

Capital Punishment & the New York Irish

BY MARION R. CASEY

In an instant afterward the unfortunate man's countenance was veiled, the knot properly adjusted, and at a given signal from the Sheriff a heavy axe blow was heard upon the block behind the screen, and the next moment the body of O'Brien was drawn violently into the air. A fall of about four feet dislocated the neck, and after a few convulsive twitches of the muscles all was quiet. Twelve minutes after the drop had fallen pulsation ceased, and at five minutes before ten o'clock the corpse was lowered into a plain mahogany coffin, and after the usual inquest had been held the remains were handed over to his relatives. And thus closed another bloody chapter in the book of crime.¹

The year was 1867, the month was August, the place was the southwest corner of the Tombs prison yard in Manhattan, and the victim who was hung that morning was a twenty year old native of Ireland. When Jeremiah O'Brien mounted the scaffold, he was neither the first nor the last Irish man to be legally executed in New York City.² But the call for his death occurred during a period quite similar to ours, in which the philosophy of capital punishment and its ability to deter crime was being widely debated in the United States.

Legal vengeance was an ancient means of dealing with lawbreakers. In most European countries, the list of offenses punishable by death was quite lengthy and the methods of execution were bloody and cruel.³ By the end of the eighteenth century, there were more than two hundred capital crimes under English law—acts against the state, persons, property, and the public peace—that resulted in as many as 3,000 death sentences per year.⁴ These same laws applied not only in Ireland, but served as the direct model for criminal law in the American colonies.

John Grimes' 1765 confession tells of a migratory life as a robber and pick-pocket in the west of Ireland, in Dublin, Liverpool, and Bristol before his first capture in London. He was convicted, sentenced to transportation, landed in Maryland and

promptly sold to an iron works. Grimes escaped and renewed a life of crime in the colonies, including a lengthy stint in New York where he said, "I associated with a Gang who for a long Time had infested that City." He was caught stealing a horse and was branded on the hand for the crime. Released from jail, Grimes (by then twenty-two years old) hooked up with two Dubliners in Manhattan—John Fagan (who had been with the British Army upstate) and John Johnston (who had apprenticed as a silversmith after emigrating)—and planned the robbery of a house Grimes knew of near Burlington, New Jersey. This proved to be his undoing, as the three accomplices quarreled over the booty during their escape. They were apprehended and hung in Burlington on 28 August 1765.⁵

Robbery was only one of several crimes that was ultimately punishable by death in most of the colonies. In New York, striking a parent, escaping from prison if you were a Catholic priest and, after 1756, counterfeiting all carried the death penalty.⁶ For this latter offense, Owen Sullivan was one of the first to be executed under the new law, on 10 May 1756 in Manhattan. Treason was a serious capital offense on both sides of the Atlantic. In March 1778 two unfortunate Irishmen, Patrick Dungarven and James McNaughton, serving with the American army in upstate New York were caught attempting to desert and cross over to the British. They were reportedly "crucified as a special example,"⁷ a cruel death that is only explained by martial circumstances and, one suspects, anti-Catholicism.

New York was "the 'favorite child of the crown'" and it continued to "reflect English laws more than her sister states after the Revolution."⁸ Nevertheless, Enlightenment thinking as well as "republican ideology, liberal theology, and environmentalist psychology" began to affect capital punishment. The origins of crime and the reasons for punishment were "reconceptualized."⁹ Hanging replaced drawing and quartering, decapitation, pressing or burning. After the Eighth Amendment banned cruel and unusual punishments in 1789, the gallows was the only civilian method of execution permitted in the United States until the New York State legislature authorized the use of the electric chair in 1890.¹⁰

New York Centennial



Manhattan

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In 1830 New York was responsible for a significant capital punishment reform when it became the first state to encourage county sheriffs to conduct executions out of public view. Five years later this practice was made mandatory under state law and soon enacted in other parts of the country.¹¹ Historically, executions had always been public events (after which the bodies were displayed for days) in the widespread belief that persons who witnessed hangings would not become criminals. But popular accounts sometimes made heroes of condemned men who were courageous even as the noose was placed over their heads. Many Americans began to wonder whether public executions actually drew a class of citizens who could be influenced or merely one whose “animal feelings” were “excited.”¹² These questions arose at the same time that the earliest penitentiary system was set up in New York City, and around the time of “the emergence of a middle class that valued internal restraint and private punishment.” Ironically, the shift to executions in prisons rather than public squares also eliminated the deterrent argument for the pro-gallows position.¹³

From the early 1840s abolitionist groups helped introduce bills and legislation that eventually reduced the number of crimes punishable by death.¹⁴ One of the first anti-gallows advocates in New York was John Louis O’Sullivan (1813–1895), a Manhattan lawyer and founder of the *United States Magazine and Democratic Review*. O’Sullivan was a successful Tammany candidate for the New York State Assembly in 1840. The following spring he presented a 168 page report that urged the abolition of the death penalty and suggested life imprisonment without clemency as an alternative.¹⁵ According to one historian, O’Sullivan’s report “was a milestone in capital punishment reform and one of the best argued and most reasonable presentations of the entire struggle between friends and enemies of the gallows...It gathered in one document...the most effective arguments against the gallows, presented statistics...to buttress its contentions and arrayed the whole in a calm, logical and readily understandable diction and format.”¹⁶

