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**Katie Barclay**

**Singing, Performance and Lower-Class Masculinity in the Dublin Magistrates' Court, 1820-1850**

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*Abstract: The performance of manliness was central to a legal system where men dominated as judges, juries, and lawyers, and formed a majority of plaintiffs, defendants, and witnesses. The negotiation of competing visions of masculinity became central to the performance of justice and men used appearances in the court as opportunities to present and defend their particular sense of manliness. In the context of the Dublin magistrate's court in the early nineteenth century, men from the Irish lower classes sought to present a persona of Irish manhood, rooted in Irish republicanism, a strong identification with the Dublin artisanal classes, and set against an authoritarian British "other". In presenting this manhood for an audience, men drew on story and song to convey complex messages that fed into political and manly identity. In doing so, they turned the metaphorical theatre of the court into an actual theatre, utilising space, audience and the potential for wider publicity in a performance that both ensured their message was heard and emphasised their manliness as masters of the stage. This article explores the use of singing and performance by Irishmen in the Dublin magistrate's court, highlighting their use in the process of furthering lower-class manliness and political identity as Irishmen.*

In May 1845, John Barrett, "a very little man," attended the Dublin police court in College Street and charged his son, James with assault. James, who was described as "comical" looking with a broken nose, the mark of smoothing-iron on his forehead and the most ludicrous hair and whiskers ever beheld, was called to the bar. John, in a dialogue replete

with puns, informed the court that he had given his son the best education and apprenticed him to a shoemaker, only to be assaulted by him when they met in the street. His testimony caused great hilarity in the court as he wove his version of events. In a true case of like father, like son, James' story was no less entertaining. The prisoner, when called on for his defense, said he was a child of misfortune from his birth. When only six years of age, he fell down a chimney, delivering a letter from a gentleman to a lady, broke his leg and nearly cracked his neck. From that day forward "all the ills that flesh is heir to attended his career."

It was true that his father did give him an excellent education, and did bind him to a shoemaker, and a very good shoemaker I am, said he (laughter [in the court]); but if I lived to the age of Methusalem (loud laughter), and had as many sons as there were years in that great man's life, I would not bind one of them to a shoemaker.

Mr Tyndall [the magistrate]– Why? its a good trade, and an honest man can always make out a decent livelihood by it.

Mr James Barrett– An honest man indeed – there never was an honest man a shoemaker, the thing is totally impossible!

Mr Tyndall– That is rather a sweeping assertion against a respectable class of tradesmen.

Mr James Barrett– I will prove it – When only six months at the business my master sent me to measure a lady's foot – she had the finest turned ankle I ever looked on – you know what Byron says about ankles – (loud laughter) – so in place of measuring the foot I began to admire the ankle and what do you think she did?<sup>1</sup>

Mr Tyndall– Gave you a kick of course (laughter).

Mr James Barrett– Your worship has hit it exactly – (laughter) – she gave a kick – such a kick – a two year old could not have done it better; and where do you think she hit me? why right in the nose, and that’s what has made my nasal organ turn up so towards my forehead (loud laughter).

Mr Tyndall– She served you right (loud laughter).

Mr Barrett– She served me out at any rate, my master lost her custom, and I nearly lost my place. My next adventure was with a lady’s maid at Surgeon —’s and she gave me a welt of a smoothing iron – (laughter) – on my forehead – here’s the mark. I got into innumerable scrapes after that, and before I was out of my time my master became a bankrupt, for I managed to ease him of all his customers (laughter). I next fell in with a dress-maker who lived near Old Dunleary, but she cut me shortly after, and ran off with a sailor; and being a bit of a poet I wrote the following verses about her:

When charming Kitty took her way,  
And parted from Dunleary,  
Poor Barrett wandered near the sat,  
And sighed till he was weary,  
His eyes were fastened to the car  
Which held the fair deluder,  
In vain he gazed and from afar  
His longing heart pursued her (loud laughter)  
At Kitty now no more I look,  
Nor through the shutters peep-in-  
Nor singing at her window knock

To interrupt her sleeping,  
Oh haste! Return, ye minutes fair,  
Which passed away so gaily;  
Or give me back the heart which there  
I parted with too freely. (roars of laughter)

James continued with his tale of woe, explaining that he had decided to give up women and let them woo him; a comment that caused great laughter in the court and a lesson he presumably learned from Lord Byron's satire *Don Juan*. This decision had resulted in various women pursuing him, and he had the opportunity to marry one with a £500 fortune. In his excitement at the prospect, he went on a spree and had no memory of assaulting his father. The magistrate sentenced him to one month in the Bridewell.<sup>2</sup> Like many Dublin men, James was an inveterate performer. The gift of the gab, so highly prized in Irish culture, meant that even the most banal situation could be turned into an opportunity for story and song. What better situation than the court with its ready-made audience waiting to be entertained?

Thinking about courts of law as theatrical spaces is becoming increasingly central to analyses of the law and to social histories built on legal records. The use of popular culture by lawyers and witnesses in shaping the stories that they told in court, the costumes worn by lawyers and judges within the British court system to mark status and occupation, and that the courts provided a central form of entertainment to past societies, have been highlighted by historians and sociologists to emphasize the performative nature of legal practice.<sup>3</sup> In a nineteenth-century context, the popularity of the courts as a form of entertainment, ensuring large audiences, and the fixture of the journalist, who transformed legal proceedings into copy for local or even national papers, transformed courtrooms into a stage, on which the

actors involved in legal dramas played their parts for a watching community. The theatre of the court provided a space where identities and social values were both shaped and explored.

The performance of manliness was particularly central to a legal system where men dominated as judges, juries, and lawyers, and formed a majority of plaintiffs, defendants, and witnesses. As Phillip Mackintosh and Clyde Forsberg argue, “masculine behaviour in all its varied forms generates masculine identity.”<sup>4</sup> The negotiation of competing visions of masculinity became central to the performance of justice and men used appearances in the court as opportunities to present and defend their particular sense of manliness.<sup>5</sup> In the context of the Dublin magistrates’ court in the early nineteenth century, men from the Irish lower classes sought to present a persona of Irish manhood, rooted in a strong identification with the Dublin artisanal classes as a community, a desire for social reform and set against an authoritarian British “other”. In presenting this manhood for an audience, men drew on story and song to convey complex messages that fed into both political and manly identity. In doing so, they turned the metaphorical theatre of the court into an actual theatre, using space, audience and the potential for wider publicity to create a performance that both ensured their message was heard and emphasized their manliness as masters of the stage. This article explores the use of singing by Irishmen in the Dublin police court, highlighting its use in this process of furthering lower-class manliness and political identity.

While identity construction in all contexts can be understood as a form of “performance”, “theatrical performances,” loosely defined as those where people adopt dramatic practices such as singing and storytelling, or exaggerate their behavior for the benefit of an audience, was a central part of legal performances in the Irish courts and by the 1820s, the ubiquity of such behavior allowed for weekly columns in the press. While verse, poetry, banter and joke-telling were found daily in Irish courts, singing does appear to have

been a rarer activity. Musical performances appeared in the Dublin magistrates' courts about twice a year during this period, but examples are found in other courts across Ireland. Yet, while unusual, they provide an opportunity to analyze the specific effect of a particular art form in negotiations of manliness, identity and justice in the court, whilst also being representative of, and informed by, the more "everyday" performance behaviors that usually accompanied such musical acts. Singing, therefore, is used in this article as a vehicle for exploring performances of manliness in the courts.

