

A Tragedy from 1871: A Study of Stigma, Poverty and Alienation

by Marilyn Silverman

On the evening of April 22, 1871, a woman named Anne Aylward killed her illegitimate daughter, aged nineteen months. There was nothing in the newspaper reports of the Coroner's Inquest or, later, of Aylward's trial at the County Assizes to suggest that she was in any way unbalanced, deranged or not capable of understanding her horrible act. There had been, very occasionally in County Kilkenny, reported cases of infanticide when a new-born child might be found deserted and exposed to the elements. Anne Aylward's case was unusual because of the advanced age of her daughter. However, what makes the case interesting to social historians and the general public over a hundred years later is that the newspaper reports written at the time allow us to learn something about the society in which Anne Aylward lived, about the kinds of values which were held by people whom she knew, and about the attitudes of women with whom she interacted. In other words, this "shocking case of child murder", as the *Kilkenny Moderator* termed it and as indeed it was, provides us with the means, more than a century later, to explore something of the nature of women's lives and experiences at the time.

The Evidence for the Prosecution

At the Coroner's Inquest which was held after the body of the child, also named Anne Aylward, had been found, labourer Edward Lyons was "the most important of the witnesses for the Crown".¹

"His deposition was to the effect that on the previous Saturday fortnight, he was in a lane at Kiljames, near the broom, and saw the prisoner, Anne Aylward at the water. There was furze growing between them, but he saw her sufficiently to know who she was. He thought he saw her child with her as she approached the stream, but at all events, he was certain he heard the screams of a child

proceeding from the stream, over which the woman was stooping. He did not interfere or make it known to the prisoner that he was a spectator of what was occurring. He thought she might have been washing the child in the stream, which would account for its crying, but although he remained for a fortnight without saying anything about what he had witnessed, or investigating the circumstances, his suspicions were so much aroused, that a conscientious feeling kept urging him to look to the matter, and on Tuesday evening he went to the spot, and on the bank saw a pile of stones; on removing some of them, the corpse of a little child became apparent. He replaced the stones, covering the body up, and went away. He told a person soon after what he had found, and that person appeared to have at once gone to the Constable with the intelligence”.

At the subsequent trial at the County Assizes, Lyons expanded on a few points. He

“stated that he ... knew Kiljames, and that he had seen Anne Aylward there, at first standing on the bank of the stream there; he heard the cry of a child, and afterwards saw the prisoner paddling in the stream. Before he heard the cry he had seen the woman looking around her. He did not see any child with her at the river. When he was coming back he met the prisoner at Columkille, about half a mile from the stream. He bid her good night and after some hesitation she replied “kindly” and he walked with her for about two miles. He knew her at the time, and she had no child with her. ... Lyons testified that he was at the stream the evening on which the body of the child was found; it was the same place as where the woman was standing when he saw her. He had gone to the stream because he heard the child was missing. He had reported the death of the child to Peter Hanrahan”.

Apparently, Hanrahan went to Thomastown because, according to the newspaper report prior to the inquest:

“(b)etween seven and eight o'clock that evening, Constable Burke of the Thomastown station, received private

intelligence that at a certain spot, on the stream at Kiljames, the body of a child would be found, under a heap of stones. Having reported the matter to sub-Inspector Shehan, the Constable lost no time on proceeding, with two of the men of his party, to the place indicated, and on the way, elicited such information as led him to come to a conclusion as to whose child the remains would prove to be. Upon removing a few stones from the heap, the body was apparent of a little female child aged about eighteen or nineteen months. It was in a state of nudity, and somewhat decomposed. Leaving one of his sub-constables on the spot to watch the remains, the constable hastened with his other man to the adjoining townland of Mungamacody, in order to arrest the person whom he suspected of the commission of the crime, before it should become known in the district that the discovery had been made. In this he fully succeeded. A woman named Anne Aylward, aged 28 years, a native of the County of Wexford, unmarried, but having an illegitimate female child, bearing her own name, had been a short time since taken into the service of a farmer, named Patrick Neill, of Mungamacody”.

A sub-constable named Mohan also gave evidence at the inquest. Mohan said that he

“had been sent on duty to Kiljames on the morning after the discovery of the body, in order to relieve the two other sub-constables, left by the constable to watch the remains during the previous night. His attention had been attracted by some objects in the stream, about ten or fifteen yards lower down than the place where the body had been concealed, and on examination he found them to be articles of child's clothing, which appeared to have floated down with the current, and to have been stopped in different places by the stones in the bed of the stream. These articles he fished out of the water, and they were (a) little baize petticoat, calico shift, and stuff frock and net for the head”.

