

Serious Crime In Early 14th Century Co. Limerick

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Eighty-five cases heard before the court in Limerick during 1311 and 1313, (there were no sittings in 1312), and recorded in the Calendar of Justiciary Rolls of Ireland, are outlined and discussed.

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The arrival of the Anglo-Normans in Co. Limerick towards the end of the 12th century saw the introduction of English law into the area. The keystone of the new system was that justice should be dispensed on a regular basis by peripatetic justices empowered to hear various categories of cases, including serious crimes. The present paper is concerned with eighty-five cases heard in Limerick in 1311 and 1313 which are calendared in the Justiciary Rolls of Ireland (Wood, *et. al.*, pp. 203-208, 214-215, 266-270 and 303-312). Two types of case are under consideration; (i) pleas to the court to be re-admitted to the peace and (ii) gaol delivery, the latter simply the trial of all those held for serious crimes at a given gaol.

The colonists who came over to settle the new lands were induced by promises of free status. Such was not the lot of the ordinary native Irish who were deemed servile and as such had few rights under the law. The descendants of the Vikings or Ostmen could, however, claim kinship with the Normans and were deemed to be free, so Norse descent had a great social advantage. As late as the turn of the 13th century the Ostmen were still a recognised group in society. Given a degree of intermarriage between the native Irish and the Ostmen it must at times have been very difficult to know exactly who had what status, especially when, in addition, there was a general trend towards the adoption of Norman names. A case of novel disseisin in 1295, from just before the period under discussion (Mills 1905, p. 59), illustrates the point exceedingly well. William le Teynturer of Artfinan accused three people of having wrongfully dispossessed him of a messuage, and their defence was that the court should not hear the case because William was "hibernicus and of servile condition". William's response was that he was not "*Hibernicus* but *Houstmannus*" (an Ostman), a "Macmackus of the city of Limerick". The court heard that although William's father was held to be Irish, his mother, afraid that William might be reduced to servitude, had gone to Limerick and obtained the "liberty of the Ostmen" for her son. William had subsequently been accepted in another court as an Ostman and so demanded, and won, the same right in his present case. He also won his case. By way of contrast, William son of Roger, when charged with the death of Roger de Cauntetoun, was able to successfully plead that he could not have committed a felony because Roger was an Irishman named Ohedirscoll (Wood *et al.*, p. 203) and so of unfree status. William was, however, recommitted to gaol until he could find pledges to recompense the King for the loss of his "*hibernicus*". In the case of Roger O'Horwuth who made his peace with the court, for among other things the death of Maurice le Waleys, the death of an "Englishman" was specifically excluded from the settlement (*ibid.*, p. 270).

The fate of William son of Roger demonstrates another aspect of the legal system which is that it was an important fund-raising process. Although he was found innocent of the charge

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against him, William had made the mistake of absconding after the death of Roger de Countetoun which in legal terms was tantamount to an admission of guilt. He therefore forfeited all his chattels, valued at 41s 2d, despite effectively winning his case. The case of Laurence Bigetoun (*ibid.*, p. 308) illustrates several other examples of the means by which revenue could be raised. Laurence was charged with the death of Robert de Barry but was acquitted on the testimony of the jurors. As soon as he had heard of the indictment, Laurence had taken sanctuary in the church at "Ard Patrik" where he stayed for forty-three days. It was incumbent upon the local community to ensure law and order was upheld and that fugitives were captured, so when Laurence escaped to sanctuary it was deemed that the community had failed in its duty and so the whole parish was fined. Laurence's brother, John, was also indicted for the death and he was captured and delivered to the "villate of Cranystoun" from whence he escaped. Cranystoun suffered a similar fate to Ard Patrik and was fined, but appealed successfully because the prisoner had actually escaped from one Roger Crane into whose custody the community had delivered John. The community's fine thus devolved onto Roger Crane. John, evidently the guilty party in the death of Robert de Barry, was outlawed. Both Laurence and John Bigetoun had their chattels confiscated for flight and their possessions passed into the hands of the King's sergeant Walter Fox and one Nicholas Turbot, who should have brought them before the coroner for valuation but did not do so. Instead, they told the jury that their value was considerably less than was really the case, in order to purchase the chattels cheaply. They were found out and committed to gaol until they could find pledges for a fine of 10s on Walter and 40d on Nicholas. There is yet another twist to this case for it was then discovered that the coroner had been bribed by John Bigetoun's mother to have the victim Robert de Barry declared an Irishman and "so save John from the felony". The coroner, Roger de Lees, was committed to gaol and his ultimate fate is not recorded. The amount of the fines on Ard Patrik and Roger Crane does not appear in the record, but even without them the Crown had raised £2.4s.6d. and that in a case where the main accused was found not guilty! It should also be noted here that when a felon forfeited his chattels to the King then, if stolen goods were among them, they too went to the Crown unless the original owner make a quick and successful appeal (Plucknett 1956, p. 452).