Singing was a central form of entertainment in oral cultures, and as Adam Fox and Daniel Woolf have noted, "scarcely any aspect of work or leisure, it seems, went unaccompanied by a tune."<sup>6</sup> This tradition carried on amongst the lower classes across Europe well into the nineteenth century, where the ability to sing well and entertain continued to endow people with respect and admiration within their communities. This was particularly true amongst lower-class men in urban communities, influenced by the journeyman artisans at its heart, who prized bawdy songs and amusing tales as a form of entertainment and for creating a shared culture, reinforcing camaraderie and establishing membership through policing who such stories and songs were shared with. This was accompanied by a culture of heavy drinking in male-dominated public houses, idealization of virility, misogyny and ritual violence.<sup>7</sup> The importance of song cultures to lower-class communities meant that it was often closely tied to working-class political radicalism.<sup>8</sup> Since the eighteenth century, political radicals across Europe had used song and theatre to convey political messages; as a result, the ability to sing, tell jokes and stories, and banter became important methods for conveying political ideas during the period.<sup>9</sup>

The extent and nature of political radicalism in early-nineteenth-century Ireland is a matter of considerable debate. In 1800, Dublin city had a population of around 170,000,

which had almost doubled to 318,000 by 1850.<sup>10</sup> It had few industries of scale and over forty per cent of men were occupied in the skilled trades, with another sixteen per cent employed as general laborers.<sup>11</sup> Like in many urban contexts, the Dublin lower classes, and particularly those from trade, were politically engaged. They were usually literate and, if Protestant, could become a Freeman through the guilds and so exercise the parliamentary vote. They also participated in a variety of combinations, whether through the guild system, journeyman organizations or friendly societies. As they were living in the capital city, Dubliners were also able to access the headquarters of political organizations across the spectrum, while Dublin was a major printing centre, producing tracts that fed into political movements across Ireland during the period.<sup>12</sup> The prefamine period was one of economic downturn, leading to un- and underemployment amongst the lower-classes and bitter labor disputes in Dublin. These were often explicitly associated in the public imagination with the political Union of 1800, which removed the Irish parliament and purchasing power of the social elite from Dublin, and the elimination of protective tariffs in the 1820s that had cosseted Dublin's trades from British competition.<sup>13</sup> This created a nationalist majority in Dublin, reflected in their election of Daniel O'Connell to parliament in 1832. They were also a community politicized by sectarianism, as the ongoing emancipation of Catholics was seen to endanger the historic privileges of the Protestant community at all social levels.<sup>14</sup>

Although the Irish lower classes used the language and imagery of their radical ancestors in their political protests, whether such groups were truly "radical" has been harder to establish. They certainly sought social reform, but many lower-class groups appeared to endorse a form of popular constitutionalism, rather than social and political transformation, believing that the change they desired could come from within current political forms and alliances.<sup>15</sup> At the same time, the change they demanded centered on limiting the rights of the



social elites (through reducing their powers of taxation and rental demands); moreover, as the social elite were associated with the British and colonial rule, local protests were tied into a larger political debate over Irish national sovereignty.

The Irish rebellion of 1798, followed by several decades of general social unrest across the country, as well as the political campaigns for Catholic Emancipation, and later Repeal of the Union, seriously worried the ruling classes. As a result, long held beliefs that the Irish were backwards, savage and unable to rule themselves continued to hold currency; by the mid nineteenth century, the Irish were even portrayed as animalistic, drawn as monkeys in political prints.<sup>16</sup> These depictions unmanned Ireland, by suggesting that the Irish did not meet the models of manliness required for political self-governance. While this was a discussion about a people and a nation, it was a debate that was located on the bodies of men. At the same time, the popular representation of Ireland as a woman placed Irishmen into the role of protectors of the nation, tying their masculinity into the question of national sovereignty.<sup>17</sup> As a result, the demands of the Irish lower class can be viewed within a larger “radical” tradition, alongside similar British movements, such as Chartism, which, while not “transcendent” in their vision, offered a significant challenge to the current social order.<sup>18</sup> Class and ethnic conflict, therefore, was at the heart of the lower class’s grievances and politicized everyday confrontations between different social groups and between the state and the people. The court provided a key venue for different social groups to meet and so to negotiate law and social order, and the role of the lower classes in its making.

### **The Theatre of the Court**

The early-nineteenth-century Irish court was a performative space. Judges and lawyers wore wigs and gowns to play their role, witnesses came prepped to perform their part, molding their experiences into popular cultural tropes that held meaning for the jury, and the audience filled the galleries and floor often to dangerous capacity. A high-profile case resulted in the public queuing for hours for a seat, leading to horrible accidents when galleries collapsed or people were crushed; it eventually led to the ticketing of particular trials to control numbers.<sup>19</sup> Journalists sustained the public interest, recording not only what was said in court, but what was worn, the physical use of the court space, and the responses of the audience as events unfolded.<sup>20</sup> In Ireland, as in other parts of the United Kingdom, lawyers were known for their wit and the ability to give a rousing speech. The popularity of the Irish political campaigner and lawyer, Daniel O’Connell, at least partly rested on his oratory powers. His appearance at the most tedious court case resulted in large crowds.<sup>21</sup> At the same time, those, like O’Connell, who were campaigning for increased rights for Irish Catholics still living under penal legislation and those who demanded the repeal of the union of Britain and Ireland, used this to their advantage.<sup>22</sup> While seditious speech, such as talking openly against the government or colonial rule, was censored in the press, particularly in the immediate aftermath of the 1798 Irish Rebellion, speeches made during the course of trials were more widely reported.<sup>23</sup> Lawyers, such as O’Connell, used their addresses to locate witnesses’ testimony in the context of social unrest, authoritarian British government, and “tyranny” over the Irish Catholic population.<sup>24</sup> The court provided a safe space to voice concern at injustice and to explore and justify Irish nationalism.

In Ireland, the courts became a liminal space. They represented the British state in Ireland, a symbol of colonial authority. At times of particular social upheaval and particularly towards the end of the nineteenth century, rejecting the authority of the courts, refusing to

report crimes, answer summons, or respond to questions on the witness stand, were used a form of political protest due to this association. This eventually led to the formation of a parallel court system, the Dáil Courts, as an alternative avenue for legal justice for Republicans – an action that reinforced the courts as British, “other” and illegitimate for many Irish.<sup>25</sup> If the courts are viewed as symbolizing Britain, then the actions of lawyers like O’Connell, who used the space to speak out against British rule, can be seen as an assault on British authority – the transformation of British space into Irish space, if only for a time.

Yet, at the same time, and partly because of the actions of men like O’Connell, the courts resisted being located as completely British territories. The magistrates’ and police courts in particular are not so easily interpreted. They were a system of social control managed by the Irish gentry and middle classes, and which came into conflict with the British state during the early nineteenth century.<sup>26</sup> Historically, the magistrates worked independently, often operating from their private homes or businesses. Their function was formalized in the early nineteenth century, notably in the early 1820s, within broader reforms for law and order, but as most magistracies were managed at a local level through the county sheriffs or town councils, there was some variety of operating procedure. The magistracy enforced colonial rule through the implementation of law, but they were also usually long-standing members of the community and traditionally members of the Anglo-Irish gentry. As Virginia Crossman has pointed out, the ability of magistrates to rule effectively was viewed (at least in fiction) as due to the fact they were both colonizer and colonized, like the courts themselves.<sup>27</sup>

