



Myles Dungan

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Irish Political Trials

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Conspiracy: Irish political trials

First published 2009

by Prism

Prism is an imprint of the Royal Irish Academy  
19 Dawson Street  
Dublin 2  
www.ria.ie

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ISBN 978-1-904890-58-4 (PB)      ISBN 978-1-911479-46-8 (PDF)

ISBN 978-1-911479-47-5 (epub)      ISBN 978-1-911479-48-2 (mobi)

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British Library Cataloguing in Publication Data. A CIP catalogue record for this book is available from the British Library.

Printed in Spain by

10 9 8 7 6 5 4 3

*For my late uncle and aunt, Patrick and Bee O'Reilly of Baileborough, Co.  
Cavan, who almost enticed me into the legal profession and their sons (my  
cousins), Pat and Myles, who supervised much of my adolescence.*



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## ACKNOWLEDGEMENTS

I would like to thank Clare Duignan, Lorelei Harris, Ana Leddy, Peter Mooney and Malachy Moran of RTÉ for the parts they played in bringing this project to fruition.

I am also extremely grateful to Frank Callanan, Justice Patrick McCartan and my TCD fellow student, Maeve Ryan, for reading all or parts of the text and making useful and constructive comments.

To Ruth Hegarty and Pauric Dempsey of the Royal Irish Academy—thank you both for the idea, coffee and validation. To Lucy Hogan—thanks for the apostrophes and the buckets of patience.

As always, to Aonghus Ó hAonghusa and the staff of National Library of Ireland my thanks for a highly professional service and a second home.

And to my darling wife, Nerys, for working around me for months and providing a first home. Once again *diolch yn fawr*.





INTRODUCTION



All trials are trials for one's life, just as all sentences are sentences of death ...<sup>1</sup>

(Oscar Wilde, *De Profundis*)

The government, against which a claim of liberty is tantamount to high treason, is a government to which submission is equivalent to slavery.<sup>2</sup>

(Edmund Burke, *On conciliation with America*)

When the distinguished journalist, jurist and crime novelist, Matthias McDonnell Bodkin, announced his intention to write a book on noteworthy Irish trials, one unnamed barrister advised him to confine himself exclusively to political cases. 'The history of Ireland, for more than a century is written in the evidence and verdicts of political prosecutions', McDonnell Bodkin was told by his colleague.<sup>3</sup> He ignored the distinguished counsel's advice and instead cast his net widely across a variety of civil and criminal cases. This current volume has, however, taken the advice to heart, while recognising its one-dimensional nature. It is as reductionist to parse Irish history since the Act of Union, 1800, through a trail of trials as through a series of failed rebellions. But nowhere are the contradictions and paradoxes of the Anglo-Irish relationship in the 'long nineteenth century'<sup>4</sup> more apparent than in the gladiatorial arena that ranged from Petty Sessions to Commission Courts.

It is not possible in a discussion of seven trials to essay a comprehensive overview of the relationship between the Irish people and English law under the Union. The very act of selection, especially as the choices made here are often based on the dramatic elements of the cases, would leave any conclusions drawn open to legitimate challenge. Nonetheless, when seen in conjunction with a number of other 'political' trials during the 121 years of the Union, some equally celebrated at the time, a pattern can be discerned. This suggests that the law courts became a key battleground in the developing struggle for social equity and Irish nationhood. The constant subtext is the difficulty of reconciling British jurisprudential ideals with the realities of Irish politics so that the notion of a legitimate 'Union' had some meaning. The logic of the political unification of the two 'king-

doms' was that they should have been governed by a, substantially, uniform legal code. Instead, all too often, Ireland simply became John Bull's other jurisdiction. Governance and the application of the law could frequently be colonial in nature. Ireland was more India than it was Sheffield or Surrey.

One of the most resourceful servants of the Crown in nineteenth-century Ireland, the Special Resident Magistrate Clifford Lloyd, came from Burma in 1880 to take on the task of curtailing the activities of the Land League. In his memoir of the period, he wrote of the Royal Irish Constabulary (RIC), upon whose services he greatly relied, that it 'can best be described as an army of occupation, upon which is imposed the performance of certain civil duties'.<sup>5</sup> As for the magistracy of the country, he observed that admission to its ranks required 'absolutely no qualification whatever' and that 'many gentlemen obtained these appointments not on account of their capacity, intelligence or experience, but as a reward for political services rendered to the Government'.<sup>6</sup> It is a surprisingly frank and accurate assessment from someone who might have been expected to depict the infrastructure of Irish law enforcement in a more positive light.

It is undoubtedly the case that 'in spite of the frequent social and political turmoil of Ireland in the nineteenth century, there is much evidence of Ireland's "normality" as a society'.<sup>7</sup> However, this work eschews the mundane or 'secular' criminality to focus on the politically 'sectarian'—overt political crime or criminal acts committed or tried in a politicised context. It can be argued that, at certain times, much of the crime in Ireland dealt with outside of Petty Sessions Courts was politically motivated. Maurice Healy, barrister and nephew of the waspish T.M. Healy, MP, wrote in his memoir of the Munster circuit at the turn of the century that during the 1880s 'apart from political crime, there were practically no cases for the judges to try. Crimes of lust, or greed or dishonesty were non-existent. Crimes of violence were plentiful; and were nearly all political'.<sup>8</sup>

In a society where laws are often framed as instruments of social, cultural or political control, and where a suspicion exists that due process has been contaminated by a political agenda, a trial becomes something other than mere litigation. For this volume, seven trials have been chosen for examination in most of which a case can be made that the establishment sought to subvert its own laws for political purposes. Beginning and ending with Dublin-based insurrections (the Robert Emmet rebellion and the Easter Rising of 1916), the seven trials encompass critical elements of the labours of Irish nationalism, constitutional and revolutionary, against

British rule. They exemplify the atavistic tendency of the governing body politic to protect itself against challenge, the innate sense of superiority and entitlement on the part of the Ascendancy and establishment, and the lack of mutual comprehension between governors and governed. Fair-minded administrators like Under Secretaries Thomas Drummond (1835–40) and Thomas Larcom (1853–68) might have wished, according to Edmund Dwyer Gray, for ‘the law in Ireland to have been dispensed on the same principles as in the rest of the United Kingdom’ but it was not, nor, from a British perspective, could it ever be.<sup>9</sup> But the fact that Ireland was utterly unlike the rest of the United Kingdom can only be advanced in partial justification for this discrepancy.

