

COMMISSION OF OYER AND TERMINER

THURSDAY, FEB 23 1804.

John Costley, Gent. Ensign in the Roscommon Militia, was put to the bar on four indictments, three of which were laid capitally.

The following Jury of the county of Dublin were sworn, after seven of the panel were peremptorily challenged by the prisoner, and one set aside by the Crown.

John Hutton	John Hill
Edward Medllcott	Benjamin Flint
Daniel Fearon	Richard Harwood
William Pribles	Jonathan Siffon
Edward Heron	John Parker
William Dxxx	Mark Saunders

The first indictment charged the prisoner of the Conspiracy Act, viz. 36th of the King, for conspiring and confederating with Charles Frazer Frizelle, Esq; Barrister at Law, to take away the life of the Rev. William Ledwich, Parish Priest of Rathfarnham, on the night of the third of February instant. The second indictment charged the prisoner with a burglary, with intent to commit a murder on the said William Ledwich, by breaking into the house of Catherine Byrne, at said town of Rathfarnham, where he, Mr. Ledwich, lodged on the same night. The third indictment was laid on the White Boy Act, for that he, the prisoner, being in company with several other armed persons on the said night of the 3d of February, did unlawfully, and in a riotous and tumultuous manner, break into the habitation of the

said William Ledwich. The fourth indictment charged the prisoner with an assault, with intent to kill and murder Mr. Ledwich; and it contained a second count for a common assault.

The depositions of Mr. Ledwich went to prove that Mr. Frizelle, on the night laid in the indictment, came to the door of his lodgings near half after ten o'clock, and in a boisterous manner demanded entrance, saying, that though Mr. Ledwich was for many years highly reputed in that neighbourhood, he must notwithstanding come with him to the guard-house. Mr. Ledwich entreated of him not to insist on carrying him into the cold air that night, as he was very much indisposed; as Mr. F. knew him, hoped he would take his word for attending him at the guard-house in the morning. Witness asked the prisoner at the bar if he knew him, and would he take his word? To which the other replied, he did not recollect that he did. They at last grew so importunate, and used so many threats, that witness became afraid of his life, particularly when Frizelle make a stroke of a naked sword at his head while looking through the window from which he spoke to them. The stroke happily missed him, but made an impression in the frame of the window. He afterwards effected a retreat into the Marquis of Ely's demesne, over a wall near 14 feet high, topped with glass - precipitated himself at the other side with the aid of a rope which he found on a hayrick. This rick he crept up from a dung-hill, the first eminence he clambered. After his retreat he

heard several shots, and on his return home, found the curtains of his bed perforated with musket balls, and the walls in many places struck with them. He produced numbers of these balls. Believes there could be scarce less than 100 shots fired into the house, the walls of a room, where a Mr. Tract lay, opposite to his, having been penetrated with numbers of bullets also.

On cross-examination by Mr. Egan, witness believed that the prisoner could have no intent to murder, if not put up to it by Mr. Frizelle. He could from his heart forgive both, and apprehended if he had not fled, that Frizelle might perhaps kill him. The prisoner he knew at his father's house, who was a distant relation to him, saw his last before that night when at the age of thirteen or fourteen years; acknowledged he had him often on his knee during his childhood, and perhaps gave him his blessing; would have no objection to do so again if he required it. Five witnesses more corroborated, in much stronger terms, the depositions of Mr. Ledwich, adding that they saw the Yeomanry firing at the house. One heard the prisoner damn them for not firing at the centre.

Lord Erris and Colonel Caulfield, of the Roscommon Militia, gave the prisoner an excellent character.

In Judge Day's charge to the Jury, his Lordship did not conceive that the matter of intention in the three capital indictments, neither the intent to murder a fourth, were fully

proved. On the subject of the second count in the last indictment, denominated in law a common assault, it was one he conceived of the most diabolical outrages he ever heard of, abstracted from the intent to murder, of which there was no evidence.

The Jury acquitted on all the indictments but the second count of the last - on which Judge Day, after a very just, and, we hope, salutary lecture, told the prisoner, that the public safety and the spirit of the laws required to have punishment apportioned to the nature and circumstances of the crimes committed. He would therefore sentence him to two years in the county gaol, fined twenty marks, and to be further confined until he shall find security to be of the peace for seven years, himself in 500l, and two sureties in 100l. each.

Counsel for the Crown, Messrs. Curran, MacNally, Green, Grady and Ridgeway - Agents, Messrs Kemmis and McNally.

Counsel for the prisoner, Messrs. Egan, Driscoll, and Bushe - Agents Messrs Garstin and Snaggs.