Transcript of a letter from Lord Ivory to the Lord Justice Clerk, Lord Hope.

Edin. June 19th 1851

My Lord,

I had the Honour to receive your Lordships Letter of the 16th with its inclosures, relating to the case of Alex. Black <u>Senior</u>, who was, along with <u>his son</u> of the same name, and <u>three others</u>, tried before me on a charge of <u>Mobbing and</u> <u>Rioting</u>, at the Circuit Court Perth in the month of Sept^r last.

As all the five Prisoners were convicted, on a Plea of <u>Guilty</u>, I have, of course, no Notes of Sentence to transmit:- nor, indeed , have I any other knowledge of the case, than what appears on the face of the Indictment:- which, with the Prisoners' Declarations, I beg now to transmit.

The points, to which it is my duty to call Your Lordships' attention, are these:-

1. That the prisoner did not plead Guilty to the <u>Entire</u> Indictment, - but only to the charge of "<u>Mobbing and Rioting</u> as libelled":- and some as to this, not to all the particular acts charged, but only to those in the <u> 1^{st} and 3^{rd} heads</u>.-

2nd. That this case did not stand alone, but was one of <u>three</u> cases. - all of the same <u>Mobbing and Rioting</u>. - and together implicating no fewer than <u>12 Prisoners</u>. Pleas of Guilty, - more or less qualified once accepted from all, - and conviction followed, and Sentence was passed on all.-

As it may be well, your Lordship should be fully informed on the whole matter. I take the liberty of inclosing copies of the petitioners Indictments. Your Lordship will at once recognize the masterful riot that took place in Dunfermline on 24 June of last year,- which had for its object to Expel from the town all the Irish inhabitants and which fomented to such a length, that the place was for a time under the entire command of the mob, from which it was only relieved by interference of a military force.

3rd. As there is reason to explain , that these outrages may in some measure be traced to previous acts of extreme violence on the part of the Irish towards some of the inhabitants of Dunfermline, I deem it right also to commend to your Lordship two

other Indictments – of <u>Peter Couney</u> & <u>Charles Wynne</u> - for assaults, on the 22nd and 23rd. June being but a day, or at most two, before the acts of Mobbing and Rioting now in question:- upon both of which, after full trial, the Prisoners were also convicted, and had sentence. It appears from my notes of the Evidence that though only <u>one</u> Prisoner was brought to trial, in each of these cases (from difficulty, I presume in identification) there were many more, and all Irish engaged in the acts of assault. – and that indeed the cases had a good deal, themselves, of the later general outbreak of <u>Mobbing and Rioting</u> which was presented in the Indictment of the <u>native</u> inhabitants. There is every reason to believe that the latter- especially the lower classes of them-were very much excited by what had then taken place, - and being considerably intimidated some were then induced to combine, in order to rid themselves of the Irish altogether.

4th. All this was strongly argued by the Counsel for the present Pet^r. <u>Black</u>, and the other <u>eleven</u> parties, who were engaged in the popular riot of the day. And both Lord Mackenzie, whom I naturally consulted on the punishment to be awarded, and myself, gave at the time full weight to this statement.- I had <u>postponed</u> sentence in each of the <u>four</u> cases till the whole should be gone through, so that it was with every advantage, that Lord M. and I proceeded to deliberate on the punishment. And we believed at the time, that taking every thing into train we had sufficiently tempered justice with mercy. Had it not been that the Perth Procurator brought up <u>so many</u> for sentence, the punishment awarded might have been more severe. As it was, we hesitated whether transportation should not be applied to one or more of the prisoners. But as all had wisely pleaded Guilty, we had no room for making distinction. And we naturally shrank from transporting <u>twelve</u> poor people, - whose characters were otherwise unimpeached, - and who had been carried away, it is probable, in a moment of impulse and excitement.-

On the whole, reviewing the circumstances as deliberately as I can, it does not strike me that there is any strong ground, for acceding to the Prayer of Black's Petition. One great difficulty is the difference which would then be made between him and all the other <u>eleven</u> without so far as I see, any other ground for reduction. Mr. Black's own son, was his fellow culprit; too, probably misled by his father's example.

And finally, as to the statement now made, that he was not actively participating in the riot, your Lordship will observe, that half of the Indict^t to which he pleaded Guilty, charged him (p4) & his fellows, not only with forming part of the mob, - but of being "<u>aiding and abetting and actively engaged</u> with the said mob in their said illegal, riotous, and violent proceedings –and in the <u>particular acts of mobbing and</u> <u>rioting</u>" specifically pleaded to.

It only remains that I explain to your Lordship, the various sentences which were Pronounced in the different cases.

1. As to the Irish. (1) <u>Couney</u> - - - sentenced to 7 years transportation (2) Wynn --- ------12 months imprisonment 2. As to the <u>native</u> inhabitants. (1) Henry Donaldson John Donaldson John Bell & John Seaton......18 months imprisonment 2/ Adam Baxter Duncan McNaughton & George Philip18 months imprisonment 3/ Alex Black Snr Jnr Do Thos Spowart James Johnston

& David Kinghorn......15 months imprisonment

I have the Honour to be My Lord Your most obedient & faithful servant

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J Ivory

Right Hon^{ble}.-The Lord Justice Clerk

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Edar. June 19" 1857.

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