Crosbie's letter to their foreman, upon the subject of stopping up the Ardfert road, as satisfactory, and that it is the opinion of this Grand Jury that before any portion, or portions, of the presentment for closing the Ardfert road be acted upon, a week's notice of such intention should be posted in the locality, and the approval of the Grand Jury of the day obtained.

BARRACKS FOR THE KERRY MILITIA.

Major Crosbie read the report of the committee appointed on the motion of Colonel De Moleyns. The committee were unanimous that the necessary works, including the purchase of the site, should be undertaken at an expense not to exceed £2,000, and they recommended a site on the townland of Ballyvelly adjoining the old road from Tralee to the Spa.

The report was adopted, and on the motion of Mr Herbert, it was resolved that copies of it should be sent to the Lord Lieutenant of the county, and the colonel commanding the regiment.

COMPLIMENT TO MAJOR SPRING.

Mr. Herbert—Mr. Foreman, before we separate, and as we are on the militia business, I wish to propose a resolution expressive of the opinion of the grand jury, approving of the way in which Major Spring discharged his duties during the last 12 years, as Adjutant of the Kerry Militia. That has been recognised already in two ways—the Crown has recognised his services by making him Major, and the officers and sergeants of the regiment, have recognised his services and kindness to them by presenting him with a handsome testimonial. I think the third portion of the people is represented by us, and I think the least we can do, is to pass this resolution I have brought forward, in order to testify our high opinion of of his conduct in every way during that time (hear, hear). Without going further, and as time presses, I will ask the Grand Jury to allow me read the paper. [Mr Herbert then read the resolution to the effect stated.]

Mr. Gun—I have very great pleasure in seconding that. No man deserves it better.

The resolution passed unanimously.

CROWN COURT—WEDNESDAY.

OPENING THE COMMISSION—JUDGE KEOGH'S CHARGE ON THE FENIAN CASES.

Judge Keogh, attended by the High Sheriff, Nicholas Donovan, Esq., opened the commission in the Crown Court shortly after 10 o'clock on Wednesday, and addressed the Grand Jury as follows:—

Mr Foreman and gentlemen of the Grand Jury of the county of Kerry, upon examining the calendar which now lies before me, I would have been in a position to congratulate you, as I should have been happy to do, on the peaceful state of this county, but for the appearance there of one class of offences which you will have to investigate. You know that I allude to the class of crime which is now, unfortunately, so well known through the county under the denomination of Fenianism. Gentlemen, I understand that some bills will be sent before you, in which certain persons will stand accused of the crime of treason-felony, arising out of the Fenian conspiracy. Unfortunately all the gentry of Kerry and the grand juries of this and many other counties are now thoroughly familiar, so familiar with that charge, that it would be an idle waste of words to enter into its details. The offence of treason-felony was created by an Act of Parliament—the 11th Vic.—which I have before me, and shortly I may tell you that the offence is that of compassing to deprive her Majesty of her crown of these realms, that compassing to be proved by evidence of some open act or deed. It is not necessary I should go into any details, or legal criticism, on the force or effect of that statute. I am perfectly sure you understand your duty thoroughly; but if you require any assistance from me I shall be happy to afford it to the best of my assistance or power. Gentlemen, I am afraid it is quite hopeless to think that any words proceeding from the bench will have the effect of opening the eyes of the people, not to say to the criminality, but to the extravagant folly of this offence, its utter hopelessness, its entire ruin, and the ruin that it is bringing on the country, and, I venture to say with confidence, the injury it has inflicted more on the farming class than upon any other class in the community. The people appear to be insensible to the plain and manifest fact, that even if they had power to cope with the dominion of England, all their plans are known, all their designs are countermined, all their projects are betrayed from day to day, from hour to hour, by those in whom they repose the greatest confidence. It was only very lately that I had the pleasure of hearing one of the most beautiful addresses I ever listened to, from the Solicitor-General for Ireland, in the county of Limerick; and he, then speaking on his official knowledge, told the people that the number of informers who were at the disposal of the Government, telling every act, every step these people were taking, was too much for him to mention. The very persons who, probably, are most violent in denouncing informers, in order to conceal their own duplicity, are in the very next moment going and giving information to the Government against their dupes and followers. If they are insensible to these facts, neither I nor any judge upon the bench can hope to produce the slightest effect. But there is just one little document which came under my eyes this morning, from which I will take the liberty of reading a few lines. It is a letter dated 2nd May, 1867, and copied from the American newspapers. It was written in New York, and signed by a person named William Roberts, President of the Fenian Brotherhood—This is the man who is now President of the Fenian Brotherhood in New York. Therefore, if there are any persons who are involved in that conspiracy now listening to me, they, probably, would hear his words with respect and confidence, and it is for that reason I take the liberty of reading them. It is a letter calling, as all the letters and speeches of these men have done, for funds. That is the unvariable cry—money! Pay in money and no doubt the Fenian Brotherhood will be triumphant, as it has heretofore been. Like all the other leaders of the Fenian conspiracy he proceeds to say—Everybody who went before me was wrong but if you give me the money all will be right (laughter). And accordingly he says, "Brothers, I trust all your contributions will be of such magnitude as to convince the world that, though you refuse to encourage your countrymen to rush to certain failure, prison, and death, you can sympathise with them, and prove by your acts of substantial friendship, your devotion to the principles for which they suffer." That is, "pay in larger sums than you have paid in before and you will prove your devotion to the principles for which they suffer, and have fought.—We wont put ourselves in any way in peril." But then he proceeds to give a description of all those who preceded him, in these words—"There is one consolation to us in this whole matter, that the blood of our countrymen is not upon our souls; that we warned them in time of the result of their blind obedience to corrupt leaders, and that now when they are deserted in their misery by those who led them on, we are ready to extend the hand of brotherly love to our misguided, though patriotic, brothers." "I trust," he says, "to prevent the occurrence of similar mad and disastrous outrages such as lately took place in Ireland"—(and now here's a description of those who preceded him —"men who are devoid of all feelings of humanity, and send men to the prison or death with as little consideration as they had in robbing our countrymen of their patriotic contributions." Get more funds and we will do anything. Get more funds that the leaders in America may fatten on the spoil, while their heart-broken victims suffer in the silence of their dungeons. The person who has thus given a description of those who preceded him, has, I venture to say, given a most accurate description of himself and those who surround him. That, now, is a description given of the leaders of the Fenian Brotherhood, past and present by the person who ought to know them best—William Roberts—with this qualification merely that he says that he is a thoroughly sound man, and if the contributions to him are of a substantial character, he will do what no one has accomplished before. Gentlemen I think it unnecessary to trouble you with any further observations upon this wretched combination which has done so much injury to the whole country. The bills implicating several parties with Fenianism will be laid before you. You will give them your best consideration, when you have done so I shall be happy to relieve you from your attendance.