In an Irish context the term ‘political trial’ is self explanatory to some, oxymoronic to others. The notion of a ‘political’ prosecution was, of course, consistently rejected by the establishment. The British authorities refused to accept that political offenders were ‘conscionable prisoners’. There was, as Gray put it, a ‘common-law unwillingness to distinguish between political and ordinary crime’.<sup>10</sup> However, many of those convicted of crimes such as high treason, sedition, treason felony and seditious libel were often not treated as fairly as common criminals. The deluxe treatment of the leaders of the Repeal movement, jailed in 1844, ‘corresponded with the traditional custom of Great Britain in regard to political offenders’, according to Gray, the grandson of John Gray, editor and proprietor of the *Freeman’s Journal*, who was one of those imprisoned.<sup>11</sup> Despite the imprisonment of O’Connell and his co-accused for conspiracy, the political nature of their ‘crime’ meant only a minor curtailment of their freedom. At the other extreme was the exceptionally harsh treatment, admittedly in time of war, meted out to a number of participants (including some of little or no influence) in the Easter Rising of 1916. In a highly political gesture, Patrick Pearse, James Connolly, Joseph Plunkett *et al.* forfeited their lives without the benefit of a public trial by their peers. Gray acknowledged in 1889 that the law did not distinguish between ‘ordinary’ and ‘political’ crime. ‘*That* the law has never done, except indirectly ... [but] ... it was the constitutional custom to supply in practice what was defective in the law.’<sup>12</sup> It appears that exceptionalism could mean anything from incarceration in conditions of relative luxury to summary execution without due process.

In seeking to define a ‘political’ crime during the period of the Union it is probably prudent to confine the description to offences such as those named above—high treason, treason felony, sedition and seditious libel.

The ‘crimes’ of Robert Emmet and the 1916 rebels are unambiguously political. There is no more political act than an attempt to overthrow a government. The case of John Magee, editor of the *Dublin Evening Post* is also clear-cut. He was charged with seditious libel in 1813 for a relatively mild attack in his newspaper on the outgoing lord lieutenant. The ‘traversers’ in the 1844 conspiracy case were not accused of pursuing an illicit objective.<sup>13</sup> Their crime was of conspiring together to achieve a legitimate political goal. The Invincibles, although guilty of a heinous and brutal crime, did not murder Lord Frederick Cavendish and Thomas Henry Burke for their purses but for their politics. The *Times* Commission of 1888–9, while not a formal trial, involved the indictment of an entire political movement. The Maamtrasna murders, which began as an act of mindless criminality, quickly acquired highly politicised overtones.

There are few instances in the cases described, of outright or blatant collusion to subvert natural justice. In many instances, the plainly and unblushingly guilty were punished. This sometimes occurred in a charged atmosphere hardly conducive to the success of retributive justice. But many Irish political trials under the Union are also characterised by the flouting of vaunted procedures and the contravention of some very English notions of fair play. While abuse of process may be politically expedient or unavoidable, it does nothing for the repute of the law other than to reinforce disrespect and disapprobation. Furthermore, these infringements were more systemic than opportunistic. If legal sleight of hand was essential to maintain a modern *pacata Hibernia* occult forces could usually be deployed to achieve a pre-determined conclusion. No conspiracy or even communication was necessary for the disparate elements (executive, judiciary, counsel and jury), to play their allotted roles. It was as natural as the human body warding off infection. Whether operating in retaliation for rebellion or anticipation of dissent, Britannia waived the rules with a degree of regularity and, at times, almost casual efficiency.

Irish revolutionary movements faced nigh on insurmountable odds in any attempt to achieve separation by force. However, given the great pride taken by Britain in the evenhandedness of its legal system, constitutional movements should not have been subject to hostile legal action as so regularly proved to be the case. Had equity prevailed some of the trials discussed in this volume would never have taken place. Others might have had different outcomes. But, where justice deferred to political imperatives, the possibility (and occasionally, the inevitability) of miscarriage or mere

retribution was omnipresent. Burke's comment, cited at the opening of this chapter, concerning the British response to democratic dissent in eighteenth-century American colonies is apposite in the case of nineteenth- and early twentieth-century Ireland.

Sir Roger Casement, in his celebrated speech from the dock in 1916, observed of British law in Ireland that it did not enjoy the support of the Irish people: 'but it exists in defiance of their will [in] that it is a rule, derived not from right, but from conquest'.<sup>14</sup> Of course, if one were to substitute the word 'privilege' for 'conquest' British law as it was practised in Ireland was of a piece with the treatment of English dissentient radicalism in the first half of the nineteenth century. Irish agrarianism or militant nationalism could easily be viewed, albeit simplistically, through an establishment prism, as a mere variant of English radical dissent. All three could be rolled up together by reactionaries as manifestations of antipathy towards the status quo, which was characterised by defiance of the law. Working class movements like Chartism, which posed a potential threat to the establishment, were dealt with in a manner not unlike Irish activist organisations.<sup>15</sup> However, other English radical groups, like the Anti-Corn Law League, led by Richard Cobden and John Bright, were treated quite differently to the Chartists. The movements led by Daniel O'Connell and Charles Stewart Parnell were closer in methodology and ethos to that of Cobden and Bright, however, the official response to the activities of the Irishmen was more akin to the treatment of the Chartists.

Not all of the cases presented here are trials in the common understanding of the word—i.e. defence and prosecuting counsel arguing before a jury. Not all were conducted in Irish courts. Not all were capital cases. But even if lives were not at stake, reputations were in jeopardy or legitimate political opposition at hazard. Trial by jury, trial by Commission Court, trial by court martial and trial by special court, these were the methods used in meting out 'political' justice in the 'long nineteenth century' and all are encompassed in the selected narratives.

While special pleading in political cases was *de rigueur* for prosecuting advocates, when it came to the Bench a degree of even-handedness was expected. However, in the cases that follow the rulings, directions and indeed the general demeanour of the presiding judges leave much to be desired. Whether it be Lord Norbury attempting to silence Emmet or Justice Pennefather instructing the jury to convict O'Connell of conspiracy, most demonstrate the veracity of the axiom of the journalist, historian and

barrister, R. Barry O'Brien, who observed that 'In England when an advocate reaches the Bench he ceases to be a politician. In Ireland he is always a politician'.<sup>16</sup> As long as the two main English political parties regularly alternated in government the danger of a judiciary entirely dominated by Whigs or Tories could be averted. In Ireland, such was not necessarily the case. No matter what the political stripe of the British government, access to the Irish Bench, especially in the early part of the nineteenth century, was largely confined to Protestants and Unionists.

