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Mungham, Angela

ENGLISH SETTLERS IN FOURTEENTH CENTURY IRELAND.
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Angela Mungham
MA. (by Research)
Department of History.
Durham University.

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Angela Mungham.

ENGLISH SETTLERS IN FOURTEENTH-CENTURY IRELAND:
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This MA looks at the generations of twelve English, landed, settler families in medieval Ireland who lived through the catastrophic fourteenth century: Archdeacon, Avenel, Le Bret, Cantwell, Erley, Freyne, Grace, Hacket, Laffan, Marsh, Maunsell and Shorthall. These families owned land in the heavily colonised area of south Leinster and East Munster. Throughout the fourteenth century they had to contend with those natural disasters of famine and plague that swept all of Europe but filtered through localised conditions of the decline of royal government, the so called 'Gaelic resurgence', and the development of marcher customs.

The first chapter aims to set the scene with the arrival of the families and their original enfeoffments in Ireland, and the condition of Ireland in 1300. Subsequent chapters cover those issues that were important to their physical, economic and cultural survival. Chapter two looks at how they maintained links with England by military service to the king, and holding office in local and royal government: English common law, also, was an important feature even in the liberties. Chapter three discusses marcher life and relations with the Gaelic Irish, for the Irish were not a constant enemy; they were neighbours, tenants and often relatives. Chapter four illustrates some of changes in family culture that arose in response to their environment.

At the end of the century all, except the Erley family, still held Irish lands but maintained an English identity though regionalised and marked out by many Gaelic customs.

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INTRODUCTION

The calamities of the fourteenth century that sent Europe into a spiral of population and agricultural decline are well known: the dismal weather, famines and recurring outbreaks of plagues and disease. Historians often look back on the century as a whole but the people who lived through it formed three or four generations: each generation experiencing and reacting to different events within the age. Nor are there tidy parameters around each generation. Overlapping generations, who grew into adulthood shaped by the environment and experiences around them, would have lived, worked, fought together or indeed fought against each other.

This M.A. is an attempt to look at a catastrophic century through the details of twelve of English families of Anglo-Norman descent that lived through it in Ireland. These families had to contend with the environmental, European-wide catastrophes, but filtered through localised conditions of Irish geography and English polity. They lived in a variety of circumstances: in manors, villages, boroughs and towns. The physical geography was such that the well settled lowlands were interspersed with Gaelic uplands and the colony was never uniformly subdued by the English. Recurring warfare and march conditions added to the settlers' difficulties. They had to make economic and social adaptations in order to try and maintain their position, or indeed their very physical and cultural survival, in the face of a sometimes hostile environment and neighbours. Some, no doubt, weathered the storm better than others. The fact that at the end of this challenging century an English colony survived underlines their tenacity and their determination to retain a position in Ireland.

Methodology and sources.

Twelve families have been chosen to study in as much detail as possible to identify some of the ways in which these families reacted to the crises of their generations and how they sought to surmount them. Families were chosen as the skeleton on which to build the body of the thesis because they gave a chance to look at and compare the situations of people with a common link, and because extended lineages were to become important to the physical and economic survival of some English families in Ireland.

The choice of families was, first of all, dictated by the sources of information available, always a problem with medieval Irish research. One way around this was to concentrate on a geographical area that is well documented. East Munster and South Leinster, much of which was to be acquired in time by the Butler family, was such an area. Theobald Walter, the Butler, ancestor of the earls of Ormond, was initially granted a large area of northern Tipperary (with some lands in Limerick) in 1185 and the cantred of Gowran in Kilkenny by Prince John (Gowran he later held of William Marshal).[1] In 1338, James Butler was created earl of Ormond and was granted the whole of county Tipperary as a liberty. During the same time county Kilkenny, which had always been a liberty, was being broken into smaller estates by the successive inheritance of heiresses. By the end of the fourteenth century, the Butler family had also managed to acquire much of county Kilkenny, culminating in the purchase of the Despenser purparty in 1391.

The Butler family muniments, which consist of deeds, rentals and extents for these areas, were published as the *Calendar of Ormond Deeds;* a central source for

[1] Otway-Ruthven, *Medieval Ireland,* pp.67-8.

English families in the medieval period. The twelve chosen families held lands in counties Tipperary or Kilkenny, and feature in the printed volumes one and two of the *Ormond Deeds* (covering the years 1172 to 1413) with enough entries to make an assessment viable. Family members though may have acquired land in other counties which it will be relevant to discuss. The *Ormond Deeds* are complemented by the *Red Book of Ormond*, a cartulary containing further deeds and rentals of the Butler properties.

Further information has been culled from several other important, printed sources of administrative documents including the *Calendars of Justiciary Rolls* (the legal and administrative proceedings before the chief governor) and the Pipe Rolls of the Exchequer (financial records of monies paid into and out of the Irish Exchequer) as reproduced in the *Reports of the Deputy Keeper of Ireland*. The *Annals of John Clyn*, a friar of the Franciscan order in Kilkenny whose annals cover the years 1294-1349 whereupon it seems he succumbed to the plague, provide valuable information on local events. Although he does mention wider political and religious affairs, he was most knowledgeable about the Kilkenny area. A small amount of information was culled from transcripts of unpublished justiciary rolls in the National Archives of Ireland.

Source material for Ireland dries up significantly from *c.* 1350 as the area covered by the royal administration shrank and continental wars absorbed government attention. Empey described this period between *c.* 1350-*c.* 1500 as the 'tunnel period'.[2] The colonisers emerged from this tunnel period as the 'old English' of the Tudor age.

Although the existence of available information to some extent pre-selected the

[2] Empey, C.A., 'The Anglo-Norman community in Tipperary and Kilkenny', in *Keimelia: studies in medieval archaeology and history*, eds. G. MacNiocaill and P. Wall (Galway, 1988), pp. 449-467.

families, another consideration was choices which would provide some illumination or contrast on the issues to be discussed. If the community did not want to be assimilated or driven out, it not only had to survive nature's catastrophes, but also to establish and maintain a culture that marked it out to some degree from the native Irish. Matters such as land inheritance, the use of the English language, and march, or Irish law, even personal appearance and riding styles, took on extra layers of meaning. The families chosen are: Archdeacon, Avenel, Le Bret, Cantwell, Erley, Freyne, Grace, Hacket, Laffan, Maunsell, Marsh, and Shortall.

Basing a study on evidence provided by family names does have difficulties. Names can appear at this time in several languages: English, Norman-French, Latin and Irish and in an interesting variety of spellings (often created out of the local dialect). Archdeacon, for example, appears latinised as Archidiaconus, in English as Archdeacon, in French as variants of L'erchedekne, and in Irish probably as MacCuidhighthe.[3] It also appears gaelicised as the patronymic MacOdo, sometimes rendered back into French as fitz Odo. There are also instances of the Archdeacon head of family being referred to by the location of his landholding, 'de Okonagh'.[4] This can be compounded by mistakes in transcription, especially when using secondary sources. A surname can have arisen spontaneously in any part of the country as a nickname or topographical feature, for example, Marsh, and therefore it is not always clear whether people of the same name are

[3] Orpen, *Normans*, iii p.128fn

[4] Empey, 'The Butler Lordship', (unpublished PhD Thesis). Empey noted that Raymond Arkedekyn also appeared as Raymond Okonagh, McHode and Dominus Okonagh on the court rolls of the liberty of Tipperary. Okonagh was a cantred of Tipperary and the Archdeacons held the castle of Donohill there.

in fact part of one family. Whilst being aware of the difficulties, such features as land inheritance, having the same overlord, and appearing in records with the same relatives or neighbours can provide evidence for linking people of the same name to the same family, even if the exact relationship is unclear.

Women cause a particular problem as they often married and changed names several times. When a woman appeared in a court record it could be under her father's surname (even if married), or under the name of a husband. Many marriage links must be missed because the maiden name of the wife is not known. Fortunately, other clues come to the rescue: land grants from widows or spinsters may be to children or relatives and will possibly have male relatives as witnesses.

The number of chosen families is small and they do not necessarily provide a template for the actions of other landed, colonial families in Ireland throughout the fourteenth century. Each family had its own particular mix of strengths and of pressures and crises to address. However, it may suggest some of the similarities and differences to be found within this social group with its composite units of families and generations, who lived through such a difficult century.

Chapter 1. ARRIVAL and SETTLEMENT

The adventurers of the twelfth century entered Ireland on different tides of the invasion and, although under Anglo-Norman leadership, contained large numbers of Flemings and Welsh. Some accompanied Richard fitzGilbert de Clare (one-time earl of Pembroke), lord of Striguil (Chepstow) also known as Strongbow, who had agreed to help the ousted Dermot MacMurrough (Diarmait Mac Murchada) regain his kingdom of Leinster. In return, Strongbow was to have Dermot's daughter in marriage and become Dermot's heir to Leinster; an Anglo-Norman, though not Gaelic, way of settling the succession. Other lords and men accompanied Henry II in 1171 when he arrived in Ireland to bridle the ambitions of his feudal magnate, or came with Henry's son, John (created Lord of Ireland by his father in 1177) who first visited his lordship in 1185.

Strongbow had made a start on the feudalisation of Leinster by granting cantreds to his followers but he died in 1176. The Strongbow inheritance passed to William Marshal in 1189 when he married Isabella de Clare, Strongbow's daughter and heiress, though it was to be 1207 before he was able to visit his Irish inheritance.[1] Flanagan points out that Henry II does not seem to have continued the process of settling the area whilst it was in royal hands and it was left to William Marshal to plan the subinfeudation of Leinster in detail.[2] Through his new inheritance William had a large catchment area in the south west of England, and another on the Welsh border around his honour of Chepstow, to sieve for followers and tenants.[3] He began by dividing the liberty of

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[1] Otway-Ruthven, *Medieval Ireland*, p.77. Although Crouch suggests that the Marshal may have made a short crossing to Ireland from Pembroke in about 1200-1. Crouch, *William Marshal*, p.79 fn.
[2] Flanagan, *Irish Society*, p.131
[3] Flanagan, *Irish Society*, pp.156-60. He also inherited Strongbow's lands in France.

Leinster into four divisions to be governed from Wexford, Carlow, Kildare and Kilkenny, probably before 1200.[4] South Leinster contained much low-lying, fertile land suitable for arable crops and with the Barrow-Suir-Nore river system for transport to the ports of the south east coast. These ports, especially Wexford a prominent Viking port, would have already had extensive trading links with England, Wales and parts of the continent. The Marshal was quick to capitalise on economic and trading potential by building his own port of New Ross on the River Barrow within his own jurisdiction.

One of William Marshal's first problems with his Irish inheritance was to wrest control of his lands there back from Prince John, who had created his own group of tenants on the Marshal's lands.[5] One such tenant was Theobald Walter, a member of a family with lands in Suffolk, and Amounderness in Lancashire, nephew to the justiciar, Ranulf Glanville, and John's Butler.[6] John granted to Theobald five and a half cantreds in the north-eastern part of the kingdom of Limerick. As modern places these are the baronies of Tullagh, co. Clare; Clonlisk and Ballybritt, co. Offaly; Eliogarty, Upper and Lower Ormond, and Owney and Arra, co. Tipperary; Owneybeg, Clanwilliam and Coonagh, co. Limerick. [7] Theobald also received substantial lands in Leinster which included the prime arable lands of Gowran in co. Kilkenny. He was the only one of John's grantees allowed by William Marshal to retain his holdings in Leinster.

Unlike Leinster, the Munster fief was virtually landlocked with the only access to the sea via Logh Derg and the River Shannon on the west coast. This access was also in

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[4] Empey, 'County Kilkenny in the Anglo-Norman period', in *Kilkenny: History and Society*, p.76.
[5] Flanagan suggests that these grants were not after all too intrusive. Flanagan, *Irish Society*, pp.131-2.
[6] *The Victoria County History of Lancashire*, 8 vols. (Constable & Co. 1906-14), i, pp. 351-4.
[7] Otway-Ruthven, *Medieval Ireland*, p.67.

the uplands area of north Tipperary amongst unfeudalised Irish septs. Empey points to the tension between the needs of defence and best position for economic exploitation: in the case of Nenagh defence seems to have won out as the borough was settled inland rather than on the shore of Lough Derg.[8] The search for better trade routes from their Munster territories may have been one thread in the acquisitiveness of the Butler successors.

That lords sought to exploit the economic value of their lands is illustrated by the pattern of development, which had to have been planned at the outset of their lordship.[9] They chose land for a castle and their demesne, planned any borough development and sought to attract burgesses and tenants through lightened seigniorial demands and better status. Other lands they parcelled out to reward their followers so as to garrison their lands and reap rents and seigniorial incidents. The magnates may have been granted the lands, but they needed military men to win and defend them, and people to settle and exploit them before the lands could become worth the winning.

The southern parts of counties Kilkenny and Tipperary had land suitable for English-style manorial agriculture. The English people settled there were, perhaps, linked more strongly into the English system than others of the north and west of Ireland. The lands of northern Tipperary and Kilkenny were uplands, suited more to pastoral farming. Such areas were to be more thinly colonised by settlers and left largely to the husbandry of the Irish. These lands were often march lands wherein the two racial groups faced up to each other. This must have given the settlements there a different political and social climate.

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[8] Empey, C.A., 'Conquest and Settlement', in *Irish Economic and Social History*, 13 (1986), pp. 5-31.
[9] *Ibid.* p.9.

Many of the adventuring knights and followers were not destined to be tenants-in-chief but, like the majority of my twelve families, became the mesne tenants of the greater lords they had followed. This can make pinpointing the exact date of their arrival difficult. Often the first evidence of their being in Ireland is when they appear as a witness to, or recipient of, a charter.[10] Such signatory evidence does offer the prospect of being able to link them to a potential lord and so perhaps form some idea which flow of the tide brought them ashore. Individual members of the same family, though, may have found entry at different times and even with different lords or were drawn perhaps by the encouragement of a relative who had already acquired land. Others, especially younger sons with few prospects of inheritance in England, were enticed by adventure and a very practical search for wealth of their own. It was the lesser lords, 'the lords of the soil' in Empey's words, who actually undertook the settlement of the workers of the lands. Just as the greater lords had done, they had to look at defence and economic exploitation. They, too, sought out land for demesne and possibly a borough, tenants, craftsmen, and workers. This does not mean the Irish were driven off the land altogether, even in manorialised areas. They may, though, have been driven into the less productive land of the manor to live in their own settlements. Henry Laffan in 1303, for example, held land in Lanath (in the manor of Thurles) amongst the *betagii*.[11] They became hidden from the records because of a poor fit with the increasingly bureaucratic nature of manorial extents and administrative documents.

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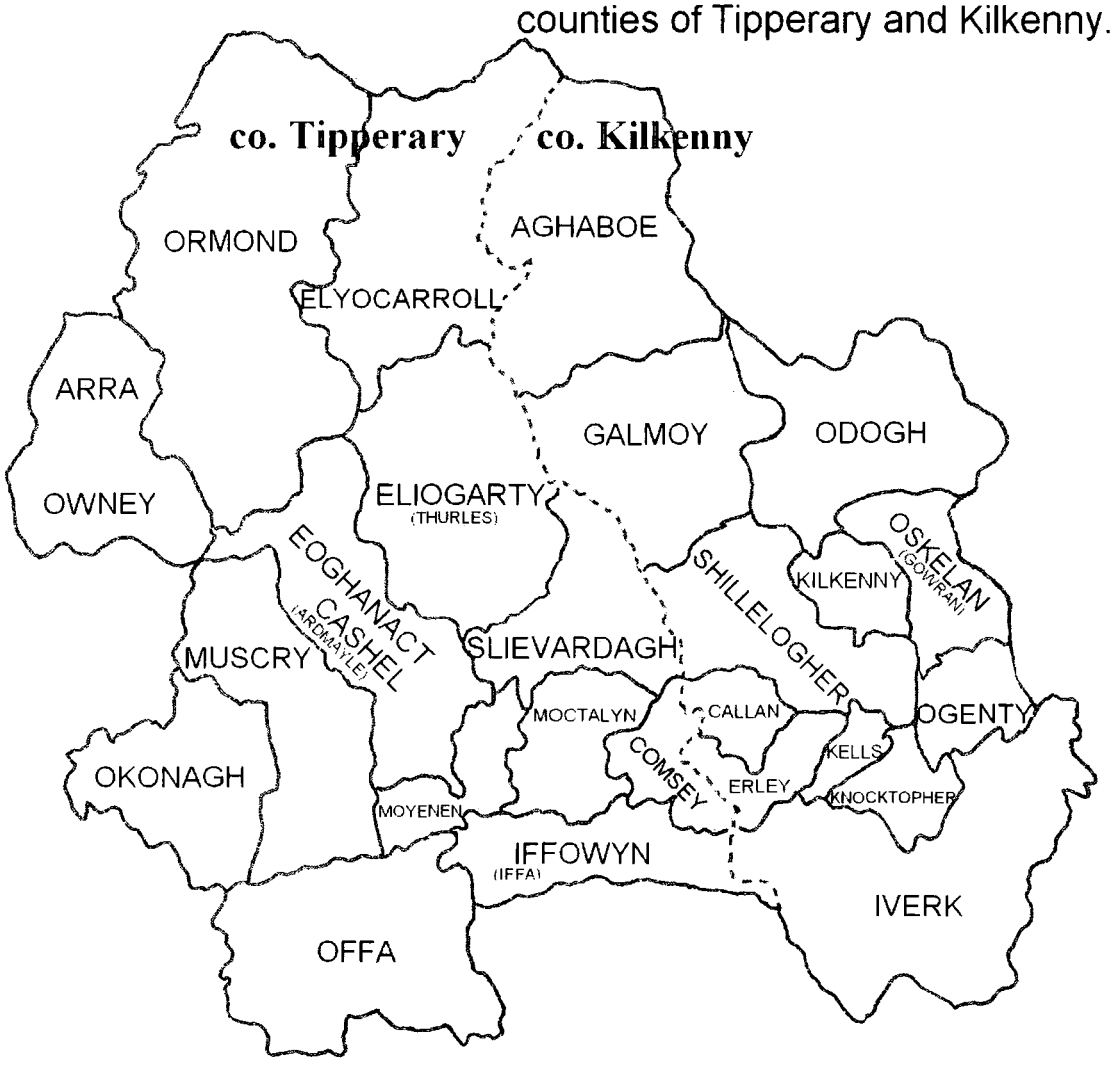
[10] Out of the twelve families, at least eight made their first appearance in Ireland as witness to a charter. A further two received charters of land; one appeared as an attorney; and whilst it is unclear who was first in Ireland of the Marsh family, the two contenders first appeared as a witness and a grantor.

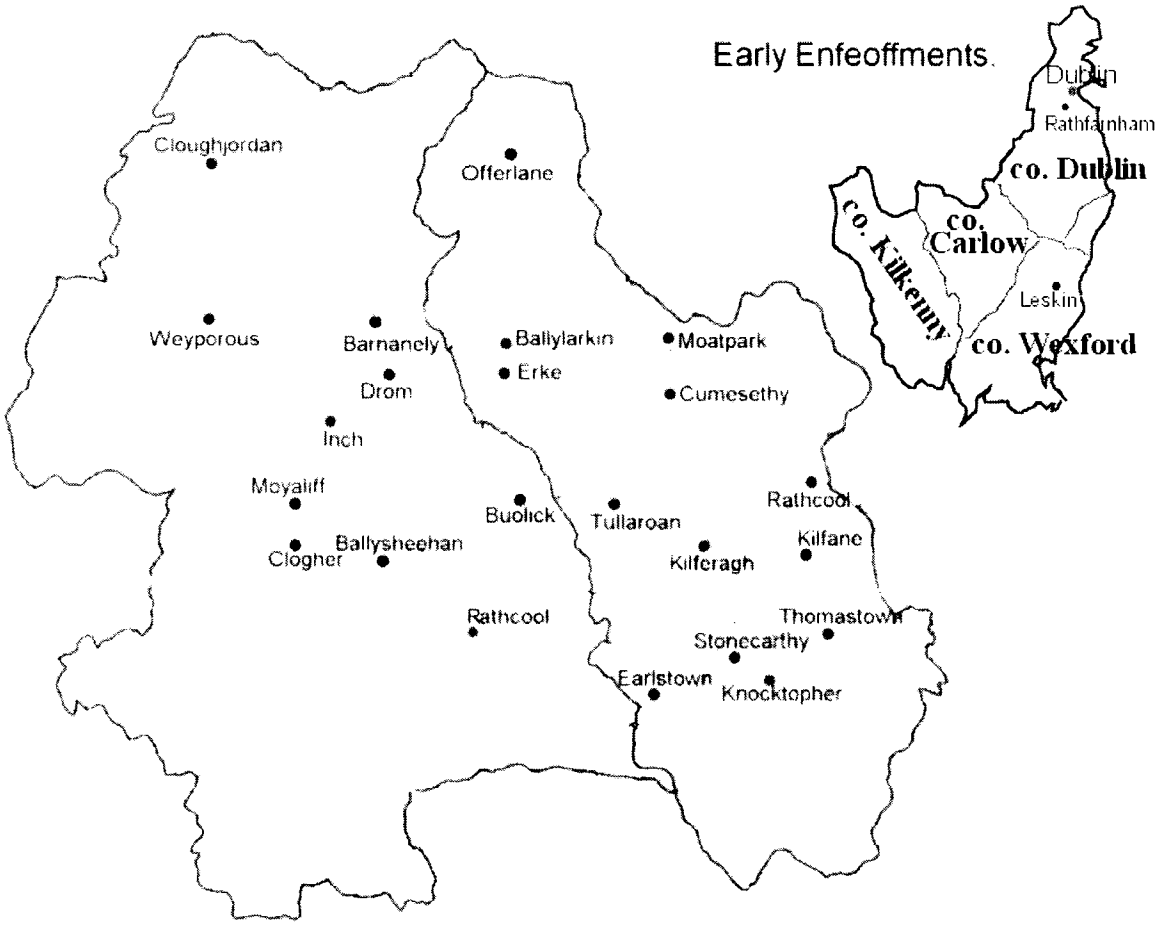
[11] *RBO*, p.49. Henry was a clerk to the Butler family. A *betagh* was an Irish tenant of unfree status similar to the villein in English feudal law.

Cantreds of the medieval counties of Tipperary and Kilkenny.



Cantred boundary
County boundary
(GOWRAN) Alternative name

Based on work by C. A. Empey



Name	Co. Tipperary	Co. Kilkenny	Other counties
Archdeacon		Moatpark (Tullochbarri) Odagh. lands around Thomastown, Ogenty Erke, Galmoy.	
Avenel		Kilferagh, Shillogher	Leskin, Wexford
Bret	Clogher, Ardmayle Rathcool, Moc' &Comsey		Rathfarnham, Dublin
Cantwell		Kilfane, Gowran	
	Drom, Eliogarty	Rathcool, Gowran	
Erley		Earlstown, Erley	
Freyne		Cumesethy (Foulksrath), Odogh	
Grace		Offerlane, Aghaboe Tullaroan, Shillogher	
Hacket	Barnanely, Eliogarty Balysheehan, Ardmayle		
Laffan	Buolick, Slievardagh Balybothan, Eliogarty (unplaced)		
Marsh	Weyporous, Ormond Cloughjordan		
Maunsell		lands in Knocktopher Stonecarthy, Kells	
	Moyaliff, Ardmayle Inch, Eliogarty		
Shortall		Ballylarkin, Shillogher	

Archdeacon.

The Archdeacons held manors in Cornwall and Shobrook in Devon (the latter being connected to the Cornish manor of Lantian). Possibly they descended from Odo who was archdeacon of Barnstaple in 1127-1136.[12] The senior line was still found in Cornwall in 1313-14 when Thomas Archdeacon (L'Erchedekne) of Ruan Lanyhorne was constable of Tintagel Castle. In 1203 Odo Archdeacon witnessed a charter by William Marshal to St Mary's of Kells in Ossory, co. Kilkenny, though it was signed in England at the Marshal's stronghold of Hamstead and so it is likely that he was one of the Marshal's men.[13] Shortly afterwards, *c.* 1204, Odo was witness to a charter made in Ireland by Geoffrey fitzRobert, another of the Marshal's men. He must have crossed to Ireland within that time and ahead of the Marshal, perhaps with Nicholas Avenel who also witnessed the same charter.[14]

In Ireland the first record of the family having been enfeoffed occurred in 1212, when Stephen Archdeacon, son of Odo, granted the church of Kilcormac and chapelry of Tulochbarri (?Moatpark), areas around Ballyragget, co. Kilkenny, to the Priory of Inistioge.[15] Another enfeoffment must have been Erke (barony of Galmoy, co. Kilkenny) which in 1247 was also held by Stephen Archdeacon.[16] Around 1216, Stephen had obtained the hand of a daughter of Thomas fitzAnthony, seneschal of William Marshal in Leinster and inherited land in Ogenty, co. Kilkenny on Thomas's death.

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[12] Keats-Rohan, K.S.B., *Domesday Descendants* (Woodbridge, Boydell, 2002) p.139.
[13] *IMED*, p.302.
[14] Duiske Charters, no.1.
[15] *OD 1172-1350*, pp. 22-3.
[16] Brooks, *Knights' Fees*, pp.176-9.

The Archdeacons had a solid Kilkenny land base as part of the Marshal following and had married into other Marshal tenantry. Erke (Galmoy) and the Ballyragget area are now on the northern border with co. Laois but originally Erke would have been more distant from the liberty's northern border as its neighbour, Aghaboe, was the most northerly cantred of Kilkenny. The Ballyragget area was slightly more distant than today from the Kilkenny-Laois border. They had the O'Tooles (Ua Tuathail) to the north and the MacGillapatricks to their west. Although these enfeoffments were on rising lands, both tenements had access to the River Nore (the Erke access being by tributary). Ballyragget is across the river from Lisdowney, held first by the D'Evreux family and then by the Pembrokes. No doubt these two fiefs played an important part in protecting the access to the Nore above Kilkenny. Ogenty was further south in the county, though Thomastown was again situated on the River Nore so the Archdeacons had good access from one fief to another. On one side Thomastown had the lowlands that surrounded Kilkenny, but had rising lands to the west and south.

The Archdeacons may also have made an early move into co. Cork as Orpen suggested that the castle at Muntervary built *c.*1216 was ascribed to *Mac Cuidighthe*, that is MacOdo, and the Archdeacons do appear as landowners in co. Cork.[17]

Avenel.

Nicholas Avenel was another of the household knights of William Marshal and held land in Somerset, Devon, and Wiltshire. He served as the Marshal's under-sheriff of

[17] Orpen, *Normans*, iii, p.128 fn.

Gloucestershire twice between 1192 and 1201[18] Nicholas Avenel must have arrived in Ireland before his lord but after 1201, as *c.*1204 he was a witness to the same charter as Odo Archdeacon.[19] He was possibly enfeoffed with two quarter fees, one at Leskin, co. Wexford and the other in Kilferagh, co. Kilkenny. Kilferagh seems to have been a small enfeoffment compared to some, but it was in a prime, and potentially profitable, arable area just south of the earl's cantred of Kilkenny and adjoining Gowran, and again on the River Nore. The two tenements were both held by a later Nicholas Avenel in 1247.[20] Nicholas of 1204 had a contemporary, Andrew Avenel, probably a relative. As Andrew was first mentioned in 1207, he may have accompanied either Nicholas, or the Marshal.[21] If Nicholas' son, William, died *sine prole,* then the Irish line is a collateral one, possibly descended from Andrew.

Le Bret.

Of the landowners named le Bret (or possible variants) in England, certainly one family were tenants of the Strongbow Honour of Clare: Radulfus Brito held *ij partes militis ex dono meo.* Another le Bret had tenurial links in Hereford with Hugh de Lacy, also a marcher lord.[22] Other Bret families held lands in Dorset, Somerset, Wiltshire and Hereford, some of the geographical 'hotspots' for recruitment into Ireland and so it is not clear from which locality the le Brets came.

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[18] Crouch, *William Marshal,* p.203

[19] Although Crouch suggests that the Marshal may have made a short crossing to Ireland from Pembroke in about 1200-1. Crouch, *William Marshal,* p.79 fn.

[20] Brooks, *Knights' Fees,* p.163.

[21] Brooks, *Knights' Fees,* p.164.

[22] *RBE,* i, p.405 and p.283.

