Petty Sessions at Enniskerry Courthouse

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A fascinating, often overlooked, source of information about the residents of Enniskerry and the surrounding areas, and the way of life in the nineteenth and early twentieth centuries can be found in the records of the Petty Sessions Court of the village. The Petty Sessions was the lowest rung of the judicial structure practiced in Ireland during this period and it served largely to adjudicate on what were considered misdemeanours and common or civil law matters.

With the Act of Union in 1800, Ireland's judicial and legislative practices - already influenced by England - became totally dominated by the now central government at Westminster. The structure of the system, and much of the legislation enacted in England, found its way into the legal system here. The High Court, based in Dublin, was the most superior court. Next was the Court of Assize which heard serious crimes such as murder and treason and sat twice a year on circuit. The lower court, the Court of Quarterly Sessions was held four times a year and were based in most counties.

Cases presented to the Quarterly Sessions were presided over by Justices of the Peace and a sworn-in jury. The office of Justice of Peace evolved from a centuries old custom whereby the King of England swore in 'Keeper's of the Peace', officers ensuring peace was upheld by his subjects throughout the kingdom. Initially they were granted power to bind a person to the peace, and over the years various laws were enacted to extend their powers to the point at which they were given the authority, within their own county, to summon and judge those who were deemed to have broken the law. The office was an unpaid one and very much seen as a duty as subjects to the crown, and the office-holders were "men of ample fortunes who administered the communities in which they resided."

These were men who didn't necessarily have a legal background. They had to be landowners with a certain level of income and so in Ireland they were for the most

part members of the gentry, the (usually) Protestant landowners. In addition the Constabulary Act (Ire) 1836 established the office of Irish Residential Magistrates (Irish RMs) and these officers also presided over the Quarterly Sessions.

In the early 1800's Justices began to hold more frequent court sessions within their own local districts — the cases overseen were viewed as too 'petty' for even the Quarterly Sessions. The first of these Petty Sessions was held in Cork in the 1820s and the idea was quickly adopted in other parts of the country in subsequent years. It had a distinctly rural aspect with local magistrates and justices presiding over cases involving people living in districts in which justices themselves owned the majority of the land. Over the years from 1827 onwards various pieces of legislation shaped the workings of the lower court; the Petty Sessions (Ire) Act of 1851 saw the consolidation of these earlier laws and statutes.

As a rural area with a high number of residing gentry living in the county, Wicklow was divided into fourteen Petty Session regions. An extract from '*An Illustrated Hand Book to the County of Wicklow*' written by George O'Malley Irwin in 1844 is given below which lists the Petty Session courts in the county, the day they were held, and the name of the court clerk for each.

PLACE WHERE HELD	DAY	NAME OF CLERK
Arklow	Second Thursday	W. Manifold
Baltinglass	Second Friday	Peter Douglass
Blessington	Second Tuesday	J. Mooney
Bray	Second Saturday	J. Montgomery
Carnew	Second Monday	J. S. Graham
Coolkenno, Carnew	Second Monday	J. Graham
Dunlavin	Second Wednesday	J. Woodman
Enniskerry	Second Friday	Michael Mc Ginty
Newtown Mount Kennedy	Second Saturday	William Rutledge
Rathdangan	Second Monday	Peter Douglass
Rathdrum	Second Thursday	T. W. Manning
Rathnew	Second Monday	Henry Harwood
Redcross	Second Wednesday	Thomas Elliot
Tinnahely	Second Wednesday	Joe. S. Graham

The sessions were held fortnightly in each division and were presided over by two or more justices or magistrates. Most villages holding Petty Sessions had a purpose -built court house to accommodate proceedings and Enniskerry was no exception. According to the National Inventory of Architectural Heritage, the court house in the village, now the Pandan Court Restaurant, has been dated between 1815 and 1825.

As dictated by legislation, cases before the Petty Sessions were recorded and retained and it is these records - surviving copies from 1859 up until 1916 are now held in the National Archives of Ireland - which offer a wonderful insight into life in the village for this period of history. The Court Clerk would record the date, the complainant and/or witnesses, the defendant, the charge and the verdict. Not only do the cases heard provide a fascinating glimpse into the lives of those living in the area at the time but the laws themselves illustrate a way of life and attitudes of the day. The national and local newspapers also reported court room events giving further glimpses of the villagers' daily lives, often with a more insightful record in their descriptions of the demeanour of those taking part in proceedings than the proceedings themselves.

