

LYONS, Bernard

Variations :

Alias :

Ship	Date arrived (Sydney)
City of Edinburgh	27 June 1832

Shipping indent(s)

Fiche	Page	Reel	Shelf	Type
682	51		4/4017	Bound
700	75		X634	Printed

Trial (place, date)	Prev conv	Offence	Sentence
Galway 8 August 1831	Nil	Perjury	7 years
Notes: Source = bound indent			

Age	Marr/S	Child'n	Relig	Educ	Native place	Country
26*	S		Cath	None	Co. Galway	Ireland
Notes: Source = bound indent. Re age, printed indent shows 14, but bound indent & PRO HO10/29 show 24 years.						

Trade or calling	Height	Complexion	Hair	Eyes
Ploughs, sows & reaps	5' 4 qrt	Fair ruddy	Brown	Dark hazel
Tattoos: TL EL on lower right arm.				
Other features: Scar on left forefinger				
Notes: Source = bound indent. Notation on ident "3 years IG, Sydney *** Ss", & "discharged here 19 July 1845"				
Other arrival info (eg ships musters & papers):				

Assignment

On arrival, to JP Webber, Hunters River (as per PRO HO10/29), to "JP Wibber Tokal" (as per SG 27 September 1832 & GG 26 September 1832 p312)
At Total: 1832-37 Total occupation:

Freedom (year, details)

T.O.L.	(not found)
C.O.F.	(not found)

Colonial crime & secondary punishment

Date	Offence	In service of	Punishment
1836 Jan	Neglect of duty	C&F Wilson	25 lashes
1836 Jan	Disobedience of orders	C&F Wilson	25 lashes
1837 Aug	Manslaughter	C&F Wilson	3 years in irons
1845	?		
Sources: See Col Sec and 'other' below. Note that a notation on Lyons's shipping indent indicates he was discharged in July 1845, indicating a further colonial conviction following his 3 years in an iron gang for manslaughter in 1837.			

Colonial Secretary's correspondence

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NSW Census/musters

1837	Age 29, with Wilson C&F, Paterson
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Colonial marriage

Date	Place	To whom	BDM index reference

Permission to marry:

Death

Date	Place	Age	BDM index reference

Timeline

Date	Event
1832 June	Arrived Sydney and assigned to James Webber, Tocal
1837 Apr	Killed Patrick Costigan in a drunken fight at Tocal
1837 Aug	Convicted of manslaughter and sentenced to three years in irons
1845 July	Discharged Sydney (probably after additional colonial offences)

Other (source, details)

SH 11 May 1837, report of 'murder' of Costigan at Tocal by Lyons.
 SR. Entrance Book, Sydney and Darlinghurst Gaols 1837-38, 4/6437 [reel 853]. #716
 Bernard Lyons, C Edinburgh 1832, admitted 6 May 1837 for the purposes of trial. Disposed "I Gang" to Berrima 7 September 1837.
 SR. Returns of Prisoners convicted by the Supreme Court 1833-37, X731 [reel 2389].
 Bernard Lyons and James Lemon, tried for murder by a military jury on 19 August 1837, found guilty of manslaughter and Lyons sentenced to three years in irons, Lemon to one year in irons.
 SR. Clerk of Peace, Depositions - Supreme Court, Paterson 1837, 9/6309. Full transcripts of these depositions are attached.
 Australian 25 August 1837 and SH 21 August 1837, reports of above trial.

Keywords

Iron gang, lashes

General information

Research on Tocal's convicts was undertaken by Brian Walsh. Please do not email or upload this document without acknowledgement.

For further information see the book *Voices from Tocal –Convict Life on a Rural Estate* by Brian Walsh, available from www.tocal.com

For contact details see www.tocal.com

Source:

State Records, 9/6309, Clerk of Peace, Depositions - Supreme Court, Paterson 1837

[First cover sheet]

Patterson

2nd May 1837

Rex

vs

Bernard Lyons

&

James Lemon

Depositions

August Sessions

Bfd No 41

[Second cover sheet]

Evidence involving
the death of Patrick Costigan

30 April 1837

(signed) W Dun

Coroner

Depositions

August Sessions 1837

No 41

Total May 1st 1837

Mssrs Wilson

It is a painful Duty I have to perform to lay before you a Most Melancholy Transaction that Occur'd on this farm On Saturday Night last. I shall Endeavour to give you as brief a Statement as I can that you may become acquainted with the Whole Circumstances of the Case.