A William le Bret was witness to a grant from Richard de Clare to Adam de Hereford made in Ireland *c.* 1172,[23] though the first recorded grants were to Milo le Bret in counties Dublin and Meath in 1199. Milo was to hold thirty one carucates of land in O'Toole country for one knight's fee, and land in and around Rathfarnham for a further one and one-fifth knight's fees.[24] The grant of Rathfarnham gave the family its status as tenants-in-chief. The Bret family seem to have used their connections, at least at the initial stage, to move several family members into tenements in co. Tipperary as it was opened up by Prince John's grants to Theobald Walter, Philip de Worcester and William de Burgh. It was probably Milo's son, Adam le Bret, who had become a tenant of the Poer family in Rathcool, co. Tipperary by 1234.[25]

Another early acquisition in Tipperary was Clogher, held by William le Bret from the Marsh family. In 1200, William gave the church of Clogher, in the cantred of Ardmayle, to the Hospital of St John the Baptist, Dublin.[26] Clogher, in turn, was probably held of the manor of Moyaliff, another manor held by the Marsh family, in the same cantred. The Bret family would have known the Marsh family as fellow landholders in Dublin. William was possibly a brother or son of Milo le Bret, and the bequest to a Dublin foundation provides some circumstantial evidence.[27]

Following their moves into co. Tipperary, the Brets were well placed to be drawn

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[23] *OD 1172-1350*, p.1. This could be the William who appeared as witness Adam, William and Radulf to a charter from Milo le Bret to St Mary's Abbey, Dublin along with Adam and Radulf. *CSM*, i p.126. A William le Bret also held Clogher by 1200.
[24] *CDI*, i, p.15.
[25] *CDI*, i, pp.44-5 and p.318.
[26] Brooks, *Knights' Fees*, p. 250fn.
[27] *CDI*, i, p.318.

into the push in Connacht either in 1210 with the expedition led by Geoffrey Marsh and Thomas fitzMaurice or in 1235 with the reconquest led by de Burgh.[28] In 1261, they reached perhaps their widest extent of lands by acquiring Shrule (Struther) castle, co. Mayo, the manor and castle of Knocktopher in co. Kilkenny, and the manor of Carrickmacgriffin in co. Tipperary. They now had tenements stretching from counties Dublin to Connacht. However, the three tenements of 1261 were all gone by the end of the same century: Carrickmacgriffin exchanged for Rathcon, co. Tipperary, Shrule to Walter Ivethorn, and Knocktopher to Walter de la Haye, the escheator. Their stable base was to remain those lands acquired earlier: Rathfarnham in co. Dublin, Rathcool and Clogher in co. Tipperary.

Rathcool was well placed within the cantreds of Moctalyn and Comsey, which formed the manor of Kiltinan, a de Bermingham manor throughout the fourteenth century. It was on low-lying land near a river tributary, but, ominously, to the east were the Slievardagh uplands separating the counties of Tipperary and Kilkenny. It was not just the Irish of the mountains that were a danger. In 1299 the men of Comsey were at war with the English men of Callan in co Kilkenny.

Clogher was mid-county in Ardmayle (Eoghanacht Cashel), near to a tributary of the River Suir. Lewis in the nineteenth century described the parish as about half and half of good arable and pasture, and mountain and bog.[29] To the west were the uplands of Kilnamanagh, and the septs of O'Dwyer and O'Mulrian.

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[28] In 1297, Walter le Bret son of John leBret of Rathcool (Rathkel) was involved in a case of novel disseisin along with the Briskey family in Clonguillyn, Connacht, confirming the Tipperary-Connacht family link: *CJR 1295-1303*, p.136.

[29] Lewis, S., *Topographical Dictionary of Ireland*, 2 vols (London, Lewis & Co., 1847) i, p.330.

Cantwell.

The Cantwell (Cheneteswelle) family in England held ten fees in Norfolk and Suffolk.[30] Carrigan suggests that a Hugh Cantwell arrived with Strongbow[31] but it was in 1192 that a Gilbert Cantwell was granted Drom (Kenelfenelgille) in north Tipperary by Theobald Walter and amongst the witnesses was a Thomas Cantwell.[32] A Walter Cantwell was also a witness to another charter by Theobald Walter around the same time.[33] As well as Drom, Gilbert held two knights fees in Kilfane of the bishop of Ossory in Gowran, co. Kilkenny, another Butler fief.[34] In 1210 the Cantwells of England also held a quarter fee of the Butler Honour of Lancaster.[35] This link, if it predated the Butler's arrival in Ireland in 1185, may explain how the Cantwells came to hold their Irish lands from him rather than Strongbow.

It may be that Gilbert was heir to the English lands for a Gilbert certainly held them in 1210.[36] He must have spent considerable time in England as the bishop of Ossory, believing him to be dead, seized his fee of Kilfane. A letter from the king was needed confirming that Gilbert was alive and in his service before Gilbert could recover seisin.[37] He must have left Drom in the hands of his brother, Walter, as an entry in the Register of Kells described Walter as the lord of Drom (Drummacbarran), even though Gilbert was still alive.[38] In 1244, an inquisition *post mortem* decided that the next heir to

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[30] *RBE*, i, p.410.
[31] Carrigan, *Diocese of Ossory*, iii, p.275.
[32] *OD 1172-1350*, p.18
[33] *OD 1172-1350*, p.18
[34] *OD 1172-1350*, pp.10-11.
[35] *RBE*, ii, p.569.
[36] *RBE*, ii, p.476
[37] *CDI*, i, p. 159.
[38] *IMED*, p.303-4

the English estate was Amabilia, daughter of Walter Cantwell.[39] In the same year, the king bought the manor of Kentwell, Suffolk from William fitzHugh and wife Amabilia[40] As the money was to be paid by Irish treasurer, it would appear that this Walter was the same as the Walter Cantwell who held Drom for Gilbert.Walter's daughter and heiress, Amabilia, was married to a William fitzHugh so Drom would have passed out of the Cantwell family to any fitzHugh children, or reverted to the Butler lords to be regranted. By 1303, Drom was held by John fitzRobert.[41] Drom was never going to be an easy fief to hold as it lay on the edge of the Devilsbit Mountains. Gilbert had received half a tuath, or five knight fees, there in exchange for service of one knight. This reflects the more difficult task of retaining and making profit from such a fee.

Either Gilbert or Walter may have granted Kilfane to Thomas, probably another brother. The fact that Kilfane stayed in the Cantwell family after Drom was lost would suggest that Gilbert divided his Irish lands between two brothers. The head of the Cantwell family in Ireland was now Thomas with two knight fees in Kilfane, and also a half fee in Rathcool, both in the Butler cantred of Gowran, co. Kilkenny. (A record of 1338 shows that a descendant of his, another Thomas Cantwell, held one and a half fees in Arra of the Butler manor of Nenagh but the date of the acquisition of this tenement is unknown).[42] Rathcool may also have been a relatively difficult fief to defend as it lay at the base of the Castlecomer uplands. Kilfane may have presented the best potential for

[39] *Inquisitions post mortem*, 4 vols. eds. J.Caley and J.Bayley (Eyre and Strahan, London, 1806-28), i, p.3.
[40] *CDI*, i, p.407.
[41] *RBO*, p.71
[42] *IPM*, viii, p.121. A case of theft involving a servant of Thomas Cantwell's near a Butler tenement in Nenagh would suggest that they were there by 1313: *CJR 1308-1314*, p.272.

economic exploitation as it was situated in prime low-lying land near Thomastown and the river system.

Erley.

John Erley was another of the household knights of William Marshal and whilst he held land in Somerset, John gained his surname from his manor of Erley in Berkshire.[43] John accompanied the Marshal to Ireland in 1207 as shown by the grant of letters of protection.[44] Although John was a witness to a charter whereby William Marshal granted to Theobald Walter the vill of Arklow and other lands, and which was probably made before 1205, perhaps this too was signed in England.[45] Gilbert Cantwell (Kentwell) was also a witness to this latter charter and as previously noted, he spent much time in England away from his Irish lands.

John Erley was enfeoffed with the land between Callan and Kells, now known as Earlstown, co. Kilkenny. Callan had been reserved by the Marshal as demesne, so was likely to be some of the best land available. The Marshal had some of his closest supporters as his neighbours: Mallard his standard-bearer of Mallardstown, John Erley, and Geoffrey fitzRobert of Kells. Not only did they receive prime arable lands, they must have provided a loyal defence for their lord.

[43] Crouch, *William Marshal*, pp. 195-6, and p.203.
[44] *Ibid.* p.94.
[45] *OD 1172-1350*, p.17.

Freyne.

Lands held by Freyne families were most numerous in Hereford *in Wallia.* Alfred (Aluredus) Freyne held one virgate of Hugh de Lacy there but also Alfred and three other Freyne tenants held four knight fees of Adam de Port, who also had Hugh de Lacy as his tenant. It seems probable that the Freynes came to Ireland at the time of Strongbow with either Hugh de Lacy or Adam de Hereford. Around 1176, William Freyne (del Freinnes) witnessed a charter by Richard Tirel to Adam de Hereford.[46] However, as the main tenement of the Irish based Freyne family in the early thirteenth century was Cumesethy, co. Kilkenny, and south of the Hereford fee of Aghaboe rather than in Meath, de Lacy territory, it would suggest a more likely link with Adam de Hereford. An interesting aside occurred in the *Cumberland Pipe Rolls* about William Freyne. In 1177 in the roll of purpresture and escheats he owes ' 5 marks for right of land. But he is nowhere found'.[47] As noted previously, William was in Ireland *c.* 1176.

Cumesethy may be Foulksrath in Coolcraheen, in the cantred of Odagh.[48] Although there were low-lying lands alongside the river, to the north and east the land began to rise to the Castlecomer uplands. That this area began to experience disturbances within the thirteenth century is shown by the fact that the castle of Moifillith (?Muckalee, two parishes east of Coolcraheen), was already burnt down 'of old' and waste by 1297.[49]

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[46] *OD 1172-1350*, p.2

[47] 'Great Roll of the Exchequer', in *The Pipe Roll for Cumberland, Westmoreland and Durham,* Society of Antiquaries of Newcastle upon Tyne (Newcastle upon Tyne, 1847), p. 236.

[48] Brooks, *Knights' Fees*, p.184.

[49] Empey, 'County Kilkenny in the Anglo-Norman period' in *Kilkenny: History and Society,* p.89.

Grace.

The legendary descent of the Grace family from Raymond le Gros has been adequately disproved and their relationship by marriage to William Marshal established by Orpen and reprised by Brooks. Their family property in England was the manor of Chipping Sodbury, Gloucestershire. Three Grace brothers, nephews of the Marshal, came to Ireland in his service and no doubt received their enfeoffments from him. In the north of co. Kilkenny they received half a knight's fee in Offerlane, a mountainous area in the Marshal's demesne, surrounded by the septs of O'Connor faly, O'More and MacGillapatrick. They received a quarter fee further south in the county at Tullaroan, in the cantred of Shillogher. Once again this was near to the Marshal's own demesne manors of Callan and Ballycallan and also situated between the uplands of the Slievardagh mountains and the Marshal's town of Kilkenny. Although the tenement at Tullaroan was half the size of that of Offerlane, it was quite likely to be more profitable for arable farming and trade.

Probably two members of the family also received land in county Carlow, Castlegrace (also known as Tollathnynerth) and Barragh. These latter two were not original enfeoffments but followed the escheat of these lands to the Earl Marshal after the death of the first feoffee, Robert de Caunteton.[50]

In 1283 William Grace entered into a formal fine at Westminster with Thomas Welond to exchange lands in Chipping Sodbury, England for those in Ireland at

[50] Brooks, *Knights' Fees*, pp.71-4.

Tullaroan.[51] The Grace family had held Tullaroan since at least 1247 so maybe it was merely a formalisation of an agreement that had been made some years before. If this was a new agreement, William must have felt a degree of economic and physical security in his Irish base in the 1280s. They had now severed their links as landholders to England and taken root in Irish soil.

Hacket.

The origins of the surname Hacket are complex and somewhat speculative. In Ireland one strand at least started with the Ridelsfords, Walter de Ridelsford being one of Strongbow's followers. Brooks points out that the Ridelsford family, though holding land in Lincolnshire, originated in Yorkshire, from Wridlesford (Woodlesford in the parish of Rothwell). Land in both counties was held of the constable of Chester (held by John de Lacy in1181).[52] There was a Hacket family in Yorkshire in 1166. *The Red Book of the Exchequer* shows that a William Hacket held two knights fees of Roger de Munbray and (if the same William) a sixth part of a knight's fee from Bertram de Bulimer. The name Hacket occurred as a first name in the de Ridlesford family: in 1160, Haket de Ridelsford was the tenant in Lincolnshire.[53] It seems a strong probability that these two families were connected.

Walter de Ridelsford was granted land in the barony of Kilkea, and Castledermot, co. Kildare; Bray, co. Wicklow, and Donnybrook, co. Dublin (the latter two held of the king). This senior family line died out through female inheritance, but there were

[51] *CDI*, ii, p.499
[52] Brooks, 'The de Ridelesfords', *JRSAI* 61, pp.115-38
[53] *RBE*, ii, p.795

collateral lines of which a Hacket de Ridelesford was one. Brooks quotes a deed made in 1545-6 that proves that the surname Hacket grew out of the Ridelsford family. 'John Hacket alias Ridelesford of Naas co Kildare, son & heir of Henry Hacket alias Ridelesford late of Granee (i.e. Graney) in the said county, son and heir of Edmund Galte Hacket late of Grane aforesaid and right heir of Hacket Ridelesford.'[54] This could explain the familial link between Henry and William Hacket and the Marsh family when the Hacket names were included on the petition *c.*1258 for the release of their Marsh 'kinsmen' after the earl's war, for Robert Marsh (de Marisco) had married the daughter of Walter de Ridelsford (died *c*1240). [55]

It is possible that another progenitor of the Hacket surname in Ireland could be the follower of John de Courcy, William Hacket, whose son, Peter, was a hostage for John in 1204.[56] However, as the surname does not appear to have Ulster connections, it seems less likely that the Hackets were descended from this line.

The first definitive record of a Hacket holding land in Tipperary occurred between 1259 and 1283 when Richard de Rupella (Richard de la Rochelle) granted ten marks of rent that Philip Hacket was wont to pay him out of the lands of Barnanely (Bearnan Eli, cantred of Thurles) to Theobald Walter.[57] It could be that this Philip was a son of Henry who had twice previously appeared as witness for Theobald, for Philip was to name his son Henry. If so, the Hackets were in Tipperary by 1195-1206.[58] This tenement was close to the Devilsbit Mountains and made them neighbours to the Cantwells (followed by the

[54] Brooks, 'The de Ridelesfords', *JRSAI* 61, p.60.
[55] Brooks, ' Marisco', *JRSAI* 62, p.72
[56] Orpen, *Normans*, ii, p.139
[57] *OD 1172-1350*, p.29
[58] *OD 1172-1350*, p.16

Stapletons) at Drom, and the Purcells of Corketeney. This group of tenements, whilst not in the most northerly and vulnerable part of the Butler fief, provided a line of defence between the Devilsbit uplands and the Butler demesne of Thurles. There was another cluster of Hackets in co. Tipperary, around Balysheehan (Balysichan, cantred of Ardmayle).[59] It would seem that by the end of the thirteenth century the land at Ardmayle and the land at Barnanely were held by the same person, John, the son and heir of William Hacket. He also held the castle of Rathorlis, near Nenagh.[60]

Some of the Hacket family were drawn into Connacht, perhaps through tenurial connections with Richard de Burgh in Ardmayle. De Burgh, who invaded Connacht in 1235, held Ardmayle, which included Balysheehan, until it passed to the Butlers in 1242.[61] Whether de Burgh was the link is not proven but in October 1305 William Hacket and Walter Hacket, knights, of Connacht were summoned as jurors on an inquisition *ad quod dampnum* concerning Richard de Burgh's grant of rents and lands to establish a new chapel. The jury reported that it knew only details of de Burgh's lands in Connacht, so William and Walter were almost certainly his tenants there.[62]

Laffan

The origins of the Laffan family are a mystery. Around 1290, William Laffan (Laffeyn) *tunc domino ville de Bouelek* was witness to a grant by Richard Miller (Molendarius) the

[59] As late as 1640 most landowners in the parish were Hackets. O'Sullivan, *Marcher Lords,* p.67fn.
[60] 39 *RDKI* , p.24
[61] The Brets, another family who joined the expedition to Connacht, held Clogher, next to Ardmayle, and so were neighbours.
[62] *CJR 1305-07*, p.142 These Hackets cannot at present be definitively related to those of Tipperary.

elder of Buolick.[63] Henry Laffan (Leffayn), probably a son or brother of William, first appeared on record as a clerk to the Butler family in 1286 and was then a young man.[64] Various authorities have tried to tie the name in with other established names in Ireland, for example, Lenfaunt and La Fant but without further evidence this is speculation.[65]

Buolick was a borough within the manor of Knockgraffon; the latter originally having been granted to Philip of Worcester. It was on rising land mounting to become the Slievardagh mountain range. Its nearest borough of a good size was Thurles which lay to the west. A land grant to Henry Laffan in 1293, by now clerk to the Butler family, mentioned that he held land at Balybothan in the manor of Thurles, but as this is the first reference, how and when he acquired this landholding is unknown though it is possible that it was through his position in the Butler circle.[66]

Marsh

Although Marsh is a topographical name which could have arisen anywhere, this particular family is well documented. Brooks in his article on the Marsh (de Marisco) family started his record evidence of the Irish lineage from Geoffrey de Marisco, the justiciar 1215 -21, and established the link with those Mariscos of Somerset, who held Huntspill and Lundy. Geoffrey Marsh was a nephew of Archbishop John Comyn of Dublin who was sent to Ireland in 1184 to prepare for John's arrival. The archbishop, probably, brought his relative Geoffrey (along with Geoffrey's brothers, William and

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[63] *RHJB*, pp. 320-1, no.497.
[64] Laffan landholdings in Thurles and Buolick are joined in later generations suggesting a family link.
[65] MacLysaght, *More Irish Families*, p.142
[66] *RBO*, p.99.

Jordan) in his train. Geoffrey was enfeoffed of lands in Holywood (Sancto Bosco), co. Wicklow by his uncle, and also acquired Knockainy (Ainy) and Adare in co. Limerick through King John.[67] He was now well placed as a powerful tenant-in-chief to make the best of what Ireland had to offer.

Geoffrey Marsh eventually fell from grace and fled abroad in 1242, only to die two years later. His eldest son, William, was hanged as an outlaw and his two sons were to die without heirs; Knockainy, Adare and Holywood passed out of the family. The eclipse of the main branch of the Marsh family in Ireland descended from Geoffrey, a younger son, had been brought about by its support for the Earl Marshal, culminating in the murder of Henry Clement in 1235, a key person in the Marshal's downfall.[68] The family baton passed back to the senior line to William son of Jordan Marsh, Geoffrey's great-nephew, who was allowed to regain his English inheritance and held six fees in Weyporous, (a castle also known as *de Vado Petroso),* probably now Ballynaclough, and four fees in Corkedufne, now Cloughjordan, in the cantred of Ormond, co. Tipperary of the Butlers. There were also four fees in Aryth (? Arra) held of John Assich, lord of Kilmore, one carucate in Carnathbeg held of Nicholas Croc, land at Latheran Otheran held of the bishop of Killaloe and three carucates in Portolethan held of the heir of Adam Daundon.[69] Being in the north of Tipperary these lands were in the less profitable fringe of the county and at danger from the Irish there who had never been brought into manorialised settlement.

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[67] Brooks, 'Marisco', *JRSAI* 62, pp.50-60.
[68] Brooks, 'Marisco', *JRSAI* 61, p.91.
[69] *Ibid.* p.89.

Maunsell.

It is unclear whereabouts in England the Maunsell family originated as it was not an uncommon name. The *Red Book of the Exchequer* lists several Maunsell tenants in England in 1166: Robert, a tenant of the archbishop of York along with other tenants whose surnames are found in Ireland, such as Lacy, Cokerel and Poer; a William Maunsell with land in Devon and Gloucestershire, key recruiting areas; and two in Staffordshire holding of a Gervaise Pagnell or Paynell (Paganelli).[70] In the earliest years of the conquest, the Maunsell family had links with co. Carlow and the Caunteton and Carew families there, the nephews of Raymond le Gros. Payn (Paganus Mansell) Maunsell was witness to a charter by Reymund Caunteton, and appeared with Caunteton members as a witness to other charters. He must have held Ratcartne (?Rathcartne, Co. Cork) as he gave the church to St Thomas' Abbey, Dublin.[71] The tenement of Rathmore, co. Carlow *c.*1238, was held by Henry Maunsell (Monsel) who was a neighbour to the Ridelsfords.[72] This places these Maunsells within the Geraldine/ Caunteton sphere of influence.[73] In South Leinster, in 1247, there was a tenement in Connagh (Chonnach), co. Wexford, identified by Hore as Knockea in the parish of Killesk, held by William Maunsell but there is no other information on this holding.[74]

The family gained an important social step up when Robert Maunsell was granted

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[70] *RBE, i,* p. 414, p.296, p.269.
[71] *RTA,* p.207
[72] *OD 1172-1350,* p.41. Although the first mention of a Maunsell was *c.*1176, when Robert was a witness to the deed of Richard Tirel to Adam de Hereford. The Tirels were tenants of the de Lacy's in Meath. For this see *OD 1172-1350,* p.2
[73] A Pagan Maunsell also appeared as witness several times for Barry and Caunteton deeds, for examples, see *RTA,* pp.116-7and pp.211-12
[74] Brooks, *Knights' Fees,* p.17.

the chief serjeancy of Munster in 1251 in fee.[75] Robert held the manor of Moyglas, co. Limerick. [76] Throughout the thirteenth century the Maunsell family spread their wings across co. Kilkenny. A Philip Maunsell had probably obtained lands in there before 1246-54 when he appeared as witness for Raymond fitzGriffin who held the cantred of Knocktopher (before it passed to the Bret family in 1261). That the Maunsells had claims on the castle and manor of Knocktopher was made clear in 1312 by a series of quit claims from Matthew son of Philip Maunsell.[77] The family had also moved into the neighbouring cantred of Kells by acquiring Stonecarthy[78] and other parcels of land there. That the Kells and Knocktopher branches were one and the same is evidenced in 1349 when Walter son of Matthew (son of Philip Maunsel) made a quit claim of Stonecarthy.[79]

Shortall

As the name Shortall (Shorthals, Scortals) is of Flemish origin and there was heavy Flemish settlement in Pembrokeshire, it may be that the eponymous knight came from that area with Strongbow or fitzStephen. In this context it may be relevant that the Shortalls family in Ireland were often in the company of the de Pembroke family. Brooks suggests the first de Pembroke in Ireland was Roger, a clerk who was witness to a charter

[75] Empey, 'The Butler Lordship' p.117. It is interesting that a John Maunsell was the king's clerk around this time though no connection been found to the Maunsells of Ireland. John did have dealings though with de Worcester of Knockgraffon. See, Frame, R., *Ireland and Britain* (London, Hambleton Press, 1998) p.41.
[76] Brand, P., *The Making of the Common Law* (Hambledon Press, 1992) p.26. Robert, in making an agreement with William Bardfield, agreed that his manor of Moyglas could be distrained if required.
[77] *OD*, i, p.182.
[78] The Tobins were the lords of Stonecarthy.
[79] *OD*, i, p.348.

of Geoffrey fitzRobert, baron of Kells, before 1211.[80] This may suggest that the Shortalls were Pembrokeshire followers of the Marshal. However if a member of the Shortall family did arrive in the first wave, it took a generation to receive the first grant of land in Ireland. Between 1211 and 1218, Theobald Troy granted the land of Corbally, co. Kilkenny (identified by Graves and Prim as Ballylarkin) to Robert Shortall (Scorthals) with three and a half carucates next to Freshford (Hachetur), the demesne of the bishop of Ossory.[81]

Ballylarkin had uplands to its north and south, with more open land to the east leading to the city of Kilkenny. It seems a coterie of Welsh marcher knights held land closely together around the north of the town of Kilkenny, at the foot of the uplands: Shortall, Troy and de Pembroke.

The environment at the start of the fourteenth century.

By the beginning of the fourteenth century, three or four generations had passed since the arrival of the Anglo-Normans in Ireland and the families being studied had entrenched themselves in various localities throughout counties Tipperary and Kilkenny. These families were both shaping, and being shaped by, the environment around them. R. Glasscock has drawn a comprehensive picture of their environment in 1300.[82]

Geographically, Ireland had a temperate but wet climate whilst the land was rather mountainous, heavily wooded and with many pools and swamps. Whilst corn could be grown in any part of Ireland, it was particularly well suited to pastoral farming, especially

[80] *Ibid.*, p.134.
[81] Brooks, *Knights' Fees,* p.230
[82] Glasscock, R.E., 'Land and People, *c.*1300' in *A New History of Ireland,* ii, pp.205-239.

in the higher regions. The country, particularly in the well-settled east, was heavily dotted with new types of settlement: castles, manors, moated dwellings, boroughs, villages and new religious institutions. The English had introduced the open field system, whilst Otway-Ruthven suggests that betaghs (the *betagii*) may have continued their own agricultural system.[83] Thus the very landscape itself could highlight racial differences.[84] Although there had been intermarriage between the landed classes since the invasion, Glasscock suggests that lower classes did not mix and that racial division would also be strong on the manor. [85]

However, by the beginning of the fourteenth century there were signs that not all was well. Up to as much as one third of land remained free from the direct impact of the English as they did not make strenuous efforts to retain control of land of poor economic potential. This left the Irish virtually undisturbed in many such areas and allowed raiding to continue. Documentary and archaeological evidence shows that freeholders began to strengthen the defences of their farmsteads in the thirteenth and fourteenth centuries by the addition of a moat 'to protect themselves and their stock from marauding raiders.'[86] These moated dwellings were mostly to be found in Leinster and Munster; particularly in the counties of Kilkenny and south Tipperary.

Just as ominously Glasscock points to a change in the climatic conditions which suggests that Ireland was experiencing wetter summers leading to poor harvests, floods and cattle murrain, which could cause social and economic difficulties. Archaeological

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[83] Otway-Ruthven, *Medieval Ireland*, pp.110-11.
[84] Glasscock, 'Land and People' p.211 The Gaelic system was infield-outfield with oats the main crop.
[85] *Ibid.* p.222. If true, there may still have been substantial variations in the number of inter-racial marriages in different manors.
[86] *Ibid.* p.217

work at Littleton bog near the Cistercian monastery of Kilcooly in co. Tipperary shows that there had been an increase in cereal production but that it went into decline from about 1300 as tillage was replaced by stock-rearing and grazing.[87]

Professor Frame also points out that, politically, the English royal administration was at its strongest around 1300. Although its hold was always relatively feeble, it 'bit deeper in 1300 than in 1200 or 1400'.[88] The fact that royal power was set to wane meant that there was space within the power structure for others to fill.

[87] Glasscock, 'Land and People', p.210.
[88] Frame, 'Power and Society', p.3.

Chapter 2. RELATIONS WITH THE CROWN, and the LORDSHIP OF IRELAND.

The Anglo-Norman invasion is an overarching description of the many peoples involved in the colonisation of Ireland. By the 1300s, those people had been sifted into social levels and various types of communities: manorial tenants, march dwellers, townspeople and burgesses, and members of a lord's household. Some, more than others, were being influenced by Gaelic life, culture and geography. Yet one of the features that gave all these groups cohesion was loyalty to an idea of Englishness. This idea clashed many times with the actuality of English government, especially when English-born administrators were sent to govern in Ireland. Nonetheless, there were tangible links to England that gave a reality to the idea: military service to the king and possible reward; a government and bank of official positions that replicated the English administration; and the use of common law.

Military Service

The king's wars outside Ireland.

During the fourteenth century, the kings of England involved their subjects in almost continuous warfare in Scotland, Flanders or France. This was the century that saw recurring warfare against the Scots, and the start of the Hundred Years War. Those subjects usually resident in Ireland, or with extensive Irish landholdings, still had their part to play in the gathering of the English army for these theatres of war outside Ireland, and royal summonses were sent out to them on several occasions.

In February 1302, as war broke out again with Scotland, persons considered to be

important in Ireland received the call to come the king's side.[1] Nine out of the twelve families being studied received were summoned. The absence of two of families can be easily explained. John de Erley had appointed attorneys for his lands in Ireland in October 1299, and he did so again on 26 July 1302.[2] Therefore he was most probably in England and received his call to come to the king at his English estates. The second omission was the Laffan family. This family was amongst the lesser ranks of landholders, and owed its position in Ireland to the patronage of the Butlers. The most prominent member at this time was Henry Laffan (Leffayn), an invaluable clerk to Edmund Butler. This is not to say that members of the Laffan family did not go to Scotland, but if they did so, it was in the entourage of someone else quite possibly one of the Butlers.

A more surprising omission, however, was Nicholas Avenel. In 1297, he had been summoned by name along with Geoffrey le Bret to go to the king's aid in France, the only two out of the twelve families to be so summoned along with very distinguished company.[3] Yet he does not appear in the list of summonses for 1302. Around 1297, Nicholas had bought the marriage of Juliana de Clare, who had lands in Limerick.[4] He was still alive in 1302 as he was a party in a court case in Ireland[5]. He did not die until 1312. However, it seems that Juliana may have died before 1302 as, by then, Nicholas was married to Margaret de Cruys who held lands in Dublin. The court case of 1302 was the first mention of Nicholas in connection with lands in Dublin, which suggests that the marriage to Margaret had taken place by this date. Maybe his summons in 1297 was

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[1] *CDI*, v, p.19.
[2] *CDI*, iv, p. 275, and v, p.15.
[3] *CDI*, iv, p.185.
[4] *CDI*, v, p.28.
[5] *CJR 1295-1303*, p.39.

linked to the social standing of his wife Juliana de Clare, but once she had died, Nicholas had lost some of his reflected status.

Those who were summoned in 1302.

