

THE LAW MUST TAKE ITS COURSE - LIMERICK WOMEN SENTENCED TO TRANSPORTATION

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Among the issues touched upon by this article is the use of transportation as an exemplary punishment to discipline the labour force and its utilisation to supply the under populated Australian colony with female workers.

During the first half of the nineteenth century a large number of women from Limerick City and County were sentenced to transportation to Australia by the courts and during the period 1826 to 1857 an estimated 552 Limerick women were so sentenced. One such was Mary Kenny, charged with violent assault in July 1846 and said by Robert Tighe, Assistant Barrister, to be ‘the keeper of a low brothel’.¹ She was convicted of having assaulted Ellen Sullivan, a prostitute residing with her to the extent that ‘Sullivan’s eye was destroyed in consequence of it’.

Another case saw Mary Murphy convicted of murder and her sister Honora found guilty of conspiracy to murder² following an incident that took place in March 1829. Their father, John, owed £87 rent arrears on a small holding at Ballinahinch and his landlord sent three men to confiscate some animals, household furniture and a quantity of potatoes. In the course of the ensuing melee one of the landlord’s men was killed. Mary Murphy was subsequently given clemency by the trial judge and both sisters were ordered to be transported.

Violent offences, however, constituted only a small fraction of the cases resulting in transportation, the vast majority relating to burglary and the theft of clothing, animals, food and small amounts of money. Typical prosecutions were for ‘stealing potatoes’, ‘stealing apron’, ‘stealing pigs’, ‘larceny of 5 handkerchiefs’, ‘stealing sugar’. Not major offences by modern standards, in fact we would judge them as quite petty, but crimes that could be treated fairly harshly under the legal code of the early nineteenth century. One unfortunate soul, Ellen Broderick, aged 24, was actually transported in 1828 for vagrancy

¹ NAI Convict Reference Files (CRF) 1846 K21.

² *Limerick Chronicle*, 20 March 1830.

while Mary Meehan (22) was sent to Australia on board the *Lady Rowena* in 1825 for stealing one single, solitary umbrella.

The accompanying table, covering the period 1826-38, highlights the categories of crimes for which Limerick women were sentenced to transportation and the age of offenders. The data presented here is accurate for only those cases for which we have information regarding both the age and crime of the offender. The primary source material consulted for this study (see Appendix) does not always specify the crime for which a person was sentenced; nor are the ages of convicts given in many cases. For example, in Limerick during the period 1826-38 there were six cases of women charged with murder, but the age of those convicted is given in only three. Nevertheless, the available information leads to very clear conclusions: the age group of those most likely to be transported was in the 21 to 29 bracket and crimes of theft constituted 93.6% of the total,

Transportable Offences Committed by Limerick Women, 1826-1838

Crimes	Age of Offenders							Total
	17	17-20	21-29	30-39	40-49	50-59	60-69	
Murder			3					3
Assault			1			1		2
Theft: Cows and Sheep		1	5			1		7
Theft: Bed Clothes	1	3	3	5	6			18
Theft: Clothing			21	2	1		1	25
Theft: Money, Purses	1	5	11	4	1		1	23

Breach of Trust

Girls as young as 12 are known to have been transported for quite trivial misdemeanours. In October 1837, for instance, Mary Hennessey, aged 12, a kitchen maid, was transported for stealing a quilt that she pawned to buy bread. She sailed for Australia on board the *Diamond* leaving Cove in Cork Harbour on 15 November 1837, arriving in Sydney Cove four months later on 28 March 1838.

Also on board the *Diamond* that voyage was 24 year old Anne Lynch, a country servant convicted during the 1837 Spring Assizes in Limerick for stealing meat. Although she had no previous convictions for any crime whatsoever, Anne was sentenced to transportation for seven years, leaving behind a husband and child. There were a total of 161 female convicts on board the ship, thirteen of whom were from Limerick. Seven of these had been processed through the County Courthouse, which meant they were residents of the county, and the remaining six were dealt with the City Courthouse which tried offenders from the city area and its rural environs. Actual addresses were not given, confirming the humble social status of the women involved. These Limerick women

ranged in age from young Mary Hennessy to Eleanor Delany, aged 30, a house servant married with five children. Of the thirteen, only three had previous convictions which had merited prison sentences ranging from fourteen days to six months duration.

The crimes for which these women had been accused included stealing blankets in two cases, four incidences of house robbery and one case of ‘breach of trust’,³ a term used in prosecutions for the offence of stealing from an employer. The courts took a very serious view of this latter offence, as seen in the case of 20 year old Honora Whelan of Limerick accused of stealing lace collars from the Clare Street lace factory of Mr William Lloyd to whom she was apprenticed.