Costigan & Partridge, two free hired Servants, resided in the Cottage built for the Late Gardiner, and Clements one of your ass'd Servants with them, the three men belonging to Mr King also Cooked their provisions there, but slept in the barn. On Saturday last the men Worked very hard, & late, at the thrashing having in that Day thrash'd, Cleaned, & brought to the Stores, 212 Bushells of Wheat Consequently it was late before the men had their Rations on that evening. The Whole farm was peaceable and quiet when I retired to bed between 8 & 9 O'clock. About 20 minutes before five in the morning, I was called up by Clements & Partridge Stating that Costigan was Dying. I Immediately Drest myself and went to the Hut. where you may judge the Sensations of my mind, to behold a man Dead, Smothered in blood, having been murdered, and who had just expired before I came, I cannot state to you the Horror with which I was Struck, so much so that I found it Impossible to ask how it happened, but Immediately came away. Lyons & Wallis was there but I could not speak to any one. I shortly after found that a Quarrel had taken place and that Lyons had Committed the Act. I immediately took him into Custody, and sent him to the Lock up and gave notice to Mr Dun, who Immediately came over and gave Directions and a Jury sat from 2 O'clock until Six last evening Investigating the Affair when a verdict of Wilful Murder was returned against Bernard Lyons your ass'd Servant and James Lemon one of Mr Kings Men. I will now state the Circumstances as Correct as I possibly can, late in the Evening Costigan and Partridge the free men went to Smiths, on Mrs Swans farm her Son in Law, and Procured two Gallons of Wine, he keeps a Shop they ret'd about 9 O'Clock, when Whitford one of your men & Lyons came there, my two began quarrelling, Lyons struck Whitford, Lemon interfered to prevent it. Costigan Struck Lemon into the fire, they afterwards went outside the Doors still fighting when Lyons ran to a heap of Wood, took up an Immense Limb of a tree, came behind Costigan and said I have long waited for the Opportunity, and by a blow at the back of his head brought him to the ground, repeating his blows, the man never spoke, Lemon kicked him several times. Shields happened to be there, and Clements who had in the first onset left the hut, with the other men carried him Into the hut, and laid him on his bed, they washed his face and he from that time never opened his mouth. Lyons returned to his own hut, awoke those that was in it, and told them how he had murdered Costigan, and gave them some of the Wine which he had brought away with him from the mans hut to Drink, and stated that if Costigan died he would take the Bush, this was overheard by James Dowling who gave the information, and Caused me to take Lyons into Custody. The man has been buried in a very decent manner by the Direction of Mr Dun he having a small sum due to him.

You must be aware from such a Transaction the Wretched State of my Mind, Expecting to find a man ill in his hut, and on Entering it to behold him Dead the floor covered and himself hardly discernable for Blood, and the perpetrators of the Act Cooly looking in quite unconcerned, I was completely stupified how or which way I returned I cannot say, a Most Surprising thing in the Whole Course of the Evidence, there is not the least proof that one of them was Drunk. Part was spilt, and Lyons took more away with him after the man was killed, it seems a premeditated murder, that malice from some unknown cause was the occasion, and therefore was the opportunity taken while Costigan was Engaged fighting with Lemon, Costigan was a very able and powerful man, & Lyons a much Smaller man his threat at the time of the first blow is clearly proved by this and his remarks in the hut after the Act are also sworn to by several, there are Eight Persons Evidence against him I am one, and Expect it will Bring me to Sydney at the Ensuing Sessions.