Of the list of 1302, many of the names present are those that would be expected, from the young Herbert Marsh, who proved his age in 1297,[6] to the more elderly, but locally important, Thomas Cantwell. These were also the heads of their respective families, but that was not so in all cases. The head of the Freyne family around this time seems to have been Odo who is documented as holding one and a half fees in Kilmadum (Drumhyrthyr, co. Kilkenny) in 1306, land in Cork in 1307 and Kilmenan, co. Kilkenny in 1324.[7] Fulc was a tenant of Odo in Kilmadum, and may have been his brother.[8] Yet it is Fulc not Odo who was named in the summons. Fulc had served as seneschal for John de Bonevill of co. Carlow and as seneschal of the liberty of Kilkenny.[9] It was probably because of these official positions that he was summoned.

Milo and Geoffrey le Bret were also recipients of the summonses. This would have been the same Geoffrey as in 1297 and could have been Milo his son, especially as Milo had already served in war for the king, but the records suggest that there was also another Milo, connected to the family, and possibly a landholder in his own right. A court case in 1312 which involved several members of the Bret family in Carlow listed

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[6] Brooks, 'Marisco', *JRSAI* 61, p.98

[7] *RBO* p.35; *CJR 1305-07*, p. 363; Brooks, *Knights Fees*, p.182.

[8] *RBO*, p.35.

[9] *CJR 1295-1303*, p.84; 38 *RDKI*, p.62.

Geoffrey le Bret, Milo le Bret, knights, and Milo son of Geoffrey le Bret.[10] There was also another le Bret on the list; Philip, son and heir of Maurice le Bret, sheriff of Tipperary in 1273. Philip was a younger son who had inherited land in Thurles, co. Tipperary and in co. Cork after the death of his brother Theobald.

Four of the Archdeacon family were summoned: Sylvester, John, William and Maurice. Sylvester was head of the family at this time and John Archdeacon may have been his brother.[11] If it is the same John, then in 1324, he was also recorded as holding a carucate of land at Moatpark (Tylaghbarre) of Aymer de Valence, an original Archdeacon enfeoffment.[12] He also held land with others in the barony of Overk, co. Kilkenny as one of the 'co-heirs of the heritage of Odaw (now Odough) of which Roger fitzMilo was seised'.[13] Sylvester had a son, Richard, who had already been active in warfare against the Irish in the company of the justiciar but Richard was not summoned in this royal list by name, so by inference, it is unlikely that the William who was summoned was Richard's brother . The William called to war was more likely to have been the one involved in legal cases over land in Corles. Unfortunately for the king, as was reported to the court in 1302, William had died in the May of that year.[14] The final Archdeacon mentioned was Maurice, who held lands in co. Kildare and eight carucates in Tylaychkirduf (? Ballymacoda), co. Cork of Thomas de Clare.[15]

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[10] *CJR 1308-14*, p.265.
[11] *OD*, i, p.114. John son of Stephen Archdeacon was witness to a deed *c.*1290.
[12] Brooks, *Knights' Fees*, p.176
[13] *RBO*, p.133. The others were John fitzWilliam de Rupe, David Bronfedyr, and William fitzRobert de Sancto Albino.
[14] *CJR 1295-1303*, p.373
[15] *CDI*, iii, p.203. Ballymacoda indicates Mac Coda's homestead. D & L Flanagan, *Irish Place Names* (Dublin, Gill & Macmillan, 1994) p.177.

Four of the Grace family were also summoned to the war: Edmund, grandson of the William Grace who had held Tullaroan in 1247, and consequently head of the family; David, who probably held in Kildare as in 1298 he obtained a charter of pardon from William de Vescy, the lord of Kildare, for the death of Peter Shappe there; Hamo of Overk, co. Kilkenny who also had a holding in Kildare through marriage; and Anselm of whom nothing is known. Perhaps he held lands in an area not covered by extant records.

Of the four remaining, by 1303 a John Hacket son of William had succeeded to his father's land in Barnanely, whilst Robert Hacket was a landholder in counties Limerick and Tipperary and was charged royal service for one knight's fee in Tipperary in the Pipe roll of 1303-4.[16] Thomas Maunsell could be the son of Walter Maunsell who had conveyed lands in Clogher and Crosdrummor co. Tipperary to Edmund Butler *c.* 1290.[17] Robert Shortall was lord of Ballylarkin, co. Kilkenny.

The Summonses of 1335.

Just over thirty years later, in 1335, another list of summonses for service in Scotland was issued which allows a comparison to the list of 1302.[18] A generation on, the spread of families is much the same. The two absent from the 1302 summonses, Avenel and Laffan, are absent again but this time with the addition of a Marsh representative. Herbert Marsh had died in 1326 or 1327, his heir Stephen being then about twenty-two years of

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[16] 38 *RDKI*, p.89

[17] *OD 1295-1303*, p.114.

[18] *Foedera, conventiones, litterae et cujuscumque generis acta publica*, ed. T. Rymer, 20 vols. (Churchill, London, 1704-35). ii, pt. 2, p.906.

age.[19] Mention of Stephen occurs regularly in the records and he was alive in 1340 when he appointed attorneys for Ireland.[20] He may have been in England, where the family still had land, at the time of the summons.

Three families have the same number of representatives summoned in 1335: the Maunsells, Archdeacons and Shortall. Of these three families, the summons to Gilbert Shortall as senior representative of the Shortall family is most straightforward. He was the descendant of the earlier Robert, who held Ballylarkin. According to Clyn, Robert had been dispossessed in 1324, though he must have been reinstated.[21] John Maunsell is likely to be the John who was sheriff of Tipperary and Limerick around this time. John appears to be the son of Walter Maunsell and was a minor when his father died *c.* 1316.[22] He inherited the chief serjeancy of Tipperary and Limerick as a fee. He was knighted in 1330 by William Bermingham at Moyaliff in the midst of the host raised against Brian O'Brien.[23]

When it comes to those Archdeacons who were summoned, the situation is less clear because they had suffered a political and family tragedy in Ireland. The head of the family, Raymond, grandson of Sylvester, with his sons Patrick and Sylvester, an uncle, William and eleven others of that kin had been killed by Lysagh O'More at a parley at

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[19] Brooks, 'Marisco', *JRSAI* 61, p.101

[20] Brooks, 'Marisco', *JRSAI* 61, p.103

[21] Clyn, *Annals*, p.6. Clyn gives no reason why Robert Shortall was dispossessed, but the year is interesting. The family had were neighbours of Richard Ledrede, the Bishop of Ossory, and later custodians of his property; Richard was an enemy of Arnold le Poer, seneschal of Kilkenny. Richard accused Alice Kiteler in this year. The Shortalls were also tenants of Roger Damory who had opposed the king and the Despensers and forfeited his lands. Perhaps Robert Shortalls was too close to one or another of the Despensers enemies.

[22] 42 *RDKI*. p.13

[23] Clyn, Annals, p.12

Clar Goly.[24] Clyn gives the date as 4 May 1335. The letters of summons were dated 8 May. It is impossible that the chancery had heard of this tragedy within these few days, but Raymond and his family were not named. The four summoned were Edmund, John and two Williams. There seems no reference to an Edmund (or an Edward) Archdeacon in the records around this time. Two of those summoned were called William, and if Raymond's uncle is discounted then it is likely that one was the son of Philip who acquired lands in Balycolnan, whilst the other was a landowner in Killarney, co. Kilkenny. There are several possibilities for John but he may be the John Archdeacon, knight, of Clara in the barony of Gowran, mentioned retrospectively in a family deed of 1403.[25]

The Cantwell and Freyne families increased their number of representatives in the roll call. At first glance, it would seem that Thomas and his son John Cantwell had both been called, so doubling the Cantwell representatives. Although Thomas did have a son John, the one summoned may in fact be John son of Milo Cantwell of Buolick. This could suggest that the formerly minor branch of the family now located in Slieveardagh, a cantred of Tipperary, was growing in importance. On the evidence of these families, it seems that the royal summons did not usually include sons by name but there was one exception; a son who was included in his own right was Oliver son of Sir Fulc Freyne, included in the list with his father. By 1336, Oliver was seneschal of the liberty of Kilkenny so it was perhaps in this capacity, not as major landholder, that he received his

[24] Clyn, *Annals*, p.16
[25] *OD*, ii, p.376.

personal summons.[26] The Cantwell and Freyne families were just the kind of local families that were becoming more important within Ireland.

Three of the families, that had featured strongly in the earlier list, have a decrease in their number of representatives. The Bret family were reduced from three to two, and it would seem that the one missing is Walter le Bret who held Rathfarnham, the only tenant in chief. Walter owed royal service for Rathfarnham in 1324 and again in 1336 so certainly spans this period.[27] John could be John le Bret of Coolock co. Meath who had served as sheriff of Dublin, and in 1323 bought Hollywood, co. Dublin without licence.[28] Geoffrey le Bret would seem to be the son and heir of Philip le Bret, himself the heir of the Maurice le Bret of 1302.

The Hacket family were also reduced from two representatives to one, possibly having lost the descendant of Robert of Limerick and Tipperary. Although a John Hacket achieved seisin of his father's land in 1307, it is not clear whether he was still alive in 1335 or who his successor might have been. However, there was a John Hacket of Stillorgan, who was very active in defence of county Dublin for the king in the 1330s and had served as sheriff in1324-5.[29]

Finally, the Grace family show the most remarkable contraction from four to just one member being summoned. William was probably the son of Edmund and direct heir of the senior branch holding Tullaroan, and he may have incorporated the holdings of

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[26] 45 *RDKI*, p.31.
[27] *Ibid.*, p.52.
[28] *Ibid.*, p.63.
[29] *Ibid.*, p.52.

Hamo Grace who was killed in 1315.[30] Nothing is known of the holdings of David and Anselm, but their absence indicates that either their lands have slipped away from the family unit through wastage or inheritance by heiresses, or that their heirs were minors. Other evidence, such as lack of official appointments in the fourteenth century, suggests that the Grace family having lost their relatives and mentors, may have been undergoing an eclipse.[31]

Service and reward

It was not inevitable that those summoned would answer the king's call. After all, Richard de Burgh did not agree to go to Scotland in 1301 and so presumably many of his family members and followers would have ignored the call as well.[32] However, there were advantages to be gained from royal service during wartime and these could be persuasive. There was always the soldier's hope of booty or ransom of course, but also the king could reward his followers in other useful ways. Here was the possibility of finding favour with a king who had the powers to pardon debts or misdemeanours as reward for good service. In September 1296, Richard de Burgh, earl of Ulster, testified before the king that Eustace Poer and Walter le Bret had served well and manfully in Scotland.[33] Consequently, they were pardoned their crimes and misdemeanours in Ireland. As sheriff of Tipperary, Walter had had ample opportunities to accrue both debts and misdemeanours! The records also show that Walter suffered the loss of a horse whilst he

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[30] There was a Hamo mentioned in the feodary of 1317, though a later edition says heir of Edmund Gras.
[31] See pp.48-58 for office holding.
[32] Otway-Ruthven, *Medieval Ireland*, p.218.
[33] *CDI*, iv, p.147.

was with King Edward in Scotland and he was able to claim compensation of ten marks.[34] Other members of the Bret family were also to gain valuable pardons for their activities in Ireland: Milo son of Geoffrey because he accompanied John fitzThomas to Flanders, and Walter and Roger le Bret (Britt) because they accompanied John de Fresingfield.[35] Such pardons would do little to give authority to the law.

As well as pardons for past actions, the king, as the ultimate feudal patron, also had more lucrative gifts in his hands. He had the distribution of any available royal lands with their profits, as well as the valuable custody of minors, their lands till they came of age, and marriage of the heir. Good service in Scotland brought to Henry Hacket, William Gaynyard and William Prendergast custody of the lands of a deceased tenant in chief, John de Courcy deceased, whose heir was still a minor.[36] Such custodies were often less a guardianship than an opportunity for rapacious exploitation.

There were inherent dangers in war service of course, apart from the obvious ones of wounding or death. John Erley was reputed to have fought with the Black Prince at Najaraz and to have been taken prisoner in Spain.[37] It is believed that he had to sell some of his lands to pay the ransom and records do show that before 1381 his Irish manor of Earlstown had been conveyed to John Sweetman.[38] This brought to an end the connection of the Erley family as major landholders in Ireland that had lasted nearly two hundred years.

A mention in records for good service, or a claim for compensation, makes it

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[34] *CDI*, iv, p.147.
[35] *CJR 1295-1303*, p.428
[36] *CJR 1305-07*, p.16
[37] Burtchaell, 'Erley', in *JRSAI*, 36, p.161.
[38] *Ibid.* p.161

obvious when a man answered the king's summons to him, but sometimes it may be implicit in some other record. For example, in 1302-3 letters of protection from the king were granted to Henry and William Hacket possibly, in view of the record above, on their way to Scotland.[39] Neither Henry nor William were included in the list of summons for 1302, so such records enable us to move down a social tier to those men that were part of another's retinue. It is not clear which William or Henry Hacket they may have been, but there was a Henry, sheriff of Tipperary, and a William, coroner, around this date who might be expected to serve with the king.[40]

However, not all warfare on the kings behalf took place outside of Ireland: with the Bruce invasion, the Scottish conflict spilled into Ireland itself.

The Bruce invasion.

In 1315 Edward Bruce opened another theatre of the Scottish war, this time in Ireland. He invaded and had himself inaugurated as king of Ireland. His first foray in 1315 directly affected only the lands of Ulster and Meath and no doubt gave the Brets, who owned land in Meath, a taste of things to come. It was not until after Christmas, when he turned from Loughsewdy to cross the Clanmaliere region of Laois and Offaly, that the lands of many of the twelve families were threatened. Duffy's map, showing Bruce's campaigns throughout the years 1315-18, indicates that Bruce passed through the tip of Kilkenny, probably through the top of the cantred of Odagh.[41] The Archdeacon and Freyne families

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[39] *RPCH*, p.5b, no. 21.

[40] Henry accounted as sheriff in 1303-4. See, 38 *RDKI* p.89. William was coroner is 1295. See, *CJR 1295-1303*, pp.9-10

[41] Duffy, *Atlas*, p.43. Information about the progress of Edward Bruce's forays into Leinster and Munster

both held substantial lands in this cantred and, probably because of this, they were already captains of the march of Slievebloom, a mountainous area which ran through the north of Tipperary and Kilkenny (now in the counties of Laois and Offaly). [42]

There is little evidence to show which of the families were called upon to send representatives to the October parliament to discuss Bruce's invasion with John de Hotham, the king's special envoy to Ireland. Geoffrey le Bret, as a tenant in chief and constable of Newcastle Mackinegan, a royal manor in the march of Dublin, is the only one of the twelve named as having a letter of credence concerning John de Hotham, but quite probably Reymund Archdeacon and Fulc Freyne as captains of the march of Slievebloom were there too.

The first known fatality out of the twelve families in the Bruce conflict was 'that noble warrior' Hamo Grace, recorded by Clyn as one of only five English knights killed at the battle of the Skerries against Bruce in January 1316.[43] The Odagh lands of the Archdeacons and Freynes must have suffered the general plight of manors in the path of marauding enemies; plundered and stripped of foodstuffs and possibly burned as the Scots left, just as Loughsewdy had been after Bruce's Christmas rest there. [44]

A sterner test for virtually all the families came with Edward Bruce's campaign of 1317, strengthened by the addition of his brother Robert, as he marched through Kilkenny and Tipperary hoping, it seemed, to link up with the Irish of Thomond.[45]

At least six of these families had lands that lay along Edward Bruce's route. By 23

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has been taken from Duffy, *Bruce*, chap i. and Frame, *Ireland and Britain*, chap. vi.

[42] They received payment for this position. See 42 *RDKI*, pp.50-1.

[43] Clyn, *Annals*, p.3.

[44] Duffy, *Bruce*, p.21

[45] *ibid.* p.36.

February, Bruce was at Castleknock, in sight of Dublin.[46] Geoffrey le Bret's manor of Rathfarnham, just south of Dublin city, may have been saved from the ravages of the Scots when Bruce turned westwards to Leixlip and Naas, but Geoffrey did hold a knight's fee in Naas also of his wife's inheritance. Geoffrey was also constable of Newcastle MacKinegan in 1314, and by 1315 would no doubt have been involved in the defence of southern Dublin against the Irish animated by Bruce's invasion. Lydon, in his chapter on medieval Wicklow mentions the 'dangerous times' and the burning of 'Newcastle MacKinegan and all the vills in the country.'[47] It seems that Geoffrey le Bret was alive in 1317 but by 1318 Walter le Bret accounted for service of Rathfarnham. Whether or not Geoffrey was killed in these disturbances is not known, but his tenement in Naas must certainly have been plundered. Not only had Geoffrey to defend his south Dublin holdings from the Irish, but he was involved in defending those of the king also. Little wonder he was respited debts at the exchequer.[48]

From Naas, the Scots moved into Kilkenny, passing through Gowran on the main route from Carlow to Waterford. The Cantwells held at least two tenements in Gowran. As Bruce continued west, it is likely that the Marsh family there suffered the first of two Scottish ravages of their land. They held in Clogher in the cantred of Ardmayle, but also in the north of Tipperary, in the manor of Nenagh, an area which Bruce went to particular pains to lay waste, even making a detour from his main route. This was not aimed directly at the Marsh family, but, no doubt, at their overlord Edmund Butler, the justiciar, who was following hard on the Scots' tail.

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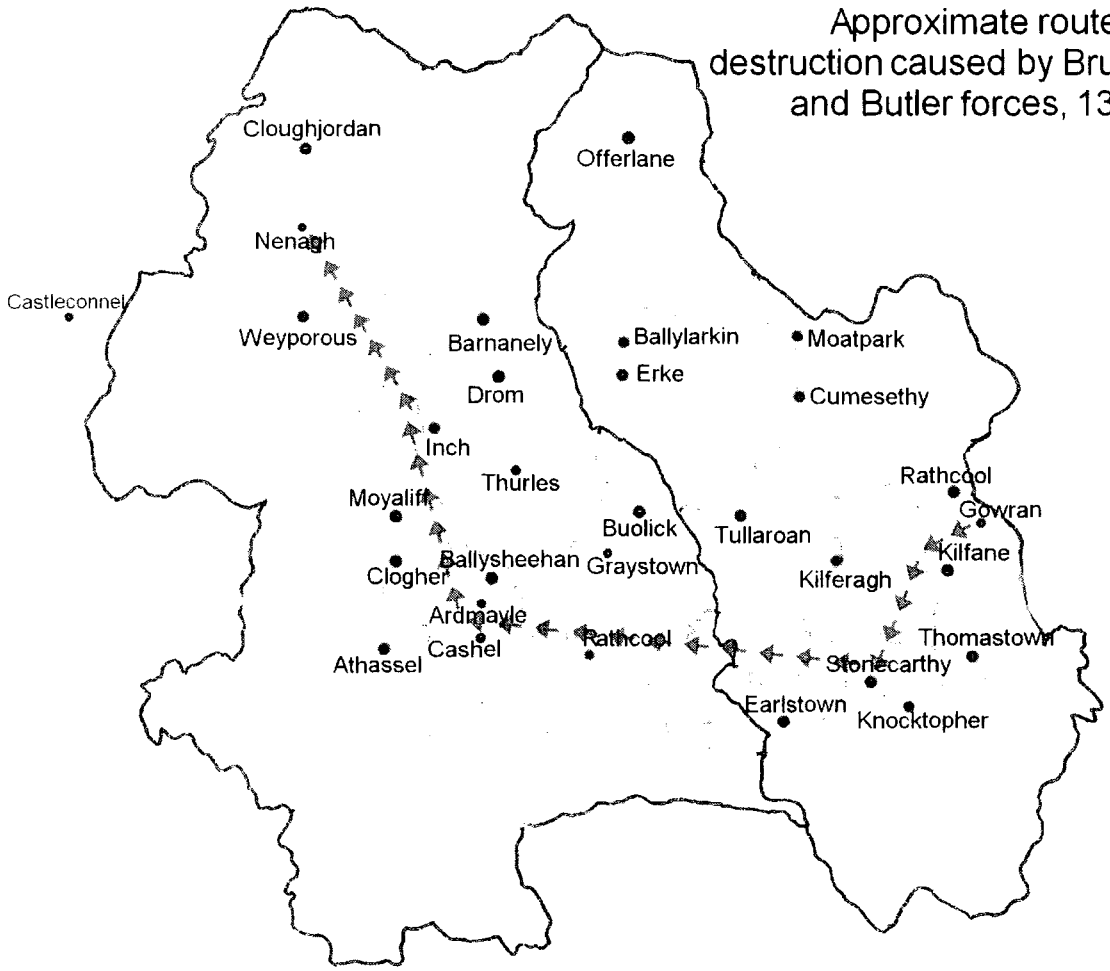
[46] *ibid.* p.35.
[47] Lydon, Medieval Wicklow -A Land of War, in *Wicklow History and Society*, p.172
[48] *RPCH*, p.22 no.44.


Approximate route of destruction caused by Bruce and Butler forces, 1317
Cloughjordan
Offerlane
Nenagh
Castleconnel
Weyporous
Barnanely
Ballylarkin
Moatpark
Erke
Drom
Cumesethy
Inch
Thurles
Rathcool
Moyaliff
Gowran
Buolick
Tullaroan
Kilfane
Ballysheehan
Graystown
Clogher
Kilferagh
Ardmayle
Rathcool
Thomastown
Cashel
Athassel
Stonecarthy
Earlstown
Knocktopher

As Bruce continued along his main route to the west, another family lay in his path, the Hackets, who held lands in and around Ardmayle. A main Hacket holding was Rathacket in the manor of Ballysheehan (Ballysichan), itself part of the manor of Ardmayle: once de Burgh property, it had passed to the Butlers through marriage. The Hacket family had spread itself around the area and members were to be found with property and tenements in Ballygraffin, to the west of Cashel, Gaile (Geel) to the north and Huddeston in Ballysheehan itself. It is unlikely that any of these avoided some degree of devastation. Even so, that was probably not the sum of it. The Hackets also held in Barnanely, at the base of the Slievebloom mountains in the cantred of Thurles (Eliogarty). As Bruce's men turned north to Nenagh the tide of their destruction may well have washed up against this manor. The *villa* of Oliver Hacket was also on the route of the justiciar's army as they moved out of Athassel. Professor Frame suggests that this is in the cantred of Okonagh, possibly Cordangan which lay just south of the town of Tipperary.[49]

In the middle of the crisis, in December 1317, Henry Hacket was given royal letters of protection, so presumably travelled to England, possibly as a messenger or on some official royal business.[50] Bruce had retreated back to Ulster by May of that year so the immediate threat of open warfare was postponed. By 1322-23, Henry was back in the saddle as one of the sheriffs of Tipperary and his accounts at this time give an indication of the financial problems that beset the county following the famine and invasion. Henry accounts for sums specified and 'owes £603 9s 7 1/2d'.[51] This from a county that had once been the most prosperous of the counties of Ireland.

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[49] Frame, *Ireland and Britain*, p.110.
[50] *RPCH*, p.22, no.52.
[51] 42 *RDKI*, p.71

The fact that this invasion was taking place during the years of a terrible European famine must have meant that the search for food and supplies took in a wider path that might have been the case in better times. Manors that were on the periphery of the corridor along which the army marched and that might have escaped being plundered in better years now found themselves no doubt drawn into the devastation by a starving army. Meanwhile, the English army was also on the march, and would also need supplies and provender. The army assembled by the justiciar was shadowing Bruce's forces for some of this time in 1317. Edmund Butler's forces drew other manors into the conflict as providers of supplies, even if they were not in the path of military action. On 18-19 March the Scots reached Cashel, whilst Edmund Butler's forces followed to arrive at Fennor and Graystown, also in Tipperary.[52] Edmund Butler had acquired Fennor in 1313 from John de Fresingfeld, and Edmund's clerk, Henry Laffan, had obtained Graystown in 1305 (either for himself or as agent for Edmund.) They were on home territories. This probably served several purposes: protecting their own manors against the Scots (and the worst that the English army could also do), whilst also making it a little easier to obtain provisions.

Some of the landowners who were also landlords in England had left the defence of their Irish lands to the justiciar and local forces. It was not until 1317 that the king ordered those with lands in Ireland to go to their defence along with Roger Mortimer of Wigmore, who had been appointed the king's lieutenant in Ireland. This order included John Erley and Herbert Marsh. They may have been amongst the knights that landed in

[52] Frame, *Ireland and Britain*, p. 103

Youghal with Mortimer on 7 April and advanced to join the justiciar's forces.[53]

The other side of the military triangle was composed of the Irish, many of whom, whether or not supporters of Bruce, took opportunity of the general disorder caused by the state of war to rise up. They, no doubt, were also feeling the effects of famine, and Lydon suggests a link between famine and Irish disorders in the 1270s, which may also have held true of 1315-18. He comments on how the easy pickings on the rich manors near the mountains must have proven irresistible.[54] This would be especially true in 1315-17 when the attention of the usual protectors of the manors was turned towards the Scottish invaders. In June 1316, Patrick Archdeacon was killed along with John Dene. The fact that these two were killed together suggests that they were possibly near family lands in Ogenty, co. Kilkenny. [55]As Bruce's forces were already back in Ulster by this time, Patrick was likely to have been killed in a skirmish with the Irish.

In 1318, the two different catastrophes taking place in Ireland passed over: Edward Bruce was killed, and the famine came to an end with a bumper harvest. It was disastrous for Bruce that he should have invaded at a time of such famine. Our twelve families survived as landowners, with some individual losses of life; but economic life had become harder due to the devastation and march life more pervasive. However, even at such a time of chaos and danger, few of the English settlers had defected to the Scots, and most had remained loyal to the king.

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[53] Rymer *Foedera*, ii, pt. 1, p.309.

[54] Lydon, 'Medieval Wicklow' in *Wicklow History and Society*, p.158.

[55] Clyn, *Annals*, p.3. Stephen Archdeacon had inherited part of Ogenty from his father in law Thomas fitzAnthony, whilst the Dene family had been the other co-parceners.

List of those summoned for service in Scotland:

1302	1335
Thomas Cantwell.	John Brit, knt.
Herbert Marsh	Edmund Archdeacon, knt.
Robert Hacket	William Archdeacon, knt
Thomas Maunsell	John Maunsell, knt.
Milo and Geoffrey le Bret	Geoffrey le Bret
Fulk Freyne	John Hacket
Anselm and David Grace;	Fulk Freyne
John, Silvester and William Archdeacon	Oliver Freyne
Robert Shortall	Thomas Cantwell
Edmund Grace	John Cantwell
Hamo Grace	John Archdeacon
Maurice Archdeacon	William Archdeacon
John Hacket	William Grace
Philip le Bret	Gilbert Shortall

Office Holding.

As the Irish administration was a smaller version of that of England, there was a similarly wide variety of offices to be filled in local administration, justice and defence. However, the fit of some official posts developed in England and transferred to Ireland could be rough, and adaptations needed to develop. Otway-Ruthven makes the point that the constant state of warfare in Ireland meant that the military functions of the sheriff (and no doubt, sub sheriffs) were far more important in Ireland than in England.[56] This was also the case in the role of the *custodes pacis*, the keepers of the peace introduced into Ireland in the fourteenth century. The escheators, coroners, serjeants and subserjeants all had to contend with a highly militarised environment and population, and work within areas of march conditions. The collecting, receiving and transportation of money could be a dangerous occupation.

Local official positions were often filled by members of the local landholding families and experience in certain offices must have become a valuable commodity. Sometimes, particular families became experienced in specific fields of administration, either because the position was hereditary, as with the Maunsell family and the chief serjeancy of Munster, or through the opportunity and handing down of experience, such as seems to have happened with the Freyne family. The Freyne family virtually made a profession of local administration. Fulc Freyne served as seneschal for John de Bonevill in Carlow in 1295. By 1301 he had moved on to become seneschal of the liberty of Kilkenny. Members of the Freyne family remained seneschals of Kilkenny almost

[56] Otway-Ruthven, *Medieval Ireland*, p.177-8.

constantly throughout the fourteenth century, sometimes with a relative as sheriff. In 1362, for example, Robert son of Oliver Freyne was seneschal of the liberty of Kilkenny whilst his uncle John, son of Fulc, was sheriff.[57] In 1375, whilst Patrick Freyne was seneschal Fulc, probably his son, was sheriff.[58] They soon moved into the circle of the Butler family; Fulc was one of the seneschals and executors of the will of Thomas Butler in 1333 and the family continued to serve as valuable seneschals and officials for the Butlers. In 1348, Fulc had keeping of the Butler lands whilst the earl was in England.

Even in a liberty, a seneschal had royal duties to perform and on taking office had to take an oath to the king at the exchequer. The king also made other use of the Freynes' experience and John son of Oliver Freyne was made sheriff, and escheator, of the cross lands of Kilkenny.[59] Throughout the fourteenth century, the Freynes were at various times officials of four patrons; John de Boneville, the king, the earls of Ormond, and the absentee owners of the liberty of Kilkenny.

