

# Supreme Courts Library Special Collections:

## Ann Tinman

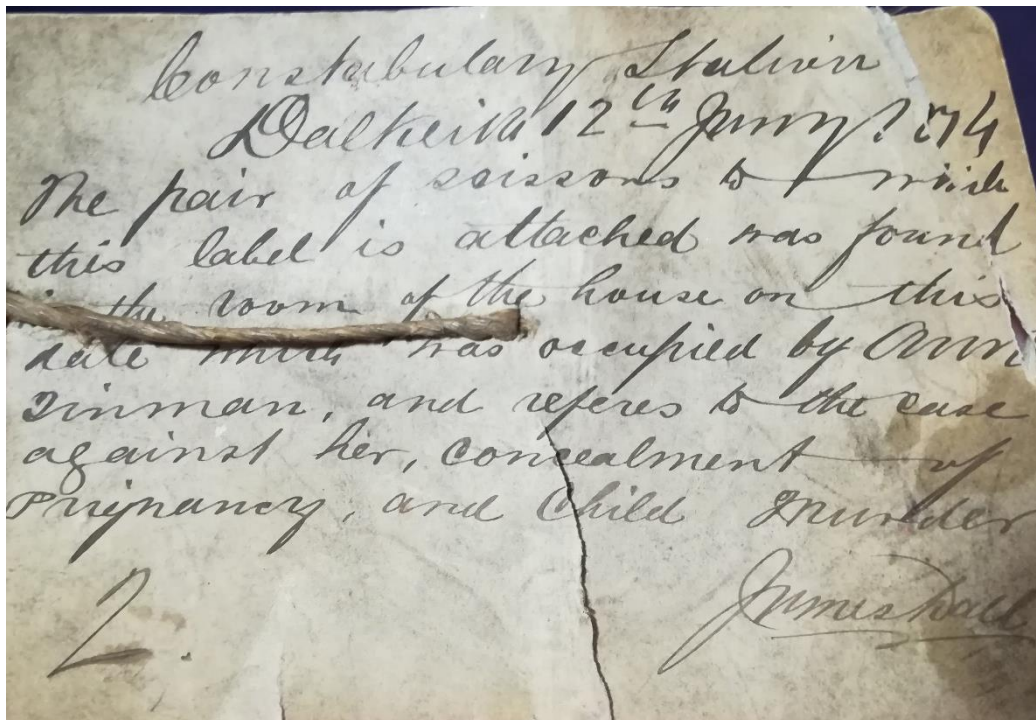
Doors Open Day 2021

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### About our Collection

The Supreme Courts Library exists to support the Senators of the College of Justice and Supreme Courts staff in their work. As part of this, we often assist with the assessment of materials which are unusual. Where an item does not belong with the rest of the case materials in the National Records of Scotland, it remains with us in the Supreme Courts Library Special Collections.

One of our more unusual items is an evidence tag from 1874:



*Constabulary Station Dalkeith 12<sup>th</sup> January 1874 The pair of scissors to which this label is attached was found in the room of the house on this date which was occupied by Ann Tinman, and refers [?] in the cause against her, concealment of pregnancy, and child murder.*

The tag is signed, likely by the person who was responsible for the piece of evidence, or 'production'. The scissors referred to are not included in our collection, and they would have likely been returned to the relevant party at the conclusion of the trial.

## Ann Tinman

Our description of the life and trial of Ann Tinman is based on information available through digitised records and the published Justiciary Cases judgment. We were unable to go to the National Records of Scotland to view the court documents, although this is something we would like to do in future.

Ann was born in Oakley, Fife, around 1851 or 1852. Her father John was an iron stone miner from Ballymena, County Antrim, and her mother Annie Ramage had been born at Fossoway, near Kinross. Ann was the oldest of four sisters and was recorded in the census as living with her parents in Carnock in 1861, and Newtongrange a decade later. In April 1871, Ann gave birth to an illegitimate son, Peter Sharp Tinman.

### Birth of Unnamed Son

Sometime between 1871 and 1874, Ann moved to Dalkeith and became a domestic servant to Dr Robert Jefferies. It was there that she gave birth to an unnamed baby boy who died soon after. The body of the child was “found wrapped in a petticoat in a chest in the attics of Dr Jefferis’s house”<sup>1</sup>.

According to an article in *The Scotsman* from 14<sup>th</sup> January 1874<sup>2</sup>, Ann went to bed after she and the Jefferies family returned from seeing ‘Sleeping Beauty and the fairies of the moon’<sup>3</sup> at the Theatre Royal in Edinburgh. The following morning she “complained of pains in the limbs” and was unable to work for four days. When Ann returned to work, the servant who had been hired as cover while Ann was unwell entered the attic room where Ann had been confined and “became conscious of an offensive smell”. She alerted Dr Jefferies who found evidence of childbirth on entering the room.

At the request of Dr Jefferies, Ann was then examined by Dr Alexander Ballantyne who confirmed that she had recently given birth. Ann, admitting that this was true, lifted the body of the baby from where she had hidden him in her clothes trunk.

The *Dundee Courier* wrote: “She says that the child was still-born, but a different conclusion has been formed on a medical examination of the body.” The *Scotsman* stated that “a post mortem examination was made on the body of the child by Dr Littlejohn, of Edinburgh and Dr Ballantyne, from which we understand, it appeared that the child had been born alive.”