These were later identified as “forming the clothing” of young Anne Aylward.

Dr. Myles Sterling, at the Assizes, stated that:

"he had been present at the inquest on the body of the child. The prisoner was an inmate of the workhouse at one time, had the child on 29th August, 1869, vaccinated it and registered its birth. There were contusions on the forehead and head of the child; could be caused if the child fell into the stream; made a post-mortem examination and found the lungs were very much congested; (in) his opinion death had been caused by immersion in water".

The jury at the inquest was described by the newspaper reporter as "respectable". Thomastown's tanner, Michael Ryan, was foreman. Prior to its sitting, jury members had "proceeded to view the body, after which they returned to Thomastown". A "very protracted inquiry" followed. It "lasted 7 hours".

"On the evidence adduced, the jury had no difficulty as to finding a verdict of "wilful murder" against the wretched mother, who, on the Coroner's warrant, was transmitted to the County gaol, to take her trial at the next Assizes".

At the Assizes two months later, a different jury heard the evidence. Its members then "retired and returned to court after an absence of twenty minutes with a verdict of "Guilty" and recommendation to mercy. Then, the

"Judge, in his address to the prisoner, commented on the enormity of her offence. Her case, with the recommendation of the jury to mercy, will be duly made out and presented to the Executive, and they, he was sure, would give such consideration to it as humanity would dictate. The sentence was that she should be hanged on Thursday, 17th August".

A Contrasting Case from 1864

A few years before the Aylward case, in 1864, William Cummins, a Kiljames farm labourer and carter, "did kill and slay one Arthur Kinchella".² Kinchella was a horse trainer,

"a cross old man" according to a report, who was employed at the time by John Dowling, Columkille farmer. At the inquest and subsequent trial, another of Dowling's labourers, James Lynch, explained how he was at work on the day, as was Cummins. Cummins was

"throwing up sheaves of oats; he was on the ground, I was on the stack; the deceased Kinchella, was a horse-breaker; he was training a horse for Mr. Dowling, and came into the field where we were; Kinchella was going out the gate, and the prisoner (Cummins) told him to shut it after him".

Lynch previously had heard Cummins "say to the man, in joke, to 'bring out the boar to train' ". Kinchella then called Cummins

"a blackguard, and told him to mind his own business; he (Kinchella) then stooped for a stone and pelted it at Cummins; Cummins then went over to Kinchella, who raised a whip and made a blow at him; Cummins then raised the fork and made a blow at him (the deceased); cannot say whether it struck him or not, as the pier of the gate hid him from me; immediately after I saw the deceased lying across the gate; ... Cummins held the iron part of the fork in his hand; ... Kinchella died at Mr. Dowling's house ...; there was no (other) person near the two when the blow took place; ... (d)ceased was an old man and very cross; Cummins was in good humour when working with us; begor, if any man struck me with a whip and I have a fork in my hand, I would strike him with it".

According to reports, Kinchella said, before he died, that Cummins was the one who "inflicted the fatal wound upon him". However, Lynch had not seen this, nor had Ellen Phelan, another labourer who also had been binding sheaves. According to her evidence, James Lynch and another labourer, Margaret Hutchinson, were on the stack. Cummins had been pitching sheaves to them. She heard Cummins tell Kinchella to shut the gate and she heard Cummins ask

Kinchella "could he train, or break the boar, which caused the deceased to throw a stone at him". She then saw Cummins approach Kinchella with the fork. However, she had "retired behind the stack to avoid being struck, and did not see what followed, but no other person was there, on the ground, but deceased, Cummins, and herself".

The coroner instructed the jury that

"under the circumstances of the quarrel arising from a mere joke, the case could not be otherwise viewed than manslaughter of a mitigated character, there being no malice or previous misunderstanding of any kind".

Thus, the jury decided that Kinchella had been killed by a "mortal blow, on the head, with a heavy blunt instrument ... but by whom inflicted, we have no satisfactory evidence to determine". The case was remanded to the Assizes.