The state legislature defeated the O’Sullivan bill in May 1841 and again in January 1842 when O’Sullivan re-introduced it, this time even despite media support from Horace Greeley’s *Daily Tribune* and William Cullen Bryant’s *Evening Post*. He became a founding member in 1844 of

the American Society for the Collection and Diffusion of Information in Relation to the Punishment of Death, later known as the New York State Society for the Abolition of Capital Punishment. One of his colleagues in this endeavour was the Irish humanitarian Jacob Harvey, a Quaker businessman in Manhattan who, within two years, would also be immersed in local efforts to relieve the Famine in Ireland.¹⁷ O’Sullivan was soon discouraged by his inability to inspire political opposition to the death penalty and eventually he found other, albeit inconsistent, causes—coining the phrase “manifest destiny” in an 1845 editorial to describe his support of American expansionism, then upholding slavery by siding with the Confederacy during the Civil War.¹⁸

It would be nearly twenty years before the abolition of capital punishment got another hearing in the New York State legislature. Three capital cases swung the legislative vote in favor of abolition in April 1860. One of these was the execution of John Crimmins, a grocer on Pell Street in the Sixth Ward, on the 30th of March that year. He had been convicted of murdering a known shoplifter, Dennis McHenry, in his grocery store.¹⁹ There was great sympathy for Crimmins in Manhattan, especially because his execution came within weeks of the almost certain passage of an abolition bill in both the state Assembly and Senate. The *New York Times* suggested that his death tipped the balance in favor of the anti-gallows position: “though he had killed a man, he had been provoked, and many New Yorkers thought there had been a ‘great error of judgement.’”²⁰ The victory was short-lived, however. One year later Governor Edwin D. Morgan repealed the abolition law on 10 April 1861 and New York was once again free to practice capital punishment. Two days later, the Civil War commenced and local reformers focused their attention on the abolition of slavery rather than on the death penalty.

At this time, the numbers of Irish men and women committed to New York City prisons for a variety of crimes, ranging from petty theft and inebriation to disorderly conduct and assault, was approaching twenty thousand. The Irish accounted for 55% of all arrests in New York City in 1859 yet only 5.5% of all convictions.²¹ Under New York law, a death sentence could only be applied to cases of murder, treason, arson in the first degree and duelling.²² In practice,

murder in the first degree was the only capital crime subject to enforcement. The City's murder rate was 4 per 100,000 residents in the late 1860s, up from 2.5 only a dozen years before.²³ Among the approximately 2,144 arrests for homicide in Manhattan between 1860 and 1896 (Brooklyn had six hundred during the same time period)²⁴ were several Irish men who were convicted of first degree murder and legally executed.

Indicted and condemned murderers were taken to the City's principle house of detention at 100 Centre Street, adjacent to the Five Points slum. This building was colloquially known as the Tombs, since the exterior of the first penitentiary on the site (erected on filled-in marshland and the Collect Pond between 1835 and 1838) resembled an elaborate Egyptian tomb. It could accommodate 150 men and 50 women, who were housed separately.²⁵ The men's prison was situated in the courtyard and connected to the main entrance on Centre Street by what was known as the "Bridge of Sighs." According to one contemporary, this was because

*...all condemned prisoners pass over it on the way to their death. Executions are always conducted here in private, and are witnessed only by the officers of the law and such persons as they see fit to admit. The gallows is set up in the courtyard, near the Bridge of Sighs, and is taken down as soon as the tragedy is over.*²⁶

In a recent book by Daniel Allen Hearn, *Legal Executions in New York State*, there are capsule accounts of all persons put to death between 1639–1963, including details of the crime, the victim, and the perpetrator. The list is at once a history of New York State, of urban America, and of the ethnic City. Though flawed by some questionable interpretations, Hearn's book does provide leads for further investigation into the circumstances that resulted in the executions of Irish men in Manhattan through the early twentieth century. For example, this is Hearn's clinical and inaccurate entry for Jeremiah O'Brien:

*Jeremiah O'Brien, white, age 25. Murder. The crime was committed on June 22, 1866. O'Brien was a pimp who took the earnings of a white woman named Lucy Ann McLaughlin, alias Kate Smith. When she announced her decision to leave him, he became angry and stabbed her to death. He was executed at New York City on August 9, 1867.*²⁷

The *New York Times*—a paper not particularly fond of the Irish in the 1860s—did not use such language nor imply such a scenario in its original report on this murder. The true story of Jerry O'Brien and Lucy McLaughlin, neither pimp nor prostitute, was in fact a tragedy and it preoccupied the New York press for over a year. Its details offer far more insight into the Irish in Manhattan at this time than Hearn's description indicates.