Doctor Nind being the nearest Surgeon was called in by Mr Dun, and he on Examination found the Whole of the poor man's head completely Smashed to pieces, not a Whole place from his forehead to his *** of his skull or from Ear to Ear, his body and back bruised in a fearful manner. Where he was

dying near the door of his hut is covered with blood. He bled at least a bucket full it was a most dreadful sight to see. I have seen many men lying dead on the Deck of a Ship after Action, but the sight is not so piercing to the feelings as a Cool premeditated murder, no other cause can be ass'd for his malice than a few Words that occurred some time since about a Bullock Yoke. I never suspected Lyons to be a Cruel man. Lyons is the man who formerly Stole the plough Share. My wife was very much frightened and is unwell in Consequence. All the men view (sic) the act with horror. Costigan was a very civil, quiet man, Sober, but in Liquor was very quarrelsome, but in this Instance not the least proof Exists that any of them was the Least in Liquor, nor even had Lyons Expressed any ill feeling against the man. They were working together the Whole of the Day, is it not a most dreadful thing, that such a blood thirsty feeling should be Concealed until the opportunity of Spilling his blood should occur, and after Slaughtering the poor man to boast of his action as praiseworthy. They were both Irishmen and Intimately acquainted ever since the fatal deed has been committed, my Inside trembles the dreadful sight is Continually before me, so unexpectedly, it was in the dark when I went to the Hut and the boy Clements brought a light. I cannot express my feelings at the sight so horrid and ghastly. I sincerely hope I shall never witness another like it.

The machine Commenced on last Monday and has during the Week thrash'd 833 Bushels of Wheat & Barley. The fly in Weevil has not done any Damage to signify. I have four more stacks of wheat to thrash. I do not think I shall be

[the rest of this letter is missing from the file]

Pattersons Plains
2 May 1837

AG

Sir

Enclosed you will find Inquisitions on Patrick Costigan. There is some slight contradiction in the evidence but, not in the material point. I found Partridge, Woollard and Copiland by no means willing to give their evidence freely. Clements evidence may appear strange to you but I made every inquiry as to his character, and I found he invariably left his comrades when there was any quarrelling.

I have the honor to be
Your ob'd S
W Dun
Coroner

To **
Atty Gen'l
Sydney

research by Brian Walsh

New South Wales
To Wit

An Inquisition
*** taken for

Our Sovereign Lord the King at Mr Wilsons farm in the parish of Middlehope in the County of Durham the thirtieth day of April in the Seventh year of the Reign of Our Sovereign Lord William the fourth by the Grace of God of the United Kingdom of Great Britain & Ireland King defender of the faith before Wm Dun one of His Majestys Coroners for said Colony on view of the body of Patrick Costigan then & there lying dead. On the oath of Patk Hands M Fitzpatrick, T Allcroft, J Bevan, J Musk, J Bignall J Bradley, P Ryan, G Seymour, W Lawrence, W Barnett J Brady -

good lawful men of said Colony duly chosen & who being then & there duly sworn & charged to inquire for our said Lord the King when, where, how & after what manner the said Patrick Costigan came to his death do on their oath say that Bernard Lynons in the parish & county aforesaid labourer, not having the fear of God before his eyes but moved & seduced by the instigation of the devil on the twenty ninth day of April in the year aforesaid with force and aims(?) *** the parish aforesaid in the County & Colony aforesaid in and upon the Patrick Costigan in the *** of God and of our said Lord the King *** and *** being feloniously, wilfully & of his malice forethought did make an assault, and that the said Bernard Lyons with a certain stick of no value which the said Bernard Lyons had & held in both his hands *** the said Patrick Costigan then & there divers times feloniously wilfully & of his malice forethought did strike & ***. And that the said Bernard Lyons did then & there give unto him the said Patrick Costigan with the stick aforesaid divers mortal bruises of which said mortal bruises on the said Patrick Costigan died in the course of a few hours. And so the jurors aforesaid upon their oaths aforesaid do say that the said Bernard Lyons *** the said Patrick Costigan in manner & by the means aforesaid feloniously wilfully & of his malice forthought did kill & murder against the *** of our said Lord the King his Crown & dignity and James Lemon was aiding and assisting the said Bernard Lyons.

In witness whereof as well the said Coroner and the jurors aforesaid have to this Inquest set their hands & seals this day year & *** place before mentioned

(signed by W Dun, P Ryan, T Seymour, W Lawrence)

(marks made by P Hands, M Fitzpatrick, T Allcroft, J Bevan, J Musk, J Bignall, J Brady, W Barnett).