Responding to a petition received from Honora, the Assistant Barrister, Carew Smyth, wrote on 21 April 1837 that ‘there are three most valuable factories established in Limerick by English capitalists who give regular employment to nearly 1,500 young persons’.⁴ An example was to be made of Honora, her transportation seen as a deterrent ‘because of the misconduct and propensity of theft of those employed’. In a letter attached to the petition, and signed John Boyse, it is stated that ‘the object of preserving inviolable the relation between master and servant is of the greatest importance to society’.⁵

Honora Whelan’s transportation was part of a concerted effort by Limerick’s lace masters to instil discipline into their workforces. In the 23 July 1836 edition of the *Limerick Chronicle*, for instance, we read that upwards of fifty apprentice girls employed in David Kinnear’s lace factory, also in Clare Street, ‘were sentenced to one week’s imprisonment each for neglect of duty.’ The following month, at the Court of Petty Sessions, William Lloyd summoned a number of his apprentices for, ‘inattention to their work, two of them were sent to prison for 14 days, the others were discharged on expressing contrition and promising amendment.’ (*Limerick Chronicle* 20 August 1836.)

Many of the workers in the lace factories were indentured apprentices, aged nine, ten and upwards, mainly girls, who were under contract to serve seven years in the factory for low wages for twelve hours a day. As a means of inducing workers to remain loyal to their contracts the Law proved a very useful instrument for employers; the legal profession only too willing to vindicate the rights of private property.

Nefarious Gangs

Although many hundreds of Limerick women were sentenced to transportation not all sentences were actually carried out. After conviction, sending a petition to the Lord Lieutenant was the prisoner’s only hope of having her sentence commuted. Petitions, also known as memorials, were prepared by the convict herself or by someone acting on her behalf and were addressed to the Lord Lieutenant. Petitions were always written in the third person e.g. ‘Memorialist most humbly begs leave to state ...’ While some petitions

³ Archives Office of NSW. AO Fiche Nos. 614-744 Principal Superintendent of Convicts: Alphabetical List of Convicts on Transportation 1788-1842 (4/4003).

⁴ NAI CRF 1837, W42.

⁵ *ibid.*

contain more personal details of the petitioner than others, they are written in a similar way without much of a clue as to the personality of the appellant.

Upon receipt, the Lord Lieutenant transmitted the petitions via the Chief Secretary's Office to the appropriate trial judge, the local constabulary and occasionally to the governor of the local gaol, to confirm the statements made in the petition concerning the convict's protestation of innocence, state of health or size of family as mitigating factors.⁶ All petitions were investigated. Between 1791-1853 approximately 1,000 petitions were received on behalf of female convicts compared with almost 6,500 from male convicts.⁷ Fifty-four of these petitions came from Limerick women.⁸ The final decision regarding the mitigation of a sentence rested with the Lord Lieutenant. Where that decision was to transport the prisoner, the final words written were, 'Let the Law take its course' or 'The Law must take its course' - hence the title of this article.

Information given by those making the petition was investigated by Assistant Barristers, mainly by making enquiries to the governor of the local gaol. In a form entitled 'Information required in the case of the Prisoner mentioned in the annexed Memorial', under the column 'Previous character and circumstances: truth of statements contained in Memorial etc. etc.' the Governor would provide such insights as 'She bears a bad character as a thief'.⁹ Other typical comments included: 'statements in memorial partly true' or 'statements in memorial not true'.

Assistant Barristers would be asked if there had been a former conviction handed down to a petitioner, but the reply was not always accurate. It is possible to verify one particular case in 1840 where an Assistant Barrister in Limerick, Carew Smyth, stated that the prisoner had three previous convictions whereas the prison records show just one.¹⁰

Even in cases where the prisoner had not previously come to the attention of the courts she was frequently branded as 'an old offender', a prostitute or as a member of 'a nefarious gang of robbers'. In one particular case the policeman father of a prisoner made a petition on behalf of his daughter who had stolen an umbrella. Carew Smyth stated that the father had encouraged his daughter to steal on demand. This 'old offender' was 12 years old. She was ultimately discharged on the basis that she would enter 'the convent of Limerick'.¹¹

No sympathy, however, was shown to anyone thought to belong to a 'nefarious gang'; frequent reference being made by the Assistant Barrister to 'nefarious gangs' of shoplifters or plunders roaming the streets of the city. 'Nefarious gangs of plundering juveniles infesting the quays of Limerick' were of great concern to Carew Smyth in the late 1840s¹² and two 16 year olds, in separate incidents, were convicted for stealing coal on the quays and sentenced to seven years transportation. In the case of the first,

⁶ *Irish Archives Journal*, p. 25.

⁷ NAI GPO Transportation Registers 1836-1857 1-12.