With the revision of the magistrates’ list in 1822 and the extension of their role with the establishment of the petty sessions in 1823, the magistracy became an increasingly diverse ethnic, religious and social mix and their loyalties to the state varied across the

country. This reform also established the magistrates' "bench", where, instead of operating independently, magistrates sat together in a regularly-scheduled court, known as the petty session, and came to a joint consensus on justice.<sup>28</sup> In towns, such as Dublin, where the magistrate court was fully integrated into the policing system, magistrates continued to sit independently when dealing with simple matters of law and order. While the increasing diversity of the bench could lead to conflict between magistrates, they were united against the British state's assertion that they were not effective governors and an older generation of magistrates initially resisted the introduction of the Royal Irish Constabulary and Dublin Metropolitan Police from 1816 that were managed from Dublin Castle (the seat of British administration in Ireland).<sup>29</sup> The police were resented by magistrates and the Irish lower classes alike for their interference in traditional forms of governance and because they symbolized the heavy hand of the British state in everyday life. The magistrates, on the other hand, could be viewed as benign by the local community, especially if they were thought to be acting in the interests of the lower orders. In Dublin from 1808, the magistrates were paid state employees, appointed in combination by Dublin Castle and the Dublin Corporation (which in the nineteenth century represented Dublin's middle class, freemen and guilds). They were usually middle class and protestant, but in a city with a large protestant population at all social levels, were generally viewed as members of the urban community, rather than colonial imposition.<sup>30</sup> This was reinforced by the intermediary position played by the newly emerging middle classes. They were often involved in the same trades, guilds and secret societies as the lower classes, and while property was more central to their claims to political rights, like their lower-class counterparts, they often defined themselves against a corrupt and effeminate elite (as well as an unmanly and unruly lower class).<sup>31</sup>

Magistrates' courts were significantly less formal than the higher courts in location, dress and procedure. In large towns, they were held in a dedicated room within the police offices, but were not necessarily equipped with the paraphernalia associated with modern court rooms. Many did not appear to have dedicated spaces for the bench, court officials, or public, but rather space was used flexibly and haphazardly. Surviving images show magistrates crowded around small, moveable desks, with a clerk perched at a smaller desk again, while complainants stood in front of the magistrates. They were otherwise very sparsely furnished, with no hint of pomp or splendor. The rooms were usually depicted as crowded with the public standing or sitting on chairs. In some images, the crowd surrounded the magistrates on all sides.<sup>32</sup> Like the police offices themselves, the courts were often in poor districts, in poor quality buildings, sometimes upstairs over business premises, or in backrooms.<sup>33</sup> It was here that community matters were brought for arbitration and discussion, petty crimes were judged and serious crimes transferred into the criminal justice system. It was also in this space that men were given the stage, props and audience on which to perform.

The informality of the physical setting was mirrored in the everyday uses of the court. Unlike the criminal system, where before changes to the law from the 1840s the accused was not allowed to speak, the magistrates always heard both versions of a dispute before making a decision.<sup>34</sup> While magistrates tried to ensure that each side had a turn to speak, they permitted a level of informality in the giving of evidence, allowing people to argue with each other, speak over each other and even use the space to come to resolution without reference to the magistrates. It was unusual for plaintiffs or defendants to have legal representation in the magistrates' courts unless it was a particularly serious case or they were of a higher social class.<sup>35</sup> There was some flexibility of punishment in that the complainants and defendants

sometimes felt free to negotiate the sentence.<sup>36</sup> It was also a space where the relationship between the public and the police was negotiated as the community and the constabulary debated the nature of acceptable public behavior. The magistrates' court became integrated into community life, allowing people to air disputes and grievances in a space where traditional hierarchies of power within the community were destabilized, if not removed. It provided a relief valve for community tensions, yet through judgment or reconciliation, the court also restored order after disputes, maintaining the social system.

The reportage of journalists reinforced this sense of community with regular columns in local papers that detailed the weekly events in the petty courts, ensuring that magistrates were not just the impartial face of justice, but individual characters with particular politics, values and quirks.<sup>37</sup> Lawyers and those involved in repeated anti-social behavior also become familiar faces to the regular reader, so that outcomes and responses to particular cases could be predicted. The court became a familiar space with recognizable faces even to those who irregularly used it. The tales collected and composed by journalists, which provide the central body of evidence for events in the magistrates' courts, were often heavily stylized, written in narrative structure and leading to a climatic ending. They were based on real events and the prisoners can occasionally be traced in other sources, while the culture described in the courts reflected what is known more broadly about singing and other masculine behaviors amongst the lower orders in urban Ireland.<sup>38</sup> While not all court reporting was sensationalized, the function of many petty court columns (which primarily involved trivial crimes and disputes) was to entertain and they focused on cases which ranged between the sublime, the gruesome and the ridiculous – stories of lost love, amusing anecdotes and awful violence.

There is also the implication that the audience for these texts was broader than the Dublin middle classes. From the beginning of the century, but especially from the 1830s,

newspapers were reaching further and further down the social scale with a take-off in sales after 1840 with the reduction of newspaper tax.<sup>39</sup> They were increasingly conducive to being read aloud, which was particularly evident in the structure of the magistrates' court tales, while a number of working-class autobiographies indicated they heard news in this way.<sup>40</sup> Court officials recognized that newspapers reached a broader audience, asking journalists to report particular cases to encourage further witnesses to come forward and implying that these stories had the potential to reach an audience beyond the middle class.<sup>41</sup> Furthermore, and as shall be explored in this article, a close reading of these tales highlights the ways that the lower classes subverted the presentation of themselves in the police court tales, utilizing their performance to reinforce, rather than undermine, their manliness. In doing so, many showed awareness both of the genre and its political possibilities. Yet, even those who were motivated more by concerns of personal reputation than social reform contributed to the rehabilitation of lower class and Irish character due to the close connection between manliness and self-governance in political thought, where the concept of "independent manhood" was central to claims to both civic humanism and political rights for all social classes.<sup>42</sup>

In 1844, Peter Hoolihan was arrested on Christmas night for singing "who fears to speak of 98" in Westmoreland St.<sup>43</sup> His crime was exasperated as the song he was singing, it was claimed, was a political ballad, referring to the Irish rebellion in 1798, and so his performance was an act of sedition. The Constable explained that he found the defendant singing in the street and warned him to be quiet, which he was at first, until he got a couple of streets away, when he began again. He sang, "Who fears to speak of ninety-eight? Who blushes at the name? Not I by George, I don't care two-pence for 98, I am a man and I am a gentleman and mother has a strong green grocery establishment in Lennox-st and I don't care

the pairing of my nail for any man – who's afraid? Who's nervous? Who fears to speak of the 98? not I damn me!" After bantering back and forth with the magistrate, he was asked to explain his actions. Hoolihan noted that he was slightly "exhilarated" by wine, but he was not referring to the "past history of Ireland or the dispute in Thomas St, 40 years ago," "I meant Constable 98B – a glance at your collar will show he is 98B. I behaved with decorum till I imagined I was out of his jurisdiction and I did hurl my merciless defiance at him and tossing my inebriated nose in the air I did exclaim who fears &c."

The Magistrate asked him what reply he received to these interrogatories, and the defendant answered, "none, your worship; none whatever. But I could answer the latter question myself only that I am prevented by motives of delicacy from doing so in a public court." Constable 98B jumped up at this point, saying: "I scorn your dirty insinuations – I defy you. Nobody ever blushes at my name." Hoolihan then claimed he knew a young maidservant that blushed at the Constable's name, leading to a long conversation where the constable was encouraged to ask her out on a date. The defendant was fined 5s. Before leaving the court, he proceeded to elaborately and theatrically look out all of the windows in the room to the fascination of the court (checking for his creditors he explained), before he left singing "who fears to speak of 98?"

