

# Crime and punishment in 17<sup>th</sup> Century Armagh

by Gerry Oates

History has been defined as a study that aims to provide an explanation of the course of human events. The study, of course, is largely shaped by the views of its compiler and the cliché that ‘history is written by the victors’ has played a major role in the formation of our opinions. Leaving aside the official accounts of the doings of our rulers, the study of family affairs, personal diaries, letters and reports of relatively minor local events often throws new light across the pages of recorded history. In many circumstances it confirms what we already know, but in others it challenges accepted viewpoints.

A perusal of the facts recorded in the Ulster Roll of Gaol Delivery in the County of Armagh on two separate occasions (15 February, 1614 and 8 March, 1615) published in the Ulster Journal of Archaeology (1853, 54), offers the reader an insight into certain aspects of life during the early years of the Plantation of Ulster.

The first years of the Plantation of Ulster must have been a time of great uncertainty both for native Irish and incoming settlers. The country would still have been experiencing the ravaging effects of the recent Nine Years’ War between O Neill and the Crown. Furthermore, the effects of the transition of land tenure from the old Gaelic order to that of landlord and tenant would have been a source of suspicion and uncertainty with resentment and fear ever present.

Regarding the Plantation of Ulster, James I, advised by Sir Francis Bacon, adopted the radical approach advocated by Chief

Justice Sir James Ley & Sir John Davies whose 1609 ‘orders and conditions’ provided the framework for the Plantation. Briefly as follows: *Land was divided into ‘proportions’ of 2,000, 1,500 and 1,000 acres with three categories of grantee. English and Scottish chief planters (undertakers) had the heaviest responsibilities as regards fortification and settlement. Civil and military servants of the Crown in Ireland (servitors) were allowed to have Irish tenants, but could have lower rents if they settled the required number of 24 adult English and Lowland Scots per 1,000 acres. Local recipients (natives) were to pay higher rents and abstain from Irish exactions and tillage methods. The plantation was delayed until Sir Josias Bodley had mapped the country, estimated its acreage, and sorted temporal from spiritual lands. On this basis 28 baronies or ‘precincts’ were established, 8 for English undertakers and 8 for Scottish ones, and 12 for servitors and natives jointly.*<sup>1</sup>

The Lord Deputy, Chichester, however, favoured a cautious settlement after the Flight of the Earls in 1607 with extensive



regrants to natives, even after the unexpected revolt of Sir Cahir O’Doherty in 1608, which may explain the presence of native Irish landowners among the jurors who sat on the Inquisition of 1614-15 in Armagh which passed the judgments and sentences referred to in the Roll of Gaol Delivery records. The jurors included representatives of long established local families – Tirlagh oge O’Neale, Shane oge O’Hanlon, Alexander oge McDon-

nelly, Tirlagh oge O’Donnell, Mulmorrie McDonnell, Donald mac James O’Hugh. These were probably those who had sought and received pardons from the Crown by forswearing allegiance to the Earl of Tyrone. This policy, however, did not apply to the lesser mortals among the native Irish. *Touching the Natives, who shall not be Freeholders, they are to be placed or removed by order of the Commissioners as in Tyrone.*<sup>2</sup> Many of the latter had served in Hugh O Neill’s ranks and were regarded as a threat to the new settlement, which is reflected in the charges of ‘levying open war’ brought against some in the Gaol Delivery records.

## The Crimes

The crimes recorded range from theft of livestock, attacks upon the person, arson, rape and murder to levying open war. With the exception of two cases of rape the other crimes are most probably related to the unsettled times which followed the initial plantation. The records show that 50 persons (10 English settlers & 40 native Irish) were brought before the Commission in Armagh on the two occasions cited. One of the English settlers, George Johnson of Shanecracken, was found guilty and executed for livestock theft; 6 native Irish were also executed for livestock theft and 4 for levying open war. A glance at some of the charges illustrates the situation.

*That Hugh Delyn McShane, of Kílultagh, County Down, yeoman, together with Cormuck, Edmund, and Galtagh McCan, and others, on the 4<sup>th</sup> November, 1614, at night, broke into the house of Richard McAnuffe, and levied open war at Lurgan. – Guilty – To be executed at Armagh.*<sup>3</sup>

*That Phelomy O’Neale ... of Dungannon,*

gent., *Cormuck McCan, of Clanbrassell, and Edmond McCan, gentlemen, on the 1<sup>st</sup> of December, 1614, at Clanbrassell, levied open war &c., and on the 7<sup>th</sup> December, at Oryer, were assisted by Turlagh grome O'Hanlon. – Acquitted.*<sup>4</sup>