Another example of the revenue raising aspect is the case of Gilbert son of Ralph (Wood *et al.*, p. 305) who was charged with harbouring two prisoners who had broken out of the King's prison. A fine for the escape was placed on the sergeant from whose custody the prisoners escaped, but with the proviso that if he didn't have the wherewithal then the fine devolved onto the chief serjeant who had appointed him. Failure to appear as a juror also incurred a fine, and among the cases under consideration this was the commonest cause of fines, for instance in the cases of Thomas Broun (*ibid.*, p. 308) and Germeyn son of John Selyman (*ibid.*, p. 303) three jurors were absent and were fined.

Justice, once it arrived, was dispensed without great ceremony and, to modern ears, frighteningly quickly. On March 29th 1311 the Justiciar John Wogan heard 25 cases including four felonious killings, two abductions, assorted thefts and burglaries, harbouring a known criminal and conspiracy to commit arson. Even if the court sat for 12 hours, this amounted to an average of less than half an hour per case. Nor was the 1311 caseload particularly burdensome, for on November 12th 1313 Edmund le Botiller managed to hear 29 cases of equal seriousness.

The claim of benefit of clergy, or the right of a cleric to be tried before the church courts and so escape the full rigours of secular justice, was common especially at a time when the numbers of people in lesser orders were quite high. This was a right which was open to abuse, and so it became customary to try the accused before the secular courts so that his

goods and chattels could be confiscated prior to handing him over to the Church for further trial and punishment. It was, however, not unusual for the accused to take his chance in the secular court to avoid confiscation and only claim benefit of clergy if things were going very badly. There are six cases, among the eighty-five, where benefit of clergy was claimed and in five of them the claim was accepted with judgement on the sixth being reserved to a later date; guilty verdicts were recorded in the five cases, and the outcome of the sixth is unknown due to gaps in the text. Richard son of David Sampson (*ibid.*, p. 205), Germeyn son of John Selyman (*ibid.*, p. 303) and Thomas the clerk of Ballyherran (*ibid.*, p. 304) were all accused of feloniously slaying people; Adam, clerk of the bishop of Limerick, (*ibid.*, p. 207) with the abduction of Eddous the wife of one Nicholas Roth and keeping her at Sengol for half a year; Geoffrey son of Maurice Young of Londoun (*sic*) (*ibid.*, p. 307) with aiding and abetting the "notorious felon" Robert Brittagh Russell; and David Oketfagh (*ibid.*, p. 203) with robbing Henry Troy's men of twenty-seven gallons of beer worth 40d and William of Gloucester's men of forty gallons of wine on the banks of the Shannon. In the last case David chose to pay a fine, despite claiming benefit of clergy, in order to retain his chattels.

Of the eight-five cases under consideration, thirty-four resulted in the acquittal of all or most of the defendants. It can however be assumed that in most cases resulting in acquittal the actual occurrence of a crime was not in doubt but that the identity of the culprit was. Bribery was not unknown, as the case involving Roger de Lees, outlined above, demonstrates, and it must be assumed that some acquittals were the result of perverse verdicts. In the remaining cases the usual punishment was a fine, but the death penalty was invoked in fourteen cases, several cases resulted in a return to imprisonment and one outlawry was declared. In those cases where capital punishment was used, in all but one (the text is illegible at the relevant point) the defendant is recorded as having no free land and in eleven of the cases no chattels. It is the status of the individual which determines the punishment and not the crime itself, so it is perhaps not surprising to note that of the fifteen people hanged (two brothers were hanged together in one case) eight bear surnames with the Irish O-prefix: Ohologhan, O Glasganal, Olewyrthe, Olompny, Olonregan, Oballan, O Meskille and O Ketyf (*ibid.*, p. 204, 214-15, 267-8 and 303) and were definitely native Irish, while the remainder were probably so, judging from their apparent unfree status. A couple of examples illustrate the disparity in punishment. Maurice Ohologhan was hanged for stealing a horse from Anyn Obryn worth 20s. (*ibid.*, p. 204) but by contrast Roger Bon (*ibid.*, p. 305) paid a fine of 60s. for stealing two horses worth ten marks (£6.13s4d.). Philip Oballan (*ibid.*, p. 267) was hanged for stealing 7s of silver, a cap worth 12d., five yards of linen cloth worth 5d. a yard and a shirt worth 6d., while by contrast John son of Walter Bag Bretnagh senior, (*ibid.*, p. 269) accused of killing Neel Weryng, robbing John Kyft of three horses worth one mark each, abducting and robbing John's son, burgling the house of William le Keu at Dromyn and robbing from it four bacons and two quarters of beef worth 10s. 4d., the property of Nicholas Rys, and burgling the house of Henry Chepman and stealing from it six cows and six afers worth 40s., was allowed free on payment of a 40s fine.