The grand jury then retired.

Immediately after the Grand Jury had retired, Mr. Warren, Solicitor General, drew the attention of his Lordship to some paragraphs in local newspapers, having reference to the prosecutions likely to take place at this assizes, and commenting on them. Such statements were manifestly calculated to impede the administration of justice. He had, of course, no objection to fair reports of proceedings being published, but the trials, while pending, should not be made the subject of comment by the newspapers. He made those observations to his Lordship in the presence of the gentlemen of the Press; and he trusted they agreed in the propriety of what he had ventured to say.

His Lordship said the Solicitor General was quite right in making his observations. No journal should prejudge proceedings pending in a court of justice; and if such conduct, as that complained of by Mr. Warren, were persisted in, he would know how to deal with the offending parties.

THE CRIMINAL BUSINESS

was then gone into.

LARCENY.

Ellen Mason pleaded guilty to the larceny of butter and was sentenced to six months' imprisonment.

LARCENY.

Michael M'Carthy was indicted for having on the 17th July last, stolen 200 lbs weight of butter, the property of the G. S. and W. Railway Company.

Mr Alexander Morphy appeared on behalf of the Company; Mr. Fitzgibbon, instructed by Mr. R. C. Harnett, defended the prisoner.

A jury having been sworn, evidence for the prosecution was gone into.

The facts of this case appeared in a recent issue of the CHRONICLE. Prisoner was employed to carry butter to the Railway Station and on the 17th inst carried seven firkins to the station; and to four other firkins found there he put on four of his own labels, first taking off the labels of the proper owner, on them. In the prisoner's possession were found the four labels so torn off, and the names on them corresponded with the initials branded on the firkins from which they were taken.

Evidence was given to the effect that the prisoner was not of strong mind.

The jury found the prisoner guilty, and he was sentenced to six months' imprisonment and hard labour.

MISDEMEANOUR.

Daniel Carroll was indicted for having arms in a proclaimed district.

Mr. R. C. Neligan said he appeared for prisoner, who, under the advice of counsel, pleaded guilty. He would ask his Lordship to defer sentence until counsel would be ready to make a few observations on behalf of prisoner, and examine witnesses as to his character.—Sentence deferred.

Mr. Neligan here entered court, and mentioned several extenuating circumstances in the case of Daniel Carroll, who had pleaded guilty to having arms in his possession.

Mr. Thomas Sandes, and Mr. William Hickie, magistrates, gave evidence as to the prisoner's good character.

A man named Carroll swore that the gun was found where it ordinarily hung, and there was no concealment about it.

Prisoner was allowed out on bail, to appear when called on, himself in £40 and two sureties of £20 each.

George Burns, letter-carrier, was indicted, for having stolen £20 10s., the property of Thomas Curtain; also, for the larceny of a post letter.

Prisoner pleaded guilty to having the letter on his person.

Mr. S. Huggard said the prisoner would be ready in the morning to stand his trial for the larceny of money.

Patrick Barton was indicted for having wounded Thos. Brien.

He pleaded not guilty.

Thomas Brien sworn and examined by Mr. Heron, Q.C—On the 29th June I was at Killmagh, at a public house, the property of a man named Clifford. It was dark; I saw the prisoner there that evening; he charged me with having been the cause of dispute between another and himself; subsequently, the same charge was made and a row between them (in which prisoner was most injured) was the result.

Prisoner was ordered three months' imprisonment.

John Shea was indicted for having attempted to seduce a soldier, William Rawson, from his allegiance.

Mr. Fitzgibbon, for prisoner, asked what statute the indictment was framed on.

The indictment was handed to his Lordship who said it was framed on the 37th George III., Cap. 70, sec. 2.

The Court then adjourned.

RECORD COURT—THURSDAY.

(Before Mr Justice Fitzgerald)

His lordship entered court this day at 10.30 a.m. and immediately took up the hearing of the following cases:—

EJECTMENT.

John Sealy v Timothy Leary and others.

This was an ejectment to recover part of the lands of Ballybar, lately in possession of Elizabeth Leary. Plaintiff claimed £25 damages for *mesne rates*. Defendant denied the plaintiff's title.

Messrs Smith and Jellet, Q.C. instructed by Mr White, appeared for Mr Leahy, and Mr Hickson, instructed by Mr F H Downing, appeared for the defendants.

The jury found for the plaintiff, with 6d *mesne rates*.

SLANDER.

Stephen Huggard v Arthur Crosbie.

The following jury were sworn to try the case:—William Hewson, Justice D Rice, George R Browne, George Hewson, Pierce Chute, Richard Chute, E M'Gillycuddy Eagar, Arthur Herbert, Jerome Quill, William Rowan, Robert A Thompson, and Daniel De Courcy M'Gillycuddy.

Mr Neligan opened the pleadings. This was an action to recover damages for alleged oral slander, said to be spoken by defendant to complainant as to his character.—The words complained of are, "I want you (Mr Mahony) to write to the insurance company (whose agent Mr Mahony is) to have my deeds removed from the possession of Mr Stephen Huggard; he (Mr Huggard) has shown my deeds to the Messrs Donovans." The defendant traversed the speaking, pleaded a denial of the defamatory sense alleged, and also that it was a privileged communication.