⁸ *ibid.*

⁹ NAI CRF 1853, D41.

¹⁰ NAI CRF 1840 L16.

¹¹ NAI CRF 1838 S3.

¹² NAI CRF 1848 D43.

Margaret Dwyer,¹³ Carew Smyth felt it absolutely necessary to make an example of the memorialist; while the second, Ellen Cronin, charged with her first offence, was described as ‘an old offender’.¹⁴

Vicious and Immoral Habits

It is noticeable among the petitions appealing against a sentence of transportation that in the explanation of why a crime took place it was almost always ascribed to the bad influence of another or others. Those who appealed on the grounds of their youthfulness invariably cited ‘bad counsel and bad company’ for leading them into ‘vicious and immoral habits’.¹⁵ Others had ‘fallen into bad company’¹⁶ or had been ‘influenced by more experienced criminals’.¹⁷

In one particular case it was stated that Mary Hennessy, the 12 year old Limerick girl referred to earlier in connection with the *Diamond* transportation ship, had ‘yielded to the advice of another of more art and design, who induced her to steal a quilt and pawn it’.¹⁸ In this act Mary had been ‘instigated by the devil’ and having received two shillings and two pence from the pawnbroker, she paid one shilling and six pence for ‘pound cake, gingerbread etc.’ Whatever motivated by hunger, greed or impulse, it mattered little to Assistant Barrister Carew Smyth whose opinion was that ‘the best way of disposing of such an incorrigible thief was to send her out of the country’.

The disposal of stolen goods was a risky business because Limerick pawnbrokers frequently identified the accused as the individual who pawned the stolen property. Sixteen year old Catherine McNerney was thus identified as having pawned a gown and a pair of boots for seven shillings and six pence, having given her name as Mary Murphy.¹⁹ Between 1826 and 1840 there were thirty-eight instances of women who were sentenced to transportation for stealing items of clothing such as gowns, cloaks, shoes, shirts, hats and coats.

Alcohol was cited as another cause of one prisoner’s downfall. ‘In consequences of a little difference with her family which led her into the vice of intemperance but not immorality’ was the reason given by Catherine Shine for stealing a coat.²⁰ Others were described as being addicted to drink and intemperate habits or used the excuse for committing a crime because of a ‘drunken freak’.²¹ Another prisoner ‘borrowed a cloak from a comrade woman and unfortunately being intoxicated pawned same for a sum of four shillings and six pence’.²²

¹³ *ibid.*

¹⁴ NAI CRF 1847 M6.

¹⁵ NAI CRF 1848 H58.

¹⁶ NAI CRF 1853 L12.

¹⁷ NAI CRF 1840 H50.

¹⁸ NAI CRF 1837 H132.

¹⁹ NAI CRF Mc26.

²⁰ NAI CRF 1843 S8.

²¹ NAI CRF 1848 H58.

²² NAI CRF 1838 S3.

Animal stealing - cows, pigs, sheep, chickens and geese - was a common enough crime, especially in the countryside. From the evidence of the petitions there are indications of want and distress as being a motivating factor for the crime. 'Often suffering from cold and hunger' as a result of a lengthy period of unemployment was Anne Fitzpatrick's excuse for her offence of stealing two hens in 1853, but it evoked no sympathy from Assistant Barrister Robert Tighe who described her crime as being 'of almost daily occurrence in the environs of Limerick'.²³

There is some evidence in the petitions that while the poor stole from those better off than themselves, there were also, predictably, other incidences of the poor stealing from the just as poor. Writing in 1841, Carew Smyth stated that 'the inhabitants of the suburbs of Limerick relied on the sale of a pig for the payment of rent and should their property be stolen, the consequences were ruinous'.²⁴

Ladies of the Pavé

Pickpockets were dealt with in a brusque fashion, as were those involved in any way with prostitution or brothel keeping. Prostitution was not in itself an indictable offence and could not be punished with transportation.²⁵ Where offences were said to have occurred at brothels it was usually stolen money that was at stake. In the case of Judith Dwyer and Margaret Lynch, both mothers of young children, they were convicted of stealing three pounds and twelve shillings from James Fortescue, a portrait painter, at a brothel at Post Office Lane, Limerick City.²⁶

Judith Dwyer's petition for clemency centred on the fact that she was 'an afflicted widow' who as a consequence of being transported would leave 'four young and helpless children wholly unprovided for'. She had never been in custody prior to this occasion nor had she been charged with any crime. The facts of the case, as outlined by Robert Tighe were that on 2 November 1843 the prisoner, together with other women, attacked James Fortescue in a brothel in Limerick with knives and robbed him of his money. Robert Tighe further stated that the evidence was perfectly clear as to the prisoner's guilt 'as indeed admitted in her memorial'. In fact she had not admitted any guilt and had stated that Fortescue had 'most wrongfully swore' against her. However, in consequence of the 'very serious nature of the offence' Mr Tighe was unable to recommend her 'for merciful consideration'.