The magistrates' court became the place where battles over the use of Dublin space were fought and won or lost. In this sense, the magistrates' court, like the higher courts, became symbolic of Ireland – a place where the Irish negotiated amongst themselves and with the British state. In this context, the control of that space by Dubliners through singing and story-telling became, like the speeches of nationalist lawyers, an attempt to reclaim Ireland and resist the imposition of British authority. This was made explicit in the choices of song and story that the men told. While Peter Hoolihan claimed his song was an innocent jibe



in a personal conflict, his use of an expression that both clearly related to a revolutionary incident of Irish republicanism (1798 being the year of the Irish Rebellion and Thomas-street being the location of the 1803 Rebellion) and that his words acted as a direct challenge to the British state (whether in the form of the censors who restricted his words or the constable that limited his drunken singing) negated this assertion.<sup>44</sup> Furthermore, another ballad beginning with the line “Who fears to speak of Ninety-Eight? Who blushes at the name?,” but continuing “He’s all a knave, and half a slave, Who slights his country thus,” and calling on all patriots to follow in the footsteps of their predecessors in 1798, had been given in evidence that year during the trial of Daniel O’Connell for “exciting discontent and disaffection among Her Majesty’s subjects” (a charge that had initially threatened to be High Treason).<sup>45</sup> It was read out in full during the trial and used as a typical example of the seditious songs that O’Connell’s movement promoted.<sup>46</sup>

Hoolihan’s repetition of this song in the courtroom acted to make his challenge to the state public, both through the court audience and to the public through the court reporter, in a space where sedition should be contained, not advertised. This was reinforced through his physical presence in the courtroom, where he rushed from side to side looking out of window, which acted to extend the area of his influence and reinforce his freedom of action through movement (especially if contrasted with the image of the shackled prisoner being taken below stairs to a cell, an alternative outcome of the court proceedings). Similarly, personal conflict between men was not as apolitical as he tried to imply. Within a hierarchical society where class and authority were still closely connected, Hoolihan located himself as “a man”, a “gentleman” and part of the Dublin merchant class, using his manliness and occupation to reinforce his status as greater than that of the policeman. In doing so, he challenged the right of the police officer, and so the state, to regulate his behavior, attempting

to align himself with a social elite who continued to hold this privilege (customarily, if not legally) due to their status, and to claim similar rights for his social class.

The magistracy, through its imposition of a 5s fine, interpreted the incident as a drunken conflict between the defendant and the constable, effectively ignoring the political implications of his actions and leaving his challenge to state authority unrecognized. In this case, it was the journalist who reported this incident in the press that provided the warning to the public. He or she concluded the article by noting after Hoolihan left the court singing that “it is to be hoped he did not meet Mr Brewster on the way.” Abraham Brewster was a prominent barrister, Queen’s Counsel and later Lord Chancellor of Ireland, who in 1844 was in the process of prosecuting Daniel O’Connell. Brewster was also a larger than life character, disliked by the nationalist press for his willingness to prosecute and defend on the “the wrong side,” but admired for his wit and hardnosed cross-examinations.<sup>47</sup> His inclusion in this article acted to caution readers that a different magistrate or audience may have resulted in a different outcome.

### **Singing and Social Space**

Singing was an important tool in the reclamation of social space. In the early nineteenth century, music was understood as a central method of spreading political messages, for inculcating people in political ideology, and in social control. It was understood to “inflame the passions” and so could be used to stir up Irish nationalist and anti-British feeling.<sup>48</sup> The Irish nationalist newspaper *The Nation*, which claimed to receive twenty songs every week to be published in its pages, actively promoted music as a political strategy, noting “we furnish political songs to stimulate flagging zeal, or to create it where it does not exist.”<sup>49</sup> At the

same time, it was recognized that music could be used to control the Irish and there was considerable effort put into channeling the desire of the Irish to sing into socially-acceptable diversions.<sup>50</sup> The nominally apolitical Temperance Movement, which was hugely popular in the 1830s and 40s, organized singing lessons with famous masters to great success.<sup>51</sup> Hymn-singing was also a popular past-time offered by religious organizations.<sup>52</sup> Music was believed by the Georgians and Victorians to pacify and distract as well as disrupt, although its ambiguous nature always threatened to resist containment.<sup>53</sup> Despite the best efforts of the Temperance leaders to be apolitical, Temperance choirs and bands were frequently found at the political rallies of Daniel O'Connell.<sup>54</sup>

Singing was an effective method of claiming social space. The act of singing extended the physical presence of the individual over a much broader area, and for a time at least, it marked that space as part of the person. As such it threatened people within that space who felt that their territory was being infringed on. This was most evident in Belfast, where the early nineteenth century saw sectarian street singers and marching bands literally marking out territory with music.<sup>55</sup> While sectarian violence was less overt in Dublin, music had the same function and many disputes, even over the most apolitical of street-singing, were recognized as disputes about the control of social space.

In 1847, John Oliff was charged with disturbing the peace at night on St Stephen's Green, in the centre of Dublin. The policeman on duty reported that he heard the most extraordinary sounds:

He could not call it bawling or shouting, nor yet could he designate it singing, although it bore a stronger affinity to the latter, than it did to the former, taking the key of the freestone note into account. On his approach to the place from whence this

strange noise proceeded, it became somewhat like the pipes in “Tam O’Shanter” – it louder and louder grew.

The constable “very civilly” requested that Oliff desist, but “the more he interceded for peace, the more outrageous did the defendant become, and continued such a pullalieu that it became rather serious,” waking all the nearby residents. Oliff explained that he had been to hear the famous opera singer Jenny Lind, and he was merely “imitating some of her notes” and “the people ought to be very much obliged to him for his condescending to act the Swedish Nightingale without fee or reward.” He then told the policeman to “go on about his business and just allow me to follow my vocation.” At his refusal to desist, the policeman and two colleagues arrested the struggling and protesting Oliff, who continued to sing not only on his way to the police station, but all night in the cells “to the great terror of all persons confined there.” He was fined 1s by Mr Tyndall.<sup>56</sup>

The dispute over Oliff’s musical expression became serious because it was a contest over the use of public space. Oliff claimed that his use was legitimate, even necessary for “his vocation,” while the constables disputed his right to take ownership of space in that manner, particularly at night. While the constable could physically remove him from the park and place him in the cells, they could not stop his voice that continued to extend his physical presence across space, disturbing his neighboring prisoners and acting as a constant challenge to the actions of the police. There was no implication that Oliff was drunk, either in the course of testimony, or in the amount of his fine; a charge of drunkenness was a standard five shilling fine in the Dublin magistrates’ court. That the magistrates chose to fine him so little suggests that they too were uncertain of the legitimacy of the police action; that singing held multiple meanings and purposes made its use ambiguous. In other cases, singers directly recognized their music as a challenge to authority. As the drunken Judy Hackett noted when

she was arrested for singing with her husband at 530am on St Patrick's Day in 1838, "blow the new polis, the magistrates and Perrin's Act to smithereens – she would maintain her rights, keep up Sheelah's day, and make Lough Erne ring."<sup>57</sup> In both these cases, the contest over the use of public space was created because of the time of day, the creation of noise during unsociable hours during an era where such was noise was increasingly viewed as disorderly by the elite.<sup>58</sup> At the same time, as Judy Hackett's words implied, not all members of the community accepted this construction of orderliness, especially not on days of holiday or festival, where the boundaries of acceptable behavior were viewed by the lower classes as legitimately being open to contest.<sup>59</sup>

Music also allowed space for political activism in an era where the voicing of political ideology was highly controlled. Seditious ballads were technically prohibited on the streets of Dublin, yet there was a number of ways to contravene this ban. As the example above illustrates, if a song was about Constable 98B and not the Irish Rebellion of 1798, then no crime was committed. If the political implications of a ballad were not clear (or could be ignored) then singers were given the benefit of the doubt. In 1844, Augustus Fitzclarenc and his friends were arrested "for shouting in the most outrageous manner" in Mountjoy Square.<sup>60</sup> The police constable requested that they should be quiet, but they refused "speaking to him in an unknown tongue" and so he brought them to the station house. The men explained that they were not shouting, but singing the "Marsellais [sic] Hymn." They had just come from France, where singing in the street was not illegal and they were not aware it was outlawed in Dublin. Dr Kelly, the magistrate, replied that singing was not prohibited in Dublin, "either in the streets or elsewhere, if persons confined themselves to singing; but there was a great difference between singing and bawling like jack-asses." He discharged the men with a caution.