The jury at the Assizes contained local landlords (e.g. W.F.F. Tighe, Woodstock; Sir James Langrishe, Knocktopher) instead of the Thomastown notables who had formed the coroner's jury. Clearly then, the results of the inquest and trial reflected a good range of local opinion. The evidence given at the Assizes was the same as at the inquest and, again, none of the witnesses actually saw the blow being struck. Dr. Myles Sterling deposed that Kinchella had died from a fractured skull. He added that he "knew the prisoner, and always considered him a very good character". Indeed, the newspaper report noted that Cummins was "a respectable-looking young man".

"The jury returned with a verdict of guilty, with a strong recommendation to mercy, in consequence of the provocation received. His Lordship said no doubt the prisoner had received great provocation, and sentenced him to two months imprisonment".

Morality in the Courts

The difference between this Kinchella case and the Aylward case was seen at the time as a difference of premeditation: the "wilful" murder of Anne Aylward junior as

opposed to the unintended slaying of Kinchella. The cases were also seen as different because of the kind of victim involved in each: a helpless "child" as against a "cross old man". These differences perhaps explain why the Aylward case was seen, according to the newspaper headlines, as "a brutal murder" whereas the Kinchella case was headlined as "the fatal results of practical joking".

Nevertheless, one aspect in each of the two cases was identical: in neither case did any witness actually admit to seeing the act itself. Yet, the absence of eye-witnesses in the Aylward case was regarded as unimportant whereas in the Kinchella case, the jury found this absence to be central. Three witnesses swore that Cummins was the only person in the vicinity of the murdered man and that Cummins was wielding a pitchfork against him. The dead man, too, had named his killer. In contrast, only one witness saw Anne Aylward senior in the vicinity of where the body was found and he never, in fact, saw the victim or the act.

Moreover, the reputations of the witnesses in both cases were unquestioned. Of the three witnesses in the Kinchella case, none had previously appeared at the petty sessions for misdemeanours. All were, clearly, respectable labouring people. Edmund Lyons, however, the key Crown witness in the Aylward case, had had his brush with the law as had his wife. In 1860, his sister-in-law Margaret Quinn, of The Mall, had charged him with assaulting her. Lyons was fined ten shillings and costs or a fortnight in prison.³ Two years before the Aylward case, Lyons' wife was ordered by the magistrates at the petty sessions to put up £10 as bail and to find two sureties of £5 each to ensure her future good behaviour, or to receive a fortnight's imprisonment, for "having used insulting and abusive language, calculated to lead to a breach of the peace, towards Judith Dowling, Mall".⁴ Clearly, as the key Crown witness against Aylward, Lyons was not as respectable as those in the Kinchella case. Yet, nothing in the newspaper reports indicate that his reputation affected in any way his current credibility as the lone witness against her.

All this suggests that the way in which evidence was evaluated was different in the case of a woman who was "the

instrument of destroying her own child" than it was in the case of a "respectable young man" who killed a "cross old man". In other words, moral outrage and moral evaluations were important in how homicide cases were treated and in their outcomes. Similar evidence was weighed differently, and witnesses of varying reputations were listened to selectively, depending on whether it was believed that the act was premeditated and depending on who the killer and victim were. Ultimately too, the difference in moral outlook and treatment came down to the fact that, according to the way people saw the two situations at the time, Cummins had been "provoked" whilst Anne Aylward had not.

The Nature of Provocation

The idea that Anne Aylward had not been provoked was based on a particular view of provocation which people held at the time; that an individual, either by insult or act, caused another to react violently. Such a view of provocation saw the action and reaction as occurring at virtually the same time. In fact, this is how men, and often women, usually behaved. However, it is possible to suggest that, in some situations, women behaved differently, and that they might be provoked in a different kind of way and through a different kind of process. That this might have happened in Aylward's case is suggested by the reported evidence given by other witnesses at her inquest and trial. By providing us with some background detail on Anne Aylward's life, these witnesses raise the question as to whether Anne Aylward, a "wretched mother", had in some way been provoked into her "terrible" act.

Anne Aylward was "not native of this county". Yet, her child had been born in Thomastown Union workhouse. This suggests that the father of the child may well have been local, a fact substantiated by the only clear reference made to him in the newspaper reports:

"On the constable ... making the arrest, she (Aylward) did not admit the accusation of murder, but made some rambling and somewhat incoherent remarks, as to her having been badly treated by the father of the child, and as to having

been "tempted by the devil".⁵

Perhaps though, Aylward mentioned the father once again. For the newspaper report of the trial noted that the "prisoner received her sentence (of hanging) very quietly, and on leaving the dock made use of a frightful oath in cursing some person. She was then removed".