*That Shane O'Daly of Dolleghallegan, yeoman, on the 17<sup>th</sup> October, 1614, at Drumishe, burnt the mansion-house of Patrick McArdell, a true and faithful subject &c.*<sup>5</sup>

*That on the 13<sup>th</sup> of February, 1614, Con McToole boy McMahan, of Doynan, yeoman, was there taken and apprehended by Hugh McManus, one of the Sherriff's bailiffs, for the theft of a cow, the property of Gilleballagh McCasy, the which bailiff intended to bring him before a Justice of the Peace, when one Art McHugh roe McMahan, of Doynan, yeoman, forceably rescued him.*<sup>6</sup>

*That Tirlagh Duff McGerrott O'Reilly, of Ballelurgan (Castleblayney), yeoman, on the 16<sup>th</sup> January, 1607, insulted Cormucke O'Looy, of the sameplace, yeoman, and true subject, and with a drawn sword worth 5 shillings, which he held in his right hand, he struck him on the top of the head, giving him a mortal wound of 12 inches long and two inches deep, of which he then and there instantly died. – Guilty. It is adjudged that he be drawn upon a hurdle "et membra sua et interiora ex ventre suo capiantur &c.," as in former cases.*<sup>7</sup> The punishment in this case included disembowelling and quartering. The cases of livestock theft, particularly from English colonists, reflect the resentment felt by those whose lands had been resettled; in several instances the offences were committed against native Irish freeholders described as 'true and faithful subjects', possibly those who had received pardons and accepted the terms of the Plantation. Many of the accused could be regarded as forerunners of the raparees (Ir. *râpaire* 'short pike') that subsequently became such a threat to the planters, particularly after the Cromwellian settlements and Williamite wars later in the century. The raparees, or 'toryes' as they were sometimes called, were perceived as dispossessed native Irish waging a war of revenge against the new social order created by the land confiscations of the early 17<sup>th</sup> century and those of the 1640s & 1650s. *Yet it remains unclear how far all 'toryism' was of this character, and how far some at least should*

*be seen as mere banditry with raparees operating either singly or as part of an outlaw band, who preyed on houses and travelers, in some cases extorting money from those wishing to be spared from attack.*<sup>8</sup>

## Family Names

At the present time many who trace their origins to the various phases of the Plantation of Ulster bear family names of Scottish origin. Yet one of the most notable features of the Gaol Roll in relation to surnames in Armagh is the dearth of Scottish names. In the first phase of the Plantation from 1609–30 north County Armagh and the liberties of the city of Armagh were planted with exclusively English settlers. It was not until 1630 that Scottish settlers began to arrive and were then concentrated in the baronies of Fews and Armagh. *The baronies of O'Neiland East and West, and those parts of Orior were exclusively English as may be easily verified, and in the town and liberties of Armagh only a few names appear that may be termed Scottish.*<sup>9</sup> This was a natural consequence of the fact that the first Undertakers charged with finding settlers for the lands forfeited by the native Irish as a punishment for rebellion against the Crown were all of English stock. In his account of the period George Hill lists these early Undertakers as Sacheverell, Brownlowe, Matchett, Powell, Dillon, Heron and Cope.<sup>10</sup> In 1614–15 the two lists of jurors commissioned to appear in Armagh not one Scottish name is evident. The jury of 15 February, 1614 has 13 English settlers and 2 native Irish, while that of 8 March, 1615 is comprised of 12 English names and 5 native Irish. The names of the English jurors include *Elcocke, Poe, Smyth, Curtice, Purvis, Caddell, Hastings, Kinde, Peerson, Frindon, Wolsey, Nevire, Clarke, Coe, Grindall and Hodgeson.* With the exception of *Smyth, Clarke and Hodgeson* few of the other surnames appear to have survived in the Armagh area.

## Personal Names

A glance at the personal names of the native Irish in the Gaol Roll gives us an

insight into the Christian names which were fashionable at that time, long before the advent of films, television and the 'celebrity' cult. An interesting fact is the almost total absence of *Patrick* among the personal names, for the early Irish, out of respect for the national apostle, did not use the name itself but such forms as *Máel Pátraic* 'devotee of Patrick' and *Gilla Pátraic* 'servant of Patrick'. *Patrick* was adopted by the Anglo-Norman colonists long before it became common among the Irish themselves.<sup>11</sup> In the early 17<sup>th</sup> century personal names were overwhelmingly of Celtic origin with some Viking additions and despite the allegiance of the native Irish to Rome names commemorating medieval canonized saints do not appear; these became popular two centuries later with the waning of the Gaelic language. An example of the range of personal names which appear in the Roll emphasizes how the practice of name-giving has changed in the interim (spellings as in 17<sup>th</sup> C.): *Donnogh, Tirlagh, Mullmurrie, Phellemy, Cormack, Galtagh, Neice, Glasny, Neale, Owen, Laghlin, Gilleballagh, Fardoragh, Con, Toole, Donnell, Art, Brian and Shane; Randal and Manus* of Viking origin. Among the early 17<sup>th</sup> century colonists names pertaining to royalty were common: *Richard, Henry, Edward*; as well as the biblical names *James, John, Thomas*. There were also several Anglo-Norman names: *William, Ralph, Peirce, George, Nicholas, Francis and Edmond.* *William* and *George* were later to become popular as royal names.