Their choice of song – an explicit, violent call to arms against monarchy and tyranny used during the French Revolution and from 1795 the French national anthem – or its political implications were not mentioned.<sup>61</sup> The defendant’s use of the song title alongside the comment that they came from a country where men were “free” to sing in the streets was a subtle criticism of the political order in Dublin (which the magistrate was quick to defend) and an endorsement of the French Revolution. To the knowing reader, it also pulled in historical events: the French had supported the Irish Rebellion of 1798 and Irish Republicanism of the period was heavily influenced by French politics.<sup>62</sup> At the same time, the location of the disturbance on Mountjoy Square may have pointed to the current nationalist crisis, the prosecution of their leader Daniel O’Connell. A popular home for Dublin lawyers, his defense lawyer, James Whiteside, lived at number 2, while a member of the prosecution team Joseph Napier lived at number 17.<sup>63</sup> Despite the wealth of political messages this incident provoked, the magistrate chose to view this as another case of disorderly behavior, allowing the court audience and the readers of the Dublin press to make their own reading.

There was also room within sedition law for magistrates to have some leeway in how they interpreted political music. Political protest, performed peacefully and promoting change through legitimate means (such as parliamentary lobbying), was not technically illegal; sedition required the accused to have effected “discontent” and “dissatisfaction” against the state (a phrasing that was flexible enough to give magistrates, judges and juries latitude in both directions). This allowed singers of political songs to argue that their music was legitimate protest. The street ballad singer and entertainer Zozimus (also known as Michael J. Moran), who was regularly arrested for singing and selling political ballads on the streets of Dublin, walked this line carefully. He argued that his songs were “A truly constitushinal and

patriotic composition,” while his right to sing in the street was due to the “constitutional privileges conferred by Magna Charta.”<sup>64</sup>

On one occasion, when it was suggested that he annoyed the public, he responded: “Annoy the public!– My songs annoy the public! Why princes and all kinds of quality have stood listening to me in the cold’s winter’s nights, but tis only since the new polis came into operation that I’m interfered with [...] I live in a free constitution, and I’ll not give it up. I’ll die before I cease [cease] singing about repeal [repeal], and you may gag me and put me in the stocks if you like.”<sup>65</sup> Similar to the speeches of O’Connell himself, Zozimus’ music, which he invariably performed for the court when arrested, carefully balanced calls for peaceful protest with hints at a dangerous underbelly of violence:

Now John Bull be easy [easy]- don’t think we are mad; Now we look for is just the old house that we had; We’re determined to get it– we’ll seek it in peace [peace]; Arrah Johnny my joker, give Pat back his lease [lease]. You stole it you know, at a time when the boys, Got drunk with dissension, confusion and noise [reference to the Irish Rebellion, which was followed by the Union of 1800]; But in spite “loky folky” and the Scorpion’s tail [references to songs that centre on wrong-doing to innocent protagonist and his violent vengeance], Well bother union and bring back repeal [repeal].<sup>66</sup>

He was consistently admonished by the magistrate for blocking public highways, before being released. In turn, his lyrics were published in full in the next day’s paper, spreading both his political message and no doubt operating as marketing strategy to increase his ballad sales.

Musical airs were also used to give a political edge to benign lyrics. A number of people arrested left the court humming “Planxty O’Connor”, which was a harmless jig written by the famous nationalist ballad writer Thomas Moore (the music of whom Daniel O’Connell attributed “the desire for liberty in Ireland”).<sup>67</sup> Similarly, humming “Nix my doll” when engaging the police or leaving the magistrates’ court was popular.<sup>68</sup> In this ballad, a professional thief was sentenced to transportation but escaped to continue his adventures. It was a story of over-coming state authority and a celebration of the underworld culture that was a regular feature of police court business. To hum the tune or sing the lyrics of this song when leaving the court was to intimate to a knowing audience that the state had been fooled (although in what way was not always clear), which acted to restore the manliness of the defendant and undermine the authority of the court over the lower orders.

Other singers used this method to put their own nuance on the court proceedings that had gone before. In 1843, when a “White Quaker” avoided punishment for being disorderly after a crowd gathered to receive the handbills he was handing out, he exclaimed as he left the court “the fight of the Lord is a good fight and he shall be triumphant,” before singing the hymn “The Lord’s warrant to his lover, shall be free the world over.”<sup>69</sup> This religious man used his “victory” to give praise to God, furthering the message that he was promulgating in his handbills. After having his case for bigamy adjourned when his wife could not produce her marriage certificate, Paddy Carey left the police office “chuckling at his triumph” and singing a popular ballad: “How happy could I be with either, were tother dear charmer away; But while thus you torment me together, Oh! dear whiskey now come in my way!”<sup>70</sup>

Music became a method of resistance to the state. Even in cases where that resistance was limited to humming when leaving court, the defendant was effectively having “the last word.” This was particularly relevant in a culture where banter was highly prized and the man



(or woman) with the last word was the victor. Having the last word or lyric shifted the balance of cultural, if not legal, authority towards the defendant, helping restore any dignity that had been lost during the trial. At the same time, singing acted as a release – a celebration (and if there is celebration there must be victory) – after the formality of the trial, while music’s ability to expand or exceed boundaries and its capacity to hold multiple meanings contrasted with the concept of a single truth, or single consensus, that was the goal of the court.<sup>71</sup> It spoke to another culture that would read the events of the trial differently from the court officials and of speaking of this culture, it gave it power.<sup>72</sup> This in turn reduced the authority of the state that was represented by the court system; it was an act of resistance that magistrates did little to counteract. More broadly, it also spoke to the growing confidence of the Irish nationalist movement of the period as they continually pushed the boundaries of what could be spoken and contested, receiving little opposition from the magistracy even during the height of O’Connell’s trial and the rise of the Young Irelander movement.<sup>73</sup> Indeed, contests over musical performances and singing within the court appear to increase during the social and political turbulence of the 1840s, but it is difficult to assess whether this is an increase in incidence or in reporting, especially given the growing interest by the middle classes in singing as a cultural form amongst the lower classes around the mid-century.<sup>74</sup>

### **Masters of the Stage**

As well as holding a political function, court room performance spoke to the manliness of the actors. Singing within the court was a male activity, reflecting the association of the Irish singing tradition, where bards were imagined as male, with men.<sup>75</sup> Female singers that sang in the court – mostly female ballad singers – were always accompanied by their husbands and they performed in harmony with each other, representing their union through music.<sup>76</sup> Female

ballad singers, and other women arrested for singing in the street, that appeared alone were generally not given the opportunity to perform and were more likely to receive jail time (partly due to an association between female street performances and prostitution codified in the Vagrancy Act of 1822).<sup>77</sup> In contrast, Irish men's singing was associated with morality, tradition, and sentiment. The "cultural renaissance" of Irish music experienced during the period was used to rehabilitate the Irish character in an era where they were being simultaneously depicted as animalistic, savage and unruly.<sup>78</sup> The forms of Irish singing that sold in England were more associated with rural, pastoral scenes and "Ossianic" heritage than city life and radical politics, but nevertheless, they brought cultural authority to Irish singers more generally, and particularly to men who fitted the "bardic" mould, such as the blind and eccentric ballad singer Zozimus. Dublin-men's singing was imbued with the authority held by the bard in Irish culture and now in the Empire more widely. The mastery of song and story signified the achievement of a form of manliness that held meaning both in Ireland and beyond. In doing so, it brought authority to the political values espoused by Dubliners, disrupting perceptions that the movements for Catholic emancipation and repeal of the Union were the markers of an uncivilized people.