. The Freynes make an interesting comparison to the Archdeacons. Both families were landholders in the marchlands of Odagh, north Kilkenny. At least two of the Archdeacons served as sheriffs; William, sheriff of Waterford and the honour of Dungarvan in 1260, and Raymond as sheriff of county Tipperary in 1322-3.[60] Raymond was also captain of the march of Slievebloom along with Fulc Freyne, and received payments from both the king and Elizabeth de Clare, the heiress of part of Kilkenny, for

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[57] *OD* ii, p.68
[58] Ibid., p.144
[59] *RPCH*, p. 57, nos. 90 and 99. This was in line with the order of 1344 that the sheriff should act as escheator in his county. Otway-Ruthven, *Medieval Ireland*, p.162.
[60] 35 *RDKI*, p.38 and 42 *RDKI*, p.42.

these duties. [61] As with the Freyne family, the Archdeacons had made links with the Butlers and Raymond, as a seneschal of Kilkenny, was one of the executors of the will of Thomas Butler in1333.[62] Despite this valuable experience in local affairs, the Archdeacon family did not flourish in gaining official appointments in the second half of the century as did the Freynes. After 1333, Raymond was on an inquisition on the goods of the archbishop of Dublin, and Richard Archdeacon was appointed as a keeper of the peace for the counties of Tipperary and Kilkenny. This is in stark contrast to the Freyne family for whom the latter part of the century was filled with appointments. Why this should be so is not clear but the catastrophe at Clar Goly in 1335 depleted the numbers available to serve. Also the Archdeacons may have had a closer relationship with the earl of Desmond than either the king or their rivals, the Butlers liked. The Archdeacons held land in both the counties of Waterford and Cork but more significantly, in 1343, Raymond son of Raymond Archdeacon was dubbed a knight by the earl in Desmond.[63] At the same time, John Archdeacon was knighted by William Grant, a prominent follower of Desmond. William Grant's lands escheated to the king in 1346 along with those of Eustace le Poer after the earl's rebellion.[64]

Official service could be both a blessing and a curse. Apart from any salary or official recompense, service presented opportunities for extra gain: bribes and extra payments were an expected part of the whole working process, and deeper corruption was rife at all levels. Profitable positions were sought after: people were willing to buy into

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[61] 42 *RDKI* p.50 illustrates payments from the king. Ministers' Accounts, PRO/ SC6/1239/13 payments from the estate of Elizabeth de Clare.
[62] 43 *RDKI* p.41
[63] Clyn, *Annals*, p.20.
[64] *Ibid.*, p.23.

them, and king and government able to use them as rewards. However, as the disorder of the fourteenth century increased and the direct jurisdiction of the king's government decreased, that profitability also seems to have waned. Empey illustrates this by the position of the sheriff of Tipperary. County Tipperary had achieved a high degree of prosperity, so much so that the position of sheriff was farmed out at ' exceptionally high rents in the latter part of the thirteenth century.'[65] In 1282 Walter Uncle bought the office for £100 annual rent, 'the highest rent of its kind in Ireland.' But by the beginning of the fourteenth century decline had set in and Empey continues, '...it is clear that the office had ceased to yield any profit, and that it had in fact become a considerable burden.'[66] A caveat to this though must be that as disorder increased so it probably became harder to enforce discipline on royal officials who may have considered themselves out of reach. In 1309, Henry Hacket, sheriff of Tipperary, claimed he had been twice robbed of goods worth £200. County Tipperary was suffering from disorder at this time but was he robbed, and if so, was the value £200?[67] In 1338, there was a struggle between Arnold le Poer and Fulc Freyne, which Robin Frame has pointed out was over the position of seneschal of the liberty of Kilkenny.[68] It is interesting to note that this liberty position was still worth battling for whilst the role of royal sheriff was 'becoming a burden.'

In addition to saving the royal government money, the profits of corruption helped to encourage people into positions that could be physically dangerous and whereby one could make enemies of neighbours if distraint, collection of subsidies, and the letter of the

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[65] Empey, 'Butler Lordship', (unpublished PhD thesis), p. 125.
[66] *ibid.* p.125.
[67] Empey, C.A. 'The Butler Lordship', in *Journal of the Butler Society*, 1. (1968-71) p.176
[68] Frame, *English Lordship in Ireland*, pp. 71-2, p.231

law were pushed too hard. These threats, along with the dangers of travel and of leaving one's own lands unattended, were some of the negative outcomes of holding an official position. Sometimes, there had to be leverage on the government's part to force people to fill the necessary roles. John Marsh had to be distrained to take the oath to act as coroner of Offath (Offa) in 1295.[69] Some tried to avoid their official appointments as keepers of the peace by claiming not to have received the commission.[70]

The keepers had been created in England to police the obligations of the 1285 Statute of Winchester for communities to be prepared for their military defence. They were to aid the sheriff by overseeing the assessment to arms, and arraying and mustering the shire levies. Whilst in England the *custodes* over time developed into justices of the peace, in the more martial climate of Ireland this side of the role did not develop to the same extent, and the keepers remained part of the military order of things. It was not always clearly documented that an appointment as keeper had been made and often it seems that a person may have been empowered with a specific aspect of the role. Although the keepers held sessions, they had no powers of *oyer and terminer*; their powers did include, however, assessment and array of arms, parley with the king's enemies, and they acted as captains in march warfare.[71] It is difficult to get a rounded idea of the work of the *custodes* in Ireland as so much must have gone unrecorded by the authorities of Dublin. The liberties probably appointed their own keepers, and much of the work was in the twilight world of the march.

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[69] *CJR 1295-1303*, p.60. Offa was part of the manor of Knockgraffon in co. Tipperary.
[70] Frame, Commissions of the Peace in Ireland, 1302-1461 in *Analecta Hibernica*, 35 (1992) p.6.
[71] Frame, *Ireland and Britain*, pp.301-317.

The Cantwell family lived in the marches of Gowran and were given royal licences in 1317 and 1381 to treat for themselves, tenants and dependents with the Irish enemies.[72] Although family members were not officially appointed *custodes* till later in the century, the licences may have conferred certain aspects of a commission on an *ad hoc* as the occasion needed. Negotiation and treating with 'the enemy' were a dangerous fact of life in the march, sometimes with licence, probably often without.[73] The appointment of keepers of the peace in Ireland gave the Dublin authorities a thread of control in this world of war and peace that operated on the margins of their values and administrative reach.

. The full and formal appointments of the Cantwells and Archdeacons as *custodes pacis* arrived between 1355 and 1359. Sometimes, the appointment was to a cantred, such as Richard Archdeacon's appointment to the cantreds of Okonagh and Muscry in Tipperary; or it could be to the county, the county of the cross or to a liberty. Richard Archdeacon also received an appointment to the county Kilkenny within the same regnal year.[74] There was movement across administrative areas. David Cantwell served as keeper in both county Tipperary and in the county of the cross of Tipperary during 1358-60.[75] Another example of a person holding different custodies was possibly Robert Hacket. If he is the same man, then he was appointed a sub-sheriff in the county of the cross of Tipperary, keeper of the peace in Okonagh and Muscry with Richard

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[72] *RPCH*, p.22, no.129 and p.113 no. 192

[73] It was at a parley the Raymond Archdeacon and his kin were killed. See, Clyn, *Annals*, p.16.

[74] *RPCH* p.58, no.163.

[75] *Ibid.*, p.75, no.89 and p.77, no.34.

Archdeacon, and then two months later of all Tipperary.[76]

Although the relevant statute about keepers of the peace did not cross to Ireland until 1308, two of these twelve families had already had members appointed by then: John Freyne in 1302 for Waterford, and Robert Hacket for Tipperary, not yet a liberty.[77] The appointments for Waterford, in fact, are the first to be documented. There were multiple appointments by cantred, and John was one of nine appointed for the cantred of Tarmun. Whether John held any other official posts, apart from appearing as juror, is not known but his appointment as keeper was not entirely happy : he was one of those who owed fifty marks 'for default in keeping the peace whereof each is charged according to the defect in his district.' [78]

Throughout the century and across the nine families who produced *custodes* (there were none during this century from Avenel, Marsh, or Erley) many had held other official positions, especially as sheriff or seneschal of a liberty: John le Bret had been sheriff of Dublin, David Cantwell sheriff of the liberty of Kilkenny, and John Maunsell sheriff of the cross of Tipperary. Robert Hacket on his appointment as keeper and in debt to the king was promised a delay in the necessary payment until given position of sheriff, but he may have died before this came about.[79] Patrick and Robert Freyne were seneschals of the liberty of Kilkenny, whilst John Laffan had been seneschal of the liberty of Tipperary. These were men of the same standing and experience as the sheriff, some of whose duties they were taking over.

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[76] *RPCH*, p.56b no. 75-6, and p.58, no.163
[77] Frame. Commissions of the Peace in Ireland, 1302-1461 in *Analecta Hibernica*, 35 (1992) p.31, p.29
[78] 38 *RDKI*, p.64
[79] *CJR 1305-07*, p.116

Some of the men had other experience. Geoffrey le Bret appeared in the records as an active defender against the Irish and was also the only tenant in chief. Amongst his portfolio of lands he held Ferte in Kinlea (Kenaleth), Cork. These reasons would explain his position as supervisor of the *custodes* in Cork in 1346 as well as being a *custos* for the cantred of Kinalea.[80] David Cantwell had also held a commission of gaol delivery.[81] There was one known man of the cloth; Peter Hacket, archbishop of Cashel. Whilst the clergy could be fighting men, perhaps they were more valued for their negotiation skills.

From the middle of the fourteenth century, two families make an appearance that, historically, had not had a prominent role in official positions. John Laffan of Buolick and Latheragh (?Latteragh, cantred of Ormond), Tipperary was the first of his name to appear as *custos* for Tipperary in 1355. He was related to Henry Laffan and continued the close links with the Butler family, being an attorney for James Butler and witness to a Butler marital agreement. John rose to be sheriff of Tipperary in 1344-45 and seneschal in 1358-9. Robert Shortall seems to have held no important official positions although a Thomas Shortall, possibly a relative, was important in the city of Dublin[82] He made his appearance in 1405 (and again in 1410). In a deed of 1408 he was described as Lord of Ballylarkin (Balylorcan). These two families may have been enjoying a rise in social status. Although the appointees, no doubt, entered into their role as keepers with differing passion, none tried to avoid it by claiming that they had not received their commission; a ploy sometimes used.

John Hacket of Stillorgan showed a particular dedication to the church of the Holy

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[80] Frame, *CPI*, p.9

[81] *RPCH* p.58, no.165.

[82] He was clerk of the city in 1406, and mayor of the staple in 1418.

Trinity and was a frequent, well received visitor. Sometimes he was accompanied by his sons, other times by men who were also to hold official roles, for example, Gilbert Moenes, and John de Balygodman..[83] This was no doubt the same John Hacket appointed *custos* for the Dublin area in 1333, and he was a tenant of the church, holding land at Clonken. Whilst he is not described as a *custos* the accounts suggest that some of the visits were because of his role.[84] Possibly they were particularly involved in the defence of the church lands or ensuring safe passage for visitors and business. However, wider duty to the king was not ignored and John, in 1344-45, arrested the king's ship, the *Katerine of Fermewe*, and brought it from Dalkey to Dublin, receiving a gift from the king for doing so.[85]

Three families make no appearance as keepers in the fourteenth century, and it will probably be no surprise that the Erley family is one of these. Along with the Marsh family, it may be that the respective family heads were as often to be sought in England as in Ireland and so not available. By 1381, John Erley had sold his Irish holdings, whilst the landholdings of Stephen Marsh passed to his heirs the Butlers in the 1370s. The omission of the third family, Avenel, is more of a mystery. Nicholas Avenel was prominent in Wexford at the beginning of the century and had successors throughout. Both Nicholas and then his son Andrew were killed in action, Nicholas fighting the de Verdons in 1312, whilst Andrew died in 1336 protecting the goods of the church against the O'Byrnes of the Duffry.[86] Even if the family suffered a minority after these deaths, there were still

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[83] *Acct. Roll HT*, p.7

[84] John and his sons were also retained by the Holy Trinity in some capacity and received payment.

[85] 54 *RDKI*, p.24.

[86] Clyn, *Annals*, p.17

male successors later in the century. There are no obvious clues as to why none of this family was appointed. Maybe there was adequate choice for the government and enough people of a higher social standing.

Whilst the families above are noticeable for being mentioned in the records, this does not mean that the other families were not taking part in actions against the Irish. On the face of it, the increase in the use of *custodes pacis* seems to draw more families into the governmental defence structure because several who have not been named in the way that the Freynes and Archdeacons had previously been, now become more visible. However, it may be that the records have just caught up with reality on the ground, and that government had given an official role to people who were already involved in the defence of their localities.

The Common Law.

It was part of the identity of the English in Ireland that they had access to the common law of England through courts in Ireland. As they developed in medieval England, innovations within the common law were transferred to Ireland through the transmission of writs and statutes, and through the royal and baronial officials who regularly came from England with an English legal training and experiential background.[87] Writs of *novel disseisin, mort d'ancestor,* and the statute of *mortmain,* for example, were all found in regular use in the Irish courts.[88] In time, the legal devices created to get around feudal restrictions on land alienation and inheritance, such as trusts, and feofees to use, also crossed the Irish Sea. Male entails were a particularly important legal development as the military conditions of the colony, with its growth of lineages in the march areas, made it especially desirable to families there that lands were not dispersed by female inheritance. There was the same range of courts, royal, and franchisal (and church courts though few records survive from the latter) with similar procedures. However, the Irish judicial system was not merely a clone of the English one; there tended to be a time lag which meant that the Irish system was somewhat old fashioned and the system did develop its own idiosyncrasies which came to be referred to as being of the 'custom of Ireland.' The word 'develop' is almost a misnomer as these idiosyncrasies were often, as Hand points out, the hanging on to older or local variants of feudal law.[89] In England, as the common law ossified, the Exchequer had developed as a court of equity but this failed to happen

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[87] Men such as John Wogan, and John de Fresingfield.
[88] Frame, *Colonial Ireland,* p.96.
[89] Hand, *Eng Law,* p.177.

within the Irish exchequer, despite attempts to enlarge its jurisdiction.[90]

As the century progressed, the growth of liberties within the lordship and the increased dangers of travelling reduced the accessibility of the king's courts, which became more restricted to the areas close to Dublin. Kilkenny continued as a liberty throughout the fourteenth century, whilst Tipperary became a liberty with the creation of the earldom of Ormond in 1328. This did not mean that the liberty lords and officials had a free hand even within their own jurisdiction. Their courts took much the same form as the royal courts, held assizes, and issued bills and writs, though in the lord's rather than the king's name. The cross lands were reserved to the king, as were the four pleas of rape, arson, forestall and treasure trove. The liberty courts were subject to the writ of error whereby a case could be removed to the royal courts and the king was still the ultimate petitioner for his subjects in the land. The seneschal also had a duty to serve the king's writs within the liberty and if he failed to do so, the sheriff of the cross lands could be empowered to enter the lord's lands to serve the writs instead. In the royal courts, sheriffs and seneschals were ordered not to fail to execute a writ because of a liberty. The mind set of governmental officials in Dublin seems to have been that liberties were disadvantageous to the king, and provided havens for felons.[91]

However, just as in England, not all men had use of the royal courts for civil matters, which was restricted to freeholders. In Ireland, this was complicated by the exclusion of most of the Irish from this jurisdiction either by race or tenure as *betaghs*

[90] Hand, *Eng Law*, p.103.
[91] Otway-Ruthven, *Medieval Ireland*, pp.181-7.

(roughly the equivalent the villein in England). [92] Some groups and individuals did have a grant of English law, but the majority did not. Though this may have been irksome in the thirteenth century, it became irrelevant for many during the following decades and when a general extension of right to English law was made to the Irish in the mid-fourteenth century it was too late.[93] However, as seen in the area of land alienation, lawyers could be creative, and ways around such legal barriers, for example, suing a case in the lord's name, may have been practised. In looking at the written sources, it is not always possible to tell from the names alone whether a plaintiff might be English or Irish (or even Scandinavian). Indeed, this was also something of a contemporary difficulty. [94]

The first part of this section examines two of the twelve families who had especially close links with the workings of the common law. The Laffans were practitioners within both the royal courts, and the franchisal courts of the Butler family; whilst the Maunsells were the hereditary holders of the chief serjeancy of Munster in fee (and of both Tipperary and Limerick when Munster was shired), and so crucial to the enforcement of the court's orders. The status and prosperity of these two families depended largely on the common law.

The second part seeks to look at the use, and abuse, of the common law within this group of twelve families.

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[92] Frame, *Colonial Ireland*, p.107.
[93] Hand, *Eng. Law*, p.210.
[94] For an example, see *CJR 1305-07*, p.520. Geoffrey Broun charged that he slew an Englishman pleads in defence that the victim was in fact a *hibernicus*.

The Laffan Family

Henry Laffan makes his first appearance in the records in 1286 when, along with Stephen Francis (Frauncys), he was an attorney for Joan Butler, widow of Theobald 1V, and her daughter Matilda, staying in England by licence.[95] Up to this point the Laffan family had not been noticeably prominent in Ireland. William Laffan, probably brother or father of Henry, was lord of the town of Buolick in the cantred of Slieveardagh, co. Tipperary.[96] Henry had become a clerk in the Butler household and so would have been a younger son or brother. His rise in status and wealth over the next few decades, which also increased the status of the Laffan family, was built on two things: patronage of the powerful Butler family and experience in the workings of the common law.[97]

It is not known whether Henry worked for Theobald Butler 1V before his death, but he certainly had a long, though not altogether happy, association with Theobald's wife, Joan. As her attorney he was involved in paying debts incurred by the funeral of her husband and various other expenses to Bendimus Payn of the Society of Lucca.[98] The same document shows that Henry himself had received 20s on two occasions and 28s had been paid for a robe for him. He must have travelled to London at least once as Joan received '100s in London by Henry Leffayn.'[99] That the association with Joan was long term was shown by a case in the courts ten years later when Joan charged Henry with trespass and debt.[100]

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[95] *CDI, iii,* p.116.
[96] Brooks, *RHJB,* no.497 pp.320-1.
[97] Henry was probably in minor orders as he was married with children.
[98] *OD,* i, pp.111-12.
[99] *OD,* i, p.111.
[100] *CJR 1295-1303,* p.116.

Joan was not Henry's main patron; this was her younger son Edmund. The death of his elder brother Theobald V in 1299 had moved Edmund to the position of head of the Butler house. Henry appears as witness for a deed to Edmund Butler (le Botiller), lord of Moyalvy (Moyaliff), as early as 1290 along with a Butler tenant, Geoffrey de Roilly, with whom Henry was to have a long association.[101] Over the years ahead, Henry was to serve in a variety of other right-hand roles for Edmund: clerk of court, holding manorial courts, assisting at assizes, taking extents, and as seneschal. No doubt he also had a large role in supporting Edmund in his role as justiciar and he is found 'bringing his command.'[102] His final service to his lord and patron was in 1321 as an executor of his will and testament.[103]

Throughout his career, Henry was accruing a large body of experience of customary and royal law, and was involved in court cases himself as both plaintiff and defendant; for example, as defendant in the case brought by Joan Butler. Although the case was arraigned at least in May, June and July 1297, Henry failed to attend. He was ordered to be distrained but the chief serjeant, Robert Maunsell, claimed Henry had nothing in Tipperary as all was taken into the king's hands for debt.[104] This was probably partially true but a distrained person often had goods elsewhere. It was a common enough way of avoiding distraint and made easier, no doubt, if the officials were willing to go along. The Maunsells were neighbours of the Laffan family in Slievardagh and in 1313 Henry and his son, John, were a party with Walter Maunsell in a case of *novel disseisin*

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[101] *OD*, i, p.114

[102] *CJR 1305-07*, p.44. It seems to be a command to the Chancellor to draw up and enrol letters patent referring to the felonies of Milo Crok.

[103] *OD*, ii, p.338.

[104] *CJR 1295-1303*, p.141.

brought by David Maunsell.[105] Also in 1351, after an inquisition, Richard Laffan was found to have died seised of Mauncelsrath.[106] The two families, then, certainly had neighbourly links. As chief serjeant too, Robert may not have been inclined to make life difficult for a man who had the ear of Edmund Butler.

In 1305, Henry prosecuted a case against Gervaise de Roilly which, along with another case also at this time, suggests some insight into the workings of, and financial opportunities, presented by the common law. Some time before 1305, Richard Baron (Baroun) and Beatrice Assic (Assyk) had begun a case of novel disseisin against Walter de Grey concerning tenements in Graystown. Gervaise de Roilly agreed to fight the case for them and, in turn, was given the tenements for a term of four years, he was to pay them a certain sum at a set time. This sum was not paid, and consequently Richard and Beatrice alienated the tenements to David Drake. Gervaise then swapped legal sides, and made an agreement with Walter de Grey that if he could win the tenements then Walter would convey them to Gervaise for 10 marks.[107] Henry would probably have been aware of the case at an early stage. Perhaps this was the action referred to in 1302, when Henry Laffan was in mercy for not having Walter de Grey, whom he had mainprised, in court.[108] (It is also worth noting that Henry was pardoned at the instance of Edmund le Butler). Henry became involved in 1305 when, at suit of king, he prosecuted Gervaise de Roilly (Gervase de Rale) for conspiracy and champerty. Gervaise was found not guilty of the

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[105] NAI, KB 2 /5, p.463.
[106] *OD*, ii, pp.35-6.
[107] *CJR 1305-07*, p.33.
[108] *CJR 1295-1303*, p.422.

actual charges but more of 'malpractice' to give it a modern term, and was gaoled.[109] The undercurrents of the case did not end there. A few months later, Henry bought land at Graystown from Gervaise de Roilly.[110] How this came about is made clear by the next appearance of most of the participants in a case of *novel disseisin* over Gragenemegormill. Although Gragenemgormill has not been identified, the participants are virtually the same as those of the case over tenements at Graystown, so it seems likely that these are the same tenements. If so, David Drake had won the original case and acquired the tenements which he then conveyed to Gervaise de Roilly (Raleye). Gervaise, in turn, had demised them to Henry (fitting with the alienation of land at Graystown in 1305), and Henry's son John Laffan.[111]

Gervaise de Roilly and David Drake appear to have been other men with experience of the law and court action. They may even have been attorneys or serjeants at law. The alienation to such a person whilst prosecuting a case at court would have ensured payment, and no doubt made the action easier to prosecute. Payments may have been made more equitable by the repayment of surplus, such as Gervaise was meant to pay to Richard and Beatrice. What certainly shows through is that such men as Gervaise de Roilly, David Drake and Henry Laffan were in a position to work together to capitalise as a social group on the land actions that went through their hands. Whether for a term, or bought outright, they no doubt acquired some of the lands at very favourable terms either to keep or sell on.

This is not the only case involving Henry that suggests the same procedures. As

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[109] *CJR 1305-07*, p.33.

[110] *RBO*, p.94

[111] NAI, KB 2/4, p.14.

early as 1293, Henry obtained land for a term of years from the Butler foundation of Abingdon (Otheney, county Limerick). He seems to have performed some service for them, and, probably in payment, received land near his existing holding in Balybothan, Thurles for eight years rent free, then at seven shillings per annum for a further term of years.[112]

Similar to the Graystown case was another in May 1305 when a bond was made between Henry Laffan (Laffayn) and Robert de Lothken. Robert was married to a daughter of Richard Cantwell, and there was without doubt a link between the Laffan and Cantwell families: several of the witnesses are Cantwells, and the bond itself suggests some familial relationship. With this bond, Robert transferred his manors of Loghken (Lothken) and Cnokanrathkamgyll to Henry for ten years at the end of which Henry undertook to re-enfeoff Robert with the land in tail male, apart from two carucates in Maystreston. During these ten years Henry was to keep Robert, Margery his wife and their four children in food and drink in his house.[113] There was obviously a plea already under way concerning these lands, and Henry was bound to make good out of his own pocket or property should any of the land be lost because of the legal action during the term of years. As with the case above, it seems that the land had been transferred to fight the plea with an added layer of family provision. The land was to be re-enfeoffed tail male which would ensure that as an inheritance it would not in the future be dissipated amongst females of the family. Exactly what happened with this case is not known but legal action against Henry was continued by the de la Sale and Aula families over

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[112] *RBO*, p.99.
[113] *Ibid.*, p.88 and p.115.

Maystretson, so probably they were also the litigants in the original action. This plea of land was still rumbling on in 1313 when there was to be a grand assize. Eventually four knights were summoned to elect to make view of Ballymcdofflyn; Philip Hacket of Balytarsin, Oliver Hacket, Thomas Cantwell, and Herbert Marsh. As the case was held before Edmund le Butler, and the knights to elect included a Cantwell, de la Sale and Aula may well have felt that the dice were somewhat loaded against them. With this case, Henry had achieved several things. He had gained two carucates of land in Maystreston, looked after the interests legal and corporeal of several family members and preserved their inheritance for future generations by entailing the lands.

By the end of his life, Henry had managed to increase his own landholdings and provide for his sons. As well as those lands mentioned in the cases above an extent of 1303 of the cantred of Thurles (Eliogarty) showed other lands that must have been recently acquired as the name of the previous owner is still recorded in the entry; one carucate at Balysheehan (Balysithan) formerly held by John Blund, a half carucate which had belonged to N Achard, two carucates which had belonged to John de Donton in Kilkoge, and half a carucate which had belonged to Henry of Meath; whilst in Gowran there were eight acres which had been Juliane Broun's.[114] The land acquired in Graystown had gone to his son, John, whilst in 1305 Henry and his son William had obtained the right to build a water mill in Sithac on the river Donok from H Broun. Another son, Richard, was provided for by the land in Maystretson. Henry was also able to provide further for his son William, perhaps through the influence of Edmund Butler,

[114] *RBO*, p.73 and p.48 respectively. The name is given as Henrico clerico, but as Henry as had previous dealings with H Broun it would seem likely that this is Henry Laffan, clerk.

the justiciar; William became a serjeant at law in the justiciar's court.[115]

There is one further interesting feature of Henry's life within the legal world. Hand writes that from the early fourteenth century, there was a decline in clerical strength on the bench and gives an example of William le Devenis, an exchequer clerk who changed from clergy to knight.[116] For whatever advantage to him or his family, Henry seems to have done the same; as an executor to the will of Edmund le Butler, he is Sir Henry Laffan (Laffein).[117]

The Maunsell family.

For the common law, civil and criminal, to be effective, people had to believe that it could be enforced. There was a hierarchical structure of officials within the counties and liberties whose roles included such enforcement. The counties had a royal sheriff supported by a chief serjeant and with sub-serjeants in the cantreds; whilst in the liberties the seneschal also had the duty of enforcing the king's writs as well as the lord's, similarly supported by a sheriff, a chief serjeant and local sub-serjeants. Should the seneschal fail to do his duty to the king then the sheriff of the cross lands (a royal official in the church lands which the king had reserved to himself even when geographically within a liberty) could be empowered to enter the liberty to do so.

In Munster, the Maunsell family held the chief serjeancy as a hereditary fee from 1251.[118] They continued to do so after Munster was shired into the counties of Limerick and Tipperary later in the century, and when the liberty of Tipperary was created for

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[115] Brand, *Common Law*, p.54.
[116] Hand, *Eng Law*, p.95.
[117] *OD*, ii, p.338.
[118] Empey, 'Butler Lordship' (unpublished PhD thesis), p.117fn.

James Butler in 1328. Empey found no evidence that the creation of the liberty had led to separate commissions of the chief serjeancy, and the serjeancy was always described as 'of the county of Tipperary' not of the liberty of Tipperary. Therefore it seems that the king continued to have the power to appoint the chief serjeant as he was to do in 1385, when he appointed William Bracy.[119]

It is clear that at the beginning of the fourteenth century the Maunsell family still valued the chief serjeancy. On the two occasions it was forfeited due to their misdemeanours (once by Robert Maunsell in 1295 and then by his son Walter *c.*1303), they paid fines for its restoration.[120] It must have been a profitable and powerful position. With a modern perspective, it is difficult not to look at the selling of positions of authority as a corrupt practice, but it was an expected perk of any medieval office. From the royal point of view, it helped fund the salaries of officials at a lesser cost to the royal administration. The chief serjeant of Limerick and Tipperary had many positions to offer, as each cantred had a sub-serjeant. That it was an accepted practice is illustrated by the unembarrassed complaints to the courts of people like Thomas the Taylor and William le Whyte, who having paid their money for the position, were subsequently removed for their own misdemeanours. Thomas had paid Robert Maunsell 28s for the sub-serjeancy of Yolethor in Limerick. [121] William le Whyte showed that this worked at a lower level, too, by a payment to Thomas Bygeton, sub-serjeant, to share the position with him.[122] The chief serjeant may have also received payments for times when he exercised his official

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[119] Empey, Butler Lordship, (unpublished PhD thesis), p. 418
[120] *CJR 1295-1303*, p.16 and 38 *RDKI*, p.91 respectively. Walter paid 40 marks.
[121] *Ibid.*, p.18
[122] *Ibid.*, p.133.

position, for example, as a pledge or a witness. Other ways of exacting profit fell into the realms of abuse no matter what the mores of the age. Thomas Maunsell, sometime before 1298, had been sheriff of Kildare and was implicated when his serving man was charged with such an abuse. Although the case was not proved, it has a ring of truth and no doubt illustrates behaviour true of some officials. 'Maurice formerly servingman of Thomas Maunsell charged that he took in the market of Cloncouery (Cloncurry, co. Kildare) 80 afers under avowry of Thomas then sheriff and falsely feigned that they were required for carriage, and afterwards took for sending back each afer 6d or at least 4d.'[123]

On another occasion, a sub-serjeant provides an insight into another perk of his position. In 1306 there was a complaint against William son of Richard, late sub-serjeant, that he held onto distrained goods 'and did his will with them.'[124] Distraint offered numerous possibilities for profiteering, including false distraint, bribery, and false valuations. As the local officials were the ones to perform distraint against friends, relatives or enemies it could rarely have been a disinterested action. William de Monte was well aware of the problems of trying to break though the coterie of local friendships, bribery or both. In 1305 he accused Walter Maunsell, chief serjeant, of favouring those to be distrained by claiming they had not sufficient goods.[125] Later in the same year, Walter claimed that William, when offered goods of Robert Wodeloc, would not take them, which William denied.[136] William was still complaining of Walter in 1313, in this case

[123] *CJR 1295-1303*, p.198.
[124] *CJR 1305-07*, p.217.
[125] *Ibid.*, p.53.
[126] *Ibid.*, p.53 and p.147.

that Walter and John Braynok were detaining 18 marks 6s 8d.[127]

The chief serjeant and his serjeants were also involved in the levying of monies for various purposes, often another golden opportunity to levy too much, delay to pay monies over, or to levy fraudulently. Walter Maunsell went a step too far in 1303-4 when he and his sub-serjeants fraudulently 'levied the fee' of Walter le Bret, the sheriff of Tipperary. For this he forfeited the chief serjeancy, though it was restored on payment of a fine;[128] (which the authorities had still not managed collect entirely by 1318).