The first Irish Catholic judicial appointment since the reign of James II was not made until 1835. By the time of the disestablishment of the Church of Ireland in 1869, only half the country's judges were Catholic. Between 1853 and 1900, 60 barristers were appointed to positions on the Bench of the higher courts. More than two-thirds were Protestant.<sup>17</sup> This is not to suggest that Protestant judges were all, by definition, militant or doctrinaire Unionists, or that they were incapable of abandoning whatever political bias they might have had in the pursuit of justice. But there are many examples of judges who acted as if they were front-line defenders of the Union or of landlord privilege.

Take just two judges from the 1880s not discussed in the three cases from that decade presented in this volume. In 1882 Mr Justice Lawson, the object of an assassination plot by the Invincibles, jailed Edmund Dwyer Gray, proprietor of the *Freeman's Journal*, for contempt for publishing a letter by William O'Brien in his newspaper. O'Brien, editor of Parnell's *United Ireland*, had used the correspondence column of the *Freeman* simply to point out that the night before arriving at a guilty verdict in a Co. Clare 'outrage' murder case the hand-picked jury had been running riot through the Imperial Hotel and had openly associated with members of the public in the Billiard room.<sup>18</sup> Rather than investigate the antics of the jury, Lawson opted to shoot the messenger instead. Gray was sentenced to three months of which he served six weeks, while continuing to edit his paper from Richmond Prison.

Mr Justice May who presided over the state trial of Parnell and the leadership of the Land League in January 1881, in refusing a motion for a postponement the previous month, took it upon himself to outline the 'facts' of the case in justification of his decision.

For several months in this country the law has been openly defied and trampled on ... a large portion of the community, urged on by members of this Land League,

have practiced a system of fraudulent dishonesty in refusing to pay their just debts. This country has been for months in a state of terror. It has been tyrannised over by an unauthorized conspiracy ...

And in order to make his meaning perfectly clear, he concluded, ‘Let the trial proceed as speedily as possible, and if Mr. Parnell has to complain of anyone it is of himself and of the conduct of those associated with him’.<sup>19</sup> The fact that the lord chief justice was largely correct in his summation of the grip agrarian crime held on the country hardly justifies a speech worthy of an opening address by the Crown prosecutor. Such was the outcry at his remarks that he was obliged to retire from the case and leave it in the hands of Mr Justice Fitzgerald and Mr Justice Barry.<sup>20</sup> The prosecution of the ‘traversers’, who included Parnell, John Dillon, Joseph Biggar, Thomas Sexton (all MPs) as well as Land League functionaries like treasurer, Patrick Egan, failed.

There were a number of outstanding judges on the Irish Bench, most notable amongst them being Christopher Palles, lord chief baron of the exchequer, who spent more than 40 years as a judge. His elevation to the bench was one of the last acts of William Gladstone as prime minister in 1874—he was appointed on the platform at Paddington Station as the Grand Old Man was on his way to Windsor to return the seals of office to a relieved Queen Victoria. For Maurice Healy, Palles was ‘a pattern of all that is great and good; no word could be written in his praise that would be extravagant’.<sup>21</sup> But the Pantheon occupied by Palles was, otherwise, sparsely populated.

Pennefather, whose direction to the jury in the state trial of 1844 (see Chapter 3) did the defendants few favours, proved himself considerably less partial earlier in his career when presiding over the Doneraile conspiracy trial of October 1829. In this instance, the ambitious solicitor general, John Doherty (later a judge in the trial of Smith O’Brien and the other Young Irelanders in 1848), arraigned 22 supposed Whiteboys<sup>22</sup> for conspiracy to murder based on the evidence of two paid informers, Patrick and Owen Daly. Some of those implicated by the Dalys became ‘approvers’ and gave dubious evidence for the Crown to save their own lives. The accused were defended by O’Connell. The entire affair ‘had been conjured into existence by a paranoid establishment’.<sup>23</sup> It was largely through the intervention of Pennefather, who alerted O’Connell to a major discrepancy in the evidence of one of the informers, that most of the accused were acquitted.

Of course, to some extent, and in the latter half of the nineteenth century in particular, Irish Catholics had only themselves to blame for the overwhelmingly loyalist complexion of the judiciary. As former MP William Keogh discovered when he was raised to the Bench, a particular kind of opprobrium was often reserved for Catholics thus elevated. However, Keogh's pre-existing unpopularity, based on his abandonment of the Independent Irish Party in the 1850s to take a government position, contributed greatly to the popular revulsion at his appointment.

The eminent barrister and historian Frank Callanan, has defended the nineteenth-century Irish Bench by contrasting it with a magistracy even less distinguished in its application of equity: 'the Irish bench—while largely unionist in political orientation and protestant in religious allegiance—was prepared in some degree to hold the ring, and to constrain the powers of the Irish executive and the magistracy'.<sup>24</sup> However, to be more impartial than the magistracy is a modest enough recommendation. 'Corruption and inefficiency were believed to be endemic amongst its membership.'<sup>25</sup> Most magistrates were drawn from the aristocracy of a local area. Most had a vested interest in the maintenance of the status quo. Most were Protestant grandees, frequently absent in Dublin or London, making crucial decisions affecting the lives of their Catholic neighbours and tenants: 'and the religious divide ... encouraged popular hostility towards a magistracy often suspected of sectarian bias in carrying out its judicial functions'.<sup>26</sup> Before 1836 magistrates had to be qualified barristers. That qualification was removed under the terms of the Constabulary (Ireland) Act, 1836, and 'there were recurring complaints that the resident magistracy was staffed by the relatives and friends of men of influence'.<sup>27</sup>

By 1884, when the legal system had become more 'professionalised' and was no longer in the hands of the local Ascendancy class, half of the country's resident magistrates were former army officers, a further third had been recruited from the higher echelons of the Royal Irish Constabulary. They were an extension of the will of Dublin Castle rather than independent adjudicators of the law. This was clearly the case with the special resident magistrates appointed by the Liberals in the early 1880s. These men, who included the formidable Clifford Lloyd, were afforded quasi-military powers when it came to dealing with agrarian crime and were regarded by nationalists as an offshoot of the police force as much as of the judiciary.

If the Crown prosecutor in a political case could not be assured of assistance from the Bench, he could, depending on his own shrewdness, seek

favour in the jury-box. Throughout most of the nineteenth century the practice of ‘jury-packing’ by the prosecution, was widespread. This was a useful method of retaining some semblance of proper legal form. Justice was seen to be done but it was all an optical illusion. The die was cast from the outset because a skilfully assembled and politically hostile jury was intent on conviction however weak the Crown case presented to them.