Serjeant Barry stated the case for the complainant. He said—Gentlemen of the jury it is now my duty to state to you the case on behalf of the plaintiff. It is an action brought to recover damages for what is called in the law—oral slander. Although this is in point of form brought to recover pecuniary damages, I certainly feel that I am myself conscientiously stating what is the fact of the case, when I say it is an action not brought in the remotest degree with a view to anything like pecuniary gain. It is brought wholly and entirely by a professional man, the plaintiff, to vindicate his professional character and conduct against a very odious and most unfounded imputation—Gentlemen of the jury, actions for oral slander are not favoured by law, and rightly. The law on the subject is somewhat stringent, no matter how painful may be the imputation made, or how insulting, offensive, or injurious it may be. But in tenderness to persons who have important trusts, or who are earning their livelihood by a character for integrity and skill, there has been inserted in the calumny of slander, a class of case of which you are now about to try. In bringing this action for slander, I must say Mr Huggard has come into this court perfectly regardless of monetary compensation, and solely to vindicate himself from the charge wilfully made against him as a professional man—a charge which has deeply wounded his feelings and his character as an attorney. Mr Huggard is a gentleman of considerable eminence, and of very great success in his profession. To gentlemen such as you, it is unnecessary for me to say that in your consideration of this case, you will entirely disregard those semi jocose prejudices which exist against a man because he happens to be an attorney. It is a profession which fills a remarkable position in our social system. We have had in this county, and perhaps one or two elsewhere, gentlemen who were very fond of excitement and litigation. But no person, as a general rule, feels any particular pleasure at being in law, or in paying costs at the termination of the litigation. Having regard to the important and onerous trust and confidence placed on them, any imputation against their character would be most injurious to them, and in this case the charge is admitted to be unfounded. Gentlemen of the Jury, the defendant here, is Mr Crosbie, a most respectable builder and contractor. He has very extensive transactions in this county. He is employed on all the extensive works within his sphere, carried on in the county; and Mr Huggard happens to be the law agent in Tralee, since '65 of the Reliance Mutual Life Assurance Society, which advances money on mortgage to persons who can give property as security. In February '65, Mr Crosbie wanted money for some of his transactions. He was indebted at the time to the Messr Donovan, and he wanted money on security. He was prepared to give the security of valuable house property in Tralee, and he proposed to this company, whose agent is Mr Maurice Mahony, to lend him 1000*l*. offering as his security a mortgage on property. That proposal was referred to by the company to Mr Stephen Huggard, in whose skill, integrity and fidelity, they had the utmost confidence. In the discharge of his duty he investigated title, and declared in favour of it; but as regards the value he suggested that Mr Stokes should be called in. Finally, everything was settled all right, and the £1,000 was advanced on mortgage. For the purpose of carrying out the loan, the title deeds of Mr Crosbie were handed over to Mr Huggard; after the mortgage was completed, and the money advanced, the deeds would naturally go into the sling box of the London or Dublin office of the Company. But Mr Crosbie requested as a favour that the deeds should be allowed to remain in Mr Huggard's offices, as he (Mr Crosbie) might have occasion to refer to them, and it would be a great advantage to have them in a convenient place. The slander of which Mr Huggard complains is, that Mr Crosbie alleged while the deeds were in that, way, in the secret depository of Mr Huggard, a professional man, he had shown those deeds to third persons, making inquiries as the affairs of Mr Crosbie.—Gentlemen of the jury, it is almost impossible to conceive a more odious imputation on a professional man; because one of the great boasts of the profession to which he belongs is the strict fidelity with which he keeps documents submitted to his care. The law requires that of him, and the papers of a client can't ever be produced under a *duces tecum*. Mr Huggard will swear the deeds were never seen by any person, and the charge brought against him was without a shadow of foundation.

Mr Heron, Q C—In consequence of what Sergeant Barry has stated, I have something to say on the part of my client, who is a contractor and builder in very large business, and well known in this county. Having occasion for money for the purposes of his very large buildings, and amongst others the building of the new Dominican Church, he required the loan of £1,000 from the Alliance Company, and accordingly his deeds were deposited with the company. It is unnecessary now to go into details of the matter, except this—I will only refer your Lordship to what is stated in the pleadings, where three persons of position and respectability are mentioned, who said something to my client, from which he inferred the deeds were shown. Without going into details, I may mention there were peculiar transactions between my client and Messrs. Donovan, and on the 14th January, 1867, he closed his account with them, paid them £965 7s. 11d., which cleared the whole account. There had been a dispute between them, and in consequence of some things said, my client firmly believed his deeds were shown to the Messrs. Donovans. From the statement of Serjeant Barry, and hearing what Mr Huggard is prepared to swear—that the deeds were never out of his possession—I, on the part of my client beg leave to withdraw every imputation personally or professionally against Mr Huggard, and to express regret for what has occurred, at the same time stating on behalf Mr Crosbie, he never would have made the imputation unless from the information he received and believing it to be true.

Sergeant Barry—Mr Huggard having instructed me that he came here merely to vindicate himself from an imputation, which he could not ascertain, how far it had been disseminated against him, he agrees to the apology. But he wishes one thing—that in order to prevent any misapprehension, he should make a statement that he had never shown those deeds to any person.

His Lordship—The imputation made should be withdrawn, and I intended myself to examine Mr Huggard. Having had an opportunity in olden times, when Mr Huggard was young at the profession, of observing his conduct and career; I had no doubt that he is a professional gentleman, wholly incapable of a breach of confidence. Though I believe his examination is unnecessary, still I consider it reasonable that is should take place.

Mr Stephen Huggard was then examined by Mr Sergeant Barry.

You learned that Mr Crosbie stated this mortgage to the Insurance Company had been shown by you to some person or persons, and you brought this action for that charge. Yes.

From the time those deeds were deposited with you, did you show them to any human being? On my sacred oath, I believe no man living ever saw the deeds, but myself. There is a private Safe in my office, and after the deeds had been copied by the clerks in the outer office, the originals were locked in a safe in my office, the key of which is kept in a private drawer.—Neither man, woman, or child, and I believe my clerks, never knew I had those deeds. I never disclosed them to any person, and the High Sheriff (Mr N Donovan), knows even he never imagined I had them.

By consent of both parties a juror was withdrawn, and the case closed.

CROWN COURT—YESTERDAY.

Judge Keogh entered the Crown Court shortly after 10 o'clock.

THE FENIAN STATE TRIALS.

The Solicitor General (Mr Warren, Q.C.) Serjeant Barry, Q.C., Mr Henn, Q.C., Mr Exham, Q.C., and Mr M J Barry, instructed by Mr Alexander Murphy, Crown Solicitor, appeared for the Crown.

Mr Fitzgibbon, Mr Waters, and Mr Murphy, instructed by Mr Stephen Huggard and Mr M J Collins, appeared for the prisoners.

The court was crowded, but not inconveniently, and good order was maintained.

His Lordship—What do you go on with, Mr Solicitor-General?

The Solicitor General—The treason felony cases, my lord.