The performance of James Barrett that begins this article hinted at these multiple readings of the Irish. James's management of the courtroom through his story and verse – his ability to draw in the magistrate, court audience and the reader of the Dublin press to his tale and especially his capacity to provoke laughter – highlighted his skill as a performer and his manliness in mastering his audience. He demonstrated his poetic ability through his humorous verse and his literary knowledge through his references to Byron's *Don Juan*. In doing so, he located his poetry and life experience within a broader literary tradition beyond Ireland, inviting comparison to no less than Lord Byron himself, perhaps taking pleasure in

an association with a man not just of great literature, but known sexual ability and a participant in radical European politics.<sup>79</sup> He claimed authority for the cultural tradition of Irish singing and story-telling and for himself as a man and a poet through his reclamation of court space.

At the same time, his narrative spoke to the political culture of Dublin's artisans, both through Bryon's association with radical politics and through his occupation as a shoemaker. Barrett's insistence that "there never was an honest man a shoemaker" drew on a much longer historical stereotype across Western Europe, reflected in popular story, song and proverbs, where shoemakers were known for their oratory abilities, learning and political radicalism.<sup>80</sup> This was also reflected locally in the representation of shoemakers as loquacious in the contemporary folktales of William Carleton and the significant role shoemakers played in Dublin political life.<sup>81</sup> According to Dublin police records for the 1820s, shoemakers were by far the largest represented occupational group amongst known Ribbonmen, a prominent Republican secret society of the period.<sup>82</sup> Amusingly, his disparagement of this social group led the magistrate Samuel W. Tyndall, who was Protestant although his political affiliation is unknown, into defending this group of artisans and by association endorsing the radical politics they stood for (something that Tyndall may well have been complicit in doing).

For the knowledgeable audience, James' performance spoke to the multiple facets of his identity and to his achievements as a man. It spoke to his success as a lover (if belatedly and in comic form) and to his accomplishments as a poet and entertainer, both of which he used to elide his less successful performances as a shoemaker and as a son. This identification with virile heterosexuality, his occupation as an artisan, and his knowledge and use of humorous and bawdy songs highlighted his participation in a wider culture of journeyman

manhood found across the United Kingdom and Europe during the period.<sup>83</sup> Barrett's story also contained an element of mischievous playfulness that aligned him with the Dublin criminal "underworld," as a drunk, as someone without a recognizable source of income, and as a fighter, without portraying himself as dangerous or subversive that could potentially lead to greater jail time. His rejection of the assertion of the honesty of shoemakers – which could be used to imply that he was honest and so recognized dishonesty or that he was a shoemaker and was also dishonest – reinforced this ambiguous positioning of self between rough and respectable. Finally, his association with shoemakers and acknowledgement of their "dishonesty" implied an insider knowledge of Dublin's secret societies, although again whether he accepted or rejected their values is unclear.

This positioning of self allowed him to claim ownership of a number of masculine identities available to the Dublin lower classes through allowing his performance to be read in multiple ways, whilst still firmly situating himself within this social group. It also spoke to his place in the life-cycle where as young man he had less need to present himself as thoroughly respectable or solvent, and even hinted at the fact that, especially given his youth, he may be "all puff and no substance," reinforcing his "innocence" to the court without undermining his masculinity (he had shown his knowledge of proper masculinity through his control of the courtroom, even if he could not yet achieve it in other areas of life due to his age).<sup>84</sup> Through his court performance, Barrett claimed himself as a manly member of the Dublin lower orders and as an Irishman, whilst at the same time, seeking to reaffirm both these identities as manly within a wider colonial context through his outward-looking poetry. His ability to extend these identities across the court space through his performance, dominating the proceedings, acted to transform that space into Irish space and to claim the authority of the court for the Irish nation. His behavior thus attempted to legitimate and

rehabilitate the Irish character, which is not to say that this would be the only reading of his performance. Mr Tyndall, while giving him space to perform at length, still chose to view him as a violent and disobedient son, sentencing him to one month in jail, a typical sentence for intra-family violence. Through trivializing Barrett's construction of himself, Tyndall closed down the potentialities that Barrett opened up through his behavior and restored social order.

At a local level, singing within the court spoke to the demands of the Dublin artisan and working class, where the ability to sing and story-tell was highly prized.<sup>85</sup> Not only did ballad singers and street performers attract large crowds, but so did musical performances in public houses, in which the audience often joined. One constable reported that at the "teetotal" unlicensed house of Mr Page, there was both a stage and nightly performances and the "good deal of singing" by the audience. When Mr Page was prosecuted for a second time, it was noted that there was 50 to 100 persons in the audience and they "were very noisy rapping soda water bottles against the tables."<sup>86</sup> Other people were arrested or observed singing in the doorways to their homes, in groups in private houses, at work and in gardens.<sup>87</sup> Participation in and enjoyment of singing culture was a marker of lower-class manhood. Musical talent was something to take pride in and music itself a comfort both to the performer and his audience.

After John Browne was sentenced to transportation for theft, he asked the judge if his flute could be returned, because "I never met the man or boy I wouldn't take the shine out of"; "It's often I riz [raise] the heart of a dying man by playing variegations on my flageolet" and "it'll be the hoiglit of diversion to be playing tunes while we're on the waters. Music on the sea beats all, you know."<sup>88</sup> As he left the court, he sang: "I care not now for any ill, For banishment or strife, I've got a mouth and fingers still, To play upon my pipe. If, when we're

on the roarin says, The presenters should fret, I'll sing the song of happier days, and blow my flageolet." While his banishment from Ireland acted to emphasize the authority of the court and removed his masculine independence, Browne's emphasis on his musical skill was used to rebuild the image of himself as manly, to transform his punishment into a leisure activity (so subverting court authority), and to provide consolation to himself and others during their potentially arduous journey.

In contrast, the Dublin police, themselves usually men from the lower classes using the police as a form of social mobility due to its reasonable pay, were often represented as unmusical, and so unmanly.<sup>89</sup> When Henry Lampkin was arrested for being disorderly after serenading his beloved under her bedroom window (to her family's great annoyance), he complained that "it would be just as difficult to bring a policeman into the belief that 'music hath charms' as it would be to turn the stream of the Niagara up the falls," before going on to assert it was "their character as mere policemen" that made them immune to music's appeal.<sup>90</sup> Similarly, when Oliff was arrested for his attempt at opera in Stephen's-Green, he told the policeman that "Tut you fool, [...] you don't know anything about it," while a constable that broke up a teetotal dancing party was described as a "rude intruder."<sup>91</sup> Mr Fitzclarence, arrested for singing the Marseillaise Hymn, asserted that "it was all a mistake on the part of the officers," situating the police as external to the Irish manly culture of which they were participants.<sup>92</sup> In an interesting reversal, Fitzclarence's arresting officer also utilized this discourse, arguing that the defendants were not singing, but shouting.