Judith Dwyer was not alone in being found guilty in this particular case as the petition of Margaret Lynch will confirm.²⁷ The charge against Lynch, according to her petition, was 'of she being only in company with another girl who, as it appeared on trial, took from and out of the pocket of prosecutor [James Fortescue] a sum of nine shillings and six

²³ NAI CRF 1853 F27.

²⁴ NAI CRF 1841 L21.

²⁵ Oxley op. cit. p. 7.

²⁶ NAI CRF 1843 L16; NAI CRF 1843 D6.

²⁷ NAI CRF 1843 L16.

pence.’ Margaret Lynch maintained that she never before ‘see him in any manner’. She appealed for mercy on the grounds that she was the mother of ‘two young and helpless children’ and that she had never previously been in custody charged with any crime.

Tighe, in his response of 13 November 1843 to both petitions, stated that the facts as presented in evidence were that on the night of 2 November 1843 the prisoners had ‘decoyed a man named James Fortescue (a travelling portrait painter from Guernsey) into a brothel in Post Office Lane, had attacked him with drawn knives, cut his clothes and robbed him by force of two 30 shilling notes and some silver’. No witness had been called with regard to the prisoners’ character and in consequence of the ‘violent nature of the offence’ a sentence of seven years transportation was handed down in both cases. A newspaper report on the sitting of the County Quarter Sessions of 4 November 1843 described the case in some detail and referred to Judith Dwyer and Margaret Lynch as ‘ladies of the pavé’.²⁸

Among the petitions studied there were three similar cases involving brothels and/or prostitution and it is significant that in all these cases those involved were transported.²⁹

Perpetual Banishment

A sentence of seven, ten, fifteen years transportation was virtually the same as a sentence of transportation for life in terms of being exiled from one’s mother country, for few could afford to pay for the long voyage home at the end of a sentence. In implementing a policy of transportation the authorities were completely aware of the cruel hardship they were imposing on both those sentenced and their families. When on Saturday 4 June 1831, in Ennis Co. Clare, seven men were found guilty of administering oaths for agrarian secret societies the Public Prosecutor, Francis Blackburn, stated that,

‘... the sentence is, transportation for life - perpetual banishment from their native land ... The time now draws nigh when the scene is to close on those unhappy men, and they are to be cut off for ever from their friends, their families and their country.’

After the judge had concluded his sentencing the prisoners,

‘...were immediately removed to a cart, provided for their removal to Limerick, and they were driven away amidst the heart-rending shrieks of an immense body of persons of their own station in life.’

(Gorman, Peter *A Report of the Proceedings under a Special Commission of Oyer and Teminer in the Counties of Limerick and Clare in the months of May and June 1831* Printed by R. P. Canter, 12 Francis Street, Limerick, 1831. pp. 79-81.)

²⁸ *Limerick Chronicle*, 8 November 1843.

²⁹ NAI CRF 1843 M51 (joint petition by two sisters); NAI CRF 1841 N7.

Such scenes of distress were not uncommon in Ireland, another such event being reported by the *Limerick Chronicle* on 2 February 1831:

‘At seven o’clock on Monday morning the County and City Convicts named in our last were forwarded hence on cars to Cork, attended by a military escort. They were followed for a considerable distance out of town by a crowd of their friends, of both sexes, deploring in loud cries the cruel separation!’

When prisoners were sentenced to transportation they were taken from court to the jail where they were to be held until notice was received from Cork Harbour that a vessel was available. Security within the prison was not always very vigilant and with the help of family or friends it was sometimes possible for women to escape. On Wednesday 19 May 1830, for example, the *Limerick Chronicle* reported an incident that had taken place in the city jail on the previous Sunday evening,

‘Nine female convicts, all under sentence of seven years transportation, and for whom removal to Cork an order hourly expected, succeeded in effecting their escape from the city jail, without creating any alarm whatsoever, or awakening the suspicion of the keepers. They had been locked up in the evening at the usual hour in the ward allotted for their reception and their escape was not discovered before next morning. The names of the nine convicts are – Mary King, Mary Hurley, Mary Devin and her infant about eleven months old, Ellen Hurley, Margaret Shaughnessy, Margaret Clancy, Bridget Shelton, Mary Hickey and Catherine Welsh. The convicts had been secretly provided with a file and a short iron bar or poker. Two men scaled the outside wall and gained access to the women’s ward and helped them escape. The women had frequently indulged in singing and ‘noisy vociferations’ after nightfall.’