In the early part of the century jury-packing was used to ensure guilty verdicts were returned against nationalist agitators of various hues where the evidence presented was not as compelling as the authorities’ desire for the incarceration of the accused. Subsequently, juries were often packed to secure verdicts that were more likely to be legitimate but which could not be obtained from a predominantly Roman Catholic jury in the locality in which the crime had been committed: ‘jurors were sometimes unwilling to consider evidence from the crown and acquitted the accused’.<sup>28</sup> That unwillingness often stemmed from intimidation by associates of the accused. This applied in equal measure to witnesses. However, sympathy and identification with the objectives of the perpetrators of, for example, agrarian crime, also influenced juries outside of the major urban centres. The practice of moving the venue of trials from the general location of the crime (a rarely invoked eighteenth-century initiative) became an accepted practice under the aegis of nineteenth-century coercive legislation. The policy was pursued, ostensibly, to prevent interference with jurors or witnesses, but all too often the real intention was to circumvent sympathetically inclined local sentiment and pack metropolitan juries in order to secure a guilty verdict.

In the early 1800s the main prerequisite for selecting a jury well-disposed towards the Crown was a knowledge of the jurors’ religion. It was almost axiomatic that a Protestant jury in a political case against a nationalist defendant would find in favour of the prosecution. The jury in the trial of John Magee (Chapter 2) and the state trials of 1844 (Chapter 3) are cases in point. During the debate on the guilty verdict on O’Connell and a number of other leaders of the Repeal movement in 1844, the former Whig prime minister, Lord John Russell, hardly an uncompromising champion of Catholic Ireland, commented on the ubiquity of the practice. He observed to the House of Commons:

It may be said that the laws are the same for both countries—that Ireland has nominally the same law as England—that the trial by jury is the same in both coun-

tries. Is it so, in fact? That it was not so, was perpetual matter of complaint in Ireland. Can we wonder that they frequently harboured long revenge—that they did not chuse [*sic*] to apply to the tribunals of the country for justice—that when the poorer Roman Catholics saw all the men of their own religion carefully and systematically excluded, a distrust of the administration of justice generally prevailed?<sup>29</sup>

Russell concluded by acknowledging that ‘Ireland was occupied, not governed’. While it was the case that ‘in name ... the same fundamental laws existed in the two countries ... [the reality was that] ... in practice they were so differently administered as to create two widely dissimilar systems of rule’.<sup>30</sup>

Four years after Russell expressed those sentiments the leadership of the 1848 rebellion. William Smith O’Brien, Terence Bellew MacManus, Patrick O’Donohoe and Thomas Francis Meagher stood trial in Clonmel in connection with the fracas at Ballingarry that was the highpoint of the 1848 rebellion. O’Brien’s counsel, James Whiteside, who had defended O’Connell in 1844, pointed out to Lord Blackburne, the lord chief justice, that of the 288 jurors empanelled only 18 were Roman Catholics. More than a quarter of the two previous commission panels in Tipperary had been made up of Catholics. Whiteside questioned whether the panel had been ‘fairly and impartially arrayed’.<sup>31</sup> Whether or not this was the case it was the panel from which the jury was chosen. Moreover, O’Brien’s brother, Robert, despite the guilty verdict being handed down on a charge of high treason, insisted the ‘trial was fair and the verdict just’.<sup>32</sup>

The first essential for the successful packing of a jury in the latter half of the century was good intelligence from the RIC. As Bridgeman states:

What was required was a steady flow of information from the police on potential jurors ... Since the crown had the unlimited right to ‘stand by’ jurors, and was in charge of the compilation of jury lists, it was hoped that by these two processes a jury that was not hostile to the crown would be found.<sup>33</sup>

Some barristers became famous, or notorious, for their ability to select a jury that would favour the Crown. In the 1880s the barrister Peter O’Brien, later lord chief justice of Ireland, became so identified with the practice of challenging potentially unsympathetic jurors that he earned the

nickname ‘Peter the Packer’.

Of course jury-packing did not always work. In the 1881 state trials of the Land League leadership, the *Freeman’s Journal* recorded the sanguine attitude of Parnell to the proceedings as the verdict approached. ‘There sat the Irish leader all day waiting to meet his fate, with the same grave, sweet, tranquil earnestness as if the fate of a nation as well as his own were not in the balance.’<sup>34</sup> Parnell’s insouciance was justified. He had already written to Katharine O’Shea anticipating an acquittal on the basis that there were enough Catholics on the jury to guarantee that the ‘traversers’ would not be found guilty. The jury foreman’s wonderful Irish bull to the effect that the twelve men were ‘unanimous about disagreeing’, when he was asked to deliver a verdict, must have brought a smile to Parnell’s lips for a number of reasons. But failure to secure a conviction in the case was a crucial factor in convincing the Liberal government that existing law was inadequate for the pacification of rural Ireland. Coercion legislation followed, *habeas corpus* was suspended and internment without trial reduced the need for malleable juries.

It could be argued that a partisan Catholic jury refusing to convict the clearly guilty was just as sectarian as a packed Protestant jury assembled for political ends and prepared, unblushingly, to follow the dictates of the Crown prosecutor. But in a well-regulated and functioning society governed by consensus there would have been no need to pack juries and no fear of their ignoring evidence, which pointed to the guilt even of ‘political’ criminals. They would have reached verdicts derived from the facts presented to them, not on the basis of sectarian prejudice. The defining element of jury proceedings is trial by one’s peers—not something with which a significant number of *Catholic* accused in political cases would have been overly familiar. A legitimately assembled jury is a group of citizens with a common and vested interest in the maintenance of law and order. Where ‘law and order’ is not a function of the common good that consensus breaks down and court verdicts become skewed.

It is significant that even in the case of the special juries it was deemed necessary in 1844 to have the leaders of the Repeal movement tried by a packed and entirely Protestant jury. Even Catholics of the same social status as the jurors selected were not considered ‘safe’ though they might have had a common vested interest in the maintenance of law and order. This was because the 1844 trials were not, in effect, trying a genuine law and order issue. Had the defendants been part of a criminal conspiracy or

had they been Chartists intent on social equity or economic redistribution, there would have been no difficulty with placing propertied Catholics on the jury and securing a conviction based on substantive evidence.

The cases selected throw up a veritable rogue's gallery of spies, informers, perjurers and approvers. In cases like the Doneraile conspiracy trials and the Maamtrasna massacre 'investigation', too many ambitious Crown prosecutors demonstrated their willingness to cajole, threaten, bully and coach terrified witnesses to render perjured testimony. This particular netherworld, populated by the likes of James Carey, Anthony Philbin, Thomas Casey and the Dalys of Doneraile was augmented by the mercenary treachery of the likes of Leonard MacNally (see Chapter 1), whose corruption went undetected until many years after his death. With the assistance of informers and approvers the Crown prosecutors regularly demonstrated their readiness to procure convictions of the clearly innocent on the evidence of the avowedly guilty.