The Resident Magistrates and Justices of the Peace mentioned in various directories and newspapers as presiding over the Enniskerry sessions, particularly in the later years of 1800s and early 1900s, include:

Sir George Hodson Bart, Hollybrook
Henry Sandys Esq, Dargle Cottage
Charles D Fox Esq
Lord Powerscourt
QJ Brownrigg Esq
Sir Robert Hodson Bart
Lord Monck, Charleville
A Chatterton JP, Kilgarron
Mr Barrington RM
A Meldon RM
Robert Hodson Bart
Hon. Captain Harry de Vere Pery RM
Mr R St Clair Ruthven
Mr O Sullivan RM

As in other parts of the country many of the magistrates and justices living and practicing in Enniskerry had absolutely no background in law. Captain Harry de Vere Pery, for example, who practiced as a justice in Ireland from 1885 up until 1914 had a career in the Navy and as an "*Instructor of Musketry*" with the Royal Munster Fusiliers, Mr A. Chatterton was an engineer. Their appointment was simply that their status in life that was considered to give them the credentials to judge the cases before them in the courtroom.

Because of the lack of experience and knowledge regarding the laws being practiced, there were various guides produced for the courtrooms to help identify legislation and relevant punishments, including *Justice of the Peace for Ireland* by Edward Parkyns Levinge, Barrister of Law, in 1860 and and a similarly named book by Henry Humphreys. These were extensive works, effectively an 'A to Z' of every conceivable crime that might be presented to the court. A review of the second edition of Levinge's book (1867) by the *Dublin Evening Mail* stated that:

> *The new edition, recently published, contains a compendium of the entire law, as at present in force in Ireland, affecting the powers and duties of Justices of the Peace.*

Henry Humphrey's book is a large volume that today might be labelled "*The Law for Dummies*". It is a wonderful resource, giving great insight into the laws of that time and punishments faced by those coming before the courts. The extract opposite (from the third edition, 1867) shows a typical page which lists the offence, the statutes covering the offence and the "*Extent of Jurisdiction*" — the punishment for said offence.

The right hand column gives the maximum punishment to be meted out if found guilty including fines and imprisonment, with or without hard labour (HL). It also tells the court whether one or two justices must be present to hear the case, 1J or 2J. This particular extract deals with the question of apprentices, their behaviour and the treatment of them by their master. An entry in the Enniskerry Petty Session record book in April 1861 shows that my own great-great-grandfather Michael Wogan, Bootmaker, was summoned to appear in court due to an accusation made by his apprentice Pat Gorman. The charge:

> *That you assaulted the complainant and refused to keep him in your employment on the 21st March 1861 he being your indentured apprentice at the time.*

Luckily for Michael his apprentice didn't turn up in court and the case was dismissed, if found guilty he could have been given a hefty five pound fine.

Although Humphreys' compendium provides instruction for the crimes that are dealt with by statute and legislation there was a range of offences that came under what was termed Common Law. Humphreys helpfully explains;

> *The laws of England are of two kinds: the Statute or written Law, and the Common and unwritten Law. The Statute Law depends on the will of the Legislation of the Kingdom. Common Law is a rule of justice throughout the Kingdom*

