

First day of February eighteen hundred and thirty four years.

Unto the Kings Most Excellent Majesty

The humble Petition of MARY BRAID or MORISON present a prisoner in the [Fobbooth] of Edinburgh

May it please your Majesty,

That on the twenty eight day of January last, your Petitioner was tried before the High Court of Justiciary along with her brother for the crimes of incest and murder of their child. That the Jury found both panels guilty of the incest and also found your Petitioner guilty of the murder, but found that the latter charge was not proven as against the brother; that your Petitioner was accordingly sentenced to execution on the seventh day of February and the brother was sentenced to transportation for life.

That the evidence of the murder was entirely of a circumstantial nature and that how much the circumstances may have been calculated to excite suspicion against her, she was truly not guilty of the crime of murder laid to her charge; that on referring to the notes of the evidence offered at the trial your Majesty will be satisfied that notwithstanding the verdict of the Jury there is nothing in that evidence inconsistent with her innocence; she had intrusted the child to her brother for the purpose of being exposed under circumstances which she had no doubt would insure its personal safety and he had led her to believe that it had been exposed accordingly.

I would appear from a voluntary confession which he has made since the trial in the presence of a Magistrate of Edinburgh that he had betrayed the trial committed to him and had actually put the child to death in the manner and under the circumstances stated in that confession which is herewith forwarded to your Majesty.

The Petitioner is deeply sensible of her error in having been guilty of incest, which, although not recognised as a crime by the Law of England is, as she understands treated by the Law of Scotland as a Capital Offence. She has no doubt that the prejudice created against her in the minds of the Jury in consequence of this has led them to receive circumstances as conclusive evidence of the murder against her, circumstances which otherways would not have been considered as conclusive indication of her guilt. Your Petitioner is aware that your Majesty cannot take her statement on the subject for granted but she trusts that your Royal justice and clemency may lead your Majesty to institute an enquiry which she feels quite assured cannot fail to issue in a manner favourable to your Petitioners innocence of the charge of child murder case into consideration and in

the exercise of your Royal Perogative of mercy to commute her sentence to transportation ot to such other punishment as to your Majesty may seem meet for the crime of incest of which she had been guilty .

And your Petitioner will ever pray

Mary Morison (her mark)

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We the undersigned inhabitants of the Parish of Libberton where MARY BRAIN or MORISON has resided for many years do humbly implore your Majesty to order an investigation into the circumstances set forth in the above Petition on the result of such enquiry being made known to your Majesty to extent your Royal clemency to the said MARY BRAID or MORISON in such way as to your Majesty shall seem just. And your Petitioners will ever pray.

A Carricken

Job Johnster

D Andrews

John Laing

Willy Torrence

Robert Dale

And another 146 signatures

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Edinburgh

3rd February 1834

My Lord

I have the honour to transmit herewith a petition to the King from MARY BRIAD or MORISON who was sentence by the High Court of Justiciary in Scotland on the twenty eight Ultimo. to be executed at Edinburgh on the Monday seventh instant praying for commutation of said sentence, together with an application from the inhabitants of the Parish of Libberton in which the Petitioner was born and resided to the same effect, which I have to request your Lordship will lay before His Majesty.

I have the honour to be

My Lord

Most obedient and very humble servant

John Murray

To  
The Right Honourable Lord Viscount Melbourne  
One of His Majesty's Principle Secretary's of State for the Home Department  
Whitehall  
London

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Stenhouse by Libberton  
10th February 1834

My Lord  
Understanding from Mr Murray writer to the Signet who transmitted to your  
Lordship on Tuesday last a petition from MARY BRAID or MORISON for commutation  
of sentence of death to be presented to His Majesty that no answer has been  
received by this days post and taking an interest in the fate of this unfortunate  
person I humbly presume to request your Lordship will be pleased in course of Post  
to inform of the determination of His Majesty by the prayers of the Petition and  
recommendation of the inhabitants of the Parish of Libberton.