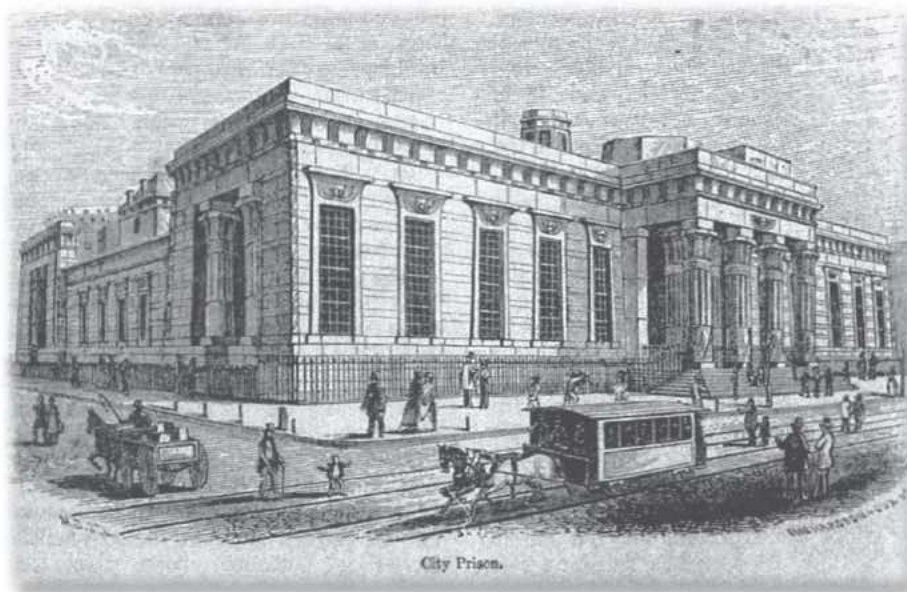
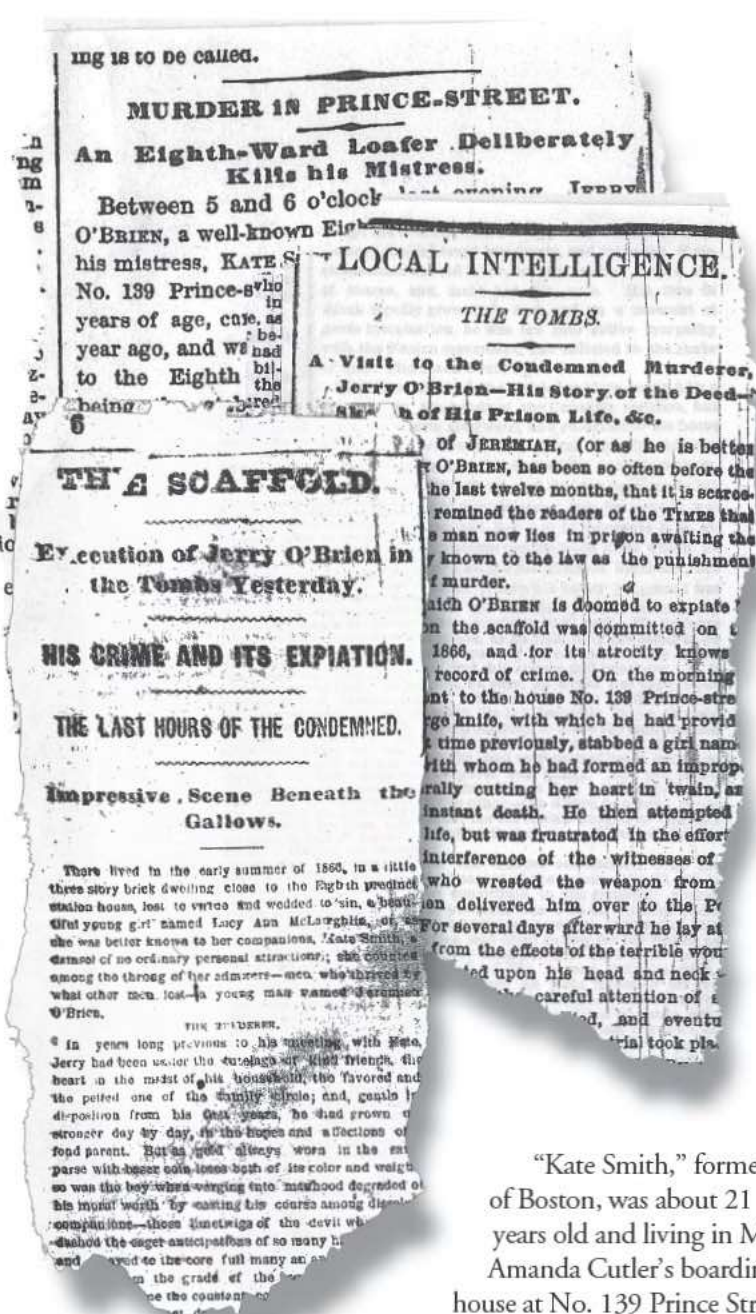


Illustration: The Tombs, 100 Centre Street between Franklin and Leonard Streets circa 1880. Reproduced from James D. McCabe, New York by Sunlight and Gaslight (Philadelphia: Hubbard Brothers, 1882)



Headlines:
New York Times,
21 June 1866 and
11 July 1867;
New York Herald, 10
August 1867

O'Brien—a machinist who lived at No. 39 Christopher Street²⁸—on the 20th of June 1866. According to newspaper accounts, the two had been lovers until O'Brien joined the first Fenian raid on Canada earlier that month. When he left town Smith, "who had not taken to nocturnal street-walking," took another lover for support.²⁹ O'Brien was furious when he discovered her fickleness upon his return to the City. In a jealous rage, he assaulted her one Saturday night and was arrested. Bail was set at \$300; O'Brien met it and a court appearance was scheduled for the 21st of June.

Jerry O'Brien did not want Kate Smith to testify against him. He sent her a note to this effect and she sent back a reply whose contents prompted him to immediately proceed to Mrs. Cutler's, stopping for a drink and then stealing a twelve-inch cleaver from the "fish-stand on the southwest corner of Greene and Prince Streets" on the way. At about 5:30 p.m. O'Brien confronted Smith in her room ("having a latch-key thereto"), they were interrupted by Mrs. Cutler, Smith made a run for the stairs but was caught on the second-story landing by O'Brien where he plunged the cleaver into her back, causing her to fall down the next flight of stairs. According to the coroner, the knife was wielded with such force that it almost penetrated through Kate Smith's body, puncturing her lung and her heart.³⁰ O'Brien then pulled the cleaver out of Smith and attempted to harm himself. The *Times* said he tried to cut his throat but the Police Surgeon's deposition found a six inch scalp wound that was so deep it had opened O'Brien's skull.³¹ His wound ("a frightful gash, but not necessarily mortal") was dressed and O'Brien was taken to Bellevue Hospital to recover. The *Times* account concludes with "He is a native of Ireland, aged about nineteen years."³²