The law is required to take its course 'though the heavens may fall'. By fishing for testimony in such murky waters and recruiting amongst the weak and desperate, the Crown was insuring against such an eventuality. Their presence in this narrative underscores the fact that in the landmark Irish political trials under the Union there were no holds barred. queen's counsel may have appeared on both sides but Queensberry rules did not apply.



# .1.

THE TRIAL OF  
ROBERT EMMET



Oh! Breathe not his name, let it sleep in the shade,  
Where cold and unhonour'd his relics are laid;  
Sad, silent and dark, be the tears that we shed,  
As the night dew that falls on the grass o'er his head.

But the night dew that falls, though in silence it weeps,  
Shall brighten with verdure the grave where he sleeps;  
And the tear that we shed, though in secret it rolls,  
Shall long keep his memory green in our souls.<sup>1</sup>

(Thomas Moore, *Melodies*)

Wild Ignorance  
Let loose, and frantic Vengeance, and dark Zeal,  
And all bad passions tyrannous, and the fires  
Of Persecution once again ablaze.  
How had it sunk into thy soul to see,  
Last curse of all, the ruffian Slaves of France  
In thy dear country lording it.<sup>2</sup>

(Robert Southey, *Written immediately after reading the  
speech of Robert Emmet*)

## THE VIPER—20 SEPTEMBER 1803

Leonard MacNally had not been Robert Emmet's original choice of advocate. But when John Philpot Curran, the man who had vigorously defended so many doomed United Irishmen in 1798, had thrown up his brief in a fit of anger with the defendant, the young revolutionary was fortunate that MacNally, almost as celebrated, stepped into the breach. Like his client, MacNally was a Protestant and former United Irishman, who had vigorously opposed the Act of Union in 1800. Curran had lauded him for his 'uncompromising and romantic fidelity' to the cause of Irish nationalism.<sup>3</sup>

As Emmet was being escorted from the Commission Court on Green Street, after he was sentenced to die the following day, his distraught barrister stepped forward and embraced the prisoner emotionally before

kissing him on the forehead.<sup>4</sup> The gesture was greatly appreciated by many in the crowd who had been impressed by Emmet's dignity and eloquence in his elegant and passionate speech from the dock. MacNally, who would become known as 'The Incorruptible', took many personal and professional risks in his defence of United Irishmen. His success as a defence attorney meant that, after Curran, he was 'the man most obnoxious to the government of that day ... who most hated [the government] and was most hated by them'.<sup>5</sup> His audacity and his acumen were respected in equal measure by opponents of the Union. A physical disability (he had one leg shorter than the other and a pronounced limp) and a very obvious deficiency in personal hygiene may have lulled some prosecution witnesses into underestimating MacNally's prowess in cross-examination. Many who did so paid a humiliating price. They would have been far better advised to have noted his missing thumb instead. It was the result of one of a number of duels he had fought in defence of his honour.

The following day, the morning of Emmet's execution, visiting his client in Kilmainham Gaol, the barrister took it upon himself to break the sad news to Emmet that his mother had died ten days previously. No one had wanted to add to his burdens by informing him of her passing. By way of consolation he reminded the prisoner that he would soon be reunited with her in the next life. Such solace, he might have reasoned, would also be of assistance to Emmet in his forthcoming ordeal. It would help him face his own unenviable fate with equanimity the following day. Emmet was to be brought back to the scene of the abortive uprising that he had masterminded and led. There he was to be hanged and beheaded outside St Catherine's Church on Thomas Street before those citizens of Dublin who chose to witness the event.

The two men talked for some time in a room adjoining Emmet's cell.<sup>6</sup> The high-minded young rebel, according to his counsel, claimed that military help from France was on its way and that had he managed to delay his trial by ten days he might well have avoided the noose, courtesy of Napoleon Bonaparte's troops. He also talked at length of his family and the upbringing which had led to the inculcation of the radical ideas that had proved to be his undoing. He, apparently, had bitter words for one of his prosecutors, William Conyngham Plunket, whose vitriolic closing address to the jury in the treason trial Emmet had taken highly personally. Plunket, he told MacNally, had been a family friend. He referred to him as 'that viper whom my father nourished'.<sup>7</sup> It was the only trace of bitterness

MacNally detected in the young man who was about to face a grim and lonely death. The two friends parted company and Emmet prepared to receive two Church of Ireland ministers who would accompany him to the hastily built gibbet a few hours later.

What the unworldly young idealist did not know, and what none suspected for many years after his death in 1820, was that Leonard MacNally was the most valuable and resourceful spy in the employ of Dublin Castle. Within 24 hours the chief secretary had a detailed account of MacNally's version of the Kilmainham conversation with Emmet. For his egregious betrayal of a personal and professional trust, he would receive a bonus of just over £200.

## THE SATURDAY NIGHT REBELLION— 23 JULY 1803

The insurrection in Dublin on 23 July 1803 of a small force of men led by Robert Emmet can be viewed as a fully fledged rebellion in its own right or as unfinished business. In a sense it was a delayed aftershock of the seismic activity of 1798 and cannot be seen in isolation from that rising. 'Emmet's rebellion was a leftover from that of 1798'.<sup>8</sup> It is remembered for the tragic and romantic figure cut by its main protagonist, for the eloquence of his valedictory speech and for the hapless and disorganised nature of its military element. However, while the outbreak of hostilities on 23 July may have been farcical and anticlimactic it, in fact, posed some threat to what proved to be a heedless and complacent British administration in Ireland and its leader was rather more than a mere Byronic star-crossed neophyte.<sup>9</sup>

The rebellion encompassed many of the strands of the uprising of the United Irishmen, with one significant and symbolic aggravating factor. Between 1798 and 1803 Ireland had lost its parliament. The rebellion of Theobald Wolfe Tone, John and Henry Sheares, Vinegar Hill and Boolavogue, had strengthened the hand of the prime minister, William Pitt, in his determination to end the system whereby legislation for Ireland had to pass through an assembly based at Dublin's College Green. An Irish parliament had existed for centuries, though it had been constrained by

Poyning's Law (1494), which meant all legislation had to be sanctioned by the British privy council; and the Declaratory Act of 1720 (the sixth of George I), which empowered the Westminster legislature to make laws for Ireland. That situation had changed in 1782 when a heady cocktail of Protestant patriots, enlightenment idealism and the potential threat of a 100,000 strong force of Volunteers, obliged the Crown to grant Ireland a greater degree of legislative independence. However, this autonomy was significantly circumscribed by the regulatory authority of the Irish executive in Dublin Castle. Grattan's parliament, as it became known to posterity, also lacked democratic legitimacy in being overwhelmingly representative of Ascendancy interests. Some of the principal protagonists of this 'patriot' parliament were unambiguous in their opposition to the repeal of the remaining Popery (Penal) Laws and the extension of further civil rights to Roman Catholics. While Henry Grattan, for example, was a champion of Catholic rights, the other great 'patriot', Henry Flood, was not.