Money and the profitability of an official position were only part of the picture. The chief serjeancy gave a man power over his equals and neighbours, since he could at the very least make life difficult or even physically dangerous for those who ran foul of him, his relatives or his allies. It also increased his social standing in a status conscious society, and gave him the wherewithal to patronise his family and friends. It also gave him the possibility of gaining the ear of, and favour with, those in the higher ranks, important for gaining patronage for oneself or favourites. The Maunsell family were wise to all of these possibilities and aimed to work them to their advantage.

Some positions as sub-serjeants went to family members, both in Tipperary and Limerick and it is probable that the records only definitively reveal a portion of the appointments made. In 1305 for example, Raymond (Remind) Maunsell was recorded as a serjeant of Tipperary in the Justiciary rolls.[129] In the same year Adam Cur of Kyltagan was summoned to court at the orders of the sheriff by Simon son of Michael, John

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[127] NAI, KB 2 /4/, p.393.
[128] 38 *RDKI*, p.91.
[129] *CJR 1305-07*, p.58.

Maunsell and Richard Maunsell.[130] Although their role was not defined, these men were probably doing their duty as serjeants. In Limerick, mentions are made of a Robert Maunsell and a William Maunsell as sergeants in 1302 and 1307 respectively. A William was also serjeant of Askeaton (Iniskyfty), co. Limerick, *c.*1322-26.[131]

This dispersal of positions amongst family members seems to have continued in Tipperary even after it became a liberty if the year 1374-75 is typical. In 1374 John Maunsell was chief serjeant, Richard More Maunsell serjeant of Slievardagh (Sleff), and another John sub-serjeant of Iffa, whilst the year before, a William son of Richard Maunsell was also mentioned as serjeant of Moyt.[132]

The office of serjeant was not the only position available. David Maunsell, possibly a nephew, acted as *locum tenens* for Walter Maunsell as chief serjeant *c.*1305.[133] William, very likely a brother, was Walter's attorney in Limerick.[134] In another capacity, two Maunsells, father and son, served as coroners in Tipperary, and whilst it cannot be shown that the fact that the chief serjeant was a Maunsell was influential in their obtaining such a post, it would certainly have brought them to notice as contenders at the very least. Nicholas served as coroner of the cantred of Slievardagh (Slefardath,), though not with great success for he was deemed to be of insufficient standing and discretion.[135] His son John, in 1344, was fined along with other coroners for an ' undue return'.[136]

David Maunsell made the most of his position as *locum* to make life difficult for

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[130] *CJR 1305-07*, p.14.
[131] 42 *RDKI*, p.72.
[132] *OD*, ii, p. 131, p.132 and p.135
[133] *CJR 1305-07*, p.54. Probably a nephew as there is a David son of William mentioned.
[134] *CJR 1305-07*, p.208.
[135] *RPCH*, p.7b, no. 22.
[136] 54 *RDKI*, p.29.

Walter le Bret. There was a dispute between David as one party and Walter, his son Thomas le Bret and William Maunsell as the second party, over land in Collaghmore, Co Kilkenny. Caught in the crossfire was a certain Andrew Sausee, a man of Walter le Bret's, who complained to the court that he had been maliciously 'endorsed' on seven writs of juries in Dublin.[137] Andrew's position in regard to Walter le Bret is not clear but probably he was some kind of official whereby his absences would cause inconvenience to both men. The 'inconvenience' should not be underestimated given the time taken, and the dangers involved, of travelling to Dublin from the cantred of Moctalyn in Tipperary (and this the same year that serjeants were unable to enforce law in the nearby cantred of Muscry). Walter le Bret must have thought the matter had been resolved in 1305 when David withdrew his action of *novel disseisin* and gave Walter's son, Thomas le Bret, letters patent of quitclaim to the land.[138] The affair was resurrected in 1313 when David brought either his own knowledge of the law, or that of a professional pleader, into play again. Despite his previous letters to Thomas, he tried on two technicalities to regain ground; one that when he gave letters of quit claim to Thomas, Thomas was not actually in seisin[139] and, this having failed, that Peter son of Thomas le Bret had answered the writ, not Thomas himself.[140]

David may have had regard for the technicalities of law when it suited him, but he had little regard for its day to day operations. He had wrongly attached a *hibernicus* of the following of Edmund Butler, and then assaulted William Shortall who had come to gain

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[137] *CJR 1305-07*, pp.55-6.
[138] *Ibid.*, p.55.
[139] NAI, KB 2/4, p.269.
[140] NAI, KB 2/4, p.475.

his release.[141] He was also very probably the same David who in 1310 was accused with a large following of Maunsells, peppered with Ketings, their neighbours in Limerick and Tipperary, of terrorising the town of Fythryth (Fothered?) and adjacent parts by taking food and drink and stealing. David was also charged on this occasion with the death of Walter Martel, who may have been the Walter Martel who was sub-sheriff under Henry Hacket.[142] Given the wide role of the Maunsells in the serjeancies of the area, several of the younger men in the band must have been sons, or close relatives of other Maunsell serjeants.

David was not alone in the way he used his role within the legal infrastructure. In Limerick in 1307, a David Fleming complained that William Maunsell, late serjeant of the king, had unjustly imprisoned him for five days to his damage of £10. William was able to confuse the issue by bringing the coroner and sheriff into the picture, claiming that the former had given instructions to the sheriff to arrest one David Fleming for the death of John le Lound, whilst the sheriff gave the precept to William. Both David and the coroner claimed that William knew full well that it was not this David and had imprisoned him maliciously, no doubt either to settle a personal grudge or for a release fee of £10.[143]

Sometimes there came a move up in the ladder to a role of sheriff. Thomas Maunsell was a former sheriff of Kildare, which had been a liberty till 1297 when it passed into royal hands. Rather than a county sheriff, he had probably been either a sheriff of the liberty or a royal sheriff of the crosslands. The event took place in Cloncurry

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[141] *CJR 1305-07*, p.56.
[142] *CJR 1308-14*, p.146.
[143] *CJR 1305-07*, p.437.

which was not an episcopal manor so the inference would be that he was sheriff of the liberty and held his position thanks to the influence of the seneschal, Nigel le Brun.[144]

Several times throughout the 1320s and 1330s, John Maunsell (son and heir of Walter, chief serjeant) appeared as one of the sheriffs of Tipperary. Empey has produced a list of sheriffs of the liberty and of the cross. John Maunsell accounted as royal sheriff of the cross from April 1329 to Feb 1331.[145] These royal appointments as sheriff were of short duration. John was not amongst the ranks of men such as Adam de Londr' (? London) and Thomas de Stoketon, men who served as sheriffs and above (for example. as seneschals); he was amongst those men who usually served below the rank of sheriff but just occasionally reached that height.[146]

Walter Maunsell and his son, John, both served at times under the powerful Freyne family. In 1308, whilst Tipperary was still a county, Fulc Freyne (Fraxineto) was sheriff and a generation on, another Fulc served as seneschal in the liberty. A chief serjeant failing to fulfil his duties properly could easily cause trouble for his superior, as easily as a superior could pressure a subordinate official to take the heat for a convenient failure to act. Fulc had issued a writ to Walter Maunsell to levy of the goods of Oliver, son and heir of Robert Hacket, but this writ was not fully executed and therefore the sheriff was heavily in mercy. As the Hackets and Maunsells had connections in Limerick perhaps on this occasion it was Walter who was purposely dilatory. However, as the

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[144] *CJR 1295-1303*, p. 168. Mentions late seneschal to be Nigel le Brun.

[145] Empey, 'Butler Lordship' (unpublished PhD thesis), appendix. Previous to this, when the Butler lands were in the kings hands due to a minority, he appeared as a sheriff with Henry Hacket and Richard Poer in 1322-26, 42 *RDKI*, p.69.

[146] 45 *RDKI*, p.33. Adam de Loundr' and Thomas Stoketoun appear in the list of sheriffs, then in the list of seneschals.

order to levy was made three times to Fulc who failed to take any purposeful action it would seem that he and Walter were aiding and abetting each other. When working together, a sheriff and chief serjeant (or serjeant and sub-serjeants) could keep the orders of the court at bay for quite a long time by passing the blame up and down the chain of command. Another day would then have to be given for the named and blamed person or persons to be produced in court. There could also be delays and problems over distraint, usually the simple but effective answer of 'buyers not found'. However, the court did sometimes have a way of dealing with this type of game. When Thomas Hey, given into the custody of Walter Maunsell and his serjeants for the death of Adam Martel, escaped because of their 'bad guard' the escape was put upon Walter, but he was given permission to sue for recovery from his sub-serjeants 'if it seems good to him.'[147] However, as it was just two years before that David Maunsell had killed Walter Martel, perhaps the court had put its finger on the right pulse.

Even by the beginning of the fourteenth century, and especially after the Bruce wars in Ireland had brought about a sharp increase in civil disorder, parts of Tipperary were already becoming dangerous areas for officials. By 1305 men could not carry out their duties in Muscry, and a year later, it was said that no serjeant dare enter Elyocarroll.[148] (The disturbance in Elyocarroll was created by an English feud between the Barry and Bilburne families.) The year 1305 was a time of famine, so no doubt that had exacerbated the situation creating more disturbance amongst both the Irish and the English. The chief serjeant held land in several counties and was mobile though he had to

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[147] *CJR 1308-14*, p.258.

[148] Empey, 'Butler Lordship' (unpublished PhD thesis), p.138 and p.139.

deal carefully with the powerful men about him. Sub serjeants were local men, who had to live amongst the communities they served. They, their homes and families, would be particularly vulnerable to local reprisals. This will have made it all the more difficult for them to enforce the law at local level, but it might also have placed a check on their abuses of it . There were real dangers in trying to enforce royal law. Walter le Bret, sheriff of Tipperary, claimed in 1297 he was assaulted at Fytherid (Fethard), robbed and imprisoned,[149] whilst Walter de Valle, another sheriff, was killed by the Poers in 1338.[150] These assaults show that officials could be targets, especially when they were carrying money, and they were at risk of both reprisal and criminal attacks. In 1306, William Maunsell, serjeant of Limerick, claimed that although he had distrained the goods of John fitzThomas in Limerick, John and his following had deforced him of them.[151] It would take a brave man with a strong following to withstand John fitzThomas so it would not be surprising if this had been more of a compromise. William was able to say that he had done the court's bidding, whilst John still had his goods

A dangerous situation for any chief serjeant was to be caught in the crossfire between two powerful, feuding lords. Just such a situation occurred between Eustace Poer and Fulc Freyne, coming to head in 1338 when Eustace imprisoned Fulc and his son Oliver without any reason given. As Professor Frame has pointed out, it was probably a dispute over the seneschalcy itself as Oliver had just lost the seneschalcy of Kilkenny to Eustace.[152] The Maunsells had relationships with both families. They had worked closely

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[149] *CJR 1295-1303*, p.153.
[150] Empey, 'The Norman Period', in *Tipperary: History and Society*, p.74.
[151] *CJR 1305-07*, p.208. This was the baron of Offaly; soon to be first earl of Kildare.
[152] Frame, *Eng. Lordship*, pp.71-2.

with the Freynes, but had tenurial links with the Poers in Thurles (county Tipperary). The Poers were also their overlords in Overk and Kells, county Kilkenny. The records do not indicate how the Maunsells traversed this hazardous path and it was not inevitable that all members of the family would all have the same loyalties. Eustace Poer was executed in 1345 following the earl of Desmond's rebellion. It may be significant that in the same and following year, several Maunsells were pardoned by the king for a fine: John fitz Pet[er] Maunsell, John fitz Walt[er] Maunsell and Tho[mas] fitz Walt[er] Maunsell.[153] Even if they had not given some level of support to Eustace Poer, it seems that they were able to take advantage of the chaos.

The Maunsells forfeited the chief serjeancy at least twice for their misdemeanours but they were quickly reinstated on payment of a fine and with the support of pledges. This seems more like a slap on the wrist than a serious consideration of removing their hereditary fee. In time, forfeiture seems to have become more of a threat than an actuality. Walter Maunsell was called before the court several times to answer why he should not lose his serjeancy but it does not actually seem to have been forfeited. A question has to be why, given their record of manipulation and abuse of the common law system, the powers in Dublin did not remove them from their position altogether. It may be that in the context of the time and place, their behaviour was not particularly out of the ordinary.

[153] *RPCH*, p.54; nos.114-8.

The twelve families and the common law.

Apart from its role in administering criminal justice, the common law offered a non-violent solution to civil and land disputes, and could provide a secure and permanent record in a neutral location of land ownership, land dealings, and debts. Many land disputes were amongst family members by birth or marriage, so a peaceful resolution could be desirable. (It might also be added that in land disputes especially, the system of inheritance and dower as became enshrined in the common law caused many of the problems it was then called to adjudicate on.) Theoretically, a weaker plaintiff could obtain redress against a stronger lord, even against the king. The system, though, was only of use if its orders could be enforced. There were certain 'push' factors: such as the justiciar's military force, imprisonment and 'the diet', a euphemism for being starved into submission.[154] For the highest of the nobility, there were certain 'pull' factors, too. The king remained a powerful force of patronage and favour, and magnates would not easily risk jeopardising relations by shunning his law. As the reach of Dublin contracted, the liberties took over the mantle and continued the common law procedures within their own senior courts but subject to the royal writ of error.

Criminal justice.

A substantive role for the common law was as an instrument of justice; that is, it sought to give protection to the king's subjects, and deter wrongdoing by punishment and ordering reparation. This had the potential to discipline all levels of society, as illustrated

[154] *CJR 1305-07*, p.476. Richard son of Reginald Harald was placed on the diet for refusing common law.

by the judicial execution of William de Bermingham, magnate and alleged supporter of the earl of Desmond, in 1332.[155]

Of these twelve families, three had members who were accused of homicide: the Bret, Grace, and Cantwell families, and of these three, the Brets feature most heavily. In 1295, Walter le Bret and his following (mainly Braynoks and other le Brets) were accused of the killing of another Walter le Bret;[156] in 1306, Peter le Bret was accused of the murder of Robert Aylward (Eyleard);[157] whilst in 1312, Walter and John sons of Milo Bret were accused of the murder of John Maunsell in county Carlow.[158] The Brets had a range of legal defences. As to the first mentioned murder, Walter claimed that in his capacity as sheriff of Tipperary, he had set out to take some of the following of the other Walter who had been indicted, but that Walter put up an armed resistance. Slowly, the case brought by Alessia, widow of the dead man, fell apart as she then tried to prosecute members of le Bret's following. She withdrew her case against John de London who paid a fine; whilst Richard Braynok (Breynog) and Richard le Bret put themselves at suit of the king for the killing in 1299.[159] They were to be allowed to make fine if Alessia withdrew her case. It would seem that she did so, as a Richard Braynok continued to appear in later records. Peter le Bret, alleged killer of Robert Aylward (Eyleard), claimed right of clergy though he could not give any information about his ordination. A sceptical judiciary committed him to prison, but he was later claimed by Adam de

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[155] Orpen, *Normans*, iv, p.238.
[156] *CJR 1295-1303*, p.60
[157] *CJR 1305-07*, p.498-9
[158] *CJR 1308-14*, p.265
[159] *CJR 1295-1303*, p.292

Stratton, attorney of the archbishop of Dublin.[160] In the third case, the two brothers were allowed to make fine at the instance of Geoffrey le Bret, head of the family. Although it is not clear what punishment Peter may have received from the archbishop, the punishment of the others was to suffer a fine. The first and third of these cases took place at times of particular disturbances in Ireland in 1295, and 1312 respectively, the latter being when the de Verdons of Louth were in rebellion against the king.

Another killing that took place in 1295 'in the time of disturbance' was instigated by David Grace (le Gras) who sent his followers to commit robbery on Hugh Glanery in co. Kildare. When this came to the pleas of the crown in 1298, David was able to proffer a liberty charter of pardon 'for the death of Peter Shappe and all other trespasses in this county' and therefore was quit. It is not clear why this case should have come to a royal court several years after the event; perhaps Hugh Glanery was trying to obtain compensation now that the liberty of Kildare had been removed but no matter how displeased, the justices had to respect David's charter and acquit him.[161]

For all but two of the cases above, a lord's following was implicated in the crime. A lord could also be implicated by receiving the perpetrator of a crime and allowing him to escape justice. Again in the calamitous year 1312, Hugh Grant killed William Shortall (Sortals) and was received by Raymond Archdeacon.[162]

Some killings suggest no more or less than common criminality. John Cantwell, felon, received by Henry Traherne after the killing of John de Munster, had also robbed Phillip Purcell of at least an afer worth five shillings, furniture for one horse, and an iron

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[160] *CJR 1305-07*, p.498-9
[161] *CJR 1295-1303*, p.196
[162] *CJR 1308-14*, p.257-8.

cap which were the goods he gave to Henry.[163]

Finally, two other murders have been identified without any further detail other than both were pardoned by the king, the former at the instance of Alan fitzWarin, and the latter for good service: in 1317-18, the time of the Bruce war a Walter Gaas (Grace?) was accused of the killing of [...] Derpatrick[164] whilst in 1374-5 a Michelesou (?Michelson) Karmardyn killed Richard Grace.[165]

Even with this small array of killings some themes come through. These were English on English killings. No perpetrators suffered execution and most were able to make fines, or were pardoned at the instance of a higher lord. Many of these killings were not one on one but created by a lord's following. He might be leading them, or have directed the incident, receiving the perpetrators afterwards. If he was in a liberty or powerful enough it would be difficult to bring even known people to justice.

There is a case of the killing of an Irishman, a *hibernicus* of Geoffrey le Bret's by Richard Braynok which raises a different issue.[166] Richard was not even fined for this as he acknowledged the killing. It would be easy to read into this that Irish life was valued cheaply, but this would be a simplification. There had been the requirement for a pledge, so presumably there had been some legal action beforehand, possibly instigated by Geoffrey as the Irishman's lord. Within Gaelic law, the killing of another man was punishable by an *eric* not by execution. It would seem iniquitous for an Englishman to be executed for the killing of an Irishman, when an Irishman would not.

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[163] *CJR 1308-14*, p.234
[164] *RPCH* p.22, no.
[165] *RPCH*, p.90, no.
[166] *CJR 1305-7*, p.152.

However, few landed Englishmen were executed, even for the killing of a fellow Englishman, as their punishments were bargaining chips for both the king and the Irish barons. The king could give the 'favour' of pardon without cost, even increasing revenues by a fine, whilst the barons could have their requests for leniency granted and their importance massaged. The king could not afford the depletion of his fighting men or to alienate the magnates. Such were the complexities that the legal system had to face.

Cases of robbery follow the same pattern as those of murder. The Brets and Cantwells appear again, plus the Freyne family and one incident featuring a Marsh (Marisco). Once again, it is the Brets who feature most heavily in a range of roles. Money was sometimes the target but just as often, goods or livestock. In 1295, Roger le Bret was charged with the robbery of seven pigs in Tipperary,[167] whilst two years later John and William had to pay fine for trespass along with the Roches (Rupes) of the Rower.[168] The 'company' or following was once again a feature of the criminal landscape often mingled with the Irish. Roger le Bret was in the company of Walter Macpaydyn; John and William le Bret with the Rupes and 'many Irish', particularly the O'Brodres. In 1310, Fulc de la Freyne stood mainprise for neighbours charged with sending their men 'with the Irish' to commit robbery.[169]

Although it was probably the younger element of a family who engaged in most physical robbery, all levels of society were involved in some way. Whilst John Boneville was away in Scotland, Fulc de la Freyne who served as his seneschal, and others of John's following robbed Geoffrey de Cannuill, and also the towns of 'Monnemehennok

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[167] *CJR 1295-1303*, p.11.
[168] 42 *RDKI*, p.67.
[169] *CJR 1308-14*, p.164.

(Dunamoge, co. Kildare) and Treudynest.[170] Edmund Grace (Gras) and his son, William, made fine for their men who had been harbouring felons who had been raiding in Tipperary, [171] whilst Adam Marsh was charged with robbery on merchants of Bristol in Kilmeadan (Kilmydan).[172] He became a victim of theft himself several years later, when Raymond son of Walter son of Griffin was in the company of John O'Trodan and Dovenald Troter, a servingman of Adam Ketyng at the stealing of two ox hides worth four shillings from Adam de Marsh.[173]

There are dangers in taking these snapshots just at face value. Not all who are accused are guilty; and it is clear that the law could be used to settle scores or harass enemies. The disorderly climate could be used to advantage by others and along with trespass could go intimidation. David le Long, who stole a wether from Milo le Bret worth 13d and was a common robber of animals and corn, threatened to burn his neighbours if they indicted him.[174] It may be that Milo had the necessary following to withstand his threats and remove a nuisance from the neighbourhood on a sample charge. As Milo also appeared on the jury, the guilty verdict may not be a surprise.

To prosecute in the courts one had to be able to get there and it was not just rebel Irish who could present a danger. Herbert Marsh (Marreys) and his following kidnapped Margery, widow of James Russell, on her way to Waterford to prosecute an appeal against John son of Warin. Presumably, Herbert was doing a service for a friend or relative. She was taken from the liberty of Kilkenny to the manor of Walter Br [et?] in

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[170] *CJR 1295-1303*, p.206.
[171] *CJR 1305-07*, p.474.
[172] *CJR 1305-07*, p.331. Kilmeadan belonged to Herbert Marsh, son-in-law of Walter de la Haye.
[173] *CJR 1295-1303*, p.322.
[174] *CJR 1308-14*, p.156

Tipperary and held till she could no longer prosecute. Herbert found high ranking pledges, and was fined £200, though 100 shillings of this was remitted for service.[175]

Civil actions.

Many common law, civil actions involved land disputes and all these families except the Erley family were involved in such cases. Many of the Laffan cases involve Henry Laffan, and as shown in the previous section these may have been related to his work and role as clerk to the Butler family. Out of the remaining ten families, the number of cases per family found within the study of this thesis, ranges from just one case of *mort d'ancestor* involving the Shortalls, through to more than twenty cases throughout the century which concerned the Brets, tenants in chief. Typical cases were *novel disseisin* of land but this writ could also cover disseisin of rent or common of pasture, even on one occasion of seisin of a right of way. The Brets were also plaintiffs and defendants in cases of *mort d'ancestor* and plaintiffs in a claim of dower. Other types of cases were disputes over custody of lands of minors, undefined trespass, ejection, and mortmain. Irish names do appear, and those named seem to be tenants of English landowners. As the procedures of the common law petrified, it seems to have become more usual to include as many names on the writ as might have any possible involvement since if someone was missed then the writ would not stand.

There were reasons why the Brets should be heavily involved in using the law as they held land across several counties, Connaught, Tipperary, Kildare, Cork and Dublin.

[175] *CJR 1305-07*, p.505.

The head of the family had a manor at Rathfarnham which gave easy access to Dublin and the bench. They were also of a social standing to court important heiresses. Geoffrey Bret, for instance, married Lescelina, one of the co-heiresses of the baron of Naas, and soon became embroiled in cases of *novel disseisin* and *mort d'ancestor* over lands in Balymony and Knocky, Yagouseton and Osberneston, co. Kildare, with the Fladisbury family. Unfortunately for Geoffrey he lost all these cases, and suffered the financial penalty for damages.[176]

A more unusual and complicated situation arose with Thomas le Bret and Elena MacOtyr. The name MacOtyr suggests Norse ancestry, and it appears that Elena held an inheritance under English law.[177] From 1305 to 1312, there was a series of cases involving these two, some of which at least were of the 'inheritance of Elena'. Their story can be pieced together through these cases. A case brought in 1312 by Edmund Butler of *novel disseisin* of a messuage in Cashel mentions that a divorce was made by the archbishop of Cashel between Thomas and Elena, and Elena was adjudged to William Dermor. Despite this judgement, Elena' kept herself to Thomas'.[178] In the same record, she was described as Thomas' wife and they appear in other records as husband and wife. William Dermor was still alive in 1306, the year his son Walter brought a case of *novel disseisin* against Elena of tenements in Dermor, and a year after Thomas and Elena first appeared in records, so she was not a widow. The marriage between William and Elena could not have been annulled or else she would not have been adjudged to him; there may

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[176] *CJR 1295-1303*, pp.247-8.

[177] Hand, *Eng. Law*, p.210.The Scandinavians, or Ostmen, had 'substantial equality of status' under English law.

[178] *CJR 1308-14*; p.301. The index lists Elena MacOtyr as the wife of Walter Godsone but other documents show that Elena was the wife of Thomas le Bret.

have been a legal separation *a mensa et toro*, though Thomas and Elena are described as husband and wife. Could Thomas and Elena have had a marriage by Irish custom to try and regularise their position after she had left William Dermor? This may be a case of English inheritance and common law coming up against messy, culturally mixed, social realities. Another case in 1312, whereby Walter le Bret and others disseised Thomas of his freehold in Clonkullyn was without a day as Walter was able to produce evidence that Thomas had been excommunicated by Maurice, archbishop of Cashel. The archbishop was certainly an interested party as he had his own case of *disseisin* against Thomas and Elena over a messuage in Cashel so it is unclear whether the excommunication relates to that or to Thomas' marital position. If Thomas and Elena had enjoyed a marriage by Irish custom, then they obviously had to fight hard to retain her inheritance.

Dower was another common battleground as women and their subsequent husbands tried to assert their claims. Lucia de Roilly, widow of Geoffrey de Roilly, went to court to assert her right to rent from William le Bret as part of her dower. She claimed *novel disseisin* of rent of her freehold in Moylaugh and Inysse Moughoyn (in the manor of Inish in Dunkerrin. co. Tipperary) This area still had many Irish tenants and Gilleroth Oleyme was mentioned with William le Bret; Gilleroth was probably a tenant of William's. She had sent her bailiff to distrain William's goods for payment of rent arrears but William and his tenants had forcibly rescued the distraint at the gates of the manor. The case went against William and he was taxed for damages for the arrears, but for the rescue of distraint he was to be gaoled.[179] This would suggest that personal

[179] *CJR 1295-1303*, p.136.

distraint was supported by common law even when not initiated by the courts. William held Moylaugh in demesne, and seems to have lived in this area as he was there to release his goods.

In 1313 a case of *novel disseisin* by the bishop of Lismore and others against Nicholas son of William le Bret mentions that Egidia the widow of William had won her dower in the king's court. It is not clear whether Egidia was an active party to the *disseisin* or whether her name has been included on the writ as part of a 'catch all' list but actions against family members were not rare. The Dermor case of Walter son of William against Elena McOtyr has already been mentioned. It is probable that Elena was Walter's stepmother, and multiple marriages must have fuelled the confusion over inheritance. Another case of internecine *disseisin* involved the Brets in Lysmoryharty in Coolaghmore (Collaghmor), co. Tipperary. Roger le Bret claimed *disseisin* by Thomas le Bret first of his common of pasture for all kinds of animals, and then of obstruction of a highway which prevented him from carrying his corn and other goods.[180]

Walter le Bret had served as sheriff of Tipperary and so would have had a working knowledge of the law. A case of *mortmain* shows how he sought to use innovations in the law to his advantage. Walter seized the freehold lands of the Prior of the Hospital of St John without the Newgate of Dublin in Rathgole; his reason was that the prior had entered by *mortmain* without licence. It appeared manifest to the jury that he had disseised the prior who had acquired the land before the statute. No damages were to

[180] NAI, KB 2/4, p.12.

be paid, though, because Walter had improved the land.[181]

Another legal innovation that particularly suited the social climate of Ireland was the introduction of entailing land so as to disinherit the females of a family. Common law allowed females to be rightful heirs, but this could lead to the break-up of the family estate. Some families had been experimenting with ways of disinheriting daughters,[182] but entail gave a solution applicable under common law. Throughout the fourteenth century it seems to have been used largely by the more socially important families but lesser landholders were becoming accustomed to it by acting as witnesses. In August 1305, Edmund Grace (le Gras) witnessed a deed by Eustace le Poer to William ffanyng of the manor of Moyobyra in tail male.[183] In 1312, Herbert Marsh, still a tenant in chief in England, was trying to claim the manor of Tipperary from Otho de Grandison by claiming it was an entailed estate. When his son conveyed the castle and manor of Weyporous to the Butlers in 1312 it was as an entailed estate, possibly at the request of the earl of Ormond.

