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**THE STATE
AND
THE LANDED ESTATE:
ORDER AND SHIFTING POWER RELATIONS IN IRELAND
1815-1891**

The thesis is submitted to the National University of Ireland, Galway for the degree of Doctor of Philosophy (PhD) in the College of Arts and Humanities and the Moore Institute for Research in the Humanities and Social Studies

Joanne McEntee, B.sc., B.A.

September, 2012

Department of History
School of Arts, Social Sciences and Celtic Studies
National University of Ireland, Galway

Supervisor: Dr. John Cunningham
Texts, Contexts, Cultures Project Leader: Professor Gearóid Ó Tuathaigh

SUMMARY OF CONTENTS

The landed estate was a pivotal force in the construction of ‘order’ within its hinterlands in nineteenth century Ireland. The rules of the estate functioned beyond estate walls, affecting the lives of the tenantry politically, socially, economically, and culturally. This study has revealed how landlord-tenant relations were more complex than has hitherto been recognised. It has also shown how this relationship was significantly altered as the modernised and centralised state began to assert itself more forcefully through increased rules and regulations.

Grounded in six case-studies, this research examined relations on estates located in the provinces of Ulster and Connacht. The estates were selected according to a series of sample criteria including, location, size, religious composition, estate acquisition, landlord and agent profile, and access to estate papers. Through a consideration of rental, social, legal, educational, and religious relations between estate authorities, tenants, and government officials, the research examined the evolution of order on Irish estates from 1815 to 1891.

This research argued that the Act of Union of 1800 marked a watershed in power relations in Ireland. Through increasing centralising tendencies, the government succeeded in modifying landlord-tenant relations. Formerly operating from a quasi-feudalistic framework based on privilege and reciprocal obligations, a series of legislative initiatives from government – often heavily influenced by contemporary ideologies such as utilitarianism, evangelicalism and political economy – repositioned estate relations within a legal framework, which redefined traditional rights. This development had significant consequences for the order of Irish landed estates

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DECLARATION

I hereby declare that this thesis is my own work and effort and that it has not been submitted anywhere for any award. Where other sources of information have been used, they have been acknowledged.

Signature:

Date:

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Any errors in the research are my own.

Joanne McEntee
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ABBREVIATIONS

C.C.	Catholic curate
D.I.B.	Dictionary of Irish Bibliography
<i>FJ</i>	<i>Freemans Journal</i>
H.C.	House of Commons
I.F.C.	Irish Folklore Collection
N.A.I.	National Archives of Ireland
N.L.I.	National Library of Ireland
N.S.	National school
P.P.	Parish priest
P.R.O.N.I.	Public Records Office of Northern Ireland
Q.C.	Queen's Counsel
R.C.	Roman Catholic
R.I.C.	Royal Irish Constabulary
W.C.R.O.	Warwickshire County Record Office

Introduction
‘Live and let live’
The power and privilege of the landed class

‘They bend, by dire necessity, to the dictate of their earth-lord. If he is a man of soul, of enterprise, all goes very well; if the reverse, and a hard-hearted, indolent, pleasure-loving spendthrift, his tenantry – the population of a whole town – must suffer for his sins’.

In reference to the Carrickmacross tenants 1850 in William Stevens Balch,
Ireland, as I saw the character, condition, and prospects of the people, p. 412

‘I appeal to the Saxon men of all countries whether I am right or not in estimate of the Celtic character. Furious fanaticism; a love of war and disorder; a hatred for order and patient industry; no accumulative habits; restless, treacherous, uncertain: look at Ireland’.

Comment made in 1850 by Robert Knox, *The races of men: a fragment*, p. 7

‘The connexion between the inheritor and the occupier of the soil being one which must influence if not control the whole system of society’.

Quote taken from an 1830 report on the Irish poor in
Sir George Nicholls, *A history of the Irish poor law*, p. 97

The landed estate was a pivotal force in the construction of ‘order’ within its hinterlands in nineteenth century Ireland. G. E. Mingay remarked that ‘the gentry saw themselves as the major pillar of stability in a world which, bereft of their influence and control, would dissolve into uncertainty, lawlessness, and chaos’.¹ An ordered estate was one where the rules of the landlord and the customary estate practices of the estate were adhered to by both tenant and estate employee. Compliance with the traditional expectations and norms of the estate not only maintained the power of the landlord over his tenants, but also ensured that the management of the estate would occur relatively smoothly. The lack of formal estate legislation and uniformity in estate management practices oftentimes produced dissatisfaction among a tenantry who appeared to lack any agency on the estate. The rules of the estate functioned beyond estate walls, affecting the lives of all the tenantry politically, socially, economically, and culturally. Few studies have focused specifically on order and the nineteenth century Irish landed estate.

This is a study about relations – but more explicitly power relations. A complex set of relations existed within the landed estate. As W.E. Vaughan suggested, the ‘land question’, which dominated politico-economic discourse throughout the nineteenth century, may be ‘defined narrowly as landlord-tenant relations’.² Consequently, the adequate study of order on and within the environs of the nineteenth century landed estate must take into consideration ‘relations between tenants and sub-tenants, between the owners of great estates and middlemen, between farmers and labourers, and between town tenants and their landlords’.³ However, this study also considers relations between landlord and tenant, tenant and tenant, land agent and tenant, other estate employees and tenants, landlords and government, landlords/agents and legal system (judges, solicitors etc.), landlords/agents and the National Board of Education, landlords/agents/tenants and the religious, and landlords/agents and the land commissioners. In his study of the Gore Booth estate in County Sligo Gerard Moran noted, ‘only when other estates are examined will we be able to have a true picture of the Irish landlord and the relationship he had with his tenants and with the wider community’.⁴

¹ G. E. Mingay, *The gentry: the rise and fall of a ruling class* (London, 1976), p. 164.

² W. E. Vaughan, *Landlords and tenants in Ireland, 1848-1904* (Dublin, 1984), p. 6.

³ W. E. Vaughan, *Landlords and tenants in Mid-Victorian Ireland* (Oxford, 1994), p. v.

⁴ Gerard P. Moran, *Sir Robert Gore Booth and his landed estate in County Sligo, 1814-1876: land, famine, emigration and politics* (Dublin, c2006), p. 9.

Through an examination of the records of six estates and through a consideration of rental, social, legal, educational, religious, and governmental relations, this research will examine how, and when, changes in the apparently deferential relationship between landlord and tenant occurred over a span of seventy-five years from 1815 to 1891. Socio-cultural factors, as well as the more thoroughly researched economic dimension, were given appropriate emphasis in this thesis. Consequently, the customary as well as the contractual aspects of authority, obligation, and order, are explored in this work; with particular reference to key episodes and to key sites of order. Findings are interrogated in light of the evidence generated by primary and secondary research alike. It is in this context that the thesis makes an original contribution, by examining a sample of richly-documented landed estates through the prism of order.

The power of the landlord

Nineteenth century Irish society witnessed considerable changes, which affected all sections of society. The emergence of capitalist social relations, post Union administrative changes, nationalism, the emergence of a professionalised and centralised police force, coupled with the continued presence of combinations, secret societies, and agrarian agitation, had an immense effect on all aspects of landed society. These developments had a significant impact on notions of order for estate personnel and tenants alike. The Folklore Commission schools collection contains numerous references to landlords. While both positive and negative recollections of landlordism exist, it is perhaps the omnipotence of the landlord which most starkly reveals itself. Comments related to the Shirley estate in Monaghan include the following: ‘long, long ago it’s a landlord that would rule the land’ and ‘until 1908 this district was ruled by Major Shirley’.⁵ Landlords were generally perceived as foreigners in the popular memory in the same locality: ‘great men of England’ who ‘confiscated’ the land from the people of Ireland and sub-let it back at a rent.⁶ A similar picture emerges in the folklore of Leitrim, where one interviewee claimed that ‘Lord Leitrim was an English landlord who was sent over to Ireland to persecute the Irish’.⁷ Referred to as ‘the oul devil’ by the tenantry, Leitrim (possibly in

⁵ I.F.C. S225E: pp 167-68.

⁶ *ibid.*, p. 203.

⁷ I.F.C. 994: p. 277.

reference to the 3rd Earl, although not explicitly stated) ‘could evict a tenant if he displeased him; and as he had great influence with the government for a small offence the punishment was very severe’.⁸ It is instructive, however, to recall Séamas Mac Philib’s statement that ‘negative accounts of landlords are probably easier to recall and knit into a colourful narrative than mundane details concerning small acts of kindness’.⁹

Proprietorship of land conferred power. At the dawn of the nineteenth century, the power of the landlord and the landed estate system appeared almost absolute. Terence Dooley estimated that in 1804 approximately 8,000 to 10,000 landed proprietors existed in an Irish population of over five million. Of this figure, only 5 per cent were Catholic.¹⁰ Even after the famine and the introduction of the Encumbered Estates Acts of 1848 and 1849, landlords continued to occupy a privileged position in rural Irish society. Although R.F. Foster concluded that ‘collectively and statistically, post-famine landlords constituted a rich and powerful interest; individually, their economic position left a lot to be desired’.¹¹ In 1852, for example, fifty-eight of Ireland’s 104 M.P.s were from landed families and landlords continued to hold many local official positions of power.¹² The census of 1871 gave a figure of 6,500 landlords in the country, revealing a reduction of approximately 3,500 from figures reported from the start of the century.¹³ However, ten years later, Finlay Dun claimed that nearly half of Ireland was in the hands of an approximate 750 landowners, each in possession of 5,000 acres and upwards.¹⁴ Consequently,

⁸ I.F.C. 216: pp 315-16.

⁹ Séamas Mac Philib, ‘Legends of Irish Landlords in Their International Context’ in *Béaloideas*, ‘Sounds from the Supernatural’, papers presented at the Nordic-Celtic Legend Symposium (1994-1995), p. 87.

¹⁰ He also stated that figures for 1800 reveal that one third of landlords were absentees. See Terence A. M. Dooley, *The big houses and landed estates of Ireland: a research guide* (Dublin, 2007), pp 3, 18.

¹¹ R. F. (Robert Fitzroy) Foster, *Modern Ireland, 1600-1972* (London, 1989), p. 377.

¹² Séamas Mac Philib, ‘*Ius Primae Noctis* and the Sexual Image of Irish Landlords in Folk Tradition and in contemporary accounts’ in *Béaloideas*, lvi (1988), p. 97.

¹³ 302 (1.5 per cent of the total) owned 33.7 per cent of Irish land; 15,527 (80.5 per cent) owned 19.3 per cent. 13.3 per cent of landlords (owning twenty-three per cent of the land), were resident outside the country; 36.6 per cent resided in Ireland, but not on their own estates. Foster, *Modern Ireland*, p. 375; Vaughan, *Landlords and tenants*, p. 6; Terence A. M. Dooley, *Sources for the history of landed estates in Ireland*, (Dublin, 2000), p. 8; L. Perry Curtis Jr., ‘Landlord responses to the Irish Land War, 1879-87’ in *Eire-Ireland: Journal of Irish studies* (fall-winter, 2003), p. 3; During the 1870s Catholics accounted for perhaps 15 per cent of Irish landowners with 1000 acres or more. Nicholas Perry, ‘The Irish Landed Class and the British Army, 1850-1950’ in *War in history*, xviii, no. 3 (2011), p. 322.

¹⁴ Finlay Dun, *Landlords and tenants in Ireland* (London, 1881) p. 1.

although reducing in number, landowners remained a significant presence in Irish society.

Following the Act of Union of 1800, which united the Irish parliament with the parliament of Great Britain, landlords in Ireland continued to exercise a significant amount of control over their tenantry. Mary E. Daly correctly pointed out that there was ‘a particular danger in assuming that tenants in the early nineteenth century regarded their landlords in the same light as their successors did during the Land War ... there is little evidence of any strong feeling against landlords as a class at this time’.¹⁵ In *The Landleaguers*, Anthony Trollope wrote (rather romantically perhaps), that in 1850s Galway ‘the lawful requirements of a landlord’ continued to be ‘readily performed by a poor and obedient tenantry ... generous, kindly, impulsive and docile, they have been willing to follow any recognised leader’.¹⁶ In contrast, however, some contemporary commentators noted an apparent breakdown of the traditional bonds before the end of the Great Famine (1845-52): ‘the relation between landlord and tenant is, in truth, lost; in no country in the world are these duties less recognised than in Ireland’.¹⁷ In response to Vaughan’s assertion that by 1879 ‘landlords had lost control of their tenants’, L. Perry Curtis Jr. posed the crucial question ‘what exactly is meant by “control”?’¹⁸ Olwen Purdue, in agreement with K. Theodore Hoppen, maintained that ‘when it came to the control they exercised over their estates, the law in the 1870s still gave landlords a great deal of power over their tenants. Most, however, were greatly limited by the practical realities of running an estate’.¹⁹ This study will examine, not only how exactly this control was manifest, but also will explore, in depth, the changing nature of this power relationship throughout the century.

¹⁵ Mary E. Daly, *A social and economic history of Ireland since 1800* (Dublin, 1981), p. 9.

¹⁶ Anthony Trollope, *The Landleaguers*, edited by R.H. Super (Michigan, 1992), p. 3.

¹⁷ James Hack Tuke, *Transactions during the Famine in Ireland, 1846-1847* cited in Stephen J. Campbell, *The Great Irish Famine; words and images from the Famine Museum Strokestown Park, Co. Roscommon* (Strokestown, 1994), p. 13.

¹⁸ Curtis, ‘Landlord responses to the Irish Land War’, p. 17.

¹⁹ Olwen Purdue, *The Big House in the North of Ireland: Land, Power and Social Elites, 1878-1960* (Dublin, 2009), p. 26; K. Theodore Hoppen, ‘Landownership and power in nineteenth-century Ireland: The decline of an elite’ in Ralph Gibson and Martin Blinkhorn (eds), *Landownership and Power in Modern Europe* (New York, 1991), p. 169.

Irish landed estates, the *ancien régime*, and the state

Samuel Clark identified two types of power that landlords exercised; political power ‘wielded by landlords in both national politics and local government’ and legal power ‘over land’.²⁰ The exercise of these powers was not always welcomed by the tenantry, as Foster noted: ‘letting the tenants alone on their farms was one thing; interfering with them in terms of social and political control was another’.²¹ While this delineation of landlord power proves instructive, it is necessary to delve more deeply, in particular, into another form of power wielded by landlords which manifested itself in the form of granting privileges. Non-contractual privileges were described by Clark as concessions which were often granted ‘in order to maintain tenant compliance and to reward good tenants’.²² He outlined three privileges as paramount to the estate management system; permission to sell, moderate rents, and undisturbed occupancy, while the granting of abatements or arrears in rent and disregard of subdivision, subletting, building, or turning up pasture were defined as ‘miscellaneous non-contractual privileges’.²³ The existence of such privileges points towards a continuation of aspects of *ancien régime* society in rural Ireland during the nineteenth century.

The *ancien régime* may be described as a form of society dominated by the privileged orders of the nobility and the clergy; otherwise known as the aristocracy. Primarily the *ancien régime* functioned according to customary laws and habits, while privileges and prerogatives proved paramount.²⁴ Some late-eighteenth and early-nineteenth century commentators alluded to the existence in Ireland of a despotic ‘old order’, through reference to the use of canes and horse-whips to punish and enforce discipline among the tenantry.²⁵ Fundamentally, customary law operated outside of official legal codes. Complex ties of social obligation, coupled with a mutual dependency between the landed family and their tenantry, consisting of ‘respect on the one hand, condescension and generosity on the other’, operated in Ireland.²⁶ Yet, as a result of a series of legislative initiatives, increasing state

²⁰ Samuel Clark, *Social origins of the Irish land war* (N.J., c1979), p. 164.

²¹ Foster, *Modern Ireland*, p. 377.

²² Clark, *Social origins*, p. 165.

²³ The 1826 Subletting Act outlawed the practice on Irish estates.

²⁴ William Doyle, *The ancien régime* (Hampshire, 1986), pp 3, 14.

²⁵ An Irish country gentleman, *An inquiry into the causes of popular discontents in Ireland* (London, 1805), p. 30; Arthur Young, *A tour in Ireland, 1776-1779* (1st ed., London, 1780), pp 165-66.

²⁶ Vaughan, *Landlords and tenants*, p. 105.

intervention in the lives of those living on the estate resulted over time in altered definitions of order for landlord and tenant alike.

Research sample

A qualitative research design was adopted for the study. According to Curtis, ‘ideally, the study of landlordism in Ireland, as elsewhere, requires an aggregate approach. Case histories of great estates - usually so much better documented than small estates – may reveal many important facets of the landlord system’.²⁷ Six estates were analysed. The sample selected proved an ‘enabling sample’ from which to comprehensively analyze the actual manifestation of order on estates. The estates selected for study were based on a series of sample criteria, including, location, size, religious composition, the history of the family’s acquisition of the estate, landlord and agent profile, and access to estate papers.

Location and size

Four of the properties were located in the province of Ulster, namely the Drapers’ estate, Co. Londonderry; the Whyte estate, Co. Down; the Shirley estate, Co. Monaghan, and the Farnham estate, Co. Cavan.²⁸ The final two estates under study, the Leitrim estate, Co. Leitrim and the Westport estate, Co. Mayo, were situated in Connacht. The close proximity of several of these estates, their confinement to two neighbouring provinces, and the religious complexion of the relevant counties was considered during the sample selection process. As expected, some of these landed families held property in several counties throughout the island of Ireland, and these holdings are also incorporated into the study, thereby offering a broader geographical spread of analysis.

The size of estate held by each landlord under study during the nineteenth century varied considerably, ranging from less than 2,000 to nearly 115,000 acres. The most reliable source for such information is the 1876 *return of owners of land or*

²⁷ L. Perry Curtis, Jr., ‘Encumbered wealth: landed indebtedness in post-famine Ireland’ in *The American Historical Review*, lxxxv, no. 2 (1980), p. 333.

²⁸ Frank Thompson argued that Ulster does not feature prominently in studies of landlord-tenant relations in the post-Famine period. Frank Thompson, *The end of Liberal Ulster: land agitation and land reform, 1868-1886* (Belfast, 2001), p. 1.

one acre or upwards.²⁹ In descending order according to size, the largest landholder under study was the Marquess of Sligo who, in 1876, possessed a total of 114,881 acres worth a reported £16,157 in the county of Mayo. In Connacht the Earl of Leitrim owned 22,038 acres (valued at £9,416 8s), while in Ulster he also held 54,352 acres in County Donegal. In Cavan, Lord Farnham was in possession of a slightly larger estate at 29,455 acres worth £20,938 15s. The Drapers' Company held 27,025 acres, which was valued at £14,859 3s. The largest estate in Monaghan at this time was the Shirley estate consisting of 26,386 acres and valued at £20,744 10s. The smallest estate under study, the Whyte estate, consisted of only 1,712 acres and was valued at £2,292.³⁰

The sample estates stretch across a broad band of 'border' lands, from north-west Connacht through south and south-central Ulster and on to a small estate in Co. Down. The interplay between ethno-religious identity and socio-economic circumstances, opportunities, and tensions in these regions, has been the focus of a considerable body of historical scholarship. This thesis, through its close study of this interplay at the level of the landed estate, makes a further and original contribution to this general area of research. A further value of the thesis lies in its testing of the conventional 'periodization' of general accounts of the long 'retreat' of the landlord class in nineteenth century Ireland, against the actual experience 'on the ground' in a sample of significant estates.

Religion

Throughout the nineteenth century, Roman Catholicism constituted the principal religious grouping in Ireland (with over three-quarters of the population as adherents), followed by members of the Church of Ireland (Anglican), and lastly

²⁹ For this study the size of the individual estates will be rounded off to the nearest acre. The valuation of the land was based on 'the scale of prices of agricultural produced contained in the Act 15 & 16 Vict.'. The valuation of each estate was a gross estimated rental of all land.

³⁰ *Land owners in Ireland: return of owners of land of one acre and upwards in the several counties, counties of cities, and counties of towns in Ireland, showing the names of such owners arranged alphabetically in each county, their addresses ... : to which is added a summary for each province and for all Ireland / presented to both Houses of Parliament by command of Her Majesty* (Dublin, 1876), pp 218, 248, 257, 271, 312, 395. With respect to the Drapers' estate, estate papers dated 1841 record a similar acreage – 27,000 statute acres – while also claiming that it was let by the company at about 10,500 per annum. Report of the Deputation of the Court of Assistants of the Drapers' Company, 1841 (Drapers' Hall, Drapers' papers, D3632/D/3/5, microfilm, acc. 16727, #617, reel 24, p. 62); In 1823, upon the succession of the deceased's cousin Colonel John Maxwell Barry of Newtownbarry, Co. Wexford as 5th Baron Farnham, holdings in Wexford, Carlow, and Kildare were united with the Cavan and Meath portions. The Newtownbarry estate was sold under the terms of the Encumbered Estates Act.

Presbyterians. Other religious groups, such as Methodists and Quakers, also existed in Ireland; however, to a much lesser extent. The 1831 census provided statistics for the religious composition of Ireland. The majority of the population, approximately 80.3 per cent, were Catholic; 10.7 per cent belonged to the Church of Ireland; while 8.1 per cent were Presbyterian. The 1861 census reflected the effects of the Great Famine on the religious profile of the country; 77.7 per cent of the population were Catholics, 12 per cent Anglican, and 9 per cent Presbyterian.³¹ In 1891, Catholics made up 75.4 per cent of the population, followed by 12.75 per cent belonging to the Church of Ireland, and finally, 9.46 per cent who were Presbyterian.³² While Down and Londonderry had Catholic minorities, the remaining four counties under study contained a substantial Catholic majority.

While the original intention was to secure data from a board and varied configuration of religious denominations, at both landlord and tenant level, in the event the estate records with the richest and most useful data were predominantly those with a Church of Ireland landlord and a substantially Roman Catholic tenantry. The absence of precise data on religious affiliation in census form for the early decades of the nineteenth century obliges the researcher to rely on other sources for data on religious affiliation during this period. For an approximation of the pre-famine religious composition of the estates under study, some of the ordnance survey name books provided religious commentary for the civil parishes of each county. An impression of post-famine religious profiles of estate localities was retrieved from the religious composition of the principal towns (1,500+ inhabitants) of each county, many of which were located on, or in close proximity to the estates.

Estate acquisition, landlord profile, and the religious composition of the estates

Estates which survived the nineteenth century relatively intact were selected for study. Estate management practices and the maintenance of order among the tenantry were very much dictated by the personality and proclivity of the incumbent. As this study spans nearly ninety years, there were several changes of landlords and agents on each estate. Due to primogeniture – which ensured the continuance of the male

³¹ Myrtle Hill, 'Culture and religion, 1815-70' in Donnchadh Ó Corráin and Tomás O'Riordan (eds), *Ireland, 1815-70: emancipation, famine and religion* (Dublin, c2011), p. 43.

³² Other religions noted in the census included Methodists 55,500 (1.18 per cent) and 'others' 56,866 (1.21 per cent). W. E. Vaughan and A. J. Fitzpatrick (eds), *Irish historical statistics: population, 1821-1971* (Dublin, 1978), p. 49.

line in general in land inheritance – and a paucity of records for female landowners, this study is dominated by male landed proprietors.

Shirley estate

During the 1570s, lands in County Monaghan ('The Litell Countrey of Farney'³³) were originally granted by Queen Elizabeth I to Walter Devereux, 1st Earl of Essex. Essex was ancestor of both the Shirley and Bath landed families in Monaghan.³⁴ The Shirleys were semi-absentee landlords, spending most of their time at Ettington, Warwickshire, England. Evelyn John Shirley (1788-1856) was landlord in Monaghan from 1810 until his death in 1856. His son, Evelyn Philip (1812-1882) succeeded visiting the Irish estate twice a year. Upon his death in 1882, his son Sewalis Evelyn Shirley (1844-1904) took over as landlord until 1904.³⁵ The Shirley family were members of the Church of Ireland. The majority of their tenants were Roman Catholics. Around the year 1833, Catholics outnumbered Protestants fifty to one on the Shirley estate.³⁶ During the 1830s, the parish of Donaghmoyne, which was on the Shirley estate, consisted of 'one church in parish and four Roman Catholic chapels' with a 'chiefly Roman Catholic' population.³⁷ In Magheross, Roman Catholics also predominated in a locality boasting one church, one Presbyterian Meeting House and three Roman Catholic Chapels.³⁸ The *Ordnance Survey Memoirs of Ireland* report that there were fifty Roman Catholics for every Protestant in the parish.³⁹ In 1861, Carrickmacross – which was partially owned by

³³ In 1575 Walter Devereux, Earl of Essex, K.G., requested 'The Litell Countrey of Farney' from Queen Elizabeth, which she granted the following year. See *On 'Tenant right' or 'good will' within the barony of Farney and County of Monaghan in Ireland* (London, 1874) (W.C.R.O., Shirley papers, CR464/165 (2))

³⁴ Evelyn Philip Shirley, *Lough Fea* (London, 1859), p. 4; 'Introduction Shirley papers' (P.R.O.N.I., Shirley papers, D3531)

³⁵ 'Introduction Shirley papers' (P.R.O.N.I., Shirley papers, D3531); Rev Martin Cahill, 'The 1826 General Election in County Monaghan' in *Clogher Record*, v, no. 2 (1964), pp 161-83; Martin McElroy, 'Evelyn Shirley, Phillip', *DIB*; Micheál McDermott, *Gypsum mining and the Shirley estate in south Monaghan, 1800-1936* (Dublin, 2009)

³⁶ Cahill, 'The 1826 General Election in County Monaghan', p. 165.

³⁷ Ordnance Survey Name Book, Monaghan, vol. I, Aughabog-Ematris, Special Collections, James Hardiman Library, The National University of Ireland, Galway, p. 398.

³⁸ Ordnance Survey Name Book, Monaghan, vol. II, Errigal to Tullycorbet, Special Collections, James Hardiman Library, The National University of Ireland, Galway, pp 291-92.

³⁹ Angélique Day and Patrick McWilliams (eds), *Ordnance Survey Memoirs of Ireland Volume 40; counties of South Ulster 1834-8, Cavan, Leitrim, Louth, Monaghan, and Sligo* (Belfast, 1996), p. 148.

the Shirley family – consisted of 1,049 members of the Established Church, 594 Roman Catholic, and 2, 067 Presbyterians.⁴⁰

Farnham estate

Also in Ulster, the Maxwell family, from whom the Baron Farnham were descended, originally hailed from Calderwood, Scotland, settling in Ireland at the close of Queen Elizabeth I's reign. By the late seventeenth century, the Maxwells were the most significant and affluent landed proprietors in County Cavan.⁴¹ The estate which experienced the most frequent change of landlord was the Farnham estate in Cavan. Six members of the family held the title over the period 1815-1891. In 1815 John James Maxwell (1759–1823), 4th Baron Farnham and 2nd Earl of Farnham, was landlord. The earldom became extinct upon his death in 1823 due to the lack of heir, with the baronetcy passing to his cousin John Barry Maxwell (1767–1838). The 5th Baron Farnham introduced a new system of estate management including the creation of a new of a new mode of agency 'by which the rents might be collected with satisfaction and without vexation to his tenantry'.⁴² His death in 1838 resulted in the succession of his brother, Rev Henry Maxwell (1768-1838), as 6th Baron Farnham. His incumbency proved short lived, however, due to his unexpected death within a month of obtaining the title.

The subsequent three Barons were sons of the 6th Baron. The first of his sons to succeed was his namesake Henry (1799-1868). The 7th Baron acted as landlord for thirty years until his death, along with that of his wife Lady Anna, in a train crash in Wales in 1868. Somerset Richard Maxwell (1803-1884) succeeded his brother and became 8th Baron Farnham in the same year. Cherry claimed that he possessed 'a similar evangelical character to that of his uncle John 5th Baron, and this manifested

⁴⁰ *The census of Ireland for the year 1861, part iv. Report and tables relating to the religious professions, education, and occupations of the people, volume i*, H.C. 1863 [3204-iii], lix. 1. p. 16 [hereafter 'the 1861 census']; Peadar Livingstone stated how the main street 'was the only street in that year where the Protestants had any sizeable presence. They occupied 19 of the 63 premises [while the] rest of the town was nearly completely Catholic'. Peadar Livingstone, *The Monaghan story: a documented history of the county Monaghan from the earliest times to 1976* (Enniskillen, 1980), p. 526.

⁴¹ Jacqueline Breiden, 'Tenant applications to Lord Farnham, Co. Cavan 1832-60' in *Breifne: journal of Cumann Seanchais Bhreifne*, ix, no.36 (2000), p. 173; Brendan Scott, *Farnham: images from the Maxwell estate, Co. Cavan* (Dublin, 2010), p. 1.

⁴² Jonathan Cherry, 'The Maxwell family of Farnham, County Cavan: an introduction' in *Breifne*, xlii (2006), p. 133.

itself in his attitudes toward the moral and social well-being of the tenantry'.⁴³ His own death in 1884 resulted in the title once again passing to his sibling, James Pierce Maxwell (1813-1896), the last of the Maxwell family to represent Cavan in parliament. As James Pierce resided in Malvern England, the land agent Archibald Godley was responsible for the management of the estate. This study ends with the incumbency of the 9th Baron.⁴⁴

The Farnham family were also devout members of the Anglican Church. Lord Farnham was also an Orange stalwart, taking an active part in Brunswick Constitutional Clubs during the latter 1820s which expressed a hard-line Protestant stance in the face of demands for Catholic emancipation.⁴⁵ During the nineteenth century, this family attempted to convert many of their tenants to their faith. Although it proves difficult to give a precise number, it would appear that many of their tenants were Protestant. They seemed to live near each other in the same townland. During the 1830s, the townland of Coraspoint in the Parish of Urney was home to a Protestant community, while the townland of Deredis also consisted almost entirely of Protestants.⁴⁶ The 1861 census revealed that a majority of inhabitants of Cavan town were Roman Catholics (2, 427), who dwelled among 652 members of the Established Church and seventy Presbyterians.⁴⁷

Westport estate

The large Browne estate in County Mayo – much of which was previously owned by the Bourke family – was granted to Colonel John Browne towards the end of the seventeenth century following the Acts of Settlement. His wife was a descendant of the famous pirate queen Grace O'Malley. By 1800 this branch of the Browne family had obtained the title of Marquess of Sligo following the Act of Union.⁴⁸ Howe Peter Browne (1788–1845), 2nd Marquess of Sligo was landlord from 1809 until his death

⁴³ *ibid.*, p. 138.

⁴⁴ (N.L.I., Farnham estate papers, Collection list, no. 95); Cherry, 'The Maxwell family of Farnham'; McCourt, 'The management of the Farnham Estates', pp 531-60; Breiden, 'Tenant applications to Lord Farnham', pp 173-224; Whelan, *The Bible War in Ireland*; James Quinn, 'Barry, John Maxwell', *DIB* (<http://dib.cambridge.org/viewReadPage.do?articleId=a0448>) (25 Jan. 2012); thepeerage.com (<http://thepeerage.com/p44268.htm>) (25 Jan. 2012)

⁴⁵ Sean Farrell, *Rituals and Riots: Sectarian Violence and Political Culture in Ulster, 1784-1886* (Kentucky, 2000), p. 88.

⁴⁶ Ordnance Survey Name Book, Cavan, Kinawley to Urney, Special Collections, James Hardiman Library, The National University of Ireland, Galway, pp 505-39.

⁴⁷ The 1861 census, p. 16.

⁴⁸ Landed estates database (<http://landedestates.nuigalway.ie:8080/LandedEstates/jsp/family-show.jsp?id=430>) (20 Jan. 2012)

by paralysis on the eve of the Great Famine. A liberal, he voted for Catholic Emancipation and was described as generous by contemporaries. His eldest son, George John Browne (1820-1896) succeeded him in 1845. While severe financial constraints confronted him, he is remembered for his benevolence during his tenure as landlord. Although the 3rd Marquess of Sligo was an absentee landlord, his brother and heir Lord John Thomas Browne (1824-1903) lived and farmed the demesne and additional lands in Westport his entire life.⁴⁹ The Brownes belonged to the Church of Ireland in a county predominantly inhabited by Catholics. During the 1830s, the Parish of Oughaval, which was located on the estate, was comprised of ‘one church on Westport Demesne, one Roman Catholic chapel, one Protestant Meeting House, one Methodist chapel, one Dalry (or the true believers)’.⁵⁰ The 1861 census revealed that Castlebar was comprised of a majority of Roman Catholics (2,762), followed by 219 members of the Church of Ireland and a mere sixteen Presbyterians.⁵¹

Leitrim estate

In the province of Connacht also, the Clements family held lands in several counties, including Leitrim, taking up residence there in the mid-nineteenth century. They descended from a Cromwellian officer who was originally granted lands in Cavan.⁵² Nathaniel Clements (1768-1854), 2nd Earl of Leitrim was landlord from 1804 until his death in 1854. Although an absentee landlord, he maintained a close interest in his Irish estate. Robert Bermingham Clements (1805-1839), the landlord’s eldest son and heir adopted a more hands on approach to estate management and the future of the estate looked secure. However, his unexpected death from tuberculosis in 1839 resulted in the title passing to William Sydney (1806–78), the younger brother of the deceased. The 3rd Earl’s authoritarian and uncompromising style of estate management resulted in his notoriety, and ultimate death, when he was murdered on 2 April 1878 on the Donegal portion of his estate. Although W.S. Clements, the 3rd

⁴⁹ (N.L.I., Westport papers, Collection list, no. 78); Donald E. Jordan., *Land and popular politics in Ireland: County Mayo from the Plantation to the Land War* (Cambridge, 1994); Denis Edward Browne, Marquess of Sligo, *Westport House and the Brownes* (Derbyshire, 1981); Anonymous, *Westport House, Co. Mayo; home of the 10th Marquess of Sligo, a brief history*; Dun, *Landlords and tenants*, p. 231.

⁵⁰ Ordnance Survey Name Book, Mayo, Manulla to Turlough, Special Collections, James Hardiman Library, The National University of Ireland, Galway, p. 120.

⁵¹ *The census of Ireland for the year 1861, part iv. Report and tables relating to the religious professions, education, and occupations of the people, volume i*, H.C. 1863 [3204-iii], lix. 1, p. 16.

⁵² Landed estates database (<http://landedestates.nuigalway.ie:8080/LandedEstates/jsp/estate-show.jsp?id=441>) (20 Jan. 2012)

Earl of Leitrim was virulently against absenteeism he did not live on other portions of his estate, notably the turbulent Donegal estate of Manor Vaughan and Kilmacrenan where he would finally meet his death.

Following his death, a dispute arose regarding the 3rd Earl's will and his decision to disinherit his heir and nephew Robert Bermingham Clements (1847-92) in favour of a second cousin, Colonel Henry Theophilus Clements, Cavan (1820-1904). Two acts of parliament of 1879 and 1880 finally settled the matter with R.B. Clements, 4th Earl obtaining 54, 352 acres in Donegal and 2,500 acres in Leitrim. As landlord, the 4th Earl sought to stop 'arbitrary evictions' and to address 'all grievances amongst his tenantry'.⁵³ His unexpected death in 1892 from blood poisoning resulted in the title passing to his son, and minor, Charles Clements (1879-1950). H.T. Clements died in 1904.⁵⁴ The Clements family also adhered to the Church of Ireland. Unfortunately, the Name Books fail to provide a picture of the religious composition of the parishes of Leitrim during the 1830s. The 1861 census revealed that Carrick-on-Shannon in Leitrim was home to 1,247 Roman Catholics, 315 members of the Established Church, and sixteen Presbyterians.⁵⁵

Whyte estate

Towards the east of Ulster in County Down, the Whyte family whose ancestors had arrived to Ireland with Strongbow in the twelfth century, finally settled in Loughbrickland, near Banbridge, towards the end of the eighteenth century having previously lived at Leixlip Castle.⁵⁶ Similarly, on the Whyte estate the landlord assumed residency on the estate during the early years of the century following a significant period of absence. The Whyte estate in County Down was managed by agents until 1830 when the landlord Nicholas Charles Whyte (1784-1844) decided to take up residence at Loughbrickland. His son, John Joseph (1826-1916), a minor, succeeded as landlord upon the death of his father in Plymouth in 1844. John Joseph

⁵³ Malcomson, *Virtues of a Wicked Earl*, pp 342-43.

⁵⁴ (N.L.I., Leitrim papers, Collection list, no. 49); (N.L.I., Killadoon papers (Clements papers) Collection list, no. 81); Malcomson, *Virtues of a Wicked Earl*; Fiona Slevin, *Lough Rynn: lives and times. A brief history of Lough Rynn Castle and Estate, Mohill, Co. Leitrim* (1997); Liam Dolan, *The third Earl of Leitrim* (Dundalk, 1978); James Quinn, 'Clements, William Sydney', *DIB* (<http://dib.cambridge.org/viewReadPage.do?articleId=a1735&searchClicked=clicked&quickadvsearch=yes>) (25 Jan. 2012)

⁵⁵ *ibid.*

⁵⁶ Purdue, *The Big House*, pp 14-15; (P.R.O.N.I., Whyte papers, D2918/11/1)

acted as landlord until his own death in 1915.⁵⁷ The Whyte family were Roman Catholics. The Name Books also shed no light on religion in the civil parishes during the 1830s. However, in 1861, Banbridge was inhabited primarily by members of the Church of Ireland (1,195), along with 1,018 Roman Catholics and 1,643 Presbyterians.⁵⁸

Drapers' estate

In Ulster, fifty-eight townlands were allocated as the portion conveyed to The Worshipful Company of Drapers, the formal name of *The Master and Wardens and Brethren and Sisters of the Guild or Fraternity of the Blessed Mary the Virgin of the Mystery of Drapers of the City of London*, and commonly referred to as the Drapers' Company on 20 July 1619, following the endeavour of Sir Arthur Chichester, Lord Deputy of Ireland to 'plant' loyal settlers on the lands vacated in the north of Ireland following the 'Flight of the Earls'. The estate consisted of three divisions, namely Moneymore, Brackasliavgallon, and Ballinascreen.⁵⁹ The Drapers estate was included, due to its corporative structure, in order to broaden the scope of analysis. The expiration of Sir William Rowley's lease of the Drapers' holding in Londonderry in 1817 afforded the company an opportunity to review estate management practices in Ireland. They subsequently endorsed direct management of the estate. The new style of management adopted involved visits from specially commissioned deputations (usually every few years) to the estate, to meet with the agent, survey the estate, and make recommendations to the Court of Assistants of the Drapers' Company. The first deputation arrived in 1817 and the last in 1884.⁶⁰

⁵⁷ Jean Whyte, 'A brief history of the Whyte family in Loughbrickland', Feb. 2012 (<http://loughbricklandcourtyard.com/index.php/a-brief-history-of-the-whyte-family-in-loughbrickland/>) (4 June 2012). Many thanks to Dr. Jean Whyte for clarifying the year of John Joseph Whyte's death.

⁵⁸ *ibid.*

⁵⁹ Stevens Curl, *Moneymore and Draperstown*, pp 8-12.

⁶⁰ In the nineteenth century most of the London companies (except four) repossessed their lands upon the expiration of middlemen leases. 'Introduction Drapers' Company' (P.R.O.N.I., Drapers' Company estate archive, D3632); Curl, *Moneymore and Draperstown*; A.H. (Arthur Henry) Johnson, *The History of the Worshipful Company of the Drapers of London: preceded by an Introduction on London and her Gilds up to the close of the XVth century, Vol. IV* (Oxford, 1922); Drapers' Company, *Reports of deputations* (Milton Keynes, 2009); T. W. Moody, *The Londonderry Plantation, 1608-41* (Belfast, 1939); Philip S. Robinson, *The Plantation of Ulster: British Settlement in an Irish Landscape 1660-1670* (Belfast, 1984). See also Olive Robinson, 'The London Companies and Tenant Right in Nineteenth Century Ireland' in *The agricultural history review*, xviii, no. 1 (1970), pp 54-63; Olive Robinson, 'The London Companies as Progressive Landlords in Nineteenth-Century Ireland' in *The economic history review*, xv, no. 1 (1962), pp 103-18.

When the Drapers' Company formally took over the direct management of their Irish holding in 1817 they recorded the religious composition of each of the three portions under their control. 'Most of the inhabitants' of the Brackasliavgallon Division 'were Roman Catholic, with the Presbyterians next, and then a few "members of the establishment"'.⁶¹ In the Ballinascreen Division 'the Roman Catholics were in a clear majority' with 'comparatively few' churchmen, Presbyterians, and seceders.⁶² Presbyterians made up the bulk of the Moneymore division, followed by Roman Catholics, members of the Church of England and Ireland, and some Methodists.⁶³ In 1861 the town of Coleraine which was located in Londonderry consisted of 1,563 members of the Established Church, 1,455 Roman Catholics and 2,118 Presbyterians.⁶⁴

From surviving records, therefore, it is apparent that all the estates under study had a mixed religious profile. However, in some instances it would seem that people of the same denomination generally lived side-by-side. Echoing David Spring 'this sample of estates will not include all possible arrangements, but it may be representative enough to provide a general framework or anatomy of estate administration'.⁶⁵

Land agent profile

The amount of power exerted on an estate by a land agent and the remit of his job varied; being influenced by factors such as the character of the agent and landlord, residency of landlord, expectations and tradition on the estate, and the external social, political, cultural, and economic conditions of the time. For example, Hoppen noted how Major Rowley Miller Esq. a minor landlord in his own right but who also operated as agent for several different estates – including the Drapers' estate – adopted a different style of management for different estates, depending on the size and prosperity of the holding, i.e., the larger and more wealthy the estate, the more benevolent and humane a course of action was taken by him.⁶⁶ Although not an

⁶¹ James Stevens Curl, *Moneymore and Draperstown: the architecture and planning of the estates of the Drapers' company in Ulster* (Belfast, 1979), p. 30.

⁶² *ibid.*

⁶³ *ibid.*

⁶⁴ The 1861 census, p. 16.

⁶⁵ David Spring, *The English landed estate in the nineteenth century: its administration* (London, 1963), p. 2.

⁶⁶ K. Theodore Hoppen, 'Landlords, society and electoral politics in mid-nineteenth-century Ireland' in *Past & Present*, lxxv (1977), p. 88.

exhaustive list, the principal land agents connected to the estates under study were as follows.

The Shirley estate employed several different agents throughout the nineteenth century. Humphry Evatt was agent until 1829. Sandy Mitchell subsequently took over the office. His tenure as agent was marked by tension due to his authoritarian system of management. He died suddenly in 1843 from apoplexy, while attending the Spring Assizes in Monaghan town. The tenants had high expectations for change when William Steuart Trench took up the post of agent in 1843. His resignation two years later, due to the intransigence of the landlord in implementing his proposed changes, marked the end of such hopes. George Morant – nephew of Mr. Shirley – was the next agent on the Monaghan estate. Subsequent land agents included John Thomas Holland during the 1870s and John T. Gibbings from the 1880s to the 1900s; the latter having been promoted from under agent to principal agent while under the employment of the Shirleys.⁶⁷

During the early 1820s William Montgomery was agent on the Cavan portion of the Farnham estate. His duties were simply confined to the valuation of lands, reporting on the condition of farms, and collecting rents. During the 1830s William Gosselin was agent, while later in the century Abraham Brush was employed as agent for the 7th Baron Farnham.⁶⁸ Perhaps a more significant employee who had direct contact with the tenantry during this period was the moral agent, whose role it was to improve the circumstance, moral condition, and habits of the tenants. He had to report his findings to the land agent. The Farnham moral agent also visited the houses of the tenants ‘not only to hear, but in fact to solicit and enquire, if they were in need of any thing [sic] to improve or enlarge their houses, offices etc ... which rendered them a respectable and industrious tenantry’.⁶⁹ During the 1820s, William Krause filled this post. The land agent and the moral agent were in charge of five district inspectors, in addition to the inspector of buildings, and the inspector of turbary.⁷⁰ The Shirley family also employed a moral agent on their estate.

⁶⁷ Ó’Mearáin, ‘A short epitome of agency realities’, pp 405-13; McDermott, *Gypsum mining*; Letter from G. Morant, Shirley House, Carrickmacross to E.J. Shirley, 22 Mar. 1869 (P.R.O.N.I., Shirley papers, D3531/C/3/11); ‘Mr. S. E. Shirley and his tenants’, *FJ*, 12 Mar. 1887.

⁶⁸ Gosselin is noted as agent in the Ordnance Survey Name books for Cavan.

⁶⁹ ‘The noble house of Farnham’, *Anglo-Celt*, 28 Jan. 1858.

⁷⁰ McCourt, ‘The management of the Farnham Estates’; Breiden, ‘Tenant applications to Lord Farnham’; Whelan, *The Bible War in Ireland*.

The Marquess of Sligo employed George Clendining and son as agents until 1847. It was in that year that George Clendining Junior was dismissed. Four years later he was declared bankrupt. George Hildebrand subsequently took up the position, having been steward under the 2nd Marquess. He was also discharged due to a dispute over account keeping. In the courts, Hildebrand was found to have been overcharging the Marquess and concealing loans from various persons and payments made on the land improvement account. Sidney J. Smith took over the management of the estate in 1851, while Robert Powell was agent from the 1880s to the early 1900s.⁷¹

In Leitrim, Austin Cooper was head agent under the 2nd Earl until his death in the 1830s. Richard Mayne of Newbliss, Co. Monaghan was absentee agent circa 1840s. From 1847 until 1854, Charles Skeffington was the 2nd Earl's adviser and unofficial head agent. The 3rd Earl of Leitrim frequently acted as his own agent, although he did employ George West, Berry Norris, and latterly Messers J.R. Stewart & sons, 6 Leinster Street, Dublin, a well-known firm of surveyors and land agents. George F. Stewart continued to act as agent following the death of the 3rd Earl and eventually married a niece of Mrs. H.T. Clements in 1881. He subsequently served as resident or part-time resident agent at Lough Rynn until 1928. On the Donegal portion of the estate a full-time, resident agent was employed, operating initially from the estate office in Milford and then moving to Manor Vaughan. The turn-over of agents in Donegal proved frequent. During the 1840s Cochran and Low were agents. George Wray was agent in the following decade, proving the first of six different agents employed from 1854 to 1869. Major J.H. Dopping was agent when the 3rd Earl was assassinated.⁷²

The absentee landlord in County Down employed William Hudson during the 1820s and 1830s as land agent. Although Nicholas Charles Whyte established residence in Loughbrickland in 1830, he decided to re-locate to Plymouth and hired Charles Magee as agent. J.P. Kelly succeeded Magee as agent.⁷³ John Miller, agent

⁷¹ (N.L.I., Westport estate papers, collection list, no.78); *Report from Her Majesty's Commissioners of Inquiry into the State of the Law and Practice in Respect to the Occupation of Land in Ireland* [605] [606], H.C. 1845, xix.1, 57, p. 414 [hereafter 'The Devon Commission'].

⁷² George J. Robinson was a part-time agent in Galway. The Fairs of Fairhill and Alexander Clendinning Lambert of Cranmore, Co. Mayo were middlemen for Leitrim during the 1840s. Malcomson, *Virtues of a Wicked Earl*.

⁷³ Petition from Edward and James Hughes, Banbridge to John J. Whyte, Esq., J.P., 31 Jan. 1861; Letter from John J. Whyte, Dublin to James O'Neill, 13 July 1861; Letter from John J. Whyte, Dublin to Mr. J.P. Kelly, 27 Aug. 1861 (P.R.O.N.I., Whyte papers, D2918/3/7 & D2918/3/9)

of the Drapers' estate under the Rowley lease, and subsequent generations of the Millers continued to act as land agents for the London Company after direct management was assumed. Major Rowley Miller Esq. was unanimously accepted by members of the company as agent in 1820. A resolution in 1866-67 by the Court of Assistant expressed sympathy on the death of Rowley Miller.⁷⁴

Chronology

The chronological breadth of the study 1815-1891 – spanning nearly eighty years – was chosen in order to include both pre-and post-famine society. The Great Famine of the latter 1840s is generally identified as a watershed in the history of modern Ireland. The general interplay between government policy (and officials) and Irish landlords during the crisis years – in relation to responsibility, relief, and recrimination – has been the subject of a vast corpus of scholarly writing, notably during the past twenty years. This thesis will not seek to rehearse the general findings of scholars on the calamity itself. However, in considering the specific estates under review in this thesis, the effect of the famine on estate management and the manifestations of order – both during the 1840s and beyond – is inextricably woven into the narrative and will be given due attention.

The year 1815 was selected as the starting point of the study in order to make a clear break from the unrest and disorder created by the 1798 rebellion and the subsequent union of the Irish and British parliaments. Economic historians, such as Raymond Crotty, Joel Mokyr and Cormac Ó Gráda, have argued that the close of the Napoleonic wars had a decisive impact on the Irish agricultural economy.⁷⁵ Foster also identified the year when the French wars came to a close as a watershed in

⁷⁴ Other agents include circa 1856, Sir William Lenox-Conyngham; circa 1856, William Chichester O'Neill; Circa 1873, WT Stannus; Circa 1870s, Mr. Nolan; Curl, *Moneymore and Draperstown*; William Macafee, 'Historical background: the plantation of Ulster and the creation of the county of Londonderry', (http://docs.google.com/viewer?a=v&q=cache:eCIDcup90kgJ:www.billmacafee.com/derryancestors/historicalbackground.pdf+did+the+drapers+company+settle+in+the+entire+county+of+derry&hl=en&gl=ie&pid=bl&srcid=ADGEESH0_19Z41_kty7QpkF0IQ8rm8otcZBlr0-ckG6uobpo_VpgzutWMG9A_vG5M3nEwK8DYBdlUw1xlhln50YohCe_6XDszq2qmE-O_6QfCMBYVO8YfqDXTX2LCOQPjxVLIud2JJY&sig=AHIEtbRZKYiOaOQ10PmJy8fSK1ECLPQ_DVQ)(25 Jan. 2012); Hoppen, 'Landlords, society and electoral politics', p. 88.

⁷⁵ Joel Mokyr, *Why Ireland starved: a quantitative and analytical history of the Irish economy, 1800-1850* (London, 1983), pp 280-81; Cormac Ó Gráda, *Ireland: a new economic history, 1780-1939* (Oxford, 1995), pp 158-59; Raymond D. Crotty, *When histories collide: the development and impact of individualistic capitalism* (California, 2001), p. 178.

nineteenth-century Irish social and economic history.⁷⁶ According to Charles Esdaile, the French Revolution was just one of several convulsions across Europe in the late eighteenth and the early years of the nineteenth century which could be traced to ‘genuine grievances against the *ancien régime*’.⁷⁷ The convulsions of the revolutionary and Napoleonic period had seen the spread of ideas that were inherently subversive of the ancient regime: notions of popular will in establishing the legitimacy of political authority; of equality of citizens before the law; of the effectiveness of mobilization in achieving the redress of economic and social grievances. Such notions had shaken not only many of the despotic regimes of the old order, but all rulers throughout Europe. Little wonder that when the great powers assembled in Vienna for the Congress to determine the post-Napoleonic architecture of power, the ‘re-establishment of order’ was the dominant concern of all their considerations.

The growing disorder had not been confined to the diplomacy and relationships between states. The hugely disruptive impact of the early phases of the industrial revolution in Britain had begun to transform the shape of society in Britain (with marked regional variations), posing challenges to the authority of parliament, the political hegemony of the existing landed elites and, indeed, the very institutional basis of British society. Demographic growth, industrial transformation and urbanisation demanded new versions of ‘order’ and new structures and mechanisms for its enforcement.

In Ireland – now an integral part of the United Kingdom – by 1815 the long period of war-time price buoyancy for grain was at an end. The continuing surge of population growth, which had accompanied and been facilitated by the expansion of tillage, would not be halted abruptly. But from 1815 the short-term and long-term trend (of prices and profits) in Irish agriculture shifted away from tillage and towards pasture. Attempts to curb sub-letting, to facilitate easier (less expensive) eviction, and to shift land-use from tillage to pasture, would be a feature of the decades after 1815. The decisive shift towards pasture would be bitterly contested for decades. But, through rising emigration and higher mortality in the 1830s, the tillage-based

⁷⁶ Foster, *Modern Ireland*, p. 318.

⁷⁷ The reconfigured boundaries and political complexion of Europe following the French Revolutionary Wars, the Napoleonic Wars, and the dissolution of the Holy Roman Empire were of primary importance. Charles Esdaile, *Napoleon’s wars: an international history* (London, 2009), p. 535.

demographic surge in Irish population began to experience painful adjustment after 1815, until finally overwhelmed by the calamity of the great famine in the later 1840s.

By the second decade of the nineteenth century, Ulster radicalism had begun to take on its unionist complexion, as Belfast began to grow and prosper, to become, in time, the centre of Ireland's only urban industrial enclave. Outside of the north-east, the Irish economy and Irish society remained strongly tied to agriculture and its produce. The land was the central reality of life for the majority of the population. Throughout the nineteenth century, 'improving' landlords and anxious tenants, rational calculation, and the imperatives of desperation contested for recognition (and dominance) in rural Ireland. The Irish landed estate was the nerve centre of this contestation and these tensions. The fears that had gripped the countryside in the 1790s called older notions of 'order' into question: the Act of Union was seen by the established ruling classes as the framework for the restoration of order. After 1815 Irish rural society faced new challenges: the landed estate and the new state would be forced to find new and viable structures of order in the face of these new challenges.

In her important study *Country house life: family and servants, 1815-1914*, Jessica Gerard claimed that by 1815 'many of the trends that were to alter family life and domestic service in the country house were already evident'.⁷⁸ Although referring specifically to an English context, this summation may credibly extend to contemporary trends between the landed and tenant class in Ireland. She further elaborated how in 1815:

the landed classes' values were derived from the pre-industrial agrarian society of earlier centuries, in which the main source of wealth, and thus political and social power, was the landed estate. They looked backward to an organic, hierarchical social structure in which birth and rank defined an individual's place in the social order; and in which authority and deference, together with rules of precedence, ruled human relations, and family connections and patronage secured posts and perquisites.⁷⁹

The terminal date of the study, 1891, was selected for a variety of reasons. Firstly, it allows consideration of the thirty years between the end of the famine and the commencement of mass land agitation which has been described by Vaughan as a period of particular significance in the history of landed power. He stated that 'it

⁷⁸ Jessica Gerard, *Country house life: family and servants, 1815-1914* (Oxford, 1994), p. 16.

⁷⁹ *ibid.*, p. 273.

was during these thirty years that ideas were formed, solutions proposed, and political dispositions made or planned ... landlords had a chance to succeed, the Encumbered Estates Acts having swept away insolvent landlords, and agricultural prosperity from the mid-1850s giving landlords room to manoeuvre'.⁸⁰ Secondly, the early 1890s signalled the end of the decisive phase of the land revolutionary years of the nineteenth century, commencing in 1879-1882 with the Land War and the petering out of the Plan of Campaign around 1891.⁸¹

By 1891 many of the pivotal nineteenth-century land acts which irrevocably altered the landscape of Irish rural society had been passed by Westminster. Legislation such as the 1870 Landlord and Tenant Act (Ireland), the Land Law (Ireland) Act 1881, the Purchase of land (Ireland) Act 1885 (known also as the Ashbourne Act), and the Land Law (Ireland) Act 1887 had accomplished a reordering of Irish landed estate relations. The next significant act was not passed until 1903 signalling, more than any other previous legislation, the demise of the old order of landlordism and its replacement with a proprietor class of farm owners.⁸² Politically, the death of Parnell in 1891 and the subsequent split of the Home Rule Party, coupled with the passing of the *Government of Ireland Bill 1893* (known generally as the *Second Home Rule Bill*) through the House of Commons only to be defeated in the House of Lords, signalled a new phase in Irish politics from Gladstone's programme of 'justice for Ireland' to Arthur Balfour's Constructive Unionist approach. The latter's establishment of The Congested Districts Board of Ireland, in 1891, 'aimed at "pacifying" Irish agrarian unrest by a combination of coercive and conciliatory measures'.⁸³ Finally, in *Politics, law, and order in nineteenth century Ireland*, Crossman closes her study of the attempts made by successive British governments to maintain order in Ireland in the nineteenth century in 1891. The book's epilogue entitled 'breakdown: 1892-1922' described the closing years of the nineteenth century and the early decades of the twentieth as a gradual 'slide into crisis' with respect to law and order.⁸⁴

⁸⁰ Vaughan, *Landlords and tenants in Ireland*.

⁸¹ Laurence Geary cited the year 1891 as the end of the Plan of Campaign. See Laurence M. Geary, *The Plan of Campaign, 1886-1891* (Cork, 1986)

⁸² Namely, the Land Purchase (Ireland) Act (1903), otherwise known as the Wyndham Act.

⁸³ The Board dealt 'specifically with rural poverty in regions of the western counties of Donegal, Sligo, Mayo, Leitrim, Roscommon, Kerry ... the west riding of Cork', and Galway. Ciara Breathnach, *The Congested Districts Board of Ireland, 1891-1923: poverty and development in the west of Ireland* (Dublin, 2005), p. 11.

⁸⁴ Virginia Crossman, *Politics, law, and order in nineteenth century Ireland* (Dublin, 1996), p. 8.

Although most of the estates under study did not initiate sales of land until after 1891, the year was deemed an appropriate time in the history of the Irish landed estate, for the above reasons, to conclude the study – due to a recognition that the sale of land alone does not reflect the ‘end of deference’. As this study will show deference and the order of the estate altered significantly, and in different ways, over the course of the century. For these reasons, 1815 and 1891 were chosen as the boundaries of the study.

Methodology

A range of primary and secondary sources are used to examine landlord-tenant relations and ‘order’ on the Irish nineteenth century landed estates. Inevitably, the study of a landed estate involves the examination of family and estate papers. Private letters oftentimes allude to, or explicitly reveal, perceptions of the tenantry, and expectations held by landlords and their employees. Correspondence directly related to estate management – especially communications between landlord and agent – offer much insight into estate relations. Legal papers outlining court cases and negotiations between landlord and tenant not only reveal the legal minefield within which both parties were operating at this time, but also highlight many issues dealing directly with order. With respect to all papers examined belonging to estate collections, it proves prudent to recall Dipesh Chakrabarty’s observation that ‘ruling-class documents ... can be read both for what they say and for their “silences”’.⁸⁵ Many estate collections also contain tenant petitions and letters containing sometimes assertive, often deferential, and mostly pleading or desperate language, which vividly provide a view of ‘history from below’.⁸⁶ A variety of other primary sources such as pamphlets, travel accounts, songs, newspapers, and items from the Folklore Commission augmented the study. Parliamentary papers, especially *Reports and Minutes of Evidence from Her Majesty’s Commissioners of Inquiry into the State of the Law and Practice in respect to the Occupation of Land in Ireland*, 1845 [Devon Commission] and *Reports and Minutes of Evidence from Her Majesty’s Commissioners of Inquiry into the Working of the Landlord and Tenant (Ireland)*

⁸⁵ Dipesh Chakrabarty, ‘Conditions for knowledge of working-class conditions: employers, government and the jute workers of Calcutta, 1890-1904’ in Ranajit Guha and Gayatri Chakravorty Spivak (eds), *Selected Subaltern studies* (Oxford, 1988), p. 179.

⁸⁶ K. D. M. Snell (reviewer), ‘*Essex Pauper Letters, 1731-1837* by Thomas Sokoll’ in *The Economic History Review*, lv, no. 4 (2002), p. 766.

Act, 1870, and the acts amending the same, 1881 [Bessborough Commission] also provided a wealth of officially-generated information pertinent to the study.

Historiography

Contextual information for political, social, and economic events in nineteenth century Ireland was provided in texts such as Gearóid Ó Tuathaigh's, *Ireland before the famine*, Joseph Lee's, *The modernisation of Irish society, 1848-1918*, and F. S. L. Lyons, *Ireland since the famine*.⁸⁷ The two volumes of *A new history of Ireland V & VI* edited by W.E. Vaughan, also highlighted pertinent episodes of the period.⁸⁸ Nineteenth century Irish landed estate historiography continues to attract researchers in the twenty-first century, with recent publications greatly expanding knowledge in the field since the ground-breaking studies by Vaughan, James S. Donnelly Jr., Clark, and Barbara L. Solow during the latter 1970s, 1980s, and 1990s.⁸⁹ More recent studies continue to produce high quality work in the area. Dooley's *The decline of the 'big house' in Ireland: a study of Irish landed families 1860-1960* provides a useful survey and analysis of the decline of the landed class in Irish society, both before and after the emergence of the Irish Free State (1922).⁹⁰ Dooley's study of the big house in the twenty-six counties is complemented ably by a parallel study by Purdue, which considers the history of the big house in the north of Ireland.⁹¹ A recent volume edited by Dooley and Christopher Ridgway, entitled *The Irish Country House; its past, present and future*, reveals a semantic shift from the use of the term 'big house' to 'country house' to describe the dwellings of

⁸⁷ Gearóid Ó Tuathaigh, *Ireland before the famine, 1798-1848* (Dublin, c1990); Joseph Lee, *The modernisation of Irish society, 1848-1918* (Dublin, 1989); F. S. L. (Francis Stewart Leland) Lyons, *Ireland since the famine* (London, 1971)

⁸⁸ W.E. Vaughan (ed.), *A new history of Ireland V: Ireland under the Union, I, 1801-70* (Oxford, 2010); W.E. Vaughan (ed.), *A new history of Ireland VI: Ireland under the Union, II, 1870-1921* (Oxford, 2000)

⁸⁹ Vaughan, *Landlords and tenants*; James S. Donnelly Jr., *The land and the people of nineteenth-century Cork: the rural economy and the land question* (London, 1975); Samuel Clark and James S. Donnelly, Jr. (eds), *Irish peasants: violence & political unrest, 1780-1914* (Madison, 1986); Clark, *Social origins*; Barbara L. (Barbara Lewis) Solow, *The land question and the Irish economy, 1870-1903* (Cambridge, 1971)

⁹⁰ Terence A. M. Dooley, *The decline of the 'big house' in Ireland: a study of Irish landed families, 1860-1960* (Dublin, 2001)

⁹¹ Purdue, *The big house in the north of Ireland*

landlords, thereby repositioning Irish estate historiography in a more Anglo-centric socially-orientated paradigm.⁹²

Issues surrounding estate management were extensively examined by Gerard J. Lyne in *The Lansdowne Estate in Kerry under the agency of William Steuart Trench, 1849-72* and P.G. Lane's 'The Management of Estates by Financial Corporations in Ireland after the Famine'.⁹³ The former also recognised how social control formed an important part of the rent retrieval process.⁹⁴ Eviction also played an important role in the maintenance of order on the estate. Moran asserted that it was the 'strongest weapon' which a landlord possessed.⁹⁵ Perhaps of particular importance in this regard has been the recent and informative publication by Curtis, *The depiction of eviction in Ireland, 1845-1910*. The book also relates, not simply the story of tenant eviction, but, crucially, the story of perhaps the ultimate eviction in nineteenth century Irish society: the literal and psychological eviction of the landed class from their positions of prestige.⁹⁶

Research on the area of tenant welfare and social control within a landed estate context has focused on the relief of poverty and emigration schemes. With respect to the former, the introduction of the Poor Law (Ireland) Act 1838 has been analysed by Peter Gray and Virginia Crossman.⁹⁷ Regarding estate emigration, while David Fitzpatrick's *Irish emigration, 1801-1921* provides a useful context in which to place the study of estate exodus, other studies focus specifically on the

⁹² Themes in the volume include the construction, destruction, adjustment, and representation of such houses. Terence Dooley and Christopher Ridgway (eds), *The Irish Country House; its past, present and future* (Dublin, 2011)

⁹³ Gerard J. Lyne, *The Lansdowne Estate in Kerry under the agency of William Steuart Trench, 1849-72* (Dublin, c2001); P.G. Lane, 'The Management of Estates by Financial Corporations in Ireland after the Famine' in *Studia Hibernica*, no. 14 (1974), pp 67-89.

⁹⁴ In a chapter entitled: 'The instruments of social control: yearly tenure, hanging gales and evictions'.

⁹⁵ Moran, *Sir Robert Gore Booth and his landed estate*, p. 7; See also W.E. Vaughan, *Sin, sheep, and Scotsmen: John George Adair and the Derryveagh evictions, 1861* (Belfast, 1983); L. Perry Curtis, *The depiction of eviction in Ireland, 1845-1910* (Dublin, 2011); James S. Donnelly Jr., 'Mass eviction and the Great Famine; the clearances revisited' in C. Morash and R. Hayes (eds), 'Fearful realities': new perspectives on the Famine (Dublin 1996); Jim Rees, *Surplus people: the Fitzwilliam clearances, 1847-1856* (Cork, 2000)

⁹⁶ Curtis, *Depiction of eviction*

⁹⁷ Peter Gray, *The Irish famine* (London, c1995); Peter Gray, *Famine, land, and politics: British government and Irish society, 1843-1850* (Dublin, 1999); Virginia Crossman and Peter Gray (eds), *Poverty and welfare in Ireland, 1838-1948* (Dublin, 2011); Virginia Crossman, 'The humanization of the Irish Poor Laws: reassessing developments in social welfare in post-Famine Ireland' in Andreas Gestrich, Steven King, and Lutz Raphael (eds), *Being poor in modern Europe: historical perspective, 1800-1940* (Oxford, 2006), pp 229-50; Virginia Crossman, *The Poor Law in Ireland, 1838-1948* (Dublin, 2006); Virginia Crossman, "'With the experience of 1846 and 1847 before them": the politics of emergency relief, 1879-84' in Peter Gray (ed.), *Victoria's Ireland?: Irishness and Britishness, 1837-1901* (Dublin, 2004), pp 167-81.

relationship between emigration and the landed estate.⁹⁸ The study of the development of the legal system in Ireland is well-served by works such as those by J.C. Brady, Daire Hogan, R.B. McDowell, and Toby Barnard.⁹⁹ While Heather Laird explored the extent to which so-called ‘subversive’ or unofficial law paralleled and often replaced official law in *Subversive law in Ireland, 1879-1920: from unwritten law to Dail courts*, this study will concentrate on legal developments from 1830 up until the Land War directly related to landed estate affairs.¹⁰⁰

Extensive research has been published on the topic of education in nineteenth century Ireland by John Coolahan and Donald Harman Akenson, both who offer a greater understanding of its evolution and position in Irish society in *Irish education: its history and structure*, and *The Irish education experiment; the national system of education in the nineteenth century* respectively.¹⁰¹ To date, much of the research has focused on the relationship between the various religious denominations and the Board of National Education; but research is still required on the significance of the contribution of landlords to the development of education in Ireland and the relationship between the estate and the state in the sphere of education.¹⁰²

The relationship between religion and society, and specifically between the Roman Catholic Church and the Protestant Churches, has received much attention,

⁹⁸ David Fitzpatrick, *Irish emigration, 1801-1921* (Dublin, 1990)

⁹⁹ J.C. Brady, ‘Legal Developments, 1801-79’ in W.E. Vaughan (ed.), *A new history of Ireland V; Ireland under the Union, 1801-70* (Oxford, 2010), pp 451-81; Daire Hogan, *The legal profession in Ireland, 1798- 1922* (Dublin, 1986); Daire Hogan, ‘The profession before the charter of 1852’ in Eamonn G. Hall and Daire Hogan (eds), *The law society of Ireland 1852-2002: portrait of a profession* (Dublin, 2002); R.B. McDowell, *The Irish Administration, 1801-1914* (London, 1964); Toby Barnard, *A new anatomy of Ireland: the Irish protestants, 1649-1770* (London, 2003); R. J. Walker, *The English legal system* (London, 1985); Daniel Duman, ‘Pathway to professionalism: the English bar in the eighteenth and nineteenth centuries’ in *Journal of Social History*, xiii, no. 4 (summer, 1980), pp 615-28; Richard Jeremiah Mc Mahon, ‘The Courts of the Petty Sessions and law in pre-famine Galway’ (M.A. thesis, National University of Ireland, Galway, 1999)

¹⁰⁰ Heather Laird, *Subversive law in Ireland, 1879-1920: from unwritten law to Dáil courts* (Dublin, 2005), p. 13.

¹⁰¹ John Coolahan with Patrick F. O’Donovan, *A history of Ireland’s school inspectorate, 1831-2008* (Dublin, 2009); John Coolahan, *Irish education: its history and structure* (Dublin, 2004); Donald Harman Akenson, *The Irish education experiment; the national system of education in the nineteenth century* (London, 1970); Mary Daly, ‘The development of the national school system, 1831-40’ in Art Cosgrove and Donal McCartney (eds), *Studies in Irish history, presented to R. Dudley Edwards* (Dublin, 1979), pp 150-63; J. A. Mangan (ed.), ‘Benefits bestowed’?: *education and British imperialism* (Manchester, c1988); J. A., Mangan, *The imperial curriculum; racial images and education in the British colonial experience* (New York, 1993)

¹⁰² Antonia McManus, *The Irish hedge school and its books, 1695-1831* (Dublin, 2004); Caitriona Clear, *Social change and everyday life in Ireland, 1850-1922* (Manchester, 2007); Joanne Mc Entee, ‘Learning from the landlord? Primary education on the great estates in mid-nineteenth century Ireland’ in David Dickson, Justyna Pyz and Christopher Shepard (eds), *Irish classrooms and the British empire: Imperial contexts in the origins of modern education* (forth-coming publication, 2012)

notably in Sean Connolly's *Religion and Society in Nineteenth-Century Ireland* and Oliver Rafferty's *The Catholic Church and the Protestant state: nineteenth-century Irish realities*.¹⁰³ Emmet Larkin's comprehensive studies of the relationship between the Roman Catholic Church and Irish society for the second half of the nineteenth century also offered much insight into this complex association.¹⁰⁴ Although the Land War has received much scholarly attention to date, one aspect of the struggle which has received relatively limited attention is the legal war – specifically relations between landlords and land commissioners. In 'Administration and the public services, 1870-1921', R.B. McDowell shed light on the functioning of such courts and the profile of the commissioners.¹⁰⁵ Buckley's important study entitled 'The fixing of rents by agreement in Co. Galway, 1881-5' commented that while much has been written about the fixing of judicial rents in court, agreements out of court have received comparatively less attention.¹⁰⁶

Research structure

This examination of order on six Irish landed estates, landlord-tenant relations, and landlord-government relations, is divided into six chapters – in addition to an introduction and a conclusion. The six main chapters are grouped into three sections consisting of two chapters each. The research was structured primarily along thematic lines, although a logical and natural chronological progression also occurs. Section one posits a continuance of aspects of *ancien régime* society manifest in relations between landlord and tenant on the six estates under study. Chapter 1 examines the relationship between land legislation and Samuel Clark's idea of non-contractual privileges, while the second chapter considers the role of the estate in tenant welfare (specifically relief and emigration), through the prism of Terrence

¹⁰³ Sean Connolly, *Religion and Society in Nineteenth-Century Ireland* (Dublin, 1994); Oliver Rafferty, *The Catholic Church and the Protestant state: nineteenth-century Irish realities* (Dublin, 2008)

¹⁰⁴ Emmet Larkin, 'Paul Cullen: the great ultramontane' in Dáire Keogh and Albert McDonnell (eds), *Cardinal Paul Cullen and his world* (Dublin, 2011), pp 15-33; Larkin, *The consolidation of the Roman Catholic Church in Ireland, 1860-1870* (Dublin, c1987); Larkin, *The Roman Catholic Church and the creation of the modern Irish state, 1878-1886* (Philadelphia, 1975); Larkin, *The Roman Catholic Church and the Home Rule movement in Ireland, 1870-1874* (London, c1990)

¹⁰⁵ R.B. McDowell, 'Administration and the public services, 1870-1921' in W.E. Vaughan, *A new history of Ireland VI: Ireland under the Union, II, 1870-1921* (Oxford, 2000), pp 571-605; R. B. McDowell, 'The Irish Courts of Law, 1801-1914' in *Irish Historical Studies*, x, no.40 (1957), pp 363-91.