The ability to sing and story-tell, and particularly to claim space through song, was central to performances of Irish manliness among lower-class men in Dublin, and was a central marker for determining manhood. As a result, men turned to song at times when masculinity was at

stake, such as in the courts where the manliness of the defendant or plaintiff (and also his representatives) was a key component in engaging the sympathy or solidarity of the magistrates. This was not something that could be achieved by all Irishmen – reliant on an individual's ability to master song and story – but was a quality to be aspired to and attempted. At the same time, battles over the existence and extent of Irish manliness extended beyond the individual during a period where the Irish were frequently portrayed as savage and unruly, and where their ability to achieve manliness was always in dispute. Claims to manliness acted to rehabilitate not only the individual on trial, but the Irish people more broadly.

During the first half of the nineteenth century, singing was an extremely effective way to do this due to its increasing cultural authority as a popular art form, but also because of its ambiguous nature, which allowed song to portray multiple and complex messages that spoke simultaneously to the experiences of the individual, the Dublin lower class and the Irish as a nation. This ambiguity allowed song to be used sophisticatedly by performers to portray multiple messages about identity, and increasingly to support Irish nationalist causes, without engaging in outright sedition. At the same time, singing had the ability to extend the individual over space and, in doing so, to reclaim that space. As a result, singing became a powerful weapon in disputes over space, whether in the street between the lower-classes themselves, between the lower-classes and the police, or in the courts that symbolized the occupation of Irish territory by Britain. In all three instances, the act of claiming space by the Irish acted as a challenge to British claims to that space, and so even apolitical singing operated to further the nationalist movement. (The notable exception here is the Unionist Irish who use music to claim Ireland for Britain).

It is also evident that during the decades between the Irish Rebellion of 1798 and that of 1848, the Dublin lower-classes were increasingly open about their political engagement, that political identity became increasingly important to representations of manliness for this social group, and that singing became both more explicitly nationalist in sentiment and effective as a tool in furthering campaigns for Catholic emancipation and Repeal. Despite efforts by the state to curb the nationalist movement through prosecuting its leaders, at a local level, there was very little effort made by magistrates to curb these early hints of sedition, allowing the movement to become increasingly outspoken and confident in its claims. This in turn was given further audience through a nationalist press and a court journalist, telling humorous (and surely harmless?) tales of the magistrates' court.

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  2. "Dublin Police," *Freeman's Journal*, May 30, 1845.
  3. Susan Steinbach, "The Melodramatic Contract: Breach of Promise and the Performance of Virtue," *Nineteenth-Century Studies* 14 (2000): 1-34; Seska Lettmaier, *Broken Engagements: the Action for Breach of Promise of Marriage and the Feminine Ideal, 1800-1940* (Oxford, 2010); Shani D'Cruze, "Sex, Violence and the Local Courts: Working-Class Respectability in



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4. Phillip Gordon Mackintosh and Clyde R. Forsberg, “Performing the Lodge: Masonry, Masculinity, and Nineteenth-Century North American Moral Geography,” *Journal of Historical Geography* 35 (2009): 451-472.
  5. McLaren, *Trials of Masculinity*.
  6. Adam Fox and Daniel Woolf, “Introduction,” in *The Spoken Word: Oral Culture in Britain, 1500-1850*, ed. Adam Fox and Daniel Woolf (Manchester, 2002), 18.
  7. Anna Clark, *The Struggle for the Breeches: Gender and the Making of the British Working Class* (Berkeley, 1995), 141-157; I. J. Prothero, *Radical Artisans in England and France, 1830-1870* (Cambridge, 1997).
  8. Katie Barclay, “Sounds of Sedition: Music and Emotion in Late-Eighteenth-Century Ireland,” presented at Centre for Eighteenth-Century Studies Seminar Series, Queen’s University, on May 20, 2011.
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10. Anne Power, *Hovels to High Rise: State Housing in Europe since 1850* (London, 1993), 319; Jacqueline Hill, *From Patriots to Unionists: Dublin Civic Politics and Irish Protestant Patriotism, 1660-1840* (Oxford, 1997): 198.
11. Jacqueline R. Hill, "Artisans, Sectarianism and Politics in Dublin, 1829-48," *Saothar* 7 (1981): 15.
12. Hill, "Artisans, Sectarianism," 15-20; James S. Donnelly, *Captain Rock: the Irish Agrarian Rebellion of 1821-1824* (Cork, 2009), 102; Richard Sher, *The Enlightenment and the Book: Scottish Authors and their Publishers in Eighteenth-Century Britain, Ireland, and America* (Chicago, 2006), 434-467.
13. Jacqueline Hill, "Religion, Trade and Politics in Dublin 1798-1848," in *Cities and Merchants: French and Irish Perspectives on Urban Development, 1500-1900*, ed. P. Butel and L. M. Cullen (Dublin, 1986), 247.
14. Hill, "Artisans, Sectarianism," 12-27.
15. John Bew, *The Glory of Being Britons: Civic Unionism in Nineteenth-Century Belfast* (Dublin, 2009).
16. L. Perry Curtis, *Apes and Angels: the Irishman in Victorian Caricature* (London, 1997); for similar representations of 'non-white British' men in other British colonies, see: John Tosh, *Manliness and Masculinities in Nineteenth Century Britain* (Harlow, 2005), 49-50.
17. Patrick J. Duffy, "Writing Ireland: Literature and Art in the Representation of Irish Place," in *In Search of Ireland: a Cultural Geography*, ed. Brian Graham (London, 2002), 64-84.

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18. James A. Epstein, "The Constitutional Idiom: Radical Reasoning, Rhetoric and Action in Early-Nineteenth-Century England," *Journal of Social History* 23, no. 3 (1990): 553-574.
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21. Charles Chenevix Trench, *The Great Dan: a Biography of Daniel O'Connell* (London, 1984), 75-98; Patrick M. Geoghegan, *King Dan: the Rise of Daniel O'Connell, 1775-1829* (Dublin, 2008), 56-84; Charles Phillips, *Curran and his Contemporaries* (New York, 1862).
22. For discussion of Irish radical politics: Kevin Whelan, *The Tree of Liberty: Radicalism, Catholicism and the Construction of Irish Identity 1760-1830* (Cork, 1996); Hill, *From Patriots to Unionists*; C. H. E. Philpin, ed., *Nationalism and Popular Protest in Ireland* (Cambridge, 2002).
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27. Virginia Crossman, "The Resident Magistrate as Colonial Officer: Addison, Somerville and Ross," *Irish Studies Review* 8, no. 1 (2000): 23-33.

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29. Broeker, *Rural Disorder*, 39-54.

30. Hill, *From Patriots to Unionists*, 294-9 and 318.

31. Anna Clark, *Scandal: The Sexual Politics of the British Constitution* (Princeton, 2004), 9.

32. For example, see the image of the Irish petty session on the front page of *London Illustrated News*, February 12, 1853.

33. Brian Griffin, *The Bulkies: Police and Crime in Belfast, 1800-1865* (Dublin, 1998).

34. Lettmaier, *Broken Engagements*, 93.

35. Until 1836, there was no legal obligation on magistrates to entertain legal representation, although they were not legally barred either. David Bentley, *English Criminal Justice in the Nineteenth Century* (London, 1989), 23.

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36. For example, “Dublin Police,” *Freeman’s Journal*, September 28, 1830, August 27, 1838, September 22, 1838, November 14, 1832; “Dublin Police,” *Ballina Advertiser*, February 12, 1841.

37. For example the *Freeman’s Journal* had “Dublin Police”; the *Belfast Newsletter* “Police Courts”, and the *Carlow Morning Post* “Carlow Petty Sessions”.

38. For example, John Browne who was sentenced to transportation in 1842 (identified by both his trial date and that he stole a unique silver snuff box) and discussed below can be found in the transportation database – National Archive of Ireland TR4, 62; for more on the culture see: Maura Cronin, “Memory, Story and Balladry: 1798 and its Place in Popular Memory in Pre-famine Ireland,” in *Rebellion and Remembrance in Modern Ireland*, ed. Laurence McGeary (Dublin, 2001), 112-134.