[cover sheet for this report as follows]

Inquisition
on Patrick Costigan
30 April 1837
Verdict
Wilful Murder
(signed) W Dun
Coroner

New South Wales Information

To Wit of witnesses severally taken & acknowledged on the behalf of our Sovereign Lord the King, touching the death of Patrick Costigan at the house of Mssrs C & F Wilson parish Middlehope County of Durham in the Colony aforesaid on the 30th day of April in the seventh year of the reign of Our Sovereign Lord William the fourth etc etc before Wm Dun one of the Coroners for said Colony, on an Inquisition then and there taken on view of the body of Patrick Costigan then & there lying dead, as follows

To Wit

James Shields holding a ticket of leave being duly sworn notes about eight o'clock last night the prisoner Bernard Lyons & Whitford were quarrelling, Lyons made a blow at Whitford but I cannot say if it hit him, Costigan then *** I think James Lemon, I cannot say what for, Costigan struck Lemon. When Costigan & Lemon were trying to part Lyons & Whitford, they Costigan & Lemon then went outside the hut & fought, *** Lyons followed them, took up a stick (the stick now *** is the same stick Lyons had in his hand) and says stand back Shields. I then heard but did not see a blow as if from a stick, on looking round I saw Costigan on the ground. Lyons then gave Costigan several blows with the stick when he was on the ground and remarked, he had been long looking out for him. I then left them and went to my own hut. Jas Lemon both struck & kicked Costigan when he was on the ground. Before I left I helped to put Costigan to bed, He made no remarks. *** Lemon was in the hut but drunk and asleep.

(signed) James Shields, (countersigned) W Dun, Coroner

William Partridge free duly sworn states about eight o'clock last night I saw Bernard Lyons strike Thos Whitford. Jas Lemon then got up to take Whitford's part. Costigan immediately struck Lemon and knocked him into the fire place. I immediately left the hut, in two or three minutes Jas Lemon & Pat Costigan came out of the hut they began to fight. I then went into the hut to put on my boots. I do not know whether Lyons left the hut before I did, but he was not in the hut when I returned. I was only a few minutes in the hut when I heard a blow as if struck with a stick. Jas Copiland then called me out to assist Costigan into the hut. Before I left the hut I saw Jas Lemon kick the *** when he was on the ground. I also heard several blows as if from a stick but I do not know who struck them.

(signed) Wm Partridge (his mark), Countersigned Wm Dun, Coroner

Jas Clements ass'd to Mssrs C & F Wilson duly sworn states between seven & eight o'clock last night I was in my hut when three or four men began quarrelling and I immediately went away, in two or three minutes I heard them come out of the hut but I was too far away to see who came out. I then heard several blows as if struck with a stick, in about five minutes they were all silent and I returned to the hut. outside of the hut just in the door way I found Costigan senseless. I called Copiland & Partridge out of the hut and they carried the *** in & put him to bed. I then went to bed myself. About an hour before daylight this morning Partridge awoke me and said that he thought Costigan was dying. I immediately went to inform Mr Clark & before I returned in a few minutes he was dead & all the men were ***. I did not see Lyons strike Whitford in fact I did not see Whitford in the hut. During the time I was away from the hut (last night) some one *** I did not know who it was until I spoke to Jas Shields who was going towards his hut *** I know to be Whitford. Shields said to Whitford, Lyons has almost(?) killed Costigan. The reason I left the hut was that I felt certain they would fight.

(signed) Jas Clements (his mark), Countersigned Wm Dun, Coroner

I S Nind Esq Surgeon duly sworn state I have examined the body of the dec'd Pat'k Costigan. I found on the back of the left shoulder a light bruise, a discharge of blood from the left ear, *** angular(?) wounds on the top of the head. Such a stick as now produced would inflict wounds of the

same kind, the hair on the stick corresponds with the hair of the dead man, one wound commences about an inch and half above the left ear extending about two inches in length towards the top of the head, the other wound is about an inch and half distant from the other wound & about three inches long and extends to within *** in *** of the right ear. both of the wounds cut to the bone. On raising the scalp I found much extra *** and blood on the surface of the bone. In removing the blood I found the bone fractured from the left ear to the centre of the top of the head. I also found two bruises on the head. On removing the bone of the head and opening the dura *** I found a quantity of coagulated blood nearly covering the left hemisphere of the brain. On examining the head internally I found the fracture to extend an inch below the left ear. The combined length of the fracture was full six inches and was the cause of the dec'd death.