Offence, or cause of Complaint.	Statute.	Extent of Jurisdiction.
APPEAL—*continued.*		
By Malicious Injuries Act, under like circumstances.	24 & 25 Vic. c. 97, s. 68.	Special power and conditions of appeal.
Under Reformatory Act, where offender is ordered to be sent to Reformatory School.	21 & 22 Vic. c. 103, s. 7.	Offender, parent, or guardian may appeal.
Under Public Health Act.	18 & 19 Vic. c. 121, s. 15, 16, 40.	
APPRENTICE:		
Ill-behaviour.—Apprentice guilty of any misdemeanor, miscarriage, or ill behaviour in service, and upon whose binding no larger sum than £5 fee paid.	25 Geo. ii. c. 8, s. 4. 29 Geo. ii. c. 8, s. 13. (Irish).	Imprisonment not exceeding 1 month H.L.; or Justices may discharge the apprentice, 1 J.
Eloping, &c.—Apprentice eloping, running away, or wilfully refusing to learn or work.*	31 Geo. iii. c. 23, s. 3. (Irish).	Imprisonment not exceeding 3 months. 1 J.
Cruelty.—With whom only £5 paid, on complaint against master for misusage, refusal of necessary provision, cruelty, or other ill-treatment.	25 Geo. ii. c. 8, s. 3. 29 Geo. ii. c. 8, s. 13. (Irish).	Justice may, by warrant or certificate under his hand, discharge the apprentice. 1 J.
With whom not exceeding £10 (fee) paid on complaint against master for ill-usage.	59 Geo. iii. c. 92, s. 5.	Fine not exceeding 40*s.*; in default, &c., imprisonment not exceeding 10 days. 2 J.

* The other portion of the section, that is, the offence of malicious mischief by "defacing or spoiling work," is repealed by 9 Geo. iv., c. 53. The offence can now be dealt with under the Malicious Injuries Act, 24 & 25 Vic., c. 97, ss. 52 & 59.

Apprentices differ in many respects from other domestic servants. "Apprentices (from the French *apprendre*, to learn) are a species of servants who are usually bound for a term of years, by deed *indented*, or by indenture, to serve their masters, and be maintained and instructed by them."—*Black. Com.*

By 8 & 9 Vic., c. 106, deeds are made effectual as indentures, though not indented.

Exemptions from Stamp Duty.—Indentures and assignments of apprenticeship in Ireland, where premium does not exceed £10: 5 & 6 Vic., c. 82, s. 3.

Indentures of apprenticeship to sea-service—17 & 18 Vic., c. 104, s. 141; title, Merchant Shipping Act; and also under 14 & 15 Vic., c. 35, s. 5, where bound by Poor Law Guardians to the sea-service.

The Act of 25 Geo. ii., c. 8, as amended by 29 Geo. ii., c. 8, are both made perpetual by 5 Geo. iii., c. 15, s. 52.

and is constituted of the Laws of nature, of nations, and of religion… They have grown to use and have acquired their binding force and power by immemorial usage and general reception.

In Common Law defendants were charged with a breach of their civil duty. The victim or injured party could summon the accused to court and a tort or compensation could be awarded. The fact that you could be monetarily rewarded may have played a part in the enormous number of cases heard for trespass of animals on the property of neighbours in the petty session's record books. It was your neighbour, not the authorities, prosecuting the case when your animals strayed onto their land.

The national newspapers generally found these cases too petty to bother reporting but there were some that made it to print. One case, in the *Freeman's Journal* in 1908 involved Mrs Elizabeth Burton of Kilmolin who summoned her neighbour Mr Kiely for allowing his goats to trespass on her land and Mrs Kiely for using abusive language and throwing holy water on Mrs Burton's daughter. In her defence Mrs Kiely claimed:

"Mrs Burton's daughter's language to her was so abominable that she thought the only thing for it was some holy water."

The resulting verdict was that the Kielys were fined three shillings and six pence for the trespass with the abusive language charge dismissed. In November 1908 what was reported as an "*Amusing Case at Enniskerry*" in the same publication involved Henry Sutton summoning a Thomas Bain for the trespass of an ass and two goats on his land. The newspaper account reported much "laughter" in the court room as Mr Meldon and Mr Chatterton, Justices of the Peace, questioned Mr Bain to try and determine who in fact owned the animals. Thomas Bain claimed that although he used the donkey it belonged to a Pat Doyle who also lived in his house. Mr Meldon JP stated it was sufficient to say the ass belonged to the house itself and therefore Mr Bain. The defendant replied:

Is it sufficient that I should be fined for the ill deeds of another man's donkey? If it is, the law is a bigger ass than the donkey.