Clearly, the father must have been known to people at the time. Yet, before and during her troubles, he not only was invisible but local people allowed him to stay uninvolved. In contrast, Aylward's life was highly visible; and apparently it formed part of local gossip. According to Lyons' testimony, he was induced to go back "to the stream because he heard the child was missing". In other words, people were aware of Aylward's movements and life. What had that life in Thomastown been like?

Obviously she was a stranger and on her own. Indeed, this alienation was highlighted by local uncertainty as to her name; "she went by the name of Anne Aylward", said a witness; she was a "woman giving the name of Anne Aylward" wrote a newspaper reporter of the event. In any case, she had had a child in the workhouse and, despite being on her own, she had chosen to leave the workhouse with her child. Such a decision was not surprising. Life in the workhouse was regimented and bleak: hard, unpaid labour, "poor and inadequate food, harsh discipline ..., poor clothing and stark living conditions".⁶ The locally-elected guardians who managed the workhouse also, with their eye always on the rates and the cost of supporting the poor, were suspicious if unwed mothers left their children in the workhouse whilst pursuing outside employment and, perhaps, a chance at a new life. For example, eighteen months before the Aylward homicide, the guardians had charged five unwed mothers at the petty sessions "with having deserted ... their illegitimate children in consequence of which they became destitute and were relieved by the complainants". In fact, three of the five had not deserted their children. They appeared before the court

"and stated that they wanted to benefit themselves by

earning something during the harvest, and they did not intend deserting their children. The Bench, considering this to be the truth, ordered ... the defendants to be imprisoned only to the rising of the court; – but ... (the two) who did not appear, were ordered to be imprisoned for a fortnight”.

Clearly, the guardians did not want to have illegitimate children in the workhouse without their mother in constant attendance. Moreover, to desert a child put the guardians and constabulary in pursuit and led to charges at the petty sessions and a gaol sentence. Even then, the problem still remained how a woman could build a life, alone in a strange locality, with an illegitimate child.

Why, however, was this a problem? It was a problem because of the fears of poor people and the attitudes of respectable ones. After leaving the workhouse, Anne Aylward was “taken into the service of a farmer, named Patrick Neill, of Mungamacody”. She worked there for seven months, during which time the child was placed with Bridget Power, Mung, who lived with her husband, an agricultural labourer, and two children, both around the same age as young Anne, in a tied cottage with two rooms. It was Mrs. Power who, emotionally, identified the body as being that of young Anne Aylward (“she was 18 days under the stones”) and who identified the clothes found in the river by sub-constable Mohan as being “those in which the child had been dressed while it was in her care”. It also was Mrs. Power who deposed that she “often saw the prisoner in company with the child when living”. This statement was likely given, or elicited, to show that a close relationship existed between Anne and her child in the absence of witnesses who actually saw Anne with her child on the night of the murder. Apparently, young Anne

“had been placed six or seven months since in the care of the witness (Mrs. Power), whom she had paid for its support. The witness, however, became afraid that the prisoner might leave her employment at Mungamacody, and go away, abandoning the child, in which case it would be thrown upon her to make provision for it; and in consequence of this

apprehension she insisted upon its being taken from her by the mother”.

According to Mrs. Power, “it was God’s sake I gave her lodging”; and

“when she was going that morning she took the child and all belonging to her and went away; (she) saw her beat the child often; my husband told her not to beat the child, as many as good girls as she had to carry them; she said the d---l with the child before she would lose herself; she never came back to my house; saw her that evening, at about six o’clock, at Barron’s, between my house and Thomastown; she had the child then; saw her next morning, Sunday, at Mass, at the chapel of Mong”.

Anne Aylward brought her daughter to the Neills. Patrick Neill was a medium-sized farmer: 82 acres of upland did not constitute a strong farmer but, rather, one who was likely able to maintain a respectable showing in the neighbourhood. Perhaps that is why Mrs. Neill “refused to permit it (the child) to remain in her house”. As a result, according to Mrs. Neill, on April 22nd,

“Anne Aylward, the prisoner, took the child away, and, having returned home in the evening, stated she had left it in Thomastown, in the care of a woman who had agreed to support and mind it for her, for 1s.6d per week”.

On that night, of course, young Anne Aylward had been killed.