### The Charge

The police were informed and Ann was charged with child murder, or infanticide. Still recovering from childbirth, Ann was “held in a room of the inspector’s house, and a watch set over her”<sup>2</sup> as she was considered too ill to spend time in the cells. The following morning she was examined by Sheriff Gebbie of Edinburgh Sheriff Court. This took place

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<sup>1</sup> 1874. Alleged Child Murder in Edinburgh. *Dundee Courier*, 14 Jan.

<sup>2</sup> 1874. Alleged Child Murder at Dalkeith. *The Scotsman*, 14 Jan.

<sup>3</sup> National Library of Scotland, Scottish Theatre Programmes. Record available at: <https://tinyurl.com/fcwkrpz>

approximately (more likely fewer than) seven days after Ann gave birth. “The accused appeared to be in great pain during the examination, which was delayed for some time in consequence of her having fainted”<sup>4</sup>. In Scots law, this initial interview is called “precognosing” and is a way of finding out the facts of a case before trial begins. Today, it is normally carried out by the Procurator Fiscal.

When she later appeared in the high court on the 2<sup>nd</sup> of March 1874, the official charge was read to Ann:

*In so far as, you the said Ann Tinman having, on the 8th day of January 1874, or on one or other of the days of that month, in or near the house or premises in or near Back Street, in or near Dalkeith, in the county of Edinburgh, then and now or lately occupied by Robert Jefferies, doctor of medicine, then and now or lately residing there, given birth to a living male child, did, time and place above libelled, immediately, or soon after the birth of the said child, wickedly and feloniously attack and assault the said child, and did, by placing your hand or hands upon his mouth or nostrils, or by keeping him under or among your bed-clothes, or by wrapping or twisting a petticoat or cloth round his head or neck, suffocate or strangle him ; and your said child was thus, or by some other violence or maltreatment to the prosecutor unknown , then and there deprived of life and murdered by you the said Ann Tinman: Or otherwise [Then followed a count applicable to the statutory charge.]<sup>5</sup>*

## The Trial

Ann plead not-guilty. Three witnesses gave testimony, one of whom was Dr Jefferies. We do not know what was said, although the case records held by the National Records of Scotland will hold more information. We do know from newspaper reports that Dr Jefferies’ evidence was compelling, and that after the witnesses had been examined, the charge of child murder was withdrawn.<sup>6</sup>

Ann subsequently pled guilty to the crime of concealment of pregnancy, and was sentenced to ten months imprisonment.

## Ann’s Later Life

In November 1876, Ann married David Dewar of Townhill, Dunfermline. She worked as a power loom weaver, and in the 1881 census is recorded as living with David, their children Anna (b.1878) and Maggie (b.1880), and Ann’s 11 year old son Peter, who took David’s surname.

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<sup>4</sup> 1874. Alleged Child Murder at Dalkeith. *The Scotsman*, 14 Jan.

<sup>5</sup> 1874 2. Coup. 503 Available at: <https://tinyurl.com/3ymf4bse>

<sup>6</sup> 1874. ‘High Court of Justiciary’. *The Scotsman*, 3 Mar.

In 1884 Ann gave birth to a third son, James, but unfortunately David died of heart disease that same year. He was 29. In the 1891 census, Ann is recorded as a widow and head of the household, working as a school cleaner. Peter is a glazier, and Maggie and James are at school. Anna is not listed on the 1891 census, and we suspect that she passed away in the decade between records. By 1901, Ann was a factory worker, and Maggie and James continued to live with her. Maggie was a linen weaver and James was a joiner.

Ann Tinman Dewar died of natural causes in 1930 in Dunfermline, Fife, at the age of 79.

## Concealment of Pregnancy

The *Concealment of Birth (Scotland) Act 1809*<sup>7</sup> remains partially in force today. It states that if a woman in Scotland hides the fact that she is pregnant and does not seek assistance during the birth, should that child “be found dead or be amissing” and the mother be found guilty of that child’s death, the maximum prison sentence is two years.

The 1809 Act repealed and replaced previous legislation from 1690<sup>8</sup>, which stated that if pregnancy is concealed and the child died, “the mother shall be holden and repute the murderer of her own childe” even if there was no wound or bruise on the body of the child. During the time that the 1690 Act was in force, the penalty for murder was death.

In the twenty years prior to repeal the courts demonstrated a greater degree of sympathy towards the women who were charged with this crime. In Scots law it was possible to petition the court for leniency prior to trial, and as a result the majority of women were banished or transported<sup>9</sup> (Bennet 2017). During this time, three women were executed, and their cases “stand out from other examples of infanticide as their children were months old at the time of the murders and these women were believed to have acted with premeditation rather than through panic or mistake during the birth, as in some other cases.” (Bennet 2017).

In 1874, Ann Tinman’s sentence of ten months was half that of the maximum. Was this lenient? Sentences could be as short as three months, depending on the circumstances of the case<sup>10</sup>. Without viewing the court records, we cannot infer what was thought of Ann at the time.

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<sup>7</sup> 1809 c.14 or 49 Geo 3. Available at: <https://www.legislation.gov.uk/ukpga/Geo3/49/14/scotland>

<sup>8</sup> *Act anent murdering of children*. Available at: <https://tinyurl.com/4b7fhs53>

<sup>9</sup> Bennet, R. 2017. ‘Scottish Women and the Hangman’s Noose’ In: *Capital Punishment and the Criminal Corpse in Scotland, 1740-1834*

<sup>10</sup> Ogilvy, G. 2018. ‘Our Legal Heritage: Inveraray Jail and Courthouse’ *Scottish Legal News*. 3 Aug. Available at: <https://tinyurl.com/afk536py>