, observing that the set-off was well made out. His Honor said the serious point in the case was the statement of Lucy Ball with respect to the child, and the payment of the £45, but if the jury believed Lucy Ball's evidence on the contract to take care of the child at £1 per week, the set-off was fully answered. His Honor also remarked that the jury would look at the contrary nature of that evidence, and would say if it was natural that plaintiff's wife, considering her circumstances and those of her husband, should keep a child from August 1854 to February 1857, without requiring any payment? Did the jury believe that woman's statement that she ever received that child ? One circumstance had struck His Honor; Lucy Ball was the only person called, although her husband was in Court all day. Why was not the husband asked how many children he had ? But not a single question was put to him to corroborate his wife on this point His Honor next adverted to the washing books, and the partly obliterated balance struck out agreeing to the balance paid Lucy Ball by the defendant, comparing with it the evidence of Mrs. Crouch, that Lucy Ball had told her Mr. Dunn had lent her £40, and said, after reading the evidence, it was for the jury to say whether the demand was not satisfied by the set-off, and in order to determine that, they must ascertain whether the items in the set-off were sums lent under the circumstances sworn to by Mr. Dunn, and corroborated by his father and Mrs. Crouch, or whether they were payments for the keep of the child, as alleged by the woman Ball. Should they be of opinion that the merits of the case were with the defence, they would then ask themselves whether the

observations of the learned Attorney General were not correct, that the case was a concoction and a perjury. They would consider their verdict, and His Honor would thou ask some further questions as to the grounds upon which it was founded.

The jury without hesitation returned a verdict for the defendant. In reply to the Judge they said they were unanimously of opinion Lucy Ball's evidence was false.

Chief Justice -Is Lucy Ball in Court ?

The woman, who had been prevented from leaving by Serjeant McIvor, the javelin man, was here brought forward and placed on the floor of the Court.

His Honor - I have long seen the necessity of making an example of persons who come into that box and are guilty of corrupt perjury and I think this a fit occasion to do so. Lucy Ball, you stand committed to the custody of the Sheriff to take your trial for wilful and corrupt perjury

Mr. Lees enquired if His Honor would take bail ? , His Honor said he should require substantial and heavy bail, Lucy Ball in not less than £500, and two sureties.

The woman was then removed in custody.

The Court then adjourned to ten o'clock this morning.

The Courier (Hobart Tas: 1840-1859), Friday 19 June 1857

I have never seen the woman since; I had never seen her before; the child was about a week or ten days old; it was quite a baby; it was a girl; I suckled it myself with my own child;' I received the £1 from Mr. Dunn in my own place; I afterwards received £10; this was by cheque on the bank; the whole of the payments were made in 1854; I have made application for money for the child since to Mr. Dunn; I dare say it is two or three months ago; it might be more; it was before the affidavit about the washing bill; I have asked him several times before 1857 for money for the support of the child as well as for the washing bill; I asked him at his own house; Mr. Dunn did not tell me whose the child was, and I never asked him; he did not tell me who the mother was; I did not register the child; I asked the woman what it's name was, and she said it was 'Mary;' I registered my own child; it might be a month or so older than the baby, but I can't exactly say; my own child's name is Mary Ann Ball; I don't know what month my own child Mary Ann was born; my husband has got it down in the Prayer Book, and he can tell you; the child brought to me was brought in the afternoon; it was nearly dark; the woman who brought it was a youngish woman; I never saw the woman before or since; the child was rolled up in a shawl, and was given to me at the door; I made no enquiry at all of the woman. Mr. Dunn has been up to my place once since I have had the child; it was about eighteen or nineteen months ago; he was going to Sydney; he came once in a cab.

The sentence of the Court was that she, the said Lucy Ball, should be kept to penal servitude for a term of four years.

The woman inquired whether she should be permitted to take her youngest child, which was not twenty months old, with her, but the Court could not entertain the subject

She was then remanded in custody.

The Mercury (Hobart Tas: 1860-1954) 11th February 1869

INTELLIGENCE.

POLICE COURT.

Wednesday, February 10th, 1869.

Before the Stipendiary Magistrate.

Assault and Robbery.-Lucy Ball and I Thomas Ball, mother and son, were examined on a charge of stealing two £5 bank notes and four £1 notes, belonging to Lawrence Benson.

Mr. Graves appeared for the defence.

The examination in chief of the witnesses for the prosecution was conducted by the Bench Clerk.