O'Brien was one of 83 homicide arrests in New York City during 1866.³³ He was indicted and stood trial in November that year, defended (it seems pro bono) by Sydney H. Stuart who was known to take desperate cases even if the clients couldn't pay fees or didn't have friends. Stuart (1811–1871) was an ex-City Judge who had resigned from the bench in 1857 to exclusively pursue the practice of criminal law. He was counsel "in nearly all the great trials" during the 1860s and "his devotedness to the interests of his clients, even to the humble and poorest, formed one of the prominent traits in his character."³⁴ Stuart obviously understood, and fought against, the political and social ramifications of class in the penal system by taking cases like Jerry O'Brien's.³⁵

O'Brien was found guilty of murder, a capital crime that carried the death penalty. He was sentenced to be hanged and sent to the Tombs, then under the supervision of Sheriff John Kelly (later known as "Honest John" during his career as the Boss of Tammany Hall). Over the course of the next year, Stuart (described as "eminent counsel") successfully appealed the decision to

the Supreme Court and to the Court of Appeals. He filed a motion for a new trial on three grounds: that one of the jurors selected had read about the murder in the newspapers, that the original trial had prosecuted O'Brien for the murder of "Kate Smith" rather than "Lucy Ann McLaughlin," and that O'Brien wasn't of sound mind at the time of the murder. The case for the people was presented by District Attorney A. Oakey Hall (who would be elected Mayor of New York in 1868) and the motion was denied.³⁵ O'Brien was resented exactly one year to the day of the murder and scheduled for execution on 9 August 1867. Justice Leonard, in delivering his decision, said to O'Brien: "You remember the circumstances attending the death of your victim. She on her knees implored you, by all that is held dear, to spare her life. She not only implored you for the love you bore her, but for the love you bore your mother."³⁷

With hindsight we can already see some of the clues to the real Jeremiah O'Brien. He had been born in Ireland during the height of the Famine (circa 1847), emigrated as a child, and had family in New York (Kate Smith seems to have known O'Brien's mother). Assumptions were quickly made about his girlfriend because she lived on Prince Street, four blocks west of Broadway between Laurens (now West Broadway) and Wooster Streets in today's SoHo.³⁸ At the time, the area was the center of the City's entertainment (theatres, hotels and restaurants) district but also "New York's first exclusive, large-scale sex district." In 1866 there were 208 known houses of prostitution on the streets that crossed or paralleled Broadway in this section; indeed between 1850 and 1870 forty percent of the City's prostitutes worked this area.³⁹ Kate Smith was probably known as a "kept woman," one of the many non-professional sexual tiers that were used by ordinary women to help make ends meet.⁴⁰

But Prince Street also traversed the Eighth and Fourteenth Wards, through Irish neighborhoods anchored by St. Patrick's Cathedral and Hibernian Hall, a section of the City in which Bryant's Minstrels performed *Dixie* in blackface in 1859 and where Dion Boucicault premiered *The Colleen Bawn* in 1860. Many local Irish families had sons and brothers and husbands who were Irish Brigade casualties during the recent Civil War. This area was thus a hotbed of recruiting activity for the Fenian Brotherhood,

where General Tom Sweeny signed up local veterans in the spring of 1866 for a three-pronged invasion of Canada "with the hope that they could conquer all or part of it and use that as a bargaining chip to negotiate Irish freedom."⁴¹ Although the *Times* initially described Jerry O'Brien as a "loafer" and "one of the most expert of the Eighth Ward thieves," the *Herald* noted that he had served with the First Mounted Rifles and "did good service as a soldier."⁴² Young O'Brien's time with the Fenians (which marked him as an Irish nationalist) indicates that he was not necessarily an outcast on the fringes of the Manhattan Irish community.

Once the execution date was set, the *New York Times* took a greater and more sympathetic interest in the details of Jerry O'Brien's life. A reporter "repeatedly visited the condemned man in his cell at the Tombs" and a month before the scheduled execution, the *Times* began to publish the results of these interviews.⁴³ O'Brien protested that the press had characterized him unfairly as "a wretch, without the least instinct of humanity, and from the first a man of bad heart and evil intentions."⁴⁴ He told the reporter that Sheriff Kelly, a former resident of St. Patrick's parish and an in-law of Archbishop John McCloskey, provided him "with all that he could wish for in his unfortunate position, furnishing him even with luxuries, and often caring for his whims as well as real needs by anticipation."⁴⁵ O'Brien also said that he was "daily visited by spiritual advisors of the Roman Catholic faith," including two Sisters of Charity.⁴⁶ Why did a common murderer merit such attention? The following version of Jerry O'Brien's life, filtered through a *New York Times* reporter, appeared on 11 July 1867:

...he pointed, with considerable show of pride, to the unstained career of himself and the family from which he sprung. A feeble, widowed mother, now in the decline of life, three sisters and two brothers, grieve over his untimely death. A third brother, who is disowned by his relatives, has unfortunately yielded to temptation, and brought shame upon dear ones; but that, argued the condemned man, should not be used against him, for previous to the commission of the dreadful crime for which he is to die, he lived honestly, soberly and industriously,

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and in all respects as became a dutiful son and an upright citizen. Scarcely out of his teens, he was led suddenly into bad company, and following the evil example of older associates, he began to drink, though not immoderately at first, and eventually was drawn into the company of lewd women, one of whom, the victim of the murderer, became especially his companion. He says he loved her dearly, and intended, if circumstances should favor, to redeem her from a life of shame, and make her his wife. His love of drink rapidly grew upon him, and in a moment of gross intoxication he was led into active sympathy with the Fenian movement, and enlisted in the ranks of those who made a raid on Canada.