¹⁰⁶ K. Buckley, 'The fixing of rents by agreement in Co. Galway, 1881-5' in *Irish Historical Studies*, vii, no.27 (1951), pp 149-79.

McDonough and Eamonn Slater's concept of non-contractual obligations. In both chapters, Ralph Gibson and Martin Blinkhorn's 'aspects of authority' is utilised, to varying degrees, by both landlord and tenant in their quasi-feudal relationship on the estates under study.¹⁰⁷

The second section considers relations between the landlords under examination and the state, while postulating that the adoption of a distinctly *laissez-faire* attitude among the landed proprietors on the estates influenced the gradual erosion of landed power within legal and educational spheres. The contemporary views of German sociologist Ferdinand Tönnies' theory of *Gemeinschaft* and *Gesellschaft* frames the overall argument of section two, which argues that nineteenth century rural Irish society was experiencing a piecemeal transition from a society with an attachment to traditional customs (*Gemeinschaft*) to a rationalistic one chiefly based on formal organisation (*Gesellschaft*). As Tönnies emphasized, however, all societies fluctuate between both forms of society and the evolution of society is non-linear.¹⁰⁸ Indeed, societies in transition (a short-hand for the protracted journey towards modernization), typically feature elements of the traditional and the modern at the same time and sometimes for a long period. Evidence of both Tönnies' concepts of essential-will (*Wesenwille*) and arbitrary-will (*Kürwille*) are apparent in the responses of landlords to the increasing intrusion of the state on estates; with the former dominant in *Gemeinschaft* and the latter in *Gesellschaft* societies respectively. Essential-will – (or natural-will) was described as an instinctive force orientated towards immediate satisfaction of desires, while arbitrary-will (or rational-will) denoted conscious decision-making which was future orientated.¹⁰⁹

The final section develops the idea of a society in transition and the transformation of relations between the landlords under examination and other powerful collectivities in rural Irish society during the *fin de siècle*. Using Samuel Clark's idea of old or established collective action and new and challenging collective action, the research examines the changing relationship between landlords and the Catholic religious, along with their emerging relationship with the land commissioners. Clark described old collectivities as 'established' groups with a

¹⁰⁷ Gibson and Blinkhorn, *Landownership and power*, pp 8-11.

¹⁰⁸ Ferdinand Tönnies, *Community & society = Gemeinschaft und Gesellschaft*, translated and edited by Charles P. Loomis (New York, 1963)

¹⁰⁹ Jørn Falk, 'Ferdinand Tönnies' in Heine Andersen and Lars Bo Kaspersen (eds), *Classical and modern social theory* (Massachusetts, 2000), p. 44.

considerable measure of power, who share similar characteristics, such as goals, social composition, etc. In contrast, new or ‘challenging’ collectivities – sharing similar characteristics – enjoy relatively less power and struggle to acquire more.¹¹⁰ Within each chapter the principal themes and trends emerging from the six estates under study are extracted and discussed. Comparisons and contrasts are also made between management styles on this sample of estates and tenant behavior. The adjustment for landlords and tenants on the six estates under study from operating and existing within, oftentimes, a quasi-feudal environment to a more modernized, centralized, and legalistic world proved difficult and had a significant impact on power relations between both groups throughout the century.

Live and let live

On the eve of the Great Famine, the landlord Nicholas Charles Whyte was entertained by his tenants at a banquet in Burgess’s Hotel, Banbridge. Inscribed in large characters at the event was the motto ‘live and let live’. The landlord heartily thanked his audience and informed them how he had always endeavoured to ‘act towards them as it was my duty to do. My motto ever being “live and let live” (much cheering)’.¹¹¹ Donnelly argued that, after the famine, most landlords pursued a policy of ‘live and let live’.¹¹² An 1881 royal commission report on agriculture claimed that ‘as a rule, the great proprietors have let their lands on the old principle which is expressed by the words “live and let live”’.¹¹³ This ubiquitous maxim mirrored the basic concept of feudalism, which as Dietrich Gerhard argued, was ‘mutual fidelity’.¹¹⁴ As the century progressed and the old order of things in rural Irish society was making way for a new order, a simultaneous revolution of ideas was occurring. In October 1879, Charles Stewart Parnell (1846–91) and his followers were greeted in Navan by a wonderful display of pageantry at the outset of the first Land War (1879-1882). Amidst triumphal arches hung mottos such as ‘Let Erin remember the days of old’, ‘Ireland for the Irish’, and ‘Live and let live’.¹¹⁵ The

¹¹⁰ Clark, *Social origins*, pp 359-60.

¹¹¹ (P.R.O.N.I., Whyte papers, D2918/11/1); *The Newry Telegraph*, 26 June 1841.

¹¹² Donnelly, *The land and the people of nineteenth-century Cork*, p. 199.

¹¹³ *Royal Commission on Agriculture. Preliminary report of the Assistant Commissioners for Ireland* [C.2951], H.C. 1881, xvi.841, p. 7.

¹¹⁴ Quoted in Shearer Davis Bowman, *Masters & Lords: mid-19th-century U.S. Planters and Prussian Junkers* (Oxford, 1993), p. 163.

¹¹⁵ F. S. L. Lyons, *Charles Stewart Parnell* (Dublin, 1977), pp 87-88.

Land War and its aftermath would shake the basis of Irish landed society to its foundations. Landed estate relations were to be utterly transformed.

Chapter 1
**Regulating Rent Relations: tenant right versus landlord privilege,
1815-1891**

‘It is a noticeable fact how many there are in the asylum in Letterkenny whose madness they blame on the horrors of these evictions. Wise legislation may find a remedy for these evils, but the memory of them will never die out. It is graven on the mountains, it is stamped on the valleys, it is recorded on the rocks forever’.

Margaret Dixon McDougall, *The letters of Norah on her tour through Ireland*, p. 42,
in the aftermath of evictions carried out by agent Captain Dopping
on Lord Leitrim’s Donegal estate in 1882

‘all my rules about not taking new tenants are quite inapplicable to Protestants – I shall always be glad to take one as tenant of good character – we want that species of strength’.

Letter from the 3rd Marquess of Sligo to agent John Sidney Smith, 15 Mar. 1860
(N.L.I., Westport papers, MS 41,001/10)

‘A decent hat, a wife’s good shawl or gown
For higher rent may mark the farmer down’

William Allingham, *Laurence Bloomfield in Ireland*, p. 75,
composed in 1864

According to R.D. Altick ‘property not only was the visible measure of a man’s social worth; it was, among other things, the criterion of his citizenship’ during the nineteenth century.¹¹⁶ In an agrarian society like Ireland, land provided a livelihood – to varying degrees – for landlord and tenant alike. For a landlord the prospect of not obtaining rents had a significant impact on the liquidity of the estate, while for a tenant eviction could have serious socio-economic and psychological consequences for all family members.¹¹⁷ Consequently, stability within landlord-tenant rental relations was an imperative not only within estate boundaries, but also in the wider local and national community. In 1889 John Edward Ellis (1841–1910), colliery owner, Quaker, and politician declared that ‘the rights of property must be consistent with the rights of humanity’.¹¹⁸ During the latter half of the nineteenth century, property rights altered significantly in Ireland, affecting not only the rights of both landlords and tenants, but also providing a concerted attack on the sanctity of landlordism incarnate in the system of landlord privileges.

Following the Devon Commission’s report in 1845, several Irish land bills – which sought to legislate for compensation for improvements – were introduced into the House of Commons.¹¹⁹ Edward Smith-Stanley (1799–1869), later 14th Earl of Derby, politician, and chief secretary for Ireland, introduced a Tenant’s Compensation Bill based on the Devon report of 1845.¹²⁰ In the same year, William Sharman Crawford (1780–1861), radical politician and agrarian reformer, introduced his own tenants’ bill, and significantly, drafted a tenant-right bill which provided for fair rent and free sale (but not fixity of tenure) in 1852. By 1853, Crawford had introduced a total of eight land bills –all of which failed to come into law.¹²¹ Another land bill and a motion for an enquiry into prevailing landlord and tenant laws were forwarded: in 1848, by Sir William Meredyth Somerville (1802–73), Chief Secretary for Ireland (1847–52), and in 1849 from the 1st Baron Monteagle, Thomas Spring Rice (1790–1866), respectively.¹²² All of the above initiatives failed to pass through the House of Commons.

¹¹⁶ Richard D. Altick, *Victorian people and ideas* (London, 1974), p. 134.

¹¹⁷ Vaughan clarified how the term ‘eviction’ was used by police, while lawyers preferred the word ‘ejectment’. Vaughan, *Landlords and tenants ... 1848-1904*, p. 15.

¹¹⁸ Curtis, *Depiction of eviction*, p. 183.

¹¹⁹ Andrew Shields, *The Irish Conservative Party, 1852-68: land, politics, and religion* (Dublin, 2007), p. 34.

¹²⁰ *ibid.*, p. 41.

¹²¹ James Quinn, ‘Crawford, William Sharman’, DIB.

¹²² Shields, *The Irish Conservative Party*, pp 34-35.

In the following decade Sir Joseph Napier (1804-82), judge, politician, and Attorney General for Ireland in the Conservative Lord Derby's first government, introduced four Irish land bills in 1852.¹²³ Andrew Shields stated that Napier's objective was 'to preserve both the rights of Irish landowners as he saw them and to protect the interests of those tenants who had invested in improvements to their holdings'.¹²⁴ The first bill, the Land Improvement Bill, enabled tenants to borrow money for improvements. The second bill, the Leasing Powers Bill, gave limited owners – such as those who held land for a fixed term – the right to lease land for specific purposes. It also arranged for limited owners to make compensation agreements with their tenants. The third bill, the Landlord and Tenant Bill (which subsequently formed the basis for Deasy's Act of 1860), stipulated that landlord-tenant relations should be of a contractual nature, rather than based on customary practices without legality or uniformity. The final bill, the Tenants' Compensation Bill, proved the most controversial. The bill gave tenants the right to compensation for specified improvements (in the form of money or a compensatory period of occupancy). The most contentious aspect of the bill was its retrospective compensatory clause, which permitted tenants to claim for past and prospective improvements.¹²⁵ These bills fundamentally were designed to encourage joint land improvement endeavours between landlords and tenants. They were not designed to legislate for the '3 Fs' (fair rent, fixity of tenure, and free sale). Shields stated how government and Irish landlord opposition to the bills revealed that traditional notions of the rights of property were not ready to change.¹²⁶

As noted above, Deasy's Act, or the Landlord and Tenant Law Amendment Act (Ireland) of 1860, was largely based on Napier's Bills. Formulated by Rickard Morgan Deasy (1812–83), MP and the new Irish Attorney General, the 1860 act reinforced the power of landlord privileges and the discretion with which they could be dispensed, through the act's emphasis on the non-legality of non-contractual agreements between landlords and tenants.¹²⁷ Cardwell's act of the same year insisted that only written contracts – not agreements based on customary rights –

¹²³ Patrick Maume, 'Napier, Sir Joseph', DIB.

¹²⁴ Shields, *The Irish Conservative Party*, p. 28.

¹²⁵ *ibid.*, pp 41-43.

¹²⁶ *ibid.*, pp 55, 74.

¹²⁷ Shields, *The Irish Conservative Party*, p. 74; Desmond McCabe, 'Deasy, Rickard Morgan', DIB.

would be recognised by the law.¹²⁸ Therefore, although the courts would not recognise the authority of customary traditions on estates, inadvertently the law, by alluding to their existence, recognised their status and left their operation solely to be negotiated between landlord and tenant. However, a mere ten years later, the Landlord and Tenant (Ireland) Act 1870, in a complete volte-face, enacted safeguards which protected the interests of tenants with respect to estate privileges – a development most spectacularly in evidence through the legal recognition of the ‘Ulster custom’ throughout the entire island of Ireland. However, the act’s failure to legally define the notoriously elusive Ulster custom made its provisions, on a practical level, difficult to enforce. Consequently, it took approximately another ten years for what traditionally had been perceived as estate privileges to be satisfactorily legislated for. The Land Law (Ireland) Act 1881 ratified the ‘3 Fs’, and in so doing, transformed non-contractual privileges into rights.¹²⁹

Tenant right

From its initial appearance on political platforms in the 1830s, the demand for tenant-right increased as the century progressed.¹³⁰ During the 1840s, the Devon Commission and the unsuccessful land bills of Lord Stanley in 1845 and Lord Lincoln in 1846, failed to adequately address the issue. In 1850 the Tenant Right League was established to concretely pursue its recognition. As Foster has stated: ‘Tenant Right was defined in a number of ways: by Lord Palmerston as “Landlord Wrong”, and by others as “the 3 Fs”: free sale, fair rent and fixity of tenure’.¹³¹ In 1874 the following verse was published in a document concerning tenant-right in the barony of Farney, Monaghan:

¹²⁸ Michael J. Winstanley, *Ireland and the land question, 1800-1922* (London, 1984), p. 35.

¹²⁹ This act was preceded by two Royal Commissions – one to examine the agricultural depression entitled the Richmond Commission and the other to investigate the workings of the 1870 land act, namely the Bessborough Commission – which both recommended reforms. *ibid.*, p. 29.

¹³⁰ For a comprehensive study of tenant right see Martin W. Dowling, *Tenant right and agrarian society in Ulster, 1600-1870* (Dublin, 1999); Similar problems in relation to tenure existed in Scotland during the nineteenth century, including subdivision, insecurity of tenure, lack of compensation for improvements, high rents, and no provision for the sale of a tenant-right. See V. T. H. Delany, ‘Irish and Scottish land resettlement legislation’ in *The international and comparative law quarterly*, viii, no. 2 (1959), pp 304, 315; In England a system of ‘tenant-right’ operated which allowed for the payment of compensation for ‘unexhausted improvements’. See J.V. Beckett, ‘Agricultural landownership and estate management’ in Joan Thirsk (general ed.), *The agrarian history of England and Wales, VII, part 1* (Cambridge, 2000), p. 743.

¹³¹ Foster, *Modern Ireland*. p. 380.

If 'landlord wrong' is 'tenant right',
(There are who say 'tis so)
'Good-will' is in the self-same plight,
And bad from good doth flow¹³²

R.D.C. Black provided a more ample definition by distinguishing 'between two conceptions which were closely intermingled, and often confused in these discussions – the "tenant-right of occupancy" and the "tenant-right of compensations for improvements" ... although both forms of tenant-right were implicitly recognised in the "Ulster custom"'.¹³³ The landlord E.P. Shirley defined the Ulster custom as 'the right to free-sale of the tenancy of the land to the highest bidder', although the consent of the owner had to be obtained before land could be exchanged.¹³⁴ L. Perry Curtis Jr., while acknowledging that tenant-right varied across the country, explained how it...

not only entitled a tenant to occupy his holding so long as he paid the rent but also endowed him with a tangible 'interest' therein. Thus an 'outgoing' tenant vacating his farm could sell this interest or goodwill, composed mainly of the value of any improvements made over the years, to the incoming tenant for amount ranging up to hundreds of pounds.¹³⁵

Foster emphasized the moral and economic implications of the sale of interest; its very existence indicated that tenants possessed 'a certain *right* in the property', while simultaneously suggesting that rents had to be set at lower levels than agri-economic conditions would have allowed for.¹³⁶ As Michael J. Winstanley astutely pointed out: 'the higher the rent ... the lower the marketable value of any tenant right'.¹³⁷ The Bessborough Commission also reported that the Ulster custom

¹³² 26 June 1874 (W.C.R.O., Shirley papers, CR464/165 (2))

¹³³ R.D.C. Black, *Economic thought and the Irish question, 1817-1870* (Cambridge, 1960), p. 26; As early as 1836 William Sharman Crawford sought to legislate for compensation for improvements, while Deasy's act provided for compensation for improvements as long as they were approved of in advance by the landlord. Winstanley, *Ireland and the land question*, p. 35.

¹³⁴ *On 'Tenant right' or 'good will' within the barony of Farney*, p. 18 (W.C.R.O., Shirley papers, CR464/165 (2))

¹³⁵ Curtis, *Depiction of eviction*, p. 13.

¹³⁶ Foster, *Modern Ireland*, p. 380.

¹³⁷ Winstanley, *Ireland and the land question*, p. 21.

prevailed on the Donegal property of the Earl of Leitrim, but not on the Leitrim portion.¹³⁸

The first two chapters of this study will consider estate relations. This chapter, specifically, will analyze the rental relationship between landlord and tenant from 1815 to 1891. Traditionally, landlords in Ireland exercised a range of powers on their estates of a non-contractual nature (as noted in the introductory chapter). This chapter will also examine the effect of government legislation on traditional estate privileges through an analysis of the paramount privileges of undisturbed occupancy, permission to sell, and moderate rents, each related to the tenant demands for fixity of tenure, free sale, and fair rent respectively. The desire to obtain these so-called ‘3 Fs’ revealed a simultaneous wish among many of the tenantry (whether consciously or not) to dismantle the traditional power and privilege of the landed class in rental relations. Importantly, due to the longevity and pervasiveness of estate privileges, many tenants came to perceive them as customary rights. Ralph Gibson and Martin Blinkhorn delineated the following different ‘aspects of authority’: deference, traditional authority, patronage and clientelism, and mediation.¹³⁹ This chapter will show how even within a quasi-feudal rental regime, tenants attempted to exert tactical leverage through the utilization of deferential language and ‘good’ behaviour in communications with the landlord and agent in order to further their chances of obtaining assistance from the estate.

Undisturbed occupancy

Samuel Clark argued that of the three privileges described as ‘paramount’ the most important one was undisturbed occupancy. He further contended that ‘the right of the landlord to evict was not left implicit, but was directly asserted in order to control tenants’.¹⁴⁰ Some landlords and agents found the task of ousting tenants distasteful and ‘a *harsh duty*’.¹⁴¹ Tenants could be removed either through ‘peaceful’ means or

¹³⁸ *Report of Her Majesty’s Commission of Inquiry into the Working of the Landlord and Tenant (Ireland) Act, 1870, and the Acts Amending the Same* [C 2779], [C 2779-I], [C 2779-II], [C 2779-III], H.C. 1881, xviii.1, 73, xix.1, 825 (Hereafter ‘The Bessborough Commission’), p. 76.

¹³⁹ Gibson and Blinkhorn, *Landownership and power*, pp 8-11.

¹⁴⁰ Clark, *Social origins*, pp 165-68, 175-79.

¹⁴¹ Letter from H. Hildebrand to George Hildebrand (brother) [nd] (N.L.I., Westport papers, MS 41,001/35); Interestingly, many tenants who latterly became elected guardians on local poor boards also experienced difficulties with respect to evicting labourers who had received cottages from the board. As Virginia Crossman remarked tenants were oftentimes allowed to accumulate arrears or had

by resorting to the law.¹⁴² If possible, non-legal ejectments were favoured over the removal of tenants through the courts as a more economical and less troublesome option. The financial burden of the Great Famine (1845-1850) in Co. Mayo resulted in mass eviction on the Westport estate in an attempt to recover from some of the losses. Although a ‘most disagreeable remedy’, the Marquess nonetheless proceeded with this estate policy.¹⁴³ In the latter 1850s, a reported 5,000 tenants on the Donegal portion of the 3rd Earl of Leitrim’s estate staged a protest meeting at Milford against the recent evictions on the estate. In retaliation against such an overt display of disobedience, the landlord ordered the closure of all public houses in the town. The liberal *Leitrim Gazette* reported that as a result no accommodation or refreshments were available to the mass of tenantry.¹⁴⁴ Although crowds were believed to have attended the meeting, a little over a week later the landlord had the audacity to circulate among his tenants a memorandum which related to the tenants how the attempt to sow ‘discord between us’ had ‘signally failed’. He continued by explaining that he trusted that ‘the friendly feeling which you have thus exhibited is a proof that we shall long continue to enjoy in harmony and good fellowship, the relations of landlord and tenant’.¹⁴⁵ This incident reveals that opposition to eviction in the form of communal protest occurred prior to the emergence of the Land League and also that some landlords perceived such opposition as rather insignificant. Earlier in the century, the Drapers’ Company sought to avoid legal proceedings by inducing tenants to quit voluntarily. If this approach failed, legal means were subsequently utilized ‘by way of example’.¹⁴⁶ Should a landlord decide to adopt a legal course, notices to quit, ejectment processes, and ejectment decrees were served for this purpose.

them written off by elected guardians. Virginia Crossman, *Politics, pauperism and power in late nineteenth-century Ireland* (Manchester, 2006), p. 172.

¹⁴² Letter from John Gibbings to S.E. Shirley Esq., 30 Apr. 1887 (P.R.O.N.I., Shirley papers, D3531/C7/1)

¹⁴³ Letter from the Marquess of Sligo, Westport to J. Sidney Smith, 14 July 1851 (N.L.I., Westport papers, MS 41,006/7)

¹⁴⁴ *The Leitrim Gazette*, 30 Jan. 1858.

¹⁴⁵ *ibid.*, 6 Feb. 1858.

¹⁴⁶ Drapers’ Company, Court of Assistants Minutes, Thursday 30 Nov. 1820 (Drapers’ Hall, Drapers’ papers, pp 64-66)

Judicial orders as threats

As K. Theodore Hoppen noted, large-scale evictions could severely reduce revenue and was not a decision taken lightly by landlords.¹⁴⁷ Yet, most tenants lived in constant fear that they would be removed from their homes. Landlords exploited this fear of a loss of privilege of fixity of tenure by issuing notices to quit on a regular basis, which served a range of motives and functioned as an all-purpose tool to coerce the tenantry. The power of the ejectment decree was not lost on estate officials. Gibbings knew that by issuing ejectment decrees the tenants were ‘at our mercy’.¹⁴⁸ On the Westport estate ejectment notices served not only to scare tenants, but also frequently brought ‘them to their senses’.¹⁴⁹ On one occasion, Lord Shirley advised tenants that if they expressed regret for their behaviour the ejectment decree would be cancelled. The tenants duly apologised profusely for their misdemeanour.¹⁵⁰ In the 1890s, Hugh Dorian (1834-1914), a school master in North Fanad completed a memoir entitled ‘Donegal Sixty Years Ago’. He provided the following insight into the usefulness of notices to quit for estate management purposes:

To be always prepared in case anyone committed an offence meantime, the landlord left no one unserved with a Notice to Quit before the first of May in each year that he might immediately have recourse to the law. The fact of these ‘white messengers’ of the law, the forerunners of nothing good, being distributed one a year wholesale was certainly no cause for any great encouragement to the struggling man holding a piece of land.¹⁵¹

Judicial orders for estate management purposes

The force behind an ejectment decree lay in the fact that oftentimes it was carried into effect. Vaughan argued that ‘eviction was predominantly a form of insolvency [and] although there were exceptions, most evicted tenants were heavily in arrears’.¹⁵² Throughout the period under study (1815-1891), landlords and agents

¹⁴⁷ K. Theodore Hoppen, *Ireland since 1800: conflict and conformity* (London, 1999), p. 96.

¹⁴⁸ Letter from John Gibbings to S.E. Shirley Esq., 19 May 1888 (P.R.O.N.I., Shirley papers, D3531/C7/1)

¹⁴⁹ Letter from Robert Powell to the 3rd Marquess of Sligo, 26 July 1888, 13 Dec. 1889 (N.L.I., Westport papers, MS 40, 996/1)

¹⁵⁰ Letter from Jane Callan and James Mac Donald to S.E. Shirley Esq., London, 11 Jan. 1888 (P.R.O.N.I., Shirley papers, D3531/C/3/21)

¹⁵¹ Hugh Dorian, *The outer edge of Ulster: a memoir of social life in nineteenth-century Donegal*, edited by Breandán Mac Suibhne and David Dickson (2000), p. 244.

¹⁵² Vaughan, *Landlords and tenants ... 1848-1904*, p. 24.

used ejectment processes as estate management tools for estate consolidation,¹⁵³ to increase rent receipts,¹⁵⁴ for enforcing order among the tenantry, and as sanction against the infringement of estate rules. With a view to increasing order on the estate, ejectment decrees could be employed to punish poor behaviour and to ‘put off a few insolents’.¹⁵⁵ In 1858 Lord Leitrim threatened to evict any of his tenants who attended a meeting in Milford in protest against his estate management practices.¹⁵⁶ Tenants who engaged in violent acts could also be evicted. This could occur even if the tenant was simply related to the perpetrator and not directly involved in the misdemeanour itself. Tenants in Leitrim were evicted because their son had been involved in a shooting incident at Milford, while another set of tenants, whose son was a member of a party of three who ‘waylaid and beat’ Michael Logue when going home from the Milford fair, were also removed.¹⁵⁷ One tenant was evicted for giving up his house to an evicted tenant.¹⁵⁸ A tenant who signed a petition for tenant-right – which was presented to parliament – was also dispossessed.¹⁵⁹ Several tenants on the Shirley estate, who had been involved in election agitation in 1865, faced eviction; including James Joseph Mc Mahon, Patrick O’Neil, and Luke McKeon, the latter – who although not a voter – ‘ought to be ejected as an example’.¹⁶⁰

Some of the Leitrim tenants were evicted for refusing to agree to new house and land valuations, for preventing turf being cut on their farm, for cutting sods on reserves and pasture land, and for refusing to pay for the grazing of cattle on the reserves. One caretaker was evicted for permitting a tenant to cut sods on his farm

¹⁵³ Letter from Matthew Stewart, Kilmacrenan Estates Office to the Earl of Leitrim, 15 Nov. 1869; ‘Memorandum of tenants evicted 1855-63’; ‘Schedule of the names of tenants evicted by the right honourable The Earl of Leitrim from his Donegal Estate from the 1st of November 1860 to the 1st November 1863’ (N.L.I., Leitrim papers, MS 33,832); Letter from the Marquess of Sligo, Rome to J. Sidney Smith, Esq., 18 Feb. 1859 (N.L.I., Westport papers, MS 41, 003/12); Letter from the 3rd Marquess of Sligo to Robert Powell, 12 June 1887 (N.L.I., Westport papers, MS 41,001/37); Slevin, *Lough Rynn*, p. 30.

¹⁵⁴ Drapers’ Company, Court of Assistants Minutes, Thursday 30 Nov. 1820 (Drapers’ Hall, Drapers’ papers, pp 64-66); Letter from George F. Stewart to Mr George M. Mc Gusty, 13 Sept. 1879; Letter from George F. Stewart to Lord Leitrim, 22 Sept. 1879 (N.L.I., Leitrim papers, MS 32,656); Letter from the 3rd Marquess of Sligo to ‘My dear sir’, 26 Feb. 1881 (N.L.I., Westport papers, MS 41,001/34); Curtis, *Depiction of eviction*, pp 14-16; 84.

¹⁵⁵ Letter from the 3rd Marquess of Sligo to Robert Powell, 12 June 1887 (N.L.I., Westport papers, MS 41,001/37)

¹⁵⁶ Dolan, *Earl of Leitrim*, p. 29.

¹⁵⁷ ‘Memorandum of tenants’; ‘Schedule of the names of tenants’ (N.L.I., Leitrim papers, MS 33,832)

¹⁵⁸ ‘Memorandum of tenants’, *ibid.*

¹⁵⁹ *ibid.*

¹⁶⁰ ‘List of Ring-Leaders’, signed by E.P. Shirley, 26 Oct. 1865 (P.R.O.N.I., Shirley papers, D3531/E/1); Foster stated there were ‘next to no’ politically motivated evictions in the post-famine era. Foster, *Modern Ireland*, p. 378, while Curtis argued these were the exception rather than the rule, see Curtis, *Depiction of eviction*, p. 17.

and for not reporting it.¹⁶¹ Disagreements between tenants could also result in eviction, with one tenant being removed for refusing to allow another to occupy his farm following the division of the townland.¹⁶² On one occasion, Lord Leitrim evicted a tenant for defending the ejectment process which was served upon him to get rid of a cottier. On another occasion, Leitrim evicted a tenant for assisting with the removal of corn which was about to be seized under a distraining warrant for non-payment of rent. He also evicted a tenant for giving shelter to a family who had previously been evicted on the estate.¹⁶³ Margaret Dixon McDougall (1826–99), author and journalist, claimed that the 3rd Earl of Leitrim evicted for animal trespass on the mountains, for burning limestone independently instead of purchasing it from the landlord’s kiln, and ‘for burning some parings of the peat land, the ashes of which made the potatoes grow bigger and drier’.¹⁶⁴ On the Shirley estate, tenants could be evicted for keeping goats or for keeping their holdings in a disorderly fashion. In 1862 the Shirley agent, George Morant, advised the agriculturalist A. Nelson should: ‘people like Mr. Dawson, Glasford and others wish not to take your advice and keep their houses and premises in proper order the next step must be a notice to quit – which will be served on them before November unless in the meantime they make some improvements’.¹⁶⁵ The Drapers’ Company also evicted for not maintaining the upkeep of their holdings, such as for failing to remove weeds from lands.¹⁶⁶

Character played a prominent role in the decision-making process of the landlord with respect to eviction. The Marquess of Sligo wished for ‘tenants dedicated to lies, trickery and dishonesty (habitual) to be removed’. He believed that ‘no man paying his rent *honestly* should be driven off the estate’ and that such a ‘*honest and industrious man ...* should be allowed to stay on the land even if their doing so led to my ruin as I look on their rights to live [on the] land of their birth as a positive indefeasible right, forfeited only when they become idlers and dishonest’.¹⁶⁷ As Ciarán Ó Murchadha has observed, during the pre-famine period evictions

¹⁶¹ ‘Memorandum of tenants’; ‘Schedule of the names of tenants’(N.L.I., Leitrim papers, MS 33,832)

¹⁶² ‘Schedule of the names of tenants’, *ibid.*

¹⁶³ *ibid.*

¹⁶⁴ McDougall, *The letters of Norah*, p. 40.

¹⁶⁵ Agricultural visitation books, A. Nelson, George Morant and Evelyn Philip Shirley, 1851-1863 (P.R.O.N.I., Shirley papers, D3531/S/7/3/18)

¹⁶⁶ Report of the Deputation of the Court of Assistants of the Drapers’ Company appointed to visit the company’s Irish estates in the year 1877, Microfilm, acc. 16727, #617, reel 24 (Drapers’ Hall, Drapers’ papers, D3632/D/1/8, p. 6)

¹⁶⁷ Letter from the Marquess of Sligo, Westport to land agent, 4 July 1857 (N.L.I., Westport papers, MS 41,006/7)

occurred for a variety of reasons including defaulting on rent. Landlords generally were not interested in *why* a tenant could not pay, they simply wanted what they felt was their due.¹⁶⁸

Opposition to eviction (disorder)

During the course of an eviction there were several options open to the tenant in order to stall and challenge the order being imposed by the landlord. In his important work on eviction in nineteenth century Ireland, Curtis stated that while organised resistance to eviction before 1879 was rare, individual challenges were common and could encompass ‘a good deal of jeering, cursing (in Irish), shoving, fist-shaking, the occasional blow of shillelagh’, to more visible displays of aggression such as the brandishing of ‘shovels pitchforks, and a few guns’.¹⁶⁹ Ó Murchadha also noted pre-famine resistance – which frequently adopted the form of ‘the old pre-Famine Whiteboy outrages’ – including threatening letters, assaults, damage to property, and the murder of some process servers, drivers, bailiffs, and landlords.¹⁷⁰ Many of the features of resistance to eviction earlier in the century continued after 1879, including a type of siege warfare where tenants barricaded themselves in their homes in an attempt to thwart the efforts of their evictors.¹⁷¹ During the 1880s on the Shirley estate, it was noted that a process server was attacked, a sheriff paid off, and one dwelling was fortified successfully driving off the bailiffs, while on the Shirley and Whyte estates claims of sickness (a medical certificate had to prove this) were used to prevent eviction from occurring.¹⁷²

Eviction, the law, and landlords

Increased militancy against the eviction process during the Land Wars (1879-1891) was symptomatic of changes which were simultaneously occurring with regards to eviction policy. Eviction legislation in force in Ireland during the early part of the

¹⁶⁸ Ciarán Ó Murchadha, *The Great Famine: Ireland's agony, 1845-1852* (London, 2011), p. 113.

¹⁶⁹ Curtis, *Depiction of eviction*, pp 194, 41-42, 60, 64.

¹⁷⁰ Ó Murchadha, *The Great Famine*, p. 126.

¹⁷¹ Curtis, *Depiction of eviction*, p. 195.

¹⁷² Letter from John Gibbings to S.E. Shirley Esq., 3 Oct. 1881; 31 Aug. 1883; 4 June 1887; 15 June 1887; 20 June 1887 (P.R.O.N.I., Shirley papers, D3531/C7/1); ‘The Shirley Estate (from our special correspondent)’, *The Manchester Guardian*, 2 Nov. 1888 (P.R.O.N.I., Shirley papers, D3531/C/3/21); Letter from Hugh Kelly, County Down Sheriff's Office, Ballymacarrett, Belfast to J.J. Whyte Esq., 20 Longford Terrace, Monkstown, Dublin, 25 Mar. 1889; Letter from Hugh Glass, Solicitor, Banbridge to J. Joseph Whyte, Esq., 27 Mar. 1889, (P.R.O.N.I., Whyte papers, D2918/3/11/1-76); Letter from Robert Powell to the 3rd Marquess of Sligo, 2 Apr. 1890 (N.L.I., Westport papers, MS 40, 996/1)

nineteenth century had been in place since the reign of Edward III (1312–1377).¹⁷³ Legislation of 1816 made the ejectment process much easier and less costly. Prior to that year, ejectment decrees could only be obtained in the superior court in Dublin for a substantial sum – normally £15-£18.¹⁷⁴ From 1816, local civil bill courts issued decrees for a mere £2.¹⁷⁵ An 1820 act promulgated that civil bill ejectment decrees could be served against leasehold tenants paying £50 or less per annum if they owed at least half a year's rent, had vacated the holding, possessed insufficient chattels to permit distraintment to be effectively used to make up the rent, or simply were in arrears for a full year's rent.¹⁷⁶ As Curtis noted, such legal initiatives resulted in a 'slew' of evictions during the 1820s.¹⁷⁷ During the 1840s, tenants could be evicted for 'non-payment, overholding, or failure to prove entitlement to possession'.¹⁷⁸ A tenant was deemed to be overholding if they continued to remain on site and pay rent after their tenancy agreement had expired. The law further facilitated and encouraged estate clearances through the introduction of the Gregory clause in the Poor Law Act of 1847, which prohibited relief from poor rates to anyone occupying more than a quarter-acre of land.¹⁷⁹ The Evicted Poor Protection Act of 1848, which permitted Poor Law guardians to grant one month's outdoor relief to the evicted, offered little solace to those who had been removed off the land.¹⁸⁰ None of the legislation cited provided for the eviction of tenants based on character; yet landlords frequently utilised eviction laws to rid to estate of undesirable individuals.

The relationship between eviction law and non-contractual privileges

Although never passed into law, one of Napier's 1852 bills – the Landlord and Tenant Bill – contained provisions which simplified eviction law and allowed landlords to evict small holders from their estates.¹⁸¹ In 1860 Deasy's act 'reaffirmed

¹⁷³ These archaic laws often involved an intricate and convoluted fictitious and elaborate tale of feigned plaintiffs and fabricated defendants.

¹⁷⁴ Curtis, *Depiction of eviction*, p. 13; In 1819 the Prussian government banned evictions entirely. Many thanks to Dr. Róisín Healy for drawing this to my attention. See S Kieniewicz, *The emancipation of the Polish peasantry* (Chicago and London, 1969)

¹⁷⁵ Clark, *Social origins*, pp 29-30.

¹⁷⁶ Doyle, *Charles Powell Leslie II's estates*, pp 45-46.

¹⁷⁷ From 1816 the quarter sessions, civil bill courts, and the assistant barristers' court could all be availed of at a local level to initiate ejectment proceedings. Curtis, *depiction of eviction*, p. 13.

¹⁷⁸ *ibid.*, p. 14.

¹⁷⁹ Anne Coleman, *Riotous Roscommon: social unrest in the 1840s* (Dublin, 1999), p. 51.

¹⁸⁰ Crossman, 'The humanization of the Irish Poor Laws', p. 236.

¹⁸¹ Andrew Shields, *The Irish Conservative Party, 1852-68: land, politics, and religion* (Dublin, 2007), pp 42-43.

existing procedures by which landlords could evict tenants when tenancies expired or before such time if they were not paying their rents'.¹⁸² Thereafter, eviction for non-payment could be achieved through serving a writ or process stating the amount owed. Tenants who faced eviction for overholding received a notice to quit followed by an ejection order from a civil bill court. As Curtis noted, although Deasy's act provided some protection against arbitrary eviction, leases were drafted which made many of the provisions of the act void'.¹⁸³ Therefore, the landlord privilege of granting undisturbed occupancy remained unimpeded.

In formulating the 1870 land act, Prime Minister William E. Gladstone sought to prevent landlords from using 'the terrible weapon of undue and unjust eviction'.¹⁸⁴ However, its provisions failed to legally restrict landlords from evicting in any real manner. Although the act provided that compensation for disturbance could be obtained following eviction due to non-payment of rent and compensation for improvements up to £250 if tenants surrendered their leases for reasons other than the non-payment of rent, the provisions of the act for compensation proved so vague that its implementation was easily avoided by astute landlords who drafted leases protecting them against having to make any pay outs.¹⁸⁵ Some landlords granted leases for thirty-one years or more, or valued farms at £50 and over, while the 'Leinster lease' was drafted by the Duke of Leinster, which explicitly precluded tenants from availing of any forms of compensation.¹⁸⁶ James S. Donnelly Jr. observed that tenants could 'contract out' of the 1870 land legislation if their holding was valued at £50 or over (for the purpose of taxation). By signing a waiver, farmers relinquished any further rights to claim compensation. Many landlords used this loophole in the law in an attempt to retain as much control as possible over their

¹⁸² Clark, *Social origins*, p. 175.

¹⁸³ Curtis, *Depiction of eviction*, pp 15, 73.

¹⁸⁴ Regarding the policy of The Landlord and Tenant (Ireland) Act 1870 in John Morley, *The life of William Ewart Gladstone* (London, 1905), p. 294.

¹⁸⁵ H.D. Gribbon, 'Economic and social history, 1850-1921' in W. E. Vaughan (ed.), *A new history of Ireland, VI: Ireland under the Union, II, 1870-1921* (Oxford, 2000), p. 268; Vaughan, *Landlords and tenants*, p. 93; Curtis, *Depiction of eviction*, pp 15, 72; Letter from Hugh Glass, Solicitor, Banbridge, to J. Joseph Whyte, Esq., 20 Longford Terrace, Monkstown, Dublin, 16 May 1889 (P.R.O.N.I., Whyte papers, D2918/3/11/1-76)

¹⁸⁶ Leases longer than thirty-one years and holdings valued at £50 and over were automatically debarred from the provisions of the 1870 act. Gribbon, 'Economic and social history', p. 269; Dun, *Landlords and tenants*, pp 26-27; Donnelly, *The land and the people of nineteenth-century Cork*, p. 206; The 1870 act stated that tenants possessing leases of thirty-one years or more could not be included in its provisions. Winstanley, *Ireland and the land question*, p. 36.

property rights.¹⁸⁷ The exclusion of tenants in arrears from compensation for disturbance in the 1870 land act in effect ‘excluded the very tenants who were likely to be evicted’.¹⁸⁸ The provisions for the legalisation of the Ulster custom also failed to provide adequate protection against arbitrary eviction.¹⁸⁹

The 1881 act stipulated that a yearly tenant should have fixity of tenure so long as he paid his rent, did not commit persistent waste, did not sublet, subdivide, or erect buildings without the consent of the landlord.¹⁹⁰ In response, some landlords stopped granting yearly leases. Although Alvin Jackson argued that the 1881 act ‘drastically curtailed the landlord’s right of eviction’, Curtis argued that the ‘eviction made easy’ clause of the act resulted in 10,752 notices to quit.¹⁹¹ He also contended ‘that the landowners’ continued power to evict and choose incoming tenants after the Land Act of 1881 is evidence, not of a crushed landed class, but rather of their continued influence in rural society’.¹⁹² Even after the passing of the 1881 act, eviction remained a problem on Irish estates. Between October 1881 and May 1882 the Ladies Land League paid out approximately £70,000 to help support evicted tenants.

The Plan of Campaign of the latter 1880s emerged from John Dillon’s advice to the crowd at a protest meeting at Woodford, Galway. On this occasion, Dillon urged the tenants to offer to the landlord a reasonable rent and should the landlord reject this amount, the money was to be lodged with ‘two or three trustworthy men’.¹⁹³ Evicted tenants subsequently were entitled to avail of an allowance from the fund. The need to provide financial assistance to dispossessed tenants reveals how prevalent a problem eviction continued to be even after the land acts. A poor harvest and increasing distress among the tenantry compelled Parnell in 1886 to seek the introduction of a tenants’ relief bill to prevent evictions on estates where tenants paid half the rent and arrears. Although his motion was declined, a commission was established to investigate the workings of the 1881 and 1885 land acts.¹⁹⁴ This section has clearly shown how landlords used ejectment decrees not only as a means

¹⁸⁷ Donnelly, *The land and the people of nineteenth-century Cork*, p. 205.

¹⁸⁸ Vaughan, *Landlords and tenants ... 1848-1904*, p. 94.

¹⁸⁹ Gribbon, ‘Economic and social history’, p. 269.

¹⁹⁰ Clark, *Social origins*, p. 335.

¹⁹¹ Jackson, *Ireland*, p. 121; Curtis, *Depiction of eviction*, p. 183.

¹⁹² Curtis, ‘*Landlord responses to the Irish Land War*’, p. 17.

¹⁹³ Ambrose Macaulay, *The Holy See, British policy and the Plan of Campaign in Ireland, 1885-93* (Dublin, 2002), p. 43.

¹⁹⁴ *ibid.*, p. 39.

of controlling the behaviour of tenants, but also to physically remove misbehaving tenants. Tighter legislation of eviction on estates impeded a landlord's privilege to remove a tenant for any number of reasons such as defiance of estate rules and disobedience.¹⁹⁵ Consequently, it may be argued that the landlord's privilege to remove a tenant, although proving more difficult to carry out than it had in the past, remained a privilege of the landlord right up until the end of the century.

Permission to sell

Another paramount privilege was permission to sell. An unsuccessful attempt by the Tenant Right League in 1850 to provide legislation for 'free sale' through their agitation for the '3 Fs', coupled with Isaac Butt's (1813-1879) ineffectual 1875 land bill which propounded similar aims, resulted in continued landlord control over the exchange of land until late into the century. Although many tenants believed they possessed traditional claims to their holdings, the free sale of interest was not a customary right.¹⁹⁶ Described as 'one of the most puzzling institutions of tenant-right' by Timothy W. Guinnane and Ronald I. Miller, a tenant's right to sell his holding functioned 'as a bond against non-payment of rent and was part of a rational landlord's income-maximizing strategy'.¹⁹⁷ In effect, this right entitled an outgoing tenant to obtain compensation for permanent improvements through the sale of his interest, or 'good will' to an incoming tenant.¹⁹⁸

Landlord privilege – control of tenant and control of prices

Fundamentally, permission to sell consisted of two parts. Firstly, the landlord had to grant permission to a tenant to part with their land and also to approve of the incoming tenant. Secondly, the landlord had to permit the outgoing tenant to benefit financially from the loss of the land, and if so, to ratify the price of the land. Public auctions prevented landlord control over both of these aspects of the sale.

¹⁹⁵ Winstanley highlighted how measures to encourage tenants to purchase their holdings had been proposed as early as the 1840s by John Bright and J.S. Mill in London, and by Young Irelanders like James Fintan Lalor in Dublin. Winstanley, *Ireland and the land question*, p. 39.

¹⁹⁶ Clark, *Social origins*, p. 180.

¹⁹⁷ Timothy W. Guinnane and Ronald I. Miller, 'Bonds without bondsmen: Tenant-Right in nineteenth-century Ireland' in *The Journal of Economic History*, lvi, no.1 (1996), pp 113-42.

¹⁹⁸ Donnelly, *The land and the people of nineteenth-century Cork*, p. 210.

‘Canting’ or public auction

Traditionally, many landlords and agents held an aversion to public auctions (canting) due to the inflationary prices which resulted and also their resultant powerlessness in the tenant selection process. Although J.E. Pomfret argued that landlords ‘found it more profitable to put up the holding at “cant”’, it seemed to attract, according to Clark, ‘irresponsible’ tenants and therefore was abandoned.¹⁹⁹ In 1844 the 7th Baron Farnham resolved to ‘put a stop to [this] most highly improper practice’ of farms being put up to auction. He objected to the large sums of money frequently exchanged during the process. While in 1857 he informed Grayson that the purchase money the tenant was proposing for the sale of his interest was ‘exorbitant’, the same year he approved of Jackson’s sale of the farm at £50 but no more.²⁰⁰ A tenant’s right to sell through public auction gradually ceased to be the prevalent means of letting land as the century progressed.²⁰¹ Many landlords and agents recognised that selling to the highest bidder did not necessarily make economic sense and farms were more often let to relatives of the dispossessed or to those with working capital.²⁰² On estates where the landlord was an absentee, it was not unknown for a tenant to independently – and without his landlord’s knowledge or consent – hold a public auction for the sale of his interest.²⁰³

Control of tenant

The auctioning of land interfered with the landlord’s control of his tenantry. So long as the landlord could veto any sale, his control was ultimately preserved. Once a decision was made with respect to permission to sell, it would seem that Farnham proved intransigent. In 1855 when Hannah Lang resubmitted a request to sell she was informed that she must abide by the landlord’s former decision. The sale of land to family members or neighbouring tenants was deemed preferable to selling to strangers, as Charles Mc Manus, Edward Flynn and Edward Mee were informed during the 1850s. The landlord also had to grant permission with respect to giving land to family members. The landlord could either consent to this, as in the case of

¹⁹⁹ J. E. Pomfret, *The struggle for land in Ireland, 1800-1923* (New Jersey, 1940), p. 19; Clark, *Social origins*, p. 167.

²⁰⁰ Summaries of applications (N.L.I., Farnham papers, MS 3,117-3,118)

²⁰¹ Clark, *Social origins*, p. 167; Donnelly, *The land and the people of nineteenth century Cork*, p. 190-91.

²⁰² Donnelly, *The land and the people of nineteenth-century Cork*, pp 190-91.

²⁰³ Dorian, *The outer edge of Ulster*, p. 233.

Joseph Breden in 1835, or decline, as in the case of Bernard Pemberton in 1834. The issue of bequeathing land to family members upon death was a different matter – although similar rules applied. The landlord insisted that land could only be left to one person otherwise a penalty would be enforced, as John Hicks senior was informed in 1838. Subdivision – even amongst family members – was also forbidden on the Farnham estate.²⁰⁴ Donnelly has shown how in Cork this permission had to be obtained in writing.²⁰⁵ Should land have been exchanged without the landlord's sanction he could terminate the sale.²⁰⁶

Landlords vetted all potential applicants for tenancy according to various criteria before agreeing to take them on as tenants. Most of the criteria ultimately revolved around contemporary notions of 'character'.²⁰⁷ Vaughan identified the importance of 'good character' in the tenant selection process.²⁰⁸ Frequently, written recommendations of character were forthcoming from agents or other estate employees, such as bailiffs. Even doctors sometimes supplied recommendations.²⁰⁹ Notions of character were perhaps linked to contemporary moral concerns connected with evangelicalism. As Altick argued, notions of respectability lay at the very heart of the morality project.²¹⁰ He claimed that 'respectability was not subject to private definition; its attributes represented a consensus. They included sobriety, thrift, cleanliness of person and tidiness of home, good manners, respect for the law, honesty in business affairs, and, it need hardly be added, chastity'.²¹¹ In his *General report on the Gosford estates in County Armagh, 1821*, William Greig outlined the importance of choosing tenants who would 'preserve good order upon the estate'. The applicant's 'social character' was of particular interest as it was believed to relate to 'habits of sobriety and to a peaceful or a quarrelsomeness of demeanour, as

²⁰⁴ Richard Yeates, 1832; Joseph Johnston, 1832; John Davis, 1839; Mr. Swan, 1840 (N.L.I., Farnham papers, MS 3,117-3,118)

²⁰⁵ Donnelly, *The land and the people of nineteenth-century Cork*, p. 217.

²⁰⁶ Samuel Kennedy, 1855. Summaries of applications (N.L.I., Farnham papers, MS 3,117-3,118)

²⁰⁷ Similarly, landlords frequently sought 'characters' for prospective servants in the big house which also emphasized honesty, steadiness, sobriety, and respectability. See Gerard, *Country house life*, pp 248-49.

²⁰⁸ Vaughan, *Landlords and tenants*, p. 57.

²⁰⁹ Letter from George F. Stewart to A.A. Murray-Ker, Esq. (Lord Cremorne's agent, Monaghan) Newbliss House, Newbliss, 13 Jan. 1879; to Lord Leitrim, 18 Mar. 1879 (N.L.I., Leitrim papers, MS 32,656); Letter from John Gibbings to E.P. Shirley Esq., 24 Mar. 1881 (P.R.O.N.I., Shirley papers, D3531/C7/1)

²¹⁰ On the Farnham estate tenants were accepted if 'respectable' as in the case of John Hicks in 1860; Summaries of applications (N.L.I., Farnham papers, MS 3,117-3,118)

²¹¹ Altick, *Victorian people*, pp 174-75.

one drunken, gambling person may debauch a townland'.²¹² Insolvent and litigious individuals were also objected to.²¹³ Industriousness – or conversely, a propensity for idleness – was also a significant trait which was considered. During the nineteenth century a strong work ethic was championed by followers of Utilitarianism and Evangelicalism.²¹⁴ Although idleness was cited by John Bright (1811–1889) as a reason for many of Ireland's ills, Sean J. Connolly has disputed this, emphasizing instead that industrialized England's misunderstanding of Ireland's more agriculturally based economy fuelled such prejudicial thinking.²¹⁵

The landlord could veto any purchaser if he wanted a specific individual to take the land. In 1835 Farnham ordered John Wilson to sell to William Spinks. On the other hand, the landlord took tenants' wishes into consideration with respect to the choice of incoming tenant. In 1846 Alex McDowell was told by the landlord to withdraw his claim to a piece of land after it emerged that the tenants in the locality objected to his move. Farnham stated that he could not 'consent [to] giving any one [sic] a farm who is displeasing his neighbours'.²¹⁶ Some sales were only approved of once the tenant selling his interest had cleared all arrears on the land, as with Pat Reilly in 1846.²¹⁷ Even if the landlord approved of the purchaser proposed by the tenant selling, he was at liberty to include another purchaser into the bargain and

²¹² Greig further maintained that 'choosing tenants is little less important than fixing rents' and that the qualifications of a good tenant were '*capital, skill, industry and character*'. William Greig, *General report on the Gosford estates in county Armagh, 1821*, with an introduction by F.M.L. Thompson and D. Tierney (Belfast, 1976), pp 68-169; When W.S. Trench first arrived as agent on the Shirley estate in the mid 1840s it was imperative for him to discern which of the tenants were 'troublesome and obstinate' or simply 'scoundrels'. 'Cases which require particular attention by new agent' (P.R.O.N.I., Shirley papers, D3531/M/6/1); 'Bad characters' were objected to as tenants. Evidence of Mr Hugh Hagan, The Devon Commission, p. 671.

²¹³ Hagan informed the Devon Commission how sometimes the landlord objected if a potential tenant was insolvent, The Devon Commission, p. 671; certificates of solvency were sometimes requested and insolvent persons declined on the Farnham estate. Mr Bleakley, snr (1845) and Charles Mee (1850); In 1846 John Hogg – although 'a respectable man' – was rejected as 'very litigious and unpopular among his neighbours', Summaries of applications (N.L.I., Farnham papers, MS 3,117-3,118)

²¹⁴ Altick, *Victorian people*, p. 169; Industrious tenants were sought on the Shirley estate. Letter from Thomas Johnstone, Longfield to Mr. Clarke, Shirley Estate Office, 17 Jan. 1855 (P.R.O.N.I., Shirley papers, D3531/C/3/8), while Baron Farnham refused an applicant 'on account of the disgraceful state' in which the latter maintained his present holding. Summaries of applications, 1856 (N.L.I., Farnham papers, MS 3,117-3,118)

²¹⁵ John Bright, *Speeches on questions of public policy*, edited by James E. Thorold Rogers (2 vols, London, 1868), p. 306; S. J. (Sean J.) Connolly, *Priests and people in pre-famine Ireland, 1780-1845* (Dublin, 1982), p. 170.

²¹⁶ (N.L.I., Farnham papers, MS 3,117-3,118)

²¹⁷ *ibid.*

divide the land between the two.²¹⁸ Frequently, the answer the landlord gave to tenants requesting land was simply ‘no answer’. Whether this implied that further information would be sought on the estate’s part, or whether such procrastination was a means of asserting a measure of control by the estate, is not clear. Notably, on 28 September 1835, thirty-eight applications for farms on the Farnham estate all were met with ‘no answer’. In some cases, the applicant was advised to wait for an answer. During this waiting period the landlord might have consulted with his land or moral agent prior to granting his consent.²¹⁹ It is not clear why some tenants, such as Widow Stephens (1835) Mr Spinks (1840) or Mr Lahy (1846), were refused permission to sell. One tenant, Joseph Trevor, requested to sell in 1838 and again in 1840 and was not granted permission on either occasion.

Control of prices

The private exchange of land ensured not only the suitability of a tenant, but also helped regulate the price of land. Once a landlord approved of a tenant’s decision to sell and of the prospective buyer, the decision whether to permit the sale of tenant interest often lay in the landlord or agent’s power. Curtis stated that ‘some owners or agents discouraged or prohibited the sale of interest by the outgoing tenant because this practice burdened the incoming tenant with a heavy debt in addition to the cost of stocking the farm and paying the rent’.²²⁰ During the famine a quarter of the holdings on the Shirley estate became available for letting. Some of the tenants who had previously occupied these farms were provided with assistance to emigrate; but without payment of tenant-right or ‘good-will’.²²¹ George Clendining, agent on the Westport estate, informed the Devon Commission in the 1840s that the sale of good will was prevalent in his locality and that he disapproved of its usage.²²²

Other landlords and agents actively participated in the regulation of land prices. In Ulster, during Alexander Mitchell’s term as agent on the Shirley estate in the early part of the century, no more than £10 per Irish acre was permitted upon change of tenantry.²²³ Thomas McEvoy-Gartlan, Carrickmacross, Co. Monaghan

²¹⁸ Mr. Byers did receive permission to sell to Francis Daly but was ordered to give Daly six acres and sell the remainder to A. Morrow, *ibid.*

²¹⁹ Mary McElwaine 1854; Edward Flynn, 1858, *ibid.*

²²⁰ Curtis, *Depiction of eviction*, p. 13.

²²¹ *On ‘Tenant right’* (W.C.R.O., Shirley papers, CR464/165 (2)), p. 17.

²²² Evidence of George Clendining, The Devon Commission, p. 417.

²²³ *On ‘Tenant right’* (W.C.R.O., Shirley papers, CR464/165 (2)), p. 17.

confirmed this to the Bessborough Commission in 1881.²²⁴ Donnelly stated that purchasers often had to divulge the money paid and the agent had to be satisfied with the amount exchanged before the close of sale was finalised in order to prevent any ‘surreptitious additional payments’.²²⁵ The sale of land would not go through until the tenant purchasing the interest in the holding had paid the full amount agreed to.²²⁶

The effect of legislation on the non-contractual privilege of free sale

Control over the exchange of land within the estate and of sales of land to outsiders altered somewhat after 1870. The Landlord and Tenant (Ireland) Act 1870 granted legal sanction to an undefined Ulster custom (or tenant-right) in Ulster in section one and throughout the remainder of the country in section two, while also providing for tenant purchase through the so-called ‘Bright clauses’.²²⁷ Donnelly argued that the 1870 act restricted free sale. However, during the prosperous early 1870s so few tenants wished to sell that it did not become an issue until a depression set in later in the decade.²²⁸ Thereafter, the dynamic between landlords and tenants changed: land exchange had to follow official legal requirements. The landlord E.P. Shirley felt so strongly about the issue of tenant-right that he published a pamphlet entitled *On “Tenant right” or “good will” within the barony of Farney and County of Monaghan in Ireland* in 1874. In it he explained that:

formerly the landlord, or his agent, could by his own authority arrange these exchanges as he considered best for the interest of his tenants and of his own property (which I maintain are ever identical). *Now*, although he still has the power to make exchanges, he must enforce his arrangements by ‘notices to quit’²²⁹

The 1881 act finally permitted the long sought after ‘3 Fs’, including free sale ‘subject to the landlord’s right of pre-emption; where the landlord chose to exercise such right, and there was a dispute as to the price, the court was to decide the “true

²²⁴ Evidence of Mr. Thomas McEvoy Gartlan, Carrickmacross, Co. Monaghan, The Bessborough Commission, p. 1168.

²²⁵ Donnelly, *The land and the people of nineteenth-century Cork*, p. 213.

²²⁶ Robert Magee, 1836 (N.L.I., Farnham papers, MS 3,117-3,118)

²²⁷ Gribbon, ‘Economic and social history’, p. 268; Vaughan, *Landlords and tenants*, p. 93; Curtis, *Depiction of eviction*, p. 15.

²²⁸ Donnelly, *The land and the people of nineteenth-century Cork*, p. 251.

²²⁹ *On ‘Tenant right’* (W.C.R.O., Shirley papers, CR464/165 (2)) p. 19

value” of the tenancy’.²³⁰ Although henceforth tenants were permitted to sell their interest in the open market, landlords still reserved the right to reject sales on reasonable grounds.²³¹ However, as Foster rightly commented, by 1881 the emergence of state-aided land purchase made ‘free sale’ less relevant – though hardly obsolete – due to the low numbers of tenants financially capable of availing of the opportunity to own their own land.²³² Evidence suggests that tenants began to bargain with estate authorities around this time in order to exert some measure of control over the process of the transfer of land. During the 1880s Gibbings, the Shirley agent, informed the landlord that one tenant was willing to accept a portion of land at the landlord’s price but wished for the landlord to loft the kitchen in the process; while another, accepting the offer made by the landlord, also requested that a certain sum of the landlord’s money be spent on the house.²³³ Other tenants bargained more readily with the agent. Some tenants on the Shirley estate requested that a nearby house not be let as a dwelling as it would make their houses quite public. The agent, in turn, posed the following argument to the landlord: ‘no doubt it would be much nicer for them to have no one there but do you object to losing the £6 5s 0d a year’.²³⁴ Instances also occurred whereby a tenant could decline to leave the house and sell the land even if asked by the agent: ‘I suggested to C. Mc Philips that she ought to leave that house and sell the land but she declined to do so’.²³⁵ A tenant could be verbally influenced to sell although such a course of action had to be negotiated cautiously. In 1875 fears were being expressed on the Whyte estate lest ‘urging’ a tenant to sell her interest ‘annoy her or create any bad feeling neither of us would wish to make it present any charge – and if you find the thing cannot be accomplished agreeably let it be abandoned’.²³⁶

However, on the whole it would appear that if the landlord decided that a tenant must go the final decision lay with him: ‘There will be a sale if not this season not long hence. I will before the end of this week see what arrangement I can

²³⁰ Buckley, ‘The fixing of rents’, pp 155-56.

²³¹ Curtis, *Depiction of eviction*, p. 108; Clark, *Social origins*, p. 335; R.V. Comerford, ‘The land war and the politics of distress, 1877-82’ in *A new history of Ireland, VI: Ireland under the Union, II*, edited by W.E. Vaughan (Oxford, 2000), p. 47.

²³² Foster, *Modern Ireland*. p. 381.

²³³ Letter from John Gibbings to S.E. Shirley Esq., 29 Mar. 1884; 12 Feb. 1889 (P.R.O.N.I., Shirley papers, D3531/C7/1)

²³⁴ 7 Aug. 1884, *ibid*.

²³⁵ 8 Feb. 1884, *ibid*.

²³⁶ Letter from Mr. J.M. McClanahan to J. Whyte, 2 Dec. 1875 (P.R.O.N.I., Whyte papers, D2918/3/10)

make'.²³⁷ This comment would suggest that means were at the landlord's disposal which could be employed in order to encourage a tenant to leave his holding, such as perhaps enforcing estate rules more rigidly. Fundamentally, the introduction of the 1870 and 1881 land acts did not remove a landlord's privilege of granting permission to sell. While on the surface the 1881 act granted free sale, the stipulation that incoming tenants had to be approved of by the landlord resulted in the retention of this privilege – albeit in a somewhat altered form. With respect to actual sales, by 1890, regardless of how much a potential tenant might offer, the landlord could still decline to accept an individual as a new tenant.²³⁸

Moderate rent

If one word could encapsulate the tension and conflict that marked relations in rural Ireland during the nineteenth century, that word would be 'rent'. The ubiquity and universal use of this simple term can be evidenced through its utilisation for political objectives, such as in the guise of a Catholic 'rent' and Protestant 'rent' during the 1820s and 1830s respectively.²³⁹ Clark argued that the final privilege of paramount importance that a landlord could grant to a tenant was a moderate rent. However, landlord notions of what a moderate rent might be oftentimes conflicted with tenant ideas of what constituted a fair rent. While, unsurprisingly, a fair rent proved impossible to define, for many tenants 'Griffith's valuation' (otherwise known as 'the primary valuation of Ireland' or tenement valuation) of 1848-1864 became synonymous with what a fair rent should be. One individual informed the Bessborough Commission that he considered Griffith's valuation to be 'about equal to a fair rent'.²⁴⁰ Winstanley has argued that notions of 'what constituted a "fair rent" were arrived at by comparison with neighbours rather than by reference to market trends'.²⁴¹ However, as Foster pointed out, it 'was known to be pitched

²³⁷ 22 Nov. 1875, *ibid.*

²³⁸ Letter from John Gibbings to S.E. Shirley Esq., 15 Mar. 1890 (P.R.O.N.I., Shirley papers, D3531/C7/1)

²³⁹ Along with these 'political rents', the conversion of the tithes into a money payment from 1832 through the passing of the Tithe Composition Act, resulted in landlords assuming the responsibility the collection of tithes. In 1838 the payment of tithes was incorporated into the rental charge through the Tithe Rent Charge Act. Alvin Jackson, *Ireland 1798-1998: politics and war* (Oxford, 2004), pp 41-42.

²⁴⁰ McEvoy Gartlan, *The Bessborough Commission*, p. 1169.

²⁴¹ Winstanley, *Ireland and the land question*, p. 21.

well below a realistic economic level; it was calculated when prices were abnormally low, and had never been intended as a rental guide'.²⁴²

Non-payment of rent

Rent days or 'gale days' were perhaps most notably marked by habitual promises to pay and by the low levels of money that actually was exchanged. Although strained agri-economic circumstances oftentimes deprived tenants of the means of paying rent, some estate officials believed that other reasons – apart from climatic and economic conditions – lay at the core of poor rent receipts.²⁴³ Dorian claimed that tenants 'paid their rents when they liked, and in most cases just as they liked'.²⁴⁴ Stewart, the Leitrim agent, believed in 1878 that 'tenants hold back principally because they know that the tenants on the other portion of the Leitrim Estate are not paying and they have a vague idea that something may turn up to their advantage before they can be forced to pay'.²⁴⁵ Similarly, in 1880, the Marquess of Sligo believed it was 'not distress nor want that is keeping the bulk of the tenants from paying their rents'.²⁴⁶ The Shirley agent in turn felt that some tenants, such as Shaw and Kelly, could 'easily pay and could have paid long ago'.²⁴⁷ In 1851 the *Nation*, the newspaper of Young Ireland and later chief organ of the Land League, reported that tenants on the Shirley estate who paid their rents on time received 'tickets, tea, and honorary certificates' at a 'harvest home' gathering in Lough Fea.²⁴⁸ The employment of such a strategy could encourage some tenants to pay. Sometimes fear of provoking the ire of neighbouring tenants who objected to the payment of rent prevented tenants from paying. However, this was not believed genuine on the Shirley estate in 1843; in some estate official's eyes a 'pretension of danger to themselves or property' simply facilitated tenants in defying their landlord.²⁴⁹

²⁴² Foster, *Modern Ireland*. p. 380.

²⁴³ John Gamble, *Society and manners in early nineteenth-century Ireland*, edited with an introduction by Breandán Mac Suibhne (Dublin, 2011), p. 642; Letter to John Joseph Whyte, Esq., D.L., J.P., Loughbrickland, 1879 (P.R.O.N.I., Whyte papers, D2918/3/10); Report of the Deputation of the Court of Assistants of the Drapers' Company, 1879 (Drapers' Hall, Drapers' papers, D3632/D/1/11, microfilm, acc. 16727, #617, reel 24, p. 26)

²⁴⁴ Dorian, *The outer edge of Ulster*, pp 233-34

²⁴⁵ Letter from George F. Stewart to Lord Leitrim, 19 Dec. 1878 (N.L.I., Leitrim papers, Ms 32,656)

²⁴⁶ Letter from George F. Stewart to Col. Clements, 9 Jan. 1880, *ibid.*

²⁴⁷ Letter from John Gibbings to E.P. Shirley Esq., 30 Apr. 1881 (P.R.O.N.I., Shirley papers, D3531/C7/1)

²⁴⁸ 'How the landlords get on', *Nation*, 1 Nov. 1851. Thanks to Karol Mullaney-Dignam (NUI Maynooth) for highlighting this.

²⁴⁹ Extracts of Mr Gibson's letter, Dublin, 5 May 1843 (P.R.O.N.I., Shirley papers, D3531/C/3/5)

Temperament was also a factor taken into account with respect to rent payment. Idleness, once again, was identified as responsible for failure to pay rent. The Marquess of Sligo singled this out as the cause for low receipts in 1881.²⁵⁰ Perceptions of tenant behaviour could influence how matters in relation to the non-payment of rent would be handled. In 1883 Gibbings noted that ‘Murphy is a very decent young man and [we] should be sorry for him, Curtis is an idler’.²⁵¹

Miscellaneous non-contractual privileges - abatements and arrears

When tenants requested either a reduction in rent, or time to pay, they were often greeted with refusals. Tenants on the Farnham estate could be informed in the following terms: ‘I cannot interfere’, ‘cannot comply’, and ‘I will take no excuse’. Some tenants were even advised that if rent was too high they ‘must sell up’.²⁵² Other tenants proved somewhat more fortunate. Terminology frequently employed by tenants in such requests included appeals for a ‘remittance’, an ‘allowance’, or ‘indulgence’. The supplicatory nature of these requests belies the fact that, for many tenants, the receipt of time to pay, or a reduction, was not perceived as a privilege but as a customary right due to the frequency with which they were often dispensed.²⁵³ Described by Clark as miscellaneous non-contractual privileges, the system of permitting abatements and arrears was radically altered following the introduction of The Land Law (Ireland) Act 1881 and the Arrears of Rent (Ireland) Act 1882 respectively.

Abatements

Appeals for rent reductions – or abatements – proved the most numerous request made by tenants in relation to rents throughout the nineteenth century. Individual tenants could entreat the landlord either through the written word or verbally. Alternatively, tenants could group together to plead their case; either peaceably through forming deputations or sending group memorials, or alternatively gathering

²⁵⁰ Letter from the 3rd Marquess of Sligo to ‘My dear sir’[Sidney E Smith], 22 Jan. 1881 (N.L.I., Westport papers, MS 41,001/34)

²⁵¹ Letter from John Gibbings to S.E. Shirley Esq., 2 Jan. 1883 (P.R.O.N.I., Shirley papers, D3531/C7/1)

²⁵² Summaries of applications, 1832; 1842; 1844; 1846; 1847 (N.L.I., Farnham papers, MS 3,117-3,118)

²⁵³ Clark, *Social origins*, p. 180.

spontaneously and actively demanding that the landlord address their plight.²⁵⁴ Some tenants even wrote to newspapers in order to strengthen their case for an abatement.²⁵⁵ Abatements could be given individually or collectively. Sometimes tenants were notified about rent allowances through their local newspapers. In 1881 a notice from the agent Charles N. Tisdall was printed in the *Conservative Northern Standard* highlighting to the public rent reductions on the Castleshane and Gould Lucas Estate.²⁵⁶ Abatements could be granted unconditionally, or with stipulations attached, such as a reduction in rent if the tenant paid on time. However, with respect to the former, some tenants failed to trust the landlord to give an abatement unconditionally and refused to sign any document to avail of a reduction.²⁵⁷ On the Farnham estate abatements of two guineas per acre, or a 25 per cent reduction, were granted during the 1850s.²⁵⁸

In order to be entitled to receive a much sought after reprieve from the prompt payment of rent a tenant had to be perceived as deserving. The Westport tenantry had to ‘show special reason for a temporary abatement’.²⁵⁹ One ‘special reason’ frequently used by the tenantry was loss of stock.²⁶⁰ However, even this valid excuse did not always prove successful. In 1850 Baron Farnham stated that he was no longer willing to ‘listen to such an excuse’. He believed that he had supported the tenants enough through his subscriptions to ‘numerous dispensaries and infirmaries’.²⁶¹ The financially hard-pressed were considered more favourably than their more affluent neighbours regardless of climatic or economic considerations.²⁶² In 1870 the Drapers’ Deputation stated that those possessing poor quality land – such as mountain holders – should receive an abatement.²⁶³ A tenant’s character and

²⁵⁴ Numerously signed petition for rent redemption, 1879 (P.R.O.N.I., Shirley papers, D3531/P/1); Petition from the tenantry of Ballydown, Doughery, and Tullyear to John Joseph Whyte Esq. with respect to reductions of rent [nd] (P.R.O.N.I., Whyte papers, D2918/3/8)

²⁵⁵ Vaughan, *Landlords and tenants*, p. 63.