Whether through innocence or ignorance, some of the women who had escaped allowed themselves to be found relatively easily by the authorities. Shortly after the escape the *Limerick Chronicle* reported that Mary Hickey was captured at the Abbey and Mary **Crowley** [? –ed.] was ‘taken’ in John’s Gate. Some days later the newspaper stated that Mary Devin had been captured in Broad Street.³⁰ A report on the capture of Catherine Welsh stated that she had been apprehended in Gort on a charge of shoplifting and when told that she was about to be taken to jail in Galway she had replied that she should instead be brought to Limerick jail from which she had escaped.³¹

Subsequent editions of the *Limerick Chronicle* do not report the recapture of the remaining five women, although six of the nine women involved in the break-out feature in ships’ indent lists: Mary Hickey, Mary Hurley, Mary King, Margaret Shaughnessy and Catherine Welsh were transported on the *Hooghley* which arrived in Sydney Cove on 27 September 1831; Ellen Hurley arrived in Sydney Cove on 9 March 1833 on board the *Surrey 6*. Ellen, aged 23 and a factory girl, had been convicted for stealing geese. She had

³⁰ *Limerick Chronicle*, 26 May 1830.

³¹ *Limerick Chronicle*, 9 June 1830.

no former convictions and was described on the indent list as ‘a lunatic’.³² None of the other five women had a former conviction, apart from Catherine Welsh who had previously spent four and a half years in a penitentiary.

Two out of the three remaining women who had escaped from Limerick jail on 19 May 1830 feature in a newspaper report on 29 January 1831. On that date, it was stated by the *Limerick Chronicle*:

‘These twenty-eight women of varying ages and backgrounds were destined to share the common experience of transportation. They also must have heavily felt the grief of those whom they left behind. When an order was received by the Governor of the City or County Gaol, women under sentence of transportation were sent to Cork, escorted by armed guards.’

Labour for Australia

The policy of transporting convicts from Ireland to Australia spanned the period 1791-1867 and during the sixty year period from 1793 to 1853 it is recorded that 8,686 women were transported from Ireland. One consignment, on board the *Thomas Harrison*, arrived in Sydney Cove on 9 June 1836 and consisted of 112 females, twenty-one of whom were from Limerick. Two of those on board had been given a life sentence; Mary Mullins, a 24 year old dairymaid, was convicted of arson while Margaret Murphy, also aged 24, a laundry maid, had been successfully prosecuted for feloniously stealing sheep; neither had a former conviction. Only one of the twenty-one Limerick women on board the *Thomas Harrison* had been previously convicted of any offence; she was Anne Spilling (26), convicted of stealing a spoon, who had a former prison sentence of nine months on her record.

The females on board the *Thomas Harrison* were a representative cross section of Irish women transported to Australia from the 1790s to the middle of the nineteenth century. A high proportion of them were first time offenders and it is a fact, borne out by a study of the records, that Irish female convicts were less likely to have been previous offenders than their English or Scottish counterparts. Interestingly, two-thirds of all Irish women transported were single, with an average age of 27; useful additions to the colony’s labour force.

In a report of the Commission of Inquiry in the colony of New South Wales dated June 1822 it was stated that convicts embarked in Ireland generally arrived in a healthy state and were found to be more obedient and more ‘sensible to kind treatment’ during the passage than any other class.³³ The report further noted:

³² Archives Office of NSW. AOO Fiche Nos. 614-744. Principal Superintendent of Convicts: Alphabetical List of Convicts on Transportation 1788-1842 (4/4003).

³³ *Report of Commission of Inquiry on the Colony of New South Wales. Colonies Australia.* (448) Sessions 1822-35.

‘Their separation from their native country is observed to make a stronger impression upon their minds, both on their departure and during the voyage; and the ignorance in which most of them are respecting their future fate tends to preserve those salutary impressions until its termination.’³⁴

Upon arrival at Sydney, the governor’s secretary and the superintendent of convicts took a muster of the females on board the ship and the female convicts were rarely seen thereafter by the governor.³⁵ Those who were not assigned, as workers, to individuals were sent by water to the factory at Paramatta. Each person who received a female convict signed an indenture in which he obliged himself, under penalty of twenty shillings, to retain her in his service for the duration of three years. He was expected to provide sufficient subsistence, clothing, washing and lodging and he was not to part with her, directly or indirectly during the term without the authority and approval of a magistrate.³⁶ Those convicts who were accompanied by children were rarely taken on assignment but were sent to the factory at Paramatta. On their arrival there, the women were allowed to remain in a wooden building that was adjacent to the female factory.