His Lordship—Very well. Call the parties against whom bills have been found, and put them forward. There is no use in being obliged repeatedly to repeat the same orders. Put out of the gallery all who rise out of their seats. If it is not done I shall know how to deal with the police.—Any person who does not keep his seat let him be at once removed from the gallery.

Mortimer Shea [Captain Moriarty], Jeremiah D Sheahan, James Reilly, Michael Foley, John Goulding, Timothy Connell, James Fitzgerald, Joseph Noonan, and Thomas Griffin were then put forward. Noonan, Griffin, Sheahan, and Shea sat in the front of the dock.

Mr Mason read the indictment, which set forth that Mortimer Shea, otherwise Captain Moriarty, alias Captain Mortimer Moriarty, and Jeremiah D Sheahan, on the 1st January, 1866, and on other days before and after that day, did feloniously compass, imagine, and intend to depose our lady the Queen from the style, honor, and regal name of the imperial Crown of the United Kingdom of Great Britain and Ireland said felonious compassing imagination, and intention, did feloniously express by divers overt acts in the indictment set forth.

The prisoners all pleaded "Not Guilty."

His Lordship—Whom will you put on trial?

The Solicitor General—John Goulding.

Mr Waters—I am counsel for John Goulding, and I must ask your lordship not to put him on trial just for the present.

The Solicitor General—If it is any inconvenience we will be satisfied.

Mr Waters—I shall not be ready to-day. Goulding was not brought to Tralee till 10 o'clock on Monday night, and his relatives live at Cahercivern, about 50 miles from this, so that he was unable to communicate with any person belonging to him till 8 o'clock this morning, and it was only since I came into court I was engaged for him.

His Lordship—That is a reasonable application.

The Solicitor General—Quite so.

His Lordship—We will say to-morrow morning.

Mr Waters—If I can.

His Lordship—That will be the last day but one of the assizes, as I must open the commission in Cork on Monday.

Mr Alexander Morphy, Crown Solicitor—Put forward James Reilly.

The prisoner took his seat in the front of the dock, and the others were removed.

The long panel was then called over.

The Solicitor-General—I observe the attendance is very small. Better call the panel again on fines.

His Lordship—Certainly—call them on £20 fines, and any person who does not answer, record the fine against him.

Mr Fitzgibbon—I am concerned for the prisoner, and with the exception of a very very few challenges, I am satisfied.

His Lordship—We are calling the panel again.

Mr Fitzgibbon applied that the jurors should be called to the box in the order in which they first answered.—It was ruled at the Dublin Commission, for the prisoners, that when a panel was called over a second time those who then answered should be put down after those who answered first, not in the order of the original panel.

The Solicitor General said he was not aware of any such ruling.

His Lordship—We are calling the whole panel over again on fines as if this was the first calling.

The panel having been called over, the swearing of a jury was proceeded with.

The Clerk of the Crown told the prisoner he could challenge 20 peremptorily, and as many more as he could show cause for.

Richard Cussen—sworn.
Townsend Gun—challenged by the prisoners.
John Magee—
Mr Morphy (for the Crown)—Stand by.
Maurice Palmer—challenged.
George Rice—sworn.
Garrett Scollard—
Mr Morphy—Stand by.
Wm Dodd—challenged.
David Watson—challenged.
John Creagh—challenged.
Joseph Hamilton—
Mr Morphy—Stand by.
Thomas Hill—
Mr Morphy—Stand by.
James Barry—Challenged.
Michael Butler—sworn.
Timothy Devane—Not present.
His Lordship—Fine him £20 as he answered before.
Wm R Dodd—
Mr Morphy—Stand by.
Henry Wm Dodd—
Mr Morphy—Stand by
William Dobson—
Mr Morphy—Stand by.
Eusebius M'Gillycuddy Eagar.
Mr Fitzgibbon—Mr Eagar is one of the magistrates who took the informations.
His Lordship—It is no objection, if he has not taken the particular informations in this case.
Mr Fitzgibbon—Then we challenge him.
Michael Fitzgerald—
Mr Morphy—Stand by.
Julian Fitzmaurice—sworn.
William Fitzgerald—
Mr Morphy—Stand by.
Thomas Sullivan—
Mr Morphy—Stand by.
William Hilliard—challenged.
Eugene Harrington—
Mr Morphy—Stand by.
Thomas Hodgins—
Mr Morphy—Stand by.
William Hilliard (Denny-street)—sworn.
Patrick Hayes—
Mr Morphy—Stand by.
John Kennelly—
Mr Morphy—Stand by.
Patrick H Leahy—sworn.
John Lomasden—challenged.
Richard Leonard—
Mr Morphy—Stand by, Mr Leonard.
Michael Laurence Lyons—
Mr Morphy—Stand by, Mr Lyons.
Robert McOwen—challenged.
Daniel De C M'Gillycuddy—challenged.
Mr Fitzgibbon—Call Mr Edward Malchinock.
His Lordship—He is excused on a medical certificate.
Maurice Mahony—
Mr Morphy—Stand by.
Edward Morris—challenged.
Hartnett Milward—sworn.
Richard Meredith—challenged.
Martin Nolan—
Mr Morphy—Stand by.
David O'Connor—sworn.
Thomas Power.
Mr Morphy—stand by.
Francis Peet—challenged.
Redmond Roche—sworn.
Edward Rae.

Mr Rae—I was in these cases: I know a great deal about them. I was in communication with the police and authorities; I have impressions on the subject.

His Lordship—There are very few who have not. Have you taken informations in the particular case?

Mr Rae—No my lord.

His Lordship thought Mr Rae was a fit juror.

Mr Fitzgibbon—I challenge him for cause, that he does not stand indifferent between the Crown and the prisoner.

His Lordship—Mr O'Connell, and Mr Herbert of the Grand Jury be sworn as triers.

Mr Fitzgibbon—I called Mr Rae as a witness.

Mr Rae Sworn—I am a magistrate of the county; I have not been engaged as a magistrate in these cases.

Have you formed an opinion on these cases? I have.

Have you in this case? Not in this case in particular; a great deal of this outbreak occurred in my district.

His Lordship—Have you formed an opinion as to the guilt or innocence of the prisoners? I have not.

Mr Fitzgibbon—Have you been in communication with the authorities in this particular case? I could not say that I have not.

The triers found that Mr Rae was a fit and proper person to serve as a juror to try the prisoners.