²⁵⁶ *Northern Standard*, 1 Jan. 1881.

²⁵⁷ Letter from John Gibbings to E.P. Shirley Esq., 2 June 1881 (P.R.O.N.I., Shirley Estate Papers, D3531/C7/1)

²⁵⁸ Summaries of applications (N.L.I., Farnham papers, MS 3,117-3,118)

²⁵⁹ Letter from the 3rd Marquess of Sligo, Westport to ‘sir’, 15 Nov. 1881 (N.L.I., Westport papers, MS 41,001/34)

²⁶⁰ Tenants such as Thomas Daly, Mr. Wilson, Thomas Tilson, and Joseph Burns all requested an abatement in rent due to loss of stock in 1859. Summaries of applications, (N.L.I., Farnham papers, MS 3,117-3,118)

²⁶¹ *ibid.*

²⁶² Letter from John Gibbings to E.P. Shirley Esq., 29 Apr. 1882 (P.R.O.N.I., Shirley papers, D3531/C7/1)

²⁶³ Report of the Deputation of the Court of Assistants of the Drapers’ Company, 1879 (Drapers’ Hall, Drapers’ papers, D3632/D/1/11, microfilm, acc. 16727, #617, reel 24, pp 27-28)

behaviour were also of significance with respect to the matter of whether to grant abatements or not. On the Westport estate ‘quiet men’ and tenants perceived to possess a good character received reductions in rent.²⁶⁴ However, the Marquess was adamant that any reductions should not result in idleness on the tenant’s part.²⁶⁵

The punctual payment of rent was also an important factor in deliberations over the provision of abatements. The Leitrim agent George Stewart decided in 1879 to allow 10 per cent on the grazing rents which were due the coming November. However, tenants who failed to pay punctually would not be entitled to avail of the offer.²⁶⁶ Several weeks later, a similar policy was adopted with respect to some of the tenants selected by the landlord. Abatements of varying levels were on offer; however once again, tenants who did not pay on time missed out on the opportunity. Tenants not on the landlord’s list were required to pay their usual rents. In an attempt to prevent disorder arising on the estate following the implementation of such a biased policy, the agent insisted that none of the tenants were to be informed of what ‘his neighbour is paying and I am most anxious that there should not be any notice in the papers on the subject of the abatement’.²⁶⁷ Yet, unsurprisingly, word of the reductions spread and discontentment arose several weeks after the strategy was implemented.²⁶⁸ Undeserving tenants, leaseholders, and judicial tenants all failed to receive abatements.²⁶⁹

Many landlords and agents saw abatements as an effective means of increasing rent receipts. During the early 1880s the Shirley agent explained to the landlord how a 10 per cent abatement would bring in more rent. He further maintained that following such a gesture tenants ‘make a wonderful struggle to pay up’.²⁷⁰ Abatements were given to ‘encourage’ tenants as long as it did not cost the

²⁶⁴ Letter from the 3rd Marquess of Sligo to Robert Powell, 17 July 1887 (N.L.I., Westport papers, MS 41,001/37); Letter from John Gibbings to E.P. Shirley Esq., 4 June 1881 (P.R.O.N.I., Shirley papers, D3531/C7/1)

²⁶⁵ Letter from the 3rd Marquess of Sligo, Westport to ‘sir’, 15 Nov. 1881 (N.L.I., Westport papers, MS 41,001/34)

²⁶⁶ Letter from George F. Stewart to Mc Culla, 27 Oct. 1879 (N.L.I., Leitrim papers, MS 32,656)

²⁶⁷ Letter from George F. Stewart to Gibson, 10 Nov. 1879, *ibid*.

²⁶⁸ Letter from George F. Stewart to Col. Clements, 28 Nov. 1879, *ibid*; Letter from John Gibbings to S.E. Shirley Esq., 4 June 1884 (Shirley papers, D3531/C7/1)

²⁶⁹ Report of the Deputation of the Court of Assistants of the Drapers’ Company, 1879 (Drapers’ Hall, Drapers’ papers, D3632/D/1/11, microfilm, acc. 16727, #617, reel 24, pp 27-28); Letter from J. Joseph Whyte to Mr James Mulligan, Tullyear, 19 Jan. 1881 (P.R.O.N.I., Whyte papers, D2918/3/11/1-76); Letter from John Gibbings to S.E. Shirley Esq., 8 May 1888 (P.R.O.N.I., Shirley papers, D3531/C7/1)

²⁷⁰ Letter from John Gibbings to E.P. Shirley Esq., 2 June 1881; Gibbings to S.E. Shirley Esq., 6 May 1883 (P.R.O.N.I., Shirley papers, D3531/C7/1)

landlord much.²⁷¹ Paradoxically, it was noted by Gibbings in 1881 that reductions could also encourage those who had money to hold back on paying.²⁷² The effect of granting abatements was not lost on estate officials. In 1879 the Leitrim agent expressed a belief that ‘tenants will accept any arrangement you make with gratitude’,²⁷³ while Gibbings felt that offering an abatement would convince the tenants ‘that you are a *very kind* landlord’.²⁷⁴

Abatements and land legislation

As outlined above, landlords and agents often used the privilege of granting abatements as a means of rewarding tenants of good character or those who possessed an entitlement in the eyes of the landlord. The 1870 land act allowed tenants to deduct county cess from their rent. Thereafter, landlords bore the expense of the charge.²⁷⁵ Abatements were not simply given in response to low rent receipts or for reasons of good will. However, the employment of abatements as an effective tool in the retrieval of rents, and in order to control the tenantry, was no longer possible after the 1881 act which allowed for fair rents to be obtained through the land courts. This effectively resulted in the judicial reduction of rents, making the landlord privilege of granting moderate rents an irrelevance. Thus, the power to grant rent reductions as a means of tenant persuasion was severely impaired after 1881. This development, and its effect on the landlord-tenant relationship, will be discussed in more depth in Chapter 6.

Through the provision of land courts, the fair rent clause of the 1881 act provided for the arbitration of rents, thereby fulfilling Parnell’s advice in 1879 to tenants to ‘go to your landlord and if he disagrees with your estimate of what the fair rent should be, ask him to appoint one man and say that you will appoint another, and they will settle it between them’.²⁷⁶ In rural Irish society, arbitration was

²⁷¹ Letter from George F. Stewart to Lord Leitrim, 3 Dec. 1879 (N.L.I. Leitrim papers, MS 32,656)

²⁷² Letter from John Gibbings to E.P. Shirley Esq., 7 Apr. 1881 (P.R.O.N.I., Shirley papers, D3531/C7/1)

²⁷³ Letter from George F. Stewart to Lord Leitrim, 30 Sept. 1879 (N.L.I., Leitrim papers, MS 32,656)

²⁷⁴ Letter from John Gibbings to E.P. Shirley Esq., 26 May 1881 (P.R.O.N.I., Shirley papers, D3531/C7/1)

²⁷⁵ Breathnach, *The Congested Districts Board*, p. 12.

²⁷⁶ Lyons, *Parnell*, p. 87; In Scotland the 1886 Crofter’s Act was modelled on the 1881 Irish land Act. A Crofters’ Commission was also established for the creation of ‘fair rents’. Ewen A. Cameron, ‘Communication or separation? Reactions to Irish land agitation and legislation in the Highlands of Scotland, c. 1870-1910’ in *English historical review*, cxx, no. 487 (2005), pp 633-66; Ewen A. Cameron, ‘Land for the People? The British Government and the Scottish Highlands, c. 1880-1925,

traditionally linked with notions of popular justice – a matter which be discussed in greater detail in Chapter 3. The land courts ushered judicial rents into the Irish rental system. However, by letting land for just under a year, landowners avoided the fair rent clauses of the 1881 land act.²⁷⁷

Arrears

Landlords in Ireland had long tolerated the accumulation of several years' arrears and had avoided issuing final ejectment notices, as such an action would effectively demonstrate that all arrears were 'irrecoverable'.²⁷⁸ Clark argued that the miscellaneous non-contractual privilege of granting arrears (or the 'hanging gale' or six-month credit), 'augmented the landlord's power over his tenants'.²⁷⁹ This was in evidence in Charles Joseph Kickham's (1828–82), *Knocknagow or The homes of Tipperary* where one landlord called Stubbleton let tenants run into arrears claiming that then 'twas easy to manage them. They gave up one by one'.²⁸⁰ However, Dorian also claimed that before the famine oftentimes the landlord's favorites were allowed to fall into arrears – for years in some cases.²⁸¹ Significantly, tenants who failed to pay their full rent on time were referred to as 'Irish' tenants and tenants who paid on time as 'English' tenants – regardless of nationality or ethnicity.²⁸² Maria Edgeworth (1768–1849), novelist and educationist, described both tenants as follows and it is worth quoting the entire definition:

An English tenant does not mean a tenant who is an Englishman, but a tenant who pays his rent the day that it is due. It is a common prejudice in Ireland, amongst the poorer classes of people, to believe that all tenants in England pay their rents on the very day when they become due. An Irishman, when he goes to take a farm, if he wants to prove to his landlord that he is a substantial man, offers to become an English tenant. If a tenant disoblige his landlord by voting against him, or against his opinion, at an election, the tenant is immediately informed by the agent that he must become an English tenant. This threat does not imply that he is to change his language or his

review by Richard J. Finlay' in *Albion: A Quarterly Journal Concerned with British Studies*, xxix, no. 3 (Autumn, 1997), pp 549-550; Anne Maire Tindley, 'The Sutherland Estate, c 1860-1914: aristocratic decline, estate management and land reform' (Ph.D. thesis, University of Edinburgh, 2005), p. 50;

²⁷⁷ Curtis, *Depiction of eviction*, p. 296.

²⁷⁸ *ibid.*, p. 14.

²⁷⁹ Clark, *Social origins*, p. 166.

²⁸⁰ Charles Joseph Kickham, *Knocknagow or The homes of Tipperary* (Dublin, 1978), p. 315

²⁸¹ Dorian, *The outer edge of Ulster*, p. 236.

²⁸² Greig, *General report*, p. 154.

country, but that he must pay all the arrear of rent which he owes, and that he must thenceforward pay his rent on that day when it becomes due.²⁸³

Both terms were used on the Farnham estate during the 1840s. In 1843 Mr. Saunderson was informed by Baron Farnham that he ‘must in future be punctual in paying up as an English tenant’. A few years later Thomas Kemp requested to be ‘made an English tenant’.²⁸⁴

Within the Irish rental system a concept known as the ‘hanging gale’ evolved which, in effect, was an inbuilt system which permitted tenants to renege on the payment of their rents for a period of six months, thereby allowing them to glean the profits from the sale of their crops or stock in order to pay their rent.²⁸⁵ However, although it acted as a respite for tenants, it also increased a landlords’ hold over them. In 1812 the economist Edward Wakefield stated that the ‘hanging gale’ was ‘one of the great levers of oppression by which the lower classes are kept in a kind of perpetual bondage’.²⁸⁶ The hanging gale permitted landlords to obtain instant possession of a holding as opposed to the issuing of a notice to quit, which allowed tenants a reprieve of six months before they could be ejected.²⁸⁷

While landlords frequently granted some respite on the matter, a specific deadline – usually within the coming year – was marked as the new due date for the rent.²⁸⁸ Tenants who failed to fulfil these new obligations were subsequently confronted with one of two options – face eviction or sell up. Regardless of the firmness with which landlords clung to these newly appointed deadlines, there is also evidence that some landlords and agents accepted rents after the extended cut off point. However, such fortunate tenants were reminded how this magnanimity on the landlord’s part would not be repeated. Tenants who paid within the expanded time frame were often given a further incentive for their promptness of having previous arrears forgiven.²⁸⁹ Tenants who requested an extension were often granted until the

²⁸³ Maria Edgeworth, *Castle Rackrent*, edited with an introduction by George Watson (Oxford, 1980), pp 103-04; English tenants and English principles are also referred to in George Pellew, *In castle and cabin; or, Talks in Ireland in 1887* (New York; London, 1888), p. 197.

²⁸⁴ ‘Applications and Replies’, 1837-1860 (N.L.I., Farnham papers, MS 3118)

²⁸⁵ Curtis, *Depiction of eviction*, p. 16.

²⁸⁶ Edward Wakefield, *An account of Ireland, statistical and political* (London, 1812), p. 244.

²⁸⁷ Curtis, *Depiction of eviction*, p. 16.

²⁸⁸ These usually occurred at landmark periods of the year such as the commencement of particular seasons e.g. Michaelmas, or a specific month. Summaries of applications (N.L.I., Farnham papers, MS 3,117-3,118)

²⁸⁹ *ibid.*

next fair day.²⁹⁰ Similar to abatements, behaviour also played a part in determining who would be granted an extension, or ‘time’, for rent payments. In 1852 Widow Montgomery was refused an extension as Farnham believed that ‘her conduct does not entitle her to any consideration from me’.²⁹¹

Sometimes tenants who were in arrears were reprimanded. In 1881 the agent Gibbings contemplated whether tenants in arrears on the Shirley estate ought not to get lime at the going rate for tenants.²⁹² He also refused to take less than a year’s rent from those who went into the arrears courts.²⁹³ On other occasions, it was believed that a little amount of force would result in the retrieval of outstanding arrears. In 1844 a total of 262 ejectment processes were served for arrears on the Shirley estate without, as Trench maintained, ‘opposition or annoyance’.²⁹⁴ In 1881 the Drapers deputation decided that in ‘many cases there seemed reason to think that the tenants could and would pay if pressed to do so’. Consequently Mr. Allen, the agent, and the bailiffs were instructed to visit tenants and ‘urge them to pay’.²⁹⁵ However, the problem of arrears on all divisions of the Drapers’ holding remained, compelling the deputation in 1884 to take out ejectment proceedings on all tenants with the belief that the tenants ‘must be either willfully withholding payment or hopelessly embarrassed’.²⁹⁶

Distrain/driving

Another legal method employed to impel tenants to clear their arrears was through distraint. A court-ordered ‘distress’ or distraint authorized (without any period of notice), ‘the seizure of non-perishable and restorable assets such as livestock, crops, or chattels that would be impounded’ at the tenant’s expense until all arrears were cleared.²⁹⁷ Under the Brehon Laws (which will be discussed further in Chapter 3),

²⁹⁰ Letter from J. Joseph Whyte to Mr James Mulligan, Tullyear, 19 Jan. 1881 (P.R.O.N.I., Whyte papers, D2918/3/11/1-76)

²⁹¹ Summaries of applications (N.L.I., Farnham papers, MS 3,117-3,118)

²⁹² Letter from John Gibbings to E.P. Shirley Esq., 14 Apr. 1881 (P.R.O.N.I., Shirley papers, D3531/C7/1)

²⁹³ Letter from John Gibbings to S.E. Shirley Esq., 28 June 1883, *ibid.*

²⁹⁴ These tenants were reinstated as caretakers. ‘Statement concerning measures taken for recovery of rent’, Trench to Shirley, 23 Sept. 1844 (P.R.O.N.I., Shirley papers, D3531/C/3/5)

²⁹⁵ Report of the Deputation of the Court of Assistants of the Drapers’ Company, 1881 (Drapers’ Hall, Drapers’ papers, D3632/D/1/13, microfilm, acc. 16727, #617, reel 24, pp 5-6)

²⁹⁶ Report of the Deputation of the Court of Assistants of the Drapers’ Company, 1884 (Drapers’ Hall, Drapers’ papers, D3632/D/1/14, microfilm, acc. 16727, #617, reel 24, p. 9)

²⁹⁷ In such instances eight days grace was granted for the payment of outstanding rents. A tenants’ interest could also be sold at a sheriff’s public auction. Curtis, *Depiction of eviction*, pp 16-17; Clark,

the Law of Distress also permitted the seizure of personal chattels or moveable property. According to that law, ‘if a person wished to enforce a claim against another, he made a seizure on the defendant’s goods, his object in so doing being to compel him to satisfy the claim, or else go voluntarily before a Brehon to have the dispute decided by him’.²⁹⁸ Civil bill processes were served against a person’s belongings. The cost of a civil bill decree for the distraintment of goods was *7s 6d*.²⁹⁹ On the Leitrim estate in the 1840s notices of distress were served on tenants such as James Maguinis of Rouskeyamona for two half years rent totaling £13 16s 10*d* and on Widow Ellen Reynolds for a half years rent £6 15s 0*d*.³⁰⁰ From 1832 onwards, the law stipulated that a sheriff was the only person authorised to distrain.³⁰¹ Stock (a form of capital in agricultural societies) was also apprehended through ‘driving’, whereby animals would be taken from the holding and impounded by the landlord.

Even a cursory glance at the Devon Commission will reveal that driving was frequently employed for rent recovery before the famine. A distiller from Monalty argued that distraint was ‘a rod held over the heads of the tenants, and used as a stimulus more than the means of recovering rent’.³⁰² Prevalent on the Shirley estate during Mitchells’ agency, driving could cost a tenant 1s.³⁰³ Through the concealment of distrained produce and boycotting their auction, along with the pursuit of legal proceedings in order to obtain a replevin (an action for the recovery of goods or chattels wrongfully taken or detained) tenants could challenge this harsh rent collection strategy.³⁰⁴ Trench stated that tenant defiance against the practice of driving on the Shirley estate was ‘one of the few means of opposition in their power’, although he also noted how little it was used during his tenure and that tenants freely bid for distrained goods, a ‘marked sign of the submission and

Social origins, p. 29.

²⁹⁸ John A. Costello, ‘The Leading Principles of the Brehon Laws’ in *Studies: An Irish Quarterly Review*, ii, no. 8 (Dec., 1913), p. 419.

²⁹⁹ ‘Observations on the several remedies capable of being adopted, for receiving of rents’, Gibson, 24 Apr. 1843 (P.R.O.N.I., Shirley papers, D3531/C/3/5)

³⁰⁰ Notice for Distress (N.L.I., Leitrim papers, MS 33,818)

³⁰¹ Clark, *Social origins*, pp 29-30.

³⁰² Testament of McEvoy Gartlan, The Devon Commission, p. 917.

³⁰³ Testaments of Edward Mc Cabe, farmer farney, and Rev William Thompson, The Devon Commission, pp 915, 919; James Godkin, *The land-war in Ireland: a history for the times* (London, 1870), pp 376-77.

³⁰⁴ ‘Schedule of the names’ (N.L.I., Leitrim papers, MS 33,832); The case arose from the distraint of a horse and a cow by the 2nd Marquess’s bailiffs for arrears of rent. Malley challenged the distraint and was granted a replevin. James Malley v 2nd Marquess and others [circa 1830s] (N.L.I., Westport papers, MS 40,976/1); Clark, *Social origins*, p. 29.

obedience of the tenantry'.³⁰⁵ Despite the fact that when he arrived on the estate he deplored 'the 'general harassing of the multitude' through the service of notice to quit and distraint orders', later in his tenure Trench seemed to favour these methods for 'the more effectual recovery of rent and especially of the arrear'.³⁰⁶

Arrears and land legislation

The 1882 arrears act had a significant impact on Clark's so called miscellaneous non-contractual privilege of permitting arrears. Described by Vaughan as 'the most original and sensible piece of land legislation passed', the provisions of the 1882 act nullified the clause in act of 1881 which stipulated that tenants with leases or in arrears could not enter the land courts.³⁰⁷ It also rectified somewhat (and made an irrelevance) the fact that the 1870 act excluded tenants in arrears from receiving compensation for disturbance. Confining itself to holdings of less than £30 by Griffith's valuation, the 1882 act ruled that 'the tenant should pay one-third the amount he owed the landlord; that the government should also out of the public treasury pay one-third to the landlords; and that the landlords should forego the remaining one-third'.³⁰⁸ Subsequently, arrears of £1.8 million and this landlord privilege were dissolved.³⁰⁹ According to Gibbings the arrears act was 'doing an immensity of harm'. He noted how 'tenants come in every office day asking about the arrears act'. He believed its enactment was 'very unfair towards the landlords and the decent tenants who have paid all along' and that many 'honest' tenants felt as if they had been badly treated.³¹⁰

Conclusion

The rise in popular demands for tenant-right in the early 1850s coincided with the introduction of the 1848 and 1849 encumbered estates acts which marked a watershed in landlordism in Ireland. By removing many cumbersome legalistic

³⁰⁵ Testament of William Steuart Trench, The Devon Commission, p. 933; 'Statement ... recovery of rent' (P.R.O.N.I., Shirley papers, D3531/C/3/5)

³⁰⁶ Causes of Complaint' (P.R.O.N.I., Shirley papers, D3531/S/55); 'Statement concerning' (P.R.O.N.I., Shirley papers, D3531/C/3/5)

³⁰⁷ Vaughan, *Landlords and tenants*, p. 225.

³⁰⁸ Comerford, 'The land war', p. 50; P. W. (Patrick Weston) Joyce, A.M. Sullivan, and P.D. Nunan, *Atlas and cyclopedia of Ireland: a comprehensive delineation of the thirty-two counties, The story of Ireland* (New York, 1900), p. 269.

³⁰⁹ Vaughan, *Landlords and tenants*, p. 209.

³¹⁰ Letter from John Gibbings to E.P. Shirley Esq., 16 May 1882; 1 June 1882; 5 July 1882; 5 Nov. 1882 (P.R.O.N.I., Shirley papers, D3531/C/7/1)

obstacles, the government facilitated the right to sale for landlords. In 1881 Gibbings felt that they ‘must trust to the law of the land’.³¹¹ However the law of the land was altering radically through legislative initiatives adopted at Westminster. The Devon Commission (1843-1845), established to investigate the system of land tenure in Ireland, consisted of a group of commissioners who were landlords. Opposition against the curbing of the discretionary rights of property and condemnation of tenant-right as a violation of those rights resulted in paralysis following the Commission’s report.³¹² From Gladstone’s Land and Tenant (Ireland) Bill, the principles of free contract and *laissez-faire* were compromised.³¹³ Although in framing the 1870 act, Gladstone had refused any ‘unwarrantable interference with landlords’ property rights’, subsequent legislation not only interfered with, but eradicated, these supposed indefeasible rights.³¹⁴ The introduction of the land courts, in particular, challenged the rights of landlords to set rent levels on their own estates. The Purchase of Land (Ireland) Act 1885 (Ashbourne Act), an amending act in 1888, the 1891 Land Purchase Act, and arguably most importantly, the 1903 Wyndham Act, subsequently ‘resolved’ the tenant-right question; and through financial incentives, encouraged landlords to discard of their estates. Significantly, through the sale of their estate any remaining property rights held by landlords were relinquished.

Findings from the estates examined reveal many similarities in estate management practices. Prior to the enactment of legislation such as the 1870 and 1881 land acts landlords, such as the Marquess of Sligo and the Drapers’ Company tried to avoid eviction through litigation. Notices to quit were often simply used to threaten tenants or as an estate management tool. Thus, the removal of tenants without the assistance of the courts generally passed off more peacefully than legally initiated ejectments. Several of the landlords under study (including the Earl of Leitrim, Lord Shirley, and the Marquess of Westport) emphasized respectability and good character as necessary qualities in potential tenants. These qualities were also taken into consideration on the Leitrim, Shirley, and Westport estates when the non-payment of rent occurred: generally ‘good’ tenants paid, while ‘bad’ tenants failed to

³¹¹ Letter from John Gibbings to E.P. Shirley Esq., 21 Apr. 1881 (P.R.O.N.I., Shirley papers, D3531/C7/1)

³¹² Thomas P. O’Neill, ‘The Irish Land Question, 1830-1850’ in *Studies: An Irish Quarterly Review*, xliv, no. 175 (Autumn, 1955), p. 331.

³¹³ Jackson, *Ireland*, p. 107.

³¹⁴ Winstanley, *Ireland and the land question*, p. 37.

do so, regardless of economic circumstances. Tenant character also determined whether they would ‘deserve’ to obtain an abatement or time to clear their outstanding rent balance. The absence of specific laws dealing with rental relations facilitated a continuation of aspects of customary relations based on reciprocal obligation on some Irish estates.

The enactment of new laws signalled a desire on the part of the government to abolish the system of landlordism. While some landlords attempted to undermine parts of the legislation (such as after 1870 when some landlords and agents drafted leases to ensure tenants were prevented from claiming for compensation), the march of the law proved unstoppable. The supposed dual relationship between landlord and tenant no longer legally existed. It had evolved into a tripartite association between landlord, government and legal officials, and tenants. Napier’s third bill – the Landlord and Tenant Bill – and subsequently Deasy’s Act, challenged landlord control over rental matters through a favouring of relations of a contractual, rather than, customary nature.³¹⁵ In the process, landlords lost much of the power their exerted over their tenants within the estate rental system due to the state’s failure to recognise any form of estate management based on tradition or custom. In turn, the primacy and importance of a tenant’s ‘character’ became obsolete in landlord-tenant rental relations. The new order that was emerging and being propelled by government acts was fast obliterating the old order (or *ancien regime* character) of Irish landed estate relations. Simultaneously, as non-contractual privileges were becoming an irrelevance, so too were discriminatory non-contractual obligations with respect to tenant welfare losing authority on estates, as the following chapter will demonstrate.

³¹⁵ Shields, *The Irish Conservative Party*, pp 42-43.

Chapter 2

Customary rights of assistance to deserving tenants? Tenant Welfare and Social Order

‘Nor is it in mere matters of *good faith* alone that the proprietor or managers ought to set an example to the tenantry: endeavours should be used to liberalise their minds by good offices and acts of kindness ... and to make known to the whole that their conduct is observed and distinction made between good and bad occupiers’.

Stated in 1821 by William Greig in his *General report on the Gosford estates in county Armagh*, p. 167

‘The landlords have a heavy burden, and if the burden cannot be removed, it is right that they should be heard’.

Declared by Asenath Nicholson in 1849 in her *Annals of the famine in Ireland*, p. 193

‘Most of the emigrants were Presbyterians. “The Catholic” in contrast, rarely emigrated: “to him the evil of the times is slight for he nor his ancestors ever knew a much better manner of living...”’

John Gamble, *Society and manners*, p. lvi commenting in 1818

In 1838 Thomas Drummond (1797-1840), engineer and public servant, stressed that ‘property had duties as well as rights’.³¹⁶ The view that members of the landed class failed to adequately provide for the welfare of their tenants was a commonly held contemporary opinion. In 1847 the *Illustrated London News* reported, according to Donnelly, that ‘little or nothing’ was forthcoming from the propertied classes in Ireland due to a lack of legal obligation, while the *London Times* emphasized their extravagant spending in relation to leisure pursuits.³¹⁷ While the 1847 Poor Law Amendment Act generally has been recognised as the embodiment of Drummond’s timely declaration, long before explicit welfare policy was introduced Irish landlords contributed – to varying degrees – towards the welfare of their tenantry.³¹⁸ In turn, many tenants perceived a real role for estate authorities in this regard. David Spring argued that the social leadership role frequently adopted by the landlord was a traditional one, highlighting the long standing patriarchal nature of their position in rural society.³¹⁹ F.M.L. Thompson described the contemporary context in Britain in which elite members of society adopted a paternalist sentiment in inter-class relations in order to exert a significant measure of social control over the lower classes. He concluded ‘if social control is used simply as another name for law and order it is scarcely a great leap forward’.³²⁰

The granting of relief on some Irish landed estates operated as part of an estate management policy which encompassed both notions of a tenant customary right to assistance and the politicisation of tenant welfare as a means of ordering tenants. This chapter will argue that Irish tenants were in a position to obtain pecuniary assistance, both to alleviate poverty or for emigration, as long as they adhered to estate rules. That they were entitled to ask for such assistance and that landlords often provided aid is not in doubt. However, a greater understanding of the motives behind this form of landlord-tenant interaction is required. Drawing and elaborating on Terrence McDonough and Eamonn Slater’s theory of non-contractual obligations, this study will consider landlord obligations with respect to the welfare of their

³¹⁶ Foster, *Modern Ireland*, p. 295.

³¹⁷ James S. Donnelly, Jr., ‘“Irish Property Must Pay for Irish Poverty”’: British Public Opinion and the Great Irish Famine’ in Chris Morash and Richard Hayes (eds), *Fearful realities’: new perspectives on the famine* (Dublin, c1996), pp 60, 67.

³¹⁸ *ibid.*

³¹⁹ Spring, *The English landed estate*, p. 182.

³²⁰ F.M.L. Thompson, ‘Social Control in Victorian Britain’ in *The Economic History Review*, xxxiv, no. 2 (1981), pp 190-91, 99.

tenantry. Through a consideration once again of Gibson and Blinkhorn's 'aspects of authority', this chapter will examine what relationship, if any, existed between the practice of the granting of financial assistance to the tenantry and patronage and clientalism. The latter was a system which tied the poor to the wealthy. Specifically, this chapter will examine the relationship between tenant welfare and tenant tactical leverage with respect to pecuniary relief and emigration assistance requests from 1815-1891.

Tenant welfare and order

Landed interest in the lives and welfare of the tenantry was not merely motivated by altruistic concerns. The optimal welfare of the tenantry was desirable as it contributed towards increased social order and control on the estate. In their non-contractual obligations theory, McDonough and Slater illustrated how tenants were subjected to a series of estate rules in addition to standard contractual obligations. Tenants were frequently obliged to seek the landlord's permission to marry, were forbidden to permit overnight hospitality, were compelled to send their children – regardless of religious allegiance – to Protestant schools, were charged fines for the setting of snares and traps, and were expected to honour the secrecy of landlord-tenant dealings. During Alexander Mitchell's tenure as agent on the Shirley estate, it was believed that he frequently arranged marriages between tenants – should either party decline they would have to give up their land.³²¹ While McDonough and Slater argued that Irish social formation during this period was feudal in character due to the colonial relationship between Ireland and Britain, they maintained that it did not introduce any customary rights to Irish tenants. They concluded that 'social control over the tenantry was not in essence a mere contractual relationship'.³²² Donnacha Seán Lucey also argued that due to the absence of a poor law in Ireland before 1838 customary rights to assistance were 'largely non-existent'. Additionally, he highlighted the politicisation of the granting of relief by landlords during the Land War and explained how the distribution of relief was often used as a form of patronage: 'decisions about who was entitled to relief were often arbitrary and based

³²¹ Godkin, *The land-war*, p. 366.

³²² Eamonn Slater and Terrence Mc Donough, 'Colonialism, feudalism and the mode of production in nineteenth-century Ireland' in Terrence Mc Donough (ed.), *Was Ireland a colony? Economics, politics, and culture in nineteenth-century Ireland*, pp 32-33, 40, 43.

on a range of social dynamics and underlying personal relationships'.³²³ This chapter will show how relief operated, not only as a form of patronage, but also as a coercive tool in the decades before the Land War.

Petitions

A landlord could intercede and interfere in the lives of his tenantry to a substantial extent and often at the behest of the tenants themselves. In relation to the Shirley estate, Patrick Duffy argued that the 'many of the hundreds of petitions in the 1840s point to the important role played by the estate in providing a minimal amount of social welfare, at a time when central and local authorities made little contribution in this area'.³²⁴ Petitions from tenants generally came in the form either of written requests, which were handed to an estate employee, or through verbal supplication. Applications made by post to Lord Farnham were not acceptable, as Phill Reynolds discovered in 1850.³²⁵

Written petitions functioned as a conveyer of tenant distress from a safe enough distance to ensure that the codes and norms of interaction between the various social classes were not unduly trespassed on. The anonymity of such correspondence detached the recipient from the full extent of the supplicant's plight, while also removing them from any personal sense of obligation. Evidently receiving requests in ink was preferable to actually facing crowds of beggars. Although the wife of Colonel Clements noted how the vast amount of petitions arriving to the estate were 'past counting', she felt 'it was very puzzling how to get rid of them. Giving money away would have made a precedent'. Instead, she appeared rather to favour humouring the crowd by 'promising to remember their wants, and shaking hands all round, the[y] gradually went home through the day'.³²⁶ Deferential and humble in tone, these missives appear to represent tenants as relatively powerless and lacking agency.³²⁷ Lynn Hollen Lees has shown that while 'humble deference

³²³ Donnacha Seán Lucey, 'Power, politics and poor relief during the Irish Land War, 1879-82' in *Irish Historical Studies*, xxxvii, no. 148 (2011), pp 587-598.

³²⁴ Duffy, 'Assisted emigration', p. 15.

³²⁵ Summaries of applications (N.L.I., Farnham papers, MS 3,118)

³²⁶ Malcomson, *Virtues of a Wicked Earl*, pp 347-48.

³²⁷ Petitions were commonly employed by members of the lower orders to beseech assistance from powerful groups in society. Emigrants who left the estate often wrote back to the landlord requesting assistance in a similar manner. See Lynn Hollen Lees, *The solidarities of strangers: the English poor laws and the people, 1700-1948* (Cambridge, 1998), pp 166-67: Petitions similar in style were also often sent by convicts to the lord lieutenant appealing for a mitigation of their sentence. Like tenant

seems to have been the most common stance taken by applicants for aid ... it was tempered by firm assertions of need and entitlement, as well as occasional threats to cause trouble if they were not satisfied'.³²⁸ Requests frequently adopted 'vocabularies of Christian virtue, human compassion, and self-interest that could be brought to bear on reluctant overseers'.³²⁹

Poverty

Poverty was a pervasive problem in early nineteenth century Irish society. Niall Ó Ciosáin highlighted how inquiries into Irish poverty during the 1830s aptly demonstrated the breadth of the problem.³³⁰ Pauperism was believed to be related to sin and, therefore, should be punished accordingly.³³¹ Prior to state intervention an 'economy of makeshifts' was in operation, which fundamentally meant that a variety of strategies were employed by the poor in order to make ends meet.³³² Funding for the needy was derived from private subscriptions from the local wealthier classes of society including the landed class.³³³ However, indiscriminate beneficence was perceived to have encouraged 'idle and disorderly conduct' among the poor.³³⁴ A view that thoughtless financial assistance to the destitute could result in frivolous expenditure also persisted, with a belief voiced in some quarters that some would 'only squander it upon tobacco and such like'.³³⁵ Although findings from the poor law inquiries suggested that relief of the poor in Ireland was indiscriminate, Ó Ciosáin argued that a pre-existing 'well-defined category of undeserving poor within

petitions, these requests emphasized instances of good character. See Richard McMahon, "Let the law take its course": punishment and the exercise of the prerogative of mercy in pre-famine and famine Ireland' in Michael Brown and Seán Patrick Donlan (eds), *The laws and other legalities of Ireland, 1689-1850* (Surrey, 2011)

³²⁸ Hollen Lees, *The solidarities of strangers*, p. 169.

³²⁹ *ibid.*

³³⁰ Niall Ó Ciosáin, 'Bocoughs and God's poor: deserving and undeserving poor in Irish popular culture' in Taghgy Foley and Sean Ryder (eds), *Ideology and Ireland in the nineteenth century* (Dublin, 1998), pp 94, 98; *First report from his majesty's commissioners for inquiring into the condition of the poorer classes in Ireland, with appendix (A) and supplement*, H.C. 1835 (369), xxxii, pt i.1, xxxii, pt ii.1; *Second report of the commissioners for inquiring into the condition of the poorer classes in Ireland* [68], H.C. 1837, xxxi, 587; *Third report of the commissioners for inquiring into the condition of the poorer classes in Ireland* [43], H.C. 1836, xxx.1; *Report of the Commissioners appointed to take the census of Ireland for the year 1841*, H.C. 1843 (504), xxiv.1

³³¹ Lucey, 'Power, politics and poor relief', p. 592.

³³² The descriptor 'economy of makeshifts' was coined by Olwen Hufton during the 1970s. Steven King and Alannah Tomkins (eds), *The poor in England, 1700-1850: an economy of makeshifts* (Manchester, 2003), p. 1.

³³³ *First report ... poorer classes in Ireland*, p. 231.

³³⁴ Godkin, *The land-war*, pp 275-76.

³³⁵ 'Causes of Complaint stated, and certain alterations suggested in reference to the management of the Shirley Estate', Trench, 11 July 1843 (P.R.O.N.I., Shirley papers, D3531/S/55)

popular culture and within Gaelic culture’ reflected contemporary official thought concerning social welfare policy in Europe. The Catholic clergy also conformed to, and reinforced, an ideology of undeserving poor.³³⁶ Unremarkably, landlords also followed a similar line of thought.

During the 1820s, oftentimes it was left to members of the landed gentry to obtain and administer relief to the poor. In 1821 the grand jury in Monaghan utilised government funds to provide famine relief to the local stricken. The jury was composed of members of the landocracy – including Humphrey Evatt, land agent to the Shirley estate.³³⁷ In 1822 when famine struck many parts of the country the responsibility for relief primarily took the form of charity and landlord donations. In 1822, the Marquess of Sligo was informed how ‘the state of distress of Ireland is beyond description. The whole of the population now supported by charity’.³³⁸ In Paris, the 2nd Earl of Leitrim received similar news.³³⁹ In 1822 the Drapers’ estate ‘resolved and ordered unanimously that the sum of £200 be subscribed out of the cash of this company in aid of the funds now raising for the relief of the distressed districts in Ireland’.³⁴⁰ During this period it was the responsibility of the estate to maintain order in the face of the disorder which arose of the ravages of hunger. While the famine of 1822 placed a severe strain on tenants, with many estate authorities become both financially invested in the welfare of their tenantry, distress continued to be a feature of Irish rural society in the subsequent decade.³⁴¹

Relief

1830s – Landlord assistance before the poor law

Prior to the introduction of the poor law in 1838 the government appeared content to let landed proprietors maintain primary responsibility for the welfare of their

³³⁶ See Ó Ciosáin, ‘Bocoughs and God’s poor’, pp 95-96, 98-99.

³³⁷ Peadar Livingstone, *The Monaghan story: a documented history of the county Monaghan from the earliest times to 1976* (Enniskillen, 1980), p. 184.

³³⁸ Letter from London to the Marquess of Sligo (addressed to ‘My Dear Nephew’), 14 May 1822 (T.C.D., Special Collections, MSS 6403)

³³⁹ Letter from Austin Cooper (Land agent), Dublin to Leitrim, Paris, 5 Aug. 1822 (N.L.I., Killadoon papers, MS 36,064/11)

³⁴⁰ Drapers’ Company, Court of Assistants Minutes, Jan. 1820 to July 1824, Thursday 13 May 1822 (Drapers’ Hall, Drapers’ papers, MB 38, p. 173)

³⁴¹ Letter from London, to the Marquess of Sligo, (addressed to ‘My Dear Nephew’), 14 May 1822 (Trinity College, Special Collections, MSS 6403); Letter from Austin Cooper, Dublin, to Leitrim, Paris, 5 Aug. 1822 (N.L.I., Killadoon papers, MS 36,064/11); Drapers’ Company, Court of Assistants Minutes, Jan. 1820 to July 1824, Thursday 13 May 1822 (Drapers’ Hall, Drapers’ papers, MB 38, p. 173).

tenantry. Oftentimes landlords themselves recognised this fact. In 1837, William Sharman Crawford (1780–1861), radical politician and agrarian reformer, wrote the following to the Reverend Jeffry Lefroy after the latter's request for landlord assistance:

I regret that it should be necessary for you to make solicitation to the landed proprietors for assistance in relieving the poor of your parish. Why is it necessary? Because you have no legal power of assessment founded on just principles as respects landlord and tenant. And why have you not that legal power? Because the nation does not energetically call for it.³⁴²

However, some collaboration between government and landlords was occurring in relation to the matter of poverty in Ireland – even before 1838. During the early 1830s, Edward Smith-Stanley was in communication with the Marquess of Sligo regarding the relief of the poor. The Marquess wrote to Stanley early in 1831 in relation to a meeting recently held in the locality concerning measures for the alleviation of the poor. He requested, should the government 'contemplate any general measures of relief of a similar nature, that their exertions may entitle them to as favourable a consideration as any other place'.³⁴³ In a series of letters in reply, Stanley informed him that the Lord Lieutenant approved of the Marquess's endeavours and two cargoes of 150 tons of potatoes were being sent to Ireland.³⁴⁴ In confidence Stanley sent a copy of an annual report which would shortly be presented in parliament relating to public works in progress in Mayo and requested that Sligo, in consultation with some of the 'gentlemen of the county', decide which works were most important and required government assistance. Stanley elaborated that he hoped 'should it be deemed expedient so far to deviate from our principle, as to take a grant upon the miscellaneous estimates for a small sum for the completion of works begun, it may be applied so as to give the greatest encouragement ...[to] local exertion'.³⁴⁵

Requests for assistance on the Farnham estate in the early part of the decade were generally granted. In 1834 single payments were given out ranging from 5s to

³⁴² William Sharman Crawford, Crawfordsburn to Whyte and Rev. Jeffry Lefroy, 8 July 1837 (P.R.O.N.I., Whyte papers, D2918/8/82)

³⁴³ Letter from Howe Peter, 2nd Marquess of Sligo, Westport to E.G. Stanley, Dublin Castle, 2 Jan. 1831 (T.C.D., Special Collections, MSS 6403)

³⁴⁴ Letter from E.G. Stanley to Howe Peter, 2nd Marquess of Sligo, 7 Jan. 1831; 4 Mar. 1831 (T.C.D., Special Collections, MSS 6403)

³⁴⁵ Letter from E.G. Stanley to Howe Peter, 2nd Marquess of Sligo, 12 Apr. 1831 (T.C.D., Special Collections, MSS 6403)

Joseph Briggs to £5 to Widow Martin, while a weekly payment of 1d was to be made to Widow Reilly for an unspecified period of time. However, by the mid-1830s, a reluctance to dispense money gratuitously was becoming more evident. Tenants who had previously received assistance, such as Philip Sheridan and Margaret Cooney (who was informed that she had obtained £5 in 1832), were told no more money would be forthcoming. Even widows – who previously were favoured for assistance – were by 1835 declined, including Widow McManus, Widow Ramsay, Widow Gormely, and Widow Lytle. Yet, in certain instances, money continued to be given to the needy – even to those like Jane Dunn and Charles Collins who had ‘no claim’.

Whether or not to grant assistance did not appear to depend on the whim, or the mood, of the landlord on the day the request was submitted. For example, on 6 April 1835 Widow Stephens received assistance, while Jane Cosgrave was declined. In the following year, tighter control of the system continued, with the landlord clearly stating that he would not give help if family members were employed. As Catherine Wilson’s husband was in employment, the landlord refused to hand out any charity.³⁴⁶ In reply to requests for assistance in 1837 ‘no’ appeared to be Lord Farnham’s favourite answer. Out of seven requests for relief only three petitioners received money, namely Elizabeth Weir, Mary Gaffney, and Elvia Irvine.³⁴⁷ The Leitrim estate took a similar stance in the same year. Lord Leitrim’s clarification on the matter is telling; ‘When I say that I am feeding them, I do not express myself quite accurately, for I do not give them food gratuitously, but I give them what is better both for them and for me - I give them work, for which I pay them to enable them to buy food’.³⁴⁸ Tenants, therefore, had to prove themselves deserving or worthy before assistance would be given.

1838 - The Poor Law (Ireland) Act and landlord relief

Developments on estates reflected deliberations at government level in relation to the welfare of paupers. A rejection of the recommendations of the Whately Commission’s Report, which advocated the commencement of large-scale public works, local provision for the elderly, ill, and lunatic poor, and state sponsored emigration, included a rejection of a proposal which ‘offered assistance to Irish

³⁴⁶ Summaries of applications (N.L.I., Farnham papers, MS 3,117-3,118)

³⁴⁷ Seven requests for assistance and all met with the answer ‘no’, 1837, *ibid.*

³⁴⁸ Letter from Lord Leitrim, Great Cumberland Place to Lady Leitrim, Killadoon, 29 July 1836 (N.L.I., Killadoon papers, MS 36,034/44)

landlords, chiefly through aiding the removal of their “surplus” estate populations, while denying any direct welfare assistance to any but the most “incapable” categories of poor’.³⁴⁹ Instead, a more modest and ‘simplistic solution’ based on the English workhouse system was enacted for Ireland.

This simplistic solution materialized in the introduction of a Poor Law (Ireland) Act in 1838 and its extension in 1843. Funded by a separate poor rate, the poor law system was administered by boards of guardians comprised both of elected ratepayers and non-elected ex-officio members who were often local landlords or magistrates.³⁵⁰ Workhouses were to be established to house the most destitute. As Altick pointed out, ‘workhouses were conducted on the assumption, widespread among the middle class, that poverty was the result of laziness alone, not of misfortune caused by hard times or other circumstances beyond the individual’s control’.³⁵¹ Echoing the belief in the inherent wickedness of the poor as sufficient reason for their misfortune, laziness was also perceived to be related to one’s confessional allegiance, with Catholics believed to be particularly susceptible to inertia (as noted in the previous chapter and a matter which will be discussed in more depth in Chapter 5).³⁵² Most significantly, its introduction signalled the Whig government’s intention to place the control of relief in Ireland in centrally-appointed Poor Law Commissioners, thereby increasing the state’s control of this area.

In 1868 John Bright claimed that had government waited ‘till the Irish landlords asked for the poor law, there would have been no poor law in Ireland now’.³⁵³ Poor law reformer and administrator George Nicholls wrote that it would prove impossible to ‘form a correct estimate of the condition of the poorer classes in Ireland, without first ascertaining the nature of the relations which existed between landlord and tenant – “the connexion between the inheritor and the occupier of the soil being one which must influence if not control the whole system of society”’.³⁵⁴ Claiming that the poor law would promote greater social accord between the state, the wealthy, and the poor, he further maintained that its operation would also encourage a greater interest among landowners in the welfare of their tenants. He argued that if a landlord was ‘compelled to furnish means for the subsistence of

³⁴⁹ Peter Gray, *The making of the Irish poor law, 1815-43* (Manchester, 2009), p. 341.

³⁵⁰ Virginia Crossman, *Local government in nineteenth century Ireland* (Belfast, 1994), pp 39, 44.

³⁵¹ Altick, *Victorian people*, p. 123.

³⁵² Crossman, *Local government*, p. 43.

³⁵³ Bright, *Speeches*, p. 308.

³⁵⁴ Nicholls, *Irish poor law*, p. 97.

persons so destitute, it then becomes his interest to see that those around him have the means of living, and are not in actual want'.³⁵⁵ In 1838 W.S. Clements (the future 3rd Earl of Leitrim) called for gentry involvement on poor law boards, in a paper entitled 'The present poverty of Ireland'.³⁵⁶ Financially, the poor law placed the onus on landlords to contribute half the poor rate on tenanted lands, while they were also expected to pay the full amount on their own lands and on lands occupied by tenants rated at or below £4.³⁵⁷

The poor law altered the nature of landlord non-contractual tenant welfare obligations. Many landlords and agents retained a significant measure of control over entitlements to assistance through their membership of boards of guardians and relief committees. However, by indirectly assisting their impoverished tenantry through the payment of poor rates, landlords were deprived of the disciplinary force they had previously exercised towards their tenants with respect to the granting of financial aid. Thereafter, the relationship between the estate and the state with respect to the alleviation of poverty assumed a new form.

Lord Farnham's resolve with respect to granting assistance to needy tenants continued to harden as the decade came to a close. The succession of the 7th Baron Henry Farnham as landlord in 1838, coupled with the introduction of the poor law, may have contributed towards this more resolute stance, which had been adopted on the estate from the middle of the decade. In that year, petitioners were frequently redirected to their immediate landlord for assistance. One tenant called McCaffrey was told to apply to his immediate landlord for relief, while Owen Brady was informed that 'Henry Hartley should relieve him'.³⁵⁸ Instead of simply receiving money from the estate, conditions were now attached to such requests. Financial assistance frequently was used to encourage tenants to quit the estate as in the case of James O'Connell, who after he requested relief, was informed that the late Lord Farnham had given him £1 to quit the estate. By the end of the decade, assistance was given only to worthy or deserving cases. Thomas Mill's request for the price of a coffin to bury his wife in 1839 was rejected, as money previously granted by the landlord had not been spent by the tenant in the manner promised.³⁵⁹

³⁵⁵ *ibid.*, p. 190.

³⁵⁶ James Quinn, 'Clements, William Sydney', DIB.

³⁵⁷ Crossman, 'The humanization of the Irish Poor Laws', p. 237.

³⁵⁸ Summaries of applications 1838 (N.L.I., Farnham papers, MS 3,117-3,118)

³⁵⁹ *ibid.*

1840s – Tenant welfare on estates before and during the Great Famine

During the early 1840s applications for assistance to Farnham continued to be rejected.³⁶⁰ Some tenants, including George Steward, were advised to dispose of their interest. Only those with a ‘claim’, or deemed ‘worthy’, were entitled to receive help from the landlord. Requests made in 1844 reveal an increasing awareness among tenants of the need to be perceived as deserving in order to benefit from the bounty of the estate. This shift is most apparent in requests for clothing. By 1844 instances of tenant appeals were couched in the language of the day and reveal an awareness of contemporary debates on the notion of the ‘deserving poor’, as previously mentioned. Tenants began to include information such as the size of their family (Philip Fitzsimons), previous acts of loyalty to the estate, e.g. being a member of militia (John Johnston), and status, such as ‘poor widow’(Alice Johnston), in their appeals. In 1845, requests made to Baron Farnham included appeals for assistance after properties were burned maliciously. Once again, no pattern is evident as to why a landlord would approve one request and decline another; John Pollock’s request was approved while Hugh Reilly’s was declined. Requests for blankets were also declined if it was felt family members could assist instead – as Ann Smith learned in 1845.³⁶¹ Tenants on the Shirley estate also made appeals for bed-clothing. Once more there is evidence of tenants providing examples of their obedience and worthiness to the landlord in petitions: ‘That your petitioner is in the greatest extremity for want of bedclothes to cover himself and his family. He had paid all rents and sold his oats in order to clear off all rents’.³⁶² Similarly, on the Westport estate, individuals in a dangerous state of illness who were deemed to be ‘an object very worthy of relief’ were given wine.³⁶³ During the nineteenth century, the perceived medicinal properties of wine resulted in its use for the treatment of a variety of ailments – not only informally in the home, but also by medical attendants

³⁶⁰ Including Edward Gilroy and Margaret Porter, *ibid.*

³⁶¹ *ibid.*

³⁶² Petition of James Callen, Box upper to William Steuart Trench Esq. 27 Feb. 1845 (P.R.O.N.I., Shirley papers, D3531/P/1)

³⁶³ Note from Mr Burke to G. Hildebrand, Monday, 3 Aug. 1842 (N.L.I., Westport papers, MS 41,032/6); a bottle of Claret at Westport house for the young nun at the Convent of Mercy (N.L.I., Westport papers, MS 41,032/5); [unclear who letter from as damaged at bottom] to ‘My dear George’ (presumably Clendinning), 13 Oct. 1842; Note from Thomas Hamilton Burke to Hildebrand, 20 Dec. 1842 (N.L.I., Westport, MS 41,032/5)

in dispensaries.³⁶⁴ Philip Langan was perceived such ‘a very great object’ [worthy of relief] that he obtained a bottle of wine both in 1842 and 1843.³⁶⁵

Unsurprisingly, requests for assistance and clothing continued to be received by Farnham during the famine years. As in previous years, the estate continued to give money directly to those in need, such as 5s to Catherine Kirk, £1 to Ann Walsh and her daughter, and 2s 6d to James Murphy. However, a notable change in estate policy was beginning to occur. In 1846 when Bernard McCaul – who had a wife in bad health and five small children to support – was granted 5s, he was also advised, in the future, to apply to the relief committee. Others proved not so fortunate and were simply ordered to go to the relief committee directly, such as James Smith and Martha Hart. Patrick Mahon was advised to apply for employment from the public works, while John Thompson was directed to go to his father for support. In 1847 tenants like Michael Briody and Patt Reilly were told to sell up. The selling of one’s interest in the holding was part of the practice of tenant right which functioned in a variety of forms on many estates throughout Ireland, as discussed in the previous chapter. The tenant’s right to receive recompense for the time and money invested in the upkeep of their farm did not translate into an automatic right to sell to either the highest bidder or the individual of their choice. When Margaret Leddy requested a blanket in 1847 she was simply informed that she had no claim. Although claiming to be in ‘great distress’ and having large families, both Mary Scarlet and James Beatty were informed that they had no claim when they requested assistance and were advised to go to the relief committee instead. Owen Connolly’s simple request for ‘assistance to procure food’ also met with the same response. While it is not elucidated in the papers what exactly ‘no claim’ referred to, some of the landlord and agent’s comments suggests that tenants who complied with estate rules and displayed good behaviour were considered to have a claim. Tenants such as John Hague failed to receive assistance, with the landlord remarking how he found the entire family ‘extremely troublesome’, while John Mackay, in turn, was informed ‘he has nothing to expect from me’.³⁶⁶

³⁶⁴ *First report ... condition of the poorer classes*, p. 231.

³⁶⁵ Note from Thomas Hamilton Burke to G. Hildebrand, 12 [Aug.?] 1842 (N.L.I., Westport papers, MS 41,032/7); Note from Thomas Hamilton Burke to Hildebrand, 21 Dec. 1843 (NLI, Westport papers, MS 41,032/5)

³⁶⁶ Summaries of applications (N.L.I., Farnham papers, MS 3,117-3,118)

Why did tenants go to the landlord for assistance rather than go directly to state sponsored resources such as relief committees and the local workhouse? This circumvention of the state system may either point towards a lack of appreciation on the tenants' part of their entitlements under the poor law system, or, alternatively, may reveal a continued reliance on quasi-feudalistic patterns and customs of care between landlord and tenant. The landlord may also have been among several others who were approached for help or simply proved the most convenient and local port of call to those in destitution. Alternatively, the stigma which many attached to entry to the workhouse, coupled with the Gregory clause which stated in the Poor Law Act of 1847 that anyone holding at least a quarter of an acre was precluded from receiving relief, may also have deterred many. In a study on the relief of the poor in Coventry, Peter Searby argued that sometimes the destitute were reluctant to apply for statutory relief due to a subsequent loss of the parliamentary franchise.³⁶⁷ John Cunningham's study of Galway during the same period drew a similar conclusion for tradesmen, who in 1865, refused both indoor and outdoor relief in order to retain their voting rights.³⁶⁸ Therefore, oftentimes tenants in need sought non-statutory relief from their landlord.

Culturally, an expectation seemed to prevail that the onus for relief rested with the landlord. Government thinking on the matter was explicitly revealed in 1849 through the introduction of the Rate-in-aid Act, which was a tax of 6d in the pound levied on all rateable property throughout the island of Ireland. The act reinforced Drummond's notion that Irish poverty had to be relieved by Irish property and also proved one of the first infringements by government on the long-standing rights of property.³⁶⁹ In 'A new song on the rotten potatoes' (1847), landlords were advised to take care of their tenants, while tenants were encouraged to turn to their landlords 'and see what they'll do'. Not only were landlords expected to shoulder the burden by the tenants, but they were also to be forced to do so if unwilling through the withholding of corn or meal for the payment of rent. A resolute stance was called for in the face of the landlord intransigence: 'If then to your wishes they will not comply,/Then tell them at once that you'd rather die, ... Sure they can't tyrannize or

³⁶⁷ Peter Searby, 'The Relief of the Poor in Coventry, 1830-1863' in *The Historical Journal*, xx, no. 2 (1977), pp 357-58.

³⁶⁸ John Cunningham, *'A town tormented by the sea': Galway, 1790-1914* (Dublin, 2004), pp 197-98.

³⁶⁹ Bright, *Speeches*, pp 323, 343.

attempt to prevail/To make you to part with either corn or meal'.³⁷⁰ Consequently, it was understood that tenants were in position to exert a measure of tactical leverage with respect to this demand from their landlords.

1850s – Landlords and non-charitable requests

Requests continued to be received in both the Farnham and Shirley estate offices for assistance during the 1850s; some of these were granted, while others were declined.³⁷¹ However, it was during this decade that a noticeable change in the type of requests for assistance presented to the landlord was in evidence; requests no longer were simply related to extreme poverty. This change may in part be attributed to the effects of the Great Famine, which removed the most insolvent tenants from estates – either through death, eviction, or emigration. In 1850 tenants began to ask Farnham for assistance to purchase stock. When John Wilton submitted this request, the surprised landlord replied how it was ‘a very extraordinary application. I have no intention of complying with it’.³⁷² However, estate policy on the matter seems to have changed over subsequent years with several tenants successfully receiving aid for stock. In 1858 Mr. McPartlan received the price of an ass, while two years later Patt Smith obtained £1 10s towards the purchase of a pony. Financial assistance was also forthcoming to James Conaughty who received 10s to buy seed potatoes. One tenant, William Mee, sought money to buy a cot and was allowed one pound in his rent for it.³⁷³ It is worth noting that assistance towards the purchase of seeds and farming implements may have formed part of an overall estate improvement policy. It is unclear whether these were loans that had to be repaid, as no record of repayment exists. The Shirley loan book 1827-45 does not allude to any repayments. During the relative prosperity of the 1850s, coupled with the now established – albeit primitive – state welfare system, subsistence living was no longer the goal of many. This development is reflected in the nature of tenant petitions during the decade.

³⁷⁰ Georges-Denis Zimmerman, ‘A new song on the rotten potatoes’ (1847) in *Songs of Irish rebellion; political street ballads and rebel songs 1780-1900* (Dublin, 1967), pp 237-38.

³⁷¹ Including Mr McPartlan (1859) and Oliver Woods (1860s). Summaries of applications (N.L.I., Farnham papers, MS 3,118); Letter from W.C. Peyton, Virginia, Co. Cavan to Abraham Brush, 24 June 1858 (N.L.I., Farnham papers, MS 11, 499); Petition from Widow Lamb, Derrynagh to Evelyn John Shirley Esq., 1853 (P.R.O.N.I., Shirley papers, D3531/C/3/8); Petition from Anne & Mary Wynne, Clontrain to Mr George Morant Esq., 20 Apr. 1854 (P.R.O.N.I., Shirley papers, D3532/C/3/8)

³⁷² Summaries of applications (N.L.I., Farnham papers, MS 3,118)

³⁷³ *ibid.*

The relationship between landlords and the poor law

Landlords assumed positions on boards of guardians, thereby continuing to exert a significant influence in the decision-making process in the granting of poor relief. The 1880 Relief of Distress Act enabled guardians to administer outdoor relief with money borrowed from the Board of Works.³⁷⁴ As W.L. Feingold argued, the establishment of the boards proved a significant event in the history of local representative institutions. Mel Cousins agreed, stressing the importance of the poor law ‘as a form of local democracy and for its role in the creation and politicization of local communities’.³⁷⁵ Their dominance of the boards as chairmen, vice-chairmen, and deputy vice-chairmen until the mid -1880s ensured for landlords some continuity of role in the delivery of relief in rural Ireland. Even after 1886, they continued to play a role on the boards, albeit in a more minor way.³⁷⁶ After 1886, Feingold stated that landlords who remained on poor boards did so due to personal merit rather than through social deference based on class. The emergence of the Land League and ‘nationalists as administrators of relief ... [also] undermined traditional landlord influence’ in the area of tenant welfare.³⁷⁷ In later years, Feingold argued that the fact that landlords contributed well over half of local poor rate charges was taken advantage of by nationalist guardians who granted maximum payments to victimised tenants during the land agitation.³⁷⁸ Consequently, it would appear that through their provision of much needed funds to the poor and in their role as local guardian, landlords retained a measure of authority in the area of local welfare provision. However, a depletion of their wealth reserves (through poor rent receipts, family charges, and estate debt to mention but a few reasons), along with the rise of the Land League and the Home Rule movement, meant that their power within the state relief system became severely compromised, and eventually, an irrelevance.

Emigration

In debates prior to the introduction of the Irish Poor Law Bill, Robert Peel (1788–1850) asserted that the proposed bill might contribute towards increased estate

³⁷⁴ Breathnach, *The Congested Districts Board*, p. 12.

³⁷⁵ Mel Cousins, *Poor relief in Ireland, 1851-1914* (Berlin, 2011), p. 2.

³⁷⁶ William L. Feingold, *The revolt of the tenantry: the transformation of local government in Ireland, 1872-1886* (Boston, c1984), pp 227-28.

³⁷⁷ Members of the religious were also active in the distribution of relief. Lucey, ‘Power, politics and poor relief’, p. 590.

³⁷⁸ Feingold, *The revolt of the tenantry*, p. 238.

clearances. Indeed the 3rd Marquess of Downshire's agent Thomas Murray informed the landlord how 'beggars' could be cleared from the estate once the workhouse had been completed.³⁷⁹ Over-population and competition for land was a real problem for estate officials. During the early nineteenth century the population of Ireland rose exponentially with tallies in the 1821 census suggesting a total population of 6.8 million. Within a mere twenty years it had climbed to approximately 8.5 million.³⁸⁰ Many estates experienced the negative effects of overpopulation, such as extreme poverty and competition for land. Alleviation of the problem became a pressing concern for landlords and agents alike. At this time, as Patrick Duffy noted, 'the idea of overpopulation as an "encumbrance" on society, restricting improvements in moral and social order and civilisation, was fashionable in colonial discourse'.³⁸¹ Overcrowding became synonymous with disorder. Therefore, logically it was imperative to remove surplus peoples from estates to achieve optimal conditions for order. For some landlords emigration was the solution. Although in theory perhaps a relatively simple solution, in practice its execution proved more problematic. The financing of emigration schemes proved a contentious matter. Prior to the famine, the Shirley agent expected the government to assist with the emigration of cottiers from the estate.³⁸² Yet, government intervention in this regard proved relatively minimal, with a 1847 report – which provided a summary of the number of individuals who emigrated at the expense of the poor law unions from 1844 to 1846 – revealing how a mere 306 individuals actually received emigration assistance from a total of sixteen unions.³⁸³ During the same period at least 180 landlords and philanthropists offered some form of assistance to more than 80,000 emigrants.³⁸⁴

³⁷⁹ Ciarán J. Reilly, 'Clearing the estates to fill the workhouse: King's County land agents and the Irish Poor Law Act, 1838' in Virginia Crossman and Peter Gray (eds), *Poverty and welfare in Ireland, 1838-1948* (Dublin, 2011), pp 147-48.

³⁸⁰ Cormac Ó'Gráda, *Ireland: a new economic history, 1780-1939* (Oxford, 1995), p. 6.

³⁸¹ Patrick J. Duffy, "'Disencumbering our crowded placed": theory and practice of estate emigration schemes in mid-nineteenth century Ireland' in Patrick J. Duffy (ed.), *To and from Ireland: planned migration schemes c. 1600-2000* (Dublin, c2004), p. 80.

³⁸² *ibid.*, p. 90.

³⁸³ *Emigration (Ireland). Summary of a return of the number of persons who have emigrated at the expense of the different Poor-Law Unions in Ireland, in the years 1844, 1845, and 1846*, H.C. 1847(255), lvi. 199; Later in the century the Richmond Commission recommended public assistance for emigration. Winstanley, *Ireland and the land question*, p. 37.

³⁸⁴ The bulk of assisted emigration was conducted by ten major landlords who sent out 30,000 emigrants in batches ranging between one and six thousand per landlord. In roughly descending order of 'munificence', these benefactors were as follows: Fitzwilliam (Wicklow), Wandesforde (Kilkenny), Lansdowne (Kerry and Queen's), Bath (Monaghan), Palmerston (Sligo), Wyndham (Clare and Limerick), Gore-Booth (Sligo), Spaight (Clare and Tipperary), de Vesci (Queen's) and Mahon (Roscommon). See Fitzpatrick, *Irish Emigration*, p. 19.

In 1822 John Epi from Moneymore requested assistance from the Drapers' company to emigrate to New Holland (later known as Australia) with his family.³⁸⁵ Landlord assistance towards emigration did not simply cover the cost of the ship journey. Duffy listed basic passage money, landing money, clothing, luggage, and arrears write-offs as part of the landlord's assistance towards would-be emigrants.³⁸⁶ Other costs for the landlord could include 3rd class rail costs for travelling to ports and money for provisions for the voyage.³⁸⁷ During the 1830s it was reported that approximately twenty to thirty individual emigrated annually to the United States and Canada from a single parish, Drung, in Cavan.³⁸⁸ In the neighbouring county of Monaghan, in the parish of Magheracluone, some tenants who had emigrated to New York and Quebec returned to Ireland for the same period. Others migrated on a seasonal basis to England and adjoining counties for work during the harvest.³⁸⁹ In 1836 the third report into the Irish poor revealed how Monaghan and Cavan inhabitants were willing to emigrate if provided with the financial means to do so.³⁹⁰ Regardless of funding, it has been estimated that between 1815 and 1845 one million left Irish shores.³⁹¹

Although contemporary sources often emphasized the disdain of the Irish towards emigration, it is clear from the number of petitions received in some estate offices that many tenants wished – even pleaded – to go.³⁹² Seasonal migration had been a feature of Irish life for many years. The Rev. John Mathews, P.P., informed the 1835 poor law inquiry that approximately '100 leave their homes to go to county of Dublin or Meath in the harvesting season. About 40 or 50 go to England or Scotland in the summer season' from the parish of Castleterra, Cavan, while the Rev. P. O'Reilly stated that while 'the number cannot be easily ascertained' for the parish of Urney and Annageliff, Cavan, 'perhaps 40 go in the harvest time, and one-fourth

³⁸⁵ Report of the Deputation of the Court of Assistants of the Drapers' Company, Thursday 17 Jan. 1822 (Drapers' Hall, Drapers' papers, MB 38, p. 155)

³⁸⁶ Duffy, 'Disencumbering our crowded placed', p. 91.

³⁸⁷ Patrick Dempsey (1836). Summaries of applications, (N.L.I., Farnham papers, MS 3,117-3,118); railway fares from Dundalk to Drogheda, 'Australian Emigration', 10 Aug. 1849 (P.R.O.N.I., Shirley papers, D3531/P/1)

³⁸⁸ Day and McWilliams (eds), *Ordnance Survey Memoirs of Ireland*, p. 16.

³⁸⁹ *ibid.*, p. 140.

³⁹⁰ The Rev. Mr. Duffy provided this view on Monaghan, while Rev. Mr. Brady, P.P., commented on the situation as he saw it in Cavan. *Third report ...poorer classes*, pp 16-17.

³⁹¹ Clear, *Social change*, p. 57.

³⁹² McDougall, *The letters of Norah*, pp 16, 20; Alexander Innes Shand, *Letters from the West of Ireland 1884* (Edinburgh, 1885), p. 98.

to England' on an annual basis.³⁹³ In 1845 Pat Clarke implored the Shirley agent for assistance to emigrate.³⁹⁴ In 1848 eight men petitioned the agent on behalf of Thomas Larkin's wife and three of his family who wished to be entered on the emigrants' sheet.³⁹⁵ Patrick Garvey informed the Devon Commission that many of his neighbours were willing to emigrate should the agent provide assistance.³⁹⁶ Trench also informed the Commission that estate assistance had helped many of the Shirley tenants to leave the land.³⁹⁷ Although evidently many tenants actively begged for assistance, others displayed some agency and attempted to bargain with the estate for aid. Ruth-Ann M. Harris argued how tenant negotiations were often influenced by estate policy.³⁹⁸ Duffy commented that many of the Shirley tenants' petitions demonstrate a shrewd awareness of their bargaining power and knowledge of the landlord's desire to obtain peaceful possession of holdings.³⁹⁹ Trench and the landowning class frequently referred to a degree of 'native cunning' in the tenants' behaviour with respect to negotiations with estate authorities. This canniness identified by the agent reveals the powerful – even innate – negotiating skills some of the tenants possessed. Trench and Kincaid were convinced that many of their pauper tenants had hidden resources, with Trench suggesting that some of those who were newly clothed kept their 'rags' for begging in America.⁴⁰⁰ At the same time, a destitute tenant had little choice but to accept the landlord's offer of emigration.⁴⁰¹ A greater understanding of tenant tactical leverage and landlord non-contractual obligations with respect to estate emigration is required in order to gain a greater understanding of how order operated and was monitored on nineteenth century Irish landed estates. This will be achieved through consideration of estate-driven and tenant-driven emigration.

³⁹³ *First report ... poorer classes*, p. 314.

³⁹⁴ Letter from Pat Clarke to William S. Trench Esq., Mar. 1845 (P.R.O.N.I., Shirley papers, D3531/P/1)

³⁹⁵ Petition to Mr. G. Morant Esq., Carrickmacross (P.R.O.N.I., Shirley papers, D3531/M/6/1)

³⁹⁶ The Devon Commission, p. 925.

³⁹⁷ *ibid.*, p. 934.

³⁹⁸ Harris, 'Negotiating patriarchy', p. 214.

³⁹⁹ Duffy, 'Disencumbering our crowded placed', p. 95.

⁴⁰⁰ *ibid.*, p. 103.

⁴⁰¹ Oliver MacDonagh, 'Irish emigration to the United States of America and the British colonies during the famine' in R. Dudley Edwards and T. Desmond Williams (eds), *The Great Famine; studies in Irish history, 1845-52* (Dublin, 1956), p. 336.