Forty-six of the eighty-five cases involved theft of one sort or another. In fourteen of the cases burglary, or unlawful trespass with the intention to commit a felony, is mentioned. Violence was often used in conjunction with the break-in. William son of Ralph Brak (*ibid.*, p. 204) broke into the house of Henry Estram and killed him in the course of the burglary, while Geoffrey Carragh and Thomas Sanfog (*ibid.*, p. 267) were acquitted of burglariously entering the house of William le Whyte of Kilmhallok and wounding him. The corrupt coroner, Roger de Lees, was himself burgled by one Nicholas Aunsel and robbed of "stuffs, household utensils, gold and the weight of 7d. and other goods to the value of 60s. (*ibid.*, 312).

Livestock was the most usual target for theft. Cattle figure in twenty-two cases often in conjunction with other animals. It is assumed here that "afer" is used to mean a draught beast; the word is quite distinct from heifer and according to the *Oxford English Dictionary* can mean either a beast or a cart-horse. This assumption is based on the contexts in which it is used within the cases, for instance Robert Odonegan was accused of robbing four cows "and other afers" (*ibid.*, p. 206) while in the list of animals stolen from the "monks of May" afers are listed between oxen and cows (*ibid.*, p. 310). The latter is the worst single incidence of livestock theft among the cases under consideration, comprising as it did of three horses, twenty-eight oxens, twelve afers, eight cows, as well as other goods, and can be considered to be wholesale plundering of an estate. At the other end of the scale there are incidences of the theft of a single animal, *e.g.* Thomas Broun acquitted of stealing an afer from John son of Simon Germeyn (*ibid.*, p. 308). There is just one case, including heifers, where the ultimate fate of the stolen animals is recorded: Walter son of John and William O Mynok were charged with stealing three cows and four heifers and driving them to Corbaly (*sic*) and then to the King's Island and the town, where they were slaughtered and sold (*ibid.*, p. 311).

Horses formed the next largest group of stolen livestock with ten instances. The number of animals involved is considerably less than cattle with the maximum number stolen in any one instance being three, and only two cases recording that many. The first of these is that of the monks of May outlined above; the other is the case involving John son of Walter Bag Bretnagh, also outlined above. By comparison with cattle and horses, theft of sheep was relatively uncommon with only three cases recorded. The number of animals involved is, however, quite high, with two of the cases including forty animals. Thomas son of John Russell was charged with burgling the fold of Reginald le Blower and stealing forty sheep worth two marks (*ibid.*, p. 207), while David le Rede was accused of have "art and part" in the robberies of Walter O Carbre who had stolen forty lambs from George de Rupe (*ibid.*, p. 269). Pigs are recorded in only two instances, a single pig worth 9d. stolen from Richard Carrig (*ibid.*, p. 268) and the twelve pigs stolen from William Laundry of Kerry (*ibid.*, p. 307). Poultry occur in two instances, one the same case as the single pig, when seven hens worth 7d were stolen, and the other where geese and hens are mentioned in the case against John Lyllye (*ibid.*, p. 268). Two incidences of the theft of rabbits attest to the existence of warrens. Maurice and David Gerveys were charged with being "accustomed by night to take and steal the rabbits of Adam son of William in his warren at Conykyn" (*ibid.*, p. 307), while Robert Sweyn and Thomas Bretnagh were accused of commonly destroying the rabbits in the warrens of John le Jeofne and John le White (*ibid.*, p. 203).