39. Inglis, *Freedom of the Press*, 224-227; Jeremy D. Popkin, “Press and the ‘Counter-discourse’ in the Early July Monarchy”, in *Making the News: Modernity and the Mass Press in Nineteenth Century France*, ed. Dean de la Motte and Jeannette M. Przyblyski (Boston, 1999), 15-42.

40. Kelly J. Mays, “Domestic Spaces, Readerly Acts: Reading(,) Gender and Class in Working-Class Autobiography”, *Nineteenth-Century Contexts* 30, no. 4 (2008): 342-368; David Vincent, *Bread, Knowledge and Freedom: a Study of Nineteenth-Century Working Class Autobiography* (London, 1981), 24-25.

41. For example, “A Case of Distress,” *Belfast Newsletter*, November 25, 1842. Newspapers were also used for evidence, so that death announcements were used to prove innocence in bigamy cases, for example “Extraordinary & Interesting Trial Commission Court, Dublin,”

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*Belfast Newsletter*, May 1, 1829, or people were ordered to advertise for particular individuals before a decision was made by the court.

42. Mathew McCormack, *The Independent Man: Citizenship and Gender Politics in Georgian England* (Manchester, 2006), 165-9; Clark, *Struggle for the Breeches*, 141-147; Nancy Curtin, *The United Irishmen: Popular Politics in Ulster and Dublin, 1791-1798* (Oxford, 1994), 13-37.

43. "Dublin Police," *Freeman's Journal*, December 28, 1844.

44. Cronin, "Memory, Story," 112.

45. *A Report of the Proceedings of an Indictment for a Conspiracy, in the Case of the Queen v Daniel O'Connell...* (Dublin, 1844); Trench, *Great Dan*, 262-291.

46. John Flanedy, *A Special Report of the Proceedings in the Case of the Queen against Daniel O'Connell, esq* (Dublin, 1844), 128.

47. F. Elrington Ball, *The Judges in Ireland, 1221-1921* (New Jersey, 2005), 301.

48. Leath Davis, *Music, Postcolonialism and Gender: the Construction of Irish National Identity, 1724-1874* (Notre Dame, 2005), 39.

49. Georges Denis Zimmerman, *Songs of the Irish Rebellion: Irish Political Street Ballads and Rebel Songs, 1780-1900* (Dublin, 2002), 10 and 75.

50. Richard Leppert, "Social Order and the Domestic Consumption of Music: the Politics of Sound in the Policing of Gender Construction in Eighteenth-Century England," in *The Consumption of Culture 1600-1800: Image, Object, Text*, ed. Ann Bermingham and John Brewer (London, 1997), 515-516.

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51. Maria McHale, "Singing and Sobriety: Music and the Temperance Movement in Ireland, 1838-43," in *Music in Nineteenth-Century Ireland*, ed. Michael Murphy and Jan Smaczny (Dublin, 2007), 166-186.
52. For example see this advertisement for hymn-singing, "Vocal Music," *Belfast Newsletter*, October 22, 1844.
53. Leppert, "Social Order," 516.
54. McHale, "Singing and Sobriety"; for example see: "Ballina Petty Sessions," *Freeman's Journal*, December 17, 1845.
55. Dominic Bryan, *Orange Parades: the Politics of Ritual, Tradition and Control* (London, 2000), 29-43.
56. "Dublin Police," *Freeman's Journal*, September 1, 1847.
57. "Dublin Police," *Freeman's Journal*, March 21, 1838. Perrin's Act, after Louis Perrin an Irish judge, restricted the opening hours of public houses.
58. Bruce Johnson and Martin Cloonan, *Dark Side of the Tune: Popular Music and Violence* (Aldershot, 2009), 38.
59. Peter Burke, *Popular Culture in Early Modern Europe* (Aldershot, 2009), 255-288.
60. "Dublin Police," *Freeman's Journal*, January 9, 1844.
61. Cronin, "Memory, Story".
62. Curtin, *The United Irishmen*.
63. *Henderson's New Belfast Directory and Northern Repository for 1843-44* (Belfast, 1843).

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64. "Dublin Police," *Freeman's Journal*, September 12, 1840; "Dublin Police," *Freeman's Journal*, October 24, 1840. See also "Dublin Police," *Freeman's Journal*, September 7, 1844. For O'Connell's strategy, see: Trench, *The Great Dan*, 192-193.
65. "Dublin Police," *Freeman's Journal*, September 12, 1840.
66. "Dublin Police," *Freeman's Journal*, September 12, 1840. Loki is the son of the war god Odin who, according to the folksong "Loki's song", despite his hard work was kept out of Odin's hall, and now awaits vengeance. The Scorpion's tail probably refers to Milton's *Samson Agonistes*, where Samson – despite his good deeds – is cruelly punished and yet gets vengeance, John Milton, "Samson Agonistes," in *The Works of the Poets of Great Britain and Ireland*, ed. Samuel Johnson, vol. 2 (Dublin, 1804), 119.
67. Davis, *Music, Postcolonialism*, 140; "Charge of Leveling," *Connaught Journal*, August 27, 1829.
68. For example see, "Dublin Police," *Freeman's Journal*, November 20, 1840.
69. "Dublin Police," *Freeman's Journal*, November 1, 1843.
70. "Dublin Police," *Connaught Journal*, October 15, 1832.
71. For discussion of music as release after control, see James C. Scott, *Domination and the Arts of Resistance: Hidden Transcripts* (London, 1990), 116-117. For a discussion of consensus as the goal of the court, see: James Oldham, "Truth-Telling in the Eighteenth-Century English Courtroom," *Law and History Review* 12, no. 1 (1994): 95-121.
72. Of authorized languages and the creating of authority, see P. Bourdieu, *Outline of a Theory of Practice* (Cambridge, 1972), 170; M. de Certeau, *The Capture of Speech and Other*



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*Political Writings* (Minneapolis, 1994), 32-33; R. Darnton, *The Great Cat Massacre and Other Episodes in French Cultural History* (London, 1985), 6.

73. For a discussion of small acts of resistance as the first steps to rebellion, see: Scott, *Domination*, 193-198.

74. Davis, *Music, Postcolonialism*.

75. Davis, *Music, Postcolonialism*, 61-69.

76. "Dublin Police," *Ballina Impartial*, November 10, 1828; "Dublin Police," *Freeman's Journal*, September 3, 1842.

77. "Waterford Quarter Sessions," *Belfast Newsletter*, November 12, 1839; "Dublin Police," *Freeman's Journal*, July 9, 1845. For an example where magistrates explicitly discuss the relationship between female ballad singing/ vagrancy and prostitution, see: "Carlow Petty Sessions," *Carlow Morning Post*, February 7, 1831 and July 14, 1831. This is not to say women did not participate in other forms of performative behaviour; women were especially good at "bantering" with lawyers and many took great pride in their skill during cross-examination.

78. Davis, *Music, Postcolonialism*, 188-190; Curtis, *Apes and Angels*.

79. Susan Schmid, "Byron and Wilde: the Dandy and the Public Sphere," in *The Importance of Reinventing Oscar: Versions of Wilde during the Last 100 Years*, ed. Uwe Böker, Richard Corballis and Julie Hibbard (New York, 2002), 81-90; Fiona MacCarthy, *Byron: Life and Legend* (New York, 2004).

80. E. J. Hobsbawm and Joan Scott, "Political Shoemakers," *Past and Present* 89 (1980): 86-114.