Conclusion: Provocation and Justice

The reports surrounding the murder of young Anne Aylward and the trial of her mother provide us with some insights into women’s lives at the time, into the society in which they lived and into the values and attitudes which were important to people. They allow us to see what occurred when three factors came together: the stigma of illegitimacy, the limited choices which poor, working people had and the

alienation of strangers who came to live in the neighbourhood.

Unwed motherhood was clearly a terrible condition at the time and the responses to that condition were apparent in the behaviour of Mrs. Neill in refusing accommodation to young Anne Aylward and in the behaviour of Mrs. Power in evicting her. The fact that neither the coroner nor magistrates censured either Mrs. Neill or Mrs. Power for any kind of insensitivity is significant. It means that both women had behaved "normally" and in socially acceptable ways, according to the standards at the time.

What did these ways show? They show that a stigma not only attached to an unwed mother but also to her illegitimate child. They show that such a stigma was contagious and that respectable women would avoid association with it whilst poor women might be left to bear the economic burden. Of crucial importance here is that the behaviour of Mrs. Neill and Mrs. Power show that the stigma was assigned mainly by women against other women. Walter Power, the labourer and husband of Bridget Power, was the only person mentioned who offered sympathy for Aylward's condition. Ultimately, of course, the stigma was accepted by the stigmatised themselves: by the unwed mother of the illegitimate child.

The Aylward case was, therefore, a tragedy with women at its core. It was fuelled by the fact that an illegitimate child was not wanted – by the wife of a respectable farmer who employed the mother, by a labouring man's wife who was afraid of being left with a burden and, most tragically, by the child's mother who feared that "she would lose herself". The murder of young Anne Aylward, from this perspective, was a women's tragedy.

It was also a women's tragedy because of the values and attitudes, as expressed in newspaper reports at the time, which were associated with the ways women – as mothers – were expected to behave. The language used at the time (the "terrible" act, the "shocking case", the "brutal murder") certainly expressed the horror which society held of Aylward's act and it certainly expressed its determination to root out and punish such behaviour by women. Yet, the same

society which held such attitudes was also the one which created and enforced the stigma against women who bore illegitimate children and against such children themselves. Through it all, the father remained publicly unnamed and escaped unscathed.

The same society also fuelled the tragedy in other ways. Aylward was alone, a stranger and poor. She chose to avoid being condemned to a life in the workhouse. Therefore, she had to earn a livelihood; and she had to do so in a locality where she was neither known nor trusted and where she had no one to help. Alienated from local networks, Anne Aylward was not only poor, kinless and friendless, she also was a labouring woman who wished to carry on working and a mother whose child was seen by herself and by other women as carrying the stigma and contagion of illegitimacy and the threat of financial encumbrance.

Given such a situation, and from the perspective of 125 years of hindsight, had Anne Aylward been any less "provoked" than William Cummins? Had Anne Aylward received a hearing and trial as "fair" as had William Cummins? And did the hanging of Anne Aylward exact a justice equal to William Cummins' two months in gaol?

Notes

1. The case was described in the *Kilkenny Moderator*, May 13, 1871 and the *Kilkenny Journal*, May 13, 1871 and July 19, 1871. All quotes are taken from these sources. The names of some of the protagonists have been altered.
2. The case was described in the *Kilkenny Moderator*, July 3, 1864 and the *Kilkenny Journal*, July 27, 1867.
3. *Kilkenny Moderator*, December 8, 1860.
4. *Kilkenny Moderator*, February 6, 1869. After the Aylward case, members of the Lyons family occasionally appeared at the Petty Sessions. In 1876, Mill Street, publican, Tom Walsh, charged Mrs. Lyons, with abuse and indecent language. The case was dismissed (*Kilkenny Moderator*, November 11, 1876). That same year, Lyons' married daughter, Anne Reilly, Mill Street, appeared at Petty Sessions to charge Mary Kerevan with assault and threatening language. "After a patient hearing the worships decided that it was a woman's quarrel and dismissed the case". (*Kilkenny Moderator*, November 11,

- 1876).
5. The Coroner "did not entertain any statement as to the remarks made by the woman when in custody". In any case, the devil's temptation may not have referred to the act of homicide but to the father of the child.
 6. Marilyn Silverman and P.H. Gulliver, *In the Valley of the Nore: A Social History of Thomastown, County Kilkenny, 1840-1983*. Dublin: Geography Publications, 1986, p.234.
 7. *Kilkenny Moderator*, September 11, 1869.
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