

## Boston Irish History

## In 1806, James Sullivan Vaulted into the Governor's Office by Prosecuting to the Gallows Two Innocent 'Sons of the Ould Sod'

Second in a series on Boston Irish Lawyers.

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BIR STAFF

In April 1806, 34-year-old Dominic Daley and 27-year-old James Halligan did not stand a chance. Charged with the savage murder of Marcus Lyon, the pair of Irish immigrants now faced a sham trial, and the noose. They also faced Attorney General James Sullivan, who was running for governor of Massachusetts.

Sullivan viewed the case as an opportunity to win that office and decided he would personally prosecute the two Irishmen. This grandson of Irish Catholic rebel Major Philip O'Sullivan planned to seize the governorship of Protestant Massachusetts by hanging two Catholic Irishmen, the evidence be damned.

The authorities allowed no one except Special Prosecutor James Hooker, of Springfield, to visit Daley and Halligan until April 22, 1806. Only then, on the day the Irishmen finally found themselves in the Northampton courthouse and formally charged with the murder of Marcus Lyon, were the shackled suspects allowed the services of a defense counsel. Daley and Halligan immediately and vehemently entered a plea of innocence.

The court responded by allowing the prisoners all of 48 hours to prepare a defense with their court-appointed attorneys. The accused Irishmen's lead lawyer was Francis Blake, a Worcester barrister with no experience in a capital case. Similarly, no others among the defense team had ever argued a murder trial. The late Boston historian John T. Galvin noted: "The lawyers assigned had so little experience that they would not have been considered qualified to handle a capital case today."

The trial of Dominic Daley and James Halligan opened as scheduled at 9 a.m. on April 24, 1806, with Massachusetts Supreme Court Justices Samuel Sewall and Theodore Sedgwick on the bench. Sewall was a descendant of the Puritan judge who had dispensed "justice" during the Salem Witch Trials. In Sedgwick, the prisoners faced a jurist who in 1774 had espoused the inherent rights of all men, but whose definition of "all" did not seem to extend to Irish Catholic immigrants.

Prosecuting the case was James Sullivan himself. His surname notwithstanding, he had long eschewed or abandoned any links to his family's Irish Catholic rebel past. He knew that in an election year, his successful prosecution of two Irish "murderers" could vault him to the governor's office at the State House.

Because of the crowds that swarmed into Northampton for the trial, the judges moved it from the courthouse to the larger confines of the town meeting-house. Twenty-four "witnesses" stood ready to link Daley and Halligan to the crime, a curious development as no one had actually seen the murder; additionally, no physical evidence to link the Irishmen or anyone else to the battered body of Marcus Lyon would be presented.

In view of the lack of tangible evidence, Sullivan intended to unleash an "ethnic" prosecution - Daley

and Halligan's very Irishness, the attorney general believed, was proof positive of their propensity for such a vicious murder. Gutting the defendants' and their lawyers' chances further, Massachusetts law in 1806 did not allow the accused to take the witness stand. As Judge Robert Sullivan would write, "until the law was changed in 1866, an accused [immigrant] was completely 'incompetent' to testify in Massachusetts."

Prosecutor Sullivan's opening remarks revealed the pattern of his case with anti-Irish clarity. He offered as evidence that "an Irishman" - not Daley or Halligan, but some unspecified Irishman - had bought a pistol in Boston and "that the pockets of the defendants were large enough to hold a gun." Of course, the constables had found a pistol on neither man.

Daley and Halligan could do nothing but listen as a youth named Laertes Fuller described how he had seen the Irishmen "heading toward New York five months earlier," but could link them in no way to the murder. Even, Judge Sewall would write, "if one were to accept the boy's testimony as religiously true, it had no bearing on the crime itself." All that the youth could truly offer was that he had seen the two men striding along the Boston Post Road, just two among the many passersby along the route.

The other witnesses, a collection of locals and constables, similarly offered little more than that the Irishmen, who had resisted arrest in no way, had looked suspicious.