Mr Huggard—challenged, (laughter).
Maurice Reidy—sworn.
Redmond Roche junr.—sworn.
Joseph Bovington—challenged.
John Shea—challenged
Robert A Thompson—challenged.
Mr Thompson—challenged.
Jonathan Walpole.
Mr Morphy—Stand by.
Horace Walpole.
Mr Fitzgibbon—I challenge this gentleman for cause, there is no such name as Horace Walpole on the panel.
Mr Mason—It is Robert Horace Walpole.
His Lordship—Better let him stand by for the present.
Robert Collier.
Mr Morphy—Stand by.
John Fitzgerald—challenged.
Edward Johnson.
Mr Morphy—Stand by.
George Leslie—sworn.

The following is the jury as sworn:—

Richard Cussen, George Rice, Michael Butler, Julian Fitzmaurice, Williard Hilliard, Patrick H Leahy, Harnett Milward, David O'Connor, Redmond Roche, Maurice Reidy, Redmond Roche, jun., and George Leslie.

Mr Warren, Solicitor-General, then rose to state the case for the Crown. He said—Gentlemen of the jury it is my duty to address you, in support of the prosecution in this case. It would be affectation on my part, if I were to assume that you were ignorant, either of the existence of the Fenian conspiracy, or, of the abortive attempt made in this, your county, to carry into effect, to some extent, the plans and designs of that conspiracy. Of its existence there can be no doubt after abundant proofs at Special Commissions and at the ordinary assizes in other counties, and after numerous convictions of men, implicated either as conspirators or actors. The duty at last devolves on you, in this county, of investigating that crime: The duty devolves on you, of doing your part in bringing to justice the men, who, by connexion with that conspiracy, or by acting for the purpose of that conspiracy, have rendered themselves amenable to the laws of this country. Gentlemen, in ancient times the crime charged against the prisoner at the bar was the crime known as high-treason. To levy war against the Queen to conspire to dethrone the Queen from her royal crown, carrying into act that intention by the levying of war or deeds of violence was, until a recent period, unquestionably high treason. And to the crime of high treason, was annexed the penalty of death. A man found guilty of high treason incurred that penalty beyond all question, and the judge before whom the case was tried had no discretion on the subject. It was his awful, solemn duty to pass on so convicted the sentence of death. But, gentlemen, in modern terms, in this our day, under the gracious reign of her present Majesty, the law has been changed, and a new crime has been introduced into the Statute book and the law of the land which is called treason felony. The meaning of treason felony is, the imaging, intending or, as our law books call it, compassing to dethrone the Queen from her throne of the United Kingdom, to dethrone her from her royal state, as the sovereign of Ireland, manifesting and expressing that criminal design and intention, by open or, as we call them, overt acts, and a man convicted of that crime is not subject to the penalty of death. Such is the humanity of the law of modern times, that a man convicted of treason felony cannot be sentenced to death. He is liable, in the discretion of the judge, and according to the then circumstances of the case, and according to the degree of his guilt as a conspirator, as an actor in deeds of violence, to any punishment, from penal servitude for life, down to imprisonment for a short and limited period. Now, gentlemen, the prisoner at the bar is indicted for this crime of treason felony. It is alleged by this indictment, which I hold in my hand, that he intended to compass, and devised to depose her Majesty the Queen of the supreme power of Ireland; and then the indictment, as required by law, proceeds to give certain facts—matters of facts, gentlemen, you, or any human tribunal cannot look into the secrets of the heart You cannot tell what designs the prisoner may have entertained, what his intentions may have been, unless by some outward act or deed, by some words spoken, or something be manifested and expressed, which showed the intentions of his mind and heart. Gentlemen, there are a great many overt acts detailed in this indictment, which is a bill of indictment sent up against the prisoner and several others, but it will be only necessary to call your attention to three or four of the charges which we propose to prefer in this case, as overt, external acts of the prisoner at the bar. The first is, in order to carry out his intention, of deposing the Queen he conspired with Stephens, Colonel Kelly, and other evil-disposed persons, to levy war against the Queen. The conspiracy to levy war is the first act in this indictment to which I think it necessary to call your attention. It then alleges that in order to carry out the same evil intention the prisoner at the bar agreed to become a member of the Fenian conspiracy; in the third place that he attended meetings of the Fenians themselves. The indictment alleges that he also met, and agreed to procure and take measures to provide arms for the purpose of the Fenian conspiracy; and, then the indictment proceed to state what is the most important of the overt acts, and in this case the most important act is the attack on Kells Coastguard Station, in this county. The prisoner and others arranged themselves in a warlike manner, with arms, and met and attacked a coastguard station, and broke into it. Committing a deed of violence was committing it against the Queen. If you believe on the evidence that the prisoner at the bar was a Fenian conspirator, or if you believe that he attempted Fenian meetings for the purpose of the Fenian conspiracy, or if you believe that he was a party to the attack made at Kells in February last—if you believe any one of these acts (it is not necessary you should believe them all), if on the evidence you believe he committed any one of those overt acts charged in the indictment, then, gentlemen, you will be obliged, no matter what may be the consequence, to find the prisoner guilty of the crime charged against him, because if those acts charged are proved to be realities, the law refers conclusively the intention to depose the Queen If the attack was made on Kells in the name of the Irish Republic, and for the purposes of the Fenian conspiracy, it is a conclusion of law that the intention of the prisoner was to establish an Irish Republic, and depose the Queen from the Crown; and should it appear proved to you that the prisoner joined in that conspiracy and attended Fenian mettings, then, gentlemen, also, you will be obliged to draw the inference from his attending those meetings and entering into that conspiracy that he devised and intended so depose the Queen from the Crown of Ireland. The Fenian conspiracy, you are all aware was the foreign invention of disbanded American soldiers, stimulated by a seditious Press, and had for its purpose the deluding a number of your countrymen to rise an open insurrection against the Government of this country. It was proposed by them to attack police barracks and coastguard stations for the purpose chiefly of procuring arms, and then it was intended when their forces were collected and realised and arms procured, to break out into open war. A witness will be procured before you of the name of Talbot. He is a member of the constabulary force, and has been in the employment of the government in a confidential character for a considerable time; and in that confidential character, and in discharge of his duty, he became intimately acquainted with the circumstances of the Fenian conspiracy. He will explain to you as a matter of form what was the organisation of that conspiracy, and amongst other things he will prove to you that there are centres, circles with centres, and in Dublin, or perhaps other parts of Ireland, there were circles and centres, composed of drapers and pawnbrokers. Talbot will prove to you what was the object of the Fenians. But another and more important witness will be brought before you, for examination. Gentlemen, you are aware that this confederacy had its ramifications in America and England, and an officer of the United States Federal army, who was intimately acquainted with the proceedings of the Fenian army in America—an officer named Corydon will be produced before you—and put on the witness table Last year there was a meeting of a centre and circle of pawnbrokers and drapers, and present at that meeting taking a part in it, and representing this county of Kerry, was the prisoner at the bar, who is by profession or employment a draper in the service of a man who has a shop at Cahercriveen, in this county.—Kerry is the most remote part of Ireland, and when the attack on Chester castle had failed through the information given by Corydon, and the order to countermand the rising throughout Ireland was given, it did not arrive in this county in time, and in consequence of not receiving orders to stop, an attempt was made in this county, and in this only, on the night of the 12th February, or rather the morning of the 13th February On that occasion a party of men engaged in this Fenian enterprise, armed with various weapons, guns, pistols, clubs, &c., proceeded from Cahercriveen, where many of them had been assembled, at a dance in the house of a man named Griffin, and they proceeded to Kells some distance from Cahercriveen They attacked the coastguard station; broke into the house where the arms were kept, and succeeded in taking away a quantity of arms, the exact amount of which will be stated to you by one of the witnesses. These arms were seized in the name of the Irish Republic. Gentlemen, I am instructed it will be proved to you beyond all doubt that James Reilly was amongst those who broke into the house at Kells; and thus you see, gentlemen, two charges are brought against the prisoner in connexion with a Fenian conspiracy. If you entertain any reasonable doubt give him the benefit of it; if on the contrary the evidence is too conclusive you must do your duty. I remember to have met in the writings of a distinguished French statesman who lived in the time of the Revolution, a passage that often struck me for its beauty and its truth. He said: 'I know but two beautiful things in the universe—one is the wonder of the heavens with its stars; the other is the sentiment of duty in the heart of man. One representing the grandeur of the material universe, the other representing the grandeur of the moral nature. And I believe man never rises so high in the scale of existence as when, looking simply to his duty, to himself, and his country and his God, he passes aside and tramples upon every other consideration, lays aside those prejudices to which we are all exposed, lays aside those sympathies by which our hearts are justly and naturally attacked, lays aside every consideration, and acts simply upon the highest motive the motive of duty." Gentlemen, to you I commend this case. This commendation I know I need not press upon you. I am sure that on a consideration of the evidence nothing else will be present to your mind, and that the country and the prisoner will both be satisfied at the verdict which you will find.