In recorded history women were largely anonymous in 17<sup>th</sup> century society and in cases where livestock was stolen from female owners the term 'widow' was often used in place of the personal name; women who were not widows belonged to their husbands and consequently received no mention.

## Punishment

In the two Gaol Rolls examined three types of verdict are recorded – 'guilty', 'acquitted' and 'no finding'. Hanging was the punishment prescribed for livestock theft and all found guilty were executed in Armagh. In the case of

those found guilty of 'levying open war' the sentence included hanging, drawing and quartering, which was reserved for crimes of treason. (This form of execution was first introduced in 1283 and inflicted upon the Welsh Prince David; in 1305 the Scottish patriot Sir William Wallace suffered a similar fate).<sup>12</sup> In the two recorded charges of rape the verdict was 'no finding' and it is interesting to note that details of these charges were recorded in Latin, presumably to avoid open discussion of a taboo subject. This compares with the similar present-day practice of hearing certain cases 'in camera'.

## Livestock values

Another detail of life in early 17th century Ireland that can be gleaned from these documents is the price of livestock. In each of the charges the cost of the animals stolen is meticulously noted and the quality of the stock can be discerned from the range of estimated values. The most expensive beasts in each case were the property of the more affluent settlers: Henry Acheson of Markethill, Sir Edward Blayney of Castleblayney (then known as Ballelurgan) and Richard Hanley Esq. The lesser animals were the property of yeomen farmers.

### Cattle

Oxen are rated from £1-10-0d to £2-0-0d; cows from £1-0-0d to £4-0-0d; with a heifer being worth a mere £0-10-0d.

### Horses

Beasts described simply as horses range from £2-0-0d to £4-0-0d; mares from £2-0-0 to £6-6-8d; a gelding £4-0-0d.

### Sheep and Pigs

The going rate for sheep was £0-4-0d., and pigs a mere £0-3-0d.

## Conclusion

The publication in 1853-4 of the Ulster Roll of Gaol Delivery relating to the first years of the Plantation of Ulster sheds a little light on the turmoil and uncertainty of the times. It reminds us of the antagonistic attitude of many dispossessed Irish to the new social order and its supporters. We also get an insight into the uneasy and suspicious atmosphere that developed as a consequence, an atmosphere which unfortunately lingers to the present day. It also serves as a harbinger of the more turbulent times that were to follow with the 1641 Rebellion, the subsequent Cromwellian campaign and the Williamite wars later in the century, events which further alienated native Irish from planter.

## Sources

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- Ulster Journal of Archaeology, *Ulster Gaol Roll, Vol. 2*, Belfast, 1854
- Hill, G: *The Plantation of Ulster*, Belfast, 1877
- Connolly, S. J (ed.): *Oxford Companion to Irish History*, New York, 2007
- Ó Corráin, D/Maguire, F: *Irish Names*, Dublin, 1990

## Footnotes

- <sup>1</sup> Connolly, S.J (ed.): *Oxford Companion to Irish History*, 590
- <sup>2</sup> Hill, G: *The Plantation of Ulster*, 116
- <sup>3</sup> *Ulster Roll of Gaol Delivery - (Ulster Journal of Archaeology Vol I, 269)*, Belfast, 1853
- <sup>4</sup> *ibid.*
- <sup>5</sup> *Ulster Roll of Gaol Delivery - (Ulster Journal of Archaeology Vol II, 28)*, Belfast, 1854
- <sup>6</sup> *ibid.*
- <sup>7</sup> *ibid.*, 28
- <sup>8</sup> Connolly, S. J (ed.): *Op. cit.*, 576
- <sup>9</sup> Patterson, W. G. F: *Presbyterianism in Armagh (Seanchas Ard Mhacha Vol. 19, No. 2, 140)*
- <sup>10</sup> Hill, G: *Op. cit.*, 260-64
- <sup>11</sup> Ó Corráin, D/Maguire, F: *Irish Names*, 152
- <sup>12</sup> *Encyclopedia Britannica (15th ed.) Vol. 15, 283*, London, 1981

A couple of adverts from an Armagh street directory produced by The Ulster Gazette 1937.

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