(signed) I S Nind

Thos Whitford ass'd to Mssrs C & F Wilson duly sworn states about eight oclock last night I went to Costigans hut, there was no quarrelling when I first went in. about half an hour after I was in the hut Costigan and another man brought in two Gallons of Wine. They asked me to sing a song, which I did, before I finished the song Lyons told me to stop my singing. He then came up and struck me in the nose he then struck me a second time. Jas Lemon told Lyons not to strike me and parted us. Costigan then struck Lemon and they both fell into the fire place. Lemon was under Costigan and I told Costigan to let Lemon sit up as he would be burnt. Costigan then called his dog to bite Lemon. They then went outside of the hut and I hid myself under the sleeping(?) place. I then saw Lyons follow Costigan & Lemon outside the hut. I saw Lyons through the crack of the door, go towards the garden fence which is about four yards from the hut. I then escaped behind the hut. I then heard Lyons say 'Shields stand off. He, Lyons, then said to Costigan I have been long looking out for you. I also heard several blows struck as with a stick. I then ran towards the barn yard when I stopped about five minutes all was then quiet and I returned towards the hut and I met Shields, who said, Oh my God, Barney has killed Costigan (Lyons is generally called Barney). Shields then went with me to the hut. When I got there Partridge Lemon & I believe Clements were in the hut and Costigan was in his bed. I got a firestick to examine Costigans head. I did not examine his head as *** told me not to do it. I then requested Shields to go home with me as I was afraid of Lyons. Shields was not tipsy. Lemon & Costigan were tipsy. Thos Atkinson was in the hut all the time but drunk and fast asleep.

(signed) Thos Whitford (his mark), Countersigned Wm Dun, Coroner

Jas Dowling assigned to Mssrs C & F Wilson duly sworn states, some *** last night I cannot state what time Bernard Lyons returned(?) to his hut which is only divided from my hut by slabs. He asked the *** in his own hut if they were asleep and said Costigan is killed. I brought him down with the very first blow, there is no *** in me, I *** him well. I am the little fellow *** is no ***

(signed) James Dowling, Countersigned Wm Dun, Coroner

E Copiland ass'd to Mr Jas King of Williams River duly sworn states that I am at present working on Mr Wilsons farm with Mr Kings threshing machine. Jas Lemon & Thos Atkinson also belong to the Machine. about eight oclock last night Whitford was singing when Lyons got up and struck him, Jas Lemon then interfered and said to Lyons, Whitford is not fit for you, I will stand in his place. Costigan then got up and knocked Lemon into the fire place. They then went out of the hut, & fought. I attempted to part them but seeing Lyons coming up I went into the hut (I did not see a stick in Lyons Hand) *** *** about five minutes *** *** outside of the hut said I have for something *** out for you. I then heard a blow as if with a stick. I immediately went out and saw Costigan lying close to the door senseless. I called Partridge out to assist to take him in & put him to bed. I then went to bed myself in the barn. Some distance off when I *** to the hut I saw Lyons coming up. I went and laid on the birth and I did not look at what was going on inside(?) the hut.

(signed) E Copiland (his mark), Countersigned Wm Dun, Coroner

W Woollard ass'd to Mssrs C & F Wilson duly sworn I live in the same hut as Lyons. Lyons came to his hut late in the night, he awoke us and *** *** *** *** *** told us that he & Costigan had a

quarrel that he knocked Costigan down with a stick. Thus he had *** the big man down and *** him using(?) his hand against any man again, that there was no *** in him - he was afraid that the man would die, and he did not know what to do.

(signed) W Woollard (his mark), Countersigned Wm Dun

George Stotter ass'd to Mssrs C & F Wilson duly sworn states I am **farm constable** last night between eight & nine oclock, there was some quarrelling with the free men. I heard B Lyons say stand clear and immediately four or five blows were struck as if with a stick. I then went away. This morning Mr Clark told me to take Lyons custody. I took him to the lock up.

(signed) G Stotter (his mark), Countersigned Wm Dun

R M Clark duly sworn duly states, I am overseer of Mssrs Wilsons farm. a little before five o'clock this morning Partridge & Clements came & told me that Costigan was dying. I immediately went to the hut *** I found Costigan dead. I made my inquiry as to what had taken place, and I sent Lyons to the lock up.

(signed) R M Clarke, Countersigned Wm Dun

research by Brian Walsby