In 1330, James Butler granted messuages and lands in New Ross to Oliver Freyne, in tail male. If Oliver were to die without male heirs, James specified that the messuages and lands were to revert to him, the earl; he could have specified other male members of the extended Freyne family or the right heirs.[184] There were probably advantages to chief and mesne lords of entailed estates as it would simplify the process of sub-infeudation and make it easier to keep record of who owed the various incidents.

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[181] NAI, KB 2/4, p.6.
[182] Otway-Ruthven, *Medieval Ireland*, pp.106-7.
[183] *OD*, i, p.156.
[184] *OD*, i, p.265.

It is not surprising that the Freynes, on the same social scale as the Poers, and close to the Butlers also began to use entail. In November 1348, one messuage and two carucates of land in Rathcradok were conveyed, entailed, to Patrick son of Fulc Freyne and his wife Johanna.[185] The legalities seem to have taken at least a week as there are three extant documents dated 6, 10, 15 November. The first is merely a quitclaim by Nicholas Leget of some rent in Rathcradok to Patrick Freyne; perhaps a tidying up of Freyne affairs there. The second is the actual deed of entail drawn up on 10 November, seemingly before the signing of the conveyance, by Milo Cornewalshe, chaplain. This deed has witnesses whereas the other two do not. Finally, Milo is the grantor of the messuage and lands in Rathcradock to Patrick and his wife, Johanna.[186] It was only entailed only for one generation, listing first, the three sons of Patrick and Joanna, Odo, Fulc and Thomas, and then descending to the 'right heirs' of Patrick. The year is an interesting fact in this set of conveyances. In July 1347, Roger de la Freyne had died young, 'a vigorous, prudent and discreet young man', [187] followed by Oliver Freyne in the December. The plague had also entered Ireland in August 1348.[188] No doubt Fulk, having been at the siege of Calais, could also give the family graphic details of the plague's rapaciousness on his return. These events seem to have concentrated Patrick's mind, at least, upon succession.

In 1382, Robert Freyne (son of Oliver) took considered steps to ensure that his lands in Dunmore, Listerlin and two parts of the manor of Clara were secured for the

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[185] Craddocktown, parish of Tubbridbritain; the later held by the Druhulls and then the Pembrokes. Brooks, *Knights' Fees*, p.186.
[186] *OD*, i, pp. 341-2.
[187] Clyn, *Annals*, p.25.
[188] Otway-Ruthven, *Medieval Ireland*, p. 268.

extended Freyne family by conveying them to a third party, the chaplain Robert Logh,[189] who then conveyed them back to Robert entailed. In contrast to Patrick's descent, this entail covered not just his own offspring but made provision for the lands to go to other branches of the family should his male line fail: 'right heirs' came at the end of a long list. His wife Katherine was provided for as the entail would not take effect until her death. The succession under the entail seems to follow the rules of primogeniture inheritance for males but there are some questions to be raised about the children as only one was specified as the child of Robert and Katherine. The real question concerns John and Robert, sons of Robert. If they were his children, why do they occur after his brother in the succession? There may have been another Robert, uncle or cousin who is unrecorded, or could they have been his illegitimate children? Illegitimate children were not included in primogeniture inheritance, but use of an entail would make their inclusion an option.

2.to Peter son of Robert and heirs male	child
3. to James son of Robert and Kath	child
4. to James son of Oliver	brother
5. John son of Robert	his child? or of a different Robert?
6 Robert son of Robert	ditto
7. Lionel son of Patrick	cousin
8. to Fulc son of Patrick	cousin
9. remainder to right heirs of Robert.	

[189] A chaplain would be an expected choice for someone who was to act as an honest broker.

This was not the first entail to relate to the manor of Dunmore, held by the Druhull family. In 1327, one tenant Walter Roth entailed sixty acres in Dunmore to his son, with reversion back to the right heirs. This seems to have been managed by a grant. In the same month, William Druhull and his wife Burga used John Baron (Baroun) to create a final accord to ensure that their estate of Dunmore was recorded as entailed in the king's court at Kilkenny. If the male heirs of the main branch failed, then the estate was to pass to male cousins before reverting to the right heirs of William.[190] These two examples of creating an entail used different legal means from the technique used by the Freyne family.

Not all the conveyances within the Freyne family created entails. In 1362, Geoffrey son of Roger Freyne granted the manor of Kilmenan to his uncle, Patrick son of Fulc, 'to him and his heirs.'[191] It would seem that entail was being promulgated by certain individuals in the family, but was not yet a lineage solution.

The Laffans, another family with close Butler and legal connections, also began to use entail. In 1305 Henry Laffan in his legal arrangements with Robert Lothken ensured that the land would be returned in male entail to Robert and sons of his wife, Margery Cantwell. Two generations later, in 1384, John Laffan (Laffane) granted to John son of Henry Laffan half the manor of Latheragh (?Latteragh) and half of all rents and profits of town of Boulek (Bowleke). If John died without male heirs then the half manor was to return to the grantor, presumably for redistribution.[192] As shown from this example, it

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[190] Another interesting feature of this is that it mentions four generations. The final male of the main line is Robert great grandson of William and Burga. *OD,* i, p.254.

[191] *OD,* ii, pp.69-70.

[192] *OD,* ii, p.201.

was not just land but rents that could be entailed. In June, 1348, Richard son of Simon Galbarry granted 46s rent out of Ballispallan to John Rowe, chaplain.[193] Three months later, John Rowe entailed 15s 4d of the rent of Ballispallen back to Richard Galbarry (Galbarri) 'for his wife', then to go to Fulc fitzWarin and Johanna Laffan, his wife, then to Richard their son and his male tail. If he died without male heirs, it was then to go to Robert fitzWarin brother of Richard and his male heirs.[194] This is a difficult grant to interpret; it seems John Rowe, chaplain, was acting the role of third party and part of the rent was reconveyed to Richard Galbarry to make specific family provisions. The first provision was for Richard's wife, though it is after Richard's death, not hers, that the rent passes on to the male members of the family.[195]

It would seem that in the fourteenth century, the lawyers and families were still experimenting with the ways and forms of entail and some limited provision was tried for females. It did give a flexibility that descent to 'right heirs' did not; as well as protecting the family lands, provision could be made for illegitimate children within the succession. In time, entail trickled down into more general use through various means. People became accustomed to its use within a manor, acted as witnesses, or were connected to another family that used it. It was not necessarily, at the outset, a family or lineage strategy; several of the Freyne family drew up individual deeds, but, by its very nature, it concentrated land into a narrower group of potential inheritors.

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[193] *OD*, i, pp.339-40.

[194] *OD*, i, pp.340-1.

[195] Perhaps it was expected that she would then be provided for by dower.

Debt

A large part of common law proceedings was given over to debt, and all the families, apart from the Erley family, made appearances at court or within the records over debt. Cases arose as much through a reluctance to pay as through the inability to. A creditor often had to resort to the courts to prise money out of officials and laymen alike, even when a record of some kind had been created.

The king had first call on a person's resources when monies were owed, as William de Bourne, clerk, discovered. Whilst trying to levy a payment from Walter Maunsell of Dungarven, co. Kilkenny in 1306, he was in line for recompense only if anything was left after Walter had paid his debts to the king. In this case, Walter had been fined for an attack upon a neighbour, Roger Lyserne, in the king's street. He tried to avoid the distraint by giving his lands and goods to his son, a common ploy which seemed to be effective with general cases of debt, but not against debts to the king. Walter suffered forfeiture and imprisonment until his debts to the king were paid.[196] Maurice Archdeacon tried the same ploy, keeping only a horse. The court decided (rather ambiguously) than money was to be levied 'from the horse.'[197]

Damages apart, just prosecuting a case in the king's court could be costly. If a writ was involved then it had to be purchased, usually at half a mark. No doubt there were extra costs of expediting the process that do not appear in the records, but the use of an attorney, such as William Bourne, added to the costs. These attorneys sometimes had their costs given out of the debt, but many times had to resort to the law themselves to try

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[196] *CJR 1305-07*, p.204.
[197] *Ibid.*, p.100.

and claim their due.

Part of the due process of the law often involved the finding of pledges for payment or behaviour, though it seems that pledges expected to be reimbursed by the pledged party and the court supported plaintiffs in this claim. Robert Braynok pledged Adam le Tanour of Naas against damages owed to Geoffrey le Bret. Adam in December of 1305 was able to have Robert's goods distrained because he had not yet been acquitted of a pledge of 5 marks and 40d.[198] Many perhaps, especially if coerced into acting as pledge by a stronger lord or neighbour, may not have been so lucky and ended up in debt to the courts themselves.

There were of course debts contracted for private or business reasons that only come to light because the creditor is having difficulty in levying the money. These provide insights into the way debts outside the courts were arranged. Richard Cantwell was indebted to Geoffrey de Salle by bond of £39 and duly delivered to Geoffrey wheat and oats from which the money was to be levied. The corn was viewed by 'one faithful man on each side' and the agreement further stipulated that if the corn was insufficient, monies could be levied from Richard's goods. However, it seems that even with two faithful men dispute arose and Richard took back his corn, leaving Geoffrey to try to regain his money by a court case.[199] Bonds were a common feature of recording a debt and conditions of repayment, and were supported by the courts, though not unreservedly. When Robert Maunsell was attached to answer Nicholas de Carreu of a debt to which he

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[198] *CJR 1305-07*, p.152.
[199] *CJR 1295-1303*, p.58.

was bound, 'the writings as well of the debt, as of payment' were condemned.[200]

Perhaps less formal, was the 'letter obligatory' also commonly used to try to secure repayment in the future. These were given to a third party to hold until settlement. As usual, the theory sometimes fell foul of the practice. Henry Laffan, clerk to Edmund Butler must have seemed a good choice of third party, with his administrative and legal knowledge, and official position. However, Alicia widow of Adam le Blound had to make a plaint that Henry was withholding a letter obligatory acknowledging a debt from the Purcells to her late husband. There is no strong connection found between the Laffans and the Purcell family though William Laffan and several members of the Purcell lineage were outlawed together. This may be enough to suggest that Henry was not, after all, a completely a disinterested party.[201]

Keeping track of a letter obligatory which would be kept in the family chest could present difficulties as William Hacket found. He was bound by a writing to John de Meuee for 1000 marks 'and the writing was in keeping of Roger de Castro Cnok, to be kept so long as agreement unbroken, and then delivered to party that did not break the agreement' although there is no clue as to what the agreement was. On Roger's death the executors passed the letter back to John de Meuee who was then able to implead William in the courts, despite the agreement, as William claimed, not having been broken.[202] Getting a debt or agreement enrolled in the court would have obvious advantages, especially as, whilst the courts would support written evidence of debt, they were more

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[200] *Ibid.*, p.140.

[201] *CJR 1305-07*, p.122. Another circumstantial link is that the Purcells were related by marriage to the Cantwell family, who were certainly close to the Laffans.

[202] *CJR 1295-1303*, p.390

wary of verbal agreements. William Keating lost a claim against Nicholas Avenel and Juliana his wife because he had no writing or suit for a debt made on a promise.[203] In 1307, Nicholas de Cantilupe in his ongoing legal struggles with Maurice Archdeacon claimed that they had made a verbal agreement of recovery before friends chosen by consent of the parties, in the cemetery of the Friars Preachers at Youghal. The cemetery, possibly chosen as being both neutral and public ground for the feuding parties, was also consecrated ground so perhaps added a religious weight to the agreement. Even with God as a witness, the jury decided against Nicholas.[204]

Business transactions could provide fertile ground for the courts. William de Monte was a member of Theobald de Castelloun and company, merchants of Florence and regularly in the courts.[205] In this study, members of four of the families were found in debt to him within the space of eight years of surviving records: Philip Hacket and Adam Marsh (1305) Walter Maunsell and Thomas le Bret (1313). It is not clear exactly how these debts arose, whether by loans or delayed payment for goods. William de Monte had a long and unpleasant association with Walter Maunsell whom he claimed many times to be favouring debtors against him, and was, in this case, detaining 18 marks 6s 8d which he was owed. Quite possibly this was money of other debtors which Walter was supposed to collect and hand over. There were, of course, other merchant societies operating in Ireland during this time, and other debtors. If a third of these twelve families appeared as debtors to William de Monte within a ten-year period, it would suggest that foreign merchants loomed large in the financial affairs of certain ranks of the gentry at

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[203] *Ibid.*, p.129

[204] *CJR 1305-07*, p.379.

[205] *CJR 1308-14*, p.98.

least. Sometimes, clues about debts to other merchants can be winkled out. The sheriff of Kildare was directed to levy £7 from William Hacket for Geoffrey Morton for trespass[206] Seven years later, Geoffrey was arraigned for discharging wine at Dalkey without paying excise, so he was a wine merchant. William Hacket, possibly to his satisfaction, was on the jury.[207]

Even after a debt had been discharged, that might not be the end of the matter. People were very reliant on officials and others to provide a chain along which money or goods could pass to their intended destination. Crime on the highway, and fraud made this a rather uncertain process. Philip de Barry was in debt to William de Berdefeld, a serjeant pleader. He passed oxen to Henry Hacket, sheriff of Tipperary, who passed them to Luke de Stokton, the king's receiver, who ought to have sold the oxen to pay off the debt. Instead the court found that he put them to work in his own plough, from which work three had died.[208] Similarly, in 1305, John Cantwell gave 5s to William Roth to be paid to Thomas de St John, late sheriff of Tipperary. He should have been given a tally, another way of providing evidence of monies owed or paid, but complained that he was not. John was distrained again for the money whilst William claimed that he paid the money to the sheriff. In the end, John was to recover his five shillings from William, and William to recover from the sheriff. [209]

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[206] *CJR 1295-1303*, p.223.
[207] *CJR 1305-07*, p.317.
[208] *CJR 1305-07*, pp. 460-1
[209] *Ibid.*, p.115

Conclusion.

There are plenty of cases of individual disorder that one would expect to find in a court, for example, personal assault; and plenty of cases that give no further details apart from deceit, trespass, conspiracy. It is not always possible to build up a picture of the wider society from such individual transgressions, the sort which occur in every age and place. However, two cases involving dogs combine the personal with the wider community. In 1305 Thomas le Bret (le Bryt) of Knocfayth struck a dog belonging to Henry Roche. Henry returned to Thomas' house with a gang of followers: William le Somenour of Waterford, John Butler, William son of Richard and John de Kyllyth and assaulted Thomas. [210] Whilst the same year, obviously a bad year for dogs, the bishop of Ossory lodged a complaint against the townspeople of New Leighlin after a riot ensued when one of his serving men killed the dog of a local man. The bishop's valets and serving men were attacked with sticks, stones, arrows and certainly one man at least left at death's door.[211]

These idiosyncratic cases open a window into a volatile society wherein a relatively small incident could only too easily spark a conflagration. Whilst the common law of royal government could offer a relatively non-violent way of resolving conflicts, it did have many drawbacks. The court system depended on the work and presence of many people: plaintiffs, defendants, witnesses, jurors, and court officials. Distrained goods and money owed were difficult and slow to collect, especially when the court was faced with reluctant officials. The kidnapping of Margery Russell illustrated how vulnerable the

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[210] *CJR-1305-07*, p.153.
[211] *Ibid.*, p.43.

system could be to the difficulties of travel and intimidation, whilst bribery, corruption and favouritism appeared at all levels. Juries could be difficult to assemble, whilst guilty men often found protection from a magnate or within a liberty. The development of a court of equity would also have helped in those cases that fell foul of the rigidity of the common law. Despite all those difficulties, the common law remained important to the colonists, but it did not meet all their needs. Within the disparate political and social conditions that constituted colonial life, even the English had sometimes to turn to march, or brehon law.

Chapter 3. MARCHER SOCIETY and RELATIONS WITH THE IRISH.

Professor Frame points out that the invasion was never a complete conquest of Ireland and that much of the Irish aristocracy, though socially downgraded, still remained in place, especially in the west of the country, in the hills and bog regions.[1] A weakening of English control, or a strengthening in the Irish position, could shift political and military borders one way or the other. The English colony was to be weakened by the Bruce invasion of 1315-18, lack of governmental resources, and by the natural calamities of famine and plague that occurred throughout the century. The most rapacious attack of the plague was the Black Death of 1348-9, though the contagion continued to recur sporadically, as it did in 1361. As the plague wreaked its worst in the more concentrated centres of population, the manors, towns and seaports, it is likely that the English communities suffered a higher mortality rate than the Irish.[2]

By the end of the thirteenth century Irish unrest had begun to increase in its strength and effectiveness, albeit in a generally uncoordinated way. Locally, the loss of strong, English leadership during times of minority and custody was particularly dangerous leaving the land prey to both Irish and hostile English. As the Irish began to reclaim land previously lost to them, the Gaelic reconquest was underway.

The growth of the march

In the north of county Tipperary, there were signs of increasing Irish pressure from as early as 1287 when, during the minority of Theobald Butler, large areas were laid waste

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[1] Frame, *Ireland and Britain*, p.9.
[2] Kelly, *Black Death*, p.38.

by Turlough O'Brien, and revenues from Tipperary began to show a marked decline.[3] By 1305, the serjeant of the cantred of Muscry in the southwest of the county was complaining that his men could not carry out their duties there.[4] Twenty years later, during another Butler minority, Friar Clyn wrote of the destruction wreaked on Elyocarroll by O'Carroll when scarce a house, castle or village was left unburnt or undestroyed.[5]

In the years preceding O'Carroll's attack, Elyocarroll had been ravaged by a feud between the English Bilburnes and Barrys, in which everyone had been compelled to take sides, and the cantred was described as being in a strong march.[6] But march conditions made for promiscuous alliances and the English were also to join in the destruction of their fellow communities.[7] Ironically, just as Irish infighting had facilitated the English invasion, now the Irish were being helped and strengthened by English conflicts. In 1325, Clyn remarked that the English of Ely joined Brian O'Brien to capture a big prey in Ossory (co. Kilkenny) and faithful English were killed defending their own property.[8] If the actions of the English of Ely seem strange, perhaps it is explained by the promotion of local interest over that of protecting the English community at large. By 1346, Clyn notes that several leading families had been driven out of Elyocarroll altogether by O'Carroll, including the Brets

The Brets were an adventuring family who had obtained land in several fringe

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[3] Empey, 'The Butler Lordship', (unpublished PhD thesis), pp.126-7
[4] *Ibid.* p.139.
[5] Clyn, *Annals*, p 8.
[6] Empey, 'The Butler Lordship' (unpublished PhD thesis), p.137.
[7] *Ibid.* p.137.
[8] Clyn, *Annals*, p.8.

areas. A Geoffrey le Bret held Donamona, county Clare *c.* 1280 and his son, William le Bret had held in Moylaugh and Inyshe Moughyn of the manor of Dunkerrin, Elyocarroll, part of which he had held in demesne. The Bret lands in counties Connacht and Clare would have been under pressure. In 1303 Edmund Butler complained that neither English nor Irish would inhabit lands in Omany, co. Connacht and was absolved from his arrears of rent, whilst county Clare, which had never been properly manorialised, was under pressure from the McNamaras.[9] If Bret family members retained holdings in these areas, it must have been within the towns or by claiming a nominal rent.[10] The descendants of William le Bret of Elyocarroll may have had other lands to fall back to. In 1313 a Nicholas le Bret, son of William, was involved in a court case over his claim to his freehold in Eddans (Nedan), in the very south of co. Tipperary.[11]

Across the county border, the Grace family were also facing loss of land and men to the Irish in the cantred of Aghaboe, co. Kilkenny; one of the places mentioned by Clyn damaged by the big prey of 1325.[12] The Grace family held half a knight's fee there of the heirs of William Marshal. In 1249 the castle of Offerlane (Asterkerlon) had been committed to their care,[13] but by 1306 Offerlane was said to be in a strong march under pressure from the MacGillapatricks. The family lost Robert Grace at the burning of Bordwell in 1345, and Nicholas Grace the following year. By 1356, Offerlane was amongst the Irish. As the head of the Grace family held several fees, he would have been

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[9] Empey, 'The Butler Lordship', in *Journal of the Butler Society,* 1 (1968-71), p.174.
[10] Brets were mentioned in connection with the towns of Athlone, co. Westmeath and Dunmore, co. Connacht.
[11] NAI, KB 2/4, p.268.
[12] Clyn, *Annals,* p.8.
[13] Brooks, *Knight's Fees,* p.73

able to fall back south to Tullaroan, surrounded by powerful English neighbours.

The economic loss of these fringe lands in counties Kilkenny and Tipperary was, perhaps, not too great. They tended to be in the less profitable upland regions and their lordship may have been more centred on collecting rents, in money or kind, than on manorial agriculture. However, what was happening in the north of Tipperary and Kilkenny was also happening in other places all over the colony and being near to Dublin was no protection. The Bret manor of Rathfarnham was a garrisoned centre to protect the vale of Dublin from the Irish of the Wicklow mountains. The Brets were also closely involved in the defence of the castle of Newcastle Mackinegan which helped protect the royal manors of Dublin. In county Carlow, the Maunsell manor of Rathmor was dangerously close to Tullow, which was at war in the march in 1377[14]. Further south still, in county Wexford, the Avenel family held land at Leskin in the barony of Gorey, which by 1324, was marked as in 'decay', that is occupied by the Irish.[15]

The insecurity of march areas often meant that they began to haemorrhage people even if the land itself was still under English control. A rental of the cantred of Thurles, which Robin Frame has dated to 1345, just after the earl of Desmond's rebellion, provides a graphic example of this.[16] There is a long list of tenements that used to provide income that are now waste because of Desmond and the Irish. Three mills have been quitted by their workers, the burgesses of Thurles no longer work the lord's demesnes

[14] Otway-Ruthven, *Medieval Ireland*, p.310.
[15] Brooks, *Knights Fees*, p.163.
[16] *OD*, ii, p.225. Although this was a particularly violent time and could therefore be exceptional, there were already signs of decay in the Inquisition *Post Mortem* on the lands of James Butler in 1338.

because they are impoverished, and many farmers are dead.[17] It paints a dreary picture of destruction; describing some settlers in such terms as annihilated and ravaged.[18] Yet not all the tenements had been abandoned, and some still created an income; Lanagh for example, pays yearly 106s 8d. Amongst those who have stayed are at least three members of the Cantwell family, a William Hacket and a Thomas Laffan. These had links with the lands that still managed to create income. William Hacket may well have been the son and heir of John Hacket of Balysheehan (Balysithan), around the Huddeston area.[19] Thomas Laffan was the successor of Henry Laffan who held in Lanath (amongst the betagii).[20] The Cantwell lands are probably those around Lyskevyn, Balyvissin, and land in Moycarky; land which an earlier William Cantwell had held.[21] The Thurles rental indicates that those who stayed may well have still been able to gain some profit from at least some part of their holdings. This perhaps suggests that although the destruction was widespread, some localities even within close areas were more affected than others. In the north of Tipperary, for example, whilst the cantred of Ormond was ravaged and largely fell to the Irish, parts did escape the destruction: Nenagh itself was not lost. In 1338, when most of Ormond was waste, Thomas Cantwell held a tuath and half in Arra (then part of the Ormond cantred). His heir, Walter still had this land to convey in 1372, when he quitclaimed his rights to the earl of Ormond.[22]

The Cantwell family also held in the cantred of Gowran, co. Kilkenny and as the

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[17] *OD*, ii, pp.226-7.
[18] *Ibid.*, p.227.
[19] *RBO*, p.63.
[20] *Ibid.*, p.49.
[21] *Ibid.*; p. 73.
[22] *OD*, ii, p.124.

march shifted southwards this cantred, formerly profitable and well settled, became march land, along with the cantreds of Shillogher and Odagh. Families living in these cantreds had to adapt to being marcher families. At least twice the records show that the head of the Cantwell family in Gowran attempted to find accommodation with the local Irish septs and he was given royal permission to negotiate for his family and tenants. The first permission, given in 1317, had been to treat with the O'Brennans and other felons of cantred of Odagh;[23] by the end of the century, it was to treat with the MacMurroughs and O'Nolans. These latter septs, who were more geographically distant and so must have been raiding over larger distances, had attacked Gowran in 1340, killing several Englishmen. By 1382, Gowran was a frontier town and the Cantwells dwelt in ' front of the Irish enemies M'Morgh and Onolan'.[24]

The march was a frayed and changing border area wherein the two races, English and Gaelic, ran up against each other with both conflict and accommodation. In the context of Ireland it would be more true to talk of the many marches created by the physical geography of the ubiquitous upland areas. But geography alone does not describe living in the march; here, the cultures and economies of the two races often interwove, creating their own blend of communities, and politics.

The invasion of Ireland had come too late in the development of the common law to allow the march areas to find their own legal identity as had happened in Wales a century earlier. Although a variety of legal structures existed, royal government saw the common law as the desired standard and measured the alternatives accordingly. The Irish

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[23] *RPCH*, p.22, no.129.
[24] *RPCH*, p.114, no.192

brehon law, it considered no law at all and march law an undesirable aberration from the norm.[25] Yet the common law could not be imposed unilaterally on Gaelic communities who were neither accepted by it, nor by the fourteenth century even desired it. If the two communities were to co-exist, then Irish legal and social structures had to be taken into account. Parley, negotiation, hostage taking, client relationships, disciplinary raids were all part of the adapted culture with which people living in, or trying to keep peace within, the march had to work.

Militarisation and Lineage.

The increased dangers of travelling meant that many communities had to be more reliant on their own means of protection rather than the powers of royal government. The power and influence of local magnates was increased as communities looked to them rather than to the forces of the king, whilst at the same time the justiciar and royal government also looked to them as the means of providing some government input. The Freyne and Archdeacon families were in just such a position in the north of Kilkenny. The two families had land on opposite sides of the River Nore, the Freynes with the Slieveardagh Mountains to their backs, and the Archdeacons with the Castlecomer plateau behind them. As the march border slipped south, they held what must have been an important pincer grip on the Irish from the north. They had a military interaction with the Irish: acting as captains of the march; holding Irish hostages, parley and negotiation. Although all of society was becoming more militarised, such highly militarised families as the

[25] Otway-Ruthven, *Medieval Ireland*, pp.188-9.

Freynes and Archdeacons were partially creations of the march. In the fourteenth century, the head of the Freyne family seemed to actively seek out march conflict, such as when he went to fight in the march of Carlow.[26] The Freynes and Archdeacons were able to adapt to the march conditions and fulfil a vital role there that made them essential to royal government and to the local communities. What they may have lost in the economics of agriculture or trade, perhaps was compensated by their official appointments and opportunities created by their military roles. There is evidence that the Archdeacons had become quite wealthy,[27] and there is no reason to think that the Freynes should be less so. By the end of the century, in 1393 Richard Archdeacon was making an indenture with the earl of Ormond, the king's farmer on behalf of the earl of Stafford, to lease the manors of Clontibret and Bagoteston, at present waste, for eight years, paying rent after two.[28] Richard Archdeacon would not have acquired land that he did not think he could use as a resource[29] Whilst this purchase would not suggest the beginning of a revival of English fortunes, it perhaps suggests that some families at least were still seeing opportunities

Military action was becoming a common part of disputes between powerful men (and by emulation no doubt the much less powerful), and could ripple throughout all strata of society. In 1299, a localised war broke out between the men of Modeshil (Moydisshel) in co. Tipperary, and the men of Callan, co. Kilkenny. This may have reflected a border dispute between the Marshal heirs who held Callan in demesne and the de Berminghams of Kiltinan of which Cumsy was a part, no doubt fuelled by their

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[26] Connolly, *Irish Exchequer*, p.474.

[27] *CJR 1295-1303*, p.6. An inventory was made of the goods that Raymond Archdeacon claimed stolen by Hugh Purcell and valued at £500.

[28] *OD*, ii, p.222.