When Francis Blake's turn to argue the case came, he destroyed all of the prosecution's vague testimony. He closed with a diatribe against the real crux of the case - anti-Irish fervor. Blake railed at "the inveterate hostility against the people of that wretched country from which the prisoners have emigrated, for which the people of New England are peculiarly distinguished."

In his eloquent close, Blake intoned: "Pronounce then a verdict against them [the prosecution]! Tell them...that...with all our boasted philanthropy, which embraces every circle on the habitable globe, we have yet no mercy for a wandering and expatriated fugitive from Ireland. That the name of an Irishman is, among us, but another name for a robber and an assassin; that every man's hand is lifted against him; that when a crime of unexampled atrocity is perpetuated among us, we look around for an Irishman...and that the moment he is accused, he is presumed to be guilty."

With a paucity of evidence and only the defendants' Irishness to drive the prosecution's case, the trial lasted only one day, closing down at 10 p.m.

In Theodore Sedgwick's instructions to the jury, the justice said: "If you believe the witness [Laertes Fuller], you must return a verdict of conviction." The jury believed him "as one of their own" and took just a few minutes to return a "guilty" verdict.

On the following morning, April 25, 1806, Sedgwick sentenced Dominic Daley and James Halligan to the noose and their corpses to be "dissected and anatomized." The convicted men soon wrote a final, desperate plea for deliverance to Father Jean Lefebvre de

Cheverus, who tended to Boston's still-small but growing community of Irish Catholics. The condemned prisoners pleaded: "Come to our assistance."

Neither the entreaties of the priest nor that of Mrs. Ann Daley, the mother of Dominic, moved either James Sullivan or Governor Caleb Strong.

On the April morning of the executions, local Protestant clergy tried but failed to prevent Father Cheverus from addressing the throng gathered around the gallows. "Whosoever hateth his brother is a murderer," he harangued, the priest "animated with holy indignation against the curiosity which had attracted to that mournful scene such a crowd of spectators."

The priest was particularly dismayed at the many women in the crowd. "I blush for you," he said. "Your eyes are full of murder."

That morning in Northampton, a town of about 2,500 people, over 15,000 men, women, and children ringed the scaffold upon which Dominic Daley and James Halligan were dispatched by their nooses in "a fearful dance of death." The site of the hanging was on the future grounds of Northampton State Hospital.

Many years later, long after the death of Father Cheverus, who had risen to cardinal in the Roman Catholic Church, a western Massachusetts man made a "deathbed confession" to the murder of Marcus Lyon. The killer was reportedly the uncle of Laertes Fuller, whose "identification" had doomed two innocent Irishmen to the gallows.

On March 19, 1984, Governor Michael Dukakis officially proclaimed the two immigrants innocent of murder.

The case, as Sullivan had hoped, propelled him to victory in the Massachusetts gubernatorial election of 1807. He was reelected in 1808, in which year he died.

Of Sullivan's legacy as an attorney and public servant little doubt exists. James B. Cullen aptly wrote in *The Story of the Irish in Boston*: "As a lawyer, Gen. James Sullivan ranked among the very first, and he was retained in the most important cases which were within the jurisdiction of the courts of the Commonwealth of Massachusetts at that time. A proof of his ability is manifested in his success over his able opponents who were the legal luminaries of his day....He had a commanding presence and dignity; deep thought shone from his fine, expressive face. His distinguishing characteristics of mind were force, comprehensiveness, and repressed, but intense, ardor; nothing escaped the piercing intensity of his scrutiny. His arguments were clear, close, pointed, and forcible, and always directed towards pertinent results, - no verbosity or claptrap for admiration, but aimed to secure conviction. Although he seldom summoned up his pathetic powers, he did not lack this characteristic of his race, for it is said that when he adopted pathos it proved as intense and irresistible as his other masterly qualities."

This grandson of an Irish-Catholic rebel had used those powers of persuasion to hang two innocent "sons of the ould sod." Their only crimes seemed to have been their Irish origin and their birthplace.