Head-constable Talbot examined by Mr. Exham repeated his oft-told description of the Fenian conspiracy. He himself was looked upon as the Head-centre for all the South of Ireland. The object was to overthrow the Government of this country, establish a republic, seize on the property and divide it. All the coastguard and police stations were to be attacked and the arms taken. A feigned rising was to take place in Kerry, a day or two after the 10th of February, in order that the soldiers might be drawn there. Then the rails were to be taken up and the soldiers left in Kerry.

Cross-examined by Mr. Fitzgibbon—When did you first mention about the rising to take place in Kerry?—I think on the evening it occurred, When did you first mention it as a witness?—I was never asked it until to-day; I was never asked about the feigned rising until to-day, and I never deposed to it; nor was I ever asked about drawing the soldiers to Kerry until to day, was in Clonmel as a water-bailiff watching nothing (laughter). I never was in Kerry before; I was in Tipperary for eight months. A water-bailiff all the time? Yes. And a good Catholic? Went to Mass? Yes. You have given that up now, I believe? Yes.

To his Lordship—I did not mean to say I was a Catholic in religion. I am a member of the Established Church since I was born.

John Joseph Corydon, the informer, was then introduced from a guard of constables. He was rather dandified in his 'get-up' and looked particularly comfortable, cool, and self satisfied.

He was examined by the Solicitor General, and repeated his evidence.—Knew most of the centres; was introduced to the Kerry centres; couldn't recollect all their names, but knew the prisoner at the bar to be one of them; saw the prisoner at Carey's Hotel, Dublin: couldn't say that he was at a meeting for there was a "continuation" of meetings there; several Americans and Dublin centres were there on the occasion; the pawnbrokers' and drapers' assistants had a circle themselves; was introduced to the prisoner by Patrick O'Connor, who said he was a member of the organisation from Kerry; O'Connor was sub-centre of the pawnbrokers.

Corridan was cross-examined by Mr Fitzgibbon.—After answering a number of general questions as to his meetings with James Stephens, &c, he said, in answer to counsel:—After I went back to Liverpool in February, 1866, I was staying at the Commercial Hotel; I was in lodgings in Liverpool, too, with a young lady. What was her name?—Must I answer that, my lord?

His Lordship did not reply, and the question was repeated.

His Lordship—Answer.

Witness—Her name was Egan. Betsy Egan?—No, Mary Egan. Upon your oath was the house you were living in a house of ill fame?—Not to my knowledge. Did you admit in Dublin that it was?—I admitted it was a lodging house—whether it was a house of assignation or not. And you were living there with a woman as your wife that wasn't your wife?—I was. Did you admit in Dublin or Cork that this woman you were living with was a common prostitute? On my oath—to the best of my recollection, I did not. Will you swear you did not? Well, I'm telling you the truth—not to my knowledge. What did you pay for your lodging? 8s a week. Who paid that? I did. Did you get any money from this woman? No. Did you say in Cork you did? I think not—to the best of my knowledge I did not.

Were you ever in Kerry—I was born there—I'm there now. I left it between ten and twelve years ago I was born at Ballyheigue. Some gentlemen present here knew my parents.

Mr Fitzgibbon—They ought to be proud of the honor.

Corrydon—O'Connor introduced the prisoner to me by name at Carey's Hotel; that is a public hotel; that was in September or October; identified him afterwards; in the cell at Naas jail through the keyhole. Swore then—"I cannot now swear whether I then knew him by name or not," though first introduced by name; don't recollect the prisoner's name, when he identified him in Naas gaol; his name was told to witness in Nass gaol; couldn't well recollect who told him the name; the governor took the names off the cell doors before he went around to look at the prisoners. He saw him take them off, but that occurred before he passed around:

The only conversation witness had with the governor—

Mr Fitzgibbon—We will have no such conversation here.