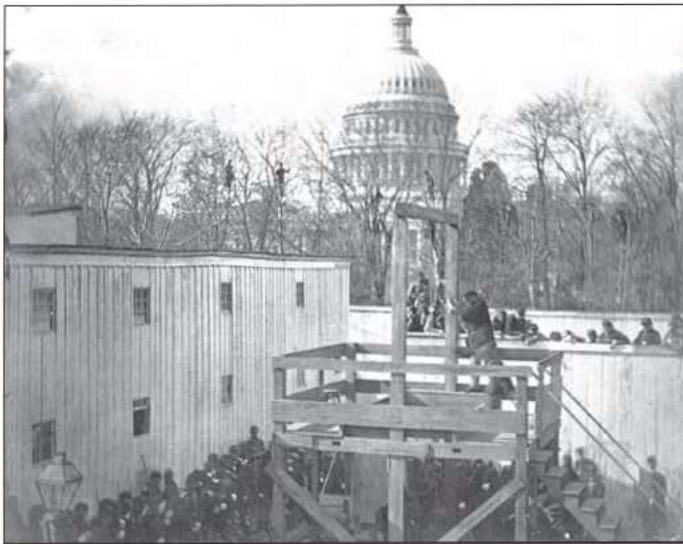


Photo: Hanging of a convicted murderer in Washington D. C. just two years before Jerry O'Brien was executed in New York. Digital Image 4a402r.jpg courtesy of the Library of Congress.

The final defeat of the misled raiders found him a prisoner in the hands of the Canadian regulars, but he escaped soon afterwards, and returned to his home in the city, where he was seized with the delirium tremens. While laboring under that terrible malady, he quarreled with Kate, and the day previous to his trial for petty assault upon her, he went to her house and besought her not to prosecute him, attempting to intimidate her with the knife he carried. He says he did not mean to harm her, but that in a moment of frenzy his better judgement was overcome, and he did the bloody deed, the memory of which is like a dream to him

now. He declares his willingness to die, as he feels fully prepared to do so, and desires to live only on account of his heartbroken mother and his sisters and brothers.⁴⁷

Four weeks later, more than two hundred people including members of the press—who were provided with special benches within the Tombs—witnessed the hanging of Jeremiah O'Brien. By 1866 the working class were excluded from viewing private executions, but newspaper editors were permitted to cover hangings in all their details. This inevitably served the same public function that “ocular evidence” of a murderer’s death had in the past.⁴⁸ A reporter for the *New York Herald* (published by James Gordon Bennett) described O'Brien’s death more graphically, giving a different account than that printed in the *New York Times* (see p.35):

...a heavy thud resounded from within the executioner’s box, and the body shot upward four feet in air, and then fell downwards with a rebound that caused the rope to twang like a bow from which an arrow had just been sped. For an instant it hung motionless; then the breast was seen to heave convulsively, the shoulders to shrug and the lower limbs to draw upward towards the body. Twenty-five different times did the same motions occur, when for the space of two minutes not a muscle gave sign of life; but after the body had dangled five minutes the chest heaved twice and the right hand throbbed for several seconds as if the last vital spark had purposely lingered in the hand that made its owner a murderer. At fifteen and a half minutes to ten o’clock—just twelve minutes after the weight had been cut, Drs. Balan, Hodgman, Warner and Anderson tested the pulse of the wrists and pronounced Jerry O’Brien dead. At ten o’clock the body was lowered and the neck examined, when it was discovered that it had not been dislocated, but that the ligaments had been broken, and that death had ensued from asphyxia.⁴⁹

The next day the *New York Times* released more information on his family. O'Brien’s father had also suffered from delirium tremens and as a

result committed suicide when Jerry was only five years old. His widowed mother raised her five sons and three daughters as best she could, but one of Jerry's brothers was shot to death in 1866 while robbing a grocery store and another, known as "Deaf Tom," was serving time in Sing Sing. Mrs. O'Brien and the girls were said to "be very conscientious members of the Roman Catholic Church" who were "crushed to the very earth under the almost intolerable weight of sorrow and disgrace that rests upon them." The other two O'Brien brothers were "respectable, hard-working mechanics, who seem to feel their situations quite keenly as do their mother and sisters." On the afternoon before his death, Jerry O'Brien "had a protracted interview" with his family. The *Times* reporter remarked, "The scene was a very affecting one, and one quite too sacred to be detailed in public." Friends provided O'Brien with a suit of clothing made especially for him ("a black frock coat, white linen vest and pantaloons, ruffle bosomed shirt, black silk tie, [white kid gloves] and neat garter shoes"—which he asked to have polished for the next morning).⁵⁰ As he walked to the scaffold, Jerry O'Brien had a rosary around his left wrist and he steadily fixed his eyes on a crucifix in his right hand.⁵¹

Such detail indicates the extent to which the O'Brien family was struggling to maintain their dignity under the most unfortunate of circumstances. They had already endured the Famine, emigration, and the suicide of their father. They no doubt had struggled with urban pressures that caused three of the boys to run wild as teenagers, and had already known failure with the death of one and the imprisonment of another. The state-ordered execution of a third son, Jerry O'Brien—for a crime of passion—with all its attendant publicity, was a severe blow to the family.

In contrast, there was open hostility when Sylvester Breen, who used the name Jack Reynolds, was hung just three years later. Stays of execution had begun to postpone legal homicide indefinitely by 1870 and, coincidentally, the murder rate jumped to 6.5 per 100,000 residents.⁵² In an editorial published a few days following the spectacle of Breen's death in the Tombs yard, the *Times* wrote:

There are two or three points in connection with this case which we ask the

*public to consider, because they have a very wide significance and help to explain many apparent mysteries in the administration of criminal law. In the first place, our readers must have noticed the difficulty with which this monster REYNOLDS was brought to justice. And yet he had no friends until he killed an inoffensive man. Then, for reasons which ought to be obvious to every one, he found a lawyer to take up his cause with the greatest industry, and a doctor to testify that something or other was the matter with his head... The loopholes of escape for a murderer are now so innumerable that it is almost a wonder the law is ever vindicated.*⁵³

Fear of escalating social vice, urban disorder, and mob violence lay behind such editorials as well as the pro-gallows argument from the middle of the nineteenth century. With so many new immigrants from Ireland living under wretched and strained conditions in an often hostile New York City, it was inevitable that some, like Sylvester Breen, would meet the hangman for committing cold-blooded murder. But the deaths of men like John Crimmins and Jeremiah O'Brien became events around which the anti-gallows constituency could rally. They remind us that capital punishment has been a hot political issue for more than one hundred and fifty years and that the environmental circumstances of those Irish executed in Manhattan also contributed to the growing call for abolition of capital punishment.