On ruling that that all three animals did in fact belong to Mr Bain, he was fined a total of one shilling and six pence. Another case from 1911 saw farmer James M'Guirk summon William Hicks for permitting nineteen sheep at Cloon to trespass on his new

meadow land:

> *Mr M'Guirk said that the sheep belonged to a women named Burton and were grazing on Hicks land.*

As Hicks was responsible for the sheep and also for the keeping of the fences, the court imposed compensation of three shillings and two pence and ordered the fences to be repaired. Awarding compensation where damage to crops or vegetables occurred is understandable — however in most cases there was no consequence other than the animals being present on the land. It certainly didn't encourage good neighbourly relations. It must have been very tempting to seek a few shillings in this way, particularly if you weren't too fond of the next-door neighbours.

For safety reasons there was a whole range of statutes that came under the heading of "*Nuisances on Public Roads, and Streets*" and looking through the Petty Session records you'd be forgiven for thinking the village and surrounding areas were overrun with cows, asses, pigs and dogs. There were numerous such cases. In court on 6th August 1859 Frederick Gibbons, Mary Hicks, Richard Coogan and James White, all at Kilmolin, were each charged with allowing their asses to wander on a public road on 29th July. The complainant in all four cases was Constable Joseph Richards. At the next session of the court on the 19th August Robert Harper of Ballinagee, Patrick Clarke of Annacrevy, and Thomas Flynn of Ballybrew were charged, again by Constable Richards, with allowing a mule, a cow, and an ass on a public road. The cases maybe give us an indication as to the nature of Constable Richards, furiously darting around trying to spot loose animals, than the carelessness of the local residents.

A large number of cases throughout the country before the Petty Session court pertained to drink and drunkenness. As far back as the 1600s the British government had at various times tried to tackle the problem of drunkenness. The 1605 "*Act to Repress the Odious Loathsome Sin of Drunkenness*" introduced the first fines for being drunk in public. By the time of the emergence of the Temperance movement in the 1800s there was strong political pressure for laws to tackle what many people saw as the sin of drunkenness. The nineteenth century saw the introduction of several pieces of legislation to Parliament that attempted to moderate the consumption of alcohol by the masses. The Beerhouse Act of 1830 saw the introduction of licenses for the sale of alcohol. The Refreshment Houses Act of 1860 extended licenses to those selling wine

and also spelled out the punishment to be administered to those found drunk.

> *...every person found drunk in any street or public thoroughfare, and who is guilty of any riotous of indecent behaviour, shall upon summary conviction before two Justices, to be liable to a penalty of not more that forty shillings for every such offence, or may be committed, if the Justices or Magistrate before whom he is convicted think fit, instead of inflicting on him any pecuniary penalty, to the House of Correction for any time not more than seven days.*

The very first entry in the surviving Petty Sessions book for the Enniskerry court dated 13th May 1859 lists the defendant John McEvoy charged for "*being drunk on a public road at Monastry.*" He wasn't alone. There were five similar cases heard on the same day including poor John Neil of Glencullen, who had to face five witnesses for the prosecution, Joseph Richards (RIC Constable), Michael Behan (RIC), Michael Wogan, John Byrne and James Lenihan. Another case saw John Botts of Enniskerry convicted of "*being drunk on a public street*" on the 1st of May, the 2nd of May and the 9th of May 1860. He was sentenced to forty days in gaol and six shillings costs.

The fines administered were generally a lot less that the maximum allowed, often one or two shillings. However if you consider the wages of the time for many workmen was probably less that ten shillings a week even a fine of one shilling could inflict hardship on a family. The convictions for drunk and disorderly were so common that the national papers, although attending the court, didn't report the cases; often commenting, as in the *Freeman's Journal* 1901, that the cases were "*of a trifling and uninteresting character.*"

The Sale of Liquors on Sunday Act (Ire)1878 dictated that most public houses were to be closed on the Sabbath. However in certain parts of the country public houses and hotels could open their doors for refreshment to *bona fide* travellers who had travelled a distance of at least three miles. The interpretation of what defined a *bona fide* traveller appears to have raised great a debate within legal circles of the time. The *British Law Journal* of 1881 raised the issue and reported one justice in Ireland as having said that just because a person travels from one town to another three miles away with the purpose of buying drink it does not make him a *bona fide* traveller. He is quoted as saying that if this was the case then;

> *All the people in Maynooth may go to Kilcock and drink as hard as they*

like on Sunday and all the people of Kilcock can drink as hard as they like in Maynooth.