[29] Thomas Butler, brother of the third earl, petitioned for land in Offa in the same year.

troublesome tenants the Tobins (Sancto Albinos). The Tobins were so troublesome that Fulc Freyne took the extreme step of burning the town and razing the whole cantred of Cumsy, earning Friar Clyn's approbation.[30]

Part of the key to power for magnates lay in the following they could call upon, composed of family, tenants or others taken under their patronage; their military retinue. This formed a private army with a personal loyalty. This had advantages for both parties; adding to the power and prestige of the patron, whilst providing protection for the lesser nobles and gentry. There are nuances of this sort of military agreement when in 1308 William Blund (Albus) made a bond and payment of rent to Raymond Archdeacon for help against Adam Albus. [31] This looks to have been a one-off agreement for a particular land dispute rather than an indenture of service and the payment is going a different way to that paid by a lord to someone joining his retinue, but it illustrates a variant on the theme of military contracts. The military indenture is found fully formed at a higher social level when in 1375 an indenture was made between James Butler, earl of Ormond and Patrick Freyne, knt. The earl grants to Patrick for the term of his life the manor of the Rower in return for his 'retinue' or military service, wherever and whenever in Ireland at the cost of the earl. If profits of manor do not come to £10 p.a. the earl shall make up the difference.[32] Raymond Archdeacon and Patrick Freyne were not mercenaries who sold their services to the highest bidder but were taking a part in a society that was being woven into military relationships. Whilst it may have echoes of the Gaelic client system ,

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[30] Clyn, *Annals*, p.20.
[31] *OD*, i, p.167.
[32] *OD*, ii, pp.43-4.

by which military and social relationships were sealed by a gift from the Irish overlord to his vassal, military retinues occurred all over Europe.

Magnates with their own following and those lesser men who had powerful protection could engage forcibly in their disputes if the common law was not serving their purpose, and have less to fear from the legal consequences if they had a powerful patron to speak for them. In 1334, there was a dispute between Eustace Poer and Thomas Fanyn which would seem to have grown out of an earlier land conveyance between the two families. In 1305, Eustace Poer had conveyed the manor and castle of Moyobyra to William Fanyng.[33] Whatever transpired in the meantime, on 24 April 1334 'Thomas Fanyn entered the castle of Moytobir and occupied it, ejecting and keeping out the men of Sir Eustace Poer. And in order to hold the castle, they killed its custodians, Raymond and David Nangle and Thomas 'the Red' Grace, that same week. But on the following Saturday they were compelled to surrender the castle to James, earl of Ormond, as lord of the county and as a neutral party, until it could be discovered who had the better right to it.'[34] Eustace must have reoccupied the castle sometime after the conveyance, and a dispute that could have been resolved by an inquisition under common law, was resolved by force of arms and the military intervention of the local magnate, the earl of Ormond.

It was not a society for individuals; everyone needed protection. The towns built walls, but people in the march turned to building up, or belonging, to a following. This was not just an Irish phenomenon: the Scots had their bonds of manrent, and the English, their *familia* and retainers. It was as much a consequence of the decline of traditional

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[33] *OD*, i, p.156.

[34] Clyn, *Annals*, p.16.It would seem the Fanyns won the claim because in 1410 Henry Fanyn of Moytobry is mentioned in *OD*, ii, p.289. Eustace Poer was an ally of earl of Desmond

feudalism and the emergence of 'bastard feudalism' based on mutual usefulness. In Ireland, it took on the form of the gaelic lineage. A lineage was in effect a private army and a public demonstration of power; provided protection for the lord and its members, and wreaked havoc when required. A lord would also add to this by making military agreements or indentures with other followings and lineages, English or Irish. This development greatly added to the disorder in the country, especially as punishments in court were often mitigated at the request of the magnates.

Irish society was built upon the extended family as a legal, and landholding unit and English records began to show that lineage was also becoming a feature of marcher society. A lineage took in an extended family network that worked for the benefit of the family group. Family members might be provided with land, which could revert back to the lord for family redistribution, serve as captains within the following, and support the head militarily. In return, the head of the family offered a position or occupation, protection from others and from the law. As the availability of new land dried up, and other land was reclaimed by the Irish, there was perhaps a ready supply of young men to supply a lineage. It can be difficult to tell when there was a development from following to a more family based lineage but there are certain features that can suggest it; military action, criminal action and land conveyance amongst family members. The government recognised the reality of the lineage as a force in English life and made use of the head to discipline its members.

Several of these families show signs of lineage development, perhaps none more so that the Archdeacons. A list of their following does not indicate the rise of the lineage but two particular incidents support it. The Irish sept the O'Mores of Leix seem to have

the dubious accolade of killing the most number of one family at one time, as apart from Geoffrey Freyne in 1333, they were responsible for the death of Raymond Archdeacon, two of his sons, an uncle, and another eleven of that kin in 1335. This tragedy occurred at a parley in Clar Goly. The Archdeacons themselves had many Irish contacts and followers, so this was not a case of two alien cultures clashing, though it suggests distrust between them.[35] There may have been more present who survived. Nor was it just the senior line but collaterals as well: William was an uncle and of the other eleven these were likely to be cousins and nephews. The Archdeacons may have been a particularly highly militarised family, but can still serve as an example of what was happening to a greater or lesser degree in other important families in Ireland. .

The next occasion is just out of the century in 1403 when William Archdeacon chaplain, vicar of Ballath, appointed Thomas Archdeacon (Ercedekyn) McOde his bailiff and attorney. Thomas was already captain of William's nation in the tenement of Clarath, land which William had received of the gift William son of John Archdeacon, knight [36] In fact many elements of gaelicisation are shown in this entry: the name, the passing of land within the family, the concept of the lineage with a relative appointed captain of the nation. But, William Archdeacon, son of John, was still a knight and the language is of the common law: bailiff, attorney, gift and enfeoffment.

The Maunsells, ironically given their hereditary chief serjeancy, illustrate the lineage in its criminal capacity. In 1310, at the crown pleas at Modeshil (Moydessyl) before John Wogan, at least fifteen Maunsell males were either charged that they took

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[35] Clyn, *Annals*, p.16.
[36] *OD*, ii, p.270.

'food and drink from men of town of Fothered, co. Carlow (Fythryth) and adjacent parts and wander through county stealing sheep, pigs, geese, hens' or acted as pledges on the behalf of the accused.[37] The first mentioned, and probably the head of the gang, was David Maunsell, possibly the nephew of chief serjeant Walter Maunsell, who had acted as Walter's *locum tenens.* David was not the head of the lineage, but, seemingly, head of a territorial branch.

This energy could be harnessed by others, and lineages could be taken on to serve magnates or through them, the government. Robin Frame points out that in 1359-60, when the earl of Ormond was justiciar, the Marsh family was one of those used.[38] It is perhaps a sign of the mixing of cultures, that such contracts could be proved in court if they were broken.

Using land transactions to identify an extended lineage development instead of a simple family transaction can be difficult. A clue may be the recurrence of a large number of family names over several transactions. The Cantwells fall into this category. During some land transactions between 1345 and 1353 at least six, maybe more, Cantwells are involved in either granting, or receiving land of each other, acting as witnesses, or one as a bailiff and attorney for a transaction. It was Bartholomew Laffan who first acquired the land by conveyance and then passed it onto Simon Cantwell. As previously noted the Laffan and Cantwell families were no doubt related by marriage as Henry Laffan had made provision for several Cantwell sons in his legal activities. An English lineage might consist of several different surnames if cousins and nephews descend from a female line.

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[37] *CJR 1308-14,* p.146

[38] Frame, 'Military service', in *Ireland and Britain,* p. 297.Note also that the Marsh and Butler families were relatives. Marsh family members also turn up in the following of Raymond Archdeacon in 1312.

The Hacket family provide another good, though complicated example, of inter family land transactions involving land transfers to provide common of herbage for 'the proper animals' of a relative's house, which lies at the summit of Cnokain makarge? (unidentified) Altogether seven Hacket family members are mentioned in this transfer of right of common involving three collateral lines and three generations.[39] Land could return to the head of the family when necessary and in 1344 Robert Hacket was receiving the rent of Philip Hacket, declared a felon.[40] In this record, Robert was also responsible for paying the dues to the government out of this land, another advantage the government had realised.

The head of the lineage was often the most senior of the family as defined by the laws of primogeniture inheritance. At the tragedy at Clar Goly, the head of the Archdeacon lineage was the chief landholder and head of the senior family, Raymond, but it was not inevitably so. Minorities and absences were obviously times when the leadership would pass to another. Fulc Freyne had at least four sons and the descent of the lands of Coolcraheen, that is the senior line, goes from Fulc to son Roger, who died young, to Roger's young son, Geoffrey. On Roger's death, his son being a minor, the seneschalcy passed to Fulc's next son, Oliver, who died the same year. It then passed down to Robert son of Oliver, and later to another of Fulc's sons, Patrick. It never returned to Geoffrey, and he seems to have been eclipsed by his uncles. There were also examples of the captain of the nation being elected; perhaps a head of family who could

[39] NAI, KB2 /4, p.376.
[40] This could be Robert of Barnanely.

not ensure discipline and allegiance might, just as in the Irish septs, have rivals.[41] The fact that a family developed into a lineage did not mean that the whole was at peace with itself. When Walter le Bret was charged with the death of his namesake, he claimed he had been doing his duty as sheriff; but in a lineage capacity it could easily have been a disciplinary measure. Even the government was forced to acknowledge the cultural change and sought to use it by making the captain of a nation responsible for disciplining his own following.

Relations with the Irish

Strongbow and his men had arrived in Ireland, not as mere invaders, but as allies of an Irish king. The alliance was sealed by the marriage of Strongbow to Dermot's daughter. He now had Irish relatives by marriage, his children were half Irish, and he would have had Irish followers. His hope was to establish himself in a position of power, and provide for the maintenance and reward of the followers who formed his power base. This also provides a summary of life in the march.

It would be simplistic to think of the conflicts there as purely English against Irish. The conflicts in Elyocarroll illustrated some of the inter-racial complexities. The following entry in the justiciary rolls, which involved a member of the Grace family in 1312, is another good example. 'For the good service which Hamund le Graas, David de Borrard and Dovenald son of Simon Omorth have often done as well to the late as present King, in fighting the Irish felons of the Leinster mountains...and will do... suit of

[41] Otway-Ruthven, *Medieval Ireland,* p.277.

the peace is pardoned to them for receiving the said Maurice de Caunteton, David de Cauntetoun, Doulyng Obryn and others of their name and parentage who lately put themselves openly at war against the King'.[42] The Cauntetons, with Irish allies, been in rebellion against the crown, and yet were received by, amongst others, Hamo Grace, who had been fighting the Irish of Leinster on the king's behalf for several years Not only was Hamo pardoned by the king but with him, Douvenald son of Simon Omorth (itself a telling mixture of English and Gaelic naming) who it seems had also been useful in fighting the ' rebellious Irish.' Like the boundary of the march, the demarcation line between friends and enemies could be very fluid.

The Grace family had an early history of influence with the Irish under the lordship of William Marshal. In 1226 Geoffrey Marsh, justiciar, wrote to the king and complained that William Grace (Crassus), the Marshal's seneschal, has the Irish 'so wheedled that they cannot be recalled from their conspiracy.' Their conspiracy was to resist the de Burgh move into Connacht.[43] In contrast Oliver Grace joined the justiciar's expedition against the Irish of Glenmalure in 1270, and was taken prisoner, whilst in 1305 Edmund, the head of the family, numbered several Irish in his following. Irishmen, whether tenants, relatives or retainers, were often found in the following of English lords. In 1295 Raymond Archdeacon had many Irishmen in his retinue who participated in the taking of Geoffrey Purcell, including several O'Hogans, a Paidin MacCathel, and a hybridly named Reginald O'Brodyr.[44]

There were charges in the law courts that sometimes favour was shown to Irish

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[42] *CJR 1308-14*, p.237.
[43] Otway-Ruthven, *Medieval Ireland*, pp.93-4.
[44] *CJR 1295-1303*, p.11.

malefactors. Even the Freynes, the scourge of the Irish of Carlow and Kilkenny were charged in Cork in 1296 with allowing the Irish to commit trespasses against the English community.[45] English and Irish men constantly appear in company in criminal activity, whilst other Englishmen act as pledges for their good behaviour.

In the Hacket court case mentioned above, there was a grant of common of herbage for the animals of a Hacket house which was at the summit of Cnokain makarge (?unidentified). By now there were probably very many similarities between the lives of such highland, pastoral English and the Irish. One mode of life that the English appropriated was the culture of raiding. Davies summed up medieval Ireland as a society habituated to war and highlighted the role played by raiding. 'Raids and counter raids were almost seasonal in their occurrence; the taking and distribution of preys and plunder were central to the economy and power of native chieftains. '[46]

It would be wrong to think of raiding as mere cattle rustling. For the Irish it was a display of and strengthening of power, which also provided material rewards for the chief and his followers. It must also have provided the currency for further trade, as often the cattle could be returned by negotiation. Master Philip Hacket was permitted to negotiate for the return of his cattle in 1295. The Irish presumably acquired other goods or money in return. Several cases arose in the common law courts of people buying animals that they knew to have been raided either by the Irish or English and it would suggest that a healthy black market was at work. No doubt payments were made for protection from raids to certain septs and English bands.

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[45] *CJR 1295-1303*, p.62.

[46] Davies, R. 'Frontier Arrangements in Fragmented Societies.' in *Frontier Societies*, ed. Bartlett (Oxford, 1989) p.83.

The English soon found additional uses for raiding. It allowed them to assert themselves, and discipline the Irish in a way that the latter understood. In 1346 Roger Freyne, sheriff of Kilkenny, captured a great prey from MacGillapatrick.[47] The government may not have liked this anarchic style of assertion of authority, but no doubt knew when something was effective. There were plenty of English on English raids. Some of these must have been mere disorder, but raiding gave a chance to mitigate the impositions of distraint imposed by common law, or indeed impose distraint of one's own

The Irish were not a homogenous enemy across a marked border; they were tenants, relatives, churchmen, workers and often allies in battle. Their loyalties were local; to their family, sept and lords rather than to the idea of a nation. This meant that rather than a relationship with 'the Irish', their English neighbours could be involved with different relationships with the different septs; some friendly, some hostile.

[47] Clyn, *Annals*, p.23.

Chapter 4. THE FAMILY

As early as 1297 parliament was lamenting the way that many Englishmen were conforming to the Irish 'both in dress and appearance' and worrying that the sense of English identity might be lost.[1] The fact that some individuals, even families, were becoming indistinguishable from the Irish in appearance was not just a superficial problem: it caused confusion in the execution of common law justice and led to feuding. Paradoxically though, Duffy points out that the 1297 enactments themselves contained a shift in social thinking from seeing a man as an individual to thinking about a man as part of a group, [2] that is, 'Society itself had become degenerate'.[3] This 'degeneracy' was to continue throughout the fourteenth century, earning the disapprobation of government who vented its exasperation in the statutes of Kilkenny, in 1366. Otway-Ruthven sees these statutes as more of a codification of what had gone before, rather than an introduction of new laws. Although the statutes tried to put a fence around the English culture, in fact, licences were available for inter-racial marriages and fostering; it was in practice, 'rather a system of control...'[4].

The necessity for the statutes would suggest that many inter-racial links were being forged, perhaps through marriage and fostering, and disputes in the marches settled by a march law that had brehon characteristics. Some magnates were also taking bards and musicians into their households and had their family's heroic virtues extolled in Irish

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[1] Duffy, *Ireland in the Middle Ages*, pp.141-2.
[2] Though this was not unknown in England for the lower social orders as seen in the system of frankpledge.
[3] Duffy. 'The Problem of Degeneracy', in *Law and Disorder*, pp. 105-6.
[4] Otway-Ruthven, *Medieval Ireland*. pp.291-2.

bardic poetry.[5] Unless English families could survive on several fronts concurrently, demographic, cultural, and economic, they might indeed risk losing their English identity and economic status. Whilst the Gaelic reconquest of land may have peaked by the mid - fourteenth century, the cultural revival swept up many of the English in its waters and it was here that 'the Irish really triumphed.'[6]

Demographic survival: plague and violence.

The first hurdle to surviving the fourteenth century was one over which even the most powerful of lords and ladies had little control; it was a matter of demography.

A family needed to produce male children to carry on the name, and it needed those children to survive into adulthood long enough to produce heirs themselves. To grow to adulthood meant to survive famine, disease and social violence; all found in abundance in fourteenth-century Europe. No family illustrates the need for sheer numbers more clearly than the Archdeacon family. As already mentioned, whilst at a parley with the Irish in 1335, fifteen male members of that extended family were killed at one time.[7] In the same year, four other Archdeacons were called to serve the king in the Scottish wars. The family had had to face a severe famine in 1305, and famine and the Bruce invasion throughout 1315-17. In 1335, the year of the Clar Goly massacre, the plague, popularly known as the Black Death, was just thirteen years ahead. The plague of 1348-9 was to enter and wreak havoc in Ireland, particularly amongst the English population, and struck with particular severity in close communities, for example, in towns and monasteries, and

[5] Frame, 'Power and Society', in *Ireland and Britain*, p.213.
[6] Duffy, *Ireland in the Middle Ages*, p.156
[7] Clyn, *Annals*, p.16.

whilst the Irish did not escape, it seems that they suffered less overall [8] It may be that those English of the marches, in a semi-gaelicised way of life, also had greater chance of survival. Sir Richard and Sir John Archdeacon survived the plague to continue to lead the family, as did several younger members; for example, a son of Richard's, and a William of Killarney.[9] Those people in towns, particularly near the sea, fared badly as did the religious communities. The plague was to continue to break out intermittently and 1361 saw a severe outbreak that may have affected communities previously only lightly touched. By 1365, John Whyte and William Cantwell were petitioning the pope for a new prior as barely two persons remained in their house, Tyone Priory of St John at Nenagh, in the north of co. Tipperary, which belonged to the Hospital of St John the Baptist, Dublin.[10] M. Kelly in her book on the plague in Ireland tries to evaluate its psychological impact. Perhaps it does not stretch a point too far to note that the Freyne entail of Dunmore in 1382 lists the succession to the seventh party, along with their heirs, as though death was lurking at everyone's shoulder.

Average life expectancy in medieval Ireland and Europe was short[11] but this does not mean that people did not live to old age, and people of the wealthier social class would have had a better chance to withstand the normal rigours of famine and disease. Thomas Cantwell was excused attendance at parliament on account of extreme age,[12]

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[8] Otway-Ruthven, *Medieval Ireland,* pp. 269-70; Kelly, *Black Death,* p.33.
[9] *RPCH,* p.59, no. 10, and *OD,* ii, p.433. A son of Richard's, and a William were adults in 1355-57 and 1364 respectively so must have been children through the plague years.
[10] Kelly, *Black Death,* pp.116-7
[11] *Ibid.* p.43. M Kelly gives some data extracted from 216 skeletons from a medieval cemetery in Cork.
[12] *RPCH,* p.24, no.129. Probably the Thomas mentioned as witness to a deed in 1256, which in 1317 would put him in his eighties.

whilst the entail of Dunmore made by the Druhull family names amongst the list of potential male inheritors, the great grandson of the William Druhull making the deed.[13]

Cultural survival.

Two inter-racial marriages have been noted within these family groups. By 1364, William Hacket, son and heir of Robert of Barnanely, was married to Ana MacGillapatrick, and in 1385-6, Aymer Grace received licence to marry Tibina, a daughter of O'Meagher (O'Magher).[14] The first thought might be that Aymer Grace and William Hacket had married into neighbouring Irish septs in order to help secure their lands. If this was the case, the above men would have married into the other sept. Barnanely was on the southern border of Ikerrin, O'Meagher territory, whilst the MacGillapatricks were on the north border of Kilkenny and Laois. As these marriages were not random affairs, something else was going on. Two of these parties had strong links with the Butler family. The Hackets were their tenants, and the Butlers had acquired Ikerrin in 1362 after the Purcells had forfeited their lands there. This brought the O'Meaghers into the Butler orbit. The MacGillapatricks were raiding in Kilkenny, and Rokeby, the justiciar, led a campaign against them in 1351 after they had burned Aghaboe. However, an anecdote concerning the death of a son of the earl of Ormond at a Shrove Tuesday party held by Donnchad MacGillapatrick in 1417 suggests that they had moved into a relationship with the Butlers.[15] The Grace family had limited links with the Butlers, but the latter were

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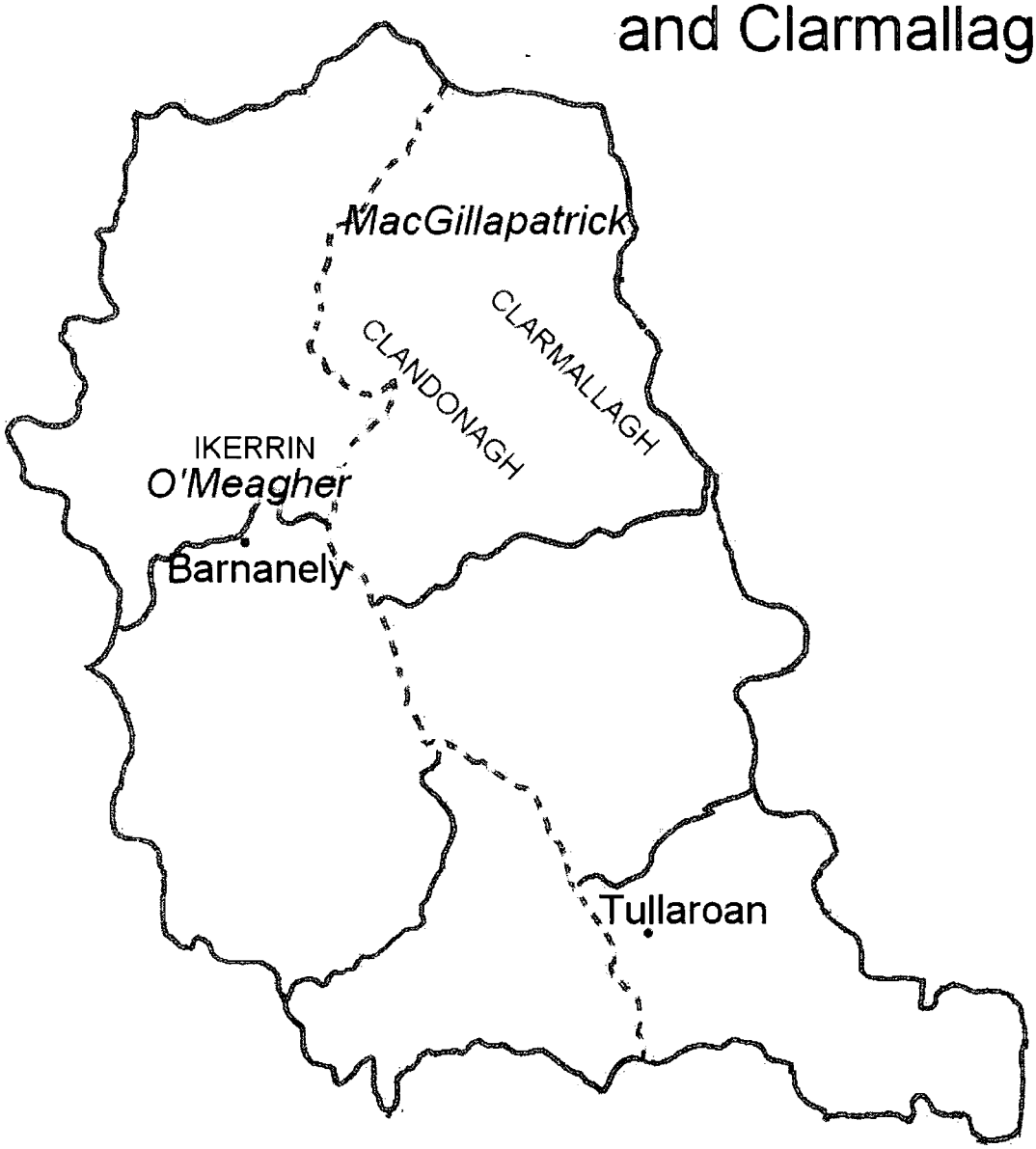
[13] *OD,* i, pp.253-4. William's own son, William, was not mentioned, but grandson Henry, and then Henry's children Robert and Hugh are in line.

[14] *OD,* ii, p.84 and *RPCH,* p.125.

[15] Cosgrove, A., *Late Medieval Ireland, 1370-1541* (Helicon, Dublin, 1981), p.89.

Ikerrin, Clandonagh and Clarmallagh



O'Meagher Irish Septs
IKERRIN Baronies

powerful neighbours. The family also had a tenement around Gorteen in the barony of Clarmallagh. The Butler family acquired Clandonagh, the neighbouring cantred on the west, in 1319. Adjoining to the west of their cantred was Ikerrin. In 1354, James Butler granted to Alan O'Maghra (O'Meagher?) Les Rathyns in Clandonoal for sixteen years.[16] It is possible that the Butler family were involved in facilitating these cross county, inter-racial marriages in order to bring the Irish into their own orbit, and help strengthen their own borders.

It is worth noting that although the above mentioned lands were amongst the Irish by this time and royal government in a weakened state, Aymer Grace still thought it politic to apply for licence to marry his Irish bride: perhaps because he was a keeper of the peace.[17] There must have been mixed marriages even at this social level, that ignored the legal requirement for licence to marry, especially when government was weak, even though it had legal implications for land inheritance under English law.

Inter-marriage and bilingualism no doubt helped the adoption of Irish names amongst the English which some individuals began to use. The Archdeacon family became known also as MacOdo which was sometimes used as an extra with the more usual Archdeacon.[18] This must have been promoted by the Archdeacons' themselves, and showed an interest and pride in their lineage and genealogy. It is also the only gaelicised name that appeared in the royal records for these families in the early fourteenth century appearing as MacOdo in 1321.[19] It is difficult to say, even within specific families, when

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[16] *OD*, ii, p.10
[17] *RCPH*, p.125
[18] This gave rise to the Irish name Cody.
[19] *RPCH*, p.28, nos. 69-73.

this mixture of names started, for someone known locally with a prefix of Mac or O, may appear in records with a Norman 'fitz' or English 'son of.' From the mid fourteenth century, though, the custom was blossoming and four more families took up the practice: the Cantwells, Brits, Maunsells, Hackets. The Irish nicknames used include: More, Gyenkagh, Sygagh, Reuagh, and Carragh

One family patronymic also occurs in the Hacket family 'Nicholas MacHodyk Hacket'. Nicholas MacHodyk was amongst a list of men that the earl of Ormond commanded the sheriff of the liberty of Tipperary to bring before the assizes. This lists twenty six men, all of whom have English Christian names and many of whom have English surnames. Nevertheless, all but six of these men have some aspect of Irish naming, such as the use of the prefixes O or Mac or an Irish nickname.[20] The important point is that this occurred in written records of an English administration, albeit in liberty not in Dublin records. We do not known how these men were referred to in their family or daily environment, but by now even the English administration was making use of Gaelic naming patterns. This no doubt helped to identify individuals in a land that was becoming highly localised with many people carrying the same name. In England, nicknames were settling into surnames but in Ireland it seems that surnames were not enough to differentiate people and other names, and often Irish nicknames, were being added. Despite the adoption of Irish nicknames, from the written records it seems that Irish Christian names were not adopted by English families.

There is some indication that people were using Irish topographical terms to

[20] *OD*, ii, p.187

describe the environment around them. Alessia le Bret, in describing the killing of her husband, Walter, said that he was in a field called Gortwalterin.[21] The word 'gort' is a prefix for a field, specifically tilled or arable, and producing cereals.[22] This suggests that she was describing 'Walter's field.'

Four elegies for marcher lords of Ely have been translated from the Irish. It is believed that they were written by a poet living near Cashel in the late fifteenth or early sixteenth century. The introduction suggests that they were (along with other verse and prose in the manuscript) written for a John Cantwell of Moycarky, son of John Cantwell, archbishop of Cashel (died 1482). The archbishop is the subject of the first elegy, whilst James Purcell of Loughmoe, Tadhg O'Carroll of Rathenny and Philip Hacket of Balysheehan, probably families related to the Cantwells, are the others. The elegies follow usual Gaelic tradition; extravagant sorrow, the similarities of the subject to earlier Irish heroes and the battle roll (although John Cantwell's roll consists of administrative victories for the church). The very fact that the poems were written for these English lords, as well as the insights from the content, shows how much of the Gaelic culture had been assimilated by these marcher lords by the sixteenth century. The poet had Philip Hacket and O'Carroll as patrons, and the elegies are in the Gaelic language in traditional form. The poet praises Hacket's liberality and hospitality, and rejoices in Purcell's raids: he takes his rightful place at Hacket's grave. The picture drawn is one of a lifestyle in the march very similar to that of the Irish chiefs: there is a strong culture of local and family links and lineage; an interest in, and knowledge of, Irish history; the Irish language was

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[21] *CJR 1295-1303*, p.60.

[22] Flanagan, D. and L., *Irish Place Names* (Dublin, Gill and Macmillan, 1994),p.93.

being used for entertainment and literature; Gaelic graveside traditions are used and raiding commonplace. But there are differences: James Purcell is likened, not to an Irish hero but to Sir Galahad of European fame; John Cantwell trained at Oxford university and read civil law, and although Irish is a language for entertainment and some literature, it was not have been the language for formal and legal activities. These poems were written after the period being studied in this thesis, but the seeds for this marcher lifestyle must have been sown much earlier. Philip Hacket was the grandson of William Dubh Hacket, who may have been the William who married Ana MacGillapatrick in 1364.