Ellen Ahern examined by Mr Henn—I recollect the evening of the 12th February of this year being at the Reading Room in Cahercriveen; it was between seven and eight o'clock; there was a dance there; I recollect the names of people who were at the dance; James Reilly, the prisoner at the bar, was there; Thomas Griffin was the dancing master; James Thompson, John Gleeson, and James Kelty were there; there was a person named Denis Donovan there; Donovan pinched Kelty who was sitting beside him on a stool and he followed him out on the lobby; they were whispering there for some time and then went down, and Kelty returned alone, but was called out again by the prisoner; then Griffin, Thompson, Kelty, and prisoner went out and remained talking there for ten minutes.

Mr Fitzgibbon—I suppose they were dancing in pursuance of the conspiracy.

Examination continued—After Griffin returned again the dance was broke up and I went home; going down the street there were a party of men after me, I thought they were police, but they were civilians; there were about twenty armed with pikes, and marching two deep towards the wooden bridge in Cahercriveen.

Cross-examined I was at the dance; I was dancing; I was not the only partner, there were a good many; Griffin was an established dancing master; I was often at dances at his house and met the same people there; it was going on every evening; we had a piper; whether the boys went in or out the dancing went on; the whole company went out when Griffin broke up the dance; it was quite close I saw the marching; there were no pikes or arms at the dance; I just turned round to see the people; it surprised me to see them; there was a great deal of commotion and disturbance in the town, people sat up all night; I heard crying for persons that went; I saw the first man Houlihan; I know a man named Conway; I did not recognise any more.

To the Foreman—It broke up that night between 7 and 8 o'clock; the usual hour was 10.

To his Lordship—Houlihan and Conway were not at the dance.

Andrew Dingwell sworn and examined by Mr M. J. Barry—I was in charge of the Kells Coastguard Station on the night of the 12th February; I was in bed and my daughter called me, by saying there was a great many people knocking at the door; I looked out the window and saw a body of men, part armed and part not; I tried to run my eyes over them but lost count, there were between 20 and 30; they were standing by the wall at each side of the door; I did not open the door; I did not hear anything; I spoke and asked who they were and what they wanted; the reply was we want to get in; I asked what for; the reply was we'll tell you when we do get in; I hesitated; I expected to hear from the guard or sentry but found it was cut off; I refused to let them in; they stopped about the house 15 or 20 minutes; I left the window up all night after that; I saw them leave the place; I saw them go down the lane, whistle, and take out of the house what I thought to be our arms; I could not distinguish; they stopped ten minutes came back again, and went over towards the houses of the crew, they clustered about the next house to me, and bump at the door with with appeared to be the butt end of a musket; I had the magazine under my charge, and as there were no firearms I thought it prudent to remain inside; I went out about five or six o'clock, and I found the watchhouse window broken, and it was ransacked; the previous evening I left 5 rifles in the arm stand, 4 common pistols, and the fifth one the guard had on his person; there were also swords, bayonets, and cartouche boxes, with ten rounds of ammunition in each.

Cross-examined by Mr Fitzgibbon—I joined Kells in January, '65; there were four cottages and a two-storied house (mine) in the station; it is counted ten miles from Cahercriveen; immediately after they left my house; my watch was three-quarters of an hour too slow

Mr Fitzgibbon—Like Captain Cuttle's (laughter).

Witness—I suppose she went best when carried (laughter); 25 minutes to 1 was the hour by the watch; allowing three-quarters for the watch it would be half-past one; that was after they went; they were there altogether about 15 minutes; it must have been near one o'clock when they came; a handful of minutes can't be much one way or other; they were all on foot; I was not confused; when I got up the moon was setting; I would be able to identify any one I knew; there was a man I imagined was John Goulding; I did not give it in as evidence, for I would not stain my conscience, nor do I think my misses would let me (laughter); I mean Queen Victoria; I might do a little shopping when on duty in Cahercriveen, and kill two birds with the one stone, as one might say (laughter).

Elizabeth Bryan examined by the Solicitor-General—My husband is one of the coastguards at Kells; the others are Mr Pierce, Mr Boyd, Mr Dingwell, Mr Regan. I remember the 12th of February; I slept at Boyd's house; Mrs Boyd was sleeping with me, for her husband was away on duty too; I heard noise from half-past two to three o'clock in the morning; we got out of bed when we heard the noise and looked out of the windows; I saw a party of armed men both back and front; some of them had pikes, sticks, and rifles; they knocked at the door both back and front; we did not give any answer; as we did not open they broke in the front door, and came into the house; they went to the kitchen and asked for a light; I got one for them; we asked them what they wanted, they said arms and ammunition; I knew some of the men who were there; I knew William Connell, John Goulding, James Reilly, and James Fitzgerald; there was Joseph Noonan there, but I did not know his name at the time; I now see Reilly in the dock; when I lit the candle he was standing near me at the door; I knew him before that as a draper in Mr Donoghue's shop in Cahercriveen; the men who broke into the house were armed; the prisoner had no arms; we said we had no arms as our husbands were away; they searched the house for them; they did not say what they wanted them for; I told them not to break open my house, that I'd give them the key; they said I should go with them as I had a light; passing Pierce's house the door was open; they said they broke it; this made me go in, and they searched my house but found no arms; one of them, Connell took the candle from me and bid me good night; he is the son of a head-constable.

Cross-examined by Mr Fitzgibbon—I never knew Cornelius O'Brien; I identified Joseph Reilly in Cahercriveen; he was then in the barracks in custody; the magistrate that took my information was present; I think my informations were taken in writing three or four times; I had been in bed and asleep before these men came; there were only our two young children then in the house with us, we were frightened; it was between day and dusk; Connell was with me and knowing him very well, I was not so frightened, for he told me they would not do anything to me; none of the men I have named had arms. I did not see or hear them do or say anything; I heard nothing said about Irish Republic; they only asked for arms; I could not say how many there were.

Thomas Pierce sworn and examined by Mr Henn—I am a coastguard at Valentia at present; I was on duty at Kells on the 13th of last February; a party of armed men surrounded the house, I challenged one of them to stand asked him who he was, and what he wanted; he answered by telling me to surrender on my life. And he fired at me with a pistol, one shot; in a minute or two after several shots were fired at me; I was going down to Dingwell to give the alarm; this party rushed at me on the platform from Dingwalls; I jumped across the ditch through the garden and on to the shore, they fired after me; I remained on the rock watching them for three quarters of an hour; hearing them breaking into the house; I made my way to Cahercriveen then to give alarm there; I met a second armed party on the way, about a mile and a half off, there were about 30 men in it.