Nevertheless, Jerry O'Brien did murder Kate Smith—for whom no one seems to have mourned. In most cases, relatives and friends of the victim suffered as equally as the families of the executed. And there were always innocent by-standers who were affected too. When Joseph Mullen murdered his wife in the house where she was employed as a maid, Mrs. Vaillant and her two daughters (who were asleep upstairs) heard the gunshots and were traumatized.⁵⁴ When kind Patrick McBreen was shot in his Tenth Avenue saloon, the entire neighborhood was victimized. An anti-gallows report published in Dublin in 1832 perceptively commented, "It has not been the business of history to keep a record of tears shed in private, and of hearts bleeding and broken in retirement."⁵⁵

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Excerpts from *Legal Executions in New York State:*

Owen Sullivan, alias John Brown, alias John Livingston, white. Counter-feiting. This man produced bogus money in the form of New York paper currency and passed it off as genuine. Massachusetts had previously whipped and pilloried him for a similar offense. He was executed at New York City on May 10, 1756.

Thomas Fitzgerald, white. Army Deserter and Bounty Jumper. A private in Captain McKeon's Company, U.S. 3rd Infantry, he deserted his regiment on March 16, and made his way to West Point where he fraudulently reenlisted as a bombardier with Captain Partridge's Corps of Engineers, only to desert again on November 9, 1813. He died by firing squad at Governor's Island on August 10, 1814.

Patrick Russell, white, age 49. Murder. The crime was committed on June 1, 1851, in Manhattan. While living in a slum on the corner of 3rd Avenue and 28th Street, he killed his wife, Margaret Russell (white, age 36), by hitting her head with an ax. He was executed at New York City on December 8, 1841.

John Crimmins, white, age 26. Murder. The crime was committed on October 10, 1859, in Lower Manhattan. Crimmins was a Pell Street grocer who had ejected a shoplifter named Dennis

McHenry (white) from his place of business. On the above date McHenry strode into the Crimmins store in a deliberately provocative manner. The grocer then lost his temper and stabbed McHenry to death with a bayonet. Crimmins was subsequently executed at New York City on March 30, 1860.

Robert Cobb Kennedy, white. Sabotage. The crime was committed on November 25, 1864. A Confederate agent, Kennedy plotted to burn the city of New York. He and his cronies set a dozen different fires at various points throughout the city in order to overwhelm the fire department. Kennedy carried out his own part in the scheme by tossing a Molotov cocktail into P.T. Barnum's American Museum at the corner of Broadway and Ann Street. A spectacular blaze ensued. He was hanged at Governor's Island on March 25, 1865.

Sylvester Breen, alias Jack Reynolds, white, age 22. Murder. The crime was committed on January 29, 1870. Breen entered the grocery store of William Townsend (white, age 55) on Hudson Street in Manhattan and pleaded for charitable help. When Breen refused to take no for an answer, Townsend proceeded to forcibly eject him. It was then that Breen pulled a knife on Townsend

and stabbed him to death. Breen was executed at New York City on April 8, 1870.

John Richard Dolan, white, age 22. Murder. The crime was committed on August 22, 1875. A member of Manhattan's notorious Whyos street gang and a burglar by profession, Dolan killed a shopkeeper named James Noe (white), when the man surprised him in the act of breaking into his place of business at 275 Greenwich Street. The victim was hit on the head with a blunt instrument and died five days later. One account adds that Dolan gouged out the man's eyeballs and carried them around in his pocket for a week. He was executed at New York City on April 21, 1876.

Daniel Driscoll, white, age 31. Murder. The crime was committed on June 26, 1886. Driscoll was the leader of the notorious Whyos street gang: one of the most vicious gangs to ever be seen in New York City. At 4:00 a.m. on the above date he sauntered into John McCarthy's saloon (at 163 Hester Street in Manhattan) with a woman named Bridget Garrity. Since he had already been barred from this pub, his entry was a direct affront to the owner, who immediately had Driscoll thrown out into the street. An infuriated Driscoll then pulled out a gun and started shooting at the saloon's

A Comprehensive Reference, 1639–1963

anceway. Then he marched around to the back door and did the same thing. One of the bullets struck Bridget Garrity (white), with fatal results. Driscoll was hanged at New York City on January 23, 1888.

Daniel Lyons, white, age 26. Murder. The crime was committed on July 5, 1887. Lyons was the successor of the late Daniel Driscoll as head of the Whyos street gang. He and another man named Joseph Quinn (white) feuded for the affections of a girl named Pretty Kitty McGown. This rivalry climaxed with a high-noon gun battle in Manhattan's Paradise Square. Quinn died on the spot; Lyons died on the gallows in the city prison on August 21, 1888.

Joseph Mullen, white, age 30. Murder. The crime was committed on June 3, 1898, in Manhattan. This Irishman came to America in 1895. Two years later he married Johanna O'Brien (white, age 25) of Jersey City. No sooner did he get his hands on her \$300 dowry, however, than he abandoned the woman and caught the next boat back to Ireland. A year later he returned incognito. In the meantime, his betrayed spouse—being forced to fend for herself—secured employment as a maid at 331 West 78th Street in Manhattan. There she had a little basement room to herself. Her husband found her and offered reconciliation. She

immediately had him arrested and jailed for abandonment. When he was released he went back to his wife's abode and pestered her for three successive days with a demand that she set up house with him. She told him to go and jump in the Hudson River. Finally, he lost his temper and pulled out a gun with which he shot his wife dead. At his trial he spurned an offered plea bargain that would have enabled him to serve a short term for manslaughter. Instead, he took his chances with a jury and lost. A capital verdict was returned and Joseph Mullen went to Sing Sing Prison under a sentence of death. He was executed on July 23, 1900.