We can see the effect of this law in a number of cases in Enniskerry reported by the national papers of the time. In one case James Brady of Killegar was prosecuted for obtaining drink at Mr Johnston's Public House in Enniskerry on Sunday, December 15th, "*he not being a* bona fide *traveller*". It was stated by District Inspector Molony of the RIC that:

this was one of the cases where a man travelled Sunday after Sunday, for the purpose of obtaining drink.

Mr Brady lived outside the three mile limit, but the onus lay upon him to prove that he was a *bona fide* traveller. Sergeant Duffy, in evidence, stated that:

He had found the man in Johnston's bar frequently on Sundays.

A fine of two shillings and six pence was imposed. On the same date a similar case at the same licenced house saw Charles Neill, also of Killegar, being fined in two shillings and six pence and costs. Some aspects of Irish life obviously haven't changed too much over the years — however there were so many "*drunk in a public place*" charges on record I'd wonder how drunk was drunk. I'd like to think that perhaps RIC Constable Joseph Richards, the complainant in many of the early cases, was a bit stringent, maybe he lay in ambush outside the doors of the public houses in the village waiting for people to stumble or show any sign of having taken a drink.

The laws against cruelty to animals were enacted quite early in the nineteenth century. The earliest British legislation was passed with The Cruel and Improper Treatment of Cattle Act 1822:

That if any person or persons shall wantonly and cruelly beat, abuse, or ill-treat any Horse, Mare, Gelding, Mule, Ass, Ox, Cow, Heifer, Steer, Sheep, or other Cattle, and Complaint on Oath thereof be made to any Justice of the Peace or other Magistrate within whose Jurisdiction such Offence shall be committed, it shall be lawful for such Justice of the Peace or other Magistrate to issue his Summons or Warrant.

According to Humphreys' court guide the maximum fine that could be imposed was "*five pounds*" and/or "*imprisonment not exceeding two months*". With the establishment of the Society of the Prevention of Cruelty to Animals in 1824, stronger lobbying

to the parliament at Westminister began and further laws followed. The first SPCA inspectors were employed in 1830 and their investigations led to many convictions under the cruelty to animal legislation.

A case of cruelty to an animal reported from the Enniskerry court in 1878 saw Constable John Hewitt of the RIC charge John Moran with '*cruelty to a horse*'. Mr Moran was fined the maximum five pounds, which was a considerable sum of money in 1878. In later years when the Irish SPCA was established, it was they who summoned the defendants into the courtroom.

In 1914 SPCA Inspector John Anderson charged John Hyland (Ballybrew) with "*ill treating a donkey.*" Mr Hyland was fined "*10s and costs*". Another case brought to the court in 1915. Inspector J Anderson of the Society for the Prevention of Cruelty to Animals prosecuted James Gormley, a farm labourer, for ill treating a cat by leaving it without food. He charged that the cat had been left in an old burned-down house in the Rocky Valley. In his defense Gormley said that he gave the cat goat's milk and bread morning and evening and he could not afford to buy meat for it adding that the cat:

> *was 25 years in the world, and wanted an old age pension and a rest for she was blind and getting bald.*

Veterinary surgeon Mr Barbour gave evidence that the cat was emaciated and suffering from starvation. The defendant was fined one shilling and costs to which he declared: "*I will go to the front before I will pay it.*"

It is thought provoking to think of the protection given to animals of the time when you consider, according to Humphreys' court guide, that the punishment for '*simple larceny*' for a male child under fourteen years of age could include '*whipped strokes not to exceed 12, with a birch rod*' or '*imprisonment not exceeding 3 months*'. The animals appear to have been awarded more protection than children.