A vital weapon of control in the hands of Dublin Castle, where the patriot parliament was concerned, was patronage. The promise of advancement was regularly deployed to secure the votes needed for the effective maintenance of English rule. A limited, property-based franchise (Catholics did not get the vote until 1793) meant that most of the members of the House of Commons were beholden for their seats to a small number of highly influential figures. Once the bulk of their support was secured the passage of legislation favoured by the castle was assured. This was never more blatantly illustrated than in the recourse to blandishment to ensure that the Irish parliament voted itself out of existence in February 1800. From 1 January 1801 Ireland was to be represented by 100 MPs in the House of Commons at Westminster and 32 peers in the House of Lords. It was an event of enormous psychological moment to the more radical members of the 'the Protestant nation' but, in practical terms, was of lesser political import because, in reality, 'when it really mattered, it was Westminster that called the tune'.<sup>10</sup> The 'Catholic nation' had been courted by Pitt with promises of emancipation (which included the capacity for Catholics to take seats in parliament) and had been largely quiescent in the debate that had raged over the issue.

Despite the opposition of, for example, members of the Orange Order, the parliamentary union secured by Pitt was as much the outcome of renewed Protestant insecurities as it was of Catholic indifference to the fate of an Ascendancy parliament in Dublin. The 1798 rebellion in

Wexford, in particular, with its notorious Wexford Bridge and Scullabogue massacres of Protestant civilians and prisoners, had revived the atavistic fears of the infamous (and much exaggerated) Catholic excesses in Ulster during the rebellion of 1641. The tacit alliance between elements of the United Irishmen and the militant Catholic secret society, the Defenders, had intensified Protestant fears of widespread massacre. Much of the liberal Protestant support, or tolerance, of Catholic demands in 1790s evaporated and after the 1798 rebellion Ireland had reverted to a familiar sectarianism devoid of much of the idealism generated by the American and French revolutions.

In spite of repeated Catholic disavowals, Protestants remained fearful of demands for the restitution of property transferred by plantation or appropriation. Their anxieties on this score were heightened by periodic outbreaks of ‘Whiteboy’ agrarian violence in opposition to the tithes paid to the established church in certain parts of the country. There were also well-founded concerns about the response of Catholics in the event of French intervention in Ireland. For the most part the minority population relapsed into a garrison mentality that suited the containment objectives of the Westminster government.

In terms of sustained unrest, there might appear to be a degree of continuity between the general rising of 1798 and the much more limited outbreak of 1803. The Wicklow rebels led by Michael Dwyer harassed the authorities for five years after the defeat of the United Irishmen. Orange attacks on Catholics continued in Ulster and thus maintained the phenomenon of ‘Defenderism’. Prolonged campaigns of agrarian crime contributed to the impression of an unbroken and persistent conflict. All the more so as they were occasionally used by interested parties to attempt to convince the castle administration that radical political conspiracy continued apace. The suspension of *habeas corpus* remained in place until 1801. Under the terms of the legislation introduced to suppress the rebellion, which also continued in force for some time, 21 men were executed between November 1800 and February 1801.<sup>11</sup>

However, Dublin Castle clearly failed to see any compelling evidence of continuity. In the wake of peace between Britain and France, concluded in August 1801,<sup>12</sup> the authorities had felt secure enough to release a number of United Irishmen and reduce the military establishment in Ireland. The administration of the new lord lieutenant, Lord Hardwicke, was anxious for conciliation rather than renewed confrontation. The former chief sec-

retary, Lord Castlereagh, wrote to Hardwicke in August 1801 congratulating him on ‘the present tranquility in Ireland. The Union has already apparently discharged the public mind of a greater portion of the political mischief which has incessantly disturbed it for the last twenty-five years than its most sanguine friend could have expected’.<sup>13</sup>

It was in this context that some of the dislocated elements of the United Irishmen began to reorganise. The reconstructed body was leaner, more elitist and more localised than its predecessor. It consisted, by and large, of an experienced and activist *cadre* that was to form the officer corps in the event of renewed rebellion. It was also based on two presuppositions: that a disenfranchised populace would flock to the ranks when the call to arms came and that assistance would be forthcoming from France. With the renewal of the Bonapartist war in May 1803 the latter eventuality re-entered the realm of possibility. Centrally involved in this covert overhaul was Robert Emmet, younger brother of one of the most prominent United Irishmen, Thomas Addis Emmet.

Robert Emmet, born in 1778, was the youngest son of Dr Robert Emmet, state physician to the viceregal court. His family had originally come to Ireland from Kent and had received land in Co. Tipperary in the wake of the Cromwellian settlement of Ireland. Dr Emmet, infected with the republicanism of the French revolution, would resign his position as a state physician and inspire his sons Thomas Addis and Robert, to adopt his radical ideals. His friend, Henry Grattan, observed sceptically of Emmet *père* that he ‘had his pill and his plan; and he mixed so much politics with his prescription that he would kill the patient who took the one, and ruined the country that listened to the other’.<sup>14</sup> Thomas Addis Emmet who was imprisoned after the 1798 rebellion travelled to the Continent on his release before eventually settling in the USA.

Depicted as an intense, shy and diminutive young man, Robert Emmet was, although only 5 feet 6 inches tall, of above average height for his time.<sup>15</sup> If he was as naturally diffident as some have claimed,<sup>16</sup> it did not interfere with his ability to dazzle an audience with his rhetorical powers. As regards his physical appearance one biographer says of him that ‘his features were regular, his forehead high and finely formed; his eyes were small, bright and full of expression’.<sup>17</sup> A less flattering description, provided by an ill-disposed Trinity academic to the government for identification purposes, referred to ‘an ugly, sour countenance; small eyes, but not near-sighted, a dirty, brownish complexion; at a distance looks as if somewhat marked by the smallpox’.<sup>18</sup>

Emmet, at the age of seventeen, had been secretary of one of four branches of the United Irishmen at Trinity College in Dublin. He was also an orator of note and an outstanding contributor to the proceedings of the college debating club, the Historical Society. His reputation led to his expulsion from Trinity in June 1798 during a purge of 'Republican' elements. In 1799 he fled to France, fearing arrest because of his continued involvement in radical activities and his part in the reconstruction of the United Irishmen. When no charge was laid against him, he returned in October, 1802 and renewed his activities. He quickly established contact with a number of men who had participated in the 1798 rising in counties Wicklow, Kildare and Wexford and who were now quietly living out their lives in relative obscurity in Dublin. Emmet rapidly established a network of committed and proven activists and, in parallel, assembled an arsenal of weapons (fire-arms, explosives and pikes) in storage depots on Patrick Street, Marshal Lane and Thomas Street in Dublin. He was reinforced by the secret return from the Continent of two prominent former United Irishmen, Michael Quigley, a bricklayer from Rathcoffy, Co. Kildare; and, Thomas Russell, an ex-officer born in Co. Cork but residing in Ulster, released from prison after the end of the war with France.