Of the other named types of goods stolen, food and drink is probably the most common, appearing in eleven cases. A bushel of wheat worth 12d. is mentioned in the case against Maurice son of Adam Cor (*ibid.*, p. 306), twenty four bushels of oats worth 12s were stolen by John of Londoun (*ibid.*, p. 206) while corn appears in the cases against David le Rede *et. al.* (*ibid.*, p. 269) and John and Nicholas Aunsel (*ibid.*, p. 312). Richard Carrig was robbed of a bushel of malt worth 12d. along with his pig and seven hens (*ibid.*, p. 268), while Robert Woodward was burgled and robbed of "bread, beer, flesh and other food to the value of 2s." (*ibid.*, p. 215). The case of the clerk David Oketfagh, charged with the theft of beer and wine, has already been outlined above. There are three mentions of the theft of butter but all relate to the same burglary at the church of le Garthe (*ibid.*, pp. 205, 268 and 305). Robert, son of John de Burgo was charged with robbing Theobald Troye's fishermen of salmon and preventing them from carrying their catch to Limerick (*ibid.*, p. 215), while Richard Carragh was hanged for waylaying Thomas son of Geoffrey and Peter le White "on the highway near Kilmehallok" and taking two loads of fish worth a mark (*ibid.*).

Cloth and clothing was another common target, but usually appears along with other articles and livestock. Of the six cases only that against Walter Maunger mentions a single item, a cap worth 2d. (*ibid.*, p. 206). The bishop's clerk, Adam, who as has already been shown above to have been charged with abducting Eddous, was also accused of stealing from her a linen apron, a gown and a tunic worth 3s. 4d., and the list of cloth stolen by Philip Oballon has also been stated already.

Money and silver figures surprisingly little as the main object of a theft, and appear in only seven instances of which three are the same case of burglary at the church of le Garthe, mentioned above, when 100s was stolen. Agnes, wife of John Hert, was charged with stealing 38s 10d from a chest (*ibid.*, p. 204), and the case against Philip Oballon also included 7s. of silver. The case of John Fanyng, accused of robbery upon the highway between "Adar and Cathbaghelagh", is interesting in that the 11s of silver appears to have been stolen when he falsely raised hue and cry against his victims. There are, however, a large number of cases where the nature of the goods are not disclosed. In these cases the "other small things" often tacked onto the end of a list of stolen items could be of considerable value, such as the 100s and £40 mentioned in the case against William son of Ralph Brak (*ibid.*, p. 204) and the 100s in that against Agnes de Berkeley (*ibid.*).

In general, much of the theft seems to have been opportunistic in its execution if not in the planning. While there can be no doubt that, for instance, burglaries were carried out with a specific object or objects in mind, the long lists of goods often suggest that there was an element of picking up whatever was going as well. Only one of the thefts seems to have had a motive other than immediate material gain, and that was the case against David Martel (*ibid.*, p. 269) who was accused of burgling the house of Walter son of Thomas Martel and stealing "two deeds an indenture of a fine levied in the King's court and a letter of quitclaim". The case reads remarkably like a family squabble over property.

Another small group of crimes against property were three cases of arson. Richard Ketyng was charged and acquitted of procuring Bren McRicard and his accomplices to burn the town of Athynstadan (*ibid.*, p. 205), Margery Omonethan was acquitted of feloniously burning the house of Thomas Harold (*ibid.*, p. 268), and Philip Oholdrik was similarly charged and acquitted of burning the house of William Whyte (*ibid.*). In a fourth case, Stephen and David, sons of Ralph, were admitted to make fine for all trespasses up to the day of the hearing, but specifically excluded were the death of an Englishman, rape and arson (*ibid.*, p. 307).

Offences against the person as opposed to property are quite common, and several of the cases already mentioned include wounding or felonious killing, sometimes in the course of robbery. In all, twenty-two cases record the death of an individual. There were seven acquittals, two declarations of outlawry, three guilty persons were handed to the church for punishment and, in two cases where there was a plea to return to the peace, the felonious killing of an Englishman was specifically excluded. There were also three fines and four cases where the death penalty was invoked. In one case the outcome is not recorded but it is one of two cases where the charge was procuring the death of an individual. Thomas son of Henry le Palmer was charged that "he asked Gillepatrik McYogh and others of the same surname McYoghes" to kill Thomas and Nicholas Gregory "for the sake of revenge" (*ibid.*, p. 207). In the other case Thomas Le Palmer was charged with procuring, abetting and instructing Peter le Palmer to kill Nicholas le Palmer in what appears to be a family squabble (*ibid.*, p. 312).