Estate management and estate-driven emigration

Duffy described estate-driven emigration as being fundamentally antagonistic to the tenantry, even to those who were relatively healthy, young, and in arrears due often to the distances involved in travel to these destinations (such as Australia), and the limited information which was available.⁴⁰² Estate-driven emigration functioned as a part of an overall estate management policy which sought to check the ‘surplus’ population, while simultaneously facilitating a re-organization of estate lands through consolidation.⁴⁰³ The 1826 Sub-letting Act and disenfranchisement of the forty-shilling freeholders in 1829 had facilitated consolidation.⁴⁰⁴ Lord Dufferin spoke of the landlord ‘weeding his property of men whose want of energy, or skill, or capital renders them incapable of doing their duty by their farms’ and his right to ‘replace them by more suitable tenants’.⁴⁰⁵ Trench’s 1852 comment in relation to emigration from the Bath estate in Monaghan supported this assertion:

The great and marked differences between the emigration off this estate and that which is purely voluntary, is that in our case none but paupers are going. We have not lost one single man I should wish to keep ... Other estates where no assistance is given (and where emigration has at all set in) retain their paupers, whilst all the respectable tenants are moving off.⁴⁰⁶

During the 1860s, the Earl of Leitrim provided passage to known Ribbonmen to remove them from the estate.⁴⁰⁷ Sometimes it was maintained that Roman Catholic tenants were cleared from estates through emigration and replaced with Protestants.⁴⁰⁸ However, emigration was not simply used to rid estates of undesirable tenants. Good behaviour also improved tenant success rates in obtaining the requested money for assistance. In 1846 the Shirley land agent agreed to assist Widow Cassidy, as ‘nothing could be better than her conduct and that of her son upon all occasions’.⁴⁰⁹ ‘Characters’ and recommendations were frequently sought by

⁴⁰² Duffy, ‘Disencumbering our crowded placed’, pp 96-97.

⁴⁰³ *ibid.*, pp 89-99.

⁴⁰⁴ Black, *Economic thought*, p. 20.

⁴⁰⁵ Isaac Butt, *The Irish people and the Irish land: a letter to Lord Lifford, with comments on the publications of Lord Dufferin and Lord Rosse* (Dublin, 1867), p. 213.

⁴⁰⁶ Duffy, ‘Disencumbering our crowded placed’, p. 90.

⁴⁰⁷ Malcomson, *Virtues of a wicked earl*, p.206.

⁴⁰⁸ McDougall, *The letters of Norah*, p. 247.

⁴⁰⁹ Letter from Margaret Cassidy to Morant, Shirley House, Carrickmacross for emigration aid £2 10s, 18 Apr.1846 (P.R.O.N.I., Shirley papers, D3531/P/1)

emigrating tenants. In 1832 John Brownlee requested a recommendation from Baron Farnham to travel to America.⁴¹⁰ Despite their power in this regard, landlords could not always control who left their estates. Harriet Martineau (1802–1876), writer and journalist, observed that ‘landlords disliked autumnal emigration as respectable farmers leave then, paying out of cash they received for their crops’ while spring emigration was disliked by priests as it attracted the poorer Catholic tenants who generally were the most devoted members of his flock.⁴¹¹

Tenants who proved ‘surplus’ to the estate’s requirements were uneconomic tenants such as cottiers and young females, undesirable tenants, and those who were insolvent.⁴¹² With respect to the latter, emigration oftentimes proved a much coveted means of escape from the vicious cycle of poverty and indebtedness. In a letter to the Shirley agent, Thomas Byrne outlined the names of his creditors and the amount due to each. The total amounted to more than the purchase of the farm independent of the rent. Byrne explained that his family had ‘not either food or cloathing [sic] and now depend on your honor to have us sent to America’. He concluded that he would ‘not have disposed of the whole of the farm but relying on your promise of sending us all’.⁴¹³ Other tenants, such as Thomas McConnon, who languished in jail for debt, also sought assistance from the landlord. In a letter to the agent George Morant, the insolvent tenant explained how he had given up his land when ‘demanded’ by the agent, but could not take the agent up on his offer of paying the passage to America as he was in jail for debt. He requested that this passage money now be made available to him. Morant duly complied.⁴¹⁴ Consequently, desperate tenants often relied entirely on the goodwill of their landlord for assistance. While emigration costs usually fell on the landlord, it still proved a more attractive alternative to many rather than supporting the pauper through the poor law rate. On the Farnham estate emigration assistance was only forthcoming to tenants

⁴¹⁰ Summaries of applications (N.L.I., Farnham papers, MS 3,117-3,118)

⁴¹¹ Harriet Martineau, *Letters from Ireland* (London, 1852), p. 206.

⁴¹² Duffy, ‘Disencumbering our crowded places’, p. 89; Summaries of applications (N.L.I., Farnham papers, MS 3,117-3,118); Letter from Davis, London to George Morant Esq., Lough Fea, 27 June 1853 (P.R.O.N.I., Shirley papers, D3531/C/3/8).

⁴¹³ Letter from Thomas Byrne, Lattinabany to William S. Trench Esq. [n.d.] (P.R.O.N.I., Shirley papers, D3531/P/1)

⁴¹⁴ Letter from Thomas Mc Connon to George Morant Esq., Thursday 27 Mar. [no year] (P.R.O.N.I., Shirley papers, D3531/M/6/1)

who ‘quit the land’, gave up ‘entire possession’, or gave up possession quietly.⁴¹⁵ Emigration was also used to prevent sub-division on estates.⁴¹⁶ Some tenants were told to sell their land to a person approved of by the landlord before any assistance for emigration was dispensed with. These included George Cooke and Widow Brothers in 1847.⁴¹⁷

The payment of a tenant’s emigration costs was not simply a gesture of goodwill on the landlord’s part. The practice of tenant-right on a range of Irish estates facilitated the process. Martin W. Dowling stated that tenant-right helped organise emigration from estates. By the start of the nineteenth century, it was widely recognised by landlords and agents ‘that tenant-right exchanges were fuelling the much-desired emigration of smallholders’ and that a real connection existed between emigration, indebtedness, and the sale of tenant-right.⁴¹⁸ With respect to order on estate, the relationship between emigration and tenant-right sales afforded landlords and agents a relatively painless method to rid the estate of undesirable tenants.⁴¹⁹ The Monaghan agent felt that with help from the estate, most emigrants could get ‘something for their interest or goodwill’ and also that the landlord carried the ‘whole expense of exporting those who are willing, but unable to emigrate’.⁴²⁰ In 1848 Lord Farnham demanded to know who would pay the rent due before he would agree to finance the emigration of Terence Smith and his family.⁴²¹ Although the Drapers’ agent realised that only emigration could effectively dismantle rundale communities, in effect this could only be carried out through supplementation of emigration costs due to the often inadequate amount achieved from tenant-right sales.⁴²²

⁴¹⁵ Including John Brownlee (1832) and the Fitzpatrick family (1848). Summaries of applications (N.L.I., Farnham papers, MS 3,117-3,118)

⁴¹⁶ Letter from Peter Duffy, Ardragh to William S. Trench Esq., Mar. 1845 (P.R.O.N.I., Shirley papers, D3531/P/1)

⁴¹⁷ Summaries of applications (N.L.I., Farnham papers, MS 3,117-3,118)

⁴¹⁸ Dowling, *Tenant right*, p. 130.

⁴¹⁹ *ibid.*, p. 132.

⁴²⁰ ‘Causes of Complaint stated, and certain alterations suggested in reference to the management of the Shirley Estate’, Trench, 11 July 1843 (P.R.O.N.I., Shirley papers, D3531/S/55)

⁴²¹ Summaries of applications (N.L.I., Farnham papers, MS 3,117-3,118)

⁴²² On the Drapers’ estate the policy of subsidization ceased in 1854, since the ‘times have considerably changed’. Dowling, *Tenant right*, pp 131-32, 212.

Tenant tactical leverage and tenant-driven emigration

According to Duffy, tenant-driven emigration involved tenants desirous of emigrating from deteriorating conditions and repressive estate regulations.⁴²³ While tenants often received either a prompt acceptance or rejection to their appeal for emigration assistance, sometimes tenants displayed a limited measure of tactical leverage. Tenants could refuse to emigrate although previously entered on the emigration list. In 1849 twenty-eight out of a total 335 Shirley tenants refused to emigrate when the time came to depart.⁴²⁴ It is not stated in the records how such tenants were subsequently treated by estate officials. Single females who were offered passage could also tentatively decline. Widow Bridget McGoogin, who was offered passage by Morant to go to England, replied how she would prefer to stay with her mother who was alone, and apparently in bad health; but that she would ‘do anything that is pleasing to your honour so if it be that petitioner has to go to England, she begs your honour to allow a suit of cloaths [sic] to both her and the little boy as they are both very naked’.⁴²⁵ The agent compromised by making the tenant a weekly tenant for the house and garden at 1s per week. Consequently, landlords were not necessarily autocratic on the issue of tenant emigration, frequently displaying attitudes of pragmatism and even compassion.

Ultimately, power of granting assistance rested with landlord and agent. However, landlord replies sometimes proved more propitious when tenants met certain conditions. On the Farnham estate some factors impeded tenant success. Tenants who previously had received financial help were often declined in subsequent requests. Ann Kells’ request to send her daughter to America was not granted with the comment that; ‘her mother received help from Lady Farnham’. Tenants deemed to have ‘no claim’ were also bypassed, including George Elliott, John Sherrit, and Ann Thickpenny in 1844, and John Fenner in 1847.⁴²⁶ As noted earlier, ‘claims’ may have been related to good behaviour. Tenants who sought aid to travel to America were also less fortuitous. During the mid-1840s, the 7th Baron Farnham became adamant that he would not pay the passage of any more tenants from his estate to travel to America. Although the landlord appeared firm on this

⁴²³ Duffy, ‘Disencumbering our crowded placed’, pp 96-97.

⁴²⁴ Emigration list for Australia 16 May 1849. Original list of persons who applied to be sent to Australia from the Shirley estate 1849 (P.R.O.N.I., Shirley papers, D3531/P/1)

⁴²⁵ Letter from Bridget McGoogin to George Morant Esq. [n.d.] (P.R.O.N.I., Shirley papers, D3531/C/3/8)

⁴²⁶ Summaries of applications (N.L.I., Farnham papers, MS 3,117-3,118)

matter, his apparent intransigence did not stem the flow of requests.⁴²⁷ The fact that some tenants received the much coveted assistance to America may have contributed to tenant persistence on the matter. In 1846, for example, Lord and Lady Farnham granted £10 to Widow Adams to travel to America. In contrast to his declared opposition to assist passage to America, Baron Farnham did seem willing to finance passages to other destinations. In 1846 he provided John Kirke with £1 for passage to Scotland. In the following year he gave the same amount of money to a family who wished to move to Jersey, while in 1853 A. Patterson received assistance to emigrate to Australia. Even if the disposition or the inclination of the agent or landlord on the day the request was submitted is taken into account, it remains difficult to account for instances where a tenant received help, such as Mary Leonard who received assistance on 11 August 1845, while John Adames' request on the same day was declined.⁴²⁸ Such inconsistencies may suggest that decisions were not arbitrary or economically based, but rather were guided by tenant character or perhaps even gender.

During the late 1840s and 1850s tenants on the Farnham estate received a variety of responses to their requests for assistance. In 1847 Mr. Merryman was advised that the landlord was unwilling to give any more help. In 1850 Henry Magill's request was met with a curt 'certainly not', while in 1857 Widow Tweedy's application was rejected as the landlord could not comply as apparently 'the application did not come in the usual way'.⁴²⁹ Others had a more favorable outcome, such as Daniel Coby who received £2 in 1855 and Eliza Hunter who received £1 in 1857. In 1856 William Kemp was informed that his request would be considered. Some tenants demonstrated an awareness of estate policy with respect to the financing of tenant emigration and attempted to increase their tactical leverage by informing the landlord that they were willing to give up possession if they, in turn, received assistance to emigrate. James McMahon was one such tenant in 1850.⁴³⁰ What may be termed 'pseudo leverage' also existed, whereby tenants would attempt to negotiate with the landlord for assistance when in actual fact they had nothing to bargain with. In 1847 Widow Griffith offered to give up her land in return for

⁴²⁷ Including Ann Mulligan (1846), John Comisky (1847) and John Montgomery (1855), *ibid.*

⁴²⁸ *ibid.*

⁴²⁹ *ibid.*

⁴³⁰ Duffy, 'Assisted emigration', p. 45.

emigration assistance. It later transpired that she had already been evicted.⁴³¹ Frequently, the leverage exerted by tenants proved minimal. Impoverished tenants, in reality, had little to bargain with. The most they could hope to offer their landlord in return for financial assistance was a prayer. In return for granting £2 5s for emigration costs a landlord could receive a prayer gratis.⁴³² Similarly, tenants who had their disputes settled by the landlord, along with a vow to be obedient in future, also offered a prayer: ‘humbly prays your kind interference for him and he will ever pray,’ and ‘petitioner as in duty bound shall ever pray’.⁴³³ It would be interesting to consider how the traditionally evangelical Farnham landlord responded to the gift of a Catholic prayer. The Marquess of Sligo appeared to dislike such devotional effusiveness and the tenants’ ‘appeals to the almighty on all trifling occasions’.⁴³⁴

Landlords and emigration during the latter 1800s

Landlords were not obliged to give emigration assistance to tenants. However, frequently aid was dispensed as part of an overall estate management policy which sought to rationalize estates. Baron Farnham chaired a meeting in Cavan in 1849 convened for the purpose of receiving information from Charles Logan, Esq. in relation to the rules and regulations of Australian emigration. Primarily it was hoped, as the *Liberal Anglo-Celt* reported, that ‘some of the industrious and well-conducted poor ... would ... emigrate from this distressed country to another and more prosperous one, where they could enjoy plenty, and support themselves in decency and comfort’.⁴³⁵ Attendees at the meeting agreed that the laws established for poor relief had failed and the ‘workhouses, instead of making the inmates honest and industrious, makes them idle and indolent, and unfit to earn their bread when discharged’.⁴³⁶ Both estate-driven and tenant-driven emigration could operate simultaneously on estates (such as on the Shirley and Farnham estates) in order to

⁴³¹ (N.L.I., Farnham papers, MS 3,117-3,118)

⁴³² ‘Shirley Estate Emigration Ticket, no. 16, for Patt Loughran signed by Mr G. Smith to Mr Thomas Elliott, 11 Waterloo Road, Liverpool, 26 Apr. 1844 (P.R.O.N.I., Shirley papers, D3531/P/1); Letter from Thomas Mc Connon to George Morant Esq., Thursday, 27 Mar. (P.R.O.N.I., Shirley papers, D3531/M/6/1); Duffy, ‘Assisted emigration’, p. 45.

⁴³³ Petition from Bernard Connolly to Geo Morant Esq. [nd]; Petition from James Bruden [sic], Ballycartlan to W.S. Trench Esq., July 1845 (P.R.O.N.I., Shirley papers, D3531/P/1)

⁴³⁴ Letter from the 3rd Marquess of Sligo, Westport to Mrs Roycroft, Attyreece, Westport, 15 July 1872 (N.L.I., Westport, MS 40,997/2)

⁴³⁵ ‘Emigration to Australia’, *Anglo-Celt*, 31 Aug. 1849.

⁴³⁶ *ibid.*

achieve this end. State assistance remained low, although legislation in 1882 (part of the arrears act) included a clause permitting additional emigration.⁴³⁷

Conclusion

This chapter has shown that landlords provided financial assistance to destitute tenants was not simply a part of the patron-client relationship, nor indeed were landlords always motivated by a strong sense of *noblesse oblige* toward their charges. Rather, the dispensing of aid could also operate as an aspect of an estate management policy based fundamentally on a complex web of rewards and punishments. The provision of assistance to poor tenants allowed landlords maintain a measure of control, not only over long-term estate strategies, but also over the short-term behaviour of their tenants. These obligations were accepted by both landlord and tenant and correspond with Tönnies' social theory of *gemeinschaft*, whereby 'social practices are validated by custom and usage with the meeting of paternalistic or reciprocal expectations'.⁴³⁸ Within a British context also, 'owner and tenant frequently enjoyed a relationship of mutual trust'.⁴³⁹ Customary practices contributed towards increased deference and harmony on estates. Significantly these obligations appeared often only fulfilled if the tenant had obliged the landlord; either through good behaviour, compliance of estate rules, or assisted the landlord in some way. Fundamentally, tenants not only had to adhere to the estate's rules, but also had to be liked or trusted by their landlord, before any 'privileges' would be granted. Consequently, the dispensing of non-contractual obligations or customary rights functioned as a disciplinary system and as a means of regulating the behaviour and conduct of the tenantry. Rights to assistance were therefore qualified. This aspect of estate management policy and landlord-tenant relations suggests that tenants were in many ways, closely bound to the established and quasi-feudalistic order of many estates.

Landlord non-contractual obligations were given authority and weight through the prestige and wealth of the landed proprietor. While paternalism in relation to pecuniary assistance may have facilitated dependency among the tenantry, it seems that most of the tenants found this form of assistance generally acceptable.

⁴³⁷ Cousins, *Poor relief*, pp 85,116.

⁴³⁸ Thomas E. Jordon, 'Quality of life, hegemony, and social change in rural Ireland: W. Bence Jones, "A landlord who tried to do his duty"' in *Social indicators research*, lv, no. 2 (2001), p. 215.

⁴³⁹ Beckett, 'Agricultural landownership and estate management', p. 742.

With respect to emigration, it is somewhat erroneous to speak of two separate categories of emigration – one, estate-driven, the other, tenant-driven – as the motives behind both frequently overlapped and even complemented each other. Landlord non-contractual obligations frequently bridged gaps between estate-driven and tenant-driven emigration. Without money, tenant leverage amounted to little. It would appear that many tenants in poverty were holding out and only, as a last resort, were willing to consider emigration as an option. With state sponsored emigration often limited during this period and an increase in private sponsored emigration only arising later in the century, during the mid-nineteenth century tenants frequently depended on their landlord for this often much sought-after assistance.⁴⁴⁰ It is important also to note that altruistic motives undoubtedly were present for some individuals who discharged such obligations as part of an estate management policy. In 1858 Baron Farnham was thanked in a public meeting of the commissioners and inhabitants of the Town of Cavan ‘for the great and permanent blessing your Lordship has conferred to them [the poorer inhabitants], by securing to them an abundant supply of pure water, to which they have at all times easy access’.⁴⁴¹ As Duffy noted, the private correspondence of Trench suggests a degree of philanthropy in his approach to the schemes.⁴⁴² Yet, when the management of tenant welfare on mid-nineteenth century estates is considered, it is apparent that its execution was often directed towards ensuring order on the estate.

Although some tenants attempted to exert a measure of control and internal leverage over the system, it would seem that, in reality, the only way they could effectively do so was to possess enough wealth so as not to have to rely on the favourable disposition of the landlord. Some astute tenants may have also displayed a modicum of leverage through performing and acting as deferential and compliant tenants in order to have their needs met. Conforming to contemporary ideologies concerning the deserving and non-deserving poor, estate welfare adhered to the belief that ‘respectability’ was a key factor in determining eligibility, while tenants were judged according to personal attributes and moral

⁴⁴⁰ For example in 1878 the *Northern Standard* printed a notice with the heading ‘Emigration to Canada to the tenant farmers of Ireland’, which informed the public of a scheme that allowed tenants to purchase a holding in Canada for £4 to £10 an acre, rent free, and time given for payment of half the purchase money. See *Northern Standard*, 9 Feb. 1878.

⁴⁴¹ ‘Address to the Right Hon. Lord Farnham, K.P.’, *Anglo-Celt*, 28 Jan. 1858.

⁴⁴² Duffy, ‘Disencumbering our crowded placed’, p. 97.

inclinations.⁴⁴³ It was important to be perceived as compliant – if only in the eyes of the landlord or agent.

The advent of state sponsored relief of the poor had an effect on the estate system of poor relief. Dorian claimed that the establishment of a dispensary at Rathmullan (1833) and the opening of a workhouse at Milford (1846) ‘unpicked the threads of deference and dependence’.⁴⁴⁴ In contrast Hollen Lees argued that ‘the poor law maintained a social order of deference and dependence ...of the propertyless and the propertied’.⁴⁴⁵ While many landlords assumed positions of power on the new boards (as noted earlier in the chapter), their power to use the granting of relief as a means of enforcing order and discipline on the estate was significantly altered, especially as the composition of boards altered in the final third of the century.⁴⁴⁶ The poor law encroached on the perceived paternalistic role of the landlord as benefactor of the poor and as arbitrators of their entitlement to relief or support. Simultaneously, his traditional role as arbitrator of tenant disputes was compromised as the state made its judicial presence felt in rural Irish society. This development will be explored in the following chapter.

⁴⁴³ Crossman, ‘The humanization of the Irish Poor Laws’, p. 246.

⁴⁴⁴ Dorian, *The outer edge of Ulster*, p. 16.

⁴⁴⁵ Hollen Lees, *The solidarities of strangers*, p. 68.

⁴⁴⁶ See Feingold, *The revolt of the tenantry*

Chapter 3

Justice for Ireland? Landlords, tenants and law and order, 1830-1891

‘The law had lost its majesty. After a spate of legal actions – ‘lawsuits, ejectments, distresses, imprisonments’ – in the initial stages of the downturn, the courts were soon quiet as few people could afford the expense of a lawyer or expect payment if their case succeeded. Even cash dealings were being abandoned’.

John Gamble commenting on the state of the law in Ireland in 1818 in
Society and manners, p. lvi

‘The landlords are both makers and administrators of the law, and, in either capacity, do not give even half an eye to any interest but their own’.

Patrick Flatley revealing, in 1881, the partial nature of the law in
Ireland and the Land League; key to the Irish question, p. 52

‘...instead of the “ringing cheers”, which usually salute the fervid spouting of some local or imported patriot, ringing shots from many rifles...’

Excerpt from an article entitled ‘Shooting at landlords: incidents of the Irish rent agitation’ relating how the Marquess of Sligo’s land agent John Sydney Smith was fired upon,
The New York Times, Oct. 1879

After the Act of Union of 1800 Westminster and Dublin Castle were determined to re-establish a state of order in the country. James Godkin (1806–79), Congregational minister and writer, stated that at the dawn of the nineteenth century ‘the whole population – high and low, rich and poor, Catholic and Protestant – must all be brought to obedience to law; all must be taught to look up to the law for protection’.⁴⁴⁷ To this end, the existing apparatus of law and order had to be transformed. Peter Gray has argued that the politics of ‘justice to Ireland’ in 1835–41 sought to address not only ‘political, legal and religious grievances’, but also to ‘secure the peasant “justice” against his landlord’.⁴⁴⁸ Correspondingly, over the course of the century, the legal and policing system were radically altered – a development which had significant repercussions for landed property rights. With respect to the former, it was during the period 1830–1891 that landlords and other estate officials were confronted, and challenged, by a changing legal landscape.

Developments at a national level, initiated from London, had a significant effect on local understandings, definitions, and implementation of law and order. Through increased officialdom and the modernisation of the legal system, statutory law gradually replaced more customary codes and practices which had been operating on Irish estates. In his theory of the sociology of law, the contemporary German sociologist Ferdinand Tönnies proposed that law evolves in society from natural law to common law and finally to civil (statute) law.⁴⁴⁹ The evolution of law, along with the simultaneous evolution of society, resulted in the transformation of landlord-tenant relations.

The two chapters in this section consider the relationship between landlords and the government from 1830–1891, during a period in which landlords appeared to adopt a rather *laissez-faire* approach to the gradual rescinding and contraction of their local powers. Therefore, the focus of the study shifts from an emphasis on estate relations based on custom and reciprocal obligations in the initial two chapters to a consideration of relations between representatives of the estate and the state in a gradually modernising world in Chapters 3 and 4. This chapter considers legal relations and examines how order on the estate was altered or challenged by the increasing dominance and assertion of statute law in rural Irish society. After

⁴⁴⁷ Godkin, *The land-war*, p. 272.

⁴⁴⁸ Gray, *Famine, land and politics*, p. 31.

⁴⁴⁹ Tönnies, *Community & society*, p. 232.

initially considering the different legal codes in operation in early nineteenth century Ireland, the study divides into two sections. The chronological boundaries of the first section span the period 1830-1859, thereby permitting consideration of the twilight of feudal legal practices on Irish estates, which were formally abolished following an 1859 Act of Parliament.⁴⁵⁰ Specifically, the relationship and interactions between formal and informal legal systems are examined with respect to estate order. The second section runs from 1860 to 1891 and examines the evolving relationship between landlords and official law with respect to order on the estate.

Legal codes in operation on Irish estates

Politician, author, and perceived ‘authority of the first rank on the Irish problem in the 1830s’, Sir George Cornwall Lewis (1806-1863), believed there existed in Ireland ‘a general and settled hatred of the law among the great body of the peasantry’.⁴⁵¹ The law in question was the British legal system. However, he was simply referring to one form of law in operation in a society, which Oliver McDonagh described as ‘multi-legal’.⁴⁵² In ancient Irish society, the Brehon Laws or Codes (referred to in Chapter 1), were used to govern the people. Neither legislative enactments nor commands of sovereign authority, these laws evolved out of the customs of the people. Administered by hereditary lawyers, this legal system contained separate codes for civil and criminal misdemeanours. The civil law could be found in the *Senchus Mór*, or ‘Great Law Book’, while criminal law and the law of wrongs was contained in the Book of Aicill.⁴⁵³

Other customary laws were also utilised in Irish society. During the nineteenth century, a legal subculture also operated simultaneously in Ireland with official legal codes. Often referred to as ‘agrarian law’, ‘the unwritten agrarian code’, or ‘the laws of Captain Rock’, this code of laws, based also on custom, was frequently enforced by secret societies seeking to preserve the ‘moral economy’.⁴⁵⁴ The law of the Irish

⁴⁵⁰ *Manor courts, &c. (Ireland). A bill for the abolition of manor courts and the better recovery of small debts in Ireland*, H.C. 1859 (3), ii.211 (hereafter ‘Bill for the abolition of manor courts, 1859’)

⁴⁵¹ Sir G.C. Lewis quoted in Terence Dooley, *The murders at Wildgoose Lodge; agrarian crime and punishment in pre-Famine Ireland* (Dublin, 2007), pp 134-35; D. A. Smith, ‘Lewis, Sir George Cornwall, second baronet (1806–1863)’, Oxford Dictionary of National Biography.

⁴⁵² Oliver McDonagh, *States of mind; a study of Anglo-Irish conflict, 1780-1980* (London, 1983), p. 41.

⁴⁵³ Costello, ‘The Leading Principles of the Brehon Laws’, pp 415-17.

⁴⁵⁴ Gray, *Famine, land and politics*, p. 42; Stephen Randolph Gibbons, *Captain Rock, night errant: the threatening letters of pre-famine Ireland, 1801-1845* (Dublin, 2004), pp 22-23; Laird, *Subversive*

peasant also embraced faction fights as a means of settling local disputes (often over land). Part of the preliminary to this legal process involved the ritual of ‘wheeling’ which was manifest in taunts and insults.⁴⁵⁵ Many of the inherent elements of this traditional form of rural protest were also witnessed in public spaces during opposition to evictions and during the Land War against the landlord through ‘rough music’ and name calling.

Traditional notions of order – with a strong moral basis – fostered paternalistic and deferential attitudes in rural Irish society. Based upon custom and convention, this traditional social order was adhered to, not only by the rural poor, but also by those on the higher rungs of society, such as landlords and the magistracy. Graham Seal noted how moral order rooted in folk culture in England and Wales from the mid-eighteenth century ‘increasingly informed the machinations of government and the general administration of public order’.⁴⁵⁶ The situation in Ireland proved somewhat different. During the Land War, two additional ‘laws’ emerged in Ireland to compete with those already jostling for tenants’ loyalty. Fr. Daniel Keller, who was imprisoned for agitating on behalf of tenant parishioners, appealed for adherence to Divine law above all others, while the Land League espoused ‘the law of the league which some believed superseded the so-called ‘law of the land’.⁴⁵⁷ With respect to the League, Land League Courts were established adding to the number of alternative courts which existed in nineteenth-century Ireland. Additional courts, such as Repeal Association arbitration courts and Ribbon Association courts, had also functioned during the century in direct opposition to the Rule of Law which had been propagated by England since the eighteenth century. Subsequently, National League courts, United Irish League courts, and *Dáil* courts would also follow suit.⁴⁵⁸ This mix of laws – ‘the unwritten agrarian code’, moral,

law, p. 35; James S. Donnelly *Jr.*, *Captain Rock: The Irish Agrarian Rebellion of 1821-1824* (Cork, 2009)

⁴⁵⁵ Kyla Madden, *Forkhill Protestants and Forkhill Catholics, 1787-1858* (Canada, 2005), p. 101; Two of William Carleton’s stories in particular reveal much about the function of faction fights in rural Irish society. See ‘The battle of the factions’ in William Carleton, *Traits and stories of the Irish peasantry, Volume II* (New York, 1881) and ‘The party fight and funeral’ in William Carleton, *Traits and stories of the Irish peasantry, Volume III* (New York, 1881)

⁴⁵⁶ Graham Seal, ‘Tradition and Agrarian Protest in Nineteenth-Century England and Wales’ in *Folklore*, xcix, no. 2 (1988), p. 146.

⁴⁵⁷ ‘The imprisonment of Father Keller’, *FJ*, 28 Mar. 1887; ‘Ireland under the League: illustrated by extracts from the evidence given before the Cowper Commission’ in *LSE Selected Pamphlets* (1887), p. 17.

⁴⁵⁸ Laird, *Subversive law*, pp 13, 24; See also Mary Kotsonouris, *The winding-up of the Dáil Courts, 1922-1925: an obvious duty* (Dublin, 2004)

divine, and the law of the league – in operation alongside the official legal code reflected, not only ethno-confessional divides, but also the history of the conquest of Ireland .

From the perspective of the British and Irish parliaments, Ireland was rife with disorder. Much of this disorder was founded on ethno-confessional tensions arising from the plantation schemes of the sixteenth and seventeenth centuries. During the latter half of the eighteenth century, in parts of the country (most notably Ulster), ethno-confessional animosities adopted a more organised shape and became more visible through the establishment of various societies of a distinct sectarian hue. As Marianne Elliot has argued, by the penultimate decade of the eighteenth century, the region of Ulster had produced the Catholic Defenders, the Protestant Peep O'Day boys, and Orangism.⁴⁵⁹ The Society of United Irishmen, founded in 1791, whose aim of uniting Catholic nationalism, Protestant patriotism, and Presbyterian radicalism, and creating 'the common name of Irishman in the place of the denominations of Protestant, Catholic and Dissenter', was – as Elliot succinctly concluded – 'still-born', as events during the 1798 Rebellion were to reveal.⁴⁶⁰ Consequently, relations on nineteenth century Irish landed estates based on tradition and customary codes of behaviour proved extremely complex.

Feudal legal system

Another, more feudalistic legal system operated on Irish landed estates during the nineteenth century, consisting primarily of arbitration and manor courts. Estate arbitration procedures were used as a means of dispute settlement between tenants.⁴⁶¹ According to Captain Cranfield, who gave evidence before the Devon Commission, the duties of a moral agent included dispute resolution among tenants.⁴⁶² Spring also claimed that the social leadership role frequently adopted by the landlord was a traditional one highlighting the long standing patriarchal nature of the position in

⁴⁵⁹ Marianne Elliot, *The Catholics of Ulster: a history* (London, 2000), p. 222.

⁴⁶⁰ *ibid.*, p. 213.

⁴⁶¹ The arbitration process could also be used by members of the clergy for matters of parochial interest. In 1849 the system was used in Loughbrickland, Co. Down in order to decide the amount to be charged for ground upon which a parochial house was to be erected. Arbitration ordered by J.P. Kelly Esq. and Rev. John Doran P.P., Banbridge, 2 Mar. 1849 (P.R.O.N.I., Whyte papers, D2918/3/7/101-175)

⁴⁶² Hunt, 'Estate management at Powerscourt', p. 47.

rural society.⁴⁶³ Dispute settlement was one area in which the Irish landlord exerted a significant amount of control. As Vaughan noted:

disputes between tenants and sub-tenants were frequent. Nor were the tenants united, or even potentially united. There were differences between big and small farmers; disputes between neighbours caused many outrages; there were also local differences: between upland and lowland farmers and between Protestant and Catholics in the north.⁴⁶⁴

He also recorded how four of the main causes of agrarian homicides during this period were as follows: ‘disputes within tenants’ families accounted for 32 per cent; disputes between tenants accounted for 27 per cent; disputes between tenants and sub-tenants accounted for 5 per cent; and attacks on those who took evicted land accounted for 10 per cent’.⁴⁶⁵

Arbitration was based on the customary law of the estate and on traditional rules governing appropriate tenant behaviour. The *modus operandi* of arbitration was as follows: two or three tenants were selected by the estate to adjudicate, with all decisions – or ‘awards’ as they were termed – being recorded in writing for the approval of the land agent. All resolutions had to be approved of by the land agent.⁴⁶⁶ Arbitrations generally issued awards with respect to disputes over land and passes, family disagreements, and in instances where tenants disobeyed the previous arbitration orders of the land agent.⁴⁶⁷ On the Farnham estate arbitration could only take place if both parties attended.⁴⁶⁸ If the arbitrators could not agree on the resolution – as in disputes involving John Fraser in 1834 and George Montgomery and Mr Clinging three years later – an umpire was called in to intervene. If tenants did not adhere to the final decision reached by the arbitrators they frequently turned

⁴⁶³ Spring, *The English landed estate*, p. 182.

⁴⁶⁴ Vaughan, *Landlords and tenants*, p. 11.

⁴⁶⁵ *ibid.*, p. 143.

⁴⁶⁶ Award in the case of Edward Gartlan and Phil McBride, 4 Sept. 1843 (P.R.O.N.I., Shirley papers, D3531/P/2)

⁴⁶⁷ ‘Pat and James Murthas settlement of affairs and acknowledgement for 32 pounds’, arbitrators Thomas Mee and Thomas O’Dwyer, 3 Apr. 1844, approved of by William Steuart Trench, 4 Apr. 1844 (P.R.O.N.I., Shirley papers, D3531/P/1); Award to James and Francis Mc Entee by Mr Nathaniel Eakins of Shanco and Samuel Eakins of Mullycroghery, 5 July 1845.

⁴⁶⁸ Letter from W.C. Peyton, Virginia, Co. Cavan to Abraham Brush concerning Owen Burns, 24 June 1858 (N.L.I., Farnham papers, MS 11, 499); Summaries of applications, case involving Thomas Sheridan, 1837 (N.L.I., Farnham papers, MS 3,117-3,118)

to the landlord in their appeal.⁴⁶⁹ On the Shirley estate it would appear that arbitration was often resorted to when tenants disobeyed the orders the land agent had previously given. When two brothers proceeded to subdivide their land instead of adhering to the agent's directions that the farm was to go to the older brother and some money to the younger, they were subsequently sent to arbitration.⁴⁷⁰ The system was used on both the Shirley and the Farnham estates.

Within estate boundaries, law and order was also dispensed through the manor courts – consisting of the court baron and the court leet.⁴⁷¹ Toby Barnard stated that these courts were introduced into Ireland ‘as part of the process of Anglicisation and pacification’, thereby granting the landlord as ‘lord of the manor’ extended status and power. Although there were variations in how these courts functioned, all proceedings were governed either by patent or by law.⁴⁷² W.H. Crawford argued how the royal patent ‘confirmed the authority of a *landowner* over the tenants on his estate and, in a sense, converted him into a *landlord*’.⁴⁷³ Although outlawed in England in 1290, the creation of new manors in Ireland and in the colonies of North America granted landlords a legal authority over their tenants based on customary law. Described as the ‘commonest form of local government’ in the late eighteenth century, manor courts often consisted of a jury of freeholders and provided several services on the estate.⁴⁷⁴ The court was presided over a ‘judge’ or ‘seneschal’, who generally was the land agent who obtained a fee for his trouble.⁴⁷⁵ During the 1840s the agent W.S. Trench acted as seneschal and was later replaced in this role by his successor the agent George Morant in Monaghan. The judgements made during Trench's term in office had to be adhered to, even when Morant

⁴⁶⁹ Summaries of applications, Richard Allen (1835), William Ellis (1837), Patrick Kemmins (1839) (N.L.I., Farnham papers, MS 3,117-3,118)

⁴⁷⁰ ‘Cases which require particular attention by new agent’ (P.R.O.N.I., Shirley papers, D3531/M/6/1); Copy of letter from William Steuart Trench, Shirley House, Carrickmacross, to the Judge of insolvent debtors court at Monaghan, in relation to James Clarke, 15 Feb. 1845 (P.R.O.N.I., Shirley papers, D3531/P/2)

⁴⁷¹ At the start of the seventeenth-century, lawyers differentiated between the feudal courts in operation on many estates for practical purposes. Consequently, the ‘court baron’ and the ‘court leet’ were created. See W.H. Crawford, ‘The significance of landed estates in Ulster, 1600-1820’ in *Irish Economic and Social history*, xvii (1990), p. 48.

⁴⁷² For example some courts had power of imprisonment while others did not. See Toby Barnard, ‘Local courts in later seventeenth-and eighteenth-century Ireland’ in Michael Brown and Seán Patrick Donlan (eds), *The laws and other legalities of Ireland, 1689-1850* (Surrey, 2011), p. 34.

⁴⁷³ Italicisation in original text. Crawford, ‘The significance of landed estates in Ulster’, pp 47-48.

⁴⁷⁴ *ibid.*, p. 58.

⁴⁷⁵ Stevens Curl, *Moneymore and Draperstown*, p. 28.

assumed the position of seneschal.⁴⁷⁶ Similarly, John Miller, agent on the Drapers' estate, acted as seneschal.⁴⁷⁷

Although an overlapping of the remit of both courts occurred, the court baron primarily handled petty actions such as small debts, unpaid bills, and trespass cases, while the court leet had jurisdiction over criminal offences and issues related to the running of the estate, such as contested boundaries, obstructed passages, and bequests withheld.⁴⁷⁸ The 1817 report of the Drapers' deputation described the manor court as follows; 'there are two Courts belonging to the manor of Drapers ... The courts are, a Court Leet, having nearly a similar jurisdiction of the Leets in England; and a Court Baron, having a jurisdiction in matter of debt within the amount of £40'.⁴⁷⁹ Richard McMahon stated that manor courts had a three-fold legal jurisdiction, namely common law, court baron, and statutory jurisdiction, which gave courts the power to proceed by civil bill.⁴⁸⁰ Greig claimed that tenants who failed to use the court leet as a means of dispute settlement were 'considered as of a quarrelsome, troublesome, and litigious disposition'.⁴⁸¹ Court leets sat once or twice a year, while the court baron was usually held tri-weekly.⁴⁸²

The Shirley estate kept manorial court books (1843-44). These books reveal how close to the formal legal system the manor court operated through the utilization of legal terminology such as 'Plaintiff' 'Dependent' 'Witnesses' 'cause of complaint or application', and 'adjudication'.⁴⁸³ On the Farnham estate a day was set aside each week when the landlord, the land agent, moral agent, inspector of buildings, and the district inspectors met in order to consider the answer to a variety of applications received from the tenantry.⁴⁸⁴ On both estates items addressed by the manor court during this period generally revolved around land; namely occupation disputes concerning both house and land, disputes surrounding the subdivision of land, and permission to buy and sell land.⁴⁸⁵ In 1837 a recorded 204 manors courts were in

⁴⁷⁶ Adjudication between Widow McKenna and John Smith', signed by G. Morant, 10 Oct. 1843 (P.R.O.N.I., Shirley papers, D3531/M/6/1);

⁴⁷⁷ Stevens Curl, *Moneymore and Draperstown*, p. 31.

⁴⁷⁸ Barnard, 'Local courts', p. 35; McMahon, 'The courts of the petty sessions', pp 14-15.

⁴⁷⁹ 23 Jan. 1817. Drapers' Company, *Reports of Deputations*, p. 5.

⁴⁸⁰ McMahon, 'The Courts of the Petty Sessions', p. 15.

⁴⁸¹ Greig, *General report*, p. 225.

⁴⁸² Crawford, 'The significance of landed estates in Ulster', p. 58.

⁴⁸³ Manorial Court Book (P.R.O.N.I., Shirley papers, D3531/M/6/1)

⁴⁸⁴ McCourt, 'The management of the Farnham Estates', p. 553.

⁴⁸⁵ (P.R.O.N.I., Shirley papers, D3531/M/6/1); Summaries of applications (N.L.I., Farnham papers, MS 3,117-3,118)

operation in Ireland.⁴⁸⁶ While manor courts operated on the Drapers' estate, the Westport estate, the Shirley estate, and the Farnham estate during this period, this research will focus primarily on sources from the latter two.

Official legal system

Within official legal channels, serious criminal offences, such as rape, murder, and treason were dealt with by the court of assize, while minor crimes remained under the remit of the petty sessions.⁴⁸⁷ While formal legal channels such as the petty sessions, quarter sessions, and assizes followed English law – in the eyes of the tenantry at least – estate legal processes operated according to notions of 'justice'. Both systems worked concurrently, sometimes even in collaboration, were accessible to all tenants, and were often administered by members of the landed class. Traditionally, landlords and agents alike functioned as magistrates in Ireland, although R.B. McDowell noted that due to landlord absenteeism, the predominance of Church of Ireland landlord magistrates officiating over a largely R.C. tenant clientele, and a prevalence of agrarian issues, made appointments to the bench from among this class difficult to fulfil.⁴⁸⁸ Landlords such as Howe Peter Browne, 2nd Marquess of Sligo, William Sydney Clements, 3rd Earl of Leitrim, Evelyn Philip Shirley, and Evelyn Charles Shirley occupied this powerful position, alongside such land agents as Sandy Mitchell and John T. Gibbings on the Shirley estate and Robert Powell on the Westport estate.⁴⁸⁹ Tellingly, Dorian described magistrates as the 'government's eyes and ears, not justices of the peace'.⁴⁹⁰ The increasing presence of solicitors within the Irish circuit from the 1830s challenged the authority of the magistrate.⁴⁹¹ From 1814 W.E. Vaughan claimed that 'as magistrates the landlords were restricted in two ways: at the petty sessions by stipendiary magistrates, who were paid, made a career of their position, and reported regularly to the Castle; at the quarter sessions by the assistant barristers, who were professional lawyers and who usually presided'.⁴⁹²

⁴⁸⁶ Barnard, 'Local courts', p. 33; McDowell, *Irish Administration*, p. 118.

⁴⁸⁷ Raymond Byrne and J. Paul McCutcheon, *The Irish legal system* (Dublin, 2002), pp 41-42.

⁴⁸⁸ McDowell, 'Irish Courts of Law', p. 371.

⁴⁸⁹ Joanne McEntee, "'Gentlemen practisers': Solicitors as elites in mid-nineteenth century Irish landed society' in Ciaran O'Neill (ed.), *Irish elites in the nineteenth century* (Dublin, forthcoming winter 2012)

⁴⁹⁰ Dorian, *The outer edge of Ulster*, p. 15.

⁴⁹¹ Desmond Mac Cabe, 'Magistrates, peasants and the petty sessions courts: Mayo 1823-50' in *Cathair na Mart*, v, no. 1(1985), p. 49.

⁴⁹² Vaughan, *Landlords and tenants*, p. 14.

Although Dublin Castle seemed bent on reforming law and order structures in Ireland after the Union, little was achieved until the early 1820s following a revision of the list of Irish magistrates in 1822 and, in the subsequent year, the establishment of petty sessions in Ireland.⁴⁹³ In 1822, along with the revision of the list of magistrates, stricter codes of practice were imposed on magistrates – a development which was further addressed in the Petty Sessions Act of 1827.⁴⁹⁴ However the enforcement of the 1827 legislation was met with opposition and faltered in the face of ‘the self protective solidarity of local magistrates’.⁴⁹⁵ Desmond MacCabe argued that oftentimes magistrates only acted in an official capacity once all other courses of action had been exhausted.⁴⁹⁶ Grand juries comprised of ‘the gentlemen of most consequence in the county’ were also subjected to increasing moves to modernize and standardise legal practices.⁴⁹⁷ The increasing presence of trained solicitors, well-versed in the law, cast doubt in the minds of all on the legal credentials of grand jurors and magistrates – many of whom were landlords.⁴⁹⁸ Legislation in 1814 and 1822 granted power to the Lord Lieutenant to appoint magistrates ‘of police’ in ‘disturbed’ areas. Termed stipendiary magistrates (and forerunner of resident magistrates – a term used officially from 1853 onwards), their numbers gradually increased from twenty-one prior to 1836 to seventy-two in 1860. Although having the same powers as ordinary magistrates, stipendiary magistrates operated within a wider jurisdiction and, from 1836, were generally drawn from the landed and professional classes.⁴⁹⁹ Sometimes Irish Constabulary Officers acted as stipendiary magistrates.⁵⁰⁰

Overlapping of manorial and formal judicial roles on estates

Yet this rather crude and simplistic separation of the estate and the state in matters dealing with law and order belies a more complex, and often contradictory, relationship that existed between landlords and the crown system. Not only were

⁴⁹³ Mac Caba, ‘Magistrates, peasants and the petty sessions’, p. 45.

⁴⁹⁴ McDowell, ‘Irish Courts of Law’, pp 371-72.

⁴⁹⁵ Mac Caba, ‘Magistrates, peasants and the petty sessions’, p. 47.

⁴⁹⁶ *ibid.*, pp 50-51.

⁴⁹⁷ D. J. Hickey and J.E. Doherty, *A dictionary of Irish history since 1800* (Dublin, 1980), p. 205.

⁴⁹⁸ Mac Caba, ‘Magistrates, peasants and the petty sessions’, p. 50.

⁴⁹⁹ Penny Bonsall, *The Irish RMs: the resident magistrate in the British administration of Ireland* (Dublin, 1997), pp 12-16.

⁵⁰⁰ Foster, *Modern Ireland*, p. 295.

many landlords politically active – with some even acting as MPs in Westminster⁵⁰¹ – but so too did they, or members of their family, employees, or neighbours from a similar economic, political, and social class, often hold positions of power and prestige with respect to law and order at a local level.⁵⁰² Frequently landlords and agents straddled both the manorial and formal legal systems simultaneously. Barnard revealed how the seneschal could be commissioned as a justice of the peace ‘in order to better to equip him to pursue miscreants and enforce laws’. He emphasized, in particular, that close relations between formal and informal legal systems perpetuated the landlord’s seigneurial control over his tenants.⁵⁰³ During the 1830s the agents of the neighbouring Bath and Shirley estates acted as magistrates at the local Petty Sessions held at the market house in Carrickmacross. The *Ordnance Survey Memoirs* recorded how oftentimes legal action was ‘prevented through the influence of the two agents who, as such, can reconcile the parties in many cases without the necessity of the cases being brought before the bench’.⁵⁰⁴ Subsequently, an oftentimes ambiguous and fluid role was adopted by the gentry with respect to law and order. Ultimately, many landowners seemed to believe themselves the absolute arbitrators and with-holders of the law.

A significant number of tenant requests for landlord assistance were redirected by the landlord to official legal systems. This may suggest a lack of understanding among some tenants in relation to the judicial role of the estate. It may

⁵⁰¹ Including John Thomas Browne, 4th Marquess of Sligo MP for Co Mayo 1857-68; W.S. Clements, 3rd Earl of Leitrim MP for Co. Leitrim 1839-47; John Barry Maxwell, 5th Baron Farnham MP for Co. Cavan 1806-23; Henry Maxwell, 7th Baron Farnham MP for County Cavan 1824-1838; Evelyn John Shirley MP for Co. Monaghan 1826-1834 (later represented Warwickshire South 1837-49); Evelyn Phillip Shirley Mp for Co. Monaghan 1841-1847 (later represented Warwickshire South 1853-65); Sewallis Evelyn Shirley MP for Co. Monaghan (1868-80)

⁵⁰² Lords Lieutenant: Howe Peter Browne (Mayo); Nathaniel Clements (Leitrim); Deputy Lieutenant: W.S. Clements (Leitrim); Nicholas Charles Whyte (Down); John Joseph Whyte (Down); Evelyn Phillip Shirley (Monaghan and Warwickshire); George John Browne (Mayo); Justice of the peace: W.S. Clements (Leitrim); Nicholas Charles Whyte (Down and Armagh); John T Gibbings agent (Monaghan); Magistrate: Evelyn Phillip Shirley (Monaghan and Warwickshire); Howe Peter Browne (Mayo); W.S. Clements (Leitrim); Humphry Evatt, Agent (Monaghan); Grand Jury: George John Browne, foreman of grand jury (Mayo); W.S. Clements, foreman of grand jury (Leitrim); Sandy Alexander Mitchell, member of grand jury (Monaghan); High Sheriff: John Joseph Whyte (Down); Evelyn Phillip Shirley (Monaghan and Warwickshire); Evelyn John Shirley (Monaghan); Horatio Shirley, uncle of E.P. Shirley (Monaghan); Army: Somerset Henry Maxwell, lieutenant in the Royal Irish Fusiliers and captain of Cavan militia; Nathaniel Clements, colonel of Donegal militia; W.S. Clements, colonel of militia; George John Browne, colonel of South Mayo Militia and member of Royal Navy.

⁵⁰³ Barnard, ‘Local courts’, p. 36; *Report from the Select Committee on Manor Courts, Ireland; together with the minutes of evidence, appendix, and index*, H.C. 1837-38 (648), xvii.1 (hereafter ‘Manor court select committee, 1837-38’)

⁵⁰⁴ Day and McWilliams (eds), *Ordnance Survey Memoirs of Ireland*, p. 147.

also indicate that some tenants deferred to the landlord before resorting to official legal channels. However, in the middle of the century when the lines between feudal and formal law were blurred, with both claiming jurisdiction over matters concerning land tenure and inheritance, trespass, injury to private property, and marital dispute fallout, it proves no surprise that confusion often reigned among the tenantry. During the first half of the century, land cases which had entered petty sessions were often referred to the landlord or agent.⁵⁰⁵ The following section will consider how both formal and informal legal systems functioned alongside each other during 1830-1859 and how each contributed towards order on the estate.

1830-1859

Petitions

Some tenants bypassed both the arbitration system and the manor courts in order to have their disputes settled. Through petitioning the landlord directly, either verbally or in writing, justice was sought with respect to family disputes (land or maritally related) and to disagreements among neighbours. Although often embroiled in intimate family and communal relations, requests dealt with by the landlord or agent all shared a common denominator – the rights over possession of land. Dorian described how tenants frequently coveted their neighbour's property, 'strengthened in his thoughts from some certain signs arising of the latter coming to poverty or unable to meet his demands'.⁵⁰⁶

In relation to familial disputes, tensions frequently arose over possession rights, with resolutions often postponed until the matter had been thoroughly looked into by the agent or landlord.⁵⁰⁷ The landlord also had to be consulted in relation to the living and farming arrangements of the tenantry. In 1857 Mary Lowe and Susan Anderson sent separate requests to Baron Farnham seeking permission to receive help from a relative to assist on their farms. In 1855 John McAlister asked if he could live with his stepmother for a year, while two years later Matilda Fegan complained of how she was 'treated about her house'. These requests reveal the range of power the landlord had in the lives of the tenants in their homes. The

⁵⁰⁵ Mac Cabe, 'Magistrates, peasants and the petty sessions', p. 51.

⁵⁰⁶ Dorian, *The outer edge of Ulster*, p. 191.

⁵⁰⁷ Robert Brownlee (1858) and Alexander Gallagher (1860) (N.L.I., Farnham papers, MS 3,117-3,118); Petition from Thomas Watson to Abraham Brush Esq., 9 Oct. 1856 (N.L.I., Farnham papers, MS 11, 493 (1))

landlord was also asked to intervene in disagreements within families over land inheritance in last wills and testaments. In 1859 Alexander Hamilton requested that Farnham ‘compel his brother John Hamilton to agree to the terms of their mother’s will’. However, John’s refusal to adhere to Farnham’s order resulted in the matter returning to Farnham’s attention. Farnham was adamant that his initial order be enforced.⁵⁰⁸

The landlord also dealt with marital affairs. As McDonough and Slater noted, landlords often had to be approached for permission prior to the marriage of the tenantry. In 1850 Richard Smith sought permission from Farnham to marry Mr Thomas Kenny’s daughter. Permission was subsequently granted. The landlord frequently received petitions from wives who believed themselves wronged by their spouses. In a petition submitted in 1832, Ellen Corr requested a ‘separation’ from her husband Thomas Reilly, who had ‘taken up with Widow McGaughan of Drumkeena’. The landlord replied that he would ‘enquire into the particulars and report’.⁵⁰⁹ Landlords took an active interest due to the land implications that marital tensions could have for the order of the estate. As tenancy agreements were generally a male preserve, marriage separation could have significant repercussions regarding who would be entitled to remain in possession of the holding, who was required to pay the rent, and who would work the land. Lord Shirley received requests to compel husbands to provide financial support to their wives, as in the case of Alice Morgan who claimed that her husband had ‘turned her from his dwelling about a month ago without any just cause’, that he had ‘always treated her badly’, and that he now threatened ‘to sell the land and go to America with 2 children he had by a former wife and leave her and 4 small children desolate’.⁵¹⁰ The landlord was also requested to assist in instances where fathers-in-law reneged on their promise to their new daughters-in-law and their families. In 1845 Widow Gulshuan’s daughter married Simon Finnigan’s son after ‘he having taking an advantage of her as it is well known’. Finnigan failed to give six acres and a dwelling house to the new couple as previously agreed.⁵¹¹ Even the Shirley agriculturalist Abraham Nelson became somewhat embroiled in family disputes. In 1858 he described John Martin as

⁵⁰⁸ Summaries of applications (N.L.I., Farnham papers, MS 3,118)

⁵⁰⁹ *ibid.*

⁵¹⁰ Petition from Alice Morgan, otherwise Keenan to Mr William Steuart Trench Esq. [nd] (P.R.O.N.I., Shirley papers, D3531/P/1)

⁵¹¹ Petition from Widow Gulshuan to Mr W.G. Smith Esq., Mar. 1845. (P.R.O.N.I., Shirley papers, D3531/P/3)

a ‘wicked son in law’ who left his wife and queried what was to be done ‘when old man dies’ advising that he [Martin] must not have the farm.⁵¹²

Land disputes between neighbours were also ubiquitous. Shirley could dispense a range of penalties on the transgressor – from the termination of an annual allowance of five pounds to dispossession.⁵¹³ Instances of encroachment (real or otherwise), or dispossession of one tenant by another, were also prevalent. In 1857 one tenant complained that Richard Davis was intruding on her farm. The landlord replied that he would ‘not allow these people to be annoyed and Davis must at once desist’. When, in 1859, Mr. Clemenger complained of Alexander McDowall who he believed was seeking to dispossess him, Shirley replied that he would ‘afford every protection in my power to Mr. Clemenger’.⁵¹⁴ Some land disputes, although they had already entered the courts, could be redirected back to the estate, thereby revealing how state law often deferred to the law of the estate in such matters.⁵¹⁵ Other land related issues which were frequently brought to the landlord’s attention included animal trespass, goats damaging fences, fishing disputes, turbary disputes, and trading disagreements concerning horses, the non-payment of purchased stock, and stolen pigs.⁵¹⁶ Such disagreements, either directly or indirectly related to land possession or agricultural transactions, were as a rule resolved by Shirley or his agents.

Some of the matters brought before the attention of the various estate authorities were perceived as somewhat trivial. Nelson was compelled to settle a dispute ‘between two very silly tenants ... about a few inches of land affected by a drain!’⁵¹⁷ On another occasion he felt forced to threaten that an order for notices to quit would be sent to two neighboring tenants who were quarrelling ‘very much about a pond which is dry in summer’.⁵¹⁸ Described by Vaughan as an ‘administrative maid-of-all-work’, the notice to quit, according to Curtis, put ‘the landlord in a privileged position in rural society’ permitting him to threaten

⁵¹² Visitation book of the Shirley Estate 1858 (P.R.O.N.I., Shirley papers, D3531/S/7/3/14)

⁵¹³ *ibid.*

⁵¹⁴ *ibid.*

⁵¹⁵ Petition from Catherine McMahon, Tullynascagh to Mr W.S. Trench Esq., 19 Mar. 1844 (P.R.O.N.I., Shirley papers, D3531/P/3)

⁵¹⁶ Petition from Bernard Connolly to Geo Morant Esq. [ind.] (P.R.O.N.I., Shirley papers, D3531/P/1); Petition from Owen Sheridan, William Sheridan, Patrick Finnigan, and Honora Finnigan to William Steuart Trench Esq., 22 June 1844; Petition from Edward Curtis, Leckymore to William Steuart Trench Esq., 1843 (P.R.O.N.I., Shirley papers, D3531/P/2).

⁵¹⁷ Visitation book of the Shirley Estate 1858 (P.R.O.N.I., Shirley papers, D3531/S/7/3/1-19)

⁵¹⁸ Summaries of applications (N.L.I., Farnham papers, MS 3,118)

perceived offenders of estate law ‘for offences that would not have been punishable by the courts’.⁵¹⁹ The multi-functional nature of the notice to quit was addressed in Chapter 1. A fundamental part of the dispute settlement process was the opportunity for the offending tenant to come forward and seek absolution from his landlord, or explain himself. A wish not to unduly upset the landlord seemed to prevail and may have influenced whether tenants would have a ‘claim’ for assistance in the future. Failure to forgive a tenant resulted in a continued hold of the landlord over the tenant. In 1859 Joseph Bredin asked Farnham whether he was dissatisfied with the tenant’s conduct with regard to a recent dispute over fowl. In reply the landlord informed the tenant that he hoped to change the opinion which he held of the Bredins by their future conduct.⁵²⁰ When in 1858 John Lowry complained of Malcomson’s treatment of him in ‘an unfriendly malicious manner’, the landlord replied that if Lowry had behaved poorly it was Malcomson’s duty to inform the estate of this. His closing comment that he was ‘not to be trifled with’ reveals how he perceived a real role for himself in maintaining a semblance of order between bickering tenants. The landlord also expected that his resolutions would be respected and adhered to. When one tenant challenged the decision made by the landlord in 1859 in relation to an uncle’s will, Farnham appeared to take umbrage and stated should a repetition of so ‘audacious an insult’ occur the family would be removed.

On the other hand, sometimes the landlord refrained from intervening in family quarrels. Both Pat Daly (1832) and Michael Briody’s (1845) applications for assistance were declined by Farnham, although it is not recorded why. On one occasion in 1858, when Joseph White requested that Farnham prevent his brothers from giving him annoyance, the landlord refused to become involved – although he promised that the family would be ‘closely watched’. In another instance, although informing the tenant that he would not interfere, he stated that he would not allow Widow McDonald to be disturbed or annoyed.⁵²¹ Therefore, it may be surmised that the landlord declined to assist the tenant with their request if it was not land related. In such instances, however, it would seem that perhaps paternal instincts propelled the landlord to take an active, though somewhat distant, interest. Upon receiving a petition from a tenant for dispute resolution, the landlord could order the

⁵¹⁹ Vaughan, *Landlords and tenants in Mid-Victorian Ireland*, pp 31, 92; Curtis, *Depiction of eviction*, p. 18.

⁵²⁰ Summaries of applications (N.L.I., Farnham papers, MS 3,118)

⁵²¹ *ibid.*

tenant to submit their request for arbitration instead of dealing with the matter himself.

Arbitration

It would seem that arbitration, as a means of dispute settlement, was used primarily for land related contentions. On the Shirley estate, females did not seem to act as arbitrators; perhaps a reflection of the male dominated sphere of landownership. Female landholders generally were widows.⁵²² Surviving records do not reveal the religion or social standing of those chosen to fulfil the role of arbitrator. In 1844 Thomas Mee and Thomas O'Dwyer 'were appointed to settle and arrange a dispute between James Murtha, Pat Murtha, and Thomas Lamb of Dromgerris concerning a farm of land lately held by Owen Murtha, deceased' on the Shirley estate. They decided to:

allow Thomas Lamb (by giving the peaceable possession of said farm together with all the manure thereon to James and Pat Murtha) the sum of 32£ the small complement of oats and potatoes house furniture & turf in place at present together with the summer calf. But he the said Thomas Lamb is to pay the rent of the part of the farm he hold up to May 43 which sum amounts to £5 5s together with part of the debt due on the place.⁵²³

However, this resolution had to be approved of first by the landlord before it could be enacted. Although ostensibly an unbiased and impartial adjudication procedure – on the Farnham estate adjudicated by 'one friend on each side and a third to be called in if they do not agree' or 'referees' on the Shirley estate – all decisions, as stated previously, ultimately had to be approved of by the agent or landlord before any actions were implemented.⁵²⁴ Arbitration, thus, allowed the estate maintain a significant amount of control over their tenantry. It may be argued that the arbitration process proved simply a veneer of impartial justice, ultimately being controlled by the agent or landlord.

⁵²² Adjudication between Joseph Nelson and Widow Nelson, now McGee, signed by G. Morant, Oct. 1843; Adjudication between Owen Agnew and Widow Rose Agnew, signed by G. Morant, 19 July 1845 (P.R.O.N.I., Shirley papers, D3531/M/6/1)

⁵²³ 'Pat and James Murthas settlement of affairs and acknowledgement for 32 pounds', 3 Apr. 1844; Award between Edward Shenan and Patrick Mee and Catherine Mee, 15 Jan. 1844 (P.R.O.N.I., Shirley papers, D3531/P/1)

⁵²⁴ Such as in the case of Francis Hamilton (1843) and James Hawthorn (1832), Summaries of applications (N.L.I., Farnham papers, MS 3,117-3,118); Arbitrators on the Shirley estate included Thomas Mee and Thomas O'Dwyer; Hugh Fay; Nathaniel Eakin and Samuel Eakins; Michael Connor and Henry Reburn; Garret Byrnes and Michael Swinburn (P.R.O.N.I., Shirley papers)

Arbitration fundamentally involved compromise on the part of the tenantry involved. In Monaghan, frequently, awards involved the transfer of land from one tenant to another in exchange for money.⁵²⁵ Consequently, awards could function as an estate management tool in estate rationalization endeavours, complementing other attempts by estate authorities to prevent subdivision and the creation of small, unproductive plots. Family members who wished to dispose of their interest in their holding were oftentimes not permitted to do so and were offered money instead to leave the farm, thereby keeping it intact.⁵²⁶ Arbitration awards often carried stipulations which had to be adhered to. In 1845 Trench ordered that Francis Mc Entee could not use or occupy the land he had obtained from James Mc Entee until ‘fences and gates are made upon it in a proper manner’.⁵²⁷ As awards had to be approved of prior to enactment, the landlord or agent could choose to ignore the unanimous decision reached by those officiated to perform the task. In 1844 when an award was made by the arbitrators Garret Byrnes and Michael Swinburn was examined by Trench, he returned it with a note stating how he felt that although the award was ‘perfectly fair’, he believed that the amount charged upon the farm in question was too high and advised that it be reduced.⁵²⁸ Regardless of who actually controlled this system of estate justice, it was recognized and frequently sought by members of the tenantry – such as Robert Henry in 1837. Other tenants had to be ordered to go, and, more often than not, duly complied, such as Widow Porterfield in 1836 and Thomas Tilson and Edward McCabe a year later.

While the landlord proved ultimate judge in arbitration cases involving land disputes within the confines of the estate, his judicial omnipotence was somewhat more compromised in tenant debt-related matters. Evidence exists of how, in 1845, the Shirley land agent informed the judge of the insolvent debtor’s court, Monaghan, of arbitration resolutions with respect to James Clarke:

⁵²⁵ Award between Laurence McDermot and Sally Magovran, Drombracken awarded by Hugh Fay [nd], (P.R.O.N.I., Shirley papers, D3531/P/2)

⁵²⁶ Letter from Michael Connor and Henry Reburn to Mr Morant Esq., 29 Jan. 1846 (P.R.O.N.I., Shirley papers, D3531/M/6/1)

⁵²⁷ Award to James and Francis Mc Entee by Mr Nathaniel Eakins of Shanco and Samuel Eakins of Mullycroghery, 5 July 1845 (P.R.O.N.I., Shirley papers, D3531/P/2)

⁵²⁸ ‘The award of James and John McCabe and promissory note for £6 9s’, correspondence from Garret Byrnes Michael Swinburn to W.S. Trench, 9 Apr. 1844 (P.R.O.N.I., Shirley papers, D3531/P/1)

it awards the *full amount* of each creditors' original debt, together with 6 ¼ per cent interest thereon for the time it has been in his hands and any interest which he may have paid beyond this has been set down to liquidate the original amount – this I think fair & reasonable when the several parties are paid without any risk whatever the full amount of the original debt. If you approve of this I have no doubt you will kindly make such arrangements in the case as will enable me to carry my intention into effect.⁵²⁹

Consequently, it is not only apparent that the estate had to inform the formal legal system of certain estate resolutions, but these also had to be approved of and required assistance in order to be fulfilled. Documentation from the same estate in the following year shows how the estate arbitration system attempted to give an award before the formal legal system did. The Shirley estate arbitrators, although aware that there was 'a civil bill decrees at the suit of Henry McClusky in force against Daniel McCluskey for the sum of about £3 9s 6d including costs', awarded that 'the said Henry McCluskey to give Daniel McCluskey credit for two pounds sterling out of said Decree, as a consideration for 1 years' crop of a field of ground, which he held from him' and also that 'the said Daniel shall on the 10th of October next pay the Balance of the said decree being about £1 9s 6d unto Henry McCluskey'.⁵³⁰ Thus, the boundaries between estate jurisdiction and common law code proved extremely blurred during this period.

Manor courts

An overlapping of jurisdiction also occurred within the feudal system. In a similar fashion to the content of petitions and arbitration requests, issues related either directly or indirectly to land tenure lay at the heart of the manor court system. During 1847 at the peak of the famine, many requests were received in the manor courts in relation to the exchange of land. Some of the Shirley tenants who relinquished possession of their holding during this period could be given grace to remain in their cabin until the next gale day.⁵³¹ On all occasions, the incoming tenant had to be approved of by the landlord or agent (as discussed in Chapter 1). A resolute stance could be adopted by the seneschal should the tenant not agree to the orders of the

⁵²⁹ Copy of letter from Trench to the Judge of insolvent debtors court, in relation to James Clarke, 15 Feb. 1845 (P.R.O.N.I., Shirley papers, D3531/P/2)

⁵³⁰ Award between Daniel Mc Cluskey and Henry Mc Cluskey by Nathaniel Eakins and Thomas Nelson, 11 July 1846, *ibid.*

⁵³¹ Adjudication between Patrick Collaton and Mary Bannigan, signed by G. Morant, 14 Mar. 1846 (P.R.O.N.I., Shirley papers, D3531/M/6/1)

court. In 1843 Trench stated that should James Callen not agree to take the garden and piece of land on the terms outlined, he would not receive anything and both plots would go to Pat Callen.⁵³² Tenants perceived to be misbehaving were also dealt with firmly. When Nicholas Mooney displayed impertinence upon the arrival of Trench to adjudicate about a pass, it infuriated the agent to such a degree, that he returned back to the estate without formulating a resolution, determined to send Mooney a notice to quit.⁵³³ Tenants, such as James Finegan, who refused to attend the estate office upon summons, were also meted out punishment from the manor court.⁵³⁴ Manor courts, specifically the Court Baron as mentioned previously, also had jurisdiction over small debts claims. Landlords and agents probably took an active interest in this area as non-payment of loans could have important repercussions for the liquidity of estates and the rent collection process in particular. On the Shirley estate, adjudications with respect to debt cases generally involved the seneschal ordering that the debt be cleared.⁵³⁵ The seneschal could also order the sale of a tenant's land in order to clear an outstanding debt.⁵³⁶

Outside of the manor court system, assistance from the landlord in relation to debt recovery was also sought by application through petition or arbitration. Surviving records reveal how many of the Shirley tenants were in debt, either to the landlord himself or to other tenants. With respect to the former, a volume entitled 'Shirley estate loan book', 1827-1845, holds records of the names and addresses of tenants, the sums lent to them, and the purposes for which the loans were made. On the eve of the Great Famine, the Shirley estate was owed £608 6s 11d from a reported 138 persons in loans given.⁵³⁷ A 1845 document for the same estate reveals the extent of the estate loaning system with loans stretching back as far as 1834 with amounts ranging from shillings up to a substantial £11.⁵³⁸

In relation to debt accrued between tenants, creditors sometimes contacted the agent with respect to defaulting tenants, who in turn acted as mediator between the

⁵³² Adjudication between Pat Callen, Francis Duffy, and James Callen, signed by W.S. Trench, 14 Oct. 1843, *ibid*.

⁵³³ Adjudication between Art Mohan and Nicholas Mooney, signed by W.S. Trench, 17 Oct. 1843, *ibid*.

⁵³⁴ Order by W.S. Trench, 24 Oct. 1843, *ibid*.

⁵³⁵ Adjudication between McConnon and Boyle, signed by W.S. Trench, Nov. 1843; Adjudication between Patrick Carolan and Owen Reilly, and Owen Smith, signed by G. Morant, 6 July 1845; Adjudication between Simon Reilly and Owen Feally, 16 Aug. 1845, *ibid*.

⁵³⁶ Case involving Owen Feally, signed by G. Morant, 4 Oct. 1845, *ibid*.