Lawrence Benson proved that on Thursday night he went to the Golden Cross, Murray-street kept by Mr. Clues, he was in the company of a man named Richards, and remained there some length of time. On leaving to go home the female prisoner followed him out, and offered to see him home, he declined her services, but she took him to the Bath Arms, kept by Mr. Reed; witness did not think he had a glass there, and he had no recollection of treating the female; he left that house at 11 o'clock and she followed him out again, and took him to her house in Bathurst street, into a kitchen. A soon as she got in she put her baud to the breast pocket of his waistcoat to get his money ; witness caught hold of her hand by the wrist, telling her he would never allow her to rob him and ho to know it. She dropped the money on the ground. He attempted to stoop when the male prisoner came up and jostled him, and the prisoners picked up the money betwixt them. Both of them called out for constables to take witness in charge. Witness was put out of the place, and he sat down near Bank's when the male prisoner followed him, and gave him a kick on the side of the head. When the money was taken by the female prisoner,

she tore witness's pocket completely away. Witness identified the pocket now produced by Detective Morley. He had not seen anything of his money since.

Cross-examined : I drew the money from the bank about 11 o'clock' the same day. I did not go home to my dinner. I went to Mr. Knowle's public house, and paid 50s. I owed; but had nothing to drink there. I got on the spree that day. I commenced at Mrs. Smith's, the Old Bell, having gone to pay her 7s. 4d. I owed her ; from thence I went to the Golden Cross, and remained there until I left with the female prisoner. I can't say how many hours I stayed at either place for I kept no account. It was night when I left the Golden Cross, but I can't say what hour ; nor can I say how long I remained at the Bath Arms. I don't know how I got in to the Bath Arms, all I know is that I came out. I was drunk, but was capable of walking and talking. I was not exactly capable of taking care of myself. I did not see the young man when I first went in to the prisoner's house. I came to my senses at the Bath Arms (a laugh). I swear I had not been to sleep. I saw the clock on coming out, it was after 11 o'clock.

Where was the big hand?

Where it ought to be (a laugh). I could not tell you to a few minutes where it was.

Re-examined by the Bench Clerk : I was standing in the bar of the Bath Arms.

Richard T. Westbrook, teller at the Van Diemen's Land Bank, proved that the prosecuting witness cashed a cheque for £18 7s., at the bank on the 4th inst.

Constable Joseph Jackson proved that about midnight on Thursday he was on duty in Liverpool street, and hearing the cry of " police" he made up to Bathurst-street, where the male prisoner and Benson were having a few words ; the male prisoner gave Benson in charge for assaulting him ; they both came to the watch house. Benson said he had been robbed by the male prisoner and a woman, and on his statement the two prisoners were arrested. Benson was under the influence of drink, but seemed to know what he was doing.

By Mr. Graves : It was after I took Benson in charge at the instance of the male prisoner that he said he had been robbed. We had got down as far as the corner of Murray-street before he said so, a 100 or 150 yards. No notes were found on the person of either prisoner.

Detective Morley gave corroborative evidence as to the statement of Benson at the watchhouse, and the apprehension of the two prisoners, and he produced the waistcoat torn and in the same I state as it was now. The male prisoner said he knew nothing about it, he had just come home, and happened to see Benson struggling with his mother. Witness afterwards searched prisoners' house ; found the pocket (produced) on the grass plat between prisoner's kitchen door and the front gate.

By Mr. Graves : The male prisoner lives with his mother. I have not made any enquiry as to his whereabouts that night.

The prisoners being then called upon for their defence said they had nothing to say, they left the defence to council.

Mr. Graves addressed the bench. He did not feel justified in saying there was no prima facie case against Lucy Ball ; but as regarded the son he was satisfied he was the victim of an unfortunate circumstance, that is, having entered the house as the struggle was taking place between his mother and Benson, and he should call witnesses to show that the young man's character was good, and that his statement made at the Police Office was reliable.

Edmund Vimpany, bootmaker, Brisbane-street, proved that young Ball was at his house on the night in question, from between 7 and 8 o'clock to ten minutes or a quarter past 11. It would take ten minutes or a quarter of an hour, to walk at an ordinary pace to his house in Bathurst street. Witness gave him an excellent character. |

Charles Eagle Knight (of Knight and Allen, produce merchants, and jam manufacturers), I proved that prisoner was in their employ, and had been for 6 or 7 years, he was a most honest and well-conducted young man.

The Stipendiary Magistrate committed the prisoners for trial, but accepted bail for the male prisoner, in two securities in £59. Messrs. Knight and Allen entered into the required recognizances.

The Court then rose.