Children feature in an array of cases heard in the courtroom after the enactment of the Irish Education Act of 1892. From this point on education was free and it became compulsory to send children between the ages of six and fourteen to school. Parents were summoned to the court if their children had had been absent more than the maximum days allowed. The court could issue an attendance order which compelled them to send the children to school or face a fine. In May 1909 a case involving Richard T Fox of Kilmurray was reported in the *Freeman's Journal* and it illustrates how

few concessions were given to those in rural areas who had to travel long distances to school. Mr Fox was summoned to the court because of the non-attendance of four of his sons to Calary School for the required amount of days. Mr Fox in his appeal to the court stated that his children had to cross a mountain to school, he stated

> *Cuthbert is only a young boy, and he cries that he is unable to walk over such a distance to Lord Monck's school in Calary, and that sometimes they do be drenched and the master puts them round the fire.*

The court didn't accept the excuse and an attendance order way imposed with Mr Meldon RM reminding the courtroom that under the new Children's Act in certain circumstances when boys "mitched" the magistrates had the power to send them to industrial school. Another similar case in 1911 saw attendance orders made against Thomas Sherry for the non attendance to school of his two children Joseph and Anasthasia. Thomas had missed 41 and Anasthasia 51 out of 111 days. The journey from Kilgarran to the village we bemoaned as children suddenly doesn't appear so bad when you consider the return trip from Kilmurray to Calary Richard Fox's children had to make every day.

More serious crimes were certainly presented to the Enniskerry courthouse. However most were advanced by indictment to the more superior Quarterly Sessions or Court of Assize, held in Wicklow town. One such serious charge, that of embezzlement, was made against a young man named Foley by his employer Charles Sutton of Golden Ball in 1861. Mr. Sutton said that Foley was employed as a driver on one of his bread carts. He accused Foley of embezzling a "*considerable sum of money*." Foley was committed for trial and sent to Wicklow Gaol. A spree of burglaries and robbery headlined as "*Highway Robbery Near Enniskerry*" in *The Irish Times*, 1905 saw John O'Brien, of many aliases, being charged with robbing James Smith an "*under gardener*" of Lord Powerscourt and taking his watch and a shilling. He was also charged with taking a double barreled gun, a razor and articles of clothing from Andrew Foster of Ballyoney, and a quantity of bacon from Mr Frank Douglas of Coolakay. During his arrest O'Brien was said to have drawn a knife and tried to stab Constable Reynolds, RIC. As O'Brien had been said to be accompanied by others during his spree the case was adjourned so that further evidence could be collected.

By today's standards the whole structure and workings of the court of Petty Sessions would be deemed totally unethical. Landlords judged their tenants; alleged poachers faced judgment by the very landowners they were charged with stealing from. The men judging and sentencing the accused had, for the most part, no legal training and there was no legal representation for the accused in Petty Sessions until well into the early 1900s. The very laws themselves were unjust. According to Humphreys' court guide, under the Game Laws you were only '*qualified*' to shoot game if you had a personal estate of at least one thousand pounds a year. You could not keep any type of setting dog, pointer, hound, beagle, greyhound or land spaniel unless you had a freehold worth at least one hundred pounds. However, when considered in the context of the time through which it did exist, the Enniskerry Petty courtroom and its justices was not the harshest of these lower courts. I have read cases in other jurisdictions where children, as young as six years of age, were sentenced to one month of hard labour for taking apples for an orchard. Other areas, particularly in parts of England, were very fond of whipping with birch rods. Looking through the first few years of the surviving court records, I haven't come across such serious punishments. Maximum fines were rarely administered and in several cases I have read how landowners ask the justices to show leniency towards poachers so that the accused could look after dependant family members.

For anyone with an interest in the history of the village, life in the late nineteenth and early twentieth centuries and/or their own genealogy, the surviving court records really provide a wealth of information and help to paint a vivid picture of everyday life of the time. In my own case my great-great-grandfather, previously just a name to me, came to life when I came across the three entries (so far) in the records where either he or his apprentices were summoned for bad behaviour towards the other. The conclusion I've reached is that he had very bad luck with his apprentices or, more than likely, he was a very difficult man to work under. It is details like this that add another dimension to the information already provided by church and census records — the Petty Session records are held in the National Archives and it is worth a visit to check if your own ancestors ever appeared in front of the local justices and magistrates.

Úna Wogan is a native of Enniskerry studying the genealogy of several local families. You can find out more about the Petty Sessions Project at www.enniskerryhistory.org.