⁵³⁷ 'Loans out standing', 31 Aug. 1844 (P.R.O.N.I., Shirley papers, D3531/P/2)

⁵³⁸ 'A list of loan process, 27 Dec. 1845', *ibid*.

parties involved.⁵³⁹ Many tenants sought the assistance of the landlord believing, ‘there is no other person to whom I can appeal with so much confidence and I am certain that without your interference I can never recover a penny of this debt’.⁵⁴⁰ Another tenant, Miles Marron promised, if ‘you in your justice see me justyfyed [sic] ... I will ever consider myself under an obligation to your honour’.⁵⁴¹ Irish tenants seemed to cling to notions of ‘justice’, which seemed to be defined in opposition to the crown system. In a similar manner to the working classes in Britain, tenants appeared to transfer ‘their faith in traditions and customs to an ideology based on fairness and morality’.⁵⁴² For many tenants, the official legal system was not synonymous with justice. The ballad ‘An Irish peasant’s lament to his wife’ illustrates this disparity in the following lines: ‘If it’s legally so, ‘tis not justice, I know’ and ‘from the law-shop in London no succor [sic] we’ll get’.⁵⁴³ Both Shirley and his agent frequently received requests to cancel outstanding loans between tenants, to make defaulters pay, to arrange debt repayment, or to settle the affairs of others deep in debt.⁵⁴⁴ Some tenants even sought financial assistance from the landlord once their debts were paid up.⁵⁴⁵ In 1853 arbitration was used to settle Widow Mary Magee’s outstanding debt to Frank Colewell.⁵⁴⁶

Estate manor courts were subjected to select committee reports in 1837 and 1838, ostensibly to inquire into ‘the operation of the small debt jurisdiction of manor courts in Ireland, the abuses which may exist therein, and the remedies proper to be applied’. As the title would suggest, the main area of concern was the issue of debt. The report found that while oftentimes individual malpractice and the insufficient qualifications of seneschals to adjudicate on the affairs of others were identified in many of the testimonies presented by the committee, the positive effects of the courts

⁵³⁹ Report from W.S. Trench, Shirley House, 15 July 1844 (P.R.O.N.I., Shirley papers, D3531/P/1).

⁵⁴⁰ Letter to Mr William G. Smith from Patrick Branigan, Cornasleve, 15 Mar. 1844, *ibid*.

⁵⁴¹ Letter to William S. Trench Esq. from Miles Marron, Lisnaclea [nd], *ibid*.

⁵⁴² Barry S. Godfrey and John P. Locker, ‘The nineteenth-century decline of custom and its impact on theories of “workplace theft” and “white collar” crime’ in *Northern History*, xxxviii, no. 2 (2001), p. 270.

⁵⁴³ Michael Davitt, *The fall of feudalism in Ireland, or, The story of the Land League revolution* (London, 1904), pp 166-67.

⁵⁴⁴ Petition from Thomas Marron, Ballyloughan to E.P. Shirley, 18 July 1843; Petition from Bridget Finnigan to W.S. Trench, 12 June 1844; List of Thomas Byrne’s creditors, Lattinalbany, and Charles Finnigans settlement of affairs (P.R.O.N.I., Shirley papers, D3531/P/1); Petition from Owen Coyle, Donogue to William Steuart Trench Esq., 10 Jan. 1844 (P.R.O.N.I., Shirley papers, D3531/P/2)

⁵⁴⁵ ‘Account of debt due to his creditors’ from Patt Boylan (P.R.O.N.I., Shirley papers, D3531/P/1)

⁵⁴⁶ Award between Widow Mary Magee, Cornacarrew and Frank Colewell, Drumcargagh, signed by both parties and also the witness William Rorke, 21 Apr. 1853, (P.R.O.N.I., Shirley papers, D3531/C/3/8)

were also recognised. Specific reference was made to the preference over the courts' speed in proceedings with respect to debt recovery, as opposed to the long wait for the next quarter sessions, and the opportunity manor courts afforded to tenants who could submit their requests 'to persons in whom they have a natural confidence'.⁵⁴⁷ Evidence can be found in the committee's report of attempts to amalgamate the feudal legal system with the formal legal system and to incorporate the latter's remit within state officialdom. It was proposed that 'no appointment of a Seneschal be final until approved by the next going Judge of Assize' and that every seneschal:

shall, on or before the 15th January in each year, deliver to the clerk of the peace a certified copy of the proceedings of his Court ... that every Peace-clerk shall keep in his office, and suffer to be inspected at all reasonable times, an alphabetical list of all townlands within his district over which manorial jurisdiction is claimed...⁵⁴⁸

One interviewee, John Jagoe from Bantry, County Cork, even recommended the possibility that manor courts be incorporated into the petty sessions.⁵⁴⁹ Twenty years later an act of parliament finally abolished the manor court system and brought to an end the feudalistic legal powers of the estate, transferring all estate related matters of dispute to the petty sessions courts.⁵⁵⁰ The title of the bill spelled out clearly, once again, the priorities of government; 'bill for the abolition of Manor Courts and the better Recovery of small Debts in Ireland'.⁵⁵¹ Once more, the focus was on the debt jurisdiction area of the courts. The courts of civil law appeared anxious at this time to gain complete authority over this contentious area previously within the estate's remit, an acknowledgement perhaps of its increasing prevalence and importance in Irish society. Existing judgements, orders, and decrees were to be enforced in county courts by the chairman of quarter session, thereby ensuring some continuity for the tenantry, especially if the landlord or agent was a magistrate or a grand juror.⁵⁵²

Although the bill stipulated that compensation be awarded to existing seneschals and stewards, no similar compensatory measure was forthcoming to

⁵⁴⁷ *Report from the Select Committee on Manor Courts, Ireland; together with the minutes of evidence, appendix, and index*, H.C. 1837 (494), xv.1 (hereafter 'Manor court select committee, 1837'); Manor court select committee, 1837-38.

⁵⁴⁸ Manor court select committee, 1837-38, pp iii-iv.

⁵⁴⁹ Manor court select committee, 1837, p. 48.

⁵⁵⁰ McDowell, *The Irish Administration*, p. 118.

⁵⁵¹ Henceforth, debts not exceeding one pound would be dealt with in petty sessions with appeals being heard at the quarter sessions, Bill for the abolition of manor courts, 1859.

⁵⁵² *ibid.*, pp 2-3.

landlords whose right to appoint judges was also abolished.⁵⁵³ The 3rd Earl of Leitrim took great exception to the latter.⁵⁵⁴ He believed there was no substitute for a manor court as there was not likely to be a magistrate residing within eight or ten miles of any manors in his opinion.⁵⁵⁵ He did not seem content with the fact that the bill legislated for a continued preservation of manorial rights.⁵⁵⁶ The committee responsible for the bill's conclusion that 'the continued existence of manor courts in Ireland has been found prejudicial to the proper administration of justice' contradicted many of the tenant's views that justice could only be achieved expeditiously and free of cost in the manor court.⁵⁵⁷

Formal legal system

Although it would appear that the 'proper administration of justice' fell wholly on the formal legal system after 1859, it is evident that landlords and agents actively used the official court system in the preceding period as an estate management tool. A letter to Trench in 1843 clearly outlined the benefits of the courts with respect to rent recovery. Believing it 'positively *humane* to affect our purpose in the cheapest possible way', the agent was advised to proceed by summary process by civil bill at the quarter sessions 'against such *tenants as are known to have the rents in their hands*' and also by decree for either person or goods.⁵⁵⁸ Such actions were proposed due to the reasonable costs; 1s 6d cost in each case with respect to the former and 'only 7s 6d' in the latter. A further advantage was that the estate was free from the responsibility of serving the processes and executing the decrees as 'proper persons' would perform such duties.⁵⁵⁹ When a tenant defaulted on his rent, the more solvent individuals were tried in the superior courts, while owners of smaller holdings (under £50) received civil bill processes to be dealt with at quarter sessions.⁵⁶⁰ On the same estate, Mr Richard Allen Minuitt informed the Devon Commission that the 'most usual mode is now before the assistant-barrister, unless in cases where there is any

⁵⁵³ *ibid.*, p. 2.

⁵⁵⁴ Letter from [Rt Hon.] J[ames] Whiteside, Irish Office, Whitehall to the 3rd Earl of Leitrim, 26 Feb. [1859] (N.L.I., Killadoon papers, MS 36,069/31)

⁵⁵⁵ Rough copy of a letter from the 3rd Earl of Leitrim, Lough Rynn, to [Rt Hon.] J[ames] Whiteside, Irish Office, Whitehall, 3 Mar. 1859, *ibid.*

⁵⁵⁶ Bill for the abolition of manor courts, 1859, p. 2.

⁵⁵⁷ *ibid.*, p. 1.

⁵⁵⁸ 'Copy of part of Mr Smith's letter', 5 May 1843 (P.R.O.N.I., Shirley papers, D3531/C/3/5)

⁵⁵⁹ *ibid.*

⁵⁶⁰ 'Observations on the several remedies capable of being adopted, for receiving of rents', Gibson, 24 Apr. 1843 (P.R.O.N.I., Shirley papers, D3531/C/3/5)

probability of the property being removed from the premises. But in the cases within my own knowledge, it is by process before the barrister'.⁵⁶¹

The relationship between landlords and the law proved a complex one. While recognising the assistance the law could provide with respect to property rights, some landlords felt that the law did not help the landed class as much as it could or should. In 1835 when Nicholas Charles Whyte, landlord and local magistrate, was attacked by 'gang of drunken miscreants' on his return to Loughbrickland from the County Down assizes, he afterwards expressed his 'surprise and disappointment at the want of energy and co-operation I have met with in enabling me to bring the delinquents to justice, particularly in a county priding itself, as the Co. Down does, for its orderly and peaceable conduct'.⁵⁶² Simultaneously, some tenants believed that it was to the landlord and not the Irish Constabulary (renamed the 'Royal Irish Constabulary' or R.I.C. in 1867), or the courts to whom they should go with complaints with respect to agrarian agitation. In the 1830s on the Farnham estate requests were received with respect to protection against combinations (Richard Belford, 1832), threats (Robert Ramsey, 1832), and purported malicious destruction of dwelling houses and walls (Mr. Rainy, 1837).⁵⁶³ In 1838, William Lee complained to Farnham after he had been attacked by a group of individuals with a gun. Farnham replied that he would write to the stipendiary magistrate.⁵⁶⁴ Although many landlords and agents acted as magistrates and grand jurors, they could still separate the remit of the estate from that of the state.

While landlords who acted as magistrates were undoubtedly familiar with the official legal system, tenants were frequently informed that a lack of knowledge of the law prevented their landlord from assisting them with their request. As stated previously, while magistrates more often than not did not possess any formal legal qualifications, their practical experience on the bench would undoubtedly have

⁵⁶¹ The Devon Commission, p. 903.

⁵⁶² MS copies of extracts from the [Newry] *Examiner*, 7 Aug. 1835 (P.R.O.N.I., Whyte papers, D2918/8/67); Copy of a letter from N.C. Whyte, Loughbrickland to the members of the Donaghmore branch of the North East Farming Society, 22 Aug. 1835 (P.R.O.N.I., Whyte papers, D2918/8/71); Sworn information taken by Whyte in his capacity as a magistrate, 1 Oct. 1835 (P.R.O.N.I., Whyte papers, D2918/8/76); Address from the Donaghmore branch of the North East Farming Society, Aug. 1835; Sworn writ before two of his Majesty's Justices of the Peace for the said County, James Little and Nicholas Chas Whyte with information given by Bernard Monaghan, Drumsallagh, 1 Oct. 1835 (P.R.O.N.I., Whyte papers, D2918/8/51-100)

⁵⁶³ Richard Belford (1832), Robert Ramsey (1832), and Sundry tenants of Clara (1837), Summaries of applications, (N.L.I., Farnham papers, MS 3,117-3,118)

⁵⁶⁴ *ibid.*

furnished them with a legal competence above that of their tenantry. Protestations continued, nonetheless, concerning the lack of qualifications possessed to deal with legal matters. In 1831 the 2nd Marquess of Sligo sought ‘information of the magistrates’ instructions as to the nature of offences which should be sent for trial to the quarter sessions.⁵⁶⁵ Two years later he was informed in advance by Stanley how the new grand jury bill would stipulate that information on small presentments should be sent to the secretary six days before the assizes.⁵⁶⁶ In 1845 when the Rev Eugene Reilly, P.P., requested Baron Farnham’s intervention concerning a case involving two tenants called Boylan and Delaney, the landlord replied that he could not interfere as it involved ‘much legal difficulty’.⁵⁶⁷ In 1852, when Farnham was appealed to by Mary Anne Philips to mitigate her husband’s sentence of transportation for seven years, he could only reply that he had already appealed to the judge who was involved in the case and could do no more. Several years later he redirected Charles Maguire to a barrister when he requested the landlord’s interest at an upcoming trial.⁵⁶⁸ Landlords oftentimes seemed to know where their authority ended with respect to the law.

The Farnham tenants recognised their right to go to law if desired; however, it was often financial restraints which held them back. A number of tenants even sought the landlord’s blessings on whether to take legal action or not.⁵⁶⁹ Prejudicial treatment – allegedly based on confessional grounds – of Catholic tenants in the courts deterred some tenants from seeking justice in official courts. A feeling was prevalent among Monaghan Catholics during the first half of the century that their Protestant counterparts ‘were rarely charged, more rarely convicted, and given proportionately lighter sentences when convicted’.⁵⁷⁰ Such believed discriminatory behaviour was, unsurprisingly, denied by a large portion of landed proprietors. In a letter to the conservative *Times* in 1828, ‘an Irishman’, with an address of Kildare, claimed that justice had ‘for these last five years, been administered by the magistrates in petit [sic] sessions impartially, and with the utmost decorum’.⁵⁷¹ Some

⁵⁶⁵ Letter from E.G. Stanley, Dublin Castle to Howe Peter, 2nd Marquess of Sligo, 18 Jan. 1831 (TCD, Special Collections, Mss 6403)

⁵⁶⁶ Letter from E.G. Stanley, 5 Carlton Gardens to Howe Peter, 2nd Marquess of Sligo, 25 Feb. 1833 (TCD, Special Collections, Mss 6403)

⁵⁶⁷ Summaries of applications (N.L.I., Farnham papers, MS 3,117-3,118)

⁵⁶⁸ *ibid.*

⁵⁶⁹ Such as Pat Brady (1836) and George Lee (1839), *ibid.*

⁵⁷⁰ Livingstone, *The Monaghan story*, p. 180.

⁵⁷¹ ‘To the editor of the Times’, An Irishman’, *The Times*, 17 Nov. 1828.

sought monetary assistance from the landlord or the patronage of a magistrate (often a landlord) in order to take legal proceedings.⁵⁷² David Galligan and Judith Stratford's requests for financial assistance to go to court were rejected in 1836 and 1837 respectively. Others proved more fortunate. In 1843 Noble Paget received £2 from Farnham to convict a cattle stealer.⁵⁷³ In 1858 one tenant, Alexander McDowell, who had already commenced legal proceedings against another tenant in relation to a dispute over land, decided to defer the proceedings while he sought the landlord's opinion. Farnham revealed his displeasure at McDowell's actions stating how he did 'not encourage litigation among my tenants. I consider the McDowell as behaving most unjustly and unfairly in the matter and if they preserve, I shall take my own steps'. Sometimes Lord Farnham informed tenants who sought his counsel that he could 'not interfere', claiming that 'the law must take its course'.⁵⁷⁴ In such instances tenants were often redirected to attend the petty sessions.⁵⁷⁵ Farnham may have pursued this course due to a feeling that such tenant concerns were no longer part of his jurisdiction, or simply due to a wish that the law deal with petty disputes and squabbles.

1860-1891

The relationship between landlords and the formal legal system has not received much analysis to date. Historiography for this period generally concentrates on the Land Courts evolving out of the 1881 act and on tenant attempts at using the legal system to defend their rights.⁵⁷⁶ This section of the chapter provides some insight into the evolving relationship between landlords and official law with respect to order on the estate. In a paradoxical fashion, both tenants and landlords increasingly came to rely on the law to assert what they believed to be their rights; although these rights were often in conflict with each other.⁵⁷⁷ The Marquess of Sligo wished to

⁵⁷² Mac Cabe, 'Magistrates, peasants and the petty sessions', p. 45.

⁵⁷³ Summaries of applications (N.L.I., Farnham papers, MS 3,117-3,118)

⁵⁷⁴ *ibid.*

⁵⁷⁵ Such as George Trelford Jr. (1832), Walter Fegan (1835), and Eliza Reilly (1837), *ibid.*

⁵⁷⁶ The Land Law (Ireland) Act 1881

⁵⁷⁷ In England landlord and tenant cases about town dwellings also occupied spaces in the national papers during the 1870s. An appeal dismissed with costs from the County Court of Middlesex was described by the papers a case involving 'an important point as regards the rights of landlord and tenant'. The appeal was made in relation to a verdict which awarded the tenant £10 damages and £20 16s 4d for the value of the goods restrained following non payment of rent upon the expiration of the tenant's lease. 'Shelton v. Wighton', *The Times* (London), 26 Nov. 1875; In 1879 the case of Weir v. Preedy involved, as the paper once again described 'questions of considerable importance as between

adopt the legal course in order to ‘prove [his] right in a court of law’.⁵⁷⁸ He believed that in general those who adopted legal means to ‘force ... tenants to pay, get more, a good deal more, money than those who are quiescent ... [and] appear *cowed*’.⁵⁷⁹ Gibbings, the Shirley agent, held a similar view, advising the landlord to ‘trust to the law of the land’.⁵⁸⁰ Accordingly, some landlords saw the law as an instrument of estate management.

With the petty sessions assuming a new importance following the formal demise of the manor court, it was in this arena where legal wrangles between the landlord and tenant were commonly played out. Their relative importance was highlighted in the amount of space the proceedings of the local petty session’s courts occupied in the provincial press. The top five offences listed in the Petty Sessions Order Books (1850-1910) were as follows: drunkenness 33 per cent; Revenue/tax offences 21 per cent; assault 16 per cent; local acts of nuisance 5 per cent; and destruction of property 4 per cent.⁵⁸¹ As previously mentioned, estate feudal law primarily dealt with matters directly, or indirectly, related to land. Persons tried through the petty court system could face either imprisonment or be subjected to a fine. In contrast, tenants tried by feudal law on estates could be faced with a loss of their non-contractual privileges and landlord obligations as discussed in the previous two chapters.

The courts were attended to enforce estate rules which were upheld by official law codes. Transgressions on the Shirley and Westport estates were generally related to tenants engaging in acts without permission from the landlord or agent, such as cutting turf,⁵⁸² cutting trees, ‘tree robbing’ and stealing under wood,⁵⁸³ taking seaweed,⁵⁸⁴ and ploughing.⁵⁸⁵ Barry S. Godfrey and John P. Locker argued how

landlords and tenants’. The verdict was entered for the defendant (tenant) with costs. ‘Law Of Landlord And Tenant.-The case of “Weir v. Preedy”’, *The Times* (London), 4 Oct. 1879.

⁵⁷⁸ Letter from the 3rd Marquess of Sligo, Clarendon Hotel, Bond St. W, London to Sir Arthur Gone Bart., Belleek Manor, Ballina, Co. Mayo [c. 1871-1892] (N.L.I., Westport, MS 40,997/2)

⁵⁷⁹ Letter from the 3rd Marquess of Sligo, Ceylon to his agent, 14 Jan. 1880 (N.L.I., Westport papers, MS 41,001/33)

⁵⁸⁰ Letter from John Gibbings to E.P. Shirley Esq., 21 Apr. 1881 (P.R.O.N.I., Shirley papers, D3531/C7/1)

⁵⁸¹ (www.findmypast.ie)

⁵⁸² Letter from John Gibbings to E.P. Shirley Esq., 20 Mar. 1884 (P.R.O.N.I., Shirley papers, D3531/C7/1)

⁵⁸³ 16 May 1882; 28 Jan 1884; 29 March 1884; 3 Apr. 1884; 9 Apr. 1884; 18 May 1884; 3 May 1887; 15 Mar. 1889; 11 May 1889; 15 Mar. 1890, *ibid*.

⁵⁸⁴ Letter from the 3rd Marquess of Sligo to his agent, 15 Mar. 1881 (N.L.I., Westport papers, MS 41,001/34)

eighteenth-century rural England witnessed the curtailment of customary rights where ‘the right to collect firewood, together with a host of other country traditions, all became subject to the criminal code’, along with the development of anti-appropriation legislation.⁵⁸⁶ Michael Huggins also highlighted this period as a significant time when the gentry disengaged from a shared code of customary rights and obligations through the embrace of concepts of property rights as espoused by common law. In England the significant ‘Waltham Black Act’ of 1723 (or simply ‘The Black Act’), in the words of E.P. Thompson, ‘signified the end of the pre-eminence of crime between people – breaches of fealty or deference – and the beginning of the primacy of crime against property’.⁵⁸⁷ Thompson argued that ‘what was often at issue was not property, supported by law, against no-property; it was alternative definitions of property-rights: for the landowner, enclosure – for the cottager, common rights; for the forest officialdom, ‘preserved grounds’ for the deer; for the foresters, the right to take turfs’.⁵⁸⁸ The work of Marxist historian Thompson has added greatly to knowledge of ‘the forms and functions of the state and the law’ in eighteenth century England and the distinctiveness of an English tradition of socialism.⁵⁸⁹ The forms and functions of the state and the law in nineteenth century Ireland contained similarities to Thompson’s English model due to the legislative union of 1800. However, notable differences are also in evidence due to ethno-confessional differences as discussed earlier in the chapter. The rescinding of the provisions of the Black Act in 1823 – with the exception of the clauses relating to maliciously shooting at a person and wilfully setting fire to property – while redefining once again statutory property rights in Ireland, failed to clearly define or provide uniformity on estates with respect to customary rights to the estate’s natural resources.⁵⁹⁰ During the Land Wars of the 1880s, many tenants defied the authority of the landlord by cutting trees and stealing sticks. On the Shirley estate, this

⁵⁸⁵ Letter from John Gibbings to S.E. Shirley Esq., 6 May 1887; 20 June 1887 (P.R.O.N.I., Shirley papers, D3531/C7/1)

⁵⁸⁶ Godfrey and Locker, ‘The nineteenth-century decline of custom’, pp 263, 267.

⁵⁸⁷ Michael Huggins, *Social conflict in pre-famine Ireland: the case of County Roscommon* (Dublin, c2007), pp 170, 177; Pat Rogers, ‘The Waltham Blacks and the Black Act’ in *The Historical Journal*, xvii, no. 3 (1974), p. 465; E. P. (Edward Palmer) Thompson, *Whigs and hunters: the origin of the Black act* (Middlesex, 1990), p. 21.

⁵⁸⁸ Thompson, *Whigs and hunters*, p. 261.

⁵⁸⁹ Keith McClelland, ‘Introduction’ in Harvey J. Kaye and Keith McClelland (eds), *E.P. Thompson: critical perspectives* (Philadelphia, 1990), p. 1.

⁵⁹⁰ L. Radzinowicz, ‘The Waltham Black Act: A Study of the Legislative Attitude towards Crime in the Eighteenth Century’ in *The Cambridge Law Journal*, ix, no. 1 (1945), pp 80-81.

occurred after the steward stopped giving firewood to the men, believing they did not ‘deserve’ it ⁵⁹¹

From a tenant perspective, access to turbary and the gathering of seaweed were customary rights they were entitled to. In the early 1830s, the Shirley estate imposed a charge upon the tenants for the use of the bog. While the agent argued that the introduction of this charge was motivated by conservation impulses, tenants objected strongly to the subsequent need to purchase a bog ticket prior to availing of what previously was unobstructed access to this natural resource. A resultant rent strike, initiated by the tenantry of Magheraclone in opposition to this new charge, eventually culminated in the famous ‘Battle of Magheraclone’ in 1843.⁵⁹² In 1860, Deasy’s Act emphasized a proprietor’s right to control turf and tree cutting on the estate.⁵⁹³ However, twenty years later, the Ground Game Act granted tenants the same rights as landlords to kill any rabbits or hares on the land they occupied; albeit within carefully controlled limits.⁵⁹⁴ Significantly, the game laws altered the relationship between landlord and tenant. As Beckett showed ‘since the late seventeenth century ground game, hares, pheasants, partridges, and moor fowl, had been legally a preserve of the landed classes ... [resulting in] a state of undeclared war in the countryside’.⁵⁹⁵ The laws radically altered the perimeters of such landlord-tenant conflict. Although the latter act gave agency to tenants to act in their own interests, some tenants continued to appeal to the landlord in relation to crop damage by rabbits and pheasants. In 1882 one tenant on the Shirley estate threatened to bring his case to the Land Court if no settlement was made by the landlord.⁵⁹⁶

The trespass of stock (on reserves)⁵⁹⁷ and trespass of persons (on plantations, bogs, quarries, and holdings previously occupied by the tenant) also proved a thorn

⁵⁹¹ Letter from John Gibbings to S.E. Shirley Esq., 19 May 1888 (P.R.O.N.I., Shirley papers, D3531/C7/1)

⁵⁹² Livingstone, *The Monaghan story*, p. 298.

⁵⁹³ Clark, *Social origins*, p. 175.

⁵⁹⁴ Dun, *Landlords and tenants*, p. 27; Beckett, ‘Agricultural landownership and estate management’ p. 743-44.

⁵⁹⁵ Beckett, ‘Agricultural landownership and estate management’, p. 743.

⁵⁹⁶ Letter from John Gibbings to S.E. Shirley Esq., 28 Oct. 1882 (P.R.O.N.I., Shirley papers, D3531/C7/1); Disputes over game in England also led to court cases. For example, in 1873 Thomas Bennett, the tenant of the Home Farm, Babraham, Cambridgeshire, brought the executors of Mr. Adeane, his late landlord, to court for ‘Adeane’s breach of an agreement with him not to let the game or employ keepers, and for the hares and rabbits on the plantations to be kept down’. See ‘Rolls’ Court, Chancery-Lane, March 12.’, *The Times* (London), 14 Mar. 1873.

⁵⁹⁷ Letter from Cochrane, Clerk of the Peace office, Lifford to Lord Leitrim, 12 Nov. 1869; Report, Fannet Estate Weekly Diary, week ending 30th October 1869, report of Johnson Moreton (N.L.I., Leitrim papers, MS 33, 832)

in the side of Lord Shirley, the Earl of Leitrim, and the Marquess of Sligo.⁵⁹⁸ Under the Petty Courts system, trespass cases could result in fines of 2s 6d for trespass along with costs.⁵⁹⁹ Trespasses frequently lead to another significant problem for estate officials, namely poaching.⁶⁰⁰ Graham Seal identified poaching as a form of customary rural protest and as means of reinforcing concepts of moral order.⁶⁰¹ As John R. Fisher argued, as late as the 1860s the Night Poaching Prevention Act, ‘generally considered a blatant use of power to protect class privilege’, ensured that landlords continued to be lords of the soil.⁶⁰² On the Leitrim estate it was noted that poaching was increasing around 1878. It would seem, therefore, before the ‘fishing of privately owned rivers and lakes and hunting over ground which was privately owned or preserved’ became a common feature of agitation during the Land War, poaching was a means of asserting individual rights and subverting the landlord’s position of authority.⁶⁰³ In 1886 Cavan Petty Sessions dealt with a case of ‘trespass in pursuit of game’ between two tenants on the Farnham estate. Whereas formerly the landlord or agent could arbitrate on such matters, it was now in the hands of professionally trained lawyers and judges. In the end the case was dismissed; although Farnham obtained 12s 6d costs.⁶⁰⁴ Heather Laird stated how this ‘highly-symbolic crime’ of poaching posed a threat both to the material wealth and to the prestige of the gentry. Infractions of estate rules usually incurred a penalty of a fine. Gibbings served notices to quit on tenants found cutting turf without permission.⁶⁰⁵ If tenants were fined for a misdemeanour and reoffended, they could face

⁵⁹⁸ Letter from John Gibbings to E.P. Shirley Esq., 13 Oct. 1881; 16 Feb. 1882; 29 Mar. 1884; 18 May 1884; 6 May 1887 (P.R.O.N.I., Shirley papers, D3531/C7); ‘Return of cases disposed of summarily at Carrickmacross petty sessions court’, 19 July 1889 and 2 Aug. 1889 signed as correct by Petty Sessions clerk A.J. Lang, Carrickmacross, complainant either S.E. Shirley or H.H. Shirley, 3 Aug. 1889 (P.R.O.N.I., Shirley papers, D3531/C/3/21); Letter from Robert Powell to the 3rd Marquess of Sligo, 10 Hyde Park Place, London, 12 July 1889 (N.L.I., Westport papers, MS 40,996/1); Letter from George F. Stewart to Mr. Mc Gusty, 1878 (N.L.I., Leitrim papers, MS 32,656)

⁵⁹⁹ Cases heard at Monaghan Petty Sessions involving Margaret and Thomas Clarke in relation to the trespass of two cows, one calf, and two goats in the *Northern Standard*, 5 Jan. 1878.

⁶⁰⁰ Letter from John Gibbings to E.P. Shirley Esq., 16 May 1882; 23 Apr. 1883; 27 Dec. 1883; 16 Jan. 1884; 1 Apr. 1884; 4 Aug. 1884; 15 Sept. 1884; 20 Oct. 1884; 11 Nov. 1884; 14 Nov. 1884 (P.R.O.N.I., Shirley papers, D3531/C7/1); Letter from Robert Powell to the 3rd Marquess of Sligo, 2 Apr. 1890 (N.L.I., Leitrim papers, MS 32,656) Letter from George F. Stewart to Mr. Mc Gusty, 1878 (N.L.I., Westport papers, MS 40, 996/1)

⁶⁰¹ Seal, ‘Tradition and Agrarian Protest’, pp 146, 164.

⁶⁰² John R. Fisher, ‘Agrarian politics’ in Joan Thirsk (general ed.), *The agrarian history of England and Wales, VII, part 1* (Cambridge, 2000), p. 323.

⁶⁰³ Laird, *Subversive law*, p. 90.

⁶⁰⁴ ‘Cavan Petty Sessions’, *Anglo-Celt*, 4 Dec. 1886.

⁶⁰⁵ Letter from John Gibbings to S.E. Shirley Esq., 20 Mar. 1884 (P.R.O.N.I., Shirley papers, D3531/C7/1)

imprisonment.⁶⁰⁶ They could also be jailed if they simply refused to pay the fine in court.⁶⁰⁷ Gibbings also issued summons to court for infringement of estate rules against ‘two or three tenants just to warn the others’.⁶⁰⁸ Another privilege abolished through government legislation was the landlord or agent’s power of settling family disputes. Furthermore, by making tenant-right a legal asset rather than simply a security for debt, the 1870 land act transferred power from the landlord to the civil bill courts.⁶⁰⁹

As stated previously, landlord and agent often thought carefully before initiating any legal proceedings. The cautious attitude with which the landlord approached and entered the legal sphere reveals uneasiness and an awareness of a lack of knowledge on the rudiments of the judicial system. The Leitrim agent stated that he would ‘be very glad indeed to know whether I am safe in bringing civil processes against the tenants in my own name. I understand that any case I bring will *certainly* be defended’.⁶¹⁰ The opinion of a member of Queen’s Counsel (Q.C.), solicitor general, or solicitor was frequently sought. The Leitrim agent sought the advice of counsel when cases were ‘shakey’ [sic].⁶¹¹ The 3rd Marquess of Sligo agreed with his agent Robert Powell that he should have a lawyer of the Q.C. at every hearing although costly and requiring such an individual to travel from Dublin.⁶¹² Robert Buchanan, Abraham Brewster, and Thomas Kelly all acted as counsel for the Marquess at various periods.⁶¹³ On some occasions, it was felt a solicitor general’s opinion ‘on the point even if it is only an “opinion” would be good thing to have’, especially if any considerable doubt existed in relation to enacting legal proceedings.⁶¹⁴ Occasionally, tenants also engaged counsel to fight

⁶⁰⁶ 5 Apr. 1891, *ibid.*

⁶⁰⁷ 31 May 1887, *ibid.*

⁶⁰⁸ 28 Jan. 1884, *ibid.*

⁶⁰⁹ Vaughan, *Landlords and tenants*, p. 98.

⁶¹⁰ Letter from George F. Stewart to Mr. Geo. M. Mc Gusty, 22 May 1879 (N.L.I., Leitrim papers, MS 32,656)

⁶¹¹ *ibid.*, 20 Oct. 1879 (N.L.I., Leitrim papers, MS 32,656)

⁶¹² Letter from the 3rd Marquess of Sligo to Robert Powell, 6 Nov. 1887 (N.L.I., Westport papers, MS 41,001/37)

⁶¹³ Abraham Brewster also acted as barrister (senior counsel) for the Edmund and Thomas Ashworths (Quakers originally from Bolton and the owners of Galway Fishery, 1852-1922) in their court proceedings and later became a Judge and Lord Chancellor of Ireland. See Jacqueline Maria Callan, ‘The history of the Galway Fishery during the ownership of the Ashworth family, 1852-1922’ (Ph.D. thesis, National University of Ireland, Galway, 2010)

⁶¹⁴ Letter from George F. Stewart to Mr. Geo. M. Mc Gusty, 23 May 1879; 8 Apr. 1879 (N.L.I., Leitrim papers, MS 32,656)

their cause.⁶¹⁵ In Scotland, although some landlords were reluctant to bring tenants to the Land Courts for non-payment of rent, they felt they had little option but to do so.⁶¹⁶

In 1887 the 3rd Marquess of Sligo noted that due to the heavy costs of litigation experienced by the estate to date, future action would only be carried out in accordance with the advice of a solicitor in London or Dublin, to ‘preclude for the future all law in the indisputable point of rent. The payment would then be made I think sooner’.⁶¹⁷ On the Westport estate, a tenant who had been wrongfully evicted according to the law sought redress through the courts. Lawyers subsequently advised the agent Powell that they would be beaten – resulting in serious damages – should they decide to take the case to court.⁶¹⁸ At this time the solicitor’s opinion and legal expertise frequently provided much needed guidance and advice to estate officials ignorant of the nuances of legal jargon.⁶¹⁹ Gibbings, the Shirley agent, referred to the solicitor’s advice not to seize cattle by distress in 1887 as it would have left the landlord open to too many actions.⁶²⁰ Should the seizure of goods go wrong, Gibbings believed it would be the sheriff who would be liable and not the agent or landlord.⁶²¹ This insight into the decision-making process of the agent reveals a real uncertainty, and perhaps even an awareness, of the faltering status of the estate’s authority. The Shirley tenants also sought advice from an attorney in their legal wrangles with the estate. The agent noted the nature of the advice they followed and proceeded then to act accordingly.⁶²² The requirement to formally write down facts to ensure the legality of cases sometimes proved problematic; Gibbings felt that ‘this sort of thing you will see cannot be put definitely on paper or proved in

⁶¹⁵ Letter from George F. Stewart to Col. Clements, 20 Oct. 1879; Letter from George F. Stewart to his land agent, 20 Oct. 1879, *ibid.*

⁶¹⁶ Anne Maire Tindley, ‘The Sutherland Estate, c 1860-1914: aristocratic decline, estate management and land reform’ (Ph.D. thesis, University of Edinburgh, 2005), pp 178-79. Many thanks to Anne Maire for emailing her thesis.

⁶¹⁷ Letter from the 3rd Marquess of Sligo to Robert Powell, 26 Mar. 1887 (N.L.I., Westport papers, MS 41,001/37)

⁶¹⁸ Letter from Robert Powell to the 3rd Marquess of Sligo, Guildford, Surrey, 10 May 1889 (N.L.I., Westport papers, MS 40,996/1)

⁶¹⁹ Letter from John Gibbings to S.E. Shirley Esq., 15 June 1887 (P.R.O.N.I., Shirley papers, D3531/C7/1); Letter from George F. Stewart to Lord Leitrim, 14 Nov. 1878 (N.L.I., Leitrim papers, MS 32,656)

⁶²⁰ Letter from John Gibbings to S.E. Shirley Esq., 21 May 1887 (P.R.O.N.I., Shirley papers, D3531/C7/1)

⁶²¹ *ibid.*

⁶²² 8 June 1887, *ibid.*

any legal way' [it is not revealed in this instance what exactly he is referring to].⁶²³ Thus, a clash of estate custom and tradition with legal formalities exposed the precarious position of the estate in an increasingly legalistic world. Landlords, however, saw the usefulness of formal legal channels for their own cause. Therefore, it is apparent that frequently estate officials required certainty of success before they would contemplate entering a court. Newspapers provided information which estate authorities gladly availed of in order to proceed appropriately and according to legal requirements.⁶²⁴ Notification regarding the scheduling of assizes was also received through local papers.⁶²⁵

A perceived ineptness on the part of the landed gentry with respect to legal knowledge did not prove the only deterrent to engagement with the official legal system. Hindrances, such as the adjournment of cases and jurisdiction controversies, could discourage estate officials from seeking legal redress on future occasions.⁶²⁶ The cost of litigation alone proved a disincentive for numerous landlords. In 1879 the Leitrim agent George F. Stewart stated how he was anxious to have as few cases as possible for the sessions 'unless for special reason ... that since the new act of Parliament the costs on a process are very much heavier than they used to be'.⁶²⁷ One solicitor even advised Whyte to avoid litigation and the expenses which would accrue in taking action against one tenant who, in his opinion, had a legal and just claim.⁶²⁸ In 1889, Mr. J.G. Biggar, M.P., stated that the knowledge that some tenants possessed substantial financial backing would deter landlords from entering into litigation with them.⁶²⁹ Although estate officials on the Shirley and Westport estates often decried the cost of litigation, oftentimes tenants who were processed were expected to pay legal costs.⁶³⁰

⁶²³ 18 July 1887, *ibid.*

⁶²⁴ Volume 1 entitled 'Law cases; Colonel H. T. Clements's Lough Rynn Estate & Manor Hamilton Estate and The Earl of Leitrim's Newtowngore Estate, commencing January 1882', newspaper article attached to volume 'Rules for service of civil bill processes, including civil bill processes in ejection and for recovery of rent as hereinafter provided', by order of James Faris, Clerk of the Peace, County Leitrim, 10 Sept. 1881 (N.L.I., Leitrim papers, MS 32,650)

⁶²⁵ Letter from John Gibbings to S.E. Shirley Esq., 8 Feb. 1884 (P.R.O.N.I., Shirley papers, D3531/C7/1)

⁶²⁶ Report, Fannet Estate Weekly Diary for week ending 23 October 1869, report of Johnson Moreton (N.L.I., Leitrim papers, MS 33,832)

⁶²⁷ Letter from George F. Stewart to Mc Culla, 10 May 1879 (N.L.I., Leitrim papers, MS 32,656)

⁶²⁸ Letter from Hugh Glass, Banbridge to J.J. Whyte, Esq., Loughbrickland, 15 Nov. 1880 (P.R.O.N.I., Whyte papers, D2918/3/11/1-76)

⁶²⁹ 'The Tenants' Defence Association, convention at Monaghan', *FJ*, 27 Nov. 1889.

⁶³⁰ Letter from John Gibbings to E.P. Shirley Esq., 19 Dec. 1881 (P.R.O.N.I., Shirley papers, D3531/C7/1); Letter from Robert Powell to the 3rd Marquess of Sligo, Guildford, Surrey, 18 Oct.

Even after the trying decision to actually enter the courts had been made, difficulties could initially present themselves if adequate proof was lacking. In 1865 when an employee on the Shirley estate was fired upon while writing by the window in his home, a lack of hard evidence resulted in a failure to bring the suspected culprit to court.⁶³¹ After the assassination of the 3rd Earl of Leitrim, unrest continued in various parts of the estate. In 1879 a spate of malicious burnings broke out on the estate.⁶³² In one instance the agent claimed he was in no doubt who the guilty parties were but that a lack of evidence prevented him from obtaining any justice. In 1889 queries concerning a misdemeanor on the Shirley estate and questions relating to the identity of the believed offender stalled legal proceedings.⁶³³ On some occasions legal proceedings were terminated at the eleventh hour by tenants who choose to pay off the solicitor outside the court, thus averting any legal costs that the landlord might incur.⁶³⁴

Other problems persisted within the confines of the courtroom. In 1884 the Shirley estate lost a case at petty sessions concerning the cutting of timber without permission, although the case had been proven and the tenants in question had admitted guilt. Consequently, an appeal was lodged at the next quarter sessions.⁶³⁵ Several years later, the Shirley agent requested that two resident magistrates be present at a subsequent court sitting due to an earlier assault which occurred in the court room against the agent and the estate defence.⁶³⁶ In 1887 Gibbings proved somewhat wary of dealing with the legal system. Specifically, his suspicion appeared to be related to jury representation. He felt that a 'hostile jury of country people' could jeopardize chances of success and noted how 'scandalous' it was that 'a man under notice to quit from you should sit on the bench when your cases came to be heard'.⁶³⁷ Some years previously he had voiced a similar mistrust of the Shercock

1888 (N.L.I., Westport papers, MS 40,996/1); Letter from the 3rd Marquess of Sligo to his agent, 26 Feb. 1881 (N.L.I., Westport papers, MS 41,001/34); Letter from 3rd Marquess of Sligo to his agent, 9 Dec. [?] (N.L.I., Westport papers, MS 41,001/35)

⁶³¹ Letter from James Mc [M-?] to E.P. Shirley Esq., M.P., Eatington Park, 11 Sept. 1865 (P.R.O.N.I., Shirley papers, D3531/C/3/9)

⁶³² Letter from George F. Stewart to R.J. Slack Esq., Annadale, 11 Apr. 1879; 13 Apr. 1879; 15 Apr. 1879 (N.L.I., Leitrim papers, Ms 32,656)

⁶³³ Letter from John Gibbings to S.E. Shirley Esq., 12 Nov. 1889 (P.R.O.N.I., Shirley papers, D3531/C/7/1)

⁶³⁴ Letter from George F. Stewart to Gibson, 18 Oct. 1879 (N.L.I., Leitrim papers, MS 32,656)

⁶³⁵ 8 Feb. 1884, *ibid.*

⁶³⁶ 1 Mar. 1889, *ibid.*

⁶³⁷ It would seem, therefore, that one of the Shirley tenants who had received notice to quit was also a jury member: 20 May 1887; 11 June 1887, *ibid.*

bench.⁶³⁸ A section of newspapers championed a similar view. In April 1876 the [*Dublin Daily*] *Express* stated that it believed the jury system had broken down across much of the country and that it should be replaced by courts martial.⁶³⁹ Within the court room, tenants could also resist the landlord or agent, regardless of the intervention of the solicitor. In 1879 on the Leitrim estate the agent Stewart commented how he was beaten in an ejectment case. The agent had mislaid the original lease and the tenant refused to supply the agent with information from his copy of the lease. The tenant copy was then produced in the court (although it had previously been assumed lost according to the agent) and provided the relevant information that won them the case. The agent could not enter an appropriate defence as he had not been apprised of the contents of the lease.⁶⁴⁰

The fact that they were often outnumbered in court rooms and faced the wrath of an excited and rather vocal tenant audience, sometimes dissuaded estate officials from even attending legal proceedings. Tenants often attended court sessions to witness the spectacle of legal wrangling between landlord and tenant. In *The Landleaguers*, Anthony Trollope described one such scene where ‘the Court was crowded in a wonderful manner, so that they who understood the ways of criminal courts in Ireland knew that something special was boded ... And now there arose a murmuring sound in the court and a stirring of feet and a moving of shoulders, louder than that which had been heard before’.⁶⁴¹ Leitrim’s employee Johnson Moreton noted how, in a case concerning the Fannavolty Reserve, the court was crowded with many of the tenants who, as the agent noted, ‘very attentively listened to [the proceedings] and a good deal of joy evinced when the case was ended’.⁶⁴² The case elicited much interest, not only locally, but nationally. Decisions reached within a court could have repercussions beyond the doors of the court room. Moreton believed that the magistrate’s decision against the landlord would ‘cause the troublesome tenants in Fannet to be more troublesome’.⁶⁴³

⁶³⁸ 28 Oct. 1884, *ibid.*

⁶³⁹ Patrick Maume, ‘The *Dublin Evening Mail* and pro-landlord conservatism in the age of Gladstone and Parnell’ in *Irish Historical Studies*, xxxvii, no. 148 (2011), p. 553.

⁶⁴⁰ Letter from George F. Stewart to Lord Leitrim, 19 June 1879 (N.L.I., Leitrim papers, MS 32,656)

⁶⁴¹ Trollope, *The Landleaguers*, pp 211-12.

⁶⁴² Report, Fannet Estate Weekly Diary for week ending 6 November 1869, report of Johnson Moreton (N.L.I., Leitrim papers, MS 33,832)

⁶⁴³ Letter from Matthew Stewart, Manor Vaughan to the Earl of Leitrim, 13 Nov. 1869, *ibid.*

Such impediments as listed above resulted in some landlords reverting back, where possible, to more feudal or customary methods of dealing with recalcitrant tenants. On the Leitrim estate, cases of trespass and the cutting of trees and turf without permission appeared the most common infraction of estate laws during this period. While the petty session courts often dealt with such transgressions, formal legal channels were not always resorted to until other options had been exhausted. However, the fact that the erring tenant had to be reprimanded in some way for his disobedience was never in doubt. The Leitrim agent abhorred ‘the general moral effect of this unchecked trespass’, which was most distressing.⁶⁴⁴ Sometimes, the issue was simply resolved through a verbal or written apology by the offender.⁶⁴⁵ On other occasions, first time offenders were permitted one infraction but informed that prosecution would follow should they reoffend.⁶⁴⁶ By 1879 fears of trespass and possible subsequent injury to the grassland and stock compelled Stewart to place some men on patrol at night to prevent such an act from occurring.⁶⁴⁷ The Leitrim agent commented that tenants prosecuted for ‘wilful trespass’ were treated the same as any other estate offenders. He remarked how he treated such offenders ‘when obedient with considerable kindness which I felt sure you would wish me to do’.⁶⁴⁸

Another method of redress adopted by estate officials outside of the courts included the imposition of fines. In 1879 the Leitrim agent commented that a large number of the tenants had refused to pay for bog tickets, although this had been the custom for many years. In defiance and irrespective of estate rules they continued to cut on the bog. Such an incursion was deemed trespass by the agent. Yet the posting of warning notices around the estate against trespass were of little effect.⁶⁴⁹ In the same year a bog was burned on the Leitrim estate the day the turf banks were set. The agent believed the act a malicious one and, although the culprit was unknown, the resultant punishment was to fine the whole townland in the hope that the inhabitants would in turn ‘punish the guilty person’.⁶⁵⁰ This disciplinary course was

⁶⁴⁴ Letter from George F. Stewart to Mr. Mc Gusty, 1878 (N.L.I., Leitrim papers, MS 32,656)

⁶⁴⁵ Letter from Stewart to Lord Leitrim, 27 Feb. 1879; 30 Jan. 1879, *ibid.*

⁶⁴⁶ Letter from Stewart to Gibson, 7 Mar. 1879, *ibid.*

⁶⁴⁷ Letter from Stewart to Const. Roddy, R.I.C., Farnaght, 22 Sept. 1879, *ibid.*

⁶⁴⁸ Letter from Stewart to Col. Clements, 3 Apr. 1879, *ibid.*

⁶⁴⁹ Letter from Stewart to Mr Geo. M. Mc Gusty, 26 May 1879, *ibid.*

⁶⁵⁰ Letter from Stewart to Col. Clements, 22 Apr. 1879; to Mr Geo. M. Mc Gusty, 19 Apr. 1879. *ibid.*

believed a ‘very important’ initial step, although it was felt that Counsel’s opinion should also be sought on the whole case.⁶⁵¹

Conclusion

Due to the fact that oftentimes ‘class relations were expressed ... through the forms of law’, it rested with the law to ensure that order – both at a local and a national level – was achieved in Ireland.⁶⁵² Although strenuous attempts were made by Westminster and Dublin from the start of the century to introduce an effective system of law and order to Ireland, obtain ‘justice for Ireland’ (although ideas of what exactly such ‘justice’ would entail varied significantly both in Ireland and in Britain), and subdue the masses, even before the outbreak of the Land War, calls for improved structures were being voiced in some quarters. It was Godkin’s opinion that ‘Ireland, in its present state, cannot be governed in England. If insubordination compels you to give, how are you to retain by law what you propose to maintain while insubordination remains? It can only be by establishing completely the empire of the law’.⁶⁵³ Despite Major-General Redvers Buller’s report to the Cowper Commission in 1887 that ‘there is not much law in this part of the country, and but a short time ago, what law there was, was on the side of the rich’, as the century progressed, official law began to replace customary legal practices in the rural Irish countryside and in the process radically altering the legal relationship between landlord and tenant.⁶⁵⁴ Tenants on the estates examined were becoming increasingly aware of the authority of the state system; an authority which increasingly eclipsed that of the landlord. The abolition of feudal legal systems removed the control landlords, such as Lord Shirley and Baron Farnham, were able to exert over their tenants. Some tenants were determined to harness the powers which the legal system afforded them for their own ends, engaging both solicitors and Q.C. in their quest to assert their rights.

In the post famine period, the abolition of feudal courts and traditional procedures of dispute settlement, along with the concurrent rise to prominence, acceptability, accessibility, and increasing powers of the official legal system, meant that the landlord’s role as a judicial figurehead and authority on legal affairs was

⁶⁵¹ Letter from Stewart to Mr Geo. M. Mc Gusty, 15 Apr. 1879, *ibid.*

⁶⁵² Thompson, *Whigs and hunters*, p. 262.

⁶⁵³ Godkin, *The land-war*, p. 272.

⁶⁵⁴ ‘An Irishman’s Diary’, *The Irish Times*, 17 Oct. 2011.

greatly diminished. As the century progressed, but perhaps most notably from the 1870s, tenants and landlords began entering the courts in order to resolve issues arising out of their tenurial relationship. Justice was no longer sought in feudal courts. Rather, the official courts were used utilised in order to prove rights – tenant-right and the landlord property rights. Conflict between landlords and tenants within the legal arena at this time can be traced, not only to the rise of nationalist thinking and society’s move from a moral economy to political economy, but also to changes in the legal and the judicial system. A rather *laissez faire* approach adopted by estate personnel to the increasing tenant challenge in the courts and the termination of feudal courts on the estate ensured the state’s pre-eminence on legal matters. Although, admittedly there was probably little they could do to stem the tide of modernisation within legal circles, their lack of any concerted opposition – even vocal – is of note.

Although it has been argued that ‘the eclipse of older traditional customs by a raft of nineteenth-century laws ... increasingly bolstered the rights of property’, some landlords antithetically felt that the strong arm of the law was in fact jeopardising their already increasingly precarious position in rural Irish society.⁶⁵⁵ From a legal perspective at least, oftentimes estates seemed to be evolving at a different rate to society in general. As this chapter has revealed, the intrusion of state sponsored legal mechanisms on six estates supplanted traditional practices of justice in rural Ireland, a development which had a significant impact on relations between landlord and tenant. Similar centralising initiatives in the education sector also altered traditional landlord-tenant bonds. This development will be discussed in the subsequent chapter.

⁶⁵⁵ Godfrey and Locker, ‘The nineteenth-century decline of custom’, p. 261.

Chapter 4
‘A good, sound English education’?⁶⁵⁶:
The relationship between landlords and the National Board of Education,
1831-1891

‘There never was a more unfounded calumny than that which would impute to the Irish peasantry an indifference to education. I may, on the contrary, fearlessly assert that the lower orders of no country ever manifested such a positive inclination...’

William Carleton referring to relationship in 1830 between Irish peasants and education in *Traits and stories*, p. 139

‘...as all English Governments, try to cheat us & we must be prepared with more returns to check their lies & roguery’

Letter from the 3rd Marquess of Sligo to his agent, 24 Jan. 1881 (N.L.I., Westport papers, MS 41,001/34)

‘...the gentry would soon begin to repent of their folly ... when the poor had learnt in the schools to disobey their masters and landlords’

In relation to 1840s Leitrim in Anthony Trollope, *The Macdermots of Ballycloran*, p. 263

⁶⁵⁶ Malcomson, *Virtues of a Wicked Earl*, pp 99-100.

From 1831 up to the Land War the role the landed class played in the educational arena altered significantly. To date, research has focused on the relationship between the various religious denominations and the Board of National Education, while relations between the Board and landlords have been relatively neglected.⁶⁵⁷

Although John Coolahan argued that ‘the wealthy classes in Ireland were infamous for their lack of support for and interest in the promotion of education’ and that ‘unlike England there was no tradition among the Irish landowning classes of public service towards education’, this chapter will demonstrate that landlords supported the education of their tenantry, both before and after 1831.⁶⁵⁸

Although this chapter is primarily interested in Protestant landlord involvement in education, Catholic landlords similarly adopted active roles in the area. In Sligo, Charles William and Charles Kean O’Hara of Annaghmore – along with their agents and the local Catholic clergy – contributed significantly to the development of educational structures in their locality during the nineteenth and early years of the twentieth century.⁶⁵⁹ National schools were established on the estate with the support of the landlord from approximately 1835.⁶⁶⁰ In Galway, the Redingtons of Clarinbridge also displayed an active interest in the education of their tenants. Opposed to the Kildare Place Society, these Catholic landlords even provided shelter to tenants from Lord Clancarty’s estate in Ballinasloe who were evicted for refusing to send their children to schools supported by the society. They invited Bishop Doyle of Leighlin to establish a school on the estate. As a result, the Patrician Brothers were provided with land and money to build a new monastery,

⁶⁵⁷ National schools were also in operation in workhouses.

⁶⁵⁸ Coolahan, *Irish education*, pp 6, 19-20; Some Catholic landlords pursued an active role in the development of a third level educational system in Ireland, engaging in the wider European and British debate regarding the roles of church and state in university education. See Aidan Enright, ‘Catholic elites and the Irish university question, 1860-80’ in Brian Heffernan (ed.), *Life on the fringe? Ireland and Europe, 1800-1922* (Dublin, 2012), p. 190. This *kulturkampf* in the third level arena was not played out, according to Colin Barr, at primary level. Colin Barr, *The European culture wars in Ireland: the Callan schools affair, 1868-81* (Dublin, 2010), p. 13.

⁶⁵⁹ Frequently letters addressed to the landlord Charles William O’Hara were in relation to local schools in the years 1870-76 and 1880-1896 (N.L.I., O’Hara papers, MS 20,349; MS 20,350; MS 20,352); Letter from Rev. J. Ribton Gore to the agent Frederick Fownes Hamilton regarding Dromard schoolhouse, 1867 (MS 36,425); Correspondence in relation to the design of Annaghmore school [n.d.] (MS 36,374 /4); Letters to Charles Kean O’Hara from Father Doyle, P.P., Colloney, and McMahon and Tweedy (solicitors) concerning Lugnadeffa National School, 1915 (MS 36,439 /1); Letter from Charles King O’Hara to Rev. J. Gallagher concerning the building of school house, 1935 (MS 36,415)

⁶⁶⁰ Petition on subject of National Education, 1835 (N.L.I., O’Hara papers, MS 36,408 /3); Correspondence in relation to the lease of Carrowmore National School [n.d.] (MS 36,345 /5); Copy of draft agreement between Charles Kean O’Hara, Joseph Pratt, and others in relation to the National School at Larkhill, County Sligo, 26 May 1926 (MS 36,439 /2)

which would also provide free education to children on the estate. By 1823, approximately 150 boys were enrolled in its books.⁶⁶¹ Consequently, it would seem that some Catholic landlords were motivated to engage in the educational arena due to a desire to prevent the proselytism of their co-religionists.

This chapter will examine what motivated Protestant landlord interest in education and how the introduction of the National System of Education in Ireland affected the authority of the landlord in educational matters within the estate and its hinterland. It will also consider what tactical leverage – if any – landlords attempted to exert, or whether they assumed a position of non-interference.

Educational context

The history of education in Ireland and its relationship to order and the estate is a complex story. Until the late eighteenth century, education was provided through Protestant schools – financially assisted either by government, religious bodies, or landlords – to a predominantly Catholic population. From the charter schools in the 1690s, which actively sought to remove Catholic influences by stipulating that pupils be brought up in the Protestant faith and apprenticed only to Protestants, education for many became synonymous with proselytism.⁶⁶² Under the Ulster Plantation, royal schools were established. Through grants, free education was provided to poor tenants.⁶⁶³ After the 1690s also, Roman Catholics were forbidden to act as teachers under the penal laws. In response, so called ‘hedge schools’, or pay schools, came into existence in Ireland. These illegal, and oftentimes open air schools, developed across the country in an attempt to subvert discriminatory legislation – while also ensuring that the Catholic populace received some measure of education.⁶⁶⁴ The 1824 official returns reported an approximate number of 8,000 hedge schools in operation in Ireland.⁶⁶⁵ Mary Daly argued that by 1831 two categories of pay schools were in operation in Ireland: ‘those which were private establishments and a substantial second category which were *de facto* parish schools and distinguishable from the

⁶⁶¹ Murphy, *The Redingtons of Clarinbridge*, pp 22-23.

⁶⁶² Helena Kelleher Kahn, “‘Objects of raging detestation’: the charter schools’ in *History Ireland*, xix, no. 2 (March-April, 2011), p. 24; Whelan, *The Bible war*, pp 76-77.

⁶⁶³ Brian MacDonald, ‘The Portora school-lands: a study in estate management in nineteenth-century Fermanagh’ in *Clogher Record*, xv, no. 2 (1995), p. 7.

⁶⁶⁴ John I. D. Johnston, ‘Hedge Schools of Tyrone and Monaghan’ in *Clogher Record*, vii, no. 1 (1969), p. 34.

⁶⁶⁵ P. J. Dowling, *The hedge schools of Ireland* (Cork, 1968), p. 42.

Catholic free schools only by the charging of fees'.⁶⁶⁶ Daly also emphasized that a 'high degree of continuity' existed between these 'quasi-parochial schools' of the 1820s and the national schools of the subsequent decade and that pay schools which evolved into national schools were invariably set up by priests or landlords.⁶⁶⁷

While the introduction of national schools from 1831 undoubtedly significantly reduced the number of hedge schools in the country, some remained functioning as late as 1878.⁶⁶⁸ In 1782, Catholics were permitted to teach once a license had been received from the Protestant bishop of the diocese. Consequently, a difficult and fractious relationship between education and religious affiliation emerged which was to dominate Irish life for many years to come. Although a 1791 commission of inquiry into the funding of schools recommended interdenominational education for literary instruction and the separation of the different faiths for religious instruction, it would take another forty years before such a radical departure would be considered.⁶⁶⁹ Between the years 1809 and 1821 no less than fourteen reports on the state of elementary education in Ireland were produced.⁶⁷⁰

The Kildare Place Society

Perhaps the most significant development in the history of elementary education during this period was the establishment in 1811 of 'The Society for Promoting the Education of the Poor of Ireland', or the Kildare Place Society (KPS). Described as 'a very explicit commentary on the educational policy of the English State and the Ascendancy in Ireland', the KPS was composed of Dublin Protestant brewers, merchants, and lawyers.⁶⁷¹ As Susan M. Parkes stated 'the aim of the society was to provide elementary education for the poor in Ireland, and its leading principle was "to afford the same facilities for Education to all classes of professing Christians without any attempt to interfere with the peculiar religious opinions of any"'.⁶⁷² The

⁶⁶⁶ Mary E. Daly, 'The development of the national school system, 1831-40' in Art Cosgrove and Donal McCartney (eds), *Studies in Irish history, presented to R. Dudley Edwards* (Dublin, 1979), p. 152.

⁶⁶⁷ *ibid.*, p. 156.

⁶⁶⁸ McManus, *The Irish hedge school*, p. 242.

⁶⁶⁹ Maeve Mulryan-Moloney, *Nineteenth Century Elementary Education in the Archdiocese of Tuam* (Dublin, 2001), pp. 1, 3.

⁶⁷⁰ Mulryan-Moloney, *Nineteenth Century Elementary Education*, p. 3.

⁶⁷¹ The name evolved out of the location of the society's headquarters. Corcoran, 'The "Kildare Place" Education Society', p. 746.

⁶⁷² Susan M. Parkes, *Kildare Place: the history of the Church of Ireland training college* (Dublin, 2011), p. 17.

recipient of a generous grant from government in 1815, within ten years the society was supporting 1,490 schools, catering for approximately 100,000 pupils while employing 207 teachers.⁶⁷³

The educational methods adopted by the society, based on the Lancasterian model, were not at the core of the debate. It was a clause rather concerning the teaching of scripture in the schools that raised the most ire. Antagonism towards its perceived moral and proselytising agenda lay at the heart of objections. The rules of the society stipulated that the Bible should be read ‘without note or comment’.⁶⁷⁴ This rule, coupled with the society’s support of missionary societies with clear proselytising agendas, such as the London Hibernian Society and the Association for Discountenancing Vice, left the KPS open to accusations of conversion objectives.⁶⁷⁵ In operation on the evangelical Farnham estate, the Society, unsurprisingly, soon came under attack from supporters of the Catholic Church, with Daniel O’Connell in the vanguard of the charge.⁶⁷⁶ Under the pseudonym of Hierophilos, the future Archbishop of Tuam, John MacHale (1791–1881), attacked the KPS while advising caution among the clergy.⁶⁷⁷ As Foster noted, through ‘hard-line Protestantism’ this ostensibly non-denominational system of education became ‘heavily tainted with proselytism’.⁶⁷⁸ The financial assistance obtained by KPS from the Chief Secretary for Ireland and future Prime Minister Sir Robert Peel (1788–1850) associated state prerogatives with that of the Protestant estate in the eyes of the Catholic hierarchy and fuelled much of the mistrust which the National System of Education met upon its inauguration. Accusations about its proselytising agenda were cemented from 1820 onward following the KPS’s grant to Protestant proselytising societies.⁶⁷⁹ However, by 1831, following the establishment of a state-sponsored system of national education, and due to limited funds, the society gradually went into decline. However, its mark on the Irish educational landscape proved more enduring. The KPS’s monitorial system, teacher training, school books, and system of inspection

⁶⁷³ *ibid.*, p. 18.

⁶⁷⁴ *ibid.*

⁶⁷⁵ *ibid.*

⁶⁷⁶ Breiden, ‘Tenant applications to Lord Farnham’, p. 183; Corcoran, ‘The “Kildare Place” Education Society’, p. 746.

⁶⁷⁷ Mulryan-Moloney, *Nineteenth Century Elementary Education*, p. 4.

⁶⁷⁸ Foster, *Modern Ireland*, p. 304.

⁶⁷⁹ Mulryan-Moloney, *Nineteenth Century Elementary Education*, p. 4.

was adopted by the National Board for use in the national system. The society ceased operation in 1887.⁶⁸⁰

A significant landed presence and influence in Protestant educational establishments such as the Incorporated Society for Promoting English Protestant Schools in Ireland (1733), the Association for Discountenancing Vice and Promoting the Knowledge and Practice of the Christian Religion (ADV) (1800), and the London Hibernian Society (LHS), merely increased Catholic aversion to landlord educational input.⁶⁸¹ Some of these societies, notably the London Hibernian Society for the Diffusion of Religious Knowledge in Ireland (used by the Drapers' Company⁶⁸²), founded by Congregationalists in 1806, were receiving some financial assistance from the British government.⁶⁸³ Other educational establishments of note at this time were the Hibernian Bible Schools (HBS), the Irish Society for the Education of the Native Irish through the Medium of Their Own Language (1818), the Scripture Readers' Society (1822), and the Baptist Society for Promoting the Gospel in Ireland founded in 1814.⁶⁸⁴ In some instances Roman Catholic educational enthusiasts exercised tactical leverage in seeking assistance for such religious bodies, agreeing to erect a school under one such system, only to subsequently disengage from the society in question, once financial assistance had been obtained.⁶⁸⁵

The Irish National Education System (1831)

The establishment of the National Board of Education in 1831 evolved out of Chief Secretary of Ireland, Edward Stanley's letter to the Duke of Leinster on educational matters. Following the Union, a series of reports on the state of education stressed the 'absolute necessity of respecting religious difference'.⁶⁸⁶ Following the Stanley letter, the National Board of Education was established in order to create a state-supported

⁶⁸⁰ Parkes, *Kildare Place*, pp 19, 36.

⁶⁸¹ Kelleher Kahn, 'Objects of raging detestation', p. 25; With respect to the ADV, Whelan maintains that their findings clearly stressed that 'the duty of landlords was to foster the development of scripture-based education, such as was promoted by the ADV among their tenants'. Whelan, *The Bible war*, pp 77-78, 97-98.

⁶⁸² Drapers' Company, Court of Assistants Minutes, Thursday 15 June 1820 (Drapers' Hall, Drapers' papers, MB 38, p. 22)

⁶⁸³ Shields, *The Irish Conservative Party*, p. 103.

⁶⁸⁴ Irish was not permitted to be taught in National Schools until 1879 when pupils could learn Irish subject to an extra school fee. Five years later, the fees were dropped by the Treasury. Mulryan-Moloney, *Nineteenth Century Elementary Education*, p. 49.

⁶⁸⁵ James Glassford, Esq., *Notes of three tours in Ireland in 1824 and 1826* (Bristol, 1832), p. 300.

⁶⁸⁶ Whelan, *The Bible war*, p. 81.

learning environment which was non-denominational and more equitable.⁶⁸⁷ While there had been a long tradition of state educational legislation and funding through voluntary societies, the year 1831 proved a watershed in the Irish educational system. Henceforth, funding would be dispensed through the Board of Commissioners appointed by the Lord Lieutenant and Chief Secretary.⁶⁸⁸ The Commissioners for National Education were responsible for the administration of a fund of £30,000 for the education of the poor in Ireland. Objections to proposals on religious grounds, although initially intense, were somewhat quashed when it became known that while children would be amalgamated for literary and moral tuition, doctrinal instruction was to be provided on a separate basis.⁶⁸⁹ The Board functioned as a link between Westminster and rural Irish schools, overseeing the administration of educational legislation passed by government, while controlling how these would be practically implemented on a local level. The commissioners were in charge of teacher salaries, teacher dismissal, and they regulated the content of textbook and lesson materials for use in national schools.

The centralisation of the control of education through the provision of state-provided education was tempered somewhat by the formation of local committees. These would have responsibility for the supervision of all school houses in the vicinity and were composed primarily of local clergymen and landlords. Local bishops or landlords generally assumed the patronage of many of these schools after applying to the Board for a grant. The printed columns in the national school registers reveal how it was perceived that the religious – regardless of persuasion – would apply for funding along with lay representatives. As no column was designed specifically for landlord applicants, it was perhaps envisaged that applications from landed proprietors would prove minimal. While indeed applications were generally received from members of the Roman Catholic religious along with representatives from both the R.C. and Presbyterian lay communities, applications from landlords did exist. The patron, in turn, appointed a manager (minister, parish priest, or land agent) to effectively deal with the daily administrative tasks of running a school house.⁶⁹⁰ Managers were charged with overseeing the maintenance of school houses

⁶⁸⁷ *ibid.* p. 235.

⁶⁸⁸ Coolahan, *Irish education*, pp 4, 12.

⁶⁸⁹ John Coolahan, 'The Daring First Decade of the Board of National Education, 1831-1841' in *The Irish Journal of Education / Iris Eireannach an Oideachais*, xvii, no.1 (summer, 1983), p. 38.

⁶⁹⁰ Hickey and Doherty, *Dictionary of Irish history*, p. 387.

and also for the employment of appropriate masters and mistresses.⁶⁹¹ The appointment of a suitable manager often required the counsel of the landlord, and frequently it was a land agent who assumed this authority.⁶⁹² Although the commissioners possessed limited official means of controlling local managers, it became the role of the inspector to see, as Donald H. Akenson pointed out, ‘that local managers toed the commissioners’ line on major educational issues’.⁶⁹³ In contrast – for the clergy at least – Ignatius Murphy argued that ‘one of the best features of the National system from the Catholic viewpoint was the managerial system, as in practice it gave the local clergy considerable control over certain aspects of the schools’.⁶⁹⁴

Based on the ‘Instructions’ of the Kildare Place Society for school inspection, the national school inspectorate had four main duties to fulfil; namely, the examination of all applications for aid, the examination of teachers and monitors, visiting schools that were being built, and finally calling to schools in operation – the latter of which proved the most important. Originally the inspectors appointed obtained a hefty annual salary of £300, although by 1856 this had reduced to £125 along with a daily travel allowance of 5s for distances greater than twenty miles.⁶⁹⁵ Initially composed of four inspectors and gradually increasing to sixty-six by 1858, the inspectorate operated from ‘codes of instructions’ which outlined their remit. Unable to give direct orders, they were only permitted to ‘point out such regulations to the conductors of the schools that they may give the requisite orders’ and not to weaken ‘the just influence and authority of managers and teachers’.⁶⁹⁶ Fundamentally, the function of the inspector was to ensure that the commissioners’ regulations were adhered to in return for the financial assistance the Board provided.⁶⁹⁷ Coolahan argued that the inspectorate system ‘formed part of the accepted wisdom of the day, guiding principles of order at the heart of the

⁶⁹¹ Akenson, *The Irish education experiment*, p. 3.

⁶⁹² Schools patronised by Catholic bishops were generally managed by parish priests.

⁶⁹³ *ibid.*, pp 127, 153-54.

⁶⁹⁴ He also highlighted how this was not always the case in the Callan Schools’ affair involving Fr. Robert O’Keeffe, Callan, County Kilkenny and the Irish Catholic hierarchy during the 1870s. Ignatius Murphy, *Church since emancipation: Catholic education: primary education; secondary education, the university question* (Dublin, 1971), p. 40.

⁶⁹⁵ Mulryan-Moloney, *Nineteenth Century Elementary Education*, p. 37.

⁶⁹⁶ The first four inspectors were Robert Sullivan and Thomas Jaffray Robertson (Protestant) and John Fisher Murray and Hugh Hamill (Roman Catholic). Eustas O’Heideain, *National school inspection in Ireland: the beginnings* (Dublin, 1967), p. 91.

⁶⁹⁷ *ibid.*, pp 37, 50, 85-91.

system'.⁶⁹⁸ A mixed reception for this new imposition of order, through the inauguration of a state-controlled scheme of primary education to Ireland, was in evidence among the landed gentry.