Emmet's plan for a nationwide rising was more comprehensive and detailed than the chaotic and somewhat anarchic nature of the eventual rebellion would suggest. Dublin Castle, the Pigeon House Fort, the artillery barracks at Islandbridge, the Mary Street Barracks and the Custom House were to be seized by a small band of battle-hardened revolutionaries. But even assuming the original blueprint had succeeded in Dublin, what was to happen thereafter was left too much to chance. The Wexford United Irishman, Miles Byrne, who secreted himself in Dublin after the 1798 Rising, was privy to Emmet's plan to extend his rebellion beyond Dublin. 'It consisted in procuring the names and places of abode of those brave fellows in each district who had acquired the reputation of being good patriots in 1798, and who still enjoyed the confidence of the people.'<sup>19</sup> With the assistance of Byrne, Emmet met activists from Carlow, Wicklow and Wexford. They were given three small, marked, ivory counters and told to await the arrival of messengers from Dublin with corresponding counters bearing instructions for 'the general rising *en masse* of the districts organised for that purpose'.<sup>20</sup> In reality Emmet appears to have set too much store by the notion of a spontaneous rebellion in the provinces following on the seizure of the capital and devoted the bulk of his attention to ensuring the success of his own efforts in Dublin.

An inheritance of £2,000 upon the death of his father in December 1802 allowed Emmet to fund preparations for a rebellion himself. The money was invested in the manufacture of pikes, in the assembly of a small arsenal of fire-arms and the securing of premises in which to store the weaponry. Emmet became fascinated with the military potential of the rocket. At least one experiment was recalled by Miles Byrne in his memoirs: a rocket was made fast to a pole ‘the match being put to it, it went off like a thunderbolt, carrying the pole along with it, and throwing flames and fire behind, as it advanced, and when it fell, it went on tearing up the ground till the last of the matter with which it was filled was completely consumed’.<sup>21</sup> Emmet’s preoccupation with this particular use of gunpowder would prove highly problematic at a crucial point in the preparations for a rising.

Contact was made with the Wicklow rebel, Michael Dwyer, who promised assistance once he was assured that Emmet had secured the city of Dublin. A paranoid and watchful Dwyer spent three anxious days with Emmet and Thomas Russell in early 1803 but his expressions of support were not matched by a practical commitment. He was surprised by Emmet’s expressed disinclination to lobby for French support and the young man’s antipathy to Bonaparte.<sup>22</sup> Dwyer returned to the relative safety of his Wicklow refuge with serious reservations about Emmet’s ability to deliver Dublin into rebel hands.

However, he did make one significant contribution to the cause. His niece, Anne Devlin, was taken on as housekeeper in the establishment on Butterfield Avenue in Rathfarnham where Emmet and his principal associates, William Dowdall, a former United Irishman; Nicholas Stafford, a Dublin baker; and William Hamilton, an Irish officer of the French Army; along with Michael Quigley, planned the rising. The house, near the foothills of the Dublin Mountains, was known to Miles Byrne as ‘the Palace’. On at least one occasion as many as 30 rebel leaders sat down to eat in its dining room. Butterfield Avenue was not far from The Priory, the residence of John Philpot Curran. Unbeknownst to the celebrated attorney, Emmet had formed an attachment to his youngest daughter, 21-year-old Sarah.

Although Dublin was the main focus of the rebel’s planning Russell and Hamilton were dispatched to Ulster to organise a parallel and simultaneous revolt there. Their efforts were met with a mixture of apathy and outright hostility. Without arms and the promise of French aid, Ulster would not rise along with Dublin.

Emmet’s revolutionary template, consisting of a highly compartmentalised command structure rather than a more open national movement

vulnerable to penetration, (Dwyer was not told the names of Emmet's associates) was highly successful in concealing his conspiracy from Dublin Castle. He himself did not entirely escape official notice. Leonard MacNally was aware that Emmet was at the heart of post-1798 disaffection but, in a letter to the under secretary, Alexander Marsden, on 19 July 1803 he brushed aside rumours of an impending *coup*. He wrote (over his customary coded signature of 'JW'):

I daily see different people from the Home Circuit counties, who were implicated in the last Rebellion and the report of them all is that there is neither system nor organisation in the country. They, however, allow that an invasion is expected, in which case they admit a rising would take place whenever the enemy appeared.<sup>23</sup>

The lord lieutenant, Lord Hardwicke, wrote to his brother, Charles Yorke, who was soon to replace the belligerent Lord Pelham as home secretary, 'I cannot find the least apprehension expressed, now that war had broken out again between Great Britain and France, that trouble was brewing among the disaffected in Ireland'.<sup>24</sup>

Official complacency was dented, though not entirely shattered, by an accident in the Patrick Street arms depot. On Saturday, 16 July, an explosion, brought about in the manufacture of fuses for the rockets, ripped through the arms-dump. Although the resourceful Miles Byrne managed to remove most of the surviving weapons before the authorities were fully alerted, the incident forced Emmet to advance the date of the rebellion. He settled upon 23 July for the Dublin rising. Four days after the explosion Hardwicke was less confident in his evaluation of the passivity of the Irish than he had been a week before. He informed the prime minister, Henry Addington, that 'It still appears that there are no leaders of any consequence; but it is equally true, and it is a fact which ought not to be concealed from the Government in England, that agitators are certainly at work'.<sup>25</sup> He also requested the prime minister to allow for the renewed suspension of *habeas corpus* arguing that

it is better to prevent mischief by detaining those who are preparing for the insurrection, than to trust to their subsequent detection and punishment, and it can hardly be expected that disaffection should have entirely ceased in this country, or that the enemy should not use every means to revive and increase it.<sup>26</sup>

Despite the ‘fair warning’ provided by the Patrick Street explosion and an abundance of rumours, the government exhibited an inertia for which it would be castigated after the events of 23 July. The castle cause was not helped by the fact that the chief secretary, William Wickham (an acknowledged expert in the art of espionage and intelligence gathering), was out of the country due to illness. Alexander Marsden appears to have had at least a vague inkling of what was about to happen. The under secretary opted to spend the night of 22 July in Dublin Castle itself. But Hardwicke was the epitome of insouciance. He left the castle that night for the Viceregal Lodge in the distant Phoenix Park. The route taken by his carriage brought him close to Marshal Lane, the site of one of Emmet’s principal arms-dumps. His presence in the Viceregal Lodge left him exposed, vulnerable and of no assistance the following day to a potentially beleaguered Dublin Castle administration.