I have the honour to be

My Lord  
Your Lordships most obedient and very humble servant  
Gilbert Peacock

To  
The Right Honourable Lord Viscount Melbourne  
London

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Report from Lord Meadowbank  
to  
Lord Justice Clerk

13 Royal Circus  
9th February 1834

My Lord  
According to your Lordships desire I have examined the Petition presented to His

Majesty in behalf of MARGARET BRAID (?) or MORRISON lately convicted in the High Court of Justiciary of the crimes of Incest and Murder, together with the documents therein referred to; and I have now the honour of stating to your Lordship that after considering the same and referring to the notes which I took as Presiding Judge the Lord Justice Clerk for the trial, I am satisfied that there is nothing in the confession of THOMAS BRAID inconsistent with the evidence which was then laid before the Jury. I have no doubt that the verdict of the Jury finding the said MARGARET BRAID guilty of the murder was mainly rested upon the fact which was clearly established that she had been seen leaving her own house on a certain evening about eight o'clock taking the child along with her, that she returned home about ten the same evening without the child, and that the child was afterwards found in the Union Canal with a rope having a stone appended to it about its neck which appeared had been taken from the apartment in which she herself lived and that being questioned to what had been done with the child she gave inconsistent account which were either proved to be false or utterly unconfirmed by evidence. And it is my duty to state to your Lordship that it was the opinion of the Court that the verdict of the Jury was well founded and entirely independent of any prejudices arising from the proof of the Incest of which the prisoner was also convicted.

On the other hand, the acquittal of the prisoner THOMAS BRAID was the necessary consequence of the total absence of all proof of his having been brought into communication with either the mother or the child after five o'clock of that evening on which it had been seen alive at eight, and altho' from the contradicting and even false statements given in his declaration and various circumstances calculated to create strong suspicion of his being not only art and part but even the chief instigator and in probability the actual perpetrator of the murder, I found it my duty to state to the Jury with the approbation of my brethren as I afterwards learned that it would not be safe for them on such grounds to find the prisoners guilty. In this opinion it appeared the Jury concurred and a verdict of not proven as to the prisoner THOMAS BRAID was the result.

In these circumstances I see no reason for suspecting that the confession made by the prisoner THOMAS BRAID is unfounded and made solely with the view of saving his sister from undergoing the sentence of death which has been pronounced against her, and I have the satisfaction of being able to acquaint your Lordship that in this view I am confirmed by the opinion of Lord Moncreiff who sat upon the trial along with me. It will therefore remain with His Majesty's advisers to determine whether or not it is expedient under all the circumstances of the case to accede to the prayers of the prisoner's Petition and to communicate the sentence of death to that of transportation for life. In my own humble opinion and in that to Lord Moncreiff concur, it would be more consistent with the ends of problem justice of assuming the confession of THOMAS BRAID to be true, the punishment of both culprits were to be the same.

I have the honour to be

My Lord  
Your Lordship's Most humble and obedient servant  
[ ]  
The Lord Justice Clerk

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Edinburgh  
14th February 1834

My Lord,  
I have the honour to acknowledge the receipt of your Lordships letter of the 12th instant in answer to one from me to your Lordship of the 9th acquainting me, that you had also received from the Lord Justice Clerk a report upon the case of MARY BAIRD or MORISON a convict under sentence of death in the gaol of this city and that under all the circumstances your Lordship had thought it right to advise His Majesty to grant the prisoner a Pardon on condition of transportation for life.

I have the honour to be  
My Lord  
Your Lordships most obedient humble servant  
James Spillal  
Lord Provost

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Edinburgh Jail  
10th April 1834

My Lord,  
I humbly beg leave to trespass on your Lordships time under the following circumstances. I am confined in the gaol under a sentence of transportation - am a widow and have an only child a daughter (Mary) now about eleven years old who it is the wish of her myself and relations may accompany me in testimony of which she had subscribed this Petition along with me. I thrust therefore that your Lordship will be pleased to sign the necessary order for allowing the girl to go out with me. She has no one in this country that can support her, by granting  
(By transcriber: The letter ends abruptly )

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Edinburgh  
9th February 1834

My Lord

I had yesterday the honour to receive your Lordship's letter of the 6th instant transmitting to me by the Kings Command the Petition of MARY BRAID or MORISON now under the sentence of death in the gaol of this city with its relative documents, and in obedience to His Majesty's pleasure I have now the honour to state to your Lordship that in consequence of the very distinct statement made to me by Lord Meadowbank who presided at the trial of the prisoner in my absence, which is herewith transmitted it is my humble opinion that His Majesty 's clemency [ ] [ ] [ ] be extended to the prisoners by granting a commutation of her sentence to transportation for life as the crime of [ ] of which both the Petitioner and her brother are convicted, is undoubtedly capital by the Law of [ ] of Scotland. I have no doubt whatever of the propriety of the sentence of transportation for life that was awarded by the Court against THOMAS BRAID notwithstanding the instruction of the Public Prosecutor, in consequence of the charge of murder against him being found not proved and by the commutation of the sentence against MARY BRAID or MORISON their punishment will remain equal.