Education and the Estate

Landlords and education before 1831

Prior to 1831, landlords contributed significantly towards the education of their tenantry through the donation of sites, subscriptions for the construction of schoolhouses, and the provision of salaries for schoolmasters and mistresses. However, such beneficence was often accompanied with the provision of free bibles and testaments, a development not always welcomed by lay and religious Roman Catholics alike.⁶⁹⁹ The 2nd Earl of Leitrim donated sites for school houses, sponsored eight schools on the estate, and provided an annual donation of £10 to each of the schools on his lands.⁷⁰⁰ Nicholas Charles Whyte subscribed £20 towards the promotion of education for Catholic children in his locality in 1828, while the 2nd Marquess of Sligo gave to each principal and assistant £5, along with £2 per annum to classroom monitors.⁷⁰¹ The Marquess also provided a significant amount of financial support to educational establishments on his Jamaican estate.⁷⁰² Cahill argued how in 1826 E.P. Shirley contributed £2 to each of the schools on his estate, apparently 'without attempting to interfere with the religious beliefs of the children attending them', while Peadar Livingstone stated that Shirley gave £5 annually during the 1820s.⁷⁰³ The *Ordnance Survey Memoirs* contain valuable information about the number of schools in operation in Ireland during the 1830s. In the parish of Drumloman on the Farnham estate, three National Schools operated along with one school built and supported by the landlord. Apparently low numbers of Protestants attended the National Schools in this parish. One reason cited was the fact that one of the schools was built close to the Roman Catholic chapel in the chapel yard. Simultaneously, the number of Protestants attending Lord Farnham's

⁶⁹⁸ Coolahan with O'Donovan, *Ireland's school inspectorate*, pp 17-18, 29.

⁶⁹⁹ Whelan, *The Bible war*, pp 130-31.

⁷⁰⁰ Slevin, *Lough Rynn*, p. 11.

⁷⁰¹ Letter from Lord Downshire, Easthampstead Park, Bracknell [Berkshire] to Whyte, Co[o]lnacran, Loughbrickland, 1 Aug. 1828 (P.R.O.N.I., Whyte papers, D2918/8/12)

⁷⁰² £25 subscription to schools, 26 July 1834; £1 6s 8d subscription to parochial school, 23 Aug. 1834; £10 subscription to Baptist School, 7 Feb. 1835 (N.L.I., Westport papers, MS 41,068/10)

⁷⁰³ Cahill, 'The 1826 General Election', p. 165; Livingstone, *The Monaghan story*, p. 268.

school greatly surpassed the number of Roman Catholics in attendance.⁷⁰⁴ In contrast, the parish of Magheross on the Shirley estate boasted a total of nine schools, three of which were supported by Lord Shirley and the scholars.⁷⁰⁵ The remaining schools in the parish were either supported by the scholars or private subscription, along with one school supported by the National Board.

The Drapers' Deputation passed a motion to provide financial assistance to the promotion of the 'native Irish thro' the medium of their own language'.⁷⁰⁶ While the possession of wealth permitted educational patronage, it was the power bestowed by the ownership of property that allowed landlords ultimately to decide where and when schoolhouses would be built. Not all landowners simply provided direct financial assistance, adopting instead an advocacy role on educational matters. In *Practical Education*, Maria Edgeworth (1768–1849), novelist and educationist, and her father Richard Lovell Edgeworth (1744–1817), landowner and writer, remarked that pre-school instruction in the home by parents should emphasize industrious habits in order to 'prevent them from learning a taste for total idleness, or habits of obstinacy and of falsehood'.⁷⁰⁷ As referred to in Chapter 1, the perceived endemic problem of idleness in Ireland was viewed as the root of the country's ills. Its believed confessional basis will be discussed in the following chapter.

On the Drapers' estate, two of the first schools to be built on this estate – one for one hundred boys and another for one hundred girls, coupled with a residence for a master and mistress – were ordered for Moneymore in 1820.⁷⁰⁸ Stevens Curl has stated that the inhabitants of the Moneymore division were mostly Protestants of the Presbyterian persuasion, followed numerically by Roman Catholics 'principally of the lower class', and finally by a 'respectable congregation belonging to the establishment of the Church of England and Ireland'.⁷⁰⁹ The two remaining divisions, Ballinascreen and Brackaslievegallon, consisted primarily of Roman Catholics; with the latter inhabited chiefly by those 'descended from aboriginal

⁷⁰⁴ Day and McWilliams (eds), *Ordnance Survey Memoirs of Ireland*, pp 15-16.

⁷⁰⁵ Namely Cornassanagh (established 1824), which housed fifty Roman Catholics; Mullaghcroghery (established 1825), with a majority of thirty-eight Protestant pupils to a mere fourteen Roman Catholics; and Cargaghmore (established 1834) which catered for ten Protestant and sixty Roman Catholic pupils. *ibid.*, p. 150.

⁷⁰⁶ Drapers' Company, Court of Assistants Minutes, Thursday 25 Mar. 1824 (Drapers' Hall, Drapers' papers, MB 38, p. 253)

⁷⁰⁷ Maria Edgeworth and Richard Lovell Edgeworth, *Practical education* (London, 1798), p. 499.

⁷⁰⁸ Thursday 27 Jan. 1820 (Drapers' Hall, Drapers' papers, MB 38, pp 5-6)

⁷⁰⁹ Stevens Curl, *Moneymore and Draperstown*, p. 30.

Irish'.⁷¹⁰ Moneymore also boasted the largest proportion of comparatively wealthy farmers.⁷¹¹ Whether these factors had a bearing on subsequent decisions taken in respect to the location of the company's first school houses is open to debate. However, it is worth noting how the preference for Moneymore division over its two poorer, Catholic neighbouring divisions was in evidence once again in the deputation's subsequent order to construct a single school in each of the two remaining divisions (Inniscarn and Cranny school houses), which would cater for both sexes.⁷¹² Consequently, gender-based instruction resulted in the receipt of education every second day for both girls and boys.⁷¹³

Catholic tenant opposition to, and suspicion of, Protestant landlord motives within the educational arena was therefore not without warrant. As referred to previously, for many of the tenantry, estate sponsored education was synonymous with a covert form of proselytism. The report issued to Lord Farnham with respect to the *Female School of Industry* (1815) on his estate revealed how scriptural teachings formed the core of its pedagogical philosophy.⁷¹⁴ The school's premise clearly stated that one of its objects was to impart the 'grand truths of the Bible'.⁷¹⁵ The establishment of the Farnham Bible Association and the provision of Prayer Books at reduced prices on the estate all pointed towards a proselytising religious agenda.⁷¹⁶ Lord Farnham's primary aim with respect to the education of his tenantry appeared to be their 'moral and religious improvement'.⁷¹⁷ On the estate, education was deemed the

great engine of moral improvement ... the necessity, that general education should communicate something more than the lowest attainments of intellect - hence the propriety of moral instruction, the inculcation of virtuous principles, and the formation of amiable and moral habits of Association.⁷¹⁸

⁷¹⁰ *ibid.*, p. 28.

⁷¹¹ 23 Jan. 1817, Drapers' Company, *Reports of Deputations*, p. 7.

⁷¹² Ordnance Survey Name Book, Londonderry, vol. II, Desertlyn to Termoneeny, pp 22, 27.

⁷¹³ Drapers' Company, Court of Assistants Minutes, Thursday 30 Nov. 1820 (Drapers' Hall, Drapers' papers, MB 38, p. 68)

⁷¹⁴ W. Newnham, 'Third annual report of the committee of the female school of industry Farnham' (31 Dec. 1815)

⁷¹⁵ Whelan, *The Bible war*, p. 213.

⁷¹⁶ Newnham, 'Third annual report', pp 20, 25.

⁷¹⁷ John Barry Maxwell Farnham, *A statement of the management of the Farnham estates* (Dublin, 1830), pp 33-34.

⁷¹⁸ Newnham, 'Third annual report', pp 8-9.

Education did not just benefit the young. The adult poor were also perceived as worthy objects, as a ‘general want of intelligence pervades their character’ and due to the negative effect they had ‘on the future character of the Children’.⁷¹⁹ This great aim had (according to the report at any rate) been achieved. It was observed that ‘the general deportment of the children of the district is improved – that they are more intelligent- more civilised – more respectful to their superiors – and more moral and principled in their conduct’.⁷²⁰ On the same estate in the townland of Drumbar, which was principally occupied by Farnham’s servants, a school and a savings bank were established for their convenience.⁷²¹ In Londonderry also the Drapers’ Deputation called for the establishment of schools ‘for the purpose of inducing regular habits and the attainment of moral instruction’.⁷²² It was hoped that such moves would ‘make habits of cleanliness and order fashionable’.⁷²³ Consequently it is clear that during this period education, which proved a complex mix of religious and moral elements, open a site of contestation among the various power groups in rural Irish society. The victors over the educational question would have an important impact on order on the estate.

Landlord opposition of National Schools

Unsurprisingly, when the National System of Education was introduced into Ireland, opposition to the new scheme came from members of the landed gentry. In Cavan antagonism to the new system was exhibited by Church of Ireland clergy and landlords alike.⁷²⁴ In Monaghan Lord Shirley also opposed the national scheme, believing such schools would interfere with the progress of his own schools on the estate.⁷²⁵ A national school in Cooltrain in the parish of Magheraclone ceased operation following an objection by its previous benefactor Lord Shirley.⁷²⁶ Another national school on the Shirley estate located in the townland of Coolfore in the Parish of Magheross was permanently closed by Shirley after a seven year period.

⁷¹⁹ *ibid.*, pp 11-12.

⁷²⁰ *ibid.*, p. 35.

⁷²¹ Ordnance Survey Name Book, Cavan, Kinawley to Urney, pp 505-39.

⁷²² 23 Jan. 1817, Drapers’ Company, *Reports of Deputations*, p. 21.

⁷²³ Stevens Curl, *Moneymore and Draperstown*, p. 37.

⁷²⁴ Letter from Rev. Marcus G. Beresford to 5th Lord Farnham, 1832 (N.L.I., Farnham papers, MS 18, 608)

⁷²⁵ Ld. Cremore of Dartrey followed a similar course. James H. Murnane, ‘The National School System in County Monaghan: 1831-1850’ in *Clogher record*, xii, no. 2 (1986), p. 210.

⁷²⁶ ‘National Schools of County Monaghan’ (N.A.I., National schools registers, ED 2/36)

He objected to the school as the majority of local children attended this school instead of two alternate schools in the area which had been built and endowed by Mr. Shirley.⁷²⁷ Along with his agent, Shirley actively challenged the might of the commissioners. Although they could not effectively prevent national schools from opening on the estate, should they be requested by other interested parties such as the Catholic clergy, and did not require a new site from the landlord, nonetheless different methods could be adopted in order to impede their smooth development.

The commissioners expected that sites for proposed schoolhouses would be provided for at a local level and that local clergymen or landlords would subsequently act as trustees for the schools.⁷²⁸ The nature of the lease attached to a national school was of particular importance to the commissioners. In Cavan the tenantry frequently petitioned the landlord with respect to sites for schools, most notably on the Farnham estate.⁷²⁹ The provision of leases for plots of land, specifically for the construction of national schools, afforded landlords an additional rent.⁷³⁰ Therefore, landlords as owners of land proved significant stakeholders in the process of establishing national schools on their holdings. The decision rested with the landlord whether or not he would give a plot of land for the building of a school, while he also retained the power to decide the length of lease involved.⁷³¹ While many Roman Catholic bishops and clerics successfully petitioned the Board for assistance, sometimes connection with the national system was terminated due to leasing factors.

A school in the townland of Carlan, in the parish of Magheraclone joined the national system in 1833 following an application by the Rev. Daniel Boylan along with four lay Presbyterians and eight lay Roman Catholics. However, the school was ‘struck off’ two years later due to opposition from Lord Shirley and his

⁷²⁷ *ibid.*

⁷²⁸ Akenson, *The Irish education experiment*, p. 150; Hickey and Doherty, *Dictionary of Irish history*, p. 387.

⁷²⁹ Permission to build schools, W. Gibson & Hugh Porter (1832), members of the Cavan juvenile philomathic society (1835), and financial assistance for schools, Killenure Presbyterians (1840), Summaries of applications (N.L.I., Farnham papers, MS 3,117-3,118)

⁷³⁰ Lease of plot at Bundorragha surrounding the ‘late’ National school house, 1850s (N.L.I., Westport, MS 40,935/1); leases for Glaninean, including school, 1851, 1853 (N.L.I., Westport, MS 40,937/9); Letter from Jeremiah Nunn, Ballyglass to J. Sidney Smith Esq. regarding a claim of rent for Bundorragha school house, Oct. 1861; Letter from Jeremiah Nunn, Ballyglass to J. Sidney Smith Esq., Oct. 1861 (N.L.I., Westport papers, MS 41,006/29)

⁷³¹ Letter from Robert Powell to the 3rd Marquess of Sligo, 10 Hyde Park Place, London, 14 June 1889; 4 Mar. 1890 (N.L.I., Westport papers, MS 40,996/1); Letter from Robert Powell to the 3rd Marquess of Sligo, 9 Mar. 1891 (N.L.I., Westport papers, MS 41,003/31)

failure to grant an appropriate lease for the school.⁷³² Coolderry School also relinquished its connection with the Board in 1842 due to leasing problems.⁷³³ In County Monaghan also, Captain Lucas and Colonel Madden of Hilton Park – two prominent local landlords – refused sites to the Board for building. Consequently, it is apparent that landlords could object to the establishment of a national school on their estate, or impede its operation if already established, by not issuing appropriate leases which would prove acceptable to the Board.⁷³⁴ Under the provisions of the Leases for Schools (Ireland) Act 1881, the shortest lease acceptable was ninety-nine years.⁷³⁵ The fact that some estates drafted leases for schools houses for exceptionally long periods – such as the lease of Bundorragha school house which was issued in 1853 for a period of 999 years – reveals a confidence among landowners in the indestructibility of their estates.⁷³⁶

Landlord support of National Education

Of course, not all landlords – including the Earl of Leitrim – perceived the state educational system negatively, and actively sought assistance from the Board during the early years of its operation. As Maeve Mulryan-Moloney stated ‘the gentry, both Roman Catholic and Protestant, saw as businessmen the advantages to be gained for their tenantry in availing of government grants for education’. She listed the Blake, Lynch, Moore, and Browne families as just some of the landlords in Connaught who joined the scheme. Later in the century Vere Foster, who hailed from a wealthy County Louth landed family, assumed the presidency of the new Irish National Teachers’ Association.⁷³⁷ In 1875 the Drapers’ Deputation commented how ‘the company’s schools had been transferred as non-vested schools to the National Board

⁷³² ‘National Schools of County Monaghan’ (N.A.I., National schools registers, ED 2/36)

⁷³³ In 1839 the Rev. Daniel Boylan, Terence McMahon, and Michael Murphy, along with one lay Presbyterian and eight lay Roman Catholics made the original application to the Board. ‘National Schools of County Monaghan’ (N.A.I., National schools registers, ED 2/36)

⁷³⁴ Landlords operating with the national system also had to adhere strictly to the rules of the Board with respect to leases. When W.S. Clements assumed the title of 3rd Earl of Leitrim he was contacted in relation to the lease of Manorhamilton male N.S. which was set up by his father, the 2nd Earl. Following consultations with their respective legal advisors it was agreed that henceforth the school would operate as a nonvested school. Previously the school had been vested. Leitrim National Schools (N.A.I., National schools registers, ED 2/25)

⁷³⁵ An Roinn Oideachas, *Rules for National Schools under the Department of Education* (Dublin, circa 1937) (<http://www.gael scoileanna.ie/assets/rules-chpt-1-72.pdf>) (7 Aug. 2012), p. 21.

⁷³⁶ Letter from Robert Powell to the 3rd Marquess of Sligo, Brighton, 17 Jan. 1891 (N.L.I., Westport papers, MS 40, 996/1); Letter from Robert Powell to the 3rd Marquess of Sligo, 9 Mar. 1891 (N.L.I., Westport papers, MS 41,003/31)

⁷³⁷ Mulryan-Moloney, *Nineteenth Century Elementary Education*, pp 26, 43.

of Education'.⁷³⁸ Yet, it was noted two years later that Coltrim, Ballyforlea, and Derrycrummy schools continued to operate outside of the national system.⁷³⁹ The Deputation, in turn, began to consider whether they should continue to finance such independent institutions or whether they should also come under the management of the Board also. In 1877 it was decided that a consultation with the tenants should occur before moves to amalgamate the three schools took place and also to learn of their views with respect to bringing the subsequent new school under the management of the Board.⁷⁴⁰ It would appear that the availability of capital and confessional considerations formed the very basis of the decision-making process of landlords with respect to whether they would join the national system or not.

Affiliation incentive – Money

The relationship between the estate and state-backed education came somewhat under the spotlight in the *Report from the Select Committee on Education in Ireland* (1836). Richard Anthony Blake, Commissioner of the Board of Education in Ireland, informed the committee that proprietors of land should be taxed for the support of schools, while William Knight, Professor of Natural Philosophy in the Marischal College and University of Aberdeen, noted how the land in Aberdeen was taxed in

⁷³⁸ Report of the Deputation of the Court of Assistants of the Drapers' Company, 1875 (Drapers' Hall, Drapers' papers, microfilm, acc. 16727, #617, reel 24, pp 7-8); Stevens Curl, *Moneymore and Draperstown*, p. 60; Three types of schools operated within the national system – model, vested, and non-vested schools. Model schools were directly controlled and fully funded by the Board. Vested schools were newly established and could receive up to two-thirds of the construction costs from the Board. Vested schools had to adhere to the Board's rules concerning religious instruction. The patrons were responsible for teacher employment. They were vested in trustees selected by the applicant and approved of by the Board. They were also used exclusively for education unless obtaining permission to do otherwise. The most controversial schools in operation in the system were the non-vested schools. This category of school had evolved out of Presbyterian opposition to the system during the 1830s. These were schools already established but taken under the control of the Board. The Board was responsible for the payment of teacher salaries and the provision of text books. Regulations in relation to religious instruction did not apply. Non-vested schoolhouses could be used outside of school hours for other purposes and could break their connection with the national system simply by informing the Board. See Shields, *The Irish Conservative Party*, p. 106.

⁷³⁹ Another school, Derryloran, was under the management of the Erasmus Smith trustees. Report of the Deputation of the Court of Assistants of the Drapers' Company, 1877 (Drapers' Hall, Drapers' papers, D3632/D/1/8, microfilm, acc. 16727, #617, reel 24, pp 13-15); There was also a classical school in Moneymore. The master of the school received £50 per annum from the Company 'for each pupil a payment varying from 5s to 15s per quarter according to age, and the subjects in which the pupil is instructed', 1875, p. 9, *ibid.*; A night school, running from the beginning of October until the end of March, was established at Blackhill in 1878 where the average age of the students was twenty two years. The teachers' salaries amounted to £16, of which £3 came from the National Board. It was agreed that an additional £3 would be granted by the court provided that the average attendance remain sufficient, 1878, p. 7, *ibid.*

⁷⁴⁰ 1877, pp 16-17, *ibid.*

order to provide for the repair of schools and the payment of schoolmaster salaries.⁷⁴¹ In an echoing of the slogan ‘Irish property must pay for Irish poverty’, it may be said that this report emphasised the need for Irish property to pay for Irish pedagogy. Contemporaneous thinking in Britain with respect to the financing of the poor law in Ireland reflected this emerging moral imperative based on the belief that Irish landlords were reneging on their social responsibilities. This avoidance of responsibility was most acutely demonstrated in the eyes of the British middle classes in the subsequent decade during the Great Famine. The *London Times* insisted that it now fell to the responsibility of England to educate and elevate Ireland by teaching her people to educate and elevate themselves.⁷⁴² However, as the previous section has shown, the financing of education had long been a drain, in varying degrees, on estate coffers. The introduction of a programme for national education was accompanied by a significant amount of financial aid – in the form of grants – made payable to those who were successful in their application to join the new state system.

National Board of Education financial assistance

The opportunity to avail of financial assistance for the construction and maintenance of schoolhouses, school requisites, and teacher salaries propelled many landlords to agree to establish national schools on their lands. Substantial amounts of money were received by the Marquess of Sligo from the commissioners towards the construction of schoolhouses on the estate. The Board originally stipulated that they would provide two-thirds of the building costs. However, many schools experienced difficulties in raising the relative sum required from local sources.⁷⁴³ In 1847, during the height of the Famine, £66 13s 4d was granted by the Board to the Westport estate to finance the building of schoolhouses, privies, and teacher residences in Lehinch, Bundurragh, and Derrycroff. An additional £7 10s was allocated for furniture costs.⁷⁴⁴ School attendance rose in many parts of the country during the famine due

⁷⁴¹ *Report from the Select Committee on Education in Ireland*, part ii, H.C. 1836 (586), xiii.583, pp 3579-80, 4926-36.

⁷⁴² Donnelly, ‘Irish Property Must Pay for Irish Poverty’, pp 66, 75.

⁷⁴³ Murphy, *Church since emancipation*, p. 21.

⁷⁴⁴ Letter from secretaries of office of education, Maurice Cross and James Kelly to Marquess of Sligo, Westport, 1847 (N.L.I., Westport papers, MS 41,006/10); Letter from the Marquess of Sligo to Myles Gibbons, builder, regarding carpentry completed in the school houses and 12 privies situate in different localities from August 1847 to November 1850 (N.L.I., Westport papers, MS 40,959/9); 1

to the distribution of food in national schools by such groups as the British Relief Association.⁷⁴⁵ Paul de Strzelecki, a Polish count, managed the scheme which ceased operation towards the end of 1848 due to limited funds.⁷⁴⁶ In 1851 grants for £ 7 18s 10d and £14 17s 5d were being received by the Westport estate for repair and works at Carrickkennedy and Brackloon national school houses respectively.⁷⁴⁷ On the Westport estate national schools were established in the Parish of Aghagower among which was one that was supported by the Diocesan Society. Both Roman Catholics and Protestants attended the school.⁷⁴⁸

In addition, while local sources provided for the purchase of books and other school requisites as initially intended by the Board of Education, the availability of good quality, cheap textbooks published by the Commissioners of National Education, along with the provision of a stock of books to every national school (initially on a four yearly basis and then reduced to every three years in 1848), free of charge from 1833 may have enticed many financially-strapped landlords to join.⁷⁴⁹ The Board's books provided basic instruction in grammar, reading skills, geography, environment, scripture, and morals.⁷⁵⁰ Elizabeth Smith (nee Grant), the County Wicklow landlady, believed that the Board's liberal supply of school requisites was the one merit it possessed.⁷⁵¹ Yet although grants for textbooks were available, some landlords, according to the inspectors, failed to adequately supply the schools under their care with books. Surviving national school registers reveal that inspectors not only observed the amount of books available in the school, but also whether they were 'neat and accurate' and 'whether stationary [was] retrograde or progressing'.⁷⁵² In 1837 'a great want to books' was reported in Killadoon NS,

July 1891 (N.L.I., Westport papers, MS 41,006/42); Letter from Robert Powell to the 3rd Marquess of Sligo, 20 Oct. 1891; 21 Feb. 1891; 4 Mar. 1891 (N.L.I., Westport papers, MS 40, 996/1)

⁷⁴⁵ Cormac Ó Gráda, 'Famine, Trauma and Memory' in *Béaloideas*, *lxix* (2001), p. 128; Founded in January 1847, the British Relief Association was established in London to alleviate the 'distress caused by the potato failure in Ireland and Scotland'; Hickey and Doherty, *Dictionary of Irish history*, pp 44-45.

⁷⁴⁶ Kinealy, 'Private responses to the Great Famine', pp 85-86.

⁷⁴⁷ Advise of grant of repair, 14 Mar. 1851; Letter from the 3rd Marquess of Sligo, 13 St. James' Place, S.W. to John Sidney Smith, 15 Mar. 1860 (N.L.I., Westport papers, MS 41,006/10); Letter from secretaries of the commissioners of national education, James Kelly and William M'Creedy to J.S Smyth, Westport, 8 Apr. 1864 (N.L.I., Westport papers, MS 41,006/30)

⁷⁴⁸ Ordnance Survey Name Book, Mayo, Achill to Ballintober, p. 160.

⁷⁴⁹ Akenson, *The Irish education experiment*, pp 227-29.

⁷⁵⁰ Mulryan-Moloney, *Nineteenth Century Elementary Education*, p. 13.

⁷⁵¹ Elizabeth Grant, *The Highland lady in Ireland: journals, 1840-50, Elizabeth Grant of Rothiemurchus*, edited by Patricia Pelly and Andrew Todd with introduction by Andrew Tood (Edinburgh, 1991), p. 28.

⁷⁵² 'National Schools Register Mayo' (N.A.I., National schools registers, ED 2/110)

although ‘the school had received grants thrice’.⁷⁵³ Notably, the Marquess of Sligo continued to exert a measure of control in national schools in operation on his estate. In 1865, the conservative newspaper, *The Mayo Constitution* reported on a feast served up for the pupils of Westport Parochial National School under the benevolence of Sligo. Amidst a ‘magic lantern’ display, recitals, and ‘tasteful singing’, the children were admired for their demeanour and proficiency.⁷⁵⁴ When the Drapers’ Company eventually decided to join the system in the 1870s, they deemed co-operation with the Board an auspicious move as it reduced estate educational costs with books and other school materials becoming cheaper and more abundant under the new system.⁷⁵⁵

With respect to teacher salaries, although Stanley originally conceived that funding would come from a local budget, for many years the commissioners were responsible for the bulk of this outlay.⁷⁵⁶ Consequently, landlords who applied to the system were able to recoup a significant amount of money from the state in the provision of education for their tenantry, thereby improving estate liquidity. The teacher payment scheme altered significantly following the Chief Secretary of Ireland Chichester Parkinson-Fortescue’s proposal in 1866 for the inauguration of a payment-by-results system for Ireland.⁷⁵⁷ It was not, however, until Fortescue’s proposal was included in the 129 list of conclusions and recommendations made by the *Royal Commission of Inquiry into primary education (Ireland)* (1868-1870) – alternatively known as the Powis Commission – that this option was seriously considered. It was finally brought into operation in 1872 in addition to a fixed class salary.⁷⁵⁸ In 1875 the National School Teachers (Ireland) Act resulted in the government agreeing to pay one-third of salary costs on condition that one-third was also forthcoming from locals.⁷⁵⁹

⁷⁵³ Letter from the secretaries of the office of education, Maurice Cross and James Kelly to G Hildebrand Esq., Westport, 9 Apr. 1837 (N.L.I., Westport papers, MS 41,006/12)

⁷⁵⁴ ‘Westport parochial National School’, *The Mayo Constitution*, 24 Jan. 1865.

⁷⁵⁵ Report of the Deputation of the Court of Assistants of the Drapers’ Company, 1875 (Drapers’ Hall, Drapers’ papers, microfilm, acc. 16727, #617, reel 24, pp 7-8)

⁷⁵⁶ Akenson, *The Irish education experiment*, pp 3, 154.

⁷⁵⁷ Fortescue’s suggestion was postponed by the Board for later discussion on 22 June and 13 Nov. 1866. See *Royal Commission of Inquiry into primary education (Ireland)*, vol. vii, containing the reports of the assistant commissioners [C. 6-1], H.C. 1870, xxviii, pt ii.381, pp 29, 60 containing the returns furnished by the National Board.

⁷⁵⁸ The payment-by-results system ceased operation in 1899. Coolahan, *Irish education*, pp 25, 28.

⁷⁵⁹ *National school teachers (Ireland). A bill to provide for additional payments to teachers of national schools in Ireland*, H.C. 1875 (223), iv.407; Mulryan-Moloney, *Nineteenth Century Elementary Education*, p. 47.

Estate funding for education

By contrast, landlords who decided to operate independently within the educational arena, continued to supplement education on their estates. In 1854 Thomas Malcomson was granted five pounds to build a school room by Baron Farnham, while two years later the Rev. Thomas Jackson also received the same amount.⁷⁶⁰ The Rev. William Thompson informed the Devon Commission that Mr. Shirley had built 'a school-house, which cost him £500 or £600'.⁷⁶¹ The commission also reported that approximately 1,300 children were receiving instruction at schools supported by the Drapers' Company.⁷⁶² Nearly twenty years later the company continued to finance the construction of numerous schools on their estate while also providing an annual subscription to such establishments.⁷⁶³ Similarly with respect to repairs: initially it had been conceived that the financial responsibility for all repairs would rest with local management boards.⁷⁶⁴

For landlords who refused to associate with the state scheme, educational expenses continued to accumulate, such as payment for items like thimbles, needles, writing paper, spelling books, and quills.⁷⁶⁵ Baron Farnham, however, astutely ensured that his tenants paid 'prime cost', or sometimes received a reduction for school essentials. Such a thrifty system was praised as it was believed to confer value on the items thereby ensuring their preservation.⁷⁶⁶ On the same estate unspecified school expenses amounted to a grand total of £315 15s 4d in 1845 at the onset of the famine.⁷⁶⁷

On the Farnham estate, salaries, not only for teachers but also for clock attendees, continued to be a drain on landed accounts.⁷⁶⁸ Over a mere four month period in 1843, Baron Farnham contributed a significant £125 7s 7d toward teacher salaries.⁷⁶⁹ Additional expenses relating to the teaching staff could also include the

⁷⁶⁰ Summaries of applications (N.L.I., Farnham papers, MS 3,118)

⁷⁶¹ The Devon Commission, p. 922.

⁷⁶² *ibid.*, p. 123.

⁷⁶³ Report of the Deputation appointed by the honourable the Irish Society to visit the city of London's plantation in Ireland 1841, microfilm, acc. 16727, #617, reel 24 (Drapers' Hall, Drapers' papers, D3632/D/3/5, p. 65)

⁷⁶⁴ Akenson, *The Irish education experiment*, p. 150.

⁷⁶⁵ Accounts, 3 Apr. 1843 (N.L.I., Farnham papers, MS 18,620/1); 'Sundry expenses for schools', total of £17 4s 6d, Jan.-May 1843 (N.L.I., Farnham papers, MS 18,620/2)

⁷⁶⁶ Maxwell, *A statement of the management of the Farnham estates*, pp 32-33.

⁷⁶⁷ 'School Expenses', 1845 (N.L.I., Farnham papers, MS 18,626/ 1)

⁷⁶⁸ Clock attendees received 15s for a six month period. (N.L.I., Farnham papers, MS 18,620/2)

⁷⁶⁹ 'Salaries to school masters', Apr.-July 1843, *ibid.*

provision of a few acres of land and a turf bank.⁷⁷⁰ The Rev. William Thompson informed the Devon Commission that Mr. Shirley paid a local master and mistress £30 or £40 a year, along with turf and ‘several other benefits’.⁷⁷¹ By rejecting the Board’s offer, education continued to be a financial drain on the estate. Even as late as 1860, Shirley continued to be pressed for financial assistance towards education.⁷⁷² In Londonderry in 1887, because Coltrim, Ballyforlea, and Derrycrummy schools continued to operate outside of the national system, teachers employed in them were paid through the company’s gratuity rather than by remuneration.

Irish property and pedagogy after 1831

Although the 1836 report on education had advocated a greater financial contribution from the landed class, paradoxically it was the incentive of monetary assistance which seemed to attract many landed proprietors towards joining the national scheme for education. While the 1831 guidelines had stipulated that only a partial monetary contribution would be supplied for the construction of buildings, repairs, and teacher salaries, in reality for the most part the commissioners failed to enforce these grant regulations. Consequently, in many instances it would seem that the British exchequer was paying most of the costs. For landlords operating outside of the national scheme, educational expenses continued to prove a drain on the estate’s oftentimes limited resources. If financial inducements from the Board failed to tempt insolvent or simply frugal landlords, then it is clear that a devotional predisposition may have proved a more determining factor in the decision making process of some members of the Protestant landed gentry with respect to their reception of the offer of the National Board of Education.

Affiliation Disincentive – loss of control over religious matters

From the outset, both the management and the operation of the state-endorsed programme for national education were predicated along non-denominational lines. The original Board, comprising of seven male commissioners, was established accordingly; consisting of three members from the Anglican Church, along with two

⁷⁷⁰ Maxwell, *A statement of the management of the Farnham estates*, p. 36.

⁷⁷¹ The Devon Commission, p. 922.

⁷⁷² Letter to E.P. Shirley, 30 May 1860 (P.R.O.N.I., Shirley papers, D3531/E/1)

each of Presbyterian and Roman Catholic faiths. In 1859 however, after a series of deliberations, a more balanced Board of commissioners was created with the appointment of ten Catholics and ten Protestants.⁷⁷³ The selection of the two educational secretaries also adhered to this policy, with James Kelly (R.C.) and Maurice Cross (Anglican) fulfilling these roles in the early years.⁷⁷⁴ Respecting religious instruction in the class room, stringent rules were established which stated ‘that no child be *compelled to receive, or to be present at*, any Religious Instruction to which his Parents or Guardians object’.⁷⁷⁵ The inspectors rigorously endeavoured to ensure that outright adherence to this protocol occurred. Despite trojan attempts, however, from the beginning schools were established along denominational lines. This section will examine how Protestant landlords’ educational responsibilities towards their Catholic tenantry altered following the establishment of the National Board on some estates. It will also consider landlord motives for not joining the system.

A national education for Catholic tenants

Coolahan maintained that the ‘state-sponsored national school system [was] intended largely for the education of the poorer classes’.⁷⁷⁶ Accordingly, some landlords, such as the 2nd Earl of Leitrim, welcomed the transfer of some of the schools on the estate to the control of the commissioners, seeing the new system as a means of producing ‘some system of education that may give satisfaction to the Catholics’.⁷⁷⁷ Therefore, awareness may have existed among some of Protestant landlords that many of their Catholic tenantry were averse to schools established under their own care. Such a comment may also have signaled recognition that they could not hope to satisfy or convince a large portion of the Catholic tenantry of total impartiality on their part. In 1859 Lord Leitrim extolled the virtues of the National System of Education in the House of Lords claiming that:

⁷⁷³ Mulryan-Moloney, *Nineteenth Century Elementary Education*, p. 42.

⁷⁷⁴ During the 1890s, J.E. Sheridan and J.C. Taylor fulfilled this duty. ‘National Schools of County Monaghan’ (N.A.I., Files related to individual schools, ED 9/7772)

⁷⁷⁵ Extract from proceedings of the commissioners of national education in Ireland, Maurice Cross and James Kelly (secretaries), 7 Mar. 1850 (N.L.I., Westport, MS 41,006/10)

⁷⁷⁶ Coolahan, *Irish education*, p. 8

⁷⁷⁷ Letter from the 2nd Earl of Leitrim to the Countess of Leitrim, Killadoon, Celbridge, 8 Dec. 1831 (N.L.I., Killadoon papers, MS 36, 034/25)

the system imparted a good, sound English education where the English language was hardly known before. It would be a very hard case if the laity were to be left uneducated and untaught merely because certain of the clergy could not agree about particular points of doctrine. The teachers in those schools ought to be properly paid, and placed in a position to command attention. If the national system were supported, it would stand, notwithstanding all the opposition of the clergy; and the people would be thankful for their education.⁷⁷⁸

As this comment reveals, Leitrim perceived the education of Catholic tenants through the national systems as a means of reducing Catholic clerical influence in the area. Through the adoption of the role of patron and the selection of agent as manager as at Ballyhoorisky, Ballymichael, and Doaghbeg schools during the 1860s, Leitrim retained a significant amount of leverage in the education of Catholic youths. Dorian claimed that his support of national schools functioned as part of a wider strategy ‘to wrest control of education on his estate from the Catholic clergy’. He further maintained that it was not proselytism which motivated Leitrim, simply ‘an obsessive desire to control his tenants’ lives.⁷⁷⁹

When Kelmore School and other schools were vested with the Commissioners of National Education, the 2nd Marquess of Sligo redirected subsidies previously sent to these establishments to endow the Protestant schools at Westport, Knappagh, Carraholly, and Clogher, among others.⁷⁸⁰ State subsidy of Catholic education removed any educational onus Protestant landlords may have felt towards their Catholic charges. Instead, landlords could concentrate their finances on the education of members of their own congregations if they so wished.

Proselytizing agendas and rejection of the national scheme

On the other hand, Protestant landlords who refused to associate with the machinery of state education may be perceived, in certain instances, as being more fervent and devout disciples of their own religion. Some of these landlords may even have espoused an evangelical doctrine, while also implementing a formal moral policy as part of estate management practices. Some contemporaries believed that the national system played an important role in combating the work of Protestant missionaries

⁷⁷⁸ Malcomson, *Virtues of a Wicked Earl*, pp 99-100.

⁷⁷⁹ Dorian, *The outer edge of Ulster*, pp 28-29.

⁷⁸⁰ (N.L.I., Westport papers, MS 41,012/7)

who sought to convert Catholic children through educational means.⁷⁸¹ Nowhere was this more in evidence than in Tuam following MacHale's closure of all national schools in his dioceses. Although Archbishop Daniel Murray of Dublin sat on the Board of Commissioners and Irish bishops had agreed at their 1839 annual meeting to continue to monitor developments, opposition from individual bishops to the national scheme existed. This resulted in a decision taken by Propaganda in 1841 to grant each diocese to adopt whatever stance it wished to on the issue. In Connaught even national schools set up by the Marquess of Sligo, such as one at Lehinch, was no longer frequented by Catholic children at the behest of Rev. T. Hardiman. The absence of an alternative educational option led some Catholics to enrol their children in schools run by the Irish Church Missions established by the proselytising English clergyman, Alexander Dallas.⁷⁸²

The Shirley estate: Proselytism, the Catholic religious and national schools

The merging together of devotional and educational aims was a distinctive feature of the mid-nineteenth century Shirley estate. Described as 'a friend of education and the diffusion of scripture knowledge' by the Irish Society in 1850, E.P. Shirley actively sought to improve the morals of his tenantry.⁷⁸³ In 1838 the Shirley tenants showed their appreciation to their landlord in a memorandum signed by 452 tenants who expressed a 'sincere thanks for your constant and unvarying attention to the temporal improvement, comfort, and prosperity of your tenantry on this property ... – we are learning to appreciate the blessings to be derived from a well ordered and combined scriptural, moral, and useful system of instruction'.⁷⁸⁴ The author or instigator of this address is not revealed. In an address to the Shirley tenantry in 1839, Shirley outlined his thoughts on 'the subject to Bible Education' believing the 'Holy Scripture ... [the] proper basis for literary instruction'.⁷⁸⁵

⁷⁸¹ Murphy, *Church since emancipation*, p. 21.

⁷⁸² Cardinal Paul Cullen later declined to sit on the Commissioners' Board. Mulryan-Moloney, *Nineteenth Century Elementary Education*, pp 8, 20-26, 31.

⁷⁸³ 'Irish Society, established 1816, for promoting the scriptural education and religious instruction the native Irish, through the medium of their own language', 17, Upper Sackville-street, Mar. 1853 (P.R.O.N.I., Shirley papers, D3531/C/3/8)

⁷⁸⁴ 'To Evelyn P. Shirley Esq., our good and respected landlord', Sept. 1838 (P.R.O.N.I., Shirley papers, D3531/P/2)

⁷⁸⁵ 'Address to the tenants 1839', E.P. Shirley, Lough Fea, 14 Nov. 1839 (P.R.O.N.I., Shirley papers, D3531/C/3/1/2 &7)

Attempts made by the Shirley agent at converting Catholic pupils in an independent school in operation in Corduff Chapel partly subsidised by the landlord were met with extreme opposition by priest and people alike. Although a subsequent application by Rev. F. Keone for aid from the Commissioners of National Education proved successful, obstacles to the construction of the school were placed by the agent who issued an order forbidding any materials or supplies to be sold towards its erection.⁷⁸⁶ The Rev. Boylan told the Devon Commission that Lord Shirley had employed a moral agent on the estate who was connected with the schools. He was responsible for the superintendence of the schools and for supplying the children with tracts and books.⁷⁸⁷ While there is no evidence of the employment of moral agents in England, several landowners in Ireland saw a real role for such individuals in the management of order on their estate.⁷⁸⁸

In 1834 Rev. Boylan applied to the commissioners for a grant for a school in his parish.⁷⁸⁹ He explained that ‘the lord of the soil Evelyn J. Shirley has given for some years five pounds per year to the master’ and how Catholic children on the estate were compelled to attend the school and read books sanctioned by the landlord but objected to by the priest.⁷⁹⁰ Boylan expressed his hope that this donation would cease and that the school could join the national system. In 1860 the parish priest of Magheracluone, Rev Mr Carolan, reminded the landlord that although he had previously stated he would assist with the education of Roman Catholic children on the estate he had hitherto failed to do so. He stated that the two schools managed by the Protestant rector were unsuitable, due to the nature of religious instruction delivered there. The children were currently attending a school situated in the townland of Drumgossatt, which consisted of a ‘wretched cabin’ which housed ‘seventy or eighty children ... huddled together’.⁷⁹¹ Although most unsuitable in the priest’s opinion, recent orders issued by the bailiff Thomas Finnegan to close the school although, no ‘disorder or irregularity’ was noted, were highly objectionable.

⁷⁸⁶ Godkin, *The land-war*, p. 366.

⁷⁸⁷ In Monaghan national schools established on estates by Presbyterian ministers, such as a school established in Carrickmacross, were objected to by Catholic priests, who in turn, forbade members of their flock to attend. See The Devon Commission, p. 910.

⁷⁸⁸ See Hempton and Hill, *Evangelical Protestantism*, p. 210.

⁷⁸⁹ Baptist Wriothlesley Noel, *Notes of a short tour through the midland counties of Ireland in the summer of 1836: with observations on the condition of the peasantry* (London, 1837), pp 88-89.

⁷⁹⁰ ‘Queries to be answered by applicant for aid towards the fitting-up of schools, the paying of teachers, and the obtaining of school requisitions’ (N.A.I., Applications for grants, ED 1 69/42)

⁷⁹¹ Letter from Rev Mr Carolan, P.P., Magheracluone to E.P. Shirley Esq, M.P., Lower Eatington, Stratford-on-avon, England, 3 Feb. 1860 (P.R.O.N.I., Shirley papers, D3531/E/1)

The priest finally pleaded with the landlord to allow the poor to educate their children in a manner which would not offend their moral consciences. He claimed that he did not seek any financial support, only the liberty and time to build a more suitable school house.

In the same county clerical management of national schools was subject to public discredit in the press. During the 1870s, Colonel J. Lloyd, agent to Lord Rossmore, sent a copy of all the correspondence between him and John E. Sheridan, Secretary of the Board with respect to Nart and Drumgarley National Schools. Formerly under the management of Rev. Bryan Duffy, both schools had ‘become dilapidated hovels’ and ‘a disgrace to the estate and to the name of education’.⁷⁹² After Lord Rossmore had instigated the necessary repairs, the priest’s ‘Ultramontane superior’ prevented him from accepting this gesture. Subsequently, the National Board withdrew the grant.

The Farnham estate: ‘seminaries of moral culture and Biblical instruction’

Another example of the amalgamation of religious-moral-educational imperatives was provided on the Farnham estate. Along with inspectors of districts, buildings, bog, and land, Baron Farnham paid a moral agent ‘to check immorality and vice, and encourage religion and virtue; and to establish an efficient system of religious education for youth’.⁷⁹³ Moral agents also had to visit and superintend the estate’s schools, which were described in the local paper, the *Anglo-Celt*, as ‘seminaries of moral culture and Biblical instruction’.⁷⁹⁴ Attendance at the Farnham schools also brought their own rewards to members of the student body. In 1853 approximately 350 children were invited to the Farnham demesne to attend a feast of roast beef, plum pudding, cake, and tea hosted by Lord and Lady Farnham.⁷⁹⁵ The significance of this annual event was highlighted by an *Anglo-Celt* reporter who wrote of the worthiness of such endeavours ‘for the child is the future man, and the feelings wherewith he is impressed towards any one in his early days he will retain in more advanced life ... Lord Farnham has, for a long time, known the secret, and his

⁷⁹² *Northern Standard*, 19 Jan. 1878; Members of the landed class often lamented the role adopted by many Catholic clerics in educational matters. During the early 1840s, the landlady Elizabeth Smith wrote disparagingly about Fr. Germaine’s bi-annual visits to the school and lack of financial assistance to the school’s development. See Grant, *The Highland lady in Ireland*, p. 193.

⁷⁹³ Cherry, ‘The Maxwell family of Farnham’, p. 134.

⁷⁹⁴ ‘The noble house of Farnham’, *Anglo-Celt*, 28 Jan. 1858.

⁷⁹⁵ ‘Festivities at Farnham’, *Anglo-Celt*, 15 Sept. 1853.

knowledge of it was not left unapplied'.⁷⁹⁶ As noted previously, the 8th Baron possessed an evangelical character.⁷⁹⁷ In 1863, in a speech to his tenantry on the occasion of the re-opening of Ballymachugh School, he combined educational aims with devotional aspirations in his declaration that:

secular instruction, needful for the well-being of the children, should go hand in hand with the revelation of grace and mercy from a God of love ... by availing yourselves, on behalf of your children, of a system of education which recognises God's Word as the only legitimate basis for a sound and safe training, whether for time or eternity.⁷⁹⁸

Consequently, it would seem that some evangelical landlords pursued an estate management policy containing a deliberate proselyting agenda with respect to education on the estate.

Compromise over control?

Consequently, oftentimes the decision whether to join the national system was dictated by matters related to power and control. The landlord's power over education on his estate was significantly compromised after he joined the scheme. Henceforth, landlord patronized national school were answerable to Board.

Curriculum challenges and control over teacher appointment: the National Board of Education and the 3rd Earl of Leitrim

Although the 3rd Earl of Leitrim supported the national system, he nonetheless asserted himself on several occasions by challenging the authority and the order imposed by the scheme. On one occasion he pushed the boundaries regarding what books and instructions were allowed in schools supported by the Board. At this time he developed an interest in flax-growing and sought to promote it, along with the manufacture of linen on his Donegal lands. He even informed the teacher McCarron that he would send him to the continent to learn about the cultivation of flax. Bound volumes on the topic were sent by the landlord to the teacher to be read out on a daily basis to the pupils of the school. The inspector did not respond too favourably to such initiatives as they were not sanctioned by the commissioners. Although

⁷⁹⁶ *ibid.*

⁷⁹⁷ Cherry, 'The Maxwell family of Farnham', p. 138.

⁷⁹⁸ 'Address to the Parents of the Children attending the Ballymachugh School', Somerset Richard Maxwell, Nov. 1863 (N.L.I., Farnham papers, MS 18, 614 (4))

Leitrim had essentially broken the rules of the Board, following some exchange of correspondence between the interested parties, the books were allowed to remain on the school premises.⁷⁹⁹ The Board's acquiescence on the matter may have been influenced by the fact that agriculture, industrial instruction, sewing, knitting, and embroidery were introduced to the national curriculum from 1838.⁸⁰⁰ In 1858 one teacher expressed an interest in giving lessons in practical agriculture to the boys attending the school and to conduct it in the manner of a model farm. The petitioner who acted on behalf of the teacher agreed 'to pay the rent whatever it may be for the place, and comply with the conditions imposed by your lordship'.⁸⁰¹ It is not clear whether this was to operate as a separate agricultural national school or simple form part of an expanded curriculum.

With the emergence of the national system, higher standards were set for the teachers that would be employed and the quality of teaching that would be delivered within the confines of the estate. Such new expectations placed pressures on landlords to ensure that the optimal person for the job would be employed. While Coolahan argued that 'at local level the manager had considerable power over teachers', a rather more collaborative process with respect to teacher employment seemed to function on some estates.⁸⁰² In 1879 the Leitrim agent advised the Board that whoever should be employed as the new teacher of Manorhamilton School 'must be Protestant' and preferably a member of the Church of Ireland.⁸⁰³ His wish for a Protestant teacher was fulfilled with the instatement of Miss Jane Kerr.⁸⁰⁴ This example suggests that landlord national schools may also have functioned along denominational lines in a similar manner to those established by the religious. A joint decision as such probably reflected the fact that teacher payment was financed by both parties involved.⁸⁰⁵ In 1879 the agent Stewart had to reprimand Francis Cullen, master of Manorhamilton boy's N.S., after a poor report on the school was

⁷⁹⁹ Malcomson, *Virtues of a Wicked Earl*, pp 225-26.

⁸⁰⁰ Mulryan-Moloney, *Nineteenth Century Elementary Education*, p. 13.

⁸⁰¹ Letter from James Gallagher, Fanavoly to Leitrim, 23 Jan. 1858 (Leitrim papers, MS 33,832)

⁸⁰² Coolahan, *Irish education*, p. 14.

⁸⁰³ Letter from George F. Stewart, 14 Mar. 1879 (N.L.I., Leitrim papers, MS 32,656); Hickey and Doherty pointed out how managers normally employed only teachers of their own denominations. See Hickey and Doherty, *Dictionary of Irish history*, p. 387.

⁸⁰⁴ Letter from George F. Stewart to Miss Jane Kerr, 26 Mar. 1879; 29 Mar. 1879, *ibid.*

⁸⁰⁵ Letter from Stewart to Col. Clements, 30 Nov. 1878, *ibid.*

received.⁸⁰⁶ A year later another complaint from the inspector was received by the agent. In this instance, the agent advised Cullen that should this occur again he would be dismissed.⁸⁰⁷

Landlord and agents – who often acted as local managers – were initially required to hire teachers who were trained at a model school operated under the Board’s auspices in Dublin. Landed estate officials did not seem to object to hiring teachers trained under this system. However, many of the Catholic religious overtly objected to the model schools. Shields outlined the three main views expressed by members of the Irish Roman Catholic hierarchy to the national system of education: opposition (best represented by MacHale, the Archbishop of Tuam), support of the original scheme introduced in 1831 (voiced by David Moriarty, Bishop of Kerry), and, the majority view – support of the system until a separate denominational scheme was developed (Cardinal Paul Cullen (1803-78), later Archbishop of Armagh in 1849).⁸⁰⁸ The Shirley estate was located in the Diocese of Clogher. From 1843-64, Charles McNally was bishop and was succeeded by James Donnelly who held the position from 1843-93.⁸⁰⁹ As Larkin revealed Donnelly was not a supporter of MacHale, proving ‘essentially in harmony with Cullen ... on the important questions of denominational education, pastoral reform, and Fenianism’.⁸¹⁰ MacHale had forbidden teachers in the dioceses of Tuam to attend the training college at Marlborough Street, Dublin. In 1863 Irish bishops banned Catholics from attending model schools.⁸¹¹ In 1878 the *Northern Standard* reported how one local national school manager, Rev. Callen, had refused to allow a female teacher to resume her role as teaching assistant after attending the Marlborough Street training school until she had spent a month in the Covent in Monaghan ‘where her mind would receive the proper impress to qualify her for his ideas of a teacher’.⁸¹² The unsuitability of a model school training for Catholic minds resulted in the establishment of Roman Catholic training schools.⁸¹³ Members of the established church hierarchy fostered a

⁸⁰⁶ Letter from Stewart to Mr. Francis Cullen, M.N.S. Manorhamilton, 14 Aug. 1879 (N.L.I., Leitrim papers, MS 32.656)

⁸⁰⁷ Feb. 1880, *ibid.*

⁸⁰⁸ Shields, *The Irish Conservative Party*, p. 107.

⁸⁰⁹ Emmet Larkin, *The consolidation of the Roman Catholic Church in Ireland, 1860-1870* (Dublin, c1987), p. xi.

⁸¹⁰ *ibid.*, pp 225-26.

⁸¹¹ Mulryan-Moloney, *Nineteenth Century Elementary Education*, pp 38, 41.

⁸¹² *Northern Standard*, 26 Jan. 1878.

⁸¹³ Macaulay, *The Holy See*, p. 124.

similar opposition to the national system and its model schools. Shields argued that this rejection was fuelled by the belief that ‘as the “National” Church in Ireland, the Church of Ireland had an inherent right to control over any system of education established by the state’.⁸¹⁴ In response they established the Church Education Society in 1839 and permitted their teachers to receive training at the Kildare Place Training College.⁸¹⁵ However, by the early 1850s, the number of Church Education Society schools had declined.⁸¹⁶

Stanley’s letter had stipulated that local managers would have the power to fire teachers, although the commissioners still retained ‘the right of removing’ any teacher they desired.⁸¹⁷ Such overlapping of spheres of influence held by manager and commissioners casts doubt on Akenson’s assertion that ‘teachers were hired and fired at the manager’s whim’.⁸¹⁸ Notwithstanding the considerable turnover in teacher employment, with the Powis Commission reporting 2,594 teachers who either resigned, emigrated, or were dismissed from their posts within the period 1863 to 1867, teachers, until late in the century, had no rights of appeal in cases of dismissal.⁸¹⁹ Many of the teachers fired over the period under study were discharged due to incompetence. The development of training classes in Dublin by the Board for the purpose of improving the quality of teaching in Ireland sought to address this issue.⁸²⁰ The secretaries Cross and Kelly frequently wrote to estates requesting that teachers attend the required training classes and should a teacher be unable ‘a satisfactory cause must be assigned. If the reason given be not perfectly satisfactory, the Commissioners will consider whether he shall not *be excluded from the benefits of classification*’.⁸²¹ In conclusion, on the Leitrim estate, although the agent appeared to have ample say in who would perform the role of teacher, the final decision ultimately appeared to rest with the commissioners.⁸²²

⁸¹⁴ Shields, *The Irish Conservative Party*, p. 107.

⁸¹⁵ Mulryan-Moloney, *Nineteenth Century Elementary Education*, p. 38.

⁸¹⁶ Shields, *The Irish Conservative Party*, p. 140.

⁸¹⁷ Akenson, *The Irish education experiment*, p. 121.

⁸¹⁸ *ibid.*, p. 154

⁸¹⁹ *ibid.*; Coolahan, *Irish education*, p. 25.

⁸²⁰ Letter from George F. Stewart to The Secretary, Education Office, Marlbor’ St., 12 June 1879; 3 July 1879; 20 Dec. 1879 (N.L.I., Leitrim papers, MS 32,656)

⁸²¹ Letter from the secretaries of the office of education, Maurice Cross and James Kelly to G Hildibrand, Esq., Westport, 9 Jan. 1850; Letter from Cross and Kelly to the Marquess of Sligo, Westport, 6 Jan. 1851 (N.L.I., Westport papers, MS 41,006/5)

⁸²² The agent corresponding with the commissioners of education informing them who the monitor of Manorhamilton Male N.S. was and also recommending ‘a very intelligent and steady girl’ to be considered should a vacancy arise at the training school to train as a teacher. Letter from George F.

Reprimands over teacher incompetence

Teacher quality and competency was one area of education which required attention during the early 1800s. From 1849, new teachers were subject to a probationary period of one year. After this time, a district inspector's examination decided the competency of the teacher, which in turn dictated salary level.⁸²³ On the Westport estate, four incompetent teachers were employed in succession in Burriss N.S.; a fact which did not go unnoticed by the secretaries.⁸²⁴ On one occasion it came to the attention of the commissioners that one teacher, Rachel Mathews, appeared to be flouting the rules of the Board by only opening the school four days a week and not beginning lessons until two hours after the specified time. She also constantly violated the rules related to religious instruction. In response, they ordered a 'competent' person be put in charge of the school.⁸²⁵ On another occasion, the failure of the agent to employ a teacher for Carrickkennedy N.S. resulted in its closure. Hildebrand, the agent, was admonished in turn and advised to employ a 'properly qualified person' with the 'least possible delay'.⁸²⁶ With so many examples of the employment of poorly qualified teachers in landlord championed national schools, it may be argued that some landlords did not actively take an interest in education, whether belonging to the national system or otherwise. Educational initiatives therefore among the landed gentry were not always accompanied by a rigorous concern for standards in the instruction of the masses. The Draper's Company, no less than individual landlords, were also admonished by the Board for the questionable quality of teachers employed on the estate.⁸²⁷ Teacher incompetence was not exclusively the problem of schools managed by landed proprietor or agents. Schools managed by Catholic clerics also received reprimands over the quality of teacher employed. In 1864 the Rev. Flannery was admonished over the character of teachers employed in Aghagower non-vested national school in the Parish of Burrishoole. James McEvelly was deemed incompetent, while Patrick Gibbons was

Stewart to the commissioners of national education, Marlboro St., 14 Jan. 1879; Letter from Stewart to Col. Clements, 10 Feb. 1879; Letter from Stewart to Mc Culla, 18 Mar. 1879; Letter from Stewart to the Rev. Grierson, Manorhamilton, 23 Mar. 1879 (N.L.I., Leitrim papers, MS 32,656)

⁸²³ Some older, competent pupils were hired as monitors and received a small salary for assisting the teacher in the classroom. Mulryan-Moloney, *Nineteenth Century Elementary Education*, p. 38

⁸²⁴ Letter from the secretaries of office of education, Maurice Cross and James Kelly to G Hildebrand Esq., Westport, 13 Sept. 1850; 18 Oct. 1850 (N.L.I., Westport, MS 41,006/10)

⁸²⁵ 25 June 1851, *ibid.*

⁸²⁶ 17 May 1850, *ibid.*

⁸²⁷ Report of the Deputation of the Court of Assistants of the Drapers' Company, 1877 (Drapers' Hall, Drapers' papers, D3632/D/1/8, microfilm, acc. 16727, #617, reel 24, pp 13-14)

reported ‘drunk and disorderly in Westport on one of the days of July 1863’.⁸²⁸ The emergence of the national system affords an opportunity to delve more deeply into the various reasons which disposed a landlord to actively engage in the educational arena and also to consider the importance its continued control held for the estate.

State monitoring

Although the commissioners did not expect to recoup the money they offered in grants with respect to teacher salaries and schoolhouses, educational assistance did not come *gratis*. The bureaucratic machinery of the state ensured that landlords conformed to the new educational order. Close monitoring and regular visits from inspectors and sub-inspectors ensured that money was only given if specific standards were adhered to. Many inspectors would not rest until the appropriate forms were filled out to the satisfaction of the committee and insisted that the standards imposed and expected from the Board were fulfilled.⁸²⁹ Compliance with the new regulations proved paramount and negligence on the part of estate authorities would not be tolerated. The secretaries reprimanded the Westport agent, after he complained about the delay in the receipt of teacher salaries. They promptly informed him that he had not returned the forms of application as required.⁸³⁰ A quality review system of buildings was commissioned, involving a substantial amount of paper work. A form of certificate, consisting of seventy-three questions, had to be completed and co-signed by the manager and the contractor once building was completed before any money would be dispensed.⁸³¹ Visits from inspectors also afforded local managers and patrons an opportunity to voice their own opinions and concerns about the National System. On one such occasion Elizabeth Smith informed the inspector that she felt the Board had not used her ‘fairly’. The inspector duly provided her with ‘good hope of redress in time’.⁸³²

Some landlords and agents attempted to exert a measure of control over the Board’s attempts to standardise the educational system. While some examples may point more towards a generally lax attitude in relation to school management, it is

⁸²⁸ ‘National Schools Register Mayo’ (N.A.I., National schools registers, ED 2/110)

⁸²⁹ Letter from the clerk of works to G Hildebrand, Esq., Westport, 13 June 1850; Letter from the secretaries of office of education, Maurice Cross and James Kelly to G Hildebrand Esq., Westport, 10 Jan. 1850, *ibid*.

⁸³⁰ 7 June 1850, *ibid*.

⁸³¹ *ibid*.

⁸³² Grant, *The Highland lady in Ireland*, p. 22.

clear that, for others, displays of tactical leverage proved a way of asserting defiance. Some estates appeared to seamlessly abide by the new regulations. The agent on the Leitrim estate appeared to adhere rigidly to the Board's procedures. As stipulated by the Board, a weekly report of school attendance by class was entered in the required daily report books.⁸³³ The agent also ensured that the appropriate type and number of books and equipment was in place in each school.⁸³⁴ When the Drapers' Company decided to join the national system in the early 1870s they welcomed the 'more thorough' inspection of schools.⁸³⁵

Although 'most were glad to get the money and satisfied to comply with the regulations' of the Board, others proved less so.⁸³⁶ During the 1850s and 1860s, the Westport agents frequently received damning reports from the inspectors regarding the great deficiency of lessons books in certain school houses.⁸³⁷ In the subsequent decade, the same estate was berated for not adhering to the rules of the Board in relation to roll call and issues respecting the employment of teachers.⁸³⁸ Other estates asserted their independence of the system, such as the Drapers' Company, which in 1876, decided to establish a scholarship system on the estate to stimulate education in elementary school.⁸³⁹ The commissioners' orders were not always welcomed. In 1881 the Shirley agent expressed surprise following the receipt of a letter from the education commissioners. He informed the landlord that 'they in fact *order* you' to enlarge one of the school houses. He stated that he could not 'see why you should have these things to do in these bad times'.⁸⁴⁰ A less enthusiastic response to submit to the rules of the Board was also in evidence in Westport at this time with the Marquess expressing a desire that the national system not have the monopoly over

⁸³³ 'State of Farnaught National School' week ending Saturday 21 Apr. 1855 (N.L.I., Leitrim papers, MS 33,835 (3)); Letter from George F. Stewart to Colonel Clements, 14 Nov. 1878 (N.L.I., Leitrim, MS 32,656)

⁸³⁴ Letter from George F. Stewart to The Secretaries, National Education Office, Marlboro' Street, 10 Dec. 1879; Letter from Stewart to Miss Jane Kerr, 17 Dec. 1879 (N.L.I., Leitrim papers, MS 32,656)

⁸³⁵ Report of the Deputation of the Court of Assistants of the Drapers' Company, 1875 (Drapers' Hall, Drapers' papers, microfilm, acc. 16727, #617, reel 24, pp 7-8)

⁸³⁶ Clear, *Social change*, p. 45.

⁸³⁷ Letter from the secretaries of office of education, Maurice Cross and James Kelly to G Hildebrand, Esq., Westport, 3 July 1850 (N.L.I., Westport, MS 41,006/10); Letter from the secretaries of the commissioners of national education to J.S Smyth (manager of Derrycroft NS), Westport, 5 June 1867 (N.L.I., Westport papers, MS 41,006/30)

⁸³⁸ Letter from the secretaries of the office of national education, James Kelly and William M'Creedy to J.S. Smith Esq., Westport, 27 Apr. 1874 (N.L.I., Westport papers, MS 40,984/6)

⁸³⁹ Report of the Deputation of the Court of Assistants of the Drapers' Company, 1876 (Drapers' Hall, Drapers' papers, D3632/D/1/8, microfilm, acc. 16727, #617, reel 24, p. 7)

⁸⁴⁰ Letter from John Gibbings to E.P. Shirley Esq., 15 Dec. 1881 (P.R.O.N.I., Shirley papers, D3531/C7/1)

education on his estate. He stated: 'I do think that it is well one school should be in Westport not National'.⁸⁴¹

Conclusion

Figures for 1867 suggest that 6,520 schools were registered by roll-number with the National Board, as opposed to approximately 2,600 other schools which operated independently of the Board.⁸⁴² Consequently, about a third of the schools in Ireland were not under state control thirty years after the inception of the National System. Some of these independent schools were patronised by landlords. While unquestionably some landlords displayed a real interest in the rudiments of education, such as the Edgeworths and Vere Foster, others to a lesser, though arguably none the less important, extent contributed financially towards equipment, furnishings, and books for schools, both within and outside of the national system.⁸⁴³

State education and National education

Primary education was an important artery of social control in the post Union period. In a speech entitled 'The lost opportunities of the Irish gentry' delivered in 1887, regarding the failure of the landed class to take a leadership role and win the affections of the tenants, William O'Brien claimed that 'the initiative had swung from them to "the democracy of Ireland", a democracy that sprung from and was inspired by the Irish national education system'.⁸⁴⁴ O'Brien's bold statement failed to take into consideration the support many of the landed gentry gave to the national system. Instead of encouraging 'democracy', state education ostensibly fostered and promoted 'the values of social deference, respect for one's "betters", loyalty and obedience to the State and to officialdom' in their textbooks.⁸⁴⁵ Leitrim's wish that Stanley's initiative would offer 'a good, sound English education' for his tenants reflected perhaps a belief that the new system would replicate and merely enforce the

⁸⁴¹ Letter from 3rd Marquess of Sligo to agent [circa 1850s-1870s] (N.L.I., Westport papers, MS 41,001/35)

⁸⁴² Coolahan, *Irish education*, p. 24.

⁸⁴³ Edgeworth and Edgeworth, *Practical education*; Peter Gray, 'Foster, Vere Henry Louis (1819–1900)', Oxford Dictionary of National Biography.

⁸⁴⁴ Laurence M. Geary, 'Anticipating memory: landlordism, agrarianism and deference in late-nineteenth-century Ireland' in Tom Dunne and Laurence M. Geary (eds), *History and the public sphere: essays in honour of John A. Murphy* (Cork, 2005), pp 129-30.

⁸⁴⁵ Clear, *Social change*, p. 43; Coolahan, *Irish education*, pp 4, 20.

working of the KPS which was unquestionably governed by the Protestant ascendancy.⁸⁴⁶

During the Land War, primary education became a site of conflict. The Cowper Commission (1887) revealed how boycotting, in particular, proved a regular feature in some classrooms. A number of teachers were boycotted with the result that children were often pulled from schools.⁸⁴⁷ The children of boycotted farmers also experienced the wrath of social ostracism. One tenant-farmer refused to send his children to school fearing they would be murdered, while another interviewee reported that if children of boycotted farmers continued to receive an education in the school, other parents would remove their own offspring until these children were kept at home.⁸⁴⁸ However, the young did not prove mere pawns in the agitation. The establishment of Children's Land League branches with the purpose of 'keeping children out of trouble while their mothers and fathers were involved in Land League activities and of instructing them in nationalist ideology and discourse' meant not only that many children were politically active during the period, but also that a nationalist education outside of the 'national' system instructed many young minds along a more revolutionary course.⁸⁴⁹

Proselytism or pounds? Landlord motivations in education

Findings from five estates suggest that estate power over education was heavily qualified, but not altogether ended, with the emergence and consolidation of national education in Ireland. It may be argued that on some estates after 1831 landlord influence in primary educational circles rested primarily on their possession of ready capital which afforded them continued leverage in the education of their tenantry. The enticement of grants offered through the new system gave many landlords the opportunity to relinquish full control over estate educational affairs, allowing them to redirect their attention and funds to other more pressing estate matters. Although not agents of the National Board, estate owners or their nominated employees in effect

⁸⁴⁶ Malcomson, *Virtues of a Wicked Earl*, pp 99-100.

⁸⁴⁷ 20914, testimony of Mr. Francis J. Joyce, 'Ireland under the League: illustrated by extracts from the evidence given before the Cowper Commission' in *LSE Selected Pamphlets* (1887), p. 15.

⁸⁴⁸ 19576, testimony of Mr. Eugene M'Carthy, Cork, tenant-farmer and 19516, Mr. John Edward Barrett, Cork, landlord, agent, and farmer, *ibid.*, pp 10, 40-41.

⁸⁴⁹ Róna Nic Congáil, 'Young Ireland and *The Nation*: nationalist children's culture in the late nineteenth century' in *Éire-Ireland*, xlvii, nos 3&4 (2011), p. 50; The third level Roman Catholic education question linked education to nationalism in the minds of many. See Macaulay, *The Holy See*.

seem to have become deputies of the state system, fulfilling supervisory roles such as overseeing the building of schools, repairs, school accounts, and teacher salaries. Power ultimately resided with the Board, whose regular inspections and intrusive correspondence ensured bureaucratic standardization.⁸⁵⁰ For the period under study, landlords on the Westport, Leitrim, and Drapers' estates joined the National System, while Lord Shirley and Baron Farnham refused to join.

The modernization of society led to attempts by the state to install a centralized, uniform, and ultimately modern educational system in Ireland. However, despite attempts by the commissioners to modernise the Irish educational arena, the continued importance of the role of religion and of landlords position education, not so much in a modern society, but in a society consisting, according to Tönnies, of both ancient (*Gemeinschaft*) and more modern (*Gesellschaft*) forms. Protestant landlords who declined to join the state system seemed bent on pursuing a religious agenda through educational means. While undoubtedly a wide range of motives may have propelled landlords to associate with the state with respect to educational matters, fundamentally many landlords for whatever reasons consciously relinquished control over education. Although unlike the legal arena where the superceding of feudal law by state law proved complete following the 1859 legislation as discussed in the previous chapter, the failure of the state to formally enact specific educational legislation meant that landlords could still, in some measure, exercise what Tönnies' termed arbitrary-will (the capacity to distinguish means from ends and to choose the most efficient means for any given end in their dealings) and, ultimately compromise, with the state. Landlords appeared to offer more of a challenge to state expansion initiatives in the educational domain, in contrast to their more *laissez-faire* approach with respect to judicial structures.

Within the national system power leaned more towards the side of the commissioners until 1870. In that year the Powis Commission produced eight volumes of evidence and conclusions. Along with providing support for denominational education, one of the key features of the report was a desire 'to limit the national commissioners' powers, while increasing those of the denominational groups'.⁸⁵¹ No reference was made in the report to the power of the landlord. Akenson claimed that the content of the report reflected Irish realities; namely, the

⁸⁵⁰ McEntee, 'Learning from the landlord?'

⁸⁵¹ Akenson, *The Irish education experiment*, p. 311.

‘increasing weakness of the national commissioners and the increasing aggressiveness of the Roman Catholic prelates’.⁸⁵² During the 1870s, Irish bishops were generally united on educational issues. They desired, not only that all levels (first, second, and third level) of education be denominational, but also under their control.⁸⁵³ By 1900 Catholic bishops had recognised that the national system of education was ‘a help rather than a hindrance to the Roman Catholic church’.⁸⁵⁴ Clerical interactions with landlords will be the subject of the following chapter.

⁸⁵² *ibid.*, p. 315.

⁸⁵³ Emmet Larkin, *The Roman Catholic Church and the Home Rule movement in Ireland, 1870-1874* (London, c1990), p. xx.

⁸⁵⁴ Akenson, *The Irish education experiment*, p. 360.

Chapter 5
‘The priests are too double faced’:
Landlords, priests and the politics of piety on the estate
1860-1890

‘By far the greater part of the population are Roman Catholics, who, considering the treatment they formerly received, and the way they are kept in mind of that treatment, are perhaps as well inclined towards their Protestant neighbours as could be expected’.

John Hamilton’s thoughts on Ireland in 1880 in
Sixty Years’ Experience as an Irish Landlord:
Memoirs of John Hamilton, D.L. of St. Ernan’s, Donegal, p. 409

‘We are of opinion that there is little to choose between the Catholic and the Protestant temper – taking society all round’.