Three cases include abduction or rape amongst the charges. The abduction of Eddous by the bishop's clerk, Adam, has been discussed above, and he was handed to the church for punishment. David son of Walter Appilgard who was charged "that he feloniously and

against the King's peace carried off Mabilla who was the wife of Gilbert de Whiteleye after the death of her husband and had carnal knowledge of her against her will" (*ibid.*, p. 208) escaped with a fine. John Lyllye, who has already appeared accused of theft of geese and hens, was charged with killing Margery Crane, ravishing "Clarice Fontyn against her will" and breaking in and ravishing "Isolda Laynagh forcibly" (*ibid.*, p. 268). He was acquitted. A fourth case was the exclusion of the rape charge from the fine on Stephen and David sons of Ralph discussed above (*ibid.*, p. 307).

Another main category of offences are those which involve public order and good. In fifteen cases the charges included harbouring a known felon or felons. For the most part the names of the felons occur only once among the eight-five cases, but an exception is Robert Brettagh (various spellings) Russel and his accomplices who appear in six different cases. They broke into the house of Stephen Welleype at the Kappagh and stole "a stone and a half of wool worth 3s, two falings worth 12d., one tripod worth 4d and diverse other goods to the value of half a mark" and were received by Ralph the fowler (*ibid.*, p. 208), Robert Odonok was fined for harbouring the gang (*ibid.*, p. 214) as were Philip Oskevyn, Thomas Odoney and Thomas Roth (*ibid.*). Hugh O Halynan, Henry his son, Howel le Flemmyng and John Codfleming were acquitted of harbouring them, but Roger Myagh made fine for the same charge (*ibid.*, p. 306). In this indictment Robert is accused of the death of several Englishmen. Geoffrey son of Maurice Young of Londoun who claimed benefit of clergy was also accused of harbouring and even aiding and abetting, but the relevant membrane of the original document is torn and the outcome is lost (*ibid.*, p. 307). Finally, Thomas le Heye of le Kappath was acquitted of receiving Robert and his accomplices after breaking into the house of Dovenald O'Nelan, wounding him and robbing him of "an afer, two cows and other things to the value of half a mark" (*ibid.*, p. 309). Robert Brettagh seems to have been the leader of a gang which managed to avoid capture for at least the period under discussion.

Another person who appears more than once is Bren McRikard. John Bryan and Cecilia, who was the wife of Nicholas Bryan, were both acquitted of receiving Bren and "his Irish accomplices" (*ibid.*, p. 206). This is presumably the same Bren and accomplices who it was alleged that Richard Ketyng had procured to burn the town of Athystadan (see above). It is probably some of Bren's accomplices, Mc Yertagh McBren, William McBren and Geoffrey McBren McRichard, if not Bren himself, who were readmitted to the King's peace at the instance of Richard de Clare (*ibid.*, p. 207) on payment of a hefty fine of £10. A Geoffrey McBren also appears as a cattle thief in the case of Agnes de Berkeley (*ibid.*, p. 204). The juxtaposition of the same McBren with that of Richard of Clare is strongly suggestive that we are here dealing with the O'Brien families of Clare who were beginning to pressurise the Norman colony at this time. Alicia Oketyf was hanged for the slightly different crime of being a "common spy of felons and thieves in the county", as well as aiding and abetting (*ibid.*, p. 303).

In the absence of a regular police force, an important part in the maintenance of good order was the hue and cry which could be raised by anyone seeing a crime committed. It was then the duty of every able-bodied person to join in the chase to capture the suspect. Failure to raise a hue and cry was an offence. In the case of Thomas O'Hoillechan, charged with harbouring Reginald Oholecan, Reginald's mother, Orlyn, and sister, Ranyld, were both acquitted of failing to raise hue and cry. To raise a hue and cry falsely was also a crime. Among the charges against John Fanyn was that of with "malice raising hue and cry" upon several persons (*ibid.*, p. 267). It seems that this was done with the intent of using the resulting fracas to rob the victims.

One final offence to be dealt with here is that of perjury. Mabilla Gogh and Richard Top

were acquitted of murder and Clement Fanyn was cleared of abetting them (*ibid.*, p. 203). Later in the same day Rober de Lang and Thomas le Blound were both imprisoned for falsely and maliciously indicting Mabilla and Richard (*ibid.*, p. 206).

The overall impression which these court cases project is one of a settled colony in which justice could be dispensed on a regular basis and where people were willing to have recourse to the courts rather than settle matters themselves. In general the colonists and the native Irish seem to have lived in relative harmony, though there are hints of trouble on the fringes of the colony in Co. Clare. Nor does the level of serious crime seem excessively high, given that the eighty-five cases appear to be the sum total for at least three years. The impression one is left with is certainly not of a society breaking down under the weight of crime, but rather a society, in general, at peace with itself and functioning in a normal manner, unaware of the major upheavals which the Bruce Wars were about to spring upon it.

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