The Gaelic revival put pressure on the lands and economy of the English settlers, but at the same time the incomers took many of the cultural features of their neighbours into their lives. Some of this was necessary to deal with Irish tenants and neighbours and to treat with Irish outside the common law. Some was necessary to aid negotiation for peace, and to create allies. Some, like bardic poetry, was for pleasure and entertainment. A marcher family that had survived in difficult conditions, especially when others fled, no doubt felt proud of its lineage and was happy to hear bardic poetry and genealogies read out in praise of that lineage on long winter nights. Ironically though, whilst assimilating the Gaelic cultural mores of genealogy and kinship, heroically declaimed in bardic poetry, there may also have been an inherent, divisive factor: the Irish may have looked to heroes of the days before the invaders came, or who led rebellions against them whilst the Anglo-Gaelic chiefs could celebrate their ancestors as conquerors.

Women

No study of family life could be said to be complete without a look at the role of women.

The medieval view of women reinforced by its literature of courtly love, and religious imagery of Eve, the temptress and Mary, the divine mother, was of a sex that was weak in mind and body, incompetent in affairs of business, and untrustworthy in morals. Yet as Power points out, 'The position of women is one thing in theory, another in legal position, yet another in everyday life.'[23]

English and Irish women, especially those who married across the cultural boundaries, played a vital role in creating the character of the colony. Women who made inter-racial marriages (voluntarily or otherwise), could create bridges between the two communities, and ease the exchange of language and culture. The new wife would be accompanied by her own servants and priest, and her children would be likely to grow up bilingual and nurtured with some of the traditions of their mother's culture. The senior members of the Grace and Hacket families would certainly have had Irish relatives from their marriages to Irish women,[24] but, probably, so did many families at every social level.

The more sinister side of the coin was that those who had dealings with both English and Irish could find themselves under suspicion. In 1302, Geoffrey le Bret was one of the magnates who asked for leniency for the Englishwoman, Isabella Cadel, and her servant, Fynewell Seyuyn, who had been arrested under suspicion of spying whilst returning from a visit to the 'Irish of the mountains'.[25]

It is mainly through legal records, especially disputes within the common law, that evidence on women surfaces.They feature heavily in cases concerning, land and were

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[23] Power, *Medieval Women*, p.1

[24] *RPCH*, p.125 and *OD*,ii, p. 84 respectively.

[25] *CJR 1295-1303*, p.368.

involved in some way in around 50% of all the cases noted due to the complexities caused by marriage, female inheritance and the dower system. This may give a distorted view of marriage patterns, as any wives of Irish lineage will appear less frequently in the written records of the English administration.[26] The common law had evolved to cope with English heiresses and widows and caused court cases enough but it was unformed when dealing with cross-culture marriages. Questions of dower for Irish widows and the legal status of a marriage after an Irish divorce were new areas.One of the complaints in the Remonstrance of 1317, was that Irish women married to English men were often refused dower.[27] Dower was problematical enough in the common law courts, but here there must have been the added concern that the land might be lost, especially if an English woman were to remarry an Irishman.

Marriage to an heiress was one way that an English medieval man could increase his landholding and social position.[28] Those families whose lands were now limited to Ireland would have had a smaller and more tightly knit pool of potential heiresses to choose from, whilst those who still held in England may have had wider prospects. As most of these twelve families were not tenants in chief in Ireland (the Brets being the exception as they held Rathfarnham of the king), they were also more removed from royal patronage, and would look to their feudal lords and wealthy neighbours for hope of personal or familial advancement. Some, such as Nicholas Avenel, bought the hand of a 'desirable' (that is, in terms of property) widow; in this case Juliana de Clare sometime

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[26] Their names may sometimes be found on charters of enfeoffment to religious foundations.
[27] *Irish Historical Documents*, p.41.
[28] For a general discussion of marriage, see Ward, J., *Women of the English Nobility and Gentry 1066-1500'* (Manchester University Press, 1995), pp.15-45 and for a woman's role as landowner, see Power, E., *Medieval Women*, Cambridge University Press, 1995 pp.30-31.

before 1297.[29] She brought with her lands in county Limerick, and Nicholas does not seem to have been shy about exploiting her financial potential. Nicholas and Juliana are mentioned in the legal records of Limerick from 1297, when he disputed a claim of a debt made on a promise, to May 1307 when there was a case of *novel disseisin* against Nicholas, now a widower, by a ward of Juliana's. Nicholas claimed that on her deathbed, Juliana had granted him the wardship of Richard, son and heir of William de Raleye, but Richard claimed that as Juliana had left no testament Nicholas had entered by disseisin. Nicholas may have been trying to hang onto some of his wife's lands, perhaps by custom of England. He lost the legal battle and the lands in the end went to Gilbert de Clare, as Richard de Raleye was still a minor.[30]

Daughters were also a source to be used for building familial links with powerful and landed families. Geoffrey Marsh, the justiciar, had both children and connections to offer. There is evidence that his sons married into the de Valoignes and de Ridelsford families, whilst two daughters became the wives of Hugh Tirel and Theobald Walter II.[31] If the lady were not an heiress herself, then a potential suitor would be looking for a dowry or marriage settlement. Such seems to be the case with a marriage that must have occurred between the Laffan and Cantwell families. No actual marriage has been identified but the evidence appears strong. These families both held in the cantred of Thurles, though by 1290, Milo Cantwell was witness to a deed by William Laffan, lord of the vill of Buolick in Slievardagh, co. Tipperary and it would seem that a tenement had been acquired there. (In 1372 John son of Milo Cantwell was to grant away land in the

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[29] *CDI*, v, p.28. The marriage cost him at least 66s 8d.

[30] *CJR 1305-07*, pp.388-9.

[31] Brooks, 'Marisco', *JRSAI*.62, pp.62-9.

borough of Buolick).[32] Other records, throughout the first half of the fourteenth-century, show a close relationship between these two families with members appearing as witnesses to each other's deeds, and making grants of land to respective members. It would seem that Milo le Bret had married a lady of the Laffan family and gained a tenement in Buolick as a marriage portion.

There was the danger that daughters as heiresses could take land away from the family, and there are examples in Ireland of families marrying near relatives to prevent this. The Freyne and Purcell families had a variant on this: these neighbouring families intermarried for several generations. Three Freyne-Purcell marriages have been found: Geoffrey to Mabel Purcell (by 1247), Geoffrey to Joan Purcell (widowed by 1333) and Katherine Freyne to Maurice Purcell (before 1379); there could possibly have been more. Purcell family members occur regularly in the Freyne circle as witnesses, and were tenants of Odo Freyne in Kilmadum, (Dromercher in Gowran). Around 1395, Geoffrey Freyne enfeoffed them with Kilmadum.

As well as land transactions, cases of debt can include women. A man took on his wife's debts on marriage but, if lucky, he also took on debts owed to her and her late husband. Richard de Valle had married Alicia, the widow of Adam le Blund (Blound), and hoped to claim the money owed to her and Adam by the Purcells for which Henry Laffan held the letter obligatory.[33] Conversely, the common law could support a payment on a debt made by a wife even without the consent of her husband. Another Alicia, wife of Henry Archdeacon gave five marks to Henry Butler, which payment her husband then

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[32] *OD*, ii, p.127
[33] *CJR 1305-07*, p.122

challenged, without success, in court.[34] And of course, women were often busy managing the day to day business of the manor which involved the transfer of goods to settle debts. We see Matilda Foughel pledging a horse to Richard Grace (le Gras) for twenty shillings, which somehow came into the hands of Roger de la Hide 'by consent of Matilda'; and Elena MacOtyr being the go-between in the handing over of a cow bought by Walter Godsone from her husband, Thomas le Bret; the case in court of a debt worth five shillings hung on whether she had handed over the wrong cow.

Fourteenth-century Ireland was a militarised, often violent place. Women and children were as likely to be victims of its disorder as were the men. They were victims of kidnapping, and of robbery. The kidnapping of Margery Russell to prevent her attendance at court was discussed previously,[35] but marriage by abduction, and therefore the acquisition of wealth, was, sometimes, another manifestation of violence. In 1253, William le Bret was pardoned by the king for harbouring his brother, Ilbert (?Gilbert) who had abducted Agatha de Turville, widow of the landed Matthew fitzGriffin.[36] Marriage by abduction could also be a form of elopement for women under the control of custodians or relatives, who might jealously guard their own 'investment'.

Women were often victims of theft, and being in a religious order was no protection: the nuns of Tamelyn Beg, had the wall of their close broken down by Nicholas O'Toole in the night and were robbed of their livestock (1306).[37] As Reymund Sugagh of

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[34] NAI, KB2 /5, p.85

[35] *CJR 1305-07*, p.505

[36] Brooks, *Knights Fees*, p.250 and fn. Even the noble widow Elizabeth de Burgh was a victim in 1316, having been abducted in Bristol by Theobald de Verdon. He claimed a prior agreement had been made in Ireland. Ward, *Women of the English Nobility and Gentry*, p.41.

[37] *CJR 1305-07*, p.506

Freynston, co. Wicklow was given permission to negotiate for their return, it was perhaps more a case of extortion. But women played their part, too, in the social disorder of the time, even those of the landed families. In the case of Matilda, daughter of Geoffrey le Bret, the records do sound as though she had joined the raiding party, but it may be that she was the instigator, '...wherefore she with Walter son of Math[ew] Poer, took Roger's cattle in county Tipperary and drove them to county Waterford.'[38] Matilda may have been engaging in some adventurous cattle rustling or imposing an unofficial distraint on Roger Tany herself.

Women, in everyday life in medieval Ireland, must have played a full role in running and protecting their own farms and estates as a *femme sole*, or the estates of absent husbands and sons. They paid debts and had financial dealings, and they went to court as claimants and defendants. Even the women of landed families, like Matilda le Bret, took an active, sometimes violent, part in the affairs of their neighbours. This does not mean that life was necessarily sparse or primitive for them. An account of the expenditure of Joan Butler, widow of Theobald Butler, made in 1297, mentions purchases of wine, furs, figs, raisins and a variety of cloths.[39]

Illegitimate, and younger sons.

Illegitimate sons born of English landowners were not eligible to inherit their father's lands, but Gaelic culture had a much more inclusive attitude to the family. They had sons by different wives, illegitimate sons and foster sons. There are signs that marcher lords

[38] *CJR 1295-1303*, p.264
[39] *OD*, i, p.111-12.

also began to make provision for their illegitimate offspring. Raymond Archdeacon agreed the transfer of land from his tenant Owen Gallebarryn to Owen's son, Adam. There follows a list of male successors, and Raymond agrees not to enter the lands by his right of lordship 'by the colour of escheat or bastardy' whilst any are alive. He also agrees not to raise a counter plea of bastardy in any court against Adam, but to 'affirm as legitimate and acceptable for hereditary succession any minor begotten of any one of them defunct...'[40]

A family that put this into practice was certainly the Cantwell family. The Oxford register notes five Cantwell entrants from Ireland in the late fourteenth and early fifteenth-century, which must have been an expensive family investment.[41] At least three of them were illegitimate. However, the investment paid off and both rose, consecutively, to position of archbishop of Cashel in the church. As they were both illegitimate, dispensation was needed for them to take holy orders. Further, it is clear that the latter of the two fathered at least one son himself who seems to have inherited family lands, as it is believed that the Cantwells of Moycarky were direct descendents of the archbishop.[42]

As families ramified within an area, and the younger sons of younger sons slipped down the social scale, was there help from more senior members of the family into positions in trade, the church or apprenticeships? Lesser members are not so well documented so it may not be possible to explore this side of family lineage and patronage but there are a few tantalising glances. Members of the Shortall family acted as receivers of the fifteenth for the king. They had to appear at Dublin regularly to account for the money, and no doubt had dealings in the other towns as well. They would have had

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[40] *OD*, i, pp.153-4.
[41] *Biographical Register of the University of Oxford to AD 1500, ed. A.* Emden 3 vols (1957).
[42] O'Sullivan, *Marcher Lords*, p.1.

opportunity to make colleagues amongst the merchant communities of the towns. By 1328, a Thomas Shortall had a croft and dovecote in St John St, Kilkenny and in 1331 was sovereign of the town. There had probably been a movement into the Dublin business community by 1355, when Peter Shortall acted as attorney for Maurice Young, a Dublin merchant. By the beginning of the new century, a Thomas Shortall was well established in Dublin, being clerk, bailiff and mayor of the staple. In this way town and marcher lord could be linked by family, by property, and by trade. Younger sons of burgage or town tenants were in a good position to obtain apprenticeships; for example, a John le Bret was paid to repair the houses and walls in Dublin castle and the exchequer in 1330,[43] whilst in 1384 there is a mention of Thomas le Bret (Bryt), miller, in the court records of the liberty of co. Tipperary.[44] There is no documentary evidence that these were connected to the landed le Bret family but younger sons of younger sons would have been slipping down the social scale in just this way. The lineage took in the *parentela,* the young and landless of the family but did patronage also stretch to finding apprenticeships and crafts?

In the final analysis, whatever the similarities, the marcher families of English settlers did not become Irish: theirs was still a mixture of knights and captains of nations, of common law and marcher alternatives, of land provision for family members by the head of the lineage but challengeable at law and under the umbrella of primogeniture inheritance. Whilst they enjoyed and participated in Gaelic culture, they reserved a place for their English heritage. There is another side to the question of gaelicisation, which is often neglected because the documentary sources are lacking, and that is: how anglicised

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[43] Connolly, *Irish Exchequer Payments*, p.590.
[44] *OD*, ii, p.201.

had the Irish community become? They, too, made cross culture marriages, traded with the towns, and rode with English lords. No matter how gaelicised the English were to become, there could be no return to the Ireland of 1169.

CONCLUSION.

Despite the passage of time, and the physical danger of the sea-crossing, several families maintained links with England in the fourteenth-century. The Erley family was conspicuous by its absence in the Irish marriage market. That marriages occurred is implicit in the passing on of the inheritance to sons throughout the fourteenth century but it would suggest that many of their spouses were found in England, where the head of the family still held lands and spent considerable time. After the death of his wife, Sybil de la Haye, Herbert Marsh, who also still held lands in England though seems to have spent time in Ireland, married as his second wife, the English Isabella de Tracy of Woolcombe, Devon.[1] As marriages were matters of local politics this would imply that the Erleys and Herbert Marsh still looked to England for influential contacts. John Marsh revealed in a court case for his lands in Limerick, in 1297, that he had grown up in England.[2] Others, like the Grace family, had severed their ties as landowners in England, but there were other expressions of allegiance: they still fought the king's wars and valued his patronage; held office in his administration and law courts; paid his fines and subsidies; and followed the principles of common law. Some links may indeed have been growing, such as trade with English ports, and sending sons to Oxford university to train for the law or the church. However, although planted with the same institutions and often personnel from England, the Irish colony did not develop as a cloned miniature of England. Its colonists were English with qualification: to the Irish community they were the English; but when addressing the authorities in England, they called themselves the

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[1] Brooks, 'Marisco', *JRSAI* 61, p.101.
[2] *CJR 1295-1303*, p.164

'English of Ireland'.[3] This was no mere geographical description but shorthand for the differences which were developing in customs, social outlook, and political relationships.

For some families, the ending of the male Marshal line in 1245 seems to have limited opportunities for a period, though for others, perhaps looking to earn a place in a lord's affinity, it had opened up the marketplace. The Grace family had been useful relatives of the Marshals. They had served as seneschals of Leinster, and possibly as justices in their court.[4] In 1247 William Grace, who held in Offerlane, was appointed custodian of Offerlane castle for Richard de Clare, but it was another generation, in1274, before Oliver Grace was sheriff of Limerick and this despite the experience the family must have had. The Archdeacons held no positions under the earl Marshal, but began to come to the fore after 1260 when William Archdeacon was sheriff of Waterford. In 1286 Silvester Archdeacon was a justice assigned to examine the debts of Robert de Stapleton, and Richard, in 1295, was custodian of Castlecomer (Castle Combre). The Cantwells fared badly through the thirteenth century, receiving no particular appointments though they were important within their locality. They were, however, tenants of the Butlers and relations of the Laffans, both being families on the rise in their respective social stations. The Maunsells had a status above what they might have had just as minor landowners because of their hereditary position in the royal administration as chief serjeants. The more minor families of these twelve were the Laffans and Shortalls, holders of relatively limited lands. The Shortalls were collectors of the king's fifteenth, but the Laffans held no outstanding royal positions. What the Laffans did have was the ear of the Butlers.

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[3] Frame, *Ireland and Britain*, p.131.

[4] *OD*, i, p. 52. A witness was William Crassus, seneschal of Leinster, and *Chart. St Marys*, ii p.177.

Local magnates, such as the Butlers, became the foci of power through which the king's rule often had to filter to reach the areas beyond Dublin. They offered patronage and protection against other English, as well as Irish, enemies, But magnates were also dangerous, as they drew others into their conflicts, and if a powerful man fell from grace, he could bring down the families associated with him. The Grace family may have been eclipsed because of its links with Eustace le Poer, who fell out with the Freynes over the seneschalcy of Kilkenny, and fell from the king's grace along with the troublesome earl of Desmond. The Archdeacons also had links with Desmond, a rival to the earl of Ormond, maybe one reason that the Archdeacons did not thrive quite as did the Freynes in the second half of the century as Butler power grew.

The Marsh family held extensively in Ireland and up to the death of Henry Marsh *c.*1326 seem to have held a strong place in the colony. They had survived Geoffrey Marsh's political disgrace, but in the end, did not survive the Butler family. The Butlers acquired the manor of Weyporous, co. Tipperary[5] from Stephen, son and heir of Herbert Marsh, and claimed the inheritance of Stephen's lands on his death, possibly on a false genealogy.[6] The Marsh family were related to the Butlers by marriage and consequently found as part of the Butler retinue. This family, too, slipped into a more minor role than their auspicious beginning in the colony would have suggested.

It was not until 1285 that Andrew Avenel became a seneschal of Wexford[7] but the family experienced a temporary social improvement when Nicholas Avenel, Andrew's heir, made a fortuitous marriage. The social and political standing of the Avenels declined

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[5] Probably Ballynaclough.
[6] Brooks, Marisco. *JRSAI* 61, p.106
[7] *CDI*, iii, p.48.

again after the death of Juliana de Clare, and the family appears in few records in the second half of the century and are notably missing from the list of keepers of the peace.

The local network of family and neighbourly relationships was important. The fact that the Freynes made marriage alliances with the de Barrys and Purcells, two families later noted as rebel English, had the potential to pull them more into that 'degenerate' way of life in the future, whilst in contrast, the marriages that seem to have taken place in the Laffan family to other local Butler tenants would seem to underpin the Butler relationship. The legal entanglements of marriage, neighbours, land, and debts however, often led to cases in the courts. All of these families, except the Erleys, were involved in legal cases over land, overwhelmingly *novel disseisin.* As the effectiveness and jurisdiction of the common law shrank in the fourteenth-century, they would have to find other ways of settling family, and other, disputes. People in co. Tipperary may have been better served legally once the county had become a liberty, but families living without liberty jurisdiction must have been likely to turn more often to negotiation, violence or local custom.

Across Europe the fourteenth century was marked by economic and demographic decline, and the English colony in Ireland suffered as part of it. The colonists were attacked on several fronts; by a Gaelic revival, by disease, which was particularly virulent in their urban communities, and by the diversion of royal attention to other fields of conflict. This picture of a declining colony is sketched out by administrative and royal documents that record falling royal revenues, the manors and lands in decay and laid waste, social disorder, and endemic violence. Manorial extents do indicate that some

tenants were indeed greatly impoverished and suffering at certain times.[8] Some lands could not be rented out to English or Irish. Hunt, if his dating of funerary sculptures is correct, noticed a hiatus in the commissioning of monuments running through 1350-1450 which he attributes to the effects of the Black Death, the shrinking of the English colony and Irish revival.[9] These conditions would have curtailed disposable wealth, whilst the plague would also have depleted the numbers of available craftsmen.

Probably the greatest loss was to the revenues of the king. He lost rents as manors declined and land became waste (that is, returned to the Irish), the financial perquisites of justice shrank as liberties grew, and his officials were both corrupt, and had difficulty obtaining monies owed due to the disturbed state of the country.

Merchants must also have faced higher costs in obtaining and transporting goods, firstly, into Ireland because of Scottish and French wars, and secondly, across Ireland because of the dangers of travel, necessary bribery and both English and Irish extortion, (though O'Neill, throughout his book, demonstrates that trading did continue.)[10] Much of the land these twelve families had taken on in the twelfth and thirteenth century was in, or near to, border areas, for example, the Hackets in Barnanely, the Cantwells in Arra, and Marsh family in Ormond. Whereas they might have been able to obtain a profit in relatively settled conditions, they were about to experience a more harsh environment.

There are some caveats however. Royal or administrative documentation was often created to account for taxes and subsidies; there may well be a case of over-egging the cake. Not all tenements, even within the same manor, suffered to the same degree or

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[8] For example, the rental of Thurles. *OD*, ii, p.225.
[9] Hunt, *Irish Medieval Figure Sculpture*, i, p.5.
[10] O'Neill, *Merchants and Mariners.*, p.55.

uniformly over time. In 1291 Silvester Archdeacon was able to pledge a considerable sum of money on behalf of Roger de Pembroke and was reputed to be able to spend '£300 per year',[11] whilst five years later, Silvester was complaining that Hugh Purcell, sheriff of Tipperary, had attacked and raided his castle of Donohill. He provided an inventory of goods taken to the value of £500. These included household goods, linens and armour but also silver spoons, gold rings, and precious stones.[12] The Cantwell family, too, must have had disposable income for Thomas Cantwell, or one of his children, commissioned the stone effigy of Thomas that is in Clara church.[13] Such landowners may have lost income from manorial rents and trade through the fourteenth century but there is little recorded evidence that allows us to determine whether they were able to replace that lost income, perhaps through rents, in kind or money, from the Irish, or by the taking of preys in the style of the Irish, 'black rents', or tolls on trades. Although it was not till 1537 that Piers Cantwell (and most of the freeholders of Kilkenny) were charged with coigning, this may well have been happening for some time before.[14] Exacting coign and livery was a way of putting the costs of a lord's men and retinue onto the people of the county. Monies to the king may have declined, but money into the pockets of some of the landowners, at least, not necessarily so.

Although the royal and administrative records project the century as one of ever deepening gloom and crises, several of these twelve families were able to improve their circumstances throughout the fourteenth century. Whether they profited financially is

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[11] *CDI*, iii, p.448.
[12] *CJR 1295-1303*, p.7.
[13] Hunt, *Irish Medieval Figure Sculpture*, i, p.181.
[14] Carrigan, *The Diocese of Ossory*, iii, p.276.

unclear, but they saw their families rise in importance within their localities, to the local magnate, and in some cases to the king. The le Brets had achieved the status of tenant -in -chief at the beginning of their move into Ireland, and they continued to be crucial to the defence of Dublin and the king's manors. The Freynes grew into their role as professional and military administrators, having started under John de Bonevill of Carlow. Throughout the century, this family served several lords, and were crucial to the defence of Kilkenny. By the end of the century, they had become invaluable to both the Butler family and the king, receiving gifts of money and custodies from the latter. The le Brets, Freynes, Archdeacons and Cantwells were marcher families that had to find alternative ways to survive between the land of peace, and the land of war, and they built on their military experience. Lesser landowners, such as the Laffans and Shortalls, perhaps not able to support a large following, were able to diversify into other aspects of communal life, such as the law profession and trade. Thereby links could be formed between the major trading towns and parts of the marcher territory

The Erley family had not thrived in Ireland and its lands there were sold by 1381 to the Sweetman family. There had been no noticeable extension of the original enfeoffment, and it seems to have been used for providing land and training for sons or relatives of the head of the family. Family members were often used as attorneys and extra attorneys, such as Robert de Cheddar, may have been sometimes sent from England. By the fourteenth century, they were regularly using some Ireland based families particularly the Comerfords (Quemerfords) who held land in the Callan to Kells area, and

were probably Erley tenants in Erleyston; they later became the barons of Danganmore.[15] Other Erley family members did make their way in Ireland, such as Robert Erley who served as prior of Kells for many years around 1361.[16] Without the head of family in Ireland however, any remaining members there must have been disadvantaged as there was not the chance to forge links with the community through marriage or patronage.

The Irish revival put pressure on the lands and manorial economy of the English settlers, but at the same time they took into their lives many of the cultural features of their neighbours. Several families had a pragmatic approach: the enemy was not the Irish, but some of the Irish some of the time and some of the English occasionally. At other times, relationships were built which required dealing with the Irish on their own terms. If the Irish economy was created by its geography, then some of the English were able to take part in it by emulation and they straddled two differing economic systems; the settled manorial and that based on cattle and raiding. The Dublin government had little way of quantifying or controlling such a mobile economy as the latter.

Some acculturisation was necessary to deal with Irish tenants and neighbours, and to treat with the Irish outside the common law, whilst some was necessary to aid negotiation for peace, and to create allies. The assimilation of Irish literature and bardic poetry, though, was for pleasure. A marcher family that had survived in difficult conditions, especially when others fled, no doubt felt proud of its lineage and was happy to hear bardic poetry and genealogies read out in praise of that lineage on long winter

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[15] Burtchaell, 'Erley' in *JRSAI*, 36, p.159. A Quemerford appears as witness to a land conveyance in Erleyston, as do a Joye, and a Somerton; both these latter families also appear as attorneys for the Erley family. *OD*, i, p.331.
[16] *IMED*, p.312.

nights.[17] Even the government was forced to acknowledge the cultural change and sought to use it by making lineage heads responsible for disciplining their own following. Whatever the similarities, however, even the marcher families of English settlers did not become indistinguishably Irish. The displeasure of the European church with Irish customs of marriage, divorce and *erics* may have created a feeling among the English of moral and religious superiority.

[17] The Cantwells and the Hackets were each to have Irish elegies written for them. See *Poems of the Marcher Lords*. ed. Sullivan, pp.4-17 and pp.70-83.

ABBREVIATIONS

Acct. Roll HT.	Account *Roll of the Priory of Holy Trinity, Dublin, 1337-1346.*
Brand, *Common Law,*	Band, P., *The Making of the Common Law.*
Brooks, *Knights' Fees,*	Brooks, E. St J., *Knights' Fees in Counties Wexford, Carlow and Kilkenny*
Brooks, 'The de Ridelesfords',	Brooks, E. St J', 'The de Ridelsfords' in *Journal of the Royal Society of Antiquaries of Ireland.*
Brooks, ' Marisco', *JRSAI*	Brooks, E. St J., 'The family of Marisco' in *The Journal of Royal Society of Antiquaries of Ireland.*
Burtchaell, 'Erley', Burtchaell,	G.D, 'The Manor of Erley, or Earlstown, County Kilkenny,' in *Journal Royal Society of Antiquarians of Ireland,*
Carrigan, *Diocese of Ossory,*	*The History and Antiquities of the Diocese of Ossory,* 4 vols. (Sealy & Co. Dublin, 1905).
CDI	*Calendar of Documents relating to Ireland.*
CJR	*Calendar of the Justiciary Rolls of Ireland.*
Clyn, *Annals*	*The Annals of Ireland by Friar John Clyn and Thady Dowling* as unpublished translation by R. Frame.
Connolly, *Irish Exchequer,*	Connolly, P. *Irish Exchequer Payments 1270-1446*
Crouch, *William Marshal.*	Crouch, D., *William Marshal: court, career and chivalry in the Angevin empire, 1147-1219*
OD	*Calendar of Ormond Deeds.*
Duffy, *Atlas,*	Duffy, S. *Atlas of Irish History.*
Duffy, *Bruce,*	Duffy, S. *Robert the Bruce's Irish Wars.*
Duiske Charters	'The Charters of the Abbey of Duiske'.
Empey, 'The Butler Lordship', (unpublished PhD Thesis).	Empey, C. A .,'The Butler Lordship', (unpublished PhD Thesis, Trinity College, Dublin, 1970)
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Hand, *Eng Law.*	Hand, G. *English Law in Ireland:1290-1324*
IMC	Irish Manuscripts Commission.
IMED	*Irish Monastic and Episcopal Deeds.*
IPM,	*Calendar of Inquisitions post mortem,* 21 *vols*
IPM (1806).	*Inquisitions post mortem,* 4 vols. eds. J.Caley and J.Bayley
JRSAI	*Journal of the Royal Society of Antiquaries of Ireland.*
Kelly, *Black Death,*	Kelly, M., *A History of the Black Death in Ireland*
NAI	National Archives of Ireland.
Orpen, *Normans.*	Orpen, G. H., *Ireland under the Normans,* 4 vols.
Otway-Ruthven, *Medieval Ireland.*	Otway-Ruthven, A. J., *A History of Medieval Ireland*
RBE	*Red Book of the Exchequer.*
RBO	*Red Book of Ormond.*
RDKI	*Report of the Deputy Keeper of Ireland.*
RHJB	*The Register of the Hospital of St John the Baptist without the New Gate, Dublin*
RTA	*Register of St Thomas's Abbey, Dublin.*
PRCH Calendarium	*Rotulorum Patentium et Clausorum Cancellariae Hiberniae*
Rymer, *Foedera,*	*Foedera, conventiones, litterae et cujuscumque generis acta publica.*

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