Comment on religious relations in Ireland in 1852 in
Harriet Martineau, *Letters from Ireland*, p. 63

‘The Westport estate authorities found ‘a great difficulty in the employment of Roman Catholic weavers, as they have two hundred holidays in the year, when they will do little or no work’.

The view of the Westport estate authorities in 1826 in
James Glassford, *Notes of three tours in Ireland*, p. 304

Arthur Wellesley (1769–1852), 1st duke of Wellington ‘described the Catholic clergy, nobility, lawyers, and gentry as “a sort of *theocracy*”, governing Ireland with the backing of Rome’.⁸⁵⁵ Protestants did not form part of this theocracy. Many Protestant landlords appeared to look towards Westminster for assistance in the maintenance of their authority in Irish society. The London parliament was perceived by many as representative of Protestant interests, while the Vatican catered for the needs of Catholics. The two were deemed antithetical. Although views were expressed at the time of the Union advocating state endowment of the Catholic Church as a means of increasing the government’s political control over the congregation, this never occurred.⁸⁵⁶ Accounts of nineteenth-century rural Irish society oftentimes depict strained relations between Protestant landlords and Catholic clergy, each vying with the other for overall command of the tenantry.⁸⁵⁷ During the latter half of the century, relations between Protestant landlords and members of the Catholic religious based on power were also being subjected to the increasingly centralising tendencies of Westminster and the Vatican respectively. Although oftentimes there was a ‘convergence of interests between landlords and clergy on the local level, and the rulers of the state and the Catholic Church on the national level’, relations between both religious groups were frequently fraught.⁸⁵⁸ While mutual mistrust prevailed around confessional matters, a more conciliatory alliance was sometimes evident in relation to the secular matter of tenurial relations.

Members of the Catholic clergy traditionally participated in challenging collective action initiated by the tenantry due to the social organization of rural Irish society. Clark described collective action as ‘the pursuit of a goal or set of goals by a number of persons’. However, collective action among the clergy also – perhaps less overtly – frequently sought to maintain and reinforce customary norms. Catholic clerics oftentimes supported the actions and authority of the Protestant landlord over

⁸⁵⁵ Foster, *Modern Ireland*, p. 302.

⁸⁵⁶ Shields, *The Irish Conservative Party*, p. 96.

⁸⁵⁷ Of course Presbyterian ministers also exerted much secular power and acted as advocates on behalf of tenants from their church, including Rev. Edmund Breakey, Presbyterian Minister on the Whyte estate during the Great Famine, see John J. Sands, Charles Magee, Jeffrey Lefroy, Edmund Breakey, John Doran, James Rodgers, William Fivey, John Temple Reilly, Robert Dickson, E. McIlveen, John McClelland, Nathaniel O’Flaherty, James Elliott, John McKain, James Mollan, Thomas Mackey, J. P. Kelly, John J. Whyte, and P. O’Connor, ‘The Great Famine: some correspondence relating to social conditions in the Loughbrickland area, 1840-1850’ in ‘*Before I Forget...*’: *Journal of the Poyntzpass and District Local History Society*, no.1 (1987), pp 35-41.

⁸⁵⁸ Lawrence J. Taylor, ‘The Priest and the Agent: Social Drama and Class Consciousness in the West of Ireland’ in *Comparative Studies in Society and History*, xxvii (1985), p. 704.

his tenants, thereby fulfilling the aims of established collective activity which endeavours to retain established rights in the face of challenge.⁸⁵⁹ Clark highlighted the importance of identifying the ‘characteristics of the collective action occurring in a society at a given point in time’.⁸⁶⁰ As the nineteenth century progressed, the Catholic religious embraced both established and challenging collective action when dealing with matters related to estate affairs. The enactment of progressive land and religious legislation resulted in a perceptible shift in the devotional complexion of landlord-tenant relations. While the role of priests as ‘brokers’ and ‘mediators’ has been recognized in historiography, a more considered appraisal of what such roles actually entailed with respect to order on the estate is required.⁸⁶¹ The final two chapters of this study consider the notion of collectivities and their impact in rural Irish society from 1860-1891. Through an analysis of Protestant landlord-Catholic cleric relations and Protestant landlord-tenant relations, this chapter explores the complexity of interdenominational relations and argues that estate management policies adopted by some Church of Ireland landlords altered perceptively in the post famine and Land War period. This chapter is chronologically structured, with each decade from 1860 to 1890 receiving separate consideration.

Religious context

The religious animosities which had permeated most sections of Irish life during the early nineteenth century persisted in the post-famine period. No religious grouping was exempt from religious persecution of one variety or another. Mistrust was prevalent between members of the various denominations. The fact that powerful estate employees, such as agents, oftentimes occupied prominent positions within local Orange lodges (Alexander Mitchell) and the yeomanry (Humfrey Evatt) merely added to the suspicion held by some Catholics of the motives of estate personnel.⁸⁶² In 1814 Protestants in the Donaghmoynne area of the Shirley estate were boycotted, with some even receiving threatening death notices ordering them out of their holdings.⁸⁶³ Significant events marking the liturgical calendars of the main denominations shaped and buttressed such divides. The ‘second great awakening’ in

⁸⁵⁹ Clark, *Social origins*, pp 4, 104, 360; This concept corresponds with Tilly’s concept of reactive collective action. See Charles Tilly, *The rebellious century, 1830-1930* (London, 1975), p. 284.

⁸⁶⁰ Clark, *Social origins*, p. 4.

⁸⁶¹ Taylor, ‘The Priest and the Agent’, p. 697; Connolly, *Priests and people*, p. 56.

⁸⁶² Both agents were employed on the Shirley estate. Livingstone, *The Monaghan story*, pp 178, 181.

⁸⁶³ *ibid.*, p. 182.

Ulster in 1859 highlighted an increased religious fervour among some members of the various strands of Protestantism, while also putting to bed any fears of a fulfilment of Pastorini's *Prophecies* which had promised the destruction of Protestantism in the year 1825. While the 'awakening' seemed to represent a new dawn and a reinforcement of the strength of the Protestant faith in Ireland, the passing of the Irish Church Act – which came into force in 1871 – in effect signalled the end of its power and prestige. The disestablishment of the Church of Ireland from its privileged position in Irish society, along with the repeal of the tithe charge earlier in the century, significantly challenged its claims to be the church of the state. Concurrently, some Protestant gentry in Ireland felt that members of their congregation were simply not doing enough to preserve their authority in the country. Although perhaps a little dramatic, Elizabeth Smith's declaration in the early 1840s 'Oh, Protestant clergy and landlords of this darkened land what sins of *omission* at least have you to answer to' revealed real anxiety concerning Protestant negligence in leadership roles before the famine.⁸⁶⁴ The remedy, in her eyes was the education of the Protestant clergy as 'one could hardly have believed a body of men in these days being so very very far behind the age'.⁸⁶⁵

Simultaneously, the authority of the Catholic Church in Ireland was increasing. Lawrence J. Taylor argued that 'from Catholic emancipation in 1829 on, the Church began to represent an established authority and one which was yearly growing richer and more visibly powerful'.⁸⁶⁶ In Paul Cullen, nominated as Archbishop of Armagh in 1849 and transferred to Dublin two years later, the increasing authority of the Roman church was personified.⁸⁶⁷ The Synod of Thurles, which followed shortly on his return to Ireland from Rome, inaugurated a new phase in the history of the Irish Catholic church. His role as Pope Pius IX's (1792-1878) apostolic delegate in Ireland, coupled with strong support for ultramontaniam, positioned Cullen at the centre of Ireland's subsequent so-called 'devotional revolution', clearly signalling an increased confidence within Catholic circles.⁸⁶⁸ Emmet Larkin's study entitled *The consolidation of the Roman Catholic Church in Ireland, 1860-1870* reveals how the unified front of R.C. clerics under the resolute

⁸⁶⁴ Grant, *The Highland lady in Ireland*, p. 4.

⁸⁶⁵ *ibid.*, p. 103.

⁸⁶⁶ Taylor, 'The Priest and the Agent', p. 697.

⁸⁶⁷ See Dáire Keogh and Albert McDonnell (eds), *Cardinal Paul Cullen and his world* (Dublin, 2011)

⁸⁶⁸ Emmet Larkin, 'The Devotional Revolution in Ireland, 1850-75' in *The American Historical Review*, lxxvii, no. 3 (June, 1972), pp 625-52.

guidance of Cullen in the face of pastoral, political, educational, and constitutional challenges helped consolidate the Catholic church in the wake of the famine.⁸⁶⁹

The outbreak of ‘No-Popery’, and the corresponding religious fervor which swept England in 1851, resulted in the establishment of a Catholic Defence Association. The latter’s transformation into the Independent Irish Party during the general election of 1852, pledging to oppose any English party which did not repeal the Ecclesiastical Titles Act and adopt the Tenant League programme’, illustrated the increasing political power of Catholicism.⁸⁷⁰ The Catholic hierarchy joined the political momentum during this decade by supporting the establishment of the National Association in 1864, a constitutional body which advocated for the disestablishment of the Church of Ireland, compensation for improvements for tenants, and Episcopal control over denominational education.⁸⁷¹ The rise of the Catholic Church in Ireland culminated in 1870 with Pope Pius IX’s declaration of papal infallibility.⁸⁷² The collapse of the Irish-Liberal alliance following the introduction of Gladstone’s University bill, followed several years later by the death of Cullen, transformed the politico-religious landscape of Ireland.⁸⁷³ Subsequently, the support of the Catholic hierarchy of Parnell’s parliamentary party and, specifically its Catholic objectives, during the mid-1880s, along with the 1884 Franchise Act which increased lower-class Catholic votes, resulted in a much strengthened Catholic political voice.⁸⁷⁴

In 1871 Catholic clergy in Ireland numbered 2,655 and catered for a population of 4,141,933 Catholics.⁸⁷⁵ Pre-famine perceptions among some of the gentry and Church of Ireland members that, from a socio-economic perspective, priests generally came from the ‘lower orders’ and ‘uneducated classes’ continued to persist in many quarters in the latter half of the century. Such impressions – due

⁸⁶⁹ Larkin, *The consolidation of the Roman Catholic Church*, p. xv.

⁸⁷⁰ R. V. Comerford, ‘Churchmen, tenants, and independent opposition, 1850-56’ in W. E. Vaughan (ed.), *A new history of Ireland V: Ireland under the Union, 1801-70* (Oxford, 2010), pp 399-407; Joseph Lee, *The modernisation of Irish society, 1848-1918* (Dublin, 1989), p. 41; In late 1850 a Papal brief was issued, without the approval by the British government, dividing England into twelve bishoprics. This act resulted in the adoption of territorial titles by Catholic bishops and archbishop. See Shields, *The Irish Conservative Party*, p. 83.

⁸⁷¹ Larkin, *The consolidation of the Roman Catholic Church*, p. xvii; John Henry Whyte, *The independent Irish party, 1850-9* (London, 1958), p. 63.

⁸⁷² Emmet Larkin, ‘Paul Cullen: the great ultramontane’ in Dáire Keogh and Albert McDonnell (eds), *Cardinal Paul Cullen and his world* (Dublin, 2011), p. 16.

⁸⁷³ Emmet Larkin, *The Roman Catholic Church and the Home Rule movement in Ireland, 1870-1874* (London, c1990), pp xviii-xix.

⁸⁷⁴ Elliot, *The Catholics of Ulster*, p. 294.

⁸⁷⁵ Connolly, *Priests and people*, p. 33.

primarily to a dearth of alternative power bases – failed to tarnish the authority of priests at a local level.⁸⁷⁶ A long tradition of priestly opposition to the power of the estate had existed in Ireland. The tithe war of the 1830s had commenced when parish priest Fr. Martin Doyle refused to pay tithes on a second farm of forty acres that he had rented. Traditionally, priests were exempted from paying tithes on holdings surrounding their parochial houses. Doyle believed that this privilege should extend to his second holding also.⁸⁷⁷ In the following decade in October 1849, the Tenant Protection Society of Callan, County Kilkenny was launched by two Catholic curates.⁸⁷⁸ While many priests supported agitation against the authority of landed proprietors – such as that which would be advocated by the Land League – others, through their aversion to, and outright condemnation of, land related disturbances, denounced any attacks made against the authority of the landlord.⁸⁷⁹

In one of her *Letters from Ireland* dated 5 October 1852, Martineau offered the following telling observation:

Day by day now we watch with more interest the movements of the two great background figures – the landlord and the priest – observing how they are themselves watching each other ... This jealous watchfulness is the only thing in which they agree – unless, indeed, it be in their both being very unhappy.⁸⁸⁰

Martineau continued that the source of their unhappiness was their mutual experience of a contraction of their power over the tenantry and of their previously elevated position in rural mid-nineteenth-century Irish society. Increasing moves towards the centralization of both secular and sacred authority through initiatives from London and Rome respectively, resulted fundamentally in the usurpation of the almost primeval rural prerogatives both had formerly autonomously exercised. The challenge posed to the power of the estate in rental, welfare, legal, and educational fields has already been considered. Priests faced a similar challenge to their rural omnipotence through Cardinal Cullen's ultramontane ambitions for Ireland. As Martineau explained:

⁸⁷⁶ *ibid.*, pp 35, 55-56.

⁸⁷⁷ Noreen Higgins-McHugh, 'The 1830s tithe riots' in William Sheehan and Maura Cronin (eds), *Riotous assemblies: rebels, riots and revolts in Ireland* (Cork, 2011), pp 83-84.

⁸⁷⁸ Jackson, *Ireland*, p. 87.

⁸⁷⁹ *ibid.*, p. 236; Norman Dunbar Palmer, *The Irish land league crisis* (London, 1940), pp 117-18.

⁸⁸⁰ Martineau, *Letters from Ireland*, p. 196.

He [the priest] is not allowed to manage his duty in his own way, and to take care of his own position. It is clearly understood, among both his friends and his enemies, that he is controlled ‘from head quarters’, so that he is compelled to do what he knows to be rash, and forbidden to do what he believes to be best ... regrets that Irish affairs are misunderstood ‘at head-quarters’ - that he is compelled to obey orders which he thinks ignorant and rash⁸⁸¹

Popular histories of landlord-clerical relations often revolve around narratives of intrepid priests championing the cause of a suppressed, yet wholly devout, tenantry in the face of an obstinate and tyrannical landlord, such as an incident at Swanlinbar Chapel, Cavan in 1870 where the landlord apparently threatened to burn down the chapel as the people refused to pay the rent.⁸⁸² According to folklore, Lord Leitrim forbade priests to live on his estate.⁸⁸³ Yet, as this chapter will show, for all this fiery show of opposition to the power of the landlord, a more nuanced and courteous relationship existed between these two forces determined to maintain the order of both estate and countryside.

Although some priests refused to adhere to the expectations Cullen placed on their behaviour, most priests were perceived by members of the landed class – for better or for worse – as one monolithic body. Prejudicial beliefs about the character of priests and the practice of Roman Catholicism were expressed earlier in the century. A passage in Anthony Trollope’s *The Landleaguers* directly contrasted the motives and actions of older parish priests (P.P.) with that of the younger Catholic curates (C.C.). Trollope claimed that priests did not oppose the law as often as curates, that they wished for the landlord to receive his rent, were not as inclined toward Home Rule, were more obedient to the authority of the bishop, and were less politically active or enthusiastic than their curates.⁸⁸⁴ While landlord John Hamilton appreciated the ‘great political use’ of the majority of priests, John Barry Maxwell had earlier abhorred what he perceived as the ‘superstitious attachment of the Roman Catholic people to their Priests’ and ‘the sway of the Clergy over the minds of their flocks’.⁸⁸⁵ Some priests were believed to actively pursue a policy of alienating

⁸⁸¹ *ibid.*, pp 198-99.

⁸⁸² I.F.C. S230: pp 60-64. See appendix for complete lyrics.

⁸⁸³ I.F.C. S217: p 372.

⁸⁸⁴ Trollope, *The Landleaguers*, p. 19.

⁸⁸⁵ Hamilton, *Sixty Years’ Experience*, p. 411; John Barry Maxwell, Baron Farnham, *The substance of a speech delivered by the Rt. Hon. Lord Farnham at a meeting held in Cavan for the purpose of*

Roman Catholic tenants from their Protestant landlords and ‘natural protectors’.⁸⁸⁶ These beliefs persisted in many areas during the final four decades of the nineteenth century.

1860s – Confessional divides

The Protestant landed class seemed invulnerable in the early post-famine period. The ‘second great awakening’ of 1859 referred to previously, along with an unsuccessful attempt by the Tenant Right League in 1850 to provide legislation for the ‘3 Fs’, and the introduction of Deasy’s Act, which reaffirmed the principle ‘that the relationship between landlord and tenant rested upon express or implied contract and not upon the fact of the latter’s tenure’, reinforced the power of the landed class and underlined the apparently indestructible law of property.⁸⁸⁷ From such a secure divine and legislative bastion, the strength of Protestant landed class seemed assured during the 1860s. The establishment of the National Association of Ireland in 1864 to advocate for better conditions for Catholics in a variety of public spheres was greeted with some scepticism among the elite.⁸⁸⁸ It was imperative to maintain this powerful Protestant position within the estate.

Consequently, confessional loyalties often dictated the parameters of estate relations. One witness informed the Devon Commission during the early 1840s that he had heard that sometimes individuals were declined a tenancy on the Drapers’ estate on religious grounds.⁸⁸⁹ Approximately twenty years later, this prejudicial practice of managing tenants of different religious persuasions continued to exist. The 3rd Marquess of Sligo appeared to have different rules for Protestants and Catholics, stating in 1860 that ‘all my rules about not taking new tenants are quite inapplicable to Protestants – I shall always be glad to take one as tenant of good character – we want that species of strength’.⁸⁹⁰ He also commented that he was ‘glad to strengthen the Protestant party on the estate’, adding ‘that is a class of tenant which I like’.⁸⁹¹ Protestants were often favoured over Catholics with respect to estate

promoting the Reformation in Ireland, Friday, 26 Jan. 1827 (Dublin, 1827), p. 4.

⁸⁸⁶ ‘Irish landlords and tenants’, to the editor of the Times, signed ‘B.’, *The Times*, 6 Sept. 1839.

⁸⁸⁷ E.D. Steele, *Irish land and British politics; tenant-right and nationality, 1865-1870* (Cambridge, 1974), p. 68.

⁸⁸⁸ Marianne Elliot, *The Catholics of Ulster: a history* (London, 2000), p. 293.

⁸⁸⁹ Hagan. The Devon Commission, p. 671.

⁸⁹⁰ Letter from the 3rd Marquess of Sligo to John Sidney Smith, 15 Mar. 1860 (N.L.I., Westport papers, MS 41,001/10)

⁸⁹¹ *ibid.*, 24 Mar. 1860; 21 Mar. 1860.

employment and in terms of their tenancy agreements. In 1866 E.P. Shirley was informed of one tenant, John Killett, who was leaving his employment on the estate and emigrating to England. The unidentified respondent hoped, ‘God willing’, that Protestant workmen could be installed in his place believing that ‘Romanists’ would take advantage of Mr. Shirley.⁸⁹² A feeling seemed to prevail on the estate that ‘something very dark [lay] in the minds of the Roman Catholics [sic]’.⁸⁹³ In *Knocknagow*, the priest in Charles Joseph Kickham’s tome of rural life in Ireland stated that landlords gave ‘farms at lower rents to Protestants than to Catholics’. His comrade agreed adding how he did not know of ‘a Protestant that hasn’t a good lease’.⁸⁹⁴

The Folklore Commission collection documents how ‘landlords as a rule were good where Protestants were concerned but bad in the case of Catholics’.⁸⁹⁵ As noted in Chapter 1, even Isaac Butt commented on the different treatment of Protestant and Catholic tenants on the Shirley estate. He claimed that a Protestant tenant could take the place of a Roman Catholic, but not vice versa, as Shirley did not want to increase the number of Catholics on his estate.⁸⁹⁶ However, unsurprisingly, this line of argument was disputed in certain quarters. Even during the height of Protestant-Catholic tensions during agitation for Catholic emancipation in 1828 views were expressed that ‘no animosity whatever exists between the Protestant proprietor and the Catholic tenant, or labourer’.⁸⁹⁷ Chapters 1 and 4 referred to the contemporary belief that idleness arose from one’s ethno-confessional, rather than agri-economic circumstances. Unsurprisingly, Irish Catholicism was deemed synonymous with idleness. John Gamble (1770–1831), physician, traveller, and writer, was irritated by the comments of his co-travellers who persistently referred to the ‘inherent and constitutional laziness’ of the Catholic poor. Instead, he attributed ‘hopelessness’ and ‘despondency’ – not laziness – to the Irish poor.⁸⁹⁸

Any attempts at increasing the proportion of Anglicans on an estate while simultaneously controlling, or even decreasing, Catholic numbers were met with

⁸⁹² Letter to E.P. Shirley Esq., M.P., Eatington Park, 16 Mar. 1866 (P.R.O.N.I., Shirley papers, D3531/C/3/9)

⁸⁹³ *ibid.*, 19 Jan. 1866.

⁸⁹⁴ Kickham, *Knocknagow*, pp 83- 84.

⁸⁹⁵ I.F.C. S994: 35.

⁸⁹⁶ ‘Introduction to Shirley papers’ (P.R.O.N.I.)

⁸⁹⁷ ‘To the editor of the Times. An Irishman’, *The Times*, 17 Nov. 1828.

⁸⁹⁸ Gamble, *Society and manners*, p. xix.

opposition from the Catholic clergy. In 1861 the P.P. of Louisburgh pleaded (with ‘great reluctance’) with the 3rd Marquess of Sligo on behalf of several tenants who had been dispossessed of their holdings. He gave the names and economic circumstances of each of the tenants who had been evicted, highlighting their honesty, industriousness, and improving tendencies.⁸⁹⁹ Finally, he proposed that the evicted ‘may be better enabled to make a provision for emigration at some later period, as people are not very anxious to go to America this year owing to the unsettled state of affairs there’.⁹⁰⁰ While he did not appear to contest their actual eviction, he objected to the timing of their removal and requested they leave ‘at some later period’. Such deferential communication on the part of the priest may also have been motivated by his need for financial assistance from the estate. Later in the same month, the same priest contacted the landlord requesting more financial assistance for the construction of a presbytery, although the landlord had already subscribed £50 to it.⁹⁰¹

A general distrust of the motives of the clergy seemed to exist on the Shirley estate also. Their movements, according to one commentator, reflected mischievous intent toward Protestant landlords.⁹⁰² Their influence on the masses was deemed problematic, with even addresses from the pulpit being highlighted as inciting disorder in Catholic minds and hearts.⁹⁰³ Shirley was open in his dislike of the Roman Catholic Church. In a ‘Note on the Roman Catholic Chapels on the Shirley Estate in the Barony of Farney & County of Monaghan Ireland, written February 1862’, he outlined his view of the history of Roman Catholic Chapels (he would not agree to calling them ‘churches’) on the estate, disagreeing that they ‘belonged to the Roman Catholic Church time out of time, instead of being ... allowed by the indulgence of the landlords’.⁹⁰⁴ Fundamentally, it would seem that he believed that historically the land belonged to the landlord and that any claims of entitlement made by religious leaders were bogus. Thus, the priests were the perceived threat

⁸⁹⁹ Letter from Michael Curley, P.P., Louisburgh to the Marquess of Sligo, 4 Mar. 1861 (N.L.I., Westport papers, MS 41,006/29)

⁹⁰⁰ *ibid.*, 4 Mar. 1861 (N.L.I., Westport papers, MS 41,003/15)

⁹⁰¹ *ibid.*, 22 May 1861; The Marquess ordered £50 to be given towards the construction of the Louisburgh presbytery in a letter dated 1 June 1860 ((N.L.I., Westport papers, MS 41,001/10)

⁹⁰² Letter to E.P. Shirley Esq., M.P., Eatington Park, 19 Jan. 1866 (P.R.O.N.I., Shirley papers, D3531/C/3/9)

⁹⁰³ *ibid.*, 11 Sept. 1865 (P.R.O.N.I., Shirley papers, D3531/C/3/9)

⁹⁰⁴ ‘Note on the Roman Catholic Chapels on the Shirley Estate in the Barony of Farney & County of Monaghan Ireland, written February 1862’, E.P. Shirley, Lower Eatington Park (P.R.O.N.I., Shirley papers, D3531/E/1)

during this period and not the relatively impotent laity.

It is important and necessary also to refer briefly to the relationship between Catholic landlords, priests, and Roman Catholic tenantry at this time. In 1850, in County Down, amidst growing unrest on the Whyte estate the parish priest John Doran displayed, supported, and encouraged a united front between himself and the landlord in the face of mounting tenant opposition. The priest reassured the landlord that the ‘*great* landlords are the objects of its prey. *You* should not come here at present. You are a Catholic. Combinations will be got up against you ...don’t *press* your claims even against *bad tenants* just now. Don’t be alarmed’.⁹⁰⁵ Ten years later, the Catholic landlord John Joseph Whyte received a petition from his Roman Catholic tenants on behalf of their then parish priest, Reverend O’Brien, who was ordered to give up possession of a small holding which was granted to the parish by the landlord’s late father.⁹⁰⁶ The tenants seemed surprised, ‘grieved and disappointed’ at the landlord’s conduct as he was a Roman Catholic also and they protested that, ‘If, under similar circumstances, a Protestant landlord acted towards us, as it is said you intend to do, we would look upon his conduct as harsh and ungenerous’. They requested that Whyte ‘kindly re-consider the matter’.⁹⁰⁷ Therefore, an emphasis on confessional divides set the tone primarily for this decade which was to adopt a more sectarian quality in the following years.

1870 - Defensive posturing

The Irish Church Act 1869 – which came into force in 1871 – resulted in the disestablishment of the Church of Ireland from its privileged position in Irish society. Irish Conservatives had objected to the act, arguing ‘that any interference with its property would weaken the “rights” of property in Ireland generally’.⁹⁰⁸ Coupled with the First Vatican Council (1869-1870) with its definition of papal infallibility, these developments reconfigured religious relations on landed estates as

⁹⁰⁵ Letter from John Doran, P.P., Loughbrickland to J.J. Whyte, Esq., 7 Feb. 1850 (P.R.O.N.I., Whyte papers, D2918/3/8)

⁹⁰⁶ ‘Measures of practical utility’ such as petitions were perceived as ‘morally legitimate’ and frequently recommended as a sure course of action among the religious and even by Cullen himself. Matthew Kelly, ‘Providence, revolution and the conditional defence of the union: Paul Cullen and the Fenians’ in Dáire Keogh and Albert McDonnell (eds), *Cardinal Paul Cullen and his world* (Dublin, 2011), p. 137.

⁹⁰⁷ Petition addressed to John J. Whyte from the Roman Catholic Parishioners of Banbridge, 25 Nov. 1860 (P.R.O.N.I., Whyte papers, D2918/3/9/12)

⁹⁰⁸ Shields, *The Irish Conservative Party*, p. 163.

Ireland entered the 1870s. Coinciding with the monumental 1870 land act, which finally granted the long sought after '3 Fs', and the rise of the Home Rule movement primarily through Butt's interventions, this combination of events sparked once again what Foster described as a 'predictable atavistic paranoia among Protestants'.⁹⁰⁹

Correspondingly, Leitrim's agent fostered a very poor view of Catholic tenants. He seemed to believe that Roman Catholics were liars. He even indirectly alluded to possible untruths uttered by clerics. 'I took a walk through Kilroosk & though it is a very backward place with no road leading to it I do not think the people in such poverty as their P.P. represents them'.⁹¹⁰ The Marquess of Sligo also felt that the smaller Roman Catholic tenants were prone to telling untruths, even to swearing falsehoods, and that the priests facilitated such ill behaviour, by not only absolving such tenants, but also blessing this sinful behaviour.⁹¹¹ He believed tenants would 'unscrupulously swear' that the improvements made on the estate were their own when they were, in his view, his.⁹¹² He argued that 'the R.C.s of Mayo will as readily in that class swear to a lie as the truth and the courts (probably appointed by the priests through Gladstone) will always believe their oath that they have not sublet'.⁹¹³ He felt that their disregard for the truth, especially in relation to subletting, was 'taught to the uneducated R.C. by his clergy'.⁹¹⁴ He maintained that although a Catholic may be 'a good man', little was expected from members of this denomination, being 'under the Irish clergy and of that sphere [they could not] be much of men'.⁹¹⁵ He invoked God to 'protect us all for all our precautions are of little avail against the clerical conspiracy for murder etc I hope that I am not uncharitable but I cannot help thinking those the real murderers'.⁹¹⁶ Similarly, Elizabeth Smith maintained that 'truth is not in the people nor will it ever be in them under the Roman Catholic priesthood'.⁹¹⁷

Yet the Marquess of Sligo's fears with respect to the machinations of the

⁹⁰⁹ Foster, *Modern Ireland*, p. 296.

⁹¹⁰ Letter from George F. Stewart to Col. Clements, 28 Nov. 1879 (N.L.I., Leitrim papers, MS 32,656)

⁹¹¹ Letter from the Marquess of Sligo to land agent, 2 Mar. 1870 (N.L.I., Westport papers, MS 41,003/20)

⁹¹² *ibid.*, 19 Mar. 1870.

⁹¹³ *ibid.*, 26 Feb. 1870.

⁹¹⁴ *ibid.*, 19 Mar. 1870.

⁹¹⁵ *ibid.*, 2 Feb. 1870.

⁹¹⁶ *ibid.*, 9 Mar. 1870.

⁹¹⁷ Grant, *The Highland lady in Ireland*, p. 13.

Roman Catholic clergy were perhaps unfounded. It would appear that throughout the 1870s some of the clergy retained a deferential attitude towards members of the landed class. In 1875 J.E. Stephens C.C., Aughagower, wrote to the landlord explaining why none of the joint tenants of Claddy had presented themselves at the office in order to sign the agreement to the increase in rent. He cited the unsanitary conditions and the presence of fever in the area as the reason for his absence and requested that a sanitary officer and doctor visit the area. He had already advised a tenant not to go to chapel and for the children to absent themselves from school until the fever had passed.⁹¹⁸ Therefore, illness not disobedience was the reason for tenant non-compliance and the priest seemed at pains to point this out.

Concerns regarding the minority of non-Catholics on the estate continued into this decade. The Anglican clergyman, Mr Hamilton, the Glebe, Louisburgh, wrote to the agent Smith in 1876 lamenting on ‘the gradual extinction of our Protestant population arising partly from emigration & death’.⁹¹⁹ In order to address the perceived problem Hamilton requested that any vacant farms on the estate be given to Protestant tenants. In order to bolster his argument, he cited how the landlord had been ill-treated ‘in the popish papers by the priests of this town’.⁹²⁰ He declared (rather dramatically); ‘O when will the Protestant proprietors of Ireland come to the conviction that the encouragement of a Protestant tenantry is not only their duty but their interest!’⁹²¹ But, for some, it proved advisable at this time not to be perceived as managing the estate along confessional lines. In 1879 Stewart stated how difficult it would be to refrain from giving a farm formerly held by a Protestant to a Roman Catholic in the Manorhamilton area as they were ‘constantly giving R.C. farms to Protestants on other portions of the estate’.⁹²² It was also noted by the agent whenever a Protestant married a Roman Catholic.⁹²³ If Catholics were perceived as having behaved themselves and conducted themselves in an appropriate manner it could influence the landlord’s decision when requests were submitted by the clergy for chapel sites: ‘The priest & his curate were also with me pressing very much for a

⁹¹⁸ Letter from J.E. Stephens C.C., Aughagower, 29 July 1875 (N.L.I., Westport papers, MS 41,006/34)

⁹¹⁹ Letter from Mr Hamilton, the Glebe, Louisburgh to Sidney Smith, 24 Jan. 1876 (N.L.I., Westport papers, MS 41,003/29)

⁹²⁰ *ibid.*

⁹²¹ *ibid.*

⁹²² Letter from George F. Stewart to Col. Clements, 7 June 1879 (N.L.I., Leitrim papers, MS 32,656)

⁹²³ Letter from Stewart to Lord Leitrim, 16 July 1879, *ibid.*

new site for their chapel & offering to surrender their present site on condition of obtaining a lease of it for educational purposes. The people have acted so well through out [sic] that I think you might grant their request'.⁹²⁴ However, it was perceived instances of misbehaviour in the subsequent decade that altered radically the dynamics between Protestant landlord and Catholic tenants and clergy.

1880s - Behavioural ambiguities

Tenant 'misbehaviour' during the 1880s was played out in a variety of guises during a period in Irish history referred to as the Land Wars. The insubordination, which inevitably created disorder on the estate, was paradoxically both facilitated and obstructed by various members of the clergy. At various times, acting as intermediary with the landlord in land disputes or alternatively fulfilling the role of president of the local Land League branch, the priest as a figure proved he could not be wholly trusted. A speech given by the Rev. James Corbet, P.P., Claremorris reported in the *Dublin Evening Mail*, 27 February 1880, entitled 'Peasant proprietors in Ireland' [in the Shirley papers] claimed that the objective of the tenants of Ireland was 'the riddance root, and branch of the odious system of landlords'.⁹²⁵ This seemingly unequivocal clerical stance was also supported by direct action from religious figures like the Archbishop of Cashel, Thomas William Croke (1823-1922), who committed wholeheartedly to the aims of the Land League and Rev. Patrick Callan, C.C. who was president of the local branch in Farney, Monaghan 1887.⁹²⁶ Other members of the Catholic hierarchy were not so enthusiastic about these developments. Pope Leo XIII's elevation of 'the fiercely anti-Land League Archbishop [Edward] McCabe' (1816-85) to the post of Cardinal and his public expression of displeasure at the political activities of the clergy through the League in 1882 was a clear signal that Rome also failed to support such secular displays of influence.⁹²⁷

⁹²⁴ Letter from Stewart to Col. Clements, 28 Nov. 1879, *ibid.*

⁹²⁵ 'Peasant proprietors in Ireland', Speech of the Rev. James Corbet [sic], Roman Catholic priest, Claremorris, as reported in the *Dublin Evening Mail*, 27 Feb. 1880. (W.C.R.O., Shirley papers, CR 464/166)

⁹²⁶ Emmet Larkin, *The Roman Catholic Church and the creation of the modern Irish state, 1878-1886* (Philadelphia, 1975), pp 52-53; (printed poster) 'Irish National League, Carrickmacross branch', 8 Mar. 1887 (P.R.O.N.I., Shirley papers, D3531/C/3/21)

⁹²⁷ Stewart J. (Stewart Jay) Brown, *Providence and empire: religion, politics and society in the United Kingdom, 1815-1914* (England, 2008), p. 309.

Later in the decade, clerical support of the Plan of Campaign was investigated by Ignazio Persico, Archbishop of Damietta and later Cardinal, at the behest of the pope. Persico recognised how both priests and bishops were involved with the League, with many of its meetings convening on Sunday after mass in rooms attached to the church. However, he also stated that he believed that priests at such meetings often ‘became executors of biased and despotic decisions issued by tribunals and in some cases were forced to concur with judgements leading to the unjust punishment of those accused’, thereby implying that a measure of powerlessness existed among some of the clergy. He highlighted also the failure of the bishops to unilaterally condemn this secular activity.⁹²⁸ Consequently, the Catholic hierarchies’ ineffectual management of their representatives on the ground resulted in a significant, and oftentimes dominating, Roman Catholic clerical presence throughout the course of the land agitation.

Even before the Plan of Campaign was adopted on the Shirley estate on 25 March 1887, on 26,386 of its 28,760 acres, the local clergy were to the forefront of the tenant attack on property rights.⁹²⁹ In late 1886 the nationalist *Dundalk Democrat and People’s Journal* published a report on a meeting of almost 1,000 tenants on the estates of S.E. Shirley and Horatio Shirley held in order to agitate for a 30 per cent reduction on non-judicial rents and a 15 per cent reduction on judicial rents. Six local clerics took the platform on behalf of the tenants that day.⁹³⁰ Several months later, many of same names were present at the Plan of Campaign meeting held in Carrickmacross. The chair was taken by the Very Rev. Dean Bermingham, P.P., whose parish was located on the Shirley estate. Twelve clerics in total attended, including Rev. Fr. Callan C.C., and Rev. Fr. Gaughran, C.C. also residing on Shirley lands. Evictions on the estate were the focal point for much of the oratory from both Bermingham and William O’Brien, who subsequently took the platform. The latter also emphasized the important role played by the ‘noble priests ... great and holy priests’ who supported the tenants’ plight. Any Catholics who harboured reservations about disobeying their landlord were consoled and absolved with the knowledge that not only had they the priests’ blessing for their actions, but God’s

⁹²⁸ Macaulay, *The Holy See*, p. 120.

⁹²⁹ Laurence M. Geary, *The Plan of Campaign, 1886-1891* (Cork, 1986), p. 175; Letter from John Gibbings to S.E. Shirley Esq., Eaton Square, 4 May 1887; *ibid.*, 11 June 1887; *ibid.*, 6 June 1887.

⁹³⁰ Including Fr. Birmingham, Fr. Callan, Fr. McKenna, Fr. McCarney, Fr. Murphy, and Fr. O’Dogherty. ‘The Rent Question in County Monaghan. The Shirley Estates’, *The Dundalk Democrat and People’s Journal*, 23 Oct. 1886.

also.⁹³¹ The Plan of Campaign was thus implemented on the Shirley estate.⁹³² Fr. Gaughran of Carrickmacross vowed that the enactment of the Plan on the Shirley would ‘trample upon landlordism with the help of God’.⁹³³ During the Plan of Campaign, other ‘fighting priests’ such as Reverends Patrick Coen, Matthew Ryan, and Daniel Keller were regarded with abhorrence by estate authorities.⁹³⁴

The Tenants Defence Associations of the latter 1880s were also strongly supported by the Catholic hierarchy.⁹³⁵ In Monaghan clerics took to the platform once again to rouse the tenantry behind the newly established Tenants’ Defence Association. In an appeal to the crowd for support for those ‘who suffered from landlord tyranny’, public duty was unambiguously merged with religious duty. A letter of support from the Bishop of Clogher, the Most Rev. Dr. Donnelly, was read aloud, while all clerics promised to support the cause. A financial subscription was also forthcoming from the bishop.⁹³⁶ Referring to what he believed to be a redefinition of their social and political status in Irish society during the first Land War, Larkin claimed that awareness gradually developed among the clergy of ‘how great their responsibilities were for maintaining basic order in a society in fundamental political and economic transition’.⁹³⁷ However, as events during the decade reveal, various definitions of order seemed to be in circulation.

On the ground, priests and curates could actively engage in the agrarian agitation of the late 1870s and early 1880s due to the relative inactivity of the Catholic hierarchy on the matter. Larkin noted that, in 1879, out of twenty-eight bishops, five privately supported the League while prudently encouraging it in public, ‘five more were sympathetic, nine were hostile, and nine were neutral’.⁹³⁸ The lack of a unified stance among bishops may indicate how dependent they previously had been on Cullen for spiritual and secular guidance. However, the inertia of the early 1880s gave way in 1888 to the adoption of a rather more resolute stance when

⁹³¹ ‘The Plan of Campaign in Ulster, speech of Mr. W.M. O’Brien’, *FJ*, 28 Mar. 1887; Canon Keller of Cork received notoriety following his imprisonment for the cause at this time. Felix M. Larkin, ‘Canon Keller of Cork’ presented at *Irish agrarian radicals, c. 1850–1930*, National Library of Ireland, 22-23 Mar. 2012.

⁹³² *ibid.*, p. 175; Letter from John Gibbings to S.E. Shirley Esq., Eaton Square, 4 May 1887; *ibid.*, 11 June 1887; *ibid.*, 6 June 1887; The Plan was also adopted on the Drapers estate in Geary, *Plan of Campaign*, p. 169.

⁹³³ Geary, *Plan of Campaign*, p. 28.

⁹³⁴ Curtis, *Depiction of eviction*, p. 219.

⁹³⁵ Geary, *Plan of Campaign*, p. 126.

⁹³⁶ ‘The Tenants’ Defence Association, convention at Monaghan’, *FJ*, 27 Nov. 1889.

⁹³⁷ Larkin, *The Roman Catholic Church... modern Irish state*, p. xxii.

⁹³⁸ *ibid.*, p. 24.

Irish Bishops collectively refused to enforce Leo XIII's papal rescript which denounced the National League, and in the process, made a clear break with Cullen's ultramontane inclinations.⁹³⁹ Politically, the informal alliance between the Catholic bishops and Parnell's Irish Parliamentary Party in 1884 positioned Irish Roman Catholicism relatively firmly within nationalist constitutional circles, which at this time aspired towards Home Rule. The perception that one's religious fidelity oftentimes translated into political allegiance was increasingly falling away. The existence of the Irish Protestant Home Rule Association (I.P.H.R.A.) and Catholic Unionists challenged any such notions, although the famed 'emergency men' who assisted landlords in their fight against the tenants during the Land War in organisations such as the Property Defence Associations were generally of a Protestant persuasion.⁹⁴⁰ Defiance of estate rules meant defying the landlord and, regardless of religious allegiance, this needed to be contained.

Animosity between opposing religious groupings in Ireland, to varying degrees, had existed throughout Ireland's history. Such discord was recognised as particularly problematic in Ulster – for familiar historical reasons. In 1887 William O'Brien declared that officials of the United Irish League had initially declined to promote the Plan of Campaign in Ulster due to 'your difficulties here in the North of Ireland, where the key of the landlords' strength lay in the divisions of the tenants'.⁹⁴¹ Indeed, some Protestants experienced conflicting emotions with regards to participation in the Plan. In 1886 Father Callan expressed regret that no Protestants had attended the Plan of Campaign meeting in Carrickmacross. He maintained that should the abatement be granted, they would be the first to take advantage of it and 'it was a disgrace for them to let their Catholic neighbours fight the battle of all the tenantry while they absented themselves from the meeting and

⁹³⁹ Emmet Larkin, *The Roman Catholic church and the Plan of Campaign in Ireland, 1886-1888* (Cork, 1978), p. 314.

⁹⁴⁰ James Loughlin, 'The Irish Protestant Home Rule Association and Nationalist Politics, 1886-93' in *Irish Historical Studies*, xxiv, no. 95 (1985), pp 341-60; John Alec Biggs-Davison, and George Chowdhary-Best, *The cross of St. Patrick: the Catholic unionist tradition in Ireland* (Buckinghamshire, c1984); The PDA assisted the Marquess of Sligo in 1883. Letter from Robert Powell to the 3rd Marquess of Sligo, Guildford, 29 June 1888; 20 Aug. 1888 (N.L.I., Westport papers, MS 40,996/1); In 1881 the Drapers' company declined to subscribe to the Emergency Committee, the Property Defence Association of Ireland, and the Grand Orange Lodge. Stevens Curl, *Moneymore and Draperstown*, p. 62; Gibbings asked Shirley whether they should employ some emergency men in May 1887 to work on the demesne or evicted farms and buy cattle at auction. Letter from John Gibbings to S.E. Shirley Esq., 6 and 14 May, 6 July 1887 (P.R.O.N.I., Shirley papers, D3531/C7/1); Curtis, *Landlord responses to the Irish Land War*, p. 173. The 10th Baron Farnham, Hon. Somerset Henry Maxwell was director of field operations for the association.

⁹⁴¹ 'The Plan of Campaign in Ulster, speech of Mr. W.M. O'Brien', *F.J.*, 28 Mar. 1887.

took no part in the fight'.⁹⁴² In Draperstown a united front between all denominations was deemed an imperative in order for the Plan of Campaign to succeed on the London Company's holding. To date 'demands for Home Rule prevented the Protestant from participating seriously in the campaign'.⁹⁴³

The agent Gibbings' comment in 1881, regarding the perceived deterioration in interdenominational relations on the estate, reveals how apparently superficial, yet nonetheless pertinent, actions were signalling a transgression of customary norms. In this instance, he was referring to the low numbers of Catholic tenants attending the funeral of a Protestant named Holland. He lamented that he had expected that there would have been a very large funeral, but supposed 'these small tokens of respect even, will not be paid again to protestants'.⁹⁴⁴ In Westport several years later, in the aftermath of an apparent attack by Roman Catholics on some Protestant children, the Marquess of Sligo decried the actions of 'dirty cowards ... herded on by their clergy'.⁹⁴⁵ In response he ordered that 'rather harder treatment' should be meted out to any of his tenants who could be traced to the attack. He also advocated that the parish priests adopt a similar course.⁹⁴⁶ Both these instances – although unquestionably heavily tinged with partisan motives – may also suggest an increasing willingness on the part of the ordinary tenant to engage overtly, both physically and verbally, in challenging the authority of the landlord. On both occasions the targets of abuse had direct connection with the estate. In Monaghan, the funeral most likely was that of the Shirley agent John Thomas Holland who was active, according to surviving sources, up until 1879 (correspondence from Gibbings commences from March 1881). In Mayo, among the children who were reportedly attacked was the daughter of the estate agent Robert Powell. Therefore, while these exceptional events were positioned in a religious framework by contemporaries, they also could have credibly fitted within an estate relations one.

However, the religious explanatory model of behaviour perpetually adopted by landlords and tenants alike was fast becoming obsolete. Confessional bonds severed

⁹⁴² 'The Rent Question in County Monaghan. The Shirley Estates', *The Dundalk Democrat and People's Journal*, 23 Oct. 1886.

⁹⁴³ Macaulay, *The Holy See*, p. 53.

⁹⁴⁴ Letter from John Gibbings to E.P. Shirley Esq., 26 Oct. 1881 (P.R.O.N.I., Shirley papers, D3531/C7/1)

⁹⁴⁵ Letter from the 3rd Marquess of Sligo to Robert Powell, 17 July 1887 (N.L.I., Westport papers, MS 41,001/37)

⁹⁴⁶ *ibid.*, 20 July 1887.

in the wake of increasing acts of defiance within various church groupings. Whereas good conduct had previously been almost synonymous with Protestantism in the eyes of some landlords – the example of the Knappagh Protestants who, it was pointed out to the Marquess of Sligo in 1881, were the only tenants who had paid all they owed on the Westport estate, proving a case in point –, longstanding certainties were increasingly open to doubt.⁹⁴⁷ On the Shirley estate in 1887 Gibbings paid particular attention to the number of Protestant tenants entering the courts, believing approximately 12 out of 842 to have entered. Although perhaps a minority of the Protestant population, their audacious action was worth informing the landlord of. He told the landlord that he would find out their names and forward them to him.⁹⁴⁸ He subsequently sent this information, along with the names of Protestant tenants who had received notice to quit.⁹⁴⁹ Some weeks later he noted how, out of the £300 rental he received, all those who paid, except two, were Protestants.⁹⁵⁰ Although a relatively small proportion of Protestants on the Shirley estate went to court, that some had dared defy the wishes of the agent seemed out of character. Traditionally, members of the church were generally loyal to the wishes of the landlord on this estate. As noted earlier, only a year before Father Callen had expressed regret at the absence of Protestants in attendance at the Plan of Campaign in Carrickmacross. The occurrence was matched in incredulity by the ‘strange scene’ witnessed by a reporter from the *Liberal Derry Journal* who noted a body of tenantry, ‘largely Catholic Celts – of all shades of politics and of different religious denominations agitating in favour of their landlord the Earl of Leitrim on perhaps the most turbulent portion of the Leitrim holdings historically in Donegal’.⁹⁵¹ This effusive display occurred following the removal of the unpopular Major Dopping as agent from the estate by the 4th Earl of Leitrim.⁹⁵² While such blatant and unprecedented behavior among the laity was observed by somewhat baffled landlords and agents, it was the actions of the Roman Catholic religious that required greater powers of discernment during the 1880s.

⁹⁴⁷ Letter to ‘sir’, 15 Nov. 1881 (N.L.I., Westport papers, MS 41,001/34)

⁹⁴⁸ Letter from Gibbings to S.E. Shirley, 30 Apr. 1887 (P.R.O.N.I., Shirley papers, D3531/C7/1)

⁹⁴⁹ *ibid.*, 3 May 1887.

⁹⁵⁰ *ibid.*, 18 May 1887.

⁹⁵¹ Printed document ‘The Earl of Leitrim and Trinity College. The Tenantry and the Receivership; an account of a meeting held at Carrigart, County Donegal, on 3rd April 1886, with remarks of “Derry Journal” thereon, and some correspondence in connection therewith’, p. 5 (TCD, Special Collections, Leitrim papers, Mun/P/24/482)

⁹⁵² ‘Meeting of tenantry of the Leitrim estate at Carrigart’, *The Derry Journal*, 7 Apr. 1886.

Traditionally, priests frequently adopted both intermediary and advocacy roles in land disputes between landlords and tenants, thereby assisting with the preservation of amiable tenurial relations, while also ensuring the continuance of order on the estate.⁹⁵³ The adoption of such a conciliatory role by the Catholic religious was not always welcomed by estate officials, with one Wicklow landlord eventually compelled to go ‘off on a crusade against the impertinent interference of the Roman Catholic priest with his tenantry’.⁹⁵⁴ In 1884 priests on the Shirley estate encouraged members of their flock to sign agreements with the landlord in an endeavour to put an end to estate conflict.⁹⁵⁵ However, such clerical efforts were not always welcomed by either landlord and agent or tenant. In 1884 Gibbings informed Shirley that six tenants on the estate were dissatisfied with a settlement Fr. McMahon proposed with respect to a dispute over rent reductions. The agent claimed that only one tenant stated he was content with the terms. He told the landlord that he was glad he spoke to the tenants before he acted and that he would write to the priest ‘as civilly as I can’ to apprise him of the feelings among the tenants.⁹⁵⁶ Prior to the launch of the Plan of Campaign on the Shirley estate in 1887, Fr. L.W. Gaughran C.C., Donaghmoynne wrote a rather venomous epistle to the agent in which he expostulated that:

The barbarity of exacting 1 ½ years rent along with £2 10s of costs ... can only be equaled by the Glenveigh atrocities. Evicting wretched creatures in midst of the winter snows and close on the festive season of xmas ... the tenants fear you not, for the day is gone when feudal landlords or their lackeys can treat the tenants as they may deem right.⁹⁵⁷

However, this correspondence proved only a taster for what was to come.

In late March 1887 the Plan of Campaign came to the Shirley estate.⁹⁵⁸ The *Freemans Journal* reported that while the R.I.C. were carrying out evictions on the

⁹⁵³ I.F.C. S230: p. 260.

⁹⁵⁴ Grant, *The Highland lady in Ireland*, p. 19.

⁹⁵⁵ Letter from Gibbings to S.E. Shirley, 8 May 1884 (N.L.I., Shirley papers, D3531/C7/1)

⁹⁵⁶ *ibid.*, 23 Apr. 1884.

⁹⁵⁷ Letter from L.W. Gaughran C.C., Broomfield, Castleblaney to J.T. Gibbings Esq., 2 Feb. 1887 (P.R.O.N.I., Shirley papers, D3531/C/3/21)

⁹⁵⁸ Two different dates for the commencement of the Plan on the Shirley estate were reported in two separate editions of *F.J.* One publication stated 25 March (Meeting at Carrickmacross: speech of Michael Davitt’, *F.J.*, 30 May 1887), while an article entitled ‘The Plan of Campaign in Ulster, speech of Mr. W.M. O’Brien’, *F.J.*, 28 Mar. 1887 contradicted this by claiming it started on 28 May. Larry Geary’s study concurred with the former. See Geary, *The Plan of Campaign*, p. 175.

estate, a large ‘enthusiastic meeting’, as mentioned previously, was held in Carrickmacross. Four of the clergy listed in attendance previously, or subsequently acted as mediators in disputes between Shirley and his tenants.⁹⁵⁹ William O’Brien emphasized the importance of their crusade by reminding the crowd that ‘we have priests like your own noble priests who are around us to-day, great and holy priests like Father Keller (cheers), who was proud to endure imprisonment and outrage for his people’s sake ... We have their blessing and we have God’s blessing’.⁹⁶⁰ It was the Very Rev Canon Hoey who, citing no other resource left ‘against eviction and rack rents’, proposed a resolution to adopt the Plan on the estate. In a letter dated 4 May 1887, the agent informed the landlord that his tenants had joined the Plan.⁹⁶¹ It remains unclear why Gibbings refrained from advising Shirley of events until approximately a month and a half later. He may possibly have been motivated by a wish to spare his master the bad news or perhaps he simply did not appreciate the gravity of developments. Michael Davitt attended a subsequent Plan of Campaign meeting held on 29 May 1887, where it was reported by the agent to the landlord that the people had tickets in their hats with Plan of Campaign printed on them.⁹⁶² The *Freemans Journal* reported that the meeting which ‘took place on the hillside beside the chapel’, was once again patronized by a large contingent of clerics, with the familiar figure of Rev Bermingham taking the chair. An address, which was read out to Davitt, was signed by four clerics.⁹⁶³ Larry Geary stated that the public pronouncements of Catholic priests who were involved in land agitations during the 1880s contained a clear message: ‘landlords were alien, base and parasitic’.⁹⁶⁴ However, it may be asked, how did they interact individually with landlords in the private sphere?

The impregnable wall of strength and opposition displayed by Roman Catholic clerics on public platforms proved less robust in private one-one communications with estate officials. Patrick Callan C.C., Carrickmacross, had been present on the stage at both Plan of Campaign meetings and also signed the address to Davitt in the

⁹⁵⁹ Very Rev. Dean Bermingham, P.P.; Patrick Callan, C.C. Carrickmacross; Michael McGlone, P.P. Magheraclone; L.W. Gaughran, C.C. Donaghmoyne.

⁹⁶⁰ *F.J.*, 28 Mar. 1887; John Fahy, the curate at Woodford, was also sentenced to jail for six months for his part in the land war. Macaulay, *The Holy See*, p. 42.

⁹⁶¹ Letter from Gibbings to S.E. Shirley, 4 May 1887 (P.R.O.N.I., Shirley estate papers, D3531/C7/1)

⁹⁶² *ibid.*, 6 June 1887.

⁹⁶³ Patrick Callan, C.C. Carrickmacross; Michael McGlone, P.P. Magheraclone; L.W. Gaughran, C.C. Donaghmoyne; Thomas Murphy, P.P. Killany, *F.J.*, 30 May 1887.

⁹⁶⁴ Geary, ‘Anticipating memory’, pp 132-33.

latter meeting. Yet, letters to the landlord from the priest reveal how he sought a settlement in a landlord-tenant dispute by requesting that the landlord offer 25 per cent abatement in rent.⁹⁶⁵ In a subsequent letter, he outlined his belief that he had a role to play in settling disputes between landlord and tenant. He apprised the landlord of the wishes of the tenants and stated, ‘if you consider it impossible to concede to all your tenants ask or if you think them unreasonable, if you would kindly inform me how much you are prepared or willing to accede to’.⁹⁶⁶ In most respectful terms, he stated that it would give him the ‘greatest possible pleasure’ to witness once again ‘the same good old friendly relations ... which always existed between your predecessors, yourself and your tenants’. He finished his correspondence by stating that he hoped the landlord would ‘excuse the liberty I take of writing to you on this matter but being a native of the place I venture to think I take a greater interest in the settlement of this dispute than a stranger’.⁹⁶⁷ As proximate to an apology perhaps as was possible in the circumstances, this explanation suggests that Callan was perhaps less radical than his platform oratory would suggest. In earlier communications with the agent, Callan had advised the landlord to employ plenty of policemen should he decide to seize the tenants’ cattle. This move suggests a measure of collaboration, or at the very least impartiality, on the priest’s part in landlord-tenant disputes.⁹⁶⁸ Callan regularly communicated with Lord Shirley with respect to tenant agitation and demands for lower rents. Callan also advised Shirley that he thought a personal interview between himself and a deputation of tenants would be of benefit. A deputation had already been formed, consisting of six tenants from various parishes on the estate along with the Rev. M. McGlone, P.P. Magheraclone.⁹⁶⁹

Callan’s companion on the platform at both May Plan of Campaign meetings, L.W. Gaughran, C.C. Donaghmoyne, displayed similar tendencies. His public display to the tenants was in marked contrast to the tone he adopted in his private correspondence with the landlord. In August 1887 Gaughran informed the landlord that he would be happy to do ‘all that lies in my power to make arrangement between

⁹⁶⁵ Letter from Patrick Callan C.C. to S.E. Shirley Esq., London, 2 July 1887 (P.R.O.N.I., Shirley papers, D3531/C/3/21); Letter from Gibbings to S.E. Shirley, 2 July 1887 (P.R.O.N.I., Shirley papers, D3531/C7/1)

⁹⁶⁶ Letter from Callan to Shirley, 13 June 1887 (P.R.O.N.I., Shirley papers, D3531/C/3/21)

⁹⁶⁷ *ibid.*

⁹⁶⁸ Letter from Gibbings to Shirley, 2 July 1887 (P.R.O.N.I., Shirley papers, D3531/C7/1)

⁹⁶⁹ Letter from Callan to Shirley, 22 July 1887 (P.R.O.N.I., Shirley papers, D3531/C/3/21)

you and your tenants in this parish touching the terms of sale of the seven townlands'.⁹⁷⁰ Gaughran was also active in settling tenant disputes on the neighbouring Bath estate. He advised the landlord that the tenants would not be able to pay the rent the following November due to poor crops and 'respectfully' suggested that the landlord sell seven of his townlands in the locality.⁹⁷¹ Gaughran then told the landlord that he would hold a meeting at the earliest opportunity and see if he could induce the tenants or offer the same terms as those agreed on the Bath estate.⁹⁷² It would seem that Shirley never replied to Gaughran's letter or suggestions regarding the sale of several townlands to the tenants, as Gaughran contacted the landlord again informing him that Lord Bath always replied to his letters and explaining that he did not want to force Mr. Shirley to sell. However, he believed that only the sale of the land would end the ill feelings prevalent on the estate.⁹⁷³ Gaughran's meddling in estate affairs has been remembered in the locality and he is revered as having fought to have a 'land league hut' established in the parish and that, 'largely due to his efforts' the sale of the neighbouring Bath estate was accomplished.⁹⁷⁴

In 1889 local clerics continued to act as advocates and mediators in the ongoing dispute between landlord and tenant. In a joint letter to Shirley, the Rev. Bermingham, who chaired both Plan of Campaign meetings two years previously, along with Patrick J. Mac Mahon P.P. Donaghmoynes, and Michael McGlone, P.P. Magheraclone who signed the address to Davitt, requested a 30 per cent abatement for non-judicial tenants on all rents to be paid and 15 per cent abatement to judicial tenants, asked that all evicted tenants be reinstated, for all arrears and law costs to be pardoned on payment of half a year's rent, and for all notices to quit to be withdrawn.⁹⁷⁵ This respectful appeal cannot simply be discounted as merely conforming to the conventions of letter writing during this period and reveals that the clergy still perceived the final word in the dispute as resting with the landlords who ultimately possessed the property rights.

⁹⁷⁰ Letter from Gaughran to S.E. Shirley, 15 Aug. 1887, *ibid.*

⁹⁷¹ *ibid.*, 4 Aug. 1887.

⁹⁷² *ibid.*, 15 Aug. 1887.

⁹⁷³ *ibid.*, 27 Jan. 1888.

⁹⁷⁴ I.F.C. S225 E: pp 346-48.

⁹⁷⁵ Letter from Peter Bermingham D.D., C.C., Carrickmacross, Patrick J Mac Mahon P.P. Donaghmoynes, and Michael McGlone, P.P. Magheraclone to S.E. Shirley Esq., 21 Apr. 1889 (P.R.O.N.I., Shirley papers, D3531/C/3/21)

However, regardless of how deferential priests may have been in their communications with them, some landlords and agents continued to be wary of their old adversaries. Gibbings remarked to S.E. Shirley that he knew the landlord trusted none of the priests.⁹⁷⁶ He also commented that the parish priest Patrick Callan had attended a League meeting, claiming that ‘the priests are too double faced. I fancy they are afraid that this district will be proclaimed under the crimes act and are trying to get things settled before it becomes law’.⁹⁷⁷ He believed that, on one occasion, their eagerness to accompany the bailiffs when they were going from house to house in order to issue decrees was simply motivated in order to ‘try to make a row’. However, in this instance, he boasted that he had ‘outwitted them this time’.⁹⁷⁸ His declaration in 1889 that ‘the priests think they are beaten’ suggests that, below the surface of relatively amicable letters, a deeply ingrained hostility remained embedded between the two groupings.⁹⁷⁹ As the second phase of the Land War came to a close, relations between some Protestant landlords and the Catholic community had altered considerably. Some years later, the Marquess of Sligo appeared to use the excuse of unrest on the estate (the burning of hay) as a reason not to subscribe to any Catholic clergyman or nun. The agent Powell disagreed with this policy, stating how the burning was the act of one individual, and that the priests did not have any knowledge of, or advise, such an act. He stated that he did not wish to dictate to the landlord, but felt that Reverend Mr. Canning was a quiet man who used his influence towards the attainment of peace.⁹⁸⁰ Therefore, even though the perceptions of estate officials of the tenantry were shifting from being formulated predominantly upon religious criteria to a more behaviourally based schema, prejudicial attitudes towards Roman Catholic clerics remained on the part of some Protestant landlords.

Conclusion

Thomas Bartlett argued that Protestant morale collapsed during the late eighteenth-century following the introduction of legislation which granted Catholics greater rights. As a result, existing power relations in Ireland were compromised as Protestant confidence waned to be superseded by ‘suspicion, hatred and fear of the

⁹⁷⁶ Letter from Gibbings to S.E. Shirley, 23 June 1887 (P.R.O.N.I., Shirley papers, D3531/C7/1)

⁹⁷⁷ *ibid.*, 29 Jun. 1887.

⁹⁷⁸ Letter from Gibbings to E.P. Shirley, 28 Apr. 1881, *ibid.*

⁹⁷⁹ Letter from Gibbings to S.E. Shirley, 1 May 1889, *ibid.*

⁹⁸⁰ Letter from Robert Powell to the 3rd Marquess of Sligo, Brighton, 12 Nov. 1891 (N.L.I., Westport papers, MS 40, 996/1)

Catholic masses'.⁹⁸¹ Throughout the nineteenth century, further acts such as the Catholic Relief Act of 1829 and Irish Church Act of 1869, continued this trend in Irish society, thereby increasing tensions between all denominations. Evidence from the estates studied reveals that some landlords treated their tenants differently, according to their religious persuasion. As stated above, the Drapers' Company declined tenants due to religion and the Earl of Leitrim refrained from giving farms previously held by Protestants to Catholics. The Marquess of Westport stated that he had different rules for Protestant tenants on his estate. Both the Westport and the Shirley estates favoured Protestant tenants over Catholics. Sligo and the Leitrim agent Stewart believed that Catholics were liars. On the Shirley estate, although no Protestant tenants attended the Plan of Campaign meeting in Carrickmacross in 1887, in the same year twelve Protestants were noted to have entered the Land Courts. Therefore, religion played a significant part in estate management policy on some estates in Ireland.

Prior to the commencement of the Land War, the Marquess of Sligo wrote that he believed that the clergy would be sorry to see the settlement of the land question, claiming that they cared 'less for the welfare of the people than any off [sic] the London thieves'.⁹⁸² Such entrenched beliefs and prejudicial thinking among estate officials ensured that a united front between landlords and members of the clergy would be difficult, if not impossible, to achieve in the face of tenant collective action. A parallel feeling of mistrust towards tenants of a Catholic persuasion was also in evidence on some estates. While displays of sectarianism on estates located in today's border counties of Monaghan and Leitrim are hardly surprising due to the religious profile of these areas (as noted in the introductory chapter), it is perhaps instances of religious bigotry on the Westport estate in Connacht which prove most interesting. As this chapter has illustrated, the subsequent actions of some of the clergy merely contributed to mounting distrust between the two rural dignitaries.⁹⁸³

During the *fin de siècle*, the sometimes 'double faced' or Janus-faced priest looked primarily to the future in an Ireland in which Roman Catholicism was

⁹⁸¹Such as the Catholic Relief Acts of 1778 and 1791. See Thomas Bartlett, 'An end to moral economy: the Irish militia disturbances of 1793' in *Past & Present*, 99 (May, 1983), p. 63.

⁹⁸²Letter from the Marquess of Sligo to land agent, 1870 (N.L.I., Westport papers, MS 41,001/20); Martineau, *Letters*, p. 197.

⁹⁸³Mistrust of adherents to the Catholic faith was rooted in the belief that 'Catholics' first allegiance would always be to foreign power, the Vatican, and not the crown'. Winstanley, *Ireland and the land question*, p. 2.

emerging as a potent force. In the past, in their role as mediators in relation to land disputes, the Catholic clergy, inadvertently or otherwise, reinforced the power and the traditional order of the estate. In *The Irish sketch book*, W.M. Thackeray asserted that in Ireland ‘there are two truths, the Catholic truth and the Protestant truth. The two parties do not see things with the same eyes’.⁹⁸⁴ While on theological matters two separate and oftentimes conflicting ‘truths’ existed, with respect to the more mundane and earthly matters of maintaining order among the tenantry, these truths often bore striking similarities. However, in such matters, it was not spiritual power which was ultimately of concern to the clergy, but secular power. Inadvertently, by championing the tenants’ cause, priests were diminishing their own powers with respect to estate affairs. Joseph Lee contended that with the onset of the Land War, ‘the role of the priest in society became increasingly circumscribed as major areas of social life were transferred from his informal jurisdiction to specialized agencies’.⁹⁸⁵

In one of his speeches on public policy, British politician John Bright (1811-1889) called for equality between Catholic and Protestant in Ireland.⁹⁸⁶ Arguably, this appears to have occurred in the treatment of tenants of all dominations on many Irish estates during the 1880s. Socio-economic and legislative changes brought about a perceptible alternation in landlord-tenant ethno-confessional relations. Where previously tenant character appeared primarily dictated by religious allegiance, increasing transgressions of estate rules across all denominations resulted in the adoption by estate officials of a new estate management, or perhaps more accurately tenant management, framework. Emphasis moved from the importance of sacred belief to evidence of secular behaviour. The emergence of the Land Courts significantly altered perceptions of tenant behaviour on the estate and had an important impact on the order of the estate. This topic will be discussed in the subsequent and final chapter.

⁹⁸⁴ W.M. (William Makepeace) Thackeray, *The Irish sketch book*, edited by Walter Jerrold and with illustrations by Charles E. Brock (London, 1903), p. 586.

⁹⁸⁵ Lee, *The modernisation of Irish society*, p. 91.

⁹⁸⁶ Bright, *Speeches*, p. 317.

Chapter 6
The legal war on the Shirley Estate,
1881-1889

‘This country has no law in it for decent and honest people’.

Letter from Gibbings to Shirley, 4 May 1887
(P.R.O.N.I., Shirley papers, D3531/C7/1)

‘The difference between order and the rule of the Land League is greater than that between prosperity and ruin’.

William Bence Jones commenting on the Land League in 1880 in
The life's work in Ireland of a landlord who tried to do his duty, p. 244.

‘When the Land League was started, there were great positive grievances, though they were largely due to the great competition for land during the good times (1865 to 1878) ... now, there is no excuse for the agitation. It continues, however, and to-day throughout the great part of Ireland there is not liberty’.

Ballina-born Methodist minister speaking in 1887 to George Pellew in
In castle and cabin, p. 193.

The Land Wars of the latter 1870s and 1880s are generally considered a watershed in the traditional order of the Irish landed estate, marking the beginning of the end of deferential relations between landlord and tenant. This rather simplistic view fails to take into account, as the previous chapters have illustrated, the fact that historically both deference and defiance formed part of a continuum of a range of modes of interaction between tenants and their masters. The so-called first Land War lasted from the establishment of the Irish National Land League (INLL) in October 1879 until the Kilmainham Treaty 1882.⁹⁸⁷ If issues surrounding rent levels lay at the heart of the Land League, it was an imperative that rent issues be addressed as a means of combating the League. Consequently, the 1881 Act was an act to control rent.⁹⁸⁸ While Lyons argued that the 1881 act was an attempt by government to halt the march of the League, it was the 1882 arrears act which, in Lee's words 'sapped the vitality of the most remarkable mass movement in Irish history'.⁹⁸⁹ The enactment of two coercion acts by 1882, which 'facilitated the banning of meetings and the arrest and conviction of anyone inciting a riot or promoting a boycott', also contributed towards the end of the first phase of the land revolution.⁹⁹⁰

The second Land War, or the Plan of Campaign, began in 1886 and had died out on most estates by 1891. Many of the features of the first Land War occurred during the second, such as boycotting and the withholding of rent. The term itself – Plan of Campaign – clearly illustrated the warfare element inherent in the minds of the leading belligerents. The aim of the Plan was to obtain reductions in rent. A form of collective bargaining, the Plan was propounded in *United Ireland*, on 23 October 1886.⁹⁹¹ Tenants who participated in the Plan had to pledge 'to abide by the decision of the majority; to hold no communication with the landlord or any of his agents, except in the presence of the body of the tenantry; [and] to accept no settlement for

⁹⁸⁷ David George, Boyce, *Nineteenth-century Ireland: the search for stability* (Dublin, c2005), pp 177-78; The establishment of the League 'on a corner of the Westport House estate' was believed by Denis Edward Browne to have been 'a tactical error ... For though about the biggest landlord in Mayo, the family was certainly among the best'. Denis Edward Browne, Marquess of Sligo, *Westport House and the Brownes* (Derbyshire, 1981), p. 51; In reference to England, J.V. Beckett argued that by the early 1890s 'tenant farmers ... became less conciliatory in their attitude to landlords'. He cited the establishment of the National Federation of Tenant Farmers Clubs in 1893 – with its emphasis on fixity of tenure and fair rents – and the formation of the National Farmers' Union in 1908, as indicative of the changing nature of landlord-tenant relations. Beckett, 'Agricultural landownership and estate management', pp 744-45.

⁹⁸⁸ Lyons, *Parnell*, p. 153.

⁹⁸⁹ *ibid.*, p. 154; Lee, *The modernisation of Irish society*, pp 87, 89.

⁹⁹⁰ Curtis, *The depiction of eviction*, pp 109-10.