Did they say anything to you?

Mr Fitzgibbon objected, the prisoner was not present.

To Mr Henn—I knew James Fitzgerald and Foley in the second party; they asked me who I was, I said a coastguard; they told me surrender; I said to whom; they said to the Irish Republic; I said 'you are doing a bad job for yourselves'; they said 'we can't help it, it is the same all through Ireland to-night'; I could not swear that any of the second party was at my house at the station; they asked me if I was the man that ran down across the garden; I said I was, and they said I was a lucky man that was not shot; they asked for ammunition and searched me and took my pistol; they said I should go with them; I said I could not think about that; they let me go then, and I went to Cahercriveen to report it to the officer, Captain White; I went to Cahercriveen in an hour and twenty minutes; it is 10 English miles. One of the second party was on horseback. I did not know him. I ran to Cahercriveen.

To Mr Fitzgibbon—I am sure I did not fly. I timed myself—an hour and twenty minutes to the second. I was never a professional runner. I don't know the time of any of the great 10 mile races. I am as satisfied that I ran it in one hour and twenty minutes as I am of everything else I swore.

To his Lordship—It was from the place I met the second party I ran

Witness—It is the same distance as the station, 10 miles.

Mr Fitzgibbon—I wish I could say I was such a runner (laughter). I am not at all surprised that they did not hit you (laughter).

Cross examination continued—I am in the force six years, a party of drunken men attacked me on the road to Ballinskelligs, once took a pistol from me, I identified a man. I made no mistake, the man that did it made his escape to Wales and was never caught. There was some talk of my being short sighted I was not suspended for a while during that investigation; there were 30 or 40 people in this party. I have been acquainted with Cahercriveen for six years, I saw the party first at the Station, I had conversation with them and another conversation with more when I met the second party.

Constable James Walsh examined by Mr Exham Q C—I arrested the prisoner at his mothers house near Waterville, on the night of the 19th of February. I knew him at Miss O'Donoghue's, draper. He was concealed standing between the bed and the wall when arresting him; I held the candle while another constable poked him out; it was about half past 12 o'clock at night.

Cross examined—I believe his mother and sister were in the bed; we searched the whole house and found him when we went up stairs.

To a juror—He was undressed. There is space enough between the bed and the wall to conceal himself.

Mr Fitzgibbon—To stand, you mean.

To a juror—There was one bed vacant. I believe there was a person sleeping there that night.

To Mr Fitzgibbon—I have no doubt he got out of that bed.

Head-Constable William Connell sworn and examined by the Solicitor General—I knew the prisoner. He was in the employment of Miss O'Donoghue's at Cahercriveen. I don't live there now. I did at one time. I remember the month of February I saw prisoner on the 12th February, I think, in Cahercriveen.

To Mr Fitzgibbon—I am sure of it

To his Lordship—I saw him on the street.

Solicitor-General—Now, my Lord, we close.

Mr Fitzgibbon then addressed the jury in an exceedingly able speech which we regret we can not find space for. He said—The Solicitor-General had told them to go into the box as if they were members of a foreign country which rumours of the Fenian conspiracy had never reached. He (Mr Fitzgibbon) would to God they could apply that to this country, and say no rumour of this alleged conspiracy had ever reached our shores. If it had perished where it began, Ireland would be a happier country to-day than she is—her sons would be more prosperous, and many men, now suffering punishment throughout the land, would be free and unfettered—men of freedom, men of position, men of respectability, men unoffending any law of God or man.—But it is not so. Beyond all doubt a taint of this conspiracy had spread within our shores. The question for them now was John Reilly, the prisoner at the bar, one of the guilty parties. Counsel then reviewed the evidence and contended there was nothing against his client, but the uncorroborated and contradictory evidence of the tainted informer, Corydon, and the uncorroborated identification of Mrs Bryan, which, coming from a frightened woman under such circumstances, was utterly unreliable as establishing guilt beyond a reasonable doubt. He asked them to say as reasonable rational men, that they were not satisfied.

His Lordship said the case turned on the Kells affair. If the Crown did not establish the prisoners connection with that, the case failed.

Sergeant Barry replied for the Crown in a temperate address

His Lordship then charged the jury—He passed a high compliment on the manner in which the trial was conducted. It had been opened with characteristic moderation by the learned Solicitor General, and the prisoner had been defended in the very highest and best mode of advocacy. In reference to the witness Talbot, his Lordship remarked that he was a man of undoubted courage, bravery, and self-devotion. In what he had done he faithfully discharged his duty to the Government, and if anything more than another could warn people that all illegal proceedings are watched, he would remind them that Talbot was the chosen head-constable of police, while at the same time he was the trusted Head Centre of the Fenian conspiracy in the south of Ireland. Corridan, also a chosen member of the conspiracy, gave information to the Government of their acts.—He was born at Ballyheigue, the property of Major Crosbie, and he could become acquainted with the Kerry Fenians.—Corridan could be called an informer, but Talbot not. For a faithful discharge of duty no body could have acted better, although there were a great many instances somewhat similar. Even in their own county there was one pre-eminently distinguished instance where Sub-constable Duggan, who, he hoped would receive a sufficient reward from the Government, had acted with most distinguished bravery in the discharge of his duty.

The jury retired, at a quarter to five, and at a quarter to seven returned, stating there was no chance of an agreement.

Mr Butler asked, if the breaking into the house for arms, was an act of Treason Felony, when the parties did not at the time ask to surrender to the Irish Republic.

His Lordship—If you believe it to be the same party who broke into the house, and who called on a person afterwards to surrender to the Irish Republic, then there is an overt act shown.

Mr Butler—But supposing they were not the same party.

His Lordship—It is the same thing, if you believe both parties were acting in concert.

The jury then retired.

Mr Fitzgibbon asked his Lordship to tell the jury that their breaking into a house unless it was done in furtherance of the conspiracy was not treason felony, but a Whiteboy offence.

His Lordship said he told them so before.

The jury were again called out.

Mr Butler said there was little chance of agreement.

(See Second Edition.)

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