I have the honour to be

My Lord

Your Lordships most humble and obedient servant

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Edinburgh  
4th July 1834

Sir,

In answer to your request, I have no hesitation in stating that the impression made upon my mind from the whole circumstances connected with the heavy sentence of the male prisoner, while uttering his confession in my presence was that he was disclosing the truth and the female prisoner now under sentence of death is innocent of that atrocious crime on account of which she was condemned .

John McFarlan

One of the Magistrates for the City of Edinburgh.

Gilbert Peacock Esq.

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Edinburgh  
4th July 1834

Sir

I will feel obliged by your [ ] your [ ] upon the whole circumstances of BRAID confession as to whether the male or female prisoner were guilty of the murder of the infant

I am

Sir

Gilbert Peacock

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Thomas Young Esq

Edinburgh  
5 February 1834  
8 Broughton Place

My Dear Sir,

There has [ ] a matter had as to which an application had been this day sent off to Lord Melbourne and I now write to you to solicit your good offer to hand that application made efficient and effective the circumstances are shortly these:- Two unfortunate prisoners who have been known to some of my friends here have been placed in a most distressing dilemma - whether guilty or not seems still unmentained, they are the name of BRAID a brother and sister who lived [ ] in the neighbourhood of Edinburgh. They were said to have been guilty of incest and the child which was the fruit of it having disappeared they were accused of having made a way with it. Trials and such accusations are rare and [ ] they are of a [ ] the better, but as it was that two persons were a few days ago tried by the Court of Justiciary here for incest and murder. Incest is a capital offence by the Law of Scotland but [ never ] recognised as one in England at all, and hence the greater crime is frequently committed to conceal the [father].

In this case the Solicitor General (Cockburn) as Public Prosecutor restricted the libel to an abitary punishment so far as requested the incest and the result of the trial was that the man was found guilty of incest by the Jury and the sentence to be transported for life The woman on the other hand was found guilty of the murder and sentence to be executed on the 7th current. This [ ] of the Jury was only by a narrow majority and was to the dismay of many to whom the woman was

known, who could not conceive being guilty of such an act and by whom she was considered as a most affectionate mother.

Thus withstanding matters I have noted to mention that since the trial the facts of this case have been most minutely expiscated by person whom I know to be very adequate to the task, and two important consequences have taken place - First - that the evidence of the womans guilt in making away with the child was most [ ] and inconclusive or rather totally deficient the Jury having been led most improperly to listen to certain legal presumptions instead of waiting the direct proof and Secondly- that the man has never come forward and declared before a Magistrate that the woman was innocent of the crime of making away with her own child. The child was delivered to him by the Coroner with the view of its being laid down at the door of the Charity Workhouse by him - but he, despairing of getting it [ ] strictly laid there, and aware of his obligation to support it, took the nefarious plan of poisoning and drowning it. These and the facts of the case, [ ] [ ] [ ] and as all true from a question which I suspect and the former good character and reputation for good disposition and the part of the poor woman and known to my servants who are extremely respectable individuals.

Weell my good friend, I address your heart and head, a Petition to the King signed by the woman herself, and by several [hundred] of the most respectable gentlemen of the county is forwarded by the last post to Lord Melbourne and your good offices in demanding his Lordship speedy attention to it, will be a piece of [ ] and real clarity the [ ] of which will ever be agreeable [ ] and addition to which in the [rememberance] of our acquaintance and early and intimate communications I shall consider your kind interference as a personal favour done to.

My Dear Sir

Yours most sincerely

Robert Hinster

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Edinburgh Jail

8th February 1834

I certify that I have this day visited MARY BAIRD or MORISON a prisoner in the Calton Jail at present under sentence for execution and that she is labouring under an attack of severe fever attended with symptoms of considerable danger.

John Campbell M D

Surgeon to the Jail

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National Jail of Scotland  
Edinburgh  
8th February 1834

My Lord,

I consider it to be my duty to send your Lordship the enclosed Certificate relative to the health of MARY BRAID or MORISON the woman who is under the sentence of death. As it is not probable that she will recover from her present illness by the 17th inst., I am humbly of the opinion that your Lordship will deem it proper to report her situation to the Right Honourable The Secretary of State without delay. The Rev. Mr Hunter the Clergyman who has been attending her, has this day been prohibited by Dr Campbell from visiting her while she labours under the present attack. he considers it to be of the utmost consequence that she be respited until she recovers and has time to receive the religious instructions which the Law intends should be communicated to a person condemned to die.

I have the honour to be

Your Lordship

Most obedient humble servant

H Rose

Governor

The Right Honourable  
The Lord Provost

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Edinburgh Jail  
9th February 1834

I certify that I have this morning visited MARY BRAID or MORISON a prisoner in the Calton Jail and that she still labours under symptomes of severe fever, which is on the increase, I consider her state to be one of very considerable danger

John Campbell M D

Surgeon to the Jail.