⁹⁹¹ *ibid.*, p. 2.

himself which is not given to every tenant on the estate'.⁹⁹² Dublin Castle pursued two different courses of action for dealing with tenants who adopted the Plan: arbitration and eviction.⁹⁹³ The Criminal Law and Procedure Act (1887), or Crimes Act, also had an effect in curbing the agitation.⁹⁹⁴ By April 1891, the Plan was dying out on most estates due to a shortage of funds, the O'Shea divorce, and the subsequent split of the Irish Parliamentary Party.⁹⁹⁵ While agitation on estates during this period has received much attention to date, tussles within the court arena over rent have been relatively neglected in the historiography.

The 1881 Act introduced Land Courts into the Irish judicial system. These courts were responsible for setting new rent levels. The rents set in courts became known as judicial rents. Land commissioners and sub-commissioners presided over the new system. Composed of three individuals (a judicial commissioner with the status of a high court judge and two other commissioners), the Commission worked in conjunction with sub-commissioners. The sub-commissioners might either be legally trained as barristers and solicitors, or simply be 'persons possessing a practical acquaintance with the value of land in Ireland'.⁹⁹⁶ The challenge to landlord authority made by the collective action of the Irish Land Commission was a new departure in the longstanding struggle between landlord and tenant. The commissioners challenged the sole authority of landlords to set rent levels, thereby locating themselves within Clark's category of a challenging collectivity. Corresponding with Charles Tilly's concept of 'proactive collection action', challenging collectivities actively engage in the pursuit of new rights, which, although they may fail in the short term, often ultimately prove successful.⁹⁹⁷

Through an analysis of relations between representatives of the Land Commission, landlord and agents, and tenants, this chapter examines what impact the legal war had on landlords during Ireland's *fin de siècle*. The chapter augments findings from Chapter 1, which analysed rental relations, and Chapter 3, which examined the relationship between landlords and legal officials. Events on the

⁹⁹² Jordan, 'The Irish National League and the "unwritten law"', p. 154.

⁹⁹³ L. Perry Curtis, Jr., *Coercion and conciliation in Ireland, 1880-1892; a study in conservative unionism* (Princeton, 1963), p. 242.

⁹⁹⁴ *ibid.*, p. 267.

⁹⁹⁵ Geary, *Plan of Campaign*, pp 134, 137.

⁹⁹⁶ The subcommissioners were appointed by the chief secretary and commissioners. The first three commissioners were John O'Hagan, Q.C., Edward Falconer Litton, Q.C., and J.E. Vernon, land agent. McDowell, 'Administration and the public services, pp 583-84.

⁹⁹⁷ Tilly, *The rebellious century*, p. 284.

Shirley estate provide a case study for this chapter, as there were ‘but few estates in Ireland which ... played so prominent a part in the land question’.⁹⁹⁸ A significant amount of primary source material related to the activities of the land commissioners on the estate also survive. The chapter ends with an examination of the effect of such developments on the old order of the gentry and considers debates surrounding the validity of positioning nineteenth century Irish landed estate society within a quasi-feudalistic framework.

The Land Courts

Many of the individuals interviewed by the Bessborough Commission were agreeable to the establishment of a court system to oversee the fixing of rents. The president of the Farney Tenants’ Defence Association, Thomas McEvoy, asserted that ‘the fairest tribunal would be an open court’ and not ‘the hole-and-corner plan of arbitration’.⁹⁹⁹ As early as 1832, Feargus O’Connor (c1796–1855), Irish landlord, political agitator, and Chartist leader, argued that a rent based on valuation, and agreed upon by specially commissioned arbitrators, should be introduced.¹⁰⁰⁰ As Chapter 3 has shown, arbitration was perceived by tenants as a just and fair system; notwithstanding the fact that arbitration schemes were evidently closely monitored and controlled by estate officials. Following the introduction of the Land Courts, some landlords and agents continued to pursue estate arbitration as a means of resolving issues surrounding the payment of rents and rent levels. These private, and most importantly, out-of-court arrangements were oftentimes favoured by estate personnel over court settlements. In their eyes the latter proved heavily biased towards the tenantry. Such perceptions lead to the Shirley agent to call for ‘fair play’ within the Land Courts.¹⁰⁰¹

As noted previously, the 1881 land act allowed for the creation of the Irish Land Commission and a Land Court.¹⁰⁰² The legislation permitted landlords and

⁹⁹⁸ ‘Mr. S. E. Shirley and his tenants’, *FJ*, 12 Mar. 1887.

⁹⁹⁹ McEvoy Gartlan interviewed in *Report ... Working of the Landlord and Tenant (Ireland) Act, 1870*, p. 1169.

¹⁰⁰⁰ O’Neill, ‘The Irish Land Question’, p. 328.

¹⁰⁰¹ Letter from John Gibbings to S.E. Shirley Esq., 21 July 1881; 18 Apr. 1883 (P.R.O.N.I., Shirley papers, D3531/C7/1)

¹⁰⁰² Similarly in Scotland, the Crofters Act of 1886 legislated for the establishment of Land Courts and the Crofters Commission. The latter was charged with travelling ‘around the Highlands setting fair rents, cancelling arrears’ and considering enlargements of crofters’ holdings’. See Tindley, ‘The Sutherland Estate’, p. 128.

tenants to enter either the Land Commission Court, or to the civil bills court of their county, in order to have a 'fair' rent fixed.¹⁰⁰³ As Foster noted, 'the logical meaning of "fair rent" was rents fixed by tribunal'.¹⁰⁰⁴ Consequently, definitions throughout the century of what a 'fair' rent constituted, as noted in Chapter 1, appeared to come into effect in 1881. During its first three years of operation approximately 62,000 fair-rent cases passed through the courts and, by 1891, the Land Commission had fixed 157,000 rents.¹⁰⁰⁵ Rent levels decided by the courts subsequently became known as judicial rents and such tenants were henceforth referred to as judicial tenants. Landlord and tenants could also settle on a 'fair' rent outside of the legal system and then lodge this agreement with the courts. After a period of three months, this privately arranged rent was accepted by the courts as the equivalent of a judicial rent, exclusive of any enquiry, and would also remain static for a period of fifteen years. At the end of this period, all rents could either be renewed once again for a second term of fifteen years, or alternatively, a new agreement could be made.¹⁰⁰⁶

Tenants who availed of this system during the initial four years of its operation generally obtained reductions of 15-20 per cent for a fifteen year period. In a study of the practice of fixing rent in County Galway 1881-85, Buckley argued that during its first four years of operation, the land courts granted an average rent reduction across Ireland of 19.5 per cent. In Galway specifically, rents were reduced, on average, by 21 per cent in the courts.¹⁰⁰⁷ In 1881 alone, a total of £1.2 million in rent reductions was obtained by approximately 275,525 tenants who entered the Land Commission Courts.¹⁰⁰⁸ Later in the decade, deteriorating economic conditions, as a result of poor weather, soil exhaustion, and increased foreign competition, led to falling agricultural prices. The subsequent restricted access to loans from shops, banks, and moneylenders did nothing to alleviate the increasingly

¹⁰⁰³ In 1882, *Fraser's magazine* reported that 'the influence of the last Irish Land Act could not fail to make itself speedily felt in a novel claim of Tenant-right for British farmers'. The article revealed the differences in the operation of the courts in the various constituencies of Britain. In England, the court would be presided over by the County Court Judge in the company of two agricultural experts, while in Scotland the sheriff of the county presided, along with two assessors (one nominated by the landlord and the other by the tenant). In both countries, judgements were final and appeals were not permitted. George C. Brodrick, 'The claim of tenant-right for British farmers' in *Fraser's magazine*, 626 (London, 1882), pp 145-55.

¹⁰⁰⁴ Foster, *Modern Ireland*, pp 380-81.

¹⁰⁰⁵ McDowell, 'Administration and the public services', pp 584-85.

¹⁰⁰⁶ *ibid.*, p. 150.

¹⁰⁰⁷ Buckley, 'The fixing of rents', pp 150-151.

¹⁰⁰⁸ Lucey, 'Power, politics and poor relief', p. 584.

dire situation.¹⁰⁰⁹ As a direct result, many tenants experienced difficulties in paying their rents on time. Judicial tenants also were affected by the dire economic situation, especially as many of their rents had been set earlier in the decade in the expectation that agricultural prices would rise.¹⁰¹⁰ The reality of the situation was recognised by the commissioners who, from the latter part of 1885, reduced judicial rents by approximately 10-14 per cent. Later in 1887, the revision of judicial rents continued apace, following the introduction of land legislation by the Salisbury government which allowed for a review of all rents fixed in the courts between 1881 and 1886.¹⁰¹¹ Thus, state interference in the fixing of rent between landlord and tenant did not simply end following the 1881 legislation. Such developments signalled a decisive move on the government's part to directly intervene in landlord-tenant affairs, thereby altering radically the rental relationship between landlord and tenant.

Private settlements

Buckley argued that approximately 40 per cent of all rents settled after the introduction of the 1881 act were fixed by voluntary agreement.¹⁰¹² As noted in Chapter 1, the act fundamentally altered how abatements were received by the tenantry. No longer perceived as a privilege or an indulgence on the landlords' part, the power of the discretionary abatement was lost with the emergence of the courts. Instead, the amount a landlord was willing to set as a new – albeit temporary rent level – through granting an abatement came to function as a starting point from which to commence the haggling process between landlord and tenant. The presence of the new courts provided many tenants with the courage to decline offers made by the landlord with respect to abatements and emboldened them to threaten to go to the Land Court should the landlord's offer prove wanting.¹⁰¹³ According to Buckley, a landlord who fixed the level of the rent with a tenant privately could either be classified as a 'good landlord', as they most likely were on friendly terms with the tenant, or a 'bad' landlord, who placed pressure on his tenant, either subtly or

¹⁰⁰⁹ Geary, *Plan of Campaign*, p. 6.

¹⁰¹⁰ During this period, however, prosperity did not manifest itself in rural Ireland. Buckley, 'The fixing of rents', p. 151.

¹⁰¹¹ Geary, *Plan of Campaign*, pp 7, 143.

¹⁰¹² K. Buckley, 'The Records of the Irish Land Commission as a Source of Historical Evidence' in *Irish Historical Studies*, viii, no. 29 (1952), pp 31-32.

¹⁰¹³ Letter from John Gibbings to S.E. Shirley Esq., 12 May 1888 (P.R.O.N.I., Shirley papers, D3531/C7/1)

overtly, to agree to his terms and to avoid the courts.¹⁰¹⁴

Careful consideration of which tenants to approach with a private settlement was made by the agent, and discussed with the landlord, before any formalities took place. On the Shirley estate, the selected tenants were subsequently promised a valuator and informed that they had an option to return to the courts should agreement not be reached.¹⁰¹⁵ In general, a feeling seemed to prevail among estate personnel that a settlement outside of court was preferable to one delivered from the bench.¹⁰¹⁶ This was due to a widespread perception, as noted earlier, that court reductions were usually more generous than privately made settlements.¹⁰¹⁷ In 1888, Lord Shirley decided to settle with a tenant at a 25 per cent reduction, due to the landlord's belief that the Commission would probably give more.¹⁰¹⁸ Therefore, a lack of control over court proceedings propelled many landlords and agents to seek private agreements with their tenantry. In 1889, the agent reported how eighty cases were settled out of court.¹⁰¹⁹ The agent even claimed that some tenants fared better outside of the courts rather than in them, citing Ross McCabe as an example. In 1889, McCabe settled at a little over 4s in the £1.¹⁰²⁰ Referring to the case of the Roscommon Catholic landlord O'Connor Don who got his tenants to sign private agreements, Macaulay argued that such independent arrangements 'debarred [tenants] from the chance to take their cases to the Land Courts'.¹⁰²¹

Several reasons may have prevented many tenants from entering the courts. Firstly, a tenant might be deterred due to the legal costs. Although the cost of having a judicial rent fixed in court amounted only to £3 or £4, for many tenants this simply proved too much.¹⁰²² Some tenants were discouraged due to the slight possibility that the courts would either, not alter their rent level, or even raise it.¹⁰²³ Oftentimes, it took a courageous tenant to make an application to the courts to have their rent fixed as the landlord could legally take ejectment proceedings against a tenant should they

¹⁰¹⁴ Buckley, 'The fixing of rents', pp 151-52.

¹⁰¹⁵ Letter from John Gibbings to E.P. Shirley Esq., 29 June 1882; 4 Apr. 1889 (P.R.O.N.I., Shirley papers, D3531/C7/1)

¹⁰¹⁶ Letter from John Gibbings to S.E. Shirley Esq., 26 Apr. 1889 (P.R.O.N.I., Shirley papers, D3531/C7/1)

¹⁰¹⁷ *ibid.*, 22 Feb. 1883.

¹⁰¹⁸ *ibid.*, 6 Nov. 1888.

¹⁰¹⁹ *ibid.*, 13 Mar. 1889.

¹⁰²⁰ *ibid.*, 26 Mar. 1889.

¹⁰²¹ Macaulay, *The Holy See*, p. 47.

¹⁰²² Buckley, 'The fixing of rents', p. 153.

¹⁰²³ *ibid.*, p. 158.

be in arrears.¹⁰²⁴ Fears of losing what tenants perceived as customary privileges – such as access to turbary on the estate – could also prevent a tenant from applying to the courts.¹⁰²⁵ As Chapter 3 revealed, legislation in 1860 confirmed the right of the landowner to control turf cutting. Access to turf was utilised by some landlords as a coercive tool should tenants disobey their wishes. Accordingly, tenants who entered the courts on the Shirley estate lost all turbary rights. It has also been suggested that ‘anyone that the landlord had any claim over could not put their land into court to get their rent reduced’.¹⁰²⁶ Buckley, however, claimed that comparatively scant direct evidence exists to suggest that undue pressure was placed on tenants to sign private agreements with their landlords.¹⁰²⁷ Yet, what is clear is that many tenants who did choose the formal legal route to have their rents fixed were subsequently discriminated against, or even punished, for such an audacious move.

Court settlements

Although the 1881 land act permitted tenants to enter the courts to have their rents assessed of their own volition, in reality many tenants failed to exercise this right. Competing interests vied with each other for the tenant’s hand. Landlords and agents may have strongly encouraged their tenants to comply with their wishes and not enter the courts, while the growing presence of the Land League may have pushed others into the courtroom. Gibbings felt that a rule instigated by the Land League that a ‘tenant must go to court & get his rent fixed before he sells his interest’ propelled many to go to court.¹⁰²⁸ However, it would be erroneous to suggest that tenants were mere pawns, either of the landlords or of the League. Some astute tenants only decided to take the legal route after surveying concurrent settlements made by the courts in the district.¹⁰²⁹ Others, it was believed by Gibbings, felt that settlements made outside of the courts did not carry the same weight as those agreed to by the commissioners and this influenced their decision on the matter.¹⁰³⁰ A contemporary complaint made by some ‘that practically every member of the Land

¹⁰²⁴ *ibid.*, p. 153.

¹⁰²⁵ *ibid.*

¹⁰²⁶ I.F.C. S991: pp 155-57.

¹⁰²⁷ Buckley, ‘The fixing of rents’, p. 153.

¹⁰²⁸ *ibid.*, 25 Jan. 1883.

¹⁰²⁹ Buckley, ‘The fixing of rents’, p. 152.

¹⁰³⁰ Letter from John Gibbings to S.E. Shirley Esq., 22 Feb. 1883 (P.R.O.N.I., Shirley papers, D3531/C7/1)

Courts was a landlord, or was prejudiced in favor of the land-owning class', did not deter many from availing of the system.¹⁰³¹ Consequently, it is important to note that the landed presence in the Commission did not exert perhaps as much influence as many would have anticipated. Indeed, landlords sometimes adopted a legal course simply preferring to oppose all tenants in court.¹⁰³²

The relationship between estate authorities and the commissioners frequently proved a contentious one. Initially the Shirley agent cooperated with the sub-commissioners, accompanying them around the estate while they went about the task of valuing each property – although perceiving their job to be akin to robbery.¹⁰³³ While at first Gibbings believed that 'fair play' would prevail in the courts and that the commissioners would be 'fair', he would soon be disappointed.¹⁰³⁴ Once again, Gibbings began to employ an old favourite when describing the commissioners – 'vile'.¹⁰³⁵ Gibbings informed Shirley in 1882 that he was dealing with the 'worst commissioners'.¹⁰³⁶ In 1884 he described the commissioners as 'a very bad act'.¹⁰³⁷ Not only was their character frequently slated, but so were their actions. Gibbings felt that the commissioners simply did not act firmly enough with the tenants and that 'none are good for landlords'.¹⁰³⁸ 'Instead of being a help as they were meant to be', the interference of the commissioners propelled the agent to appeal many of the decisions they reached.¹⁰³⁹ While the agent recognised that success in the courts would be limited, nonetheless it was important to demonstrate opposition as it would 'most certainly frighten other tenants from rushing into court when they see we will not give up without a fight'.¹⁰⁴⁰ Prior to submitting an appeal, the agent carefully examined each case and only acted when it was felt that victory was certain.¹⁰⁴¹ The pro-Parnellite *Freemans Journal* reported how 'with systematic regularity' decisions made by the court in Enniskillen were appealed; although, in most cases, the original

¹⁰³¹ Palmer, *Irish land league crisis*, p. 303.

¹⁰³² Buckley, 'The fixing of rents', p. 152.

¹⁰³³ Letter from John Gibbings to E.P. Shirley Esq., 2 Aug. 1882; 5 Aug. 1882; 18 Apr. 1883 (P.R.O.N.I., Shirley papers, D3531/C7/1)

¹⁰³⁴ Letter from John Gibbings to S.E. Shirley Esq., 21 July 1881; 18 Apr. 1883 (P.R.O.N.I., Shirley papers, D3531/C7/1)

¹⁰³⁵ *ibid.*, 28 Apr. 1891.

¹⁰³⁶ Letter from John Gibbings to E.P. Shirley Esq., 11 Feb. 1882 (P.R.O.N.I., Shirley papers, D3531/C7/1)

¹⁰³⁷ Letter from John Gibbings to S.E. Shirley Esq., 4 June 1884, *ibid.*

¹⁰³⁸ *ibid.*, 6 May 1883; 25 Feb. 1889; 26 Feb. 1889.

¹⁰³⁹ *ibid.*, 29 June 1888; 3 July 1888; 9 Mar. 1889.

¹⁰⁴⁰ Letter from John Gibbings to E.P. Shirley Esq., 9 July 1882, *ibid.*

¹⁰⁴¹ Letter from John Gibbings to S.E. Shirley Esq., 20 July 1889, *ibid.*

decision was upheld.¹⁰⁴² While a 1883 select committee report found that the system in operation for fixing rents was flawed – favouring tenants over landlords – little was done to improve it.¹⁰⁴³

Court settlements were not always agreeable to the tenants either. Buckley contended that during the early 1880s the decision taken by many of the sub-commissioners to fix rents according to a belief that agricultural prices would rise over subsequent years caused much financial strain when these expectations were not realised.¹⁰⁴⁴ Although landlords felt that the commissioners were overly sympathetic to the plight of the tenant, some tenants in turn felt that reductions granted by the commissioners were inadequate. The press also concluded that court decisions were ‘still in favour of landlordism’.¹⁰⁴⁵ A ruling in 1887 that 198 of the Shirley tenants be given reductions averaging 35 per cent (although only a 30 per cent reduction had been requested), resulted in the dissolution of the Sub-Commission involved with the case and the appointment of a new one.¹⁰⁴⁶ This incident reveals, not only how judicial reductions could be quite generous to the tenantry, but also that a ceiling on the amount by which a tenant’s rent could be reduced was somewhat implicit at the time. Any breach of this would have severe repercussions. Some tenants believed that judges from the county courts sided with the landlords.¹⁰⁴⁷ A comment by the Westport agent would seem to support this argument. He claimed that cases settled by the county court resulted in a better settlement for the landlord than ones decided upon by the sub-commissioners.¹⁰⁴⁸ Requests submitted by some of the tenantry for extensions in the time allocated for the payment of rent in relation to rents fixed by the courts were generally not warmly received.¹⁰⁴⁹ The *Manchester Guardian* reported how:

¹⁰⁴² ‘Mr. S. E. Shirley and his tenants’, *FJ*, 12 Mar. 1887.

¹⁰⁴³ McDowell, ‘Administration and the public services’, p. 585.

¹⁰⁴⁴ Buckley, ‘The fixing of rents’, p. 151

¹⁰⁴⁵ Quote from *Connaught Telegraph* in Palmer, *Irish land league crisis*, p. 303.

¹⁰⁴⁶ ‘The Shirley Estate (from our special correspondent)’, *The Manchester Guardian*, 2 Nov. 1888 (P.R.O.N.I., Shirley papers, D3531/C/3/21). *The Manchester Guardian* was originally established to ‘enforce the principles of civil and religious liberty, warmly advocate the cause of reform, endeavour to assist in the diffusion of just principles of political economy’. See ‘The Manchester Guardian, born 5 May 1821: 190 years – work in progress’, *The Guardian*, editorial 2 May 2011, (<http://www.guardian.co.uk/commentisfree/2011/may/05/manchester-guardian-work-in-progress>) (6 Aug. 2012)

¹⁰⁴⁷ *ibid.*,

¹⁰⁴⁸ Letter from Robert Powell to the 3rd Marquess of Sligo, 129 Marine Parade, Brighton, 4 Apr. 1888 (N.L.I., Westport papers, MS 40,996/1)

¹⁰⁴⁹ Letter from John Gibbings to S.E. Shirley Esq., 9 June 1886 (P.R.O.N.I., Shirley papers, D3531/C7/1)

one hundred and twenty of the Shirley tenants applied for time under the Act. Some proved to be so miserably indigent that they could not even find eighteen pence to fee a solicitor to appear for them. He inquired when they had last paid rent, and if the answer displeased him, he at once ordered the case to be struck out. When this had been done in upwards of thirty cases – relief having been given in only two or three – the priests in court stopped the farce, and the remaining cases were withdrawn.¹⁰⁵⁰

In 1889 the tenants attempted to have the chairman removed due to their dissatisfaction with his resolution. The chairman, however, was firm that he would remain in his post. He did not wish to show any fear in the face of tenant pressure.¹⁰⁵¹ One agent believed that tenant opposition actually went in the landlord's favour as appeals made against the judgements of the Sub-Commission were 'principally useful in keeping people out of court who have not served'.¹⁰⁵²

On the Shirley estate, judicial tenants were treated more severely than their non-litigious counterparts. As a tenant had effectively 'made a "stranger" of the landlord' by entering the court, 'as a "stranger" he should be treated'.¹⁰⁵³ In 1888 the *Dundalk Democrat* reported that there were fewer instances of leniency being shown to judicial tenants on the Shirley estate. Penalties were subsequently imposed: judicial rents had to be paid on the day they were legally due ('not a moment's delay'), the cost of a barrel of lime increased from six pence to one shilling (full market price), all arrears had to be paid, the hanging gale was abolished, and ejection processes were served to those who applied to the court or failed to pay their rent on the day it was due.¹⁰⁵⁴ With respect to the payment of rent specifically, Gibbings suggested to the landlord that 'the bailiffs be sent round to all judicial tenants telling them to come in and pay their rent on a fixed day early in May and if

¹⁰⁵⁰ 'The Shirley Estate (from our special correspondent)', *The Manchester Guardian*, 2 Nov. 1888 (P.R.O.N.I., Shirley papers, D3531/C/3/21)

¹⁰⁵¹ Letter from John Gibbings to S.E. Shirley Esq., 9 Mar. 1889 (P.R.O.N.I., Shirley papers, D3531/C/7/1)

¹⁰⁵² Letter from Robert Powell to the 3rd Marquess of Sligo, Guildford, Surrey, 11 Oct. 1888 (N.L.I., Westport papers, MS 40,996/1)

¹⁰⁵³ 'Mr. S. E. Shirley and his tenants', *FJ*, 12 Mar. 1887.

¹⁰⁵⁴ *ibid.*; 'A recent visitor', *Dundalk Democrat*, 16 June 1888; 'The Shirley Estate (from our special correspondent)', *The Manchester Guardian*, 2 Nov. 1888 (P.R.O.N.I., Shirley papers, D3531/C/3/21); Tenants who had not entered the courts were to have their arrears taken at a reduced rate. Letter from John Gibbings to S.E. Shirley Esq., 13 Mar. 1889 (P.R.O.N.I., Shirley papers, D3531/C/7/1)

they fail in paying we ought to proceed against them at once'.¹⁰⁵⁵ He was adamant a week or two later, that if the judicial tenants did not come in and pay, they were to be handed over to the bailiffs and ejections initiated: 'We ought in justice to do this', he wrote.¹⁰⁵⁶

There seemed to be a similar trend on other estates. In 1886, on the neighbouring Bath estate, the agent Trench did not grant abatements to any of the judicial tenants – although some of the other tenants received one.¹⁰⁵⁷ Therefore, it may be suggested that tenants who entered the Land Courts were in a better financial position than tenants who settled out of the courts. Tenants who opted for the courts defied the authority of the landlord in their capacity as sole arbitrators of rent levels. The Land Law Act of 1887 granted permission for leaseholders to have their rents set in the courts. It also allowed for an adjustment of judicial rents fixed between 1881 and 1885, as referred to earlier.¹⁰⁵⁸ Regardless of legal outcome, the simple act of entering a court room signaled an unravelling of the financial-tenurial relationship between landlord and tenant.

Rent and the land question

Throughout the nineteenth century understandings of, and answers to, the 'land question' altered continuously. Dissension arose due to the various forms it adopted, according to prevailing socio-economic and political conditions. From 1881 – as the aims of the Land League, Plan of Campaign and the land courts reveal – an attempt was made to answer the land question through the provision of an answer to the rental question.¹⁰⁵⁹ The establishment of the Land Court brought the issue of rent firmly to the fore of the government's agenda for Ireland. The landlord was no longer the sole arbiter of rent levels on his property. For much of the century, the need to 'fix' the rent question preoccupied the minds of tenants, landlords, and the government alike. For tenants, and it would seem for many of the commissioners also, 'fixing' meant reductions; for many landlords it meant coercion and

¹⁰⁵⁵ Letter from John Gibbings to S.E. Shirley Esq., 7 Apr. 1883 (P.R.O.N.I., Shirley papers, D3531/C7/1)

¹⁰⁵⁶ *ibid.*, 18 Apr. 1883; 21 Apr. 1883; 16 May 1883; 14 Oct. 1882.

¹⁰⁵⁷ *ibid.*, 11 Oct. 1886.

¹⁰⁵⁸ Macaulay, *The Holy See*, p. 108.

¹⁰⁵⁹ Rent being the main focus of the land question was nothing new. In his articles on the land question, John Blake Dillon (1814–66), nationalist and journalist, stated that his main purpose for participating in the land agitation was rent reduction. O'Neill, 'The Irish Land Question', p. 331.

conciliation. A continued tenant preoccupation with rent levels, instead of peasant proprietorship, reveals how relatively conservative much of the tenantry and their leaders were at a time when legislation was gradually making tenant proprietorship a real and viable option. The process of fixing rent, whether completed in the courts or privately, involved bargaining. Tenant leverage in this area increased significantly following the introduction of the 1881 Act. The long-standing property right of landlords to set rent levels was obliterated through the introduction of the Land Courts. The Plan of Campaign continued this attack on the landlord privilege to level and collect rents. However, rent levels were still believed too high. In 1891, Richard J. Kelly informed the Statistical and Social Inquiry Society of Ireland that poverty in Ireland was caused by high rents.¹⁰⁶⁰

The war on rent during the 1880s proved perhaps the ultimate transgression against property rights. Situated at the core of tenurial relations, rent control proved the linchpin of the power relationship between landlord and tenant. Divested of its control, landlords relinquished one of their most potent means of controlling the tenantry. As this research has shown, numerous aspects of rural Irish life were affected by rent. Frequently, dispossession of the tenantry and emigration costs were facilitated by tenant-right; tenants who paid their rents on time were the recipients of various privileges; disputes over land and within families, more often than not, were intractably connected to issues of rent payment; sites for school-houses provided landlords with additional rent; finally, the payment of rent was not only supported, but oftentimes aided, by the intervention of Roman Catholic clergy. The importance of rent in an increasingly capitalist society was nowhere more evident than in the author and historian Thomas Carlyle's claim in 1840 that 'cash payment has become the sole nexus of man to man!'¹⁰⁶¹ The settlement of the land question, along with its numerous constituent parts was, as James Godkin (1806–79), congregational minister and writer, stated, 'a necessary process in the transition from feudalism to constitutionalism'.¹⁰⁶²

¹⁰⁶⁰ Breathnach, *The Congested Districts Board*, p. 14.

¹⁰⁶¹ Thomas Carlyle, *Chartism* (Boston, 1840), p. 61.

¹⁰⁶² Godkin, *The land-war in Ireland*, p. 1.

The old order

During the latter seventeenth and early eighteenth centuries across Europe feudal land systems steadily collapsed. An overall growth in literacy levels and the rise of capitalism facilitated this development.¹⁰⁶³ After the French Revolution, the *ancien regime* ‘gradually petered out over several generations’.¹⁰⁶⁴ In the latter 1880s, the barrister Philip Henry Dudley Bagenal, decried the charge of feudalistic practices on Irish estates as ‘false and absurd’.¹⁰⁶⁵ Dorian also stated that although ‘the people knew that there was a higher power, but to be slaves or in slavery they knew not’.¹⁰⁶⁶ In turn, Michael Davitt’s *The fall of feudalism in Ireland*, postulated an alternative thesis.¹⁰⁶⁷ William O’Brien’s assertion in his 1887 public lecture ‘The lost opportunities of the Irish gentry’ that landlords appeared to believe they possessed a ‘God-given right to lord it over the people and to look down on them’ also supported Davitt’s view of Irish society as feudalistic.¹⁰⁶⁸ Evidence from six estates suggests that a quasi-feudalistic relationship, oftentimes with a colonial complexion, persisted between landlord and tenant on some estates in Ireland during the nineteenth century.

Moral obligations

Feudal societies encompassed moral, economic, and political imperatives that both masters and their dependents had to mutually fulfil. In an English context, Jessica Gerard argued that ‘by the first two decades of the nineteenth century, the fashionable elite was characterized not by a strong sense of *noblesse oblige* or widespread piety, so much as by a desire for personal happiness and pleasure’.¹⁰⁶⁹ Before 1800, the moral obligations of members of the landed gentry within feudal communities were directed by a patriarchal model which ‘aimed to preserve social

¹⁰⁶³ Doyle, *Ancien regime*, pp 47, 50.

¹⁰⁶⁴ *ibid.*, p. 51.

¹⁰⁶⁵ Philip Henry Dudley Bagenal, ‘Foreign land tenures and the Irish tenant’ in *LSE Selected Pamphlets* (1882), pp 46-47; Unlike the situation in Poland where although 1782 saw the abolition of the personal subjection of the peasant through the introduction of a moderate serfdom, it was not really until the peasant emancipation decrees of 1864 in Russian-Poland that all peasant obligations to the manor (labour or rents) were revoked. Piotr S. Wandycz, *The lands of partitioned Poland 1795-1918* (Seattle, 1974), pp 12-13.

¹⁰⁶⁶ Dorian, *The outer edge of Ulster*, pp 233-34.

¹⁰⁶⁷ Davitt, *The fall of feudalism*

¹⁰⁶⁸ Geary, ‘Anticipating memory’, pp 129-30.

¹⁰⁶⁹ Gerard, *Country house life*, p. 277.

order through recognition of the importance of fixed roles in family and society'.¹⁰⁷⁰ As Gerda Lerner explained, within this power relationship 'dominance [was] mitigated by mutual obligations and reciprocal rights'.¹⁰⁷¹ However, as a result of the scientific and American and French revolutions, patriarchalism was undermined.¹⁰⁷² Paternalism emerged to fill the resultant vacuum. Shearer Davis Bowman distinguished between the two models by explaining that 'whereas patriarchy denotes societal dominance and governance by males, paternalism signifies a practice or policy of governing and treating people in a fatherly fashion'.¹⁰⁷³ Yet, importantly, both systems accepted that inter-class relations were founded on traditional obligation and reciprocity. Enrico Dal Lago argued that the emergence of the paternalistic ethos evolved from 'entrepreneurial classes that were advocates of modernisation and of capitalistic and liberal values', and perhaps most significantly that 'the spread of paternalism was part of the nineteenth-century phenomenon of ideological modernization of the landed elite'.¹⁰⁷⁴

Whether operating from a patriarchal or paternalist model, landlords were dependent on deferential displays by their tenants for the landlord-tenant relationship to work. However, as Huggins correctly pointed out, 'deference was never unconditional'.¹⁰⁷⁵ As Anne Digby explained 'customary outward subservience was clearly required ... but this demeanour might mask a growing internal independence'.¹⁰⁷⁶ Gibson and Blinkhorn listed deference as just one of four different 'aspects of authority' that could be in evidence on landed estates.¹⁰⁷⁷ Howard Newby delineated between behavioural definitions of deference (such as bowing and touching the forelock), and attitudinal approaches to deference, the latter which, in his view, enabled 'a fallacious correspondence to be made between deferential attitudes and deferential people'.¹⁰⁷⁸ He argued that deference was neither a type of behaviour nor a set of attitudes, but 'a "form" of social interaction'

¹⁰⁷⁰ Enrico Dal Lago, *Agrarian elites: American slaveholders and southern Italian landowners, 1815-1861* (Louisiana, 2005), p. 102.

¹⁰⁷¹ Gerda Lerner, *The creation of patriarchy* (New York, 1986), p. 217.

¹⁰⁷² Gerard, *Country house life*, p. 241.

¹⁰⁷³ Bowman, *Masters & Lords*, p. 164.

¹⁰⁷⁴ Dal Lago, *Agrarian elites*, pp 99-100.

¹⁰⁷⁵ Huggins, *Social conflict*, p. 176.

¹⁰⁷⁶ Anne Digby, 'The local state' in Joan Thirsk (general ed.), *The agrarian history of England and Wales, VII, part 1* (Cambridge, 2000), p.1427.

¹⁰⁷⁷ Along with traditional authority, patronage and clientalism, and mediation. See Gibson and Blinkhorn, *Landownership and power*, pp 8-11.

¹⁰⁷⁸ Howard Newby, 'The Deferential Dialectic' in *Comparative Studies in Society and History*, xvii, no. 2 (1975), p. 145.

consisting of two opposing elements – differentiation and indentification.¹⁰⁷⁹ In *The fall of feudalism in Ireland*, Davitt condemned the practice of ‘manly looking men, young and old, doffing their hats and caps and cringing in abject manner to any person connected with an estate’.¹⁰⁸⁰ Under the influence of the Land League, Lee argued that tenants learned ‘the simple but symbolic gesture of not doffing their caps to landlords’.¹⁰⁸¹ While Vaughan argued that a revolution of manners occurred during the Land Wars, he admitted that a lack of evidence exists – ‘unfortunately the R.I.C. did not keep statistics of hat lifting’ – to support this claim. Winstanley agreed that the land campaign shattered ‘any vestigial deference or subservience’.¹⁰⁸² Although Huggins contended that the ‘challenge to a paternalism-deference equation in Ireland did not have a nationalist dimension’, the decline in deferential behaviour among tenants towards landlords was also linked to the rise of the Fenians and Nationalism and its explicit associations with the land questions through the ‘New Departure’.¹⁰⁸³

Equally, paternalism did not simply operate from a well of kindness and interest in tenant welfare. Patronising thinking also fuelled paternalistic impulses. The Countess of Leitrim’s paternalism towards her tenants contained patronising undertones. She argued, ‘in so many ways they [Irish tenants] are like children & they don’t understand an invitation where they would quietly obey an *order*’.¹⁰⁸⁴ Elaborating on E.P. Thompson’s idea of how social relations consequently operated within a ‘paternalism-deference equilibrium’, Huggins argued that this delicate, and oftentimes non-consensual, mode of interaction gradually gave way, due to the gentry’s abandonment of paternalistic practices ‘under the imperative of capital accumulation’.¹⁰⁸⁵ Regardless, whether managing their tenants within a patriarchal or paternalist framework, landlords failed to exert full control over their tenants. This

¹⁰⁷⁹ *ibid.*, pp 146, 150.

¹⁰⁸⁰ Davitt *The fall of feudalism*, pp 164-65.

¹⁰⁸¹ Lee, *The modernisation of Irish society*, p. 91.

¹⁰⁸² Vaughan, *Landlords and tenants ... 1848-1904*, p. 37; Winstanley, *Ireland and the land question*, p. 31.

¹⁰⁸³ Huggins, *Social conflict*, p. 177; Jackson, *Ireland*, p. 95; Across the country, members of the Irish Republican Brotherhood, or the Fenians, infiltrated local land league branches. See Frank Rynne, ‘Permanent Revolutionaries: the IRB and the Land War in West Cork’ in Fearghal McGarry, and James McConnel (eds), *The Black Hand of Republicanism; Fenianism in Modern Ireland* (Dublin, 2009), p. 58.

¹⁰⁸⁴ L. Perry Curtis, Jr., *Anglo-Saxons and Celts; a study of anti-Irish prejudice in Victorian England* (New York, 1968), p. 54.

¹⁰⁸⁵ Huggins, *Social conflict*, p. 176.

study and several others have shown that tenants exercised a measure of agency.¹⁰⁸⁶ Importantly, as the century progressed, deferential practices among the peasantry became obsolete following the introduction of legislation which removed the power of landlord privileges (as outlined in Section 1). As Larkin argued ‘the real power of the landlords as a class had depended on the social deference accorded them by their tenants, and by 1881 that deference – outside Ulster – was a thing of the past’.¹⁰⁸⁷

Along with moral obligations, feudal societies functioned according to particular economic and political codes based on tradition. E.J. Hobsbawm attested that late in the eighteenth century in parts of Europe ‘the feudal order ... was still politically very alive, though economically increasingly obsolete’.¹⁰⁸⁸ Throughout nineteenth century Ireland increasing state intervention gradually replaced these customary practices with regulations based on statutory law. The control of rent – as this chapter has demonstrated – was fundamentally removed from the control of landlords through the introduction of the Land Courts. What previously had been accepted as ‘part of the order and arrangement of the universe’ seemed to be coming to an end.¹⁰⁸⁹

¹⁰⁸⁶ Curtis, ‘Landlord responses to the Irish land war, 1879-87’, p. 168; Maura Cronin, ‘Local history’ in Mary McAuliffe, Katherine O’Donnell, and Leeann Lane (eds), *Palgrave advances in Irish history* (Basingstoke, 2009), p. 154.

¹⁰⁸⁷ In foreword to Feingold, *The revolt of the tenantry*, p. xiv.

¹⁰⁸⁸ E.J. Hobsbawm, *The age of revolution: Europe, 1789-1848* (London, 1991), p. 29.

¹⁰⁸⁹ Quote taken from a speech made by William O’Brien in relation to the omnipotence of landlords. Geary, ‘Anticipating memory’, p. 130.

Conclusion
‘Lords of the soil’
The disinheritance, disenfranchisement, and disempowerment of the landed class

‘Yet now for more than twenty years they can think of nothing but resistance, a resistance always resultless owing to the nature of the forces rushing against them with a yearly increasing momentum and power. To-day they are themselves weaker to resist...’

‘The landlords’ convention’, *All Ireland review*, 7 Dec. 1901

‘Interference in the order he had established would have seemed to him a fatuity, first of all. The conflict, however, could but declare itself; the pressure mounted – and was to work on his brain. Robert, in the end, cracked – and the reasons were multiple’.

In relation to the effect the introduction of The Land Law (Ireland) Act 1881 had on the landlord Robert Cole Bowen in Elizabeth Bowen, *Bowen’s Court & Seven Winters*, p. 364

‘...this land movement is a Revolution! It is; and no man, or combination of men can stand against it; and the beginning of wisdom for you is to recognize the fact’.

‘The revolution to Irish landlords’, *All Ireland review*, 22 Mar. 1902

A mere eight years before the Land League challenge, Baron Farnham expressed his ‘deep and grateful sense of this costly and enduring token from the Farnham tenantry of their high esteem and affectionate recollection of their late landlord’, following the erection of a monument in the late landlord’s honour in Cavan town.¹⁰⁹⁰ Under cover of darkness less than a month later, ‘some evil disposed person or persons discoloured the Statue of the Late Rt. Hon. Lord Farnham, K.P.’.¹⁰⁹¹ The vandalism of the statue explicitly revealed that deference towards members of the landed class was compromised well before 1879.

‘Legislative persecution’ of the landlords and the expansionist state

This study has examined a cluster of landed estates, in order to calibrate more closely at estate level a decisive phase of the phenomenon described by Lindsay Proudfoot (for the long period 1700-1900) as, ‘the economic disinheritance, political disenfranchisement, and social disempowerment’ of Irish landlords.¹⁰⁹² Indeed, as the data for land transfer, in particular, indicates, this process was not complete even on the eve of the Great War. As to the beginnings of the ‘long retreat’ of Irish landlords, although Vaughan has argued that ‘landlords in the eighteenth century had been the undisputed economic and legal centres of their localities; in the nineteenth century the state reduced them gradually to being merely rich men who lived in the countryside’, both David Dickson and Thomas Bartlett have situated the roots of the decline of the power of the landlord class in the later eighteenth century.¹⁰⁹³ Dickson argued that estate ‘reform’ initiatives between 1770 and 1830 were attempts made by landlords to reinforce their authority over their tenants, in a time of major socio-economic instability. While admitting that economic control was never sufficiently recovered, he stated that within political and social spheres landlord power and authority continued to function for another two generations.¹⁰⁹⁴ From a politico-religious perspective, Bartlett postulated that the ‘1793 Catholic Relief Act ...

¹⁰⁹⁰ ‘Unveiling the statue of the late Lord Farnham’, *Anglo-Celt*, 23 Dec. 1871.

¹⁰⁹¹ ‘£50 Reward. Discolouring the statue of the late Right Honorable Lord Farnham, K.P.’, *Anglo-Celt*, 9 Mar. 1872.

¹⁰⁹² Lindsay J. Proudfoot, ‘Land ownership and improvement ca. 1700-1845’ in Lindsay Proudfoot (ed.), *Down: history & society* (Dublin, c1997), p. 203.

¹⁰⁹³ Vaughan, *Landlords and tenants ... 1848-1904*, p. 12.

¹⁰⁹⁴ David J. Dickson, ‘Property and social structure in eighteenth-century South Munster’ in L. M. Cullen and F. Furet (eds), *Ireland and France, 17th-20th centuries: towards a comparative study of rural history* (Paris, 1980), pp 137-38.

fundamentally altered power relationships in Ireland'.¹⁰⁹⁵ These political developments (essentially, the admission of Catholics to the respectable ranks of the enfranchised – to active citizenship) provided the necessary foundations for the later decline of the privileged position of the Irish landlord class

The Act of Union of 1800 – and specifically the crisis of authority and security in Ireland to which it was a drastic British response – fundamentally altered the terms in which Irish landlords would enjoy and be able to enforce their authority as a ruling class in Ireland. The climactic challenge of the 1790s – in ideas, popular politics and social unrest – to the established order, had laid bare the weakness of the Irish ruling class to convincingly exercise authority in maintaining order in Ireland. The Union was to provide a safer framework for maintaining order, with the Westminster parliament, and its tight administrative machine in Dublin, increasingly taking initiatives – often heavily influenced by contemporary ideologies such as utilitarianism, or by religious evangelicalism – in ‘constructing’ order in Ireland, that trespassed upon or undermined many of the key roles and functions that landlords had traditionally exercised. Inevitably, this process would affect the fundamental understandings of ‘order’, between landlord and tenant, at the estate level.

The Union of 1800, in a certain sense, epitomised the centralising tendencies of the British government, which were to increase as the century progressed. Jackson has noted that for the Prime Minister, William Pitt (1759–1806), the Union was a manifestation of an increasing predilection in Westminster toward the centralisation of legislative authority. The eight Union Articles not only outlined future constitutional relations between the two islands, but also inadvertently delineated some of the areas which, over the course of the century, would witness a continued disenfranchisement and disempowerment of the Irish landed gentry. Article five united the Church of England and Ireland. As Chapter 5 has demonstrated, the state’s control of religious affairs and its successive interventions (from Catholic Emancipation to tithes, to disestablishment) would have a significant impact on the erosion of Protestant landlord authority, while simultaneously enhancing Catholic confidence. The eighth article ‘formalised the legal and judicial aspects of the new Union’ setting the ground work for the inexorable erosion and abolition of the feudalistic system of dispute settlement. This process was examined in Chapter 3.

¹⁰⁹⁵ Bartlett, ‘An end to moral economy’, p. 60.

Financial and commercial regulations were described in articles six and seven, while the first four articles addressed the nature of political relations between the countries.¹⁰⁹⁶

The remaining chapters of the thesis examined the effect political and economic restraints on members of the landed class had on their ability to exercise ‘control’ over, or ensure order among their tenantry.¹⁰⁹⁷

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In 1839 the later 3rd Earl of Leitrim delivered a speech in the House of Commons denouncing ‘the expansion of the central state’. Six years later he urged ‘the people of Ireland ... to look to their natural guides, the [lay] magistracy and gentry, and not to government officers’. He further argued that the introduction of the Labour Rate Act [of 1846] signalled the government’s ‘utter distrust ... of the country gentlemen of Ireland’.¹⁰⁹⁸ During the early 1850s, Martineau charted the decline of the landlord’s power:

His word has been law, and there has been no one to call him to account till within a quarter of a century. First, his old enemy, the priest, was emancipated; and now, one attack upon his prerogative after another has driven him to desperation. He believes himself the object of legislative persecution – he is called to account about the letting of his lands – he is rated for the support of his poor – his solvent tenants throw up their farms and leave the county – and he is not allowed to evict in his own way those who cannot pay rent. His rents fail him; and, when he cannot pay his debts, his estates are sold for the benefit of his creditors; and he finds himself stripped of lands, power, and position, and little (perhaps too little) solace of sympathy and indulgent construction.¹⁰⁹⁹

¹⁰⁹⁶ Jackson, *Ireland*, pp 24, 26.

¹⁰⁹⁷ Obviously control over estate employees was a different matter. In 1821, for example, the Clerk of the Drapers’ Company advised the Chief Secretary that the agent Rowley Miller was not permitted to fulfil the duties of postmaster in Moneymore as the Company did not permit tenants to ‘multiply the dwellings on their estate’. Letter from Henry Smith, Clerk of the Drapers’ Company to Chief Secretary of Ireland, 2 Nov. 1821, Chief Secretary’s Office Registered Office (<http://www.csorp.nationalarchives.ie/index.html>) (17 July 2012) (N.A.I online, CSO/RP/1821/385)

¹⁰⁹⁸ Malcomson, *Virtues of a Wicked Earl*, pp 144, 147.

¹⁰⁹⁹ Martineau, *Letters from Ireland*, p. 197; Similarly, in 1865 Robert Maunsell in *Recollections of Ireland: collected form fifty year’s practice and residence in the Country* argued that the ‘aristocracy of Ireland ... [had] had no hand, act or part in the government of the country ... for the last twenty years’. Quoted in Vaughan, *Landlords and tenants*, p. 174.

In 1870, although he perceived ‘the disturbed state as temporary’, a resigned Marquess of Sligo admitted that ‘we shall never have our old calm back’.¹¹⁰⁰ While Lindsay Proudfoot argued that from 1700 to 1900 the landlord class had ‘moved from exclusive ownership of virtually all productive land in the country, with all the attendant social and political authority this conferred’, to a condition of powerlessness, this thesis has identified the ‘logic’ of the Union – and the relentlessly encroaching legislative power and administrative penetration of the British state in the ‘long’ nineteenth century – as the crucial framework within which the decline and ultimate eclipse of the Irish landlords as guarantors and enforcers of ‘order’ in Irish rural society can best be understood.

Economically ‘disinherited’

The decline of landed power and prestige in Ireland did not occur suddenly with the Land War. Rather, it was set in train at a much earlier date. Philip Henry Dudley Bagenal argued that ‘the dawn of the nineteenth century proved in effect the twilight of the ascendancy across much of Europe’.¹¹⁰¹ Different reasons for their demise have been put forward. In reference to Europe as a whole, Eric J. Evans has stated that ‘the primacy of land, and the power which went with it ... was ended by the collapse of prices and not by direct bourgeois challenge’.¹¹⁰² The experience of the UK in the nineteenth century – as it became the first industrial nation in the world – is rather more complex. The collapse in prices alone, however, cannot explain the long-term decline of landlord economic power and status based exclusively on ownership of and income from land alone.¹¹⁰³ Even within the United Kingdom, Irish circumstances were quite distinctive, given the limited industrialization (in the north-east) and the continuing centrality of land and agriculture in the Irish economy and society.

The successive ‘interventions’ of government – driven by economic crises and social dislocation – in the Irish land market, from the Encumbered Estates acts of

¹¹⁰⁰ Letter from the Marquess of Sligo to land agent, 9 Mar. 1870 (N.L.I., Westport papers, MS 41, 001/20)

¹¹⁰¹ Bagenal, ‘Foreign land tenures’, p. 228.

¹¹⁰² Eric J. Evans, ‘Landownership and the exercise of power in an industrialising society: Lancashire and Cheshire in the nineteenth century’ in Ralph Gibson and Martin Blinkhorn (eds), *Landownership and power in modern Europe* (London, 1991), p. 161.

¹¹⁰³ Cf F.M.L. Thompson, *English Landed Society in the Nineteenth Century* (1963)

1848 and 1849, through the successive acts that gradually opened the prospect of peasant-proprietorship (from the purchase clauses of the 1869 disestablishment act and Gladstone's 1870 act, through to the major legislation of the various phases of the land war, up to the early twentieth century) are well understood and have been the focus of considerable research.¹¹⁰⁴ The scale and pace of the final phases of the state-sponsored transfer of ownership from landlords to former tenants merits brief comment.

In Ireland, before the momentous land act of 1903, recent figures from Dooley suggest that from 1870 to 1896 a total of 73,805 holdings of 2.5 million acres were sold for £24.78 million.¹¹⁰⁵ The significant 1903 Land Act – otherwise known as the Wyndham Act – was formulated according to the recommendations of the Land Conference of 1902. By offering landlords a 12 per cent bonus on selling their entire estate, the act formally recognised the necessity of the wholesale transfer of land ownership for the settlement of the Irish land question. While it did not offer a final resolution, by 1908 the Wyndham Act had advanced £38,000,000 towards the transfer of land in Ireland. Subsequent legislation, such as the 1909, 1923, 1931, and 1933 land acts further facilitated the transfer of land, contributing towards the effective dissolution of landlord economic power and attendant social prestige in Ireland.¹¹⁰⁶

The estates under study in this thesis were all affected by land purchase legislation – though at different stages during the late nineteenth and early twentieth century. As early as 1872, the sale of the Draper's estate was under serious contemplation. Through availing of the terms of the 1881 and 1885 acts, the company disposed of their lands in Ulster, although disagreements with tenants and accusations of eviction by a Parliamentary Commission meant that it was not until

¹¹⁰⁴ The 1870 act contained the 'Bright Clause' which permitted tenants to borrow from the government two-thirds of the price at an interest rate of 5 per cent payable over 35 years. In 1881 the Land Commission advanced three-quarters of the cost price payable at the same rate and over the same time period as the previous legislation. Four years later, the Purchase of Land (Ireland) Act (the Ashbourne Act) provided loans for the full purchase price repayable over forty-nine years at 4 per cent. In 1888 a further £5,000,000 was extended to tenants wishing to purchase their holdings. The 1891 Land Act allocated £33,000,000 for tenant purchase while the 1896 Land Act increased the financial outlet of the 1891 act and also removed many of the restrictive clauses contained in the earlier act. See Bull, *Land, politics and nationalism* (1996).

¹¹⁰⁵ Dooley, *Sources for the history of landed estates in Ireland*, p. 12; Hoppen put the figure at 60,000 (*Ireland since 1800*, p. 98), while Joseph Lee cited a figure of 70,000 in *The modernisation of Irish society*, p. 103.

¹¹⁰⁶ Hickey and Doherty, *Dictionary of Irish history*, pp 288-89.

1900 that most sales were completed.¹¹⁰⁷ Under the terms of the 1903 Wyndham Act, Baron Farnham sold approximately 3,000 statute acres, while remaining portions of the estate were sold following the 1923 and 1931 land legislation.¹¹⁰⁸ In Mayo the transfer of land from the Marquess of Sligo to his tenantry was accomplished through the sale of the land to the Congested Districts Board in 1914, although it was not until the early 1920s that the sale was formalised.¹¹⁰⁹ The death of Sewallis Evelyn Shirley in 1904 proved a catalyst in the decision to finally sell off lands in Monaghan to the tenantry. The sale was completed just in time to avail of the 12 per cent bonus available in the 1903 act, prior to the passing of the Birrell's 1909 act.¹¹¹⁰ The Whyte Estate was sold in the early twentieth century following the introduction of the land acts. The various portions of the Earl of Leitrim's estate were sold at different intervals during the nineteenth and twentieth centuries.¹¹¹¹

Olwen Purdue has argued that 'the Irish landlord's position of economic strength, which had been based almost entirely on his ownership of land, came under sustained attack from tenant farmers, the Land League and the government from 1878 onwards'.¹¹¹² Their economic strength was compromised by the government through the introduction of a succession of land acts, which not only removed the power of the landlord to set rents, but also provided for lower rent levels to be fixed in the courts. The landlord's discretion in granting moderate rents, controlling the price of land, granting abatements, and permitting arrears, was eradicated, thereby diminishing his hold over the tenantry. The private rental relationship became, in a sense, a public contractual one, with additional players such as legal officials and government representatives in the form of land commissioners intruding on the traditional rights of property. The logic of such state interference in the contractual bond between owner and tenant was the creation of a new and broader category of 'owners'.

However, it is arguable that the state's direct involvement in the Irish land market (either through the Encumbered Estates acts or through later land acts from

¹¹⁰⁷ Stevens Curl, *Moneymore and Draperstown*, pp 62-63.

¹¹⁰⁸ Breiden 'tenant applications', p. 173; Cherry, 'An historical geography of the Farnham estates', p. 2.

¹¹⁰⁹ Browne, *Westport House*, p. 7.

¹¹¹⁰ McDermott, *Gypsum mining*, p. 40.

¹¹¹¹ For example, two townlands of the Manorhamilton Estate were sold in 1863, the Newtown Gore estate and Manor of Kilmacrenan were sold to the Irish Land Commission during the 1930s, the Ashfield estate was sold in 1952, while the Mohill Estate was sold in 1975.

¹¹¹² Purdue, *The Big House*, p. 234.

the 1870s) was accompanied, from an early date, by more indirect involvement. Earlier in the century, between 1848 and 1864, Griffith's Valuation, instigated by the government, may be seen as signalling its intention to come to grips – in a sense to exercise a form of supervisory authority – with regard to the value and worth of Irish land. Griffith's Valuation, which was accompanied by a series of maps created by Sir Robert Kane, illustrated the distribution of the values of land throughout Ireland. Along with a geological survey which revealed the quality of soil in different parts of the island, this comprehensive government valuation reveals a desire to acquire not only topographical knowledge of the country, but also, in turn, its worth and potential for further development.¹¹¹³ In short, the Griffith Valuation may be seen as a prerequisite 'baseline' assessment of Irish land, from which state or government interventions could proceed with greater accuracy and authority. The close attention to the surviving records of the sample of estates examined in this thesis enables us to detect - and where possible, to register – in what ways these larger issues relating to government intervention and land ownership and management in Ireland were perceived and understood by the principal actors 'on the ground' at estate level.

Politically 'disenfranchised'

As Dooley pointed out, politically 'even in Britain in the late nineteenth century the idea that the landed class had some traditional right to parliamentary representation and political leadership at local and national level was fast becoming anachronistic'.¹¹¹⁴ The political 'disenfranchisement' of the Irish landlords (not literally, but rather in terms of the eclipse of their dominance in political life at all levels) occurred in a variety of ways and over many decades. Initially, of course, the Act of Union itself removed the direct power and relative autonomy that many Irish landlords had previously possessed in the Irish parliament – the 'old parliament in College Green'.

The introduction of a series of reform acts, which, over time, increased the size of the electorate, removed all impediments to political participation (including election to parliament) on religious grounds, and generally moved the system to more open and representative politics at national level, inevitably produced

¹¹¹³ Robert Kane and Thomas Oldham, 'On Maps Illustrative of the Value of Land in Ireland' in *Proceedings of the Royal Irish Academy* (1836-1869), iv (1847-1850), pp 230-32.

¹¹¹⁴ Dooley, *The decline of the 'big house'*, p. 209.

challenges to the virtual monopoly of political power enjoyed by the landed elites during the ‘pre-reform’ era. The mobilisation of popular opinion (including the enfranchised) in major political movements for constitutional change (O’Connell’s Repeal campaign and later Parnell’s Home Rule movement) likewise challenged the political influence of a largely Unionist-orientated landlord class, though local loyalties continued to count in Irish elections throughout the nineteenth century. Reform of local government – and specifically the creation of a more broadly-representative system in the counties – did not move decisively until after 1898; but already the elections for Poor Law Boards of Guardians, as Feingold argued, demonstrated that deference to landlord status was not immutable.

Purdue has demonstrated that at this time ‘northern landlords continued to enjoy a significant degree of political representation, both on a local and a national level’.¹¹¹⁵ However, outside of Unionist Ulster, such influence was fast on the wane in the Home Rule era. In this context, the sample of estates examined in this thesis could not be described as ‘Ulster’ in their political character. The tenacity of the British landlord class in retaining influence in political (including parliamentary) life was remarkable. Yet, as David Spring has demonstrated, parliamentary reform and the emergence and ambitions of new social forces inevitably eroded the political influence of landlords even in England.¹¹¹⁶ More recently, Paul Readman argued that the land reform assumed political prominence from the 1880s onwards in England due to its close relationship with patriotism and national identity, rather than any desire to reform land structures for practical purposes.¹¹¹⁷

The failure of British statesmen to adequately address their plight was resented by members of the Irish landed gentry. Increasingly, they saw Westminster as indifferent, if not actually hostile, to their fate. In 1880 John Madden sent a letter to Shirley in which he questioned the actual existence of an Irish policy in Westminster and, if one did exist, summed it up simply as, ‘let things take their course’.¹¹¹⁸ The government’s response to the catastrophe of the famine and the later failure to stamp out the Land League – to mention but two instances – obviously had a profoundly depressing effect on members of the Irish landed gentry. This almost

¹¹¹⁵ Purdue, *The Big House*, p. 18.

¹¹¹⁶ David Spring, *European Landed Elites in the Nineteenth Century* (London 1977), p. 40.

¹¹¹⁷ Paul Readman, *Land and Nation in England: patriotism, national identity, and the politics of land, 1880-1914* (Woodbridge, 2008)

¹¹¹⁸ Letter from John Madden, Hilton Park, Clones to Shirley, 18 Mar. 1880 (P.R.O.N.I., Shirley papers, D3531/E/1)

laissez faire attitude concealed what Madden perceived as a more concerted plan to continue ‘assaults on landed property’, and he believed that what the government wanted from the landlords was to ‘get your land and mine without paying for it’. He summed up his feelings of disdain for government betrayal by declaring; ‘in “Dizzys” own words adopt a policy of “Hundering and plundering” here, which no Englishman would support or submit to, were they dealing with *their own* interests or property’.¹¹¹⁹ Support for Irish landlords from across the Irish Sea came to be seen, and resented, as minimal. As one commentator put it, ‘in England they [Irish landlords] have no friends; none beyond perhaps some English mortgagees’.¹¹²⁰

As Chapter 3 has argued, the judicial authority the landlord possessed in relation to estate affairs, and their legal powers within circuit crown courts, were severely compromised following the centralisation of the legal system, primarily with the introduction of stipendiary magistrates and later the abolition of manor courts in 1859. The introduction of the Land Courts in 1881, along with an increased reliance on ‘professionals’ in the operation of the official judicial system, inevitably signalled the down-grading, almost to the point of impotence, of the competence of the landlord to influence events in the court room. Chapter 5, dealing with Protestant landlord and Catholic cleric and tenant relations, illustrated how legislation and enactments from Westminster, along with an increasingly influential Vatican and improved discipline of Irish bishops (collectively and within each diocese), contributed to decisive shifts in power relations in rural Ireland. The Roman Catholic hierarchy’s overt involvement in parliamentary politics during the 1880s – at a time when the Land War was at its height – and the significant influence that they came to exercise in the Home Rule movement (not least, with regard to education) clearly positioned Roman Catholic bishops and clerics in a favoured position in respect of the challenging collectivity of tenants, and generally in opposition to the largely Unionist-orientated landlords. In a sense, the Catholic clergy were the culturally ‘privileged’ wing of the challenging collectivity of the land war and the home rule challenge.

¹¹¹⁹ *ibid.*

¹¹²⁰ ‘The landlords’ convention’, 1901.

Socially ‘disempowered’

The social disempowerment of the landed class – although perhaps a more subtle incursion into the primacy of influence of the landlord class in rural Irish society and one which has received relatively little attention in scholarship to date – arguably proved one of the most grievous deprivations to be inflicted upon the landed class. Its importance lies in the repercussions that such disempowerment had on many spheres of estate life. Philip Bull has argued that, ‘whereas English landlord ascendancy had ridden the storms of agrarian enclosure and the destruction of the old paternalist order without undermining their social and economic pre-eminence, the Irish landlords had neither the resources nor the opportunity to exploit the new capitalism’.¹¹²¹ The question of the contested legitimacy of the Irish landed elite (on historical as well as ethno-religious grounds) remains in dispute, though the findings of this thesis indicate the complexity of relationships and attitudes at the estate level. The basic competence of the Irish landlords, as estate managers of an economic asset, has featured in numerous case-studies, by Vaughan and others.

However, what is not in dispute is that the Irish landlords enjoyed a diminishing degree of sympathy and support from the British ruling elites (including the landed elite) as the nineteenth century wore on. From the 1830s rebuke by Drummond – that property had its duties as well as its rights – to the irate British conviction during the famine that Irish poverty must be supported by Irish property, there was a growing current of opinion in Britain that held that Irish landlords bore a considerable measure of responsibility for their own woes, if not for the woes of Ireland in general. This lack of sympathy was perhaps most dramatically in evidence (despite loud denunciations of Irish land league lawlessness) in the final solution to the Irish land question (peasant proprietorship) adopted by both Liberal and Conservative governments in Westminster from the 1880s.

Chapter 2 considered how the introduction of the Irish Poor Law (Ireland) Act 1838 centralised the relief of the poor, thereby removing, to a large degree, the potency of landlord granted assistance to act as a means of instilling order among the tenantry. Ó Ciosáin remarked that ‘little is known about public attitudes to the introduction of bureaucratised welfare system, and that this related to popular

¹¹²¹ Philip Bull, *Land, politics and nationalism: a study of the Irish land question* (Dublin, 1996), p. 8.

conceptions of social responsibility and action'.¹¹²² Chapter 2 has attempted to shed some light on this issue, with its focus on responses at the estate level. Moreover, in the context of instilling notions of 'order', while Irish property was to pay for Irish poverty, similarly it was hoped that it would also pay for Irish pedagogy. Chapter 4 considered developments in education following Stanley's 1831 letter, which introduced a centralised educational policy and structure for Ireland through the establishment of the National Board of Education. The opening of National Schools on estate lands could be impeded or frustrated by landlords, but not always successfully. Landlord-sponsored National Schools were subject to a series of rules and regulations, thereby significantly altering landlord control over the education of his tenants. The state, in this sensitive area of educating the children of the estate, had, in a sense, reached into the intimate jurisdiction of the landlord and his 'domain'.

Landlord-tenant relations

In a recent radio interview Myles Duggan, broadcaster and historian, asked landed estate historian Terence Dooley the following question: 'on a scale between forelock tugging and seething resentment, what in the main would the relationship have been between town [tenants] and the local big house'? Dooley replied that 'there simply hasn't been enough work done on this and I think if we look at it much more carefully in the future, if the sources will allow us to do so, we will actually see that ... the antipathy towards the country house that we largely associated with post-independence at any rate maybe isn't as great in the eighteenth century and certainly through much of the nineteenth century'.¹¹²³ David George Boyce has argued that:

Landlords did not live at permanent (or even temporary) war with their tenants ... Nevertheless, tenants perceived that their interests and those of the landlord were often at variance, with tenants pressing for some further protection for their rights, and landlords, naturally enough, looking to defend their privileges.¹¹²⁴

¹¹²² Ó Ciosáin, 'Bocoughs and God's poor', p. 94.

¹¹²³ Terence Dooley and Robert O'Byrne, 'Servants in Irish Big Houses at the turn of the twentieth century', interviewed by Myles Duggan, *The History Show*, RTE Radio 1 (18 Mar. 2012) (http://www.rte.ie/radio1/podcast/podcast_thehistoryshow.xml) (7 Apr. 2012)

¹¹²⁴ David George Boyce, *Nineteenth-century Ireland: the search for stability* (Dublin, c2005), p. 176.

While antipathy among tenants towards their landlord undoubtedly existed throughout the entire nineteenth century (human nature being what it is), it was often just one in a wider spectrum of emotions which not only could change daily, but perhaps even hourly. The mix of personalities on estates meant that differences of opinion – whether between tenants themselves or between tenants and estate officials – frequently were voiced. The ‘objective’ incompatibility of the interests (economic and other) of landlord and tenant must be balanced by attention to the web of reciprocal obligations and long-established customs by which life on a landed estate proceeded. This thesis has sought to bring aspects of this complex web under closer scrutiny for a particular sample of estates, acknowledging not only the roles of the main categories of protagonist – landlords and tenants – but also that of agents and commissioners and other vital members of the cast.

Further analyses of the role of the state and of the landed estate in shifting power relations and changing versions and patterns of ‘order’ across a wider range of estates will undoubtedly enhance the comparative dimension of the kind of analysis undertaken in this thesis. For example, the relationship between Presbyterian tenants and their landlord and, more generally, interdenominational interactions between tenants, also requires further study. The relationship between Catholic landlords and their tenants also requires attention in order to determine whether Elizabeth Smith’s observation that ‘they are Protestants in all but name and conservatives too’ holds any validity.¹¹²⁵

The research for this thesis, building on the important research of earlier historians to date, has sought to provide insights and enhanced clarity on a range of questions relating to ‘order’ and the landed estate in nineteenth century Ireland. Entitled ‘The state and the landed estate: order and shifting power relations in Ireland, 1815-1891’, this research examined and chartered altering relations between the estate and the state. Through an analysis of the changing nature of estate-state relations on six estates located in the provinces of Ulster and Connacht, embodied and played out in relations between landlords and tenants, landlords and government officials, and landlords and members of the Catholic religious, this study has altered the historiography of the demise of the landed class in nineteenth century Ireland. Whereas traditionally the Land Wars instigated by tenant organisations such as the

¹¹²⁵ Grant, *The Highland lady in Ireland*, p. 55.

Irish National Land League of the latter 1870s and 1880s, along with the introduction of a series of progressive land legislation from 1870, have been identified as a watershed in the power and privilege of the landed class, this research reveals how a top-down rather than bottom-up attack on the landed class was crucial in its decline. Through an emphasis on the importance of role of government officials and civil servants – ideologically from the Act of Union and concretely from legislative changes in policing and the magistracy several years later – the foundations of landed power were gradually eroded. The challenge from the tenantry and various other interested groups, such as journalists and local business men, in the latter 1870s to a now rather precarious landlord power base would perhaps have proved less successful without the legislative blanket provided within social, legal, educational, and religious spheres earlier in the century. Legislation which diminished the power the landlord over his tenants in turn granted tenants' increased agency and rights. As a result, tenants' loyalties were oftentimes transferred from the estate to the state, with perhaps the identifier 'citizen' superseding that of 'tenant' in some instances.

The state's 'revolution' against landlord hegemony was rather more piecemeal, subtle, and incremental than the more dramatic overthrow of landlordism generally credited to the initiative of the tenantry in the 1880s; but it was nonetheless decisive and devastating. Through increasingly centralising tendencies and an expanding centrally-controlled administrative system, the government succeeded in modifying landlord-tenant relations, from one based on quasi-feudalistic interactions grounded in custom, privilege and reciprocal obligations, to one which was increasingly expected to operate within a legislative framework and mediated through bureaucratic institutions serviced by professional administrators. This fresh perspective on landlord-tenant relations in nineteenth century Ireland contributes significantly to the body of knowledge of the field and opens up new avenues of research for consideration in Irish landed estate historiography. Relentlessly, the power and relevance of the landlord and the landed estate was diminished and ultimately eclipsed.

Lords of the soil?

In 1822 John Wiggins advised the absentee landlords of the south of Ireland that:

it is very essentially in your power, as lords of the soil, to apply powerful, if not effectual, remedies, and to adopt such a course of conduct towards your tenantry as may, in great measure, prevent the recurrence of similar discontents, and their consequent atrocities.¹¹²⁶

The descriptor ‘lords of the soil’ was, and continues to be, used as a descriptor of the absolute power of the propertied class.¹¹²⁷ It succinctly captures the sense of unchallenged order and formidable control that the landed proprietors once enjoyed, not only over the land itself but also over the varied patterns and rituals of economic and social life thereon. By the mid-1880s Feingold concluded that there no longer was ‘validity to the old argument that the owners of the soil – by the simple virtue of the fact that their land ownership gave them the greatest stake in the community – would naturally be the best administrators’.¹¹²⁸ In 1911 a new group in society – the former tenants now being elevated to the status of farmer-owners – claimed to be lords of the soil. They too received counsel: Should they ‘elect to travel the way of peace and prosperity, their descendants may be able to say of them that, acquiring the lordship of the Irish land, they also laid the foundations of Irish liberty’.¹¹²⁹

¹¹²⁶ John Wiggins, ‘A letter to the absentee landlords of the south of Ireland on the means of tranquillizing their tenantry, and improving their estates’ (London, 1822), pp 4-5.

¹¹²⁷ Godkin, *The land-war*, p. 6; Curtis, *Depiction of eviction*, p. 318.

¹¹²⁸ Feingold, *The revolt of the tenantry*, pp 240-41.

¹¹²⁹ Michael J. F. McCarthy, *Irish land and Irish liberty; a study of the new lords of the soil* (London, 1911), p. 428.

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