John Mulraney, alias Happy Jack, white, age 31. Murder. The crime was committed on October 4, 1911, in Manhattan. The case involved another fatal saloon holdup. An armed team, consisting of Happy Jack Mulraney and a man named John Dowling (white), burst into a saloon at 771 Tenth Avenue and ordered its denizens to put up their hands. When proprietor Patrick McBreen (white) did not raise his hands fast enough to suit the robbers he was shot down. The bandits then fled empty-handed. This killing outraged people of all classes. The victim had been much beloved in his neighborhood. He was known as Paddy the Priest because of his many

acts of kindness. Area residents played a large part in running down the killers. Dowling died in Bellevue Hospital before he could be brought to trial and was thrown into a ditch on Hart Island. Happy Jack Mulraney was executed at Sing Sing on May 19, 1913.

Thomas O'Neil, alias Bambrick, alias Ward, white, age 26. Murder. The crime was committed on September 24, 1915, in Manhattan. O'Neil was what one might call an urban terrorist. On the above date 5,000 people jammed the Manhattan Casino at 8th Avenue and 155th Street to fete the local Tammany boss. A rival political faction sought to insult the guest of honor and disrupt the festivities. A hired goon squad led by O'Neil infiltrated the crowd and started a brawl. Fistfights and gunfire erupted all over the meeting hall. In addition to that, a human stampede broke out in the crowd, which resulted in many additional injuries. During the melee two off-duty police officers were shot along with a considerable number of civilians. One of the policemen, George Dapping (white, age 26), subsequently died of his wounds and Thomas O'Neil was identified as the person who shot him. He was executed on October 7, 1916.

In general, the overwhelming dynamic behind the lives of both the Irish murderer and his victim in New York City was a lack of means to redress a difficult situation or a desperate turn of events. Tragedy surrounds every murder and executed murderer. This is the challenge the past makes of the present—to give a balanced account of both sides of an issue, to give voice to the silent, and to try to gain perspective from the ways in which context can change our perceptions of capital punishment over time.⁵⁶

Notes

- 1 *New York Times*, 8/10/1867, p. 8
- 2 This article is what might be called “men’s history” as opposed to “women’s history.” There have been disproportionately more men than women among those executed in the United States. This is not to say that women were never given the death penalty but the research on this particular aspect of capital punishment in New York City uncovered only Irish men. A handful of Irish women, like Mary Farmer who emigrated in 1900, were executed in New York State; see Daniel Allen Hearn, *Legal Executions in New York State: A Comprehensive Reference, 1639-1963* (Jefferson, NC: McFarland & Company, 1997), p. 111
- 3 Death was often preceded by creative forms of torture, for the benefit of the public.
- 4 Hugo Adam Bedau, *The Death Penalty in America: An Anthology* (Garden City, NY: Anchor Books, 1964), p. 2
- 5 “The Last Speech, Confession, Birth, Parentage and Education, of John Grimes, John Fagan, and John Johnston” (1765), broadside, The Library Company of Philadelphia, 1314 Locust Street, Philadelphia, PA 19107
- 6 Philip English Mackey, *Hanging in the Balance: The Anti-Capital Punishment Movement in New York State, 1776-1861* (NY: Garland Publishing, Inc., 1982), pp. 11, 14-15
- 7 Hearn, op.cit., pp. 14, 20. Sullivan’s execution had to be postponed for lack of a hangman. See Mackey, op.cit., p. 17 note 27.
- 8 After the British evacuation of New York, 13 crimes still remained eligible for the death penalty. Mackey, op.cit., pp. 44, 64. Mackey is quoting an 18th century contemporary, Thomas Eddy.
- 9 Louis P. Masur, *Rites of Execution: Capital Punishment and the Transformation of American Culture, 1776-1865* (NY: Oxford University Press, 1989), pp. 3, 5
- 10 William J. Bowers, et.al. *Legal Homicide: Death as Punishment in America, 1864-1982* (Boston: Northeastern University Press, 1984), p. 12. Also Bedau, op.cit., pp. 16-17
- 11 Bedau, op.cit., p. 21. In contrast, England did not abolish public executions until 1868. See *Encyclopædia Britannica* (Chicago & London: William Benton, 1973), Vol. 4, s.v. “capital punishment”
- 12 Masur, op.cit., p. 116 quoting New York State Senate Document No. 79, 58th Session (1835)
- 13 Masur, op.cit., pp. 5, 112
- 14 *Encyclopedia Americana* (Danbury, CT: Grolier Incorporated, 1994), s.v. “capital punishment”
- 15 John L. O’Sullivan, *Report in Favor of the Abolition of Capital Punishment Made in the Legislature of the State of New York* (NY: J. & H.G. Langley, 1841), p. 70. An excerpt from this report is published in William D. Griffin, *The Book of Irish Americans* (NY: Times Books, 1990), pp. 135-136
- 16 Mackey, op.cit., pp. 128, 135, 142. In 1844 O’Sullivan also edited *Anti-Draco*, which was published by Horace Greeley, “the first periodical in the United States exclusively dedicated to anti-gallows reform.” Ibid., p. 252
- 17 Harvey was president of the Washington Marine Insurance Company and a member of the General Irish Relief Committee of the City of New York. See Mackey, op.cit., pp. 233, 235, 238 note 8, and *New York and the Irish Famine* (commemorative menu, New York Irish History Roundtable, 10/28/1994).
- 18 John E. Findling, *Dictionary of American Diplomatic History*, 2nd edition (CT: Greenwood Press, 1989), p. 395; also Griffin, op.cit., p. 255 and Masur, op.cit., p. 159
- 19 Hearn, op.cit., p. 59
- 20 Mackey, op.cit., p. 305
- 21 See Table 22 in Robert Ernst, *Immigrant Life in New York City, 1825-1863* (NY: Syracuse University Press, 1994; originally published 1949), p. 203
- 22 Charles Spear, *Essays on the Punishment of Death* (Boston: By the author, 1844), p. 222
- 23 Kenneth T. Jackson, ed. *The Encyclopedia of New York City* (New Haven: Yale University Press, 1995), pp. 297-298
- 24 See Historical Crime Statistics Link Guide, data from the National Archive of Criminal Justice Data [NACJD], at http://www.crime.org/links_historical.html (January 1999). The total homicide arrests for Manhattan/Greater New York between 1860 and 1920 were 13,333.