It was customary that upon the arrival of a ship carrying female convicts the *Government Gazette* would publish a list of available labour on board. The following is an example of such a list and was published on 5 October 1836,

Table 2: Abstract of Servants Arrived at Paramatta 5 October 1836³⁷

Cooks	4	Housekeepers	2
Country Servants	9	Kitchen Servants	16
Dairymaids	12	Laundresses	12
Dressmakers	9	Lady’s Maids	3
General Servants	15	Waiting Maids	2
Housemaids	50	Shopkeeper	1
Nursemaids	32		

Request forms were submitted by prospective employers to Government House but it was not uncommon for female servants to be chosen after they had disembarked.³⁸ The factory at Paramatta served many functions – as a house of industry, a lying-in hospital, a marriage bureau and a place of secondary punishment. The factory was to serve as a place of relatively brief confinement for women who had committed an offence in the colony. Typically, women were returned to the factory from their assigned employment for being unsatisfactory or pregnant, or possibly both, and were to be confined there at the government’s expense.³⁹

³⁴ *ibid.* p. 10.

³⁵ *ibid.*

³⁶ *ibid.* p. 20.

³⁷ Female immigrant arrivals *NW Government Gazette* 242, 5 October 1836, Mitchell quote by Oxley, *Convict Maids*, p. 192.

³⁸ Oxley *op. cit.* p. 193.

According to Portia Robinson, by the 1820s one of the functions of this colonial institution - the reformation of the prisoner - was developing more in accordance with the ideas of the Houses of Industry and Houses of Correction in Britain under the guidance of Eliza Darling and her Ladies Committee who aspired to introduce the system of reformation by inducement and education in the mid 1820s.⁴⁰ This method sought to acknowledge good behaviour in the factory by awarding payments of money and the supply of better quality clothing and also by educating women in domestic crafts and practices to enable them to ultimately maintain themselves. If this suggests a certain sympathetic outlook towards convicts, evidence indicates otherwise. According to the commissioner of inquiry's report in 1822,

‘As a place of employment, the factory at Paramatta was not only very defective but very prejudicial. The insufficient accommodation ... afforded to those females who might be well disposed, presented an early incitement, if not an excuse, for their resorting to indiscriminate prostitution.’⁴¹

In Deborah Oxley's opinion, employers used the factory as a method of labour control. The majority of women returned to Paramatta had not committed any crimes but had exhibited bad behaviour in the form of drinking, swearing and generally showing disrespect towards their employer. Inside the factory the women were subjected to gruelling physical punishments, such as the treadmill, for what was considered insolent behaviour by their employers.⁴²

According to the Commission of Inquiry's report, the factory itself consisted of one long room that was immediately above the gaol, having two windows in front that looked onto the gaol yard, one in the end of the building and two windows looking onto a yard that it was immediately behind.⁴³ The dimensions of the room were 60 feet by 20 feet; at one end there were storerooms where wool, yarn and cloth were kept. There was one fireplace where all the provisions were cooked. The women had no beds other than those they could make from the wool in its dirty state and they slept on it at night in the middle of their spinning wheels and their work.

Thomas Keneally states that the female factory at Paramatta, opened in 1821, was built on four acres and was meant to house 300 women.⁴⁴ By 1839 it held 887 women and 405 children. Keneally maintains that the factory was an extended, land-based version of a convict deck, and each group of women from the same ship competed for space with those from previous ships.⁴⁵ Arguments over space and food were conducted with an Irish raucousness which was wrongly mistaken for lowness of soul.⁴⁶ In the opinion of the Commissioner of Inquiry the factory was in a state of disgusting filth and he referred to

³⁹ *Report of Select Committee on Transportation Together with Minutes of Evidence, Appendix and Index*, Molesworth Report, 1838, p. 669.

⁴⁰ Robinson op. cit. p. 164.

⁴¹ *Report of Commissioner of Inquiry into the Colony of New South Wales* p. 69.

⁴² Oxley op. cit. p. 201.

⁴³ *Report of Commissioner of Inquiry into the Colony of New South Wales*.

⁴⁴ Keneally op. cit. p. 77.

⁴⁵ *ibid.* p. 77.

⁴⁶ *ibid.* p. 77.

‘the disordered, unruly and licentious appearance of the women’.⁴⁷ There was little degree of control over the convicts, according to the commissioner and their ‘abandoned habits ... made punishment ineffectual’.