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My Lord

I have the honour to enclose another Certificate by Dr Campbell in relation to the

health of the woman under sentence of death.

I have the honour to be

Respectfully

Your Lordships most obedient servant

H Rose

Governor

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Edinburgh

9th February 1834

My Lord

I have the honour to transmit to your Lordship two communications which I have received from the Governor of the Jail of this City of the 8th and 9th instant, inclosing Certificates by Dr Campbell regarding the dangerous state of the health of MARY BRAID or MORISON at present under sentence of death, to which I beg leave to refer and recommend to your Lordship, that in the particular circumstances of the case, the execution of the sentence which was appointed to take place on the 17th instant should be respited for eight or fourteen days.

I have the honour to be

My Lord

Your Lordships most obedient and humble servant

Ames Spittal

Lord Provost

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Certificate by GILBERT PEACOCK and relative allestation

3rd February 1834

I GILBERT PEACOCK of the city of Edinburgh Fruiter do hereby certify that I have carefully read over the petition which the certificate accompanys and that the whole facts therein narrated relative to the circumstances connected with the confession of the panel THOMAS BRAID are strictly true - from all I have seen of the other prisoner I am morally convinced that of any of the two were concerned in the murder it was him, and that the whole circumstances connected with the confession emitted by him lead irresistably to the conclusion that it is perfectly unimpeachable - the cool and calculating deliberation with which he treated the questions put to him - the hesitation with which her let fall even a single word of admission as having a tendency as he should to affect his character at Botany Bay -

his anxiety to conceal his confession from public knowledge and above all his whole bearing, manner and expression of which none but a spectator could be an adequate judge entirely convinced me that his statement is perfectly consistent with the fact - I was not satisfied however with even these circumstances of evidence - It consists with my knowledge that the male prisoner had been already in the Hulks a strong presumption in itself of the greater guilt of that panel - [ ] adhered to the statement that she gave the child to the father (concealing his name on account of the incest being a Capital Offence in Scotland) in the High Street of Edinburgh which is certainly corroborated by the confession in order however to test the confession in every point I thought up to the Jail Mr Snodgrass the Druggist therein mentioned, and confronted him with the prisoner who upon seeing him stated before a word had passed upon either side except the following simple interrogatories by me " Well what about the Laudanum? What day was it on which you purchased the Laudanum. Do you know this gentleman? and upon answering "No" I then said " this is Mr Snodgrass" and the prisoners answer to these three questions were "I purchased the Laudanum from his daughter " Mr Snodgrass at once stated that he had females not his daughters but his nieces who attended the shop in his absence - there were also brought up and the prisoner pointed out one of them whom he said had sold him the Laudanum - from the distance of time which had elapsed and the promiscuous nature of the retail customers, she could not identify him but she expressly stated that it must have been her who made the sale because her sister who was also present never sold the Laudanum retailed in the shop - the prisoner further gave to these ladies a most minute and accurate description of the localities of the shop, the situation of the counter relating to the customer and the retailer the position of the shelves and the place of the |Laudanum bottle on the particular spot of the shelf, which they stated to be quite and even minutely correct - all these circumstances and the facts that the sister (Ann) of the panels in the course of a quarrel with the male prisoner threatened to inform the public prosecutor of the reports in the county of the to great intimacy of the panels, and that threat being made out of the presence of the Petitioner coupled with the fact that the murder took place the day immediately following the threat, from conclusive evidence in my mind of the guilt of the panel and of the innocence of the Petitioner especially connected with the real evidence adduced on the trial of the peculiar tenderness and motherly affection uniformly displayed by her towards the unfortunate infant whose murder had placed her in her present melancholy situation - her sister |I cannot venture to ask for a corroboration of this statement simply because she had actually attempted to put an end to her own life and is at present in a state little above absolute distraction - all its material facts however can be corroborated by an official investigation.

Gilbert Peacock  
No 4 Bank Street  
Edinburgh

MARY BRAID or MORISON

EDINBURGH 1834

INCEST and MURDER

TRANSPORTATION FOR LIFE

SOURCE - HOME OFFICE CRIMINAL PETITIONS - SERIES 1

SERIES - HO 17

PIECE NUMBER - 21

ITEM NUMBER - BF 6

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MARY BRAID or MORISON

EDINBURGH HIGH COURT JANUARY 1834

INCEST AND MURDER

DAY OF EXECUTION 17th FEBRUARY

SENTENCE COMMUTED TO TRANSPORTATION FOR LIFE 12th FEBRUARY 1834