- 25 James D. McCabe, Jr., *New York by Gaslight* (Philadelphia: Hubbard Brothers, 1882; reprint NY: Greenwich House, 1984), pp. 409-411. The Tombs superceded Newgate, a prison near the Hudson River in Greenwich Village. Mackey, op.cit., pp. 70-71
- 26 McCabe, op.cit., p. 411
- 27 Hearn, op.cit., p. 62
- 28 "The Prince Street Tragedy," *New York Herald*, 6/22/1866, 2:4
- 29 "Murder in Prince Street; An Eighth Ward Loafer Deliberately Kills His Mistress," *New York Times*, 6/21/1866, 8:4
- 30 *New York Herald*, op.cit., 6/22/1866
- 31 Ibid.
- 32 *New York Times*, op.cit., 6/21/1866
- 33 Historical Crime Statistics Link Guide, op.cit.
- 34 Obituary, *New York Times*, 9/17/1871, 5:3
- 35 Stuart even called O'Brien's mother to the witness stand during the trial. "The Scaffold," *New York Herald*, 8/10/1867, 6:1. He later defended John Real, another man on death row. There may have been more, although his position on the death penalty is unknown. See *New York Times*, op.cit., 9/17/1871
- 36 *O'Brien vs. The People*, 36 N.Y. 276 (1867)
- 37 "Local Intelligence, The Tombs," *New York Times*, 7/11/1867, 2:7
- 38 No. 139 Prince Street was a three story brick house in 1866. See *New York Herald*, op.cit., 8/10/1867. The building no longer exists and neither does the address. Nos. 135 and 141 now occupy all the former lots on this block, eliminating No. 139 altogether.
- 39 Timothy J. Gilfoyle, *City of Eros: New York City, Prostitution, and the Commercialization of Sex, 1790-1920* (NY: W.W. Norton & Company, 1992), pp. 119, 121-123
- 40 Kate Smith was called O'Brien's "mistress" in the newspapers. See "News: The City," *New York Herald*, 6/21/1866, 4:1 and *New York Times*, op.cit., 6/21/1866. "Probably 5 to 10 percent of all young nineteenth century women (between fifteen and thirty years in age) prostituted at some point." Gilfoyle, op.cit., p. 59; see also pp. 66-67, 74-75, 286-287
- 41 "Tom Sweeny: He Wasn't Called 'Fighting Tom' For Nothing" <www.thewildgeese.com/pages/sweeny.html> 1/12/1999
- 42 *New York Times*, op.cit., 6/21/1866 cf. *New York Herald*, op.cit., 8/10/1867
- 43 *New York Times*, op.cit., 7/11/1867
- 44 Ibid.
- 45 Ibid.
- 46 Ibid., and *New York Times*, 8/10/1867, 8:1
- 47 *New York Times*, op.cit., 7/11/1867
- 48 Masur, op.cit., p. 114
- 49 *New York Herald*, op.cit., 8/10/1867
- 50 *New York Times*, op.cit., 8/10/1867. See the *New York Herald*, op.cit., 8/10/1867 for references to the white kid gloves. His outfit is reminiscent of that worn by Robert Emmet, another executed Irishman, in the popular Currier and Ives color lithograph published in New York City during Jerry O'Brien's lifetime.
- 51 *New York Herald*, op.cit., 8/10/1867. The paper also reported "a calm, placid serenity" about O'Brien "which nothing but a truly repentant heart and a strong faith in a happy future beyond this life could have afforded."
- 52 Jackson, op.cit., p. 297
- 53 *New York Times*, 4/9/1870, 4:3
- 54 "Shoots Wife and Himself," *New York Times*, 6/14/1898, 7:3
- 55 *Report of the Howard Society in Dublin* (1832) quoted in Spear, op.cit., p. 67
- 56 In his 1998 Christmas Day message, Pope John Paul II said "that modern means of punishing and preventing crime made executions irrelevant" and he called for a worldwide ban on the death penalty. New York State's last execution was in 1963, almost one hundred years after Jerry O'Brien's death, and capital punishment was finally eliminated in 1965. It was reinstated by Governor George Pataki effective 1 September 1995. Since that date one man has been sent to death row to await execution. See "The Death Penalty," *Issues and Controversies on File*, 1/20/1999 <<http://www.facts.com/cd/i00015.htm>>; Amnesty International Death Penalty Co-Group, *Death Penalty Bulletin*, June 1998 <<http://www.amnesty.it/~pdm/june98html#world>>; and "Pope Urges End to Death Penalty," *BBC News Online: World: Europe*, 12/25/1998 <http://www.bbc.co.uk/low/english/world/europe/newsid_242000/242312.stm>