Three categories of women lived in the factory. Category 1 women had been sent there from the ships and were eligible for assignment, had the right to go to church on Sunday, could receive friends at the factory and earn wages if there was work available to them. Women in Category 2 had been returned by employers as unsatisfactory, sometimes because of pregnancy, while Category 3 inmates had committed crimes while in the colony and were, in effect, prisoners and resided in cells. The three categories received different amounts and quality of food rations.⁴⁸ The children of convict women were sent to an orphan school when they reached 5 years of age and contact was permitted with their mothers, especially on Sundays. However unruly the mothers appeared to the Commissioner, he described the children of the convicts as being fine and healthy.⁴⁹ Women were eligible for a ticket-of-leave four years after their arrival in Australia and their skills were advertised in the *Government Gazette*. When a position was found for them the women were given their ticket-of-leave indicating that they were permitted to stay in a particular district.⁵⁰

Human Stories

It is easy to categorise those who appear before the courts for criminal offences. People can be de-humanised and stripped of sympathy simply by attaching labels to them and by making assumptions about their character. By placing those who fall foul of the law into pigeon-holes law-abiding citizens can avoid the necessity of grappling with the social causes of crime. In the era under discussion those brought before the courts could be pre-judged simply by categorising them as an ‘old offender’ or ‘a member of a nefarious gang’. However behind every sentence of transportation there was a human story to be told, as in the case of mother of five young children, Ellen Hough, who sent a petition to the Earl of Mulgrave, Lord Lieutenant of Ireland in 1837.⁵¹

It had been reported in the *Limerick Chronicle* of 21 June 1837 that Ellen was convicted of larceny and receiving stolen goods and was sentenced to transportation for seven years. Her ‘humble petition’ stated that she had been tried on a charge of stealing a small quantity, ‘to wit five hands of coarse flax thread to the value of one shilling and sixpence or thereabouts’.

The widow of Patrick Hough of Killoughten who had been murdered in November 1836, Ellen had never previously been accused of any offence. She pleaded that for many years she had manufactured flax for the use of her family on her little farm and as the flax

⁴⁷ *Report of Commissioner of Inquiry into the Colony of New South Wales*, p. 70.

⁴⁸ *ibid.* p. 78.

⁴⁹ *ibid.* p. 71.

⁵⁰ *ibid.* p. 83.

⁵¹ NAI CRF 1837, H119.

thread which she was accused of stealing was impossible to identify, and the quantity of same so trifling, she could not reasonably be accused of stealing it.

Upon receipt of the petition, the local constable expressed his suspicions that Ellen had been implicated in her late husband's murder and insisted that, in his opinion, she should be transported. This is just one example of how judgement could be clouded by other considerations. Because Ellen was in some way suspected of having an involvement in her husband's murder she was branded by the constabulary as being someone who would and could commit any crime, in spite of the fact that the petitioner had no previous convictions. Patrick Hough had been found dead near the village of Ardagh on 1 November 1836 with 'marks of violence on his neck' and on his temple.⁵² There is no evidence to suggest that Ellen had been implicated in the murder of her husband; but inaccurate information submitted by the authorities in relation to petitions was not unusual.

In the case of Catherine Riordan convicted of sheep stealing in 1842 five separate petitions were made on her behalf.⁵³ One of these was signed by twelve local gentlemen, mostly merchants, and stated that Catherine was a woman of industrious habits and considered to be honest and well conducted. The petitions repeatedly stated that she was a dealer in animals, travelling frequently to fairs and markets to buy and sell.⁵⁴ There is no evidence, just hearsay to suggest that she was involved in sheep and cow stealing. Aged 54, Catherine was the mother of fourteen children and had no previous convictions. Her husband was said to be 'a sickly aged man, unable to assist his helpless unprotected children'. Catherine had been arrested 'on the deposition of Denis Drinane, a victualler from Limerick City' who died before Catherine's trial.

However, there is a letter in the Catherine's file from someone whose signature is illegible, from Rathkeale, County Limerick, who stated that while the twelve signatures on one of the petitions were genuine, Catherine 'had been following the trade of sheep and cow stealing for more than two years in this neighbourhood unsuspected'. Local evidence was apparently an important factor in the determination of a person's guilt or innocence. In this particular case, which generated a considerable amount of correspondence, it would appear that the Lord Lieutenant ignored all factors except for the word of one local person that Catherine Riordan was a thief of long-standing.

The Law, of course, was not totally callous in all respects and sympathy for a person's circumstances could find expression. One comes across cases where a prison doctor's recommendation that an ill prisoner should not be transported due to the state of their health was successful. One such case was that of Margaret Ryan, convicted of her first offence.⁵⁵ Carew Smyth, Assistant Barrister, was of the opinion that she was a notorious shoplifter, one of a gang. Since being in prison she was 'attacked with throwing up blood' and thanks to the intervention of the physician she was discharged on 30 September 1842.

⁵² *Limerick Chronicle*, 2 November 1836.

⁵³ NAI CRF 1842 R12.

⁵⁴ NAI CRF 1842 R12.

⁵⁵ NAI CRF 1842 R24.

While the age of a prisoner was not in itself a relevant factor in determining whether a conviction to transportation should be ordered, it was used in a sense of plea bargaining on behalf of those who wrote petitions. Extreme youth or old age were not mitigating factors however. There were exceptions, as in the case of Catherine Ryan convicted on 6 March 1851 of receiving stolen goods.⁵⁶ Catherine was 62 years old and labelled as an old offender - she had two previous convictions. Writing from Limerick Gaol, the Inspector stated that 'because of her great age and debility' Catherine would be unable to undergo her punishment and he recommended that her sentence be commuted. Catherine remained in gaol until 12 June 1853 when she received a discharge.

Yet there was little consistency in dealing with other offenders in similar circumstances of bad health. In that same year Honora Dea, also aged 62, was transported even though the physician to the gaol stated that she 'labours under chronic bronchitis'.⁵⁷

Of the 552 Limerick women estimated to have been sentenced to transportation between 1826 and 1857 only fifty-two petitions have been identified and forty-eight examined by the author. This raises the question why did more women not make petitions? Did they passively accept their fate or feel that they had no hope of mitigation of sentence. For those who did petition, the official attitude was that the dominant characteristic of the women was their 'bad' or 'unreformed' characters. Individual crimes were frequently reported in newspapers and allowing for journalistic bias in reporting the unusual, the interesting and the violent, the reports always depicted the women involved as depraved and 'old offenders'.

Conclusion

That a very large number of Limerick people lived in appalling poverty during the period studied is indisputable; this fact has been widely chronicled by contemporary authors and travellers. The use of transportation both for the purpose of punishment for crime and as a method of colonisation focused on many women whose seemingly petty crimes did not appear to deserve such a fate. A vast social gulf existed between those who were sentenced and those who had the power to prosecute. The attitude of officialdom to the convicts was a best dismissive and at worst sadistic.

Many of the Limerick convict women shared a background of poverty and deprivation whether they were county women or lived in the city. It cannot be accurately determined whether that poverty was the result of a criminal mindset or whether crime was committed following distress or unemployment. The petitions alone give us a glimpse into the background of many of the transported women. They suggest that desperation and poverty left them with no alternative but to commit crime. Many of the offences, particularly those of stealing, support the assumption of crime for need.

⁵⁶ NAI CRF 1853 R14.

⁵⁷ NAI CRF 1853 D33.

In a bureaucratic system struggling to gain control of a rising population against a turbulent background one could argue that authority, by necessity, had to be harsh. The question raised is, did the punishment always fit the crime? The answer, at least as far as the present study is concerned, is largely no. Whatever the crime, women from all categories shared the same fate - punishment by transportation and the decision that ‘the law must take its course.’

APPENDIX

Sources

The Limerick Regional Archives supplied a series of Indent Lists on microfilm from which it was possible to extract names and details of 157 women who had been transported to New South Wales between 1826 and 1840.⁵⁸ The National Archives of Ireland provided Transportation Records for the period 1836-1857.⁵⁹ Convict Reference Books (1836-1853) were also consulted at the National Archives which led to a study of the Convict Reference Files (CRF) from 1836-1853. Just under 1,000 petitions were received from Irish women between 1791 and 1853 and of these fifty-four were discovered to relate to Limerick women. Certain difficulties pertain to these sources since they all originate from officialdom – from the entries in the Convict Reference Books to the Indent Lists.

Prison reports and parliamentary papers provided an insight into the mind of contemporary officialdom while the disadvantage of these sources was their bias, as they revealed a rather hostile attitude towards the population in general (and the prisoner in particular). Contemporary newspapers were particularly helpful, especially with regard to the reporting of particular crimes and also with accounts of prisoners being sent to the depot in Cork from which they would embark on the convict vessels. However, personal details of the individuals involved were sporadic and the addresses of those convicted were never given. A strong sense of disapproval was evident in the newspaper reports.

Secondary source material proved helpful. It included books by Portia Robinson and Deborah Oxley.⁶⁰ Dr Robinson’s book gives an account of the European women who were sent to New South Wales as convicted felons between 1787 and 1828 while Dr Oxley’s work is aimed at discovering whether the female convicts transported between 1826 and 1840 were ‘the slum of the City and Country’, ‘simple village maids’ or, as she argues, exceptional immigrants with a range of skills. Both authors were angry with the picture (painted by men) of the convict women as professional prostitutes who lived

⁵⁸ Archives Office of NSW Fiche Nos. 614-744 [1788-1842] (4/4003).

⁵⁹ NAI GPO TR1 1836-GPO TR15 1857.

⁶⁰ Robinson, Portia *The Women of Botany Bay*, New South Wales, 1988; Oxley, Deborah *Convict Maids, The Forced Migration of Women to Australia*, Cambridge University Press, 1996.

entirely through crime. This stereotype has been perpetuated by male historians and the aim of both authors was to dispel this myth.