For Robert Emmet, who left the Marshal Lane depot on the night of Saturday, 23 July with 100 men, parallels with the 1916 Rising, are inescapable. The secrecy that was the hallmark of Emmet’s insurrection was ‘its greatest strength (and weakness)’.<sup>27</sup> Emmet’s meticulous preparation was too dependent on the absolute sequential execution of his integrated plan. A rumour that the rising had been postponed reduced the numbers of followers available to him. A determined and well co-ordinated surprise attack might well have taken Dublin Castle but failed to do so. Promised support from Michael Dwyer in Wicklow and rebel elements in Kildare failed to materialise. Faced with inevitable defeat, Emmet, like Pearse a century later, opted for the politics of the noble gesture.

The distribution of handbills addressed to the ‘Citizens of Dublin’ preceded the military action. The population was advised that ‘A band of Patriots, mindful of their oath and faithful to their engagement as United Irishmen, have determined to give freedom to their country, and a period to the long career of English oppression’.<sup>28</sup> The rising was planned for 9.00 p.m., close to dusk. The military force commanded by the young revolutionary, himself resplendent in a magnificent green uniform and armed with the only sword available to the rebels, was augmented by drinkers from the public houses around Thomas Street ‘bent solely on pillage and murder’.<sup>29</sup> The proclamation of the provisional government was read publicly in order to give political legitimacy to proceedings. ‘You are now called on to show to the world that you are competent to take your place among nations’, it began.<sup>30</sup> Unfortunately the debacle that followed was to show no such competence.

Realising that the seizure of Dublin Castle was an impossibility, Emmet chose the sensible course of taking his small force to Wicklow and joining forces with Michael Dwyer. The mob element among the rebels decided otherwise. An unfortunate hussar who chanced to ride by Francis Street became the first victim of the rebellion when he was piked to death. By the time the coach of the relatively benign privy councillor and chief justice, Lord Kilwarden<sup>31</sup> was attacked (he and his nephew were killed); Emmet, Quigley, Stafford and other leaders of the insurrection had already left for Rathfarnham. Arriving there at about 11.00 p.m. he received an angry reception from a dejected Anne Devlin. The following evening he and a small band of men escaped to the Wicklow Mountains. Within days Emmet had abandoned this refuge and was lodged in a house at Harold's Cross belonging to Ann Palmer, daughter and sister of 1798 rebels.

Alerted to the chaos in the Thomas Street area, soldiers of the 21<sup>st</sup> Regiment arrived to quell what amounted to little more than riotous behaviour. Skirmishes were fought with the remaining rebels and casualties ensued on both sides. After the rump of Emmet's force had dispersed members of the yeomanry were sent house to house through the Liberties of Dublin to arrest suspects. It would be more than 100 years before the city witnessed similar skirmishes between Irish Republicans and British soldiers.

Although Emmet would later accept full responsibility for the abject failure of the rebellion he was, at first, not disposed to do so. His quoted response to the anger of Michael Dwyer's niece was 'Don't blame me. The fault is not mine'.<sup>32</sup> Logistics and planning were clearly Emmet's strengths rather than competent military leadership in the field. His abandonment by the auxiliary forces of Wicklow and Kildare, over which he had no personal control, was based on their hard-headed assessments of his chances of success. But, as Miles Byrne pointed out, he was also deserted by one of his own appointees, William Dowdall, who 'could have no excuse to offer for his conduct on this occasion'.<sup>33</sup>

Public reaction to the events of 23 July 1803 was not dissimilar to that which marked Easter Monday, 1916. Dublin Castle was stunned, both at the audacity of the rebels and its own lack of preparedness while much of the population, and not just anxious Protestants, was angered. The young Catholic barrister, Daniel O'Connell, writing to his wife, Mary, observed that 'for my part I think pity would be almost thrown away upon the contriver of the affair of the 23<sup>rd</sup> of July. A man who could coolly prepare so much bloodshed, so many murders—and such horrors of every kind has ceased to be an object of compassion'.<sup>34</sup> O'Connell was of the opinion that

Emmet deserved to hang. However, as Emmet biographer Marianne Elliott has pointed out, ‘even the achievements of O’Connell—undoubtedly the most important politician in the making of modern Ireland—would be swept away in the romantic revolutionism that had Emmet at its centre’. Elliott also observes, however, that in addition to the sympathy aroused by ‘Emmet’s boyish looks, good stock, eloquence and desperate sincerity’, there was considerable anger on the part of many Protestant and Catholic citizens ‘at the re-imposition of strict security measures, when there had been a welcome period of mild government’.<sup>35</sup>

The embarrassment and discomfiture of Dublin Castle at being caught completely unawares was exacerbated by its lack of information as to the main motive force behind the rebellion. Emmet was not immediately identified as the lavishly accoutred sword-bearing leader of the semi-disciplined force that had briefly held the area around Thomas Street in the name of the ‘provisional government’. As events were still being played out on the streets, Marsden, at 11.00 p.m. wrote to the home secretary, Lord Pelham, in London to apprise him of the news of the abortive rising. He concluded with a display of self-exculpation: ‘For some days past we had heard that a rising was talked of, and it was asserted by many that it would take place. Such precautions were taken as the circumstances seemed to warrant, but the mischievous disposition which prevails at present is beyond what was calculated upon’.<sup>36</sup> With flagrant disloyalty he mentioned that while he was at his post in Dublin Castle, the lord lieutenant was in his residence in the Phoenix Park.

Hardwicke was terse, defensive and self-protective in his professional and personal correspondence in the days that followed. To his brother, who would shortly succeed Pelham, much to the lord lieutenant’s delight, he observed of the rebels that ‘they do not seem to have been ably commanded, and indeed everything shows that this insurrection was the work of a rabble without leaders’. Two days later he wrote that

it is unfortunate that such a conspiracy should have been formed and brought to such a point without being discovered, and that it should be possible for a secret of such a nature to be so well kept. Some people find fault and affect to blame both Marsden and Wickham for too great a degree of credulity on the state of the country ...<sup>37</sup>

He made no mention whatever of his own credulity. On 2 August his brother warned him: